

Via Electronic Mail Only

May 19, 2026

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

Re: Letter of Notification of PPL Electric Utilities Corporation filed pursuant to 52 Pa. Code Chapter 57 with respect to the approval to build approximately 1.1 miles of new parallel double circuit 230 kV transmission taps that are needed to connect the existing Susquehanna-Harwood #1 & #2 transmission lines on the New Tomhicken 230 kV switchyard that are respectively located in Luzerne County, Pennsylvania; Docket No. A-2025-3059443;

Application of PPL Electric Utilities Corporation, Filed Pursuant to 52 Pa. Code Chapter 57 Subchapter G, for Approval to (1) Bifurcate and Rebuild 4.4 Miles of the Existing Sunbury-Susquehanna #1 230 kV Transmission Line; (2) Construct 0.9 Miles of New Transmission Line Tap for Future 230 kV Double-Circuit Operation; (3) Raise Approximately 0.5 Miles of the Sunbury-Susquehanna 500 kV Transmission Line; and (4) Construct 11.2 Miles of New Double-Circuit 230 kV Transmission Line for Future Double-Circuit 500 kV Capacity, Located in Black Creek, Hazle, Hollenback, Nescopeck, and Sugarloaf Townships in Luzerne County, Pennsylvania; Docket No. A-2026-3061547;

Petition of PPL Electric Utilities Corporation For Findings That A Structure To Shelter Electrical And Control Equipment At The Proposed Nescopeck Switchyard In Nescopeck Township, Luzerne County, Pennsylvania Is Reasonably Necessary For The Convenience Or Welfare Of The Public; Docket No. P-2026-3061609; and,

Application of PPL Electric Utilities Corporation Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire Certain Portions Of Lands in Hazle Township, Luzerne County, Pennsylvania For The Sugarloaf 500/230 kV Transmission Line Associated With The Proposed Sugarloaf 500/230 kV Transmission Line Project Is Necessary Or Proper For The Service, Matthew L. Homsher, Secretary Pennsylvania Public Utility Commission May 7, 2026 Page 2 Accommodation, Convenience, Or Safety Of The Public; Docket Nos. A-2026- 3061549 et al.

Dear Secretary Homsher,

I, Erika Cook, pro se Protestant, respectfully moves the Pennsylvania Public Utility Commission ("Commission" or "PUC") to deny the pending applications and zoning exemption petition submitted by PPL Electric Utilities Corporation ("Applicant") as noted above. This denial should be made *without prejudice*.

This request is based on the ongoing, active land-use and zoning litigation currently pending in Luzerne County Court of Common Pleas, Case # 202513744, regarding the fundamental right to develop the site at issue. Because the underlying land-use issues are unresolved, granting this application is premature, poses a risk of regulatory conflict, and fails to meet the Commission's statutory and regulatory prerequisites.

Thank you for your time and attention regarding my filing. If you have any questions, please kindly reach out to me.

Respectfully,



Erika Cook
38 Red Rock Road
Sugarloaf, PA 18249
elcook33@gmail.com
570-233-8205

Enclosures

Matthew L. Homsher, Secretary

May 19, 2026

cc: The Honorable Erin L. Gannon (w/enclosures; via email)

The Honorable John Coogan (w/enclosures; via email)

Certificate of Service

Docket No. A-2025-3059443

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, Motion to Deny Application Without Prejudice upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 19th day of May 2026.

VIA E-MAIL

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Josiah B. Harmar (JHarmar@paoca.org)

Melanie Joy El Atieh (melatieh@paoca.org)

PA Office of Consumer Advocate

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Docket No. A-2025-3059443

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May 19, 2026

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Letter of Notification of PPL Electric Utilities :
 Corporation Filed Pursuant to 52 Pa. Code Chapter :
 57 Subchapter G, for Approval to Build :
 Approximately 1.1 Miles of New Parallel Double :
 Circuit 230 kV Transmission Taps that are Needed : A-2025-3059443
 to Connect the Existing Susquehanna-Harwood :
 #1 & #2 Transmission Lines on the New :
 Tomhicken 230 kV Switchyard that are :
 Respectively Located in Luzerne County, :
 Pennsylvania :

Application of PPL Electric Utilities Corporation, :
 Filed Pursuant to 52 Pa. Code Chapter 57 Subchapter :
 G, for Approval to (1) Bifurcate and Rebuild 4.4 Miles :
 of the Existing Sunbury-Susquehanna #1 230 kV :
 Transmission Line; (2) Construct 0.9 Miles of New :
 Transmission Line Tap for Future 230 kV Double-Circuit :
 Operation; (3) Raise Approximately 0.5 Miles of the : A-2026-3061547
 Sunbury-Susquehanna 500 kV Transmission Line; and :
 (4) Construct 11.2 Miles of New Double-Circuit 230 kV :
 Transmission Line for Future DoubleCircuit 500 kV :
 Capacity, Located in Black Creek, Hazle, Hollenback, :
 Nescopeck, and Sugarloaf Townships in Luzerne :
 County, Pennsylvania :

Petition of PPL Electric Utilities Corporation For :
 Findings That A Structure To Shelter Electrical And :
 Control Equipment At The Proposed Nescopeck : P-2026-3061609
 Switchyard In Nescopeck Township, Luzerne County, :
 Pennsylvania Is Reasonably Necessary For The :
 Convenience Or Welfare Of The Public :

Application of PPL Electric Utilities Corporation, :
 Under 15 Pa.C.S. § 1511(c) For A Finding And :
 Determination That The Service To Be Furnished By :
 The Applicant Through Its Proposed Exercise Of The :
 Power Of Eminent Domain To Acquire Certain Portions :
 Of Lands in Hazle Township, Luzerne County, : A-2026-3061549 *et al.*
 Pennsylvania For The Sugarloaf 500/230 kV :
 Transmission Line Associated With The Proposed :
 Sugarloaf 500/230 kV Transmission Line Project Is :
 Necessary Or Proper For The Service, Accommodation, :
 Convenience, Or Safety Of The Public :

Motion to Deny Applications/Petition Without Prejudice

This Motion to Deny the Applications/Petition Without Prejudice request is based on the ongoing, active land-use and zoning litigation between NP Hazleton Holdings 1, LLC and the Hazle Township Board of Supervisors that is currently pending in Luzerne County Court of Common Pleas, Case # 202513744, regarding the fundamental right to develop the site at issue. Because the underlying land-use issues are unresolved, granting PPL Electric’s applications are premature, pose a risk of regulatory conflict, and fail to meet the Commission's statutory and regulatory prerequisites.

I. Background

1. On November 14, 2025, the Hazle Township Board of Supervisors (BOS) denied NP Hazleton Holdings 1, LLC's land development plan.
2. On December 12, 2025, NP Hazleton Holdings 1, LLC ("NorthPoint") filed a lawsuit appealing the land development plan denial for the proposed project site.
3. This litigation, Appeal from Zoning Hearing Board 12/12/2025 Case # 202513744, is currently active and pending before the Court of Common Pleas in Luzerne County, Pennsylvania.
4. The core issue in that litigation—specifically, the fact that the land development plan was denied because as stated in Exhibit A, page 1, the BOS denial letter to NP Hazleton Holdings 1, LLC:

*"The Preliminary Major Land Development Plans for Project Hazelnut and Final Plans of NP Hazleton Holdings 1, LLC (the "Applicant") for Phase I of the Development and Preliminary/Final Land Development Plans for Project Hazelnut-North Park Drive Extension and Grassy Path Road are **DENIED**. The proposed Industrial Technology Campus with 15 data center buildings and four ancillary buildings on the property located at 2500 North Park Drive, Hazle Township, PA ("Property") is not permitted in the Industrial (I-1) and Conservation (C-1) Zoning Districts (with the project area located in the I-1 Zoning District). Section 802(F) of the Hazle Township Subdivision and Land Development Ordinance ("SALDO") requires that the proposed land use conform to the Hazle Township Zoning Ordinance ("Zoning Ordinance"). In addition, Section 816.1 of the SALDO requires the plans to meet the relevant standards of the Zoning Ordinance."*

— is highly material to the Commission's review of the LON, siting application, eminent domain applications, and zoning exemption petition.

5. On December 19, 2025, PPL Electric filed a Letter of Notification of PPL Electric Utilities Corporation Filed Pursuant to 52 Pa. Code Chapter 57 Subchapter G, for Phase 1: Approval to Build Approximately 1.1 Miles of New Parallel Double Circuit 230 kV Transmission Taps that are Needed to Connect the Existing Susquehanna-Harwood #1 & #2 Transmission Lines on the New Tomhicken 230 kV Switchyard that are Respectively Located in Luzerne County, Pennsylvania (hereinafter, the "Letter of Notification"). As noted by the OCA in their Motion for Consolidation, page 3:

According to PPL, it "will carry out the projects necessary to serve this Customer's load request in two separate phases. Phase 1, subject to this [LON], is needed to connect the Customer requesting transmission-level service." Phase 1 LON ¶ 23. Further: Phase 2 will be needed to address the Customer's future electrical needs and demands, as well as PPL Electric's system needs. Phase 2 will be submitted in a subsequent filing, which PPL Electric anticipates may necessitate a full siting application. PPL Electric notes that the phases are being submitted

separately because only the first phase is required to meet the Customer's inservice request; Phase 2 will not be necessary until the Customer's load increases at a future date. Phase 1 LON ¶ 24.

6. On April 7, 2026, PPL submitted a transmission line siting application for Phase 2 requesting approval to (1) bifurcate and rebuild 4.4 miles of the existing Sunbury-Susquehanna #1 230 kV transmission line; (2) construct 0.9 miles of new transmission line tap for future 230 kV double-circuit operation; (3) raise approximately 0.5 miles of the Sunbury-Susquehanna 500 kV transmission line; and (4) construct 11.2 miles of new double-circuit 230 kV transmission line for future double-circuit 500 kV capacity, located in Black Creek, Hazle, Hollenback, Nescopeck, and Sugarloaf Townships in Luzerne County, Pennsylvania (Phase 2 Application). The Applicant's proposed project and routing are contingent upon local zoning, land use, and property rights.
7. On May 7, 2026, the OCA submitted a Protest and Public Statement to the Phase 2 Application and a Motion for Consolidation of the Phase 1 LON and Phase 2 Application proceedings.
8. On May 13, 2026 PPL Electric filed its Direct Testimony for Phase 1 Docket A-2025-3059443 with the PUC.
9. On May 19, 2026, I, Erika Cook, pro se Protestant, submitted this Motion to Deny the Applications/Zoning Exemption Petition Without Prejudice.

II. Grounds for Denial Without Prejudice

A. The Application is Premature and Fails to Comply with Applicable Law

To approve the requested application, the Commission must find that the project complies with all applicable state and local laws. Because the Property Owner involved in the Project, as shown in Exhibit B, Figure 3.1 Aerial Map, is currently appealing their land-use rights in a court of competent jurisdiction, the Applicant cannot definitively establish compliance with local ordinances or environmental regulations. Under 52 Pa. Code §§ 57.72 (14) the application must include a statement identifying litigation concluded or in progress which concerns property or matter relating to the proposed HV line, right-of-way route or environmental matters.

According to the Direct Testimony of Joseph Lookup dated 5/13/2026, page 5:

Q. If the Customer does not complete the development of their facility is the Project still needed?

A. Potentially. The Tomhicken Switchyard is designed to eventually serve multiple customers. The current Customer is the farthest along the development process amongst those customers, and is the need driver for this Letter of Notification. However, as mentioned in the Company's filing, there is other load growth in the Hazleton area that this project will support. The Company is confident that there is load growth in the area from the Customer and other customers to support the Project.

And page 6:

Q. Would the Company commit to not building the Project if there was no longer a need for it?

A. Yes. The Company is not in the business of building transmission lines to nowhere that serve no purpose. PPL Electric coordinates with potential customers as their development progresses to align construction activities. This involves the customer and PPL Electric pursuing parallel approval paths in the interest of meeting customer schedules. However, the Company filing this LON prior to the customer receiving final approvals for their development does not mean that the Company will continue development of the Project if the need disappears. That being said, it is anticipated that the Project will support load growth other than the customer's service request, which justifies the need for the Project.

If the Tomhicken Switchyard will be located on privately owned property, property owned by NP Hazleton Holdings 1, LLC, how will it be able to provide power to other potential customers if the property and switchyard do not get developed? These statements indicate it will "eventually" serve multiple customers and "anticipates" there is potential for load growth and does not provide confirmed projects. This hypothetical should not be sufficient grounds for approval of the LON, Siting Application, Eminent Domain Applications, or the Zoning Exemption Petition at this time. To attempt eminent domain for not only private enterprise, but *potential* private enterprise is not something that this Commission should approve as these applications are premature in nature until the land use conflict is resolved and should be denied.

According to the Direct Testimony of Joseph Lookup dated 5/13/2026, page 4:

"While the Project will immediately serve the Customer, the Company also anticipates that the Project will eventually facilitate service to multiple customers, due to multiple customer requests. A second phase of the Project, which is the subject of a Full Siting Application, filed on April 6, 2026, at Docket No. A-2026-3061547, will be needed to address the Customer's future electrical needs and demands, as well as the needs and demands of future customers and PPL Electric's system needs.

The projected load growth will create overloads on the Susquehanna-Tomhicken #1 and #2 230 kV Transmission Lines, which will require additional improvements to the 230 kV network in this area to continue to provide reliable service.”

B. Denial Without Prejudice Prevents Regulatory Conflict

Dismissing or denying the application with prejudice would permanently bar the Applicant from seeking this relief, even if they eventually prevail in the pending land-use litigation. However, denying the application without prejudice achieves two necessary goals:

1. It clears the Commission's docket of a contingent, unripe matter.
2. It preserves the Applicant's right to refile their application if, and when, the land-use litigation is resolved in their favor.

Pennsylvania courts have repeatedly emphasized the importance of coordinated and orderly land-use planning, approval of the transmission line at this stage would be premature and inconsistent with legal precedent related to these two cases:

1. *El Rancho Grande, Inc. v. Pa. PUC*, 496 A.2d 86, 90 (Pennsylvania Commonwealth 1985 - PUC must consider local land-use impacts.
2. *South Coventry Twp. v. Pa. PUC*, 504 A.2d 368, 372 (Pennsylvania Commonwealth 1986 - PUC should avoid actions that conflict with municipal processes.

The Application appears inconsistent with existing municipal planning, zoning, and infrastructure approvals, and may conflict with ongoing regulatory reviews. If the appeal is denied, there will be no need for this 1.1 mile transmission line, switchyard or substation. There will also not be a need for Phase 2 as noted by the OCA in their Motion for Consolidation, page 9:

“The Phase 1 LON requests authorization to construct the facilities required to interconnect a large load, data center customer. Phase 1 LON ¶ 10. The Phase 2 Application requests authorization to construct the facilities required to serve that same large load, data center customer over the next several years. Phase 2 Application ¶¶ 21, 24. While PPL pleads that other data center customer interconnections require the facilities proposed in the Phase 2 Application, the load growth of the data center customer interconnecting to the Phase 1 LON facilities is sufficient alone to require the Phase 2 facilities to avoid reliability violations. Phase 1 LON ¶ 24 (“Phase 2 will be needed to address the Customer’s future electrical needs and demands, as well as PPL Electric’s system needs”); Phase 2 Application ¶¶ 25-26.”

C. No Prejudice to the Applicant

A denial without prejudice will not cause legal prejudice to the Applicant. The Applicant will not be barred from re-petitioning the Commission once the judicial determination regarding their land-use conflict has been rendered. Conversely, granting the application while parallel land-use litigation is ongoing risks substantial administrative waste and contradictory regulatory rulings. The Hazle Township BOS denied NP Hazleton Holdings 1 LLC's development plan on November 14, 2025. NP Hazleton Holdings 1 LLC filed an appeal on this decision on December 12, 2025. The case is currently in court with approximately 100 resident intervenors from the Hazle Township and surrounding areas. The petitioners were granted their request on March 2, 2026 and the case is still in active litigation.

III. Conclusion and Request for Relief

WHEREFORE, for the foregoing reasons, I, Erika Cook, pro se Protestant, respectfully requests that the Commission enter an Order:

- Denying PPL Electric's application without prejudice;
- Allowing the Applicant to refile the application if the pending land-use litigation is resolved in a manner that satisfies all Commission requirements; or
- Stay the Application until the land-use conflict litigation is resolved in a manner that satisfies all Commission requirements; and
- Granting such other and further relief as the Commission deems just and proper.

Respectfully,

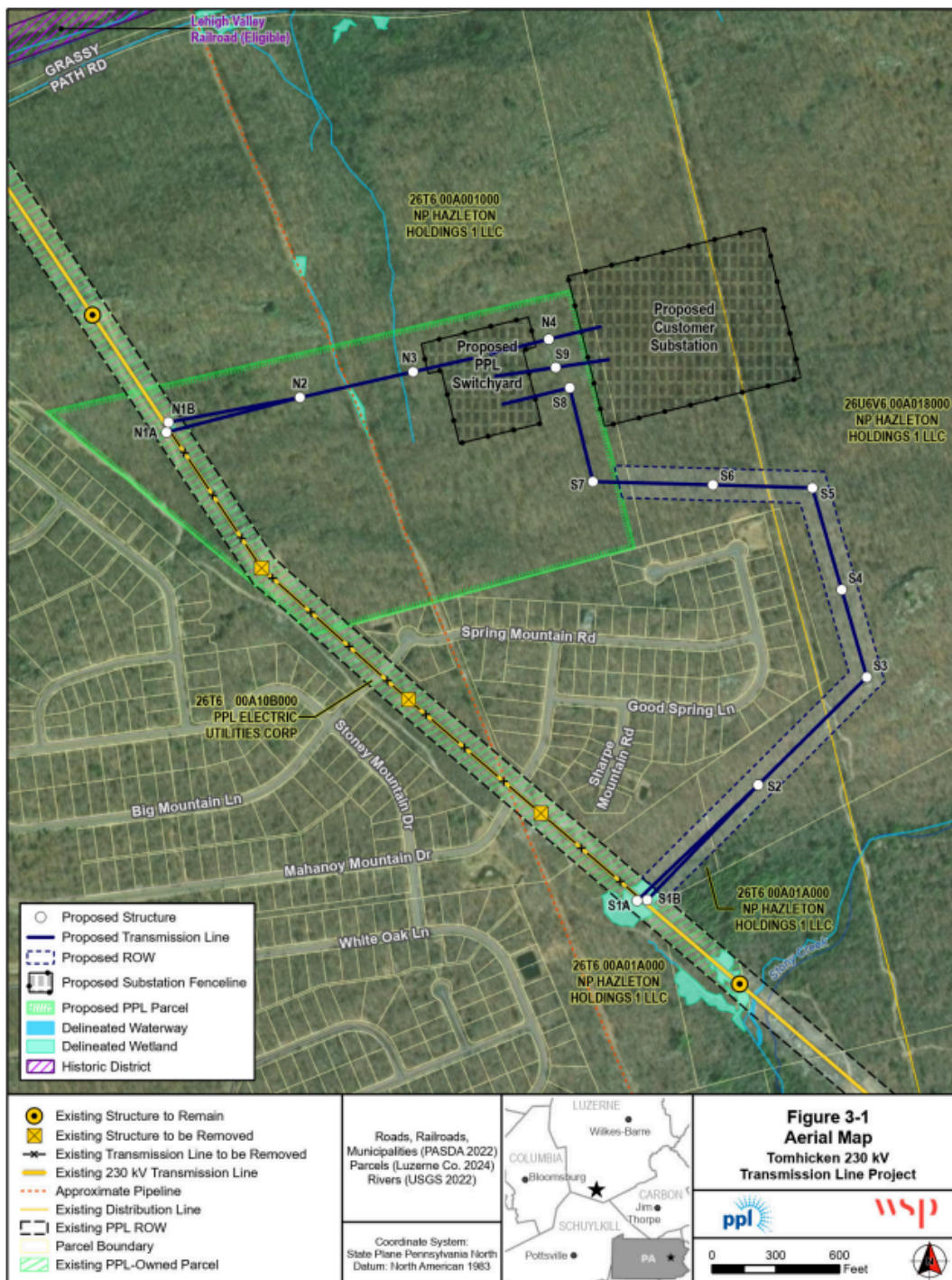


Erika Cook
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570-233-8205

Exhibit A

Letter from Hazle Township Board of Supervisors to
NP Hazleton Holdings 1, LLC dated November 20, 2025

Exhibit B - Figure 3.1 Aerial Map



VERIFICATION

I, Erika Cook, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 19, 2026



Erika Cook, Pro Se Protestant

HAZLE TOWNSHIP

P.O. BOX 506

HARLEIGH, PA. 18225-0506

Code Enforcement (570) 453-2466
Building/Zoning (570) 455-2030
Planning Dept. (570) 453-2467

Supervisors (570) 455-2039
Fax (570) 455-6184

Municipal Authority (570) 459-5921
Road Department (570) 455-6156
Recreation Authority (570) 455-2039

November 20, 2025

NP Hazleton Holdings 1, LLC
3315 North Oak Trafficway
Kansas City, MO 64116-2775

Re: Decision on Preliminary Major Land Development Plans for Project Hazelnut and Final Plans for Phase I of the Development and Preliminary/Final Land Development Plans for Project Hazelnut-North Park Drive Extension & Grassy Path Road of NP Hazleton Holdings 1, LLC for property located at 2500 North Park Drive, Hazle Township, PA proposed to be used as an Industrial Technology Campus with 15 Data Center Buildings with four ancillary buildings, parking, utilities and stormwater.

To Whom It May Concern:

This letter is being written to confirm the decision of the Hazle Township Board of Supervisors (the "Board of Supervisors") and provide the reasons for the decision under Section 508 of the Pa Municipalities Planning Code, 53 P.S. §10508¹. Section 508 requires the decision to be communicated to the applicant in writing and mailed no later than 15 days following the date of the oral decision made at the duly advertised special meeting held on November 14, 2025.

The Preliminary Major Land Development Plans for Project Hazelnut and Final Plans of NP Hazleton Holdings 1, LLC (the "Applicant") for Phase I of the Development and Preliminary/Final Land Development Plans for Project Hazelnut-North Park Drive Extension and Grassy Path Road are **DENIED**. The proposed Industrial Technology Campus with 15 data center buildings and four ancillary buildings on property located at 2500 North Park Drive, Hazle Township, PA ("Property") is not permitted in the Industrial (I-1) and Conservation (C-1) Zoning Districts (with the project area located in the I-1 Zoning District). Section 802(F) of the

¹ Section 508. Approval of Plats. All applications for approval of a plat (other than those governed by Article VII), whether preliminary or final, shall be acted upon by the governing body or the planning agency within such time limits as may be fixed in the subdivision and land development ordinance but the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application) next following the date the application is filed, or after a final order of the court remanding an application, provided that should the said next regular meeting occur more than 30 days following the filing of the application, or the final order of the court, the said 90-day period shall be measured from the 30th day following the day the application has been filed. The decision of the governing body or the planning agency shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 days following the decision. When the application is not approved in terms as filed the decision shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite to the provisions of the statute or ordinance relied upon. Failure of the governing body or agency to render a decision and communicate it to the applicant within the time and in the manner required herein shall be deemed an approval of the application in terms as presented unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of presentation of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of communication shall have like effect.

Hazle Township Subdivision and Land Development Ordinance (“SALDO”) requires that the proposed land use conform to the Hazle Township Zoning Ordinance (“Zoning Ordinance”). In addition, Section 816.1 of the SALDO requires the plans to meet the relevant standards of the Zoning Ordinance. The proposed use of the Property is not permitted either by right or special exception under Section 505 of the Zoning Ordinance. See Section 505.1 and 505.2 of the Hazle Township Zoning Ordinance. Whenever, in any zoning district, a use is not specifically permitted, the landowner must make application with the zoning officer, who must then refer the application to the zoning hearing board for special exception approval². See Section 320 of the Hazle Township Zoning Ordinance.

The portion of the Project where the buildings are to be located is in the I-1 Zoning District. A Data Center is not a use listed anywhere in the Hazle Township Zoning Ordinance, including in the I-1 Zoning District under Section 505 of the Hazle Township Zoning Ordinance (uses permitted by right or special exception in the I-1 Zoning District)³. The term Data Center is also not defined anywhere in the Hazle Township Zoning Ordinance. Courts confronted with interpreting undefined terms are guided to construe words and phrases in a sensible manner, utilize the rules of grammar and apply their common and approved usage, and give undefined terms their plain, ordinary meaning. Diocese of Altoona-Johnstown v. Zoning Hearing Bd. of Borough of State College, 899 A.2d 399, 204 (Pa. Cmwlth. 2006). Where a court needs to define an undefined term, it may consult definitions in statutes, regulations, or the dictionary for guidance. H.E. Rohrer, Inc. v. Zoning Hearing Bd. of Jackson Twp., 808 A.2d 1014 (Pa. Cmwlth. 2002). Although the term Data Center is not yet defined in the Merriam-Webster dictionary, the term is defined in federal law in the context of energy efficiency and federal use of data centers. The Federal Data Center Enhancement Act of 2023 (P.L. 118-31, §5302) specifies that a Data Center is (1) composed of permanent structures and operates in a fixed location; (2) houses IT

² SECTION 320 USES NOT ADDRESSED WITHIN ORDINANCE. Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Boards shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The use may be permitted if it is determined to be similar to and compatible with permitted uses in the district and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for special exceptions as contained in Article 6 of this Ordinance and would not be substantially detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

³ SECTION 505 I-1 INDUSTRIAL DISTRICT, BUSINESSES ENGAGED IN THE FOLLOWING SERVICES/USES OR THOSE OF A SIMILAR NATURE 505.1 PERMITTED USES Building and construction contractors' establishments including offices and equipment storage; Building, Lumber or Plumbing Supplies Contractors' Offices, Shops and Storage Yards (for commercial uses electrical, masonry, fencing and related material); Electronic Equipment and Products; Equipment Sales and Repairs Fabrication of metal products; Gasoline Service Stations; Heavy equipment sales and storage yards; Industrial parks and other large scale manufacturing developments; Laboratories Light Industry (as defined in Article 2 of this Ordinance); Lumberyards; Machine Shops; and Sheet Metal Shops Manufacture of apparel and other textile products; Manufacture of electrical and electronic equipment; Manufacture of food and related products; Manufacture of furniture and fixtures; Manufacture of glass products; Manufacture of leather products, including leather tanning and finishing; Manufacture of mobile homes and other manufactured housing; Manufacture of paperboard containers and boxes, including sanitary food containers and similar uses; Manufacture of plastic products; Manufacture of pottery and figurines, or other similar ceramic products using only pulverized clay, and kilns fired only by electricity or gas; Manufactures of small precision instruments, toys, novelties, rubber and hand stamps; Outdoor Storage (as defined in Article 2); Minor Solar Energy System; Mobile home sales and the sale of manufactured housing; Newspaper or other publishing; Outdoor Storage (as defined in Article 2 of this Ordinance); Printing Shops, lithographing, type composition, ruling, and binding establishments; Public Uses (including sewage treatment plants for industrial sites only); Public Utility Facilities; Public Water, Sewer and other Utilities (as defined in Article 2 of this Ordinance); Repair Garages; Research and Testing Facilities; Truck and freight terminals and distribution centers; Warehouse and Distribution Facilities; Warehousing, including Self-Storage Facilities; Accessory Uses to the Above 505.2 USES PERMITTED BY SPECIAL EXCEPTION ZONING HEARING BOARD APPROVAL REQUIRED Bulk Fuel Storage; Hazardous Substances: any use which utilizes and/or stores any hazardous substances as so defined in Article 2 of this Ordinance; Heavy Industry as so defined in Article 2 of this Ordinance; Large Wind Energy Turbine; Machine Shops and Sheet Metal Shops; Major Solar Energy System; Medium Wind Energy Turbine; Outdoor Advertising; Signs; Refuse Transfer Stations; Sewage Treatment Plants; Small Structure Mounted or Tower Mounted; Wind Energy Turbine; Steel Mini-Mills and such similar manufacturing uses; Stone and Monument Works; Tire Retreading and Recapping; Trucking Facilities and Terminals; Wireless Commercial Communication Sites and Support Structures.

equipment, including servers and other high-performance computing devices, or data storage devices; and (3) hosts information and information systems accessed by other systems or by users on other devices. Based upon the definition of a Data Center, there is not a term in the Hazle Township Zoning Ordinance that fits the definition. Therefore, under Section 320 of the Hazle Township Zoning Ordinance the Project needs special exception approval that could only be granted by the Hazle Township Zoning Hearing Board⁴.

The Hazle Township Zoning Ordinance was adopted in 2003 with several amendments through 2020. However, Data Centers were not considered in the zoning ordinance because the awareness for such a use only recently came to light. There was no need in our geographic area for data centers prior to 2024 because they need infrastructure which is lacking in the area. Data centers demand massive and redundant electrical power and significant cooling capacity which requires sufficient municipal water and sewer capacity. The Zoning Ordinance plans for such a situation by including a safe harbor provision that allows any use not otherwise addressed in the zoning ordinance to be permitted by special exception approval of the Hazle Township Zoning Board (the "Zoning Board") under Section 320 of the Zoning Ordinance. Under Section 320 of the Zoning Ordinance, the use would be allowed if it is determined by the Zoning Board to be similar and compatible with other permitted uses in the zoning district. However, the burden of proof is on the Applicant to demonstrate that the proposed use meets the objective standards and criteria for special exceptions under Article 6 of the Zoning Ordinance. The Applicant has the burden to show that the proposed use is allowed as a special exception use and meets the objective standards set forth in the Zoning Ordinance. In re Thompson, 896 A.2d at 670; Stein v. Easttown Township Board of Supervisors, 532 A.2d 906 (Pa. Cmwlth. Ct. 1987); Bray v. Zoning Board, 410 A.2d 909 (Pa. Cmwlth. 1980). The burden then shifts to the objectors to prove that the proposed use would substantially affect the public health, welfare and safety of the community. Sunnyside Up Corporation v. City of Lancaster, 739 A.2d 644 (Pa. Cmwlth. Ct. 1999), petition for allowance of appeal denied, 758 A.2d 666 (Pa. 2000); In re Thompson, 896 A.2d at 670. As such, the plan is denied since it does not conform to the Zoning Ordinance as required under the SALDO. To do otherwise would deprive the few hundred interested parties in attendance at the meetings of their opportunity to be heard on claims of potential adverse impacts from the Project on the public health, safety and welfare of the neighborhood.

The few hundred objectors at the public meetings before the Board of Supervisors raised issues which were more appropriate for an impacts review by the Zoning Board under a special exception analysis. The Project is located adjacent to the planned residential development known as Eagle Rock Resort. According to the Impact Analysis provided to the township by the Applicant, the nearest building in the Project area to a residential lot is only a little over 500 feet away. The Impact Analysis also provides that the Applicant is proposing pole mounted lighting at a height of 20 feet throughout the entire Project area. The Applicant is relying on trees and fencing to buffer the noise generated by the Project. The Applicant represented that its consultant had reviewed the Hazle Township Noise Ordinance and designed the Project to comply with the noise ordinance. However, the Applicant is proposing the use of back-up generators that will not comply with the Hazle Township Noise Ordinance. Many of the neighbors appeared at the public

⁴ A zoning hearing board has exclusive jurisdiction to hear and render final adjudications in applications for special exceptions. See Section 909.1 of the Pennsylvania Municipalities Planning Code; 53. P.S. §10909.1.

meetings and raised concerns related to excessive noise, objectionable lighting, devaluation of properties, and negative impacts to the overall quality of life. Section 802(B) of the SALDO prohibits any development that creates hazards to the public safety, health or welfare to the township and its residents. Although the Board of Supervisors have concerns for the Project, the Zoning Board is the proper forum to hear such concerns.

A few of the objectors at the meetings raised the zoning issue which formed the basis for this denial. The rejection of a plan may stand, however, if validly supported by even one of several objections. *See, e.g., County Builders, Inc. v. Lower Providence Township*, 287 A.2d 849 (Pa.Cmwlth. 1972). Long-standing case authority recognizes the governing body's discretion to reject a plan outright if validly supported by at least one objective, substantive requirement. *E.g., CACO Three, Inc. v. Board of Supervisors of Huntington Twp.*, 845 A.2d 991 (Pa.Cmwlth.2004); *Shelbourne Square Assocs., L.P. v. Bd. of Supervisors, Twp. of Exeter Berks County*, 794 A.2d 946 (Pa.Cmwlth.2002). The plan does not conform to the Zoning Ordinance as required by the SALDO because the use is not permitted in the industrial zone without special exception approval from the Zoning Board. This is an objective and substantive requirement that lawfully supports the denial of the plan by the Board of Supervisors.

Although the Hazle Township Zoning Officer (the "Zoning Officer") issued a Preliminary Opinion on June 25, 2024 to an entity (Northpoint Development), other than the landowner (NP Hazleton Holdings 1, LLC), that the use was permitted on two (PIN# 26-T6-00A-001 and 26-U6V6-00A-018) of the seven tax parcels for the Project (additional parcel identification numbers not included in the Preliminary Opinion but part of the Project are PIN# 26-U6S4-001-014-000; PIN#26-T6-00A-008-000; PIN# 26-U6V6-00A-018; PIN# 26-T6-001-011 and PIN# 26T6-00A-70C), the Preliminary Opinion did not include plans and other materials sufficient to provide reasonable notice of the proposed use or development to form a sufficient basis for the opinion as required under Section 916.2(1) of the Pa MPC⁵. In addition, the Preliminary Opinion was not published under Section 916.2(2) of the Pa MPC. Furthermore, no zoning permit was issued by the Zoning Officer to the Applicant for the Project. Had the Preliminary Opinion been published, or a zoning permit issued and conspicuously posted on the Property, the objectors would have had notice and the opportunity to challenge the zoning determination.

The Zoning Officer performed a zoning review of the plan for the Project and indicated a parking variance was required. On September 2, 2025, the Applicant obtained a variance from the Zoning Board to allow 1,022 required minimum off-street parking spaces where 3,894 parking spaces were required for industrial use of the Property under Section 1117(34) of the

⁵ In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 by the following procedure: (1) The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance. (2) If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published. 53 P.S. § 10916.2 (emphasis added).

Zoning Ordinance⁶. The decision noted that the Property was “intended to be used” by the Applicant for a data center campus consisting of 15 data center buildings, a substation, switchyard facilities, four ancillary buildings and a water treatment and storage facility.

In Borough of Jenkintown v. Board of Commissioners of Abington Township, 858 A.2d 136 (Pa. Cmwlth. 2004), the Commonwealth Court discussed the zoning officer's role in making determinations in the context of subdivision and land development proposals under Article V of the Pa MPC. The court adhered to the Supreme Court's decision that zoning issues should be resolved no later than the acceptance of the final plan by the governing body. *Id.* (citing Graham v. Zoning Hearing Board of Upper Allen Township, 520 Pa. 526, 555 A.2d 79 (1989)). In doing so, the Commonwealth Court stressed the separation of authority between governing bodies and zoning hearing boards or zoning officers, stating that governing bodies may interpret zoning ordinances in the land development review process differently than the zoning officer. Borough of Jenkintown, 858 A.2d at 142.

The Borough of Jenkintown case is similar to this matter in that: (1) the developers in each case obtained parking variances from the zoning ordinance prior to final land development approval; (2) the zoning officers in each case determined the use conformed to the zoning ordinance, but did not issue a zoning permit; and (3) the SALDO in each case requires the board of supervisors to consider whether an applicant has complied with the terms of the zoning ordinance. Borough of Jenkintown, 858 A.2d at 142. Based upon the similarities in each case, and the lack of the required zoning permit, the issuance of which would have ignited a definitive right of appeal for objectors, the Commonwealth Court concluded that the developer's plan contained a defect, and that the board of supervisors, under such circumstances, could at most have granted conditional approval of the proposal, awaiting approval by the zoning board under the zoning ordinance. *Id.* at 142. In a case, such as this one, where the board of supervisors do not agree with a zoning officer's conclusion, the board of supervisors have the option to either deny the proposal or grant approval of the proposal with the condition that the developer must first seek whatever variances or special exceptions are required under the zoning ordinance. *Id.* at 141. In this instance, the Board of Supervisors chose the former and denied the application because special exception approval for the proposed use is required under the Zoning Ordinance but has not been obtained by the Applicant from the Zoning Board.

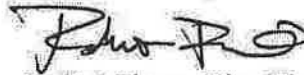
It should also be noted that based upon complaints of the residents at the public meetings held before the Board of Supervisors, it was learned that the Applicant has apparently graded the Property and begun constructing stormwater improvements under a state NPDES permit issued by the Pennsylvania Department of Environmental Protection (DEP). Hazle Township did not issue any permits allowing the Applicant to perform this work, and the Applicant did not satisfy the conditions of its stormwater plan approval to proceed with the work. Therefore, the Applicant is cautioned that should this decision be upheld on appeal or should special exception approval for the proposed use not be granted by the Zoning Board, the Applicant is proceeding at their own risk in performing grading and stormwater improvements.

⁶ SECTION 1117 OFF-STREET PARKING REQUIREMENTS (34). Industrial, Manufacturing, Wholesale and Warehouse Establishments, Truck Terminals, Research and Testing Facilities: One (1) space for every one thousand (1000) square feet of gross floor area; plus one (1) space for every two (2) employees on the maximum working shift; in any case, however, the total parking area shall be not less than twenty-five (25%) percent of the total gross square feet of the building.

Sincerely,



Anthony Griguoli, Chairman



Robert Fiume, Vice Chairman



James Montene, Secretary/Treasurer