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SENT VIA EMAIL: (jroberson@coventry-ct.gov)

Jana B. Roberson, AICP
Director of Planning & Development
Town of Coventry
1712 Main Street, Coventry, CT 06238

April 25, 2025

**Re: Proposed Modification Town of Coventry Zoning Map to Village Gateway Zone
2.05 Acre Parcel, Located at 1409 Main Street, Coventry, Connecticut**

Dear Ms. Roberson:

As you know, this office represents A1Z7, LLC (the “Applicant”), the record owner of property located at 1409 Main Street, Coventry, Connecticut (the “Property”). Presently, there is a pending application (the “Application”) before the Coventry Planning and Zoning Commission (the “Commission”) concerning the Applicant’s proposal to modify the Town of Coventry Zoning Map to allow for the Property’s entire 2.05 acres to be zoned exclusively in the Village Gateway Zone (“VGZ”). This letter is a supplement to our original correspondence dated April 11, 2025 responding to your staff report (the “Report”). I have also had the occasion to speak to Attorney Roberts, Counsel for the Commission concerning the Report and our concern with the legal implications of one of the recommendations proffered in the Report.

In the Report, Figure 2.1409 shows the current zoning for the property, an approximately 50/50 split between Residential and Village gateway. Figure 3.1409 shows our proposal and Figure 4.1409 shows your proposed modification in the Report. At the last public hearing, it became readily apparent that your recommendation in the Report was borne from a concern with ingress and egress onto Woodland Road. As I noted at the last meeting of the Commission, two other parcels on Woodland Road, immediately adjacent to the Property at issue are already zoned Village Gateway. In 2005, a predecessor Commission approved a large office building on one of these parcels, with ingress and egress onto Woodland Road.

I have had the occasion to discuss your recommendation contained in the Report with other land use attorneys in and outside of my firm and everyone has essentially reached the same conclusion. It is our position that your recommendation in the Report to retain a small piece of the Property as residential in the vicinity of Woodland Road is counter-intuitive and would render the remainder of the parcel unbuildable and unusable. The entire Application was predicated upon the elimination of a dysfunctional lot that contains two different and distinct zoning classifications,

which have created a conflict of zones. Under your proposal, the portion of the Property that will remain residential is nothing more than a non-complaint remnant. If the Commission were to ratify the recommendation contained in your Report, the remainder of the Property still zoned residential would be completely useless, depriving the Applicant of his property rights.

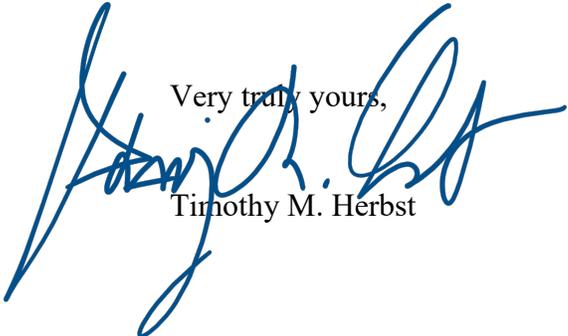
If my client were to attempt to develop the remaining “residential” parcel he would not be able to do so because the manner in which the Report proposes the lot be rezoned would render the remaining residential portion useless. More significantly, the two abutting properties referenced in my April 11, 2025 correspondence currently are and will remain (in any scenario) VGZ with precedent for ingress and egress for commercial traffic onto Woodland Road.

Under Connecticut law, a regulatory taking, also known as inverse condemnation, occurs when government regulation and its economic effect on the property owner render the regulation substantially equivalent to an eminent domain proceeding, thereby requiring the government to pay compensation to the property owner. The primary factors to be considered in determining whether a regulatory taking has occurred include the economic impact of the regulation on the claimant and the extent to which the regulation has interfered with distinct investment-backed expectations. It should be noted that a regulatory taking can also be found if the regulation results in a practical confiscation, meaning the property cannot be used for any reasonable purpose.

The property owner bears the burden of proving that the relevant government entity will not allow any reasonable alternative use of the Property. This also involves a showing that the regulation practically destroys the Property's value for any permanent use to which it can reasonably be put. Under the proposed modification contained in the Report, the Applicant would not be able to develop the remainder of the Property zoned residential as residential. This recommendation is being made when it has been established that there are two other lots immediately adjacent to the Property that are zoned VGZ with primary access onto Woodland Road. Based upon the arguments raised herein, we do not see any legally justifiable reason to rezone the Applicant's property in the manner recommended in the Report.

Accordingly, given that the Report references sections of the Plan of Conservation and Development (“POCD) cited in the Application as a basis *to support* the zone change, the language contained in the POCD should control the entire parcel and the Commission should approve the Application as proposed. We ask that this letter be provided to the Commission in advance of next week's meeting and entered into the administrative record.

Very truly yours,


Timothy M. Herbst

CC: Client
Richard Roberts, Esq.