

RESOLUTION NO. 2012-371

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, DETERMINING THAT PROPERTY COMMONLY KNOWN AS GUNNING RIVER ROAD, AND SPECIFICALLY KNOWN AS BLOCK 174, LOTS 13, 36, 37, 47, 47.01 AND 48, IS A REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, *et seq.*

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the "Township") has been advised that the Barnegat Township Planning Board has adopted a Resolution, after a public hearing on May 22, 2012, finding that Block 174, Lots 13, 36, 37, 47, 47.01 and 48, in Barnegat Township, New Jersey, which properties front on Gunning River Road (hereinafter referred to as the "Gunning River Road Property") is in need of redevelopment; and

WHEREAS, the Township previously authorized a determination by the Planning Board as to whether the Gunning River Road Property is in need of redevelopment, pursuant to Resolution 2010-284 adopted on June 21, 2010; and

WHEREAS, the Township has reviewed Resolution No. P-2012-16 adopted by the Planning Board on May 22, 2012, and thereafter memorialized on June 26, 2012, with the accompanying documents, and believes that the Gunning River Road Property is a site in need of redevelopment; and

NOW, THEREFORE, BE IT RESOLVED, this 2nd day of July, 2012, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

1. Pursuant to the provisions of N.J.S.A. 40A:12A-1 *et. seq.*, the Township finds that the Gunning River Road Property is in need of redevelopment.

**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

2. The Township authorizes the Township Administrator and its Professional staff to undertake the preparation of a redevelopment plan for the Gunning River Road Property.

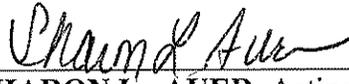
3. The Township authorizes and directs the Mayor, Township Administrator, and Township Clerk to execute any and all necessary documents in order to implement the intent of this Resolution.

4. A certified copy of this Resolution shall be forwarded by the Township Clerk to the following:

- (a) Honorable Alfonse Cirulli, Barnegat Township Mayor;
- (b) David Breeden, Township Administrator;
- (c) John Hess, P.E.;
- (d) Jerry J. Dasti, Esquire; and
- (e) The Barnegat Township Planning Board

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on July 2, 2012, a quorum being present and voting in the majority.



SHARON L. AUER, Acting Township Clerk

DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS

COUNSELLORS AT LAW

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Prepared by:

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Township of Barnegat

COUNTY OF OCEAN



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BARNEGAT, NEW JERSEY 08005-1298
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MUNICIPAL OFFICES: (609) 698-0080
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June 29, 2012

Hon. Alfonso Cirulli, Mayor and Township Committee
Township of Barnegat
900 West Bay Avenue
Barnegat, NJ 08005-1298



Attn: Sharon L. Auer, Acting Municipal Clerk

Re: **GUNNING RIVER ROAD AREA IN NEED OF REDEVELOPMENT STUDY**

Dear Mayor Cirulli and Township Committee:

Please be advised that the Planning Board, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., voted to formally recommend to the Township Committee that the property known as Gunning River Road to be declared an Area in Need of Redevelopment. Enclosed please find a copy of Resolution P-2012-16 adopted at the June 26, 2012 meeting, which memorialized the Board's finding.

Respectfully,

Stacey M. Daniels, Acting Board Secretary
Barnegat Township Planning Board

cc: David Breeden, Township Administrator
Michael J. McKenna, Esq., Planning Board Attorney
John J. Hess, PE, PP, CME Planning Board Engineer
Jerry J. Dasti, Esq., Municipal Attorney
Sharon L. Auer, Acting Municipal Clerk

**RESOLUTION
BARNEGAT TOWNSHIP PLANNING BOARD**

RESOLUTION P-2012-16

RESOLUTION MEMORIALIZING THE BARNEGAT TOWNSHIP PLANNING BOARD'S DECISION TO RECOMMEND TO THE TOWNSHIP COMMITTEE THAT THE PROPERTY COMMONLY KNOWN AS GUNNING RIVER ROAD, AND SPECIFICALLY KNOWN AS BLOCK 174, LOTS 13, 36, 37, 47, 47.01, AND 48, BE DETERMINED TO BE A REDEVELOPMENT AREA PURSUANT TO THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, et seq.

WHEREAS, on June 21, 2010, 2010, the Township Committee of the Township of Barnegat adopted Resolution 2010-284; and

WHEREAS, by the adoption of Resolution 2010-284, the Township Committee directed the Barnegat Township Planning Board to undertake a Preliminary Investigation of certain lands which front on Gunning River, Road, including property specifically known and designated as Block 174, Lots 13, 36, 37, 47, 47.01, and 48, for possible inclusion in a Redevelopment Plan, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and

WHEREAS, on July 27, 2010, the Barnegat Township Planning Board adopted Resolution P-2010-29, authorizing Birdsall Services Group to perform the required Preliminary Investigation to determine whether the property in question meets the statutory requirements set forth in N.J.S.A. 40A:12A-5 for designation as an area "in need of redevelopment"; and

WHEREAS, the Birdsall Services Group performed the investigation authorized by N.J.S.A. 40A:12A-4b(1) and N.J.S.A. 40A:12A-6, and thereafter presented a written report entitled, "Gunning River Road, Area in Need of Redevelopment Investigation, Barnegat Township, Ocean County, New Jersey," dated April 2012; and

WHEREAS, the Township has satisfied the notice requirements contained in the Local Redevelopment and Housing Law, specifically, N.J.S.A. 40A:12A-6b.

WHEREAS, on May 22, 2012, the Planning Board conducted a public hearing, in accordance with N.J.S.A. 40A:12A-6; and

WHEREAS, at the public hearing held on May 22, 2012, the Planning Board heard the testimony of Peter Van den Kooy, P.P., AICP, with Birdsall Services Group; and

WHEREAS, at the public hearing held on May 22, 2012, the public was afforded a full and fair opportunity to be heard. No written objections were received by the Planning Board. During the public hearing, the following members of the public addressed the Board with questions and/or comments:

1. Denise Pilovsky, 26 Aphrodite Drive, Barnegat, N.J.
2. Kelly Irizarri, 24 Hannah Lee Road, Barnegat, N.J.
3. Frank Passenti, 41 Hannah Lee Road, Barnegat, N.J.
4. Joseph Super, 433 Bergen Avenue, Kearney, N.J.

NOW THEREFORE, the Planning Board makes the following findings of fact and conclusions of law.

A. During the public hearing held on May 22, 2012, the Planning Board heard the sworn testimony of Peter Van den Kooy, P.P., AICP, whose professional qualifications were accepted and who provided testimony regarding the following matters:

1. General background information regarding the purpose and methods of the investigation.
2. A description and summary of the property in question.
3. Identification of the zoning district.
4. Description of the existing uses of the property.

5. Testimony regarding the exhibits, the contents of which are hereby incorporated into this Resolution by reference:

A-1 Memorandum prepared by Peter Van den Kooy, P.P., AICP, Birdsall Services Group, dated May 22, 2012, entitled, "Gunning River Road, Area in Need of Redevelopment Study.

A-2 Barnegat Township Zoning Map, prepared by Birdsall Services Group.

A-3 Report prepared by Birdsall Services Group entitled, "Gunning River Road, Area in Need of Redevelopment Investigation, Barnegat Township, Ocean County, New Jersey," April 2012, including Appendix A-D, and Map 1 (Site Location Map); Map 2 (Zoning Map); and Map 3 (Land Use Map).

6. Testimony regarding the findings and conclusions they reached following the investigation, specifically, their findings that the following four statutory criteria were met: N.J.S.A. 40A:12A-5 c, d, and h., as set forth more fully in Paragraph B, below.

7. Testimony indicating that in Goal VII, Objective B, of the April 26, 2011 Master Plan, the Gunning River Road Area is specifically identified as an area potentially in need of redevelopment.

B. Mr. Van den Kooy expressed his professional opinion that as a result of the Preliminary Investigation, the following statutorily enumerated conditions have been shown to exist at the site:

(1) **Criteria "c"** [N.J.S.A. 40A:12A-5c] 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.

Criteria Assessment. The Tanner's Pit property, known as Block 174, Lots 13, 36, 37, 47, 47.01 and 48, previously contained a landfill and a solid waste recycling facility. The site visit indicated that piles of tires, recycled materials and construction materials typically associated within a Class B Recycling facility are strewn throughout the site. Although the site is not listed on the NJDEP's "Known Contaminated Site" inventory, it is listed as a NJDEP New Jersey Environmental Management System (NJEMS) site. NJEMS Sites are points representing sites regulated by NJDEP under one or more regulatory permitting or enforcement programs, or sites that are otherwise of some interest to a NJDEP program. As demonstrated within Section 2.8 of the Study, historically there were numerous violations associated with the Tanner's Pit property for operating a Solid Waste Facility (SWF) without a permit and storing demolition waste and recycling areas without the necessary approvals from NJDEP. Penalties were assessed for violating the Sanitary Landfill Facility Closure and Contingency Fund Act (N.J.S.A. 13:1E-100 et. seq.), the Solid Waste Management Act (N.J.S.A. 13:1-E-1 et. seq.) and related NJDEP regulations based upon inspections conducted from July 1, 1992 through July 6, 1996. Additionally penalties were assessed, in a time span from October 1994 through July 1998, for failure to comply with the groundwater sampling and reporting requirements contained within the New Jersey Pollution Discharge Elimination System (NJPDES) permit issued to allow the discharge of leachate to groundwater. Although these penalties were assessed in 2000 and 2001, the NJDEP OPRA records indicated that the facility continued to be noncompliant with the numerous provisions of the Solid Waste Regulations and violations were issued subsequently in December 2002, September 2003 and March 2004.

The presence of environmental violations and the proximate landfill use along with lack of proper street access could have been a deterrent for potential development of this tract. This is especially noticeable as areas to the northeast, east and south of this portion of the Study Area have been developed to contain residential uses. Therefore this portion of the Gunning River Road Study Area exhibits the statutory condition under Criteria "C" because of the unimproved condition of being without a building for a period of ten years or more.

(2) **Criteria "d"** [N.J.S.A. 40A:12A-5d] 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.

Criteria Assessment. Many hazards exist on-site, including large piles of debris and potentially contaminated soils.

The previous landfill and recycling facility land uses were issued numerous violations and fines violating environmental regulations.

A review of available police data indicate that illegal activities such as illegal dumping, trespassing, and vandalism have occurred at the site on many occasions.

These factors combine to create a significant detriment to the safety, health and welfare of the community.

(3) **Criteria "h"** [N.J.S.A. 40A:12A-5h] The designation of the delineated area is consistent with smart growth planning principles adopted pursuant to law or regulation. In evaluating the above-referenced statutory criteria, it should be recognized that a redevelopment area determination cannot be made until all of the properties within a study area are evaluated against all of the conditions cited above, such that an overall conclusion can be made with respect to the area.

Criteria Assessment. The Study Area is contained entirely within Planning Area 2, Suburban Planning Area which the State Development and Redevelopment Plan identifies as an area that will support future development.

The Study Area is contained within the Barnegat Town Center area, which promotes compact mixed-use development.

The declaration of the Study Area as a redevelopment area would facilitate any required environmental remediation and subsequent redevelopment of the site in accordance with the Coastal Area Facility Review Act, Coastal Zone Management Rules and the principles of Smart Growth.

C. At the conclusion of the public hearing, the Planning Board determined, based on a finding that the testimony and evidence presented was credible, that the statutory criteria had been met as to N.J.S.A. 40A:12A-5 b, c, d, and h.

NOW, THEREFORE, BE IT RESOLVED, by the Barnegat Township Planning Board, that pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and, specifically, pursuant to N.J.S.A. 40A:12A-4b(2) and N.J.S.A. 40A:12A-6b(5), the Planning Board hereby recommends that the property commonly known as Gunning River Road, and

specifically known and designated as Block 174, Lots 13, 36, 37, 47, 47.01, and 48, be determined by the Township Committee to be a Redevelopment Area.

BE IT FURTHER RESOLVED that the Planning Board Secretary shall forward a copy of this Resolution to the Township Clerk.



RALPH DAWES, CHAIRMAN
Barnegat Township Planning Board



STACEY M. DANIELS, ACTING SECRETARY
Barnegat Township Planning Board

CERTIFICATION

I certify that the foregoing application was heard by the Barnegat Township Planning Board on May 22, 2012, and that at the conclusion of the public hearing, the Barnegat Township Planning Board voted to recommend to the Township Committee that the properties identified in this Resolution be determined by the Township Committee to be a Redevelopment Area, and that the Board's decision was thereafter memorialized in this Resolution by a vote of the Planning Board at its regular meeting held on June 26, 2012, a quorum being present and voting in the majority.


STACEY M. DANIELS, ACTING SECRETARY
Barnegat Township Planning Board