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RESOLUTION 2015-93

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, DETERMINING THAT THE PROPERTY IDENTIFIED AS BLOCK 8, LOT 3 BE DESIGNATED AS AN "AREA IN NEED OF REDEVELOPMENT" IN ACCORDANCE WITH THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET. SEQ.

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12a-1 et seq. (the "Redevelopment Law") authorizes municipalities to determine whether certain parcels of land located therein constitute areas in need of redevelopment; and

WHEREAS, the Borough is the record owner of the property identified as Block 8 Lot 3 ("Property") on the official Tax Map of the Borough of Mount Arlington, Morris County, New Jersey; and;

WHEREAS, on May 5, 2015, the Governing Body of the Borough of Mount Arlington ("Borough") adopted Resolution 2015-73 authorizing and directing the Land Use Board of the Borough of Mount Arlington ("Board") to conduct a preliminary investigation to determine whether the Property or any portions thereof meet the criteria set forth in the Redevelopment Law and should be designated as an area in need of redevelopment; and

WHEREAS, The Board conducted a preliminary investigation of the Property to determine whether it should be designated an area in need of redevelopment in accordance with the criteria and procedures set forth in N.J.S.A. 40A:12A-5 and 40A:12A-6; and

WHEREAS, as part of its preliminary investigation, the Board caused Jessica C. Caldwell, P.P., A.I.C.P, Mount Arlington Land Use Board's Planner, to prepare a Planning Report for the Board for its consideration in determining whether the Property should be designated an area in need of redevelopment; and

WHEREAS, in addition to the foregoing, Ms. Caldwell prepared a map showing the boundaries of the proposed redevelopment area, along with a statement setting forth the basis for its investigation in accordance with N.J.S.A. 40A:12A-6(b)(1); and

WHEREAS, a public hearing was conducted on June 24, 2015 with notice having been properly given pursuant to N.J.S.A. 40A:12-A-6(b)(3);

WHEREAS, at the public hearing, the Board reviewed the proposed redevelopment plan, the map and Ms. Caldwell's report, in addition to hearing testimony from Ms. Caldwell, who opined that the Property satisfies three of the conditions set forth in the Redevelopment Law to qualify a property as being an area in need of redevelopment; and

WHEREAS, at the public hearing members of the general public were given an opportunity to be heard and to address questions to the Board concerning the potential designation of the Property as an area in need of redevelopment; and

WHEREAS, the Board entertained, considered and made part of the public record any objections to a possible determination that the Property was an area in need of redevelopment; and

WHEREAS, after completing its investigation and public hearing on this matter, the Board has concluded that there was sufficient evidence to support findings that satisfy the criteria set forth in the Redevelopment Law for designating the Property as a redevelopment area and that said designation is necessary for the effective redevelopment of the area comprising such Property; and

WHEREAS, in accordance with the Redevelopment Law and as memorialized by way of a Resolution, the Board recommended to the Governing Body that the property be considered as an area in need of redevelopment; and

WHEREAS, the Governing Body considered the Board's recommendation as its regularly scheduled public meeting of July 7, 2015, whereupon it took the action herein noted.

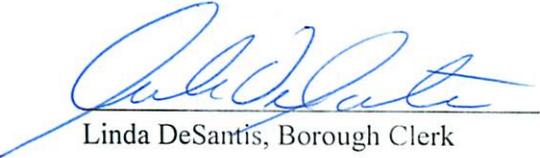
NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mount Arlington, County of Morris, State of New Jersey, accept the recommendation from the Land Use Board of the Borough of Mount Arlington and find that Block 8 Lot 3 on the official tax map of the Borough of Mount Arlington be and are hereby deemed to be an area in need of redevelopment as per the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq.

BE IT FURTHER RESOLVED, that the Clerk of the Borough of Mount Arlington transmit a copy of the within Resolution to the Commissioner of the Community Affairs for review.

BE IT FURTHER RESOLVED, that the Mayor and Council proceed to enact a redevelopment plan forthwith.

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

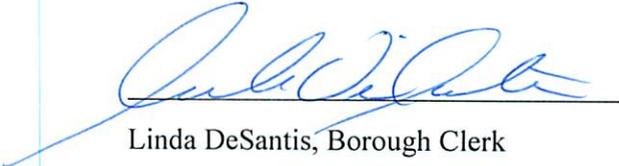
Adopted at a regular public meeting for the Borough of Mount Arlington held on July 7, 2015.


Linda DeSantis, Borough Clerk

CERTIFICATION

I hereby certify this to be an accurate and true Resolution as approved by the Mayor and Borough Council at a meeting held on July 7, 2015.

DATED: 7-7-15


Linda DeSantis, Borough Clerk

MEMORANDUM

TO: Mount Arlington Mayor and Borough Council
FROM: Michael S. Selvaggi, Esq.
DATE: June 26, 2015
Re: Action taken by Land Use Board at its June Public Meeting

At its June 24, 2015 public meeting, the Land Use Board engaged in the following activities:

1. Adopted a Resolution of Memorialization confirming its grant of preliminary and final major site plan approvals with bulk variance relief to allow Valley Road Development Urban Renewal and Seasons Woodmont/Trailwood Woodmont to construct a road connecting the Shadow Woods development with the proposed Fieldstone development.
2. The Board conducted a public hearing on the issue of whether the former landfill property which is owned by the Borough qualifies as being an area in need of development. The Board heard from its Planner who researched the matter and concluded that the property would in fact so qualify. The Board agreed and adopted a Resolution memorializing its recommendation that the land does qualify as being in need of redevelopment. The Borough Council can now adopt its own binding resolution designating the property as being an area in need of redevelopment and authorizing the preparation of a redevelopment plan. Once the Borough Council adopts such a resolution, it is to be forwarded to the Department of Community Affairs for its review and comments, if any.

BOROUGH OF MOUNT ARLINGTON LAND USE BOARD

**RESOLUTION OF MEMORIALIZATION APPROVING AND ADOPTING
A PRELIMINARY REDEVELOPMENT INVESTIGATION AREA
REPORT**

**Approved: June 24, 2015
Memorialized: June 24, 2015**

WHEREAS, pursuant to N.J.S.A. 40A:12A-6a, on May 5, 2015, the Mayor and Borough Council of the Borough of Mt. Arlington ("Council") adopted Resolution No. 2015-73, authorizing the Land Use Board of the Borough of Mt. Arlington ("Board") to undertake a preliminary investigation and conduct a public hearing to determine whether Block 8, Lot 3, on the Official Tax Map of the Borough of Mt. Arlington is a non-condemnation area in need of redevelopment in accordance with N.J.S.A. 40A:12A-5; and

WHEREAS, on June 24, 2015, a public hearing was held by the Board with public notice provided pursuant to N.J.S.A. 40A:12A-6 during which comments and questions were received from members of the Board and/or public; and

WHEREAS, the Board Planner prepared a certain report titled "Area in Need of Redevelopment Study for the Mt. Arlington Landfill: Block 8, Lot 3", dated May 27, 2015, which sets forth the findings and recommendations of the Planner in response to Resolution 2015-73.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Mt. Arlington, County of Morris, State of New Jersey as follows:

1. The report titled "Area in Need of Redevelopment Study for the Mt. Arlington Landfill: Block 8, Lot 3", prepared by J. Caldwell & Associates, LLC, the Board Planner, which sets forth the findings and recommendations subsequent to the investigation performed in response to Resolution No. 2015-73, is hereby approved and adopted by the Board. Specifically, the Report recommends that Block 8, Lot 3 be designated as area in need of redevelopment and is attached hereto as Exhibit A. In addition, the Board accepts the map entitled "Study Area Map" in the Report which illustrates the boundaries of the area in need of redevelopment.
2. The Board Clerk shall forward a copy of this Resolution, along with the Report and Map, to the Mayor and Borough Council. The Clerk shall file a copy of this resolution with all other municipal governmental bodies as shall be necessary and appropriate.

3. This resolution shall be effective immediately upon adoption.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
LAND USE BOARD

Stella Salazar
Stella Salazar, Secretary

By: JR van den Hende 06/24/15.
Robert van den Hende, Chairman

DATED:

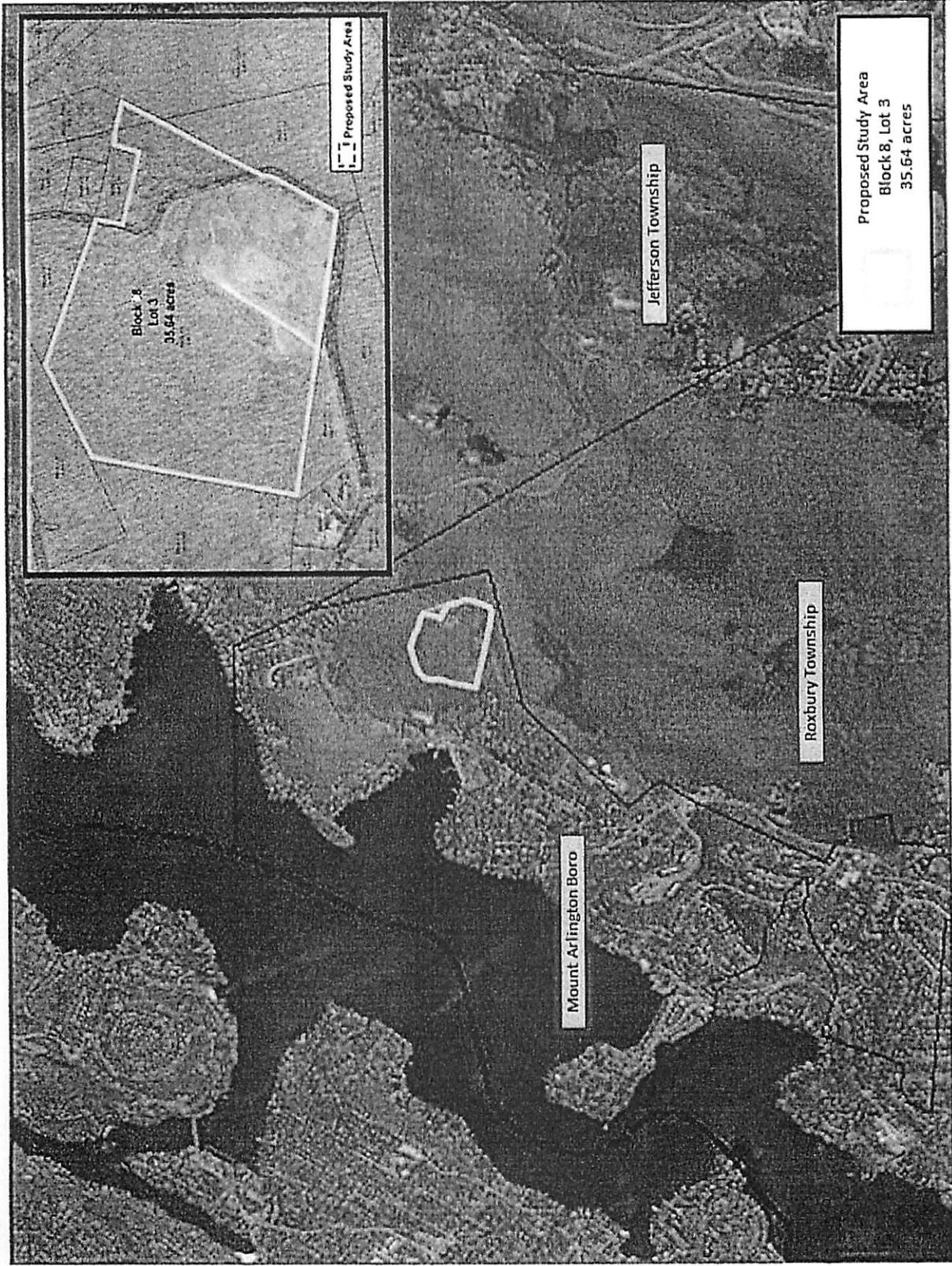
THE VOTE:

IN FAVOR: 11
OPPOSED: 0
ABSTENTIONS: 0

I hereby certify that the above is a true copy of the Resolution adopted by the Borough of Mount Arlington Land Use Board at its meeting on June 24, 2015.

Stella Salazar
Stella Salazar, Board Secretary

EXHIBIT A: MAP OF PROPOSED STUDY AREA



Area in Need of Redevelopment Study for the Mt. Arlington Landfill: Block 8, Lot 3

Borough of Mount Arlington, Morris County, New
Jersey

May 27, 2015

Prepared by:

J. Caldwell & Associates, LLC, 122 Main Street, Suite 104, Newton NJ 07860

Acknowledgements:

PLANNING BOARD

J. Robert van den Hende, Chair, Class IV Member
Arthur R. Ondish, Mayor, Class I Member
John Windish, Council Member, Class III Member
Carolyn Rinaldi, Municipal Administrator, Class III Member
Melissa Fostle, Vice Chair, Class IV Member
Margarette Wilson, Class IV Member
Maureen Cerasoli, Class IV Member
Raymond Simard, Class IV Member
Leonard Loughridge, Class IV Member
Tom Foley, Alternate #1
Fran Hallowich, Alternate #2
John Driscoll, Alternate #3
Bill Keuntje, Alternate #4

Professional Staff

Stella Salazar, Board Secretary
Sabine Watson, P.E., Board Engineer
Michael Selvaggi, Esq., Board Attorney
Jessica C. Caldwell, P.P., A.I.C.P., Board Planner

The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.

Jessica C. Caldwell, P.P., A.I.C.P.

New Jersey Professional Planner #5944

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I. Introduction

A. Background

The Mayor and Council of the Borough of Mount Arlington authorized the Land Use Board to conduct an area in need of redevelopment study for Block 8, Lot 3 on May 5, 2015. The purpose of the study is to determine if the study area referenced above should be designated as an Area in Need of Redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (Redevelopment Law). The study area is comprised of the former Mount Arlington Landfill covering 35.64 acres located at the terminus of Berkshire Avenue in the northwestern corner of the Borough. The former landfill covers about 10 acres of the 35.64 acre parcel, with the remainder of the area being largely forested land.

The Borough of Mount Arlington is entirely within the New Jersey Highlands Region, with the majority of the Borough in the Highlands Planning Area. Approximately 130 acres in the northeast corner of the Borough is in the Highlands Preservation Area. The study area is located in the Highlands Preservation Area.



Study Area Map

B. Methodology

This Area in Need of Redevelopment Study included research and investigation into the history of the use of the area as well as field investigations in order to determine if the area meets the statutory criteria to be deemed an Area in Need of Redevelopment.

Review of Borough documents including the Borough Master Plan, current zoning, studies of the site and site records were conducted. Two site studies were used for this report, the "Initial Assessment for Site Redevelopment," which was prepared by Suburban Consulting Engineers in September 2010 and the "Photovoltaic Feasibility Study," which was prepared by Matrix New World Engineers in January 2015. The purpose of the Initial Assessment for Site Redevelopment Report was to evaluate potential redevelopment uses for the Mount Arlington Landfill and select a redevelopment option which would most benefit the Borough while being in compliance with the goals of the Highlands Regional Master Plan. The Photovoltaic Feasibility Study examined several options for developing a photovoltaic system on the site.

The information gathered from the investigation was compared with statutory criteria for designation of the site as an Area in Need of Redevelopment. This report outlines the data gathered and identifies each criterion as it is reviewed for determination if the study area meets the criteria.

II. REDEVELOPMENT PROCESS

Redevelopment Law requires a multi-step process that must be adhered to in order for the Mayor and Borough Council and Land Use Board to exercise these powers lawfully. This process is outlined below.

- (1) The Borough Council must authorize the Land Use Board, by resolution, to undertake an investigation of the delineated area to determine whether it meets the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5).
- (2) A map showing the boundaries of the area and the location of the various parcels therein must be prepared.
- (3) The Land Use Board must conduct a preliminary investigation and hold a duly noticed public hearing in order to discuss the findings of the investigation and to hear persons who are interested in or would be affected by the contemplated action. The results and recommendations of the hearing are then referred to the Borough Mayor and Council in the form of a Land Use Board resolution for formal action.
- (4) Upon receipt of the recommendation from the Land Use Board, the Borough Mayor and Council may act to adopt a resolution designating the area in question, or any part thereof, as an area in need of redevelopment.

(5) Upon designation, the Land Use Board or redevelopment entity is then required to prepare a redevelopment plan, which establishes the goals and objectives of the Borough for the redevelopment area and outlines the actions to be taken to accomplish these goals and objectives.

(6) The redevelopment plan, after review by the Land Use Board, is referred to the Borough Mayor and Council.

(7) Upon receipt of the redevelopment plan from the Land Use Board, the Borough Mayor and Council may act to adopt the plan by ordinance. The adopted redevelopment plan may become an amendment to the Borough's zoning map and zoning ordinance or may be treated as an overlay to existing zoning. Only after completion of this public process is a municipality able to exercise the powers granted under the Redevelopment Law.

III. Statutory Criteria

According to the Redevelopment Law, an area qualifies as being in need of redevelopment if the governing body concludes that the delineated area meets at least one of the eight statutory criteria listed under Section 5, or if the governing body concludes pursuant to Section 3 of the Redevelopment Law that a portion of the areas is needed for the effective redevelopment of the area. The criteria are listed below and identified by the letter corresponding to the paragraph in that Section. Properties located within the area of study may meet more than one of the criteria but only one of the eight needs to be identified in order to be deemed an area in need of redevelopment. The criteria are as follows:

The "a" Criterion: Deterioration (N.J.S.A. 40A:12A-5.a) – “The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.”

The "b" Criterion: Abandoned Commercial and Industrial Buildings (N.J.S.A. 40A:12A-5.b) – “The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.”

The "c" Criterion: Public and Vacant Land (N.J.S.A. 40A:12A-5.c) – “Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.”

The "d" Criterion: Obsolete Layout and Design (N.J.S.A. 40A:12A-5.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 "e" Criterion: Property Ownership and Title Issues (N.J.S.A. 40A:12A-5.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 "f" Criterion: Fire and Natural Disasters(N.J.S.A. 40A:12A-5.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.”

The "g" Criterion: Urban Enterprise Zones(N.J.S.A. 40A:12A-5.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 (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(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 (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 (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 (40A:12A-1 et seq.) 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.”

The "h" Criterion: Smart Growth Consistency (N.J.S.A. 40A:12A-5.h) – “The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.”

Section 3: Definitions (N.J.S.A. 40A:12A-3) provides the following definition for redevelopment areas - "Redevelopment area" or "area in need of redevelopment" means “an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may

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

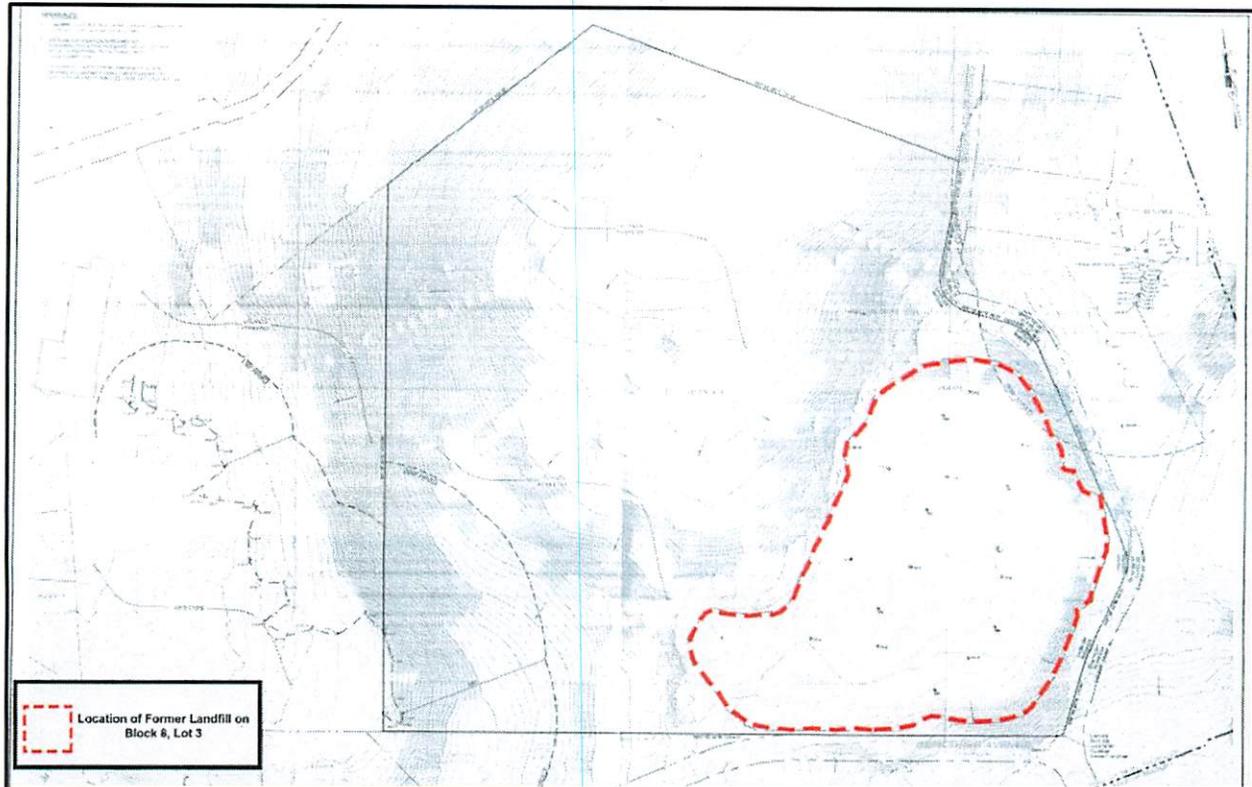
III. Study of Area

A. Area Description

The study area is located in the northeastern section of Mount Arlington and is designated as Highlands Preservation Area. It is accessed by Berkshire Avenue, which is a local road, connecting the site to Mount Arlington's main thoroughfare: Howard Boulevard, a County road. The study area is bordered to the east by a preserved natural area: Minisink County Park; to the south by Berkshire Valley State Wildlife Management Area; and the northern boundary is comprised of individual residential lots. Edith M. Decker Elementary School lies to the west of the study area.

The study area is 35.64 acres with approximately 10 acres being occupied by the former landfill and the remaining 25.64 acres are undeveloped forested land. The landfill was in operation for several decades during the latter half of the 20th century and ceased operation in 1989. According to the New Jersey Department of Environmental Protection (NJDEP) Site Remediation Program, this landfill is classified as a Non-Operating Landfill with Evidence of Groundwater Impact. While the Landfill is capped with soil and rock, it has not been technically “closed” in accordance with NJDEP Division of Solid and Hazardous Waste Regulations at N.J.A.C. 7:26. The Borough is currently working with NJDEP to gain closed status and a designation that the area is considered a “Brownfield” under state statute.

Berkshire Avenue is a dead-end local road that terminates at the property line of the study area. The majority of traffic on Berkshire Avenue is local traffic from homes located along the road. Howard Boulevard, which provides access to Berkshire Avenue, is a County road running north to south through the Borough, connecting to Jefferson Township to the north and Roxbury Township to the south. The intersection of Berkshire Avenue and Howard Boulevard is surrounded by single family residential uses, open space, as well as some commercial and institutional uses.



Location of Former Landfill on Block 8, Lot 3

B. Environmental Constraints

The study area is relatively flat in the location of the former landfill and surrounded by steep slopes throughout the remainder of the site. Areas of steep slopes are not suitable for development and provide a natural buffer area between the landfill and adjacent properties. Freshwater wetlands and Highlands Open Waters are found to the northeast of the landfill area. A small area of the northernmost limit of the landfill is within the 300-foot Highlands Open Waters buffer. Otherwise, environmental constraints on the site are limited to forested areas and steep slopes.

The study area is 35.64 acres, of which 10 acres is covered by the former municipal landfill. The landfill was in operation for several decades and ceased operation in the latter half of the 1980s. According to the NJDEP site remediation program, the landfill is classified as a Non-Operating Landfill with Evidence of Groundwater Impact. There are three (3) monitoring wells on the site that have been used to monitor ground water quality since 1999. Low levels of volatile organic compounds (VOCs) have been detected in samples from the monitoring wells. The VOCs that are found to be above regulatory limits include major elements or secondary contaminants such as iron, sodium, etc. It is believed that the VOCs are a result of stormwater infiltration into the landfill and they were not found to pose an imminent threat to groundwater quality provided that the landfill remain capped and secure with ongoing quarterly testing. The Borough is currently working with the NJDEP to achieve proper closure status. That process involves the approval by NJDEP of a closure plan. Methane gas testing and possible venting

will be conducted as part of this plan. The Borough is in the process of completing and submitting the closure plan. The plan is expected to be approved by NJDEP by the beginning of July 2015.

C. Site Photos

Block 8, Lot 3 – Mount Arlington

Owner: Borough of Mount Arlington

Site Address: Berkshire Ave, Mount Arlington, 07856



Views of Former Landfill

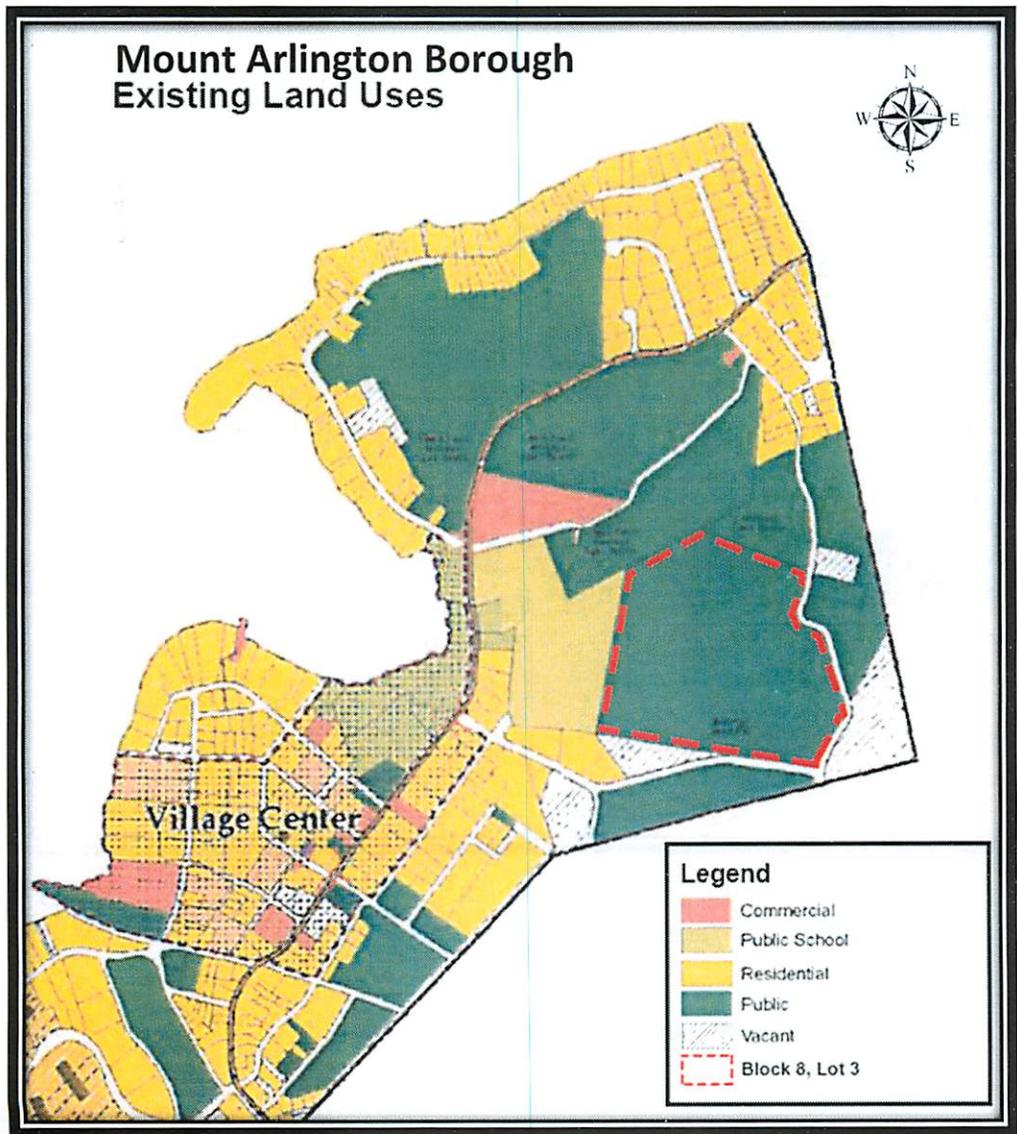


Wooded Areas Surrounding Former Landfill

D. Land Use and Zoning

Existing Land Use

The study area is surrounded by open space along its eastern, southern and northern boundaries. To the west, the study area borders Edith M. Decker public school. The study area does not front onto a major street and is significantly buffered from all active uses in the nearby area. Residential zones adjacent to the study area primarily include single family residential development with single family detached dwellings. Also permitted in the surrounding residential zones are parks, playgrounds, firehouses, libraries, and municipal buildings. The Open Space Government Use Zone permits single family dwellings, agricultural uses, planned cluster residential developments, parks, playgrounds, firehouses, libraries, municipal buildings, and municipal landfills.

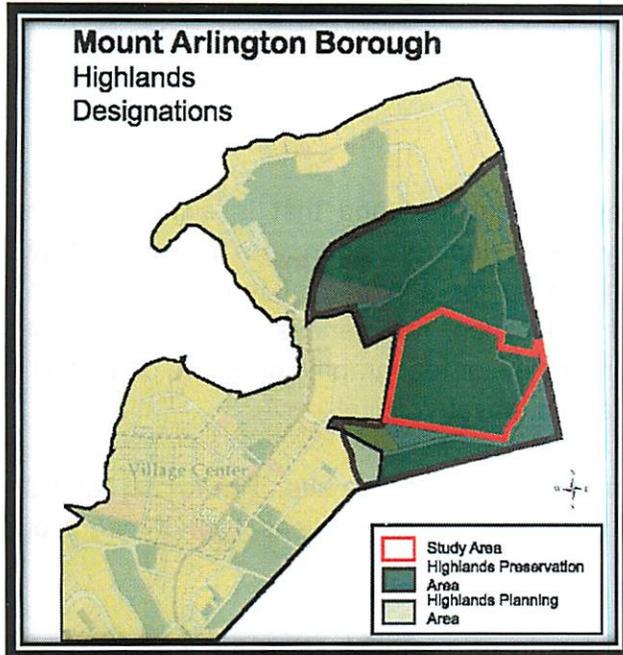


Zoning

Under current zoning, the study area is completely within the OSGU, Open Space and Government Use Zone. Except for the residential area to the south along Berkshire Avenue, the study area is completely surrounded by Open Space or Government Uses. Across the municipal boundary line with Roxbury Township, lies the Berkshire Valley State Wildlife Management area.



Highlands Council Preservation Area



Development on the site is restricted by the Highlands Council Preservation Area regulations, which severely limit opportunities for conventional redevelopment. The Borough is in the process of obtaining a Brownfields Redevelopment designation from the NJDEP and a Highlands Redevelopment Area designation from the Highlands Council. These designations would permit redevelopment of the site according to Highlands' regulations for Preservation Area Redevelopment.

Master Plan

The Borough Master Plan, which was adopted in 1999 and reexamined in 2005, contains the following goals and objectives that apply to Community Facilities, such as the former landfill:

- Maintain and replace where necessary, existing facilities in a manner that minimizes public expenditures.
- Promote capital budgeting for ongoing maintenance/replacement of facilities/utilities in a manner that will maintain them in good condition and spread out costs.
- Promote the efficient utilization of all community facilities.

The above-referenced goals encourage efficient use of lands that encompass community facilities with an effort minimize public expenditures related to those facilities. Studying the former landfill as a potential area in need of redevelopment is consistent with these Master Plan goals and objectives.

The Highlands Element of the Borough's Master Plan, adopted on May 27, 2015 identifies the landfill site as a potential Highlands Redevelopment Area and recommends that the area be studied for potential redevelopment. Studying the former landfill site as an area in need redevelopment is consistent with the effort to designate the area as a Highlands Redevelopment Area.

F. Findings

This investigation found that the study area meets three (3) of the statutory criteria to qualify as being in need of redevelopment: criteria "c", "e" and "h".

Qualifying Criterion "c"

The "c" criterion provides opportunities for redevelopment if: "Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital."

In this case, the Borough owns the land comprising the entirety of the site. The former landfill site is not likely to be developed by private capital because of its remoteness, lack of means of access and nature of the soil.

Development on the property is severely limited due to its remoteness in the northeastern corner of the Borough, surrounded by large tracts of open space. The only access to the border of the site is a dead-end local road. Further, the nature of the soil found on the former landfill requires ongoing monitoring for ground water and possibly for methane gases. This creates a limitation on the site that causes the area to not likely be developed through the instrumentality of private capital.

Qualifying Criterion "e"

The "e" Criterion addresses property ownership and title issues. As stated in N.J.S.A. 40A:12A-5.e, "A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare."

The site of the landfill is the subject to ongoing quarterly soil testing by the Borough. This ongoing testing creates an encumbrance on the title and subjects the property to oversight and restrictions from the NJDEP. The ongoing monitoring and restrictions associated with the former landfill limit development capacity and have created a stagnant condition of the land. While the Borough does own the land, the ongoing monitoring creates a not fully productive condition of the land limiting it from its full use. Continued vacancy of the site is a detriment to the public welfare because valuable land resources are underutilized and not contributing to the community.

Qualifying Criterion "h"

The "h" Criterion addresses smart growth consistency and provides that municipalities can designate an area in need of redevelopment if the designation is consistent with smart growth planning principles adopted pursuant to law or regulation.

The New Jersey State Plan explicitly promotes brownfield redevelopment as a favorable strategy toward future development. Brownfield redevelopment capitalizes on currently underutilized land thereby reducing the need for virgin land to be developed. Redevelopment of brownfields is a central principal of smart growth policies. Designation of the area as an area in need of redevelopment is consistent with smart growth planning principles adopted pursuant to law or regulation.

IV. Recommendations

This investigation finds that the study area identified as Block 8, Lot 3, meets the statutory criteria to qualify as an Area in Need of Redevelopment and recommends that the area be designated by the Borough of Mount Arlington as an Area in Need of Redevelopment pursuant to N.J.S.A. 40:A-12A-1 et seq. More specifically, this investigation finds that the study area meets Criteria "c", "e" and "h".

The "c" Criterion: Public and Vacant Land (N.J.S.A. 40A:12A-5.c) – "Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital." *The area is owned by the municipality and by reason of its location, remoteness, lack of means of access, topography and the nature of the soil is not likely to be developed through the instrumentality of private capital.*

The "e" Criterion: Property Ownership and Title Issues (N.J.S.A. 40A:12A-5.e) – "A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare." *The area displays a growing lack of proper utilization caused by condition of title due to ongoing environmental monitoring requirements, resulting in a not fully productive condition of the land as useful and valuable for contributing to and serving the public welfare.*

The "h" Criterion: Smart Growth Consistency (N.J.S.A. 40A:12A-5.h) – "The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation." *Designation of the area delineated is consistent with the State Development and Redevelopment Plan which is based on smart growth planning principles.*

This study further recommends that the Borough Mayor and Council authorize the Land Use Board to prepare a Redevelopment Plan for the area in order to facilitate a unified development on the site that addresses the unique circumstances and constraints of the area.