

Easton Wood Ave PropCo, LLC
1525 Wood Avenue, Easton, PA
Preliminary / Final Subdivision & Land Development
Application No. SALD 24-9

CITY OF EASTON PLANNING COMMISSION
NORTHAMPTON COUNTY, PENNSYLVANIA

Wednesday, September 3, 2025
6:30 p.m.

EXHIBIT LIST

REVISED THROUGH OCTOBER 15, 2025

Exhibit A-1

Northampton County Tax Parcel Map for Property

Exhibit A-2

Authorization Letter from Abruzzi Trust

Exhibit A-3

City of Easton Zoning Map

Exhibit A-4

Overall Site Plan for Easton Commerce Park, prepared by Bogia Engineering, Inc., dated April 1, 2023, last revised March 20, 2025

Exhibit A-5

Approvals Secured

A.

Pennsylvania State Historic Preservation Office – Confirmation of No Above Ground Concerns / No Adverse Effects dated January 10, 2023;

B.

Easton Fire Department Approval issued July 19, 2024

C.

Planting & Landscaping Plan Approval issued by City Forester dated July 23, 2024

D.

Recommendation for Approval of City of Easton Planning Staff dated August 26, 2024

E.

Easton Area Joint Sewer Authority – Pennsylvania Department of Environmental Protection Sewage Facilities Planning – Chapter 94 Consistency Determination dated September 27, 2024;

F.

Zoning Permit No. Z-24-217 issued October 7, 2024;

G.

Pennsylvania Department of Environmental Protection Approval of Act 2 Combined Remedial Investigation / Risk Assessment / Cleanup Plan dated December 17, 2024;

H.

Pennoni Associates, Inc. (Easton Stormwater Management Consultant) - Recommendation for Approval of Stormwater Management Plans dated January 14, 2025;

I.	Mark J. Hammerstone, City Engineer – Approval of Transportation Impact Study & HOP Review for 1525 Wood Avenue dated February 6, 2025;	
J.	Lehigh Valley Planning Commission – Bushkill Creek Watershed Act 167 Stormwater Management Ordinance Consistency Letter dated February 26, 2025;	
K.	Pennsylvania Department of Environmental Protection – National Pollutant Discharge Elimination System (“NPDES”) Individual Permit for Discharges of Stormwater Associated with Construction Activities Issuance dated April 15, 2025 (Permit No. PAD480218);	
L.	Pennsylvania Department of Environmental Protection – Water Obstruction and Encroachment Issuance dated April 15, 2025 (Permit No. E4802224-006);	
M.	Pennsylvania Department of Transportation – Approval of Transportation Impact Study dated April 30, 2025;	
N.	Pennsylvania Department of Environmental Protection – Act 537 Planning Module Exemption Approval dated June 2, 2025	
O.	Email correspondence with Nick DiPaolo of the Northampton County Conservation District confirming NCCD’s approval of Erosion & Sedimentation Control Plans dated July 31, 2025	
P.	Conditional Approval of Preliminary / Final Land Development Plan for Easton Commerce Center issued by Wilson Borough Council dated February 27, 2025	
Q.	Updated Confirmation of No Adverse Affects Letter issued by the Pennsylvania Historical and Museum Commission, dated September 10, 2025	
R.	Preliminary Jurisdictional Determination	
S.	Pennsylvania State Programmatic General Permit-6 Verification Letter issued by the U.S. Army Corps. of Engineers on September 26, 2025, pursuant to and consistent with Section 404(e) of the Clean Water Act	
Exhibit A-6	CV of Donald Hass, RLA	
Exhibit A-7	Special Exception application filed July 8, 2025	
Exhibit A-8	Proposed Plan of Relocation of Unnamed Tributary	
Exhibit A-9	Hydrology & Hydraulic Modeling Analysis and Floodplain Management Analysis prepared by Bogia Engineering, Inc. date May 2023, revised September 2024	

Exhibit A-10	Impact Assessment and Land Suitability Analysis for the Easton Commerce Park prepared by Bogia Engineering, Inc. dated July 2024
Exhibit A-11	PNDI Clearance Letter issued April 29, 2024
Exhibit A-12	Existing Conditions & Natural Resource Plan
Exhibit A-13	Post-Construction Stormwater Management Report prepared by Bogia Engineering, Inc.
Exhibit A-14	CV of Jeffrey Smith, P.G.
Exhibit A-15	Langhan Summary regarding Former Elements Pigments Facility – 1525 Wood Avenue, Easton PA dated September 3, 2025
Exhibit A-16	Pennsylvania Department of Environmental Protection Receipt of Notice of Intent to Remediate dated March 22, 2024
Exhibit A-17	Pennsylvania Department of Environmental Protection Receipt of Report dated September 26, 2024
Exhibit A-18	Act 2 Combined Remedial Investigation / Risk Assessment / Cleanup Plan prepared by Langhan Engineering & Environmental Services, LLC dated September 23, 2024
Exhibit A-19	Langhan's Response to U.S. Environmental Protection Agency's Interim Comments on the PaDEP Act 2 Act 2 Combined Remedial Investigation / Risk Assessment / Cleanup Plan dated June 13, 2025
Exhibit A-20	U.S. Environmental Protection Agency Cleanup Plan Sufficiency Letter ("Comfort Letter") dated August 15, 2025
Exhibit A-21	CV of Ian Preston, P.E.
Exhibit A-22	Proposed Warehouse Development at 1525 Wood Avenue – Traffic/Roadway Improvements prepared by KCI Technologies
Exhibit A-23	CV of Benjamin C. Mueller, P.E.
Exhibit A-24	Evaluation of Site Sound Emissions for Proposed Distribution Facility – Easton Commerce Park, 1525 Wood Avenue, Easton PA prepared by Ostergaard Acoustical Associates dated September 3, 2025
	A. Evaluation of Site Sound Emissions for Proposed Distribution Facility – Easton Commerce Park, 1525 Wood Avenue, Easton PA prepared by Ostergaard Acoustical Associates dated September 10, 2025

Exhibit A-25

Easton Commerce Center – Site Sound Emissions Charts

Exhibit A-26

Motion to Recuse Planning Commission Member Kimberly Wagner filed
October 15, 2025

September 10, 2025

Joseph Buczynski

DEP Northeast Regional Office

RE: ER Project # 2022PR05556.003, Easton Commerce Park, Department of Environmental Protection, Easton City, Northampton County

Dear Mr. Buczynski,

Thank you for submitting information concerning the above referenced project. The Pennsylvania State Historic Preservation Office (PA SHPO) reviews projects in accordance with state and federal laws. Section 106 of the National Historic Preservation Act of 1966, and the implementing regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation, is the primary federal legislation. The Environmental Rights amendment, Article 1, Section 27 of the Pennsylvania Constitution and the Pennsylvania History Code, 37 Pa. Cons. Stat. Section 500 et seq. (1988) is the primary state legislation. These laws include consideration of the project's potential effects on both historic and archaeological resources.

Proposed Project

The proposed project involves the construction of a warehouse building along the west side of Bushkill Creek.

Project History

The PA SHPO previously reviewed the project in December of 2022. We had no concerns about the potential to affect archaeological resources. For above ground resources, we requested more information on the potential to affect any remnants of the Lehigh Valley Railroad which ran through the property where the warehouse is proposed. Additional information was provided and indicated the path of the railroad was no longer discernable. The PA SHPO responded in January of 2023 indicating the project would have no adverse effect on the National Register eligible Lehigh Valley Railroad.

Above Ground Resources

Identified Historic Properties

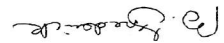
The R & H Simon Silk Mill was listed in the National Register of Historic Places in 2014 under Criterion A in the area of industry as an intact example of a late nineteenth and early twentieth century vernacular industrial complex associated with the silk industry of the Lehigh Valley. Aspects of integrity that are important to the ability of the silk mill to convey its significance include the brick and concrete materials of the buildings, original layout of the complex, and the location adjacent to a former rail line.

Assessment of Effects

The project proposes the construction of a warehouse approximately .25 miles west of the R & H Silk Mill Complex. North 13th Street, an industrial development, and Bushkill Creek are located between the mill property and the proposed warehouse. The warehouse building will be elevated in height and will be visible from the R & H Simon Silk Mill. The larger setting of the silk mill is not a character defining feature of the resource. The proposed warehouse will not alter the characteristics of the mill district in a way that will diminish the integrity of the property and affect its ability to convey industrial significance. Therefore, it is the opinion of the PA SHPO that the above listed project does not have the potential to adversely affect the R & H Simon Silk Mill Complex.

For questions concerning above ground resources, please contact Barbara Frederick at bafrederic@pa.gov.

Sincerely,



Barbara Frederick

Environmental Review Division Manager

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-----Original Message-----

From: Frederick, Barbara <barfrederic@pa.gov>
Sent: Monday, September 15, 2025 9:28 AM

To: Donald Haas <donald@bogieng.com>

Subject: Re: [External] ER Project # 2022PR05556.003, Easton Commerce Park,
Department of Environmental Protection, Easton City, Northampton County

Hi Donald,

It was a member of the local planning commission that reached out to our
office.

Best,

Barbara

From: Donald Haas <donald@bogieng.com>
Sent: Friday, September 12, 2025 12:02 PM

To: Frederick, Barbara <barfrederic@pa.gov>

Subject: [External] ER Project # 2022PR05556.003, Easton Commerce Park,
Department of Environmental Protection, Easton City, Northampton County

ATTENTION: This email message is from an external sender. Do not open links
or attachments from unknown senders. To report suspicious email, use the
Report Phishing button in

Outlook.<<https://www.pa.gov/content/dam/copapwp-pagov/en/oa/documents/documents/ntsc/ofense-report-phishing-user-guide.pdf>>

Ms. Frederic,

As the applicants consultant, we have received the updated response for the
above noted submission. Could you please share the contact information of
the concerned party that instigated further review. Thank you and have a
wonderful weekend.

Donald A. Haas, RLA, ASLA, CBLP | Bogia Engineering Inc.

Branch Manager

PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 30 Apr 2021

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Andrew Young
ECS Mid-Atlantic, 52-6 Grumbacher Road, York, PA 17406CENAP

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAP 2021-00155
Northpoint Development NO

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR
AQUATIC RESOURCES AT DIFFERENT SITES)

State: Pennsylvania County: Northampton City: Easton and Wilson Township
Center coordinates of site (lat/long in degree decimal format):
Lat: 40.696618 Long.: -75.234055
Universal Transverse Mercator:
Name of nearest waterbody:

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 27 Mar 2021
☒ Field Determination. Date(s): 24 Mar 2021

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY
JURISDICTION.

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland 1	40.694698	-75.236394	0.0089	Wetland	Section 404
Wetland 2	40.694697	-75.235953	0.0305	Wetland	Section 404
Wetland 3	40.696671	-75.233892	0.0641	Wetland	Section 404
Water 1	40.696524	-75.234083	157,083 SqFt	Non-Wetland	Section 404
Water 2	40.694632	-75.237015	224 SqFt	Non-Wetland	Section 404
Water 3	40.699216	-75.231038	328140 SqFt	Non-Wetland	Section 404

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- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

R

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:

Map: Wetland Map, Northpoint Development, Dated 10/19/2020, Revised 3/3/2021

and marked as "Approved Delineation Map".

☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.

☒ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report.

Rationale: _____.

☐ Data sheets prepared by the Corps: _____.

☐ Corps navigable waters' study: _____.

☐ U.S. Geological Survey Hydrologic Atlas: _____.

☐ USGS NHD data.

☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: Easton, PA 1:24,000

quadrangle.

☒ Natural Resources Conservation Service Soil Survey. Citation: NRCS Web Soil Survey.

☒ National wetlands inventory map(s). Cite name: Easton, PA 1:24,000 quadrangle.

☐ State/local wetland inventory map(s): _____.

☐ FEMA/FIRM maps: _____.

☐ 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): Google Earth Aerial images.

☒ Other (Name & Date): Photographs submitted with the JD report.

☐ Previous determination(s). File no. and date of response letter: _____.

☐ Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Glenn R. Weitknecht
Digitally signed by Glenn R. Weitknecht
Date: 2021.04.30 09:34:14 -04:00

Glenn Weitknecht
Senior Project Manager

Signature and date of Regulatory staff
Member completing PJD

Signature and date of person requesting PJD
(REQUIRED, unless obtaining the signature is impracticable)¹

Glenn R. Weitknecht
4/29/21

¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
POCONO AREA FIELD OFFICE
253 STATE ROUTE 435
SUITE 4
CLIFTON TOWNSHIP, PA 18424

September 26, 2025

Regulatory Branch

SUBJECT: PASPGP-6 Verification
NAP-2021-00155-101, Easton Commerce Park Project NO
PADEP Permit No. E4802224-006
Coordinates (40.697777, -75.234565)
SENT VIA E-MAIL: marcP@scannellproperties.com

Mr. Marc D. Pfliegging, Manager
Easton Wood Ave. Propco, LLC
8801 River Crossing Boulevard
Indianapolis, Indiana 46240

Dear Mr. Pfliegging:

This letter concerns your application to discharge fill material into waters of the United States to construct an industrial building and attendant infrastructure within an approximately 61-acre work area. The project is located immediately north of the intersection of Hackett Avenue and Wood Avenue in City of Easton, Northampton County, Pennsylvania 18045. Based upon review of the application, this office has determined that the proposed work is authorized by the Department of the Army Pennsylvania State Programmatic General Permit-6 (PASPGP-6).

This project-specific verification of the PASPGP-6 is based on your agreement to comply with all the terms and conditions of this general permit as well as any project-specific special conditions listed in this letter. A full copy of the PASPGP-6, including all terms and conditions, can be found at:

https://www.nap.usace.army.mil/Portals/39/docs/regulatory/spgdp/PASPGP-6-Permit-Signed-20210625.pdf?ver=XIBI3YRxIL_QIV2InPpqqg%3d%3d

Upon completion of regulated work, the permittee must provide written certification that all required restoration and/or mitigation has been completed and all special and general conditions of this permit have been met per general condition 34. This notification should be forwarded to the point of contact identified below. An example notification can be found here:

<https://www.nap.usace.army.mil/Portals/39/docs/regulatory/spgdp/PASPGP-6-Self-Certification-Example.pdf?ver=IN7iYJyzVe-QRWGnwICL4g%3d%3d>

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In accordance with PASPGP-6, Part V A.30, authorization from the Pennsylvania Department of Environmental Protection (PADEP) is required prior to commencement of any work authorized by PASPGP-6. A state 401 Water Quality Certification and a federal Coastal Zone Management Act Consistency Determination (for activities located within the designated Coastal Zone Management Area) issued by PADEP are required pursuant to PASPGP-6, Part V A.31, and must be obtained prior to commencing construction of the project.

Project-Specific Special Conditions:

1. The permittee shall perform all proposed work in accordance with the enclosed impact map identified as *Easton Commerce Park; Impact Location Plan*, dated April 01, 2023, and received April 30, 2025 (one sheet).
2. This verification authorizes the total impact of 0.38 acre (914 linear feet) of waters of the United States:
 - a. Permanent impacts comprise 0.06 acre of palustrine emergent wetland and 0.32 acre (914 linear feet) of perennial streambed.

3. The permittee shall compensate for the authorized impacts as follows:
 - a. Compensation for permanent wetland impacts shall be provided through the on-site establishment of 0.41 acre of PEM wetland.
 - b. Compensation for permanent stream impacts shall be provided through the on-site rehabilitation of 0.28 acre (1,163 linear feet) of R3 streambed.
 - c. On-site compensation activities shall be in accordance with *Conceptual Mitigation Plan; Bushkill Creek; Easton Commerce Park*, dated May 2025, last revised September 2025, and received September 23, 2025, or the most recent Corps-approved plan.
 - d. The permittee shall submit a final mitigation plan which shall include all items described in paragraphs (c)(2) through (c)(13) of 33 CFR 332.4, except items (c)(4), (c)(11), and (c)(13).
 - e. The final mitigation plan (the "FMP"), as prepared in accordance with Part 3.c and 3.d of these special conditions, shall be approved by the Corps prior to commencing work in waters of the United States. The Corps shall have 30 calendar days to review the FMP and either provide comments to the permittee or approve it. The FMP as approved by the Corps shall be an enforceable part of this verification. Any change(s) to the approved FMP must be submitted to the Corps for review and approval prior to implementation.
4. Any deviation in construction methodology or project design from that shown on the above-noted drawings must be approved by this office, in writing, prior to performing the work. All modifications to the above-noted project plans shall be approved, in writing,

by this office. No work shall be performed prior to written approval of this office except for as noted in special condition six below.

5. The permittee is responsible for ensuring that the contractor and/or workers executing the activities this permit authorizes have knowledge of the terms and conditions of the authorization and that a copy of the permit and accompanying verification are at the project site throughout the duration of work.

6. The permittee shall comply with all erosion and sedimentation control requirements as approved by Northampton Conservation District and/or the Pennsylvania Department of Environmental Protection. If, while project work is ongoing, additional erosion and sedimentation control measures are required by the state or the county conservation district that necessitate a discharge of dredged or fill material into waters of the United States, the permittee will immediately implement the additional erosion and sedimentation measures as directed. The permittee will immediately notify the Corps of the required work by telephone or email, and within five (5) days of notification the permittee will submit a formal written permit amendment request to the Corps for review and approval per special condition four.

7. Construction staging areas and stockpiling areas shall not be in waters of the United States. Any material that cannot be accommodated on-site shall be placed in an upland/non-wetland area. All stockpiled material shall be stabilized in a manner as to preclude its return to a wetland or waterbody.

8. All disturbed areas shall be seeded with an appropriate seed mix based on the wetness of the restored area within ten (10) days of the completion of work.

Also enclosed with this letter is a form seeking any comments, positive or otherwise, on the procedures, timeliness, fairness, etc. of the permit process. If you should have any questions or concerns, please contact Mr. Justin M. Decker at (570) 960-7370 or at Justin.M.Decker@usace.army.mil.

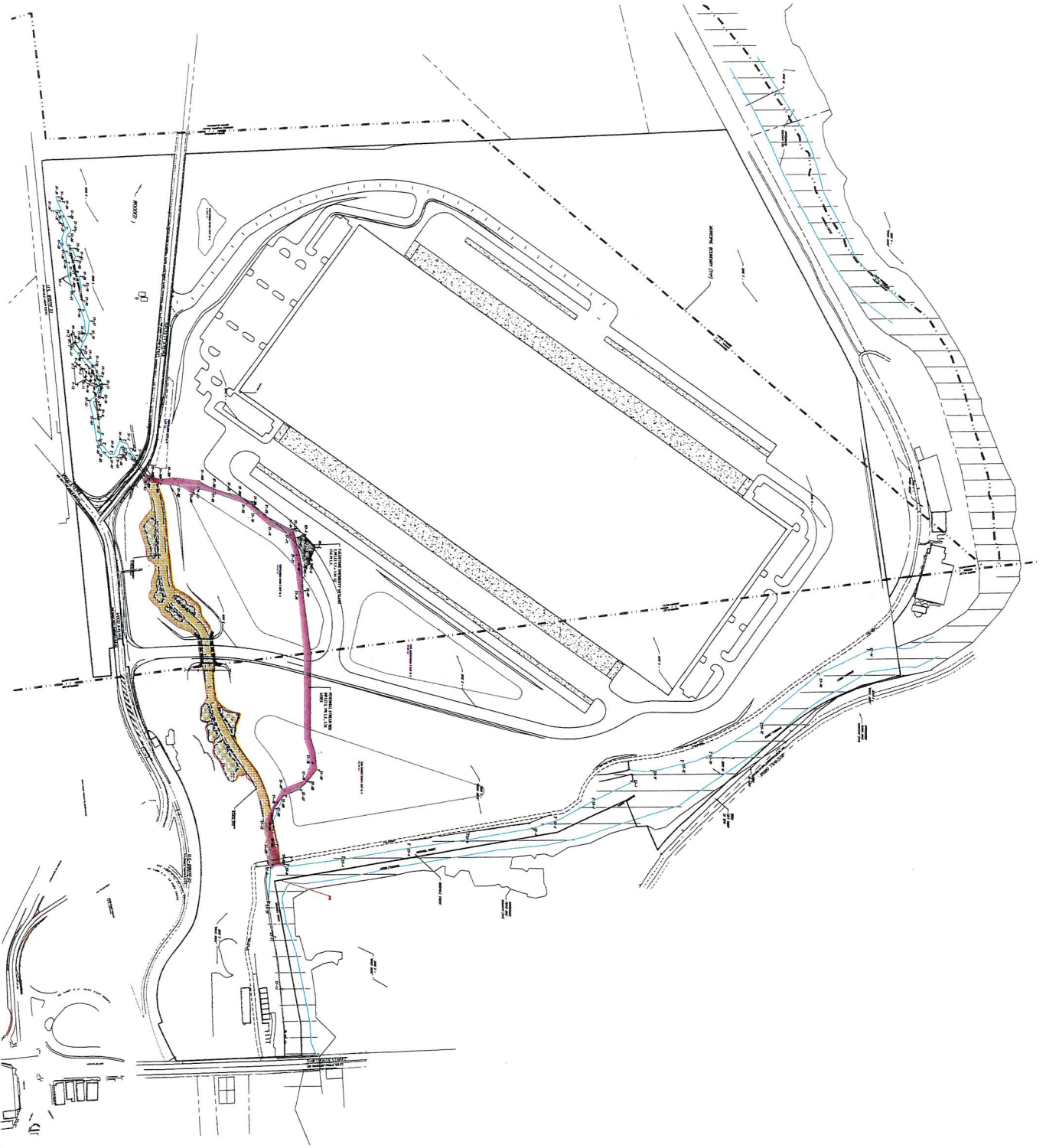
Sincerely,

Glenn R. Weitknecht
Chief, Application Section II

Enclosures: impact map, acknowledgement form, self-certification form, comment form

cc:
Mr. Justin Dresch, PADEP Bureau of Waterways Engineering and Wetlands
Ms. Christine Mazzarella, Wetlands Branch, USEPA Region III
Mr. Donald A. Haas, Bogia Engineering, Inc.
Northampton Conservation District

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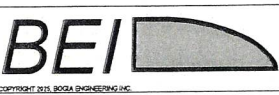
Scale: 1" = 100'

BOGIA ENGINEERING INC.
1340 PENN AVE WYOMISSING, PA 19010
PHONE: 610-678-3571 FAX: 610-678-3517
WWW.BOGIAENGINEERING.COM



Professional Engineer
State of Pennsylvania
No. 0000000000
Exp. 12/31/2015

BOGIA ENGINEERING INC.
1340 PENN AVE WYOMISSING, PA 19010
PHONE: 610-678-3571 FAX: 610-678-3517
WWW.BOGIAENGINEERING.COM



DATE	10/1/2014
BY	J. BOGIA
CHECKED	J. BOGIA
APPROVED	J. BOGIA
SCALE	1" = 100'
PROJECT	EASTON COMMERCE PARK
SHEET	1 OF 1

Acknowledgment and Agreement for Compliance with Terms & Conditions of PASPGP-6

Project Number: NAP-2021-00155-101

Project Location: Northampton, Pennsylvania

I hereby accept and agree to comply with the terms and conditions, of the PASPGP-6 authorizations, as stated.

Applicant's Signature

Date

I hereby accept and agree to comply with the terms and conditions, of the PASPGP-6 authorizations, as stated.

Applicant's Contractor's Signature

Date

Contractor Name (please print)

AREA CODE/TELEPHONE NO.

ADDRESS

Please return form by email to PhiladelphiaDistrictRegulatory@usace.army.mil. The Corps permit number (NAP-2021-00155-101) must be included in the subject line.

PASPGP-6 PERMIT COMPLIANCE, SELF-CERTIFICATION

PASPGP-6 General Condition 34 requires submittal of a signed certification documenting the completion of the authorized activity and implementation of any required compensatory mitigation. This certification should indicate if the success of any required permittee-responsible mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(i)(3) to confirm that the permittee secured the appropriate number and resource type of credits. The signature of the permittee is also required to certify the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later. Below are Corps District mailing and email addresses, and a list of the information to be included as part of the certification submittal.

Project Name: Easton Commerce Park Project NO Applicant Name: Easton Wood Ave. Propco, LLC
 PADDP Permit No: E4802224-006 Date of Issuance: 11 June 2021
 Corps Permit Number: NAP-2021-00155-101 Date of Verification: 26 Sep 2025
 Waterway: Bushkill Creek County: Northampton

Corps District:

☐ **Baltimore District**
 U.S. Army Corps of Engineers State College Field Office
 1631 South Atherton Street
 Suite 101
 State College, Pennsylvania 16801-6260
 Email: NAB-Regulatory@usace.army.mil

☒ **Philadelphia District**
 U.S. Army Corps of Engineers
 1650 Arch Street
 Philadelphia, Pennsylvania 19103
 Email: PhiladelphiaDistrictRegulatory@usace.army.mil

☐ **Pittsburgh District**
 U.S. Army Corps of Engineers, Regulatory Branch
 William S. Moorhead Federal Building, 20th floor
 1000 Liberty Avenue
 Pittsburgh, Pennsylvania 15222-4186
 Email: Regulatory.Permits@usace.army.mil

The following information is required by PASPGP-6 General Condition 34:

- ☐ Date authorized work commenced.
- ☐ Date authorized work completed.
- ☐ Was all work, including any required mitigation, completed in accordance with your PASPGP-6 authorization, explain any deviations?
- ☐ Was compensatory wetland/stream mitigation accomplished through an approved Mitigation Bank and/or In-Lieu fee program, if yes, attach proof of transaction, including resource type and number of credits purchased? Was permittee compensatory wetland and/or stream mitigation required, if yes, was the required compensatory mitigation completed in accordance with the permit and mitigation plan requirements?
- ☐ Sign and date certification.

We are soliciting your views and comments concerning the processing of your Department of the Army permit application request. Any input, positive or otherwise, on procedures, timeliness, fairness, etc., would be appreciated.



US Army Corps
of Engineers
Philadelphia District

Please write your comments in the space provided below and return to the Philadelphia District Regulatory Branch at PhiladelphiaDistrictRegulatory@usace.army.mil or if you do not have the means to return this form electronically you may print this document and mail to:

U.S. Army Corps of Engineers Philadelphia District
Attn: CENAP-OPR
1650 Arch Street
Philadelphia, PA 19103

FILE NUMBER: NAP-2021-00155-101

(Example NAP-2020-01234-56)

COMMENTS:

Thank you for taking the time to provide feedback which we can use to acknowledge great performance, correct problems and generally improve our business practices.

EVALUATION OF SITE SOUND EMISSIONS

PROPOSED DISTRIBUTION FACILITY
Easton Commerce Park
1525 Wood Avenue
Easton, PA

Prepared for: Easton Wood Ave PropCo, LLC
Prepared by: Jack M. Hamilton
Reviewed by: jhamilton@acousticalconsultant.com
Benjamin C. Mueller, P.E.
bmueller@acousticalconsultant.com
Date: 10 September 2025
OAA File: 4978A



1460 US Highway 9 North
Woodbridge, NJ 07095
Voice 973-731-7002
Fax 973-731-6680
acousticalconsultant.com 602

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INTRODUCTION

Ostergaard Acoustical Associates (OAA) was asked to assist with evaluation of potential sound emissions from a proposed distribution/warehouse facility in the Town of Easton, Northampton County, Pennsylvania. The site accommodates a defunct industrial use located just north of US Route 22. Plans call for construction of a warehouse which will store and distribute goods to the shipping network.

The site is anticipated to operate at all hours of the day and night. This report addresses the on-site noise radiated from this project to off-site potentially noise-sensitive receptors. Sound produced by the site will comprise steady sound from rooftop HVAC equipment as well as intermittent sound from truck and car¹ activity.

Work by OAA was overseen by Benjamin C. Mueller, P.E., with assistance from OAA Staff.

SITE AND VICINITY

The site and vicinity are shown in Figure 1, which is based on aerial imagery obtained from Google Earth Pro software. The site is located northwest of the intersection of Wood Avenue and U.S. Route 22 and formerly accommodated a large industrial use. The property is located across the municipalities of Wilson, Easton, and Palmer, with the majority of the site residing in the Borough of Wilson. Portions of the site to the west and east currently belong to the Township of Palmer and the City of Easton, respectively. Research into the surrounding area reveals a wide variety of zoning districts across four separate municipalities. To be conservative, receptors will be considered based on use, not the zone that they are located in.

□ Land belonging to both the Township of Palmer and the Borough of Wilson directly about the site to the north, with the Township of Forks shortly beyond. Bushkill Creek serves as the boundary between the Township of Forks and the other two municipalities. GJ Mills Apartments resides on the side of the creek closer to the site and is located about 350 feet from the site and about 600 feet from site loading docks. The property belonging to GJ Mills Apartments is spread across Wilson and Palmer municipalities. Beyond GJ Mills

¹ Note that throughout this report, the term "car" collectively refers to personal passenger vehicles including automobiles, vans, pick-ups, or SUVs. The term "truck" refers to heavy trucks such as over-the-road or line-haul trucks.

Apartment to the north, within the Township of Forks, is a large area of suburban residential land containing the Easton Area Middle School. The closest of these residential uses front on Milman Road which is about 800 feet from the site. Of note is that the site is substantially higher in elevation than receptors to the north.

□ Land to the east belongs to the City of Easton. Directly east of the site is a development of commercial uses, with a large cemetery farther beyond. To the southeast is the West Ward of the City of Easton, a large urban community consisting of many residential uses. The closest of these residential uses is approximately 1,200 feet from the site.

□ U.S. Route 22 abuts the site to the south, with the area beyond being located within the Borough of Wilson. This area is primarily comprised of single-family residential uses, with a handful of industrial uses located closer to U.S. Route 22. This residential community is continuous with the West Ward of the city of Easton. The closest residential receptors within this area are about 1,200 feet from the site.

□ To the west of the site is an exclave of the City of Easton comprised of recreational space including a bike trail, sports fields, a playground, and a disc golf course. Farther to the west are residences within the Township of Palmer, with the closest residences being approximately 2,000 feet from the site. To the northwest of the site is a section of land within the Township of Palmer that is comprised of industrial uses including the research and development building for Crayola.



Figure 1 — Aerial photo showing existing conditions of the proposed distribution facility in Easton, PA. The site property line is outlined in red.

Plans call for the construction of a distribution facility located in the central portion of the property. The building footprint will be approximately 1,000,000 square feet. All site access will be provided via two driveways connected to Hackett Avenue and Wood Avenue, both south of the site. Each driveway will allow dedicated access to a side of the building, with the Hackett Avenue driveway providing primary access to the building's western truck docks and the Wood Avenue driveway providing primary access to the building's eastern truck docks. Trailer parking is provided along each loading dock's outer perimeter, while non-truck vehicle parking is provided on the northern and southern facades of the building. Access to car parking lots is provided along the path of the two driveways.

Typical logistics facilities operate 24/7 with much of the activity occurring during the daytime hours; nighttime operations are generally used to prepare for the next day. The traffic study carried out by KCI Technologies provides information on the number of both cars and trucks that will be on site across a 24-hour period. The study indicates that the site will expect around 232 truck trips (116 individual trucks) per day, or just under 5 trucks per hour. A review of truck distribution data from the Institute of Transportation (ITE) Trip Generation Manual for a Land Use Code 155, which is what the traffic study uses, confirms that the majority of truck trips, about 89%, will occur during the daytime hours with the remaining 11% occurring during the night hours. This results in 103 trucks during the day and only 14 trucks at night. While these data support that nighttime operations will be minimal, the sound study focuses on these intermittent maximum sound levels that might occur during the nighttime hours as this is generally when residential receptors are most sensitive and ambient sound levels are lower.

REGULATIONS/GOALS

When developing a site of this type, it is appropriate to consider how sound from the facility will likely be received, especially by noise-sensitive receptors. Sound produced by a typical distribution facility is primarily characterized by steady HVAC equipment sound, which is present 24/7, and on intermittent sound produced by on-site truck activity. Personal motor vehicles are not unique to the area and hence are not an acoustical concern. Site sound emissions from the major noise sources should be evaluated and compared to applicable noise code limits as well as acoustical goals based on professional experience. Since facility operations can potentially be 24/7, the primary concern with sound emissions is minimizing the acoustical impact/meeting goals at night at residences. As a general practice, when motor vehicles are on site, they are considered part of a site's sound emissions; when vehicles are on public roads, they are not.

State, County, and Local noise codes were reviewed for any applicable quantitative sound level limits. The location of the site necessitated the analysis of local codes for all four surrounding municipalities. These municipalities can be generalized as being in each cardinal direction from the site. While certain regulations may not have jurisdiction of site sound emissions, they were compiled and reviewed to understand how noise is considered in the area.

- The Township of Forks, located north of the site, regulates sound under Chapter 200-33 *Environmental, hazard, and nuisance restrictions*, Section B, Subsection 2. This code provides clear quantitative sound level limits for receiving properties based on time of day, land use, and zoning. Nighttime is designated as being between 2100 and 0700 hours, with daytime hours being the complementary hours. Residential uses located within a residential district are given a maximum sound level limit of 58 dB(A) during the day, and 55 dB(A) at night. If a residential use is not located within a residential zone, then the limit during the day becomes 70 dB(A) and the nighttime limit is designated as 64 dB(A). At any property that does not fall into either of the former categories, the sound level limit is 70 dB(A) at all times. "Sound needed to alert people about an emergency" is specifically exempt from regulation.

- The City of Easton, located primarily east of the site, regulates sound under Chapter 376 *Noise*, with the focus on prohibiting noise disturbances. The code then defines what constitutes a noise disturbance quantitatively, with sound level limits based on land use and time of day, with nighttime being defined as 2200 to 0700 hours and the daytime being the complementary hours. Residential uses are given a limit of 57 dB(A) during daytime hours and 52 dB(A) during nighttime hours. Commercial uses as well as parks and governmental uses are given a daytime limit of 67 dB(A) and a corresponding nighttime limit of 62 dB(A). Industrial uses are given a limit of 77 dB(A) at all times. Of relevance to this site is that loading and unloading operations that result in a noise disturbance during the nighttime hours of 2200 to 0700 hours are prohibited. Given that a noise disturbance is defined quantitatively, loading and unloading operations would not be considered a noise disturbance as long as emitted sound is not greater than the provided limits.

- The Borough of Wilson, located to the south of the site, regulates noise under Chapter 130 *Noise*. This ordinance uses nearly identical language to the City of Easton's code, with

the exception that no formal quantitative definition of a noise disturbance is defined. All other language is consistent across the two municipalities.

- The Township of Palmer, located to the west of the site, regulates noise under *Chapter 190-510 Noise Control* of its municipal ordinances. This code regulates sound quantitatively based on land use and time of day, with nighttime defined as being from 2200 to 0700 hours, and daytime defined as being all other times. Sound level limits for residential uses are provided as 62 dB(A) during the day and 57 dB(A) during the night. Industrial uses are given a sound level limit of 74 dB(A) at all times, while any use that does not fall into the former categories is given a sound level limit of 67 dB(A) during the day and 62 dB(A) at night. Additionally, motor vehicle noise is exempt when vehicles are traveling on public streets.

No applicable noise codes regulating site sound emissions were found for the County of Northampton or the State of Pennsylvania. Pennsylvania does provide maximum allowable sound pressure level limits for all motor vehicles including trucks. These limits are relative to a specific distance from the vehicle and are readily met by modern maintained vehicles; such limits are not useful for evaluating potential acoustical impacts.

In general, most of the quantitative limits provided by the municipalities are in line with typical limits found throughout the country. OAA typically recommends a project noise goal of 50 dB(A) for residential receptors during the night. However, when residences are proximate to an established industrial area or well-traveled roads, limits of up to 55 dB(A) are also acceptable. Across the provided quantitative limits, the City of Easton has the most stringent regulations, with a nighttime sound level limit of 52 dB(A). For the purpose of providing a conservative analysis, the most stringent of the applicable noise limits should be applied to residences. To this end, OAA aligns with the City of Easton in establishing a project noise goal of 52 dB(A) at all residential receptors, regardless of municipality. As this is the most stringent limit provided, it will ensure that site sound will meet all applicable regulations for each relevant municipality and meet the intent of the qualitative Wilson noise code by protecting the health, safety, and general wellbeing of the public as well as minimize the site's acoustical impact.

Based on professional experience, noise code limits can apply throughout the property but are most commonly assessed and enforced at the location of inhabitants. Inaccessible or uninhabited portions of the property are generally not scrutinized as there is no receptor at this location. Project goals are applied at the façade of residential dwellings as this is where receptors are during the nighttime hours.

EXPECTED SOUND EMISSIONS

Acoustical modelling software, specifically CadnaA, was used to create and analyze site sound emissions. The model takes into account relevant parameters between the noise source and receptor positions of interest to predict how sound will propagate. In addition to distance attenuation, the model accounts for the effects of terrain, various types of ground cover, shielding by structures, and reflections from buildings. On-site topography was provided by the project team; offsite elevation information was obtained from ArcGIS software. Elevation contour lines are shown as teal lines. Model results show only the sound emissions of the site, which are directly comparable to the project noise goal; ambient sound is not included in the model. In the model, buildings are white, the Bushkill creek is shown in blue, HVAC sound sources are blue “+” symbols, loading dock sources are white “+” symbols, and driving truck sound sources are pink “+” sources. Roadways are represented graphically as red/white lines but are not modeled as noise sources. Note that north is pointing up in all figures, and the scale of each model is in feet. The acoustical model shows the results graphically as A-weighted sound level contours, in 1 dB increments, and tabulates the summed A-weighted sound levels at seven discrete receptor locations, labelled A through G, typifying nearby residential receptors. Receptor B is located 30 feet above grade to typify a third-story vantage point at the nearby apartment complex while all other receptors are at 15 feet, representing vantage points for two-story dwellings. Sound level contours are at ear height, 5 feet above grade.

A

Rooftop HVAC Sound

The HVAC design for a project is traditionally not finalized until the project is approved. While a detailed acoustical analysis is not possible at this time, it can be examined from a high-level perspective. Rooftop HVAC equipment produces noise that is steady in nature and hence will not vary over time. Warehouse HVAC arrangements traditionally include various packaged rooftop units (to condition air for office spaces) and exhaust fans. Warehouses of this type typically utilize 1 ton of HVAC per 725 square feet of space. Using this estimation, fifty-five 25-Ton HVAC units were modeled to represent the future HVAC conditions of the proposed 1,000,000 square foot facility. Each were modeled to have a sound power level of 93 dB(A) re 1 picowatt based on typical manufacturer's sound data. HVAC noise sources were placed 4 feet above the rooftop and are represented by blue "+"s.

Truck Activity

OAA has had the opportunity to visit various logistics facilities over the years to survey and document the sounds of truck activity. Truck noise in a typical dock area can routinely produce maximum sound levels of 79 dB(A) at 50 feet. This sound level was determined by looking at a wide variety of truck activity, such as truck movement, air brakes, back-up alarms, and coupling/decoupling, and distilling it to a single conservative maximum level and spectrum for use in acoustical studies such as this. A driving truck exhibits slightly lower maximum sound levels of 74 dB(A) at 50 feet. Loading and unloading sound when the truck is docked is generally about 70 dB(A) at 50 feet. The height of a truck source for all truck activity is modeled at a conservative height of 8 feet above grade. OAA has found that using these maximum sound levels at this height ensures a conservative approach to evaluating truck sound. When specific individual activities are modelled at their actual height and sound level, results are typically lower in level than predicted below. For example, many of the high sound level activities, such as back-up alarms and air brakes, occur at a height of 4 feet above grade, not 8 feet. This is a critical detail when evaluating the effectiveness of a sound barrier or berm and when considering offsite topography. It is also important to recognize that all truck noise is dynamic in nature. Maximum sound levels only occur for a short duration and are not representative of the constant sound level produced by on-site trucks.

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While there will certainly be multiple trucks onsite at any given time, it is often most appropriate to model maximum sound from an individual truck; several factors support this. Because maximum levels are dynamic and short in duration, it is unlikely that multiple truck sound level maximums will occur at exactly the same time and location. In addition, safe practices restrict more than one truck from operating in proximity to each other in the same vicinity. Hence, off-site maximum sound levels will be driven by individual truck sources. In the unlikely event that two truck sources would contribute the same level in the same location at the exact same time, emissions would only be 3 dB higher due to the logarithmic nature of sound pressure level addition.

Despite this, and to be conservative, eight trucks were modeled at various worst-case on-site locations when truck activity occurs closest to off-site receptors. Trucks were placed nearest to off-site receptors. Four driving trucks are modeled as pink "+"s, while four truck yard activity events are modeled as white "+"s. Figure 2 shows the resulting site sound emissions contributed off-site by on-site truck activity which includes the sound from HVAC equipment.

Results show that with the effects of terrain and distance, on-site truck operation sound is well controlled to meet the 52 dB(A) project goal. This conservative model shows that sound levels at Receptors E and F approach 52 dB(A); this is acceptable given their proximity to U.S. Route 22. In reality, sound emitted by the site will likely be lower moment-to-moment. Sporadic intermittent sound levels of the magnitudes discussed above will blend in with existing sound in the area and are not expected to elicit noise complaints.

While off-site truck routes are not regulated by code, they were reviewed to evaluate their potential acoustical impact. All truck activity from the site is expected to travel to and from U.S. Route 22, traveling along both Wood Ave and Hackett Ave. This route is the main corridor in the area for all vehicles and a legal truck route. Uses surrounding this route are either industrial in nature or already in close proximity to existing truck traffic. Trucks from the site are expected to blend in with other trucks using these roads and not have any negative impact.

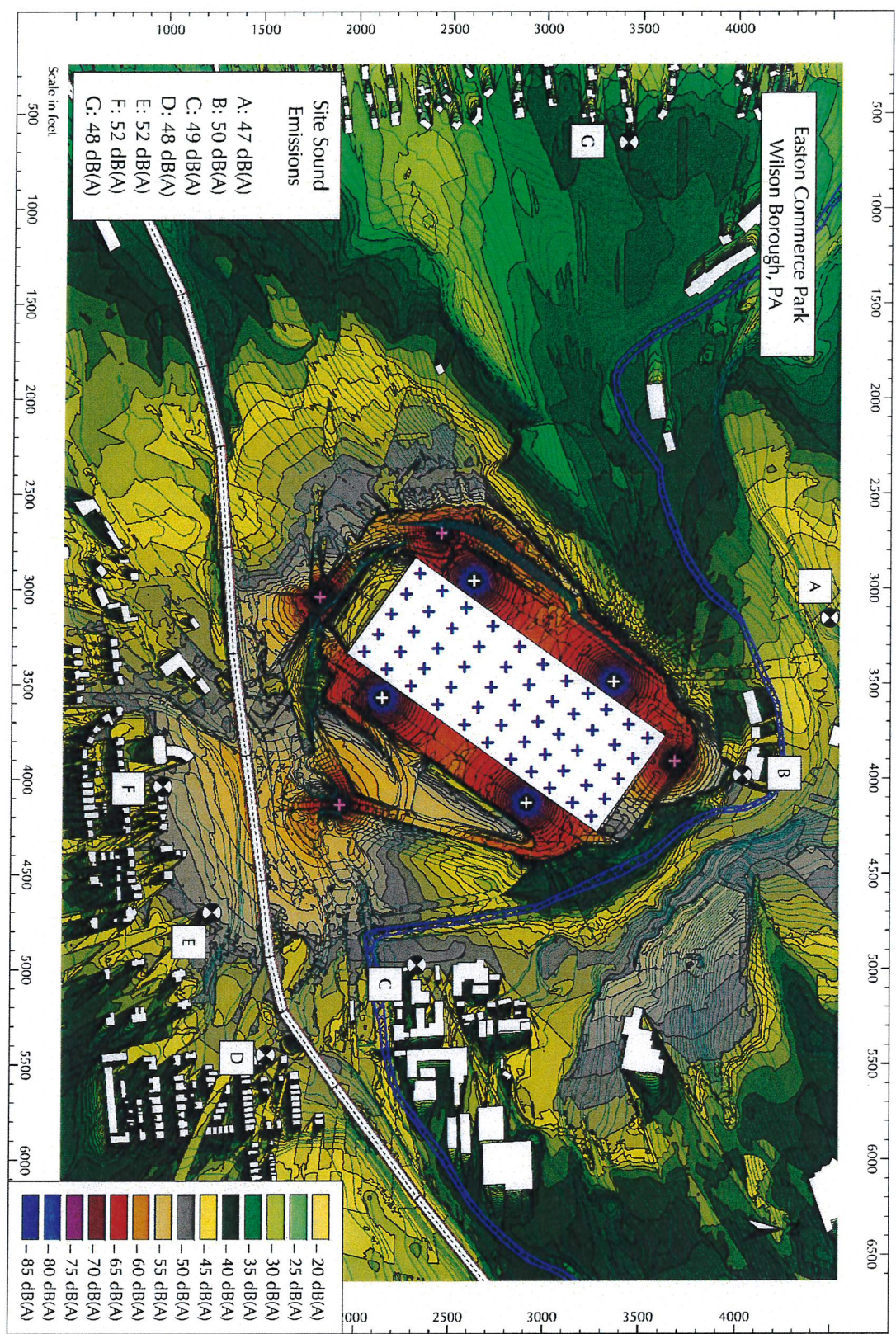


Figure 2 — Model of on-site driving truck activity (pink “+”s) and truck court activity (white “+”s) as well as HVAC equipment (blue “+”s). Colored contours are A-weighted sound emission 5 feet above grade. Receptor B is at 30 feet above grade. All other Receptors are 15 feet above grade.

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CONCLUSION

A distribution facility is proposed on industrial land on a site spanning across the City of Easton, the Borough of Wilson, and the Township of Palmer within the County of Northampton in the State of Pennsylvania. The Township of Forks also lies closely to the north. The surrounding area comprises a mix of land uses, including nearby residential dwellings to the north, east, and south, as well as institutional and industrial uses. In evaluating the acoustical impact of the proposed project, applicable State and Local noise codes were reviewed, including codes belonging to all four nearby municipalities and the Pennsylvania Department of the Environment. Local noise codes each provided various sound level limits. The most stringent criteria, from the City of Easton, calls for a limit of 52 dB(A) at residences during the night; this was used as a project noise goal to evaluate sound emissions for all nearby residential uses. This will ensure that all noise codes are met for all municipalities and that the potential for complaints is minimized.

An acoustical model was developed using proposed grading, site layout, and noise source specifics to assess potential noise emissions from rooftop HVAC equipment and on-site truck activity. Conservative model results show that maximum sound levels from worst-case truck activity as well as HVAC equipment will meet the project noise goal of 52 dB(A) at all off-site residences.

Truck routes were also reviewed for potential community impact. The site's proximity to U.S. Route 22 allows for convenient access to the major transportation route via Hackett Avenue and Wood Avenue. Trucks are projected to blend in with existing truck activity and have a minimal acoustical impact on the community.

Overall, the project has been well positioned to be acoustically compatible with the surrounding uses. The site is located close to existing industrial uses and was historically occupied by an industrial use. While there are nearby residences in the area, the height of the facility allows for natural attenuation of emitted sound due to the terrain. There are no acoustical concerns with off-site truck routes as the site will use approved truck routes along already well-travelled roads. Based on the foregoing, the findings in this report support and conclude that no significant acoustical impact is expected on any residential receptor and is appropriate for this site.

BEFORE THE PLANNING COMMISSION OF THE CITY OF EASTON
NORTHAMPTON COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF EASTON
WOOD AVE PROPCO, LLC

APPLICATION NO. SALD-24-9

ORDER

AND NOW, this _____ day of _____, 2025, upon consideration of the Motion for Recusal of Planning Commission Member Kim Wagner filed by Applicant, Easton Wood Ave PropCo, LLC, and in consideration of all responses thereto, if any, it is hereby **ORDERED** that the Motion for Recusal is **GRANTED**.

**PLANNING COMMISSION OF
CITY OF EASTON**

Dr. G. Kennedy Greene, Chair

Hubert Etchison, Member

William Heilman, Member

Frank Graziano, Member

Ronald Shipman, Member

KAPLIN STEWART MELOFF REITER & STEIN, PC

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BEFORE THE PLANNING COMMISSION OF THE CITY OF EASTON
NORTHAMPTON COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF EASTON
WOOD AVE PROPCO, LLC

APPLICATION NO. SALD-24-9

MOTION FOR RECUSAL OF COMMISSION MEMBER KIM WAGNER

Applicant, Easton Wood Ave PropCo, LLC ("EWAP" or the "Applicant") by and through its attorney, Marc B. Kaplin, Esquire, hereby requests that Planning Commission member Kim Wagner ("Ms. Wagner") either recuse herself or be recused from hearing and adjudicating EWAP's application for preliminary & final subdivision and land development approval in connection with the proposed development of the "Easton Commerce Center" on EWAP's industrially zoned land located partially in the City of Easton for the reasons set forth below:

I. PERTINENT BACKGROUND

1. EWAP is the equitable owner of an approximately 106.19-acre tract of land located at and commonly known as 1525 Wood Avenue ("Property"), which is situated partially in the City of Easton.

2. The Property is located in the City of Easton's Adaptive Reuse District, in which Use F8 Warehouse and Storage is a use permitted by right pursuant to Section 595-22.B.(34) of the City of Easton Zoning Ordinance.

3. The Property has a long history of heavy industrial usage (iron oxide production for pigment manufacturing) dating back to circa 1876 and continuing through 2017.

4. The industrial operations on the Property have ceased in recent years and the vast majority of the improvements on the Property were subsequently demolished between 2018 and present day. At present, the Property is mostly unimproved and overgrown.

5. Since April of 2023, EWAP has been diligently working to obtain approval of its plan to develop the Property with the "Easton Commerce Center," an industrial development for warehouse and storage uses (the "Project" or the "Proposed Development").

6. On May 24, 2024, EWAP filed with the City of Easton its application seeking preliminary land development approval for the Proposed Development (the "Land Development Application").

7. EWAP also filed an application to the Zoning Hearing Board of the City of Easton for a special exception under the City's Floodplain Management Ordinance ("Special Exception Application").

8. The Planning Commission is the planning agency for the City of Easton created and appointed pursuant to Article II of the Pennsylvania Municipalities Planning Code. See *Section 119-1 of the Code of the City of Easton* (the "Code").

9. The Planning Commission is charged with the adjudication of applications for subdivision and/or land development approval under Section 520-46 of Easton's Subdivision and Land Development Ordinance (Chapter 520 of the Code).

10. As such, EWAP will require approval of its Land Development Application by the Planning Commission to move forward with the Proposed Development.

11. The Planning Commission is comprised of six (6) members, including Ms. Wagner.
12. Ms. Wagner opposes the Proposed Development and has a personal prejudice and bias against the Project.

A. Ms. Wagner's Conduct at the August 6, 2025 Planning Commission Meeting

13. EWP's Special Exception Application to the Zoning Hearing Board was reviewed by the Planning Commission at its meeting held on August 6, 2025, at which time Ms. Wagner's opposition to the Proposed Development was very apparent.

14. Despite sitting as a reviewer of the Special Exception Application, Ms. Wagner introduced into evidence irrelevant and misleading documentation to convince the Planning Commission to recommend that the Zoning Hearing Board reject the Special Exception Application. (*Notes of Testimony* ("N.T.") 8/06/25 pp. 42-43; N.T. 8/06/25, pp. 60-62; N.T. 8/06/25, pp. 71-72; N.T. 8/06/25 pp. 89-93; N.T. 8/06/25, pp. 101-102)

15. Ms. Wagner repeatedly leveled inaccurate and demonstrably false accusations against EWP with respect to the completeness of its Special Exception Application. (N.T. 8/06/25, pp. 45-51; N.T. 8/06/25, pp. 50-51; N.T. 8/06/25, pp. 54-57)

16. Ms. Wagner made repeated inflammatory, misleading and provably inaccurate assertions about the Property's soil and environmental conditions and repeatedly misrepresented EWP's plans for the environmental remediation of the Property. (N.T. 8/06/25, pp. 47-48; N.T. 8/06/25, pp. 52-53; N.T. 8/06/25, pp. 62-63; N.T. 8/06/25, pp. 65-66; N.T. 8/06/25, p. 67)

17. Ms. Wagner baselessly accused EWP of both failing to submit for required permits, and of not having permits and approvals that EWP has undeniably received. (N.T. 8/06/25, pp. 39-44; N.T. 8/06/25, pp. 56-57; N.T. 8/06/25, pp. 59-60; N.T. 8/06/25, p. 65; N.T. 8/06/25, pp. 69-71; N.T. 8/06/25, pp. 85-86)

18. At the conclusion of the August 6, 2025 meeting, Ms. Wagner accused EWAP of dishonesty and deception for completely unknown reasons, and stated that EWAP "should have been honest [about its development plans] from the start." (N.T. 8/06/25, pp. 65-66)

B. Ms. Wagner's Conduct at the September 3, 2025 Local Agency Hearing

19. At the request of counsel for EWAP, a hearing under the Local Agency Law on EWAP's Land Development Application was commenced before the Planning Commission on September 3, 2025.

20. Ms. Wagner continued to display her clear prejudice and nonobjectivity towards to the Proposed Development during the course of the September 3, 2025 Local Agency Hearing at which time she essentially filibustered the hearing through her extraneous and inappropriate line of questioning. (*See generally*, N.T. 9/03/25, pp. 68-85; N.T. 9/03/25 pp. 92-97; N.T. 9/03/25, pp. 104-107; N.T. 9/03/25, p. 108; N.T. 9/03/25, pp. 109-116; N.T. 9/03/25, p. 117; N.T. 9/03/25, pp. 117-123; N.T. 9/03/25, pp. 125-126)

21. Ms. Wagner's line of questioning grossly exceeded the scope of EWAP's Land Development Application, and included irrelevant matters such as what type of equipment is needed to inspect and maintain an unspecified retaining wall; whether ambulances will be able to access a yet undetermined pedestrian bridge and/or trail; what type of fencing is proposed for the Project; the amount of blasting proposed for the Project; and whether EWAP is aware of "what is being posted to social media." (*See generally*, N.T. 9/03/25, pp. 76-78; N.T. 9/03/25, pp. 80-82; N.T. 9/03/25, pp. 83-84; N.T. 9/03/25, pp. 92-93; N.T. 9/03/25, pp. 94-96; N.T. 9/03/25, pp. 121-122)

22. Moreover, despite quoting extensively, albeit inaccurately, from the land development plans, geotechnical report, impact assessment and other such documents submitted in support of EWAP's Land Development Application, Ms. Wagner repeatedly and baselessly accused EWAP of failing to provide the Planning Commission with accurate and up-to-date plans and materials pertaining to the Proposed Development (N.T. 9/03/25, pp. 69-70; N.T. 9/03/25; N.T. 9/03/25, p. 97; N.T. 9/03/25, pp. 110-111; N.T. 9/03/25, pp. 112-114; N.T. 9/03/25, p. 117-119; N.T. 9/03/25, p. 125)

23. Although cloaked as presenting of "legitimate questions," Ms. Wagner's course of conduct at the September 3, 2025 Local Agency hearing was a clear and unabashed attempt to manufacture justification to support her inevitable and forthcoming vote to deny EWAP's Land Development Application, where not even her outrageous line of questioning provided her with a factual or legal basis to do so. (*See e.g.* N.T. 9/03/25, p. 71; N.T. 9/03/25, pp. 122-123)

C. Ms. Wagner's Conduct at the September 18, 2025 Zoning Hearing Board

24. A hearing on EWAP's Special Exception Application commenced before the Zoning Hearing Board on September 18, 2025.

25. Ms. Wagner attended the September 18th hearing, in her capacity as a private individual, to object to EWAP's Special Exception Application.

26. Throughout the course of the hearing, Ms. Wagner, sitting among the audience and members of the public in attendance, engaged in incessant commentary and relentless ranting as EWAP presented its evidence in support of its Special Exception Application to the Zoning Hearing Board.

27. Ms. Wagner then proceeded to engage in a nonsensical and incoherent cross-examination of EWAP's expert witnesses, during which she continued to assert baseless and demonstrably false claims against EWAP and the Proposed Development.¹

28. Among other things, Ms. Wagner accused EWAP of not having obtained certain permits and approvals, when such claims are easily disproven by the facts of this matter; accused EWAP of having been granted unspecified "waivers" to which Ms. Wagner alleged EWAP was not entitled; and accused EWAP of misrepresenting the scope and extent of the municipal and third-party approvals that it has obtained, notwithstanding the fact the terms of such documents are clear on their face.

29. Ms. Wagner's conduct at the September 18, 2025 meeting of the Zoning Hearing Board was a clear attempt to advocate against the granting of EWAP's Special Exception Application.

30. Notably, during the course of Ms. Wagner's unintelligible questioning of EWAP's expert witnesses, she was aided by Mr. Cody Harding, Esquire, who is currently serving as counsel to at least two (2) objectors to the Proposed Development, including Stone Root Inc. d/b/a The Stop Wood Warehouse Coalition, a self-proclaimed citizens opposition group that vehemently opposes the Easton Commerce Center.²

31. At the conclusion of her cross-examination of EWAP's witnesses, Ms. Wagner was approached by a member of The Stop Wood Warehouse Coalition, at which time they spoke in

¹ See Live Streams | Easton, PA (2025, September 18). Zoning Hearing Board <https://www.easton-pa.com/494/Live-Streams> at 3:02:50
² See Live Streams | Easton, PA (2025, September 18). Zoning Hearing Board <https://www.easton-pa.com/494/Live-Streams> at 3:05:39

hushed tones and reviewed unidentified documents and materials before jointly exiting the Special Exception hearing.³

D. Motion to Recuse

32. A continuance of the Local Agency hearing before the Planning Commission on EWAP's Land Development Application is currently scheduled for October 15, 2025.

33. It is inconceivable that, after exhibiting such clear and unequivocal bias against the Proposed Development, Ms. Wagner is or will be capable of impartially participating in decisions involving the Project.

34. Ms. Wagner should recuse herself from reviewing, considering, adjudicating or otherwise participating in all proceedings pertaining to the Proposed Development, including, but not limited to, the review, consideration or adjudication of EWAP's Special Exception Application, the review, consideration or adjudication of EWAP's Land Development Application and the review, consideration or adjudication of any subdivision applications, and/or any land development applications that will in the future be filed by EWAP in connection with the development of the Property.

35. Furthermore, if Ms. Wagner refuses to recuse herself, the Planning Commission should preclude her from participating in any and all such applications.

II. ARGUMENT

As recently restated by the Pennsylvania Supreme Court in *Pascal v. City of Pittsburgh Zoning Board of Adjustment*, 686 Pa. 326, 259 A.3d 375 (2021):

"A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness. To this end no man can be a judge in

³ See *Live Streams | Easton, PA* (2025, September 18). *Zoning Hearing Board* [https://www.easton-pa.com/494/Live-](https://www.easton-pa.com/494/Live-Streams) *Streams* at 3:13:55 – 3:14:48

his own case and no man is permitted to try cases where he has an interest in the outcome. ... This Court has said ... that every procedure which would offer a possible temptation to the average man as a judge ... not to hold the balance nice, clear, and true between the State and the accused, denies the latter due process of law.”

Accordingly, administrative or adjudicative tribunals must be unbiased and must avoid even the appearance of bias to comply with the requirements of due process. *Springwood Development Partners, L.P. v. Board of Supervisors of North Cornwall Township*, 985 A.2d 298 (Pa. Cmwlth. 2009) (citing *Thornbury Township Board of Supervisors v. W.D.D., Inc.*, 546 A.2d 744 (Pa. Cmwlth. 1988). A member of a municipal hearing board must therefore be sensitive, not only to actual bias, but also to avoid the appearance of bias. *Kuszyk v. Zoning Hearing Board of Amity Township*, 343 A.2d 661, 665 (Pa. Commw. 2003). A municipal officer should disqualify himself or should be disqualified from any proceeding in which he has a personal bias. 1 Pa. Code §35.186.⁴ Generally, recusal is warranted where a member of a tribunal has a fiduciary relationship with a party in interest to a matter or where a member of a tribunal participates as an advocate, witness or publicly expresses predisposition to or against a matter. *Christman v. Zoning Hearing Board of the Township of Windsor*, 854 A.2d 629 (Pa. Cmwlth. 2004)(underline supplied). Ms. Wagner is required by well-settled Pennsylvania law to recuse herself from all proceedings involving the Proposed Development, as her conduct has evidenced the appearance of an express personal bias or predisposition against EWAP's Land Development Application.

⁴ Section 35.186 provides:

A presiding officer may withdraw from a proceeding when he deems himself disqualified, or he may be withdrawn by the agency head for good cause found after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the agency head or by another presiding officer to whom the agency head had delegated the matter for investigation and report.
1 Pa. Code §35.186.

The Pennsylvania Commonwealth Court's Decision in *Thorndale Township Board of Supervisors v. W.D.D., Inc., supra*, is instructive. In *Thorndale*, the Commonwealth Court addressed whether it was proper for a member of the township's board of supervisors, who had appeared as a private individual before the township's zoning hearing board to object to an application for variances for a proposed subdivision, to subsequently participate in the board's consideration of an application for final approval of that subdivision. Citing its prior holding in *Dayoub v. State Dental Counsel and Examining Board*, 453 A.2d 751 (Pa. Cmwlth. 1982), the Commonwealth Court determined that when a public official is acting in an adjudicative capacity, the specificity of the issue necessarily demands a more sensitive test as to disqualification...[and] noted [there is a] special standard required of a public official when functioning in an adjudicative capacity. In determining the board member should have been recused due to his evidenced appearance of, if not actual bias the Commonwealth Court stated:

[A]dministrative tribunals must be unbiased and must avoid even the appearance of bias to be in accordance with the principles of due process. (Citation omitted.)
In Schlesinger Appeal, the Supreme Court wrote:

'Moreover, a predilection to favor one side over the other is not required in order to vitiate a judicial proceeding as being violative of due process. Merely, "a possible temptation to the average man as judge ... not to hold the balance nice, clear, and true" is sufficient.

Thus the pivotal issue is whether the board of supervisors' vote on an application for final subdivision approval was a legislative act or an adjudicative one.

In *North Point Breeze Coalition v. Pittsburgh*, this court stated that, when an action of a governing body does not establish a rule of general application, but rather applies specific criteria to a single applicant and a single piece of property, the governing body is acting in its adjudicative capacity and not its legislative capacity. In this case, the supervisors' decision as to WDD's application for subdivision approval was an action to administer planning and zoning ordinances already in existence. Moreover, consideration of WDD's application, if approved, constituted an action granting WDD a privilege to subdivide and develop a specific tract of

land. Thus, in deciding WDD's application for subdivision approval, the supervisors were acting in an adjudicative capacity.

The conduct of Supervisor Copeland evidenced a greater appearance of bias, if not actual bias, toward WDD's application for subdivision approval than that shown in *McVay*. He personally appeared with counsel before the zoning hearing board to oppose WDD's application for variances. He sent a letter to WDD, indicating that the board rejected the preliminary application, when the board had not taken any official action on the application. The vote of the supervisors was therefore affirm.

Thorbury Township v. W.D.D., Inc., 546 A.2d at 746-747 (internal citations omitted)

Ms. Wagner is therefore required by well-settled Pennsylvania law to recuse herself from all proceedings involving the Proposed Development. Ms. Wagner, by her conduct at and after the September 18th hearing on the Special Exception Application and during the Planning Commission proceedings on the Land Development Application, has publicly expressed a clear predisposition with respect to the Proposed Development. Ms. Wagner has taken an advocacy role as a private citizen in opposition to EWAP's Special Exception Application before Easton's Zoning Hearing Board. Ms. Wagner's conduct has raised substantial doubts as to her ability to consider EWAP's Land Development Application with even the appearance of impartiality or objectivity.

III. CONCLUSION

The Courts recognize that due process requires a local governing body in the performance of its quasi-judicial functions to avoid even the appearance of bias or impropriety. A showing of actual bias is unnecessary in order to assert a cognizable due process claim; the mere potential for bias or the appearance of non-objectivity may be sufficient to constitute a violation of that right. *McVay v. Zoning Hearing Board of New Bethlehem Borough, supra*. Moreover, all the procedural and evidentiary safeguards of a fair trial mean nothing if the outcome is irremediably tainted by

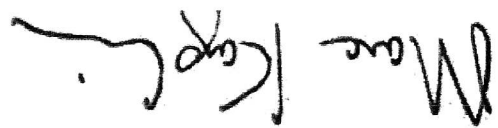
some bias or prejudgment on the part of the decision-maker. See e.g. *Pascal v. City of Pittsburgh*

Zoning Board of Adjustment, 668 Pa. 326, 398 (2021)(Wecht, J. concurring in part)

Allowing Ms. Wagner to hear and adjudicate EWAP's Land Development Application – notwithstanding her clear opposition to the Proposed Development - is a flagrant violation of EWAP's constitutional rights to due process. As such, EWAP requests that Member Wagner recuse herself or be recused by the Planning Commission from participating in the hearing or adjudication of EWAP's Land Development Application.

Respectfully submitted,

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