

Memorandum

TO: JOE D'ARCO, TOWNSHIP MANAGER AND KEVIN O'SULLIVAN, DEPUTY TOWNSHIP MANAGER

CC: BRIAN ALOIA, ESQ., TOWNSHIP ATTORNEY

FROM: SANYOGITA S. CHAVAN, AICP, PP

DATE: MARCH 20, 2024

RE: EXPLANATION OF THE REHABILITATION AND REDEVELOPMENT PROCESS AS PER THE LOCAL REDEVELOPMENT AND HOUSING LAW (LRHL)

This memorandum provides an explanation of the “rehabilitation” and “redevelopment” process. Authority to declare an area in need of redevelopment or an area in need of rehabilitation is created pursuant to 40A:12A-1 et seq. the "Local Redevelopment and Housing Law" (LRHL).

WHAT IS REDEVELOPMENT AND WHAT IS REHABILITATION?

Redevelopment and **Rehabilitation** are planning tools available to revitalize areas which show signs of decline or disinvestment. The following table compares the two mechanisms for the easy understanding of the reader.

Redevelopment	Rehabilitation
<ul style="list-style-type: none"> • Areas in need of redevelopment exhibit a wider range of physical conditions and land use arrangements ranging from suburban highway corridors with vacant stores, vacant commercial and industrial buildings, older development with circulation and other site issues, public and vacant land, etc. • A planning tool used to fulfill the goals of rebuilding abandoned and/or underutilized properties, increasing tax rates, improving the local economy, and improving the appearance of the community. • Allows the use of eminent domain. BUT the governing body’s authorizing resolution must indicate from the on-set of the process whether they are seeking to designate a “condemnation” (use of eminent domain) or “non-condemnation” (without eminent domain) redevelopment area. • Allows granting both short-term (5-years) and long-term (30-years) tax exemption. 	<ul style="list-style-type: none"> • Rehabilitation areas can be recognized as areas having an aging housing stock, a business district with abandoned properties, vacant storefronts or lack of building maintenance and old infrastructure in need of repair. • A planning tool that promotes the rehabilitation of existing buildings and structures, with or without new construction or enlargement of existing structures, to arrest the deterioration of the area and improve the appearance of the community. • Does not allow the use of eminent domain. • Allows granting only short-term tax exemptions (5-years). Does not allow long-term (30-years) tax exemption.

Redevelopment	Rehabilitation
<p>Redevelopment Designation Procedures as per the LRHL</p> <p>The steps to undertake a redevelopment investigation are as follows:</p> <ul style="list-style-type: none"> • The governing body authorizes the planning board by resolution to undertake the area in need of redevelopment investigation. LRHL requires that this resolution must specify if it is “<u>non-condemnation</u>” or “<u>condemnation</u>” redevelopment investigation. • The planning board or consultant conducts an investigation, which is a land use study prepared in accordance with Section 5 of the LRHL. This is then presented at a public hearing. Section 6 of the LRHL stipulates specific public notice requirements for a redevelopment investigation hearing. • The Planning Board makes a recommendation to the governing body to designate an area in need of redevelopment. • Based on the planning board’s recommendation, the governing body may designate by resolution all or a portion of the area as an area in need of redevelopment. No public hearing is required for this portion of the process. Public notices are what are normally required to publicize any meeting of the governing body. <p>Next Steps:</p> <p>Preparation of the redevelopment plan:</p> <p>The redevelopment plan establishes specific and detailed development standards reflecting community desires for improvement of the area.</p> <ul style="list-style-type: none"> • The governing body prepares a redevelopment plan for the area or directs the planning board to prepare the plan. This can be done in-house or by a consultant. 	<p>Rehabilitation Designation Procedure as per the LRHL</p> <p>Rehabilitation designation process is much simpler than redevelopment:</p> <ul style="list-style-type: none"> • The governing body prepares a proposed resolution identifying an area in need of rehabilitation along with a supporting report and forwards the proposed resolution and report to the planning board for its review. This supporting report, a study prepared in accordance with Section 14 of the LRHL, provides a technical foundation for the rehabilitation designation. • The governing body must submit the resolution declaring an area in need of rehabilitation and the report to the planning board for its review and comments within 45 days. • The governing body is not bound by the planning board’s recommendations and may adopt the resolution with or without modifications. If the planning board does not submit recommendations within 45 days, the governing body may adopt the resolution with or without modification. • The governing body of a municipality passes a resolution designating the area in need of rehabilitation. No special public notices are needed besides what would normally be required to publicize any meeting of the governing body. <p>Next Steps:</p> <ul style="list-style-type: none"> • The governing body may choose to prepare a redevelopment plan or delegate this task to the planning board. Any redevelopment plan drafted must be adopted by ordinance and include the required content specified in the LRHL. The steps are the same as those of the redevelopment plan in an area in need of redevelopment.

<ul style="list-style-type: none"> • The planning board must be offered the opportunity to recommend for or against, and the governing body should consider their recommendations. But the governing body is the ultimate decider, and they are entitled to vote in opposition to the planning board's recommendation. • The governing body adopts by ordinance the redevelopment plan. Thus, the Redevelopment Plan serves as an ordinance and can be created as an overlay zone or new zone. Typical to ordinances, the planning board reviews the redevelopment plan for consistency with its master plan. • After the adoption of the redevelopment plan, the governing body may grant short- or long-term tax exemptions. <p>Redevelopment Plan Implementation:</p> <ul style="list-style-type: none"> • The governing body or another public agency designated as the redevelopment entity or agency oversees the implementation of the redevelopment plan. • The redevelopment entity or agency selects a redeveloper to undertake the redevelopment project or projects that implement the plan. • Any proposed project in the redevelopment plan area undergoes the site plan review process by the planning board for compliance with the redevelopment plan, which serves as an ordinance. 	<ul style="list-style-type: none"> • The Township may also utilize the powers contained within the Five-Year Tax Exemption and Abatement Law in areas in need of rehabilitation without the adoption of a redevelopment plan. • The exemptions and abatements permitted under the Five-Year Tax Exemption and Abatement Law may encourage private property owners to rehabilitate and reinvest in their properties. • The governing body has the ability to further direct the planning board to conduct investigations to determine whether specific properties within the rehabilitation area meet the redevelopment criteria pursuant to Section 5 of the LRHL. • Should those specific areas or parcels qualify and get designated as redevelopment areas and a redevelopment plan is adopted, then the governing body may grant long term tax abatements to the redeveloper(s) of the designated parcels.
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The following table compares conventional zoning changes with the mechanism of rehabilitation and redevelopment:

COMPARISON BETWEEN MAKING ZONING CHANGES, DESIGNATING AREAS IN NEED OF REHABILITATION, AND DESIGNATING AREAS IN NEED OF REDEVELOPMENT (NON-CONDEMNATION AND CONDEMNATION)				
Objective	Zoning Changes	Rehabilitation Areas	Redevelopment Areas (Non-condemnation)	Redevelopment Areas (Condemnation)
Eminent Domain				X
30-year PILOTs			X	X
5-Year Tax Abatements		X	X	X
Redevelopment Area Bond (RAB) Financing			X	X
Economic Redevelopment & Growth (ERG) Financing			X	X
Form Based Codes	X	X	X	X
Redevelopment Plans		X	X	X
Redevelopment Agreements		X	X	X
Property Transfers (from public to developer)		X	X	X
Land Use Controls	X	X	X	X
Source: New Jersey Redevelopment Authority				

REDEVELOPMENT AND REHABILITATION CRITERIA

This section sets forth the redevelopment and rehabilitation criteria as per the pertinent sections of the LRHL.

Redevelopment Criteria

Section 5 of the LRHL sets forth following criteria commonly referred to as Criterion “a” through “h”:

- 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 of 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 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.
- 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 for redevelopment pursuant to sections 5 and 6 of P.L. 1992, c.79 (c.40A: 12-5 and 40A: 12-6) 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 criteria presented above, the definition of a “redevelopment area” as per Section 3 of the LRHL allows the inclusion of parcels which are necessary for the effective redevelopment of an area, but which of themselves do not qualify based on the criteria. Specifically, the LRHL states: “...A redevelopment area may include land, buildings or improvement 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.”

Rehabilitation Criteria

Section 14 of the LRHL sets forth the following criteria:

1. A significant portion of structures therein are in a deteriorated or substandard condition.
2. More than half of the housing stock in the delineated area is at least 50 years old.
3. There is a pattern of vacancy, abandonment or underutilization of properties in the area.
4. There is a persistent arrearage of property tax payments on properties in the area.
5. Environmental contamination is discouraging improvements and investment in properties in the area.
6. A majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance.

Furthermore, Section 14 states “where warranted by consideration of the overall conditions and requirements of the community, a finding of need for rehabilitation may extend to the entire area of a municipality.”