PRELIMINARY INVESTIGATION REPORT

Block 5701, Lot 6.01 East Drive Study Area
Borough of Watchung, New Jersey

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MASER CONSULTING P.A.

September 2015

The original of this report was signed in accordance with NJSA 45:14A-12

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I. INTRODUCTION

The purpose of this report is to determine whether Block 57.01, Lot 6.01 (hereinafter referred to as the Study Area), also known as the Borough of Watchung East Drive Site, qualifies as an Area in Need of Non-Condemnation Redevelopment as defined by the Local Redevelopment and Housing Law (NJSA 40:12A-1 et seq., herein referred to as LRHL). This analysis has been conducted pursuant to the LRHL, which specifies the conditions that must be met within the delineated areas and the process to be undertaken by the Planning Board during the investigation.

This report is written pursuant to Section 6 of the LRHL (NJSA 40:12A-6), which requires the following:

a) No area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in Section 5 of the P.L. 1992(C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the Planning Board of the municipality.

b) Before proceeding to a public hearing on the matter, the Planning Board shall prepare a map showing the boundaries of the proposed redevelopment area and the location of the various parcels of property included therein. There shall be appended to the map a statement setting forth the basis for the investigation.

c) The Planning Board shall specify a date for and give notice of a hearing for the purpose of hearing persons who are interested in or would be affected by a determination that the delineated area is a redevelopment area.

The Borough Council, by Resolution #R9:09/03/15, dated September 3, 2015, requested that the Planning Board of the Borough of Watchung undertake a preliminary investigation as to whether the Study Area identified in the resolution is in need of Non-Condemnation Redevelopment pursuant to the LRHL. (See Appendix)

Section 6b(4) of the LRHL also requires the Planning Board to hold a hearing on this matter prior to recommending that the delineated area, or any part thereof, be determined or not determined a redevelopment area by the governing body. After obtaining the Planning Board's recommendation, the governing body may adopt a resolution determining that the delineated

area, or any part thereof, is a redevelopment area (Section 6b (5) of the LRHL). This report serves as the statement setting forth the basis for the investigation of an area in need of redevelopment, as required under the LRHL.

Before presenting the Study Area investigation and parcel level analysis, it is important to note that the determination of need presented in this analysis is only the first step of the redevelopment process and does not provide guidance with respect to the planning, development or redevelopment of the project area. Section 40A:12A-7 of the LRHL describes the tool (the redevelopment plan), which specifies how the redevelopment should be planned, in addition to the process through which such a plan is prepared.

A redevelopment plan, which may supersede the zoning of an area or serve as an overlay thereto, specifies the following:

- Relationship of the project area to local objectives as to appropriate land uses, density of population, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
- Proposed land uses and building requirements in the project area.
- Adequate provision for the temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing housing market.
- An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan. (Note: not every property in a redevelopment area must be acquired and, in fact, none may be acquired; the redevelopment plan can specify buildings or uses to remain in the redevelopment area and to be incorporated into the future design and development of the area).
- Any significant relationship of the redevelopment plan to the master plan of contiguous municipalities, the master plan of the county, and the State Development and Redevelopment Plan.

This report and investigation are aimed only at determining whether the Study Area meets the statutory criteria to be identified as an Area in Need of Redevelopment and therefore does not contain any of the specific planning guidance contained in a non-condemnation redevelopment plan.

II. CRITERIA FOR REDEVELOPMENT AREA DETERMINATION

Section 5 of the LRHL outlines the criteria that can be considered in evaluating a Study Area. An area may be determined to be In Need of Redevelopment if, after investigation, notice and hearing, the governing body of the municipality concludes by resolution that any one of the following relevant 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 untenantable.

c) Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or entity, or unimproved vacant land that has remained so for a period of ten years prior to the 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 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.

e) A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.

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 area 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 sections 5 and 6 of P.L.1992, c. 79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L.1991, c. 431 (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L.1991, c. 441 (C.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 P.L.1992, c. 79 (C.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 addition to the above criteria, Section 3 of the LRHL, which defines the redevelopment area, allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating "a redevelopment area may include land, buildings, or improvements, which of themselves are not detrimental to the health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area in which they are a part."

III. DESCRIPTION OF STUDY AREA

STUDY AREA DESCRIPTION

The Study Area is one lot known as Block 57.01, Lot 6.01 located at the end of East Drive, which is an improved Borough road. It is located in the southern section of the Borough, north of U.S. Route 22 and about 1,800 feet to the west of North Drive. The Study Area has about 310 feet of frontage along East Drive, which is currently an improved road terminating with a cul-de-sac. Beyond the locked gate at the cul-de-sac, there is an emergency access road which extends to the Watchung Square Mall. (See Map 1 Site Location and Map 2 Tax Map)

The Study Area is an irregularly shaped 6.4 acre parcel which is divided into in two sections separated by a narrow corridor which ranges from 65 feet to 100 feet in width. The southernmost section of the property with direct frontage along East Drive totals about two acres. The remainder of the site is of irregular shape of about 600 feet in width and 320 feet at maximum depth. This northern section has no direct road frontage, except through the corridor link to the southern section of the property with access to East Drive.

Under the Revised General Ordinances of the Borough of Watchung, Chapter XXIIIA includes steep slope regulations which limit and reduce future development in steep slope areas of 10% or greater[1]. The site topography ranges in elevation from 200 foot along East Drive to 340 feet at the northernmost section of the property. Along the southern section of the site near East Drive, the topography is in the 10% range. The remainder of the property has slopes of 15% or greater with over 20% or more slopes in the upper reaches of the property. Over 75% of the Study Area has slopes 15% or greater. (See Map 3 Environmental Constraints and Map 4, Site Topography)

A site feasibility evaluation was performed on the Study Area. The site does not contain identified wetlands, C-1 waters or other unique natural features. However, the site "contains steep topography which would preclude development. The majority of the property is sloped with the exception of a small area contiguous to East Drive which may permit construction of four to five units. The remainder of the property contains approximately 100 feet of relief which does not meet the steep slope criteria recommended by COAH." [2] [3] (See Map 3, Site Topography)

A review of the New Jersey Landscape Mapping Project was performed for the Study Area. "This Landscape Mapping does not show any areas of critical rare species habitat occurring on the subject property".[4] "Also the Study Area is located in Zone X outside of the 500 year flood elevation".[5]

UTILITIES AND INFRASTRUCTURE

There is public water, public sewer, gas and electric utilities available, which are located along East Drive. There is an existing storm sewer system in East Drive which may have to be extended along the public right-of-way easterly to the cul-de-sac of East Drive, in front

[1] Revised General Ordinances of the Borough of Watchung Code, Chapter XXIII.
[2] Site Feasibility Evaluation for Affordable Housing Project, Block 57.01, Lot 6.01, prepared by Maser Consulting, PA dated August 2006.
[3] Ibid page2 of 9
[4] Ibid, page 3 of 9
[5] Ibid, page 4 of 9

of the Study Area. An on-site storm water detention system must be provided as part of any development plan for the Study Area.

SURROUNDING SITE CONDITIONS

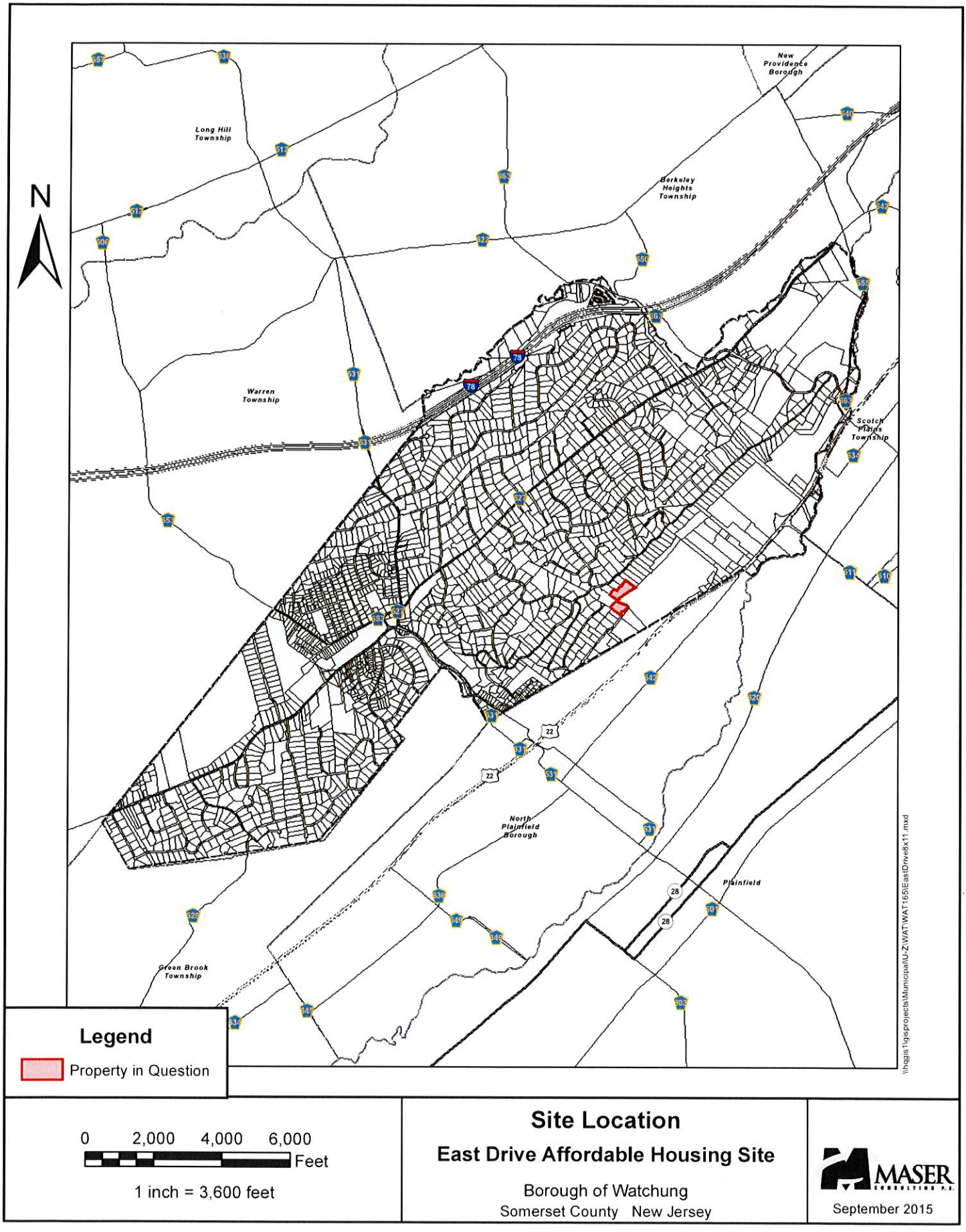
Directly west of the Study Area along East Drive and to the north is a developed single family residential area. These include single family residential properties fronting on East Drive and Johnson Drive.

To the south of the Study Area backing up to East Drive with road access off Route 22, is the Avalon Watchung apartment community. This is a rental apartment development which includes 40 affordable housing units, which were approved under the Borough of Watchung's Second Round Housing Element and Fair Share Plan ("HEFSP").

The Regency Village, condominium community, is located west of Avalon Watchung in North Plainfield Borough. It also backs up to East Drive, with access from Route 22 and North Avenue.

The Watchung Square Mall is located to the east of the Study Area. There is a road connection which is gated from East Drive to the mall. This provides pedestrian access to the Watchung Square Mall for services, jobs, shopping and transit connections. (See Map 5, Aerial Photo of Study Area and Surroundings)

Map 1 Site Location



Site Location

East Drive Affordable Housing Site

Borough of Watchung

Somerset County New Jersey

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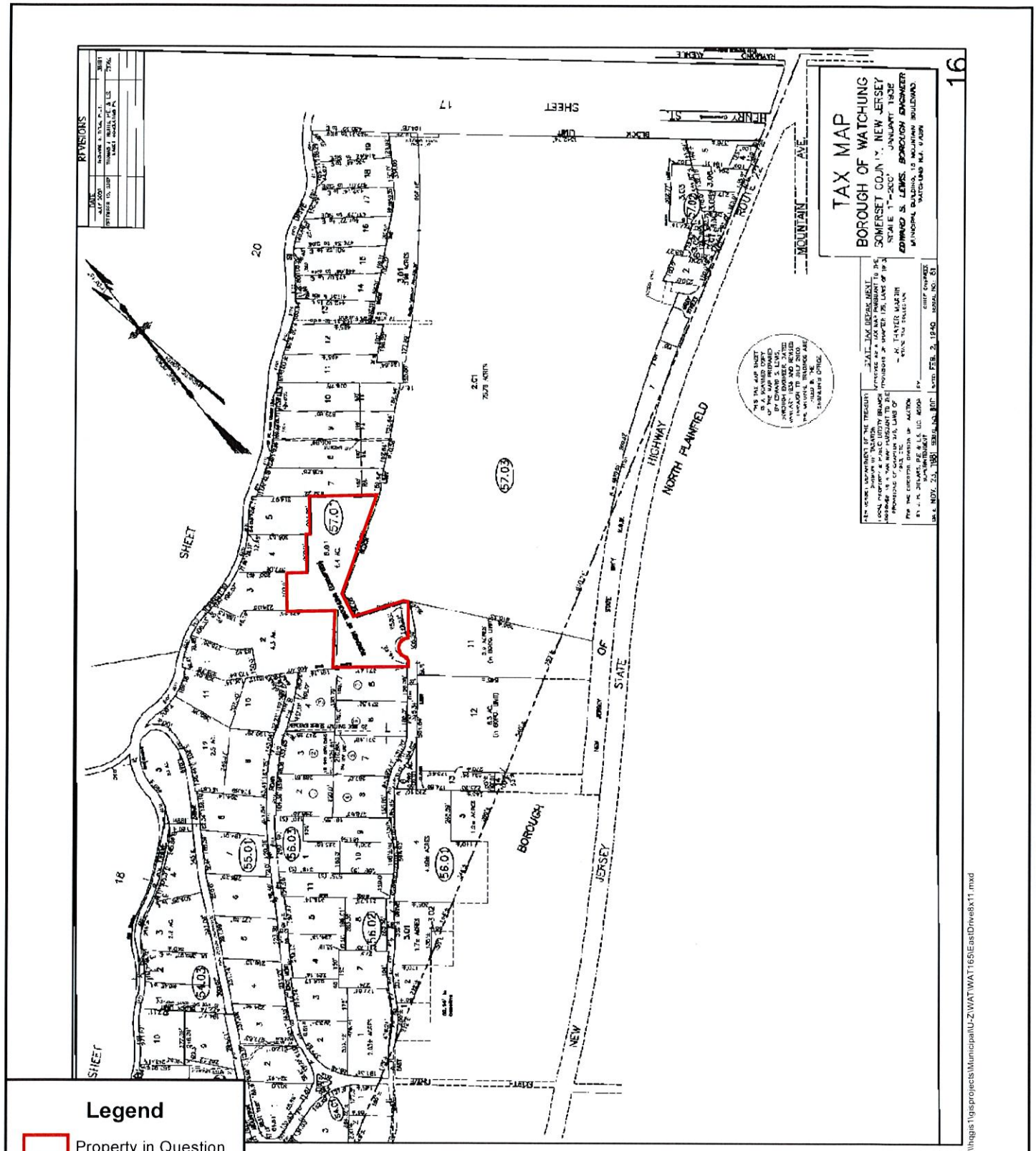
Map 2 Tax Map



Legend

Property in Question

0 200 400 600

Feet

1 inch = 700 feet

Tax Map

East Drive Affordable Housing Site

Borough of Watchung

Somerset County New Jersey

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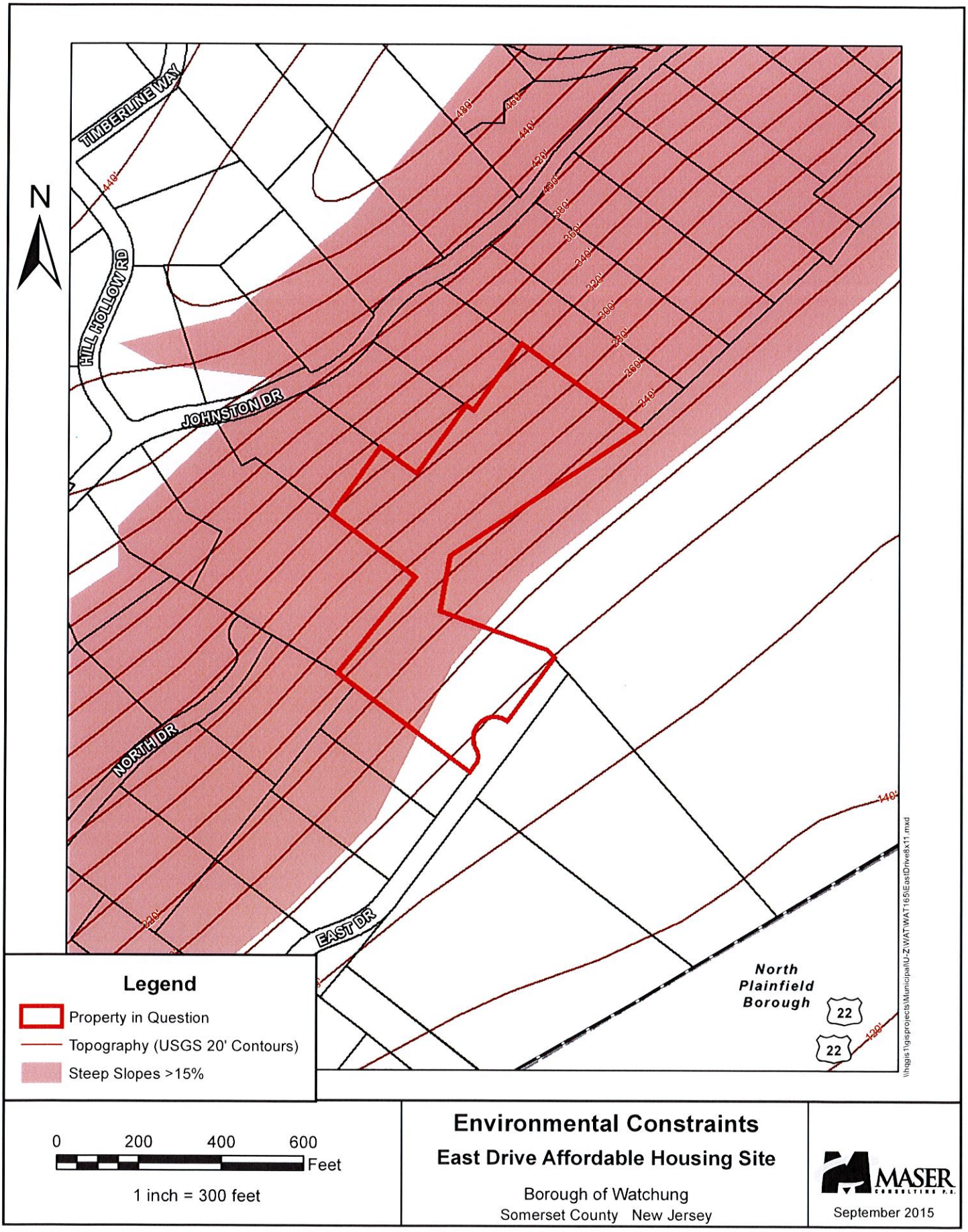
Map 3 Environmental Constraints



Environmental Constraints

East Drive Affordable Housing Site

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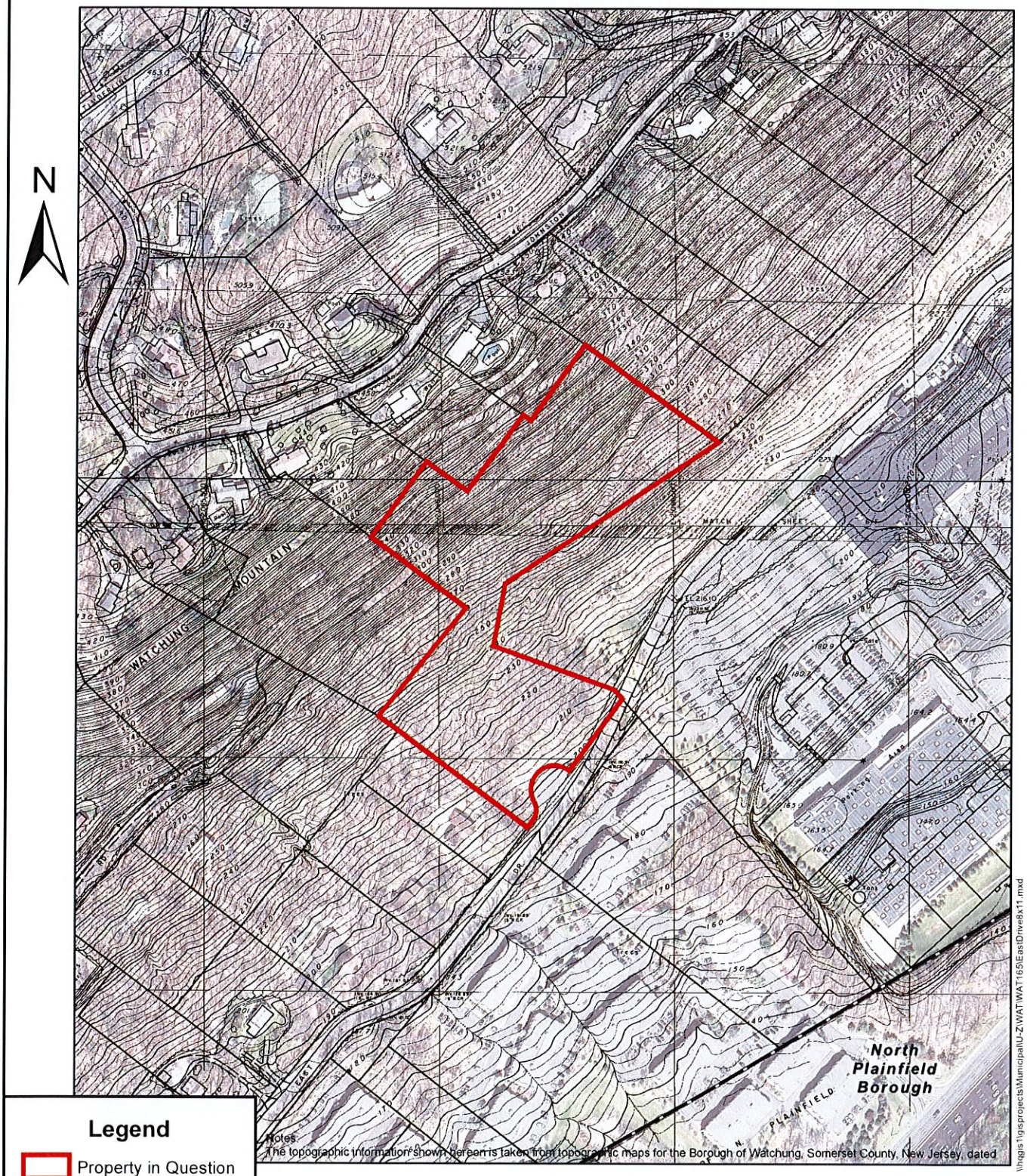
Map 4 Site Topography



0 200 400 600 Feet

1 inch = 300 feet

Topography

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Borough of Watchung
Somerset County New Jersey

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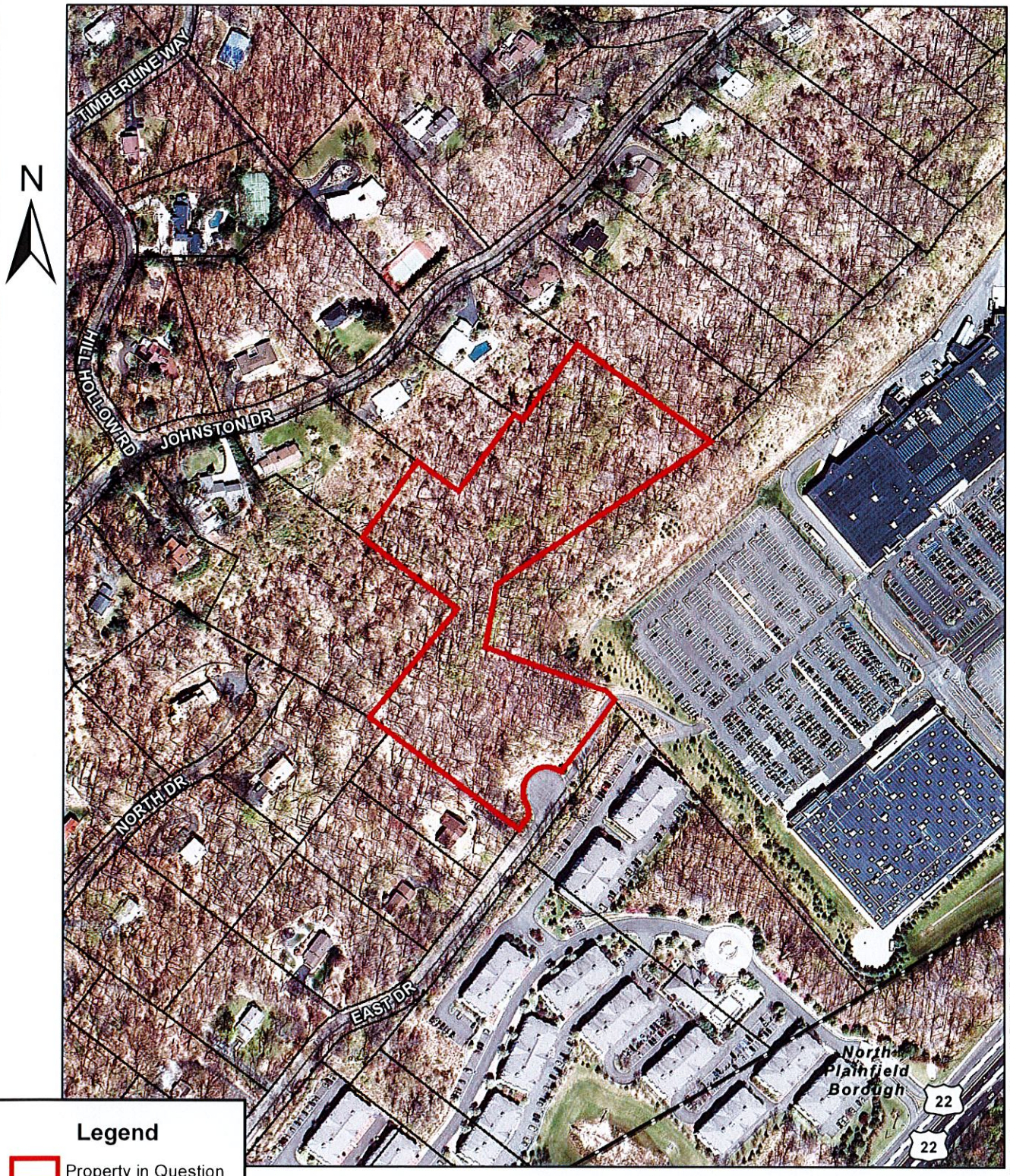
Map 5 Aerial Photo of Study Area and Surroundings



Legend

Property in Question

0 200 400 600 Feet

1 inch = 300 feet

2012 Aerial Photograph

East Drive Affordable Housing Site

Borough of Watchung

Somerset County New Jersey

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Photo 1 View looking east on East Drive towards the cul-de-sac in front of the Study Area. There is a paved road connection, which is gated, from East Drive at the cul-de-sac to the Watchung Square Mall. This road connection provides pedestrian access to the Watchung Square Mall and to US Route 22 for services, jobs, shopping and transit connections. It also provides emergency access to and from East Drive when needed.

Photo 2 View looking west along East Drive in front of the Study Area. Adjacent residence at 163 East Drive is located on the right side of the photos.

Photo 3 View looking north at Study Area from East Drive.

Photo 4 View looking north taken from East Drive at the residential property adjoining the Study Area, which is located at 163 East Drive.

Photo 5 View looking south from East Drive at the Avalon Watchung apartments which back up to East Drive.

Photo 6 View looking west of Avalon Watchung taken at access road connection to Watchung Square Mall East Drive is located off-site to the right of the photo at a higher elevation.

Photo 7 View looking south toward Walmart at Watchung Square Mall, taken from the access drive, which links to East Drive.

ZONING IN STUDY AREA

The Property is currently located in two zones. The "H-D" - Highway Development zone which encompasses the southern section of the site. The rear upper section of the site is within the "R-R", Rural Single-Family Residential. (See Map 6, Zone Map)

H-D Highway Development Zone District includes the Study Area and the adjacent area encompassing the Watchung Square Mall. It is apparent that the H-D zone reflects the lower section of the Study Area, which was originally part of the adjoining Watchung Square Mall site. Block 57.01, Lot 6 was subdivided off of the Mall site and dedicated to the Borough on November 2, 1999.

The H-D Highway Development Zone District in which the Study Area partially lies has the following zoning requirements[6]:

[6] Chapter 28-409 "H-D" Highway Development, Revised General Ordinances of the Borough of Watchung

A. Principal uses
   1. Retail business activities
   2. Offices and office buildings
   3. Banks
   4. General service businesses, except that no sales, storage or rental of goods or material shall be permitted
   5. Restaurants and cafes
   6. Indoor Theaters.
   7. Indoor recreational uses
   8. Shopping centers
   9. Regional retail shopping complexes on tracts of lands at least 70 acres in area
   10. Funeral parlors.
   11. Photographic studios
   12. Hotels and motels with a minimum of 40 units and at least 3 stories
   13. Public utility uses as a conditional use

B. Accessorial uses:
   1. Parking
   2. Storage buildings
   3. Fences
   4. Signs
   5. Employee cafeterias
   6. Business offices
   7. Usual and customary ancillary uses
   8. Drive through windows for restaurants as a conditional use

C. Bulk requirements. The bulk requirements for the H-D district shall be those as set forth in the Area and Yard Requirements schedule.

Area and Yard Requirements for H-D District	
Minimum Lot Area	100,000 s.f. (individual uses)
Minimum Lot Width	300′
Minimum Lot Depth	300′
Minimum Lot Frontage	300′
Minimum Front Yard Setback	75′
Minimum Side Yard Setback (one/both)	15′/50′
Rear Yard Setback	NA
Maximum Percent Building Coverage	40%

Maximum Percent Lot Coverage	80%
Maximum Building Height	35 feet and 3 stories
Minimum net habitable floor area	5,000 s.f.

The "R-R" - Rural Single-Family Residential Zone District in which northern section of the Study Area lies, has the following zoning requirements[7]:

A. Principal Uses

1. Detached single family dwelling units
2. Farms
3. Public and private nonprofit schools
4. Public playgrounds
5. Golf courses provided a minimum 100 acres
6. Membership swim clubs as a conditional use

B. Accessory uses

1. Accessory structures
2. Private residential swimming pools
3. Private tennis courts and other usual recreational facilities
4. Residential tool shed not exceeding 12 feet in height and 400 s.f. area
5. Off-street parking
6. Fences and walls
7. Signs
8. Low and moderate income accessory apartments as a conditional use

9 Professional resident home offices

C. Bulk requirements. The bulk requirements for the R-R district shall be those as set forth in the Area and Yard Requirement Schedule 28-409D.

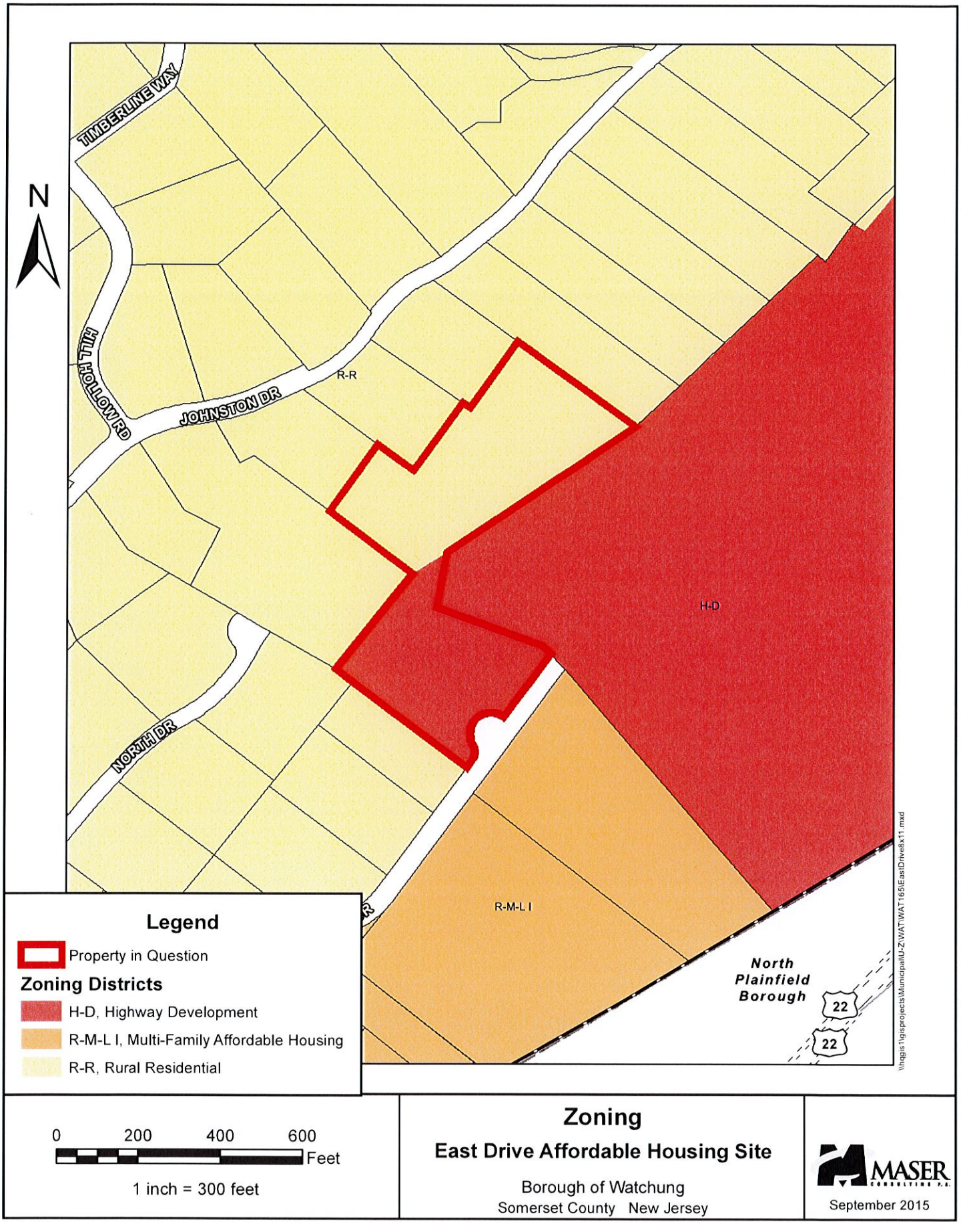
Area and Yard Requirements Schedule for R-R District	
Minimum Lot Area	60.000 s.f.
Minimum Lot Width	300′
Minimum Lot Depth	200′
Minimum Lot Frontage	150′

[7] Chapter 28-409 "R-R" Rural Single Family Residential Zone, Revised General Ordinances of the Borough of Watchung

Minimum Front Yard Setback	50′
Minimum Side Yard Setback (one/both)	15′/50′
Rear Yard Setback	35′
Maximum Percent Building Coverage	15%
Maximum Percent Lot Coverage	25%
Maximum Height	35′ / 2 ½ stories

It should be noted that the Study Area is identified in the adopted 2010 Watchung HEFSP as a key property to be used to address the Borough's affordable housing obligation. It is proposed to be rezoned for a 100% affordable housing development. This rezoning has not yet occurred because the HEFSP has not been certified by the State.

Map 6 Zone Map



Zoning

East Drive Affordable Housing Site

Borough of Watchung
Somerset County New Jersey

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MASTER PLAN STUDIES

Regarding the Borough's planning history, as documented in the 2011 Reexamination of Master Plan and Development Regulations, the Borough adopted a "Master Plan" on December 18, 1973 and subsequently reexamined the 1973 Master Plan in 1979, 1982, 1984 and 1989. In 1994, a new "Master Plan Update" was prepared to address the major issues of concern facing the Borough at that time. The 1994 Master Plan Update incorporated the following plans or elements:

- An Existing Land Use Analysis
- An Environmental Analysis
- A Statement of Objectives, Principles, Assumptions, Policies and Standards
- A Land Use Plan Element
- A Traffic Circulation Plan Element
- A Combined Community Facilities, Recreation and Conservation Plan Element
- An analysis of the plans of other jurisdictions

In 1999, the Planning Board conducted a reexamination of the Borough's development regulations and 1994 Master Plan Update. In 2000, an Open Space Plan (dated May 16, 2000) was prepared. Subsequently, in 2003, the Borough conducted a Master Plan Reexamination Report and in 2005, a Reexamination of the Watchung Borough Master Plan and Development Regulations. In 2006, the Planning Board adopted an Open Space Plan of the Master Plan. "[8]

The 2011 Reexamination was the most recent master plan document. With the exception of the 2010 HEFSP, the Study Area was not addressed in the latest documents and no potential redevelopment areas were discussed for incorporation into the Land Use Plan.

In the amended 2010 HEFSP cited the Study Area property, known as Block 57.01, Lot 6.01, along East Drive. This Study Area was planned to be rezoned for inclusionary development to produce 100% affordable family rental multi-family units. According to the HEFSP, the Borough anticipated that up to 46 units may be developed on this property. At least 13% of these units will be marketed to very low income households.[9]

The HEFSP included a proposed Spending Plan which allocated Borough trust fund dollars to fund a percentage of the extraordinary costs anticipated for site grading and development of an affordable housing project on the Study Area at East Drive.

The 2010 HEFSP also included a draft zoning ordinance for East Drive 100% affordable housing site. The zoning amendment was not yet adopted, because of the Council on Affordable Housing delays in acting on Third Round rules.

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[8] Reexamination of Master Plan and Development Regulations, 2011, page 2
[9] Borough of Watchung, 2010 Housing Element and Fair Share Plan, page 32.

SITE HISTORY

Historic information pertaining to the site was obtained from online aerial photography, [10] review of tax card information, and the Borough Planning Board resolutions related to this property.

The Study Area has been owned by the Borough of Watchung since 1999. It was part of a property dedication to Watchung Borough related to the development of Watchung Square Mall property. Development of Watchung Square Mall required the vacation of a section of certain public streets which included East Drive and Gray Street. The `1996 Planning Board resolution required that the developer compensate for these vacated streets by dedication of an equal amount of land within the property. The dedication of Lot 6 for "municipal purposes" was finalized in 1999 to address this requirement.

Historic aerial photos were reviewed to assess conditions in the Study Area. As far back as 1931, the Study Area was undeveloped. The site and lands surrounding the Study Area were farmland and /or woods. The 1957 aerial shows the beginning of more commercial development on the Lockheed Martin property (currently the Watchung Square Mall property). The Study Area is still woodlands. The 1970, 1979 and 1981 aerials show continuing residential development along East Drive, Edgemont Road and Johnson Drive surrounding the Study Area. By 1970, the Regency Village multifamily development had been completed to the southwest of the Study Area.

By 1997, Watchung Square Mall was under construction. The East Drive cul-de-sac was installed. By 2002, the Avalon Watchung apartments and Watchung Square Mall development near the Study Area continued.

By 2006, Avalon Watchung was completed and there was continued development at Watchung Square Mall with the Walmart building. The 2014 aerial, shows no change in the Study Area, which has remained as vacant forested land during this entire period.

[10] NETR Online Aerials http://www.historicaerials.com/ and Google earth maps.

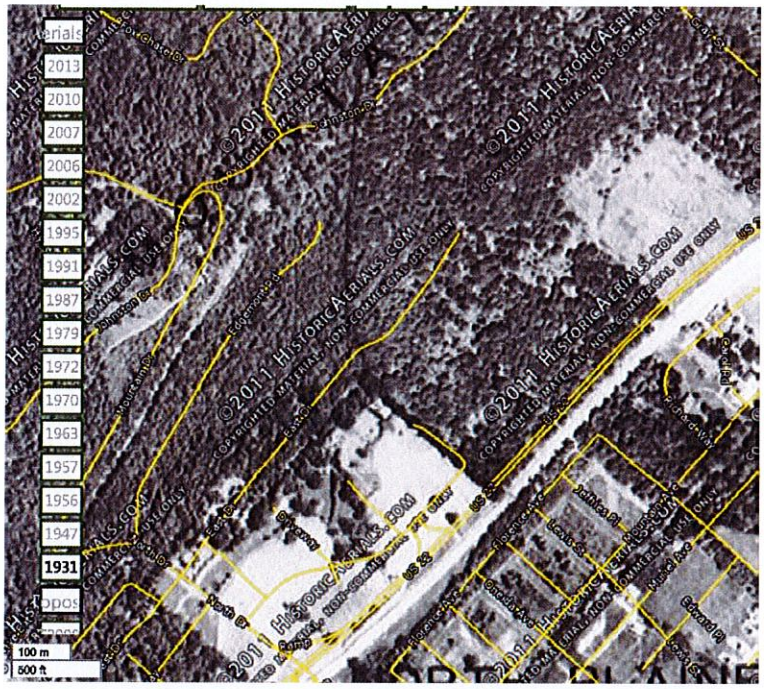

Figure 1 1939 Aerial Photo

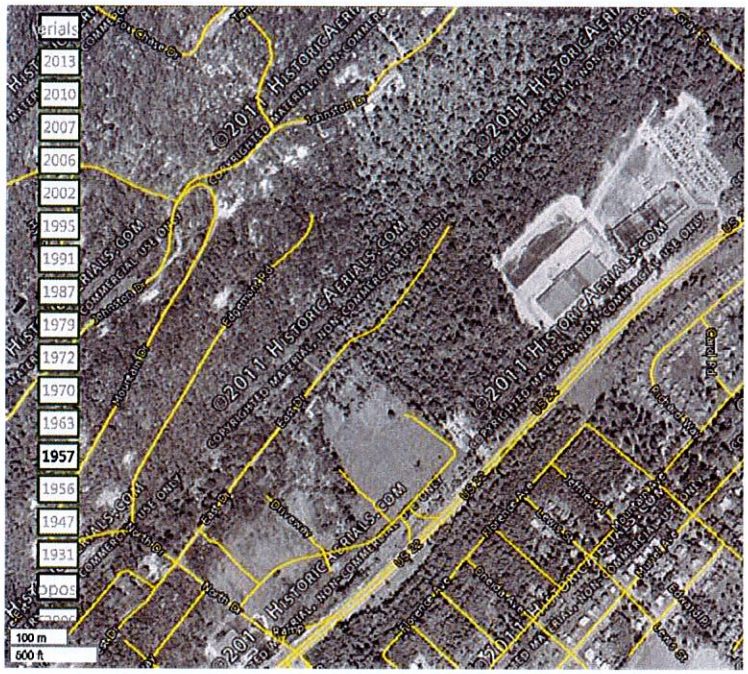

Figure 2 1957 Aerial Photo

Figure 3 1970 Aerial Photo

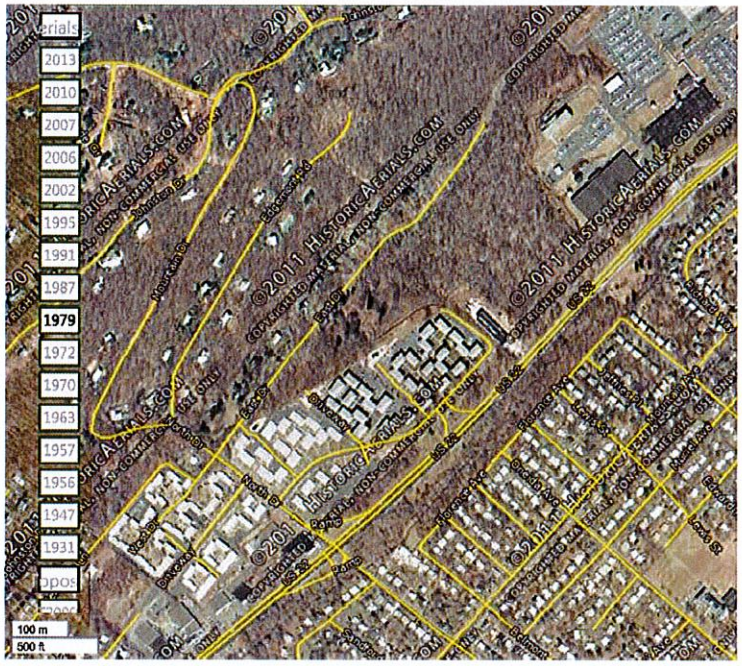

Figure 4 1979 Aerial Photo

Figure 5 1987 Aerial Photo

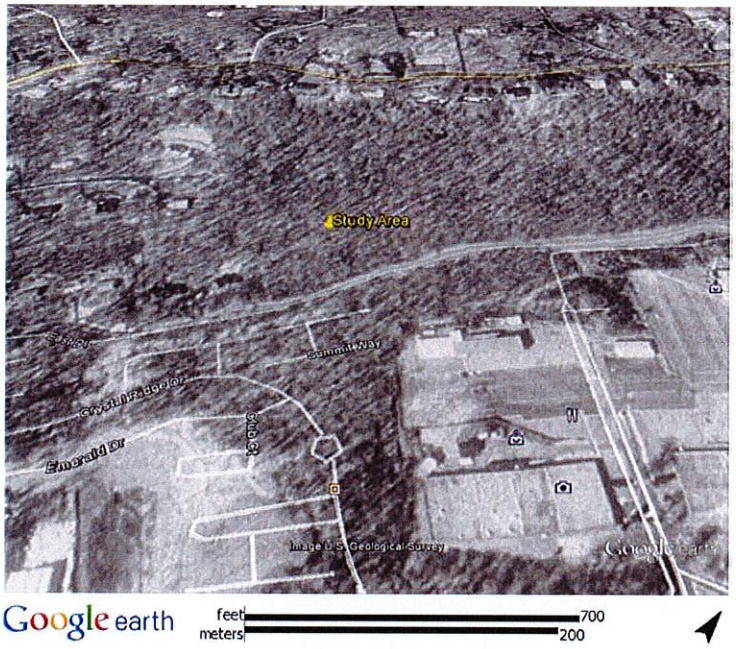

Figure 6 1991 Aerial Photo

Figure 7 1995 Aerial Photo

Figure 8 2002 Aerial Photo

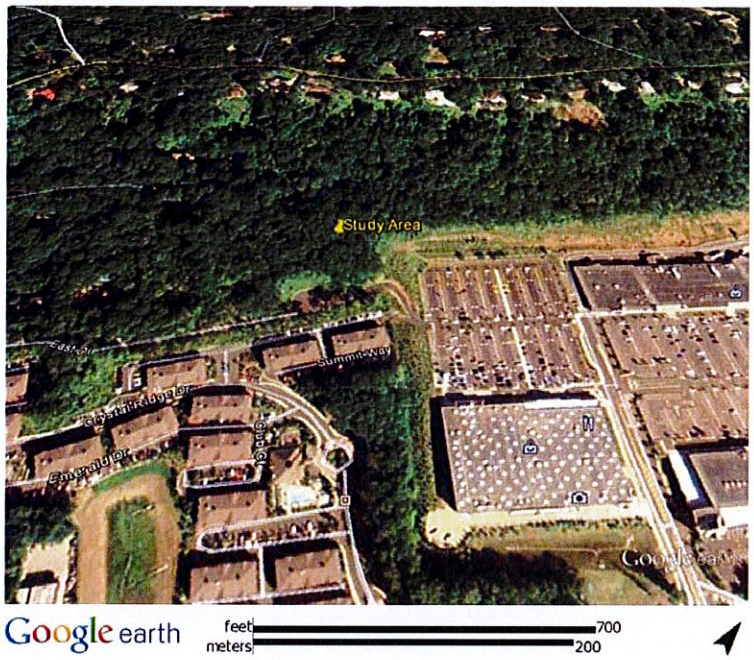

Figure 9 2006 Aerial Photo

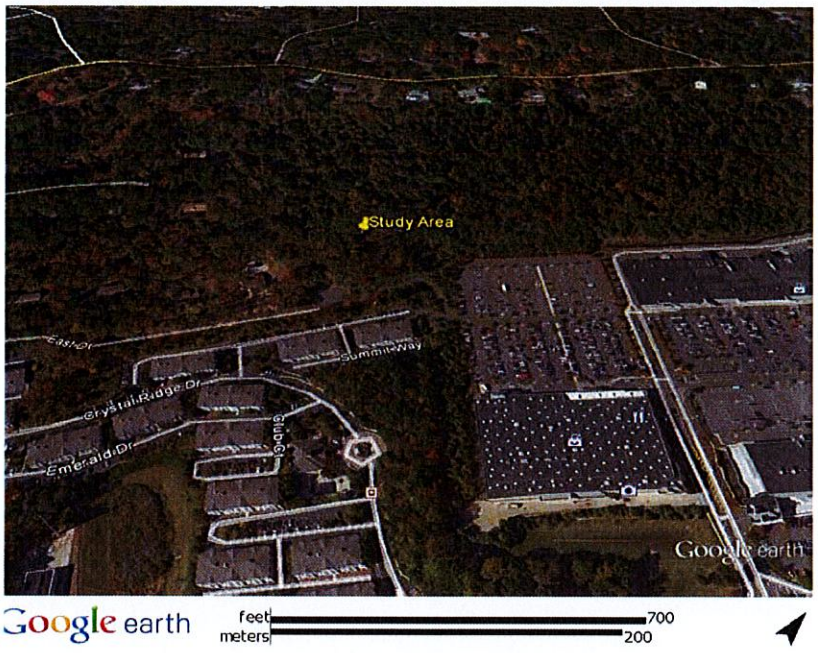

Figure 10 2014 Aerial Photo

IV. AREA EVALUATION FOR CONFORMITY WITH REQUIRED REDEVELOPMENT CRITERIA

STUDY APPROACH

An analysis of the Study Area's existing physical characteristics was conducted via a site inspection on Saturday September 12, 2015. Historic aerial photographs were also reviewed (see Figures 1 through 10). The Borough's Master Plan, Reexamination Report, Zoning Ordinance and the adopted 2010 HEFSP, were also assessed. It should be noted that all photos were taken on September 12, 2015, unless otherwise noted.

PROPERTY EVALUATION

The Study Area consists of 6.4 acres with over 75% of the property having slopes over 15% in grade. The overall topography exceeds a 140 feet grade change running north to south.

The property has been owned by the Borough since 1999. It was dedicated 'for municipal purposes" to the Borough by the Watchung Square Mall developers. This property dedication was in compensation for the vacation of portions of two public streets – East Drive and Gray Street. The Borough plans to use the property for municipal purposes, i.e., the construction of a 100% affordable housing development to address the Borough's affordable housing obligation.

To be considered as a Non-Condemnation Redevelopment Area, the study area must meet at least one of the eight criteria under Section 5 of the LRHL. This analysis presented below shows that the site meets two of the criteria. An area may be determined to be In Need of Non-Condemnation Redevelopment if, after investigation, notice and hearing, the governing body of the municipality concludes by resolution that any one of the relevant conditions is found.

CRITERION C

Criterion "c" is the relevant criterion concerning the Study Area, which is vacant and municipally owned.

> *Criterion "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.*

The Study Area has been owned by the Borough since November 2, 1999. The adopted 2010 HEFSP identified the site as a 100% affordable housing site. This site was considered suitable as an affordable housing site given its location, frontage on an improved public street, the availability of water and sewer to serve the site, its proximity to services and jobs and that it is a municipal owned property. Because of the developed nature of the Borough, there are very limited suitable vacant or developable properties available for the Borough to meet its affordable housing obligation.

Within the Study Area, steep topography will restrict development to the southern two acres of the property, directly fronting on East Drive. Most of the property has steep slopes of 15% or greater. There is over a 140 foot grade change from East Drive north to the rear at the upper portion of the site. The site also has a very irregular configuration consisting of about two acres of property with direct frontage along East Drive, linked though a narrow steep connection to the remaining lands at a higher elevation with even steeper topography.

This southern section of the Study Area, encompassing 10% slopes along the East Drive frontage, will still require higher site development costs for terracing, building construction, road grading and utilities. The Borough planned to eliminate site acquisition costs since it is a municipal owned property. Also site development costs would be partially offset by utilizing the Borough's Housing Trust Fund dollars.

In 2012, the Borough issued a "Request for Proposals to Construct 20 Affordable Housing Family Rental Units on East Drive." The RFP included a representation that the Borough would "reimburse the successful Respondent for site work up to $435,000.00 from the Borough's Affordable Housing Trust Fund. Additionally, funds [were to] be available from the Borough's Affordable Housing Trust Fund for affordability assistance to tenants as defined in the applicable NJCOAH regulations and the Borough's Spending Plan."

The Borough received only two (2) responses to the RFP. The Borough rejected the two responses to the RFP, because the responses were nonconforming and authorized reissuance of a revised RFP. Under review of the RFPs, it was apparent to the Borough that the cost to develop the site would require, in addition to the Borough authorized subsidy with Trust Fund dollars, the need for tax abatements, including a payment in lieu of taxes ("PILOT"), to obtain State funding to cover the housing costs. A Non-Condemnation Redevelopment Plan for the property would permit a PILOT, which will hopefully encourage a greater response by developers when the Borough reissues the RFP.

The Borough's experience with the initial RFP recognized that the likelihood of an affordable housing project being developed on this site with private capital alone would not be feasible and that public assistance would be required for its implementation. Therefore the site, as a municipal owned property for over ten years, with steep topography and requiring public

assistance to develop the property for its planned use, would meet the specific redevelopment criteria permitting designation as an Area in Need of Redevelopment.

CRITERION H

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

The New Jersey Department of State defines Smart Growth as one of the following:

- Metropolitan Planning Area (PA1)
- Suburban Planning Area (PA2)
- A designated center
- An area identified for growth as a result of either an initial or advanced petition for plan endorsement that has been approved by the SPC
- A smart growth area designated by the New Jersey Meadowlands Commission
- A Pinelands Regional Growth Area, Pinelands Village or Pinelands Town as designated by the New Jersey Pinelands Commission[11]

The website also provides a link to a map to illustrate the smart growth areas within the State. According to the map, the Study Area is located within the Suburban Planning Area.[12]

The concept of smart growth embodies ten objectives (modified from the US Environmental Protection Agency):

- **Mix Land Uses.** New, clustered development works best if it includes a mix of stores, jobs and homes.
- **Take Advantage of Existing Community Assets.** From local parks to neighborhood schools to transit systems, public investments should focus on getting the most out of what we have.
- **Create a Range of Housing Opportunities and Choices.** Not everyone wants the same thing. Communities should offer houses, condominiums, homes for low income families, and "granny flats" for empty nesters.
- **Foster Walkable Neighborhoods.** These places offer not just the opportunity to walk, but something to walk to, whether it's the corner store, the transit stop or school.

[11] http://www.state.nj.us/state/planning/spc-research-resources-sga.html
[12] http://www.state.nj.us/state/planning/maps/smartgrowthareasmap.pdf

- **Promote Distinctive, Attractive Communities with a Strong Sense of Place.** In every community, there are things that make each place special, from train stations to local businesses. These should be protected and celebrated.
- **Preserve Open Space, Farmland, and Critical Environmental Areas.** People want to stay connected to nature and protect farms, waterways, ecosystems and wildlife.
- **Strengthen and Encourage Growth in Existing Communities.** We should look for opportunities to grow in already built-up areas before we pave new areas.
- **Provide a Variety of Transportation Choices.** More communities need safe and reliable public transportation, sidewalks and bike paths.
- **Make Development Decisions Predictable, Fair, and Cost-Effective.** Builders wishing to implement smart growth should face no more obstacles than those contributing to sprawl.
- **Encourage Citizen and Stakeholder Participation in Development Decisions.** Plans developed without strong citizen involvement don't have staying power. When people feel left out of important decisions, they won't be there to help out when tough choices have to be made.[13]

The following facts have been found to support the designation of Criteria "h" in the Study Area:

- According to the State's mapping, the Borough of Watchung is located in a smart growth area as it is a designated Suburban Planning Area.
- Redevelopment of the Study Area would permit future residents to take advantage of the services along Route 22 that are within easy walking distance of the property, including directed access to Watchung Square Mall.
- Any potential redevelopment of the Study Area would include a mandatory 100% affordable housing component, which would expand affordable housing options within the Borough and help the Borough meet its affordable housing obligation.
- The Study Area is located in a walkable setting, where future residents could walk to services, shopping establishments and employment opportunities nearby.
- The Study Area is convenient to public transportation which is available along US Route 22. This will provide workers with access to job opportunities in the region.
- Redevelopment of the property will utilize existing land that is an infill parcel surrounded by existing development.

[13] http://www.njfuture.org/smart-growth-101/primer/

COMPLIANCE WITH STATUTORY CRITERIA AS AN AREA IN NEED OF REDEVELOPMENT

Based on the above documentation, the entire Study Area meets two of the statutory criteria as a Non-Condemnation Area in Need of Redevelopment:

Criterion "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.*

The Study Area's topography necessitates extensive site regrading with accompanying higher site development costs for terracing, building construction, road grading and utilities. The Study Area's irregular configuration also limits the development potential to the lower southern section of the property and would still require costly regrading and terracing. The need to provide public funds for development of a 100% affordable housing project was confirmed since public tax abatements, a PILOT, and funding of extraordinary site development costs would be needed. A 100% affordable housing development was not likely to be developed without public capital.

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

The Study Area is located in a State-designated smart growth area and advances many of the principles of smart growth as mentioned above. It also supports the public mandate to provide affordable housing choices within the State and the Borough.

Based on the above, it is recommended that the Planning Board find that the Study Area qualifies for designation by the Borough Council as an Area In Need of Non-Condemnation Redevelopment.

APPENDIX

RESOLUTION FROM BOROUGH COUNCIL AUTHORIZING REDEVELOPMENT AREA DETERMINATION INVESTIGATION

BOROUGH OF WATCHUNG
RESOLUTION NO. R9:09/03/15

RESOLUTION AUTHORIZING THE BOROUGH OF WATCHUNG PLANNING BOARD TO UNDERTAKE A PRELIMINARY INVESTIGATION TO DETERMINE WHETHER THE PROPOSED STUDY AREA, LOT 6.01 IN BLOCK 5701, QUALIFIES AS AN AREA IN NEED OF NON-CONDEMNATION REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A-5.

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

WHEREAS, the Redevelopment Law sets forth the procedures for a municipality to declare an area in need of redevelopment, along with the development and effectuation of a redevelopment plan; and

WHEREAS, pursuant to the required redevelopment procedures, specifically set forth in N.J.S.A. 40A:12A-6, no area of a municipality shall be determined a redevelopment area unless the governing body of the municipality shall, by resolution, authorize the Planning Board to undertake a preliminary investigation to determine whether a proposed area is a redevelopment area meeting the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the New Jersey Legislature adopted, and the Governor signed P.L. 2013, Chapter 159, which amended the Redevelopment Law, including the procedural requirements of N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12A-6; and

WHEREAS, pursuant to P.L. 2013, Chapter 159, "[t]he resolution authorizing the planning board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area other than the use of eminent domain (hereinafter referred to as a "Non-Condemnation Redevelopment Area") or whether the redevelopment area determination shall authorize the municipality to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (hereinafter referred to as a "Condemnation Redevelopment Area");" and

WHEREAS, the Borough of Watchung Council finds it to be in the best interest of the Borough and its residents to authorize the Borough's Planning Board to undertake such preliminary

investigation of the study area, Lot 6.01 in Block 5701, as shown on the Borough of Watchung Tax Map ("Study Area") as a Non-Condemnation Redevelopment Area; and

WHEREAS, the Borough Council wishes to direct the Planning Board to undertake a preliminary investigation utilizing Maser Consulting, P.A., to prepare the preliminary investigation to determine whether the proposed Study Area, Lot 6.01 in Block 5701, qualifies as an area in need of Non-Condemnation Redevelopment pursuant to N.J.S.A. 40A:12A-5; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Watchung, in the County of Somerset, and State of New Jersey, that the Planning Board is hereby authorized to undertake a preliminary investigation, utilizing Maser Consulting, P.A.,, to prepare the preliminary investigation, pursuant to the notice, conduct a hearing and comply with other requirements of the Redevelopment Law, N.J.S.A. 40A:12A-1, et seq., as amended, in order to recommend to the Borough Council whether the area comprising the Study Area is an area in need of Non-Condemnation Redevelopment according to the criteria set forth in N.J.S.A. 40A:12A-5.

BE IT FURTHER RESOLVED that, pursuant to New Jersey P.L.2013, Chapter 159, the redevelopment area determination shall authorize the Borough to use all those powers provided by the Legislature for use in a Non-Condemnation Redevelopment area other than the use of eminent domain.

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

BE IT FURTHER RESOLVED that a certified copy of this Resolution is to be forwarded to the Planning Board.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Council

Date: September 3, 2015
Index: Borough Properties, Misc., Pl. Board
C: T. Schaefer
M. Shiffman

Stephen K. Pote, Mayor

I, Michelle DeRocco, Municipal Clerk of the Borough of Watchung, County of Somerset, State of New Jersey, do hereby certify the foregoing to be a correct and true copy of a Resolution adopted by the Mayor and Council at a meeting held on September 3, 2015.

Michelle DeRocco

Michelle DeRocco, RMC