

BEFORE THE ZONING HEARING BOARD  
OF THE TOWNSHIP OF MOUNT JOY

IN RE:

Application PDC Northeast LPIV, LLC

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:  
: No. 230001  
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**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW  
OF MOUNT JOY TOWNSHIP**

**I. FINDINGS OF FACT.**

1. Applicant is PDC Northeast LPIV, LLC (“Applicant”), 2442 Dupont Drive, Irvine, California 92601.

2. The Property which is the subject of this application is 2843 Mount Pleasant Road, Lancaster County Tax Account No. 461-89922-0-0000 (the “Property”).

3. Franklin B. Greiner, Jr. (“Landowner”), 1650 Steel Way, Mount Joy, Pennsylvania 17552, is the record owner of the Property.

4. Applicant is the equitable owner of the Property.

5. The Property is located in the LI- Light Industrial District.

6. The Zoning Hearing Board conducted hearings in accordance with requirements of the Pennsylvania Municipalities Planning Code (“MPC”) on January 17, 2023, February 15, 2023, March 9, 2023, April 18, 2023, and April 27, 2023.

7. Applicant was represented at the hearings by its counsel, Jeffrey Esch McCombie, Esquire, Joe Peters of Panattoni Development Company, Inc.; Jeramy Bittinger, EIT, of Landworks Civil Design, LLC, and Jarred Neal, P.E. of Traffic Planning and Design, Inc. (“TPD”).

8. The Township appeared at the hearing and was represented by the Township Solicitor, Josele Cleary, Esquire.

9. The following persons appeared and were recognized as parties to the hearing:

A. Donna Bucher, 680 Cloverleaf Road, Elizabethtown.

B. Diane Edmond, 2622 Mount Pleasant Road, Mount Joy,

C. Andrew Goodman, 2337 Mount Pleasant Road, Mount Joy.

D. Sarah Haines, 1489 Grandview Road, Mount Joy.

E. Michelle Kennedy, 2635 Stauffer Road, Mount Joy Co-owner of abutting land with Bobbi Thompson.

F. Joelle Myers, 2706 Mount Pleasant Road, Mount Joy, who was represented by William Cluck, Esquire.

G. Allen Sollenberger, 1437 Grandview Road, Mount Joy.

H. Ryan Spahr, 2588 Mount Pleasant Road, Mount Joy.

I. Randy Stevens, 2541 Mount Pleasant Road, Mount Joy.

J. Bobbi Thompson, 8226 Elizabethtown Road, Elizabethtown, Co-owner of abutting land with Michelle Kennedy.

10. At the hearing on January 17, 2023, Applicant presented a package of pre-marked exhibits A-1 through A-13 labeled as follows:

A-1 Zoning Application.

A-2 Jeramy Bittinger Resume.

A-3 Aerial Map of Property.

A-4 Concept Plan with Potential Future Building.

A-5 Landscape and Lighting Plan.

A-6 Lighting Details Sheet.

A-7 Performance Report by Landworks Civil Design.

A-8 Building Rendering.

A-9 Building Elevations.

A-10 Conditions of Approval.

A-11 Jarred Neal Resume.

A-12 TPD Letter dated 12/22/22.

A-13 Steel Way/Cloverleaf Road Improvement Plan dated 1/11/23.

11. Applicant presented Exhibits A-14, A-15, and A-16, a series of photographs, at the hearing on April 27, 2023.

12. The Property contains approximately 106 acres. Notes of Testimony (“N.T.”) 21.

13. The Property is presently principally agricultural fields with an area of woodlands. Exhibit A-3.

14. Applicant proposes to develop the Property with a warehouse building containing

1,006,880 square feet (the “Warehouse”) and associated off-street parking, circulation, and storm water management facilities as generally shown on the plans presented Exhibits A-4 and A-5.

15. Applicant described the proposed use of the Warehouse as “warehouse and distribution”. N.T. 25.

16. Applicant presented a “Special Exception Report” which identified the Warehouse as “a modern, high-bay, cross-docked facility with full size truck courts.” Exhibit A-7, unnumbered page 2.

17. Applicant’s concept plan presented as Exhibit A-4 proposes a future second warehouse building, but the second building is not part of the current application. N.T. 24, 162.

18. Applicant acknowledged that it would require further zoning approvals if it desired to pursue development of the second building shown on Exhibit A-4. N.T. 24.

19. The Warehouse will be served by two access drives on Mount Pleasant Road. Exhibit A-4.

20. Mount Pleasant Road is a state highway under the jurisdiction of the Pennsylvania Department of Transportation (“PennDOT”). N.T. 46.

21. Applicant will not install an access drive along the Stauffer Road frontage of the Property. Exhibit A-4; N.T. 47, 51.

22. The northern access drive into the Property will create a four-way intersection with an extension of Steel Way Drive. Exhibit A-4.

23. Applicant will extend Steel Way Drive from its present terminus through lands of Landowner identified as 1650 Steel Way Drive.

24. Cloverleaf Road is a state highway under PennDOT jurisdiction. N.T. 88.

25. If allowed by PennDOT, Applicant will make improvements to the intersection of Steel Way Drive and Cloverleaf Road shown on the concept plan presented as Exhibit A-13; N.T. 87-88.

26. Applicant presented testimony from its traffic engineer that it “will be able to implement something to largely make it difficult to make exiting movement and would have to push traffic in the way that you are saying to keep it from exiting left in movement. So that will be done through geometric design elements. We can use various different types of things to really prevent those movements. Signing will be added as well.” N.T. 93.

27. Applicant’s witness acknowledged that there must be road improvements to safely

accommodate traffic for the Warehouse. N.T. 205-206.

28. Applicant's counsel agreed on the record that "the current roadways are not up to standards for the trucks". N.T. 325.

29. The Warehouse is proposed to operate 24 hours a day, seven days a week. N.T. 116.

30. Applicant will institute a no idling policy for the Warehouse. N.T. 156, 190.

31. Exhibit A-10 included conditions which Applicant agrees the Board may impose if the Board grants its application. N.T. 41, 86 – 87.

32. Applicant will include requirements in the lease for the Warehouse that tenants comply with the performance standards in Section 135-326 of the Zoning Ordinance. N.T. 157 – 158.

33. Applicant will provide a copy of the lease for the Warehouse after it is executed to the Township. N.T. 187 – 188.

34. No outdoor storage is proposed. N.T. 27.

35. Applicant presented testimony that the Warehouse would not be a fulfillment center. N.T. 168.

36. The Institute of Traffic Engineers ("ITE") defines a fulfillment center to be an "e-commerce warehouse" as land use code 155. N.T. 298.

37. The Warehouse is a cross-dock building with loading bays on the east and west sides. N.T. 25, 169.

38. A cross-dock warehouse has docks across either side of the building. N.T. 175.

39. A cross-dock warehouse is a facility where product is brought to the facility from one truck, is broken down and processed in some manner, and is moved across the dock and loaded onto another truck. N.T. 299.

40. Given the height of the Warehouse and the cross-dock design, it is possible that the use may be a hub or parcel warehouse, ITE land use code 156. N.T. 301.

41. Depending on the ultimate occupant of the Warehouse, the traffic generated may be in excess of that forecasted by Applicant's witness using ITE land use code 150. N.T. 300-304.

42. Applicant agreed on the record that if the Board granted the application Applicant would conduct a post-occupancy study to determine the actual trip generation and would make whatever roadway improvements were required by such study. N.T. 310-311; 315.

43. The tracts of land on the northeast side of Mount Pleasant Road and on Stauffer Road in the vicinity of the Property are in agricultural or residential use. Exhibit A-3.

44. The Property contains wetlands and Applicant “proposes to place wetland locations on the Property within a conservation easement as described in section 135-307.E” of the Zoning Ordinance. Exhibit A-7, unnumbered page 8.

45. Applicant shall provide full design drawings and geotechnical reports to support each proposed retaining wall. Exhibit A-7, unnumbered pages 3-4.

46. The properties in the immediate vicinity of the Property have wells for water and on lot sewage disposal systems; Applicant must extend public sewer and water facilities to reach the Property. N.T. 25-26.

47. 2619 Stauffer Road is a working farm with cattle, free range chickens, and crops. N.T. 469-471.

48. The property of party Allen Sollenberger is a preserved farm. N.T. 365.

49. The preserved Sollenberger farm abuts the Property. N.T. 365.

50. To the north of the Sollenberger farm is Hidden Valley, another preserved farm. N.T. 365.

51. Artificial light can wreak havoc on natural body rhythms in both humans and animals. N.T. 338.

52. Applicant is not proposing to apply for tax abatement. N.T. 167.

## **II. CONCLUSIONS OF LAW.**

1. Within the Light Industrial District, industrial uses involving warehousing, storage, and distribution are permitted as of right, not to exceed 50,000 square feet. Zoning Ordinance §135-162.E.

2. Warehousing, storage and distribution facilities in excess of 50,000 square feet are authorized by special exception in the Light Industrial District. Zoning Ordinance §§135-163.B, 135-163.C.

3. “A special exception is a use that is expressly permitted in a zoning district so long as the conditions detailed in the ordinance are met.” *Czachowski v. Zoning Board of Adjustment of the City of Pittsburgh*, 271 A.3d 973, 979 (Pa. Cmwlth. 2022)

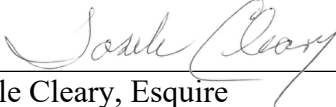
4. An applicant before a zoning hearing board can be made subject to conditions requiring that it operate a proposed use in accordance with its testimony. *Good v. Zoning Hearing Board of Heidelberg Township*, 967 A.2d 421 (Pa. Cmwlth. 2009).

5. The “proper function of conditions is to reduce the adverse impact of a use allowed

under a special exception, not to enable the applicant to meet his burden of showing that the use which he seeks is one allowed by the special exception.” *Elizabethtown/Mt. Joy Associates, L.P. v. Mount Joy Township Zoning Hearing Board*, 934 A.2d 759, 768 (Pa. Cmwlth. 2007).

Respectfully submitted,

MORGAN, HALLGREN, CROSSWELL  
& KANE, PC

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