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March 30, 2016

David J. Falcone Esq.  
Saul Ewing LLP  
1200 Liberty Ridge Drive – Suite 200  
Wayne, PA 19087-5569

Re: Request for Preliminary Zoning Opinion – Linden Lane Capital Partners

Dear David:

By your letter dated March 17, 2015 (the “Request”, a copy of which is attached hereto), you requested a preliminary opinion pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code (“MPC”) on behalf of your client, Linden Lane Capital Partners / Station Square LP.

In reviewing the Ordinance in preparation of this opinion, we also reviewed the Conditional Use Application submitted by you on behalf of your client dated March 18, 2016 (the “CU Application”). For purposes of this opinion, we have assumed that the buildings referenced in the Request are the buildings described in the Conditional Use Plan submitted with the CU Application. Specifically, you have requested that the Township provide an opinion confirming that the buildings proposed for construction on the subject property would be “mixed use buildings” under Section 208-71 of the Township’s Zoning Ordinance.

The Zoning Ordinance does not define “mixed-use building.” That said, the project described in your Request clearly contemplates the construction of three buildings, described as Building A, Building B and Building C on the Conditional Use Plan. Accordingly, the only question is whether each of those buildings qualifies as “mixed-use.”

Section 208-6 of the Zoning Ordinance defines the term “mixed use” as, “[o]ne building or one lot used partly for residential use and partly for nonresidential use.” The phrase “nonresidential use” is limited to nonresidential uses permitted under the Town Center District Ordinance. Further, the definition of “mixed use” would exclude any nonresidential use that would qualify as being accessory to the residential use. By way of example, the following uses: parking, clubhouse/entertainment and gathering spaces, fitness facilities, leasing office, property management office, and other similar uses

(regardless of the public's accessibility thereto) would not qualify as the required nonresidential uses to establish "mixed use." The nonresidential uses relied upon in order to establish "mixed use" must be nonresidential uses which could stand alone.

As further guidance, the Purpose section of the Town Center District Ordinance (Section 208-68) states:

Town Center Districts are intended to be consistent with Article VIIA of the Pennsylvania Municipalities Planning Code (Act 247) and are designed to improve the aesthetic quality and walkability of the area and streetscape, support the economic viability of the area, **and promote opportunities for mixed-use buildings which permit residential and nonresidential uses above or behind nonresidential uses.**

Emphasis added. The Purpose section referenced above clearly demonstrates that the spirit of the TCD is to have residential uses combined with bona fide nonresidential use in accordance with the language above.

Your Request represents that each of the three proposed buildings for which you seek confirmation will contain residential and nonresidential uses. The nonresidential uses related to the office space, retail and personal services, if designated as such and made available for lease to the public, would qualify each building housing such uses as "mixed use." As such, for the reasons set forth above, and subject to the clarifications above regarding the meaning of "mixed use", this letter shall confirm that the Township agrees with your interpretation set forth in the Request under Section 208-71 of the Township Zoning Ordinance.

This opinion is limited to the specific facts represented in set forth in the Request. As you correctly point out in the Request, this Opinion does not represent a determination by the Township of any other matters described in the Town Center District Ordinance, and specifically does not entitle your client to any of the zoning bonuses described in Section 208-71. Last, any deviation from the facts presented in the Request could result in the inapplicability of this Opinion.

In order to perfect any rights you may have in this preliminary opinion, you will need to publish the opinion pursuant to Section 916.2(2) of the MPC and provide proof thereof to the Township.

Thank you.

Very truly yours,



Matthew Baumann,  
Assistant Township Manager and  
Director of Planning & Zoning

cc: William Martin, Township Manager  
Reaves C. Lukens, III, Chairman, Board of Supervisors

Victoria Snyder, Planning Commission Chair  
Zachary Barner, Planning & Zoning Coordinator  
Vincent T. Donohue, Township Solicitor