

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
In the Matter of the Application of PRESERVE OUR
BROOKLYN NEIGHBORHOODS, SANDY REIBURN,
JAY REIBURN, CAROLYN HUBBARD-KAMUNANWIRE,
PEREZI KAMUNANWIRE, RAE
LINERSKY, EVA DANIELS, FRED LASKER, JOAN
REUTERSHAN, ANDREW WRIGHT, CAROLYN
WRIGHT, BEN TOURE, DEBRA TOURE, JASON
PRATT, ARIELLA BEN-DOV, REBECCA McBRIDE,
MARTIN GOLDSTEIN, RUTH GOLDSTEIN, MICHAEL
KOVNAT, ROBERT CARR, HALI LEE, PETER VON
ZIEGESAR, GIL GILBERT, PATRICIA H. HAGAN,
MARY NANCE-TAGER, STEVE TAGER, BETSY
KASSAM, CHESTER HIGGINS, HEIDI BRANT, LUCIA
VALENTINO, SHANE VALENTINO, ANNE SHOLLEY,
PETER ERHARTIC, SARA FLOWERS, GEORGE
FLOWERS, THOMAS GUBANICH, MARIBETH
FLYNN, MEG HARPER, AH LING NEU, LUCY
KOTEEN, MARGARET K. OTHROW, PAUL PALAZZO,
SCHELLIE HAGAN, ROSLYN HUEBENER, ESTHER
BLOUNT, ERNEST AUGUSTUS, JOE NAPOLI, ANITA
MALICK, GERARD SCHMIDT, NANCY DOYLE,
BEVERLY EMMONS, PETER SIMON, PHILLIP A.
SAPERIA, JAMES R. GOLDEN, MICHAEL
ROMANELLI and ARTHUR COHEN,

Index No. 159401/2018

**NOTICE OF
APPEAL**

Petitioners,

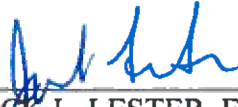
-against-

CITY OF NEW YORK, NEW YORK CITY PLANNING
COMMISSION, NEW YORK CITY COUNCIL, SOUTH
PORTLAND, LLC and RANDOLPH HAIG DAYCARE
CENTER, INC.,

Respondents.

-----X
PLEASE TAKE NOTICE that annexed hereto is a true and accurate copy of a
Decision/Order by the Honorable Lynn R. Kotler, dated, June 18, 2019, entered with the
Clerk of the County of New York against Petitioners on June 20, 2019, Petitioner hereby
appeals the entire Decision to the Appellate Division, First Department.

Dated: New York, New York
July 2, 2019



JACK L. LESTER, ESQ.
Attorney for Petitioners
99 Park Avenue, Suite 1100
New York, NY 10016
(212) 832-5357

To: All Parties (E-File)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X

In the Matter of the Application of

PRESERVE OUR BROOKLYN NEIGHBORHOODS,
SANDY REIBURN, JAY REIBURN, CAROLYN
HUBBARD-KAMUNANWIRE, PEREZI KAMUNANWIRE
RAE LINEFSKY, EVA DANIELS, FRED LASKER, JOAN
REUTERSHAN, ANDREW WRIGHT, CAROLYN
WRIGHT, BEN TOURE, DEBRA TOURE, JASON PRATT,
ARIELLA BEN-DOV, REBECCA McBRIDE, MARTIN
GOLDSTEIN, RUTH GOLDSTEIN, MICHAEL KOVNAT,
ROBERT CARR, HALI LEE, PETER VON ZIEGESAR, GIL
GILBERT, PATRICIA H. HAGAN, MARY NANCE-
TAGER, STEVE TAGER, BETSY KASSAM, CHESTER
HIGGINS, HEIDI BRANT, LUCIA VALENTINO, SHANE
VALENTINO, ANNE SHOLLEY, PETER ENHARTIC,
SARA FLOWERS, GEORGE FLOWERS, THOMAS
GUBANICH, MARIBETH FLYNN, MEG HARPER, AH
LING NEU, LUCY KOTEEN, MARGARET K. OTHROW,
PAUL PALAZZO, SCHELLIE HAGAN, ROSLYN
HUEBENER, ESTHER BLOUNT, ERNEST AUGUSTUS,
JOE NAPOLI, ANITA MALICK, GERARD SCHMIDT,
NANCY DOYLE, BEVERLY EMMONS, PETER SIMON,
PHILLIP A. SAPERIA, JAMES R. GOLDEN, MICHAEL
ROMANELLI, AND ARTHUR COHEN,

Petitioners,

For a Judgment Under and Pursuant to Article 78 of the Civil
Practice Law and Rules

-against-

THE CITY OF NEW YORK, NEW YORK CITY
PLANNING COMMISSION, NEW YORK CITY
COUNCIL, SOUTH PORTLAND, LLC, and RANDOLPH
HAIG DAYCARE CENTER, INC. Respondents.

----- X

**NOTICE OF ENTRY
OF DECISION AND
ORDER**

Index No. 159401/2018

PLEASE TAKE NOTICE that the within is a true and complete copy of the

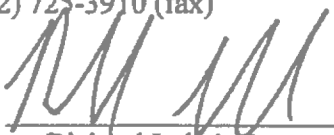
decision and order of the Court, signed by the Honorable Lynn R. Kotler, J.S.C. on June 18,

2019, which was duly entered and filed in the Office of the Clerk of the Supreme Court of New York County on June 19, 2019.

Dated: New York, New York
June 20, 2019

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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. LYNN R. KOTLER, J.S.C.PART 8IN THE MATTER OF THE APPLICATION OF PRESERVE
OUR BROOKLYN NEIGHBORHOODS, et al.

INDEX NO. 159401/18

- v -

MOT. DATE

CITY OF NEW YORK et al.

MOT. SEQ. NO. 001

The following papers were read on this motion to/for Art 78

Notice of Petition/Petition/Amended Petition — Affidavits — Exhibits

NYSCEF DOC No(s). 1-12

Notice of Cross-Motion/Answer/Affidavits — Exhibits

NYSCEF DOC No(s). 15-35, 36-44

Replying Affidavits

NYSCEF DOC No(s). 45-46

This is an Article 78 proceeding which turns on whether petitioners are correct in that a City Council resolution approving a City Planning Commission zoning map amendment constitutes unconstitutional spot-zoning. This court finds that it does not.

The underlying zoning map amendment concerns lot (Lot 37) located at 142-150 South Portland Avenue in the County of Kings, City of New York, State of New York ("the site") for development of a thirteen-story high rise mixed use residential and commercial facility with approximately one hundred dwelling units (the "development" or "project").

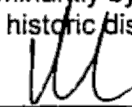
Petitioners are Preserve Our Brooklyn Neighborhoods, an incorporated association of community members of Fort Greene in Brooklyn, who seek "to maintain the contextual neighborhood character of the Fort Greene community, respecting the quiet, residential, low rise brownstone, multi-class and multi-ethnic residential quality of the community", as well as various individual Fort Greene residents who claim they will be adversely impacted by the proposed development.

Respondents are: [1] the City of New York (the "City"), the New York City Planning Commission ("CPC"), the New York City Council (the "City Council" and together with the City and CPC, collectively the "City Respondents"); and [2] South Portland, LLC and Randolph Haig Daycare Center, Inc (collectively the "Developers") who are the private/applicant developers for the proposed project.

Facts

Background

As petitioners allege, the Fort Greene community "is characterized predominantly by three and four story brownstone row houses and adjacent to and surrounded by landmarked historic districts." Fort

Dated: 6/18/19

HON. LYNN R. KOTLER, J.S.C.

1. Check one:

☒ CASE DISPOSED ☐ NON-FINAL DISPOSITION

2. Check as appropriate: Motion is

☐ GRANTED ☒ DENIED ☐ GRANTED IN PART ☐ OTHER

3. Check if appropriate:

☐ SETTLE ORDER ☐ SUBMIT ORDER ☐ DO NOT POST☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

Greene is considered one of the best-preserved 19th century residential neighborhoods in New York City. It is also adjacent to the Special Downtown Brooklyn District ("SDBD"), which was established in 2001 "to provide a transition between the ever expanding downtown commercial core of Brooklyn and the low rise community of Fort Greene." The SDBD is subject to height and setback requirements.

In 2007, the City Council passed a contextual zoning resolution which regulates, *inter alia*, the height of buildings within the Fort Greene neighborhood. In connection with that resolution, the City Planning Commission issued a report which noted:

Under the current R6 zoning, construction of tall apartment buildings without a height limitation is permitted and has resulted in buildings that are inconsistent with the typical brownstone character of the Ft. Greene and Clinton Hill neighborhoods and historic districts. As market demand for housing within these areas has increased, a number of out-of-scale, 11- to 13-story tower developments are proposed or have been constructed that are inconsistent with the low-rise, row house neighborhood character. The proposed rezoning would protect and preserve the historic brownstone, row house character and prevent future out of scale developments while providing opportunities for apartment house construction and incentives for affordable housing on Myrtle Avenue, Fulton Street and Atlantic Avenue within the rezoning area.

The 2007 contextual zoning resolution set a maximum height of six-stories or eighty feet and also created an incentive for affordable housing called an Inclusionary Housing Bonus ("Bonus"). The Bonus allowed an increase in height from a base Floor Area Ratio ("FAR") of 3.45 to 4.6, which would allow a maximum height of ninety-five (95) feet.

The application

This proceeding stems from an application which was filed with the Department of City Planning ("DCP") on September 27, 2017 which sought to upzone the site from the 2007 R7A contextual zoning to an R8A zone as well as to extend the SDBD by allowing commercial development within the zoning site. Presently, the site is improved with a three-story building which houses the CHURCH.

A public hearing concerning the application was held by the City Council on May 30, 2018. On June 28, 2018, the City Council passed the challenged resolution, which "chang[ed] from an R7A District to an R8A District property bounded by a line 115 feet southerly of Hanson Place, South Portland Avenue, a line 235 feet southerly of Hanson Place, and a line midway between South Portland Avenue and South Elliot Place." The City Council noted in the 2018 resolution that the Developer's application "would facilitate a new, approximately 85,900-square-foot mixed residential development with community facility space" and would "change an Inclusionary Housing designated to a Mandatory Inclusionary Housing (MIH) area..."

In this proceeding, petitioners have asserted two causes of action: [1] the challenged resolution is arbitrary, capricious and violative of law, constituting unlawful spot zoning (first cause of action); and [2] the challenged resolution violates the State Environmental Quality Review Act ("SEQRA") and the City Environmental Quality Review ("CEQR"). In addition to declaratory judgment, petitioners seek a judgment annulling and vacating the challenged resolution, enjoining Respondents from proceeding with the development, pending compliance with applicable law and awarding petitioners their costs, disbursements and attorneys' fees;

The City Respondents have answered the petition and oppose it. The Developers have also answered the petition and cross-move to dismiss on the grounds that petitioners failed to serve them pursuant to CPLR § 7804[b].

Discussion

At the outset, the court must grant the cross-motion to dismiss all but petitioners' second cause of action. Petitioners concede that these claims seek review pursuant to CPLR Article 78, which is subject to a four-month statute of limitations. Since petitioners did not timely serve the petition on the developers, who are necessary parties to this proceeding, the court is without power to consider the relief requested. Accordingly, the second cause of action is severed and dismissed.

Even if the court were to consider petitioners' SEQRA and CEQR challenges, they nonetheless fail on the merits. SEQRA challenges are reviewed under the deferential "arbitrary and capricious" standard in Section 7803(3) of the CPLR. (*Riverkeeper, Inc. v. Planning Bd. of Town of Southeast*, 9 NY3d 219 [2007]). "Judicial review of an agency determination under SEQRA is limited to whether the agency identified the relevant areas of environmental concern, took a hard look at them, and made a reasoned elaboration of the basis for its determination." (*Id.* at 231-232 [internal quotations omitted]). "It is not the role of the court to weigh the desirability of the proposed action, choose among alternatives, resolve disagreements among experts, or substitute its judgment for that of the agency" (*Fisher v. Giuliani*, 280 AD2d 13, 19-20 [1st Dept 2001]).

Here, there can be no dispute that the City Respondents took the requisite "hard look" at the environmental effects of the development, as evidenced by the Environmental Assessment Statement and Supplemental Studies to the EAS ("EAS"). The EAS illustrates that the project's environmental impact and effects on socioeconomic conditions, the Fort Greene community and mass transit were all considered before the City Council passed the challenged resolution.

According to the EAS, the site has an improvement on it that is not landmarked or otherwise historic, the project will result in land-use consistent with the area and there are two other fifteen-story buildings on the same block as the site. To the extent that petitioners take issue with the construction itself, they have not demonstrated that the construction will pose any risks greater than those ordinarily accompanying construction-related activities in New York City. On that note, such risks should be properly accounted for by the City's Department of Buildings and other applicable rules and regulations. Such a conclusion is rational and should not be second-guessed by the court (*Friends of P.S. 163 v. Jewish Home Lifecare, Manhattan*, 30 NY3d 416 [2017]; see also *In re Community United to Protect Theodore Roosevelt Park v. City of New York*, 171 AD3d 567 [1st Dept April 18, 2019]).

Otherwise, the projects adverse impacts on the environment and transportation will not be significant.

Petitioners are correct, however, that the first cause of action goes beyond CPLR Article 78 review. Instead, petitioners are challenging the constitutionality of the challenged resolution. Therefore, the court will deem petitioners' service timely *nunc pro tunc* pursuant to CPLR § 306-b and consider the parties' arguments as to the first cause of action on the merits.

Zoning is a legislative act, and it is presumptively constitutional (*Asian Americans for Equality v. Koch*, 72 NY2d 121 [1988]). In order to prevail here, petitioners must meet a heavy burden. They must establish that the challenged resolution is unconstitutional beyond a reasonable doubt. (*Id.*) A zoning resolution will be upheld if "there is a reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end" (*id.* at 132 quoting *McMinn v. Town of Oyster Bay*, 66 NY2d 544 [1985] [internal quotations omitted]).

The Court of Appeals has defined "spot zoning" 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 such property and to the detriment of other owners" (*Rodgers v. Tarrytown*, 302 N.Y. 115, 123, 96 N.E.2d 731, 734 [1951]). A zone use plan must accord with "a well-considered plan for the community" (*Gernatt Asphalt Products, Inc. v. Town of Sardinia*, 87 NY2d 668 [1996] citing *Asian Ams. For Equality v. Koch*, 72 NY2d at 131 [1988]).

Here, there can be no legitimate dispute that the development will create approximately one hundred new affordable apartments and community space for the church. Accordingly, petitioners have failed to establish that the challenged resolution does not accord with a well-considered plan calculated to serve the general welfare of the community (see *Randolph v. Town of Brookhaven*, 37 N.Y.2d 544, 547 [1975]).

Indeed, petitioners' arguments largely highlight their dispute as to whether the development will serve their own interests. Petitioners seemingly fail to acknowledge that Fort Greene is only part of New York City, and their own interests cannot be the sole consideration regarding zoning and development. Petitioners lost their battle against the project at the legislative level and now have resorted to court intervention. Yet legislative action is not required to satisfy the universe of affected persons. Mere dissatisfaction is not sufficient to warrant the relief petitioners seek.

Petitioners' contention that the challenged resolution is in contravention to the 2007 contextual zoning resolution is rejected. As respondents correctly argue, "zoning is not static" (*Kravetz v. Plenge*, 84 AD2d 422 [4th Dept 1982]).

Otherwise, petitioners' arguments amount to little more than a siren song about the landscape of the City and the perils of large-scale developments. While the court acknowledges petitioners' concerns, they are unavailing in the context of this proceeding. Rather, such arguments are nothing more than a red herring. Certainly, the Developers will naturally situate themselves so as to realize a financial gain; that is the very nature of capitalism. However, this fact does not compel the conclusion that the challenged resolution was enacted solely for their own benefit on this record (see i.e. *Rodgers v. Village of Tarrytown*, 302 NY 115 [1951]).

Accordingly, the balance of the petition must be denied.

CONCLUSION

In accordance herewith, it is hereby

ORDERED that the cross-motion to dismiss is granted to the extent that the second cause of action is severed and dismissed; and it is further

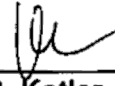
ORDERED that the balance of the petition is denied and this proceeding is dismissed and the Clerk is directed to enter judgment accordingly.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby expressly denied and this constitutes the Decision and Order of the court.

Dated:

6/18/19
New York, New York

So Ordered:


Hon. Lynn R. Kotler, J.S.C.

Supreme Court of the State of New York

Appellate Division: Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order, to show cause by which the matter was or is to be commenced, or as amended.		For Court of Original Instance	
Preserve Our Brooklyn Neighborhoods, et.al. <div style="text-align: center;">- against -</div> City of New York, et.al.		Date Notice of Appeal Filed	
Case Type		For Appellate Division	
<input type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input checked="" type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceedings <input checked="" type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278 <input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Executive Law § 298 <input type="checkbox"/> CPLR 5704 Review	
Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.			
<input checked="" type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input checked="" type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Informational Statement - Civil

Appeal

Paper Appealed From (Check one only):

If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Amended Decree | <input type="checkbox"/> Determination | <input checked="" type="checkbox"/> Order | <input type="checkbox"/> Resettled Order |
| <input type="checkbox"/> Amended Judgement | <input type="checkbox"/> Finding | <input type="checkbox"/> Order & Judgment | <input type="checkbox"/> Ruling |
| <input type="checkbox"/> Amended Order | <input type="checkbox"/> Interlocutory Decree | <input type="checkbox"/> Partial Decree | <input type="checkbox"/> Other (specify): |
| <input checked="" type="checkbox"/> Decision | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree | |
| <input type="checkbox"/> Decree | <input type="checkbox"/> Judgment | <input type="checkbox"/> Resettled Judgment | |

Court: Supreme Court

County: New York

Dated: 06/18/2019

Entered: 6/20/2019

Judge (name in full): Lynn R. Koller

Index No.: 159401/2018

Stage: ☐ Interlocutory ☒ Final ☐ Post-FinalTrial: ☐ Yes ☒ No If Yes: ☐ Jury ☐ Non-Jury

Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court? ☐ Yes ☒ No

If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

Original Proceeding

Commenced by: ☐ Order to Show Cause ☒ Notice of Petition ☐ Writ of Habeas Corpus Date Filed: 10/10/2018

Statute authorizing commencement of proceeding in the Appellate Division: Article 78 and Article 55 of the CPLR

Proceeding Transferred Pursuant to CPLR 7804(g)

Court: Choose Court

County: Choose County

Judge (name in full):

Order of Transfer Date:

CPLR 5704 Review of Ex Parte Order:

Court: Choose Court

County: Choose County

Judge (name in full):

Dated:

Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

The Appeal is from an Order denying the Article 78 Petition seeking to annul a zoning resolution of the New York City Council.

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The issues to be raised on appeal are the failure of the Court below to correctly determine the arbitrary and capricious nature of the Municipal Respondents' approval of the challenged Zoning Resolution. The Zoning Resolution at issue in this proceeding violated the State Environmental Quality Review Act and the implementing regulations set forth in the City Environmental Quality Review. The City failed to take a "hard look" at the impact of the proposed zoning change on the pre-existing 2007 contextual Zoning Resolution. The challenged Zoning Resolution also constitutes Spot Zoning by virtue of the fact that the zoning change benefited a single developer located on discrete block to the detriment of the surrounding community without any reasonable or rational public benefit. The Court below also incorrectly made a determination based upon a wrongful interpretation of the statute of limitations.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Preserve Our Brooklyn Neighborhoods	Petitioner	Appellant
2	Sandy Reibum	Petitioner	Appellant
3	Jay Reibum	Petitioner	Appellant
4	Carolyn Hubbard-Kumunanwire	Petitioner	Appellant
5	Perezi Kumunanwire	Petitioner	Appellant
6	Rae Linersky	Petitioner	Appellant
7	Eva Daniels	Petitioner	Appellant
8	Fred Lasker	Petitioner	Appellant
9	Joan Reutershan	Petitioner	Appellant
10	Andrew Wright	Petitioner	Appellant
11	Carolyn Wright	Petitioner	Appellant
12	Ben Toure	Petitioner	Appellant
13	Debra Toure	Petitioner	Appellant
14	Jason Pratt	Petitioner	Appellant
15	Ariella Ben-Tov	Petitioner	Appellant
16	Rebecca McBride	Petitioner	Appellant
17	Martin Goldstein	Petitioner	Appellant
18	Ruth Goldstein	Petitioner	Appellant
19	Michael Kovnat	Petitioner	Appellant
20	Robert Carr	Petitioner	Appellant

Informational Statement - Civil

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

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City: New York

State: NY

Zip: 10016

Telephone No: 2128325357

E-mail Address: jllcomlaw@aol.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 1-20

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

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E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

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State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Informational Statement - Civil

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No.	Party Name	Original Status	Appellate Division Status
1	Hali Lee	Petitioner	Appellant
2	Peter Von Ziegesar	Petitioner	Appellant
3	Gil Gilbert	Petitioner	Appellant
4	Patricia H. Hagan	Petitioner	Appellant
5	Mary Nance-Tager	Petitioner	Appellant
6	Steve Tager	Petitioner	Appellant
7	Betsy Kassam	Petitioner	Appellant
8	Chester Higgins	Petitioner	Appellant
9	Heidi Brant	Petitioner	Appellant
10	Lucia Valentino	Petitioner	Appellant
11	Shane Valentino	Petitioner	Appellant
12	Anne Sholley	Petitioner	Appellant
13	Peter Erhartic	Petitioner	Appellant
14	Sara Flowers	Petitioner	Appellant
15	George Flowers	Petitioner	Appellant
16	Thomas Gubanich	Petitioner	Appellant
17	Maribeth Flynn	Petitioner	Appellant
18	Meg Harper	Petitioner	Appellant
19	Ah Ling Neu	Petitioner	Appellant
20	Lucy Koteen	Petitioner	Appellant

Informational Statement - Civil

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: The Law Offices of Jack L. Lester, Esq.

Address: 99 Park Avenue, Ste. 1100

City: New York

State: NY

Zip: 10016

Telephone No: 2128325357

E-mail Address: jllcomlaw@aol.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☒ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

1-20

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☒ Pro Se ☐ Pro Hac Vice

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Party or Parties Represented (set forth party number(s) from table above):

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The issues to be raised on appeal are the failure of the Court below to correctly determine the arbitrary and capricious nature of the Municipal Respondents' approval of the challenged Zoning Resolution. The Zoning Resolution at issue in this proceeding violated the State Environmental Quality Review Act and the implementing regulations set forth in the City Environmental Quality Review. The City failed to take a "hard look" at the impact of the proposed zoning change on the pre-existing 2007 contextual Zoning Resolution. The challenged Zoning Resolution also constitutes Spot Zoning by virtue of the fact that the zoning change benefited a single developer located on discrete block to the detriment of the surrounding community without any reasonable or rational public benefit. The Court below also incorrectly made a determination based upon a wrongful interpretation of the statute of limitations.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Margaret K. Othrow	Petitioner	Appellant
2	Paul Palazzo	Petitioner	Appellant
3	Schellie Hagan	Petitioner	Appellant
4	Roslyn Huebener	Petitioner	Appellant
5	Esther Blount	Petitioner	Appellant
6	Ernest Agustus	Petitioner	Appellant
7	Joe Napoli	Petitioner	Appellant
8	Anita Mallick	Petitioner	Appellant
9	Gerard Schmidt	Petitioner	Appellant
10	Nancy Doyle	Petitioner	Appellant
11	Beverly Emmons	Petitioner	Appellant
12	Peter Simon	Petitioner	Appellant
13	Phillip A. Saperia	Petitioner	Appellant
14	James R. Golden	Petitioner	Appellant
15	Michael Romanelli	Petitioner	Appellant
16	Arthur Cohen	Petitioner	Appellant
17	City of New York	Respondent	Respondent
18	New York City Planning Commission	Respondent	Respondent
19	New York City Council	Respondent	Respondent
20	South Portland, LLC	Respondent	Respondent

Informational Statement - Civil

Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

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Address: 99 Park Avenue, Ste. 1100

City: New York

State: NY

Zip: 10016

Telephone No: 2128325357

E-mail Address: jllcomlaw@aol.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above): 1-16

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

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Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

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No.	Party Name	Original Status	Appellate Division Status
1	The City of New York	Respondent	Respondent
2	New York City Planning	Respondent	Respondent
3	New York City Council	Respondent	Respondent
4	South Portland, LLC	Respondent	Respondent
5	Randolph Haig Daycare Center, Inc.	Respondent	Respondent
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Informational Statement - Civil

Attorney Information

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Attorney/Firm Name: New York City Law Department

Address: 100 Church St

City: New York

State: NY

Zip: 10007

Telephone No: (212) 356-2196

E-mail Address: ekim@law.nyc.gov

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

1-5

Attorney/Firm Name: SHELDON LOBEL P.C.

Address: 18 E 41st St

City: New York

State: NY

Zip: 10017

Telephone No: (212) 725-2727

E-mail Address: fbetan@sheldonlobelpc.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

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Informational Statement - Civil