

**MEDIA BOROUGH  
DELAWARE COUNTY, PENNSYLVANIA**

**RESOLUTION No. 2011-17**

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF  
MEDIA, DELAWARE COUNTY, PENNSYLVANIA, GRANTING FINAL LAND  
DEVELOPMENT PLAN APPROVAL AND LOT LINE CHANGE PLAN  
APPROVAL FOR THE PROPOSED "HAMPTON INN" DEVELOPMENT AT  
BEATTY ROAD AND PROVIDENCE ROAD IN THE BOROUGH OF MEDIA**

**WHEREAS**, Pinnacle hospitality Group, LLC (hereinafter referred to as "Developer") is the equitable owner and developer of a certain tract of land situate in the Borough of Media and located at the southeast corner of Beatty Road and Providence Road (the "Tract"); and

**WHEREAS**, the Developer desires to obtain Final Land Development Approval and Lot Line Change Approval from the Borough of Media (the "Borough") of the Final Plans dated July 2, 2007, last revised August 11, 2011, consisting of 18 sheets (the "Final Plans" or "Final Site Plans") pursuant to Section 508 of the Pennsylvania Municipalities Planning Code (the "MPC"), for the development of the Tract with a proposed "Hampton Inn & Suites" hotel, and related parking, stormwater management, landscaping and other improvements (the "Proposed Development"); and

**WHEREAS**, pursuant to Resolution No. 2011-07, the Borough Council of the Borough of Media approved Preliminary Land Development Plans and Lot Line Change Plans for the Proposed Development, subject to certain conditions set forth in Resolution No. 2011-07; and

**WHEREAS**, the Final Plans have been reviewed by the Media Borough Planning Commission which recommended approval subject to certain conditions set forth herein; and

**WHEREAS**, the Borough Council of the Borough of Media is willing to approve the Final Plans subject to the terms and conditions set forth herein.

**NOW THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Media, Delaware County Pennsylvania, that the Final Plans are hereby approved subject to the following terms and conditions:

1. The approval of Final Plans is conditioned upon Developer obtaining final plan approval from Nether Providence Township, which Developer shall obtain prior to submitting Final Plans for signature to the Borough.

2. Developer agrees to make such post-construction corrections or adjustments to its installed lighting fixtures as may be reasonably required by the Borough Engineer so as to eliminate or reduce glare and spill-over of light onto the Allen Lane and Pennock Place properties.
3. Approval of the Final Plans shall be conditioned upon Developer executing and delivering a perpetual maintenance agreement relating to the stormwater management facilities on the Property, as required and in accordance with the Borough's stormwater ordinance, which shall be recorded against the Property. The Borough shall not execute the Final Plans until this condition is complied with.
4. Developer's Final Plans shall include a note indicating Developer's agreement to indemnify the Borough for any claims relating to stormwater originating from the Property and/or the stormwater management facilities located on the Property. The stormwater maintenance agreement (referred to above) shall also contain an indemnification provision.
5. Approval of the Final Plans is conditioned upon Developer executing and delivering to the Borough a perpetual maintenance agreement relating to the landscaping on the Property, which shall be recorded against the Property. The Borough shall not execute the Final Plans until this condition is complied with.
6. Approval of Final Plans is conditioned upon Developer obtaining Highway Occupancy Permit ("HOP") Application Approval by the Pennsylvania Department of Transportation ("PennDOT") for its proposed driveways. Developer agrees that the Borough shall be under no obligation to issue a building permit until such time as Developer has obtained the HOP and provided a copy to the Borough.
7. Approval of Final Plans is conditioned upon Developer obtaining sewer module approval or a waiver therefrom from the Pennsylvania Department of Environmental Protection. Developer agrees that the Borough shall be under no obligation to issue a building permit until such time as Developer has obtained DEP sewer module approval and provided a copy of such approval to the Borough.
8. No later than one hundred and eighty (180) days following the date of this Resolution, Developer shall apply to PennDOT for a permit to construct a five feet (5') wide sidewalk on the west side of Providence Road from Pennock Place to East Jefferson Street. If approved by PennDOT, Developer shall complete such construction during the construction of the hotel at Developer's sole expense. In the event PennDOT will not approve the installation of a reasonably configured sidewalk to be constructed in this location Developer will make a contribution to the

Borough of an amount equal to its' engineer's estimated construction costs for such sidewalk (which estimate shall be satisfactory to the Borough Engineer). The Borough may then elect to either attempt to obtain PennDOT approval for and install the sidewalk itself or apply said payment in such other manner as the Borough may determine in its sole discretion.

9. Consistent with the MPC Section 509, prior to the Borough's execution and recording of the Final Plans, the Developer shall submit financial security for site improvements (including, without limitation, stormwater management facilities, shade trees, sidewalks - including the sidewalk on the west side of Providence Road from Pennock Place to East Jefferson Street, street lights and landscaping) in an amount satisfactory to the Borough Engineer and in a form satisfactory to the Borough Solicitor. Additionally, the Developer shall execute an agreement to govern the terms of the financial security pursuant to the MPC and subject to the satisfaction of the Borough Solicitor.
10. Consistent with Section 513(a) of the MPC, upon the Borough Council's approval of the Final Plans Developer shall within 90 days of such final approval or 90 days after the date of delivery to Developer of the approved Plans signed by the Borough Council following completion of conditions imposed for such approval, whichever is later, record the Plans in the Office of the Delaware County Recorder of Deeds. Failure to comply with MPC Section 513(a) shall render the approval of the Final Plans null and void.
11. The Developer shall execute a Land Development Agreement, if necessary, subject to the satisfaction of both the Developer and the Borough Solicitor. The Borough shall not execute the Final Plans until this condition is complied with.
12. The land development shall be completed in strict accordance with the contents of the Final Plans, notes on the Final Plans, this Final Approval Resolution and the Land Development Agreement.
13. The cost of accomplishing, satisfying and meeting all of the terms and conditions and requirements of the Final Plans, notes on the Final Plans, this Final Approval Resolution and the Land Development Agreement shall be borne entirely by the Developer and shall be at no cost to the Borough.
14. Developer shall notify the Borough Manager and Borough Engineer at least seventy-two (72) hours prior to the initiation of any grading or ground clearing so that the Borough may ensure that all appropriate erosion and sedimentation control facilities have been properly installed.

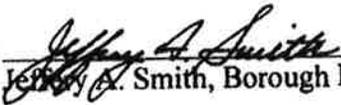
15. Developer shall pay to the Borough of all applicable fees prior to commencing construction on its hotel.
16. Developer shall make a contribution to the Borough in the amount of \$35,000 which the Borough shall apply to the costs of repaving Beatty Road along the frontage of the Tract, installing a traffic signal at the corner of Beatty and Providence Roads or such other street or traffic improvements as the Borough may deem appropriate. This contribution will be paid by developer on or before the 3rd anniversary after the Borough issues the Certificate of Occupancy for Developer's hotel project (the "Due Date"), provided, however, that if the Borough elects to repave Beatty Road prior to the Due Date and repaving occurs after Developer's completion of construction, Developer shall make such contribution within thirty (30) days following written demand therefor from the Borough.
17. Developer shall submit revised Final Plans incorporating the revisions and notations referenced herein, any reasonable revisions specified by the Borough's engineer as necessary prior to Borough Council's execution of the Final Plans, as well as any revisions and notations discussed and agreed upon by Developer during the Council's hearing on this Application and the following comments set forth in the second review letter of Gilmore & Associates dated August 15, 2011 (the "Second Gilmore Review Letter")": comment no. 7 (under the heading Conditions to Preliminary Land Development Approval); comment no. 4 (under the heading Media Borough Streets and Sidewalk Ordinance); comment nos. 20 and 21 (under the heading Pennsylvania Stormwater BMP Manual); comment no. 32 (under the heading Site Plan); comment no. 39 (under the heading Utility Plan); comment nos. 47 and 52 (under the heading Site Details); and comment no. 60 (under the heading Delaware County Subdivision and Land Development Ordinance).
18. Developer's Final Plans shall provide for stormwater management facilities that shall be subject to the approval of the Borough Engineer in the Borough Engineer's sole discretion, and Developer shall make such changes to the Final Plans and the Development with respect to stormwater management facilities as may be required by the Borough Engineer. The Borough shall not execute the Final Plans until this condition is complied with.
19. Developer agrees that the Borough shall not be obligated to issue a building permit until the Borough is satisfied that the emergency generator installation specs indicate compliance with the Borough's noise ordinance. The self-test schedule for the emergency generator must be approved by the Borough.

20. Approval of Final Plans is conditioned upon Developer obtaining an NPDES permit and Erosion and Sedimentation Control permit from the Delaware County Conservation District and/or the DEP. Developer agrees that the Borough shall be under no obligation to issue a building permit until such time as Developer has obtained the NPDES permit and Erosion and Sedimentation Control permit and provided copies of both to the Borough.
21. The Developer acknowledges that issuance of a building permit shall be conditioned upon Developer agreeing to install a fire hydrant on or adjacent to the Property, if, during the building permit phase, the Borough Fire Marshal in his sole reasonable discretion determines that the Property does not have sufficient access to existing hydrants and that closing the adjoining streets to traffic would be necessary in the event of a fire at the hotel Property. In addition, the location of fire hydrants shall be noted on the Final Plans.
22. The Developer acknowledges that issuance of a building permit shall be conditioned upon Developer providing "pump system cross sections missing from sheet 13 of 17 of the Final Plans, labeling the wet well diameter of such, and providing a plan view detail of the pump station.
23. Developer agrees to comply with the following requirements of the Delaware County Land Development and Subdivision Ordinance: §207.2(11)(b) - Provide storm sewer profile and sanitary sewer force main profile; §207.5.1(1) - Provide a letter from the public water service provider that indicates they will serve the proposed development; §207.5.2(1) - Provide a letter from the public sewer service provider that indicates they will serve the proposed development; and §207.6 - Provide a certification of ownership and acknowledgement of plan to be signed by the owner of the property. The Borough shall not execute the Final Plans until this condition is complied with.
24. The sequence of construction on the Final Plans shall be revised to include demolition activities.
25. Developer shall obtain a written temporary easement or license agreement from the owners of the adjacent property along the eastern boundary of the Property to enter onto the property to perform grading work contemplated by the Final Plans.
26. Certifications on sheets 2 and 7 of the Final Plans shall be signed and sealed.
27. The Lot Line Adjustment Plan shall be signed and sealed by a Professional Land Surveyor.

28. **Developer shall revise the sewer planning module application in compliance with comments nos. 67 through 70 (under the heading Sewage Facilities Planning Module) of the Second Gilmore Review Letter.**
29. **Under the provisions of the MPC the Developer has the right to accept or reject conditions imposed by the Borough Council upon final approval. In the absence of an appeal filed in writing within thirty (30) days from the date of this resolution, the conditions set forth herein shall be deemed to have been accepted by the Developer. If the Borough receives written notice of an appeal or rejection of any of the conditions set forth herein within thirty (30) days from the date of this resolution, this approval shall be deemed to have been rescinded and the application denied.**
30. **Council hereby reaffirms the grant of the nine (9) waivers from the Subdivision and Land Development Ordinance that are set forth on the Plans, and which were approved by Resolution 2011-07.**
31. **To the extent that the Delaware County Planning Department has any comments in its review of the Plans, Borough reserves the right to impose addition conditions to the Final Plans in response to such Delaware County Planning Department comments.**

**DULY ADOPTED** this 19<sup>th</sup> day of August, 2011, by the Borough Council of the Borough of Media, Delaware County, Pennsylvania, in lawful session duly assembled.

  
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Peter Alyanakian, Council President

ATTEST:   
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Jeffrey A. Smith, Borough Manager/Secretary