



# Lehigh Valley Planning Commission

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September 25, 2015

Ms. Louise M. Kelchner, City Clerk  
City of Bethlehem, City Hall  
10 East Church Street  
Bethlehem, Pennsylvania 18018

**RE: Zoning Map Revision and Text Amendments – Replacement of the Landmark Conservation and Traditional Neighborhood Development Overlay District (CM-LTN) with the Office Mixed Use District (OMU) at the Martin Tower Site City of Bethlehem Northampton County**

Dear Ms. Kelchner:

The Lehigh Valley Planning Commission (LVPC) Comprehensive Planning Committee considered the subject rezoning at its September 21, 2015 meeting pursuant to the requirements of the Pennsylvania Municipalities Planning Code (MPC).

The redevelopment of the long-vacant Martin Tower property has long been a priority for the City of Bethlehem, and the LVPC encourages any strategic modification in zoning that might abet this process. The creation of this Office Mixed Use (OMU) District is thus consistent with the County Comprehensive Plan, particularly the policy that “supports the renewal, redevelopment and retrofitting of existing shopping centers, industrial sites and office complexes in preference to the development of new facilities on greenfield sites” (page 52). Underutilized for decades and completely vacant since 2007, the Martin Tower site demands a sensitive understanding of the long-standing obstacles to redevelopment, coupled with a regulatory framework that promotes the smartest, highest and best use for this high-profile, desirably located tract. The OMU creates parameters that guide the direction of development toward a mixture of uses while still allowing considerable flexibility as to exactly what that mixture will entail, including demolition of the existing structures on the tract, if necessary.

The LVPC finds no fault with the fundamentals of this OMU district, which, in some respects, modifies the parameters set by the Landmark Conservation and Traditional Neighborhood Development Overlay District that, if adopted, it will replace. Most importantly, however, this new district does not mandate the preservation of the Martin Tower—a contrast from the Landmark Conservation and Traditional Neighborhood Development Overlay District (CM-LTN), which promoted “a mix of uses that is conditioned upon the reuse of this landmark building, which is worthy of preservation” (§1314.01(a)). A few elements of the amendment merit further consideration, and they are listed in the sequence with which they appear in the amendment:

**Sections 1302.105 and 1302.106:** The definitions proposed here for “Restaurant, Fast-Casual” and “Restaurant, Fast-Food” are matters of local concern, but the LVPC fears they could yield problematic results, since the two uses receive different treatment in **Section 1305.01**, where only “Restaurant Fast-Casual” can build a drive-thru service as a permitted by-right use, but “Restaurant, Fast Food” cannot. The major distinction between these two restaurant types is, by definition, that “Fast-Casual” offers “a higher quality of food with fewer frozen or processed

ingredients", while "Fast-Food" offer "food and beverages prepared in a highly-processed fashion". Such qualitative definitions may make it difficult to distinguish between "Fast-Casual" and "Fast Food", while only one of the two uses gets the by-right privilege to build a drive-thru in the OMU district. Since, by definition, both types of restaurants "may or may not have a drive-through service", a fast-food restaurant that seeks a drive-thru in the OMU district may challenge the definition that restricts it, which will be hard to gauge since "higher quality" and "fewer processed ingredients" do not easily function as an objective metric. This conflict, however modest, could be averted if the zoning ordinance specifies that both types of restaurants receive drive-thrus as a by-right use, or if the definitions employ quantitative or more objective metrics to distinguish the two uses.

**Section 1305.01:** The reference to "Group Home within a lawful existing dwelling unit" as a "not permitted" use, while at the same time permitting the residential uses that would typically contain group homes (e.g., multi-family dwellings, single family detached dwelling, or any other) could run afoul of Fair Housing laws, since it could subject certain protected classes—the typical clients in group homes—to different treatment and housing considerations than the rest of the population. If the City has not yet consulted with an attorney, it may be advisable to do so.

**Section 1311.01(g):** The word "principals" should be "principles".

**Section 1311.06(a):** In allowing for decorative pavers to "be used as accents", the LVPC commends the City for effectively reconciling the aesthetics of ornamental sidewalks with long-term maintenance and overall safety considerations. Constructing sidewalks purely of ornamental brick, slate, or other pavers often results in a shorter lifespan for the sidewalk, while the much greater density of interstices created by small pavers results in the propensity for many more irregularities, which in turn can create tripping hazards or impediments to individuals with access and functional needs. The County Comprehensive plan recognizes that "site design can be accomplished to be more conducive to pedestrian travel" (page 82), and one subtle method of achieving this is to combine both aesthetics with safety fundamentals—exactly what this section already achieved, and still does by promoting "[N]ew or replaced sidewalks" to these same standards.

**Section 1314.01:** The LVPC commends the clear and concise statement of purpose, particularly the appropriate emphasis that this OMU district "is intended to encourage ground-floor retail and service uses to create connectivity between the residential and commercial buildings on the overall tract."

**Section 1314.02(a):** The majority of the parameters in this section are of local concern or are consistent with the County Comprehensive Plan. The LVPC would like to address three particular subsections:

- The first asterisk "\*" references "specifically excluding proposed public streets that shall be controlled and/or maintained by a Homeowners' association". It is unclear who the primary steward would be in a "public street" that a Homeowners' Association (HA) maintains. If the street is still open to the public, how would a covenant permit a Homeowners' Association to control it, and what incentive would the HA have in maintaining it? If this addendum intends to reference a right-of-way that, once dedicated, falls under covenants, conditions and restrictions (C C & Rs), a Homeowners' Association could then control them, and the statement becomes clear. However, at that point, such a right-of-way would then function as a private street, which is a development practice that the LVPC does not recommend. Private streets have the potential for inconsistent

maintenance, the burden of which could fall upon the City at a later point, if the HA were to dissolve. Page 65 of the County Comprehensive Plan advises that "municipalities should plan and budget for the orderly development of services", which would include the potential adoption of new, formerly private rights-of-way. The LVPC encourages the City to clarify the intent of this clause.

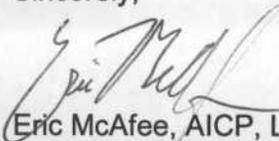
- The second asterisk "\*\*\*" explicitly relieves property owners from the setback when constructing a handicapped ramp, which the LVPC strongly encourages, to promote serving the needs of individuals with disabilities whenever possible.
- The final asterisk "\*\*\*\*" relaxes the provisions for minimum yard requirements in condominium arrangements, which the LVPC also finds laudable for encouraging a housing type for which the region may once again soon see renewed demand.

**Section 1314.02(d):** The LVPC commends the provisions for open land, as well as explicit statements of what can comprise open land, both in terms of use as well as natural features. The provisions also list what cannot count to the requirement: specifically, "[a]reas used for buildings or vehicle parking". The LVPC observes that the City may also wish to include explicit prohibitions for stormwater management infrastructure (e.g., detention ponds, culverts, and drainage swales), to avoid development proposals that attempt to include these uses as viable open land.

**Section 1314.03:** The LVPC commends the City for integrating the mixed-use component thoroughly into the planning process. A suitable mixture of uses is clearly one of the most desired features in the redevelopment of this tract—potentially more desirable than preservation of the existing structures. Thus, the requirement that the "Overall Master Plan shall show proposed uses in enough detail to verify that the ultimate build out of the site will include mixed use development" is vital in ensuring that the earliest stages of redevelopment of the Martin Tower site address the fundamentals of mixed uses and suitable design.

If you have any additional questions regarding the content of this letter, please do not hesitate to call. Kindly send a copy of the final proposed rezoning, per requirements of the MPC. Thank you very much for responding proactively in an effort to expedite redevelopment of a parcel that is central to the Lehigh Valley, both geographically and in terms of visual prominence.

Sincerely,



Eric McAfee, AICP, LEED AP  
Director of Community Planning

cc: Darlene Heller, AICP, Director of Planning and Zoning  
John Spirk, Jr., Esq., City Council Solicitor  
Members of Council