



City Info <cityinfo@plattsburghcitygov.com>

---

## City Planning Board Comment, Meeting April 27, 2020, Site Plan Review

1 message

---

**Timothy Palkovic** <palkovtj@plattsburgh.edu>  
To: cityinfo@plattsburghcitygov.com

Sat, Apr 18, 2020 at 11:38 AM

The proposed Prime LLC building disappoints. It abandons the intention of the State grant to revitalize the City of Plattsburgh.

The character of the building clashes with the architectural character of buildings near by. For example, the buildings across Bridge Street are built on a row house concept with each building stepping down as the land drops down approaching the River. The five story building is out of scale with the existing buildings gaining another story as the massive structure ends by the river.

The design thoughtlessly defeats the original proposal to augment the parkland potential of the Saranac River Trail. The building blocks the view of the river from every point of the Durkee Street area.

Instead of the once proposed expanded garden islands in the Durkee Lot, the plan presents pedestrians with a dreary experience. Walking down from the Westelcom Park they first approach the garbage bins for the Prime LLC building. Then they engage the walkway hugging the side of the building that runs the width of the Lot. Turning the corner finds not a plaza but an alleyway leading down to Bridge Street.

Not only will we lose the promised parkland but also lose sufficient parking spaces. The plan adds dangerous one way traffic on Durkee Street, adding parking meters as well.

My opinions on the proposed development of the Durkee Street Lot are formed by these three standard books; **Strong Towns**, **Palaces for the People** and **Walkable City Rules**. These books offer fundamental city planning principles.

**Strong Towns** by Charles L. Marohn, Jr. argues that large block developments offer the illusion of wealth but in reality create long term unpayable liabilities. He persuasively argues that rehabbing old areas of a city are more financially productive than shiny new buildings.

A reviewer of **Palaces for the People** by Eric Klinenberg says that "This book, but especially the conclusion, warns of the danger of delegating public works to private companies, particularly companies who project a community-minded motto but are really profit driven."

Dar Williams, reviewer of **Walkable City Rules** by Jeff Speck says "Yes I DO want to make my town more livable, walkable, equal and fun." The proposed Prime LLC building on the Durkee Street Lot does none of these things but proposes a gated community in a civic space.

Submitted by Tim Pakovic, City Resident



April 20, 2020

City of Plattsburgh Zoning Board of Appeals  
c/o Ron Nolland, Chairman  
City of Plattsburgh Planning Board  
c/o Jim Abdallah, Chairman  
City Hall  
41 City Hall Place  
Plattsburgh, New York 12901

Re: Prime Plattsburgh, LLC Special Use Permit Application

Dear Mr. Nolland, Mr. Abdallah, ZBA and Planning Board members:

I understand that the ZBA tabled the above application for Prime Plattsburgh, LLC/City of Plattsburgh. I thank the board for its actions in this regard.

Further to our stance in our April 3, 2020 letter to the Planning Board and ZBA, I note that Governor Cuomo issued Executive Order 202.14 yesterday, April 7, 2020. A copy of that executive order is provided with this letter. As we noted in our April 3, 2020 letter, it was, and remains, our opinion that Governor Cuomo's earlier Executive Orders, including Executive Order 202.13, required the cancellation of all but essential municipal meetings. You may recall that the City's Building Inspector Office and Community Development Office released a "Response to Comments on Special Board Meetings" dated April 3, 2020 which called into question in the first bullet of that memo, our stance relative to ZBA and Planning Board meetings. Governor Cuomo's Executive Order 202.14 should erase all doubt about the correctness of our opinion here: *"By virtue of Executive Orders 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, and 202.13 which closed or otherwise restricted public or private businesses or places of public accommodation, and which required **postponement or cancellation of all non-essential gatherings of individuals of any size for any reason** (e.g.*

*parties, celebrations, games, meetings or other social events), all such Executive Orders shall be continued, provided that the expiration dates of such Executive Orders shall be aligned, such that all in-person business restrictions and workplace restrictions will be effective until 11:59 p.m. on April 29, 2020, unless later extended by a future Executive Order.”* Emphasis added.

We did not state our opinion relative to planning board and ZBA meetings in an attempt to delay the Prime Plattsburgh, LLC application. To the contrary, we believed quite firmly that all non-essential municipal meetings were cancelled under Governor Cuomo’s “Pause New York” Executive Orders. In any event, Executive Order 202.14 lays this discussion to rest and it is clear that only essential meetings can take place. We offer, once again, that with all due respect to the pending Prime Plattsburgh, LLC, or what should be the Prime Plattsburgh, LLC application that is currently being brought by the City, is not an essential application. Anecdotally, we also note that DEC has cancelled all public hearings. See email from April 7, 2020 attached.

Lastly, we also question again the ethics behind the Community Development Office, which is bringing this Prime Plattsburgh, LLC applications before the Planning Board and ZBA, yet also offering guidance on whether or not these meetings should even take place. It should come to no surprise that the City, as an applicant, would try to convince the ZBA and Planning Board that the City’s own application is “essential”. This is precisely why you need your own advice. This is an undeniable conflict of interest and the Planning Board and ZBA should be and remain above this sort of conflict, particularly with a controversial project that, again, is being brought forward by the City on behalf of a private, for profit limited liability company.

Thank you.

Sincerely,



Matthew F. Fuller, Esq.  
[mfuller@meyerfuller.com](mailto:mfuller@meyerfuller.com)

cc: Plattsburgh Citizens Coalition, Inc.



10 City Hall Place  
Plattsburgh, NY 12901  
518-570-9940  
[www.plattsburghcitizenscoalition.com](http://www.plattsburghcitizenscoalition.com)  
Facebook @plattsburghcitizens

*Incorporated 2019 Under Section 402 of the Not-for-Profit Corporation Law*

Plattsburgh Citizens Coalition Inc. is a community-based organization created to advance the interests of businesses, service providers, employees, residents, and visitors of downtown Plattsburgh, NY. PCC advocates and promotes smart growth that enhances and improves the quality of life for all.

---

April 18, 2020

City of Plattsburgh Zoning Board

**RE: Durkee Street Development – GENERAL CHARACTER, HEIGHT AND MASSING OF THE STRUCTURE.**

Dear Zoning Board Member:

The Prime Development Project as proposed does not meet the criteria required for Zoning Board approval and, therefore, cannot possibly be approved in good conscience. We are prepared to demonstrate why.

As you know, in order to be approved the application must clearly demonstrate that the proposed project will safeguard the public health, convenience and preserve the general character of the neighborhood using five standards the first of which is **General character, height and massing of the structure**. This letter will demonstrate that the proposed 5 story building is massive in size and height in relation to the surrounding buildings made up almost entirely of 2-3-story buildings (plus two 4-story buildings) and falls short of the criteria for approval.

**An Incomplete Application.**

We respectfully submit that the application is incomplete as it does not include simple scaled elevation drawings clearly showing the comparative difference between existing buildings on both Durkee Street and Bridge Street relative to the proposed building. These types of elevation drawings are a standard requirement of ANY site plan application or PUD. Arguably the application should not be considered complete and, therefore, should not have been placed on the agenda without it. But an incomplete application has been placed on the agenda repeatedly over the past months. After being insisted upon by the ZBA at a recent meeting, the applicant finally included a single elevation drawing, however, this drawing is incomplete and flawed.

**A series of Deceptive Drawings.**

The first and only attempt at an elevation drawing has now been provided for the first time with the most recent application. However, the drawing provided is an extremely deceptive illustration (more on that later). It is curious why co-applicants Prime and the City Community Development office / Planning Department have been so evasive in providing relative elevation drawings that are standard for any development application? Until now, there has literally been no information provided in DGEIS nor in the application to the ZBA that could be considered sufficient for the Zoning Board and others to conduct a thorough objective evaluation on the question of general character and height of the proposed structure

relative to existing buildings. Only now are we finally provided with just one single, but very deceptive, elevation drawing provided for Durkee Street and still none provided for Bridge Street. Let's take a look at the single drawing provided.



### **Comparative Elevation Drawing submitted by Prime Companies**

A few things to note:

1. There is no scale on the drawings. The reader really can't tell the height of anything or have any way of evaluating the accuracy of the figure.
2. The proposed building is depicted in the background rather than the foreground, which creates the illusion of making the buildings in the foreground appear larger and the building in the background appear smaller.
3. The image includes buildings on Margaret Street, which is a full story higher than Durkee Street and really not relevant to the question of compatibility with the Durkee and Bridge Street corridor. Comparing to the buildings on Margaret Street is not only irrelevant to the project, it is a deliberate attempt to deceive the Zoning Board.
4. The image ostentatiously includes the First Presbyterian Church Bell Tower located several city blocks away and at a much higher elevation. Clearly this is placed in the illustration to create the impression that the proposed building is not the tallest building along the Durkee Street corridor. This type of deceptive illustration should be not only rejected but also admonished.
5. Notice how the camera angle is shot from ground level looking up rather than a pure 2-dimensional silhouette comparison. Thus the roof lines of the buildings in the foreground diminish the view of the larger building in the background.
6. The figure doesn't show the first-floor level. The existing buildings are narrow row house style architecture with descending first floor elevations that descend with the grade going down the hill along Durkee Street. The First floor at the lower end of the street is a full story below that of the building at the top of the hill. The Prime building comparatively is a 300-ft long monolith in which the first-floor elevation remains constant along the entire city block.

7. No view is provided for Bridge Street corridor.

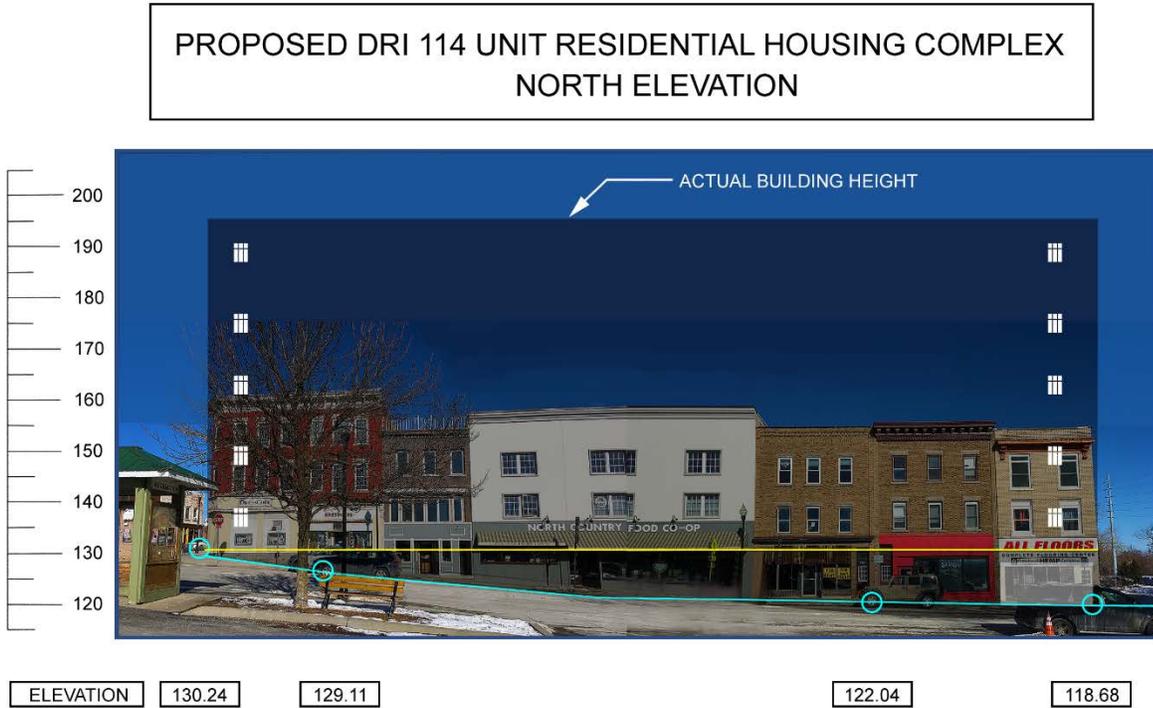
Typically, in nearly all development projects, especially one of this scale, simple drawings showing comparative views are provided. However, in this project both co-applicants have withheld such standard fare. Moreover, this information, including an inventory of existing building heights, was specifically asked for in the DGEIS during the public comment phase. The City and their co-applicant have suspiciously refused to provide them. Because of the fact these standard evaluation drawings are imperative for an objective evaluation of an SUP application by the Zoning Board and because they have never been provided by the City and their co-applicant, the Plattsburgh Citizens Coalition took it upon ourselves to prepare accurate scaled drawings.

But first, please allow me a brief clarification. The Plattsburgh Citizens Coalition's (PCC) sole purpose is to advance the interests of businesses, service providers, employees, residents, and visitors of the downtown area of Plattsburgh, NY. PCC advocates and promotes smart growth that enhances and improves the quality of life for all.

The PCC is committed to fair honest and factually correct presentation of information in advancement of our sole purpose. In the event that PCC becomes aware of having presented any information that does not meet our standard for fair, honest and factually correct then we pledge to promptly make any redactions or corrections. Such is the case in the elevation drawings that were initially introduced at a recent Zoning Board meeting. While we earnestly put forth a good faith effort to create an accurate scaled comparative elevation drawing, it came to our attention that the scale was incorrect. Immediately upon discovering this we made the necessary correction and promptly provided the corrected version to the Zoning Board. We believe the illustrations provided and contained herein to be true and accurate to the best of our knowledge and belief.

The following are two scaled 2-dimensional elevation drawings that are based on the proposed building height information contained in the application provided by Prime Corp. These two illustrations are meant to provide a simple comparison between the existing buildings on Bridge Street and Durkee Street to assist in the objective evaluation of whether the height of the proposed building will safeguard the general character of the neighborhood. We think you will find that it is plain to see that the massive size and height of the proposed building is NOT compatible with the surrounding neighborhood.

## Comparative Building height along Bridge Street.



Disclaimer:  
1. The information contained in this graphic is general in nature and should not be considered to be exact in scope, scale, or detail.  
2. Drawing is not to scale.  
3. The proposal building length, width, and height are based on information provided in the Site Plan application Drawing Titled LLC Durkee Street Mixed Use Conceptual Site Plan by McFarland Johnson dated November 2019.

### Comparative Building Elevations – Bridge Street

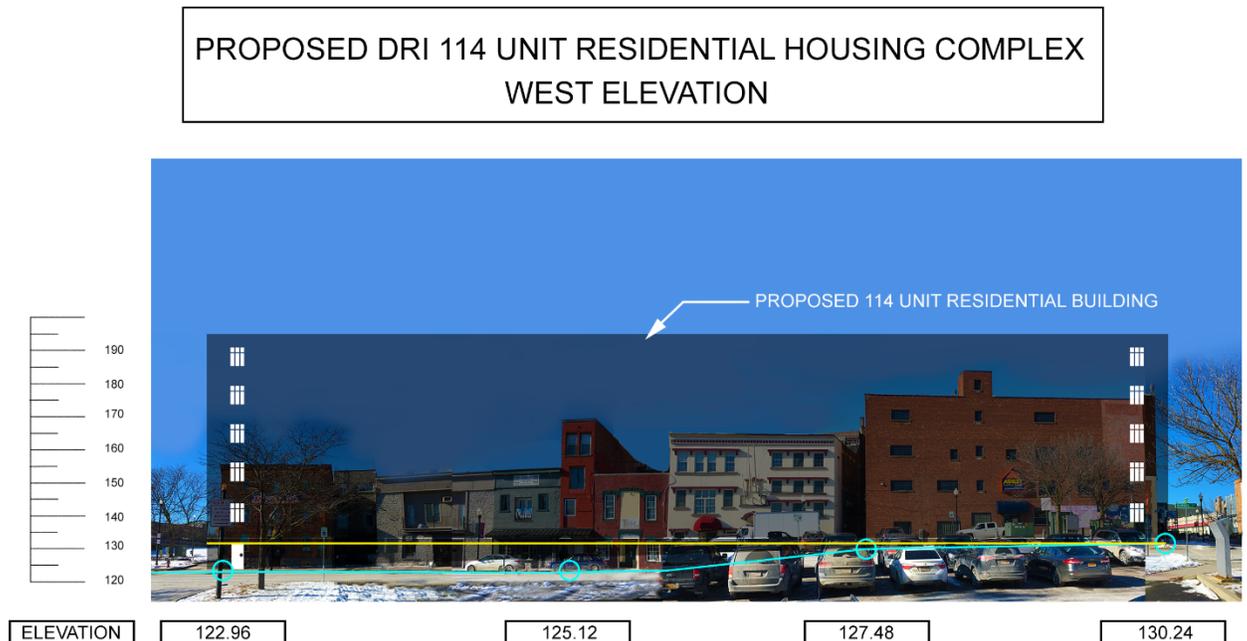
Please note the following:

1. The first is obvious: a simple straight forward scaled comparison of the proposed building (65-ft high according to the application) as it compares to the existing buildings. Clearly the proposed building towers by comparison to existing buildings.
2. Notice the slope of the road. On bridge street the grade changes almost 14-ft over the length of the block. But also notice the narrowness of each building all built with a rowhouse architecture with each building typically 20- to 30-ft wide. So as you go down the hill the ground floor door threshold drops lower and lower so that by the time you get to the bottom of the hill the ground floor is over a story lower than those at the top of the hill.
3. Now compare that existing rowhouse style architecture descending along the rolling hill to the proposed building where the first floor keeps the same level over its 200-ft length. Notice the yellow line that indicates first floor elevation of the proposed building. So at the top of the hill the proposed building is a good 35-ft taller than the existing building across the street, but at the bottom of the hill the existing buildings are getting lower, while the massive Prime building has the same floor elevation over the entire 300-ft by 200-ft monstrosity.
4. Notice the sun in this photograph shining on the south facing store fronts and in the apartment windows. The applicant did not provide a solar access analysis (as required by City Code for Site

Plan reviews) however, it is easy to see that the solar access to these store fronts will be almost entirely eclipsed by the proposed building.

5. This simple 2D elevation drawing makes it overwhelmingly clear that this proposed building absolutely does NOT meet the criteria of general character and height which will preserve the general character of the neighborhood.

### Comparative Building Height along Durkee Street.



**Disclaimer:**

1. The information contained in this graphic is general in nature and should not be considered to be exact in scope, scale, or detail.
2. Drawing is not to scale.
3. The proposal building length, width, and height are based on information provided in the Site Plan application Drawing Titled *LLC Durkee Street Mixed Use Conceptual Site Plan* by McFarland Johnson dated November 2019.

### Comparative Building Elevations – Durkee Street

Please not the following:

1. The first is the obvious: a simple straight forward scaled comparison of the proposed building (65-ft high according to the application) as it compares to the existing buildings. Clearly the proposed building towers by comparison to existing.
2. Notice the slope of the road. On Durkee Street the grade changes about 10-ft over the length of the block. But also notice the narrowness of each building all built with a rowhouse architecture while the Prime building would be 300-ft long. So as you go down the hill the ground floor door thresholds drop lower and lower so that by the time you get to the bottom of the hill the ground floor is about one whole story lower than the ground floor of the buildings at the top of the hill.
3. Now compare the rowhouse style architecture along the rolling hill to the proposed building. Notice the yellow line that indicates first floor elevation of the proposed building. The first floor

of the proposed building will be nearly a full story higher than the buildings at the bottom of the hill. The non-row house architectural style is incompatible with the neighborhood and the downtown and adds significantly to the incompatibility of the proposed building.

4. Notice the sun in this photograph shining on the east facing store fronts and in the apartment windows. The applicant did not provide a solar access analysis (as required by City Code for Site Plan reviews) however, it is easy to see that the solar access to these store fronts will be almost entirely eclipsed by the proposed building.
5. This simple 2D elevation drawing makes it overwhelmingly clear that this proposed building absolutely does NOT meet the criteria of general character and height which will preserve the general character of the neighborhood and therefore, the Special Use Permit cannot be approved.

### **Findings Statement.**

Lastly, a comment regarding the SEQR / GEIS process. The Common Council made a Findings Statement in which they concluded the proposed building height is compatible with the surrounding neighborhood. However, they are not well versed in evaluating this criteria the way that you as a Zoning Board are. The Zoning Board not only has the authority to prepare your own Findings Statement, you are *required* to prepare your own Findings Statement. That is another example of where you are receiving some very bad advice and guidance from City Departments. The Community Development Department in their December 19<sup>th</sup> letter to the ZBA and PB is confusing the SEQR determination and an GEIS Findings statement and conflating the role of the Common Council as lead agency and diminishing the role of the Zoning Board of Appeals. Specifically, Mr. Miller, representing the City as co-applicant writes, *“Pursuant to the SEQRA regulations, the SEQRA Findings Statement will be binding on all involved agencies.”* That is false. If the Zoning Board had its own unbiased Board Attorney rather than the co-applicant’s attorney Mr. Schneller, he or she surely should have advised you of the falsity of that direction from the co-applicant.

**What Does the SEQR Handbook Say.** [The following is taken from the SEQR Handbook]

### **What is a GEIS Findings Statement.**

A **Finding statement** is a written document prepared following acceptance of a final EIS. **All involved agencies must make their own findings statement.**

The finding statement made by the lead agency is most definitely NOT binding on involved agencies as Mr. Miller and Mr. Schneller would have you believe. Quite the contrary. **Each involved agency, not only the lead agency, must prepare its own SEQR findings following acceptance of a final EIS.**

The following is a verbatim excerpt from page 155 of the SEQR Handbook:

#### **6. Who makes SEQR findings?**

All involved agencies *must* make findings.

#### **7. May an involved agency rely on the lead agency to make the required findings?**

No. Each involved agency is responsible for preparing its own findings. However, if an involved agency concurs with the completed findings of the lead agency, and those findings

respond fully to the environmental concerns of the involved agency, then the involved agency may adopt all or a portion of the lead agency's findings within the involved agency's findings.

Therefore, if the Zoning Board feels that any review criteria, such as the building height, will have an adverse impact on the neighborhood, then it is incumbent on you to not only disapprove the SUP application, but also to reflect that in your Findings Statement.

### **Conclusion.**

In conclusion, it is clear to see through objective comparative evaluation that the proposed building is not compatible with the surrounding neighborhood. The GEIS and the SUP do NOT provide adequate inventory, analysis or visual depiction to properly evaluate this concern either and therefore, must be disapproved on this criteria as well as others criteria. It is the burden of the applicant to demonstrate that the proposed project will preserve the general character of the neighborhood, which they have clearly not done. **Therefore, the only conclusion that can be reached is that this monstrous building, given its size and height relative to the neighborhood, does not satisfy the SUP standard that the general character, height and use will preserve the general character of the neighborhood.** Perhaps if the proposed project were scaled back to 3 stories, then a modest development could be built that is in keeping with the general character and height of the community and that is less disruptive to parking and leave more room for public space, access to the waterfront and safe bicycle and pedestrian travel. But the current application simply does not meet the criteria for SUP approval and must be denied.

Respectfully,

*Kevin R. Farrington*

Kevin R. Farrington, P.E., Vice President  
The Plattsburgh Citizens Coalition



City Info &lt;cityinfo@plattsburghcitygov.com&gt;

---

**Prime**

1 message

---

**Peter R** <22Brinkproperties@outlook.com>

Mon, Apr 20, 2020 at 7:40 AM

To: "cityinfo@plattsburghcitygov.com" &lt;cityinfo@plattsburghcitygov.com&gt;

I'll keep this short because I'm exhausted by this whole process on Durkee Street. I own a number of properties in Plattsburgh ...my tax bill will fall about \$6,000 short of the proposed tax gift for a 24 million dollar project from Prime companies. A year ago this project was not sustainable and unfeasible for the city of Plattsburgh and now considering the current climate, if you proceed to approve this project it will crater the city forever. 70 businesses voiced their opinion... We are probably going to lose up to 50% of our businesses after this whole virus lockdown is over . 50% .Those shuttered businesses will all be leaving buildings and facilities that are fully functioning.The plan should be to refill those buildings and not build a monolith. The private interests of a Mayor with no regard for the people who live in the city, coupled with a Common Council that is basically a fraud filled with his disciples/Sycophants is disgusting. To further approve this project is a disgrace, and an insult to all of us who live here. Make no mistake, you will all go down in history as the worst administration in city history if you ram this through.

Im exhausted, we all are. Put this project down like the sick animal it is.

Regards, Peter Regnier

[22 Brinkerhoff Street](#)

Get [Outlook for Android](#)



City Info &lt;cityinfo@plattsburghcitygov.com&gt;

---

## Zoning Board Comment

1 message

---

**Deborah Yokum** <debyokum@gmail.com>

Sun, Apr 19, 2020 at 10:26 AM

To: cityinfo@plattsburghcitygov.com

To The Zoning Board of Appeals:

We are writing to express our concerns about the proposed Prime Plattsburgh, LLC project in the Durkee Street Parking lot in downtown Plattsburgh. It seems to us that, based on the five criteria that are in the purview of the ZBA, the Prime Project fails on all accounts.

Specifically:

1. The project is out of character with the surrounding historic buildings. It overpowers the scale of the buildings around it. In addition, the target demographic of the proposed building is unrealistic, especially considering what we all foresee as the new economic reality caused by the COVID-19 pandemic. What we need is more affordable housing, not up-scale apartments for a market that never really did, but definitely now does not exist.
2. By building such a tall structure so close to the river and not allowing sufficient space as a buffer, the project functionally interferes with the purpose of the Riverwalk as a community asset.
3. As above, the project provides housing for a demographic that has not been proven to exist. In addition, it precludes the use of the Durkee Street location as the primary parking lot for downtown businesses, agencies and other services. At the same time, newly created parking will not make up for what is lost in that lot.
4. As to the proposed parking provided by Prime Plattsburgh for their tenants, their use of their own metric is not sufficient. In addition, the spaces they say are reserved for public use are not guaranteed for that purpose and could well end up being used for tenant parking.
5. The reconfiguration of Durkee Street is problematic for a number of reasons. Diagonal parking and the switch to one-way traffic will create dangerous and chaotic conditions. Commercial deliveries, which are numerous for Margaret Street businesses, will further block traffic. It would be impossible for emergency vehicles to gain access to the many additional residences created by the project. Plowing in winter and the storage of snow, which currently is piled in the Durkee Street lot is also a concern.

In summary, it seems imprudent to embark on a project of this size at a time when our economy is especially fragile. We can assume that our community is going to take a big hit economically from the COVID 19 pandemic. It would be irresponsible to proceed with a project that runs the risk of turning a public asset into a financial liability for the city and the taxpayers.

Deborah Yokum

Hal Moore

Saranac, NY

**Zoning Board of Appeals April 20th meeting.docx**

15K



City Info <cityinfo@plattsburghcitygov.com>

## Zoning Board of Appeals Comments 4/6/2020 - 2 - Professional review

3 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 11:44 AM

To: cityinfo@plattsburghcitygov.com, Joe <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, Sylvia <parrottes@cityofplattsburgh-ny.gov>

Cc: Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotemplio@pressrepublican.com, Josh <Josh.Mitchell@hearst.com>, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>

Dear Zoning Board and Planning Board Members:

Once again, thank you for your service and especially on this complex project and especially when our entire community and globe is stressed by this historic world pandemic. It's a stressful and difficult time for all of us.

Your job is a difficult one month to month, but a particularly difficult one for a project as complex as the DRI. Your job is made even far more difficult due to the fact that the staff that you normally rely on for guidance is the applicant. However, it doesn't have to be that way and, in fact, shouldn't be that way. Section 360-61 of the City Code provides you the help that you are entitled to, but have not yet exercised. You should have your own attorney and your own technical staff to assist you with these decisions. The The Corporation Counsel's allegiance is to the Common Council. The Planning Board and Zoning Board cannot reasonably rely on advice of counsel that is beholdng to the Common Council. There are several examples in which the existing conflicts are problematic. The Corporation Council actually advised you at the May 2019 Board meetings to segment the SEQR process to avoid doing a GEIS as is required by law. Of course, we know now that was bad advice and put your decision in peril. He also advised Planning Board Chairman James Abdallah to vote on the DRI SEQR resolution despite his clear conflict of interest. We know now that this too was bad advice which put the Board's decision at that time in peril. Fortunately, those decisions were later reversed when the City reluctantly committed to a GEIS. The City Planner actually opined that the proposed building will not have an adverse impact on the neighborhood; not the staff's position to lead a Board to a conclusion, much less make the conclusion for them. The Community Development Director advised you that "the Common Council is handling the GEIS", when in fact, as an involved agency, you are REQUIRED to prepare your own Findings Statement on the GEIS. Oddly, the Findings Statement is not even included on your agenda. We're sure that they would like very much for you to rubber stamp the Council's Findings Statement. These folks are all beholdng to the co-applicant; the Common Council; they are NOT on your team. You need and deserve your own independent adviser selected by your Board, not by the City. The City Attorney is, without question, a superior attorney and if he were representing your Board, then he would no doubt do an excellent job. But he's not. And as has been pointed out, he has a conflict. Think of how odd it makes your Board look to have the applicant's attorney seated at your table and giving you advice!

Regardless of how anyone feels about the Prime Development Project, every Planning or Zoning Board wants to take pride in their process and decisions. You want to know that you are properly and thoroughly evaluating technical issues. You want to know that you are following proper procedure. And ultimately you want to know that your process will not be challenged in the court of law and if it is that your decisions will be defensible. And at a time like this where there is massive public opposition, you want to be at your best. Now add to all of that the current public health crisis and the questions with respect to whether eliminating the public from public meetings is even legal. For that, you need and deserve your own independent counsel and engineer. And you are entitled to it by City Code, which, by the way, was just updated in 2017. This is not unusual. The Town of Plattsburgh, as an example, has historically always had legal counsel to the Zoning Board and Planning Board that is separate and independent from the Town Board's legal counsel. Many, if not most, boards do the same.

Here is the relevant code section:

### § 360-61 Professional review fees.

[Added 12-14-2017 by L.L. No. 8-2017]

**A.**

Reimbursement of professional review fees.

**(1)**

In addition to the provisions provided under the terms of Chapter **300**, Subdivision of Land ("Subdivision Regulations"), and this chapter of the City of Plattsburgh Code ("Zoning Code"), the Common Council, the Planning Board and the Zoning Board of Appeals, in the review of any application presented to it, may refer such application, or part of an application, to such planner, engineer, environmental expert, attorney or other professional as such Council or Board shall deem reasonably necessary to enable it to review such application as required by law.

**(2)**

Fees charged by such professionals shall be in accord with fees usually charged for such services in the Clinton County region or pursuant to an existing contractual agreement between the City and such professional. The Board or Council shall limit such fees as are reasonable in amount and necessarily incurred by the City in connection with a review of an application. For purposes of this section, a fee is reasonable in amount if it bears a reasonable relationship to the expense of the development or the average charge by such an expert to the City or others for services performed in connection with the review of a project similar to that involved in the land use application. All proper charges shall be paid by the City upon submission of a City voucher and in compliance with the City's procurement policy. The applicant shall reimburse the City for the costs of such professional review services upon receipt of a copy of the voucher or, at the discretion of the reviewing Council or Board, in accordance with this chapter. The payment of such fees shall be required in addition to any and all other fees or performance bonds required by this or any other section of this chapter or any other City law or regulation.

**B.**

Escrow accounts.

**(1)**

In addition to other mechanisms provided under any other City law or regulation, at the time of submission of any application, or during the review process, the reviewing Council or Board may require the establishment of an escrow account from which withdrawals shall be made to reimburse the City for the cost of professional review services. The applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the reviewing board based on its evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any City voucher for such services as they are submitted to

the City. If the applicant objects to the amount to be placed into escrow, the applicant may request that the Council or Board review the projected amount to be placed in escrow.

**(2)**

Where the City Council, Planning Board or Zoning Board of Appeals establishes an escrow account for an application, such reviewing board shall not be required to consider that application until the deposit required under this chapter has been made.

**(3)**

A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City.

**(4)**

After all pertinent charges have been paid, the City shall refund to the applicant any funds remaining on deposit.

There are a lot of questions, but to name just a few:

- \* you've heard a lot about city wide parking. it's a major change. The city claims there's adequate parking. Members of the public have shown flaws and errors in the numbers. You are tasked with reading lengthy documents and lengthy public opposition letters and comments. Are you able to evaluate with certainty which claim is accurate?
- \* The NYSDOT Regional Traffic engineer went on record to say that the angled parking is dangerous. The applicant claims it isn't. How are you to decide?
- \* The City is claiming that the Planning and Zoning Board are essential government meetings that can't be postponed. They claim that eliminating the public from public meetings is legal. Is that a defensible position?

To the extent that you have legal and technical questions on this matter, you need your own attorney. Yes, it may take a little time to get the expert objective technical and legal advise that you deserve and that you are entitled to, but in the end that will take far less time and have far less risk than making bad decisions, decisions that are based on bad advice, decisions that are based on misinformation and decisions that are not defensible and will result in lengthy legal battles. Measure twice, cut once!

The Plattsburgh Citizens Coalition and all those we've spoken to welcome a thorough, objective expert review of this project because we know the proposed plan as presented to be critically and fatally flawed and ultimately will have an adverse short term and long term impact on the neighborhood, the community and even the region. We believe any truly objective review will draw the same conclusion. This project, to date, has not been able to receive that kind of unbiased intelligent analysis from the Common Council and we are hopeful that will happen at each of the Board reviews. Whatever you may decide, at least you can hopefully say you as a Board were thorough, evaluated ALL of the information in detail and made good solid defensible decisions based on the best advice and information at your disposal.

You are entitled to this assistance. It is the norm for Planning & Zoning Boards across the State and across the land. Don't ask for it, demand it!

---

**City Info** <cityinfo@plattsburghcitygov.com>  
To: mcmahonj@cityofplattsburgh-ny.gov

Mon, Apr 6, 2020 at 12:18 PM

[Quoted text hidden]

---

**Plattsburgh Citizens Coalition** <plattsburghcitizencoalition@gmail.com>

Mon, Apr 20, 2020 at 12:12  
AM

To: cityinfo@plattsburghcitygov.com, Joe <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, Sylvia <parrottes@cityofplattsburgh-ny.gov>

Cc: Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotempio@pressrepublican.com, Josh <Josh.Mitchell@hearst.com>, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>

[Quoted text hidden]



10 City Hall Place  
Plattsburgh, NY 12901  
518-570-9940  
[www.plattsburghcitizenscoalition.com](http://www.plattsburghcitizenscoalition.com)  
Facebook @plattsburghcitizens

*Incorporated 2019 Under Section 402 of the Not-for-Profit Corporation Law*

Plattsburgh Citizens Coalition Inc. is a community-based organization created to advance the interests of businesses, service providers, employees, residents, and visitors of downtown Plattsburgh, NY. PCC advocates and promotes smart growth that enhances and improves the quality of life for all.

---

January 15, 2020

Zoning Board Member Name

Address

**RE: Plattsburgh Durkee Street Development**

Dear Zoning Board Member:

We are very grateful for your service as a volunteer member of the City of Plattsburgh Zoning Board. As an autonomous board driven only by concern for our community, the public relies on your board to do the right thing for the community in accordance with State and local rules for Zoning Board review law separated from political influence. We thank you for your service.

Attached please find a compilation of public comments submitted by various community members, downtown property and business owners, agencies and other boards. As you know, one of the questions during SEQR review is "Is the project likely to cause public controversy?". A petition has been signed by nearly 2,000 people in the community opposed to the Prime Development project in our downtown; an impressive number of people for a project in a ward that typically turns out 400 to 600 voters for Ward Councilor.

We urge you to carefully read all these comments and we think you will be convinced that the Prime Development Project as proposed cannot possibly be approved in good conscience. As you know you will be tasked with evaluating whether the applicant(s) have satisfactorily demonstrated that the proposed project will safeguard the public health, convenience and preserve the general character of the neighborhood using the following five standards:

- 1.) **General character, height and use of the structure.** The proposed 5 story building is mammoth relative to the neighborhood of almost entirely 2-3-story buildings (plus two 4-story buildings). Furthermore, the residential use will appear very much like a gated community in our downtown. The GEIS does not provide adequate inventory, analysis or visual depiction to properly evaluate this concern. It is the burden of the applicant to demonstrate that the proposed project will preserve the general character of the neighborhood, which they have clearly not done. Therefore, the only conclusion that can be reached is that this monstrous building, given its size and height relative to the neighborhood, does not satisfy the SUP standard that the general character, height and use will preserve the general character of the neighborhood. Perhaps if the proposed project were scaled back to 3 stories, then a modest development could be built that is in keeping with the general character and height of the community and that is less disruptive to parking and leave more room for public space, access to the waterfront and safe bicycle and pedestrian travel.

- 2.) **Provision of surrounding open space and the treatment of grounds.** The intention of the DRI was to create a vibrant downtown and public space of interest that will attract visitors and residents alike. This overarching objective has been largely abandoned in favor of a massive private housing development, converting our critical public asset (i.e. our primary municipal parking lot upon which we all rely) into private corporate housing.
- 3.) **General fitness of the structure or use to its proposed location.** The Durkee Street Parking Lot is situated on a Public Waterfront property. New York State Public Trust Law forbids the alienation of public waterfront property. A court challenge is forthcoming which will prevent the City of Plattsburgh from violating that law and the public trust. That is an issue for the courts. However, the reason behind that law is an issue for the ZBA. The construction of a massive 6-story / approximately 72-ft tall building (the latest plan indicates a 5-story building at the Durkee Street side which grows to a 6 story building along the river) is not suited for the proposed location nor does it safeguard public health. Throughout the DRI planning process many varieties of waterfront uses were considered; all of them intended to benefit the public and the community. Instead, the proposed plan abandons all those beneficial uses and conveys the public access to a private corporation. The single walkway between the very tall 6-story building and the riverbank will create a very narrow and dangerous alley over 200-ft long. Concerned citizens who have studied this plan closely have dubbed this “danger alley”. The applicant will likely tell you about proper lighting and brick pavers as if that removes the danger and makes the danger alley a desirable use of public waterfront property. It does not. Ask yourselves this question: Would you allow your son or daughter to walk down that corridor alone? We know the answer for our children. This proposal is clearly not safeguarding public health.
- 4.) **Provision for automobile parking or storage.** This project is particularly unique for the ZBA, perhaps unlike any some of you have ever been asked to review. Most applications allow the ZBA to simply consider the parcel itself. However, this application is quite different in that the parcel is currently occupied as a public asset. Therefore, your consideration of whether the application will safeguard the public health, convenience and preserve the general character of the neighborhood cannot be limited to the Durkee parcel. The ZBA must consider the numerous locations in which compensatory parking will be created at various locations around the city. Take for example the issue of convenience. The Durkee neighborhood is the County center for County Surrogate, State and Federal Services, Department of Social Services, Social Security Administration Office for the Aging, which serves everyone from disabled veterans, to seniors, to youth and families all of whom rely heavily on the Durkee Street Municipal parking lot. You will see from the attached comments that the applicant has not demonstrated a viable alternative parking plan; the number of compensatory parking spaces is inadequate; the developer no longer meets the City zoning code parking requirements; on street diagonal parking is deemed unsafe by the NYSDOT Regional Traffic Engineer for pedestrians, bikes and vehicles.
- 5.) **Street capacity and use.** You will see from the comments that the traffic study is flawed and inaccurate. The study is inconsistent with traffic volumes reported on the NYSDOT Traffic Volume viewer for the streets in question and are inconsistent with previously commissioned City traffic studies. Specifically, the traffic study under reports the most critical leg (City Hall Southbound traffic) of the most critical intersection (Bridge – City Hall / Durkee) by 300% as compared to the Lu Engineers traffic study. Deviations of 5% or 10% are not unusual, but differences of 300% are cause for conducting additional test counts. In terms of street use, the Community adopted Saranac River Trail

Phase 2 project was to have made the ultimate connection along Durkee Street, thus bringing the SRT all the way from the Plattsburgh High School, through the College campus along Steltzer and Pine Streets and ultimately connecting both the Middle School and also, with two new bridges at Saranac Street and at Durkee Street connecting the SRT to the downtown business district. The use of Durkee Street is not only dangerous for all users as pointed out by the NYSDOT Regional Traffic Engineer, it destroys the previously adopted plan for connecting the SRT to the downtown. The use of sidewalks is not an acceptable alternative for bicycles as it is against the law to ride a bike on a sidewalk.

Lastly, a comment regarding the SEQR / GEIS process. You are receiving some very bad advice and guidance from City Departments. The Community Development Department in their December 19<sup>th</sup> letter to the ZBA and PB seems to be confusing the distinction between a SEQR determination and an EIS Findings statement and conflating the role of the Common Council as lead agency and diminishing the role of the Zoning Board of appeals. Specifically, Mr. Miller writes, *“Pursuant to the SEQRA regulations, the SEQRA Findings Statement will be binding on all involved agencies.”* That is incorrect.

### **Determination vs. Finding Statement.**

The SEQR **Determination** was the positive declaration that was made by the lead agency prior to, and triggering the need for, the GEIS. That determination is indeed binding on all involved agencies.

The **Finding statement** is a written document prepared following acceptance of a final EIS. All involved agencies *must* make their own findings statement.

The finding statement made by the lead agency is most definitely NOT binding on involved agencies as Mr. Miller would have you believe. Quite the contrary. Each involved agency, not only the lead agency, *must* prepare its own SEQR findings following acceptance of a final EIS.

The following is a verbatim excerpt from page 155 of the SEQR Handbook:

#### **6. Who makes SEQR findings?**

All involved agencies must make findings.

#### **7. May an involved agency rely on the lead agency to make the required findings?**

No. Each involved agency is responsible for preparing its own findings. However, if an involved agency concurs with the completed findings of the lead agency, and those findings respond fully to the environmental concerns of the involved agency, then the involved agency may adopt all or a portion of the lead agency's findings within the involved agency's findings.

#### **9. Can findings differ among involved agencies?**

Agencies involved in the same action may have entirely different findings. This can result from agencies' differing balancing of environmental with social and economic factors, as well as from fundamental differences among agencies' underlying jurisdictions. **An involved agency is not obligated to make the same findings as the lead agency or any other involved agency.** However, findings must be based on, and related to, information in the EIS record. If one agency prepares positive findings, and another prepares negative findings, the action cannot go forward unless the conflict is resolved.

So, you can see that these and other statements written in the guidance letter from the Community Development Office are an attempt to conflate the role of the Common Council and to diminish the role of the Planning Board and Zoning Board. The community relies on autonomous Boards to make good planning decisions in the interest of the community as a whole and divorced from political influence. That is a difficult

job even *with* dependable staff support, but even more so when you are being misled by those who are supposed to provide a supporting role to assist you.

The attached compilation of comments is lengthy, and we appreciate that reading through all of them will take considerable time, however, it is incumbent on you to do so. As you do, if it feels like a lot of commentary, let that serve as a mounting understanding of the breadth and depth of the rational community opposition to the proposed project. At the end of a thorough evaluation, we hope and trust that you will see that the GEIS is flawed and incomplete and that the proposed project does not meet the standard required for approval of a Special Use Permit (SUP).

Thank you very much for your consideration.

Respectfully,

Plattsburgh Citizens Coalition



City Info <cityinfo@plattsburghcitygov.com>

---

## Zoning Board of Appeals meeting 4/20/2020 re: Prime LLC Special User Permit

2 messages

---

**Timothy Palkovic** <palkovtj@plattsburgh.edu>  
To: cityinfo@plattsburghcitygov.com

Fri, Apr 17, 2020 at 12:37 PM

The proposed Prime Building fails in each of the five following categories which have been presented by myself and other concerned citizens before.

1) General character, height and use of the structure:

Too large, massive and out of character.

2) Provision of surrounding open space:

Green space marginalized.

3) General fitness of the structure in the proposed location:

Unnecessary attempt at gentrification of a historically blue collar neighborhood.

4) Provision for automobile parking and storage:

Long term off street parking inadequate.

5) Street capacity and use:

Unsafe diagonal parking on Durkee Street.

Shift to one way traffic will not meet traffic and safety needs.

My opinions on the proposed development of the Durkee Street Lot are formed by these three standard books; **Strong Towns**, **Palaces for the People** and **Walkable City Rules**. These books offer fundamental city planning principles.

**Strong Towns** by Charles L. Marohn, Jr. argues that large block developments offer the illusion of wealth but in reality create long term unpayable liabilities. He persuasively argues that rehabbing old areas of a city are more financially productive than shiny new buildings.

A reviewer of **Palaces for the People** by Eric Klinenberg says that "This book, but especially the conclusion, warns of the danger of delegating public works to private companies, particularly companies who project a community-minded motto but are really profit driven."

Dar Williams, reviewer of **Walkable City Rules** by Jeff Speck says "Yes I DO want to make my town more livable, walkable, equal and fun." The proposed Prime LLC building on the Durkee Street Lot does none of these things but proposes a gated community in a civic space.

Submitted by Tim Pakovic, City Resident