

**Minutes of the
TROY CITY COUNCIL
PLANNING COMMITTEE
August 27, 2020
6:00 P.M.**

Due to the COVID-19 crisis, this meeting was held remotely via videoconference.

The meeting was called to order at 6:04 p.m. by Committee Chair Cummings.

Pledge of Allegiance

Roll Call: The roll being called, the following answered to their names: Council Member Ashe-McPherson, Council Member Steele, Council President Mantello (ex officio), Council Member Cummings, Chair. Council Member Gulli, Council Member Zalewski, and Council Member McDermott were also present.

In attendance were Commissioner of Planning & Economic Development Steven Strichman and City Engineer Aaron Vera. Kevin Vandenburg, Jamie Easton, and Justin DiVirgilo joined the meeting to discuss the proposed development in Lansingburgh.

Public Forum:

- Sarah Pezdek
- Roberto Borrero
- Jeffrey Anzevino
- Phillip Oswald
- Elizabeth Moran
- Rhea Drysdale
- Jessica Bennett
- Lee Nelson
- Melissa Bromley
- Kristoph DiMaria
- Steve Pierce

Written statements were received from the following groups and individuals and are appended to these minutes:

- Sarah Pezdek
- Rhea Drysdale
- The Friends of the Mahicantuck
- Kristoph DiMaria
- Elizabeth Moran
- Nathan Allison
- Phillip A. Oswald
- John Gowdy

Commissioner Strichman gave updates on the following projects:

- 1 Monument Square
- COVID Response/Business support
- State Street Redesign
- Hoosick St/Rt. 7 Redesign
- Marina/Seawall
- Riverfront Park Extension/Riverfront trail
- Powers Park
- Industrial Road/South Troy Remediation
- Comprehensive Re-Zoning
- Wayfinding

67. Ordinance Authorizing Amendment Of City Of Troy Zoning Map Established By Troy Code Section 285-49 (A) To Rezone Tax Map Parcel Number 70.64-1-1 On 2nd Avenue In North Troy From R-1 Single Family Residential Detached To P Planned Development (Council President Mantello) (At The Request Of The Administration)

For introduction only.

91. Resolution Referring Lansingburgh Zoning Change Request To Planning Commission For Review And Recommendation (Council President Mantello) (At The Request Of The Administration)

Resolution passed 2 ayes, 1 no (Cummings).

Adjournment

The meeting adjourned at 8:20 p.m.

A video recording of this meeting is on file at the City Clerk's office.

Planning Meeting Public Forum

Dear Members of the Troy City Council Planning Committee,

Good evening - My name is Sarah Pezdek, I was born and raised in Troy, NY, and I am here this evening as a representative of The Friends of the Mahicannatuck - a local community organization, composed of concerned citizens from Troy and surrounding communities - and working in partnership with the Indigenous community of the Schaghticoke First Nations and their partners.

I am here this evening to speak in opposition to the proposed development of 1011 2nd St presented by developer Kevin Vandenburg and MJ Engineering and Land Surveying.

The Mission Statement of the Hudson River Valley National Heritage Area Management Plan - in which Troy is included - "is to recognize, preserve, protect, and interpret the nationally significant cultural and natural resources of the Hudson River Valley for the benefit of the nation". This plan was prepared in part by the Hudson River Valley Communities Council, at which time the Council was headed by then Executive Director, and current Troy City Council President Carmella Mantello. She further reiterates in her 2020 Legislative Address, her previous and continual efforts to work with partners to further the mission of "protecting our natural and cultural resources".

The proposed development plan brought to the Troy City Council Planning Committee this evening, not only works against the efforts of Troy's own sitting City Council President, but directly contradicts the 2018 revision of the City of Troy's Comprehensive Plan - and therefore the council should not refer this to the planning commission.

I want to bring to the attention of this Committee six key points why the request for change in zoning code for the parcel in question cannot be granted.

1. Request for change in the zoning code must be denied because it is Inconsistent with the 2018 Comprehensive Plan
2. Request for change in the zoning code must be denied because it does not meet the Economic Viability/Burden Criteria
3. Request for change in the zoning code must be denied because it is inconsistent with the surrounding neighborhood and land use
4. Request for change in the zoning code must be denied because it has negative impacts on the environment, public health and natural assets of the local neighborhood and the city overall. The waterfront forest is a unique space in the city for respite and an important aspect for property values in the surrounding neighborhood. Additionally, forested areas are CRITICAL in mitigating the urban heat island, developing this property as proposed will increase the urban heat island effect. As stated in the Comprehensive Plan "The Hudson River has been negatively impacted as a result of industrial and urban development". A development of this size in this location, threatens the health of the River with pollution and waste runoff.
5. Request for change in the zoning code must be denied because of its impacts on the historical, cultural and archeological heritage - which has been recorded in detail in official studies that have been done on the site since 1983 - which were funded on both the state and federal levels.
6. The request for change in zoning code must be denied because of incompatibility with state law regarding spot zoning issues: The development brings undue economic

burdens and strains on the city's public services and infrastructure (schools, garbage, road maintenance), whereas these infrastructures are present at other vacant sites and properties

Together with the supplementary evidence that was provided to the Committee ahead of this hearing in writing, this establishes clearly that the rezoning must be denied and therefore the matter should not be referred to the Planning Commission.

Additionally, I would also like to make note of the following reasons why this proposal for 1011 2nd St should not be approved.

It is generally the impression that projects such as this will provide tax revenue to the city. However, it is common praxis for development projects to seek tax credits and tax breaks, eliminating most if not all immediate tax revenues. This is also the case when developers make promises not to seek tax incentives; e.g. after the sale of a development or project or when project leadership changes. This example has been recorded for this particular developer as well. Additionally, the supporting infrastructure that will be needed in order for a development of this magnitude in the proposed neighborhood, will end up coming from Troy taxpayers - an unnecessary burden when there is a greater need to repair the current infrastructure problems plaguing Troy.

The City of Troy and previous developers have a history of eradicating and erasing sites that were not only important to the local indigenous nations of this area, but which also became places of respite for the growing communities of Troy. Diamond Rock, another site of Indigenous significance in Lansingburgh was bulldozed to accommodate two residential developments - erasing indigenous history, and removing a beloved public green space for Troy residents escaping the sprawl of the industrial downtown. Let's not keep repeating these mistakes - especially, when approximately two blocks from 1011 2nd st - is an abandoned Price Chopper, on the waterfront, with current infrastructure in place that would better support a project like this. As stated by Steve Strickman, Commissioner of Planning and Economic Development for the city of Troy on January 27, 2020 *"Closure of the Lansingburgh Price Chopper presents a unique opportunity to improve the Lansingburgh commercial district and increase public access to Troy's waterfront. Potential conversion of this suburban style shopping plaza into a walkable, urban mixed-use district—enhanced by CDTA's Bus Rapid Transit line and other improvements—will bring further investment to the Lansingburgh neighborhood."* Why ruin one of the last waterfront forests in Troy, when there is already a space ripe for this development so close?

Representatives of The Friends of the Mahicantuck have spoken with a representative of the Golub Corporation, who mentioned that they still retain the deed to 1011 2nd St, though Mr. Vandenburg is under contract, and the sale of the land is contingent upon approval of this project - let it be known that Mr. Vandenburg does not yet own the property in question. During the conversation with their representative - the above was noted, in addition to their consideration of alternative proposals for the property that would better serve the needs of the community - should Mr. Vandenburg's proposal be denied. Alternatives that were discussed included community waterfront access, historic & environmental preservation, community cultural education programs, in addition to improved sidewalk access - all the while protecting the historical, cultural and environmental aspects of the site.

I would also like to take a moment to remind the council that as elected officials you are here to represent the needs of the citizens and communities they make up here in Troy, NY - not pander to the

needs and wants of developers, even if they claim the potential of additional tax revenue to the city. The evidence presented here and in the supplemental documentation that was sent to the council to back these reasons as to why the development proposal and zoning change must be denied, provides sufficient evidence that this proposal does not serve the greater good of the citizens of Troy and the neighborhood in which the development would take place. Keep in mind, that money is not the only thing that leads to a strong, vibrant and viable city.

In conclusion, I and those that I am here to speak for today - firmly oppose the development proposal prepared and presented by Mr. Vandenburg this evening. I implore this Committee to deny his request and vote against the motion to refer it to the Planning Commission.

“Here is your country. Cherish these natural wonders, cherish the natural resources, cherish the history and romance as a sacred heritage, for your children and your children's children. Do not let selfish men or greedy interests skin your country of its beauty, its riches or its romance.”

— **Theodore Roosevelt**

Thank you.

Sarah Pezdek
Friends of the Mahicantuck
PO Box 93
Round Lake, NY 12151

To the City Council Planning Committee,

Thank you for this public forum.

I’m speaking tonight in support of the Mahican people and asking you to protect the native, historical and culturally significant land located at 1011 2nd Avenue along the Hudson River in Lansingburgh.

Please do not authorize the rezoning of this ecologically significant waterfront forest.

Troy does not lack potential vacant, abandoned, and derelict property ripe for redevelopment in more opportune locations for residents, investors and developers alike.

There is so much land already in use and in need of rehabilitation and renewal. Please bring opportunity to areas that need it more.

The Mahican people are working to designate this property as a historical site, which could bring a community-focused cultural center to the area allowing for more education and awareness.

The community should invest in discovery of the Mahican people’s history and preservation of and education about the native environment of upstate New York.

Troy is a working class, developed city. We have few opportunities to visit lush, native spaces. We should preserve this land for the people and the community.

Please do not rezone this area. Encourage developers to find another suitable location that is in need of affordable housing and growth in Troy.

Thank you for your consideration.

--

Rhea Drysdale

Dear Mara Drogan

Dear Troy City Council Planning Committee,

This message is a submission for the consideration of the Troy City Council Planning Committee in regards to RES91: "Resolution Referring Lansingburgh Zoning Change Request To Planning Commission For Review and Recommendation" (Council President Mantello, at Request of the Administration).

On behalf of the Friends of the Mahicantuck we are submitting for your consideration the following documents:

- 1) A Letter submitting supplementary evidence regarding RES91, discussing said supplementary evidence, and detailing SIX specific grounds for which the request in zoning CANNOT be granted.
- 4) A direct link to the supplementary evidence submitted with the above mentioned letter for direct download of the supplementary evidence. LINK: <https://tinyurl.com/y59tqw65>
- 2) A petition with **46 signatures, signed by residents of City of Troy*** in opposition to the proposed development, the proposed change in zoning code, and to the motion at hand, with signatures collected between August 22 and August 26.
- 3) A petition with **24 signatures from the neighbors of the property** in question located at 1011 2nd Avenue in Troy, NY, with signatures collected between August 22 and August 26.
- 4) A petition with **248 signatures collected online via change.org**, signed by residents of Troy and the region between August 22 and August 26.

This brings a total of 318 signatures in opposition to the request in code change and the development.

The Friends of the Mahicantuck is a Troy community coalition in opposition to this development, the change in zoning code, and RES91. We are working also in partnership with the Schaghticoke First Nations and several local community organizations and NGOs.

With sincere greetings,
The Friends of the Mahicantuck

SUBMISSION OF SUPPLEMENTARY EVIDENCE REGARDING
PROPOSED DEVELOPMENT OF TAX PARCEL 70.64-1-1 AT 1011 2ND AVE
AND THE ASSOCIATED REQUEST FOR CHANGE OF ZONING CODE

TO: The Members of the Troy City Council Planning Committee,
The Troy Planning Commissioner
The Members of the Troy City Council at large.

This letter is submitted in the name of: *The Friends of the Mahicantuck*
The Center for Climate Communities
The Schaghticoke First Nations

REGARDING:

RES91 - Resolution Referring Lansingburgh Zoning Change Request to Planning Commission
for Review and Recommendation — **SUBMISSION OF SUPPLEMENTARY EVIDENCE**

Dear Members of the Troy City Council Planning Committee,
Dear Planning Commissioner and members of the Planning Commission
Dear Members of the Troy City Council at large.

In this letter we lay out for your consideration critical evidence that clearly shows that a change in zoning code from R-1 to P for Tax Parcel 70.64-1-1 is not compatible with the law, regulations, city code, comprehensive plan, as well as the responsibilities of the council in considering a change in zoning code.

As you are aware, any consideration of a change in zoning code must incorporate that such a change has to be:

- consistent with the comprehensive plan, which it is not
- in the interest of the current residents of the city, and not the developer or imagined future residents
- consistent with the surrounding use and zoning

The attached evidence, discussed in this letter, shows explicitly how a change in rezoning is inadmissible on six critical grounds, and therefore a **change in zoning code is incompatible with the law.**

Therefore we strongly urge you to VOTE AGAINST the unnecessary referral of this matter to the Planning Commission and stop this development now.

With best wishes

The Friends of Mahicantuck on behalf of a broad coalition of concerned residents
The Schaghticoke First Nations
The Center for Climate Communities

**TABLE OF CONTENT AND OVERVIEW OF
SUPPLEMENTAL EVIDENCE, ORGANIZED IN SIX SECTIONS**

This letter provides an overview of supplemental evidence submitted along with this letter in the name of the above mentioned organizations. It provides the Troy City Council Planning Committee, the Planning Commissioner and the members of the Troy City Council at large with supplemental evidence for consideration of RES91, for consideration of the request for change in zoning code for Tax Parcel 70.64-1-1 from R-1 to P, and for consideration regarding the development on this parcel, as proposed by Kevin Vandenburg.

This letter, and the supplemental evidence included with this letter, are organized in SIX (6) major sections, each constituting a respective grounds for denying the request for zoning. The collection of this evidence makes explicit that the rezoning request must not be granted, and therefore a referral to the Planning Commission becomes obsolete.

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This letter discusses the supplemental evidence for each section, providing specific supplemental evidence for consideration regarding RES91 and the requested change in zoning code for Tax Parcel 70.64-1-1 from R-1 to P.

The letter and the presented evidence — individually and in conjunction — clearly show that:

- There are significant and exhaustive grounds to **DENY** changing the zoning code for Tax Parcel 70.64-1-1 from R-1 to P;
- That therefore there is **NO JUSTIFICATION AND NO NECESSITY** to refer the request for zone change to the Troy Planning Commission
- And that therefore RES91 should **NOT BE PASSED**.

OVERVIEW OF MAJOR GROUNDS FOR DENYING THE REQUEST FOR CHANGE IN ZONING CODE, FOR EACH OF THE SIX SECTIONS

SECTION 01: Historical and Archeological Grounds

This letter and supplementary evidence discusses the historical and archeological grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

It highlights the historical-cultural and archeological significance of the property in question.

- It provides supplemental evidence that shows insufficient due diligence regarding the assessment of the cultural relevance of the site,
- It highlights the currently undergoing review of the site for its eligibility to be included in the National Register
- It shows the necessity of a DEC SPEDES permit as well as the requirement for additional archeological surveys
- And it highlights the risk for loss of an important historical site to the community of Troy.

Based on the provided evidence, a change in zoning code must be denied due to the negative impact on the historical and archeological heritage of the City of Troy.

SECTION 02: Environmental and Public Health Grounds

This letter and supplementary evidence discusses the environmental and public health grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

It highlights the environmental and public health impacts associated with a rezoning and the proposed development of the site in question.

- It shows significant environmental and ecological harm associated with the destruction of the last riverfront forest in Troy, NY.
- It clearly identifies inconsistencies regarding environmental preservation and waterfront development priorities laid out in the Comprehensive Plan
- It highlights the public health risks associated with runoff-pollution, impacts on the Hudson River, and the loss of the forest as a natural resilience asset.

Based on the provided evidence, a change in zoning code must be denied due to adverse impact on public and environment as well as due to inconsistencies with the Comprehensive Plan.

SECTION 03: Inconsistency with Comprehensive Plan

This letter and supplementary evidence discusses critical inconsistencies with the 2018 comprehensive plan, constituting critical grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

It also points to critical legal decisions underscoring the requirement for any change in zoning code to be consistent with the comprehensive plan.

It discusses the issue of spot zoning as a major legal grounds for denying a rezoning that directly relates to inconsistencies with the comprehensive plan.

Based on the provided evidence in this letter, a change in zoning code must be denied due to explicit inconsistencies with the 2018 comprehensive plan.

SECTION 04: Economic Grounds

This letter and supplementary evidence discusses the negative economic impacts of the proposal as grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

It highlights the direct and indirect as well as short- and long-term economic costs associated with the proposed development. It explicitly shows that the proposed development will NOT provide the promised increase in tax revenue and instead significantly increase the economic costs for the City of Troy and its tax paying residents.

In particular, costs associated with increased pressures on the **public school system, road maintenance, emergency services, garbage collection and the already dramatically strained sewage system**, will increase the costs for the city far above the expected short-term revenue associated with the development of this site.

We calculate that this development will lead to an increased combined REVENUE LOSS for the city and school district of AT LEAST \$500,000 ANNUALLY

Based on the provided evidence in this letter, a change in zoning code must be denied, as 1) the Economic Viability and Burden Criteria is not met, as 3) the development will negatively impact local property values, and as 2) there is no clear economic benefit to the current residents of the City of Troy.

SECTION 05: Community Impacts, Public Service Impacts and Infrastructure Impacts

According to NYS law, a change in zoning code must be in the interest of the public: the CURRENT (and not imagined future) residents. A change in zoning must not be solely for the benefit of the developer. Finally, according to NYS law, a change in zoning code must also be consistent with the comprehensive plan and consistent with current use and character of the neighborhood. This is also explicitly stated as such in Troy's comprehensive plan.

This section explains how this development and the proposed change in zoning code is violation of all the above mentioned criteria. The section shows how it will NEGATIVELY impact the local neighborhood and community, how it will increase costs and negatively affect public services and infrastructure and how it will be against the interest of the residents of Troy.

SECTION 06: Legal Grounds

This letter and supplementary evidence discusses the legal grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

It summarizes the legal implications of the evidence provided in the letters number 02 to 07 and foregrounds the legal grounds that make the proposed change in zoning code inconsistent with existing federal, state and city law. This includes: Spot Zoning, Economic Burden Criteria, Public Interest Criteria, Inconsistency with the 2018 Comprehensive Plan, Lack of Evident Need for Zoning Change, Inconsistency with Existing Zoning and Surrounding Uses, Inconsistency with the Orderly Development of Public Service and Infrastructure

Based on the provided evidence in this letter, a change in zoning code must be denied as it is incompatible with existing federal, state and municipal legal regulations, statutes and codes.

SECTION 1: HISTORICAL AND ARCHEOLOGICAL GROUNDS

SECTION 1 — A: Historical Significance of Parcel 70.64-1-1

The historical and archeological analysis provided in the submitted evidence (see Section 1-C) reveals a consistent academic consensus about the historical, archeological and cultural significance of this site, particularly regarding the Mahican peoples but also pre-historic communities that utilized this site as early as 1600-3000 B.C. [S1-4]

Several archeological studies have been conducted on this land, with one of the first most significant studies dating back to the 1980ies [S1-1] [S1-2]. The existing reports, studies and academic publications all consistently conclude that the land in question is of high historical and archeological significance, and that the found artifacts justify the registration of this land in the national registry.

This has also been confirmed in personal correspondence with a lead archeologist involved in the recent 2020 survey provided as part of the SEQRA analysis. The report was not yet made available to the public.

According to these studies, the sites contain significant amounts of prehistoric and historic archeological artifacts. The scientific consensus agrees that this site is of high historic, archeological and cultural significance.

Amongst the artifacts are countless significant ones of members of the Mahican peoples, but also important finds ranging back to prehistoric times. The site was used by the Mahican people as a quarry and tool making site. The site was also identified as the location of semi-permanent and potentially permanent settlements. Some of the studies also mention strong indications for burial sites [S1-3].

The EPA cultural resource survey associated with the 2002 Record of Decision relating the Hudson River remediation [S1-3] also emphasizes the historical-cultural and archeological significance of this site and notes the need for further study of this site for the future — which has not been independently conducted to this date. This report also states the high likelihood of unrecovered extensive archeological resources on this site.

Finally, two previously unrecovered reports associated with the site as well as a second in immediate proximity — both referred together as the Pleasantdale Quarry — explicitly identify the sites as historically and archeologically critical and positively review the archeological record associated with these sites as eligible for the National Register [S1-4].

One of these reports, referenced and thereby submitted as evidence in the record [S1-4] was authored by Hetty Jo Brumbach, Paula Zitzler, the Public Archeology Facility and Rensselaer Polytechnic Institute and discusses the “potential eligibility for nomination to the National Registry of Historic Places” ([S1-4], p 1).

On S1-4, page 81, the authors explicitly state that:

“Stage II survey recovered adequate data to determine that the prehistoric site ... appears to meet the criteria for eligibility to the National Register of Historic Places. [...] disturbance to the site has been minimal. Very little artifact collection has taken place and few of the residents are aware of the

presence of the prehistoric material. Thus, unlike some quarry locations of the Hudson Valley, the site has not been depleted by collectors”

And continue:

“The site also has the potential for providing unique information pertaining to regional prehistory since it is one of the few professionally reported and investigated archaeological sites in Rensselaer County. Thus, the site is capable of yielding information important in prehistory.”

Based on these reports, the site's unique importance becomes explicit and it becomes clear that the preservation of this site is critical. It also makes clear that its development would lastingly destroy this site and rob the city and its people of a major aspect of its history.

An application for review regarding the eligibility of this site for the National Register is currently in the beginning steps, with first evidence filed on August 24, 2020 with NYS SHPO . Additional supplemental evidence is being sent to SHPO over the course of the next weeks.

SECTION 1-B: Legal Implications

According to state and federal law, a DEC SPEDES permit is necessary associated with the ground disturbance of this project exceeding one acre. Other state and federal agency permits or funding may also trigger SHPO involvement.

A coordinator of the SHPO Archeology Unit Program confirms this, stating in official correspondence from August 12, 2020 regarding the site:

“Given the archaeological sensitivity of 1011 2nd Street, the SHPO will likely request an archeological survey to document archaeological sites that are located within this project area, if a survey has not already been undertaken.”

The requirement of Section 106 of the National Historic Preservation Act [S1-5] and Section 14.09 of the State Historic Act [S1-6] is that project impacts to National Register eligible or listed sites are avoided, reduced or mitigated. Mitigation may involve additional archaeological surveys.

SECTION 1 — C: List of Supplemental Evidence for Section 1:

- **[S1-1]** Brumbach, H.J. (1987) “A Quarry/Workshop And Processing Station On The Hudson River In Pleasantdale, New York”. *Archeology of Eastern North America*, 15(1987), 59-83.
- **[S1-2]** Lothrop, J. C., Burke, A. L., Winchell-Sweeney, S., and G. Gauthier (2018). Coupling Lithic Sourcing with Least Cost Path Analysis to Model Paleoindian Pathways in Northeastern North America. *American Antiquity*, 83(3), 462-484.
- **[S1-3]** US EPA (2002). Responsiveness Summary Hudson River PCBs Site Record of Decision. Appendix C Stage 1A Cultural Resource Survey.
- **[S1-4]** Brumbach, Hetty Jo, Zitzler, Paula (1993) Stage II Archeological Investigation Of the Turnpike/River Bend Road Area. Pleasantdale Wastewater Facility Plan. Town Of Schaghticoke, Rensselaer County, New York (C-36-1270-01). Public Archaeology Facility, Rensselaer Polytechnic Institute. [Hard Copy Available].
- **[S1-5]** National Historic Preservation Act
- **[S1-6]** State Historic Act

SECTION 2: ENVIRONMENTAL AND PUBLIC HEALTH GROUNDS

There are several environmental impacts that constitute direct and indirect public harm associated with the proposed rezoning of Parcel 70.64-1-1 — and the proposed development of the site. These will also have significant consequences for public health, the city's climate and extreme weather resilience, and the city's revenue.

Critically, this development and the associated change in zoning code will:

- lead to increased floor sealment with concrete and hence increased run-off pressures
- increase pressures on the already strained sewage system
- lead to further channelization of the Hudson, already leading to increased flood risks, will be further increased with this development — leading to increased flood hazards for downstream properties across the city. The location of this property in particular will severely increase flood risks for the entire city.
- cause significant loss of forest and natural waterfront will increase other critical hazards, including urban heat, runoff pollution, air pollution and their severe impacts on public health

These consequences and impacts stand in direct conflict with the 2018 Comprehensive Plan [A], with critical efforts underway through the city's participation in the Climate Smart Communities Program, and with legal provisions constituted in state and city law and code.

Additionally, the development does not adhere to critical provisions for waterfront protection and renaturalization established in existing code as well as in the additional zoning logics established in the comprehensive plan (which a change in zoning code must adhere to). Particularly, this regards setback and new waterfront shoreline provisions associated with the comprehensive plan.

SECTION 2 — A: Environmental Impacts of Change of Code for Parcel 70.64-1-1

1) SEWAGE OVERFLOW

The city's sewage and water management infrastructure is already at capacity. In the last years, Troy was in violation of state reporting laws in association with massive sewage overflows [S2-1] leading to significant cost for the community. In fact, Troy is the worst polluter in regards to overflows in the region.

The city itself acknowledged that

"Unfortunately, sewer overflow events are fairly routine for shoreline communities like Troy." [S2-2]

It is in this context that the proposed development and its impacts on the loss of this land will significantly escalate this already urgent emergency. The location of the site at the very north of the city, combined with its size and its impact on the city's sewer system will lead to significant environmental and monetary costs for the city and all its residents.

2) SOIL EROSION, RUNOFF AND FLOOD RISKS

The property is directly adjacent to the Hudson; This means development impacts on this land will significantly affect the flood resilience of Troy, particularly due to its location upstream of the entire city (last property before the city line); The undeveloped higher elevation provide additional protection against runoff and to the integrity of the areas of the land that comprise a flood zone. Studies show the importance of such natural assets in runoff protection [S2-3]

The development will significantly increase runoff pollution [S2-4] through the loss of water absorbing forest and forest soils and the use of impervious material as well as the associated increased traffic and pollution. This only constitutes [S2-5] an increased threat of environmental harm on surrounding communities, downstream communities and the Hudson river itself.

3) CHANNELIZATION, RESILIENCY, FLOODING AND RUNOFF

Natural, forested spaces are a critical asset to the city's environmental and climate resilience [S2-6] [S2-7]. This area, upstream of the entire city, significantly protects the city from flooding directly (as a buffer flood zone for flooding) and indirectly by preventing runoff and maintaining the integrity of the river bank [A, p. 16]. The development of the site in the proposed form would significantly interfere with the ability of this land to absorb runoff and protect the city from river pollution and flooding.

Studies well-establish that developments, such as the proposed, and the associated displacement of natural waterfront and channelization significantly increase river flood risks downstream [S2-8; S2-9; S2-10]. The direct effects of sedimentary flow and associated environmental degradation of the Hudson River additionally exacerbate the increase of flood risks downstream at other areas across the City of Troy and other communities along the Hudson River.

This is also acknowledged in the comparative plan [A], which states

“The majority of the Hudson River shoreline south of the Collar City Bridge has been channelized, which has interrupted or removed natural ecosystems. Due to this activity, sediment from the Hudson River is no longer deposited on the banks, and limited habitat is available for fish and wildlife species” (p. 16)

According to [A] the New York State Department of Environmental Conservation (NYSDEC) estimates that by 2080 the City of Troy could face over 3 feet of sea-level rise on the tidal Hudson River due to global *climate change*. Rainfall events are also expected to become less predictable, more extreme, and occur in the form of heavy downpours or extended droughts. The elevation of the 100-year floodplain and the city's history of extreme flooding suggest that the threat of damage to and loss of property is heightened due to anticipated *climate change*.

4) ECOSYSTEM IMPACTS

Biodiversity and Ecological Loss: This is one of the last undeveloped natural waterfronts in Troy. It serves as a major biodiversity refuge in the otherwise urban area; Disturbance or complete destruction would mean the irrevocable loss of the last such space in the City of Troy. Increased traffic, disturbance and pollution: Development of the land will increase the traffic, both to and on the land; Even if the development includes public access to untouched parts of the land, the 200 units alone will significantly increase the use of the land, leading to the disturbance of the ecosystem, increased pollution of the land, as well as the Hudson River;

5) PUBLIC HEALTH IMPACTS

Associated with the above mentioned environmental impacts are major impacts on public health associated with the proposed development and the proposed change in zoning code.

Urban Heat Island Forested areas serve as “natural air conditioning” for the surrounding communities in urban centers and provide a natural refuge and relief from oppressive summer heat; a climate risk that is anticipated to significantly increase for the city of Troy and already constitutes a major public health threat today..

Development, even if major parts of the forest would not be destroyed, would significantly impact the accessibility and functioning of this critical asset [S2-11].

A recent article published in the New York Times (August 24, 2020) [S2-12] discusses the direct relationship between health, income and racial disparities in relationship to exposures to extreme heat in the urban context.

Air Quality will be negatively impacted, both directly and indirectly. The increased traffic associated with the development will diametrically impact the air quality of this neighborhood. Additionally, the loss of tree and natural space will further exacerbate air quality loss [S2-13].

Noise Pollution — as a R1 zone, the rezoning will significantly increase noise levels due to increased population density, increased traffic and the loss of green space as natural noise shield; this will significantly disrupt the character, but also the health of the otherwise characteristically quiet neighborhood.

SECTION 2 — C: Legal Implications

A rezoning of this parcel would allow for a large scale development of the site that ultimately would destroy the environmental and ecological resource of the last undeveloped forest along the Hudson in the entire city of Troy.

In the current zoning as R-1 single family residential, detached, the environmental impact of potential development — while still extraordinarily adverse — would be significantly limited in comparison to the full-scale development that a rezoning to P Planned Development would make possible.

In the lack of a better protection of the parcel and a lasting environmental and historic preservation, maintaining the current code R-1 is the best bet to avoid negative impacts on this critical ecological and environmental asset and its interactions with the Hudson River.

For these reasons, the proposed rezoning and development stand in direct conflict with legal grounds for a rezoning, including cost-benefit analysis of harm to the public/public benefit. Additionally, it constitutes explicit inconsistency with the 2018 Comprehensive Plan [A] as well as the participation of the City of Troy in the Climate Smart Communities Program and the associated “pledge” passed as resolution by the City of Troy [S2-15].

Inconsistency with Comprehensive Plan and Spot Zoning

There are major inconsistencies with the Troy Comprehensive Plan of 2018, rendering the rezoning inconsistent with law. This is particularly in reference to the NYS legal requirement to maintain consistency with the Comprehensive Plan for any proposed change in zoning code.

The comprehensive plan calls explicitly for the renaturalization of the waterfront, the preservation and expansion of the tree canopy, and the protection of natural and open spaces in the city (cp. Section 3).

The assessment provided by the developer regarding wetlands and flood zone are incomplete and at times omit critical facts. Map 12 [S2-15] of the Troy Comprehensive plan clearly shows that about 40% of the proposed development area are within 100 year and 500 year flood zones, respectively.

It is important to note that these maps date from 1980 and therefore do not take into consideration the requirements to incorporate climate changes into planning, constituted in NYS law as well as the Climate Smart Communities program participation.

Additionally, the Comprehensive Plan designates the development area as a new coastal boundary, which is associated with additional SEQRA requirements, and is to be classified as a Type I action.

Harm to the Public and the Environment Associated with the Proposed Development

The attached supplemental evidence clearly shows negative impacts on the environment and public health. This is significant grounds to NOT grant the sought change of the zoning code.

Additionally, the environmental impacts — particularly in the context of sewage overflow and increased flood risks — will significantly negatively impact the city revenue.

SECTION 2 — D: List of Supplemental Evidence for Section 2:

- **[S2-1]** Times Union (July 7, 2017) “Massive Albany Troy Sewage Spills in Hudson”
<https://www.timesunion.com/7dayarchive/article/Massive-Albany-Troy-sewage-spills-in-Hudson-1273421.php>
- **[S2-2]** Statement of City of Troy: “Understanding Troy’s Combined Sewer Infrastructure System”
July 10, 2017
<http://www.troyny.gov/understanding-troy-combined-sewer-infrastructure-system/>
- **[S2-3]** Conservation Tools: Working With Nature to Manage Stormwater
<https://conservationtools.org/guides/166-working-with-nature-to-manage-stormwater>
- **[S2-4]** DOS: Impacts of Urban Runoff
https://www.des.nh.gov/organization/divisions/water/wmb/tmdl/documents/stormwater_chapt1.pdf
- **[S2-5]** <https://pubs.er.usgs.gov/publication/wri014071>
- **[S2-6]** Urban Forests and Climate Change
<https://climate-woodlands.extension.org/urban-forests-and-climate-change/#:~:text=Urban%20for%20ests%20can%20be%20useful,to%20heat%20and%20cool%20buildings.>
- **[S2-7]** USDA Urban Forests and Climate Change
<https://www.fs.usda.gov/ccrc/topics/urban-forests-and-climate-change>
- **[S2-8]** National Management Measures to Control Nonpoint Source Pollution from Hydromodification
https://www.epa.gov/sites/production/files/2015-09/documents/chapter_3_channelization_web.pdf
- **[S2-9]** Problems Facing Urban Streams
<http://www.msdlouky.org/insidemsd/wqurban.htm>
- **[S2-10]** From Channelization To Restoration
http://scholar.google.com/scholar_url?url=http://www.academia.edu/download/43058958/Chen_et_al-2016-Water_Resources_Research.pdf&hl=en&sa=X&scisig=AAGBfm3QW_VCYsUVIq_vciK_WvVRiz7HOaQ&nossl=1&oi=scholar
- **[S2-11]** EPA: Reduce Urban Heat Island Effect
<https://www.epa.gov/green-infrastructure/reduce-urban-heat-island-effect>

- **[S2-12]** NYT: How Decades Of Racist Housing Policy Left Neighborhoods Sweltering
<https://www.nytimes.com/interactive/2020/08/24/climate/racism-redlining-cities-global-warming.html>
- **[S2-13]** Benefits of Urban Trees
https://www.nature.org/content/dam/tnc/nature/en/documents/Public_Health_Benefits_Urban_Trees_FINAL.pdf
- **[S2-14]** CSC Certification Troy
<http://csc-site-persistent-prod.s3.amazonaws.com/fileadmin/cicbase/documents/2017/11/10/15103445909908.pdf>
- **[S2-15]** Comprehensive Plan Map 12

SECTION 3: INCONSISTENCIES WITH COMPREHENSIVE PLAN

SECTION 3 — A: Major Inconsistencies with Comprehensive Plan

The proposed development as well as the change in zoning code are inconsistent with Realize Troy 2018 Comprehensive Plan [A]. This is relevant for the consideration of the request for change in zoning code, as such a change cannot occur if it is inconsistent with the comprehensive plan.

New York’s zoning enabling statutes require that zoning laws be adopted in accordance with the comprehensive plan. The comprehensive plan should provide the backbone for the zoning law [S3-1]. Furthermore, the change in zoning code is incompatible with New York State City Code Section 28.a.12 [S3-2]: Effect of Adoption of the City Comprehensive Plan: (a) “All city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”

Developing the land is in explicit inconsistency with the 2018 Troy Comprehensive Plan AND THEREFORE CANNOT QUALIFY FOR REZONING

Listed are only some of the most striking conflicts with major sections and goals of the comprehensive plan:

- 1) Requirement to protect green spaces and environmental assets

The Comprehensive Plan explicitly states that green spaces and environmental assets have been impacted by industrial and urban development — and need better protection.

“Troy is endowed with a spectacular natural environment– from magnificent gorges, an expansive riverfront, to a wide array of mature open spaces. In recent years, **these areas have been impacted by industrial and urban development and need to be better protected to sustain the environmental health of the city.**” ([A], p. 16)

With the REALIZE TROY 2018 Comprehensive Plan, the City of Troy has explicitly designated specific goals to preserve greenspaces, parks, open spaces and natural habitats. **These rules were explicitly designed to protect spaces such as the property in question from development.** So does the

Comprehensive Plan explicitly set out to protect critical natural features of Troy's waterfront, including this property.

2) Inconsistency with Goal 5 of the Comprehensive Plan

A change in zoning code is inconsistent with **GOAL 5 of the Comprehensive plan**. The Comprehensive Plan explains: "Existing ecological resources including wetlands and shoreline habitat shall be protected, preserved and enhanced". However, this development would do the opposite and destroy the last remaining undeveloped natural shoreline of the city.

In this context, the comprehensive plan defines specific requirements, objectives and underlying strategic goals in zoning and developing the City of Troy, its greenspaces, natural habitats and the waterfront. The proposed development and the request for change in zoning code stand in explicit contradiction and therefore are inconsistent with the comprehensive pan.

The plan states that the City of Troy will require implementation of flood protection standards for new buildings within the flood zones that are consistent with the guidelines established by the Federal Emergency Management Agency (FEMA).

A large section of the property lies in flood zones (see Section 2): About 50% of the land is within the waterway and flood area, as displayed in Map 13 of the Comprehensive plan [S3-3]; the plan prohibits major development in that area. Additionally, the land is — with exception of approx. 2 acres — inside the new Landward Coastal Boundary, established in the 2018 Comprehensive plan. Accordingly:

- All development will be set back a minimum of 100 feet from watercourses and wetlands identified on Map 13 in Comprehensive Plan (page 60), to help prevent adverse impacts on these natural assets.
- Only 2 acres can be developed outside this 100ft zone, this only regards R-1 houses.
- The rest of this property is within 100 feet of watercourses and wetlands and is classified as a Type I action pursuant to the StateEnvironmental Quality Review (SEQR) process, increasing the level of environmental review necessary to protect their integrity.
- The entirety of the land is in the waterfront area (map 13). Any new development in that area that is 500 square feet or greater requires the submission of a construction management plan that demonstrates that the development will not compromise the Hudson riverbank.

The plan also calls for the **shoreline to be naturalized** to provide greater resiliency during significant flood events — the proposed change in zoning code will result in channelization of the Hudson River and therefore stands in direct conflict with the comprehensive plan.

According to the plan the city's urban **tree canopy will be grown and maintained** by expanding tree planting initiatives and incorporating tree planting as part of sidewalk and other streetscape improvements. However, this development would reduce the tree canopy and a unique waterfront habitat that cannot be compensated by re-planting

- Existing mature trees are to be protected during building construction or any alterations to streets or buildings. Tree inventories and management plans are required for all major capital projects and developments.

3) Inconsistency with Goal 4 of the Comprehensive Plan

A rezoning is additionally inconsistent with **GOAL 4 of the Comprehensive Plan** for the historic, archeological and cultural significance of the land for several indigenous peoples and groups (cp. Section 1). **The plan demands**

- The preservation of the cultural and historical heritage of the City of Troy
- A cultural resource investigation will be required for new development planned for archaeological sites or sites within areas identified as archaeologically sensitive by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP).
- The preservation of the cultural and historical heritage of the City of Troy

4) Inconsistency with Goal 4 of the Comprehensive Plan

A rezoning is additionally inconsistent with **GOAL 6, specifically, 6.2 of the Comprehensive Plan**, which states: “Development in stable neighborhoods will respect and reinforce the existing neighborhood character and pattern of development”

Our coalition in opposition to the development can and will provide testimony that this neighborhood is a stable neighborhood, and will oppose any suggestions for this being otherwise. A selection of this testimony is provided with supplemental evidence no [S3-4].

SECTION 3 — B: Legal Implications

The proposed development as well as the change in zoning code are inconsistent with Realize Troy 2018 Comprehensive Plan. This is relevant for the consideration of the request for change in zoning code, as such a change cannot occur if it is inconsistent with the comprehensive plan.

New York’s zoning enabling statutes require that zoning laws be adopted in accordance with the comprehensive plan. The comprehensive plan should provide the backbone for the zoning law [S3-1]. Furthermore, the change in zoning code is incompatible with New York State City Code Section 28.a.12: Effect of Adoption of the City Comprehensive Plan: (a) “All city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”

Developing the land is in explicit inconsistency with the 2018 Troy Comprehensive Plan AND THEREFORE CANNOT QUALIFY FOR REZONING

SECTION 3 — C: List of Supplemental Evidence for Section 3:

- **[S3-1]** NYS Division Of Local Government Services: Zoning and the Comprehensive Plan https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf
- **[S3-2]** New York State City Code Section 28.a.12
- **[S3-3]** Comprehensive Plan MAP 13
- **[S3-4]** TESTIMONIES OF RESIDENTS

SECTION 4: ECONOMIC GROUNDS

SECTION 4 — A: Negative Economic Impacts of Proposed Development and Code Change for Parcel 70.64-1-1

There are several critical economic impacts that constitute direct and indirect cost to the tax base and the tax paying residents of the city of Troy associated with the proposed rezoning of Parcel 70.64-1-1 and the proposed development of the site.

Based on the attached and here briefly reviewed studies, it is clear that the proposed development will **negatively** impact the tax revenue of the city of Troy.

Charles Mahron [S4-1] writes that:

“Despite the obfuscation of modern accounting practices, the math equation for a local government is fairly straightforward: a public infrastructure investment must generate enough private wealth to pay for the ongoing replacement and repair of that infrastructure or, if it is to be sustained, it must be subsidized by a more financially productive part of the system.”

The established rule of thumb is that a ratio of 40:1 (\$40 private wealth to \$1 public investment) is required for a development project to generate and maintain a positive tax revenue [S4-1].

While developers often pay for the initial development and construction cost, the City of Troy will be responsible for critical maintenance and public service costs. This includes

- Increased road maintenance and traffic management costs
- Increased resource strain for the public school system with the influx of large amounts of new residents in short time
- Increased costs for other public services, including the fire department, garbage collection, public safety, etc.

As Mahron [S4-2] writes on the case of development costs, a municipality of similar size and structure:

Rapid growth “[...] provided the local government with the immediate revenues that come from new growth — permit fees, utility fees, property tax increases, sales tax — and, in exchange the city takes on the long term responsibility of servicing and maintaining all the new infrastructure. The money comes in handy in the present while the future obligation is, well ... a long time in the future.”

And concludes:

“This thinking is how you end up with two dollars of public infrastructure for every one dollar of private investment. This is how you spend yourself into bankruptcy”.

When the full extent of costs are taken into consideration, including maintenance, public infrastructure and public service costs, the proposed development will in fact negatively impact the tax revenue in the city.

Instead, leading economists and development experts recommend prioritizing development of existing infrastructure, property and sites, especially vacant sites in economically disadvantaged communities. This has the benefit of minimizing public investment needs and strengthening tax revenue in short- as well as long-term. [S4-3].

This is also made explicit in the 2018 Troy Comprehensive Plan [A], which identifies the need to develop vacancies in Major Investment Areas [S4-4], whereas the parcel in question lies outside the Lansingburgh Investment Area [S4-5] as well as outside the slow development area and is clearly identified as R-1 [S4-6]:

“Troy’s high vacancy rates are also contributing to neighborhood destabilization. There are approximately 23,100 housing units in Troy and approximately 2,100 of these units, or 9%, are vacant and unused. Prospective residents are deterred from purchasing homes in neighborhoods with high vacancy rates as they are perceived as areas with higher crime, and where continued disinvestment may occur. These conditions have resulted in a weak housing market and low housing values compared to the region.” ([A], p.11)

And the plan establishes sites in direct proximity to the parcel for which the rezoning is requested as development focus areas [S4-5 and S4-6] in the spirit of avoiding associated revenue burdens associated with spot zoning developments such as the development proposed for this parcel.

The anticipated short-term economic revenue is anticipated to be outweighed by both, short- and long-term economic costs, based on the expert testimony by economist John Gowdy attached in the evidence [S4-3] and read into the record at the hearing.

The anticipated short-term economic revenue associated with this development proposal is anticipated to be outweighed by both, short- and long-term economic costs.

What is more, studies explicitly and repeatedly show that because of market competition and resource constraint associated with a development of land, routinely and structurally prevent the development of other, vacant but already developed sites [S4-7].

In the immediate proximity of the development site proposed by Kevin Vandenburg there are several vacant properties, including several that have been identified in the Comprehensive Plan as development priority/focus areas.

This means that the proposed development, and the associated rezoning, is incompatible with the responsibilities and legal requirement that must guide the city council committee and planning commission in their decision — and the requested rezoning can only be denied on economic and legal grounds (see below).

SECTION 4 — B: ECONOMIC BASELINE CALCULATION — Public Service Cost

Increased public spending for services outweighs the anticipated revenue.

Based on comparative data of similar developments in similar locations in Troy we offer an (generously calculated) anticipated tax revenue for the city around \$300,000.00

The anticipated tax revenue for the school district we assess (similarly generously) with \$400,000,00. (Based on approximated unit value calculations).

Increase in Cost Spending for Public Schools (TROY SCHOOL DISTRICT):

At the same time, in the state of New York, an average of annually \$22,366 are spent per pupil on the public education system [S4-8]. In Troy this number is closer to \$28,000, but we will use the more conservative average.

A conservative estimate would be 40 new pupils entering the Troy School System — an estimate that is very conservative for 240 apartment units.

This leads to an increased cost spending of \$894,640.

Anticipated Revenue Increase for Troy School District Approx. 400,000

Approximate Cost Increase: Public Service — School Approx. \$894,640

COST TO DISTRICT AS DIRECT RESULT FROM DEVELOPMENT: APPROX. \$498,640

This leads to a shortfall of \$494,000.00

Increase in Costs For City of Troy On the Example of Public Safety Alone:

Public Safety: Estimates for cost increases for the Fire and Police Services are hard to estimate. One way to estimate this is the per capita spending for police services. According to the 2020 proposed Budget, a total of \$40,329,791 will be expended for safety services [S4-9]. This excludes overtime, extraordinary expenditures and other expenditures not listed in the general budget itemization. The population of Troy lies at 49,826 for 2017.

This results in a per capita spending of (rounded) \$800. With 240 units, and an conservatively estimated 1.75 persons living in each unit, this leads to a total increase of cost of: $240 \times 800 \times 1.75 = \$336,000.00$

Approximate Revenue for City Approx. \$300,000

Approximate Cost Increase: Public Service — Safety Approx. \$336,000

This leads to an conservatively anticipated increase in cost associated with the development of for public safety alone of \$36,000/year.

This does not incorporate other increased public service costs, such as road maintenance, etc.

SECTION 4 — B: Legal Implications

Explicitly, the availability of several other vacant but already infrastructurally developed properties creates an incompatibility with anti-spot-zoning requirements constituted in state law.

Additionally, the above listed reasons create a direct inconsistency with the 2018 Comprehensive Plan and therefore an incompatibility with state law, particularly regarding inconsistencies with soft development, the preservation of the character of the neighborhood, and the requirement of sustainable development.

The proposed rezoning and development are also incompatible with New York State Smart Growth Goals.

Finally, the city council is legally required to act in the interest of its current constituents, and not potential future taxpayers — and the shown economic long-term negative impacts stand in direct conflict with this obligation, as they clearly cause economic harm to the city as well as its residents.

SECTION 4 — C: List of Supplemental Evidence for Section 4:

- **[S4-1]** Charles Marhon Jr. (August 2018) “Building Resilient Communities”
<https://icma.org/articles/pm-magazine/pm-article-building-resilient-communities>
- **[S4-2]** Charles Marhon Jr. (2017) “The Real Reason Your City Has No Money”
<https://www.strongtowns.org/journal/2017/1/9/the-real-reason-your-city-has-no-money>
- **[S4-3]** Written Expert Testimony of Dr. of Economy John Gowdy
- **[S4-4]** Comprehensive Plan Map 2 Investment Areas
- **[S4-5]** Comprehensive Plan Investment Area Lansingburgh
- **[S4-6]** Map 14 Land Use
- **[S4-7]** Resources on Research about Abandoned Properties and Buildings
<https://journalistsresource.org/studies/government/municipal/abandoned-buildings-revitalization/>
- **[S4-8]** Annual education spending per state
[https://www.governing.com/gov-data/education-data/state-education-spending-per-pupil-data.htm](https://www.governing.com/gov-data/education-data/state-education-spending-per-pupil-data.html)
!
- **[S4-9]** Proposed 2020 Budget for Troy NY
- **[S4-10]** Population Data for Troy NY
<https://datausa.io/profile/geo/troy-ny>

SECTION 5: COMMUNITY IMPACTS, PUBLIC SERVICE IMPACTS AND INFRASTRUCTURE IMPACTS

SECTION 5 — A: Neighborhood Impacts of Development and Proposed Code Change for Parcel 70.64-1-1

According to NYS law, a change in zoning code must be in the interest of the public: the CURRENT (and not imagined future) residents. A change in zoning must not be solely for the benefit of the developer. Finally, according to NYS law, a change in zoning code must also be consistent with the comprehensive plan and consistent with current use and character of the neighborhood. This is also explicitly stated as such in Troy's comprehensive plan [A].

This section explains how this development and the proposed change in zoning code is in direct violation of all above mentioned criteria. The section shows how proposed development and change in zone code will **NEGATIVELY** impact the local neighborhood and community, will increase costs, and will negatively affect public services and infrastructure, and will be against the interest of the residents of Troy.

Explicitly, a change in zoning code needs to be

- consistent with the comprehensive plan
- In the interest of the current residents of the City of Troy, not in the interest of the developer or imagined future residents
- consistent with surrounding use and zoning

This development and the associated change in zoning code does not meet these criteria. It will impact the neighborhood and the city overall negatively, inconsistently with the comp plan and inconsistently with the surrounding zoning.

This is evidenced in the negative impacts of the proposed development and code change (see Section 5-A), the inconsistencies with the comparative plan implied by these negative impacts (see Section 5-B), and constituted in the increased cost and further strain of public services of the neighborhood (see Section 4). Additional negative impacts for community and city overall, as provided in the entirety of this document, also are the case for the local neighborhood.

LOSS OF FOREST AND WATER ACCESS, AND LOSS OF IMPORTANT NATURAL SPACE

The development will destroy the current access to the Hudson River provided with this land. An alternative use proposal, that the current owner is interested in pursuing should the option of sale expire has been submitted in Section 07 of this letter.

In contrast, the proposed development by Kevin Vandenburg claims to incorporate the public interested in access to the waterfront and natural spaces along the river. However, this statement is clearly misleading.

The developer is creating a dead-end trail and does not create any incentive or attractive park or other features that would invite the public. Additionally, the proposed boat dock is a use-specific water access.

The developer is clearly creating amenities for his renters, not for the public and will additionally serve as justification for higher rental prices for departments — with negative effects for surrounding homeowners and renters.

Overall, the proposed development discourages in its design the use of this property, as it is not designed as public use space.

This is inconsistent with the development priorities the city itself has laid out for waterfront properties in its comprehensive plan, which emphasizes public access to water via parks and public space. It also is inconsistent with the comprehensive plan calling for an increase in tree canopy and renaturalization of the waterfront. This speaks to the requirement that a rezoning needs to be for the benefit for the entire public **and not for an individual developer.**

HEIGHTENED INFRASTRUCTURE AND PUBLIC SERVICE COSTS

The residents of 240 newly built apartments will significantly increase pressures on public services and infrastructure.

The proposed development will significantly increase the infrastructure and public service costs, particularly in this R1-zoned residential area. It will in particular negatively impact the local community in terms of infrastructure and public service availability. Several studies have consistently shown the associated increased costs of and strain on critical services associated with developments such as the one proposed here (see evidence for Section 4). Abrupt development growth that does not follow smart and soft growth guidelines and do not utilize existing infrastructure and e.g. vacant properties or buildings, significantly strains services through rapid influx, including amongst others:

- a) Increased pressure on already strained **school services**
- b) Increased pressure on already strained **garbage collection**
- c) Increased pressure on already strained **emergency services**
- d) Increased need for **road maintenance**
- e) Increased pressure on already over-capacity **sewage system**

LOSS IN PROPERTY VALUE, RESALE VALUE AND RENTAL INCREASES [S5-1]

Besides the cost associated with strains on the local infrastructure, this development will also lead to additional direct and indirect costs for the local residents and the overall neighborhood.

The development will lead to significant loss of property value and resale value due to the loss of greenspace and waterfront, which also negatively impacts the city budget

- f) The tax savings of industrial development may measure a few hundred dollars a year per taxpayer, but the loss in property values measures in the thousands. Typically it takes decades of tax savings to make up for the loss in property value.
- g) Property value will decline with the loss of a significant greenspace and undeveloped waterfront forest property

Rental increases in surrounding housing are expected to increase due to the amenities at the property, clearly designed for the use of renters at the property.

VACANT PROPERTIES AND LACK OF DEVELOPMENT IN LANSINGBURGH

There are priority development areas in the direct vicinity of this property. A vacant price chopper as well as several vacant locations across the local Lansingburgh neighborhood are identified as priority and development nodes in the comprehensive plan.

As the plan states:

“Troy’s high vacancy rates are also contributing to neighborhood destabilization. There are approximately 23,100 housing units in Troy and approximately 2,100 of these units, or 9%, are vacant and unused. Prospective residents are deterred from purchasing homes in neighborhoods with high vacancy rates as they are perceived as areas with higher crime, and where continued disinvestment may occur. These conditions have resulted in a weak housing market and low housing values compared to the region”. ([A], pg.11)

A rezoning discourages and actively prevents the development of already developed vacant areas with existing infrastructure and public services in place.

The development of this property, and the associated rezoning, stand in conflict with these development needs and undermine soft and smart growth and development.

Accordingly, the rezoning would stand in direct conflict with the provisions and priorities laid out in the Comprehensive Plan, the smart growth development principles established in the Comprehensive Plan, and the New York State Smart Growth Criteria.

SECTION 5 — B: Legal Implications

The development of this property, and the associated rezoning, stand in conflict with these development needs and undermine soft and smart growth and development.

Accordingly, the rezoning would stand in direct conflict with the provisions and priorities laid out in the Comprehensive Plan, the smart growth development principles established in the Comprehensive Plan, and the New York State Smart Growth Criteria.

SECTION 5 — C: List of Supplemental Evidence for Section 5:

- **[S4-8]** The Impact of Apartment Complexes on Property Value of Single Family Dwellings
<https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=2150&context=studentwork&fbclid=IwAR2ICgQJHIRSBKXF68TGCWDoyvmxRbNG0eXIDMzblTX7polbkTCIfcul1lw>

SECTION 6: LEGAL GROUNDS

SECTION 5 — A: Legal Grounds for Denying Request for Code Change for Parcel 70.64-1-1

This final section highlights some major incompatibilities with existing law, rules and codes.

1) Inconsistency with Comprehensive Plan and Spot Zoning

The proposed development as well as the change in zoning code are inconsistent with Realize Troy 2018 Comprehensive Plan (cp. Section 3). New York's zoning enabling statutes require that zoning laws be adopted in accordance with the comprehensive plan. The comprehensive plan should provide the backbone for the zoning law].

Furthermore, the change in zoning code is incompatible with New York State City Code Section 28.a.12: Effect of Adoption of the City Comprehensive Plan: (a) "All city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section."

2) Inconsistent with surrounding uses and zoning and orderly growth and development

The law demands the (NYS City Code Section 28.a.12 - o) consistency "with the orderly growth and development of the city. Furthermore, code changes need to be consistent with the surrounding uses and zoning ("SPOT ZONING").

The comprehensive plan identifies in Map 14 the surrounding area as "low density residential".

However the parcel in question is NOT located in a major reinvestment area and the surrounding area is R-1 for 10 single family homes. 240 multi-family units do not fit with the character of surrounding land uses. The site is also not located in a Major Reinvestment Area.

3) Spot Zoning

According to the NYS Division of Local Government Services, "Spot zoning refers to the rezoning of a parcel of land to a use category different from the surrounding area, usually to benefit a single owner or a single development interest. Size of the parcel is relevant, but not determinative. Illegal spot zoning occurs whenever "the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community" [S6-1] and [S6-2]

Spot zoning is, in fact, often thought of as the very antithesis of plan zoning. When considering spot zoning, courts will generally determine whether the zoning relates to the compatibility of the zoning of surrounding uses. Other factors may include; the characteristics of the land, the size of the parcel, and the degree of the "public benefit." Perhaps the most important criteria in determining spot zoning is the extent to which the disputed zoning is consistent with the municipality's comprehensive plan.

This proposed change in zoning meets the definition of spot zoning on several grounds:

- It is inconsistent with the surrounding zoning (R-1)
- It is inconsistent with the planned zoning detailed in the comprehensive plan
- It constitutes an unreasonably unequal treatment with comparably situated land

4) No Evident Need For The Zone Change

According to NYS DOS, requests for zone change must show a need for the zone change. This is strictly defined. Specifically, any change must be made for the benefit of the community as a whole, not for an individual property owner or developer [S6-3].

The need for zone change for the benefit of the community as a whole cannot be shown for the parcel in question:

- **Economic Viability/Burden Criteria is not met.** The property can be maintained profitable with a single family home that can be rented out; Incurred exploration and evaluation costs cannot be included in calculations for economic viability of the property
- Additionally a rezoning will negatively impact the property value and quality of life for neighboring residents and the overall neighborhood's character
- There was no change in circumstances or mistake made when the original zoning occurred; The developer cannot show the need for change or occurrence of a mistake in the original zoning.
- Additionally, there are sufficient vacant plots elsewhere and in the immediate vicinity that have been identified in the Comprehensive Plan as Major Reinvestment Area and/or Development Priority Areas.
- The code change would be inconsistent with surrounding uses.

The zone change is inconsistent with the orderly development of public services and infrastructure.

A rezoning cannot be granted as it necessitates increased infrastructure and public service that can be provided at another vacant lot in immediate proximity (former PriceChopper) that is additionally locate in one of the “node” zones detailed in the Comprehensive Plan, and was identified by the city council and city council president as development priority.

Due to this area being R-1 and inadequate traffic and parking infrastructure, a rezoning and the associated development would create increased infrastructure needs. These infrastructure needs can already be provided at the abandoned and empty, recently closed Price Chopper property in direct vicinity to this property;

Additionally, multiple vacant buildings in the neighborhood, including across the street from the land in question, are also available for redevelopment without the increased infrastructure and public service burden; including several in development priority zones identified in the comprehensive plan.

Hence, part of town already has the services and can support the same type of development the proposed zone change will allow in the direct vicinity of this property; A rezoning cannot legally be granted for this reason.

SECTION 6 — C: List of Supplemental Evidence for Section 6:

- **[S6-1]** DOS: Zoning and the Comprehensive Plan
https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf
- **[S6-2]** Gernatt Asphalt Products, Inc. v. Town of Sardinia, supra at 685, citing Udell v. Haas, supra at 472
- **[S6-3]** Partnership for the Public Good: Land Use and Zoning Law
https://ppgbuffalo.org/files/documents/environment/land_use/environment-land_use_and_zoning_law_a_citizens_guide.pdf

Section 7: Alternative Land Use Proposal SUMMARY

For the Purpose of Protecting the Land as Historically and Culturally Significant Site And for the Purpose of Creating a Community Food Forest and Cultural Center

A preliminary proposal was shared with representatives of the current owner of this land, and they indicated their openness to this alternative use proposal. This section provides a brief summary of this proposal.

We suggest an alternative land-use plan, centered on and in-tune with community needs and with the goal of preserving the property for the community. We suggest the preservation of this important land and its development as a natural recreational space, food resource in the low-access neighborhood, an ecological buffer zone, and a natural protection against flooding.

The Friends of the Mahicantuck commit to collaborating with the community and partner organizations to

- protect the lands for its historical, cultural and ecological significance indefinitely
- create of a sustainable community food forest (which would be one of the largest of its kind in the nation)
- Create educational and cultural outreach programs, and make these accessible to the local school around the corner from the property as well as the local community

A collaboration between nonprofit partners and the local community, already in formation, will create a community food forest, or edible forest garden as well as a preservation of the natural space and historical site.

Food forests are an indigenous food production strategy that strengthens the living ecosystem, by focusing on a harmonious natural relationship. This process increases biodiversity and can strengthen food security in sustainable and regenerative ways.

The creation of a Community Food Forest will provide the local communities in Troy with a critical food source and address food injustices prevalent in the local communities surrounding this land.

We see every challenge as an opportunity and are working with our partners towards revealing the history that has been hidden and to exemplify how people can be living a sustainable lifestyle that works hard towards mitigating the human impact on the changing climate.

Community Benefits

- The creation of a trail system for better access to the land and the Hudson River
- The creation of a food forest to improve access to food for the local communities of Troy
- The preservation of the land as an important natural recreation space
- The preservation of the site for its historical significance, and the designation as such
- The preservation of one of the last remaining biodiversity niches within Troy
- The preservation of a natural buffer zone against flood risks in a changing climate

APPENDIX: LIST OF SUPPLEMENTAL EVIDENCE SUBMITTED WITH THIS LETTER

Evidence not associated with a direct link is provided online for download via this link:
https://drive.google.com/drive/folders/1M410j_8CVzDyjlQzzaz_VcNJOLViByH5?usp=sharing

Evidence can be submitted in hard copy upon request.

LIST OF EVIDENCE

- 2018 Comprehensive Plan [A]

List of Supplemental Evidence for Section 1:

- **[S1-1]** Brumbach, H.J. (1987) "A Quarry/Workshop And Processing Station On The Hudson River In Pleasentdale, New York". *Archeology of Eastern North America*, 15(1987), 59-83.
- **[S1-2]** Lothrop, J. C., Burke, A. L., Winchell-Sweeney, S., and G. Gauthier (2018). Coupling Lithic Sourcing with Least Cost Path Analysis to Model Paleoindian Pathways in Northeastern North America. *American Antiquity*, 83(3), 462-484.
- **[S1-3]** US EPA (2002). Responsiveness Summary Hudson River PCBs Site Record of Decision. Appendix C Stage 1A Cultural Resource Survey.
- **[S1-4]** Brumbach, Hetty Jo, Zitzler, Paula (1993) Stage II Archeological Investigation Of the Turnpike/River Bend Road Area. Peasentdale Wastewater Facility Plan. Town Of Schaghticoke, Rensselaer County, New York (C-36-1270-01). Public Archeology Facility, Rensselaer Polytechnic Institute. [Hard Copy Available].
- **[S1-5]** National Historic Preservation Act — <https://www.nps.gov/history/local-law/nhpa1966.htm>
- **[S1-6]** State Historic Act — <https://parks.ny.gov/shpo/environmental-review/preservation-legislation.aspx>

List of Supplemental Evidence for Section 2:

- **[S2-1]** Times Union (July 7, 2017) "Massive Albany Troy Sewage Spills in Hudson" <https://www.timesunion.com/7dayarchive/article/Massive-Albany-Troy-sewage-spills-in-Hudson-1273421.php>
- **[S2-2]** Statement of City of Troy: "Understanding Troy's Combined Sewer Infrastructure System" July 10, 2017 <http://www.troyny.gov/understanding-troy-combined-sewer-infrastructure-system/>
- **[S2-3]** Conservation Tools: Working With Nature to Manage Stormwater <https://conservationtools.org/guides/166-working-with-nature-to-manage-stormwater>
- **[S2-4]** DOS: Impacts of Urban Runoff https://www.des.nh.gov/organization/divisions/water/wmb/tmdl/documents/stormwater_chapt1.pdf
- **[S2-5]** <https://pubs.er.usgs.gov/publication/wri014071>
- **[S2-6]** Urban Forests and Climate Change <https://climate-woodlands.extension.org/urban-forests-and-climate-change/#:~:text=Urban%20for%20ests%20can%20be%20useful,to%20heat%20and%20cool%20buildings.>
- **[S2-7]** USDA Urban Forests and Climate Change

- <https://www.fs.usda.gov/ccrc/topics/urban-forests-and-climate-change>
- [S2-8] National Management Measures to Control Nonpoint Source Pollution from Hydromodification
https://www.epa.gov/sites/production/files/2015-09/documents/chapter_3_channelization_web.pdf
- [S2-9] Problems Facing Urban Streams
<http://www.msdlouky.org/insidemsd/wqurban.htm>
- [S2-10] From Channelization To Restoration
http://scholar.google.com/scholar_url?url=http://www.academia.edu/download/43058958/Chen_et_al-2016-Water_Resources_Research.pdf&hl=en&sa=X&scisig=AAGBfm3QW_VCYsUVIq_vciK_WvVRiz7HOaQ&nossl=1&oi=scholar
- [S2-11] EPA: Reduce Urban Heat Island Effect
<https://www.epa.gov/green-infrastructure/reduce-urban-heat-island-effect>
- [S2-12] NYT: How Decades Of Racist Housing Policy Left Neighborhoods Sweltering
<https://www.nytimes.com/interactive/2020/08/24/climate/racism-redlining-cities-global-warming.html>
- [S2-13] Benefits of Urban Trees
https://www.nature.org/content/dam/tnc/nature/en/documents/Public_Health_Benefits_Urban_Trees_FINAL.pdf
- [S2-14] CSC Certification Troy
<http://csc-site-persistent-prod.s3.amazonaws.com/fileadmin/cicbase/documents/2017/11/10/15103445909908.pdf>
- [S2-15] Comprehensive Plan Map 12

List of Supplemental Evidence for Section 3:

- [S3-1] NYS Division Of Local Government Services: Zoning and the Comprehensive Plan
https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf
- [S3-2] New York State City Code Section 28.a.12
- [S3-3] Comprehensive Plan MAP 13
- [S3-4] TESTIMONIES OF RESIDENTS

List of Supplemental Evidence for Section 4:

- [S4-1] Charles Marhon Jr. (August 2018) "Building Resilient Communities"
<https://icma.org/articles/pm-magazine/pm-article-building-resilient-communities>
- [S4-2] Charles Marhon Jr. (2017) "The Real Reason Your City Has No Money"
<https://www.strongtowns.org/journal/2017/1/9/the-real-reason-your-city-has-no-money>
- [S4-3] Written Expert Testimony of Dr. of Economy John Gowdy
- [S4-4] Comprehensive Plan Map 2 Investment Areas
- [S4-5] Comprehensive Plan Investment Area Lansingburgh
- [S4-6] Map 14 Land Use
- [S4-7] Resources on Research about Abandoned Properties and Buildings
<https://journalistsresource.org/studies/government/municipal/abandoned-buildings-revitalization/>
- [S4-8] Annual education spending per state
<https://www.governing.com/gov-data/education-data/state-education-spending-per-pupil-data.html>
- [S4-9] Proposed 2020 Budget for Troy NY
- [S4-10] Population Data for Troy NY
<https://datausa.io/profile/geo/troy-ny>

List of Supplemental Evidence for Section 5:

- **[S4-8]** The Impact of Apartment Complexes on Property Value of Single Family Dwellings
<https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=2150&context=studentwork&fbclid=IwAR2ICgQJHIRSBKXF68TGCWDoyvmxRbNG0eXIDMzbITX7polbkTCIfeul1lw>

List of Supplemental Evidence for Section 6:

- **[S6-1]** DOS: Zoning and the Comprehensive Plan
https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf
- **[S6-2]** Gernatt Asphalt Products, Inc. v. Town of Sardinia, supra at 685, citing Udell v. Haas, supra at 472
- **[S6-3]** Partnership for the Public Good: Land Use and Zoning Law
https://ppgbuffalo.org/files/documents/environment/land_use/environment-land_use_and_zoning_law_a_citizens_guide.pdf

The Friends of the Mahicantuck

Recipient: Carmella Mantello, Anasha Cummings

Letter: Greetings,

We, the undersigned residents of the City of Troy, do hereby protest against any change of the Zoning Code which would zone the property at 1011 2nd Avenue to any classification other than R1, residential single family, detached.

The development of the property at 1011 2nd Avenue in Troy, NY, would disrupt the neighborhood, irrevocably change the character of the neighborhood, destroy the city's last undeveloped forest along the Hudson River, and put an historically, archeologically and culturally significant indigenous site at jeopardy.

We therefore urge the Troy City Council as well as the Planning Commission to not grant any change in the zoning of 1011 2nd Avenue.

Signatures

Name	Location	Date
Leo Bachinger	Catskill, NY	2020-08-22
KD McTeigue	Albany, NY	2020-08-23
Emily Musial	Philadelphia, PA	2020-08-23
Victoria Marcario	Troy, NY	2020-08-23
Catherine Regitano	Troy, NY	2020-08-23
Heather Kennish	Castleton On Hudson, NY	2020-08-23
Madelyn Degler	Troy, NY	2020-08-23
Molly Freiberg	East Nassau, NY	2020-08-23
Annie Jacobs	Troy, NY	2020-08-23
Zachary DeVilleneuve	Troy, NY	2020-08-23
Donna Simms	Troy, NY	2020-08-23
Christopher Bassett	Troy, NY	2020-08-23
Rhea Drysdale	Troy, NY	2020-08-23
Sarah Pezdek-Bachinger	Ballston Spa, NY	2020-08-23
Jason Meyre	Troy, NY	2020-08-23
Rags Ragliacci	Troy, NY	2020-08-23
dan bolam	Schenectady, NY	2020-08-24
Abigail Harris	Wynantskill, NY	2020-08-24
Lauren Goewey	Watervliet, NY	2020-08-24
Adam Retzlaff	Mohawk, NY	2020-08-24

Name	Location	Date
Michelle Driscoll	Pennellville, NY	2020-08-24
Michelle McCarthy	Rensselaer, NY	2020-08-24
Kizzianne Casale	Troy, NY	2020-08-24
Timothy Sarver	Rensselaer, NY	2020-08-24
Eric Patton	Troy, NY	2020-08-24
Beth Doris	troy, NY	2020-08-24
Deirdre Matthews	Sebastian, FL	2020-08-24
Jess Bennett	Troy, NY	2020-08-24
Omar Williams	Troy, NY	2020-08-24
Jay Deierlein	East Greenbush, NY	2020-08-24
Jay Deierlein	Troy, NY	2020-08-24
Celena Scherfner	Liverpool, NY	2020-08-24
Ivy Hest	Troy, NY	2020-08-24
richard herrick	Troy, NY	2020-08-24
Shannon Contento	Cohoes, NY	2020-08-24
Elizabeth Maloney	Troy, NY	2020-08-24
Lauren Boardman	Milton, NY	2020-08-24
Brendan Freiler	River Vale, NJ	2020-08-24
Rachael Gardner	Ravena, NY	2020-08-24
Patricia Jones	Binghamton, NY	2020-08-24
Brandon Costelloe-Kuehn	rensselaer, NY	2020-08-24
Paula Hebert	Troy, NY	2020-08-24

Name	Location	Date
John Cruickshank	Troy, NY	2020-08-24
Leander Fenton	Troy, NY	2020-08-24
Stephanie Levay	Albany, NY	2020-08-24
Dylan Keenan	Cohoes, NY	2020-08-24
Ashleigh Ellis	Troy, NY	2020-08-24
Zach Carhide	Troy, NY	2020-08-24
Shawna Norton	Troy, NY	2020-08-24
Louis Sanders jr	Troy, NY	2020-08-24
Jan Hoffman	Sebastian, FL	2020-08-24
LYNN JUDKINS	TROY, NY	2020-08-24
Jean Debboli	Greenville, NY	2020-08-24
steven shashok	albany, NY	2020-08-24
Christine Powers	Loudonville, NY	2020-08-24
Dia Osgood	Slingerlands, NY	2020-08-24
Kristen Renee	Rensselaer, NY	2020-08-24
Meagan Gallagher	Albany, NY	2020-08-24
Elizabeth Ohler	troy, NY	2020-08-24
Patricia Derocher	Cohoes, NY	2020-08-24
Wendy Zeigler	Troy, NY	2020-08-24
Laura Priscott	Troy, NY	2020-08-24
Justin Tyrrell	Troy, NY	2020-08-24
Maggie Noel	Troy, NY	2020-08-24

Name	Location	Date
Melissa Ashdown	Troy, NY	2020-08-24
Kathleen Miller	Pleaseantdale, NY	2020-08-24
Jessica Bruce	Troy, NY	2020-08-24
Cassandra Baker	Endicott, NY	2020-08-24
Sara Culliton	Troy, NY	2020-08-24
Kerri Dornicik	New Paltz, NY	2020-08-24
Joshua Maxson	Troy, NY	2020-08-24
Sharee Dunham	Troy, NY	2020-08-24
Craig Craven	pleasantdale, NY	2020-08-24
Mary D'Amico	Wynantskill, NY	2020-08-24
Sharon Shaughnessy	Albany, NY	2020-08-24
MICHAEL ZEHNER	TROY, NY	2020-08-24
Jane Snay	Troy, NY	2020-08-24
Makenzie Henault	Albany, NY	2020-08-24
Meghan Menard	Troy, NY	2020-08-24
Corrine Winnie-Obzud	Troy, NY	2020-08-24
Bryana Campbell	Troy, NY	2020-08-24
Manuel Perez	Troy, NY	2020-08-24
Kyle Obzud	Troy, NY	2020-08-24
rosemary clark	TROY, NY	2020-08-24
Brittany Luke	Troy, NY	2020-08-24
Anthony Powers	Troy, NY	2020-08-24

Name	Location	Date
Taylor Elting	Troy, NY	2020-08-24
Guillermo Chacon	Albany, NY	2020-08-24
Ashley Delmonico	Whitesboro, NY	2020-08-24
Brenda Ford	Troy, NY	2020-08-24
Myra Johnson	Albany, NY	2020-08-24
christine lucey	Troy, NY	2020-08-24
Harold Previtali	Troy, NY	2020-08-24
Christopher Caulfield	Albany, NY	2020-08-24
Samantha Elting	Waterford, NY	2020-08-24
Caroline ferris	Troy, NY	2020-08-24
Renee Sambets	Troy, NY	2020-08-24
Alex Helmar	Troy, NY	2020-08-24
Jacob Osgood	Cohoes, NY	2020-08-24
Laura ford	Watervliet, NY	2020-08-24
Heather Moran	Cohoes, NY	2020-08-24
Breanna Jordan	Troy, NY	2020-08-24
Jessy Valentine	Troy, NY	2020-08-24
michael lavigne	Troy, NY	2020-08-24
Colleen Skiff	Delmar, NY	2020-08-24
John Wolbeck	Troy, NY	2020-08-24
Michael Nash	Whitesbo, NY	2020-08-24
Araceli Herrera	Queensbury, NY	2020-08-24

Name	Location	Date
Makayla Baldwin	Delmar, NY	2020-08-24
Cait Denny	Albany, NY	2020-08-24
Stephanie Weigelt	Hudson, US	2020-08-24
Allison Conley	Troy, NY	2020-08-24
Charleen Bushey	Cohoes, NY	2020-08-24
Emily Clute	Troy, NY	2020-08-24
James & Bonnie Devoe	Troy, NY	2020-08-24
Crystal Riddell	Troy, NY	2020-08-24
Joan Ciccarelli	Troy, NY	2020-08-24
Rosella Riddell	Troy, NY	2020-08-24
Karen Bellamy	Clifton Park, NY	2020-08-24
Dana Williams	Cohoes, NY	2020-08-24
wayne foy	Troy, NY	2020-08-24
Linda Houle	Troy, NY	2020-08-24
David Palmo	Troy, NY	2020-08-24
Elaina Halse	Troy, NY	2020-08-24
Samantha Johnson	Albany, NY	2020-08-24
Treven Santicola	Albany, NY	2020-08-24
John Baranowski	North Las Vegas, NV	2020-08-24
Cassie Tran	Wilmington, DE	2020-08-24
Stuart Ford	Homestead, FL	2020-08-24
David Osgood	Troy, NY	2020-08-24

Name	Location	Date
Carl Jourdanais	Cohoes, NY	2020-08-24
Daniel Benoit	Troy, NY	2020-08-24
Julie Prey	Media, PA	2020-08-24
Debra Evans	Troy, NY	2020-08-24
Meghan Keenan	New York, NY	2020-08-25
Kristine Henneberry	Kennebunk, ME	2020-08-25
Suzanne Ayer	Schodack, NY	2020-08-25
Jo Medve	Norfolk, NY	2020-08-25
Christina Galagarza	Philadelphia, PA	2020-08-25
Kim Chabot	Troy, NY	2020-08-25
Kelly Benoit	Troy, NY	2020-08-25
Molly McDonnell	Troy, NY	2020-08-25
Ro Snyder	Schenectady, NY	2020-08-25
Jacob Kuklick	Philadelphia, PA	2020-08-25
Amy Sciortino	Philadelphia, PA	2020-08-25
Grace Ashley	Schenectady, NY	2020-08-25
Niah Tobarri	Latham, NY	2020-08-25
John Connors	Troy, NY	2020-08-25
Abby Swick	Blue Springs, MO	2020-08-25
Kaylee Laflamme	San Juan Capistrano, US	2020-08-25
alicia anaya	Floresville, US	2020-08-25
Autumn Koen	Sylvania, US	2020-08-25

Name	Location	Date
AnnMarie Broussard	Lafayette, US	2020-08-25
celys tials	US	2020-08-25
egrah audil	Minneapolis, US	2020-08-25
Hope Ryan	South San Francisco, US	2020-08-25
Elizabeth Salvador	Lahaina, US	2020-08-25
Kelly Brown	Reno, US	2020-08-25
Janice Hall	Tampa, US	2020-08-25
Caiden Kemp	Baton Rouge, US	2020-08-25
Jeremy Peel	San Diego, CA	2020-08-25
Nicole Keb	San Francisco, US	2020-08-25
Liana Snow	US	2020-08-25
Parker Brown	Chevy Chase, US	2020-08-25
unknown 1212	US	2020-08-25
Jae Long	Las Vegas, US	2020-08-25
Yajaira Garcia	Prescott, US	2020-08-25
Ella Rosenthal	Port Washington, US	2020-08-25
Brooke Sorensen	Redmond, US	2020-08-25
christa chan	Seattle, US	2020-08-25
nikki whitehead	dallas, US	2020-08-25
Nakara Johnson	Montclair, US	2020-08-25
mireya flores	Harlingen, US	2020-08-25
Lily Huerta	Portland, US	2020-08-25

Name	Location	Date
Anarely Santana	Houston, US	2020-08-25
Blake Cohen	Washington, US	2020-08-25
Shiloh Jones	Troy, NY	2020-08-25
Eduardo Barbero	Redding, US	2020-08-25
Mike Flores	Escondido, US	2020-08-25
Fatima N	Phoenix, US	2020-08-25
Ellis Coleman	Waxhaw, US	2020-08-25
Jaylen Chua	Covina, US	2020-08-25
Michelle Morgan	Westwood, US	2020-08-25
Iroshi Perera	Reading, US	2020-08-25
denise asadorian	Troy, NY	2020-08-25
Kate Lovering	US	2020-08-25
andria Munroe Baerga	Troy, NY	2020-08-25
Shannon S	East Greenbush, NY	2020-08-25
Richard Freiberg	Philadelphia, PA	2020-08-25
Jennifer Cardinal	Troy, NY	2020-08-25
Rebekah Hogan	Harrison, NJ	2020-08-25
Kelly Fellenzer	Troy, NY	2020-08-25
Judy Anderson	Kinderhook, NY	2020-08-25
Summer Myers	Troy, NY	2020-08-25
Alyssa Rodriguez	Wynantskill, NY	2020-08-25
Jessilyn Hartman	Troy, NY	2020-08-25

Name	Location	Date
Tara Simmons	Troy, NY	2020-08-25
Austen Zeh	Rensselaerville, NY	2020-08-25
Patrick McLaughlin	Troy, NY	2020-08-25
Paul D'Arcy	New York, NY	2020-08-25
Justin Rogers	Schenectady, NY	2020-08-25
Joan Gingeresky	Troy, NY	2020-08-25
Mark Sarnacki	Troy, NY	2020-08-25
Lynn Conway	Troy, US	2020-08-25
Elizabeth Heller	Troy, NY	2020-08-25
Sarah Thompson	Stephentown, NY	2020-08-25
Jennifer Schulaner	Troy, NY	2020-08-25
Stacey Civello	Portland, OR	2020-08-25
Matheus Arnellas	Santa Clara, CA	2020-08-25
kathy spillane	Troy, NY	2020-08-25
Leonora Maroli	Troy, NY	2020-08-25
Michele Valenti	Troy, NY	2020-08-25
Kiersten McDermott	Troy, NY	2020-08-25
Lila Denning	San Diego, CA	2020-08-25
Kainat Faizi	Albany, NY	2020-08-25
Aarom Morris	Round Lake, NY	2020-08-26
Allison Fleck	Waltham, MA	2020-08-26
Elizabeth Barker	Troy, NY	2020-08-26

Name	Location	Date
Dylan miller	Troy, NY	2020-08-26
Rachel B	irvington, NY	2020-08-26
Christy Mercer	Troy, NY	2020-08-26
SUZANNE BUTLER	Troy, NY	2020-08-26
Jillian Naveh	Troy, NY	2020-08-26
Adam Heggen	Schenectady, NY	2020-08-26
Zan S	Troy, NY	2020-08-26
Matthew Plummer	Troy, NY	2020-08-26
margaret Davey	Troy, NY	2020-08-26
Tracy Kennedy	Troy, NY	2020-08-26
Geoffrey Raymond	Troy, NY	2020-08-26
Laudelina martinez	troy, NY	2020-08-26
Mark Shipley	Troy, NY	2020-08-26
Danielle Sanzone	Troy, NY	2020-08-26
Michele DeLair	Troy, NY	2020-08-26
Jim Deseve	Ny, NY	2020-08-26
Kimberly Connors	Troy, NY	2020-08-26
Brendan Kennedy	Troy, NY	2020-08-26
Kevin Lovelady	Troy, NY	2020-08-26
Sara Emmert	Troy, NY	2020-08-26
James Van Duyne	Albany, NY	2020-08-26
Theresa Hovish	Albany, NY	2020-08-26

Name	Location	Date
Terri Metchick	Troy, NY	2020-08-26
Christine Dowd	Cohoes, NY	2020-08-26
Michael Burgess	Petersburg, NY	2020-08-26
D Rossbach	Troy, NY	2020-08-26
Stephen Smith	Troy, NY	2020-08-26
Katherine Snively	Schenectady, NY	2020-08-26
Patty Stanford	Delmar, NY	2020-08-26
Kathryn Adams	Troy, NY	2020-08-26

PETITION AGAINST CHANGING THE ZONING OF 1011 2nd AVE IN TROY NY

We, the undersigned residents of the City of Troy, do hereby protest against any change of the Zoning Code which would zone the property at 1011 2nd Avenue to any classification other than R1, residential single family, detached.

The development of the property at 1011 2nd Avenue in Troy, NY, would disrupt the neighborhood, irrevocably change the character of the neighborhood, destroy the city's last undeveloped forest along the Hudson River, and put an historically, archeologically and culturally significant indigenous site at jeopardy.

We therefore urge the Troy City Council as well as the Planning Commission to not grant any change in the zoning of 1011 2nd Avenue.

Name	Address	Signature	Date
Olivia McKee	134 Third St	<i>Olivia McKee</i>	8/22
Christine Ebersole	201 River St.	<i>Christine Ebersole</i>	8/22
John DeFazio	24 Kestner Lane	<i>John DeFazio</i>	8/22
Donna Lubke	804-5th Ave	<i>Donna Lubke</i>	8/22
Michael Scorsone	275 Third St	<i>Michael Scorsone</i>	8/22
Omar Elshorfy	1605 Hutton St.	<i>Omar Elshorfy</i>	8/22
Nikhil Kansurkar	2140 5th Ave	<i>Nikhil Kansurkar</i>	8/22
Hannah Schaming	239 2nd St	<i>Hannah Schaming</i>	8/22
Phil Busile	239 2nd St	<i>Phil Busile</i>	8/22
John McLaughlin	186 River St.	<i>John McLaughlin</i>	8/22
Jess Dvorsced	2142 5th Ave	<i>Jess Dvorsced</i>	8/22
Emily Blanchard	53 Ocean Spruce	<i>Emily Blanchard</i>	8/22
Brenda Ayer	161 Pinewoods Ave	<i>Brenda Ayer</i>	8/22
ASHLEY WILSON	101 7th St	<i>Ashley Wilson</i>	8/22
ROBERT BRIST	101 7th St	<i>Robert Brist</i>	8/22
Tindy Hammer	2142 5th Ave	<i>Tindy Hammer</i>	8/22
Pat Cross	516 Church St	<i>Pat Cross</i>	8/22
Alex Russell	18 2nd Street	<i>Alex Russell</i>	8/22
Kenneth Chiambo	136 9th St	<i>Kenneth Chiambo</i>	8/22
Jill DA	114 Pinewoods	<i>Jill DA</i>	8/22
N. David Pravitak	114 Pinewoods	<i>N. David Pravitak</i>	8/22
Sarah Grimini	3443 21st St.	<i>Sarah Grimini</i>	8/22
Erin Hogan	5 Broadway	<i>Erin Hogan</i>	8/22

and culturally significant indigenous site at jeopardy.

We therefore urge the Troy City Council as well as the Planning Commission to not grant any change in the zoning of 1011 2nd Avenue.

Name	Address	Signature	Date
Sydney Mitchell	5 Broadway		8/22
Jan Krawnsnick	12 Parkview CT		8/22
Catherine Block	749-549 Ave		8/22
Samuel Tangas	1738 Highland Ave		8/22
Emma Goldman	254 Washington St		8/22
Morgan Sakas	171 4th St		8/22
PATRICK McONVILLE	147 1st St. Troy		8/22
SUZY GERBE	393 1st		8/22
Siobhan McCannell	147 1st St Troy		8/22
HILARY AMISMAN	405 3rd St Troy		8/22
DAVE PUBLON	38 1st St. #17 Troy		8/22
CHRIS BROSSETI	379 4th St. Troy		8/22
Josephine Super	13 15th St Troy		8/22
Kristie Smith	3 Powers Ln Troy NY		8/22
Michael Lombardi	27 2nd St Troy NY		8/22
Nicholas Detardo	501 Broadway Troy NY		8/22
Angela Bealler	808 Jacob Troy NY		8/22
Natalie Jeangille	321 4th Street Troy NY		8/22
Tiffany Morgan	172 River St Troy		8/22
Abruska Akera	253 Liberty Troy		8/22
Christa Dawn	243 Manning Bl		8/22
Ivy Johnson	15 Alder Ave		8/22
Kai Rhatigan	"		8/22

PETITION AGAINST CHANGING THE ZONING OF 1011 2nd AVE IN TROY NY

We, the undersigned residents of the City of Troy, do hereby protest against any change of the Zoning Code which would zone the property at 1011 2nd Avenue to any classification other than R1, residential single family, detached.

The development of the property at 1011 2nd Avenue in Troy, NY, would disrupt the neighborhood, irrevocably change the character of the neighborhood, destroy the city's last undeveloped forest along the Hudson River, and put an historically, archeologically and culturally significant indigenous site at jeopardy.

We therefore urge the Troy City Council as well as the Planning Commission **to not grant any change in the zoning of 1011 2nd Avenue.**

Name	Address	Signature	Date
Dori Badger	1014 2nd Ave	Dori Badger	8/25/20
Jim Kiley	1012 2 nd Ave	[Signature]	8/25/20
Theresa Letts	1010 2nd Ave	Theresa Letts	8/25/20
Elliott Byer	1024 2nd Ave	[Signature]	8/25/20
Yail Connally	309 Roosevelt Av	Yail E Connally	8/25/20
Edmund Connally	309 Roosevelt Ave	Edmund J Connally	8/25/20
Walessalhe	312 Roosevelt Ave	Walessalhe	8/25/20
DAVE Miles	312 Roosevelt Ave	Dave Miles	8/25/20
Terr O'Hanski	314 Roosevelt Ave	Terr O'Hanski	8/25/20
Keith O'Hanski	314 Roosevelt Ave	Keith O'Hanski	8/25/20
Raymond O'Hanski	"	Ray O'Hanski	
Rachel Carter	1009 2nd Ave	Rachel Carter	8-25-20
Robin Nedoroscik	1006 2nd Ave	Robin Nedoroscik	8-25-20
John Nedoroscik	1006 2nd Ave	John Nedoroscik	8-25-20
Yail Connally	1003 Second Ave	Yail Connally	8/26/20

Date: Thursday, August 27th, 2020

To: Anasha Cummings, Chair; Sue Steele; Kim Ashe McPherson; and Carmella Mantello, President

Re: Friends of the Mahicantuck Urge You to Say NO to Developing 1011 2nd Ave. in Lansingburgh

From: Kristoph DiMaria, 442 2nd Street, Troy, NY 12180

[TO BE READ BY REGISTERED SENDER AT MEETING TONIGHT AT 6PM AND ADDED TO MINUTES]

Dear members of the Troy City Council Planning Committee, Mayor Madden, and the Council at Large,

I am Kristoph DiMaria, resident and business owner in our city, living in South Troy, also having lived in Lansingburgh in years previous. I come before you all this evening in earnest of urging the Planning Committee to deny Kevin Vandenburg's purchase of and proposal to have the 11-acre site located at 1011 2nd Ave. in Lansingburgh rezoned for the development of a luxury condominium complex - one acre of which, is actually located in Schaghticoke. There are outstanding legal, cultural, environmental and ethical issues associated with Mr. Vandenburg's proposal, as well as general dissent from it by residents who live nearby to the site in addition to other community members and the Friends of the Mahicantuck - an organization coalesced for the purpose of addressing this issue.

It seems unlawful to advocate for this particular zoning change. The proposed development as well as the change in zoning code are inconsistent with the Realize Troy 2018 Comprehensive Plan (cp. Section 3). New York's zoning enabling statutes require that zoning laws be adopted in accordance with the comprehensive plan. The comprehensive plan should provide the backbone for the zoning law.

Principle 4 of Realize Troy is to "Preserve the City's Parks, Open Spaces, and Cultural Assets." This is the last wild-forested stretch of riparian woodlands in the neighborhood and likely contains artifacts of the Mahican people whose land was systematically removed from their occupation through maligned policy, business dealings, and force. It contains a beautiful view of the river, small trails for natural refuge, and is home to the neighboring wildlife whose habitat is continually threatened.

This land is certainly an open space and cultural asset. Would you deny that fact? Are you willing to further compromise your integrity and values to sell out for an unnecessary development project? A perfectly good urban space for redevelopment exists only several blocks south as the now defunct Price Chopper. If you must continue to disadvantage current residents by offering preferential treatment to major development corporations, I strongly urge you to consider that site instead.

The parcel in question is NOT located in a major reinvestment area and the surrounding area is zoned R-1 for 10 single family homes. 240 multi-family units do not fit with the character of surrounding land uses. I also wonder what the effect of the clearing, construction, increased traffic, pollution, and population density will do for the quality of life for the current residents who live in the single-family homes there, or within the trailer park.

Furthermore, I am concerned that this proposal falls under the unethical practice of Spot Zoning, a loathsome and fairly common practice which specifically benefits an individual or other private

interest at the disadvantage of the surrounding community. Due to the inconsistency with the surrounding zoning of R-1, the failed adherence to the city's comprehensive plan, and the unreasonably inequitable treatment with comparably situated land, I believe this proposal will do much more harm than good. Adverse effects such as lowered property values, endangered neighborhood safety, comfort, and access to natural and cultural resources may ultimately drive them away. This may lead to further unnecessary development that feels divisive and exclusionary, quite counter to the rhetoric of community and equitability the City of Troy's government claims to practice. It will also tax the city's infrastructure and services - an already suffering state of affairs - and gain no tax revenue for the city to ameliorate it.

What is the city's need for this proposal to occur at this specific site? How will it benefit the community at large? Who do you consider as part of that community? Please demonstrate how you have met the economic viability and burden criteria.

What is your plan for administering cultural resource management practices that preserve the history, culture, and environmental integrity of this site? Will you approve this unlawful proposal for short-term benefit in exchange for long-term harm to those who currently reside there? Will you give the neighboring Schaghticoke Tribe and descendants of the Mahican people who inhabited this land before it was taken a seat at the table for this discussion?

Please do not approve this proposal. Please deny Kevin Vandenburg access to the purchase and development of 1011 2nd Ave. Please cease any effort to negatively gentrify and harmfully develop open spaces and cultural sites. If you will not, then please move this proposal to the already developed urban site of the now defunct Price Chopper as it would much better serve what I feel is a destructive purpose, though it pains me to witness your choosing of it.

Please do better. Listen to us. Act with integrity. Respect the complete heritage of our city. Acknowledge the ongoing narratives of structural violence present in your activities. Change. Be better.

Thank you for your time and attention.

Sincerely,
Kristoph DiMaria

August 27, 2020

Anasha Cummings
Chair, Troy City Council Planning Committee
433 River Street
Troy, NY 12180

CC: Members of the Troy City Council Planning Committee

Re: ORDINANCE AUTHORIZING AMENDMENT OF CITY OF TROY ZONING MAP ESTABLISHED BY TROY CODE SECTION 285-49 (A) TO REZONE TAX MAP PARCEL NUMBER 70.64-1-1 ON 2nd AVENUE IN NORTH TROY FROM R-1 SINGLE FAMILY RESIDENTIAL DETACHED TO P PLANNED DEVELOPMENT

Dear Mr. Cummings,

I write today as a Troy resident to voice strong opposition to the proposal to amend the City of Troy Zoning Map to rezone map parcel number 70.64-1-1 on 2nd Avenue. **I urge that the Planning Committee vote against the motion to move this proposal to the planning commission.**

As a Troy resident with a near decade-long career in environmental policy, specifically regarding climate and water, I have deep concerns about how this project would impact the City of Troy's environment. For 5 years, I served as the Water and Natural Resources Director and Environmental Advocates NY, and I've worked for the past two years as the Environmental Policy Director at the New York Public Interest Research Group.

This parcel is the last remaining natural, untouched forest on Troy's Hudson River Waterfront and offers crucial benefits to the entire City. Allowing this proposal to move forward would eliminate the environmental benefits of this forested area and jeopardize the City to more flooding, increased sewage overflows, and increase the City's greenhouse gas emissions. Additionally, this project would be a deep injustice to the Mahican people who have historical ties to this land.

Below, I've outlined my concerns in further detail:

1. **This project would threaten the City with more flooding.** Natural buffers and forests are key for flood prevention, and this area of Troy has already suffered from significant flooding. In January 2020, the Golub Corporation announced they are closing the Price Chopper in Lansingburgh due to significant flooding.¹ As the climate continues to warm, more frequent severe storms will also impact the area. According to the the New York State Department of Environmental Conservation (DEC), 100-year storms are projected to become 20-50% more likely by the 2020s, and 70-190% by the 2050s. This translates to

¹ "Price Chopper/Market 32 to close North Troy store," CBS 6 Albany, January 27, 2020, <https://cbs6albany.com/news/local/price-choppermarket-32-to-close-north-troy-store>

15.3-16.8 feet flood heights along the Hudson River.² Additionally, climate change is leading to more frequent precipitation east of the Hudson River. By the 2050s, precipitation may increase 12% from baseline 1971-2000 levels.³

Additionally, as the climate continues to warm, the Hudson River will continue to rise, causing more flooding over time. High estimate projections for sea level rise indicate the Hudson River may rise by 27-30” by the 2050s.⁴

To reduce the risk of severe flooding, DEC recommends that communities “use natural vegetated buffers to protect assets from flood risk,” and “identify and conserve natural areas contributing to stormwater management.”⁵ Natural resources, like trees and other green spaces, absorb water from running off into waterways, and also absorb excess rain and flood waters. Allowing this proposal to move forward is the exact opposite of best management practices to prevent flooding.

The developer claims because this area is above the 100-year flood zone, it would not negatively impact flooding. This is false, because removing greenspace means fewer natural resources to absorb excess rain and snow melt, causing more runoff to the Hudson River and surrounding area.

- 2. This project would eliminate a carbon sink for the City.** Forested areas are necessary tools for climate mitigation. Forests and other greenery absorb greenhouse gases. Troy is a Climate Smart Community and has important goals to reduce greenhouse gas emissions.⁶ In fact, Troy has specifically pledged to reduce GHG emissions through the use of climate-smart land use tools and to enhance community resiliency.⁷

DEC lists numerous actions Climate Smart Communities are both mandated and recommended to take. Amongst these actions, DEC includes in its PE6 climate-smart land use section developing a natural resources inventory, developing a tree planting program, and, critically, preserving natural areas through zoning or other regulations. Under the section PE7, enhance community resiliency to climate change, DEC recommends conservation of natural habitats and climate smart resiliency planning.⁸

As a Hudson River community, leading the State to reduce GHG emissions is important, but removing this forested area would negate these goals. There is no way to replace the benefits offered by a continuous forested area.

² “Climate Summary for Communities,” NYS DEC, page 8, https://www.dec.ny.gov/docs/remediation_hudson_pdf/csfc2.pdf

³ Ibid, page 6

⁴ Ibid, page 5

⁵ Ibid, page 9

⁶ “Climate Smart Communities: City of Troy,” CDRPC, November 2015, <http://cdrpc.org/wp-content/uploads/2015/05/City-of-Troy-Community-Profile.pdf>

⁷ Ibid.

⁸ Climate Smart Communities (CSC) Certification Action Checklist - Version 3.7 (Apr. 24, 2020), NYS DEC, https://climatesmart.ny.gov/fileadmin/csc/documents/Action_Checklist/CSCC-ActionChecklist-4-24-2020.pdf

3. This project would strain the City's sewage infrastructure. The capital region is surrounded with cities that have combined sewage systems, which are designed to take both stormwater runoff and wastewater from homes and businesses. These systems are old and were not designed to handle modern capacity. As a result, the capital region alone contributes 1.2 billion gallons of sewage into the Hudson River annually.

Troy is one of the cities with a combined sewage system, and of the cities in the capital region, has the most sewage outfalls in the area. This proposal could include as many as 240 new units in the area, which could lead to far more wastewater entering the City's wastewater system.

There is no question that this plot of land, as it currently exists, offers the most benefits to the City of Troy. While the developer has proposed to include waterfront access to the Hudson River, that is not enough to negate the negative environmental impacts associated with the project. It would also be an unconscionable environmental injustice to the Mahican people.

Thank you for consideration of these comments.

Sincerely,

Elizabeth Moran
50 2nd Street
Troy, NY 12180

Nathan Allison
65 1st St
Troy, NY 12180
nathan.allison@mohican-nsn.gov

Rezoning Riverfront Parcel 1011 2nd St Troy, NY

As Tribal Historic Preservation Officer for the Stockbridge-Munsee Community, I wish to address the Troy City Planning Committee regarding concerns with the proposed rezoning of the Riverfront Parcel at 1011 2nd St in north Lansingburgh, Troy, NY. The Stockbridge-Munsee Community Tribal Historic Preservation Office operates from its offices here in Troy, NY. We conduct Section 106 and NEPA reviews on Federal undertakings along with all state and local consultation projects. Our efforts in Historic Preservation maintain government-to-government relationships and ensure Tribal interests in the Tribe's traditional homelands along the Hudson Valley are represented. The Lansingburgh Riverfront Parcel has high archaeological sensitivity and cultural significance for the Stockbridge-Munsee Band of Mohican Nation. Within the boundaries of the Parcel exists a number of National Register of Historic Places (NRHP) eligible archaeological sites. The recorded Chert Quarries Precontact Site represents immense cultural and educational significance. For thousands of years this area was used for the extraction of resources for Mohican people. Materials from the Chert Quarries Precontact Site have been identified miles away and represent a crucial component of past social and trade networks that linked this region to distant Native American communities. These sites have been at the center of archaeological research studies on the lifeways of past peoples in the area and a focus for our work in site protection. Due to the immense cultural sensitivity for the Tribe and known archaeological sites we are concerned with the current rezoning proposal. Tonight, we bring awareness to the Troy City Planning Committee of the cultural significance of this Parcel. Further, the Stockbridge-Munsee Community Tribal Historic Preservation Office proposes to work with the City toward NRHP nomination and ultimately protection in perpetuity of these culturally important archaeological sites. Thank you.



**RUPP
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ATTORNEYS**

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PHILLIP A. OSWALD
OSWALD@RUPPBAASE.COM

August 27, 2020

Via Electronic Mail

Troy City Council Planning Committee
433 River Street
Troy, NY 12180
mara.drogan@troyny.gov
aaron.vera@troyny.gov

Dear Hon. Sirs/Madams,

Re: August 27, 2020 Hearing
Ordinance Authorizing Amendment – Parcel No. 70.64-1-1
Our File No.: 7754.19332

I represent the Friends of the Mahicantuck and the Schaghticoke First Nations. I am respectfully requesting that this letter be added to the meeting minutes and be considered in opposition to the Ordinance Authorizing Amendment of the City of Troy Zoning Map Established by the Troy Code Section 285-49 (A) to Rezone Tax Map Parcel Number 70.64-1-1 on 2nd Avenue in North Troy (the “proposed rezoning”) that is being heard before the Committee on August 27, 2020. For the reasons discussed below, it is respectfully submitted that the proposed rezoning would constitute unlawful spot zoning. Particularly, the proposed rezoning and the development project being proposed for parcel number 70.64-1-1 (the “property”) is highly inconsistent with and would actually violate several key provisions of the Realize Troy Comprehensive Plan (May 2018) (the “Comprehensive Plan” or the “Plan”).

I. SPOT ZONING UNDER NEW YORK LAW.

Under New York law, the “classic” definition of spot zoning was provided by the N.Y. Court of Appeals in its 1951 decision in *Rodgers v. Village of Tarrytown*, 302 N.Y. 115, 96 N.E.2d 731 (1951). In that case, the Court of Appeals defined spot zoning as follows:

[T]he 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 . . . “spot zoning” is the very antithesis of planned zoning.

Id. at 123-24. This definition since has been followed and repeated by several courts that have analyzed whether proposed rezoning constitutes impermissible spot zoning. *E.g.*, *Matter of Yellow Lantern Kampground v. Cortlandville*, 279 A.D.2d 6, 9, 716 N.Y.S.2d 786, 789 (3d Dept. 2000).

Since the *Rodgers* decision, New York courts have applied the definition of spot zoning through an analysis of several factors. Specifically, the following factors are applied to determine whether impermissible spot zoning has occurred: (1) whether the proposed use is compatible with surrounding uses; (2) whether the rezoning is consistent with a comprehensive land use plan; (3) any likelihood of harm to surrounding properties; (4) recommendations of professional planning staff; and (5) availability and suitability of other parcels. *E.g.*, *Matter of Yellow Lantern Kampground*, 279 A.D.2d at 9-10 (quoting *Matter of Save Our Forest Coalition v. City of Kingston*, 246 A.D.2d 217, 221, 675 N.Y.S.2d 451 (3d Dept. 1998)). It is important to remember, however, that “[n]o single factor is dispositive,” and “the ultimate test is ‘whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community.’”¹ *Matter of Yellow Lantern Kampground*, 279 A.D.2d at 9-10 (quoting *Matter of Save Our Forest Coalition*, 246 A.D.2d at 221).

II. APPLICATION OF THE SPOT ZONING FACTORS TO THE PROPOSED REZONING AND THE PROPOSED USE OF THE PROPERTY.

When applying the factors that have been articulated by New York courts to determine whether spot zoning has occurred, each factor supports that the proposed rezoning constitutes spot zoning. Subpoint A below addresses the first factor, Subpoint B below addresses the second through fourth factors, and Subpoint C below addresses the fifth factor.

A. Whether the Proposed Rezoning is Compatible With Surrounding Uses.

Here, the clear majority of the surrounding properties are used as single-family residences — *i.e.*, an “R1” zoning designation — while the proposed rezoning would permit for the property to be used for an “apartment complex with six (6) 3-story buildings sitting atop covered parking spaces — resulting in a Planned Development or “P” zoning classification for the property (Official Zoning Map, City of Troy (Dec. 19, 2016) (“Zoning Map”); Resolution Referring Lansingburgh Zoning Change Request to Planning Commission for Review and Recommendation (undated) (“Proposed Resolution”); *see also* Project Narrative for Second Avenue at 1 (Aug. 19, 2020) (“Project Narrative”) (“six multi-family buildings, associated parking, stormwater management, site amenities and utilities”).

¹ Indeed, by statute in New York, “[a]ll city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.” N.Y. Gen. City Law § 28-a(12) (McKinney’s 2020).

While the existing use of surrounding properties and the proposed use of the property are both residential, several material differences exist between these two distinct types of residential uses. Undoubtedly, single-family residences — even a neighborhood of them — are categorically different than several large multi-family structures containing hundreds of units.² First, the population density in the given geographical areas is substantially greater for large multi-family, residential structures, such as what is being proposed. Second, the structures themselves change the character of the area, as they are different in almost all respects from single-family houses. Third, the utility and other ancillary services that are necessary for such an increased density inherently differ from those associated with a single-family neighborhood. Therefore, even though both uses are residential, it would be illogical, arbitrary, and superficial to conclude that both are compatible on this ground because it would overlook the actual differences between the two uses.

Lastly, again, it should be noted that the proposed rezoning would classify the property as a planned development area — *i.e.*, an “P” zoning designation (Proposed Resolution). However, in the context of the geographical boundaries of the City, no other planned development area is in close proximity to the property, which also means that the proposed rezoning is inconsistent with uses on surrounding areas (*see* Zoning Map). The closest area classified as planned development is separated from the property by several city blocks and several differently zoned areas. Accordingly, the proposed rezoning would not be compatible with uses of surrounding properties, especially considering the majority of those properties are used as single-family residences and the proposed use for the property would entail several large, densely packed apartment buildings. Thus, the first factor in the spot zoning analysis supports that the proposed rezoning is spot zoning.

B. Whether the Rezoning is Consistent With a Comprehensive Land Use Plan, Likelihood of Harm to Surrounding Properties, and Recommendations of Professional Planning Staff.

Turning to the second through fourth factors of the spot zoning analysis, these factors will be discussed collectively in this section because they are each related when assessing the proposed rezoning here. To explain, the Comprehensive Plan obviously controls the second factor — *i.e.*, whether the rezoning is consistent with a comprehensive land use plan. However, it also controls the third and fourth factors, as the Plan presumably was put in place to avoid

² In fact, courts have held that increasing the density of residents in an area can be a basis for a finding that rezoning constituted spot zoning, even if the surrounding area also is residential. *See Matter of Cannon v. Murphy*, 196 A.D.2d 498, 498, 600 N.Y.S.2d 965, 966 (2d Dept. 1993) (rezoning that allowed one residence per every 0.26 acres constituted spot zoning when the surrounding area allowed one residence per every 2 acres).

harm to surrounding properties³ and was based on the recommendations of professional planning staff. Accordingly, here, consistency with the Comprehensive Plan can be used to analyze the proposed rezoning in the context of the second through fourth factors. For several reasons, the proposed rezoning is inconsistent with the Comprehensive Plan.

1. The Proposed Rezoning is Inconsistent With Goal 1 and Goal 6.

Goal 1 and Goal 6 of the Comprehensive Plan make clear that high density, multi-family residential use should not occur on the property. Specifically, the property is located in a “Low-Rise Residential Area” that should only entail “low-density” residential uses (Comprehensive Plan at 62, 64). High to mid-density residential use should occur closer to the City Center, even if not within its boundaries (*see id.* at 61-62, 64). Indeed, the Plan explicitly provides:

The City of Troy is largely built out. Opportunities for change, development, growth and community revitalization will need to occur within developed areas, through intensification or infill development. Infill can support improvements to public transit as well as walking and cycling infrastructure. It can also revitalize neighborhoods and areas of the city that contain brownfield and greyfield sites. Infill development makes use of existing structures and infrastructure and is therefore considered a more sustainable city-building approach compared to continued outward expansion which has occurred in the counties of the Capital District.

(*id.* at 61). Furthermore, Goal 1 clearly provides that residential use should be directed toward the City Center, which is specifically identified as a “*key* area for residential growth” (*id.* at 29 (emphasis added)). Certainly, doing so would mitigate the “high vacancy rates [that] are also contributing to neighborhood destabilization,” which is an important objective emphasized throughout the Plan (*id.* at 11).

Therefore, the proposed rezoning would further contribute to the “built out” residential model that the Plan emphatically seeks to avoid, as the property, in fact, is located on the very *peripheral* of the City’s boundaries (*see Zoning Map*). In other words, the proposed rezoning would be the antithesis of the “compact growth” that is prioritized in the Plan, including directing residential development away from “key” areas. Thus, the proposed rezoning is inconsistent with these two goals of the Comprehensive Plan.

³ N.Y. Gen. City Law § 28-a(12) (McKinney’s 2020) (“[a]mong the most important powers and duties granted by the legislature to a city government is the authority and responsibility to undertake city comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens”).

2. The Proposed Rezoning is Inconsistent With Goal 4 and Goal 5.

The proposed rezoning is inconsistent with Goal 4 and Goal 5 of the Comprehensive Plan in the following three crucial ways: (1) it decreases access to important open spaces and nature-based recreational resources, including the Hudson River and its shoreline; (2) it is detrimental to the environmental and ecological health of the area; and (3) it would not only threaten, but would completely eviscerate an irreplaceable historical and cultural site.

First, increased access to open space and nature-based recreation is a critical goal and theme weaved throughout the Comprehensive Plan. Specifically, it is highlighted by, inter alia, the following provisions:

- Troy’s 7.5 miles of waterfront along the Hudson River also represents a *significant open space and recreational asset*. However, much of the waterfront is currently inaccessible to the public. (Comprehensive Plan at 15) (emphasis added).
- With very few exceptions, notably at Riverfront Park, Troy’s waterfront is not visible, and the city turns its back to the river. North of the downtown, *much of the waterfront is occupied by private residential uses and there are few opportunities to experience the waterfront*. (*Id.* at 18) (emphasis added).
- Transforming the river’s edge into a series of unique waterfront places each with a distinct role to play in the future of Troy’s economy is a *tremendous opportunity* to bolster the city as a whole. (*Id.* at 18) (emphasis added).
- A city’s open space network and the variety of its recreational and cultural offerings *contribute significantly* to a community’s *quality of life*, overall *health* and *competitive advantage* within the region. (*Id.* at 51) (emphasis added).
- Public streets that end at the water’s edge will be transformed into waterfront lobbies for improved enjoyment and access to the waterfront. (*Id.* at 52).

Accordingly, increasing and protecting — rather than forfeiting — open spaces and nature-based recreational spaces is a clear and resounding priority and goal under the Plan, including, in particular, increasing access to the Hudson River. *Indeed, one explicit goal is to “[r]econnect Lansingburgh visually and physically to the Hudson River shoreline”* (*id.* at 36) (emphasis added). The proposed rezoning, however, would completely contravene these clear goals and priorities under the Plan by leading to more “waterfront [being] occupied by private residential uses” and thereby further limiting “opportunities to experience the waterfront.” Even more importantly, aside from being inconsistent with the Plan, the proposed rezoning would be a deliberate step towards decreasing the “quality of life” and “overall health” of the community.

Second, with respect to environmental and ecological integrity, the Plan yet again includes unambiguous language that prioritizes this as a goal. Indeed, Goal 4 is titled “Preserve and Showcase the City’s Parks, Open Spaces and Cultural Assets” (Comprehensive Plan at 51). Additionally, the Plan includes, inter alia, the following passages:

- The majority of the Hudson River shoreline south of the Collar City Bridge has been channelized, which has interrupted or removed natural ecosystems. Due to this activity, sediment from the Hudson River is no longer deposited on the banks, and limited habitat is available for fish and wildlife species. (Comprehensive Plan at 16) (emphasis added).
- Existing ecological resources including wetlands and shoreline habitat shall be protected, preserved and enhanced. (*Id.* at 58) (emphasis added).
- For new development with frontage on the waterfront that is 500 square feet or greater, the City of Troy will require the submission of a construction management plan that demonstrates that the development will not compromise the Hudson riverbank. (*Id.*) (emphasis added).

Therefore, in no uncertain terms, the Plan makes clear that protecting, preserving, and enhancing “[e]xisting ecological resources including wetlands and shoreline habitat” is a requirement — they “shall be protected, preserved and enhanced.” In fact, the property here is located in a “New Proposed Coastal Boundary” (*id.* at 60) (emphasis added). Again, however, the proposed rezoning would literally destroy what is likely the last remaining forested tract along the Hudson River. As a result, the proposed rezoning not only would contravene the Plan, but it would be a blatant, undisputable violation of it.⁴

Lastly, but certainly equally as important, the Plan also prioritizes and emphasizes protecting cultural assets, which, again, is reflected in the very title of Goal 4 (Comprehensive Plan at 51). Moreover, the Plan unambiguously provides that “the City must invest in its . . . heritage assets” (*id.* at 9) (emphasis added). Rightfully so, the Plan highlights Native American heritage as the very genesis of the City itself; specifically, on page 5, the Plan provides the following:

The City of Troy’s first occupants were Native Americans who were drawn to the islands situated at the confluence of the Mohawk and Hudson Rivers due to the fertile farmlands and safe, defensive position this location offered at the intersection of these two waterways.

⁴ At the very least, a review in compliance with the State Environmental Quality Review Act (“SEQRA”) is necessary for the proposed rezoning. To the extent that one has not been performed, the proposed rezoning should be rejected in its entirety. *See Matter of Cannon v. Murphy*, 196 A.D.2d 498, 501, 600 N.Y.S.2d 965, 968 (2d Dept. 1993).

In this respect, one concrete objective under the Plan is to secure a UNESCO World Heritage Site Designation for the “historic downtown and its *broader environment*,” which is noted “would elevate Troy nationally as a *world class heritage destination* with the power to *significantly strengthen* the city’s tourism-related economies” (*id.* at 51) (emphasis added). Here, the cultural and historical significance of the property is detailed at length in the record by those who have direct, in-depth, first-hand knowledge. Given the testimony and record materials from these rightfully concerned citizens, the proposed rezoning would eviscerate one of the most — if not the most — culturally and historically significant sites in the City. Thus, the proposed rezoning would constitute a clear contravention of the Plan in this respect as well.

In sum, the proposed zoning would be in direct contravention of Goal 4 and Goal 5 of the Comprehensive Plan in three critical ways — to wit, foregoing open space and nature-based recreational opportunities, compromising the environmental and ecological integrity of the City’s natural resources, and failing to preserve cultural heritage assets. Thus, the proposed rezoning also is inconsistent with these two goals of the Comprehensive Plan.

3. Conclusion.

In sum, the proposed rezoning is inconsistent with the Comprehensive Plan, which courts have referred to as the “ultimate test” when assessing whether a proposed rezoning is spot zoning. In fact, not only is it inconsistent, but the proposed rezoning actually violates the Plan in several respects. Moreover, since the Plan is intended to serve the general welfare of the community, the proposed rezoning also creates a likelihood of harm to surrounding properties because it is inconsistent with the Plan. Likewise, since the Plan most certainly was drafted by planning professionals, the proposed rezoning also goes against the recommendations of those professionals in the Plan. Therefore, the second through fourth factors in the spot zoning analysis support that the proposed rezoning is spot zoning.

C. Availability and Suitability of Other Parcels.

Several other parcels are designated for planned development, and there is no legitimate reason why they are not equally available and suitable for the high-density, multi-family uses being proposed (*see* Zoning Map). In fact, those parcels appear to be more suitable according to the Comprehensive Plan because they are “located along corridors” and/or “are close to a high concentration of services, transit and amenities,” thereby rendering them “Mid-Rise” or “High-Rise” residential areas (Comprehensive Plan at 62, 64; Zoning Map). It appears that the only person to whom the property would be more suitable is the option-holder⁵ who is requesting the proposed rezoning, which obviously is not a legitimate consideration when

⁵ It is important to note that as an option holder, the party requesting the proposed rezoning would not lose value or use of property actually owned by him.

determining whether to rezone the property and indeed is highly indicative of spot zoning.⁶ Accordingly, the fifth factor in the spot zoning analysis supports that the proposed rezoning is spot zoning.

III. CONCLUSION.

In closing, based on the relevant analysis under New York law, it is respectfully submitted that the proposed rezoning would constitute spot zoning. Most importantly, this conclusion is undisputable given the several instances of how the proposed rezoning would directly contravene and even violate the Comprehensive Plan. Accordingly, it is respectfully requested that the proposed rezoning be rejected in its entirety. Thank you for your courtesy and your consideration of this submission.

Sincerely,



Phillip A. Oswald

cc: Mr. Steven Strichman {*via electronic mail – steven.strichman@troyny.gov*}
Commissioner of Planning & Economic Development
City of Troy, Planning Department

Ms. Carmella Mantello {*via electronic mail – carmella.mantello@troyny.gov*}
President
Troy City Council

⁶ See, e.g., *Boyles v. Town Board of Town of Bethlehem*, 278 A.D.2d 688, 690, 718 N.Y.S.2d 430, 432 (3d Dept. 2000).

The economics of development favor the short-run over the long-run

Economic theory, and the market economy it describes, looks at the world through the eyes of a single person making decisions from the point of view of the immediate present. In economic jargon this is called “discounted present value.” The question is “How much is it worth to me now to get something in the future?” The discount rate indicates how quickly something loses value the further into the future we receive it. For example, at a 5% discount rate, something worth \$100 million if I get it today is worth \$78 if delivered five years from now, and only \$61 million if received 10 years from now.

Consider the benefits of developing a natural, forested area, compared to the benefits of preserving it. The economic benefits of development are received almost immediately—construction jobs, tax revenue, more customers for local businesses. The benefits of development are relatively large, but generally last only a few years. The benefits of preservation are relatively small, but they last indefinitely. With even a relatively low discount rate (the lower the rate the less something loses value through time) the benefits of development will overwhelm the benefits of preservation in a purely economic cost-benefit study.

But should short-term economic benefits be the only criterion for making a choice between development and preservation? Another way is to consider a development project from the point of view of someone living in the future, say 25 years from now. Using the example above, preserving something worth \$100 million now will be worth only \$29 million in 25 years. But from the point of view of a person living 25 years from now, its value would be \$100 million. The question is “What kind of world do we want to leave for the future?” Imagine your daughter or granddaughter living in Troy 25 years from now. Would her life be better with an apartment complex or a natural wooded area?

Certainly, the economic benefits of a new apartment complex should be considered, but so should the non-monetary benefits of preserving natural areas. Studies of the benefits of even short walks in wooded areas have produced some remarkable results. For example, researcher found that people who live in cities with fewer trees have greater death rates from lower respiratory tract and cardiovascular illness. (<https://www.asla.org/ContentDetail.aspx?id=39564>)

Life is becoming more sedentary, and wooded areas in and near cities are becoming more scarce. Undeveloped open space will be even more important in the future to human well-being. The question is, what kind of city do we want to leave our children and grandchildren?

A discount rate calculator can be found at: <https://www.aqua-calc.com/page/discounted-present-value-calculator>

- Donovan, G. et al. 2013. *American Journal of Preventative Medicine*, 44(2),139-145. DOI: 10.1016/j.amepre.2012.09.066

John Gowdy, Professor of Economics, Emeritus, Rensselaer Polytechnic Institute



SCHAGHTICOKE FIRST NATIONS

To: Meeting of the City Council Planning Committee on Thursday, August 27, 2020

Re: discuss and act on this agenda: <http://www.troy.ny.gov/wp-content/uploads/2020/08/CCPlanningAgenda082720.pdf>.

Respectful greetings:

My name is Roberto Múkaró Borrero and I am sharing this testimony on behalf of Sachem Hawk Storm of the Schaghticoke First Nations and the Schaghticoke First Nations, Inc.

The Schaghticoke are an Indigenous Peoples of this region who are opposed to the development and rezoning proposal for 1011 2nd Street due to a number of factors, but among the most important, is the historic significance of this land.

This property has great historic and cultural significance for the Indigenous Peoples of the Mahicantuck River Valley including the Schaghticoke First Nations, as well as the Munsee and Lenape Nations. This land was a permanent and semi-permanent settlement of various groups of Algonquin-speaking indigenous Peoples and included a critical ceremonial ground. The land was also a quarry for the production of tools and weapons, particularly arrowheads and still contains a significant portion of indigenous artifacts. According to the statements made by the developer during the May hearing of the Planning Commission, a majority of test wells produced a significant amount of artifacts.

The property's historical-archeological significance is reaffirmed by several studies, including historical and cultural assessments connected to the GE remediation (see Decision 2002), a recent study and report conducted by Hartgen Archeological Assoc, a study in 2015 by Ann Morton, and long-running explorations, studies and examinations by Hetty Jo Brumback. All these studies identify the entirety of the property waterfront as bearing key archeological artifacts. There are strong indications that despite the rest of the property not having been independently examined, important artifacts and archeological potential remains for the rest of the property and beyond.

Despite these verifiable privately contracted surveys, research in association with these reports indicate inadequate assessment and archeological recovery on this site. The development of the site and space can negatively impact and threaten the cultural and historical heritage, as increased foot traffic, artifact-hunters, and pollution all can contribute to major disturbances and irrevocable loss.

Website: <https://www.schaghticoke.info/>
Email: sfn.tribal.email@gmail.com

Additionally, it is also important for the Council and community members to note that according to state and federal law, a DEC SPEDES permit is necessary associated with the ground disturbance of this project exceeding one acre. Other state and federal agency permits or funding may also trigger SHPO involvement. A coordinator of the Archeology Unit Program confirms this in official correspondence with a member of the Friends of the Mahican tuck from August 12, 2020 regarding the site, and states:

“Given the archaeological sensitivity of 1011 2nd Street, the SHPO will likely request an archeological survey to document archaeological sites that are located within this project area, if a survey has not already been undertaken.”

Schaghticoke First Nations is aware that there is a wide scope of legal grounds for why the requested change in zoning code cannot be granted, as stated in written supplemental evidence submitted by the Friends of the Mahicantuck prior to this hearing. Further, we are also aware that there are other locations in the area that could be better suited to the development being submitted.

Finally, Schaghticoke First Nations Mention has communicated with a representative of the property owner. We understand that if the Council does not approve the rezoning and development request, this land will remain in with the current owner. The property owners are open to preserving this land and exploring a larger, more community-oriented vision.

In closing, we call upon this Council to consider that instead of destroying the last tract of forest on the waterfront in Troy, we could work together in collaboration with property owners, and local community groups toward providing a unique opportunity for racial and environmental justice, education, and sustainable tourism in the area.

Respectfully submitted,
Roberto Múkaró Borrero,
On behalf of Sachem Hawk Storm
and the Schaghticoke First Nations, and
Schaghticoke First Nations, Inc.

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**Statement of
Jeffrey Anzevino, AICP
Director of Land Use Advocacy**

Troy City Council Planning Committee

Public Hearing

**Ordinance Authorizing Amendment Of City Of Troy Zoning Map Established By Troy Code
Section 285-49 (A) To Rezone Tax Map Parcel Number 70.64-1-1 On 2nd Avenue In North Troy
From R-1 Single Family Residential Detached To P Planned Development**

August 27, 2020

My name is Jeffrey Anzevino, Director of Land Use Advocacy for Scenic Hudson. Scenic Hudson's mission is to ensure that tomorrow's Hudson River Valley—from Manhattan to the foothills of the Adirondacks—is environmentally and economically sustainable and that its capacity to awe and inspire residents and visitors is preserved forever.

Scenic Hudson urges the Troy City Council Planning Committee to recommend against rezoning Tax Parcel Number 70.64-1-1 on 2nd Avenue from R-1 (Single Family Development) to P (Planned Development).

Scenic Hudson's recommendation is based on the fact that a rezoning to Planned Development would be inconsistent with the recently adopted *Realize Troy Comprehensive Plan* (2018). According to Map 14 in the Comprehensive Plan, this area is anticipated as "low density residential." The subject parcel is currently zoned R-1 which would allow approximately 10 single family homes. A concept plan for the site proposes 240 multi-family units, a land use that does not fit with the character of surrounding land uses and would be inconsistent with Comprehensive Plan.

Further, the *Realize Troy Comprehensive Plan* identifies seven "Major Reinvestment Areas" in the City of Troy, including two in Lansingburgh, none of which include the subject parcel proposed for the rezoning to Planned Development.

According to the New York State Department of State "*New York's zoning enabling statutes (the state statutes which give cities, towns and villages the power to enact local zoning laws) require that zoning laws be adopted in accordance with a comprehensive plan. The comprehensive plan should provide the backbone for the local zoning law.*"

https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf

N.Y. General City Law Section 28-a(12) requires that “*All city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.*” Scenic Hudson believes that a rezoning from Single Family Development to Planned Development would be inconsistent with the Comprehensive Plan’s designation of Low Density Residential and would therefore violate N.Y. General City Law Section 28-a(12).

Conclusion

In conclusion, because the proposed rezoning would not be consistent with the *Realize Troy Comprehensive Plan*, Scenic Hudson urges the Troy City Council Planning Committee to recommend against rezoning Tax Parcel Number 70.64-1-1 on 2nd Avenue from R-1 (Single Family Development) to P (Planned Development).

Thank you.