

CITY OF HOBOKEN
Department of Community Development

DAWN ZIMMER
Mayor



BRANDY FORBES
Director

MEMORANDUM

DATE: June 15, 2010

TO: Hoboken City Council

CC: Dawn Zimmer, Mayor
Arch Liston, Business Administrator
Michael Kates, Corporation Counsel

FROM: Brandy Forbes, Community Development Director *BF*

RE: Project Status Updates for Department of Community Development

The following is a summary of the major active projects in the Community Development Department.

ARC Tunnel

The ARC Trans-Hudson Passenger Rail Tunnel is proposed to go 150' below the ground surface at the north end of Hoboken. The tunnel is to be bored beneath the 1600 Park and Hoboken Cove properties, as well as other City and privately owned property. In order to gain permission from the NJ Department of Environmental Protection for the easement below the park land, the ARC Tunnel project must proceed through the Green Acres diversion process. Even though the land itself will not be disturbed at the surface, the ARC Tunnel must obtain the subterranean easement.

To begin this diversion process, NJ Transit will be holding a public scoping hearing on the ARC Tunnel project on June 30 from 6 to 8 p.m. at the Multiservice Center in Hoboken.

1600 Park and Hoboken Cove

As you may recall, last fall the City was at risk of losing grant funding for the remediation of 1600 Park and Hoboken Cove sites. To keep the grant, the City had to demonstrate that it was actively working on the remediation and subsequent park design and development.

To do so, in September, Birdsall Engineering was awarded a contract for the engineering work associated with the remediation of 1600 Park. Birdsall worked quickly to get this project out to bid. The bids came in and the remediation work was awarded to the low bidder, JAC Excavating, at the November 4, 2009 City Council meeting. This spring, after obtaining the necessary permits to perform the work, the contractor has started the remediation work. That work is expected to be completed later this summer.

On the Hoboken Cove project, Birdsall Engineering was awarded a contract for the engineering work at the November 16, 2009 City Council meeting. This remediation project does include more extensive remediation than the 1600 Park project and entails coordination with the County's Weehawken Cove walkway construction. Even so, Birdsall has worked diligently to get this project out to bid, with the bid opening scheduled for this week. If all goes well with the bidding process, it is expected that a resolution for an award of contract for the remediation will be on the agenda for the July City Council meeting.

Moving forward, the next step is to design the park space for these two sites. This summer, the City will be putting out a request for proposals to hire a consultant to handle the design of both parks. The design work will be done simultaneously to ensure that the park spaces complement each other rather than duplicate amenities. It is expected to have this firm on board by September, so that in the fall the City can hold public meetings for input on the design and programming of the entire area.

The design process is expected to be a 4-6 month process, including the preparation of bid documents for the construction work. Ideally, construction will begin in early spring 2011 with completion next summer. Do bear in mind that any grass fields that may be constructed as a part of this may need adequate time for the seed/sod to take and may not be immediately usable for play.

Maxwell Place Block E – Waterfront Park

To remind all of Council of this process, last November Toll Brothers requested that the City accept the deed for Block E, the waterfront park. However, part of accepting the deed is the activation of the Operation and Maintenance Agreement for the facility.

Unfortunately, there are significant issues with the Operations and Maintenance (O&M) Agreement regarding the control of the funds, as was discovered by the State Fiscal Monitor and Special Counsel. Specifically, the City cannot encumber funds if there is not a designated appropriation budgeted for such services. The City cannot expend the funds and then request reimbursement, but rather the funds have to be available in the City's account in advance. Finally, we were advised by our Special Counsel that the City could not legally relinquish control of the operation and maintenance of the public park and facilities to a private non-profit organization as is now provided in the current O&M Agreement. After several discussions, Toll Brothers and the Maxwell Place Condo Association, both parties to the O&M Agreement, recognize the City's need to revise the agreement in order to comply with the budgeting and other laws of the State of New Jersey.

The City, the condo association, and Toll Brothers representatives have demonstrated an interest to find a resolution. We are currently discussing revisions to the O&M Agreement that will be acceptable to all parties. Once a final agreement is reached, the revised O&M Agreement will come before the City Council and the deed can be transferred.

Although we are actively working toward resolution, we do need to address the insurance of the property in the interim. This park is currently under ownership by Toll Brothers. In order to continue to keep it open to public use (as the City prefers), it is important to coordinate the insurance coverage in the mean time. Of course, once the O&M Agreement is revised and the deed is transferred, the insurance for the public use of the park will continue to be the City's responsibility.

We are coordinating with Toll Brother to prepare an interim use and license agreement. The intent is to have that on the agenda at the July City Council meeting.

Maxwell Place Block A – South Lawn

In October/November 2009 some of the members of the City Council Quality of Life and Parks Subcommittee and Corporation Counsel at the time (Steve Kleinman) met with the Maxwell Place

Condo Association to draft an easement for use of the "South Lawn" area, technically referred to as Block A

The draft easement agreement for Block A had been revised to refer to the O&M Agreement for Block E (note above update), as well as to address other issues. Corporation Counsel Kleinman did notify the Condo Association in November that he would need to review the O&M Agreement to better understand the implications of referencing the O&M Agreement in the draft easement. At the same time Toll Brothers was seeking to turn over the deed for Block E. It was at that point that the City discovered deficiencies with the O&M Agreement that needed to be resolved. To expedite the process, the Administration began discussions regarding the O&M Agreement with Toll Brothers.

Prior to the easement agreement reaching the City Council and while the City was discussing the O&M Agreement with Toll Brothers, the Maxwell Place Condo Association instigated a lawsuit against the City in December 2009. At that time, per legal advice of Special Legal Counsel, it was necessary for the City to address this matter in the court proceedings.

The Court denied the request for injunction against the public use of this parcel and the judge referred the case to mediation. Initially the mediation was scheduled for March 23rd. However, the mediator had to cancel because he had to appear in court that day. After exchanging alternate dates of availability, the mediation was rescheduled for April 15th. To prepare for that mediation and address the concerns the condo association had regarding settlement authority, Leo Pellegrini, Keli Gallo from Ed Buzak's office (Special Counsel), and I met with the Quality of Life and Parks Subcommittee of the City Council on March 18th to make sure there was consensus on how we were moving forward. On April 9th Ed Buzak submitted the City's mediation statement in preparation for the mediation. Then, on April 13th we were informed that the mediation was being postponed again due to the mediator needing to be in court on April 15th. On April 15th the mediation was rescheduled for Tuesday, May 4th at 10:30 a.m.

However, to avoid further delays (in case the mediator would have to reschedule again) and to move forward on discussions, both parties agreed to sit down prior to the mediation to try to come to agreement. Therefore, the two parties have been meeting regularly since to come to a settlement.

The two parties had a status conference call with Judge Olivieri on June 8th that was very productive. The parties are allowed to continue discussions to try to resolve this outside of mediation. Accordingly, the parties, with the concurrence of the judge, informally agreed that they would attempt to have the matter resolved by July 15, 2010 and schedule mediation dates with the Mediator in such case that we are unable to resolve the issues. To accomplish that, the two parties are scheduling multiple meetings prior to the July 15th date. The Court scheduled another status conference for August 16, 2010 with the expectation that the matter would at least be conceptually resolved at that time.

In the interim, the City prepared language for signage at the site and the Maxwell Place Condo Association has coordinated the preparation of the sign. The language includes rules that are directly from the City's park regulations in the Code of Ordinances, as well as two additional revisions based on the prior draft of the easement agreement and consent from both parties (i.e., prohibiting the use of cleats and the use of bats for hitting softballs, hardballs and other hard objects that may endanger public safety). The need for this interim signage is to ensure the safety of the users of the park and surrounding areas. At such time that the easement agreement is finalized, any additional rules may be added to the list as necessary.

Although we are actively working toward resolution, similar to Block E, we do need to address the insurance of the property in the interim. This park is currently under ownership by the Maxwell Place Condo Association and will remain in the ownership of the Condo Association due to the fact that the

underground parking garage is located directly beneath the Lawn's surface. In keeping the park open for public use, it is important to coordinate the insurance coverage of this interim use. Although the City will need to incorporate a permanent insurance clause into the final easement agreement, an interim use and license agreement has been drafted by the Association's attorney and is currently being reviewed by the Association before being sent to us. It is the intent to have this interim insurance agreement on the agenda at the July City Council meeting.

It is recognized that there was a draft easement agreement negotiated by both parties in October/November 2009. However, as is evidenced by the lawsuit, there are issues that the Maxwell Place Condo Association felt had not been addressed. We are working through those diligently to reach a positive easement agreement that allows for recreation for the community while addressing the maintenance and safety concerns of condo association.

Master Plan Re-Examination

Per the state regulations N.J.S.A. 40:55D-89 of the Municipal Land Use Law, "The governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board." The planning board shall then prepare and adopt by resolution a report on the findings of such reexamination.

On October 7, 2009 the City Council adopted an ordinance initiating the statutory re-examination of the Master Plan, and thus the Planning Board has been authorized to conduct a master plan re-examination.

The Planning Board is the body responsible for selecting the consultant to perform the Master Plan Re-examination study. To engage a consultant on this project, the City, on behalf of the Planning Board, went through the "fair and open process" per the State of New Jersey's Pay to Play regulations to solicit proposals. After the Planning Board subcommittee reviewed the proposals and interviewed select firms and made its recommendation, the Planning Board of the City of Hoboken has retained the services of EFB Associates, LLC to prepare the 2010 Re-examination Report.

The re-examination report is a distinctly different document from a Master Plan both in content and requirements. The re-examination report evaluates the community's planning and development regulation documents and identifies whether the community's policies or objectives have changed since the completion of the last Master Plan. The re-examination report serves both to inform as well as determine a course of action for all future planning efforts. These efforts may include: the amendment of existing plan elements, the addition of new elements, as well as recommendations for ordinance changes. It is through the identification of these issues that the future planning needs can be determined and an appropriate budget can be developed.

A re-examination report addresses specific statutory questions that evaluate the current Master Plan and development regulations of the City. The statutory questions posed are as follows:

- Major problems and objectives relating to land development in Hoboken at the time of the adoption of the 2004 Master Plan;
- Determine the extent to which such problems have been reduced or have increased subsequent to that date;
- Identify changes in assumptions, policies and objectives that formed the basis for the Master Plan or development regulations;
- Identify specific changes recommended by the Master Plan or development regulations, if any, or whether a new plan or regulations should be prepared;
- Address recommendations of the planning board concerning the incorporation of redevelopment plans into the Land Use Element of the Master Plan.

The re-examination report is geared to evaluate the thoroughness and effectiveness of the existing documents and ordinances. The final report will be the product of research, synthesis and analysis by the planning firm in conjunction with input from various City officials, representatives of City boards as well as other stakeholders. This consultant has already been actively working on this research.

In addition, EFB Associates will further address in this re-examination report a "green dimension" or environmental policy to complement the administration's desire for a more sustainable Hoboken. It is anticipated that the report will be completed by September 2010.

The Planning Board will be hosting a public meeting to discuss the issues raised in the statutory questions as they relate to the current Master Plan and to get public input moving forward in the preparation of the re-examination report. This meeting will be on June 29th at 7 p.m. in the lower level meeting room at City Hall.

Redevelopment

Southwest Redevelopment

The City Council, by resolution on October 21, 2009, authorized the Planning Board to move forward on the investigation of the Southwest Area to determine if it is an area in need of redevelopment. The City, on behalf of the Planning Board went through a "fair and open process" per the State of New Jersey's Pay to Play regulations to engage a consultant on this project. A subcommittee of the Planning Board reviewed the proposals and unanimously selected CMX as the top consultant for this work. At the March 2, 2010 Planning Board meeting we awarded the contract to CMX.

Unfortunately, CMX underwent dissolution of their firm. Although different divisions of CMX merged with other consulting firms, the individual planners that were assembled for the Southwest Redevelopment Study project were each hired at different firms.

In order to move this project forward, the City canceled the contract with CMX and re-advertised the request for proposals through the "fair and open process". Proposals were received on April 21, 2010, and the subcommittee of the Planning Board reviewed the proposals and selected specific firms to interview. After the initial interviews, the subcommittee has narrowed down the proposals to two top firms for a second interview. Each firm is highly qualified and the subcommittee will be interviewing these firms this week. It is the intent of the subcommittee to make a recommendation to the full Planning Board and award a contract at the July 6, 2010 Planning Board meeting.

Once a firm is selected, the study is expected to take 4-6 months to prepare. Once completed, the Planning Board will hold hearings on the study with testimony from the planning consultants.

Western Edge Redevelopment

The City Council received a memo regarding the Western Edge Redevelopment Plan and the process moving forward. The planner is finalizing a draft plan this month that will then be provided to the Zoning, Planning and Economic Development Subcommittee of the City Council for discussion.

Redevelopment Attorneys

Attached are the latest updates from our redevelopment firms, McManimon & Scotland and Maraziti, Falcon & Healey. As you can see, both are actively working on ongoing projects. As their contracts expire at the end of the fiscal year, a renewal of their contracts for the next budget cycle will be on the agenda at the July City Council meeting.

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MEMORANDUM

TO: Brandy A. Forbes, AICP, PP, Community Development Director
Michael B. Kates, Esq., Corporation Counsel

FROM:  Joseph J. Maraziti, Jr., Esq.

RE: Status Report Regarding Redevelopment Projects

DATE: June 9, 2010

The following is a brief summary and outline of the major activities and the status as of this date of the redevelopment matters assigned to our firm. One of the major tasks that we have undertaken since our appointment is the effort to identify the operative documents, sort through them to obtain a working understanding of the factual and legal matters and to focus on the most pressing topics and projects. Chief among them is the very challenging and convoluted status of the multi phase Monroe Center Development. I want to thank you for the great assistance and the many courtesies you have provided to us as we have begun this important new assignment in the City of Hoboken.

MONROE CENTER DEVELOPMENT LLP

In connection with the Redevelopment Agreement with Monroe Center Development LLC we have reviewed and evaluated relevant documents regarding this project which consists of five Phases, each of which presents formidable financial, legal and implementation issues. On May 21, 2010 we issued a formal Notice of Default to the designated developer.

Two Phases of the project (Phases I - The Monroe Center- and IV - Park/parking lot-) are presently encumbered by Bankruptcy proceedings in Federal Court. We are closely collaborating with Brandy Forbes and Michael Kates, Esq. in connection with these proceedings and evaluating the options and opportunities of the City under these conditions, including the evaluation of the recorded Deed of Easement to Hoboken for park and open space purposes and the resulting State Green Acres requirements and limitations. In connection with these matters

we are in consultation with Bankruptcy Counsel, Joel Glucksman Esq., and Patrick McNamara, Esq. to maximize the position of the City regarding the Plan of Reorganization, appointment of Trustee in Bankruptcy and related matters.

We have participated in meetings with Brandy Forbes and Bankruptcy counsel with the primary lender to the bankrupt parties and have also met with representatives of two parties potentially interested in pursuing individual phases of the original project.

THE MONROE CENTER

The operations of the Monroe Center are of particular interest in connection with the bankruptcy proceedings. The completion of the construction of the improvements to the Center and especially the implementation of a legal mechanism to assure the availability of space in the Center to artist, artisans and incubator enterprises at affordable rents is a priority of the Mayor and members of the City Council. A visit to the Center with Ms. Forbes to meet with many of the current tenants provided important insights in this effort.

NORTHWEST REDEVELOPMENT AREA

Consultation with Ms. Forbes on the legal issues concerning the procedural process to complete the redevelopment plan has been ongoing. A memo to summarize these issues has been submitted to Ms. Forbes. Additionally a draft of a portion of the plan relating to legal matters has been provided in anticipation of the imminent completion of a draft of the planning and policy features of the redevelopment plan.

WATER MUSIC

An evaluation of the status of the proposed but not adopted redevelopment plan for the area is underway. A meeting with the potential redeveloper and its consultants has taken place regarding proposals for the site and continuing communications and evaluations are underway.

928-930 Jefferson

Participated in a meeting with the property owner and potential redeveloper, his architect and attorney to discuss the relevant issues and the process for redeveloper selection and the negotiation of a redevelopment agreement.

NORTH END

A very preliminary review has taken place of the request by the Council that the Planning Board conduct a study of the area to determine whether some or all of it meets the statutory

criteria to determine that it is an area in need of redevelopment.

SOUTH WATERFRONT

SJP Properties - Block "B"

A review of the status of the rights of SJP Properties under the Third Amendment to the Exclusivity Agreement and the recent payment of the Extension Payment has been performed. The evaluation of the plans for redevelopment of the site by SJP and the options of the City in the event that SJP does not proceed to implement its rights under the Agreement is ongoing.

Interim Uses of the Site

A legal analysis of interim uses of the site controlled by SJP has been undertaken.

Pier A

An evaluation of the substantive and procedural issues relating to the placement and installation of the 911 Memorial is underway.

GENERAL REDEVELOPMENT ISSUES

GREEN BUILDING INITIATIVE

Working with Ms. Forbes and Jong Sook Nee, Esq. on efforts to maximize the implementation of green building technologies and programs in Hoboken.

COORDINATION WITH STATE AGENCIES

Participated in a meeting with representatives of state agencies to explore opportunities to maximize synergies with state programs and initiatives to promote City projects and facilitate communication between the City and the State.

McMANIMON & SCOTLAND, L.L.C.

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MEMORANDUM

TO: Brandy Forbes
Director

FROM: Jong Sook Nee

RE: **Hoboken Redevelopment Status**

DATE: April 15, 2010

PILOT Review: Review certain financial agreements providing tax exemptions to analyze compliance with the applicable law and the negotiated contract terms. The goal is to ensure that the City is receiving the full annual service charge due under each agreement.

STATUS: We are currently working closely with the Tax Collector's office to review the audited financial statements of each project under the specific terms of each agreement. We are working to correctly calculate each payment in lieu of taxes to ensure that the City received the full benefit of each agreement.

NJ Transit: Undertake the development of a redevelopment plan that fully engages the public and reflects the needs and concerns of the community. Undertake negotiations with NJ Transit to secure an agreement that protects the City's interests while permitting the redevelopment of an underutilized asset.

STATUS: We are currently reviewing the status of the past redevelopment planning initiatives and identifying the goals of the City. Within a week we will commence discussions with NJ Transit on a City-initiated redevelopment planning process.

Southwest Redevelopment: Undertake the study and designation of the Southwest area. Assist the City with the development of a redevelopment plan to guide the appropriate development of the area.

STATUS: City has published an RFP for a planner to undertake a new redevelopment investigation of the area. Once the responses have been received, we will work with the City to select a qualified planner and commence the redevelopment area investigation in accordance with the law.

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MEMORANDUM

TO: Brandy Forbes
Director

FROM: Jong Sook Nee

RE: **Hoboken Redevelopment Status**

DATE: May 21, 2010

PILOT Review

Review certain financial agreements providing tax exemptions to analyze compliance with the applicable law and the negotiated contract terms. The goal is to ensure that the City is receiving the full annual service charge due under each agreement.

STATUS:

1100 Adams Street: We are working with the Tax Assessor and Tax Collector to determine the appropriate process to remove the extraneous commercial unit from the tax rolls and remove the two tax liens against that parcel. We are also working with the Tax Assessor on a chart of the Financial Agreement and an analysis of the benefits of the Financial Agreement to the City.

1118 Adams Street: We worked with the Tax Collector's to ensure that the payment in lieu of taxes was being properly calculated and charged to the owner of the project. We also addressed and corrected the annual reporting of the owner's net profits for purposes of calculating what, if any, excess profits would be paid to the City. We are preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

800 Jackson: We are currently working closely with the Tax Collector's office to determine the appropriate calculation of the payments in lieu of taxes under the Financial Agreement. We are also working preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

1200-1300 Grand Street: We prepared a summary of the staged increases to the payments in lieu of taxes for potential purchasers for the units. We are also working preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

Clock Towers: We worked with the Tax Collector's to ensure that the payment in lieu of taxes was being properly calculated and charged to the owner of the project. We are also working preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

Marian Towers: We worked with the Tax Collector's to ensure that the payment in lieu of taxes was being properly calculated and charged to the owner of the project. We are also working preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

1000 Jefferson Street: We worked with the Tax Collector's to ensure that the payment in lieu of taxes was being properly calculated and charged to the owner of the project. We are also working preparing a chart of the Financial Agreement and an analysis of the benefits to the City.

Church Towers: We are reviewing the agreement with City and the federal and state affordable housing requirements in order to determine whether the project is being operated in accordance with the law. We are scheduled to meet with some community leaders to familiarize ourselves with the community issues raised by this project. We will prepare a memorandum summarizing our analysis and findings.

NJ Transit

Undertake the preparation of a redevelopment plan that fully engages the public and reflects the needs and concerns of the community. Undertake negotiations with NJ Transit to secure an agreement that protects the City's interests while permitting the redevelopment of an underutilized asset.

STATUS: We have reviewed the files, identifying information that is missing in order to demonstrate compliance with the Local Redevelopment and Housing Law. We have also spoken with John Leon of NJ Transit, who stated that NJ Transit shall be scheduling a meeting with the Administration within a couple of weeks to discuss the status of the project and the goals under the new State administration.

Southwest Redevelopment

Undertake the study and designation of the Southwest area. Assist the City with the development of a redevelopment plan to guide the appropriate development of the area.

STATUS: We are awaiting confirmation of the designated planner for the redevelopment study. Once the City has appointed a planner, we will work with the planner, the City and the Planning Board to coordinate a schedule for the redevelopment investigation and the public hearings required by law.

JERSEY CITY / HOBOKEN SUBREGIONAL TRANSPORTATION STUDY

OPEN HOUSE

Please join us at Open Houses for the Jersey City/Hoboken Subregional Transportation Study.

We invite you to drop in at any time to either of our open house locations to share your thoughts on improvements to this area for drivers, bicyclists, pedestrians and transit users.

Hudson County has initiated a study to identify recommendations to improve the connectivity of the street network between Jersey City and Hoboken in the vicinity of Paterson Plank Road. Currently, the street grids of Jersey City and Hoboken conflict with each other in this area. Paterson Plank Road is often gridlocked due to heavy traffic volumes and poor road geometry. These recommendations will support the anticipated growth that will result from the implementation of Hoboken and Jersey City's redevelopment plans.

Wednesday, June 23, 2010, 4pm-8pm

Hoboken Multi-Service Center
124 Grand Street
Hoboken, NJ 07030-2510



Thursday, June 24, 2010, 4pm-8pm

Pershing Field Memorial Park
Vietnam Veteran's Memorial Building
201 Central Avenue
Jersey City, NJ 07307



** See reverse for directions to these meetings.*

For more information visit the project web site at:

www.jerseycityhobokenstudy.com

or if you require any special assistance, please contact
Howard/Stein-Hudson at (917)339-0488.

