Redevelopment in New Jersey

Clinton Andrews
Rutgers University

Disclaimer: This is an educational presentation and does not constitute legal or professional planning advice.
Definition of Redevelopment

• A process to rebuild or restore an area in a measurable state of decline, disinvestment, or abandonment.

Mandatory Components of Redevelopment Plan

- Relationship to "definite" local objectives regarding land uses, population density, improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements (usually as expressed in Master Plan)
- Proposed land uses and building requirements in the redevelopment area
- Plan for temporary and permanent relocation of displaced residents and businesses, including an estimate of available housing
- Any property recommended for acquisition
- Relationship of to master plans of contiguous municipalities, county master plan and State Development and Redevelopment Plan
- Relationship to development regulations of the municipality (supercedes or overlays existing regulations)
- Amendment to the Zoning Map to depict redevelopment areas

Optional Components of Redevelopment Plan

• Standards for rehabilitation of properties by private property owners
• Provisions for the enforcement of codes and ordinances
• Procedures for selection of a redeveloper
• Policies for consideration of long and short-term property tax incentives
• Standards for issuance of Certificates of Completion upon construction of a redevelopment project
• Controls on the affordability of housing constructed as part of a redevelopment project
• Provisions for amending redevelopment plan
• Additional provisions determined to be necessary by the governing body for successful plan implementation
Legal Basis

• 1992 NJ Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.)

• Rooted constitutionally in police power of state to regulate health, safety & other community interests; constrained by protections regarding takings, due process, and freedom of speech
Matching Means to Objectives

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<tr>
<th>Objective/Means</th>
<th>Zoning changes</th>
<th>SIDs &amp; BIDs</th>
<th>Rehabilitation areas</th>
<th>Redevelopment areas</th>
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<td>Land Use Controls</td>
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Process

1. Municipal governing body directs planning board to undertake preliminary investigation to determine whether an identified area is in need of redevelopment.
2. Planning board conducts investigation & holds public hearing on proposed redevelopment area designation.
3. Based on planning board’s recommendation, governing body may designate all or a portion of the area as an area in need of redevelopment.
4. Governing body prepares a redevelopment plan for the area or directs the planning board to do so.
5. Governing body adopts the redevelopment plan.
6. Governing body or a designated “redevelopment entity” oversees implementation of the redevelopment plan.
7. Redevelopment entity selects a redeveloper to undertake the redevelopment projects or projects that implement the plan.

Role of Governing Body

- Authorizes preliminary investigation by resolution
- Designates, by resolution, the redevelopment area
- Adopts, by ordinance, the redevelopment plan
- Designates redevelopment entity
- Appoints commissioners to redevelopment entity
- Authorizes tax exemptions & abatements
- Assists redevelopment entity & redeveloper in implementing redevelopment plan

Role of Planning Board

• Conducts preliminary investigation to determine if an area is in need of redevelopment
• Holds public hearing on proposed redevelopment area designations & makes recommendations to governing body
• Prepares redevelopment plan or reviews plan prepared by governing body
• Reviews site plan & subdivision applications in a redevelopment area
• Makes recommendations on the designation of an area in need of rehabilitation
• Incorporates redevelopment plans into the municipal master plan as part of the master plan re-examination process

Role of Redevelopment Entity

- Can be the municipal governing body, local redevelopment agency, local housing authority, county improvement authority, NJRA
- Oversees implementation of redevelopment plans
- Selects redeveloper
- Ensures redevelopment project is undertaken in accordance with redevelopment plan
- Exercises redevelopment powers in accordance with redevelopment plan
- Acquires property through eminent domain
- Conveys property to redeveloper through sale or lease
- Provides financial assistance to redevelopers
- Recommends redevelopment to governing body & planning board

Redevelopment Criteria

Per N.J.S.A. 40A:12A-5(a-e), a delineated area may be determined to be in need of redevelopment if . . . within the delineated area any of the following conditions is found:

a. Buildings that are substandard, unsafe, unsanitary, dilapidated
b. Discontinuance of use of commercial, manufacturing, or industrial buildings
c. Gov’t owned land, or vacant land in that condition for 10 years with lack of good access to developed sections and not likely to be developed through private capital
d. Areas with buildings or improvements showing dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, which 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 [and] other [similar] conditions, resulting in a stagnant or not fully productive condition of land potentially useful and valuable for contributing to and serving the public health, safety and welfare.
f. Less commonly used: (f) fire & natural disasters, (g) urban enterprise zone, (h) smart growth consistency
Recent affirmation following *Kelo* decision: *Gallenthin v. Paulsboro* (2007)

- Sustains the constitutionality of redevelopment
- NJ constitutional provision, Article 8, Section 3, Paragraph 1 is both a grant of power and limitation
- NJ Supreme Court maintains the presumption of validity of the designation of a redevelopment area despite requests to shift to a presumption of invalidity
- Court reaffirms the decisions of *Levin v. Bridgewater* and *Forbes v. Village of South Orange Township*
- Court continues the principle that properties not in and of themselves blighted may be included in a Redevelopment Plan if necessary for rehabilitation of a larger blighted area (indeed the Court invited that possibility)
- Court has clarified that not fully productive is not a stand alone basis for determining an area in need of redevelopment. Thus, a Motel 6 cannot automatically become a Ritz Carlton, however, if the Motel 6 is in a state of disrepair, is not well maintained, is vacant and otherwise adversely affecting a neighborhood, then the Motel 6 can be redeveloped but it cannot be redeveloped solely because it is not fully productive in that it may be a more productive use.
- Court has required something *more than net expert opinion* that merely cites redevelopment criteria conditions without any real substantive analysis.

References