

j. A Word About Spot Zoning.

Spot zoning is used by many people to describe many different zoning actions. Often, this phrase is improperly used to frighten municipalities away from land use controls that would have a positive impact upon the community if implemented.

Spot zoning is segregating a single parcel or group of parcels for preferential or unequal adverse treatment: "An area is spot zoned when it is singled out for treatment different from that of similar surrounding land which cannot be justified on the bases of health, safety, morals or general welfare of the community and which is nor in accordance with a comprehensive plan." [Miller v. Town of Tilton](#), 139 N.H. 429, 431-32 (1995) (*internal quotations and citation omitted*). "The mere fact that an area is small and is zoned at the request of a single owner and is of greater benefit to him than to others does not make out a case of spot zoning if there is a public need for it or a compelling reason for it." *Id.* For example, an ordinance which allows a municipality to "respond to private entreaties from land owners" for rezoning "without regard to the surrounding community" constitutes spot zoning. [Cheney v. Village 2 at New Hope](#), 241 A.2d 81, 84 (Pa. 1968). However, a rezoning which is supported by the public which, for example, extends an agricultural buffer zone further into an industrial-zoned area is not spot zoning. [Miller](#), 139 NH. at 432.

Conditional rezoning and contract zoning are sometimes improperly equated to spot zoning. However, many types of rezoning are not actually spot zoning. "[T]he real test for spot zoning is whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community. [This] depends on the reasonableness of the rezoning in relation to neighboring uses" [Mayor and Council of Rockville v. Rylyns Enterprises](#), 814 A.2d 469, 481 (Md 2002).

From *Innovative Land Use Controls: Reexamining Your Zoning Ordinance* - [NHMA Law Lecture #3](#), Fall 2012 (page 24)