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August 14, 2026

Melissa Mastrogiovanni, Asst. Manager / Secretary / Planning Administrator
Lower Mount Bethel Township
2004 Hutchinson Avenue
Martins Creek, PA 18063

**Re: Zoning Ordinance Amendment – Data Centers
Lower Mount Bethel Township
Northampton County**

Dear Ms. Mastrogiovanni,

The Lehigh Valley Planning Commission (LVPC) will consider the subject application at its Comprehensive Planning Committee and Full Commission meetings, pursuant to the requirements of the Pennsylvania Municipalities Planning Code (MPC). Discussion on agenda items largely happens during the Committee meeting. Meeting participation details are below, and we encourage your participation:

LVPC Comprehensive Planning Committee Meeting:	LVPC Full Commission Meeting:
August 25, 2026, at 12:00 PM (Virtual) https://lvpc.org/lvpc-meetings	August 27, 2026, at 7:00 PM (Virtual) https://lvpc.org/lvpc-meetings

The application proposes to amend the Township Zoning Ordinance to establish regulations for Digital Infrastructure Facilities. The amendment proposes to permit these by conditional use within the Industrial District and establishes standards addressing land use impacts.

The LVPC offers the following recommendations to further strengthen the amendment and ensure that its protections remain legally defensible under Pennsylvania law. Because several provisions implicate authority assigned by state law to other agencies or extend beyond customary zoning performance standards, the LVPC strongly recommends that the Township Solicitor specifically review the provisions identified below prior to enactment.

Conditional Uses and End User Identification

The LVPC supports requiring sufficient information at the conditional use stage to understand the type, scale and operational characteristics of the facility being proposed. However, the requirement to identify the proposed end user should remain flexible because industrial buildings and data center campuses may be developed before a specific tenant is finalized or may change users over time. A more legally defensible approach may be to regulate measurable operational characteristics regardless of tenant, and require applicants to identify anticipated user types and conservatively estimate impacts. The ordinance could require identification of the end user *if known*, and otherwise require an operational profile identifying the facility type and function, maximum electrical demand, cooling method, backup generation, water demand, anticipated employment and other characteristics necessary to demonstrate

compliance. This approach focuses the Township's review on the impacts of the land use rather than the identity of a particular corporation. This approach supports the obligation of the Township to provide a fair and impartial review of any and all applications.

Utilities

The amendment appropriately requires disclosure of maximum electrical demand at full buildout, identification of project-related substations and other infrastructure, and documentation from the serving utility concerning capacity. These requirements directly support matching development intensity with infrastructure capacity (of Policy 1.1) and expanding and reinforcing electric utility capacity for future technology and jobs (of Policy 2.5).

However, the ordinance also requires extensive documentation concerning offsite utility infrastructure, all utility applications and correspondence, and alternative substation siting or design alternatives. These provisions should be carefully evaluated to maintain the distinction between municipal land use regulation and regulation of public utilities. The Pennsylvania Municipalities Planning Code expressly preserves the Pennsylvania Public Utility Commission's (PUC) authority over the implementation, location, construction and maintenance of public utility facilities (MPC §608.1(d)), and provides a process through which certain public utility buildings may be exempted from local zoning following PUC review (MPC §619). The ordinance already states that the Township does not regulate utility service, interconnection or energy markets; the substantive standards should consistently reflect that limitation.

Water Resources and DRBC Coordination

The intent of the ordinance provisions addressing water supply, groundwater, cooling water, stormwater and process water support conserving water resources (of Policy 3.1). Pennsylvania law permits zoning provisions addressing the availability of a reliable and adequate water supply. The ordinance should therefore remain focused on demonstrating the availability of water, evaluating local land use and environmental impacts, and documenting compliance with outside regulatory approvals rather than independently regulating the amount of a withdrawal. The MPC does not authorize municipalities to regulate water allocation or withdrawal where those matters are otherwise regulated by the PUC or state or federal agencies.

The ordinance currently references specific Delaware River Basin Commission (DRBC) thresholds. Because DRBC jurisdiction can vary by source, type of use and regulatory program, and those standards can change independently of the Township ordinance, the LVPC recommends requiring documentation of all applicable DRBC approvals, permits or determinations rather than codifying regulatory thresholds that may later become outdated or may not apply uniformly to every project.

Setbacks, Buffers and Availability of the Use:

The LVPC supports substantial separation, screening and buffering where high-intensity industrial activity is adjacent to residences, schools, public spaces and other incompatible uses. These measures protect rural and scenic character (of Policy 1.3), minimize environmental and quality-of-life impacts (of Policy 3.2), and implement context-specific design (of Policy 5.4). The ordinance combines significant setbacks and buffers, including 500-foot residential buffers, 300-foot buffers from certain nonresidential Sensitive Receptors and a 1,000-foot setback for fuel storage.

Prior to adoption of the ordinance amendment, the LVPC recommends that the Township conduct a parcel-level GIS analysis to confirm that a meaningful opportunity remains for the use. Where possible, the greatest separation distances should be tied to the particular impact

being mitigated and to incompatible or sensitive uses rather than applying the same degree of separation from every compatible industrial property. Pennsylvania courts have historically recognized a de facto exclusion of a land use where an ordinance imposes dimensional requirements that make the use effectively impossible.

Land Use Performance Standards

FutureLV supports strong, measurable outcomes for water consumption, containment, thermal impacts, noise, vibration, fire access and public safety to ‘minimize environmental impacts of development’ (of Policy 3.2). However, the LVPC encourages the Township to evaluate provisions that may move from regulating land use impacts toward prescribing particular mechanical, cooling, electrical or fire protection design methods that may cause conflicts with the Pennsylvania Uniform Construction Code (UCC). Additionally, the technology industry is evolving rapidly with newer cooling systems that operate more sustainably than current options. Instead, the LVPC recommends regulating the performance outcomes to maintain strong public health objectives of without overlapping other regulatory systems.

Post-Construction Studies and Financial Security

Post-construction noise and vibration verification is a valuable tool because operational conditions may differ from modeled conditions, and continued compliance can appropriately be enforced through the Zoning Ordinance. However, the Township should carefully review the proposed requirements tying post-occupancy studies or operational verification to the release of subdivision and land development financial security. The MPC generally establishes financial security to guarantee completion of improvements required as part of final plat approval (MPC §509). Security is released as improvements are completed. Long-term operational compliance is better treated through ongoing zoning enforcement.

Transportation

Requiring a traffic impact analysis addressing construction traffic, oversized equipment deliveries, haul routes, staging and temporary traffic control is appropriate and supports efficient infrastructure planning and protection of community quality of life. The ordinance should retain clear requirements addressing site access, onsite circulation and construction management. However, the provision authorizing the Township to require “reasonable traffic management or mitigation measures” should be clarified so it is not interpreted as open-ended authority to impose offsite roadway improvements through the conditional use decision. MPC §603(c)(2) expressly provides that, in allowing a conditional use, a governing body may impose reasonable additional conditions and safeguards other than those related to offsite transportation or road improvements. Offsite improvements should instead be addressed through the applicable subdivision and land development, PennDOT Highway Occupancy Permit, transportation impact fee or other legally authorized process.

Decommissioning and Financial Security

The LVPC supports establishing a clear process for facilities that become abandoned and for the safe removal and disposal of potentially hazardous infrastructure such as generators, fuel systems, batteries, and other electronic equipment. This advances *FutureLV*’s direction to ‘provide environmentally responsible electronic and hazardous waste disposal’ and to enhance the long-term viability of community assets (of Policies 3.2 and 1.3).

The LVPC recommends having the Township Solicitor identify the legal mechanism supporting the long-term decommissioning financial security requirement, and establish a defensible calculation methodology and enforcement process before enactment.

Additionally, the amendment requires removal not only of specialized equipment but of all buildings, structures and improvements following prolonged cessation and requires financial security sufficient to guarantee decommissioning, removal, disposal and site restoration for the life of the facility. The Township should consider whether mandatory demolition of otherwise reusable buildings is necessary in every circumstance or whether the standard should instead prioritize restoring the property to a safe and reusable condition. Adaptive reuse of viable industrial structures may better support long-term asset management and *FutureLV's* emphasis on efficient use of developed land.

Overall, the central planning direction or goal of the amendment is aligned with *FutureLV: The Regional Plan*, as long as, above outlined legal issues and vulnerabilities are addressed.

In terms of overall consistency with *FutureLV: The Regional Plan*, the proposed ordinance works to achieve the following:

- Permitting the use through the Industrial District and requiring evaluation at full buildout helps the Township guide the location and intensity of development and 'match development intensity with sustainable infrastructure capacity' (of Policy 1.1).
- Requiring disclosure of electrical demand and coordination with infrastructure providers supports *FutureLV's* direction to 'expand and reinforce electric utility capacity' while preparing for future technology and jobs (of Policy 2.5).
- The Environmental Impact Assessment, groundwater and water supply analysis, cooling water disclosure, stormwater protections, hazardous material management and electronic waste provisions support the conservation of natural lands and water resources and the protection of public health, safety and welfare (of Policies 3.1 and 3.2).
- Provisions establishing acceptable levels of noise, vibration, and lighting support minimizing environmental impacts of development (of Policy 3.2).
- The substantial attention to emergency access, hazardous materials and coordination with emergency responders likewise advances the goal to 'enhance planning and emergency response efforts among emergency management personnel' (of Policy 5.1).
- Finally, building articulation, landscaping, equipment screening and other compatibility standards support the Township's rural character and *FutureLV's* direction to preserve environmental, scenic and agricultural assets and promote context-specific design (of Policies 1.3 and 5.4).

The recommended revisions and additional legal review are intended to strengthen enforceability rather than reduce those protections. Municipal ordinances should establish clear, objective and enforceable standards for the land use impacts the Township has authority to regulate, while recognizing the responsibilities assigned by federal and Commonwealth law to other authorities. Enforceable regulations support an efficient development process, provide greater clarity to applicants, and improve the Township's ability to administer its regulations over the long term (of Policy 1.4).

Municipalities, when considering zoning ordinance amendments, should reasonably attempt to be consistent with *FutureLV: The Regional Plan*, as required by the Pennsylvania Municipalities Planning Code (MPC) [Article 1§105, Article III§303, §304 & §306(a), Article VI§603(j)].

Sincerely,



Jill Seitz
Chief Community and Regional Planner

cc:

Justin Coyle, Township Engineer;
Nick Graziano, Upper Mount Bethel Township Manager;
Sharon Cifuentes, Washington Township Secretary/Treasurer;
Paige Stefanelli, Plainfield Township Manager;
Donna Asure, Forks Township Manager;

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