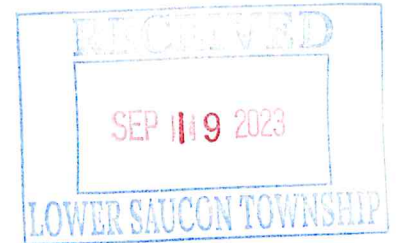


ZONING HEARING BOARD OF LOWER SAUCON TOWNSHIP

Ten copies of this application, including all plans and drawings, must be submitted to the Zoning Officer together with the application/escrow fees. No application will be accepted without an adequate plan of the subject premises.

PROJECT NUMBER _____



1. The undersigned applicant hereby: (check appropriate letter {s})
 - a. _____ Appeals from a determination of the Zoning Officer.
 - b. _____ Requests a Special Exception.
 - c. _____ Requests a Variance.
 - d. X Challenges the validity of a Zoning Ordinance or map.
 - e. _____ Requests other relief within the jurisdiction of the Zoning Hearing Board as established in § 909.1(a) of the Pennsylvania Municipalities Planning Code.

2. Name and Address of Owner of Property: N/A

Telephone Number(s) _____

3. Name and Address of Applicant: Bruce Petrie and Ginger Petrie, et al. - see
 attachment identifying all Appellants

Telephone Number(s) _____

4. If Applicant is not the Owner, state Applicant's authority to bring this application:
 Adoption of Ordinance No. 2023-05 has an adverse and direct effect upon
 Appellants' respective property interests and property rights including, but
 not limited to, their peaceful enjoyment and use of their property.

(attach documents in support of said authority to this application)

5. Address of Property: N/A

6. Attach plot plan of property drawn to scale indicating location and size of improvements both proposed and presently existing and indicating a compass reference. N/A

7. Tax Parcel Number of Property: N/A

8. Present Zoning Classification of Property: N/A

9. Present Use of Property: Scenic and Conservation Easement and Woodlands Protection/Open Space
10. Describe the buildings and other improvements located on the Property: (attach additional sheets if necessary)
Scenic and Conservation Easement, Woodlands Easement, Open Space
11. State the Size of the Property: N/A
12. If you are appealing from a determination of the Zoning Officer, complete the following:
- a. The action taken was: N/A
 - b. The date action was taken: _____
 - c. Attach a copy of any written order issued by the Zoning Officer in connection with this matter.
 - d. The foregoing action is being challenged because: _____
 - e. If you allege the existence of a non-conforming use, state the nature of such use and the date on which it began: _____
13. If you are challenging the validity of a Zoning Ordinance or map, complete the following:
- a. Identify the provision of the Ordinance or map which you believe to be invalid: Ordinance No. 2023-05 - Zoning Ordinance and Zoning Map amendment and establishment of landfills and waste disposal facilities as permitted uses
 - b. The challenge is ripe for decision because: Timely Appeal - Ordinance enacted 8/30/23
 - c. The provision challenged is invalid because: See attached

14. If you are requesting a Special Exception complete the following: N/A

a. Nature of Special Exception sought is: _____

b. The Special Exception is allowed under Article _____ Section _____ Subsection _____ of the Lower Saucon Township Zoning Ordinance. (If more than one Exception is requested, list Ordinance references on separate page)

c. The reason for the request is: _____

15. If you are requesting a Variance complete the following: N/A

a. Nature of Variance sought is: _____

b. The Variance is from Article _____ Section _____ Subsection _____ of the Lower Saucon Township Zoning Ordinance. (If more than one Variance is requested, list Ordinance references on a separate page)

c. The nature of the unique circumstances and the unnecessary hardship justifying this request for a Variance is: _____

16. If you are requesting other relief within the jurisdiction of the Zoning Hearing Board, complete the following:

a. The nature of the relief sought: Entry of Order voiding ab initio Ordinance No. 2023-05

b. If you are requesting relief from a determination of a Township Official, attach a written copy of a determination and state the reason the determination was in error, including reference to applicable status or ordinances: N/A

17. By filing this application, applicant agrees to reimburse Lower Saucon Township for all costs incurred by the processing of this application to the extent that those costs exceed the filing fee.

18. a. I am not represented by an attorney in connection with this application.
 b. I am represented by Gary Neil Asteak, Esquire in connection with this application.

Attorney's Address: 726 Walnut Street, Easton, PA 18042

Attorney's Telephone Number(s): (610) 258-2901

19. The following is a list of names and addresses of all persons owning property which is located within 200 feet of the perimeter of the property which is the subject of this application, identified by tax parcel number together with the name and address of the present owner of the said parcel as contained in the records of Lower Saucon Township or Northampton County Tax Mapping located in the Northampton County Courthouse or their website – www.ncpub.org

Tax Map Number of Property	Name and Mailing Address of Owners of Property
1.	N/A
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	

Tax Map Number of Property	Name and Mailing Address of Owners of Property
22.	
23.	
24.	
25.	
26.	
27.	
28.	
29.	
30.	
31.	
32.	
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42.	
43.	
44.	
45.	

Attach additional names on a separate page.

**ZONING HEARING BOARD OF LOWER SAUCON TOWNSHIP
SUBSTANTIVE VALIDITY CHALLENGE TO
ADOPTION OF ORDINANCE NO. 2023-05**

SUPPLEMENT

AND NOW, Comes Bruce Petrie and Ginger Petrie, et al., and other citizens, taxpayers, property owners, and residents of the Township of Lower Saucon and raise this substantive validity challenge to the adoption of Ordinance No. 2023-05 by Lower Saucon Township Council on August 30, 2023 (see Exhibit "A" attached hereto):

3. Appellants are:

Bruce Petrie and Ginger Petrie
2626 Redington Road, Hellertown, PA 18055
Telephone Nos. 973-464-0401 and 484-894-0171

Andrew G. Krasnansky and Tina-Louise Krasnansky
2430 Applebutter Road, Hellertown, PA 18055
Telephone Nos. 610-954-9199 and 610-730-4460

Robert Duane Blasko and Elizabeth A. Blasko
2510 Redington Road, Hellertown, PA 18055
Telephone No. 610-533-7908

Robert McKellin and Cynthia McKellin
2166 Kistler Avenue, Bethlehem, PA 18015
Telephone No. 610-360-9380

Kyle Lee Cambiotti
4284 Matthews Avenue, Bethlehem, PA 18015
Telephone No. 484-520-3943

Russell L. Sutton and Colleen D. Sutton
2133 Saucon Avenue, Bethlehem, PA 18015
Telephone No. 610-866-6996

4. Appellants have standing inasmuch as they have a substantial direct and immediate interest in the adoption of the aforesaid Ordinance, said Ordinance has an adverse and direct effect upon their respective property interests and property rights, including but not limited to peaceful enjoyment and use of their property, as established by existing case law.

11. The size of the subject property rezoned as identified in Ordinance No. 2023-05 has approximately 275.7 acres of land, the Ordinance itself identifies the location and tax parcels.

13. The validity of Ordinance No. 2023-05 is being challenged in its entirety. Appellants note that a collateral procedural Land Use Appeal has been filed in the Court of Common Pleas of Northampton County. This Appeal is being filed within thirty (30) days after the intended effective date of the Ordinance and is therefore timely. Ordinance No. 2023-05 is being challenged on the following grounds:

A. The adoption of the aforesaid Ordinance imposes actual harm to property owners abutting or in close proximity to the 275.7 acres rezoned, affecting health, safety, and welfare of Appellants and the Lower Saucon Township community, as well as neighboring communities. This harm includes, for example, enlarging and extending over time nuisance conditions including odors and air contaminants caused by landfill operations which would be allowed as of right by Ordinance No. 2023-05 and resulting risks of property devaluation.

B. Adoption of the aforesaid Ordinance is contrary to the comments and recommendations of the Lower Saucon Township Environmental

Advisory Council and Lehigh Valley Planning Commission. The Lehigh Valley Planning Commission concluded:

“These text amendments do not align with the intent of FutureLV: The Regional Plan to protect the health, safety and welfare of the public (Policy 3.2). Landfills and Waste Disposal Facilities are high intensity land uses that have significant social and environmental impacts, and impacts to residents and/or the environment resulting from expanding and increasing operation must be cautiously scrutinized and mitigated.”

As a high land-consumptive use, landfill expansions often result in destruction of environmental resources and wildlife habitats. This poses a direct impact to the land, but also affects the economic value open space provides to Lower Saucon Township and the Lehigh Valley. Natural systems such as forests, wetlands and riparian corridors provide the greatest economic benefit through natural green infrastructure that reduces tax dollars by avoiding over \$110.3 million in expenditures for water supply, flood mitigation and water quality. The air quality benefits provided by trees adds another \$48.2 million value annually (Lehigh Valley Return on Environment).

- Social impacts of landfills include possible health risks for residents if landfill gases migrate either above or below ground. Landfills are also found to decrease land values. A study by the Penn State University Northeast Regional Center for Rural Development found that high-volume landfills can depress adjacent property values by 12.9%.

The proposal to rezone the northernmost parcels as LI District (parcels 1-5 in Exhibit A) does not align with the Future Land Use Plan of FutureLV: The Regional Plan. These parcels are located in a Character-Defining Area representing the natural and scenic character of the Lehigh Valley and contain High Preservation Priority features shown on the FutureLV Natural Resources Plan such as woodlands, steep slopes and Natural Heritage Inventory Core Habitats. The types of uses recommended in High Preservation Priority areas are parks and open space, woodlands, agriculture, and low-intensity, limited scale development that preserves natural and scenic resources. The LVPC strongly recommends that the Township prioritize retention of natural features as an essential characterizing attribute in the area near the Lehigh River.

C. Adoption of the aforesaid Ordinance is contrary to the Lower Saucon Township Comprehensive Plan. The Lehigh Valley Planning Commission concluded:

Overall, the proposed zoning ordinance amendments and zoning map amendments do not align with the goals outlined in the Township's recently updated comprehensive plan. Our Resources, Our Valley Multi-Municipal Comprehensive Planning in Pennsylvania's Saucon Valley. The Plan identifies the Township's natural resources, along with its other cultural and historic assets, as significant components of the region's future economic development (page 1-6). The Plan's goals to 'Balance Initiatives: Balance development and conservation initiatives in order to maintain the ambiance and quality of Saucon Valley's distinct cultural landscapes: small town, suburban and rural' and 'Enhance the Continuity of Resources: Enhance the continuity, visibility and inter-connectivity of the Valley's cultural, natural and historical resources' (page 1-12).

The area proposed to be rezoned does not align with the Township's Future Land Use and Housing Plan map. Specifically, parcel 5 to be rezoned LI District is identified as "Open Space" in the Plan, with the purpose of larger-scale natural resource conservation and/or recreation. The map of Regionally Significant Natural Resource Areas (Page 1-21) also show that the areas proposed to be rezoned conflict with Regionally Significant Sensitive Natural Resources Areas[.]

D. For all the reasons set forth herein, and as supported by the proposed expert testimony on behalf of Appellants and other objectors which the Township improperly excluded from consideration at the public hearing on adoption of Ordinance 2023-05, and because adoption of the Ordinance violates the public trust with respect to the preexisting Scenic and Conservation Easements on the rezoned property as set forth herein, adoption of the aforesaid Ordinance deprives Appellants and the residents of the rights conferred by the

Environmental Rights Clause of the Pennsylvania Constitution as embodied in Article I, Section 27, of the Constitution of the Commonwealth of Pennsylvania.

E. Appellants aver that adoption of the aforesaid Ordinance is in violation of the Scenic and Conservation Easement between Appellee and the City of Bethlehem as recorded in the Office for the Recording of Deeds in and for Northampton County in Volume 1994-6, Page 012074, said easement “being designed for the purposes of assuring the preservation of the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park; and, during such operation of the Landfill to as great a degree as possible to preserve the original character and scenic nature of the land.”

F. Appellants aver that adoption of the aforesaid Ordinance is in violation of the Scenic and Conservation Easement between Appellee and the City of Bethlehem as recorded in the Office for the Recording of Deeds in and for Northampton County in Volume 1994-6, Page 012081, said easement being a restrictive easement for scenic and conservation purposes and woodlands protection easement.

G. The restrictive easements for scenic and conservation purposes and woodlands protection are imbued and imposed with a public trust under common law and also constitute interests in real property that are dedicated to public use for these purposes and are therefore subject to the Act of Dec. 15, 1959, P.L. 1772, No. 670, the “Property Donated to Political Subdivisions for Public Use” (“Act”). These dedications and public trust are irrevocable or, if revocable, must be altered by an Order of Court of competent jurisdiction in

accordance with the Act. Thus, such an Order is a necessary precondition to the Zoning Ordinance amendment which purports to allow uses contrary to such purposes, dedications, and public trust, and the Ordinance enactment without compliance first with the Act's procedures to obtain an Order allowing such uses involves a "defect in procedures prescribed by statute" as provided by the Municipalities Planning Code, 53 P.S. §11002.1. Inasmuch as the Zoning Ordinance amendments purport to allow uses and activities contrary to the easements, they violate the public trust. The violation of the public trust and the failure to comply with statutory requirements also constitute substantive defects rendering the Ordinance invalid.

H.(i) Appellants aver that the adoption of Ordinance No. 2023-05 was the result of a contract entered into between Lower Saucon Township Council and Bethlehem Landfill Company, and/or its predecessors in title and/or the City of Bethlehem to expand the landfill into areas that had previously been established as woodlands protection areas, conservation easement areas, and heritage protection zones. It is averred that the Ordinance was initiated by the Bethlehem Landfill Company, the Ordinance was prepared by the Bethlehem Landfill Company and that although contrary to the Lower Saucon Township Comprehensive Plan and recommendations from advisory bodies, the contractual relationship between Lower Saucon Township Council and Bethlehem Landfill Company resulted in adoption of the aforesaid Ordinance. Contracts have no place in a zoning plan and a contract between a municipality and a property owner should not enter into the enactment or enforcement of zoning regulations.

(ii) Appellants aver that the adoption of Ordinance No. 2023-05 was specifically the result of a contract entered into between Lower Saucon Township Council and Bethlehem Landfill Company memorialized in part by correspondence from Council to Bethlehem Landfill Company dated August 11, 2023, and the drafting and approval of not only Ordinance No. 2023-05, but Lower Saucon Township Council's approval of Resolution No. 58-2023 adopting and approving an amended and restated Host Community Agreement between Bethlehem Landfill Company and Lower Saucon Township specifically providing the terms of the contract providing for adoption of the rezoning and Zoning Ordinance amendment, voiding of previously adopted and recorded scenic and conservation easements and woodlands easement, providing for financial consideration to the Township as well as other consideration financial and otherwise to the municipality for the private benefit of Bethlehem Landfill Company. Resolution No. 58-2023 is specifically incorporated herein by reference along with the amended and restated Host Community Agreement and grants of conservation easement memorializing an agreement by the Township not to oppose landfill expansion.

I. Zoning is an exercise of the police power to serve the common good and general welfare. It is elementary that the legislative function may not be surrendered or curtailed by bargain or its exercise controlled by the considerations which enter into the law of contracts, including but not limited to municipal interest in host fees. Power may not be exerted to serve private interests merely, nor may the principal be subverted to that end. Agreements and

concomitant representations or stipulations inducing changes in zoning renders those changes invalid.

J. Appellants have, through Counsel, sought Right-to-Know Law materials from the Lower Saucon Township Right-to-Know Officer who has sought an extension of time within which to respond and therefore Appellants reserve the right to supplement grounds for this Appeal until such time as the Township fully complies with the Right-to-Know Law and provides full disclosure.

K. Appellants aver that adoption of Ordinance No. 2023-05 is violative of the Host Community Agreement By and Between the Township of Lower Saucon, the City of Bethlehem and Eastern Waste of Bethlehem, Inc. Regarding the Bethlehem Landfill dated May 7, 1998, Section III, Paragraph No. 32, wherein Eastern Waste of Bethlehem, Inc., agreed not to undertake landfill disposal activities or own/operate a transfer station, incinerator, or any other type of waste processing facility, at the former Redington/Bethlehem Steel Co. and/or former Helms tracts, and further agreed to comply with the terms of the recorded scenic and conservation easements between the City and the Township for these tracts, whether Eastern uses the parcels under an easement from the City or Eastern later acquires the parcels from the City. This Agreement constituted a covenant running with the land and binding upon any future owner or operator and was to be recorded in the Office for the Recording of Deeds in and for Northampton County.

L. Adoption of the aforesaid Ordinance, Resolution, and Agreements is contrary to the Lower Saucon Township Comprehensive Plan, Joint

Comprehensive Plan with the Borough of Hellertown, violative of its multimunicipal responsibilities to the Borough of Hellertown and other adjacent and adjoining municipalities, and by granting landfill and waste disposal facility use as a permitted use, Lower Saucon Township has abrogated its environmental responsibilities under Article I, Section 27, of the Constitution of the Commonwealth of Pennsylvania, Second Class Township Code, and Public Trust Doctrine in failing to fully explore the geological, hydrogeological, historical, and archeological impacts as well as the impacts upon federal and state recreational grants and programs benefitting the public.

M. By the illegal, arbitrary, and capricious implementation of limited public comment at the hearing pursuant to the Pennsylvania Municipalities Planning Code prior to adoption of the Ordinance, Lower Saucon Township Council failed to permit substantive engineering, scientific, and impact comment and therefore deprived Appellants, other citizens and neighbors, of statutory and constitutional due process under the laws of the Commonwealth of Pennsylvania and United States. It is averred that although the public was deprived of an opportunity to provide both public comment and expert analysis, there has been ongoing personal contact between the Landfill, its agents, servants, workmen, and counsel, with the Lower Saucon Township Council, its agents, servants, workmen, and counsel, in private to negotiate, manipulate, and shade from the public the legitimate legislative process required by the Constitution of the Commonwealth of Pennsylvania and statutes granting Lower Saucon Township Council legislative powers.

N. Appellants aver that adoption of Ordinance No. 2023-05 constitutes “illegal spot zoning” inasmuch as the rezoning and text amendment adopted by Lower Saucon Township is intended and adopted to control the use of a specific area of land, to wit: approximately 275.70 acres of land identified in the Ordinance, without regard to the relationship of those land use controls to the overall plan and general welfare of the community. Appellants aver that Lower Saucon Township Council put on blinders and confined its vision to just one isolated place within the community, disregarding a community-wide perspective and thus was not engaged in lawful zoning which necessarily requires that the picture of the whole community be kept in mind. Ordinance No. 2023-05 was legislating “as to a spot” which “is the antithesis of zoning.”

O. Appellants aver that the irregularity of the zoning procedures used herein shows that the Lower Saucon Township Council had not thoroughly reviewed the proposed zoning, failed to permit full and expansive presentation of evidence offered by the public, failed to reconcile inconsistency with comprehensive plan, and the contractual relationship between landowner/developer and Township officials all reflect and establish an arbitrary and unjustifiably discriminatory spot zoning.

P. Comments by Lower Saucon Township Council members extolled the virtue of the financial benefit to the Township, however tax base concerns cannot be decisive in a zoning case.

Q. Lower Saucon Township Council, having previously adopted a similar landfill amendment to its Zoning Ordinance to accommodate the

Bethlehem Landfill Company, i.e. Ordinance No. 2022-02, provided for landfill use as a conditional use, but now simply removed any and all zoning oversight of the development, allowing said use to be permitted without special exception or conditional use review, the justification thereof was never articulated and Appellants aver constitute arbitrary and unjustifiably discriminatory spot zoning.

R. The record of the purported public hearing shows that the Council did not consider, evaluate, or otherwise take into account in its decision making, the impacts of proposed Ordinance No. 2023-05 on regional planning, its own multi-municipal plan, or the impact to sensitive and high preservation priority natural features and resources, and thus violated the Township's duties under Pa. Const. Article I, Section 27. It fails to constitute constitutional and rational zoning.

S. The passing of Ordinance No. 2023-05 was not supported by a rational basis as evidenced by the Township's re-designation of landfills as a permitted use.

T. Ordinance No. 2023-05 is the result of illegal contract zoning.

U. Allowing landfills as a by-right use rather than as a conditional use is not supported by a rational basis.

V. The passing of Ordinance No. 2023-05 was arbitrary and capricious.

W. The passing of Ordinance No. 2023-05 was done in violation of the Municipalities Planning Code, 53 P.S. §1101, et seq.

X. The procedure for passing Ordinance No. 2023-05, including but not limited to substantially limiting the time for public comment, holding meetings at times when public attendance would be limited, and denying and/or failing to obtain input from experts related to zoning, planning, engineering, and other land use considerations, was so deficient that Ordinance No. 2023-05 constitutes spot zoning.

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF NORTHAMPTON

The undersigned, being duly sworn according to law, depose and say that they are the above named applicants, that they are authorized to and do take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.


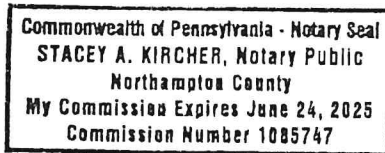


Applicant BRUCE PETRIE



Applicant GINGER PETRIE

Sworn to and subscribed
before me this 14th day
of September, 2023


Notary Public

Date Received: 9/19/2023

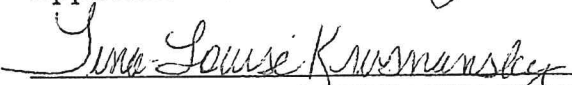

Zoning Officer

COMMONWEALTH OF PENNSYLVANIA

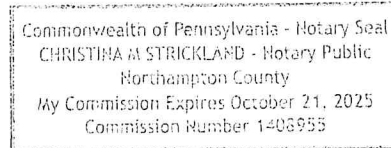
COUNTY OF NORTHAMPTON


The undersigned, being duly sworn according to law, depose and say that they are the above named applicants, that they are authorized to and do take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.


Applicant ANDREW KRASNANSKY


Applicant TINA-LOUISE KRASNANSKY

Sworn to and subscribed
before me this 14th day
of September, 2023




Notary Public

Date Received: 9/19/2023


Zoning Officer

COMMONWEALTH OF PENNSYLVANIA

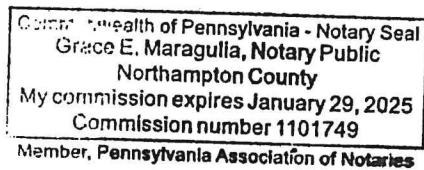
COUNTY OF *NORTHampton*

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Robert Duane Blasko
Applicant
Robert Duane Blasko

Sworn to and subscribed
before me this *13* day
of *Sept.*, 2023

Grace E. Maragulla
Notary Public



Date Received: *9/19/2023*

Jim S. [Signature]
Zoning Officer

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF NORTHAMPTON

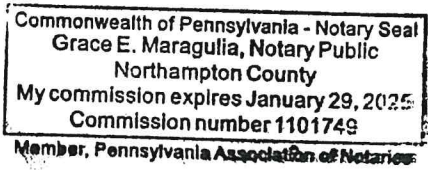
The undersigned, being duly sworn according to law, depose and say that they are the above named applicants, that they are authorized to and do take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Elizabeth A. Blasko
Applicant

Elizabeth A. Blasko
Applicant
Elizabeth A. Blasko

Sworn to and subscribed
before me this 13th day
of Sept., 2023

Grace E. Maragulia
Notary Public



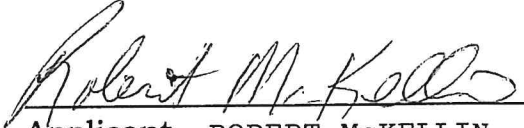
Date Received: 9/19/2023

Juni S. [Signature]
Zoning Officer

COMMONWEALTH OF PENNSYLVANIA


COUNTY OF NORTHAMPTON

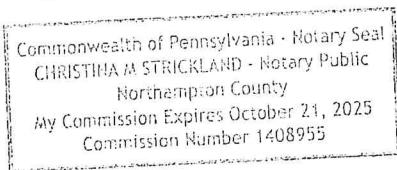
The undersigned, being duly sworn according to law, depose and say that they are the above named applicants, that they are authorized to and do take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.


Applicant ROBERT MCKELLIN



Applicant CYNTHIA MCKELLIN

Sworn to and subscribed
before me this 15th day
of September, 2023


Notary Public



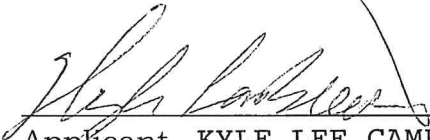
Date Received: 9/19/2023


Zoning Officer


COMMONWEALTH OF PENNSYLVANIA

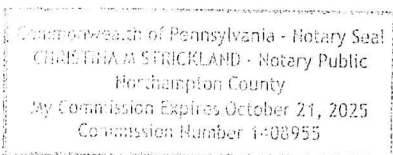
COUNTY OF NORTHAMPTON

The undersigned, being duly sworn according to law, deposes and says that he/she is the above named applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

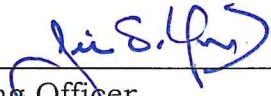

Applicant KYLE LEE CAMBIOTTI

Sworn to and subscribed
before me this 15th day
of September, 2023


Notary Public



Date Received: 9/19/2023


Zoning Officer

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Northampton

The undersigned, being duly sworn according to law, depose and say that they are the above named applicants, that they are authorized to and do take this affidavit on behalf of the owner, and that the foregoing facts are true and correct.

Russell L. Sutton
Applicant RUSSELL L. SUTTON

Colleen D. Sutton
Applicant COLLEEN D. SUTTON

Sworn to and subscribed
before me this 13 day
of September, 2023

Starr Karstendick
Notary Public

Commonwealth of Pennsylvania - Notary Seal
Starr Karstendick, Notary Public
Northampton County
My commission expires July 31, 2027
Commission number 1436195
Member, Pennsylvania Association of Notaries

Date Received: 9/19/2023

John S. Y...
Zoning Officer

LOWER SAUCON TOWNSHIP
NORTHAMPTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-05

AMENDMENTS TO THE CODE OF THE TOWNSHIP OF LOWER SAUCON

AN ORDINANCE OF THE TOWNSHIP OF LOWER SAUCON, NORTHAMPTON COUNTY, PENNSYLVANIA, AMENDING AND REVISING THE CODE OF THE TOWNSHIP OF LOWER SAUCON BY AMENDING CHAPTER 180 (ZONING) TO REVISE THE ZONING MAP BY CHANGING THE ZONING DESIGNATION OF APPROXIMATELY 275.70 ACRES OF LAND (SEVEN (7) NORTHAMPTON COUNTY TAX MAP PARCELS) FROM A RURAL AGRICULTURAL (RA) ZONING DESIGNATION TO A LIGHT INDUSTRIAL (LI) ZONING DESIGNATION, THE IDENTIFIED ACREAGE BEING LOCATED IN THE NORTHERN GEOGRAPHICAL AREA OF THE TOWNSHIP (IN THE VICINITY OF THE BETHLEHEM LANDFILL LOCATED AT 2335 APPLEBUTTER ROAD) TO THE NORTH OF APPLEBUTTER ROAD, EAST AND SOUTHEAST OF THE VILLAGE KNOWN AS STEEL CITY, SOUTH OF THE LEHIGH RIVER, AND WEST AND SOUTHWEST OF REDINGTON ROAD; REVISING SECTION 180-79.A(2) AND APPENDIX "A" TO ADD THE "LANDFILLS AND WASTE DISPOSAL FACILITIES" USES TO THE LIST OF PERMITTED USES IN THE LIGHT INDUSTRIAL (LI) ZONING DISTRICT; REVISING SECTION 180-80.B AND APPENDIX "A" TO REMOVE THE "LANDFILLS AND WASTE DISPOSAL FACILITIES" USES FROM THE LIST OF USES REQUIRING SPECIAL EXCEPTION APPROVAL; REVISING SECTIONS 180-101 AND 180-109.F AND APPENDIX "A" TO EXEMPT THE "LANDFILLS AND WASTE DISPOSAL FACILITIES" USES FROM THE SITE PLAN APPROVAL PROCESS AND REQUIREMENTS IF THE USE WILL REQUIRE LAND DEVELOPMENT APPROVAL UNDER THE LOWER SAUCON TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AND A PERMIT FROM THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION; AND ADDING SECTION 180-109.G TO PROVIDE FOR A NATURAL RESOURCE MITIGATION ALTERNATIVE IN THE LIGHT INDUSTRIAL (LI) DISTRICT; AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS CONTAINED HEREIN.

WHEREAS, Lower Saucon Township is a Township of the Second Class, Optional Plan of Government, located in Northampton County, Commonwealth of Pennsylvania; and

WHEREAS, the Township of Lower Saucon adopted Ordinance # 98-17 on May 20, 1998, enacting the Code of the Township of Lower Saucon (hereinafter referred to as the "Code"); and

WHEREAS, the Council of Lower Saucon Township desires to amend the Code of the Township of Lower Saucon to revise the Township Zoning Map to increase the size of the Light Industrial (LI) Zoning District; to allow landfill and waste disposal uses/facilities as a permitted use in the Light Industrial (LI) Zoning District instead of requiring special exception approval; to exempt landfills and waste disposal uses/facilities from the site plan approval process and requirements if the use will require land development approval under the Lower Saucon Township Subdivision and Land Development Ordinance and a permit from the Pennsylvania Department of Environmental Protection; and to create a natural resource mitigation alternative for industrial users proposing to exceed the otherwise permitted disturbance of natural resources in the Light Industrial (LI) Zoning District; and

WHEREAS, the Council of Lower Saucon Township has determined that the adoption of this Ordinance containing the described amendments to the Zoning Map and text of the Zoning Chapter of the Code is in the best interest of the public health, safety, and welfare of the citizens of Lower Saucon Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Township of Lower Saucon, Northampton County, Commonwealth of Pennsylvania, that the provisions of the Code of the Township of Lower Saucon are hereby amended and revised as follows:

Section 1. Amendment to Chapter 180 (Zoning), Section 180-15 (Zoning Map), Subsection A.

The Zoning Map of the Township of Lower Saucon is amended in accordance with the revisions noted on the map attached hereto and incorporated herein by reference as Exhibit "A". Specifically, approximately 275.70 acres of land are being changed from Rural Agricultural (RA) to Light Industrial (LI). The identified acreage consists of seven (7) Northampton County Tax Map Parcels which are listed on Exhibit "B", attached hereto and incorporated herein by reference. The identified acreage is located in the northern geographical area of the Township (in the vicinity of the Bethlehem Landfill located at 2335 Applebutter Road) to the north of Applebutter Road, east and southeast of the village known as Steel City, south of the Lehigh River, and west and southwest of Redington Road. The Township Manager is directed to update the Zoning

Map to change the seven (7) parcels shown on Exhibits "A" and "B" from Rural Agricultural (RA) to Light Industrial (LI), as reflected on Exhibit "C", attached hereto and incorporated herein by reference.

Section 2. Amendment to Chapter 180 (Zoning), Section 180-79 (Permitted uses), Subsection A(2) (Industrial uses) and Appendix "A" (Permitted, Conditional and Special Exception Land Uses).

Chapter 180, Section 180-79.A(2) of the Code is amended to add a new Subsection (g) as follows:

"(g) Landfills and waste disposal facilities (see §180-109)."

Chapter 180, Appendix "A" of the Code is amended to replace the "S" in the LI column for "Landfills and waste disposal facilities" with a "P".

Section 3. Amendment to Chapter 180 (Zoning), Section 180-80 (Special exception uses), Subsection B (Industrial uses).

Chapter 180, Section 180-80.B of the Code is amended to replace Subsection (3) "Landfills and waste disposal facilities (see §180-109)" with the term "RESERVED".

Section 4. Amendment to Chapter 180 (Zoning), Section 180-101 (Purpose).

Chapter 180, Section 180-101 of the Code is amended to replace the first sentence therein with the following sentence: "This article requires that, unless a use is otherwise specifically exempted from this requirement elsewhere in this Article XVII, before any zoning permit is granted for the use of land or building for certain permitted, conditional and special exception uses, a site plan shall be reviewed by the Planning Commission and reviewed and approved by the Township Council."

Section 5. Amendment to Chapter 180 (Zoning), Section 180-109 (Industrial uses), Subsection F (Additional requirements applying to extraction and processing of natural resources, landfills and waste disposal facilities and waste transfer and recycling facilities) and Appendix "A" (Permitted, Conditional and Special Exception Land Uses).

Chapter 180, Section 180-109.F of the Code is amended to change existing Section 180-109.F(1) (Additional site plan requirements) from 180-109.F(1) to 180-109.F(2), change existing 180-109.F(2) (Standards) to 180-109.F(3), and to add a new Section 180-109.F(1) as follows:

"(1) If a landfill or waste disposal facility will require Land Development approval under the Lower Saucon Township Subdivision and Land Development Ordinance, and a permit from the Pennsylvania Department of Environmental Protection, it is not subject to the site plan approval process and requirements of this

Article XVII or any other Article or provision contained in Chapter 180."

Chapter 180, Appendix "A" of the Code is amended to remove the "X" in the Site Plan column for "Landfills and waste disposal facilities" and replace it with an asterisk ("*"). Appendix "A" is further amended by adding the following language to the "NOTES" section below Note 5: "* See Section 180-109.F(1)".

Section 6. Amendment to Chapter 180 (Zoning), Section 180-109 (Industrial uses).

Chapter 180, Section 180-109 of the Code is amended to add the following Subsection G:

"G. Natural Resource Mitigation Alternative

An applicant proposing to develop an industrial use within the Light Industrial Zoning District shall be exempt from the natural resource protection rates in Section 180-95.B and be permitted to exceed the net buildable site area permitted by Section 180-95.C(2)(c) ("Permitted Net Buildable Site Area"), utilizing a greater area of natural resource protection land than would be otherwise permitted by the Resource Protection Standards contained in Section 180-95 herein ("Excess Resource Utilization"), provided the Applicant dedicates to the Township for preservation an amount of land equal to the Excess Resource Utilization in accordance with the following requirements:

- (1) The Excess Resource Utilization shall be the difference between the resource protection land calculated by the Resource Protection Land formulas in Section 180-95.C(2)(b) ("Resource Protection Land") and the Applicant's proposed resource protection land (which is the difference between the Base Site Area pursuant to Section 180-95.C(2)(a) and Applicant's proposed buildable site area) ("Proposed Resource Protection Land"). The Applicant shall be permitted to dedicate land in excess of what is required if accepted by the Township.
- (2) The Applicant shall provide drawings and calculations clearly showing the Resource Protection Land, the Proposed Resource Protection Land, Applicant's proposed buildable site area, and the Excess Resource Utilization, and noting that it proposes to develop the use in accordance with this Subsection G.
 - (a) An additional plan sheet showing the limits of proposed buildable area and total acreage of existing environmentally protected lands is required.

- (b) Calculations shall be included on the plans that accurately reflect the Permitted Net Buildable Site Area, the Resource Protection Land, the Base Site Area, the Proposed Resource Protection Land, the Excess Resource Utilization, and the minimum amount of land that is required to be dedicated pursuant to this Subsection G.
- (3) The land proposed for dedication does not need to contain the same environmental resources as those resource protection lands on the subject property.
- (4) The land proposed for dedication shall be located within the municipal boundaries of Lower Saucon Township, shall not be within an industrial or commercially zoned area, and shall not contain any natural or man-made features that are inconsistent with the Township's Open Space Action Plan and Policies.
- (5) The land shall be offered for dedication to the Township in either fee simple or via a conservation easement that is acceptable to the Township Council.
- (6) With the approval of the Township Council, land that is currently occupied by a use, but that contains significant natural or historic resources, may be considered for dedication to the Township.
- (7) If the Applicant demonstrates that, after a good faith effort, it was unable to obtain, on commercially reasonable terms and conditions, any or enough property for dedication pursuant to this subsection, the Applicant may meet the requirements of this Subsection G by submitting a fee-in-lieu of dedication in accordance with the calculations in the Lower Saucon Township Subdivision and Land Development Ordinance, Section 145-51.E, with the "tract" referenced in Section 145-51.E therein to mean, for purposes of this Section 180-109.G, the number of acres required to be dedicated pursuant to the calculation in Section 180-109.G(1). The applicable calculated fee-in-lieu of dedication shall only be used by the Township for the purposes authorized by the Township's Open Space plan.
- (8) An applicant choosing to develop an industrial use in accordance with this Subsection G shall demonstrate and make the required dedication and/or fee-in-lieu of dedication payment prior to final land development approval by the Township Council."

Section 7. Violations and Penalties.

The Violation and Penalty provisions of the Code, where not revised herein, shall remain unchanged.

Section 8. Severability.

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council of Lower Saucon Township hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional, illegal, or otherwise invalid.

Section 9. Repealer.


All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 10. Effective Date.

The provisions of this Ordinance shall become effective ten (10) days after adoption.

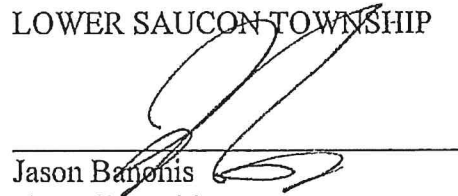
ENACTED and ORDAINED this 30 day of August 2023.

ATTEST:



Mark L. Hudson
Township Manager

LOWER SAUCON TOWNSHIP

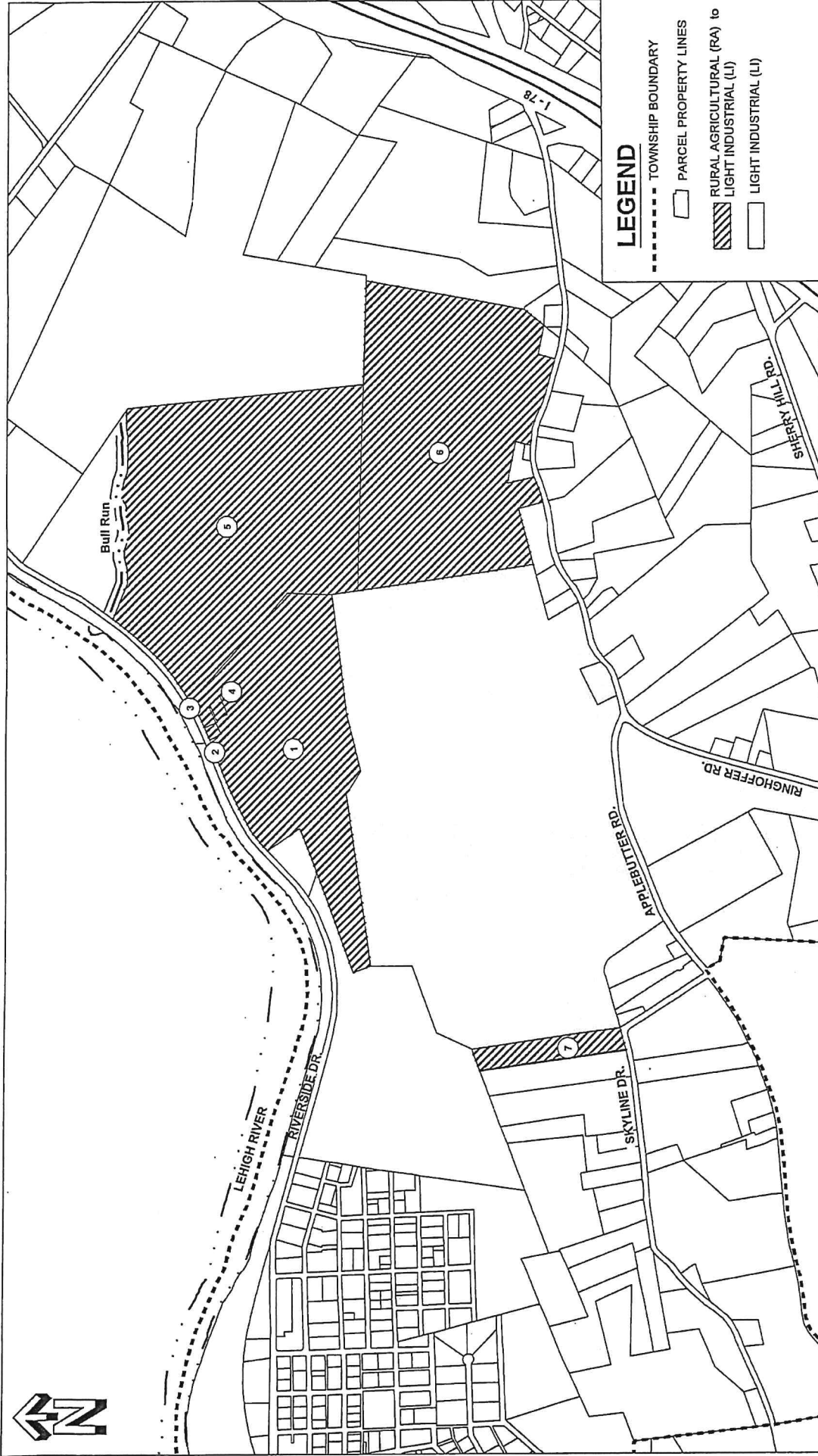


Jason Banonis
Council President

Exhibit "A" – Map Amendment (2023), showing parcels proposed to be changed from RA to LI

Exhibit "B" – List of Parcels for Proposed Map Change (2023), listing parcels proposed to be changed from RA to LI

Exhibit "C" – Map Amendment (2023), map showing adopted changes to official Zoning Map



NOTE:
 PARCEL DATA FROM COUNTY OF NORTHAMPTON (GIS DATA).
 ZONING DATA FROM LOWER SAUCON TOWNSHIP.
 800' 0' 800' 1600'

Map Amendment (2023) - Exhibit A
Proposed Zoning Map Change - Rural Agricultural (RA) to Light Industrial (LI) (Parcels 1-7*)
 * see list of parcels on Exhibit B

Exhibit B - List of Parcels for Proposed Map Change (2023)

NO.	NORTHAMPTON COUNTY TAX MAP PARCEL NUMBER	LOCATION / STREET ADDRESS	ACRES
1	N8 14 1 0719E	RIVERSIDE DRIVE	60.60
2	N8 14 1A 0719	2390 RIVERSIDE DRIVE	0.30
3	N8 14 1B 0719	2396 RIVERSIDE DRIVE	0.50
4	N8 14 1B 0719	2396 RIVERSIDE DRIVE	0.50
5	N8 14 2 0719E	RIVERSIDE DRIVE	118.70
6	N8 14 15 0719	APPLEBUTTER ROAD	89.30
7	P7 5 33 0719 (portion of)	APPLEBUTTER ROAD	5.80

APPROXIMATE TOTAL:	275.70
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LEGEND

- TOWNSHIP BOUNDARY
- ▭ PARCEL PROPERTY LINES
- ▭ LIGHT INDUSTRIAL (LI)
- ▭ LIGHT MANUFACTURING (LM)
- ▭ SUBURBAN RESIDENTIAL (R20)
- ▭ RURAL AGRICULTURAL (RA)

Map Amendment (2023) - Exhibit C



NOTE: PARCEL DATA FROM COUNTY OF NORTHAMPTON (GIS DATA).
 ZONING DATA FROM LOWER SAUCON TOWNSHIP.

800' 0' 800' 1600'