

## **BENECKE ECONOMICS**

*BE “The Leader in Land Use, Redevelopment, Financial Analysis, and Economics”*

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### An Outline of the Redevelopment Process A Focus on New Jersey 2014

*Redevelopment is a tool which may be used by municipalities to turnaround stagnating, deteriorating, underutilized, or “undeveloped” properties which are not being properly maintained or invested in through the instrumentality of private capital. The redevelopment process must be done consistent with the parameters of smart growth principles; meaning within the objectives of the State Development and Redevelopment Plan (SDRP). Financial benefits to the municipality also exist when redevelopment is implemented. The purpose of this outline is to distill into plain language this complicated and somewhat daunting process.*

As time goes by buildings age and property conditions deteriorate without ongoing maintenance and capital investment necessary to prevent such deterioration. Municipalities in the urban areas of New Jersey often have businesses that have operated for many years, even decades and have recovered their investment in the property and thus have no incentive to improve the condition of the property. Another way to look at this condition is the property owner invested their capital many years ago. The current rent collected is now excess of the properties owners initial investment, thus, no economic incentive exists for the property owner to improve their property.

This inaction by property owners often leads to depressed property values, vacant storefronts and blight. Therefore, the entire commercial district of a town, or even the entire municipality, may be adversely impacted by this lack of attention to property conditions.

We all know that buildings and other structures such as fences, sidewalks, signs, etc depreciate without capital investment. At the most basic level homeowners must repair broken storm water drains (gutters), paint their homes, and cut their lawns.

Without ongoing maintenance and capital investment water problems, mold, peeling paint, and unsightly property conditions occur. It takes just one dilapidated or blighted residential property to negatively impact a neighborhood, placing a stigma on a whole block or area, causing suppression of real estate prices and tax base stagnation.

Commercial and retail properties experience the same type of depreciation (deterioration) as time goes by, especially without the previously mentioned capital investment necessary to prevent property deterioration. In addition to deteriorating property conditions, vacancies may occur, causing a further decline in property values and a general reduction in commerce.

When properties deteriorate to such a poor condition they become blighted harming the inhabitants and businesses of the area. This harm may come in many forms from a strain on local schools (due to overcrowding) to a reduction in neighborhood residential property values.

When properties stagnate, or the visual appearance or condition of properties is such that it harms the general public and the economic base of the town or city, action is necessary to provide a catalyst for capital investment to flow into stagnate properties.

Market conditions can also prevent the necessary capital investment from flowing to certain areas, thereby retarding property maintenance and causing the deterioration of properties. Think of the shopping malls and their initial negative impact on small towns (downtowns) throughout America. Indeed, many downtowns continue to struggle from this phenomenon.

Often business groups such as a Chamber of Commerce, or Town Management Corporation, advocate for something to be done by the local government so that their businesses and investment(s) are not lost. In other cases the municipality recognizes the stagnating and sometimes unsightly nature of the business, or residential area and develops a program to revitalize the stagnating area(s) of the town.

The State of New Jersey has enacted a series of laws to enable municipalities and redevelopment entities to be the catalyst in redeveloping or rehabilitating properties.

The centerpiece of these laws is the New Jersey Housing and Redevelopment Law. (NJSA 40A:12A-1 et seq.) This law allows municipalities to designate an area in need of redevelopment, so as to reverse the process of stagnation and depreciation.

The legal process to undertake redevelopment includes certain well defined steps which must be followed so that the designation is well thought out and can be used “legally” to turnaround property conditions.

Generally, these steps include:

1a-Providing or gathering preliminary evidence so that the area to be redeveloped can be defined and the public informed as to the objective of redevelopment.

While this is not a strict legal requirement, it sets the foundation or premise for entering the redevelopment process. Often a municipal administration or business group initially identifies the properties, or area, that may be in need of redevelopment. Many times a public forum is helpful to address any questions on the process. The preliminary evidence may also come out of the research of a master plan reexamination or preparation of a new master plan.

1b-It must be noted that homeowner occupied structures are not generally subject to the redevelopment process.

1c-The redevelopment designation process has been split into two tracks: A-properties subject to eminent domain condemnation; and, B-properties not subject to eminent domain condemnation. These labels were enacted in September 2013 through Assembly Bill 3615.

2-The governing body adopts a resolution directing the planning board to conduct an investigation as to whether the area identified in the resolution, and identified in Step 1, meets the definition, and statutory criteria, of an area in need of redevelopment.

3-The planning board with the approval of the appropriate municipal official(s) receives a professional report, by **BE**, or study reviewing the statutory criteria to be followed when conducting the investigation and how to conduct the investigation outlined in Step 2. Once the planning board has been charged with the redevelopment investigation a study area map must be prepared and accompanied by a statement setting forth the basis of the investigation. A public hearing on the proposed redevelopment area must be conducted by the planning board and the property owners are provided direct written notice of the hearing so that they may attend the hearing and provide feedback.

Notice of the public hearing must be given twice, once a week for two consecutive weeks, in the official newspaper, with the last notice appearing not less than ten days prior to the hearing date. The nature of the hearings must be described in the written notice to the property owner. In addition, the property owner must be given specific notice if their property is subject to condemnation.

4-The statutory criteria to determine whether an area is in need of redevelopment as more specifically set forth in the Local Redevelopment and Housing Law (LRHL) includes in brief:

- a. Deterioration-properties in a state of disrepair.
- b. Abandoned commercial and industrial buildings.
- c. Public and vacant land. This includes privately owned land that has remained vacant (stagnant) for at least ten years.
- d. Obsolete layout and design. This includes, from a planning perspective, land use conflicts in an area, as well as lot and building coverage issues.
- e. Underutilization. Factors that limit the economic viability and marketability of the property. Example-vacant property which impedes land assemblage for redevelopment purposes
- f. Property substantially ruined by fire.
- g. Urban Enterprise Zones.
- h. The proper application of Smart Growth principles in furtherance of the New Jersey State Development and Redevelopment Plan.

The planning board will investigate and study the potential redevelopment area to determine if the properties meet the abovementioned statutory criteria.

The board will be guided by the aforementioned professional report from a redevelopment expert and a land use planner. The report will be presented to be used at the sole discretion of the board respecting the conditions found in the proposed redevelopment area. The statutory criteria are to be applied by the board from an economic, land use, property condition and zoning perspective. The professionals provide an independent recommendation to the planning board as to whether the statutory criteria apply to each property in the proposed area to be investigated. The substantial evidence must be stated in the report so as to guide the board and governing body in their deliberations.

The planning board and, perhaps more importantly, the governing body receives and considers the financial impact statement of the economic development expert, **BE**. This statement may be the basis for considering a PILOT program to assist the town or city.

5-Upon conclusion of their deliberations and investigation of an area in need of redevelopment the planning board will make a determination whether or not the properties in the study area meet the criteria of the Redevelopment Law-N.J.S.A. 40A:12A-1et seq. and return their findings to the governing body. The governing body may then choose to designate, by resolution, the area(s) as redevelopment areas and proceed with implementing a redevelopment plan ordinance, spelling out the parameters of the areas in need of redevelopment.

***It is important to clearly state into the public record at each stage of the redevelopment process that the objective of redevelopment is to improve the health and welfare of the public, the quality of life of all residents, and to improve the economic foundation of the locality so as to achieve long term property tax stability for all taxpayers. In the planning board study and during governing body deliberations, the public purpose of redevelopment and the benefit to the public health and welfare must be articulated.***

The planning board must seriously consider and deliberate on the professional report and receive public input before making its determination whether or not the area is in need of redevelopment. It is strongly recommended that each member of the planning board visit the properties in question so as to familiarize themselves with the condition of the areas being investigated.

6-Upon conclusion of the work of the planning board the governing body will receive the board's recommendation and the governing body may, by resolution, designate the area as an area in need of redevelopment. Properties may be excluded from the proposed redevelopment area by the governing body, however, only those properties identified by the planning board as satisfying the statutory criteria may be included.

7-With the redevelopment designation in place the municipality can then move forward with the redevelopment plan and redevelopment plan ordinance which includes the economic framework, land uses, zoning, and project timing necessary to accomplish the objectives of the local redevelopment program.

The redevelopment plan must be prepared and introduced by the governing body and reviewed by the planning board; and whenever possible, the concurrence of the planning board is preferable-but not required.

The planning board may be charged with directly preparing the plan, typically first written by a professional firm. We specialize in the redevelopment process, and preparing such plans—however, we do not as a general rule recommend that a redevelopment plan be prepared by the local planning board because the governing body is the redevelopment decision maker, and economics—an important element of redevelopment--is often ignored by planning boards.

The plan includes the local objectives of redevelopment, the relationship to the local master plan, and the zoning element. Other elements may also be required. Not all properties in a designated redevelopment area are required to be made a part of the redevelopment plan.

8-With the redevelopment plan process concluded, the process of assembling land and attracting investors may begin. This process falls squarely on the governing body and the finance arm of the local government.

9-A well-crafted RFP/RFQ/SOI (solicitation of interest) should be prepared setting forth the expectations of the municipality so as to attract the best possible development or redevelopment scenario. Of course, the existing property owner(s) are involved in the entire process. A new initiative is to encourage participation by property owners in a redevelopment process.

(If eminent domain condemnation is contemplated to acquire property, the redevelopment plan ordinance must list the property to be acquired.)

10-Upon acceptance of the conceptual development plan through the SOI process the municipality and potential redeveloper craft a redevelopment agreement (RDA). The RDA must specify a project timetable (schedule). The RDA will also spell out other pertinent details and compliance with law(s) and regulations. If all items appear in order the governing body must designate, by resolution, the redeveloper. Many times this designation is done prior to crafting the RDA.

11-Upon execution of the RDA and selection of a project the specific approvals can then move along, keeping in mind that COAH, NJDEP and other regulatory requirements, if required, will have to be met.

12-The redevelopment project is subject to site plan approval. The redeveloper must submit an application for site plan approval in accordance with the redevelopment plan and RDA. Typically, redevelopment plan deviations, may NOT be granted by the planning board or board of adjustment.

13-The redevelopment agreement must be monitored for contract compliance, especially for continued compliance with the redevelopment plan ordinance and site plan.

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