

Area in Need of  
Redevelopment Study  
for the Newton  
Armory & ShopRite  
Block 10.01, Lots 5 & 6

Town of Newton, Sussex County, New Jersey

June 2012

Prepared by:

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## Acknowledgements:

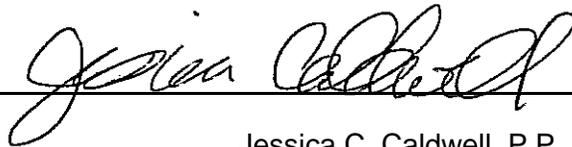
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The original of this report was signed and sealed in accordance with N.J.S.A. 45:14A-12.



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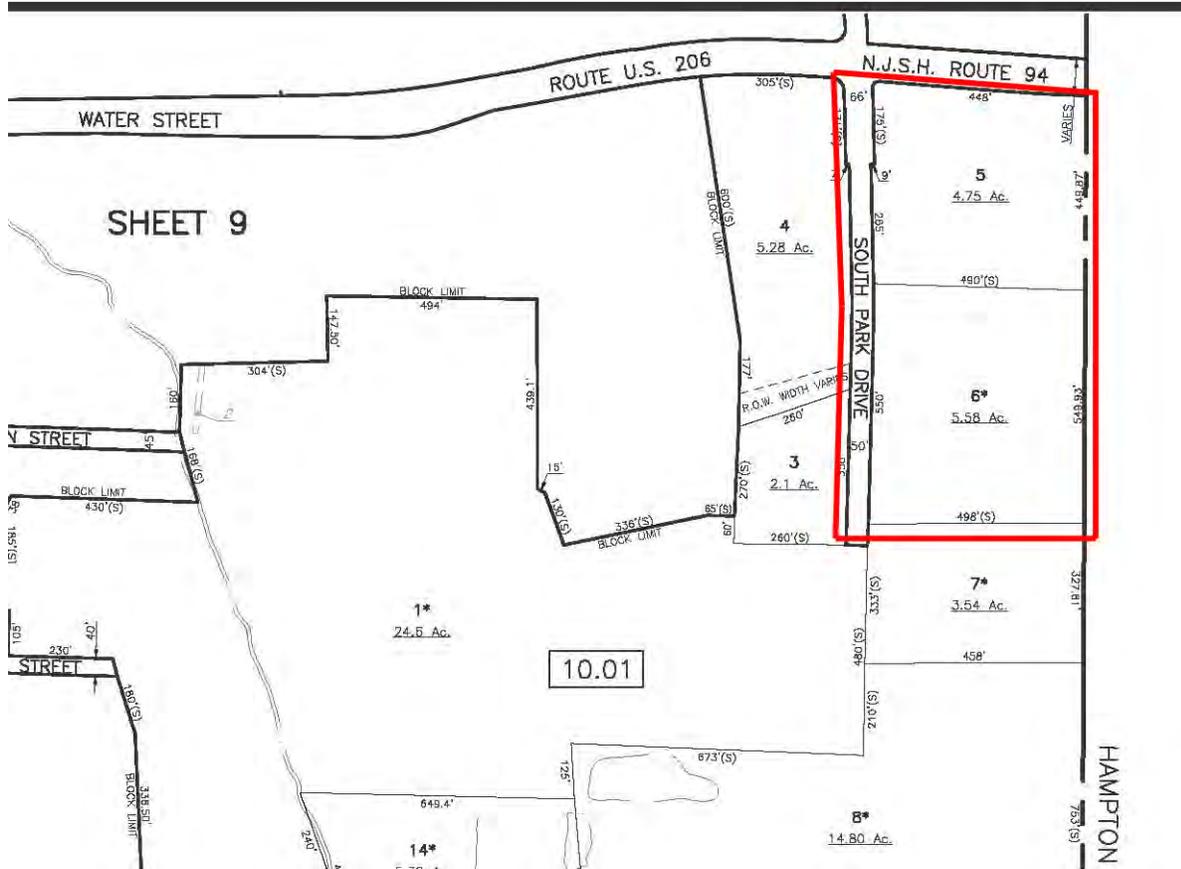
## I. Introduction

### A. Background

The Town Council of the Town of Newton authorized J. Caldwell & Associates, LLC to conduct an area in need of redevelopment study for Block 10.01, Lots 5 & 6, formerly known as Block 801, Lots 49.01 and 49.02. The purpose of the study is to determine if the two lots referenced above should be designated as an Area in Need of Redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et. seq. (Redevelopment Law). The study area includes two sites covering 10.33 acres located on South Park Drive and US Route 206 (a.k.a Water Street). The sites are improved with a ShopRite grocery store on Block 10.01, Lot 5 and the former Newton Armory on Block 10.01, Lot 6. The Newton Armory was constructed sometime after 1956 when the State of New Jersey assumed ownership of the land from the Town of Newton and functioned as a National Guard Training Center until it was abandoned by the State of New Jersey in 2008. The ShopRite was constructed in 1971 and has frontage along US Route 206 and South Park Drive. The Newton Armory is located to the south of the ShopRite and has frontage along South Park Drive only. Both sites, which comprise the study area, are along the Town's northeastern border with the Township of Hampton.



Study Area Map



Newton Tax Map Sheet 9 with Study Area Shown

**B. Methodology**

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

Review of Town documents including the Town Master Plan, former zoning, current transect-based zoning and site records were conducted. Two environmental reports on the Armory site were reviewed for the study including a Preliminary Site Investigation dated September 2009 and a Site Investigation dated October 2011. Both reports were prepared by Excel Environmental Resources, Inc., on behalf of the Town of Newton.

Field investigations were conducted by J. Caldwell & Associates, LLC on the sites in April 2012 with visual inspections and photo documentation of the building exteriors and surrounding sites. The field investigations were utilized to assess the physical conditions of the buildings, accessory structures, parking areas, landscaping and vegetation as well as any environmental hazards or constraints.

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

## II. Statutory Criteria

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

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

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

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

The "d" Criterion: Obsolete Layout and Design (N.J.S.A. 40A:12A-5.d) – “Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.”

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

The "f" Criterion: Fire and Natural Disasters(N.J.S.A. 40A:12A-5.f) – “Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.”

The "g" Criterion: Urban Enterprise Zones(N.J.S.A. 40A:12A-5.g) - “In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 1983, c.303 (52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79(40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L. 1991, c.431 (40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L. 1991, c.441 (40A:21-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L. 1992, c.79 (40A:12A-1 et seq.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.”

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

Section 3: Definitions (N.J.S.A. 40A:12A-3) provides the following definition for redevelopment areas - "Redevelopment area" or "area in need of redevelopment" means “an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.”

### III. Study Area

#### A. Area Description

The study area is located at the southeastern corner of US Route 206 and South Park Drive in the Town of Newton. Block 10.01 Lot 6 is developed with the former Newton Armory buildings and fronts on South Park Drive only. Block 10.01, Lot 5 is developed with a ShopRite grocery store and fronts on US Route 206 and South Park Drive. Directly across US Route 206 to the north are STS Tire, PNC Bank and the Hampton Shopping Center. The study area is adjacent to the Hampton Township line to the northeast. The property, located directly adjacent to the study area within Hampton Township, is utilized for overflow parking for the existing ShopRite. To the southeast of the area are the Town of Newton Recycling Center, Newton Park and Ride, and the Town of Newton's Memory Park. To the southwest of the area is George's Salvage yard. To the west of the area is the former site of G&H Service, Inc. Further west along US Route 206 is a Weis grocery store.

The study area is 10.33 acres in size, with Block 10.01, Lot 6 being 4.75 acres and Block 10.01, Lot 5 being 5.58 acres. Sites surrounding the study area have a similar size range.

US Route 206 is an Urban Principal Arterial that runs north-south through the Town of Newton. South Park Drive is a local street that does not accommodate through traffic and provides access to the Newton Park and Ride, Newton's Memory Park, the Newton Recycling Center and George's Salvage. South Park Drive also provides egress from Weis grocery store for traffic traveling to US Route 206 south.

The Armory site is relatively flat in the location of the buildings and parking area with the exception of a rock outcropping hill to the southeast of the main Armory building. The property has steep slopes that drop into a wetlands pond area approximately 100 feet southeast of the main Armory building. There is a 100 foot wide JCP&L power line right-of-way that runs approximately 400 feet diagonally north to south through the eastern corner of the site over the wetlands. The wetlands area has not been delineated or classified at this time; however it appears to be an isolated pond without an outlet. A total of four buildings can be found on the site: the former Armory building, a masonry two-bay garage, and two smaller storage sheds. Approximately 25 percent of the site is covered with impervious surfaces including the Armory buildings and the parking area. Approximately 50 percent of the site is environmentally constrained with wetlands, steep slopes and rock outcroppings. Over half of the site is covered with overgrown landscaping and vegetation with a mix of deciduous trees and scrub/shrub. The JCP&L power line right-of-way constrains approximately 40,000 square feet of the site.

The ShopRite site is relatively flat and has very little landscaping or open space with the exception of a few planting islands within and surrounding a portion of the parking lot. The ShopRite is 63,700 square feet, with 280 parking spaces on the site and an additional 71 marked parking spaces on the adjacent lot in Hampton Township. There are a total of eight loading spaces located along the south and east sides of the building. The loading spaces on

the south side of the building back up to South Park Drive. Over 90% of the site is covered with impervious material consisting of the building and parking and loading areas. There is a 100 foot wide JCP&L power line right-of-way that borders the site to the north in Hampton Township.



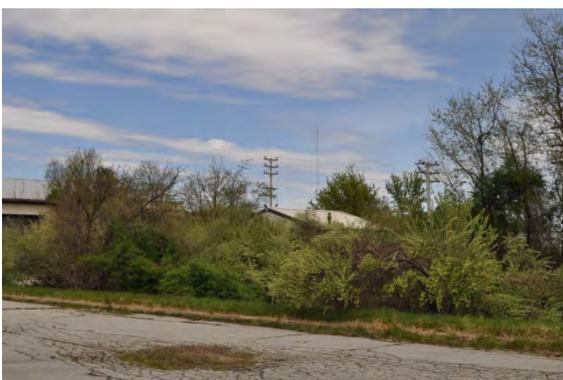
Environmental Constraints Map (Constraints Locations are Approximate)

## B. General Site Photos

### Block 10.01 Lot 6 – Newton Armory

Owner: Town of Newton & State of New Jersey

Site Address: 5 South Park Drive, Newton, NJ 07860



**Block 10.01 Lot 5 – ShopRite**

Owner: Newton 213, LLC (c/o RNETCO Supermarkets, Inc.)  
125 Water Street (US Route 206), Newton, NJ 07860



C. Existing Land Use, Master Plan and Former Zoning

**Existing Land Use**

The current land uses in the study area are primarily commercial along US Route 206 and industrial along South Park Drive. The site is surrounded by commercial uses to the north and west. To the southeast are the Newton Recycling Center, Newton Park and Ride and Newton’s Memory Park. To the east is a large wetlands complex that wraps around the Park and Ride and Memory Park. To the southwest is George’s Salvage, a scrap metal yard and junkyard. To the west is the former G&H Service, Inc.; there are no current plans for its future use. The frontage of the study area is in a prime commercial location because of its location along the US Route 206 corridor and its close proximity to other commercial sites in both Newton and Hampton. The study area is made up of two sites: the Armory site which contains the abandoned Armory buildings and the ShopRite site.

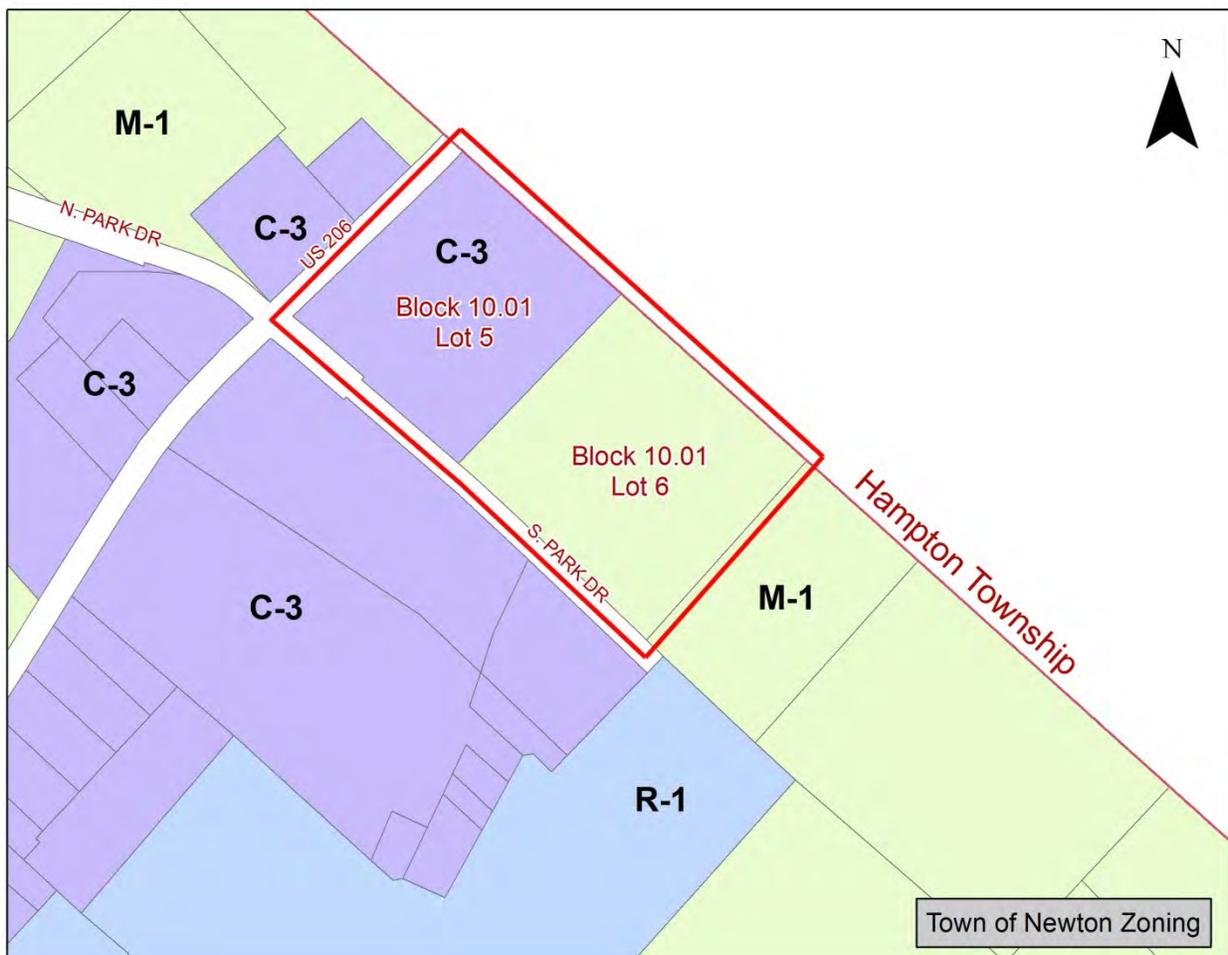


**Aerial View of the Site with Surrounding Land Uses**

### **Former Zoning**

As of May 2, 2012, the Town of Newton Zoning was changed. Because this change is so recent, the study also discusses the former zoning of the study area. The current zoning of the site will be reviewed in the next section.

Under the former zoning, the study area is split between two zones: The ShopRite was located in the C-3: Highway Retail District and the Armory was located in the M-1: Limited Industrial District. The study area was surrounded by the C-3 Zone to the west and southwest and the M-1 and R-1 Zones to the south and southwest. To the north, in Hampton Township, the study area is bordered by the HC-MFG, Highway Commercial Manufacturing Industrial District.



#### **Under Former Zoning, the Study Area was Located in Both the C-3 and M-1 Districts**

The ShopRite use was consistent with the permitted uses of the C-3 Highway Retail District. The bulk requirements in that zone for non-residential use were flexible dependent on the needs of the use and parking requirements. Therefore, the ShopRite conformed to the former bulk requirements. The parking area however, was nonconforming for landscaping requirements and aisle width, with 24 feet being required and 22 feet existing. The site was nonconforming

due to a lack of sidewalks along US Route 206 to provide pedestrian access to the site from the north.

The Armory use on Block 10.01, Lot 6, was abandoned by the Army in 2008. The permitted uses in the M-1 Limited Industrial District included: public parks, government buildings, offices, parking facilities, warehouses, manufacturing, laboratories, retail facilities, and recreational facilities.

The following were the standards for the M-1 District:

- A. Minimum lot area: 87,120 square feet.
- B. Minimum lot frontage: 200 feet.
- C. Minimum lot width: 250 feet.
- D. Minimum yards, Redevelopment Law and accessory structures: (NOTE: When yards abut residential districts, they shall be increased by an additional 25 feet.)
  - (1) Front yard: 40 feet.
  - (2) Rear yard: 30 feet.
  - (3) Side yard: 15 feet one side/30 feet total.
- E. Maximum FAR: 0.30.
- F. Maximum building height: 40 feet.

The Armory met the majority of the bulk requirements for the M-1 Zone, with the exception of the side yard setback. There is an accessory building located within 10 feet of the western property line abutting the ShopRite.

### **Master Plan**

The Town of Newton Master Plan was updated in August 2008 to incorporate smart growth principles which included a proposal for Transect Zoning and introduction of the concept of a Form-Based Code. The Town is designated as a Regional Center by the State Planning Commission and the Town of Newton has been deemed eligible for Plan Endorsement by the State Planning Commission. Plan Endorsement by the State Planning Commission recognizes that the Master Plan and ordinances of the Town of Newton are consistent with the State Plan. The following goals from the Town's Master Plan are relevant to this study:

- To enhance and strengthen Newton's position as a Regional Center in Sussex County in such a way that it will fulfill the social, commercial, medical and service needs of a growing County within the constraints of the Town's existing resources.
- To encourage municipal action to guide the appropriate use or development of all lands in Newton, in a manner that will promote the public health, safety, morals, and general welfare.

- To provide for sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all the citizens of Newton.
- To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which will result in congestion or blight.
- To promote a desirable visual environment through creative development techniques and good civic design and arrangement.
- To encourage the coordination of the various public and private procedures and activities shaping land development.
- Encourage development and improvement of industrial, commercial and public service uses which complement Newton's role as a Regional Center in the county.
- Promote adequacy, variety and convenience of shopping for local residents.

### D. Form-Based Code

In March 2012, the Town of Newton adopted a revision to its ordinances to incorporate the use of a Form-Based Code, which became effective on May 2, 2012. The Form-Based Code focuses on physical form as the organizing principle of planning rather than more traditional separation of uses. The Town of Newton’s Form-Based Code is based on Transect Zoning which provides for graduated density and intensity of uses from the center of Town to the surrounding areas. The Special Districts in the zone plan identify areas that fall outside of the transect concept. Under the Form-Based Code, the study area is located entirely in the Special District 3: Retail-Manufacturing district. SD-3 permits large scale retail and industrial uses. Special District 3 is characterized by the existing highway commercial type development that follows US Route 206 from the Town of Newton north into Hampton Township.



The Study Area is located in the SD-3-Retail-Manufacturing District

### **SD-3-Retail-Manufacturing District**

The standards for Special District 3 include permitted building types and bulk requirements. The following building types are permitted in Special District 3:

- A. Research/Warehouse
- B. Large Scale Retail
- C. Retail
- D. Hotels
- E. Live/Work
- F. Drive-Through Retail
- G. Parking Garage
- H. Parking Garage with Liner Building

The Armory site is non-conforming to the SD-3 District for building type and several bulk standard requirements. The ShopRite site is non-conforming to the SD-3 for building type, several bulk standards, parking and building landscaping and buffering requirements. Both sites are non-conforming to landscaping and buffering standards of the ordinance as well lot circulation, parking area design and access. The nonconformities highlight several of the blighting factors that will be discussed later in the report including poor circulation and site layouts, insufficient parking and aisle widths, unsafe pedestrian conditions, dilapidated building exteriors and lack of landscaping and buffering.

### **E. Site Analysis**

#### **Relationship to Surrounding Neighborhood**

The study area is located along the northeastern border of the Town adjacent to Hampton Township, one-half mile north of the Newton Town Square. Along US Route 206, highway commercial uses provide the dominant character to the area, including Wells Fargo Bank, Walgreens, Pizza Hut, Dunkin Donuts, Weis grocery store, STS Tire and Auto and PNC Bank. Going north into Hampton Township, highway commercial uses continue along US Route 206 and include “big box” retail stores, e.g. Lowes and Walmart. Along South Park Drive, industrial-type uses are more dominant, including the former location of the Town Dump, the current location of the Town Recycling Center and George’s Salvage. Memory Park is located to the south of these uses. The closest concentration of residential uses are single family residential dwellings located on Clinton Street approximately 0.4 miles south on US Route 206.

The study area is constrained by a 100 foot JCP&L power line right-of-way along the northeastern border of the ShopRite site and through the eastern corner of the Armory site. The study area is also constrained to the Southeast by the Town Recycling Center. The southwestern side of the study area is bordered by South Park Drive and the northwestern boundary to the study area is US Route 206.

## **History**

The Newton Armory was constructed sometime after 1956 when the ownership of the land was assumed by the State of New Jersey from the Town of Newton. The US Army utilized the site as a National Guard Training Center until 2008. At the time of abandonment, the Armory included a Veteran Services Center and an Army Recruiting Center. When the use was abandoned by the State, the land reverted back to the Town's ownership. The buildings on the site, however, did not revert back to the Town's ownership, although the Town and the State are currently negotiating acquisition of the buildings by the Town. The Armory site has been vacant and abandoned since 2008.

ShopRite Supermarkets originated in 1946 as a co-op of grocers and is now a chain of supermarkets with locations in New Jersey, New York, Connecticut, Delaware, Maryland, and Pennsylvania. The Newton ShopRite was constructed in 1971. An addition of approximately 680 square feet was added to the front of the building in 1986. Another addition was added to the front of the building in 1989 along with three additional loading docks and expanded parking. In order to fit additional parking on the site, internal aisle widths were reduced from 24 feet to 22 feet and overflow "employee parking" was provided on the adjacent lot in Hampton Township and behind the building adjacent to the Armory site. Interior renovations were done to the building in 1997 to the deli department and again to the floral department in 2008. Upgrades to the chemical supply system in the building were completed in 2007.

## **Environmental**

The Newton Armory property was the subject of two environmental reports completed by Excel Environmental Resources, Inc. on behalf of the Town of Newton. The first report was a Preliminary Assessment/Focused Site Investigation Report dated September 2009. The second report was a Site Investigation Report dated October 2011.

The Preliminary Site Investigation Report, dated September 2009, noted that asbestos containing material and lead-based paint may be present on the site. The report found a total of 11 areas of environmental concern that were recommended to be investigated further.

The Site Investigation Report, dated October 2011, conducted further investigation of the 11 areas of environmental concern on the site. The study found soil contamination from an underground gasoline storage tank. Benzene concentrations in groundwater were also found at above groundwater screening levels. Concerns focused mainly on possible vapor intrusions into future buildings if the site is redeveloped. The soils were found to contain some mercury and lindane that were not evidenced in background soil tests and were therefore recommended to be studied further. Removal of source contaminants on the site that were detected by the on-site monitoring well number 2 was recommended to lower potential leaching of contaminants on the site. This primarily included gasoline derived compounds that were likely associated with the gasoline underground storage tank. With the Armory's close proximity to the Town of

Newton's Memory Park's active recreation fields, playgrounds and other walking paths, the potential for the contaminants on the site to contaminate adjacent properties may become a serious concern for the Town if left unaddressed.

### **Transportation Access**

The study area is accessed by US Route 206 to the west and South Park Drive to the south. US Route 206 is an Urban Principal Arterial that primarily runs north-south. South Park Drive is a local street that does not accommodate through traffic but primarily provides access to the ShopRite, Newton Park and Ride, the Newton Recycling Center and George's Salvage. South Park Drive runs approximately northwest-southeast along the study area and changes into North Park Drive following its lighted intersection with US Route 206. South Park Drive also supplies access to Memory Park, however, this is not used as a main entrance.

The Park and Ride located in close proximity to the study area is run by the Lakeland Bus Company and takes passengers from Newton into Midtown Manhattan. Busses run multiple times a day, seven days a week.

There is a large amount of pedestrian activity between the study area and the center of Newton. Many people walk from the center of Town to this area for shopping. Being aware of this heavily pedestrian traveled area, in 2011 the Town of Newton installed street trees along this corridor and is looking at other ways to improve the pedestrian realm in this area. Some possible future improvements are listed in the Town of Newton Circulation Plan Element and include: bike lanes, sidewalk buffers, and the creation of "complete streets".

## **F. Findings**

This investigation found that one or both of the sites in the study area meets at least five of the statutory criteria to qualify as being in need of redevelopment. More specifically, the Armory site, Block 10.01, Lot 6, meets Criteria "a", "c", "d", "e" and "h" and the ShopRite site, Block 10.01, Lot 5, meets criterion "d", "h" and Section 3 of N.J.S.A. 40A:12A-1 et seq.

### **Qualifying Criterion "a"**

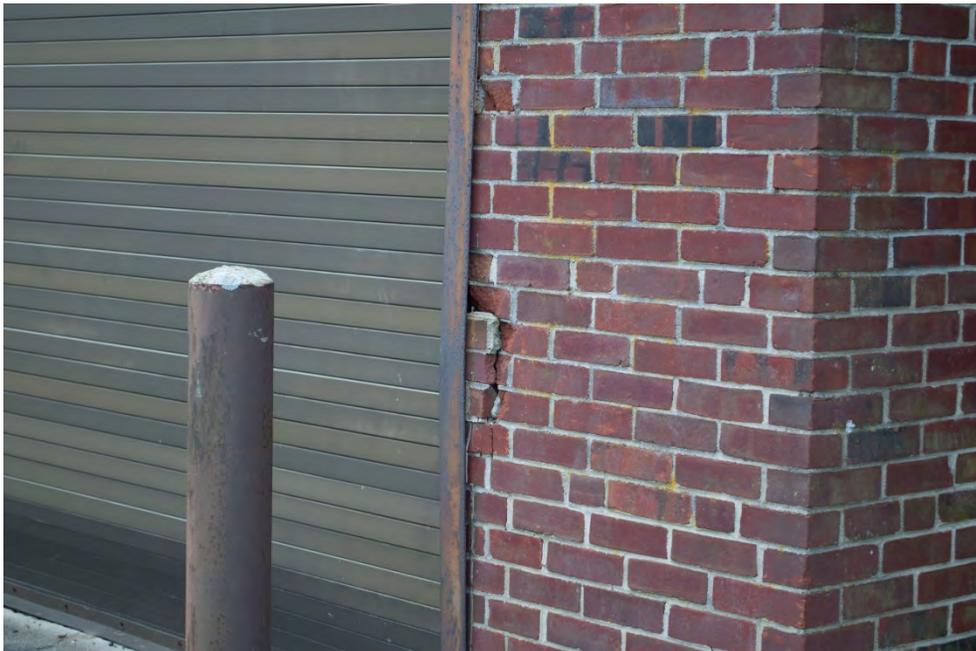
Criterion "a" of the Redevelopment Law states: "The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions."

Being 56 years old and built for a specific purpose, the Armory building was built for a use which was made obsolete by the abandonment of the use on the site by the State of New Jersey. The main Armory building consists of two classrooms, a small office area and an oversized garage. The large garage and classroom/office area are adjacent to each other in the building, with the

large garage in front of the building. The layout of the main Armory building coupled with an additional garage behind it and storage sheds, was built for the very specific and unique use as an armory. The abandonment of the use by the State of New Jersey creates the obsolescence of the building specifically built for a use not readily adaptable to a commercial or industrial type use.

The buildings on the Armory site, in addition to their obsolescence, are unsanitary and not conducive to wholesome working conditions as evidenced by insect infestations within the main building and wet and molding floors and walls from roof leaks in both the main building and the garage. With small windows and small interior rooms, the buildings are lacking light, air, and space, creating an unwholesome working condition. There are signs of dilapidation on the outside of the Armory building itself including broken roof tiles, broken blocks, peeling paint and rusting trim. The interior of the building is also showing signs of dilapidation with stained and warped floors. The two-bay garage and two sheds on the site exhibit dilapidated and unsafe conditions. The two-bay garage has peeling paint (possibly lead-based paint), substandard windows, and a leaking roof. The two sheds are being overtaken by vegetation due to lack of use for many years.

The landscaping on the site is overgrown and lacking maintenance. The pavement areas on the site are disintegrating and crumbling with grass and vegetation growing up through the pavement. There are pot holes in the pavement as well as unsafe conditions for pedestrians on broken and cracked sidewalks and a dilapidated handicapped access ramp. The dilapidated state of the site creates an unwholesome working condition for anyone seeking to utilize the site.



**Armory Building –Deteriorating Bricks and Fading/Rusting Metal Trim/Door**



**Broken/Rusted Light Fixtures**



**Two-bay Garage – Overgrown Weeds, Rusting Bollard, Broken Trim, Broken Roof Tiles, Cracked Blocks**



**Two-bay Garage Peeling Paint (Possibly Lead-Based Paint)**



**Two-bay Garage Leaking Roof, Possible Mold on Walls and Barred Windows**



**Onsite Sheds – Overgrown Landscaping and Deteriorating Pavement**



**Armory Building Insect Infestation**



**Armory Classroom – Warped Flooring**



**Armory Classroom Floor Deterioration and Staining from Ceiling Leaks**



**Handicapped Ramp – Broken and Deteriorating Pavement, Ramp and Sidewalk**



**Deteriorating Pavement and Pot Holes**

### **Qualifying Criterion “c”**

The "c" criterion states: “Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.” The Town owns the land comprising the Armory site and is negotiating to buy the improvements from the State. The site is governmentally owned. The ownership of the land by the Town of Newton and the ownership of the improvements by the State of New Jersey further complicate redevelopment of the site.

The Armory site is not likely to be developed by private capital because of its remoteness, lack of means of access and nature of the soil. The Armory site is located behind the ShopRite near the dead-end of South Park Drive. This is a remote location with very little traffic passing the facility. The Armory building is generally hidden from view along US Route 206. The JCP&L power line right-of-way constrains the property to the south and east, limiting access to the site from any surrounding parcels, except the ShopRite parcel, and leaving the only roadway access from South Park Drive. Without frontage on a busier road and improved access, the likelihood of development of this site by itself for a commercial purpose is limited. Other properties which front along US Route 206 near the area are vacant and have not been developed by private capital. Given the remoteness of the Armory site from US Route 206 and its sole access from a dead-end low traffic road, it is unlikely that private capital will seek out the Armory property for redevelopment.

The Armory property by nature of the soil is not likely to be developed through private capital. The steep topography, wetlands and rock outcroppings on the site create site constraint issues. The contaminated soil on the site necessitates an environmental remediation effort prior to development, even further complicating development potential on the site. The land is municipally owned, but the title issue related to the Town of Newton owning the land and the State of New Jersey owning the buildings further complicates the ability to develop the site through private capital. In fact, the Town has placed the site up for auction twice and received no competitive bids. This illustrates a lack of private capital interest in the site.



**View of the Armory from South Park Drive**



**View of South Park Drive from the Armory**

### **Qualifying Criterion “d”**

The "d" Criterion states: “Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.”

The Armory site meets criteria “d” because the building is obsolete, as noted previously, because an Armory is a specialized use that does not readily adapt to other viable commercial

uses. The obsolescence of the site is created by the abandonment of the site by the State of New Jersey. This abandonment and lack of use is causing the buildings to become dilapidated. As shown above, dilapidation of the Armory buildings is apparent where there is peeling paint, broken bricks and blocks, warped and stained floors, leaking roofs, insect infestations, crumbling and broken pavement and unsafe pedestrian facilities. The vacant and abandoned nature of the site also creates an attractive nuisance for vandalism and trespassing, particularly given the site's close proximity to the Town's park and recreation fields.

The Armory use was a deleterious land use because the use over time caused contamination of the soil and ground water on the site. As evidenced by the Excel Environmental reports, several aspects of the use resulted in soil and groundwater contamination on the site. Further investigation was recommended to determine the extent of the damages to the site. The environmental contamination from the deleterious land use on the site threatens the health, safety and welfare of the Town, due to the site's close proximity to the Town of Newton's Memory Park and the multitude of public recreational facilities at the park.

The Armory site illustrates a faulty arrangement and design and obsolete layout. The Armory site is not in conformance with the Town's ordinances being non-conforming for building type, parking area and landscaping design and screening and buffering. These non-conformances further illustrate the unsafe pedestrian and vehicular circulation on the site due to lack of conformance with the Town's ordinances on the same. Further, the building types required for the site would promote a better visual appearance of the site, rather than the blighting influence of the existing obsolete layout. The lack of proper landscaping and screening and buffering is a result of the obsolete layout and design of the site that is further proven by the site's lack of conformity with Town ordinances on screening and buffering. The Armory site does not promote the general welfare of the community because of the obsolete layout that has resulted in an abandoned and unsafe site. The general welfare of the community is threatened by an abandoned use that does not contribute to the financial well-being of the community and presents a hazardous attractive nuisance to children frequenting the Town's park and recreation facilities. For these reasons, the Armory site meets criterion "d".

The ShopRite site meets the "d" criterion due to faulty arrangement and design, overcrowding of the site, excessive land coverage and obsolete layout and design that results in a detriment to the health, safety, morals and welfare of the community.

The ShopRite building and parking area have been expanded several times over its lifespan. The expansions have resulted in an overcrowding of the site and excessive land coverage. The site is overcrowded as evidenced by poor circulation in the parking area, lacking in designated pedestrian facilities and exhibiting narrow aisle widths. The trucks entering the loading spaces on the south of the building are required to make k-turns in the middle of South Park Drive to turn and back into the spaces. This blocks traffic on South Park Drive creating an unsafe situation. The site is over 90 percent covered by impervious surfaces and is nonconforming with Town ordinances for landscaping and buffering. The overcrowding of the site and

excessive land coverage results in a detriment to the health, safety and welfare of the community by creating unsafe circulation.

The ShopRite site exhibits an obsolete layout, design and insufficient circulation for the use. Under the Town's ordinances there are a number of design standards that are not being met by the current site configuration. The current parking lot has 22 foot wide aisles when the standard states there should be 24 foot wide aisles (240-8.A.(7)). This creates an unsafe condition for cars entering and exiting parking spaces. In addition, the high pedestrian activity in the parking areas is made unsafe due to the overcrowded parking area. Under the Town's ordinances sidewalks are required between parking areas and structures, along aisles, and driveways and wherever pedestrian traffic occurs (240-8.B). The lack of safe pedestrian aisles causes pedestrian and auto traffic in too close of a proximity to allow safe circulation to occur on the site. The lack of pedestrian facilities along US Route 206 inhibits access by pedestrians creating unsafe conditions for pedestrians trying to access the site.

Also under the ordinances, the site does not meet many of the landscaping requirements that have been implemented to create a healthier and more aesthetically pleasing space including: landscaping 15% of the interior parking area (240-8.C(1) and having a minimum of one tree per every ten parking spaces (240-8.C(6)). This causes the site to create a blighting influence on the surrounding area, particularly as the gateway property to Newton on US Route 206. There is excessive building coverage on the lot in relationship to surrounding land uses, and lack of adequate buffering, screening and landscaping. This further illustrates the obsolete layout and design of the site.

The store exhibits overcrowding for its current use as evidenced by multiple additions over the years and the use of former loading bays as office space (see photo below). The parking area is undersized for the use as evidenced by the overflow parking areas in Hampton Township. The exterior of the building is outdated and becoming dilapidated. Exterior vestibules to permit display of seasonal merchandise are minimal and overcrowded with merchandise, as is a transition area for shoppers entering the store. The loading areas are poorly designed, causing trucks to back out onto South Park Drive to make deliveries. All of these issues highlight the obsolete design and layout of the site creating unsafe conditions for vehicles and pedestrians.

In addition to code non-conformities, Newton Police Department records were checked to evaluate police reports for traffic-related issues in the parking lot at the ShopRite site. Between 2008 and 2011, a total of 202 parking and vehicle incidents were reported to the Newton Police Department. Vehicle incidents are related to theft, lockouts and other single car police reports, not involving collision with another car or object. There is an average of 22 motor vehicle accidents every year, not including hit and run accidents. Counting hit and run accidents, there is an average of 30 accidents in the ShopRite parking area every year. The following table shows the number of motor vehicle incidents by year from 2008-2011.

Year	Motor Vehicle Incident	Motor Vehicle Accident	Accident/ Hit and Run	Parking Complaint	Motor Vehicle Stop	Total
2008	8	17	7	4	8	44
2009	5	20	6	8	11	50
2010	7	28	15	5	20	55
2011	3	23	4	3	20	53
<b>Total</b>						<b>202</b>

The high number of traffic and parking related incidents in the ShopRite parking area every year is evidence of an obsolete layout and design that creates traffic hazards and unsafe conditions, threatening the public health, safety and welfare.





**Poor Integration of Pedestrian and Vehicular Circulation Create Hazardous Situations  
Overcrowded Outdoor Merchandise Area Inhibits Pedestrian Circulation**



**Narrow Aisles Slow Down Vehicular Circulation and Create Congestion**



**Minimum Interior Landscaping**



**ShopRite Overflow Parking Area in Hampton Township is Unpaved and Exhibits Overcrowding**



**Retaining Wall at Right-of-Way for Parking and Lack of Sidewalk are Unsafe**



**Loading Dock Turned into an Office Shows Overcrowding of the Facility**

### **Qualifying Criterion “e”**

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

Use of the Armory property by the State of New Jersey was granted by the Town of Newton in 1956. The title transfer included a clause that if the State of New Jersey should cease use of the property, the ownership of the property would revert back to ownership by the Town of Newton. When the Armory use was abandoned by the State of New Jersey in 2008, the ownership of the land reverted back to ownership by the Town of Newton. Following the transfer of the land back to ownership by the Town of Newton, the State of New Jersey however, maintained that the State owned the improvements on the property. The resulting title issue is dual ownership of the property, with the Town of Newton owning the land beneath the buildings and the State of New Jersey owning the buildings. Although the Town and the State are negotiating the acquisition of the buildings by the Town, the current diverse ownership causes a condition of title that does not permit the fully productive use of the land, causing the property to remain vacant and unutilized. The vacant and abandoned state of the site causes a threat to public health, safety and welfare due to environmental contamination on the site that remains unaddressed and the dilapidated vacant buildings on the site presenting an attractive nuisance.

In addition to the dual ownership of the Armory property by the Town and the State, Jersey Central Power and Light (JCP&L) owns a right-of-way across the entire area that further complicates development on the site by presenting multiple property interests on the site. The 100 foot JCP&L right-of-way runs diagonally across the southern portion of the Armory site and then runs along the eastern boundary of the Armory site before crossing onto the ShopRite site and running along its eastern boundary. No buildings or structures may be placed within this 100 foot right-of-way across the area, resulting in the lack of proper utilization of the site and lack of contribution from the site to the public health, safety and welfare.

### **Qualifying Criterion “h”**

The "h" Criterion addresses smart growth consistency and provides that municipalities can designate an area in need of redevelopment if the designation is consistent with smart growth planning principles adopted pursuant to law or regulation. The Town of Newton has adopted smart growth planning principles in the Town’s 2008 Master Plan. Additionally, the Town has worked with the State Planning Commission since 1993, when it was first designated a Regional Center consistent with the State Planning Act, which also promotes smart growth principles.. More recently, the Town of Newton has been deemed to be eligible for Plan Endorsement by the State Planning Commission, also deeming the Town of Newton’s plans and ordinances as consistent with the State Plan. Smart growth principles that apply to the site include: creating

walkable communities, creating distinctive attractive communities offering a sense of place and promotion of development and redevelopment in areas with existing infrastructure. The area is lacking pedestrian facilities to connect to Newton's walkable community design. The area also lacks in any distinctive or attractive design that would contribute to the sense of place in Newton. The area is located at the Town's border and is a gateway property for the Town of Newton, which has a unique contribution to the Town's sense of place. The area is in a location with existing water and sewer utilities, as well as frontage on an existing State highway and Town road. Designation of the area as an area in need of redevelopment is consistent with smart growth planning principles adopted pursuant to law or regulation.

### **Section 3**

Under Section 3 of the Redevelopment Law, 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 ShopRite site meets the Section 3 criterion to be in the redevelopment area because it creates the opportunity for the effective redevelopment of the Armory site. The Shoprite site is located along US Route 206 with a highly visible frontage and multiple access points onto both US Route 206 and South Park Drive. The Armory property lacks access to and visibility from US Route 206 without the ShopRite site. The ShopRite site provides the visibility and access for the Armory site.

The Armory property is approximately 50% constrained by environmental constraints and nearly one-acre of the site is encumbered by the JCP&L power line right-of-way. The JCP&L power line right-of-way encumbers the Armory site to the south and northeast and the ShopRite site to the northeast. This limits the expansion of the ShopRite on its site or the effective redevelopment of the Armory site on its own. The environmental constraints along the southern and eastern sides of the Armory site, including steep slopes, a rock outcropping and a wetlands area, limit the ability for the Armory site to be developed in conjunction with any other adjacent properties to the south or east. The Armory site is bounded by South Park Drive to the west. This leaves only the ShopRite site to the north for the Armory to be redeveloped with. If the Armory site is to be redeveloped with a use permitted by the zone, such as large-scale retail, the Armory site will need to be developed in conjunction with the ShopRite site. The two sites combined, creating the "area" permit an effective redevelopment opportunity for both sites.

## IV. Recommendations

This investigation finds that the study area identified as Block 10.01, Lots 5 & 6, meets the statutory criteria to qualify as an Area in Need of Redevelopment and recommends that the site be designated by the Town of Newton as an Area in Need of Redevelopment pursuant to N.J.S.A. 40:A-12A-1 et seq. More specifically, this investigation finds that the study area meets Criteria "a", "c", "d", "e", "h" and Section 3 of N.J.S.A. 40A:12A-1 et seq. as follows:

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

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

The "d" Criterion: Obsolete Layout and Design (N.J.S.A. 40A:12A-5.d) – “Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.” *The area has buildings and improvements which by reason of dilapidation, obsolescence, faulty arrangement and design, excessive land coverage, deleterious land use and obsolete layout are detrimental to the safety, health, morals and welfare of the community.*

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

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

regulation.” *Designation of the area delineated is consistent with smart growth planning principles pursuant to law and regulation.*

Section 3: Definitions (N.J.S.A. 40A:12A-3) provides the following definition for redevelopment areas - "Redevelopment area" or "area in need of redevelopment" means an "area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.” *The entirety of the area delineated is needed for the effective redevelopment of the area.*

This study further recommends that the Town Council and Planning Board authorize the preparation of a Redevelopment Plan for the area in order to facilitate a unified development on the site that addresses the unique circumstances and constraints of the area, while eradicating blight.