
PLANNING REPORT

for

**Essex Green Shopping Center
Block 155.21 Lot 40
495 Prospect Avenue
Township of West Orange
Essex County, New Jersey**

Prepared For:

**CLPF – Essex Green, LLC
c/o Clarion Partners
280 Park Avenue
New York, New York 10169**

Prepared By:

**Langan Engineering and Environmental Services, Inc.
300 Kimball Drive, 4th Floor
Parsippany, New Jersey 07054
NJ Certificate of Authorization No.: 24GA27996400**



Sean F. Moronski, P.P., AICP

Professional Planner NJ License No. 33LI00560100

The original of this report was appropriately signed and sealed in accordance with laws and regulations pertaining to the practice of Professional Planning in New Jersey (NJSA 45:14A and NJAC 13:41-1.3(b)).

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1.0 INTRODUCTION

This planning report is for an application by CLPF - Essex Green, LLC to the West Orange Township Zoning Board of Adjustment requesting preliminary/ final site plan and "c" and "d" variances for its proposed renovation of the Essex Green Shopping Center. The site is located at 495 Prospect Avenue in West Orange Township, Essex County, New Jersey. Figure 1 Regional Location Map identifies the site relative to its location.

Identified on Township tax maps as Block 155.21 Lot 40, the 28.54 acre site has been the site of the Essex Green Shopping Center since 1957. The proposed improvements represent the first major renovation of the site since 1991. Figure 2 Tax Parcel Map and Figure 3 USGS Site Location Map identify the site.

Surrounded by roadways on all its sides, the site consists of multiple commercial buildings and parking area, resulting in lot coverage of approximately 88 percent. The total building floor area at the site is 425,316 square feet. Proposed improvements will involve the renovation of existing buildings and the addition of new buildings adding 50,734square feet of new commercial space without increasing the total lot coverage, increasing the total gross floor area to 476,050 square feet, with a gross leasable area of 392,174 square feet.

The site is located in the P-C Planned Commercial Zoning District. While retail and commercial uses are permitted in the P-C District, the proposed improvements include two drive-through lanes at two of the proposed buildings. A "d"(1) use variance is requested as drive-through window lanes are not a permitted principal or accessory use in the P-C District. The applicant is also requesting a "d"(6) height variance related to the renovation of the existing buildings. There are also several "c" or bulk variances requested to address front and side-front yard building setbacks, building and lot coverage, space between buildings, parking and loading spaces, wall signs, and freestanding signs. Several existing bulk conditions are nonconforming and will either be improved or remain the same.

The “d”(1) use variance can be granted as the proposed drive-thru lanes are particularly suited for the site as proposed. Regarding the “d”(6) height variance, one of the three buildings has an existing nonconforming height of 44.25 feet. Small portions of the existing buildings would be renovated to a substantially similar height. Granting the “d” variances will not increase the use intensity beyond that anticipated in the P-C District. The “c” variances requested would enhance design, improve circulation and wayfinding, and contribute to improved site functionality and revitalization. The requested variances further several purposes of zoning as outlined in the Municipal Land Use Law (MLUL). In addition to addressing the positive criteria, granting the requested variances will not have a substantial impact on the public good nor will it have a substantial impact on the master plan and zoning ordinance, as indicated in this report.

2.0 SITE INFORMATION

2.1. Existing Conditions

Surrounded by roadways, Prospect Avenue to the east and Rooney Circle on its other sides, the site has a somewhat irregular shape and an area of approximately 28.54 acres and a lot width of approximately 1,226.5 feet as noted on the submitted site plan. The site topography slopes downward from southeast to northwest as its highest point is approximately 615 feet at the southeast corner of the site to approximately 560 feet near the northwest corner of the site. Direct access to the site is from Prospect Avenue (Essex County Route 508) and Rooney Circle. Just north of the site is Interstate Route 280, which provides access to and from Prospect Avenue and is the major regional highway from which potential customers can reach the site. Figure 4 Project Site Aerial Photograph shows the site and the surrounding area.

The core buildings of Essex Green Shopping Center consist of three buildings having retail, restaurant, movie theater, and other commercial tenants on two levels, the upper level with frontages facing toward the east and Prospect Avenue and the lower level with frontages facing toward the northwest and Rooney Circle.

The movie theater building has a nonconforming building height of 44.25 feet. A substantial number of tenant spaces are vacant. Appendix A Photographs: Existing Site Conditions provides a view of existing conditions.

There are three other buildings on the perimeter of the site. At the northwest portion of the site is a Shop Rite supermarket. Toward the southeast portion of the site there are two smaller buildings, TGI Friday's restaurant and Atlantic Federal Credit Union branch. The credit union branch has three drive-through lanes with automatic teller machine (ATM) and window service for its customers. The TGI Friday's building has a nonconforming front yard setback of 101.7 feet where 300 feet is required, while the Shop Rite building has a nonconforming side-front yard setback of 43.4 feet where 100 feet is required.

The site is mostly covered by buildings and pavement. Both building and lot coverage are existing nonconforming conditions exceeding the maximum limits for the P-C District. The three core buildings of the shopping center are nonconforming with regards to minimum distance from each other. There are 1,722 parking spaces and 12 loading spaces, both existing nonconforming conditions. The parking lot does not meet the minimum setbacks from Prospect Avenue or Rooney Circle and some spaces are partially located beyond the property line and encroach into the Rooney Circle ROW.

Existing freestanding signage is limited to one freestanding sign and two shopping center signs for several thousand feet of lot frontage surrounding the site. This is also a nonconforming condition as the sign ordinance permits one freestanding sign in the front yard.

The overall site condition is best described as dated, with the last substantial renovation done in 1991. There are a substantial number of vacancies in the core buildings, particularly those units on the upper level facing Prospect Avenue.

Land uses surrounding the site are as follows:

1. North of the site: Across from the northeast corner of the site is the Courtyard by Marriott hotel, located in the B-2 General Business District. Adjacent to the Courtyard hotel is a hotel under construction, located in the P-C District.
2. West of the site: An office development situated in the OB-1 Office Building District is located across Rooney Circle to the west. A utility right-of-way separates Rooney Circle from a residential development located in the PURD Planned Unit Residential Development District. This development is accessed from Marion Drive west of Rooney Circle and the site.
3. South of the site: Across Rooney Circle are office buildings accessible from Marion Drive and Rooney Circle. There is also a LA Fitness gym and recreation facility, which received "d"(1) use variance and "d"(6) height variance approval, along with "c" variances and site plan approval, across from the site. These parcels are in the O-R and O-RA Office Research District.
4. East of the site: Directly across Prospect Avenue from the site is a residential development located in the PURD District. Southeast of the site is a mix of retail, service, and gas station uses, located in the B-2 General Business District

Many residential and nonresidential uses surround the site, all representing potential customer bases for the shopping center to serve throughout the day. Figure 5 Zoning Map shows the zoning districts surrounding the site.

2.2. Site Application History

Essex Green Shopping Center was built in 1957. The last major renovation was completed in 1991. Over the last 20 years there have been several applications submitted to the Township for site improvements. Appendix B Planning Board Resolutions for Site includes documents regarding approved improvements. The approvals, starting with the most recent, are summarized as follows:

1. Resolution PB-13-23T: granted technical site plan approval from the technical review subcommittee, without variances, to AMC Theaters for the installation of interior modification as contained in the Americans with Disabilities Act (ADA). Planning Board adopted resolution January 8, 2014.
2. Resolution PB-12-06T: granted technical site plan approval from the technical review subcommittee, without variances, to S&L Opticians, Inc. d/b/a Pearle Vision for interior renovations to a retail optical store. Planning Board adopted resolution April 4, 2012.
3. Resolution PB 97-34: granted amendments to approval memorialized in Planning Board Resolution PB 97-34 dated March 4, 1998. Planning Board adopted resolution January 6, 1999.
4. Resolution PB 98-23: granted preliminary and final site plan approval of the amended site plan and variances related to Shop Rite supermarket improvements. Planning Board adopted resolution November 4, 1998.
5. Resolution PB 97-27E: granted extension of time and requiring further periodic report concerning conditions imposed on application PB 95-06, which involved construction of a 10,000 square foot building addition. Planning Board adopted resolution February 4, 1998.
6. Resolution PB 97-14T: granted technical site plan approval from the technical review subcommittee, without variances. Planning Board adopted resolution July 2, 1997.
7. Resolution PB 97-01: granted site plan and bulk variance approval related to improvements for the movie theater. Planning Board adopted resolution March 5, 1997.

Over the last 20 years, the approved applications have focused on improving the functionality of the overall site and specific interior spaces of the shopping center. The proposed improvements would represent a more comprehensive rehabilitation of the site.

3.0 PROPOSED IMPROVEMENTS

The applicant is proposing a major renovation to the shopping center, the first in 27 years. Among the drawings included with the application are the proposed site plan and architectural drawings, including elevation drawings and perspective views. These improvements represent a major rehabilitation of the site from a functional and aesthetic standpoint.

The three core buildings, referred to on the plans as Buildings A, B & C, are to undergo interior and exterior renovations. Gross floor areas for each building are noted on Table 1 Buildings A, B, & C - Proposed Gross Floor Areas:

Table 1: Buildings A, B, & C - Proposed Gross Floor Areas

Existing Building	Total Proposed GFA	Upper Level GFA	Lower Level GFA
A	66,370	50,141	16,229
B	190,728	113,612	77,116
C	87,415	44,404	43,011

There are three new buildings proposed on site. Building G is a 15,000 square foot building to be located at the south portion of the site. Designed for multiple tenants, Building G includes two loading areas and a drive-through lane. Building H is a 2,200 square foot building with a drive-through lane to be located at the northeast portion of the site. Proposed Building I would have 29,606 square feet of floor area on the site's lower level and located beneath a parking structure. Proposed floor areas for each building are noted on Table 2 Buildings G, H & I – Proposed Gross Floor Areas.

Table 2: Buildings G, H & I - Proposed Gross Floor Areas

Proposed Building	Total Gross Floor Area
G	15,000
H	2,200
I	29,606

Three existing buildings, Building F (bank with drive-through lanes; 5,232 square feet of GFA on two levels), Building G (TGI Friday's restaurant; 7,303 square feet of GFA), and

Shop Rite supermarket (72,196 square feet of GFA) will remain and are not affected by the proposed improvements.

A new signage plan will include additional wall signage and new freestanding signs, including monument signs, at the site. There are no changes to wall signage for Shop Rite, TGI Friday's, drive-through bank, and the lower level stores of Buildings B & C, all not included in zoning table sign information.

The proposed improvements will result in 1,542 parking spaces, including 44 handicapped accessible spaces, and 14 loading spaces. A new entrance drive is proposed from Prospect Avenue and the access road through the site will be reconfigured for improved circulation. There are also proposed improvements to site landscaping and lighting.

Table 3 Phasing Plan outlines the anticipated plan for implementing the proposed improvements:

Table 3: Phasing Plan

Phase	Actions
1A	Construct new entrance drive from Prospect Avenue.
1	Renovate Building B, build associated parking and drive aisles
2A	Construct Building A & G parking and drive aisles; construct Building G
2	Renovate Buildings A & B; build adjacent parking and drive aisles.
3	Construct Building H; build adjacent parking and drive aisles
4	Construct Building I; build adjacent parking and drive aisles

4.0 ZONING

4.1. P-C District Requirements

The P-C Planned Commercial District has the following permitted principal uses: retail store, personal service store or studio, restaurant, bar, motor vehicle fueling station, post office, civic center limited to assembly hall and noncommercial indoor recreation facilities, and theaters on lots at least eight acres in size. Permitted accessory uses include required accessory parking, required accessory truck loading spaces, private garage, and signs. Conditional uses permitted in the P-C District include video or

amusement arcades and commercial antenna. Table 4 – P-C District Bulk Requirements outlines the bulk regulations:

Table 4 – P-C District Bulk Requirements

Maximum Building Height (st / ft)	2.5 stories and not exceeding 35 feet
Minimum Lot Area (ac)	8
Minimum Front Yard Setback (Prospect Av) (ft)	300
Minimum Side-Front Yard Corner Lot Setback (Rooney Circle) (ft)	100
Minimum Setback to Residential Use (ft)	100
Maximum Building Coverage (%)	20
Maximum Lot Coverage (%)	75
Minimum Space Between Buildings (ft)	150

4.2. Other Applicable Zoning Requirements

Parking and Loading. Per §25-12.2 of the Township Land Use Regulations, parking is calculated at one space per 250 square feet of gross floor area for retail uses and one space per three seats for restaurant use. Regarding loading spaces, there is one loading space required per 10,000 square feet of floor area.

Signage. Regulation of signage is under §25-15 of the Land Use Regulations. Wall signs are limited to one per occupant, the area not exceeding the lesser of 15 percent of the front wall or 120 square feet. One freestanding sign is permitted in the front yard area only. Freestanding and monument signs have a minimum setback of 10 feet in the front yard and 25 feet in the side yard, while shopping center signs have a minimum setback of 50 feet in the front and side yards. Maximum freestanding sign area is 50 square feet for freestanding and monument signs, and 150 square feet for shopping center signs. Freestanding sign height has minimum and maximum heights for freestanding (eight feet minimum and sixteen feet maximum) and monument (two feet minimum and eight feet maximum) signs. Shopping center freestanding signs have a maximum height of 20 feet. The maximum sign width is six feet for freestanding and monument signs and 15 feet for shopping center signs.

4.3. Relief Requested

The applicant is requesting “c” and “d” variances for this application. Appendix C Zoning Statistics Table outlines the land use regulation requirements, existing bulk conditions, and proposed dimensions.

Existing Nonconforming Conditions Not Changing. The following conditions are not being changed with the proposed improvements:

1. Minimum parking front yard (Prospect Avenue) setback: 24.4 feet existing and proposed.
2. Minimum parking side-front corner lot yard (Rooney Circle) setback: 0 feet existing and proposed.
3. Maximum lot coverage: 75 percent maximum, 88 percent existing & proposed.

Any nonconforming conditions affecting buildings that are not being renovated will remain in place.

“d”(1) Use Variance. Proposed Buildings G & H are designed to have drive-through window lanes, which are not a permitted use in the P-C District.

“d”(6) Height Variance. The maximum height in the P-C District is 2.5 stories not exceeding 35 feet. Building A is proposed to have a maximum height of 40 feet. Building B is proposed to have a maximum height of 42 feet. Building C, which has an existing nonconforming height of 44.25 feet, is proposed to have a maximum height of 45 feet.

“c” Variances. The following bulk variances are requested:

1. Minimum front yard (Prospect Avenue) setback: 300 foot minimum, 101.7 feet exists (TGI Friday’s), 92.2 feet proposed (Building H).
2. Minimum side-front corner lot yard (Rooney Circle) setback: 100 foot minimum, 43.4. feet exists (Shop Rite), 13 feet proposed (Building H)

3. Maximum building coverage: 20 percent maximum, 23 percent exists, 25 percent proposed.
4. Minimum space between buildings: 150 feet minimum
 - a. Buildings A to B: 50.5 feet exists, 65.5 feet proposed.
 - b. Buildings A to C: 30.9 feet exists, 12.6 feet proposed.
 - c. Buildings B to C: 50.2 feet exists, 0 feet proposed.
 - d. Buildings C to I: 0 feet proposed.
5. Minimum parking spaces required: 2,273 required, 1,722 exists, 1,542 proposed.
6. Minimum loading spaces: 40 minimum, 12 exist, 14 proposed.
7. Wall signs:
 - a. Maximum number: one per unit of occupancy
 - i. Building A: 14 maximum, 20 proposed.
 - ii. Building B: 15 maximum, 25 proposed.
 - iii. Building C: 1 maximum, 2 proposed.
 - iv. Building G: 5 maximum, 18 proposed.
 - v. Building H: 1 maximum, 4 proposed.
 - vi. Building I: 2 maximum, 6 proposed.
 - b. Maximum sign area: lesser of 15 percent of front wall or 120 square feet
 - i. Building B: 275 square feet
 - ii. Building C: 160 square feet
 - iii. Building G: 160 square feet
 - iv. Building I: 140 square feet
8. Freestanding signs:
 - a. Number of signs: 1 maximum, 3 exist (1 freestanding, 2 shopping center), 7 proposed (1 freestanding, 4 monument, 2 shopping center).
 - b. Sign location: front yard only, proposed in front and side yards.
 - c. Minimum sign front & side yard setbacks:
 - i. Freestanding & monument signs: 10 feet front & 25 feet side minimum, 7.4 feet exists, 5 feet proposed.
 - ii. Shopping center signs: 50 feet minimum, 5.4 feet exists, 10 feet proposed.
 - d. Maximum sign area:
 - i. Freestanding sign: 50 square feet maximum, 238 square feet proposed.

- ii. Shopping center signs: 150 square feet maximum, 192 & 236 square feet proposed.
- e. Maximum sign height:
 - i. Freestanding sign: 16 feet maximum, 48 feet proposed.
 - ii. Monument sign: 8 feet maximum, 9 feet proposed.
 - iii. Shopping center signs: 20 feet maximum, 25 feet proposed.
- f. Max sign width: freestanding sign 6 feet maximum, 15 feet proposed.

5.0 VARIANCE JUSTIFICATION

5.1. "d"(1) Use Variance

The proposed drive-through window lanes at Buildings G and H are particularly suited to be located at the site and in their specific locations. It is our position that the site is very well suited for the drive-through use even though said use is not permitted in the P-C District as a principal or accessory use. Both the positive and negative criteria need to be addressed.

Drive-through window lanes are common place in many land uses, including and not limited to financial institutions, personal service shops, retail stores, and eating establishments. The uses outlined include several permitted principal uses in the P-C District. The proposed location of buildings with drive-through lanes does not detract from the design goals of creating a town center environment at the core buildings of the shopping center. These drive-through window lanes complement and help to offer a wider range of uses in demand from the public.

Overall site design and specific drive-through window locations do not adversely impact the proposed design character. The design of the drive-through window lanes allows for sufficient stacking to encourage safe vehicular circulation. The proposed drive-through window locations minimize interactions with pedestrian circulation as well.

Granting a "d"(1) use variance for the proposed drive-through window lanes furthers several purposes of the MLUL, as follows:

(a) Encourage municipal action to guide the appropriate use or development of lands in this State, in a manner which will promote the public health, safety, morals, and general welfare: The proposed drive-through window lanes incorporated into the renovated shopping center provide and enhance a broader range of uses, improving the competitiveness of the site located in a zoning district intended to promote commercial and retail uses.

(c) Provide adequate light, air, and open space: The proposed drive-through window lanes are located in buildings situated a substantial distance from the core buildings of the shopping center, having adequate area and setbacks to operate safely and efficiently.

(g) Provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens: Site is ideally situated and configured to permit the proposed drive-through window lanes, which are placed in areas of the site that allow for safe and efficient operations while contributing to overall revitalization of the shopping center.

(h) Encourage location and design of transportation routes which promote the free flow of traffic while discouraging the location of such facilities that result in congestion or blight: The proposed drive-through window lanes are located in sections of the site and designed to handle circulation in a safe and efficient manner.

(i) Promote a desirable visual environment through creative design techniques:

The proposed buildings with drive-through window lanes are integrated into the overall design theme. However, they are located away from the core buildings of the shopping center which intends to encourage more pedestrian circulation in that area.

Regarding the negative criteria, there are two prongs to address, specifically that the proposed use has no substantial impact on the public good nor does it have a substantial impact on the master plan and zoning ordinance.

1. No substantial impact on the public good. The proposed drive-through lanes are designed to accommodate stacking and not adversely impact vehicle circulation on site. Furthermore, the buildings with drive-through window lanes are designed to fit into new shopping center theme. The drive-through window lanes traverse adjacent to the Rooney Circle side of the proposed buildings, minimizing substantial impacts on pedestrian circulation and aesthetic concerns. On site there is already a bank (Building F) with three drive-through window in operation. While the use intensity of drive-through window lanes varies depending on use, they are a customary accessory use to many of the permitted uses on site.
2. No substantial impact on the zoning ordinance or master plan. The proposed uses in the buildings with drive-through window lanes are permitted in the P-C District save for proposing accessory drive-through window lanes. The 2010 Master Plan Update Economic Development Section (page 74) refers to the Essex Green Shopping Center as a "regional center", originally designated in the 2004 Master Plan Reexamination Report. On page 78 of the 2010 Master Plan Update, it was noted that the "key for this area is to maintain balance of land uses, which will have benefits with regard to traffic as well as fiscal impacts." Permitting the proposed drive-through window lanes contributes to broadening the range of uses that will keep the site viable and continue as a "regional center" for retail and commercial uses.

Furthermore the 2010 Master Plan Update (p.79) references supporting services (such as hotels) for area businesses and Township in general. Drive-thru window lanes cater to wide range of potential customers throughout the day, not all being able to stay on site at a particular time.

In the Essex Green & Executive Drive Area Redevelopment Study dated October 2017, it was noted that the size and layout of many retail uses at the site are outdated by today's standards. The central retail shopping center, or the core buildings, was indicated as close to being considered functionally obsolete. The report found that the site could meet two of the criteria as an area in need of redevelopment due to obsolete layout, faulty arrangement and design, and limited prospects for occupying space. While the overall renovation of the site will address the concerns outlined in the 2017 study, the proposed drive-through window lanes represent a common and in demand aspect of retail and commercial uses. Their integration into the site, as proposed on the plans, does not have an adverse impact on the zone plan and zoning ordinance.

A "d"(1) use variance request has an enhanced quality of proof that must be met. Although the proposed drive-through window lanes are not specifically permitted in the P-C District, said drive-through window lanes are common as customarily accessible uses to many of the permitted uses in the P-C District. The "d"(1) use variance request can be granted for the reasons outlined in this section.

5.2. "d"(6) Height Variance

As noted on the architectural plans, a small portion of Buildings A, B, and C exceed the height limit. Since the proposed heights are at least 10 percent of the maximum height of 35 feet, a "d"(6) variance is requested. It is our position that proposed building heights are intended to enhance the design of the buildings, breaking up a uniform façade and roofline, in addition to creating a distinctive design identify for the buildings. We note the following regarding each building where a height variance is requested:

1. Building A. A small percentage of the front building wall reaches a 40 foot height at the top of the highest parapet, specifically near the center walkway location. The remainder of the building is less than 35 feet in height. This additional height does not create greater intensity within the building.
2. Building B. A small percentage of the front building wall reaches a 42 foot height at the top of the highest parapet, specifically near the northeast corner where Macy's Backstage is located. This corner location also serves as a focal point where a major tenant is located. The remainder of the building is less than 35 feet in height. This additional height does not create greater intensity within the building.
3. Building C. The existing building height of 44.25 feet is being increased by approximately nine inches to 45 feet to the top of the parapet. This increase is de minimis and does not affect the intensity of use in the building or a substantial change in building mass and form.

Granting the requested "d"(6) height variance furthers several purposes of the MLUL, as follows:

(a) Encourage municipal action to guide the appropriate use or development of lands in this State, in a manner which will promote the public health, safety, morals, and general welfare: The proposed building heights are a function of improved design and do not contribute to increased intensity.

(c) Provide adequate light, air, and open space: The proposed building heights do not cast shadows or adversely impact light, air, and open space on site or to the surrounding area. The improvements contribute to creating more usable space and a better pedestrian environment on site.

(i) Promote a desirable visual environment through creative design techniques:

The proposed heights contribute positively to the town center theme. Not only is the façade enhanced, there are also breaks in the façade that allow for differing heights which enhances the overall aesthetics of the site.

Regarding the negative criteria, there are two prongs to address, specifically that the proposed building heights have no substantial impact on the public good nor do they have a substantial impact on the master plan and zoning ordinance.

1. No substantial impact on the public good. The proposed building height is not out of character with the site, as the AMC Theater (Building C). When viewing the surrounding area, there are several buildings of similar or greater heights, including hotels, office buildings, and the LA Fitness gym. There is no adverse impact on light, air, and open space caused by the small portions of each building above the building height limit in the P-C District.
2. No substantial impact on the zoning ordinance or master plan. Buildings A, B, and C are sufficiently setback from the lot lines and surrounding development that there is no substantial impact on the zone plan. The proposed building heights do not affect the intensity of uses and are a design enhancement consistent with the revitalization of the shopping center. The 2010 Master Plan Update Economic Development Section (page 74) refers to the Essex Green Shopping Center as a “regional center”, originally designated in the 2004 Master Plan Reexamination Report. The proposed design, which includes the building plans with small portions of the building requesting a “d”(6) height variance, is consistent with the intent to continue the role of the site as a regional center..

The “d”(6) height variance request can be granted for the reasons outlined in this section.

5.3. "c" variances

The requested "c" variances can be granted under the "c"(2) criteria, where the benefits outweigh potential detriments related to the deviation requested. Where a variance can be granted under the "c"(1) criteria regarding physical constraints related to the site it will be noted accordingly. The requested variances are as follows:

1. Minimum front yard (Prospect Avenue) setback: 300 foot minimum, 101.7 feet exists (TGI Friday's), 92.2 feet proposed (Building H). Between the proposed Building H and the front lot line is mostly parking area and access road to Rooney Circle. The location permits the proposed drive-through window lane to be close to Rooney Circle and sufficient distance from the core town center buildings, keeping drive-through window lanes on the site perimeter. Meeting the 300 foot limit is impractical as it would prevent placement of the building on this portion of the lot due to the grade change going west, meeting the "c"(1)(b) criteria regarding topographic features.
2. Minimum side-front corner lot yard (Rooney Circle) setback: 100 foot minimum, 43.4. feet exists (Shop Rite), 13 feet proposed (Building H). The location situates the drive-through window lane close to Rooney Circle, minimizing interaction with pedestrian circulation and facing toward the lot lines of the site. The 13 feet allows for safe and efficient operation of the drive-through window lane.
3. Maximum building coverage: 20 percent maximum, 23 percent exists, 25 percent proposed. The additional coverage is part of the overall improvements to the core buildings and the new buildings. No additional lot coverage is added as the buildings are developed on impervious surfaces. The benefit of the building additions contributing to the site's revitalization outweighs concerns regarding more building coverage.

4. Minimum space between buildings: 150 feet minimum.
 - a. Buildings A to B: 50.5 feet exists, 65.5 feet proposed. An existing nonconforming condition, the distance between buildings is improving, a function of redesigning the central walkway area that will serve as a central point of the newly renovated shopping center.
 - b. Buildings A to C: 30.9 feet exists, 12.6 feet proposed. Distance is due to the Building C addition that increases connectivity within the central portion of the shopping center.
 - c. Buildings B to C: 50.2 feet exists, 0 feet proposed. Distance is due to the building additions that increases connectivity within the central portion of the shopping center.
 - d. Buildings C to I: 0 feet proposed. Distance is due to the proposed connection between Building C and proposed Building I, enhancing connectivity with the core buildings at the center of the site.

5. Minimum parking spaces required: 2,273 required, 1,722 exists, 1,542 proposed.

The site includes a range of uses that have different peak operating times throughout the day. Industry standards acknowledge that parking demand for individual tenants is not cumulative. Rather it is less than the arithmetic sum due to those different peak times. Providing a number of parking spaces that will sufficiently address the demand throughout the day outweighs the perceived detriment of not meeting the parking requirement, for which the site already has a nonconforming parking space allotment. The upper level parking ratio is 3.88 parking spaces per 1,000 square feet while the overall parking ratio is 3.93 parking spaces per 1,000 square feet.

6. Minimum loading spaces: 40 minimum, 12 exist, 14 proposed. Improves on the existing nonconforming condition. Most of the commercial units have different delivery methods that don't require a designated loading space. The two new spaces are proposed to service proposed Building G. The benefits of adding spaces for the new multitenant Building G and not adding more loading areas far

outweigh any substantial detriment, of which there is none due to the different delivery methods outlined above.

7. Wall signs:

- a. Maximum number: one per unit of occupancy. The signage maximizes unit identification and contributes to the town center theme proposed for the site. Some units are located on building corners that are suitable for more than one identification sign. The benefits of the design and identification improvements from the proposed signage package outweigh any potential detriments from the number of signs, of which there are none. The number of signs requested per building needing a variance is as follows:
 - i. Building A: 14 maximum, 20 proposed.
 - ii. Building B: 15 maximum, 25 proposed.
 - iii. Building C: 1 maximum, 2 proposed.
 - iv. Building G: 5 maximum, 18 proposed.
 - v. Building H: 1 maximum, 4 proposed.
 - vi. Building I: 2 maximum, 6 proposed.
- b. Maximum sign area: lesser of 15 percent of front wall or 120 square feet. The benefit of the larger signs identifying the central area of the shopping center and identifying major tenants outweighs any detriment from exceeding the area limit, of which there are none given the setback of the buildings from the lot lines and access roads.
 - i. Building B: 275 square feet. This sign identifies a prime tenant occupying one of the larger spaces in the shopping center. There is also a new "Essex Green" sign identifying the central point of the shopping center.
 - ii. Building C: 160 square feet. Sign is located in the central area and identifies a major site destination (theater).
 - iii. Building G: 160 square feet & Building I: 140 square feet. Both signs identify "Essex Green" branding the shopping center in addition to the signs for each specific use.

8. Freestanding signs:
- a. Number of signs: 1 maximum, 3 exist (1 freestanding, 2 shopping center), 7 proposed (1 freestanding, 4 monument, 2 shopping center). Signs part of overall town center theme, identifying both specific businesses at the site and Essex Green Shopping Center. The benefits from the wayfinding and aesthetic improvements outweigh any potential detriment regarding number of signs, of which there are none.
 - b. Sign location: front yard only, proposed in front and side yards. Rooney Circle also serves the site as a front yard. Site is unique in that it is entirely surrounded by roadways. Benefits from an identification and aesthetic standpoint outweigh any potential detriments from having a sign in the side-front yard, of which there are none.
 - c. Minimum sign front & side yard setbacks: The change is de minimis from the existing condition, moving the sign setback approximately five inches closer to the lot line. Meeting the setbacks is not practical given the site plan design and the benefit of the proposed signs providing adequate identification from the roadways.
 - i. Freestanding & monument signs: 10 feet front & 25 feet side minimum, 7.4 feet exists, 5 feet proposed.
 - ii. Shopping center signs: 50 feet minimum, 5.4 feet exists, 10 feet proposed.
 - d. Maximum sign area:
 - i. Freestanding sign: 50 square feet maximum, 238 square feet proposed. This one sided sign designed to identify the site from Interstate Route 280, a major roadway from which potential customers reach the site.
 - ii. Shopping center signs: 150 square feet maximum, 192 & 236 square feet proposed. The 192 square foot sign allows sufficient space to identify tenants at the site. The 236 square foot sign includes an LED screen that offers the site flexibility in communications, including new stores and events that may occur, common in updates shopping center designs.

- e. Maximum sign height:
 - i. Freestanding sign: 16 feet maximum, 48 feet prop proposed. One sided sign height designed to identify the site from Interstate Route 280, a major roadway from which potential customers reach the site.
 - ii. Monument sign: 8 feet maximum, 9 feet proposed. Height variance de minimis, base included in sign height from ground.
 - iii. Shopping center signs: 20 feet maximum, 25 feet proposed. Includes nine foot high stand so monument sign is not obscured and provides additional identification space for other tenants. Benefit of height for sign so shopping center sign acts in concert with monument sign outweighs additional sign height requested, for which there is no adverse impact.
 - iv. Max sign width: freestanding sign 6 feet maximum, 15 feet proposed. One sided sign height designed to identify the site from Interstate Route 280, a major roadway from which potential customers reach the site.

Granting the requested “c” variances furthers several purposes of the MLUL, as follows:

(a) Encourage municipal action to guide the appropriate use or development of lands in this State, in a manner which will promote the public health, safety, morals, and general welfare: The proposed building heights are a function of improved design and do not contribute to increased intensity.

(c) Provide adequate light, air, and open space: The proposed building heights do not cast shadows or adversely impact light, air, and open space on site or to the surrounding area. The improvements contribute to creating more usable space and a better pedestrian environment on site.

(i) Promote a desirable visual environment through creative design techniques: The proposed heights contribute positively to the town center theme. Not only is the façade enhanced, there are also breaks in the façade that allow for differing heights which enhances the overall aesthetics of the site.

Regarding the negative criteria, there are two prongs to address, specifically that the granting of the requested variances have no substantial impact on the public good nor do they have a substantial impact on the master plan and zoning ordinance.

1. No substantial impact on the public good. There is sufficient parking on site to address anticipated demand throughout the day. The various uses at the shopping center have different peak times regarding traffic and parking demand. The proposed design would create a modern shopping center with a town center design theme, consistent with modern retail commercial centers of this type. This plan presents both a functional and aesthetic improvement. The signage proposed and granting requested variances would promote safe wayfinding on to and around the site. Said signage is part of the overall town center design plan.
2. No substantial impact on the zoning ordinance or master plan. The 2010 Master Plan Update Economic Development Section (page 74) refers to the Essex Green Shopping Center as a "regional center", originally designated in the 2004 Master Plan Reexamination Report. The site was described in the October 2017 Redevelopment Study as being outdated by today's standards, close to being functionally obsolete

The requested bulk variances can be granted under the "c"(2) criteria for the reasons outlined in this section.

6.0 CONCLUSION

Based on the findings in this report, the requested variances can be granted consistent with the applicable criteria required.

The "d"(1) use variance can be granted as the proposed drive-through window lanes are particularly suited for the site and as proposed. Regarding the "d"(6) height variance, one of the three buildings has an existing nonconforming height of 44.25 feet. Small portions of the existing buildings would be renovated to a substantially similar height.

Granting the “d” variances will not increase the use intensity beyond that anticipated in the P-C District.

The “c” variances requested would enhance design, improve circulation and wayfinding, and contribute to improved site functionality and revitalization. The requested variances further several purposes of zoning as outlined in the Municipal Land Use Law (MLUL). In addition to addressing the positive criteria, granting the requested variances will not have a substantial impact on the public good nor will it have a substantial impact on the master plan and zoning ordinance.

7.0 REFERENCES

Township of West Orange, Chapter XXV Land Use Regulations.

2010 Master Plan Update: Reexamination Report, Sustainability Plan and Updated Plan Elements, Township of West Orange Essex County, New Jersey, adopted June 2, 2010.

Essex Green and Executive Drive Area, Area in Need of Redevelopment Study, Township of West Orange, New Jersey, dated October 2017.

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APPENDIX B

PLANNING BOARD RESOLUTIONS FOR SITE

PB-13-23T

AMC THEATRES (American Multi-Cinema, Inc.)

495 Prospect Avenue

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE
TECHNICAL REVIEW COMMITTEE**

Granting technical site plan approval (technical review subcommittee), without variances, to install interior modifications as contained in the Americans with Disabilities Act.

WHEREAS, the Technical Review Committee of the Planning Board of the Township of West Orange, at a meeting held on December 12, 2013, considered the application for technical site plan approval, without variances, to install interior modifications as contained in the Americans with Disabilities Act, on property located in the P-C Zone, identified as Block 155.21, Lot 40, which was submitted by AMC Theatres (the "Applicant"); and

WHEREAS, the Planning Board considered the presentation of the Applicant, AMC Theatres, the Applicant's architect, Daniel J. Lickel, Lickel Architecture, and the Applicant's attorney, Donna M. Erem, Esq., Wolff & Samson PC; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Technical Review Committee of the Planning Board have been properly invoked and exercised; and the Technical Review Committee of the Planning Board having conducted a vote on this application on December 12, 2013; and

WHEREAS, the Applicant requested technical site plan approval, without variances, to install interior technical modifications as contained in the Americans with Disabilities Act;

NOW, THEREFORE, does the Planning Board (Technical Review Committee) of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for technical site plan approval, without variances, to install interior technical modifications as contained in the Americans with Disabilities Act.

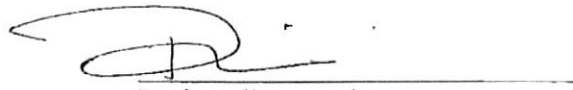
2. The Board (Technical Review Committee) has recommended and the Applicant has agreed to the following additional conditions of approval:

(1) Applicant to review plans for compliancy with the 2009 New Jersey Uniform Construction Code;

(2) Each page of the Applicant's plans to include the name, signature and seal and license number of New Jersey licensed architect.

NOW, THEREFORE, BE IT RESOLVED that this application for technical site plan approval, without variances, to install interior technical modifications as contained in the Americans with Disabilities Act is approved, subject to the additional conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.



Robin Miller, Board Secretary

Dated: January 8, 2014

PB-12-06T

S & L Opticians, Inc. d/b/a Pearle Vision

495 Prospect Avenue, West Orange, New Jersey 07052

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE
TECHNICAL REVIEW COMMITTEE**

Granting technical site plan approval (technical review subcommittee), without variances, for interior renovations to retail optical store.

WHEREAS, the Technical Review Committee of the Planning Board of the Township of West Orange, at a meeting held on March 15, 2012, considered the application for technical site plan approval, without variances, for interior renovations to an retail optical store on property located in the P-C Zone, identified as Block 155.21, Lot 40, which was submitted by S & L Opticians, Inc. d/b/a Pearle Vision (the "Applicant"); and

WHEREAS, the Planning Board considered the presentation of the Applicant; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Technical Review Committee of the Planning Board have been properly invoked and exercised; and the Technical Review Committee of the Planning Board having conducted a vote on this application on March 15, 2012; and

WHEREAS, the Applicant requested technical site plan approval, without variances, for interior renovations to retail optical store;

NOW, THEREFORE, does the Planning Board (Technical Review Committee) of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for technical site plan approval, without variances, for interior renovations to retail optical store.

2. The Board (Technical Review Committee) has not imposed any conditions.

NOW, THEREFORE, BE IT RESOLVED that this application for technical site plan approval, without variances, for interior renovations to retail optical store is approved.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.



Robin Miller, Board Secretary

Dated: April 4, 2012

PB-97-34

PLANNING BOARD RESOLUTION
GRANTING AMENDMENTS TO THE APPROVAL
MEMORIALIZED IN PLANNING BOARD RESOLUTION PB-97-34
DATE MARCH 4, 1998
AS APPLIED FOR BY
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK -
LOCATED AT PROSPECT AVENUE AND ROONEY CIRCLE
BLOCK 155.21 - LOTS 40, 40.01 & 40.03
("THE SHOPPING CENTER")
ZONE P-C

WHEREAS the Planning Board of the Township of West Orange, at a special meeting held on September 23, 1998 considered the Application for an Amendment to the Resolution adopted by this Board on March 4, 1998 in connection with this matter, which Application was submitted by The Mutual Life Insurance Company of New York (the "Applicant"), through its attorney, Philip D. Neuer, Esq.; and

WHEREAS the Planning Board reviewed the prior Resolution and the presentation of Philip D. Neuer, Esq. on behalf of the Applicant; and

WHEREAS the general public having been provided notice in accordance with law and having been afforded the opportunity to be heard; and

WHEREAS the Planning Board made the following findings of fact:

1. The representatives of Sears Roebuck & Co. who testified before this Board on February 4, 1998 erred in that lumber and other materials which might be construed as "large construction materials" are an integral part of the business to be conducted by Sears at this property.
2. Although reference to these materials was made in the findings of fact in the prior Resolution, there was no condition imposed which actually prohibited the sale of those items, instead, condition number 8 related to the prohibition against the use of "large flat-bed rolling carts."
3. The requirement for Sears, Roebuck & Co. Store employees to bring large merchandise directly to the customer's vehicle remains as a condition, which addresses the concerns of the Planning Board with respect to "lumber or other large construction materials. . ."
4. The architect on behalf of the Applicant made a transcription error in that he showed the large facade sign as being 9.5' in height and 19.5' in width, and the rendered elevation scaled to approximately 7' in height and 19' in width.

5. The prototypical Sears sign closest in size to that proposed dimension measures 9' in height and 22.5' in width.
6. A sign which is 9' in height and 22.5' in width still complies with the 250 square foot maximum size as stated in Section 25 - 5.9 C.3.b(2) of the West Orange Zoning Ordinance and therefore does not require a variance.

NOW, THEREFORE BE IT RESOLVED, that Resolution PB-97-34 adopted March 4, 1998 be and is hereby amended as follows:

1. Paragraph 2 on Page 2 is amended to read as follows:

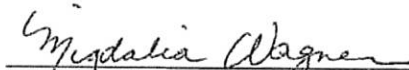
"The Applicant shall provide a customer pick-up area wherein Sears, Roebuck and Co. shall bring large merchandise directly to the customer's vehicle. Sears, Roebuck and Co. will not use heavy duty carts (i.e. the type typically used in the industry to transport 4' x 8' sheets of plywood or drywall) in connection with bringing large merchandise directly to the customer's vehicle."

2. The large facade sign dimension shall be 9' in height by 22.5' in width, for a total of 202.5 square feet.
3. Except as stated above, the approvals and the contents of the Resolution PB-97-34 adopted March 4, 1998 remain in full force and effect.

The foregoing is a true copy of the Resolution adopted by the Planning Board of the Township of West Orange.

Dated: ~~September~~, 1998

January 6, 1999
Amended


Migdalia Wagner, Secretary

PB-97-34

PLANNING BOARD RESOLUTION
GRANTING AMENDMENTS TO THE APPROVAL
MEMORIALIZED IN PLANNING BOARD RESOLUTION PB-97-34
DATE MARCH 4, 1998
AS APPLIED FOR BY
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK -
LOCATED AT PROSPECT AVENUE AND ROONEY CIRCLE
BLOCK 155.21 - LOTS 40, 40.01 & 40.03
("THE SHOPPING CENTER")
ZONE P-C

WHEREAS the Planning Board of the Township of West Orange, at a special meeting held on September 23, 1998 considered the Application for an Amendment to the Resolution adopted by this Board on March 4, 1998 in connection with this matter, which Application was submitted by The Mutual Life Insurance Company of New York (the "Applicant"), through its attorney, Philip D. Neuer, Esq.; and

WHEREAS the Planning Board reviewed the prior Resolution and the presentation of Philip D. Neuer, Esq. on behalf of the Applicant; and

WHEREAS the general public having been provided notice in accordance with law and having been afforded the opportunity to be heard; and

WHEREAS the Planning Board made the following findings of fact:

1. The representatives of Sears Roebuck & Co. who testified before this Board on February 4, 1998 erred in that lumber and other materials which might be construed as "large construction materials" are an integral part of the business to be conducted by Sears at this property.
2. Although reference to these materials was made in the findings of fact in the prior Resolution, there was no condition imposed which actually prohibited the sale of those items, instead, condition number 8 related to the prohibition against the use of "large flat-bed rolling carts."
3. The requirement for Sears, Roebuck & Co. Store employees to bring large merchandise directly to the customer's vehicle remains as a condition, which addresses the concerns of the Planning Board with respect to "lumber or other large construction materials. . ."
4. The architect on behalf of the Applicant made a transcription error in that he showed the large facade sign as being 9.5' in height and 19.5' in width, and the rendered elevation scaled to approximately 7' in height and 19' in width.

PB-98-23

PLANNING BOARD RESOLUTION.
GRANTING VARIANCES
AND
GRANTING PRELIMINARY AND FINAL
APPROVAL OF THE AMENDED SITE PLAN APPLIED FOR
BY THE MUTUAL LIFE INSURANCE COMPANY
OF NEW YORK FOR PROPERTY LOCATED AT PROSPECT
AVENUE AND ROONEY CIRCLE
BLOCK-155.21. LOTS 40, 40.01 & 40.03
ZONE P-C

WHEREAS the Planning Board of the Township of West Orange (the "Board"), at a Special Meeting held on September 23, 1998, considered the application for variances from the requirements of the West Orange Zoning Ordinance (the "Ordinance") as listed below, which application was submitted by The Mutual Life Insurance Company of New York (the "Applicant"), through its attorney, Philip D. Neuer, Esq.; and

WHEREAS the Planning Board also considered the concurrent application for amended preliminary and final site plan approval submitted by the Applicant; and

WHEREAS the Planning Board considered the presentation of Philip D. Neuer, Esq., as Attorney for the applicant, and the testimony offered on behalf of the Applicant from Mr. Enzo Pavese, the Applicant's Architect; Frank Sauro, Esq. of Village Super Market, Inc. ("Village"), the tenant which will operate the new proposed Shop Rite Supermarket; Mr Michael Fowler, P.E., the Applicant's project engineer; Mr. Michael Maris, the Applicant's traffic engineer; and Mr. Peter Steck, P.P., the Applicant's professional planner; and the application and the various Exhibits listed in detail on the List of Exhibits in Evidence which is attached to and made part of this Resolution; and

WHEREAS the Planning Board considered the comments and communications offered by and on behalf of a neighboring property owner, Reckson Associates Realty Corp. ("Reckson"), Mark Schaevitz, Senior Vice President in attendance and Gary S. Rosensweig, Esq., appearing; and

WHEREAS the Municipal Public Advocate appeared in this matter and questioned a witness or witnesses and otherwise participated in these proceedings in that official capacity; and

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DUPLICATE

WHEREAS the Applicant has applied for the following variances from the requirements of the Ordinance:

1. §25-5.1 - The minimum required front yard (northerly) setback is 100 feet; the proposed new Shop Rite is setback 44.43 feet from Rooney Circle.
2. §25-5.1 - The minimum required spacing between buildings is 150 feet; the spacing between the proposed new Shop Rite and the nearest building is 70.72 feet.
3. §25-5.6, A.12 - The parking setback is required to be 50 feet from Rooney Circle (not considering the width of Rooney Circle); the proposed setback is zero feet.
4. §25-5.6 - The required number of parking spaces is 2,793; the proposed number of parking spaces is 1,700.
5. §25-4.95 & §25-5.6.A.16 - The size of parking stalls must be either 9 feet by 20 feet or 10 feet by 18 feet; the proposed parking stalls are 9 feet by 18 feet.
6. §25-5.6, C.1.a. - The required number of loading spaces for the proposed new Shop Rite is 8; the proposed number of loading spaces is 7.
7. §25-5.9.C.3.b. - The maximum area of facade signage permitted is 250 square feet; the proposed facade signs total 647 square feet for all facades.
8. §25-5.2.D.3. - The maximum height of a fence or wall is 6 feet high; the proposed retaining wall to the rear of the loading docks is 12 feet high.
9. §25-5.2.D.3. - The maximum height of a fence or wall is 6 feet high; the proposed decorative screening wall along Rooney Circle is 7 feet high.

WHEREAS the general public having been given an opportunity to be heard and, as stated above, a neighboring property owner appeared before the Board and participated in the proceedings; and

WHEREAS the Planning Board made the following findings of fact:

1. The applicant is continuing the existing use as a shopping center on the site in a P-C Zone in conformance with the Master Plan.
2. The Planning Board gave consideration to the testimony of Mr. Michael Maris, the applicant's traffic engineer, and accepted into evidence his Parking Study dated September, 1998 as Exhibit "A-9". The Maris report concluded that the size and number of parking spaces and loading spaces provided are adequate and that the traffic plan provided for safe and efficient ingress and

gress. In his testimony, Mr. Maris specifically addressed the issue of sight distances as they may be impacted by the decorative wall and landscaping along the westerly and northerly legs of Rooney Circle. Gary S. Rosensweig, Esq., on behalf of Reckson, offered the testimony of an independent traffic engineer to confirm Mr. Maris' findings. The Board's counsel determined that such testimony would be merely cumulative and the Board accepted the offer of proof by Mr. Rosensweig without the necessity of receiving additional testimony. The Applicant did not object to this proffer.

3. The Planning Board gave consideration to the Planning Report of Mr. Peter Steck, P.P., dated August 20, 1998, admitted into evidence as Exhibit "A-10" and to his testimony, all as an expert on planning and zoning. Mr. Steck testified that:

a. Founded on a review of the Master Plan and the Land Use Regulations as well as an analysis of the characteristics of the subject property and the surrounding land uses as well as a review of prior approvals, it is concluded that the benefits of granting the requested variances substantially outweigh any potential detriments. The application comports with reasonable site planning standards and can be granted without substantial detriment to the public good and without substantial impairment to the Zone Plan and Zoning Ordinance. The reasons supporting these conclusions include, but are not limited to the following:

1. **A hardship is present owing to existing conditions on the site and the benefits of granting the Shop Rite setback variance substantially outweigh any potential detriments.**

In analyzing the request for a 44.43 northerly side street front yard, it is recognized that the site is fully developed with a shopping center which limits the alternatives for locating an improved food store. The existing Shop Rite does not meet present standards in the food service industry and consequently cannot stock the range and volume of items expected by customers and offered by competing food stores. Allowing the size adjustment to the industry standard promotes economic development which fulfills one of the goals of the Master Plan.

By shifting the food store to the north, more of the parking is concentrated opposite the main entrance to the food store as well as opposite one of the main entrances to the shopping center. This resultant parking design allows for better sharing of spaces between commercial establishments and offers better segregation of the loading and customer areas.

2. **A hardship is present owing to existing conditions and the benefits of granting the separation distance variance substantially outweigh any potential detriments.**

The separation distance between the existing shopping center main building and the proposed Shop Rite is 70.72 feet in lieu of the required 150 feet. This variance relates to the existing conditions on the site which limit the possible locations for a new Shop Rite as discussed in ¶ 4.a.1., above.

Only the corners of the two buildings are positioned close to one another rather than extended wall surfaces.

Based on the above considerations, the existing conditions on the site warrant hardship relief from the separation distance requirement and the benefits of granting the requested variance substantially outweigh any potential detriments.

3. **There is a hardship owing to existing conditions on the site and the benefits of granting the parking setback variance to Rooney Circle substantially outweigh any potential detriments.**

This site is currently developed with parking which abuts or encroaches on the Rooney Circle right-of-way and this has been the configuration which has been accepted by the West Orange Planning Board on prior applications. Furthermore, the retention of most of the existing shopping center improvements limits the placement of an expanded Shop Rite supermarket. Additionally the unusual configuration of the subject property which involves Lot 40.03 on the west side of Rooney Circle compensates for the setback area. Significant landscaping is proposed adjacent to the new parking areas.

Acknowledging the above and the benefits of producing parking near to the main pedestrian access to the improved Shop Rite, it is concluded that peculiar conditions are present which warrant hardship relief and that the benefits of granting the requested variances substantially outweigh any potential detriments.

4. **The benefits of providing 1,700 parking spaces in lieu of the required 2,793 parking spaces substantially outweigh any potential detriments.**

As documented by the traffic experts, the proposed parking supply adheres to the industry standard for shopping centers. The industry standard acknowledges that the parking demand for individual tenants is not additive but is less than the arithmetic sum because the peak parking demands for each of the uses does not occur at the same time. By providing a parking supply which more accurately reflects the actual parking demand, the applicant is able to provide more landscaping and more efficient use of the land. These are public benefits which substantially outweigh any potential detriments.

5. **The benefits of providing 9 foot by 18 foot parking spaces substantially outweighs any potential detriments.**

The subject shopping center has been developed utilizing a 9 foot by 18 foot parking stall which has proven adequate to service customers, which has been accepted by the Planning Board on past applications, and which is the accepted industry standard. To require larger stalls in this modernization of a portion of the existing shopping center artificially increased the amount of paving, lessens the amount of landscaping, and decreases the efficiency of the

- H. The Shop Rite store cannot be seen from any of the surrounding buildings except for the vacant restaurant building north of the subject property.
- I. The West Orange Master Plan, as one of its objectives, seek to encourage the continued economic development of the community.

4. The proofs and findings of fact which are summarized above, and which are based solely upon the demonstrative evidence and testimony presented during the hearings and may be found in the transcript of the proceedings before this Planning Board, establish that the requested variances will not substantially impair the intent and the purpose of the Master Plan and Zoning Ordinance of the Township of West Orange. In most instances, the variances requested are either existing conditions or restate prior variances granted by this Board. The benefits of granting the requested variances substantially outweigh any potential detriments.

NOW, THEREFORE, BE IT RESOLVED that, conditioned upon approval of the Amended Site Plan for the property located at Prospect Avenue and Rooney Circle, being Block 155.21, Lots 40, 40.01 & 40.03, Zone P-C, in the Township of West Orange, the application for the following variances, from the requirements of the West Orange Zoning Ordinance:

1. §25-5.1 - The minimum required front yard (northerly) setback is 100 feet; the proposed new Shop Rite is setback 44.43 feet from Rooney Circle.
2. §25-5.1 - The minimum required spacing between buildings is 150 feet; the spacing between the proposed new Shop Rite and the nearest building is 70.72 feet.
3. §25-5.6, A.12 - The parking setback is required to be 50 feet from Rooney Circle (not considering the width of Rooney Circle); the proposed setback is zero feet.
4. §25-5.6 - The required number of parking spaces is 2,793; the proposed number of parking spaces is 1,700.
5. §25-4.95 & §25-5.6.A.16 - The size of parking stalls must be either 9 feet by 20 feet or 10 feet by 18 feet; the proposed parking stalls are 9 feet by 18 feet.
6. §25-5.6, C.1.a. - The required number of loading spaces for the proposed new Shop Rite is 8; the proposed number of loading spaces is 7.
7. §25-5.9.C.3.b. - The maximum area of facade signage permitted is 250 square feet; the proposed facade signs total 647 square feet on all four (4) facades.
8. §25-5.2.D.3. - The maximum height of a fence or wall is 6 feet high; the proposed retaining wall to the rear of the loading docks is 12 feet high.

9. §25-5.2.D.3. - The maximum height of a fence or wall is 6 feet high; the proposed decorative screening wall along Rooney Circle is 7 feet high.

Be and hereby are granted.

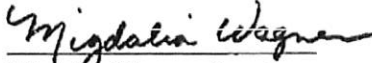
BE IT FURTHER RESOLVED that, as the application now complies with the West Orange Zoning Ordinance, the Amended Site Plan, revised through September 14, 1998 and as presented on September 23, 1998, be and hereby is approved, subject to the following conditions:

1. Applicant shall complete the demolition, sorting and disposal of debris of the old supermarket structure within 90 days from the opening of the new supermarket.
2. Applicant shall meet with Planning Board Member, Ms. Diane Manger, in order to devise a method of alleviating the perceived starkness of the east elevations (i.e. by utilizing color shading, or alternating building materials, etc.).
3. The Applicant shall submit a plan or drawing depicting the materials or covering on the seven (7) foot high decorative screening wall on the north side of the site shall be subject to the reasonable approval of the Township Planner who shall also consult with Gary Rosensweig, Esq., Attorney for Reckson. The finish of this wall may be decorative cement, split faced block or another acceptable material or materials.
4. The seven (7) foot high decorative screening wall and landscaping at the loading area driveway at the northwest corner of the site shall not adversely materially impact vehicular sight distance for motorists traveling on Rooney Circle. The sight distance must be examined not only for those motorists continuing along Rooney Circle from northeast to southeast (and also the opposite direction) but also for those motorists turning left into Executive Drive. Landscaping adjacent to the seven (7) foot high decorative wall shall be subject to approval by Michael Maris, Applicant's Traffic Engineer, to ensure that any landscaping does not impede traffic circulation and safety and further subject to the reasonable approval of the Township Planner.
5. The number of Norway maples at the north corner of the site, opposite the entry to the Reckson office park, shall be increased in number to the reasonable satisfaction and approval of the Township Planner.
6. Landscaping shall be increased at the entry of the truck loading area to provide screening from the Reckson office park, consistent with condition 5, above.
7. Additional landscaping shall be added along the eastern edge of the new proposed building and along the seven (7) foot high decorative screening wall, to the reasonable satisfaction and approval of the Township Planner.

27. This Application is subject to the reasonable approval of the West Orange Fire Department as to number and placement of fire hydrants within seven hundred (700') feet of the building and all other applicable fire code compliance issues.
28. The approvals granted are subject to the Applicant complying with the West Orange Developer's Fee Ordinance.
29. All landscaping along Rooney Circle and along the seven (7) foot high decorative screening wall shall be planted during the first planting season.
30. The seven (7) foot high decorative screening wall shall be constructed as soon as practicable immediately following the completion of the retaining wall.
31. An overall project construction schedule shall be submitted to the Township Engineer detailing the sequence and time lines for the implementation of this project.
32. All construction shall be completed within twenty four (24) months of the date of this Resolution, subject to the right of the Applicant to seek an extension or extensions based upon field conditions or other matters beyond the control of the Applicant. If construction is not completed within the allotted time period, then the approvals granted by the Board, as memorialized in this Resolution, shall lapse.
33. The Township Planner is authorized to approve a directional sign for the Reckson Executive Park complex, which sign shall comply with all Township ordinances regarding such signs.
34. All landscaping shall be maintained in perpetuity.
35. The Applicant's site engineer and traffic engineer shall demonstrate, to the satisfaction of the Township Engineer, that delivery vehicles with the SU-30 designation and articulated vehicles with designations as large as and including WB-55 can be accommodated in the loading area and the truck turning circle designated on the plans.
36. All other conditions, if any, which may have been imposed or agreed to during the public hearing on this application are incorporated in this Resolution by reference and the absence of any such condition from the text of this Resolution shall not constitute a waiver of any condition by this Planning Board.

The foregoing is a true copy of the Resolution adopted by the Planning Board of the Township of West Orange.

Dated: November 4, 1998


Migdala Wagner, Secretary

PB-97-27E

PLANNING BOARD RESOLUTION.
GRANTING AN EXTENSION OF TIME
AND
REQUIRING A FURTHER PERIODIC REPORT CONCERNING
CONDITIONS IMPOSED ON APPLICATION 95-06
BY THE MUTUAL LIFE INSURANCE COMPANY
OF NEW YORK FOR PROPERTY LOCATED AT PROSPECT
AVENUE AND ROONEY CIRCLE
BLOCK-155.21, LOTS 40, 40.01 & 40.03
(THE "SHOPPING CENTER")
ZONE P-C

WHEREAS the Planning Board of the Township of West Orange (the "Board"), at its regular meeting held on October 8, 1997, considered the application for an extension of time to commence construction of a portion of the improvements previously approved by the Board under application number PB-95-06, which application was submitted by The Mutual Life Insurance Company of New York (the "Applicant"); and

WHEREAS the Planning Board considered the presentation of Philip D. Neuer, Esq., as Attorney for the applicant in which it was requested that construction of the ten thousand (10,000) square foot addition, previously approved by this Board on application PB-95-06 be delayed for a period of one (1) year; and

WHEREAS Planning Board Members Donald Shauger and Richard Giudetta stepped down and did not participate in the hearing, deliberations or the decision on this application; and

WHEREAS the applicant agreed to take certain interim measures to improve the appearance of the Shopping Center prior to commencing construction of the ten thousand (10,000) square foot addition previously approved by this Board on application PB-95-06; and

WHEREAS the general public having been given an opportunity to be heard; and

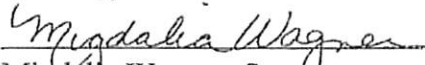
WHEREAS the Planning Board determined that the time extension was reasonable and consistent with the goal of improving the Shopping Center and that this application can be granted without substantial detriment to the public good and without impairment to the Master Plan or the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that, the time to commence construction of the ten thousand (10,000) square foot addition to the Shopping Center previously approved by the Board on application PB-95-06 be and is hereby extended until October 7, 1998, conditioned upon the following:

1. The applicant shall appear to report the status of the redevelopment of the Shopping Center at the April, 1998 regular meeting of the Board, which report shall include a determination concerning the timing for the repaving of the parking area under and surrounding the former cinema building.
2. In the Spring of 1998, the applicant shall grade and plant grass seed in the area where the ten thousand (10,000) foot addition is to be constructed.
3. Upon demolition of the former cinema building, the applicant shall install gravel which is to be graded to a level condition and maintained in that manner until the paving of the parking lot is performed.
4. The rear of the Shop Rite Building is to be maintained in a safe condition.
5. The applicant's engineer shall review with the Township Engineer the depiction of the proper number of cart corrals.

The foregoing is a true copy of the Resolution adopted by the Planning Board of the Township of West Orange.

Dated: February 4, 1998


Migdalia Wagner, Secretary

5. The prototypical Sears sign closest in size to that proposed dimension measures 9' in height and 22.5' in width.
6. A sign which is 9' in height and 22.5' in width still complies with the 250 square foot maximum size as stated in Section 25 - 5.9 C.3.b(2) of the West Orange Zoning Ordinance and therefore does not require a variance.

NOW, THEREFORE BE IT RESOLVED, that Resolution PB-97-34 adopted March 4, 1998 be and is hereby amended as follows:

1. Paragraph 2 on Page 2 is amended to read as follows:

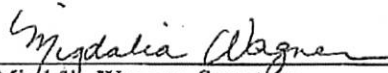
"The Applicant shall provide a customer pick-up area wherein Sears, Roebuck and Co. shall bring large merchandise directly to the customer's vehicle. Sears, Roebuck and Co. will not use heavy duty carts (i.e. the type typically used in the industry to transport 4' x 8' sheets of plywood or drywall) in connection with bringing large merchandise directly to the customer's vehicle."

2. The large facade sign dimension shall be 9' in height by 22.5' in width, for a total of 202.5 square feet.
3. Except as stated above, the approvals and the contents of the Resolution PB-97-34 adopted March 4, 1998 remain in full force and effect.

The foregoing is a true copy of the Resolution adopted by the Planning Board of the Township of West Orange.

Dated: ~~September~~, 1998

January 6, 1999
signed


Migdalia Wagner, Secretary

PB-97-14T

PLANNING BOARD RESOLUTION APPROVING THE
RECOMMENDATION OF THE TECHNICAL ADVISORY
COMMITTEE FOR THE SITE PLAN APPLICATION BY
WOOLWORTH, PROSPECT AVENUE, BEING BLOCK 155 &
155 21, LOTS 40, 40.03, 40.04, P-C ZONE

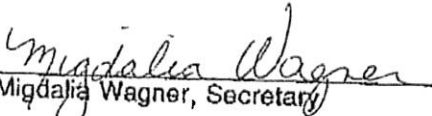
WHEREAS the Planning Board of the Township of West Orange, at its regular meeting held on July 2, 1997, considered the application for Site Plan approval in the P-C Zone and for approval of the recommendation of the Technical Advisory Committee, which application was submitted by Woolworth, with the consent owner; and ^{of the}

NOW, THEREFORE, BE IT RESOLVED that the recommendation of the Technical Advisory Committee be and hereby is accepted and the Site Plan, dated May 9, 1997, submitted by the applicant, for property located at Prospect Avenue, being Block 155 & 155-21, Lots 40, 40.03, 40.04, P-C Zone, in the Township of West Orange, be and is hereby is approved, subject to the following conditions:

1. The applicant shall provide a front and rear facade elevation.
2. The facades and signs are subject to the approval of the Planning Director.
3. The Applicant shall provide ingress and egress in the rear facade, subject to the approval of the Planning Director.
4. The Applicant shall provide facades similar to that used by Barnes and Nobel; materials, windows, and appearance are subject to the approval of the Planning Director.
5. The applicant may not install an eating area with seats until such time as a revised application is presented to the Planning Board.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: July 2, 1997


Migdalia Wagner, Secretary

PB-97-01

PLANNING BOARD RESOLUTION GRANTING VARIANCE AS TO FRONT/SIDE
YARD SETBACK
AND
CONDITIONALLY APPROVING THE AMENDED SITE PLAN APPLICATION
BY THE MUTUAL LIFE INSURANCE COMPANY OF
NEW YORK, LOCATED AT PROSPECT AVENUE AND ROONEY CIRCLE,
BEING BLOCK 155.21, LOTS 40, 40.03, AND 40.04 ZONE P-C

WHEREAS the Planning Board of the Township of West Orange, at a regular meeting on February 5, 1997, considered the application for variance from the requirements of the West Orange Zoning Ordinance, listed below, which application was submitted by ARES Realty Capital on behalf of the owner, The Mutual Life Insurance Company of New York, through its attorney, Philip Neuer, Esq.; and

WHEREAS the Planning Board considered the concurrent applications for amended site plan approval for the "Cinema" and retail space; and

WHEREAS the Planning Board considered the presentation of Philip Neuer, Esq., Attorney for the applicant, and the testimony of Mr. J. Michael Petry, P.E., the applicant's project engineer, and Exhibits A-1, A-2, and PB-1 [report of the Planning Board's Traffic Expert, dated 1/28/97, Hamal Associates] that were placed in evidence; and

WHEREAS Planning Board member Donald Shauger was not in attendance and did not participate in the hearing on this application; and

WHEREAS the applicant sought the following variance from the requirements of the Zoning Ordinance of the Township of West Orange:

1. A variance from the requirement that there be a front/side yard setback of 100 feet to the north side of Rooney Circle as opposed to the 46 feet provided.

WHEREAS the general public having been given an opportunity to be heard and members of the general public were heard, the Planning Board made the following findings of fact:

1. The applicant is continuing an existing use as a shopping center on the site.
2. The applicant is proposing to reduce the size of the Cinema and to add a portion of that reduction in footage to the southwest side of Building 2.
3. The change will result in a reduction of gross leasable space by 11,953 ± square feet, which in turn reduces the required parking spaces.

4. The applicant previously [PB 96-26] had a variance allowing 1776 parking spaces (as opposed to the 2782*¹ now required [1 space for every 150 square feet]). The applicant is now providing 1751 parking spaces.

5. The front/side yard setback to the adjoining property is approximately 126 feet, when the width of Rooney Circle and the property on the south side of Rooney Circle is added to the 46 feet provided.

6. The benefits to the community of granting the requested variance would substantially outweigh any detriment.

7. The requested variances will not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance of the Township of West Orange.

NOW, THEREFORE, BE IT RESOLVED that, conditioned upon the approval of the Amended Site Plan Application for property located at Prospect Avenue and Rooney Circle, being Block 155.21, Lots 40, 40.03, and 40.04, Zone P-C, in the Township of West Orange, the application for the following variance, from the requirements of the West Orange Zoning Ordinance:

1. A variance from the requirement that there be a front/side yard setback of 100 feet to the north side of Rooney Circle as opposed to the 46 feet provided, be and hereby is granted.

BE IT FURTHER RESOLVED that the Planning Board approves the Environmental Impact Statement previously submitted as part of the prior application.

BE IT FURTHER RESOLVED that, as the application now complies with the West Orange Zoning Ordinance, the Amended Site Plan, dated April 7, 1995, revised December 19, 1996, submitted by The Mutual Life Insurance Company of New York for property located at Prospect Avenue and Rooney Circle, being Block 155.21, Lots 40, 40.03, and 40.04, Zone P-C, in the Township of West Orange, be and hereby is approved subject to the following conditions:

1. The site plan shall incorporate the suggestions of Hamel Associates, such that the revised site plan subject to the approval of the Township Planner and Township Engineer.

2. The landscaping plan is subject to the approval of the Township Planner.

3. All conditions from the prior approvals remain in full force and effect.

4. The applicant shall file a revised deed that contain Lots 40, 40.03, and 40.04.

* Required parking on application PB 96-26 was 2861 parking spaces, the gross leasable space was reduced on this application by 11,953 sq. feet, thereby reducing the parking space requirement to 2782. This reduces the previously approved variance to 1031 spaces or a reduction in the variance of 54 parking spaces

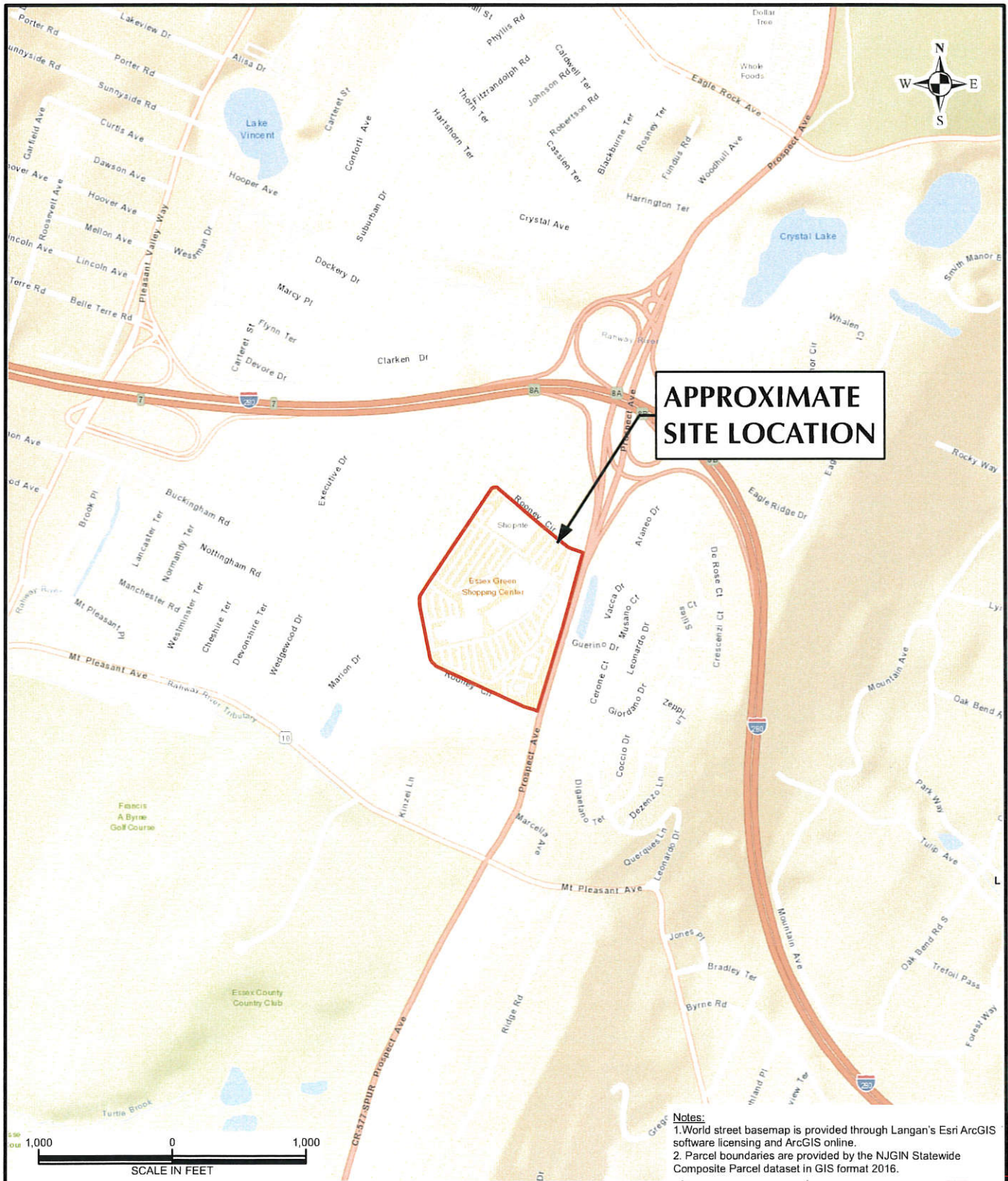
The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: March 5, 1997



Migdalia Wagner, Secretary

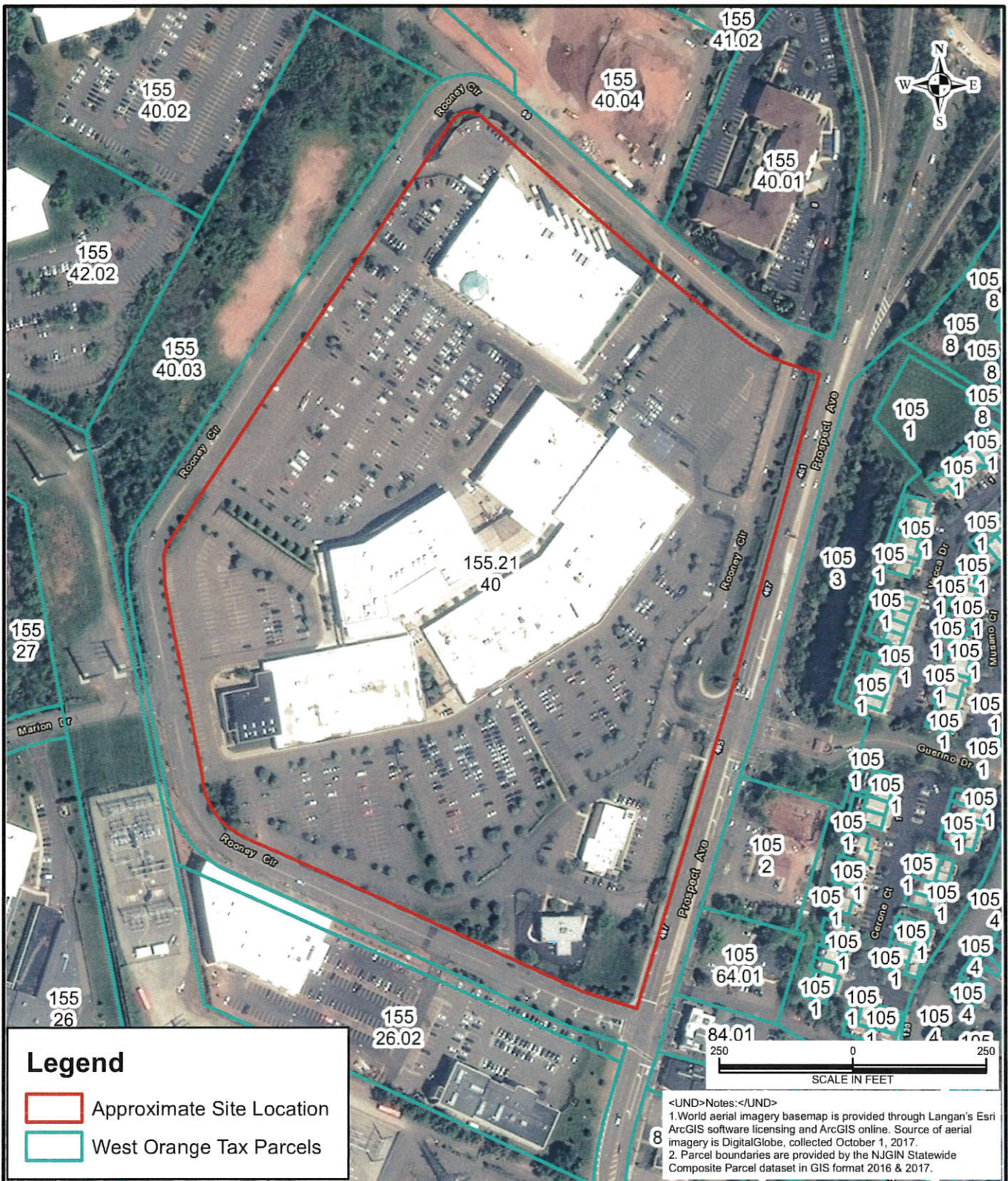
FIGURES



**APPROXIMATE
SITE LOCATION**

- Notes:**
1. World street basemap is provided through Langan's Esri ArcGIS software licensing and ArcGIS online.
 2. Parcel boundaries are provided by the NJGIN Statewide Composite Parcel dataset in GIS format 2016.

<p>LANGAN</p> <p>300 Kimball Drive Parsippany, NJ 07054 T: 973.560.4900 F: 973.560.4901 www.langan.com</p> <p>Langan Engineering & Environmental Services, Inc. Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C. Langan International LLC Collectively known as Langan</p> <p>NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400</p>	<p>Project</p> <p>ESSEX GREEN SHOPPING CENTER</p> <p>BLOCK No. 155.21, LOT No. 40</p> <p>CITY OF WEST ORANGE</p> <p>ESSEX COUNTY NEW JERSEY</p>	<p>Drawing Title</p> <p>REGIONAL LOCATION MAP</p>	<p>Project No. 100621801</p> <p>Date 8/14/2018</p> <p>Scale 1"=1,000'</p> <p>Drawn By ATR</p> <p>Last Revised 9/7/2018</p>	<p>Figure</p> <p>1</p>
	<p>Path: \\langan.com\data\PAR\data\100621801\ArcGIS\ArcMap_Documents\Planning Report\Figure 1 - Regional Location.mxd Date: 9/7/2018 User: mwencelczyk Time: 1:53:45 PM</p>			



Legend

- Approximate Site Location
- West Orange Tax Parcels

<UND>Notes:</UND>
 1. World aerial imagery basemap is provided through Langan's Esri ArcGIS software licensing and ArcGIS online. Source of aerial imagery is DigitalGlobe, collected October 1, 2017.
 2. Parcel boundaries are provided by the NJGIN Statewide Composite Parcel dataset in GIS format 2016 & 2017.

LANGAN
 300 Kimball Drive
 Parsippany, NJ 07054
 T: 973.560.4900 F: 973.560.4901 www.langan.com

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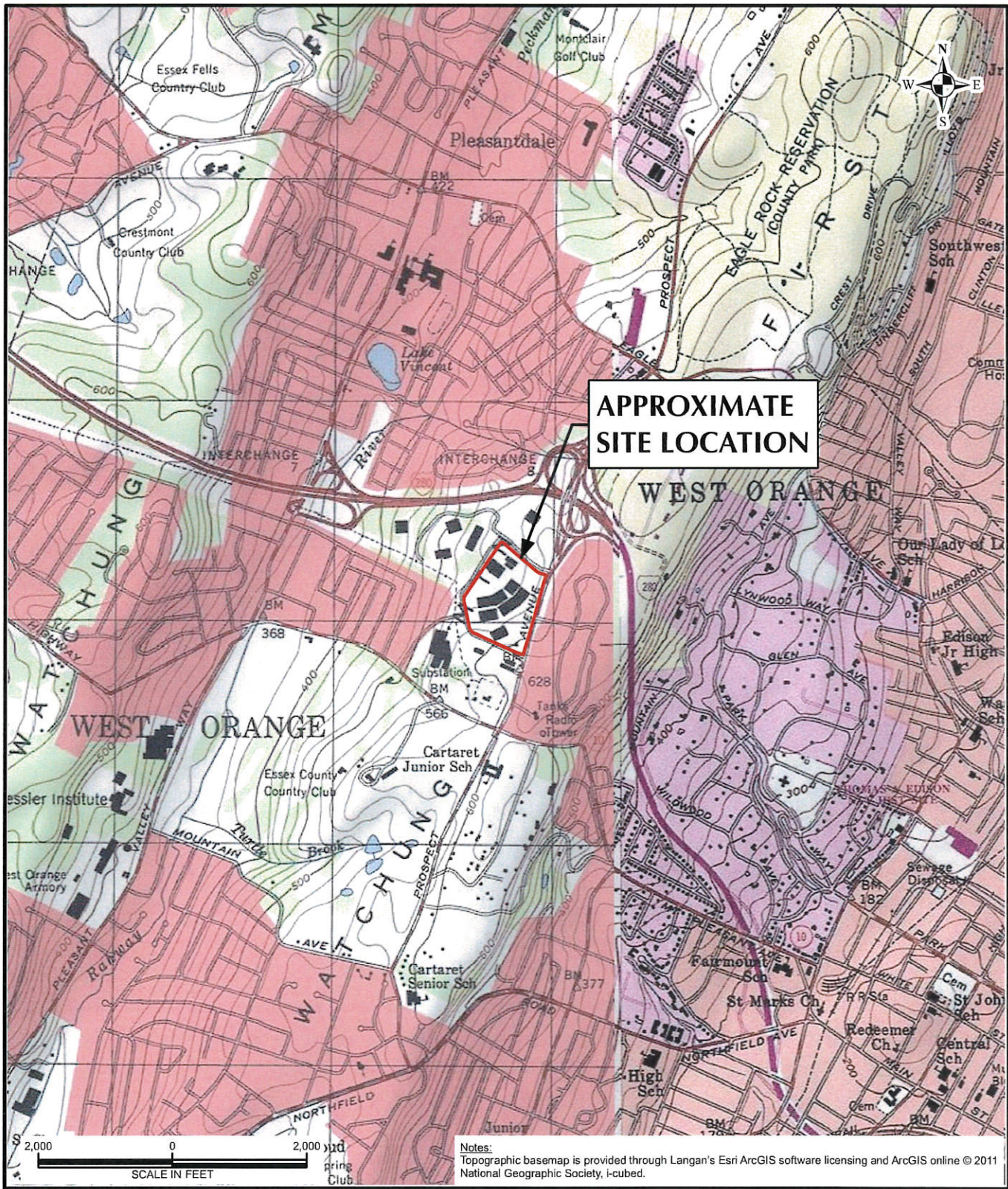
NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400

Project
ESSEX GREEN SHOPPING CENTER
 BLOCK No. 155.21, LOT No. 40
 CITY OF WEST ORANGE
 ESSEX COUNTY NEW JERSEY

Drawing Title
TAX PARCEL MAP

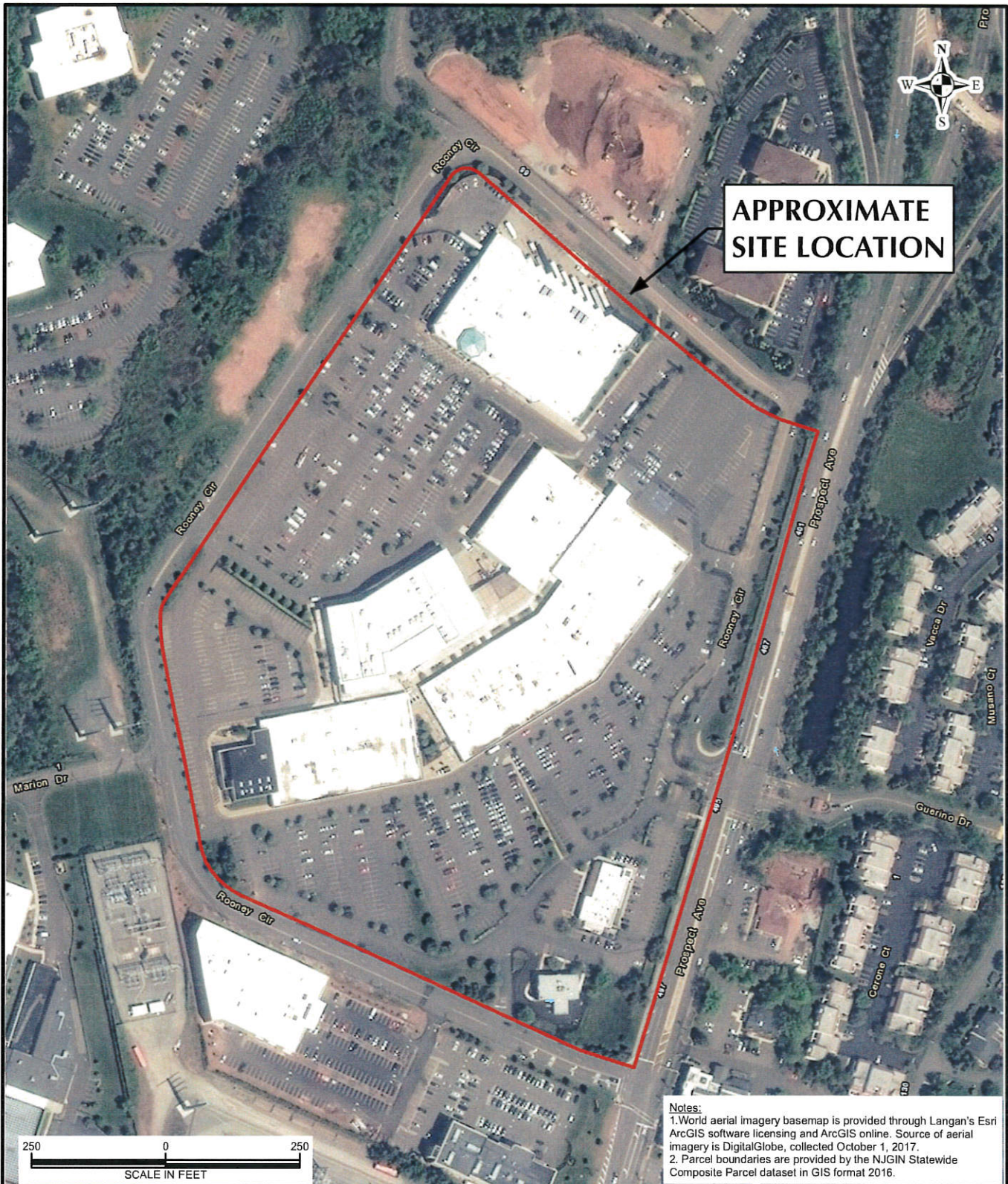
Project No.
100621801
 Date
8/14/2018
 Scale
1"=250'
 Drawn By
Mwen
 Last Revised
9/7/2018

Figure
 2



Notes:
 Topographic basemap is provided through Langan's Esri ArcGIS software licensing and ArcGIS online © 2011 National Geographic Society, I-cubed.

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	ESSEX GREEN SHOPPING CENTER	USGS SITE LOCATION MAP	100621801	
	BLOCK No. 155.21, LOT No. 40		Date	3
	CITY OF WEST ORANGE		Scale	
	ESSEX COUNTY NEW JERSEY		1"=2,000'	
		Drawn By		
		ATR		
		Last Revised		
		9/7/2018		



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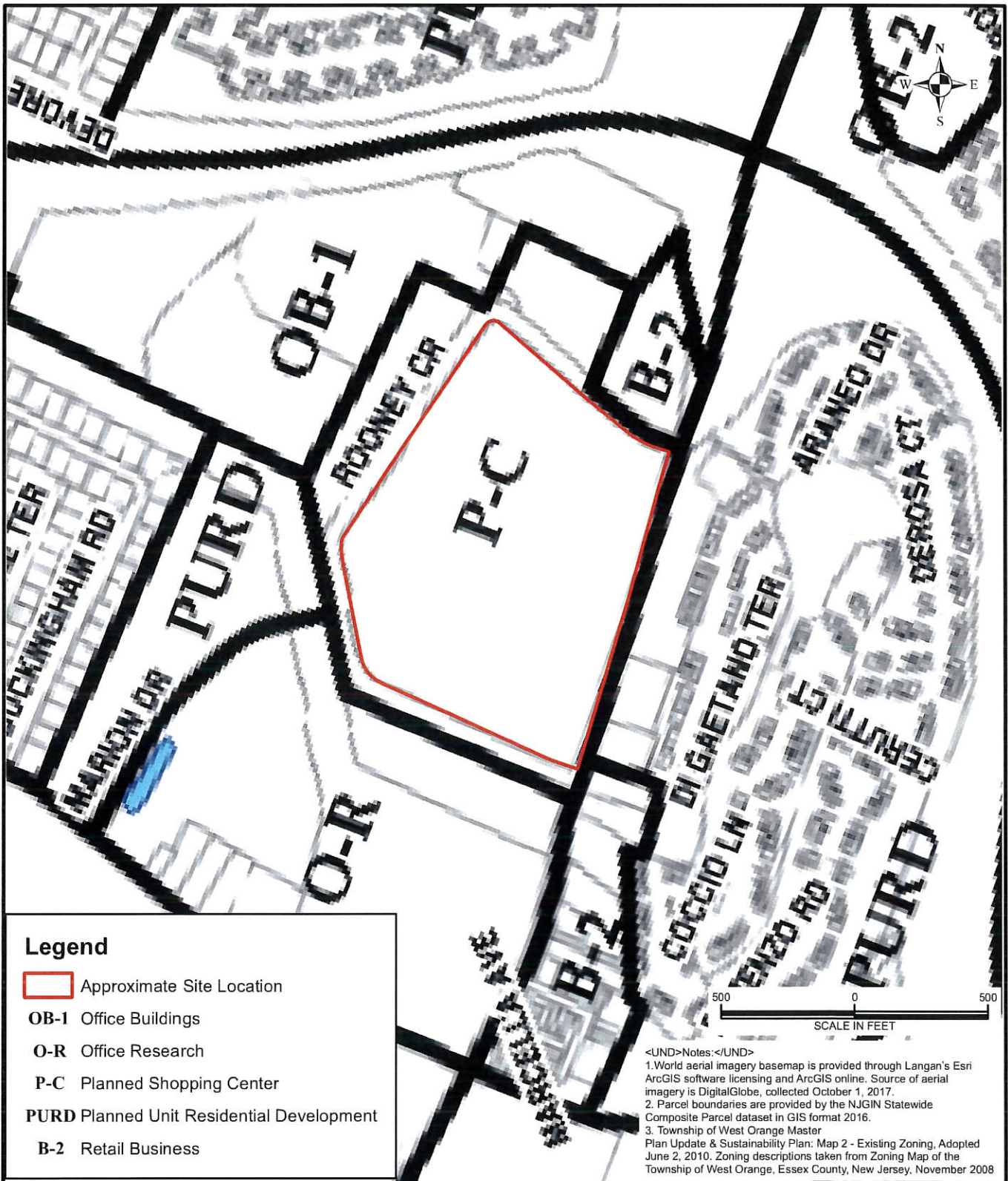
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NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400

Project
ESSEX GREEN SHOPPING CENTER
 BLOCK No. 155.21, LOT No. 40
 CITY OF WEST ORANGE
 ESSEX COUNTY NEW JERSEY

Drawing Title
PROJECT SITE AERIAL PHOTOGRAPH

Project No. 100621801	Figure
Date 8/14/2018	4
Scale 1"=250'	
Drawn By ATR	
Last Revised 9/7/2018	



Legend

Approximate Site Location

OB-1 Office Buildings

O-R Office Research

P-C Planned Shopping Center

PURD Planned Unit Residential Development

B-2 Retail Business

<UND>Notes:</UND>
 1. World aerial imagery basemap is provided through Langan's Esri ArcGIS software licensing and ArcGIS online. Source of aerial imagery is DigitalGlobe, collected October 1, 2017.
 2. Parcel boundaries are provided by the NJGIS Statewide Composite Parcel dataset in GIS format 2016.
 3. Township of West Orange Master Plan Update & Sustainability Plan: Map 2 - Existing Zoning, Adopted June 2, 2010. Zoning descriptions taken from Zoning Map of the Township of West Orange, Essex County, New Jersey, November 2008

LANGAN

300 Kimball Drive
 Parsippany, NJ 07054
 T: 973.560.4900 F: 973.560.4901 www.langan.com

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NJ CERTIFICATE OF AUTHORIZATION No. 24GA27996400

Project

**ESSEX GREEN
 SHOPPING CENTER**

BLOCK No. 155.21, LOT No. 40

CITY OF WEST ORANGE

ESSEX COUNTY NEW JERSEY

Drawing Title

ZONING MAP

Project No.
100621801

Date
8/14/2018

Scale
1"=500'

Drawn By
MWen

Last Revised
9/7/2018

Figure

5

APPENDIX A

PHOTOGRAPHS: EXISTING SITE CONDITIONS



Building F: Existing bank with drive-through lanes.



Freestanding sign corner of Prospect Avenue and Rooney Circle.



On site directional sign.



North side of Building B



Building A upper level storefronts.



LA Fitness located south of the site.



Façade view of Building A.



Façade view of Building B.