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Executive Director

September 22, 2021

Ms. Ilene Eckhart, Manager
Allen Township
4714 Indian Trail Road
Northampton, Pennsylvania 18067

**RE: Zoning Ordinance Amendment – Mixed-Use Village in the R1 District
Subdivision and Land Development Ordinance Amendment –
Mixed-Use Village Design Standards
Allen Township
Northampton County**

Dear Ms. Eckhart:

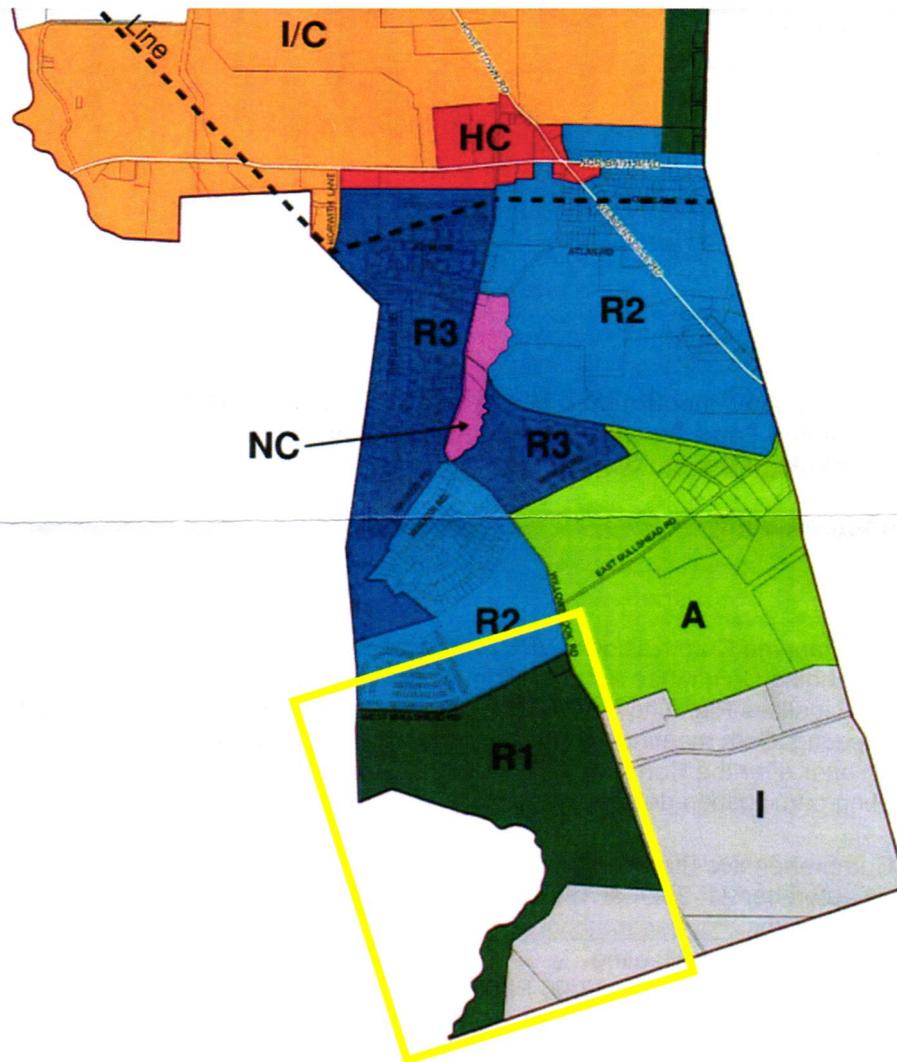
The Lehigh Valley Planning Commission (LVPC) will consider the subject application at its Comprehensive Planning Committee and Full Commission meetings, pursuant to the requirements of the Pennsylvania Municipalities Planning Code (MPC). Discussion on agenda items largely happens during the Committee meeting. Both meetings are virtual, and we encourage your participation. The LVPC will issue a follow-up letter after the Commission meeting if Commission members have any additional comments. Meeting participation details are below:

- LVPC Comprehensive Planning Committee Meeting
 - September 21, 2021 at 12:00 PM
 - <https://lvpc.org/meetings.html>
- LVPC Full Commission Meeting
 - September 23, 2021 at 7:00 PM
 - <https://lvpc.org/meetings.html>

The subject application proposes to amend the Township zoning ordinance and subdivision and land development ordinance pertaining to mixed-use village uses. The theory behind these amendments generally exhibits consistency with *FutureLV: The Regional Plan*, however the execution of the amendments does not. The LVPC offers the following comments for the Township's consideration to provide guidance on best practices that 'encourage an efficient development process that is responsive to regional needs' (Policy 1.4):

Zoning Ordinance

The proposal adds 'mixed-use village' as a by-right use in the Low Density Residential (R1) Zoning District, requires a minimum tract size of 200 acres, and the lot must be located adjacent to land zoned Industrial Airport (I/A). These tract regulations limit the applicability of mixed-use village uses to this area of the Township (yellow box):



Within this area of the Township where mixed-use villages would be applicable, only one parcel meets the outlined criteria. The intent of the Township's proposal to allow mixed-use village uses makes sense because this is a transitional area of the Township that has seen growing development interest and has the potential to be served by public sewer and water utilities.

However, the LVPC is concerned that the Township, in an admirable attempt to address the needs of the growing residential population, may be creating an indefensible legal issue, through spot zoning, as the new "mixed-use village" is applicable to only one property. Spot zoning was defined by the Pennsylvania Department of Community and Economic Development as "a singling out of one lot or small area for different treatment from that accorded to similar surrounding land from which it is indistinguishable in character for the economic benefit (or detriment) of the property owners." Another key element of spot zoning is that it is usually at odds with a community's comprehensive plan. Spot zoning may be ruled invalid as an "arbitrary, capricious and unreasonable treatment" of a limited parcel of land by a local zoning ordinance.

In their decision for Township of Plymouth v. County of Montgomery (1987), the Court stated the following regarding spot zoning:

"The key point when a municipal governing body puts on blinders and confines its vision to just one isolated place or problem within the community, disregarding a community-wide perspective, that body is not engaged in lawful zoning, which necessarily requires that the picture of the whole