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BERNARDS TOWNSHIP COMMITTEE

## Quarry war heats up in Bernards Township

New plan has more homes, no hotel

By W. JACOB PERRY Staff Writer 8 hrs ago

**BERNARDS TWP.** - A legal fight over the future of the Millington Quarry site has escalated, with a prospective developer seeking to wield a state-imposed affordable housing mandate against the township.

Although the developer, Community Investment Partners (CPI), said in a recent statement that its new conceptual plan shows a willingness to "reduce the scale" of a controversial proposal that was killed by the Township Committee two months ago, the number of dwelling units would actually increase.

The one-page plan, sent to the Township Committee on Friday, March 9, lists a total of 380 housing units, including 300 apartments and 80 townhouses, 54,500 square feet of retail space, a 10,000-square-foot restaurant, a 10,000-square-foot community center, and a lake.

The plan notes that the 180-acre, defunct quarry on Stonehouse Road would include 137 acres of dedicated open space.

The original plan listed 235 housing units, a hotel with up to 250 rooms, 140,000 square feet of retail space including a restaurant, an additional 15,000-square-foot restaurant, 60,000 square feet of office space, and open space including a public lake.

At the committee's meeting on Tuesday, March 13, Anne S. Babineau, attorney for CIP, said the new plan was "designed to incorporate less density, to eliminate of some of the objectionable uses such as the hotel, to enhance the amount of open space, and to continue to preserve the public amenities" in the original plan.

Babineau said her client was also seeking to "intervene" in the township's affordable housing case before the state Superior Court so it could include the site in the court's review. She said that would provide a "good opportunity" to set aside 15 percent of the on-site homes for low-income earners.

The township's affordable housing quota is currently being litigated with the Fair Share Housing Center, a state advocacy group that wants the township to provide far more housing than local officials deem necessary. Fair Share gains leverage whenever a builder with land can intervene and offer to provide income-restricted homes.

Babineau concluded her remarks by saying CIP wants the township's input and guidance for developing the quarry and wants to conduct "a public discussion in a very transparent way."

Township Attorney John Belardo, however, noted that CIP has sued the township in a quest to reinstate the option of mixed land uses for the quarry, which is currently zoned for two-acre housing.

He said he was pleased that CIP, which initially named the township and the Planning Board in its suit, dropped the board as a defendant after CIP "realized" that its claim against the planners was "completely frivolous and without merit." He said he hoped that the suit against the township, which is "likewise frivolous and meritless," would be dropped as well.

As for CIP's intent to intervene in the affordable housing case, Belardo said the township successfully convinced the judge to reject an effort by another developer to intervene last year.

Any motion by CIP to intervene will be "equally and as zealously opposed," he said.

No one on the committee commented.

### ***'Hold Fast'***

After the meeting, Friends of Stop the Quarry Plan (STQP), a citizens group that opposed the redevelopment plan, blasted CIP on its Facebook page.

STQP said CIP was using the affordable housing mandate to try to "scare" the committee into allowing "overdevelopment" of the quarry. "Do we really want to open that door again with this same group?" it asked. "Do we trust their motives or intentions?"

It urged residents to "email our Township Committee and tell them that they need to hold fast to the current zoning."

The quarry's two-acre zoning took effect once mining effectively ended in October 2016. Under an old conceptual plan, the zoning would result in a development with 40 to 50 homes and a privately owned lake. But township officials have long hoped the site could be developed differently.

Around the end of 2015, Shopoff Realty Investments contracted to buy the site from Millington Quarry Inc. (MQI). Township officials found that Shopoff also preferred development alternatives. The two parties then worked together to use a state law to designate the site as an "area in need of redevelopment" to allow multiple uses.

Representatives from the township and Shopoff then began working on a redevelopment plan. But the draft plan, unveiled last October, drew widespread opposition from residents who said the inclusion of 235 homes, a hotel, shops and offices was far too intense.

Around that time, township officials disclosed that Shopoff had sold its purchasing rights to CIP.

On Jan. 24, the committee voted 4-1 to kill the draft plan and to also rescind the "area in need of redevelopment" designation. Committeewoman Carolyn Gaziano voted against the majority, saying she hoped to continue exploring alternative development options.

On March 8, CPI sued the township and the Planning Board in a quest to overturn the committee's Jan. 24 vote. It said the vote was "arbitrary and capricious." The next day, the suit was amended to drop the Planning Board as a defendant.

### ***'Project Morphed'***

Belardo, in an interview on Thursday, March 15, said he did not see how CIP could succeed with its suit.

He said even if the township were to restore the mixed use zoning option, it has no legal obligation to use CIP as a developer and would remain free to select another builder.

When Shopoff was the prospective developer, he said, the township was dealing with "a national real estate entity" with offices in New York and Los Angeles and "a proven track record of development and financing."

"At some point, Shopoff dropped out and we were never told," Belardo said.

Eventually, he said, the township learned that CIP consisted of David Placek who had been on the Shopoff team; township resident Anthony Sblendorio, who later dropped out; and a third individual who "allegedly has the money to do it but no background in this type of project."

Last November, CIP representatives told this newspaper that the partner was Pearl Biedron, founder of the private Willow School in Gladstone. Sblendorio's landscape architectural firm designed the school's master plan.

Another concern was the drafting of the plan for the quarry.

Belardo said that last August, the committee directed Township Planner David Schley and township planning consultant David Banisch to work with the prospective developers on the draft. When the draft was readied in the fall, "that was the first time we saw these huge numbers."

"The development morphed at the last minute to 60,000 square feet of office space, a hotel, a huge amount of dwellings and retail uses," Belardo said. "They hid all of that from us ... They hoodwinked the township."

The developers had held several public forums but "they never presented any of that," he added. "The intensity of the project was never revealed ... It went from a modest project to a monstrosity of a project."

Nevertheless, he said, the committee chose to release the draft to gauge the response from the public, which was negative.

Belardo also cast doubt on CIP's quest to intervene in the affordable housing case. He said the court deadline for builders to file interventions was more than two years ago. He said the missed deadline factored in the denial of an intervention request last year by Mountain View Realty, owner of land west of Martinsville Road.

If the court were to include the quarry as a site for affordable housing, state rules would allow the developer to build up to six market-priced homes to subsidize the cost of each income-restricted home.

### *'Unjust' Action*

CIP gave a different account in its lawsuit, which has been assigned to state Superior Court Yolanda Ciccone in Somerville. In addition to seeking to restore the multi-use zoning, it requests monetary damages.

It said that between February 2017, when the committee adopted the multi-use designation, and Jan. 24, when the designation was rescinded, CIP "incurred substantial costs" working with the township on the redevelopment draft.

It said it provided help to consider options, analyze the economic and fiscal impact of options, analyze site conditions and their impact, and prepare graphics and concept plans. That required the use of legal counsel, engineers, professional planners and related experts, it said.

"CIP would not have incurred such costs or acquired the contract rights but for the township designation" of the quarry for multiple uses, it said.

"It is unjust for the township to have induced CIP's reliance on the property being designated" for that option, it declared.

Moreover, the suit said, the committee's Jan. 24 resolution to rescind the designation was "not supported by any rationale or explanation."

CIP argued that the move amounted to "unlawful taking" of property. By having the quarry site revert to two-acre zoning, the Township Committee ensured "that development could not feasibly take place."

It cited the Planning Board's January 2017 recommendation of the multi-use designation, which "concluded that the nature and conditions of the property were so severe that the costs of development would be prohibitive."

If, the suit said, CIP's intervention request to provide affordable housing were to result in zoning for a mixed use project, "similar in density to the proposed redevelopment plan," CIP would voluntarily dismiss the suit.

They hoodwinked the township.

MORE INFORMATION

[Alternative plan for Millington Quarry submitted](#)