

**Minutes of the
TROY CITY COUNCIL
REGULAR MEETING
September 10, 2020
7:00 P.M.**

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

The meeting was called to order at 7:32 p.m. by Council President Mantello.

Pledge of Allegiance

Roll Call: The roll being called, the following answered to their names: Council Member Gulli, Council Member Ashe-McPherson, Council Member Steele, Council Member Cummings, Council Member Zalewski, Council Member McDermott, Council President Mantello, Chair.

In attendance were Mayor Patrick Madden, Deputy Mayor Monica Kurzejeski, Corporation Counsel Richard T. Morrissey, Deputy Comptroller Andrew Piotrowski, Commissioner of Planning & Economic Development Steven Strichman, and City Engineer Aaron Vera.

Public Forum:

The following individuals spoke at the meeting:

- Richard Sleeper
- Mark Russo
- Annie Jacobs
- Alexander Simon
- Dave Publow
- Rachel Carter
- Hined Rafeh
- Sara and Mark Boylen
- Chris Scully
- Sheree Cammer
- David Banks
- Francis Magai
- Jeffrey Anzevino
- Elizabeth Moran
- Phillip Oswald
- Michael Toomey
- Dan Phiffer
- Melissa Bromley
- Rhea Drysdale
- Jess Bennett
- TJ Kennedy

The following groups and individuals submitted written comments, which are appended to these minutes:

- Mark Harkness
- Cherokee Lynn
- Michael Roll
- Jenn Baumstein
- Noelle M. Long
- Roberto Múkaro Borrero
- Hannah Stenzel
- Kristoph DiMaria
- Angela Beallor
- Kimberly Brown
- Brooke Degener
- Donna Simms
- Jennifer Bartels
- Andrew Lynn
- Friends of the Mahicantuck
- Elizabeth Moran
- Phillip A. Oswald
- Scenic Hudson
- Nathan Allison

61. Ordinance Transferring Funds Within The 2020 General Fund Budget (Council President Mantello) (At The Request of The Administration)

Ordinance passed 7 ayes, 0 nos, 0 abstentions.

62. Ordinance Amending The Capital Projects Fund (Council Member Zalewski) (At The Request of The Administration)

Ordinance passed 6 ayes, 1 no (Mantello), 0 abstentions.

63. Ordinance Amending The Capital Projects Fund Budget (Council President Mantello) (At The Request of The Administration)

Ordinance passed 7 ayes, 0 nos, 0 abstentions.

64. Ordinance Authorizing And Directing Sales Of City Owned Real Property By The Proposal Sale Application Method (Council President Mantello) (At The Request of The Administration)

Zalewski made a motion to strike 112.76-10-4 (Mountainview Avenue) from the list of approved parcels. Motion carried 5 ayes, 2 nos (Gulli, Ashe-McPherson). Steele made a motion to strike 111.68-4-4 (753-757 Burden Avenue) from the list of approved parcels. Motion failed 3 ayes, 4 nos (Cummings, Zalewski, McDermott, Mantello). Amended ordinance passed 5 ayes, 2 nos (Gulli, Ashe-McPherson), 0 abstentions.

68. Ordinance Amending Chapter 247 Of Troy City Code (Council Member Cummings, Council Member Zalewski) (At The Request Of The Administration)

Cummings made a motion to change “article” to “Chapter” throughout. Motion carried 7 ayes, 0 nos, 0 abstentions. Ordinance passed 6 ayes, 1 no (Mantello), 0 abstentions.

69. Ordinance Authorizing Settlement Of Claims, To Wit: Dominic Comitale, Plaintiff, V. City Of Troy, Defendant, Rensselaer County Supreme Court Case Index No. Ef2020-265299 (Council President Mantello) (At The Request Of The Administration)

Ordinance passed 7 ayes, 0 nos, 0 abstentions.

87. Resolution Adopting The Retention And Disposition Schedule For New York Local Government Records (LGS-1) (Council President Mantello) (At The Request of The Administration)

Resolution passed 7 ayes, 0 nos, 0 abstentions.

88. Resolution Authorizing Changes To The Armenian Genocide Monument (Council President Mantello) (At The Request of The Administration)

Resolution passed 7 ayes, 0 nos, 0 abstentions.

89. Resolution Of The City Council Of The City Of Troy Authorizing The Execution Of A Payment In-Lieu Of Tax (“Pilot”) Agreement By And Among The City Of Troy, Hillside Views Housing Development Fund Company, Inc., And Hillside Views Apartments, LLC (Council President Mantello) (At The Request Of The Administration)

Resolution passed 6 ayes, 0 nos, 1 abstention (Cummings).

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 4 ayes, 3 nos (Cummings, Zalewski, McDermott), 0 abstentions.

92. Resolution Proclaiming September, 2020, As Ovarian Cancer And Prostate Cancer Awareness Month In The City Of Troy (Council President Mantello, Council Member Gulli, Council Member Ashe McPherson, Council Member Steele, Council Member Cummings, Council Member Zalewski, Council Member McDermott)

Resolution passed 7 ayes, 0 nos, 0 abstentions.

94. Resolution Confirming Appointments To The Troy Industrial Development Authority (Council President Mantello) (At The Request Of The Administration)

Resolution passed 7 ayes, 0 nos, 0 abstentions.

Adjournment

The meeting adjourned at 10:55 p.m.

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

Regular Meeting 9/10 Public Form Written Statements

Dear Troy City Council members,

My name is Mark Harkness and I live on Tibbits Ave. Please enter my letter into the record at the next city council meeting. I am a third generation Troy resident who owns a home and pays taxes. I am writing to express my total support for the Troy police force. I have had nothing but positive encounters with Troy police officers. On several occasions they have gone out of their way to help me. In my experience they are doing a great job. I am completely against any attempt to defund the police force.

I note you have had many unsolicited letters from across Troy echoing similar sentiments to mine. I strongly urge all council members to listen to the needs and wishes of your constituents and do the right thing here, rather than bowing to special interest groups espousing a dangerous and counterproductive political agenda that will threaten the safety and security of all residents of Troy.

Regards,
Mark Harkness

Dear Troy City Council Members,

My name is Cherokee Lynn. I own a home at 47 Adams Street in the Riverside neighborhood of Troy. I'm writing to urge you to stop the review of the Lansingburgh zoning change request.

I am a mother of a toddler and almost every night, we walk around Troy. I point out leaves on the trees, the vegetables planted in my neighbor's garden down the street, the now fading sunflowers, the squirrels, and the beautiful Hudson River. Not once have I pointed out a housing development.

This is because the future I want for my son is one defined by a respect for our natural landscape and for the Indigenous people that cared for this land that we now occupy. Wouldn't it be great if, and especially as we are in the midst of a climate crisis, this natural and cultural asset was preserved for the use and education of future generations? The good news is it can be and it is a simple choice. The same talent that might be used to put up new apartments could certainly be used to develop the already existing abandoned and neglected buildings in Lansingburgh. The value of this undeveloped land to our community is far greater than any benefit that could be obtained from a collection of unnecessary and unwanted apartments.

We have the opportunity to preserve land rich in cultural history that can be enjoyed by ALL people in Troy. Let's take that opportunity.

Thank you.

Best Regards,

Cherokee

I'm emailing you in regards to the new apartment site on 2 ND Ave behind Hannaford store. That property has a raw sewage pipe there that enters the river and has a toxic odor coming from it. That property has a native American stone quarry on it and it's a multi component native American site on it also. I think developers will destroy all the archaeology history there. And it's a good possibility that it is a native American burial site too. The raw sewage pipe comes from the water treatment plant on RT.40 and they dump lots of lime and other toxic chemicals in there. The toxic chemicals have leached into the ground there for years. The locals could take legal action if people get sick from the raw sewage. The fumes alone are not good. Go there you will see. I'd like to attend a public meeting if possible. My name is Michael roll and I live at 125 st, Troy, n.y. 12182.

Hi folks,

I am a homeowner in Troy, lover of nature, and teacher of Social Studies. I'm also someone who is devastated and disappointed in the fact that the Committee is even considering the proposal for development.

Troy is rich in housing stock. Troy has HUNDREDS of apartments and other opportunities for living both closer to the city center AND off sacred land. Troy is better than this.

Last year when teaching my 7th graders, I made sure to talk about the wonderful work the city did back in 2008 (?) when the indigenous cite was unearthed in South Troy. The partnership with Sage and the creation of the haudenosaunee space was a boon to this city that I love so dearly.

Let's honor our history, as well as that of the haudenosaunee and leave development off the land. There are other ways for Troy to recoup what was lost in the pandemic AND leave what little green space there is left for the current inhabitants (critters) of the forest.

Jenn Baumstein
Pinewoods Ave
Troy NY 1180

I am in-house counsel and personal counsel to Vincent Lorenzo, owner of 1 Cedar Ave, Troy.

On behalf of Vincent Lorenzo, he wanted to express his support for the proposed 240 apartment complex presented by Kevin Vandenburg. Vincent Lorenzo would like to recommend that the project be allowed to move forward. We understand that one of Vincent's tenants, Catherine Herald, has expressed concerns, but she has no ownership rights in Vincent's property. As the property owner, Vincent Lorenzo consents to this project.

Please let me know if you need anything further to document Vincent Lorenzo's position.

Thank you,
Noelle

Noelle M Long, Esq

Quick Response Restoration, Inc.
PO Box 824
Clifton Park, NY 12065
Dir: 518-289-0244
Fax: 518-289-0344
Main Ofc: 518-899-7090

To: Meeting of the City Council on Thursday, September 10, 2020

Re: Proposed Development and Proposed Change in Zoning Code for 1011 2nd Ave, Resolution to refer to Planning Commission

Respectful greetings:

My name is Roberto Múkaro 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.

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.

Dear Finance Committee,

As a current Troy resident and a lifelong Capital District citizen, I am voicing my strong opposition to the rezoning of 1011 2nd Ave in Lansingburgh for three main reasons:

- 1- It is an insult to our long history of Native genocide.
- 2- It will irreparably damage our local ecosystem.
- 3- It doesn't make business sense.

First- The long history of stealing indigenous land needs to end. This is embarrassing that you are considering this rezoning.

Second- If you do decide to allow the destruction of this zone, a full environmental impact study needs to be done first. Looking forward ten years in the future, what will the increased stresses of these new developments have on our already clogged roads, pipes, infrastructure, and flood zones? What precious remaining wildlife will be displaced?

When we look around the capital district, there are many other projects that put our native wildlife in direct threat- like the proposed Costco in Guilderland on the border of the Pine Bush Preserve, the Norlite Facility sending toxic waste into our air, the Albany Port expansion, and many others. We cannot let this endless destruction of our native land continue; it always hurts public health in the long run, whether through health complications or natural disasters.

Lastly, this doesn't make business sense for our city. Selling out our land for the opportunity to have more renters is short-sighted. The inflated prices of these new developments will drive up the cost of living and push out existing residents. These new renters will place unnecessary strain on our infrastructure, add little to the tax base, and leave when they want to settle down somewhere else.

There are plenty of other redevelopment opportunities in Troy for Mr. Vandenburg to pursue that would add long-term value to our city. What about the blight of Troy's other neighborhoods? What about the dozens of large buildings, old churches, abandoned houses for sale? Look somewhere else and work within our already existing neighborhoods.

Thank you for your time.

Sincerely,
Hannah Stenzel
Elm Pl
Troy, NY 12180

Dear members of the Troy City Council, Mayor Patrick Madden, and guests,

Kristoph DiMaria, resident and business owner in our city, living in South Troy and formerly of Lansingburgh, here to implore you all to make decisions that uphold city integrity on two important issues tonight.

The first is Ordinance 69 regarding the payment of settlements to Troy PD Officer Dominic Comitale who resigned from his position after several evidenced and published accounts of misconduct, violence, and abuse. Do not pay this man with our tax dollars, or at all. Stop rewarding egregious and unacceptable behavior from the Troy Police Department at our expense. Transform the complicity and corruption continuously exemplified by the City Council, the Mayor's Office, and the Police Department into policies and values our community embodies and can trust to be equitable . We can no longer abide these detrimental practices that harm our community members and your relationship to us.

At a time when Troy, along with the rest of New York State - and indeed the nation - is under global examination for how it will move forward in upholding the health and well-being of its residents during this chaotic and uncertain time of structural violence, COVID, and the failure of many institutional systems, I must stress that demonstrating accountability for the overt problems within the city's organizations is a crucial first step towards actual progress. You must take action. Address Troy 4 Black Lives demands in a public forum between their organization and your offices. Resist undue pressure from Dominic Comitale and the Troy Police Benevolent Association led by Nick Laviano. Return the benches to Barker Park and engage in visible, active harm reduction there and throughout the city. Work with us.

The second issue is that of Resolution 91, pertaining to the zoning change proposed to the City Planning Committee for the 11-acre property at 1011 2nd Ave. Reject this proposal and deny the sale of this lot to developer Kevin Vandenburg. The evidence represented by nearly a dozen community members at the committee meeting on August 27th overwhelmingly points out the environmental, social, historical, cultural, and indeed legal issues that make this apartment project not only untenable, but illegal.

Councilmember Anasha Cummings expressed his concern and support for the proposal's rejection at that meeting, citing the complications and potential costs that would be in no one's best interest but the developer, complications which are severely misaligned with the city's coordinated development plan and current zoning of the area. Councilmembers Kim Ashe-McPherson, Sue Steele, and President Carmella Mantello inconfidently supported the proposal by providing statements that they know the developer, are friendly with him, and trust him to do the right thing. These tenets are neither supported by fact or science nor do they take into account the concerns of the residents you serve.

Furthermore, it has come to my attention that the indigenous representatives of the Schaghticoke First Nations people have been excluded from tonight's meeting on the grounds that they are not residents of Troy. It is my understanding that this decision by the Council is illegal under New York State Law, specifically the New York State Department Of State Commission for Open Government, clearly stating that this restriction and the exclusion of nonresidents from speaking violates State Open Meetings Law. This means that the Troy City Code governing public participation at public meetings is in open violation of state law. You must reconsider.

I will not recapitulate my points made at the previous meeting to the whole council, along with many others', as you are able to do the due diligence of examining those minutes and the video of the meeting. It is your responsibility to be ethical, transparent, inclusive, and to uphold the law. Your decisions on these issues will continue to define the City Council, Mayor's Office, Police Department, Code, Zoning, and a litany of other departments as either integral and actively bettering the place we live for all who live here or as bumbling, unlawful power brokers deaf to the needs of the people they swore to uphold and protect who put many of you in the offices you now hold.

Thank you for your time and attention.

Sincerely,
Kristoph DiMaria

Angela Beallor
Jacob Street
Troy, NY 12180

September 10, 2020

To the Troy City Council:

I am unable to attend this evening's meeting, so I am submitting my comments for the meeting record of September 10, 2020. I am writing to comment on a resolution and ordinance that will be discussed this evening.

Regarding Resolution 91: Proposed zoning change before the City Planning Committee for the 11-acre property at 1011 2nd Avenue in Lansingburgh. I am writing to urge Troy City Council to NOT rezone 1011 2nd Avenue. This is a wooded area along the Hudson River with much environmental and historical significance. I urge the City Council to not participate in the handing over of this parcel of land to a developer for the housing project proposal. The worth of this land is so much more than this proposal. There are other areas of the city that could be developed in such a way. I urge you to stand with the members of the Schaghticoke First Nations and concerned residents of the city to not allow this project to move forward.

The second is Ordinance 69. The city of Troy has paid out SO MUCH of taxpayer money in settlements to former Troy PD Officer Dominic Comitale. I find it insulting that the city is contemplating an additional payout to this officer whose career with the Troy PD was mired with misconduct, with violence, with abuse of his position. I find it irresponsible of the City of Troy to consider budget cuts to the city in the time of Covid-19 while continuing to find pockets of money to send to a person who should have been fired long ago.

Please do what is right in these two cases.

Thank you,
Angela Beallor
Troy, NY
angelabeallor@gmail.com

Dear Troy City Council and Mayor Patrick Madden,

I am a resident of Troy near the intersection of S Lake Avenue and Hoosick Street in district 3. I am writing to express my support in favor of defunding the Troy PD. I understand that many people get hung up on the idea of defunding the police as a call to completely eradicate them. They suggest that if we didn't have police, we would descend into anarchy. But defunding the police is a call to revisit other forms of public safety. For instance, Troy for Black Lives calls for "the exploration and creation of diversion programs away from criminal justice involvement to community-based treatment alternatives, especially for youth, the mentally ill, and in cases involving drugs or substance abuse and sex work, with a view to reducing unnecessary incarceration which disproportionately impacts economically exploited communities and specifically Black, Indigenous and People of Color."

This is especially important to me, given the circumstances surrounding Daniel Prude, a Black mentally ill man who was killed by Rochester PD earlier this year. The police in Rochester put a bag over Prude's head and pinned him to the ground with a knee in his back. A few moments later, he was dead. It was reported that Prude was suffering from an acute manic psychotic episode and had PCP in his system.

I have close friends and family members who have suffered from similiar episodes and have used substances to help them cope. In some of these cases, police were called unnecessarily by bystanders

who do not understand the suffering involved with some forms of mental illness. As a result, these friends and family members were treated with complete disregard and harm by the police. These people are not committing crimes. Being mentally ill is not a crime! While taking substances may be a "crime" in some cases, I would argue it should not be as many of these people are looking for ways to cope with their circumstances when other means have failed.

I want my tax paying dollars going to trauma-informed programs and services that provide support and networks of care for circumstances such as these. It's reported that the mentally ill are 16 times more likely to be killed by law enforcement. Obviously, law enforcement does not know how to protect the mentally ill or even treat them as human beings. Given other circumstances surrounding the Troy PD, I do not trust them to protect all of our citizens either.

Thank you for listening. I appreciate your time and consideration.

Kimberly Brown
S Lake Avenue
Troy, NY 12180

Please vote NO tonight on the rezoning of 1011 2nd Ave in Troy. This is historic land that would better serve the community as a public park and cultural center. Be on the right side of history by protecting sacred land of the Native people of this area. Thank you for investing in our community!

Sincerely,

Brooke Degener

Dear Ms. Drogan and all the members of the City Council,

I am writing to register my objection to the proposed zoning change for development of land at 1011 2nd Avenue in Troy. This land is a precious piece of riverfront forest with cultural significance to the Mohican people. There is absolutely no argument that can be made to support its development. As a long time resident of Troy, I ask you to please take seriously the wishes of your constituents to preserve this unique property.

Sincerely,

Donna Simms
Balsam Ave.
Troy, NY 12180

I am writing today to let you know that I am opposed to the proposed development of 1011 2nd Ave currently pursued by Kevin Vandenburg.

Not only should we not be developing this land, we should be treating it with a deep respect and reverence. It is a site of historical and cultural significance to its original custodians, the Schaghticoke First Nations as well as the Muncee and Lenape Nations, as well as the last 10 acres of forest on the Hudson River in the City of Troy.

I visited this site for the first time recently and was awestruck by the beauty of this peaceful oasis, and dumbfounded that both the developers and the city of Troy do not recognize the inherent value of this parcel of land. This entire neighborhood is a quiet and lovely spot and erecting an apartment complex there would increase noise, traffic, and pollution.

Please weigh your other options. You don't have to destroy the **last untouched waterfront forest** in the City of Troy.

Listen to those that care, be creative and imaginative, work with the people not against them. This would make our city great.

Jennifer Bartels
2nd St., Troy

Dear Anasha:
(and any other council members willing to listen)

I understand that my letter may not be read at the virtual meeting, but nonetheless, I am writing to add my voice to the chorus of opposition to the senseless development of land just north of Hannaford in Lansingburgh. In case some of the the reasons that should justify your opposition need to be reiterated:

- 1) This is some little remaining forest on the banks of the Hudson. We need more trees, not fewer.
- 2) This land has archeological significance to at least one indigenous tribe that is still active in the area.
- 3) There is a glut of housing in Troy... new housing going up everywhere you look and much property in need of reclamation and re-development. Demolishing forest to make another ugly complex is bad planning.
- 4) There is a vacant plaza (formerly Price Chopper) 1/4 mile away that could be used by this developer if that was some deal that could be worked out.

Furthermore, I find it disturbing that the council has not allowed voices of native people affected by this decision to be heard in the lead up to this decision. We are living on stolen land, after all. I understand that the law protects the rights of all residents, but particularly in these times when the importance of black, brown, and indigineous lives are so much in the forefront of our collective mind, it seems particularly foul to exclude these voices from the dialogue as they would provide an important dimension to the situation. Disallowing these voices to be heard is a move that really reinforces some of

the ugliness that has come to light with respect to the historical and ongoing police treatment of people of color as well as the ongoing coverup of the Thevenin murder, and now the disgusting Comitale settlement. This is Troy - the place where developers steamroll the people and get sweet tax deals while the police murder and beat up black folks. We/YOU can do better. Please vote accordingly.

Thank you for reading.

Andrew Lynn
9th Street

Thank you for your input. If a representative from your organization would like to speak at tomorrow evening's zoom meeting, please let the city clerk know by 3 pm tomorrow.

Carmella R. Mantello
City Council President
City of Troy

Sent from my iPhone

On Sep 8, 2020, at 5:21 PM, Friends of the Mahicantuck <friendsofthemahicantuck@gmail.com> wrote:

Dear City Council President Carmella Mantello,

We deeply appreciate your prompt response. We also appreciate bringing to our attention the City Rules, Sections 2-25 and Sections 2-34.

However, as we mentioned in our initial letter, we wanted to bring to your attention that these rules are inconsistent with **New York State Open Meetings Law**, and urge you to remove the restrictions to ensure compliance with the NYS Open Meetings Law or otherwise clarify why this inconsistency with NYS law exists.

Additionally, we want to mention that "The Friends of the Mahicantuck" represents and is comprised of Troy residents.

We are sending this inquiry not on our own behalf, but as we are concerned about this rules and that they work to exclude various members of the Mahican peoples with ancestral ties to this land as well as to the lands of the City of Troy, which includes amongst others, the Schaghticoke First Nations, Lenape and Munsee Nations.

The rules as they are presently written, **are inconsistent with NYS Open Meetings Law**. And they also **act in general excluding to peoples who maintain strong ties to these lands and who lived on this lands for many thousands of years before the City of Troy was founded**.

It is for these reasons that we ask the Troy City Council and the Administration to revoke the residency requirement and restore consistency with state law for the upcoming as well as for all future public meetings of public bodies.

We thank you for your considerate attention and are looking forward to clarification and swift action on this matter,

With the best wishes,
The Friends fo the Mahicantuck

P.S. We ask this correspondence to be included in the minutes of the Thursday, September 10th, meeting, as it regards items on the agenda and the general rules governing the meeting.

On Sep 8, 2020, at 4:05 PM, Carmella <cmantell@nycap.rr.com> wrote:

Friends of the Mahicantuck,

Thank you for your email. While I cannot speak on behalf of any other Council Member, I read every single email which has been addressed to the City Council including those who are non-residents or non-taxpayers of our City. Hence, I most certainly welcome your comments and input.

Stating that though, I refer you to our City Council Rules Section 2-25 Public Forum. The rule specifically states "residents of the City".

Additionally, some additional information I refer to your attention, Section 2-34 (A) specifically states for public hearings also "no one but a citizen or taxpayer ... however, the chair in his or her discretion ..." In this instance, I have decided only residents and taxpayers of the city as Chair.

Please know, however, I have allowed various directors of organizations who do not live in the city of Troy to speak at past Finance and Council meetings. Therefore, If there is one person on behalf of the Friends of the Mahicantuck requesting to speak, please let me know and I would be open to that.

Thank you.

Carmella R. Mantello
City Council President
City of Troy

Sent from my iPhone

On Sep 8, 2020, at 3:32 PM, Friends of the Mahicantuck <friendsofthemahicantuck@gmail.com> wrote:

Dear City Council President Carmella Mantello,
Dear Members of the City Council,

We request that the following statement also be entered into the meetings for the meeting on September 10th.

We are writing you regarding the posted rule that members of the public may only speak upon registering prior to city council meetings, and that only residents of the city of Troy may speak at said meeting.

We are reaching out to you, as we are concerned about this rule for several reasons.

First, we are concerned that this will prevent indigenous leaders from speaking.

The indigenous community has ties to the land in Lansingburgh, which is on the agenda for consideration in RES 91, from speaking.

This is outrageous as, as Planning Committee Chair Anasha Cummings rightfully pointed out in the meeting on August 27th, the indigenous peoples were “here first”. In fact, the land in question itself contains artifacts dating back to 1500-3000 BC, making this site National Register Eligible.

Second, it will prevent the City Council from hearing critical information provided by fact witnesses and experts regarding certain agenda items.

Third, restricting the opportunity to speak, and assigning different rules for different members of the public, is in direct conflict with the Open Meetings Law

This has been clearly stated in numerous public opinions issued by the New York Department of State Committee of Open Government, including in [a communication from February 24, 2006](#), stating:

"While public bodies have the right to adopt rules to govern their own proceedings [see e.g., Education Law, §1709(1)], the courts have found in a variety of contexts that such rules must be reasonable. For example, although a board of education may "adopt by laws and rules for its government and operations", in a case in which a board's rules prohibited the use of tape recorders at its meetings, the Appellate Division found that the rule was unreasonable, stating that the authority to adopt rules "is not unbridled" and that "unreasonable rules will not be sanctioned" [see *Mitchell v. Garden City Union Free School District*, 113 AD 2d 924, 925 (1985)]. **Similarly, if by rule, a public body chose to permit certain citizens to address it for ten minutes while permitting others to address it for three, or not at all, such a rule, in my view, would be unreasonable.**

This opinion has been reaffirmed repeatedly in commission opinions, including [from February 27, 1997](#), stating:

"In short, it is my view that any member of the public has an equal opportunity to partake in an open meeting, and that an effort to distinguish among attendees by residence or any other qualifier would be inconsistent with the Open Meetings Law and, therefore, unreasonable. Moreover, as suggested in the opinion addressed to Mr. Fishberg, people other than residents, particularly those who own property or operate businesses in a community, may have a substantial interest in attending and expressing their views at meetings of boards of education and other public bodies. Prohibiting those people from speaking, even though they may have a significant tax burden, while permitting residents to do so, would, in my view, be unjustifiable."

We therefore urge you to revise the rule for this and any further meeting of a City of Troy public body, ensuring that participation rules are consistent with the Open Meetings Law, by ensuring that participation in public meetings is possible for every member of the public.

With sincere greetings,
The Friends Of the Mahicantuck Troy Community Organization

Dear Members of the Troy City Council

Please find attached supplementary evidence for your consideration at the hearing on coming Thursday, September 10th.

This regards the resolution referring the review of a proposed zone change and associated development in Lansingburgh (1011 2nd Ave) to the Planning Commission.

- The attached letter and evidence was collected and assembled in collaboration with economic, archeological, environmental and public health and planning experts from regional institutions, including RPI. Some of those experts also made individual submissions of statements for this hearing, as well as the hearing of the Planning Committee on August 27.

As an organization representing over 500 signees of petitions in opposition to this development and the change in zoning code, we would like to kindly highlight the following:

- The city council is required by law (both NYS city law as well as Troy's own city code) to **consider the effects of a development and rezoning for the CURRENT residents of the city and the city;**

- While the planning commission has excellent resources and expertise to work with the developer on making the development better consistent with the law, **it is the CITY COUNCIL's responsibility and authority to determine if a rezoning and development are meeting the public interest** (which is the CURRENT residents of the city).

- It is in this context that the submitted evidence and the attached letter **CLEARLY SHOW** that the development and proposed rezoning change have **SIGNIFICANT NEGATIVE IMPACTS ON THE CITY, THE TAX BASE and THE RESIDENTS OF TROY.**

- It is in this context that we urge the city council to **NOT WASTE** the valuable time, resources, and expertise of the Planning Commission, and stop wasting tax money: **THERE IS ALREADY SUFFICIENT EVIDENCE FOR SIGNIFICANT NEGATIVE IMPACTS FOR THE TROY RESIDENTS, THE CITY OF TROY, AND OUR FUTURE GENERATIONS OF TROJANS.**

In addition to the attached, we also strongly encourage you to review the expert and fact witness statements made at the Planning Committee meeting on August 27th. We provided several expert testimonies clearly showing the negative impacts of the development and rezoning on environmental, public health, infrastructure, legal, economic, indigenous rights, and other grounds. We are not confident that these expert will be able to share their expertise given the "resident" requirements to

Speak at the hearing; including representatives of the indigenous community that has ties to this land dating back to 1500-3000 B.C.

We thank you for your consideration and are looking forward to provide you with further in-depth testimony at the upcoming meeting and ahead of time in writing.

Sincerely,

The Friends of the Mahicantuck

on behalf of 500 Troy Resident Signatories of Petitions in Opposition to this Resolution, Rezoning and Development.

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).

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

TO: The Members of the Troy City Council
The Troy Planning Commissioner

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

REGARDING:

RES91 - Resolution Referring Lansingburgh Zoning Change Request to Planning Commission for Review and Recommendation

We are submitting the following statement regarding Resolution 091 and the Development at 1011 2nd Ave in Troy NY.

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
- 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

While the planning commission does important work and is a critical institution of the city, it is your responsibility, as stated in city code, to determine whether a change in zoning code is in the interest of the community and the city or not.

At the Planning Committee Meeting on August 27th, extensive evidence was provided by expert and fact witnesses that clearly show the negative impacts for the community that the proposed change in zoning code and the proposed development pose. We clearly provided extensive record and proof that none of the three criteria mentioned above are met for this development and the proposed change in zoning code.

You have an extensive record of evidence, expert testimony, public comments and petitions at your hand to make an informed decision about the appropriateness of the rezoning, and the record shows clearly that the change in zoning code should not — and legally must not — be granted. We provide a summary of this evidence in the Appendix to this letter.

The clear and exhaustive record in writing and in spoken testimony shows that this request for rezoning and the proposed development are **not** in the interest of the city and its residents.

Additionally, we want to address two central reasons and critical issues that additionally underscore why we urge the Council to stop this process before wasting any further time, resources and tax money.

- We highlight again critical evidence regarding **spot zoning** and point to additional evidence to address questions raised by members of the council on August 27 that remained insufficiently addressed so far
- We highlight **violations of NYS Open Meetings Law** that raise alarm regarding the public's rights for participation, should the council choose to move this process further ahead.

ON SPOT ZONING

Legal testimony submitted at the Planning Commission meeting on August 27 as well as for this general meeting of the Council on September 10, clearly shows that the rezoning is a text-book case for spot zoning.

What is additionally striking is that questions raised during the August 27 meeting at the Planning Commission remain unaddressed and insufficiently clarified.

We approached our legal council to remedy this gap and ourselves address the raised questions to provide the City Council with this critical information. The expert testimony by our legal council, supported also in statements by other expert testimony, will be submitted separately.

It clearly addresses why this rezoning request would constitute stop zoning, and it also points out that city code must comply with state law; and that arguments that city code would allow for spot zoning are immaterial when state law clearly determines the development as such.

EXCLUSION OF INDIGENOUS LEADERS, VIOLATION OF OPEN MEETINGS LAWS

Additionally, indigenous leaders were excluded from participating in the City Council's fact finding, prevented from speaking at the general meeting on Thursday, September 10.

We made the City Council and City Council President Carmella Mantello aware of this fact, and also made the members of the council and the president of the council aware that the restriction to allow only residents to speak is inconsistent with NYS Open Meetings Law.

We asked to remedy this situation and ensure all future meetings are compliant with NYS law by removing this restriction. However, this was not addressed appropriately and the inconsistency with NYS law remains.

We are also submitting a written opinion by the NYS Department Of State Open Government Commission reaffirming our position that excluding members of the public is incompatible with state law.

The city failed, despite our urging, to ensure a democratic process, failed to be compliant with state law, and violated the rights of the public and in particular the indigneous leaders.

Given this situation, how can we trust that the rights of the public, the indigenous community and their leaders will be honored and treated lawfully moving forward?

We also ask the city council to restore compliance with state law and honor the public's right to speak constituted in state law — and to do so for all future public meetings and by changing the city code to be compliant with state law

FOR THESE REASONS

We ask you to stop this process now, work with the developer on an alternative site that is consistent with the comprehensive plan, and appropriately protect this land.

Finally we want to remind you that both on the August 27 meeting as well as at the September 10 meeting, the public is united in clear opposition across partisan lines.

On August 27 you heard not one member of the public speak in favor of the development. Petitions with over 500 signatures clearly underscore this united opposition.

There is no need to destroy this forest and indigenous cultural site. We have not heard one single argument — not by the developer, not by the planning commission, not by the council, not by the public — for why this development must be on this specific site.

We heard not one argument why this development can't be realized on one of the many alternative sites. We did not hear one good reason, because there are none. Stop this now.

APPENDIX — Summary of key testimony from August 27

The submitted evidence presented at the August 27th meeting was resubmitted by the Friends of the Mahicantuck on September 8 on behalf of the local Troy residents, the expert witnesses that worked on compiling this evidence, and our indigneous partners.

Additional, new evidence complements the material and testimony submitted for the August 27 meeting and was provided by the expert witnesses in separate testimonies submitted in writing ahead of September 10 and read into the record during the general meeting on September 10.

Highlights from the August 27 meeting and the provided evidence and expert testimony include:

1. Historical and Archeological Significance

You have been made extensively aware of the historical and cultural significance of this site. Artifacts at this location date to 1500-3000 B.C. and the representative of the archeological survey firm Hartgen associated with the development and working with the developer himself stated at the August 27th meeting that this site is National Register eligible.

Not to mention the extensive testimony in writing and in spoken form by indigenous leaders who can best attest to the significance, historically and culturally, of this land and the ancestral ties that are maintained and well alive today — although their voices have been excluded from today's meeting by the city's resident requirement.

This development clearly contradicts the responsibility of this council. It is not the question, whether this development can legally proceed, which is doubtful without extensive environmental and archeological review and survey. But the council must determine if the rezoning will harm the city. Destroying it's history, and the history of Indigenous Peoples reaching back thousands of years, is clearly NOT in the interest of the city and its residents.

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.

2. Inconsistency with Realize Troy 2018 Comprehensive Plan

Multiple fact witnesses pointed to the perhaps gravest legal concerns associated with the development, including inconsistencies with the comprehensive plan as well as issues regarding spot zoning. Submitted written evidence and expert testimonies further expanded on these legal issues.

A statement by a lawyer, read into the record today and submitted in writing, clearly shows that this rezoning is a textbook case for spot zoning, and it is striking that the city council was unable to secure a clear legal clarification from their own council or an external council.

It was suggested during the 27th meeting that spot zoning would not be the case because of city code provisions as well as the size of the area. We submitted, and read into the record, additional evidence that clearly explains that this is not the case, and that the size of the area does not matter, and that despite these arguments, this development and rezoning constitute a textbook case of spot zoning.

Additionally, there are striking discrepancies between the priorities of the comprehensive plan and the proposed rezoning, and statements by the attorney as well as written expert testimonies clearly highlight these inconsistencies.

A lot of time, effort and taxpayer money went into drawing the comprehensive plan. And city code itself maintains that any zoning code must be consistent 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.

3. Economic Grounds

At the meeting on the 27th, as well as in written expert testimony submitted for today's meeting, experts, including renowned economist John Gowdy in a written submission, made clearly explicit the negative economic impacts of the proposal as grounds for denying the change in zoning code for Tax Parcel 70.64-1-1.

We highlighted the direct and indirect as well as short- and long-term economic costs associated with the proposed development. In collaboration with the experts quoted in the written submission of supplementary evidence and individual written letters, we 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, 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.

With the input of experienced economists, 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

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.

4. Environmental and Public Health Impacts

Expert testimony during the Committee meeting 27th pointed to significant negative environmental and public health impacts, and associated significant costs for the city. This included amongst others increased urban heat island effects, runoff pollution, further stress on the combined sewage system that is already under stress. This development and rezoning constitute harm to our environment and the health of local residents.

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.

From: O'Neill, Kristin (DOS) Kristin.ONeill@dos.ny.gov
Subject: RE: Residents-Only restriction for public meeting at public meetings at the City of Troy
Date: September 9, 2020 at 3:11 PM
To: [redacted: email address]



Good Afternoon [REDACTED: NAME],

Thank you for contacting the Committee on Open Government. The Open Meetings Law provides a right to attend to the "general public." (Open Meetings Law Section 103(a)). A resident Schenectady, Albany, or even Buffalo or New York City would have the same right to attend a meeting of the Troy City Council as a resident of the City. That being so, I do not believe that a public body could validly require that those who attend or seek to attend identify themselves by name, residence or interest. In short, it is my view that any member of the public has an equal opportunity to partake in an open meeting, and that an effort to distinguish among attendees by residence or any other qualifier would be inconsistent with the Open Meetings Law and, therefore, unreasonable. Moreover, people other than residents, particularly those who own property or operate businesses in a community, may have a substantial interest in attending and expressing their views at meetings of City Councils and other public bodies. Prohibiting those people from speaking, even though they may have a significant interest in the topics being discussed, while permitting residents to do so, would, in my view, be unjustifiable.

In addition, I note that Section 110(1) of the Open Meetings Law states "Any provision of a charter, administrative code, local law, ordinance, or rule or regulation affecting a public body which is more restrictive with respect to public access than this article shall be deemed superseded hereby to the extent that such provision is more restrictive than this article." In other words, any aspect of the City Code that is more restrictive with respect to public access (i.e., a residency requirement), is superseded by the Open Meetings Law.

I hope this information proves useful.

Sincerely,

Kristin O'Neill

Assistant Director, Committee on Open Government

New York State Department of State

One Commerce Plaza, Albany, NY 12231

[\(518\) 474-2518](tel:5184742518)

<http://www.dos.ny.gov/coog/>

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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

RESUBMISSION FOR CITY COUNCIL MEETING ON SEPTEMBER 10

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.

Overview Of Sections	p. 3
1. Historical and Archeological Grounds	p. 5
2. Environmental and Public Health Grounds	p. 7
3. Inconsistency with Troy 2018 Comprehensive Plan	p. 11
4. Economic Grounds	p. 14
5. Community Impacts, Public Service Impacts, Infrastructure Impacts	P. 17
6. Legal Grounds	p. 20
7. Summary Alternative Use Proposal	p. 22
Appendix: List of Supplemental Evidence	P. 23

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-11273421.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.

Comments

Name	Location	Date	Comment
Paula Hebert	Troy, NY	2020-08-24	"Paula Hebert"
Jan Hoffman	Sebastian, FL	2020-08-24	"As a native New Yorker I know the rich heritage we endanger when we overdevelop the land. Please preserve this area as green space,."
Meagan Gallagher	Troy, NY	2020-08-24	"Troy does not need more new apartment complexes- buy and fix up all the beat up buildings that already exist on river street, instead. And DEFINITELY don't cut down precious trees on sacred land to do it."
Kathleen Miller	Pleaseantdale, NY	2020-08-24	"I moved to this area for the small town feeling if this happens it will ruin that for a lot of people. It is ridiculous that this is even being considered!! You need to listen to the people in the area! We don't want or need this !!"
Mary D'Amico	Wynantskill, NY	2020-08-24	"We do not need more apartment complexes in Troy. If you are going to do anything with this waterfront property please make it a beautiful place where all Troy residents can look at and access the waterfront. Once apartments are built they will claim this God given resource for their own. The children of Lansingburgh would benefit from a protected natural preserve."
rosemary clark	TROY, NY	2020-08-24	"It's not right enough is enough let us keep the wooded area"
Brittany Luke	Troy, NY	2020-08-24	"We need to stop putting in these expensive apartments"
Brenda Ford	Troy, NY	2020-08-24	"This development would ruin the area. So much wildlife lives in there. We need to secure and preserve as much forest as possible for them and ourselves. Not to mention the decrease in the property values of the surrounding neighborhoods."
Harold Previtali	Troy, NY	2020-08-24	"We do not need more apartments in Troy. This will cost the city money."
Laura ford	Watervliet, NY	2020-08-24	"Untouched land needs to be preserved"
Sarah Pezdek-Bachinger	Ballston Spa, NY	2020-08-24	"The City of Troy and local developers have a history of eradicating sites that were not only historically significant to the Indigenous Nations of the area, but also that had become places of respite and access to natural resources to the communities that live(d) in Troy (Google Diamond Rock). To erase and destroy this land, while there are existing opportunities for developments such as the proposed project, literally about two blocks down the street with the proper infrastructure already in place (and not dip into the taxpayers pocket to set up the infrastructure a project of this magnitude would require, in addition to fixing up existing structures) - not only to bring back the beauty of this part of the city, but place those structures back on the tax roll - proves this project proposal is absolutely, ridiculous and does not serve the greater good of this community. Not to mention, the developer who put together this

Name	Location	Date	Comment
			proposal has a history of backing out of promises to the city of not going after tax cre"
wayne foy	Troy, NY	2020-08-24	"I agree as Troy needs to focus on the current blight of vacant lots and building before destroying the last river front forest"
Elaina Halse	Troy, NY	2020-08-24	"Troy and lansingburgh residents dont need these large housing corporations to come in on land that doesnt need to be built upon, there are way more urgent things that need to be done before we start letting people come in and pull resources to go towards these buildings that will probably lose funding in just a few months and never get finished."
John Connors	Troy, NY	2020-08-25	"John"
Dia Osgood	Troy, NY	2020-08-25	"We moved to this area because it was a little out of the city and no as populated. Traffic is crazy enough in this area. Build at the price chopper land that's just sitting there"
andria Munroe Baerga	Troy, NY	2020-08-25	"I have lived in Troy all my life. I have walked this area and shared this area with my son. We enjoy the ability to go down enjoy nature and play at the river like any normal child would love to do. We have to many houses and not enough parks or nature. If you build more overpriced lofts you are proving your greed. This doesn't help our community. If you allow this your not only destroying and removing trees and land. Your destroying and removing the people that already live here."
Sarah Thompson	Stephentown, NY	2020-08-25	"I care about protecting access to waterfront for everyone, particularly the First Nation inhabitants."
Kimberly Connors	Troy, NY	2020-08-26	"Troy can't keep up with current apartment complexes, code enforcement, trash, recycling, or our infrastructure. Now, we are are going to destroy land for profit? This is a horrible idea and irresponsible. Has the person requesting the rezoning been properly vetted?"
Kevin Lovelady	Troy, NY	2020-08-26	"Untouched spaces of forest are so important for the present and future livability of cities like Troy. There is more than enough development already in the works throughout Troy without destroying this land. Please protect it from Kevin Vandenburg and other developers."
Kevin Lovelady	Troy, NY	2020-08-26	"STOP Kevin Vandenburg and all other developers from destroying Troy's last patch of riverfront forest forever."
Stephen Smith	Troy, NY	2020-08-26	"If he wishes, Mr Vandenburg can purchase the property and build single family homes. Nobody owes him a zoning change just because he wants to invest money and make a profit. That is not a valid reason for changing the zoning; it should not be changed for Mr Vandenburg convenience."
Stephen Smith	Troy, NY	2020-08-26	"If he wishes, Mr Vandenburg can purchase the property and build single family homes. Nobody owes him a zoning change just because he wants to invest money and make a profit. That is not a

Name	Location	Date	Comment
			valid reason for changing the zoning; it should not be changed for Mr Vandenburgh's convenience."
T.J. Kennedy	Troy, NY	2020-08-27	"Changing the zoning code to site a housing apartment complex in R1 Zone is illegal. We will be filling a lawsuit against the city and developer if this continues to move forward."
Peg Aloï	Albany, NY	2020-08-27	"I live in Troy and I believe this land parcel is important historically, ecologically and culturally to our region and that it would be a terrible idea to develop it."
William Brown	Troy, NY	2020-08-27	"We need to preserve this land and not add another run of the mill apartment building"
Tara Ingersoll	Albany, NY	2020-08-29	"I don't think they should put a apartment building and take the wooded area away"
Joseph Fell	Buffalo, NY	2020-08-29	"It would seem this site is better left to public access to the Hudson - something that appears to be largely lacking in the area."
Aidan Bardos	Washington, US	2020-09-02	"Justice and respect for indigenous people of this land is directly tied to the collective healing of this nation."
INGRID Madelayne	Troy, NY	2020-09-03	"One of the major appeals of the City of Troy is its historic architecture. Historic Preservation and the rehabbing of abandoned buildings is a much better use of development dollars. And keeping the green spaces green contributes immeasurably to the quality of life for Troy's citizens."
Kevin Carpenter	US	2020-09-03	"There are already so many large apartment developments in Troy I recent years and ongoing. It is more vital to preserve urban forests than to develop existing forested areas along the river. We need people to create local places of employment to balance the abundance of existing residential so that we can reduce commuting. Further, previously developed underutilized properties should be redeveloped before greenfields. Urban trees are incredibly valuable to our citizens. Replacing them with asphalt and concrete is detrimental. Also, Troy's riverfront should benefit all Trojans. Troy's zoning should prioritize the above and should not issue variances that continue to encourage unnecessary development. Encourage local employment while prioritizing our environment. Kevin"
Christopher Eastman	Troy, NY	2020-09-04	"Troy is a city of neighborhoods that need nurturing. Lansingburgh is an under appreciated gem that should be a National Register Historic District that would enable individual owners to use historic tax credits to help rehabilitate existing buildings. The greenest buildings are those already built. Undeveloped land and mature trees are needed for natural flood buffer and carbon sequestration"
Geri de Seve	troy, NY	2020-09-05	"Troy must preserve this beautiful stretch of indigenous and historic forest land. We have been too quick, in the past, to get rid of Troy's treasures only to regret our actions after the damage was done. Let's not repeat our mistakes. This wonderful forest land should not be ravaged for yet another apartment complex where the developer will undoubtedly receive a tax abatement and we taxpayers will

Name	Location	Date	Comment
			again be footing the bill. No, my wish would be for this land to be made into a riverfront park so we can enjoy it's quiet serenity and honor the indigenous people who cherished it before we came."
Kayla marble	Troy, NY	2020-09-06	"I am a resident and this is not what we need!"
rosella riddell	Troy, NY	2020-09-06	"Their are enough buildings that are vacant. Developers need to stop getting rid of the forest. That animals and human kind depend on to live."
Daniel Morrissey	Albany, NY	2020-09-06	"This beautiful, historical space must be preserved for public use, not private."
Joyce Domingo	Kitchener, Canada	2020-09-08	"This is the only decent thing to do. Save this natural tract of their ancestral land!"
Sean Mickey Dobbin	Troy, NY	2020-09-09	"While there are numerous reasons to be against this development, I am personally signing this as a professional archaeologist of over 13 years. Even more important the the possible (most likely probable) loss of archaeological resources in our community, is the complete disrespect this project shows to the indigenous people who have called this land their home thousands of years before Troy was founded."

The Friends of the Mahicantuck

Recipient: Carmella Mantello, Anasha Cummings

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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
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
AnnMarie Broussard	Lafayette, US	2020-08-25

Name	Location	Date
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
Anarely Santana	Houston, US	2020-08-25

Name	Location	Date
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
Tara Simmons	Troy, NY	2020-08-25

Name	Location	Date
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
Dylan miller	Troy, NY	2020-08-26

Name	Location	Date
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
Terri Metchick	Troy, NY	2020-08-26

Name	Location	Date
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
Julie Summersquash	Providence, RI	2020-08-27
Mary Otero	Liverpool, NY	2020-08-27
T.J. Kennedy	Troy, NY	2020-08-27
Raymond Essiembre	Troy, NY	2020-08-27
Sambit Ghosh	Troy, NY	2020-08-27
David Villagomez	Troy, NY	2020-08-27
Haley Williams	Troy, NY	2020-08-27
Maya Navabi	Tucson, AZ	2020-08-27
Audrey Palma	Troy, NY	2020-08-27
Richard Hichman	Saratoga Springs, NY	2020-08-27
Kathryn Sheehan	Troy, NY	2020-08-27
Trinity Paradis	Troy, NY	2020-08-27
Crystal Buckley	Cohoes, NY	2020-08-27
Steve Anderson	Troy, NY	2020-08-27
Tim MacSweeney	Woodbury, CT	2020-08-27

Name	Location	Date
Marion Ross	Troy, NY	2020-08-27
Marina Capp	Troy, NY	2020-08-27
Guy Schaffer	Troy, NY	2020-08-27
Phoenix Oaks	Portland, OR	2020-08-27
Annette Strobe	Troy, NY	2020-08-27
Michelle Ausman	Cohoes, NY	2020-08-27
Carol Hyldelund	Troy, NY	2020-08-27
Kierstan Ryan	Troy, NY	2020-08-27
Grayce Brown	Troy, NY	2020-08-27
Charlotte Bosworth	Pembroke, MA	2020-08-27
Peg Aloï	Albany, NY	2020-08-27
Bradley Matheus	Troy, NY	2020-08-27
William Brown	Troy, NY	2020-08-27
Wyatt Brown	Troy, NY	2020-08-27
Gregory Baxter	Stratford, CT	2020-08-27
Andy StGermain	Troy, NY	2020-08-27
Sally St.Germain	Troy, NY	2020-08-27
Makayla Wahaus	Troy, NY	2020-08-28
Elizabeth press	Troy, NY	2020-08-28
Mary Kahl	Delmar, NY	2020-08-28
Pam Kniskern	Johnsonville, NY	2020-08-28
Sheila Poole	Albany, US	2020-08-28

Name	Location	Date
Kathy Colman	Cohoes, NY	2020-08-28
Mark Oliver	Rensselaer, NY	2020-08-28
Nolin Borrero	Rensselaer, NY	2020-08-28
Donna Hays	Saratoga Springs, NY	2020-08-28
Shane Senecal	Kissimmee, FL	2020-08-28
Drew Demers	Troy, NY	2020-08-28
Surya Padinjarekutt	Troy, NY	2020-08-28
Indroneil Roy	Troy, NY	2020-08-28
Vicki Griffin	Gloversville, NY	2020-08-28
Sharon Bruce	Troy, NY	2020-08-28
Lisa Covey	Craryville, NY	2020-08-28
Margaret Callahan	Cohoes, NY	2020-08-29
Michael Oatman	Troy, NY	2020-08-29
Michael Lawes	Chesapeake, VA	2020-08-29
Miahrose Ross	new york, NY	2020-08-29
Brooke Degener	Albany, NY	2020-08-29
Cathryn Dwyre	Hudson, US	2020-08-29
Tara Ingersoll	Albany, NY	2020-08-29
Anna Taranenko	San Francisco, CA	2020-08-29
I S	Troy, NY	2020-08-29
Lindsey miller	Santa Cruz, CA	2020-08-29
yolonda landry	troy, NY	2020-08-29

Name	Location	Date
Jennifer Lepper	US	2020-08-29
Joseph Fell	Buffalo, NY	2020-08-29
dante digiulio	Buffalo, NY	2020-08-29
Jennifer Bartels	Troy, NY	2020-08-29
Robert Hilts	Troy, NY	2020-08-29
dorothy collins	buffalo, NY	2020-08-29
Galaya Wong	Pittsburg, US	2020-08-29
Lily Watne	Orlando, US	2020-08-29
John Kramer	Marshfield, US	2020-08-29
Abbygail Adriano	Germantown, US	2020-08-29
Emily Frank	East Hampton, US	2020-08-29
Jessica Stillman	Upper Lake, US	2020-08-29
Matthew Harding	Concord, US	2020-08-29
Angelina Alvarado	Austin, US	2020-08-29
danna renteria	Santa Teresa, US	2020-08-29
Emue G	Cambridge, US	2020-08-29
Mariah Marquez	Menifee, US	2020-08-29
chris farmer	califofnia, US	2020-08-29
Guido Gabriel	Troy, NY	2020-08-29
LILA STROMBERG	TUXEDO, NY	2020-08-30
alyssa johnson	Vacaville, CA	2020-08-30
Shannon Curran-Trzepacz	Troy, NY	2020-08-30

Name	Location	Date
Denise Losoya	Las Vegas, NV	2020-08-30
Randy Herrington	Troy, NY	2020-08-30
Nicole Collen	Troy, NY	2020-08-30
Lewis Snearly	Albany, NY	2020-08-30
Carla Leitao	Florida, NY	2020-08-30
olivia krewer	Bronx, NY	2020-08-30
Cynthia Slavens	Alameda, CA	2020-08-30
Mara Dicenta	Buenos Aires, Argentina	2020-08-30
Christy Thomas	Williamstown, MA	2020-08-31
Jillian Crandall	Rensselaer, NY	2020-08-31
Pearl Higgins	Troy, NY	2020-08-31
Margaret Corrigan	Troy, NY	2020-09-01
Elaine Broiles	Troy, NY	2020-09-01
Jacob Broadhead	Troy, NY	2020-09-02
Karen Molinares	Troy, NY	2020-09-02
Tammie Broadhead	Troy, NY	2020-09-02
Victoria Ramos	Troy, NY	2020-09-02
Marissa Peck	Troy, NY	2020-09-02
Robin Donato	Cortland, NY	2020-09-02
Katrina Belcher	Troy, NY	2020-09-02
Aidan Bardos	Washington, US	2020-09-02
Gary Nelson	Hudson, NY	2020-09-03

Name	Location	Date
Dale Nelson	Hudson, NY	2020-09-03
Sandra Hutchison	Troy, NY	2020-09-03
Gail Terp	Queensbury, NY	2020-09-03
INGRID Madelayne	Troy, NY	2020-09-03
Rebecca Hein	Albany, NY	2020-09-03
Shari Gibbs	Wynantskill, NY	2020-09-03
Dan Phiffer	Troy, NY	2020-09-03
Kevin Carpenter	US	2020-09-03
Darlene Simpson	Troy, NY	2020-09-03
Jac Cohn	Troy, NY	2020-09-04
Angie morley	Troy, NY	2020-09-04
Christopher Eastman	Troy, NY	2020-09-04
Patricia Burke	Troy, NY	2020-09-04
Zachary Metzger	Brunswick, NY	2020-09-04
Beth Finkle	Troy, NY	2020-09-05
geri de seve	troy, NY	2020-09-05
Frank Visco	Troy, NY	2020-09-05
Albert Marble	Knoxville, TN	2020-09-05
michael esposito	Troy, NY	2020-09-05
Spencer Schmitt	Redondo Beach, US	2020-09-06
Victoria Ramirez	El Paso, US	2020-09-06
lilli ramos	US	2020-09-06

Name	Location	Date
Elizabeth Green	Enfield, US	2020-09-06
Sarah Grahamer	Frankfort, US	2020-09-06
emili-jade luna	Norwich, US	2020-09-06
Amiyah Barber	Harrisburg, US	2020-09-06
sandra olivos	Jackson Heights, US	2020-09-06
Shauntea Black	Lewistown, US	2020-09-06
Kyla Rhyann	Brooklyn, US	2020-09-06
Giselle Ibarra	Las Vegas, US	2020-09-06
kelly weldon suleski	Springfield, US	2020-09-06
Christine Bernard	Schenectady, US	2020-09-06
antonelle russell	Atlanta, US	2020-09-06
Imtiaz Ahmed	Ozone Park, US	2020-09-06
Rafal Wisniewski	Brooklyn, US	2020-09-06
joanna morris	Washington, US	2020-09-06
Mik I	Little Neck, US	2020-09-06
Alicia Swanson	West Fargo, US	2020-09-06
Fatima Aldava	Pharr, US	2020-09-06
Tiara Howard	East Lyme, US	2020-09-06
Sarah Vallejo	Pinehurst, US	2020-09-06
Stefan Krueger	Troy, NY	2020-09-06
Britney Gil	Troy, NY	2020-09-06
Daniel Marble	Mohawk, NY	2020-09-06

Name	Location	Date
Kayla marble	Troy, NY	2020-09-06
Frank Porter	Troy, NY	2020-09-06
Dennis McDermott	Troy, NY	2020-09-06
rosella riddell	Troy, NY	2020-09-06
Holly DeVoe	Saratoga Springs, NY	2020-09-06
Sonya Farrell	Troy, NY	2020-09-06
Daniel Morrissey	Albany, NY	2020-09-06
Amanda Groves	Lansingburgh, NY	2020-09-07
Adam Tinkle	Saratoga Springs, NY	2020-09-07
Jennifer Smith	Templeton, U.S. Outlying Islands	2020-09-07
Jesse Hancock	Troy, NY	2020-09-07
Mary Pezdek	Melrose, NY	2020-09-07
Victoria Lee	Chicago, IL	2020-09-07
Jack O'Brien	Mount Pleasant, MI	2020-09-07
Hunter Schuur	Dowagiac, MI	2020-09-07
kerri munn	troy, NY	2020-09-08
Rafael Varela	Troy, NY	2020-09-08
David Klak	Mount Pleasant, MI	2020-09-08
sierra dattilo	Mount Pleasant, MI	2020-09-08
Michel Foucault	Denver, CO	2020-09-08
Annelise Ellars	Hartford, US	2020-09-08
Sonja Baiin	Pittsburgh, PA	2020-09-08

Name	Location	Date
Jennifer Reid	Troy, NY	2020-09-08
Ellie Irons	Brooklyn, NY	2020-09-08
Mallory Hallstead	Albany, NY	2020-09-08
Joyce Domingo	Kitchener, Canada	2020-09-08
Rachel Hegeman	Syracuse, NY	2020-09-08
Kiara Rivera	Chicago, IL	2020-09-08
Tracy Frisch	Greenwich, NY	2020-09-08
CHRISTOPHER SCULLY	Troy, NY	2020-09-09
Kathryn Beisner	Reston, VA	2020-09-09
Siegfried Isidro-Cloudas	Troy, NY	2020-09-09
Anthony Olivares	Troy, NY	2020-09-09
Andrea Williams	Troy, NY	2020-09-09
Jennifer Baumstein	Troy, NY	2020-09-09
Sean Mickey Dobbin	Troy, NY	2020-09-09
Kimberley Preiksaitis	Troy, NY	2020-09-09
Laura Hynes	Troy, NY	2020-09-09
Nathalie Gibeau	Troy, NY	2020-09-10
Laura Cullen	Troy, NY	2020-09-10

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
Annick Ebersole	201 River st.	<i>Annick Ebersole</i>	8/22
John DeFazio	24 Kestner Lane	<i>John DeFazio</i>	8/22
Donna Luke	804-5th Ave	<i>Donna Luke</i>	8/22
Michael Sinesone	275 Third St	<i>Michael Sinesone</i>	8/22
Omar Elshorfi	1605 Hutton st.	<i>Omar Elshorfi</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
Renee Ayer	161 Pinewoods Ave	<i>Renee Ayer</i>	8/22
ASHLEY WELLS	101 7th St	<i>Ashley Wells</i>	8/22
ROBERT BRADY	101 7th St	<i>Robert Brady</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 Paswell	18 2nd Street	<i>Alex Paswell</i>	8/22
Kenneth Whiambo	136 9th St	<i>Kenneth Whiambo</i>	8/22
Jay PA	114 Pinewoods	<i>Jenn Baumstein</i>	8/22
H. David Pravitak	114 Pinewoods	<i>H. David Pravitak</i>	8/22
Sarah Giamini	2443 21st St.	<i>Sarah Giamini</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.

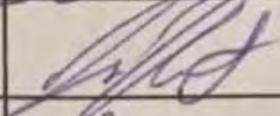
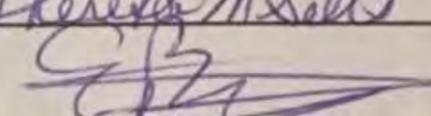
Name	Address	Signature	Date
Sydney Mitchell	5 Broadway		8/22
Jen Krausnick	12 Parkview CT		8/22
Patricia Block	749-549 Ave		8/22
Samuel Tangs	1738 Highland Ave		8/22
Emma Goldman	254 Washington St		8/22
Morgan Skow	171 4th St		8/22
PATRICK McFARVILLE	147 1st St. Troy		8/22
SUZY GERBE	373 4th		8.22
Siobhan McConville	147 1st St Troy		8/22
HILARY LAMISIAW	405 3rd St Troy		8/22
DAVE PUBLLOW	38 1st St. #17 Troy		8/22
CHRIS BROSSETI	379 4th St. Troy		8/22
Josephine Sugar	13 15th St Troy		8/22
Kristie Smith	3 Powers Ln Troy NY		8/22
Michael Lambert	27 2nd St Troy NY		8/22
Nicholas Detardi	501 Broadway Troy NY		8/22
Angela Beall	808 Jacob Troy NY		8/22
Natalie Jeangilt	321 4th Street Troy NY		8/22
Tiffany Morgan	172 River St, Troy NY		8/22
Atrusha Akera	253 Liberty Troy		8/22
Christa Dawn	243 Manning Blvd		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		8/25/20
Theresa Letts	1010 2nd Ave	Theresa Letts	8/25/20
Elliott Byer	1024 2nd Ave		8/25/20
Yail Connally	309 Roosevelt Av	Yail Connally	8/25/20
Edmund Connally	309 Roosevelt Ave	Edmund 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

September 10, 2020

Carmella Mantello
President, Troy City Council
433 River Street
Troy, NY 12180

CC: Members of the Troy City Council

Re: Resolution Referring Lansingburgh Zoning Change Request To Planning Commission For Review And Recommendation

Dear Mrs. Mantello,

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 Troy City Council votes against the resolution 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 15.3-16.8 feet flood heights along the Hudson River.² Additionally, climate change is

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>

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

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 resilience 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.

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. **There is nothing that can replace the benefits offered by a contiguous forested area.** 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



25 Walton Street, Saratoga Springs, New York 12866
P 518.886.1902 | www.ruppbaase.com

PHILLIP A. OSWALD
OSWALD@RUPPBAASE.COM

September 9, 2020

Via Electronic Mail

Troy City Council
433 River Street
Troy, NY 12180
mara.drogan@troyny.gov
citycouncil@troyny.gov

Dear Hon. Sirs/Madams,

Re: September 10, 2020 Hearing
Ordinance Authorizing Amendment – Parcel No. 70.64-1-1
Spot Zoning
Our File No.: 7754.19332

I represent the Friends of the Mahicantuck and the Schaghticoke First Nations. I am writing to respectfully request that this letter — as well as a prior letter that my office submitted on behalf of my clients to the Planning Committee — be added to the meeting minutes and be considered in consideration for the Resolution Referring Lansingburgh Zoning Change Request To Planning Commission for Review and Recommendation that is being heard before the Council on September 10, 2020. The prior letter referenced above is attached hereto as Addendum A. Ultimately, this letter and Addendum A are being submitted 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”).

This letter is being submitted in addition to and to supplement Addendum A. In particular, this letter addresses comments from the City’s Commissioner of Planning & Economic Development, Mr. Strichman, at the Planning Commission’s hearing on August 27, 2020. As discussed in Addendum A, the rule prohibiting spot zoning is well established under New York common law. *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). With respect to section 81-f of the N.Y. General City Law, that statute neither specifically addresses spot zoning nor does it authorize the designation of an area as a planned development area in a manner that violates the rule against spot zoning. N.Y. Gen. City Law § 81-f (McKinney’s 2020). Instead, that statute

authorizes such a designation only if it is consistent with a city’s comprehensive plan, which actually is consistent with the rule prohibiting spot zoning. *Id.*¹

Furthermore, statutes — such as section 81-f — will only be applied to supersede or abrogate common-law rules — such as the rule prohibiting spot zoning — when the statutory language is specific that the legislature intends to abrogate the common-law rule. *Hechter v. New York Life Ins. Co.*, 46 N.Y.2d 34, 39, 412 N.Y.S.2d 812, 815 (1978) (“it is a general rule of statutory construction that a clear and specific legislative intent is required to override the common law”); *People v. King*, 61 N.Y.2d 550, 555, 475 N.Y.S.2d 260, 262 (1984) (“if the terms of a statute are subject to two interpretations, that which most comports with the common law should be adopted”). In other words, if section 81-f is to be interpreted to overrule the rule against spot zoning with respect to planned development designations, the statutory language needs to specifically and unambiguously state so. *See id.* However, section 81-f includes no such language, but, instead, actually further reinforces and applies the rule against spot zoning to planned development designations by requiring that any such designation be consistent with the comprehensive plan. N.Y. Gen. City Law § 81-f.²

Therefore, since section 81-f does not specifically address spot zoning and does not provide any indication that it was intended to abrogate or in any way effect the long-standing common law prohibition against spot zoning, that statute does not protect the proposed ordinance from being invalidated on the basis of spot zoning. Moreover, even assuming, arguendo, that section 81-f did somehow abrogate the common-law rule against spot zoning, that statute still requires that any designation of an area as a planned development area be consistent with the Realize Troy Comprehensive Plan (May 2018) (the “Comprehensive Plan” or the “Plan”). Indeed, for the reasons discussed at length in Addendum A and as supported by the overwhelming wealth of evidence that presently is in the record on this matter, the proposed

¹ From a more practical perspective, since section 81-f requires that any re-designation be consistent with the applicable comprehensive plan and since a determinative factor for spot zoning likewise is consistency with the comprehensive plan, any argument that section 81-f abrogates or even impedes the rule against spot zoning is circular and meaningless at best. N.Y. Gen. City Law § 81-f; *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)).

² During the Planning Committee’s public hearing on August 27, 2020, Mr. Strichman stated that there were several cases supporting that section 81-f made the rule against spot zoning inapplicable to planned development re-designations. However, based on citation research for section 81-f through Westlaw’s “KeyCite,” not a single reported case in New York has ever cited or analyzed that statute. I would welcome Mr. Strichman to provide this office with copies of the cases that he was referencing or citations to the same, as well as welcoming any opinion letter from the City’s legal counsel. Indeed, a free and open debate on the legality of the proposed rezoning would be healthy and beneficial.

rezoning would constitute impermissible spot zoning and would violate section 81-f because it, in fact, is inconsistent with the Comprehensive Plan.

Furthermore, in addition to being highly inconsistent with the Comprehensive Plan, the proposed rezoning also is inconsistent with the City's own local law for "P Planned Development" districts. See Code of the City of Troy, New York, Art. IV, § 285-57 (available at <https://ecode360.com/11133910>) (last visited Sept. 8, 2020) (the "City Code"). Specifically, the proposed rezoning is inconsistent with the City Code in the following respects:

- Residential density is "[n]ot to exceed eight units per acre" under § 285-57(D) of the City Code, but the proposed project would consist of approximately 25 units per acre — *more than three times what is permitted under the City Code* (Project Narrative for Second Avenue at 2 (Aug. 19, 2020) ("Project Narrative")).
- The "[m]aximum building height" allowed under § 285-57(E)(3)(f) of the City Code is 40 feet, but the proposed project would entail several structures of approximately 60 feet in height (Project Narrative at 2).
- "To the extent feasible, at least 10% of the total number of dwellings within this District should be in single-family detached structures" under § 285-57(H)(1) of the City Code, but the proposed project would not entail any single-family structures (*see* Project Narrative at 2).
- "Building height, size and design shall be appropriate to the location within the district where proposed" under § 285-57(H)(2) of the City Code, but the proposed project would entail large, three-to-four story, 60-foot-high, multi-family structures in a location that is currently undeveloped open space that is surrounded by single-family residences (Project Narrative at 2).
- "Landscaped open spaces or open areas left in their natural state should be provided at a ratio of not less than 1,000 square feet of open space for every dwelling unit" under § 285-57(H)(4) of the City Code, but it is highly unlikely that a 240-unit project with all of the attendant amenities, utilities, et cetera would be able to achieve this required ratio (*see* Troy Second Ave. Concept Plan C-2 (Aug. 2020) ("Concept Plan")).
- "Where feasible, natural features such as streams, rocks, outcrops, topsoil, trees and shrubs shall be preserved and incorporated in the landscape of the development" under § 285-57(H)(6) of the City Code, but the proposed project would unnecessarily eviscerate many of these features (*compare* Troy Second Ave. Existing Conditions C-1 (Aug. 2020) ("Existing Conditions Map") *with* Concept Plan).

Even more concerning, however, is that the Project Narrative utterly fails to address these obvious concerns, and, in fact, it highlights them. While the developer most likely is unwilling to incur the costs of addressing these concerns without a rezoning first, catering to a developer's interests in such a manner, at best, is *highly irresponsible*. A change in local law should not even be considered without thoroughly addressing the consequences of the change, especially here

given the environmental and cultural significance of the property at issue. Put simply, the Council's approach to legislation should not be "legislate first, ask questions later," regardless of how inconvenient it is to developers.

For the reasons discussed above and those discussed at length in Addendum A, it is respectfully submitted that the proposed rezoning would constitute spot zoning. Section 81-f of the General City Law *has absolutely no effect* on whether the proposed rezoning would be impermissible spot zoning. Indeed, section 81-f requires any re-designation to be consistent with a comprehensive plan, which is a key factor in the spot-zoning analysis. Again, the proposed rezoning is inconsistent with the Comprehensive Plan, and there has been no meaningful, non-superficial submission or argument to the contrary. Thank you in advance for your courteous consideration of this submission.

Sincerely,

A handwritten signature in black ink, appearing to be "P. Oswald", with a long horizontal line extending to the right.

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

ADDENDUM A



**RUPP
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PHILLIP A. OSWALD
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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,

A handwritten signature in black ink, appearing to read 'PA Oswald', with a long horizontal flourish extending to the right.

Phillip A. Oswald

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

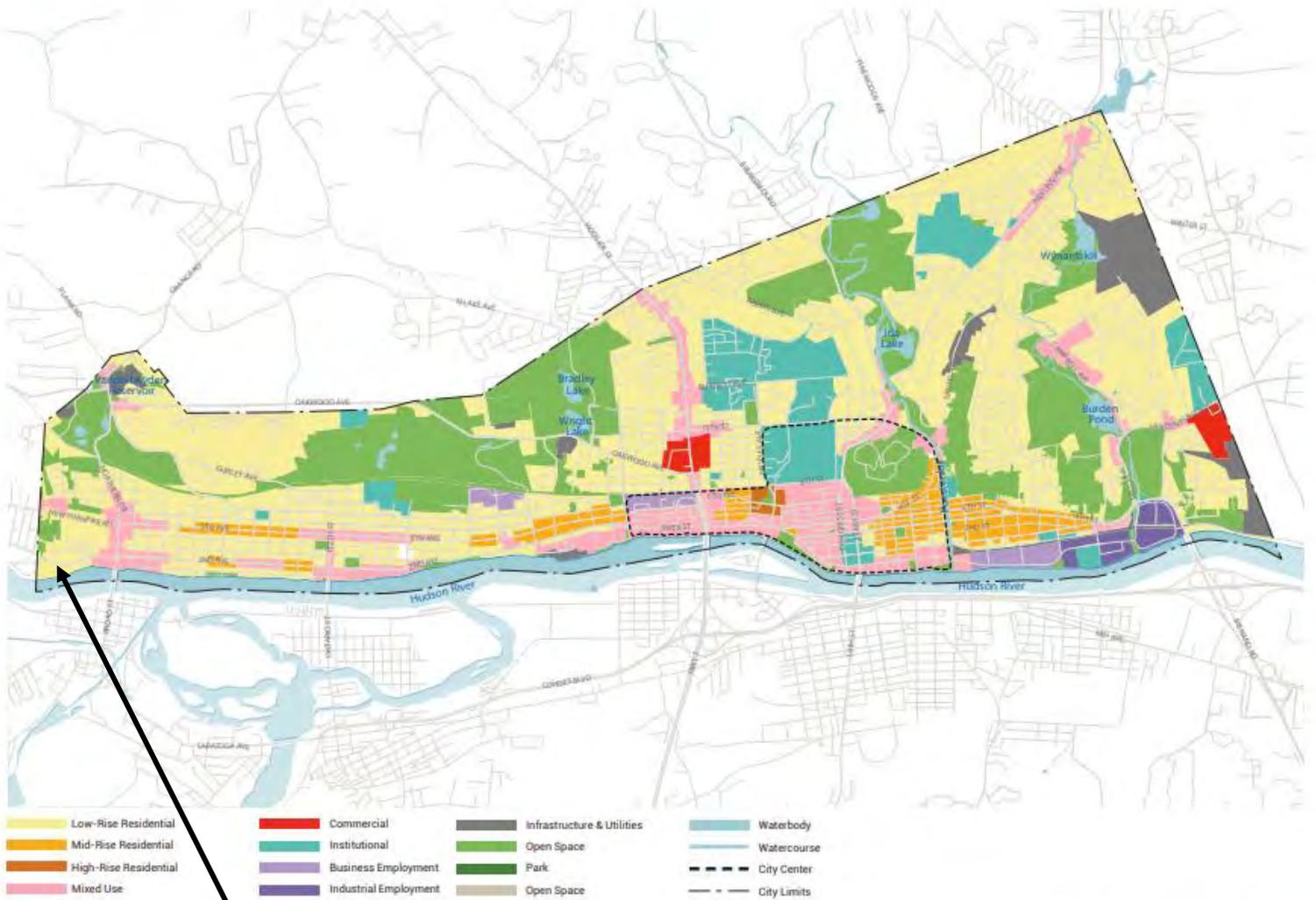
Ms. Carmella Mantello {*via electronic mail – carmella.mantello@troyny.gov*}
President
Troy City Council

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).

Attachment A

Realize Troy, Map 14, Land Use

Map 14 - Land Use



Note: Subject parcel is designated in area for Low-Rise Residential

Attachment B-1



- Transformation Area Boundary
- 1-4 Stories Residential Building
- New Employment
- New Open Space
- New Commercial
- New Street
- Surface Parking
- Streetscape Improvement
- Improved Trail
- Waterfront Lobbies
- Permitted Commercial
- Required Commercial
- Boat Launch
- Grocery Store

Realize Troy, Map 14, Land Use

Note: Adjacent Hannafords site in Major Reinvestment Area and proposed for redevelopment with building fronting 126th Street, parking behind, and 1-4 story residential; buildings with ground floor retail

Note: Subject parcel is NOT in Major Reinvestment Area and designated as for Low-Rise Residential

Attachment B-2



> Concept plan for the 126th Street District

PART C : MAJOR REINVESTMENT AREAS 72

Realize Troy, Major Reinvestment Areas

Note: Adjacent Hannafords site in Major Reinvestment Area and proposed for redevelopment with building fronting 126th Street, parking behind, and 1-4 story residential; buildings with ground floor retail

Note: Subject parcel is NOT in Major Reinvestment Area and designated as for Low-Rise Residential

September 9, 2020

By email: citycouncil@troyny.gov

Ms. Carmella Mantello, President
and Members of the City Council
City of Troy
433 River Street, Suite 5001
Troy, NY 12180

Subject: 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 Ms. Mantello and Members of the City Council:

Scenic Hudson is writing to urge the Troy City Council to deny the rezoning request referenced above on 2nd Avenue from R-1 (Single Family Development--Detached) to P (Planned Development). Such a rezoning would not be in accordance with the recently adopted *Realize Troy Comprehensive Plan* (2018) as required by N.Y. General City Law Section 28-a(12).

Realize Troy Comprehensive Plan—its purpose and how it was created

Urban Strategies, Inc., the planning firm hired by the City to craft *Realize Troy*, describes the Comprehensive Plan as a three-part community planning initiative: an economic strategy, a waterfront master plan, and a city-wide comprehensive plan. According to Urban Strategies, the planning process was based on a “*strong focus on public consultation, both in-person and using a variety of social media channels, and aimed to establish a clear vision and set of action strategies to address both the current and future needs of the City*” (emphasis added).

Further, Urban Strategies’ website states that the Comprehensive Plan established “*a clear community-based vision and action plan to guide the city’s overall development over the next 20 years*” (emphasis added) and *Realize Troy* identified “*short and longer-term community needs, reinforced and confirmed a set of broadly supported community goals and created a blueprint for future government actions*” (emphasis added).

SOURCE: <https://www.urbanstrategies.com/project/realize-troy/#:~:text=Realize%20Troy%20is%20a%20three,a%20city%2Dwide%20comprehensive%20plan.&text=It%20will%20establish%20a%20clear,over%20the%20next%2020%20years.>

Scenic Hudson’s recommendations are prefaced with the City’s Planning consultant’s description of the Comprehensive Plan’s purpose, as well as and the robust public participation on which the plan, its vision for the City, and its land use recommendations are based.

Rezoning must be in accordance with Comprehensive Plans

The requested rezoning would directly conflict with *Realize Troy's* recommendations—and, therefore, the community's vision—for the subject parcel. If it were to be in the best interest of the City of Troy and its residents to commit this undeveloped, wooded parcel to high density development, in this case 240 apartments, one would think that *Realize Troy* would have recommended this parcel for higher density uses as a Major Reinvestment Area. However, *Realize Troy* envisions just the opposite.

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 Residential to Planned Development would not be in accordance with the Comprehensive Plan's designation of Low Rise Residential and would therefore violate N.Y. General City Law Section 28-a(12).

Further, 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

Realize Troy's vision for the subject parcel

First and foremost, the Comprehensive Plan (Map 14) identifies the subject tax parcel as “low rise residential” (see Appendix A attached to this letter). The parcel is currently zoned R-1 (Single Family Residential—Detached) which would permit approximately 10 single family homes on the site. The concept plan submitted in association with this rezoning requests proposes 240 multi-family units, a land use with density wholly inconsistent with low rise residential and would therefore not be in accordance with the Comprehensive Plan as required by N.Y. General City Law Section 28-a(12).

Further, one of the “action strategies” proposed in *Realize Troy Comprehensive Plan* is the establishment of seven “Major Reinvestment Areas.” According to *Realize Troy*:

“Major reinvestment areas are locations in the city in most need of renewal and which also have the potential to accommodate most of the population and employment growth planned for Troy. Strategic initiatives in these areas are intended to catalyze neighborhood revitalization, transform derelict portions of the waterfront and spark economic development. They include large-scale redevelopment opportunities that can result in distinct new employment and mixed-use areas, sites appropriate for significant park and other public realm improvements and areas for neighborhood growth and revitalization.”

Realize Troy, page 68

These Major Reinvestment Areas are the places envisioned by the community as priorities for renewal, neighborhood revitalization and large-scale development.

The Plan identifies two Major Reinvestment Areas in Lansingburgh. One area includes the Hannaford's parcel immediately to the south of the subject parcel. *Realize Troy* conceptually proposes redeveloping the Hannaford's site with a large building fronting 126th Street, parking behind the building, and mixed-use 1-4 story residential buildings with required ground floor retail fronting 2nd Avenue (see *Revitalize Troy*, page 71 and 72; also attached here as Appendices B-1 and B-2). *Realize Troy* does NOT propose extending this mixed-use development—nor any high-density development, including apartments as proposed in this rezoning—onto the undeveloped, wooded parcel to the north.

Conclusion

During the development of the *Realize Troy*, undertaken with robust public involvement and adopted by the City Council just two years ago, it was not anticipated that the undeveloped, wooded subject parcel (Tax Map Parcel Number 70.64-1-1), zoned R-1 and identified in the Comprehensive Plan as Low Rise Residential, would be an appropriate place for intense development. If so, the adjacent Major Reinvestment Area would have been extended to include this parcel. Further, *Realize Troy* specifically includes this parcel in the "Low Rise Residential" land use category. Therefore, the requested rezoning would not be in accordance with the Comprehensive Plan.

In light of the above Scenic Hudson urges the Troy City Council to deny the application to rezone Tax Parcel Number 70.64-1-1 on 2nd Avenue from R-1 (Single Family Development) to P (Planned Development). Such rezoning would not be in accordance with the Comprehensive Plan as required by N.Y. General City Law Section 28-a(12).

Thank you.

Sincerely,



Jeffrey Anzevino, AICP
Director of Land Use Advocacy

Attachments

Appendix A
Appendix B-1
Appendix B-2

Stockbridge-Munsee Tribal Historic Preservation

Main Office
W13447 Camp 14 Rd
Bowler, WI 54416

Extension Office
65 First Street
Troy, NY 12180

September 10, 2020

City of Troy
C/O City Council
433 River St
Troy, NY 12180

Re: Rezoning Riverfront Parcel
1011 2nd St
Troy, NY

Troy City Council,

The Stockbridge-Munsee Community Tribal Historic Preservation Office wishes to address Resolution 91. *Resolution Referring Lansingburgh Zoning Change Request To Planning Commission For Review And Recommendation (Council President Mantello) (At The Request Of The Administration) **Pending Finance Meeting, September 10.* 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. We wish to address the Tribe's concerns with the proposed rezoning of the Riverfront Parcel in north Lansingburgh, what is 1011 2nd St Troy, NY.

The Lansingburgh Riverfront Parcel has high archaeological sensitivity and cultural significance for the Stockbridge-Munsee Community. 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 site 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 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. The Tribe's traditional homelands continue to be crucial to the living cultural heritage of the Stockbridge-Munsee Community today. Due to the immense cultural sensitivity for the Tribe and known archaeological sites we are concerned with the current rezoning proposal. We want to bring awareness to the Troy City Council on the cultural significance of this Parcel. We ask that the Council consider its decision to rezone this parcel for future development. The Stockbridge-Munsee Community Tribal Historic Preservation Office

(518) 244-6891

Email: nathan.allison@mohican-nsn.gov

Stockbridge-Munsee Tribal Historic Preservation

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proposes to work with the City toward NRHP nomination and ultimately protection in perpetuity of these culturally significant archaeological sites and green spaces for its entire community.

Should you have any questions, please contact me at nathan.allison@mohican-nsn.gov.

Sincerely,



Nathan Allison
Tribal Historic Preservation Officer

