

PRELIMINARY INVESTIGATION: BLOCK 2806 LOT 1

Area in Need of Redevelopment

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I. INTRODUCTION

The following study has been prepared to determine whether an area located within the central portion of the Town of Phillipsburg qualifies as an “area in need of redevelopment” in accordance with the New Jersey Local Redevelopment and Housing Law (LRHL) at N.J.S.A. 40A:12-A. The study was authorized by the Phillipsburg Town Council and was prepared on behalf of the Phillipsburg Land Use Board. The study area is comprised of one tax lot within Block 2806 located at the corner of Carpentersville Road and South Main Street, also known as County Road 122.

As is described in this report, it is our conclusion that Block 2806, Lot 1 meets at least one of the statutory criteria for designation as a redevelopment area. This conclusion is based on the fact that the lot is located within an Urban Enterprise Zone and the dilapidation and underutilization of the lot.

II. SUMMARY OF FINDINGS

This report concludes that the lot qualifies for redevelopment under criteria “a”, “b”, “c”, “d”, and “g” of the LRHL. The analysis contained within this report will serve as the basis for the recommendation that Block 2806, Lot 1 qualifies as a Non-condemnation Area in Need of Redevelopment.

III. BACKGROUND

A. 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.

B. 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 to interact to ensure that all redevelopment actions consider the municipal Master Plan. The steps required are generally as follows:

1. Governing Body of the municipality must adopt a resolution directing the Planning Board to undertake a preliminary investigation to determine whether a specified area is in need of redevelopment according to the criteria set forth in Section 5 of P.L. 1992/c.79 (C.40A:12A-5).
2. 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 power 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).

3. 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.
4. 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.
5. 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 Condemnation Redevelopment Area boundaries.
6. 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 forty-five (45) days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.
7. 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.”
8. 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.

C. Progress

In satisfaction of #1 above, the Phillipsburg Town Council adopted Resolution No. 2021-282 on November 23, 2021, which authorized the Land Use Board to undertake this study. The resolution (Appendix A) and blight investigation maps (Appendix B) which satisfy #2 above are included herein.

D. Purpose & Scope

In accordance with the process outlined above, this Preliminary Investigation will determine whether the property (hereinafter referred to as the “Study Area”) within the Town of Phillipsburg 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 Phillipsburg Land Use Board and was duly authorized by the Mayor and Council. The scope of work for the investigation encompassed the following: land use review; assessment of property conditions; occupancy and ownership status within the study area; review of tax maps and aerial photos; review of building records; review tax assessment data; review of environmental assessments and any subsequent documentation of remediation; review of the existing zoning ordinance and zoning map for the Town of Phillipsburg; and review of the Master Plan for the Town.

IV. Consideration of the Statutory Conditions for Establishment of an Area in Need of Redevelopment as Specifically Applied to the Study Area

A. Introduction

The Local Redevelopment and Housing Law (LRHL) at N.J.S.A. 40A:12A-5 sets forth the regulations for which an area may be designated an “area in need of redevelopment” if after investigation, notice, and public hearing, the governing body determines by resolution that the area meets any one of the following criteria:

- a. The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking light, air, or space, as to be conducive to unwholesome living or working conditions.
- b. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be tenantable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.
- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors are detrimental to the safety, health, morals, or welfare of the community.
- e. A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real 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.
- 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 the 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 provision 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 is noted that §40A:12-A3 (“Section 3”) cites that 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.” The redevelopment area must also include lands that are “reasonable and rational” given their location, size, shape and access to produce a redevelopment project that will achieve the goals of the community.

B. Zoning Description

Block 2806, Lot 1 is located within the B-5 Business – South Main Zone, with a PAC – Planned Adult Community Overlay, which was established to differentiate it from the highway-oriented B-2 Zone along Route 22 according to the 2013 Master Plan and established by §625-69.

Principal permitted uses in the B-5 Business – South Main Zone (PAC – Planned Adult Community Overlay):

- Retail shops and personal services,
- Restaurants, taverns, brewpubs,
- Offices, studios, theatre,
- Cultural and education facilities,
- Public buildings, and churches,
- Medical and dental clinics/labs,
- Small businesses, and business services,
- Residential and office above businesses,
- Age-restricted adult/senior housing.

Permitted accessory uses:

- Recreation facilities exclusive to senior residents,
- Off-street parking, under-building parking, private garages exclusive to senior residents,
- Storage and maintenance facilities,
- Management office (not to exceed 1,000 square feet),
- Customary accessory structures such as fences, walls, light fixtures, sound barrier and other similar structures.

Permitted Conditional Uses in this zone:

- Non-profit clubs and fraternal organizations,
- Residential infill subject to standards in SS625-68.B,
- Bowling alley,
- Skating rink,
- Light manufacturing,
- Wholesale trades,
- Construction/contracting business.

C. Existing Conditions

The subject parcel is located near the edge of town along South Main Street across the street from the Alpha Railroad Arch Bridge over South Main Street and Carpentersville Road. The site is occupied by the remains of the former Ice House building. The lot frontage is poorly maintained, fully curbed with partial sidewalk and an asphalt driveway leads into the site and to the cell-phone tower on the adjacent lot. The driveway is accessible via South Main Street and aside from vehicular access, the site has low connectivity to the rest of the Town of Phillipsburg and nearby Pohatcong Township.

There is a well located on the property that takes water from a buried stream to service nearby properties. This well, along with the driveway that is shared with the cell-phone tower on the adjacent property are recorded on the deed.



Photo 1: View of driveway from South Main Street, looking south. The cell-phone tower can be seen in the center-rear of the photo.

To the south of the site along Carpentersville Road is a detached single-family housing community with Carpentersville Road acting as the sole collector road for the development. On the north side, opposite the site on South Main Street are low-density commercial buildings, which are bounded by South Main Street and the Lopatcong Creek. One of these low-density commercial buildings is the Agway building a portion of whose roof collapsed due to rain in 2021, and subsequently demolished by the Town of Phillipsburg.

The lower elevation portion of the site by the driveway appears to be located within the Flood Hazard Zone AE according to FEMA's Flood Insurance Rate Map, Map 34041C0291E (Appendix C) and is located within the Open Water Protection Area/Wildlife Corridor (Appendix B) specified by the Highlands Council. The site is extremely sloped (Appendix B). Whereas South Main Street goes under the nearby railway arch bridge, the rear of the site is at grade with the railway. It is also located in a State-designated Urban Enterprise Zone as shown in the Figure in Section V of this report. This site is not listed by the NJ Data-miner as being a contaminated site, nor regulated as such.

For these reasons, allowing the underutilized property to remain in a vacant, dilapidated state is detrimental to the overall welfare of the community.

The photos below show the condition of the site at along Carpentersville Road and from within the site.

Photo 2: View of property frontage along Carpentersville Road. Note the slope all the way to the curb along the road and the continuation of the railway arch bridge that meets grade adjacent to the subject property.

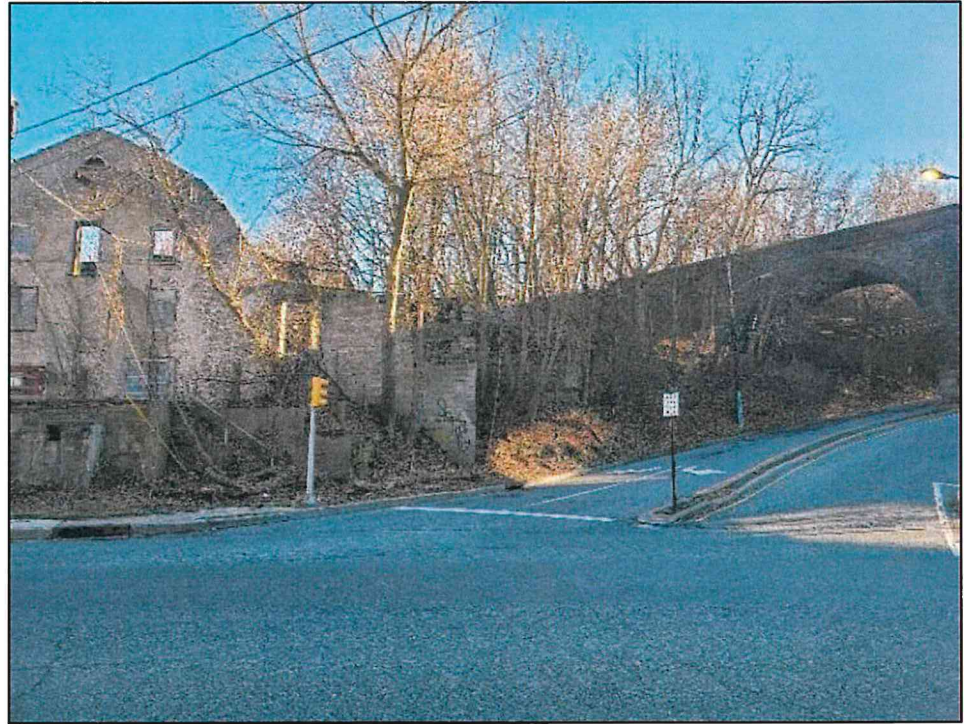


Photo 3: Typical at-grade view of the subject property's "Ice House. Note the vegetation and dilapidated state of the structure.

V. Application of the Statutory Criteria to the Study Area Properties

We provide the following analysis for each criteria and the reasoning for our conclusion that the subject property meets the “a”, “b”, “c”, “d”, and “g” criteria for an area in need of redevelopment.

The “a” criteria:

- 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 subject parcel is occupied by the deteriorating Ice House building. This structure is largely dilapidated with much of the structural beams exposed. In February 2014, the roof collapsed and the structure was deemed unsafe by the Town of Phillipsburg Building Inspector. There are portions of flooring that have been removed by unknown means, possibly decay. Thus, the entire building is a hazard to the general public. Sections of the building with roofing still attached are unlit, with limited access to the interior. The foundations of other structures on the site are completely obstructed due to vegetation.

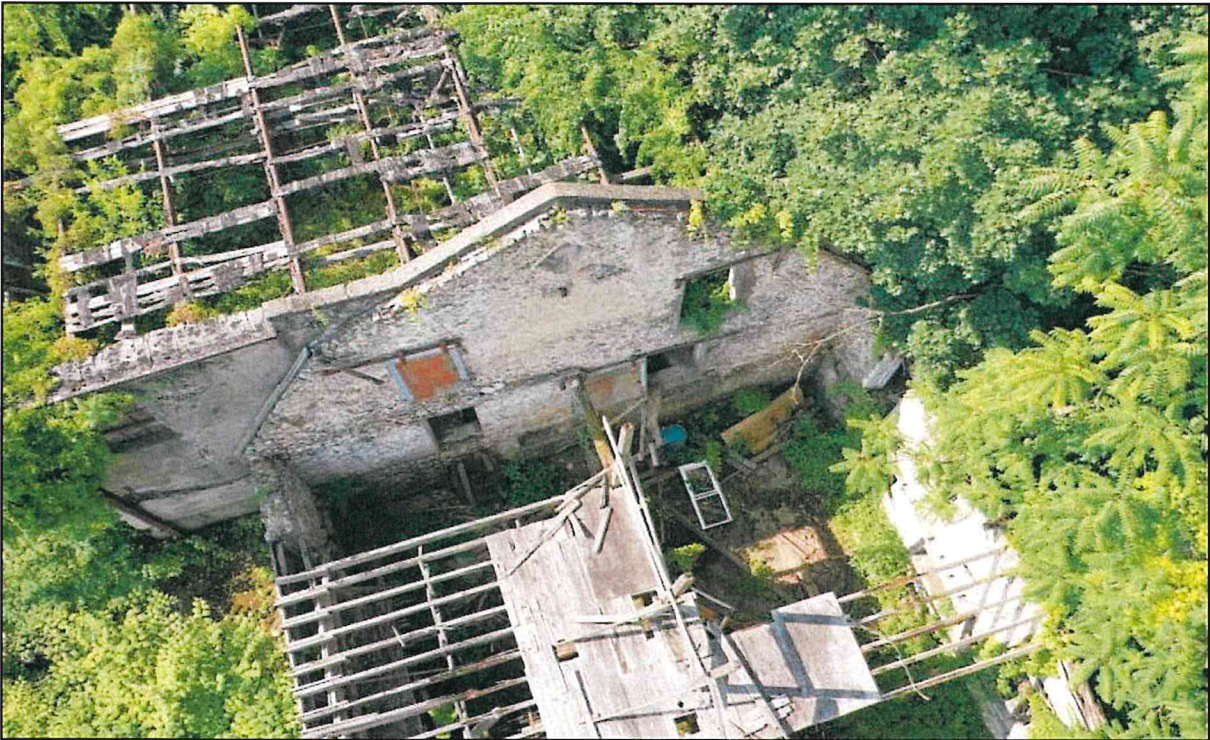


Photo 4: Drone View of the Ice House building from overhead. Exposed structural members and deterioration of the flooring are clearly visible.

The “b” criteria:

- The discontinuance of the use of a building or buildings previous 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.

As stated above, the Ice House is in a state of complete disrepair. This lot has been unused since at least February 2014 due to the collapsing of the roof. In 2021, the Town of Phillipsburg looked into the cost to partially demolish the structure as compared to a complete demolition. It roughly cost four times the amount to remove the dilapidated portions of the site and make it safe as opposed to fully clear the parcel. Please refer to Appendix D “Historical Aerial Imagery” for more information on the historic use of the site.

The “c” criteria:

- 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 section or portions of the municipality, or topography, or nature of the soil, is not likely to be development through the instrumentality of private capital.

The site is very steeply sloped and in close proximity to lower elevation roads and the Lopatcong Creek. Due to these site constraints, any development on the property would be technically difficult. In addition to the site’s topography, the site fronts County Road 122 (South Main Street), meaning any adjustments to the driveway opening will require additional permitting and review from Warren County. Furthermore, due to the site being located within the buffer zone of the Lopatcong Creek, there are environmental constraints associated with development that deter private developers. Based on FIRM Panel 34041C0291E, it appears that the northern portion of the property is within Zone AE with a Base Flood Elevation of approximately 204. Please refer to Appendix C “National Flood Hazard Layer FIRMette” for more information. All of these constraints will hamper private developer’s efforts to develop the site, but current location of the parcel and lack of walkability to nearby residential developments and light retail corridors make the property less valuable – so the likelihood of private capital developing this lot is greatly diminished.

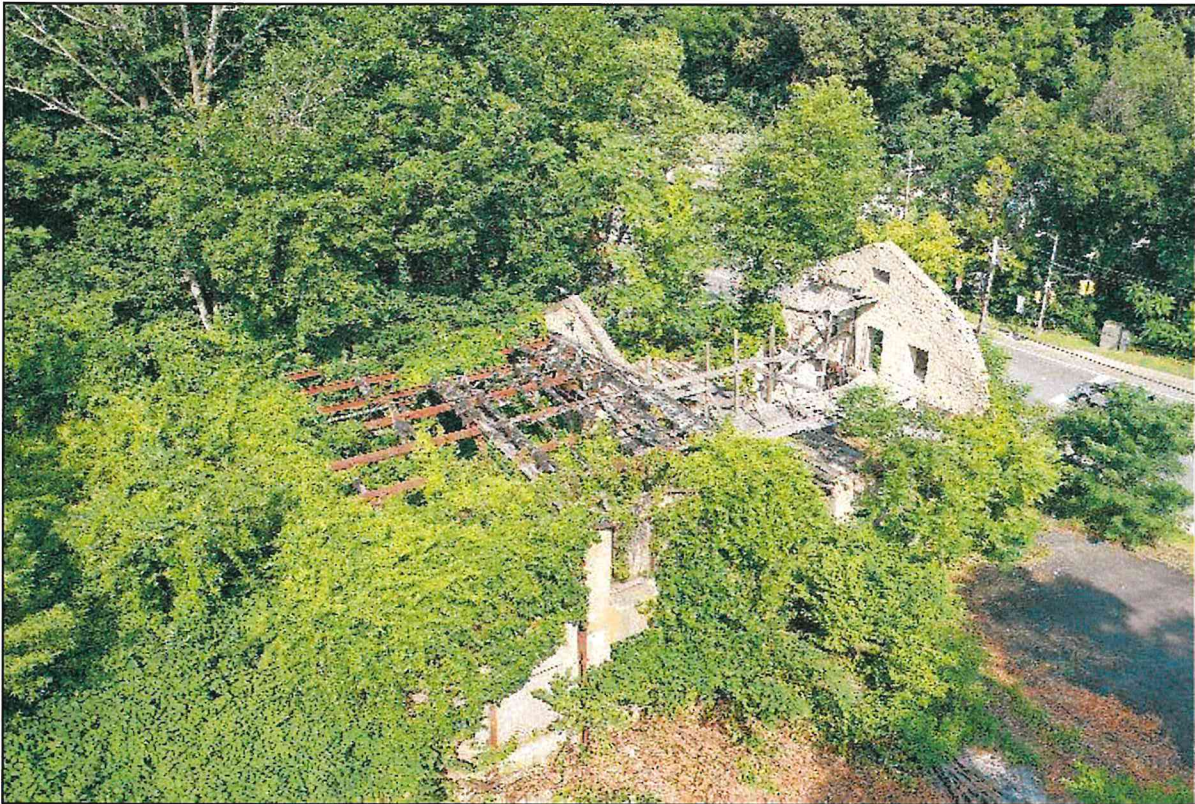


Photo 5: View of the Ice House from the cell-phone tower looking north. The site’s steep slopes and proximity to the nearby traffic light are clearly shown.

The “d” criteria:

- 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 stated above, the subject parcel is occupied by the deteriorating Ice House building. The entire property is largely overgrown with vegetation and generally in a dilapidated condition. The Ice House building in particular is partially demolished, with most of the roof removed due to the collapsing in February, 2014 and vegetative growth encroaching into the structure despite being largely cleared in the Summer that year. Many of the structural supports are exposed to the elements and in poor condition. Graffiti can be found within the remains, indicating that members of the public trespass into this unsafe area. During the investigation of this property, only drone footage was used to get close to the building. The dilapidated state combined with the vegetation will eventually prove detrimental to the well system on-site, and prohibit maintenance in the future.

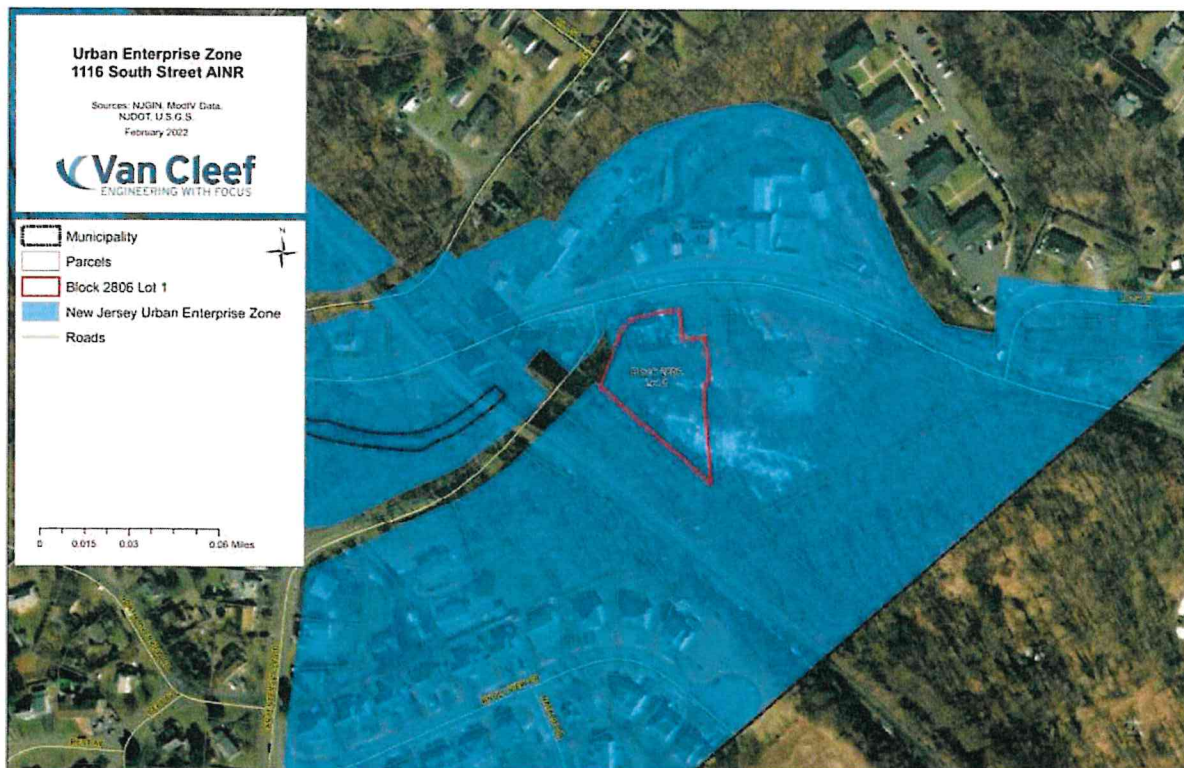


***Photo 6:** Drone View of property from the end of the driveway looking northward. The overgrowth and encroachment of vegetation is apparent.*

The “g.” criteria:

- 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 the 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 provision 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. (***Bold and Italicized*** text for emphasis)

In applying this criteria, if a property is located within an Urban Enterprise Zone (UEZ), the mere fact that it is located within this designated area is “sufficient for the determination that the area is in need of redevelopment”. Having gone through the proper channels to designate the UEZ and fulfilling the requirement for determining an area in need of redevelopment, the Town has indicated the subject parcel should be designated an area in need of redevelopment. The figure below shows the parcel within the UEZ.



Conclusion

This study was prepared on behalf of the Phillipsburg Land Use Board to determine whether an area located within the Phillipsburg (Block 2806, Lot 1) qualifies as “an area in need of redevelopment” in accordance with N.J.S.A. 40:12-A. It is the finding of this investigation that the subject parcel meets the redevelopment criteria “a”, “b”, “c”, “d”, and “g” of the LRHL and in its current state fails to promote the neighborhood character of the community, as identified in the Town Master Plan. The designation of the study area as an area in need of redevelopment is the first step to achieving the community character the Town desires.