



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

CITY CLERKS OFFICE  
NEW BEDFORD, MA  
2016 OCT 25 A 10:00  
CITY CLERK

October 25, 2016

Council President Linda Morad  
Honorable Members of the City Council  
City of New Bedford  
133 William Street  
New Bedford, MA 02740

Re: Rezoning Plot 103, Lot 13 from Mixed-Use Business to Residence "C"

Dear Council President Morad and Honorable Members of the City Council:

I am writing to VETO the proposed ordinance that would rezone Plot 103, Lot 13 (127 Hathaway Street, referred to here as the "Property") from mixed-use business to Residence "C." The reason is that the proposal would constitute "spot zoning," which arises "where a zoning change is designed solely for the economic benefit of the owner of the property receiving special treatment and is not in accordance with a well considered plan for the public welfare." Board of Appeals of Hanover v. Housing Appeals Comm., 363 Mass. 339, 362 (1973). Spot zoning is illegal in Massachusetts.

As you know, the Planning Board voted unanimously on August 10, 2016 not to send a favorable recommendation for this proposed zoning change. The Planning Board had several reasons for their vote, all of which support the conclusion that the proposed zoning change constitutes spot zoning.

First, the Planning Board unanimously found that the Property's current zoning of mixed use business is consistent with the surrounding property and that to change the zoning solely for the Property would be wholly inconsistent with the city's zoning. Second, the Planning Board concluded that the proposed zoning change would place a higher demand on the city's utilities and on-street parking. Finally, the Planning Board found that the zoning change ultimately would benefit the Property owner, not the neighborhood. The Property's representative, Pedro Fernandes, stated at the Planning Board meeting that the request to rezone the Property stemmed from difficulty in securing a commercial tenant and an interest in using the Property's equity to purchase another residential property elsewhere in the city. According to Mr. Fernandes, the rezoning change would be necessary to access the Property's equity.

I adopt the Planning Board's findings and hereby VETO the proposed zoning change.

Sincerely,

Jon Mitchell  
Mayor



# CITY OF NEW BEDFORD

In the Year Two Thousand and Sixteen

## AN ORDINANCE

*REZONING PLOT 103, LOT 13 (127 Hathaway Street) FROM MIXED-USE  
BUSINESS TO RESIDENCE "C"*

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

### SECTION 1.

That the property shown on Assessors Maps, as hereto attached, described as  
**PLOT 103, LOT 13 (127 Hathaway Street), be rezoned from MIXED-USE BUSINESS TO  
RESIDENCE "C"**

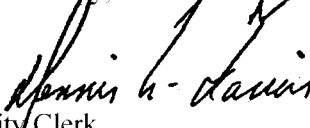
### Section 2.

This ordinance shall take effect in accordance with the provisions of Chapter 40A of the  
General Laws.

Passed to a Second Reading. **IN CITY COUNCIL**, September 08, 2016  
Dennis W. Farias, City Clerk

Passed to be Ordained – Yeas 11, Nays 0. **IN CITY COUNCIL**, October 13, 2016  
Presented to the Mayor for approval October 17, 2016. Dennis W. Farias, City Clerk  
VETO Submitted on October 25, 2016 by Jonathan Mitchell, Mayor.

a true copy, attest:

  
City Clerk