

To: Village Council, Village of Aurora, New York
From: James Burkett
Date: March 5, 2024
RE: Comments regarding proposed Zoning Law

I took the opportunity to look more closely at the proposed Zoning Law. It raised some concern that I will address in the following two points.

First, I noticed there were several references to Group Homes, particularly in the definitions, in Article IV, 4.05, Table 1, and in Article VI, 6.07-6. These references to Group Home restricted this use (group home) to Not Permitted or permitted with a Special Use Permit in all areas except those zoned Mixed Use Zones. It also required that Group Homes be located on lots of at least one acre. In my experience these restrictive practices open the Village to a major law suit should an organization want to open a Group Home in Aurora. I was the CEO of an organization that in its array of services operated group homes. At the time of my employment I was familiar with the laws governing the allowed locations of group homes. I can tell you that 20 years ago group homes were allowed by federal law in any zone under the same conditions that allowed single family dwellings. In my tenure our organization was denied a permit to operate a group home because of zoning issues. We sued for a permit and won the case with the judge admonishing the zoning authority for not following the law. While the chances of a group home being located in the village of Aurora may seem remote, it is a possibility, and the restrictive nature of the proposed Zoning Law opens the village to expensive litigation.

Second, I want to address a couple of things in Article VII. In the title of the Article the word "Community" is crossed out and replaced by the word, "Historic." However, throughout the body of Article VII the Preservation Panel is referred to as the Community Preservation Panel. The Panel's preference is that it remain a Community Preservation Panel with jurisdiction over the entire village, **nevertheless the inconsistency in the naming of the Preservation Panel should be cleared up.**

Additionally, proposed Article VII outlines several times in which the Preservation Panel must hold a public hearing. These public hearings not called for in the current law (except the need for a public hearing in the event of an application for demolition of a structure) and create burdensome overreach. I will delineate.

Proposed Section 7.06 requires the Preservation Panel to conduct a public hearing when recommending the designation of an individual landmark, a scenic landmark, or a historic district. After conducting the detailed delineation of the procedure required for the public hearing, and upon recommending the landmark or historic district to the Village Board, the Board is also required to conduct a public hearing using the same method. This is redundancy.

There is no need to conduct two public hearings for the same recommendation. This public hearing should be the responsibility of the Village Board. **Please remove the responsibility for conducting a public hearing as called for in section 7.06 from the Preservation Panel and allow the responsibility to rest solely with the Village Board as it is in the current law.**

In the current law if a permit for demolition is requested the Preservation Panel is required to hold a public hearing. Under the proposed Zoning Law section 7.08, H and I the Preservation Panel may issue or deny a permit for demolition without a public hearing. However, if the application is denied the applicant may appeal the decision based on the decision creating hardship for the applicant. The Preservation Panel is then required to conduct a public hearing to determine whether hardship exists. This is cumbersome. **Please restore the procedure to the existing in which when an applicant asks for a demolition permit, the Preservation Panel will conduct a public hearing before issuing a decision thus allowing the public to voice their concerns about the validity of the demolition itself rather than whether the applicant will experience hardship.**

Proposed Section 7.09, E outlines that the Preservation Panel shall have the authority to

1. determine whether a certificate of appropriateness is needed for the applicant to proceed or
2. to approve work considered replacement in-kind.

For all other applications proposed section 7.10, A applies:

“the Preservation Panel shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness which does not meet the exception of standard in Section 7.09, E.”

This hamstrings the Preservation Panel and slows its work. It creates frustration for the applicant who wants to get on with the work requested and the Panel that is acquainted with the allowances for work in the law. An example of what under present law was approved by the Panel, but would now require a public hearing is: John Miller’s request to build a garage could not have been routinely approved by the Panel. Rather the Panel would have needed to conduct a public hearing to determine whether to allow Mr. Miller to proceed with construction of his garage. **Please remove this requirement for a public hearing and allow the Preservation Panel to issue Certificates of Appropriateness (or denials) without the burden of a public hearing for any work done other than demolition.**

Thank you for your consideration of these concerns.