

Preliminary Investigation

Pulverizing Services – Condemnation Area in Need of Redevelopment

Block 1400,
Block 900,

Lots 13, 14, and 15; and
Lots 3, 7, 8, and 9

Moorestown Township, New Jersey

Township of Moorestown
Burlington County, New Jersey
Issued: May 12, 2022

Prepared By: Taylor Design Group, Inc.

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*The original of this document has been signed
and sealed in accordance with New Jersey Law.*

Public Hearing, Revised, and
Adopted: June 2, 2022

May 12, 2022

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I. Introduction and Basis for the Investigation

The Township of Moorestown seeks to determine whether the redevelopment process in accordance with the *NJ Local Redevelopment and Housing Law* (LRHL), N.J.S.A. 40A:12A et seq. could be the most effective planning and implementation strategy to accomplish the redevelopment of certain parcels known as the Pulverizing Services Property.

On March 14, 2022, the Moorestown Township Council authorized, by Resolution 110-2022, attached hereto as Appendix A, the Moorestown Planning Board to undertake a preliminary investigation to determine whether the identified parcel, may be designated as a *Condemnation Area in Need of Redevelopment*, according to the criteria set forth in N.J.S.A. 40A:12A-5.

The Township Council directed the Planning Board to undertake a preliminary investigation to determine whether *Block 1400, Lots 13, 14, and 15; and Block 900, Lots 3, 7, 8, and 9*, and commonly known as the *Pulverizing Services Site*, meet the statutory criteria to be designated as a *Condemnation Area in Need of Redevelopment*.

This Investigation Report has been prepared pursuant to the New Jersey Local Redevelopment and Housing Law (LRHL), N.J.S.A. 40A:12A-1 et seq. A Map entitled *"Pulverizing Services Site- Condemnation Redevelopment Area"* dated **April 8, 2022**, included as Appendix B of this report, depicts the boundaries and the location of various parcels of the proposed redevelopment area. Appended to the map is a statement setting forth the basis for the investigation, as required by statute.

Taylor Design Group, Inc. reviewed Master Plans; Development Regulations; Zoning Ordinances; tax maps and data; aerial photography; Planning Board and governing body resolutions and agreements; site plans; and federal, state, and local data, maps, and studies. The report also relies upon Township and Planning Board professional staff. This report was provided to the Planning Board for review at a public hearing to be held on June 2, 2022, and may be revised, pursuant to the Planning Board's recommendations, subsequent the date of the public hearing.

Over the years, the Courts have ruled that a Determination of Need finding an Area in Need of Redevelopment shall be supported by substantial credible evidence and supported by credible expert testimony. The findings for the determination cannot include "net opinions" or a mere recitation of the statute. The findings and conclusions set forth in this Determination of Need Report satisfy this requirement.

Adoption Procedures and Next Steps

If the Township Council concurs with the Planning Board assessment that the study area meets the necessary criteria, the area can then be formally adopted by Resolution of the Township Council as a *"Condemnation Redevelopment Area,"* according to the criteria set forth in N.J.S.A. 40A:12A-5.

After an area is designated, a Redevelopment Plan may be adopted for the area by the Township Council, which can set forth the guiding plan for revitalization of the area. This

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Plan can include standards for modified uses, bulk standards, and design standards, and would be referred to the Planning Board for review and recommendation relative to consistency with the Master Plan, as required by the (NJLRHL). The governing body's Resolution authorizing this investigation indicates the intention to include the power of eminent domain within the area. In this case, the USEPA would also review and approve the Redevelopment Plan and / or any site plans.

If a Redevelopment Plan is adopted, a redeveloper would then be required to apply to the Planning Board for Site Plan approvals under the normal course of any other land use application, consistent with the NJ Municipal Land Use Law.

II. Statutory Requirements

Determination of Need for Redevelopment

The principal goal of redevelopment, as declared by the legislature, is to promote physical development that is most beneficial to the social and economic improvement of localities and as defined below.

“Redevelopment means clearance, replanning, development, and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public, or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan” [pursuant to criteria].

A delineated area may be determined to be in need of redevelopment if the parcels meet one or more of the following statutory criteria as set forth in NJSA 40A:12A-5:

- a. *The generality of buildings is 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 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*

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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 12 (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.*

Furthermore, the definition of a "Redevelopment Area" at 40A:12A-3 permits the inclusion of additional parcels by stating:

"A redevelopment area may include land, 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. Description of the Study Area

Regional Setting

Moorestown Township is located within Burlington County and bordered by multiple municipalities: Cinnaminson Township to the north- northwest; Delran Township to the north-northeast; Willingboro Township to the east-northeast; Mount Laurel Township to the south-southeast; and Maple Shade Township to the south-southwest.

Moorestown Township is located within the Philadelphia Metropolitan Region. Moorestown is almost entirely within the Inner Coastal Plain, and the soils are generally productive agricultural soils. The waterways bisecting the community result in large areas of wooded wetlands and steep slopes along riverbanks. Moorestown has developed over time, from a largely undisturbed and agricultural setting to a full-service suburban community.

Study Area Parcel and Surrounding Area

The Study Area is comprised of multiple lots known as Block 1400, Lots 13, 14, and 15; and Block 900, Lots 3, 7, 8, and 9, totaling approximately 24 to 26 acres, within the BP-1 Business Park-1 District. The tracts are located on the north and south side of New Albany Road between Grand Avenue and Glen Avenue. Block 1400, Lots 13, 14, and 15 are located on the south side of New Albany Road; and Block 900, Lots 3, 7, 8, and 9 are located on the north side of New Albany Road and south of Crider Avenue. The tract is largely vacant except a vacant office building located on the south side of New Albany Road, which is in a state of collapse. A fence surrounds both properties.¹

The tract is located within the western portion of Moorestown and does not impact any adjacent municipalities. The surrounding land uses and districts around Block 1400, Lots 13, 14, and 15 include the following:

- North of the site across New Albany Road contains the additional tract being reviewed. Across New Albany Road to the west and east are standalone offices and office/ business park multi-tenanted buildings within the BP-1 District.
- East of the site, also fronting on New Albany Road are large business park uses including processing and warehousing within the BP-1 District.
- South of the site is the freight railroad line and across the railroad are residential dwellings within the R3 District.
- West of the site, fronting on New Albany Road are single family and multi-family residential uses and associated site improvements within the R-3 District.

¹ Fourth Five-Year Review Report for Pulverizing Services Site, Burlington County, New Jersey, USEPA-Region 2, New York, New York, December 20, 2019.

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The surrounding land uses and districts around Block 900, Lots 3, 7, 8, and 9 include the following:

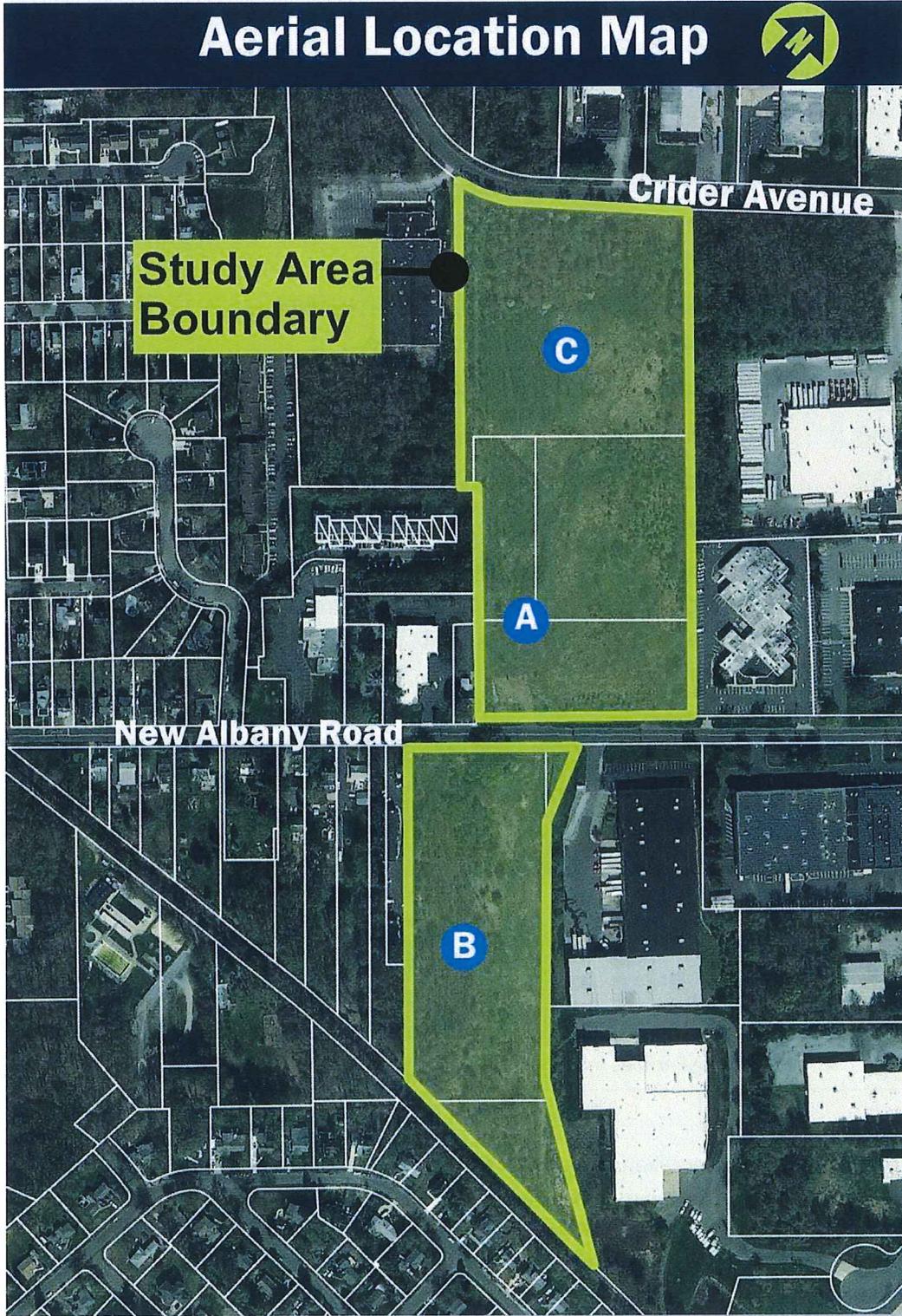
- North of the site is Crider Avenue and scattered business park uses and buildings within the BP-1 District.
- East of the site there are additional business park uses and buildings within the BP-1 District.
- South of the site across New Albany Road contains the additional tract being reviewed as well as standalone and multi-tenanted buildings with the BP-1 District.
- West of the site are standalone offices and office/ business park multi-tenanted buildings within the BP-1 District.

A detailed analysis of the Study Area can be found below. The maps provided include an Aerial Image, Tax Map, NJDEP Land Use/ Land Cover, Zoning Map, and combined Smart Growth and State Plan Map. The aerial image location map and tax map contain map ID letters which correspond to the parcel data table and the United States Environmental Protection Agency (USEPA) Areas of Concern (AOC).

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Aerial Location Map

Source - aerial imagery courtesy of NJGIN Imagery Warehouse obtained March 2022.



Parcel Data

The current tax information indicates that all parcels are vacant, within the BP-1 District, and according to the tax map the tract contains a total of approximately 25.79 acres. A dilapidated office building is located at 332 New Albany Road. Please note the Map ID alphabetical identification is consistent with the Areas of Concern (AOC) noted in the USEPA review and remedial investigation reports. The tract is comprised of the following parcels:

- Map ID A - Block 900, Lots 7, 8, and 9 - 331 New Albany Road;
- Map ID B - Block 1400, Lots 13, 14, and 15 - 332 New Albany Road; and
- Map ID C - Block 900, Lot 3 - 356 Crider Avenue.

The 2013 Final Remedial Investigation Report indicated that the site was inactive at that time and characterized the chain of site ownership over time.

1935 to 1946: International Pulverizing Company

1946-to 1948: Micronizer Company, a subsidiary of Freeport Sulfur Company

1948 to 1963: PPG Industries, Inc. (PPG) and

1963 to Present: Pulverizing Services, Inc.

Currently the entire tract is owned by Pulverizing Services, Inc., with a mailing address at PO Box 1236, Mt. Pleasant, SC 29465-1236. The USEPA Settlement Agreement indicates that the Non-Settling Owner, as defined, is Clark Hobbie, principal of Pulverizing Services, Inc. See parcel information on Table 1, below:

Table 1 - Tax Parcel Information

Parcel Information								
MOD IV Data Source; Division of Taxation, Burlington County. Last updated 03/17/22								
Map ID	Block	Lot	Owner	Property Address	Approx. Acres	Property Class	Zone	Use/Description
A	900	7,8, & 9	Pulverizing Services Inc	331 New Albany Road	8.3	1	BP-1	Vacant brownfield
B	1400	13, 14, & 15	Pulverizing Services Inc	332 New Albany Road	10.2	1	BP-1	Brownfield w/ Collapsing Building
C	900	3	Pulverizing Services Inc.	356 Crider Avenue	7.29	1	BP-1	Vacant brownfield

There are municipal and federal liens against the properties. The municipal tax collector issued a report, indicating that the parcels are impacted by municipal tax liens in the total amount of \$4,592,480.87 USD, as of March 8, 2022. Further, one of the parcels in the tract Block 900, Lot 7 is also subject to a private lienholder in the amount \$273,033.64 USD, raising the total lien amount for the property owner to \$4,865,514.51, not including private lien holder interest. See municipal and private tax lien information on Table 2, following:

Table 2 - Property Liens

Tax Lien Information			
Moorestown Township Tax Collector, 03/08/22			
Block/ Lot	Lien Number	Last Payment	Redemption Amount
Block 1400 Lot 13, 14 & 15	10470000	1987	\$505,066.65
Block 1400, Lot 13, 14, & 15 QFarm	10480000	1987	\$11,616.93
Block 900, Lot 7 (8 & 9)	10090000	1986	\$2,790,715.26
Block 900, Lot 3	10460000	1987	\$1,285,082.03
Block 900, Lot 7, 8 & 9*	89700000	1983	\$273,033.64
Municipal and Private Liens Total			\$4,865,514.51

*Note: Held by outside lien holder.

Block 900, Lots 7, 8, & 9 are subject to a tax certificate lien. Typically, private investors purchase tax liens, where tax certificates are issued, recorded with the County Clerk, held for at least two (2) years, and after such time, the property can be foreclosed upon by the private lien holder. For private liens to be redeemed, the property owner must request such redemption in writing, and include an anticipated date of payment and legal interest in the property. (See N.J.S.A. §54:5-1 et seq.) Property taxes have continued to accrue after the sale of the certificate, and no foreclosure has been undertaken by the private lien holder.

The tract might be considered abandoned property. As a distressed site with continuing and perhaps expanded groundwater environmental monitoring both on and off-site and the potential for further clean-up, private investors may not seek to purchase the tax certificates, at the regular tax sale. It follows that Moorestown holds most of the tax liens or tax certificates, due to the environmental concern. Moorestown Township can initiate tax foreclosure proceedings against the properties, noticing the property owner and private investor tax certificate holder(s). Further, Moorestown may be able to initiate a special tax sale, as the entity that purchased the certificate in 1983 has not foreclosed, where these abandoned properties could potentially be reused consistent with the public interest. (See Abandoned Properties Rehabilitation Act or N.J.S.A. 55:19-101.)

There is also a filed notice of Federal Superfund lien in the amount of \$1,086,706.96 plus interest, which was filed with the Burlington County Clerk in the mortgage book, on December 11, 2007. These liens are used to secure funds when Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly called Superfund enforcement actions are undertaken. These cost recovery efforts can be used as an enforcement tool to secure otherwise unattainable funds, providing leverage to encourage settlements, creating a secured interest by USEPA, and encouraging property owners themselves or allow others to undertake cleanup.

Existing Development Regulations, Zoning, and Performance Standards and Institutional Controls

The study area is located within the BP-1 Business Park District, as amended through 2020, which is consistent with the Zoning Map, Housing Plan, and Master Plan. Resolution 17-2020 was adopted on July 27, 2020; and created the BP-1 District applicable to the property. The site is also the subject of USEPA and NJDEP Institutional Controls upon any building or site improvements.

The development of the site is subject to the BP-1 District standards which include permitted and prohibited uses, area restrictions and regulations, and building separation distances.

The permitted uses in the BP-1 include:

1. Municipal Uses.
2. Residential uses and structures in existence prior to September 1, 1992, that conform to the R-1 District Area Restrictions and Regulations. In addition, residential uses, and structures on exception areas within tracts of permanently preserved farmland that conform to the R-1-A District Area Restrictions and Regulation.
3. Offices for administrative, executive, business, utility professional and financial services, insurance, photography, polling, advertising, public relations, marketing, translation, promoters of performing arts, sports, or similar events, and managers for artists, athletes, entertainers, or other public figures.
4. Establishments that provide health services, including urgent care, outpatient care, outpatient mental health and substance abuse care and counseling, medical offices, including but not limited to, physicians, dentists, chiropractors, optometrists, physical therapists, occupational therapists, speech therapists, audiologists, health practitioners, and medical and diagnostic laboratories.
5. Facilities that engage in scientific research and development.
6. Establishments that provide information technology services, including management, programming, consulting, installation, integration, publishing, motion picture and sound recording, broadcasting, telecommunications, data processing, hosting and related services, and internet publishing, except telecommunications and broadcasting towers.
7. Providers of educational services, including special education, business schools, computer and management training, technical and trade schools, driving schools, life-skills training, and educational support services, except academic tutoring services and exam preparation.
8. Gyms, health clubs, and facilities for indoor sports or sports training, recreation, performing arts, dance facilities, including instruction of same.
9. Facilities that provide childcare, adult care, special-needs care, services for the elderly and persons with disabilities, transitional and supported employment services, occupational skills, or job training.

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10. Establishments engaged in the construction industry, including general contractors, building, or civil engineering, specialty trade contractors, building equipment manufacturers and suppliers, and finishing contractors.
11. Establishments engaged in the manufacturing, including production, processing, distribution, and wholesale sale, of fresh, refrigerated, and frozen food (except animal slaughtering), beverages, breweries, wineries, distilleries, pharmaceuticals and medicines, durable medical goods, textiles, apparel, printing, machine tool, machinery, computer and electronic products, electrical equipment, appliances, components, transportation equipment, and furnishings.
12. Facilities that provide warehousing and storage, including self and personal storage.
13. Wholesale trade establishments that engage in wholesaling merchandise, such as goods for resale, capital or durable nonconsumer goods, and raw materials and supplies uses for production.
14. Establishments that provide transportation, including truck, transit, and ground, passenger, scenic and sightseeing, charter and school bus, special needs, medical (nonemergency), postal services, couriers and messengers, motor vehicle towing, or moving and storage.
15. Support services providing routine support activities for other organizations, including administration, clerical, security, and cleaning.
16. Wind and solar facilities pursuant to N.J.S.A. 40:55D-66.11.

The conditionally permitted uses in the BP-1 District include the following, where the conditions can be found at §180-67.2.C:

1. Horticulture and agriculture.
2. Telecommunications and broadcasting towers.
3. Breweries, distilleries, and winery salesrooms.
4. Cannabis establishments.

The prohibited uses include:

1. All uses not expressly permitted.
2. Heavy industrial uses.
3. Retail uses, except as otherwise permitted.
4. Retail gas stations or fueling stations.
5. Landscape contractor storage or wholesale landscaping supplies, including but not limited to fertilizers, pesticides, topsoil, decorative stone, or mulch.
6. Uses which utilize in process any substance listed in N.J.A.C. 7:27-21, Appendix 1, Table 1, Toxic Air Pollutants to be Reported in Emission Statements.

The area restrictions and regulations pertaining to the subject property in the BP-1 District include:

1. 120,000 SF - Minimum Lot Area
2. 200 feet at the building line and 150 feet at the street line - Minimum Lot Width
3. 25% - Building Coverage
4. 65% - Lot Coverage

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5. 100 feet - Front Yard, New Albany Road, a Major Thoroughfare
6. 75 feet - Front Yard, Crider Avenue, Other Streets
7. 50 feet - Side Yard Minimum
8. 25 - Rear Yard Minimum
9. 75 feet or 3x height of the building - Front Yard Landscape Buffers
10. 50 feet - Residential district boundary buffer

See a current Zoning Map, following page, prepared by Clark Caton Hintz and last updated November 2021, which illustrates the site within the BP-1 District.

As part of the CERCLA Settlement Agreement, the USEPA has employed the use of “institutional controls” and “proprietary controls.” The respondent PPG is responsible for all direct and indirect costs related to CERCLA.

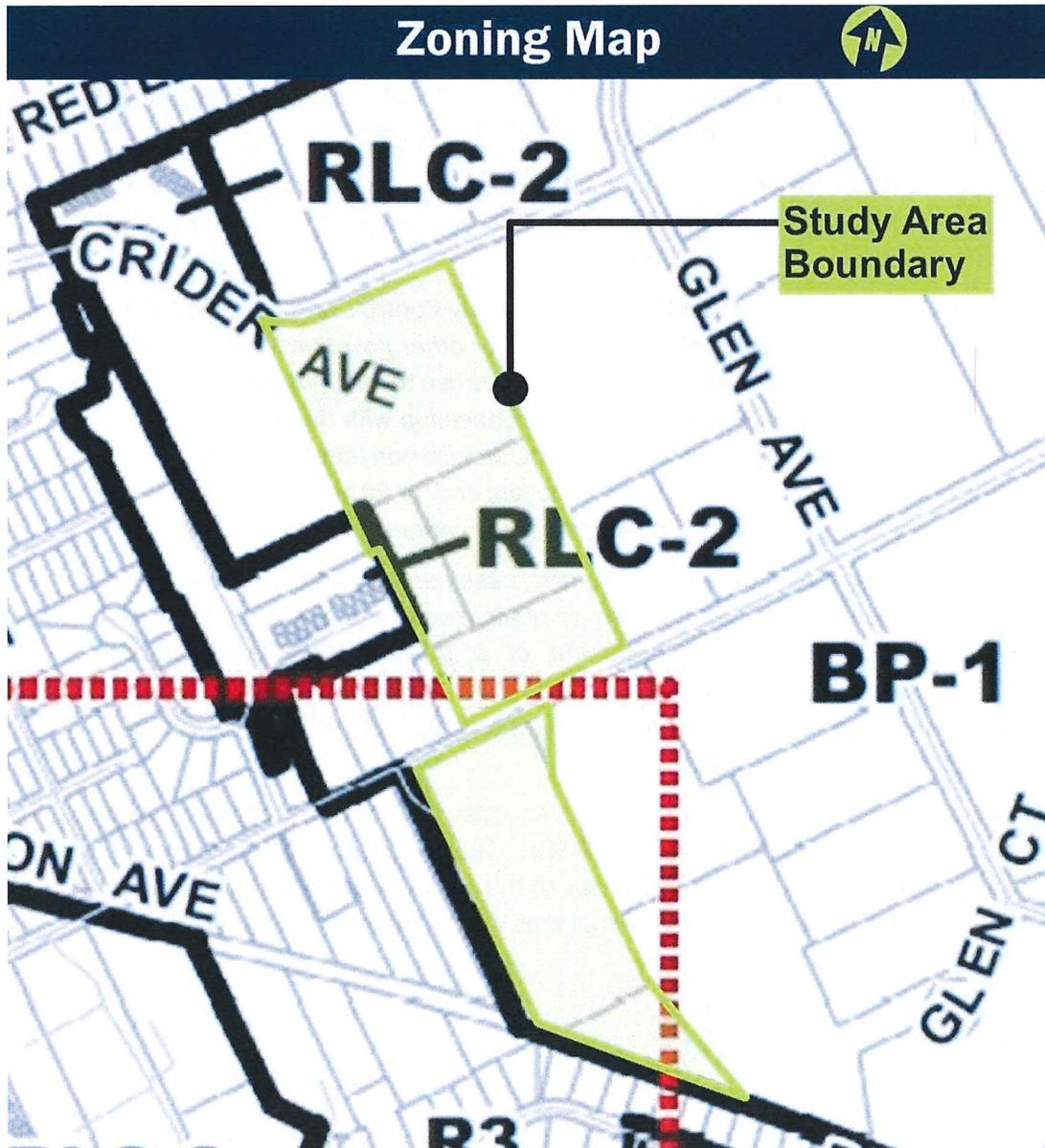
“Institutional Controls’ or ‘ICs’ shall mean Proprietary Controls and state or local laws regulations, ordinances, zoning restrictions, or other governmental controls or notices that: (a) limit land, water, or other resource use to minimize the potential for human exposure to Waste Material at or in connection with the ‘Site’; (b) limit land, water, or other resource use to implement, ensure non-interference with, or ensure the integrity of the removal response action; and/or (c) provide information intended to modify or guide human behavior at or in connection with the Site.”

“Proprietary Controls’ shall mean deed notices, easements or covenants running with the land that: (a) limit land, water, or other resource use and/or provide access rights including the establishment of a groundwater Classification Exception Area (CEA) pursuant to N.J.A.C. 7:26C-7.3 and (b) are created pursuant to common law or statutory law by an instrument that is recorded by the owner of the appropriate land records office.”

Any proposed municipal development, such as a site plan or redevelopment plan for the site must submit any such proposal to the USEPA. This is to ensure that removal or response actions taken to implement responses to the hazardous substances at the Site or off-site will not be impeded by any redevelopment, development, or site plan.

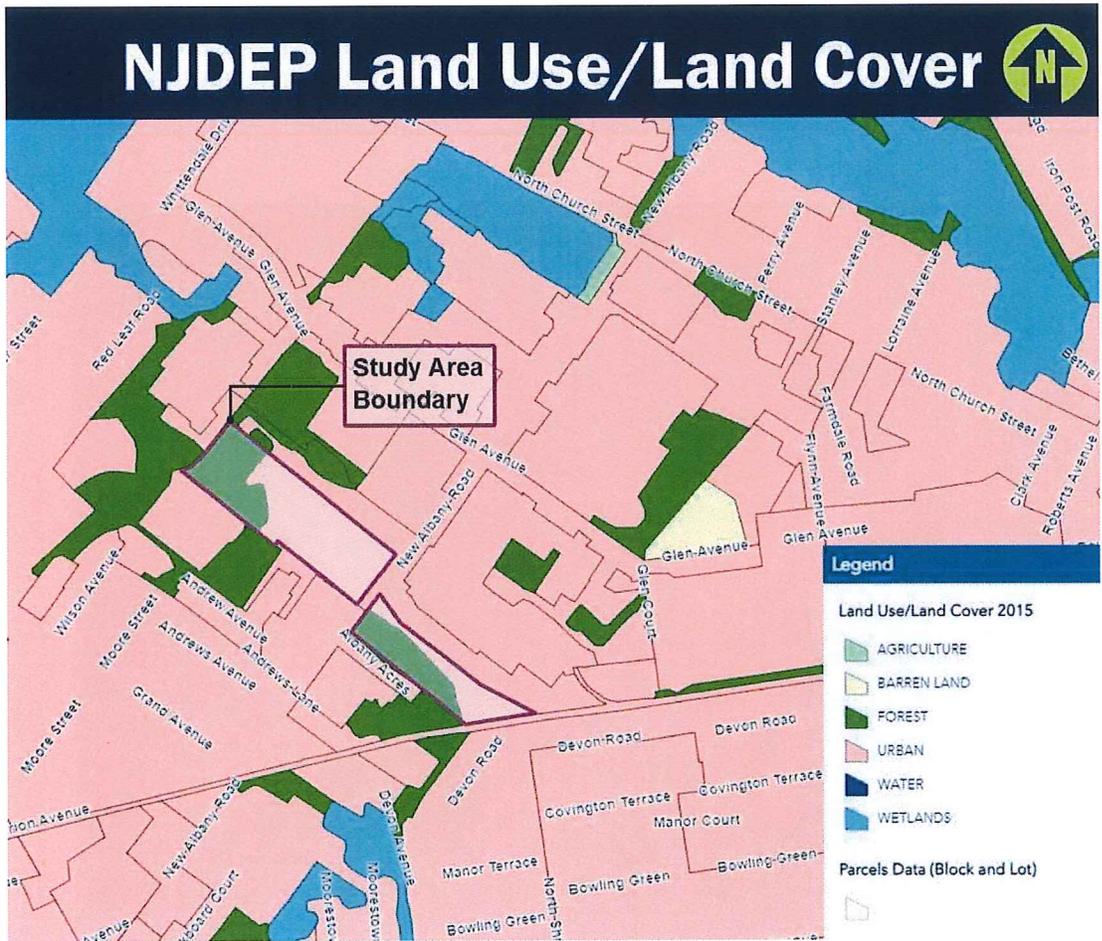
Zoning Map

Source – Zoning Map provided by Moorestown Township and last updated to November 2021, by Clark, Caton, Hintz.



Existing Land Use

The NJDEP Land Use/ Land Cover mapping illustrates that the site is urban consistent with the surrounding business park, industrial campus, and residential development. The Land Use Land Cover mapping, obtained from NJ GeoWeb, illustrates that the parcel and the surrounds are mostly urban, with some forested portions.



Flood Hazard Areas

There are no mapped areas of flood hazard on the parcels or adjacent parcels.

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Analysis, Redevelopment Designation and Recommendation

As discussed in Section II above; for a delineated area to be considered an “Area in Need of Redevelopment” the parcels must meet one or more of the statutory criteria, as set forth in NJSA 40A:12A-5.

Pulverizing Services

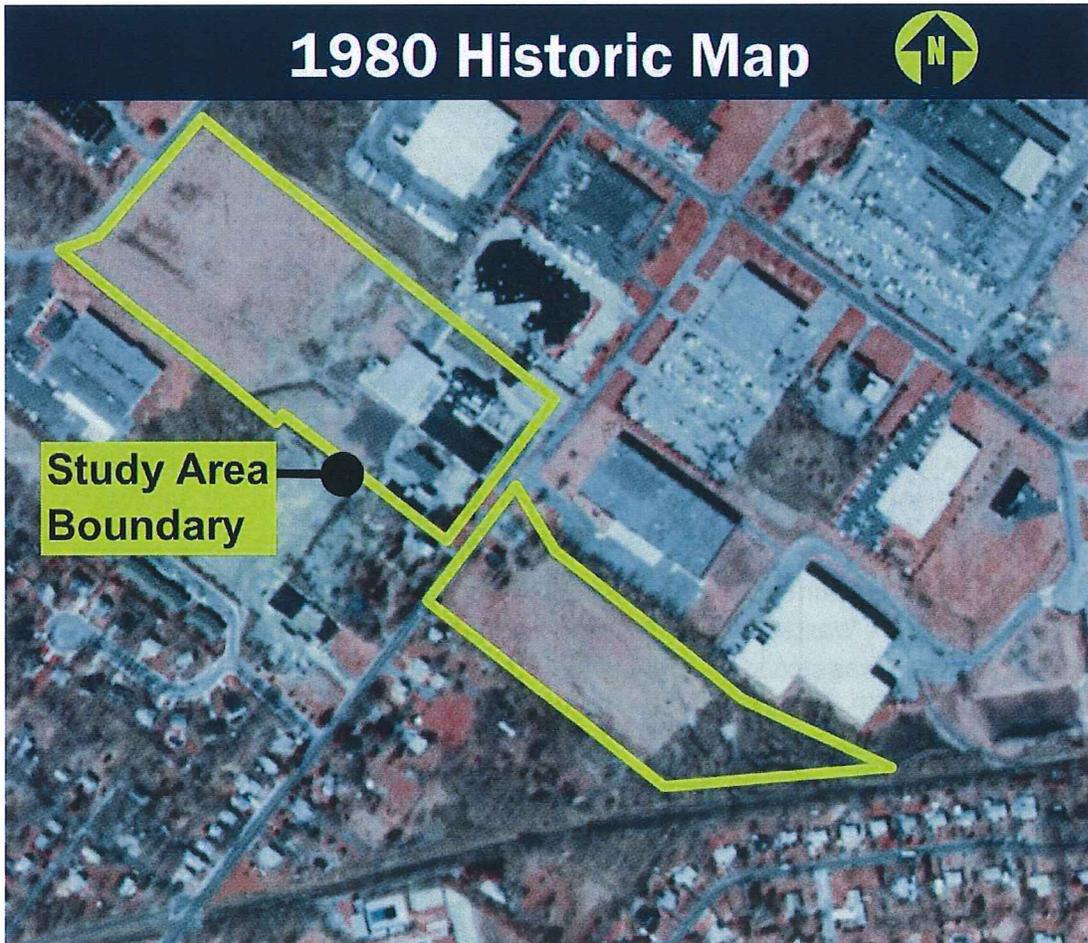
The tract, containing approximately 24 to 26 acres, is located north of the railroad line along New Albany Road. Consistent with the site history aerial imagery from 1930 illustrates that the tract contained dwellings, outbuildings, and agricultural lands (courtesy NJGIN)



The USEPA identifies that the site is a designated Superfund Site and has prepared materials consistent with that designation including the site's historic use, clean-up efforts, site status, and monitoring. An USEPA site search result indicates that there is insufficient site data to determine if human exposure and groundwater migration are under control.

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The background information characterizes that the site was occupied by a pesticide formulating facility from 1935 to approximately 1979, operating under a series of corporations including International Pulverizing Company, Micronizer Company, PPG, and Pulverizing Services, Inc. Active ingredients for use by the plastics, pharmaceuticals, and pesticide industries were not manufactured on site, but transported to the site where dry chemical processing transpired, including grinding, blending, and packaging. During the 1950s and early 1960s, waste materials were disposed in several trenches, which was confirmed by Phase I and Phase II site investigations in 1990 and 1994-95, respectively.² See infrared image below from 1980, which illustrates the site, buildings, and visible trenches courtesy NJGIN.



²<https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0200753#bkground>

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Responding to a complaint, the New Jersey Department of Environmental Protection (NJDEP) performed an inspection in 1985 and determined in 1986 that on-site trench locations were filled with pesticides. In 1987, NJDEP requested USEPA become the lead agency, and USEPA determined that contamination was found throughout the site. Assessments determined that the soil posed a risk to human health and remediation actions were taken including demolition of structures, removal and disposal of contaminated soils, soil treatment, and backfilling with clean fill from an off-site location, topsoil, and seeding. The USEPA established a deed notice to be implemented when property ownership is transferred, which permits future commercial use of the site but prohibits residential uses on the site because it was not remediated to residential standards.³ (See Appendix C for Declaration of Environmental Restriction)

The site is not on a National Priorities List, which list is intended to guide USEPA to determine sites warranting further investigation. The USEPA landing page for the Pulverizing Services site indicates that the *“side-wide ready for anticipated use is negative; and that there is insufficient data to determine if human exposure and groundwater migration is under control.”*

There is an abandoned and collapsing office building, remaining along the frontage of the southern tract (Block 1400, Lots 13, 14, and 15) which satisfies the “b” criteria. The overall tract including all blocks, and lots has been abandoned and in a state of fenced disuse since 2007, a period of 15 years. The site chronology, ownership, and responsible party for the site remediation, indicates that the tract satisfies the LHRL “b”, “c”, and “e” criteria. The following site history is largely gleaned from the 2013 Final Remediation Investigation Report, the USEPA website and five-year reviews for the Pulverizing Services site, and NJDEP correspondence.

- a. 1935 - Processing operations begin.
- b. 1950s to 1960s - Waste material disposed into on-site trenches.
- c. 1979 - The plant was closed and abandoned.
- d. 1985 - The NJDEP inspects the site, confirms the presence of several on-site trenches which contain hazardous substances, including DDT, DDE, DDD, alpha-BHC, sein, hexachlorophene, malathion, and methoxychlor. NJDEP requests USEPA intervention.
- e. 1987 - The USEPA investigates the site, confirming NJDEP discoveries, finding the same hazardous substances at the site and within buildings. The site is unsecured and could be entered by trespassers. Surface water runoff in the form of a ditch exits the site and flows into the Pennsauken Creek and the Delaware River estuary. USEPA begins remedial activities.
- f. 1988 - Consistent with an order PPG, the third owner in the chain of title cited on page 10, installs fencing that is installed around Areas A and C.
- g. 1989 - The USEPA began negotiating with potentially responsible parties for the site remediation, requiring PPG to conduct an on-site investigation.

³ Fourth Five-Year Review Report for Pulverizing Services Site, Burlington County, New Jersey, by USEPA Region 2- New York, New York, dated December 20, 2019.

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- h. 1989 to 1990 - A Phase I, environmental investigation is undertaken including soil borings and installation of monitoring wells.
- i. 1990 - A focused building clean-up was performed under the direction of USEPA where contaminants stored within buildings 5, 6, and 29, consistent with Appendix D, were removed and disposed of and the buildings decontaminated. The 2013 report indicated that building A is cleaned by power washing the interior and removal and off-site disposal of 600 drums and 580 cubic yards of waste materials.
- j. 1993 - Fencing installed around Area B.
- k. 1994 to 1995 - A Phase II environmental assessment is performed, including air, soils, sediment, surface water, and groundwater sampling using a variety of methods. The surface water sampling results indicated New Jersey Water Quality Standards (NJSWQS) were exceeded for pesticides, volatile organic compounds (VOC), semivolatle organic compounds (SVOC), and metals. The sediment sampling results indicated that NJDEP Sediment Screening Values (SSV) indicated the presence of pesticides, SVOC, and metals. VOCs and dioxins were not detected above SSV.
- l. 1996 to 1998 - As the result of the Phase II there were two removals of materials from three (3) adjacent properties.
- m. 1999 to 2001 - USEPA issues a response action plan for site-wide soil removal. Approximately 113,492 cubic yards of contaminated soil were excavated and disposed of off-site.
- n. 2000 - Additional groundwater sampling was undertaken and remained consistent with the 1990 and 1995 results.
- o. 2000 - PPG recorded a Declaration of Environmental Restriction with Burlington County Clerk, prohibiting residential use of the site, which was executed by Clark Hobbie, President of Pulverizing Services, Inc. The environmental restriction satisfies the "c" criteria.
- p. 2000 - 2004 - Soil removal for portions of the tract is undertaken.
- q. 2005 - The first USEPA five-year review is completed.
- r. 2006 - Monitoring of groundwater and surface water was undertaken after some soil removal and remediation. A work plan for ground water remedial investigation is approved.
- s. 2006 to 2007 - Most of the buildings are demolished, and soil removal and remediation work are completed. However, the office at 332 New Albany Road was not demolished and is currently in a state of collapse, satisfying the "b" criteria.
- t. 2008 - A remedial action report is approved by USEPA.
- u. 2013 - Based upon a final remedial investigation report, a remedial investigation and groundwater monitoring plan is implemented in 2014 and USEPA issues an Action Memorandum for a non-time critical removal action for groundwater. See Appendix E for the 2013 site plan.
- v. 2016 - USEPA determined that groundwater conditions require action due to potential exposure of nearby human populations to hazardous substances including pesticides and arsenic, and potential contamination of drinking water

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- supplies. The concluding action at the site includes installation of sentinel groundwater monitoring wells, groundwater monitoring, and the establishment of a CEA as an Institutional Control.
- w. 2018 - An Administrative Settlement Agreement and order on Consent for Removal Action CERCLA Docket No. 02-2018-2018 cites the respondent as PPG. PPG is compelled to perform the removal action for groundwater in 2018.
 - x. 2020 - PPG has implemented a Removal Action (RA) which included install two (2) shallow overburden groundwater monitoring wells; collect and analyze groundwater samples from existing and new wells; establish a groundwater Classification Exception Area (CEA)/ Well Restriction Area (WRA); and monitor and report confirming the protection of the soil RA completed.
 - y. 2022 - On behalf of PPG, a consultant submitted a CEA/WRA to NJDEP. NJDEP issued a CEA/WRA to the remediation representative with copies to the USEPA, County, and Township. In summary, monitoring wells are required, and additional groundwater sampling points may be necessary to determine horizontal or vertical migration of dieldrin, alpha-BHC, beta-BHC, gamma-BHC, arsenic, beryllium, lead, aluminum, iron, manganese, sodium, carbon tetrachloride, and tetrachloroethene found at concentrations exceeding Ground Water Quality Standards. The NJDEP suggests remediation be conducted because of the elevated levels of contamination. There are no potable wells within the area and the area is served by public water, so there are no impacts to the quality of drinking water within the CEA/WRA, which is set for an undetermined duration. The correspondence, corrected report, and highlighted tax map are provided in Appendix F. Further this satisfies the “c” and “e” criteria.

Abandonment “b” Summary

There is an abandoned building on the southern portion of the tract, which is also known as Block 1400, Lots 13, 14, and 15, which satisfies the “b” criteria.

“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.

All the buildings were abandoned in 1979, shuttered in 1983, and most of them were demolished between 2000 to 2007. In concert with the site soil, surface water, and near surface groundwater contamination, buildings are not likely to be erected on the site until the surface and groundwater remedial actions are completely satisfied. The existing one on-site building has remained unoccupied on the site since 1979, a period of 43 years.

The abandoned and collapsing office building, is located behind chain link fencing, as illustrated following:

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Unimproved Vacant Land “c” Summary

During the 1950s and early 1960s waste materials were disposed of on the site in trenches. Reportedly in 1964, a fire occurred and ash and debris from that incident was also buried on the site. The buildings were abandoned in 1979, shuttered in 1983, and most were demolished between 2000 to 2007, consistent with the aerial image from 2007 below. Over 110,000 cubic yards of contaminated soil was removed from the site during the period of May 2000 to December 2004; and from October 2006 to May 2007. The unimproved vacant land has remained fenced and vacant since the year 2007, a period of 15 years, which satisfies the first component of the “c” criteria.

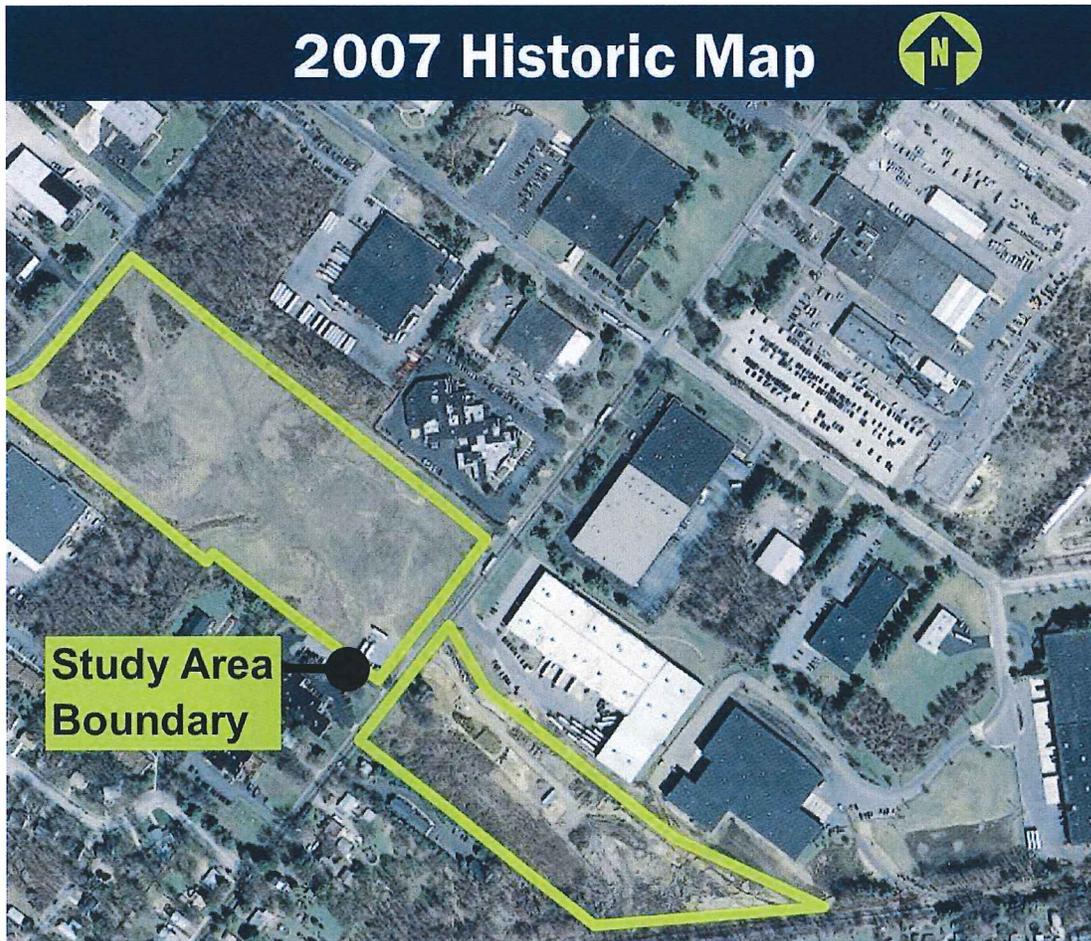
As detailed previously and below, the environmental contamination of the soil, the resulting deed restrictions, and the long duration of complete development inactivity at the property clearly demonstrates the second component of the “c” criteria, namely that the nature of the soil renders the property not likely to be developed with private capital.

“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

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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;

Please see aerial image following, courtesy of NJGIN from 2007 illustrating site remediation activities.



Contaminated soils were removed from two adjacent properties in 1996, and more contaminated soil was removed from a third property in 1998. The vacant and unproductive land within a thriving Business Park District, remains so, due to the nature of the soil, with the existing surface, and near surface groundwater contamination.

This near surface groundwater contamination has spread to adjoining properties, which is likely contributing to the land remaining in an unproductive state. The CEA/WRA issued by the NJDEP is set for an indeterminate duration, where the contaminants of interest (COI) are arsenic and other pesticides, including Alpha BHC, Aluminum, Arsenic, Beryllium, Beta BHC, Carbon tetrachloride, Dieldrin, Gamma BHC, Iron, Manganese, Sodium, and Tetrachloroethylene. For example, Arsenic, a naturally occurring element also used for pesticides and wood preservation, is a known carcinogen, particularly skin, lung, liver,

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kidney, and bladder. ⁴ Tetrachloroethylene is a degreaser which is common soil contaminant and mobile in ground water. Long term exposure is known to have effects upon the liver, kidneys, and central nervous system, and is suspected to be a possible human carcinogen.⁵ For more information on the remaining COI the Agency for Toxic Substances and Disease Registry (ATSDR) which is part of the Center for Disease Control (CDC) provides toxicological profiles for most the characterized contaminants, or the New Jersey Department of Health, Environmental Health web pages.

The USEPA has also filed a “Declaration of Environmental Restriction” on January 7, 2000, with the Burlington County Clerk. This document expressly prohibits the use of the property for residential purposes. The USEPA via the “Administrative Settlement Agreement and Order on Consent for Removal Action”, requires that the property is accessible for monitoring of work; verifying data or information; conducting investigations at or near the site; obtaining samples; assessing the need for planning, implementing or monitoring response actions; assessing implementation of quality assurance and control per the quality assurance quality control plan; implementing work; inspecting and copying records, operating logs, contracts, or other documents; assessing compliance with settlement agreement; determining whether the property is being used in a prohibited or restricted manner; implementing, monitoring, reporting on, and enforcing any land, water, or resource use restrictions.

The land, water, or other resource use restrictions include prohibiting activities which could interfere with the removal response action; prohibiting the use of site-related contaminated groundwater, prohibiting activities which could result in exposure to site-related contaminants in subsurface soils or groundwater; ensuring that any new structures on the property will not be constructed in a manner which could interfere with the removal response action; and ensuring that any new structure on the property will be constructed in a manner which will minimize potential risk of inhalation of contaminants. The concern is that the contaminants in the surface and/or ground water can be vaporized and inhaled or accidentally ingested.

Any Redevelopment Plan and site plan development proposed on the site will be required to be submitted to USEPA to ensure that the development does not interfere with USEPA removal action for accessibility, and land, water, or other resource restrictions.

⁴ New Jersey State Health Assessment Data, Health Indicator Report of Arsenic in Community Drinking Water Systems, 2000-2020

⁵ New Jersey State Health Assessment Data, Health Indicator Report of Tetrachloroethylene in Community Drinking Water Systems, 2000-2020 https://www-doh.state.nj.us/doh-shad/indicator/view/NoCWSbyMeanPCE.html?_gl=1*1u7fdzr*_ga*ODkxNDExNjcwLjE2NTAzODQyNzY.*_g_a_5PWJG6642*MTY1MDM4NDI3NS4xLjAuMTY1MDM4NDI3NS4w

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The following photo illustrates the general condition of Block 1400, Lots 13, 14, and 15.



The following photo illustrates the general condition of Block 900, Lots 3, 7, 8, and 9.



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Lack of Proper Utilization “e” Summary

There are municipal, private, and federal liens, future on-site and off-site monitoring, potential for removal response actions, and limitations upon building and site improvements. These liens and restrictions impede plans to construct on-site improvements, even if existing environmental conditions could be overcome through design and construction methods. The significant pre-existing financial liens on the property make any development plan impossible. The existence of these adverse conditions of title satisfy the “e” criteria.

“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 liens totaling \$5.95 million dollars plus uncalculated interest, include municipal liens over \$4.59 million dollars, private liens over \$270,000.00 dollars, and federal liens over \$1.08 million dollars. These liens adversely impact title and prevent any realistic development of the site.

Further, there are land use and development restrictions due to the required USEPA and NJDEP on-site and off-site monitoring, consistent with the CERCLA Administrative Settlement Agreement and Order on Consent for Removal Action. Consistent with the USEPA Settlement Agreement, the monitoring and cleanup present an impediment to improving the tracts due to potential and uncertain restrictions upon development of building and site improvements.

The large tract, fenced, unkept, and unoccupied, does not contribute to the business park district. Where the north side tract is over 15-acres, and the south side tract is approximately 10-acres, both remain unimproved in a thriving business park. The properties are bounded by large, occupied buildings and sites containing productive business park uses including offices, manufacturing, processing, and warehouses to the north and east. Further, the lack of improvements surrounded by a chain link fence along the property lines negatively visually impacts the attractive mixed-use office and residential development located along New Albany Road to the west.

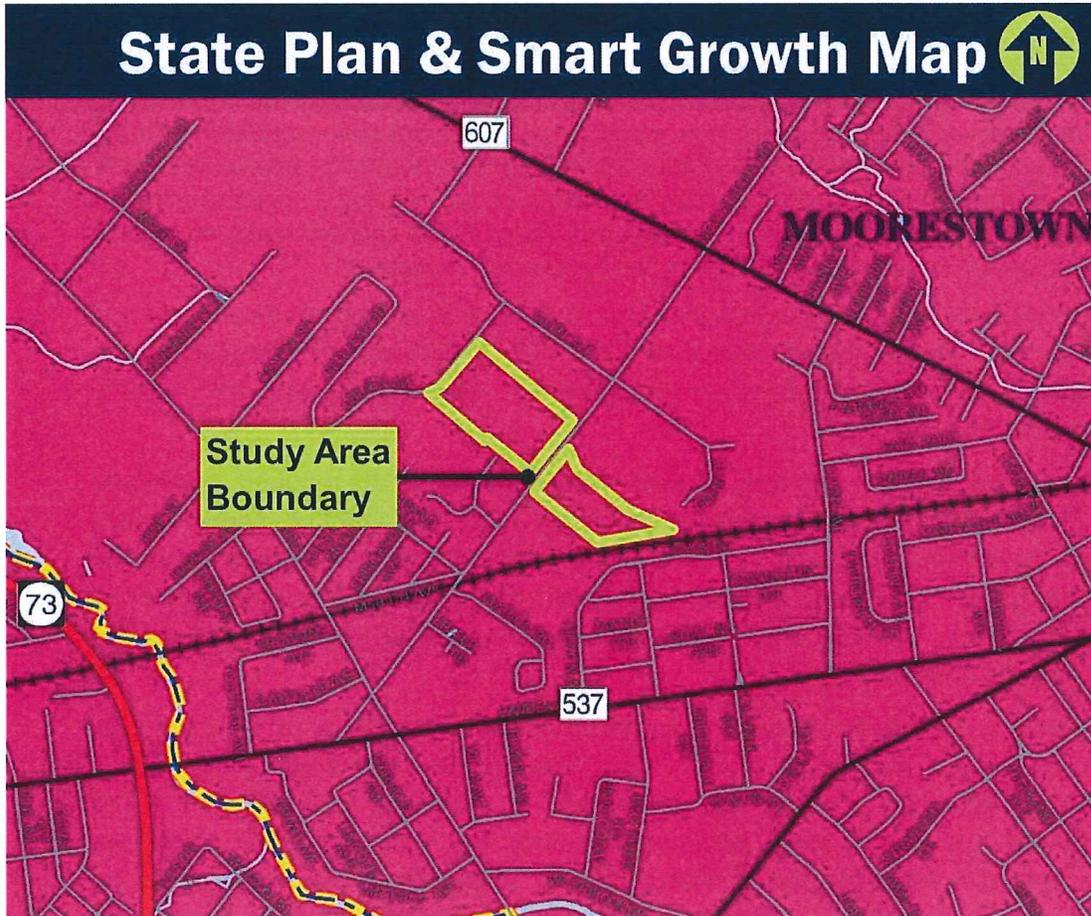
The burden of the site upon governmental interests through the unpaid property taxes and remediation costs, the restrictions upon use and development, the surrounding chain link fence, the successional and invasive plant species, such as the *Pyrus calleryana* “Bradford pear,” are antithetical to the Moorestown community’s social and cultural values, posing a detriment to the public good.

Smart Growth Planning “h” Summary

Lastly, the evaluation refers to the LRHL “h” criteria which is as follows:

“h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.”

In summary, and as characterized in Section IV – Planning Context, following, the designation of the site is consistent with smart growth planning pursuant to the New Jersey State Plan, where the site is within the Metropolitan Planning Area.



IV. Planning Context

The State Plan

The State Plan map illustrates the entirety of the study area and surrounds as Metropolitan Planning Area (MPA) consistent with the Smart Growth Map. The 2001 State Plan (State Plan) characterizes these areas, inclusive of PA-1, PA-2, and Designated Centers as areas for growth. Specifically, these areas provide the following:

- Future redevelopment opportunity.
- Revitalize towns.
- Promote compact growth.
- Stabilize older suburbs.
- Redesign areas of sprawl.
- Protect the character of existing stable communities.

The communities within MPAs are influenced by major metropolitan centers, which in this case is Philadelphia Metropolitan Area or the Metropolitan Statistical Area (MSA) of Philadelphia-Camden-Wilmington. The State Plan designated Camden an Urban Center which like other larger cities throughout the state, historically and currently provide a center for economy, transportation, and government.

The State Plan characterizes that these designated areas are fully developed or almost so and, anticipates most changes in land use will take the form of redevelopment. The State Plan indicates that municipal boundaries tend to disappear in this area and that problems related to sprawl, including land consumption and traffic congestion require regional solutions. The State Plan recognizes that the MPAs contain diverse development patterns and local development is described as suburban in intensity, and layout, and oriented towards automobile travel. The predominant pattern cited in this area are separated residential, office, manufacturing, and warehouse campuses, regional shopping centers, and medical and institutional parks.

To maintain and improve these areas, redevelopment should encourage a mix of uses to enhance site activity and economic opportunity, provide housing choice and pedestrianism, and reduce traffic congestion and inefficient infrastructure. The State Plan suggests that where appropriate, identifying opportunities and preparing guidelines for retrofitting commercial land uses can align with broad policy goals.

Smart Growth Planning Areas

The Study Area is within the State designated Smart Growth Planning Areas. Smart Growth is a set of planning principles implemented to achieve better development based upon local and regional considerations. Any determination should include satisfying N.J.S.A. 40A:12-5h. The Study Area, inclusive of additional lands provides opportunities to satisfy smart growth policy objectives:

- Promote economic and social equity, and community.
- Optimize infrastructure investment and capacity.
- Promote pathway interconnectivity, with networks and trails for pedestrians creating opportunities for healthy communities.
- Avoid greenfield development.

Delaware Valley Regional Planning Commission

The DVRPC landing page entitled Brownfields contains a list of agencies and resources for municipalities facilitating reuse of brownfields including funding and technical assistance. There are no specific documents related to this particular site.⁶

Burlington County

Burlington County's Open Space Program Strategic Plan is not relevant to this fully developed parcel. The Burlington County Highway Master Plan characterizes the area as a 2040 long-range planning area of "Growing Suburb" and a "Business Center" with a medium- to medium-high transit score, which is likely due to the available bus routes.

Township Master Plan

The June 2013 Moorestown Environmental Resource Inventory by DVRPC with Moorestown Environmental Advisory Committee (MEAC), characterizes this site as a known contaminated site and includes it on the mapping of all known contaminated sites in Moorestown. The ERI specifically characterizes the Pulverizing Services property, recounting details from the USEPA files as noted above.⁷

The December 2002 Master Plan characterizes the Pulverizing Services site in a discussion regarding non-residential development citing its remediation status and potential for manufacturing and office space.⁸

⁶ <https://www.dvrpc.org/brownfields>

⁷ Environmental Resource Inventory, DVRPC with MEAC, June 2013.

⁸ Master Plan, Clark, Caton, Hintz with Moorestown Planning Board, June 27, 2002.

V. Conclusion

Recommendation

Based upon the above analyses, our Preliminary Investigation has determined that **Block 1400, Lots 13, 14, and 15** meets the following one (1) statutory criterium:

“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.”

Based upon the above analyses, our Preliminary Investigation has determined that **Block 1400, Lots 13, 14, and 15; and Block 900, Lots 3, 7, 8, and 9** meets the following three (3) statutory criteria:

“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.”

“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.

“h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.”

Appendices A – F

Appendix A – Resolution 110-2022

TOWNSHIP OF MOORESTOWN

RESOLUTION 110-2022

**DIRECTING THE PLANNING BOARD OF
THE TOWNSHIP OF MOORESTOWN TO CONDUCT A PRELIMINARY
INVESTIGATION TO DETERMINE WHETHER THE LANDS IDENTIFIED AS
BLOCK 1400 LOTS 13, 14 AND 15 AND BLOCK 900 LOTS 3, 7, 8 AND 9,
COMMONLY REFERRED TO AS THE PULVERIZING SERVICES PROPERTY,
CONSTITUTE A CONDEMNATION AREA IN NEED OF REDEVELOPMENT**

WHEREAS, N.J.S.A. 40A:12A-6 provides that the governing body of a municipality may by Resolution authorize the Planning Board to undertake a preliminary investigation to determine whether a delineated area constitutes a condemnation area in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-5; and

WHEREAS, the Township Council of the Township of Moorestown ("Council") seeks to have the Planning Board undertake a Preliminary Investigation of property commonly referred to as the Pulverizing Services Property, more specifically known as Block 1400 Lots 13, 14 and 15 and Block 900 Lots 3, 7, 8 and 9 (collectively, the "Property"); and

WHEREAS, a determination that the Property is a condemnation area in need of redevelopment would enable the adoption of a redevelopment plan that, among other things, would allow for the acquisition of the Property and restoration of the Property to a productive use that contributes to the tax base; and

WHEREAS, the Township Council of the Township of Moorestown believes it is in the best interest of the Township and its residents to have the Planning Board perform a Preliminary Investigation of the Property to determine if it is a condemnation area in need of redevelopment;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with N.J.S.A. 40A:12A-6 the Township Council of the Township of Moorestown directs the Planning Board to undertake a preliminary investigation to determine whether the Property identified as Block 1400 Lots 13, 14 and 15 and Block 900 Lots 3, 7, 8 and 9 constitutes a condemnation area in need of redevelopment based upon the criteria set forth in N.J.S.A. 40A:12A-5, and the Planning Board is requested to report back to the Township Council as to the results of its preliminary investigation; and

BE IT FURTHER RESOLVED that the Township's professional staff, insofar as other professional services are required, are hereby authorized to render professional services to assist in the Planning Board's review.

VOTE:
GILLESPIE
MAMMARELLA
LAW
VAN DYKEN
ZIPIN

Certified to be a true and correct copy of a Resolution adopted by the Township Council at its regular meeting on March 14, 2022.

Patricia L. Hunt, RMC
Township Clerk

TOWNSHIP COUNCIL AGENDA REPORT

Meeting Date: March 14, 2022

Subject: Directing The Planning Board Of The Township Of Moorestown To Conduct A Preliminary Investigation To Determine Whether The Lands Identified As Block 1400, Lots 13, 14 And 15 And Block 900 Lots 3, 7, 8 And 9, Commonly Referred To As The Pulverizing Services Property, Constitute An Area In Need Of Redevelopment

Submitted by: Kevin Aberant, Township Manager

RECOMMENDATION

Adopt.

PREVIOUS ACTION

Discussion at 2/28/2022 Township Council Meeting

BACKGROUND

The Property is a 24 acre site on New Albany Road declared a Superfund site by the United States Environmental Protection Agency ("EPA"), and which was the subject of a cleanup supervised by the EPA.

A determination that the Property is an area in need of redevelopment would enable the adoption of a redevelopment plan that, among other things, would allow for the acquisition of the Property and restoration of the Property to a productive use that contributes to the tax base.

FISCAL IMPACT

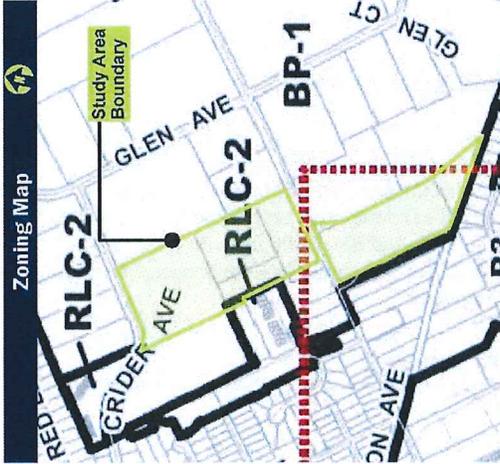
To be determined.

CONCURRENCES

Appendix B - Study Area Map (see map pocket for enlarged version)

1 Pulverizing Services
Condemnation Area in Need of Redevelopment Investigation

Moorestown Township, Burlington County NJ
May 12, 2022



Parcel Information
MOIST Data Source - Division of Taxation, Burlington County, last updated 03/17/22

Map ID	Block	Lot	Owner	Property Address	APRCS Address	Taxpayers Class	Zone	Use / Description
A	302	28 & 9	Pulverizing Services Inc	303 New Albany Road	283	1	BP-1	Warehouse
B	100	3 & 4	Pulverizing Services Inc	302 New Albany Road	102	1	3*	Brownfields with existing building
C	302	7	Pulverizing Services Inc	303 Crider Avenue	728	1	3*	Warehouse

Basis for Investigation

The Township of Moorestown is currently in the process of conducting a study to determine if certain parcels within the RLC-2 zoning district are in need of redevelopment. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1.

The Township of Moorestown is currently in the process of conducting a study to determine if certain parcels within the RLC-2 zoning district are in need of redevelopment. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1. The study is being conducted in accordance with the NJ Local Redevelopment and Housing Law, N.J.S.A. 40:27A-1.

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Appendix C - Declaration of Environmental Restriction (Deed Notice_

Rec 1-7-00

(11)

DECLARATION OF ENVIRONMENTAL RESTRICTION

This Declaration of Environmental Restriction is made as of the 25 day of OCTOBER 19 99, by Pulverizing Services, Inc. together with its successors and assigns, collectively "Owner."

WITNESSETH:

WHEREAS, Owner is the owner in fee simple of certain real property designated as Block 900, Lots 3, 7, 8 and 9, and Block 1400, Lots 13, 14 and 15 on the tax map of Moorestown, Burlington County, New Jersey more particularly described in Exhibit A attached hereto and made part hereof (the "Property"); and

WHEREAS, on the 29th day of July, 1999 the United States Environmental Protection Agency (the "U.S. EPA") issued a Decision Document that requires certain environmental cleanup activities be performed on and about the Property (the "Removal Action") and that certain institutional controls be imposed upon the Property in accordance with N.J.S.A 58:10B-13; and

WHEREAS, the U.S. EPA will shortly enter into an Administrative Order on Consent that will ensure that this Removal Action will be implemented; and

WHEREAS, the Removal Action at the Property will be performed in accordance with the plan and standards set forth in the Order, the terms of which have been approved by the U.S. EPA and which are protective of human health and the environment based on an industrial/commercial land use; and

WHEREAS, U.S. EPA will oversee the Removal Action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601, et seq.; and

WHEREAS, this Declaration of Environmental Restriction itself is not intended to create any interest in real estate in favor of the U.S. EPA, nor to create a lien against the Property, but merely is intended to provide record or deed notice of certain conditions and restrictions on the Property and to reflect the regulatory and statutory obligations imposed as a condition of using institutional and/or engineering controls; and

WHEREAS, certain areas of the Property contain contaminants in concentrations that exceed those that would allow for the unrestricted use of the Property; and

WHEREAS, the Owner has agreed to impose a use restriction on the Property as set forth below.

NOW, THEREFORE, Owner hereby agrees to the restriction identified below and intends that the restriction shall run with the Property, and be binding upon and enforceable against Owner and Owner's successors and assigns:

Prepared by Capehart & Scatchard and

By: [Signature] ROBERT J. HAGERTY, Esq.

Prepared by Jones, Day, Reavis & Pogue 600 Grant Street One Mellon Bank Center Pittsburgh, PA 15219 (412) 391-3939

DB574916023

BURLINGTON COUNTY CLERK

RECORDED JAN 11 2000

1. RESTRICTED USE. Until such time as specified in Paragraph 2 below,

THE PROPERTY SHALL NOT BE USED FOR RESIDENTIAL PURPOSES.

2. TERMINATION OR MODIFICATION OF RESTRICTED USE.

(a) This Declaration of Environmental Restrictions shall terminate or be modified only upon filing of an instrument, executed by the New Jersey Department of Environmental Protection (the "Department") in the office of the [County Clerk/Register of Deeds and Mortgages] of Burlington County, New Jersey expressly terminating or modifying this Declaration of Environmental Restrictions.;

(b) Any person may request in writing at any time that the Department modify or terminate this Declaration of Environmental Restrictions or initiate termination proceedings based on a proposal that the Property does not pose an unacceptable risk to public health and safety or the environment. A copy of such request shall be transmitted to U.S. EPA. Within ninety (90) calendar days after receiving such a request, the Department will either:

i. Approve the request and have the Owner:

-Record with the office of the [County Clerk/Register of Deeds and Mortgages] of Burlington County, New Jersey, a notice executed by the Department that the use of the Property is no longer restricted and the Declaration of Environmental Restriction is terminated or record a modified Declaration of Environmental Restriction, delineating the new restriction; and

-Provide written notice to each municipality in which the Property is located with a copy to the Department of the removal or change of the restrictions contained herein; or

ii. Issue a written notification of intent to deny the request pursuant to (c) below.

(c) The Department will set forth in a notice of intent to deny a request to modify or terminate this Declaration of Environmental Restrictions the basis for its decision. The Owner can respond to the intent to deny by providing new or additional information or data. The Department will review any such new or additional information or data and issue a final decision to grant or deny the request within sixty (60) calendar days after the Department's receipt of the Owner's response.

3. ALTERATIONS, IMPROVEMENTS, AND DISTURBANCES. No Owner or operator shall make, or allow to be made, any alteration, improvement, or disturbance to the Property which is contrary to the restricted use identified above or which affects the effectiveness of the measures undertaken in the Removal Action. Nothing herein shall constitute a waiver of the Owner's or operator's obligation to comply with all applicable laws and regulations.

4. NOTICE TO LESSEES AND OTHER HOLDERS OF PROPERTY INTERESTS. Owner shall cause all leases, grants, and other written transfers of interest in the Property to contain a provision expressly requiring all holders thereof to take the Property subject to the restriction contained herein and to comply with all and not to violate any of the conditions of this Declaration of Environmental Restriction. Nothing contained in this

May 12, 2022

Paragraph shall be construed as limiting any obligation of Owner to provide any notice required by applicable law, regulation or order of any governmental authority.

5. ENFORCEMENT OF VIOLATIONS. The restriction provided herein may be enforced against any persons who violate this Declaration of Environmental Restriction. A violation of this Declaration of the Environmental Restriction shall not affect the status of the ownership of or title to the Property.

6. SEVERABILITY. If any court of competent jurisdiction determines that any provision of this Declaration of Environmental Restriction is invalid or unenforceable, such provision shall be deemed modified automatically to conform to the requirements for validity and enforceability as determined by such court. In the event that the provision invalidated is of such a nature that the provision cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this Declaration of Environmental Restriction shall remain in full force and effect.

7. SUCCESSORS AND ASSIGNS. This Declaration of Environmental Restriction shall be binding upon Owner and upon Owner's successors and assigns while each is an owner or operator of the Property.

8. RECORDING. A copy of this Declaration of Environmental Restriction shall be stamped "Recorded" by the County Clerk.

IN WITNESS WHEREOF, Owner has executed this Declaration of Environmental Restriction as of the date first written above.

ATTEST:

Rebecca L. Harris

Pulverizing Services, Inc.

ey: [Signature]

Rebecca Harris (Personal Banker)
(Print name and title)

CLOISIL HOBBS, PRESIDENT
(Print name and title)

PL: 1019308v1

3

DB57491PG025

STATE OF NEW JERSEY
COUNTY OF BURLINGTON

I certify that on October 25, 1999, Mr. Clark Hobbie personally came before me, and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the President/Secretary/Treasurer of Pulverizing Services, Inc., the corporation named in this document;
- (b) this document was signed and delivered by the corporation as its voluntary act and was duly authorized; and
- (c) this person signed this proof to attest to the truth of these facts.

Christa G. Williams
Notary Public

Rebecca Harris (Personal Banker)
(Print name and title of attesting witness)

Signed and sworn before me on

October 25, 1999.

Christa G. Williams Notary Public
(Print name and title) AND PERSONAL BANKER

NOTARY PUBLIC FOR SOUTH CAROLINA
My commission expires December 4, 2006

May 12, 2022

EXHIBIT A

Legal Description and Tax Map Depicting Real Property Owned by
Pulverizing Services, Inc., Moorestown, Burlington County, New Jersey

Block 900, Lots 3, 7, 8 and 9; Block 1400, Lots 13, 14, and 15

DB5749:PG027

Description of real property owned by Pulverizing Services, Inc.

PARCEL 1

ALL that certain tract of land with the buildings and other improvements thereon, situate in the Township of Moorestown, County of Burlington and State of New Jersey, which, according to a plan thereof made by S.T. Hollingshead, February 4, 1947, is bounded and described as follows:

BEGINNING at a point in the center line of the New Albany Road six hundred thirty-eight feet and forty one-hundredths of a foot on a course of North forty-one degrees forty-five minutes East along said center line from a corner of land formerly of Nathaniel Robbins and runs thence (1) by land of Anna P. Andrews passing over a monument on the Northwesterly side of said road North forty-eight degrees fifteen minutes West two hundred eighty-five feet and sixty-five one-hundredths of a foot passing over a monument eighteen feet from the Northwesterly end thereof to a point corner to land of said Andrews; thence (2) by the same North forty-one degrees forty-five minutes East one hundred forty-five feet and forth one-hundredths of a foot to a point corner to the same; thence (3) by the same North forty-eight degrees fifteen minutes West four hundred thirty-seven feet and thirty-five one-hundredths of a foot to a point in the Northwesterly or rear line of a twelve acre tract; thence (4) along the same North forty-one degrees forty-five minutes East three hundred eighty-two feet and sixty one-hundredths of a foot to a monument corner to said tract and said Andrews; thence (5) along said tract and Andrews' land South forty-eight degrees fifteen minutes East seven hundred twenty-three feet to the center line of said New Albany Road passing over a monument on the Northwesterly side of the same; thence (6) along the center line of said New Albany Road South forty-one degrees forty-five minutes West two hundred seventy-four feet and fifteen one-hundredths of a foot to a point in the same; thence (7) South thirty-one degrees thirty-five minutes East two hundred forty-six and seventy one-hundredths of a foot to a point corner to Andrews' other land; thence (8) along the same South forty-nine degrees twenty-one minutes East six hundred forty-three feet and twenty-five one-hundredths of a foot to a stone in line of the same; thence (9) along the same South fifty-nine degrees thirty-two minutes forty seconds East four hundred five feet and fifty-five one-hundredths of a foot to a monument on the Northerly right of way line of the Pennsylvania Railroad Company; thence (10) along the same South eighty-six degrees West five hundred ninety-four feet and twenty one-hundredths of a foot to a point on the northerly side of said Railroad and corner to land of M. Back; thence (11)

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DB5749PG028

along said M. Back North forty-nine degrees twenty-one minutes West eight hundred sixty-two feet and sixty-seven one-hundredths of a foot to a point in the center line of said New Albany Road passing over a stone set therein; thence (12) along said center line north forty-one degrees forty-five minutes East one hundred sixty-seven feet and sixty-five one-hundredths of a foot to the place of beginning.

Containing fifteen acres and nine hundred eighty-nine thousandths of an acre.

TOGETHER with all and singular the buildings, improvements, woods, ways, rights, liberties, privileges, hereditments and appurtenances to the same belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof; AND ALSO all the estate, right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the said Pittsburgh Plate Glass Company, of, in and to the said premises, and every part thereof, with the appurtenances.

Said premises are being conveyed subject to the following:

- (a) Rights, public and private, in New Albany Road and any other roads or lanes crossing or bounding said property.
- (b) Rights of The Pennsylvania Railroad Company, its lessees or assigns in a railroad siding on said property pursuant to an agreement dated November 18, 1946, between The Pennsylvania Railroad Company (as lessee of the rights and property of Camden and Burlington County Railway Company) and International Pulverizing Corporation.
- (c) Rights, if any, relating to the construction and maintenance in connection with any public utility of wires, poles, pipes, conduits and appurtenances thereto on, under or across the premises.

(d) Restrictions or regulations, if any, as to building upon or using said property under or by virtue of any law, ordinance or other lawful action of any municipal or other public authority nor or hereafter adopted.

Being the same premises conveyed to Pittsburgh Plate Glass Company by Deed from The Micronizer Company dated December 30, 1948, and recorded in Book 1057 of Deeds, folio 465.

PARCEL 2

ALL that certain tract of land with the buildings and other improvements thereon, situate in the Township of Moorestown, County of Burlington and State of New Jersey described as follows to wit:

BEGINNING at a point being the end of the first course described in deed to International Pulverizing Corp. recorded in Deed Book 1026 page 169, said beginning point being the following two courses from a point in the center line of the New Albany Road, corner to land formerly of Nathaniel Robbins, (1) North 41 degrees 45 minutes East measured along the centre line of New Albany Road 638.40 feet to a point corner to land now or late of Anna P. Andrews, (2) by land of Anna P. Andrews North 48 degrees 15 minutes West 285.65 feet to the place of beginning of premises herein described; thence North 41 degrees 45 minutes East by the lands of the International Pulverizing Corp. aforementioned, 145.40 feet to a point corner to same; thence North 48 degrees 15 minutes West still along said land 437.35 feet to a point; thence South 41 degrees 45 minutes West 145.40 feet to a point; thence South 48 degrees 15 minutes East 437.35 feet to place of beginning.

TOGETHER with all and singular the houses, buildings, trees, ways, waters, profits, privileges and advantages, with the appurtenances to the same belonging or in any wise appertaining; also all the estate, right, title, interest, property, claim and demand whatsoever, of the said Pittsburgh Plate Glass Company, of, in and to, the same, and of, in and to every part and parcel thereof.

SUBJECT to an existing drain and road as set forth in deed from Thomas Andrews, Et Ux, Et Al, to Pittsburgh Plate Glass Company.

PL: 1019350v1

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May 12, 2022

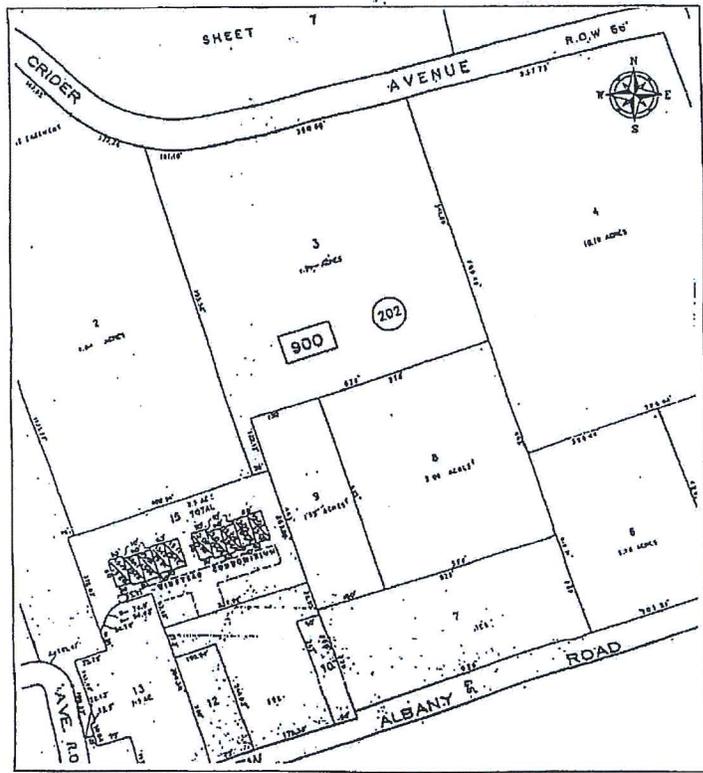
BEING the same premises conveyed to Pittsburgh Plate Glass Company by Thomas C. Andrews, Et Ux, Et Al, by deed dated March 2, 1954 and recorded in the Clerk's Office of Burlington County at Mt. Holly, New Jersey, in Book 1135 of Deeds, folio 360.

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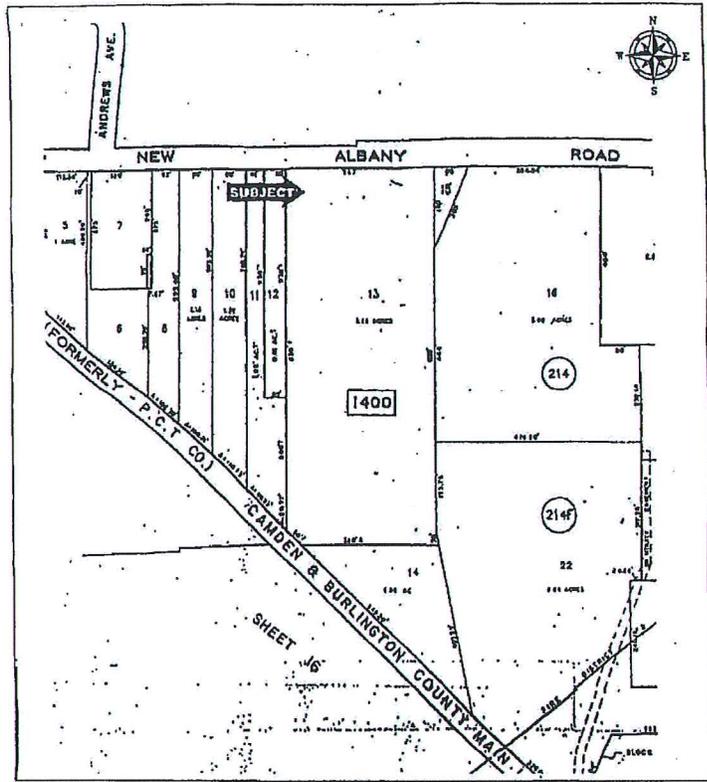
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May 12, 2022



DB57491PG032

May 12, 2022



DB57491P6033

RECORDING DATA PAGE

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CAPEHART & SCATCHARD
8000 MIDLANTIC DR STE 300
MOUNT LAUREL, NJ 08054

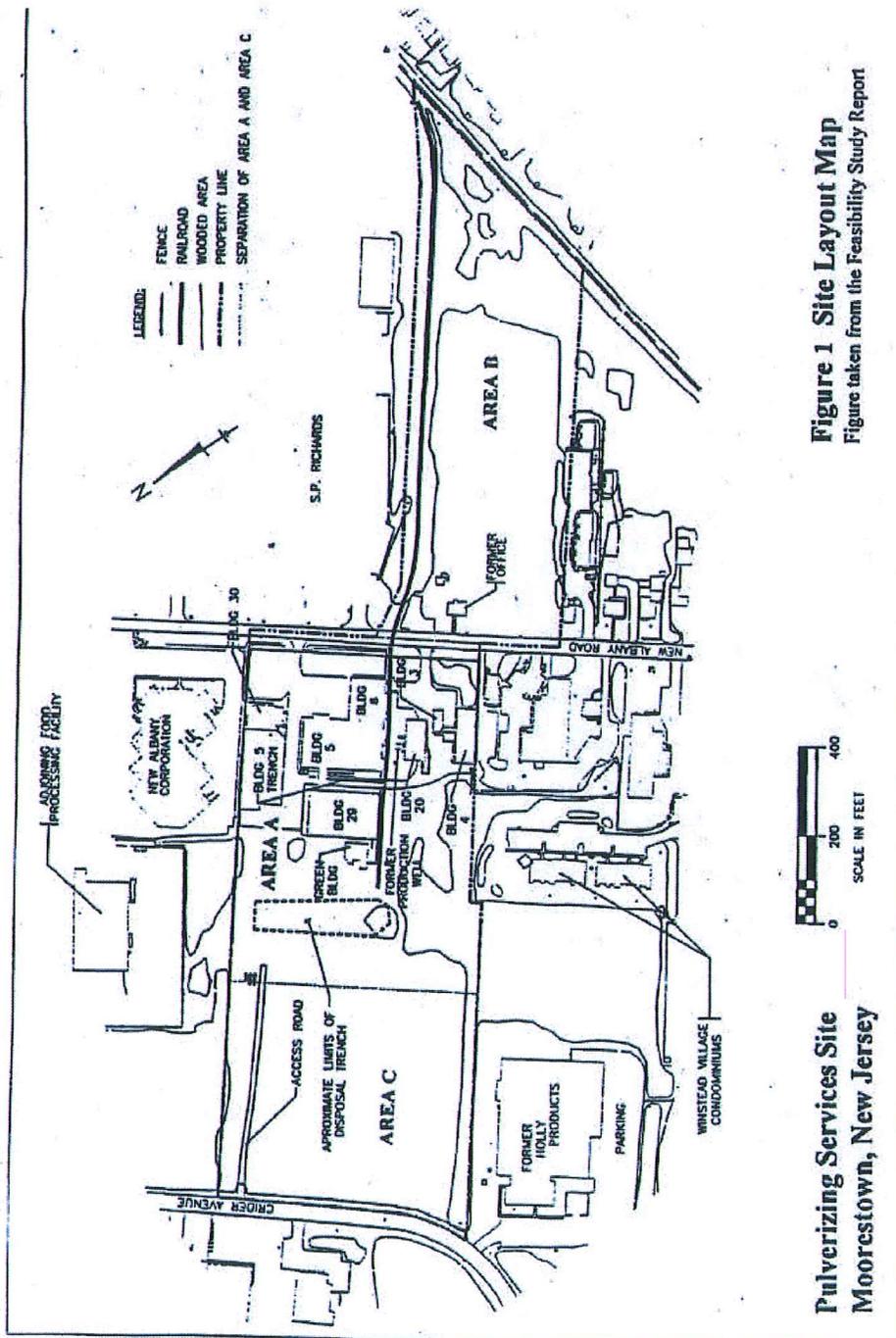
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Recording Date : 01/07/2000
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Recorded	Filed
Jan 07 2000 11:32am	Jan 07 2000 11:32am
Burlington County Clerk	Burlington County Clerk

Clerk of Burlington County • 49 Rancocas Rd. • Mt. Holly, NJ 08060
609-265-5180

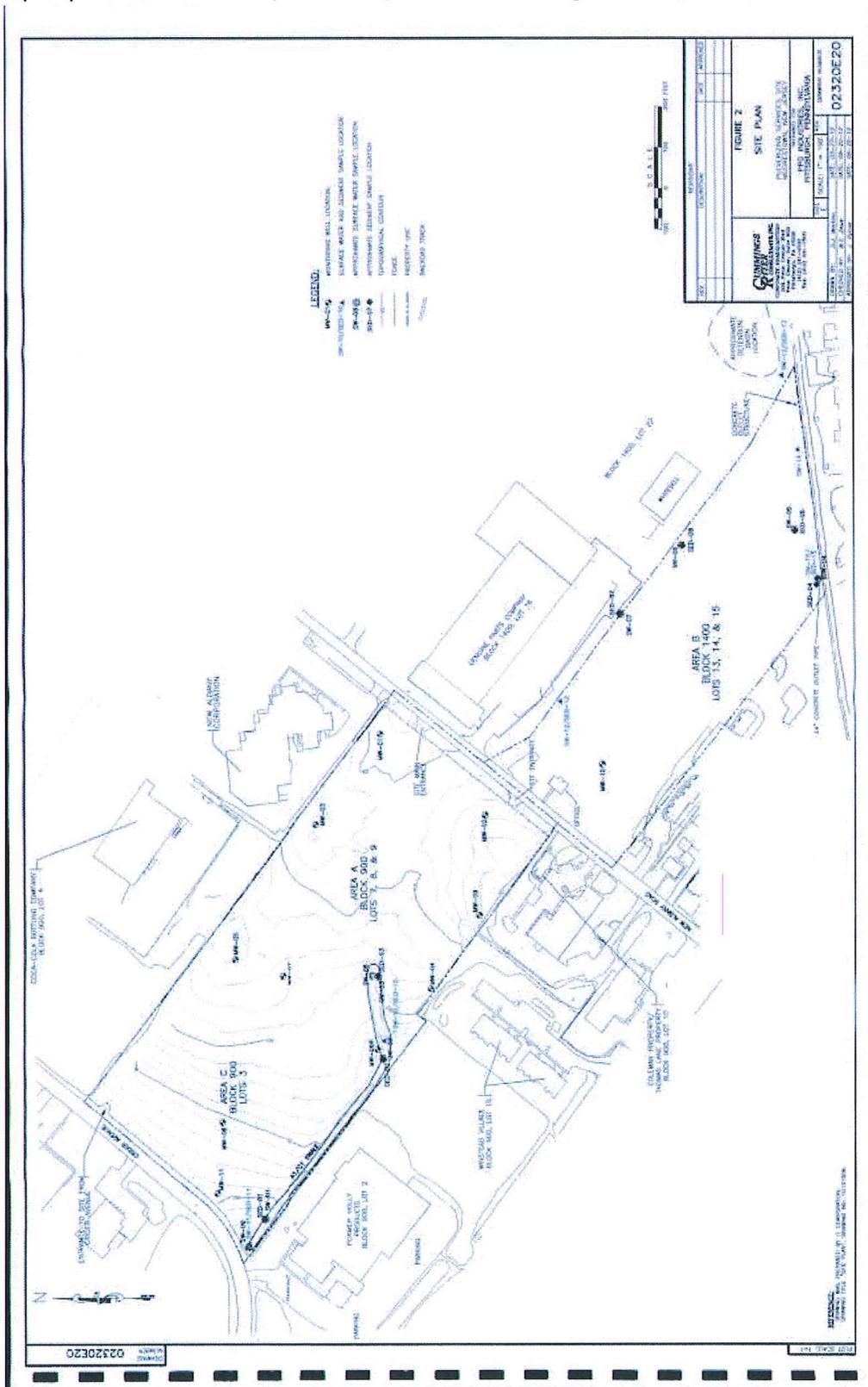
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Appendix D – Figure 1 Site Layout Map & Figure 2 Limit of Excavation (taken from Feasibility Study Report not available) from Five Year Review Report, USEPA, May 2005.



May 12, 2022

Appendix E – Site Plan by Cummings Riter, one sheet, dated June 20, 2012, from the Final Remedial Investigation Report Operable Unit 2 Groundwater, Surface Water, and Sediment Pulverizing Services Site, June 18, 2013.



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Appendix F – Correspondence to PPG Industries, Inc. from NJDEP with Classification Exception Area/ Well Restriction Area report dated March 21, 2022. And combined tax map sheets 9 and 14 by Moorestown Township, updated to March 29, 2006, by Remington, Vernick, and Arrango Engineers, highlighting CEA/WRA by TDG.



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Site Remediation and Waste Management Program

Bureau of Case Management
401 East State Street, 5th Floor
P.O. Box 420, Mail Code 401-05V
Trenton, New Jersey 08625-0420
Telephone (609) 633-1455

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

March 21, 2022

PPG Industries, Inc.
Scott Krall CPG, CHMM
PPG – Monroeville Business & Technology Center
440 College Park Drive
Monroeville, Pennsylvania 15146
Phone: (724) 325-5062

Re: Classification Exception Area/Well Restriction Area
Former Pulverizing Services Site
300-332 New Albany Road
Moorestown, Burlington County
Program Interest Number: 000333
Subject Item ID: CEA100124568
Activity Number: RPC160001

COUNCIL	MANAGER	ATTORNEY
	NS/DL	EAC/Chan
ENGINEER	DIRECTOR	OTHER
REC'D BY/ON	3/24/22	MD
ACTION		
FILE	NSDEP	

Dear Mr. Krall,

Please be advised that the New Jersey Department of Environmental Protection (Department) has established a Classification Exception Area/Well Restriction Area (CEA/WRA) for contamination in ground water associated with this site. A CEA/WRA is an institutional control that the Department uses to restrict the use of ground water within an area where ground water contaminant concentrations exceed the applicable Ground Water Quality Standards (N.J.A.C. 7:9C-1.7). The Department has established this CEA/WRA in response to information submitted by Project Manager Robert Fislser of Woodard & Curran, on a CEA/WRA Fact Sheet Form received by the Department on January 5, 2022, and amended by electronic correspondence dated February 16, February 17, March 2, March 7, and March 17, 2022.

The CEA/WRA is described on the enclosed CEA/WRA Fact Sheet. As indicated on the Fact Sheet, ground water within the CEA/WRA contains dieldrin, alpha-BHC, beta-BHC, gamma-BHC, arsenic, beryllium, lead, aluminum, iron, manganese, sodium, carbon tetrachloride, and tetrachloroethene at concentrations that exceed the Ground Water Quality Standards. The contamination is attributed to discharges that occurred at the site referenced above. Because of the elevated levels of contamination, it is suggested that remediation be conducted. Please note that the Project Manager Robert Fislser has reported that there are no potable wells within the CEA

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boundary and that the area is served by municipal water. Therefore, the contamination associated with this CEA will not affect the quality of drinking water in the area.

The CEA/WRA is set for an indeterminate duration. Attainment of the Ground Water Quality Standards must be confirmed through ground water sampling, pursuant to N.J.A.C. 7:26C-7.9(f). Consistent with N.J.A.C. 7:26C-7.3, the Department may revise or remove the CEA/WRA at any time in the interim on the basis of new ground water data.

Please note, while the Department has established the CEA, additional ground water sampling points may be necessary to confirm the horizontal and/or vertical extent of contamination. As stated in the Department's January 2020 policy statement of the interpretation of SRRA requirement for completion of remedial investigation, "while the remedial investigation does not need to include actual clean zone sampling data to demonstrate contaminant delineation to the applicable remediation standards and screening criteria, such sampling data are required to demonstrate attainment of the applicable remediation standards and screening criteria at the conclusion of the remedial action and prior to the Department issuing a remedial action permit, if applicable, and the LSRP issuing the Response Action Outcome (RAO)".

Additionally, please note, the establishment of this CEA does not constitute any Department approval to abandon monitoring wells for the site. It is recommended that monitoring wells not be abandoned until the remedial action is complete and the Department has issued a Ground Water Remedial Action Permit for the site, if required. Further, please note that nothing in this correspondence affects your potential liability and obligations to the State Trustee, the Department or its Commissioner regarding natural resource injuries, restoration, or damages.

If you have any comments or questions regarding this CEA/WRA, please contact Celine Cumming at celine.cumming@dep.nj.gov.

Sincerely,



Stephen E. Maybury, Chief
Bureau of Case Management

Enclosure

c: Robert Fidler, Project Manager, Woodard & Curran
Grisell V. Díaz-Cotto, Remedial Project Manager, US EPA (via email)
Clark Hobbie, President, Pulverizing Services, Inc. (via email)
Burlington County Health Department
Moorestown Municipal Clerk
Moorestown Planning Board
Celine Cumming, NJDEP BGWPA (via email)

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Conducting the Remediation: Monroeville Business & Technology Center
440 College Park Drive
Monroeville, Pennsylvania 15146

Property Owner: Pulverizing Services, Inc.
Mr. Clark Hobbie, President
PO Box 1236
Mt. Pleasant, South Carolina 29465

NJDEP Contact: Bureau of Ground Water Pollution Abatement
(609) 292-8427

CEA Information

<u>Subject Item</u>	<u>Description</u>
CEA100124568	CEA encompasses ~25 acres and extends offsite.

<u>Subject Item</u>	<u>Affected Geologic Formation</u>	<u>Vertical Depth</u>
CEA100124568	Pennsauken	20

<u>Subject Item</u>	<u>Classification</u>
CEA100124568	II-A

Contaminants

This CEA/WRA applies only to the contaminants listed in the table below. Pursuant to N.J.A.C. 7:9C-1.6, all constituent standards of the surrounding classification area apply at the CEA perimeter.

<u>Subject Item</u>	<u>Contaminant</u>	<u>Concentration (1)</u>	<u>GWQS (2)</u>
CEA100124568	Alpha BHC	6.1 Micrograms Per Liter	.02 Micrograms Per Liter
CEA100124568	Aluminum	20100 Micrograms Per Liter	200 Micrograms Per Liter
CEA100124568	Arsenic	116 Micrograms Per Liter	3 Micrograms Per Liter
CEA100124568	Beryllium	7.6 Micrograms Per Liter	1 Micrograms Per Liter
CEA100124568	Beta BHC	1.7 Micrograms Per Liter	.04 Micrograms Per Liter
CEA100124568	Carbon tetrachloride	6.6 Micrograms Per Liter	1 Micrograms Per Liter
CEA100124568	Dieldrin	1.9 Micrograms Per Liter	.03 Micrograms Per Liter
CEA100124568	Gamma BHC	.89 Micrograms Per Liter	.03 Micrograms Per Liter
CEA100124568	Iron	72200 Micrograms Per Liter	300 Micrograms Per Liter
CEA100124568	Lead	5.6 Micrograms Per Liter	5 Micrograms Per Liter
CEA100124568	Manganese	9790 Micrograms Per Liter	50 Micrograms Per Liter
CEA100124568	Sodium	59500 Micrograms Per Liter	50000 Micrograms Per Liter

Exhibit A – Site Location Map

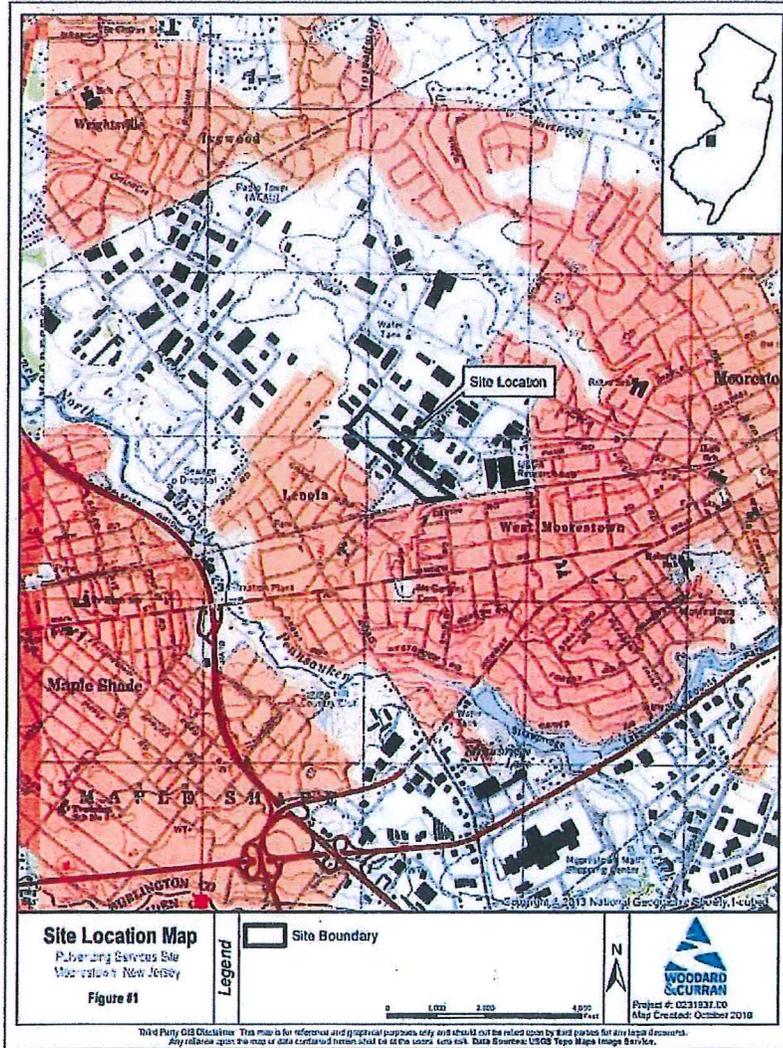
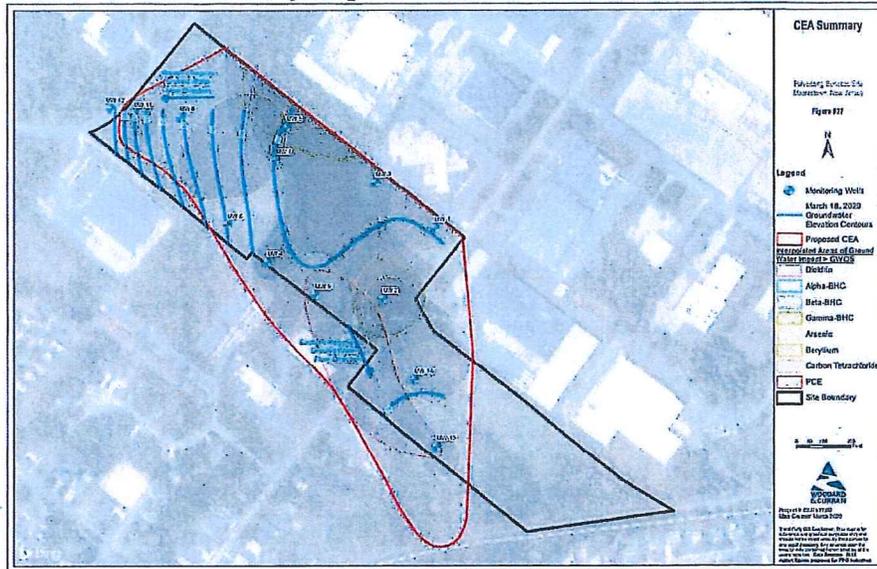
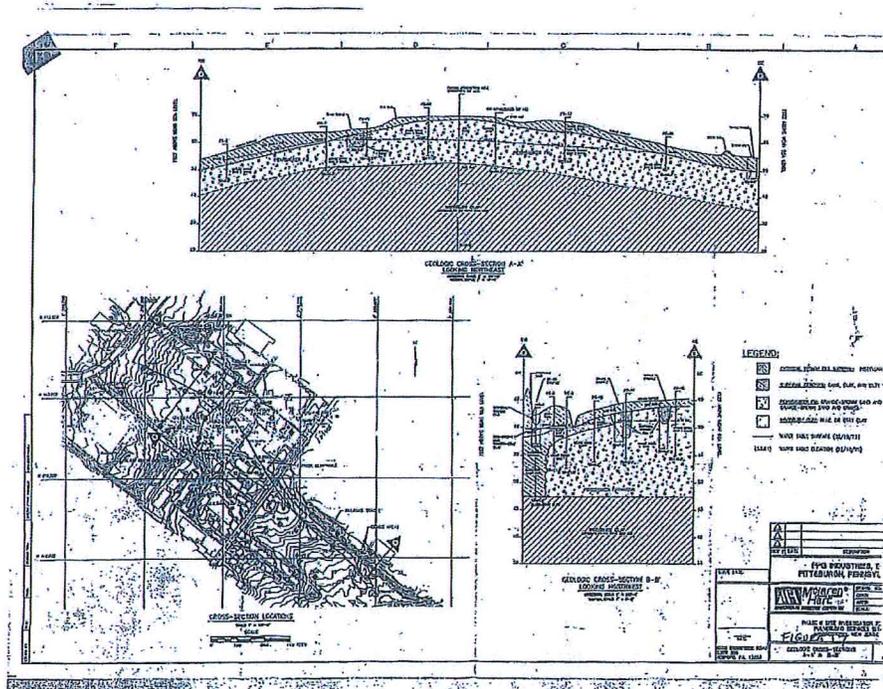


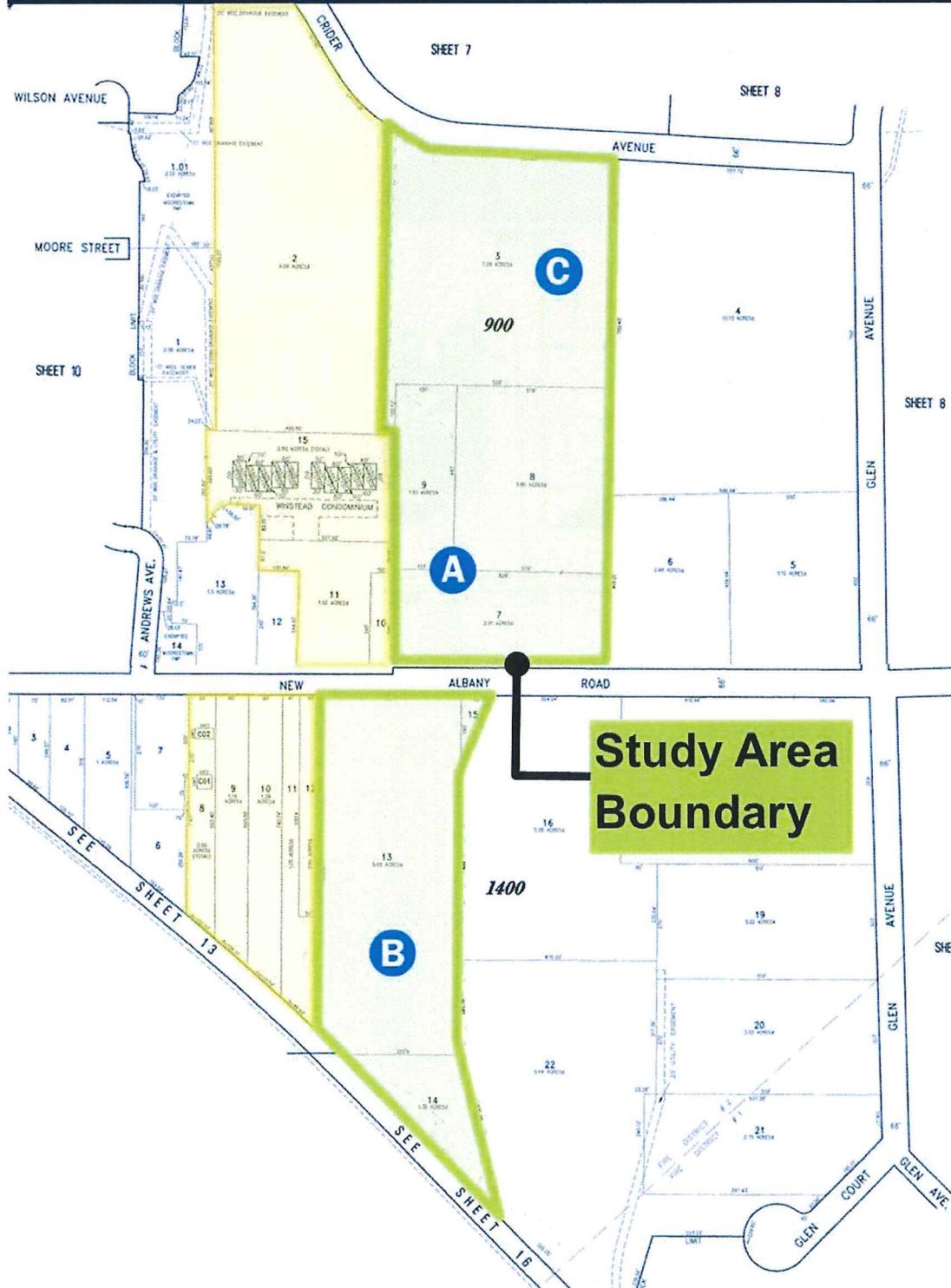
Exhibit B – CEA Boundary Map and Cross Section



May 12, 2022



CEA/WRA Map



May 12, 2022

Additional Bibliography

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2. Parcels and MOD-IV of Burlington County, NJ, 2020; obtained via NJGIN Open Data Portal
3. <https://njgin.nj.gov/njgin/edata/imagery/index.html#!/>
4. "Policy Map of the State Development and Redevelopment Plan." State of New Jersey Department of State.
5. Planning Area Boundaries of the NJSDRP Shape File, obtained via NJGIN Open Data Portal
6. 2022 Google Maps Aerial Image
7. "Smart Growth Areas Map." State of New Jersey Department of State.
<http://www.nj.gov/state/planning/maps/smartgrowthareasmap.pdf>
8. Smart Growth Areas Shape File, obtained via NJGIN Open Data Portal:
9. Burlington County Property Viewer:
<http://burlconj.maps.arcgis.com/home/webmap/viewer.html?webmap=fc02bfc4ea264c7298caba9bd2cad56d#!>
10. 2015 NJDEP Land use/Land cover update, obtained via NJ GeoWeb.
11. Flood Hazard Data for Moorestown NJ obtained via FEMA FIRMette.
12. DVRPC, Burlington County Highway Master Plan, dated October 2017, with revisions dated February 2019.
13. Master Plan – Moorestown, NJ, by Clark Caton Hintz, dated June 27, 2002.
14. Environmental Resource Inventory, DVRPC with Moorestown EAC, June 2013.
15. Land Use Plan 2019, Clark, Caton Hintz, April 2019.
16. Reexamination of the Master Plan- Acknowledging the Past to Inform the Future, Township of Moorestown Planning Board, by Clarke, Caton Hintz, December 6, 2018.
17. Resolution 110-2022, A Resolution Directing the Planning Board of the Township of Moorestown to Conduct a Preliminary Investigation to Determine Whether the Lands Identified as Block 1400, Lots 13, 14 and 15 and Block 900, Lots 3, 7, 8 and 9 Commonly Referred to as the Pulverizing Services Property Constitute a Condemnation Area in Need of Redevelopment, March 14, 2022.
18. Five-Year Review Report, Pulverizing Services Site, Moorestown Township, Burlington County, NJ, USEPA, Region II, NY, NY, May 2005.
19. Final Remedial Investigation Report, Operable Unit 2, Groundwater, Surface Water, and Sediment, Pulverizing Services Site, Moorestown, NJ, Cummings/Riter Consultants, Inc. June 18, 2013.
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20. Comprehensive Administrative Record Index of Documents, USEPA, (681679), Final June 23, 2014.
21. Fourth Five-Year Review Report for Pulverizing Services Site, Burlington County, NJ, USEPA, Region II, NY, NY, December 20, 2019.
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22. https://www.state.nj.us/dca/divisions/dlgs/programs/tax_collector_docs/elements_of_tax_sales_nj.pdf
23. Tax Foreclosure & Tax Sales as a Redevelopment Tool, Housing and Community Development Network of New Jersey, webpage April 11, 2022, <https://www.hcdnnj.org/tax-foreclosure-and-tax-sales>
24. <https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.contams&id=0200753>

