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February 14, 2022

By email: [Carmella.Mantello@troyny.gov](mailto:Carmella.Mantello@troyny.gov) and [citycouncil@troyny.gov](mailto:citycouncil@troyny.gov)

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

Re: City Council Workshop on the Expanded Environmental Assessment Report for the Proposed Multi-family Apartments at 1011 2<sup>nd</sup> Avenue

Dear Ms. Mantello:

We have just learned that tomorrow evening, February 15, the Troy City Council will be conducting a workshop to review the Expanded Environmental Assessment Report for the Proposed Multi-family Apartments located at 1011 2<sup>nd</sup> Avenue. We are unable to attend this important workshop on short notice, but since Scenic Hudson has been reviewing and commenting on the evolving plans for the past 12 months, we hope that you might be able to arrange for us to participate remotely via Zoom or some other form of video conferencing as we had in the past.

With such short notice, we reviewed the Expanded Environmental Assessment Report and have found inaccuracies with respect to the proposal's consistency with Troy's Comprehensive Plan. First and foremost, citing general housing and public access goals of Troy's Comprehensive Plan (Section 5.16, pages 33-34), the Report asserts on page that the proposed apartment project is consistent with the Plan, even checking a box on page 2 of the Environmental Assessment Form indicating that the Plan makes no specific recommendations for this site. This is not accurate, and, in fact, in *Realize Troy*, Map 14, the site is recommended for Low Rise Residential (see map page 6), a land use diametrically opposed to proposed high density, four story apartments on a site surrounded by single family homes. Therefore, the proposal described Expanded Environmental Assessment Report is inconsistent with *Realize Troy*, adopted less than four years ago in May 2018.

Based on Scenic Hudson's preliminary review of the Expanded Environmental Assessment, due to potential impacts related to land use, inconsistency with the Comprehensive Plan, community character, and archaeological impacts, we urge the City Council to deny this rezoning. If the Council chooses to entertain the requested rezoning, a Positive Declaration should be required of the applicant and a full Environmental Impact Statement (EIS) produced with the benefit of public scoping. It is

important that this application should be considered in the context of an EIS in order for alternatives to be identified and assessed alongside the applicant's preferred alternative.

Below are examples of ways that rezoning the parcel from R-1 to Planned Development District (P) in order to increase the number of units from 36 or fewer single family homes to three, four-story apartment buildings with 231 units is inconsistent with the Comprehensive Plan.

#### **Inconsistent with Goal 2—Promote Healthy, Safe and Green Neighborhoods**

Under Goal 2, Promote Healthy, Safe and Green Neighborhoods, the Comprehensive Plan describes Lansingburgh as “one of the oldest neighborhoods in Troy. It is an area with a distinct character, a deep history and strong community bonds.” The Plan says that “*strategic* reinvestments in this neighborhood can support the intentions of the Comprehensive Plan and can have a number of positive benefits towards the goals of greater neighborhood stability and continued reinvestment (emphasis added).” *Realize Troy* identifies strategic areas for redevelopment, in fact one being immediately to the south of the subject site at 1011 2<sup>nd</sup> Avenue. *Realize Troy* did NOT propose higher density for the subject site and, in fact, as indicated above, the site is identified as low rise residential.

Responding to an application to rezone a parcel for development out of character with the surrounding single-family neighborhood would not be considered strategic, but rather opportunistic. Further, rezoning to permit 231 multifamily units in four-story buildings a single-family residential neighborhood would not respect or reinforce the neighborhood character or pattern as required by Goal 6.2.

#### **Inconsistent with Goal 5—Invest in Sustainable Infrastructure and Sustainable Development**

The proposal is also inconsistent with Goal 5 as it does not protect a key watercourse and would develop a large forested area along its shore with high density multi-family units.<sup>1</sup>

Map 12 on page 59 indicates that much of the project site is in the Hudson River's 100-year floodplain. The Hudson River is arguably Troy's most important watercourse. Given that these areas are to be protected from major development, rezoning an R-1 parcel to accommodate up to a 541% increase in development would not protect this important watercourse, particularly when one considers this is a forested site.

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<sup>1</sup> *Realize Troy*, page 58

### **Inconsistent with Goal 6—Support Compact Growth**

Further, the proposal is inconsistent with *Realize Troy*, Goal 6. Goal 6.2 specifically states that “development in stable neighborhoods will respect and reinforce the existing neighborhood character and pattern of development.” Further, Goal 6.2.2 speaks specifically to Low Rise Residential Areas and limits development to “low density,” “ground-related,” “and three stories.”<sup>2</sup> In this application four story buildings are proposed in a neighborhood of single-family homes.

### **The proposal does not satisfy the Intent or Provisions of the Planned Development District**

The City’s Zoning Code (Article VI Section 285-57 A.) describes the philosophy Planned Development District (P) as follows:

This District is designed to maximize choice in the types of environment, housing, densities, occupancy tenure, lot sizes, community facilities, usable open space and recreational areas within a large parcel of land in which a planned mix of residential uses is proposed. The intent of this District is to foster a creative and efficient use of land resulting in small networks of utilities and streets, the preservation of existing natural resources, and a development pattern consistent with community needs and standards.

Our review of the proposed project finds a typical suburban site plan with three large, four-story apartment buildings, access roads, and surface parking stretched across the forested, archaeologically rich riverfront site. While the slopes along the shoreline would be spared from buildings the site plan could not be considered as very few natural resources would be protected, little creativity demonstrated in the site plan, and no mix of residential uses provided as required in the P District. A development such as this is better suited as an application in a

Based on the above, the proposal does not satisfy the philosophy of the Planned Development District as it does not provide a mix of residential uses, foster creative or efficient land use, small networks of utilities and streets, or preservation of natural resources.

Further, the Code (Article VI Section 285-57 D.) limits overall maximum density to eight (8) units per acre. Therefore under the provisions of the P District, 80 units would be the maximum permitted on the 10-acre site. If permitted, 231 units would exceed the permitted density by 151 units, an increase of 188%.

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<sup>2</sup> *Realize Troy*, page 62

### **Rezoning must be in accordance with Comprehensive Plans**

As Scenic Hudson has pointed out in letters dating back to December 29<sup>th</sup> letter, N.Y. General City Law requires that “All city land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”<sup>3</sup> Further, according to the New York State Department of State (NYS DOS) “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.”<sup>4</sup>

In this case, the Applicant proposes a density increase of up to 541% over existing permitted R-1 density, and at four stories, is certainly by any definition not respectful or reinforcing of its single-family context. We urge the City Council to consider the impact of allowing between 231 residential units in four-story buildings adjacent to a neighborhood of single-family homes and reject this application for rezoning.

### **Environmental Justice Concerns**

The subject parcel is located in a New York State Department of Environmental Conservation (NYS DEC)-designated “Potential Environmental Justice Area.”<sup>5</sup> According to the NYS DEC’s website:

“Environmental Justice is the fair and meaningful treatment of all people, regardless of race, income, national origin or color, with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. Environmental Justice allows for disproportionately impacted residents to access the tools to address environmental concerns across all of DEC’s operations.”<sup>6</sup>

The NYS DEC’s definition of Environmental Justice includes the Indigenous People (Native Americans) who lived here before the coming of the Europeans and who still live in New York today. It is our understanding that the Schaghticoke First Nations, as well Mahican, Lenape and other indigenous people, have expressed historic ties to the subject site. According to the Friends of the Mahcantuck, the land is suspected as a one of the potential sites for an indigenous village located in the area and is eligible for listing on the National Register of Historic Places.<sup>7</sup> In fact, the applicant’s Project Narrative indicates there are eight locations of archaeological artifact concentration on the site.<sup>8</sup>

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<sup>3</sup> NY City Law Section 28-a(12)

<sup>4</sup> [https://www.dos.ny.gov/lg/publications/Zoning\\_and\\_the\\_Comprehensive\\_Plan.pdf](https://www.dos.ny.gov/lg/publications/Zoning_and_the_Comprehensive_Plan.pdf)

<sup>5</sup> [https://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/reusselaerei.pdf](https://www.dec.ny.gov/docs/permits_ej_operations_pdf/reusselaerei.pdf)

<sup>6</sup> <https://www.dec.ny.gov/public/333.html>

<sup>7</sup> <http://www.friendsofthemahcantuck.org/history/>

<sup>8</sup> *Project Narrative for Second Avenue*; MJ Engineering & Land Surveying, PC; October 28, 2020; Exhibit 5-Archaeological Concentration Plan, C-2 on page 17

Given this unique set of circumstances—the parcel’s well-documented archaeological sensitivity, indigenous peoples’ concern for the site, and its location in a State-designated Potential Environmental Justice Area—Scenic Hudson urge the City Council to take seriously comments and concerns presented by representatives of the Schaghitcoke First Nations, Friends of the Mahicantuck, and other indigenous peoples expressing ties to the site.

### **Conclusion**

During the development of *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 parcel at 1011 2<sup>nd</sup> Avenue would be an appropriate place for intense development, in this case 231 multi-family units—an increase in density of up to 541%.

In fact, *Realize Troy* specifically includes this parcel in the “Low Rise Residential” land use category and the rezoning request would permit four-story buildings. As indicated above *Realize Troy* in Goals 6.2 and 6.22 anticipate that “Development in stable neighborhoods will respect and reinforce the existing neighborhood character and pattern of development” and “Low-Rise Residential areas shall contain *low-density, ground-related housing that is no greater than three-stories in height*” (emphasis added). We believe that the potential for 541% increase in density with four story buildings should not be consistent with these important goals.

Given the well-documented archaeological sensitivity of the site, concerns raised by representatives of indigenous peoples, the site’s National-Register eligibility, and its location in a Potential Environmental Justice Area, we urge the City Council to take seriously comments expressed by the Friends of the Mahicantuck as well as representatives of the Schaghitcoke First Nations, Stockbridge Munsee and other indigenous peoples with ties to the site.

Given that the Environmental Assessment Form indicates that federal permits are required from the US Army Corps of Engineers (ACOE) and the parcel contains the Dickerson Site, a middle to late Archaic quarry with multiple loci, and is substantially contiguous to the New York State Barge Canal Historic District, a Section 106 Review will be required.

Finally, because the Applicant’s proposal and proposed rezoning are inconsistent with the Comprehensive Plan, and in light of the above, Scenic Hudson urges the City Council to reject the application to rezone the parcel. Such rezoning would not be in accordance with the Comprehensive Plan as required by N.Y. General City Law Section 28-a(12).

If the Council chooses to proceed with the application, a Positive Declaration with full EIS, including public scoping is required to identify and mitigate all impacts and consider a range of alternatives that would avoid or minimize such impacts.

Thank you.

Sincerely,



Jeffrey Anzevino, AICP  
 Director of Land Use Advocacy

**Specific recommendation for 1011 2<sup>nd</sup> Avenue**  
 (low rise residential)

Source: Map 14; Realize Troy, May 2018

