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March 15, 2021

Via Email and Facsimile

William T. Haggerty, Esq.
Dolan and Dolan, P.A.
One Legal Lane at 53 Spring Street
P. O. Box D
Newton, New Jersey 07860

**Re: BHT Properties Group / Andover Township Land Use Board
248 Stickles Pond Road, Block 151, Lot 21, Andover Township
New Application Seeking Preliminary and Final Site Plan Approval
With Variances for Proposed Storage of Construction Vehicles,
Equipment and Materials.**

Dear Mr. Haggerty,

On March 10, 2021, in my capacity as conflict counsel to the Andover Township Land Use Board (the "Board"), I received a copy of the above-referenced application filed by BHT Properties Group (the "Applicant" or "BHT"), seeking preliminary and final site plan approval with variance relief for the proposed storage of construction vehicles, equipment and materials with related site improvements for the subject property known and designated as Block 151, Lot 21 in Andover Township (the "New Application"). The New Application generally consists of the following materials¹:

1. Completed Andover Township Land Use Application Forms Inclusive of Attachments and Certain Certifications dated March 1, 2021 (collectively, the "Forms");
2. Engineering Plans Entitled "Preliminary and Final Major Site Plan BHT Properties," Prepared by Engineering & Land Planning Associates, Inc., 140 West Main Street, High Bridge, New Jersey 08829, consisting of twenty-seven (27) sheets and bearing a last revision date of January 26, 2021 (the "2021 Site Plans");

¹ These materials are collectively referred to as the "New Application Materials."

3. Supplemental Engineering Plans Entitled "Pre-Development Drainage Area," Prepared by Engineering & Land Planning Associates, Inc., 140 West Main Street, High Bridge, New Jersey 08829, consisting of three (3) sheets and bearing a last revision date of January 26, 2021 (the "2021 Supplemental Drainage Area Plans");
4. Traffic Impact Study Entitled "TRAFFIC IMPACT STUDY For BHT Properties Group, LLC, Proposed Construction Equipment & Materials Storage Facility Property Located at: 248 Stickles Pond Road Block 151 – Lot 21 Township of Andover, Sussex County, NJ," prepared by Dynamic Traffic, 1904 Main Street, Lake Como, New Jersey 07719, 245 Main Street, Suite #110, Chester, New Jersey 07930 and bearing a last revision date of February 4, 2021 (the "2021 TIS");
5. Environmental Impact Statement Entitled "ENVIRONMENTAL IMPACT STATEMENT 248 Stickles Pond Road, Block 151 Lot 21, Andover Township, Sussex County, New Jersey," prepared by Engineering & Land Planning Associates, Inc., 140 West Main Street, High Bridge, New Jersey 08829 and bearing a last revision date of January 26, 2021 (the "2021 EIS");
6. Stormwater Management Report Entitled "STORMWATER MANAGEMENT REPORT 248 Stickles Pond Road Block 151 Lot 21 Andover Township Sussex County, New Jersey," prepared by prepared by Engineering & Land Planning Associates, Inc., 140 West Main Street, High Bridge, New Jersey 08829 and bearing a last revision date of January 26, 2021 (the "2021 Stormwater Management Report");
7. Stormwater Management Maintenance Manual Entitled ""STORMWATER MANAGEMENT MAINTENANCE MANUAL 248 Stickles Pond Road Block 151 Lot 21 Andover Township Sussex County, New Jersey," prepared by prepared by Engineering & Land Planning Associates, Inc., 140 West Main Street, High Bridge, New Jersey 08829 and bearing a last revision date of January 26, 2021 (the "2021 Stormwater Management Maintenance Manual");
8. Andover Township Land Use Board Checklist #1 – General Requirements (undated);
9. Andover Township Land Use Board Checklist #5 – Preliminary Site Plan-Conditional Use (undated); and

10. Andover Township Land Use Board Checklist #6 – Final Site Plan-
Conditional Use (undated).

I am also in receipt of your correspondence to me dated March 1, 2021, wherein you advise as to the filing of the New Application and inquire as to whether it can be "accepted as an amendment" to BHT's prior application to the Board, which sought preliminary and final site plan approval and variance approval pursuant to N.J.S.A. 40:55D-70d1 for a car inventory and sales facility at Block 151, Lot 21 (the "Prior Application"), an entirely different use than that which is proposed under the New Application. As you know, where an amended application is substantially different from the original, it may be treated by the board and any reviewing court as a new application. See Cox, New Jersey Zoning & Land Use Administration, 2021 Edition, page 266, citing Ten Stary Dom Ptp. V. Mauro, 216 N.J. 16, 38-40 (2013). As it is my understanding that the Prior Application and the relief sought thereunder has now been superseded and replaced by the New Application (which appears substantially different from the Prior Application), it is required that you appear on behalf of BHT at the Board's regular meeting of Tuesday, March 16, 2021, to further explain your request on the record and advise the Board as to the status of the Prior Application and the relief BHT previously sought thereunder. Note that the Board may need to take formal action on the Prior Application. You must contact the Board Secretary, Stephanie Pizzulo, at (973) 383-4280, extension 245, spizzulo@andovertwp.org, for log-in instructions to attend the March 16, 2021 Board meeting, as said meeting shall be conducted entirely remotely.

If you have any questions or require any further information, please contact me at (973) 538-3800 or (201) 600-4550.

Very Truly Yours,

VOGEL, CHAIT, COLLINS &
SCHNEIDER
A Professional Corporation



Thomas J. Molica, Jr., Esq.

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