



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Green Acres Program
Mail Code 501-01
P.O. Box 420
501 East State Street, 1st Floor
Trenton, NJ 08625-0420
Tel.# 609-984-0631 / Fax # 609-984-0608
www.NJGreenAcres.org

January 13, 2017

Mayor Richard Palombo
Township of Upper
P.O. Box 205
Tuckahoe, New Jersey 08250

Re: Township of Upper, County of Cape May
Block 350, part of Lot 12
Recreation and Open Space Inventory (ROSI)
Notice of Omission of Property from the ROSI (N.J.A.C. 7:36-25.3(m))

Dear Mayor Palombo,

In accordance with *N.J.A.C. 7:36-25.3 (m)*, I am writing to notify you that the Green Acres Program has reason to believe that a portion of Block 350, Lot 12 in Upper Township, Cape May County (the "Property") was held for recreation or conservation purposes at the time the Township of Upper ("Township") accepted Green Acres funding and was erroneously not listed on the Township's Recreation and Open Space Inventory ("ROSI"). The basis for our belief that a portion of the Property should be listed on the Township's ROSI, and therefore is encumbered with Green Acres restrictions, is detailed below.

Background

As you are aware, in April 2014, the Green Acres Program made a determination that Block 350, Lot 12 in Upper Township, Cape May County was not subject to Green Acres restrictions. (See *N.J.A.C. 7:36*). This jurisdictional determination was not requested by the Township, but was made in response to an inquiry to our program by South Jersey Gas ("SJG") as part of its due diligence for the construction of the Mt.

Pleasant-Tuckahoe Road Interconnect Station in support of the BL England pipeline project. A copy of this email is attached in Exhibit 1.

After reviewing additional information provided to our office by the Township as well as the Pinelands Preservation Alliance ("PPA") and the New Jersey Conservation Foundation ("NJCF"), we affirmed and supplemented our original determination via a letter issued to the Township on November 12, 2015 (attached in Exhibit 1). This letter was captioned as our "final determination" on the jurisdiction issue based on our belief that the Township had provided us with all relevant information from its files about this matter.

PPA/NJCF filed a Notice of Appeal from our November 12, 2015 final determination on December 23, 2015. It is our understanding that PPA continues to research the history of the Property while the appeal is pending. On October 25, 2016, the Township supplied our office with a copy of its response to an Open Public Records Act ("OPRA") request submitted by PPA. This response included minutes from Upper Township Committee meetings held on November 29, 1971 and December 13, 1971 (Exhibit 2). Further, on November 8, 2016, PPA provided excerpts of various Township Master Plan documents from 1960 to 1984 (Exhibit 3). This information was not provided to us prior to issuance of the November 12, 2015 final determination.

The following provides a summary of the additional information provided to Green Acres since our November 2015 final determination:

Township Committee Meeting Minutes - November 29, 1971

The November 29, 1971 minutes state on page 114, in relevant part, that "the Fourth of July Committee rescinded their approval to locate a basketball court on the fringe of the existing ball field, stating that they would urge the placement of the court on the 3 ½ acre site across the street."

Township Committee Meeting Minutes – December 13, 1971

The December 13, 1971 minutes, on page 120, clarify the location of the 3.5-acre site mentioned in the November 29, 1971 minutes by memorializing the Township's establishment of a 3.5-acre recreation area on Block 72, Lot 3. The Township's ROSI indicates that this parcel now represents the Tuckahoe Park/Recreation Area, which is located across Mt. Pleasant Tuckahoe Road (County Route 664) from the Property.

1960s Upper Township Master Plan

Excerpts from the 1960s Township Master Plan, prepared for the Upper Township Planning Board by the Cape May County Planning Staff, dated March

1962, include three maps: 1960 Land Use, Facilities & Services and Future Land Use Plan. The 1960 Land Use map depicts public and quasi-public use on the Property. The Facilities & Services map depicts a park and playground on the property and the Future Land Use Plan depicts the Township Hall as well as a playfield/playground on the Property.

On November 30, 2016, we filed a Notice of Motion for Remand in the pending appeal before the Appellate Division of the Superior Court of New Jersey (Docket No. A-1787-15T1). The purpose of the motion was to allow the Department sufficient opportunity to evaluate the new information and determine whether it alters our November 12, 2015 final determination. The court granted that motion on January 5, 2017, and remanded the matter to Green Acres for 90 days to consider newly available evidence and amend its determination, if warranted, based on that information.

Methodology and Analysis

As documented in our November 2015 final determination letter, under *N.J.A.C. 7:36-25.3(m)*, in determining whether a property should have been listed on a ROSI as unfunded parkland, Green Acres looks at whether the parcel in question was "held" by the municipality, the purposes for which it was held and the timing of the receipt of Green Acres funding, including the following factors (*N.J.A.C. 7:36-25.3(f)*):

- The purpose for and the method by which the local unit acquired the parcel;
- Any evidence relevant to the local unit's intentions regarding the use of the parcel or a portion of the parcel at the time of acquisition and of receipt of Green Acres funds;
- Whether the local unit took any formal action to dedicate the parcel for recreation and conservation purposes or for any other purpose;
- Whether the parcel is identified with a recreation or conservation designation on the official map of the municipality or its zoning map, or in the local unit's master plan;
- Whether the parcel is identified as parkland by signs placed the local unit; and,
- Whether the local unit expended funds to provide recreation or conservation use of the parcel or otherwise supported or encouraged such use.

Additionally, courts have determined that to be included on a municipal ROSI as unfunded parkland, the property must be "held by a municipality for recreational and conservation purposes" at the time funding was received. *Cedar Cove v. Stanzione*, 122 N.J. 202 (1991) and *Matter of Amendment to Recreation and Open Space Inventory of the City of Plainfield to Remove Park-Madison Site, Block 246, Lot 1*, 353 N.J. Super. 310 (App. Div. 2002). This inquiry takes into account all relevant facts such as whether the municipality "was aware of such use, whether it supported and encouraged the use, and whether the municipality had taken any official action to allow the property to be used for such purposes."

In support of our original and final decisions, our office determined the Green Acres encumbrance window and reviewed the Township's ROSI submissions, conducted a thorough historic aerial review and reviewed all documentation submitted by the Township, PPA and NJCF in support of their respective positions. While our original and final determinations were based on comprehensive reviews of all information available to Green Acres at the time, we believe we have an ongoing obligation to review our determinations for accuracy if new information (that is both substantive and relevant) becomes available.

The Township's recent submittal of Committee meeting minutes, as well as excerpts from an earlier Master Plan, includes information we have not previously been aware of and/or evaluated. Read together, in light of the 1970 aerial photograph previously provided by PPA/NJCF which depicts what could be considered a ball field on the Property, this additional information strongly suggests that a recreational area, including at least one ball field, existed on the Property by 1971.

While this information does not provide evidence that the Township expended funds to provide recreation or conservation uses in this area or otherwise supported or encouraged such use during the encumbrance window, it does provide evidence, not previously provided to Green Acres, that the Township was aware of a ball field on the Property.

Conclusion

In accordance with our ROSI amendment rules at *N.J.A.C. 7:36-25.3 (m)*, we now have reason to believe that a portion of Block 350, Lot 12 consisted of a ball field and was, therefore, held by the Township for recreation and conservation purposes at the time of receipt of Green Acres funding. Therefore, we request that the Township amend its ROSI to include the portion of the Property that contained recreational amenities.

If the Township agrees that a portion of the Property should be listed on the ROSI, the Township should draft an amended ROSI for our review including a map/aerial that

clearly depicts the area to be encumbered. This submittal should be made within 30 days of the Township's receipt of this letter. However, if the Township disagrees with our above determination, the Township must submit documentation supporting its assertion that the Property was not held or recreation and conservation purposes at the time of receipt of Green Acres funding within 30 days of its receipt of this letter. In order to allow us to comply with the terms of the January 5, 2017 remand order, we will not be able to provide the Township with any extension to the 30-day deadline.

In order to ensure that we review all available information on the Property, including information the surrounding community may have regarding the historic use of the Property prior to 1982, before authorizing the amended ROSI to be filed or accepting any defenses raised by the Township, we will be providing the opportunity for public input after we receive the Township's response to this letter. We intend to post the Township's response, along with our prior decisions, on our website (<http://www.nj.gov/dep/greenacres/notices.html>) along with notice of a 30 day period for written submissions on this matter. After this 30 day period, Green Acres will evaluate all documentation submitted by the Township, along with any information submitted by the public, and will notify the Township in writing of our final decision.

If you have any questions regarding this letter, please feel free to contact Jessica Patterson, Cape May County Steward, at 609-984-0558 or Jessica.Patterson@dep.nj.gov.

Sincerely,



Martha Sullivan Sapp
Director

cc: Paul Dietrich, Sr., P.E., Upper Township Municipal Engineer
Daniel J. Young, Upper Township Solicitor
Theresa Lettman, Pinelands Preservation Alliance
Carleton Montgomery, Pinelands Preservation Alliance
Emile DeVito, Ph.D., New Jersey Conservation Foundation
Kerry Kirk Pflugh, NJDEP, Office of Local Government Assistance

EXHIBIT 1



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BOB MARTIN
Commissioner

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Green Acres Program
Mail Code 501-01
P.O. Box 420
501 East State Street, 1st Floor
Trenton, NJ 08625-0420
Tel.# 609-984-0631 / Fax # 609-984-0608
www.NJGreenAcres.org

November 12, 2015

Mayor Richard Palombo
Township of Upper
P.O. Box 205
Tuckahoe, New Jersey 08250

**Re: Township of Upper, County of Cape May
Block 350, Lot 12
Recreation and Open Space Inventory Final Determination**

Dear Mayor Palombo,

As you are aware, in April 2014, the Green Acres Program made a determination that Block 350, Lot 12 in Upper Township, Cape May County was not subject to Green Acres restrictions. See *N.J.A.C. 7:36*. This determination was made in response to an inquiry to our program by South Jersey Gas ("SJG") as part of its due diligence for the construction of the Mt. Pleasant-Tuckahoe Road Interconnect Station in support of the BL England pipeline project. After consultation with the Township and additional research by the Township and Green Acres, Jessica Patterson of our staff communicated our findings to Paul Dietrich, Sr., the Township engineer, by email dated April 16, 2014 (Attachment 1).

On August 27, 2015, we received a letter from the Pinelands Preservation Alliance ("PPA") and the New Jersey Conservation Foundation ("NJCF") contending that our original determination was in error. Since the PPA/NJCF letter included information we had not previously been aware of and evaluated, we agreed to review our original jurisdictional determination. For the reasons set forth below, we now supplement and **affirm** our original determination that Block 350, Lot 12 is not a Green Acres-encumbered parcel.

Property Description

Block 350, Lot 12 is a 6.16-acre parcel that currently contains the old municipal building, a playground, two ball fields and the municipal public works yard. The property is listed in the current tax records as "general municipal government" land. The tax records list the property usage as a garage/tower/train museum. However, it does not appear the train museum still operates on this property.

Methodology

Municipalities receiving Green Acres funding are required to prepare a Recreation and Open Space Inventory ("ROSI") listing all parcels funded by Green Acres as well as "each parcel of land held by a local government unit for recreation and conservation purposes" at the time of receipt of Green Acres funds. *N.J.A.C. 7:36-2.1 and -6.5*. Parcels of land held by a local government unit for recreation and conservation purposes at the time of receipt of Green Acres funds are known as "unfunded parkland" and are subject to the Green Acres restrictions. See *N.J.A.C. 7:36*. Since Green Acres is not involved in the acquisition of unfunded parkland, disputes sometimes arise about the accuracy of ROSI listings, including disputes about whether properties have been omitted from the ROSI.

Under *N.J.A.C. 7:36-25.3(m)*, in determining whether a property should have been listed on a ROSI as unfunded parkland, we look at whether the parcel in question was "held" by the municipality, the purposes for which it was held and the timing of the receipt of Green Acres funding, including the following factors (*N.J.A.C. 7:36-25.3(f)*):

- The purpose for and the method by which the local unit acquired the parcel;
- Any evidence relevant to the local unit's intentions regarding the use of the parcel or a portion of the parcel at the time of acquisition and of receipt of Green Acres funds;
- Whether the local unit took any formal action to dedicate the parcel for recreation and conservation purposes or for any other purpose;
- Whether the parcel is identified with a recreation or conservation designation on the official map of the municipality or its zoning map, or in the local unit's master plan;
- Whether the parcel is identified as parkland by signs placed the local unit; and,

- Whether the local unit expended funds to provide recreation or conservation use of the parcel or otherwise supported or encouraged such use.

Additionally, courts have determined that to be included on a municipal ROSI as unfunded parkland, the property must be "held by a municipality for recreational and conservation purposes" at the time funding was received. *Cedar Cove v. Stanzione*, 122 N.J. 202 (1991) and *Matter of Amendment to Recreation and Open Space Inventory of the City of Plainfield to Remove Park-Madison Site, Block 246, Lot 1*, 353 N.J. Super. 310 (App. Div. 2002). This inquiry takes into account all relevant facts such as whether the municipality "was aware of such use, whether it supported and encouraged the use, and whether the municipality had taken any official action to allow the property to be used for such purposes."

Both as part of our original determination and in reconsidering our original determination, Green Acres reviewed all files in our possession relating to Upper Township, including files associated with Green Acres funding received by the Township and the Township's ROSI files. A list of these documents is contained in Attachment 2. Both as part of the original determination and this final determination, we contacted the Township to request a thorough search of the Township's files for any relevant information.

Our method for determining whether Block 350, Lot 12 should be classified as unfunded parkland, in consideration of the factors set forth above, was as follows:

1. Encumbrance Window and ROSI Review

Upper Township received funding from Green Acres on two occasions - October 25, 1975 and December 27, 1978. These two projects (0511-04-003 and 0511-04-004) supported the development of the Golden Oak Recreation Area and Caldwell Park, respectively. Therefore, in accordance with the definition of "time of receipt of Green Acres funding" at *N.J.A.C. 7:36-2.1*, the encumbrance window (that is, the time during which the Township was "in receipt" of Green Acres funds) ranges from the date of the approval letter for the first project in 1975 to the date the Township recorded the ROSI and was paid for the second project on June 1, 1982. The Township has not received Green Acres funding since the Caldwell Park project closed in 1982.

We reviewed the two ROSI submissions recorded by the Township during the relevant period and determined that neither the 1975 nor the 1982 ROSI listed Block 350, Lot 12, in whole or in part, as either developed or undeveloped parkland. Rather, the Existing Community Facilities map that was submitted with each ROSI

designated the subject property as a municipal building and garage, evidencing no recreational use of the site. However, a subsequent 1984 parkland inventory, which was not associated with a Green Acres funding project, lists the subject property as "Municipal Play Park," consisting of $\frac{3}{4}$ acre.

2. Aerial Review

Given the close dates of the 1982 ROSI and the 1984 parkland inventory, Green Acres reviewed in-house aerial photography to determine if the property exhibited any evident recreational facilities (Attachment 3). The 1970 wetlands base map aerial (available on our NJDEP GIS system) depicts the municipal building, public works yard and surrounding forested and open areas but does not depict any ball fields. The 1974 aerial also depicts the municipal building and public works yard and contains a faint line in the area of one of the current ball fields. The only change in the 1977 aerial is a white cleared area also in the vicinity of the current ball field.

It is clear from subsequent aerials taken outside the Green Acres encumbrance window (1987, 1995/1997 and 2002) that the property now contains a fully developed ball fields, including one near the cleared area depicted in 1977. However, we could not, from our review of the relevant aerials definitively determine that the property contained recreational facilities used by the Township during the encumbrance period.

3. Township Correspondence

Since the available aerials did not clearly depict a ball field during the encumbrance period, Green Acres reached out to the Township, via telephone, in March and April of 2014 for any available documentation regarding when the current ball fields were developed. We also requested any additional information the Township had on file regarding the method by which the Township acquired the property and any evidence relevant to the Township's use of the property between 1975 and 1982. The Township was unable to locate a deed for the property and or provide any additional information on the pre-1982 use of this parcel beyond the general municipal uses (municipal building and public works yard) listed on the Existing Community Facilities map included in the 1975 and 1982 ROSI submissions.

4. Initial Jurisdictional Determination

Based on the review of the information outlined in Paragraphs 1 through 3 above, Green Acres determined (via an April 16, 2014 email to the Township, Attachment 1 that the ROSI submissions did not list the property for recreational use and neither of

the relevant aerials clearly evidenced the existence of a ball field on the property during the encumbrance period and, absent sufficient evidence to the contrary, the property was not "held by a municipality for recreational and conservation purposes" at the time funding was received and therefore not encumbered with Green Acres restrictions.

5. Additional Information Review

In its August 2015 letter, the PPA/NJCF included an additional 1970 aerial from HistoricAerials.com which we had not previously reviewed. This 1970 aerial differed from the 1970 aerial previously reviewed in that it appears to more clearly depict what could be a baseball diamond (though lacking a defined outfield).

The letter also included aerials from 1987 and 2012 as well as photos that clearly indicate the subject property is currently used for recreation. We, however, do not consider these items relevant since the Township has not taken Green Acres funding since 1982.

After agreeing to reconsider our original determination, on September 11, 2015 we requested, via email, that the Township conduct an additional check of its files for information on the use of the property during the encumbrance window, including but not limited to any master plan or other planning or mapping documents. On September 25, 2015, the Township provided our office with excerpts from the 1975 Township Master Plan and 1983 Master Plan Reexamination, indicating that there is no mention of any recreational amenities on the subject property in either report. The Community Facilities Plan included in the Master Plan indicates both existing and proposed recreation sites in the Township. The plan depicts the site as a municipal building and garage and the existing fields are not indicated on this plan as either existing or proposed at the time the plan was drafted. The Township further indicated that their search did not uncover any historical documents from the Recreation files for facilities constructed during the 1970s or 1980s.

Green Acres reached out to PPA, via email, on October 2, 2015 to determine whether any other documentation that should be considered as part of our reexamination. On October 6, 2015, PPA provided a copy of a 1978 aerial from the Cape-Atlantic Conservation District which depicts similar conditions to the 1977 aerial that we previously reviewed. Both of these aerials depict the municipal building and public works yard as well as a white cleared area in the vicinity of the current ball field. On October 13, 2015, PPA provided a copy of the Township's October 8, 2015 response to a resident's OPRA request for a copy of the deed for

the subject property. The Township indicated in response to the OPRA request that it does not have copies of the deed on file.

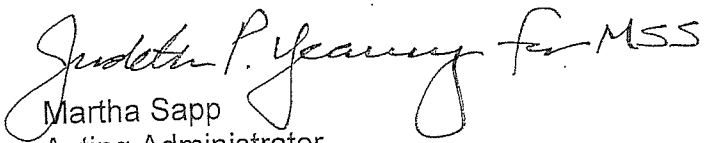
Conclusion

While the additional 1970 aerial provided by PPA appears to more clearly depict what could be considered a ball field on the property, the information provided by the Township (ROSI submissions, excerpts from the 1975 Township Master Plan and 1983 Master Plan Reexamination indicating that no recreational facilities existed on the property) and the lack of any other information indicating that the Township used/intended to use or took any formal action to dedicate the parcel for recreation or conservation purposes during the Green Acres encumbrance window, indicate that the property should not be considered unfunded parkland.

Moreover, there is no evidence that the Township expended funds to provide recreation or conservation uses in this area or otherwise supported or encouraged such use during the encumbrance window. Accordingly, while incidental and informal use of the area may have occurred over the years, there was no evidence provided that such use rose to the level of use "with the condonation or authorization of the municipality" required to consider the property as unfunded parkland. See *Cedar Cove v. Stanzione*, 122 N.J. 202 (1991) and *Matter of Amendment to Recreation and Open Space Inventory of the City of Plainfield to Remove Park-Madison Site, Block 246, Lot 1*, 353 N.J. Super. 310 (App. Div. 2002).

Therefore, based on our comprehensive review of the documentation submitted by the Township, PPA and NJCF in support of their respective positions and in accordance with the factors at *N.J.A.C. 7:36-25.3(f)*, we hereby **affirm** our finding that Block 350, Lot 12 is not encumbered by Green Acres restrictions. If you have any questions regarding this determination, please feel free to contact Jessica Patterson, Cape May County Steward, at 609-984-0558 or Jessica.patterson@dep.nj.gov.

Sincerely,


Martha Sapp
Acting Administrator

cc: Paul Dietrich, Sr., P.E., Upper Township Municipal Engineer
Daniel J. Young, Upper Township Solicitor
Theresa Lettman, Pinelands Preservation Alliance
Emile DeVito, Ph.D, New Jersey Conservation Foundation

ATTACHMENT 1
ORIGINAL DETERMINATION

From: [Patterson, Jessica](mailto:engineer@uppertownship.com)
To: engineer@uppertownship.com
Subject: Block 350, Lot 12
Date: Wednesday, April 16, 2014 1:31:00 PM
Attachments: [1984-11-07 Letter from Upper Township to Gellerman - ROSI.pdf](#)

Good afternoon Paul,

As discussed I did some digging on whether Block 350, Lot 12 should be encumbered with Green Acres restrictions. Upper Township had two Green Acres funding rounds in the 1970s (0511-04-003 Golden Oak Recreation Area and 0511-04-004 Caldwell Park). Neither of the ROSI's (1975 and 1982) from this period lists Block 350, Lot 12 as parkland. The current tax information indicates that the property is being used as General Governmental purposes including a tower, train museum and garage. Since Upper Township does not have an open project with Green Acres and the first payment for the Caldwell Park project was either late 1981 or early 1982, we believe before the field was constructed, we do not believe that this property is encumbered with Green Acres restrictions. We have a letter dated 1984 (attached for your review) that lists $\frac{3}{4}$ of an acre of the property as being used for recreation (ball fields), however this is well after the encumbrance date so we agree that this property should not be listed on the Township's ROSI. I understand that this field is to be relocated to one of your existing parks. Please note that any removal/consolidation of fields that are listed on the Township's ROSI could be considered a diversion of parkland. I am happy to review any other proposals that the Township is considering.

Thank you Paul. Please let me know if you have any questions on this determination.

Jessica Patterson

Bureau of Legal Services and Stewardship
NJDEP, Green Acres Program
501 East State Street
Mail Code 501-01 PO Box 420
Trenton, NJ 08625-0420
Phone: 609-984-0558

ATTACHMENT 2

LIST OF DOCUMENTS REVIEWED BY GREEN ACRES

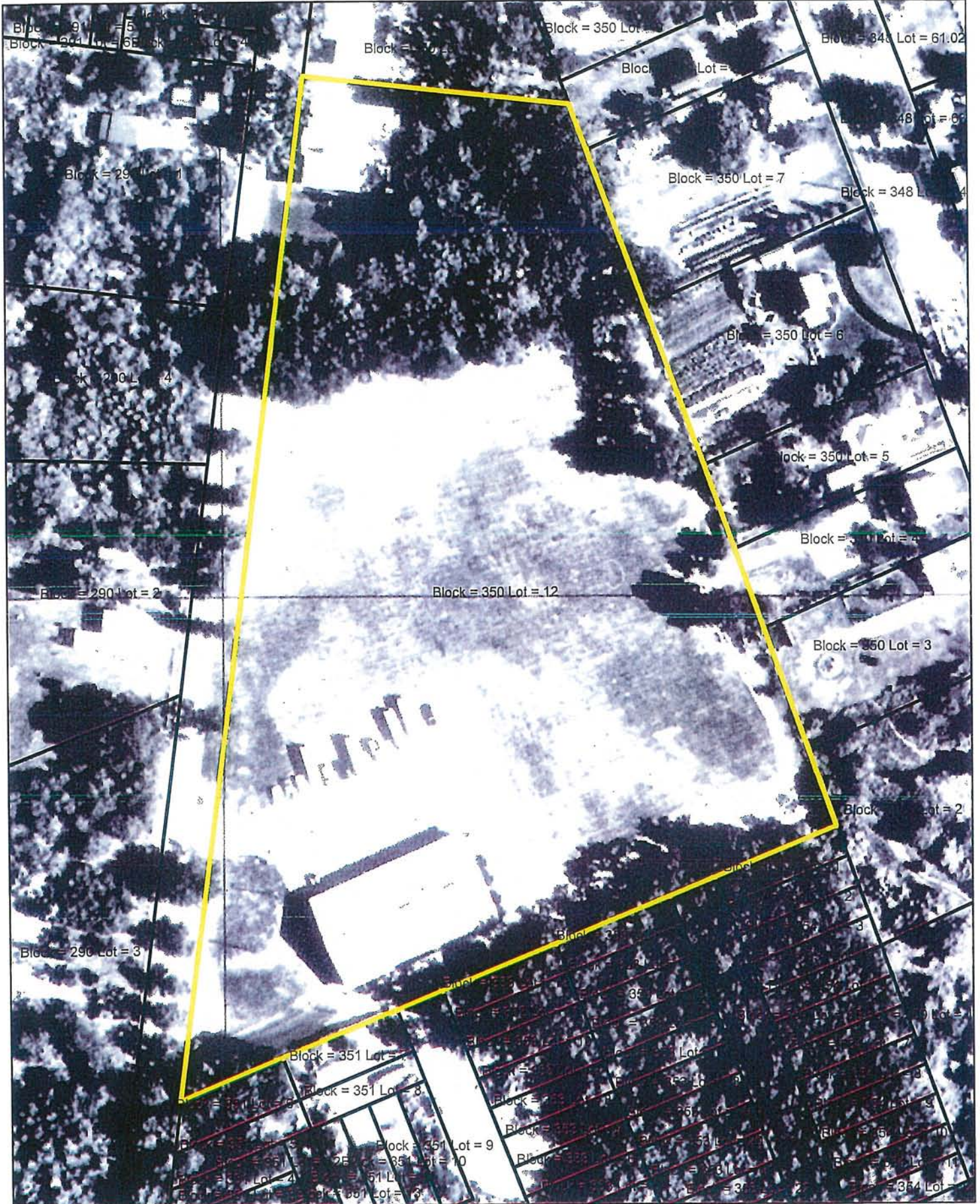
ATTACHMENT 2 – LIST OF DOCUMENTS REVIEWED BY GREEN ACRES

0511-04-003 Development Project Agreement and Associated ROSI
0511-04-004 Development Project Agreement, Associated ROSI and June 1, 1982
Green Acres payment voucher
November 7, 1984 Gellerman Inventory
Upper Township Existing Community Facilities Map (Plate 1)
1970 Wetland Base Map Aerial
1970 HistoricAerial.com Aerial submitted by PPA/NJCF
1974 Aerial
1977 Aerial
1978 Cape-Atlantic Conservation District aerial submitted by PPA
1987 HistoricAerial.com Aerial submitted by PPA/NJCF
1995/1997 Aerial
2002 Aerial
2012 Aerial
1989-2015 New Jersey Property Tax Data
Excerpts of the 1975 Development Plan and Background Studies Plan (Master Plan)
including Community Facilities Plan (Plate 39) submitted by the Township
Excerpts of the 1983 Master Plan Reexamination for Upper Township – Draft Report #1
– Summary of the 1975 Development Plan submitted by the Township
Township of Upper Government Records Request and Response #100-2015 submitted
by PPA/NJCF

ATTACHMENT 3

NJDEP AERIALS

1970 Wetlands Basemap Aerial



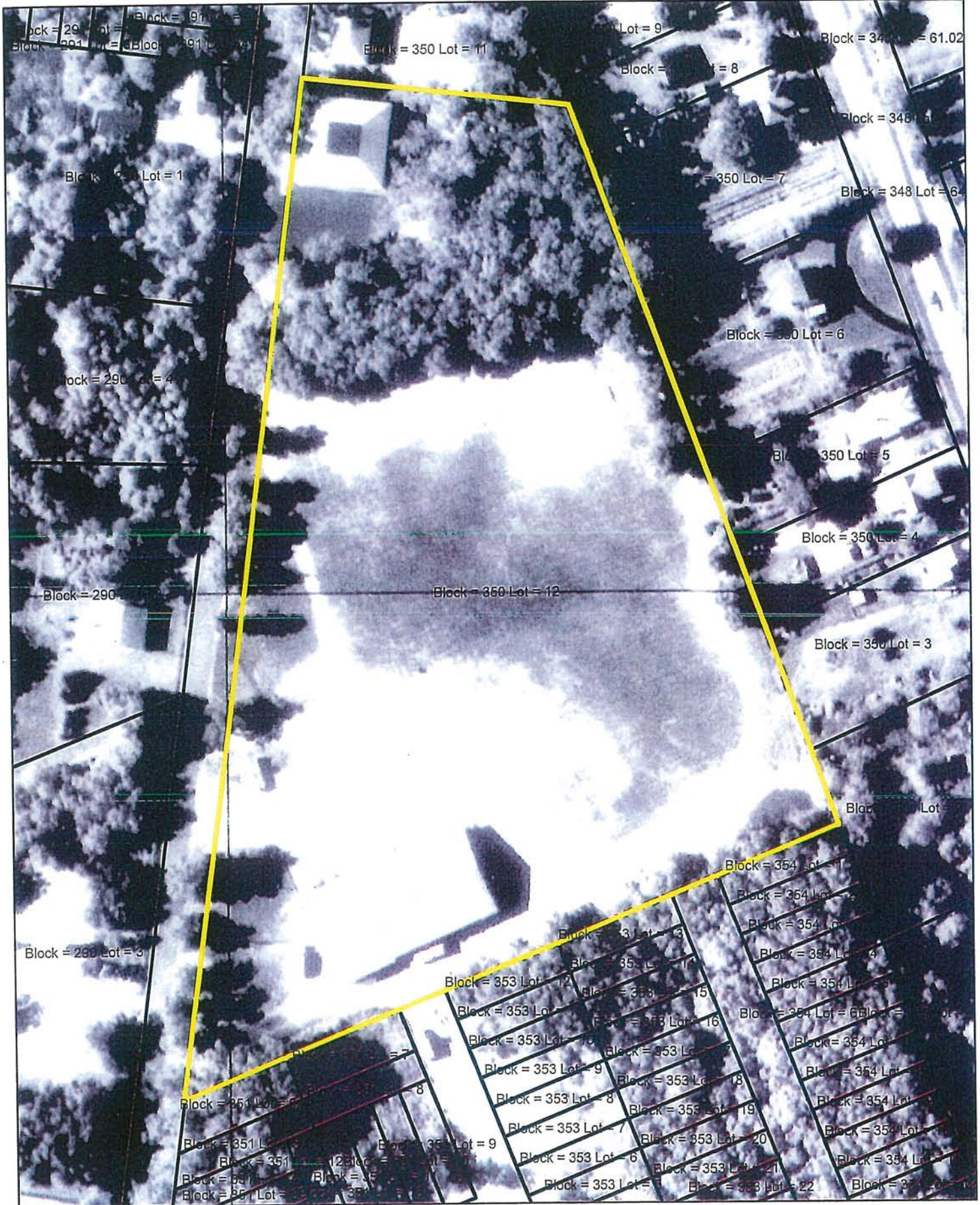
1 inch = 100 feet

1974 NJDEP In-House Aerial



1 inch = 100 feet

1977 NJDEP In-House Aerial



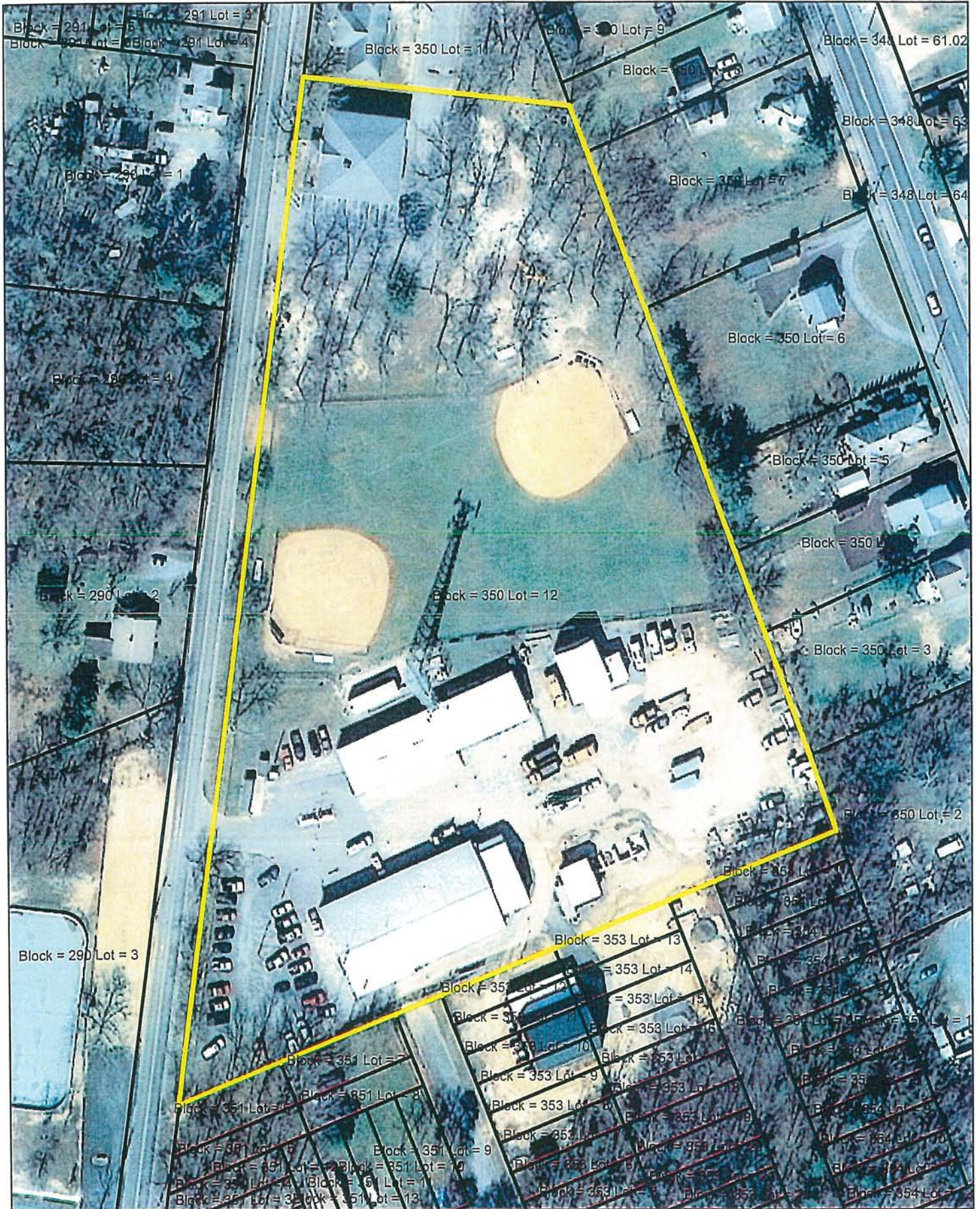
1 inch = 100 feet

1995/1997 NJDEP In-House Aerial



1 inch = 100 feet

2012 NJDEP In-House Aerial



1 inch = 100 feet

ATTACHMENT 3

ADDITIONAL AERIALS SUPPLIED BY PPA/NJCF

Site in 1970 showing one ball field present
Aerial photo purchased from Historic Aerials by NETRonline.



Site in 1987 showing again one ball field on site.
Aerial photo purchased from Historic Aerials by NETRonline.



Copy of 1978 Aerial photo showing ball fields - obtained from
Cape-Atlantic Conservation District, 6260 Old Harding Highway,
Mays Landing, NJ 08330

EXHIBIT 2

113

29 November 1971
Tuckahoe, New Jersey

A Regular meeting of the Upper Township Committee was held on this date, with the following present:

Mayor Waters
Committeemen Cossaboone and Migliaccio
Attorney Gorelick
Road Foreman Higgs
Treasurer Bond, and many guests

Mayor Waters called the meeting to order and called for the reading of the minutes, which were approved as read.

The Committee discussed overtime pay for certain Township Employees and on a motion by Mr. Migliaccio, seconded by Mr. Cossaboone, and regularly carried, the following entitled Ordinance was introduced and passed on first reading, to be heard for adoption at a meeting to be held on Dec. 13, 1971:

No 113

AN AMENDMENT TO TOWNSHIP OF UPPER ORDINANCE NO 107. (SALARY ORD.)

The request of the Atlantic City Electric Company to install poles and anchors in the vicinity of Elmwood Avenue and Ocean Avenue was approved by the Municipal Engineer, and the Clerk was advised to inform the Electric Company.

The Clerk announced that the surplus building located at the Township Dump would be offered for sale at this time. The Clerk received two bids for the Garage the high bid of Harold Shaw in the amount of \$30,00 was accepted on a motion by Mr. Cossaboone, seconded by Mr. Migliaccio, and regularly carried.

On a motion by Mr. Cossaboone, seconded by Mr. Migliaccio, and regularly carried, the following entitled Ordinance was introduced, and passed on first reading, and scheduled for hearing on December 13, 1971.

AN ORDINANCE ESTABLISHING A CODE REGULATING THE MANNER IN WHICH CONDUITS, WIRES AND OTHER CONSTRUCTION FOR CONDUCTING OR CONVEYING ELECTRICITY SHALL BE CONSTRUCTED AND PROTECTED: ESTABLISHING FEES FOR PERMITS IN CONNECTION THEREWITH: AND PROVIDING PENALTIES FOR VIOLATION THEREOF: ALL WITHIN THE TOWNSHIP OF UPPER.

Mayor Waters announced that he had obtained agreement with the State of New Jersey to do additional Beach Clean up Work in Strathmere. The Following resolution was passed to assist in the program:

WHEREAS, heretofore the Township of Upper has adopted a resolution enlisting the assistance of the Bureau of Navigation of the State of New Jersey in connection with the establishment of a surfing beach within the Township of Upper, along the Atlantic Ocean upon the two southernmost blocks of Strathmere, and

WHEREAS, pursuant to said resolution the Bureau of Navigation of the State of New Jersey has conducted an investigation into the project, and

WHEREAS, the investigation has revealed a need to do additional reclamation work in the three block area to the North of the area previously set aside, and

WHEREAS, the Bureau of Navigation of the State of New Jersey has indicated its willingness to assist further in the reclamation of the additional three blocks hereinabove referred to,

NOW THEREFORE BE IT RESOLVED, by the Township of Upper that the three block area to the North of the surfing beach heretofore established be and the same are hereby set aside and devoted to reclamation work with the assistance of the Bureau of Navigation of the State of New Jersey.

On a motion by Mr. Migliaccio, seconded by Mr. Gossaboone, and regularly carried the following resolution was passed:

R E S O L U T I O N

WHEREAS, the Township of Upper has determined that it would be lawful for public purposes to acquire certain properties at a Tax Sale to be held on December 17, 1971, now

THEREFORE BE IT RESOLVED that the properties designated in the Tax List as follows be acquired at Tax Sale for the Township of Upper:

| Block 19 | Lot 30 | Unknown Owner |
|----------|--------|---------------------|
| 518 | 2 | Jule Kelsey |
| 519 | 4 | J.F.Reickert |
| 524 | 13 | Jos N. McGonigal |
| 531 | 7 | Jos. Jansky |
| 532 | 11 | John Bryan |
| 541 | 20 | Katherine McGinnis |
| 543 | 21 | Gatherine Nevitt |
| 592 | 12 | Geo. K. Herr |
| 593 | 4 | S & D Kemmuser, and |

BE IT FURTHER RESOLVED, that Lewis Higgs be and is hereby directed to attend the sale and bid on behalf of the Township of Upper in the same manner as any other bidder.

In letters to the Committee the recreation Committee urged the Township Committee to act favorably toward aiding Township children to use the Linwood Swim Club, also requesting that the Township use recreation funds for formation of a Little League Football Team, stating that \$4,000.00 would cover the costs.

In a letter to the Committee, the Fourth of July Committee rescinded their approval to locate a basketball court on the fringe of the existing ball field, stating that they would urge the placement of the court on the 3½ acre site across the street.

Mayor Waters announced that he would open a hearing regarding the location of proposed recreation areas within the Township of Upper.

Many persons spoke regarding the location of a proposed basketball court in Tuckahoe, and the establishment of a football team. After a lengthy discussion relative to the above, Mayor Waters thanked all those who attended the meeting and voiced their opinion .

Mayor Waters further announced that the Committee would study all the information regarding the issues prior to any decision.

115

It was agreed that Mr. Fred Ferrigno would be the liason agent between the Township and the State Department of Agriculture, in regard the Gypsy Moth Program.

On a motion by Mr. Migliaccio, seconded by Mr. Cossabone, and regularly carried, the following bills were paid:

| | |
|----------------------------|--------|
| 4747-Sheriff Fox | 20.00 |
| 4748-Cape May Co Gazette | 30.72 |
| 4749-Press Publishing | 26.88 |
| 4750-N.J.Bell Tel | 59.75 |
| 4751-Earl Griner | 72.00 |
| 4752-Richard Sharp | 16.80 |
| 4753-Void | |
| 4754-Void | |
| 4755-Carl Singer | 122.40 |
| 4756-Ed Reese | 81.50 |
| 4757-Carl Madden | 72.80 |
| 4758-Ace Auto Glass | 21.83 |
| 4759-A.E.Stone, Inc | 94.35 |
| 4760-Earl Griner Schools | |
| 4761-Upper Twp Dog Account | 306.00 |
| 4762-First National Bank | 670.00 |
| 4763-P.E.R.S. | 132.26 |
| 4764-P.E.R.S. Ins | 21.35 |

Payroll Checks 55 to 76

13 December 1971
Tuckahoe, New Jersey

117

A Regular meeting of the Upper Township Committee was held on this date with the following present:

Mayor Waters
Committeemen Migliaccio and Cossaboone
Attorney Gorelick
Road Foreman Higgs
Collector Griner
Engineer Clarke
Inspector Emma 11, and many guests

Mayor Waters called the meeting to order and called for the reading of the minutes, which were approved as read.

The Clerk announced that Ordinance No 113 would be taken up for Adoption.
Mayor Waters stated that the Public Hearing would be held on the Ordinance at this time.
Hearing no comment on the Ordinance, on a motion by Mr. Cossaboone, seconded by Mr. Migliaccio, and regularly carried, the following Ordinance was adopted:

ORDINANCE No. 113

AN AMENDMENT TO TOWNSHIP OF UPPER ORDINANCE NO 107(SALARY ORD.)

BE IT ORDAINED, by the Township Committee of the Township of Upper, Cape May County, New Jersey, that
The Township of Upper Ordinance No 107 is hereby amended to provide as follows:

Full time Township Employees shall be entitled to overtime pay at the rate of one half times of the regular hourly rate of pay for all hours worked in excess of 40 hours per week,

BE IT FURTHER ORDAINED, that in addition to the holidays listed in Salary Ordinance No 106, the Friday following Thanksgiving shall be an additional paid holiday for full time Township Employees.

The Foregoing Ordinance was introduced at a meeting held on November 29, 1971, and was adopted following a Public Hearing held on December 13, 1971.

Allan Bergh
Township Clerk.

The Clerk announced that Ordinance No 112 would be placed on reading at this time. Mayor Waters stated that the Public hearing was open and called for Comment on the Ordinance.

No. 112

On a motion by Mr. Cossaboone, seconded by Mr. Migliaccio, and regularly carried, the following Entitled Ordinance was adopted.
AN ORDINANCE ESTABLISHING A CODE REGULATING THE MANNER IN WHICH CONDUITS WIRES AND OTHER CONSTRUCTIONS FOR CONDUCTING OR CONVEYING ELECTRICITY SHALL BE CONSTRUCTED AND PROTECTED: ESTABLISHING FEES FOR PERMITS IN CONNECTION THEREWITH: AND PROVIDING PENALTIES FOR VIOLATION THEREOF, ALL WITHIN THE TOWNSHIP OF UPPER.

On a motion by Mr. Cossaboons, seconded by Mr. Migliaccio and regularly carried, the following bills were paid:

| | |
|---|------------|
| 4765-Gazette | 229.92 |
| 4766-O.C.Sentinel | 16.00 |
| 4767-3M Business Products | 20.63 |
| 4768-N.J.Mayors Conference | 15.00 |
| 4769-State of N.J.Division of Local Finance | 62.37 |
| 4770-Charles Guhr & Co | 14.90 |
| 4771-A.C.Elec Co | 79.04 |
| 4772-Columbia Business Supply | 280.00 |
| 4773-Rudolph Edling | 48.00 |
| 4774-Rutgers University | 24.00 |
| 4775-Zoning Bulletin | 18.00 |
| 4776-George Young | 36.70 |
| 4777-Ralph Elia | 23.50 |
| 4778-Harlan Wittkamp | 7.49 |
| 4779-Floyd Gandy | 755.44 |
| 4780-Foundations & Structures | 577.00 |
| 4781-Miller Hardware | 159.63 |
| 4782-Nicks Garage | 11.63 |
| 4783-Gerald Barrett | 37.05 |
| 4784-A.C.Auto Supply | 49.45 |
| 4785-Giles & bRansome | 1.47 |
| 4786-Eddies Auto | 22.11 |
| 4787-S.Jersey Overhead Door | 133.60 |
| 4788-Scottys Radiator | 27.00 |
| 4789-DeCinque Oil | 267.58 |
| 4790-So Jersey Auto Supply | 41.38 |
| 4791-Ruffu Ford | 8.00 |
| 4792-Steelman Hardware | 19.40 |
| 4793-Harry Shourds | 60.00 |
| 4794-A.C.Elec Co | 4461.48 |
| 4795-First Natl Bank Tuckahoe | 656.73 |
| 4796-P.E.R.S. | 132.24 |
| 4797-Void | |
| 4798-P.E.R.S. Ins | 21.33 |
| 4799-Void | |
| 4800-First National Bank Tuckahoe | 200,000.00 |
| 4801-Citizens Bank | 200,000.00 |
| 4802-Sheriff Fox | 40.00 |
| 4803-C.M.Co National Bank | 200,000.00 |

Payroll Checks 77 to 114

ORDINANCE NO. 112

AN ORDINANCE ESTABLISHING A CODE REGULATING THE MANNER IN WHICH CONDUITS, WIRES AND OTHER CONSTRUCTIONS FOR CONDUCTING OR CONVEYING ELECTRICITY SHALL BE CONSTRUCTED AND PROTECTED; ESTABLISHING FEES FOR PERMITS IN CONNECTION THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF, ALL WITHIN THE TOWNSHIP OF UPPER.

BE IT ORDAINED, by the Township Committee of the Township of Upper, the governing body thereof, as follows:
SECTION 1: A code regulating the manner in which conduits, wires and other constructions for conducting or conveying electricity shall be constructed and protected is hereby established. A copy of said code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.

SECTION 11: The said code established and adopted by this ordinance is described and commonly known as the "National Electrical Code, Current Edition, U.S.A. Standard."

SECTION 111: Three copies of the said National Electrical Code, Current Edition, U.S.A. Standard similarly marked have been placed on file in the office of the Clerk of Upper Township upon the introduction of this ordinance and will remain on file in such office for the use and examination of the public.

SECTION 1V: That it shall be hereafter unlawful for any person, persons or corporations to string, add to, change or alter any wires for transmission of electric current, for the purposes enumerated in the following schedule; or cause the same to be done, or make any electrical connections whatever, without first filing with an authority appointed by the Township Committee, plans and specifications of work to be done and obtaining from the aforesaid authority a permit, for which there shall be paid to the appointed authority at the time application is made the proper fees that are required and charged by the authorized authority.

SECTION V: The Middle Department Association of Fire Underwriters shall be the official inspecting agency for the Township of Upper and shall be the appointed authority to whom application for all permits shall be made and this shall be without cost to the Township of Upper.

SECTION VI: Should any section or sub-section of this ordinance or code be declared void in any Court of competent jurisdiction the remaining sections and sub-sections shall remain operative notwithstanding.

SECTION VII: Any person, firm or corporation who shall violate any of the provisions of this ordinance may upon conviction thereof before a proper officer having jurisdiction be subjected to a fine in any sum not exceeding \$200.00 at the discretion of such officer before whom any such person or persons may be tried, and in default of the payment of such fine be imprisoned in the County jail for a term not exceeding thirty days, at the discretion of said officer, and any repetition of any act herein prohibited on any day following such conviction shall be deemed a new offense. Nothing in this ordinance shall apply to any public utility as defined in an Act entitled "An Act Concerning public utilities; to create a Board of Public Utility Commissioners and to prescribe its duties and powers" approved April 21, 1911, as amended and supplemented, or to any agent, contractor or employee thereof engaged upon work for such public utility.

SECTION VIII: This ordinance shall take effect immediately upon final passage and publication according to law.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed at a meeting held on November 29, 1971, and was adopted following a public hearing of the Upper Township Committee held at 8:00 P.M., Township Hall, Tuckahoe, N.J. of December 13, 1971.

By Order of the Upper Township Committee.

ALLAN BERGH, Township Clerk

R E S O L U T I O N

WHEREAS, the Salary Ordinance of the Township of Upper establishes a salary range for the position of Mechanical repairman

WHEREAS, the Township Committee desires to establish a rate of pay for that position within the salary range, now

THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, New Jersey, that the wage rate for the position of mechanical repairman be fixed at \$3.45 within the range authorized by the Salary Ordinance.

The above resolution was offered by Mr. Migliaccio, seconded by Mr. Cossaboone, and regularly carried.

On a motion by Mr. Migliaccio, seconded by Mr. Cossaboone, and regularly carried, the following resolutions were passed:

R E S O L U T I O N

WHEREAS there is need within the Township of Upper to establish and set aside areas for public recreation, and

WHEREAS, in recognition of the need the Township Committee established a recreation committee to make studies of the needs and make recommendations pursuant thereto, and

WHEREAS, the Recreation Committee has conducted studies and made recommendations as to suitable areas in the Tuckahoe area, and

WHEREAS, thereafter a public hearing was conducted to discuss the alternative sites within the Tuckahoe area, and

WHEREAS, the public hearing revealed a preference for a certain $3\frac{1}{2}$ acre tract near the Township Garage, and

WHEREAS, it appears that the preferred site is suitable and appropriate for recreational purposes, now

THEREFORE BE IT RESOLVED BY THE TOWNSHIP COMMITTEE, of the Township of Upper that the $3\frac{1}{2}$ acre site more particularly described as follows: Lot 3, Block 72, Upper Township, be and the same is hereby declared and determined to be a recreational area and is set aside for recreational purposes for the benefit of the general public.

R E S O L U T I O N

WHEREAS, the Township of Upper presently enjoys the advantage of Flood Insurance under the auspices of the National Flood Insurance plan, and

WHEREAS, to preserve that benefit for the residents within the Township it is necessary that, prior to December 31, 1971, there must be provision for the review of all building permit applications for new construction or for substantial improvements to determine whether proposed building sites will be reasonably safe from flooding, and

WHEREAS, the Township Committee is in the process of studying and proposing for adoption a comprehensive building code which will insure the requirements hereinabove referred to, and

WHEREAS, pending adoption of the building code it is essential that the safety requirements be adhered to, and

~~WHEREAS~~ THEREFORE BE IT RESOLVED, by the Township Committee, that the building inspector of the Township of Upper be and he is hereby directed to review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding pending adoption of the proposed building code to insure compliance with regulations governing the National Flood Insurance Program.

On a motion by Mr. Migliaccio, seconded by Mr. Cossaboone, and regularly carried Ordinance No 114, pertainin to the transfer of all rights and privileges of National Cable TV Systems to New Jersey Transmission Corporation was introduce and passed on First reading, and a hearing scheduled for December 27, 1971, Township Hall, Tuckahoe, 8:00 P.M.

On a motion by Mr. Cossaboone, seconded by Mr. Migliaccio, and regularly carried, the following resolution was passed:

R E S O L U T I O N

BE IT RESOLVED by the Township Committee of the Township of Upper, Cape May County, N.J., that the organization meeting of the Township Committee be deferred from January 1, 1972 to January 3, 1972, 8:00 P.M., Township Hall, Tuckahoe.

Mayor Waters announced that he had received several communications regarding the proposal to establish football teams within the Township.

Items of Municipal interest under discussion included the possibility of a change of name from New Road to Old Stage Coach Road, the continued interest in the Recreation committee recommendations, and the Township investment policy.

EXHIBIT 3

MASTER PLAN

UPPER TOWNSHIP
NEW JERSEY

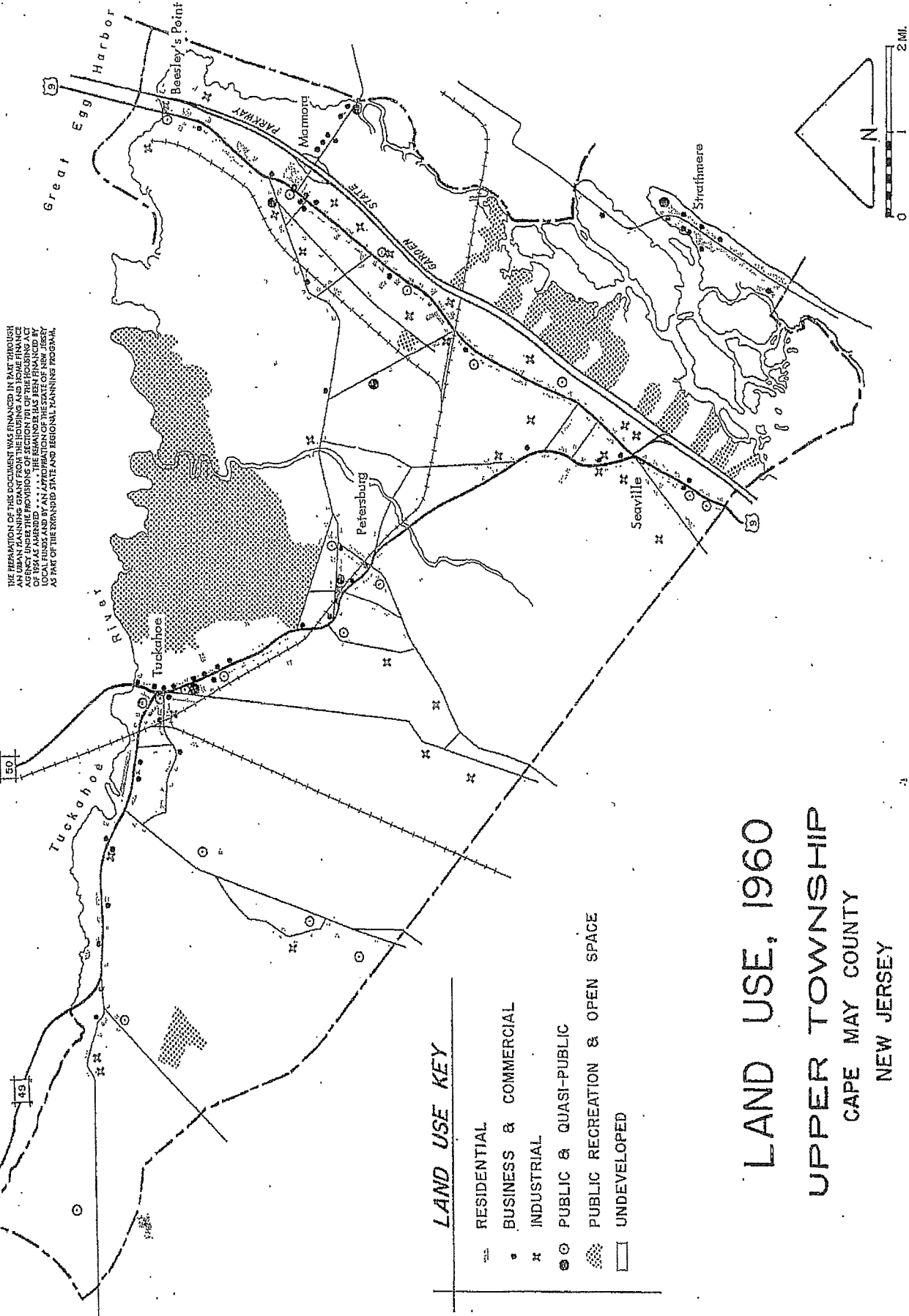
3 UPPER TOWNSHIP PLANNING BOARD

Exhibit 1

MASTER PLAN
UPPER TOWNSHIP, NEW JERSEY

The preparation of this report was financed in part through an Urban Planning Grant from the Housing and Home Finance Agency, under the provisions of Section 701, of the Housing Act of 1954, as amended. The remainder has been financed by local funds and by an appropriation of the State of New Jersey as part of the Expanded State and Regional Planning Program.

Prepared for the Upper Township Planning Board by the Cape May County Planning Staff.
March, 1962



THE PREPARATION OF THIS DOCUMENT WAS FINANCED IN PART THROUGH AN URBAN PLANNING GRANT FROM THE FEDERAL GOVERNMENT THROUGH THE INTERMEDIATE AREA DEVELOPMENT ACT OF 1954 AS AMENDED. THE REMAINDER HAS BEEN FINANCED BY LOCAL FUNDS AND BY AN APPROPRIATION OF THE STATE OF NEW JERSEY AS PART OF THE BROADBAND STATE AND REGIONAL PLANNING PROGRAM.

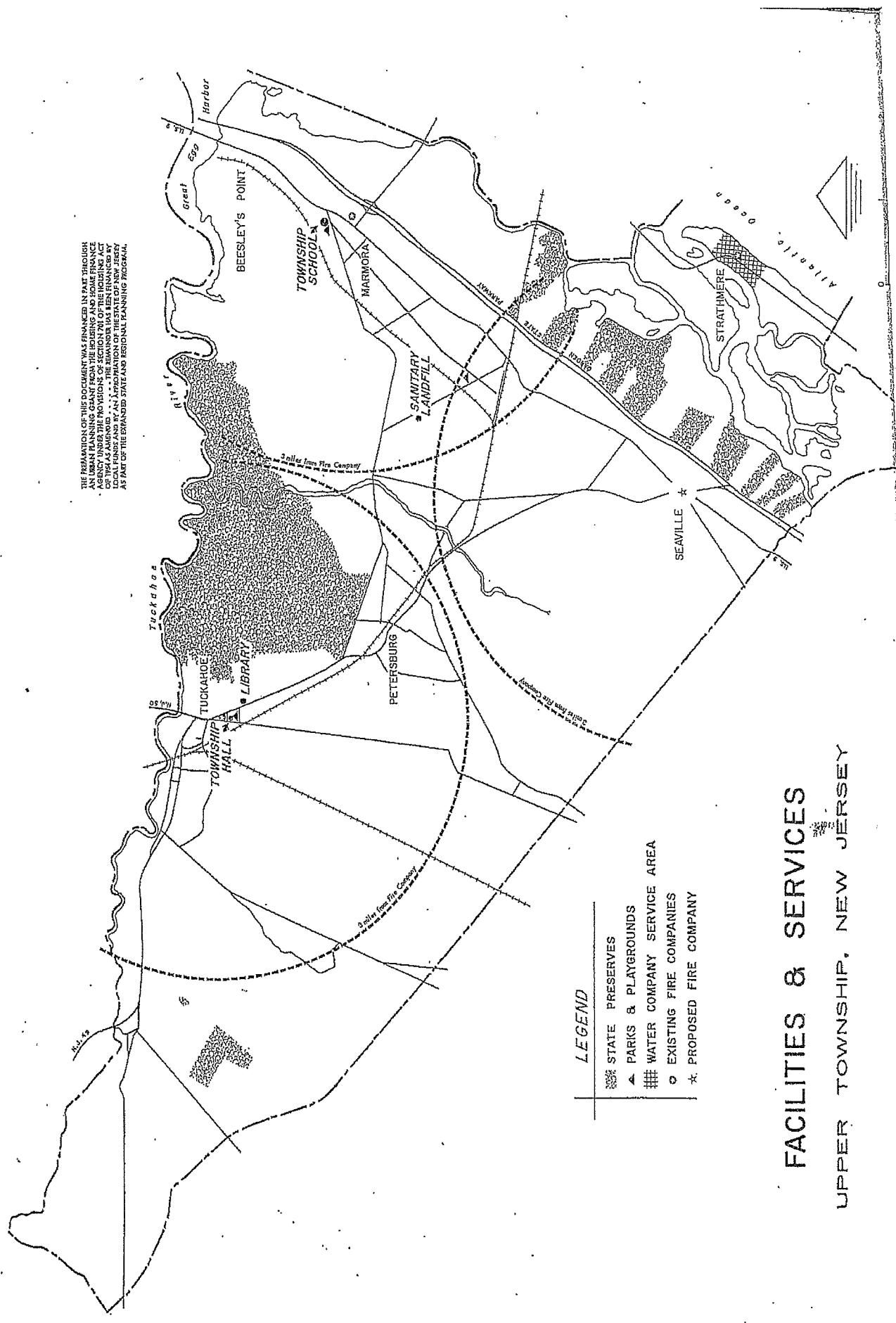
LAND USE KEY

- RESIDENTIAL
- BUSINESS & COMMERCIAL
- ✕ INDUSTRIAL
- ⊙ PUBLIC & QUASI-PUBLIC
- ▨ PUBLIC RECREATION & OPEN SPACE
- UNDEVELOPED

LAND USE, 1960
UPPER TOWNSHIP
CAPE MAY COUNTY
NEW JERSEY

PREPARED FOR THE UPPER TOWNSHIP PLANNING BOARD BY THE CAPE MAY COUNTY PLANNING STAFF

THE PREPARATION OF THESE DOCUMENTS WAS FINANCED IN PART THROUGH AN URBAN PLANNING GRANT FROM THE HOUSING AND HOME FINANCE AGENCY UNDER THE PROVISIONS OF SECTION 701 OF THE HOUSING ACT OF 1954. THE PREPARATION OF THESE DOCUMENTS WAS FINANCED BY LOCAL FUNDS AND BY AN APPROPRIATION OF THE PLANNING PROGRAM AS PART OF THE GRANTED STATE AND REGIONAL PLANNING PROGRAM.



- LEGEND**
- ▨ STATE PRESERVES
 - ▲ PARKS & PLAYGROUNDS
 - ▨▨▨ WATER COMPANY SERVICE AREA
 - EXISTING FIRE COMPANIES
 - * PROPOSED FIRE COMPANY

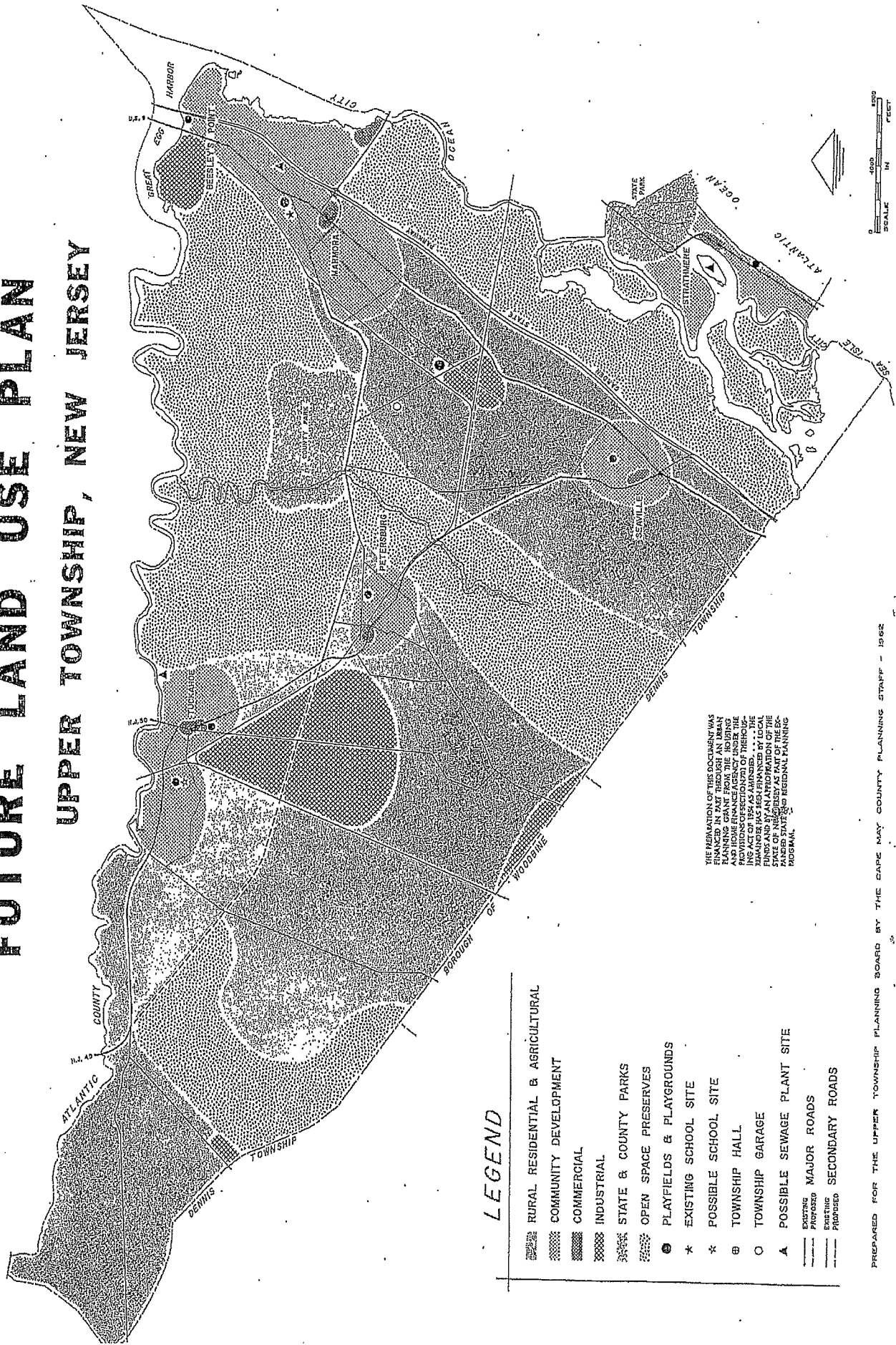
FACILITIES & SERVICES
UPPER TOWNSHIP, NEW JERSEY

REPAIRED FOR THE UPPER TOWNSHIP

ECC
 The per
 To wo
 ne th
 sir fa
 sh
 C
 A
 c
 t

FUTURE LAND USE PLAN

UPPER TOWNSHIP, NEW JERSEY



THE REMAINING OF THE COMMUNITARIAN FINANCED IN PART THROUGH AN URBAN PLANNING GRANT FROM THE ROBERTA PRODUCTIONS FINANCE AGENCY UNDER THE FINANCING ACT OF 1958 AS AMENDED. THE REMAINING HAS BEEN FINANCED BY LOCAL TAXES AND CONTRIBUTIONS OF THE STATE OF NEW JERSEY AS PART OF THE FEDERAL STATE AND REGIONAL PLANNING PROGRAM.

LEGEND

- RURAL RESIDENTIAL & AGRICULTURAL
- COMMUNITY DEVELOPMENT
- COMMERCIAL
- INDUSTRIAL
- STATE & COUNTY PARKS
- OPEN SPACE PRESERVES
- PLAYFIELDS & PLAYGROUNDS
- * EXISTING SCHOOL SITE
- * POSSIBLE SCHOOL SITE
- ⊕ TOWNSHIP HALL
- TOWNSHIP GARAGE
- ▲ POSSIBLE SEWAGE PLANT SITE
- EXISTING MAJOR ROADS
- - - - - PROPOSED MAJOR ROADS
- EXISTING SECONDARY ROADS
- - - - - PLANNED SECONDARY ROADS

PREPARED FOR THE UPPER TOWNSHIP PLANNING BOARD BY THE CAPE MAY COUNTY PLANNING STAFF - 1962