

WEST MAIN STREET

AREA IN NEED OF REDEVELOPMENT STUDY

Non-Eminent Domain

Block 1, Lots 24, 24.01, 26, 31, 33 and 34.01 in Their Entirety and Portions of Lot 6, 8, 10 and 15

Borough of Bound Brook
Somerset County, New Jersey



Prepared for the Borough of Bound Brook in accordance with the New Jersey Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.)

The original of this report was signed and sealed on December 17, 2018 in accordance with Chapter 41 of Title 13 of the New Jersey State Board of Professional Planners.

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1. INTRODUCTION, BACKGROUND AND DEFINITION OF THE STUDY AREA

By Resolution 2018-148 (see Appendix A), adopted 8/14/2018, the Borough of Bound Brook authorized and directed the Bound Brook Planning Board to examine whether certain properties in Block 1 should be determined to be a non-condemnation area in need of redevelopment pursuant to N.J.S.A. 40A:12A-1 et seq.

Specifically, the properties identified in Resolution 2018-148 comprise the entirety of lots 24, 24.01, 26, 31, 33 and 34.01 in Block 1, as well as portions of lots 6, 8, 10 and 15, also in Block 1. (See Figure 1: Aerial Photo of Proposed Area in Need of Redevelopment.)

The purpose of the present study is to provide the Bound Brook Planning Board with substantive information that will allow it to satisfy the request from Borough Council and issue a formal determination as to whether the aforementioned properties (hereinafter referred to as the “Study Area”) meet the statutory requirements for designation as an “area in need of redevelopment – non-condemnation.”

The Study Area comprises the rear of the South side of the West Main Street neighborhood -- a small, one-block long area that constitutes the only residential

neighborhood on the south side of the railroad tracks. It is isolated from the rest of town and can be reached only by way of two rail-at-grade crossings at La Monte Avenue and Vosseller Avenue.

The Study Area, which abuts a freight railroad right-of-way immediately to the south, encompasses an area of approximately 29.38 acres.

Single-family, two-family, three- and four-family residential uses (not included in the Study Area) occupy both sides of West Main Street, with lots ranging from 4,000 to 15,000 square feet. The Borough’s Rock Machine Park, which is included in the Study Area, has access from West Main Street and is located behind the small residential neighborhood.

Immediately to the east of the Study Area lies Brook Industrial Park, a 4.5-acre former Superfund site, designated by the Borough as Redevelopment Sub-Area 1.2. Chemical spills and groundwater contamination from dioxin caused the site to be placed on the US Environmental Protection Agency’s National Priority List in 1989. The site has since been remediated, but is subject to on-going monitoring. It continues to be used for various industrial activities.

1. INTRODUCTION, BACKGROUND AND DEFINITION OF THE STUDY AREA

Immediately to the west of Brook Industrial Park, and included in the Study Area, is another industrial facility owned by R. Pellicane Properties, Inc.

Brook Industrial Park and R. Pellicane Properties are the only two active industrial properties in the Borough.

All low lying areas in the Borough of Bound Brook, including both the Study Area and the historic downtown, have been subject to repeated, severe flooding events over the years. The entire southern part of the Borough was located within the floodplains of the Raritan River and its tributaries, the Middle Brook and the Bound Brook, that comprise the western and eastern boundaries of the Borough.

Following the catastrophic flooding event caused by Hurricane Floyd in November of 1999 -- when flood waters reached a 42-foot elevation -- and pursuant to a duly adopted Preliminary Investigation, the Borough designated extensive areas located in the southern part of town as “areas in need of redevelopment.”

The present Study Area was included in Redevelopment Area 1.

Redevelopment Plans for Areas 1 and 2 were adopted in 2000, substantially changing the planning and regulatory framework in those areas. The Redevelopment Plan for Area 1 allowed five stories, and potentially taller buildings.

Both plans were substantially amended in 2008, and the area subject to the plans was radically reduced the size. In particular, the present Study Area was withdrawn from Redevelopment Area 1. The Redevelopment Plan adopted in 2009 provides no explanation for this action.

The Redevelopment Plan for Area 1 was partially amended in 2012, without changes to its more limited boundaries; additional, targeted amendments have been adopted for both redevelopment areas since then, and a new Sub-Area 1.5, located on East Union Avenue, was added in 2015.

The US Army Corps of Engineers was able to address the aforementioned flooding conditions through the *Green Brook Flood Control Project*, designed to provide protection from a 150-year flood event. Flood control protection is now in place on either side of the downtown, with a system of levees, flood walls, flood gates, pumping stations

1. INTRODUCTION, BACKGROUND AND DEFINITION OF THE STUDY AREA

and designated “over topping” areas. In July of 2016, most privately-owned occupied properties in the Borough’s low lying areas were removed from the floodplain and are no longer subject to flood proofing and flood insurance requirements. Those properties are now classified by the Federal Emergency Management Agency (FEMA) as “Zone X - Reduced Risk of Flooding Due to the Levee.”

However, the levees constructed as part of the *Green Brook Flood Control Project* did not mitigate the flood prone conditions in much of the southern part of the Study Area, and areas closer to the river remain unprotected and continue to flood during severe storm conditions.

The rear portions of the larger lots (lots 6, 8, 10 and 15) continued to be classified by FEMA as “Zone AE - 100-Year Floodplain” due to the potential for ponding inside the levees.

In preparation for this study, the following documents were reviewed:

- Official tax maps of Bound Brook;
- Tax records for the parcels in the Study Area;
- Aerial photographs of the Study Area;
- US Army Corps of Engineers Flood Hazard Maps;
- Street level photographs of the properties in the Study Area;
- 2017 Master Plan Reexamination Report;
- Borough of Bound Brook Land Development Ordinance;
- New Jersey State Development and Redevelopment Plan, 2001;
- Somerset County Investment Framework, 2014;
- New Jersey Opportunity Act of 2013; and
- Redevelopment Plan for Area 1.

The Study Area properties were visually inspected and photographed in November of 2018. Those site photographs can be found in the Section 3 of this report.

2. STATUTORY AUTHORITY AND PROCEDURAL REQUIREMENTS

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

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with 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

2. STATUTORY AUTHORITY AND PROCEDURAL REQUIREMENTS

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 areas has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the New Jersey Urban Enterprise Zones Act, P.L. 1983, c. 303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to 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.

2. STATUTORY AUTHORITY AND PROCEDURAL REQUIREMENTS

The law also provides that individual properties that do not meet any of the statutory conditions may still be included within an area in need of redevelopment provided that within the area as a whole, one or more of the expressed conditions are prevalent. This provision is referred to as “Section 3” and is set forth in NJSA 40A:12A-3, which states in part that:

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

3. DESCRIPTION OF PROPERTIES

As previously mentioned, the Study Area includes 10 properties -- six in their entirety, and portions of another four.

Table 1 provides information on size (in acres) and ownership for the 10 properties. For those properties with just a portion in the Study Area, the portion not in the Study Area was deducted from the parcel's total area.

Half of the properties in the Study Area are in public ownership. They add up to 11.24 acres, or 38% of the Study Area. The remaining properties are in private ownership. They add up to 18.16 acres, or 62% of the Study Area.

Table 2 provides property classification, and assessed values for land, improvements and land plus improvements from the Borough tax assessor's records for 2017.

The five publicly-owned properties are classified as 15C or 15F and are tax exempt. There are no improvements -- other than recreational or flood control-related -- on those properties. Four of the five privately-owned properties are classified as 2 (single-family residential). However, the single-family structures are not included in the Study Area. Finally, the remaining property (R. Pellicane Properties) is classified as 4A -- commercial.

TABLE 1: OWNERSHIP OF STUDY AREA PROPERTIES

Block	Lot	Area (acres)	Owner of Record	Owner Address
1	24	4.35	Borough of Bound Brook	230 Hamilton Ave, Bound Brook, NJ
1	24.01	4.5	US Army Corps of Engineers	PO Box 1715, Baltimore, MD
1	26	0.32	US Army Corps of Engineers	PO Box 1715, Baltimore, MD
1	31	1.4	Borough of Bound Brook	230 Hamilton Ave, Bound Brook, NJ
1	33	1.19	R. Pellicane Properties, Inc.	110 W Main St, Bound Brook, NJ
1	34.01	0.67	Middlesex Sewerage Authority	PO Box 461, Sayreville, NJ
1	6 (portion of)	6.4	12-18 Church Street, LLC	110 W Main St, Bound Brook, NJ
1	8 (portion of)	2.93	Whitman, D and Harabian, J	282 W Main St, Bound Brook, NJ
1	10 (portion of)	4.0	Soares, Liliana D.	272 W Main St, Bound Brook, NJ
1	15 (portion of)	3.64	McEwen, Carmen and Cameron	338 W Main St, Bound Brook, NJ

3. DESCRIPTION OF PROPERTIES

Blocks 6, 8, 10 and 12 are encumbered by perpetual easements purchased by the US Army Corps of Engineers for the purpose of building the flood protection levee. The documentation pertaining to those easements is provided in Appendix B.

Rock Machine Park is encumbered with a deed restriction associated with a freshwater wetlands transition area. The documentation is found in Appendix C.

As previously mentioned, R. Pellicane Properties is the only parcel in the Study Area with buildings of any kind. The Borough's

tax records indicate that there are three rectangular buildings on the property, placed perpendicular to West Main Street, along with four 20,000-gallon storage tanks. Building A has a footprint of 144 feet by 36 feet and totals 5,184 square feet. Building B has a footprint of 36 feet by 58 feet and totals 2,088 square feet. Building C has a footprint 36 feet by 72 feet and totals 2,592 square feet. Combined, the three buildings contain 9,864 square feet. The building height is 16 feet. The tax assessor's files indicate that the property is used as a storage warehouse.

TABLE 2: 2017 ASSESSED VALUES OF STUDY AREA PROPERTIES

Block	Lot	Property Classification	2017 Assessed Value		
			Land	Improvements	Total
1	24	15C	\$43,500	NA	\$43,500
1	24.01	15F	\$90,000	NA	\$90,000
1	26	15F	\$18,900	NA	\$18,900
1	31	15C	\$14,000	NA	\$14,000
1	33	4A	\$199,000	\$501,000	\$700,000
1	34.01	15F	\$144,000	NA	\$144,000
1	6 (portion of)	2	\$60,500	\$121,000	\$181,600
1	8 (portion of)	2	\$56,600	\$116,000	\$172,700
1	10 (portion of)	2	\$58,200	\$153,400	\$211,600
1	15 (portion of)	2	\$58,000	\$134,400	\$192,400

3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



BLOCK 1, LOT 6 (portion of)

Address 294-296 West Main Street
Acreage 6.52
Acreage in Redev Area 6.4
Use Wooded area
Condition NA



BLOCK 1, LOT 8 (portion of)

Address 282 West Main Street
Acreage 3.08
Acreage in Redev Area 2.93
Use Grassy and wooded area
Condition NA

3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



BLOCK 1, LOT 10 (portion of)

Address 272 West Main Street
Acreage 4.22
Acreage in Redev Area 4.0
Use Grassy and wooded area
Condition NA



BLOCK 1, LOT 15 (portion of)

Address 250 West Main Street
Acreage 4.04
Acreage in Redev Area 3.64
Use Wooded area
Condition NA

3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



BLOCK 1, LOT 24

Address 208 West Main Street
Acreage 4.35
Acreage in Redev Area 4.35
Use Recreational sports fields
Condition Fair



BLOCK 1, LOT 24.01

Address West Main Street
Acreage 4.5 acres
Acreage in Redev Area 4.5 acres
Use Drainage infrastructure and wooded area
Condition NA

3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



BLOCK 1, LOT 26

Address West Main Street
Acreage 0.32 acres
Acreage in Redev Area 0.32 acres
Use Drainage infrastructure
Condition NA



BLOCK 1, LOT 31

Address West Main Street
Acreage 1.4 acres
Acreage in Redev Area 1.4 acres
Use Drainage infrastructure and wooded area
Condition NA

3. DETAILED DESCRIPTION OF PROPERTIES IN STUDY AREA



BLOCK 1, LOT 33

Address West Main Street
Acreage 1.19 acres
Acreage in Redev Area 1.19 acres
Use Commercial
Condition Fair



BLOCK 1, LOT 34.01

Address Behind Block 1, Lot 33
Acreage 0.67 acres
Acreage in Redev Area 0.67 acres
Use Wooded area
Condition NA

4.

THE REGIONAL PLANNING FRAMEWORK

The Borough has been an active participant for many years in the State of New Jersey's smart growth planning efforts, having received Center Designation (jointly with South Bound Brook) from the New Jersey State Planning Commission in 2000. Center Designation was intended to attract State resources to the downtown area and, in turn, attract private investment.

The Borough's more recent planning initiatives continue to be aligned with current state and county strategic planning frameworks, and indeed include, by reference, the goals, objectives and strategies outlined in those documents.

In 2003, the Borough successfully petitioned the NJ Department of Transportation and NJ Transit to be recognized with *Transit Village* designation. The *Transit Village* program recognizes communities that have adopted planning and zoning frameworks that support and further encourage transit ridership. Designated *Transit Village* communities are intended to have priority access to state funding and technical assistance for projects within the designated *Transit Village* areas.

New Jersey's *Transit Village* program loosely defines a passenger rail-oriented transit village as the area encompassed within the 1/2 mile area around the train station. In the case of Bound Brook, this 1/2 mile radius encompasses the entire downtown area and the area north of the downtown, all the way up to the Union Avenue / NJ Route 28 corridor. It also encompasses the largely undeveloped area south of the tracks, all the way down to the Raritan River -- an area that is both flood prone and encumbered by both passenger and freight railroad right-of-ways.

In February of 2012, the Planning Board adopted the *Downtown Urban Design Plan* as an element of the Master Plan. This plan provides a detailed development framework for the entire downtown area, extending to the riverfront.

In August of 2014, the Borough adopted extensive amendments to the *Land Development Regulations* for the Business Residential (B-R) district, which encompasses all of the downtown, in an effort to facilitate implementation of certain elements of the downtown plan.

4.

THE REGIONAL PLANNING FRAMEWORK

In 2015, the Planning Board adopted a *Riverfront Access Plan* as an element of the Borough's Master Plan. This plan element provides a blueprint for enhancing public access to the Raritan riverfront and for improving pedestrian and bicycle connections along the riverfront, as well as between the downtown and the riverfront.

Finally, in June of 2017, the Planning Board adopted an updated *Master Plan Reexamination Report*. Unlike most reexamination reports, which are very cursory documents, the 2017 report contains extensive background information and analysis of the changing conditions in the Borough. An urgent recommendation of the 2017 *Reexamination Report* is to update the Land Use Plan element of the Borough's Master Plan to reflect those changes. In order to do so, it was also necessary to update the Goals and Objectives statement of the Master Plan. A new statement of Goals and Objectives was adopted by the Planning Board in May of 2018. A draft new Land Use Plan element of the Master Plan has been completed and is pending.

5.

THE MUNICIPAL PLANNING AND ZONING FRAMEWORK

The properties in the Study Area are all zoned Industrial I-P, a designation that permits a variety of industrial / manufacturing-type uses. However, given the location and environmental features on these properties, an industrial land use is not appropriate.

The area's flooding constraints, its proximity to residential properties and an existing municipal recreation facility, as well as the limited vehicular or railroad access to West Main Street, makes it unlikely that the area could or would be developed for industrial uses. The I-P zoning is therefore not appropriate. The *2017 Master Plan Reexamination Report* recognizes this and recommends rezoning these properties to Open Space / Civic (OS-C).

An Ordinance that would effectuate that recommendation was introduced earlier this year. The Planning Board has found it to be “not inconsistent” with the Master Plan. It is anticipated that this ordinance will be adopted on second reading before the end of the year.

6. APPLICATION OF STATUTORY CRITERIA TO THE STUDY AREA

This section draws on the substantive findings of the previous sections to determine whether the Study Area meets one or more of the statutory criteria for “area in need of redevelopment” designation. For greater convenience, we repeat here the statutory language for the applicable criteria. Criteria not mentioned are not considered relevant or applicable to this designation. Table 3 summarizes the applicability of each criterion to each of the properties in the Study Area.

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 contains two parcels owned by the Borough (lots 24 and 31), two parcels owned by the US Army Corps of Engineers (lots 24.01 and 26) and one property (lot 34.01) owned by the Middlesex County Sewerage Authority.

All parcels in the Study Area, with the notable exception of lot 33 (R. Pellicane Properties) -- and possibly the lots owned by the Middlesex County Sewerage Authority and the US Army Corps of Engineers, which contain flood control and sewer-related infrastructure -- qualify as “unimproved vacant land.” The portions of lots 6, 8, 10 and 15 that are improved with existing single-family dwellings, are not included in the Study Area.

All of the parcels in the Study Area, or portions of parcels, again with the exception of lot 33, can be considered unlikely to be “developed through the instrumentality of private capital,” not just as a result of their “location” or “remoteness” but also because of their continued exposure to serious flooding events.

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 property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.

With the exception of lot 33, we believe all other properties in the Study Area satisfy this criterion.

6. APPLICATION OF STATUTORY CRITERIA TO THE STUDY AREA

While there does not appear to be an issue with the “condition of the title” or “diverse ownership” of the subject properties, we believe that there are “other conditions” resulting in a “stagnant or not fully productive condition of land potentially useful and valuable.” The vast majority of properties in the Study Area may not be developable in conventional ways, as a result of the environmental considerations primarily associated with the flooding, but that does not mean they cannot be put to other, more productive uses, such as active and passive recreational uses, enhanced habitat restoration, multi-purpose trails, outdoor sculpture exhibits and other comparable uses. We therefore conclude that those properties are not fully productive and therefore satisfy this criterion.

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

As documented in Section 4 of this report, the Study Area -- along with the rest of the Borough -- has been repeatedly and in various ways recognized by the appropriate county and state entities as a “smart growth location.”

In point of fact, all of Bound Brook qualifies as a “smart growth area” under the NJ Department of State: Office of Planning Advocacy’s definition under two separate criteria: it is located in the Metropolitan Planning Area (PA1) and it is part of a Designated Center.

This status is codified in the State Planning Rules (NJAC 5-85) and is reflected in the status of the area under both the *NJ Site Evaluator* and the *State’s Smart Growth Areas Map*.

Smart Growth Areas are recognized by a number of New Jersey State Agencies -- such as the Board of Public Utilities, the NJ Economic Development Authority, the NJ Housing Mortgage Finance Agency, the Department of Community Affairs, the Department of Transportation, and the Treasury -- in terms of both administrative regulations and funding programs.

While the terminology is slightly different, Bound Brook in general, including the Study Area, also qualify as “consistent with smart growth planning principles” under the Somerset County Strategic Plan.

6. APPLICATION OF STATUTORY CRITERIA TO THE STUDY AREA

As such, we conclude that the Study Area qualifies as an “area in need of redevelopment” under criterion (h) of the statute, as it is “consistent with smart growth planning principles” at both the local, county and state levels.

Section 3: “a redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to public health, safety or welfare, but the inclusion of which is found necessary, with or without change in this condition, for the effective redevelopment of the area of which they are a part.”

This provision applies to lot 33, which does not appear to satisfy the other criteria. Lot 33 is arguably the only property in the Study Area that can be developed with conventional land uses. It is immediately adjacent to Redevelopment Area 1.2, for which there is an adopted Redevelopment Plan that calls for extensive site remediation and redevelopment.

TABLE 3: APPLICABILITY OF AREA IN NEED OF REDEVELOPMENT CRITERIA TO STUDY AREA PARCELS

Block	Lot	Applicability of Area in Need of Redevelopment Criterion								Subsection 3
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	
1	24	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	24.01	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	26	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	31	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	33	NA	NA	NA	NA	NA	NA	NA	✓	✓
1	34.01	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	6 (portion of)	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	8 (portion of)	NA	NA	✓	NA	✓	NA	NA	✓	NA
1	10 (portion of)	NA	NA	✓	NA	✓	NA	NA	✓	NA

6. APPLICATION OF STATUTORY CRITERIA TO THE STUDY AREA

Lot 33 can provide an extension to the land-constrained Redevelopment Area 1.2, increasing the likelihood that this area will be effectively redeveloped. Redevelopment of this parcel with more intense, non-industrial uses will also improve the area's overall visual appeal, provide the Borough with additional ratables, and potentially contribute to important infrastructure improvements to mitigate the area's difficult access and open exposure to active freight rail lines.

As such, we conclude that lot 33 qualifies as an "area in need of redevelopment" under Section 3 of the statute.

APPENDIX A: BOROUGH OF BOUND BROOK RESOLUTION 2018-148

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF BOUND BROOK AUTHORIZING AND DIRECTING THE PLANNING BOARD OF THE BOROUGH OF BOUND BROOK TO EXAMINE WHETHER CERTAIN PROPERTY, IN PARTICULAR, BLOCK 1, THE ENTIRETY OF LOTS 24, 24.01, 26, 31,33 & 34.01 AND BLOCK 1, PORTIONS OF LOTS 6, 8, 10 & 15, LOCATED IN THE BOROUGH OF BOUND BROOK, NEW JERSEY, SHOULD BE DETERMINED TO BE A NON-CONDEMNATION AREA IN NEED OF REDEVELOPMENT PURSUANT TO N.J.S.A. 40A:12A-1 ET SEQ.

WHEREAS, the Borough has identified certain property identified as Block 1, the entirety of Lots 24, 24.01, 26, 31,33 & 34.01 and Block 1, portions of Lots 6, 8, 10 & 15 generally located north of the rail lines and south of West Main Street, as delineated on the tax map attached hereto and made part of this resolution, to investigated for designation as an area "in need of redevelopment", pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, before an area may be declared in need of redevelopment, it is legally necessary for the adoption of a resolution authorizing the Planning Board of the Borough to undertake a preliminary investigation to determine whether the proposed area/property meets the criteria for designation as a redevelopment area pursuant to N.J.S.A. 40A:12A-5; and

WHEREAS, the Borough desires that the Borough Planning Board undertake an examination as to whether the property identified as Block 1, the entirety of Lots 24, 24.01, 26, 31,33 & 34.01 and Block 1, portions of Lots 6, 8, 10 & 15 generally located north of the rail lines and south of West Main Street, may be deemed "an area in need of redevelopment".

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

WHEREAS, the notice of any hearing to be conducted by the Planning Board with regards to this Resolution shall specifically state that a Non-Condemnation Redevelopment Area determination shall not authorize the municipality to

exercise the power of eminent domain to acquire the Property; and

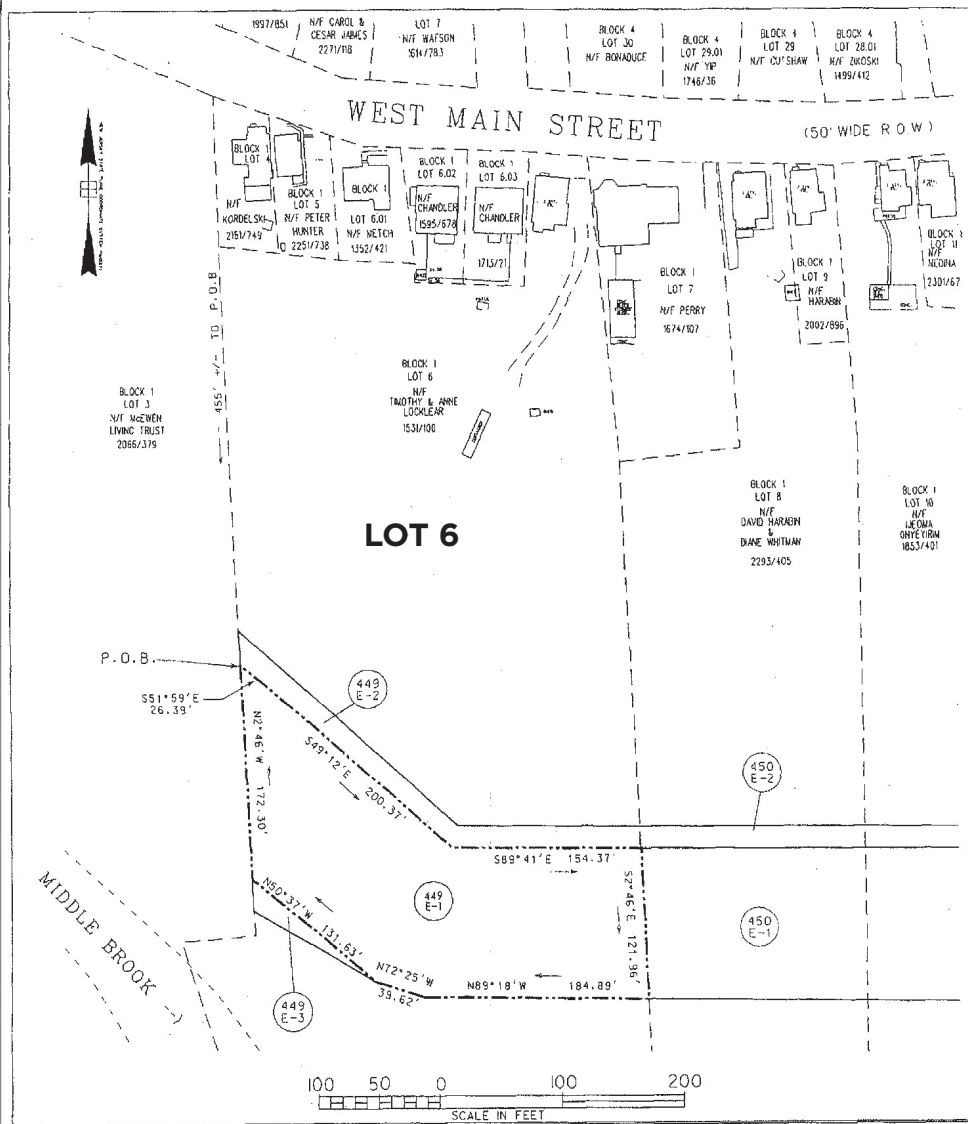
WHEREAS, the Borough directs the Borough Planner, Carlos Rodriques, PP/FAICP, Design Solutions for a Crowded Planet, LLC to undertake the preliminary investigation for the Planning Board.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Borough Council that the Borough Planning Board is hereby directed and authorized to examine whether the property identified as Block 1, the entirety of Lots 24, 24.01, 26, 31,33 & 34.01 and Block 1, portions of Lots 6, 8, 10 & 15 generally located north of the rail lines and south of West Main Street, as delineated on the tax map attached hereto and made part of this resolution, should be determined Non-Condemnation Redevelopment Area pursuant to Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

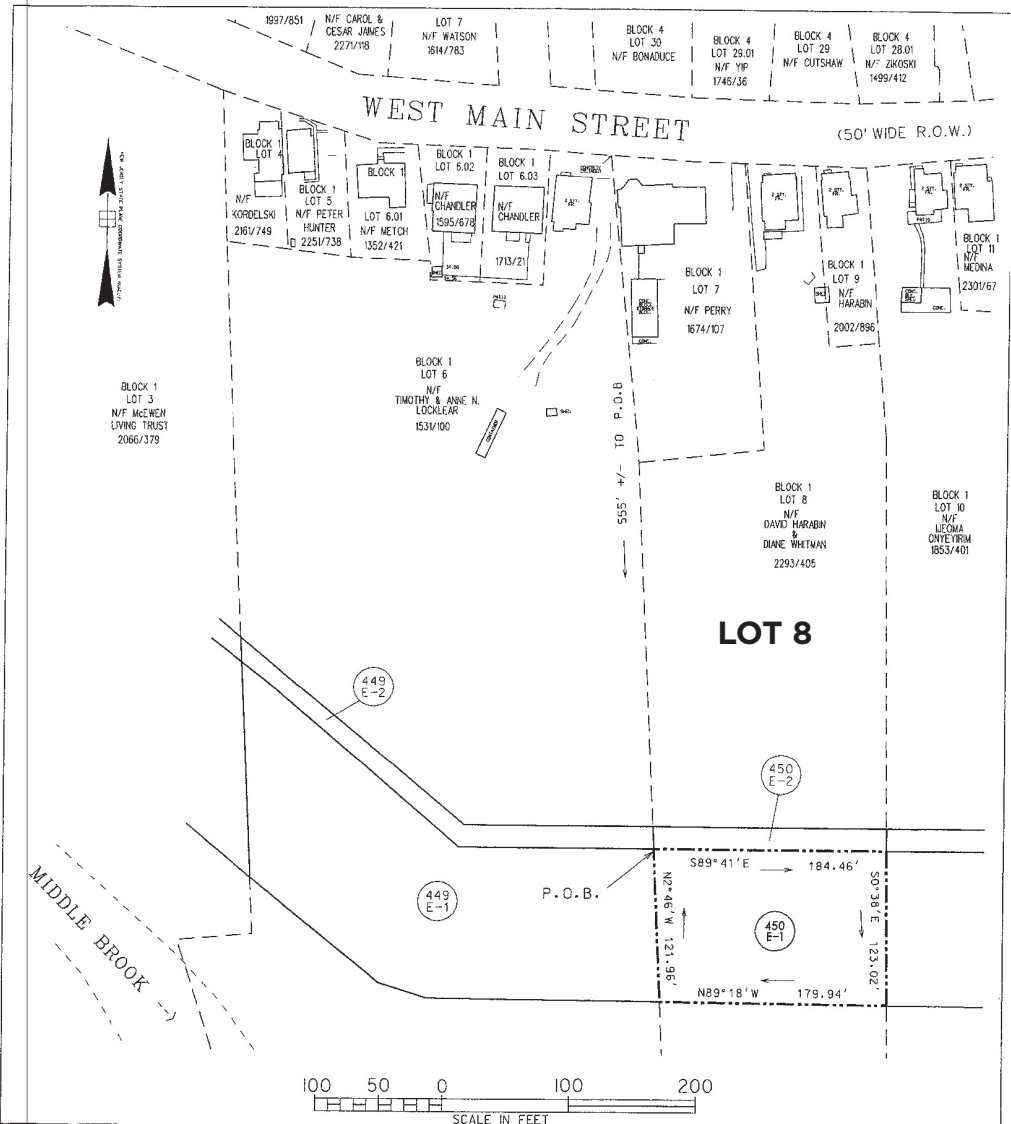
BE IT FURTHER RESOLVED, the Borough directs the Borough Planner, Carlos Rodriques, PP/FAICP, Design Solutions for a Crowded Planet, LLC to undertake the preliminary investigation for the Planning Board.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

APPENDIX B: USACE-ACQUIRED EASEMENTS ON LOTS 6, 8, 10 AND 15

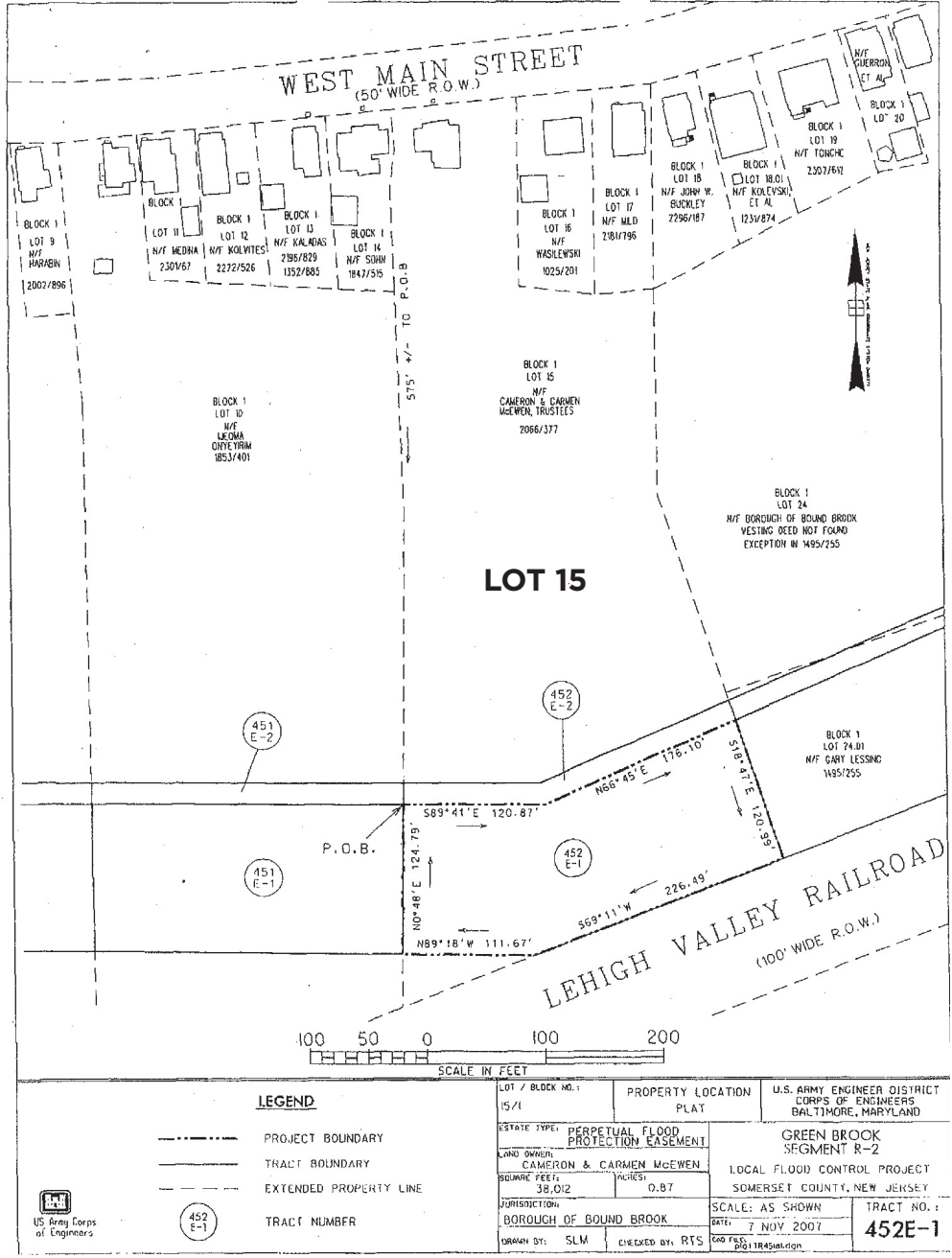
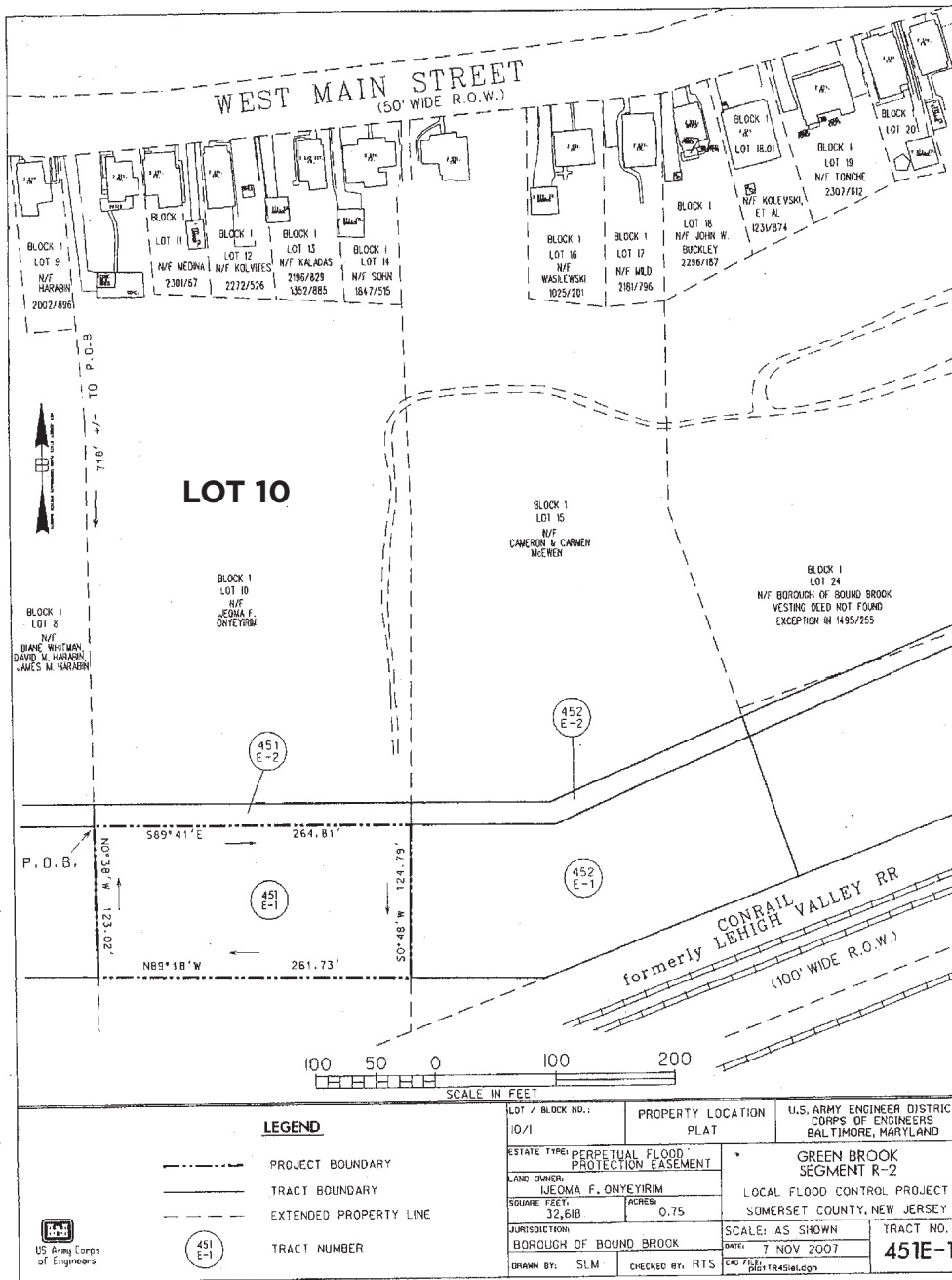


LEGEND	LOT / BLOCK NO. 6/1	PROPERTY LOCATION PLAT	U.S. ARMY ENGINEER DISTRICT CORPS OF ENGINEERS BALTIMORE, MARYLAND
----- PROJECT BOUNDARY	ESTATE TYPE: PERPETUAL FLOOD PROTECTION EASEMENT	GREEN BROOK SEGMENT R-2	
----- TRACT BOUNDARY	LAND OWNER: TIMOTHY & ANNE N. LOCKLEAR	LOCAL FLOOD CONTROL PROJECT SOMERSET COUNTY, NEW JERSEY	
----- EXTENDED PROPERTY LINE	SQUARE FEET: 45,454	ACRES: 1.04	
449 E-1 TRACT NUMBER	JURISDICTION: BOROUGH OF BOUND BROOK	SCALE: AS SHOWN	TRACT NO.: 449E-1
	DRAWN BY: SLM	CHECKED BY: RTS	DATE: 19 NOV 2007



LEGEND	LOT / BLOCK NO. 8/1	PROPERTY LOCATION PLAT	U.S. ARMY ENGINEER DISTRICT CORPS OF ENGINEERS BALTIMORE, MARYLAND
----- PROJECT BOUNDARY	ESTATE TYPE: PERPETUAL FLOOD PROTECTION EASEMENT	GREEN BROOK SEGMENT R-2	
----- TRACT BOUNDARY	LAND OWNER: DAVID HARABIN & DIANE WHITMAN	LOCAL FLOOD CONTROL PROJECT SOMERSET COUNTY, NEW JERSEY	
----- EXTENDED PROPERTY LINE	SQUARE FEET: 22,297	ACRES: 0.51	
450 E-1 TRACT NUMBER	JURISDICTION: BOROUGH OF BOUND BROOK	SCALE: AS SHOWN	TRACT NO.: 450E-1
	DRAWN BY: SLM	CHECKED BY: RTS	DATE: 6 NOV 2007

APPENDIX B: USACE-ACQUIRED EASEMENTS ON LOTS 6, 8, 10 AND 15



APPENDIX C: FRESHWATER WETLANDS TRANSITION AREA DEED RESTRICTION FOR ROCK MACHINE PARK

NJDEP
File No. 1804-96-0003.4-5

Declaration of Restriction on Modified
Transition Area Rock Machine Park
Bound Brook Borough, Somerset County

DECLARATION OF RESTRICTION FOR MODIFIED TRANSITION AREA

THE DECLARATION of Deed Restriction is made this 31st day of January, 2000, by
BOROUGH OF BOUND BROOK, having an office at or residing at 230 Hamilton Street, Bound
Brook, NJ 08805, hereinafter referred to as "Declarant.

WITNESSETH

WHEREAS, the Declarant is the owner of certain real property located in the Borough
Bound Brook, Somerset County, New Jersey, designated as Lot 24, Block 1, on the official
Map of the Borough of Bound Brook (hereinafter "the Property"); and

WHEREAS, wetlands play a significant role in the maintenance of environmental quality of
community, regional, and statewide level; and

WHEREAS, wetlands transition areas are integral portions of a freshwater wetland
ecosystem; and

WHEREAS, the Declarant has obtained a Freshwater Wetlands transition area waiver ("Waiver"), #1804-96-0003.4-5, which establishes a modified transition area from the New Jersey
Department of Environmental Protection ("DEP") pursuant to the Freshwater Wetlands Protection
Act, N.J.S.A. 13:9B-1 et seq; and

WHEREAS, the TA Waiver issued to the Declarant is conditioned upon the Declarant
recording of a Department approved deed restriction, pursuant to N.J.A.C. 7:7A-7.1 (g), for
modified transition area more particularly described on attachment A (hereinafter metes
and bounds description of the "Modified Transition Area"); and upon the imposition by the Declarant
of a deed restriction to preclude subsequent development of the Modified Transition Area without
prior Department approval as outlined below; and

WHEREAS, the Declarant desires and intends to restrict subsequent development of
Modified Transition Area in accordance with the covenants, conditions and restrictions set forth
herein;

NOW THEREFORE, in consideration of the facts recited above and the mutual covenants,
terms, conditions and restrictions contained herein, and pursuant to the Freshwater Wetlands
Protection Act, N.J.S.A. 13:9B-1 et. seq. and associated regulations, N.J.A.C. 7:7A-1, the Declarant, for itself
successors and assigns, hereby covenants and agrees with the State of New Jersey, Department of
Environmental Protection that the modified transition area is hereby made
subject to be subject in perpetuity to the following covenants and restrictions:

1. The following activities shall not occur within the Modified Transition Area, unless the
Department makes the findings specified below.

- 1. Removal, excavation, or disturbance of the soil;
- 2. Dumping or filling with any materials;
- 3. Erection of structures;
- 4. Placement of pavements; and
- 5. Destruction of plant life which would alter the existing pattern of vegetation.
- 6. Any other activities constituting a prohibited activity under N.J.A.C. 7:7A-6.2, as amended.

2. These activities shall only occur if the Department finds:

(a) There is compelling public need for the activity greater than the need to protect the
modified transition area;

(b) That the activity has not practicable alternative which would;

- i. Not involve a transition area;
- ii. Involve a transition area but would have less adverse impact on the transition
area and the adjacent wetland; and
- iii. Not have other significant adverse environmental consequences, that is, it
shall not merely substitute other significant environmental consequences for the attendant on the
original proposal.

3. The covenants restrictions set forth herein shall run with the land and be binding in
perpetuity, upon the Declarant, its successors and assigns, in perpetuity, and all parties having
or acquiring any right, title or interest in the property or any part thereof. Notice of this deed
restriction shall be given to all holders of any easements in the Modified Transition Area by the
Declarant within 30 days of recording by the County Clerk.

4. It is the purpose of the Declaration to assure that the modified transition area will be
maintained as such and to prevent any disturbance or development of the property. To carry out
this purpose, the following rights are granted to the State of New Jersey, Department of
Environmental Protection by this Declaration:

(a) To enter upon the property in a reasonable manner and at reasonable times so as
to assure compliance with the provisions of said restrictions.

(b) In addition to the exercise of any other statutory or common law right, to enjoin any
activity on, or use of, the property that is inconsistent with the purpose of these conservation
restrictions and to enforce the restoration of such areas or features of the property that may be
damaged by inconsistent activity or use.

RECORDED IN DEED

BK 2281 PG 112

BK 2281 PG 113

APPENDIX C: FRESHWATER WETLANDS TRANSITION AREA DEED RESTRICTION FOR ROCK MACHINE PARK

Declaration of Restriction on Modified
Transition Area Rock Machine Park
Bound Brook Borough, Somerset County

CILO, JR. ASSOCIATES, INC.

CONSULTING ENGINEERS, PLANNERS AND LAND SURVEYORS

D. JR., P.E. & P.L.S.
FRANK DOYLE, P.P.

TEL: 908-526-2121
FAX: 908-707-1950

Attachment A

5. The Declarant intends that enforcement of the terms and provisions of this restriction shall be at the discretion of the State of New Jersey and that any forbearance on behalf of the State of New Jersey to exercise its rights hereunder in the event of an agreement hereof by the Declarant, its successors or assigns, shall not be deemed or construed as a waiver of the State's rights granted hereunder in the event of any subsequent breach. This restriction shall be true regardless of the number of breaches of the restriction, condition or covenant while in effect or the length of time it remains unenforced.

6. The Declarant reserves to itself, its successors or assigns, all rights as to the property, including the right to engage in all uses of the property not inconsistent with the purpose of these restrictions and the right to the property in accordance with N.J.A.C. 17:27.6.2(b).

7. No additional right of access by the general public to any portion of the property is conveyed by this instrument.

8. The Declarant agrees to bear all costs and liabilities of any kind relating to the operation, upkeep and maintenance of the property. The Declarant shall be responsible for its own negligence consistent with the provisions of the New Jersey Tort Claims Act, N.J.S.A. 17:27.8-1 et seq.

9. All notices, consents, approvals or other communications hereunder shall be deemed to have been properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor in interest.

10. The Declarant agrees that the terms, conditions, restrictions and purpose of this instrument will be inserted in any subsequent deed, lease, sub-lease or other legal instrument in which the Declarant divests itself of any interest in the property.

11. The NJDEP agrees that it will assign its rights under this instrument only to the State of New Jersey, a governmental body or a charitable conservancy, and only in accordance with N.J.S.A. 17:27.8-1 et seq. and N.J.S.A. 13:9B-1 et seq.

12. Notwithstanding anything contained herein to the contrary, any modification or termination of this Declaration shall require the prior written approval of the NJDEP, its successors or assigns.

13. If any provisions of this Declaration or the application thereof to any particular set of circumstances is found to be invalid, the remainder of the provisions of this Declaration shall nevertheless apply and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

To HAVE AND TO HOLD unto the State of New Jersey Department of Environmental Protection, its successors and assigns forever. The covenants, terms, conditions, restrictions and purposes imposed with this declaration shall not only be binding upon the Declarant but also upon its agents, personal representatives, assigns and all other successors to it in and shall continue as a servitude running in perpetuity with the property.

Deed Description
Modified Transition Area
Lot 24, Block 1
Borough of Bound Brook
Somerset County, NJ

Area No. 1

Beginning at a point in the westerly line of Lot 24, Block 1, said point being distant, N 11°34'30"W, a distance of 228.91' from the most southwesterly corner of said Lot 24; thence

- (1) N 86°19'55"E, a distance of 47.68' to a point of curvature; thence
- (2) on a curve to the left with a radius of 75.00' and an arc length of 26.62' to a point of tangency; thence
- (3) N 65°59'43"E, a distance of 10.58'; thence
- (4) N 19°15'02"E, a distance of 34.33'; thence
- (5) N 27°31'31"E, a distance of 23.80'; thence
- (6) N 24°18'15"E, a distance of 28.32'; thence
- (7) N 64°50'54"E, a distance of 53.02'; thence
- (8) N 88°06'51"E, a distance of 16.28'; thence
- (9) S 73°36'24"E, a distance of 52.65'; thence
- (10) N 80°38'01"E, a distance of 8.30' to a point of curvature; thence
- (11) on a curve to the left with a radius of 35.00', an arc length of 4.87', with a chord bearing of N 76°38'51"E and a chord of 4.87' to a point of tangency; thence
- (12) N 72°40'02"E, a distance of 71.81'; thence
- (13) N 82°18'19"E, a distance of 69.16' to a point of curvature; thence
- (14) on a curve to the left with a radius of 35.00' and an arc length of 22.63' to a point; thence
- (15) N 14°04'28"W, a distance of 12.25'; thence
- (16) N 73°46'42"E, a distance of 28.51'; thence

BK 228 | PG | 14

BK 228 | PG | 15

198 WEST HIGH STREET • P.O. BOX 366 • SOMERVILLE, NJ 08876

APPENDIX C: FRESHWATER WETLANDS TRANSITION AREA DEED RESTRICTION FOR ROCK MACHINE PARK

- (17) S 62°31'37"E, a distance of 25.28'; thence
- (18) S 39°06'23"E, a distance of 16.07'; thence
- (19) S 26°57'56"E, a distance of 18.35'; thence
- (20) S 14°44'08"E, a distance of 80.12'; thence
- (21) N 78°55'28"E, a distance of 10.85'; thence
- (22) S 09°52'49"E, a distance of 31.58' to a point of curvature; thence
- (23) on a curve to the left with a radius of 50.00' and an arc length of 10.42' to a point of tangency
- (24) S 21°49'27"E, a distance of 51.74' to a point of curvature; thence
- (25) on a curve to the left with a radius of 50.00' and an arc length of 16.91' to a point of tangency
- (26) S 41°11'46"E, a distance of 60.43'; thence
- (27) N 24°52'30"E, a distance of 45.60'; thence
- (28) N 27°22'00"W, a distance of 279.04'; thence
- (29) N 83°53'00"W, a distance of 42.20'; thence
- (30) S 86°31'56"W, a distance of 32.99'; thence
- (31) N 83°38'00"W, a distance of 91.67'; thence
- (32) S 88°55'00"W, a distance of 78.70'; thence
- (33) S 72°36'00"W, a distance of 79.21'; thence
- (34) S 65°04'00"W, a distance of 62.09'; thence
- (35) S 75°28'00"W, a distance of 76.84'; thence
- (36) S 09°49'30"W, a distance of 109.27'; thence
- (37) S 11°34'30"E, a distance of 23.18' to the point and place of beginning.

Containing 48,834.69 sf. 1.121 Acres

Area No. 2

Beginning at a point in the southerly line of Lot 24, Block 1, said point being distant S 77°07'W, 36' from the most southeasterly corner of said Lot 24; thence

- (1) N 65°00'55"W, a distance of 47.82' to a point of curvature; thence
- (2) on a curve to the left with a radius of 50.00' and an arc length of 48.77' to a point of tangency; thence

- (3) S 59°05'34"W, a distance of 109.90' to a point of curvature; thence
 - (4) on a curve to the left with a radius of 50.00' an arc length of 8.77' to a point in the southerly line of Lot 24, Block 1; thence
 - (5) along said southerly line, N 77°07'E, a distance of 196.48' to the point and place of beginning.
- Containing 4430.17 sf. 0.102 acres

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BK2281PG117

APPENDIX C: FRESHWATER WETLANDS TRANSITION AREA DEED RESTRICTION FOR ROCK MACHINE PARK

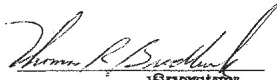
Declaration of Restriction on Modified
Transition Area Rock Machine Park
Bound Brook Borough, Somerset County

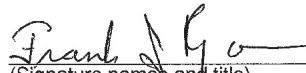
Page 4

IN WITNESS WHEREOF, the Declarant has set its hand and seal on the day and year first above-written, and directs that this instrument be recorded in the office of the Somerset County Clerk.

Borough of Bound Brook
(Declarant)

Attest:


Secretary
Borough Clerk


(Signature names and title)
Frank J. Ryan, Mayor

[Seal]

STATE OF NEW JERSEY)
)
COUNTY OF SOMERSET) SS.:

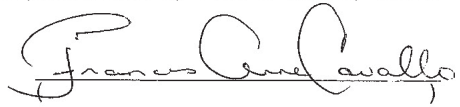
BE IT REMEMBERED that on this 31st day of January, 2000, before me, the subscriber, a Notary Public of New Jersey, personally appeared:

and he thereupon acknowledged that he signed the foregoing instrument in such capacity; that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument is the voluntary act and deed of said corporation or person, made by virtue of authority from its Council.

RECORD AND RETURN TO:

ABRAMS, GRAN, HENDRICKS
REINA & ROSENBERG
A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
2 WEST UNION AVENUE
P.O. BOX 350
BOUND BROOK, NEW JERSEY 08805
(732) 356-9400





A Notary Public of New Jersey
My Commission expires FEB 23, 2004

FRANCES ANNE CAVALLO
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 23, 2004

BK2281PG118

END OF DOCUMENT