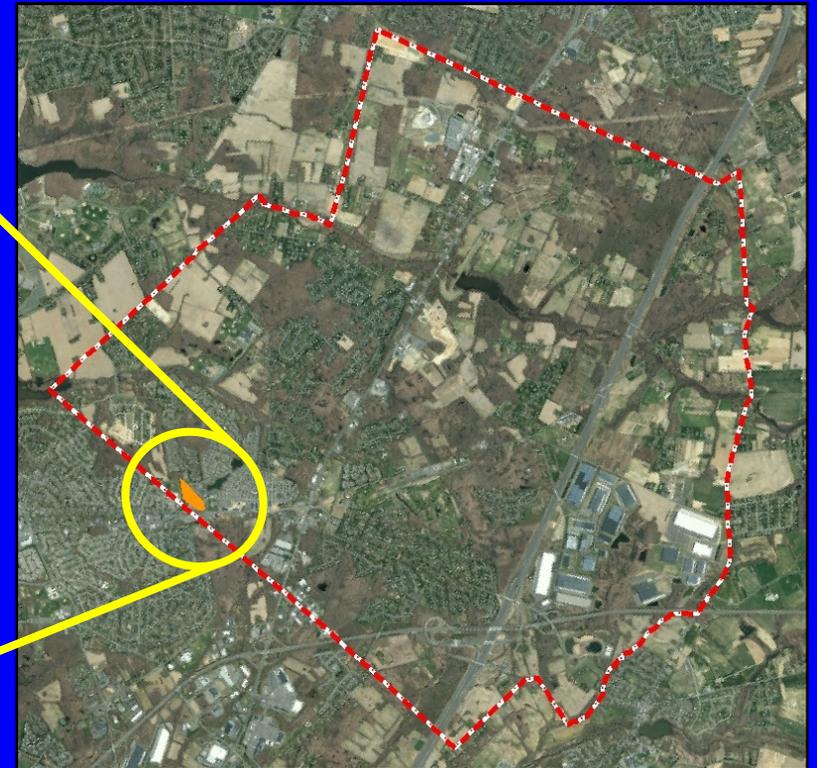


REPORT OF FINDINGS

CONDEMNATION PRELIMINARY (REDEVELOPMENT) INVESTIGATION

FOXMOOR STUDY AREA

Township of Robbinsville, Mercer County, New Jersey



Prepared by:



Prepared for:



June 21, 2016



REPORT OF FINDINGS
Condemnation Preliminary Redevelopment Investigation
Foxmoor Study Area
Township of Robbinsville, Mercer County, New Jersey

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The original of this document has been signed and sealed pursuant to N.J.S.A. 45:14A-12.

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EXHIBITS

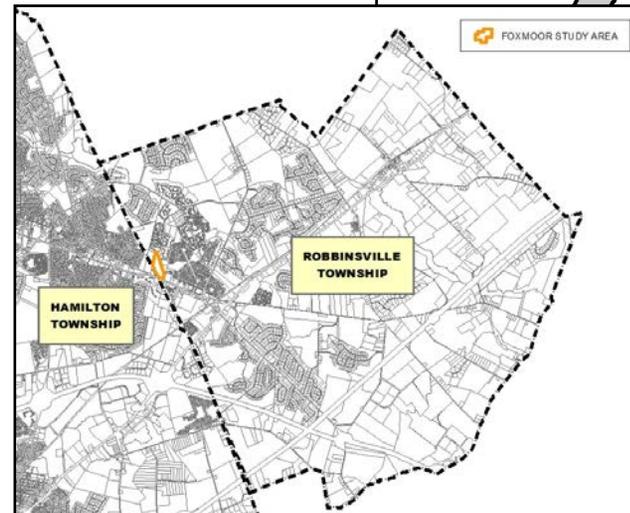
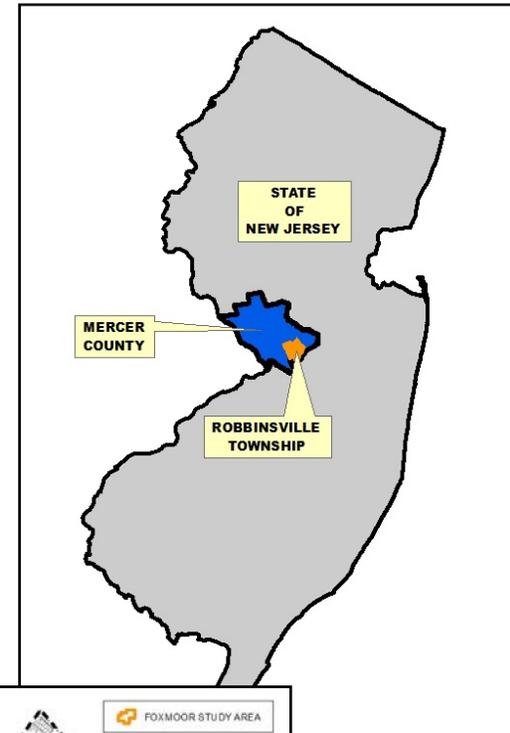


1.0 INTRODUCTION

1.1 Background

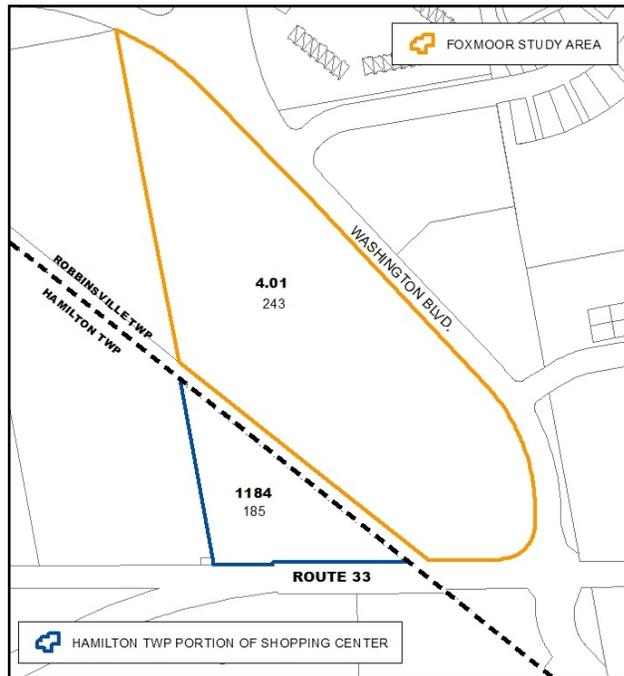
There exists in the Township of Robbinsville, Mercer County, New Jersey (“Township”), an approximately 19.23-acre¹ property located on the northwest corner of the intersection of Washington Boulevard and N.J.S.H. Route 33 ~ known locally as the Foxmoor Shopping Center. While physically a single property, the Shopping Center is divided into a 16.13-acre portion located in Robbinsville (Block 4.01, Lot 243) and a 3.1-acre portion located in Hamilton Township (Block 1841, Lot 185).

The Foxmoor Shopping Center² appears to exhibit conditions of deterioration in commercial facilities and other physical components and supports of community life, and improper, or lack of proper, development which result from forces which are amenable to correction and amelioration by concerted effort of responsible public bodies, and without this public effort are not likely to be corrected or ameliorated by private effort.



¹ Based on the Robbinsville and Hamilton Township official Tax Maps.

² Hereinafter “Foxmoor” or “Shopping Center”.



In 1992, the New Jersey Legislature empowered local municipalities to address conditions as appear to exist at Foxmoor by adopting the *Local Redevelopment & Housing Law*³; the purpose of which is to provide municipalities with the tools and powers necessary to reverse such conditions and return such areas into productive assets for the community.

Utilizing a comprehensive set of planning tools and techniques afforded municipalities *only* under the *Redevelopment Law*, municipalities may reprogram lands and buildings for specific desired uses, provide for the clearance of said lands, install infrastructure and/or other site improvements, provide favorable tax and other financial incentives for redevelopment, acquire (through negotiations or condemnation) real

³ N.J.S.A. 40A:12A-1 et seq. (hereinafter "*Redevelopment Law*")



property deemed necessary to effectuate such redevelopment, and solicit for, negotiate with and transfer lands to private entities in order to promote redevelopment that will accomplish certain defined municipal goals and objectives.

1.2 Statutory Authorization

1.2.1 The first step in the Redevelopment process as mandated by the *Redevelopment Law*⁴ is for a municipal Governing Body to direct the municipal Planning Board to undertake what is termed a “Preliminary Investigation” to determine if a targeted area meets any one (1) of the eight (8) Statutory Criteria under which an area may be determined to be “In Need of Redevelopment”.

On October 22, 2015, the Township Council of the Township of Robbinsville adopted Resolution No. 2015-256⁵; thereby directing the Robbinsville Township Planning Board to undertake what the *Redevelopment*

Law terms a ‘Preliminary Investigation’ to determine whether or not the Shopping Center meets the statutory criteria under which an area may be determined to be In Need of Redevelopment.

1.2.2 On January 27, 2016, the Planning Board, via Resolution No. PB2016-05⁶, accepted the Governing Body’s directive and assigned this task to Remington, Vernick & Arango Engineers (“RVA”), licensed Professional Planners in the State of New Jersey and the Board’s Engineer and Planner of record.

1.3 Report of Findings

This Report of Findings consists of a review of the Statutory Criteria under which an area may be determined to be In Need of Redevelopment, the findings of the Investigation as directed by the Governing Body and as undertaken by the Planning Board, and an analysis of how these findings conform to the Statutory Criteria. The report culminates in a final recommendation to the Planning Board.

⁴ N.J.S.A. 40A:12A-5.

⁵ On file with the Township Clerk

⁶ On file with the Planning Board Secretary.





2.0 DEFINITIONS

For the purposes of this Report of Findings, and in addition to any terms defined within the body of this document, the following terms shall have the meaning as set forth in this section. Terms not defined herein shall have the meaning set forth in the Township Code. Terms presented as singular or plural, masculine or feminine, shall be construed within the context in which they occur.

- 2.1 “Foxmoor Study Area” shall mean the approximately 16.13-acre portion of the Foxmoor Shopping Center, located on Block 4.01, Lot 243 as depicted on the Official Tax Map of the Township of Robbinsville, and as further described in section 1.1 herein; the same being subject of this Preliminary Investigation.
- 2.2 “Governing Body” shall have the same meaning as Township Council.⁷
- 2.3 “*Local Redevelopment & Housing Law*” shall mean N.J.S.A. 40A:12A-1 et seq.

- 2.4 “*Municipal Land Use Law*” shall mean N.J.S.A. 40:55D-1 et seq.
- 2.5 “NJDCA” shall mean the New Jersey Department of Community Affairs.
- 2.6 “NJDEP” shall mean the New Jersey Department of Environmental Protection.
- 2.7 “OPA” shall mean the New Jersey Office of Planning Advocacy, formerly known as the Office of Smart Growth and the Office of State Planning, operating out of the New Jersey Department of Community Affairs.
- 2.8 “Planning Board” shall mean the Robbinsville Township Planning Board, established pursuant to section 23 of the *Municipal Land Use Law* and operating pursuant to the various regulations of the Township Code and other relevant statutes, including the *Local Redevelopment & Housing Law*.

⁷ Within the context of the various sections of this document, the terms “Township”, “Governing Body” and “Robbinsville” shall mean the Robbinsville Township Council.



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- 2.9 “Preliminary Investigation” shall mean this instant process under which the conditions in the Foxmoor Study Area are analyzed to determine conformance with the eight (8) Statutory Criteria under section 5 of the *Local Redevelopment & Housing Law*.
- 2.10 “Publication” shall mean the date this instant Report of Findings was finalized for submission to the Planning Board (see front cover).
- 2.11 “Report of Findings” shall mean this instant document, along with additional narrative, graphics or presentation materials associated herewith.
- 2.12 “*Redevelopment Law*” shall have the same meaning as *Local Redevelopment & Housing Law*.
- 2.13 “Robbinsville” and “Robbinsville Township” shall mean the Township of Robbinsville, a body corporate and politic, and unless otherwise indicated, includes its Governing Body, elected officials, officers and staff.⁷
- 2.14 “Route 33” shall mean New Jersey State Highway 33.
- 2.15 “State Plan” shall mean the New Jersey *State Development and Redevelopment Plan*, Adopted March, 2001.
- 2.16 “Study Area” shall have the same meaning as Foxmoor Study Area.
- 2.17 “Township” shall have the same meaning as Robbinsville.⁷
- 2.18 “Township Code” shall mean Chapter 142 of the Robbinsville Township Municipal Code, as same may be amended from time-to-time.



3.0 LOCAL REDEVELOPMENT & HOUSING LAW

3.1 Process

The *Local Redevelopment & Housing Law*⁸ requires a multi-step, public process before a municipality may exercise the powers granted therein. Specifically:

- A. A municipal Governing Body must direct the municipal Planning Board to undertake an Investigation of an area in question to determine whether it meets the Statutory Criteria for Redevelopment designation.⁹
- B. The Planning Board must prepare and post a map with the Municipal Clerk showing the boundaries of the area in question and the location of the various blocks and lots therein. Said map must be accompanied by a statement setting forth the Governing Body’s basis for the Investigation.¹⁰

- C. The Planning Board must conduct the Investigation and hold a duly noticed public hearing in order to discuss the findings and to hear persons who are interested in or would be affected by the contemplated action. The result(s) and recommendation(s) of said hearing are then referred (in the form of a Planning Board Resolution) to the Governing Body for formal action.

This Report of Findings embodies the Planning Board’s investigation. Actions subsequent to Publication are prospective.

- D. Upon receipt of the findings and recommendation(s) from the Planning Board, the Governing Body may adopt a resolution designating the area in question, or any part or parts thereof, as being In Need of Redevelopment.

The *Redevelopment Law* provides for two (2) types of Redevelopment Area designations. Under a *Condemnation Redevelopment Area*, a municipality

⁸ N.J.S.A. 40A:12A-6

⁹ Action taken via Township Resolution 2015-256 (on file with the Township Clerk)

¹⁰ In satisfaction of this requirement, the Planning Board, placed a map showing the boundaries of the Study Area and the location of all blocks and lots therein, as well as Township Resolution No. 2015-256 and Planning Board Resolution No. PB2010-05, on file with the Township Clerk. Collectively, these documents form the Township’s Statement for the Basis of this Investigation.





is permitted to condemn lands for redevelopment purposes through the power of eminent domain. Under a *Non-Condemnation* Redevelopment Area, a municipality is granted all the powers of a Condemnation Redevelopment Area ~ except the power of eminent domain. This process is being conducted as a **Condemnation** Redevelopment Area.

E. Upon adoption of such a resolution, the Municipal Clerk must transmit a copy of the resolution to the Commissioner of New Jersey Department of Community Affairs. Whereupon:

- If the area determined to be In Need of Redevelopment is located where State policy¹¹ encourages (re)development, the determination shall take effect immediately.
- If the area determined to be In Need of Redevelopment is not located where State policy encourages (re)development, then the determination shall not take effect without the approval of the NJDCA Commissioner.

If the NJDCA Commissioner does not act within 30 calendar days, the determination is deemed to be approved.

F. Notice of the determination shall be served, within 10 days thereafter, upon all record owners of property located within the delineated area, those whose names are listed in the tax assessor's records, and upon each person who filed a written objection thereto and stated an address to which notice of determination may be sent.

For Condemnation Redevelopment Areas, the notice shall indicate that:

- The determination operates as a finding of public purpose and authorizes the municipality to exercise the power of eminent domain to acquire property in the Redevelopment Area; and
- Legal action to challenge the determination must be commenced within 45 days of receipt of notice and that failure to do so shall preclude an owner from later raising such challenge.

¹¹ Principally articulated through the State Plan.





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- A property owner who does not file a legal challenge to the redevelopment determination affecting his or her property within 45 days of receipt of such notice shall thereafter be barred from filing such a challenge and, in the case of a Condemnation Redevelopment Area, shall further be barred from asserting a challenge to the redevelopment determination as a defense in any condemnation proceeding to acquire the property unless the municipality and the property owner agree otherwise.

G. Upon Redevelopment Area designation and approval by the NJDCA Commissioner (if applicable), the municipality may then prepare a Redevelopment Plan for the Redevelopment Area ~ establishing the goals and objectives of the municipality in designating the Area to be In Need of Redevelopment and outlining the actions to be taken to accomplish the goals and objectives.

H. Once prepared, the Redevelopment Plan is reviewed by the Planning Board and, after public

hearing¹², is referred to the Governing Body (in the form of a Planning Board Resolution) with recommendation(s) regarding adoption.

- I. Upon receipt of the Resolution and recommendation(s) from the Planning Board, the Governing Body may adopt the Redevelopment Plan by Ordinance. The adopted Redevelopment Plan may become an explicit amendment to the municipality's Zoning District Map and Zoning Ordinance or may be treated as an overlay to existing zoning.

Only after completion of this multi-step public process is a municipality able to exercise the powers granted under the *Redevelopment Law*.

**3.2 Statutory Criteria:
Area In Need of Redevelopment¹³**

An area may be determined to be In Need of Redevelopment if, after investigation, notice and hearing, the governing body of the municipality, by resolution,

¹² Direct Public Notice not statutorily required.

¹³ N.J.S.A. 40A:12A-5





concludes that **any** of the following conditions¹⁴ is found to be present within the delineated (Study) area:

- a. *The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.*
- 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 unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.*
- d. *Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.*
- e. *A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and underproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.*
- f. *Areas, in excess of five contiguous acres, whereon buildings or*

¹⁴ Applicable to both Condemnation and Non-Condemnation Redevelopment Areas.





improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act,"... (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to sections 5 and 6 of... (C.40A:12A-5 and 40A:12A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of... (C.40A:20-1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of... (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... (C.40A:12A-1 et al.) for determining that the area is in need of redevelopment or an area in need of rehabilitation and the municipal governing body has adopted a redevelopment plan ordinance including the area of the enterprise zone.

- h. The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation.¹⁵*

CRUCIAL TO THE APPLICATION OF THE AFOREMENTIONED IS THE UNDERSTANDING THAT THE PRESENCE OF ANY ONE (1) OF THE SIX (6) SUBSTANTIVE CRITERIA¹⁵ IS SUFFICIENT FOR A MUNICIPALITY TO MAKE A DETERMINATION THAT AN AREA IS IN NEED OF REDEVELOPMENT.

¹⁵ Criterion 'g' relates to the location of a property within an Urban Enterprise Zone and, absent a finding of (negative) conditions affecting the property, limits the powers afforded municipalities under this Criterion to tax abatement and exemption.

Further, while the *Redevelopment Law* permits municipalities to rely solely on Criterion 'h' as determinative of a property's Need of Redevelopment, such Criterion is based on the location of a property within an area designated for growth ~ and not the actual condition of the property.

Accordingly, while not statutorily recognized, this Preliminary Investigation employs the term Substantive Criteria for those criteria which are based on the condition of a property (i.e., Criteria 'a', 'b', 'c', 'd', 'e' & 'f'), and applies Criteria 'g' and 'h' as supplemental factors for Redevelopment Area designation





3.3 **Statutory Definition: Area In Need of Redevelopment**

In addition to the above-cited Statutory Criteria, the *Redevelopment Law*¹⁶ includes a definition of a Redevelopment Area, providing:

a Redevelopment Area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part”.

3.4 **Implications of the *Local Redevelopment & Housing Law***

It is **only** upon a Condemnation Redevelopment Area designation and the subsequent adoption of a Redevelopment Plan that the Township is able to bring to bear all of the comprehensive tools and powers available under the *Redevelopment Law* deemed necessary to addressing the issues in the Foxmoor Study Area.

¹⁶ N.J.S.A. 40A:12A-3



4.0 METHODOLOGY

A Preliminary (Redevelopment) Investigation of the type conducted herein makes no judgment as to the policy implications of any findings, recommendations or determinations that may be made. The analyses undertaken simply evaluate the existing conditions within the designated target area vis-à-vis the specific criteria enumerated in N.J.S.A. 40A:12A-5.

4.1 Sources

4.1.1 The analyses contained in this Report of Findings rely on:

- the Township’s official municipal tax maps and MOD IV tax records;
- NJDEP Aerial Photography;
- Various Geographic Information System (G.I.S.) coverages generated for this Preliminary Investigation;
- Other information supplied by the Township; and
- Other sources as cited.

4.1.2 A Viability Analyses of the Shopping Center in-and-of-itself as well as in comparison to trade standards was conducted by Econsult Solutions, a nationally-recognized consultant in the fields of Real Estate, Transportation, Economic Development, Public Policy and Finance.¹⁹

4.1.3 These sources were augmented by visual inspections of the Study Area conducted in December 2015 and March 2016, and were used as the basis to compare the Study Area’s existing conditions against the Statutory Criteria required for Redevelopment Area designation²⁰.

4.1.4 Tax Assessment and related calculations were developed pursuant to data obtained from the Township Tax Assessor.

4.1.5 Other assumptions, caveats and data qualifications relevant to particular analyses are indicated where applicable.

¹⁹ Exhibit 1

²⁰ N.J.S.A. 40A:12A-5.



4.2 Disclaimer

The findings, conclusions and recommendations presented herein are the opinion of RVA and are based on a review of available records, interviews with knowledgeable individuals and a physical inspection of the accessible areas of the Study Area.

This Investigation does **not** include the collection or sampling of any soil, groundwater, surface water or air, nor does it include any inspection of areas that would require an extraordinary effort to access.

While RVA has taken great care in compiling, checking and reviewing the information presented herein to insure its accuracy and timeliness, we cannot guarantee the information against errors, omissions or inaccuracies arising from sources outside of RVA's control. Within this context, the analyses and findings presented herein are based on and rely upon the accuracy and completeness of the information supplied to RVA by or on behalf of Robbinsville Township and/or other sources as noted.

The findings, conclusions and recommendations contained herein are expressly conditioned upon the completeness and accuracy of such information.

Neither Remington, Vernick & Arango Engineers, its parent company Remington & Vernick Engineers & Affiliates, or any affiliates related thereto (collectively "Remington & Vernick"), has any present or contemplated future interest in the Study Area that would impair our ability to perform an objective analysis. Neither employment, nor the compensation of any form is contingent on the results of this Preliminary Investigation. Remington & Vernick has no personal or corporate interest in the Study Area.

4.3 Relevant Court Decisions

Municipal activities related to the Redevelopment process have been the subject of intense controversy and numerous court decisions, all based on the premise that a Redevelopment declaration permits a municipality to utilize the powers of eminent domain to acquire private property and to transfer such property to a designated Redeveloper in furtherance of an approved Project.



The more significant decisions have centered on the interpretation of the *Redevelopment Law's* various Criteria for Redevelopment Area designation and how such Criteria may appropriately be applied. While a comprehensive analysis of these decisions is beyond the scope of this Preliminary Investigation, a review of Gallenthin Realty Development, Inc. v. Township of Paulsboro²¹ and 62-64 Main Street, L.L.C. & 59-61 Moore Street, L.L.C., v. Mayor and Council of the City of Hackensack are instructive.²²

4.3.1 Gallenthin

The Borough of Paulsboro classified a 63-acre parcel of vacant wetlands as in need of redevelopment under Redevelopment Criterion 'e'. The municipality based that determination solely on a finding that the land's unimproved condition rendered it not fully productive. Paulsboro believed that it was entitled to make such a classification based on the then language of Criterion 'e', which stated that property qualified as an area in need of redevelopment if it were stagnant or not fully productive.

In rendering its decision, the Gallenthin Court held, in pertinent part:²³

Because the [NJ] Constitution authorizes government redevelopment of only "blighted" areas, the Legislature did not intend N.J.S.A. 40A:12A-5(e)²⁴ to apply in circumstances where the sole basis for redevelopment is that the property is "not fully productive." Rather, subsection 5(e) applies only to areas that, as a whole, are stagnant and unproductive because of issues of title, diversity of ownership, or other similar conditions.

When the Blighted Areas Clause [of the Constitution] was adopted in 1947, the framers were concerned with addressing the deterioration of certain sections of older cities that were causing an economic domino effect devastating surrounding properties... Although the meaning of "blight" has evolved, the term retains its essential characteristic: deterioration or stagnation that negatively affects surrounding properties.

"Blight" is generally defined as "[s]omething that impairs growth, withers hopes and ambitions, or impedes progress and prosperity"...

²¹ 191 N.J. 344 (2007) ("Gallenthin")

²² 221 N.J. 129; 110 A.3d 877 (2015) ("Hackensack")

²³ Citations within these excerpts are deleted for brevity.

²⁴ a.k.a. "Redevelopment Criterion 'e'"





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...In 1938, an influential urban planner and author defined "blight" as "an area in which deteriorating forces have obviously reduced economic and social values to such a degree that widespread rehabilitation is necessary to forestall the development of an actual slum condition." A more recent definition, as used in the context of urban redevelopment, describes "blight" as "an area, usually in a city, that is in transition from a state of relative civic health to the state of being a slum, a breeding ground for crime, disease, and unhealthful living conditions." Thus, the term presumes deterioration or stagnation that negatively affects surrounding areas.

The word ["blight"] was incorporated into our Constitution when the 1947 Constitutional Convention adopted the Blighted Areas Clause. According to Delegate Jane Barus, who sponsored the Blighted Areas Clause, the provision was intended to enable the "rehabilitation of our cities." Barus described the impetus for the clause as follows:

Certain sections of [the older cities in the State] have fallen in value, and have [become] what [are] known as "blighted" or "depressed" areas. This has happened, sometimes, because

the population has shifted from one part of the town to another, or one section has become overcrowded. Sometimes it has happened because the district has turned to business instead of residential, or partly to business; and sometimes simply because the buildings themselves, although they were originally good and may have been fine homes, have become so outdated and obsolescent that they are no longer desirable, and hence, no longer profitable.

These depressed areas go steadily downhill. The original occupants move away, the rents fall, landlords lose income and they make up for it by taking in more families per house. It's impossible to keep the properties in good condition, the houses deteriorate more and more, and what was once a good section of the town is on the way to becoming a slum.

Naturally, this slump in value is not confined to the original area affected. It spreads to neighboring blocks. No one person... can counteract this spread, because no one can afford to sink money into a blighted area... because the improvement is so small that it cannot turn the tide of deterioration.



Accordingly, in adopting the Blighted Areas Clause, the framers were concerned with addressing a particular phenomenon, namely, the deterioration of “certain sections” of “older cities” that were causing an economic domino effect devastating surrounding properties. The Blighted Areas Clause enabled municipalities to intervene, stop further economic degradation, and provide incentives for private investment.

In upholding that definition of blight, we observed: Community redevelopment is a modern facet of municipal government. Soundly planned redevelopment can make the difference between continued stagnation and decline and a resurgence of healthy growth. It provides the means of removing the decadent effect of slums and blight on neighboring property values, of opening up new areas for residence and industry. In recent years, recognition has grown that governing bodies must either plan for the development or redevelopment of urban areas or permit them to become more congested, deteriorated, obsolescent, unhealthy, stagnant, inefficient and costly.

At its core, “blight” includes deterioration or stagnation that has a decadent effect on surrounding property.

...non-blighted parcels may be included in a redevelopment plan if necessary for rehabilitation of a larger blighted area...

In sum, the Gallenthin Court upheld the ‘expanded’ interpretation of “blight” contained in the New Jersey Constitution, and provide guidance as to the application of certain Redevelopment Criteria.

In 2013, the New Jersey Legislature adopted revisions to the *Redevelopment Law* to codify certain aspects of Gallenthin and other Court rulings.

4.3.2 Hackensack

The City of Hackensack determined that a 5 contiguous lot area in the City satisfied Redevelopment Criteria ‘a’, ‘b’ and ‘d’, and designated such area In Need of Redevelopment. The property met Criterion ‘a’ because two buildings were substandard and unsafe for occupancy. Criterion ‘b’ was met because the deteriorated condition of the buildings rendered them vacant and untenable. In addition, an adjoining parking area was unsightly and not well maintained.



Additionally, the property overall suffered from faulty arrangement or design under Criterion 'd'.

Hackensack also determined that the parking lot portion of the property satisfied Criterion 'd' because of its faulty arrangement or design as evidenced by the undefined layout and related poor circulation, noting that the conditions on this lot had a negative impact on the surrounding properties because it is an unsightly area and the inefficient utilization of the parking area contributes to greater use of the on-street parking resources than would otherwise occur.

In rendering its decision, the Hackensack Court held, in pertinent part:²⁵

The issue is not whether one isolated lot might have some redeeming features, but whether an "area" is in need of redevelopment... For example, where an area in need of redevelopment encompasses a large residential or industrial / commercial area, a municipality may "draw within a blighted area certain houses or buildings which are in good condition" because, to do

otherwise, "would be in some instances to defeat the overall legislative purpose, namely, the redevelopment of blighted areas."

[N]on-blighted parcels may be included in a redevelopment plan if necessary for rehabilitation of a larger blighted area."

The fact that single parcels in the area are useful and could not be declared blighted if considered in isolation is basis neither for excluding such parcels nor for invalidating the designation."

Nothing in the Blighted Areas Clause or the Redevelopment Law suggests that an area in need of redevelopment must meet some minimum size requirement.

We cannot look separately at the parking lot, which was an integral part of the property, in assessing whether it fits under [Criterion] 'd'.... The pavement of the parking lot was crumbling and in disrepair...[and the parking lot] met the definition of blight under subsection (d) because of its "faulty arrangement [or] design."

Even if [a surface parking lot]..., standing alone, did not meet the definition of blight, it still might be properly categorized as part of an area in need of redevelopment. Blight

²⁵ Citations within these excerpts are deleted for brevity.



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determinations are not viewed in a piecemeal fashion... [The Parking Lot] could not be redeveloped on its own, and that it could only be redeveloped in conjunction with its neighboring lots.

...Plaintiffs treated [the Parking Lot] as one of 5 combined lots for development purposes. Thus, the historical and contemplated use of [the property] was for a single business purpose.

...we cannot forget that the "Blighted Areas Clause [has] enabled municipalities to intervene, stop further economic degradation, and provide incentives for private investment." Nor can we forget that the Redevelopment Law promotes a "salutary social and economic policy," a policy that gives municipalities the authority to rehabilitate and revitalize blighted areas for the benefit of the public ~ a benefit realized through better housing and enhanced business and employment opportunities.

In addition, the Hackensack Court clarified Gallenthin; confirming that there is no 'expanded' interpretation of "blight" contained in the New Jersey Constitution. In so doing, the Court upheld the traditional interpretation of

Redevelopment Criteria 'a', 'b' and 'd' while rejecting the misinterpretation that Gallenthin's "guidance" regarding the application of the Redevelopment Criteria was intended to reach beyond Criterion 'e'.

4.4 While the analyses contained in this Report of Findings are guided by the foregoing overarching principals, this Report of Findings recognizes that there are other cases in various stages of the court process and other bills pending in the Legislature which may ultimately change the way Preliminary (Redevelopment) Investigations are conducted.

As such, neither Gallenthin, the 2013 amendments to the *Redevelopment Law* or Hackensack are likely to be the 'last word' in the Redevelopment process. Accordingly, the approach to the following analyses is grounded in an understanding of the *Redevelopment Law* and case law ~ *at Publication*.

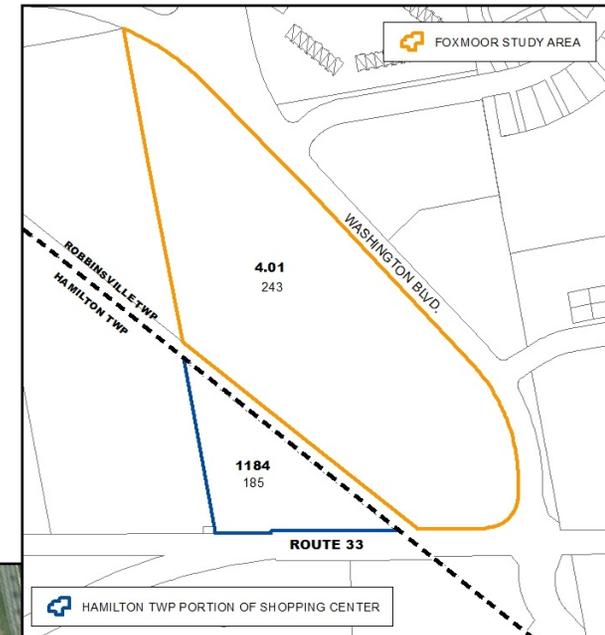
5.0 FOXMOOR STUDY AREA

5.1 Study Area Delineation

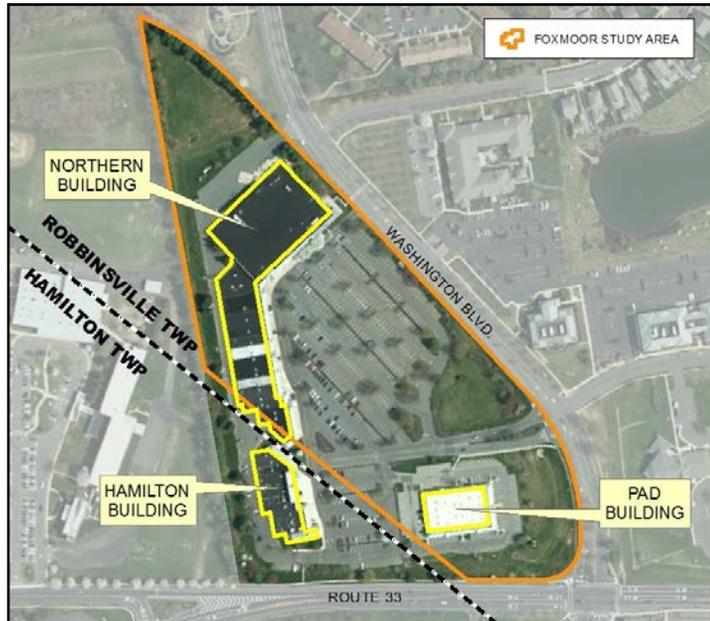
While physically a single property, the Foxmoor Shopping Center is divided into a 16.13-acre portion located in Robbinsville and a 3.1-acre portion located in Hamilton Township. As established by the Robbinsville Township Council via Resolution 2015-256, the Study Area for this Preliminary Investigation is limited to Block 4.01, Lot 243 on Robbinsville’s official Tax Maps.

While the portion of the Shopping Center located in Hamilton Township is not part of this Redevelopment analysis, it is under common ownership and management with the portion that is under analysis. Further, the entire Shopping Center operates as a single entity. Accordingly, the section of the Shopping Center in Hamilton Township is therefore included in this section to provide context.

The Shopping Center first opened in 1990.



5.2 Study Area Buildings & Land Uses²⁶



²⁶ Area calculations were developed from electronic tracings of NJDEP aerial photography in combination with field measurements of proximate frontages of the various commercial spaces and depths of the irregularly-shaped buildings at their ends. Information is therefore deemed approximate to the level of the technology and accuracy of the measurements.

While interior space measurements were not conducted, observations of the Main & Hamilton Buildings confirm that certain interior spaces extend beyond what could be measured from the exterior. Additionally, certain spaces in the Pad Building were not accessible. It is therefore not possible to determine the depth of these uses.

A Property Survey of the Study Area and the individual buildings therein, performed by a licensed Land Surveyor, is required for precise measurements. While a formal 'Survey' is not required for the interior spaces, more precise measurements than were obtainable for this analysis are required.

Visual inspections of the Study Area were conducted in November 2015 & March 2016.

5.2.1 Northern Building

The Shopping Center's Northern building is a single-story masonry structure comprised of a 49,680 s.f. Anchor Unit and a 40,060 s.f. 'wing'. The building contains 17 separate commercial spaces for a total of 89,740 s.f.

The rear of the Anchor Unit includes a 4-stall loading bay.

UNIT	USE	UNIT FRONTAGE	UNIT DEPTH	UNIT AREA (s.f.)	OCCUPANCY
1091	FORMER SUPERMARKET	255'	184'	49,680	VACANT
1089	FORMER PHARMACY & CONVENIENCE STORE	40'	100'	4,000 ²⁸	VACANT
1083-1087	DANCE STUDIO	60'	100'	6,000	OCCUPIED
1079		30'	100'	3,000	VACANT
1075	KARATE INSTITUTE	30'	100'	3,000	OCCUPIED
1073	ANIMAL HOSPITAL	20'	100'	2,000	OCCUPIED
1071		20'	100'	2,000	VACANT
1069	GIFT SHOP	20'	100'	2,000	OCCUPIED

²⁸ Irregularly-shaped unit that is significantly larger than the area calculable from exterior measurements. Accordingly, the vacant spaces exceed the area figures indicated.



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UNIT	USE	UNIT FRONTAGE	UNIT DEPTH	UNIT AREA (s.f.)	OCCUPANCY
1057	NAIL SALON	20'	100'	2,000	OCCUPIED
1065	COFFEE BAR & ICE CREAM PARLOR	23'	100'	2,300	OCCUPIED
1063		30'	100'	3,000	VACANT
1061	TANNING SALON	20'	100'	2,000	OCCUPIED
1059	DRY CLEANERS	39'	100'	3,900	OCCUPIED
1057		20'	100'	2,000	VACANT
1055	TAX PREPARATION	20'	72'	1,440	OCCUPIED
1053	HAIR SALON	20'	47'	940	OCCUPIED
1051	RESTAURANT	20'	24'	480 ²⁶	OCCUPIED

Accordingly, 6 of the building's 17 units (35.3%) and in excess of²⁶ 63,680 s.f. of the building's 89,740 s.f. of commercial space (71%) is vacant.

5.2.2 Pad Building

The Pad building is a 14,936 s.f. single-story masonry structure containing 8 separate commercial spaces.

At time of the November 2015 visual inspection of the Study Area, all of the building's identified storefronts

were occupied. The March 2016 visual inspection found one vacancy in this building.

Dimensions and observed conditions of the individual commercial spaces are:

UNIT	USE	UNIT FRONTAGE	UNIT DEPTH	UNIT AREA (s.f.)	OCCUPANCY
1001	MEDICAL OFFICE / URGENT CARE	49'	42'	2,058	OCCUPIED
1015	DENTAL CARE	58'	78'	4,524	OCCUPIED
1005	WELLNESS OFFICE	36'	100'	3,600	OCCUPIED
1009	CONSIGNMENT STORE	49'	30'	1,470	VACANT
1007	FITNESS CENTER	72'	40'	2,880	OCCUPIED
1006	FINANCIAL ADVISOR	22'	50'	1,100	OCCUPIED
1004	VISION CARE	22'	50'	1,100	OCCUPIED
1003	JEWELERS	22'	50'	1,100	OCCUPIED

Accordingly, 1 of the building's 8 units (12.5%) and 1,470 s.f. of the building's 17,832 s.f. of commercial space (8.2%) is vacant.

5.2.3 Hamilton Building





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The Hamilton building is a 20,484 s.f. single-story masonry structure containing 6 separate commercial spaces.

Dimensions and observed conditions³⁰ of the individual commercial spaces are:

UNIT	USE	UNIT FRONTAGE	UNIT DEPTH	UNIT AREA (s.f.)	OCCUPANCY
1049		30'	50'	1,500	VACANT
1047		36'	76'	2,736	VACANT
1045	RESTAURANT	20'	76'	1,520	OCCUPIED
1039-1041	RESTAURANT	60'	76'	4,560	OCCUPIED
1033-1035	RESTAURANT	120'	76'	9,120	OCCUPIED
1031	RESTAURANT	62'	100'	6,200	OCCUPIED

Accordingly, 2 of the building's 6 units (33.3%) and 4,236 s.f. of the building's 25,636 s.f. of commercial space (16.5%) is vacant.

5.2.4 Summary

- A. Overall, 29% of the Shopping Center's commercial units ~ equating to in excess of³¹ 52.1% of the Center's commercial space ~ is vacant.
- B. 28% of the Shopping Center's **Robbinsville-based** commercial units ~ equating to in excess of³¹ 60.6% of the Center's Robbinsville-based commercial space ~ is vacant.

5.3 Study Area Conditions

In addition to the 3 buildings, the Shopping Center property consists of a common parking field, common site improvements and common open space.

5.3.1 Buildings

Conversations with employees of several of the commercial spaces revealed no appreciable problems with the physical conditions of the buildings.

³⁰ November 2015 and March 2016

³¹ Including the irregularly-shaped units that are significantly larger than the area calculable from exterior measurements. Accordingly, the vacant spaces exceed the area figures indicated.

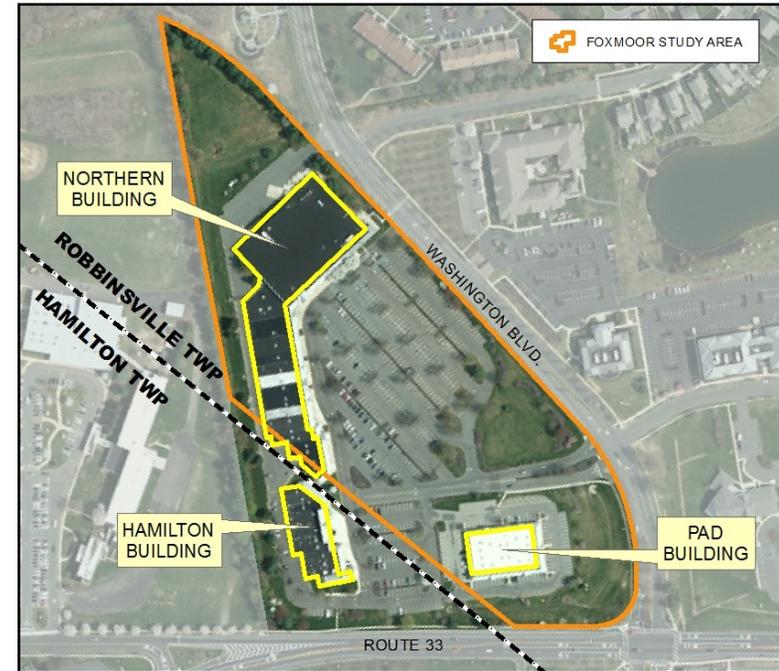


5.3.2 Parking Lot³³

A. The Shopping Center contains approximately 632 parking spaces³⁴ in 3 general locations as follows:

- 436 Spaces in Robbinsville are proximate to and primarily service the Northern Building.
- 91 Spaces in Robbinsville are proximate to and primarily service the Pad building.³⁵
- 39 Spaces in Robbinsville and 66 spaces in Hamilton Township (105 total³⁶) are proximate to and primarily service the Hamilton Building.

B. Various sections of the parking lot exhibit conditions of settlement and wear.



As detailed in the follow photographs of the parking lot³⁷, the pattern of the deterioration and repair patches suggests ponding water and the failure of the underground stormwater conveyance system, both in multiple locations.

³³ The Shopping Center's common parking field and site improvements are located in both Robbinsville and Hamilton Township.

³⁴ Spaces Manually counted from NJDEP Aerial. A number of spaces are being used for donation bins.

³⁵ A Property Outbound Survey of the study Area, performed by a licensed Land Surveyor, is required for precise municipal boundary line locations. This analysis proceeds under the assumption that the entire Pad Building parking lot is located in Robbinsville.

³⁶ Allocation based on location of municipal boundary line on NJDEP Aerial.

³⁷ Photographs taken November 2015. While some apparent repairs were evident at the March 2016 site visit, then-existing conditions did not materially differ from those depicted.











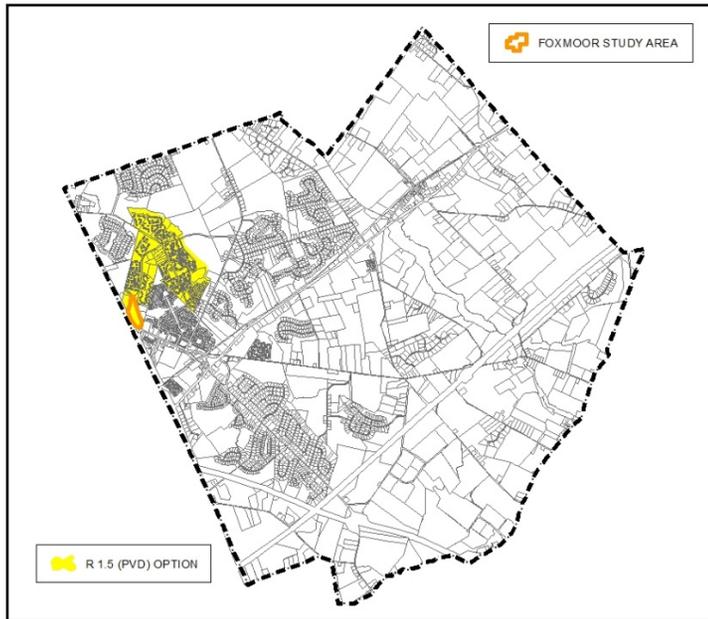


5.3.3 Other Site Improvements

With the exception of the stormwater management infrastructure beneath the parking lot, site inspections conducted for this Report of Findings revealed no apparent deficiencies in the Shopping Center's other Site Improvements.

5.4 Study Area Zoning

The Study Area is located in the Township’s “R1.5 Low Density Residential with Planned Village Development (PVD) Option” Zoning District. The Purpose and Development regulations for this R1.5 Zone are contained in §142-16 of the Township’s Land Use Code.



5.4.1 R1.5

The Preamble to the R1.5 Zone³⁸ states that "the district is a transition to the medium-density zones from lower-density districts and recognizes, in part, the existing land use patterns and coordinates future land use with public sewer and water service."

Permitted Principal Uses are:

- Farms.
- Single-family detached dwelling units.
- Public playgrounds, conservation areas, parks and public-purpose areas.
- Public and parochial schools and colleges for academic instruction on a minimum of five acres.
- Cluster residential development in accordance with the provisions of this chapter.
- House of Worship (as a Conditional Use).

³⁸ §142-16A



5.4.2 PVD Option

A. The Preamble to the PVD Option³⁹ indicate its purpose as:

- To encourage innovation in design and reflect changes in land development technology.
- To provide for necessary commercial facilities and services.
- To provide for new higher-density housing.
- To recognize the existing approval for Foxmoor (Washington Square), including housing for low- and moderate-income households.⁴⁰
- To ensure compatibility among land uses.
- To encourage the highest quality urban design and architecture.
- To encourage more efficient use of land, public services and facilities.

- To conserve the value of land.
- To encourage better movement and transportation of people.
- To prevent strip commercial development.
- To encourage attractive and safe residential neighborhoods.
- To preserve the residential integrity of adjacent areas.

B. Permitted Principal Uses in the PVD Option are:

- Single-family detached dwellings... on small lots.
- Single-family semidetached dwellings, (patio homes & duplexes), on small lots.
- Multifamily residential structures and Townhouses.
- Commercial uses permitted in the TC Town Center...
- Public and quasi-public uses (public schools, churches, firehouses, first-aid stations, nursing homes and day-care centers).

³⁹ §142-16J(1)

⁴⁰ It is not clear from the text if this includes the Foxmoor Shopping Center.

5.5 Wetlands & Wetlands Buffers⁴¹

NJDEP's wetlands mapping identifies wetlands along the Route 33 edge of the Subject. Such mapping identifies this as a "Disturbed Wetlands (Modified)".



While an in-depth analysis of the resource value of this wetland is beyond the scope of this Report of Findings, it is **possible** that such a wetland in this location **might** command a 50' buffer.

At Publication it was unknown what, if any, physical redevelopment activities may be necessary and appropriate for the Shopping Center. While any such activity will require application to NJDEP, a waiver request for disturbing this purported wetland appears to be a justifiable request.

5.6 Smart Growth & Regulatory Environment

5.6.1 Smart Growth

Smart Growth is a term given to planning theories and practices designed to combat the suburban sprawl experienced in New Jersey (and other states) in the post-World War II era.

Prior to the War, the nation's population generally lived in compact neighborhoods where people could walk from their homes to work, to shop or to go to school, or

⁴¹ www.nj.gov/dep/gis/wetshp.html



could take advantage of public transportation for these needs. The post-War emergence of the American middle-class, the privately-owned automobile and the interstate highway system provided the ability for people to retreat from Cities to suburbia, with its larger lot sizes and cul-de-sac communities.

Over the decades, once-new suburbs became old and tired. Simultaneously, the reliance on the automobile caused increased traffic congestion as public transportation was replaced by the need to drive from ‘secluded’ communities to office parks, strip malls and regional shopping centers.

As families perceived their quality of life diminishing, they began to flee these older, congested suburbs for the less-dense, ever-greener hinterland. Suburbs became urban⁴², exurbs became suburban, and the open space that heretofore separated communities vanished.

THE RESULT WAS “SPRAWL”.

⁴² Meanwhile, the traditional urban environment continued to deteriorate and decline, resulting in population flight, economic disinvestment and general physical decay.

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To combat sprawl while recognizing the need to accommodate an ever-expanding population, planners have developed a series of principles known as Smart Growth. It is hoped that the application of these principles will redirect (re)development to the Cities and other areas of existing infrastructure, and preserve green space while providing the new development required to service an expanding population.

The following Smart Growth principles are generally accepted by planners and lawmakers as guidelines for effective land use and design, and have been incorporated, explicitly or implicitly, into the body of state and local regulations adopted to combat sprawl.

- Plan and build Master Planned Communities utilizing compact, clustered design, walkable neighborhoods and distinctive, attractive areas offering a Sense of Place.
- Encourage infill (re)development by directing future growth to existing communities and areas with existing infrastructure, thereby strengthen existing neighborhoods.



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- Mix land uses to include residential, commercial and open space into new development projects and thereby reduce the need for the automobile.
- Provide transportation choices, including readily-accessible public transportation.
- Provide housing opportunities to all income levels by developing a range of housing choices.
- Conserve Open Space by requiring green space, farmland preservation and scenic resource preservation.
- Lower barriers and provide opportunities for Smart Development by use of targeted Smart Growth regulations.
- Utilize high quality design and planning techniques to produce predictable, fair and cost-effective development decisions.
- Collaborate on solutions by including the community and stakeholders in the (development) decision-making process.

5.6.2 State Development & Redevelopment Plan⁴³

In New Jersey, Smart Growth principles are embodied in the *State Development & Redevelopment Plan*. Promulgated by the State Planning Commission⁴⁴ as the equivalent of a statewide master plan to guide development and investment, this document is an outline of the State's policies related to Smart Growth and general planning principles.

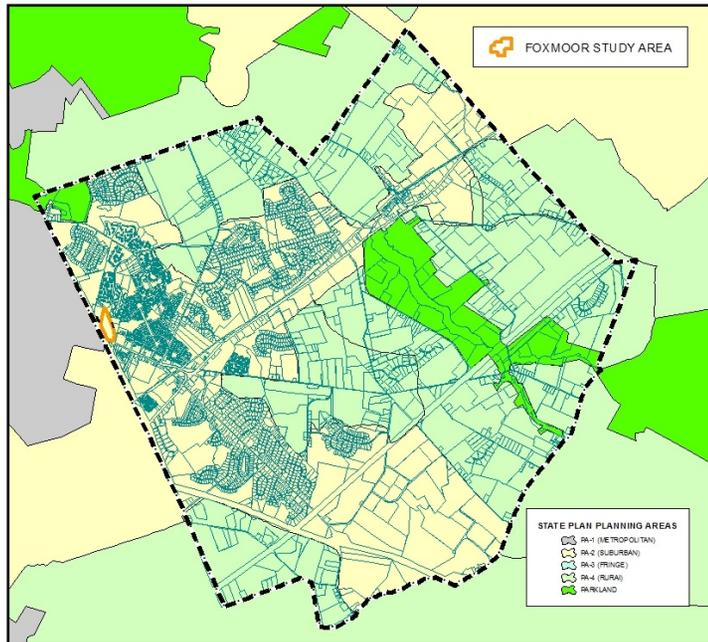
Prepared as an interdepartmental effort between various State offices charged with managing growth in New Jersey⁴⁵, the State Plan is the controlling policy guide regarding growth-related issues on a statewide level.

- A. The State Plan classifies the section of Robbinsville that contains the Foxmoor Shopping Center as a 'PA~2 (Suburban) Planning Area'.

⁴³ "State Plan"; the current version of which was adopted in March 2001.

⁴⁴ In conjunction with the (now entitled) Office of Planning Advocacy

⁴⁵ Principally, but not exclusively, NJDCA and NJDEP.



As detailed in the State Plan: ⁴⁶

1. Suburban Planning Areas are intended to provide for much of the state's future development; promote growth in Centers and other compact forms; protect the character of existing stable communities; protect natural resources; redesign areas of sprawl; reverse the current trend toward further sprawl; and revitalize cities and towns.

These goals will be met by strategies to, in principal part, zone Centers for the densities needed to absorb growth; support needed improvements for downtown business communities by establishing programs such as "Special Improvement Districts" in Centers; and capitalize on the opportunities for redevelopment in Centers afforded by redevelopment laws and brownfields redevelopment programs. In addition to standard zoning and capital budgeting approaches, ...consider other planning tools such as... capital plans, public land banking, density transfer mechanisms,... detailed regulating plans, redevelopment statutes, acquisition of targeted open space... and public / private... partnerships.

2. Centers are compact forms of development that consume less land, deplete fewer natural resources and are more efficient in the delivery of public services. The concept of Centers is the key organizing principle for development and redevelopment.⁴⁷

⁴⁶ State Plan: pp. 162-163

⁴⁷ State Plan: p.10



“Center” designation is conferred by NJDCA after an extensive planning process known as Plan Endorsement, whereby municipal, county, regional and State entities responsible for land use, infrastructure and other pertinent planning issues work in a coordinated effort to increase the degree of consistency among their individual “plans” in order to facilitate the implementation of these plans. A “Town Center” is one of several type of Center designations.

B. To accomplish these goals, State Plan has established the following [pertinent] Policy Objectives:⁴⁸

Land Use: Guide development and redevelopment into more compact forms: Centers and former single-use developments that have been retrofitted or restructured to accommodate mixed-use development, redevelopment, services and cultural amenities. Plan and zone for a wide range of land uses and users, in order to achieve more balanced communities. Seek to better integrate different land uses, and remove or mitigate physical barriers between them. Encourage

densities capable of supporting transit. Preserve the Environs as parkland, farmland, or partially developed low-density uses without compromising the Planning Area’s capacity to accommodate future growth.

Housing: *Provide a full range of housing choices primarily in Centers at appropriate densities to accommodate the area’s projected growth. Ensure that housing in general ~ and in particular affordable, senior citizen, special needs and family housing ~ is developed with maximum access to a full range of commercial, cultural, educational, recreational, health and transportation services and facilities. Focus multi-family and higher density single-family housing in Centers...*

Economic Development: *Guide opportunities for economic development into Centers or existing pedestrian- and transit-supportive single-use areas. Target new jobs to these locations.*

Transportation: *Maintain and enhance a transportation system that links Centers and existing large single-use areas to each other, to Metropolitan Planning Areas and to major highway and transit corridors. Emphasize the use of public transportation systems and alternative modes of transportation where appropriate and*

⁴⁸ State Plan: pp. 165-166





feasible, and maximize circulation and mobility options (including pedestrian and bicycle connections between developments) throughout...

***Redevelopment:** Encourage redevelopment efforts in existing Centers and single-use areas which can be redeveloped into mixed-use areas, and areas within walking distance of train stations or other major public transit facilities. Redevelop at transit-supportive densities, while creating pedestrian-oriented environments. Take full advantage of the opportunities available under the State's redevelopment statutes to promote new Centers and retrofit existing areas with mixed uses and higher densities.*

***Intergovernmental Coordination:** ...Create public / public and public / private partnerships to locate, facilitate, coordinate and implement new development and redevelopment in Centers.*

C. Implications for this Preliminary Investigation

A cursory reading of the State Plan would argue that the Plan's goals limit growth to Centers and areas of existing infrastructure; thereby precluding the Redevelopment Areas outside of Centers or

where infrastructure does not exist. However, the State Plan's Redevelopment Policy specifically encourages redevelopment outside of Centers in "single-use areas which can be redeveloped into mixed-use areas..." and encourages municipalities to "[t]ake full advantage of the opportunities available under the State's redevelopment statutes to promote new Centers and retrofit existing areas with mixed uses and higher densities."⁴⁹

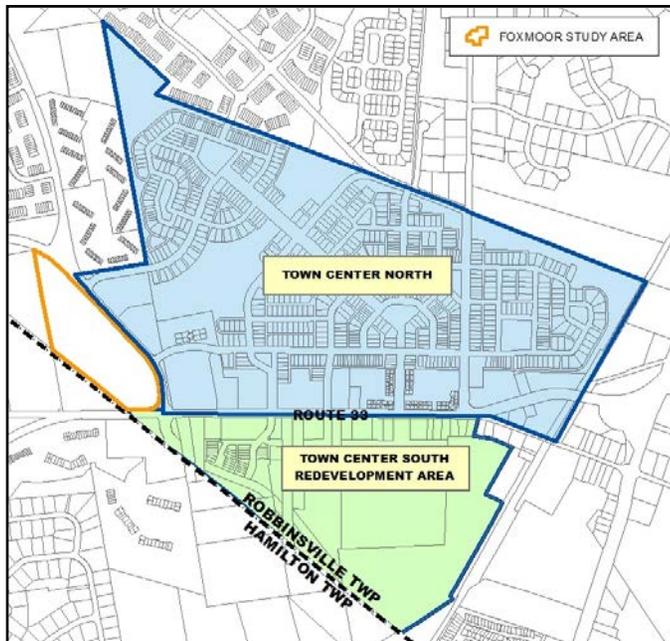
Further, the Smart Growth Planning Principles adopted by the State Plan are largely design- and process-based guidelines which become operationalized in the form of land use regulations and building controls. Details related to uses, densities and site and building design are not relevant to a Redevelopment Area designation process ~ which is, in effect, an existing conditions analysis. **Such issues are appropriately addressed within the context of a Redevelopment Plan**, which statutorily may not be adopted until an area has been designated to be In Need of Redevelopment.

⁴⁹ State Plan: p. 166

It is therefore not possible to know, at this stage of the process, the extent to which the Smart Growth land use or design principles may be achieved in the Study Area ~ should it eventually be declared to be In Need of Redevelopment.

5.6.3 Study Area Context

The Foxmoor Study Area is contiguous to the Robbinsville Town Center and the Township’s Town Center South Redevelopment Area.



A. Robbinsville Town Center⁵³

In the mid-1980s, [then] Washington Township commenced discussions with various State, county and local officials regarding the creation of a Town Center in the Robbinsville section of the Township, with the objective of containing suburban sprawl in the face of unprecedented growth in this and surrounding communities and thereby preserving the character of the rural and agricultural areas within the municipality.

It was (and continues to be) the Township’s vision to utilize the [then] emerging smart growth planning theories of New Urbanism / Neo-Traditional Design to transform unutilized lands in this once-rural area into a community that ~ albeit new ~ is rooted in yesteryear.

Specifically, the Township envisioned a walkable community that would free its residents and workforce from dependence on the automobile by:

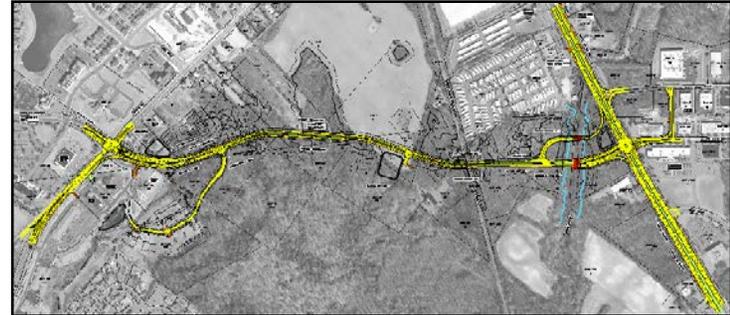
⁵³ Information derived in part but not exclusively from Report of Findings: Preliminary (Redevelopment) Investigation: Town Center South Study Area prepared by Remington, Vernick & Arango Engineers, September 8, 2010. (“Town Center South Report of Findings” on file with the Township Clerk.

- Making better use of available lands by integrating residential, commercial, retail and service needs;
- Balancing residential and commercial growth in a manner that would not overwhelm taxpayers; and
- Creating a traffic network that would support a thriving business district while creating outlets for modern commuting and regional traffic needs.

As part of its planning in support of this vision, the Township commissioned planning, traffic and other studies to determine the viability of a Town Center in Robbinsville, and what public improvements might be required to support such a Center.

The result of these studies was the concept of a mixed-use neighborhood with a central core of development surrounding a traditional “Main Street” on Route 33. In order to insure the walkable community consistent with “Smart Growth” principles, Route 33 traffic would be diverted away from the Town Center via a new Route 33 Bypass designed as a limited-access roadway linking

(existing) Route 33 at Washington Boulevard with State Route 130 at South Gold Drive.

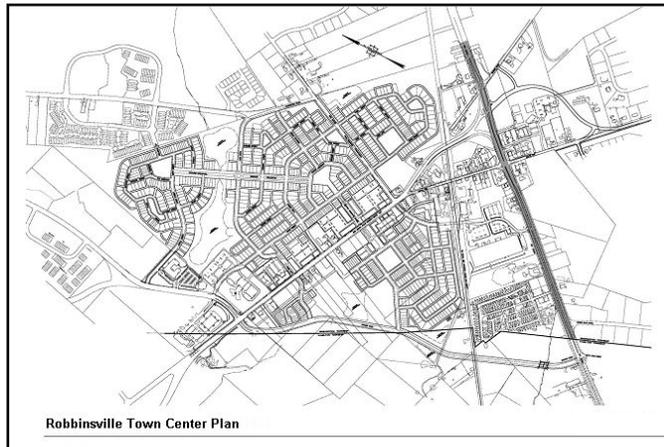


The Bypass was ~ and continues to be ~ the linchpin to the success of the Town Center.

At every step of the process, agencies of State government charged with promoting sound land use planning not only encouraged, but actually funded the Township’s efforts.

After extensive negotiations with a litany of pertinent State and County agencies as well as affected property owners, Robbinsville’s Washington Town Center (“WTC”) designation was unanimously approved by the State Planning Commission in April 1998; the first such designation in New Jersey.

The approved Center encompassed a 330-acre section of the Township surrounding the intersection of Route 33 and State Route 130...



...and envisioned:

- Residential units, including townhouses, duplexes, single family detached homes and assisted living facilities;
- Retail and office space situated along Route 33 in a true “Main Street” configuration, with sidewalk cafes, stores and community activities;
- Public gardens, parks, lakes and village squares;

- Off-road paths connecting the Town Center to adjacent neighborhoods, schools and public amenities; and
- Preserved greenbelt around Town Center and adjacent development.

A Memorandum of Understanding (“MOU”) by and between the State Planning Commission, NJDCA, NJDEP, NJDOT, Mercer County and the Township was executed in July 2000. Under Appendix B. to the MOU, the parties agreed to the following (pertinent) concepts:

- It is critical to Town Center’s success that Route 33 serve as the Town Center’s main street;
- Capacity relief is required in order to Route 33 to function as a Main Street; and
- In order to accomplish such capacity relief, a Route 33 Bypass is required.

Subsequent to the execution of the MOU, progress on the bypass stalled at the State level.



While a lack of funding was professed as the cause, the more serious problem appears to be institutional: While some arms of state government support “Smart Growth” and “New Urbanism”, the NJDOT Highway Access Code does not permit the neo-traditional design concepts that define this type of urban form. In short, there are no rules permitting the roadway design necessary to serve the type of development State Officials ~ through the State Plan ~ advocate (and in some instances require). Development proposals for lands along Route 33 in Robbinsville are typically reviewed by NJDOT as if fronting a *major highway* instead of a traditional Main Street.

Meanwhile, “sprawl”-type development continues. Traditional shopping centers have been approved west of Robbinsville on Route 33 and south of the Township on Route 130. These projects consume precious traffic capacity allotments and make NJDOT Highway Access Permits more difficult to obtain for the Township.

B. Town Center South Redevelopment Area

While the north side of Route 33 within the Town Center has been substantially developed into a *nationally-recognized and award winning*⁵⁵ mixed-use, compact, pedestrian-oriented community, the south side of Route 33 has remained virtually unchanged; a mix of small businesses and modest residences fronting the right-of-way with a significant amount undeveloped vacant lands to the south / southwest.⁵⁶

In order to foster activity on the south side of Route 33, the Township, in January 2010, commenced the statutory process to declare an approximately 90-acre, 70-lot area located between Route 33 and the Township’s municipal boundary with Hamilton Township ~ known locally as Town Center South, to be In Need of Redevelopment under the *Redevelopment Law*.

⁵⁵ Most recently, the 2010 Smart Growth Award from N.J. Future

⁵⁶ Unlike Town Center lands north of Route 33, which were owned by a single, experienced developer and therefore could be developed under a comprehensive plan within the constraints imposed by NJDOT, Town Center lands south of Route 33 are owned by multiple entities who did not cooperate with each other to create a unified development scheme (Town Center South Report of Findings ~ on file with the Township Clerk”).



In accordance with the requirements of N.J.S.A. 40A:12A-5, the Township, in October 2010, declared the Town Center South to be In Need of Redevelopment and, in March 2012, adopted a Redevelopment Plan for this Redevelopment Area.⁵⁹

In May 2012, the Township issued a public Redeveloper Solicitation for the Redevelopment Area whereby interested parties were invited to submit Expressions of Interest outlining their qualifications for Redeveloper designation and their proposed Project(s). As a result:

1. In or about July 2012, The Ferber Company, Inc. ("Ferber") submitted an Expression of Interest for the development of a 14,820 s.f. Walgreens Pharmacy and Convenience Store with drive-through, 53 parking spaces and stormwater management facilities on Block 1, Lots 1.01, 2 and 3 within the Redevelopment Area.

After being designated Redeveloper for this Project, Ferber received its Planning Board Approvals in November 2012. Construction commenced immediately thereafter and the Walgreens opened in November 2013.

2. In or about December 2012, JP Property Investment LLC ("JP") submitted an Expression of Interest for the development of a 4-story mixed use building on Block 1, Lot 17 within the Redevelopment Area.

After being designated Redeveloper for this Project, JP received its Planning Board Approvals in June 2014. At Publication, construction had yet to commence.

3. On or about June 2014, Washington Village, LLC. ("WV") submitted an Expression of Interest for the development of a 64-unit Garden Apartment complex in the form of two, identical, 32-unit, four story buildings around a common courtyard on Block 1, Lots 66-70, 72-74 & 11.03-11.05, Block 1.03, Lots 1-8, Block 1.04, Lots 1-8, Block 1.05,

⁵⁹ Redevelopment Plan, Town Center South Redevelopment Area, Robbinsville Township, Mercer County, New Jersey, prepared by Remington, Vernick & Arango Engineers (dated February 27, 2012).

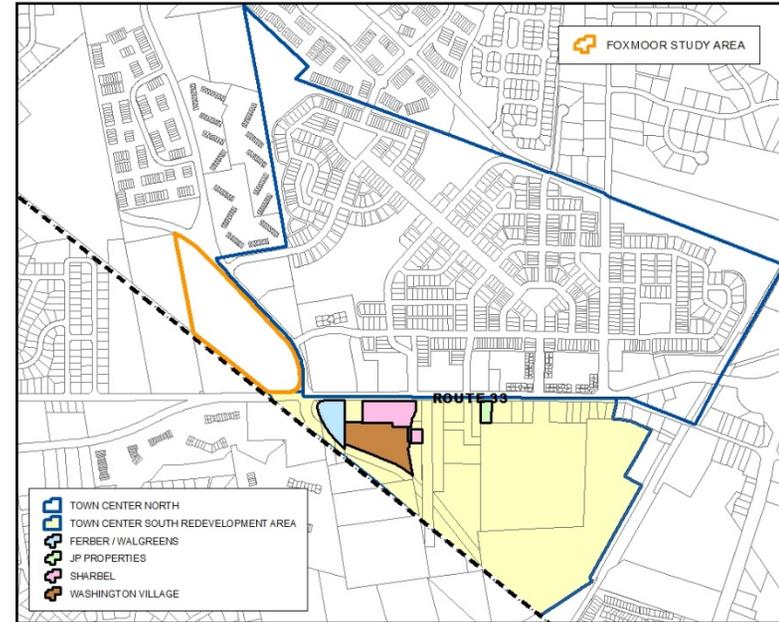


Lots 1-11, Block 1.06, Lot 1 and certain rights-of-way within the Redevelopment Area.

After being designated Redeveloper for this Project, WV received its Planning Board Approvals in February 2015. At Publication, construction had yet to commence.

4. In January 2015, a partnership consisting of Sharbell Washington, Inc. ("Sharbell") and Brentwood Holdings, LLC, ("Brentwood") submitted an Expression of Interest for the development of a two-story Childcare Center and a single-story Coffee House on Block 1, Lot 71 in the Redevelopment Area, as well as possible additional improvements on Block 1, Lot 11.02 (also in the Redevelopment Area).

After being designated Redeveloper for this Project, Sharbell⁶⁰ applied for and received its Planning Board Approvals in October 2015. At Publication, construction had yet to commence.



- 5.6.4 This Preliminary Investigation represents the first step in which is envisioned as an extension of the Township's planning efforts for the Town Center and Town Center South Redevelopment Area.

⁶⁰ Brentwood having sold its interest in the project to Sharbell.



6.0 APPLICABILITY OF STATUTORY CRITERIA

6.1 Redevelopment Criterion 'a'⁶¹

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if:

The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space as to be conducive to unwholesome living or working conditions.

The Foxmoor Shopping Center is an active commercial center whose buildings do not exhibit conditions required for a Redevelopment Area finding under Criterion 'a'. **Criterion 'a' cannot be said to apply.**

6.2 Redevelopment Criterion 'b'⁶²

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it exhibits:

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.

6.2.1 As of the March 2016 site investigation conducted for this Report of Findings:

- 35.3% of the commercial units in the Shopping Center's Northern Building ~ equating to (in excess of⁶³) 71% of this Building's square footage ~ was vacant.

⁶² N.J.S.A. 40A:12A-5b

⁶³ Factoring the irregularly-shaped interior units that are significantly larger than the area calculable from exterior measurements (FN26 in §5.2 herein)

⁶¹ N.J.S.A. 40A:12A-5a





- 28% of the Shopping Center's Robbinsville-based commercial units ~ equating to (in excess of⁶³) 60.6% of the Center's Robbinsville-based commercial space ~ was vacant.

6.2.2 A search for legal precedent wherein Criterion 'b' was applied to a **single property** with both vacant and occupied commercial spaces was unsuccessful. In lieu thereof, the following is offered:

- A. In Hackensack,⁶⁴ multiple contiguous lots owned by the same individuals (through separate limited liability corporations) were found to be In Need of Redevelopment under Redevelopment Criteria 'b'. **While separate lots, plaintiffs treated them as a single property for development purposes.**

Applying the Court's holdings to the Robbinsville section of the Foxmoor Shopping Center, and substituting Foxmoor-specific language for the Hackensack-specific text in the decision:

1. Hackensack Holding: Redevelopment Criterion 'b' is constitutional under the state Constitution.⁶⁵ The statutory criteria for Redevelopment Area designation **includes buildings no longer in use for commercial purposes.**

Foxmoor Application: 28% of Foxmoor's Robbinsville-based commercial units ~ equating to 60.6% of the Center's Robbinsville-based square footage, is/are **no longer in use for commercial purposes.**

If Foxmoor was a set of multiple, *separate properties* with a similar vacancy profile, our conclusion would be that Redevelopment Criterion 'b' would apply for the individual vacant properties as identified.

2. Hackensack Holding: The designation of an Area In Need of Redevelopment **might necessarily include some sound buildings** to accomplish the redevelopment plan because it

⁶⁴ §4.3.2 herein.

⁶⁵ New Jersey Constitution: Article VIII, §3, ¶. 1





is the redevelopment of an area, not a particular structure, that is the statutory objective.

The issue is **not** whether one isolated lot might have some redeeming features, but whether **an "area"** is in need of redevelopment.

Foxmoor Application: The designation of Foxmoor as a Redevelopment Area must necessarily include some occupied commercial space to accomplish the redevelopment plan because it is the redevelopment of the Shopping Center, not a particular space, that is the Township's objective.

3. Hackensack Holding: Where an Area In Need of Redevelopment encompasses a large commercial area, **a municipality may draw within such area certain buildings which are in good condition** because, to do otherwise, would be in some instances to defeat the overall legislative purpose, namely, the redevelopment of an area determined to be In Need of Redevelopment.

Non-blighted parcels may be included in a redevelopment plan **if necessary for the rehabilitation of a larger area.**

The fact that **single parcels** in the area **are useful and could not be declared In Need of Redevelopment if considered in isolation** is basis neither for excluding such parcels nor for invalidating the designation.

Foxmoor Application: The Foxmoor Shopping Center is a large commercial area that includes both occupied and vacant commercial space. The occupied commercial units in the Northern Building are not *only on the same property* as vacant commercial spaces, they are **within the same building.**

While it may be **physically** possible to separate (subdivide) the vacant former supermarket and [former] Rite Aid Pharmacy & Convenience Store ~ which are end-units ~ from the remaining portion of the Center and designate them as being In Need of Redevelopment



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under Criterion 'b', such action is **not possible for the other vacant units** in this building, which are interspersed throughout the Building.

Further, such action **cannot be accomplished** without separating these spaces from the Shopping Center's shared parking and stormwater management facilities, which is **not physically possible**.

Finally, such space must be included within any potential Redevelopment Area because, to do otherwise, would **frustrate the Township's ability to redevelop the larger qualifying commercial space**.

6.2.3 Foxmoor in Context of Industry Standards

The Viability Analyses of the Foxmoor Shopping Center conducted by Econsult Solutions⁶⁶ provides a profile of the Shopping Center in-and-of-itself and in comparison to national trends and standards. In summary:

- A. The anchor retail space at Foxmoor ~ the former supermarket ~ has been vacant since 2011. The secondary anchor ~ Rite Aid ~ relocated to a new building in the Washing Town Center sometime between November 2015 and March 2016. At Publication, that space remained vacant.
- B. Existing tenants include food-related businesses as well as retailers who typically rely on the volume of shoppers going to anchor tenants. With no anchor, the financial health of these small, volume-dependent retailers is at significant risk.
- C. An anchor retailer provides both income and stability to a shopping center, and typically comprises 60% - 65% of a property's revenue.
- D. Grocery and drug stores are two of the retail categories that have been less heavily impacted by e-commerce relative to other types of retail, and thus provide the highest degree of stability to a shopping center.

⁶⁶ Exhibit 1





- E. In 2013, community / neighborhood / strip centers had a national vacancy rate of approximately 10%, the highest vacancy level of any retail type. The health of these shopping centers **relies heavily** on the presence of grocery or drug store anchors.

- F. The absence of an anchor tenant at Foxmoor is problematic and leads to significantly less foot traffic in the property as a whole. This means a continued loss of sales and revenue, a loss of employment, and a loss of tax revenues that could have been generated by productive use. The inline tenants suffer due to less activity at the Shopping Center from the loss of the Center’s anchors.

- G. Healthy shopping malls tend to have vacancy rates below 10%. Vacancy rates of 10% - 20% are considered “a sign of trouble”, while rates of 20% - 40% classify a mall as “unhealthy.” A vacancy rate of 40% or higher frequently indicates that a shopping center is entering a “death spiral” of decline. Under these standards, ***Foxmoor’s vacancy rate of 29% of its units (52% percent of its overall space) classifies it as “unhealthy”.***

- H. Retail design over the past several years has changed to be more walkable, engaging and social. With the proliferation of e-commerce, brick and mortar retail has had to adapt to be more physically attractive and conducive to creating a dynamic shopping experience. This provides significant challenges for traditional community and neighborhood shopping centers.

Visibly aging and obsolescent shopping centers are likely to deter shoppers, who increasingly value mixed-use developments that present attractive, functional, and pedestrian-oriented retail and public space. Distressed shopping centers are easily categorized as such by their age.

Design is a critical element of customer attraction and retention. The streetscape and site design of modern shopping centers is meant to be both functional and aesthetically pleasing to create a multifunctional shopping and social experience. A strong emphasis on quality design is a common theme in the development and redevelopment of many shopping centers in proximity to Foxmoor.



The Foxmoor Shopping Center first opened in 1990 and retains its traditional strip-center configuration. The largest obstacle to this aging facility is not the physical deterioration of the structure, but the obsolescence of its design and aesthetic.

Accordingly, while not rising to a level of obsolescence required for conformance with Redevelopment Criterion ‘a’ as detailed in §6.1 herein, ***obsolescent conditions at Foxmoor do contribute to its vacancy rates and its classification as an “unhealthy” shopping center.***

- I. The surrounding customer base of the Foxmoor Shopping Center consists predominantly of high income households with significant buying power, selective buying preferences and a taste for good food, quality clothing and cultural experiences. Many are willing to spend money on quality and brand, and will seek them out if not immediately nearby.

To capture the local spending power of the surrounding population, retailers in-and-around Robbinsville have begun to adapt to the

preferences of the customer base. Robbinsville has seen a rise in mixed-use retail developments that have been newly constructed or renovated, including the Washington Town Center.

With a vibrant mix of retail, office and residential spaces, many commercial centers have become anchors in their neighborhoods and attractive destinations for residents of the entire county. Recent trends reflect retailers’ desire to be located in visually appealing centers, as well as consumers’ preference for mixed-use complexes that provide a dynamic retail experience.

In summary, Foxmoor’s vacancy rate makes the shopping center unattractive to potential tenants and unproductive for tenants that remain. Along with the vacancies, the commercial viability of the Shopping Center is thwarted by the design of the space, its current use(s) and its isolation from other markets. The lack of its two anchors greatly reduces the volume of shopping traffic and the appeal to potential new tenants.



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While Foxmoor has fallen into disuse, nearby shopping centers have been redeveloped to fit the demographic and economic trends of Robbinsville and nearby communities. The purchasing power and buying preferences of Robbinsville residents are very supportive of this type of development.

In order to become commercially viable, Foxmoor will need to devise a (re)development plan that allows it to fit the lifestyle and product preferences of consumers located within the shopping center’s trade area.

To the extent that any individual commercial units within the Shopping Center's Northern Building is found not to conform with any of the Statutory Criteria required for Redevelopment Area designation, the exclusion of such units from any resultant Redevelopment Area would effectively preclude the Township from generating a comprehensive and effective Redevelopment Plan for this Building. ***Such spaces are therefore deemed necessary, with or without change in their condition, for the effective Redevelopment of the Northern Building.***

6.2.4 Section 3 of the *Redevelopment Law*⁶⁷ provides:

...a Redevelopment Area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

6.2.5 ***Based on the totality of the foregoing, this office recommends that Redevelopment Criterion 'b' applies to the vacant commercial space(s) as identified. Since the vacant commercial space cannot be separated from the occupied space, and neither can be separated from the parking lot and stormwater infrastructure, the entire shopping center qualifies under Criterion 'b'.***

⁶⁷ N.J.S.A. 40A:12A-3





6.3 Redevelopment Criterion ‘c’⁶⁸

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it exhibits:

Land that is owned by the municipality, the County, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to the adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

The Foxmoor Shopping Center is not owned by a qualifying entity and is not vacant land. **Criterion ‘c’ therefore does not apply.**

6.4 Redevelopment Criterion ‘d’⁷⁰

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it exhibits:

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

6.4.1 Dilapidation

As detailed in §5.3.2 herein, the Shopping Center parking lot exhibits evidence of a delapidated (failing) underground stormwater conveyance system which is causing significant deterioration of the parking surface.

Such dilapidation is likely to permit both subsurface and at-grade ponding.

⁶⁸ N.J.S.A. 40A:12A-5c

⁷⁰ N.J.S.A. 40A:12A-5d



6.4.2 Faulty Arrangement or Design

A. The Foxmoor Shopping Center is a moderately-sized commercial facility located in a relatively large and growing population center⁷¹ immediately adjacent to the Township's award-winning and highly-successful Town Center. While a number of Big Box⁷², Lifestyle⁷³ and small retail centers have opened in Hamilton Township in recent years,⁷⁴ there would appear to be sufficient market demand for the smaller commercial units //spaces available at Foxmoor.

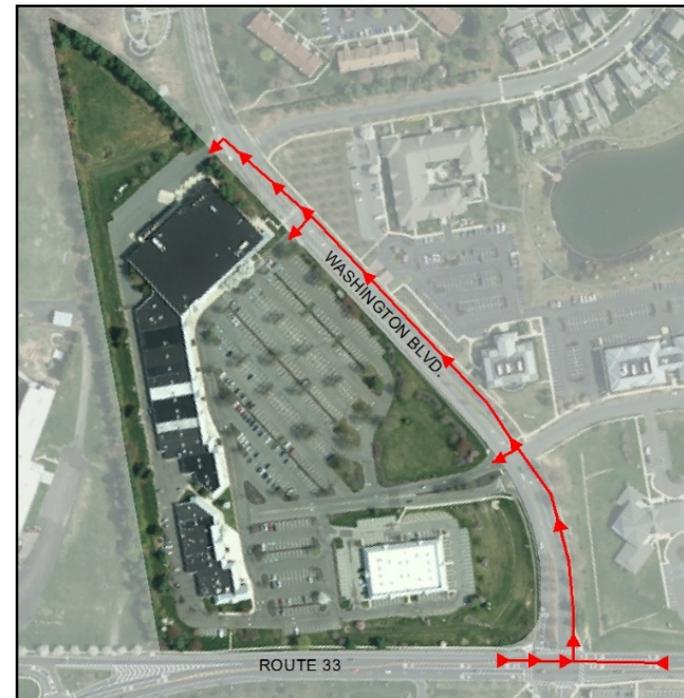
B. One factor cited locally as contributing to the vacancy and underperformance of the Shopping Center is its difficult and confusing access. Contrary to what shoppers expect from traditional shopping centers, access to Foxmoor is not from the Major Arterial on which it fronts (Route 33), but from 2 curb-cuts approximately 500' & 1,200' north of the Route 33 / Washington Boulevard intersection.⁷⁵

⁷¹ 2010 population of Robbinsville (13,642 ~ www.robbinsville-twp.org/Community/demographics.html) & Hamilton Township (88,464) (www.google.com/?gws_rd=ssl#q=hamilton+nj+population) is 98,739)

⁷² Defined as a large retail store whose physical layout resembles a large square or box when seen from above. A big-box store is characterized by a large amount of floor space (generally more than 50,000 square feet), a wide array of items available for sale, and its location in suburban areas. Big-box stores often can offer lower prices because they buy products in high volume. Also called supercenter, superstore, mega-center. (www.businessdictionary.com/definition/big-box-store.html#ixzz3rHs3Bs3o)

⁷³ Defined by the International Council of Shopping Centres (ICSC) as a "specialized centre" that has "upscale national-chain specialty stores with dining and entertainment in an outdoor setting" and further described by the ICSC as a "multi-purpose leisure-time destination, including restaurants, entertainment, and design ambiance and amenities such as fountains and street (continued) furniture that are conducive to casual browsing". Lifestyle Centers are typically anchored by large specialty stores (Pottery Barn, Crate & Barrel, Williams-Sonoma) or movie theatres. While a regional mall averages 800,000 s.f. in retail space, a lifestyle centre averages 320,000± s.f. (www.citymetric.com/skylines/what-exactly-lifestyle-centre-and-it-just-dressed-shopping-mall-888)

⁷⁴ Specifically Hamilton Marketplace, The Shoppes At Hamilton and the retail component of Town Center North.

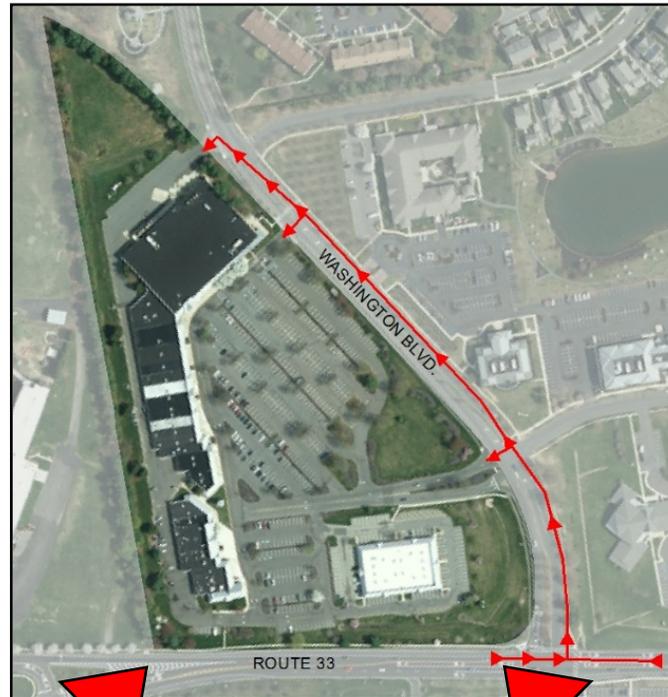


⁷⁵ An additional curb cut ~ apparently intended for deliveries to the rear of the Shopping Center ~ is located approximately 1,500' north of the intersection.



While current transportation planning practice encourages such access, the geometry of the Shopping Center and the lack of visibility afforded its commercial units by such access has proven detrimental to the success of Foxmoor. Specifically:

1. From westbound Route 33: The Center's very generous setbacks from Route 33 and Washington Boulevard, the curvilinear bend of Washington Boulevard away from the Route 33 / Washington Boulevard intersection, the berming and landscaping of these setbacks and the angled orientation of the buildings away from Route 33 combine to effectively hide the Shopping Center from view.
2. From eastbound Route 33: The Center's very generous setbacks from Route 33 and the berming and landscaping of these setbacks similarly combine to effectively hide the center from view.
3. The lack of signage along Route 33 further serves to isolate the Shopping Center uses from a customer base.





6.4.2 Obsolescence / Obsolete Layout

While the obsolescent / obsolete aesthetic of Foxmoor as detailed in §6.2.3 herein is not, in-and-of-itself, detrimental to the safety, health morals or welfare of the community, the impacts of these conditions on the economic viability of the Shopping Center **does result** in the conditions described herein as being **detrimental to the safety, health and welfare of the community.**

6.4.3 Other Factors

To the extent that the conditions of the Foxmoor parking lot may be found not to qualify as “dilapidation” and/or “faulty arrangement or design”, they certainly represent “other factors” that combine to create a detriment to the safety and health of the community.

6.4.4 Implications

Having determined that the Study Area exhibits conditions of dilapidation, obsolescence / obsolete layout and faulty arrangement or design, this analysis

now turns to how these conditions are detrimental to the safety, health, morals, or welfare of the community.

A. Safety

The pattern of deterioration throughout the parking lot represents a danger to both pedestrians and vehicles that can lead to personal injury and property damage from automobile accidents and trip-and-fall events. These conditions, if not corrected, will become self-perpetuating ~ leading to further deterioration and pavement failure and increased instances of personal injury and property damage; *thereby constituting a detriment to the safety of the community.*

B. Health

The pattern of deterioration and repair patches throughout the parking lot suggests:

1. Ponding water, which can become a breeding ground for vermin and mosquitoes carrying



vector-borne contagions;⁷⁶ *thereby causing a detriment to the health of the community.*

2. Deterioration and failure of the underground stormwater conveyance system, which can:

- a. Reduce the capacity of the stormwater management system;
- b. Cause siltation in the system, which can further reduce system capacity; and
- c. Impede the conveyance of stormwater to its discharge point.

These conditions, if not corrected, will become self-perpetuating ~ leading to further deterioration and failure of the system; *thereby constituting a detriment to the health of the community.*

6.4.4 Implications of Hackensack⁷⁷

In Hackensack, the Court ruled that a surface parking lot whose pavement was crumbling and in disrepair was found to be In Need of Redevelopment under Redevelopment Criteria 'd'.

Applying the Court's holdings to the Robbinsville section of the Foxmoor Shopping Center, and substituting Foxmoor-specific language for the Hackensack-specific text in the decision:

- A. Hackensack Holding: Redevelopment Criterion 'd' is constitutional under the state Constitution.⁷⁸ The statutory criteria for Redevelopment Area designation includes ***improvements which are dilapidated or have faulty arrangement or design.***

⁷⁶ Viruses and bacteria transmitted by mosquitoes, ticks, fleas and other vectors. The most widely known vector-borne diseases in the U.S. are the West Nile and Zika viruses, Lyme disease and Rocky Mountain spotted fever.

As rapid global travel and changing land use increase, the risk of rare or new vector-borne pathogens to emerge and cross borders also increases. For example, West Nile virus, which was unknown in the U.S. before 1999, infected 5,674 Americans in 2012.

The Impact of the Zika virus is only now being explored.

Vector-borne diseases are especially difficult to predict, prevent or control. Only a few have vaccines. Mosquitoes and ticks are notoriously difficult to reach and often develop resistance to insecticides. Adding to the complexity, almost all vector-borne pathogens are zoonoses, meaning they can live in animals as well as in humans.

(www.cdc.gov/ncezid/dvbd/pdf/dvbd_factsheet.pdf)

⁷⁷ §4.3.2 herein.

⁷⁸ New Jersey Constitution: Article VIII, §3, ¶. 1





Foxmoor Application: The Foxmoor parking lot is recommended as being **dilapidated and having faulty arrangement or design.**⁷⁹

B. Hackensack Holding: We cannot look separately at the parking lot, which was an integral part of the property, in assessing whether it fits under Criterion 'd'.

Foxmoor Application: The Foxmoor Shopping Center is a large commercial area that includes both occupied and vacant commercial space in the Northern Building and occupied commercial space in the Pad Building. Both buildings share the parking lot and stormwater management facilities.⁷⁹ It is therefore **not physically possible** to separate (subdivide) the buildings from the parking lot.

C. Hackensack Holding: The parking lot qualified as being In Need of Redevelopment under Criterion 'd' because of its faulty arrangement or design.

Foxmoor Application: The Foxmoor parking lot is recommended as being **dilapidated and having faulty arrangement or design.**

D. Hackensack Holding: Even if a parking lot, standing alone, did not meet the definition of being In Need of Redevelopment, it still might be properly categorized as part of a Redevelopment Area. Redevelopment Area determinations are not viewed in a piecemeal fashion. The Planning Board's expert testified that the Parking Lot could not be redeveloped on its own, and that it could only be redeveloped in conjunction with its neighboring lots.

Plaintiffs treated the Parking Lot as one of 5 combined lots for development purposes. Thus, the historical and contemplated use of the property was for a single business purpose.

Foxmoor Application: The Foxmoor Shopping Center is a large commercial area **on a single lot** that includes commercial space and common

⁷⁹ §5.3.2. herein.





parking and stormwater management facilities.⁸⁰ It was designed as a single development. It is **not physically possible** to separate (subdivide) the buildings from the parking lot or stormwater infrastructure.

6.4.5 ***Based on the totality of the foregoing, this office recommends that Redevelopment Criterion 'd' applies to the Foxmoor buildings, parking lot and stormwater management facilities.***

Even if the buildings are found not to qualify under Criterion 'd' in-and-of-itself, they cannot be separated from the parking lot and stormwater infrastructure. Accordingly, the entire shopping center qualifies under Criterion 'd'.

6.5 **Redevelopment Criterion 'e'**⁸¹

6.5.1 The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it exhibits:

A growing lack or total lack of proper utilization of areas caused by the condition of the title, diverse ownership of the real properties therein or other similar conditions which impede land assemblage or discourage the undertaking of improvements, resulting in a stagnant and underproductive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.

The Foxmoor Shopping Center does not appear to possess any of the characteristics required under Criterion 'e'. ***Criterion 'e' therefore does not apply.***

⁸⁰ §5.3.2. herein.

⁸¹ N.J.S.A. 40A:12A-5e





6.6 **Redevelopment Criterion ‘f’**⁸²

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it is an:

Area, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.

While the Foxmoor Shopping Center is greater than 5 contiguous acres, the buildings have not been destroyed by any of the qualifying actions under Criterion ‘f’. **Criterion ‘f’ therefore does not apply.**

6.7 **Redevelopment Criterion ‘g’**⁸³

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if it is located in a designated Urban Enterprise Zone.

The Foxmoor Shopping Center is not located in an Urban Enterprise Zone. **Criterion ‘g’ therefore does not apply.**

⁸² N.J.S.A. 40A:12A-5f

⁸³ N.J.S.A. 40A:12A-5g



6.8 Redevelopment Criterion ‘h’⁸⁴

The *Local Redevelopment & Housing Law* provides that an area may be determined to be In Need of Redevelopment if

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

6.8.1 As detailed in §5.6.2 herein, the *State Development & Redevelopment Plan* is an outline of the State’s policies related to Smart Growth and general planning principles. Such policies and principles are largely design- and process-based guidelines which become operationalized in the form of land use regulations and building controls. For Redevelopment Areas, ***such issues*** are appropriately addressed within the context of a Redevelopment Plan ~ which statutorily ***cannot be promulgated until an area has been designated to be In Need of Redevelopment.***

It is therefore not possible to know, at this *Preliminary Investigation* stage of the process, the extent to which the Smart Growth land use or design principles may be achieved at Foxmoor ~ should it eventually be declared to be In Need of Redevelopment.

6.8.2 The above notwithstanding, the Foxmoor Shopping Center is an underperforming existing facility that is surrounded by residential and commercial development. Once retrofitted / restructured under a Redevelopment Plan into an extension of the adjacent Town Center and Town Center South Redevelopment Areas, a Redeveloped Foxmoor will, in the language of the State Plan goals for PA-2 Planning Areas:

- A. **Land Use:** Be planned and zoned for a wide range of land uses and users in order to achieve a more balanced, compact, centers-based community in Robbinsville. Remove or mitigate physical barriers between land uses so that Foxmoor will be better integrated into the adjacent, walkable community.
- B. **Housing:** Enhance the availability of commercial and other services and facilities for nearby residents.

⁸⁴ N.J.S.A. 40A:12A-5h





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- C. **Economic Development:** Increase opportunities for economic development and employment in an existing ~ albeit transformed ~ Shopping Center.

- D. **Transportation:** Maintain the linkage between the Robbinsville Town Center and Town Center South Redevelopment Area and an existing underperforming Shopping Center. Enhance the connection between Foxmoor and a major highway (Route 33) and transit corridor (Route 130). Maximize circulation and mobility options (including pedestrian and bicycle connections between developments) in and round the Town Center, Town Center South and Foxmoor areas.

- E. **Redevelopment:** Take full advantage of the opportunities available under the State's Redevelopment statutes to retrofit and integrate an existing but underperforming Shopping Center into the adjacent neighborhoods as part of a mixed-use community with a pedestrian-oriented environment.

- F. **Intergovernmental Coordination:** Create public / public and public / private partnerships to facilitate, coordinate and implement the redevelopment of an underperforming Shopping Center in direct proximity to the Robbinsville Town Center and Town Center South Redevelopment Area.

6.8.3 ***The Foxmoor Shopping Center is located in a PA-2 Planning Area that is directly adjacent to the Robbinsville Town Center and Town Center South Redevelopment Area. It is therefore located where growth is encouraged via the State Plan. Criterion 'h' therefore applies.***



6.9 Redevelopment Area Definition⁹⁴

6.9.1 The *Local Redevelopment & Housing Law* provides that a Redevelopment Area:

may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety, or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

6.9.2 This concept was upheld by the New Jersey Supreme Court in its Hackensack decision.⁹⁵ Applying the Court’s holdings to the Robbinsville section of the Foxmoor Shopping Center, and substituting Foxmoor-specific language for the Hackensack-specific text in the decision:

A. Hackensack Holding: The designation of an Area In Need of Redevelopment ***might necessarily include some sound buildings*** to accomplish the redevelopment plan because it is the redevelopment of an area, not a particular structure, that is the statutory objective.

The issue is ***not*** whether one isolated lot might have some redeeming features, but whether ***an "area"*** is in need of redevelopment.

Foxmoor Application: The designation of Foxmoor as a Redevelopment Area ***must necessarily include*** some occupied commercial space to accomplish the redevelopment plan ***because it is the redevelopment of the Shopping Center, not a particular space***, that is the Township’s objective.

B. Hackensack Holding: Where an Area In Need of Redevelopment encompasses a large commercial area, ***a municipality may draw within such area certain buildings which are in good condition*** because, to do otherwise, would be in some instances to defeat the overall legislative purpose, namely, the redevelopment of an area determined to be In Need of Redevelopment.

Non-blighted parcels may be included in a redevelopment plan ***if necessary for the rehabilitation of a larger area.***

⁹⁴ N.J.S.A. 40A:12A-3

⁹⁵ §4.3.2 herein





The fact that **single parcels** in the area **are useful and could not be declared In Need of Redevelopment if considered in isolation** is basis neither for excluding such parcels nor for invalidating the designation.

Foxmoor Application: The Foxmoor Shopping Center is a large commercial area that includes both occupied and vacant commercial space. The occupied commercial units in the Northern Building are not *only on the same property* as vacant commercial spaces, they are **within the same building**. The occupied commercial units in the Pad Building **are on the same property** as the vacant commercial spaces.

While it may be physically possible to separate (subdivide) the vacant former supermarket and [former] Rite Aid Pharmacy & Convenience Store ~ which are end-units ~ from the remaining portion of the Center and designate them as being In Need of Redevelopment under Criterion 'b', **it is not possible to separate the remaining vacant commercial units** from the occupied commercial

units in the Northern building. **Nor is it possible to separate the Northern Building or the Pad Building** from the common parking lot and stormwater management facilities.

Such space must be included within any potential Redevelopment Area because, to do otherwise, would **frustrate the Township's ability to redevelop the larger qualifying commercial space**.

- C. Hackensack Holding: Even if a surface parking lot, standing alone, did not meet the definition of a Redevelopment Area, it still might be properly categorized as part of an area in need of redevelopment.

Redevelopment Area determinations are not viewed in a piecemeal fashion. The Planning Board's expert testified that the Parking Lot could not be redeveloped on its own, and that it could only be redeveloped in conjunction with its neighboring lots.

Plaintiffs treated the Parking Lot as one of 5 combined lots for development purposes. Thus, the



historical and contemplated use of the property was for a single business purpose.

Foxmoor Application: The Foxmoor parking lot, with shared parking and stormwater management facilities, was designed to service the Shopping Center as a single development. It cannot be separated (subdivided) from the Shopping Center's Northern Building or Pad Building.

D. Hackensack Holding: We cannot forget that the *Redevelopment Law* promotes a "**salutary social and economic policy**," a policy that gives municipalities the authority to rehabilitate and revitalize Redevelopment Areas for the benefit of the public ~ a benefit realized through better housing and **enhanced business and employment opportunities**.

Foxmoor Application: The Township's goal in undertaking this Redevelopment process for the Foxmoor Shopping Center is to provide a setting within which a qualified Redeveloper can **leverage the tools and powers of the Redevelopment Law**

to address the conditions negatively impacting this underperforming Shopping Center and return the Center to a **productive asset for the community**.

6.9.3 **Based on the totality of the foregoing, should any part or component of the Foxmoor Shopping Center not be found to conform to Redevelopment Criteria 'b' or 'd' as detailed herein, the inclusion of such part of component in any resultant Redevelopment Area is recommended as necessary, with or without change in its condition, for the effective Redevelopment of the part(s) or component(s) that do qualify under such Criteria.**



7.0 FINDINGS & RECOMMENDATIONS

7.1 The analyses and findings contained in this Report of Findings conclude that the conditions in the Foxmoor Study Area exhibit, in the pertinent language of the New Jersey *Local Redevelopment & Housing Law*:

7.1.1 A discontinuance of the use of buildings [space] previously used for commercial purpose. Specifically: 28% of the Shopping Center's Robbinsville-based commercial units ~ equating to in excess of⁹⁶ 60.6% of the Center's Robbinsville-based commercial space; *thereby satisfying Statutory **Criterion 'b'** for the elements as identified.*

7.1.2 Areas with buildings or improvements which, by reason of a combination of dilapidation and/or faulty arrangement or design, are detrimental to the safety and health of the community. Specifically: the Foxmoor parking lot and stormwater management system lying thereunder exhibits conditions of dilapidation and faulty arrangement or design which are detrimental to the

safety and health of the community; *thereby satisfying Statutory **Criterion 'd'** for the elements as identified.*

Should such conditions not be found to constitute “dilapidation” or “faulty arrangement or design”, they certainly represent “a combination of other factors” that are detrimental to the safety and health of the community; *thereby satisfying Statutory **Criterion 'd'** for the elements as identified.*

7.1.3 Lands within a designated Regional Center and a PA~2 (Suburban) Planning Area ~ directly adjacent to a designated Town Center ~ the Redevelopment of which will be consistent with Smart Growth planning principles adopted pursuant to law or regulation; *thereby satisfying Statutory **Criterion 'h'** for the entire Study Area.*

7.1.4 Elements deemed to be necessary for the effective Redevelopment of the Study Area. Specifically, the occupied commercial units in the Northern and Pad Buildings; *thereby satisfying the **Statutory definition of a Redevelopment Area** for the elements as identified.*

⁹⁶ Including the irregularly-shaped units that are significantly larger than the area calculable from exterior measurements. Accordingly, the vacant spaces exceed the area figures indicated.





REPORT OF FINDINGS

*Condemnation Preliminary Redevelopment Investigation
Foxmoor Study Area
Township of Robbinsville, Mercer County, New Jersey*

7.2 The New Jersey *Local Redevelopment & Housing Law* provides that an area may be found to be In Need of Redevelopment if it can be demonstrated that the conditions within the targeted area conform with **ANY ONE (1) of the eight (8)** Criteria specified in N.J.S.A. 40A:12A-5.

7.2.1 Pursuant to the analyses and findings set forth herein, it is herewith recommended that the Robbinsville Township Planning Board find, and upon such finding recommend to the Robbinsville Township Council, that:

A. The Foxmoor Study Area exhibits conditions which conform with, variously, Criteria 'b', 'd' and 'h' of the *Local Redevelopment & Housing Law*.

B. Should any of these lands be found not to qualify for Redevelopment Area designation, the inclusion of such lands within any prospective Redevelopment Area, with or without change in their condition, is recommended as necessary for the effective redevelopment of the Study Area.

7.2.2 Based on the totality of the foregoing, it is herewith recommended that the Robbinsville Township Planning Board find, and upon such finding recommend to the Robbinsville Township Council, that the Foxmoor Study Area, as described herein, be declared to be a Condemnation Area in Need of Redevelopment in accordance with N.J.S.A. 40A:12A-5 and 6.

7.3 Should the Planning Board make such a recommendation, and should the Township Council designate the Foxmoor Study Area, or any part thereof, to be a Condemnation Area In Need of Redevelopment, it is hereby recommended that the Township Council authorize the preparation of a Redevelopment Plan for such Redevelopment Area.



EXHIBITS

VIABILITY ANALYSIS OF THE FOXMOOR SHOPPING CENTER



May 02, 2016

REPORT SUBMITTED TO:
Remington & Vernick Engineers
232 Kings Hwy E.
Haddonfield, NJ 08033



REPORT SUBMITTED BY:
Econsult Solutions
1435 Walnut Street
Philadelphia, PA 19102



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EXECUTIVE SUMMARY

The Foxmoor Shopping Center was first opened in 1990. The 19.23-acre property is located on the northwest corner of the intersection of Washington Boulevard and Route 33. The Shopping Center consists of a 16.13-acre portion located in Robbinsville Township (Block 4.01, Lot 243) and a 3.1-acre portion located in Hamilton Township (Block 1841, Lot 185).

The shopping center's anchor space, formerly occupied by a supermarket, has been vacant since 2011,¹ and a Rite Aid pharmacy was recently vacated. With two large vacant tenants and scattered vacancies, Foxmoor Shopping Center is not commercially healthy and is no longer financially viable. Over half of the shopping center's total square footage is vacant.

ANCHOR TENANCY

The anchor retailer at the Foxmoor Shopping Center, a former grocery store, has sat vacant since 2011, and the secondary anchor, a pharmacy, has recently vacated. An anchor retailer provides both income and stability and typically comprises about 60 to 65 percent of a property's revenue.² Grocery and drug stores are two of the retail categories that have been less heavily impacted by e-commerce relative to other types of retail, and thus provide the highest degree of stability to a shopping center. In 2013 community/neighborhood/strip centers had a national vacancy rate of approximately 10 percent, the highest vacancy level of any retail type. The health of these shopping centers relies heavily on the presence of a grocery or drug store anchor.

The absence of an anchor tenant is problematic and leads to significantly less foot traffic in the property as a whole. This means a continued loss of sales and revenue, a loss of employment, and a loss of tax revenues that could have been generated by productive use.³ The inline tenants will suffer due to less activity at the Foxmoor Shopping Center from the loss of Rite Aid.

HIGH VACANCY RATE

Using categorizations of shopping mall health as a proxy, healthy malls tend to have vacancy rates below 10 percent. Vacancy rates of 10 to 20 percent are considered "a sign of trouble" while rates of 20 to 40 percent classify a mall as "unhealthy." A vacancy rate of 40 percent or higher frequently indicates that a shopping center is entering a "death spiral" of decline.⁴ Under this standard, Foxmoor's 29 percent of its units (52 percent of its overall space) classifies it as unhealthy.

¹ *The Times of Trenton*. "Pressed by Competition, Robbinsville Thriftway to Close" (November 2011)

² UrbanLand, Matthew Cypher. Grocery-Anchored Retail: Still a Safe Bet? (2016)

³ The Robbinsville Sun, Joanne Degnan. Mayor eyes redevelopment zone designation to attract tenants to Foxmoor shops (2013)

⁴ The New York Times, Nelson Schwartz. The Economics (and Nostalgia) of Dead Malls (2015).

TRENDS IN RETAIL

Retail design has changed to be more walkable, engaging, and social. With the proliferation of e-commerce, brick and mortar retail has had to adapt to be more physically attractive and conducive to creating a dynamic shopping experience. There are significant challenges facing community and neighborhood shopping centers.

Foxmoor Shopping Center first opened in 1990. The largest obstacle to this aging building is not the physical deterioration of the structure, but the obsolescence of its design and aesthetic. Visibly aging and obsolescent shopping centers are likely to deter shoppers, who increasingly value mixed-use developments that present attractive, functional, and pedestrian-oriented retail and public space.⁵ Data have found that distressed shopping centers are easily categorized as such by their age.

Building design is a critical element of customer attraction and retention. The streetscape and site design of modern shopping centers is meant to be both functional and aesthetically pleasing, to create a multifunctional shopping and social experience. A strong emphasis on quality design has been a common theme in the development and redevelopment of many newly built nearby shopping centers.

NEARBY RETAIL DEMAND AND SUPPLY

The surrounding customer base of the Foxmoor Shopping Center consists predominantly of high income households with significant buying power. They have selective buying preferences with a taste for good food, quality clothing and cultural experiences. Many are willing to spend money on quality and brand and will seek it out if it is not immediately nearby.

To capture the local spending power of the surrounding population, retailers in and around Robbinsville have begun to adapt to the preferences of the customer base. Robbinsville has seen a rise in mixed-use retail developments that have been newly constructed or renovated, including the Washington Town Center. With a vibrant mix of retail, office and residential spaces, many commercial centers have become anchors in their neighborhoods and attractive destinations for residents of the entire county. Recent trends reflect retailers' desire to be located in visually appealing centers, as well as consumers' preference for mixed-use complexes that provide a dynamic retail experience.

⁵ Urban Land, Edward McMahon. *The future of the Strip?* (2011).

FIGURES ES.1 – PICTURE OF FOXMOOR SHOPPING CENTER

Source: Google Map (2016)

The abandonment of this space and numerous others that held prior commercial use makes the shopping center unattractive to potential tenants and unproductive for tenants that still remain. Along with the vacancies, the commercial viability of the Foxmoor Shopping Center is thwarted by the design of the space, its current use, and its isolation from other markets. The lack of its two anchors greatly reduces the volume of shopping traffic and the appeal to potential new tenants.

With an updated, efficient design and improved accessibility, the shopping center has the opportunity to attract much greater commercial activity. In 2013 community/neighborhood/strip centers had a national vacancy rate of approximately 10%, the highest vacancy level of any retail type. The health of these shopping centers relies heavily on the presence of a grocery or drug anchor, as these are two of the retail categories that have been less heavily impacted by e-commerce relative to other types of retail.⁶

While Foxmoor has fallen into disuse, nearby shopping centers have been redeveloped to fit the demographic and economic trends of Robbinsville and nearby communities. Only a short distance from Foxmoor, Washington Town Center now provides a modern shopping and dining experience in the center of Robbinsville. The development was designed to deliver a diverse mix of office space and retail options, including restaurants, gourmet food markets, clothing boutiques and ice cream shops. The purchasing power and buying preferences of Robbinsville residents are very supportive of this type of development. In order to become commercially viable, Foxmoor will need to devise a development plan that allows it to fit the lifestyle and product preferences of consumers located within the shopping center's trade area.

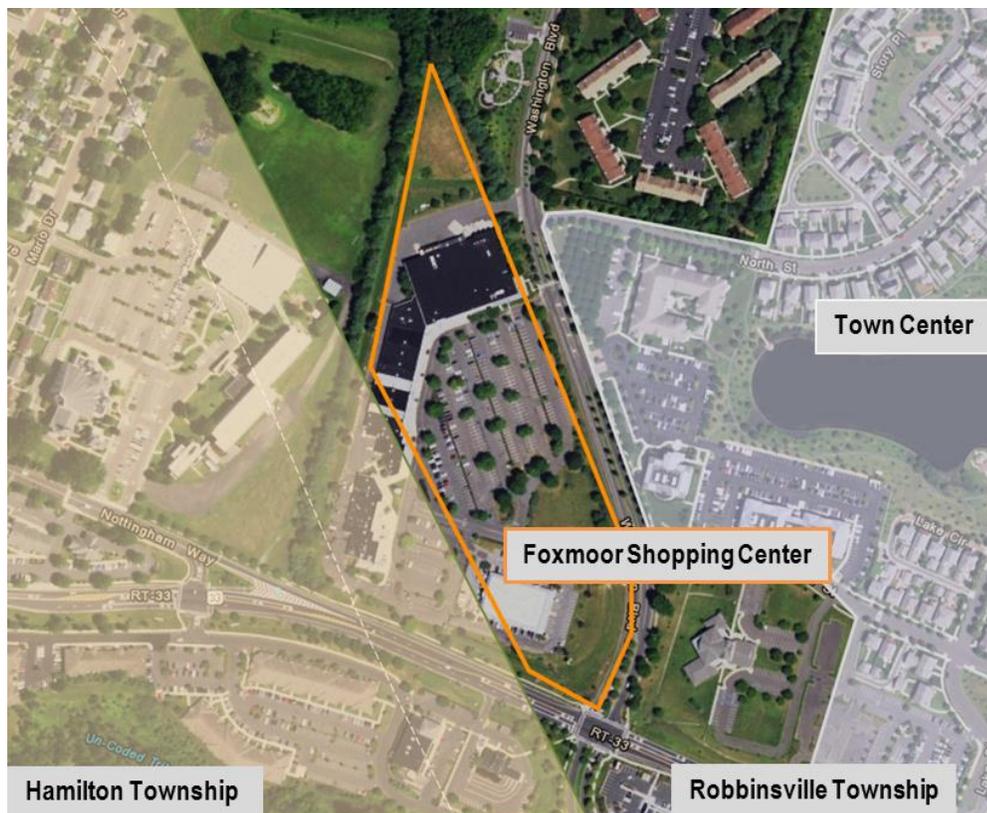
⁶ Cassidy Turley, National Retail Review - National Shopping Center Overview, Spring 2014.

1.0 INTRODUCTION

1.1 FOXMOOR SHOPPING CENTER

The Foxmoor Shopping Center was first opened in 1990. The 19.23-acre property is located on the northwest corner of the intersection of Washington Boulevard and Route 33. The Shopping Center is divided into a 16.13-acre portion located in Robbinsville Township (Block 4.01, Lot 243) and a 3.1-acre portion located in Hamilton Township (Block 1841, Lot 185).

FIGURE 1.1 – MAP OF FOXMOOR SHOPPING CENTER IN RELATION TO TOWN CENTER



Source: ESI (2016) and ESRI (2016)

The shopping center's anchor tenant, formerly occupied by a supermarket, has been vacant for over four years. The Rite Aid pharmacy was recently vacated. Occupied retailers of the main building include a dance studio, a karate institute, the Foxmoor animal hospital, a gift shop, a nail salon, a tanning salon, dry cleaners, and an HR Block tax preparation center. It also features several food-related businesses, including a Friendly's, a coffee and ice cream parlor, a pizza shop, and a bagel shop. Many of these types of retailers rely on the volume of shoppers going to

anchor tenants, such as Rite Aid. With the Rite Aid vacating the premises and leaving no supermarket, the financial health of these small, volume-dependent retailers is at significant risk. On the Robbinsville side of the shopping center, approximately 71 percent of the building's square footage is vacant. About 17 percent of the building's square footage is vacant on the Hamilton side of the shopping center (see Table 1.1). The single-story structure that fronts Route 33 houses several health-related tenants, such as a dental care center, a wellness center, a vision center, and an urgent care facility.

FIGURE 1.2 – PICTURE OF FOXMOOR SHOPPING CENTER



Source: Google Map (2016)

TABLE 1.1 – OCCUPIED AND VACANT STOREFRONTS BY UNIT AND SQUARE FOOTAGE

Building	Vacancy	Number of Units	% of Units	Square Footage	% of Square Footage
Main Building	Vacant	6	35%	63,680	71%
	Occupied	11	65%	26,060	29%
	Total	17	100%	89,740	100%
Pad Building	Vacant	1	12%	1,470	8%
	Occupied	7	88%	16,362	92%
	Total	8	100%	17,832	100%
Hamilton Building	Vacant	2	33%	4,236	16%
	Occupied	4	67%	21,400	84%
	Total	6	100%	25,636	100%
Total Development	Vacant	9	29%	69,386	52%
	Occupied	22	71%	63,822	48%
	All	31	100%	133,208	100%

Source: ESI (2016) and ESRI (2016)

1.2 DEMOGRAPHICS OF ROBBINSVILLE, NJ

The population of Robbinsville is forecasted to remain stable between 2015 and 2020. The Town's median age and income will continue to rise, with the median age projected to be 42.1 and the median household income projected to be \$119,394 in 2020. The population trends projected for Robbinsville are reflective of the trends occurring elsewhere in Mercer County and the state as a whole, as will be demonstrated in detail in Section 3.0.

TABLE 1.2 – POPULATION BY AGE AND INCOME OF ROBBINSVILLE, NJ

Robbinsville Township	2015	2020
Population	14,161	14,604
Households	5,264	5,422
Median Age	40.8	42.1
Median Household Income	\$105,733	\$119,394

Source: ESI (2016) and ESRI (2016)

1.3 OVERVIEW OF REPORT

In Section 2, we consider the context of the project with a focus on the demographic and economic trends in Robbinsville. In Section 3, we define the trade area of Foxmoor and perform a market feasibility analysis. In Section 4, we discuss the impact that various property characteristics have on the health of a retail project, including vacancies, building age and design, store mix, and prevailing planning trends.



2.0 DEMOGRAPHIC AND ECONOMIC TRENDS

2.1 DEMOGRAPHIC TRENDS

The population of Robbinsville and Hamilton Township, similar to Mercer County and the State as a whole, is stable. The towns are both aging, with the largest population growth occurring in the 65+ age cohort, which is projected to grow 2 percent between 2015 and 2020 in Robbinsville, Hamilton, Mercer County, and the State.

TABLE 2.1 – POPULATION GROWTH BY AGE GROUP (2015 – 2020)

Area	Age Group	2015		2020		Growth	
		Number	Percent	Number	Percent	Number	Percent
Robbinsville, NJ	0 - 14	3,054	22%	2,654	18%	-400	-3%
	15 - 24	1,850	13%	1,979	14%	129	1%
	25 - 44	3,188	23%	3,218	22%	30	0%
	45 - 64	4,516	32%	4,870	33%	354	1%
	65 - 85+	1,553	11%	1,883	13%	330	2%
Hamilton Township, NJ	0 - 14	14,193	16%	13,881	15%	-312	-1%
	15 - 24	10,459	12%	9,305	10%	-1,154	-2%
	25 - 44	22,171	25%	23,625	26%	1,454	1%
	45 - 64	26,042	29%	25,087	28%	-955	-1%
	65 - 85+	15,785	18%	17,785	20%	2,000	2%
Mercer County, NJ	0 - 14	65,820	18%	63,992	17%	-1,828	-1%
	15 - 24	54,180	15%	51,283	14%	-2,897	-1%
	25 - 44	95,708	26%	98,229	26%	2,521	0%
	45 - 64	100,678	27%	100,001	27%	-677	0%
	65 - 85+	52,950	14%	60,605	16%	7,655	2%
State of New Jersey	0 - 14	1,649,922	19%	1,598,415	18%	-51,507	-1%
	15 - 24	1,144,043	13%	1,069,133	12%	-74,910	-1%
	25 - 44	2,286,544	26%	2,402,505	26%	115,961	0%
	45 - 64	2,477,364	28%	2,458,476	27%	-18,888	-1%
	65 - 85+	1,360,567	15%	1,564,602	17%	204,035	2%

Source: ESI (2016) and ESRI (2016)

Much of Robbinsville's growth is projected to occur in the highest income brackets, with the fastest growth occurring among households earning over \$200,000, which is projected to grow 21 percent between 2015 and 2020 (see Table 2.2). This pattern of growth is also reflective of population trends occurring in Hamilton Township, as well as Mercer County and the State (see

Tables 2.3 and 2.4). The growth of high income households is slightly more pronounced in Robbinsville and Hamilton Townships than the county and state as a whole.

TABLE 2.2 – ROBBINSVILLE MEDIAN HOUSEHOLD INCOME (2015 – 2020)

Households Income	Total		Growth %
	2015	2020	
<\$15,000	242	200	-17%
\$15,000-\$24,999	241	165	-32%
\$25,000-\$34,999	252	154	-39%
\$35,000-\$49,999	455	384	-16%
\$50,000-\$74,999	625	572	-8%
\$75,000-\$99,999	637	604	-5%
\$100,000-\$149,999	1,074	1,273	19%
\$150,000-\$199,999	723	839	16%
\$200,000+	1,015	1,231	21%
Total	5,264	5,422	3%

Source: ESI (2016) and ESRI (2016)

TABLE 2.3 – HAMILTON TOWNSHIP MEDIAN HOUSEHOLD INCOME (2015 – 2020)

Households Income	Total		Growth %
	2015	2020	
<\$15,000	1,841	1,702	-8%
\$15,000-\$24,999	2,303	1,777	-23%
\$25,000-\$34,999	3,459	2,484	-28%
\$35,000-\$49,999	4,843	4,536	-6%
\$50,000-\$74,999	5,430	5,617	3%
\$75,000-\$99,999	5,207	5,641	8%
\$100,000-\$149,999	6,538	7,216	10%
\$150,000-\$199,999	3,581	4,388	23%
\$200,000+	1,561	1,858	19%
Total	34,763	35,219	1%

Source: ESI (2016) and ESRI (2016)

TABLE 2.4 – MERCER COUNTY MEDIAN HOUSEHOLD INCOME (2015 – 2020)

Households Income	Total		Growth %
	2015	2020	
<\$15,000	13,224	12,520	-5%
\$15,000-\$24,999	8,622	6,708	-22%
\$25,000-\$34,999	11,271	8,248	-27%
\$35,000-\$49,999	16,245	15,134	-7%
\$50,000-\$74,999	19,525	19,896	2%
\$75,000-\$99,999	17,793	18,953	7%
\$100,000-\$149,999	19,097	21,614	13%
\$150,000-\$199,999	12,746	14,871	17%
\$200,000+	15,657	18,109	16%
Total	134,180	136,053	1%

Source: ESI (2016) and ESRI (2016)

2.2 ECONOMIC TRENDS

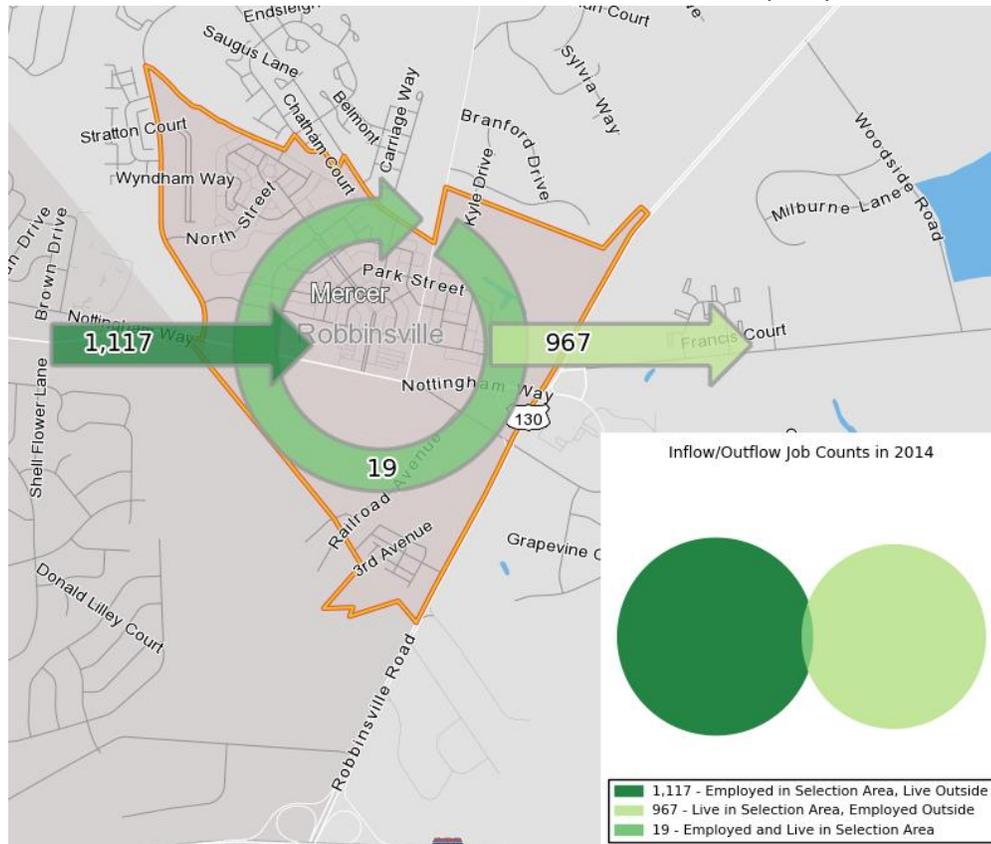
The economy of Robbinsville is growing. In 2014, Robbinsville was successful in attracting a 1-million square foot Amazon.com fulfillment center. The warehouse center brought over 700 full-time jobs and more than \$22 million in tax revenue for the township, school district and Mercer County.⁷ According to 2014 figures from Longitudinal Employer-Household Dynamics (LEHD), the largest sector in Robbinsville is professional, scientific and technical services, which accounts for approximately 25 percent of jobs in the town.⁸ This is followed by health care and social services, which provides another 17 percent of Robbinsville's employment opportunities.

Over 1,000 workers commute into Robbinsville for work. Approximately 40 percent of workers commute from within Mercer County, and the remaining workers commute from Burlington County (12 percent), Middlesex County (11 percent) or elsewhere in New Jersey or Pennsylvania. Very few residents of Robbinsville actually work in their hometown (see Figure 2.1).

⁷ Bizjournals. "Amazon delivers belated -- but massive -- gift to Jersey: 700 new jobs" (January 2013)

⁸ On The Map (2014)

FIGURE 2.1 – COMMUTING PATTERNS FOR ROBBINSVILLE (2014)

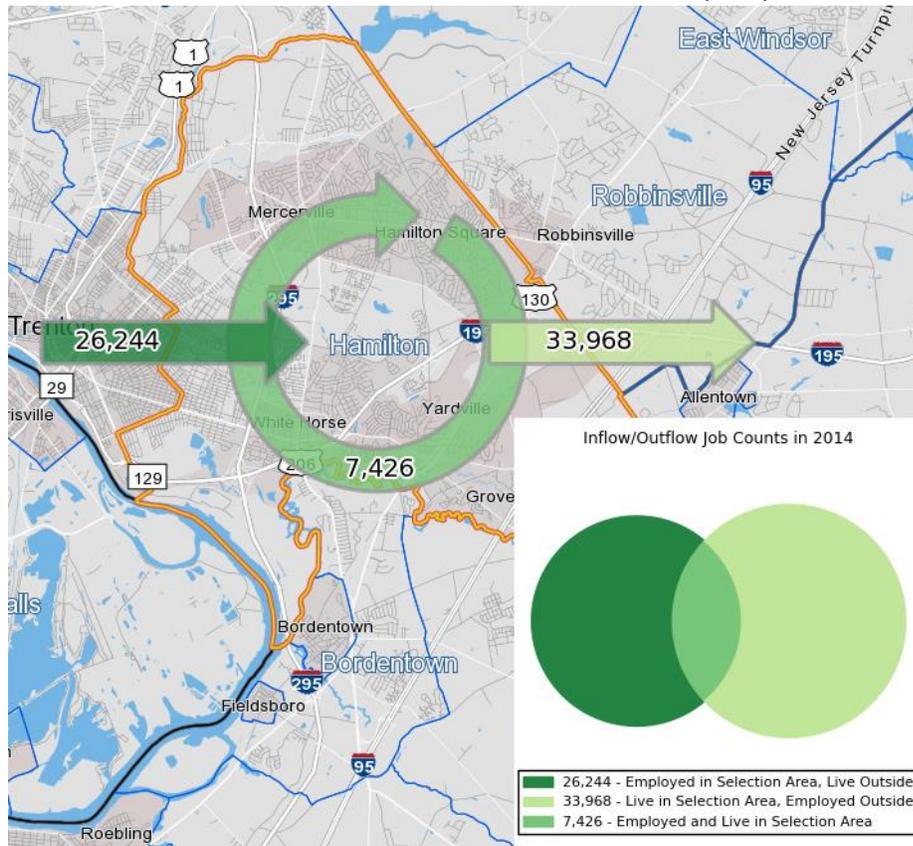


Source: OntheMap LODS/LEHD (2014)

Hamilton Township is a relatively larger employment center. The largest employment sectors are health care and social assistance (accounting for 17 percent of Hamilton’s jobs) and educational services (14 percent).⁹ Over 26,000 workers commute into Hamilton Township (see Figure 2.2). The geographic distribution of commutes is very similar to that of Robbinsville, with approximately 40 percent of workers commuting from within Mercer County.

⁹ On The Map (2014)

FIGURE 2.2 – COMMUTING PATTERNS FOR HAMILTON (2014)



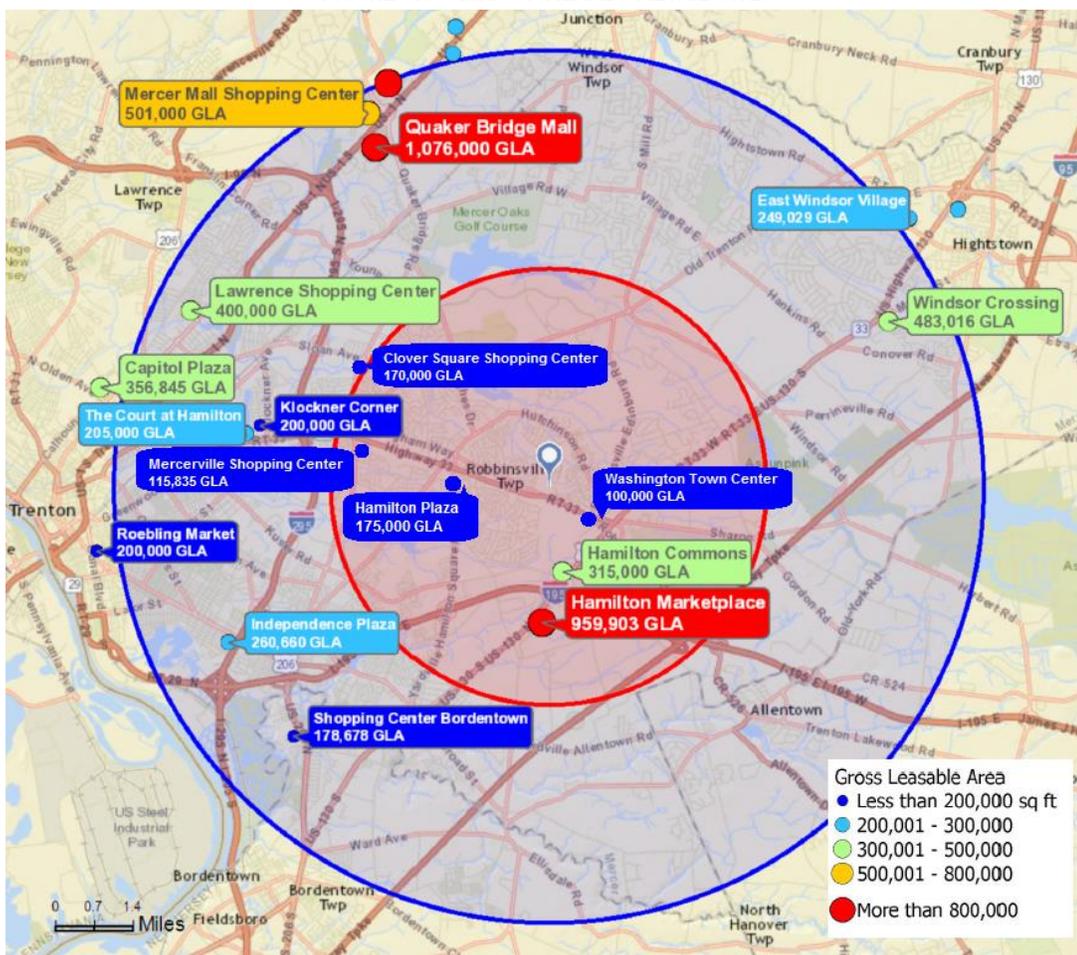
Source: OntheMap LODS/LEHD (2014)

3.0 MARKET FEASIBILITY ANALYSIS FOR FOXMOOR

3.1 SUPPLY

Within a three mile radius, retail is supplied by the Hamilton Commons, the Hamilton Marketplace, the Mercerville Shopping Center, Hamilton Plaza, and the Washington Town Center (see Figure 3.1). The type of retail provided by these shopping centers includes restaurants, service, and non-food retail, as demonstrated in the survey below (Table 3.1). Retail demand trends are changing and supply has been changing to meet that demand. Shoppers, especially the demographic of those in Robbinsville, are willing to travel to meet their retail and dining demands.

FIGURE 3.1 – MAP OF NEARBY RETAIL SITES



Source: ESI (2016) and ESRI (2016)

TABLE 3.1 – RETAIL SITES WITHIN A 3-MILE RADIUS

Name	Address	Township	Store Type	Retail Center
De Lorenzo's Tomato Pies	2350 Highway 33	Robbinsville	Restaurant	Washington Town Center
Dolce & Clemente's	2 North Commerce Square	Robbinsville	Food Market	Washington Town Center
Felice Pasquale Fine Jewelry	544 Highway 33	Robbinsville	Non-Food Retail	Washington Town Center
Centro Grille	2360 Highway 33	Robbinsville	Restaurant	Washington Town Center
VC Salon Spa	2350 Highway 33	Robbinsville	Service	Washington Town Center
Friendly's Ice Cream Shop	1031 Washington Boulevard	Robbinsville	Restaurant	Washington Town Center
Salon Xtrodinare	2357 Highway 33	Robbinsville	Service	Washington Town Center
Simcox's Flowers, LLC	1561 Kuser Road	Hamilton	Non-Food Retail	Kuser Plaza
Chicken Holiday	1066 White Horse Avenue	Hamilton	Restaurant	Kuser Plaza
Brother's Pizza	1068 White Horse Avenue	Hamilton	Restaurant	Kuser Plaza
Royal Nails	1064 White Horse Avenue	Hamilton	Service	Kuser Plaza
Fame Restaurant	1070 White Horse Avenue	Hamilton	Restaurant	Kuser Plaza
Spin Doctor Laundromat	1070 Whitehorse Avenue	Hamilton	Service	Kuser Plaza
Foley's Shop n Bag	1080 White Horse Avenue	Hamilton	Food Market	Kuser Plaza
Carvel Ice Cream	324 Highway 33	Hamilton	Restaurant	Mercerville Shopping Center
Applebee's	333 Highway 33	Hamilton	Restaurant	Mercerville Shopping Center
Smith's Ace Hardware	318 Highway 33	Hamilton	Non-Food Retail	Mercerville Shopping Center
Rite Aid	346 Highway 33	Hamilton	Pharmacy	Mercerville Shopping Center
Party Fair	320 Highway 33	Hamilton	Non-Food Retail	Mercerville Shopping Center
Nail Dimension	222 Highway 33	Hamilton	Service	222 Route 33 LLC
Philly Pretzel Stop	222 Highway 33	Hamilton	Restaurant	222 Route 33 LLC
Tropical Smoothie Café	222 Highway 33	Hamilton	Restaurant	222 Route 33 LLC
Hamilton Green Cleaner	222 Highway 33	Hamilton	Service	222 Route 33 LLC
Pets in Paradise	222 Highway 33	Hamilton	Non-Food Retail	222 Route 33 LLC

Source: ESI Survey (2016)

3.2 RENTS

Rent for retail space in Robbinsville averages about \$16.27 per square foot per year, which is slightly higher than neighboring towns Hamilton (\$15.07) and Lawrence (\$11.40) (see Table 3.2). The highest asking rent in Robbinsville is closer to \$25 per square foot per year, as evident in the East Windsor Plaza property in Robbinsville (see Table 3.3).

TABLE 3.2 – AVERAGE ASKING RENTS BY GEOGRAPHY

Township	Min Sq Ft	Average Sq ft	Max Sq Ft	Min Rent (\$/Sq Ft/Yr)	Average Rent (\$/Sq Ft/Yr)	Max Rent (\$/Sq Ft/Yr)
Hamilton	130	2,935	16,853	\$1.00	\$15.07	\$46.97
Lawrence	2,304	7,121	15,616	\$0.75	\$11.40	\$35.00
Robbinsville	1,000	7,165	50,000	\$0.75	\$16.27	\$25.00

Source: ESI Survey (2016), Loopnet (2016)

TABLE 3.3 – ASKING RENTS FOR SELECT SHOPPING CENTERS

Shopping Center	Township	Average Sq Ft	Average Rent (\$/Sq/Yr)
Hillview Plaza	Bordentown	2,500	\$15.75
Clover Square	Hamilton	433	\$11.54
Concord Square	Hamilton	1,325	\$1.50
Horizon Center North	Hamilton	9,498	\$22.50
Ibis Plaza North	Hamilton	5,000	\$14.00
Kuser Plaza	Hamilton	3,175	\$16.67
The Court of Hamilton	Hamilton	2,350	\$35.00
1629 State Highway 33	Hamilton	2,000	\$14.50
Kuser Road and Route 130	Hamilton	4,000	\$35.00
2695 S Broad Street	Hamilton	1,500	\$16.50
2781-2801 Brunswick Pike	Lawrence	7,232	\$10.00
Bottoni Plaza	Robbinsville	1,800	\$19.00
Washington Town Center	Robbinsville	1,950	\$24.00
Woodside Plaza	Robbinsville	2,318	\$16.50
East Windsor Plaza	Robbinsville	50,000	\$25.00

Source: ESI Survey (2016), Loopnet (2016)

3.3 RETAIL LEAKAGE

In Robbinsville, when looking at retail leakage, the demand for retail far outstrips the supply of retail (see Table 3.4). While it appears there is a surplus of retail within a 3-mile radius of the Foxmoor Shopping Center (Table 3.5), a further look into the subcategories of retail supply and demand shows that there is a leakage of retail sales in most industry subsectors, except motor

vehicle and parts dealers, non-store retailers, and food service and drinking places (see Figure 3.2). The 3-mile radius around the Foxmoor site is actually leaking sales in clothing stores, sporting goods, food and beverage stores, and health and personal care stores.

TABLE 3.4 – RETAIL LEAKAGE IN ROBBINSVILLE TOWNSHIP, NJ

Industry Summary	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus (Factor)	Number of Businesses
Total Retail Trade and Food & Drink	44-45, 722	376,442,438	136,828,967	239,613,471	46.7	112
Total Retail Trade	44-45	339,357,019	118,736,949	220,620,070	48.2	79
Total Food & Drink	722	37,085,419	18,092,018	18,993,401	34.4	33

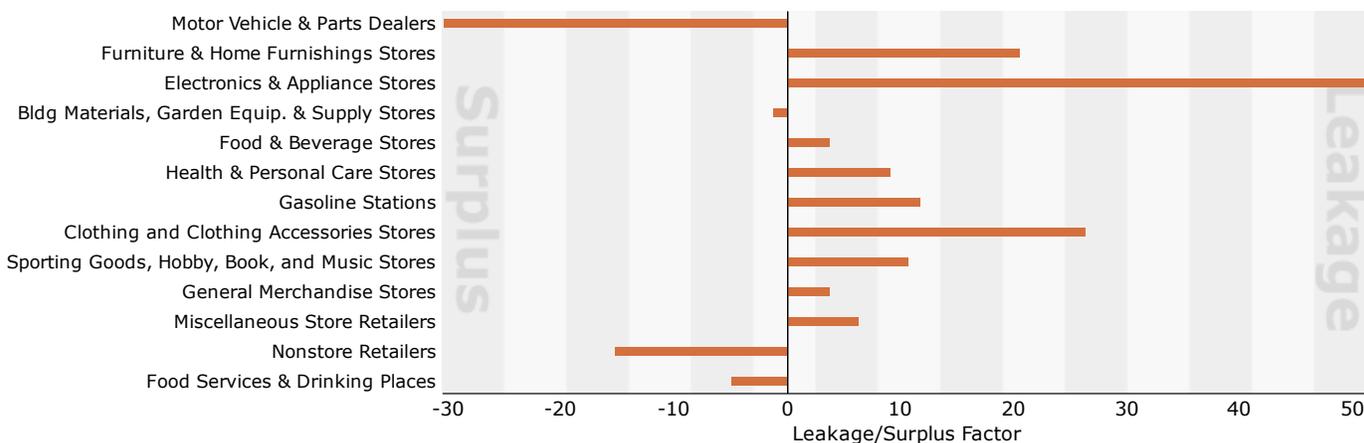
Source: ESI (2016) and ESRI (2016)

TABLE 3.5 – RETAIL LEAKAGE IN A 3-MILE RADIUS OF THE SITE

Industry Summary	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus (Factor)	Number of Businesses
Total Retail Trade and Food & Drink	44-45, 722	1,027,981,031	1,091,083,917	(63,102,886)	-3	422
Total Retail Trade	44-45	928,286,618	980,935,525	(52,648,907)	-2.8	284
Total Food & Drink	722	99,694,413	110,148,392	(10,453,979)	-5	139

Source: ESI (2016) and ESRI (2016)

FIGURE 3.2 – LEAKAGE/SURPLUS BY INDUSTRY SUBSECTOR WITHIN A 3-MILE RADIUS FROM FOXMOOR SHOPPING CENTER



Source: ESI (2016) and ESRI (2016)

3.4 DEFINING THE TRADE AREA, DEMOGRAPHICS, AND MARKET SEGMENTS

The first step in understanding the retail market potential for the Foxmoor site is to determine the likely primary trade area that would be served by the proposed retail center. In general, a retail center's primary trade area is defined as the geographic area from which the shopping center obtains at least 75 percent of its customers.

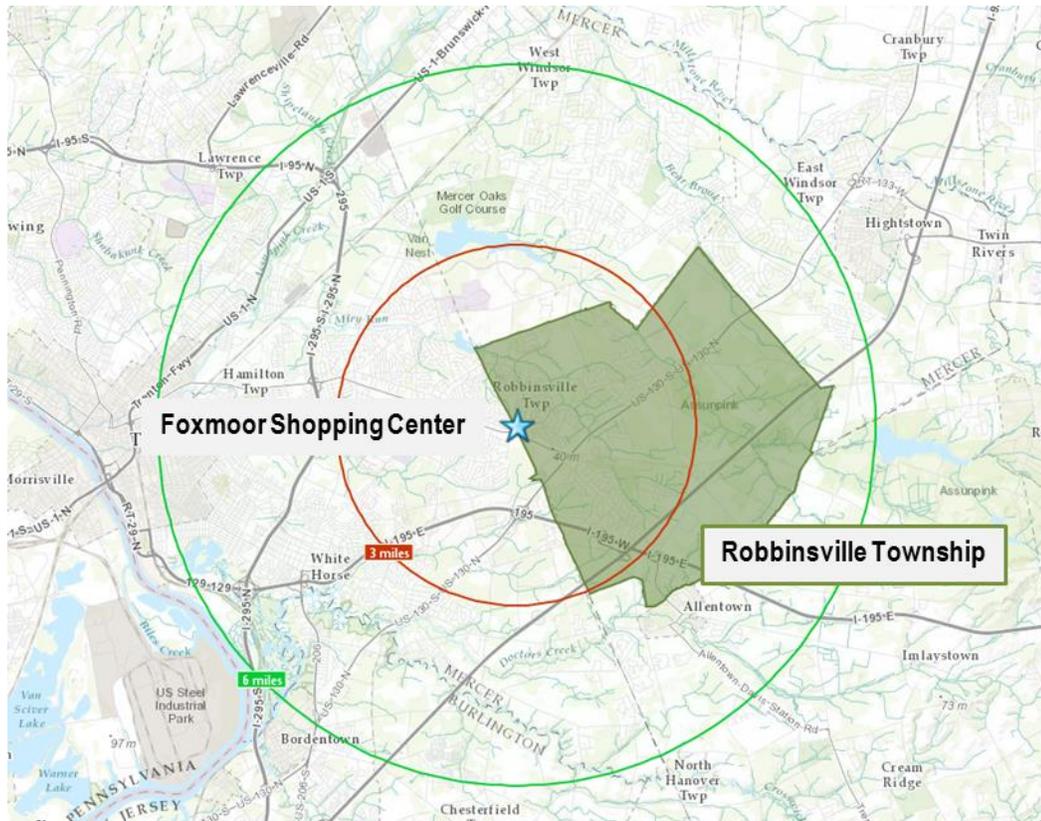
Defining the trade area is inherently a geographic process that depends on where customers live and how far they are likely to travel to a particular shopping center. The size of a trade area depends on the size of the shopping center and the type, number and size of tenants. The International Council of Shopping Centers (ICSC) has developed a system to classify retail centers based on the number and type of stores (Table 3.6). The Foxmoor Shopping Center is best categorized as a Community Center, or a Large Neighborhood Center. According to the ICSC, Community or Neighborhood centers typically have a trade area of 3-6 miles. Figure 3.4 displays the 3- and 6-mile trade areas surrounding the proposed site. The 3-mile trade area is typically used by grocery stores and other retailers that locate in Community and Neighborhood Centers.



TABLE 3.6– CLASSIFICATION OF SHOPPING CENTERS

Type of Shopping Center	Concept	Average Size (Sq. Ft.)	Typical GLA range (Sq. Ft.)	Acres	# of Anchors	Typical Number of Tenants	Typical Type of Anchors	Trade Area Size
General-purpose Centers								
Super-Regional Mall	Similar in concept to regional malls, but offering more variety and assortment.	1,222,756	800,000+	60-120	3+	NA	Full-line or junior department store, mass merchant, discount department store and/or fashion apparel store.	5-25 miles
Regional Mall	General merchandise or fashion-oriented offerings. Typically, enclosed with inward-facing stores connected by a common walkway. Parking surrounds the outside perimeter.	565,791	400,000-800,000	40-100	2+	40-80 stores	Full-line or junior department store, mass merchant, discount department store and/or fashion apparel store.	5-15 miles
Community Center ("Large Neighborhood Center")	General merchandise or convenience-oriented offerings. Wider range of apparel and other soft goods offerings than neighborhood centers. The center is usually configured in a straight line as a strip, or may be laid out in an "L" or "U" shape, depending on the site and design.	197,921	125,000-400,000	10-40	2+	15-40 stores	Discount store, supermarket, drug, large-specialty discount (toys, book, electronics, home improvement/furnishings or sporting goods, etc.)	3-6 miles
Neighborhood Center	Convenience oriented.	71,898	30,000-125,000	3-5	1+	5-20 stores	Supermarket	3 miles
Strip/Convenience	Attached row of stores or service outlet managed as a coherent retail entity, with on-site parking usually located in front of the stores. Open canopies may connect the store fronts, but a strip center does not have enclosed walkways linking the stores. A strip center may be configured in a straight line, or have an "L" or "U" shape. A convenience center is among the smallest of the centers, whose tenants provide a narrow mix of goods and personal services to a very limited trade area.	13,157	< 30,000	< 3	Anchor-less or a small convenience-store anchor	NA	Convenience store, such as a mini-mart.	< 1 mile
Specialized/Purpose Centers								
Power Center	Category-dominant anchors, including discount department stores, off-price stores, wholesale clubs, with only a few small tenants.	420,160	250,000-600,000	25-80	3+	NA	Category killers, such as home improvement, discount department, warehouse club and off-price store.	5-10 miles
Lifestyle	Upscale national-chain specialty store with dining and entertainment in an outdoor setting.	324,754	150,000-500,000	10-40	0-2	NA	Large format upscale specialty	8-12 miles
Factory Outlet	Manufacturers' and retailers' outlet stores selling brand-name goods at a discount.	233,604	50,000-400,000	10-50	NA	NA	Manufacturers' and retailers' outlets	25-75 miles

FIGURE 3.3 – THREE AND SIX MILE TRADE AREA



Source: ESI (2015) and ESRI (2015)

Summary Demographics

TABLE 3.7 – 2015 POPULATION, HOUSEHOLD, AND SUMMARY DEMOGRAPHICS FOR 3-MILE, AND 6-MILE TRADE AREAS

Rank	3-Mile	6-Mile	New Jersey	U.S.
Population	44,977	199,177	8,918,440	318,536,439
Households	17,990	71,629	3,264,698	120,746,349
Families	12,541	50,742	2,264,900	79,691,683
Average Household Size	2.48	2.71	2.67	2.57
Owner Occupied Housing Units	14,974	49,672	2,072,781	76,019,723
Renter Occupied Housing Units	3,016	21,957	1,191,917	44,726,626
Median Age	44.6	39.2	39.7	37.9

Source: ESI (2015) and ESRI (2015)

TABLE 3.8 - 2015 INCOME SUMMARY FOR 3-MILE, AND 6-MILE TRADE AREAS

Rank	3 mile	6 mile	New Jersey	U.S.
2015 Median Disposable Income	\$67,502	\$58,014	\$54,413	\$43,530
Average Household Income	\$109,702	\$103,961	\$98,698	\$74,699
2015 Per Capital Income	\$43,669	\$38,003	\$36,495	\$28,597

Source: ESI (2015) and ESRI (2015)

Tapestry Segmentation

Tapestry segments reveal the lifestyle and product preferences of consumers located within the trade area. Examining the distribution of tapestry segments can help determine what types of retail may be supported within the trade area. Segmentation systems operate on the theory that people with similar tastes, lifestyles, and behaviors seek others with the same tastes. Tapestry segmentation uses socioeconomic and demographic characteristics to classify residential neighborhoods into 65 unique market segments.

Table 3.9 summarizes the top-ten tapestry segments found in the 3-mile trade area.

TABLE 3.9 – TAPESTRY SEGMENTS – 3-MILE RADIUS

Rank	Tapestry Segment	Percent	Median Age	Household Income
1	Pleasantville (2B)	22.0%	41.9	\$85,000
2	Savvy Suburbanites (1D)	17.5%	44.1	\$104,000
3	Enterprising Professionals (2D)	16.1%	34.8	\$77,000
4	Professional Pride (1B)	10.1%	40.5	\$127,000
5	Parks and Rec (5C)	6.4%	40.3	\$55,000
6	Midlife Constants (5E)	6.3%	45.9	\$48,000
7	Exurbanites (1E)	5.8%	49.6	\$98,000
8	Retirement Communities (9E)	4.8%	52.0	\$35,000
9	In Style (5B)	4.0%	41.1	\$66,000
10	Social Security Set (9F)	2.8%	44.2	\$16,000

Source: ESI (2016) and ESRI (2016)

The tapestry segments most common to 3-mile trade area surrounding Foxmoor are defined as follows:

- Pleasantville:** Prosperous domesticity best describes the settled denizens of Pleasantville. Situated principally in older housing in suburban areas in the Northeast (especially in New York and New Jersey) and secondarily in the West (especially in California), these slightly older couples move less than any other market. Many couples have already transitioned to empty nesters; many are still home to adult children. Families own older, single-family homes and maintain their standard of living with dual incomes. These consumers have higher incomes and home values and much higher net worth (Index 400).

- **Savvy Suburbanites:** Savvy Suburbanites residents are well educated, well read, and well capitalized. Families include empty nesters and empty nester wannabes, who still have adult children at home. Located in older neighborhoods outside the urban core, their suburban lifestyle includes home remodeling and gardening plus the active pursuit of sports and exercise. They enjoy good food and wine, plus the amenities of the city's cultural events.
- **Enterprising Professionals:** Enterprising Professionals residents are well educated and climbing the ladder in STEM (science, technology, engineering, and mathematics) occupations. They change jobs often and therefore choose to live in condos, town homes, or apartments; many still rent their homes. The market is fast-growing, located in lower density neighborhoods of large metro areas. Enterprising Professionals residents are diverse, with Asians making up over one-fifth of the population. This young market makes over one and a half times more income than the US median, supplementing their income with high-risk investments. At home, they enjoy the Internet and TV on high-speed connections with premier channels and services.
- **Professional Pride:** Professional Pride consumers are well-educated career professionals that have prospered through the Great Recession. To maintain their upscale suburban lifestyles, these goal oriented couples work, often commuting far and working long hours. However, their schedules are fine-tuned to meet the needs of their school age children. They are financially savvy; they invest wisely and benefit from interest and dividend income. So far, these established families have accumulated an average of 1.5 million dollars in net worth, and their annual household income runs at more than twice the US level. They take pride in their newer homes and spend valuable time and energy upgrading. Their homes are furnished with the latest in home trends, including finished basements equipped with home gyms and in-home theaters.
- **Parks and Rec:** These practical suburbanites have achieved the dream of home ownership. They have purchased homes that are within their means. Their homes are older, and town homes and duplexes are not uncommon. Many of these families are two-income married couples approaching retirement age; they are comfortable in their jobs and their homes, budget wisely, but do not plan on retiring anytime soon or moving. Neighborhoods are well established, as are the amenities and programs that supported their now independent children through school and college. The appeal of these kid-friendly neighborhoods is now attracting a new generation of young couples.

Tapestry segmentation reveals the lifestyle and product preferences of consumers located within the trade area. The target customer base of the Foxmoor Shopping Center consists predominantly of high income households with significant buying power. The target households have selective buying preferences with a taste for good food, quality clothing and cultural experiences. Many are willing to spend money on quality and brand and will seek it out if it is not immediately nearby.



3.5 RETAIL TRENDS IN ROBBINSVILLE AND NEW JERSEY

Mercer County has approximately 4 million square feet of neighborhood and community shopping center space, and that number has been very consistent over the years. The vacancy rate of this retail space is approximately 17.1 percent, down from 17.6 percent in 2010. Over the past five years, the lowest vacancy rate for neighborhood and community shopping centers was 15.5 percent in 2014.

TABLE 3.10 – NEIGHBORHOOD AND COMMUNITY SHOPPING CENTERS IN MERCER COUNTY, NJ

Year	Inventory (Sq Ft / Units)	Asking Rent	Vacancy %
2010	4,042,000	\$22.44	17.6
2011	4,042,000	\$22.37	17.2
2012	4,042,000	\$22.82	17.1
2013	4,042,000	\$22.71	16.6
2014	4,042,000	\$23.08	15.5
2015	4,094,000	\$23.36	17.1

Source: REIS (2015)

In Robbinsville and nearby townships, recent developments demonstrate the importance of investing in the maintenance and improvement of retail centers. Robbinsville has seen a rise in mixed-use retail developments that have been newly constructed or renovated to meet the demands of the local population. With a vibrant mix of retail, office and sometimes residential spaces, many commercial centers have become anchors in their neighborhoods and attractive destinations for residents of the entire county. Recent trends reflect retailers' desire to be located in visually appealing centers, as well as consumers' preference for mixed-use complexes that provide a dynamic retail experience.

As demonstrated by the tapestry segmentation of Foxmoor's 3-mile trade area in Section 3.5, Robbinsville's population has substantial buying power but selective preferences and a tendency to spend money on quality and brand. In order to locally capture the potential spending power of the target population, retailers in and around Robbinsville have begun to adapt to the preferences of the customer base. They have ensured a competitive market position by enhancing the amenities and experience offered by shopping centers.

Washington Town Center, a mixed-use residential, office, retail, and dining space, recently opened in the center of Robbinsville (see Figure 3.4). The development offers a diverse mix of office space and retail options, including restaurants, gourmet food markets, clothing boutiques and ice cream shops. Located directly on Route 33, the center allows for easy transportation while also fostering neighborhood walkability as residents can access offices, shops and restaurants on foot. The Center has a built-in residential market base with loft-style condominiums, two-story townhomes, and more proposed residential units being planned. The center is less than a mile away from Foxmoor Shopping Center.

FIGURE 3.4 – WASHINGTON TOWN CENTER

Source: Sharbell Development Corp (2016)

Hamilton Plaza and Mercerville Shopping Center are two other retail plazas along Route 33 that reflect the trend towards redevelopment. Hamilton Plaza underwent a \$20 million renovation in 2012 to modernize the physical quality of the center and enhance the tenant space. The redevelopment added more parking, three new retail pad sites, a new façade and landscaping. The center's ShopRite was also expanded and renovated after the closing of another anchor tenant left the center with 50,000 square feet of vacant property in 2009. Hamilton Plaza now includes many national retailers, including Petco and A.C. Moore, in addition to various restaurants and shops. Hamilton Plaza has an occupancy rate of nearly 95%. Mercerville Shopping Center is currently undergoing an extensive renovation that will enhance the façade and expand the complex by 18,266 square feet. The center is filled with a varied mix of large tenants, including Rite Aid, Ace Hardware and Hamilton Farm Fruit and Produce.

Mixed-use developments have become a solution for developers across New Jersey. Evesham, New Jersey's strip center formally known as Tri-Towne Plaza is under construction will be revitalized as The Shoppes and Residences at Renaissance Square (see Figure 3.5). The development is easily accessible along state highway 70, but residents of the development's 338 luxury rental homes and apartments will have most of their everyday needs met by the retail onsite. Renaissance Square will reclaim the space between the residences and the highway by transforming it into a park complete with a pond, walkways, and jogging paths, for the enjoyment of residents and shoppers alike. In addition to the construction of the residences, this project includes a complete renovation of 112,245 square feet of retail space, makes significant improvements to the façade and design of the existing shopping center.

FIGURE 3.5 – RENAISSANCE SQUARE

Source: RD Management LLC (2015)

Similarly, Plainsboro Village Center captures the downtown atmosphere that contributes so significantly to the success of these new live/work/shop mixed-use developments (see Figure 3.6). Located in central Plainsboro, the Village Center is not far from Route 1 and Route 27. Plainsboro has experienced growth in its daytime employee population; local employees, town residents, and residents who buy or rent homes, townhomes, or apartments within the development will all utilize the inviting, walkable, open-air site. The shops are occupied mostly by a mix of restaurants and upscale boutiques with leasable spaces between 1,000 and 3,000 square feet.¹⁰ Landscape design was an essential part of this development; a large village green park space, complete with a fountain, is situated at the heart of the development. Rather than a traditional retail anchor, Village Center is anchored by a new township library that will draw visitors to the property and enhance its downtown community feel.

FIGURE 3.6 – PLAINSBORO VILLAGE CENTER

Source: Sharbell Development Corp (2016)

¹⁰ Sharbell Development Corp , <http://sharbell.com/commercial/plainsboro-village-center>

4.0 DETERMINANTS OF COMMERCIAL VIABILITY

4.1 CATEGORIZATIONS OF UNDERPERFORMING, BLIGHT, TROUBLED, AND FINANCIALLY INFEASIBLE

While there is no industry standard for classifying the health of strip malls like Foxmoor, CoStar Group, the industry leader in commercial real estate information, defines thresholds for the health of enclosed malls from which we can extrapolate for Foxmoor. Healthy malls tend to have vacancy rates below 10 percent. In general, vacancy rates above 10 percent signify underperformance and underutilization. Vacancy rates of 10-20 percent are considered “a sign of trouble” while rates of 20-40 percent classify a mall as “unhealthy.” A vacancy rate of 40 percent or higher frequently indicates that a shopping center is entering a “death spiral” of decline.¹¹ Other articles have described vacancy rate thresholds of 35 percent and 50 percent as clear markers of shopping center decline and death.^{12,13}

Approximately 45 percent of Foxmoor Shopping Center is vacant.¹⁴ As of November 20, 2015:

- 35.3 percent of the commercial spaces in the Shopping Center's Main Building ~ equating to 71.0 percent of this Building's square footage, is vacant.
- 24.0 percent of the Shopping Center's Robbinsville-based commercial spaces ~ equating to 59.2 percent of the Center's Robbinsville-based square footage, is vacant.

Under this standard, Foxmoor's 45 percent vacancy rate classifies it as a shopping center in decline. Most industry experts recommend the demolition or redevelopment of properties in this category.

Additionally, shopping malls are classified based on sales per square foot:

- Class A – above \$500 per sq. ft. with the top tier above \$1,000
- Class B - \$325-\$500 per sq. ft.
- Class C – Below \$325 per sq. ft.

There is abundant evidence of the bifurcation of the retail environment. Class A malls have rebounded from the recession while Class B and C malls are struggling. The vacancy rate at Class B/C malls remains 40 percent above pre-recession the vacancy rate, but the average Class A mall vacancy rate is below its mark from early 2008.¹⁵ CoStar Group has reported pressure on Class B malls to differentiate themselves as more desirable and move towards Class A, or else fall to Class C, which commands lower rents and has lower sales per square feet.

¹¹ The New York Times, Nelson Schwartz. The Economics (and Nostalgia) of Dead Malls (2015).

¹² Randy Drummer. The De-Malling of America: What's Next for Hundreds of Outdated Malls? (2012).

<http://www.costar.com/News/Article/The-De-Malling-of-America-Whats-Next-for-Hundreds-of-Outdated-Malls-/141980>

¹³ The Wall Street Journal, Kris Hudson and Niguel Bustillo. Malls Face Surge in Vacancies (2011).

¹⁴ Mike Davis, Robbinsville officials talk plans for Foxmoor Shopping Center (2014).

http://www.nj.com/mercer/index.ssf/2014/05/robbinsville_officials_talk_plans_for_foxmoor_shopping_center.html

¹⁵ Investors Business Daily. High End Malls and Retailers Beat Pack as Shoppers Thrive (2013).

Though classifications based on sales per square foot are specific to enclosed shopping malls, we can draw on the success of higher end Class A malls to indicate the desire among upper middle class consumers for a luxury shopping experience. The outlook for these nicer shopping centers is good; asking rents at Class A centers are up, but Class C asking rents are down 15 percent as they struggle to fill vacancies.

Given the design and types of tenants at the Foxmoor Shopping Center, it is not Class A type retail. While not knowing the exact sales of the tenants, it can be safely assumed that there is a mix of Class B and C tenants, with the majority being Class C.

4.2 IMPACTS OF ANCHOR VACANCY

An anchor retailer provides both income and stability to a real estate center. Due to the non-discretionary nature of grocery purchases, a grocery-anchored shopping center tends to be especially stable and capable of producing cash flow regardless of the economic climate. This income is important since cash flow, rather than appreciation, is typically the biggest factor determining the return on investment for a shopping center. An anchor tenant comprises about 60 to 65 percent of the property's revenue.¹⁶

Inline tenants, such as dry cleaners and restaurants, are important to the health of a shopping center, because they pay a higher rent per square foot and they provide a shopping center with retail diversity. However, the healthiest and strongest shopping centers are not reliant on the property's inline stores, since these tenants are volatile in comparison to an anchor tenant. An anchor tenant can provide a shopping center with stability. The anchor tenant tends to be on a longer term lease, and offers strong credit and brand recognition.¹⁷

The anchor retailer in Foxmoor, a former grocery store, has sat vacant for years, and the secondary anchor, a pharmacy, will soon be vacant. The absence of an anchor tenant is problematic and leads to significantly less foot traffic in the property as a whole. This means a continued loss of sales and revenue, a loss of employment, and a loss of tax revenues that could have been generated by productive use.¹⁸ The inline tenants will suffer due to less activity at the Foxmoor Shopping Center from the loss of Rite Aid.

4.3 IMPACTS OF AGE OF BUILDING

Data demonstrates that aging malls are struggling more than new developments. According to CoStar Group, 86.5 percent of distressed malls, malls that suffer a vacancy rate of 35 percent or higher, were built before 2000. Most distressed properties were built in the 1970s and 80s, while a quarter of these high-vacancy shopping centers were built in the 90s.¹⁹

¹⁶ UrbanLand, Matthew Cypher. Grocery-Anchored Retail: Still a Safe Bet? (2016)

¹⁷ UrbanLand, Matthew Cypher. Grocery-Anchored Retail: Still a Safe Bet? (2016)

¹⁸ The Robbinsville Sun, Joanne Degnan. Mayor eyes redevelopment zone designation to attract tenants to Foxmoor shops (2013)

¹⁹ Randy Drummer. The De-Malling of America: What's Next for Hundreds of Outdated Malls? (2012).

<http://www.costar.com/News/Article/The-De-Malling-of-America-Whats-Next-for-Hundreds-of-Outdated-Malls-/141980>

Foxmoor Shopping Center first opened in 1990. The structure shows minimal physical deficiencies, although over the years the parking lot and the underground stormwater system has begun to exhibit conditions of settlement and wear that has led to ponding water. However, the largest obstacle to this aging building is not the physical deterioration of the structure, but the obsolescence of its design and aesthetic. Visibly aging and obsolescent shopping centers are likely to deter shoppers, who increasingly value mixed-use developments that present attractive, functional, and pedestrian-oriented retail and public space. This type of development is far more common to new development and redevelopment.²⁰ As exhibited in Section 3.6, more shopping centers are modernizing and transitioning to significant mixed-use, walkable town center developments.

4.4 IMPACTS OF BUILDING AND SITE DESIGN

Building design is a critical element of customer attraction and retention. The streetscape and site design of modern shopping centers is meant to be both functional and aesthetically pleasing, to create a multifunctional shopping and social experience. A strong emphasis on quality design has been a common theme in the development and redevelopment of many nearby shopping centers, including Washington Town Center, as featured in Section 3.6. The Foxmoor property is well-situated along Route 33, but there is poor visibility and limited accessibility from the street. An activated streetscape along Route 33 will improve access for motorists and pedestrians and increase traffic to the site. Accessibility is crucial to the success of a shopping center, and redevelopment must include partnering with the town to create multiple points of entry from the main road.

In addition to designing a site to optimize accessibility, modern shopping center design should also create an engaging and memorable environment for shopping and socializing. Unfortunately, the appearance of the Foxmoor shopping center is currently a hindrance to attracting shoppers. The current aesthetic trend is towards a “main street” look in which each storefront has a different façade and therefore the appearance of a freestanding store.²¹ Utilizing sustainable design elements including light colored concrete to reflect rather than retain heat, porous pavement to quickly drain rainwater, and trees to provide shade, enhance the aesthetics and the comfort of a shopping center and serve practical energy saving or weather-proofing purposes.²²

²⁰ Urban Land, Edward McMahon. *The future of the Strip?* (2011).

²¹ Buildings, Tom Scott. *Retail Development Trends in a Changing Economy* (2010).

²² *Ibid.*

4.5 IMPACTS OF STORE MIX

The ideal tenant mix will depend on the lifestyle and shopping patterns of the target audience in the trade area. In general, an anchor tenant that serves daily needs, such as a grocery store, is ideal for bringing in regular foot traffic. As stated previously, grocery anchored strips have a competitive advantage over other strip centers because they ensure reliable traffic, are resilient in economic downturns, and unlikely to face competition from online. Inline tenants look to the strength of the anchor store when deciding to sign or renew leases. Inline tenants benefit from the reliable customer base of the grocery store, and, in turn, develop a more stable customer base themselves. Successful centers also attract customers with recognizable national chains which then drive traffic to less stable mom and pop shops in the strip.²³

It is also important to keep the quality and price-point of the stores in the strip consistent. A center anchored by Wegmans or Whole Foods attracts different in-line tenants than a value grocer. In the same way that a mall anchored by J.C. Penney attracts different customers than a mall anchored by Nordstrom's, so too is the clientele of a shopping center determined by the quality of its grocery anchor.²⁴ Customers seek one stop shopping for their frequent and day-to-day needs, so quality and value must be consistent across stores to ensure that the stores will in fact drive traffic to one another. Successful centers cater to all of a customer's regular needs; in addition to the grocery store, they house a coffee shop, pharmacy, restaurant options, and few service based stores, possibly including a nail or hair salon or insurance agency.²⁵ Foxmoor Shopping Center lacks a grocery store and a pharmacy to attract shoppers to its inline tenants.

4.6 PLANNING TRENDS

Strip malls were hit hard by the recession and in many cases haven't rebounded as quickly or easily as larger enclosed malls or retail in general. In large part, this is because strip shopping centers are disproportionately affected by the trend toward online shopping. Stores like Borders, Blockbuster, and Radio Shack used to dominate strip mall occupancy, but after years of declining sales they each succumb to online competition.²⁶ Strip malls that have been successfully redeveloped offer customers an experience that online cannot; these shopping centers are most successful when the center is a destination shopping experience. Successful modern shopping hubs offer customers a live/work/play experience combining commercial and residential real e

²³ CIRE Magazine, Rich Rosfelder. Shopping Center Shift: Retail Owners rethink tenanting strategies (2013).

²⁴ Specialty Retail Report. A Taste of Grocery-Anchored Centers (2012).

²⁵ Ibid.

²⁶ The Wall Street Journal, Kris Hudson and Miguel Bustillo. Malls Face Surge in Vacancies (2011).

APPENDIX A – ABOUT ECONCONSULT SOLUTIONS

Econsult Solutions, Inc. (ESI) provides businesses and public policy makers with economic consulting services in urban economics, real estate economics, transportation, public infrastructure, development, public policy and finance, community and neighborhood development, planning, as well as litigation support.

ESI has the capability to engage in projects of any size, from comprehensive long-term studies involving complicated economic arguments and extensive data analysis, to short-term advisory support. Whether working independently or on joint-venture projects, our flexibility and customized approach allow us to respond to a vast range of client needs.

Our scope is large, and our expertise specific. ESI assists clients in the evaluation of economic and fiscal outcomes of programs and developments, offers city and regional planning insight and advice, provides GIS analytic services, yields financial projections and advises investors and governments on projects, developments, and policy outcomes, and has the economic skills and expertise to process, analyze and manage large and complex datasets.

Our Principals and Senior Advisors include nationally recognized experts in urban development, real estate, government and public policy, planning, transportation, non-profit management, business strategy and administration, as well as litigation and commercial damages. Staff members have outstanding credentials, including active positions at the university level, wide experience at the highest levels of the public policy process and extensive consulting experience.

PLANNING EXPERTISE

Econsult Solutions, Inc. planners offer insight and advice to clients seeking to improve the relationship between communities and their built environment. Our team provides a breadth of knowledge gained from many years of planning experience, both in the private and public sectors.

Our work includes:

- Comprehensive planning
- Regional growth strategies
- Urban revitalization
- Reinvestment planning



Our experts have provided insightful planning and land use economics advisory services in the context of:

- Vacant land management
- Parcel redevelopment
- Land assembly
- Rezoning
- Economic development planning
- Infrastructure investment
- Public reform affecting land use (eg: property tax shifts, abatements)

We have the distinct advantage of having a panel of planners with diverse expertise in fields such as transportation planning, urban economics, real estate development services, economic development, revitalization and retail development.

Our planning practice is led by **Peter Angelides, PhD, AICP**, who has over fifteen years of experience in planning and consulting.

PETER A. ANGELIDES, PH.D., AICP

Senior Vice President and Principal

Dr. Peter Angelides is principal of Econsult Solutions, Inc. (ESI) and a member of the teaching faculty at the University of Pennsylvania. Dr. Angelides, who is trained in both economics and city planning, applies critical economic thinking to complex projects in real estate, economic development, transportation, tax policy, valuation and litigation. Projects often require multiple areas of expertise and Dr. Angelides uses his broad experience to bring multiple perspectives to bear on an issue. He has assisted clients in many industries, including real estate development, transportation, local and regional government, affordable housing, gaming, utilities, health care and insurance.



Prior to joining ESI, Dr. Angelides was a vice president and director at Econsult Corporation. Additionally, he was a director in the Philadelphia office of PricewaterhouseCoopers and an economist at Charles River Associates and Putnam Hayes & Bartlett in Washington, D.C. He evaluated market competitiveness in merger and rate-setting proceedings before several federal regulatory agencies, estimated the economic impacts from private investment, set prices for intellectual property, evaluated the impact of technology licensing agreements and calculated damages in numerous commercial disputes. He has held planning and development-related positions at Wallace Roberts and Todd, the Central Philadelphia Development Corporation and the Philadelphia City Planning Commission.

EDUCATION

BA in Urban Studies,
University of Pennsylvania

Masters in City Planning,
University of Pennsylvania

MS, PhD in Economics,
University of Minnesota



Dr. Angelides teaches courses in the areas of urban economics, public finance and infrastructure investment at the University of Pennsylvania in the Department of City and Regional Planning and at the Fels Institute of Government.

He also serves as a board member or in another contributing role for several civic and professional organizations, including the Design Advocacy Group, PenTrans, The Urban Land Institute, the Transportation Research Board and the American Institute for Certified Planners.

ANDREA L. MANNINO, ME, MPA

Director

Andrea L. Mannino is a Director at Econsult Solutions, Inc (ESI). At ESI, Ms. Mannino leads projects on local government reform and oversight. Prior to joining ESI, Ms. Mannino worked at the Department of Revenue, City of Philadelphia, as the Special Assistant to the Revenue Commissioner, a role in which she managed the Department's tax enforcement initiatives and the collection of delinquent taxes and water fees. Ms. Mannino also led the re-design of the Department's website. Prior to that role, she served as a research economist who developed databases, performed trend analysis and wrote reports.

At ESI, Ms. Mannino leads projects on economic development and market studies for both market rate developments and affordable housing. Ms. Mannino's economic development work includes economic impact studies, market studies, and analyzing the potential for different public incentive and subsidy programs including Tax Increment Financing, Keystone Opportunity Zones, and New Markets Tax Credits.

Ms. Mannino serves as the company's lead on business plan submission for Pennsylvania's Redevelopment Assistance Capital Program grants and for affordable housing market studies required by Low Income Housing Tax Credit applications to the Pennsylvania Housing Finance Authority.

Ms. Mannino received her Bachelor of Science in Environmental and Resource Economics, Summa Cum Laude at the University of New Hampshire. She received her Master of Economics from North Carolina State University and a Master of Public Administration from the University of Pennsylvania.

Ms. Mannino serves as the Board Chair for Gearing Up, a Philadelphia based nonprofit.



EDUCATION

BS in Environmental and Resource Economics, University of New Hampshire

Masters in Economics, North Carolina State University

Masters in Public Administration, University of Pennsylvania

