

- e. The Planning Board must also prepare and recommend to the Governing Body a Redevelopment Plan establishing the goals , objectives, and specific actions to be taken with regard to the "Area in Need of Redevelopment. "
- f. The Governing Body may then act on the Plan by passing an ordinance adopting the Plan as an amendment to Township's Zoning Ordinance.

Current Progress

The Monroe Township Town Council adopted a resolution on November 22, 2005 (Resolution No. R:361-2005) instructing the Planning Board to initiate an investigation in accordance with Part "a" above. This report and its accompanying maps are meant to satisfy parts "b", "c", and "e." As has been done in other redevelopment cases, the Planning Board is combining these steps, providing the Redevelopment Plan simultaneously with the Preliminary Investigation report and its accompanying maps, to the Governing Body in order to expedite the approval process.

This analysis is being conducted to determine if the properties identified below, referred to as the "Land Fill Site" west of Sicklerville Road and the "Mink Lane Site," east of Sicklerville Road, warrant redevelopment based upon the statutory criteria of the LRHL. This report will conclude by suggesting which parcels should be included in any redevelopment designation in order to produce an effective, comprehensive redevelopment plan for the area.

description of project area

Analysis is being conducted on the following parcels in accordance with the Town Council's resolution:

- Block 901, Lots 2-7 inclusive;
- Block 2101, Lots 5 and 5.01;
- Block 2201, Lots 1-8 inclusive, and Lots 10 & 11.

Appendix A contains an aerial photo of the study area as well as a map illustrating the location of these parcels along Sicklerville Road along with a chart displaying their acreages, zoning and ownership. The parcels on Block 901 are located on the westerly side of Sicklerville Road on and around a former municipal landfill site. All other parcels are located on the easterly side of Sicklerville Road on or near a local street called Mink Lane. For convenience of reference these two groups are separated into the "Land Fill Site" and the "Mink Lane Site."

Most of the parcels in the study area front on Sicklerville Road. The two rear parcels on the Mink Lane Site (Block 2201 Lots 10 and 11) front only on Mink Lane. Sicklerville Road is a County arterial road that connects Williamstown (the center of Monroe Township) with Winslow Township and the nearby entrance to the Atlantic City Expressway. Mink Lane is a local street that cuts through the Mink Lane Site and connects to other developments south of the study area.

As can be seen from the map in Appendix A, wetlands encroach onto a significant portion of the site.

Block 2201, Lots 10 and 11 were previously zoned R-2, Suburban Residential Option District. All other parcels in the study area were previously zoned C, Commercial District. For reference, the permitted uses of each zone are listed in Appendix B. The entire study area is within a (PA2) Suburban State Planning Area.

The total study area consists of approximately 105.9 acres (not including existing streets) and is roughly 81% undeveloped. The vacant parcels have remained unimproved for over 10 years as evidenced from the 1995 and 2002 aerial photographs in Appendix A.

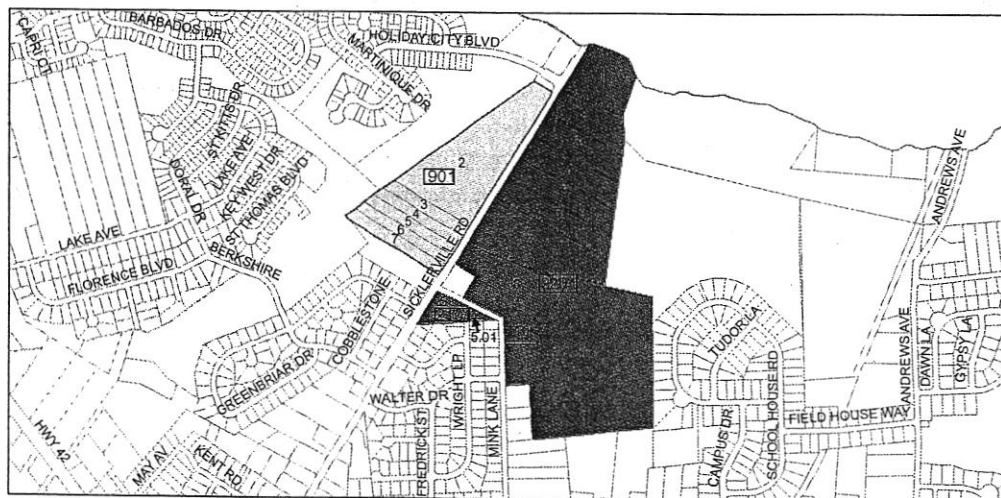
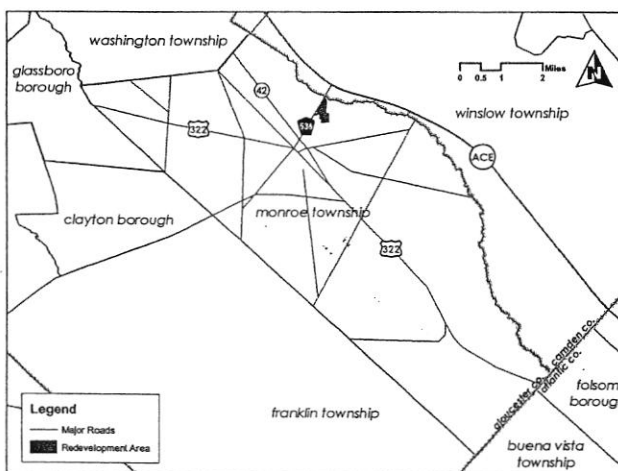
As illustrated in the site photos of Appendix C, both the Land Fill Site and the Mink Lane Site are predominantly open fields with scattered wooded areas. Some development does currently exist, however. On the east side of Sicklerville Road, Block 2201 Lot 2 & 3 have a trucking facility and Lot 4 has a self storage business. Lot 10 contains a "tot lot" playground and half basketball court. Block 2101 Lot 5 contains an abandoned trailer dwelling. Next to it Block 2101 Lot 5.01 contains an existing single family detached dwelling. Block 2201 Lot 5 has an operational restaurant and an abandoned miniature golf course.

On the Landfill Site, Block 901 Lot 3 contains a recently abandoned commercial trailer. Lot 4 contains a residential garage. Lot 5 contains an existing single family dwelling. Lot 7 contains a commercial business.

Immediately surrounding the study area to the south and east, and behind a forested buffer to the west, are residential developments consisting mostly of single family detached houses.

The landfill site was closed in 1982, and it remains on the NJ DEP's Known Contaminated Sites (KCS) list. Lot 4 is 2 lots away from the landfill site and is also on the KCS list.

The Redevelopment Area



Source: NJDEP
wetlands layers.
File No.
GCIA05002

SUPERIOR COURT OF NEW JERSEY
COUNTIES OF
CUMBERLAND, GLOUCESTER AND SALEM



GEORGIA M. CURIO
ASSIGNMENT JUDGE

CUMBERLAND COUNTY COURTHOUSE
BROAD & FAYETTE STREETS
BRIDGETON, NEW JERSEY 08302
TEL: (856) 453-4377
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October 22, 2010

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RE: Four Mile Branch Associates, LLC Mink Lane Associates, LLC;
Sicklerville Road Associates, LLC and Sicklerville Road Associates II,
LLC v. Township of Monroe and the Township of Monroe Planning
Board
Docket No. GLO-L-991-06

Dear Counsel:

This matter is before the court for dispositive ruling on the record below
concerning the defendant Township's redevelopment designation, which
includes plaintiffs' properties.

David R. Oberlander, Esq.
Leonard T. Schwartz, Esq.
Charles A. Fiore, Esq.
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October 22, 2010

Counsel have waived further oral argument, relying upon their written briefs and oral argument presented in connection with plaintiffs' earlier Motion for Summary Judgment which was denied by Order of June 11, 2010.

The salient facts are as follows:

Plaintiff entities own Lots 5, 6, 7, 8 and 11 of Block 2201 on the Township of Monroe Tax Map. The properties are contiguous and comprise about 60 acres. Each is affected, in varying degree, by wetlands issues.

Plaintiffs had attempted for a number of years to develop the subject lots, all to no avail. Prior litigation ensued between the parties.

On March 23, 2006, a public hearing was held by the defendant planning board to consider the Township's redevelopment plan.

The redevelopment plan makes the following findings concerning the subject properties:

The "c" criteria (Public and Vacant Land) apply to the following properties:

Block 2201, Lots 6, 7, 8, 10 and 11 and Block 901, Lot 6 have been vacant for over 10 years and due to significant wetland constraints are unlikely to be developed by their current owners.

The "d" criteria (Obsolete Layout and Design) apply to the following properties:

Block 2201, Lot 5 contains a restaurant and an abandoned miniature golf course fronting Sicklerville Road. The rear of the lot contains a wireless telecommunication tower. The abandoned golf course contributes to feeling of blight in an area designated for commercial development by the Township Master Plan.

The "e" criteria (Underutilization) apply to the following properties:

Block 2201, Lots 5, 6, 7, 8, 10 and 11 have exhibited a lack of proper utilization as envisioned by the Township Master Plan. Of these lots, only lots 5 and 10 have been developed; lot 5 with a restaurant, abandoned miniature golf course, and wireless telecommunications tower, and Lot 10 with a tot lot and half basketball court. As illustrated in the map in Appendix A, all of these lots are affected by wetlands restrictions. Despite the significant amount of land area available here, the wetlands lie in a configuration that leaves much of the site suitable only for open/recreation space. As a result, repeated attempts by developers over the last decade to maximize use of the land have failed due to their inability to accommodate the constrained nature of parts of this site. The Master Plan envisions development that can capitalize on this area's position along a major arterial to produce ratables. This vision can only be achieved by the consolidation of ownership of these lots and additional nearby land to form a larger usable tract.

The "h" criteria (SmartGrowth Consistency) apply to the following properties:

All parcels in the study area. The vacancy and underutilization of most of the site, as well as the isolated nature of the development that does exist, are inconsistent with the smart growth planning principles incorporated into the adopted 2004 Monroe Township Master Plan. . . .

On May 15, 2006, the Township Council held a public hearing to consider the Planning Board's Resolution No. PO-25-06 recommending designation of redevelopment area. Ordinance No. O:14-2006 was adopted establishing the redevelopment zone.

By way of this action in lieu of prerogative writs, plaintiffs challenge the Resolution and the Ordinance referenced above and the resultant redevelopment designation.

David R. Oberlander, Esq.
Leonard T. Schwartz, Esq.
Charles A. Fiore, Esq.
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Redevelopment determinations in New Jersey are governed by the Local Redevelopment Housing Law, N.J.S.A. 40A:12A-1 to 49. The Statute specifies conditions of a property which support a redevelopment determination. N.J.S.A. 40A:12.1-5.

The conditions cited for these properties are: N.J.S.A. 40A:12.1-5(c) "Unimproved Vacant Land", (d) areas with obsolete layout which are detrimental to safety, health, morals or welfare of the community, (e) total lack of proper utilization and (h) the designation is consistent with smart growth planning principles.

The determination of whether the redevelopment designation is appropriate under the Statute must be made against the backdrop of Gallenthin v. Borough of Paulsboro, 191 N.J. 344 (2007).

While a municipal development designation, as other municipal action, is presumptively valid, such designation must be supported by substantial evidence.

A review of the transcript of the March 23, 2006 public hearing of the Monroe Township Planning Board reveals testimony and support of the designation which is essentially a repetition of the preliminary investigation portion of the redevelopment plan prepared by J. Timothy Kernan, Planner.

The report and testimony of Mr. Kernan is conclusory in nature. These conclusions, in turn, are adopted verbatim as the findings and recommendations of the Planning Board. In the absence of further elucidation and support, these conclusions are at odds with the requirements of Gallenthin. The designation of blight cannot be supported solely by the notion that the property is underutilized.

The record in this matter is extraordinarily meager. Unsupported by substantial evidence, then, this action of the municipality is found to be arbitrary, capricious and unreasonable. The redevelopment designation, therefore, is invalidated.

David R. Oberlander, Esq.
Leonard T. Schwartz, Esq.
Charles A. Fiore, Esq.
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An Order reflecting this ruling is enclosed.

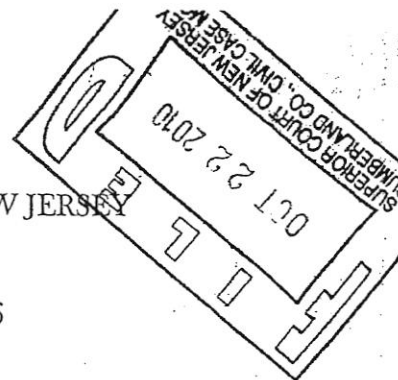
Very truly yours,

A handwritten signature in black ink, appearing to read "G. Curio", is written above the typed name.

GEORGIA M/. CURIO, AJSC
GMC/lr
Enclosure

PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
GLOUCESTER COUNTY
DOCKET NO. GLO-L-991-06



Plaintiffs,

FOUR MILE BRANCH ASSOCIATES, LLC;
MINK LANE ASSOCIATES, LLC;
SICKLERVILLE ROAD ASSOCIATES, LLC and
SICKLERVILLE ROAD ASSOCIATES, II, LLC,

Civil Action

V.

ORDER

Defendants,

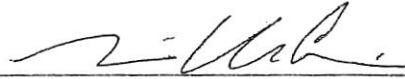
TOWNSHIP OF MONROE and the
TOWNSHIP OF MONROE PLANNING
BOARD.

THIS MATTER having been opened to the Court by David R. Oberlander, Esq. of Flaster/Greenberg, P.C., attorneys for Plaintiffs, in the presence of Charles A. Fiore, Esq., attorney for the defendant, Township of Monroe and Leonard T. Schwartz, Esq. of Slotnick & Schwartz, attorneys for the defendant, Township of Monroe Planning Board; and the court having reviewed the pleadings and certifications on file and considered the argument of counsel, and having reviewed the transcripts of the Planning Board of March 23, 2006, and for good cause shown;

IT IS, therefore, upon this 22nd day of October 2010, ORDERED AS
FOLLOWS:

Resolution No. PB-25-06 of the defendant, Planning Board, and Ordinance No. 14-2006 of the defendant, Township of Monroe, are hereby invalidated; and

The Township's designation of Block 2201, Lots 5, 6, 7, 8 and 11 as an area in redevelopment, is hereby invalidated.

A handwritten signature in black ink, appearing to read "G. Curio", written over a horizontal line.

GEORGIA M. CURIO, AJSC