

LEDC Redevelopment and “PILOT” Presentation

FEBRUARY 19, 2020



City of Linden
NEW JERSEY

Community. Diversity. Progress.

What is Redevelopment?

A legal process undertaken by a municipality or other governmental body to help enhance, revitalize, rehabilitate or rebuild “areas in need of redevelopment” as defined by the New Jersey Redevelopment Law (i.e. “blighted areas”).

N.J.S.A. 40A:12A-1 et seq.

Authority for Redevelopment

**New Jersey
Constitution**

**Art. VIII, Sec. 3, Para.
1**

- “The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use...”

**Local Redevelopment
and Housing Law, N.J.S.A.
40A:12A-1 et seq.**

Local Municipal Code

Why Redevelopment?

- Enhanced planning, zoning, contract and financial powers.
- Enhanced municipal control over design, development and implementation.
- Examples:
 - Density, height, parking
 - Land contribution/acquisition/condemnation
 - Long term tax exemption (PILOTs)
 - Grants or loans in aid of redevelopment projects
 - Redevelopment area financing

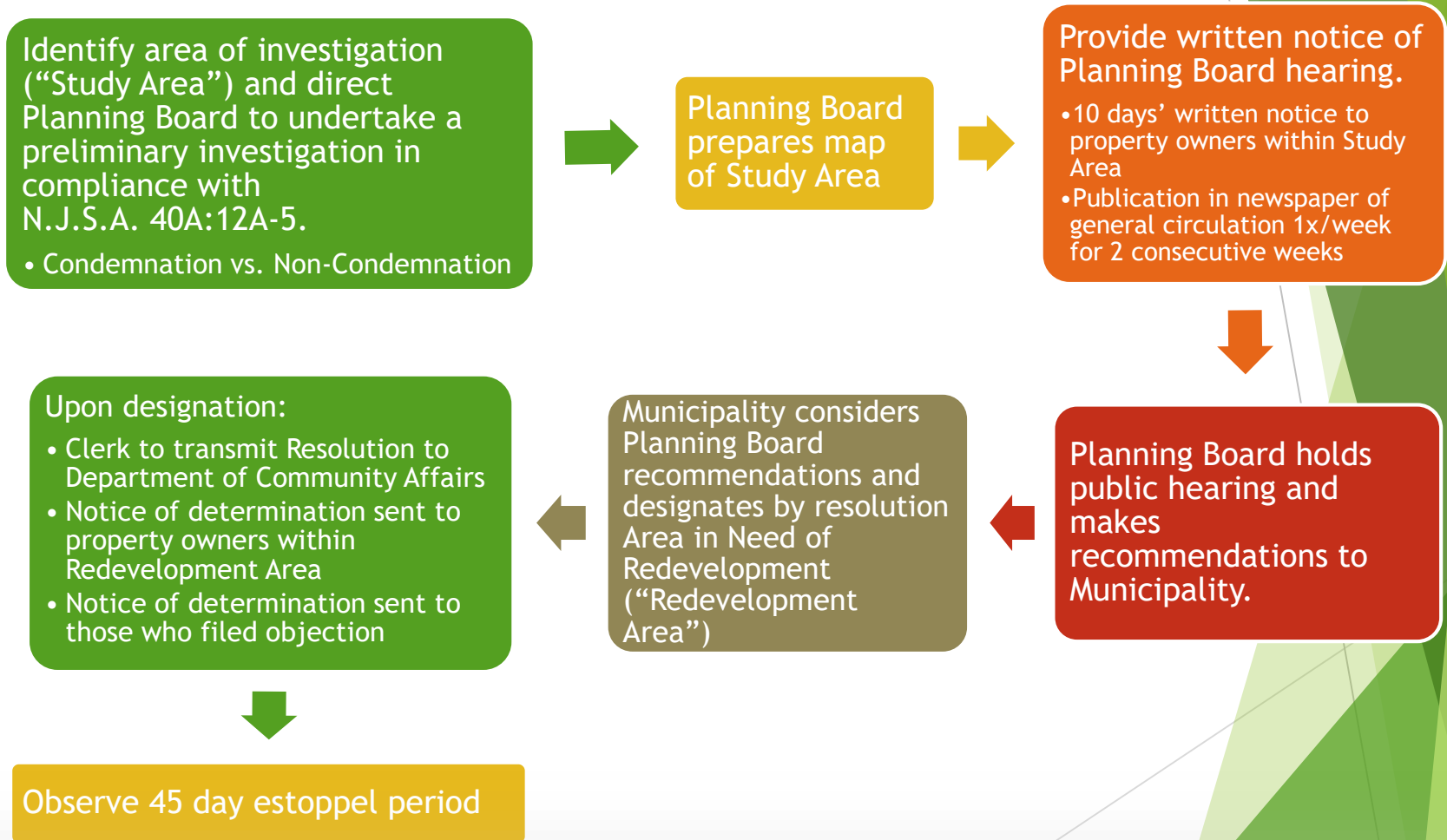
Redevelopment Stakeholders

Mayor and Council	Planning Board	Redevelopment Entity	Private Developer	Public
<ul style="list-style-type: none">• Identifies Redevelopment Area• Initiates investigation• Designates Redevelopment Area• Initiates preparation of Redevelopment Plan• Adopts Redevelopment Plan• Designates Redevelopment Entity	<ul style="list-style-type: none">• Conducts investigation and public hearings on designation of Redevelopment Area• Prepares and/or reviews Redevelopment Plan• Issues land use approvals	<ul style="list-style-type: none">• Implements Redevelopment Plan• Executes contracts with developers• Enforces Redevelopment Agreement	<ul style="list-style-type: none">• Obtains project approvals• Complies with Redevelopment Agreement• Constructs and completes Project	<ul style="list-style-type: none">• Attends and participates in public hearings

The Redevelopment Process



Designating a Redevelopment Area - N.J.S.A. 40A:12A-6



Redevelopment Area Criteria

(N.J.S.A. 40A:12A-5)

- a. Conditions of buildings (substandard, unsafe, unsanitary, dilapidated or obsolete, unwholesome living or working conditions);
- b. Discontinued use or abandonment of buildings used for commercial, retail, shopping malls or plazas, office parks, manufacturing or industrial purposes; significant vacancies of such buildings for at least two consecutive years;
- c. Publicly owned land that has remained unimproved and vacant for 10 years and unlikely to be developed solely through private sector;
- d. Areas with buildings or improvements which are detrimental to safety, health or welfare of town due to dilapidation, obsolescence, overcrowding, excessive land coverage, deleterious land use or obsolete layout;
- e. Lack of proper utilization of area caused by title issues, diverse ownership of real property resulting in not fully productive condition of land otherwise useful and valuable for serving the public health, safety and welfare of town;

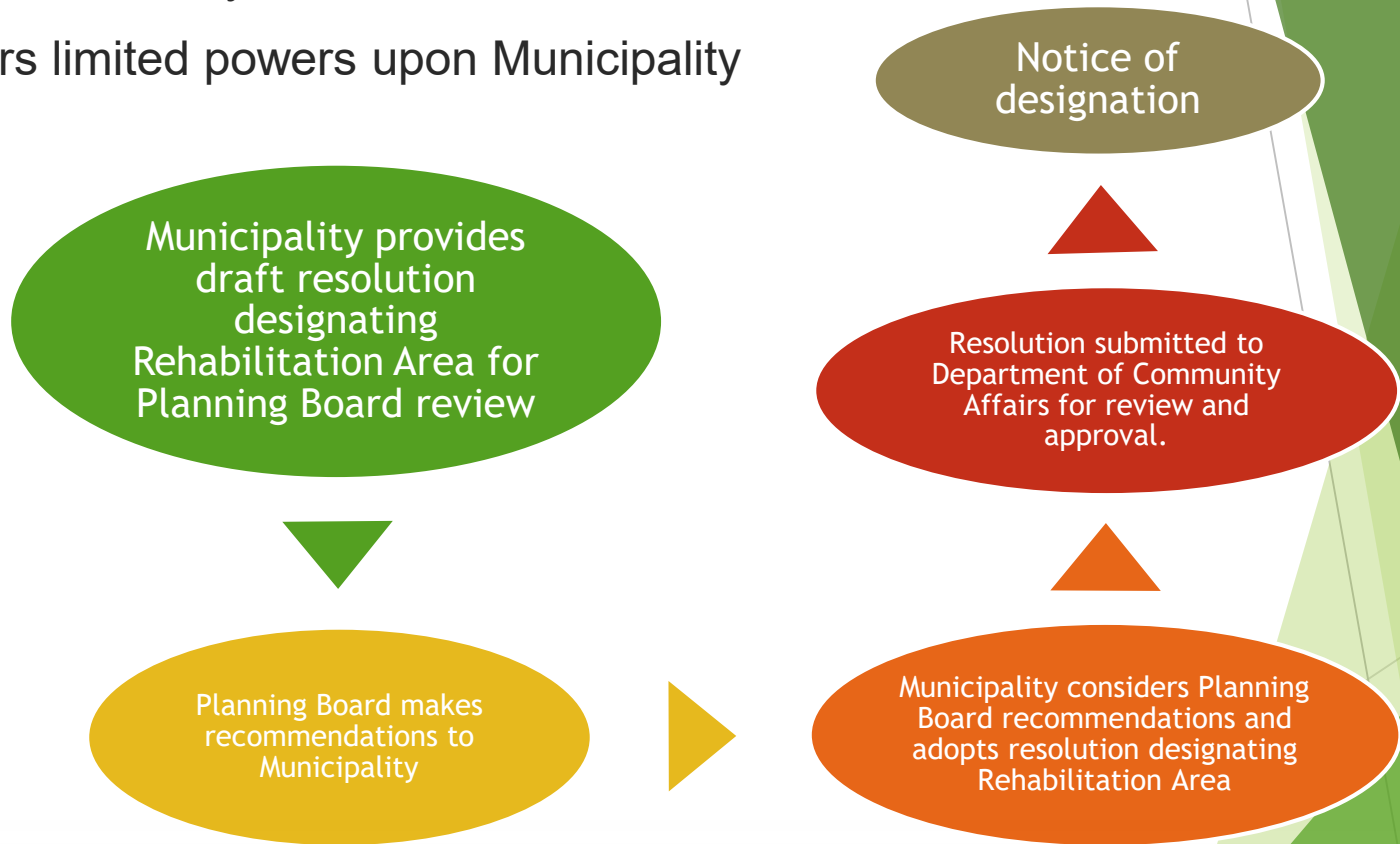
Redevelopment Area Criteria

(N.J.S.A. 40A:12A-5) (continued)

- f. Areas of more than 5 contiguous acres with buildings or improvements have been destroyed by fire, storm, cyclone, tornado, earthquake or other casualty to materially devalue the property;
- g. In Urban Enterprise Zones, can follow that Authority to adopt a redevelopment plan but cannot utilize any other redevelopment powers (other than granting tax exemptions within zone) unless follow Redevelopment Law;
- h. Designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation; and
- i. Areas with buildings used, or previously used, as a shopping mall, shopping plaza, or professional office park which have been vacant or partially vacant with less than 50% occupancy for a period of at least two years.

Designating a Rehabilitation Area - *N.J.S.A. 40A:12A-14*

- Different statutory criteria
- Confers limited powers upon Municipality



Rehabilitation Area Criteria

(N.J.S.A. 40A:12A-14)

1. Significant portion of structures are deteriorated or substandard.
2. More than half of housing stock in proposed area is at least 50 years old.
3. Pattern of vacancy, abandonment or underutilization of properties in area.
4. Persistent arrearage of property tax payments on properties.
5. Environmental contamination is discouraging improvements and investment in area.
6. Majority of water and sewer infrastructure is at least 50 years old and in need of repair or substantial maintenance.

Adoption of Redevelopment Plan

N.J.S.A. 40A:12A-7

- Redevelopment plan serves as overlay or superseding zoning for the redevelopment area or rehabilitation area.
- Municipality may draft plan and refer to Planning Board for review, or may direct Planning Board to draft plan.
- Planning Board provides draft plan or comments on municipality's draft plan to the municipality.
- Deviations from Planning Board's recommendations require affirmative vote of full authorized membership of governing body, together with reasoning.
- Plan is adopted by ordinance of the municipality.

Redevelopment Agreement

- Not required under statute but highly recommended.
- Parties negotiate and enter into redevelopment agreement; approved by the municipality by resolution.
- Redevelopment agreement establishes redeveloper obligations to ensure project completion, including meaningful construction deadlines, and municipal rights if redeveloper defaults.
- Must include provisions set forth in *N.J.S.A. 40A:12A-9*.

Project Implementation

- Entry into financing agreements, if appropriate.
- Procurement of governmental approvals and commencement of construction.
- Completion of construction and issuance of certificate of completion.

Housing

- Municipality that has housing element pursuant to *N.J.S.A. 40:55D-28* may require affordable housing set aside or contribution to affordable housing trust fund as condition for tax abatement
- Municipality granted additional powers for housing purposes (*N.J.S.A. 40A:12A-16*).
- Redevelopment can be used to further affordable housing goals

What are Annual Service Charges/ PILOTs?

- An Annual Service Charge (ASC) is the statutory term for a Payment-in-Lieu-of-Tax, or “PILOT”.
- An Annual Service Charge replaces the conventional tax on improvements, and in the case of residential projects, may replace the conventional tax on land.
- Annual Service Charges are a critical tool in the municipal toolkit to effectuate redevelopment of underutilized and unproductive properties.

What are Annual Service Charges/ PILOTs? (continued)

- “But For” the Annual Service Charge, the redevelopment project would not be built as designed by the developer and approved by the municipality.
- Annual Service Charges are permitted pursuant to the Long Term Tax Exemption Law.
- Available since 1992, Annual Service Charges are used State-wide to effectuate billions of dollars worth of redevelopment projects.

Who Is Eligible for a PILOT?

- An “Urban Renewal Entity” or, if the project includes “for sale” residential units, the condo owners of those units.
- An Urban Renewal Entity, or URE, is a limited dividend entity that has been designated by the municipality as the Redeveloper to build a redevelopment project.

Are There Restrictions on a PILOT?

- The amount of profit a URE can make on a redevelopment project is restricted by law.
- Any “excess profits” are paid to the municipality.
- URE cannot file tax appeal on property or project while paying Annual Service Charge.
- URE can opt out of the Annual Service Charge after one year, in certain circumstances.

Application for an ASC

- The URE submits a written application to the municipality for approval of the project.
- The Application contains:
 - Description of the proposed project;
 - Architectural / site plans;
 - Architect / engineer certification as to project cost;
 - Amount and source of funds to complete project;
 - Fiscal plan for the project; and
 - Form of Financial Agreement.

Application for an ASC (continued)

- Mayor reviews Application and makes recommendations to municipal governing body.
- Governing body by ordinance approves or disapproves the Application.

What is a Financial Agreement?

- A Financial Agreement is the agreement between the municipality and URE that memorializes the terms of an ASC granted to a URE's approved project.
- A Financial Agreement includes the following:
 - The amount of ASC to be paid annually;
 - Limitation on profits of the URE;
 - Exemption of improvements and, in certain residential projects, land from traditional taxation;
 - Requirement that URE submits annual audit to municipality; and
 - Establishment of an annual Administrative Fee.

Annual Service Charge Amount

- The ASC amount to be paid is determined as follows:
 - At least 10% of annual gross revenue or 2% of total project costs.
 - Increases in stages as a percentage of otherwise applicable taxes during the term of the Financial Agreement.
- 95% of the ASC goes to the municipality and 5% to the County.
- Maximum term of 30 years from completion or 35 years from execution of Financial Agreement, or 50 years if 2 or more sequential projects being undertaken.

Review of Project Financials

- Following a review of the proposed Redevelopment Project's construction, revenue and expense financials, the municipality's professionals will analyze whether "but for" an ASC, the proposed Redevelopment Project would not be economically feasible.
- If conventionally taxed, a PILOT is necessary when the Redevelopment Project would not be built without it.

Financial Agreement Terms for Proposed Redevelopment Project

- Term is the earlier of 30 years from Redevelopment Project completion or 35 years from execution of Financial Agreement (execution period can be extended to 50 years if a phased Project).
- ASC is the greater of:
 - 10% of Annual Gross Revenue (or whatever higher amount is negotiated, if supported by project revenue);
 - 20%/40%/60%/80% of conventional taxes.
 - The “Minimum Annual Service Charge”, which is the total taxes paid on property the last full year the property was conventionally taxed.

Financial Agreement Terms for Proposed Redevelopment Project (continued)

- Improvements are exempt from conventional taxes.
- ASC paid quarterly as conventional taxes are.
- Annual Municipal Administrative Fee can be included equal to no more than 2% of the ASC.
- Upon expiration of Financial Agreement, Redevelopment Project pays conventional taxes.

Why an ASC for a Project?

- Produces a financially feasible project that meets the Municipality's design standards and can support other needed improvements (*e.g.* roads, sewers, community facilities, etc.).
- Generates more tax revenue to the Municipality than the current assessment;
- Allows the Municipality to dictate the project's size, height, architectural elements and number of units.
- Helps the Municipality meet its affordable housing requirements on residential projects.



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