ORDINANCE NO. 07006-01

AN ORDINANCE OF THE TOWNSHIP OF FOSTER, SCHUYLKILL COUNTY, PENNSYLVANIA, A SECOND-CLASS TOWNSHIP, TO AMEND THE FOSTER TOWNSHIP ZONING ORDINANCE TO DEFINE AND INCLUDE SPECIFIC REQUIREMENTS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES; TO RENUMBER CERTAIN SECTIONS OF THE ZONING ORDINANCE TO ACCOMMODATE THE DATA CENTER AMENDMENTS.

The Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania (the "Township"), hereby enacts and ordains as follows:

WHEREAS, The Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, adopted a Zoning Ordinance based upon a duly prepared Comprehensive Plan; and

WHEREAS, said Foster Township Zoning Ordinance provides for amendments pursuant to the Municipalities Planning Code, 53 P.S. § 10101, et seq.; and

WHEREAS, the Board of Supervisors wishes to amend said Township Ordinance; and

WHEREAS, the said amendments have been prepared by the Township Solicitor and Township Engineer and forwarded to both the County and Township Planning Commission for review; and

WHEREAS, public hearings have been held after being duly published in accordance with the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Second-Class Township Code, 53 P.S. §66601(d), specifically allows the Board of Supervisors to consolidate or codify the general body of township ordinances or the ordinances on a particular subject; and

WHEREAS, Foster Township desires for the Zoning Ordinance to be made part of its codification known as the Foster Township Code.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, and it is hereby ordained and enacted by the authority of same that the Ordinance is amended to include the following additions, insertions and modifications:

1. Chapter 2, Section 202, of the Foster Township Zoning Ordinance, entitled Definitions, is amended to add the following definitions:

Data Center: A building or buildings which are occupied primarily by computer and/or telecommunications and related equipment where digital information is processed, transferred and/or stored, primarily to and from offsite locations. This use does not include computers or telecommunications related equipment that is secondary and customarily incidental to an otherwise permitted use on the property, such as servers associated with an office building. This use shall also include cryptocurrency mining, blockchain transaction processing, and server farms. A Data Center may include Data Center Accessory Uses.

Data Center Accessory Use: Ancillary uses or structures secondary and incidental to a Data Center use, including but not limited to: administrative, logistical, fiber optic, storage, and security buildings or structures; sources of electrical power such as generators used to provide temporary power when the main source of power is interrupted; electrical substations; utility lines; domestic and non-contact cooling water and wastewater treatment facilities; water holding facilities; pump stations; water towers; environmental controls (air conditioning or cooling towers, fire suppression, and related equipment); security features, provided such data center accessory uses/structures are located on the same tract or assemblage of adjacent parcels developed as a unified development with a Data Center. The use shall not include energy generation systems used or intended to be used to supply power to the Data Center during normal operations.

Sensitive Receptor: Any residential use, school, preschool, child or adult day-care center, hospital, assisted-living facility, long term care facility, nursing home, personal care home, retirement community, treatment center, community center, place of worship, park (excluding trails), campground, or dormitory.

Sustainable Yield: The amount of ground water that can be safely withdrawn from an aquifer annually without producing an undesirable result. Undesirable results include, but are not limited to, depletion of groundwater storage, the intrusion of water of undesirable quality, the contravention of existing water rights, excessive depletion of surface waters by induced infiltration, and land subsidence.

2. Chapter 3, Section 301, of the Foster Township Zoning Ordinance, entitled Designation of Districts, shall be amended to add:

Section 301.1.10. D-C Data Center Overlay District

3. Chapter 3, Section 301.7, of the Foster Township Zoning Ordinance, entitled Purpose of Each District, shall be amended to modify the language to read as follows:

Section 301.7. Data Center Overlay. Data Center Overlay shall be permitted as a conditional use in all areas of the Township located in the Data Center Overlay.

4. The existing Section 301.7 of the Foster Township Zoning Ordinance, entitled Purpose of Each District, shall be amended so that the entire section is renumbered as Section 301.8, Purpose of Each District, with subsections 301.7.1 through 301.7.9 also being renumbered 301.8.1 through 301.8.9, and shall be further amended to insert a new subsection 301.8.10, D-C, Data Center Overlay, to provide for the definitions and specific requirements or regulations of Data Centers and Data Center Accessory Uses as a conditional use as more fully described in Chapter 13 noted below.

5. The Foster Township Zoning Ordinance shall be amended to add a new Chapter 13 to read as follows:

Chapter 13. Data Center Overlay

SPECIAL PROVISIONS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES.

Section 1301. Applicability and Purpose. Data Centers shall be permitted by Conditional Use in the Data Center Overlay District when approved in compliance with the procedures, standards, and criteria contained in this section as well as the other relevant sections of the Zoning Ordinance.

Section 1302. Dimensional Standards. The dimensional standards of Data Centers and Data Center Accessory Uses shall be in accordance with Section 307 and Appendix B within the I-2 District, with the following exceptions:

1. The maximum building height for a Data Center shall be 60 feet, inclusive of roof-mounted equipment such as cooling and ventilation systems, HVAC units and cooling towers.

2. The maximum height of Data Center Accessory Uses shall be no greater than the height of the principal building.

3. The Minimum Lot Area shall be 110 acres.

4. Data Centers and Data Center Accessory Uses shall be set back 200 feet from the boundary of any Residential District (R-1, R-2) or the lot line of any property developed with a sensitive receptor.

Section 1303. Landscape Buffer. A landscape buffer is required between Data Centers and Data Center Accessory Uses and any adjoining R-1, R-2 Districts and sensitive receptor, or public roadway. The landscape buffer shall comply with the following requirements:

1. The landscape buffer shall be at least 25 feet in width and may be part of the minimum setback distance.

2. Buffer plantings shall consist of native species planted as follows:

a. One (1) large evergreen tree per 25 linear feet of buffer. The size of large evergreen trees shall be a minimum of eight (8) feet in height at the time of planting.

b. One (1) deciduous canopy (shade) tree per 75 linear feet of buffer. Size of canopy (shade) trees shall be a minimum of 2 ½ inch caliper at the time of planting.

c. One ornamental/flowering tree per 50 linear feet of buffer. The size of ornamental/flowering trees shall be a minimum of eight (8) feet in height for multi-stemmed varieties, or 2 ½ inch caliper at the time of planting for single-stemmed varieties.

d. Five (5) shrubs per 25 linear feet of buffer. Size of shrubs shall be fully branched and minimum of three feet in height at the time of planting. Shrubs shall be a combination of evergreen and deciduous species, with a minimum of 50% being evergreen.

3. In the event that existing vegetation is adequate to meet the intent of the required buffer yard to screen the Data Center and Data Center Accessory Uses from adjoining R-1, R-2 Districts, sensitive receptors, and public roadways, the Board of Supervisors, upon recommendation by the Township Engineer and Planning Commission, may determine that existing topography and/or vegetation constitutes all or part of the required buffer yard.

Section 1304. Screening and Fencing

1. To provide visual screening and reduce noise levels, ground-mounted and roof-mounted equipment used for cooling, ventilating, or otherwise operating the facility, including power generation or other power supply equipment, that is located within 300 feet of a public roadway, R-1, R-2 Districts, or the lot line of any sensitive receptor must be fully enclosed, except where not mechanically feasible based on the manufacturer specifications. If it is not mechanically feasible to fully enclose the equipment, it must be fully screened from view using one or more of the following means:

a. The landscape buffer required by subsection 1301.2 above.

b. By existing vegetation that will remain on the property.

c. By the principal Data Center building or an accessory building.

d. A berm averaging a minimum of five (5) feet in height above the adjacent average ground level with a maximum side slope of 3:1, provided that the berm shall be covered by a well-maintained all season natural ground cover and any required screening plantings shall be arranged on the outside and top of the berm.

e. A visually solid fence, screen wall or panel, parapet wall, or other visually solid screen that shall be constructed of materials compatible with those used in the exterior construction of the principal building.

2. Fencing of the property is permitted, provided that fencing along public and private roadways is not chain-link, with or without slatted inserts, and does not include barbed wire or other similarly visibly intrusive deterrence device. An applicant shall not be required to comply with this requirement if fencing is fully screened from view by one or more of the means identified in subparagraph 1 above.

Section 1305. Noise and Vibration

1. The applicant shall demonstrate through a sound study conducted by a professional acoustical expert that the sound generated by a Date Center and/or data Center Accessory Uses during normal operations shall be limited to a maximum daytime (7:00 a.m. to 8:00 p.m. Monday-Friday) decibel level of 7dB(A) and a maximum nighttime and weekend (8:00 p.m. to 7:00 a.m. Monday-Friday and all day Saturday and Sunday) decibel level of 77 dB(A) as measured from the property line of the use. Such sound study shall be conducted using Sound Level Meters described in ANSI S1.4-2104 and generally accepted methodology. A sound study shall be conducted at the following phases.

a. preliminary study shall be conducted as part of the conditional use process. The preliminary sound study shall include recommended sound reducing materials or systems as needed to meet the aforesaid sound limits.

b. An interim sound study shall be conducted during the building permit approval process based upon the proposed user or users of the Data Center and Data Center Accessory Uses depicted on the building plans. Any sound reducing materials or systems recommended by interim sound study shall be incorporated into the construction plans for the use.

c. An as-built sound study shall be conducted six months after issuance of the certificate of occupancy and prior to the final escrow release for any land development phase. An as-built sound study may also be required thereafter by Foster Township. If it is determined by the as-built sound study that there is a violation of the aforesaid noise limits, it shall be considered a violation of this Ordinance.

2. Maximum decibel levels specified herein shall not apply during times of power outage, however the sound studies shall also evaluate and report anticipated decibel levels when all emergency power generation equipment is running, including backup generators.

3. The applicant shall provide a vibration study prepared by a qualified professional that demonstrates that no vibration from the Data Center, Data Center Accessory Uses, or associated equipment will be perceptible to the human sense of feeling beyond the property line.

Section 1306. Water and Sewer

1. If the use will be served by a public water supply, the applicant shall submit documentation from the public authority certifying that the public authority will supply the water needed.

2. If the use is to rely upon nonpublic sources of water, the applicant shall provide a water feasibility study. The purpose of the study is to determine if there is an adequate supply of water for the proposed use and to estimate the impact of the use on existing wells, groundwater, and surface waters in the vicinity. No Data Center shall be approved unless the water feasibility study demonstrates that the anticipated water supply yield is adequate for the project and that the proposed water withdrawals and discharges will not endanger or adversely affect the quantity or quality of groundwater supplies or surface waters in the vicinity. The water feasibility study shall include the following information at a minimum:

a. The projected water demands of the Data Center;

b. The source of water to be used;

c. A description of how water will be used, including the amount or proportion of water to be used for each purpose (e.g., cooling, humidity control, fire suppression, and domestic usage);

d. The long-term safe yield of the water source;

e. A description of the amount of portion of water withdrawn that will be recycled or discharged and by what means;

f. A geologic map of the area with a radius of at least one mile from the site;

g. The location of all existing and proposed wells within 1,000 feet of the property boundary, with a notation of the capacity of all high-yield wells;

h. The location of all surface waters, including perennial and intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps, and estuaries, within 1,000 feet of the property boundary;

i. A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, surface waters, and the groundwater table;

j. A statement of the qualifications and the signature(s) of the person(s) preparing the study.

3. Depending on location, proof of review and approval from the appropriate local, state, and/or federal regulatory agencies for projects with water withdrawals of 100,000 gpd or more, or consumptive uses of 20,000 gpd or more is required.

4. The applicant shall demonstrate that adequate means of wastewater disposal, including domestic wastewater and wastewater used for colling or industrial purposes, have been provided and approved by the Sewage Enforcement Officer and/or the Pennsylvania Department of Environmental Protection.

Section 1307. Power Supply

1. If the applicant proposes to connect the Data Center to the electric grid, the applicant shall provide documentation from the applicable electric service provider certifying that the necessary capacity is available and that electric service provider will serve the Data Center. Known impacts on electric rates or availability for other uses directly attributable to the Date Center project shall be noted.

2. Any energy generation system designed or used to supply power directly to a Data Center during normal operations, including solar, wind, fossil fuel, or nuclear energy generating systems, shall not be considered part of the Data Center use. Such systems shall be considered a separate use and shall be approved according to the zoning regulations applicable to such use.

Section 1308. Emergency Management

1. The applicant shall submit an Emergency Response Plan (ERP) prepared by a qualified professional. The ERP shall:

a. Be reviewed and accepted by the local fire department and emergency management services as part of the conditional use process.

b. Include detailed procedures for fire suppression, containment, ventilation, and evacuation;

c. Include an evaluation of the access roads and hydrant locations within the site to ensure suitable access for emergency equipment within the site;

d. Ensure that all first responders receive adequate training specific to the installed system;

e. Include provisions for annual fire safety inspections demonstrating compliance with fire safety standards to be performed by a qualified professional on behalf of the Data Center.

2. Any Data Center use proposing battery storage or any other device or group of devices capable of storing energy in order to supply electrical energy at a later time, whether the energy is stored for use on-site or off-site, shall demonstrate compliance with National Fire Protection Association (NFPA) Standard 855, Installation of Stationary Energy Storage Systems, or similar standards and must include fire suppression systems designed specifically for battery storage.

3. No Date Center shall be approved unless the applicant demonstrates that procedures for fire suppression, containment, ventilation, and evacuation are sufficiently protective of public health, safety and welfare

Section 1309. Aesthetics

1. Any Data Center and Data Center Accessory Use building façade that faces a road, R-1, R-2, or existing residential use must incorporate at least two of the following design elements every 100 horizontal feet:

a. A change in building material, pattern, texture, or color;

b. A change in building height;

c. Building step-backs or recesses having a minimum depth of five (5) feet.

Section 1310. Parking

1. Data Centers are to be provided with at least two parking spaces for every one employee, based upon the maximum number of employees on site during the largest shift.

Section 1311. Lighting

1. All luminaries must be full cutoff light fixtures, projecting light below the horizontal plane only and shall not reflect towards residential areas.

Section 1312. Additional Requirements

1. Any proposed Data Center or Date Center Accessory Use within the Airport Hazard Zone must comply with all applicable Federal Aviation Administration (FAA) requirements.

a. Review and approval from the FAA will be required within this zone.

6. Severability. If any sentence, clause, section or part of this Ordinance or of the Zoning Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance and the Zoning Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

7. Repealer. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

8. Codification. Pursuant to the Foster Township Zoning Ordinance and the Pennsylvania Municipalities Planning Code, the Foster Township Zoning Ordinance shall hereby be codified to incorporate the above-referenced amendments.

9. Effective Date. This Ordinance shall take effect five (5) days after its adoption.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, this 1st day of July, 2026, in lawful session duly assembled.

ATTEST:

FOSTER TOWNSHIP BOARD OF SUPERVISORS, FOSTER TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA

Secretary

Eugene P Maley
Chairperson

(SEAL)

IN RE: AN ORDINANCE OF THE TOWNSHIP OF FOSTER, SCHUYLKILL COUNTY, PENNSYLVANIA, A SECOND-CLASS TOWNSHIP, TO AMEND THE FOSTER TOWNSHIP ZONING ORDINANCE TO DEFINE AND INCLUDE SPECIFIC REQUIREMENTS FOR DATA CENTERS AND DATA CENTER ACCESSORY USES; TO RENUMBER CERTAIN SECTIONS OF THE ZONING ORDINANCE TO ACCOMMODATE THE DATA CENTER AMENDMENTS.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by the Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, on the 1st day of July, 2026.

TOWNSHIP SEAL

JANET MITCHELL, Secretary
Foster Township
1540 Sunbury Road
Pottsville, PA 17901
Telephone No. (570) 544-4137

Zoning Map

Foster Township

Schuylkill County, Pennsylvania

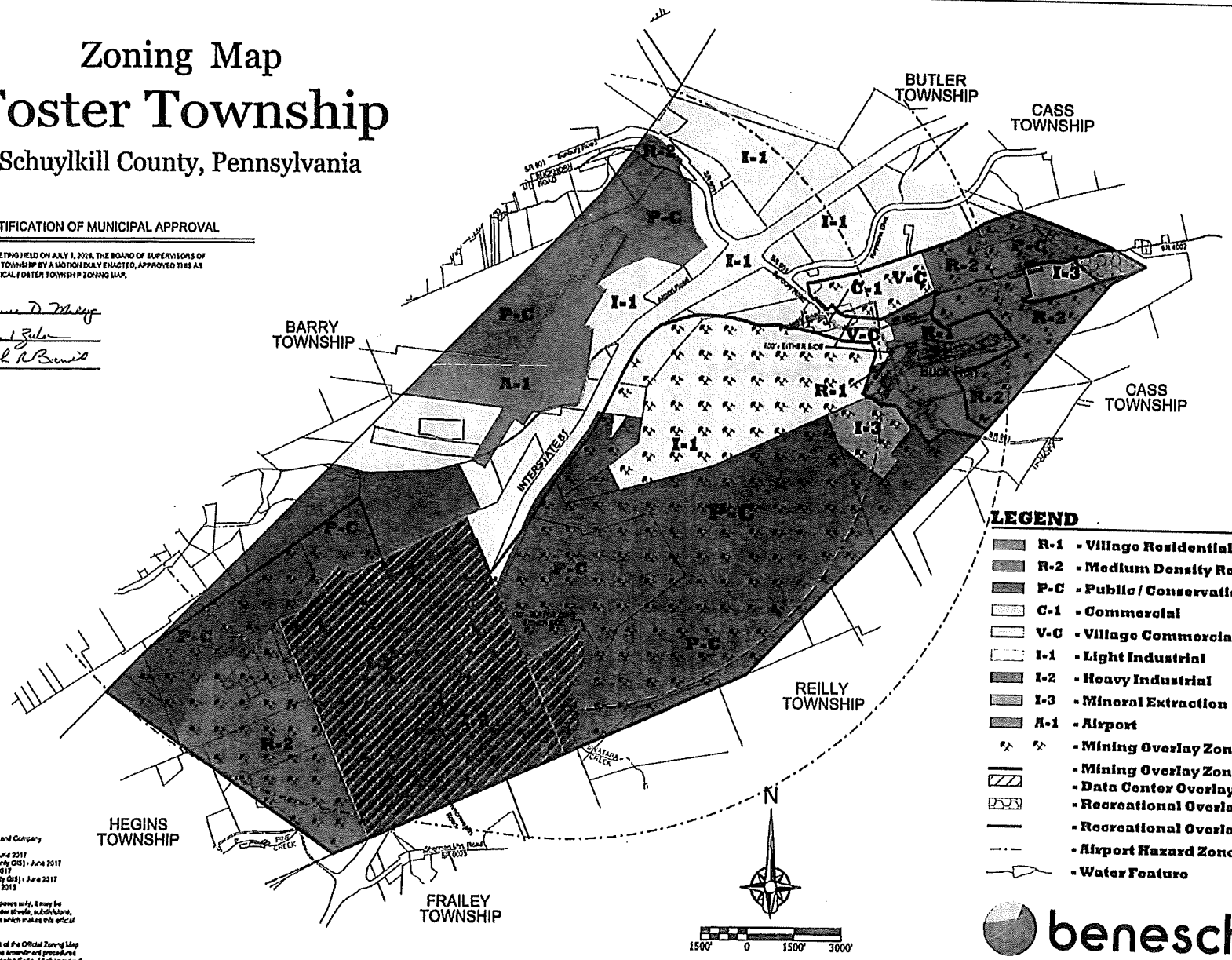
CERTIFICATION OF MUNICIPAL APPROVAL

AT A MEETING HELD ON JULY 1, 2026, THE BOARD OF SUPERVISORS OF FOSTER TOWNSHIP BY A MOTION DULY ENACTED, APPROVED THIS AS THE OFFICIAL FOSTER TOWNSHIP ZONING MAP.

Eugene D. Mizyk

Richard J. Zulas

Jack R. Barnes



LEGEND

- R-1 - Village Residential
- R-2 - Medium Density Residential
- P-C - Public / Conservation
- C-1 - Commercial
- V-C - Village Commercial
- I-1 - Light Industrial
- I-2 - Heavy Industrial
- I-3 - Mineral Extraction
- A-1 - Airport
- - Mining Overlay Zone
- - Mining Overlay Zone Boundary Line
- - Data Center Overlay Zone Boundary Line
- - Recreational Overlay Zone
- - Recreational Overlay Zone Boundary Line
- - Airport Hazard Zone Boundary Line
- - Water Feature

Base map updated by: Alfred Benesch and Company
Data Sources:
Parcel Data (Schuylkill County GIS) - June 2017
Stream and Water Data (Schuylkill County GIS) - June 2017
Roads (Schuylkill County GIS) - June 2017
Municipal Boundaries (Schuylkill County GIS) - June 2017
Airport Overlay (PennDOT) - February 2013

From time to time, for informational purposes only, it may be beneficial to add information, such as new streets, subdivisions, parcels, landmarks, or other information which makes this official map more understandable.

Changes to the boundaries and districts of the Official Zoning Map shall only be made in conformity with the amendment procedure specified in the State Municipalities Planning Code. All changes will be noted by date with a brief description of the nature of the change, either on the map or within an appendix to the Ordinance.

Proposed Zoning Changes added July 2026

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benesch
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