

Preliminary Investigation



Quimby Lane
Bernardsville, NJ

Topology | 60 Union St #1 Newark, NJ 07105

Acknowledgements

Mayor

Mary Jane Canose

Borough Council

Council President Thomas O'Dea

Councilman John Donahue

Councilwoman Diane Greenfield

Councilman Jeffrey Hammond

Councilman Chris Schmidt

Councilwoman Christine Zamarra

Borough Administrator

Ralph Maresca

Borough Clerk

Anthony Suriano

Borough Attorney

John R. Pidgeon, Esq.

Planning Board

Robert Graham, Chair

Terry Thompson, Vice-Chair

Karen Gardner

Jeffrey Horowitz

Mary Kellogg

Thomas O'Dea

Dorothy Paluck

Hal Simoff

Bonnie Stone Sellers

Planning Board Secretary

Frank Mottola

Planning Board Attorney

Steven K. Warner, Esq.

Report Date: November 25, 2019

Prepared by:

Philip A. Abramson, AICP/PP
NJ Planner License No. 609600

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Introduction

Study Authorization

The following preliminary investigation has been prepared for the Borough of Bernardsville Planning Board to determine whether certain properties qualify as a non-condemnation “area in need of redevelopment” under N.J.S.A. 40A:12A-5. The Mayor and Borough Council of Bernardsville authorized the Planning Board, through resolution 19-203, annexed hereto as **Appendix A**, to conduct this preliminary investigation to determine whether designation of Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, and 13; Block 98, Lot 1; Block 124, Lot 1; and Block 144, Lot 1 as shown on the official tax map of the Borough of Bernardsville (the “Property” or “Study Area”) as “in need of redevelopment” is appropriate and in conformance with the statutory criteria in N.J.S.A. 40A:12A-5.

Summary of Findings

The analysis contained within this report will serve as the basis for the recommendation that Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, and 13; Block 98, Lot 1; Block 124, Lot 1; a portion of Block 144, Lot 1; and the Quimby Lane right-of-way be designated as a non-condemnation area in need of redevelopment. The recommended area for designation (“Redevelopment Area”) is reflected in the figure below.



Figure 1: Recommended Redevelopment Area

Background

Legal Authority

New Jersey's Local Redevelopment and Housing Law (the "LRHL") empowers local governments to initiate a process by which designated properties that meet certain statutory criteria can be transformed to advance the public interest. Once an area is designated "in need of redevelopment" in accordance with statutory criteria, municipalities may adopt redevelopment plans and employ several planning and financial tools to make redevelopment projects more feasible to remove deleterious conditions. A redevelopment designation may also qualify projects in the redevelopment area for financial subsidies or other incentive programs offered by the State of New Jersey.

Redevelopment Procedure

The LRHL requires local governments to follow a process involving a series of steps before they may exercise powers under the LRHL. The process is designed to ensure that the public is given adequate notice and opportunity to participate in the public process. Further, the redevelopment process requires the Governing Body and Planning Board interact to ensure that all redevelopment actions consider the municipal Master Plan. The steps required are generally as follows:

- A. The Governing Body must adopt a resolution directing the Planning Board to perform a preliminary investigation to determine whether a specified area is in need of redevelopment according to criteria set forth in the LRHL (N.J.S.A. 40A:12A-5).
- B. The resolution authorizing the Planning Board to undertake a preliminary investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers for use in a redevelopment area other than the use of eminent domain (non-condemnation redevelopment area) or whether the redevelopment area determination shall authorize the municipality to use all those powers for use in a redevelopment area, including the power of eminent domain (condemnation redevelopment area).
- C. The Planning Board must prepare and make available a map delineating the boundaries of the proposed redevelopment area, specifying the parcels to be included to be investigated. A statement setting forth the basis of the investigation or the preliminary statement should accompany this map.
- D. The Planning Board must conduct the investigation and produce a report presenting the findings. The Board must also hold a duly noticed hearing to present the results of the investigation and to allow interested parties to give testimony. The Planning Board then may adopt a resolution recommending a course of action to the Governing Body.
- E. The Governing Body may accept, reject, or modify this recommendation by adopting a resolution designating lands recommended by the Planning Board as an "area in need of redevelopment." The Governing Body must make the final determination as to the redevelopment area boundaries.

- F. If the Governing Body resolution assigning the investigation to the Planning Board states that the redevelopment determination shall establish a Condemnation Redevelopment Area, then the notice of the final determination shall indicate that: (i) the determination operates as a finding of public purpose and authorizes the municipality to exercise the power of eminent domain to acquire property in the redevelopment area, and (ii) legal action to challenge the final determination must be commenced within 45 days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.
- G. A Redevelopment Plan may be prepared establishing the goals, objectives, and specific actions to be taken with regard to the “area in need of redevelopment.”
- H. The Governing Body may then act on the Plan by passing an ordinance adopting the Plan as an amendment to the municipal Zoning Ordinance.

Only after completion of this process is a municipality able to exercise the powers under the LRHL.

Progress

The Bernardsville Municipal Council adopted Resolution 19-203 on October 15, 2019. A map of the Study Area Parcels dated October 2019 is on file with the Municipal Clerk and Planning Board. The resolution and blight investigation map, which satisfy Parts A, B, and C above, are included as **Appendix A** and **Appendix B**, respectively.

Purpose + Scope

In accordance with the process outlined above, this Preliminary Investigation will determine whether the Properties (hereinafter referred to as the “Study Area”) within the Borough of Bernardsville meets the statutory requirements under N.J.S.A. 40A:12A-5 for designation as a non-condemnation “area in need of redevelopment.” This study was prepared at the request of the Bernardsville Planning Board and was duly authorized by the Mayor and Council.

The scope of work for the investigation included the following: multiple site visits including on November 13, 2019; assessment of property conditions; review of ownership status within the study area including easements; review of municipal tax maps and aerial photos; review of building department records; review of planning and zoning approvals and permits; review of tax assessment data; review of the existing zoning ordinance and zoning map for the Borough of Bernardsville; review of the Master Plan for the Borough; and review of environmental documentation including FEMA and NJDEP records. In addition, property owners were contacted via certified mail to request internal inspections of the properties. As of the time of this report, no internal inspections were performed.

Existing Conditions



Figure 2: Study Area and surrounding context

Study Context

The Study Area is in the southeastern section of Bernardsville Borough. It comprises a large portion of the historic and present downtown core of the Borough.

The subject area is comprised of three sections. The first is bound by Mill Street to the north; Olcott Square to the east; Mine Brook Road to the south; and Claremont Road to the west. This area is bisected by Quimby Lane and referred to throughout this report as the Quimby Lane area.

The second section comprises the Bernardsville Train Station, bounded by Mine Brook Road to the north; Somerset Grain, Feed & Supply, the rail right-of-way, and municipal properties to the west; the Mine Brook and residences to the south; and Mount Airy Road to the east. This section is referred to throughout this report as the Train Station.

The last section is a municipal parking lot bound by residences to the south and east, the rail right-of-way to the north, and Mount Airy Road to the west.

Site access is provided primarily via Mine Brook Road (US-202), a major southwest-northeast arterial that runs from the Borough's center and leads to I-287, where Bernardsville is accessible from exits 30A and 30B. Mount Airy Road leads southwest from the Study Area to I-287, which provides access to Bernardsville via exits 26 and 26B.

Local site access is also provided via Mill Street, Quimby Lane, Claremont Road, and Depot Place.

From its location in the Borough's center, the Study Area neighbors diverse uses. These include various commercial uses, public buildings, residential areas, and medical offices. The Bernardsville Library, Bernards High School, Borough Hall, Police and Fire stations are nearby.

Property History

Originally known as Vealtown, Bernardsville was settled in 1736 as a section of Bernards Township. The first permanent settler was Alexander Kirkpatrick, who settled at the Mine Brook. Following his lead, subsequent settlers settled along the brook, which they used to operate mills. Vealtown became Bernardsville in 1840 and an independent municipality in 1924. The Borough is embedded in Revolutionary War history, as it was near General Washington's headquarters in Morristown and General Lord Stirling's manor house in Basking Ridge.

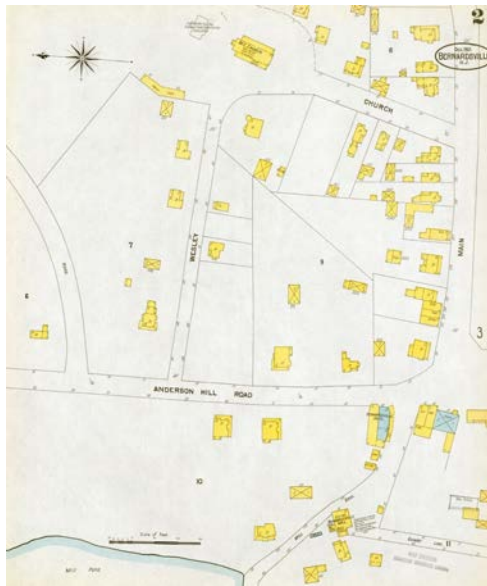
Before the Civil War, Bernardsville was a rustic farming village. However, development accelerated after the war, when influential New Yorkers began summering in Bernardsville, eventually becoming permanent residents. The Gladstone Branch of the Morris and Essex rail line was constructed through Bernardsville in 1872, further spurring its development and connection to New York City. The introduction of rail service was particularly influential in the Study Area, which houses and is located adjacent to the Train Station. The current station was completed in 1902 and is listed on the State and National Register of Historic Places (NRHP).¹ Its placement adjacent to the Study Area contributed to the Study Area's historic evolution and current status as the central core of the community's downtown.

The Study Area was already highly developed by 1901. Uses present at the time includes a livery, the Bernardsville Mill, dwellings, hotels, a post office, a telegraph exchange, and various other shops and services. By 1909, many shops had relocated into space adjoining the new Bernards Inn beneath a second-floor auditorium, with new stores occupying their old space. The demolition of a mill made way for the expansion of Quimby Lane to Mill Street, largely finishing the street pattern that exists today.

The figures below reflect the nature of development in the Study Area during the first decade of the twentieth century.

¹ 2004 Master Plan; Bernardsville: A History, <http://www.bernardsvilleboro.org/History/>

1901



1909

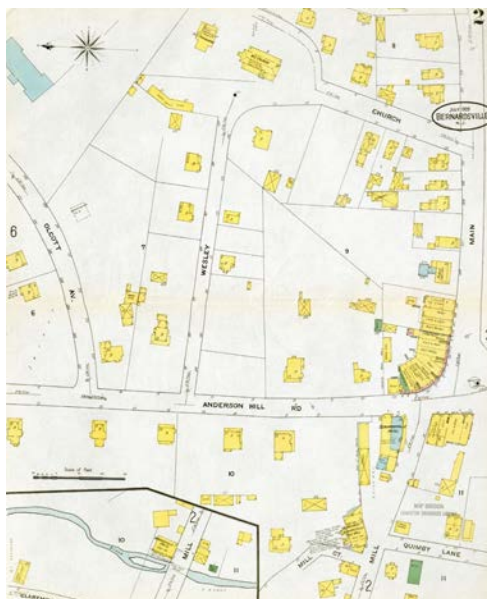


Figure 3: Sanborn maps reflecting development patterns in 1901 and 1909

The Study Area was part of a broader increase in development in the core of the Borough—the area just north of the town center (and Study Area) along Olcott Avenue, including the original Bernards High School and the Bernardsville Methodist Episcopal Church and Parsonage, was so distinctive that the neighborhood was recognized by the NRHP as a historic district in 2009.²

Development in and around the Study Area continued through the first several decades of the twentieth century, with the movie theater at the corner of Olcott Square and Mine Brook Road being constructed by the early 1930s.

² National Register of Historic Places, Reference ID 09000940, <https://npgallery.nps.gov/GetAsset?assetID=6c6f10d7-e810-47d4-9e40-aedb474534fa>

A review of historic aerials during the latter half of the 20th century reveal that the Study Area slowly evolved to cater to automobile-centric uses. Uses like surface parking lots, auto dealerships, auto repair shops, and carwashes were introduced during this period throughout each section of the Study Area, and continue to define the fabric and uses, of the Area today. This transformation—from a dense and apparently vibrant downtown core with a walkable form, into a more automobile oriented fabric is consistent with the evolution of downtowns in communities across northern New Jersey and the Country.

Like many of these other communities, Bernardsville has expressed a desire to undo some of these changes. The 2004 Master Plan noted: “Walking along Quimby Lane reveals mixed land uses predominantly auto related but also including parking, rear facades of buildings, post office and offices. These uses, while providing certain commercial services, under-utilize their properties and present an unappealing streetscape. Particularly unattractive is front yard pavement and parking and lack of streetscape amenities such as landscaping.” The plan went on to encourage the Borough to conduct a “study of the Mill Street/Quimby Lane area with the aim of improving the streetscape, connecting parking areas, and introducing new land uses.”³

In recent years, these recommendations have been advanced by the Bernardsville Downtown Revitalization Committee, a group of volunteer citizens that have undertaken a series of efforts to drive improvements to portions of the downtown including the Study Area. These activities have included community engagement, exploring conceptual designs, and assessing the interest of the development community in downtown Bernardsville.

Flood Conditions and the Mine Brook

A key natural feature that affects the Study Area is the Mine Brook. The Mine Brook runs through the Study Area, primarily on a north-south axis. As a result of the Mine Brook, a large portion of the Study Area is located within the FEMA Special Flood Hazard Area. Properties located within this area, particularly those located in the Regulatory Floodway are subject to additional obligations. As per the New Jersey Department of Environmental Protection:

“Development within the floodway is severely restricted. Generally, only development that must occur within the floodway is permitted, such as bridges, culverts, outfalls, retaining walls, water control structures, or bank stabilization measure...[restrictions in the] floodway [are] not only to protect those members of the public that could be present in the building during a flood, but also to protect other members of the public (or other pre-existing structures) downstream from floating debris that could result from construction within the floodway.”⁴

Restrictions imposed on properties within the Regulatory Floodway may include requiring an elevation of ground floors above the Base Flood Elevation, providing alternative means of egress outside of the flood area, increased restrictions on ground level habitability, use of breakaway walls, and maintaining capacity for the flow of flood waters at the existing condition.

³ 2004 Master Plan, pp. 66-67

⁴ Streams & Rivers – The Flood Hazard Area Control Act, www.nj.gov/dep/landuse/fha/fha_fw.html

The figure below reflects the presence of the FEMA Regulatory Floodway and 1% Annual Flood Zone (collectively the FEMA “Special Flood Hazard Area”). The properties that are at least partially in the Regulatory Floodway are:

- Block 71: Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, 13
- Block 98: Lot 1
- Block 144: Lot 1

The properties that are at least partially in the 1% Annual Flood Zone are:

- Block 70: Lots 1, 2, 3, 4, 5, 6

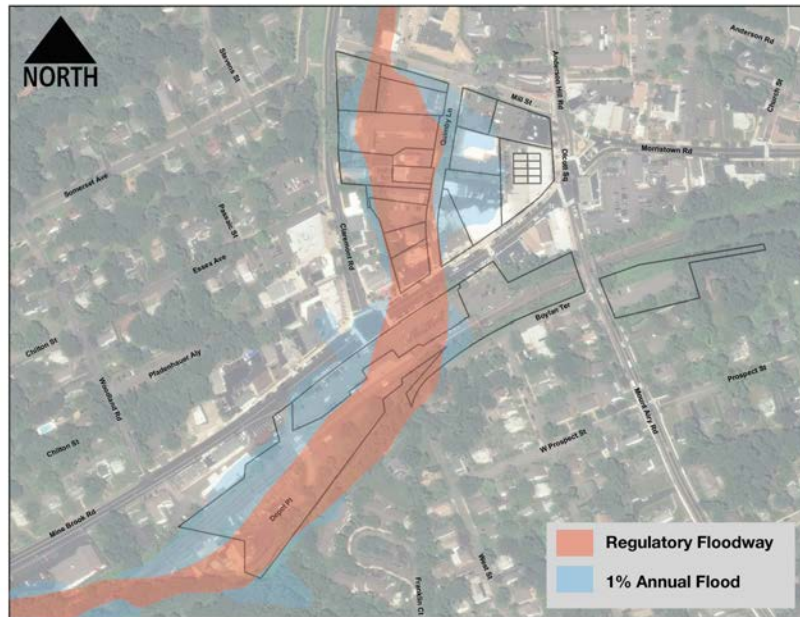


Figure 4: FEMA Special Flood Hazard Area zones

Flooding in the area is a historic and contemporary problem. The images below reflect similar flooding conditions at the intersection of Quimby Lane and Mine Brook Road roughly 70 years apart.



Figure 5: 1942 image showing flooding at the intersection of Mine Brook Road and Quimby Lane, Bernards Inn in the background;⁵ still image from 2013 video showing flooding in roughly the same location⁶

How properties incorporate the presence of the Mine Brook and the corresponding flood areas into their layout in a way that mitigates the impact of flooding is crucial to the subsequent analysis of whether the properties qualify as an “area in need of redevelopment.”

⁵ Glimpse of History: Downtown Bernardsville floods after summer of '42 storm, https://www.nj.com/news/local/2011/04/glimpse_of_history_downtown_be.html

⁶ Flood in Bernardsville, New Jersey, <https://www.youtube.com/watch?v=aC9bCsqqc3s>

Existing Zoning

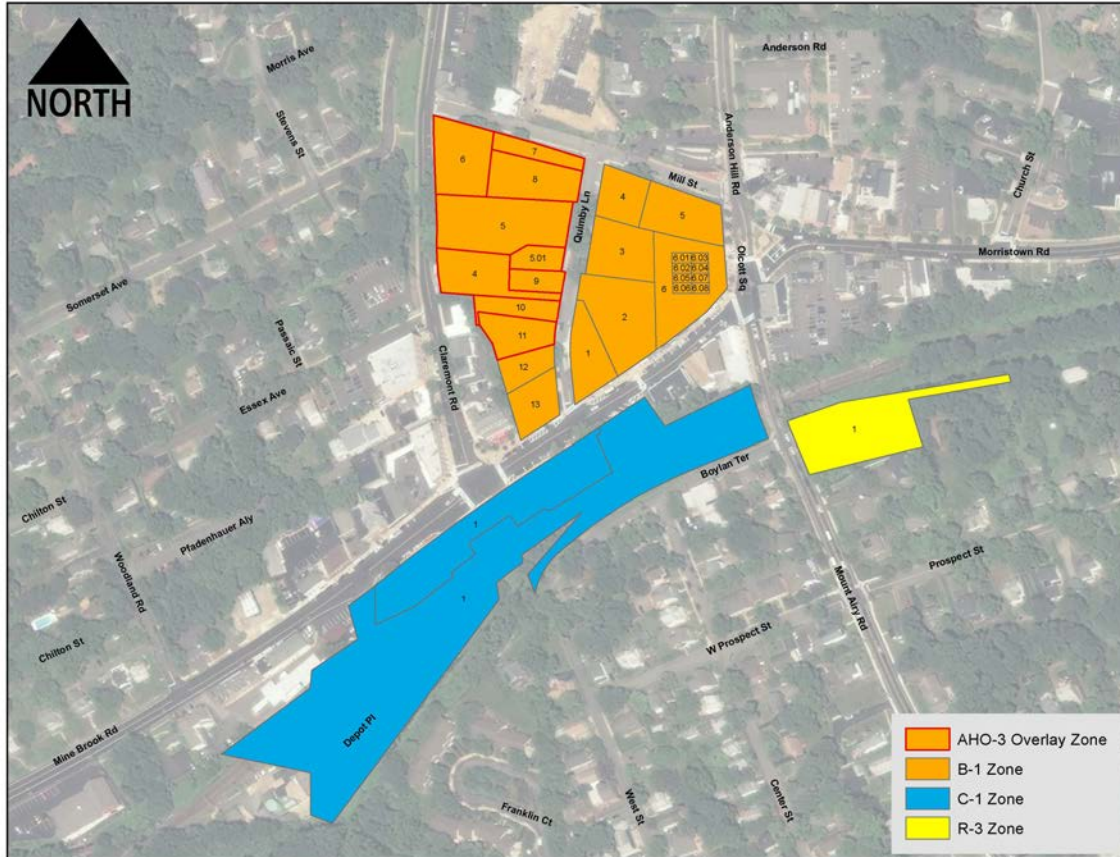


Figure 6: Study Area zoning

The Study Area is located within several zoning districts. Key provisions of the different districts are compiled below. The Borough's full zoning code is included in **Appendix C**.

The majority of the Study Area is in the B-1 zone. Key provisions of the zoning requirements of the components of the B-1 district are included below:

Permitted uses are:

1. *Retail sales and services such as:*
 - a. *Stores*
 - b. *Shops*
 - c. *Business and Professional Offices*
 - d. *Restaurants*
 - e. *Banks*
 - f. *Theaters*
 - g. *Newspaper Offices*
 - h. *Printing Establishments*
 - i. *Recreational Instructional Studios*
 - j. *Dependent Living Facilities*
2. *The above uses on the ground floor combined with upper-story studio and 1-bedroom residential units.*

Permitted accessory uses are:

1. *Accessory uses customarily incident to the above retail and service uses.*
2. *Used car sales displays outside the confines of the building only when all the following requirements are complied with:*
 - a. *The area devoted to the accessory used car sales is no larger than twice the ground floor area of the building in which the principle use of the premises is conducted.*
 - b. *The area devoted to the accessory used car sales is surfaced with an asphalt, bituminous or cement binder pavement which shall be graded and drained to dispose of all surface water.*
 - c. *Any lighting connected to the accessory used car sales is arranged as to reflect the light downward away from all adjoining residence buildings, residence zones or streets.*
 - d. *The area to be used for the permitted accessory use shall be at all times clearly and legibly marked on the required paved surface.*

Conditional uses are:

1. *Institutional Uses*
2. *Public Utilities*
3. *Public Garages*
4. *Hotels*
5. *Outdoor Dining*
6. *Sidewalk sales pursuant to subsection 12-12.1b.*

General required conditions are as follows:

Maximum height:

- *The lesser of 2 stories or 30', if both stories are used for permitted business or commercial uses.*
- *The lesser of 3 stories or 35', if used for business or commercial use in the first story and residential above.*

Minimum yard setbacks:

- *Front: 10' except to conform to existing setbacks up to 15' of buildings of the same side of the street within 200'*
- *Side: none; 10' where a business zone adjoins a residence zone*
- *Rear: 10'; 24' where the property abuts any residence zone district, including alleys and off-street parking.*

Minimum floor area:

- *500 SF for studio residential units*
- *675 SF for one-bedroom residential units*

Maximum Impervious Coverage: 85%

Dependent living facilities required conditions:

- *Height: the lesser of 3 stories and 35'*
- *Minimum yard setbacks*
 - *Front: 40'*
 - *Side: two side yards of 25' each; 50' if the side yard abuts a residential zone*

- *Rear: 25'; 50' if the side yard abuts a residential zone.*
- *Maximum Improved Lot Coverage: 50%*
- *Parking: 1 space per unit.*
- *Emergency access: all sides of the dependent living facility building shall be accessible by emergency vehicles.*
- *Minimum lot area: 2 acres*
- *Maximum Unit Density: 25 units/acre.*

Parking Requirements

- *Parking space requirements vary by use. Relevant requirements are:*
 - *Assembly hall, community building, social club, institution: 1 for every 100 SF GFA*
 - *Banks and similar financial institutions: 1 for every 150 SF GFA*
 - *Business, professional, and executive offices*
 - *First 6,000 SF GFA: 1 for every 150 SF GFA*
 - *Next 4,000 SF GFA: 1 for every 200 SF GFA*
 - *Area above 10,000 SF GFA: 1 for every 250 SF GFA*
 - *Theater: 1 for each 3 seating spaces or equivalent accommodation provided*
 - *Hotel:*
 - *1.2 for each one-bedroom hotel unit*
 - *1.5 for each two-bedroom hotel nit*
 - *Additional parking for other facilities available to persons other than hotel guests as follows:*
 - *Restaurant: specified elsewhere*
 - *Convention/conference facilities: 1 for every 150 GFA devoted to such use*
 - *Banquet/ballroom facilities: 1 for every 100 SF GFA*
 - *Public garage: 1 for every 100 SF GFA*
 - *Public offices: 1 for every 200 SF GFA*
 - *Recreational instruction: 1 for every 150 SF GFA*
 - *Restaurants, taverns, cafes: the greater of 1 for every 100 SF GFA and 1 for every 3 seats*
 - *Retail store, shop or similar establishment: 1 for every 200 SF GFA*
 - *Schools, studios, including nursery school: 1 for each 3 seats in public assembly area. If no public assembly area, 1 for every 100 SF GFA*
 - *Wholesale store, furniture and appliance store, motor vehicle sales, building material store and similar hard good sales: 1 for each 400 SF GFA*
- *Minimum distance from buildings, public streets, property lines, and residential zones: 5'*
- *Landscaping: All off-street parking areas of ten (10) spaces or more shall provide landscaped areas within the parking area. The landscaped areas shall be "islands" or "peninsulas" located within the interior of the parking area. The minimum width of a landscape area shall be five (5) feet and shall have a minimum area of forty-eight (48) square feet. Such landscaped areas shall be distributed throughout the parking area in order to break up the line and view of pavement and parked*

vehicles. Setback areas between parking spaces and property lines or buildings shall not be counted toward this landscape requirement. Parking overhang areas shall not be counted toward this landscape requirement. The amount of landscaping shall be at least: sixteen (16) square feet of landscaping per parking space.

Block 71, Lots 4, 5, 5.01 and 6-11 area are also subject to the AHO-3 Affordable Housing Overlay. Key provisions of the zoning requirements of the components of the AHO-3 district are included below:

Primary intended uses are:

- 1. Affordable family rental multi-family dwellings;*
- 2. Market rate multi-family dwellings;*
- 3. A commercial use at ground level;*
- 4. Parking and facilities in accordance with Section 9-10 of this chapter or Residential Site Improvement Standards as deemed appropriate by the local approving Board;*
- 5. Lower level parking that is more than half its height above mean building elevation shall be a story, and*
- 6. Other accessory uses customarily incident to the above uses provided they not include any activity commonly conducted for gain unless specifically permitted by this Article.*
- 7. Commercial uses are not permitted unless the use is within a mixed-use inclusionary development.*
- 8. Inclusionary developments must contain at least five hundred (500) square feet of commercial space at ground floor.*
- 9. Buildings on a street corner must contain at least one thousand (1,000) square feet of commercial space at ground floor. If a building has two frontages on a street corner, it must provide at least one thousand (1,000) square feet at each corner.*

General required conditions are as follows:

- Height. No building shall exceed a maximum of four (4) stories or forty (40) feet in height, whichever is the lesser,*
- Open Space. No more than ninety-five (95%) percent of a lot may be covered by an impervious surface. Any open space provided at ground level must have at least one (1) dimension measuring at least twenty (20) feet on the side and no dimension measuring smaller than three (3) feet,*
- Driveway Position. No portion of any driveway hereafter constructed shall be within ten (10) feet of a lot line of an adjacent property,*
- Minimum Lot Area. The minimum lot area is twenty-four thousand (24,000) sq. ft.*
- Lot Shape. It must be possible to fit a circle with a diameter of one hundred (100) feet completely within the lot,*
- Building Envelope. The building envelope shall exclude areas located within flood plains, wetlands and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP) and no floodplain*

- nor wetlands nor wetland buffers shall be disturbed without the appropriate permits having been issued by the NJDEP,*
- *Minimum Floor Area. Every dwelling hereafter erected shall have a minimum floor area excluding garages of:*
 - *0 Bedroom (Studio): 500 square feet*
 - *1 Bedroom: 675 square feet*
 - *2 Bedrooms: 900 square feet*
 - *3 Bedrooms: 1000 square feet*
 - *The maximum number of dwelling units shall be 32 units per acre, producing 80 rental units which shall include fifteen (15) percent or 12 units for affordable family rental households.*
 - *There shall be a minimum of three (3) affordable family rental units provided for every 24,000 square feet of lot area.*
 - *Minimum distance between apartment buildings is twenty (20) feet.*
 - *No building shall contain more than twenty (20) dwellings.*
 - *Design standards are included stipulating architectural standards and the relationship of buildings to the context of the Downtown.*

Block 144, Lot 1 is in the C-1 zone. Significant provisions of the zoning for the C-1 area are included below:

Permitted uses are:

1. *Any use permitted in the B-1 Business District*
2. *New automobile sales*
 - a. *Accessory uses for a new automobile sales use include repair and preparation of automobiles wholly within a building. Storage areas for repaired or to-be-repaired automobiles shall be screened from adjacent properties.*

Conditional uses are:

1. *Institutional use;*
2. *Public utilities;*
3. *Public garages;*
4. *Hotels;*
5. *Outdoor dining.*

Prohibited uses include:

1. *Residential construction or conversion of the first floor to residential use*
2. *Any business conducted outside the confines of a building when said business is the principal or main use of the premises, except sidewalk sales as defined and regulated in this chapter.*
3. *Commercial uses producing various nuisances*
4. *Industrial uses*

General required conditions, except for dependent living facilities are as follows:

- *Height.* No building shall have a height of greater than two (2) stories or thirty (30) feet, whichever is less, wherein all stories are used for permitted business or commercial uses. No building shall have a height of greater than three (3) stories or thirty-five (35) feet, whichever is less, if used for business or commercial use in the first story and residential use above.
- *Front Yard.* There shall be a front yard of not less than forty-two (42) feet.
- *Side Yards.* There shall be two (2) side yards and no side yard shall be less than ten (10) feet.
- *Rear Yard.* There shall be a rear yard of at least twenty-four (24) feet, provided that where any alley or railroad right-of-way separates the Commercial Zone from the Residential Zone the full alley or right-of-way be counted as part of the required yard.
- *Landscaping.* Those portions of all front, rear and side yards that are not used for off-street parking shall be attractively planted with trees, shrubs, plants and grass lawns as required by the Planning Board. Special planting or fence as approved by the Planning Board shall be provided along rear property lines so that the parking area is not visible from the adjacent residential properties.
- *Minimum Floor Area.* The minimum net rentable space for residential units in upper stories shall be five hundred (500) square feet for studio (zero (0)-bedroom) units and six hundred seventy-five (675) square feet for one (1)-bedroom units.
- *Maximum Impervious Coverage.* The maximum coverage of any lot by impervious surfaces (buildings and paved areas) shall be eighty-five (85%) percent.
- *Parking and loading* shall be provided in accordance with Section 9-10.

Block 124, Lot 1 is in the R-4 Residence District. Key provisions of the zoning requirements of the components of the R-4 district are included below:

Permitted uses are:

1. *Single family*
2. *Private garages conforming to subsection 12-23.3*
3. *Local municipal public buildings and uses*
4. *Farming and truck gardening. No building nor other shelter for keeping of any farm animal or fowl shall be permitted closer to any street than three hundred (300) feet nor closer to any other property line than one hundred (100) feet.*
5. *Parking and facilities in accordance with Section 9-10*
6. *Signs conforming to subsection 12-23.14.*

Permitted accessory uses are:

1. *Other accessory uses customarily incident to the above uses provided they do not include any activity commonly conducted for gain unless specifically permitted in Article 12.*

Conditional uses are:

1. *Professional uses*
2. *Institutional uses*

General required conditions are as follows:

Maximum height: the lesser of two and one-half stories or thirty-five feet

Minimum yard setbacks:

- *Front:*
 - *40' except to conform to the average existing setback of buildings on the same side of the street within 300', exclusive of streets or private roads, to a minimum of a 30' setback.*
 - *For a principal dwelling containing two or more stories, excluding attics and cellars but including basements: at least equal to the length of the longest side of the dwelling facing or within sixty degrees of being parallel to a front lot line.*
- *Side: Two side yards of 10'*
- *Rear: 40'*

Minimum lot requirements:

- *Frontage: 50'*
- *Area: 11,250 square feet*
- *Shape: It must be possible to fit a circle with a diameter of seventy-five (75) feet completely within the lot.*

As of the time of this report, the Borough Council is considering a proposed amendment to the zoning ordinance that would affect the Study Area. Should this proposed zoning be adopted, the properties would become part of the D-C, "Downtown Core" district.

Ownership

A review of the Borough's property tax records was conducted to determine current ownership information. The table below shows the most current ownership records based on the most recent records from the Borough. Tax records are included as **Appendix D**.



Figure 7: Blocks and lots comprising Study Area

Block	Lot	Property Class	Area (Acres)	Address	Owner
70	1	4A	0.32	27 Mine Brook Road	Mine Brook 2006, LLC
70	2	4A	0.65	17-23 Mine Brook Road	Mine Brook Properties, LLC
70	3	4A	0.41	23 Quimby Lane	Borough of Bernardsville, C/O M.E. Olcott Square, LLC
70	4	15C	0.23	35 Quimby Lane	Borough of Bernardsville
70	5	4A	0.42	11 Olcott Square	M.E. Olcott Square, LLC
70	6	4A	[N/A]	Olcott Square	Olcott Square Condo Association
70	6.01	4A	0.06	5 Olcott Square	DITR Associates, LCC, % Judith Sussman
70	6.02	4A	0.02	3 Olcott Square	ST-LPT Properties, LLC
70	6.03	4A	0.02	2 Olcott Square	L&K Madden Properties, LLC
70	6.04	4A	0.03	1-3 Mine Brook Road	Skyline Mine Brook, LLC
70	6.05	4A	0.12	5 Mine Brook Road	Olcott Square Corp.
70	6.06	4A	0.01	7 Olcott Square	Olcott Square Corp.

70	6.07	4A	0.01	11 Mine Brook Road	Annafio, LLC
70	6.08	4A	0.01	13 Mine Brook Road	Fantasia Realty, LLC
71	4	4A	0.19	33 Claremont Road	33 Claremont Road, LLC
71	5	4A	0.63	36 Quimby Lane	Di Napoli, Sr., LLC
71	5.01	4A	0.11	28 Quimby Lane	FMB Quimby, LLC
71	6	2	0.41	55 Claremont Road	Pershhouse, Bessie M.
71	7	4A	Record Only	40-42 Quimby Lane	Additional Lot combined with Lot 8
71	8	4A	0.46	40-42 Quimby Lane	Quimby Lane Realty
71	9	4A	0.11	24 Quimby Lane	FMB Quimby, LLC
71	10	4A	0.213	20 Quimby Lane	18 Quimby Lane, LLC
71	11	4A	0.27	16 Quimby Lane	Mine Brook 2006, LLC, C/O Ryan LLC
71	12	4A	0.14	12 Quimby Lane	12 Quimby Bernardsville, LLC
71	13	4A	0.17	33-39 Mine Brook Road	SCP Group, LLC
98	1	15C	1.09	Mine Brook Road	Borough of Bernardsville
124	1	15C	0.74	18 Mount Airy Road	Borough of Bernardsville
144	1	15C	1.30	50 Mine Brook Road	State of NJ/ C/O Borough of Bernardsville

Property Taxes

Property tax records from the State of New Jersey Division of Taxation's 2019 database were analyzed to determine the assessed value of each property in the Study Area and current property taxes. The value of the land, improvements thereon and the net taxable value for the parcels is displayed in the table below.

Block	Lot	Assessed Land Value	Assessed Improvement Value	Net Assessed Value	Taxes 2019
70	1	\$685,000	\$2,365,000	\$3,050,000	\$62,159.00
70	2	\$699,000	\$981,000	\$1,680,000	\$34,238.40
70	3	\$474,000	\$563,500	\$1,037,500	\$21,144.25
70	4	\$289,200	\$0	\$289,200	\$0
70	5	\$872,000	\$1,488,000	\$2,360,000	\$48,096.80
70	6	[N/A]	[N/A]	[N/A]	\$0
70	6.01	\$362,700	\$555,800	\$918,000	\$18,719.03
70	6.02	\$163,500	\$217,500	\$381,000	\$7,764.78
70	6.03	\$167,600	\$236,400	\$404,000	\$8,233.52
70	6.04	\$219,000	\$376,000	\$595,000	\$12,126.10
70	6.05	\$595,700	\$387,300	\$983,000	\$20,033.54
70	6.06	\$121,500	\$147,500	\$269,000	\$5,482.22
70	6.07	\$116,800	\$159,200	\$276,000	\$5,624.88

70	6.08	\$103,400	\$151,600	\$255,000	\$5,196.90
71	4	\$295,000	\$480,000	\$775,000	\$15,794.50
71	5	\$420,000	\$370,000	\$790,000	\$16,100.20
71	5.01	\$169,000	\$107,300	\$277,000	\$5,645.26
71	6	\$140,900	\$124,300	\$265,200	\$4,904.78
71	7	[N/A]	[N/A]	Additional Lot filed with Lot 8	\$0
71	8	\$458,100	\$497,900	\$956,000	\$19,483.28
71	9	\$162,800	\$274,200	\$437,000	\$8,906.06
71	10	\$278,600	\$176,400	\$455,000	\$9,272.90
71	11	\$295,700	\$5,500	\$301,200	\$6,138.46
71	12	\$198,800	\$262,800	\$461,600	\$9,407.41
71	13	\$482,000	\$218,000	\$700,000	\$14,266.00
98	1	\$557,600	\$42,400	\$600,000	\$0
124	1	\$195,200	\$0	\$195,200	\$0
144	1	\$217,900	\$49,100	\$267,000	\$0

Application of Statutory Criteria

Introduction

The “Blighted Areas Clause” of the New Jersey Constitution empowers municipalities to undertake a wide range of activities to effectuate redevelopment of blighted areas:

“The clearance, replanning, development or redevelopment of blight areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment; and improvements made for these purposes and uses, or for any of them, may be exempted from taxation, in whole or in part, for a limited period of time... The conditions of use, ownership, management and control of such improvements shall be regulated by law.” NJ Const. Art. VIII, Section 3, Paragraph 1.

The New Jersey Local Redevelopment and Housing Law (“LRHL”) implements this provision of the New Jersey Constitution, by authorizing municipalities to, among other things, designate certain parcels as “in need of redevelopment,” adopt redevelopment plans to effectuate the revitalization of those areas and enter agreements with private parties seeking to redevelop blighted areas. Under the relevant sections of the LRHL (N.J.S.A. 40A:12A-1 et. seq.), a delineated area may be determined to be “in need of redevelopment” if the governing body concludes there is substantial evidence that the parcels exhibit any one of the following characteristics:

- 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 a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two consecutive years; 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 10 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 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.

It should be noted that, under the definition of “redevelopment area” and “area in need of redevelopment” in the LRHL, individual properties, blocks or lots 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 under N.J.S.A. 40A:12A-3, which states 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."

Redevelopment Case Law Principles

The New Jersey Local Redevelopment and Housing Law has been interpreted extensively by the New Jersey State courts with regard to the specific application of the redevelopment criteria established under N.J.S.A. 40A:12A-5. The bulk of the case law relevant to this analysis has addressed: 1) the minimum evidentiary standard required to support a governing body’s finding of blight; and 2) the definition of blight that would satisfy both the State Constitution and the LRHL.

Standard of Proof: According to the New Jersey Supreme Court’s decision, Gallenthin

Realty v. Borough of Paulsboro (2007), a “municipality must establish a record that contains more than a bland recitation of the application of the statutory criteria and declaration that those criteria are met.” In Gallenthin, the Court emphasized that municipal redevelopment designations are only entitled to deference if they are supported by substantial evidence on the record. It is for this reason that the analysis herein is based on a specific and thoughtful application of the plain meaning of the statutory criteria to the condition of the parcels within the Study Area as they currently exist. The standard of proof established by the Court in Gallenthin was later upheld in Cottage Emporium v. Broadway Arts Ctr. LLC (N.J. App. Div. 2010).

The Meaning of Blight: The Supreme Court in Gallenthin emphasized that only parcels that are truly “blighted” should be designated as “in need of redevelopment” and clarified that parcels designated under Criterion “e” should be underutilized due to the “condition of the title, diverse ownership of the real properties.” Prior to this decision, municipalities had regularly interpreted Criterion “e” to have a broader meaning that would encompass all properties not put to optimum use and may have been more financially beneficial if redeveloped. Gallenthin ultimately served to constrict the scope of properties that were once believed to qualify as an “area in need of redevelopment” under subsection (e). On the other hand, in 62-64 Main Street LLC v. Mayor & Council of the City of Hackensack (2015), the Court offered a clarification that resisted an overly narrow interpretation, “[this Court has] never stated that an area is not blighted unless it ‘negatively affects surrounding properties’ because, to do so, would undo all of the legislative classifications of blight established before and after the ratification of the Blighted Areas Clause.” The Hackensack case is largely perceived as having restored a generally expansive view of the Housing and Redevelopment Law, except as restricted by the Gallenthin interpretation of subsection (e).

“Faulty Arrangement:” The term “faulty arrangement” is used as a basis for blight or “Area in Need of Redevelopment” declarations in legislation from states across the country, including Minnesota, Louisiana, Illinois, and Utah.⁷ Given the ubiquity of this term and its lack of clear definition within the text of the LRHL, substantiating the meaning of faulty arrangement and its applicability to the Study Area is essential to substantiating the subsequent claims in the report regarding whether or not properties in the Study Area qualify.

New Jersey courts have made several rulings that add substantiate the meaning of “faulty arrangement” as it pertains to an Area in Need of Redevelopment designation. These rulings are instructive in evaluating the applicability of the condition to properties within the Study Area. They include:

- 62-64 Main Street LLC v. Mayor & Council of the City of Hackensack (2015)
 - “The Board found that Block 205, Lot 8 [(the Moore property)] meets criteria “d” for faulty arrangement of design, which is indicated by the undefined layout and related poor circulation for the parking lot. The conditions have a negative impact on the surrounding properties because it is an unsightly area and the inefficient utilization of the parking area contributes to greater use of the on-street parking resources than would otherwise occur.”

⁷Urban Blight: An Analysis of State Blight Statutes and Their Implications for Eminent Domain Reform
[https://www.nar.realtor/smart_growth.nsf/docfiles/blight_study_revised.pdf/\\$FILE/blight_study_revised.pdf](https://www.nar.realtor/smart_growth.nsf/docfiles/blight_study_revised.pdf/$FILE/blight_study_revised.pdf)

- “The property displayed faulty arrangement of design, had no landscaping or lighting, encroached into the sidewalk along one street, and was economically underutilized. In addition, the report found that the parcel had a negative impact on the surrounding properties because it was unsightly and inefficient, in a way that contributed to greater use of on-street parking.”
- Suburban Jewelers Inc. v. City of Plainfield (2010)
 - “The report identified some particular problems caused by the faulty arrangement or obsolete layout of buildings. One of these, in Block 245, dealt with the PNC Bank and its drive thru facility. Proximity of the drive thru to West Second Street contributes to traffic congestion near the Park Avenue intersection because the queue extends into the street. The problem becomes further aggravated when vehicles traveling west on West Second Street wait to make the left turn. Motorists exiting the bank drive thru are deprived of a clear line of sight at the point where the egress drive intersects with the sidewalk along Park Avenue, enhancing the likelihood of injury to pedestrians. The other similar problem is in Block 316, where “[a]n alley is situated on the north side of the [former Elks Lodge] building within which vehicles are parked creating an unsafe condition for pedestrians resulting from a lack of clear line of sight where the alley intersects with the sidewalk.”
- Price v. City of Union City, NJ (2018)
 - “[There are] 12 properties... [with] 12 separate driveways, most of which required vehicles to back out onto those roadways.... The proliferation of this many individual driveways produces concerns for traffic safety on such a busy street... The deteriorated condition of the [area] exerts a negative impact on the surrounding neighborhood...”

The findings of the Courts in these cases is instructive to an understanding of faulty arrangement as it pertains to pervasive conditions found in the Study Area, particularly as it relates to circulation patterns, property layouts, the interaction of vehicles and pedestrians, and the relationship between land use design and traffic patterns. It is also informative in that it suggests an overlap between faulty arrangement and obsolete layout.

Absent further guidance from the Courts as to specific definitions of faulty arrangement, the report relies on a common sense understanding of the word faulty. Faulty is defined by Merriam-Webster as “marked by fault or defect: imperfect.” In the case of other pervasive conditions in the Study Area, specifically the construction of improvements within the Special Flood Hazard Area with excessive impervious coverage and limited on-site provisions for stormwater management, this common sense understanding of the word, coupled with an understanding of the Court’s previous interpretation of the term, is used to substantiate designation under Criterion d.

Surface Parking and “Obsolescence”: In Concerned Citizens, Inc. v. Mayor and Council of the Borough of Princeton (2004), the New Jersey Appellate Division affirmed that a downtown surface parking lot met the requirements for an area in need of redevelopment under “Criterion D” based on substantial evidence that a surface parking

lot, in itself, was evidence of “obsolescence.” Generally speaking, the court defined obsolescence, in the context of Criterion D, as “the process of falling into disuse and relates to the usefulness and public acceptance of a facility” More specifically, the Court concurred with municipal experts on certain key conclusions that are analogous to the conditions present within the Study Area:

- Surface parking represented “yesterday’s solution” in downtowns where “structured parking is now the standard.” This aspect of the court’s reasoning directly implies that obsolescence is relative to the location of the parcel and accepted industry practices for the use, design and development thereof.
- The parking lot inhibited the types of “urban center” uses that would fulfill Princeton’s redevelopment objectives.
- Redevelopment was projected to support economic development and create a more orderly and usable layout. The court found these benefits to “serve the public health, safety, and welfare of the entire community.”
- Efforts were underway by the municipality to analyze opportunities to improve the downtown.

As noted throughout previous sections of this report, the properties contained within the Study Area, similar to those found in Princeton in the Concerned Citizens case, are located within the historic and current downtown core of the Borough, and would benefit from redevelopment that would create a more orderly and usable layout. As such, the findings of Concerned Citizens are applied to support designation of surface parking lots and other obsolete land uses in the Study Area under Criterion D.

Study Area Evaluation

The following evaluation of the Study Area is based on the statutory criteria described above for designation as an “area in need of redevelopment.”

Summary of Findings:

Study Area – All Lots

Criterion H applies to all properties that either meet other criteria or are determined to be necessary for effective redevelopment under Section 3. Criterion H states: “the designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.” The Smart Growth principles crafted by the Smart Growth Network and cited by the United States Environmental Protection Agency include:

- Mix land uses
- Take advantage of compact building design
- Create a range of housing opportunities and choices
- Create walkable neighborhoods
- Foster distinctive, attractive communities with a strong sense of place
- Preserve open space, farmland, natural beauty, and critical environmental areas
- Strengthen and direct development towards existing communities
- Provide a variety of transportation decisions
- Make development decisions predictable, fair, and cost effective

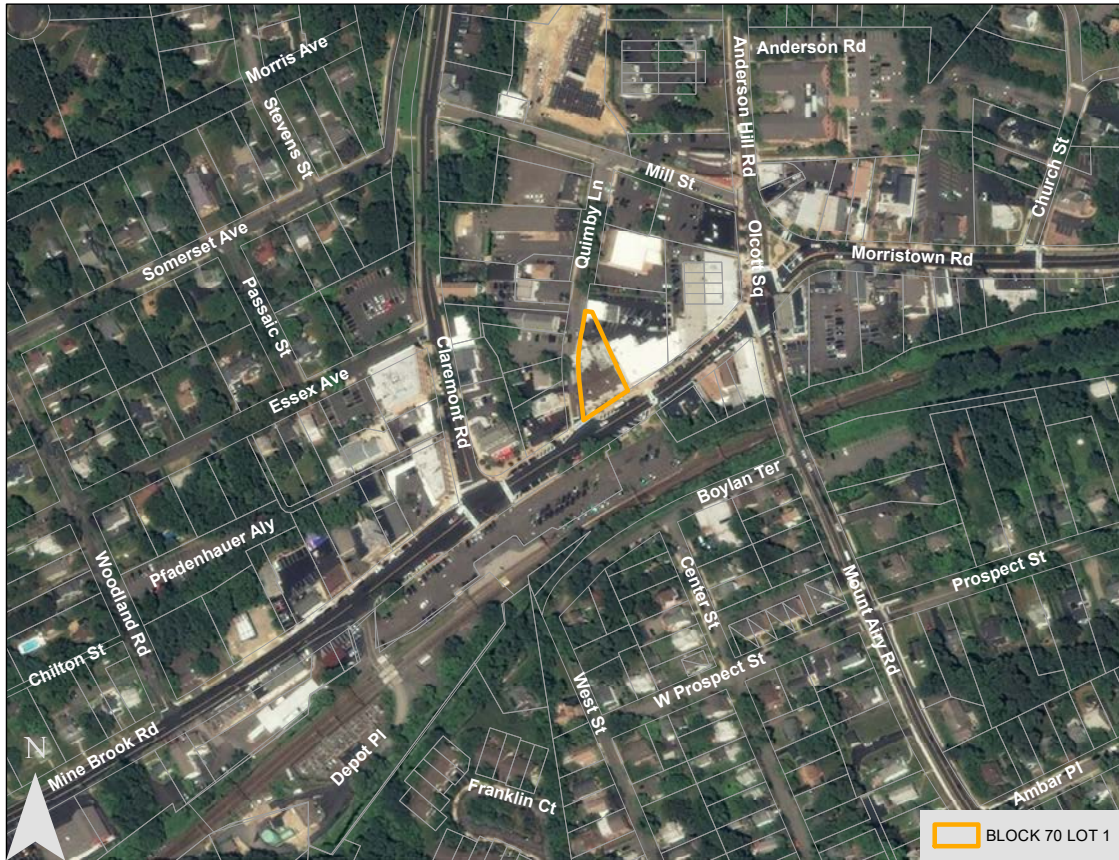
The Study Area exhibits many of the characteristics of an area suitable for Smart Growth. It has great access to public transit, including commuter rail. It is an established community center, with a land use form conducive to creating a walkable neighborhood that has a mixture of land uses. It has a distinct architectural character that could be enhanced via additional distinctive and contextually appropriate development. Each of these characteristics support the properties qualifying under Criterion H.

The table below summarizes this report’s findings with regard to the statutory criteria’s applicability to the parcel within the Study Area:

Block	Lot	Criteria								Section 3
		A	B	C	D	E	F	G	H	
70	1				X	X			X	
70	2				X	X			X	
70	3				X	X			X	
70	4				X				X	
70	5					X			X	
70	6				X	X			X	
70	6.01				X	X			X	
70	6.02				X	X			X	
70	6.03				X	X			X	
70	6.04				X	X			X	
70	6.05				X	X			X	

70	6.06				X	X			X	
70	6.07				X	X			X	
70	6.08				X	X			X	
71	4		X		X				X	
71	5				X				X	
71	5.01				X	X			X	
71	6				X				X	X
71	7, 8				X				X	
71	9				X	X			X	
71	10				X	X			X	
71	11				X				X	
71	12				X				X	X
71	13				X				X	
98	1				X				X	
124	1				X				X	
144	1				X				X	

Block 70, Lot 1



Address: 27 Mine Brook Road

Size: 0.32 Acres

Owner: Mine Brook 2006, LLC

Block 70, Lot 1 (27 Mine Brook Road) is a roughly 13,930 square foot property with frontage on Mine Brook Road and Quimby Lane. The property currently houses the Bernard's Inn.

Based upon an inspection of the property and examination of records, Block 70, Lot 1 meets the following criteria under the LRHL:

Criterion 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.

Several characteristics of the property exhibit faulty arrangement. These characteristics are the result of the retrofitting of the historic property to accommodate for more intensive uses and a more auto-oriented environment. As reflected in the Sanborn map

below, the footprint of the property has remained largely unchanged since 1909. While the property has been in continuous operation as an inn over that time, the intensity of the use as it relates to food service has increased, including the creation of a banquet hall that was approved by the Bernardsville Planning Board in 1992. Today, the hotel includes 20 guest suites, a fine dining restaurant, and banquet spaces suitable to accommodate up to 350 guests.

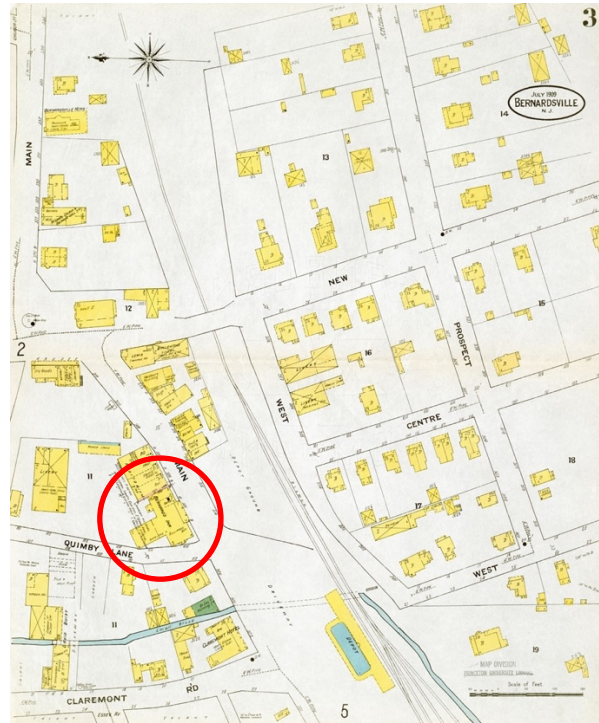


Figure 8: Bernards Inn footprint in 1909

This increased intensity of use yields a corresponding increase in the intensity of the need for deliveries, trash management, and other back of house activities which are primarily conducted using trucks. The continued operation of the property in a manner consistent with its original footprint, considering the increased intensity and introduction of trucks as the primary mechanism for deliveries, has created conditions reflective of a faulty arrangement that are detrimental to public safety.

Today, the property has no dedicated on-site loading area that is suitable for accommodating the deliveries that are required to operate a restaurant and hotel. As a result, deliveries commonly take place on Quimby Lane in an informal loading area marked with “No Parking” signs. This condition is reflective of an obsolete layout and faulty arrangement. It impedes the flow of traffic on Quimby Lane and creates a safety hazard by impeding visibility for motorists and pedestrians. Loading along the eastern sidewalk of Quimby Lane, as reflected in the image below, creates increased opportunities for conflict points between vehicles and pedestrians.



Figure 9: Loading along Quimby Lane

Faulty arrangement is also observed in the rear of the property. There is a rear entrance to the building that is accessed via a staircase. Individuals exiting this staircase do so onto an unmarked access driveway that is shared with the adjacent lot. The intersection of this driveway and the staircase creates a blind turn that is dangerous to pedestrians and motorists alike. This condition is magnified by the lack of striping or marking denoting drive lanes in the rear of the property.

The trash area in the rear of the property is also reflective of a faulty arrangement. While the trash area is adequately screened, there is no visual indication of how trash collection is supposed to take place. If trucks collect the trash where it is stored, they will halt the flow of circulation to the parking area of the adjacent property, resulting in a system that is not only inefficient, but also dangerous.



Figure 10: Blind turn in conflict with staircase access; trash area with no marking or striping

The property, as currently configured, exhibits excessive land coverage. Presently, the maximum land coverage under the corresponding zone in the Bernardsville ordinance is 85%. Based on a review of aerial imagery, the property exhibits nearly 100% land coverage, except for a small landscaped area near the intersection of Quimby Lane and Mine Brook Road. Excessive land coverage negatively impacts the health, safety, and welfare of a community by exacerbating flooding, stormwater runoff, and non-point source pollution. This condition is particularly relevant due to the property's location within the FEMA Special Flood Hazard Area. Excessive land coverage also detracts from the welfare of the community environment by creating a less hospitable landscape that discourages pedestrian activity. Pedestrian activity is an essential component of a modern downtown and conducive to creating a thriving business environment.

Based on the analysis above, Block 70, Lot 1 qualifies as an area in need of redevelopment under the LRHL as it satisfies Criterion D.

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.

The property also qualifies as an area in need of redevelopment under Criterion E. A review of a property survey of the adjacent site dated July 13, 2015 revealed that several parking spaces and a portion of the driveway used by the adjacent property, Block 70, Lot 2, encroach on the property. This encroachment is reflected in the figure below.

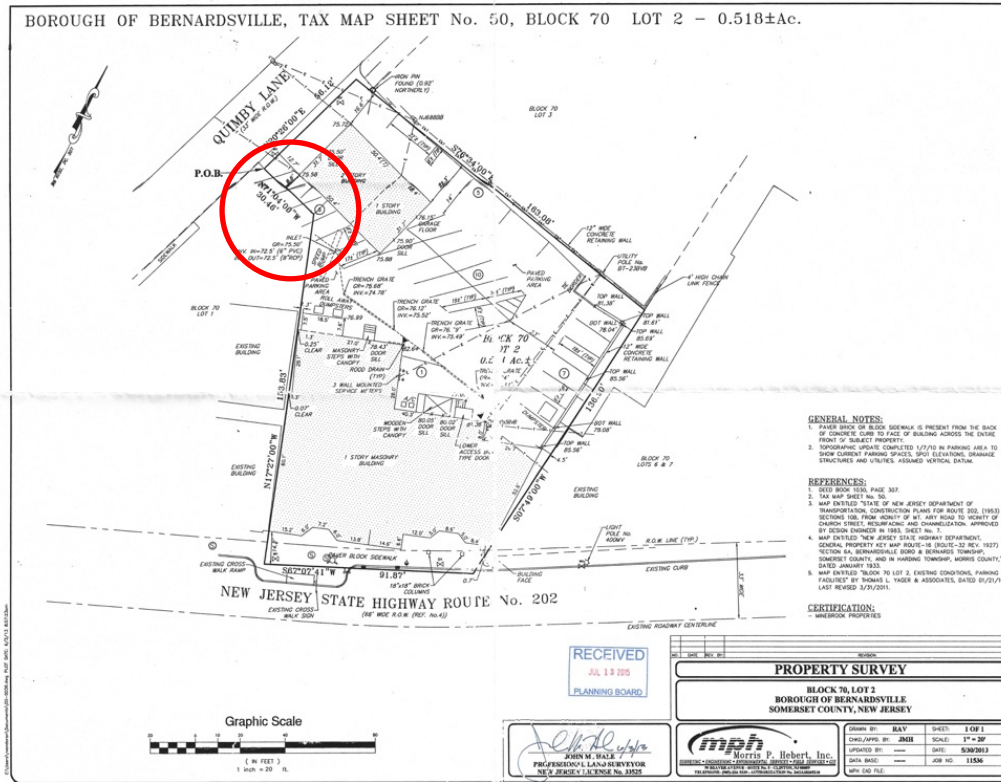
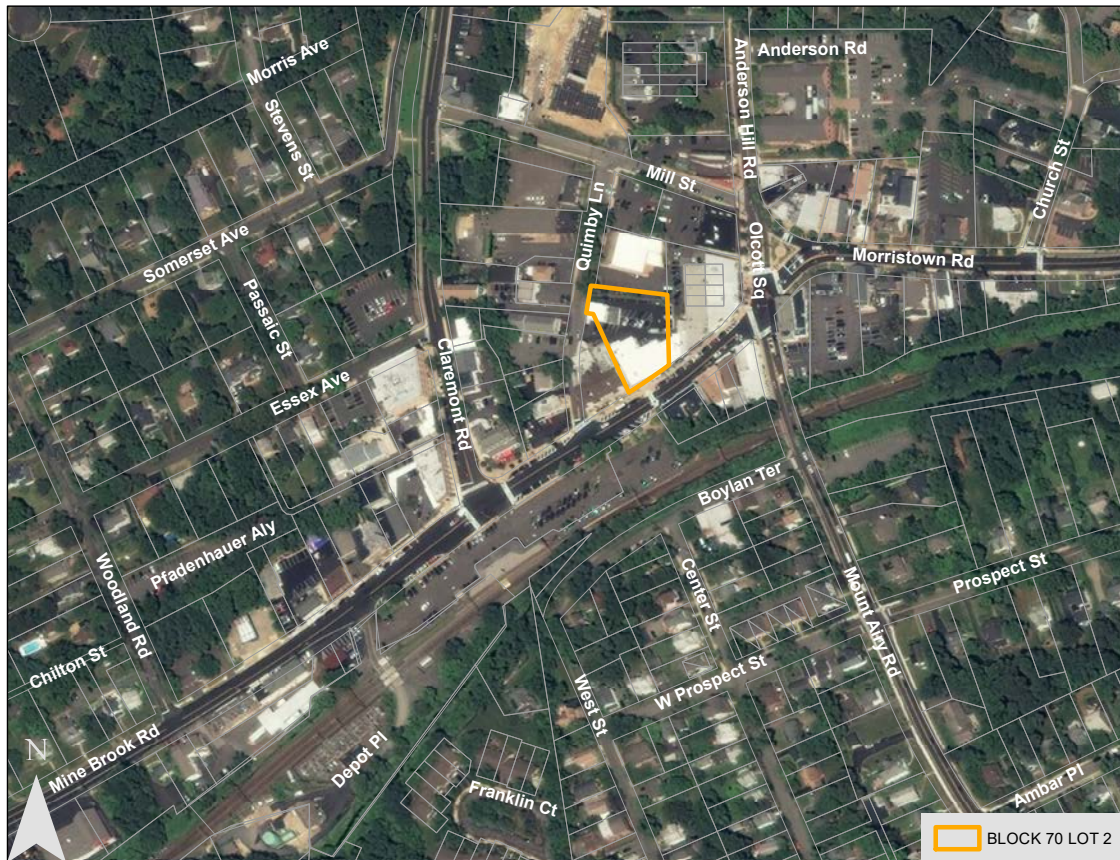


Figure 11: Circulation and parking area spans two properties

Based on a review of title documents provided by the Borough, this encroachment is formalized via a cross easement agreement. This easement is included as **Appendix E**. While this arrangement is formalized via an agreement, it still presents an entanglement of title and condition of diverse ownership which may impede future transfer of, and investment in, the property, a condition that may lead to stagnation and have a negative impact on the welfare of the community. Specifically, the cross-easement agreement functionally prevents the reconfiguration of the property in any way would conflict with the easement, particularly if it may result in overuse or abuse of the easement. As such, the property qualifies as an area in need of redevelopment under Criterion E.

Block 70, Lot 2



Address: 17-23 Mine Brook Road

Size: 0.65 Acres

Owner: Mine Brook Properties, LLC

Block 70, Lot 2 (17-23 Mine Brook Road) is a roughly 28,314 square foot property with frontage on Mine Brook Road and Quimby Lane. The current uses of the property are retail, restaurants, and cosmetic services. The property is comprised of two principal buildings: one standalone building fronting on Quimby Lane currently occupied by a restaurant, Plaza Tikal, and one attached multi-tenant structure fronting on Mine Brook Road currently occupied with tenants including the Bernardsville Print Center and Tsuki Japanese Restaurant.

Based upon an inspection of the property and examination of records, Block 70, Lot 2 meets the following criteria under the LRHL:

Criterion 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.

As currently configured, the property exhibits excessive land coverage. Based on an aerial assessment, the lot coverage of the property is roughly 95%. This is well in excess of the maximum coverage of 85% permitted under the ordinance. Excessive land coverage negatively impacts the health, safety, and welfare of a community by exacerbating flooding, stormwater runoff, and non-point source pollution. This condition is particularly detrimental given the property's location in the FEMA Special Flood Hazard Area. Excessive land coverage also detracts from the welfare of the community environment by creating a less hospitable landscape that discourages pedestrian activity. Pedestrian activity is an essential component of a modern downtown and conducive to creating a thriving business environment.

The property as currently configured also exhibits faulty arrangement of sanitary and waste management facilities. Dumpsters located in the rear of the structure fronting on Mine Brook Road lack enclosures and screening. An additional dumpster is located in a parking space, straining the already limited parking inventory. The duration of its placement in the parking space (Google Street View imagery indicates it has not been moved since 2016) reflects the permanent nature of its placement in an inappropriate location. The duration of its placement reflects not a momentary misplacement, but a persisting condition of faulty arrangement, mismanagement, or both. This arrangement of sanitary and waste management facilities, specifically the lack of enclosure and screening is detrimental to health, safety, and welfare of a community as failure to adequately store and secure trash can attract vermin, detract from the aesthetic quality of a place, and cause waste to spread to adjacent properties or natural environments.



Figure 12: Dumpster area lacks screening or striping



Figure 13: Location of dumpster in parking area

The property also possesses dilapidated improvements. Pavement in the parking and circulation area exhibits cracking and other signs of deterioration as reflected in the figure below.



Figure 14: Dilapidated improvements; narrow area for vehicular circulation

Based on the observations and analysis above, the property qualifies as an area in need of redevelopment under Criterion D.

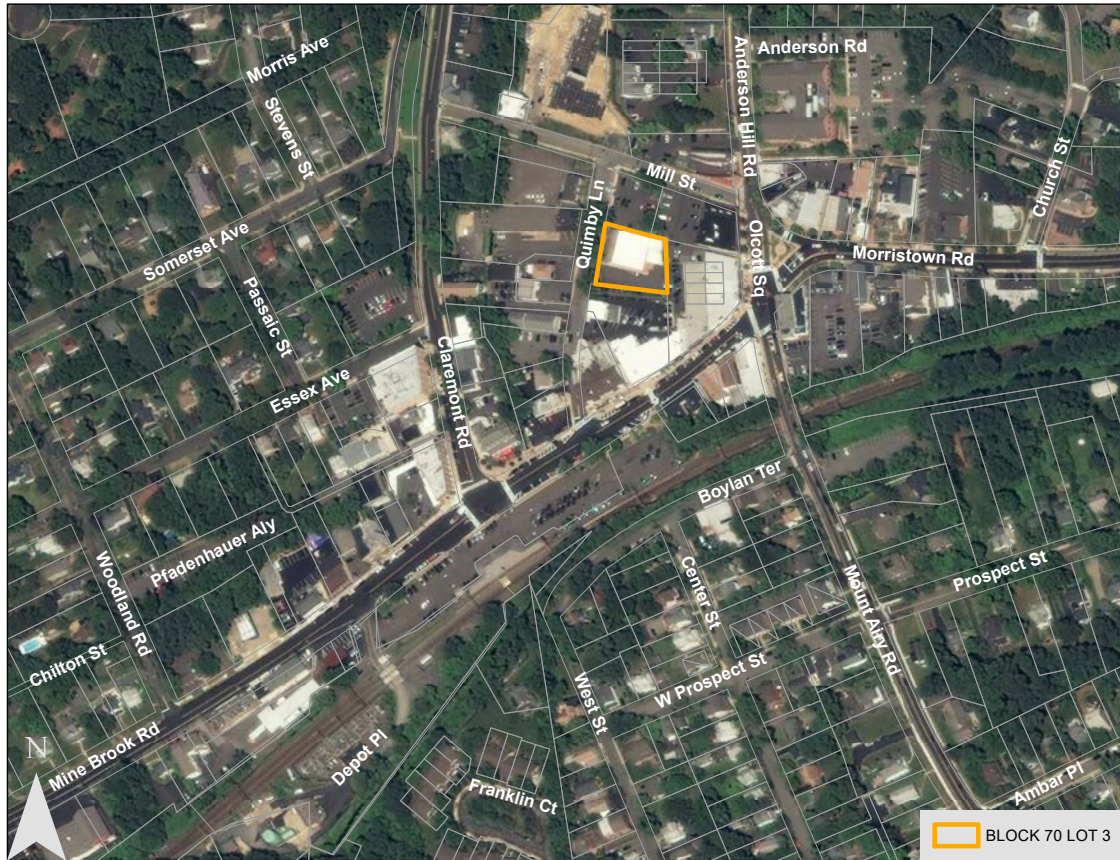
Criterion E: A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare,

The property also qualifies as an area in need of redevelopment under Criterion E. A review of a property survey dated July 13, 2015 revealed that several parking spaces and a portion of the driveway encroached on the adjacent property, Block 70, Lot 1. This encroachment is reflected in the Figure below.



38

Block 70, Lot 3



Address: 23 Quimby Lane

Size: 0.41 Acres

Owner: Borough of Bernardsville, C/O M.E. Olcott Square, LLC

Block 70, Lot 3 (23 Quimby Lane) is a roughly 17,860 square foot property with frontage on Quimby Lane. The property currently houses the Borough of Bernardsville Post Office. The property is owned by the Borough of Bernardsville, subject to a ground lease to M.E. Olcott Square, LLC.

Based upon an inspection of the property and examination of records, Block 70, Lot 3 meets the following criteria under the LRHL:

Criterion 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.

The property possesses faulty arrangement derived from an absence of on-site parking. Based on the B-1 zoning regulations, a “public office” is required to provide one parking

space for every 200 square feet of area. Based on available tax records, the area of the Post Office is 6,694 square feet. Based on these figures, roughly 33 spaces should be provided on site. While the Borough's code is informative, it is not an ideal standard for estimating required parking considering modern standards for parking requirements around transit. Using a more modern standard figure of 3.0 spaces per 1,000 square feet of commercial area located near transit, the required number of spaces is roughly 21. While the site does include 15 parking spaces for cars and 8 for mail trucks, these spaces are clearly marked for employee use.



Figure 16: On-site parking restricted for employee use

While customer parking for the Post Office is provided in the adjacent lot, the properties are not fully under common control as described below. Because of a lack of any on-site parking for customers, Lot 3 exhibits conditions of faulty arrangement and qualifies as an area in need of redevelopment under Criterion D.

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.

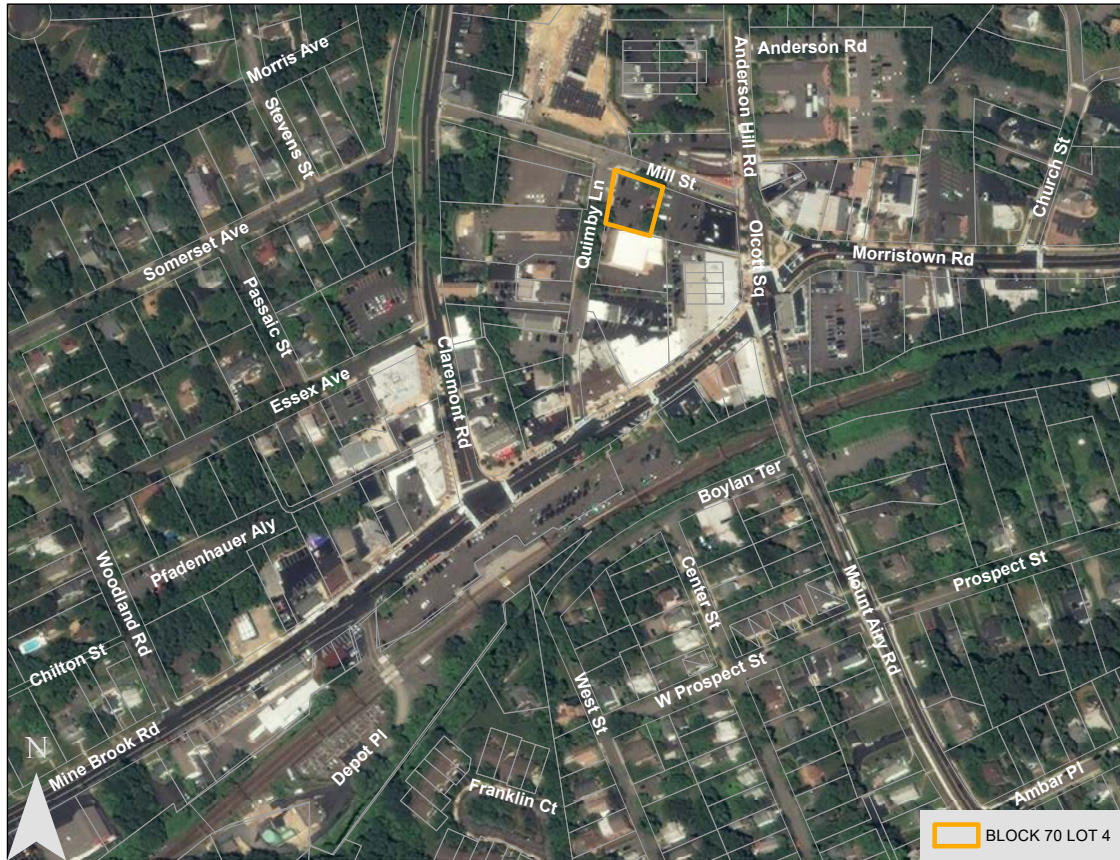
The property possesses a unique title condition which creates an impediment to assemblage and discourages the undertaking of improvements. Specifically, there are three parties that exert control over the property as a result of a ground lease and sub-lease agreement: the Borough as the owner of the land, M.E. Olcott Square, LLC as the holder of the ground lease, and the United States Postal Service as the operator of the facility.

The history of the use and control of the property dates back several decades and involves several actions by the Borough's Governing Body, private holders of the ground lease, and the Post Office. Most simply, in 1968 the Borough, as the owner of the entered into an agreement with DeVenezia Construction., Co., Inc., in 1968 for a long-term assignable ground lease. This ground lease included options that could extend the term through 2022. This ground lease was subsequently purchased by M.E. Olcott Square, LLC according to tax records. Documentation associated with the ground lease is included as **Appendix F.**

This title arrangement, whereby the Borough owns underlying land and a separate party holds a ground lease creates a condition of diverse ownership that may be presumed to have a negative economic impact by discouraging the undertaking of improvements. This condition becomes particularly problematic as the ground lease approaches its 2022 expiration date. A condition whereby the owner of a Ground Lease is concerned about the impending expiration of the lease discourages the holder of the Lease or operator from investing and making improvements on a property. To that end, violations relating to property condition and upkeep were issued by the Borough's Zoning Enforcement division in 2018 and 2019. Lack of improvements and property upkeep, as substantiated via these violations, has a detrimental impact on the investment in the commercial district. Consequently, this condition, specifically the existence of a long-term ground lease, creates a condition of title that is detrimental to the welfare of the area. These violations are included as **Appendix H.**

Based on the analysis above, Block 70, Lot 3 qualifies as an area in need of redevelopment under the LRHL as it satisfies Criterion E.

Block 70, Lot 4



Address: 35 Quimby Lane

Size: 0.23 Acres

Owner: Borough of Bernardsville

Block 70, Lot 4 (35 Quimby Lane) is a roughly 10,018 square foot property with frontage on Quimby Lane and Mill Street. The current use of the property is a parking lot.

Based upon an inspection of the property and examination of records, Block 70, Lot 4 meets the following criteria under the LRHL:

Criterion 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.

As noted previously, the New Jersey Appellate Division found in Concerned Citizens that surface parking lots in downtown areas meet the requirements for an area in need of redevelopment under Criterion D. Specifically, the Court found that a surface parking lot

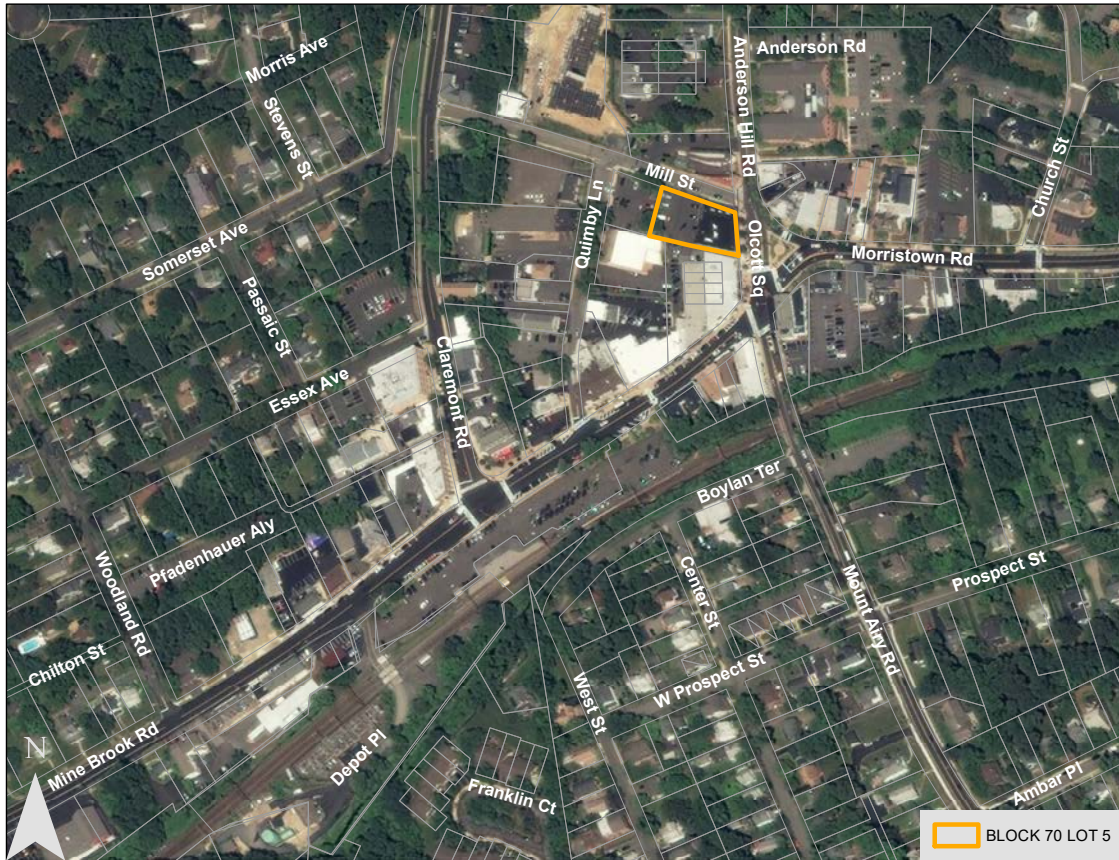
was evidence of obsolescence as it represented “yesterday’s solution” and hindered the efforts of the community to advance downtown redevelopment objectives.

The findings in Concerned Citizens apply to the conditions in Block 70 Lot 4. Located within 1,000 feet of the Train Station, this is an area historically and presently considered to be a part of the Borough’s downtown. Furthermore, the Borough has undertaken efforts to move away from auto-oriented uses and the surface parking lots of “yesterday,” as documented in the language of the 2004 Master Plan that stated auto related uses of Quimby Lane “under-utilize their properties and present an unappealing streetscape.”

Surface parking lots are detrimental to the community for several reasons. They use space inefficiently and thereby limit the potential for creating walkable and vibrant downtowns. They do not generate significant tax revenue—while the average Improvement Value per Acre in Bernardsville is \$174,133, the improvement value for surface parking lots, including Block 70, Lot 4 is typically \$0. They detract from the pedestrian environment and discourage walkability—as a result they make it less likely that individuals would visit several commercial establishments in the downtown, therefore causing a detriment to the economic well-being of the district. They exhibit high lot coverage ratios that exacerbate flooding, a condition particularly relevant given the property’s location the Special Flood Hazard Area.

Based on the above, the property qualifies as an area in need of redevelopment under Criterion D. Specifically, it houses an obsolete land use that is detrimental to the welfare of the community.

Block 70, Lot 5



Address: 11 Olcott Square

Size: 0.42 Acres

Owner: M.E. Olcott Square, LLC

Block 70, Lot 5 (11 Olcott Square) is a roughly 18,295 square foot property with frontage on Mill Street and Olcott Square. The current use of the property is retail. Current tenants include Ride + Reflect, Mediterranean Tile, and California Closets.

Based upon an inspection of the property and examination of records, Block 70, Lot 5 meets the following criteria under the LRHL:

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.

The property possesses a title issue related to vehicular access from the adjacent commercial property, Block 70 Lots 6, 6.01-6.08 (henceforth referred to as Lot 6). Access to the rear loading and parking area for Lot 6 is primarily provided via the parking and loading area located in the rear of Lot 5. The only other access point to the rear of Lot 6 is via a narrow driveway located between the two buildings. This driveway is of insufficient width to accommodate deliveries or access for larger passenger vehicles. The relationship between the two properties is reflected in the figure below.



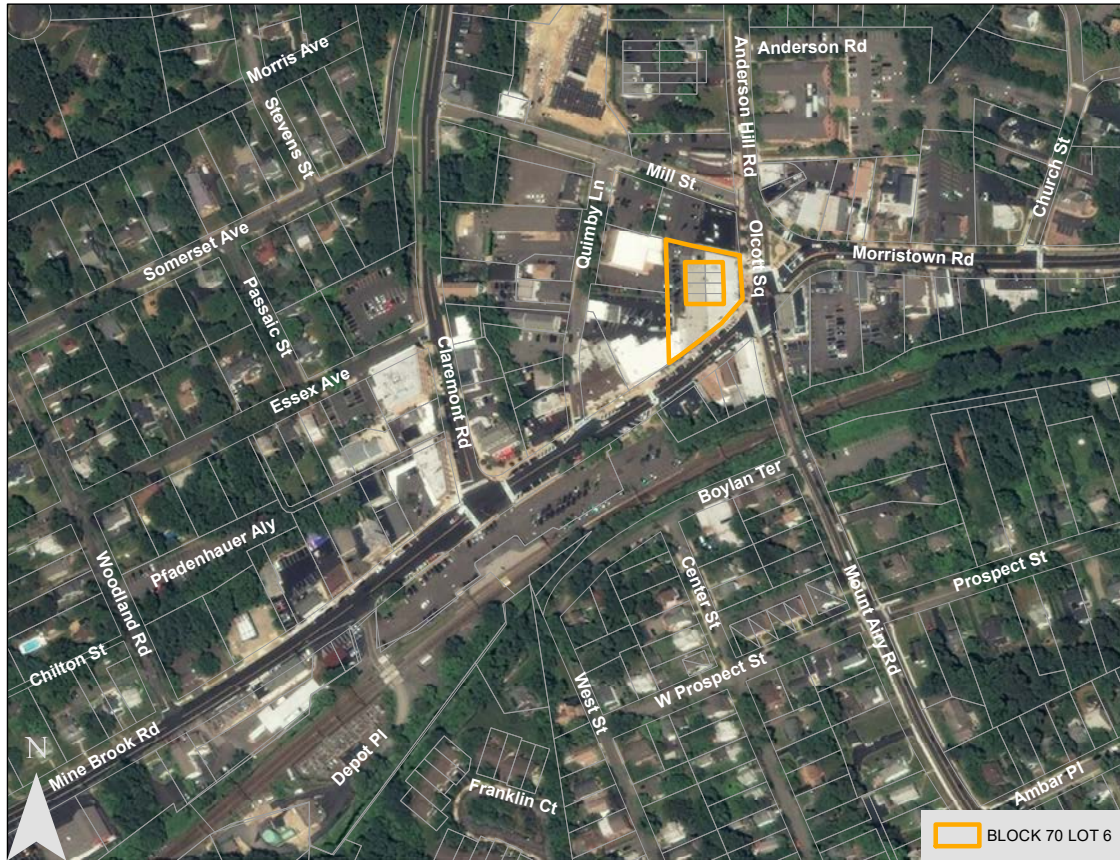
Figure 17: Access to loading for Lot 6 only possible via Lot 5

Because access to the rear of Lot 6 for loading needs to happen by crossing Lot 5, this creates a title issue on Lot 5. Based on title research and a conversation with one of the owners of a Lot 6 property, there is no formalized easement in place permitting tenants of Lot 6 to use this access point. Nevertheless, this condition exists and, based on historic imagery and conversations with property owners, has existed for several decades. The duration of this condition creates the potential for a legal claim to enforce continued access.

Whether the relationship between the properties is formal or informal, the intermingling of functionality between these two properties via the cross-access arrangement is a condition that would discourage the undertaking of improvements on either property. This would discourage investment, and as a result hinder economic development that would be detrimental to the welfare of the community and reduce the viability of land that would otherwise be useful.

Based on the analysis above, Block 70, Lot 5 qualifies as an area in need of redevelopment under the LRHL as it satisfies Criterion E.

Block 70, Lot 6, 6.01-6.08



Block 70, Lot 6

Address: Olcott Square

Size: [N/A]

Owner: Olcott Square Condo Association

Block 70, Lot 6.01

Address: 5 Olcott Square

Size: 0.06 Acres

Owner: DITR Associates, LLC, % Judith Sussman

Block 70, Lot 6.02

Address: 3 Olcott Square

Size: 0.02 Acres

Owner: ST-LPT Properties, LLC

Block 70, Lot 6.03

Address: 2 Olcott Square

Size: 0.02 Acres

Owner: L&K Madden Properties, LLC

Block 70, Lot 6.04

Address: 1-3 Mine Brook Road

Size: 0.03 Acres
Owner: Skyline Mine Brook, LLC

Block 70, Lot 6.05
Address: 5 Mine Brook Road
Size: 0.12 Acres
Owner: Olcott Square Corp.

Block 70, Lot 6.06
Address: 7 Olcott Square
Size: 0.01 Acres
Owner: Olcott Square Corp.

Block 70, Lot 6.07
Address: 11 Mine Brook Road
Size: 0.01 Acres
Owner: Annafio, LLC

Block 70, Lot 6.08
Address: 13 Mine Brook Road
Size: 0.01 Acres
Owner: Fantasia Realty, LLC

Block 70 Lot 6 fronts on Olcott Square and Mine Brook Road. The property includes a commercial structure that has been divided into eight commercial condominiums. These condominiums house a variety of commercial entities. Because of the shared characteristics of the property, the base lot, as well as each of the condominium units 6.01-6.08 are considered together for the purpose of determining if they qualify as an area in need of redevelopment.

Based upon an inspection of the property and examination of records, Block 70, Lots 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08 meet the following criteria under the LRHL:

Criterion 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.

The property in its current configuration exhibits faulty arrangement and design through the lack of available parking. Collectively, the eight condominium units encompass roughly 13,100 square feet of occupiable area based on a review of corresponding tax records. As noted previously, an appropriate standard for commercial parking for an area in proximity to transit is 3.0 spaces per 1,000. Using this metric, the minimum number of on-site spaces is roughly 39. Presently, 17 spaces are provided. This lack of available on-site parking, particularly for a commercial use where parking is essential to the success of the businesses, represents a faulty arrangement that has a negative impact on the welfare

of the community by making it difficult for potential patrons of the businesses to access and support them, and make it difficult for businesses to expand. It also places a burden on public facilities, requiring customers to park on-street or at off-site locations.

The location and accessibility to the parking, in addition to its insufficient quantity, is also indicative of a faulty arrangement. As noted in the description of Block 70, Lot 5, parking for Lot 6 and its commercial condominiums is only accessed by crossing the adjacent property or by using a narrow driveway that intersects with Olcott Square. This narrow driveway possesses insufficient width for commercial traffic and requires a tight turn to enter or exit that creates an unsafe condition for drivers and pedestrians. The driveway and the need to access the property via the adjacent site is reflected in the figures below.

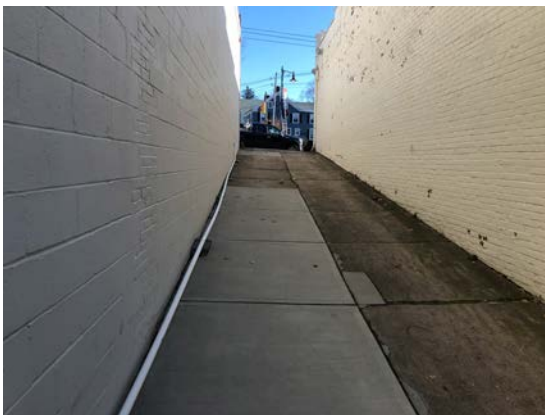


Figure 15: Only direct access without using Lot 5 is too narrow to traverse safely or accommodate commercial vehicles



Figure 16: Commercially viable access to Lot 6 only possible by crossing Lot 5

The property also exhibits excessive land coverage. Pervious areas on the property are negligible, and the estimated land coverage is well in excess of the 85% permitted under the existing zoning ordinance. Excessive land coverage negatively impacts the health, safety, and welfare of a community by exacerbating flooding, stormwater runoff, and non-point source pollution. This condition is particularly detrimental given the property's location in the FEMA Special Flood Hazard Area. Excessive land coverage also detracts from the welfare of the community environment by creating a less

hospitable landscape that discourages pedestrian activity. Pedestrian activity is an essential component of a modern downtown and conducive to creating a thriving business environment.

Based on the conditions of faulty arrangement and excessive land coverage, the property qualifies as an area in need of redevelopment under Criterion D. Specifically, it exhibits faulty arrangement and excessive land coverage in a manner that is detrimental to the safety and welfare of the community.

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.

As noted, access to the loading and parking in the rear of the property is primarily accomplished by traversing Block 70, Lot 5. Whether this arrangement is formalized by an as yet unidentified easement or is informal, it represents an intermingling of parcels that serves to discourage additional improvements. A potential investor considering improvements in any of the commercial condominiums that comprise Lot 6 would need to do so knowing that the long-term viability of these improvements are subject to the continued right of access via the adjacent property. A potential investor considering improvements in Lot 5 would know that access needs to be preserved to the adjacent lots. The arrangement, therefore, functionally prevents the reconfiguration or redevelopment of the property in any way would conflict with the arrangement or result in overuse or abuse of the arrangement. This circumstance, created through a condition of title, discourages the undertaking of improvements and, consequently, can be presumed to have a negative economic impact that is detrimental to the welfare of the community.

Based on this analysis, the property qualifies as an Area in Need of Redevelopment under Criterion E.

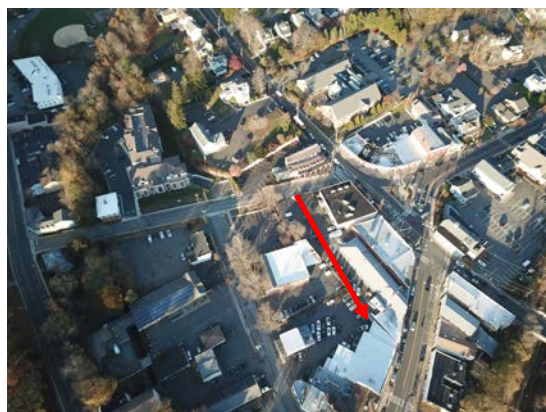
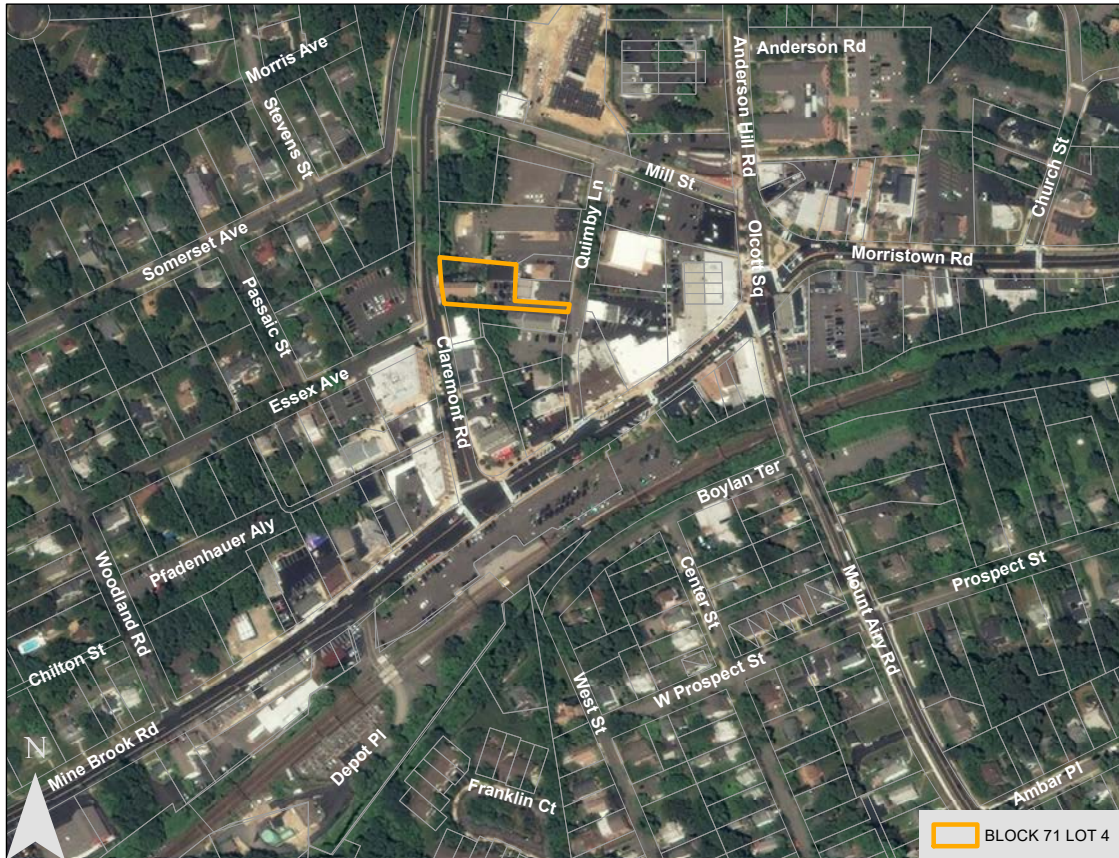


Figure 17: Commercially viable access to Lot 6 only possible by crossing Lot 5

Block 71, Lot 4



Address: 33 Claremont Road

Size: 0.19 Acres

Owner: 33 Claremont Road, LLC

Block 71, Lot 4 (33 Claremont Road) is an approximately 8,276 square foot property with frontage on Claremont Road and Quimby Lane. The property consists of a vacant former commercial property.

Based upon an inspection of the property and examination of records Block 71, Lot 4 meets the following criteria under the LRHL:

Criterion B: The discontinuance of the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable.

The primary structure on the property is a vacant commercial building that fronts on Claremont Road. This structure was previously used for commercial purposes by Griffin & Howe, a company that manufactures and sells firearms. Based on a review of

imagery, the property has experienced significant vacancies since at least August 2016, as reflected in the imagery below.



Figure 18: July 2009, occupied



Figure 19: August 2016, vacant



Figure 20: August 2018, vacant



Figure 21: November 2019, vacant

As a property where the primary building was previously used for commercial purposes that has experienced significant vacancies for at least two years, the property qualifies as an Area in Need of Redevelopment under Criterion B.

Criterion 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.

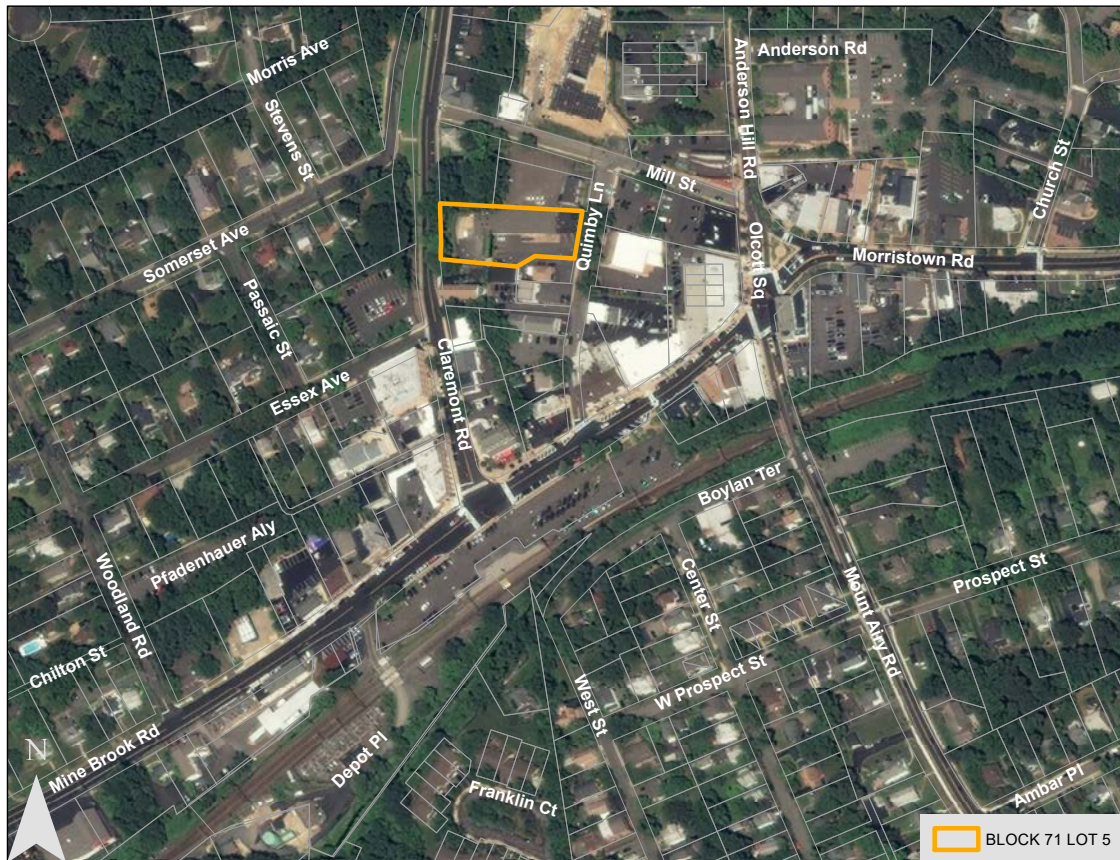
The property includes improvements on both sides of the Mine Brook. These improvements are connected via a wood bridge that was constructed over the Mine Brook. Bridges over waterways create a “damming” effect by impeding the free flow of the waterway. Bridges create a condition whereby debris in the waterway may become caught under the bridge and, progressively, clog the waterway. This condition can magnify flooding by blocking the flow of the waterway, and is particularly detrimental based on the site’s location within the Regulatory Floodway. Increased flooding is detrimental to the safety and welfare of the community.

The design of the structure on Lot 4 in a way that requires a bridge to access both sides of the property, as reflected in the images below, is reflective of a faulty arrangement that increases flooding risks. As a result, the property qualifies as an Area in Need of Redevelopment under Criterion D.



Figure 22: Bridge connecting the two sides of the property over the Mine Brook

Block 71, Lot 5



Address: 36 Quimby Lane

Size: 0.63 Acres

Owner: Di Napoli, Sr., LLC

Block 71, Lot 5 (36 Quimby Lane) is a roughly 27,442 square foot property with frontage on Clarendon Road and Quimby Lane. The current use of the property is a car wash. The primary access point to the car wash is via Quimby Lane.

Based upon an inspection of the property and examination of records Block 71, Lot 5 meets the following criteria under the LRHL:

Criterion 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.

The property as currently configured exhibits faulty arrangement. Specifically, the car wash uses span both sides of the Mine Brook. Vehicles entering the car wash facility proceed through a front parking and driveway area, cross over the Mine Brook, and are

then rerouted back through the primary structure before existing back onto Quimby Lane. This pattern is reflected in the figure and image below.

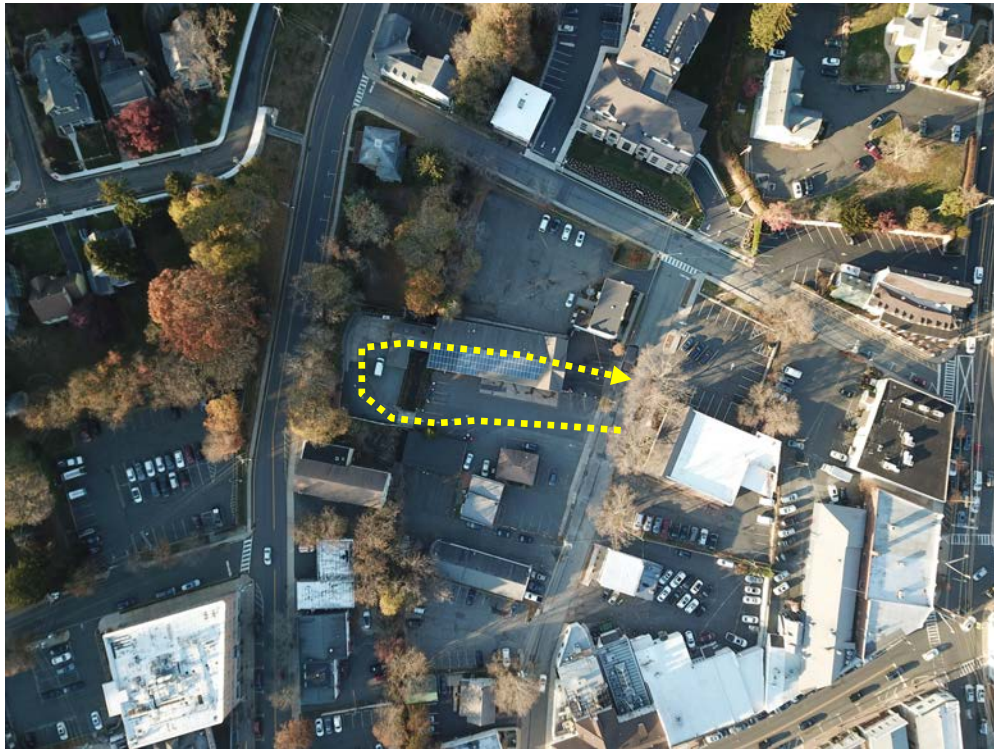


Figure 23: Circulation pattern requires vehicles to cross the Mine Brook; car wash activities take place above the Mine Brook

This vehicular pattern is reflective of a faulty arrangement and the inappropriate configuration of the site for the current use. Requiring vehicles to cross the Mine Brook for their car wash, and then performing car washing activities while on a bridge over the Mine Brook, creates health and safety concerns, particularly given the use. Carwashes create runoff, both from materials used in the cleaning process, and from the residue that emanates from vehicles undergoing the washing process (auto fluids, oil, road grime, etc.). The intimate intermingling of this use with the Mine Brook is reflective of a faulty

arrangement that has negative health and safety impacts on the community which use the Mine Brook as a recreational resource and natural habitat.

The property also possesses a combination of obsolete layout and excessive land coverage that has detrimental impacts on health, safety, or welfare of the community. The portions of the property to the east of the Mine Brook are entirely covered by impervious surfaces. As previously noted, excessive impervious surfaces exacerbate flooding impacts and non-point source pollution. This is particularly problematic for this property, which sits directly in the FEMA Regulatory Floodway. Development within the Regulatory Floodways is highly restricted, and subject to additional permitting and engineering controls. Based on the lack of these improvements and the compounding factor of excessive land coverage, the property's layout within the Regulatory Floodway is reflective of a faulty arrangement that is detrimental to the health and safety of the community.

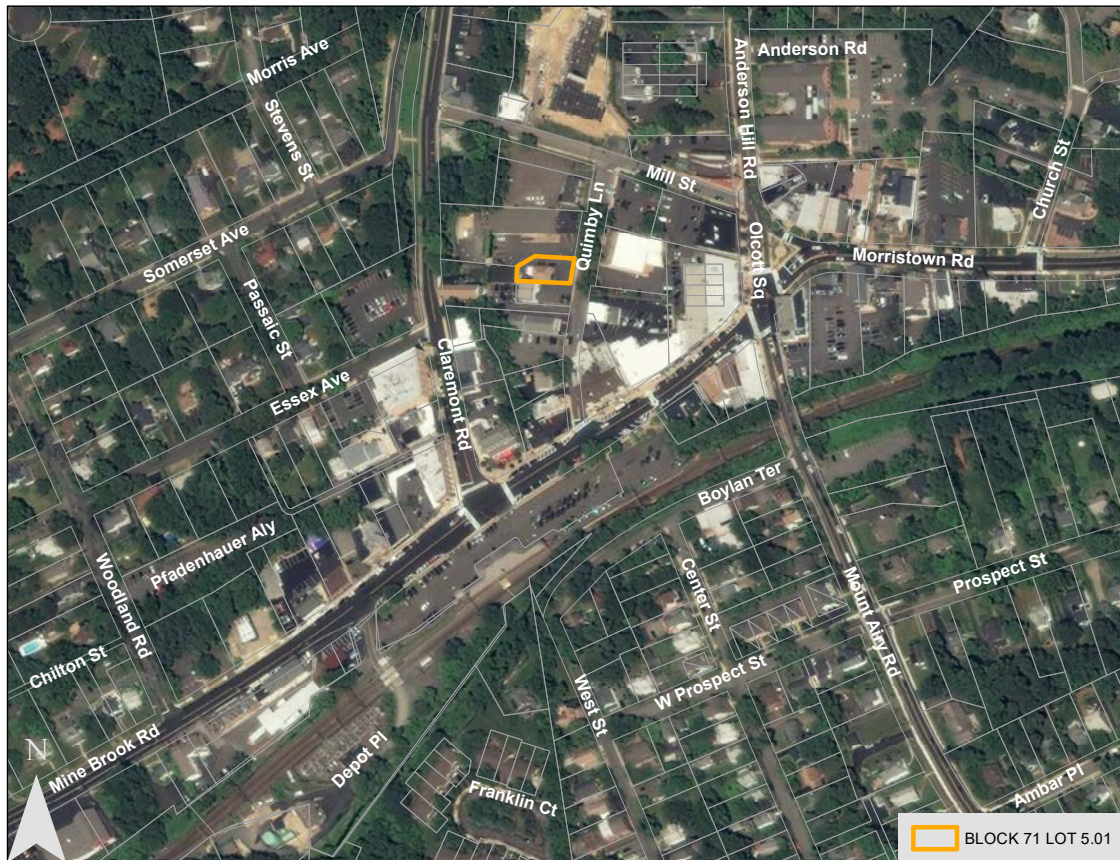
The bridges used to connect the portions of the property on either side of the Mine Brook are also reflective of a faulty arrangement. Bridges over waterways create a "damming" effect by impeding the free flow of the waterway. Bridges create a condition whereby debris in the waterway may become caught under the bridge and, progressively, clog the waterway. This condition can magnify flooding by blocking the flow of the waterway. Increased flooding is detrimental to the safety and welfare of the community.

Faulty arrangement is also reflected in the extensive curb cuts along the property's Quimby Lane frontage. The overwhelming majority of the property frontage along Quimby Lane lacks an elevated curb to differentiate between the sidewalk and road and control vehicular access. This creates a dangerous condition for pedestrians walking along the west side of Quimby Lane.

Lastly, the property houses an auto-oriented land use that, while not universally obsolete, is no longer appropriate for a downtown setting. As was noted in the Borough's Master Plan, the auto related uses of Quimby Lane "under-utilize their properties and present an unappealing streetscape." The car wash of Lot 5 is emblematic of these conditions. As with surface parking lots in the Concerned Citizens case, a car wash is no longer a modern use for a downtown facility, particularly in a community like Bernardsville that has expressed a desire to create a more vibrant and walkable downtown setting.

Based on the conditions described above, the property qualifies as an Area in Need of Redevelopment under Criterion D.

Block 71, Lot 5.01



Address: 28 Quimby Lane

Size: 0.11 Acres

Owner: FMB Quimby, LLC

Block 71, Lot 5.01 (28 Quimby Lane) is a roughly 4,791 square foot property with frontage on Quimby Lane. The property currently houses Bernards Decorating.

Based upon an inspection of the property and examination of records Block 71, Lot 5.01 meets the following criteria under the LRHL:

Criterion 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.

Like Lot 5, the property exhibits a combination of obsolete layout and excessive land coverage that is detrimental to the health and safety of the community. The property appears to have no pervious surfaces on site, a condition that exacerbates the impacts of flooding and stormwater runoff. This condition is compounded by the property's

location within the Regulatory Floodway, a designation that is reflective of its high risk of flooding. There is no appearance of any effort to mitigate the impacts of flooding on site, such as elevating the building above the Base Flood Elevation or providing additional flood management infrastructure. As such, the layout of the property, particularly considering its location within the Regulatory Floodway and the excessive land coverage on site, is obsolete and faulty in a manner that is detrimental to the health and safety of the community that would be negatively impacted by flood events.

The condition of the parking area on site is also reflective of qualification under Criterion D. The parking surface and adjacent sidewalk are cracked and in need of repair and resurfacing. These dilapidated improvements have detrimental impacts on health and welfare by discouraging investment and detracting from the attractiveness of the pedestrian environment.



Figure 24: Improvements are cracked and in need of repair; circulation pattern is poorly striped

Obsolescence and faulty arrangement is also reflected in the extensive curb cuts along the property's Quimby Lane frontage. The overwhelming majority of the property frontage along Quimby Lane lacks an elevated perpendicular curb to differentiate between the sidewalk and cart path of Quimby Lane. This creates a dangerous condition for pedestrians walking along the west side of Quimby Lane.

The configuration of the parking area, particularly as it relates to the neighboring properties, also reflects a faulty arrangement. The parking area is poorly striped and has limited wayfinding to assist drivers in identifying the entry or exit. This safety concern is magnified by the lack of differentiation between the circulation patterns of the adjacent properties. Vehicles entering or exiting Lot 5.01 may cross Lots 5 or 9 inadvertently, creating confusion and accidents. This circulation arrangement is not reflective of modern circulation patterns and is detrimental to the safety of drivers or pedestrians entering or exiting the property and adjacent lots. This condition is exacerbated by the adjacent car wash which exhibits similar conditions.

Placement of parking at the front of the property is reflective of an obsolescent condition, particularly in a downtown setting close to transit. As per the State of New Jersey's Manual of Best Practices for Transit Oriented Development, "off-street parking should

not be allowed between a public street or pedestrian way and the required frontage for a building.”⁸ Designing in accordance with best practices for transit oriented development promotes pedestrian activity and the economic vibrance of the district.

Based on the analysis above, Block 71, Lot 5.01 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion D.



Figure 25: Vehicular access to Lot 9 only possible by crossing adjacent lot

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.

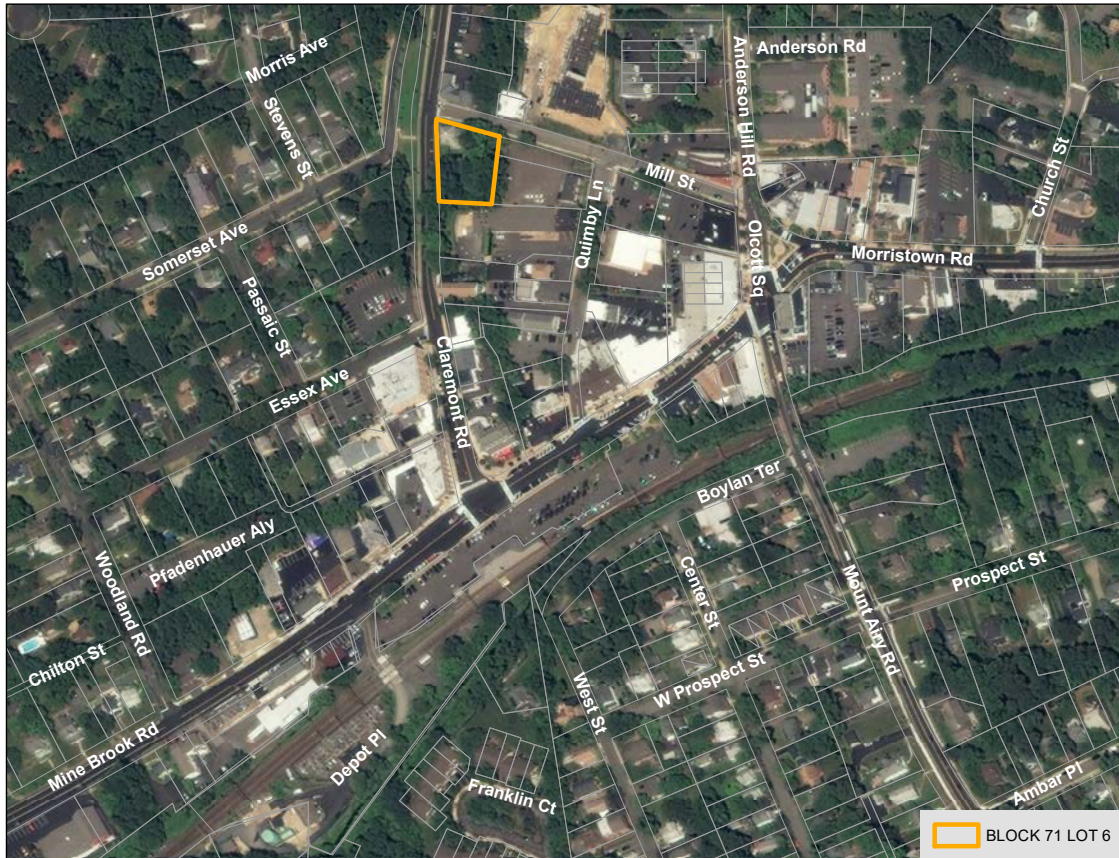
As noted above, the property is functionally integrated from a circulation perspective with adjacent sites, particularly Lot 9. Visitors to Lot 9, which lacks its own curb cut, cross Lot 5.01 in order to reach their destination. This relationship was formalized via a 2012 Access Easement between the two property owners. This access easement requires that access to Lot 9 via Lot 5.01 is maintained in perpetuity. The easement is included as **Appendix G**.

⁸ Manual of Best Practices for Transit-Oriented Development,
<https://www.state.nj.us/transportation/community/village/pdf/todbestpracticesmanual2013.pdf>

This condition of the title, specifically the diverse ownership of property, is a condition that discourages the undertaking of improvements on Lot 5.01. Requiring continued access to Lot 9 limits the functionality and capacity of the parcel, and limits reconfiguration of or redevelopment of the property in a way that might result in overuse or abuse of the easement. This limitation can be presumed to make the site less viable for investment and improvements and, as such may have a negative economic impact on the community.

Based on the analysis above, Block 71, Lot 5.01 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion E.

Block 71, Lot 6



Address: 55 Claremont Road

Size: 0.41 Acres

Owner: Pershouse, Bessie M.

Block 71, Lot 6 (55 Claremont Road) is a roughly 17,859 square foot property with frontage on Claremont Road and Mill Street. The current use of the property is residential.

Based upon an inspection of the property and examination of records Block 71, Lot 12 meets the following criteria of the LRHL for qualification as an area in need of redevelopment:

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.

Like much of Block 71, the property is located within the Regulatory Floodway. Despite being in a Regulatory Floodway, the building lacks corresponding improvements

reflective of its location within the Floodway. Placement of a building without improvements to mitigate the impacts of being within the Floodway is reflective of a faulty arrangement and an obsolete layout. Based on a visual assessment of the site, there have been no accommodations made to account for its location within the Floodway. A lack of accommodations to mitigate the off-site impacts of flooding creates a detrimental condition to the safety of the community by increasing the downstream impacts of flooding. A lack of accommodations to mitigate the on-site impacts of flooding, such as raising the building above the Base Flood Elevation or providing alternative means of egress outside of the Floodway, creates a condition detrimental to the safety of residents of the building.

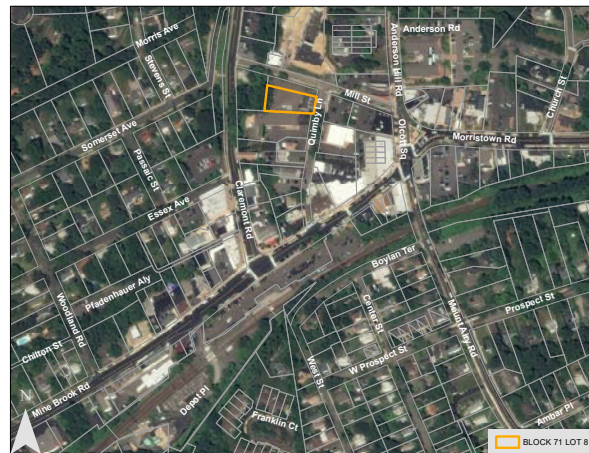
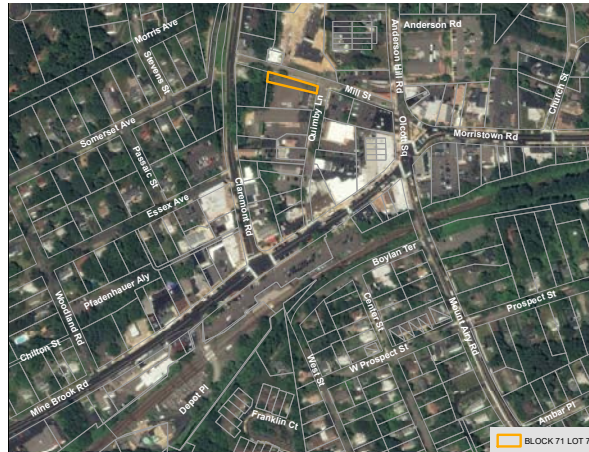
As such, the property qualifies as an area in need of redevelopment under Criterion D.

Separate and apart from qualifying as an area in need of redevelopment under Criterion D, the property should also be designated as an area in need of redevelopment because it fits within the intent and purpose of Section 3 (N.J.S.A. 40A:12A-3): “buildings...which of themselves are not detrimental to public health, safety or welfare, but the inclusion of which is found necessary...for the effective redevelopment of the area of which they are a part.”

The property is bordered on both sides by other properties that qualify as an area in need of redevelopment. As a corner property, it is visually significant, and marks a gateway into downtown Bernardsville. As a property adjacent to the Mine Brook, it possesses important frontage adjacent to the waterway. Regulating the flooding impacts of the Mine Brook and considering programs to increase its utility as a recreational amenity will be necessary to facilitate the redevelopment of the Study Area.

Due to the location of Lot 6 at a key gateway into downtown, its frontage along the Mine Brook, and the fact that adjacent parcels qualify as areas in need of redevelopment, the parcel necessary to effectuate redevelopment of the Study Area. As such, it qualifies under Section 3.

Block 71, Lot 7, 8



Address: 40-42 Quimby Lane

Size: 0.46 Acres

Owner: Quimby Lane Realty, LLC

Block 71, Lot 8 (40-42 Quimby Lane) is a roughly 20,037 square foot property with frontage on Quimby Lane. The current use of the property is professional offices and associated parking.

Based upon an inspection of the property and examination of records Block 71, Lot 8 meets the following criteria under the LRHL:

Criterion 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.

Like other properties in the area, the parcel exhibits the dual conditions of excessive land coverage and obsolete layout that, in the context of the existing flood designation and the

lack of stormwater management controls on-site, are detrimental to the safety and welfare of the community. Based on an aerial estimate, nearly 18,100 square feet of the property is occupied by impervious surfaces. This lot coverage of roughly 90% exceeds the permitted standard of 85% within the zone. As previously noted, the impacts of the excessive lot coverage are magnified by the Regulatory Floodway that encroaches on the site. This combination of excessive lot coverage and construction that fails to mitigate hazardous conditions within the Regulatory Floodway reflects an obsolete layout that is detrimental to safety and welfare because it contributes to exacerbated flooding and discourages new investment.

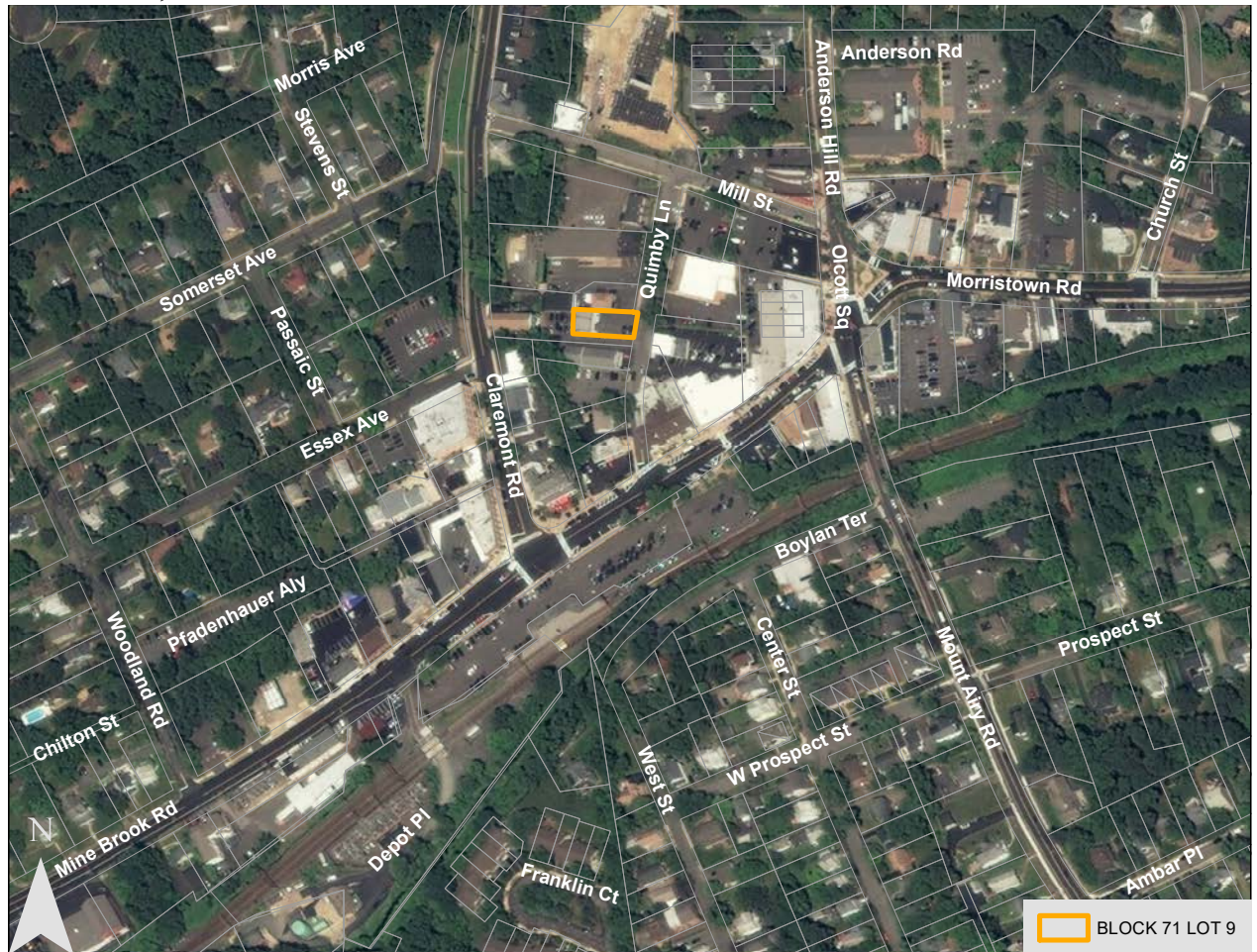
The surface parking area in the rear of the site also lacks modern improvements and, as a result, possesses improvements that are dilapidated and exhibit an obsolete layout. As reflected in the images below, surfaces throughout the parking area have cracks and holes. There is little to no striping, and visual cues to support circulation patterns are nonexistent. The dumpster area in the rear of the lot is not delineated, and there is no screening or enclosure. These conditions, reflected in the figure below, have a detrimental safety impact for vehicles and pedestrians.

Based on the analysis above, Block 71, Lots 7 and 8 qualify as an Area in Need of Redevelopment under the LRHL as they satisfy Criterion D.



Figure 26: Parking area contains dilapidated improvements and needs resurfacing; parking area lacks modern striping; dumpster area lacks screening

Block 71, Lot 9



Address: 24 Quimby Lane
Size: 0.11 Acres
Owner: FMB Quimby, LLC

Block 71, Lot 9 (24 Quimby Lane) is a roughly 4,791 square foot property with frontage on Quimby Lane. The property currently houses the Wag Happy Pet Salon.

Based upon an inspection of the property and examination of records Block 71, Lot 9 meets the following criteria under the LRHL:

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.

Lot 9, like others in the Study Area, is located within the Regulatory Floodway and has excessive land coverage. Based on an aerial review, land coverage is estimated to be at

100%. There are no visible improvements that indicate any efforts have been made to protect the existing structure from flooding that may result from its location within the Regulatory Floodway, nor any efforts to mitigate stormwater or flooding that may be increased as a result of excessive land coverage. Like other properties that are both located in the Floodway and possess excessive land coverage, this property exhibits an obsolete layout that is detrimental to the safety and welfare of the community by magnifying the impacts of flooding and discouraging investment.

The property also exhibits faulty arrangement as a result of the configuration of its parking area. The parking can only be accessed via the adjacent lot, Lot 5.01. There is little striping or indication of how vehicles or pedestrians should circulate between the two parcels. This lack of wayfinding is conducive to unsafe conditions that are detrimental to the safety of the community.

Placement of parking at the front of the property is reflective of an obsolescent condition, particularly in a downtown setting close to transit. As per the State of New Jersey's Manual of Best Practices for Transit Oriented Development, "off-street parking should not be allowed between a public street or pedestrian way and the required frontage for a building." Designing in accordance with best practices for transit-oriented development promotes pedestrian activity and the economic vibrance of the district.

Based on the analysis above, Block 71, Lot 9 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion D.



Figure 27: Circulation pattern requires vehicles to cross adjacent lot to access property.

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,

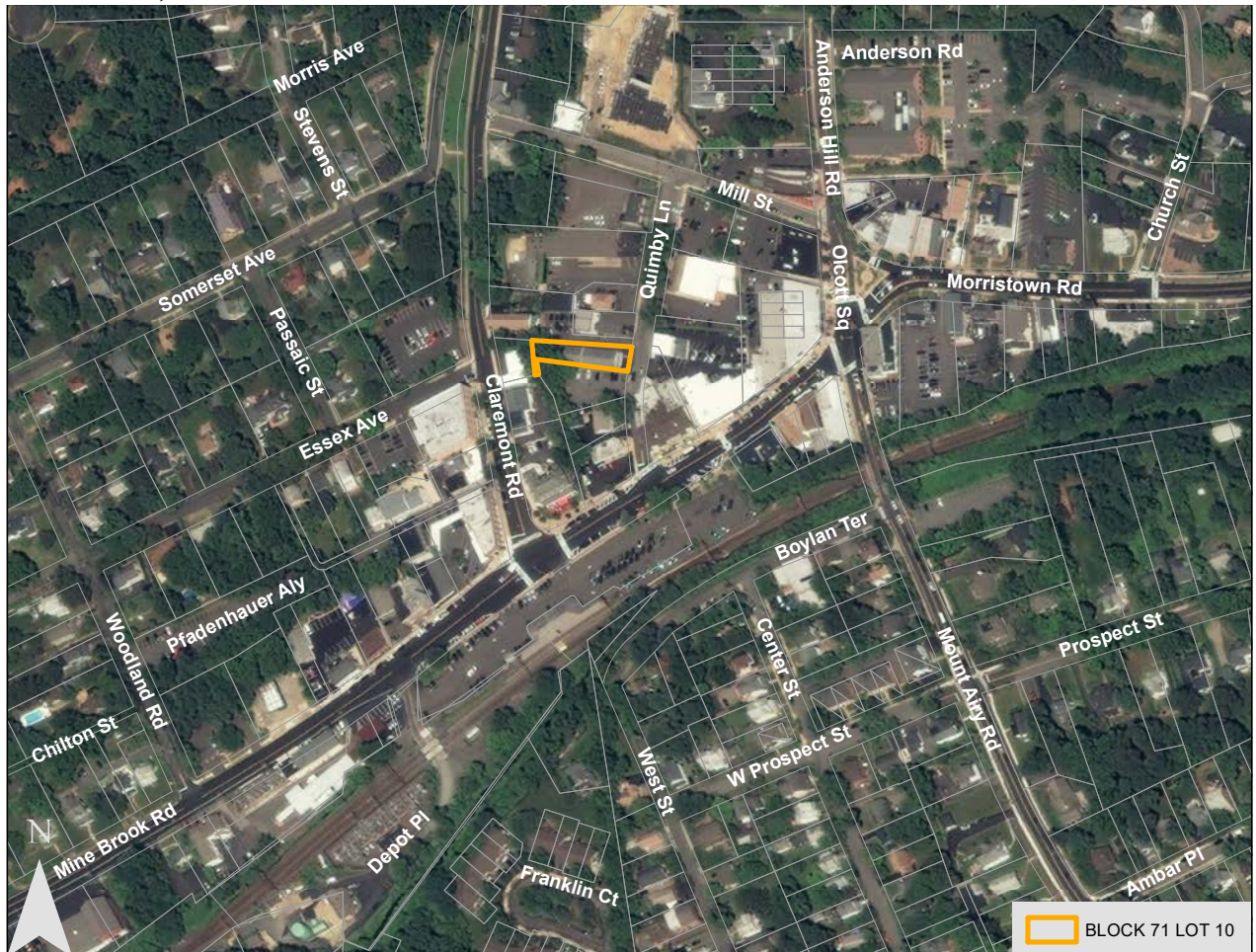
which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.

As noted above, the property is functionally integrated from a circulation perspective with adjacent sites, particularly Lot 5.01. Visitors to Lot 9, which lacks its own curb cut, cross Lot 5.01 in order to reach their destination. This relationship was formalized via a 2012 Access Easement between the two property owners. This access easement requires that access to Lot 9 via Lot 5.01 is maintained in perpetuity. The easement is included as **Appendix G**.

This condition of the title, specifically the diverse ownership of property, is a condition that discourages the undertaking of improvements on Lot 9. Specifically, the cross-easement agreement functionally prevents the reconfiguration of the property in any way would conflict with the easement, particularly if it may result in overuse or abuse of the easement. This limitation can be presumed to make the site less viable for investment and improvements and, as such can be presumed to have a negative economic impact on the community.

Based on the analysis above, Block 71, Lot 9 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion E.

Block 71, Lot 10



Address: 20 Quimby Lane

Size: 0.213 Acres

Owner: 18 Quimby Lane, LLC

Block 71, Lot 10 (20 Quimby Lane) is a roughly 9,278 square foot property with frontage on Quimby Lane. The property is currently vacant, but formerly housed an auto parts store.

Based upon an inspection of the property and examination of records Block 71, Lot 10 meets the following criteria under the LRHL:

Criterion 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.

Like other properties in the area, the property has excessive land coverage, with essentially no pervious spaces, and is located within the Regulatory Floodway. There are no indications of efforts made on the property to mitigate the combined impacts of location within the Floodway and excessive land coverage such as constructing the building above the Base Flood Elevation or mitigating stormwater on-site. The combination of excessive land coverage and location within the Floodway, particularly in the absence of other mitigative measures, is reflective of an obsolete layout that is detrimental to the safety and welfare of the community.

Placement of parking at the front of the property is reflective of an obsolescent condition, particularly in a downtown setting close to transit. As per the State of New Jersey's Manual of Best Practices for Transit Oriented Development, "off-street parking should not be allowed between a public street or pedestrian way and the required frontage for a building." Designing in accordance with best practices for transit oriented development promotes pedestrian activity and the economic vibrance of the district.

Faulty arrangement is also reflected in the layout of the building relative to the parcel size. The building setback on its north side is insufficient to permit vehicular access to the rear of the lot without trespassing on the adjacent lot. This is reflective of a faulty arrangement that requires use of adjacent properties to access rear loading areas. The lack of striping or circulation controls to formalize this arrangement reflects a detrimental safety condition.

Obsolescence and faulty arrangement is also reflected in the extensive curb cuts along the property's Quimby Lane frontage. The overwhelming majority of the property frontage along Quimby Lane lacks an elevated curb to differentiate between the sidewalk and cart path and control vehicular access. This creates a dangerous condition for pedestrians walking along the west side of Quimby Lane.

Based on the analysis above, Block 71, Lot 10 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion D.



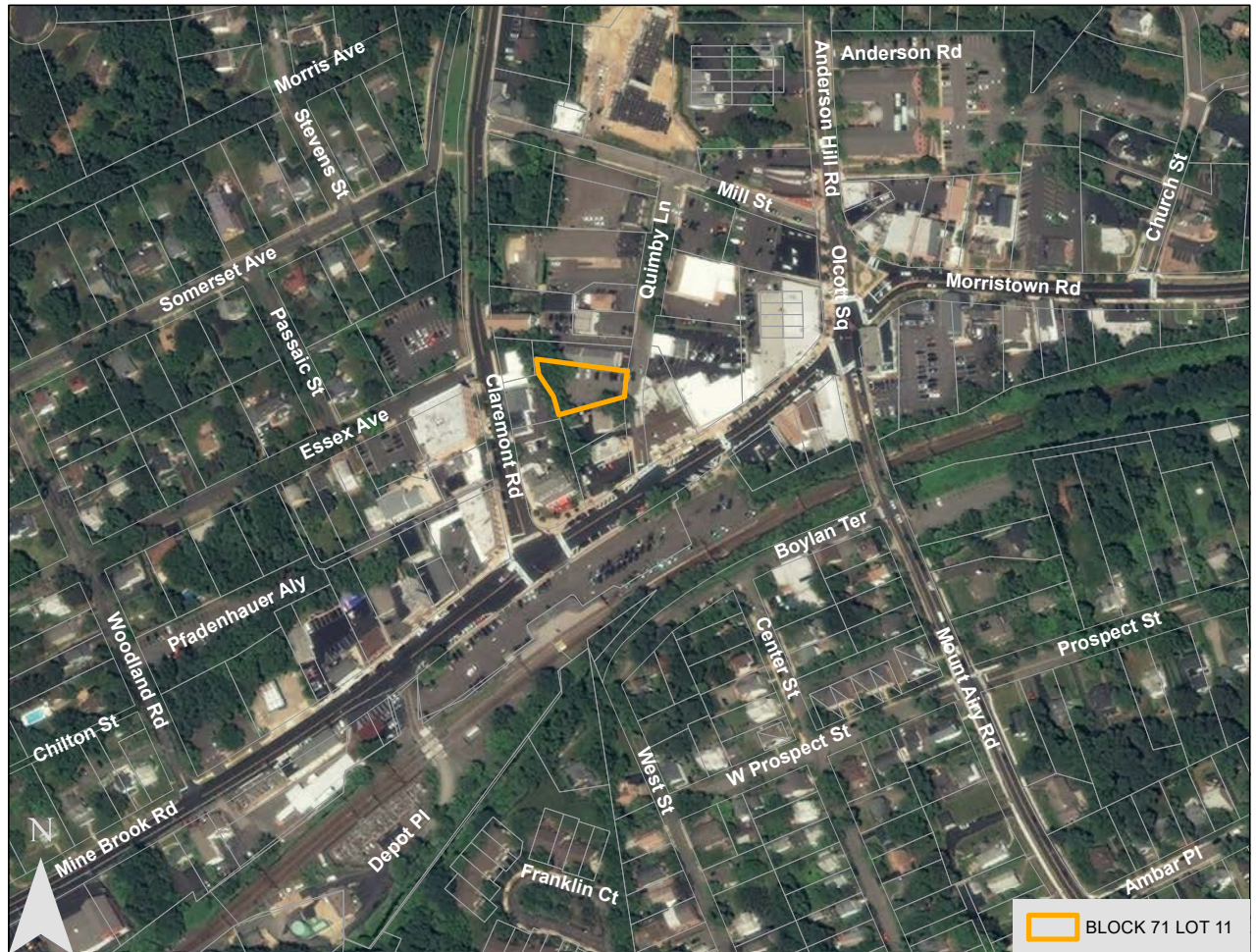
Figure 28: Front yard parking and excessive curb cuts

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.

The placement of the building in relation to the adjoining lot lines creates a Criterion E condition. Specifically, vehicular access to the rear of the site is only possible by utilizing the adjacent Lot 9. No formalization of this access was identified in the course of reviewing title documents for this report. Whether the relationship between the properties is formal or informal, the intermingling of functionality between these two properties via the cross-access arrangement is a condition that would discourage the undertaking of improvements on either property. This would discourage investment, and as a result hinder economic development that would be detrimental to the welfare of the community and reduce the viability of land that would otherwise be useful.

Based on the analysis above, Block 71, Lot 10 qualifies as an Area in Need of Redevelopment under the LRHL as it satisfies Criterion E.

Block 71, Lot 11



Address: 16 Quimby Lane

Size: 0.27 Acres

Owner: Mine Brook 2006, LLC, C/O Ryan LLC

Block 71, Lot 11 (16 Quimby Lane) is a roughly 11,761 square foot property with frontage on Quimby Lane. The current use of the property is a parking lot.

Based upon an inspection of the property and examination of records Block 71, Lot 11 meets the following criteria under the LRHL:

Criterion 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.

As noted previously, the New Jersey Appellate Division found in Concerned Citizens that surface parking lots in downtown areas meet the requirements for an area in need of

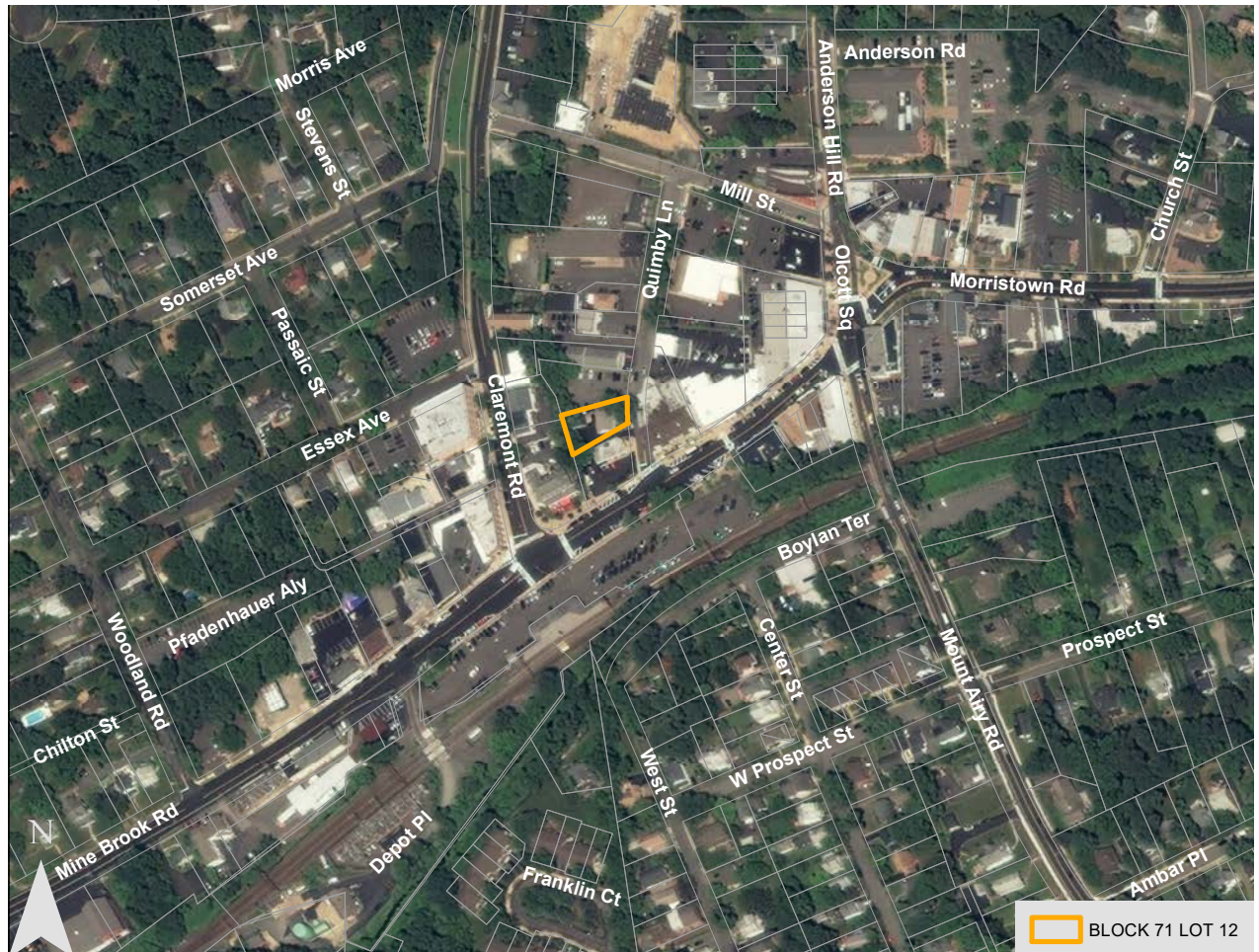
redevelopment under Criterion D. Specifically, the Court found that a surface parking lot was evidence of obsolescence as it represented “yesterday’s solution” and hindered the efforts of the community to advance downtown redevelopment objectives.

The findings in Concerned Citizens apply to the conditions in Block 71, Lot 11. Located within 600 feet of the Train Station, this is an area historically and presently considered to be a part of the Borough’s downtown. Furthermore, the Borough has undertaken efforts to move away from auto-oriented uses and the surface parking lots of “yesterday,” reflecting a local position that these uses are obsolete in the downtown.

Surface parking lots are detrimental to the community for several reasons. They use space inefficiently and thereby limit the potential for creating dense and vibrant downtowns. They do not generate significant tax revenue—while the average Improvement Value per Acre in Bernardsville is \$174,133, the improvement value for surface parking lots, including Block 71, Lot 11 is typically \$0. They detract from the pedestrian environment and discourage walkability—as a result they make it less likely that individuals would visit several commercial establishments in the downtown, therefore causing a detriment to the economic well-being of the district. They exhibit high lot coverage ratios that exacerbate flooding, a condition particularly relevant given the property’s location the Special Flood Hazard Area.

Based on the above, the property qualifies as an Area in Need of Redevelopment under Criterion D. Specifically, it houses an obsolete land use that is detrimental to the welfare of the community.

Block 71, Lot 12



Address: 12 Quimby Lane

Size: 0.13 Acres

Owner: 12 Quimby Bernardsville, LLC

Block 71, Lot 12 (12 Quimby Lane) is a roughly 5,662 square foot property with frontage on Quimby Lane. The property is used for professional offices.

Based upon an inspection of the property and examination of records Block 71, Lot 12 meets the following criteria of the LRHL for qualification as an area in need of redevelopment:

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.

Like neighboring properties, the site is located within the Regulatory Floodway. Placement of a building without improvements to mitigate the impacts of being within the Floodway is reflective of a faulty arrangement and an obsolete layout. Based on an assessment of the site, there have been no accommodations made to account for its location within the Floodway. A lack of accommodations to mitigate the off-site impacts of flooding creates a detrimental condition to the safety of the community by increasing the downstream impacts of flooding. A lack of accommodations to mitigate the on-site impacts of flooding, such as raising the building above the Base Flood Elevation, creates a condition detrimental to the safety of users of the building, and an economic condition detrimental to the welfare of the community.

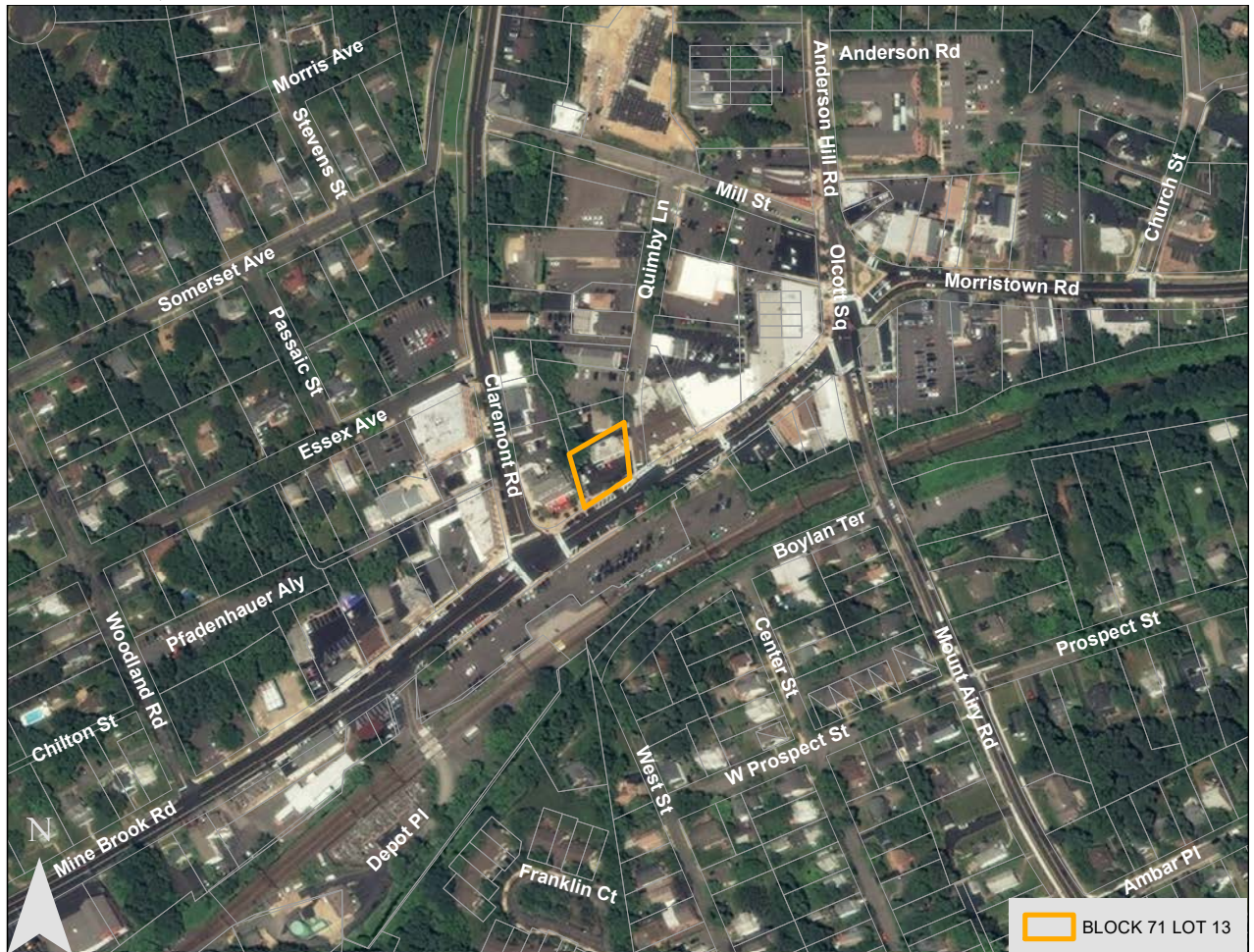
As such, the property qualifies as an area in need of redevelopment under Criterion D.

Separate and apart from qualifying as an area in need of redevelopment under Criterion D, the property should also be designated as an area in need of redevelopment because it fits within the intent and purpose of Section 3 (N.J.S.A. 40A:12A-3): “buildings...which of themselves are not detrimental to public health, safety or welfare, but the inclusion of which is found necessary...for the effective redevelopment of the area of which they are a part.”

The property is bordered by sites on its north and south side that qualify as an area in need of redevelopment. On their own, the adjacent properties Lot 11 and Lot 13, which measure 11,761 square feet and 7,405 square feet respectively, are likely insufficient to support modern standalone development projects based on both their dimensions and total area. Consequentially, designation of the property under Section 3 is necessary to facilitate development of surrounding parcels, and to effectuate development of the Study Area. While properties to the west of the site are not part of the Study Area, the location of the Mine Brook along the western border of the site creates a natural border for the area.

Due to the size and shape of adjacent parcels within Block 71, and the fact that the adjacent parcels qualify as an Areas in Need of Redevelopment, it is reasonable to find Block 71 Lot 12 parcel necessary for the effective development of the Study Area. As such, it qualifies under Section 3.

Block 71, Lot 13



Address: 33-39 Mine Brook Road

Size: 0.17 Acres

Owner: SCP Group, LLC

Block 71, Lot 13 (33-39 Mine Brook Road) is an approximately 7,405 square foot property with frontage on Quimby Lane and Mine Brook Road. The current use of the property is an auto service garage.

Based upon an inspection of the property and examination of records Block 71, Lot 13 meets the following criteria under the LRHL:

Criterion 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.

Like many other properties in Block 71, the property is located within the Regulatory Floodway. Based on a visual assessment, there have been no accommodations made to account for its location within the Floodway, such as elevating the building above the Base Flood Elevation or mitigating flood concerns via other design or infrastructure strategies. The impacts of the Regulatory Floodway are magnified by excessive lot coverage on the site. Based on an aerial assessment, the lot coverage of the property is nearly 100%, well in excess of the 85% permitted by the underlying zoning. The negative health and safety impacts resulting from flooding on the property is exacerbated by the property's use, which is conducive to automobile related runoff. Based on its location within the Regulatory Floodway, a lack of improvements to mitigate flooding, and the condition of excessive land coverage, the property exhibits faulty arrangement and an obsolete layout that is detrimental to the safety and welfare of the community as it contributes to flooding and detracts investment.

Faulty arrangement is also reflected in the haphazard way vehicles are parked and stored on the site. Vehicles are parked in the front yard, an unattractive arrangement that can discourage visitors from shopping in and patronizing the downtown's businesses. No effort is made to screen vehicles in the manner required by standards in the Borough's zoning ordinance for auto sale shops, a use that is similar but less intense. Haphazardly storing vehicles in the front yard with no screening or organization is reflective of a faulty arrangement that is detrimental to the welfare of the community.



Figure 29: Vehicles are stored in the front of the property with no screening or logical arrangement

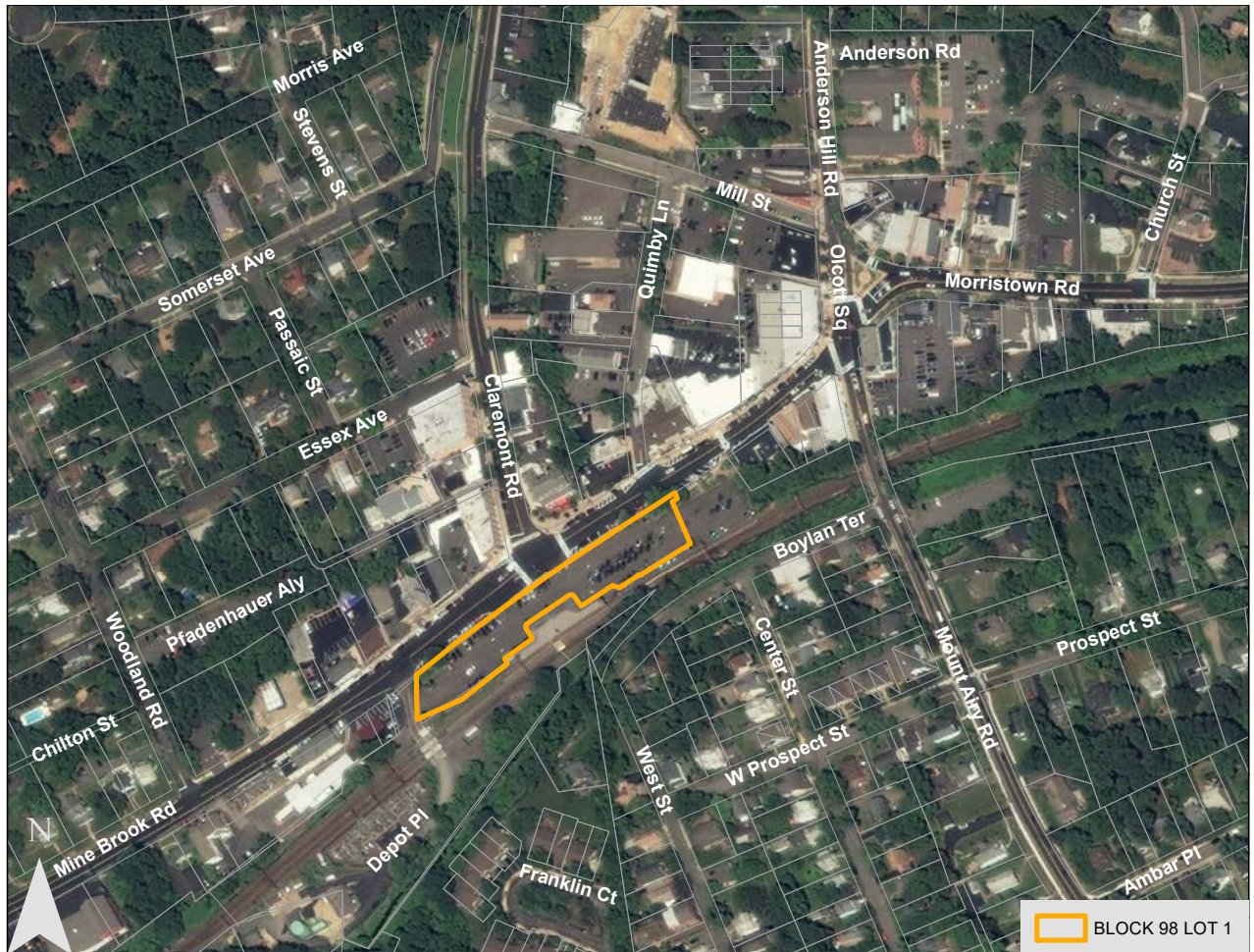
Placement of parking at the front of the property is reflective of an obsolescent condition, particularly in a downtown setting close to transit. As per the State of New Jersey's

Manual of Best Practices for Transit Oriented Development, “off-street parking should not be allowed between a public street or pedestrian way and the required frontage for a building.” Designing in accordance with best practices for transit oriented development promotes pedestrian activity and the economic vibrance of the district.

The property also houses a land use that, while not universally obsolescent, is no longer appropriate for a downtown setting. As was noted in the Borough’s Master Plan, the auto related uses of Quimby Lane “under-utilize their properties and present an unappealing streetscape.” An auto service garage as is found on Lot 13 is emblematic of these conditions. As with surface parking lots in the Concerned Citizens case, an auto service garage is no longer a modern use for a downtown facility, particularly in a community like Bernardsville that has expressed a desire to create a more vibrant and walkable downtown setting. The presence of an obsolete land use in a downtown location, particularly at the highly visible intersection of Quimby Lane and Mine Brook Road is a condition that is detrimental to the welfare of the community as it discourages investment and does not align with the stated objectives of the Borough.

Based on the above, the property qualifies as an Area in Need of Redevelopment under Criterion D. Specifically, it possesses faulty arrangement and houses an obsolete land use in a manner that is detrimental to the safety and welfare of the community.

Block 98, Lot 1



Address: Mine Brook Road

Size: 1.09 Acres

Owner: Borough of Bernardsville

Block 98, Lot 1 (Mine Brook Road) is a 47,480.4 square foot property with frontage on Mine Brook Road. The current use of the property is a parking lot.

Criterion 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.

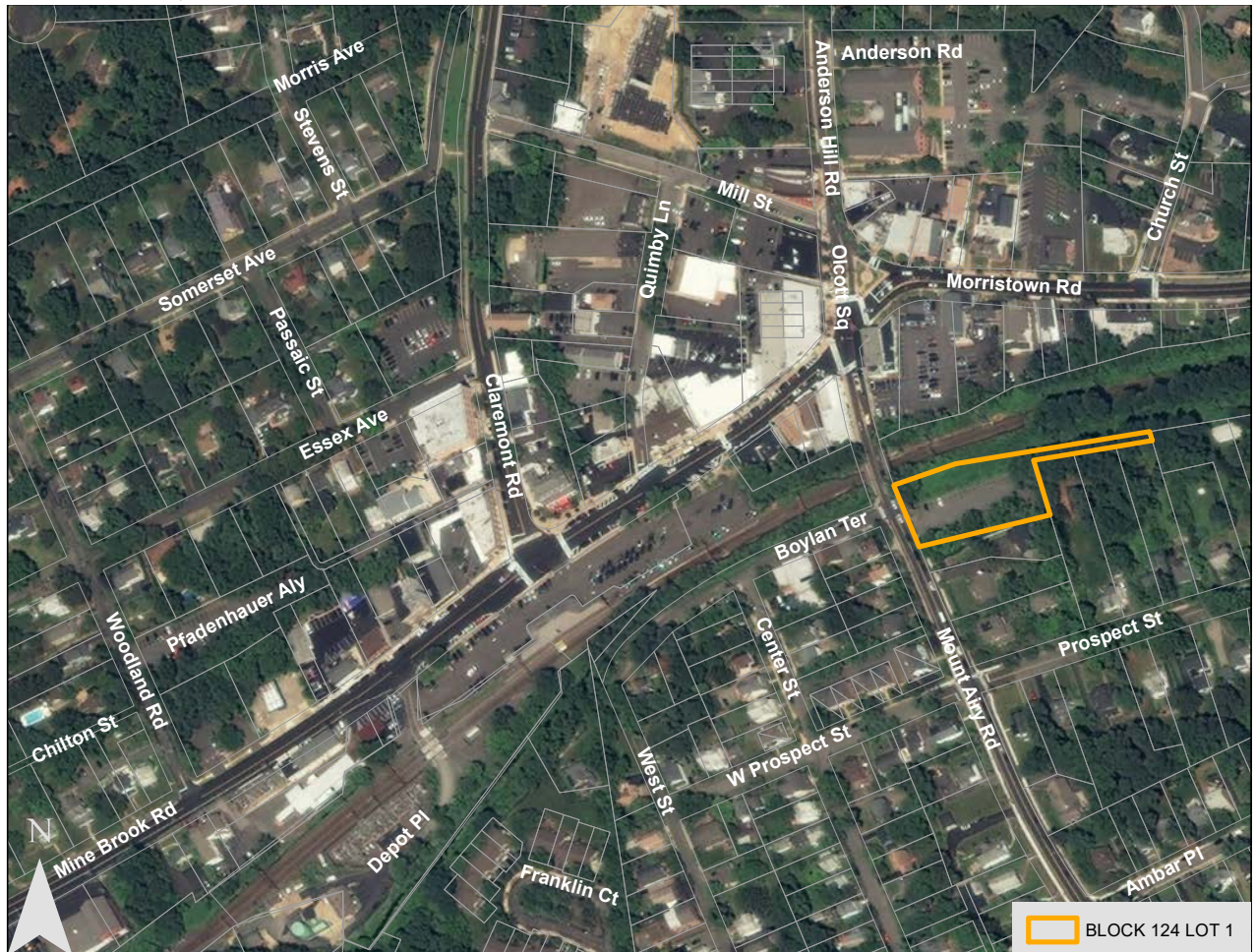
As noted previously, the New Jersey Appellate Division found in Concerned Citizens that surface parking lots in downtown areas meet the requirements for an area in need of redevelopment under Criterion D. Specifically, the Court found that a surface parking lot was evidence of obsolescence as it represented “yesterday’s solution” and hindered the efforts of the community to advance downtown redevelopment objectives.

The findings in Concerned Citizens apply to the conditions in Block 98 Lot 1. Located adjacent to the Train Station, this is an area historically and presently considered to be a part of the Borough's downtown. Furthermore, the Borough has undertaken efforts to move away from auto-oriented uses and the surface parking lots of "yesterday," reflecting a local position that these uses are obsolete in the downtown.

Surface parking lots are detrimental to the community for several reasons. They use space inefficiently and thereby limit the potential for creating dense and vibrant downtowns. They do not generate significant tax revenue—while the average Improvement Value per Acre in Bernardsville is \$174,133, the improvement value for surface parking lots, including Block 98, Lot 1 is typically \$0. They detract from the pedestrian environment and discourage walkability—as a result they make it less likely that individuals would visit several commercial establishments in the downtown, therefore causing a detriment to the economic well-being of the district. They exhibit high lot coverage ratios that exacerbate flooding, a condition particularly relevant given the property's location the Special Flood Hazard Area.

Based on the above, the property qualifies as an Area in Need of Redevelopment under Criterion D. Specifically, it houses an obsolete land use that is detrimental to the welfare of the community.

Block 124, Lot 1



Address: 18 Mount Airy Road

Size: 0.74 Acres

Owner: Borough of Bernardsville

Block 124, Lot 1 (18 Mount Airy Road) is a roughly 32,234 square foot property with frontage on Mount Airy Road. The current use of the property is a parking lot.

Based upon an inspection of the property and examination of records Block 124 Lot 1 meets the following criteria under the LRHL:

Criterion 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.

As noted previously, the New Jersey Appellate Division found in Concerned Citizens that surface parking lots in downtown areas meet the requirements for an area in need of

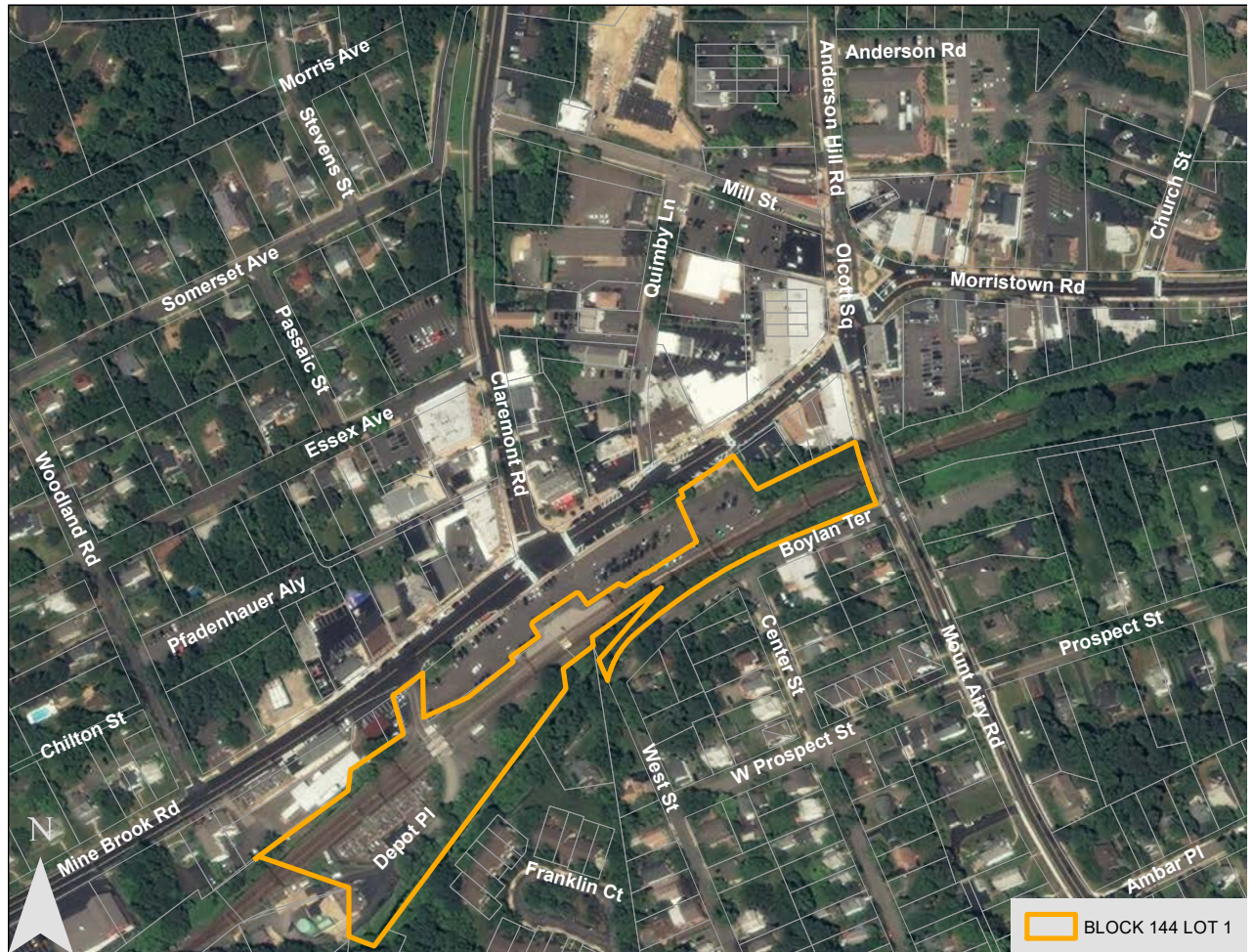
redevelopment under Criterion D. Specifically, the Court found that a surface parking lot was evidence of obsolescence as it represented “yesterday’s solution” and hindered the efforts of the community to advance downtown redevelopment objectives.

The findings in Concerned Citizens apply to the conditions in Block 124 Lot 1. Located within 1,000 feet of the Train Station, this is an area historically and presently considered to be a part of the Borough’s downtown. Furthermore, the Borough has undertaken efforts to move away from auto-oriented uses and the surface parking lots of “yesterday,” reflecting a local position that these uses are obsolete in the downtown.

Surface parking lots are detrimental to the community for several reasons. They use space inefficiently and thereby limit the potential for creating dense and vibrant downtowns. They do not generate significant tax revenue—while the average Improvement Value per Acre in Bernardsville is \$174,133, the improvement value for surface parking lots, including Block 124 Lot 1 is typically \$0. They detract from the pedestrian environment and discourage walkability—as a result they make it less likely that individuals would visit several commercial establishments in the downtown, therefore causing a detriment to the economic well-being of the district.

Based on the above, the property qualifies as an Area in Need of Redevelopment under Criterion D. Specifically, it houses an obsolete land use that is detrimental to the welfare of the community.

Block 144, Lot 1



Address: 50 Mine Brook Road

Size: 1.30 Acres

Owner: State of NJ C/O Borough of Bernardsville

The portion of Block 144, Lot 1 (50 Mine Brook Road) studied is a roughly 56,628 square foot property with frontage on Mine Brook Road. The property houses the Bernardsville Train Station and other associated improvements.

Based upon an inspection of the property and examination of records the portion of Block 144 Lot 1 studied meets the following criteria under the LRHL:

Criterion 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.

As noted previously, the New Jersey Appellate Division found in Concerned Citizens that surface parking lots in downtown areas meet the requirements for an area in need of redevelopment under Criterion D. Specifically, the Court found that a surface parking lot was evidence of obsolescence as it represented “yesterday’s solution” and hindered the efforts of the community to advance downtown redevelopment objectives.

The findings in Concerned Citizens apply to the conditions in Block 144 Lot 1. Located adjacent to the Train Station, this is an area historically and presently considered to be a part of the Borough’s downtown. Furthermore, the Borough has undertaken efforts to move away from auto-oriented uses and the surface parking lots of “yesterday,” as documented in the language of the 2004 Master Plan that stated auto related uses of Quimby Lane “under-utilize their properties and present an unappealing streetscape.”

Surface parking lots are detrimental to the community for several reasons. They use space inefficiently and thereby limit the potential for creating walkable and vibrant downtowns. They do not generate significant tax revenue—while the average Improvement Value per Acre in Bernardsville is \$174,133, the improvement value per acre of Block 144 Lot 1 is \$37,769. They detract from the pedestrian environment and discourage walkability—as a result they make it less likely that individuals would visit several commercial establishments in the downtown, therefore causing a detriment to the economic well-being of the district. They exhibit high lot coverage ratios that exacerbate flooding, a condition particularly relevant given the property’s location the Special Flood Hazard Area.

Based on the above, the property qualifies as an Area in Need of Redevelopment under Criterion D. Specifically, it houses an obsolete land use that is detrimental to the welfare of the community.

The property also exhibits faulty arrangement, largely stemming from the presence of a utility substation within the Regulatory Floodway. The placement of infrastructure within the Floodway is a condition of faulty arrangement that is detrimental to the health, safety, and welfare of the community. Should the substation be compromised by a flooding condition, this would present a disruptive outcome that would create safety concerns and limit the functionality of the property.



Figure 30: Uses on the property include surface parking, substation; areas to the south lack a connection to the property

Finally, the property exhibits faulty arrangement based on its limited pedestrian access. The property is only accessible via Mine Brook Road. Because the site is only accessible along Mine Brook Road, residents living on the south side of the property are denied direct access to the Train Station, and need to take a circuitous path to downtown. Cutting off these neighborhoods from the Station and downtown is reflective of a faulty arrangement, and negatively impacts the welfare of those residents. Consequentially, the property qualifies under Criterion D for faulty arrangement.

Quimby Lane Right-of-Way

In the project associated with Concerned Citizens, a right-of-way encompassed within the blocks and lots set forth in the notices and corresponding resolution, Spring Street, was included in the recommended Redevelopment Area. Following a challenge of the process and inclusion of this right-of-way, the Court came to the following conclusions regarding its inclusion:

- “The alleged failure to include Spring Street in the study area description in no way renders defective the public notice of the hearing.” The judge noted that N.J.S.A. 40A:12A-6(b)(3) only requires that such notice “set forth the general boundaries of the area to be investigated.”
- “The Planning Board complied with the statutory notice requirements, by providing “a detailed description of the study area boundaries, both by street name and lot and block number.” The addition of Spring Street to the study area did not change those boundaries, as it was already encompassed within the blocks and lots set forth in the notices.”

The conditions in Concerned Citizens as they pertain to inclusion of Spring Street in the recommended Redevelopment Area are consistent with the conditions associated with including Quimby Lane in the recommended Redevelopment Area. While the Quimby Lane right-of-way does not meet the criteria of the LRHL for qualification as an Area in Need of Redevelopment, it does fit within the intent and purpose of Section 3 (N.J.S.A. 40A:12A-3): “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.” As the parcels surrounding the Quimby Lane right-of-way are qualified as an area in need of redevelopment, the inclusion of Quimby Lane in the area is necessary for the effective redevelopment of these parcels.

Due to the location of the Quimby Lane right-of-way, and the fact that adjacent parcels qualify as areas in need of redevelopment, it is reasonable to find it necessary to effectuate redevelopment of the Study Area.

Consideration of Redevelopment Designation

The results of the preliminary investigation indicate that the Study Area, encompassing Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, and 13; Block 98, Lot 1; Block 124, Lot 1; Block 144, Lot 1 (portion); and the Quimby Lane right-of-way can be appropriately designated as an "area in need of redevelopment" in accordance with N.J.S.A. 40:12A as described above.

Conclusion

This Preliminary Investigation was prepared on behalf of the Borough of Bernardsville Planning Board to determine whether properties identified as Block 70, Lots 1, 2, 3, 4, 5, 6, 6.01, 6.02, 6.03, 6.04, 6.05, 6.06, 6.07, and 6.08; Block 71, Lots 4, 5, 5.01, 6, 7, 8, 9, 10, 11, 12, and 13; Block 98, Lot 1; Block 124, Lot 1; Block 144, Lot 1 (portion); and the Quimby Lane right-of-way qualify as a non-condemnation Area in Need of Redevelopment. A map of the recommended Area in Need of Redevelopment is included as **Appendix I**. Based on the above analysis and investigation of the Study Area, we conclude that the above properties meet the criteria for a redevelopment area designation.