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Memo

To: Steve Strichman, Commissioner

From: Andy Brick, Esq. 

Date: March 4, 2021

RE: Spot Zoning

Steve,

As follow-up to our discussion, here's some additional information about the issue of "Spot Zoning". As I had stated, prior to rezoning any piece of property, the City Council must always make a determination that the rezone proposed conforms with and supports the goals and recommendations of the City's Comprehensive Plan. So long as the City Council reasonably determines that a requested rezone complies with the Comprehensive Plan and benefits the City as a whole, legislative action to rezone property will not constitute spot zoning.

Spot zoning is defined as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of the property to the detriment of other owners. (Rodgers v. Village of Tarrytown, 302 N.Y.115 (1951)). When evaluating a claim of spot zoning, Courts will consider a number of factors including whether the rezoning is consistent with a comprehensive land use plan, whether it is compatible with surrounding uses, the likelihood of harm to surrounding properties, the availability and suitability of other parcels, and the recommendations of professional planning staff. (Boyles v. Town of Bethlehem, 278 A.D.2d 688, (3d Dep't 2000)). No single factor is

dispositive and the ultimate test is whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community (Yellow Lantern Kampground v. Town of Cortlandville, 279 A.D.2d 6, (3d Dep't 2000)). The relevant inquiry is not whether the rezoning will benefit the owner of the property, but whether it benefits the general welfare of the community as whole (Baumgarten v. Town of Northhampton, 35 A.d.3d 1081 (3d Dep't 2006)).

Conclusion

In order to approve a rezone request, the City Council must 1st determine that a proposed rezone complies with the goals and recommendations of the City's Comprehensive Plan and that the rezoning benefits the City as a whole and not just the property owner(s) involved. Should the City Council make these determinations, the rezone would not constitute spot zoning as that term has been defined by NY Courts.

Cc: Richard Morrissey, Esq., Corporation Counsel