

# COOPERATION IN REDEVELOPMENT

*Proper planning and cooperation can ensure that your redevelopment is successful.*

Vincent Mangini



Mangini

In recent years, the word redevelopment has become synonymous with controversy. This is attributable in great part to the public's perception of the overuse and abuse of the eminent domain power, often at the behest of developers perceived as profiteers. Certainly, there have been abuses in this regard. However, redevelopment can be a very useful tool in revitalizing old, economically depressed or underutilized neighborhoods if its implementation is preceded by thoughtful planning that permits active involvement by all those with a direct stake in the outcome.

Redevelopment planning is a multifaceted task, approached in any number of ways depending upon the circumstances. First, before conceptualizing a redevelopment project, a builder should find a geographic area that elected municipal officials are interested in revitalizing. As an initial step, a developer should research government records to see whether any neighborhoods within a given municipality have already been designated as redevelopment areas.

Certainly, municipal officials may be more receptive to a proposed rede-

velopment project for an existing redevelopment zone than one that will require the municipality to designate a brand new area, which, in turn, might necessitate the expenditure of public resources. In any event, the builder should be satisfied that the location it is interested in pursuing, whether it be within an established redevelopment zone or a non-designated area that needs to be studied and approved, actually satisfies the statutory criteria for redevelopment.

Under the Local Redevelopment and Housing Law (LRHL), a municipality shall not declare an area to be in need of redevelopment unless the municipal governing body concludes after investigation, notice to the public and the conduct of a public hearing, that the properties within the delineated area satisfy any one of the statutory criteria or are otherwise determined to be necessary for the effective redevelopment of the said area. Due to these legal requirements, it would be a mistake for a builder to spend time and money formulating a redevelopment proposal without first conducting some due diligence into the validity of an existing or proposed redevelopment area, which could include, for example, hiring a professional planner to evaluate the eligibility of properties within the subject area for redevelopment or, if the builder is considering an existing redevelopment zone, hiring an attorney to examine whether there is substantial, credible evidence in the record to support the determination and whether the municipality complied with all procedures required by the LRHL.

Indeed, the aforesaid due diligence inquiry is crucial if a builder's pro-

posal contemplates the acquisition of private property by eminent domain. Although the issue has not been determined definitively by the courts, there are several unpublished decisions that have permitted a property owner to challenge a condemning authority's power to acquire property under a redevelopment plan by eminent domain as an affirmative defense. Therefore, irrespective of the enthusiasm that municipal officials might have about a particular redevelopment proposal, it would be unwise for a builder to pursue the matter further unless it were clear that the existing or proposed delineation, as applicable, would likely withstand a legal challenge.

Once a builder has found a geographic area that is acceptable to municipal officials and qualifies for redevelopment, the next step is to prepare a concept plan for the redevelopment project. How this is accomplished will depend to some degree upon whether the property that the builder seeks to redevelop lies within an existing redevelopment area and, if it does, whether a redevelopment plan for such area is in place.

If the builder is developing a concept plan for property that has not yet been delineated or a concept plan for property that has been delineated, but is not yet governed by a redevelopment plan, the builder initially will have to work closely with municipal officials in developing an overall vision for the proposed or existing redevelopment area, which will serve as the basis for the redevelopment plan. Only after this task has been accomplished should the builder do any significant work on formulating a proposal for the redevel-

ment of all or any portion of the proposed or existing redevelopment area. The easier, less time-consuming road is to focus effort on redeveloping an existing redevelopment zone for which the governing body has already prepared and approved a redevelopment plan. In this instance, a builder may proceed directly to the preparation of a concept, which should as closely as possible conform to the design, dimensional, density and use requirements contained in the redevelopment plan.

Of course, the developer will still have to meet with municipal officials to refine the concept into a proposal that may be presented to the planning board for approval. In the event that an existing redevelopment plan is outdated or otherwise inadequate, the builder must seek to have the municipal governing

body amend the redevelopment plan to accommodate a particular proposal.

In addition to working with municipal officials to develop concepts for a redevelopment project, the builder would be well advised to contact and meet with all owners of property and tenants, both commercial and residential, who may be impacted by the proposal. Certainly, there is some risk in reaching out to residents and businesses within a project area. However, by informing and being open to comments and suggestions from the public, a builder may actually enlist allies for, or at least neutralize potential opposition to, a redevelopment project. Moreover, interaction with persons who have lived and/or worked within the project area may result in the acquisition of valuable insight about the

project area and surrounding neighborhoods, which could be used by the builder to refine the proposed redevelopment project in ways that address the concerns of all interested parties.

The process of achieving redevelopment by consensus-building is a formidable task, which entails many nuances and potential pitfalls that are beyond the scope of this article. However, builders should not shy away from this challenge. On the contrary, it is critical for builders to become adept at working with municipal officials and the communities they are seeking to reshape if they are to compete in the redevelopment arena.

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Vincent Mangini is a shareholder in Stark & Stark's Real Estate, Zoning and Land Use Group

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609.219.7437