

UPPER NAZARETH TOWNSHIP  
Board of Supervisors

Resolution No. 24- 10

**WHEREAS**, the Upper Nazareth Township Board of Supervisors are in receipt of a Final Subdivision Plan entitled "Minor Subdivision for Henry Yeska Jr" prepared by Stateline Engineering Co. LLC, 1087 Market St, Bangor PA 18013, dated August 16, 2023, consisting of (2) sheets and revised February 8, 2024.

**WHEREAS**, the intent of the Plan is the Subdivision of a 75.7-acre parcel property into 2-lots, identified as K7-16-1, Lot 1 being approximately 2 acres & Remainder of lot being approximately 73.7 acres on the Northampton County Tax Parcels.

**WHEREAS**, the Upper Nazareth Township Planning Commission recommended approval of the plan at its April 11, 2024 meeting provided all conditions of the Township Engineer, and the Township Zoning Administrator are addressed: and

**WHEREAS**, the Township Engineer has reviewed the Final Plan against the provisions of the March 6, 2019, Code of Ordinances of Upper Nazareth Township and has offered comments in his letter dated April 5, 2024: and

**WHEREAS**, the Township Zoning Administrator has reviewed the Final Subdivision Plan against the provisions of the March 6, 2019, Code of Ordinances of Upper Nazareth Township, as amended: and

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

**NOW THEREFORE, BE IT RESOLVED** that the Upper 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 April 5, 2024, and 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. The Applicant understands that any changes to the proposed subdivision in general are subject to Township review and may require additional review and approval by the Board of Supervisors and/or outside agencies.
3. For recording, the applicant shall supply three (3) sets of Mylar reproducible prints and (3) sets of paper prints of the Final Plan. These copies will be used for distribution to Upper Nazareth Township Planning Commission and the Township Engineer, and one copy

returned to the Applicant. The applicant is welcome to provide additional copies to be signed for their records. Upper Nazareth Township will obtain all required Township plan signatures. All other required signatures will be the responsibility of the Applicant.

4. Upon satisfaction of all conditions of approval and placement of signatures on the Plans, the Applicant shall record the Plan within ninety (90) days of said satisfaction, the approved Plan shall be recorded at the Northampton County Recorder of Deeds Office as required by Section 513(a) of the Pennsylvania Municipalities Planning Code, as amended and The Code of Ordinances of Upper Nazareth Township.
5. All correspondence regarding the plan shall be directed to the Township or if directed to the Engineer, the Township shall be copied.
6. The applicant shall accept these conditions in writing, within fifteen (15) 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 the Resolution.

**ADOPTED AND APPROVED** this 1<sup>st</sup> day of May 2024 at a regular public meeting. Motion made by Kristin Mullen and seconded by Brian Sayago. The motion carried 4-0

**ATTEST:**

**BOARD OF SUPERVISORS**

Kim Mutarelli  
Kim Mutarelli/Secretary

Scott Sylvainis  
Scott Sylvainis/ Chairman

**APPLICANT:**

[Signature]  
Signature

HENRY D YESKOW JR  
Print Name



April 5, 2024  
UNT-23-013

Upper Nazareth Township  
Planning Commission  
100 Newport Avenue  
Nazareth, PA 18064

BY EMAIL

**RE: Yeska Minor Subdivision**  
**Cycle 2 Preliminary/Final Plan Review**

Commissioners,

A second submission was made on March 21, 2024 for the proposed Preliminary/Final Plan for Minor Subdivision for the Henry Yeska, Jr. farm at 2008 Blossom Hill Road.

**M1. The materials submitted by the Applicant for Cycle 1 review include:**

- a. Letter from Northampton County Farmland Preservation Administrator Maria Bentzoni, dated March 4, 2024 re: program restrictions on granting of right-of-way and easements.
- b. List of Applicant Waiver Requests prepared by Applicant's Agent, Ryan F. Engler of Robert L. Collura Civil Engineers & Surveyors, dated March 20, 2023 [SIC, should be 2024]
- c. Preliminary/Final Major Subdivision Plan, 2 sheets, prepared by Stateline Engineering Co., LLC, dated August 16, 2023, last revised February 8, 2024.

**M2. Supplementary documents received since Applicant's C1 submission include:**

- a. List of Applicant Waiver Requests prepared by Applicant's Agent, Ryan F. Engler of Robert L. Collura Civil Engineers & Surveyors, dated March 20, 2024 [corrected date]

**M3. Materials previously submitted to the Township by the Applicant and not otherwise revised and resubmitted or rendered moot include the following:**

- a. Application for Minor Subdivision – Preliminary/Final Plan, dated August 16, 2023 and marked "New Submission."
- b. Documentation of certified reserve area for on-lot sewage disposal system, received October 18, 2023 – forwarded to Township SEO for review.
- c. LVPC Planning Review letter, dated October 20, 2023.
- d. Township SEO Review letter, dated October 30, 2023.

I. SUBMISSION DESCRIPTION SUMMARY

The submitted material depicts the subdivision of a farm property at 2008 Blossom Hill Road. The property deed is described by two parcels on a single deed (DBV 1999-1 PG 067607) that includes Parcel No. 1 comprised of County Tax Parcels K7-14-5 and K7-16-1, and Parcel No. 2 comprised of County Tax Parcel K7-14-3.

The Applicant proposes to subdivide County Tax Parcel K7-16-1 to create one new lot referred to as Proposed Lot 1 that will isolate the portion of K7-16-1 that is referred to as Exclusion Area #3 in recorded Deed of Agricultural Conservation Easement (DBV 2011-1 PG 14299). Exclusion Area #3 is characterized by a 3-unit residential building, two accessory use farm structures, and primary and reserve on-lot sewage disposal areas.

The remaining lands of Tax Parcel K7-16-1 will be completely under Farmland Preservation.

Note: Pursuant to the recorded Deed of Agricultural Conservation Easement, existing Parcel K7-14-5, on the north side of Blossom Hill Road, has two agricultural conservation exclusion areas incorporated into that parcel. Parcel K7-14-3 is not designated as part of the Agricultural Conservation Easement area as described in DBV 2011-1 PG 14299.

This is a non-building application. Note, however, that under farmland preservation rules, a single residential dwelling can be constructed on a preserved farmland property.

As noted in the LVPC's October 20, 2023 planning review letter, this is a minor subdivision proposal and not a matter of regional concern.

## II. NON-BUILDING DECLARATION APPROACH TO PLAN REVIEW

The subject application is being reviewed based on a Non-Building Declaration approach. Applicant will provide language acceptable to the Township Solicitor on the plan and in the deed of the proposed remainder parcel under Farmland Preservation.

## III. WAIVER/DEFERRAL REQUESTS

The Applicant has submitted a formal waiver/deferral request letter. Our recommendations concerning these waiver requests are attached herewith in **Exhibit A**.

**Action (Planning Commission):** The Planning Commission can make recommendation on all waiver/deferral requests to the Board of Supervisors.

## IV. GENERAL PLANNING/ZONING COMMENTS

1. *The property deed (DBV 1999-1 PG 067606) describes two parcels on a single deed. Parcel No. 1 comprises County Tax Parcels K7-14-5 and K7-16-1 and Parcel No. 2 comprises County Tax Parcel K7-14-3.*
2. *The Applicant has furnished a letter from the Northampton County Farmland Preservation Coordinator stating the Farmland Preservation Administrator's position that the placement of a recreational path, walking path, or any other form of recreational use, would not be a permitted use within an area within an Agricultural Conservation Easement.*

3. Proposed Lot 1 contains an existing, non-conforming use with the existing dwelling having been converted many years ago to a building with three dwelling units. (Zoning Ordinance Ch. 27 Attachment 1) This should be stated on the plan.

V. ACT 167 STORMWATER MANAGEMENT ORDINANCE PROVISIONS

1. *Applicant has provided Act 167 compliance notes on the plan.*
2. Applicant shall revise Act 167 Compliance Note 1. to read:  
PREVIOUSLY SUBDIVIDED PARCEL K7-16-4B UTILIZED 6,573 SF OF  
10,000 SF ALLOCATED TO PARENT PARCEL.

VI. PLAN/APPLICATION PREPARATION COMMENTS

1. On plan sheet 2, tabulate lot areas for: Existing Parcel K7-16-1, Proposed Residual Parcel K7-16-1, and Proposed Lot 1.
2. The flood limits on the property shall be added to the plan. Reference FEMA FIRM 42095C0255E and 42095C0252E (eff. 7/16/2024). (22A-403.5.A.(1))
3. Survey notes should be modified to reference to any previously recorded plans and any applicable covenants or easements, including reference to the recorded Deed of Agricultural Conservation Easement (DBV 2011-1 PG 14298). (22A-403.4.I.(10)).

VII. RIGHT-OF-WAY / SIDEWALK

1. 22A-705.9.A. re: Curb and Sidewalks
  - a. Curbing is not required by SALDO along existing streets.
  - b. Sidewalk is required by SALDO Section 22A-705.9.A.
  - c. We note that the nearest sidewalk is within 2,000 feet along the frontage of the new warehouse at 3353 Gun Club Road, and that Blossom Hill Road is designated as a pedestrian/bike trail route on the Township's Official Map.
  - d. Cross-ref. Exhibit 'A' Waiver Request Recommendations attached herewith.
2. Blossom Hill Road (T-483) Right-of-Way  
Blossom Hill Road (T-483) is functionally classified by the Township as a "Neighborhood Collector" since 2012. Establishment of a 30-ft right-of-way is required by SALDO 22A-705.1.F.

VIII. PLAN PRESENTATION COMMENTS

1. Applicant shall provide a location map depicting the correct area and meeting the requirements of 22A.-303.8. (cross-ref. waiver requests)

2. As applicable, copies of proposed deed restrictions, protective and restrictive covenants shall be referenced on the plan. (22A-403.4.I.(9)) (cross-ref. comment VI.3)
3. Update sheet index both sheets shall be marked " **SHEET TO BE RECORDED** ".
9. Address assignments (22A-504.3.E): correct the address chart as follows

**ADDRESS CHART**

RESIDUAL PARCEL K7-16-1‡ BLOSSOM HILL RD  
PROPOSED LOT 1 2880, 2882, 2884 (3-UNIT RESIDENTIAL BLDG)  
‡ NO ADDRESS NUMBER ASSIGNED – THIS PARCEL IS UNDEVELOPED.

IX. INAPPLICABLE REQUIREMENTS IF NON-BUILDING DECLARATION ACCEPTED

Addressed – non-building declaration accepted.

X. CONDITIONS OF PRELIMINARY/FINAL PLAN APPROVAL

1. Subject to the determination of the Township Solicitor and Zoning Officer, a Recreation Fee may be required in lieu of open space recreation areas. (22A-711.3.A.(6))
2. Provide legal descriptions with plats for:
  - a. Proposed Lot 1
  - b. Deed incorporating descriptions for:
    - i. Parcel 1: Residual Parcel K7-16-1
    - ii. Parcel 2: Existing Parcel K7-14-5
    - iii. Parcel 3: Existing Parcel K7-14-3

The Deed of Agricultural Conservation Easement should be incorporated as an Exhibit attached to the new Deed and the new Deed should note that by the creation and subdivision of Proposed Lot 1, Exclusion Area 3 listed in the Deed of Agricultural Conservation Easement is no longer part of the property.

Also note the provision above to include the Agricultural Nuisance Disclaimer language to each Deed.

3. A final pre-recording check set of the plans in a full-size and to scale, \*.pdf digital file format shall be submitted to the Township Engineer for review prior to the Applicant plotting the plans for recording.
4. As applicable, for any Deed of Dedication or Grant of Right-of-Way Easement required by the Township, the Applicant shall furnish a legal description and plat in 8.5"x11" format to Township Engineer and Solicitor for review. Label legal description Exhibit 'A' and plat Exhibit 'B'. (22A-504.4.E.)

5. Full-size and to scale, \*.pdf digital copies of the final plan(s) approved for recording, the Record Plan fully signed, the Record Plan with recording receipt, and any plans and supporting documents approved by 3<sup>rd</sup> party agencies, shall be provided to the Township for digital archiving with copies provided to the Township Engineer.
6. The Professional Land Surveyor Statement shall be signed and sealed. (22A-504.3.B., 22A-Attachment 2 Sections E. and F.)
7. The Owner's Certification shall be signed and notarized. (22A-505.3.J., 22A-Attachment 2 Sections B. and C.)
8. Upon completion, A PA-licensed Professional Land Surveyor shall submit certification the perimeter monuments noted to be set on the Subdivision plan were accurately set. (22A-504.3.B.)

Based on our review of the submitted material, our office would not object to Preliminary/Final Major Subdivision Plan Approval conditioned on the satisfactory resolution of all waiver requests and the Applicant addressing all outstanding comments (other than Section X.) prior to the plan being presented to the Board of Supervisors.

Please contact the undersigned with any comments or questions regarding this letter.

Sincerely,

**Keystone Consulting Engineers, Inc.**



Kevin J. Horvath, P.E.

Attachments

- Exhibit 'A' – Waiver/Modification/Deferral requests recommendations

Cc: Upper Nazareth Township  
Upper Nazareth Township Zoning Officer  
Ryan Engler, Stateline Engineering

Upper Nazareth Township Manager  
Gary N. Asteak, Esquire  
Henry Yeska, Jr. (via Ryan Engler)

**KCE REVIEW OF APPLICANT-REQUESTED WAIVERS/DEFERRALS**

The Applicant has submitted the following waiver requests in correspondence dated March 20,2024  
The Planning Commission may review the requirements for waiver, modification or deferral.

1. **Section 22A-403.5.A(3) – Requiring a document showing the Geological Mapping of the site with the proposed property limits:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
2. **Section 22A-504.3.C(2) – Requiring cartway width/centerline stationing of ex. streets:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
3. **Section 22A-705-9-A – Sidewalks:**  
We have no objection to this *as a deferral* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
4. **Section 22A-403.5.A(4) – Mapping of woodland, wetland, closed depressions, and other areas:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
5. **Section 22A-403.5.A(5) – Show steep slope distribution within property boundaries:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
6. **Section 22A-403.5.N & 22A-711, Subsection 4 – Karst hazard requirements and performance standards:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
7. **Section 22A-711 & 23B-301 – Tree Row, Woodland, Wetland, Riparian Buffer/Stream Maintenance, and other Environmental Protection Easements:**  
We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.
8. **Section 23B-301.5 – Establishment of floodplain easement**  
We have no objection to the *deferral* of this requirement to make calculations and determine the limit of the 100-yr flood elevation with 0.5 foot of freeboard on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan and on the condition that the FEMA 100-year flood plain is shown on the plan and a note is added to the plan in conformance with **23B-301.5** stating:



FLOODPLAIN RESTRICTIONS

1. EXCAVATION, THE PLACING OF FILL OR STRUCTURES, AND ANY ALTERATIONS WHICH MAY ADVERSELY AFFECT THE FLOW OF STORMWATER OR STORAGE VOLUME WITHIN ANY PORTION OF THE FEMA-ESTABLISHED FLOODPLAIN IS PROHIBITED.
2. A FLOODPLAIN EASEMENT CORRESPONDING TO THE ONE-HUNDRED-YEAR RETURN PERIOD FLOOD ELEVATION LIMIT + 0.5 OF FREEBOARD SHALL BE ESTABLISHED AT SUCH TIME THE DEVELOPMENT OF, OR NON-AGRICULTURAL CHANGE OF USE, OR ABOVE-LISTED PROHIBITED ACTIVITY IS PROPOSED IN THE VICINITY OF THE FEMA-ESTABLISHED FLOODPLAIN.
3. PERIODIC MAINTENANCE OF THE FLOODPLAIN AREA IS REQUIRED TO ENSURE PROPER RUNOFF CONVEYANCE.
4. WATERCOURSES FOR WHICH THE ONE-HUNDRED-YEAR FLOODPLAIN IS FORMALLY DEFINED ARE SUBJECT TO THE APPLICABLE MUNICIPAL FLOODPLAIN REGULATIONS.

9. **Section 22A- 711.2.D.(1) – stream frontage maintenance easements:**

We have no objection to the *deferral* of this requirement on condition that an easement will be established at such time the development of, or a change of use, is proposed for either Residual Parcel K7-16-1 or Proposed Lot 1. A Covenant shall be added to the plan stating:

A STREAM FRONTAGE MAINTENANCE EASEMENT SHALL BE ESTABLISHED IN ACCORDANCE WITH UPPER NAZARETH TOWNSHIP SALDO SECTION 22A-711.2.D.(1) AT SUCH TIME THE DEVELOPMENT OF, OR A NON-AGRICULTURAL CHANGE OF USE, IS PROPOSED FOR EITHER RESIDUAL PARCEL K7-16-1 OR PROPOSED LOT 1, AS APPLICABLE.

10. **Section 22A-403.4.G – requiring documentation of all utilities:**

We have no objection to this *waiver* on the basis of the non-building declaration with no site improvements proposed as part of the submitted subdivision plan.

11. **Section 22A-711.3.B.(3) requiring tree row easements:**

In light of no development or change of use proposed, we have no objection to a *waiver or deferral*, as advised by the Township Solicitor, of the tree row easement requirement until such time development is proposed on any of the parcels involved in this subdivision.

12. **Section 22A-403.4.D. requires a Key Map at a scale of 1"= 1000':**

Applicant has provided a Key Map on Sheet 2 that is not fully compliant with the ordinance requirement. We have no objection to this requested relief for *modification* of the requirements of Section 22A-403.4.D. on condition that the Applicant Label Parcel K7-14-3 on the provided map, outline all three parcels on the common deed with a heavy black line.

13. **Section 22A-303.8. requires a Location Map:**

The Key Map provided on Sheet 2 adequately illustrates the location of the property in this instance. We have no objection to the requested *waiver*.