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CONDITIONAL USE APPEAL PROCEDURES

1. All Conditional Use Appeal applications shall be made in writing on the Conditional Use Application form provided by the Zoning Administrator and shall be in accordance with the Lower Nazareth Township Zoning Ordinance (Z/O) and the Pennsylvania Municipalities Planning Code (MPC). The completed application, with all required fees, site plans and other required information, shall be submitted to the Zoning Administrator. The Applicant is responsible to see that a Township Official notes the date of receipt on the Conditional Use Appeal application.

2. Under the provisions of the MPC only a landowner or a tenant with written permission of the landowner shall file a Conditional Use Appeal Application. Copies of current deed(s) shall be included as evidence of ownership.

3. A Conditional Use submission shall not be considered officially accepted for review until any needed Zoning Variance(s) or Special Exception approval that are directly relevant to the site layout and nature of the use are granted. The Applicant may request an informal review by the Planning Commission of a site plan prior to requesting Variances or Special Exception approval.

4. A complete appeal application requires that all appeal fees are paid, site plans comply with all regulations, and all appropriate and relevant sections of the application are fully completed. All materials must be received on or before the submission deadline. If an application is not fully completed, the application will not be accepted, and the case will not be heard at the next regularly scheduled meeting of the Board of Supervisors and/or the Planning Commission.

   Please refer to the Township Meeting Schedule for the advertised meeting dates of the Board of Supervisors, Planning Commission, and Zoning Hearing Board. This schedule also provides the required submission deadlines.

   A minimum of (9) complete copies of the application and required site plan meeting the requirements of Article 1, Section 122, Site Plan Review, and (1) digital copy shall be submitted to the Zoning Administrator. The Zoning Administrator may refuse to officially accept an incomplete application which does not provide sufficient information to determine compliance with this Ordinance and the site plan requirements.

5. Unless these reviews will be separately addressed under the Lower Nazareth Township Subdivision and Land Development Ordinance (SALDO), the Applicant shall submit (1) copy of the site plan to any public water and sewer supplier requesting confirmation that they can serve the property in question.

6. The Zoning Administrator will report in writing or in person to the Planning Commission or Board of Supervisors stating whether the proposal complies with this Ordinance. The Zoning Administrator may request a review by the Township Engineer.

7. All Conditional Use Appeals are referred to the Planning Commission for their review and recommendations. The Planning Commission will submit its findings and recommendations to the Board of Supervisors prior

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to the Conditional Use Hearing. The Hecktown Volunteer Fire Company will be given an opportunity for a review, if deemed appropriate by the Zoning Administrator. Upon receiving a recommendation from the Planning Commission, the hearing will be scheduled with the Board of Supervisors.

8. Notice of hearing shall be given in accordance with Section 112.1.C of the Z/O. Such notice shall be given to all property owners within 300 feet from the exterior limits of the subject property by regular first-class mail. This Notice will be prepared by the Township.

9. Notice of such hearing shall be conspicuously posted on the affected tract of land by the Zoning Officer a minimum of seven (7) days before the hearing. The Applicant is responsible for the maintenance of the notice. If the notice is removed or destroyed, the Applicant must immediately obtain another notice and conspicuously post it.

10. The Board of Supervisors shall approve, conditionally approve or disapprove the Conditional Use submission within 60 days of application. In granting a Conditional Use, the Board of Supervisors may require such reasonable conditions and safeguards (in addition to those expressed in the Z/O as it determines are necessary to implement the purposes of this Ordinance. The Board of Supervisors shall approve any proposed conditional use if they find adequate evidence that the proposed use will comply with all of the following:

    a) Any specific standards for the proposed use as outlined in the Z/O;

    b) Other applicable sections of this Ordinance;

    c) The SALDO, as applicable, except that engineering details regarding compliance with such Ordinance may be addressed as part of a subsequent approval under such Ordinance; and

    d) Comply with all of the standards listed in Article 1, Section 118 of the Z/O.

11. The Board of Supervisors consists of five (5) members who hear all Conditional Use Appeals. In the event a quorum - three (3) members has not been met, the Applicant will be given the option of having their appeal continued to a date at which a full board can be convened. If the Applicant(s) requests a continuance, the request will be granted provided the Applicant(s) agrees in writing to waive the provision under the M.P.C. requiring that a hearing be held within 60 days of the date of the Applicant's request for a hearing. If the Applicant(s) elects to proceed with a two-member board and the Board's vote is split (i.e. one member voting for and one member against), the appeal is deemed to be denied.

12. The decision of the Board of Supervisors shall be in writing and shall be directly communicated to, delivered to or mailed to the last known address of the Applicant or his/her representative. The Board of Supervisors are permitted forty-five (45) days to render a written decision following the last hearing at which testimony was given or oral arguments were made, or legal memos or briefs filed, whichever is last to occur. A signed copy of the written decision will be sent by certified mail to the Applicant not later than the day following its date.

13. Applicant(s) shall have a right of appeal to the Court of Common Pleas of Northampton County within thirty (30) days after the entry of the decision as provided in §42 Pa.C.S. 5572, or, in case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in Section 908(9) of the MPC.