



# ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board  
Municipal Building  
134 Newton Sparta Road  
MINUTES  
June 21, 2022  
7:30 p.m.

**CALL TO ORDER:**

Mr. Messerschmidt called the meeting to order at 7:30pm.

**PLEDGE OF ALLEGIANCE:**

Mr. Messerschmidt led everyone in a flag salute.

**OPEN PUBLIC MEETINGS ACT NOTICE:**

Mr. Messerschmidt read the following into the record:

This is an open public meeting of the Andover Township Land Use Board to be conducted in-person only at the Municipal Building, 134 Newton Sparta Road, 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:**

Eric Karr - Excused  
Eric Olsen – Present  
John Carafello – Excused  
Suzanne Howell – Present  
John O’Connell – Excused  
CeCe Pattison – Excused  
Richard Skewes – Present  
Joseph Ordile – Present  
Joseph Tolerico – Excused  
Paul Messerschmidt – Present

**Also Present:**

Thomas Molica, Esq.  
Cory Stoner, PE  
Matthew Morris, PP  
Stephanie Pizzulo, Secretary

**ADMINISTRATIVE ITEMS:**

**Approval of Minutes:** None

**RESOLUTIONS:** None.

**COMPLETENESS REVIEWS:** None.

**HEARINGS:**

1.) BHT Properties Group B:151 L:21 A21-2

*An application for Preliminary and Final Major Site Plan approval and variances to permit the applicant to demolish all existing structures, regrade the lot and utilize the property for storage of construction vehicles and construction equipment and materials. In addition, the applicant will install a pedestrian walkway, commercial office building and provide all necessary subsurface and surface stormwater facilities and provide other site features. The runway will be maintained and used for access and storage.*

Mr. Thomas, Esq. clarified the runway would be used for access and not storage. Mr. Molica said the applicant had re-noticed the application. The Board Secretary verified the taxes are current.

Mr. Thomas continued his questioning of Mr. Moser and asked him about the buffers for the wetlands and if he had observed any of the noted animal habitats during his visit to the sight. Mr. Moser said he had not observed the habitats since he only did a site walk. Mr. Thomas asked if the statement in the report regarding habitat and foraging areas were based on models of the general region to which Mr. Moser said yes. Mr. Thomas noted the applicant was applying for a freshwater permit and asked Mr. Moser if the D.E.P. has jurisdiction to which Mr. Moser said yes. Mr. Thomas said the applicant has applied for an L.O.I. and asked Mr. Moser if that requires certain testing. Mr. Moser said a L.O.I. requires someone to go out and run models and explained what the D.E.P. requires for testing. Mr. Thomas said the permits would be issued if they did not have a substantial impact on the adjacent freshwater wetlands. Mr. Moser explained the conditions for when the D.E.P. would ask for a larger buffer area. Mr. Thomas said the Natural Heritage Program has modeling and asked Mr. Moser if that was what he used in his report, to which he said yes. Mr. Moser said he walked the property to see if the wetland flags were present and to see the wetlands. Mr. Thomas said the report talks about the Natural Heritage Priority sites and asked Mr. Moser if he found any of those sites on the applicant's site. Mr. Moser said there is vernal pool habitat and explained the modeling website he researched. Mr. Moser clarified the maps in the Equity Environmental report. There was a discussion on the E.I.S. dated February 8, 2020. Mr. Thomas asked if Mr. Moser has reviewed the Stormwater Management Report to which he said yes. Mr. Thomas said the Equity Environmental report expresses a concern the construction material might cause

potential pollution. Mr. Moser said because they do not have specific detail as to what would be onsite there could be pollution and explained possible conditions. Mr. Thomas said the facility is a construction facility and construction storage facility and said the proposed containers would contain pipe or fencing and ask if there would be potential pollution from that. Mr. Moser said he could not answer that question because he did not have the traffic routes on the site or delivery and equipment types. Mr. Moser said he did not feel comfortable answering that question until there is an operating plan of the site.

Mr. Thomas asked about the Skylands Region Area. Mr. Moser said it is a designated region in northwestern New Jersey. Mr. Thomas asked if there are any mines on the site to which Mr. Moser said there is mapping showing all known mines in New Jersey. Mr. Thomas asked about the groundwater contamination maps to which Mr. Moser explained them to the Board.

Ms. Durkin, Esq. said her understanding of why the Board hired Equity Environmental was to review the documents submitted regarding their sufficiency and completeness to which Mr. Williams agreed. Ms. Durkin asked Mr. Williams what his firm was retained to do. Mr. Williams said the scope of their review was to review the materials submitted to the Board. He said they were to review the E.I.S for sufficiency in terms of the content requirement in relation to the town code and to look at the ecological reports that have been prepared and the D.E.P submission package. Mr. Williams said Mr. Thomas was just trying to clarify that the N.J.D.E.P. has jurisdiction over the determination of those documents. He said they looked at those documents as they exist and whether they are sufficient and the major finding is that they are waiting for letters of interpretation. He said there was no investigatory process in the scope of their work; they were merely to review the documents.

Ms. Durkin felt there was confusion on the E.I.S that was submitted to the Board, and asked if Equity Environmental reviewed the documents on the Andover Township website or were the documents submitted to Equity Environmental. Mr. Williams said it was a mix and they have now received all updated and current documents. Ms. Durkin asked Mr. Williams, relevant to the E.I.S., if he was aware BHT had submitted a previous application for a vehicle storage and auction facility to which he said yes he was familiar with that. Ms. Durkin said the application before the Board is a new application. Mr. Williams said that is for the Board to determine. Mr. Molica said the applicant, in writing, agreed it was a new application and should be treated as such. Ms. Durkin said she agreed and said the new submission was in May 2021. She noted there have been two E.I.S. documents submitted. Mr. Williams said he had reviewed both documents. Ms. Durkin said both E.I.S. documents were revised prior to the submission of the new application and asked if all of the E.I.S. documents should have the same revision dates. Mr. Williams agreed. He said the E.I.S. should be updated and meet the content requirements of the Township ordinance. He said some of the data could be reused however; the documents submitted should match the application and respond the proposed use for the site. He elaborated on what type of information might be needed. Ms. Durkin asked if the site is

environmentally sensitive. Mr. Williams said it is a complicated site and explained the types of issues that could be on the site. He said the E.I.S. should be written so the community can read it and understand it. Mr. Durkin referenced the letter from Equity Environmental dated June 20, 2022.

Mr. Molica noted Mr. Williams letter dated June 20, 2022, which he marked and entered as exhibit B-2.

Ms. Durkin asked Mr. Williams if he prepared the letter to which he said yes. Mr. Williams said he prepared the letter as a simplified point-by-point statement of requirements, the documents submitted to D.E.P. and town ordinance requirements. He said they are comments that need to be completed or considered for a complete application. He said the letter was intended to indicate what they feel is complete and what needs additional support and was not meant to pass judgement but to provide a roadmap for the Board. He said the applicant needs to submit an Operational Plan and the E.I.S. should be written in three parts; one is existing conditions, evaluation of the proposed use, and a statement of mitigation where applicable. He felt the wetlands delineation is complete and all that is remaining is the L.O.I. He said the D.E.P. is reviewing this application and that is pending. He said the U.S. Fish and Wildlife data shows the seasonality of threatened and endangered species onsite and a consultation with U.S. Fish and Wildlife should be performed. Mr. Williams said they do not make any judgement about the threatened and endangered species that may be present of the site however, that is a determination that needs to be provided for the site plan. He said the Stormwater Management Plan seems to be complete however; they would need a waiver for the use of infiltration, which is noted in the report. He said the Flood Hazard Verification Report appears to be complete with an approval from D.E.P. Mr. Williams said there needs to be a determination if the proposed development is an approved use or is subject to use variance. He said if it is determined that a use variance is needed then the E.I.S. needs to reflect the positive and negative criteria. He said there is indication in the documents supplied by the applicant that there is presence of Federal endangered and threatened species and if those habitats are destroyed or species are killed, it is a Federal crime. He explained the species involved and said there is missing information such as a detailed construction schedule and ambient readings on noise and air quality. Ms. Durkin asked about the air quality testing. Mr. Williams said the only way to assess impact to the site is to capture ambient readings and explained how some of those testing would be conducted. There was a discussion on the air quality testing. Ms. Durkin asked Mr. Williams what his recommendation is to the Board. Mr. Williams said his recommendation is there needs to be a proper traffic study to assess the impact to the air quality; using a regional study from another county to assess the air quality is not sufficient and to assess this unique use and its impact to the area; modeling should be done and an ambient level established.

Mr. Molica asked, notwithstanding the ordinance requirements, was it Mr. Williams' opinion that the nature of the property and the proposed use justify further information. Mr. Williams said yes.

Ms. Howell asked about the habitat within proximity to the site. Mr. Moser said the Natural Heritage database looks out to a mile. Mr. Williams explained this in detail.

Mr. Ordile asked about the Natural Heritage database report letter dated October 10, 2019 that was addressed to Mr. Ackerman which indicated the report was very specific to the site and all the sightings of State and Federal endangered and threatened species were found on the site. Mr. Moser said the request is specific to the site and then they go in their database beyond the site up to a mile away.

Mr. Messerschmidt asked if the D.E.P. report would need to be updated. Mr. Williams said that would be their determination and recommended that an infield ecological habitat survey be done and he expects D.E.P. would concur. Mr. Messerschmidt asked if in the June 20, 2022 letter the list of seven items of documentation, they reviewed is this the same list as the original report. Mr. Williams said they added the appendices and the full D.E.P. documentation and this is an update from the last submission.

Mr. Olsen referred to exhibit B-2 and asked about the Facilities Operator Manual and Spill Cleanup and he did not see any recommendations referred to and asked for recommendations to that. Mr. Williams said he felt it was deficient and vague. Mr. Moser felt it was a cookie cutter document and was not specific to this project. Mr. Williams went over items that should be included in the Operational Manual.

Mr. Morris said exhibit B-2 is more of a recommendation on items that should be addressed and provided and would help the Board make decisions on the environmental issues.

The Board took an eight (8) minute break.

Mr. Thomas asked Mr. Williams if he knew what the hours of operation and number of employees. Mr. Williams said he has seen documents however; it should be in the E.I.S. Mr. Thomas asked if Mr. Williams had seen the traffic study to which he said he saw it however, that should be also be in the E.I.S. Mr. Thomas said Mr. Williams felt the air quality monitoring from Passaic County monitoring station was not adequate and there should be something local. Mr. Williams suggested in order to assess the potential environmental impact from the proposed use, they would have to establish a base line at the site. He suggested a day of dust track monitoring and then utilizing the traffic report and the construction material onsite and operations to determine if they are significantly degrading the ambient air quality. He gave suggestions on how this monitoring could be handled.

Mr. Thomas said they were willing to do the noise testing subsequent to an approval and subject to a condition they would do a noise monitoring before the site is developed and then one as the site becomes active. Mr. Williams said if the Board agrees to the post approval monitoring, then he did not have a problem with that.

Mr. Thomas asked if Mr. Williams is opposed to post approval air monitoring and said it could be handled with live testing. Mr. Williams said if they get negative results, it could delay the operation however; reality is better than modeling and felt a protocol should be in place on how the monitoring would be done.

Mr. Thomas said they would have a septic for 20 employees. Mr. Williams said the applicant should address the leaching field in relation to the wetlands. There was a discussion on the location of the proposed septic and well. Mr. Williams said this should be done pre-approval.

Mr. Messerschmidt opened the meeting to the public.

Ms. Alice Romano of 6 Michael Court, Andover, NJ asked if there are bald eagles on the site. Mr. Williams said they are not saying the bald eagles are present and explained the process of how the species are determined to be on the site. He said if they are present and have a habitat, it is undetermined however; the D.E.P database indicates they could be present. Ms. Romano asked why the survey had not been done. Mr. Williams said the D.E.P. has not requested this information yet however; he is recommending that to the Board. Ms. Roman asked how she could obtain a copy of exhibit B-2. Mr. Messerschmidt said it would be o the Township website tomorrow. Ms. Romano asked how she could get copies of the transcripts to which Mr. Messerschmidt said the applicant is no longer providing them to the Board. Ms. Romano asked if bald eagles are present, how construction of the site moves forward. Mr. Moser said based on the database the bald eagle was foraging onsite and not breeding or nesting. He said the process is under review by the D.E.P. and the applicant is waiting until they request additional information. Mr. Williams explained the process. Ms. Romano asked if Mr. Williams knew the number of bald eagles in Sussex County to which Mr. Williams said he did not. Ms. Romano asked about the bats. Mr. Williams said it is a breeding area for the Indiana bats however; there are ways to remedy that, as species are very adaptive.

Mr. Larry Metzger of 11 Arthur Ave, Andover, NJ started to ask a question. Mr. Messerschmidt advised Mr. Metzger that Ms. Durkin represented him and she would have to ask questions on his behalf.

Ms. Durkin asked if the wetland delineation should be provided so everyone has an understanding of the setbacks for the flood area zones. Mr. Williams said the applicant has

provided that and has a complete flood hazard and wetlands delineation and the riparian zone has been approved by the D.E.P.

Mr. Ray Wexler of 121 Andover Sparta Rd, Andover, NJ said the study for vernal ponds had been done during the dry season and felt those studies should be done again. Mr. Williams said he considered the time of year the report was done as late in the season and that the wet season is March and April. He said the report aging out is subject to the D.E.P. Mr. Wexler asked if Mr. Williams would recommend the studies be redone during the correct season. Mr. Williams said he did not want to recommend that. Mr. Moser explained how species could be misidentified however; the D.E.P. can walk the site and adjust the delineation or put other stipulations on the project. Mr. Wexler felt the appropriate studies should be conducted during the appropriate times. Mr. Williams felt the documents are professionally done and the data is presently plain, however; the October testing is an issue. He said the D.E.P. would determine if October is appropriate or if they need to supplement with another study. Mr. Wexler asked if a detailed hydrogeology study had been done. Mr. Williams said he understood the town was going to hire a hydrogeologist to look at the groundwater. Mr. Messerschmidt said the board is retaining a hydrogeologist to provide a report to the Board. Mr. Wexler asked how the Town ensures compliance on an extremely sensitive environmental site. Mr. Williams said the applicant could be required to come back for a compliance hearing, submit outside inspection reporting to make sure the operating plan is being followed.

Mr. Neil Hubbard of 12 Caitlyn Court, Andover, NJ asked about the water table below the surface of the ground and asked if any study had been done. Mr. Moser said he had not seen any study of groundwater below grade surface. Mr. Stoner said they did additional test holes to show the ground water elevations. Mr. Hubbard asked if this would be something the hydrogeologist would report on. Mr. Stoner said it would be more of an engineering issue.

Ms. Janine Cordero of 8 Cove Hollow Court, Andover, NJ asked about the hydrology study. Mr. Messerschmidt said the hydrogeologist has not been hired yet. Ms. Cordero said she was concerned about runoff. Mr. Stoner said runoff is covered in the Stormwater Report. He said the hydrogeologist report is an assessment of what the site could have on the groundwater conditions. Mr. Stoner explained the difference between groundwater and stormwater. Ms. Cordero asked if there would be monitoring of the recommendations. Mr. Moser said they are recommending an Operational Plan. Mr. Williams explained onsite monitoring. He said they do not make recommendations on monitoring.

Mr. Al Bills of 15 Springdale Garden Rd., Andover, NJ asked about the drainage and its effect on the water table. He felt the water would be forced into several smaller areas to drain and have an impact to the neighboring properties. Mr. Williams said there is a wide amount of stormwater management areas however there is no analysis of contaminant coming from the storage areas. He said the applicant did submit a stormwater plan. Mr. Stoner explained the

stormwater management plan to Mr. Hubbard. Mr. Hubbard asked if the groundwater flow on adjacent properties because there is a high-water table already. Mr. Stoner said the water would not make its way to Springdale Garden Rd. Mr. Williams said because the applicant is using infiltration it is subject to a waiver approval and explained the process.

Mr. Ken Best of 305 Stickles Pond Road, Andover, NJ said the current truck traffic through the site would be visited once per month and asked if that were to change would it change the Environmental Impact Statement. Mr. Williams said that is an important part of the resolution to cap the number of trucks and containers. Mr. Best asked how that would be controlled to which Mr. Williams said through manifests. Mr. Best asked if Mr. Williams knew of any other projects like this. Mr. Williams said this is a unique project. Mr. Thomas said they have agreed to a certain number of trucks and containers and some sort of monitoring.

With no further business to come before the Board, the meeting was closed to the public.

Mr. Messerschmidt asked Mr. Thomas for a consent to grant the Board time for a decision. Mr. Thomas granted an extension to the end of September 2022.

Mr. Molica asked if the Board wanted to make a finding that the applicant needs to address in full all of the reports of Equity Environmental and address all of the recommendations. Mr. Thomas said he would look at the Equity Environmental reports and make responses. He said he would try to get responses from the D.E.P. as well. Mr. Messerschmidt recommended allowing the applicant's environmental expert to testify before the Board and asked for a repose to the Equity Environmental report. Ms. Howell asked if the Board could reserve the right to request the applicant comply with the Equity Environmental report to which Mr. Molica said yes.

Ms. Durkin said none of the requested adjournments was on behalf of herself, her clients or the public. She said the applicant did all of the adjournments. Mr. Molica said they were due to illnesses. There was a discussion on how the Board should proceed.

The hearing was carried to July 19, 2022 without further notice by applicant the to the surrounding property owners to the held in the municipal building at 7:30pm.

Mr. Thomas said he will discuss the Board's Hydrogeologist proposal with Mr. Messerschmidt and the outcome of that discussion will be announced at the next meeting.

**ORDINANCES:** None.

**OLD BUSINESS:** None.



**NEW BUSINESS:** None.

**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 Subcommittee* – Joseph Ordile

The Board carried the liaison reports.

**VOUCHERS:**

<b>Company</b>	<b>Purpose</b>	<b>Amount</b>	<b>Paid By</b>
Harold Pellow & Assoc.	Engineering	\$912.25	Engineering Budget
Vogel Chait, Collins, & Schneider	BHT Properties Group	\$1,408.00	Applicant’s Escrow

A motion to approve the vouchers as presented was made by Ms. Howell and seconded by Mr. Olsen. Roll Call: Eric Olsen – yes, Suzanne Howell – yes, Richard Skewes – yes, Joseph Ordile – abstain, Paul Messerschmidt – yes. Motion carried.

**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. When called, please come to the microphone, state your full name and address and spell your last name for the record. 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.

Mr. Messerschmidt opened the meeting to the public. With no public left, the meeting was closed to the public.

**UPCOMING MEETINGS:** July 5, 2022, July 19, 2022

**ADJOURNMENT:**

With no further business to come before the Board, a motion to adjourn was made by Ms. Howell. It was seconded by Mr. Olsen and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo  
Land Use Administrator