



**Borough of Demarest
Planning Board Meeting
MINUTES**

July 30, 2024

7:30 PM

DEMAREST BOROUGH HALL

The Borough of Demarest Planning Board held a special meeting on TUESDAY, JULY 30, 2024, at 7:30 p.m. located at 118 Serpentine Road Demarest, NJ 07627.

CALL TO ORDER

Meeting was called to order at 7:30 PM by Chairwoman Hayden.

FLAG SALUTE

The Board was led in a salute to the flag by Chairwoman Hayden.

ROLL CALL

MEMBERS PRESENT:

Theodore Alevrontas, Mayor Brian Bernstein, Jodi Brenner, Councilwoman Daryl Fox, Mary Hamilton, Marian Hayden, Fatemah Mamdani, Lynn Paulison, James Tabacchi, Youngsam Yu,

MEMBER(S) ABSENT:

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ALSO PRESENT:

Michael Greco – Secretary, Douglas Bern – Attorney, Darlene Green – Planner

APPROVAL OF MINUTES

Motion to approve the minutes for the May 1, 2024, Regular meeting, was made by: Mayor Bernstein and Seconded by Vice Chair Tabacchi:

On roll call, the vote was recorded as follows

Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes	Ms. Brenner:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Mrs. Paulison:	Yes
Vice Chair Tabacchi:	Yes	Mr. Yu:	Yes	Mrs. Hamilton:	(Alternate)
Chair Hayden:	Yes				

Motion Carried

PUBLIC HEARING: REDEVELOPMENT AREA WITHOUT CONDEMNATION: DETERMINATION OF NEED STUDY

Block 23, Lots 15, 16 and 17.01

Block 49.01, Lots 43.01, 43.02, 44, 45, and 47.02

Darlene Green, Board Planner, was sworn in by Mr. Bern and gave her qualifications.

Mr. Bern stated that the Planning Board had designated Ms. Green to perform a study on whether a section of Demarest could be designated as an area in need of redevelopment. Ms. Green confirmed.

Ms. Green gave a presentation on the study performed.

Ms. Green stated that this process is slightly nontraditional as the Redevelopment Plan already exists and we are giving a section of that plan a new designation. She entered into evidence Exhibit B, a map dated January 10, 2020, this map is contained in the Downtown Redevelopment Plan, (June 23, 2021) and shows the final adopted rehabilitation area. Exhibit A being the Redevelopment Study. She gave history on the Redevelopment Plan. Ms. Green then explained the process for redevelopment areas and the difference between redevelopment and rehabilitation. She stated that the redevelopment selected is without condemnation. Ms. Green showed the lots that are in question. She then went through each property and described them and went through the criteria for each property (see attached Study). Ms. Green stated that they recommend all the lots in the study area qualify for designation as a Non-Condemnation Redevelopment Area.

Chair Hayden confirmed with Ms. Green that the bulk standards and permitted uses in the proposed "Redevelopment Area" will conform with the Downtown Redevelopment Plan, dated June 23, 2021. Ms. Green confirmed and stated that if the Governing Body wants to change the Redevelopment Plan, they would need to do this by ordinance however this may present problems because this Plan is part the Borough's court approved Affordable Housing settlement agreement. She then made note of a typo on page thirteen in which banks was misspelled. This will be corrected on the version transmitted to the Governing Body.

Chair Hayden asked how density may be affected by this designation, and Ms. Green stated that the court may allow the Borough to increase density, but not to decrease it. The Chair then confirmed with Ms. Green that the recommendation in the Report is not inconsistent with the Master Plan, and Ms. Green confirmed.

Ms. Green explained the benefits of using Smart Growth.

Vice Chair Tabacchi asked how the tax abatements work and who gets the benefit.

Ms. Green explained that abatements are a council function that would not come into play until development begins; and that this is part of the public process. Chair Hayden confirmed that there is no Planning Board involvement with the tax incentives. Mr. Bern stated that they would only be involved on the development side.

Ms. Green explained the way this process normally occurs but explained that for this town they had to do this as part of meeting the court ordered affordable housing settlement to increase density. Vice Chair Tabacchi asked if this means that the court is requiring an increase in density, and Ms. Green explained that yes, they are, and this is already in place.

Councilwoman Fox asked when the designation of a redevelopment area began allowing a non-condemnation option. Ms. Green explained that she does not know the exact year but there was a court case which resulted in the requirement that all Governing Bodies make this designation at the beginning of the process and declare it to the public.

Councilwoman Fox asked for further clarification regarding the bank, which was acquired for use of public purposes, does this add flexibility for the property. Ms. Green stated that this designation cannot change what is permitted according to the Zoning Ordinance. Ms. Brenner clarified that this was acquired from eminent domain, and if this designation can adjust that. Ms. Green stated that you would have to change the redevelopment plan.

Councilwoman Fox stated that the building is limited to public use, and she is hoping that the plan can add private uses. Mayor Bernstein stated that the building must be used for a public purpose, which he believes has a broader concept with less limitation than if it required a public use. Mayor Bernstein explained the concept here is not limited to a developer, but the PILOT incentives apply to current property owners to improve or develop their properties. The Mayor went on to state the benefit is shared on both sides of the agreement and then explained the benefits for each side. He also stated the two main differences between the redevelopment area and the rehabilitation area.

OPEN TO THE PUBLIC FOR QUESTIONS ON TESTIMONY FROM MS. GREEN

A motion to open the meeting to the public was made by: Mayor Bernstein and seconded by Councilwoman Fox.
All in Favor – Motion Carried

Mike Clarke, 150 Donnybrook Drive, asked what the Borough's plan is to do with their properties. Ms. Green stated that she does not know what the plan is. Mayor Bernstein stated that the Governing Body created a new committee for economic development to help figure out the goals of the town and work on planning to entice new development.

Mr. Clarke asked for clarification on the properties designated and Mayor Bernstein explained the areas and what is currently on them. Mr. Clarke asked about who is calling and interested in developing. Mayor Bernstein explained that there is no set decision but that this will help to incentivize people to work with the town.

Howard Rifkind, 350 County Road, asked if there are restrictions or stipulations in the plan that would impede property owners from selling their properties or restrictions on what can be put in the area. It was stated that the zoning regulations that are in affect will remain and people can sell their properties to whomever they chose.-Mayor Bernstein explained that there is nothing in this plan or study that can restrict people from selling their properties.

Barret Abromow, 15 Emily Court, asked from a planning perspective the could the Borough be labeled urban, and Ms. Green responded not urban, and he asked if this means the Borough is not blighted. Ms. Green explained the term urban in itself does not imply blight. Mr. Abromow asked if the Planning Board would oversee any zoning choices for the redevelopment plan, and Ms. Green explained that the Governing Body decides zoning, but if he is talking about development applications then it depends on the variances requested, but it would go to either the Planning Board or the Zoning Board of Adjustment. Mr. Abromow asked if redevelopment is more or less strict. Ms. Green explained that it is typically stricter because with redevelopment you can regulate things you are not allowed to regulate in zoning, like the design of the building. Mr. Abromow asked if this strips the Zoning Board of their power, and Ms. Green explained that it does not. Mr. Abromow asked if this would increase density, and Ms. Green explained that the action tonight would not affect this, and that the Borough has already been forced by the state to increase density. Mr. Abromow asked if these applications typically involve affordable housing, and Ms. Green explained that any residential addition of 5 units or more requires affordable housing. Mr. Abromow confirmed that the action tonight is to recommend action to the council. Mr. Abromow asked if this was a special meeting, and Chair Hayden confirmed that it was and explained the notification requirements for this meeting.

Ray Cywinski, 256 County Road, asked if the settlement agreement for affordable housing includes the former Frick property on Duane Lane, it was explained that the developer of that property made a payment in lieu of construction. Mr. Cywinski asked if the town can reverse the decision to not use eminent domain in the plan. Mr. Bern explained that it is possible in some cases but there are requirements to do so. Mr. Cywinski stated concern over the PILOT program creating more taxes for the residents and how this would affect the schools in terms of taxes. Mayor Bernstein explained that it is up to the terms of the agreement what gets paid to the school, it is not required but the Mayor and Council can decide to give some of the money to the schools. Mr. Cywinski asked about the train station, and it was explained that the train station is not part of this study. Mr. Cywinski asked for clarification on the lots being studied.

Noel Pugh, 64 Prospect Street, asked if in the past the Governing Body approached property owners about improving their buildings. Chair Hayden asked Mr. Cywinski if he was approached during his time as Mayo Mr. Cywinski answered that they were, but nothing came out of it. Mr. Pugh asked if this study was mandated, and the Board answered that it was not. Mr. Pugh asked how much the study cost, and was told the cost was just under \$10,500.

Clifford Toth, 1034 South Washington Avenue, Old Tappan, asked what the height requirement is on the development area. Ms. Green answered that it is 35 feet. Mr. Toth confirmed that if you have less than five units, they do not require affordable housing. Ms. Green explained that even if this is not required there would still be a fee.

August Tabacchi, 378 Hardenburgh Avenue, asked why this area was chosen for the study area. Ms. Green explained that this is about opening options for the Borough and encouraging partnerships to hopefully invest in the downtown area, and the study gives the town another tool to encourage development. Mayor Bernstein explained that Mr. Pugh stated that no one has reached out to building owners and this encourages that communication, and other people said nothing has happened downtown, this is an attempt to make that happen.

Cris Sakalauskas, 123 Hardenburgh Avenue, asked about the change in density. Ms. Green explained that the court would never say no to more density, but they would not permit decreasing density. Ms. Green also explained that this decision tonight does not affect what has already been built. Mayor Bernstein clarified that Mr. Sakalauskas is speaking about 127 Hardenburgh Ave and gave a quick correction on the number of units being developed there. (17)

Howard Rifkin, 350 County Road, asked a question about the new round of affordable housing requirements, and Ms. Green explained that the Borough is not aware of their new number yet, but she plans to discuss this further later in the meeting. Mayor Bernstein explained that this designation is not about affordable housing.

Board member Ms. Brenner stated the Borough is not required to offer incentives to everyone, so if there is development we do not wish to encourage the Borough does not have to offer the incentive. Mayor Bernstein added that it would also be as part of a written agreement with the Borough.

Ray Cywinski, 256 County Road, asked if the Borough has been approached by any of the businesses about the redevelopment plan. Mayor Bernstein stated that he has but he would not discuss specifics. Mr. Cywinski stated that the pizza place being vacant is strange, and he does not understand why the owner does not rent the space. Mayor Bernstein stated that he approached the owner many times and does not know why the space remains empty.

Mike Clarke, 150 Donnybrook Drive, confirmed that this does not force commitment on the Borough's side.

Ray Cywinski, 256 County Road, asked about the intersection of Hardenburgh and Piermont and if it has any connection to this study. The Board answered that it does not. Mayor Bernstein explained he is working with the county to get a left turn signal to improve safety at that intersection. Mr. Cywinski stated that the reason for the new light is the traffic. Mayor Bernstein explained that the reason for the new light has nothing to do with the traffic, it was for public safety.

A motion to close the meeting to the public was made by: Mayor Bernstein and seconded by Ms. Brenner.

All in Favor – Motion Carried

Ms. Green gave a brief summation of their findings.

A motion to open the meeting to the public was made by: Vice Chair Tabacchi and seconded by Mr. Alevrontas.

All in Favor – Motion Carried

A motion to close the meeting to the public was made by: Councilwoman Fox and seconded by Vice Chair Tabacchi.

All in Favor – Motion Carried

VOTE

Motion: Chairwoman Hayden made the following motion: The Demarest Planning Board agrees with the recommendation in the determination of need study that the designated area qualifies under or pursuant to Criteria H of the New Jersey Local Redevelopment and Housing Law, (NJSA 40A: 12A et. Seq) as a non-condemnation area in need of redevelopment and recommends that the governing body makes this designation.

Seconded by Vice Chair Tabacchi:

On roll call, the vote was recorded as follows

Mr. Alevrontas:	Yes	Mayor Bernstein:	Yes	Ms. Brenner:	Yes
Councilwoman Fox:	Yes	Ms. Mamdani:	Yes	Mrs. Paulison:	Yes
Vice Chair Tabacchi:	Yes	Mr. Yu:	Yes	Mrs. Hamilton:	(Alternate)
Chair Hayden:	Yes				

Motion Carried

NEW/OLD BUSINESS

2025 Affordable Housing updates / deadlines & Planning Board involvement

Ms. Green explained the changes which will be put into place by the next round of Affordable Housing;

- Increase in cap on Senior Units.
- Created affordable housing dispute resolution program.
- Change in legislation to allow any interested party to file an action seeking a review at the midpoint forcing site plan review on any site that has not received prior approval.

- Failure to meet certain deadlines results in automatic loss of immunity from builder's remedy lawsuit.

Ms. Green explained the prior process when a deadline was missed, which involved court hearings and responses from the town. She explained that this was a previous process, now there is no process, loss of immunity will be automatic.

- Housing Plan requires analysis of consistency with the state plan.
- Towns seeking vacant land adjustment are now required to identify sufficient parcels likely to redevelop. Ms. Green highlighted this as important to note for Demarest.
- Transitional housing is now defined as credit worthy.
- Rental bonus credit has been eliminated.
- Length of deed restrictions has been amended.
- Deadlines: June 18th and September 16th for trust fund monitoring have already been completed
- Deadline: September 16th unit monitoring information is already prepared, all good on the September deadlines for monitoring.
- Legislation has a new annual monitoring requirement.
- October 20 the DCA has been tasked with coming up with the regional municipal obligations, and there is some concern that the DCA may not deliver the numbers on time. There is no provision to move back the dates even if the DCA does not deliver their numbers.
- January 31 2025: every town must adopt a binding resolution which states their obligation. This is the first deadline which could cause a loss of immunity.
- After January 31 there is a 30-day window to challenge any town's obligation in their resolution.
- If no challenge, the number is established on March 1. Then between March 1 and June 30 the municipality must prepare a housing plan, write all the ordinances to effectuate that plan, and all the resolutions.

Mayor Bernstein asked about the timeline and what happens if the number is challenged do the deadlines freeze. Ms. Green stated that no, the legislation has nothing that would move the deadlines.

- June 30 is the second deadline that must be met to not lose immunity.
- All those documents get sent into the program who will review and then the next deadline is March 2026 when all the ordinances and resolutions must be adopted by. There is no deadline for the program to respond by.

Mayor Bernstein asked if there is any written requirement that shows what the plan should look like. Ms. Green responded that there are four documents to be reviewed in order to know what those documents look like, but the outside factor that is problematic is the unfinished state plan.

Chair Hayden asked if the new State Plan will be different from the current State Plan; Ms. Green responded it would be dramatically different.

Ms. Brenner asked if municipalities could file a stay through the courts on these dates; Ms. Green stated that the legislation does not cover this and there is no way to know at this point.

Chair Hayden asked if the impact from the increased density on surrounding areas is being taken into consideration. Ms. Green stated that this is not considered as part of this mandate.

Mr. Yu confirmed with Ms. Green that she would be supplying all the information to the Board.

Ms. Green stated Demarest is prepared, the Council has been proactive in allowing her to do the necessary work to be prepared.

Ms. Green stated she does not know what the obligation will be for Demarest, but she imagines Demarest should have a lower number due to its lack of vacant land.

Ms. Green and the Board discussed the implications of these changes and how they directly affect the Borough and the next immediate steps.

NEW / CONTINUING APPLICATIONS

None

PUBLIC COMMENT PERIOD – CORRESPONDENCE

A motion to open the meeting to the public was made by: Mayor Bernstein and seconded by Mr. Alevrontas.
All in Favor – Motion Passed

Noel Pugh, 64 Prospect Street, asked about the nature center and the compost site and if they could be required to be made into affordable housing; Councilwoman Fox and Ms. Green responded confirming these are open space and at this point can not be touched for this purpose.

Ray Cywinski, 256 County Road, asked a question about the age cap, and Ms. Green explained the rules for these kinds of developments.

Chair Hayden confirmed that there were no more members of the public seeking to make comment.

A motion to close the meeting to the public was made by: Councilmember Fox and seconded by Mayor Bernstein.
All in Favor – Motion Passed

ADJOURNMENT

With no further business presented, a motion to adjourn the meeting was made by: Councilwoman Fox and seconded by Chair Hayden.

All in Favor – Motion Passed

The meeting was adjourned at 9:59 PM.

Respectfully Submitted,
Michael Greco
Planning Board Secretary