

RESOLUTION NO. 20-09

**MEMORIALIZING RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP
OF WEST ORANGE**

**RECOMMENDING DESIGNATION OF BLOCK 155, LOT 40.02; BLOCK 155, LOT
42.02; AND BLOCK 155, LOT 41.02 AS A NON-CONDEMNATION AREA IN NEED
OF REDEVELOPMENT**

PUBLIC HEARING(S): November 18, and 19, 2020

MEMORIALIZED: December 2, 2020

WHEREAS, the Planning Board of the Township of West Orange (the "Board") has been directed by the Township Council (the "Council") of the Township of West Orange (the "Township") to undertake a preliminary investigation to determine whether certain properties constituting the Study Area (as defined herein) should comprise a non-condemnation redevelopment area according to the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Township/Board retained the services of Susan S. Gruel, P.P., of Heyer, Gruel & Associates (the "Planner") to assist with such preliminary investigation, and said Planner authored that certain report entitled "Executive Drive Redevelopment Study, Township of West Orange, Essex County, New Jersey," dated October 29, 2020 (the "Study Report"); and

WHEREAS, properly noticed public hearings for that purpose were conducted November 18, 2020 and November 19, 2020 at 7:30 P.M. via a remote video platform pursuant to N.J.S.A. 10:4-8(b); and

WHEREAS, on the first night of the hearing, the Board heard the testimony, and asked questions, of the Planner, who presented her findings contained in the Study Report; the Board then opened the hearing to members of the public and invited said public to put their questions, concerns and/or objections, and evidence in support thereof, for the Board's consideration; and

WHEREAS, during the public portion of the hearing, the Board also heard the testimony, and asked questions, of professional planner Michael J. Pessolano, P.P., AICP, of MJP Land Use Planning LLC, who was retained by a Township resident to provide additional information as well as his own professional opinion for the Board's consideration, as well as comments from the Board's planning professional, David Spatz, P.P., AICP, of Community Housing & Planning Association; and

WHEREAS, the Board continued to receive and consider comments, concerns and objections from members of the public through November 19, 2020, and all such testimony was recorded by the Board and made part of the public record; and

WHEREAS, all of the testimony was carefully considered by the Board and the following findings of fact were made:

FINDINGS OF FACT

1. Heyer, Gruel & Associates recommended those certain properties identified on the Township's tax maps as : Block 155, Lots 40.02, 42.02 and 41.02, otherwise commonly known as 100 Executive Drive, 200 Executive Drive and 10 Rooney Circle, respectively (collectively, the "Study Area"), as meeting the requirements for designation as a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5.

2. The Board reviewed the Study, heard the findings and recommendations of Susan S. Gruel, P.P., and considered the comments, concerns and objections of the public, including any evidence provided in support thereof. Based upon the information presented to the Board and personal knowledge of the area, the members of the Planning Board found:

- a. The Study Area consists of three parcels that are developed with office buildings and parking lots.
- b. Access to the Study Area is provided via Executive Drive, a private roadway that extends through the Study Area.
- c. Access to 10 Rooney Circle is also provided via an access easement that traverses the Cambria Hotel property at 12 Rooney Circle (Block 155, Lot 40.04).
- d. The designation of the Study Area as a non-condemnation area in need of redevelopment is consistent with smart growth planning principles adopted pursuant to law or regulation.
- e. The Study Area is in the Township's OB-1 Office Buildings Zone.
- f. 100 Executive Drive is a three-story office building constructed in 1977. A parking field with approximately 418 spaces is split into several sections. Executive Drive wraps around the north and west sides of the property with the main driveway entering the site at a perpendicular to Executive Drive. A pond in the southwest portion of the property separates the building from adjacent 200 Executive Drive. At the time of the Planner's site visit on October 9, 2020, the building was entirely vacant. The lowest floor of the building is approximately 29,692 square feet in floor area. The space is divided into three tenant units that are 5,756, 10,952, and 12,984 square feet in area, respectively. The ground floor office spaces were generally in disrepair. Evidence of water damage was observed in one of the office suites. Portions of the exterior walls were open to the outside. According to the maintenance superintendent, snakes, raccoons, and other wildlife enter the building at times. Private office spaces line the perimeter of the building which provides minimal natural light for the interior portion of the floor. The ground floor is 31,390 square feet in area and features the main entrance lobby, a central core with an elevator, two stairwells, and bathrooms, and two tenant spaces (26,280 square feet and 5,110 square feet). Signs of water damage were visible on the carpet – there had been a leak in one of the pipes leading from the roof drains that has since been repaired. Each tenant space has a small breakroom with a

kitchen and some cabinets. The second (upper) floor is 32,279 square feet in area and is split into eight tenant spaces ranging in size from 1,482 square feet to 6,965 square feet. The smaller spaces (Units 330, 333, 340, 390) were most recently occupied and retain some of the cubicles and tenant finishes. Other portions of the floor are completely unfinished and stripped down. One of the pipes attached to a roof drain was observed to be cracked and there was evidence of water leaks. The tenant spaces have 8'-4" floor to ceiling heights. According to the maintenance superintendent, about 90% of the heating and air conditioning units do not function properly and the roof heating and cooling system barely works. The windows throughout the building are a mix of single-pane and double-pane glass. The building does not have a sprinkler system.

- g. 200 Executive Drive is a four-story office building constructed in 1978. The parking lot contains approximately 320 parking spaces and wraps around the building on three sides. The north side of the property abuts the pond and parking lot at 100 Executive Drive, the south side borders PSE&G transmission lines, the west side borders 300 Executive Drive, and the east side abuts the rear of adjacent Lot 40.03, a vacant lot up the hill from the Study Area. The tenant space has limited windows, with exterior office space preventing natural daylight from reaching the open portion of the floor. The only amenity within the space is a sink and several cabinets. The first floor is 31,908 square feet in area. It includes the main building lobby and entrance, stairwells, electrical equipment room, bathrooms, and seven leasable units. The largest unit (15,371 square feet) is occupied by Lincoln Educational. The remaining spaces are vacant. The office spaces generally have private offices partitioned along the exterior of the building and larger open spaces toward the middle of the building. Minimal amenities are provided, with simple breakroom areas consisting of a sink and cabinets at most. Electric baseboard heaters are installed along the exterior walls. The second floor is 35,855 square feet in area and is a single vacant tenant space that wraps around the entire building. The tenant space is mostly open with a few private offices in corners and a breakroom and small conference room near the center of the floor. There have been issues with roof drain clogs and leaks, and window leaks, particularly on the third floor. The building main water shut off is not in good condition.
- h. 10 Rooney Circle is a three-story office building constructed in 1971. The upper parking lot wraps around the southwest and southeast sides of the building. A lower parking field is at the same approximate grade of the lowest floor along the northwest side of the building. There is a total of approximately 301 parking spaces on the property. The first floor is approximately 26,276 square feet in area and is unoccupied. A central lobby leads from the main entrance to the single building elevator and a bank of restrooms. The lobby does not have a security desk, seating area, or any other common amenities. The leasable area is split into three tenant spaces measuring approximately 4,961, 10,092, and 11,223 square feet, respectively. The tenant spaces share similar characteristics. The ceilings are approximately 8 feet 4 inches in height and private offices line the perimeter of portions of the space, which limit the amount of light that can penetrate to the interior office area. Amenity spaces are limited to basic breakroom facilities that include a sink and cabinets. The building has single-pane windows throughout the lower floor and first floor. There is no sprinkler system in the

building. According to the property maintenance superintendent, the air conditioning units require frequent servicing in the summer.

- i. 100 Executive Drive, 200 Executive Drive and 10 Rooney Circle have experienced significant vacancies over at least the last five years. The current property owner agreed to acquire the subject properties in late 2016, and formally recorded the transaction in May 2017. At the end of 2016, 100 Executive Drive was 69.5% vacant, 200 Executive Drive was 51.1% vacant, and 10 Rooney Circle was 58.5% vacant. Today, 100 Executive Drive is 100% vacant, 200 Executive Drive is 53.7% vacant, and 10 Rooney Circle is 58.5% vacant. The significant vacancies in the Study Area were present when the property changed hands in 2017. Since that time, the vacancies have persisted.
- j. In February 2008, 100 Executive Drive was largely tenanted and had a vacancy rate of just 14.4%. Between January 2009 and December 2011, during the Great Recession, the vacancy rate rose to 32.2%. It would hit 47.6% in late 2012 before dropping to 29% in January 2014 thanks to a new tenant occupying a 14,503 square foot unit. Since January 2014, the building has seen a steady increase in its vacancy. By December 2015, vacancy rates had climbed to 72.5%. When the current owner took title to the property in 2017, the vacancy rate was 69.9%. From 2017 until the middle of 2019, the property owner worked with multiple brokers and listing services to find new tenants. By the end of 2019, the property was 79.9% vacant. As of this writing, the property is entirely vacant.
- k. The vacancy rate of 10 Rooney Circle has been stable for over a decade. The Transportation Security Administration (TSA) began leasing the 29,372 square foot second floor of the building in September 2002 and has at times had a “day-to-day” option to use a 1,000 square foot area on the lower level. The lease extends through the end of August 2026. Since at least 2009, no other tenants have occupied the building. The property has consistently suffered a 58.5% vacancy rate for over a decade. The current property owner acquired the building in 2017 and worked with brokers and listing services to attempt to find tenants for the remaining space. Today, the TSA remains the only tenant.
- l. In February 2008, 200 Executive Drive was nearly 100% tenanted with only 2,989 square feet of vacant space (2.7%). By December 2009, the vacancy rate had reached 40.2%. Since 2009, the vacancy rate has fluctuated between 38% and 54%. When the current owner took title to the property in 2017, the vacancy rate was 51.1%. From 2017 until the middle of 2019, the property owner worked with multiple brokers and listing services to find new tenants. By the end of 2019, the property was 51.1% vacant. The property is 53.7% vacant today with Lincoln Educational as the primary tenant, though said lease is due to expire at the end of 2020, which will leave the property completely vacant. The building has exhibited significant vacancies for years with the building never having been more than 62% occupied during the past decade.
- m. Vacated suburban office complexes are inefficient land uses that leave municipalities with a plethora of issue to combat. The suburban sprawl that office parks contribute to

increase the need for additional infrastructure, which in turn provides for added costs associated with constructing and maintaining the various roads, bridges, and sewer systems. Additional costs translate to higher taxes. When an office park is vacated, this “stranded asset” causes a significant loss in a community’s ratable base, forcing officials to make up the deficit in other places, often in higher property taxes. These costs speak directly to the affordability and livability of a municipality. These land use patterns come with an abundance of impervious surface, adding to their inefficiency.

- n. Mr. Pessolano testified that he conducted site visits on three separate occasions, once at around 2 pm on November 11, 2020, a second time from 12:30 pm to 2 pm on November 13, 2020, and a third time at around 8:45 am on November 18, 2020. During all three visits he observed that there were fewer than twenty-seven (27) vehicles parked in the parking lots servicing the buildings within the Study Area.
- o. An analysis of the Study Area’s existing land use, physical characteristics, history, operational needs, and other considerations was conducted by the Planner using: (i) West Orange Township Tax maps and GIS data; (ii) tax and ownership records for the Study Area property; (iii) aerial photos of the Study Area property; (iv) West Orange Township Master Plan Reexamination Report and Updates; (v) field inspections of the Study Area building interior and exterior, site, and surroundings, most recently on October 9, 2020; (vi) discussion of property conditions with the property maintenance superintendent; (vii) West Orange tax assessment data; (viii) West Orange building and zoning records; (ix) tax appeal answers and rent rolls; (x) property leasing reports; (xi) property marketing material; and (xii) the contract of sale.
- p. Township tax assessment records show that the total assessment value of property has declined over the last eight years. During that time, the percentage of the tax base attributable to commercial properties has declined while the residential percentage has increased. As a result of the declining assessed value of the property in the Township, the general and effective tax rates have increased.
- q. The total assessed value of property within the Township classified as 1 (Vacant), 2 (Residential), 4A (Commercial), 4B (Industrial), and 4C (Apartments), has decreased from \$5.68 Billion to \$5.57 Billion, an approximately 2% decline, in the period from 2012 to 2020. The assessed value of properties classified as commercial decreased from about \$922 Million to approximately \$844 Million, which represents an 8.4% decline. In 2012, about 16.2% of the Township’s ratable base was attributable to commercial properties. By 2020, the commercial portion of the ratable base had declined to 15.2%. Over the same time period, the percentage of the assessed tax base attributable to residential properties (consisting of single family and small multi-family units plus larger apartment properties) has increased from just over 82% to nearly 84%. These trends show that residential properties in the Township have been responsible for an increasing portion of the tax base as commercial properties decline in value. The sales price and the assessed value of all three properties has significantly decreased. These figures represent a decline in the Study Area’s value as a taxable asset to the Township of West Orange.

- r. The property at 100 Executive Drive has seen its municipal tax assessment decline by 81.4 percent in less than a decade. In 2017, the total assessment fell by 16.6%, while the assessment of the improvement value declined 63.5% from the 2016 figures. The property most recently changed hands in 2017, with the current owner acquiring it for \$2,200,000. This price was less than a quarter of its equalized assessed value and amounted to approximately \$23.55 per square foot. At the time of sale, the property was 40 years old, having been constructed in 1977. The previous sale occurred in 1997, twenty years prior. At that time, the sale price was \$10,570,000, or \$113.16 per square foot. The sales price of the property decreased by about 80% over the last 20 years (without adjustment for inflation).
- s. The property at 200 Executive Drive has seen its municipal tax assessment decline by 75.5 percent in less than a decade. In 2017, the total assessment fell by 15.8%, while the assessment of the improvement value declined 44.9% from the 2016 figures. The property most recently changed hands in 2017, with the current owner acquiring it for \$3,300,000. This price was about a quarter of its equalized assessed value and amounted to approximately \$30.07 per square foot. At the time of sale, the property was 39 years old, having been constructed in 1978. The previous sale occurred in 1997, twenty years prior. At that time, the sale price was \$11,700,000, or \$106.60 per square foot. The sales price of the property decreased by about 72% over the last 20 years (without adjustment for inflation).
- t. The property at 10 Rooney Circle has seen its municipal tax assessment decline by 64 percent in less than a decade. In 2017, the total assessment fell by 11.6%, while the assessment of the improvement value declined 17.8% from the 2016 figures. The property most recently changed hands in 2017, with the current owner acquiring it for \$3,000,000. This price was less than half of its equalized assessed value and amounted to approximately \$42.31 per square foot. At the time of sale, the property was 46 years old, having been constructed in 1971. The previous sale occurred in 1997, twenty years prior. At that time, the sale price was \$5,040,000, or \$71.07 per square foot. The sales price of the property has decreased by about 40% over the last 20 years (without adjustment for inflation).
- u. The Board, having considered the testimony and comments provided by Ms. Gruel, Mr. Pessolano, Mr. Spatz, as well as other members of the public, adopts the criteria analysis contained in the Planner's report, and as bolstered by the information. Specifically:
 - 1. "b" criteria analysis: There is substantial credible evidence that the existing on-site office park buildings have been significantly vacant for six or more years. The leasing trends in 2015 and 2016, when the buildings were being marketed for sale prior to their acquisition by the current owner show that there was minimal interest and each building carried significant vacancies. The buildings had been previously maintained, as evidenced by numerous permits requested of the Township over the years. When the current owner took over the buildings marketing efforts to attract

tenants continued. The marketing effort included: (i) bi-weekly email blast to over 1,300 brokers (ii) bi-weekly emails to tenants in the market (iii) regular canvass calls to active tenants or tenants with upcoming lease expirations (iv) broker follow-up (v) listing in CoStar and (vi) leasing sign at the top of Executive Drive and two signs with Rt. 280 exposure. The current property owner invested in maintenance, upkeep, and some improvements to the buildings and properties, and actively tried to market and lease space within them. Despite these efforts, 100 Executive Drive's vacancy rate rose from about 70% with four tenants in June 2017 to 77% with two tenants in December 2018, to its currently vacant state. No new tenants signed leases for 100 Executive Drive from the time the current owner acquired the property until present. A similar situation has played out with 200 Executive Drive. In June 2017, the building was about 51% vacant with Lincoln Educational as the primary tenant and two additional tenants in smaller spaces. By December 2019, one of the smaller tenants left. Today, Lincoln Educational remains as the only tenant and the building is about 53.7% vacant. No new tenants signed leases for 200 Executive Drive from the time the current owner acquired the property until present. The high vacancy rate of 10 Rooney Circle has remained stable for years. The TSA remains the only tenant occupying building. For years prior to the current owner taking title to the building, no other tenant spaces were leased. Since the change in ownership, no new tenants have signed leases for 10 Rooney Circle, and it remains 58.5% vacant. According to Cushman & Wakefield, the overall vacancy rate in the "Essex Rt. 280" submarket has been between 16% and 18% since 2018. Per Avison Young, the vacancy rate in the "Suburban Essex / Rt 280" submarket has been around 10% since 2017.

2. "d" criteria analysis: There is substantial credible evidence contained in photographs of the buildings, building history and condition reports, and analysis of broader planning, design, and market trends to demonstrate that these office buildings are functionally obsolete. A review of real estate, planning, and design literature reinforces the various ways the buildings are obsolete. The buildings lack modern amenities such as full-service cafeterias, fitness centers, and locker rooms. The property is isolated in a single-use location without walkable access to amenities or transit access. The broader market trends for office buildings in Northern New Jersey have shown that the market is relatively stable, but tenant demand is focused on newer and more recently upgraded buildings. Buildings of similar vintage that have been upgraded are seeking substantially higher market rents than the most recent leases of \$21 per square foot at Executive Drive. The significant vacancy rates in the Study Area over the last six years are a symptom of the obsolescence of the facilities. The average vacancy rate in the Suburban Essex sub-market has been fluctuating around 17-18% for the last two years, while the buildings in the Study Area have been 50% or more vacant for a much longer period. The lack of market interest in these properties can be attributed to their isolation and physical obsolescence relative to their peers. There is also substantial credible evidence that the obsolete conditions of the property are detrimental to the public health, safety, morals, or general welfare. The inability to find new tenants and secure average market rents has diminished the value of the properties at 100

and 200 Executive Drive and 10 Rooney Circle. They have declined in both market value and assessed value substantially over the last twenty years. Township tax assessment records show that the total assessment value of property has declined over the last eight years. During that time, the percentage of the tax base attributable to commercial properties has declined while the residential percentage has increased. As a result of the declining assessed value of the property in the Township, the general and effective tax rates have increased. Higher property taxes impact housing affordability, and constrained municipal budgets limits public services. Both outcomes are detrimental to the general welfare of the residents of the Township of West Orange.

Based upon the above findings of fact, the Board concludes as follows:

CONCLUSIONS

1. Block 155, Lot 40.02 (100 Executive Drive) ; Block 155, Lot 42.02 (200 Executive Drive) and Block 155, Lot 41.02 (10 Rooney Circle) evidences conditions which fall within criteria set forth in Section 5 of the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-5), specifically, criteria “b” and “d” of said statute.
2. Said conditions are detrimental to the safety and general welfare of the Township; and
3. With the proper re-development, the area will enhance the public health, safety and general welfare of the community.

NOW, THEREFORE, be it resolved that the Planning Board of the Township of West Orange hereby recommends to the Township Council that the properties identified on the current Tax Map of the Township of West Orange as Block 155, Lot 40.02; Block 155, Lot 42.02 and Block 155, Lot 41.02, be designated a non-condemnation area in need of redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5.

BE IT FURTHER RESOLVED THAT copies of this Resolution be forwarded to the Township Clerk for the attention of the Township Council.

The above is a memorialization of a motion which was duly seconded and passed by the Planning Board of the Township of West Orange at a public hearing, at which a quorum was present, held on November 19, 2020, on the following vote:

NOVEMBER 19, 2020 ROLL CALL VOTE ON ACTION BY THE BOARD

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)			X			
Johnson (1 st Alt.)			X			
Smeraldo			X			
Klein						X
McCartney		X	X			
Trenk			X			
Weston (Chair)	X		X			
Williams			X			
Wilkes			X			

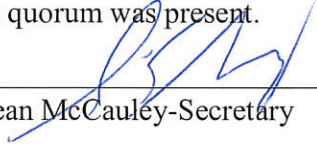
The undersigned, Secretary to the Planning Board of the Township of West Orange, hereby certifies that the above is a true copy of a Resolution memorialized by said Board on December 2, 2020, on the following vote:

DECEMBER 2, 2020 ROLL CALL VOTE ON THE RESOLUTION

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
Bagoff (Vice-Chair)			X			
Johnson (1 st Alt.)			X			
Smeraldo		X	X			
Klein						X
McCartney			X			
Trenk			X			
Weston (Chair)	X		X			
Williams			X			
Wilkes			X			

CERTIFICATION

I hereby CERTIFY on this day December 3, 2020 that the foregoing is a true copy of a Resolution adopted by the Planning Board of the Township of West Orange at a publicly noticed meeting held on December 2, 2020, at which a quorum was present.



Sean McCauley-Secretary