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| Kevin Malanga | : | SUPERIOR COURT OF NEW JERSEY |
| | : | LAW DIVISION – ESSEX COUNTY |
| | : | DOCKET NO. ESX-L-001137-18 |
| Plaintiff, | : | |
| | : | CIVIL ACTION |
| v. | : | |
| | : | COMPLAINT |
| | : | IN LIEU OF PREROGATIVE WRITS |
| TOWNSHIP OF WEST ORANGE, | : | |
| TOWNSHIP OF WEST ORANGE | : | |
| PLANNING BOARD, TOWNSHIP | : | |
| OF WEST ORANGE TOWNSHIP | : | |
| COUNCIL | : | |
| | : | |
| Defendants. | : | |
| | : | |

Plaintiff, a resident of the Township of West Orange, New Jersey, by way of Complaint in Lieu of Prerogative Writs against defendants Township of West Orange, Township of West Orange Planning Board, and the Township of West Orange Township Council, hereby says:

INTRODUCTION

1. Kevin Malanga (hereinafter referred to as "Plaintiff Malanga") is a resident of the Township of West Orange, is the owner of real property in the Township, and has resided in the Township since 1997.

2. Defendant Township (hereinafter referred to as "Township") is a municipal corporation of the State of New Jersey with administrative offices located at 66 Main Street, West Orange, New Jersey 07052.

3. Defendant Township of West Orange Planning Board (hereinafter referred to as the "Planning Board") is a municipal agency created pursuant to the Municipal Land Use Law to exercise the authority of a municipal planning board pursuant to N.J.S.A.40:55D-1 *et seq.* and has administrative offices located at 66 Main Street, West Orange, New Jersey 07052.

4. Defendant Township of West Orange Township Council (hereinafter referred to as the "Township Council") is the governing body of the Township and has administrative offices located at 66 Main Street, West Orange, New Jersey 07052.

5. The within matter is a challenge to the determination of the Planning Board to recommend to the Township Council the designation as an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (hereinafter, "LRHL") of the properties consisting of Block 155.21, Lot 40 (hereinafter referred to as the "Essex Green Shopping Center") and properties consisting of Block 155, Lots 40.02, 40.03, 41.02, and 42.02 (hereinafter referred to as the "Executive Drive Offices").

6. The within matter is also a challenge to the determination of the Township Council to designate properties consisting of Block 155.21, Lot 40 (hereinafter referred to as the "Essex Green Shopping Center"), and an area consisting of Block 155, Lots 40.02, 40.03, 41.02, and 42.02 (hereinafter referred to as the "Executive Drive Offices") as "an area in need of redevelopment" under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (hereinafter, "LRHL").

7. Having been designated as an area as in need of redevelopment, the Essex Green Shopping Center and the Executive Drive Offices are deemed to be "blighted areas" under the New Jersey State Constitution and the LRHL.

8. By Resolution of the Planning Board # 18-01 adopted on January 3, 2018, the Planning Board recommended to the Township Council the designation of the Essex Green

Shopping Center and the Executive Drive Offices as an area in need of redevelopment ("Planning Board January 3, 2018 Resolution"). A true copy of the Planning Board January 3, 2018 Resolution is annexed hereto as **Exhibit A**.

9. By Resolution No. 17-18 adopted on January 9, 2018, the Township Council memorialized its acceptance of the Planning Board's recommendation to declare the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment ("2018 Redevelopment Designation"). A true copy of Resolution No. 17-18 is annexed hereto as **Exhibit B**.

10. As set forth more fully herein, in making its redevelopment recommendation, the Planning Board relied upon a report entitled "Essex Green and Executive Drive Area, Area in Need of Redevelopment Study, Township of West Orange, New Jersey" dated "October 2017" and prepared by planning consultants Phillips, Preiss, Grygiel, LLC (hereinafter referred to as the "Grygiel Report"). A true copy of the Grygiel Report is annexed hereto as **Exhibit C**.

11. The Planning Board also relied upon the testimony of planner Paul Grygiel.

12. There is no evidence set forth in the Grygiel Report, let alone substantial evidence, to support a recommendation by the Planning Board to the Township Council to designate the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

13. There is no evidence set forth in the Grygiel Report, let alone substantial evidence, to support the designation by the Township Council of the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

14. As the record demonstrates, the 2018 Redevelopment Designation was the result of the administration of the Township wishing to serve the interests of private developers and not to address the conditions sought to be ameliorated by the LRHL.

ALLEGATIONS COMMON TO ALL COUNTS

Description of the Essex Green Shopping Center

15. The Essex Green Shopping Center comprises the following properties as depicted on page 10 of Exhibit C :

Block 155, Lot 40.03

Block 155.21, Lot 40

16. The lots of the Essex Green Shopping Center are contiguous and situated west of Prospect Avenue in the Township.

17. The Essex Green Shopping Center consists of approximately 38.32 acres.

18. The area of the buildings of the Essex Green Shopping Center measure approximately 330,000 square feet.

19. The Essex Green Shopping Center is owned by CLPF Essex Green LLC (“CLPF”) a Delaware limited liability company that was formed in 2015.

20. CLPF is controlled by the real estate investment and real estate management company Clarion Partners LLC.

21. Clarion Partners LLC is a subsidiary of the New York Stock Exchange listed company Legg Mason, Inc.

22. Clarion Partners LLC is a company that has \$43 billion of real estate under management.

23. CLPF purchased the Essex Green Shopping Center in 2016 for the price of approximately \$ 97,800,000.

24. The Essex Green Shopping Center is a property that has steadily increased in value in since 1999.

25. In 1999 the Essex Green Shopping Center was sold for approximately \$ 41,400,000.

26. In 2002 the Essex Green Shopping Center was sold for approximately \$ 52,900,000.00.

27. In 2006 the Essex Green Shopping Center was sold for approximately \$ 80,000,000.

28. The Essex Green Shopping Center is a property whose value has increased from \$ 41,400,000 in 1999 to approximately \$ 97,800,000 in 2016.

29. The Essex Green Shopping Center includes the following active businesses as tenants:

TGI Fridays restaurant.

Panera Bread restaurant.

Sears Outlet retail store.

Macy's Backstage retail store.

Petco pet supply retail store.

Loews AMC Dinner Theater movie theater.

Shop Rite supermarket.

Total Wines and More liquor retail store.

Jerry's Artist Outlet artist supply retail store.

GNC Nutrition retail store.

Verizon

30. Adjacent to and to the east of the Essex Green Shopping Center is a multi-story L.A. Fitness physical fitness center that was constructed in 2016.

31. Adjacent to and to the south of the Essex Green Shopping Center is a townhouse development that is called Essex Green Villas.

32. As assessed by the Township, the units at Essex Green Villas have an average value of approximately \$ 300,000.00.

33. Adjacent to and to the east of the Essex Green Shopping Center is a townhouse development that is called Eagle Ridge.

34. As assessed by the Township of West Orange, the units at Eagle Ridge have an average value of approximately \$ 300,000.00.

Description of the Executive Drive Offices

35. The Executive Drive Offices are owned by PAG Investments LLC (“PAG”), a New Jersey limited liability company.

36. The Executive Drive Offices were purchased by PAG in May of 2017 for approximately \$ 14,000,000.

37. The Executive Drive Offices comprise the following properties:

Block 155, Lot 40.02 , 100 Executive Drive

Block 155, Lot 41.02 , 10 Rooney Circle

Block 155, Lot 42.01, 300 Executive Drive

Block 155, Lot 42.02, 200 Executive Drive

38. The Executive Drive Offices are located on approximately 32.26 acres of land.

39. The four buildings of the Executive Drive Offices total approximately 403,000 square feet of office space.

40. The office building at 10 Rooney Circle was built in 1971, consists of approximately 70,240 square feet and includes an on-site café and conference center.

41. The office building at 100 Executive Drive was built in 1978 and consists of approximately 93,670 square feet of office space.

42. The office building at 200 Executive Drive was built in 1980 and consists of approximately 105,650 square feet of office space.

43. The office building at 300 Executive Drive was built in 1984 and consists of approximately 124,780 square feet of office space.

44. The tenants of the Executive Drive Offices include the offices of the insurance business of the Mayor of the Township, the Department of Homeland Security, Geico Insurance, and Lincoln Educational Services Corporation also known as Lincoln Tech.

Township Administration Actions Prior to the Redevelopment Designation

45. On August 14, 2017, Township Attorney Richard Trenk (“Trenk”) sent an email from his law firm email address to Francis Regan, attorney for PAG, with the following individuals on copy: Lauren Holden of Clarion Partners, the manager of the Essex Green Shopping Center; Larry Pantirer of the real estate development company BNE Associates; Morris Pantirer of BNE Associates; Jonathan Schwartz of BNE Associates; Sam Cooper, believed to be the pseudonym Sam Kupferstein of the real estate development company Realtyproonline; Len Lepore the Township Engineer; Jack Sayers the Township Business Manager; Mark Moon (“Moon”) a partner of Trenk’s law firm; Steve, last name unknown, of Realtyproonline; John Gross the Chief Financial Officer of the Township; and James Abbott the Police Chief of the Township of West Orange; that states “please find attached a draft Resolution that we plan to submit to the Township Council for its consideration at the meeting of September

19. Please review and provide any comments as soon as possible.” (the “Trenk August 16, 2017 Email”). A true copy of the Trenk August 16, 2017 Email is annexed hereto as **Exhibit D**.

46. The resolution attached to the Trenk August 16, 2017 Email was a draft resolution for the Township Council resolving for the Township Planning Board to prepare a study to determine whether the Essex Green Shopping Center and the Executive Drive Offices were areas in need of redevelopment.

47. The Trenk August 16, 2017 Email included a statement reminding the recipients of a conference call that was scheduled for August 17, 2017 at 3:00 PM.

48. On August 17, 2017 at 3:04 PM Moon sent an email forwarding a document entitled “Timeline of Essex Green/Executive Drive Redevelopment-2017” (hereinafter referred to as “Timeline”). A true copy of Timeline of Essex Green/Executive Drive Redevelopment-2017 is attached hereto as **Exhibit E**.

49. The Timeline states a precise schedule for the redevelopment designation of the Essex Green Area and the Executive Drive Area as follows:

“September 19 2017 Township Council to adopt Resolution
Referring to the Planning Board investigation whether Essex
Green/Executive Drive constitutes an area in Need of Redevelopment.

October 5, 2017 Planning Board prepares a map showing boundaries
of the proposed redevelopment area with an appended statement setting forth the
basis for the investigation whether Essex Green/Executive Drive constitutes an
Area in Need of Redevelopment.

October 12, 2017 Planning Board sets date for public hearing and
publishes first public notice of hearing including boundaries of the
redevelopment area and the location of map for public inspection.

October 19, 2017 (one week later) Planning Board publishes second public notice for hearing.

November 1, 2017 (at least 10 days later) Planning Board hearing on recommendation to designate Essex Green/Exec Drive as an Area in Need of Redevelopment.

November 21, 2017 Township Council reviews recommendation from Planning Board and adopts binding resolution designating Essex Green/Executive Drive as a Redevelopment Area. Township Council authorizes the preparation of a Redevelopment Plan by the Planning Board.

January 4, 2018 (within 45 days) Planning Board reviews and approves Redevelopment Plan and submits to the Township Council for Action.

January 17, 2018 Township Council holds first hearing on Ordinance adopting Redevelopment

February 7, 2018 Township Council holds second and final hearing on Ordinance adopting Redevelopment Plan.”

50. It is clear from the Timeline that in the minds of Trenk and Moon that it was a foregone conclusion the Township Council would approve the resolution authorizing the redevelopment area study.

51. It is clear from the Timeline that in the minds of Trenk and Moon that it was a foregone conclusion that the Planning Board would recommend to the Township Council the designation of the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

52. It is clear from the Timeline that in the minds of Trenk and Moon that it was a foregone conclusion that the Township Council would resolve to approve the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

53. At the Township Council meeting of September 19, 2018 Trenk made a presentation to the Township Council advocating the designation of the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

54. The presentation by Trenk included the introduction to the Township Council of Jonathan Schwartz of BNE Associates as the proposed redeveloper of the Essex Green Shopping Center and the Executive Drive Offices.

55. Thus, before the redevelopment designation had even been made by the Council, the Township administration had chosen the redeveloper for the Essex Green Shopping Center and the Executive Drive Offices, such choice having been made by the Township administration without any public requests for proposals, public bidding, or public hearings.

56. On September 19, 2017 the Township Council passed a resolution by a vote of 4 to 1, with Township Council President Joe Krakoviak being the sole dissenting vote, authorizing the Planning Board to conduct a preliminary investigation to determine whether the Essex Green Shopping Center and the Executive Drive Offices were suitable to be recommended as an area in need of redevelopment under the LRHL.

57. In fact, the Planning Board had no involvement in conducting the investigation of the Essex Green Shopping Center and the Executive Drive Offices, but the investigation was directed by the Township Administration.

58. On September 19, 2017 the Township Council passed a resolution by a vote of 4 to 1, with Township Council President Joe Krakoviak being the sole dissenting vote, authorizing the planning firm of Phillips Preiss Grygiel to be retained to prepare a report to determine

whether the Essex Green Shopping Center and the Executive Offices were suitable to be designated as an area in need of redevelopment under the LRHL.

59. The selection of the planning firm Phillips Preiss Grygiel (“Phillips Price Grygiel”) to prepare the Grygiel Report was made by the Township Administration and not by the Planning Board.

60. Grygiel of Phillips Preiss Grygiel is engaged as the Township Planner of the Township of West Orange and has served in that capacity for five years.

61. Though the Township has done so in the past, an independent planning firm was not chosen to conduct the redevelopment study for the Essex Green Shopping Center and the Executive Drive Offices, instead, the firm of which Grygiel is a named principal and who serves as the Township’s Planner was chosen to conduct the study.

62. The choice of Philipps Preiss Grygiel to conduct the redevelopment study resulted in an inherent conflict of interest and loss of objectivity.

The Purpose Of The LRHL And The Standard Of Evidence Required To Be Shown To Sustain A Designation Of A Property As An Area In Need Of Redevelopment.

63. The purpose of the LRHL is to address conditions of deterioration of communities which resulted from forces that "are amenable to correction and amelioration by concerted effort of responsible public bodies, and without this public effort are not likely to be corrected or ameliorated by private effort.” *N.J.S.A. 40A:12A-2a.*

64. As a matter of law, the statutory criteria under *N.J.S.A. 40A:12A-5* must be applied in accordance with the literal terms of the statute.

65. As a matter of law, a finding that a property meets the criteria under *N.J.S.A. 40A:12A-5* to be designated as an area in need of redevelopment must be based substantial evidence and may not be unreasonable, arbitrary or capricious.

66. In the case of *62-64 Main Street, L.L.C. v. Mayor and Council of City of Hackensack*, 221 N.J. 129, 156 (2015), citing its previous decision in *Gallenthin Realty Development, Inc. v. Borough of Paulsboro*, 191 N.J. 344, 373 (2007) the New Jersey State Supreme Court recognized the principle that a finding that an area is in need of redevelopment under the LRHL has significant consequences for property owners.

67. Municipal planning boards and governing bodies have a legal obligation to rigorously comply with the statutory criteria of the LRHL for determining whether an area is in need of redevelopment. *62-64 Main Street, supra.*, 221 N.J. at 156-57.

68. To support an area in need of redevelopment designation under the LRHL, a municipality must establish a record the "contains more than a bland recitation of applicable statutory criteria and a declaration that those criteria are met." *62-64 Main Street, supra*, 221 N.J. at 156 (quoting *Gallenthin, supra*, 191 N.J. at 373).

69. A resolution adopted by a municipal planning board recommending a designation of an area as in need of redevelopment and the governing body's resolution adopting such recommendation of the planning board and designating an area as in need of redevelopment under the LRHL should clearly articulate the factual findings that support the statutory criteria for designating an area as in need of redevelopment. *62-64 Main Street, L.L.C., supra*, 221 N.J. at 156.

FIRST COUNT

The Decision of the Planning Board to Recommend the Designation of the Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment Pursuant To *N.J.S.A. 40A:12A-5b* Was Unreasonable, Arbitrary and Capricious As That Decision Was Not Based on Substantial Evidence That Those Properties Met Any Of The Required Legal Criteria To Support Such A Redevelopment Designation.

70. Plaintiff repeats each and every prior allegation as though set forth herein at length.

71. The Grygiel Report asserted that the Essex Green Shopping Center and the Executive Drive Offices qualified to be designated an area in need of redevelopment because they met the "b" criterion under *N.J.S.A. 40A:12A-5*.

72. To qualify under the "b" criterion of *N.J.S.A. 40A:12A-5* it must be shown through substantial evidence that that a property suffer from the "discontinuance of use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into such a state of disrepair as to be untenable."

73. The Essex Green Shopping Center and the Executive Drive Offices do not constitute "an area in need of redevelopment" under criterion "b" of *N.J.S.A. 40A:12A-5* as a matter of fact and as a matter of law.

74. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under *N.J.S.A. 40A:12A-5b*, that the use of the buildings in the Essex Green Shopping Center and the Executive Drive Offices have been *discontinued* as is required by the statute.

75. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under N.J.S.A.40A:12A-5b, that the use of the buildings in the Essex Green

Shopping Center and the Executive Drive Offices have been *abandoned* as is required by the statute.

76. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under *N.J.S.A.40A:12A-5b* that the buildings of the Essex Green Shopping Center and the Executive Drive Offices have been allowed to fall into such a state of disrepair as to be untenable.

77. The Grygiel Report states that the Essex Green Shopping Center is 77% occupied and that its tenants include Shop Rite, Sears Outlet, Total Wine and More, AMC Theaters, Panera, and Macy's Backstage (Grygiel Report, **Exhibit C**, page 13).

78. When questioned by Planning Board Member Jerome Eben at the Planning Board meeting of November 1, 2017, Grygiel acknowledged that the parking lot of the Essex Green Shopping Center was in good repair and that the parking lot had been partially repaved.

79. When cross-examined by Plaintiff Malanga at the Planning Board hearing of December 6, 2017, Grygiel stated that when he inspected the Essex Green Shopping Center he saw no broken windows, no graffiti, and that the premises were in generally good condition.

80. When cross-examined by Plaintiff Malanga at the Planning Board meeting of December 6, 2017, Grygiel was unable to offer any evidence that the Essex Green Shopping Center or the Executive Drive Offices had fallen into such a state of disrepair as to be untenable as is required by *N.J.S.A.40A:12A-5b* in order to declare a property as an area in need of redevelopment.

81. The fact that the tenants of the Essex Green Shopping Center include TGI Fridays restaurant, the Panera Bread restaurant, the Sears Outlet retail store, TGI Fridays restaurant, Macy's Backstage retail store, Petco pet supply retail store, Loews AMC Dinner Theater movie theater, Shop Rite supermarket, Total Wines and More liquor retail store, Jerry's Artist Outlet artist supply retail store, and Verizon is proof that the Essex Green Shopping Center is well maintained and tenantable.

82. The fact that the tenants of the Executive Drive Offices include the offices of the insurance business of the Mayor of the Township, offices of the Department of Homeland Security, Geico Insurance, and Lincoln Educational Services Corporation also known as Lincoln Tech is evidence that the Executive Drive Offices are well maintained and tenantable.

83. "A blight determination based on a net opinion or insubstantial evidence cannot stand." *62-64 Main Street, supra*, 221 N.J. at 157.

84. The decision of the Planning Board to recommend the designation of the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-5b* was unreasonable, arbitrary and capricious and not supported by substantial evidence as required by the LRHL.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

- a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.
- b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the

recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*

- c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*
- d. For such other relief as the court may deem equitable and just.
- e. For reasonable attorney fees and costs of suit.

SECOND COUNT

The Decision of the Planning Board to Recommend the Designation of the Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment Pursuant To *N.J.S.A. 40A:12A-5d* Was Unreasonable, Arbitrary and Capricious As That Decision Was Not Based on Substantial Evidence That The Essex Green Shopping Center And The Executive Drive Offices Met Any Of The Required Legal Criteria To Support A Such A Redevelopment Designation.

85. The Grygiel Report asserted that the Essex Green Shopping Center and the Executive Drive Offices qualified to be designated an area in need of redevelopment because they met the "d" criteria under *N.J.S.A. 40A:12A-5*.

86. To qualify under the "d" criterion of *N.J.S.A. 40A:12A-5*, it must be shown through substantial evidence that the following conditions have be found: "Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty

arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, **are detrimental to the safety, health, morals, or welfare of the community.**” (emphasis added)

87. The Grygiel Report makes the following conclusory statement as to criteria “d” for the Essex Green Shopping Center: “The prospect for tenanting these older units will be very limited. Consequently, the property qualifies for criteria “d” due to its obsolete layout and faulty arrangement and design.” (Grygiel Report, **Exhibit C**, p. 14).

88. The Grygiel Report makes absolutely no attempt to address whether the Essex Green Shopping Center is detrimental to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)*.

89. Mirroring the language related to the Essex Green Shopping Center, the Grygiel Report makes the following conclusory statement as to criteria “d” for the Executive Drive Offices: “Consequently, the properties qualify for criteria ‘d’ due to their obsolete layout and faulty arrangement and design.” (Grygiel Report, **Exhibit C**, p. 16).

90. The Grygiel Report asserts that the vacancy rate of the Executive Drive Offices is 58%.

91. Public comment was heard at the Township Council meeting of January 9, 2018 by an attorney who is a resident of the Township who stated that he attempted to rent space for his practice at the Executive Drive Offices and was informed by the rental agent that the building owner was not entering into any new leases.

92. Any purported inordinate vacancy rate of the Executive Drive Offices is the result of a conscious choice by the owner of the property to not enter into new leases.

93. The Grygiel Report makes no attempt to address whether the Essex Green Shopping Center and the Executive Drive Area Offices detrimental to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)* .

94. When cross-examined by Plaintiff Malanga at the Planning Board hearing of December 6, 2017, Grygiel admitted that the condition of the Essex Green Shopping Center was not detrimental to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)* in order to designate a property in need of redevelopment.

95. “A blight determination based on a net opinion or insubstantial evidence cannot stand.” *62-64 Main Street, supra*, 221 N.J. at 157.

96. The decision of the Planning Board to recommend the designation of the Essex Green Area and the Executive Drive Area as an Area in Need of Redevelopment pursuant to *N.J.S.A. 40A:12A-5d* was unreasonable, arbitrary and capricious and not supported by substantial evidence as required by the LRHL.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

- a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.
- b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in

need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A* 48:12A-1 *et seq.*

- c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A.* 48:12A-1 *et seq.*
- d. For such other relief as the court may deem equitable and just.
- e. For reasonable attorney fees and costs of suit.

THIRD COUNT

The Resolution Of The Township Planning Board To Recommend The Designation Of The Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment Is Legally Defective In That It Fails to Set Forth With Specificity The Evidence Upon Which The Planning Board’s Decision Was Based As Is Required By The LRHL And By The New Jersey Supreme Court.

97. Planning Board Resolution # 18-01, **Exhibit A**, sets forth no facts or evidence, let alone substantial evidence, upon which the Planning Board made its determination that the Essex Green Shopping Center and the Executive Drive Offices is an area in need of redevelopment.

98. Planning Board Resolution # 18-01 merely states: “The Board having received the report from Phillips Preiss Grygiel, LLC and having heard testimony from Paul Grygiel, PP, AICP, and having provided an opportunity for public comment, and having deliberated on the matter, hereby finds that there is sufficient information to determine that the Study Area meets the criteria for designation as an area in need of redevelopment in accordance with the LRHL.”

99. To support an area in need of redevelopment designation under the LRHL, the municipal record must "contain more than a bland recitation of applicable statutory criteria

and a declaration that those criteria are met." *62-64 Main Street, supra*, 221 N.J. at 156 (quoting *Gallenthin, supra*, 191 N.J. at 373).

100. A resolution adopted by a municipal planning board recommending a designation of an area in need of redevelopment and the governing body's resolution adopting such recommendation of the planning board to designate an area in need of redevelopment under the LRHL must clearly articulate the factual findings that support the statutory criteria for designating an area as in need of redevelopment. *62-64 Main Street, L.L.C., supra*, 221 N.J. at 156.

101. Planning Board Resolution # 18-01 was legally deficient in that it failed to articulate any factual findings that support the statutory criteria for designating an area in need of redevelopment. *62-64 Main Street, L.L.C., supra*, 221 N.J. at 156.

102. Due to the paucity of facts in Planning Board Resolution # 18-01, the Township Council lacked any substantial evidence upon which to make its decision.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

a. Setting aside the determination of the Planning Board, as memorialized in the Resolution of December 6, 2017 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.

b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution number 17-18, adopted on January 9, 2018, accepting the recommendation of the Planning Board that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of

c. redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*

d. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices is an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*

e. For such other relief as the court may deem equitable and just.

f. For reasonable attorney fees and costs of suit.

FOURTH COUNT

The Decision Of The Township Council To Designate the Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment Pursuant To *N.J.S.A. 40A:12A-5b* Was Unreasonable, Arbitrary and Capricious As It Was Not Based on Substantial Evidence That The Essex Green Shopping Center And The Executive Drive Offices Met Any Of The Required Legal Criteria To Support Such A Redevelopment Designation.

103. On January 9, 2018, the Township Council adopted a resolution to designate the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment under the LRHL.

104. The determination by the Township Council to designate the Essex Green Shopping Center and the Executive Drive Offices an area in need of redevelopment under the LRHL was not based on substantial evidence and was unreasonable, arbitrary and capricious.

105. Prior to the Planning Board meeting of November 1, 2017, the members of the Township Council were given legal advice by the Township Council attorney that Council

members could attend the Planning Board meetings at which the Essex Green Shopping Center and the Executive Drive Offices were under discussion but Township Council members were advised to not ask questions of Grygiel.

106. Some members of the Township Council attended the Planning Board meetings of November 1, 2017 and December 6, 2017, but based on the advice given by the Township Council attorney they did not participate in the questioning of Grygiel as did members of the public.

107. It is unknown whether all the members of the Township Council attended the Planning Board meetings of November 1, 2017 and December 6, 2017.

108. By email of January 8, 2018, Township Council President Joe Krakoviak requested of the Township Administration that Grygiel be present at the Council Meeting of January 9, 2018 in order for Grygiel to be available to answer questions from the Council concerning the Grygiel Report and the Essex Green Shopping Center and the Executive Drive Offices (“Krakoviak January 8 Email”). A true copy the Krakoviak January 8 Email is attached hereto as **Exhibit F**).

109. Despite the request of Council President Krakoviak, Grygiel was not made available by the Township administration for the Council meeting of January 9, 2018.

110. At the Council meeting of January 9, 2018, Council member Krakoviak sought an explanation from Trenk as to why Grygiel was not present at the meeting, Trenk responded that the questioning of Grygiel by the Council at a Council meeting was not permitted under the LRHL.

111. Based on unsubstantiated legal reasoning by the Township attorney, the Township Council was deliberately and improperly denied an opportunity to question Grygiel as to the contents of the Grygiel Report or to question him as to any other information that Grygiel may have had with respect to the Essex Green Shopping Center and the Executive Drive Offices.

112. The Grygiel Report contended that the Essex Green Shopping Center and the Executive Drive Offices met the "b" criterion under *N.J.S.A. 40A:12A-5*.

113. To qualify under the "b" criterion of *N.J.S.A. 40A:12A-5* it must be shown through substantial evidence that the property suffers from the “discontinuance of use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into such a state of disrepair as to be untenable.”

114. The Essex Green Shopping Center and the Executive Drive Offices do not constitute "an area in need of redevelopment" under criterion "b" of *N.J.S.A. 40A:12A-5* as a matter of fact and as a matter of law.

115. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under *N.J.S.A.40A:12A-5b*, that the use of the buildings in the Essex Green Shopping Center and the Executive Drive Offices have been *discontinued* as is required by the statute.

116. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under *N.J.S.A.40A:12A-5b*, that the use of the buildings in the Essex Green Shopping Center and the Executive Drive Offices have been *abandoned* as is required by the statute.

117. There is no evidence in the record, let alone substantial evidence as a matter of fact and as a matter of law under *N.J.S.A.40A:12A-5b* that the buildings of the Essex Green Shopping Center and the Executive Drive Offices have been allowed to fall into such a state of disrepair as to be untenable.

118. The Grygiel Report states that the Essex Green Shopping Center is 77% occupied and that its tenants include Shop Rite, Sears Outlet, Total Wine and More, AMC Theaters, Panera, and Macy's Backstage (Grygiel Report, **Exhibit C**, page 13).

119. When questioned by Planning Board Member Jerome Eben at the Planning Board meeting of November 1, 2017, Grygiel acknowledged that the parking lot of the Essex Green Shopping Center was in good repair and that the parking lot had been partially repaved.

120. When cross-examined by Plaintiff Malanga at the Planning Board hearing of December 6, 2017, Grygiel stated that when he inspected the Essex Green Shopping Center he saw no broken windows, no graffiti, and that the premises were in generally good condition.

121. When cross-examined by Plaintiff Malanga at the Planning Board meeting of December 6, 2017, Grygiel was unable to state in any way how the Essex Green Shopping Center or the Executive Drive Offices had fallen into such a state of disrepair as to be untenable as is required by *N.J.S.A. 40A:12A-5b* to declare an area in need of redevelopment.

122. The fact that the tenants of the Essex Green Shopping Center include TGI Fridays restaurant, the Panera Bread restaurant, the Sears Outlet retail store, TGI Fridays restaurant, Macy's Backstage retail store, Petco pet supply retail store, Loews AMC Dinner Theater movie theater, Shop Rite supermarket, Total Wines and More liquor retail store, Jerry's Artist Outlet artist supply retail store, and Verizon is proof that the Essex Green Shopping Center is well maintained and tenantable.

123. The fact that the tenants of the Executive Drive Offices include the offices of the insurance business of the Mayor of the Township, offices of the Department of Homeland Security, Geico Insurance, and Lincoln Educational Services Corporation also known as Lincoln Tech is evidence that the Executive Drive Offices is well maintained and tenantable.

124. “A blight determination based on a net opinion or insubstantial evidence cannot stand.” *62-64 Main Street, supra*, 221 N.J. at 157.

125. The decision of the Planning Board to recommend the designation of the Essex Green Shopping Center and the Executive Drive Offices as an Area in Need of Redevelopment pursuant to *N.J.S.A. 40A:12A-5b* was unreasonable, arbitrary and capricious and not supported by substantial evidence as required by the LRHL.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

- a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.
- b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A 48:12A-1 et seq.*
- c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N..J.S.A. 48:12A-1 et seq.*
- d. For such other relief as the court may deem equitable and just.
- e. For reasonable attorney fees and costs of suit.

FIFTH COUNT

The Decision Of The Township Council To Designate the Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment Pursuant To *N.J.S.A. 40A:12A-5d* Was Unreasonable, Arbitrary and Capricious As It Was Not Based on Substantial Evidence That The Essex Green Area And The Executive Drive Area Met Any Of The Required Legal Criteria To Support Such A Redevelopment Designation.

126. The Grygiel Report states that the Essex Green Shopping Center and the Executive Drive Offices met the "d" criteria under *N.J.S.A. 40A:12A-5*.

127. To qualify under the "d" criterion of *N.J.S.A. 40A:12A-5*, the governing body must conclude, through substantial evidence, that the following conditions have be found: "Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community".

128. The Grygiel Report makes the following conclusory statement as to criteria "d" for the Essex Green Shopping Center: "The prospect for tenanting these older units will be very limited. Consequently, the property qualifies for criteria "d" due to its obsolete layout and faulty arrangement and design." (Grygiel Report, **Exhibit C**, p. 14).

129. The Grygiel Report makes no attempt to address whether the Essex Green Shopping Center is detrimental to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)* .

130. When cross-examined by Plaintiff Malanga at the Planning Board hearing of December 6, 2017, Grygiel admitted that the Essex Green Shopping Center was not detrimental

to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)*.

131. Mirroring the language related to the Essex Green Shopping Center, the Grygiel Report makes the following conclusory statement as to criteria “d” for the Executive Drive Offices: “Consequently, the properties qualify for criteria ‘d’ due to their obsolete layout and faulty arrangement and design.” (Grygiel Report, **Exhibit C**, p. 16).

132. Public comment was heard at the Township Council meeting of January 9, 2018 by an attorney who is a resident of the Township who stated that he attempted to rent space for his law practice at the Executive Drive Offices and was informed by the rental agent that the building owner was not entering into any new leases.

133. Any purported inordinate vacancy rate of the Executive Drive Area is the result of the owner of the property not entering into any new leases.

134. Grygiel stated under cross-examination by Plaintiff Malanga that vacancy at the Executive Drive premises is the result of market forces.

135. The Grygiel Report makes no attempt to address whether the Essex Green Shopping Center and the Executive Drive Offices are detrimental to the safety, health, morals, or welfare of the community as is required by *N.J.S.A. 40A:12A-5(d)*.

136. “A blight determination based on a net opinion or insubstantial evidence cannot stand.” *62-64 Main Street, supra*, 221 N.J. at 157.

137. The decision of the Planning Board to recommend the designation of the Essex Green Shopping Center and the Executive Drive Offices as an Area in Need of Redevelopment pursuant to *N.J.S.A. 40A:12A-5d* was unreasonable, arbitrary and capricious and not supported by substantial evidence as required by the LRHL.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.

b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*

c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N..J.S.A. 48:12A-1 et seq.*

d. For such other relief as the court may deem equitable and just.

e. For reasonable attorney fees and costs of suit.

SIXTH COUNT

Challenge to the Decision of the Planning Board to Recommend that the Essex Green Shopping Center and the Executive Drive Offices Be Declared an Area in Need of Redevelopment And The Decision of the Township Council to Declare the Essex Green Shopping Center And The Executive Drive Offices An Area In Need Of Redevelopment As Such Decisions Were Based On A Lack of Understanding Of The LRHL.

138. Pursuant to *N.J.S.A.* 48:12A-6c, an area found to be in need of redevelopment is deemed to be a “blighted area” for the purposes of Article VIII, Section III, paragraph 1 of the New Jersey State Constitution.

139. At the Planning Board meeting of November 1, 2017, Plaintiff Malanga cross-examined Grygiel who stated that an area in need of redevelopment is not the same as a blighted area.

140. At the Planning Board meeting of November 1, 2017, Plaintiff Malanga cross-examined Grygiel regarding the term “blight” and Grygiel stated that “[T]he law was changed. It’s no longer just inner city buildings.”

141. At the Planning Board meeting of December 6, 2017, Plaintiff Malanga made public comment at the conclusion of the hearing that when a Planning Board makes a recommendation to a governing body that an area is in need of redevelopment the Planning Board is finding that the area is blighted.

142. During his public comment at the Planning Board meeting of December 6, 2017, Plaintiff Malanga provided to the Planning Board a copy of the case *62-64 Main Street, supra*, 221 N.J., *supra*, and Plaintiff Malanga stated to the Planning Board that the majority opinion in that case used the term “blight” or “blighted” approximately 260 times.

143. At the Planning Board meeting of December 6, 2017, during Plaintiff Malanga's public comment Planning Board Chairman Robert Bagoff ("Bagoff") interrupted Plaintiff Malanga and disputed Plaintiff Malanga's statement that when an area is found to be in need of redevelopment it is found to be blighted.

144. The Planning Board attorney who was present at the meeting was not asked by Bagoff to offer an opinion as to the relevance of the term "blight" and how that term relates to a redevelopment designation and that Planning Board attorney did not offer such an opinion.

145. The members of the Planning Board were misled by the statements of Grygiel and Bagoff that a finding of blight was no longer relevant to the designation of an area in need of redevelopment.

146. Based on the record, the members of the Planning Board lacked even the most basic understanding of the LRHL which was a direct factor in the Planning Board's unreasonable, arbitrary and capricious decision to recommend to the Township Council that the Essex Green Shopping Center and the Executive Drive Offices be designated and area in need of redevelopment.

147. On the record at Township Council meetings, members of the Township Council stated that the concept of "blight" was longer an element of the LRHL.

148. Members of the Township Council also made statements on the record at Township Council meetings that evidenced a lack of understanding of the purpose of the LRHL and the statutory and case law limitations of the LRHL.

149. Based on the record, the members of the Township Council lacked even the most basic understanding of the LRHL which was a direct factor in the Township Council's unreasonable, arbitrary and capricious decision to designate the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

- a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.
- b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A 48:12A-1 et seq.*
- c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*
- d. For such other relief as the court may deem equitable and just.
- e. For reasonable attorney fees and costs of suit.

SEVENTH COUNT

The Decision Of The Planning Board Chairman To Not Recuse Planning Board Member Susan McCartney and Planning Board Member Andrew Trenk Was Error That Tainted The Decision Of The Planning Board to Recommend The Designation That The Essex Green Shopping Center And The Executive Drive Offices As An Area In Need Of Redevelopment.

150. Planning Board member Andrew Trenk (“A. Trenk”) is the son of Township Attorney Richard Trenk.

151. A. Trenk is a college student who resides with Trenk.

152. A. Trenk is aware that his father vigorously advocated for declaring the Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

153. A close relationship is grounds for the disqualification of a land use board member.

154. Planning Board member Susan McCartney (“McCartney”) is a member of the Township Council.

155. Prior to the holding of any Planning Board meetings regarding the Essex Green Shopping Center and the Executive Drive Office Buildings, McCartney publicly stated that the Essex Green Shopping Center and the Executive Drive Office Buildings qualified as areas in need of redevelopment.

156. As a member of the Township Council, McCartney stated on the record at the Township Council meeting of September 19, 2017, “Just a few of the photos Ms. Holden [the representative of the Essex Green Shopping Center] showed it looks like it already meets the criteria for an area in need of redevelopment.”

157. SMcCartney's again stated on the record at the Township Council meeting of November 21, 2017 in reply to public comment made at that Council meeting and referencing the Grygiel Report, "I am going to vote for an area in need of redevelopment."

158. As of November 21, 2017, the Planning Board hearings concerning the Essex Green Shopping Center and the Executive Drive Offices had not yet been concluded.

159. On November 30, 2018, Plaintiff Malanga submitted to the Planning Board chairman Bagoff a motion to have A. Trenk and McCartney recused.

160. On the evening of December 6, 2018, prior to the commencement of the Planning Board meeting, Plaintiff Malanga approached Dwyer and asked the status of the motion.

161. Dwyer replied, "There is no motion practice before land use boards."

162. Plaintiff Malanga demanded that his motion be addressed.

163. The entire extent of Planning Board chairman Bagoff's addressing Plaintiff Malanga's motion for recusal was to ask A. Trenk and McCartney whether they could act impartially.

164. Bagoff denied the motion of recusal.

165. Because of the son-father relationship of A. Trenk and Trenk, the impartiality of Planning Board Member A. Trenk is called into question.

166. Because of the public comments made by Councilwoman McCartney stating her support for declaring in need of redevelopment the Essex Green Shopping Center and the Executive Drive Offices, first, before any hearing on the redevelopment matter was even held by the Planning Board, and second, before the all the evidence had been heard and before the Planning Board hearings had concluded, the impartiality of Planning Board member McCartney is called into question.

167. The recusal of A. Trenk and McCartney was necessary in order for an impartially constituted Planning Board to consider the proposed recommendation of Essex Green Shopping Center and the Executive Drive Offices as an area in need of redevelopment.

WHEREFORE, Plaintiff demands judgment against defendants the Township Planning Board, the Township Council, and the Township of West Orange as follows:

- a. Setting aside the determination of the Planning Board, as memorialized in the Resolution # 18-01 recommending that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law.
- b. Setting aside the determination of the Township Council of the Township of West Orange, as memorialized in Resolution No. 17-18 accepting the recommendation of the Planning Board and determining that the Essex Green Shopping Center and the Executive Drive Offices be designated as an area in need of redevelopment as defined in the Local Redevelopment and Housing Law, *N.J.S.A 48:12A-1 et seq.*
- c. Enjoining and restraining defendant, Township of West Orange, from taking any further action with regard to the determination that the Essex Green Shopping Center and the Executive Drive Offices constitute an area in need of redevelopment under the Local Redevelopment and Housing Law, *N.J.S.A. 48:12A-1 et seq.*
- d. For such other relief as the court may deem equitable and just.
- e. For reasonable attorney fees and costs of suit.

Dated: February 14, 2018



Anthony P. Alfano
Attorney for Plaintiff

JURY DEMAND

Plaintiffs hereby demand trial by jury as to all issues so triable.

Dated: February 14, 2018



Anthony P. Alfano
Attorney for Plaintiff

DESIGNATION OF TRIAL ATTORNEY

Please be advised that Anthony P. Alfano is designated to try this matter.

Dated: February 14, 2018



Anthony P. Alfano
Attorney for Plaintiff

CERTIFICATION PURSUANT TO R.4:69-4

I hereby certify that all necessary transcripts of local agency proceedings have been ordered.

Dated: February 14, 2018



Anthony P. Alfano
Attorney for Plaintiff

R.4:5-1(b)(2) CERTIFICATION

I hereby certify that the matter in controversy is not subject of any other action pending in any Court, nor is it the subject of any arbitration proceeding, and that no action or arbitration proceeding is contemplated. To the best of my knowledge, no other parties need be joined. Other parties may need to be joined or additional causes of action alleged depending upon further investigation and discovery.

Attorney for Plaintiff Kevin Malanga

Dated: February 14, 2018



Anthony P. Alfano
Attorney for Plaintiff

INDEX OF EXHIBITS

| Exhibit | Description |
|---------|---|
| A. | Planning Board January 3, 2018 Resolution |
| B. | Township Council 2018 Redevelopment Designation |
| C. | Grygiel Report |
| D. | Trenk August 16, 2017 Email |
| E. | Timeline |
| F. | Krakoviak January 8, 2018 Email |

EXHIBIT A

RESOLUTION OF THE PLANNING BOARD

TOWNSHIP OF WEST ORANGE


WHEREAS pursuant to N.J.S.A. 40A:12A the Local Redevelopment and Housing Law (the "LRHL") the Planning Board was directed by the West Orange Township Council pursuant to Resolution #212-17, to conduct a preliminary investigation in order to study the area listed therein (Lots 40.02, 40.03, 41.02, 42.01, and 42.02 in Block 155 and Lot 40 in Block 155.21) and generally described as the Essex Green and Executive Drive Area (the "Study Area") to determine if it should be determined to be an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the "LRHL"); and

WHEREAS the firm of Phillips Preiss Grygiel, LLC did conduct a study and prepare a report (the "Report") dated October, 2017; and

WHEREAS the Planning Board having conducted a public hearing at meetings held on November 1, 2017 and December 6, 2017, after notice hereby makes the following findings:

1. The Board having received the report from Phillips Preiss Grygiel, LLC and having heard testimony from Paul Grygiel, PP, AICP, and having provided an opportunity for public comment, and having deliberated on the matter, hereby finds that there is sufficient information to determine that the Study Area meets the criteria for designation as an area in need of redevelopment in accordance with the LRHL.
2. The redevelopment area investigation reveals that all but one of the properties qualified for redevelopment designation under either criteria "b" or "d" of the LRHL (N.J.S.A. 40A:12A-6). Of the total land area of 70.58+/- acres, 65.86 acres meet the statutory conditions for designation of an area in redevelopment. The remaining property in the Study Area, Block 155, Lot 40.03 does not in and of itself meet the statutory criteria, however; it can be included in the redevelopment area in accordance with N.J.S.A. 40:12A-3 because the exclusion of the property would be an impediment to an appropriate redevelopment scheme.
3. Therefore the Board hereby agrees with the conclusion of the Redevelopment Study conducted by Phillips Preiss Grygiel, LLC that the Study Area (i.e., Lots 40.02, 40.03, 41.02, 42.01 and 42.02 in Block 155 and Lot 40 in Block 155.21) qualify as an "area in need of redevelopment" in accordance with N.J.S.A. 40:12A.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 3rd day of January 2018.



Robin Miller, Secretary
Township of West Orange Planning Board

EXHIBIT B

17-18
January 9, 2018

A Resolution Determining that the Properties Identified as Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 Be Designated as An Area In Need of Redevelopment in Accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located therein constitutes an area in need of redevelopment; and

WHEREAS, on September 19, 2017, the Township Council for the Township of West Orange (the "Council") adopted Resolution 212-17 authorizing the Planning Board for the Township of West Orange (the "Planning Board") to conduct a preliminary investigation to determine whether certain properties, identified as Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 on the Township of West Orange Tax Map, inclusive of any and all streets, "paper" streets, private drives and right of ways (the "Study Area") meet the criteria set forth as an appropriate non-condemnation area for consideration for the program of redevelopment; and

WHEREAS, the Planning Board conducted a preliminary investigation of the Study Area to determine whether it should be designated as a Non-Condensation Area In Need of Redevelopment in accordance with the criteria and procedures set forth in N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6; and

WHEREAS, as part of the preliminary investigation, Phillips Preiss Grygiel, LLC ("PPG") 33-41 Newark Street, Third Floor, Suite D, Hoboken, New Jersey prepared an Area in Need of Redevelopment Study (the "Redevelopment Study") and presented the Redevelopment Study to the Planning Board for its consideration in determining whether the Study Area should be designated as an Area in Need of Redevelopment; and

WHEREAS, in addition to the foregoing, PPG prepared a map showing the boundaries of the Study Area and locations of the parcels of property included therein, along with a

statement setting forth the basis for its investigation in accordance with N.J.S.A. 40A:12A-6(b)(1); and

WHEREAS, a public hearing was conducted by the Planning Board on November 1, 2017 and December 6, 2017, with notice having been properly given pursuant to N.J.S.A. 40A:12A-6(b)(3); and

WHEREAS, after completing its investigation and public hearing on this matter, the Planning Board concluded that there was sufficient credible evidence to support findings that satisfy the criteria set forth in the Redevelopment Law, particularly at N.J.S.A. 40A:12A-5 et seq., for designating the Study Area as a Non-Condemnation Area in Need of Redevelopment and said designation is necessary for the effective redevelopment of the area comprising the Study Area; and

WHEREAS, in accordance with the Redevelopment Law and as approved by vote on December 6, 2017 and memorialized by Resolution 18-1, dated January 3, 2018, annexed hereto as Exhibit "A," the Planning Board recommended to the Council that Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 be designated as a Non-Condemnation Area in Need of Redevelopment; and

WHEREAS, the Council considered the Planning Board's recommendation at its regularly scheduled public meeting and held a public hearing with public comment; and

WHEREAS, on September 19, 2017, the Council adopted Resolution 213-17 which authorized the retention of PPG to prepare a Redevelopment Plan in the event that the Planning Board would conclude that there was sufficient credible evidence to support findings that satisfy the criteria set forth in the Redevelopment Law, particularly at N.J.S.A. 40A:12A-5 et seq., for designating the Study Area as a Non-Condemnation Area in Need of Redevelopment; and

WHEREAS, a Redevelopment Plan to be presented to the Planning Board and the Council is required to effectuate the designation of the Study Area as a Non-Condemnation Area in Need of Redevelopment.

NOW, THEREFORE, BE IT RESOLVED that the Township Council hereby accepts the recommendation from the Planning Board of the Township of West Orange and finds that Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 as shown on the official tax map of the Township of West Orange be and are hereby deemed to be a Non-Condemnation Redevelopment Area pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

BE IT FURTHER RESOLVED, that the Township hereby reserves all other authority and powers granted to it under the Redevelopment Law; and

BE IT FURTHER RESOLVED, that the Clerk of the Township of West Orange shall forthwith transmit a copy of the within Resolution to the Commissioner of the State of New Jersey Department of Community Affairs for review; and

BE IT FURTHER RESOLVED, that within ten (10) days of the Township Council's adoption of the within Resolution, the Clerk of the Township of West Orange shall serve notice of the Township Council's determination and the within Resolution upon all record owners of property within the Non-Condemnation Redevelopment Area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of the determination and Resolution may be sent and upon the Commissioner of the New Jersey Department of Community Affairs; and

BE IT FURTHER RESOLVED, that PPG, having been previously retained by the Township, has already been authorized and directed to prepare a Redevelopment Plan for the Study Area, including an outline for the planning, development and redevelopment of the Study Area pursuant to N.J.S.A. 40A:12A-7 and present same to the Planning Board and Township Council; and

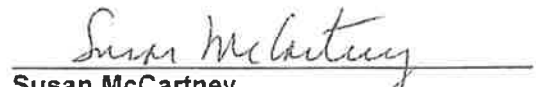
BE IT FURTHER RESOLVED, that the Planning Board shall transmit a report containing its recommendation concerning the Redevelopment Plan to the Township Council. The

Planning Board Report shall include an identification of any provisions in the proposed Redevelopment Plan which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and any other matters as the Planning Board deems appropriate; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Township Clerk, Chief Financial Officer and Township Planning Board and Planning Board Secretary; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be made available in the Clerk's office in accordance with applicable law.


Karen J. Carnevale, R.M.C.
Municipal Clerk


Susan McCartney
Council President

Adopted: January 9, 2018

EXHIBIT C



ESSEX GREEN AND EXECUTIVE DRIVE AREA

AREA IN NEED OF REDEVELOPMENT STUDY

TOWNSHIP OF WEST ORANGE, NEW JERSEY

PHILIPS PRESS GRYSIEL LLC

PLANNING & REAL ESTATE CONSULTANTS

OCTOBER 2017

**Essex Green and Executive Drive Area
Area in Need of Redevelopment Study
Township of West Orange, New Jersey**

October 2017

Prepared for:
The Township of West Orange

Prepared by:
Phillips Preiss Grygiel LLC
Planning and Real Estate Consultants

33-41 Newark Street
Third Floor, Suite D
Hoboken, NJ 07030

The original of this report was signed and
sealed in accordance with N.J.S.A. 13:41-1.2



Paul Grygiel, AICP, PP
New Jersey Professional Planner License # 5518

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APPENDIX

Photographs of Study Area and Vicinity

I. INTRODUCTION

This study examines whether a portion of Block 155 and the entirety of Block 155.21, inclusive of all streets, “paper” streets, private drives, and rights-of-ways, in the Township of West Orange, Essex County, New Jersey, meets the statutory criteria for an “area in need of redevelopment” in accordance with the New Jersey Local Redevelopment and Housing Law (LRHL) at N.J.S.A. 40A:12A-5 et seq. The study was prepared for the Township of West Orange Planning Board. The area under consideration is comprised of five lots in Block 155 and the entirety of Block 155.21, bounded generally by Interstate 280 to the north; Prospect Avenue to the east; Rooney Circle and a portion of Block 155, Lot 26.01, which is owned by PSE&G, to the south; and the right-of-way and ramp associated with I-280 and a small portion of Block 155, Lot 55, also owned by PSE&G, to the west (heretofore referred to as the “Study Area”).

The scope of work for the study encompassed the following: surveys of land uses and property conditions, occupancy and ownership status within the Study Area and nearby areas; review of municipal tax maps; review of the official tax records of the Township of West Orange; review of the existing zoning ordinance and map for the Township of West Orange; and review of the 2004 West Orange Reexamination Report and the Township of West Orange 2010 Master Plan Update.

As more fully described in the body of the report, we conclude that the Study Area meets the statutory criteria for designation as a redevelopment area. Our conclusion is based on the following findings:

- The Study Area boundary has been appropriately and logically drawn from an overall planning perspective and in consideration of established land uses, property conditions and existing development trends in the immediate surrounding blocks.
- The Study Area contains an approximately 403,000 square foot office complex with a vacancy rate of 58 percent; and an approximately 330,000 square foot shopping center with a vacancy rate of 33 percent. These are prime examples of outmoded suburban office and commercial developments that must be reinvented in order to ensure a positive contribution to the West Orange community in the future.
- The properties within the Study Area meet one or more of the statutory criteria for redevelopment designation. If the current conditions are allowed to persist, and the Study Area continues to lay fallow and unproductive, it will further deteriorate to the point at which it will have a detrimental impact on the surrounding properties and the public-at-large. The prevailing condition of the Study Area is one of an “area in need of redevelopment.”

In sum, the Study Area meets the statutory criteria for designation as an “area in need of redevelopment” in accordance with the LRHL.

The remainder of this report is divided into four sections. Chapter II describes the locational context of the areas under consideration for redevelopment area status, while Chapter III discusses the applicable zoning and master plan recommendations for the area. Chapter IV considers the appropriateness of the Study Area boundaries, sets forth the statutory criteria used to determine whether an area is in need of redevelopment, and then applies those criteria to the Study Area to determine whether they warrant a redevelopment designation. Chapter V presents the overall conclusions regarding the Study Area’s potential for redevelopment area status.

II. LOCATIONAL CONTEXT OF THE STUDY AREA

The area under consideration for redevelopment area designation encompasses developed and undeveloped lands located in the central section of the Township of West Orange. The Study Area includes Lots 40.02, 40.03, 41.02, 42.01, and 42.02 in Block 155 and Lot 40 in Block 155.21, as identified on the official tax maps of the Township of West Orange. The Study Area locational context and boundaries are shown on Figure 1 and can be described as follows:

The western boundary of the Study Area consists of Block 155, Lot 42.01 where it abuts the I-280 right-of-way, as well as a small portion of Lot 55, within the same block; the Study Area shares its northern boundary with the I-280 right-of-way; the eastern boundary of the Study Area consists of Lots 40.01 and 40.04 within Block 155, as well as the right-of-way of Prospect Avenue where it abuts Block 155.21, Lot 40; and the southern boundary consists of the Rooney Circle right-of-way where it abuts Block 155.21, Lot 40 and where Lots 40.03, 42.01 and 42.02 within Block 155 abut Block 155, Lot 26.01. The Study Area is irregularly shaped and totals ±70.58 acres. A significant portion of this acreage is comprised of Block 155.21, Lot 40 (±33.60 acres), which is developed with the Essex Green shopping center.

The tax lots which comprise the Study Area are shown on Figure 2. The aerial context of the Study Area is shown on Figure 3. The Study Area is centrally located in the Township, to the south of I-280, proximate to Interchange 7 at Pleasant Valley Way. The street address and ownership information for the parcels which comprise the Study Area are shown in Table 1 below.

Table 1: Study Area Properties

| Block | Lot | Address | Owner | Area (acres) |
|--------|-------|---------------------|-------------------------------------|--------------|
| 155 | 40.02 | 100 EXECUTIVE DRIVE | RA 100 EXECUTIVE DR, LLC% REXCORP | 10.08 |
| 155 | 40.03 | ROONEY CIRCLE | CLPF ESSEX GREEN LLC | 4.72 |
| 155 | 41.02 | 10 ROONEY CIRCLE | RA 10 ROONEY CIRCLE LLC %REXCORP | 5.28 |
| 155 | 42.01 | 300 EXECUTIVE DRIVE | RA 300 EXECUTIVE DRIVE LLC% REXCORP | 8.68 |
| 155 | 42.02 | 200 EXECUTIVE DRIVE | RA 200 EXECUTIVE DR LLC% REXCORP | 8.22 |
| 155.21 | 40 | PROSPECT AVENUE | CLPF ESSEX GREEN LLC,%LEVIN MANAGME | 33.60 |

Land use within the vicinity of the Study Area is varied. There are commercial and professional offices uses along the east side of Prospect Avenue to the south of Guerino Drive. There is a townhouse development known as "Villas at Eagle Ridge" within the PURD Planned Unit Residential Development District along Prospect Avenue, the entrance to which is located at Guerino Drive. Villas at Eagle Ridge extends eastward to the I-280 right-of-way. There is an LA Fitness gym to the south of the Essex Green shopping center along Rooney Circle, and an office building with a surface parking lot located at the southwestern corner of the intersection of Rooney Circle and Prospect Avenue. There is a large PSE&G electrical substation facility and associated transmission lines to the south of the Study Area, generally to the northwest of the intersection of Prospect Avenue and Mt. Pleasant Avenue. There is a right-of-way developed with PSE&G transmission lines along a portion of the southern boundary of the Study Area, beyond which is what appears to be a primarily medical office complex to the east of Marion Drive; a townhouse residential development within the PURD Planned Unit Residential Development District to the west of Marion Drive; and single-family residential development beyond. There are ramps associated with Interchange 7 of I-280 to the east of the Study Area, and mainly residential development across I-280 to the north of the Study Area.

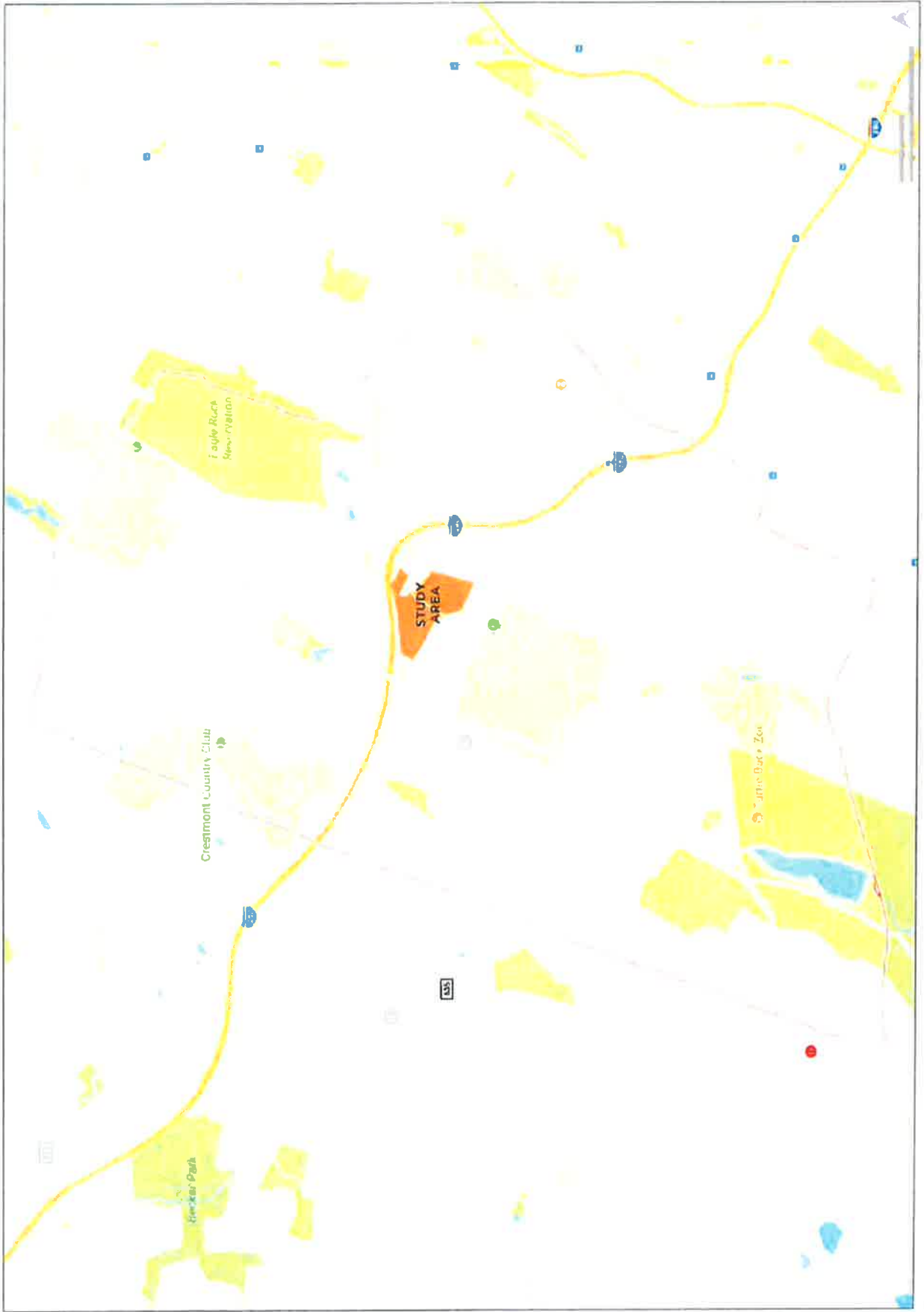


FIGURE 1: STUDY AREA LOCATION
 AREA IN NEED OF REDEVELOPMENT STUDY | BLOCK 155, LOTS 40.02, 40.03, 41.02, 42.01, and 42.02 & BLOCK 155.21, LOT 40 | WEST ORANGE NJ
 PHILLIPS PREISS GRYGIEL LLC 2017

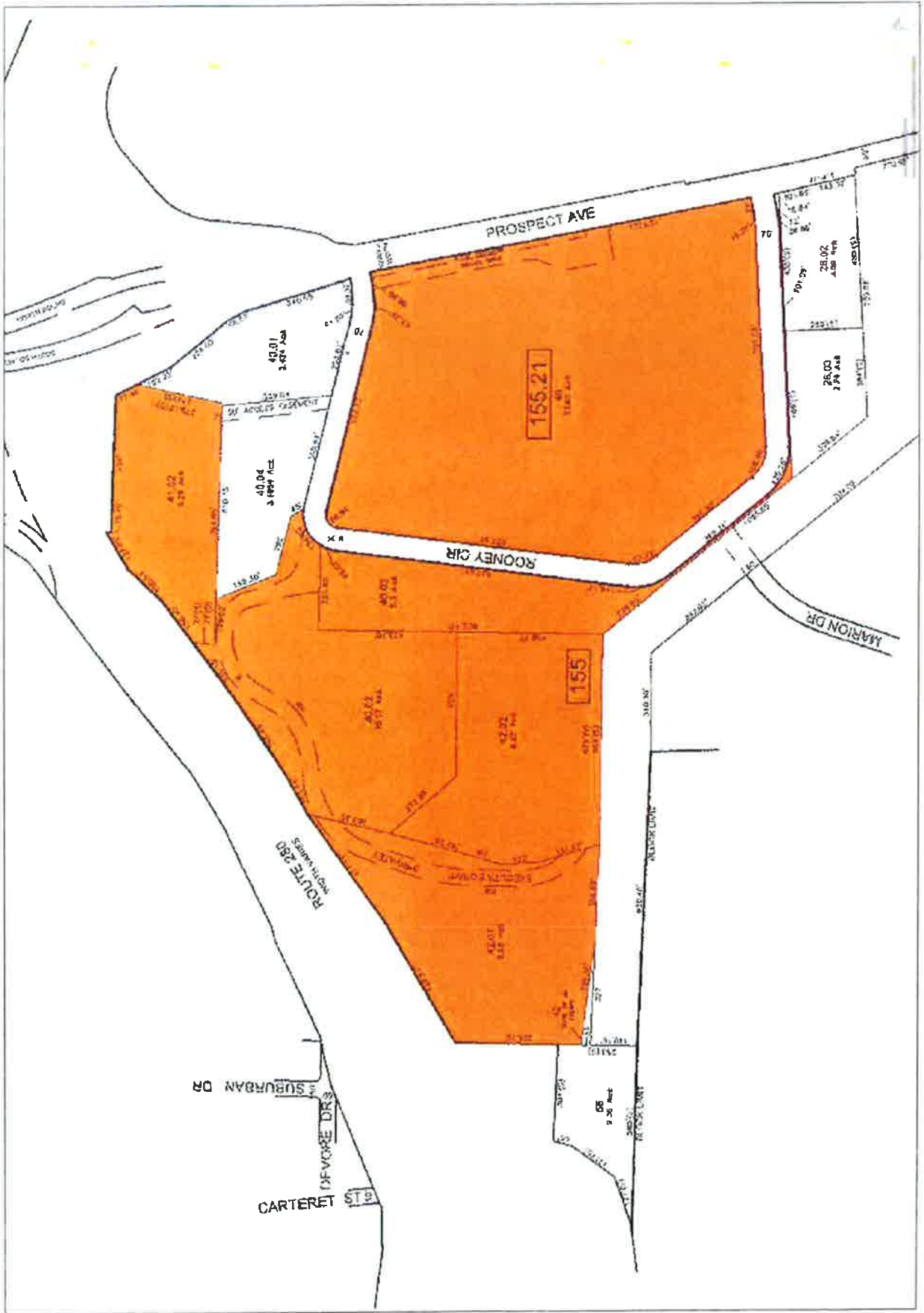


FIGURE 3: STUDY AREA TAX MAP
 AREA IN NEED OF REDEVELOPMENT STUDY | BLOCK 155, LOTS 40.02, 40.03, 41.02, 42.01, & 42.02 & BLOCK 155.21, LOT 40 | WEST ORANGE NJ
 PHILLIPS PREISS GRYGIEL LLC 2017

III. EXISTING MASTER PLAN AND ZONING DESIGNATIONS FOR THE STUDY AREA

A. Master Plan

The Township of West Orange adopted a Master Plan Reexamination Report in 2004. Though the Township has not adopted a full master plan since 1989, a Master Plan Update comprised of a Reexamination Report, Sustainability Plan, and updates to certain plan elements, including Land Use, Economic Development and Historic Preservation, among others, was prepared and adopted in 2010.

The 2004 Reexamination report noted that development which generates employment opportunities and beneficial commercial/retail activity should continue to be encouraged where it is compatible with adjacent land uses and sensitive natural and environmental features, and should be balanced by the need to maintain adequate public infrastructure and facilities, services and pedestrian and vehicular circulation patterns. This objective was reaffirmed in the 2010 Master Plan Update, while also encouraging the continued maintenance and revitalization of commercial and office areas, and is of particular relevance to the Study Area.

The 2010 Master Plan Update specifically notes with regard to the Essex Green shopping center and vicinity that “a key for this area is to maintain a balance of land uses, which will have benefits with regard to traffic as well as fiscal impacts.” The Master Plan Update did contemplate the potential for the future redevelopment within the Study Area. It did not propose an expansion of the retail zoning in the area, as there was sufficient land zoned to allow for retail and service uses, nor did it recommend any additional residential development. However, an exception for residential development could be considered for mixed-use development as part of a future redevelopment of the shopping center or another large property.

B. Zoning

The Study Area is located within two zoning districts within the Township. The properties that comprise the Essex Green shopping center (Block 155.21, Lot 40 and Block 155, Lot 40.03) are located within the P-C Planned Commercial District. The properties which comprise the office park (Block 155, Lots 40.02, 41.02, 42.01, and 42.02) are located with the OB-1 Office Building District.

The Study Area zoning is described in Tables 2 and 3 below and the Study Area and surrounding zoning is shown on Figure 4.

Table 2: Use and Bulk Standards in the P-C Planned Commercial District

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 Non-Commercial Indoor Recreational Facilities
- Theater on Lots of 8-Acre Minimum

Permitted Accessory Uses

- Required Accessory Parking
- Required Accessory Truck Loading Spaces
- Private Garage
- Signs

Permitted Conditional Uses

- Video or Amusement Arcades
- Commercial Antennas

Bulk Requirements

| Bulk Standard | Requirement |
|-----------------------------------|---|
| Minimum lot area | 8 acres |
| Minimum lot width | No minimum |
| Minimum front yard | 300 feet |
| Minimum side yards | 75 feet + 75 feet, 100 feet adjacent to residence |
| Minimum rear yard | 75 feet, 100 feet adjacent to residence |
| Minimum building coverage | 20% |
| Maximum lot coverage | 75% |
| Minimum spacing between buildings | 150 feet |
| Maximum building height | 2 ½ stories/35 feet |

Additional Standards

- Waste Disposal in P-C, O-R, or I District. In a P-C, I or O-R District, every building or group of buildings shall make adequate provisions for the proper disposal of wastes within a screened enclosure. Such provision should be reflected in the preliminary site plan.
- Indoor Storage and Loading. In a P-C district, no visible display of waste, trash, scrap or material of any kind shall be permitted except that items offered for sale may be displayed in accordance with an overall plan to be included as part of the preliminary site plan, and in such districts provisions shall be made for properly enclosed truck loading areas and bays located entirely within the structure.
- Shopping Centers. There shall be only one grouping of free standing signs identifying various businesses within the center. Individual signs are prohibited.
- Outdoor Cafes in the B-1, B-2 and P-C District. Outdoor cafes shall be permitted subject to the standards and conditions of Section 5-10 of Chapter V, General Licensing of the Revised General Ordinances of the Township of West Orange and in conjunction with the conditions of Section 25-11.10 of the Land Use Regulations of the Township of West Orange.

Table 3: Use and Bulk Standards in the OB-1 District

Permitted Principal Uses

- One-Family, Detached Dwelling
- Water Reservoir, Well Tower, Filter Bed
- Federal, State, County or Township Building
- Golf Course and Golf Course House
- Farm, Nursery, Greenhouse and Similar Uses

- Hospital
- Office Buildings

Permitted Accessory Uses

- Required Accessory Parking
- Signs

Permitted Conditional Uses

- Commercial Recreation
- Public School
- Private School
- Library
- Museum
- Park or Playground
- Public Utility Building or Structure
- Telephone Exchange
- Private Club, Other than a Golf Club
- House of Worship
- Nursing Home
- Long-Term Care Residential Health Care Facility
- Congregate Care Facility
- Assisted Living
- Commercial Antenna
- Check Cashing Facility

Bulk Requirements

| Bulk Standard | Requirement |
|---------------------------|---------------------|
| Minimum lot area | 10,000 square feet |
| Minimum lot area per unit | 6,000 square feet |
| Minimum lot width | 60 feet |
| Minimum front yard | 30 feet |
| Minimum side yards | 10 feet + 8 feet |
| Minimum rear yard | 30 feet |
| Minimum building coverage | 40% |
| Maximum lot coverage | 50% |
| Maximum building height | 2 ½ stories/35 feet |

Additional Standards

- Retail sales or service permitted as an accessory use in the OB-1, OB-2 and PURD Districts shall be an integral part of the permitted building, shall be limited to sales or services designed for the convenience of the employees, visitors and tenants of the permitted building and no goods, advertisements or other evidence of such sales or services shall be visible from the street. Such use shall not consist of more than 15 percent of the total first floor area in the OB-1 and PURD Districts or 10 percent of the gross floor area of the buildings or 3,000 square feet, whichever is less, in the OB-2 District and shall be designated on the preliminary site plan.

- In the OB-1 and OB-2 Districts, one square foot of open space shall be provided for each square foot of building area except that no more than 40 percent of the lot in the OB-1 District nor 30 percent in the OB-2 District may be covered by buildings or structures. Off-street parking areas are not permitted within open space areas, except for "overflow" parking spaces that are specifically approved by the Planning or Zoning Board and are constructed in a manner acceptable to the Township Engineer. Furthermore, no accessory structure of off-site parking area shall be located within the required front yard no closer than 25 feet to the side or rear property lines in the OB-1 District or 10 feet to the side or rear property lines in the OB-2 District.

Adjacent Zoning

Lands across I-280 to the north of the Study Area are located in the PURD Planned Unit Residential Development District. To the east of the Study Area across Prospect Avenue, there is a strip of properties within the B-2 General Business District, as is a property directly north of the Essex Green shopping center on the west side of Prospect Avenue, which is developed with a hotel. In addition to the B-2 District, lands across Prospect Avenue to the east of the Study Area are within the PURD District, extending eastward to the I-280 right-of-way. Lands to the south of the Essex Green shopping center are within the O-R Office Research and PURD Districts. Lands to the south and west of the office park are within the R-5 One-Family Dwellings on 10,000 Square Foot Lots District.

Review of Municipal Records for the Study Area

Various municipal records were requested from the Township for the Study Area properties. The records provided were reviewed, including information on development approvals. The records covered the previous 20 years and revealed isolated upgrades to buildings in the Study Area. The work reported included:

- Interior renovations, signage and parking-related approvals to accommodate new tenants
- Approval to install a cafeteria to serve office park users
- The addition of a restaurant pad (TGI Fridays) within the Essex Green shopping center
- Subdivision to create Block 155, Lot 40.04 and site plan approval for a new hotel

Beyond this, there were some minor tenant fit-ups/upgrades (e.g., alarms, interior partitions) and other work that appears to be code-related (e.g., emergency exit installation, electrical renovation). Overall, there has been limited investment in the Study Area over much of the last two decades.

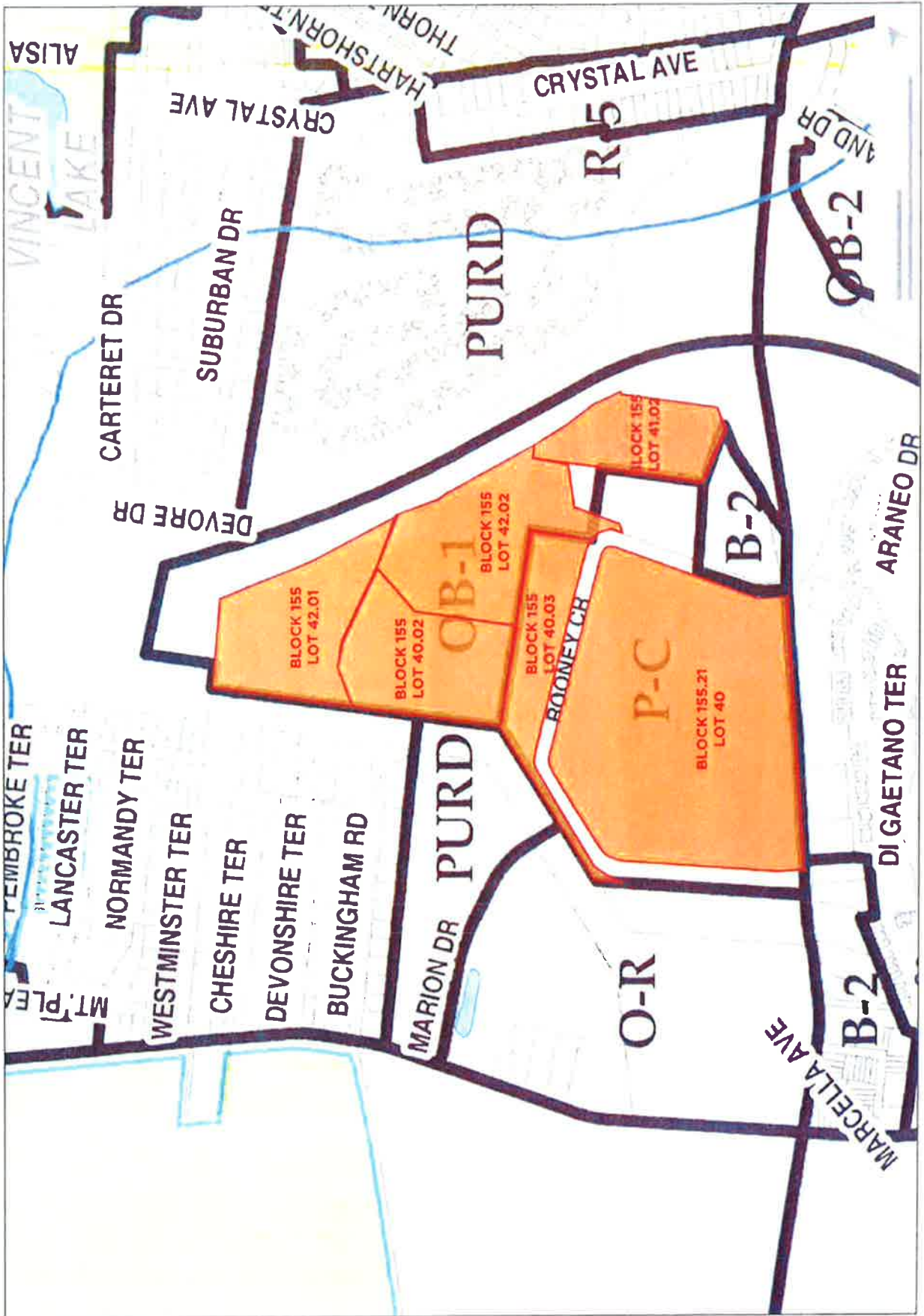


FIGURE 4: STUDY AREA ZONING
 AREA IN NEED OF REDEVELOPMENT STUDY | BLOCK 155, LOTS 40.02, 40.03, 41.02, 42.01, & 42.02 and BLOCK 155.21, LOT 40 | WEST ORANGE NJ
 PHILLIPS PREISS GRYGIEL LLC 2017

IV. CONSIDERATION OF THE STATUTORY CONDITIONS FOR ESTABLISHMENT OF AN AREA IN NEED OF REDEVELOPMENT AS APPLIED TO THE STUDY AREA

A. Introduction

Under the regulations of the LRHL at N.J.S.A. 40A:12A-5, a delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in Section 6 of P.L.1992, c.79 (N.J.S.A. 40A:12A-6), the governing body of the municipality by resolution concludes that within the delineated area any of the following conditions is found:

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with building or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the areas has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the New Jersey Urban Enterprise Zones Act, P.L. 1983, c. 303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of N.J.S.A. 40A:20-1 et seq. or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of N.J.S.A. 40A:21-1 et seq. The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body

and planning board have also taken the actions and fulfilled the requirements prescribed in N.J.S.A. 40A:12A-1 et al. for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

- h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.

In a Study Area with multiple parcels, individual properties or blocks that do not meet any of the statutory conditions may still be included within an area in need of redevelopment provided that within the Study Area as a whole, one or more of the expressed conditions are prevalent. This provision is referred to as "Section 3" and is set forth under N.J.S.A. 40:12A-3, which states in part:

A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to public health, safety or welfare, but the inclusion of which is found necessary, with or without change in this condition, for the effective redevelopment of the area of which they are a part.

The following section describes the particular Study Area boundaries and improvements within the Study Area, and considers whether or not the statutory criteria for an "area in need of redevelopment" designation are met.

B. Appropriateness of the Study Area Boundaries

The Study Area boundaries are an essential part of any area in need of redevelopment investigation. In this case, the limits of the Study Area have been appropriately drawn. The Study Area consists of lands developed with an office park and shopping center, both of which are characterized by outdated buildings and relatively high vacancy rates.

Block 155, Lot 40.01 has been excluded from the Study Area because it is developed with a hotel building (Courtyard Hotel) that is in good condition, and adjacent Block 155 Lot 40.04 has been excluded from the Study Area because it was approved for a hotel use by the Township Zoning Board (Application ZB-10-15A-2) in 2011. Block 155, Lots 26.03 and 28.02 are developed with a gym and office building, respectively, and are not under common ownership with the properties included within the Study Area. Lands to the south of the Study Area owned and developed for a utility use by PSE&G would also logically be excluded from the Study Area.

Vacant lands (Block 155, Lot 40.03) comprise ± 4.72 acres or approximately 7 percent of the Study Area; the Essex Green shopping center comprises ± 33.60 acres or approximately 48 percent of the Study Area; and the office complex comprises ± 32.26 acres or approximately 46 percent of the Study Area. As a whole, the Study Area is surrounded by development that is in generally good condition, including residential development and operational businesses and offices along Rooney Circle, Prospect Avenue and Mt. Pleasant Avenue. In contrast, the properties included within the Study Area have tended to stagnate relative to the new development that has been proposed and/or undertaken in the vicinity of the Study Area, such as the aforementioned hotels and gym.

C. Individual Property Evaluations

The following evaluates the current conditions within the Study Area and considers whether this area meets any of the statutory criteria for an "area in need of redevelopment" designation. For the purposes of this evaluation, individual properties were aggregated into three logical assemblages based on common use and/or common ownership. Each of these assemblages was evaluated based

on surveys of land usage, property conditions, occupancy, and ownership status. All of the information was collected on a property-by-property basis, and then was aggregated for the Study Area.

Block 155.21, Lot 40 - CLPF ESSEX GREEN LLC

The property measures ±33.60 acres and is irregular in shape. It is bound to the north, west and south by Rooney Circle, a "u" shaped road that begins and terminates at Prospect Avenue to the east. The property also has a significant amount of frontage along Prospect Avenue to the east. The property is developed with a regional shopping center known as Essex Green, which consists of multiple commercial buildings with surface parking areas. There is a main commercial building containing a number of retail units and a cinema centrally located on the property, as well as a stand-alone grocery store in the northwestern corner of the property and two pad sites in the southeastern corner of the property, currently occupied by a restaurant and bank branch. The main vehicular access driveway into the shopping center is located along Prospect Avenue; however, rather than providing direct access into the shopping center parking area, there is private, internal drive that runs parallel to Prospect Avenue and connects to the shopping center parking lot, as well as to Rooney Drive to the north and south.

The shopping center was built in 1957 and the last major renovation was undertaken in 1991. There have been some somewhat more recent improvements to the shopping center site, including the addition of a restaurant pad for TGI Fridays in the southeastern corner of the property in the late 1990s. Major tenants include Shop Rite, Sears Outlet, Total Wine and More, AMC Theaters, and Panera; Macy's recently vacated its retail unit in the central shopping center building, and now its outlet store brand, Macy's Backstage, occupies a fraction of the former space. The total square footage of commercial space is 330,000 square feet, and current occupancy is 77 percent.

A site visit and discussions with the property manager revealed that the size and layout of many of the retail units in the central shopping center building are outdated by today's retail standards. More specifically, the units are long and awkwardly laid out, and many of them were designed with two "main entrances" located at either end of the unit. The property manager indicated that the mechanical and HVAC systems in many of the vacant units are old and are in need of replacement. In addition, the shopping center was designed with large, central courtyard areas that today are rarely used and can best be described as unattractive and "wasted" space.

Further, the shopping center's loading system, as designed, is antiquated. There is a single loading dock that connects to a system of tunnels wherein goods are centrally unloaded and then distributed throughout the shopping center via a system of underground tunnels. Each retail unit has a basement in which to receive deliveries and store goods; the goods must then be moved up a set of stairs to the main retail level. Needless to say, few tenants utilize the central loading dock; rather, loading takes place in main part via the front door, as it is more convenient. However, loading was not designed to be undertaken at the front of the units, creating the potential for conflict between trucks, vehicles and pedestrians. In short, the retail units in the central shopping center building are not attractive to tenant reuse.

The property meets the following criteria: **b, d**

While some of the retail units in the shopping center are actively utilized, others are largely vacant. The central retail shopping center building is aged (at least 60 years old) and is close to being or could be considered actually functionally obsolete. The building suffers from deficient mechanical systems and an antiquated loading and storage system. There are no elevators connecting the basement and ground floor retail units for ease of moving goods. Further, retail unit floor plans are

long and poorly configured, are characterized by low ceiling heights and do not comport with modern retail standards. Such deficiencies and limitations are problematic when seeking to promote a positive shopping experience; this retail space has little functional value in the current marketplace. Despite the shopping center's key location within the Township and along a busy thoroughfare, it cannot compete with modern regional shopping centers that are more attractive to today's retail tenants.

Clearly, these retail units are in need of significant renovation. In their unused state, they are detrimental to the public welfare, especially when considering municipal land use policies which are meant to encourage the updating and upkeep of existing commercial development in the Township. The property qualifies under criteria "b" due to its partially vacant condition and unfavorable prospects for re-tenanting. As noted, the property is presently 33 percent vacant, and there are limited prospects for finding users for the existing and potential future vacant space.

As described above, the odd configuration of the central shopping center building, overall dated aesthetic, impractical loading system, and unsuitable retail units have made the property difficult to market to potential new tenants. Consequently, there is little or no potential to re-tenant the property in its current condition. Other areas of the building exhibit outdated layouts and designs, and still others suffer from some level of functional obsolescence. The former Macy's and Citibank retail units exhibit dark, winding corridors and an odd configuration of office and storage space. The prospect of tenancing these older units will be very limited. Consequently, the property qualifies for criteria "d" due to its obsolete layout and faulty arrangement and design.

Block 155, Lot 40.03 – CLPF ESSEX GREEN LLC

This property measures ± 4.72 acres and is roughly rectangular in shape, but has a very narrow piece which extends along the western side of Rooney Circle between Block 155, Lot 55 that is essentially undevelopable. The property is under common ownership with Block 155.21, Lot 40 above and is currently undeveloped. The property is overgrown with trees and other vegetation, though a portion of it appears to be used for vehicular circulation, as the grass has been reduced to dirt and some amount of gravel. Historical aeriels indicate that there has not been any development on the property since at least 2002.

The property meets the following criteria: **Section 3**

The property is under common ownership with Block 155.21, Lot 40 (i.e., the Essex Green shopping center). The property has been vacant for at least 15 years. The property is undersized in relation to the lot size requirements set forth in the P-C District and would be effectively undevelopable without assemblage with another property. It is our opinion that the property is integral to the effective redevelopment of the overall redevelopment area, and therefore meets the criteria of Section 3 of the LRHL.

Block 155, Lots 40.02, 41.02, 42.01, and 42.02 – WEST ORANGE OFFICE EXECUTIVE PARK, LLC

As of May 2017, these properties were under new ownership, as noted above; however, this change is not yet reflected in the tax records. The properties collectively measure ± 32.26 acres and are located to the northwest of the Essex Green shopping center. They are accessed by a singular, private road known as Executive Drive, which is essentially a "spur" off of Rooney Circle. Block 155, Lots 40.02, 41.02 and 42.01 all have frontage along the I-280 right-of-way, however there is no direct vehicular access to the properties from the highway. The properties are characterized by a sloping terrain, and Executive Drive winds throughout the properties providing access to each of the four office buildings.

The properties were developed as an office park with four separate office buildings and surface parking areas in 1971, 1977, 1978, and 1984, at a time when the needs of suburban office users were much different. The office park has a total square footage of 403,000 square feet and major tenants include Lincoln Tech, Geico and the Department of Homeland Security. The current vacancy rate is 58 percent.

The property owner's architect has indicated that the buildings are considered to be "Class C" office space in the real estate market. As there is an oversupply of dated, suburban office buildings in New Jersey, there is no real market for Class C office space at this time, or in the foreseeable future. The office buildings have aesthetically dated façades and interiors that have not been well-maintained over the years and are in fair condition. Updates to the outdated mechanical, electrical and plumbing systems would take a significant amount of investment to bring them up to modern standards. In short, the office park cannot compete with other, more recently renovated, modern office buildings in the market.

The office buildings are poorly placed on the site, resulting in little visibility from Rooney Circle on the approach through the Essex Green shopping center or from the adjacent highway. Much of the landscaping screens the office buildings from I-280, which serves as a liability in terms of desired corporate visibility, as signage is not readily visible to passers-by. Buildings are tucked behind the shopping center, and there is no direct vehicular access into the office park from any major road in the Township. Access into the office park requires driving through the Essex Green shopping center, and many are not even aware that the office park is there. Further, the property owner has indicated that improvements are needed to the parking lot layout and lighting.

Modern office users are seeking open, daylighted spaces with multiple amenities on the site. Office park amenities are currently limited to a small, dated on-site cafeteria. Tenant preference skews towards downtown locations with access to transit and/or mixed-use environments. Suburban office sites are increasingly looking at modifications that create more of a "center" or a hub of many uses meant to bring activity to a site, essentially creating a "semi-urban" zone which includes offices, residential and/or retail activity.

The properties meet the following criteria: **b, d**

The office market in New Jersey has experienced a fundamental change over the past decade. Suburban office space in New Jersey has vacancy rates pushing 30 percent and most new office development is occurring in downtown or mixed-use locations in which retail and other amenities are within walking distance. In short, locational preferences have shifted away from the suburbs even while overall demand for office space continues to decline.¹ This has important planning implications for the office park and similar suburban office properties. A vacancy rate of 58 percent is symptomatic of these market trends and foretells more challenges in the future. Without a significant repositioning, these properties are likely to wither under the pressures of the changing office landscape.

The properties qualify under criteria "b" due to the partially vacant condition and unfavorable prospects for re-tenanting. As noted, the property is presently 58 percent vacant. Though the Department of Homeland Security has signed a long-term lease for the office space, the property

¹ For example, see "Reinventing the Suburban Office," by James Hughes. New Jersey League of Municipalities [online at <http://www.njslom.org/magazine/2013-05/pg-56.html>] and "Why Corporate America Is Leaving the Suburbs for the City," *New York Times*, August 2, 2016 [online at <https://www.nytimes.com/2016/08/02/business/economy/why-corporate-america-is-leaving-the-suburbs-for-the-city.html>].

owner has noted that the Department has the option to vacate with only several months' notice, creating further uncertainty.

There are few prospects for finding another user for the existing and potential future vacant space. Aside from the inferior location of the properties, as described above, its odd layout, lack of on-site amenities, dearth of natural light (due to the configuration of the buildings and interior office suites) and overall dated aesthetic of the buildings make the properties extremely difficult to market to potential large office tenants. The office park cannot compete for major tenants with new Class A office facilities in walkable and/or transit-oriented locations. As such, the properties qualify under criteria "b."

This office park was constructed for a suburban office users. The buildings are oddly configured with very inefficient and wide corridors and large expanses of building floor area without direct access to light and air. Other areas of the buildings exhibit outdated layouts and designs, and still others suffer from some level of functional obsolescence. Many of the spaces are configured such that it would be very costly to renovate.

Vacancy rates in this location is consistent with the trend toward consolidation and relocation of office space to walkable, mixed-use locations near transit. This type of sprawling, low-rise office park in a suburban location is a relic of a different era. For aging suburban office facilities, the only survival strategy is to introduce more on-site amenities and a mix of uses. The obsolescent location and layout of the properties provides little or no options to introduce such upgrades. Consequently, the properties qualifies under criteria "d" due to their obsolete layout and faulty arrangement and design.

D. Analysis of the Study Area as a Whole

The results of the redevelopment area investigation reveal that all but one of the properties, or 93 percent of the acreage within the Study Area, qualify for redevelopment designation under either criteria "b" or "d" of the LRHL. Thus, of the total land area of ±70.58 acres, 65.86 acres meets the statutory conditions for designation as an "area in need of redevelopment."

If current conditions are allowed to persist, and the premises continue to lay fallow and unproductive, the Study Area will further deteriorate to the point at which it will have a detrimental impact on the surrounding properties and the public-at-large. Public intervention in the form of a redevelopment area designation and the preparation and adoption of a logical and well-conceived redevelopment plan will serve to ameliorate those conditions. As a result of the conditions and circumstances described above, there is a legitimate basis to declare the Study Area in its entirety as an "area in need of redevelopment" in accordance with the "b" and "d" criteria as set forth in the Local Redevelopment and Housing Law [N.J.S.A. 40A:12A-5(b) and 5(d)].

The remaining property within the Study Area, Block 155, Lot 40.03, which does not in and of itself meet any of the statutory criteria for redevelopment may be properly included as part of the designated redevelopment area, since the exclusion of this property would be an impediment to the appropriate redevelopment scheme. It is therefore our finding that it can be included in the redevelopment area in accordance with the definition of that term at NJSA 40A:12A-3 (commonly referred to as "Section 3" inclusion of properties in a redevelopment). From an overall planning standpoint, inclusion of all of the Study Area properties is essential and necessary for the effective redevelopment area. The Study Area boundaries were indeed logically drawn to include substantial contiguous areas that can suitable accommodate redevelopment activity in this portion of the Township in furtherance of planning efforts for the area.

V. CONCLUSION

The foregoing study was prepared on behalf of the Township of West Orange to determine whether an area located within the Township of West Orange (i.e., Lots 40.02, 40.03, 41.02, 42.01, and 42.02 in Block 155 and Lot 40 in Block 155.21) qualifies as “an area in need of redevelopment” in accordance with N.J.S.A. 40:12A.

It is the finding of this investigation that the prevalent condition within the area is one of “an area in need of redevelopment,” and that the Study Area in its entirety meets the statutory requirements for designation as a redevelopment area.

Exterior Views of Essex Green



Exterior Views of Essex Green



Interior Views of Essex Green



Exterior Views of Offices



Interior Views of Offices



Interior Views of Offices



EXHIBIT D

Mark Y. Moon

From: Richard D. Trenk
Sent: Wednesday, August 16, 2017 8:27 AM
To: Francis X. Regan
Cc: Mark Y. Moon; John Gross; Jack Sayers; lpantirer@bnerealestate.com; mpantirer@bnerealestate.com; jschwartz@bnerealestate.com; lauren.holden@clarionpartners.com; Sam Cooper; Rob Bagoff; pgrygiel@ppgplanners.com; Leonard Lepore
Subject: Resolution Referring Potential Redevelopment to Planning Board
Attachments: SKMBT_75417081608102.pdf

Attached is the revised Resolution which incorporates all of Mr. Regan's comments. Our intention is to place this before the Township Council at its Sept 19th meeting. We anticipate the property owners will appear before the Council and provide a brief overview as to the property's circumstances, their investment in the Township and potential plans, potential private/public partnership and related matters.



Richard D. Trenk
Partner

Trenk, LLP
347 Mount Pleasant Avenue
West Orange, NJ 07052

trenklawfirm.com | [bio](#) | [vCard](#) | [news](#) | [email](#) | 

347 Mount Pleasant Avenue, Suite 300 | West Orange, NJ 07052
Firm 973.243.8600 | Direct 973.323.8660 | Fax 973.243.8677



[Award Methodology](#)

From: trenksan@trenklawfirm.com [mailto:trenksan@trenklawfirm.com]
Sent: Wednesday, August 16, 2017 9:11 AM
To: Richard D. Trenk <RTrenk@trenklawfirm.com>
Subject: Message from KMBT_754

8/15/17

RESOLUTION

A Resolution Authorizing the Planning Board to Undertake a Preliminary Investigation to Determine Whether Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 Qualifies for Designation as a Non Condemnation Area in Need of Redevelopment Pursuant to N.J.S.A. 40A:12A-1 et. seq.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., provides a mechanism to empower and assist local governments in efforts to promote programs of redevelopment; and

WHEREAS, the Township of West Orange (the "Township") desires to explore whether the real properties located on Executive Drive and Rooney Circle and more commonly known as Block 155, Lots 40.02, 40.03, 41.02, 42.01, and 42.02 and Block 155.21, Lot 40 on the Township of West Orange Tax Map, inclusive of any and all streets, "paper" streets, private drives and right of ways (the "Study Area") may be an appropriate area for consideration for redevelopment; and

WHEREAS, the Study Area currently has a high vacancy rate for retail and commercial space located thereon and that has remained as such for an extended period of time; and

WHEREAS, the Local Redevelopment and Housing Law sets forth a specific procedure for establishing an area in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, prior to the Township making a determination as to whether the Study Area qualifies as an area in need of redevelopment, the Township Council must authorize the Planning Board, by resolution, to undertake a preliminary investigation to determine whether the Study Area meets the criteria of an area in need of redevelopment set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Township Council wishes to direct the Township of West Orange Planning Board to undertake such preliminary investigation to determine whether the Study Area meets the criteria for designation as an area in need of redevelopment pursuant to

N.J.S.A. 40A:12A-5 and in accordance with the investigation and hearing process set forth at N.J.S.A. 40A:12A-6; and

WHEREAS, the Township Council hereby states that any redevelopment area determination shall authorize the municipality to use all those powers provided by the Local Redevelopment and Housing Law for use in a redevelopment area, except the use of eminent domain (hereinafter referred to as a "Non-Condensation Redevelopment Area"); and

WHEREAS, the notice of any hearing to be conducted by the Township of West Orange Planning Board with regards to this Resolution shall specifically state that a Non-Condensation Redevelopment Area determination shall not authorize the municipality to exercise the power of eminent domain to acquire any property in the Study Area.

NOW, THEREFORE, BE IT RESOLVED that the Township Council hereby directs the West Orange Township Planning Board to conduct the necessary investigation and to hold a public hearing to determine whether the Study Area defined hereinabove qualifies for designation as an area in need of redevelopment under the criteria and pursuant to the public hearing process set forth in N.J.S.A. 40A:12A-1, *et seq.*; and

BE IT FURTHER RESOLVED that the redevelopment area determination shall further authorize the municipality to use all those powers provided by the New Jersey Legislature for use in a redevelopment area.

BE IT FURTHER RESOLVED that the Township Council hereby states that any Non-Condensation Redevelopment Area determination shall authorize the municipality to use all those powers provided by the Local Redevelopment and Housing Law for use in a redevelopment area, except the use of eminent domain.

BE IT FURTHER RESOLVED that the notice of any hearing to be conducted by the Township of West Orange Planning Board with regards to this Resolution shall specifically state that a Non-Condensation Redevelopment Area determination shall not authorize the municipality to exercise the power of eminent domain to acquire any property in the Study Area.

BE IT FURTHER RESOLVED that the Planning Board shall submit its findings and recommendations to the Township Council in the form of a Resolution with supportive documentation.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Township Clerk, Chief Financial Officer and Township Planning Board and Planning Board Secretary.

RESOLVED, that a copy of this Resolution shall be made available in the Clerk's office in accordance with applicable law.

Karen Carnevale
Township Clerk

Honorable Joseph Krakoviak
Council President

Dated:

Adopted:

Approved as to form on the basis of the facts provided:

Richard D. Trenk, Esq.
Township Attorney

4833-6402-1068, v. 1

EXHIBIT E

Mark Y. Moon

From: Mark Y. Moon
Sent: Thursday, August 17, 2017 3:04 PM
To: Richard D. Trenk; Francis X. Regan
Cc: lauren.holden@clarionpartners.com; lpantirer@bnerealestate.com; mpantirer@bnerealestate.com; jschwartz@bnerealestate.com; Sam Cooper; LLepore@westorange.org; Jack Sayers; Steve@realtyproonline.com; John Gross; Abbott James P.; 'Paul Grygiel'
Subject: RE: Draft Redevelopment Resolution - Reminder conf call THURSDAY AUGUST 17 - 3 PM DIAL IN INFO below
Attachments: Timeline - Essex Green Redevelopment 2017.doc



Mark Y. Moon Esq.

Partner

347 Mount Pleasant Avenue | Suite 300 | West Orange | NJ | 07052

Firm 973.243.8600 | Direct 973.323.8663 | Fax 973.243.8677 | mmoon@trenklawfirm.com

Legal Assistant: Anna Tutulic

Firm 973.243.8600 | Ext. 142 | atutulic@trenklawfirm.com

New Jersey | New York | Pennsylvania | California

trenklawfirm.com



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From: Richard D. Trenk

Sent: Monday, August 14, 2017 8:49 AM

To: Francis X. Regan <FRegan@decotiislaw.com>

Cc: lauren.holden@clarionpartners.com; lpantirer@bnerealestate.com; mpantirer@bnerealestate.com; jschwartz@bnerealestate.com; Sam Cooper <Sam@realtyproonline.com>; LLepore@westorange.org; Jack Sayers <Sayers@westorange.org>; Mark Y. Moon <MMoon@trenklawfirm.com>; Steve@realtyproonline.com; John Gross

<JGross@westorange.org>; Abbott James P. <policechief@wopd.org>; Richard D. Trenk <RTrenk@trenklawfirm.com>
Subject: Draft Redevelopment Resolution - Reminder conf call THURSDAY AUGUST 17 - 3 PM DIAL IN INFO below

Please find attached a draft Resolution which we plan to submit to the Township Council for its consideration at the September 19th meeting. Please review and provide any comments as soon as possible. Please especially check all lots/blocks to insure that we have included all parcels involved in the Executive Drive and Essex Green complexes.

Also, this will remind everyone that we will have a conference call this Thursday, August 17th at 3 pm.

The dial in information is as follows:

973 323 8025

Mtg No. 88120

PIN 2580

Thank you.



Richard D. Trenk
Partner

TRENK LAW FIRM
P.C.

trenklawfirm.com | [bio](#) | [vCard](#) | [news](#) | [email](#) | 

347 Mount Pleasant Avenue | Suite 300 | West Orange | NJ | 07052
Firm 973.243.8600 | Direct 973.323.8660 | Fax 973.243.8677



[Award Methodology](#)

From: trenksan@trenklawfirm.com [<mailto:trenksan@trenklawfirm.com>]
Sent: Monday, August 14, 2017 9:21 AM
To: Richard D. Trenk <RTrenk@trenklawfirm.com>
Subject: Message from KMBT_754

Township of West Orange

TIMELINE OF ESSEX GREEN/EXECUTIVE DRIVE REDEVELOPMENT -
2017

| Target Date | Description |
|--|--|
| September 19, 2017 | Township Council to adopt Resolution Referring to the Planning Board investigation into whether Essex Green/Executive Drive constitutes an Area in Need of Redevelopment. |
| October 5, 2017 | Planning Board prepares a map showing boundaries of the proposed redevelopment area with an appended statement setting forth the basis for the investigation as to whether Essex Green/Executive Drive constitutes an Area in Need of Redevelopment |
| October 12, 2017 | Planning Board sets date for public hearing and publishes first public notice for hearing including boundaries of the redevelopment area and the location of map for public inspection. |
| October 19, 2017 (one week later) | Planning Board publishes second public notice for hearing. |
| November 1, 2017 (at least 10 days later) | Planning Board hearing on recommendation to designate Essex Green/Executive Drive as an Area in Need of Redevelopment. |
| November 21, 2017 | Township Council reviews recommendation from Planning Board and adopts a binding resolution designating Essex Green/Executive Drive as a Redevelopment Area. Township Council authorizes the preparation of a Redevelopment Plan by the Planning Board. |
| January 4, 2018 (within 45 days) | Planning Board reviews and approves Redevelopment Plan and submits to the Township Council for Action. |
| January 17, 2018 | Township Council holds first hearing on Ordinance adopting Redevelopment Plan. |
| February 7, 2018 | Township Council holds second and final hearing on Ordinance adopting Redevelopment Plan. |
| | |
| | |

4819-3781-8957, v. 1

EXHIBIT F

EXHIBIT F

From: Joe Krakoviak
Sent: Monday, January 08, 2018 11:14 AM
To: West Orange Township - Administration; John Gross; James P.. Abbott; Leonard Lepore; Anne DeSantis
Cc: Mark Y. Moon; Kenneth W. Kayser; Township Clerks Office
Subject: Questions and requests for January 9 council meeting

All, Thanks for your help with these questions and requests.

As you may be aware, I requested five years of leasing information for Essex Green and Executive Drive on December 15, 2017. I still do not have that information. Vacancy rates are a significant supporting element of the Area in Need of Redevelopment preliminary study, although the discussion of them in the report and the Planning Board meetings were superficial at best. I don't understand why the Administration does not make these materials available to the Council. I have attempted to delay consideration of this resolution for two weeks while this material is made available to the Council, but the deputy town attorney apparently appears to no longer allow the Council President to delay such consideration. If consideration of this resolution goes forward Tuesday, please have Mr. Grygiel available to answer questions about the study and also someone from the Administration to answer questions about the town's activities on this project so far.

[The remaining portion of this email is redacted to remove text related to another subject]

Thanks and regards, Joe Krakoviak
Councilman, West Orange, N.J.
201.452.7619 mobile