Agenda No. 2

BOROUGH OF EMERSON
COUNTY OF BERGEN, NEW JERSEY
RESOLUTION No: 58-17

RE: RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF EMERSON, COUNTY OF BERGEN, STATE OF NEW JERSEY DETERMINING THAT BLOCK 419, LOTS 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 AND 10, ON THE OFFICIAL TAX ASSESSMENT MAP OF THE BOROUGH OF EMERSON QUALIFY AS AN AREA IN NEED OF REDEVELOPMENT, SPECIFICALLY A CONDEMNATION REDEVELOPMENT AREA, PURSUANT TO THE PROVISIONS OF THE LOCAL REDEVELOPMENT AND HOUSING LAW (N.J.S.A. 40A:12A-1 ET SEQ.) AND SHALL CONTINUE TO BE PART OF THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT AREA

WHEREAS, on February 3, 2004 the Borough Council of the Borough of Emerson ("Borough" or "Council") adopted Resolution No. 50-04 pursuant to the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1, et seq., authorizing the Emerson Planning Board, now known as the Emerson Land Use Board ("Board") to conduct a preliminary investigation as to whether the following Blocks or portions thereof: 412, 419, 420, 422, 603, 610, 613, 615, 616, and 617.01, on the official tax assessment map of the Borough and located in the area more commonly known as the Central Business district ("CBD"), met the statutory criteria to be designated as "an area in need of redevelopment" pursuant to the LRHL; and

WHEREAS, the Board conducted the requested analysis and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all properly noticed, to determine whether the studied properties met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a resolution on September 7, 2004 recommending that the Mayor and Council designate the studied properties as "an area in need of redevelopment" pursuant to the LRHL; and

WHEREAS, the Council adopted Resolution No. 199-04 on September 7, 2004 (the "2004 Resolution") designating the following properties as an area "in need of redevelopment" ("Designated Area"):

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<th>Block</th>
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<td>420</td>
<td>2 &amp; 16</td>
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WHEREAS, on May 6, 2008, the Council adopted a Resolution No. 92-08 pursuant to N.J.S.A. 40A:12A-4(a)(1), authorizing the Board to conduct an investigation as to whether the properties should remain designated as “an area in need of redevelopment” and to conduct a preliminary investigation to determine if the following additional properties blocks or portions thereof located in the CBD (“Additional Properties”), met the statutory criteria to be designated as “an area in need of redevelopment” pursuant to the LRHL:

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<td>1, 2, 3.01, 3.02, 4, 12, 13 &amp; 14</td>
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WHEREAS, the Board conducted the requested analysis and held the requisite hearings, which were all properly noticed, to determine whether the Designated Area and Additional Properties met the statutory criteria to be designated as “an area in need of redevelopment” pursuant to the LRHL; and

WHEREAS, on December 4, 2008, the Board recommended that the Designated Area continues to meet the statutory criteria to remain designated as “an area in need of redevelopment” and recommending that the Council designate certain Additional Properties as “an area in need of redevelopment” pursuant to the LRHL; and

WHEREAS, on July 8, 2015, the Borough filed a Declaratory Judgment Action in the Superior Court of New Jersey, County of Bergen, in furtherance of the Supreme Court’s March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

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WHEREAS, by Court Order dated August 3, 2016, the Superior Court extended the Borough’s temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan, as directed in the Supreme Court Decision; and

WHEREAS, the Court’s extension of temporary immunity was granted on the condition that the Borough participate in mediation initiated by the Court-appointed Special Master; and

WHEREAS, the Court-appointed Special Master requested the Borough explore potential zoning changes and additional development opportunities to address the Borough’s unmet need; and

WHEREAS, the LRHL authorizes municipalities to determine whether certain parcels of land located therein constitutes a condemnation area “in need of redevelopment”; and

WHEREAS, on August 16, 2016, the Council adopted Resolution No. 221-16 authorizing and directing the Board to conduct an investigation to determine and recommend whether the previously Designated Area and the Additional Properties on the Official Tax Assessment Map of the Borough of Emerson (“Study Area”), meets the statutory criteria to qualify and be designated as a condemnation area “in need of redevelopment” pursuant to the LRHL and in furtherance of the Borough’s efforts to fulfill its affordable housing obligations, the Study Area being comprised of the following parcels:

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<th>Block</th>
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WHEREAS, the Borough’s original intention was that any redevelopment area designation shall authorize the municipality to use all those powers provided by the LRHL for use in the redevelopment area including, if necessary, the use of eminent domain to acquire any property in the area (“Condemnation Redevelopment Area”), which power was authorized in the 2004 Resolution; and

WHEREAS, in order to complete the investigation of the Study Area the Board retained Brigette Bogart PP, AICP, CGW of Planning & Design Professionals, LLC (“Planner Bogart”), to serve as planning consultant to prepare a report and assist the Board in the investigation and analysis of the LRHL statutory criteria as it pertains to the Study Area; and

WHEREAS, Planner Bogart prepared a map delineating the boundaries of the Study Area with a statement of basis for the investigation to be kept on file at the Borough Clerk’s office in accordance with N.J.S.A. 40A:12A-6, attached hereto as Exhibit A; and

WHEREAS, Planner Bogart recommended and the Board determined to divide the Study Area into subsections and conduct an investigation of an area, specifically Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 (“Subsection A”) in accordance with the guidelines set forth in N.J.S.A. 40A:12A-6 to determine whether Subsection A, meets the statutory criteria to be designated as a Condemnation Redevelopment Area; and

WHEREAS, the Board properly noticed a public hearing pursuant to N.J.S.A. 40A:12A-6 and conducted said public hearing on December 8, 2016, to determine whether Subsection A should be recommended to the Council for designation as a Condemnation Redevelopment Area pursuant to the criteria set forth in N.J.S.A. 40A:12A-5 of the LRHL; and

WHEREAS, the Board adhered to the statutory requirements of N.J.S.A. 40A:12A-6, including that all persons interested or who would be affected by a determination that Subsection A be deemed a Condemnation Redevelopment Area, were permitted to be heard and their objections were placed and made part of the record; and

WHEREAS, a map showing the boundaries and the location of the properties and study report of Subsection A prepared by Planner Bogart dated December 8, 2016 (the “Study Report”), attached hereto and incorporated herein as Exhibit B, was considered by the Board at the December 8, 2016 hearing and the Study Report and findings therein were incorporated into the record as well as Planner Bogart’s testimony, as a qualified professional planner, regarding her recommendation in regards to the designation of Subsection A, a copy of the transcript

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conducted by a certified court reporter is attached hereto and incorporated herein as Exhibit C; and

WHEREAS, on December 8, 2016, the Board recommended based on its investigation, the Study Report and testimony of Planner Bogart, as well as any evidence and objections presented by all those in attendance at the December 8, 2016 hearing, that Subsection A be designated as a Condemnation Redevelopment Area pursuant to the LHRL; and

WHEREAS, on January 5, 2016, the Board adopted a resolution, memorializing its determination and recommendation made on December 8, 2016, attached hereto and incorporated herein as Exhibit D; and

WHEREAS, the Board in its resolution concluded that there is sufficient credible evidence to support the finding that the designation of the Subsection A as a Condemnation Redevelopment Area, which authorizes the municipality, if necessary, to exercise the power of eminent domain to acquire any property in Subsection A; and

WHEREAS, the Council considered the Board's recommendation at its regularly scheduled public meeting and heard public comment; and

WHEREAS, the Board understands that it will continue to investigate the remaining properties in the Study Area as directed by the Council and in that regard will provide new notices to all of the property owners in accordance with the provisions of the LRHL indicating when a hearing will be held on particular properties comprising the remainder of the Study Area, to determine if such properties and the area should be designated as in need of redevelopment;

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Emerson hereby accepts the findings of the Board made at the public hearing held on December 8, 2016 as memorialized in its resolution adopted January 5, 2016 attached hereto as Exhibit D, which is supported by the Study Report of Subsection A prepared by Planner Bogart, attached hereto and incorporated herein as Exhibit B and the testimony of Planner Bogart, a licensed professional planner and as further set forth in the Board’s resolution adopted on January 5, 2017 and the certified transcript of the hearing attached hereto and incorporated herein as Exhibit C, recommending that Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 on the official tax assessment map of the Borough of Emerson ("Subsection A"), continues to qualify as an "area in need of redevelopment" and shall hereby be deemed by this Council as a Condemnation...
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Redevelopment Area pursuant to the provisions of the Local Redevelopment Act and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

**BE IT FURTHER RESOLVED**, that the Council’s designation of Subsection A as a Condemnation Redevelopment Area hereby serves as a finding of public purpose that provides the Borough with the authority to utilize all powers granted to the Borough to acquire the properties that are part of Subsection A, including the power of eminent domain, in the event it is determined that such acquisition is necessary to advance the purposes of the redevelopment plan for the area; and

**BE IT FURTHER RESOLVED**, that Subsection A shall continue to be included within the boundaries of the Borough of Emerson’s current redevelopment area, known as the CBD, and shall be subject to any zoning requirements and/or requirements of the Borough’s current Redevelopment Plan for the CBD Redevelopment Area as same may be amended from time to time; and

**BE IT FURTHER RESOLVED**, the Council hereby directs that the Board continue to investigate the remaining properties in the Study Area as previously directed by the Council and in that regard the Board shall provide new notices to all of the property owners in accordance with the provisions of the LRHL indicating when a hearing will be held on particular properties comprising the remainder of the Study Area, to determine if such properties and the area should be designated as in need of redevelopment;

**BE IT FURTHER RESOLVED**, that the Borough hereby reserves all other authority and powers granted to it under the Local Redevelopment Act and Housing Law; and

**BE IT FURTHER RESOLVED**, that within ten (10) days of the adoption of this Resolution, the Borough Clerk shall serve a notice of this determination, including a copy of this Resolution, upon all record owners of property within Subsection A of the Condemnation Redevelopment Area, those whose names are listed on the Tax Assessor's records, and upon each person who filed a written objection thereto and stated, in or upon the written submission, an address to which notice of the determination be sent in accordance with the requirements set forth in the LRHL; and

**BE IT FURTHER RESOLVED**, that the Borough Council hereby advises that any property owner wishing to challenge the designation must file an action in the Superior Court of New Jersey within forty-five (45) days of receipt of notice pursuant to N.J.S.A. 40A:12A-
6(b)(5)(c)(ii) and that failure to file any such challenge to the designation of Subsection A as a
Condemnation Redevelopment Area, within the 45-day period shall prevent any challenge to the
designation; and

BE IT FURTHER RESOLVED, that upon adoption of this Resolution, the Borough
Clerk shall transmit a copy of this resolution to the Commissioner of Community Affairs for the
State of New Jersey for review pursuant to N.J.S.A. 40A:12A-6(b)(5); and

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

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I hereby certify that the above Resolution was duly adopted by the Borough of Emerson
at a meeting held on January 17, 2017.

Attest: [Signature]
Municipal Clerk
STATEMENT OF BASIS FOR INVESTIGATION

The Borough of Emerson is currently coordinating the redevelopment of the downtown central business district in an effort to utilize the land more efficiently and to fulfill its affordable housing obligation.

On July 8, 2015, the Borough filed a Declaratory Judgment Action in the Superior Court of New Jersey Bergen County in furtherance of the Supreme Court’s March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”). By Court Order dated August 3, 2016, the Superior Court has extended the Borough’s temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan as directed in the Supreme Court Decision. The Court’s extension of temporary immunity was granted on the condition that the Borough participates in mediation initiated by the Court-appointed Special Master. The Court-appointed Special Master has requested the Borough explore potential zoning changes and additional development opportunities to address the Borough’s unmet need.

In an effort to fulfill this obligation, the Mayor and Council have determined that a supplemental study of areas previously designated as “an area in need of redevelopment” be conducted to ensure that the designated area continues to meet the statutory criteria set forth in the Local Redevelopment and Housing Law and be designated as a Condemnation Redevelopment Area. Furthermore, the Mayor and Council have determined that a preliminary investigation of additional properties be conducted for designation as a Condemnation Redevelopment Area. The properties comprising the Study Area include the following Blocks and Lots:

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<tr>
<td>405</td>
<td>1, 2, 3.01, 3.02, 4, 12, 13, 14</td>
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The map annexed hereto, outlines the boundaries and the location of the above noted eighty-four (84) parcels of property that comprise the area to be studied by the Land Use Board for designation as a Condemnation Redevelopment Area.
EXHIBIT B
Determination of Area in need of Redevelopment

EMERSON REDEVELOPMENT AREA
BOROUGH OF EMERSON, NEW JERSEY

Completed in accordance with the Local Redevelopment & Housing Law
(N.J.S.A. 40A:12A-1 et seq.)

The original document was appropriately signed and sealed on December 8, 2016 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

Brigette Bogart, P.P., AICP, CGW
Professional Planner #5579
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I. Introduction

The purpose of this report is to determine if the said properties located in the Borough of Emerson qualify as Area in Need of Redevelopment as defined by the Local Redevelopment and Housing Law (N.J.S.A. 40:12A-1 et seq, hereafter referred to as LRHL). This analysis has been conducted pursuant to the LRHL, which specifies the conditions that must be met within the delineated areas and the process to be undertaken by the Planning Board during the investigation.

This report is written pursuant to 40A:12A-6 section of the LRHL, which states the following:

No area of municipality shall be determined a redevelopment area unless the governing body of the municipality shall by resolution authorize the planning board to undertake a preliminary investigation to determine whether the proposed area is a redevelopment area according to the criteria set forth in section 5 of P.L.1992, c.79 (C.40A:12A-5). Such determination shall be made after public notice and public hearing as provided in subsection b. of this section. The governing body of a municipality shall assign the conduct of the investigation and hearing to the planning board of the municipality.

After completing its hearing on this matter, the planning board shall recommend that the delineated area, or any part thereof, be determined, or not be determined, by the municipal governing body to be a redevelopment area. After receiving the recommendation of the planning board, the municipal governing body may adopt a resolution determining that the delineated area, or any part thereof, is a redevelopment area.

The Borough Mayor and Council adopted a Resolution No. 221-16 on August 16, 2016 to authorize the Professional Planner to undertake a preliminary investigation to determine whether the properties in question are in need of redevelopment. This Area was previously designated as an Area in Need in 2004. This report was prepared to update and reaffirm the fact that this area still meets the criteria set forth in the Local Redevelopment and Housing Law and updated through recent case law.

The applicable LRHL statute also requires the Planning Board to hold a public hearing on this matter prior to recommending that the delineated area, or any part thereof, be determined or not determined a redevelopment area by the governing body. After obtaining the Planning Board’s recommendation, the governing body may adopt a resolution determining that the delineated area or any part thereof is a redevelopment area. This report is a study to determine whether the properties in question are to be determined or not determined as “area in need of redevelopment”, as required under the LRHL.

A redevelopment plan may supersede the zoning of an area or serve as an overlay, should specify the following:

1. The plan’s relationship to definite local objective as to appropriate land uses, density of population, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements.
2. Proposed land uses and building requirements in the project area.
3. Adequate provision for temporary and permanent relocation, as necessary, of residents in the project area, including an estimate of the extent to which decent, safe and sanitary dwelling units affordable to displaced residents will be available to them in the existing local housing market.
4. An identification of any property within the redevelopment area which is proposed to be acquired in accordance with the redevelopment plan.
5. (a) Any significant relationship of the redevelopment plan to master plans of contiguous municipalities, (b) The master plan of the county in which the municipality is located and (c) The State Development and Redevelopment Plan adopted pursuant to the “State Planning Act”
This report and investigation are aimed only at determining whether properties in question meet the statutory criteria to be identified as an Area in Need of Redevelopment and therefore does not contain any of the specific planning regulations contained in a redevelopment area. If the Borough of Emerson determines that they agree with the recommendations set forth in this report, this area can be designated as an "Area in Need of Redevelopment". The Emerson Borough Council would then have the authority to declare this area an "Area in Need of Redevelopment", and authorize the Borough of Emerson to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain ("Condemnation Redevelopment Area").

II. Criteria for Determination of An Area In Need of Redevelopment

Per LHRL 40A:12A-5 an area may be determined to be in Need of Redevelopment if after investigation, notice and hearing, the governing body of the municipality concludes by resolution that any of the following conditions exists:

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 unhealthy living or working conditions.

B. The discontinuance of the use of buildings previously used for commercial, manufacturing, or industrial purposes; the abandonment of such buildings; or the same being allowed to fall into so great a state of disrepair as to be untenable.

C. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity 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 developed through the instrumentality of private capital.

D. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangements or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious and use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community.

E. A growing lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real property therein or other conditions, which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and not fully productive 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 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, wherein 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 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 the 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 the P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district to the provisions 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, c79 (C.40A:12A-1 et al) for determining that the area is in need of redevelopment or 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. In addition to the above criteria, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating “a redevelopment area may include land, buildings, or improvements, which of themselves are not detrimental to the 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 in which they are a part.

III. The Statutory Criteria (a more detailed narrative)

The following section provides additional detail on the eight statutory criteria that qualify an area being in need of redevelopment and the planning analysis and evidence necessary that indicate the criteria could be met. Generally, properties located within an area in need of redevelopment will meet more than one of the criteria. However, only one of the eight need be found for a delineated area to be determined in need of redevelopment. The eight criteria are commonly identified by the letter corresponding to the paragraphs in Section 5 of the LRHL (N.J.S.A. 40A:12A-5).

The “a” Criteria – Deterioration

For an area to qualify as being in need of redevelopment pursuant to the “a” criteria, the planning board must find that the buildings in the area have deteriorated or fallen into such a state of disrepair that they constitute a threat to the people who live or work in them, or are a danger to public safety. Consequently, when analyzing the applicability of the “a” criteria, the planning board should focus on the physical conditions within the study area. This compels the preliminary investigation (this document) to include photographic documentation of the deterioration of the structures, documentation of site inspections, and a visual assessment of the physical conditions of the structures. Since buildings that have been neglected for long periods of time are frequently subject to numerous local code enforcement actions, the site inspection documentation is combined with a review of building, housing and property maintenance records, as detailed in this report. There are a couple of lots which appear to meet Criteria “a”.

The “b” Criteria- Abandoned Commercial and Industrial Buildings

Criteria “b” allows for a site that is being studied to qualify as being in need of redevelopment if it includes buildings previously used for commercial, manufacturing, or industrial purposes that have been vacated or abandoned. Vacant buildings that have been allowed to fall into a great state of disrepair have historically been associated with “blighted” areas or areas in need of redevelopment.

Similar to criteria “a”, site inspections and photographic documentation are important to assess how a structure potentially meets criteria “b” of the statute. The existence of these abandoned buildings are typically what triggers this type of investigation and should be readily apparent. It is important to note that the “b” criteria is only applicable to commercial and Industrial buildings and not to residential buildings. However, the nonresidential component of mixed-use buildings, which contains both residential and commercial uses, can meet the “b” criteria. While there are buildings in the Study area which are currently vacant this criteria was not relied upon for this investigation.
The "c" Criteria- Public and Vacant Land

Property owned by a public entity, such as a municipality, county, housing authority, or redevelopment entity may be designated in need of redevelopment pursuant to the "c" criteria. A court decision has determined that the public ownership alone is not a sufficient reason for such designation. The investigation should specify in its findings why the development potential of a property may be limited, such as its location, remoteness, lack of access, topography, or soil conditions.

The "c" criteria enables municipalities to use the redevelopment process to generate private development interest in surplus public lands and get them back on tax rolls. By designating these publically owned parcels in need of redevelopment, the municipality is able to convey the parcel to a redeveloper without having to go through the public bidding process. The redeveloper is then required by a redeveloper agreement to redevelop them in accordance with a redevelopment plan. This study area does include a public right of way, a publicly owned surface parking area and a publicly owned parcel currently developed with the ambulance core building. All three of these parcels of land would be more appropriately developed with private developments since they are located in the middle of the Borough's central business district.

Additionally, inherent in criteria "c", privately owned land that has remained unimproved or vacant for at least 10 years may also be designated in need of redevelopment. As with publically owned land, it also must be shown that a vacant parcel is not likely to be developed through private investment because of development constraints resulting from its location, remoteness from other developed areas of the community, lack of access, topography, or soil conditions.

The "d" Criteria- Obsolete layout and design

While the "a" and "b" criteria focus on the condition of the buildings on a property, the "d" criteria focuses on the site design itself. In order to analyze how a property meets criteria "d", other site improvements such as accessory structures, parking areas, on site circulation, land uses, and adjacent off site circulation impacts need to be reviewed.

Some of the considerations to be reviewed in analyzing a study area for the applicability of the "d" criteria focus on important land use planning standards, such as the location and relationship of buildings, accessory structures and other site improvements, onsite circulation and parking, land use conflicts as well as lot and building coverages within the study area. When analyzing parcels to see if they potentially meet criteria "d", the investigation should include information on how the site’s design, circulation and parking dimensions compare to modern planning objectives. If it is found that a parcel does not comply with modern planning objectives or standards, this investigation should also go a step further and review how these “deficiencies” on site affect adjacent sites and public rights of way. These deficiencies are detailed lot by lot in this document.

Given the flexible nature of the "d" criteria, it often is used with other criteria, typically the "e" criteria, where deterioration and abandonment are not issues. A good portion of the Study Area falls both within the meets both Criteria "d" and "e" as detailed on a lot by lot basis.

The "e" Criteria: Underutilization

Criteria "e" is applicable where there is 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 are 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 "e" criteria is applicable in circumstances where there is a quantifiable economic “underutilization” or “lack of proper utilization” of properties in a study area.
However, with the criteria noted above, the New Jersey Supreme Court in the *Galantin Realty Development, Inc. v Borough of Paulsboro*, 191 N.J. 344 (2007), stated that the New Jersey Constitution authorizes government redevelopment of only “blighted areas,” and concluded that the Legislature did not intend N.J.S.A. 40A:12A—5(e) to apply in circumstances where the sole basis for redevelopment is that the property is “not fully productive.” It further held that this criteria set forth N.J.S.A. 40A:12A—5(e) applies only to property that has become stagnant and unproductive because of issues of title, diversity of ownership, or other conditions of the same kind.

Given the recent *Galantin Realty Development, Inc. v Borough of Paulsboro*, 191 N.J. 344 (2007) decision, if an investigation determines that a site meets criteria “e”, it should be analyzed to confirm that the parcels at issue are preventing the proper development of the surrounding properties because of the fact that they reached a stage of stagnation and unproductiveness. In order to determine this, the site maybe reviewed in the context of the “d” criteria, exhibiting poor design and arrangement and not developed in a manner consistent with the objectives of a municipality’s zoning and master plan. It is important to note that a property may not be “economically underutilized”, but may exhibit a lack of “proper utilization” in relation to a municipality’s overall land use goals and objectives. Thus, the property would still meet the “e” criteria, but the analysis would focus on broader land use planning issues and concerns. There are a number of properties which exhibit a lack of “proper utilization” based on the Borough of Emerson’s Master Plan goals and objectives that have been in place for over a decade.

One of the indicators used to measure the economic productivity of a property is the ratio of the assessed value of the improvements on the property to the value of land. Developed properties in areas that are economically viable typically have improvement to land ratios of 2:1 or greater. Ratios of less than 2:1 may offer evidence of underutilization. As indicated above, a low improvement to land ratio in itself is not absolute proof that a property is in need of redevelopment. Improvement to land ratios should be analyzed in connection with other evidence such as the physical condition of the property or site layout to determine the applicability of the statutory criteria. It may be necessary to compare ratios within the study area to those in surrounding areas or on the other parts of the community. For example, the property values and tax revenue generated from two comparable blocks, one within the study area and one within an area considered economically stable, should be evaluated to determine the appropriate threshold in identifying underutilization.

Of the entire study area, only 10 of the B2 properties have an improvement to land value ratio of 2:1 or greater. That is only 12.5 percent of the entire study area that meets the standard. This is compared to the fact that the remaining commercial properties within the Borough have a ratio of 2.11. This fact combined with the fact that a majority of the study area exhibits poor design and arrangement are indicators that the study area is not being properly utilized and exhibits economic underutilization. The table below provides the assessment values for the study area.

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<td>7</td>
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<td></td>
<td>8</td>
<td>12,500</td>
<td>61,600</td>
<td>333,200</td>
<td>394,800</td>
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</tr>
<tr>
<td></td>
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<td>0</td>
<td>453,000</td>
<td>453,000</td>
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<td></td>
<td>9.02</td>
<td>18,687</td>
<td>1,354,900</td>
<td>395,100</td>
<td>1,750,000</td>
<td>3.43</td>
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<td>613</td>
<td>1</td>
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<td>474,400</td>
<td>760,000</td>
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</tr>
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<td>5,232</td>
<td>0</td>
<td>817,000</td>
<td>817,000</td>
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</tr>
<tr>
<td>615</td>
<td>1</td>
<td>10,001</td>
<td>58,900</td>
<td>279,800</td>
<td>338,700</td>
<td>0.21</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>12,000</td>
<td>152,500</td>
<td>536,200</td>
<td>688,700</td>
<td>0.28</td>
</tr>
<tr>
<td></td>
<td>16</td>
<td>25,650</td>
<td>2,225,000</td>
<td>517,700</td>
<td>3,742,700</td>
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<td></td>
<td>17</td>
<td>89,670</td>
<td>901,500</td>
<td>374,300</td>
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<td>2.41</td>
</tr>
<tr>
<td>616</td>
<td>19</td>
<td>25,350</td>
<td>778,700</td>
<td>539,300</td>
<td>1,318,000</td>
<td>1.44</td>
</tr>
<tr>
<td></td>
<td>20</td>
<td>7,650</td>
<td>251,900</td>
<td>306,800</td>
<td>558,700</td>
<td>0.82</td>
</tr>
<tr>
<td></td>
<td>21</td>
<td>11,100</td>
<td>236,700</td>
<td>348,200</td>
<td>584,900</td>
<td>0.68</td>
</tr>
<tr>
<td></td>
<td>22</td>
<td>11,100</td>
<td>351,600</td>
<td>350,000</td>
<td>681,600</td>
<td>0.95</td>
</tr>
<tr>
<td></td>
<td>23</td>
<td>12,000</td>
<td>188,100</td>
<td>359,800</td>
<td>547,900</td>
<td>0.52</td>
</tr>
<tr>
<td></td>
<td>24</td>
<td>9,150</td>
<td>350,200</td>
<td>324,800</td>
<td>675,000</td>
<td>1.08</td>
</tr>
<tr>
<td>617.0</td>
<td>1</td>
<td>55,000</td>
<td>1,438,100</td>
<td>629,600</td>
<td>2,067,700</td>
<td>2.28</td>
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<tr>
<td></td>
<td>2.02</td>
<td>52,000</td>
<td>427,400</td>
<td>553,900</td>
<td>981,300</td>
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<td></td>
<td>8</td>
<td>76,274</td>
<td>1,017,100</td>
<td>756,400</td>
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<td>1.34</td>
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<tr>
<td></td>
<td>9</td>
<td>82,764</td>
<td>0</td>
<td>101,200</td>
<td>101,200</td>
<td>0.00</td>
</tr>
</tbody>
</table>

* Block 610 lot 10, part of the original study area, no longer exists
In this investigation, the analysis for criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

The “f” Criteria – Fire and Natural disaster.

The “f” criteria is intended to permit the redevelopment of a large area in a community that has been destroyed or where the property values have been materially reduced by a sudden natural disaster. It was first added to the old urban renewal statutes after a catastrophic fire in Passaic destroyed several city blocks. When the State’s redevelopment laws were updated in 1992, the “f” criteria was retained, but the minimum tract area that could qualify for designation was reduced from ten to five contiguous acres. This investigation does not rely on this criterion.

The “g” Criteria – Urban Enterprise Zones

The Urban Enterprise Zone Act added criteria “g” to the redevelopment statute. Under the “g” criteria, urban enterprise zones (UEZs) designated by the New Jersey Urban Enterprise Zone Authority automatically qualify as areas in need of redevelopment for the purposes of granting long and short-term tax abatements and exemptions. However, if a municipality wants to exercise any other redevelopment powers within the UEZ, including the power of eminent domain, it must prove that the area meets one or more of other statutory criteria and formally designate the area in need of redevelopment pursuant to the procedures in the LRHL. A redevelopment plan for the area also must be adopted. This investigation does not rely on this criterion.

The “h” Criteria – Smart Growth

The “h” criteria requires that the delineated area be consistent with smart growth planning principles adopted pursuant to law or regulation. Uniquely, this criteria may be applied to the overall study area rather than individual parcels therein. As such, it is possible for a Study Area to qualify even if certain individual lots do not meet criteria “a” through “g”, thereby preventing certain lots within a larger area from obstructing the redevelopment of a larger area. Specifically, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels in the area “which of themselves are not detrimental to the 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 in which they are a part.” As noted above, it has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

IV. Study Area Description

The following analysis reviews eighty-three (83) properties within fourteen (14) blocks located along the central portion of the Borough. The plan area totals approximately thirty-four (34) acres not including rights-of-way. The properties in question are generally along the Kinderkamack Road corridor between Hartland Avenue to the north and the municipal boundary with Oradell to the south. Additional lots along the NJ Transit rail line are also included, effectively creating a bow-tie shaped plan area.
V. Background Information

A. Police Records. As noted above, the Study area includes approximately 34 acres of land, where the entire municipality is approximately 1,535 acres. This translates into the study area encompassing 2.2% of the Borough’s total land area as identified on the map on the following page. The police provided a report of all arrests and Computer Aided Dispatch (CAD) incidents along Kinderkamack Road (approximately the Study area) as compared to the remainder of the Borough. While it is noted that Kinderkamack Road is one of the only commercial thoroughfares in the Borough, it is noteworthy to consider the fact that it is the location for 32% of all the Police incidents in the Borough over the last five years as follows:

<table>
<thead>
<tr>
<th>Incident</th>
<th>Kinderkamack Road</th>
<th>Other</th>
<th>Total</th>
<th>% on Kinderkamack</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alarm</td>
<td>313</td>
<td>1192</td>
<td>1505</td>
<td>0.18</td>
</tr>
<tr>
<td>Animal Incident</td>
<td>133</td>
<td>1225</td>
<td>1358</td>
<td>0.14</td>
</tr>
<tr>
<td>Assail Residence</td>
<td>36</td>
<td>416</td>
<td>453</td>
<td>0.06</td>
</tr>
<tr>
<td>Dispute</td>
<td>36</td>
<td>434</td>
<td>470</td>
<td>0.06</td>
</tr>
<tr>
<td>Disabled MV</td>
<td>319</td>
<td>429</td>
<td>654</td>
<td>0.34</td>
</tr>
<tr>
<td>DPW Asst</td>
<td>194</td>
<td>127</td>
<td>221</td>
<td>0.22</td>
</tr>
<tr>
<td>Fire Dept Request</td>
<td>50</td>
<td>500</td>
<td>550</td>
<td>0.14</td>
</tr>
<tr>
<td>Funeral Escort</td>
<td>13</td>
<td>30</td>
<td>43</td>
<td>0.30</td>
</tr>
<tr>
<td>Group Move</td>
<td>193</td>
<td>99</td>
<td>292</td>
<td>0.68</td>
</tr>
<tr>
<td>Intoxicated Party</td>
<td>32</td>
<td>31</td>
<td>63</td>
<td>0.34</td>
</tr>
<tr>
<td>Lock out</td>
<td>53</td>
<td>178</td>
<td>231</td>
<td>0.23</td>
</tr>
<tr>
<td>Medical Request</td>
<td>26</td>
<td>590</td>
<td>616</td>
<td>0.11</td>
</tr>
<tr>
<td>Missing Person</td>
<td>5</td>
<td>27</td>
<td>32</td>
<td>0.08</td>
</tr>
<tr>
<td>MV Complaint</td>
<td>153</td>
<td>481</td>
<td>634</td>
<td>0.24</td>
</tr>
<tr>
<td>MV Stop</td>
<td>2918</td>
<td>580</td>
<td>3498</td>
<td>0.47</td>
</tr>
<tr>
<td>Noise Complaints</td>
<td>37</td>
<td>390</td>
<td>427</td>
<td>0.11</td>
</tr>
<tr>
<td>Property Lost/Found</td>
<td>71</td>
<td>364</td>
<td>435</td>
<td>0.11</td>
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<tr>
<td>Suspicious Incident</td>
<td>62</td>
<td>243</td>
<td>305</td>
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<tr>
<td>Suspicious Person</td>
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<td>618</td>
<td>861</td>
<td>0.28</td>
</tr>
<tr>
<td>Suspicious Vehicle</td>
<td>28</td>
<td>555</td>
<td>583</td>
<td>0.22</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>13</td>
<td>140</td>
<td>153</td>
<td>0.10</td>
</tr>
<tr>
<td>Assault</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aggravated Assault</td>
<td>3</td>
<td>17</td>
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<td>0.12</td>
</tr>
<tr>
<td>Simple Assault</td>
<td>3</td>
<td>39</td>
<td>42</td>
<td>0.21</td>
</tr>
<tr>
<td>Battery</td>
<td>8</td>
<td>52</td>
<td>60</td>
<td>0.06</td>
</tr>
<tr>
<td>Borough Ordinance Violation</td>
<td>100</td>
<td>870</td>
<td>970</td>
<td>0.09</td>
</tr>
<tr>
<td>CDS Offense</td>
<td>50</td>
<td>781</td>
<td>831</td>
<td>0.23</td>
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<tr>
<td>Contempt</td>
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<td>8</td>
<td>10</td>
<td>0.03</td>
</tr>
<tr>
<td>Criminal Mischief</td>
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<td>6</td>
<td>8</td>
<td>0.02</td>
</tr>
<tr>
<td>Disorderly Conduct</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>0.02</td>
</tr>
<tr>
<td>DUI</td>
<td>41</td>
<td>46</td>
<td>87</td>
<td>0.17</td>
</tr>
<tr>
<td>Harassment</td>
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<td>8</td>
<td>9</td>
<td>0.01</td>
</tr>
<tr>
<td>Lewdness</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1.00</td>
</tr>
<tr>
<td>Sex Assault</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0.00</td>
</tr>
<tr>
<td>Theft</td>
<td>5</td>
<td>8</td>
<td>13</td>
<td>0.38</td>
</tr>
<tr>
<td>Vehicular Homicide</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0.00</td>
</tr>
<tr>
<td>Tres pass thres</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>0.23</td>
</tr>
<tr>
<td>Burglary</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0.05</td>
</tr>
<tr>
<td>Warrant</td>
<td>50</td>
<td>128</td>
<td>178</td>
<td>0.33</td>
</tr>
<tr>
<td>Shoplifting</td>
<td>10</td>
<td>24</td>
<td>34</td>
<td>0.07</td>
</tr>
<tr>
<td>all other offenses</td>
<td>8</td>
<td>15</td>
<td>23</td>
<td>0.26</td>
</tr>
<tr>
<td>Total</td>
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<td>17507</td>
<td>25883</td>
<td>0.38</td>
</tr>
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</table>
B. Master Plan Recommendation

The Borough of Emerson has adopted a number of master plans/reexamination reports over the past twenty-five years. The last Master Plan was adopted in 1978 with multiple amendment and reexamination reports adopted since that time, most recently in 2015. The Master Plan has numerous goals and objectives, including a number of which are applicable to the subject study area.

In 1999, over 16 years ago, the Borough’s Master Plan Reexamination Report indicated that the Borough should consider the preparation of a Downtown Plan to address the area adjacent to the New Jersey Transit Rail Station. It further states that the “Borough may also wish to consider the use of the Local Redevelopment and Housing Law to create a Redevelopment Plan for all or part of the Downtown area to upgrade the appearance and efficiency of Downtown.” That plan was prepared in 2003 and the goals and objectives set forth in that plan are detailed below.

Subsequently, in 2004 the Borough undertook a redevelopment design study and prepared a redevelopment plan to assist in the implementation of the Central Business District Plan. Since 2004, over 12 years ago, there have only been two developments in the Central Business District and the Comprehensive Redevelopment Plan itself has not been implemented.

In the 2007 Reexamination Report set forth the following five (5) goals for Commercial Development in the Borough, all of which are important and applicable while analyzing the study area.

Goal #1: To uphold the comprehensive long-range plan set forth by the Central Business District Plan. The general goals of the plan encourage redevelopment as well as renovations and rehabilitation of selected existing buildings and storefronts, and the general improvement of buildings, parking lots, storefronts, sidewalks and other public areas. Application of the plan ought to provide a stimulus to the area, improve the physical appearance of the district and promote pedestrian activity and vitality in a district with active ground floor uses and upper level residential units. In addition, the plan updates and maintains modern codes and ordinances to ensure adequate development controls.

Goal #2: To encourage the coordination of all building renovations and the construction of all new buildings in the commercial district through the utilization of complimentary building materials, colors and streetscape elements.

Goal #3: To establish a strong, distinct image for the commercial area through unified signage and streetscape design elements. The borough seeks to encourage a unified design character through a system of streetscape improvements. These improvements include design elements for buildings, lighting, sidewalk paving, banners, wayfinding signage, landscaping and street furniture.

Goal #4: To promote increased pedestrian safety and enhanced aesthetics in the commercial district, the borough encourages landscaping and streetscape elements that should be dispersed throughout parking areas and along pedestrian walkways. The borough recognizes that the integration of landscaping into site design not only increase the aesthetics of the development but can also contribute to pedestrian safety.

Goal #5: To preserve the aesthetics enhancements of the commercial areas of the municipality by encouraging the general maintenance of all buildings, parking areas, storefronts, sidewalks and other public areas. The borough seeks to encourage the ongoing maintenance of all commercial properties and seeks to enforce the building maintenance regulations set forth in the borough code.
C. 2003 Central Business District Plan

A Central Business District (CBD) Master Plan was adopted in 2003. All lots within the CBD area are also included in this Study Area, making the Master Plan and its vision wholly applicable. The Plan addresses the development of the Study Area in several ways. The Plan notes that the Area faces the challenge of being a linear district with disconnected storefronts, interrupted development and an uncomfortable pedestrian environment. Fortunately, the district also has great potential for redevelopment that could revitalize and activate the area with a cohesive identity and community asset.

Goals and objectives include:
- Prepare a comprehensive and coordinated long-range plan;
- Update and maintain modern codes and ordinances to ensure adequate development controls in the future;
- Promote pedestrian activity and vitality in the district with active ground floor uses, visually Interesting storefronts, window display, canopies, and signage;
- Encourage mixed-use developments and reduced setback lines to foster a continuous frontage of buildings and unify the streetscape;
- Encourage lot consolidation to enhance opportunities for infill and redevelopment where appropriate;
- Support a modest increase in intensity of use in the district to promote and sustain the revitalization of the district;
- Identify regulations and standards that will promote the rehabilitation of the buildings in the district and a diversity of architectural materials and styles;

Additionally, the Plan provides revitalization, road improvement, façade, and streetscape concepts to further the aesthetic and functional vision for the area.

C. Zoning Ordinance

The zoning map dated October 2014 for the Borough of Emerson identifies that the area is located in a number of zone districts. That portion of the area between the railroad right-of-way and Kinderkamack road, from the Oradell border north to Ackerman Street is zoned CBD-15 (Central Business District). Properties east of the rail line are zoned OSC (Open Space Conservation), LB (Limited Business), and CBD-10 (Central Business District). North of Lozier Street, properties are zoned IM, R-7.5 (Single-Family Residential), and RC (Retail Commercial). On the following page is a portion of the borough's zoning map with the study area outlined in red. Additionally the chart details the permitted uses in each zone district.
Zoning Districts

- R-22 6 Residential Single-Family
- R-10 Residential Single-Family
- R-7.5 Residential Single-Family
- LB Limited Business
- RB Residential, Single-Family and Two-Family
- RC Retail Commercial
- IM Industrial and Manufacturing
- OSC Open Space Conservation
- ML-10 Single-Family
- MS-AHO Municipally-Sponsored Affordable Housing Overlay Zone-1
- AHO Affordable Housing Overlay Zone (entire Borough)
- R-3ARCC Age Restricted Community Residence Zone
- CBD-10 Central Business District - 10
- CBD-15 Central Business District - 15
<table>
<thead>
<tr>
<th>Zone</th>
<th>Permitted Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>CBD-15</td>
<td>Retail stores; Personal service businesses; Eating and drinking establishments (except drive-ins); Professional, financial and medical offices; Multifamily residential dwellings above at-grade retail commercial and other principal permitted uses; Multifamily residential dwellings including buildings above at-grade parking, only in areas: a) north of Lincoln Boulevard where the multifamily building is behind a building that fronts on Kinderkamack Road; and b) south of Demarest Road, south of Block 610 Lot 6; Instructional</td>
</tr>
<tr>
<td>CBD-10</td>
<td></td>
</tr>
<tr>
<td>LB</td>
<td>Professional business and governmental offices; Medical and dental clinics; banks and other financial institutions; funeral homes; nursing homes; hospitals and schools</td>
</tr>
<tr>
<td>R-7.5</td>
<td>Single-family detached dwellings</td>
</tr>
<tr>
<td>IM</td>
<td>Electrical, Plumbing; Sales; essential services; furniture repair; Industrial &amp; manufacturing; printing &amp; publishing; upholstery; wholesale sales; woodworking</td>
</tr>
<tr>
<td>OSC</td>
<td>Agriculture; country clubs; golf courses (not including driving ranges); Government offices; reservoirs; ice skating rinks; swimming pools; tennis courts; parks or passive recreation; environmental centers; public and private schools; hospitals; single family detached dwelling</td>
</tr>
<tr>
<td>RC</td>
<td>Appliance Sales; automotive spare parts; banks; bakeries; barbershops and beauty parlors; book, card &amp; stationery Stores; bowling alleys; business &amp; professional offices; candy &amp; cigar stores; drug, dry goods &amp; variety stores; dry cleaners, laundries &amp; laundromats; eating and drinking places (excluding drive-thrus); florists; food stores; garden supplies; gasoline service stations; hardware stores; locksmiths; newsstands; package liquor stores; pet stores; photographic supplies and services; radio, elevations &amp; appliance services; shoe sales &amp; repair services; soda fountains; tailors and dressmakers; telephone exchange buildings; wearing apparel stores</td>
</tr>
</tbody>
</table>
VI. Subject Properties Evaluation for Compliance with Redevelopment Area

An analysis of the subject properties existing land uses, site layout and physical characteristics was conducted utilizing tax maps/records, physical inspection of the area, review of GIS data, maps and aerial photographs, Master Plan studies and Zoning Ordinance review. The Study area includes approximately 34 acres of land, where the entire municipality is approximately 1,535 acres. This translates into the study area encompassing 2.2% of the Borough's total land area. Given the diverse nature of the area from planning, circulation, use, access and location perspective, the following analysis has been divided into 6 sections as follows:
The following details the findings and observations of this analysis by tax lot for Section A. The remaining sections will be further reviewed in a subsequent report.

SECTION A: BLOCK 419

Located east of the railroad right-of-way (and Kenneth Avenue) and west of Kinderkamack Road, between Lincoln Boulevard and Linwood Avenue. This block contains a variety of uses including retail and service commercial uses, a restaurant, and detached dwellings. Generally, the circulation in this area makes pedestrian activity unsafe and unattractive.

Figure 1: Study Area parcels within Block 419 Aerial taken from Bing Maps
Description: Residential
Zone: CBD-10
Address: 19 Lincoln Blvd.

Site inspection Observations: Currently, on this site is a two-story residence. The building is situated on an undersized lot without parking. The building is in a substandard, unsafe and deteriorated condition as can be seen in the photographs below. The roof has holes in it and is caving in, the siding has numerous holes, the windows are deteriorating exhibiting water damage, and the gutters are falling down. The building is in a state of disrepair.

Environmental Issues: None

Violations: 2006-2011, property maintenance, weeds, and litter violations; 2008, building and fire code violations;
Photographs: The following photographs are from a site inspection on November 14, 2016

Evaluation: Site is considered blighted for the following reasons:

1. Deterioration. The dwelling is in a dilapidated condition as it has a crumbling roof and siding, holes in the walls, damaged gutters, deteriorated porch floor and crumbling windows, which is unsafe and substandard for occupancy. Therefore, this property is consistent with Criteria “a”.

2. Faulty arrangement. The residence is the only home located on the block, adjacent to the railroad tracks with no parking on site and little area for outdoor storage, which evinces a faulty arrangement detrimental to the safety and welfare of the community as well as creating a greater demand for on street parking, thereby have a negative impact on the surrounding properties. Therefore, this property is consistent with Statutory Criteria “d”.

3. Underutilization. The site has a improvement to land value of only .86 wherein the standard is 2.0. This is an indicator that the site is underutilized. Therefore, this property is consistent with Statutory Criteria “e”.

The property exhibits conditions consistent with Statutory Criteria “a”, “d” and “e”. This is confirmed through site inspections, as can be seen in the photographs above. In addition, this property is necessary for the effective redevelopment of the entire area.
Description: Vacant Lot was Residential
Zone: CBD-10
Address: 15 Lincoln Blvd.
Site Inspection Observations: was a one-story residence without parking and now it is an empty lot
Environmental Issues: None
Violations: previously in 2011, exterior building maintenance violations
Evaluation: Site is considered substandard for the following reasons: It was a nonconforming residential land use that was demolished. This site is currently vacant and has been for several years. Its improvement to land value ratio is only 0.043 wherein the standard for property utilization of land is a ratio of 2.0. As such it represents a significantly underutilized property in the heart of the Borough's Central Business District and Redevelopment Area. It is not developed, nor has it ever been developed consistent with the goals and objectives of the Master Plan and Central Business District Plans as detailed in this report. The property exhibits conditions consistent with Statutory Criteria “e”. This was confirmed through site inspections, as can be seen in the photographs above. In this investigation, the analysis for criteria “e” has focused both on the underutilization of the stagnant area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. In addition, given its location, this property is necessary to the effective redevelopment of the entire area.
Description: Restaurant (lot 4) with adjacent surface parking lot (lot 3)
Zone: CBD-10
Address: 9 Lincoln Blvd, / 214 Kinderkamack Rd.
Site Inspection Observations: one-story restaurant with excess lot coverage, insufficient surface parking and unsafe vehicular circulation. The building was recently renovated, however the site itself still remains inefficient.
Environmental issues: None
Violations: 2006, health department issues with grease on sidewalk; 2006, illegal signs; 2007, illegal parking and selling of vehicles on site; 2008, building maintenance; 2009, signage and lighting issues; 2009-2011, litter and weeds; 2009, failure to shovel snow; 2010, property to be boarded up and secured; 2014, signage; 2014, hazardous sidewalk; 2014, tall weeds/grass.
Photographs: The following photographs are from a site inspection on November 14, 2016.

Evaluation: Site is considered substandard for the following reasons: The site exhibits faulty arrangement that is characteristic of meeting Statutory Criteria “d”. This is due to the fact that the site was developed as one lot and not as a comprehensive plan. The faulty arrangement is due to the size and use of the building on site. This creates a site with an inefficient layout and lack of parking which creates a greater demand for on-street parking, thereby having a negative impact on surrounding properties and the area. In this investigation, the analysis has focused on the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. Further, Section 3 of the LRHL (N.J.S.A 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating “a redevelopment area may include land, buildings or improvements, which of themselves are not detrimental to the health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their conditions, for the effective redevelopment of the area in which they are a part. The property exhibits some conditions consistent with Statutory Criteria “d”, which creates a greater demand for on-street parking, thereby having a negative impact on surrounding properties.
Description: Mixed -Use building
Zone: CBD-10
Address: 200 Kinderkamack Rd.
Site Inspection Observations: This site was previously an abandoned one-story structure, in deteriorating condition with roof and façade repairs needed and site maintenance lacking with weeds and debris. It has since been redeveloped.
Environmental Issues: on 2008 list of known contaminated sites in the State. It is still an active NJMES site, site ID # 452277 with ground water contamination. The report and map from the NJDEP is located in the appendix. Violations: 2006-2013, tall grass and weeds, illegal parking; 2006, building maintenance issues; 2010-2012, building maintenance issues; 2015, signage
Photographs: The following photographs are from a site inspection on November 14, 2016
Evaluation: Site is considered substandard for the following reasons:

1. The site exhibits faulty arrangement that is characteristic of meeting Criteria “d”. However this is due to the fact that the site was redeveloped as one lot and not as a comprehensive plan. The faulty arrangement is due to the size and location of the building on site. This creates a site with an inefficient layout, however there is an opportunity to improve the circulation on and off site and improve the parking design. This can be done by cross circulation easements to adjacent parcels and with keeping all the improvements in tact and in a manner consistent with the redevelopment plan goals and objectives.

2. The site’s land to improvement value ratio is 1.68, lower than the standards of 2.0. This is an indicator that the site is being underlined. While a majority of the lots in the study area do not meet the 2.0 standard, the average ratio for commercial lots outside the study area is 2.11. In this investigation, the analysis for criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.

Further, Section 3 of the LRHL (N.J.S.A. 40A:12A-3) allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating “a redevelopment area may include land, buildings or improvements, which of themselves are not detrimental to the health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their conditions, for the effective redevelopment of the area in which they are a part. The property exhibits some conditions consistent with Statutory Criteria “d” and “e”. However, while the lot is necessary to effectuate the redevelopment plan, it is not necessary to remove the newly developed building.
Description: Commercial
Zone: CBD-10
Address: 190 Kinderkamack Rd.
Site Inspection Observations: one-story structure with liquor store and cleaner. The site is not undersized for the zone, however the current building/uses create the need for outdoor storage of materials adjacent to vehicle circulation aisles. The site in general has unsafe vehicular circulation resulting from undefined curb cut, and parking spaces that allow a vehicle to back directly onto Kinderkamack Road, excess signage, unmaintained parking lot with potholes
Environmental Issues: It is still an active NJMES site, site ID # 12270. The report and map from the NJDEP is located in the appendix.
Violations: 2010, property maintenance; 2011, tail grass/weeds; 2013, signage
Photographs: The following photographs are from a site inspection on November 14, 2016
Evaluation: Site is considered substandard for the following reasons:

1. The site exhibits faulty arrangement that is characteristic of meeting Statutory Criteria "d". The Faulty arrangement is due to the size and location of the building on site. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building size, there is a need for outdoor storage and display as can bee seen from the photographs. The lack of a curb cut is of typical of modern planning standards.

2. The site's land to improvement value ratio is 1.23, clearly lower than the standards of 2.0. This is an indicator that the site is being underlined. While a majority of the lots in the study area do not meet the 2.0 standard, the average ratio for commercial lots outside the study area is 2.11. In this investigation, the analysis for Statutory Criteria "e" has focused both on the underutilization of the area and the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. In addition, given the lot's location, this property is necessary for the effective redevelopment of the entire area.

The property exhibits conditions consistent with Statutory Criteria "d" and "e". This confirmed through site inspections, as can be seen in the photographs above.
Description: Mixed use Commercial/Multi-family residential
Zone: CBO-10
Address: 184 Kinderkamack Rd.
Site Inspection Observations: two-story structure on an undersized lot with ground floor commercial and five residential units above with on-site surface parking. Parking and sidewalk appears to be poorly maintained with un-delineated parking spaces, unpaved areas and potholes, weeds growing through the asphalt and a light pole in the middle of the lot impeding movement. The deteriorating façade has holes in the siding, and boarded up windows. All the windows are covered, with and deteriorating panes. The guardrail adjacent to the circulation aisle is deteriorated to the point it is falling apart.
Environmental issues: None
Violations: 2007, dumpster to be enclosed; 2007-2008 derelict and abandoned vehicles; 2008, potholes on site; 2008-2011, property maintenance issues; 2010-2013, weeds and tall grass; 2012, dumpster enclosure to be repaired; 2013, potholes on site
Photographs: The following photographs are from a site inspection on November 14, 2016

Evaluation: Site is considered substandard for the following reasons:

1. Deterioration. The building is dilapidated as evidenced by crumbling siding, holes in the walls, damaged gutters, deteriorated crumbling and boarded up windows. Moreover, the building appears to have not been properly maintained as illustrated in the photographs above. Additionally, the deteriorated and unsafe sidewalk and parking area have negative impacts on the public and surrounding properties by creating a greater demand for on-street parking. As such, Statutory Criteria “a” is met.

2. Underutilization. The site has a improvement to land value of only .78 wherein the standard is 2.0. This is an indicator that the site is underutilized. Statutory Criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the buildings deterioration creates a property that has become stagnant and unproductive because of issues with [title/diversity of ownership/or other conditions]. Therefore, no improvement can occur without redevelopment and given the lot’s location, this property is necessary for the redevelopment of the entire area.

The property exhibits conditions consistent with Statutory Criteria “e” and “e” This confirmed through site inspections, as can be seen in the photographs above.
Description: Public parking and ambulance Corps building
Zone: CBD-10
Address: 9 Kenneth Ave.
Site Inspection Observations: The lot has been the site of the Borough’s commuter parking area and the Ambulance corps building for years as seen in the photographs below.
Environmental Issues: None
Photographs: The following photographs are from a site inspection on November 14, 2016.
Evaluation: Site is considered substandard for the following reasons: This site is currently utilized for surface parking area. The improvement to land value is only 0.27 where a standard of 2.0 is considered appropriate for land. As such it represents an underutilized property in the heart of the Borough's Central Business District and Redevelopment Area. It is not developed, nor was it ever developed consistent with the goals and objectives of the Master Plan and Central Business District Plans as detailed in this report. The property exhibits conditions consistent with Statutory Criteria "e". This confirmed through site inspections, as can be seen in the photographs above. In this investigation, the analysis for criteria "e" has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough's land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development.
Description: Restaurant commercial
Zone: CBD-10
Address: 182 Kinderkamack Rd.

Site Inspection Observations: one-story multi-tenant commercial building with on-site parking that is poorly controlled with a wide curb cut and excess lot coverage. While the front of the building appears to be in adequate condition, the rear of the building is deteriorating.

Environmental Issues: None

Violations: 2007 property maintenance issues; 2008 potholes on site; 2009 dumpster to be enclosed; 2010 litter and tall grass/weeds, dumpster enclosure; 2011, remove drum and debris; 2011, improper use (dine-in); 2011, signage; 2013, signage; 2013, repair dumpster enclosure; 2015, signage

Police Activity:

Photographs: The following photographs are from a site inspection on November 14, 2016
Evaluation: Site is considered substandard for the following reasons:

1. Deterioration. The building is dilapidated as evidence by crumbling concrete, holes in the walls, damaged gutters, and deteriorated crumbling windows. The building appears to have not been properly maintained as illustrated in the photographs above. Additional the deteriorated parking area, and sidewalk have negative impacts on the public. Therefore, Statutory Criteria “a” is met.

2. Improper layout. The front of the site has an undefined curb cut, which allows for vehicles to back into Kinderkamack Road. Further the rear of the site has a faulty arrangement due to lacks parking and the proper drive aisles. If the parking spaces are utilized a vehicle has to back out onto the adjacent lot to exit the site thus, creating a negative Impact to the adjacent property. Therefore, Statutory Criteria “d” is met.

3. Underutilization. The site has an improvement to land value of only 1.5 wherein the standard is 2.0. This is an indicator that the site is underutilized. Criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. it has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the buildings deterioration creates a negative impact on the area.

The property exhibits conditions consistent with Statutory Criteria “a”, “d”, and “e” This confirmed through site inspections, as can be seen in the photographs above.
Description: Restaurant commercial
Zone: CBD-10
Address: 176 Kinderkamack Rd.
Site Inspection Observations: one-story multi-tenant commercial building with excess coverage and on-site parking that is poorly controlled with a wide curb cut and stacked parking. Weed overgrowth.
Environmental Issues: on 2008 list of known contaminated sites in the State. It is still an active NJMES site, id # 42778 with ground water contamination. The report and map from the DEP is located in the appendix.
Evaluation: Site is considered substandard for the following reasons:

1. Deterioration. The building is dilapidated as evidenced by crumbling concrete, holes in the walls, damaged gutters, and deteriorated crumbling windows. The building appears to have not been properly maintained as illustrated in the photographs above. Additional the deteriorated parking area and sidewalk which have negative impacts on the public. Therefore, Statutory Criteria "a" is met.

2. Improper layout. The front of the site has an undefined curb cut, which allows for vehicles to back into Kinderkamack Road. Further there exists faulty arrangement in the rear of the site and lacks parking and the proper drive aisles. If the parking spaces are utilized a vehicle has to back out onto the adjacent lot to exit the site. Therefore, Statutory Criteria "d" is met.
3. Underutilization. The site has an improvement to land value of only 0.48 wherein the standard is 2.0. This is an indicator that the site is underutilized. Criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the building’s deterioration creates a property, which is stagnant and unproductive. Given its location, this property is necessary for the effective redevelopment of the entire area. Therefore, Statutory Criteria “d” is met.

The property exhibits conditions consistent with Statutory Criteria “a”, “d” and “e” This confirmed through site inspections, as can be seen in the photographs above.
Description: commercial
Zone: CBD-10
Address: 78 Linwood Ave.
Site Inspection Observations: Currently on the lot is a one-story multi-tenant commercial building on an undersized lot with insufficient on-site parking
Environmental Issues: None
Violations: 2007, weeds and tall grass; 2009, signage; 2009, dumpster enclosure; 2010, property maintenance; 2014, signage
Photographs: The following photographs are from a site inspection on November 14, 2016.
Evaluation: Site is considered substandard for the following reasons:

1. The site exhibits faulty arrangement that is characteristic of meeting Criteria “d”. The faulty arrangement is due to the size and location of the building on site. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building size, there is a need for outdoor storage and display. The lack of a curb cut is of typical of modern planning standards. Therefore, Statutory Criteria “d” is met.

2. Underutilization. The site has an improvement to land value of only 0.65 wherein the standard is 2.0. This is an indicator that the site is underutilized. Criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. While the concept of mixed use is contemplated by the plan, the buildings deterioration creates a property. Moreover, given the lots location it is necessary for the effective redevelopment of the entire area. Therefore, Statutory Criteria “e” is met.

The property exhibits conditions consistent with Statutory Criteria “d” and “e”. This confirmed through site inspections, as can be seen in the photographs above.
VII. Conclusion

This preliminary investigation reveals several key findings that indicate and verify that the proposed redevelopment area meets the statutory criteria found in N.J.S.A.40A:12A-5 of the Local Redevelopment Law. In general, the properties have a deleterious impact on the surrounding areas.

A majority of the Study Area exhibits faulty arrangement that is characteristic of meeting Criteria “d”. The faulty arrangement is due to the size and location of the buildings, lack of parking and improper circulation aisles. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building sizes on a number of lots, there is a need for outdoor storage and display. Further the lack of a curbing along Kinderkamack Road creates safety issues with un-channeled vehicles exiting and entering the sites and/or backing out onto Kinderkamack Road.

Of the entire study area, only 10 of the 82 properties have an improvement to land value ratio of 2:1 or greater. That is only 12.5 percent of the entire study area that meets the standard. This is compared to the fact that the remaining commercial properties within the Borough have a ratio of 2:1. This fact combined with the fact that a majority of the study area exhibits poor design and arrangement are indicators that the study area is not being properly utilized and exhibits economic underutilization. This is an indicator that the area as whole is underutilized. Criteria “e” has focused both on the underutilization of the area but also the broader land use and planning goals of the municipality. It has concluded that the area as a whole is not developing in a manner that furthers or is consistent with the Borough’s land use plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development. Lastly, when analyzing the entire area, it is concluded that these parcels are necessary for the effective redevelopment of the entire area as a whole.

The proposed designation of the above-mentioned area as “Area In Need of Redevelopment” would allow for the creation of a Redevelopment Plan for the area that can encourage creative design, require streetscape improvements, and permit uses that will be compatible with the area’s proximity to the train station. These changes would be compatible to the vision of the Master Plan and in keeping with the Smart Growth principles of the State Plan.

VIII. Recommendation

Based on the findings of this preliminary investigation, the recommendation to the Borough of Emerson Planning Board is to forward these findings and recommendations to the Municipal Council. All the properties within the proposed area clearly meet the statutory criteria needed to establish a redevelopment area. Therefore, the Municipal Council of the Borough of Emerson has the authority to reconfirm this area as an “Area in Need of Redevelopment”, and to authorize the Borough to use all those powers provided by the Legislature for use in a redevelopment area, including the power of eminent domain (“Condemnation Redevelopment Area”).

Once the area designation is formally reconfirmed, the Council should authorize a process by which the Planning Board, the public and municipal professionals establish a redevelopment plan for the area. A resolution will be needed authorizing Planning Board to develop such a plan.
Appendices

1. Governing Resolution
2. Police Records
3. NJDEP Environmental Reports and Map
BOROUGH OF EMERSON  
COUNTY OF BERGEN, NEW JERSEY  
RESOLUTION  
No: 221-16

Subject: Resolution Of The Mayor And Council Of The Borough Of Emerson Directing The Land Use Board To Conduct A Supplemental And Preliminary Study To Determine If An Area Is In Need Of Redevelopment

WHEREAS, on February 3, 2004 the Governing Body adopted a Resolution No. 50-04 of the Borough of Emerson ("Borough") pursuant to the Local Redevelopment and Housing Law ("LRHL"); N.J.S.A. 40A:12A-1, et seq., authorizing the Emerson Planning Board ("Board") to conduct a preliminary investigation as to whether the following Blocks or portions thereof: 412, 419, 420, 422, 603, 610, 613, 615, 616, and 617.01, on the official tax map of the Borough and located in the downtown central business district, met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson conducted the requested analysis and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all properly noticed, to determine whether the studied properties met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a Resolution on September 7, 2004 recommending that the Mayor and Council designate the studied properties as "an area in need of redevelopment"; and

WHEREAS, the Mayor and Council adopted a Resolution No. 199-04 on September 7, 2004 designating Block 412, Lots 1, 2, 3, 4 & 5; Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10; Block 420 Lots 2 & 16; Block 422, Lots 1, 10, 11, 12, 13, 14, 15, 16, 17 & 18; Block 603, Lots 2,3,4,5 & 6; Block 606, Lots 3 & 4; Block 610, Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02 & 10; Block 613, Lots 1 & 2; Block 615, Lot 1; Block 616, Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24; Blocks 617.01, Lot 1 as "an area in need of redevelopment"; and

WHEREAS, on May 6, 2008, the Governing Body adopted a Resolution No. 92-08 pursuant to N.J.S.A. 40A:12A-4(a)(1), authorizing the Emerson Planning Board ("Board") to conduct a supplemental investigation as to whether the existing properties should remain designated as "an area in need of redevelopment" and to conduct a preliminary investigation to determine if the following additional properties Blocks or portions thereof: 213, 214, 405, 616, 617.01, located in the downtown central business district, met the statutory criteria to be designated as "an area in need of redevelopment"; and

WHEREAS, the Planning Board of the Borough of Emerson adopted a Resolution on December 4, 2008 recommending that the existing area remains to be in need of redevelopment and recommending that the Mayor and Council designate the additional studied properties as "an area in need of redevelopment"; and
WHEREAS, on July 8, 2015 the Borough of filed a Declaratory Judgment Action in the Superior Court of New Jersey Bergen County in furtherance of the Supreme Court’s March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the “Supreme Court Decision”); and

WHEREAS, By Court Order dated August 3, 2016, the Superior Court has extended the Borough of Emerson’s temporary immunity to October 31, 2016, while the Borough continues to prepare a Housing Element and Fair Share Plan as directed in the Supreme Court Decision; and

WHEREAS, the Court’s extension of temporary immunity was granted on the condition that the Borough of Emerson participates in mediation initiated by the Court-appointed Special Master; and

WHEREAS, the Court-appointed Special Master has requested the Borough of Emerson explore potential zoning changes and additional development opportunities to address the Borough’s unmet need; and

WHEREAS, in an effort to fulfill this obligation the Mayor and Council have determined that a supplemental study of the properties be conducted to ensure its compliance with the LRHL and that a preliminary investigation of additional properties be conducted for the potential redevelopment to fulfill the Borough’s affordable housing requirement;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Emerson that the Land Use Board is hereby directed and authorized to examine whether the area comprising of the following blocks and lots on the official tax map of the Borough meet the statutory criteria to be deemed as “an area in need of redevelopment” pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.:

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<td>405</td>
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Agenda No. 16

BE IT FURTHER RESOLVED THAT the Borough hereby states that any redevelopment area determination shall authorize the municipality to use all those powers provided by the Local Redevelopment and Housing Law for use in a redevelopment area, including the use of eminent domain; and

BE IT FURTHER RESOLVED THAT the Borough Land Use Board shall undertake such a supplemental and preliminary investigation in accordance with the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., including but not limited to issuing all required notices, conducting a public hearing, and thereafter submitting its report containing its recommendations to the Mayor and Council; and

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

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I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on August 16, 2016.

Attest:  
Municipal Clerk
To: Chief Rossi
From: Sgt. Rocco Duardo #831
Date: 8/16/2016
Subject: Motor Vehicle Crashes on Kinderkamack Road

Chief Rossi,

I have researched our database pertaining to motor vehicle crashes that have occurred on Kinderkamack Road which is a county roadway. Unfortunately our digital records start on November 14, 2010 to the present day. I have broken it down by years and have given you the total of motor vehicle crashes that occurred on Kinderkamack Road:

11/14/2010 to 12/31/2010: we had ten motor vehicle crashes.

2011: we had a total of one hundred and six motor vehicle crashes.

2012: we had a total of one hundred and five motor vehicle crashes.

2013: we had a total of one hundred motor vehicle crashes.

2014: we had a total of one hundred and twenty three motor vehicle crashes.

2015: we had a total of eighty motor vehicle crashes.

1/1/2016 -- present: we had a total of fifty nine motor vehicle crashes.

Thanks,

Sgt. Rocco Duardo #831
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### 2013 to Present

#### Arrests

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<td>Boro Ordinance Violation</td>
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<td>Sex Assault</td>
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<td>City</td>
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**More Information For This Site**

| Program Interest Name      | GEORGES EMERSON                                 |
| Program Type               | SRP-PI                                          |
| Preferred ID Number        | 000535                                          |
| Active                     | Y                                               |
| Program                    | SR                                              |
| Start Date                 | 2/22/1999 12:00:00 AM                           |

**More Information For This Site**

| Program Interest Name      | FORMER CITGO/SUPER VALUE INC                    |
| Program Type               | HW GENERATOR                                    |
| Preferred ID Number        | NJ0000381152                                    |
| Active                     | N                                               |
| Program                    | HW                                              |
| Start Date                 |                                                 |
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<tr>
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<td>Case Tracking Number</td>
<td>508</td>
</tr>
<tr>
<td>Name</td>
<td>Citgo Service Station Emerson Boro</td>
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<tr>
<td>CEA Name</td>
<td>Citgo Service Station Emerson Boro</td>
</tr>
<tr>
<td>Address</td>
<td>200 Kinderkamack Rd</td>
</tr>
<tr>
<td>Block / Lot</td>
<td>419-5-420-16</td>
</tr>
<tr>
<td>Municipality</td>
<td>Emerson Boro</td>
</tr>
<tr>
<td>County</td>
<td>Bergen</td>
</tr>
<tr>
<td>Program</td>
<td>LSRP</td>
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<td>Established Date</td>
<td>1/9/2002 12:00:00 AM</td>
</tr>
<tr>
<td>CEA Description</td>
<td>CEA includes area of former tank field and pump island on eastern portion of the site and continues off-site across Kinderkamack Road to include a portion of the downgradient property.</td>
</tr>
<tr>
<td>Restriction Depth (ft)</td>
<td>50.000</td>
</tr>
<tr>
<td>Duration (yrs)</td>
<td>8</td>
</tr>
<tr>
<td>Well Restriction Area (WRA)</td>
<td>Yes</td>
</tr>
<tr>
<td>Groundwater Classification</td>
<td>II-A</td>
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<tr>
<td>Geologic Formation</td>
<td>Glacial Drift</td>
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<tr>
<td>Ground Water Flow Direction</td>
<td></td>
</tr>
<tr>
<td>Benzene</td>
<td>Yes</td>
</tr>
<tr>
<td>Methyl Tertiary Butyl Ether (MTBE)</td>
<td>Yes</td>
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<tr>
<td>t-Butyl Alcohol (TBA)</td>
<td></td>
</tr>
<tr>
<td>Trichloroethene (TCB)</td>
<td></td>
</tr>
<tr>
<td>Tetrachloroethene (PCE)</td>
<td></td>
</tr>
<tr>
<td>Chloroform</td>
<td></td>
</tr>
<tr>
<td>Carbon tetrachloride</td>
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<tr>
<td>Vinyl chloride</td>
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<td>Naphthalene</td>
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<tr>
<td>Benzo[a]pyrene</td>
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</tr>
<tr>
<td>Lead (Pb)</td>
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<tr>
<td>Arsenic</td>
<td></td>
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<td>Chromium</td>
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<td>Cadmium</td>
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<td>Mercury</td>
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<tr>
<td>Tentatively Identified Compounds (TICs)</td>
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<tr>
<td>Volatile Organics (VOs)</td>
<td>Ethylbenzene, Xylenes (total)</td>
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<tr>
<td>Base/Neutrals (BNa)</td>
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<td>Metals</td>
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<td>Pesticides</td>
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<td>Polychlorinated Biphenyls (PCBs)</td>
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<td>Dioxin</td>
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<tr>
<td>Radionuclides</td>
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<tr>
<td>Free Product</td>
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<td>Historic Fill</td>
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<tr>
<td>Other Contaminants</td>
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## Details of " NJEMS Sites "

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<td>12270</td>
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<td>Site Name</td>
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<td>Address Line 1</td>
<td>190 KINDERKAMACK RD</td>
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<tr>
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<tr>
<td>City</td>
<td>EMMERSON</td>
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<td>ZIP Code</td>
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<td>NJSPC Northing (Y)</td>
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<td>Preferred ID</td>
<td>000535</td>
</tr>
<tr>
<td>Subject Item ID</td>
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</tr>
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<td>419-5;420-16</td>
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<td>Emerson Borough</td>
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<tr>
<td>Acres</td>
<td>0.32774571</td>
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## Details of "NJEMS Sites"

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<td>Site Name</td>
<td>BILLS TIRE &amp; AUTO</td>
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<td>Address Line 1</td>
<td>176 KINDERKAMACK RD</td>
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<tr>
<td>Address Line 2</td>
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</tr>
<tr>
<td>City</td>
<td>EMMERSON</td>
</tr>
<tr>
<td>ZIP Code</td>
<td>07630</td>
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<td>EMMERSON BORO</td>
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<tr>
<td>NJSPC Easting (X)</td>
<td>622,736.000</td>
</tr>
<tr>
<td>NJSPC Northing (Y)</td>
<td>780,623.000</td>
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### More Information For This Site

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EXHIBIT C
BOROUGH OF EMERSON
MUNICIPAL LAND USE BOARD MEETING

TRANSCRIPT
OF
PROCEEDINGS

Thursday, December 8, 2016
Emerson-Junior Senior High School
131 Main Street
Emerson, New Jersey 07630
Commencing at 8:15 p.m.

BOARD MEMBERS PRESENT:

GARY SCHWINDER, CHAIRMAN
EVAN KUTZIN
THOMAS SUDANO
GARY GOURSKY
MAYOR LOUIS LAMATINA
DOUG MCKENDRY
ROBERT ADAMS
STEVE MALONE

ALSO PRESENT:

Christopher F. Martin, Esq., Board Attorney
Doug Doyle, Esq., Board Redevelopment Counsel
Gary Ascolese, Engineer
Brigette Bogart, Planner
Board Secretary

TRINA B. OTHA
CERTIFIED COURT REPORTER
New York
Connecticut

Hudson Reporting & Video
Nationwide 1-800-310-1769

New Jersey
Pennsylvania
MR. SCHWINDER: Good evening, and welcome to the Thursday, December 8, 2016 meeting of the Borough of Emerson Land Use Board. Before we begin with tonight's agenda, we would like to notify the public that one of the items on tonight's agenda is a public hearing. The Board will consider whether or not a certain area meets the statutory criteria under New Jersey Local Redevelopment and Housing Law to continue to be designated as a Condemnation Redevelopment Area.

Please be advised that due to the numerous blocks and lots that comprise the area, the Board will only be reviewing, hearing, and taking into consideration the following block and lots at tonight's meeting. Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9, and 10. If you are the property owner and/or person in interest affected by the potential designation of any one of these aforementioned properties, then you are invited to comment before the Board when the opportunity is provided. If you are not a property owner and/or a person of interest that may be affected by designation of a specific area being considered, then you are invited to remain for the hearing, however, please note that any information and/or testimony relating to any of the other blocks and lots will not be tonight, but at a future Board meeting where notice will be provided in the same manner as required by law notifying all property owners and/or persons of interest, at which time the Board will consider the other properties.

Also the Land Use Board has been directed by the Mayor and Council to review certain additional amendments to the Borough's Redevelopment Plan. The Land Use Board has already provided its report recommending certain amendments, and will only be reviewing two additional amendments tonight.

Specifically, we will consider an amendment requiring a minimum five-foot setback on the facade of fourth floor of buildings facing Kinderhook Road, and an amendment to the parking requirement that require the Board to retain a consultant for certain applications. These are the only amendments that the Board will review tonight, as the Board has previously reviewed and recommended other amendments contained within the proposed ordinance.

The Board will begin hearing a presentation from Brigitte Bogart, the Borough's planner, as well as any person willing to comment and aid the Board in its recommendation to the Mayor.

New York
Connecticut
Hudson Reporting & Video
Nationwide 1-800-310-1769
New Jersey
Pennsylvania
and Council. Thank you for your cooperation, and we will now begin the regular agenda of tonight's meeting. And I ask anybody who has a cell phone, please silence it right now so we don't hear any phones going off during the meeting.

The first item on the agenda is the approval of the minutes of November 10th. Everybody should have received a copy of the minutes. At this point in time I will entertain any comments, changes, or corrections from any Board member. Do you have any comments, changes, or correction? Not hearing any responses, I'd like to entertain a motion to accept the minutes as prepared.

(Motion made and seconded; all in favor.)

MR. SCHWINDER: Minutes are approved.
BOARD SECRETARY: No correspondence; we do have vouchers.
(Vouchers were read, totaling $8,360.58.)
MR. SCHWINDER: I will entertain a motion to approve the vouchers.
(Motion made and seconded; all in favor.)

MR. SCHWINDER: Vouchers approved.
Next on the agenda is a resolution for

118 Eagle Drive. This is the Kim residence, and the family had applied for a rear yard setback, which we approved at the last meeting. So tonight we will be memorializing that particular approval in the form of a resolution, which everybody should have received by e-mail. If anyone has any comments, changes, or corrections, please state them now.

MR. MARTIN: Mr. Chairman, just for the record that includes 19.1, I believe, percent of impervious surface where 15 is the permitted. And also in the right side of the building, if you're looking directly at the front door from the street, there should be no structures in that eight-foot zone between the property line and the structure.
The air conditioning units will have to go over on —

MR. SCHWINDER: The left side —

MR. MARTIN: On that side, it has to be screened and adjacent to the structure and in accordance with Mr. Ascolese's approval. That's the basis of the resolution.

MS. SCHWINDER: Thank you very much.

Any other comments?

M. GOURSKY: What was determined with the front tree.
1. A. Okay.
2. Q. I don't think there will be a problem with that. That's what you're going to have to do.
3. A. Okay.
4. Q. And then the application is required for the logo, under Chapter 232-2 Section 3, that's why you're here. And finally, the -- the sign is in conformance --
5. MR. ASCOLESE: Yes.
6. MR. MARTIN: The sign's shape and size, you know, parameters, diameter, the whole thing, is subject to 232-3, Section F. The maximum size of 24 feet, Mr. Ascolese, that's all been confirmed?
7. MR. ASCOLESE: The sign is in compliance, yes.
8. MR. MARTIN: So it comes down to the Board's feeling on the logo, I believe --
9. MR. ASCOLESE: That is correct.
10. MR. MARTIN: -- and the fact that the entire sign should not be eight inches beyond the side, correct --
11. MR. ASCOLESE: Mr. Chairman and Board attorney, this dimension of five inches, according to the code, from the building to the outside can't be more than eight. So if this is five inches, the maximum distance is going to be three. All right?
12. A. Okay.
13. MR. SCHWINDLER: If there is any question you have your contractor give Mr. Ascolese a call, and he'll be happy to go over the details.
15. MS. SCHWINDLER: Everybody should have received a copy of the logo and how it would look superimposed on the building. And I'd like to entertain any comments that the Board might have, or questions that you might have of the applicant.
16. MR. GOURSKY: It's illuminated behind the whole sign, all the letters also, or is it --
17. A. I believe it's front illuminated, so it's coming outward, not backward.
18. MR. SCHWINDLER: Backlit.
19. MS. GOURSKY: Same with the logo, I guess, a light behind it or --
20. A. Yeah.
21. MR. GOURSKY: Okay, great. Thank you.
22. MR. KUTZIN: I guess we're approving the logo aspect of it, primarily. It looks like a flower. Is there a concept to that? What exactly
1. after the 10th, after January 10th?
2. MR. SCHWINDER: Right. But you
3. tell your contractor that you received the necessary
4. approval so he can, basically, start acquiring the
5. materials and getting stuff ready.
6. A. Okay.
7. MR. MARTIN: And get a card from
8. Mr. Ascolesto so the contractor can get hold of him
9. and maybe he can get going now, okay?
10. A. Okay.
11. MR. MARTIN: W-A-R-N-E-R, and then
12. A-L-I-S-O-N?
14. MR. SCHWINDER: And welcome to
15. Emerson, and good luck with your business.
16. MS. WARNER: Thank you very much.
17. ***
18. MR. SCHWINDER: We have the room until
19. 11 o'clock, at which time we have to pack up and get
20. out so the custodians can clean up and finish their
21. work in the building. So we will be looking to try
22. to complete the meeting a short time before that so
23. we're not here until 11:30.
24. The next part of the meeting today is the
25. public hearing to consider recommending to the

1. to have — I'd like to accept a motion to open up
2. to the public on this application, and this
3. application only.
4. (Motion made and seconded; all in favor.)
5. MR. SCHWINDER: Okay, we're open to
6. the public, the application for the Pilates business
7. that plans to open at the ShopRite shopping center.
8. Anybody have any comments?
9. Not seeing anybody standing or raising
10. their hand, I'd like to entertain a motion to open
11. to the public on this application.
12. (Motion made and seconded; all in favor.)
13. MR. SCHWINDER: We are closed to the
14. public, and now we can vote on the motion before us.
15. Roll call, please.
16. (Roll call; all in favor.)
17. MR. SCHWINDER: You are approved.
18. A. Thank you very much.
19. MR. SCHWINDER: You're very welcome.
20. At our January 5th meeting, there will be a
21. resolution memorializing our decision. You do not
22. have to attend that, but it wise for you at some
23. point in time to pick up a copy of the memorialized
24. plan — of the memorialized resolution.
25. A. Okay. So I'm not going that until
MR. SCHMIDT: COAH, please --

MR. DOYLE: COAH is the Council on

Affordable Housing.

MR. SCHMIDT: Thank you.

MR. DOYLE: As some of the people in

the public may know, the Governing Body is under a
duty to provide affordable housing. There is a
summary of what's happening, and during a break I'd
invite people to come up and get a copy. In

addition, the study that was performed by Bridgette
Bogart is up here, and you're welcome to get a copy

of that as well.

As I indicated, those lots in Block

419 are the only properties that we're going to be
discussing tonight. You may have received notice,
either through publication by seeing it in the
paper, or by certified mail at your home or place of
business, wherever you're registered in our tax
office. If you're not one of those lots and blocks,
you're welcome to stay tonight and certainly listen,
to hear what has to be said and the continued hearings.

If you do not want to stay, you will receive
subsequent notice in the identical way you received
notice for this evening's meeting. No action will
be taken with respect to your property until you

receive notice once again, and you have an
opportunity to appear, hear testimony, and have an
opportunity to share whatever comments or objections
you may have at that time.

With respect to Block 419, Lots 1, 2,
3, 4, 5, 6, 601, 602, 7, 8, 9, and 10, we hope to
conclude our hearing this evening. If we don't, you
will not receive any further notice. So you will
need to come back at the next Land Use Board
meeting, the next regularly scheduled Land Use Board
meeting. If you are one of those lots in that lot,
you will not receive any other further notice with
respect to this hearing.

Now, having said that, I'd like to
have your planner sworn at this time.

(Whereupon, BRIGETTE BOGART,
was duly sworn.)

MR. MARTIN: For the record, can you
state your name and business address?

MS. BOGART: Brigette Bogart,
B-O-G-A-R-T, business address is
548 Godwin Avenue, Suite 2, in Midland Park, New
Jersey.

MR. MARTIN: And do you want to go
over some brief qualifications and --
Q. And did you record your observations when you did that?
A. Yes.
Q. And is that reflected in LUB-1?
A. Yes.
Q. As to each and every individual property?
A. Yes.
Q. Did you have an opportunity to either inspect them inside or at the rear of the buildings as well?
A. Yes.
Q. And how many times do you recall doing that?
A. At least three.
Q. And do you recall your most recent visit to all of those properties?
A. It was November 14th, November 29th, and then as recently as today, so the last three recent visits.
Q. As a result of your visit today, is there any changes that you would want to make to LUB-1?
A. No. As within the last 10 to 15 years, the development and the existing building conditions have remained similar.
Q. And they remain similar as of today?
A. Correct.
Q. Are you familiar and have you familiarized yourself with the legal standards or criteria necessary in order to declare an area in need of redevelopment?
A. Yes, I'm very familiar with it.
Q. And can you walk this Land Use Board through what those standards and criteria are under the law?
A. Sure. And they're delineated on page 3 of the report. So if you could look at the report as I'm speaking, it may give you a little more insight into the area.
There are eight conditions that are set forth in the local Redevelopment Housing Law.
The study area, you only meet one of those conditions, and not all of those properties has to meet those conditions, just some of them, and I'm going to get into that in a second.
But first I'd like to go through the eight criteria, and then just talk a little bit about the criteria that I utilized in this analysis.
So they've identified A through H. The first,
starting with criteria A, and this is important, the
generality of buildings are substandard, unsafe,
unsanitary, dilapidated or obsolete, or possess
any such characteristics, that are so lacking in
air, light, or space be conducive of unwholesome
living or working conditions. Now, this is
important because I relied on this criteria when
analyzing the subject area. And when I go through
the report, I'll show you lot by lot why I relied on
that criteria.
Criteria B, I did not rely on, but it
designates the discontinuance of the use of
buildings previously used for commercial
manufacturing, or industrial purposes. So,
basically, vacant buildings. I did not rely on that
criteria going through this analysis.
Criteria C is land owned by a
municipality, county, a local housing authority, a
redevelopment agency or redevelopment entity, or
improved vacant land that has remained so for a
period of ten or more years. Now, within the study
area, we do have a borough on a piece of property
and we do have a borough on a right of way, however,
I did not rely on Criteria C either.
The next two, Criteria D and E, I

relied in my analysis – I wouldn't say heavily, but
I think they're very important to the analysis of
the area. So first, starting with Criteria D, and I
utilized them together, and I'll explain that in
second. But Criteria D says, areas with buildings,
improvements by reason of dilapidation,
obsolescence, overcrowding, faulty arrangement or
design, which is important to what we're looking at
9
9
tonight, lack of ventilation, light and sanitary
facilities, excessive land coverage, which is also
important, deleterious or use or obsolete layout,
also important to the study area that we're looking
at this evening, or a combination of all these
factors that are detrimental to the safety, health,
morals, and welfare of the community. And I think
this is key to the study.

And as I just mentioned, there's a
combination of Criteria D and Criteria E that are
important to the Borough of Emerson and the study
area, specifically Block 419. Criteria E says, a
growing lack of proper utilization of the area, and
that goes back to faulty arrangement or faulty
design criteria, and it's caused by a condition of
either the title, the diverse ownership of the real
property or conditions therein, which impedes upon
the land assembly or discourages the undertaking of
improvements, resulting in a stagnant, notfully
productive condition of land potentially useful or
valuable for contributing or serving the public
health, safety, and welfare. And the reason I say
that Criteria E is very important is that when I got
into the report, you'll see that there are a number
of master plan documents and Borough documents from
2003, the minimum, to today that say that the
Central Business District should be developed with
mixed use, should be — that the heart of the
downtown should have safe pedestrian ways, should be
an economically viable Central Business District.
And from the 2003 documents, 13 years later to
today, none of that has fulfilled itself. So you'll
see through the tax records analysis and the master
plan analysis that Criteria E is met in a number of
different lots.

Criteria F and Criteria G were not
utilized in this analysis, and I'm not sure it's
necessary to go into it, but they're listed on page
22.

Criteria H is important. It talks
about smart growth principles, and this is important
because the study area is surrounded by and centered

by the Borough's train station. And while it is
important to note that, yes, a number of the
properties are developed, some of them have viable
businesses, they are not developed in a means that
are a vision of the master plan, they're not
developed in a manner considered by smart growth
principles, and a number of them are required for
the effective redevelopment of the area adjacent to
the train station. So through this analysis I
relied on this criteria as well.

So those are the eight criteria, of
which I relied on for of them for this analysis.
Q. But did you rely on any other analysis
as you were going through these properties?
A. Other than what I just spoke about,

Q. What about land value?
A. The land value analysis that I will
got into in a second falls under Criteria E, which
is under utilization of the lots. I also looked at
police records, building maintenance records,
environmental issues. With regard to DEP mapping,
there are a number of sites that still have ongoing
DEP monitoring. So there are a number of issues
that are involved in this analysis, but that's

8 (Pages 26 to 29)
strictly going through the eight criteria.

Q. With respect to the eight criteria, can you explain just generally so when we look back at the Land Use Board will understand what the table is that you prepared that appears on pages 6, 7, and 8 of LUB-1?

A. Sure. So what I did was, in the first portion of the document, identify the eight criteria. And then starting on page 4, I go into a little more detail of what it requires and municipality to approve that they meet those criteria based on recent case law.

What Mr. Doyle just mentioned starts on page 5 and identifies what is required to meet Criteria B. And what I had mentioned previously is that it should be combined with Criteria D, talking about obsolete layout. So following page 5, I went through an analysis of the tax assessment records for all of the study area. And I had done that previous to identifying that we only want to focus on Block 419. So while all the study area is here, what I'd like to talk about first is, in general, of the 82 properties in the study area as a whole, which are identified on the map to my left —

MR. SCHWINDUR: That goes beyond

the —

A. That goes well beyond the Block 419.

Q. Let's identify that as LUB-2.

(Whereupon, LUB-2 was marked for identification.)

A. And that map is in the report.

Q. Can you just indicate what page of the report it's in, please?

A. Page 10.

MR. DOYLE: I dated it 12/8/16.

MR. MARTIN: Thank you.

A. So as I started to mention, a lot of the background information I started to gather before I thought it was appropriate to pull out block by block and section by section of this analysis. So for the next analysis with regard to the tax assessment records, I did for the entire study area, which I would repeat for every hearing that we have on any sections.

But as I mentioned, there are 82 properties in the overall study area. Only ten of those properties have a ratio of land value to improvement value of two to one or greater. And the reason that's important is because there's plenty of

standards that suggest that if you have something less, then the property may be under utilized.

MR. SCHWINDUR: Could you just explain the ratio so everybody understands what you're talking about? Please.

A. Sure. So if your land value, in simple terms, is $100,000, and your improvements are $200,000, that's a two to one ratio. If you have something less than that, so your improvements were less than two to one, it is an indicator that you're improperly or under utilizing your property. And I say it's an indicator because there's other factors involved. And there's other factors such as site design, site layout, building conditions, and whatnot. And that's why I had previously said that Criteria D in the Local Redevelopment Housing Law should be combined with criteria E. You have to look at the site layout, the building conditions and how that works, and why the site may be under utilized. So you combine that with analysis of the tax record.

So as I indicated, the overall study area, only ten properties meet that ratio or see that ratio. So it's only twelve percent of 34 acres of the entire municipality. If you're specifically looking at Block 419, of the 11 lots only one of them meets that criteria at a 2.48 ratio, and that's Lot 4. The remainder of lots —

MR. SCHWINDUR: Can you identify that lot?

A. Lot 4 is the corner lot.

MR. SCHWINDUR: Do you know what business is on that lot?

A. It's the restaurant, Rancho Cantina.

MR. MARTIN: Thank you.

Q. Do you want to mark this?

A. Yes, I'm going to mark this as LUB-2A. (Whereupon, LUB-2A was marked for identification.)

MR. MARTIN: Just for the record, just identify that.

MR. DOYLE: Yes, I'm dating it 12/8/16.

A. Yes, it's a focus map of the study area identifying the block and lots, and then on the right-hand side of the exhibit is the study area outlined in red overlaid on the existing zoning map. And the reason I bring this up is because what I want to do is, actually, go to the next page which
is a focus of Block 419.

Q. We're going to indicate that as LUB-2B?

(Whereupon, LUB-2B was marked for identification.)

Q. And would you indicate what LUB-2B is?

A. Sure. So on the right-hand side of the exhibit is the entire study area, and as I had mentioned previously, what we decided to do after looking at all the analysis and the planning issues with regard to the study area is divided up, and we took Block 419, Section A, and that's identified in blue on the left, and then we divided the remainder of the study area, different sections, based upon access issues, location issues, existing uses and whatnot, so that's on the left-hand side.

On the right-hand side is what we're focusing on tonight, Block 419. It has the serial view taken from Bing maps. Block 419 as well as the GIS map, and it will show you that — what I just mentioned, Lot 4 is Ranchoero Caminita on the corner of Lincoln and Kinderkamack Road, and that is the only lot that exceeds the tax assessment ratio of two to one.

Q. In addition to the under utilization analysis that you performed, did you also consider —

A. One other thing I did want to mention about the ratio analysis is, has shown that just to do the analysis of improved value to land value is not enough. You have to look at it compared to the rest of the municipality. If those ratios are similar throughout the municipality, it doesn't mean anything. So what I did was look at other commercial areas and all other commercial properties within the municipality and through the same analysis. So all other commercial properties that are not in the study area, their ratio is 2.1 to one. So they are similar or exceed the two to one ratio. So there is something going on within the study area that is not necessarily characteristic of other commercial properties within the municipality.

Q. In addition to the analysis with respect to potential under utilization, did you also consider other analyses, like police records?

A. As I started to mention, I looked at the police records, and I looked at them for all of Kinderkamack Road, and this was done prior to pulling out Block 419. But if you look at the entire study area, which is 34 acres of land in a municipality that is about 1,535 acres, that translates into 2.2 percent of your land area is within our study area. Of that 2.2 percent, it equates to 32 percent of all police calls. Now, granted, it's noteworthy that, yes, it's a highly travelled commercial area in town, I expect the police calls to be slightly higher in this area than elsewhere in town. But 32 percent of the police calls for the — as opposed to the rest of municipality seems slightly high. And the least noteworthy, as this Board reviewed, the analysis for redevelopment — and that's located on page 12.

What did I was, I summarized the actual the police calls, but the actual police reports are in the appendix of this document.

MR. GOURSKY: And how many years —

A. The last five years.

Q. Did you also consider the master plan?

A. Yes, and I think — as I started to mention to you, obviously, from a planning prospective, I think this is the one of the most important things in this document, is the master plan for numerous years, over a decade or so, starting in 1999, have identified a need to upgrade the area, and this is all detailed on page 13. It

1999 it says that there's need for a downtown plan to address areas adjacent to the railroad station, and it goes on to say that the Borough should consider use of the Local Redevelopment Housing Law to create a redevelopment plan, and it has a number of goals. From that, it appears that the Borough in 2002 created a CBD plan.

MR. SCHWINDER: CBD meaning Central Business District?

A. Central Business District. And I think that's noteworthy because any time you look up Emerson, Google Maps, it used to be Yahoo Maps, Bing Maps, you type in Emerson, it pulls you to Block 419. That's the central area of your downtown. That's your Central Business District.

So in 2003, the Central Business District plan was created and had a number of goals. It said, create a comprehensive and coordinated long range plan. Create something that would create a continuous frontage of buildings, encourage lot consolidation, reduce access lines, enhance opportunities for infill and redevelopment where appropriate, support modest increases in intensity of use, identify regulations that would encourage rehab. And that was 13 years ago. And it also
talked about road improvements, facade improvements, and whatnot. From that, a year later the Borough decided to do a redevelopment designation in 2004, which was the first redevelopment designation, and in 2006 created a redevelopment plan.

So all that being said, nothing happened. We had two lots of the entire area redeveloped. In 2007 —

MR. SCHWINDER: What you’re saying is, we gave individual land owners the opportunity to redevelop their property or get together with neighboring land owners and possibly create something better than was there already.

A. Not at first. At first we required the lot consolidation. But you’re correct, in 2008 when we looked at this, we said, if an individual property owner can redevelop their own property based upon these enhanced standards, increase density, if you can meet all these criteria, you’re more than welcome to do that. One property owner did that.

Q. Since 2008?

A. Yes. Actually since 2003 — so in 2007, the examination report repeated the goals of the Central Business District. And the reason I'm emphasizing this is, I think it's very important that this Board has continually over the decade said, these are the goals. This is what we want to happen, and nothing has happened. In 2007, goal number one was to uphold the comprehensive long range plan for the Central Business District, to improve the buildings’ storefronts, to create active storefronts. Goal two was to encourage the coordination of building renovations construction of new building. Goal three was to seek a unified design character through a system of streetscape improvements. Goal four, to improve, increase pedestrian safety, and enhance aesthetics. Goal five, again, enhance aesthetic by encouraging general maintenance of all buildings. These goals still hold true today. And again, it goes on to page 14. And this is over a decade of planning documents, and we've only had one property redevelopment in accordance with the plan, and then one individual property owner actually develop his property solely.

So those are pages 13 and 14 of the document. And then I get into the zoning ordinance, which, basically, just describes the fact that we relaxed over zoning criteria, we relaxed the permitted uses, we have permitted more uses, we reduced the setback to try to encourage further and further development, and nothing has happened.

Q. Now, did you go through a property by property, lot by lot analysis?

A. Yes.

Q. And does that begin, I guess, on page 18 of the study?

A. Yes. If I may, I want to pull up another exhibit.

Q. Great.

MR. DOYLE: I'm going to mark this --

Mr. Martin, are we at 3?

MR. MARTIN: Yes.

MR. DOYLE: LUB-3, 12/8/16.

(Whereupon, LUB-3 was marked for identification.)

BY MR. DOYLE:

Q. Ms. Bogart, would you explain what LUB-3 is?

A. All those photographs and maps were taken from the report itself or photographs that I took on the site inspection of November 14. The next three exhibits you'll see are all the details and photographs of the lots on Block 419. The first exhibit you'll see here, are Lots 1, 2, and Lots 3 and 4.

Q. And would you please explain to the Board what your observations were with respect to Block 419, Lot 1.

A. Just for the Board’s and public’s edification, the way this works is, you're going to start at 11 o'clock and go clockwise around Block 419. So Lot 1 is located on Lincoln Boulevard.

It's the northwestern most lot adjacent to Kenneth Avenue. This lot is currently occupied by a two-story residence. You'll see in the photographs on the exhibit, which I have all the way to the left as well as in the report on page 20, the structure is in dire need of rehabilitation or renovations, identifies that it is substandard and unsafe. There are holes, not only located within the siding, but also in the roof itself. The roof is caving in.

The roof along the porch area is concave, as well as the - the roof flooring itself. There is no parking on-site, and there's very little room for
storage. And you can see that there's deteriorating windows as well as gutters that are exhibiting water damage, the gutters are falling down. So from all your observations, and when you vote on whether you believe this meets the criteria, I'm going to ask all the Land Use Board members to share whatever personal observations they believe are in forming their decision. And I know, Mr. Martin, you can advise them appropriately at that time, so I really appreciate that. And I would ask that all of the Land Use Board members, if a decision is made tonight that you would understand that, perhaps, between now and the time we return, you can make your own observations. You can walk the site. So, thank you, Chairman.

BY MR. DOYLE:

Q. You also indicated in your report, that, notwithstanding the fact that you believe in your professional opinion that it meets Criteria A, D and E, that it also may be necessary for the effective development of the redevelopment area in its entirety. Can you explain a little bit about what that means?

A. Sure. What I think is important to Lot 1 in this location is that we have a Borough right of way, Kenneth Avenue, that could access or potentially access a redevelopment plan for the public. It can access public parking, it could

improvement ratio .86. As I mentioned to you, 2.0 is the standard. So I think this property is and of itself exhibits characteristics that meets Criteria A, D, and E, and this can be confirmed through site inspection and the photographs that are identified on page 20 of the report and the exhibit to my left.

MR. SCHWINDNER: My observation of that particular property, there's a vehicle that parks on the grass next to Kenneth Avenue. There is a fenced-in area behind the house, which a car could certainly park, however, it is occupied by a flatbed trailer.

A. And other materials, which I'm not sure what they are.

MR. DOYLE: Mr. Chairman, I truly appreciate that comment, and I know Mr. Martin with counsel you, but nothing prevents this Land Use Board from making its own personal observations.

While Brigitte and I are professionals and we pray these reports and we give you advice, most of us don't live in your community. We, actually, happen to live in the same community several towns away. I would urge you to rely on your own observations since 2004, and as we go through this hearing process, I think it's important that you make those

access parking for property located at Kinderkamack Road. The fact that you have a lot immediately adjacent to Kenneth that is under utilized and deteriorating is important to note, because I think that lot could be important to the access issues and the redevelopment issues of the overall plan for Block 419.

Q. Thank you. I'd like to turn your attention now to page 21, and specifically Block 419, Lot 2. Did you similarly, as you indicated, make an inspection of that property?

A. Yes, I did.

Q. Can you walk the Board through that inspection? And I'm assuming they should also make reference to LUB-3.

A. Yes. So Lot 2, the photographs and the aerial and the tax records are on page 21 and 22 of the report, and also a portion of them are located in the central portion of the exhibit to my left. This lot, obviously, is, as the Board is aware and I'm sure some of the public is aware, was previously occupied by a one-story residence, also without parking and was dilapidated. It was previously, in 2011, had a number of building maintenance violations, and has since been torn

12 (Pages 42 to 45)
utilized for at least 15 years.
1. Q. In addition, it's your opinion that
2. this property may also be necessary for the
3. effective development of the entire area. Can you
4. give us your impression as to why it's a good
5. property based on its location or other factors --
6. MR. MARTIN: Mr. Doyle, all opinions
7. are to a reasonable degree of certainty in the field
8. of --
9. MR. DOYLE: Professional planning,
10. thank you.
11. MR. MARTIN: -- for the rest of the
12. hearing?
13. MR. DOYLE: Yes. Thank you.
14. A. I'm not trying to testify as anything
15. else other than planner.
16. MR. MARTIN: So a reasonable degree of
17. certainty in the area of professional planning.
18. A. The same comments I made with regard
19. to Lot 1 pertain to Lot 2, immediately adjacent to
20. the right of way of Kenneth Avenue. And you'll
21. notice if you look at the tax maps, both Lot 1 and
22. Lot 2 line up directly to Lot 7 which is also owned
23. by the Borough. What's important to note for this
24. whole area, Lot 7 is owned by the Borough, consumer

A. Not that I've seen.
2. Q. And in this area is parking a
3. principally permitted use?
4. A. No.
5. Q. And is there any striping in this
6. area?
7. A. No.
8. Q. So in conclusion, you believe that
9. this meets Criteria B, correct?
10. A. Yes, and that, obviously, can be
11. confirmed through the site inspections, the
12. photographs above, and, obviously, the Board can
13. provide their own input as to what they've seen, but
14. I believe that it meets the criteria not only for
15. the underutilization, but it's also, I believe,
16. stagnant at this point, because it's been a number
17. of years where it sat like this. And you have to
18. take that into consideration with other land use and
19. planning goals for this area as a whole, the Central
20. Business District, which I just went through.
21. MR. SCHWINDER: Prior to that becoming
22. an empty lot, it was a dilapidated house and used
23. many years to store goods from the adjacent
24. restaurant. So it wasn't utilized as a residence,
25. so that particular piece of property has been under
number of violations dating back at least to 2006, Health Department issues, illegal parking, selling of vehicles, signage, lighting issues, littering, weeds — in 2010 it was boarded up property. Obviously, it’s been purchased and redeveloped since then, however, the site still, unfortunately, has issues with regard to site layout. There’s no landscaping on site, there’s no pedestrian walkways. It’s a hundred percent impervious coverage. And even given the fact that it’s a hundred percent impervious coverage, it only has approximately 46 parking spaces. And the reason I note that is because it severely underparked. Your ordinance requires one parking space for every three feet. So if you translate 46 parking spaces for every three feet, you can have a restaurant that’s 138 seats. The existing restaurant is well upward of 220 or 230 seats. So it’s significantly deficient at least by 30 or 40 spaces on site.

And the reason I raise this is, while a majority of time the site is empty. During breakfast and lunch, there’s very little parking there. But there are some times where parking is needed on the site, and this translates to impact of the surrounding area. People need to find a place to park elsewhere. So that is the negative impact on the surrounding area. As well as the fact that it is an empty parking lot in the middle of your downtown 90 percent of the time, that also has a negative impact on your Central Business District. So while it is a viable use and important to have a restaurant there, wonderful that it’s been redeveloped as a building, unfortunately, the way the site was laid out, it seems not to be working with your redevelopment goals and plans and your existing zoning ordinance.

Q. What does the existing ordinance call for on this particular lot?
A. Mixed use, three to four stories.
Q. And what does mixed use mean?
A. It would be commercial below and residential above. So a greater utilization of the property, obviously providing it with adjacent properties, providing it with if appropriate parking, but, again, while the Borough would like to encourage restaurants, it’s important that the building has been redeveloped, it does not – it doesn’t seem to fit in with the zoning ordinance and the plans itself.
Q. And for this reason you believe it meets Criteria D?
A. Yes.
Q. You also indicated it could potentially be necessary for the effective development of the area?
A. Yes.
Q. And could you indicate why, please?
A. Sure.
Q. Within a reasonable degree of planning certainty.
A. With regard to Block 419, there are two corner properties that are very important to the redevelopment. The first corner property is to the south, immediately adjacent to the train station. And as you’re coming into the town and you’re crossing over the railroad tracks, that’s the one property you’re going to see that is going to have a major impact.

The other property you’re going to see on Block 419 is this site. When you’re coming from south down Kinderkamack Road, this is the point of property that’s going to have a visual impact and a planning impact on the Kinderkamack Road Redevelopment Project. So from that perspective, these two corner properties, I believe, are very

important for a very effective redevelopment plan, particularly given the fact that if you look at the way and compare it to the way the existing development is set up. The last thing you want to do is go through a redevelopment project and have the corner property, the most visual piece of the redevelopment project, be a service parking lot that’s empty 90 percent of the time. So from a planning perspective, I think this is important to provide for effective redevelopment of this area.

Q. I’d like to now direct your attention to Block 419, Lot 5. Did you have an opportunity to perform an analysis of Block 419, Lot 5?
A. I did.

MR. DOYLE: I’m going to mark a new exhibit, and that’s going to be LUB-4, 12/8/16. (Whereupon, LUB-4 was marked for identification.)
A. It’s Lot 5 and 6.01 and 6.02.
Q. Can you please explain to the Board what observations you made of Block 419, Lot 5?
A. Sure. As this Board is, I’m sure, aware, and the public is aware, this site was previously an abandoned one-story structure in a severely deteriorated condition. It had
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<td>1. think it was three.</td>
<td>1. think it was three.</td>
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<td>2. MR. SCHWINDER: Three apartments that</td>
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<td>3. A. Yes.</td>
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<td>5. MAYOR LAMATINA: Two.</td>
<td>5. MAYOR LAMATINA: Two.</td>
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<td>6. MR. SCHWINDER: Two apartments. So</td>
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<td>7. A. Yes.</td>
<td>8. A. Yes.</td>
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<td>9. MR. SCHWINDER: So it was desirable</td>
<td>9. MR. SCHWINDER: So it was desirable</td>
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<td>10. MR. DOYLE: So I think your point, Mr.</td>
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<td>1. you can coordinate the design from site to site, and</td>
<td>1. 27 to 29 of the report, obviously everyone is aware</td>
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<td>2. you can't do that on an individual basis. And</td>
<td>2. that this is the one-story structure with the liquor</td>
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<td>3. Obviously, you see that here, that individual came</td>
<td>3. store and the cleaners. The site is not underused</td>
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<td>4. in for site plan approval, and he came by himself.</td>
<td>4. for the zone, however, the existing building is so</td>
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<td>5. What is great from a redevelopment perspective is</td>
<td>5. substantial that it creates an issue with regard to</td>
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<td>6. that you can coordinate parking, vehicle</td>
<td>6. parking on site, circulation on site, and it appears</td>
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<td>7. circulation, pedestrian circulation, and an</td>
<td>7. to create a need for outdoor storage. You'll see</td>
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<td>8. encourage cross access so that it works more</td>
<td>8. from the pictures, you have --</td>
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<td>9. efficiently not only for this site, but also for the</td>
<td>9. Q. Page 28?</td>
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<td>10. area. So while the site itself has been</td>
<td>10. A. Page 28, a number of items that could</td>
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<td>11. redeveloped, I think it meets -- it's necessary</td>
<td>11. be stored inside but are on the exterior, creating</td>
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<td>12. for the effective redevelopment of the area just</td>
<td>12. further issues for circulation and parking. There's</td>
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<td>13. from a circulation perspective at a minimum.</td>
<td>13. a Budweiser trailer or cooler that been there, I</td>
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<td>14. Q. When you say it's necessary, where the</td>
<td>14. think, on every site inspection that I've taken, and</td>
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<td>15. building site may not be necessary, but the lot, the</td>
<td>15. it was still there this evening. You have a number</td>
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<td>16. parking lot may be necessary or is necessary for the</td>
<td>16. pallets that I believe are recycling material but</td>
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<td>17. effective development of the entire area?</td>
<td>17. are standing out in the parking area, a cooler, ice</td>
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<td>18. A. I believe it is.</td>
<td>18. machine, and whatever, that are located on the</td>
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<td>19. Q. Directing your attention to Block 419,</td>
<td>19. exterior of the building which is also substantial,</td>
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<td>20. Lot 6.01, I'm assuming that that also is referenced</td>
<td>20. creating further impediment to circulation.</td>
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<td>21. in LUB-4?</td>
<td>21. Q. Can you indicate where the rear of</td>
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<td>22. MR. SCHWINDER: May I just go back to</td>
<td>22. MR. SCHWINDER: May I just go back to</td>
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<td>23. that one redeveloped property? There are how many</td>
<td>23. that one redeveloped property? There are how many</td>
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<td>24. apartments in that property?</td>
<td>24. A. The rear of the building faces the</td>
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<td>25. A. Three -- I was up there twice --</td>
<td>25. railroad tracks.</td>
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<td>15 (Pages 54 to 57)</td>
<td>15 (Pages 54 to 57)</td>
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1. public transportation looking out their window
2. passing through Emerson would see this?
3. A. Right. So on page 28, all except for
4. the photograph on the upper left-hand side, is all
5. the rear of the building.
6. Q. And did you make a final determination
7. as to whether this meets the criteria in the
8. redevelopment law?
9. A. Sure. Before I do that, what do I do
10. want to note is that there have been environmental
11. issues on the site. It's still an active NJMRS site
12. identified as 12270. Again, the report and map is
13. in the back. It has been subject to past code
14. violations for property maintenance, and identified
15. on page 27.
16. Here, the other thing important to
17. note is that pulling into the site from
18. Kindercrook Road, you basically have 33 feet from,
19. I would say, curb line, but asphalt line to the
20. front of the building where you pull in. That gives
21. you 13 feet to pull out, and then you're backing
22. into where pedestrians would walk with undefined
23. sidewalk. And I say that from a planning
24. perspective, that it's important to realize, because
25. pedestrians can be walking on an asphalt area and a

1. housing, more in line with your master plan goals,
2. and that's not what's happening here.
3. Q. When you talk about pedestrian safety,
4. are you also talking about what's referred to as
5. walkable downtowns?
6. A. Yes.
7. Q. And in your opinion as a planner,
8. does this site plan encourage or discourage a
9. walkable downtown area?
10. A. It's clearly discourages it, and
11. that's clearly noted in a number of the master plan
12. documents. You have vehicles that have to pull out
13. back into where pedestrians would possibly walk in
14. an area where there's no defined curb cut, I think
15. it's—what's approximately 55 to 56, 57 feet wide
16. without a curb cut. So a pedestrian to walk by and
17. figure out where it's safe to walk is a little
18. discouraging, to say the least.
19. Q. You also indicated that you believe
20. that this property is also necessary for the
21. effective redevelopment of the entire area. Can you
22. show the Board why you believe this property is also
23. important to the effective redevelopment of the
24. area?
25. A. Sure. As I started to mention, given

16 (Pages 58 to 61)
Q. When you say occupied as of today —
MR. SCHWINDEN: There is a business in
there operating. So lights were on, people were
inside, something to do with eyebrows and threading,
or something like that.
A. So page 31 provides the photographs —
similar photographs that are on the exhibit. It's a
two-story structure, ground floor commercial, five
residential units above, on site parking. It
appears there's eight parking spaces for the
retail and the five residential units, so it's
slightly under parked. I don't think that appears
to be such an issue, but the parking lot itself is
an issue. It's half gravel, half dirt — excuse me,
half dirt, half asphalt, you see weeds growing
through the asphalt, there's a light pole in the
middle of the lot impeding circulation. There's a
guardrail that is falling down, a deteriorating
facade that has holes in the siding, as seen in the
photographs. There's boarded up windows, they're
all covered, including the front windows,
there's deteriorating paint, and, basically, the
facade itself has been falling apart. So you'll see
in the photographs all boarded up windows and the
paint that is falling down. And while in and of
itself it may not be an issue, but that does not
seem to be the structure that you want to mind the
goals or promote the goals of your Central Business
District in your redevelopment plan.
So I would -- as the Board, as you're
reviewing this report and analyses, I would look at
the pictures very carefully, and look at the goals
that are identified in your master plan and make
sure that that's what you don't want to see here. From a
planning perspective, I'm pretty sure that's not
what is consistent with the master plan goals.
Q. And again, is this property
particularly well positioned such that it would be
necessary for the effective development of the
Central Business District in this area?
A. Yes. This property is three lots away
from the train station. It is immediately adjacent
to where the train stops. It is, basically, a part
of the Central Business District, and that's why I
mentioned the Central Business District goals. I
believe this meets Criteria D for deterioration
based upon all the issues I mentioned previously,
also Criteria E, underutilization. It has the land
to improvement value of .78, and, again, 2.0 is the
standard. And based upon the goals of this
municipality, I don't believe that this is the most
proper utilization of this lot, so...
Q. Did you mean Criteria A and Criteria
E?
A. Yes.
Q. I'd like to direct your attention now
to Block 419, Lot 7. This is Borough owned. We
didn't put this on the board. We're assuming the
Land Use Board is likely familiar with this.
MR. MARTIN: For the record, it's page
32, if anyone has it.
Q. Thank you. Can you explain what your
observations were with respect to Block 419, Lot 7?
A. Sure. What I actually did do -- and
let me go through the observations first.
Q. Sure.
A. So this site is occupied by the
volunteer Ambulance Corps, and the commuter parking
area. It has a land to improvement ratio of .77,
clearly under utilizing service parking, and I
believe it meets Criteria E.
This property itself is substantially
necessary for the effective redevelopment of the
area. And I went to -- I printed out an aerial from
Google maps.
MR. DOYLE: Could you just, basically, point out what you were identifying?

A. As I mentioned, this is Kenneth Avenue which is the public right of way. Lot 7 which is owned by the Borough is here. It's the big chunk in the middle. It's occupied by the Ambulance Corps and the commuter parking area. The lots that front Kinderkamack Road basically ran this way. And they're generally a hundred feet in depth. So as I just started to mention, in order to accommodate all of the improvements that the master plan documents are looking for, that could never happen within a hundred feet in depth.

So this area, Lot 7 that's owned by the Borough, Kenneth Avenue, Lots 1, 2, and 3, are really necessary in order to see any improvements that can happen on Kinderkamack Road. So what I'm saying is, Lot 7, which is Borough owned, not only is it under utilized, but it's necessary for the effective redevelopment of the area as a whole.

MR. SCHWINDER: Mr. Chairman, we have three more lots to go through. Would you like us to continue going through?

MR. DOYLE: Yes, please.

MR. DOYLE: At this time we're going to turn to page 34 of LUB-1, and I'm going to mark the board that has just been put up by our planner as LUB-6. Do I have that right, Mr. Martin?

MR. MARTIN: Yes.

(Whereupon, LUB-6 was marked for identification.)

BY MR. DOYLE:
Q. Directing your attention to page 34 of the report, and specifically Lot 8, did you similarly do an inspection and make observations of this block and lot?

A. Yes.

Q. Could you walk through those observations with the Board, please?

A. Sure. So the last block includes Lots 8, 9, and 10 which are the three lots that are in the corner, the southern most corner of Block 419, and immediately adjacent to the train station. There are a very similar because they have very little parking up front. The majority of what happens on-site appears to happen to the rear. The front of the building appears to be in okay condition or appropriate condition, and seems to be maintained. It appears from site inspections that it's a different story when you look to the rear of the lot. Starting with Lot 8, it's a one-story multi-tenant commercial building. Up front there is, again, no curb cut, very uncontrolled, and we go back to pedestrian safety. There were a number of violations from 2007 to 2015 that are all noted on page 34. No environmental issues on Lot 8. If you look at page 35 are the photographs for the rear of the property. And again, you'll see outdoor storage, a number of benches, ad hoc sheds, I guess storage sheds that have been added on to the building, storage containers with plywood that are toward the rear of the property. You'll see on the left-hand side of page 35 there's a storage shed that is falling down, and behind that is a truck. Between the storage shed and the property line is approximately 27 feet. That drive aisle between the truck and the shed itself is approximately 12 feet.

The reason I note that is because it's the only way to get in and out to access the rear of Lots 9 and 10 and a portion of Lot 8. So if you go back there with a car and all those parking spaces are full, the only thing you can do is back out of that area, and that's because that's the way the lot is set up and designed. You'll see a number of the walls are crumbling, and I'm not sure the pictures do it justice, but there's holes in the concrete wall and cement block, there's holes in the plywood and a number of the temporary storage structures.

MR. SCHWINDER: Ms. Bogart, this building has how many retail store fronts?

A. Three.

MR. SCHWINDER: How many parking spaces?

A. That's difficult to say.

MR. SCHWINDER: Two, three?

A. There are probably four up front.

MR. SCHWINDER: Four parking spaces. And people who go to these businesses, they pull their car in forward, and then they're obligated. To back out onto Kinderkamack Road; is that correct?

A. Yes.

MR. SCHWINDER: And if they do back out, they're backing out to a blind sided area, because the building next door, basically, gets

18 (Pages 66 to 69)
Mr. SCHWINDER: I would say, given testimony to the ability of a business to thrive, there has been a Chinese take-out restaurant that's run out of that site for quite some time, and it seems to be quite a viable business despite all of these problems. And what I'm trying to say is, that our downtown has opportunity for growth, and to attract people to a business year after year after year, if it's the right business.

A. Take out would potentially do very well. There's no on-site parking needed. It's just the drivers going in and out, which I could see in this situation.

Unfortunately, you'll see in some of the photographs on this site, there's coolers up there which appears to indicate that the buildings themselves are not large enough to accommodate all the necessary equipment for restaurants themselves, and that's more evidence in Lot 9.

Q. With respect to Lot 8, would you just briefly confirm what the criteria are —

A. Sure. I believe that Lot 8 meets Criteria A. The building is dilapidated. It's evidenced by crumbling concrete. There's holes in the walls, there's damage to the gutters, there's plywood that's, basically, too watered through that it's coming off the building. It appears that the building really hasn't been properly maintained, particularly in the rear. The front seems to be okay.

Additionally, in the rear there's the parking area, the sidewalks in the front have not been maintained. They have a negative impact to the public. So I think that Criteria A has been met. I believe that Criteria D has also been met for all of the reasons that you have discussed, Mr. Chairman, and I've discussed those faulty arrangements, defined curb cuts, defined circulation areas and parking areas, improper drive aisles, which all have a negative impact not only to the public, to the pedestrian safety, but also to the adjacent property owners. To try to back out a car to adjacent lots is not fair to adjacent property owners. So I think Criteria D is met.

Again, I think also Criteria E is met.

And as I mentioned in the very beginning, Criteria E and D are very closely related. And you'll see that for most of these properties, they're very similar.

The issues that -- the faulty arrangement and faulty design go to the part of why the sites are underutilized. In this case, the land to improvement value ratio is 1.3, which is higher than the other one but not at that 2.0 standard.

MR. SCHWINDER: In my comments I was talking about when someone is backing out vehicle to vehicle, the possibility of collision, not even thinking at that moment of people walking along Kindermack Road, and the driver not being able to see them because they would be hidden by that brick building next door, so that is a severe safety hazard for pedestrians.

A. I agree. And overall, obviously, the site is not -- the area is not developed in a manner that is consistent with the land use goals, which is, again, why I went through painstaking detail of the master plan goals and CBD goals in the last ten years.

So Lot 8 exhibits the conditions, I believe, that meet Criteria A, D, and E, and I believe it's been confirmed through the site inspection and photographs and the notes, and, hopefully, through your own inspections and notes.

BY MR. DOYLE:

Q. You also said something that I think is important for the Board to focus on, that the -- MR. SCHWINDER: Speak up.

Q. I'm sorry -- that the buildings, as a result of their deterioration, create a negative impact on the area. Can you expound on that a little bit, how that creates a negative impact in your experience as a planner?

A. I think it goes with anything, even with a residential single-family home, if your neighbor is improving their property or keeping their property up, you want to do the same. If your
neighbor is not doing that, you really don't care
what your property looks like. So it has a negative
impact. The theory of fixing broken windows, you
fix a broken window on one property, the next
property wants to include the broken window. And
that's --
Q. An accepted planning criteria?
A. Yes.
Q. Directing your attention now to page 37, Block 419, Lot 9.
A. Sure. We're down to two more.
Q. And similar to be found on LUB-6.
A. It's in the middle of the exhibit board.
Q. And you've made observations of this
as well?
A. So this is a one-story multi-tenant
commercial building. Again, like all of Block 419,
with the excessive coverage, on-site parking, wide curb cuts,
stacked parking. This site has had environmental
issues and is still an active site, NUMES site
12778 with ground water termination. Again, the
reports and maps are in the appendix. It had
repeated violations, the Building Department and
property maintenance that are identified on page 37.

Q. You took the photos as well that we
find on page 38?
A. Yes. This site seems to have creeping
effect as far growing additions. If you look at
aerials through -- the last couple of years, first
you'll see, if you look on page 38, the addition in
the brown next to the coolers, that was there
several years ago, and then all of a sudden the
adjacent addition, the plywood, showed up a couple
years ago. So the photograph all the way to the
upper left was taken from the rear of the property.
The photograph to the bottom right was taken,
basically, looking from the train station forward.
This was, again, another site that has a restaurant
in it, a number of coolers. And if you look into
the temporary structure that was erected, there's
coolers and the restaurant storage materials that
are there. Obviously, the site may be too small for
what is being conducted there, the business that's
being conducted there. Maybe the building needs to
be slightly larger, however, there's very little
parking on site.

From the front you'll see the
photograph to the left, the bottom, the site does
not look -- it looks maintained. But when you look
to the rear, there seems to be other issues going
on. As I mentioned to you, the site seems to be
undersized for the business that was taking place
there.

MAYOR LAMATINA: Do you know if
permits were obtained for those additions to that?
A. I don't.
MAYOR LAMATINA: Do you know if this
Board granted any permission on variances or any
kind of approval for those conditions?
MR. SCHWINDT: As far as I know, no.
Q. And this specific criteria that you
believe this site meets under the Local Housing and
Redevelopment law?
A. I believe it meets Criteria A, which
is deterioration. If you go out there and actually
inspect, I don't think the photographs do it
justice. But those additions are crumbling,
they're clearly not up to code, they are water
damaged and falling apart, there's holes in the wall
that you can see. Even though the front facade has
been patched, you'll see that there are issues with
the structure itself. And obviously, you'll see
from the photographs and site inspections, that the
property has not been maintained up to standards.

Also, the parking area itself has not
been maintained. The sidewalk and all the public
viewing areas adjacent to the train station in the
heart of the downtown has not been maintained. I
have photographs of a white pole that's, basically,
half out of the ground that's been sitting there for
years. It's rusted. So from those perspectives, I
believe that the site meets Criteria A. It also
meets Criteria D for improper layout, undefined curb
cuts, not enough parking. You'll see -- and I don't
even know if they have access from the rear, Lot 8,
but there's really not enough parking on the site
for what the current use is. I believe Criteria D
is met.

Also, I believe Criteria E is met.
This site has a land to improvement value of .48,
again, an indicator of under utilization. So I
believe that under utilization, improper land use,
deteriorated building, all gives this Board the
right to recommend that this site in this area is
blighted in accordance with the Local Redevelopment
Housing Law.
Q. How about the location of this
property with respect to being necessary for
redevelopment in the area?
There's a number of sites that have inefficient layout which create no opportunities for improvement. There's no way, if you look at the aerial, to improve these properties without doing redevelopment, without consolidating the properties. And that's important to note when you're looking at a redevelopment plan. You can't improve these properties singularly. You can't allow them to come in for a site plan application, and everything will be fixed. That's not what's going to happen here, because the majority of the properties are at capacity. They need to be done if they want to be improved. If the Borough wants to improve them, they need to be done through the redevelopment process. And the fact that they currently lack appropriate planning standards for circulation, pedestrian circulation, building design is important to note. So if any of these want to be improved, it has to be done through the redevelopment process.

As I mentioned to you, a lot of them currently lack curbing along Kinderkamack Road, which creates safety issues. Unchanneled vehicles exiting and entering the site creating pedestrian hazards. So for all of those reasons, I believe the majority of the study area meet Criteria D. As I mentioned to you, I think the majority of the study area meets Criteria E. As a whole, as I mentioned to you, if you're looking at the entire 34 acres, only 10 of the 82 properties meet the 2.0 standard. Only one of the properties in Block 419 meet that standard. If you look at the commercial properties within the Borough outside of the study area, they meet that standard. They're at 2.11. So there's -- as I mentioned to you, there's clearly an issue here. And I believe it's related to the fact that there is poor design and arrangement in this area as a whole. And that has resulted in economic underutilization, which wouldn't be a terrible thing, but it's right in the middle of your downtown, right in your Central Business District where your master plan documents have focused on for years. So combined with the master plan goals, the underevaluation, and the obsolete layout, all give rise to this Board looking at this as an area in need of redevelopment. And I think you have an important area to consider as an area in need of redevelopment.

Q. As the Borough's planner, do you have a recommendation for the Land Use Board?

A. I believe that the Board should recommend this area as an area in need of redevelopment, or a continued area in need of redevelopment. Because, remember, this was done in 2006 and 2008. We're just reconfirming it here based on today's standards, and I think you should recommend it as a continued area in need of redevelopment to the Governing Body so that they can move forward with whatever plan is necessary.

MR. DOYLE: That's all we have.

Mr. Chairman.

MR. SCHWINDER: I'm going to read what I read earlier on in the meeting, which is what this Board is charged with. And then we will open it up for public comments. Let me read what we're charged with first.

This public hearing is to consider recommending to the Borough council whether or not certain blocks and lots located within the Central Business District meet the statutory criteria to be designated as a Condemnation Redevelopment Area pursuant to the New Jersey Local Redevelopment and Housing Law, and to hear all persons interested in or would be affected by said designation. And with that in mind, let me remind you that we have to be out of here by 11 o'clock.

Our next order of business is public comment. Members of the public are welcome to speak on any topic by coming -- on this particular topic, the area that we discussed tonight, which is the area between Kinderkamack Road, Lincoln Boulevard, Liswood and the railroad tracks.

Come up to the front of room, state your name and address for the record. In the interest of time, speakers are limited to five minutes, including questions and answers. In consideration of all who may wish to speak, please keep your comments brief and concise. May I have a motion to open the meeting to the general comments form the public?

(Motion made and seconded.)

MR. DOYLE: Might I suggest that, perhaps, in order of priority, although everybody should be given an opportunity to speak, but those property owners that are directly affected by this. In other words, those within Block 419, you give them priority since they came here tonight --

MR. SCHWINDER: Absolutely.

MR. DOYLE: And then anybody else, of course, can speak. Does that make sense?

MR. SCHWINDER: That makes sense.
MR. MARTIN: Mr. Doyle, I think that makes sense. There's one other priority —

MR. DOYLE: Sure.

MR. MARTIN: Potentially, I see some digitizing here. If they have objectors, maybe they should step forward first.

MR. DOYLE: I agree with that.

MR. JAWORSKI: Thank you, Mr. Martin. First I have to apologize to the Board for my informal appearance tonight. I did not intend to step up to the microphone, but I just have a couple of questions I'd like to ask Ms. Bogart.

For the record, my name is Jim Jaworski. I'm an attorney at law in State of New Jersey. I am here on behalf of 214 Kinderkamack, LLC, the owner of Block 419, Lot 4. And I really just had a few questions to supplement the record, if I could.

MS. BOGART: Sure.

MR. JAWORSKI: You talked about what you did in preparation for your testimony here this evening. You mentioned that you went to all of the sites, and you specifically talked to the issue of the Rancho restaurant. Did you have occasion to go inside and see the interior improvements that were made to the restaurant?

MS. BOGART: Yes.

MR. JAWORSKI: You did. And did you also see the exterior improvements that were made as well?

MS. BOGART: Yes.

MR. JAWORSKI: You talked about the taxes and the fact that the two to one ratio was not only by one property in the entire study area, that being this property?

MS. BOGART: Yes.

MR. JAWORSKI: And the standard you found around the town was about 2.11?

MS. BOGART: Yes.

MR. JAWORSKI: What was the standard you called off for this property in question?

MS. BOGART: 2.48.

MR. JAWORSKI: And the standard you mentioned around the town was 2.11?

MS. BOGART: Correct.

MR. JAWORSKI: Were you aware that there was an increase in the assessment for the improvements only in 2015 of about $220,000?

MS. BOGART: No.

MR. JAWORSKI: Are you aware how long the restaurant has been operating?

MS. BOGART: I know a couple of years.

MR. JAWORSKI: Couple years? You also put, I believe, four photographs of the site in question in your report. You spoke, however, about the visual impact of this site as being one of the few most important, this one with respect to traffic proceeding southbound on Kinderkamack Road, I believe.

MS. BOGART: Correct.

MR. JAWORSKI: Correct me if I'm wrong, but isn't this building located at the back setback lines on both the front and the side yard line?

MS. BOGART: That has nothing to do with — with regard to my comment with visual impact.

MR. JAWORSKI: I thought your comment was with respect to the empty parking lot that would be used by people driving southbound on Kinderkamack?

MS. BOGART: But also the underutilization. The plan calls for a multi-story mixed use building in this location.

MR. JAWORSKI: And you would see exactly what you're driving southbound on Kinderkamack?

MS. BOGART: With regard to the plan?

MR. JAWORSKI: With regard to the refininished exterior of the Rancho restaurant.

MS. BOGART: Currently.

MR. JAWORSKI: A restaurant building with an empty parking lot behind.

MR. JAWORSKI: Okay. I believe you mentioned that the restaurant was a visible operation and important to the community. And did you look into how much the building permit fees were at the time that the restaurant was approved?

MS. BOGART: No, I did not.

MR. JAWORSKI: Thank you very much.

MR. DOYLE: Thank you.

MR. SCHWINDT: Would anyone else like to come up? State your name and address.

MS. AGNELLO: My name is Debbie Agnello, and my property is 188 Kinderkamack Road, and I have a few questions to ask. My building houses Cork and Keg and Ranch Cleaners.

MR. DOYLE: Can we identify the lot and block for the benefit of —
MS. AGNELLO: 419, 6.01.

MR. DOYLE: Thank you.

MS. AGNELLO: It's spent a long time memorizing that.
Was the redevelopment area that's referred to in the notice found already to be blighted?

MR. DOYLE: Yes.

MS. AGNELLO: So you're not going through the process now determine if the redevelopment area is blighted?

MR. DOYLE: We're reconfirming that the area continues to meet the blight standard under the Redevelopment Law.

MS. AGNELLO: So what has changed since that time?

MR. DOYLE: I'm not sure I understand the question.

MS. AGNELLO: Well, it was previously determined to be blighted, correct? So why are you reopening this right now? So what's changed since 2004, 2003, since this started.

MR. DOYLE: It was my recommendation to both the Mayor and Council and to this Board that based on the age of this study, that if anybody were to challenge the designation, because it was so old, a court might ascertain sending us back to restudy it. So in excess of caution, we thought it only appropriate and fair to the property owners to restudy the area. Does that answer your question?

MS. AGNELLO: It is does. Thank you. Has the municipality found that my property in the proposed redevelopment area is not productive?

MR. DOYLE: The municipality previously determined that your property met the criteria to be designated a property in need of redevelopment.

MS. AGNELLO: Is it unproductive? Is my property unproductive?

MR. DOYLE: Currently your property is under utilized, and I'll allow you to speak to that, unproductive in the sense that it's under utilized.

MS. BOGART: From a redevelopment prospective, unproductive is not a term - under utilized is the term.

MS. AGNELLO: So it's under utilized because of the size of the property and what's there, even though we have parking spots on that property - so that's under utilized by having parking on the property. What makes my property under utilized?

MS. BOGART: I did not say that. What I did say, your site itself has a number of issues with regard to parking as you compare it to current standards, and the building is larger, which creates these issues with regard to the current standards for parking and circulation, so that's number one.

So it doesn't meet current planning standards --

MS. AGNELLO: Current planning standards.

MS. BOGART: Correct.

MS. AGNELLO: So have you interviewed any of the business owners that are in the redevelopment plan on how productive their properties are? Have you interviewed any of the property owners at all? Have you gone to meet with them or talk with them about their properties?

MS. BOGART: Again, unproductive is not a term under Local Redevelopment Law --

MS. AGNELLO: Then maybe I need to rephrase that. Have you spoken to any of the property owners that are in redevelopment?

MS. BOGART: No.

MS. AGNELLO: None.

MS. BOGART: No, I'm sorry, I take that back, I've spoken to one.

MS. AGNELLO: Okay, just one.

And the buildings that are in this redevelopment, have they all paid their taxes?

MS. BOGART: That, I don't know.

MS. AGNELLO: The notice states that property owners have 45 days to challenge. Does this mean we have 45 days to challenge the determination of the area you have designated to be in need of redevelopment?

MR. DOYLE: Once the area is reconfirmed, you have 45 days from the time the Mayor and Council adopt that recommendation by the Land Use Board, assuming the Land Use Board accepts and adopts the recommendation of their planner.

MS. AGNELLO: That might be on December 20th Town Council meeting?

MR. DOYLE: I don't know whether we're going to reach that, but yes, I would urge anybody to carefully monitor what the -- first, of course, what this Land Use Board may or may not do with respect to this recommendation, and that assuming that they recommend that this area continue to be designated as an area in need of...
redevelopment, I would recommend that you monitor what the Mayor and Council do, because if they adopt a resolution reconfirming this as an area in need of redevelopment, there would be a time frame, which is 45 days under the law, from which you would need to challenge that reconfirmation.

MS. AGNELLO: So it's when they vote it. So it's 45 days from then, that's when the challenge period would start.

MR. DOYLE: Yes.

MS. AGNELLO: And have you considered the impact on the property owners by your having them under this threat of redevelopment for about 13 or 14 years? Have you just considered the impact of maybe not being able to get tenants if the tenants moved out, or maybe thinking about selling their property with this redevelopment hanging over their head for all of these years? Who's going to finance that? What bank is going to come and say, oh, gee, they're in redevelopment. Who's going to finance this? So have you even considered the impact on the property owners? So is it your intent to push this area into being in need of redevelopment? Or, in other words, have purposely kept the property owners under the threat of redevelopment so that there would be a disincentive over course of 13 years for anyone to buy or even improve their property?

MR. DOYLE: So historically and factually, in 2004 the Governing Body determined that this area, including your property and those other properties in Block 419 met the criteria under Local Housing and Redevelopment Law to be designated an area of redevelopment.


MR. DOYLE: In 2008 it was studied again —

MS. AGNELLO: Again.

MR. DOYLE: -- and this Land Use Board reconfirmed that, in fact, the area met the criteria. However, at that time the plan was amended, as Ms. Bogart testified, that allowed and incentivized the property owners to take it upon themselves to redevelop their own area. So without arguing with you, because that's not what I want to do, we encouraged the property owners to take it upon themselves to redevelop their own areas. And we gave them an incentive at that time by saying, you don't just have to have a liquor store or a Chinese restaurant. You can actually go up two stories, you can have mixed use in the downtown area, and we encouraged that. After eight or nine years waiting as a result of that encouragement, no further redevelopment or improvements to the area had taken place. So now what our study shows is, not only has nothing happened since 2004, not only has nothing happened after we -- after the Governing Body provided an incentive for property owners to redevelop their areas, nothing has happened, and it continues to be blighted, and it continues to deteriorate. And the concern that we have not only for all of the taxpayers in Emerson, but the business people down there as well who want to continue to thrive, is that it continues to deteriorate, we're going to continue to have vacancies and further deterioration of downtown.

MS. AGNELLO: My building has not been vacant in 50 years. My building has always had tenants in that building, and it's a thriving business.

MR. DOYLE: And the concern that the Governing Body would have for you is that it always continues to be that way. And if the area isn't redeveloped, it's only a matter of time, based on good planning experience and the expert testimony of our planner this evening, while that might have happened for the last 50 years, based on our knowledge -- the planner's knowledge about planning, that may not always be the case. And that's the reason why the Governing Body has recommended the Land Use Board go through this analysis, and that's why we've before the Land Use Board tonight to say, look, we want to make sure that you continue to thrive, and the businesses down there continue to thrive.

MS. AGNELLO: Thank you very much.

MR. SCHWINDE: Would anybody else like to make a statement or comment or question?

Yes, sir. State your name and address, please.

MR. VANDERKUUGEL: Ernest Vanderkuegel (ph), and I'm from Rockland County and New York.

MR. MARTIN: And what's your address.

MR. VANDERKUUGEL: Rockland County, New York.

MR. MARTIN: I appreciate that.

What's the street address? What town?

MR. VANDERKUUGEL: 32. I'm in 25 (Pages 94 to 97)
MR. MARTIN: 32 --
MR. VANDERKUEGEL: Rockland County, New York.
MR. MARTIN: No, no --
MR. VANDERKUEGEL: Are you an attorney.
MR. MARTIN: Yes.
MR. VANDERKUEGEL: Then that will suffice for you, sir.
MR. MARTIN: For the record, I just need the address for your commentary because we're making a record.
MR. VANDERKUEGEL: Yes. I'm from Rockland County, my name is Ernest Vanderkuegel, and I'm in Congers, New York, and that will suffice.
MR. MARTIN: What address?
MR. VANDERKUEGEL: I just told you, Rockland County.
MR. MARTIN: What street address?
MR. VANDERKUEGEL: I'm not from this town. I don't have to give you my address.
MR. MARTIN: Okay. I'm going to submit to the Board that we not consider any weight of this man's comments. Go ahead.
MR. VANDERKUEGEL: I'm sorry, what did you say before you go ahead.
MR. MARTIN: Continue.
MR. VANDERKUEGEL: As far as I know, there's three lawyers in this room right now, and they're going to need to have their State IDs. I am a federal officer and I own several businesses. And I have been retained by taxpayers here in this room who are also federal officers and bondholders to protect their rights.
So, yesterday, to your clerk, and I don't know if she's here, Ms. Jane was very helpful, and we faxed her the letter from the Department of Justice that each and every public officer in this town will be requested to read, initial each page, and return to our group, and that will be returned to the Department of Justice. And that, basically, says that this town may or may not be in compliance with their bonds. Every public officer here has to be oathed and bonded and have their State ID cards with them at all times, or they're not in this office. Lawyers have to be bonded as well, so I hope you're all covered. Here's why, sir. Under

USC Title 18 Section 241-242, whoever under any color of any law wilfully subjects any person to the deprivation of any rights protected by the Constitution or laws of the United States shall be fined or imprisoned not more than one year, or both.

It has been brought to our attention, and that is the taxpayers, and the group is called OBOT, Oath and Bond Observation Team, and that's who we are, and what we're here to do. So what we're stating right now, immediately, is, these taxpayers are stakeholders. They run this town with their tax dollars, and we're looking to find out who instituted this project, because this project will not go through. What we're going to do is begin at the beginning and make sure that every public officer that is in their office lawfully and properly have their oath and their bonds in place, because you do not make decisions for the stakeholders. And that's under federal law, and we also have the town law, and that was fixed again yesterday to the very helpful Ms. Jane. We fixed her 14 pages. And in that, again, was the Department of Justice letter warning local and state courts that this type of behavior is not going to be tolerated, and that was also in the Bergen Record.

I believe it's the Bergen Record newspaper. And that went federal and it was also on television, and that was last May, so I hope you saw that. Because the very first paragraph of that letter stated, or the article stated, there were serious real life consequences for violation of public office. And we are here to find out which public officers are in violation, and who presented this project that would take advantage of these taxpayers' rights. And I'm heading up that group, and we have several other federal officers, and we reserve the right to bring federal authorities to this town and take care of the business for these taxpayers.

So I would just like to say to you, we will be back, and we request that information within 30 days, that you all read that Department of Justice letter, that you sign and initial each page and return that back, we will be here to pick that up. We will be here at future meetings. We're simply here to make sure that the law is followed. We are bond observers, and we seek bonds. That's what we do. Because that's what we put you in your office, Oath Bond Observation Team. That's what we do. Right now, we've been alerted that these taxpayers' rights have been violated, and
A. Well, this is one of the key properties. As I mentioned previously, Block 419 has two key corner properties. This is the key corner. It is immediately adjacent to the train station. It's where all your road improvements are happening. This is the property that when people come into Emerson, this is what they're going to see. This is the key element to your redevelopment plan, this is the key element to your Central Business District Plan, and all your master plan goals that have been going on since 1999.

Q. And finally, directing your attention to Block 419, Lot 10, which can also be found on LUB-7, did you get a chance to make observations of Block 419, Lot 10?

A. Yes, and this is the last one. This is an undersized site. There's really not too much to say about it, other than it's necessary for the redevelopment plan. It's, again, immediately adjacent to the train station. You can see that in the aerial. The fence that is located in the photograph on page 40, I believe is on the adjacent lot, but it's very difficult to tell. Unfortunately, all the parking for the site is located in the rear, and once you drive back there...

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You've gone through each of the lots in Block 419, and you've come to the conclusion that based on your professional opinion, within a reasonable degree of certainty, each and every one of these lots, for the reasons that you've articulated, meet the criteria to be designated as properties in the area in need of redevelopment; is that accurate?

A. Yes.

Q. And do you have an opinion with respect to the area in general, whether it meets the criteria under the Local Housing and Redevelopment Law?

A. If you'd just indulge me for two minutes, I'd like to just read to you some of my decision. I believe that the properties have a deleterious impact on the surrounding area and the properties as a whole. First of all, I believe the majority of faulty arrangement that is characteristic of Criteria D, which I went through in detail. Due to the size of the sites themselves, the size of the buildings themselves, the location of the buildings, the lack of parking, improper circulation which impacts not only pedestrian circulation, but also vehicle circulation, and it has a safety impact.
we're not going to stand for that. I appreciate your time, thank you very much. And please make sure all of your paperwork is in order, and you present that. You must prove compliance, and you must show proof of compliance upon demand, and this is that demand, and we request that be fulfilled. Thank you very much, and good night.

MR. MARTIN: Mr. Doyle, have you properly presented notice of these hearings to the audience would like to make a statement or comment?

Seeing no more hands — yes.

MS. CORDERO: Good evening. My name is Rosella Cordero. I live at 11 Chestnut Street. My property is the one I think that it's in the 419 section; however, it's in the development area. I would like to know what's the criteria, because my neighbor is not going to be included in the development area, and how long do I have — I mean, how long do we have to make a decision if we sell the property, or not, or — what are we to do?

Mr. Doyle: Can you give us a sense of where you are?

A. Yes.

MR. CORDERO: My name is Eduardo. I'm Rosella's husband. I believe we're referring to Section 3.02.

MR. DOYLE: .02?

MR. CORDERO: Yes.

MR. DOYLE: Do you have a copy of the notice?

MS. CORDERO: Not with me.

MR. DOYLE: But you got it in the mail?

MS. CORDERO: Yes.

MR. DOYLE: May I, Mr. Chairman?

MR. SCHWINDER: Yes, please. Bring the mic closer.

MR. DOYLE: No problem, sure. I was asked about — what's your name again?

MS. CORDERO: Rosella.

MR. DOYLE: I was asked about Ms. Rosella's property. She's located at Block 214, and it appears to be Lot 3.02, or what she's identifying is 3.02. As I indicated at the beginning of the meeting, we, at this time, we not providing any testimony or moving forward at this moment with the reconfirmation of your property. If we choose to do that in the future, you will receive similar notice in the mail, and we will publish it in the same way we're required as a matter of law.

So right now, we're not asking this Land Use Board to take any action, any further action, with respect to your property. Whatever action may have been taken in the past, and I can tell you that your property was previously designated as property that met the criteria to be designated as an area in need of redevelopment, that continues to remain. That doesn't change. But we are not taking any further action with respect to your property, and if the Governing Body directs us to do that, you will get another notice to appear here before this Land Use Board again.

MR. CORDERO: I do understand, and that is great; that is fantastic. However, I have two little kids. I don't want to move out of Emerson. We bought the house three years ago. We bought from a lady that was there 40 years, I believe, it was a single-family house. I don't know what's the criteria of you considering that or not, however, I need to know if I need to start looking for another property or what am I going to do. It's not that simple. I know that it has been years that you have that in process, but at least we — I mean, we're not a business. We're a family, a normal family that works, and we need, like, a time frame to make arrangements if the COAH is going to redevelop and we need to be relocated.

MR. DOYLE: I don't see that taking place, although I would be happy — we didn't get a chance to see exactly what the property is, but I would be happy to talk about your information and work with your planner to figure out where that fits into the overall scheme, and then, not taking up the public's time, communicate with you where I believe this stands. I'm happy to do that. But, certainly, we're not taking it up tonight. It doesn't appear to be on my radar screen nor the planner's radar screen, so I'd be happy to investigate that and follow up for her.

MR. SCHWINDER: Will you give Mr. Doyle your name and address, and he will get back to you.

Is there anyone else?

MR. HOFFMAN: For the record, Kenneth Hoffman, 61 Emwood Drive. My question is for Ms. 27 (Pages 102 to 105)
Bogart. Approximately how many times have you done
reports like this in order to determine criteria for
an area in need of redevelopment?

MS. BOSTON: Over my lifetime?

MR. HOFFMAN: Yes, approximately.

MS. BOSTON: 20, maybe.

MR. HOFFMAN: Is there ever — in any
occasion where you have not recommended an
area be — have the criteria to be redeveloped?

MR. DOYLE: Actually, she did.

Tonight she said that one of the buildings she
didn’t believe met the criteria. However, the land
that is not part of the building may be necessary
for site circulation for the effective redevelopment
of the —

MR. HOFFMAN: Okay, Mr. Doyle, you
didn’t listen to my question. My question was, have
you ever determined that any of the area, I did not
say property, you understand what I’m saying, any of
the areas in any of those cases did you ever
determine that they did not meet the criteria?

MS. BOSTON: I appreciate your comment
and question. My job as a planner, I feel, is just
to provide the Board and the Governing Body the
tools so they can identify and determine what they

want to do. And typically, I’m usually brought in
when it comes down to the eleventh hour, when
they’ve had a master plan or a Central Business
District plan that hasn’t worked. It’s like now
what do we do, can we do a redevelopment. And I go
through an analysis and I say, this could meet this
criteria, this could not, this could — but the
reality is, it’s not my determination. It’s the
Governing Body. It’s the Planning Board. And that’s
what’s happened here throughout the last 15 years.
It’s the Governing Body and the Planning Board who
have determined continually that not only does the
area need improvement, but also needs redevelopment
in order to improve. And my job as a planner, I
feel, is just to provide them the information so
that they can make that determination.

MR. HOFFMAN: So my impression is that
in all the cases you were involved with, you’ve
always met the desires of the people who’ve
appointed you?

MR. BOSTON: Well —

MR. HOFFMAN: Thank you. That’s all.

MR. DOYLE: That’s an unfair question.

MR. PETROW: Robert Petrow, 6

Hawthorne Terrace, Saddle River. I have one

question. Are you bonded by the State to work on
this project?

MR. DOYLE: I object.

MR. PETROW: Do you have a bond?

MR. DOYLE: I object.

MR. PETROW: On what basis, might I
ask?

MR. DOYLE: It’s not relevant to this
procedure.

MR. PETROW: Why isn’t it?

I asked a simple question, are you
bonded —

MR. DOYLE: It presupposes —

MR. PETROW: So in other words, she’s
not bonded. Is that what you’re telling me?

MR. DOYLE: It presupposes —

MR. PETROW: She’s not bonded —

MR. DOYLE: It presupposes —

MR. PETROW: It’s a yes or no answer.

MR. DOYLE: It presupposes the
validity of your question.

MR. MARTIN: Mr. Doyle, Ms. Bogart was
qualified as an expert professional planner.

UNIDENTIFIED SPEAKER: But she’s not
bonded.

MR. MARTIN: Is that a requirement?

No.

MR. DOYLE: Thank you, Mr. Martin.

MR. PETROW: So is she or is she not
bonded?

MR. MARTIN: She’s a qualified
professional planner with —

MR. PETROW: She’s not bonded. Do you
hear that folks?

MR. VANDERKUUGEL: Who’s paying her.

MR. SCHWINDER: Any other questions or
comments? We’ll take one more comment after this,
if there are any.

MR. MARTIN: 154 Linwood Ave. I’m just as an observer and a
resident. I’m not involved in this area, but I did
want to make note that I did notice that there was a
discrepancy in the determination analysis today with
Lot 5 in comparison to other areas in that zone, and
find that troubling as an observer.

MR. DOYLE: Hold on. Lot 5?

MS. MCGUIGUE: The one building that
actually doesn’t have any commercial retail
residents, actually.

MS. BOSTON: What was the discrepancy?
MS. MCGUIRE: I feel that it seems
that you found fault with pretty much every lot in
that zone with the exception of that Lot 5, except
the —

MS. BOGART: Lot 5 was the one lot
that was redeveloped in accordance with the
development plan.

MS. MCGUIRE: It's vacant.

MS. BOGART: But it was redeveloped in
accordance with the redevelopment plan.

MS. MCGUIRE: With the criteria that
you gave, I just feel that it seems a little —
there's a little bit of a discrepancy, in my opinion
as an observer. I'm not an expert, I'm just making
note as an observer.

MS. BOGART: Thank you.

MR. DOYLE: Thank you.

MR. BUELT: Ed Buelt, 91 Chestnut
Street. I have an e-mail from a resident. Her name
is Alicia Wallace at 198 Lincoln Boulevard, and she
asked me to read this off of an e-mail. I don't
have it printed out, so excuse me if I stumble
through this.

"First, a special thank you to Mayor
Lumatina and all of the municipal employees for all
their hard work and dedication. Everyone here has
something in common, that they want what is best for
their homes, their neighborhoods, their town. It is
hard to imagine that there hasn't been more agreeing
than disagreeing due to the fact that the people
here truly love Emerson, me included.

"Most agree that we need the
affordable housing, just as the courts have ordered.
There's no dispute there. Is there a better place
to put it? Does it have to be so big? Can it be
broken into two or three projects so that all the
apartments aren't so heavily concentrated in just
one area? How is it beneficial to Emerson to have
the giant size buildings surrounded by small run-down
buildings? What will an additional 2 to 300 cars do
to the traffic? Even with the road improvements,
will there be an additional 2 to 300 cars on the
busiest corner of town? There is no white washing
that fact. Many commercial property owners have
strong ties to the area, and they feel alienated, as
well as the residents whose voices go unheard. Is
there a way to bridge the gap? Would Emerson have
to build a four-story building if they had offered
any type of incentives to current commercial
property owners to add affordable housing? My
1 Council. So this is a project that I believe, if
2 you listened to the Borough planner tonight, is
3 something that was started in 1999, and it's been
4 going on for 17 years. So we are in the process now
5 just to reaffirm the designation of this 1.9 acres
6 as an area in need of redevelopment based on current
7 planning standards, and the recommendation of our
8 Borough planner. And we would like to have the
9 future of Emerson, downtown Emerson, be a thriving
10 area, and one that meets the standards that is going
11 to attract people to town, businesses to town, and
12 customers to businesses. So that is my response,
13 respectfully, to the person who wrote that e-mail,
14 and I respect her opinion.
15 Does anybody else have a comment?
16 MR. VANDERKUEGEL: May I make one more
17 comment, sir?
18 MR. SCHWINDER: This was the last
19 comment, as I mentioned before. I said one more
20 comment.
21 MR. VANDERKUEGEL: She does have to be
22 bonded, sir, for the record.
23 MR. SCHWINDER: We have to be cut out of
24 here by 11 o'clock, as I said.
25 MR. BUELT: Thank you for your answer.

1 It will be on public record so she can read it, and
2 I appreciate you giving me the opportunity to read
3 her letter, which I just read for the first time
4 myself.
5 MR. SCHWINDER: I'll entertain a
6 motion to close the public.
7 UNIDENTIFIED SPEAKER: We have time.
8 UNIDENTIFIED SPEAKER: What are you
9 afraid of?
10 MR. SCHWINDER: We have allowed
11 numerous people to speak tonight, and we have to be
12 out of here at 11 o'clock, and we have a little more
13 business to conduct. So that's why I'm asking for a
14 motion from the Board —
15 UNIDENTIFIED SPEAKER: We have 19
16 minutes before the meeting ends.
17 (Board discussion.)
18 MR. MARTIN: There will be a
19 two-minute —
20 MS. DIAPAOLA: I have a quick question
21 for Mr. Doyle.
22 MR. SCHWINDER: — and everybody else,
23 two minutes until ten minutes of, and then no more
24 questions.
25 MS. DIAPAOLA: Danielle DiPaola, 93

1 Union Street, Councilwoman, Borough of Emerson.
2 In light of all of all the work that
3 was being done in the construction zone, I've been
4 making a lot of phone calls to representatives,
5 State representatives with the Lieutenant Governor's
6 office. And I found out through speaking to the
7 Office of Economic Development that the only way
8 that you could give somebody a tax abatement is if
9 their area is an area in the need of redevelopment.
10 And when I found this out, I started thinking about
11 all those development areas in town that were going
12 to go through the process again — so I just have a
13 quick question. If this is designated as an area in
14 need of redevelopment again, can we give these
15 property owners a chance to build on their
16 properties and give them incentives, like tax
17 abatements in order for them to do it themselves,
18 instead of bringing in — instead of bringing in a
19 redevelopment firm.
20 MR. MARTIN: That might be outside of
21 her professional expertise as a planner, but —
22 MS. DIAPAOLA: I was asking Mr. Doyle.
23 MR. MARTIN: Mr. Doyle is not
24 testifying. But if you can help...
25 MR. DOYLE: Are you talking about

30 (Pages 114 to 117)
the age of the study it could be challenged, so it
was in the interest of municipality to reconfirm
that this area continues to meet the criteria under
the Local Housing and Redevelopment Law as an area
in need of redevelopment. The good news is, at
least based on this planner’s observations and
professional opinions, this area continues to meet
the requirements, 419, continues to meet the
requirements to confirm the designation as an area
in need of redevelopment.

With respect to the other lot and
blocks that received notices but which there was no
testimony or hearing this evening, nothing prevents
those property owners tomorrow morning from moving
forward with developing their properties in
accordance with the current zoning, which I believe
is mixed use, residential, etcetera.

MS. DIPAOLA: Okay. And I just have a
comment. So all this criteria is met based on the
testimony of this planner. And you know me, you
know I like to challenge things. So just like you
have your legal opinion, another planner may have a
different opinion than Ms. Bogart?

MR. DOYLE: Correct.

MR. SCHWINDLER: I will entertain a
motion to close to the public.

UNIDENTIFIED SPEAKER: One more.

MR. O'BRIEN: Tim O'Brien, 118 Dyer
Ave. You said this has been going on for a long
time. You're going after the business to clean up
and do whatever. What about the town or Borough
street lights that have been knocked down for years,
traffic cones put over them, not working. Lead by
example, no?

MR. DOYLE: I don't know what
specifically you're talking about —

MR. O'BRIEN: Oh, there's a few.

MR. DOYLE: What I can tell you,
though, is what the Governing Body has done —
noticed because of the improvements that you are
living through right now, it is, I believe, the hope
of the Mayor and Council, that as a result of the
improvements to Kinderkernack Road, we're going to
experience some improvement to the downtown area
which is being funded in part by the County, and
substantially in part by the redeveloper who's going
to be redeveloping Block 419.

MR. O'BRIEN: So you're going to make
everyone do everything first, and then the town can
do their thing later?
MR. MARTIN: I think a lot of your neighbors have done it.

MR. SANTANGELO: Yes, yes, and the town never came back and said, you know what, you satisfied the criteria, and, Mr. Mayor, you were the mayor at the time, by the way, you should come out of the zone. The town never came to us.

MAYOR LAMATINA: If you petition the town, the town can take you out of the zone. It's part of redevelopment law.

MR. SANTANGELO: That's great, and I just want to know.

MR. LAMATINA: We're trying to get done with 419.

MR. SANTANGELO: I know that. I'm trying to ask a general question because there's a lot of concern from us — I mean, there's a lot of people here that own buildings that are not in 419. We're looking at the bigger picture, which is basically the whole downtown area, except for a few properties. That's why I'm asking that question.

MS. BOGART: If I may, the adopted redevelopment plan allows for properties to be taken out of a redevelopment designation as long as they met the redevelopment criteria that was set forth.
changes?

MS. BOGART: One of which was that, remember, we increased the height and allowed for a greater height towards the rear of the property. along the railroad tracks, there was nothing in the ordinance that you saw that the height along the railroad tracks had to be set back from Kindermack Road. So the Governing Body said they wanted a minimum of five feet set back, so those apartments that are located on the fourth story have a balcony that is a minimum of five feet so that you wouldn't see on Kindermack Road. So prior, that dimension was never set forth in the regulation.

MR. SCHWINDER: So the purpose of that amendment is so that the fourth story would not be visible from Kindermack Road, or it would be set back so it wouldn't be towering over the street.

MS. BOGART: That is correct. And it wouldn't be towering originally, but there was nothing in the ordinance that specifically gave it a dimension. So now we have a dimension.

MR. SCHWINDER: So a five-foot setback, that's number one.

MS. BOGART: That's number one. The second one is with regard to parking. We had a great discussion about parking requirements and the shared parking and hiring a traffic expert if the developer came in and wanted a parking reduction. The Governing Body decided that instead of possibly requiring the parking expert, they wanted to mandate that the Planning Board or the Land Use Board hire a traffic expert if any developer is seeking a reduction in the parking requirement. So that is now a mandate, that we now have to have our own traffic expert to review any shared parking reduction.

So there are two minor things, two things that I think help the regulations and help this Board as they go through the site planning process.

MR. MARTIN: And that would be at the expense of the developer?

MS. BOGART: Correct.

MR. DOYLE: You actually raised that with me earlier today, Mr. Martin, when I prepared you for this. If you wanted to include that, I don't believe that's substantive enough that we would need to have the Mayor and Council reintroduce that and send it back down to you, so we don't see any issue —
MR. SCHWINDER: -- so that was -- we recommended, they took the recommendation, they accepted the recommendation, and they put it into -- they finalized it into a resolution.

Tonight we are -- in the last meeting of the Mayor and Council they decided to bring forth two additional amendments to that particular ordinance. And the two additional amendments were for the fourth floor to be set back -- the fourth floor, which was already approved --

UNIDENTIFIED SPEAKER: We talked about floor, but that was the back end of the building, not five feet from Kinderkarmack Road.

MR. SCHWINDER: -- I'm sorry, it was the fourth floor on Kinderkarmack Road. I'm sorry, sir, that's fourth floor on Kinderkarmack Road.

UNIDENTIFIED SPEAKER: -- I even agreed with the Mayor. I said, you know, I could handle the fourth floor in the back because it's in the back. But when you go up four floors -- there was a lady at the Council meeting the other night, she was down in Clark, or somewhere down there where the building who's doing this, or may be going to do this, has a building there that's four stories, and she says it's a monster. It is a monster.
accepted as an ordinance. We are here tonight
because we've been asked to approve two amendments
to the master — to the Redevelopment Plan, and what
Ms. Bogart presented tonight is the five-foot
setback, which the Mayor and Council had discussed, and
also the ability of the town or the request to
have the town hire a traffic study professional to
review the plans of the applicant. That is what
we've been asked to do. The fourth story has already
been accepted. That was a month ago.

UNIDENTIFIED SPEAKER: I, myself,
personally feel like I'm being hoodwinked, because
as far — I don't know how many people in Emerson
know about this. I saw it in the paper, just the
last week it came out in the paper, and that's the
first I ever heard of it. Of course, I don't go to
council meetings, my bad, but the people of Emerson
have to know about this.

MS. BOGART: This is the second
hearing with the Land Use Board with regard to this
ordinance, and we had two hearings already before
governing board, and we'll have a second reading
for the governing body in a week or so.

MR. SCHWINDER: So, did you hear what
Ms. Bogart —

you'll always know the dates of our meetings. You
don't need to be a computer expert —

UNIDENTIFIED SPEAKER: I don't want to
have to sit through, you know, nothing. That's not
my deal.

MR. SCHWINDER: I saw you attended the
Mayor and Council meeting the other night, you spoke
up, your voice was recognized and respected just as
it is tonight. But in this particular case, I'm
not going to have to say, you're a little bit wrong on
this particular aspect, because the fourth floor is
already approved.

UNIDENTIFIED SPEAKER: Let me ask you
one thing. Why did we do this now, why after
everybody left?

MR. SCHWINDER: I announced to the
public that the first part of the meeting was over,
please either sit down or be quiet, we are not
finished with the meeting. At 10:30 I said we
have —

UNIDENTIFIED SPEAKER: You didn't
clarify on what we were going to be talking about.
I think people would have stayed.

MR. DOYLE: At the beginning of the
meeting Mr. Schwindner read a script of the two
supposed to be open to the public, this is a work go
document for your recommendations back to the
Governing Body.

MR. MARTIN: Your input is
appreciated, and you can test that ordinance. You
can go to the Governing Body. The Land Use Board
has no binding effect on that.

MR. SCHWINDLER: We can't answer your
question.

UNIDENTIFIED SPEAKER: I just wish
that everybody could have been here to hear that,
that’s all.

MR. SCHWINDLER: Well, just tell your
friends that December 20th it will be discussed at
the Mayor and Council meeting.

MR. MARTIN: Which may be here.

MR. SCHWINDLER: Thank you, sir.

MS. MCGUIGUE: Jill McGuire, 154
Linwood Ave. I wasn't planning on speaking, but
when he came up, I'm the girl that he was speaking
about who went to Westfield and saw a four-story
building that looked exactly like the JMF building
in Westfield, it was all residential though, and it
had a setback. And having seen it firsthand, I am
against the five-foot setback. I would like it to
be more. It is not—it doesn't soften the look as
was suggested by JMF. Seeing it firsthand, in stark
reality, standing in front of it in the Trader Joe's
parking lot—if you want to look it up and Google
it, it really is there, it's the building, and I'm
against it.

And as far as for clarification, what
happened on Tuesday was not approval of the
amendment. It was a first read that was voted on.
So just so you know, it wasn't approved, and there
will be a second read and public hearing on the
20th, which I'm aware of. And I'm told that it
wasn't on the agenda this evening. I'm not saying
that everyone in the room was planning on listening
to this topic, but possibly. And I'm concerned,
very concerned, about this particular project, and
further concerned with what was going on this
evening with possibly how it will move forward and
the way that it will move forward with the property
owners. Like I hope that it's something that's,
more—that everyone is receptive and walks away
with a smile on their face. And it makes me sad to
see that these people, businesses that I participate
in as a customer, Cork & Keg, Ranch Cleaners, the
gelato place, these are all places—Ranchero, I

36 (Pages 138 to 141)
mean, that’s a nice restaurant. I mean, I felt a
little sad to hear you say that it’s blighted. It’s
a good restaurant. The Nerds play there, fun stuff
going on there.

MR. MARTIN: Just comments as to the
five-foot setback —

MS. McGUIGR: Sorry. I’m against the
five-foot setback.

MR. MARTIN: — and the traffic
consultant, and how that person is —

MS. McGUIGR: Right. Sorry.

MR. MARTIN: It’s okay. You can
counter that issue with the Governing Body. If the
Board does nothing tonight, on the 20th they don’t
even have somebody recommending push it back —
maybe I’m wrong, but I believe you consider it
push it back further or get rid of it. Those are
two things for the Governing Body —

A. Well, right. I totally — right. If
it has to be, which I understand — I mean, look, I
get it. It’s big decisions that are being made, so
I’m not one of those people who stomps my feet or
throws a temper tantrum if things don’t go my way.

I know that things go on that I’m not necessarily
going to like sometimes, but if the four-story
elevations...
public comment was cited, and no one else raised
their hand, and that was it, right?
MR. SCALA: No, that's not true.
MR. MARTIN: I'm sorry. Maybe I'm
wrong. Did anybody else observe any other hands up?
MR. SCALA: You called the last
person, but there were other people still waiting to
come up. I got my answer. Thank you.
MR. SCHWINDE: I'll entertain a
motion to close to the public.
(Motion made and seconded; all in favor.)
MR. SCHWINDE: So we have two things
that we've been asked to do. The first thing we
were asked to do by the Mayor and Council was to
consider recommending to the Borough whether or not
certain blocks and lots located in the Central
Business District meet the statutory criteria to be
designated as a Condemnation Redevelopment Area
pursuant to the New Jersey Local Redevelopment and
Housing Law. We have heard testimony from Ms.
Bogart, we have heard comments from the public, and
at this point in time I would like to entertain a
motion if this Board will be recommending to the
Borough counsel to accept the designated area as one
that is in need of redevelopment in a Condemnation
Redevelopment Area. So I will accept a motion on
that.
(Motion made.)
MR. SCHWINDE: We have a motion, and
that's in favor of recommending the area in need of
redevelopment.
MR. DOYLE: And that is only as to
Block 419 and the lots identified. Block 419,
Lots —
MS. BOGART: 1, 2, 3, 4, 5, 6, 01,
602, 7, 8, 9, and 10. No.
MR. SCHWINDE: Okay, that's on the
record. Thank you. A second on that?
(Motion seconded)
MR. SCHWINDE: Any discussion,
of further discussion tonight? Anyone?
Hearing no comments, then roll call —
MAYOR LAMATINA: I just have a
question for Counsel. Do I vote, Mr. Doyle —
MR. MARTIN: You do not.
MAYOR LAMATINA: I do not vote. Thank
you.
MR. MARTIN: I'm sorry, I should have
brought that up earlier.
(Roll call; all in favor.)

MR. MARTIN: Mr. Schwindel, I have a
resolution. I did make a change of Lincoln Avenue,
that was a mistyping there, and just put public
streets, so that memorializes that —
MR. DOYLE: Wherever Lincoln Avenue
appears in there, Mr. Martin, we'd ask that it say
public streets.
MR. MARTIN: Yes. My error.
MR. DOYLE: No, my error, but thank
you.
MR. SCHWINDE: The second piece of
business we were asked or were directed by the Mayor
to an Council to review had to do with the amendments
to the Redevelopment Plan, specifically the
five-foot setback on the fourth floor of any
building along Kinderkermack Road in the stated
area. Once again, state the area for me.
MS. BOGART: Block 419, Lots 1, 2, 3,
4, 5, 6, 01, 602, 7, 8, 9, and 10.
MR. SCHWINDE: Thank you. So that's
the five-foot setback for the fourth floor, and also
the recommendation that the Borough engage a traffic
specialist to analyze the proposal by the
redeveloper as it pertains to parking and traffic
flow.

MR. MARTIN: At the expense of the
developer.
MR. SCHWINDE: At the expense of the
developer. So I will entertain motion to make that
recommendation to the Mayor and Council. So I'll
await a motion.
(Motion made and seconded.)
MR. SCHWINDE: We have this motion on
the floor. Do we have any further comment?
MR. KUTZIN: So we're recommending
back to the Mayor and Council that the proposed
ordinance change would go to the five-foot
setback —
MR. SCHWINDE: For the fourth floor
on buildings fronting Kinderkermack Road.
MR. MARTIN: Or tertiary streets —
MR. KUTZIN: Correct. My question is,
after the discussion at the next Mayor and Council
meeting could they potentially come back and make
some further changes?
MR. MARTIN: They could reject the
recommendation. It is simply a recommendation; it's
not binding. Or they could adjust it, or adopt it.
But it's a good question, and that's why it is a —
it's a recommendation, and that's it.
MR. KUTZIN: And even if they accept
the recommendation and pass the ordinance, the
ultimate plan that builder follows through with
could be something in excess of five feet?

MS. BOGART: No --
MR. MARTIN: They could also eliminate
two floors and make it a two-story structure. The
Governing Body has a lot of power in this regard.
The Land Use Board just wants to make sure this
particular finite addressing of the proposed
ordinance, because it's up for vote on the 20th, is
consistent with the Master Plan, which is what our
domain is.

MS. BOGART: Additionally, the
Redevelopment Plan requires the Governing Body
to amend the plan. The developer is not allowed to
come in for a variance. So you'll never see a site
plan for this block where they waiver from any of
the regulations.

MAYOR LAMATINA: Can't it be greater
than five feet? Isn't the language not to be less
than five feet setback?
MR. DOYLE: Minimum, minimum.
MR. KUTZIN: So the final plans could
be 7 feet or 10 feet?

1 they're saying you can have zero setback or that we
don't want a fourth floor?

MR. MARTIN: At this time the
recommendation would not be to do anything that's
already currently pending before the Governing Body.

MR. SCHWINDE: Did you hear what Mr.
Martin said?
MR. ADAMS: I didn't understand it.
I know what he said, but I didn't understand it.

MR. MARTIN: Right now, there's an
ordinance that going to be pending and will be
decided probably on the 20th of December. If the
Land Use Board rejects this proposed amendment to
the ordinance as a recommendation to them, at this
point it wouldn't be a five-foot setback of the
fourth floor.

MR. ADAMS: It would be a zero-foot
setback.

MR. MARTIN: Of the fourth floor,
that's correct.

MR. SCHWINDE: That's the worst case
scenario.

MR. MARTIN: If this Board doesn't
recommend anything, they can do whatever they want,
again, they can make it whatever they want. But if

1 pushing it back off so it's not right on top of a
street in Emerson is something that this Board
thinks is appropriate, the Board can recommend it by
a positive referral. If there's some rejection and
the Board doesn't recommend it, there's no setback
of the fourth floor, right now it's pending, it's
equal to the third and second and first floor --

MR. ADAMS: I guess my question is, I
object to zero, I object to five. How do I vote?
I'd like to see a ten-foot setback or a 20-foot
setback. How do I vote? If I say no, that means
I'm saying zero. If I say yes --

MR. MARTIN: It's a good point, and
your job now is to enter into a discussion period
and discuss with the Board members.

MR. ADAMS: I'm objecting to
five-foot, so either way, I lose.

MAYOR LAMATINA: Well, you don't lose.
You want to state what your vote is. The problem,
with Mayor and Council, we talked -- the developer
came in and talked to us about it and said anything
more makes the apartments too small. So 20 feet,
obviously, would eliminate -- so maybe five, seven
feet, maybe ten feet. And again, as Counsel said,
that's the Mayor and Council's problem. We can do
before that we brought the planner in, we brought
the developer in, we had and an extensive discussion
with Mayor and Council. And again, there was some
resistance to five feet, and Mayor and Council, we
think five feet is correct — now, you can say
whatever you want, but I think if you say seven
feet, I think there's going to be an issue with
Mayor and Council. So that's — you can do whatever
you want.

Are I voting on this?

MR. MARTIN: No —

MR. DOYLE: So you know, whatever you
recommend, you recommend. The Governing Body will
take into consideration, as it always does, this
Land Use Board's recommendation. But it does have
the ability to be able to adopt the resolution over
your recommendation, as long as it articulates the
reasons why it's doing that. For example, you could
say seven feet would be better, and the Governing
Body, if they so choose, could say, we understand
why the Land Use Board would want seven, seven might
be better, having heard from the applicant, having
heard from JMF, that when it does that it will
reduce the size of the unit from 800 square feet for
a studio to 500 hundred square feet for a studio

advise you to show up at the next Mayor and Council
meeting and make your voice heard so that the Mayor
and Council can consider something other than a
minimum of five feet.

MR. ADAMS: I want to participate in
tonight's meeting but I'm not sure how to vote
to get my point across.

MR. SCHWINDLER: Well, I think you've
made your point.

MR. ADAMS: I made it verbally, but I
still don't know how to vote.

MR. MARTIN: You can vote no because
you think it should be greater and you want to
petition for greater or at least try to get the
Board members to agree with you.

MR. SCHWINDLER: I think it would be a
mistake to vote no and not show up at the Mayor and
Council meeting.

MR. ADAMS: Point well taken.

MR. SUDANO: How about if the Board
recommended that you reach a setback that's
comfortable for both the developer and the Mayor and
Council and this Board, above five, if possible?

MAYOR LAMATINA: I can tell you, we
did discuss in Mayor and Council, and not -- but
original concept had three foot balconies, some areas, you can't even put a chair out there. So that's why the Mayor and Council said, we want a minimum of five feet to make sure that it's actually a usable balcony.

MR. SCHWINDER: Mr. Adams, perhaps, however you vote tonight and you show up at the Mayor and Council meeting, maybe there is some further discussion that can be held with the developer at the recommendation of the Mayor and Council that has something to do with the roof line. So maybe the roof line can be somewhat controlled so that at five feet it won't be as visible with a higher incline versus something less low. So these are all things that you can suggest to the Mayor and Council be investigated. I'm sure that is not something that has been discussed, but if that's going to help you with the way you feel this building is going to look over Kinderkernack Road, then I suggest that you show up at the Mayor and Council meeting and give your opinion there and make your suggestions there, and possibly those suggestions will be discussed, and may be discussed in advance. Now that Mayor has heard your comment, if there's a discussion that the Mayor has or a Council member has with JBDF, maybe on comments made at the Land Use Board meeting.

MAYOR LAMATINA: Mr. Adams can make a motion to recommend a seven foot or more setback --

MR. ADAMS: Well, without seeing the drawings and some architectural design, I don't know how effective the five-foot would be to be not able to see the fourth story, which is the intents, versus the seven-foot. And I don't know how high it is above, because if it's three feet high, you won't see it. But if it's four feet high, you will see it. So without having those drawings in front of me, I really can't make that --

MS. BOGART: Mr. Chairman, I have a suggestion.

MR. SCHWINDER: Yes, Ms. Bogart.

MS. BOGART: I don't have the details of the floor plan, but maybe there's an opportunity, as the Mayor and you were suggesting, that maybe 80 percent of the units are set back five feet, and the remainder is set back seven or eight feet, depending on the floor plan. So there may be some wiggle room that Mayor and Council could look at, depending on the floor plan.
CERTIFICATE

I, TRINA B. OTHA, a Notary Public and
Certified Court Reporter, do hereby certify that the
foregoing is a true and accurate transcript of the
proceedings as taken stenographically by and before
me at the time, place and on the date hereabove
set forth:

[Signature]
Trina B. Otha, CCR
Notary Public
CERTIFICATE

I, TRINA B. OTHA, a Notary Public and Certified Court Reporter, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

Trina B. Otha, CCR
Notary Public
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RESOLUTION OF THE MUNICIPAL LAND USE BOARD
THE BOROUGH OF EMMERSON

In the matter of:

RECOMMENDING TO THE MAYOR AND COUNCIL THE DESIGNATION OF
BLOCK 419, LOTS 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, AND 10 AS A CONDEMNATION
REDEVELOPMENT AREA PURSUANT TO THE NEW JERSEY LOCAL
REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.

WHEREAS, on August 16, 2016, the Mayor and Council of the Borough of Emerson
(“Governing Body”) adopted Resolution No. 221-16 authorizing and directing the Land Use
Board of the Borough of Emerson (“Board”) to conduct an investigation to determine and
recommend whether a certain area located within the Central Business District, including Lots 1,
2, 3, 4 & 5 on Block 412; Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10 on Block 419; Lots 2 & 16 on
Block 420; Lots 1,10,11,12,13,14,15,16,17 & 18 on Block 422; Lots 2, 3, 4, 5, & 6 on Block 603;
Lots 3 & 4 on Block 606; Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02, & 10 on Block 610; Lots 1
& 2 on Block 613; Lot 1 on Block 615; Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24 on Block 616; and
Lot 1 on 617.01 on the Official Tax Assessment Map of the Borough of Emerson (“Study Area”),
meets the statutory criteria to qualify as a condemnation “area in need of redevelopment”
(“Condemnation Redevelopment Area”) pursuant to the New Jersey Local Redevelopment and
Housing Law, N.J.S.A. 40A:12A-1, et seq., (“LRHL”); and,

WHEREAS, pursuant to N.J.S.A. 40A:12A-4(b), a municipal planning board has the power
to conduct, when authorized and directed by the Governing Body, a preliminary investigation,
hearings and make recommendations to the Governing Body as to whether an area meets the
statutory criteria as a Condemnation Redevelopment Area; and,

WHEREAS, in order to complete the investigation of the Study Area the Board retained
Brigette Bogart PP, AICP, CGW of Planning & Design Professionals, LLC (“Planner Bogart”), to
serve as planning consultants and to prepare a report and assist the Board in the investigation and
analysis of the LRHL statutory criteria as it pertains to the Study Area; and,

WHEREAS, Planner Bogart has prepared a map delineating the boundaries of the Study
Area with a statement of basis for the investigation to be kept on file at the Borough Clerk’s
office in accordance with N.J.S.A. 40A:12A-6; and,

WHEREAS, the Board’s Planner Bogart has recommended and the Board has
determined to divide the Study Area into subsections and conduct an investigation of an area,
specifically Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 (“Subsection A”) in
accordance with the guidelines set forth in N.J.S.A. 40A:12A-6 to determine whether the Study
Area, specifically Subsection A, meets the statutory criteria to be designated as a Condemnation
Redevelopment Area; and,

WHEREAS, a report was prepared by Planner Bogart, entitled “Determination of Area in
Need of Redevelopment” dated December 8, 2016, providing an investigation of Subsection A and
a recommendation that it meets the criteria set forth under N.J.S.A. 40A:12A-5 to be deemed a Condemnation Redevelopment Area ("Report") identified as LUB-1, attached hereto and incorporated herein as Exhibit A; and,

WHEREAS, pursuant to the requirements set forth in N.J.S.A. 40A:12A-6, the Board caused proper notice of the hearing to be published once a week for two (2) consecutive weeks in The Record and caused a copy of the notice to be mailed, at least ten (10) days prior to the date set for the hearing, to the last owner of the property and persons in interest of the property within the Study Area according to the tax assessment records of the Borough of Emerson; and,

WHEREAS, the Board conducted a public hearing on Subsection A on December 8, 2016; and,

WHEREAS, the Board advised all of those in attendance that only the properties identified in Subsection A would be discussed during this hearing and that all other property owners and/or persons of interest within the Study Area would be noticed for a hearing regarding all the other properties; and,

WHEREAS, the Planner Bogart prepared Report was presented to the Board that set forth certain findings, recommendations, and conclusions with respect to the eligibility of Subsection A as an "area in need of redevelopment" in accordance with the provisions N.J.S.A. 40A:12A-5; and,

WHEREAS, Professional Planner Bogart was accepted as an expert and presented extensive testimony supporting and supplementing the aforesaid Report and addressing the statutory criteria set forth under N.J.S.A. 40A:12A-5; and,

WHEREAS, all persons present and affected by the potential designation were given an opportunity to be heard by the Board and any testimony and/or evidence presented was made part of the public record; and,

WHEREAS, the following individuals of the public were heard and their testimony was made part of the record:

1) Jim Jaworski, Esq, on behalf of 214 Kinderkamack, LLC, Block 419, Lot 4 located at 214 Kinderkamack Road.
2) Debbie Agnello, Block 419, Lot 6.01 located at 188 and 190 Kinderkamack Road.
3) Ernest Vanderkuegel from Congers, Rockland County, New York (not a subject property owner or person in interest for this hearing).
4) Rosella and Eduardo Cordero, stated 11 Chestnut Street (Block 405, Lot 4 on the Borough tax record, but property owners stated Block 214, Lot 3.02 on the record at the hearing. Also, not a subject property owner or person in interest for this hearing).
5) Kenneth Hoffman, 61 Emwood Drive (not a subject property owner or person in interest for this hearing).
6) Robert Petrow, 6 Hawthorne Terrace, Saddle River (not a subject property owner or person in interest for this hearing).
7) Jill McGuire, 154 Linwood Ave. (not a subject property owner or person in interest for this hearing).
8) Ed Bueti, 61 Chestnut Street (not subject property owner or person in interest for this hearing). Mr. Bueti read an e-mail written by Alisha Wallace (not present) who owns 198 Lincoln Blvd. (not a subject property owner or person in interest for this hearing).
9) Danielle DiPaola, 93 Union Street (not a subject property owner or person in interest for this hearing).
10) Tim O’Brien, 118 Dyer Avenue (not a subject property owner or person in interest for this hearing).
11) Mark Santangelo, 85 Kinderkamack Road (not subject property owner or person in interest for this hearing).

WHEREAS, no written objections were received during the hearing; and,

WHEREAS, the Board of the Borough of Emerson makes the following factual findings and conclusions based on the Report and testimony of Bogart:

1. The preliminary investigation of Subsection A of the Study Area indicates that the proposed redevelopment area meets the statutory criteria found in N.J.S.A. 40A:12A-5 of the LRHL;

2. In general, the majority of Subsection A of the Study Area exhibits faulty arrangement that is characteristic of meeting Criteria “d”. The faulty arrangement is due to the size and location of the buildings, lack of parking and improper circulation aisles. This creates a site with an inefficient layout with no opportunities to improve. Given the uses and building sizes on a number of lots, there is a need for outdoor storage and display which is inappropriate and leads to further decay. Furthermore, the lack of a curbing along Kinderkamack Road creates safety issues with un-channeled vehicles exiting and entering the sites and/or backing out onto Kinderkamack Road;

3. The majority of Subsection A of the Study Area exhibits poor design and arrangement which are indicators that the area is not being properly utilized and exhibits economic underutilization. This is clear evidence that the area as a whole is underutilized in accordance with statutory criteria “e”, as well as the broader land use and planning goals of the municipality;

4. Subsection A as a whole is not fully productive and developing in a manner that furthers or is consistent with the Borough’s plan and the proximity to the train station which offers excellent opportunities for smart growth and transit-oriented development;

5. The proposed designation of Subsection A as a Condemnation Redevelopment Area would allow for the creation of a Redevelopment Plan for the area that can encourage creative design, require streetscape improvements, and permit uses that will be compatible with the area’s proximity to the train station. These changes would be compatible to the vision of the Smart Growth principles of the New Jersey State Plan and the Borough’s Master Plan, which goals have been on the books since 1999 and have
been re-examined frequently (i.e., 2003, 2004, 2006, 2008) since then with little or no progress.

6. Subsection A is suitable for improved utilization, employment and tax generating uses that could serve the health, safety and welfare of the community, including but not limited to allowing for the Borough to comply with its court mandated Council on Affordable Housing Obligation;

7. Many of the structures identified in Subsection A are in unsafe conditions with boarded-up windows, falling roofs, crumbling windows, unimproved driveways, lack of parking, faulty arrangements and the presence of debris throughout;

8. The inclusion of the properties located within Subsection A within the boundaries of the Redevelopment Area are necessary for the effective redevelopment of the entire Redevelopment Area as a whole;

9. There is sufficient credible evidence to support the finding that the designation of the Subsection A as a Condemnation Redevelopment Area authorizes the municipality, if necessary, to exercise the power of eminent domain to acquire any property in Subsection A; and

10. The Report, identified as LUB-1, is incorporated herein together with its findings and conclusions.

NOW, THEREFORE BE IT RESOLVED, that the Municipal Land Use Board of the Borough of Emerson does hereby state as follows:

1. That all of the recitals, including all findings and conclusions of facts set forth hereinabove together with the Report (LUB-1) (attached hereto as Exhibit A) are incorporated and adopted by reference herein.

2. That the Board has caused to be undertaken proper notice of the public hearing which was held during the Board’s consideration of this matter on December 8, 2016.

3. Such public hearing was held in accordance with law and the Board heard and considered public comment regarding the study and the designation of Subsection A of the Study Area as a Condemnation Redevelopment Area.

4. The Board has considered public comments and the Report, specifically the findings and recommendations made therein, with regard to each of the properties studied in Subsection A of the Study Area and hereby adopts all of the findings and recommendations of the Report and specifically finds that each of the subject parcels in Subsection A meets one or more of the criteria for redevelopment pursuant to N.J.S.A. 40A:12A-5 as more specifically described and set forth in the Report and hereinabove.
5. The Planning Board recommends that Block 419, Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9, and 10 be and are hereby recommended to the Mayor and Council for use of all those powers provided by the Legislature to designate the area as a condemnation “area in need of redevelopment” pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.; and

6. The Board Secretary shall forward a copy of the Report together with a copy of this Resolution to the Governing Body of the Borough of Emerson and shall otherwise circulate, file and distribute same in accordance with the law.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein on January 5, 2017.

Dated: 1/5/17

Gary Schwinden, Chairman

Dated: 1/5/17

Marie Shust, Secretary

OFTERED BY:
SECONDED BY:
VOTE: Ayes:
Nays:
Abstain:

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