



ANDOVER TOWNSHIP

SUSSEX COUNTY • NEW JERSEY

Land Use Board
Municipal Building
134 Newton Sparta Road
MINUTES
October 25, 2022
7:30 p.m.

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE:

Mr. Messerschmidt led the room 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, 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.

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 – Present
Krista Gilchrist - Present
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 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.

Mr. Roger Thomas, Esq. was representing the applicant. He said they had received the memo from the Andover Township Environmental Commission and were prepared to respond to it.

Mr. Michael Kovacs was still under oath and continued his testimony.

Mr. Kovacs presented a map entitled Figure 8 – Barred Owl with a date of 10/19/22, which was marked and entered as exhibit A-38.

Mr. Kovacs presented a map entitled Barred Owl – Wrong Location with a date of 10/19/22, which was marked and entered as exhibit A-39.

Mr. Kovacs explained how they determined that the rare species listed in the report they received from the NJ Office of Natural Lands Management dated July 28, 2022, which listed rare species or habitat, do not exist on the site. He said the report does not say the rare species were observed on the site. He said the D.E.P. does not want to give away exact location of rare species due to poaching. He explained the method they use to determine the location of the species and habitat and explained land cover types. He said the D.E.P. maintains a list of sightings for rare, threatened and endangered species. He explained exhibits A-38 and A-39 to the Board. He said he has presented the determination to the D.E.P. and they have accepted the process.

Mr. Kovacs went through the report from the Environmental Commission and addressed the four concerns of the Commission. He addressed the methodology used to determine the

species are not on the site, he explained how they determined the species of interest are not on the site and said they had visited the site six times in different seasons and he addressed the times of the year they visited the site and felt they were appropriate. He said they did not conduct air quality or noise studies.

Mr. Kovacs said the development will result in some loss of habitat but the impact will not be significant. He said the noise would not affect the species or habitats that exist on the site. He said the vernal pond is being preserved and the buffer around it in accordance with D.E.P. regulations. He said there is a corridor between the vernal pool and the wetlands and the Pequest so animals will have a place to go when they leave the vernal pool. He explained the slope of the property and how the vernal pool would not be affected by the development.

Mr. Stoner asked if the E.I.S. would be updated to, which Mr. Thomas said yes.

Ms. Gilchrist asked if all of the sightings Mr. Kovacs testified to were reported to the DEP. Mr. Kovacs said it would appear in the annual year-end report. Ms. Gilchrist asked if the Landscape Project Maps would be updated annually. Mr. Kovacs said the Landscape Project Maps are updated every three to five years. Ms. Gilchrist asked if the dates of the sightings are current to which Mr. Kovacs said the D.E.P. does not report the location of the sightings but they do report current sightings.

Mr. Tolerico asked if there could be Barred Owls on the site even though there were no sightings. Mr. Kovacs explained that the habitat is not present. He explained that Fish and Game routinely tracks certain species. He explained the mapped habitat.

Mr. Olsen asked for clarification on the source of the data. Mr. Kovacs explained how they created the maps and sources they used. Mr. Olsen asked how the development would affect the algae growth in the vernal pond. Mr. Kovacs said he did not feel the development would promote any further growth of algae. Mr. Olsen asked if the Fish and Wildlife data was an official report. Mr. Kovacs explained how they obtained the information from the Fish and Wildlife website. He said Fish and Wildlife is reviewing the project with the D.E.P. Mr. Olsen asked if the Barred Owl or Bald Eagle has never used the property. Mr. Kovacs said they might be foraging the site. He said the area proposed for development would not have a significant impact.

Mr. Messerschmidt asked for clarification on the bird sightings. Mr. Kovacs said the last sightings were in 1996 and 1991 and further explained the website that tracks sightings. Mr. Messerschmidt asked if by the time the property is developed could one of the species not presently on the site, start nesting on the site. Mr. Kovacs said that could happen and explained that birds and other animals would relocate. He explained the conditions the D.E.P. will put on any approval, including prohibiting tree clearing during certain times of the year.

Mr. Messerschmidt asked about mapping the species to the road. Mr. Kovacs said the D.E.P. recognizes the species stop at the road and that if they did not the habitats could go on forever.

Ms. Howell asked about the mapping data from 2017 and felt there could be endangered species on the site now. Mr. Kovacs explained the habitat that was present and that some of the data is from decades ago. Ms. Howell asked how the observations listed on www.ebird are done without trespassing on private property. Mr. Kovacs said people could observe sightings from the road.

The Board took an eight-minute break.

Mr. Ordile asked for clarification on the maps presented. Mr. Kovacs said they ran similar mapping on other species. Mr. Ordile asked if there would be an updated E.I.S. to which Mr. Thomas said yes. Mr. Ordile asked about the field surveys. Mr. Kovacs explained how the field surveys were conducted and what they were reviewing and said he traversed most of the site. Mr. Ordile asked for clarification on the effect of the construction on the site. Mr. Kovacs said the construction would have the most impact because of the loss of habitat however; the operation of the site would not have a significant effect on the habitat and the occupants of that habitat. Mr. Ordile asked if the species that left the site would come back to which Mr. Kovacs said they would. Mr. Ordile asked what a transition averaging plan waiver was. Mr. Kovacs explained the D.E.P. allows a transition area to be reduced if it is expanded in another area. Mr. Kovacs showed the Board where the reduction and expansion would be. Mr. Ordile asked for clarification on the mapping to which Mr. Kovacs explained sightings and habitats observed. Mr. Ordile asked if the development would have a positive effect on the invasive plants found on the property to which Mr. Kovacs said no. Mr. Ordile questioned the data in Mr. Kovacs report. Mr. Ordile asked how the vernal pool would be filled. Mr. Kovacs explained how it is filled under the existing conditions and how that would happen under the proposed conditions. Mr. Kovacs explained the flow and infiltration of the water.

Mr. Olsen asked for an update on the D.E.P. permit to which Mr. Thomas said he has not received it yet. Mr. Olsen asked if there would need to be any mitigation. Mr. Thomas said that would be a question for the Engineer.

Mr. Ordile asked for a list of stipulations, an updated site line exhibit and an updated site plan. Mr. Thomas said he would get the list of stipulations and updated site line exhibit. He said the Engineer would provide one updated set of plans at the end of the hearings. There was a discussion on when the revised maps should be filed.

Ms. Durkin, attorney for the objectors, cross-examined Mr. Kovacs. She questioned Mr. Kovacs on the data in his report. She asked what Mr. Kovacs meant when he used the word observation during his testimony. Mr. Kovacs explained what he was referring to. Ms. Durkin

asked if there was a certification on the report. Mr. Kovacs was not sure what type of certification it required. Ms. Durkin asked if the report was shared with other agencies to which Mr. Kovacs said no. Ms. Durkin asked if they intend to share the document to which Mr. Kovacs said they would share the Phase 1 Bog Turtle information. Ms. Durkin questioned Mr. Kovacs on what the D.E.P. would be looking at. Ms. Durkin asked if the report addressed the impact on the habitat to which Mr. Kovacs said yes. Ms. Durkin asked Mr. Kovacs if he had reviewed the E.I.S. that was submitted to which he said no. Ms. Durkin asked Mr. Kovacs if his conclusions were favorable to the applicant. Mr. Kovacs said the conclusions were based on what the impacts would be which is based on the available information. Ms. Durkin questioned Mr. Kovacs on his field notes. Ms. Durkin asked if Mr. Kovacs had reviewed the operational plan to which he said he has looked at draft plans but not a final plan. Ms. Durkin asked if the proposed shipping containers were considered when he did his report. Mr. Kovacs said they took into consideration that a certain area was going to be developed and everything in that area would be lost to development. Ms. Durkin questioned Mr. Kovacs about chemicals that are stored in shipping containers. Mr. Thomas objected because there was no indication that chemicals would be stored in the proposed shipping containers. Ms. Durkin continued to question Mr. Kovacs about the shipping containers. Ms. Durkin asked if Mr. Kovacs was tasked with reporting on how to minimize the impact of construction on the wildlife. Mr. Kovacs said they examined the footprint of the disturbance and how that disturbance would remove wildlife habitat. He said his report is an inventory of the wildlife on the site and the impacts of the project on that habitat. Ms. Durkin asked if Mr. Kovacs reviewed the report from Equity Environmental to which he said yes. Ms. Durkin asked if he disagreed with the conclusions of the report. Mr. Kovacs said he did not review the report in those terms.

Mr. Thomas asked Mr. Kovacs if the Equity Environmental report had certifications on it to which Mr. Kovacs said no. Mr. Thomas asked Mr. Kovacs about the time he was onsite for clarification. Mr. Thomas asked Mr. Kovacs about the Bobcat radius. Mr. Kovacs explained the radius. Mr. Thomas asked Mr. Kovacs to give more detail on how a vernal pool is fed. Mr. Kovacs said most of the vernal pool is fed by groundwater and that would continue after development.

Ms. Durkin questioned Mr. Kovacs about the Equity Environmental report.

Mr. Molica said the applicant intends to return on November 15, 2022 would be re-noticing the amended subdivision application. There was a discussion on the notice requirement.

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 agreed to remove the above items from agendas when they are hearing the BHT Properties Group application.

VOUCHERS: None.

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 nobody coming forward, the meeting was closed to the public.

UPCOMING MEETINGS: November 1, 2022, November 15, 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