

**Minutes of the  
TROY CITY COUNCIL  
REGULAR MEETING  
June 2, 2022  
7:00 P.M.**

The meeting was called to order at 7:01 p.m. by Council President Mantello.

**Roll Call:** The roll being called, the following answered to their names: Council Member Gulli, Council Member Ashe-McPherson, Council Member Steele, Council Member Menn, Council Member Conley-Wilson, Council Member Sorriento, Council President Mantello, Chair.

In attendance were Mayor Patrick Madden, Deputy Mayor Chris Nolin, Corporation Counsel Richard T. Morrissey, Comptroller Andrew Piotrowski, City Engineer Aaron Vera, Approximately 50 members of the public attended.

**Public Forum:**

- Matt Oil
- Jani Ramsey
- Donnie Fane
- Adam Fisher
- David Banks
- Keith Hirokawa
- Neil Kelleher
- Harry Tutunjian
- Jess Bennett
- Henry Cooley
- Robyn Gray
- Lynne Jackson
- Eva Fisher
- Elizabeth Madison

**22-3. Ordinance Amending The City Of Troy Zoning Map To Change The Zoning Classification District Of Property Known As 1011 Second Avenue, Tax Parcel Number 70.64-1-1, From “R-1” Single Family Residential To “P” Planned Development (Council Member Gulli)**

Ordinance passed 1 ayes, 1 no (Conley-Wilson), 0 abstentions

**24. Ordinance Transferring Funds Within The 2022 General And Water Funds Budget (Council President Mantello) (At The Request Of The Administration)**

Ordinance passed 7 ayes, 0 nos, 0 abstentions

**59. Resolution Of The Troy City Council Recognizing Juneteenth (President Mantello, Council Member Steele, Council Member Ashe-Mcpherson, Council Member Conley-Wilson, Council Member Gulli)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**60. Resolution Of The Troy City Council Recognizing Pride Month (Council Member Conley-Wilson, Council President Mantello, Council Member Steele, Council Member Ashe-Mcpherson, Council Member Gulli)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**61. Resolution Determining That Proposed Action Is A Type Ii Action For Purposes Of The New York State Environmental Quality Review Act (Council President Mantello) (At The Request Of The Administration)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**62. Bond Resolution Of The City Of Troy, New York, Authorizing The Issuance Of \$4,000,000.00 In Serial Bonds To Finance The Reconstruction Of Various Streets In The City (Council President Mantello) (At The Request Of The Administration)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**63. Resolution Authorizing The Mayor To Enter Into An Intermunicipal Agreement With The Town Of Colonie For Mutual Provision Of Police Tactical Team Services (Council President Mantello) (At The Request Of The Administration)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**64. Resolution Authorizing The Implementation, And Funding In The First Instance 100% Of The Federal-Aid And State "Marchiselli" Program-Aid Eligible Costs, Of A Transportation Federal-Aid Project, And Appropriating Funds Therefor (Council President Mantello) (At The Request Of The Administration)**

Resolution passed 7 ayes, 0 nos, 0 abstentions.

**Adjournment**

The meeting adjourned at 9:20 p.m.

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

An audio recording of this meeting is on file at the City Clerk's office.

Audio and video recordings of this meeting are on file at the City Clerk's office.

**From:** [Jennifer S](#)  
**To:** [citycouncil](#)  
**Cc:** [Maria.DeBonis](#)  
**Subject:** Keep 1011 2nd Ave R1  
**Date:** Thursday, June 02, 2022 4:41:22 PM

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I implore all members of the City Council to honor Troy's Comprehensive Plan (2018) and Vote NO to Zone change Developer is requesting for 1011 2nd Avenue.

Jennifer Schulaner  
2161 12th Street  
Troy, NY 12180

**From:** [Liz Maloney](#)  
**To:** [Maria.DeBonis](#)  
**Subject:** opposition to rezone 1011 2nd Avenue  
**Date:** Thursday, June 02, 2022 4:32:59 PM

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11 First Street  
Troy Ny 12180

Dear Members of the City Council of Troy,

I am writing to voice my **strong opposition to the Rezoning of 1011 2nd Avenue from R1 to P**. Many, many citizens have voiced opposition to this rezoning and as members of this representative body, I write to ask you to use the responsibility granted to you to uphold the will of the majority of your constituents. **This rezoning will have a negative impact on my quality of life and the City of Troy**. I often kayak along the shores of this property and appreciate the natural shoreline, rocky cliffs, old growth trees and birds that nest there. We have hiked through the property on hot summer days. Furthermore, I have listened to hours of testimony from members of several Native American tribes attesting to the sacred value they place on this land. Who else has the right to be heard and respected about the use of land than its original owners? Their extensive travel to speak in person before the Council, their respectful speeches asking you all to honor their traditions should be honored. Please honor their request. It is very, very reasonable.

Instead of allowing bulldozing of this natural land to build yet another high rise, bland building, I want to see the development on many of the abandoned brownfield sites along our 7 miles of shoreline. Yes, people partied on the property, and it could be better maintained. But it is documented as a special place and can be transformed into a special site of Native history and recreation, now that the public is so aware of its legacy. That legacy is far older than the beer cans and mattresses joked about in the meetings, which seemed designed to diminish its value. We all remember the dozing of many treasured buildings in downtown and the ache of our parents that it would be never be the same there. The Atrium could not come close to replacing the truly grand Troy Theatre just as a high rise apartment building could not replace this amazing natural heritage area.

Very truly yours,

Liz Maloney

**From:** [Mickey Dobbin](#)  
**To:** [Maria DeBonis](#)  
**Cc:** [citycouncil](#)  
**Subject:** Speaking tonight and website down  
**Date:** Thursday, June 02, 2022 4:24:04 PM

Good afternoon,

I hope it is not too late, I hope to speak tonight via zoom if possible since I am out of town for work. I checked the Troy City Council website to see if that is a possibility and it appears to be down, has been for a while, I'll include a picture below of the message I am getting.

If not, then I, Sean Mickey Dobbin of 18 Street, Troy will just like the following to be on the record.

I will keep it short and sweet since you have heard from me on the issue of 1011 2nd Ave several times, and most importantly you have heard from hundreds of community members and other members of our broader community, such as Indigenous People of this land. You have before you today an important decision to make, and don't forget you can make a decision, you can lead by example, you can show us all that our community can come together in a democratic voice and make a future that benefits us all. You can vote no on rezoning this parcel. It is in your power to do so. It is quite clear that the developer would not be spending this amount of time or money on this rezoning if building residential property was even possible there, it is quite clear this person only cares about himself and his wallet and no matter what will not do what is best for our community. It is quite apparent at this stage it is most likely to turn around to sell the property to a larger out of state developer once he gets the rezoning. Any promises cannot be assured, there is no contract so any promise is worthless, is nothing. If this goes through I am absolutely certain labor and unions will be cut out and denied any work on whatever project happens there.

Do the right thing, by nature, by history, by the native people of this land, and by our city and vote no on the rezoning.

-Mickey Dobbin

# Error 522

Ray ID: 7152d30f0ac4195d • 2022-06-02 20:09:02 UTC

Connection timed out



You  
Browser  
Working



Newark  
Cloudflare  
Working



www.troyny.gov  
Host  
Error

## What happened?

The initial connection between Cloudflare's network and the origin web server timed out. As a result, the web page cannot be displayed.

## What can I do?

**If you're a visitor of this website:**  
Please try again in a few minutes.

**If you're the owner of this website:**

Sent from my iPad

**From:** [Friends of the Mahicantuck](#)  
**To:** [All City Council Members](#); [citycouncil](#); [Carmella.Mantello](#); [Patrick.Madden](#); [Maria.DeBonis](#)  
**Subject:** 1011 2nd Avenue Comments for General Council Meeting, June 2, 2022  
**Date:** Thursday, June 02, 2022 1:22:02 PM

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

Please add this email and all attached documents to the public record of the Troy City Council General Meeting on June 2 2022 and the record for the zoning change request for 1011 2nd Avenue from R1 to P Planned Development.

In its considerations of the 1011 2nd Avenue proposed development as well as the zoning request pursuant to said development, the city council has made repeated reference to a supposed “alternative proposal”, as provided by the applicant for example in the January 2021 Narrative Report (p. 14).

However, said “alternative proposal” is immaterial to your decision about the requested change in zoning code. This is particularly the case, as the approval of the change in zoning code to P pursuant to the proposed development project would be inconsistent with State law and the City’s zoning code regulations.

**Considering these inconsistencies with the law, as provided to the council in previous statements and submissions, we request the council to NOT approve the request for zoning change and to not adopt the ordinance enacting the zoning code change.**

**The so-called “alternative proposal” is fictitious and likely cost prohibitive**

No specific proposal, submission, plans, or application for an “alternative proposal” exist that the public could provide detailed review and meaningful comment on. This makes the council’s consideration of such an “alternative proposal” not only immaterial but undue.

There is insufficient information available for us to provide more detailed comments on this so-called “alternative proposal”. However, based on the limited information that is available, we assess the so-called “alternative proposal” as cost prohibitive and unrealistic.

Based on a review of the limited provided information, the “alternative proposal” as provided by the developer is entirely fictitious, as it:

- **would likely not comply with the city’s zoning code and its rules, as well as State rules and regulations**, regarding setbacks, stream buffers and protections, flood regulations, greenspace preservation requirements, and others.

- **would likely be inconsistent with the proposed updated zoning code regulations.** Specifically, the development of this site would face additional scrutiny and hurdles under the Resilient Waterfront and Flood Risk overlay district and the steep slope protections, and would require greater setpacks, higher flood related elevations (2 feet freeboard), the avoidance of clearcutting, and additional scrutiny under SEQR.
- **would be subject to the same extent of review under SEQR.** Considering the 25% threshold requirements for sites eligible for listing under the State Register of Historical Places under 6 CRR-NY 617.14 (9) this alternative proposal would potentially constitute a type 1 action. Even if it remains an “unlisted action”, this project would require full environmental review and a full EAF for its location in a Potential Environmental Justice Area and as it would have known impacts on a site that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State and National Register of Historic Places. Therefore, such a proposal would be subject to the same extensive scrutiny of impacts.
- **would require the preparation of a full EAF and would likely carry the same presumption for an EIS to be required as a type 1 action,** as it would impact a Potential Environmental Justice Area, designated Disadvantaged Community and would impact a National and State Register eligible site.
- **would require the same mitigation, preservation and recovery measures for impacts on the archaeology,** including the associated costs for study, mitigation and recovery – all while being subject to the same public scrutiny as this project.

Overall, no project as described as “alternative proposal” could likely ever be built. Considering setback requirements, stream buffers, requirements for avoidance and/or recovery of archaeological artifacts, steep slope protection requirements, and overall topographical conditions of the site, any development would certainly not lead to the rate of site disturbance that is insinuated in the so-called “concept drawings” provided by the applicant.

**Rather, considering set-backs, buffers, topography and other requirements in State law and city code, any development would likely result in the conservation of a similar acreage as the currently proposed development project.**

**It is important to note that the vast majority of the undisturbed acreage under the current multi-family development proposal are the results of similar requirements in State law, regulation and city code.**

In addition, and in sum, these challenges and their associated costs, in conjunction with other building, permitting, legal and planning costs would make this project most likely cost prohibitive, even in the current, inflated market.

**Consideration of a fictitious proposal unduly shifts burden from applicant to the public**

With the council incorporating the supposed alternative proposal in its consideration, where such consideration is immaterial to the decisions before it, the public has to advocate at once on:

- a proposed multi-family development project,
- a rezone request from R1 to P that does not support this project,
- a fictitious single family apartments project for which no application, specific proposal, or specific plans exist.

In an review of a zoning code change, the burden is on the applicant to prove the need, appropriateness, and benefit to the public, related to the change in zoning code. Yet, the council's consideration of this so-called "alternative proposal", and its apparent weighing against the legality of the zoning change decision, shifts the burden on the public to preserve the current zoning code.

How can the public be expected to advocate against an unspecified, fictitious project for which there are no details provided, when it already has provided extensive evidence for how the zoning code change is inconsistent with State law, including the zoning enabling statutes, as well as the City of Troy's own zoning code?

**The so-called "alternative proposal" is immaterial to the council's decision**

The consideration of this so-called alternative proposal is immaterial to the decision before you: The determination the council has to make relates to the appropriateness and validity of the zone change to P Planned Development and we presented evidence for its inconsistency with the law, which must necessarily result in disallowing the request for the zone change. An alternative proposal, especially for one where there does not exist any application, is immaterial to this consideration considering the noted inconsistencies with the law.

The public, including our organization, has provided ample evidence for how the request in zoning change is inconsistent with State law and the City of Troy's own zoning code. Legality cannot be weighed against an "alternative proposal", and makes the "alternative

proposal” entirely immaterial to the question at hand.

We detailed in previous submissions how the approval of a request for change of zoning code from R1 “Single Family Residential, detached” to P “Planned Development” would not only be inappropriate, it would be in direct conflict with the law and the city’s own zoning code regulations.

- We pointed to inconsistencies with the 2018 Realize Troy Comprehensive Plan, including mandatory provisions. This included the requirement that for this area development SHALL be low-density, ground related and not to exceed three stories building height. It was noted during the public hearing on May 25 that the approval of this rezoning request could constitute an amendment to the zoning code should 21.5 units/acre be considered by this council as low density.
- We pointed to the P Planned Development district not supporting the proposed development and identified the zoning code district that would provide for the required densities, uses, and building heights (R4, Urban Neighborhood, Medium to High Density). In this context, it was also noted during the public hearing on May 25 how your approval would likely constitute an amendment to the P Planned Development district provisions by setting a precedent as it relates to building height, mixed use, and overall density requirements.

**Prescriptive easement of the property as a land informally used as open space and recreational resource in its natural and undeveloped state.**

We further want to bring to your attention the potential prescriptive easement on this parcel - that is the permanent legal right to use the property as open space and recreational resource.

A prescriptive easement is not created in a deed or other transaction but by conduct: “the open and hostile use of another’s property for a continuous period of at least 10 years (NYS statute of limitation).

Considering the documented public use of the site as public and open space for several decades, the public has the potential legal right of use as open space, access to the Hudson River and to travers on the existing trails and in enjoyment of the property in its current condition.

Considering this potential prescriptive easement as open space and recreational resource in its natural state, the change in zoning code and approval of development would interfere with said potential prescriptive easement.

**We therefore urge the council: Do not approve the request for change in zoning code and do not adopt the related ordinance enacting the zone change.**

Your own expert panel on zoning and planning matters, the Planning Commission, explicitly

recommended against this rezone request.

This project has seen two years of public opposition with well beyond 30 hours of statements by the public and countless written submissions; yet not one substantive statement in support of this project was made other than by the applicant and his representatives. To insinuate, as some members of the council have, that there is a supposed silent majority, and dismiss the extensive record and public statements is inappropriate and undemocratic.

In closing, we wish to remind the council of its Indigenous Peoples Day resolution (Res81, October 8, 2021). This resolution states that the “City of Troy like the Indigenous Peoples who first inhabited these lands recognizes that it has a responsibility for environmental stewardship” and that the city “desires to honor the Indigenous Peoples who first settled these lands, and to follow their example”.

You received guidance and direction from the same Indigenous Peoples that the city recognized in said resolutions. Members of Schaghticoke First Nations, Stockbridge Munsee, Mohawk and Ramapough Lenape, in traveling several hours to come and speak before this council, and who wrote letters, aired their opposition to this project and urged you to not approve this rezone.

Do not fail the commitments you made to Indigenous Peoples when you issued the Indigenous Peoples Day resolution.

Do not fail your own communities here in Troy.

Do not approve the request for rezone from R1 to P for 1011 2nd Avenue.

Sincerely,  
Friends of the Mahicantuck  
June 2, 2022

**From:** [Phoebe Gittelson](#)  
**To:** [citycouncil](#); [Maria.DeBonis](#)  
**Subject:** in OPPOSITION to the rezoning in Troy  
**Date:** Tuesday, May 31, 2022 6:56:14 PM

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I am writing to share that I am AGAINST changing the zoning code for 1011 2nd Avenue from R1 to P.

**The new zoning code would not allow for the proposed development!** The developer is asking for a zone change from single family residential to a Planned Development district. However, the P-district allows for a maximum density of 80 units for this parcel - while the developer proposes to build 230 units! **The developer must follow Troy's laws and zoning codes!**

**The rezone would be inconsistent with the comprehensive plan.** Any zoning is required to be consistent with the comprehensive plan. While the comprehensive plan (adopted in Troy recently, in 2018) is a guiding document, some of its provisions are binding. For example, it states that development in low rise residential areas (such as it is the case for the area where 1011 2nd Ave is located) SHALL not be higher than three stories and not be high density (the developer proposes a 21.5 unit/acre density and four-story high buildings). **Honor the comprehensive plan.**

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**phoebe gittelson**  
lawyer + poet + violinist  
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[phoebegittelson@gmail.com](mailto:phoebegittelson@gmail.com)

**From:** [Carolyn Bardos](#)  
**To:** [Maria.DeBonis](#); [citycouncil](#)  
**Subject:** planned development at 1011 2nd Ave.  
**Date:** Tuesday, May 31, 2022 6:45:15 PM

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Dear Troy City Council Members,

We urge you, in the strongest possible terms, to abandon your plan to rezone the area of 1011 2nd Avenue in Troy to allow for the construction of an apartment complex.

The public overwhelmingly opposes this development, and yet you seem determined to ignore not only the wishes of Troy's residents, but also the city's own zoning regulations (too many units proposed for this parcel) and its comprehensive plan (proposed complex will exceed maximum allowable building height).

The plan to clear-cut Troy's last riverfront forest to make way for an apartment complex, and the fact that six of seven council members consider this a good idea, is beyond disturbing. The plan lacks not only vision, but moral judgment. Your support for this project and your submission to the will of a developer, rather than to the will of the people, paints a bleak picture of the future of a city that has so much potential.

VOTE NO on this rezoning request.

Sincerely,

Carolyn and Laszlo Bardos

Troy, NY