

MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA

RESOLUTION 2025-16

WHEREAS, a Preliminary Major Subdivision and Land Development Application for a proposed land development named "Franklin Mint Industrial Warehouse," together with Plans ("Plan") for Outrigger Industrial Acquisition, LLC, a Delaware LLC ("Applicant") (Sheets 1 thru 45 of 45), dated November 19, 2024, latest revision date June 3, 2025, prepared by Stantec Consulting Services, Inc. as well as "1408 West Baltimore Pike Steep Slope Report", dated June 3, 2025, prepared by Stantec Consulting Services, Inc., "1408 West Baltimore Pike Post Construction Stormwater Management Narrative", dated November 19, 2024, latest revision date April 8, 2025, prepared by Stantec Consulting Services, Inc., "1408 West Baltimore Pike Erosion and Sediment Report", dated November 19, 2024, latest revision date April 8, 2025, prepared by Stantec Consulting Services, Inc., PCSM Plans consisting of two sheets titled "Pre-Developed Drainage Area Plan" and "Post-Developed Drainage Area Plan" dated November 19, 2024, latest revision date April 8, 2025, prepared by Stantec Consulting Services, Inc., Report titled "Transportation Impact Study Franklin Mint Outrigger," dated February 13, 2025, latest revision date April 8, 2025, prepared by Bowman Consulting Group, Ltd., Report titled "Environmental Impact Assessment, Franklin Mint, Addendum – Mint Parcel," dated February 13, 2025, latest revision date June 3, 2025, prepared by RGS Associates, Acoustic/Sound Study dated April 7, 2025, prepared by Everbach Acoustics Consulting; Everbach Acoustics response dated May 9, 2025, to the Township Acoustics Consultant review, and Ordinance Waivers Request – Memorandum dated April 9, 2025, from Stantec to Middletown Township, titled "Request for Modifications" (from various Subdivision and Land Development Ordinance or Stormwater Management Ordinance requirements) has been submitted for approval (collectively, the "Application"); and

WHEREAS, the Application involves property located at 1408 W Baltimore Pike ("Property") within Middletown Township. The Property is zoned SU-1-A Mixed-Use and located between two residential developments (Franklin Station and Ponds Edge) and the Pennsylvania State Police barracks. The Property is accessible from West Baltimore Pike and Office Drive/Printers Way. The Property is part of a larger development of approximately 174 acres (Tract). Prior to the date of the Application, the Property was vacant as the former Franklin Mint was previously demolished. The rear of the property is wooded and includes tributaries to Chester Creek, waterways, wetlands, and riparian corridor; and

WHEREAS, the Application proposes the construction of a one-story, 334,000 square feet "speculative warehouse" and "distribution building," driveways, parking lot, truck loading/unload docks, truck parking and related stormwater management facilities. The Property is shown on the Application as 34.11 acres. Subsequent revisions show the Property as approximately 60 acres. The Application shows two existing parcels that are to be combined and then subdivided to create Lot A and Lot B (which will contain the proposed facility) Access to the proposed facility will be from Office Drive/Printers Way and a proposed right-in/right-out entrance from W. Baltimore Pike. The proposed development is to be served by public water and sewer. The proposed driveway from Office Drive will cross the existing Energy Transfer/Sunoco Pipeline LP gas/liquid gas pipeline containing the Mariner East Pipelines, recently completed. The public water and sewer connections will be from W. Baltimore Pike. The proposed building is located approximately 48 feet from the closest pipeline right-of-way boundary. Various improvements are proposed within the pipeline right-of-way including grading, placement of fill material, driveway, water service main, storm sewer, sidewalk, guiderail, and curb. Underground stormwater detention is proposed to control stormwater runoff from the site; and

WHEREAS, the Application for Plan approval has been reviewed by the Township Engineer, Zoning Officer, Planner, Landscape Architect, Lighting Consultant, Township Fire Chief, and the Middletown Township and Delaware County Planning Commissions; and

WHEREAS, the Delaware County Planning Department, by review dated December 20, 2024, recommended disapproval of the Application "due to code noncompliance and broad inconsistency with the overarching purpose of the zoning district as well as with the Middletown and Delaware County Comprehensive Plans." The Delaware County Planning Department remarked that the application was not in conformance with the purpose of the SU-1-A mixed-use district.; and

WHEREAS, the Middletown Township Planning Commission ("Planning Commission") conducted three public meetings on the Application; and

WHEREAS, the Applicant revised the Application three times while it was under consideration by the Planning Commission; and

WHEREAS, Planning Commission, at public meeting held on July 8, 2025, voted 6-0 to recommend denial of the Application; and

WHEREAS, the Applicant has, through numerous extensions, extended the applicable time requirements under the Pennsylvania Municipalities Code (MPC) for Middletown Township to render a decision to no later than August 20, 2025; and

WHEREAS, said Application for Plan approval is not in conformity with the Township's Subdivision and Land Development Ordinance (SALDO) and Zoning Ordinance (Zoning Code) requirements.

NOW THEREFORE, BE IT RESOLVED, that the above-cited Plan/Application is DENIED for the following reasons:

1. The Application fails to comply with Zoning Code, §275-8, definition of Land Development; SALDO §210-6, 7, 20B and G, 21A, 23E, 24A and B. Specifically, SALDO allows the filing of a preliminary plan: "whenever any subdivision of land or land development is proposed..." What has been proposed by the Applicant, however, is not a "lot" as defined under either the zoning ordinance for Middletown Township or the MPC, see 53 P.S. §10107 and, under both of those authorities, is not a "land development." The MPC defines a lot as follows: "a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit." As applicable here, a land development is defined as the improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving... The remainder of the definition is not relevant because the Application does not present a "lot." The property is part of what has historically been known as the Franklin Mint parcel which originally constituted 153.221 acres as shown on the final subdivision and land development plans of the WV-PP Towne Center, LP-Franklin Mint approved by Middletown Township in Resolution 2018-95 on November 26, 2018 and recorded in the Office of the Recorder of Deeds in and for Delaware County on April 22, 2019 at Plan Book 43, P. 54. (See attached). The plan shows that the Mint parcel included 153.211 acres from the State Police Barracks all the way over to and including the SEPTA station. That subdivision plan created Lots A, B and C. Lot C was designated for the SEPTA condemnation proceedings. Lot A was designated for the residential development that was later built by Toll Brothers (Franklin Station) and Lot B was the remaining 91.585 acres (which includes the State Police Barracks). The Mint parcel plan shows the removal of various pre-existing lot lines. The Application, as currently proposed shows 60.78 acres all of which is shown as part of Lot B on the Mint parcel subdivision, which means the Application is missing approximately 31 acres

of an actual legally designated parcel. The Application shows a property line on the upper righthand side of the proposed development. That property line has not existed since the Mint parcel subdivision plan was recorded. The Application also shows property lines on the left side of the plan that no longer exist since the Mint parcel subdivision plan was recorded. Accordingly, what is shown on the Application is not a designated parcel, tract or area of land established by a plat or otherwise permitted by law to be used, developed or built upon as a unit. This means that it is not a lot under the definition of a lot contained in the MPC or in the Zoning Code at Section 275-8 or SALDO at Section 210-6. It also means that what is proposed is not a land development because the Applicant has to show a "lot" in order to show a land development. This means that the Application violates Section 210-6 and 7 of SALDO as well as SALDO Section 210-20B(3), (4), (11), (13), (14), (15), and (17) in that the preliminary plan does not contain the name and seal of the registered engineer or surveyor responsible for the plan, does not contain a statement of the total acreage of the tract to be developed and tract boundaries with bearings, courses and distances, does not contain the location of all proposed lot lines with bearings, courses and distances, does not contain the location of proposed open space and land to be dedicated to public use or purpose, does not contain the location of existing rights-of-way and easements, does not contain the location of all watercourses, wetlands, ponds, lakes, floodways and/or drainage swales, and does not contain an identification of all owners of adjacent land. Approximately 31 acres of the Property are actually missing from the Application and the easements for the major gas pipeline crossing the property are inaccurate. It also violates SALDO Section 210-20G in that it does not contain a certification as to the accuracy of the plan and the details of such plans prepared in accordance with Act 367. It also violates SALDO Section 210-23E in that the Application does not show all portions of the tract being developed so that there are no remnants of land after development as well as SALDO Section 210-24A which requires that all lots within the tract of land being developed conform to Chapter 275, the Zoning Code and SALDO Section 210-24B which requires all lots to abut on a public road or have access to the public road. As shown on the Application, the missing portion of the 91-acre tract that constitutes Lot B from the Mint parcel subdivision plan is landlocked.

Applicant was made aware of these deficiencies and claimed that they are minor "labeling items," and that these deficiencies can be easily corrected with a revised plan showing the entire lot. On July 21, 2025, Applicant submitted a one-page plan captioned "Conceptual Subdivision Sketch Plan" which purports to address the deficiencies noted above. As a sketch plan and/or conceptual plan, that plan is not suitable for preliminary plan approval and cannot be considered under SALDO Section 210-20. See definition of Sketch Plan in SALDO Section 210-6. That plan shows land not included in the original submission. It purports to subdivide one lot into two lots whereas the original submission purported to subdivide two nonexistent lots into two reconfigured and noncompliant lots. It is a new plan including new land which requires a new subdivision/land development application and is not protected under MPC Section 508. Accordingly, any consideration of that new plan would require application of the new Zoning Code which was adopted on January 22, 2025 and which became effective 31 days after adoption on February 22, 2025 and does not permit warehouses in this zoning district, see Section 275-98 of the new Zoning Code, meaning that new plan, to the extent it may be considered a revision, is denied. Applicant did not submit any changes or corrections to any of the other 44 sheets of its proposed plans, meaning that all of them are still noncompliant under the Zoning Code and SALDO sections cited above. Applicant also did not withdraw any pages of its prior submissions or grant an extension of time of the review period

as required by SALDO Section 210-7(B)(3). Applicant incorrectly claims that the lot lines shown on its Application are the same as those shown on the application that was approved for an Amazon warehouse on a portion of this property in 2019. The Amazon plan was never finally revised, executed by the Township or recorded, and the plan approved by Middletown Township for the Amazon project shows the entire lot or parcel and does not show as existing the lot lines that were removed by the 153.221-acre application referenced above. (See attached Amazon plan.)

2. The Application fails to comply with SALDO §210-20.G & §210-21.A(19) which require Responsible professional engineer and Professional Land Surveyor certifications and professional seals on the plan to demonstrate accuracy of information presented. Suggested certification affidavits are provided in the Township Standards and Specifications, Standard Notations. The responsible surveyor should clarify if the recently constructed features adjoining the site have been surveyed and added to the existing features plan. Applicant was notified of these defects after each submission and has repeatedly stated that it will comply, but it has not complied – even in the face of learning that the plan did not constitute a “lot” or “land development” for the reasons stated above. In these circumstances where the plan has been shown to be completely deficient and, as noted below, incorrect as to the major high-pressure gas pipeline running through the property, “will comply” is insufficient.
3. The Application fails to comply with Zoning Code, §275-24, which states: “All lots within the tract of land being developed shall conform to Chapter 275, Zoning.” Section 275-117.4 sets out required minimums and maximums for the mix of uses and the Application fails to meet those requirements. Applicant submitted no plans or analysis attempting to show compliance with the mix of uses until the letter of June 6, 2025 from Kristin S. Camp, Esquire on behalf of WV-PP Town Center, LP and Printers Way Properties, LLC, as owners of portions of the overall Tract. That letter included a concept plan, also dated June 6, 2025, in response to Township review comments 5 and 6 in the Kelly Engineers review letter dated May 1, 2025 for the Outrigger application. Those comments addressed Applicant’s failure to demonstrate ability to comply with Zoning Code §275-117.4 which requires the entire SU-1A Tract to comply with minimum and maximum mix of uses and states as follows: §275-117.4. Required mix of uses; maximum permitted quantity of residential units and hotel rooms.
 - A. At least three of the uses permitted in §275-117.3 shall be constructed on a tract.
 - B. At least 10% but no more than 90% of the total nonresidential gross floor area, exclusive of hotels, shall be devoted to retail store, garden center, supermarket or wholesale membership club uses.
 - C. At least 10% but no more than 90% of the total nonresidential gross floor area shall be devoted to offices, research and/or testing facilities, medical laboratories, outpatient or training facilities or offices for doctors and other medical personnel health and fitness centers.
 - D. No more than 15% of the total nonresidential gross floor area shall be devoted to restaurants, taverns, and fast-food restaurants.
 - E. No more than 350 residential units shall be permitted, with a density not to exceed 15 residential units per acre on the area proposed for residential use.
 - F. No more than 150 hotel rooms shall be permitted on a tract. Such hotel rooms may be located in a hotel and/or a conference center. The June 6 submission was made for the purpose of demonstrating the ability to develop the remaining vacant parcels and show compliance with the minimum mix of uses as well as maximum tract-wide impervious and

building coverage. Prior to that submission, large portions of the Tract were undeveloped and had only concept plans which showed no compliance. The concept plan shows development on the Pennell Parcel as a 4-story, 62,100 s.f. medical/office building and associated 3-story parking garage, providing a total of 205 parking spaces; development on the Printers Way Parcel as a 10,000 s.f. retail/restaurant pad, providing a total of 64 parking spaces; and development on the Granite Parcel as two separate buildings – one retail/grocery store with a 26,158 s.f. footprint and 104 parking spaces, and a 13,800 s.f. retail building with 56 parking spaces.

All three areas of proposed development will need to comply with the Zoning Code requirements that were adopted by Township Council on January 22, 2025.

The most recent land development plan filed for the Pennell Parcel was the WSFS Bank land development plan which was granted Preliminary/Final approval on December 9, 2019 and which did not show any pad site or concept development for the area of the Pennell Parcel between Printers Way and Hunter Street. Therefore, any new application for land development there will be subject to the provisions of the governing ordinances as they stand at the time of future application for land development.

The most recent land development plan filed for the Printers Way Parcel was the Storage Depot Final subdivision/land development plan, which was granted Preliminary Plan approval on May 22, 2023 and which created 'Parcel Area B' but did not show any pad site or concept development for 'Parcel Area B'. Therefore, any new application for land development there will be subject to the provisions of the governing ordinances as they stand at the time of future application for land development. Apparently, the Storage Depot plan has not yet been recorded, despite Final Plan approval granted by Township Council on November 13, 2023.

The first land development plan filed for the Granite Parcel and which showed three retail pad sites for the area located between Printers Way and Baltimore Pike was granted Preliminary Plan approval on September 25, 2017. The new concept plan as proposed is substantially different than what is shown on the approved Granite Parcel plans, showing two buildings: a grocery store/retail building as well as a strip building containing four retail stores totaling 39,958 s.f. Therefore, any new application for land development there will be subject to the provisions of the governing ordinances as they stand at the time of future application for land development.

As part of the comprehensive Zoning Code update, parking requirements specific to the SU-1-A Zoning District were removed from the SU-1A article and consolidated with the overall off-street parking and loading requirements applicable to general uses within the Township. Table 1 below provides a comparison of the old SU-1-A parking requirements from Section 275-117.11.A to Section 275-168 from Article XXIV Off-Street Parking adopted January 22, 2025. Table 2 below compares actual minimum parking needs for the proposed uses based on the old code vs. the new code requirements. The remaining conceptual developments must be able to show compliance with the current minimum parking requirements in effect as of January 22, 2025, which they do not presently.

Table 1: Comparison of Parking Requirements by Use – Old Code vs. New Code

Use	Section 275-117.11.A Parking (OLD CODE)	Section 275-168 Parking (NEW CODE)
Office Buildings	1 space for each 350 s.f. of GFA	1 space for each 200 s.f. of GFA (buildings less than 100,000 s.f.)

Retail Stores	1 space for each 250 s.f. of GFA	1 space for each 100 s.f. of gross sales floor area
Supermarkets	1 space for each 250 s.f. of GFA	1 space for each 75 s.f. of sales floor area or other area serving customers
Restaurants	7 spaces per 1,000 s.f. of floor area devoted to patron use	1 for each 50 s.f. of floor space devoted to patron use, plus 1 for each employee on the maximum shift

Table 2: Minimum Parking Requirement Comparison of Old Code vs. New Code

Use	Minimum Required Per Old Code	Minimum Required Per New Code	Deficiency in Concept Plan
Pennell Parcel 62,100 s.f. Office Building	178 required; 205 spaces provided	311 spaces	106 spaces
Printers Way Parcel 10,000 s.f. Retail Store Option	40 required; 64 spaces provided	100 spaces per GFA; Approx. 70 spaces*	6 spaces*
Printers Way Parcel 10,000 s.f. Restaurant Option	56 required; 64 spaces provided	200 spaces per GFA; Approx. 120 spaces**	56 spaces**
Granite Parcel 26,158 s.f. Standalone Building Supermarket Option	105 spaces required; 104 spaces provided	349 spaces per GFA; Approx. 279 spaces***	177 spaces***
Granite Parcel 26,158 s.f. Standalone Building Retail Option	105 spaces required; 104 spaces provided	262 spaces per GFA; Approx. 184 spaces*	80 spaces*
Granite Parcel 13,800 s.f. Strip Building Retail	56 spaces required; 56 spaces provided	138 Spaces per GFA; Approx. 97 spaces*	41 spaces*

*Using a 70:30 floor area to backroom area ratio for retail stores

**Using a 60:40 floor area to backroom area ratio for restaurants

***Using an 80:20 floor area to backroom area ratio for supermarkets

Per the below table and based on the calculation of GFA of all buildings approved or constructed tract-wide, the minimum required mix of uses per Section 275-117.4 appears to be achieved with 10.2% retail and 10.2% office. It should be noted that a restaurant use does not contribute to the minimum mix of uses. The uses that can be attributed are "retail store, garden center, supermarket or wholesale membership club." If one of the conceptual buildings is determined to be a restaurant use, the minimum required mix percentage will be reduced, possibly below 10%.

Table 3: Required mix of uses

Building	Status	Gross Floor Area (Applicant calc)	Use Type
Storage Depot	Approved	100,498 s.f.	Self-storage (not retail)

State Police Barracks	Constructed	17,490 s.f.	Government use (not office)
Hotel	Under Construction	71,684 s.f.	Hotel
Outrigger Warehouse	Proposed	330,000 s.f.	Storage (not retail)
Outrigger Office	Proposed	4,000 s.f.	Office
Wawa Convenience Store	Constructed	5,585 s.f.	Retail
WSFS Bank	Constructed	3,218 s.f.	Retail
Granite Parcel Pads	Concept	39,958 s.f.	Retail
Pennell Parcel Office	Concept	62,100 s.f.	Office
Printers Parcel Retail	Concept	10,000 s.f.	Retail/Restaurant
TOTAL NON-RES GFA FOR 275-117.4 B (RETAIL)		572,849 s.f.	
TOTAL NON-RES GFA FOR 275-117.4 C (OFFICE)		644,533 s.f.	

As the Concept Plans for mix of uses, as presented, cannot meet the applicable parking requirements, it does not demonstrate compliance or feasibility to and, hence, violates Zoning Code §275-117.4. In addition, the proposed building square footages need additional parking that is not shown on the concept plan and would, necessarily, either add impervious surface or reduce building coverage which, in turn, would affect the mix of uses. Accordingly, the plan does not demonstrate compliance or feasibility for compliance under the applicable zoning regulations cited above for mix of uses, building coverage and/or impervious surface coverage.

The Township twice offered the Applicant the opportunity to revise the submission to show compliance and the Applicant declined to do so, claiming that MPC Section 508 protects the various parcels on other portions of the Tract for which no preliminary or final plan has ever been submitted from the application of the January 2025 Zoning Code.

4. The Application fails to comply with Zoning Code, §275-24, which states: "All lots within the tract of land being developed shall conform to Chapter 275, Zoning." As noted above, the Application fails to comply with Section 275-117.4. This failure means that the proposed warehouse use is not a permitted use under these circumstances.
5. The Application fails to comply with SALDO §210-20B(5) and §210-23A and Zoning Code §275-117.3B. As noted above, the Land Development Application entitles this Project: "Franklin Mint Industrial Warehouse." There is no industrial use permitted in the SU-1-A District. The November 21, 2024 Project Overview submitted with the Application states that "the development consisted of a 334,000 square foot multi-story warehouse housing a last mile delivery station/warehouse..." The Statement of Intent on the Application for Act 247 Review states that the existing and/or proposed use of the site/building is as follows: "construction of a 330,000 square foot speculative warehouse with approximately 4,000 square foot second

story/mezzanine." The redacted Agreement of Sale submitted with the Application states that the "Purchaser" (Applicant here) desires to purchase a fully approved and entitled "industrial office/warehouse facility..." The November 19, 2024 Bowman Traffic Report shows a "last mile distribution facility." The November 20, 2024 EIA Addendum, on page 9 states that the use is a "Rear Load Class A industrial warehouse." The April 8, 2025 Bowman revised Traffic Impact Study shows traffic generation was based upon unknown end users. The April 9, 2025 Project Overview states that the use will be speculative industrial warehouse with associated parking and that this type of warehouse is intended to be a shared warehouse space with different tenants typically made up of different local businesses. It further states that "shared warehouse spaces are flexible, scalable and a cost-effective alternative for local businesses to operate."

The Zoning Code does not define "warehouse." Accordingly, the Applicant is entitled to the ordinary meaning. According to Webster's Third New International Dictionary (Unabridged) (1993), "warehouse" is defined as follows: 1. a structure or room for the storage of merchandise or commodities; a: a wholesale establishment of the service type in which large inventories are carried b: a wholesale establishment operated by a chain store organization c: a place for the storing of surplus or reserve stocks of merchandise by a retail store d: a public institution for the storing of goods for others.

Also, that source defines "storage" as follows: 2a: the act of storing or state of being stored ... specifically: the safekeeping of goods in a warehouse or other depository (place goods in ...) ... c: the holding and housing of goods from the time they are produced until their sale. This is an important definition because the Zoning Code also permits warehouses in the Manufacturing and Industrial (MI) District, Zoning Code §275-162A, and distinguishes the warehouse use from a distribution or trucking establishment which is permitted in the MI District as a Conditional Use, §275-162C.

Applicant has not withdrawn any of the various conflicting descriptions of the use. Applicant has repeatedly stated that it does not have any specific end users as yet. Applicant has stated that the property will not be used as a logistics center which, Applicant acknowledges, is not a permissible use. Yet, there is no submission by the Applicant limiting the use of the property. Applicant has given, as an example, a use something like a Colonial Marble, although Applicant acknowledges that it has no agreement nor any ongoing discussions with Colonial Marble for this property. Colonial Marble includes manufacturing and industrial uses which are not permitted in this zoning district.

In short, Applicant has not demonstrated that it intends to use the property for only uses permitted by the Ordinance, and, in fact, has documented intended uses not permitted by the Zoning Code. SALDO § 210-20B(5) requires the plan application to state the nature of all contemplated uses. The best that can be determined from the Application here is that any use Applicant can find a tenant for is going to be proposed simply because it fits inside a building that looks like a warehouse. SALDO §210-23A requires all subdivisions and land developments to be developed in accordance with Township ordinances and resolutions. As stated above, what Applicant has proposed so far does not demonstrate that Applicant is proposing only permitted uses for this Application. This deficiency, in addition to failing to meet the Zoning Code and SALDO requirements stated above, deprives the Township of the ability to reasonably review the Application for all of the various factors that go into a thorough land development review process so the Township is able to properly protect the public interest.

6. The Application fails to comply with SALDO §210-36(C), 37. Specifically, SALDO §210-36(C) prohibits anything permanent from being constructed, placed or set within the area of a utility easement. As noted above, the Application shows gas pipeline easements running through the property with improvements to be constructed upon them. However, the Applicant submitted a Settlement Agreement dated October 10, 2024 between Sunoco Pipeline L.P. as

the Condemnor and WV-PP Town Center, LP as the Condemnee. Attached to that Settlement Agreement is a plan showing the location of pipeline easements running through the Property when it was proposed to be used for an Amazon warehouse. The plan attached to the Settlement Agreement shows that the easement area is wider than what is shown on the plans submitted with this Application. The Township has already requested Applicant to confirm all easements established as part of the Mariner Pipeline Project and Applicant simply has not done so. The original plan submission showed a retaining wall that was later moved outside of the easement lines shown on the original submission but still is located within the easement area for the Mariner Pipeline shown on the plan attached to the Settlement Agreement. The severity of this issue cannot be overstated. The Mariner Pipeline is a high-pressure gas line. Applicant claims that it has an agreement for crossing the pipeline. The agreement submitted, however, is not with the Applicant but with WV-PP Town Center, LP. That agreement was made to resolve a condemnation proceeding and is specifically limited to the improvements shown for the Amazon warehouse plan which is not in this Application. The Condemnor in that agreement has sole, reasonable discretion to determine the safety, operation or maintenance of any activity by the owner, and any change in the construction plans, which obviously has to happen because the Application here is a different project than the Amazon project, requires the permission and consent of the Condemnor. One obvious limitation on obtaining permission, in addition to the change in the nature of the construction, is the existence of the retaining wall and its effect on the pipes themselves as well as access to the pipes. Applicant here has not requested a waiver of SALDO Section 210-36 and Applicant's response that it "will comply" in obtaining permission from Sunoco is completely unsatisfactory given the restrictions in the Settlement Agreement and the severity of the potential hazard posed by the high-pressure gas pipeline. The Township has reasonably requested that the Applicant enter into an agreement with Sunoco Pipeline for the use of the easement area. In addition, there is no point in allowing preliminary approval of the plan that has a strong likelihood of redesign of the entire entrance area in the event Applicant cannot make an agreement with the Sunoco Pipeline. Under these circumstances, the Township is not willing to waive compliance with SALDO §210-36(C). Accordingly, the Application fails to comply.

7. The Application fails to comply with SALDO §210-41 which requires the public dedication of suitable land shall be provided for the intended use; and, upon agreement with the applicant or developer, the construction of recreation facilities; or if approved by the Council, the payment of a fee in lieu thereof. If a fee in-lieu of is determined to be more suitable by the Council, it shall be contributed by the applicant pursuant to Resolution No. 2023-32, Resolution Adopting Recreational Fee-In-Lieu Schedule. The Applicant has alluded to offering dedication of undeveloped land (Lot A) to Middletown Township in support of satisfying Ordinance requirements related to open space and recreation facilities; however, a formal offer has not been noted on the recording plan.

For non-residential subdivisions and/or land developments, the amount of land required is based upon a ratio of 500 square feet of land for each 1,000 square feet of building area. §210-41 requires that vehicular parking shall be established so that the open space land can be adequately served and accessed. It requires that provisions shall be made for trails, footpaths, and other pedestrian circulation systems and accessways.

Applicant says it intends to dedicate open space to the Township subject to appropriate credits being applied towards the park and recreation fee requirement. However, Applicant is calculating the availability of credits applicable to the payment of any such fee in-lieu derived from the value of improvements made to the Franklin Station project, the multimodal trail system (in excess of any TRID contributions) and other trails and recreational features added to the overall Franklin Mint redevelopment. SALDO §210-41 does not permit the credits Applicant intends.

8. The Application fails to comply with SALDO §210-24 and Zoning Code §275-199C. The applicant is proposing to subdivide the site into two parcels, Lot A containing a large area of what is presently undeveloped area, steep slopes, wetlands, and riparian corridor; and Lot B (Outrigger) which is to contain the "warehouse" facility. The applicant has suggested that Lot A may be offered for dedication to Middletown Township in support of compliance with open space land/recreation facilities requirements of SALDO although no formal offer by way of recording plan notation has yet been made. The portion of proposed Lot A that touches a public road is occupied by a detention basin and, hence, is inaccessible in violation of SALDO §210-24 and Zoning Code §275-199C. To access Proposed Lot A, an easement is proposed by the Applicant from Printer's Way, through Lot A (along the proposed access driveway) to the boundary of the site abutting Franklin Station property. This plan notation regarding the easement is limited to use of emergency vehicles, public works, and residential pedestrian traffic., meaning it is insufficient to be dedicated to public use and fails to comply with SALDO §210-41. The Township requested Applicant to revise the note to broaden the description of parties with access to the easement area, including the general public should the Township determine that use of this land in the future for a trail (and related facilities) would be appropriate and desired. Applicant refused.
9. The Application fails to comply with SALDO §210-60(C)(5)(a), 61.(A)(2), 61(B)(2) and §210- 63. The proposed improvements will result in grading/disturbance of "steep slopes" and "very steep slopes" (15%-25% & >25% grades), which is not permitted unless approval for such disturbance is granted by the Middletown Township Council, by way of a Subdivision and Land Development Ordinance waiver. Applicant requested a waiver/modification pursuant to SALDO §210-43. SALDO permits modifications upon recommendation of the Planning Commission. Here, the Planning Commission recommended against approval of the Application. By itself, this prevents the granting of the modification requested. In addition, modifications can only be granted if the literal enforcement of the provisions will exact undue hardship because of peculiar conditions pertaining to the land in question and provided that such modification will not be contrary to the public interest and that the purpose and intent of this chapter (SALDO) is observed. The reason for the modification requested here is for the construction of a warehouse which the Township already determined, in an ordinance publicly announced for enactment before Applicant here filed its Application, was not a suitable use for the SU-1-A District. Also, the waiver is requested because of the massive size of the warehouse proposed. The proposed warehouse was amply demonstrated by those who opposed it to have significant adverse environmental, air pollution, noise, traffic and other harmful effects upon Township residents and the public welfare. Council specifically finds that there are not peculiar conditions pertaining to this land in question which warrant a waiver and further finds that that waiver would be contrary to the public interest and the purpose and intent of SALDO. Accordingly, this Application fails to comply with all of the above steep slope provisions cited.
10. Failure to deny this Application would violate Article §27 of the Pennsylvania Constitution, which states: "Natural resources and the public estate: The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people." Under the Constitution Article 27 quoted above, the Township is mandated to conserve and maintain the people's right to clean air, pure water and to the preservation of the natural,

scenic, historic and esthetic values of the environment. The record here shows that approval of this Application with the intended diesel truck traffic could significantly exacerbate an already dangerous air pollution condition in the area where this project is proposed as well as greatly impact the environment with excessive noise and light pollution as well as a more dangerous traffic environment. Accordingly, the Township finds that it is warranted by Article 27 of the Constitution to deny this Application.

RESOLVED, this 20th day of August 2025 by the Middletown Township Council, Delaware County, Pennsylvania, at a regularly scheduled public meeting.

ATTEST:



John McMullan
Township Manager

TOWNSHIP COUNCIL


David Bialek
Acting Council Chair

