

# PRELIMINARY INVESTIGATION REPORT

Bonnie Burn Road Study Area  
Block 7402, Lots 19.01 and 19.02  
Block 7403, Lots 5 and 10  
Borough of Watchung, New Jersey

Prepared by:

Marcia R. Shiffman PP, AICP, LLA  
NJ PP License # 33L100242800



JULY 2018

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 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10 (hereinafter referred to as the Study Area), also known as the Bonnie Burn Road Study Area, qualifies as an Area in Need of Non-Condensation Redevelopment as defined by the Local Redevelopment and Housing Law (NJSA 40:12A-1 et seq., herein referred to as LRHL). This analysis was 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 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 #R11:06/07/18, dated June 7, 2018 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-Condensation 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 Study 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 redevelopment 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 redevelopment area.
- Adequate provision for the temporary and permanent relocation, as necessary, of residents in the study 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 preliminary investigation is 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 untenable.
- 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 includes four lots known as Block 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10 located in the Borough of Watchung, Somerset County, New Jersey. The Study Area is located in the northeastern section of the Borough. It is approximately 1,000 feet south of Valley Road. (It is assumed in this study that Bonnie Burn Road runs north to south.) The four lots, taken together as the Study Area have frontage only on Bonnie Burn Road (County Road 641), which is classified as a minor arterial road under Union County jurisdiction. Bonnie Burn Road is a two-lane road with no shoulders or sidewalks and has a curvilinear alignment along the Study Area frontage.

The Study Area consists of 41.03 acres in total with about 1,900 feet of frontage along Bonnie Burn Road. The area is generally rectangular with a smaller rectangular projection of 6.89 acres encompassing Block 7403, Lot 5 in the western portion of the site. The width of the Study Area, measured from Bonnie Burn Road to the west, adjoining Block 7403, Lot 4 is about 1,608 feet in length; measured east to west.

There is one driveway into the property from Bonnie Burn Road, which provided access to a now abandoned single-family residence. This driveway is located on the highest elevation of the site frontage. (See Map 1 - Site Location and Map 2 - Tax Map)

#### TOPOGRAPHY

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<sup>1</sup>. The topography of the Study Area slopes down from the western edge, adjoining Block 7403, Lot 4 at an elevation of about 420' sloping down to 317' at the southern corner along Bonnie Burn Road. This is an average slope of 6.7%. Along the northern section of the Study Area property line, abutting the rear of the homes along Mareu Drive, the topography slopes down from the western edge towards Bonnie Burn Road from elevation at 390' to 319' at Bonnie Burn Road. This is an average slope of 4.8%. There are very limited areas with slopes over 10%, which are generally to the rear/west of the existing residence on the property. The Study Area would meet the criteria specified by Council on Affordable Housing (COAH) rules which identifies slopes 15% or greater as having development limitations. (See Map 3 - Boundary & Topographic Survey)

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<sup>1</sup> Revised General Ordinances of the Borough of Watchung Code, Chapter XXIIIA. Storm water, steep slopes and erosion control.

## ENVIRONMENTAL CONSTRAINTS

A Wetland Investigation Report (WIR) was prepared for the Study Area.<sup>2</sup> This report provides detailed information on the site conditions as part of an Application for a Letter of Interpretation: Line Verification filed with the NJDEP on January 29, 2018. As noted in the letter, “a LOI was issued on February 6, 2009, which has since expired (File No.1821-07-0004.1) The LOI classified the wetlands as ordinary and intermediate resource value.”<sup>3</sup>

As documented in the WIR, “the site is characterized by upland forest and palustrine forested deciduous wetland vegetation.”<sup>4</sup> An unnamed tributary of Green Brook is located in the eastern (southern) portion of the property. The site is within the Lower Raritan River watershed of the Raritan River Basin. According to the report, the site contains deciduous wooded wetlands. The overland runoff from the northwestern portion of the site is towards an off-site unnamed tributary of Green Brook which is mapped approximately 450 feet to the northwest of the site. The NJDEP has classified this stretch of the Green Brook and its unnamed tributaries as FW2-TM (Trout Maintenance) waters (NJDEP2009). *“The wetland in the northwestern portion of the site..... is not part of a surface water tributary system and is thus isolated.”*<sup>5</sup> The conclusion of the WIR was that the wetlands and State Open Waters occur within the site.

On July 5, 2018, NJDEP issued a letter that determined that the wetlands and waters boundary lines as shown on the plan map<sup>6</sup> are accurate as shown. The NJDEP Division determined that the resource value and the standard transition area or buffer required adjacent to the delineated freshwater wetlands are Intermediate wetlands with a 50-foot wetland buffer.

The identified State Open Water (SOW A1 through SOW A53, SOW B1 through WE 1) and the features labeled State Open Water have no wetlands buffer.

The Department also determined certain wetland areas (WB2 through WB7) are considered to be isolated wetlands and not part of a surface water tributary system. (See Map 4 –Wetlands Survey)

The Study Area is located in Flood Zone X outside of the 500-year flood elevation. There are no C-1 waters shown on the site.

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<sup>2</sup> Wetlands Investigation Report for Block 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10, Borough of Watchung, Somerset County, New Jersey by EcolSciences, Inc., December 19, 2017.

<sup>3</sup> Letter of January 29, 2018, EcolSciences to NJDEP – Application for a Letter of Interpretation: Line Verification, Block 7402, Lots 19.01 and 19.02 and Block 7403, Lots 5 and 10. File No. 1821-07-0004.1

<sup>4</sup> Wetlands Investigation Report page 4.

<sup>5</sup> Ibid page 3.

<sup>6</sup> Map entitled “WETLANDS SURVEY BLOCK 7402 -LOTS 19.01 &19.02, BLOCK 7403 – LOTS 5 & 10 BOROUGH OF WATCHUNG, SOMERSET COUNTY, NEW JERSEY”, consisting of one sheet dated June 8, 2018, unrevised, and prepared by Kenny L. Kennon. P.L.S., of Kennon Survey Services Inc.

## UTILITIES AND INFRASTRUCTURE

There is public water through New Jersey American Water on the east side of Bonnie Burn Road. Gas and electric utilities are available through PSEG and are located on the west side of Bonnie Burn Road. Cable and phone is also available on utility poles on Bonnie Burn Road.

There is an existing storm sewer system in Bonnie Burn Road along the Study Area frontage. To the south, there is an inlet approximately 300' south of the existing driveway to the old house, and to the north, there is an inlet approximately 200' north of said driveway. The existing driveway is at the highest point of Bonnie Burn Road along the Study Area frontage. An on-site storm water detention system must be provided as part of any development plan for the Study Area.

No public sanitary sewer currently serves the site. The 2012 Somerset County Future Sewer Service Area Map shows Block 7402, Lots 19.01 and 19.02 located within the Berkeley Heights Wastewater Treatment Plant (WTP) service area. Block 7403, Lots 5 and 10 are located within the Middlesex County Utilities Authority (MCUA) service area which is shown as future sewer service area. The lack of available public sewer service has delayed development within the Study Area for many years.

According to the Borough Engineer Thomas Herits, sanitary sewage from the site will have to be served by Berkeley Heights. They will have to amend the Somerset County Wastewater Management Plan, get a release from Plainfield Area Regional Sewer Authority (PARSA), which goes to MCUA, and permission from Berkeley Heights. There is an existing sanitary sewer manhole on Bonnie Burn Road at the Mareu Drive intersection.<sup>7</sup>

## SURROUNDING SITE CONDITIONS

The Study Area is bounded on the east side by Bonnie Burn Road which also forms the boundary of the Weldon Quarry property. A recent amendment to the Borough Land Development Ordinance requires a substantial buffer along Bonnie Burn Road in order to protect residential uses on the west side of Bonnie Burn Road. This required buffer is 130 feet wide along the majority of Bonnie Burn Road but expands to 250 feet wide on Lot 6 (the site of the former Colorado Café). The ordinance also contains detailed design standards intended to maximize the effectiveness of the buffer to screen quarrying activities through the preservation of existing vegetation and grade, extensive new landscape screening, and/or earthen berming. A site plan application was subsequently filed by Weldon Quarry pursuant to the ordinance. The Weldon Quarry site plan was approved in December 2017. It proposes buffers of widths consistent with the ordinance and proposes to supplement existing vegetation and grades through proposed earthen

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<sup>7</sup> Thomas Herits, Watchung Borough Engineer, provided utility services information on July 6, 2018.

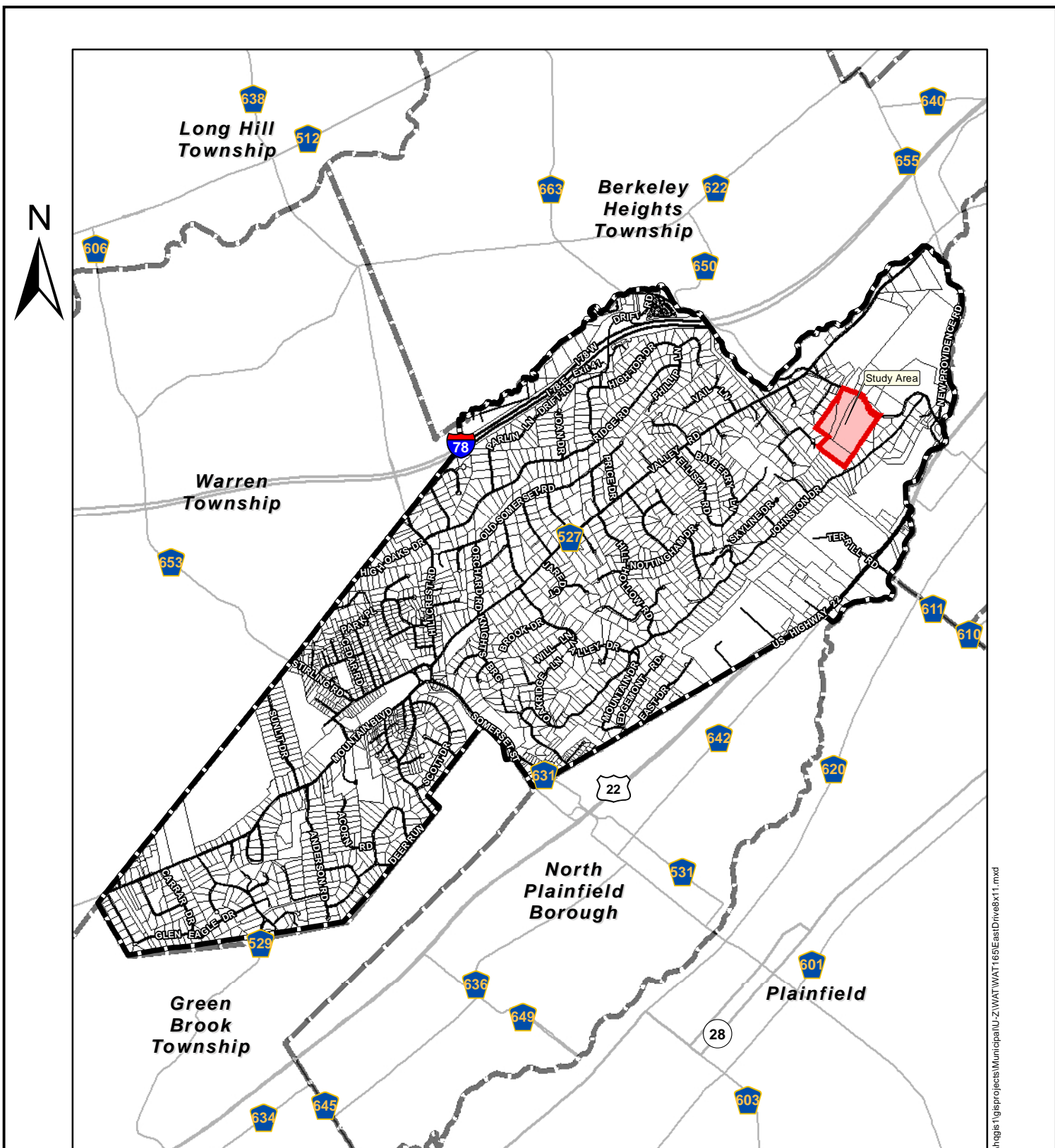
berming and new landscape screening (including 1,162 new trees). The required buffer improvements are now under construction.

Borough of Watchung Fire Station (Watchung Chemical Engine Company Inc.) is located opposite the Study Area, where the existing Study Area driveway intersects Bonnie Burn Road.

Directly abutting the Study Area are 15 single family residential properties, of which five properties are located on the Mareu Drive to the north, two properties on Oakwood Terrace East to the west, four properties on Johnson Drive and three on Wood Lane to the south of the Study Area. One property, directly north of the Study Area has frontage on Bonnie Burn Road. These properties located in the R-R Single-Family Residential Zone which require a minimum of 60,000 square foot lots. (See Map 5 - Aerial Photograph and photos of Study Area and surroundings)<sup>8</sup>

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<sup>8</sup> Photos taken by Marcia Shiffman, Consulting Housing Planner for Watchung, on June 28, 2018.



## Map 1 - Location Map Bonnie Burn Road Study Area

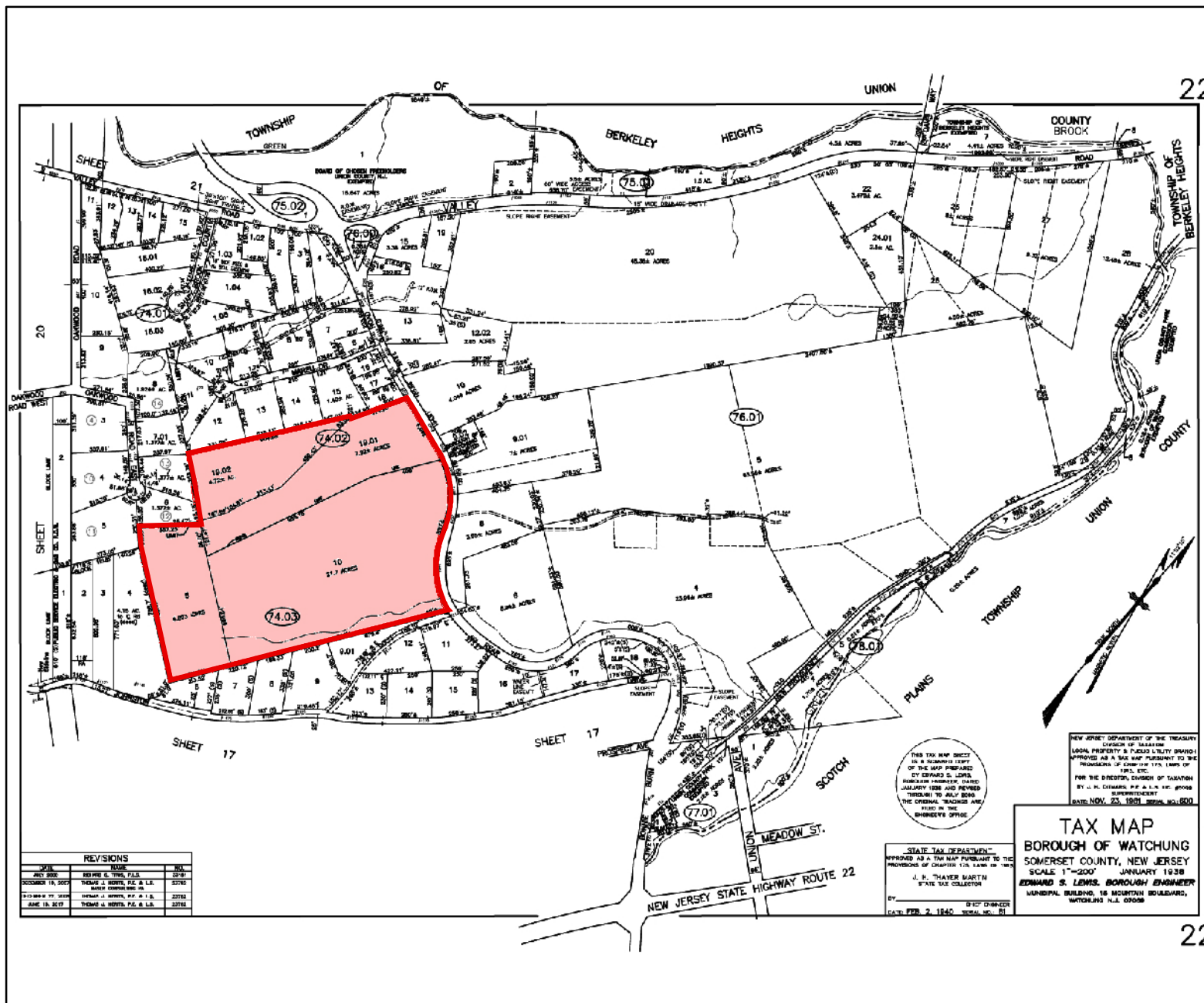
Block 7402, Lots 19.01 & 19.02  
Block 7403, Lots 5 & 10  
Borough of Watchung, Somerset County, New Jersey



July 2018

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## Map 2 - Tax Map

## Bonnie Burn Road Study Area

Block 7402, Lots 19.01 & 19.02

Block 7403, Lots 5 &amp; 10

Borough of Watchung, Somerset County, New Jersey



July 2018



## NOTES

- THE FOLLOWING INFORMATION WAS UTILIZED IN THE PREPARATION OF THIS SURVEY:
  - THE TAX MAPS OF THE BOROUGH OF WATCHUNG.
  - FILED MAP NO. 1146 "MAP OF RUNNING SLOPE", DATED 03-20-67.
  - FILED MAP NO. 196 "MAP OF OLSON SUBDIVISION A", DATED 04-11-49.
  - FILED MAP NO. 324 "MAP OF OAKWOOD", DATED 10-05-53.
  - WETLANDS LOCATION MAP LOT 19.01 - BLOCK 74.02, LOT 10 - BLOCK 74.03. PREPARED BY JOHNSON ENGINEERING INC., DATED 05-28-93.
- DEED BOOK/PAGE
 

2000/820	2043/66	2052/510	2233/598
5393/1947	659/220	2286/883	5146/83
2030/170	2341/268	1570/814	1161/205
2283/854	1585/664	1763/603	2341/268
5393/1974	5049/592		
- NO CORNER MARKERS WERE SET AT TIME OF THIS SURVEY PER CONTRACTUAL AGREEMENT.
- NO DELINEATION OR LOCATION OF STATE OPEN WATERS AND/OR WETLANDS WAS PERFORMED AS A PART OF THIS SURVEY.
- THIS SURVEY SUBJECT TO THE FINDINGS OF AN ACCURATE TITLE REPORT, WHICH WAS NOT PROVIDED AT THE TIME OF THIS SURVEY.
- HORIZONTAL AND VERTICAL DATUM N.A.D. 83 AND N.A.V.D. 88 FROM GPS OBSERVATION.
- TOPOGRAPHY AND IMPROVEMENTS SHOWN HEREON FROM AERIAL MAPPING, PERFORMED BY ALANTIS AERIAL SURVEY CO., BUDD LAKE, NEW JERSEY, DATED MARCH, 2006.

DISPOSITION OF ENCUMBRANCES LISTED IN TITLE  
COMMITMENT NO. 9428-87821  
PREPARED BY CHICAGO TITLE COMPANY  
DATED JANUARY 11, 1996

ITEM 8 DB 660/234 MENTIONS A POSSIBLE UNDESCRIBED RIGHT OF WAY ALONG THE WESTERLY CORNER OF LOT 10. SUBJECT PARCEL ALSO SUBJECT TO THE RIGHT OF WAYS OF BONNIE BURN ROAD.

ITEM 9 DB 1705/96 - 1891/186 DESCRIBES A DEVELOPERS AGREEMENT AND SHOULD BE REVIEWED BY LEGAL COUNSEL.

DISPOSITION OF ENCUMBRANCES LISTED IN TITLE  
COMMITMENT NO. 9328-85886  
PREPARED BY CHICAGO TITLE COMPANY  
DATED DECEMBER 31, 1992:

ITEM 8 DB 660/234 MENTIONS A POSSIBLE UNDESCRIBED RIGHT OF WAY ALONG THE WESTERLY CORNER OF LOT 10. SUBJECT PARCEL ALSO SUBJECT TO THE RIGHT OF WAYS OF BONNIE BURN ROAD.

DB 1-24/421 DESCRIBES A RIGHT OF WAY WHICH LIES SOUTH OF VALLEY ROAD AND NORTH OF SUBJECT PROPERTY. RIGHT OF WAY DOES NOT EFFECT SUBJECT PROPERTY.

DB 1-24/426 DESCRIBES LARGER TRACT OF LAND ENCOMPASSING SEVERAL LOTS IN BLOCK 74.01 AND SUBJECT PARCEL LOT 19.02. THE EXCEPTIONS CALLED OUT DO NOT EFFECT SUBJECT PARCEL.

DB 665/328 DESCRIBES LOT 9 BLOCK 74.01 WHICH DOES NOT EFFECT SUBJECT PROPERTY.



BOUNDARY & TOPOGRAPHIC SURVEY  
BLOCK 74.02 - LOTS 19.01 & 19.02  
BLOCK 74.03 - LOTS 5 - 10  
BOROUGH OF WATCHUNG  
SOMERSET COUNTY, NEW JERSEY

KENNY L. KENNON, P.L.S.

PROFESSIONAL SURVEYOR LICENSE NO. 37195

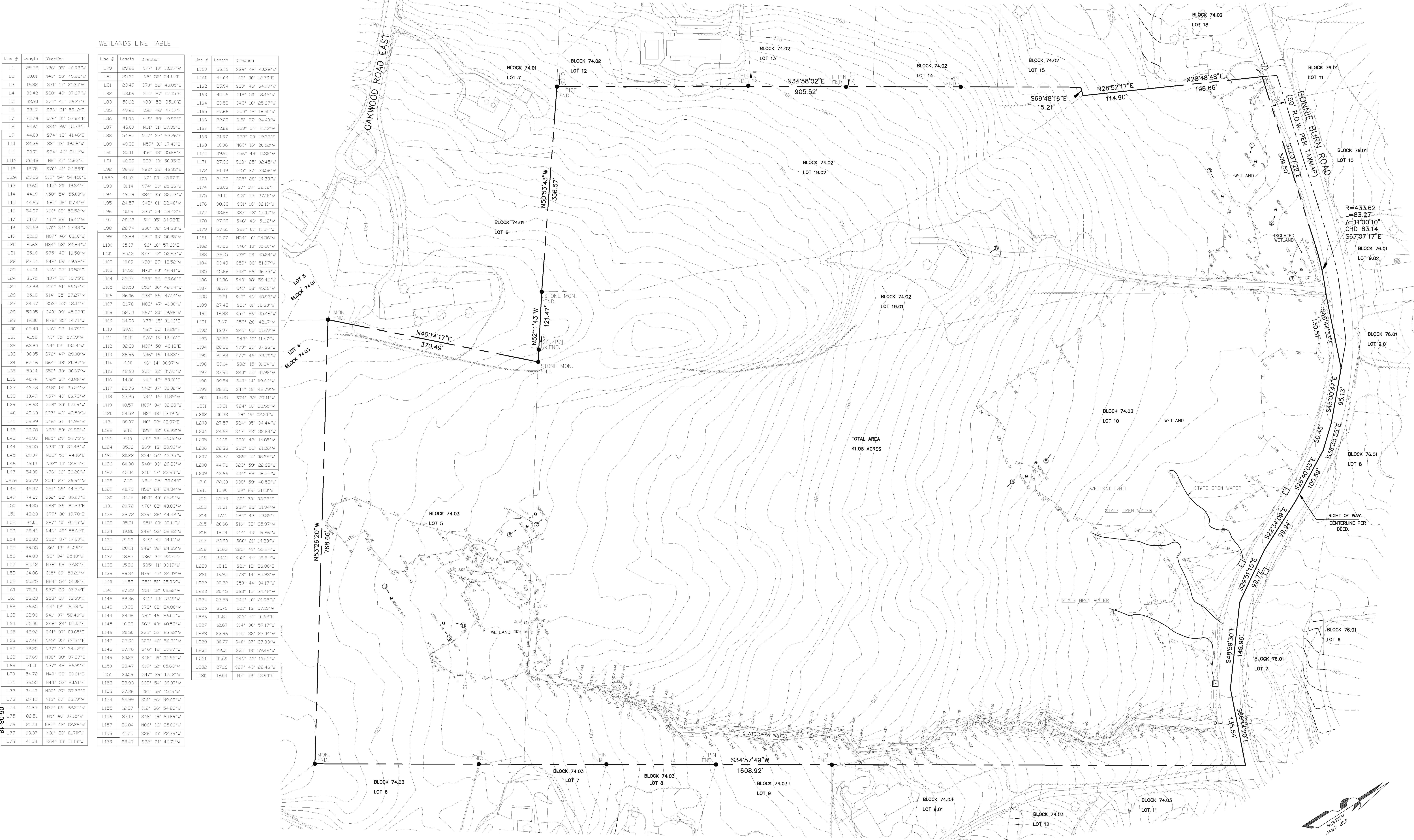
*Kenny L. Kennon*

DATE: 8.9.06

**KSS** KENNON SURVEYING SERVICES INC.  
5 POWDER HORN DRIVE, SUITE 4  
P.O. BOX 4477  
WARREN, NEW JERSEY 07059  
PHONE 732-564-1818  
FAX 732-564-9999

DATE 08-09-06 SCALE 1" = 100' PROJ. NO. 1861 SHEET 1 OF 1





91-90-90

WETLANDS LINE TABLE								
Line #	Length	Direction	Line #	Length	Direction	Line #	Length	Direction
L1	29.52	N26° 05' 46.98"W	L79	29.26	N77° 19' 13.37"W	L160	39.06	S36° 42' 40.39"W
L2	30.81	N43° 58' 45.89"W	L80	25.36	N8° 58' 54.14"E	L161	44.64	S3° 36' 12.79"E
L3	16.82	S71° 17' 21.30"W	L81	23.49	S70° 58' 34.57"E	L162	25.94	S30° 45' 34.57"W
L4	38.42	S28° 49' 07.67"W	L82	53.06	S50° 27' 07.15"E	L163	40.56	S12° 50' 18.42"W
L5	33.90	S74° 31' 56.27"E	L83	50.62	N8° 52' 35.10"E	L164	20.53	S48° 18' 25.67"W
L6	33.17	S76° 31' 59.12"E	L84	49.85	N28° 46' 47.17"E	L165	27.66	S53° 12' 18.30"W
L7	73.74	S76° 01' 57.82"E	L85	51.93	N49° 59' 19.93"E	L166	22.23	S15° 27' 24.40"W
L8	64.61	S34° 26' 18.78"E	L86	48.00	N51° 01' 57.35"E	L167	42.28	S53° 54' 21.13"W
L9	44.80	S74° 13' 41.46"E	L87	54.85	N57° 27' 23.26"E	L168	31.97	S35° 50' 19.33"E
L10	34.36	S3° 03' 09.58"W	L88	49.33	N59° 31' 17.40"E	L169	16.06	N69° 16' 20.52"W
L11	23.71	S24° 46' 31.11"W	L89	35.11	N16° 48' 35.62"E	L170	39.95	S56° 49' 11.38"W
L11A	28.48	N2° 27' 11.83"E	L90	46.39	S28° 10' 50.35"E	L171	27.66	S63° 25' 02.45"W
L12	12.78	S70° 41' 26.55"E	L91	38.99	N82° 39' 46.83"E	L172	21.49	S45° 37' 33.58"W
L12A	29.23	S19° 54' 54.45"E	L92A	41.03	N7° 03' 43.07"E	L173	24.33	S25° 28' 14.29"W
L13	13.65	N15° 20' 19.34"E	L93	31.14	N74° 20' 25.66"W	L174	38.06	S7° 37' 32.09"E
L14	44.19	N89° 54' 55.03"W	L94	49.59	S84° 39' 32.53"W	L175	21.11	S13° 55' 37.18"W
L15	44.65	N80° 02' 01.14"W	L95	24.57	S42° 01' 22.48"W	L176	38.88	S31° 16' 32.19"W
L16	54.97	N60° 08' 53.52"W	L96	10.08	S35° 54' 58.43"E	L177	33.62	S37° 48' 17.07"W
L17	51.07	N17° 22' 16.41"W	L97	28.62	S4° 05' 34.92"E	L178	27.28	S46° 46' 51.12"W
L18	35.68	N70° 34' 57.98"W	L98	28.74	S30° 38' 54.63"W	L179	37.51	S29° 01' 10.52"W
L19	52.13	N67° 46' 06.10"W	L99	43.89	S24° 03' 50.98"W	L181	15.77	N54° 10' 54.56"W
L20	21.62	N34° 58' 24.84"W	L100	15.07	S6° 16' 57.60"E	L182	40.96	N46° 18' 05.80"W
L21	25.16	S75° 43' 16.58"W	L101	25.13	S77° 42' 53.23"W	L183	38.15	N59° 58' 45.24"W
L22	27.54	N42° 06' 49.92"E	L102	10.09	N38° 29' 12.52"W	L184	30.48	S59° 38' 51.97"W
L23	44.31	N16° 37' 19.52"E	L103	14.53	N70° 20' 42.41"W	L185	45.68	S42° 26' 06.33"W
L24	31.75	N37° 20' 16.75"E	L104	23.54	S29° 36' 59.66"E	L186	16.36	S49° 08' 59.46"W
L25	47.89	S51° 21' 26.57"E	L105	23.50	S53° 36' 42.94"W	L187	32.99	S41° 58' 45.16"W
L26	25.18	S14° 35' 37.27"W	L106	36.06	S38° 26' 47.14"W	L188	19.51	S47° 46' 48.92"W
L27	34.57	S53° 53' 13.84"E	L107	21.78	N82° 47' 41.00"W	L189	27.42	S60° 01' 18.63"W
L28	53.05	S40° 09' 45.83"E	L108	52.50	N67° 39' 19.96"W	L190	12.83	S57° 26' 35.48"W
L29	19.30	N76° 35' 14.71"W	L109	34.99	N73° 15' 01.46"E	L191	7.67	S59° 20' 42.17"W
L30	65.48	N64° 22' 14.79"E	L110	39.91	N61° 55' 19.28"E	L192	16.97	S49° 05' 51.69"W
L31	41.58	N8° 05' 57.19"W	L111	10.91	S76° 19' 18.46"E	L193	32.52	S48° 12' 11.47"W
L32	63.80	N4° 03' 33.54"W	L112	22.30	N39° 58' 43.12"E	L194	28.95	N79° 39' 07.66"W
L33	36.05	S72° 47' 29.08"W	L113	36.96	N36° 16' 13.83"E	L195	28.28	S77° 46' 33.70"W
L34	67.46	N64° 38' 20.97"W	L114	6.00	N6° 14' 00.97"W	L196	39.14	S32° 15' 01.34"W
L35	53.14	S52° 38' 30.67"W	L115	48.60	S50° 32' 31.95"W	L197	37.95	S40° 54' 41.92"W
L36	40.76	N62° 30' 40.86"W	L116	14.80	N41° 42' 59.31"E	L198	39.54	S40° 14' 09.66"W
L37	43.48	S68° 14' 35.24"W	L117	23.75	N42° 07' 33.02"W	L199	26.35	S44° 16' 49.79"W
L38	13.49	N87° 40' 06.73"W	L118	37.25	N84° 16' 11.89"W	L200	15.25	S74° 32' 27.11"W
L39	58.63	S98° 30' 07.09"W	L119	18.57	N69° 34' 32.63"W	L201	13.81	S24° 10' 32.55"W
L40	48.63	S37° 43' 43.59"W	L120	54.32	N3° 48' 03.19"W	L202	30.33	S9° 19' 02.30"W
L41	59.99	S46° 31' 44.92"W	L121	38.07	N6° 32' 08.97"E	L203	27.57	S24° 05' 34.44"W
L42	53.78	N82° 50' 21.98"W	L122	8.12	N39° 42' 08.93"W	L204	24.62	S47° 28' 38.64"W
L43	40.93	N85° 29' 59.75"W	L123	9.10	N81° 38' 56.26"W	L205	16.08	S30° 42' 14.85"W
L44	29.55	N32° 10' 34.42"W	L124	35.16	S69° 18' 58.93"W	L206	22.86	S32° 59' 21.26"W
L45	29.07	N26° 53' 44.16"E	L125	30.22	S34° 54' 43.39"W	L207	39.37	S89° 10' 08.28"W
L46	19.10	N32° 10' 12.25"E	L126	60.38	S48° 03' 29.80"W	L208	44.96	S23° 59' 22.68"W
L47	54.08	N76° 16' 36.20"W	L127	45.04	S11° 47' 23.93"W	L209	42.66	S34° 28' 08.54"W
L47A	63.79	S54° 27' 36.84"W	L128	7.32	N84° 25' 38.04"E	L210	22.60	S38° 59' 48.53"W
L48	46.37	S61° 59' 44.51"W	L129	40.73	N50° 24' 24.34"W	L211	15.90	S9° 29' 31.00"W
L49	74.20	S52° 32' 36.27"E	L130	34.16	N50° 40' 05.21"W	L212	33.79	S5° 33' 33.23"E
L50	64.35	S88° 36' 28.23"E	L131	20.72	N70° 02' 48.83"W	L213	31.31	S37° 25' 31.94"W
L51	48.23	S79° 39' 19.78"E	L132	38.72	S39° 38' 44.42"W	L214	17.11	S24° 43' 53.89"E
L52	94.01	S27° 10' 20.45"W	L133	35.31	S51° 08' 02.11"W	L215	20.66	S16° 38' 25.97"W
L53	39.40	N46° 48' 55.61"E	L134	19.80	S42° 53' 52.22"W	L216	18.04	S44° 43' 09.26"W
L54	62.33	S35° 37' 17.60"E	L135	21.33	S49° 41' 04.10"W	L217	23.88	S60° 21' 14.28"W
L55	29.55	S6° 13' 44.59"E	L136	28.91	S48° 32' 24.85"W	L218	31.63	S25° 43' 55.92"W
L56	44.83	S2° 34' 25.18"W	L137	18.67	N86° 34' 22.75"E	L219	38.13	S52° 44' 05.54"W
L57	25.42	N78° 08' 32.81"E	L138	15.26	S35° 11' 03.19"W	L220	18.12	S21° 12' 36.86"E
L58	64.86	S15° 09' 53.21"W	L139	28.24	N79° 47' 34.09"W	L221	16.95	S78° 14' 25.93"W
L59	65.25	N84° 54' 51.02"E	L140	14.59	S54° 51' 35.96"W	L222	32.72	S50° 44' 04.17"W
L60	75.21	S57° 39' 07.74"E	L141	27.23	S51° 12' 06.68"W	L223	20.45	S63° 15' 34.42"W
L61	56.23	S53° 37' 13.59"E	L142	22.36	S43° 13' 12.19"W	L224	27.55	S46° 18' 21.95"W
L62	36.65	S4° 02' 06.58"W	L143	13.38	S73° 02' 24.86"W	L225	31.76	S21° 16' 57.15"W
L63	62.93	S41° 07' 58.46"W	L144	24.06	N81° 46' 26.05"W	L226	31.85	S13° 41' 10.62"E
L64	56.30	S48° 24' 00.09"E	L145	16.33	S61° 43' 48.52"W	L227	12.67	S14° 38' 57.17"W
L65	42.92	S41° 37' 09.65"E	L146	20.50	S35° 53' 23.62"W	L228	23.86	S40° 38' 27.04"W
L66	57.46	N45° 05' 22.34"E	L147	25.90	S23° 42' 56.30"W	L229	30.77	S40° 37' 37.83"W
L67	72.25	N37° 17' 34.42"E	L148	27.76	S46° 12' 50.97"W	L230	23.00	S30° 18' 59.48"W
L68	37.69	N36° 38' 37.27"E	L149	20.22	S48° 09' 04.96"W	L231	31.69	S46° 42' 10.62"W
L69	71.01	N37° 42' 26.91"E	L150	23.47	S19° 12' 05.63"W	L232	27.16	S29° 43' 22.46"W
L70	54.72	N40° 38' 30.61"E	L151	30.59	S47° 39' 17.12"W	L188	12.84	N7° 59' 43.90"E
L71	36.55	N44° 53' 20.91"E	L152	33.93	S39° 54' 39.07"W			
L72	34.47	N32° 27' 57.72"E	L153	37.36	S21° 56' 15.19"W			
L73	27.12	N15° 27' 26.19"W	L154	24.99	S51° 56' 59.63"W			
L74	41.85	N37° 06' 22.25"W	L155	12.87	S12° 36' 54.86"W			
L75	82.51	N5° 40' 07.15"W	L156	37.13	S48° 09' 20.89"W			
L76	21.73	N25° 42' 02.26"W	L157	26.84	N86° 06' 25.06"W			
L77	69.37	N31° 30' 01.70"W	L158	41.75	S26° 15' 22.79"W			
L78	41.58	S64° 13' 01.13"W	L159	28.47	S32° 21' 46.71"W			

NOTES

- BOUNDARY INFORMATION SHOWN HEREON FROM A SURVEY ENTITLED " BOUNDARY & TOPOGRAPHIC SURVEY PREPARED BY THIS FIRM DATED 08-09-06.
- HORIZONTAL AND VERTICAL DATUM N.A.D. 83 AND N.A.V.D. 88 FROM GPS OBSERVATION.
- TOPOGRAPHY AND IMPROVEMENTS SHOWN HEREON FROM AERIAL MAPPING, PERFORMED BY ALANTIS AERIAL SURVEY CO., BUDD LAKE, NEW JERSEY, DATED MARCH, 2006.
- WETLANDS SHOWN HEREON DELINEATED BY ECOLSCIENCES, INC. AND LOCATED BY THIS FIRM.

KENNY L. KENNON, P.L.S.

PROFESSIONAL LAND SURVEYOR LICENSE NO. 37195

*Kenny L. Kennon*

DATE:

WETLANDS SURVEY

BLOCK 74.02 - LOTS 19.01 & 19.02  
BLOCK 74.03 - LOTS 5 & 10  
BOROUGH OF WATCHUNG  
SOMERSET COUNTY, NEW JERSEY

KSS KENNON SURVEYING SERVICES INC.

5 POWDER HORN DRIVE, SUITE 4  
P.O. BOX 4477  
WARREN, NEW JERSEY 07059

PHONE 732-564-1818

FAX 732-564-9999

date 06-08-18 scale 1" = 60' proj. no. 1861 sheet 1 OF 1





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0 200 400 600 800  
Feet

**Map 5 - 2015 Aerial Photograph  
Bonnie Burn Road Study Area**

Block 7402, Lots 19.01 & 19.02  
Block 7403, Lots 5 & 10  
Borough of Watchung, Somerset County, New Jersey



July 2018





**Photo 1** View taken at Study Area driveway looking north on Bonnie Burn Road.



**Photo 2** View taken at Study Area driveway looking south on Bonnie Burn Road.





**Photo 3 View taken at Study Area driveway looking east across Bonnie Burn Road at Chemical Fire Company building and parking area.**



**Photo 4 View looking west from driveway towards the abandoned house in the Study Area.**



Photo 5 View of kitchen area within abandoned house.



Photo 6 View looking north towards area surrounding the abandoned house.





**Photo 7 View looking north taken from driveway through woods and wetland area towards rear of properties along Mareu Drive.**



**Photo 8 View looking east on driveway toward Bonnie Burn Road.**





Photo 9 View looking west on Mareu Drive towards cul-de-sac.



Photo 10 View looking southwest towards Study Area taken at rear of Block 7402 , Lot 12 (property at southern end of the Mareu Drive cul-de-sac).





**Photo 11** View looking east from driveway at Block 7402, Lot 12 towards the rear of properties along Mareu Drive to the north of Study Area



**Photo 12** View looking south at 157 Oakwood Terrace East cul-de-sac.





**Photo 13** View from rear lot line of 157 Oakwood Terrace East looking west at open rear yard between property and Study Area.



**Photo 14** View from Study Area looking northwest at boundary fence at rear of 145 Oakwood Terrace East



**Photo 15 View looking east at Study Area from the rear of 157 Oakwood Terrace East.**

## HISTORIC AERIAL PHOTOS

Historic aerial photos were reviewed to assess conditions in the Study Area.<sup>9</sup> Based upon review of these historic aerials, as far back as 1930, the Study Area was undeveloped with the exception of one residential dwelling. In 1930, over half the property was wooded except for a cleared area along Bonnie Burn Road which may have been lawn associated with the residential use. The lands surrounding the Study Area were primarily woodlands. Oakwood Terrace East and Mareu Drive were not developed at this time.

By 1969, both Oakwood Terrace East and Mareu Drive had been constructed with many lots developed. The Study Area was completely wooded with the exception of the area around the residence. As compared to the 1930 aerial photo, by 1990 the Weldon Quarry had significantly expanded its quarrying operations.

By 2002, the Study Area is heavily wooded and appears similar to the 1990 aerial photos. This is also true for the conditions in 2006, 2012 and 2016, excepting the driveway to the residence is more overgrown by tree canopy which may reflect limited use or abandonment.

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<sup>9</sup> Aerial photos from NJDEP GIS data and USGS.





### Figure 1 1930 Aerial Photo



### Figure 2 1969 Aerial Photo





Figure 3 1990 Aerial Photo

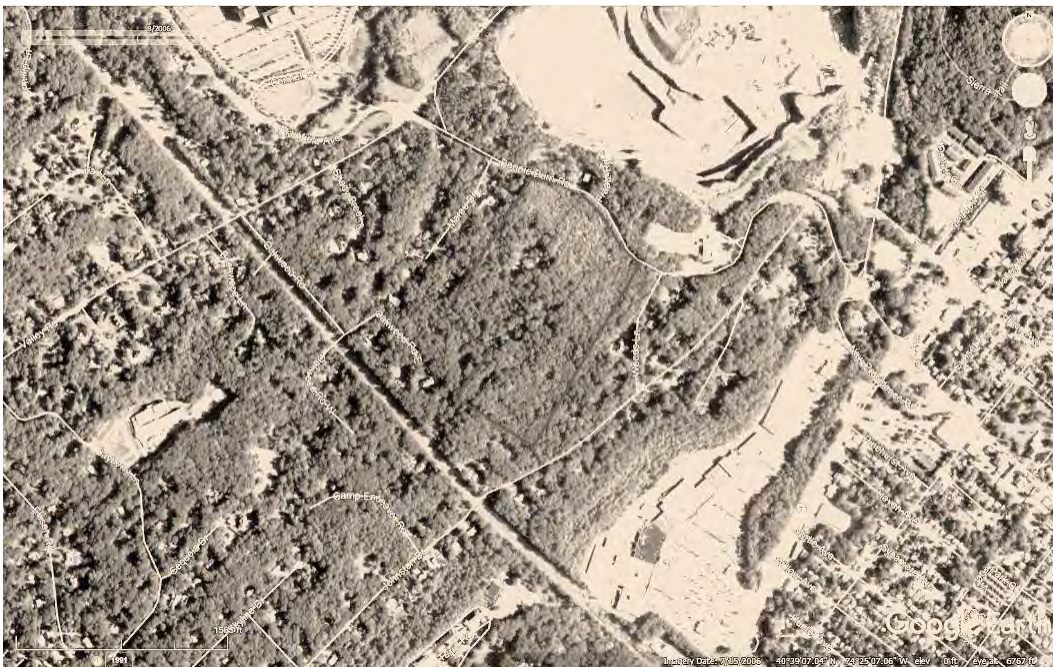


Figure 4 2002 Aerial Photo





**Figure 5 2006 Aerial Photo**



**Figure 6 2016 Aerial Photo**

## ZONING IN STUDY AREA

The Study Area is within in the R-M-L II zone district. In November 1988, Block 7403, Lot 10 was rezoned to reflect the 1988 Developers Mount Laurel Settlement Agreement provisions for the property.<sup>10</sup> The remaining three lots (Block 7402, Lots 19.01, and 19.02 and Block 7403, Lot 5) were in the R-R Rural Single-Family Residential zone; however, in November 2011 they were rezoned to R-M-L II One-Family Residential zone.<sup>11</sup> (See Map 6 - Zone Map)

The “R-M-LII” - One-Family Residential Zone District has the following zoning requirements<sup>12</sup>:

**A. Principal Uses**

1. *Detached single-family dwelling units, provided that a maximum of twenty-one (21) dwelling units may be permitted.*

**B. Accessory uses**

1. *Uses and structures customary and incidental to the principal permitted use including, but not limited to private residential garages, swimming pools, tennis courts, greenhouses, cabanas, bathhouses, or other structures incidental to a swimming pool and/or tennis courts.*
2. *Fences and walls in accordance with Section 28-502.*
3. *Signs in accordance with Section 28-504.*
4. *Professional resident home offices in accordance with Section 28-401C.*

**C. Maximum Building Height.** *No principal building shall exceed thirty-five (35) feet in height.*

**D. Area and Yard Requirements for the R-M-L II District.**

<b>Area and Yard Requirements Schedule for R-M-L II District</b>	
<b>Minimum Lot Area</b>	40,000 s.f.
<b>Minimum Lot Width</b>	150'
<b>Minimum Lot Depth</b>	200'
<b>Minimum Lot Frontage</b>	100'
<b>Minimum Front Yard Setback</b>	50'
<b>Minimum Side Yard Setback one (both)</b>	17'/34'
<b>Rear Yard Setback</b>	65'
<b>Maximum Percent Building Coverage</b>	17.5%
<b>Maximum Percent Lot Coverage</b>	25%
<b>Minimum Net Habitable Floor Area</b>	2,000 s.f.

<sup>10</sup> Borough of Watchung Ordinance No. OR:88/15, adopted November 27, 1988.

<sup>11</sup> Watchung Borough Ordinance No. OR:11/13 adopted on November 28, 2011.

<sup>12</sup> Chapter 28-413 “R-M-L-II” One-Family Residential Zone, Revised General Ordinances of the Borough of Watchung Ord. No OR:09/01 Section 28-413; Ord. No. OR:11/13 Section 2-4.

**E. General Requirements.**

1. *A conservation easement not less than thirty-five (35) feet in width along the entire perimeter of the R-M-L II zoning district, except along the southerly border of the tract, wherein the width of the conservation easement shall be thirty-five (35) feet, or the distance between the southerly border of the district and the stream which traverses the district, whichever distance is greater. Said conservation easement and permitted uses as herein described shall be part of a deed restriction to be recorded in the Somerset County Clerk's office and shall be considered as a condition of any developmental approval of the lands that are the subject matter of this zoning district. Said deed restriction and restrictive covenant shall run with the land and be enforceable by the Borough as well as the owners of property within two hundred (200) feet of said district. No construction, soil disturbance, or tree removal shall be permitted within the confines of the easements, subject to the right of the jurisdiction to set forth standards as proceeding for developmental approval to:*
  - a. *Allow for a sight easement at the intersection of Bonnie Burn Road and the access road servicing any lands to be developed;*
  - b. *Allow for the installation of a water retention and/or detention facility within that part of the conservation easement that is adjacent and parallel to Bonnie Burn Road; and*
  - c. *Allow any property owner through whose lands the conservation easement traverses to maintain the easement area and permit the removal of dead trees, always bearing in mind that the purpose of the conservation easement is to provide a natural buffer area between the development of this district and adjoining property owners. The standards and conditions set forth herein governing the development of this district shall deem to be restrictive covenants, and same shall be a condition of any developmental approval that said restrictive covenant shall be incorporated by reference in any deed of conveyance of the property, or any part thereof. Any application to the Planning Board and/or Board of Adjustment of the Borough for relief from the restrictions herein set forth must be upon notice to property owners within two hundred (200) feet of the perimeter lines of the zone district.*
2. *All residential dwellings shall be connected to and serviced by a public sewer system.*
3. *No street or cul-de-sac, right-of-way, or any part thereof shall be located less than thirty-five (35) feet from the perimeter property line of the tract except as permitted by Section 28-413E,1,a above.*
4. *All other provisions and standards required under paragraph B of the "Developers Mount Laurel Agreement" dated the 25th day of August 1988, which Developers Agreement has been recorded in the office of the Clerk of Somerset County, same having been approved by the Borough Council of the Borough of Watchung and the New Jersey Council on*



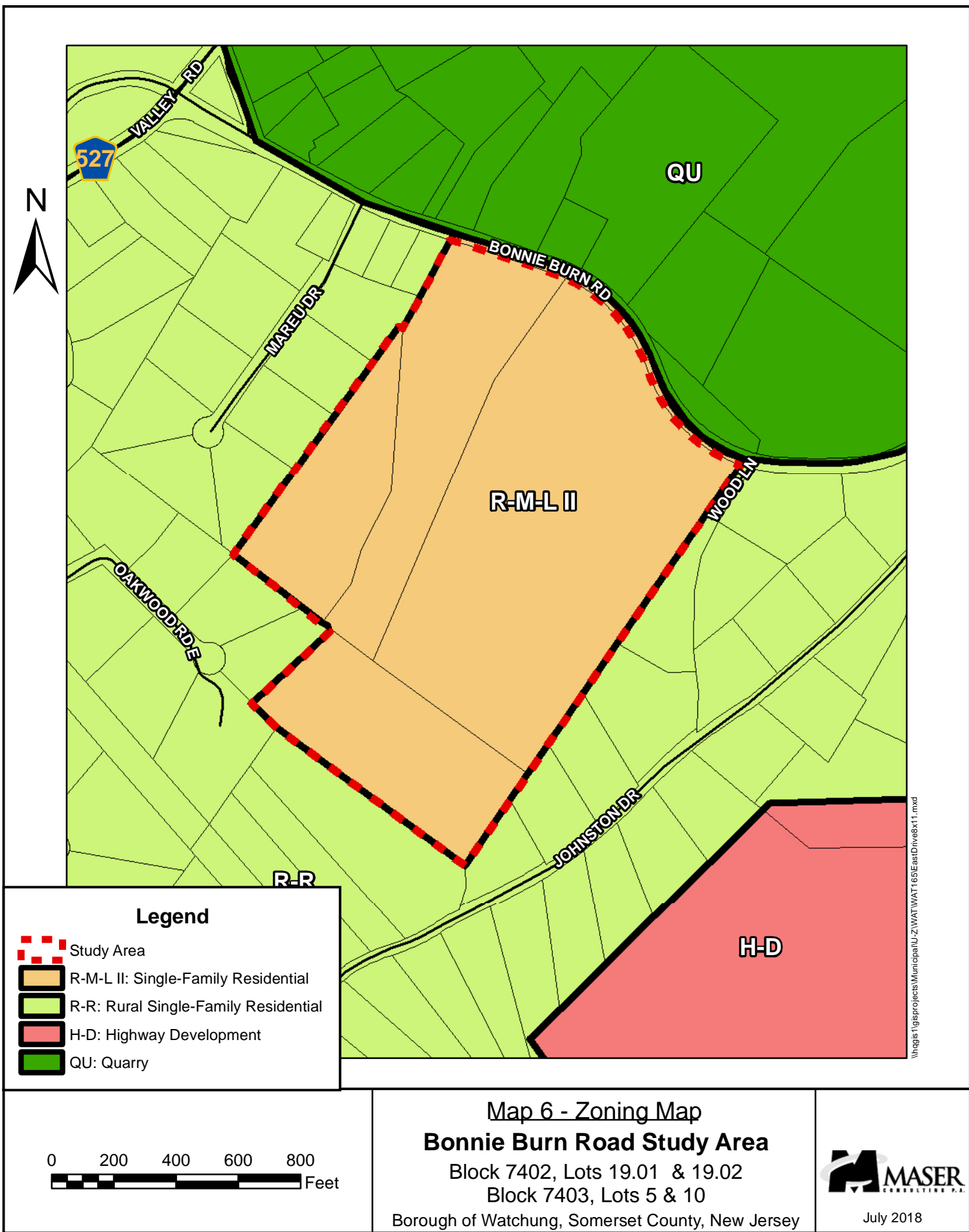
*Affordable Housing, shall be considered as additional standards and conditions of the within designated zone.*

*F. Off-Street Parking. See Section 28-503 for parking requirements.*

It should be noted that the Study Area is identified in the 2018 Watchung Settlement Agreement, which has been adopted by the Borough of Watchung and the Fair Share Housing Center and is subject to a Superior Court Fairness Hearing in August 2018.<sup>13</sup> As part of the Settlement Agreement, the Study Area is a key property used to address the Borough's affordable housing obligation. The Study Area is proposed as an inclusionary affordable housing development with rental apartments. This Preliminary Investigation of the Study Area is advanced to evaluate the appropriateness of this property as a Non-Condemnation Redevelopment Area (NCRA). Should the Study Area be identified as suitable for designation as a NCRA, a redevelopment plan would then be prepared and adopted which would establish the zoning requirements of the Study Area.

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<sup>13</sup> June 7, 2018, Borough of Watchung and Fair Share Housing Center, Agreement In the Matter of the Borough of Watchung, County of Somerset, for a Judgement of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No. SOM-L-902-15.



## 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 the 1994 Master Plan Update. In 2000, an Open Space Plan (dated May 16, 2000) was prepared. In 2002, the Watchung Village Center was certified by the New Jersey Office of Smart Growth. Subsequently, in 2003, the Borough conducted a limited Master Plan Reexamination Report focusing on the Weldon Quarry area. In 2005, a Reexamination of the Watchung Borough Master Plan and Development Regulations was adopted. This Reexamination found that most of the goals and objectives of the 1994 Master Plan Update remained relevant, however some specific amendments were recommended. In 2006, the Planning Board adopted an Open Space Plan of the Master Plan.<sup>14</sup>

In 2010 the Planning Board adopted and the Borough Council approved the 2010 Housing Element and Fair Share Plan (HEFSP). It was submitted to the Council on Affordable Housing (COAH) for substantive certification, but was not acted upon by COAH prior to COAH's demise.

The *2011 Reexamination Report* was the most recent master plan document. In relation to the Study Area, the 2011 Reexamination discussed extension of sewer into the eastern section of the Borough. It notes that:

*"The 2005 Reexamination Report indicated that extension of sewer into the eastern section of the Borough was identified as a need in the Borough's Cross Acceptance Report and that the Borough was pursuing that at the time. The Borough continues to pursue this. The Borough is pursuing extension of sewer from Berkeley Heights for the purpose of serving the **ZV Tract (i.e., land within the R-M-L-II zone along Bonnie Burn Road)**. Further, in association with the roadwork conducted along Park Avenue/Bonnie Burn Road, dry sewer lines will be placed to serve future development of the Weldon Quarry as contemplated by the Office Business/Conference Center overlay zone designation. The purpose of such sewer extensions is to serve these specific future developments, no other significant development (e.g., along Valley Road or New Providence) is anticipated or intended to occur as a result of these sewer extensions."<sup>15</sup>*

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<sup>14</sup> Reexamination of Master Plan and Development Regulations, 2011, page 2.

<sup>15</sup> Ibid, page 20.

The Planning Board is currently working on the current Master Plan Reexamination.

## SITE HISTORY

### **Block 7402, Lot 19.01**

C. Richards, et. al. owned the property since 1988. It was transferred to the R.D.C.J. Partnership in 1991. It is a vacant heavily wooded 7.9-acre lot. There is one residence on the property in dilapidated condition with the interior in total ruin. The dwelling is vacant and abandoned and the driveway into the property is blocked. (See photos of house and property).

### **Block 7402, Lot 19.02**

C. Richards, et. al. owned the property since 1988. It was transferred to the R.D.C.J. Partnership in 1991. It is a vacant heavily wooded 4.72-acre lot. It has no road frontage and access to this lot is with adjoining lot 19.01, which is under common ownership.

### **Block 7403, Lot 5**

C. Richards, et. al. owned the property since 1988. It was transferred to the R.D.C.J. Partnership in 1991. On January 3, 1996, the R.D.C.J. Partnership sold the property to KARKA Investments, Inc. (Samuel Lachs, Esq.) who still have ownership of the property. It is a heavily wooded 6.89 acres property.

This property was part of a major subdivision which involved lot line revisions to create one additional lot. Preliminary subdivision approval (PB04-R8) was granted on May 19, 2004. The terms and conditions of the Watchung Borough Planning Board Final Major Subdivision Approval granted to Sarah Tennenbaum (PB 11-R5) were noted on the Revised Final Plat for Oakwood Estates<sup>16</sup>, Block 7404, Lots 6,7, 8 and Block 7403, Lot 5, filed on March 14, 2011 as follows:

- Deed restrictions imposed to prevent development of Lot 5 until such further application as might be forthcoming seeking 60,000 square foot lots.
- All future lots to conform to the RR zone (60,000 sq. ft.)
- Access to Lot 5 shall be from the development of Lots 10 and 19.01 or as approved by Watchung Borough.

Please note that Block 7403, Lot 5 is now within the R-M-LII One-Family Residential zone under the November 2011 zone amendment, which would permit 40,000 sq. ft. lots. However, the filed deed restrictions would still limit development on this property to 60,000 sq. ft. lots and would not permit

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<sup>16</sup> Somerset County Clerk's Office, Map No. 6408,-1205.

the planned inclusionary affordable housing development of rental apartments as proposed by the Borough to meet its affordable housing obligation.

### **Block 7403, Lot 10**

Z.V. Associates has owned this property since 1986. It is 21.7 acres in area. Of the four Study Area properties, this was one of a number of other properties that were the subject of builder's remedy lawsuits against that Borough of Watchung. The Developers Mount Laurel Agreement was signed on August 25, 1988 and recorded on October 12, 1988. As part of this Developers Agreement, the R-M-L District II was to be created over this property to increase the density of the 21.7-acre site from one unit per 60,000 square feet to one unit per 40,000 square feet for a total maximum of 20 lots. In return for the increased density which totaled seven additional lots, there were specific conditions placed on the property.<sup>17</sup>

1. *A conservation easement not less than 35 feet in width, along the entire perimeter of the property being Lot 10, Block 7403, on the Watchung Tax Map except along the southerly border of the tract, wherein the width of the conservation easement shall be 35 feet, or the distance between the southerly border of the tract and the stream which traverses the property, whichever distance is greater. Said conservation easement and permitted uses as herein described shall be part of a deed restriction to be recorded in the Somerset County Clerk's office and shall be considered as a condition of any developmental approval of the lands that are the subject matter of this zone district. Said deed restriction and restrictive covenant shall run with the land and be enforceable by the Borough of Watchung as well as the owners of property within 200 feet of said Lot 10, Block 7403. No construction, soil disturbance, or tree removal shall be permitted within the confines of the conservation easement, subject to the right of the Planning Board of the Borough of Watchung to set forth standards as part of any proceeding for development approval to: (i) allow for a site easement at the intersection of Bonnie Burn Road and the access road servicing any lands to be developed; (ii) allow for the installation of a water detentions and /or detention facility within that part of the conservation easement that is adjacent and parallel to Bonnie Burn Road, and (iii) allow any property owner through whose lands the conservation easement traverses to maintain the easement area and permit the removal of dead trees and underbrush, always bearing in mind that the purpose of the conservation easement is to provide a natural buffer area between the development of this district and adjoining property owners. The standards and conditions set forth herein governing the development of this district shall deem to be restrictive covenants, and same shall be a condition of any developmental approval that said restrictive covenants shall be incorporated by reference in any deed of conveyance of the property, or any part thereof. Any application to the Planning Board and/or Board of Adjustment of the Borough of Watchung for relief from the*

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<sup>17</sup> Developers Mount Laurel Agreement, Borough of Watchung, Somerset County, New Jersey, dated August 25, 1988, recorded October 13, 1988, Book 1705.

*restrictions herein set forth must be upon notice to property owners within 200 feet of the perimeter lines of the zone district.*

2. *The subdivision must be serviced by a public sewer system.*
3. *Z.V., its successors and assigns are prohibited from: (1) seeking a rezoning or variance or other course of action seeking to increase the density on the Z.V. property in excess of 20 one-family lots as hereinabove set forth; and (2) applying for a rezoning or variance relief in the event it is unable to subdivide the property into 20 building lots by reason of the 40,000 square foot minimum lot requirement.*
4. *Z.V. may, and it is agreed, that it shall be a part of the within Agreement that it intends to enter into a land exchange with the owner of the adjacent property referred to as the Richards property.*
5. *No street or cul-de-sac, right-of-way, or any part thereof, shall be located less than 35 feet from the perimeter property line of the tract.*
6. *Permitted principal use is confined to single-family detached dwellings.*
7. *That the developer or its successors are prohibited from (1) seeking a rezoning or variance or other course of action seeking to increase the density on the property in excess of 20 one-family lots and (2) applying for a rezoning or variance relief in the event it is unable to subdivide the property into 20 building lots by reason of the 40,000 square foot minimum lot area requirement.*

As shown in the text of the Developers Mount Laurel Agreement, the deed restrictions were a condition of any development approval of the lands and shall run with the land and be enforceable.

In 1990, the Z.V. property (Block 7403, Lot 10) received minor subdivision approval for a lot line change with Block 7402, Lot 19.01 via a minor subdivision approved on June 19, 1990 and extended on January 15, 1991. This minor subdivision was specifically provided for in the Developers Agreement – Item #4. In 1995 the minor subdivision was filed.

The Z.V. property received preliminary subdivision approval on December 17, 1990 (Resolution 91/4) which proposed a yield of 18 single-family lots. This approval was conditioned upon a number of restrictions including but not limited to: compliance with the applicable COAH regulations and the requirements set forth in the 1988 Developers Mount Laurel Agreement, that no structure be constructed within 15 feet from the conservation easement and that the applicant must enter into an agreement with Berkeley Heights for sewer service to the property. Subsequently, the NJDEP delineated wetlands line reduced the development yield by at least 4 lots to a total of 14 single family lots. A revised subdivision

application was never filed for the tract. According to Kevin Page, P.E. (PEC) , “there was no sewer nearby and so the project did not go anywhere.”<sup>18</sup>

In 1995, Block 7402, Lots 19.01 and 19.02 and Block 7403, Lot 5, a combined 18.94-acre tract, was the subject of a preliminary subdivision application (PB 95-1), which approved nine single family lots on June 20, 1995. This subdivision was not finalized.

In 1997, a use variance application was filed with the Zoning Board of Adjustment for the entire Study Area. The request proposed a total of 28 lots: 20 - 40,000 sf lots and 8 - 60,000 sf lots. The Zoning Board took action and approved the use variance request at the May 1, 1997 meeting, with the approval limited to the density variance and subject to the Borough Attorney review, noting the limitation in the 1988 Developers Mount Laurel Agreement concerning variances. No record was found of a Resolution memorializing this action and no further action was taken on this proposed subdivision.

In 2006, Mr. Page (PEC) stated that he met with Sam Lachs and Rocco Paternostro to take over the project. PEC prepared an updated survey and performed a new wetlands delineation, which identified a greater wetland area than the original (wetland delineation) creating less usable property.<sup>19</sup>

Mr. Page indicated that in March 2010 when Somerset County Planning Board was revising the County Wastewater Management Plan (WWMP), PEC *“imposed upon Watchung and Somerset County to consider transferring the ZV portion over to the Berkey Heights STP”*. Page indicated that even with the support of Berkley Heights Mayor at the time, the final WWMP did not come to fruition.<sup>20</sup>

In 2010, a concept plan was submitted to the Borough to construct 250 residential units with a 50% set-aside for affordable housing within the Study Area. No action was taken on this concept plan, since the Borough had addressed its affordable housing obligation with other measures.

In 2011, the Borough Council approved Ordinance OR:11/13 expanding the existing R-M-LII One-Family Residential zone which previously encompassed only the Z.V. property (Block 7403, Lot 10) to now include Block 7402, Lots 19.01 and 19.02 and Block 7403, Lot 5 which were located within the R-R Rural Single-Family Residential zone. It also required public sanitary sewer, which was not available. No action was pursued by the developers subsequent to this rezoning.

In 2014, Mr. Page *“approached Berkeley Heights, the Borough of Watchung, Somerset County Planning Board, PARSA and the Middlesex County MUA about supporting an amendment to the WWMP and they were all supportive of our request.”*<sup>21</sup>

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<sup>18</sup> Letter of February 23, 2018 from Kevin Page, P.E., Page Mueller Engineering Consultants, P.C. to Mr. David Pantirer, Esq. regarding PEC#1433, Lachs Properties, Block 7402, Lots 19.01 & 19.02, Block 7403, Lots 5 & 10.

<sup>19</sup> Ibid. page 1.

<sup>20</sup> Ibid, page 2.

<sup>21</sup> Ibid page 2.

On January 9, 2014, the Plainfield Area Regional Sewerage Authority issued a resolution (2014-1) endorsing the transfer of Block 7403, Lot 10 to the Berkeley Heights sewer service area. The resolution noted that the transfer is supported by both the Borough of Watchung and the Township of Berkeley Heights.

On April 5, 2016, John Bussiculo, the Berkeley Heights Township Administrator addressed a letter responding to another request from Mr. Page on July 14, 2015, accepting additional sewage flow from this section of Watchung. The letter incorporated the entire Study Area but does not address extent of development proposed. Mr. Bussiculo noted that prior to the Berkeley Heights Township's acceptance, there would need to be agreement between both municipalities.<sup>22</sup>

On June 7, 2018, the Borough and the Fair Share Housing Center reached a settlement to address the Borough's affordable housing obligation. As part of the 2018 Settlement Agreement, the Study Area is the key site to address the Borough's affordable housing obligation.<sup>23</sup>

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<sup>22</sup> April 5, 2015 letter for John Bussiculo, Berkeley Heights Township Administrator to Mr. Kevin Page, Page Engineering Consultants.

<sup>23</sup> June 7, 2018, Borough of Watchung and Fair Share Housing Center, Agreement – In the Matter of the Borough of Watchung, County of Somerset, for a Judgement of Compliance of its Third Round Housing Element and Fair Share Plan, Docket No. SOM-L-902-15.



#### 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 Thursday June 28, 2018. Historic aerial photographs were also reviewed (see Figures 1 through 6). The Borough's Master Plan, Reexamination Reports, Open Space Plan, Zoning Ordinance, tax records, resolutions, deeds and other documents were also reviewed.

##### PROPERTY EVALUATION

The Study Area contains four properties totaling 41.03 acres with 28% of the property having wetlands and wetlands transition area buffer constraints. The delineated limits of the wetlands had expanded within the Study Area since the 1990's. The expanded wetlands have further constrained the land and the extent of development potential of the Study Area.

The Study Area has been vacant, with the exception of one residential building, at least since the 1930's. This one dwelling is in dilapidated condition, vacant and has been abandoned. The Study Area has not been developed, in part due to the lack of public sanitary sewers which requires an amendment to the Somerset County Wastewater Management Plan for Block 7403, Lots 5 and 10, to permit connection to the Berkeley Height sewer service area. This connection to the Berkeley Heights sewer service area has not been accomplished, in spite of documented action to move this amendment forward.

The 1988 Developers Mount Laurel Agreement set deed restrictions on Block 7403, Lot 10, which limited future development to not more than 20 lots of at least 40,000 sq. ft in area. Public sanitary sewer treatment was required for any development. The developer was also prohibited from seeking rezoning or variances to increase density. These deed restrictions were a major constraint on development of this property.

Block 7403, Lot 5 is also subject to deed restrictions limiting development of this property. The filed deed and subdivision maps require that all lots shall conform to the R-R zone (60,000 sq. ft). This will also limit the ability to use this lot in the manner specified by the June 2018 Settlement Agreement

As documented in the June 2018 Settlement Agreement between the Borough of Watchung and the Fair Share Housing Center, the Borough has designated the entire Study Area for an inclusionary affordable housing development to meet their affordable housing obligation. The title restrictions impede the ability to permit the ability to develop the Study Area in the desired manner.

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 shows that the Study Area meets three 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.

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#### CRITERION (A)

Criterion (a) is the relevant criterion concerning Block 7402, Lot 19.01 in the Study Area, which contains one dilapidated abandoned dwelling in ruins on the 7.9-acre lot parcel.

*Criterion (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.*

The June 2018 site visit and photos confirm the dilapidated condition of the dwelling on this lot. The driveway is also unusable, and the remainder of the property is vacant. It is not known when the dwelling was last inhabited; however, the Borough of Watchung Tax Assessor has confirmed the most recent property assessment record was performed in 2014. The 2014 tax card states:

*"infest w racoons interior is totally ruined. #3 3F – toilet/sink ripped out plumbing iron tub was removed. Should be torn down – worthless; kitchen ruined."*

The Block 7402, Lot 19.01 meets Criterion (a) permitting designation as an Area in Need of Non-Condemnation Redevelopment.

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#### CRITERION (C)

Criterion (c) is the relevant criterion concerning three of the four lots in the Study Area, which is unimproved land owned by a private entity that has been vacant at least 10 years and is unlikely to develop as planned through private capital.

**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 vacant, with the exception of one residential building on Block 7402, Lot 19.01, at least since 1930 as documented by the historic aerial photos, but likely for a longer period of time. These three vacant lots total 78% of the Study Area. The land has not been developed, although there have been multiple failed attempts since 1988. This failure is due to a number of problems, including but not limited to, the location of the Study Area and the nature of the soil.

The Study Area is located at the boundary of the Middlesex County Utility Authority and the Berkeley Heights Wastewater Treatment Plant (WTP). This location has affected the ability of the Study Area to be sewerred. The lack of public sanitary sewers requires an amendment to the Somerset County Wastewater Management Plan to designate Block 7403, Lots 5 and 10 within the Berkeley Heights WTP service area and to permit connection of Block 7402, Lots 19.01 and 19.02 to the Berkeley Heights WTP. This connection to the Berkeley Heights WTP has not been accomplished in spite of documented action to move the Somerset County Wastewater Management Plan amendment forward.

The Study Area also has development constraints due to its soils, which has affected its development potential. The Study Area consists of four properties totaling 41.03 acres with 28% of the property having wetlands and wetlands transition area buffer constraints. The June 5, 2018 NJDEP Letter of Interpretation (LOI) shows an expanded wetlands limits and State Open Waters within the Study Area, compared to the earlier LOI. Consequently, there is reduced developable land to accommodate development. This was documented in the letter from Mr. Kevin G. Page, PE who states that “In 2006, .... He prepared an updated survey and in addition, since the wetlands delineation expired, we performed a new wetland delineation. The new wetland delineation unfortunately, was greater than the original one creating less useable property.”<sup>24</sup>

A majority of the Study Area has been vacant for over ten years, with location constraints which affect its ability for sanitary sewer service connections to initiate development and with soil constraints due to the significant area of delineated wetlands. These conditions have made development so difficult and costly that private capital alone cannot fund development, thus necessitating the need of redevelopment. This appropriate designation as a non-condemnation redevelopment area will enable a Payment in Lieu of Taxes (PILOT) or other financial assistance subject to the Borough Council’s review to facilitate developing the property for its planned use as an inclusionary affordable housing development. The Study Area meets Criterion (c) permitting designation as an Area in Need of Non-Condensation Redevelopment.

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#### CRITERION (E)

**Criterion (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.*

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<sup>24</sup> February 23, 2018, Letter from Kevin G. Page, P.E. to Mr. David Pantirer, ESQ, regarding PEC#1433, Lachs Property.

Two of the four lots within the Study Area meet Criterion (e) which is caused by the deed restrictions that have hindered and encumbered development on the Study Area. These two lots encompass 28.59 acres or 70% of the Study Area.

Block 7403, Lot 10 which was part of the 1988 Developers Mount Laurel Agreement contains certain deed restrictions that will impede the proposed inclusionary affordable housing development from being constructed. These restrictions include but are not limited to a minimum lot size of 40,000 sq. ft., a required connection to public sewer and a prohibition against rezoning.

Block 7403, Lot 5 is constrained for development by the 2011 filed subdivision map which established a number of development restrictions, which limited access only through Block 7403, Lot 10, required a minimum 60,000 sq. ft. lot area and required a connection to public sewer. These deed restrictions will block the proposed inclusionary affordable housing development from being constructed within on this property.

In summary, Criterion (e) is met since the deed restrictions severely limit the ability to develop Block 7403, Lots 5 and 10 as an inclusionary affordable housing development with rental apartments. The deed restrictions are detrimental to the public welfare of the community, since they obstruct the effective and productive development of the Study Area. The property, in accordance with the 2018 Settlement Agreement would serve the public good and welfare by providing affordable housing to meet the Borough's obligation.

#### COMPLIANCE WITH STATUTORY CRITERIA AS AN AREA IN NEED OF REDEVELOPMENT

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. 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.

**Based on the above documentation, the Study Area meets three of the criteria:** Criteria (a), (c ) and ( e). Criterion (a) applies to Block 7402, Lot 19.01. Criterion (c ) applies to Block 7402, Lot 19.02 and Block 7403, Lots 5 and 10. Criterion (e) applies to Block 7403, Lots 5 and 10. **Satisfaction of any one of the aforementioned criteria individually would suffice to support a Non-Condemnation Area in Need of Redevelopment designation of the applicable parcels.**

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

**RESOLUTION AUTHORIZING AND DIRECTING THE PLANNING BOARD OF THE BOROUGH OF WATCHUNG TO UNDERTAKE A PRELIMINARY INVESTIGATION OF BLOCK 7402, LOTS 19.01 AND 19.02 AND BLOCK 7403, LOTS 5 AND 10 PURSUANT TO THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.S.A. 40A:12A-1, ET SEQ.) FOR CLASSIFICATION AS AN "AREA IN NEED OF NON-CONDEMNATION REDEVELOPMENT" AND DIRECTING THE BOROUGH AFFORDABLE HOUSING PLANNERS TO PREPARE A STUDY INVESTIGATING WHETHER BLOCK 7402, LOTS 19.01 AND 19.02 AND BLOCK 7403, LOTS 5 AND 10 CONSTITUTE AN "AREA IN NEED OF NON-CONDEMNATION REDEVELOPMENT."**

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq. (the "Redevelopment Law"), the Borough Council (the "Borough Council") of the Borough of Watchung (the "Borough") may direct the Planning Board (the "Planning Board") of the Borough to conduct a preliminary investigation and public hearing to determine whether certain areas of the Borough constitute areas in need of redevelopment; and

WHEREAS, the "Borough Council" seeks to have the "Planning Board" undertake a preliminary investigation of the Block 7402, Lots 19.01 and 19.02, and Block 7403, Lots 5 and 10 (collectively, the "Study Area"); and

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-6, the "Borough Council" shall state whether the redevelopment area shall be a "non-condemnation redevelopment area", which is defined as a redevelopment area that shall not use the power of eminent domain authorized by the "Redevelopment Law", or whether the redevelopment area shall be a "condemnation redevelopment area", which is defined as a redevelopment area that may use the power of eminent domain authorized by the "Redevelopment Law;" and

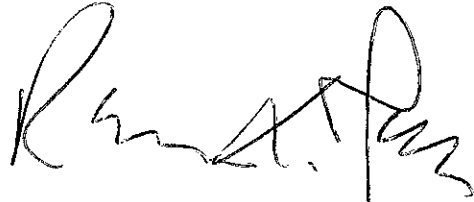
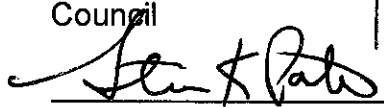
WHEREAS, upon the completion of the preliminary investigation and public hearing, the "Planning Board" shall provide recommendations to the "Borough Council" as to its investigation of the "Study Area," all in accordance with N.J.S.A. 40A:12A-6.

**NOW THEREFORE, BE IT RESOLVED BY THE "BOROUGH COUNCIL" OF THE BOROUGH OF WATCHUNG:**

1. The "Planning Board" is hereby authorized and directed to conduct a preliminary investigation pursuant to the "Redevelopment Law," specifically N.J.S.A. 40A:12A-6, to determine whether the "Study Area" satisfies the criteria set forth in N.J.S.A. 40A:12A-6, and should be designated as an area in need of redevelopment.
2. Any redevelopment area created pursuant to this authorization shall be a "non-condemnation" redevelopment area pursuant to N.J.S.A. 40A:12A-6.
3. The Borough Affordable Housing Planners are hereby authorized and directed to assist the "Planning Board" in its preliminary investigation of the "Study Area" and to prepare a study investigating whether the "Study Area" constitutes an "area in need of redevelopment" under the "Redevelopment Law."

4. As part of its investigation, the "Planning Board" shall prepare a map showing the boundaries of the "Study Area" and the location of the various parcels contained therein. There shall be a statement appended to the map setting forth the basis for the investigation.
5. The "Planning Board" shall conduct a public hearing, after giving due notice of the proposed boundaries of the "Study Area" and the date of the hearing to any persons who are interested in or would be affected by a determination that the area delineated in the notice is a redevelopment area in accordance with the requirements of N.J.S.A. 40A:12A-6.
6. At the hearing, the "Planning Board" shall hear from all persons who are interested in or would be affected by a determination that the "Study Area" is a redevelopment area. All objections to a determination that the "Study Area" is an area in need of redevelopment and evidence in support of those objections shall be received and considered by the "Planning Board" and made part of the public record.
7. After conducting its investigation, preparing a map of the "Study Area," conducting a public hearing at which all objections to the designation are received and considered, the "Planning Board" shall make a recommendation to the "Borough Council" as to whether the "Borough Council" should designate all or a portion of the "Study Area" as an area in need of redevelopment pursuant to the "Redevelopment Law."
8. The Borough Administrator, Clerk, Affordable Housing Planners and Attorney are each hereby authorized and directed to take any necessary and appropriate actions in connection with the preliminary investigation of the "Study Area," and are hereby authorized and directed to take such actions, including but not limited to, the negotiation of any and all documents necessary to undertake the investigation as being hereby ratified and confirmed.
9. This Resolution takes effect immediately upon adoption.

Date: June 7, 2018  
Index: Pl. Board  
C: Pl. Board 6/7/18

  
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Council  
  
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Stephen K. Pote, Mayor