

MINUTES - PLANNING BOARD

Special meeting of April 20, 2017

1. STATEMENT OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

Ms. Murray called a public meeting of the Cranford Planning Board to order on April 20, 2017 at 7:35 P.M. In Room 107 of the Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. Ms. Della Serra announced that this was a special meeting pursuant to N.J.S.A. 40A:12A -5 and -6 replacing the regularly scheduled meeting of April 19, 2017 with the required notice published in the Westfield Leader and Star Ledger. In accordance with the terms and conditions of the Open Public Meetings Act, adequate notice of this meeting's agenda has been provided through publication specifying the time, place and matters to be discussed/heard with the agenda having been filed with the Township Clerk and posted on the municipal bulletin board where such notices are normally posted as required. Formal action may be taken.

2. FLAG SALUTE

3. ROLL CALL

Members Present:

Ms. Murray
Ms. Anderson
Ms. Steinbach
Ms. Feder
Mr. Chapman
Mayor Hannen
Commissioner Dooley
Mr. Taylor

Members Absent:

Donna Pedde

Alternates Present:

Mr. Aschenbach

Alternates Absent:

Ms. Didzbalis

Also present:

Mark Rothman, Esquire; Ruthanne Della Serra, Interim Administrator/Scribe, Ron Johnson, Zoning Officer, Madeline Colandro, Interim Assistant

4. COMMUNICATIONS:

None

5. RESOLUTIONS of MEMORIALIZATION

None

6. MINUTES:

Motion to adopt the minutes of the workshop meeting of April 5, 2017 (as amended) was made by Ms. Anderson, seconded by Ms. Feder and passed on voice vote.

Motion to adopt the minutes of the Executive Session of April 5, 2017 (as amended) was made by Mayor Hannen, seconded by Ms. Steinbach and passed on voice vote.

7. OLD BUSINESS/NEW BUSINESS

Presentation and review of a preliminary investigation and public hearing of the properties located at 215 and 235 Birchwood Avenue, Block 291, Lot 15.01 and Block 292, Lot 2 (the "Property") and occupying a total of approximately 15.87 acres in the Township of Cranford, to determine whether to make a recommendation that the property should be designated by the Governing Body of the Township of Cranford as a Non-Condensation Area in Need of Redevelopment pursuant to N.J.S.A. 40A:12A-5 and -6. Although the Township previously reserved its rights to exercise the power of eminent domain, the Township is now the owner of the property and is considering designating the property as a Non-Condensation Area in the Need of Redevelopment. A determination to recommend that the Property be designated as a Non-Condensation Area in Need of Redevelopment shall not authorize the municipality to exercise the power of eminent domain to acquire property in the delineated area.

Ms. Murray explained this hearing is strictly limited to whether or not the Planning Board, in consideration of the Preliminary Investigation Study prepared by Maser, should recommend to the Cranford Township Committee that the Study Area be designated as an area in need of redevelopment, commonly called a "Redevelopment Area".

The Maser Study Area is property known as 215 and 235 Birchwood Avenue in Cranford, which occupy Block 291, Lot 15.01 and Block 292, Lot 2. The Property consists of approximately 15.861 acres and has been owned by the Township since February 7, 2017. Since the Township owns the Property, condemnation is not required, and therefore, the Planning Board will consider whether the Property is a "Non-condemnation Area in Need of Redevelopment."

At the request of the Township Committee, the Planning Board authorized a Preliminary Investigation Study conducted by Maser Consulting, P.A. ("Maser"). The purpose of the Preliminary Investigation Study was to evaluate whether characteristics of the Property meets the necessary criteria to be designated an Area in Need of Redevelopment under New Jersey's Local Redevelopment and Housing Law, N.J.S.A. 40:12A-1 et seq. ("Redevelopment Law").

The process and procedures in place for tonight's hearing are as follows:

First, there will be a presentation through the testimony of the Maser Planner, Kristin J. Russell, regarding the work performed that resulted in the Preliminary Investigation Study and Maser's conclusion that the Study Area does indeed qualify as a Redevelopment Area under certain criteria of the Redevelopment Law.

Following the conclusion of this testimony, there will be an opportunity for the members of the Planning Board to ask questions and make comments.

Following the Planning Board's questioning, there will be an opportunity for any member of the public to ask questions or make comments. The questions or comments must be limited only to the Maser Preliminary Investigation Study and testimony presented. These questions or comments must be specific to the issue whether the Study Area qualifies as Redevelopment Area and whether the Planning Board should recommend the designation of the Redevelopment Area to the Township Committee.

After persons wanting to comment are heard, at the conclusion of the Hearing, the Planning Board may take official action and vote on a resolution to recommend to the Township Committee that the Study Area be designated as a non-condemnation Area in Need of Redevelopment.

This Hearing may be continued to another date if necessary.

Members of the community will have future opportunities to ask questions and make comments on the redevelopment of the Property. For example, a Redevelopment Plan will be prepared should this Property be designated an Area in Need of Redevelopment. During the process of adopting a Redevelopment Plan, the Township Committee will hold two public hearings before adopting an Ordinance creating the Redevelopment Plan. Additional opportunities will arise, for example, when the developer submits an application and appears before the Planning Board for Site Plan Approval and related authorizations. During those Planning Board meetings, the public will be able to comment on redevelopment project factors such as the number of housing units, type of parking, traffic

flow and project design and appearance.
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However, tonight's hearing is solely for discussion about designating the Property as a Redevelopment Area and we ask that Board Members and members of the public limit their questions and comments only to the redevelopment designation. I will now turn the hearing over to Wanda Chin Monahan, who is redevelopment counsel to the Township.

Wanda C. Monahan, Esquire appeared on behalf of the Township.

Kristin J. Russell, AICP/PP, Maser Consulting, appeared and was sworn in. Maser Consulting prepared the report entitled "Redevelopment/Rehabilitation Study Area Determination of Need, Birchwood Avenue Study Area, Block 291, Lot 15.01 and Block 292, Lot 1" dated February 26, 2017. Ms. Russell presented her credentials to the Board and was accepted as an expert witness.

Ms. Russell testified to the following:

Here to present findings of the study prepared by Maser Consulting. Area photo marked as Exhibit - Township #1. Consists of two parcels along Birchwood Avenue. History presented - originally farmland and then converted to commercial property. Last year, the buildings were demolished with some cleanup performed. Lot 15.01 is 9.53 acres and vacant at this time. Environmental issues on this parcel explained in detail, but none appear to present a burden to the property. However, property was filled. Assessment performed with some concern as to areas being missed when prior owner obtained a determining the site was "clean" due to insufficient samples taken at preliminary contamination review. At present, very high contamination which needs to be addressed.

Requirements for determination explained as follows:

An area may be determined to be in need of redevelopment if, after investigation, notice and hearing, the governing body of the municipality concludes by resolution that any one of the following relevant conditions is found:

- 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 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,

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 unproductive 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. *(new language from P.L. 2013, Chapter 159 underlined)*

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.1992, c. 79 (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 P.L.1991, c. 431 (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: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 P.L.1992, c. 79 (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.

In addition to the above criteria, Section 3 of the LRHL, which defines the redevelopment area, allows the inclusion of parcels necessary for the effective redevelopment of the area, by stating “a redevelopment area may include land, buildings, or improvements, which of themselves are not detrimental to the 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 in which they are a part.

Most important being the soil contamination that in some way hinders the development and would then qualify under Criteria C.

Other parcel, Lot 2, has similar history, developed at same time and demolished at same time. Contains flood areas and other conditions that do not appear to hinder development of the site, however, it was also filled and presents same contamination issues and therefore also qualifies under Criteria C unless it can be shown the property is in fact “clean”. Subsequent samples and test results show remediation is needed and confirms suspicious contamination still exists thereby meeting Criteria C as hinders development. Would be quite an expense to bring site up to development standards.

Reviewed Master Plan elements:

The Township of Cranford Master Plan was adopted in September of 2009. Residential Goals which are applicable to the development of this Area or the existing zoning include:

- Provide a wide range of housing to meet the needs of residents in diverse income groups.
- Concentrate higher density residential uses in the Downtown to take advantage of transportation infrastructure and require adequate parking as a prerequisite to new development.
- Monitor opportunities for funding that structures a local rehabilitation program that meets COAH’s requirements for rehabilitation housing.
- In existing residential zones, encourage the preservation of existing housing structures and limit new development that increases density.
- Require all in-fill development to be done in a manner that is consistent and compatible with the surrounding neighborhood and environment.
- Limit developments that would generate a high volume of vehicle traffic on local and collector streets.

At the time of adoption of this Master Plan, the sites in question were still zoned O-1 for Office, and no change was anticipated. The plan recognizes that, “[t]he district is intended to provide opportunities for limited office use that would be suitable and not incompatible with the residential character of the district.” The Plan does note, though, that the area is environmentally sensitive and subject to “flood hazards and existing freshwater

wetlands,” such that development should be “designed to minimize impacts on existing
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environmental features.”

Ms. Russell continued with the findings. Contamination found in site, even after “clear” was given. In her opinion, property also qualifies under Criteria C for designation as Area in Need of Redevelopment.

Conclusion:

The earlier environmental soil studies on the two sites in question appear to be inadequate. Very limited areas were studied, leaving the probability that large swaths of the sites could contain additional fill which would inhibit, or greatly increase the cost of, redevelopment due to soil conditions, contamination, or other yet unknown conditions. Under such uncertainty and without further environmental studies to rule out the likelihood of remaining fill, the Study Area qualifies as an Area in Need of Redevelopment under Criteria C.

Moreover, regardless of the outcome of any such environmental study, the sewer and water infrastructure serving the study area are more than 50 years old according to municipal records, thereby also qualifying the sites as an area in need of rehabilitation.

Questions posed by the Board ascertained the following:

Criteria lists A thru H, 8 different items, believes meets C – does it meet any other? No, due to the buildings on the site already being demolished. In order to qualify only need to meet 1 criteria. Property presently zoned as inclusionary multi-family and will not be affected by declaration of property being in need of redevelopment. Who will pay for clean-up? Ms. Monahan advised \$250,000. being held in escrow to pay for clean-up. Presently being reviewed for best way to remediate the contamination, no PCBs, arsenic or heavy metals on site, most are minor contaminants as imported fill containing base neutrals on site. Believes Township will not be expending any funds for remediation. Both lots were tested with minimal contaminants found. Condemnation explained which presents transparency. PILOT program explained - payment in lieu of taxes, area of designation gives the Township the legal authority to offer this program to a potential developer, however, is not mandatory to be includes rather provides options.

Infrastructure is 50 years old, would that apply? Related to similar designation as area in need of rehabilitation rather than redevelopment. Rehabilitation does not present certain options available to the Township as does redevelopment. Property does qualify as an option, but redevelopment would be best for the Township. Contamination does not present any potential problem for the municipality, residents or future developments. “Remedial caps” explained as 6 – 10 inches of clean fill and then surface application. Many alternatives for “remedial cap” and tries to keep flexible while providing redevelopment options with potential developers. Does not impact wetlands and those will not be part of the redevelopment – 6 acres are developable others are wetlands or flood areas and are

primarily towards rear of site. Was some debris on the sites that was uncovered, but has
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been removed by previous developer.

Any ground water contamination found? Previous owner placed a well that tested clean, but township had concerns and additional monitoring wells were placed. Those came back clean. Documentation of conditions at site were contained in the report completely limited amount of contamination - is there any % requirement or judgmental decision? Judgmental decision - preliminary report is to show that contamination is considerable enough to hinder development of the site without the benefit of redevelopment would be a burden. Area of most concern straddles both parcels in the middle of the site, results in other areas, but most were centered in this area. Prior owners performed testing by underground storage tank and when closed, together with debris trench, both were taken off the site but were designated as an area of concern. Now the wider broader site investigation will allow for the entire site evaluation.

Removal of debris was listed in manifests as well as indicating where the materials were disposed of as required.

Debate as to use of Criteria H – planning community does not have a lot of confidence in H, and was reluctant to use although the subject property does lack mass transportation, etc. Could be included, but not necessary. If buildings were left on the lots, would they have qualified under other criteria? Yes, would have been pretty likely that one or more criteria would have been applicable, but those options were taken off the table once the buildings were demolished. Criteria C allows the Township to offer a PILOT program and then in turn the Township can recoup, while the developer recoups their development costs.

In conclusions appears to be double negative statement – explained prior seller/owner had an investigation done at site and found area of debris and fill that was removed, Maser is stating that they are questioning whether post removal testing was sufficient. As part of site investigation, went back to those areas and resampled to confirm was completely removed concluding it was. Same applies to groundwater sampling.

Reports moved into evidence – Redevelopment/Rehabilitation Study Area Determination of Need report dated February 6, 2017 marked as Exhibit - Township #2, Preliminary Assessment Report dated February, 2017 marked as Exhibit - Township #3.

There were no further questions by members of the Board.

Ms. Murray opened the presentation to the public for questions, with the following appearing:

Frank Krause – confirmed Township now owns the property, appears no other alternative
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than to remediate, if that is not done cannot be sold to a builder. Believes will also need to consider that there is a carefully performed hydraulic study performed. Cannot determine value of the property without being able to determine the building level. Might be able to reduce costs --- advised these are items of a redevelopment plan that is not before the Board this evening and are part of the future process and hearings.

Rita LaBrutto – Asked if familiar with the report that PEAK Environmental performed in 2013 – yes, reviewed all reports thoroughly. PEAK report states that groundwater was and certified that all was happy and met compliance with DEP compliance. Opinion of Maser was that the groundwater assessment was not as complete and conducted a more thorough investigation and confirmed the water is clean. Appraisal was based on best use of the property and does not take into consideration the contamination? Ms. Monahan explained the property was appraised at \$19,000,000., and appraisal is calculated as if the remediation is done and property clean. Question on PILOT program, and being more desirable for a developer under certain circumstances, which will be addressed when the property is sold by the Township, not a matter for tonight's hearing, only whether the property qualifies as an area in need of redevelopment. Mr. Rothman reiterated that this meeting is only for whether the property meets the criteria. Ms. Monahan advised the Township Committee must make the ultimate determination as to area in need, and with that designation comes certain statutory options that may or may not be incorporated into a plan. Why is "redevelopment" designation required, shouldn't development of the subject property be left to the Planning Board once a developer makes an application? Ms. Monahan explained the process - the Township Committee asked the Planning Board to undertake the investigation, the investigation was performed and completed, should the Board pass a resolution to designate the property, it is then up to the Township Committee to formally designate and provides tremendous flexibility as to development of the property

Property can be cleaned without going into redevelopment? Yes, however, any site plan will come before the Planning Board. Ms. LaBrutto believed designation takes authority away from the Planning Board. Mr. Rothman explained the Board has been requested by the Township Committee to investigate and up to the Board to make the recommendation with questions posed not within the scope of tonight's meeting and after the Township Committee receives the recommendation, then comments being made are better served to be presented to the Township Committee.

No one else appeared and the matter was referred back to the Board.

Ms. Murray opened the presentation to the public for comments, with the following no one appearing and the matter was referred back to the Board.

DELIBERATION:

Ms. Murray reviewed the testimony presented.

Board comments consisted of the following:
More flexibility will be provided to the Township i.e. flood control, density etc. After reviewing report agrees with contents and recommendations.

Motion to recommend that the Township Committee designate 215 and 235 Birchwood Avenue, Block 291, Lot 15.01 and Block 292, Lot 2 (the "Property") and occupying a total of approximately 15.87 acres in the Township of Cranford, to determine whether to make a recommendation that the property should be designated by the Governing Body of the Township of Cranford as a Non-Condemnation Area in Need of Redevelopment pursuant to N.J.S.A. 40A:12A-5 and -6 was made by Mayor Hannen, seconded by Mr. Chapman with the following voting in favor of the motion: Ms. Murray, Ms. Anderson, Ms. Steinbach, Ms. Feder, Mr. Chapman, Mayor Hannen, Commissioner Dooley, Mr. Taylor and Mr. Aschenbach.

9. PUBLIC PORTION

Rita LaBrutto – Benefit of those who are new to Board and the Birchwood site, happy that we are finally doing due diligence and acknowledging contamination on site. Would have been nice to have this information during the builder's remedy suit as may have played into the outcome of the suit. Attended hearings, wrote letters as well as testifying and was ignored, not surprised that here we stand, after purchasing the property, acknowledging the contamination. Has photos and videos of trucks removing and emptying debris from the site without permits, that were sent to DEP forcing the previous owner to obtain the proper permits. Not certain if all neighboring property owners were ever noticed. Were cars on site, oil drums and other construction debris. Personally, thinks the PILOT program is smoke and mirrors, may make the property more desirable to a potential developer, but not beneficial to the taxpayers. Hopes that we get sufficient return for our investment. Does not believe Cranford sells on the real estate market, preference is 55+ housing to eliminate any impact on schools. Did read in the Westfield Leader consideration of payment in lieu of parking – when we did Master Plan, payment in lieu was struck from inclusion into the plan. Funds placed into an account are diverted, and not used for parking needs. Developer MUST provide parking, as helps in forcing control of density.

Frank Krause – Briefly believes public will be confused as to next steps. Asked as to process. Who will perform hydraulic study? Brining in massive amounts of soil in order to develop the site. Mayor Hannen explained DEP does not permit elevating the property for any development due to impact on neighboring properties and explained in detail. At point site plan was approved by Court, no soil was being added to a flood plan. Garage elevation and detention basin are two different items – detention basin can be requested

from DEP to help with the area and was of major concern when the municipality appeared
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before DEP. Mr. Krause questioned desirability of building in a flood plan. Explained no parking garage will be on site and will be addressed thru the process and lower density. Next steps are to obtain RFPs for developers (which went out today) and need to be returned by June.

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 9:00 P.M.

Ann Steinbach, Secretary