

October 8, 2026

Via Electronic Mail Only

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 Subchapter G,
for 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

Dear Secretary Homsher,

Enclosed for filing with the Pennsylvania Public Utility Commission is the Main Brief of John Zola to the in the above-referenced matter.

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

Respectfully,



John Zola
17 Dagostin Rd
Sugarloaf, PA 18249
zolajj@gmail.com
570-436-3089

A-2025-3059443

Enclosures

Matthew L. Homsher, Secretary

October 8, 2026

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

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

Certificate of Service

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, the Main Brief of John Zola in Protest to the Application of PPL Electric Utilities Corporation ("PPL Electric"), upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 5.101 (relating to preliminary objections), in the manner and upon the persons listed below.

Dated this 8th day of October 2026.

VIA E-MAIL

Jacob Guthrie (JGuthrie@paoca.org)

Olivia M Spergel (OSpergel@paoca.org)

Melanie Joy El Atieh (melatieh@paoca.org)

PA Office of Consumer Advocate

555 Walnut Street, 5th Floor Forum Place, Harrisburg, PA 17101-1923

(Counsel for OCA)

Michael J Shafer (mjshafer@pplweb.com)

David B. MacGregor, Esq. (dmacgregor@postschell.com)

Garrett P. Lent, Esq. (glent@postschell.com)

Hayley E. Wilburn, Esq. (hwilburn@postschell.com)

Lindsay A. Berkstresser (lberkstresser@postschell.com)

Megan E Rulli (mrulli@postschell.com)

Post & Schell, P.C.

17 North Second Street, 12th Floor, Harrisburg, PA 17101

(Counsel for PPL)

Erika Cook
38 Red Rock Road
Sugarloaf, PA 18249
elcook33@gmail.com



John Zola
17 Dagostin Road
Sugarloaf, PA 18249
zolajj@gmail.com
570-436-3089

October 8, 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	:	

Main Brief of John Zola

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Appendix A: Written Decision of Hazle Township Board of Supervisors to NP Hazleton Holdings 1, LLC

I. Introduction

My name is John Zola. I am a property owner and resident of Sugarloaf Township as well as a PPL Ratepayer. There are many reasons why I decided to submit a protest to this Letter of Notification, or Phase 1, of this Project. These reasons include the need/necessity of the Project, the cost to PPL rate payers, the accuracy of the Project information, the health and safety concerns of the public, environmental impacts, lack of public notification, and acts in bad faith.

II. 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. 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.

4. On March 12, 2026, I, John Zola, pro se Protestant, filed a Protest to the Phase 1 LON.
5. On March 13, 2026, Erika Cook filed a Protest to the Phase 1 LON.
6. On March 18, 2026, ALJs Gannon and Coogan convened a Prehearing Conference regarding the Phase 1 LON.

7. 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.
8. 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.
9. On May 13, 2026 PPL Electric filed its Direct Testimony for Phase 1 Docket A-2025-3059443 with the PUC.
10. On May 19, 2026, Erika Cook, pro se Protestant, submitted a Motion to Deny the Applications/Zoning Exemption Petition Without Prejudice.
11. On May 26, 2026, Luzerne County court denied the land use appeal by NP Hazleton Holdings 1, LLC in Case # 202513744 remanding the matter to the Hazle Township Zoning Hearing Board for special exception or NP Hazleton Holdings 1, LLC was permitted to challenge the validity of the Hazle Township Zoning Ordinance.
12. On May 27, 2026, PPL submitted its Answer to the OCA's Motion for Consolidation of the Phase 1 LON and Phase 2 Application proceedings.
13. On June 8, 2026, the Hazle Township Board of Supervisors adopted Resolution 2026-16:

RESOLUTION #2026-16

HAZLE TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

A Resolution of the Hazle Township Board of Supervisors declaring portions of the Hazle Township Zoning Ordinance to be Substantively Invalid, Specifying Specific Findings Regarding the Reasons for the Declared Invalidity, and Implementing a Limited Moratorium of 180 Days from the Date of this Resolution to Adopt a Municipal Curative Amendment to Cure the Declared Invalidity by Addressing Data Centers and Data Center Accessory Uses in the Hazle Township Zoning Ordinance

14. On June 8, 2026, PPL submitted its Answer to the Motion to Deny Applications/Petition Without Prejudice of Erika Cook.

15. On June 10, 2026, NP Hazleton Holdings 1, LLC appealed the land use denial issued by Luzerne County to the Commonwealth Court of Pennsylvania.
16. On June 18, 2026, ALJs Coogan and Gannon issued an Order Denying the OCA's Motion for Consolidation.
17. On June 23, 2026, ALJs Coogan and Gannon issued an Order denying the Motion to Deny Applications/Petition Without Prejudice filed by Erika Cook.
18. On June 30, 2026, the Commission held two in-person Public Input Hearings (PIH) in Hazleton, PA.
19. On July 6, 2026, the OCA submitted a Motion to Leave to Submit Supplemental Direct Testimony in the Phase 1 proceeding, which was granted, in part through ALJs Coogan and Gannon's July 10, 2026 Order.
20. Only July 8, 2026, I, John Zola, pro se Protestant, submitted my Direct Testimony.
21. Only July 8, 2026, Erika Cook, pro se Protestant, submitted Direct Testimony.
22. On July 8, 2026, the OCA submitted its Direct Testimony consisting of OCA Statement 1, the Direct Testimony of Frank Felder, and OCA Statement 2, the Direct Testimony of Rao Konidena.
23. On August 4, 2026 Luzerne County Judge Lesa Gelb issued her Order and Opinion in Case # 202513744, Docket List Item # 104.
24. On August 6, 2026, PPL submitted the Motion of PPL Electric Utilities Corporation to Dismiss Objections and Compel Responses to Requests for Admission Propounded on the Office of Consumer Advocate – Set I, Nos. 10 through 13.
25. On August 7, 2026, the OCA submitted its Renewed Motion for Consolidation of the Phase 1 LON and Phase 2 Application proceedings.
26. On August 7, 2026, PPL submitted its Rebuttal Testimony consisting of:
 - PPL Electric Statement No. 1-R – Rebuttal Testimony of Joseph Lookup
 - PPL Electric Exhibit JBL-1R
 - PPL Electric Statement No. 2-R – Rebuttal Testimony of Kyle Swartzentruber
 - PL Electric Statement No. 3-R – Rebuttal Testimony of Peter Sparhawk
 - PPL Electric Statement No. 4-R – Rebuttal Testimony of Chad Huber
 - PPL Electric Statement No. 5-R – Rebuttal Testimony of John D. Taylor
 - PPL Electric Exhibits JDT-1R
 - PPL Electric Statement No. 6-R – Rebuttal Testimony of Bethany L. Johnson
 - PPL Electric Exhibits BLJ-1R through BLJ-3R

27. On August 12, 2026, Erika Cook, pro se Protestant, submitted a Renewed Motion to Deny the Application (LON) Without Prejudice or Stay the Application (LON) until the land-use conflict litigation is resolved in a manner that satisfies all Commission requirements.
28. On August 21, 2026, ALJs Coogan and Gannon issued an Order Denying the Motion of PPL Electric Utilities Corporation to Dismiss Objections and Compel Responses to Requests for Admission Propounded on the Office of Consumer Advocate – Set I, Nos. 10 through 13.
29. On September 4, 2026, OCA filed its Surrebuttal Testimony Statements 1SR: Surrebuttal Testimony of Frank A. Felder, Ph.D. and 2SR: Surrebuttal Testimony of Rao Konidena.
30. On September 4, 2026, I, John Zola, submitted my Surrebuttal Testimony.
31. On September 4, 2026, Erika Cook submitted her Surrebuttal Testimony.
32. On September 8, 2026, ALJs Coogan and Gannon issued an Order Denying the OCA's Renewed Motion for Consolidation.
33. On September 8, 2026, ALJs Coogan and Gannon issued an Order denying the Renewed Motion to Deny Application Without Prejudice or Stay the Application filed by Erika Cook.
34. On September 14, 2026, PPL filed Objections and Motion to Strike Portions of the Written Direct Testimony of the Office of Consumer Advocate.
35. On September 14, 2026, PPL submitted the Affidavits and Proofs of Publication indicating that the Evidentiary Hearing Notice for the above-referenced proceeding was published in the Wilkes Barre Times Leader on August 27, 2026 and September 2, 2026, and in the Hazleton Standard Speaker and Wilkes Barre Citizens' Voice on August 28, 2026 and September 4, 2026.
36. On September 14, 2026 PPL submitted Rejoinder Testimony consisting of:
 - PL Electric Statement No. 1-RJ – Rejoinder Testimony of Joseph Lookup
 - PPL Electric Statement No. 2-RJ – Rejoinder Testimony of Kyle Swartzentruber
 - PPL Electric Statement No. 5-RJ – Rejoinder Testimony of John D. Taylor
37. On September 17, 2026, Day 1 of the Evidentiary Hearing was held in Harrisburg, PA.
38. On September 18, 2026, Day 2 of the Evidentiary Hearing was held in Harrisburg, PA.
39. On September 18, 2026, OCA submitted the Motion of the Office of Consumer Advocate (OCA) to Amend or Withdraw Expert Witnesses' Admissions Pursuant to 52 Pa. Code Section 5.350(f) in this proceeding.
40. On September 22, 2026, ALJs Coogan and Gannon issued an Order Addressing Briefs, Denying PPL's Motion to Strike Portions of the Written Direct Testimony of the Office of Consumer

Advocate, and Denying OCA's Motion to Amend or Withdraw Expert Witnesses' Admissions Pursuant to 52 Pa. Code Section 5.350(f).

41. On October 8, 2026, I, John Zola, submit my Main Brief.

III. Statement of the Question Involved

- A. Has PPL Electric proven that this Project is necessary for the health, safety, and welfare of the public?

Suggested Answer: No.

IV. Argument

A. Burden of Proof

PPL Electric bears the burden of proof that this service and the facilities involved are adequate, efficient, safe, and reasonable.¹ PPL must prove that the Project is paramount and necessary for the health, safety and welfare of the Public.

B. Need for the Project

PPL has not demonstrated that a legitimate need exists for this project. The evidentiary hearing established that the proposed project is intended to serve a single customer. However, neither that customer nor the proposed end user currently have the land-use approvals necessary to proceed with the project.

The required land-use approval was denied by Hazle Township². NorthPoint Development appealed that decision to the Luzerne County Court of Common Pleas, where the appeal was denied³. The matter has now been appealed to the Commonwealth Court and remains unresolved.

The lack of a present need was further established during John Zola's cross-examination of PPL witness Mr. Joseph Lookup at the evidentiary hearing.

¹ 66 Pa. C.S. § 315 (c), 332

² Appendix A: Written Decision of Hazle Township Board of Supervisors to NP Hazleton Holdings 1, LLC

³ Zola Cross Exhibit 2: Luzerne County Court denial of the appeal

Mr. Lookup was asked whether he was aware that the customer had been denied the land-use approval necessary to proceed with the project. Mr. Lookup acknowledged that he was aware of that fact. Mr. Lookup was then asked whether, if there is no customer to serve, PPL would effectively be constructing a transmission line to nowhere that serves no purpose. Mr. Lookup agreed.

This testimony goes directly to the fundamental question before the Commission: Does a present and demonstrated need for this project actually exist?

PPL's own witness acknowledged that the proposed customer currently cannot proceed with the project that the transmission line is intended to serve. There is also no certainty that the necessary land-use approvals will ever be obtained.

The Commission should not approve a major transmission project based upon a speculative future need for a project that presently cannot legally proceed. PPL bears the burden of demonstrating the need for the proposed transmission infrastructure, and the record does not establish that need.

C. Insufficient Electrical Generation to Support the Proposed Demand

There is also a serious question as to whether sufficient electrical generation exists to support the enormous additional demand associated with these proposed data center projects while continuing to reliably serve existing customers.

The Susquehanna Nuclear Power Plant generates approximately 2,514 MW of net electrical generating capacity, according to the American Nuclear Society.

The AWS data center campus in Salem Township has reportedly secured up to 1,920 MW, representing approximately 76% of Susquehanna's total generating capacity, according to information reported by Talen Energy and in SEC-related materials.

NorthPoint Development's Project Hazelnut and its confidential end user have reportedly requested approximately 965 MW by 2030, according to information contained in OCA's protest and public statement concerning the PPL Sugarloaf project.

Together, these two projects represent potential electrical demand of approximately:

$$1,920 \text{ MW} + 965 \text{ MW} = 2,885 \text{ MW}$$

That figure exceeds Susquehanna's approximately 2,514 MW of net generating capacity by 371 MW.

More importantly, that comparison does not account for the substantial existing electrical demand from homes, schools, hospitals, businesses, municipalities, and other customers that already depend upon reliable and uninterrupted electrical service.

The issue is therefore not simply whether transmission infrastructure can be constructed to deliver additional power. The Commission must also consider whether adequate generation exists to reliably serve these enormous new loads without jeopardizing the reliability and affordability of electrical service for existing customers.

Based upon the information presently available, these proposed data center loads alone could exceed the generating capacity of one of the region's largest generating facilities before the needs of existing customers are even considered.

Approving transmission infrastructure to support this level of additional demand without demonstrating that adequate generation exists to serve both the proposed projects and the existing customer base would be premature and contrary to the public interest.

V. Conclusion

In conclusion, I do not believe that PPL has met the burden of proving that there is a need for this Project and that the need is paramount for the health, safety and welfare of the Public. Furthermore, I ask the commission to give very serious attention to the obvious lack of power generation to safely provide the electricity for this Project regardless of the land use approval status.

Wherefore, for the foregoing reasons, I, John Zola, pro se Protestant, respectfully requests that the Commission enter an Order Denying PPL Electric's Letter of Notification until PPL can prove the need for the project and that the need is paramount for the health, safety and welfare of the Public as well as solid proof that there is adequate power generation existing at this point in time to supply the customers projected 2030 needs.

Respectfully,



John Zola
17 Dagostin Rd
Sugarloaf, PA 18249
zolajj@gmail.com
570-436-3089

VERIFICATION

I, John Zola, 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: October 8, 2026



John Zola, Pro Se Protestant

Appendix A

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.

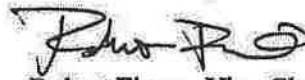
The *Borough of Jenkintown* case is similar to this matter in that: (1) the developers in each case obtained parking variances from the zoning ordinance prior to final land development approval; (2) the zoning officers in each case determined the use conformed to the zoning ordinance, but did not issue 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.

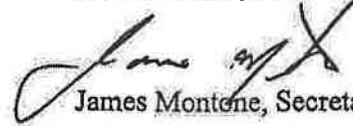
It should also be noted that based upon complaints of the residents at the public meetings held before the Board of Supervisors, it was learned that the Applicant has apparently graded the Property and begun constructing stormwater improvements under a state NPDES permit issued by the Pennsylvania Department 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