

***Preliminary Investigation Report
for Designation of a Non-Condernation
Area in Need of Redevelopment***

Block 62, Lots 70 and 71

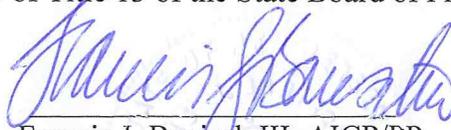
Chatham Township
Morris County, New Jersey

June 2020

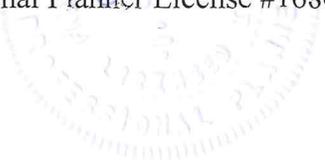
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The original document was appropriately signed and sealed on June 17, 2020 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.



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PURPOSE

Pursuant to Resolution #2020-126, the Chatham Township Committee referred for consideration by the Planning Board the question of whether Block 62, Lots 70 and 71, constitute a non-condemnation area in need of redevelopment in accordance with the criteria set forth in N.J.S.A. 40A:12A-3 and N.J.S.A. 40A:12A-5.

Although the properties are intended for the construction of affordable housing, this report does not recommend any plan or strategy for use of, or modifications to, the parcels in question (PQ). If the Township Committee concludes, as recommended here, that the subject property constitutes an area in need of redevelopment, it will be within their purview to direct the preparation of a redevelopment plan or plans.

LEGAL FRAMEWORK FOR REDEVELOPMENT

The *Local Redevelopment and Housing Law*, P.L. 1992 C. 79 (C40A:12A-1 et seq.) provides strong tools for use by municipalities to remedy deterioration and improve the productivity of underproductive lands.

Municipalities can acquire property, clear sites, install infrastructure and other site improvements and enter partnerships with public and private entities to achieve redevelopment goals.

New Jersey's redevelopment law offers a variety of tools for redevelopment planning, design and implementation, which permit a municipality to:

- Partner with the private sector through contractual redevelopment agreements, which can include development incentives (e.g. tax abatement, infrastructure).
- Achieve greater control over development through an adopted redevelopment plan, redevelopment agreement(s) and designation of a redeveloper or developers.
- Qualify for grant and other funding for planning and development activities.
- Refine land use policies and development regulations to promote desired redevelopment.
- Qualify for 1.33:1 bonus credits against the municipal fair share obligation for qualifying low and moderate income housing units constructed within a redevelopment area.

The New Jersey Constitution expressly authorizes municipalities to engage in redevelopment of "blighted areas" [N.J. Const. art. VIII, § 3, ¶ 1.]. Under the Blighted Areas Clause of the New Jersey Constitution, the clearance, replanning, development, or redevelopment of blighted areas shall be a public purpose and public use for which private property may be taken or acquired.

Township Committee Resolution 2020-126, directing the Planning Board to conduct this analysis, states explicitly that condemnation will not be used in connection with this redevelopment planning process.

REDEVELOPMENT DEFINITIONS

Definitions - The following definitions, as set forth in N.J.S.A.40A:12A-3, guided this investigation:

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

Redevelopment area or *area in need of redevelopment* means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1092, c.79 (C.40A:12A-5 and 40A:12A-6)... 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.

STATUTORY CRITERIA FOR EVALUATION OF WHETHER STUDY AREA IS AN AREA IN NEED OF REDEVELOPMENT

(N.J.S.A. 40A:12A-5) provides that after investigation, notice, and hearing as set forth in Section 6 of P.L. 1992, c.79, an area may be determined to be in need of redevelopment if the Planning Board recommends and the governing body concludes by resolution that the delineated area contains any of the following conditions:

- 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 a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such building or buildings; significant vacancies of such buildings or buildings for at least two consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable.
- c. Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.

- d. Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious 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 property therein or other conditions which impeded land assemblage or discourage the undertaking of improvements, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare, which condition is presumed to be having a negative social or economic impact or otherwise being detrimental to the safety, health, morals, or welfare of the surrounding area or the community in general.
- f. Areas, in excess of five contiguous acres, whereon buildings or improvements have been destroyed, consumed by fire, demolished or altered by the action of storm, fire, cyclone, tornado, earthquake or other casualty in such a way that the aggregate assessed value of the area has been materially depreciated.
- g. In any municipality in which an enterprise zone has been designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L. 1983, c. 303 (C.52:27H-60 et seq.) the execution of the actions prescribed in that act for the adoption by the municipality and approval by the New Jersey Urban Enterprise Zone Authority of the zone development plan for the area of the enterprise zone shall be considered sufficient for the determination that the area is in need of redevelopment pursuant to Sections 5 and 6 of P.L. 992 e. 72 (C.40A: 1 2A-5 and 40A: I 2A-6) for the purpose of granting tax exemptions within the enterprise zone district pursuant to the provisions of P.L. 1991, c. 4,1 (C.40A:20- 1 et seq.) or the adoption of a tax abatement and exemption ordinance pursuant to the provisions of P.L. 1991, c. 441 (C.40A:2 1-1 et seq.). The municipality shall not utilize any other redevelopment powers within the urban enterprise zone unless the municipal governing body and planning board have also taken the actions and fulfilled the requirements prescribed in P.L. 1992, c. 79 (C.40A: I 2A- 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.

As noted above, Section 3 of the LRHL 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”.

PARCELS-IN-QUESTION – LOCATION AND CONSTRAINTS

The parcels in question are located along River Road in the southeastern portion of the Township, near the boundary with New Providence, as seen on Figure 1. The largely wooded character of the PQ (Figure 2) is common along River Road, which is characterized by steep slopes and the ridgeline that runs parallel to and north of River Road.

Figure 3 depicts the topography of the area and the general location of building footprints. In this area, single-family homes are generally constructed close to River Road to avoid the steep slopes that impede development to the rear of many of the lots.

EXISTING LAND USE AND TAX CLASSIFICATIONS

The character of land uses in the vicinity of the Parcels-in-Question (PQ) is depicted in two fashions in this report. Figure 4 – “Land Use Land Cover” - illustrates land cover types by the extent of coverage on and around the PQ. The tax classifications of land uses in the vicinity of the PQ are shown on Figure 5 – “Property Tax Class” As noted above, the parcels in the vicinity follow the same pattern as those along River Road where development is located along the southern (front) portion of the lot, with forested areas to the rear (north) side.

The Passaic River corridor is generally occupied by low intensity uses and open space. In the vicinity of the PQ, protected public lands and other open spaces are prominent, with the fire house property across River Road, Chatham parklands west of the fire house and a River Road open space easement just west of the PQ.



The character of land uses near the PQ can generally be characterized as single-family homes on lots of varying sizes. Immediately adjoining the PQ on the northeast is Cardinal Hill, a development of garden apartments.

CONDITIONS ON THE PARCELS-IN-QUESTION

The properties are both located within the approved sewer service area (Figure 6) and will be served by a sewer line extension along River Road.

Lot 71 is a 5.69-acre Township-owned vacant parcel consisting primarily of woodlands. The property was previously privately-owned, however, the owner stopped paying property taxes and the site was the subject of a tax sale that attracted no buyers. The Township took title to the property in 2019 and included the site in the Township’s draft Fair Share Plan for the production of affordable housing.

The parcel is a split zone property with R-5 zoning located along the front portion of the lot with R-1A zoning to the rear (Figure 7). The R-5 zone permits development on a minimum lot size of 41,250 square feet, which is just under an acre, while the R-1A Zone permits development on lots with a minimum area of 100,000 square feet, which is about 2.3 acres.

The split zone reflects the unique character of the River Road topography and historic land development pattern. Despite the potential to develop a home on Lot 71 under existing zoning, the topography and cost of construction appear to have hindered private investment in the lot. Thus, Lot 71 remained vacant with R-5/R-1A residential zoning and has not been subject to a development application prior to the adoption of the resolution directing the Planning Board's review.

Lot 70 is a 4-acre parcel under contract to Chatham Township with a single-family home to the front and woodlands to the rear. This property is also split between the R-5 and R-1A Zones. Like Lot 71, the site includes steep slopes on the northern, rear portion of the property, which is typical along this section of along River Road.

The inclusion of Lot 70 in the redevelopment area can provide a critical mass of usable area for development that would allow production of affordable housing by adding lands that are more suitable for development, and which will help limit steep slope disturbance.

Development of the area requires consideration of the topography and constraints. Single-family homes are typically limited to the front portions of the lots to reduce impact on the steep slopes and ridgelines to the rear. Any development would require significant review to ensure disturbance will meet the objectives of producing affordable housing while maintaining the character and protect sensitive environmental areas.

Lots 70 and 71 are included in the draft Housing Element and Fair Share Plan for construction of affordable housing.

APPLICATION OF STATUTORY CRITERIA TO STUDY AREA PARCELS

The LRHL does not require that a study area be evaluated as discrete or indivisible lots or bundles of lots. *See, e.g., Levin v. Tp. Comm. of Tp. of Bridgewater*, 57 N.J. 506, 539 (1971) (“Blighted Areas Acts, such as N.J.S.A. 40:55-21.1 et seq., are concerned with areas and not with individual properties.”); 62-64 Main Street v. Mayor, 221 N.J. 129, 161 (2015) (“Blight determinations are not viewed in piecemeal fashion.”); PADNA v. City Council of Jersey City, 413 N.J. Super. 322, 336 (App. Div. 2010), *certif. den.* 205 N.J. 79 (2011).

This following analysis evaluates the parcels both individually and as a whole. Based on the characteristics of the study area, underutilization of Lot 71, and the conditions of the properties, the parcels-in-question, meet the criteria as an area in need of redevelopment, as outlined below.

Lot 71, owned by Chatham Township since 2019, is vacant and has never been developed. As a result, Lot 71 can qualify as an area in need of redevelopment pursuant to the following criteria:

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

Lot 71 can qualify for designation under N.J.S.A. 40A:12A-5 c on multiple bases. It is land that is owned by the municipality, and by reason of its location and topography is not likely to be developed through the instrumentality of private capital. Also, Lot 71 is unimproved vacant land that has remained so for a period of 10 years and by reason of its location and topography is not likely to be developed through the instrumentality of private capital.

Given its municipal ownership and intended use for low and moderate income housing – a use that needs subsidies of some sort – the property is not likely to be developed through the instrumentality of private capital absent the benefits that a redevelopment designation can convey.

Lot 71 was not only vacant for a period of over 10 years prior to the Township Committee resolution directing a redevelopment study, but it was vacant, failing to inspire any development or even approvals, for the entire time it was in private ownership prior to 2019. Thus, during the period when it was privately-owned and available to be developed under the relatively favorable R-5/R-1A residential zoning, the parcel did not attract any private investment to secure vested rights or to subdivide and build homes.

Lot 70 does not display blighting characteristics. However, pursuant to Section 3 of the LRHL, its inclusion as part of the PQ is essential to providing a suitable area for higher density residential affordable housing. The additional land area of Lot 70 will allow for development of the site while reducing impacts on the ridgeline and steep slopes to the rear of the properties.

Lot 71 alone is sufficient to accommodate the development of the proposed affordable housing, although it would require a taller building. However, the inclusion of Lot 70 with Lot 71 can help to provide a “critical mass” of developable land for affordable housing development that will reduce the building height, compared with building on Lot 71 alone. Thus, to achieve a redevelopment opportunity that better fits into the extended neighborhood, Lot 70 should be included along with Lot 71 as per N.J.S.A. 40A:12A-3, as “...lands... which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary... for the effective redevelopment of the area. It is noted that, while not yet Township owned, Lot 70 is under contract to Chatham Township.

Whether the study area parcels are considered as a “bundle” or individually, such a redevelopment area has the potential to provide for a viable affordable housing site that will provide a more diversified housing stock in Chatham Township.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

An Area in Need designation must be based upon a demonstration that at least one of the statutory requirements of the LRHL is satisfied or that a parcel is otherwise necessary for the effective redevelopment of the area in need of redevelopment.

This Preliminary Investigation Report reviews the conditions on the properties in question and the statutory criteria for designating an area in need of redevelopment and recommends that all of the subject properties be designated as a non-condemnation area in need of redevelopment.

The two properties will aid in the delivery of affordable housing, which clearly serves the public welfare. By combining the two properties, adequate developable land will be assembled to develop higher density affordable housing with the lowest achievable building height.

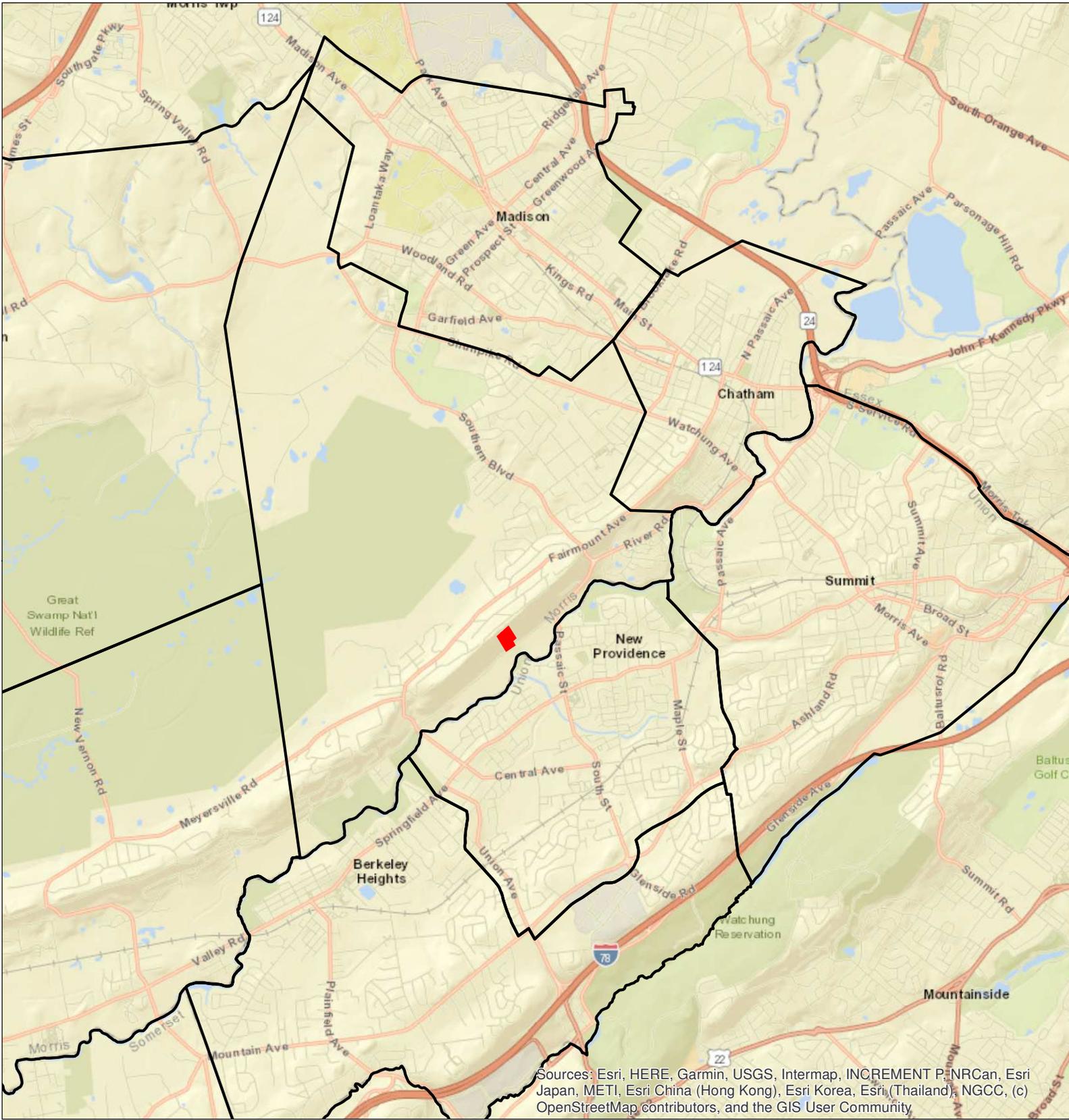
Inclusion of these study parcels in a redevelopment area also enables the use of the "Long Term Tax Exemption Law" as provided in TITLE 40A. CHAPTER 20, which can assist the owners of lands within the redevelopment area with the costs associated with redevelopment, including qualification for low income housing tax credits (LIHTC).

This preliminary investigation is not designed to recommend any specific development plan for the site, since such recommendations can only be outlined in a redevelopment plan. After a Planning Board resolution is adopted memorializing the recommendations from the hearing in this matter, the governing body may adopt a resolution designating the area in question as an area in need of redevelopment.

Following any redevelopment area designation by governing body resolution, the governing body will direct the preparation of a redevelopment plan setting out the goals and objectives for these areas and outlining the actions to be taken.

Figure 1 Regional Location

Block 62, Lots 70 & 71
 Portion of Chatham Township
 Morris County, NJ
 June 2020

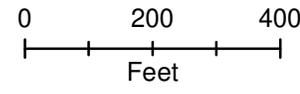


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

Legend

 Block 62; Lots 70 & 71

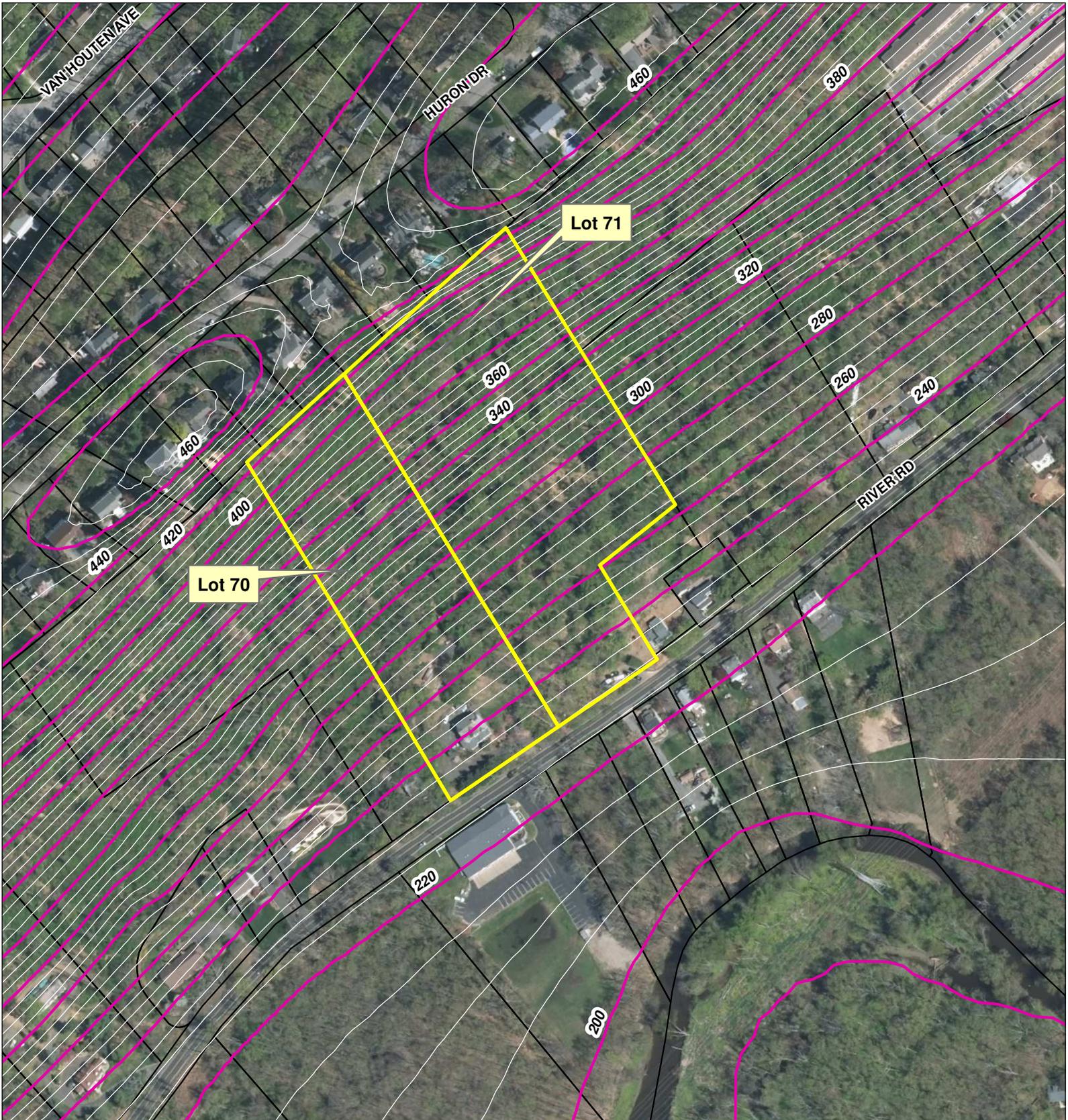
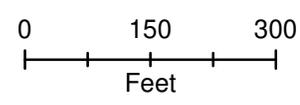
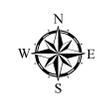
Figure 2
Aerial Photography
Block 62, Lots 70 & 71
Portion of Chatham Township,
Morris County, NJ
June 2020



Legend

 Block 62, Lots 70 & 71

Figure 3
Topography
 Block 62, Lots 70 & 71
 Portion of Chatham Township,
 Morris County, NJ
 June 2020

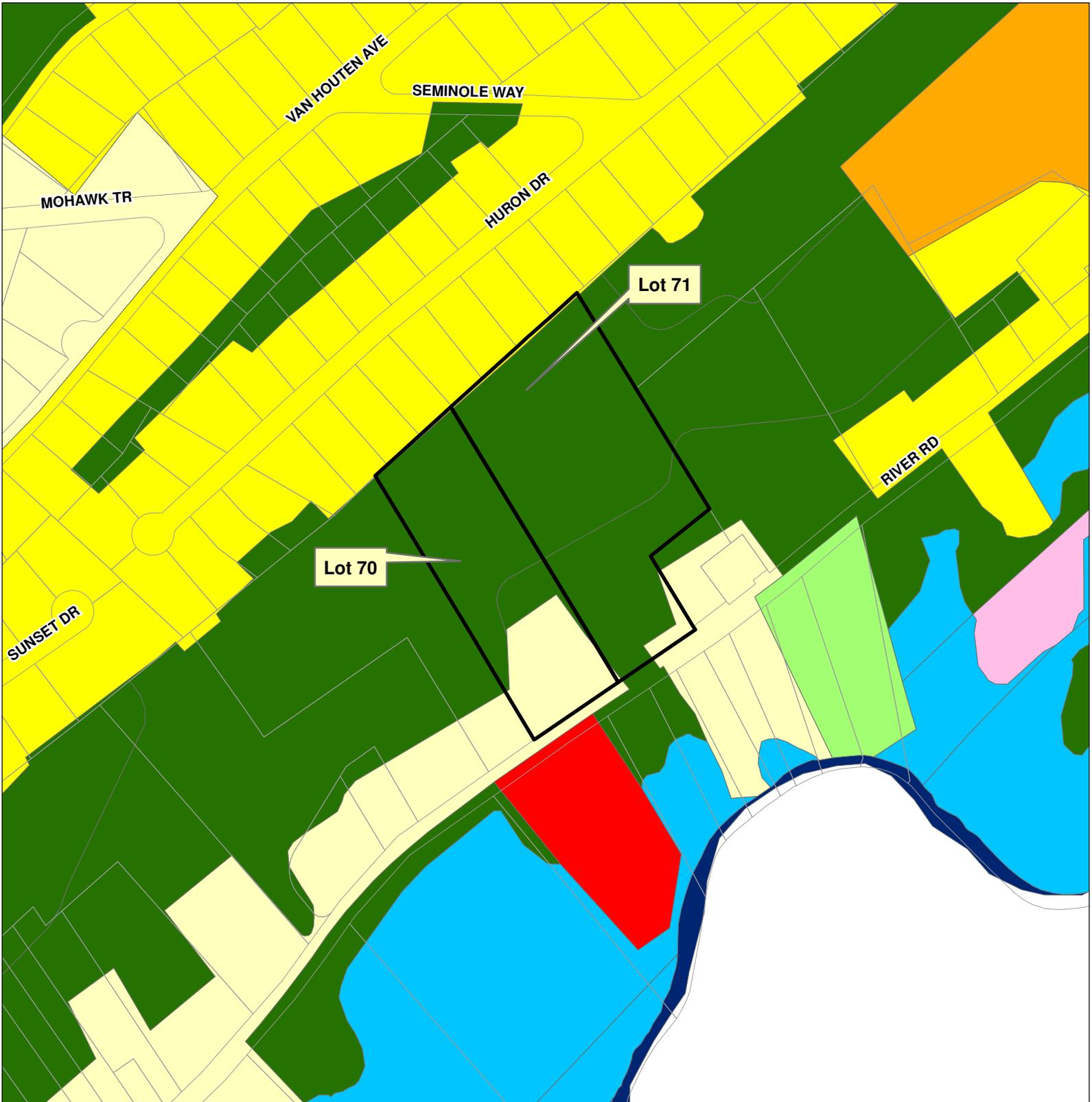
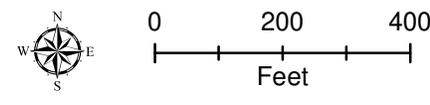


Legend

- Block 62, Lots 70 & 71
- 20' Contours
- 5' Contours

Data Sources:
 Morris County Parcels 2014
 NJDOT roadway network 2011
 NJDEP 2015 Aerial Photography
 NJDEP 10-Meter DEM's
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Figure 4
Land Use/Land Cover
 Block 62, Lots 70 & 71
 Portion of Chatham Township,
 Morris County, NJ
 June 2020

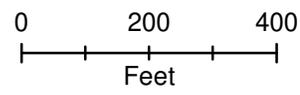


- Legend**
- Block 62, Lots 70 & 71
 - Medium Density Residential
 - Other Developed
 - Rural Residential
 - High Density Residential
 - Water
 - Low Density Residential
 - Commercial
 - Wetlands
 - Forest

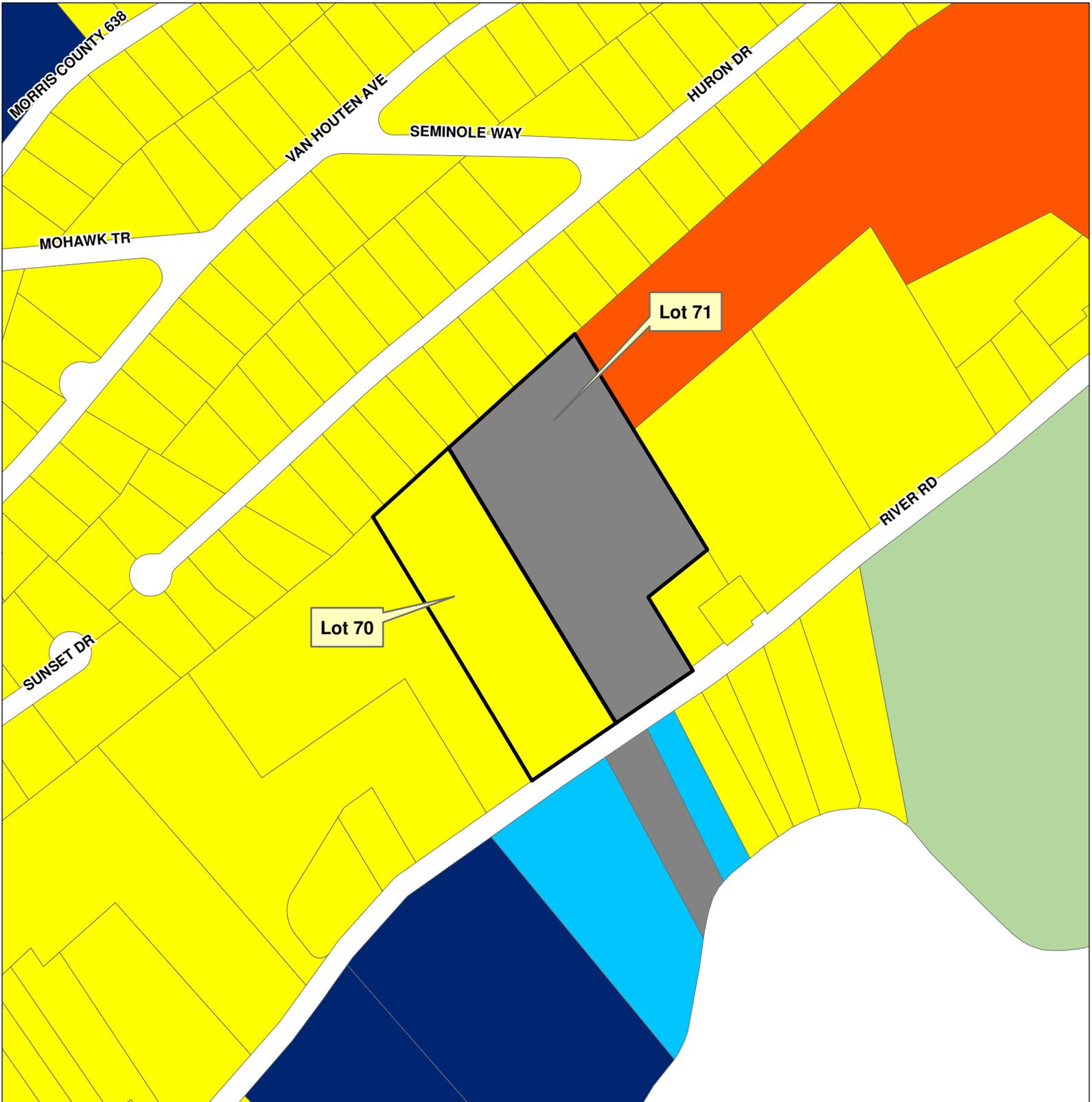
Data Sources:
 Morris County Parcels 2014
 NJDOT roadway network 2011
 NJDEP 2015 Land Use/Land Cover

Figure 5
Property Tax Class

Block 62, Lots 70 & 71
Portion of Chatham Township,
Morris County, NJ
June 2020



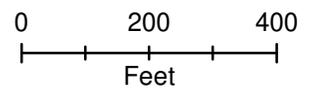
Data Sources:
Morris County Parcels 2014
NJDOT roadway network 2011
NJDEP 2019 Planning Areas
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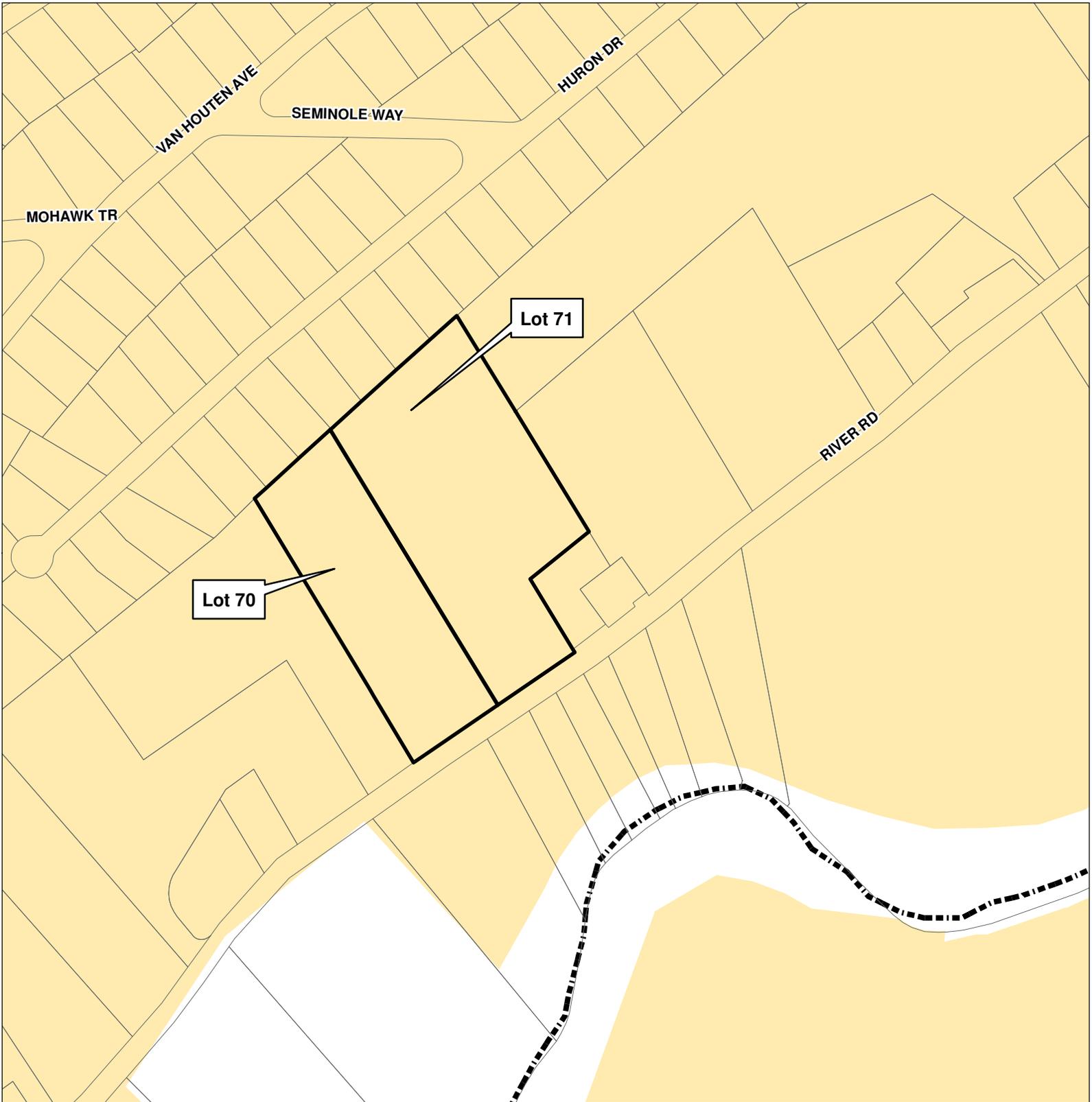
Legend

-  Block 62, Lots 70 & 71
-  Vacant
-  Public Property
-  Other Exempt
-  Residential
-  Apartment
-  Residential/ Public (recent subdivision not shown)

Figure 6
Sewer Service Area
Block 62, Lots 70 & 71
Portion of Chatham Township,
Morris County, NJ
June 2020



Data Sources:
Morris County Parcels 2014
NJDOT roadway network 2011
NJDEP 2020 Sewer Service Area
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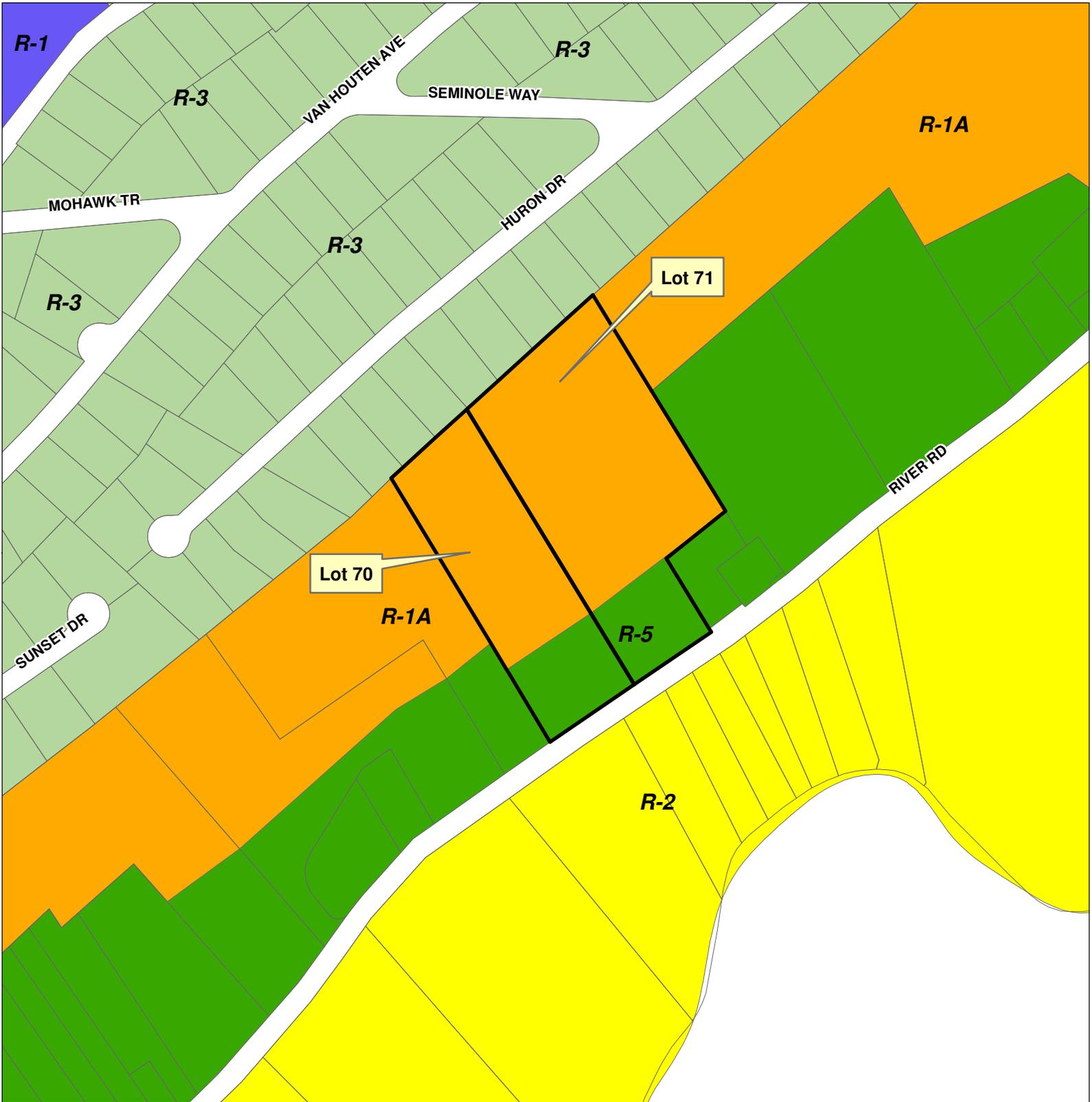
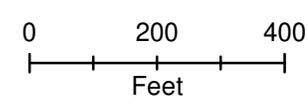


- Legend**
- Block 62, Lots 70 & 71
 - Sewer Service Area
 - Municipal Boundary

Figure 7
Zoning
 Block 62, Lots 70 & 71
 Portion of Chatham Township,
 Morris County, NJ
 June 2020

Data Sources:
 Morris County Parcels 2014
 NJDOT roadway network 2011

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Legend

-  Block 62, Lots 70 & 71
-  R-2
-  R-1
-  R-3
-  R-1A
-  R-5