KAPLIN STEWART MELOFF REITER & STEIN, P.C.
By: Gregg I. Adelman, Esquire
Julie Bernstein, Esquire
Attorney I.D. Nos. 84137 & 330974
Union Meeting Corporate Center
910 Harvest Drive, P.O. Box 3037
Blue Bell, PA 19422-0765
(610) 260-6000
gadelman@kaplaw.com
jbernstein@kaplaw.com

BUCHANAN INGERSOLL & ROONEY PC
By: Shawn N. Gallagher, Esquire
Brendan P. Lucas, Esquire
Attorney I.D. Nos. 88524 & 314300
Union Trust Building
501 Grant Street, Suite 200
Pittsburgh, PA 15219
(412) 562-8362
shawn.gallagher@bipc.com
brendan.lucas@bipc.com

Attorneys for Intervenor Carlisle Development Partners, LLC

KYLE AND ALEXIA GERBER, ANDREW AND RACHAEL DYMSKI, ROBERT AND VIOLA BYERLY, JODY AND STANLEY SHIVELL, AND EARLE AND BONNIE MORTON, Appellants	:	IN THE COURT OF COMMON PLEAS CUMBERLAND COUNTY, PENNSYLVANIA
v.	:	Land Use Appeal
ZONING HEARING BOARD OF MIDDLESEX TOWNSHIP, Appellee	:	Docket No. 2026-08758 Civil Term
v.	:	Civil Action - Land Use Appeal
BOARD OF SUPERVISORS OF MIDDLESEX TOWNSHIP, Intervenor	:	
v.	:	
CARLISLE DEVELOPMENT PARTNERS, LLC, Intervenor	:	

PROPOSED ORDER

AND NOW, this _____ day of _____, 2026, upon consideration of the Appellants' Petition to Confirm and Enforce the Stay of Proceedings Under 53 P.S. § 10915.1(a) or, in the Alternative, for a Stay Pursuant to 53 P.S. § 11003-A(d) ("**Petition**") and Intervenors' response thereto, it is hereby **ORDERED** that the Petition is **DENIED WITH PREJUDICE.**

BY THE COURT:

_____

, **J.**

KAPLIN STEWART MELOFF REITER & STEIN, P.C.
By: Gregg I. Adelman, Esquire
Julie Bernstein, Esquire
Attorney I.D. Nos. 84137 & 330974
Union Meeting Corporate Center
910 Harvest Drive, P.O. Box 3037
Blue Bell, PA 19422-0765
(610) 260-6000
gadelman@kaplaw.com
jbernstein@kaplaw.com

BUCHANAN INGERSOLL & ROONEY PC
By: Shawn N. Gallagher, Esquire
Brendan P. Lucas, Esquire
Attorney I.D. Nos. 88524 & 314300
Union Trust Building
501 Grant Street, Suite 200
Pittsburgh, PA 15219
(412) 562-8362
shawn.gallagher@bipc.com
brendan.lucas@bipc.com

Attorneys for Intervenor Carlisle Development Partners, LLC

KYLE AND ALEXIA GERBER, ANDREW AND RACHAEL DYMSKI, ROBERT AND VIOLA BYERLY, JODY AND STANLEY SHIVELL, AND EARLE AND BONNIE MORTON, Appellants	:	IN THE COURT OF COMMON PLEAS CUMBERLAND COUNTY, PENNSYLVANIA
v.	:	Land Use Appeal
ZONING HEARING BOARD OF MIDDLESEX TOWNSHIP, Appellee	:	Docket No. 2026-08758 Civil Term
v.	:	Civil Action - Land Use Appeal
BOARD OF SUPERVISORS OF MIDDLESEX TOWNSHIP, Intervenor	:	
v.	:	
CARLISLE DEVELOPMENT PARTNERS, LLC, Intervenor	:	

INTERVENOR CARLISLE DEVELOPMENT PARTNERS, LLC'S RESPONSE IN OPPOSITION TO APPELLANTS' PETITION TO CONFIRM AND ENFORCE STAY OF PROCEEDINGS OR, IN THE ALTERNATIVE, FOR STAY

Intervenor Carlisle Development Partners, LLC ("**Carlisle**"), by and through its undersigned counsel, hereby files the within Response in Opposition to Appellants' Petition to Confirm and Enforce the Stay of Proceedings Under 53 P.S. § 10915.1(a) or, in the Alternative,

for a Stay Pursuant to 53 P.S. § 11003-A(d) ("**Petition**"). In support thereof, Carlisle states as follows:[1]

INTRODUCTION

Carlisle respectfully submits this Response in Opposition to the Petition filed by Appellants Kyle and Alexia Gerber, Andrew and Rachael Dymski, Robert and Viola Byerly, Jody and Stanley Shivell, and Earle and Bonnie Morton (collectively, "**Appellants**"). Based solely upon Appellants' filing of an appeal of the Middlesex Township ("**Township**") Zoning Hearing Board's ("**ZHB**") deemed denial of their spot zoning challenge, Appellants have now made the extraordinary request that this Court stay and enjoin all land use approvals made by the Township Board of Supervisors ("**Board**") relating to Carlisle's data center project ("**Data Center**") and require Carlisle to halt all construction and site work during the pendency of the instant appeal. For the reasons set forth herein, the Petition should be denied.

The first half of Appellants' Petition is no longer before the Court. By Order dated October 5, 2026, this Court held that the mandatory stay set forth in Section 915.1(a) of the Pennsylvania Municipalities Planning Code ("**MPC**"), 53 P.S. § 10101 *et seq.*, does not apply to these proceedings because a mandatory stay applies only to hearings *pending before the board*, which is not the case here. Thus, Appellants' alternative request for a discretionary stay under Section 1003-A(d) of the MPC, 53 P.S. § 11003-A(d), is the only item currently before this Court. This remaining request is subject to the same **extremely demanding injunction standard** that governed Appellants' first stay petition, which this Court denied by Order dated September 22,

[1] On the same date as this Response, Carlisle is also filing a Motion to Quash this appeal, which will present the procedural and jurisdictional objections and arguments contemplated by the Court's October 12, 2026 Status Conference Order. Those arguments are discussed below because they bear directly on Appellants' likelihood of success for purposes of the stay analysis.

2026. Under that test, Appellants bear the burden on every factor, and the first factor (a strong showing of likelihood of success on the merits) is both the threshold inquiry and the most important element.

Appellants cannot make that showing here. First, before even considering the likelihood of success of Appellants' claims on the merits, their appeal now faces a Motion to Quash based upon a plain failure to comply with the MPC's statutory appeal procedures. Specifically, Appellants' challenge was filed with the ZHB more than two months after the first preliminary land development plan approval for the Data Center was approved by the Board. The challenge is therefore expressly barred by the black-letter law of Section 914.1 of the MPC, which requires that validity challenges seeking to prevent the development of another landowner **must be filed within thirty (30) days of preliminary approval for such development.**

Second, and independently, even if their appeal were not procedurally deficient, Appellants are unlikely to prevail on the merits of their spot zoning claim. Because zoning ordinances are presumed to be valid and constitutional, those seeking to invalidate a zoning ordinance bear a heavy burden. Despite this heavy burden, Appellants devote precisely two paragraphs of their eighty-nine-paragraph Petition to the merits of their spot zoning claim. Here, there are no zoning hearing board findings, no record, and no evidence of any kind that the Data Center Overlay ("**DCO**") or updated comprehensive zoning ordinance ("**Zoning Ordinance**") is arbitrary, unreasonable, and unrelated to the public health, safety, morals, or general welfare. Instead, Appellants' Petition relies on bare allegations that the DCO singled out the Subject Property and was sought by Carlisle's predecessor in interest. However, even if proven, Pennsylvania law is clear that neither is dispositive with respect to a spot zoning claim. Appellants are therefore unlikely to succeed on the merits.

Thus, under the pertinent standards, the Petition should be denied in its entirety. Furthermore, Appellants' sweeping request for broad injunctive relief rings hollow where Appellants have sat idle on their hands for ***over half a year*** as hundreds of construction workers have been at work on a site that neighbors some of their properties. The Petition should further be denied as it would thwart the will of the people, irreparably harm the current and future employment prospects of the community and jeopardize hundreds of millions of dollars in future tax revenues for Cumberland County, Cumberland Valley School District and the Township.

FACTUAL AND PROCEDURAL BACKGROUND

I. The Subject Property and Zoning Ordinance Amendments

The proposed Data Center is a 693-acre data center campus located in Middlesex Township, Cumberland County, Pennsylvania, which is situated along Country Club Road and bordered by Interstate 81 ("**Subject Property**"). The campus is being developed in phases, including Phase 1-A (electrical substation and access road), Phase 1-B, Phase 1-C, Phase 2, and Phase 3.

On May 30, 2025, the Board adopted Ordinance No. 3-2025 ("**DCO Ordinance**"), which created the DCO and made "Data Center" a use permitted by right within it. On September 3, 2025, the Board adopted Ordinance No. 7-2025 (being the "Zoning Ordinance" defined above), which was a comprehensive update to the Township's zoning ordinance, and which included the corresponding data center provisions from the DCO Ordinance. Both ordinances were adopted following public notice, public hearing, and legislative deliberation. Appellants took no action to challenge either ordinance for nearly one year.

II. The Unappealed Preliminary Approvals and the Phased Approvals That Followed

The Preliminary Major Subdivision Plan for the Data Center was submitted on August 18, 2025, was recommended for approval by the Township Planning Commission on December 22, 2025, and was conditionally approved by the Board on January 5, 2026 ("**Preliminary Subdivision Approval**"). The plan created five lots: the PPL substation, data center campus 1, data center campus 2, data center campus 3, and Lot 1C. The plan expressly set forth the phasing structure under which a final amended subdivision plan would be approved concurrently with each phase of development. No appeal was taken from the Preliminary Subdivision Approval.

The Phase 1-A preliminary land development application was submitted on August 18, 2025 and was conditionally approved on March 4, 2026 ("**Phase 1-A Preliminary Approval**"). The Phase 1-A Preliminary Approval related to electrical substation infrastructure and an access road for the Data Center. The Phase 1-A plan set included a phasing plan and keymaps that showed or labeled the future phase areas, including Phase 1-B, Phase 1-C, Phase 2, and Phase 3, and referred to the PAX-1 Master Plan for additional information surrounding Phase 1-A. No appeal was taken from the Phase 1-A Preliminary Approval. Both the application for the Preliminary Major Subdivision Plan and the application for the Phase 1-A Plan were filed when the DCO Ordinance was in effect and before the updated Zoning Ordinance became effective.

On May 6, 2026, the Board approved the Final Major Subdivision Plan ("**Final Subdivision Approval**"), the Phase 1-A Final Land Development Plan ("**Phase 1-A Final Approval**"), and the Phase 1-B Preliminary Land Development Plan. On July 1, 2026, the Board conditionally approved the Phase 1-C Preliminary Land Development Plan and the Phase 2 Preliminary Land Development Plan. On September 2, 2026, the Board conditionally approved

the Phase 1-B Final Land Development Plan and the Phase 3 Preliminary Land Development Plan. As set forth below, these approvals have also been appealed by Appellants to this Court.

III. The Validity Challenge, the Deemed Denial, and This Appeal

On May 13, 2026, more than eleven months after the DCO was adopted, more than eight months after the comprehensive Zoning Ordinance was adopted, and after the Preliminary Subdivision Approval, the Phase 1-A Preliminary Approval, and the May 6 approvals had been granted, Appellants filed a substantive validity challenge with the Middlesex Township Zoning Hearing Board (**"ZHB**") under Section 916.1 of the MPC, 53 P.S. § 10916.1 ("**Validity Challenge**"). The Validity Challenge asserts that the DCO and the corresponding data center provisions of the comprehensive Zoning Ordinance constitute unlawful spot zoning. (Pet. ¶¶ 7-8.)[2]

The ZHB did not commence a hearing within the period prescribed by Section 916.1(d) of the MPC, and the Validity Challenge was therefore deemed denied under Section 916.1(f)(1), 53 P.S. § 10916.1(f)(1). (Pet. ¶¶ 54-56.) On August 6, 2026, Appellants filed a Notice of Land Use Appeal from the deemed denial at the above-captioned docket. (Pet. ¶ 14.) The certified record was filed on or about September 15, 2026, and both the Board and Carlisle intervened. (Pet. ¶ 15.) Importantly, because the ZHB never convened a hearing, there are no findings of fact, no conclusions of law, no testimony, and no adjudicated evidentiary record on the merits of the spot zoning claim. (Pet. ¶ 56.)

[2] The Validity Challenge also contains an allegation that the DCO and Zoning Ordinance violate Article I, Section 27 of the Pennsylvania Constitution (Environmental Rights Amendment). Because that theory is not developed as an independent basis for the stay requested in the Petition, Carlisle does not address it separately in this Response.

IV. The Companion Appeals and This Court's September 22, 2026 Order

Appellants have also filed land use appeals from the Board's land development approvals for the Data Center, at Docket No. 2026-06465 (Final Subdivision Approval, Phase 1-A Final Land Development Plan Approval, and Phase 1-B Preliminary Land Development Plan Approval), Docket No. 2026-08652 (Phase 1-C Preliminary Land Development Plan Approval and Phase 2 Preliminary Land Development Plan Approval), and Docket No. 2026-11177 (Phase 1-B Final Land Development Plan Approval and Phase 3 Preliminary Land Development Plan Approval).

At Docket No. 2026-06465, Carlisle filed a Motion to Quash and Appellants filed a Petition for Stay under Section 1003-A(d), both of which were argued on September 18, 2026. By Order dated September 22, 2026, this Court granted Carlisle's Motion to Quash in part and denied it in part. The Court quashed the appeal as to the Final Subdivision Approval and the Phase 1-A Final Approval, holding that an applicant is entitled to final approval in accordance with its approved preliminary applications under Section 508(4)(i) of the MPC, 53 P.S. § 10508(4)(i). The Court denied quashal as to the Phase 1-B preliminary approval, denied Appellants' stay motion without prejudice, and expressly noted that it did not appear from the record that Appellants have a strong likelihood of prevailing on the merits.

V. The Present Petition and the Court's October 5, 2026 Order

On September 30, 2026, Appellants filed the instant Petition at this docket. On October 5, 2026, this Court entered an Order providing that the mandatory stay outlined by 53 P.S. § 10915.1(a) does not apply to these proceedings because it applies only to hearings pending before the board, scheduling a hearing for November 13, 2026, and directing Appellee and Intervenors to respond by October 30, 2026.

VI. Carlisle's Reliance and the Consequences of a Stay

Beginning after the Phase 1-A Preliminary Approval, Carlisle has proceeded with development of the Subject Property under its municipal approvals and under separate state and county environmental authorizations, including NPDES Permit No. PAC210079, Amendment A-4, coverage for which was approved by the Cumberland County Conservation District on May 18, 2026. (Pet. ¶ 41.) The Subject Property has been an active construction site for many months, with hundreds of workers on site, and Carlisle has expended tens of millions of dollars in engineering, mobilization, and construction costs in reliance on its approvals.

Halting construction of the Data Center now would cause irreparable harm to Carlisle and to the public. At full buildout, the project is projected to have an assessed value of approximately $3.74 billion, generating over $65.7 million in direct annual property tax revenue for the Township ($10.1 million), Cumberland County ($10.0 million), and the Cumberland Valley School District ($45.6 million), along with approximately 250 permanent jobs and over $100 million in additional annual regional economic impact.

RELEVANT LEGAL STANDARDS

I. A Stay in the Context of a Land Use Appeal Is Extraordinary Injunctive Relief

Because the MPC establishes a "no stay" default, a party seeking a stay must petition the court and satisfy the four-part standard governing a stay that results in preliminary injunctive relief, under which a petitioner must: (1) make a strong showing that it is likely to prevail on the merits; (2) demonstrate that, without the requested relief, it will suffer irreparable injury; (3) demonstrate that the issuance of a stay will not substantially harm other interested parties; and (4) demonstrate that the issuance of a stay will not adversely affect the public interest. *Pa. Pub. Util. Comm'n v.*

Process Gas Consumers Grp., 467 A.2d 805, 808-09 (Pa. 1983); *Yatron by Yatron v. Hamburg Area Sch. Dist.*, 631 A.2d 758, 761 (Pa. Cmwlth. 1993).[3]

Shortly after *Process Gas*, the Pennsylvania Supreme Court underscored the movant's high burden, holding that "[i]t is not enough to present an issue which is not frivolous. We now require a person seeking a stay to make a strong showing that he is likely to prevail on the merits as well as to show irreparable harm and that the stay will not substantially harm other interested parties or the public interest." *Young J. Lee, Inc. v. Commonwealth, Department of Revenue, Bureau of State Lotteries*, 504 Pa. 367, 474 A.2d 266, 272 (1983). The Commonwealth Court has further held that a stay in the nature of an injunction pending appeal is relief that is "**highly extraordinary**," imposing an even heavier burden on the applicant. *Tri-State Asphalt Corp. v. Department of Transportation*, 135 Pa. Cmwlth. 410, 582 A.2d 55, 60 (1990). That characterization applies with full force here, where Appellants seek not merely to suspend the effectiveness of an approval but to affirmatively enjoin active, ongoing construction and to bar a municipal legislative body from acting upon pending applications.

II. Developers Are Entitled to Proceed at Their Own Risk During a Pending Appeal

The MPC's statutory framework reflects a deliberate legislative policy choice to favor development over delay. Developers who proceed with construction during the pendency of an appeal do so at their own risk, but that risk is the developer's to take, and not the objector's to impose. *Silverco, Inc. v. Zoning Bd. of Adjustment*, 109 A.2d 147, 150 (Pa. 1954) ("It therefore

[3] Although no reported decision has set forth the standards for a stay specifically requested under Section 1003-A(d) of the MPC, the parties agree that the injunction standards for granting a stay set forth in *Process Gas* should govern the Court's disposition of Appellants' Petition. *See* Pet. ¶ 73. Thus, the hearing and bonding requirements contained in Pa. R.C.P. 1531(a) and (b) also apply. However, as set forth herein, a hearing is not required to deny Appellants' Petition because they cannot demonstrate that they are likely to succeed on the merits.

took whatever risks were involved if such an appeal were taken and were successful."); *Appeal of Diamond*, 196 A.2d 363 (Pa. 1964) ("[O]ne who obtains a building permit and begins construction prior to expiration of the appeal period ordinarily proceeds at his own peril."); *Conneen v. Speedy Muffler King, Inc.*, 568 A.2d 700 (Pa. Cmwlth. 1989) (holding that a developer "proceeds at his own peril" when building while appeal is pending and objector's failure to request supersedeas "is of no moment"). Because a developer is already assuming the financial risk that its approvals may be overturned, the "proceed at risk" doctrine is why stays are rarely granted in land use appeals.[4]

III. Injunctive Relief Requires the Posting of Financial Security

Pennsylvania courts are required by the Pennsylvania Rules of Civil Procedure to condition relief in the nature of an injunction upon the posting of financial security by the petitioning party. Courts are also required to hold a hearing to determine the merits of the requested injunctive relief. Specifically, Pennsylvania Rule of Civil Procedure 1531(b) provides that:

> Except when the plaintiff is the Commonwealth of Pennsylvania, a political subdivision or a department, board, commission, instrumentality or officer of the Commonwealth or of a political subdivision, **a preliminary or special injunction shall be granted only if:**
>
> 1) **the plaintiff files a bond in an amount fixed and with security approved by the court,** naming the Commonwealth as obligee, conditioned that if the injunction is dissolved because improperly granted or for failure to hold a hearing, the plaintiff shall pay to any person injured all damages sustained by reason of granting the injunction and all legally taxable costs and fees, or

[4] Indeed, in *Delaware Riverkeeper Network v. Middlesex Twp. Zoning Hearing Bd.*, 1229 C.D. 2015, 2017 WL 2458278, at *1 (Pa. Cmwlth. June 7, 2017), the ***only case*** cited by Appellants in which a stay was actually granted in favor of objecting landowners pursuant to Section 1003-A(d) of the MPC, the ***court vacated its own stay order*** because it had been improvidently granted. Furthermore, the court's erroneous stay order in *Delaware Riverkeeper* was granted before construction activities (*i.e.*, oil and gas well drilling) commenced. The present matter is qualitatively different where construction work has been under way for ***months***.

2) **the plaintiff deposits with the prothonotary legal tender of the United States in an amount fixed by the court** to be held by the prothonotary upon the same condition as provided for the injunction bond.

Pa. R.C.P. No. 1531(b) (emphasis added).

Both the Commonwealth Court and the Superior Court have consistently held that the bond requirement "is mandatory and an appellate court must invalidate a preliminary injunction if a bond is not filed by the plaintiff." *Berger By & Through Berger v. W. Jefferson Hills Sch. Dist*., 669 A.2d 1084 (Pa. Cmwlth. 1995); *Walter v. Stacy*, 837 A.2d 1205 (Pa. Super. 2003) (holding that "statutory requirement that a plaintiff seeking a preliminary injunction file bond with the prothonotary is mandatory," and that an appellate court must invalidate a preliminary injunction if no bond is filed).

Here, the relief sought by Appellants is injunctive in nature because it would not merely stay or supersede the effectiveness of Carlisle's approvals prior to the commencement of development activities. Rather, Appellants seek to affirmatively enjoin **all** construction and development activities currently authorized and actively proceeding under Carlisle's state and local approvals, most of which are not even subject to this meritless appeal. In addition, Appellants seek to enjoin the Township from processing and acting on any future land development applications. (Pet. ¶¶ 81-84.)

ARGUMENT

As set forth below, Appellants' Petition should be denied because: (i) Appellants' spot zoning claim is procedurally barred by Section 914.1 of the MPC; (ii) Appellants are unlikely to succeed on the merits of their spot zoning claim; and (iii) Appellants have not demonstrated that they have met the four *Process Gas* criteria necessary for a stay pending appeal that amounts to injunctive relief. However, if, after argument, the Court is inclined to entertain the relief requested

in the Petition, then Carlisle hereby petitions the Court for an evidentiary hearing pursuant to Section 1003-A(d) of the MPC and Pa. R.C.P. 1531(b) in order to determine whether such stay and injunctive relief are appropriate and, if so, to determine the bond amount to be posted by the Appellants in favor of Carlisle as a condition of the stay and injunction.

I. Appellants Are Unlikely to Succeed Because the Challenge and This Appeal Are Procedurally Defective

A. The Validity Challenge Was Barred by Section 914.1 of the MPC When It Was Filed

Section 914.1 of the MPC directs that:

> **No person shall be allowed to file any proceeding with the [zoning hearing] board later than 30 days after an application for development, preliminary or final, has been approved** by an appropriate municipal officer, agency or body **if such proceeding is designed to secure reversal or to limit the approval in any manner** unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

53 P.S. § 10914.1(a) (emphasis added).

Section 914.1 of the MPC is designed to provide applicants with certainty regarding the validity of the zoning ordinance provisions under which the applicant is proceeding with development approvals while also providing third parties with the right and opportunity to challenge the validity of zoning ordinance provisions. *See Wayne Property Acquisition, Inc. v. Board of Commissioners of Township of Radnor,* 304 A.3d 48 (Pa. Cmwlth. 2023). A substantive validity challenge filed with a zoning hearing board that seeks to invalidate the zoning ordinance under which a land development plan approval is based is therefore plainly subject to Section

914.1 of the MPC.

Here, there are two operative dates and approvals, pursuant to which Section 914.1 bars Appellants' validity challenge. First, the Preliminary Subdivision Approval occurred on January 5, 2026. The approved subdivision plan was not simply a generic division of lots; rather: (1) it created the lots for the PPL substation and for data center campuses 1, 2, and 3; (2) it recited that the DCO had been approved for the site on May 30, 2025; (3) it stated that the plan was being implemented in accordance with that ordinance; and (4) it established the phasing structure for the project. Second, the Phase 1-A Preliminary Approval (PPL Substation and access road) occurred on March 4, 2026. The plans submitted with the Phase 1-A Preliminary Approval included a Phasing Plan, which showed the location of the proposed PPL Substation in Phase 1-A, as well as each and every future phase of the Data Center campus, including the proposed location of Data Center buildings and site infrastructure in each future phase.[5]

Appellants filed their Validity Challenge on May 13, 2026. Therefore, measured from January 5, 2026 (Preliminary Subdivision Approval), Appellants' Validity Challenge was filed more than three months after the Section 914.1 deadline expired, and measured from March 4, 2026 (Phase 1-A Preliminary Approval), it was filed 40 days after the Section 914.1 deadline expired. Thus, at a minimum, Section 914.1 expressly bars Appellants' spot zoning challenge to the extent it seeks to undo the Preliminary Subdivision Approval or the Phase 1-A Preliminary Approval. And, consequently, the Final Subdivision Approval and the Phase 1-A Final Approval

[5] Attached hereto as **Exhibit A** is a true and correct copy of the plan sheet titled "Phasing Plan" from the Phase 1-A Preliminary Approval plan set, which specifically shows all of these phasing details.

are also immune from attack because, as the Court previously held in its September 22, 2026 Order, they substantially complied with their respective preliminary approvals. *See* 53 P.S. § 10508(4)(i).

B. The Validity Challenge to Data Center Overlay District Regulations under the Zoning Ordinance Is Moot

The DCO Ordinance regulations and the Data Center Overlay District regulations contained in the comprehensive Zoning Ordinance are the same and would permit the Data Center under either set of regulations. As set forth above, Appellants' only challenge to approvals made under the DCO Ordinance (Preliminary Subdivision Approval and Phase 1-A Preliminary Approval) is time-barred under Section 914.1.[6] Appellants' only remaining challenge is to the Data Center Overlay District regulations under the comprehensive Zoning Ordinance, under which the approvals for the later phases were made.

But, even assuming, *arguendo*, that Appellants are successful in their Validity Challenge to the Data Center Overlay District regulations under the comprehensive Zoning Ordinance, the applicable zoning regulations governing the Data Center would revert to the DCO Ordinance, which was the ordinance in effect prior to the Data Center Overlay District regulations contained in the comprehensive Zoning Ordinance (which also would permit the Data Center to proceed). Assuming the Validity Challenge to the DCO Ordinance is quashed, then the Validity Challenge

[6] In addition to a validity challenge being time-barred against the Preliminary Subdivision Approval and Phase 1-A Preliminary Approval, this Court's prior Order in Docket No. 2026-06465 makes the corresponding final approvals unassailable under Section 508(4) of the MPC. In its September 22, 2026 Order, this Court quashed the first appeal as to the Final Subdivision Approval and the Phase 1-A Final Approval. In doing so, the Court explained that, under Section 508(4) of the MPC, Carlisle was "entitled to final approval in accordance with the terms of the approved preliminary application." Because the land use appeals for those two final approvals have now been quashed, "no subsequent change or amendment in the zoning [ordinance]" may adversely affect those approvals. 53 P.S. § 10508(4). Thus, even if Appellants are successful in the instant appeal, any zoning change caused by the invalidation of any currently applicable zoning provision cannot be applied to them retroactively under Section 508(4), rendering this appeal entirely moot with respect to those approvals.

to the Data Center Overlay District regulations in the comprehensive Zoning Ordinance is moot because the DCO Ordinance (which would remain in effect) permits the Data Center.

Accordingly, even if successful in this appeal, the Data Center would still be permitted and Carlisle would be permitted to continue construction of the Data Center. Thus, if quashal is granted as to the approvals made under the DCO Ordinance, Appellants' entire appeal should be deemed moot.

C. Appellants' Failure to Timely File Their Challenge within Thirty Days of the Initial Approvals Precludes Their Validity Challenge From Affecting Later Phases

Mootness aside, Appellants' failure to timely file their Validity Challenge within 30 days of the Preliminary Subdivision Approval or the Phase 1-A Preliminary Approval goes even further than barring a challenge to those specific approvals under Section 914.1. Here, Appellants' failure to comply with Section 914.1 has a cascading effect that also entirely precludes the Validity Challenge's attack on all later phases of the Data Center.

Importantly, the finality principles underlying Section 914.1 are shaped by pre-MPC case law. For instance, in *Diamond, supra*, the Pennsylvania Supreme Court held that objectors waived their rights to challenge an "integrated, comprehensive or staged development" by failing to appeal from the issuance of the first approval issued for the project, which was seven months prior to the time of second approval that was actually challenged. *See Diamond,* 196 A.2d at 366. In that case, more than $3,150,000.00 had been expended to purchase land, a $7,500,000.00 loan had been obtained, leases had been signed, and a general building contractor had been engaged. The Court explained its rationale, as follows:

> Since the civic association is clearly attacking the entire development plan, the proper time to have appealed was at the issuance of the first permit for its implementation. ***To allow a complex, comprehensive plan for development of as large a tract of land as is here involved to be attacked on a piece by piece basis***

> ***would result in the greatest of inequities to the developers.*** This is particularly true on the facts here presented, which demonstrate that not only were the residents completely informed of all phases and the nature of the development program, but that they were also able to and did participate in the formulation and finalization of the development plan.

Id. at 370 (emphasis added); *see also Larrecq v. Van Orden*, 346 A.2d 922 (Pa. Cmwlth. 1975) (holding that laches applied to bar objectors claim where they waited nine months after a township building project was announced to seek to enjoin it, during which the township had already retained and compensated an architect).

The Commonwealth Court has also applied the same principle under the modern MPC, holding that objectors must challenge development approvals at the earliest possible time. *See Pennypacker v. Ferguson Township*, 167 A.3d 209, 216 (Pa. Cmwlth. 2017) (discussing Section 914.1 as applied to objectors who failed to appeal tentative approval, and holding that such objectors lost the opportunity to challenge the governing body's zoning interpretation at final approval); *In re Busik*, 759 A.2d 417, 420 (Pa. Cmwlth. 2000) (conditioned preliminary approval is final for purposes of appeal and waiver); *Rickert v. Latimore Township*, 960 A.2d 912, 920 (Pa. Cmwlth. 2008) (final plan review cannot be used to relitigate zoning issues resolved at the preliminary stage).

Here, Appellants were aware of the comprehensive phased nature of the Data Center project because they attended the meetings where the Preliminary Subdivision Approval and Phase 1-A Preliminary Approval were made by the Board.[7] Under Section 914.1 of the MPC, Appellants were therefore required to file their Validity Challenge within 30 days of the Preliminary Subdivision Approval, or within 30 days of the Phase 1-A Preliminary Approval, at the very latest.

[7] At least one of the Appellants attended each of the Board's meetings where these two approvals were made, as evidenced by the approved minutes for each meeting.

Because the Data Center was clearly and publicly shown to be an "integrated, comprehensive [and] staged development" through those approvals, Appellants were required to challenge the earliest possible approval for the Data Center project that authorized the commencement of construction (*i.e.*, within 30 days of the Preliminary Subdivision or Phase 1-A Preliminary Approval).

The same conclusion is supported by the Section 508(4) finality principles that this Court already applied at Docket No. 2026-06465. Once preliminary approval is issued, an applicant is entitled to final approval in accordance with the approved preliminary application, and no subsequent change or amendment in the zoning ordinance may be applied to defeat that approval. 53 P.S. § 10508(4)(i). The Court has already applied that rule to quash the appeals from the Final Subdivision Approval and the Phase 1-A Final Approval. Appellants cannot obtain indirectly through this stay petition or the later-phased appeals what Section 914.1 and Section 508(4) preclude them from obtaining directly: a belated attack on a phased, integrated development after the time to challenge the initial approvals has expired.

In this case, precisely as in *Diamond*, "to allow a complex, comprehensive plan for development of as large a tract of land as is here involved to be attacked on a piece by piece basis would result in the greatest of inequities to" Carlisle. *Id*. Simply put, if Appellants desired to utilize a validity challenge as the vehicle to attack land development plan approvals for the Data Center (including later phases), they were required to do so within 30 days of the earliest approval for the project. They failed to do so, and the entire validity challenge should be procedurally barred on those grounds. Further, Appellants' delay, paired alongside the resulting prejudice to Carlisle detailed above, reinforces that emergency injunctive relief is unwarranted in this case.

II. Even If the Challenge Were Procedurally Sound, Appellants Cannot Meet the *Process Gas* Criteria

A. Appellants Are Unlikely to Succeed on the Merits of the Spot Zoning Claim

Appellants devote two paragraphs of their twenty-page Petition to the merits. (Pet. ¶¶ 74-75.) They cite *Mulac Appeal*, 418 Pa. 207, 210 A.2d 275 (1965), and *Allen Distribution v. West Pennsboro Township Zoning Hearing Board*, 231 A.3d 90 (Pa. Cmwlth. 2020), and then assert, in a single sentence, that the DCO comprises all of the Subject Property and only the Subject Property, and that it was adopted at the request of Carlisle's predecessor in interest. (Pet. ¶ 74.) Appellants then acknowledge that their burden is to overcome a presumption of validity and that a "debatable ordinance" stands, claiming only that they have presented at minimum a substantial case on the merits. (Pet. ¶ 75.)

1. The DCO Is Presumed Valid and Appellants Bear a Heavy Burden

A zoning ordinance enjoys a presumption of constitutionality and validity, and the party challenging it bears a heavy burden of proving otherwise. *Schubach v. Silver*, 461 Pa. 366, 336 A.2d 328, 333 (1975). Where the validity of an ordinance is "debatable," the legislative judgment of the governing body must control. *Id.*; *Takacs v. Indian Lake Borough Zoning Hearing Board*, 11 A.3d 587, 594 (Pa. Cmwlth. 2010). The presumption is not a formality. It means that if the record permits reasonable minds to differ as to whether the DCO bears a relationship to the public health, safety, morals, or general welfare, the Challenge fails as a matter of law. Appellants have expressly accepted this framework. (Pet. ¶ 75.)

A successful spot zoning challenge requires more than differential treatment. The challenger must prove both that the ordinance singles out "one lot or a small area for different treatment from that accorded to similar surrounding land indistinguishable from it in character,"

and that the classification is arbitrary and unreasonable and bears no substantial relationship to the public health, safety, morals, or general welfare. *Mulac Appeal*, 210 A.2d at 276-77; *In re Realen Valley Forge Greenes Associates*, 576 Pa. 115, 838 A.2d 718, 728-29 (2003); *Takacs*, 11 A.3d at 594-95. The key inquiry is "whether the parcel in question is being treated unjustifiably different from similar surrounding land." *Takacs*, 11 A.3d at 595. Appellants have offered the Court nothing that would allow it to make that comparative finding at this stage, let alone to conclude that they are strongly likely to prevail on it.

2. There Is No Adjudicated Record from Which a Strong Showing Could Be Made

Under *Process Gas,* a stay petitioner must make a strong showing of likely success on an existing record. It cannot substitute allegations for proof and then ask the Court to enjoin a multi-hundred-million-dollar project while it develops the evidence it has not yet gathered. Appellants' own framing confirms the gap: they state that their position rests on the facts pleaded in the Challenge and on documents produced by the Township and by the Commonwealth in response to requests for records. (Pet. ¶ 75.) Pleadings and unauthenticated records requests are not a developed evidentiary showing. Appellants likewise state that their harm will be established by affidavit and testimony at the hearing, if necessary. (Pet. ¶ 47.) Relief that is highly extraordinary is not granted on the promise of a future record. *Tri-State Asphalt*, 582 A.2d at 60.

3. That the DCO Was Adopted at a Landowner's Request and Benefits That Landowner Does Not Establish Spot Zoning

Appellants' entire spot zoning theory, as presented in the Petition, is premised on the assertion that the DCO applies only to Carlisle's land and was sought by Carlisle's predecessor. (Pet. ¶ 74.) Pennsylvania law has rejected Appellants' argument for decades. A rezoning is not invalid merely because it was enacted at the request of, or confers a benefit upon, a particular

landowner. *Schubach*, 336 A.2d at 334-35; *Takacs*, 11 A.3d at 595-96; *Burd v. Borough of Brentwood Zoning Hearing Board*, 298 A.3d 431, 442-43 (Pa. Cmwlth. 2023); *Clawson v. Harborcreek Township Zoning Hearing Board*, 9 Pa. Cmwlth. 124, 304 A.2d 184, 186-87 (1973). Nearly every rezoning benefits someone. If landowner benefit were the test, the spot zoning doctrine would eviscerate municipal zoning power itself. The question is instead whether the differential treatment is *justified*, that is, whether the governing body could rationally conclude that the classification advances a legitimate public purpose. *Takacs*, 11 A.3d at 595.

Nor is the fact that the DCO applied to a single assemblage of property dispositive. "[T]he size of the property involved is only one of the determining factors" in a spot zoning analysis. *See Mulac Appeal*, 210 A.2d at 277. Pennsylvania courts have repeatedly sustained ordinances applying to a single tract where the classification rested on the tract's distinct characteristics, location, infrastructure, or relationship to surrounding uses. *Takacs*, 11 A.3d at 595-96; *Clawson*, 304 A.2d at 186-87; *Carnahan v. Slippery Rock Township Zoning Hearing Board*, 305 A.3d 211, 221-23 (Pa. Cmwlth. 2023). Here, the DCO applied to an approximately 693-acre integrated, phased campus along Country Club Road adjacent to Interstate 81, not to a small lot carved out of a uniform residential block. Appellants have not identified, let alone proven, any similar surrounding land indistinguishable from it in character that is treated differently. *Mulac Appeal*, 210 A.2d at 276.

4. The DCO Is Not Arbitrary, Unreasonable, or Unrelated to the Public Health, Safety, Morals, or General Welfare

Even if Appellants could establish differential treatment, they would still be required to prove that the DCO is arbitrary, unreasonable, and unrelated to the public health, safety, morals, or general welfare. *Realen*, 838 A.2d at 728-29; *Takacs*, 11 A.3d at 594. They cannot. The Township enacted the DCO Ordinance and comprehensive Zoning Ordinance because the previous

zoning ordinance did not specifically provide for data center uses. Thus, at that point, the Township was subject to a colorable exclusionary validity challenge *by a developer*, which, if successful, would have allowed a developer to place a data center *anywhere* within the Township. *See LaRock v. Board of Supervisors of Sugarloaf Twp*., 866 A.2d 1208 (Pa. Cmwlth. 2005) (explaining that a municipality must provide for all lawful and legitimate uses somewhere within its boundaries, and that the failure to do so constitutes unconstitutional exclusionary zoning). Exercising its reasonable judgment, the Township chose to designate land for data center uses in an area of the Township that is adjacent to an interstate highway and largely screened from view by natural terrain. In no way can this decision to protect its residents be considered "arbitrary, unreasonable, and unrelated to the public health, safety, morals, or general welfare."

Further, the public benefits associated with the use authorized by the DCO are likewise substantial and relevant to the general welfare inquiry. The Data Center will provide a projected assessed value at full buildout of approximately $3.74 billion, over $65.7 million in direct annual property tax revenue to the Township, County, and School District, approximately 250 permanent jobs, hundreds of additional indirect and induced jobs, and over $100 million in additional annual regional economic impact. A legislative classification that advances economic development, tax base, employment, and infrastructure is not "arbitrary." At worst, for Carlisle, the question is "debatable," and a debatable ordinance stands. *Schubach*, 336 A.2d at 333; *Takacs*, 11 A.3d at 594. Appellants have acknowledged that this is the governing standard. (Pet. ¶ 75.)

5. The Limited Authorities Appellants Cite Are Distinguishable

Allen Distribution, on which Appellants principally rely, is not analogous to this case. There, the zoning hearing board conducted hearings, received evidence, and made findings sustaining a substantive validity challenge, and the appellate court reviewed those findings for

substantial evidence and legal error. *Allen Distribution*, 231 A.3d at 94-96, 101-03. The Commonwealth Court affirmed because the board found, on a developed record, that the rezoning was enacted *solely* to accommodate one landowner's plans and not to advance the public health, safety, morals, and general welfare. *Id*. at 102-03. Appellants attempt to reverse this procedural posture. They ask this Court to grant extraordinary injunctive relief based on the outcome they *hope* a merits record will someday produce. *Allen Distribution* says nothing about the showing required to obtain a stay before any evidence is taken.

Conshohocken Borough v. Conshohocken Borough Zoning Hearing Board, 261 A.3d 582 (Pa. Cmwlth. 2021), is distinguishable for the same reason. In that case, the zoning hearing board developed a full evidentiary record and made findings, including that the amendment as a practical matter applied to a single tract and conflicted with the stated objectives of the underlying district, and the reviewing court assessed whether substantial evidence supported those findings. *Conshohocken*, 261 A.3d at 591-96. No such findings exist here.

Conversely, the authorities addressing rezonings upheld against spot zoning attacks are consistent with the facts in this case. *See Takacs*, 11 A.3d at 595-96 (rezoning upheld where it bore a rational relationship to the character of the property and surrounding area); *Carnahan*, 305 A.3d at 221-23 (ordinance upheld where the challenger failed to prove arbitrariness and the legislative judgment was at least debatable); *Burd*, 298 A.3d at 442-43 (no spot zoning where the classification served a broader public purpose notwithstanding benefit to a particular owner); *Clawson*, 304 A.2d at 186-87 (no spot zoning where the rezoned parcel served as a transition or natural extension of adjoining uses); *Schubach*, 336 A.2d at 333-35 (presumption of validity; debatable classifications sustained).

In sum, Appellants have not come close to the strong showing of likely success that *Process Gas* requires, whether the Court looks to the procedural posture of the Challenge or to its substance. Because the likelihood-of-success factor is dispositive and unsatisfied, the Petition should be denied on that basis alone.

B. A Stay Would Substantially Harm Carlisle and Adversely Affect the Public Interest

The stay Appellants seek is not a narrow appellate measure. Rather, it is a sweeping construction injunction that would bar earth disturbance, grading, blasting, drilling, construction, recording of plans, and even further Township consideration of pending applications. (Pet. ¶ 82). The scope of this request alone illustrates why it should be treated as an application for highly extraordinary injunctive relief, subject to the heavy burden recognized in *Tri-State Asphalt*.

A stay would directly and concretely cause tens of millions of dollars in harm to Carlisle through demobilization costs, contractor standby and termination exposure, escalation in construction costs, utility-interconnection scheduling consequences, financing and carrying costs, and contractual penalties.

The public interest likewise favors denial. There are presently more than 400 construction workers on site, most of whom are from the area, who would lose their jobs. Furthermore, the Data Center project will generate over $65.7 million annually in direct property tax revenue for the Township, County, and School District, support approximately 250 permanent jobs and hundreds of additional indirect and induced jobs, and contribute critical electrical infrastructure and economic development. A stay will jeopardize the Data Center project, and by extension, the anticipated public benefits associated with the same.

C. Appellants Have Not Demonstrated Irreparable Harm

Appellants' claim of irreparable harm is undermined by their Petition itself. Appellants state that there is no work completed to date that cannot be undone. (*See* Pet. ¶ 76.) If the site work can be undone, then by Appellants' own admission the harm is not irreparable. Appellants further acknowledge that nothing they seek would disturb the permits issued by the Pennsylvania Department of Environmental Protection or the Cumberland County Conservation District. (*See* Pet., Proposed Order ¶ 11.) Environmental impacts of the work are regulated by those agencies under separate authorizations, including NPDES Permit No. PAC210079, Amendment A-4, and challenges to those agency actions lie within the exclusive jurisdiction of the Environmental Hearing Board. *See* 35 P.S. § 7514(a); *Faldowski v. Eighty Four Mining Co.*, 725 A.2d 843, 846 (Pa. Cmwlth. 1998). Appellants and the public are thus protected by existing state and county environmental safeguards.

Finally, timing weighs heavily against Appellants. The DCO Ordinance was adopted on May 30, 2025 and the comprehensive Zoning Ordinance was adopted on September 3, 2025, yet Appellants did not file the Validity Challenge until May 13, 2026. They did not seek any stay at this docket until September 30, 2026, after the Board had granted approvals on July 1, 2026 and September 2, 2026, after months of continuous site work, and after their stay petition at Docket No. 2026-06465 was denied. Parties facing genuine irreparable injury do not wait to protect their rights. Appellants' choice to file numerous legal challenges but not to seek a stay for months, and the substantial prejudice Carlisle has incurred in the interim, independently counsel against the extraordinary relief requested. *See Sernovitz v. Dershaw*, 127 A.3d 783, 793 (Pa. 2015); *Springfield Township v. Kim*, 792 A.2d 717, 720 (Pa. Cmwlth. 2002).

D. If Any Stay Is Entertained, It Must Be Granted Only After an Evidentiary Hearing on the Merits and Upon Substantial Security

Should the Court be inclined after the November 13, 2026 argument to entertain a stay, it would first need to hold an evidentiary hearing on the merits of Appellants' spot zoning challenge in order to determine from a factual record whether or not Appellants are likely to succeed on the merits.

If, after that hearing, the Court is still inclined to grant a stay, it should not do so without holding another hearing on Carlisle's delay damages, and conditioning the stay on security sufficient to protect Carlisle from the substantial damages a stay would inflict. Because establishing the proper amount of security requires a factual record of Carlisle's anticipated damages, which will include millions of dollars related to demobilization costs, contractor commitments, escalation, carrying costs, utility-interconnection consequences, and lost schedule value, an evidentiary hearing should be required before any stay takes effect because the stay, as well as the bond amount, must have a factual basis. *In re Kuzmiak*, 845 A.2d 961, 966-67 (Pa. Cmwlth. 2004); *Destefano v. Turtle Creek Zoning Bd. of Adjustment*, 387 A.2d 940 (Pa. Cmwlth. 1978).

CONCLUSION

For the foregoing reasons, Appellants cannot meet their burden to demonstrate that they are entitled to a stay, which would amount to injunctive relief halting an active construction project and barring municipal legislative action. Accordingly, Carlisle respectfully requests that this Court:

(1) Deny Appellants' Petition in its entirety; or

(2) In the alternative, if the Court is inclined to grant any stay following the November 13, 2026 argument, hold an evidentiary hearing on the merits of Appellants' claims and on

Carlisle's delay damages before any stay takes effect, condition any such stay upon Appellants' posting of a bond or other security reflecting Carlisle's documented delay damages, and limit the scope of any such stay to development activity that depends upon the challenged ordinances.

Respectfully submitted,

Dated: October 30, 2026 By: 

BUCHANAN INGERSOLL & ROONEY PC
Shawn N. Gallagher, Esquire
Brendan P. Lucas, Esquire

KAPLIN STEWART MELOFF REITER & STEIN, P.C.
Gregg I. Adelman, Esquire
Julie Bernstein, Esquire

Attorneys for Intervenor
Carlisle Development Partners, LLC

Exhibit A

ABBREVIATIONS

BOTTOM OF CURB	BC
BOTTOM OF WALL	BW
HIGH POINT	HP
TO BE REMOVED	TBR
TOP OF CURB	TC
TOP OF WALL	TW
TYPICAL	TYP

LEGEND

	EXISTING	PROPOSED
PLAN TEXT	PLAN TEXT	PLAN TEXT
BENCHMARK		
BUILDING LINE		
BUILDING SETBACK		
CENTER LINE OF ROAD		
CONCRETE CURB		
CONCRETE SIDEWALK		
CONTOUR LINE-MAJOR	100	100
CONTOUR LINE-MINOR		
EASEMENT LINE		
EDGE OF PAVEMENT		
EDGE OF WATER		
FENCE LINE	X	X
FIRE HYDRANT		
GRAVEL		
GUIDE RAIL		
PROPERTY LINE		
RIGHT-OF-WAY LINE		
SIGN		
OVERHEAD UTILITIES & POLE	OH	OH
UNDERGROUND ELECTRIC	UE	UE
GAS MAIN/VALVE	G	G
DATA/COMMUNICATION	D	D
WATER MAIN/VALVE	W	W
SEWER FORCE MAIN	FM	FM
SANITARY SEWER	S	S
STORM SEWER/INLET		
MANHOLE		
TREELINE		
ZONING BOUNDARY		
SOIL BOUNDARY		
SOIL DESIGNATOR	W&B	

NOTES:

- REFER TO PAX-1 MASTER PLAN FOR ADDITIONAL INFORMATION SURROUNDING PHASE 1A
- ALL EXISTING OFFSITE IMPERVIOUS AND STRUCTURES SHOWN ARE APPROXIMATE NOT SURVEYED.

LEGEND

- PHASE 1A
- PHASE 1B
- PHASE 1C
- PHASE 2
- PHASE 3

1,000' BUILDING FACADE SETBACK

SUBSTATION 1 GRAN

SUBSTATION 2 QRTZ

PPL SUBSTATION BERN

SUBSTATION 3 SLAT

CONODOGUINET CREEK

N MIDDLESEX ROAD

CLUB RD

COUNTRY

CHAR LN DR

LOCUST WAY

EVERGREEN LN

COUNTRY CLUB RD

BERNHEISEL BRIDGE ROAD

GREEN HILL RD

N LOCUST POINT ROAD

APPALACHIAN TRAIL

INTERSTATE 81

HORIZONTAL SCALE: 1 INCH = 500 FEET

REV	DATE	COMMENTS	CDB	JHR
1	02/13/2026	INITIAL SUBMISSION	BY	CHKD

ISSUE / REVISIONS

LIVIC civil
1015 MUMMA ROAD
2ND FLOOR
WORMLEYSBURG, PA 17043
PHONE: 888.987.1993
www.liviccivil.com

ALL CONTENTS OF THIS PLAN ARE PROPRIETARY AND SHALL NOT BE REPRODUCED OR UTILIZED FOR ANY PURPOSE WITHOUT PRIOR WRITTEN AUTHORIZATION FROM LIVIC CIVIL, LLC. ONLY APPROVED, SEALED PLANS SHALL BE IMPLEMENTED FOR CONSTRUCTION PURPOSES.
© 2026 LIVIC CIVIL, LLC

PROJECT No:	1258-01
DATE:	NOVEMBER 21, 2025
SCALE:	AS SHOWN
DRAWN BY: RJB	CHECKED BY: JHR

PROJECT

PENNSYLVANIA DIGITAL 1 (PAX-1)
PHASE 1A

MIDDLESEX TOWNSHIP
CUMBERLAND COUNTY
PENNSYLVANIA

CLIENT

CARLISLE DEVELOPMENT PARTNERS, LLC
1660 INTERNATIONAL DRIVE
MCLEAN, VA 22102
PHONE: (703) 234-3056

SHEET TITLE

PHASING PLAN

SHEET NO.

C1A 004

KYLE AND ALEXIA GERBER,	:	IN THE COURT OF COMMON PLEAS
ANDREW AND RACHAEL DYMSKI,	:	CUMBERLAND COUNTY, PENNSYLVANIA
ROBERT AND VIOLA BYERLY,	:	
JODY AND STANLEY SHIVELL, AND	:	
EARLE AND BONNIE MORTON,	:	Land Use Appeal
Appellants	:	
v.	:	Docket No. 2026-08758 Civil Term
	:	
ZONING HEARING BOARD OF	:	
MIDDLESEX TOWNSHIP,	:	
Appellee	:	Civil Action - Land Use Appeal
v.	:	
BOARD OF SUPERVISORS OF	:	
MIDDLESEX TOWNSHIP,	:	
Intervenor	:	
v.	:	
CARLISLE DEVELOPMENT	:	
PARTNERS, LLC,	:	
Intervenor	:	

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Shawn N. Gallagher, Esquire

Signature: 

Attorney No.: 88524

Dated: October 30, 2026

KYLE AND ALEXIA GERBER, ANDREW AND RACHAEL DYMSKI, ROBERT AND VIOLA BYERLY, JODY AND STANLEY SHIVELL, AND EARLE AND BONNIE MORTON, Appellants	:	IN THE COURT OF COMMON PLEAS CUMBERLAND COUNTY, PENNSYLVANIA Land Use Appeal
v.	:	Docket No. 2026-08758 Civil Term
ZONING HEARING BOARD OF MIDDLESEX TOWNSHIP, Appellee	:	Civil Action - Land Use Appeal
v. BOARD OF SUPERVISORS OF MIDDLESEX TOWNSHIP, Intervenor	:	
v. CARLISLE DEVELOPMENT PARTNERS, LLC, Intervenor	:	

CERTIFICATE OF SERVICE

I, Shawn N. Gallagher, Esquire, do hereby certify that on the date stated below, I caused true and correct copies of the foregoing Response to be served via first class mail and e-mail upon the following, at the addresses stated below:

Nathan C. Wolf, Esquire
Wolf & Wolf
10 West High Street
Carlisle, PA 17013-2922
nwolf@wolfandwolf.net

Attorney for Appellants

Jennifer Bogar-Hipp, Esquire
Solicitor, Zoning Hearing
Board of Middlesex Twp.

Attorney for Appellee

Charles M. Suhr, Esquire
Stevens & Lee
17 N. 2nd Street, 16th Fl.
Harrisburg, PA 17101
charles.suhr@stevenslee.com

Attorney for Middlesex Twp.

BUCHANAN INGERSOLL & ROONEY PC

Dated: October 30, 2026 By: _____
Shawn N. Gallagher
Attorneys for Intervenor
Carlisle Development Partners, LLC