

**BOROUGH OF PENNINGTON
RESOLUTION 2024-3.11**

**RESOLUTION ACCEPTING PLANNING BOARD RECOMMENDATION TO
DESIGNATE THE AREA IN THE BOROUGH KNOWN AS BLOCK 206, LOTS 4, 5 AND
12 ON THE BOROUGH TAX MAP AN AREA IN NEED OF REDEVELOPMENT, IN
ACCORDANCE WITH THE NEW JERSEY LOCAL REDEVELOPMENT AND
HOUSING LAW, *N.J.S.A. 40A:12A-1, ET SEQ.***

WHEREAS, by Resolution 2023-8.5, pursuant to the provisions of the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, Borough Council of the Borough of Pennington directed the Planning Board to conduct a preliminary investigation to determine whether the area of the Borough known as Block 206, Lots 4, 5 and 12 on the Borough Tax Map (hereafter “Study Area”) constituted a non-condemnation area in need of redevelopment, in accordance with the criteria set forth in *N.J.S.A. 40A:12A-5* and further in compliance with the procedural requirements contained in *N.J.S.A. 40A:12A-6*;

WHEREAS, the Planning Board has conducted such investigation in compliance with *N.J.S.A. 40A:12A-6*, in that:

1. It commissioned a study and report by the Borough’s Planning Consultants Kyle McManus Associates entitled “Preliminary Investigation Block 206, Lots 4, 5 and 12,” dated September 15, 2023 (hereafter “Kyle McManus Report”) to assist the Board in assessing whether the Study Area or any part of it meets one or more of the criteria for designation as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-5*.
2. The Kyle McManus Report presented a map showing the boundaries of the potential area in need of redevelopment and locations of the various parcels of property included therein, with a statement appended to the map setting forth the basis for the investigation.
3. The Board specified a public hearing date of December 13, 2023 for the purpose of hearing persons who are interested in or would be affected by the determination that the delineated Study Area or part thereof is an area in need of redevelopment, gave notice of the hearing in accordance with *N.J.S.A. 40A:12A-6(b)(3)*, and conducted a hearing on the specified date at which James T. Kyle, PP, AICP (Licensed NJ Professional Planner Number 05667) presented the Kyle McManus Report in detail. There were no objections from the public to designation of the Study Area as a non-condemnation area in need of redevelopment and the Board approved a recommendation of that designation to Borough Council
4. On January 10, 2024, the Board adopted a resolution of memorialization recommending designation of the Property as a redevelopment area (“Resolution of Memorialization – Borough of Pennington Planning Board – Recommendation to Designate Block 206, Lots 4, 5 and 12, Pennington Borough Tax Map As A Redevelopment Area”).

WHEREAS, copies of the Kyle McManus Report and the Planning Board’s Resolution of Memorialization are attached to this Resolution and incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that in accordance with the analysis contained in the Kyle McManus Report and its approval by the Planning Board as set forth in its Resolution of Memorialization, Borough Council makes the following findings drawn from the Report (with references to relevant pages):

F1. The Property, designated Block 206, Lots 4, 5 and 12 on the Borough Tax map, consists of approximately 8.5 acres located on the north side of West Delaware Avenue and south of Broemel Place, immediately west of the railroad, as depicted in the aerial photograph at Figure 1 (p6) of the Kyle McManus Report. The photograph details the location of the parcels studied, with the block and lot designations of those parcels and the lots surrounding them labeled for reference. (p5)

F2. All three parcels are currently owned by the Borough. (p5)

F.3 Lot 4 is presently vacant and contains remnants of a driveway. Lot 5 contains the former Pennington landfill, a garage formerly utilized by the public works department, a municipal water supply well and treatment equipment, as well as a portion of the parking area for the Pennington Fire Department encroaching on the northern part of the lot. Lot 12 currently contains an abandoned municipal well enclosed in a brick building, and a steel water tank. (p7)

F.4. Data prepared in conjunction with the Borough's landfill closure process delineate flood hazard areas, riparian zones, wetlands and required wetland buffers. A tributary to Lewis Brook flows through Lot 5 emanating from a pipe at the eastern boundary of Lot 12 then flowing north before entering another pipe in the northeastern corner of Lot 5 and continuing northeast. The brook itself is designated as State Open Waters, but there are small pockets of wetlands on Lot 5 located on the west side of the brook (1,216 sf) and in the northeast corner of the lot (2,415 sf). These wetlands appear to require buffers of 150 feet. Lot 5 also contains flood hazard area associated with the Lewis Brook as well as a required riparian zone of 150 feet. (p7)

F.5. Figures 2 through 5 on pages 8 and 9 of the Kyle McManus Report detail the regulated areas on the three lots. (p7)

F.6. The area surrounding the Study Area is generally comprised of nonresidential uses, Adjacent uses to the west include the Old Mill Shopping Center, a former TD Bank to be converted to a Starbucks, and the Pennington Square Shopping Center. On the south are the Pennington Center complex, containing Pennington Quality Market and a variety of restaurants and retail/service uses. To the east is a rail line and beyond that playing fields that are part of the Pennington School Campus. North are the Shoppes at Pennington, the Pennington Fire Department and the Pennington Post Office. (p7)

F.7. The Property under study is located in the B–H Highway Business District. Permitted primary uses include retail business and personal service establishments of a community service character. The Study Area is also part of the Route 31 Corridor Business Overlay Zone, which is intended to create a mixed-use environment. (p10)

F-8. The Borough will not seek to condemn any privately-owned properties in connection with any development of the Study Area. (p11)

F-9. Based on a Kyle McManus inspection of the site on September 13, 2023, “the structures that exist on Lots 5 and 12 are substandard, unsafe and dilapidated.” (p13) All the windows of the former Public Works garage on Lot 5 are boarded up and the roof is deteriorating. See Photo 1 on p13. The two structures on Lot 12, the brick building containing the abandoned well and a steel water tank, have remained unused since the well was sealed “decades ago.” “Visual inspection reveals the roof of the well building has collapsed on the north side of the building and the windows are boarded.” (p14) The steel water tank has not been maintained and is heavily rusted, presenting a dilapidated appearance. See Photo 2 on p14. These structures are located in close proximity to West Delaware Avenue and Boro Restaurant and Bar in the Old Mill Shopping Center.

F-10. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in *N.J.S.A.* 40A:12A-6, conditions specified in *N.J.S.A.* 40A:12A-5.a are found:

“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 unwholesome living or working conditions.”

The Kyle McManus Report has determined that the condition of the buildings on Lots 5 and 12 meet this criterion. (p14)

F-11. All three structures on Lots 5 and 12 are obsolete because Public Works operations have moved to North Main Street and the public water supply well has long been abandoned and sealed. “None of the structures has any functional use in the modern world and could not reasonably be adapted to alternative uses given their size, configuration and condition.” (p14)

F-12. A delineated area may also be determined to be in need of redevelopment if the conditions in *N.J.S.A. 40A:12A-5.c* are found:

“Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.”

The Kyle McManus Report has determined that the nature of the soil on Lot 5 and its topography meet this criterion. (p14-15)

F-13. The Borough’s solid waste landfill was located on Lot 5 from 1954 until its closure in 1980. Based on earlier study and analysis by an LSRP, soil sampling has revealed that hydrocarbons, volatile organic compounds, semi-volatile organic compounds, PCB’s and metals are present to some extent [?] in soils surrounding the landfill. “The trash layer itself is documented to be approximately 25’ in depth and 65,000 cubic yards in volume. Taken together, the extent of the trash fill and the soil contamination would satisfy criterion c of the LRHL, as the nature of the soil on these properties is a barrier to redevelopment.” (p14)

F-14. The Kyle McManus Report further observes that the mound of the former landfill reaches a height of 209’ above sea level, sloping down to approximately 180’ above sea level for a total height of 29’. Slopes on the sides of the mound exceed 15% gradient, which presents limitations for development. See Photo 3 on page 15.

F-15. According to the Report, “the trash pile consumes most of” the area of Lot 5 not constrained by riparian zone, flood hazard area, wetlands or wetland buffers. (p15) The topographic characteristics of the trash pile negatively affect the development potential of the property because development will necessitate significant regrading and removal, likely requiring more than private capital alone. (p15)

F-16. Lot 4 is located on Broemel Place, is owned by the Borough and is vacant except for a driveway and a concrete pad. The Lot provides additional frontage on Broemel Place that is necessary for redevelopment of the Study Area overall. As explained in the Kyle McManus Report:

“This property is adjacent to Lot 5 where the landfill operated. While it may not strictly meet the criteria of the LRHL for designation as an area in need of redevelopment, the LRHL permits inclusion of ‘lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.’[citing *N.J.S.A. 40A:12A-3*, definition of ‘redevelopment area’]. Lot 4, taken together with the portion of Lot 5 that fronts on Broemel Place, provides important frontage on a public street that is necessary for effective

redevelopment of the overall area. Addition of Lot 4 to the designation would provide a total of 270' of frontage on Broemel Place where only 120' would be available if Lot 4 were not included.” (p15)

F-17. The Kyle McManus Report concludes that the Property meets one or more of the criteria for designation as an area in need of redevelopment under the Local Redevelopment and Housing Law, in particular the criteria in *N.J.S.A. 40A:12A-5.a* and *c*, . The Planning Board has approved the Report and recommended to Borough Council that Block 206, Lots 4, 5 and 12 be designated an area in need of redevelopment.

F-18. The recommended boundaries for this proposed “Landfill Redevelopment Area” are shown in Figure 6 at page 17 of the Kyle McManus Report.

F-19. Based on the above findings, and the site inspection, data review, analysis and conclusions described in the Kyle McManus Report, Borough Council accepts the recommendation of the Planning Board to designate Block 206, Lots 4, 5 and 12, in their entirety, a Non-Condensation Area in Need of Redevelopment under the New Jersey Local Redevelopment and Housing Law.

BE IT FURTHER RESOLVED that the Borough Administrator and Borough Clerk are hereby directed as follows:

1. the Borough Clerk shall forward for review and approval, no later than 10 days after adoption, a certified copy of this Resolution to the Commissioner of Community Affairs, which must be approved or disapproved by the Commissioner within 30 days or same shall be deemed approved;
2. the Borough Clerk shall issue within 10 days, on behalf of Borough Council, a notice of determination to any property owners within the delineated area and any person who filed a written objection and specified an address to which a notice of determination must be sent,
3. the Borough Administrator, in consultation with the Borough Planning Consultant, shall prepare and advertise a request for proposals seeking responses from qualified developers that shall include conceptual plans for redevelopment of the redevelopment area.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

This is to certify that the foregoing is a true copy of a Resolution adopted by the Borough Council of the Borough of Pennington at a meeting on March 4, 2024.

Elizabeth Sterling, Borough Clerk