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November 19, 2026

VIA E-MAIL
KILKENNY LAW
David Sander, Esquire
519 Swede Street
Norristown, PA 19401

Re: Application of 900 Conshohocken Road LLC — Data Center, 900 Conshohocken Road, Plymouth Township
Special Exception: Deemed Approval under Section 908(9) of the Pennsylvania Municipalities Planning Code;
Substantive Validity Challenge: Reservation of Rights; Request for Hearings under Section 908(1.2)

Dear Mr. Sander:

As you know, this firm represents 900 Conshohocken Road LLC (the "Applicant") in connection with its special exception application for a data center at 900 Conshohocken Road (the "Application"), pending before the Plymouth Township Zoning Hearing Board (the "Board"). This letter is written under Sections 908 and 916.1 of the Pennsylvania Municipalities Planning Code (the "MPC"), 53 P.S. §§ 10908, 10916.1. We ask that it be brought to the Board's attention today and read into the record at the opening of the November 19, 2026 session.

1. The Special Exception Application was deemed approved on June 28, 2026.

The Board received the Application on April 28, 2026. Section 908(1.2) of the MPC required the Board to commence the first hearing within 60 days of that date, that is, by June 27, 2026. The Board convened on June 25, 2026, but it did not commence a hearing on the Application that evening. The Board's Solicitor stated at the outset that "tonight's hearing will be dedicated solely to establishing the parties in this case," that "testimony will commence at the next hearing," and that party status was "the only thing we are going to deal with tonight," and at the close that "we will not be taking any evidence or testimony tonight on the application" (June 25, 2026 Tr. 8:11–16; 10:12–14; 39:15–18).

No Applicant witness was sworn, no Applicant testimony was taken, and the Applicant was afforded no opportunity to present evidence or argument on the Application. The Board then continued the matter on its own motion.

Respectfully, a session at which the applicant is afforded no opportunity to present evidence and argument is not a hearing within the meaning of Section 908(1.2). No hearing

having been commenced within 60 days of receipt of the Application, Section 908(9) of the MPC provides that "the decision shall be deemed to have been rendered in favor of the applicant." The Application was therefore deemed approved as submitted on June 28, 2026.

2. In the alternative, the Board has failed to conduct and complete the hearing within the time Section 908(1.2) allows.

Section 908(9) applies equally where the Board "fails to … conduct or complete the required hearing as provided in subsection (1.2)." If the June 25, 2026 session were treated as the first hearing, the 100 days provided by Section 908(1.2) ended on October 3, 2026; if the first hearing were the August 6, 2026 session, the first at which the Applicant was permitted to present any evidence, they ended on November 14, 2026 (November 16, 2026 under 1 Pa.C.S. § 1908). In the sessions held to date the Applicant's witnesses have been heard for a small fraction of the hearing time; at the October 15, 2026 session the Board announced before any witness was called that it would hear one witness on direct examination only and then continue the matter, and it did so on its own motion (Oct. 15, 2026 Tr. 105:23–106:12; 180:24–181:8). Under no computation has the Board afforded the Applicant the seven hours of hearings that Section 908(1.2) requires, and neither of the Applicant's two witnesses has completed direct examination or been cross-examined. The Applicant accordingly asserts, in the alternative, that the Application was deemed approved on October 3, 2026 or on November 14, 2026.

3. The Applicant has never agreed to any extension of time, in writing or on the record.

Section 908(9) excepts only the case in which "the applicant has agreed in writing or on the record to an extension of time." The Applicant has given no such agreement. The only writing the Applicant has signed on this Application concerning time is my letter of September 17, 2026, which, after the Board cancelled its September 17 session, waived the 45-day interval between hearings under Section 908(1.2) for the next hearing to be held "through and until October 15, 2026," and nothing more. It did not extend, and did not purport to extend, the period for commencing the hearing, the 100-day period, or any other period under Section 908. Each continuance of this matter — June 25, July 28, August 6, August 17 and October 15 — was moved and voted by the Board on its own motion. Your e-mail to all parties of August 17, 2026 at 9:11 a.m. stated that "the Plymouth ZHB will make a motion to continue" the matter to September 17; the Applicant made no such request. The Applicant's accommodation of the Board's schedule, and its indication of dates on which its counsel and witnesses were available, were not and are not an agreement to extend any period under Section 908, and the Applicant's participation in the sessions held to date, and in any session hereafter, is without waiver of the positions stated in this letter.

4. The Board is requested to give the public notice Section 908(9) requires.

Section 908(9) provides that when a decision has been rendered in favor of the applicant because of the Board's failure to meet the requirements of Section 908(1.2), the Board is to give public notice of that decision within ten days from the last day on which it could have met to render a decision, and that "if the board shall fail to provide such notice, the applicant may do so." The Applicant requests that the Board give that notice forthwith. If the Board does not do so, the

Applicant will give the notice itself, as the statute permits, and will seek such further relief as may be necessary in the Court of Common Pleas of Montgomery County.

5. The November 19, 2026 session, and the hearings Section 908(1.2) requires.

The Applicant will appear on November 19, 2026 with counsel and its witnesses, and will proceed, without waiver of and expressly subject to the positions stated above. Without prejudice to those positions, and in the alternative, the Applicant requests under Section 908(1.2) that the Board assure that the Applicant receives not less than seven hours of hearings, as set out in the enclosed request, which the Applicant asks that you place before the Board on November 19. The Applicant does not agree to any continuance of the November 19 session or of any session thereafter, and does not agree to any date; if the Board continues the matter, it does so on its own motion. The Applicant's availability on any date the Board may propose is not an agreement, in writing or on the record, to extend any period under Section 908.

6. The November 16, 2026 session on the Applicant's Section 916.1 challenge.

For the record on the Applicant's separate challenge to the substantive validity of the Zoning Ordinance under Section 916.1 of the MPC (filed July 21, 2026), the Applicant notes the following. On November 16, 2026 the Applicant appeared with counsel and its witnesses, prepared to proceed. The Applicant asked to proceed. The Board declined to take evidence, confined the session to party status over the Applicant's objection, and continued the matter on its own motion, over the Applicant's further objection, to December 21, 2026. The Applicant agreed to no date and to no further extension of time; the two thirty-day extensions it granted by letters of September 2 and October 1, 2026 have expired, and the Applicant gives no further extension under Section 916.1.

7. Reservation of rights.

The Applicant reserves all rights and remedies under the MPC and otherwise, including without limitation its rights under Sections 908(9) and 916.1 of the MPC, its right to seek relief in the Court of Common Pleas of Montgomery County, and the matters reserved in my letter to you of October 14, 2026. Nothing in this letter, and nothing in the Applicant's participation in any session of the Board, waives any of them.

Please bring this letter to the attention of the Board and confirm in writing that it has been received and will be read into the record this evening.

Very truly yours,

/s/ *Edmund J. Campbell, Jr.*

Edmund J. Campbell, Jr., Esquire

cc: Greg Heleniak, Esquire, Solicitor,
Plymouth Township
All parties of record (by e-mail)