

January 24, 2024

Mayor James Orman
Village of Aurora
456 Main Street
Aurora, NY 13026

99 GARNSEY ROAD
PITTSFORD, NEW YORK 14534
585.419.8800

TIMOTHY M. FITZGERALD
MEMBER
DIRECT: 585.419.8967
FAX: 585.419.8801
TFITZGERALD@HARRISBEACH.COM

Trustees of the Village of Aurora
Village of Aurora
456 Main Street
Aurora, NY 13026

RE: Aurora Route 90 Group LLC –Proposed Zoning Law Changes

Ladies and Gentlemen:

As you know, this firm represents Aurora Route 90 Group LLC in connection with its property located on Main Street, Village of Aurora, NY, commonly known as McGordon House, including 300 feet of lake frontage on the west side of Main Street (“*McGordon House Property*”). Reference is made to the Summary of Proposed Amendments to the Village of Aurora Zoning Law with the accompanying proposed Zoning Map recently circulated to residents of the Village of Aurora. Hearing no adequate confirmation of the request made under my letter of January 17, 2024, I am compelled to communicate the following in anticipation of this evening’s public hearing on the matter and to preserve all rights and remedies of my client.

Please accept this letter as my client’s formal adamant objection to the proposed designation of its lake frontage property as a component of the Village’s newly proposed Open Space / Outdoor Recreation Zoning District (the “*OS/OR District*”). The text description of the OS/OR District - admitting the Village’s purpose and intention of “*accommodating appropriately located low impact outdoor recreation facilities that serve the public.....intended to protect and further enhance public access to Cayuga Lake*” - is wholly inappropriate for the privately owned McGordon House Property, and/or for any other privately owned lake frontage in the Village of Aurora. In fact, any such attempted designation to that effect would be a regulatory taking, and certainly arbitrary and capricious, unlawful and unconstitutional.

The proposed designation is perplexing, for many reasons, but particularly because Aurora Route 90 Group LLC just granted and conveyed to the Village of Aurora a permanent public pedestrian access easement over and across its lake front property¹. Village residents enjoy public pedestrian rights through that easement like none other.² Moreover, and wildly curious, suspect and egregious is how the Village determined that *not one other village lake front property owner north of lands*

¹ The easement is recorded in the Cayuga County Clerk’s Office at Liber 4400, page 350.

² To our knowledge, and despite the efforts of well-intentioned Village residents to create a pedestrian easement path along the lake through the Village, my client’s easement is and remains the only public pedestrian easement granted by a Village of Aurora lake front property owner. Not even the staunchest proponents of the Village pedestrian path have yet committed their properties to such a permanent property encumbrance.

January 24, 2024
Page 2

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

owned by Aurora Route 90 Group and Wells College should be subject to the same OS/OR Designation? Aurora Route 90 Group and Wells College (and perhaps the southernmost Village landowner) clearly have been targeted for this inappropriate and unlawful designation.

The McGordon House Property is privately owned. It will not be public or community property, nor will it be used as a low impact outdoor recreation facility that serves the public, nor will it provide public access to Cayuga Lake. It is residential property privately owned subject to a mutually agreed upon pedestrian easement benefiting the Village of Aurora and its residents. The Village is not entitled to more, nor may it take more under this troublesome process.

The zoning designation of the lake front portion of the McGordon House Property must not be OS/OR in any circumstance, as it would permit the Village to do indirectly that which it cannot do directly – acquire additional property and access rights from a private landowner without (i) an express written grant from the property owner, or (ii) due process of law including the prosecution of a lawful eminent domain proceeding and payment of compensation. The Village is not permitted to further burden and encumber my client's property, or to take additional property rights to those already held by the Village by an overreaching and unlawful zoning designation.

The process and determination of these zoning designations is flawed and subject to challenge, and I implore the Village to revisit both, with additional input from all Village property owners, this time including even those most egregiously affected.

Very truly yours,

HARRIS BEACH PLLC

Timothy M. Fitzgerald

TMF:

cc: Aurora Route 90 Group LLC