



# ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board  
Municipal Building  
134 Newton Sparta Road  
AGENDA  
September 5, 2023  
7:30 p.m.

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**OPEN PUBLIC MEETINGS ACT NOTICE:**

This is an open public meeting of the Andover Township Land Use Board to be conducted in-person only at the Municipal Building, located at 134 Newton Sparta Rd., Andover, NJ 07860. Notice of this meeting was given in accordance with the Open Public Meetings Act, Chapter 231, Public Law 85. The rules are generally as stated on the agenda. No new testimony will be taken after 10:30pm. Adequate notice of this meeting has been provided, with an electronic copy posted on the Andover Township website at [www.andovertwp.org](http://www.andovertwp.org).

**ROLL CALL:**

**ADMINISTRATIVE ITEMS:**

**Approval of Minutes:** August 15, 2023

**RESOLUTIONS:**

1.) Recommending that the Township Committee of Andover Township designate the study area for property designated as Block 108, Lot 1.05 as a condemnation redevelopment area pursuant to the Local Redevelopment and Housing Law under N.J.S.A 40A:12A-1 ET. SEQ.

**COMPLETENESS REVIEWS:** None.

**HEARINGS:** (All submitted materials can be found under the Land Use section on the Township website [www.andovertwp.org](http://www.andovertwp.org).)

1.) Barone, Pat            B: 62    L: 4.04            Application # A23-3

*The applicant is seeking a variance to use an existing garage as agriculture labor housing.*

**ORDINANCES:**

**OLD BUSINESS:**

**NEW BUSINESS:**

**LIAISON REPORTS:**

*Township Committee* – Eric Karr

*Environmental Commission* –Eric Olsen

*Sustainable Andover* – Eric Olsen

*Economic Development Committee* – John Carafello

*Zoning Map/ Zone Changes Subcommittee* – Paul Messerschmidt

*Master Plan* – Joseph Ordile

**VOUCHERS:**

<b>Company</b>	<b>Purpose</b>	<b>Amount</b>	<b>Paid By</b>
Weiner Law Group	Legal	832.00	Budget
Weiner Law Group	Redevelopment Study for Pace Glass	\$96.00	Applicant's Escrow
Weiner Law Group	Barone, Pat	\$112.00	Applicant's Escrow
Weiner Law Group	Feels of Green	\$80.00	Applicant's Escrow
Harold Pellow Associates	Engineering	\$28.00	Engineering Budget
Harold Pellow Associates	Steinwand	\$420.00	Applicant's Escrow
Harold Pellow Associates	Feels of Green	\$1,340.00	Applicant's Escrow
Harold Pellow Associates	Barone, Pat	\$345.00	Applicant's Escrow

**CORRESPONDENCE:** None.

**PUBLIC PORTION:**

If a member of the public has a question or comment, please raise your hand and wait to be recognized by the Chairperson to speak. Please come forward when recognized and state your name and address, unless you are a registered covered person under Daniel's Law by the Office of Information Privacy. Please refrain from asking questions or making comments about any pending application before the Board, as the applicant may not be present for cross-examination. The Chairperson has the right to limit the amount of time a person from the public has to ask questions and make comments so all members of the public may have a chance to speak.

**PENDING APPLICATIONS:**

Braen Supply – Deemed Incomplete 2.7.23 – No new information submitted.

Ringo Properties – Deemed Incomplete 10.4.22 – No new information submitted.

Feels of Green – Deemed Incomplete 6.13.23 – Additional information requested by 9.9.23 for hearing date of 9.19.23.

Puff City – Deemed Incomplete 3.7.23 – No new information submitted.

**UPCOMING MEETINGS:** September 19, 2023, October 3, 2023

**ADJOURNMENT:**

**RESOLUTION  
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 1.05 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 AUGUST 15, 2023  
MEMORIALIZED ON SEPTEMBER 5, 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 R2022-119 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 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 1.05 on the Tax Assessment Map of the Township of Andover and located at 99 Mulford Road, Andover, New Jersey; and

**WHEREAS**, Resolution R2022-119 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 February 1, 2023 entitled “Area in Need of Redevelopment Study, Woodlands Behavioral and Nursing Center at Andover, 99 Mulford Road,

Andover Township, Block 108, Lot 1.05,” (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 August 15, 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 1.05 on the Tax Map of the Township of Andover and located at 99 Mulford Road, Andover, New Jersey.

2. The Study Area measures 16.692 acres in area and is located in the northeastern section of the Township along Mulford Road where the nearest intersection is O’Brien Road.

3. The Study Area consists of the former Woodland Behavioral and Nursing Center at Andover, a 543 bed sub-acute nursing home, which ceased operation in August 2022. The Study Area is developed with one (1) main building, a garage/storage building, water tower, ancillary parking and loading and outdoor yard areas. The main building has a 40,000 square foot footprint and is three stories, for an overall building area of approximately 120,000 square feet. The main building has four (4) wings on each floor which meet in the center of the structure. The garage/ storage building is approximately 4,000 square feet.

4. 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 August 15, 2023 and reviewed and testified in regard to her Report titled “Area in

Need of Redevelopment Study, Woodlands Behavioral and Nursing Center at Andover, 99 Mulford Road, Andover Township, Block 108, Lot 1.05.”

5. 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 Redevelopment Area under the LRHL. The governing body requested via Resolution R2022-119 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.

6. Ms. Caldwell provided an overview of the Study Area which contains one (1) parcel identified as Block 108, Lot 1.05 on the Tax Map of the Township of Andover which parcel measures approximately 16.692 acres in area. Ms. Caldwell also testified that the Study Area contains a 543-bed nursing home facility which was closed in August 2022.

7. Ms. Caldwell testified that an analysis of the Study Area’s existing land use, site layout and physical characteristics was conducted in addition to using tax records, a physical inspection of the area, a review of aerial photographs, maps and other governmental records and reports.

8. Ms. Caldwell identified the redevelopment criteria under the LRHL that was applicable to making a recommendation that the Study Area be deemed a Condemnation Redevelopment Area. More specifically, Ms. Caldwell testified that N.J.S.A. 40A:12A-5a provides:

“The generality of buildings are substandard, unsafe, unsanitary, dilapidated or obsolescent, or possess any of such characteristics, or are so lacking in light, air or space, as to be conducive to unsowholesome living or working conditions.”

a) Ms. Caldwell physically inspected the property on November 11, 2022 and she represented that the property displayed numerous instances of substandard, unsafe, unsanitary and dilapidated conditions. She further determined that the building, use and grounds also met conditions of obsolescence, including spaces which were so lacking in light, air or space as to be conducive to unwholesome living and working environments.

Ms. Caldwell divided these conditions into the following categories:

- Substandard facilities due to building layout, size and improper retrofitting;
- Deterioration from lack of maintenance and water damage;
- Unsanitary facilities due to lack of maintenance, cleaning and sanitation; and
- Obsolescence of the site and facilities including functional, physical and economic.

9. Ms. Caldwell indicated in testimony and beginning on page 19 of the Study that the building facilities are substandard. The Study in Appendix A.1-4 provides photographs taken on November 11, 2022 which illustrate the generality of the buildings. Ms. Caldwell also concluded that:

“The building is substandard and attempts to retrofit the building expose the numerous issues relative to providing residents of the facility with the proper facilities to meet modern health care standards. The lack of light, air and open space, and substandard nature of the building as a modern health care facility is conducive to unwholesome living and working conditions.”

10. Ms. Caldwell characterized the building as being in a state of deterioration from lack of maintenance and water damage. The Study on page 20, provides photographs in Appendix A-2 which highlights a significant amount of ponding of water on the flat roof. Further, during the inspection on November 11, 2022 Ms. Caldwell contends that water damage was observed throughout the building. Ms. Caldwell concluded that:

“The lack of maintenance of the building has led to a state of deterioration due to water damage that has not been rectified. This dilapidated state has led to unwholesome living and working conditions within the building.”

11. Ms. Caldwell characterized the state of the building as also having unsanitary facilities due to a lack of maintenance. On page 21 of the Study, she referenced Appendix A.3 which provides photographs including, but not limited to, depicting “holes in the walls and ceilings, as well as missing and broken ceiling tiles with exposed wires, signs of pest traps that were exposed in corners of the buildings, stained tiles in bathrooms and broken bathroom facilities, misaligned windows which could not close, rooms and storage areas filled with clutter and refuse, broken and rusted cabinetry, damaged drywall, broken and neglected lighting, dirt and grime on floors and walls, dirt and grime in the kitchen, and eating areas, peeling wallpaper, peeling floor moldings, stained walls and floors, cracks in indoor tiles, and broken door knobs, including on a fire exit.” She further opined that the lack of cleaning and maintenance of the facility led to a pervasive odor throughout most of the living and working areas.

12. Ms. Caldwell reviewed her findings in regard to the building’s exterior, as referenced in photographs in Appendix A.3 wherein she observed “broken and/or crumbling concrete and pavement in parking and loading areas; rust on railings by the loading areas; sidewalk cracks with vegetation growing through; lack of curb ramp accessibility and ADA compliance; and a dilapidated and abandoned swimming pool with vegetation growing through the concrete swimming deck.” Therefore, Ms. Caldwell concluded that the “facilities and grounds are unsanitary and unsafe due to a lack of maintenance which has led to unwholesome living and working conditions in the Study Area.”

13. Functional, Economic and Physical Obsolescence. Ms. Caldwell concluded that the substandard characteristics of the building point to the functional problems facing the facility “due to crowded living spaces, small office spaces lacking in light and air and faulty layout and design of the building.”

14. Ms. Caldwell considered economic obsolescence in regard to this matter. Ms. Caldwell on page 24 of the Study opined that economic obsolescence which is also known as external obsolescence is an impact to the value or usefulness of a property due to external factors such as traffic pattern changes, zoning changes, a major construction project nearby, as well as high crime rates in the area. She highlighted the fact that in February 2022 the department of Health and State regulators began the process of revoking the facilities’ license and began relocating the 450 people living at Woodland Behavioral Nursing Center. The facility was turned over to a Receiver in May 2022 and the facility was eventually closed on August 11, 2022.

15. Ms. Caldwell reviewed physical obsolescence which she characterized as occurring “when a property is in decline because of the physical deteriorations of the buildings and/or site.” On page 25 of the Study, she opined that incurable physical obsolescence occurs when the cost to cure the maintenance issues are higher than can be sustained by the profit produced on the property and/or when the cost to cure the deterioration is in excess of the cost to replace the structures on the property. Ms. Caldwell highlighted the condition of the building as being in a state of overall deterioration including a lack of maintenance, evidence of water damage and a general lack of sanitation within the building all of which contribute to the building’s physical obsolescence. Ms. Caldwell referenced Appendix B contained in this Study which documents the deterioration of a lack of



maintenance in the building. As a result, she concluded the physical obsolescence is incurable because the cost of the maintenance and repairs necessary to bring the building up to health and safety standards cannot be supported by the business operation of a facility. She, therefore, concluded that “the generality of buildings in the Study Area are substandard, unsafe, unsanitary, dilapidated and obsolescent so as to be conducive to unwholesome living and working conditions.” As a result, Ms. Caldwell concluded that Criterion “a” has been met.

16. Ms. Caldwell considered Criterion “d” dilapidation under the LRHL pursuant to N.J.S.A. 40A:12A-5d. Criterion “d” provides:

“Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors are detrimental to the safety, health, morals or welfare of the community.”

a) Ms. Caldwell performed an inspection of the property on November 11, 2022 and November 28, 2022 wherein she found that the property displayed numerous instances of dilapidation, obsolescence, overcrowding, faulty arrangement and design, lack of ventilation, light and sanitary facilities, and obsolete layout and design, which have resulted in factors that are detrimental to the health, safety, morals and welfare of the community.

b) Ms. Caldwell in the Study on page 27 broke down the conditions into the following categories:

- Substandard facilities due to obsolete layout, overcrowding and faulty arrangement and design;
- Unsanitary and dilapidated facilities due to lack of maintenance, cleaning and sanitation; and
- Functional economic and physical obsolescence.

c) Ms. Caldwell found that the overcrowded nature of the facility, which lacks air, light and displays of faulty arrangement and design is detrimental to the safety, health, morals or welfare of the community.

17. Ms. Caldwell next found that the Study Area facilities and improvements are dilapidated due to a lack of ongoing maintenance which created ongoing concerns with respect to safety, health, morals and the general welfare of residents causing the facility to be detrimental to the community.

18. In regard to functional obsolescence, Ms. Caldwell concluded that the substandard characteristics of the building point to the functional problems facing the facility due to crowded

living spaces, as well as small office spaces lacking in light and air and faulty layout and design of the building.

19. In regard to economic obsolescence, Ms. Caldwell concluded that “Due to the severe life and safety impacts of the economic obsolescence of the facility on its residents, this obsolescence is detrimental to the safety, health, morals and welfare of the community.”

20. Ms. Caldwell also considered physical obsolescence. Ms. Caldwell concluded that due to the severe life and safety impacts of the physical obsolescence of the facility on its residents, this obsolescence is detrimental to the safety, health, morals and welfare of the community. She, therefore, concluded that “the buildings and improvements within the Study Area 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” thus satisfying Criterion “d”.

21. Ms. Caldwell next considered the applicability of Criterion “h” smart growth consistency under the LRHL pursuant to N.J.S.A. 40A:12A-5.h which provides:

“The designation of the delineated area is consistent with smart growth planning principals adopted pursuant to law or regulation.”

a) Ms. Caldwell represented that “designating the Study Area as an Area in Need of Redevelopment will encourage the development of an area of existing infrastructure and existing disturbance that can better serve the needs of the greater Andover community and beyond. Designating the Study Area as a Redevelopment Area of 16.92 acres with a significant amount of impervious coverage that contains no significant environmental constraints will allow for a variety of redevelopment options and opportunities to promote smart growth principles.” As a result, Ms. Caldwell concluded that the Study Area satisfies Criterion “h”.

22. Ms. Caldwell concluded that the Study Area complies with a minimum of three (3) 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 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.

23. 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 Richard P. DeAngelis, Jr., Esq. with Connell Foley, LLP. Mr. DeAngelis stated that his firm represents BNJD Mulford Property, LLC the owner of the property and not the nursing home operator. Mr. DeAngelis cross-examined Ms. Caldwell. Mr. DeAngelis reminded the Board that his client did not operate the nursing home, but rather was the property owner. Mr. DeAngelis offered the opinion that the cessation of operations of a nursing home at the property has occurred, and the focus of a Preliminary Investigation Study is to determine whether or not the property meets the statutory criteria under the LRHL to be declared an Area in Need of Redevelopment. Mr. DeAngelis requests that the Land Use Board not recommend to the Township Committee that the Study Area be declared a Condemnation Redevelopment Area.

24. 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 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.

25. 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, Woodlands Behavior and Nursing Center at Andover, 99 Mulford Road, Block 108, Lot 1.05, Andover Township, Sussex County prepared by J. Caldwell & Associates, LLC dated February 1, 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**

Motion Introduced By: Skewes

Motion Seconded By: Karr

In Favor: Howell, Gilchrist, Degan, Olsen, Karr, Skewes

Opposed:

**VOTE ON MOTION TO APPROVE RESOLUTION  
DECLARING THE ENTIRE STUDY AREA AS A  
CONDEMNATION REDEVELOPMENT AREA**

Motion Introduced By:

Motion Seconded By:

In Favor:

Opposed:

Andover Township Land Use Board

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Stephanie Pizzulo, Board Secretary

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Paul Messerschmidt, Chairman

The undersigned secretary certifies that the within Resolution was adopted by the Andover Township Land Use Board on August 15, 2023, and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on September 5, 2023.

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Stephanie Pizzulo, Board Secretary

2853314.1 AND-092 Andover Twp. Com. Designate Study Area as a Condemnation Redevelopment Area (99 Mulford Road) 9.5.23