

**ALL COMPLETED MAPS MUST BE FILED 21 DAYS PRIOR TO THE MEETING**

**If plans are not complete, application will be heard at the next available meeting**

**PLEASE HAVE 18 TRAFFICE AND STORM WATER PLANS FOR THE MEETING! 20 PLANS** must be submitted to the Planning Board Office. ANY QUESTION CALL 908-474-8453

**APPLICATION FOR FORMAL SITE PLAN**

Application # \_\_\_\_\_ Date filed \_\_\_\_\_  
Received by \_\_\_\_\_ Fee \_\_\_\_\_

To: City of Linden Planning Board Application is hereby made for Site Plan approval in accordance with the provisions of the City of Linden Zoning Ordinance and more particularly described:

1. Location of Premises 1016 W. Edgar Road (U.S. Route 1/9) a/k/a Legacy Square  
(Street)

469 38.05 (formerly a portion of Lot 38.01) 96  
Tax map block) (Lot number) (Map sheet number)  
Zone PCD - Planned Commercial Development District

2. Owner's Name Linden Development, LLC Phone# (214) 561 - 8800  
Address 8144 Walnut Hill Lane, Suite 1200, Dallas, Texas 75231

3. Applicant's Name Linden Development, LLC  
(If a corporation - state name of corporation and registered Agent )  
Address 8144 Walnut Hill Lane, Suite 1200, Dallas, Texas 75231

4. Proposed Use Restaurant - Fast Food with Drive-Through  
2,591 SF See Attachment  
(building floor area proposed) (no.of employees)

If apartments: Total Units N/A Size of units N/A

5. Area of entire tract 40.04 AC (See Attachment) Zone PCD - Planned Commercial Development District

6. Brief explanation of request: See Attachment

7. Prior Use Industrial (former GM Site)

8. List of all variances (if applicable by Ordinance Section) See Attachment

9. Applicant must give notice of HEARING if VARIANCE is required as per 40:55D-7.1(a)

10. Applicant agrees to Waiver of Time for action by Board: Yes \_\_\_\_\_ No \*To be considered upon request  
NAME AND ADDRESS OF PERSON PREPARING PLAT:

Architect See Attachment PhoneNo. \_\_\_\_\_

Engineer See Attachment Phone No. \_\_\_\_\_  
Linden Development, LLC By: Cypress Linden GP, LLC

Signature Owner See Application Signature Page  
Name: Brian Parro Title: Authorized Signatory

APPLICANT See Application Signature Page  
Name: Brian Parro Title: Authorized Signatory

.....  
(do not write below this line)

Action of Planning Board:

Approved \_\_\_\_\_ Waived \_\_\_\_\_ Disapproved \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Planning Board Chairman and Secretary if application is approved

Chairman \_\_\_\_\_ Secretary \_\_\_\_\_

**ALL PLANS MUST BE IN BY 12:00 P.M. 21 DAYS BEFORE THE MEETING. IF NOT, THE APPLICANT WILL MAKE THE NEXT AVAILABLE MEETING DATE**

MUST BE FILED IN TRIPLICATE WITH THE SECRETARY OF THE PLANNING BOARD

Application for Variance under N.J.S.A. 40:44D-70c

Application# \_\_\_\_\_ Date Filed \_\_\_\_\_

Received by \_\_\_\_\_ Filing Fee \_\_\_\_\_

.....

*SPEAK TO THE COURT REPORTER REGARDING TRANSCRIPT FOR THE MEETING*

To: City of Linden Planning Board:

In conjunction with the variances the following approvals are sought:

- 1. Site Plan approval pursuant to N.J.S.A. 40-55D-76b
- 2. Major or Minor Subdivisions approval pursuant to N.J.S.A. 40:55D-76b

Applicant's Name Linden Development, LLC

Address 8144 Walnut Hill Lane, Suite 1200, Dallas, Texas 75231

Subject premises known as 1016 W. Edgar Road (U.S. Route 1/9)

(Street Address)

Block 469 Lot 38.05\* on the City Tax Map \*formerly a portion of Lot 38.01

Owner Linden Development, LLC Address 8144 Walnut Hill Lane, Suite 1200, Dallas, Texas 75231

Lessee N/A Address \_\_\_\_\_

Zone District PCD - Planned Commercial Development District

Petition Respectfully Seeks Permission to: See Attachment

Is this an appeal from the decision of the Building Inspector? No if so, set forth the date of the decision \_\_\_\_\_ and the substance of the decision \_\_\_\_\_

Zone District PCD - Planned Commercial Development District

Last Previous Use Industrial (former GM site)

Proposed Use Restaurant - Fast Food with Drive-Through

Dimensions of lot See Zoning Table

Lot Area See Zoning Table Square Feet

Size of Building See Attachment Present Ground Floor See Attachment Sq. Ft.

See Attachment Feet Front By See Attachment Feet Deep See Attachment

Height See Attachment Feet Present See Attachment Feet Proposed See Attachment

Percentage of Lot Occupied by Building See Zoning Table %Present

See Zoning Table % proposed

Setback from Property Lines: Front See Zoning Table Feet

Rear See Zoning Table Feet

Side See Zoning Table Feet

Side See Zoning Table Feet

Prevailing Setback of Adjoining Buildings on same block N/A Feet

Use of adjoining Properties Industrial/Vacant

Has there been any previous appeals to the Board of Adjustment, application to the Planning Board, or litigation involving the property? Yes If so, state or appeal date of disposition and outcome: See Attachment

The estimated length of time for presentation of this case is 30-45 minutes

Applicant will present the following witnesses:

Name: See Attachment

Address : \_\_\_\_\_

Attorney for Applicant:

Name: John P. Michalski - Faegre Drinker Biddle & Reath LLP

Address 600 Campus Drive, Florham Park, New Jersey 07932

Phone: # (973) 549-7000

Outline of factual and legal basis upon your claim for relief based on:

See Attachment

Applicant has read and understands the regulation of the Board and will comply with the same. All property owners within 200 feet of the subject property and all other persons or government agencies as required by law have been notified.

Application: \_\_\_\_\_ -

AFFIDAVIT OF APPLICANT

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) SS:

Brian Parro of full age, being duly sworn according to law upon his oath deposes and says: that all of the above statements and the statement contained in the papers admitted herewith are true.

Linden Development, LLC  
By: Cypress Linden GP, LLC

Applicant's Signature See Application Signature Page -

Name: Brian Parro Title: Authorized Signatory

Sworn to and Subscribed

Before Me this \_\_\_\_\_

Day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Public of

The following is to be completed by the owner where applicant is not the owner of the subject property:

AFFIDAVIT OF OWNERSHIP & AUTHORIZATION

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_ ) SS:

I, Brian Parro, of full age, being duly sworn according to law, upon my oath, deposes and says: that I am the owner in fee of the subject property know as Block 469

Lot 38.05\* on the Tax Map of the City of Linden and also known as :

Address 1016 W. Edgar Road (U.S. Route 1/9), Linden

Applicant Linden Development, LLC is hereby authorized to make the within application and the undersigned hereby consents to the make of same.

Linden Development, LLC By: Cypress Linden GP, LLC

See Application Signature Page Signature of Applicant

Name: Brian Parro Title: Authorized Signatory

Sworn to and Subscribed

Before Me This \_\_\_\_\_

Day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Public of

\*formerly a portion of Lot 38.01

APPLICATION SIGNATURE PAGE

OWNER AND APPLICANT:

LINDEN DEVELOPMENT, LLC

By: ~~Cypress Equities GP, LLC~~  
*Cypress Linden Gp, LLC*

By: *Brian Parro*  
Name: Brian Parro  
Title: ~~Authorized Signatory~~  
*COO/VP*

Date: *7-8-2020*

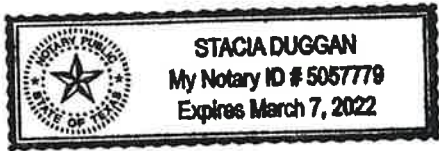
Sworn to and Subscribed

Before Me this *8<sup>th</sup>*

Day of July, 2020

Notary Public of *Texas*

*Stacia Duggan*



## ATTACHMENT TO SITE PLAN APPLICATION

### Formal Site Plan Application

4. **Proposed Number of Employees:** 8 to 10 employees anticipated.
5. **Area of Entire Tract:** The Legacy Square tract is 40.04 AC. The area of the proposed development lot is 30,092 square feet. The proposed development lot is “Lot H (Out-Lot #6),” as identified on the previously approved major subdivision plan (Application No. SD-748-20).
6. **Brief Explanation of Request:** The Applicant is proposing a Freddy’s Frozen Custard & Steakburgers Restaurant with Drive-Thru on Lot H (Out-Lot #6). Some parking, utility and other improvements are also proposed on adjacent Lot I (Out-Lot #7).
8. **List of Variances:**
  - City of Linden Zoning Ordinance Section 31-11.6.e.2 – requires that outdoor trash and recycling bins, sheds, and storage areas be located a minimum of 30 feet from any street or property line and 10 feet from any internal property line, whereas the proposed trash enclosure does not comply.
  - City of Linden Zoning Ordinance Section 31-11.8.f.3(a) – limits use of individually-mounted letters for wall signs to the fronts of stores, whereas such letters are proposed on the sides of the building.
  - City of Linden Zoning Ordinance Section 31-11.8.f.3(d)(1) – limits wall sign area to 2 square feet of sign area for each 1 linear foot of wall to which the sign is to be mounted, up to a maximum sign area of 300 square feet, which would permit a sign area of 74 square feet on the south side (facing Route 1/9) of the proposed building, whereas a sign area of 74.4 square feet is proposed.
  - City of Linden Zoning Ordinance Section 31-11.8.f.3(d)(4) – limits the letter height of the sign message area to 36 inches for upper case letters, whereas 37.5 inch upper case letters are proposed.
  - City of Linden Zoning Ordinance Section 31-19.8.1 – requires 3 to 5-foot landscaped islands between drive-thru lanes and parking area/circulation isles, whereas the proposed plan does not comply.
  - City of Linden Zoning Ordinance Section 31-27.17 - requires a minimum off-street parking setback to side and rear property lines of 3 feet, whereas a setback of 0 feet is proposed.

- City of Linden Zoning Ordinance Section 31-27.7 - requires an interior one-way aisle width for parking areas of 15 feet, where as an aisle width of 10 feet is proposed.

**10. Name and Address of Person Preparing Plat:**

**Architect:** Winter Architects, 1024 East First Street, Wichita, Kansas 67214

**Engineer:** Bohler Engineering NJ, LLC, 30 Independence Boulevard, Suite 200,  
Warren, New Jersey 07059

## ATTACHMENT TO VARIANCE APPLICATION

**Petition Respectfully Seeks Permission to:** See response to Sections 6 and 8 above.

### **Size of Buildings:**

Present Condition: Lot H (Out-Lot #6) is vacant

Proposed Condition: See response to Section 6 above and the architectural plans submitted herewith.

**Prior Litigation:** The Planning Board's prior grant of preliminary and final site plan approval by Resolution dated June 10, 2014, for development of the Legacy Square tract was challenged by an objector and ultimately affirmed by the courts.

### **Witnesses to Be Presented:**

- **Architect:** Brad J. Kern, RA, NCARB, MMA Architects, 3297 Route 66, Neptune, NJ 07753
- **Civil Engineer:** Brad Thompson, P.E., Bohler Engineer, 2430 Highway 34, Building B, Suite 102, Manasquan, NJ 08736
- **Planner:** TBD

\*We reserve the right to call additional witnesses, if necessary.

### **Factual and Legal Basis for Variance:**

The Applicant seeks the variances requested in Section 8 above. The Applicant requires the sign variances to facilitate visibility to vehicular traffic. The trash enclosure and parking setback variances are necessary as a result of the new interior lot lines created by the previously approved subdivision. The variances for the drive-thru landscaped island requirement and the one-way drive aisle wide requirement are necessary to help facilitate better site circulation.

The variance will advance, among others, purposes "A" (public safety) and "H" (free flow of traffic) of the Municipal Land Use Law. The additional signage, larger sign letters and sign area will increase the visibility of the restaurant and assist drivers in locating their destination. The balance of the variances will enhance the site circulation. Such benefits are possible without causing any detriment or substantially impairing the zone plan or Zoning Ordinance. The deviations are de minimis and consistent with the purpose and intent of the PCD Zone, *i.e.* the development of modern commercial retail spaces.

The Applicant will present testimony at the hearing in support of the requested variances and reserves the right to supplement the foregoing or request additional variance relief.