

Allegheny DC Property Company LLC (hereafter to referred to as Allegheny DC) applied for conditional use for a data center. a use not specifically listed as a permitted or conditional use in any zoning district. A data center is not a use defined in the Zoning Ordinance. The Zoning Ordinance for the Borough provides a use not specifically listed as a permitted or conditional use in any zoning district is permitted as a conditional use in the Industrial District. The establishment of a use as a conditional use reflects a legislative decision that the use is not adverse to the public interest.

The Borough Council has carefully considered the Application, testimony and exhibits presented in the hearing. In addition to consultation with the Borough Solicitor, the Borough retained special counsel to review and advise Council concerning the legal obligations of Council in reviewing this conditional use application.

The information presented clearly demonstrated that the Allegheny DC application met the legal standards for approval. Pennsylvania law is clear that upon an Applicant demonstrating compliance with the specific criteria expressed in the zoning ordinance, approval of the application is mandatory and not discretionary.

Borough Council has imposed 19 conditions on the conditional use approval which conditions provide protection to the community from the issues that were raised during its review. Consideration was also given to the legal risks to the Borough of denying the application. Specifically, if the application is denied by Council and that decision was reversed on appeal, which under the circumstances was highly probable, the opportunity to impose conditions on this application would be lost.

Given the legal requirements on the Council in reviewing the Application and all the information and advice available to Council, the decision to approve the application with conditions was in the best interests of Borough.