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October 18, 2021

**MEMORANDUM TO:** Andover Township Land Use Board

**FROM:** Matthew J. Morris, L.L.A., P.P., LEED G.A., Harold Pellow and Associates, Inc.

**SUBJECT:** PLANNING REVIEW

Preliminary/Final Site Plan Application for BHT Properties Group  
Property Located at 248 Stickle Pond Road  
Block 151 Lot 21  
Andover Township, Sussex County  
HPA No. 19-324

Dear Board Members:

The above referenced Applicant has provided an updated set of plans since my last report dated April 20, 2021, in support of their application for Preliminary & Final Site Plan for the development of a construction equipment and material storage facility and a 12,860 square foot building on the Block 151 Lot 21 property located at 248 Stickle Pond Road, formally known as the Newton Airport. Based on a review of the newly submitted information, I offer the following comments:

1. The new plans and documents submitted in support of this application include:
  - a. Plans entitled “Preliminary and Final Major Site Plan, BHT Properties, Block 151 Lot 21, Andover Township, Sussex County, New Jersey”, prepared by Engineering & Land Planning Associates, Inc., consisting of twenty-seven (27) sheets, dated December 12, 2019 and last revised September 29, 2021.
  - b. Stormwater Management Report prepared by Engineering & Land Planning Associates, Inc., dated November 28, 2019 and revised September 28, 2021.
  - c. Stormwater Management Maintenance Manual prepared by Engineering & Land Planning Associates, Inc., dated November 28, 2019 and revised September 28, 2021.
  - d. Plans entitled “Sight Line Exhibit”, prepared by Engineering & Land Planning Associates, Inc., consisting of three (3) sheets and dated July 14, 2021.
2. The plans and documents previously submitted in support of this application included:

- a. Environmental Impact Statement prepared by Engineering & Land Planning Associates, Inc. dated December 12, 2019 and last revised January 26, 2021.
  - b. Freshwater Wetlands Report & General Permit 6 and Transition Area Waiver prepared by Engineering & Land Planning Associates; Inc. dated January 20, 2020.
  - c. Flood Hazard Area Verification Report prepared by Engineering & Land Planning Associates, Inc. dated January 20, 2020.
  - d. Architectural drawings entitled “Insurance Auto Auctions, ...”, prepared by The Hill Firm, dated May 13, 2020 and last revised February 5, 2021.
  - e. ALTA/ACSM Land Title Survey entitled “Acquisition Parcel from RRL Group, Public Service Electric & Gas Company, ....”, prepared by Carroll Engineering, dated December 19, 2012 and consisting of two (2) sheets.
  - f. Traffic Impact Study for Proposed Construction Equipment & Material Storage Facility prepared by Dynamic Traffic, revised February 4, 2021.
  - g. Document entitled, “Construction Business Office and Construction Equipment and Material Storage”
  - h. Architectural drawings prepared by The Hill Architectural Firm last revised February 5, 2021.
  - i. Land Development Application, checklists, and other supporting documents.
3. **Zoning Comments:**
- a. The Applicant originally submitted plans for a proposed outdoor storage facility of used, operable and inoperable automobiles, trucks, watercraft, trailers, industrial and construction equipment for online auction. The Applicant then submitted plans proposing construction business office and construction equipment and material storage. In this latest iteration, the Applicant has updated these plans to show the following proposed improvements:
    - i. A 12,860 sf. building with an associated parking lot of 40 spaces.
    - ii. Approximately 32 acres of construction equipment and material storage.
    - iii. Eight-foot-tall fencing around the perimeter of the improvements.
    - iv. Stormwater management networks and five (5) infiltration basins.

v. Lighting, landscaping, signage and other associated improvements.

b. The Block 151 Lot 21 property is located in the C/I, Commercial Industrial Zone. A review of the proposed bulk requirements in the C/I, commercial Industrial Zone District are as follows:

<b>Item</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance</b>
Min. Lot Area	130,000 sf.	4,393,897.2 sf	No Change	No
Min. Lot Width	250 ft.	3,908 ft.	No Change	No
Min. Front Yard Setback	70/100 ft. Min. <sup>(1)</sup>	17.9 ft <sup>(2)</sup> House	74.9 ft. Commercial Building	No
Min. Rear Yard Setback	50 ft.	1.556 ft +/-	562+/- ft.	No
Min. Side Yard Setback	30 ft.	450 ft. +/-	386 ft.	No
Max. Structure Lot Coverage	25%	0.3%	0.3%	No
Max. Impervious Coverage	60%	4.4%	46%	No
Max. Building Height	2 ½ Stories/ 35 ft.	1 story/ <35 ft.	1 story <35 ft.	No

<sup>(1)</sup> Where parking is provided in the front yard, one-hundred-foot building setback is required. Without front yard parking, a seventy-foot setback is required for industry.

<sup>(2)</sup> Existing, Non-Conforming

c. I believe that the zoning table on the front sheet reflects the previous location of the structure on the property and the front and rear yard setbacks should be updated accordingly.

d. I differ all other comments regarding parking, stormwater, lighting and signage to the Township Engineer.

4. **Proposed Construction Business Office and Construction Equipment and Material Storage Use:**

a. Per Section 190-34 of the Andover Township Code - Table 2, Uses Permitted in Nonresidential Zones, “Construction business office and construction equipment and material storage” is permitted in the Commercial/Industrial zone. The Code does not provide a description or purpose clause for the Commercial/Industrial zone district nor does the code elaborate on any parameters or restrictions for the above use.

It is my interpretation, based on the master plan and zoning ordinances, that the intent of this use is for the building to house the principal use, in this case a construction business, and for the construction equipment and material storage to be customarily incidental and subordinate to that use for this application. It is unclear if the outdoor storage is accessory to the use happening in the principal

building or if storage is the main use being proposed with a supporting building. Outdoor storage is not listed as a permitted use in any zone and thus, per Section 190-22 of the Township Code, is specifically prohibited. As presented, the principal use appears to be outdoor storage which would require a D(1) use variance. The Applicant will need to provide testimony regarding the uses on the subject property.

5. **Outdoor Storage**

- a. Section 190-21 of the Township Code establishes parameters for outdoor storage and read thus:

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In the business, commercial and industrial zones, except for concrete and asphalt product and production facilities within the General Industrial Zone district in accordance with the standards set forth in § 190-55.2, no article or material shall be kept or stored, except articles for sale, outside the confines of a building unless it is so screened by special planting or a fence, as approved by the Land Use Board, so that it is not visible from any adjacent residential zone or public street, except such storage is as normal and incidental thereto. This shall not be construed to prohibit the storage or display of shrubbery grown on the premises. Outdoor storage as permitted and regulated in this section is only permitted in the side and rear yards. Seasonal farm produce grown on the premises is a specifically permitted outdoor use and may be displayed in the front yard of any lot without being screened. All outdoor storage of materials, equipment, and vehicles (including tractor trailers, mason dump trucks, roll-off containers, shipping containers, etc.) is prohibited unless the principal structure or use is functional and not vacant for more than three consecutive months.

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- b. Per Section 190-21, all outdoor storage is required to be screened by special planting or a fence so that the storage “*is not visible from any adjacent residential zone or public street*”. At the July 20, 2021 meeting the Applicant’s professional presented a number of sight line exhibits showing line of sight from three adjacent residential properties. I believe, as per the wording of Section 190-21 of the Code, the Applicant will need to demonstrate that outdoor storage is screened from *all* adjacent residential properties *and* public streets to the satisfaction of the Board, or a use variance will be required.

Note: The Applicant has provided sight line exhibits and based on a review of the exhibits, it is not clear that all storage area will be adequately screened.

- c. With regards to the screening requirements, the sight line profiles rely on existing trees as buffering. The Applicant should not rely on existing deciduous trees to provide adequate year-round screening but should augment any existing trees with evergreen screening.

- d. All outdoor storage is only permitted in the side and rear yard. In the previous submission the Applicant proposed outdoor storage in the front, side and rear yard which would have required a use variance. Storage has now been proposed in only the side and rear yard complying with the requirements of Section 190-21. The large size of the Lot and the proposed design places the storage in the side yard approximately 1,790 feet, or 0.34 miles, away from the building giving the appearance of a separate use from Stickles Pond Road. Even though the plan meets the requirement for storage to be placed in the side yard, it has the appearance that storage in in the front yard. I believe that storage in this area should be set back farther from the Stickles Pond Road and additional screening added as not to appear as a separate principal use.

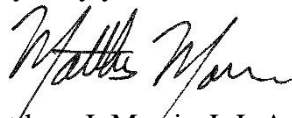
6. **The D(1) Variance Requirements:**

- a. As presented, the application may require a D-1 Use Variance for the outdoor storage use.
- b. Under the Municipal Land Use Law (MLUL) the Board of Adjustment has the power to grant a variance to allow departure from zoning requirements as long as statutory requirements are met. These requirements are known as the positive and negative criteria.

Positive Criteria: In order to address the positive criteria, the Applicant must show that the variance should be permitted for “special reasons” which takes its definition from the purposes of zoning as defined under N.J.S.A. 40:55D-2. Additionally, *Medici v. BPR, Co.* 107 NJ (1987) requires the Applicant to demonstrate that the special reasons are satisfied by ensuring that: (1) the project “inherently serves the public good,” (2) the proposed site would “promote the general well fair as it is particularly suited for the proposed use,” or (3) the denial of the variance would result in a “undue hardship”.

Negative Criteria: To address the negative criteria the Applicant must show that the relief can be granted without detriment to the public good (neighborhood) and granting the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

Very truly yours,



Matthew J. Morris, L.L.A., P.P., LEED G.A.  
**HAROLD E. PELLOW & ASSOCIATES, INC.**  
Consulting Engineers, Planners and Land Surveyors

**Andover Township Land Use Board**  
**RE: Preliminary/Final Site Plan Application for**  
**BHT Properties Group – Planning Report**  
**October 18, 2021**

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cc: Via Email  
Paul Messerschmidt – Land Use Board Chair  
Stephanie Pizzulo – Land Use Board Secretary  
Thomas Molica, Esq. - Attorney for the Land Use Board  
Cory Stoner, PE, CME, - Land Use Board Engineer  
Ram Adar – BHT Properties Group  
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