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Planning  
Landscape Architecture  
Municipal Consulting  
Streetscape Design  
Economic Development  
Parks and Recreation

Zoning Board of Adjustment  
Borough of Fair Lawn  
PO Box 376  
Fair Lawn, New Jersey 07410

**Ref: First Planning Review for Zap Lube & 37-10 Broadway, LLC  
Preliminary and Final Major Site Plan and Use Variance  
Block 2201, Lots 2 and 3; 37-02 and 37-10 Broadway  
Borough of Fair Lawn, Bergen County, New Jersey  
TDG Project No. 2006-103.08**

Dear Mr. Chairman and Board Members:

Please be advised that we are in receipt of the following items submitted in support of the above-referenced application:

- *Minor Site Plan* drawings prepared by Canger Engineering Associates, last revised October 10, 2006.
- Sign package prepared by LS Sign Co., Inc., consisting of (9) 8.5x11" pages, undated.

**I. PROPOSAL**

The property in question is located on the eastern corner of the intersection of Broadway and Yerger Road. Lot 3 is located in the B-2 zoning district and Lot 2 is split-zoned between the B-2 and R-1-3 Zone. Lot 3 currently contains a retail building and rear parking area, and Lot 2 contains the Zap Wash and Lube building and accessory structures. Residences are located to the rear of the property in the R-1-3 Zone.

Applicant proposes a new sign package on both Lots 2 and 3 and proposes to reconfigure access to Lot 3 through Lot 2. A new parking lot is proposed on Lot 3, and supplemental landscaping is proposed along the rear property lines abutting residential uses.

**II. VARIANCES AND DESIGN WAIVERS**

- A. Automobile repair garages and car washes do not appear to be permitted in this portion of the B-2 Zone. Therefore the use on Lot 2 is non-conforming. Routing of additional traffic through the site to Lot 3 can be considered an intensification of site usage thereby requiring a use variance per N.J.S.A. 40:55D-70(d)(2).
- B. The retail uses on Lot 3 appear to conform, however testimony regarding the uses should be provided so a determination can be made.
- C. A second use variance is required per N.J.S.A. 40:55D-70(d)1 for a deviation from permitted uses. **Advertising signs and structures located on an unrelated lot are not permitted per Section 125-24.A(2) of the B-2**

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standards. Two building-mounted signs related to the uses on Lot 2 are proposed on Lot 3.

1. A 3'x18' (54 SF) sign reading "Zap Car Wash & Lube" is proposed on the eastern building facade to serve Broadway traffic traveling westbound. This sign appears to duplicate the function of the proposed freestanding sign on Lot 2.
  2. A 4'x28.5' (114 SF) sign reading "Zap Car Wash & Lube" is proposed on the western building facade to serve Broadway traffic traveling eastbound.
- D. Per Section 125-41.B(3) only one principal sign for each retail establishment is permitted, whereas at least 3 signs are proposed on Lot 2 and two additional signs are proposed on Lot 3.
- E. Per Section 125-41.B(7) a freestanding sign is not permitted, whereas one is proposed **at an unspecified height and size** to replace the existing exposed neon sign.
- F. The dimensions of proposed signs 1B and 7A shall be provided to determine compliance.
- G. It does not appear that any new bulk variances are created with respect to the building layouts.
- H. A waiver is required from Section 226-3 which requires the planting of shade trees between 35' and 50' on-center along the street. We recommend that street trees be planted where possible on Yerger Road.
- I. We defer to the Board Engineer regarding the identification of any required engineering design waivers.

### III. SITE PLAN COMMENTS

- A. The plans should be revised to correctly indicate the proposed sign package and the missing sign dimensions.
- B. The application does not qualify as a minor site plan and should be handled and reviewed as preliminary and final major site plan.
- C. Trash enclosures should be indicated on the plans, and should be constructed of durable material on 3 sides such as concrete block finished to match the buildings.
- D. The bedlines of the planting buffers should be shown, as well as the type of ground cover in the beds. Stone along the southern property line of Lot 2 should be removed from the planting bed.
- E. Details of all proposed lighting fixtures should be provided for further review. Light pole foundations should be flush with grade.
- F. Building-mounted lighting should be shown to determine compliance with ordinance standards.
- G. Accessible spaces and signage should be indicated.
- H. The entrance aisle/lane from Lot 2 to Lot 3 should be better demarcated or signed to avoid conflicts with the Zap Lube stacking lanes. Curbing should be

extended onto Lot 2 to better demarcate the termination point of the access aisle.

- I. It appears that curbing is not proposed in the parking area on Lot 3. This should be clarified. Angle-cutting of pavement is recommended neither from a maintenance nor an installation perspective.
- J. We defer to the Board Traffic Engineer regarding the sufficiency of the number of parking and loading spaces.
- K. Tree protection fencing should be indicated around all trees to be preserved.
- L. "No Entrance" signs to the parking lot on Lot 3 should be provided on Yerger Road.
- M. "Stop" signs should be provided at the parking exits onto Yerger Road.
- N. Applicant should clarify whether new fencing is proposed, and a detail should be provided.
- O. There appears to be greater opportunity for landscaping, including street trees, along Lot 3's Yerger Road frontage.
- P. A bicycle rack should be provided.
- Q. Actual parking lot striping should be shown.
- R. A substitute for Rhododendron should be provided that is more tolerant of urban conditions.
- S. A continuous evergreen hedge is recommended along the southern property line of Lot 3.
- T. A more substantial buffer is recommended along the southern property line of Lot 2.
- U. An alternative species to dwarf white spruce is recommended due to slow growth.
- V. A more substantial massing of shrubs is recommended in the center parking lot island.

#### IV. USE VARIANCE DISCUSSION

- A. The applicant must address the request for the "d" variances, and should use the parameters set forth in *Medici* to evaluate this application, which include the provision of an enhanced quality of proof:
  - 1. The applicant must prove and the Board must find that the proposed deviations will not cause a substantial detriment to the public good (balance positive and negative criteria).
  - 2. The applicant must prove and the Board must specifically find that the proposed deviations advances the purposes of planning as stated in the Municipal Land Use Law.
  - 3. The applicant must prove and the Board must specifically find that the use promotes the general welfare because the proposed site is particularly suitable for the proposed use.

4. The Board must find that the grant of the use variance is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. Such findings must satisfactorily reconcile the grant of a use variance with the Zoning Ordinance's continued omission of the proposed use from those permitted in the zone.
- B. Applicant should provide testimony re: the positive criteria of the variance application, that is, how the proposed use and site modifications advance the general purposes of planning, serve the general welfare of the community and will not cause a substantial detriment to the public good.
- C. The applicant must also prove the "negative criteria," which means proving that the use and site modifications will not create (1) a substantial detriment to the public or (2) substantial impairment of the intent and purpose of the master plan and zoning ordinance.
  1. Applicant should provide testimony regarding the impact of the signage on site aesthetics and aesthetics in the Broadway corridor in general. Testimony should also be provided re: the impacts of routing traffic to Lot 3 across Lot 2 and the ability of the site to handle additional traffic.
  2. Applicant should provide testimony regarding the "impairment to the master plan or zone plan." Signs on other properties are clearly not permitted in at least two sections of the ordinance: in the B-2 standards and in the sign ordinance itself.

We reserve the right to make additional comments based upon the submission of additional documents or testimony presented to the Board.

Very truly yours,

**TAYLOR DESIGN GROUP, INC.**

  
Cheryl Bergallo, R.P., AICP  
Planning Consultant

cc: C. LoPiccolo, Board Secretary (via email)  
W. C. Soukas, Esq., Board Attorney (via email)  
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