



CITY OF BETHLEHEM

BUREAU OF PLANNING AND ZONING

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June 19, 2024

Michael D. Recchiuti, Esquire



**Re: Properties: 405 Selfridge Street, 406 Jackson Street, 412 Jackson Street
Owner: Lady Mohawk, LLC
Zoning Determination**

Dear Attorney Recchiuti:

Please allow this correspondence to serve as a zoning determination in response to your written request, dated June 14, 2024, for a preliminary opinion pursuant to 53 P.S. § 10916.2 on behalf of your client, Lady Mohawk, LLC (the "Determination Request") concerning the application of the student home overlay amendment to the City's Zoning Ordinance, which was enacted on March 3, 2021 (the "SH Amendment"), to an application for final land development approval filed by your client on October 22, 2020, with respect to the above-referenced properties (the "Final Plan"). In your Determination Request, you sought three determinations:

Specifically, we are seeking [1] a determination of whether the provisions of the amendments limiting student housing would be applied to the October 22, 2020 land development plan, [2] whether that plan is subject to changes in the zoning law that were adopted after the filing of the plan, and [3] whether the use of the townhomes proposed in the land development could be used as student housing in the same manner as existed prior to the enactment of the March 2, 2021 amendments.

Section 508(4) of the Municipalities Planning Code, 53 P.S. § 10508(4)(i), provides as follows:

From the time an application for approval of a plat, whether preliminary or final, is duly filed as provided in the subdivision and land development ordinance, and while such application is pending approval or disapproval, no change or amendment of the zoning, subdivision or other governing ordinance or plan shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed.

The Final Plan does not propose student homes, regulated rental units, or any particular type of residential development. The Final Plan is silent on that matter. The Final Plan proposes a townhome residential development that is compliant with the Zoning Ordinance as it existed in October of 2020 prior to the enactment of the SH Amendment. The current proposed use of the above-referenced properties for student housing is unrelated to the approval of the Final Plan as a “land development” given the Final Plan’s compliance with the October 2020 version of the Zoning Ordinance. Because the Final Plan as filed complies with the Zoning Ordinance, the SH Amendment did not and will not affect the decision on the Final Plan adversely to your client as the applicant.

Therefore, I render the following determinations:

- (1) The SH Amendment applies to your client’s properties.
- (2) The Final Plan is subject to amendments to the City’s Zoning Ordinance if the amendments do not adversely affect a decision on the Final Plan. The SH Amendment will not adversely affect a decision on the Final Plan; therefore, the SH Amendment applies to the proposed use of your client’s lots.
- (3) Pursuant to the SH Amendment, as codified in Article 1327 of the Zoning Ordinance, the proposed townhomes may not be used as student homes. Your client’s properties are not located within the Student Home Overlay District or in any other district (CB, CL, IR-R) where student homes are permitted.

As you know, the issues raised in your Determination Request have been previously and extensively litigated, and the City incorporates herein any arguments advanced by the City in its briefs in such litigation to support the determinations set forth herein.

Pursuant to 53 P.S. § 10914.1(b) and Section 1325.11(a)(2) of the Zoning Ordinance, your client has thirty (30) days to file an appeal from my determinations to the Zoning Hearing Board of the City of Bethlehem. If no such appeal is filed, my determinations will become final, unappealable and binding regarding your client’s proposed use of the properties.

Sincerely,

CITY OF BETHLEHEM



Emanuel Machado, Zoning Officer

Cc: Eray Donmez (via email)

Laura Collins, Director of CED (via email)

Matt Deschler, Esquire (via email)

Darlene Heller, Director of Planning and Zoning (via email)

Craig Peiffer, Assistant Director of Planning and Zoning (via email)