

Resolution #054
Township of Andover Land Use Board

**Recommending that the Township Committee of Andover Township
Designate the Study Area for Property Designated as
Block 108, Lot 4.02 (1045 Limecrest Road) (Pace Glass)
as a Condemnation Redevelopment Area Pursuant to
the Local Redevelopment and Housing Law under N.J.S.A. 40a:12a-1 et. Seq.
Decided on September 19, 2023.
Memorialized on October 3, 2023**

WHEREAS, the Local Redevelopment and Housing Law (LRHL) pursuant to N.J.S.A. 40A:12A-1 et. seq. authorizes municipalities to determine whether certain parcels of land in a municipality constitute an area in need of redevelopment; and

WHEREAS, the Township Committee of Andover Township adopted Resolution R2023-46 which directed the Andover Township Land Use Board (“Board” or “Land Use Board”) to perform a preliminary investigation of the delineated property (“Study Area”) to determine if the statutory criteria has been met in order to determine whether the Study Area qualifies as a Condemnation Redevelopment Area in accordance with the LRHL; and

WHEREAS, the land that was the subject of the Area in Need of Redevelopment Study (Condemnation Redevelopment Area) is designated as Block 108, Lot 4.02 on the Tax Assessment Map of the Township of Andover and located at 1045 Limecrest Road, Andover, New Jersey; and

WHEREAS, Resolution R2023-46 specifically states that the Township Committee of the Township of Andover shall be authorized to exercise the power of eminent domain to acquire any property in the delineated Study Area. Thus, the Study Area is being investigated as a Condemnation Redevelopment Area; and

WHEREAS, Jessica C. Caldwell, P.P., A.I.C.P. was retained to prepare The Preliminary Investigation Study, which Report is dated May 30, 2023 entitled “Area in Need of Redevelopment Study, Pace Glass-1045 Limecrest Road, Block 108, Lot 4.02,” (the Study) the contents of of which is incorporated herein by reference and made a part hereof; and

WHEREAS, all procedural requirements in accordance with the LRHL pursuant to N.J.S.A. 40A:12A-6 have been complied with in regard to the conduct of a public hearing regarding this matter; and

WHEREAS, a public hearing was conducted on September 19, 2023, after the Land Use Board determined it had jurisdiction.

NOW, THEREFORE, the Land Use Board makes the following findings of fact and conclusions of law with regard to this matter:

1. The Study Area is designated as Block 108, Lot 4.02 on the Tax Map of the Township of Andover and located at 1045 Limecrest Road, Andover, New Jersey.
2. The Study Area measures 77.8 acres in area and is located in the northeastern section of the Township along Limecrest Road (County Route 669) where the nearest intersection is with Sussex Mills Road.
3. The Study is developed with a partially completed glass recycling facility, known as Pace Glass, Inc., which received preliminary and final site plan approval along with a d(6) height variance and ancillary bulk variance approval from the Andover Township Land Use Board relative to application number A-3-17-1 which was memorialized on May 16, 2017 and received amended approval on March 20, 20218.
4. The Pace Glass Recycling facility included a proposal to construct two (2) buildings: Building 1, a 131,600 square-foot building approximately 57 feet in height; and Building 2, a 52,500 square foot building approximately 70 feet in height. The proposed development included four (4) separate areas related to the proposed glass recycling facility to be contained in the two (2) buildings which included: Building 2-pre-sorting and processing; Building 1-final processing and color sorting. The site is currently developed with the partial shell and foundations of the two (2) unfinished buildings. Construction of the glass recycling facility began around 2018 and activity on the site continued until the end of 2022 when use of the property ceased completely.
5. Jessica C. Caldwell, P.P., A.I.C.P., being duly sworn and accepted as an expert witness as a Land Use Planner made a presentation to the Board on September 19, 2023 and reviewed and testified in regard to her Report titled “Area in Need of Redevelopment Study, Pace Glass-1045 Limecrest Road, Block 108, Lot 4.02” and dated May 30, 2023.
6. Ms. Caldwell testified that the purpose of the Study that she performed is to determine whether the governing body should designate all, or a portion, of the Study Area as a Condemnation Area in need of Redevelopment under the LRHL. The governing body requested via Resolution R2023-46 that the Land Use Board conduct a Study of the area to determine if the Study Area meets the criteria to be determined a Condemnation Redevelopment Area pursuant to the LRHL under N.J.S.A. 40A:12A-1 et. seq.

7. Therefore, if the Study Area is determined to be a Condemnation Redevelopment Area under the LRHL, Andover will have the statutory authority to exercise the power of eminent domain to acquire property in the delineated area.
8. Ms. Caldwell testified that an analysis of the Study Area's existing land use, site layout and physical characteristics was conducted. Furthermore, Ms. Caldwell represented that the analysis was based upon tax records, site inspections, a history of the site pertaining to land use, Zoning Ordinances, Master Plan goals and objectives and an evaluation of the statutory Area in Need of Redevelopment criteria.
9. Ms. Caldwell indicated in testimony and beginning on page 10 of the Study. The Study Area is currently vacated with no continuing development or operations on the site. Construction of the buildings began in 2018 and by the end of 2022 construction ceased with no scheduled plan to resume. The Study Area is currently developed with a partially completed Building 2, a 150-foot by 350-foot building shell, and the partial building footings for Building 1, a 300-foot by 450-foot building. Based on an inspection of the Study Area on January 16, 2023, the following items were observed:
 - Building 2: the 150-foot by 350-foot building has been framed and insulated, however, there is no electrical or plumbing services installed for the building and the interior of the building continues to have an earthen floor. See Appendix Pages 59-61 of the Study.
 - The western side of Building 2 has two industrial loading area doors which remain open, exposing the interior to the elements. See Appendix Page 58 of the Study.
 - There are approximately five (5) shipping containers around the outside of Building 2 located near the open doorways and at the western corner of the southern side of the building. See Appendix Pages 39, 57 & 58 of the Study.
 - Footing and partial foundation for Building 1 were constructed.
 - There are two temporary construction trailers which are located towards the entrance of the Study Area. See Appendix Pages 42, 43 & 51 of the Study.
 - There are multiple soil and sand stockpiles near the western portion of the Study Area within the disturbed land closest to Limecrest Road. See Appendix Page 54 of the Study.

- A mobile concrete plant remains in the Study Area. See Appendix Pages 43 & 52 of the Study.
- Uninstalled underground storage tanks remain in the Study Area. (See Appendix Pages 39, 41, 46 & 53) of the Study.
- Reinforced concrete pipes and other debris such as metal sheeting and bales of rebar are spread throughout the site. See Appendix Pages 45, 55 & 56 of the Study.
- Multiple construction vehicles remain in Building 2, see Appendix Pages 59 and 60 of the Study, including:
 - 1 Wheel Loader;
 - 1 Bulldozer;
 - 2 Bucket Excavators;
 - 3 Cement Mixers; and
 - 1 Pickup Truck with Fuel Powered Generators.

10. Ms. Caldwell reports that a review of Building Department, Zoning Department and Health Department records for the Study Area found reports related to the bales of glass stored on the site. The bales were ordered to be removed by the Zoning Department due to leaking of the glass from the bales on the site which was cited by the Health Department. The bales were removed by December 8, 2022 based on an inspection of the Zoning Department.

11. Ms. Caldwell testified in regard to improvement to land value ratio. Ms. Caldwell stated that:

“The improvement value to land value ratio is an indication of potential underutilization of the property. An improvement value to land value ratio of 1:1 or less suggests that the “land is not currently supporting a reasonable value of improvements”, and, as such, is underutilized. An improvement value of less than 2:1 also can identify parcels that are underbuilt for the area. Properties with improvement values that are equal to or less than the land value show a lack of economic productivity. In this case the improvement value is \$200,000 for the structures on site and the land value is \$960,606. The ratio of improvement value to land value is 0.208:1, showing that the Study Area displays a lack of economic productivity.”

12. Ms. Caldwell reviewed criteria under the LRHL which she found to be relevant and determined that the Study Area meets the criteria under the LRHL to be declared a Condemnation Area in Need of Redevelopment. More specifically, Ms. Caldwell considered “Deterioration” under N.J.S.A. 40A:12A-5a that the generality of buildings are substandard, unsafe, unsanitary, dilapidated or obsolescent, or possess any of such characteristics or are lacking in light, air or space as to be conducive to unwholesome living or working conditions.
13. Ms. Caldwell determined that Building 2 is substandard. She reached this conclusion because Building 2 which is a 150 foot by 350-foot warehouse is only partially constructed. Building 2 is constructed with the frame, outer walls, doors, roof and insulation only. There is no potable water connections, nor are there any sanitary sewer facilities, stormwater management facilities, electrical service to the building or lighting to the building. Further, the development has not received a final Certificate of Occupancy, according to the Zoning Department, and, as a result, the site is not in conformance with construction codes.
14. Ms. Caldwell also considered whether the buildings would qualify as being functional obsolescent, economic obsolescence and physical obsolescence. Ms. Caldwell concluded that as a result of the proposed buildings on the site being abandoned prior to completion, they are functionally obsolescent because they are not occupiable.
15. Ms. Caldwell next considered economic obsolescence. Ms. Caldwell stated the technology to operate this facility was very expensive and required a significant capital investment. The capital required to take over the facility and finish it acts as a barrier of entry and given that the equipment is not only expensive but is highly specialized, a subsequent redeveloper assuming control of this project is unlikely. Due to the highly specialized and cost-prohibitive nature of the proposed recycling facility, the abandonment of the project has resulted in economic obsolescence of the Study Area.
16. Ms. Caldwell testified that the existing building (Building 2) while recently constructed, never received a Certificate of Occupancy and was only partially completed. There is no lighting, electrical service, water or sewer service installed in the building, there is also no floor in the building. The partially constructed foundation for Building 1 is a hazard due to the exposed metal and dug trenches on the outside of the building footprint as well as overgrowth from vegetation and the concrete filled area surrounding the foundation. Any potential developer will also be required to construct two (2) stormwater management basins

as well to provide a paved access, parking area, lighting and utilities. Thus, she concluded that the Study Area is physically obsolescent.

17. Ms. Caldwell also considered unwholesome living and working conditions and concluded that the generality of buildings are substandard and obsolescent so as to be conducive to unwholesome living or working conditions thus meeting Criterion “a”. As a result, Ms. Caldwell concluded that Criterion “a” pursuant to N.J.S.A. 40A:12A-5a has been met.
18. Ms. Caldwell next examined N.J.S.A. 40A:12A-5b “Discontinuance of Use” which provides the discontinuance of the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing, or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two (2) consecutive years, or the same being allowed to fall into so great a state of disrepair as to be untenable. Ms. Caldwell concluded that based on site inspections of the Study Area on January 16, 2023 and a drone flight on January 30, 2023 the site was abandoned. Ms. Caldwell represented that construction vehicles were on site but stored in the warehouse building. There were multiple stormwater management structures which were not yet installed and strewn throughout the site. Construction on the building in the Study Area has been abandoned.
19. Ms. Caldwell further stated that the Study Area has been utilized in the past for industrial purposes. However, the use of the Study Area has been discontinued for more than two (2) years and the Study Area has been abandoned and left in such a state of disrepair so as to be untenable thus satisfying Criterion “b”.
20. Ms. Caldwell next reviewed N.J.S.A. 40A:12A-5d “Obsolete Layout and Design.” Ms. Caldwell considered this criterion based upon functional obsolescence, economic obsolescence and physical obsolescence. As to functional obsolescence, Ms. Caldwell concluded that as a result of the proposed buildings on the site being abandoned prior to completion, they are functionally obsolescent because they are not occupiable. She next considered economic obsolescence and stated that due to the highly specialized and cost prohibitive nature of the proposed recycling facility, the abandonment of the project has resulted in economic obsolescence of the Study Area.
21. Next, in regard to physical obsolescence, Ms. Caldwell stated the existing Building 2 while recently constructed, never received a Certificate of Occupancy and was only partially completed. There is no lighting, electrical service, water or sewer service installed for the building. Further, there is no floor in Building 2. As to Building 1, there is a partially constructed foundation which Ms. Caldwell characterized as being a hazard due to the

exposed metal and dug trenches on the outside of the building footprint as well as overgrowth from vegetation in the concrete filled areas surrounding the foundation. Any potential developer will also be required to construct two (2) stormwater management basins as well as to provide a paved access, parking area, lighting and utilities. In light of the foregoing, Ms. Caldwell concluded that the Study Area is physically obsolescent.

22. Ms. Caldwell reported that the the storage of glass bales in the Study Area was causing soil contamination and issues with stormwater runoff because the glass bales were leaking. Reports from the Township Health Department resulted in the glass bales being removed as a deleterious land use that was contaminating the site. The glass bales were removed; however, glass remains on the site strewn above the sand and soil stockpiles, rock and construction debris remain in the Study Area creating the need for clean-up and possible remediation of the Study Area. The use as proposed on the site was creating a deleterious land use. The combination of obsolescence and deleterious land use is detrimental to the health, safety and welfare of the community. Ms. Caldwell's testimony and the conclusions reached in the preliminary investigation study indicate the Study Area is obsolete. The development of the Study Area was never realized due to economic and functional reasons, including the deleterious nature of the proposed land use, which resulted in the project failing, leaving behind an unfinished and unsafe construction site. The current use is deleterious as there are enough unconstructed materials which present many dangers to access the site as well as it can not be reutilized for open space due to the levels of disturbance which exist throughout the site. The combination of obsolescence of the use and buildings in the Study Area, the unfinished and abandoned state of the Study Area and the deleterious land use in the Study Area are detrimental to the health, safety and general welfare of the community, meeting Criterion "d".
23. Ms. Caldwell also reviewed the LRHL pursuant to N.J.S.A. 40A:12A-5h which provides "the designation of the delineated area is consistent with smart growth planning principals adopted pursuant to law or regulation." The Study Area which measures 77.445 acres is also an an area which has existing infrastructure to allow for a variety of redevelopment options and opportunities for industrial type uses. Therefore, designating the Study Area as an area in need of redevelopment will encourage the development of an area which has existing infrastructure and existing disturbance in a way that can better serve the needs of the greater Andover community and beyond, which promotes Smart Growth principles and meets Criterion "h".
24. Ms. Caldwell concluded that the Study Area complies with a minimum of four (4) of the redevelopment criteria. She confirmed that Criterion "a" is met because the generality of

buildings in the Study Area are substandard, unsafe, unsanitary, dilapidated and obsolescent and are so lacking in light, air and space as to be conducive to unwholesome living or working conditions. Ms. Caldwell also confirmed that Criterion “b” is met because the discontinuance of the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two (2) consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable. Ms. Caldwell also found that Criterion “d” is satisfied because “the Study Area buildings and improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement and design, lack of ventilation, light and air and sanitary facilities, and obsolete layout are detrimental to the safety, health, morals and welfare of the community.” Ms. Caldwell also found that Criterion “h” is satisfied as the designation of the delineated area is consistent with smart growth planning principles adopted by the State Office for Planning Advocacy and the State Development and Redevelopment Plan.

a) Ms. Caldwell concluded that “the investigation finds that the Study Area as delineated herein meets the statutory criteria to qualify as a Condemnation Redevelopment Area and recommends that the Study Area be designated by the Township Committee as a Condemnation Redevelopment Area pursuant to N.J.S.A. 40A:12A-1 et. seq.

25. Members of the public were given the opportunity to offer comments on the Study and to cross-examine Ms. Caldwell. The Board was addressed by Potius Papamichael, P.E., a licensed professional engineer from New York. Mr. Papamichael stated that he is here on behalf of the owner. He stated the owners have not abandoned the site. He also stated that the owners are in discussions with a developer to purchase the property. He stated in New Jersey there is a significant need and demand for warehouse use. He requested that the Board not recommend that the area be designated as a condemnation redevelopment area, but rather as a non-condemnation redevelopment area.
26. The Board was also addressed by Ruben Gomez, who was identified by Mr. Papamichael as being the property manager. Mr. Gomez stated he has been the property manager for the site since 2020. Mr. Gomez outlined some of the steps that he has taken to clean up the property.
27. The Board agrees with the findings and conclusions of the Study as well as the testimony and conclusions of Ms. Caldwell and concludes that the entire delineated Study Area satisfies the elements required in order to be determined a Condemnation Redevelopment Area under the LRHL. This includes N.J.S.A. 40A:12A-5 in general and specifically the Board finds Criterion “a” has been met because the generality of buildings in the Study Area are

substandard, unsafe, unsanitary, dilapidated and obsolescent, and are so lacking in light, air and space as to be conducive to unwholesome living or working conditions. The Board finds Criterion “b” is met because the discontinuance of a the use of a building or buildings previously used for commercial, retail, shopping malls or plazas, office parks, manufacturing or industrial purposes; the abandonment of such building or buildings; significant vacancies of such building or buildings for at least two (2) consecutive years; or the same being allowed to fall into so great a state of disrepair as to be untenable. The Board further finds that Criterion “d” is met because the Study Area buildings and improvements, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement and design, lack of ventilation, light and sanitary facilities, and obsolete layout, are detrimental to the safety, health, morals and welfare of the community. Finally, the Board finds that Criterion “h” is met as the designation of the delineated area is consistent with smart growth planning principles adapted by the State Office for Planning Advocacy and the State Development and Redevelopment Plan. As a result, the Board finds that the Study Area as delineated meets the statutory criteria to qualify as a Redevelopment Condemnation Area under the LRHL pursuant to N.J.S.A. 40A:12-A-1 et. seq.

28. The Board accepts the conclusions reached in the Study as presented as well as the recommendations of the Planning Consultant made on the record during the hearing all of which are incorporated herein by reference and made a part hereof and recommends that the Andover Township Committee make a determination that the entire Study Area be declared a Condemnation Redevelopment Area under the LRHL.

NOW, THEREFORE, BE IT RESOLVED that the Andover Township Land Use Board based upon the aforesaid findings and conclusions and as contained in the Area in Need of Redevelopment Study, Pace Glass-1045 Limecrest Road, Block 108, Lot 4.02, Andover Township, Sussex County prepared by J. Caldwell & Associates, LLC dated May 30, 2023 and upon the laws established in Andover Township and the State of New Jersey hereby finds and recommends that the Andover Township Committee designate the entire Study Area as a Condemnation Redevelopment Area.

**Vote on Motion to Recommend that
the Township Committee Declare the Entire Study Area
as a Condemnation Redevelopment Area
September 19, 2023**

Motion Introduced By: Skewes

Motion Seconded By: Karr

In Favor: Carafello, Ordile, Howell, Messerschmidt, Olsen, Karr, Gilchrist, Degan and Skewes

Opposed:

**Vote on Motion to Approve Resolution
Declaring the Entire Study Area as a
Condemnation Redevelopment Area
October 3, 2023**

Motion Introduced By:
Motion Seconded By:
In Favor:
Opposed:

Andover Township Land Use Board

Stephanie Pizzulo, Board Secretary

Paul Messerschmidt, Chairman

The undersigned secretary certifies that the within Resolution was adopted by the Andover Township Land Use Board on September 19, 2023, and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on October 3, 2023.

Stephanie Pizzulo, Board Secretary