

## LOWER NAZARETH TOWNSHIP

### Board of Supervisors

RE: Lower Nazareth Realty Partners Revised Land Development

**WHEREAS**, the Lower Nazareth Township Board of Supervisors granted Final Land Development for this project on July 28, 2004 under Resolution LNT-15-04; and

**WHEREAS**, the Lower Nazareth Township Board of Supervisors granted Final Land Development for amended Final Plans on September 13, 2006 under Resolution LNT-20-06, April 9, 2008 under Resolution LNT-10-08, and July 16, 2008 under Resolution LNT-16-08; and

**WHEREAS**, the Lower Nazareth Township Board of Supervisors is in receipt of an amended Land Development entitled "Preliminary/Final Land Development for Lower Nazareth Realty Partners, L.P." prepared by CMX, Allentown, Pennsylvania, consisting of Sheets 1-16, dated March 26, 2004 and last revised December 2, 2009, along with a Condominium Plan (Sheet 3A), dated March 26, 2004, last revised December 2, 2009; and

**WHEREAS**, development of this 9.8 acre tract is now partially complete consisting of one 1,626 s.f. free-standing restaurant, a 14,000 s.f. retail building, an 86-room extended-stay hotel, and a 7,653 s.f. automotive service station with one remaining pad site; and

**WHEREAS**, the intent of this amended Plan is reduction in the footprint of a previously approved gas station/convenience store on the remaining pad site, along with the addition of a walkway across the interior main shopping center drive, fourteen new parking spaces in the vicinity of the retail strip, and sidewalks to the traffic signal crosswalk (both sides) at the main entrance drive; and

**WHEREAS**, the Lower Nazareth Township Zoning Hearing Board granted variances related to this site as outlined in the Order and Opinions for Zoning Appeals #2004-02, #2007-13, #2007-16 and #2007-17 (Exhibits A, B, C, and D respectively);

**WHEREAS**, the Lower Nazareth Board of Supervisors granted Conditional Use approval at their December 3, 2003 meeting (Exhibit E);

**WHEREAS**, the Lower Nazareth Township Planning Commission recommended conditional approval of the amended Final Plan approved under Resolution LNT-16-08 in March 2008; and

**WHEREAS**, the Township Zoning Administrator has reviewed the Revised Final Plan against the provisions of the 2001 Lower Nazareth Township Zoning Ordinance, amended March 23, 2005; and

**WHEREAS**, the Township Engineer has reviewed the amended Final Plan against the provisions of the 2005 Lower Nazareth Township Subdivision and Land Development Ordinance and has offered comments in his letter dated November 17, 2009 and December 2, 2009; and

**WHEREAS**, A Land Development Improvement Agreement and financial security for the public improvements associated with this amended final plan will be required; and

**WHEREAS**, the Lower Nazareth Township Board of Supervisors desire to take final action on this plan.

**NOW THEREFORE, BE IT RESOLVED** that the Lower Nazareth Township Board of Supervisors approve the Final Plan as referenced above, subject to the following conditions:

1. Provided the comments in the Township Engineer's letter dated November 17, 2009 and December 2, 2009 are adequately addressed. Any reports or documentation requested by the Township Engineer must be provided to both the Township and Township Engineer prior to plan recording.
2. Installation of sidewalks in the vicinity of the traffic signals at the main entrance drive is deferred for a period of one year, or December 1, 2010. A determination by the Township as to the need for said sidewalks shall be made prior to December 2, 2010.
3. Denial of request of Applicant to the Pennsylvania Department of Transportation (PADOT) for construction of said sidewalks will not preclude Applicant from completing the approved land development.
4. Appropriate financial security shall be provided to Township for installation of sidewalks and remain in place until such time as sidewalks are either constructed or determined to not be necessary by Township.
5. The Applicant must continue to satisfy the requirements of the Conditional Use Opinion and Order as executed by the Board of Supervisors Chairman and Secretary, and any subsequent actions of the Board relative to said Order and Opinion through the final construction of this project.
6. The Applicant understands that any changes to the proposed uses and/or the land development in general are subject to Township review and may require additional review and approval by the Board of Supervisors and/or outside agencies. Under no circumstances, shall any site work nor construction occur that is not depicted on the approved plan nor approved by Lower Nazareth Township and outside agencies.
7. The applicant is responsible for executing a Land Development Agreement and submitting an acceptable form of security for the public improvements. The applicant acknowledges that the Final Plan will not be signed, nor will the Land Development Improvements Agreement be approved and executed by the Board of Supervisors until the security has been received and deemed acceptable. The applicant understands that no construction can commence, nor will any permit applications be accepted until such time as all conditions of approval are met and the Final Plan has been recorded.
8. The applicant shall supply two (2) Mylar reproducible prints and (2) paper prints of Sheets 3 and 3A of the Final Plan, and four (4) full sets of paper prints. Per the Northampton County Uniform Parcel Identifier Ordinance, the applicant is responsible for placement of property addresses on the above plans. Upon satisfaction of all conditions of approval and placement of signatures on the Plans, the Township shall record, within ninety (90) days of said satisfaction, the approved Plan at the Northampton County Recorder of Deeds Office as required by Section 513(a) of the Pennsylvania Municipalities Planning Code, 53 P.S. Section 10513(a), as amended and Section 520 of the Lower Nazareth Township Subdivision and Land Development Ordinance.


9. Pursuant to Section 111.I. of the Lower Nazareth Township Zoning Ordinance, the Applicant understands that necessary permit(s) must be issued within (9) months of the date of this resolution and construction started within (12) months of issuance of said permit(s). Should the Applicant fail to obtain the necessary permit(s) and/or begin construction within the prescribed time period, it shall be conclusively presumed the Applicant has waived, withdrawn or abandoned the appeals, and all provisions, variances and permits granted by Zoning Hearing Board and Township Staff shall be deemed automatically rescinded.
10. The applicant is prohibited from commencing any construction activities on this project until a pre-construction conference is scheduled and conducted in compliance with Section 536 of the Subdivision and Subdivision Ordinance and a formal Notice to Proceed is issued by the Township. Said pre-construction conference shall not occur until Items 1-6 above have been satisfied to the Township's satisfaction.
11. The applicant shall accept these conditions in writing, within five days of receipt of the finalized Board of Supervisors resolution, otherwise the application is denied for failure to comply with the express conditions that are contained in this Resolution.

**ADOPTED AND APPROVED** this 2<sup>nd</sup> day of December 2009, at a regular public meeting. Motion made by Robert Kusman and seconded by Eric Nagle. The motion carried unanimously.

**ATTEST:**

**BOARD OF SUPERVISORS**

  
Timm A. Tenges, Manager, Secretary/Treasurer

  
Dr. Alan V. Dilsaver, Chairman