



City Info <cityinfo@plattsburghcitygov.com>

Fwd: NO SPECIAL MEETING !!!!!!!!!!!!!!!

2 messages

Zukowski Properties <zukowskiproperties@gmail.com> Wed, Apr 1, 2020 at 9:22 PM
To: McMahonJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov,
TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com
Cc: Barbelli@cityofplattsburgh-ny.gov, kellym@cityofplattsburgh-ny.gov, gibbse@cityofplattsburgh-ny.gov,
DeDominicasPa@cityofplattsburgh-ny.gov, mcfarlinp@cityofplattsburgh-ny.gov, moorej@cityofplattsburgh-ny.gov

WE WILL NOT STAND or sit FOR THIS

----- COLIN READ RUSHING A SPECIAL MEETING OF THE ZONING AND PLANNING BOARDS MONDAY AND TUESDAY. AND WITH THE PUBLIC BANNED FROM ATTENDING. USING THIS STATE OF EMERGENCY TO SNEAK THROUGH THE PRIME DEVELOPMENT IS NOT ONLY INSULTING TO A STRUGGLING POPULATION IT IS UNSCRUPULOUS!!!!

THIS IS THE WORST FORM OF UNDERHANDEDNESS IMAGINABLE AND YOU WON'T STAND FOR IT!

YOU must be held accountable for choosing to play politics during our nation's greatest time of need.

STOP THE MADNESS

EZ Properties
518.563.6021
e-zproperties.com

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Fri, Apr 3, 2020 at 9:03 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Halt all meetings that should be open to the public immediately

2 messages

Gadway Joseph <joemadecupcakes@gmail.com>

Thu, Apr 2, 2020 at 7:42 PM

To: "ColinR@cityofplattsburgh-ny.gov" <ColinR@cityofplattsburgh-ny.gov>, "MarbutS@cityofplattsburgh-ny.gov" <MarbutS@cityofplattsburgh-ny.gov>, "McMahonJ@cityofplattsburgh-ny.gov" <McMahonJ@cityofplattsburgh-ny.gov>, "TamerM@cityofplattsburgh-ny.gov" <TamerM@cityofplattsburgh-ny.gov>, "beebiel@cityofplattsburgh-ny.gov" <beebiel@cityofplattsburgh-ny.gov>, "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>, "ron.nolland@gmail.com" <ron.nolland@gmail.com>

We urge that you cancel the April ZBA and Planning Board meetings and all meetings, except for those that deal with emergency issues as ordered by the Governor, until the COVID 19 state of emergency has been lifted. We note that ZBA's and Planning Boards in cities across New York State are doing so, and Plattsburgh should too. This shouldn't be something that should even be requested, especially since our mayor has recently stressed the importance of social distancing while enforcing a curfew for the city, closing ass parks and non essential gatherings. I appreciate your cooperation and I know that you will agree with me on this request. Thank you for your time and attention to this matter.

Sincerely,

Joseph Gadway

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:03 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Plattsburgh on PAUSE

2 messages

Kathy Baumgarten <foofusdotcom@aol.com>

Wed, Apr 1, 2020 at 3:15 PM

To: cityinfo@plattsburghcitygov.com

Dear Sir

I am writing as a 30 year resident and Plattsburgh homeowner to plead with you to please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public.

The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor.

Other Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic. Plattsburgh should follow suit.

Kathy L. Baumgarten

Sent from my iPhone

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:01 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Please respect citizens rights during the Pandemic...respect PAUSE NEW YORK Executive Order

2 messages

Luis Sierra <lfsierra@earthlink.net>
To: cityinfo@plattsburghcitygov.com

Wed, Apr 1, 2020 at 2:27 PM

To: <McMahonJ@cityofplattsburgh-ny.gov>, <ron.nolland@gmail.com>, <beebiel@cityofplattsburgh-ny.gov>, <TamerM@cityofplattsburgh-ny.gov>, <MarbutS@cityofplattsburgh-ny.gov>,

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the “PAUSE NEW YORK” Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Keep in mind that the pandemic is a global crisis with no clear end. The short and long term economic, social and political impact at the local, state, national and global level will be unprecedented in our history. To proceed without public participation on this important matter is careless and disrespectful of our rights as citizens.

Sincerely,

Luis F. Sierra

[7 Point View Terrace](#)

[Plattsburgh, NY 12901](#)

Home : 518-310-1678

Cell : 518-570-8830

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Fri, Apr 3, 2020 at 9:00 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Postpone meetings

2 messages

Steven Googin <sgoogin@yahoo.com>

Wed, Apr 1, 2020 at 3:13 PM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebieL@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

To whom it may concern,

Please postpone any zoning board and planning board meetings dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings are non-essential meetings in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Sincerely,

Steven Googin

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:01 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Tue, Apr 7, 2020 at 10:12 AM

To: cityinfo@plattsburghcitygov.com

I fully support the DRI Project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

City Planning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:41 PM

To: cityinfo@plattsburghcitygov.com

I fully and enthusiastically support the DRI project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comments 4/7/2020

1 message

Dani G <danirae11683@gmail.com>

Tue, Apr 7, 2020 at 12:52 PM

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

First of all, I am writing to express my concern about the Planning Board conducting meetings concerning non essential matters during the COVID-19 pandemic. After watching the Zoning Board meeting last night, I hope you will follow suit and take the time to more clearly define your meeting procedures and allow time to share them with the public before deliberation on any matter on the current agenda.

Furthermore, though I support the Board taking the time to develop these plans for meetings in the current situation, I strongly feel that holding meetings in this fashion without the public being able to be physically present, should only be reserved for urgent matters necessary for the health and well being of the community. The Prime project does not qualify as essential, and any determinations or deliberations, and especially public hearings should be postponed until such time that the public can actually be present.

Another important procedural issue that I think is important is to ask that people are allowed to sign up to speak right up until the meeting time and even during the meeting. This is consistent with current meeting practice where people are free to choose to raise their hand during the meeting and ask to speak.

Thank you so much for your time and consideration of these comments.. Thank you also for your dedication and service to the city during these difficult times.

Best,
Danielle Erb



City Info <cityinfo@plattsburghcitygov.com>

RE: PLANNING BOARD SPECIAL MEETING COMMENTS

2 messages

sunshine19542@charter.net <sunshine19542@charter.net>
To: cityinfo@plattsburghcitygov.com

Sun, Apr 5, 2020 at 5:41 PM

Dear Planning Board Members:

My comments are as follows for the April 7th Special Meeting:

PB#2020-01: 5057 South Catherine Street 12 New Apartments.

I would MUCH rather see single family homes than more small apartment units.

12 more units on that street is too much.

1. Units are too small.
2. 2 bedrooms in a +/- 600 SF unit is too many. That will be a small apartment.
3. We need no additional traffic on South Catherine Street. South Catherine is already very busy and you know to stay away certain times of the day when Bombardier shifts gets out.
4. In my view that will create lots of density. That area is already very congested.

I ask that you vote no or have him come back with less units. I know it's R-2 but that doesn't mean it should be allowed.

PB#2019-10, 11 and [24](#) - [22 Durkee Street](#):

I'm in favor of this project. It's time that this project get's approve and put in motion.
Parking is being created all over the City.

The Vilas home is asking for 94 units in an R-1 District. Wow. If you approve that - you really have to consider approving Durkee Street.

Personally I'm concerned after the mis-information that the Plattsburgh Citizens Coalition has spread- it will be a miracle before we get other grant money for any more City development.

Planning Board is just that - planning. The intent of DRI \$ was for Downtown Redevelopment. This is certainly development.

I like the building Façade.

Again - Please approve this project and move on.

Denise Nephew

Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:05 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Amend boundaries of an existing PDU and use of apartment on the first floor of multi-story building 22 Durkee St- Planning Board

2 messages

Joseph Rotella <jfrotella@hotmail.com>

Sun, Apr 5, 2020 at 2:18 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

TO: Planning Board

I believe the appeal should be disapproved.

Currently there are no ground floor apartment in the central business district. This would set a precedent for years to come which would slowly erode plattsburgh core.

As a property owner with a vacant store front requesting a permit to convert to an apartment it would be difficult for the board to disapprove. And you could , but an Article 78 could follow by any property owner in the central business district who request it if this is approved.

Has the County Planning Board been required to approve/disapprove the request?

It seems difficult the applicant is the City the city Planning Board reviews and approves?

It like the fox guarding the hen house!

In the current pandemic situation at the very lease to request should be tabled and reconvened when all members and the public be present to voice there opinion/

Joseph Rotella
Property Owner and Past Chair
Of the Planning Board

Sent from my iPad

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 9:03 AM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planing Board 4/7/20 public comment

1 message

Kim Ford <klmousseau@aol.com>

Tue, Apr 7, 2020 at 1:20 PM

To: cityinfo@plattsburghcitygov.com, mcMahonj@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, derek.rosenbaum@gmail.com, rick@fesetterealty.com, cgerv001@plattsburgh.edu, wrietsema@msn.com, jaa@aedapc.com

Hello,

I would like to submit public comments for the City Planning Board for April 7, 2020; specifically in regards to the Prime Company application.

I would like to have made more comments, but lacked enough notice and time to make a well composed response. (I continue to work and am a parent of 2)
it is a shame that this project is still on the agenda without the public being able to attend this highly impactful project.

To save some reading, **THIS PROJECT IS TOO BIG FOR THIS SITE & DOES NOT CONNECT WITH OUR DOWNTOWN COMMUNITY.**

As a new construction project, a "blank slate", it should adhere to all City Zoning and Codes. If they need a variance or reduction in parking, setbacks, height, size or any other criteria, then they should make the project smaller.

Below is a list of my objections to this project based on the criteria for the Special Use Permit request:

On page 15 of the "Site Plan Narrative March PB meeting.pdf" Response #8d (architecture) – Prime claims that their building is similar to that of the Ashley's building, citing that "*The Ashley Building at the corner of Durkee and Bridge Streets is nearly five stories in height, similar to the height of the corner elements of the new development.*"

Ashley's is 4 stories, and the Prime building is actually 6 stories (one underground). This is not a good comparison; the proposed Prime building is actually LARGER than any other downtown City Block.

The **snow storage** area proposed is not nearly adequate size for the amount of snow that will be generated from the parking area; also this snow storage area has the potential to cover the public walkway.

PEDESTRIAN SAFETY: The exit for the underground parking is right on the sidewalk of Bridge St. Prime has responded with striping and mirrors, still not adequate. To alleviate this potential pedestrian danger, the building should be stepped back to the required setback.

DUMPSTER LOCATION: It is UNACCEPTABLE to have the dumpster location next to the Community walk-way. They may have proposed a screening around the dumpster, but that doesn't deal with the ODOR and chance of stray litter around the area. Even saying that it

would be picked up more often, still does not deal with the inevitable odor that will permeate the adjacent community space. *Could the dumpster area be located within the courtyard parking area?*

LOADING AREA: The loading area is also adjacent to the Community walk-way. This is unacceptable because the transfer of goods will be over the Community walkway. Though it is nice to see they have considered their own loading area, because the loading areas of the EXISTING BUSINESSES along Durkee (and some on Margaret) will potentially be losing their convenient loading areas on Durkee St. I realize they may be allowed at certain times, but consider Ashley's who makes multiple deliveries throughout the day.

With the locations of both the Loading Area and the Dumpster Area, it seems as though the project is downplaying the importance and the potential beauty of the Community walkway.

FORMER PLATTSBURGH FARMER MARKET: This entire building should be retained for Civic use. The tax paying citizens paid for this building and should be able to retain this building. This item alone would sway me to accept the massive building, if the citizens could at the very least retain the building (if not for the market, for events and activities). The City could retain the portion of land and rent the space. Or if Prime indeed needs to gain ownership, please leave it as Civic space and they could rent it for a nominal fee to community organizations.

Thank you for taking the time to read this,
Kim Ford
Concerned Tax payer, resident, and local developer



City Info <cityinfo@plattsburghcitygov.com>

Re: Planning Board Comment 4/7/2020 - 4 - -TO ALLOW PUBLIC SIGN-UP LIST TO SPEAK AT PLANNING BOARD MEETINGS (AND REQUEST TO LEAVE THAT SIGN-UP LIST OPEN THROUGHOUT THE MEETING)

2 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Tue, Apr 7, 2020 at 1:03 PM

To: cityinfo@plattsburghcitygov.com, Sylvia <parrottes@cityofplattsburgh-ny.gov>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotemplio@pressrepublican.com, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>, rick@fesetterealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecopas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerv001@plattsburgh.edu

Dear Planning Board Members:

All non-essential government meetings, including this Planning Board meeting, should be postponed. The Planning Board has the authority to do that. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling a large one is a brazen and out of touch slap in the face to the community.

However, if you insist on conducting a virtual meeting, then we would respectfully request and suggest that you create and keep open a sign-up list of people who would like to speak at the meeting. The list should remain open until the meeting begins and even during the meeting. This approach most closely resembles the past practice in which people are free to raise their hand during the meeting if they feel so inclined to make a comment. Remember that often people are shy about public speaking. But sometimes something that they learn a meeting or something that is said may inspire that person to raise their hand and ask to be heard. That same practice should be continued in a virtual meeting, or you can't say that your doing everything in your power to create a continuum of the Plattsburgh Planning Board meetings

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. How long to allow people to speak. Whether to vote.

Once again, thank you for your service.

City Info <cityinfo@plattsburghcitygov.com>

Wed, Apr 8, 2020 at 7:18 AM

To: mcmahonj@cityofplattsburgh-ny.gov, "Read, Colin" <ReadC@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Fwd: Planning Board Comment 4/7/2020 - 3 - Reading of Public comment during meetings

2 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Tue, Apr 7, 2020 at 12:45 PM

To: cityinfo@plattsburghcitygov.com, Sylvia <parrottes@cityofplattsburgh-ny.gov>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotemplio@pressrepublican.com, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>, rick@fesetterrealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecocpas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerv001@plattsburgh.edu

Dear Planning Board Members:

The purpose of this communication is to respectfully request that each and every public comment received is read aloud in its entirety at tonight's Board meeting.

People are concerned that, given the short notice and project complexity, public written comments will not be thoroughly read by Board members and contemplated within the context of the public meeting.

The City's program of rushing these special meetings with minimal notice to both Boards and to the public left little time for the public to write or for Board members to read public comments. With only days notice to compose written comment and having them due at noon the day of the meeting, it effectively diminishes and, in fact, all but eliminates public involvement. It also puts an unfair burden on Board members. And that's before even mentioning the severe strain and stress that each of us is under given this global emergency.

Therefore, in order to mitigate this injustice, we would ask that each and every public comment is read aloud in its entirety at the Planning Board meeting tonight. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling a large one is a brazen and out of touch slap in the face to the community. Reading of the public comments won't change those facts. But it will at least ensure that all Board members thoroughly review comments and will show respect for the public and for the comments received although on a significantly diminished stage.

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. Whether to vote.

Once again, thank you for your service.

City Info <cityinfo@plattsburghcitygov.com>

Wed, Apr 8, 2020 at 7:14 AM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comments 4/7/2020

1 message

Dani G <danirae11683@gmail.com>

Tue, Apr 7, 2020 at 12:52 PM

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

First of all, I am writing to express my concern about the Planning Board conducting meetings concerning non essential matters during the COVID-19 pandemic. After watching the Zoning Board meeting last night, I hope you will follow suit and take the time to more clearly define your meeting procedures and allow time to share them with the public before deliberation on any matter on the current agenda.

Furthermore, though I support the Board taking the time to develop these plans for meetings in the current situation, I strongly feel that holding meetings in this fashion without the public being able to be physically present, should only be reserved for urgent matters necessary for the health and well being of the community. The Prime project does not qualify as essential, and any determinations or deliberations, and especially public hearings should be postponed until such time that the public can actually be present.

Another important procedural issue that I think is important is to ask that people are allowed to sign up to speak right up until the meeting time and even during the meeting. This is consistent with current meeting practice where people are free to choose to raise their hand during the meeting and ask to speak.

Thank you so much for your time and consideration of these comments.. Thank you also for your dedication and service to the city during these difficult times.

Best,
Danielle Erb



City Info <cityinfo@plattsburghcitygov.com>

Planning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Tue, Apr 7, 2020 at 10:12 AM

To: cityinfo@plattsburghcitygov.com

I fully support the DRI Project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

ZBA Meeting

2 messages

Zukowski Properties <zukowskiproperties@gmail.com>

Mon, Apr 6, 2020 at 4:52 PM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

Hello ALL

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

We urge that you cancel the April ZBA and Planning Board meetings and all meetings, except for those that deal with emergency issues as ordered by the Governor, until the COVID 19 state of emergency has been lifted. We note that ZBA's and Planning Boards in Cities across New York State are doing so and Plattsburgh should too.

from all of us at EZ Properties !!**EZ Properties**

518.563.6021

e-zproperties.com

City Info <cityinfo@plattsburghcitygov.com>

Tue, Apr 7, 2020 at 8:49 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahanj@cityofplattsburgh-ny.gov

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020 - 1 - Letter from Attorney Matt Fuller

4 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 9:54 AM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, "Parrotte, Sylvia" <parrottes@cityofplattsburgh-ny.gov>
Cc: editor@studleyprinting.com, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rockstroh@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>



PCC_ZBA Ltr 432020.pdf
2119K

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:19 AM

To: mcmahonj@cityofplattsburgh-ny.gov

----- Forwarded message -----

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

Date: Mon, Apr 6, 2020 at 9:55 AM

Subject: Zoning Board of Appeals Comment 4/6/2020 - 1 - Letter from Attorney Matt Fuller

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

Cc: <editor@studleyprinting.com>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, <estigliani@freepressmedia.com>, <news@northcountrynow.com>, <newstips@mynbc5.com>, <rockstroh@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>



PCC_ZBA Ltr 432020.pdf
2119K

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 4:30 PM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, "Parrotte, Sylvia" <parrottes@cityofplattsburgh-ny.gov>, ron.nolland@gmail.com
Cc: "Cc:" <editor@studleyprinting.com>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rockstroh@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>

Dear Zoning Board Members:

The purpose of this communication is to respectfully request that each and every public comment received is read aloud in its entirety at tonight's Board meeting.

People are concerned that, given the short notice and project complexity, public written comments will not be thoroughly read by Board members and contemplated within the context of the public meeting.

The City's program of rushing these special meetings with minimal notice to both Boards and to the public left little time for the public to write or for Board members to read public comments. With only days notice to compose written comment and having them due at noon the day of the meeting, it effectively diminishes and, in fact, all but eliminates public involvement. It also puts an unfair burden on Board members. And that's before even mentioning the severe strain and stress that each of us is under given this global emergency.

Therefore, in order to mitigate this injustice, we would ask that each and every public comment is read aloud in its entirety at the Zoning Board meeting tonight. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling large ones is a brazen and out of touch slap in the face to the community. Reading of the public comments won't change those facts. But it will at least ensure that all Board members thoroughly review comments and will show respect for the public and for the comments received although on a significantly diminished stage.

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. Whether to vote.

Again, thank you for your service.

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

Tue, Apr 7, 2020 at 8:46 AM

----- Forwarded message -----

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

[Quoted text hidden]

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Committee Members

1 message

Peggy <peggydegrandpre@yahoo.com>

Mon, Apr 6, 2020 at 1:36 PM

To: cityinfo@plattsburghcitygov.com

This is to inform you of my approval and support of the Prime DRI Project.

Margaret deGrandpre'

Pleasant Street

Plattsburgh, NY



City Info <cityinfo@plattsburghcitygov.com>

Comment for Zoning Board Meeting scheduled for April 6, 2020

1 message

Peggy <peggydegrandpre@yahoo.com>

Mon, Apr 6, 2020 at 1:34 PM

To: cityinfo@plattsburghcitygov.com

April 6, 2020

To Zoning Board Members, this is to inform you I am in agreement with the Durkee Street Project.

Margaret deGrandpre'

Pleasant Street

Plattsburgh, NY



City Info <cityinfo@plattsburghcitygov.com>

Suspend meetings

2 messages

Shawna Mefferd Kelty <shkelty@gmail.com>

Mon, Apr 6, 2020 at 12:02 PM

To: cityinfo@plattsburghcitygov.com

I am urging the Mayor and the ZBA and the Common Council to stop taking advantage of the state of emergency and to conduct only the essential business of the City. Colin Read should stop putting the Prime Project before the residents of the City of Plattsburgh.

Thank you,
Shawna Mefferd Kelty

--

Shawna Mefferd Kelty, PhD

she | her | hers

RYT 200, PRYT

Associate Professor of Theatre

101 Broad St, 124 Myers

SUNY Plattsburgh

Plattsburgh, NY 12901

(518) 564-2480

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 12:34 PM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board comment

1 message

sun85@aol.com <sun85@aol.com>

Mon, Apr 6, 2020 at 11:59 AM

Reply-To: sun85@aol.com

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

To Whom It May Concern:

I'd like to express my support for the long-anticipated Durkee Street redevelopment project. While I believe it is wise to take a measured approach in order to achieve the best outcome for everyone who will be affected, I look forward to the revitalized downtown that will result from the plans currently in place. As a long-time user of the Farmer's Market, I look forward to its new, expanded location by the lake. The vendors' enthusiasm for the new space makes it all the more appealing for customers to follow them there.

It appears that much of the new design for Durkee Street will improve use of existing space, including some features that have been underused, like the green space currently used for the walkway from Margaret to Durkee. My hope is that the influx of residents downtown will result in increased traffic for the existing variety of businesses in that locale, and perhaps a few new ones.

Thank you and best of luck as you move forward.



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board comment

2 messages

sun85@aol.com <sun85@aol.com>

Mon, Apr 6, 2020 at 11:57 AM

Reply-To: sun85@aol.com

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

I'd like to express my support for the long-anticipated Durkee Street redevelopment project. While I believe it is wise to take a measured approach in order to achieve the best outcome for everyone who will be affected, I look forward to the revitalized downtown that will result from the plans currently in place. As a long-time user of the Farmer's Market, I look forward to its new, expanded location by the lake. The vendors' enthusiasm for the new space makes it all the more appealing for customers to follow them there.

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Thank you and best of luck as you move forward.

Steve Patnode

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 12:27 PM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comment 4/7/2020 - 2 - Professional Review fees

1 message

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 11:56
AM

To: Sylvia <parrottes@cityofplattsburgh-ny.gov>, cityinfo@plattsburghcitygov.com, WIRY Radio <wiry@wiry.com>, 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>, rick@fesetterrealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecocpas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerv001@plattsburgh.edu

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>

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

2 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!

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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)

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(3)

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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]



City Info <cityinfo@plattsburghcitygov.com>

Dri project

2 messages

s king <moalem56@yahoo.com>
To: Cityinfo@plattsburghcitygov.com

Mon, Apr 6, 2020 at 11:31 AM

Given the current pandemic health situation, it is complete irresponsible for the City to hold any meeting, especially one as important as this project with its impact on our city. I also question the legality of holding such meetings with the inability for public input.

The City, if it allows this and other meeting like it to proceed, is being dishonest, and secretive and does the citizenry a great disservice.

NOT MEETINGS FOR DRI until the emergency passes and public meetings can be held properly

Steve graf
8 lynde
Plattsburgh

Envoye de mon iPad Pro

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 12:07 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comment

1 message

Peggy <peggydegrandpre@yahoo.com>
To: cityinfo@plattsburghcitygov.com

Mon, Apr 6, 2020 at 11:09 AM

I support the DRI plan

Sent from Peggy's iPad



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment

2 messages

Peggy <peggydegrandpre@yahoo.com>
To: cityinfo@plattsburghcitygov.com

Mon, Apr 6, 2020 at 11:08 AM

I support the DRI
Sent from Peggy's iPad

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 12:04 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Re: Durkee Street project comments for zoning meeting today

2 messages

John Seiden <johnseiden7@icloud.com>

Mon, Apr 6, 2020 at 10:55 AM

To: cityinfo@plattsburghcitygov.com

As you might know I used to be on the zoning board for almost 20years I was also on several downtown commissions for the redevelopment of downtown. I was appointed by Governor Cuomo to be on the DRI committee Was also on the city of Plattsburgh revolving loan committee fund I have developed over 17 properties in Plattsburgh most of them in downtown Plattsburgh. There's a right way to develop and a wrong way to develop! What's going on currently in the city of Plattsburgh is bordering on criminal with Colin Read and his shenanigans of trying to jam this Durkee Street project down the citizenry throat. There's a pandemic happening everything has been shut down he puts in place of curfew. What's the matter with this guy, his ego is out of control. The importance of the citizens being able to participate in the planning board meetings and zoning board meetings are crucial. this meeting needs to be held off until an appropriate time that the pandemic is under control and the citizens of Plattsburgh can participate in an open meeting. Hey Mayor Read "Open"meeting law means open! Not sneaking around while everyone is on lockdown , there may be a legal foundation to try to sneak this crap through but it's wrong. Hey Mayor Read put your ego away there's no time for it and it's UNAMERICAN! And we the citizens call BS!!

> John S.Seiden

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 12:02 PM

To: mcmahonj@cityofplattsburgh-ny.gov

[Quoted text hidden]

Frank G. Zappala

Attorney at Law

142 Margaret Street

P.O. Box 2886

Plattsburgh, NY 12901

fgzappala@hotmail.com

Telephone
(518) 566-7211

*Facsimile
(518) 566-7214
*not for service

To: The Plattsburgh Zoning Board of Appeals
The Plattsburgh Planning Board

From: Frank Zappala

Date: April 6, 2020

The proposed Durkee Street project has two lanes of angled parking. Angled parking is dangerous. Attached is a memo sent to the City dated January 28, 2019. This document confirms that angled parking is dangerous.

If the present project is approved with angled parking the Zoning Board and the Planning Board are putting the citizens of Plattsburgh at risk.

From: Bibbins, Ken (DOT)
Sent: Monday, January 28, 2019 1:12 PM
To: Bessette, Michael <BessetteM@cityofplattsburgh-ny.gov>
Cc: Basil, Valmekie (DOT); Ricalton, Al (DOT); Kokkoris, Steve (DOT); Docteur, Aaron (DOT); Ortlieb, Craig H. (DOT);

Subject: Angled Parking Proposal, Bridge Street/US Route 9

Hello again Mike,

I've been in contact with a number of folks in the Department's Main Office, to try to establish all of the information that the City needs in order to make an informed decision about potential changes to Bridge Street/US Route 9/NY Bicycle Route 9.

There are two main questions on the table here:

The first question is relative to jurisdiction. It does not appear to me that the right of way that Bridge Street falls within has sufficient width to allow angled parking without severely impacting its lane widths.

The second question is relative to the likely impacts that angled parking would have on traffic safety. It is well established, by multiple studies, that angled parking causes an increase in accidents. This is due to a number of reasons, including the need for a backing maneuver that is made where the operator of the parked vehicle must back into traffic when exiting the parking space, while their visibility is impaired by adjacent vehicles. This maneuver is particularly dangerous if the roadway in question has a significant volume of bicycle traffic, such as this one. There is also an increase in accidents due to the stop-go nature of drivers searching for an open space, which is more difficult with angled parking because the empty spaces are harder to see. There are some locations in our country where back-in angled parking has been used because that provides somewhat improved visibility when exiting the parking space. That improvement would only exist if there was sufficient space to accommodate the angled parking and it would not address the difficulty with spotting empty parking spaces far enough upstream to avoid a quick stop.

I can tell you that, based on the concept and its traffic safety implications, I would use the strongest language possible to discourage the institution of this change.

Kenneth M. Bibbins, P.E.
Regional Traffic Engineer
New York State Department of Transportation, Region 7
317 Washington Street, Watertown, NY 13601
(315)785-2321|ken.bibbins@dot.ny.gov
www.dot.ny.gov



**Department of
Transportation**



Mark R. Henry
Clinton County Legislator, Area 3
6 Church Street
Chazy, NY 12921
Phone: (518) 578-4359 (cell)
mhenry2@twcnv.rr.com

April 6, 2020

TO: City of Plattsburgh Zoning Board of Appeals; and
City of Plattsburgh Planning Board

Dear Board Members:

I have recently received information that your respective Boards will be voting on various actions related to the Prime Companies Mixed Use Residential/Commercial project proposed for the Durkee Street Parking Lot, and partially funded by the Downtown Revitalization Initiative (DRI) grant.

By this letter, I express my wholehearted and unconditional support for this project. In many ways the City of Plattsburgh is the lifeblood of Clinton County. A strong downtown will lift up the entire County. I truly believe that stagnant downtowns result in a slow deterioration of the economic, cultural and emotional vigor of a City. Alternatively, a downtown that continues to grow and adapt will remain vital and energize a community.

The downtown for the City of Plattsburgh, in my opinion, needs the invigoration of downtown residents that will result from the Prime Companies' proposed project. The project will bring renewed life to the day-to-day flow of activities downtown, including most importantly business and recreational activities. While some have decried the supposed negative impacts of this project, focusing on the loss of parking, I believe the City of Plattsburgh has taken the steps necessary to provide alternative parking opportunities to prevent any negative impacts. This project has so much promise for the City of Plattsburgh and County of Clinton. I urge you to focus on all the positive impacts that would result from this project, and take the steps necessary to approve the project and usher in a renewed era of optimism and economic growth for the City.

The views expressed in this letter are mine alone, and I do not speak for the Clinton County Legislature as a whole. While the short notice involved does not permit the Legislature to deliberate and provide a collective response, I will encourage my colleagues to provide their own statements as time allows. I wish you the best of luck in guiding the City of Plattsburgh during these trying times.

With best regards,

Mark R. Henry
County Legislator



City Info <cityinfo@plattsburghcitygov.com>

Public Comment for April 6 Zoning Board and April 7 Planning Board

2 messages

Brown, Rodney <Rodney.Brown@clintoncountygov.com>

Mon, Apr 6, 2020 at 10:49 AM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Cc: "Henry, Mark" <Mark.Henry@clintoncountygov.com>

Please provide copies of the attached letter to both the City Zoning Board of Appeals and City Planning Board for their respective meetings on April 6th and 7th. On behalf of Legislator Henry, I ask that the letter be formally recorded as public comment for both meetings, and if possible, be read at the meetings. Thank you.

Rodney L. Brown, Deputy Administrator

Clinton County Legislature

[137 Margaret Street - Suite 208](#)

[Plattsburgh, NY 12901](#)

Tel. 518-565-4709

Email: Rodney.Brown@clintoncountygov.com



City DRI Letter Henry 4-6-20.pdf

68K

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:35 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahonj@cityofplattsburgh-ny.gov

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City DRI Letter Henry 4-6-20.pdf

68K



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board (April 6th) and Planning Board (April 7th)

2 messages

Paul DeDominicas <pdedomin@yahoo.com>

Mon, Apr 6, 2020 at 10:29 AM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Good evening,

To the Zoning and Planning Boards of the City of Plattsburgh, I am writing this to you as a resident of the City and not as a City Councilor. First, thank you for the work that you do as it is challenging in the best of times. On top of that, everyone is now faced with the added stress of the COVID-19 Pandemic unsure of how it will affect Plattsburgh in the short and long term.

I understand that each Board has a decision to make regarding the Prime development project at Durkee St. I am asking for a pause for this project. The project was developed before the unprecedented response to the COVID-19 pandemic. In a short time, NYS and national economies have slowed considerably. Unemployment is up and is predicted to get worse before it gets better. Locally, many downtown businesses are shuttered with no clear idea of when they will reopen again. While we can model outcomes, we cannot know for sure the impact that the COVID-19 response will ultimately have locally.

Again, I am not asking you to vote against the project at this time. I am asking that you delay any vote to see how the pause in the economy affects local business and city revenues and to allow a better understanding of the situation as it develops. I think that there should be a discussion regarding the viability of a large development downtown after we have a better idea of the local impact or, at the very least, a discussion that the plan may need to change to reflect our new reality. Most people believe that even when we are able to start to return to work, it will be some time before anything is "business as usual".

Thank you for your time,

Paul DeDominicas

Trafalgar Drive

Plattsburgh NY 12901

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:31 AM

To: mcmahonj@cityofplattsburgh-ny.gov, Matthew <MillerMa@cityofplattsburgh-ny.gov>

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Meeting comments

2 messages

Kathy L. Baumgarten <foofusdotcom@aol.com>

Mon, Apr 6, 2020 at 10:16 AM

To: cityinfo@plattsburghcitygov.com

Dear Sirs

These are my comments I am submitting prior to the Zoning Board meeting today. I'll be watching the youtube broadcast to see if they are acknowledged and added to the permanent record of the meeting, which will be posted on the city website.

Especially during this pandemic, it seems like all Downtown Revitalization Initiative monies should go toward helping currently existing downtown businesses, revitalizing them when this is over. Not to be used to bring in competition against them!

Mt additional objections to the Prime development are as follows:

Will affect county tourism by limiting parking (the best and cheapest support we can offer), especially for our biggest regional events- the Battle of Plattsburgh, Fourth of July and Mayor's Cup. If the Mayor intends to relocate these events, he would have said so to relieve the criticism, so we can rightly assume he intends to discontinue city support of them. Noted members of our community have dedicated their entire lives to planning and organizing these events, which are advertised nation-wide.

Pull-in parking is the most popular of handicapped accessible parking; no amount of parallel parking the city has suggested can replace it.

Speaking of parking, at NO TIME has City Hall publicly broached the topic of where snow emergency parking will be relocated to once the Durkee lot is removed. The City of Burlington allows free parking in its three parking ramps to facilitate clearing its streets. But yet Plattsburgh seeks to end it, demonstrating their utter disregard for current downtown apartment dwellers and their landlords in downtown Plattsburgh.

(In fact, I spoke with an official at Community Bank on Margaret St. At no time has the city invited any conversation about the business aspect of the bank parking lot and the Pavone lot being constructed next door. They told me that during snow, folks park in there all night. Which would be okay except that their own plow can't get in in the morning, nor can their own employees. This speaks to a greater need for snow parking than is acknowledged.) This is not some little detail the city can figure out later. Like all good emergency planning, it needs to be done well in advance. Frankly, if they break ground in summer, it will be utter mayhem during peak weather and no one will know what to do come snow. People in our area can be economically devastated by one tow ticket. Small businesses can go bankrupt from one bad week.

The edifice will block from view the Saranac River and prevent for all

future generations any enjoyment of this priceless natural wonder. Plattsburgh IS the Saranac! Visitors will ask why we are casting a shadow over it when everyone knows that water access is the best attraction a city can possibly have.

The edifice will be built within inches of the very bridge where the Battle of Plattsburgh was fought . That the bridge and its surroundings are not currently considered to be valued as they deserve in this context is irrelevant. There should be a memorial and historical interpretation center where Highway Oil was to mark this event of National import.

Over 70 local businesses signed a letter stating their opposition to this project; to date, City Hall has dismissed their concerns with utter contempt and have reached out to not even a single one. This is unconscionable and I want the Mayor and City Council to answer directly to the citizens their reasons for acting with this contempt and as if they govern in a vacuum.

The sheer size of this edifice is out of keeping with the nature of Downtown Plattsburgh, regardless of what color they paint it.

Prime has not allowed enough parking for customers, staff and tenants of its proposed development. It should not be our city's responsibility to pay for their parking. Additionally, any promises they have made about allowing public parking on their premises will be null and void as soon as they take possession. Therefore, the City's premise of adequate replacement parking for the loss of Durkee by including these "promised" parking spots is utterly false.

The County Zoning Board's conclusion that the project is thoughtless and without attraction is 100% correct and deserves your complete support. Plattsburgh is and always will be the County Seat and the people of the county park at Durkee lot whenever they come to town. The lot is always well utilized . It is the public's city space.

The Green space/ park at the parking lot as City Hall is touting it is merely a narrow sidewalk along the river and a narrow sidewalk leading to it from Durkee St. That is not a riverwalk. A Riverwalk has room for benches and gardens and features such as fountains, swings, overlooks, etc. Tourists driving by will assume the currently planned narrow walk is on private property and for all intents and purposes, it will be. Foot traffic from the apartments scurrying back and forth from the parking lot, delivery trucks, dumpsters and trash collection trucks will make the Prime's parking lot as busy and unattractive to tourists as possible. The River is already permanently blocked up on its East Shore with grandfathered buildings; this edifice will destroy ANY future hope of public enjoyment, at TAXPAYER EXPENSE!

The proposed building will exponentially increase the downtown traffic congestion rather than relieve it in any way! Imagine all the proposed buildings' tenants leaving for work during our downtown rush hour, deliveries coming in, employees and customers coming in - all crowding Bridge Street, and cars waiting for pedestrians. It will be a nightmare that could not be relieved at that point by ANY amount of action.

The proposed restructuring of the "tried and true as is" Durkee Street roadway should never have to have even been considered. The taxpayers in no way should be paying the price for a building we did not want, nor should we have to bear the unimaginable inconvenience of changing this important branch of Route 9 to one-way traffic to make any accommodations for any private concern. Nor should we later have to pay the price of turning it back to two-way after the fact, nor should we have to lose any parking places to boot. The building should have been designed to be completely self-sufficient without requiring anything from the current structure of the city parking and roads.

This development will hinder the operations of government agencies which use the Durkee Lot, and who have many handicapped patrons who are nowhere else accommodated for.

As others have said, there is no need for apartments and new shop space downtown. There IS a need to draw locals and visitors to the downtown and get them to stay longer. The best draw for this would be park area around the perimeter of the existing lot. Indeed, City Roads and Grounds could quite easily build more curbing, bring in dirt and stick in a few benches before the end of this month, throw in a few trees and grass seed and it would be the jewel of downtown before the first day of summer. All ready for social distancing baby buggies and joggers.

Members of the zoning board are entrusted with protecting the spaces in our city - that they are used appropriately and correctly, cost-effectively and in the best interests of those who pay for them- the taxpayers. The opposition by taxpayers to this development is unprecedented in the 30 years I have owned my home on Elm Street, seven blocks from the parking lot. I think we know how we want our city to be.

Also unprecedented is the tenacity with which city hall has pushed back against the will of the people who pay their salaries. Any other mayor would have respectfully backed down to the wishes of their electorate, as the good civil servants they are paid to be.

There is already a contact in place for waterfront development as part of the DRI. The rest of the DRI monies need to revitalize our devastated and ALREADY EXISTING downtown so it can recover from the pandemic.

Regardless of what anyone may lead you to believe, or whatever amount of pressure may be used to sway your conclusions, or who is pressuring you, it is not too late to stop this project. Remember who you really work for.

At the very least, set this deviation aside until after the pandemic. What's the hurry? They can't work on it anyways! If it's a good idea now, it will still be a good idea a few months down the road, right?

God Bless and Happy Easter

Sincerely,

Kathy L Baumgarten
TSGT USAF (Ret.)

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 11:28 AM

[Quoted text hidden]

April 3, 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:

Our firm is been retained by the Plattsburgh Citizens Coalition, Inc., a not for profit coalition and its members, of concerned citizens, property owners, and business owners in the City of Plattsburgh relative to the City's proposed development plans with Prime Plattsburgh, LLC. We understand that a ZBA public hearing has been noticed for the Prime Plattsburgh, LLC application for April 6, 2020. We also understand that applications are pending before the Planning Board. We offer the following comments:

1. Open Meetings Law: We note that given the Covid-19 outbreak, Governor Cuomo on March 13, 2020 issued Executive Order 202.1 which, in part, suspended Article 7 of the Public Officers Law, commonly known as the Open Meetings Law. This Executive Order has subsequently been extended and modified through to and including Executive Order 202.13 (as of March 30, 2020). However, what neither Article 7 of the Public Officers Law, nor Governor Cuomo's do, is address public hearings.

It is our belief that the ZBA is holding this public hearing solely under the guidance provided after Governor Cuomo's Executive Order 202.1 which permitted meetings to be held without

public attendance. That order, however, did not address public hearings. Public hearings continue to require active public input, that is, input during the actual meeting either through mechanisms such as “Zoom” or other similar participation level remote meetings. The procedure adopted by the City of Plattsburgh does not satisfy this law.

In addition, the City’s procedure appears to ignore Executive Order 202.10 (March 23, 2020, copy attached) which states clearly “Non-essential gatherings of any size for any reason (e.g. parties, celebrations or other social events) are canceled or postponed at this time.” With due respect, and particularly given the level of public interest in this project, this project is under no definition “essential”. Indeed, it covers literally none of the essential categories covered by New York State Empire State Development at <https://esd.ny.gov/guidance-executive-order-2026>. [Last accessed 4-1-2020]

What is the reality, however, is that this scheduling of this hearing during this COvid-19 pandemic is a blatant attempt to push a controversial project through with as little public participation as possible. Indeed, it is quite clear that the City’s public hearing procedures were perhaps adopted with this exact project in mind.

The ZBA and Planning Board are NOT obligated to follow the City’s adopted hearing protocol. The ZBA and Planning Board are well within their respective powers to table this matter until Governor Cuomo lifts the pending prohibition against in person meetings. This matter is the largest project in recent history in the City of Plattsburgh. For this to be rushed through when the public is actually prohibited from appearing in person, for a project that is clearly not essential, is in and of itself an abuse of discretion and irrational. We ask the ZBA and Planning Board to table this matter until the pending prohibition against in person meetings is lifted.

As an update, subsequent to the draft of this letter, we received the correspondence issued by the City by email from the “Mayor’s Office” of April 3, 2020 at 12:10pm. Notwithstanding that letter, and the Q&A attached thereto, government meetings are and should be limited to matters that are essential, no different than “essential businesses” are limited to those portions of business that are essential. **The fact is that this Durkee Street project is not essential.** That is

the entire point missed by the meeting guidance, the meeting procedures, and the statement issued by the Mayor's office of this day. Not every government function is essential. Were this a project for a hospital, or a health care center, or a production facility for PPE, the facts would be different, and a reviewing this project would be warranted.

2. Applicant: The applicant is not the "City of Plattsburgh" as noted on the applications. In reviewing the "Development Agreement" between the City of Plattsburgh and Prime Plattsburgh, LLC dated March 29, 2019 (hereinafter the "Agreement"), the pending applications before the ZBA and Planning Board are flawed as a matter of law. A copy of this Agreement is enclosed.

Pursuant to Section 4 of the Agreement titled "Permitting", Prime is the applicant, not the City of Plattsburgh. See Section 4(a)- "*Prime and its agents shall prepare and submit all necessary municipal, state and federal permit applications required for the approval of the Durkee Development and shall present such applications to the applicable governmental authorities.*" Indeed, the SEQRA EAF form in the ZBA's materials note Prime Plattsburgh, LLC as the applicant, not the City. Prime has submitted no such application.

Moreover, not cited in any application materials is the authority or ability of the City of Plattsburgh as a municipal entity to even make this application. In this regard, we believe that City staff time used in pursuing an application that by written agreement is required to be submitted by a private business entity is actually an unconstitutional gift of public resources. While there are contractual obligations that a city may enter into, this Agreement specifically states that Prime, not the City, is to be completing and submitting the applications for this project. Thus, taxpayer dollars cannot be spent as they are now.

Lastly, on this point, the ZBA and Planning Board have to ask: How can the ZBA or Planning Board possibly receive unbiased support from the very community development and code enforcement staff that is bringing this application? Pursuant to General City Law §81-a, and indeed City of Plattsburgh Zoning Law §360-56[C]: "*Assistance to the Boards. Such Boards shall have the authority to call upon any department, agency or employee of the City for such assistance as shall be deemed necessary and as shall be authorized by the legislative body. Such*

department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.” You cannot possibly rely on that assistance of those providing the assistance are the applicant!

The City of Plattsburgh cannot be the applicant as note above, and this needs to be remedied.

3. Waterfront development: We are enclosing our letter to the Common Council of September 9, 2019. To date, this letter has not been answered. However, this same legal issue presents itself to the ZBA and Planning Board. As proposed, the project application will include the alienation of waterfront property. We point you to the full content of our letter as if fully set forth herein. The ZBA and Planning Board are without power to approve any project that would alienate waterfront property.

4. SEQRA: The EAF submitted by the City is shockingly incomplete for a project of this magnitude. Little to no thought or consideration was put into this document. The following questions were not even answered in Part I of the EAF: C.1., C.2.c, C.3.c., D.1.c., D.1.d., D.1.e (incomplete), D.1.h., D.2.a., D.2.b., D.2.e. (incomplete), D.2.f., D.2.g., D.2.h., D.2.i., D.2.j., D.2.o., D.2.p., D.2.q., D.2.s., D.2.t., E.1.b. (incomplete), E.1.c. E.1.e., E.1.f., E.1.g., E.1.h. (incomplete), E.2.h (incorrect- the project site does include a river), E.2.q., and E.3.b..

In addition, we note the City’s response at EAF question D.D.2.e.ii.: The City notes that this project will discharge to the Saranac River. The legality of this discharge needs to be researched. We do not believe that the City can legally create a point source discharge from this new project directly to the Saranac River.

Lastly, the underlying facts upon which the SEQRA findings has changed. Indeed, just this week it was reported that a record 6.6 million Americans filed for unemployment. The recession created by the Covid-19 pandemic cannot be ignored, and the underlying need for this project as well as the finances upon which it is based must be reviewed. In short, no board of the City can ignore the economic realities of the current environment.

5. Conflict: We believe the City's corporation counsel has a conflict of interest. The Corporation Counsel's allegiance is to the Common Council. The ZBA's and Planning Board's obligations are to review the pending PUD, site plan, subdivision, special use permit and variance applications. Thus, where questions of law are before the ZBA and Planning Board, or indeed even procedure, the ZBA and Planning Board cannot reasonably rely on the advice of counsel that is beholding to the Common Council, as again, corporation counsel's goal is to further the interests of the Common Council. Indeed, this letter raises significant, valid legal issues that the ZBA and Planning Board needs to address on their own- not in reliance on the Common Council. To the extent that you have legal questions on this matter, you need your own attorney.

Thank you.

Sincerely,



Matthew F. Fuller, Esq.
mfuller@meyerfuller.com

cc: Plattsburgh Citizens Coalition, Inc.

DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is by and between the **CITY OF PLATTSBURGH**, a New York municipal corporation located in Clinton County, New York (the "City") and **PRIME PLATTSBURGH, LLC**, a New York limited liability company with a place of business in Cohoes, New York ("Prime"), and is made and entered into as of the date of execution by the last party to execute this Agreement (the "Effective Date").

Background

1. Prime is a development company with experience and expertise in the design, development and management of mixed-use development projects.

2. The City is the owner of the so-called "Durkee Street Property". This site consists of two separate properties: 40 Bridge Street and 22 Durkee Street. Combined, the footprint of these properties totals approximately 4.3 acres. A portion of the Durkee Street Property is a leased parcel of approximately 1.3 acres on the southern end of the property (the "Leased Parcel"). This leased site contains a three-story office building and a two-level parking structure. It is leased by Investors Corporation of Vermont ("ICV") and shall not be part of the mixed-use development project. The intent of the City is to merge the 40 Bridge Street with the parcel located at 22 Durkee Street and subdivide the Leased Parcel as well as any lands located to the South of Broad Street which may be associated with the 22 Durkee Street property (the "Merger and Subdivision"). Upon completion of these steps, there shall remain an approximately 3.4-acre parcel bordered to the South by the Leased Parcel, to the North by Bridge Street, to the West by Durkee Street, and to the East by the Saranac River (the "Project Site").

3. New York State ("NYS") awarded the City \$10 million in grant funding through Governor Andrew Cuomo's Downtown Revitalization Initiative ("DRI") to implement catalytic investment projects in downtown Plattsburgh as part of a longer-term strategy to attract additional public and private investment for revitalization. The Durkee Street redevelopment project is the centerpiece of Plattsburgh's DRI revitalization effort and NYS allocated \$4.3 million towards its implementation that can be used as funding for infrastructure improvements, construction, and gap financing.

4. The City DRI's associated Streetscape Improvements and Riverfront Access projects will complement and support redevelopment of the Project Site, which may include improvements on Durkee and Bridge Streets as well as riverfront improvements bordering the Project Site (collectively, "the City's Other DRI Projects").

5. The City issued a Request for Proposals on October 17, 2018 ("RFP"), for a mixed-use development on the Project Site. Prime submitted a proposal in response to the RFP to develop, finance, construct and manage a mixed-use development to be built on the Project Site that is to be purchased from the City.

6. The City and Prime (collectively, the "Parties") memorialized their understandings with regard to the Project Site via a Letter of Intent dated February 22, 2019, incorporated herein and attached hereto as Exhibit "B" (the "Letter of Intent").

7. Prime intends to develop and construct a mixed-use development on the Project Site consisting of 2 buildings which will include approximately 127 +/- market rate apartments including furnished corporate apartments by ExecuStay, approximately 13,515 square feet of commercial space (retail, restaurants and/or office), approximately 7,883 square feet for Farmers' Market/civic space/

community space; approximately 233 parking spaces; and public access to the Saranac River waterfront (the “Durkee Development”). The City and Prime acknowledge and agree that the plans, including the configuration and size of the buildings, are conceptual and, to achieve the goals of each party as set forth herein, may be amended as design and permitting progress in accordance with the terms and conditions of this Agreement.

7. The City supports the Durkee Development. In order to complete the Durkee Development, the 40 Bridge Street parcel will need to be merged with the 22 Durkee Street parcel, the ICV leased parcel and other lands to the south of Broad Street will need to be subdivided from the resulting parcel, and easement rights for utilities and public access will need to be retained by the City. In addition, there will be public parking on the Project Site.

8. The City, as referenced in this document, is defined as follows:

- (a) The City Common Council (“City”). The City of Plattsburgh, as the legal entity of the municipality shall be responsible for approval of the Plans, financing, and this Development Agreement and terms and conditions associated with it as outlined below. This shall also include City staff assisting the City Common Council in this capacity.
- (b) The City’s review boards (“City Boards”): The Planning Board and Zoning Board of Appeals, are independent bodies that will make their own evaluations of the Durkee Development and Project Site under applicable zoning requirements and the terms and conditions of this Agreement shall not be binding on these boards.

9. Prime and the City wish to formulate the necessary terms to proceed with the design, permitting, financing, construction, ownership and management of the Durkee Development.

10. Prime and the City enter into this Agreement to describe the framework for the Parties to proceed with the Durkee Development.

N O W, T H E R E F O R E,

In consideration of the promises and the mutual covenants and agreements herein set forth, and in reliance on the representations and warranties contained herein, the Parties hereby agree as follows:

Section 1. **Prime’s Due Diligence.** Prime shall have 40 days from date of execution of the Letter of Intent to complete its general due diligence of the Project Site (the “Due Diligence Period”). Due diligence will be the responsibility and at the expense of Prime and includes, without limitation, the following potential analysis:

- Review of existing City Boards, City, and NYS permitting history and analysis, and needed City, City Boards, and NYS permitting requirements,
- Review of environmental and brownfield restrictions and analysis,
- Title research and examination,
- Engineering analysis,
- Traffic analysis,
- Utility analysis,
- Geotechnical and soil boring analysis, and
- Other items as determined that need to be considered for the development of the site.

To aid in Prime's Due Diligence, the City will promptly provide Prime with any and all environmental documentation and requirements between the City and the NYS Department of Environmental Conservation on complying with the Site Management Plan in place for the Project Site and the environmental easement on the Project Site in the possession or control of the City. The City agrees to work with Prime as needed for amending NYS documents related to the Site Management Plan as may be necessary for change of use, transfer of certificate of completion, and ownership in connection with the Durkee Development. Prime understands that initial brownfield remediation work has been completed on the Property. If following any sale of the Project Site additional contamination is found during construction and further remediation is needed, such remediation shall be the responsibility of Prime. The City shall engage in reasonable efforts to assist Prime with securing potential NYS funding for this work should the need for it arise.

Prime shall provide the City with necessary information for determining utility allocation needs and connections for the Durkee Development. The City will provide Prime copies of title research, an ALTA survey completed in November of 2018, and utility easements on the Project Site. Prime's title research shall identify items that may be of issue and shall work with the City to resolve them during the Due Diligence Period.

The above Due Diligence Period, which is Prime's responsibility, shall be completed within forty (40) days after the execution of the Letter of Intent. Notwithstanding the foregoing, Prime may extend the Due Diligence Period for an additional thirty (30) days upon written notice to the City, delivered to the City no later than the close of business on the fortieth (40th) day of the initial Due Diligence Period, provided that Prime uses its best efforts to complete its due diligence within the initial forty (40) day period.

During the Due Diligence Period, the City and Prime agree to communicate regularly and express their mutual goodwill to coordinate and resolve potential obstacles.

In the event that either the City or Prime determine, for any reason, during the Due Diligence Period, that they do not wish to proceed with the Durkee Development, a written notice of termination shall be delivered to the other party no later than the close of business on the last day of the Due Diligence Period, as same may be extended. Upon such written notice, this Agreement shall terminate with each party having no further obligation or liability to the other, except such obligations and liabilities that expressly survive the termination or expiration of this Agreement.

Section 2. **Access, Prime's Responsibilities, Prime's Indemnity**

- (a) From the date of the Letter of Intent through the expiration of the Due Diligence Period, Prime and its authorized agents or representatives shall be entitled to enter upon the Project Site during normal business hours upon advance notice to the City and make such reasonable, minimally invasive investigations, studies and tests including, without limitation, surveys, environmental surveys, geotechnical borings, and engineering studies as Prime deems necessary or advisable, provided, however, that, except as set forth below, Prime shall not be permitted to conduct subsurface environmental testing without City's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that it is anticipated that Prime will conduct geotechnical studies and ground penetrating radar studies at the Project Site, which shall include subsurface activities. Prior to conducting such subsurface activities, Prime will provide the City with the scope of such activities for the City's review and approval. The Project Site currently provides public parking in the City so Prime will use reasonable efforts to minimize any anticipated disruption of parking spaces or access.
- (b) Prime agrees that in conducting any inspections, investigations or tests of the Project Site, Prime and its agents and representatives shall: (i) not unreasonably interfere with the operation and maintenance of the Project Site; (ii) not unreasonably disturb the tenants or occupants of adjacent properties; (iii) not damage any part of the Project Site or any personal property owned or held by

the City or any tenant or third party; (iv) not injure or otherwise cause bodily harm to the City or its respective guests, agents, invitees, contractors and employees or any tenant or their guests or invitees; (v) maintain comprehensive general liability insurance in terms and amounts reasonably acceptable to the City covering any accident arising in connection with the presence of Prime, its agents and representatives on the Project Site, and deliver a certificate of insurance verifying such coverage to the City prior to entry upon the Project Site; (vi) promptly pay when due the costs of all tests, investigations and examinations done with regard to the Project Site; (vii) not permit any liens to attach to the Project Site by reason of the exercise of Prime's rights hereunder; and (viii) fully restore the Project Site to the condition in which the same was found before any such inspection or tests were undertaken.

- (c) Prime covenants and agrees to restore any damage to the Project Site resulting from the conduct of any such inspections, tests, surveys and/or studies and to save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any damage to the Project Site or the property of third persons and/or adjacent property of third parties or for any personal injuries arising in whole or in part from any inspections, tests, surveys and/or studies performed by Prime or Prime's agents, employees or invitees on the Property. In no event shall the foregoing be construed to render Prime liable in connection with the presence or existence of any hazardous materials or environmental contaminants that exist on or beneath the Property and which were discovered through Prime's inspections, tests, surveys and/or studies except to the extent that any such hazardous materials or environmental contaminants were brought onto the Project Site and released by Prime or its agents. Prime's obligations hereunder shall survive the termination of this Agreement for any reason
- (d) Prime shall share with the City all plans, surveys, site plans, building elevations, landscaping and lighting plans, traffic studies, engineering drawings, and all other plans, permits, applications, soil borings and tests, environmental site assessments, reports, and similar materials and products currently existing or generated for, by or on behalf of Prime in connection with the development of the Property during the term of this Agreement ("Work Product"). Prime shall provide copies and review its Work Product and proposed permit applications with the City before Prime submits them to any permit authority for the City's consent which shall not be unreasonably withheld or delayed. In the event that Prime fails to close, all Work Products, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, shall be assigned to and shall become the property of the City. The City shall provide to Prime, within five (5) days of the Effective Date, all permits, applications, environmental site assessments, reports, and similar materials and products currently existing or generated for, by or on behalf of the City in connection with the development of the Property, or which the City otherwise has in its possession, or are in the possession of the City's agents or consultants and of which the City has actual knowledge.
- (e) Prime shall be solely responsible in its sole discretion for selecting the members of its development team including the architect, attorneys, general contractor, property manager, funding sources, consultants and other participants, and coordinating between them.

Section 3. **Pre-Permitting and Design**. In the event neither party provides the written notice of termination provided for in Section 2 above, the Parties shall promptly proceed with the next phase of development of the Durkee Development, the "Pre-Permitting and Design Phase" which shall consist of a ninety (90) day period commencing within fifteen (15) days following the end of the Due Diligence Period, as it may be extended. During the Pre-Permitting and Design Phase, Prime and the City will conduct the following:

- (a) Design Process. Prime has engaged the services of Mackenzie Architects to complete the conceptual plan of the Durkee Development. Prime and its agents shall be responsible for preparing the preliminary design plans for the Durkee Development and Project Site, including hiring the

necessary architectural, landscape, engineering and related consultants needed to develop the plans for the permitting of the Durkee Development (the “Plans”). The Plans shall be in sufficient detail to be submitted in connection with the permit proceedings referenced below in the Permit Phase. Prime shall coordinate and communicate with the City regarding conceptual plans so as to foster and encourage City input. The City shall have access to the preliminary designs for the Plans. The City’s approval of the Plans is also required, which shall not be unreasonably withheld, conditioned or delayed. The City shall notify Prime in writing of its approval or non-approval (together with detailed reasons as to such non-approval) of the Plans within fourteen (14) days of the City’s receipt of the Plans.

- (b) The Parties also incorporate by reference the Vision and Project Requirements as set forth in the Appendix A to the Letter of Intent, which is attached hereto as Exhibit “B”.
- (c) The Parties agree to incorporate energy efficient measures and green infrastructure that could work towards a LEED certification for the Durkee Development provided that such efforts and recommendations can be accommodated in a cost effective manner as determined and agreed to by the Parties.
- (d) The City has engaged the services of Saratoga Associates to design the City’s Other DRI Projects. Prime and City agree to work cooperatively on the Plans for the Durkee Development and the design of the City’s Other DRI Projects with the objective of well-coordinated designs that benefit each.
- (e) Farmers’ Market. Prior to April 30, 2019, the City will make a determination regarding the viability of a farmers’ market on the Project Site. In the event the City determines the farmers’ market will remain on the Project Site, the Plans shall incorporate the farmers’ market in a manner mutually agreeable to the Parties. In the event a farmers’ market will not remain on the Project Site, as determined by the City, then the Parties will propose an alternative public amenity, public parking, or community-oriented project to be incorporated into the design of the Durkee Development to meet the City’s DRI goals as outlined in the Letter of Intent. In the event the City determines that a farmers’ market on the Project Site is not viable, the Parties agree to work together to relocate the existing Plattsburgh Farmers’ and Crafters’ Market structure off the Project Site.
- (f) Merger and Subdivision. The Plans shall include all documentation reasonably required to merge the 40 Bridge Street parcel with 22 Durkee Street parcel, and then subdivide the ICV leased parcel as well as any lands to the South of Broad Street. The parcels described above are indicated on the Robert M. Sutherland P.C. ALTA SURVEY Plan for the City of Plattsburgh dated 10/16/16 and certified on 11/02/2018, herein attached at Exhibit C.
- (g) Public Parking. Prime shall generate an initial draft parking plan for the Project Site and proximate public parking areas which shall be distributed to the City. The proximate public parking areas shall include any parking areas on Bridge Street and Durkee Street to be constructed as part of the City’s Other DRI Projects. The plan shall detail the number of public parking spaces, the management system for these spaces, and shall also detail parking lot maintenance and liability. The portion of the parking plan which directly encumbers the Project Site shall be approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed. The Parties shall execute a mutually satisfactory project site parking agreement (the “Project Site Parking Agreement”). There shall be, at a minimum, 30 parking spaces designated exclusively for the public’s use on the Project Site.
- (h) Public Access Easements. An essential component of the Durkee Development is public access to the Saranac River waterfront. The Plans shall identify those areas identified by the City that it shall retain for public access easements over and across the Project Site and along the Saranac River.

Alternatively, by mutual agreement of the Parties, the Plans may show the property being subdivided in such a manner as shall result in the City retaining ownership of one or more of the areas that provide such public access.

- (i) **Utility Easements.** The Durkee Development may require the relocation of the existing utility easements that encumber the Project Site. The City will work with Prime to identify and grant utility easements on the Project Site, and the Plans shall show any such easements.
- (j) **Project Schedule.** The Parties have created a schedule for the Durkee Development (the "Project Schedule"), a copy of which is attached as Exhibit "A", that sets forth the Parties' best estimate of dates to accomplish the list of tasks delineated within said schedule, with the understanding that some dates may need to be reasonably modified during subsequent phases based on the results of the Parties' reports and investigations. In no event shall the dates set forth in the Project Schedule be considered Times is of the Essence.
- (k) **City Common Council Approvals.** In order to proceed to the Permit Phase (as defined below), the City Common Council shall approve the Plans generated during the Pre-Permitting and Design Phase, which approval shall not be unreasonably withheld, conditioned or delayed. Any objection the City Common Council may have to the proposed design based on standards set forth in the City of Plattsburgh, New York Request for Proposals, Section IV. Vision and Project Requirements attached to the Executed Letter of Intent in Appendix A shall not be deemed unreasonable. The City shall notify Prime in writing of the approval or non-approval of the Plans by the City's Common Council (together with detailed reasons as to such non-approval) of the Plans within fourteen (14) days of the City's receipt of the Plans. In the event of non-approval of the Plans by the City's Common Council, Prime may re-submit modified Plans.

On or before the end of the Pre-Permitting and Design Phase, Prime and the City shall promptly meet to review the Project Budget (outlined in Section 5 Financing below), Project Schedule, Plans, and findings, recommendations and reports referenced above to determine whether to proceed to the next phase of development.

In the event that either the City or Prime determine, for any reason, after their review of all such data and information that they do not wish to proceed with the development of the Project, a written notice of termination shall be delivered to the other party, and upon such written notice, this Agreement shall terminate with each party having no further obligation or liability to the other except as specifically set forth on the Payment Schedule and all of Prime's Work Product, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, collected during the Pre-Permitting and Design Phase shall be assigned to, and shall become the property of the City. The decision as to whether or not to proceed to the next phase shall be made within fifteen (15) days after the end of the Pre-Permitting and Design Phase, as it may be extended.

Section 4. **Permitting** In the event neither party provides the above referenced written notice of termination as provided for in Section 3, the Parties shall promptly proceed with the next phase of development, the "Permit Phase," which shall consist of a ninety (90) day period and which shall include the following steps:

- (a) **Permit Applications and Process.** Prime and its agents shall prepare and submit all necessary municipal, state and federal permit applications required for the approval of the Durkee Development and shall present such applications to the applicable governmental authorities. In the event that the City's Other DRI Projects require permit approvals, those permit applications shall be prepared, submitted and pursued by the City in conjunction with the Durkee Development. Each party's responsibility for the cost and expense for the engineering work and permit costs shall be set forth on the Payment Schedule. Both the City and Prime shall actively participate

during the Permit Phase and shall execute permit applications and attend informational meetings, pre-permitting meetings and public hearings, as requested. During the Permit Phase, each party shall review and approve any material permit conditions with respect to the design of the Durkee Development that would substantially or adversely affect the construction, development, cost and operation of the Project, as contemplated by this Agreement. The Parties shall undertake such reasonable efforts to ensure permits are obtained in accordance with the target dates set forth on the Project Schedule.

Prime understands that the City Boards are independent bodies that will make their own evaluations of the Durkee Development and Project Site under applicable zoning requirements and that the terms and conditions of this Agreement shall not be binding on these boards.

- (b) **Planned Unit Development Approval.** Simultaneously with the Merger and Subdivision, Prime, with assistance from the City, will use reasonable efforts to obtain an amended Planned Unit Development (“PUD”) approval for the Durkee Development on the Project Site per the process described by the City of Plattsburgh Zoning Code.
- (c) **SEQRA Approval.** As part of the City permitting, the Parties will need to obtain SEQRA approval. The Parties agree to work together on preparing and submitting the needed applications to obtain SEQRA approval.
- (d) **State and Federal Approvals.** Prime shall be responsible for obtaining all needed state and federal approvals for the Durkee Development. The City shall be responsible for obtaining all needed state and federal approvals for the City’s Other DRI Projects. The Parties agree to work collaboratively as needed for obtaining these approvals.

Section 5. **Financing**

- (a) **Preliminary Financial Review.** Prime shall provide updated financials, to the extent same exist, and operating proforma to City for review and approval during the Due Diligence phase.
- (b) **Financing.** Within forty-five (45) days of receiving all final, non-appealable permits for the Durkee Development (the “Financing Phase”), Prime shall prepare, submit and use its best efforts to obtain the necessary financing for the entire Durkee Development. This shall include monies provided by NYS and awarded to the City as part of the City’s DRI grant in an estimated amount of Four Million Dollars (\$4,000,000.00) subject to NYS contractual obligations, private financing, and/or other sources. Prime will make all decisions on matters relating to the financing of the Durkee Development, including financial modeling and structuring, analysis of available financial incentives, and the identification and selection of, and all communications and negotiations with, financing sources. Prime will coordinate directly with NYS for the use and acquisition of DRI funds which will be used to leverage Prime’s \$26M investment. Prime will communicate regularly with the City with respect to the allocation, use and acquisition of DRI funds. The City will review all financing sources and associated commitments. If satisfied with the amount and format of the financing, the City shall provide Prime with a written approval of the financing plan, which approval shall not be unreasonably withheld, conditioned or delayed. The City shall use its commercially reasonable efforts to cooperate with Prime in its efforts to obtain the financing for the Durkee Development.
- (c) **Real Estate Taxes/PILOT.** It is the expectation of the Parties that Prime shall be responsible for payment of real estate taxes for the Durkee Development once the Project Site is conveyed to Prime. Prime intends to pursue a PILOT agreement with Clinton County Industrial Development Agency and the other taxing jurisdictions, including the City and the City of

Plattsburgh School District (the "PILOT Agreement"). Prime will apply for the PILOT Agreement during the Due Diligence Phase.

- (d) Project Budget. Except as otherwise set forth herein, it is the Parties' intention that each party will pay for its own costs for the permitting, engineering, design and construction of their respective projects: the Durkee Development by Prime, and the Other DRI Projects by the City. Each party shall prepare its own budget during this phase (including any expectation of reimbursement of costs from the other party and the reasons for such reimbursement). The Parties shall work together to ensure that each project budget is as final as possible given the information available to the Parties during the Pre-Permitting and Design Phase, with the understanding that as the Durkee Development evolves, each budget may require adjustments and modifications. The Parties agree during each phase to periodically review together each party's budget, making any necessary adjustments.
- (e) Payment Schedule. The Parties agree during this phase to finalize a schedule (the "Payment Schedule") that sets forth the Parties' best estimate of each party's responsibility for the costs and expenses for their respective projects based on each party's Project Budget, together with a schedule of when such payments will be due. This Payment Schedule will be subject to the Financing Phase as set forth above. It is anticipated that Prime will coordinate and engage directly with NYS regarding its use of the DRI funds. However, due to the inter-related nature of the City's Other DRI Projects, the Parties will also benefit from a Payment Schedule which clearly delineates each Parties' responsibilities for the related projects.

Section 6. Conditions Precedent to Closing. The Parties hereby agree to the following conditions, which must be established and satisfied prior to the Closing Date as defined in the Project Schedule:

- (a) City's Closing Conditions. The City's obligation to close shall be subject to the satisfaction of the following conditions (the "City's Closing Conditions"): (i) Prime being in a position to initiate the Durkee Development on the Property with a start date for construction as defined in the Project Schedule (ii) the City and Prime entering into the Project Site Parking Agreement, (iii) Prime obtaining construction financing for the Durkee Development at commercially reasonable terms after good faith, diligent efforts to obtain said financing, with closing on the construction financing to occur contemporaneously with the Closing under this Agreement; (iv) Prime and the City come to agreement on items in the Pre-Permitting and Design Section above including, but not limited to, incorporation of energy efficient measures and green infrastructure as noted above, incorporation of a farmers' market or an alternate public amenity, public access easements, and utility easements; and (v) Prime obtaining all permits and approvals necessary to construct and operate the Durkee Development.

In the event City's Closing Conditions have not been satisfied on or before the Closing Date, City may, in City's sole discretion elect to: (i) terminate this Agreement by providing written notice of termination to Prime on or before the Closing Date in which case all rights and obligations of the Parties to this Agreement shall cease and terminate, except those that expressly survive the termination or expiration of this Agreement; or (ii) may waive the satisfaction of one or more of City's Closing Conditions and proceed with the sale contemplated by this Agreement.

- (b) Prime's Closing Conditions. Prime's obligation to close shall be subject to the satisfaction of the following conditions ("Prime's Closing Conditions"): (i) Prime being in a position to initiate the Durkee Development on the Property with a start date for construction as defined in the Project Schedule, (ii) the City and Prime entering into the Project Site Parking Agreement; (iii) the City providing all of the easements described in Section 1 above; (iv) Prime obtaining all necessary financing for the Durkee Development at commercially reasonable terms after good faith, diligent efforts to obtain said financing, with closing on the construction financing to occur

contemporaneously with the Closing under this Agreement; (v) Prime obtaining a PILOT Agreement and other financial assistance from the County of Clinton Industrial Development Agency and other taxing jurisdictions, including the City and the City of Plattsburgh School District, (vi) Prime obtaining a title commitment from a national title insurance company of Prime's choice for the Project Site insuring fee simple title to the Project Site and showing the title to the Project Site to be free and clear of all liens, restrictions, charges, encumbrances, easements, covenants, conditions and other matters affecting title, with the exception of any existing NYS environmental easements, City utility easements, public access easements, and, except for those acceptable to Prime, in its sole and absolute discretion. Any title issues of record as of the end of the Due Diligence period to which Prime has not objected to by the end of the Due Diligence period are considered acceptable to Prime and are waived; (vii) the City having performed all of its obligations hereunder, and (viii) Prime obtaining all permits and approvals necessary to construct and operate the Durkee Development issued without conditions to which the City reasonably objects, and such permits, approvals and consents having become final and unappealable.

In the event Prime's Closing Conditions have not been satisfied on or before the Closing Date, Prime may, in Prime's sole discretion elect to: (i) terminate this Agreement by providing written notice of termination to City on or before the Closing Date in which case all rights and obligations of the Parties to this Agreement shall cease and terminate, except those that expressly survive the termination or expiration of this Agreement; or (ii) may waive the satisfaction of one or more of Prime's Closing Conditions and proceed with the sale contemplated by this Agreement.

Section 7. **Closing**

Purchase and Sale Phase. Within thirty (30) days of Prime obtaining all permits and approvals in final unappealable form the City's review and approval of Prime's financing plan, and the satisfaction of Prime's Closing Conditions, the Parties shall enter into a Purchase and Sale Agreement for the Project Site in a form drafted no later than April 30, 2019 (the "Purchase and Sale Agreement"). The Purchase and Sale Agreement shall include the customary terms and cost allocations for a sale of commercial property in Clinton County. The purchase price (the "Purchase Price") for the Property shall be one dollar U.S. (\$1.00), the obligations contained herein, including the obligation to construct and operate the mixed-use development, and other good and valuable consideration.

Within thirty (30) days of the Parties obtaining needed municipal, NYS and federal permits for the Durkee Development and the City's Other DRI Projects, the Parties shall complete a closing. The prospective deed from the City to Prime shall include the City's retention of easements for utilities and public access. The specific easement descriptions will be provided by the City to Prime for its review and approval (and the approval of Prime's lender) and, following such approval, will be recorded in the Clinton County Clerk's Office

Section 8. **Pre-Construction Phase.** Within forty five (45) days of the Closing and as defined in the Project Schedule, Prime shall promptly proceed to the Pre-Construction and Construction Phase, which shall include the following responsibilities:

(a) **City's Pre-Construction Obligations.**

- (i) During the Pre-Construction Phase, the City shall communicate and cooperate with Prime and its agents as Prime completes the bidding process for the contractors and subcontractors.

(b) Prime's Pre-Construction Obligations.

- (i) Prime has established with the NYS Department of Labor that Prime's use of DRI funds shall not subject the Durkee Development to prevailing wage laws, but Prime will be required to use best efforts to fulfill NYS Minority and Women Owned Business Enterprise (MWBE) requirements during the bidding process for contractors and subcontractors.
- (ii) Once the bidding process has been completed, Prime shall enter into a construction contract per the Plans.
- (iii) The principals of Prime agree to deliver for the City's benefit a completion guaranty in a form to be negotiated and agreed upon no later than April 30, 2019 (the "Completion Guaranty"), whereby the principals for Prime guaranty Prime's obligations to construct and complete the Durkee Development in accordance with the Plans. The Completion Guaranty shall be subject to the review and approval of Prime's lender(s).

Upon completion of the Pre-Construction Phase the Parties shall proceed to the Construction Phase in accordance with Section 9 below.

Section 9. Construction Phase. During the Construction Phase, the Parties shall have the following responsibilities and obligations:

(a) City's Construction Obligations:

- (i) Absent a written agreement with Prime to the contrary, pay all costs, expenses and fees incurred in connection with the construction of the City's Other DRI Projects.

(b) Prime's Construction Obligations:

- (i) Pay all costs, expenses and fees incurred in connection with the construction of the Durkee Development.
- (ii) Supervise the construction of the Durkee Development to ensure compliance with all laws and obtain all final permits and certificates of occupancy for the Durkee Development.
- (iii) Ensure that the insurance requirements set forth on Exhibit D, attached hereto, are met.

The Parties acknowledge and agree that subject to construction sequencing constraints, it is the Parties' intent that the construction of the Durkee Development and the City's Other DRI Projects shall occur simultaneously, and that all reasonable efforts shall be made by both Parties to ensure that each project is substantially complete at relatively the same time.

Each party shall have the right to reasonably review and inspect the other's project during construction to ensure compliance with the Plans and approved permits.

Following substantial completion of the Durkee Development, Prime, or an equally qualified management company, shall manage the Durkee Development while same is owned by Prime.

Section 10. Joint Obligations of the Parties. During the term of this Agreement, the City and Prime agree as follows:

- (a) To cooperate and communicate with each other on a regular basis including arranging joint meetings to address issues set forth in this Agreement and to discuss any change orders so as to permit the orderly and efficient construction and development of the Durkee Development.
- (b) To perform their activities as to the Project Site in a commercially reasonable manner.
- (c) To act in a manner designed to cause the Durkee Development to be placed in service by September 1, 2021 when the Certificate of Occupancy is issued as noted in the Schedule in Exhibit A.
- (d) To indemnify and hold harmless the other from and against any and all costs, expenses, damages and liabilities arising out of or in connection with: (i) breach by such party of its obligations under this Agreement; and (ii) any negligent or willful activities of the party with respect to the Durkee Development, except to the extent attributable to the fault or neglect of non-indemnifying party.

Section 11. **Term**. The term of this Agreement (the "Term") shall commence on the Effective Date and, unless earlier terminated pursuant to the provisions of Section 1, 3, 13(i) (below), shall terminate on the date that the Durkee Development is substantially complete. As used herein, the Durkee Development will be deemed to be "substantially complete" when: (a) certificates of occupancy have been issued for the Durkee Development by the City; (b) a certificate of substantial completion has been issued by the architect for the Durkee Development; (c) the physical construction of the Durkee Development is complete, subject only to a minor punch list of completion items; and (d) all legal documents by and between the City and Prime finalized with regard to the use and operation of the Durkee Development.

Section 12. **Ongoing Role of the Parties**. During the Term:

- (a) The City shall not encumber the Project Site with any liens or mortgages and shall not convey any easements or related interests to third parties except as contemplated in this Agreement, or enter into any leases for the Project Site, except for the leases contemplated in this Agreement, without Prime's prior written consent, not to be unreasonably withheld.
- (b) The Parties shall cooperate to execute legal documents required for the Durkee Development, such as easements, licenses or other legal interests needed for the success of the Durkee Development.
- (c) The Parties shall provide assistance to each other to support the success of the Durkee Development including supporting and attending permit proceedings and pre-development meetings with neighborhood groups.

Section 13. **Default/Termination**. At any time during the term of this Agreement, if either party is in default, the non-defaulting party shall be entitled to the following remedies.

- (a) Except as set forth above, if either party shall fail to commence their work in accordance with the provisions of this Agreement; fail to prosecute their work to the completion thereof in a diligent, efficient, workmanlike, skillful and careful manner and in strict accordance with the Plans and the terms and conditions of the federal, state and municipal permits for the Project (including without limitation in conformance with the City's code standards and other applicable standards); fail to perform any of its obligations under this Agreement or the Plans; file a voluntary case under bankruptcy laws; be adjudged bankrupt; or fail to make prompt payments as outlined in the Payment Schedule, the non-defaulting party shall have the right, if the defaulting party shall not cure such default within thirty (30) days written notice thereof (provided, however, that if such default is not susceptible of cure, given commercially reasonable

diligence on the part of the defaulting party within such thirty (30) day period and the defaulting party during such thirty (30) day period commences curing such default and continues with diligence and continuity to cure such default, the defaulting party shall have such additional time, as shall be reasonable under the circumstances, within which to cure such default) to terminate this Agreement.

The above-described rights and remedies set forth in this Agreement are cumulative and in addition to any other rights and remedies at law or in equity. Additionally, in the event of a default by Prime, the City shall be entitled to all of Prime's Work Product, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, for the Durkee Development which shall be assigned to and become the property of the City. Neither party, however, shall be liable to the other for any consequential or indirect damages.

- (b) Notwithstanding the terms of Subsection 13(i), this Agreement may be terminated under the terms set forth above in Sections 1 and 3.

Section 14. **Dispute Resolution.** The development of the Project will involve a number of future decisions among the Parties and will require ongoing cooperation and fair dealing. If a dispute arises out of or relates to this Agreement or its breach (a "**Dispute**"), the Parties shall endeavor to settle the Dispute first through direct discussions. In the event that such Dispute cannot be resolved within thirty (30) days after written notice to the other party thereof specifying the subject of the Dispute, the Parties hereby expressly agree to mediate the matter before an impartial mediator before proceeding with arbitration or litigation. The costs of mediation shall be shared equally between the Parties. In the event both Parties do not agree to proceed with arbitration, then either party shall have the right to have the Dispute adjudicated in court in Clinton County, New York, in which case the court shall have the authority to award costs and reasonable attorneys' fees to the substantially prevailing party.

Section 15. **Independent Contractor.** Each party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either party an agent or partner of the other, or to give either party the right to bind the other in any way.

Section 16. **Force Majeure.** In the event that either party shall be delayed, hindered in or prevented from the performance of any act required hereunder, by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive state or federal governmental laws or regulations, riots, insurrection, war, terrorism, or other reason beyond its reasonable control (including the act, failure to act or default of the other party), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Section 17. **Waiver.** The failure of either party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the party granting the waiver.

Section 18. **No Assignment.** Neither party may assign or convey this Agreement or its obligations hereunder without the other's prior written consent, except that Prime may assign this Agreement to a newly formed entity either having the same members/majority owners as Prime.

Section 19. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the state of New York.

Section 20. **Notices.** Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid, by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, by facsimile or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City: City of Plattsburgh
Attn: Office of Community Development,
City Hall, 41 City Hall Place
Plattsburgh, NY 12901
Telephone No.: (518) 536-7510
Telecopier No.: (518) 561-7367
MillerMa@cityofplattsburgh-ny.gov

With a copy to: Dean C. Schneller, Esq.
Law Offices of Dean C. Schneller
121 Bridge Street
Plattsburgh, NY 12901
Telephone No.: (518) 647-8877
Telecopier No.: (518) 647-8316
Dean@schnellerlaw.com

If to Prime: Prime Plattsburgh, LLC
c/o Prime Companies
Attn: Dean Devito
621 Columbia Street
Cohoes NY 12047
Telephone No.: (518) 785-9000
ddevito@CBCPrime.net

With a copy to: Whiteman Osterman & Hanna LLP
One Commerce Plaza
Albany, New York 12260
Attn: Randall S. Beach, Esq.
Telephone No.: (518) 487-7740
Telecopier No.: (518) 487-7777
rbeach@woh.com

or to such other person, address or number as the party entitled to such notice or communication shall have specified by notice to the other party given in accordance with the provisions of this Section 8. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by telecopy, when transmission has been electronically confirmed; and (iv) if sent by email, upon receipt of a read-receipt or other acknowledgment of receipt by the recipient.

Section 21. **Representations and Warranties.** As of the date hereof and as of the Closing Date, the City represents, warrants and covenants to Prime that:

- (a) There are no contracts, agreements, undertakings or otherwise which would be binding on Prime or the Project Site from and after the closing other than those disclosed or of record.
- (b) Except as has been disclosed to Prime, the City has not received any notice, nor is the City aware, of any violation of any ordinance, regulation, law, statute, rule, insurance requirement, or restriction relating to the Project Site.
- (c) There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws or any other litigation contemplated by or pending or threatened against the City or the Project Site.
- (d) No other signatures or approvals are required to make this Agreement fully enforceable by Prime with respect to the City or the Project Site.
- (e) There is no pending or threatened condemnation or similar proceeding or assessment affecting the Project Site or any part thereof, nor to the knowledge of the City is any such proceeding or assessment contemplated by any governmental authority.
- (f) There is no existing lease or service, management, maintenance, repair, employment, construction or other contract or agreement currently affecting the Project Property.

The City hereby indemnifies and holds harmless Prime from and against any and all loss, expense (including, without limitation, reasonable attorney fees), penalty fees, liability, cost, claim, demand, action, cause of action and suit arising out of or in any way related to any breach of any representation or warranty of Seller in Section 21 of this Agreement.

Section 22. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 23. **Further Assurances**. The Parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement.

Section 24. **Waiver of Rule of Construction**. The Parties waive the benefit of any rule that this Agreement is to be construed against one party or the other.

Section 25. **Severability**. If a court of competent jurisdiction determines that any portion of this Agreement is illegal, unenforceable or invalid, then that portion shall be considered to be removed from this Agreement, the remainder shall remain in full force and effect, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

Section 26. **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties relating to its subject matter, and supersedes all prior representations, understandings and agreements, written or oral, express or implied. The Agreement can be modified only by written agreement executed by authorized representatives of each party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties, as evidenced by the signature of their Duly Authorized Agents, do hereby execute this Agreement this 29th day of March, 2019.

IN PRESENCE OF:

[Signature]
Witness

CITY OF PLATTSBURGH

By: [Signature]
Colin Read, Mayor

IN PRESENCE OF:

[Signature]
Witness

PRIME PLATTSBURGH, LLC

By: [Signature] - Member
Duly Authorized Agent

STATE OF NEW YORK
COUNTY OF CLINTON

On this 29 day of March, 2019, personally appeared COLIN READ, to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed as the Mayor of the City of Plattsburgh.

STATE OF NEW YORK
COUNTY OF Albany

SYLVIA PARROTTE
Notary Public, State of New York
No. 01PA6304470
Qualified in Clinton County
Commission Expires May 27, 2022

On this 1 day of APRIL, 2019, personally appeared [Signature], to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed as the duly authorized member of Prime Plattsburgh, LLC.

DANIELLE KOONCE
Notary Public - State of New York
NO. 01K06229404
Qualified in Albany County
My Commission Expires 12/22

Exhibit "A"

Project Schedule

Durkee Development - Schedule
Development Agreement Exhibit "A"

The Parties shall develop a schedule for the proposed project that anticipates construction of needed utility realignments and adjustments for the proposed project based on the following outline. This schedule assumes no extensions.

February 21, 2019	Execution of the Letter of Intent.
March 31, 2019	Prime's Completion of Due Diligence Work.
April 1, 2019	Execution of the Development Agreement.
April 30, 2019	Draft Purchase and Sale Agreement; Negotiated Completion Guaranty complete.
May 21, 2019	City approves Prime's proposed Project conceptual design prior to obtaining permits.
November 30, 2019	Prime obtains needed municipal, NYS and federal permits for proposed project. City obtains needed municipal, NYS and federal permits for the other DRI projects.
December 30, 2019	Closing on sale of property.
January 30, 2020	Prime to break ground on construction of proposed project.
May 1, 2020	City to break ground on construction of other DRI projects.
September 1, 2021	Prime to complete building 1 of proposed project, Certificate of Occupancy issued.
February 28, 2022	Prime to complete building 2 of proposed project, Certificate of Occupancy issued.

Exhibit "B"

Executed Letter of Intent

Letter of Intent

By and Between the City of Plattsburgh, New York and Prime Companies, LLC.

February 21, 2019

This non-binding Letter of Intent (LOI) sets forth the basic terms, conditions and process upon which Purchaser and Seller will enter into a Development Agreement for the Property described below.

Background

New York State (NYS) awarded the City of Plattsburgh \$10 million in grant funding through Governor Andrew Cuomo's Downtown Revitalization Initiative (DRI) to implement 10 catalytic investment projects in downtown Plattsburgh as part of a longer-term strategy to attract additional public and private investment for revitalization. The Durkee Street Site (Project Site) is the centerpiece of Plattsburgh's DRI revitalization effort and NYS allocated \$4.3 million towards its implementation that could include public infrastructure and gap financing. The DRI's Streetscape Improvements and Riverfront Access projects will complement and support the Project Site redevelopment, which will include improvements on Durkee and Bridge Streets, and Saranac River riverfront improvements bordering the Project site.

The City of Plattsburgh, New York (the "City") issued a Request for Proposals on October 17, 2018 ("RFP"), for a mixed-use development on several City owned parcels of land approximately 3.4 acres in size located on Durkee Street and bordering the Saranac River in downtown Plattsburgh. Prime Companies, LLC ("Prime Companies") submitted a proposal in response to the RFP to develop, finance, construct and manage a mixed-use development to be built on the Project Site that is to be purchased from the City. The City's Common Council subsequently authorized negotiation of both a LOI and a Development Agreement ("DA") based on Prime Companies' proposal.

The City and Prime Companies (collectively, the "Parties") wish to memorialize their understandings with regard to the Project in this LOI, which shall also form the basis for the drafting of a DA.

Seller: The City of Plattsburgh, New York

Purchaser: An entity to be formed through Prime Companies, LLC.

Property: The Project Site consists of two separate properties: 40 Bridge Street and 22 Durkee Street and is approximately 4.38 acres combined. A portion of this is a leased parcel of approximately 1.3 acres on the southern end of the Project Site that contains a three-story office building and a two-level parking structure (the "Leased Property"), which is not part of the Property. Access to the Property is from Durkee Street and Bridge Street. Seller shall be responsible for the subdivision of the Leased Property from the Property and the merger of 40 Bridge Street and 22 Durkee Street, both of which may be part of the permitting for the Project.

Purchase Price: The purchase price (the "Purchase Price") for the Property shall be one dollar U.S. (\$1.00), the obligations contained herein, including the obligation to construct and operate the mixed-use development, and other good and valuable consideration. The Purchase Price shall be paid at Closing.

Project Development: Purchaser intends to develop and construct a mixed-use development consisting of 2 buildings consisting of approximately 127 +/- market rate apartments (exact number of units TBD) including furnished corporate apartments by ExecuStay, approximately 13,515 square feet of commercial space (retail, restaurants and/or office), approximately 7,883 square feet for Farmers' Market/civic space; approximately 233 parking spaces; and public access to the Saranac River waterfront. Seller and Purchaser acknowledge and agree that the plans, including the configuration and size of the buildings, are conceptual and, to achieve the goals of each party, may be amended as design and permitting progress. The proposed Project may be phased with building 1 to start construction first and building 2 to begin construction approximately 6 months later.

DRI Funding: Seller has \$4 million remaining of their DRI awarded funding to be used towards a public ~ private partnership to support public infrastructure investments and provide vertical development gap financing to incentivize development on the Project Site. Purchaser and Seller, in consultation with NYS Empire State Development (ESD), shall work to determine how best to allocate the DRI funds to this Project. The final determination of the use of the DRI funding for the Project will be outlined in the DA.

Seller and Purchaser shall work with ESD and the NYS Department of State (DOS) to determine which specific elements will be covered by other DRI funded projects bordering the Project Site: Streetscape Improvements for Durkee and Bridge Streets, and Riverfront Access for the Saranac River ("Seller's other DRI projects"). The final determination of the specifics of the work to be covered by the other DRI funded projects will be outlined in the DA.

Due Diligence: Purchaser shall have 40 days from the date both Parties have executed this LOI for completing general due diligence of the Property. Due diligence will include, but not be limited to,

- Existing City and NYS permitting history and analysis, and needed City and NYS permitting requirements,
- Environmental studies and brownfield restrictions and analysis,
- Title research and examination,
- Engineering analysis,
- Traffic analysis,
- Utility analysis,
- Geotechnical and soil boring analysis, and
- Other items as determined that, in Purchaser's sole discretion, need to be considered for the development of the site.

Purchaser may extend the due diligence for an additional thirty (30) days upon written notice to Seller, delivered to Seller no later than the close of business on the fortieth (40th) day of the initial due diligence period, provided that Purchaser uses its best efforts to complete its due diligence within the initial forty (40) day period.

Seller will provide Purchaser with any and all environmental documentation pertaining to the Property and requirements between the City and the NYS Department of Environmental Conservation on complying with the Site Management Plan and the environmental easement on the Project Site. Seller agrees to work with Purchaser as needed for amending NYS documents related to the Site Management Plan as may be necessary, for change of use, transfer of certificate of completion, and ownership. Purchaser understands that initial brownfield remediation work has been completed on the Property. If during construction, additional contamination is found and further remediation is needed, it shall be the responsibility of the Purchaser. The Seller will assist the Purchaser in efforts to secure potential NYS funding for this work.

The Purchaser shall provide the Seller with necessary information for determining utility allocation needs and connections for the proposed project. The Seller will provide the Purchaser needed information for utility easements on the Property as outlined in the Schedule below.

Seller will provide Purchaser with title research prepared by the City's attorney and an ALTA survey completed in October 2018.

Open Issues: The following open issues will involve negotiations between the Purchaser and Seller prior to execution of the DA.

Farmer's Market / Public Amenities: The Seller will work with the Purchaser to determine whether the Farmer's Market remains within the Purchaser's proposed project, and if so, how it will be physically laid out, designed and operated prior to beginning construction. Seller shall determine the logistics of the Farmer's Market utilizing space within the proposed project prior to execution of the DA. The Seller shall work with the Purchaser to determine what will be the public amenities proposed for the Property and how they will be managed.

Public Parking: Purchaser will work with the Seller to determine the specific number of parking spaces to be available for public use. When agreement on the number of parking spaces is reached, the Seller and Purchaser shall draft a parking agreement that will be referenced in the DA.

Public Access: Purchaser shall provide public access to the Saranac River riverfront through the Property. Purchaser will work with the Seller on the locations and management/maintenance of the public access.

Coordination with Streetscape and Riverfront Access Projects: Both parties acknowledge that Seller's other DRI projects need to progress during the same timeframe as the Purchaser's proposed project. Purchaser shall coordinate with Seller on design drawings and construction schedules for the Purchaser's proposed project and the Seller's other DRI projects to begin concurrently.

Purchaser shall be responsible for construction of the Purchaser's proposed project. It is currently contemplated that Purchaser may also construct Seller's other DRI projects under terms to be negotiated. In which event, Seller and Purchaser agree to negotiate a construction agreement addressing reimbursement for construction costs associated with Seller's other DRI projects, construction management, and oversight prior to commencing construction for the Purchaser's proposed project and the Seller's other DRI projects.

Permitting: Purchaser understands and acknowledges that the City as a permitting authority is separate and distinct from the City as Seller of the real estate. Seller makes no representation to Purchaser with respect to compliance of the proposed project with any applicable regulations, including, but not limited to, local zoning ordinances. Except as otherwise set forth herein, Purchaser will be required to apply for and obtain all permits that would be

required regardless of the City being the Seller. Purchaser and Seller shall work cooperatively throughout the design and permit process and make changes as needed. Purchaser shall receive design approval from the City as Seller of the real estate prior to applying for any permits, which approval shall not be unreasonably withheld, conditioned or delayed. Any objection the City may have to the proposed design based on standards set forth in the City of Plattsburgh, New York Request for Proposals, Section IV. Vision and Project Requirements attached in Appendix A shall not be deemed unreasonable.

The parties agree that it may be most efficient to seek permits for the Purchaser's project and the Seller's other DRI projects as a single permit process. Purchaser may assume lead responsibility for all permitting, with Seller's cooperation and support as necessary and appropriate. Seller is responsible for providing designs and any design changes for the Seller's other DRI projects to Purchaser in a timely manner to facilitate permitting. It is anticipated that the proposed project will apply for approvals as a Planned Unit Development (PUD) and subdivision as a single permit process. It is currently contemplated that the PUD will be configured as follows:

- the former Highway Oil site will be merged by the Seller with the larger Durkee parking lot.
- the parking lot south of Broad Street will be subdivided by the Seller such that it may be part of the PUD.
- The portion of the site currently leased to ICV will be a separate lot, through subdivision obtained by Seller, which may be within the PUD.
- Boundary adjustments with the abutting public rights-of-way will be made as needed to keep the streets, associated parking and sidewalks within the public rights-of-way.
- Subject to further review by the parties, the area with public riverfront improvements may also be subdivided with ownership being retained by the Seller.

Purchaser's Financing: Purchaser shall be responsible for obtaining all necessary public and/or private financing for the Purchaser's proposed project. This will include the DRI funding and may include a PILOT agreement and other public support.

Purchaser's Financial Obligations: As part of Purchaser's and Seller's negotiation for a definitive DA, the parties agree to Purchaser's financial obligations to Seller as follows:

- a. Purchaser's costs – provided Purchaser's proposed project has been found through due diligence to be suitable, in Purchaser's sole discretion, for Purchaser's intended purposes on financial terms typical for the industry, and has not been denied necessary permits,

Purchaser agrees to use best efforts to obtain necessary funding to cover the costs associated with the proposed project.

- b. Purchaser's construction of its project – Purchaser shall be responsible for construction of Purchaser's proposed project.

Purchaser's Contingencies: Purchaser's obligation to purchase the Property and construct the proposed project will be contingent upon satisfaction of the following contingencies prior to closing:

- a. **Funding:** Purchaser securing necessary funding for the proposed project, which is to include the DRI funding as negotiated above.
- b. **Purchaser's Permits and Approvals:** Purchaser obtaining all necessary, final and non-appealable City, NYS, and federal permits and approvals for the Purchaser's proposed project and, if applicable, the Seller's other DRI projects in final form not subject to appeal, containing terms and conditions reasonably acceptable to Seller and Purchaser.
- c. **Seller's Permits and Approvals:** Seller obtaining final, non-appealable subdivision and merger approvals as may be combined in a single permit process with the Purchaser's Permits it is responsible for in accordance with this LOI.
- d. **Developer Agreement:** Purchaser shall have executed a DA with Seller to purchase the Property, construct buildings and site improvements for Purchaser and Seller's use, provide public amenities and a public access easement to the Saranac River riverfront, provide a negotiated number of public parking spaces, provide needed easements for public utility access, and, if warranted, lease a portion of one building to Seller for operation of a farmer's market
- e. **Due Diligence:** Purchaser's satisfaction, in Purchaser's sole discretion, with its due diligence studies conducted in accordance with the terms of this LOI. Failure to object by the end of the Due Diligence period shall constitute satisfaction with this contingency.

Seller's Contingencies: Seller's obligation to sell the Property will be contingent upon satisfaction of the following contingencies prior to closing:

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

- a. **Developer Agreement:** Seller shall have executed a DA with the Purchaser to purchase the Property, construct buildings and site improvements for Purchaser and Seller's use, provide public amenities and a public access easement to the Saranac River riverfront, provide a negotiated number of public parking spaces, provide needed easements for public utility access, and, if warranted, lease a portion of one building to Seller for operation of a farmer's market.
- b. **Purchaser's Funding:** Reasonable evidence of full funding commitments for the Purchaser to purchase the Property and pay for the construction of all phases of the proposed project.
- c. **Permits and Approvals:** Purchaser has obtained all required federal, NYS, and municipal permits and approvals for Purchaser's proposed project and, if applicable, Seller's other DRI projects.

Closing: Closing to take place within 30 days of the following: obtaining all permits and approvals in final unappealable form and Purchaser obtaining all necessary financing.

Schedule: The Parties shall develop a schedule for the proposed project that anticipates construction of needed utility realignments and adjustments for the proposed project based on the following outline.

- | | |
|-------------------|--|
| February 21, 2019 | Execution of the Letter of Intent. |
| March 31, 2019 | Purchaser's Completion of Due Diligence Work. |
| April 1, 2019 | Execution of the DA. |
| June 1, 2019 | Seller of real estate approves proposed Project design prior to obtaining permits. |
| October 31, 2019 | Purchaser obtained needed municipal, NYS and federal permits for proposed project. Seller obtained needed municipal, NYS and federal permits for the other DRI projects. |
| November 30, 2019 | Closing on sale of property. |
| December 1, 2019 | Purchaser to break ground on construction of proposed project. |

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

May 1, 2020 Seller to break ground on construction of other DRI projects.

May 31, 2021 Purchaser to complete building 1 of proposed project.

December 31, 2021 Purchaser to complete building 2 of proposed project.

Reversionary Rights: If Purchaser fails to commence construction within 30 days of closing or fails to make substantial construction progress for any period exceeding 2 weeks, as such breach will be set forth in the DA, all right, title, and interest in the Property would revert back to the Seller. The foregoing shall not apply in the event Purchaser is delayed or hindered in or prevented from the performance of any work because of strikes, lockouts, labor troubles, inability to procure material, failure of power, unreasonably restrictive governmental laws or regulations, riots, insurrection, war, acts of terror, any reason not in the control of Purchaser or other reason of a like nature not the fault of Purchaser.

Development Agreement: Within 14 days of full execution of this LOI, Seller shall provide a first draft of DA to Purchaser. The Parties agree to negotiate and enter into a final, executed DA no later than April 1, 2019. In the event that the Parties have not reached agreement and executed a DA by this date, this LOI shall be of no further force and effect, and the Parties shall be free to pursue other options for the Project Site.

Non-Binding: The provisions of this LOI do not constitute a binding agreement between the Parties, but instead are intended to set forth the Parties' understanding of the basic terms, conditions and process upon which a binding, definitive DA will be based. Purchaser shall not be obligated to purchase, and Seller shall not be obligated to sell the Property until the Parties have executed a binding, definitive DA. Notwithstanding these limitations, this LOI is a sincere expression of the Parties' intent to proceed. This LOI is contingent upon the approval of the City's Common Council, which approval the City shall diligently pursue.

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

The Parties do hereby set their signatures and seals to the Joint Letter of Intent on this 22nd day
of February 2019.

Prime Companies, LLC

By: [Signature]

Title: Member

Name: Tom Conroy

City of Plattsburgh

By: [Signature]

Title: Mayor

Name: Feb. 22, 2019 / Colin Read

Letter of Intent

By and Between the City of Plattsburgh, New York and Prime Companies, LLC.

February 21, 2019

APPENDIX A

I. VISION AND PROJECT REQUIREMENTS

- **New Buildings and Site Development:** The proposed development must consist of multi-story buildings that have mixed-uses. The City envisions residential, office, and retail uses for the Project Site. It should provide for public access to nearby amenities and should have community green space. The City's goals for the project include:
 - Include market rate residential development, Class A office space, and retail space,
 - Capitalize on local and regional initiatives focusing on food, agriculture, arts, history and tourism,
 - Serve multiple community functions,
 - Provide for physical/visual connections to Westelcom Park (across Durkee Street), the Saranac River riverfront, and the regional waterfront trail extensions, and
 - Provide community green space.

The City will consider uses other than what has been identified above.

The primary goal is to realize buildings and uses on the site that fit in well with the diverse urban fabric, maintain the historical look and feel of the downtown area, add to the increasing vibrancy of downtown, are economically feasible, and help contribute to a stable tax base.

Design and Configuration:

- The buildings and site shall be constructed of quality materials and design. The design of the buildings shall require approval of the City.
- Maximizing lot coverage and placing the buildings in a manner that enhances pedestrian access and visual appeal from the street is highly encouraged.
- The proposed site and building layout shall be handicap accessible, barrier free and customer oriented, providing easy pedestrian access.

- The buildings/spaces shall be designed and fit up in accordance with general standards for the use being provided and shall meet all applicable code requirements as specified and currently adopted by federal, NYS and local municipal authorities and permit grantors having jurisdiction.
- The City requires multiple stories for the buildings taking advantage of streetscape proximity and riverfront views.
- Developers are encouraged to incorporate the existing farmers' market structure into their proposals and develop it for three-season use. This could involve leaving the existing structure in its current location, relocating it to a different location on the site, or constructing a new three-season structure. The DRI funds could potentially be used for this work and could also be combined with other uses. If the developer is not able to include the farmer's market structure in their proposed plan, they should explain why.

Parking

Parking for the uses being proposed shall be provided on site as much as is reasonably possible. The proposed developer must address its parking needs on and off site for its build out. The City will cooperate with the developer in addressing parking requirements. Parking should be provided on site for residential units and commercial/office space. If a parking structure is part of the proposed development, the City may be interested in additional spaces for public use. The City will consider all proposed options. If the developer proposes a phased development, it is possible to use a portion of the existing parking lot for meeting parking needs while development is ongoing. The developer should consider parking under the buildings if feasible.

The City is working on a downtown parking plan that will include on street and off-street parking which they will be implementing over the next six months. The City is in the process of buying real property to develop into a municipal lot that will help accommodate the loss of parking from redevelopment of the Durkee parking lot. A managed parking system for the downtown area is also in the process of being implemented.

As mentioned above, the Streetscape Project is considering adding angled parking along Durkee and Bridge Streets bordering the site, which could be available for use by the development on the Project Site.

The City will work with the selected developer to identify other adjoining and nearby City-owned parking spaces/lots that may provide some of the parking for the proposed project through a development agreement to be executed between the selected developer and the City. The selected developer shall provide a calculation of the number of parking spaces that will be required to meet the needs of the uses being proposed and such number of parking spaces shall require approval of the City's Planning Board.

For additional information regarding parking, the current Code of the City of Plattsburgh may be found at the following website:
<http://www.cityofplattsburgh.com/DocumentCenter/View/1213/City-of-Plattsburgh-Code>
The section of the Code applicable to parking begins on Page 534 (25301) and ends of Page 556 (25321).

Exhibit "C"

Alta Survey Plan

Plan entitled "ALTA SURVEY Showing Certain Lands of The City of Plattsburgh, Clinton County, State of New York" prepared by Robert M. Sullivan, P.C. dated October 16, 2016 and certified November 2, 2018.

Exhibit "D"

INSURANCE AND INDEMNIFICATION REQUIREMENTS

A. Architect

During design and construction, the architect and all other design professionals shall carry professional liability assurance (E&O insurance) covering claims arising out of negligent errors or omissions in rendering or failure to render professional services, in any amount not less than \$1.0 million each claim and \$1.0 million annually aggregated. Coverage shall include liability arising out of a contract. If such insurance is on a claims made bases, Architect shall maintain liability coverage for not less than five years following the date of substantial completion of the Durkee Development.

B. General Contractor/Construction Manager

During construction, the GC/CM shall carry:

"All risk" Builders Risk Insurance with a limit of liability of 100% of completed value of the project, to include the interests of Prime's and the City's respective mortgagee, contractors and subcontractors involved in the project.

Workers Compensation insurance in accordance with New York State statutory requirements and Employers' Liability insurance in the amount not less than \$1.0 million each occurrence, \$1.0 million annual aggregate.

Owners and Contractors Protective Liability for the Durkee Development protecting the interests of the City and general contractor/construction manager, \$1.0 million per occurrence.

Commercial General Liability Insurance including Bodily Injury and Property Damage Liability, Independent Contractors Liability, Contractual Liability, Product Liability and Completed Operations Liability in an amount not less than \$5.0 million combined single limit, per occurrence, and \$5.0 million aggregated to this Project, naming the City and Prime as additional insureds.

Commercial Automobile Liability Insurance in an amount not less than \$1.0 million per occurrence for bodily injury and property damage liability arising out of the operation and use of owned, hired, and non-owned vehicles and naming the City and Prime as additional insureds.

Performance Bond and Labor & Materials Payment Bond. At the option of Prime, the general contractor shall provide performance and payment bonds. If required by Prime or Prime's lender, such bonds shall be in amount equal to 100% of the contract sum or an amount to be determined based on its lender's requirements.

C. Proof of Insurance

Companies authorized to do business in the State of New York and rated no less than "A-" by the latest edition of Best's Insurance Guide, published by Alfred M. Best Co. or equivalent, shall issue all insurance policies. Certificates of Insurance shall be furnished prior to the award of the contract. Certificates shall clearly indicate the coverage type, insurance amount, and additional insured status as noted above. The Certificates must provide that in the event of any material change or cancellation of the policies, each party will be given thirty (30) days' notice thereof. Each party will review the insurance coverage every 3 years and each party will update its coverage over the term of the ground lease (in the event the legal structure is for a ground lease), or over the term of the mortgage (in the event the legal structure is for a fee title conveyance) as required by the City as an operating expense.

September 5, 2019

City of Plattsburgh Common Council
c/o Hon. Colin L. Read
City Hall
41 City Hall Place
Plattsburgh, New York 12901

Re: City of Plattsburgh Downtown Area Improvement Projects Draft Generic Environmental Impact Statement (DGEIS) Draft Scoping Document Comments

Dear Mayor Read and City of Plattsburgh Common Council:

Our firm is been retained by the Plattsburgh Citizens Coalition, Inc., a not for profit coalition and its members, of concerned citizens, property owners, and business owners in the City of Plattsburgh relative to the City's proposed development plans with Prime Plattsburgh, LLC. In reviewing the "Development Agreement" between the City of Plattsburgh and Prime Plattsburgh, LLC dated March 29, 2019 (hereinafter the "Agreement"), we believe this Agreement is a nullity. The City of Plattsburgh is without power to convey the waterfront property, or any portion of it, identified in the Agreement broadly as "40 Bridge Street and 22 Durkee Street" (hereinafter the "Properties").

The Properties that are subject to the Agreement are identified by Tax Map Parcels 207.20-1-14 and 207.20-1-15. Both of these parcels lie along the Saranac River, and therefore constitute, by law, "water front" properties. The City may not legally convey these Properties.

Pursuant to New York General City Law §20(2), a city is empowered to: "***To take, purchase, hold and lease real...property within...the limits of the city;..., and to sell and convey the same, but the rights of a city in and to its water front,...streets,...avenues, parks, and all other public places, are hereby declared to be inalienable, except in the cases provided for by subdivision seven of this section.***" *Emphasis added.* In this instance, New York General City Law §20(7) included in the foregoing exception does not apply as there connection to any of the exceptions contained therein.

There is no question that this river front property, which includes the entirety of the Properties, constitutes "water front" as set forth in New York General City Law §20(2). See for example,

Gladsky v. City of Glen Cove, 164 A.D.2d 567, 2nd Dept. 1991 for a thorough discussion of this issue now posed to the City of Plattsburgh.

- As in this instance, the City of Glen Cove attempted to convey a portion of property that included “frontage on Glen Cove Creed”. *Id.* at 567.
- The question of whether or not the property in Glen Cove, as with the property along the Saranac River here, had ever been “used, acquired or dedicated” to public purpose is irrelevant. “*While other forms of City-owned property may be converted to public use and thereby be rendered inalienable under the statute, waterfront property has been expressly declared to be inalienable, regardless of the manner in which the property is used. Although we recognize that the statutory restriction against the alienation of certain municipal property emanates, to a large extent, from the “public trust” doctrine (see, Matter of Lake George Steamboat Co. v. Blais, 30 N.Y.2d 48, 330 N.Y.S.2d 336, 281 N.E.2d 147; Brooklyn Park Commrs. v. Armstrong, 45 N.Y. 234, supra; Matter of Central Parkway, 140 Misc. 727, 729–730, 251 N.Y.S. 577; Gewirtz v. City of Long Beach, 69 Misc.2d 763, 330 N.Y.S.2d 495, aff’d 45 A.D.2d 841, 358 N.Y.S.2d 957) the Legislature did not see fit to include a public-use limitation in the statute, and we decline to engraft such a limitation in a statute which is otherwise clear and unequivocal on its face.*” *Id.* at 571. **Emphasis added.** Thus, in this instance, we need not delve into whether or not the City ever “dedicated” this property to protection under the public trust doctrine. New York General City Law §20(2) preempts that decision or action.’
- The exceptions of New York General City Law §20(7) do not include alienation of waterfront property. See again, Gladsky: “*Nor does General City Law § 20(7), upon which the plaintiff relies, compel a contrary result. This subdivision creates a “discontinuance” exception to the statute’s blanket prohibition against the alienability of public property by empowering a municipality to “lay out, establish, construct, maintain and operate markets, parks, playgrounds and public places, and upon the discontinuance thereof to sell and convey the same” (emphasis supplied). Notably absent from the enumeration of the type of property which may be freely sold by a municipality upon the discontinuance of its public use is waterfront property. The reason for this absence is clear—waterfront property, as we have noted, is entitled to special protection by virtue of its geographical location rather than by virtue of its use. Unlike a public playground, which may cease to be a playground if its use is altered, waterfront property is intrinsically unique. That the discontinuance exception does not, and should not, apply to waterfront property becomes all the more compelling given the significant ecological, scenic, and aesthetic qualities inherent in it.*” **Emphasis added.**

In addition, it is also noted that the parking lot here may very well also be protected by the public trust doctrine, in addition to the issues surrounding New York General City Law §20(2) above. See generally 10 East Realty, LLC v. Incorporated Village of Valley Stream, 49 A.D.3d 764, Second Department 2008, as well as the related 10 East Realty cases at 17 A.D.3d 474, 49 A.D.3d 770. Although the Second Department found in the case of the village in 10 East Realty that the public trust doctrine was not violated by the conveyance of a parking lot there, here, we have a bit of a different scenario. In the City of Plattsburgh, this parking lot, and indeed other similar parking lots within the downtown parking district, are held for the benefit of that parking district. Taxpayers are charged a special tax for the maintenance, repair and upkeep of those parking lots, evidencing an intention by the City of Plattsburgh to hold those public parking

spaces in public trust for this district. That is, the City cannot, absent legislative approval, remove the benefit that it has charged the City's parking district. Thus, no parking property may be alienated without addressing the underlying special taxing district.

The continuing wrong evidenced by the Agreement in violation of New York General City Law §20(2) must be reversed. The City of Plattsburgh does not possess the legal authority to enter into the Agreement.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Fuller', written in a cursive style.

Matthew F. Fuller, Esq.
mfuller@meyerfuller.com

cc: Plattsburgh Citizens Coalition, Inc.



City Info <cityinfo@plattsburghcitygov.com>

Panning Board Comment

2 messages

bobcatgb1@aol.com <bobcatgb1@aol.com>

Mon, Apr 6, 2020 at 9:21 AM

To: cityinfo@plattsburghcitygov.com, readc@cityofplattsburgh-ny.gov, plattsburghcitizencoalition@gmail.com, mdelisle@pressrepublican.com

To: City of Plattsburgh Planning Board

With respect to the DRI Durkee St. project I am requesting the following actions:

Do not approve said project for many factors that the community has previously set forth. Attached are three documents to support this position.

1. A "letter to editor" published in the Suncommunity news dated March 24, 2020. This addresses better options for said project
2. A position letter dated February 28, 2020 addressed to Prime Plattsburg LLC stating facts that are to be considered herein.
3. A "letter to editor" published in the Suncommunity news dated April 4, 2020. This addresses the financial burdens that will also affect the subject DRI project.

The City of Plattsburgh should caution against an approval in light of the current financial situation. Certainly the City does not want to be in a position similar to Burlington with the stalled "City Place" project.

In the alternative, delay a decision until the virus crisis is over and the new financial balance is established for a just decision.

Thank you for your consideration to these facts and documents that are to be entered into the record of the Prime Plattsburgh LLC application

Geoffrey B. Barker
4079 State Route 9
Plattsburgh, NY 12901
518 563-0685

**Scan Docs opposing DRI 4-6-2020.pdf**

1228K

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:17 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]

**Scan Docs opposing DRI 4-6-2020.pdf**

1228K

will be responded to in the order in which received. Please take the time to explore these sites and engage students in discovering the vital importance of local history and geography as a basis for understanding other places more distant in time and location.

— Robert L. Arnold, SUNY Professor Emeritus of Education ■

Plattsburgh parking

To the editor:

The best course to "increase the availability of free parking" is to cancel the Prime Plattsburgh LLC project. Back in the mid 1960s the City of Glen Cove, New York, had a city structure much like Plattsburgh. They were smart then to take the only large parking area and make a multi story parking garage to handle the then current and future parking needs of that city. The virus crisis will be settled eventually. What is of concern to all of us is the economic recovery needs.

The state was in dire financial \$6 billion debt prior, with maybe \$4 billion more to add. Locally we are going to be tasked to cover our "fair share". My suggestion is to anticipate loss of some of our airline service once this passes and the low cost carriers may not survive. Shut down the "International Arrivals Facility" since it serves only a few corporate and small prop aircraft and no International airline can be profitable with service here. Cut payroll and operating costs.

Cancel the planned "International Air Cargo Facility" as impractical and a waste of money. The Clinton County Legislators are aware of this but enjoy spending our limited tax monies. Airlines loaded with passengers from high density Florida to Plattsburgh/ Montreal

is a major threat. So are the packed warehouses and factory facilities that continue to ignore common health concerns.

The unemployed restaurant and leisure business community workers would like to know if any staffing reductions made by the governments means with or without pay for them. And being paid for "telecommunication" from home is unfair and a waste of money. Curtail CCIDA tax relief. Schluter, for example is large enough to not need the pending PILOT relief. Cancel the Prime Plattsburgh LLC PILOT relief application.

The elected and employed public employees need to immediately address the loss of tax revenue we are going to experience.

— Geoffrey B. Barker, Plattsburgh ■

Thank you

To the editor:

Free the money

PR 4-1-20

TO THE EDITOR: Due to the devastation wreaked upon our city economy by the COVID-19 virus, local businesses will need all the aid and support from City Hall which they can get.

Prior to the pandemic, over 70 local business owners signed a petition against the sale and development of the public land of Durkee Street parking lot to a private downstate concern. I have attended meetings and no provision to replace city snow ban parking has even been made.

City Hall has persisted in its unrelenting pursuit of this project. One can only hope the council has no conflict of interest.

Now would be the perfect time for Mayor Read to abandon this project, to free up DRI monies for our own local existing/struggling businesses, the true purpose of the Downtown Rehabilitation Initiative.

KATHY BAUMGARTEN, TSGT USAF, Ret.
Plattsburgh

Prime Plattsburgh LLC
621 Columbia St. Extension
Cohoes, NY 12047

Dear Sir or Madam;

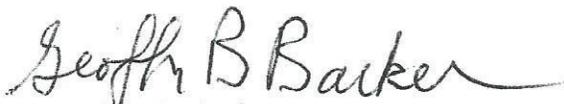
This letter is written with respect to your application for PILOT relief and the planned Plattsburgh Durkee Street Plattsburgh NY project.

As a resident of the area I want to express to you the following adverse factors your plan is causing for your immediate consideration:

1. The overwhelming majority of Clinton County residents do NOT want this project.
2. The project is being pushed thru with apparent bias and prejudice that will lead to protracted litigation.
3. The loss of the parking lot will have adverse effects on the dwellings and businesses in that area. In spite of what is proposed, the City and County do NOT have viable plans for parking. This will adversely affect the income Prime expects to receive and adversely affect all in the area. Prime will be held responsible for this.
4. The PILOT relief, if granted, will adversely affect the City school tax base as well as the tax base for ALL residents of Clinton County NY
5. There is recent activity that may indicate improper consideration of the PILOT awarding process, again leading to litigation. Many other adverse factors exist. Available upon request.

In light of the above adverse facts, the people of Clinton County request that Prime Plattsburgh LLC withdraw the planned Durkee Street DRI "redevelopment" proposal. Please call me anytime to discuss this request.

Sincerely,



Geoffrey B. Barker
4079 Route 9
Plattsburgh, NY 12901
(518) 563-0685

February 29, 2020

Opinion

Letters *SCW COMM News*
APR. 4, 2020

Taxpayer of Clinton County

To the Editor:

As a resident taxpayer of Clinton County, I am requesting a reply to how the Clinton County Legislators and Legislature is addressing the unemployment and shortfall in sales tax revenue as a result of the COVID virus.

Specifically, the Legislators are requested to address the financial shortfalls in operating budget incomes now and reassess the operating budgets.

Consider:

1. Cancel any further CCIDA PILOT relief and cancel grants to "The Development Corporation" are in order until the virus is under control and economic recovery is positive and/or the new economic reality of the North Country is known.
2. Cancel the planned "International Air Cargo Facility" as not viable. This is an irresponsible progressive waste of taxpayer money and is not economically viable for numerous reasons the Legislators are well aware of.
3. Shutter the "International Arrivals Facility" until International air traffic is deemed profitable with respect to the cost structure.
4. Lease out the renovated hangers or shutter to cut operating expenses.
5. Re-access Plattsburgh International Airport lease and utility fees charged to airport vendors to include the parking facility. Brace for potential loss of airline service and revenue.
6. Redirect or cancel county "pork" budgeted items to help maintain core businesses in the area. This is not the major manufacturing jobs that Governor Cuomo overspent in his aggressive economic development programs that we are now tasked to pay for. "Cut costs and live within our means" should be your new moto.
7. Brace for tasking to pay locally for a large increase in Medicaid mandates.
8. Plan for possible unpopular increases in realty taxes and state income taxes that the residents will mostly be unable or unwilling to support.

Thank you for your anticipated attention to this request.

— Geoffrey B. Barker, Plattsburgh, N.Y. ■



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/20202 messages

Dani G <danirae11683@gmail.com>

Mon, Apr 6, 2020 at 2:57 AM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, Tamerm@cityofplattsburgh-ny.gov, Marbut@cityofplattsburgh-ny.gov

City of Plattsburgh Zoning Board of Appeals,

I am writing to express my concern with the continuation of Zoning Board meetings, as well as concerns regarding the application by Prime Plattsburgh requesting a Special Use Permit for their project at the current Durkee Street Municipal Parking Lot.

Considering the Governor's PAUSE New York order which was issued in response to the Coronavirus outbreak, I encourage the Board to postpone any meetings which are not of an urgent matter. The Prime project can hardly be considered "essential", and if it has, please inform the public of such determination. Unless the board intends to vote this application down decisively, moving forward with such meetings to consider such non-essential issues, at a time when the public is not allowed to attend in person to observe and make public comment, will open any decisions made up to legal challenge in the future. I urge you to postpone any meetings that are not of critical concern to the health and well being of members of this community.

Please also accept the following comments in regards to the Prime application for Special Use permit, should the board decide to move forward with its determination:

In accordance with section 360-31 of the city code regarding special use permits, I believe the Zoning Board of Appeals simply CANNOT approve this application as submitted. Approval for such a permit requires that the proposed development must safeguard public health, convenience, and preserve the general character of the neighborhood. It is clear that this project is far too large for the space, and does not satisfy ANY of the criteria by which this application must be measured.

The sheer mass of this structure will dwarf the surrounding buildings of the downtown area. The DGEIS failed to produce an inventory of existing buildings and land within the designated downtown district as was requested; however, I would venture to guess that the proposed structure is close to five times the largest building that currently exists downtown, and at least ten times larger than the average building in our HISTORIC downtown district. The footprint of the building appears to occupy somewhere around 20% of the entire downtown area. We have a small, quaint, downtown which will simply be swallowed up by Prime if this is permitted to move forward. It is imperative that the nature and historic character of our downtown be preserved, as it is one of the ONLY assets we currently possess as a city. The use of differing exterior treatments will fool no one, and this structure will overpower our entire downtown, and stick out like a sore thumb.

The surrounding open space is also severely lacking, and the project provides NO meaningful public amenities as was supposed to be required per the RFP for developers. While the Durkee Street Lot's primary use is a parking lot, it has many secondary uses within the community, and provides an open space with vista views of the Saranac River, as well as gathering space for public events and festivities. Past precedent of this can be seen through the City's public permitting records, in which hundreds of events over the years have applied for and received approval for permits allowing such activities in this space. The project as proposed offers no meaningful public space, and effectively blocks nearly all view of one of our most treasured resources, the Saranac River. By creating such an uninviting environment along the river, this project will effectively squander this resource and all funding being poured into the development of the Saranac River Trail as well.

It is also concerning that parts of the building will have residential units on the first floor. This is not conducive to a downtown urban experience. All residential units should start on the second or third floors.

The parking issues are also of concern. The building simply does not provide adequate parking for its uses per the city code. The developer mentions that they are providing their own formula for their own parking needs based on a

model that works in another location for them. This is unacceptable. They tout this other project as being an acceptable model because it is completely isolated and not in any core city area, and they have no need for any additional parking. However, this is not an equivalent model precisely BECAUSE of the fact that this example is not in an urban downtown environment. The developer should be required to satisfy the city code. It is also concerning that, at the same time the developer wants to provide less parking than required, the city is as also coming up short on replacing the public parking spaces that Prime is going to occupy with the footprint of their building. They should be required to replace those parking spaces as well - either on or off site - as was required of the Gateway building project. This must be equivalent long term off-street parking.

Finally, the conversion of Durkee Street to one way with diagonal parking is extremely concerning regarding the street capacity and use of this building. With 114 new households coming in and out of this new massive structure, as well as all of the businesses' employees and customers, this will result in massive congestion and dangerous situations for both pedestrians and drivers. There will also be issues with garbage. The developer proposes to locate their dumpsters for this massive structure right on Durkee Street, which appear far too small to handle the proposed capacity of this structure. So not only is the public insulted by being given a sidewalk in return for our \$4.3 million investment and lucrative tax breaks which we will have to subsidize through our own taxes, but we will also have to be affronted by the refuse from the occupants of this gated community as we walk past garbage heaps on the pathway from the "arts park" to the "riverwalk". Sounds inviting, doesn't it? Insufficient dumpster capacity is also a public health issue, which will attract rodents and wild animals. Considering the proposal now includes the expectation of restaurant space for this location, there will also be an issue of smell when locating these dumpsters street-side. This plan is just terrible.

Considering that the proposed project fails at every point of consideration required by the Board, I ask that the application for SUP be rejected. However, as the board has the ability to put conditions on the developer for any SUP, I also ask that the following criteria which were laid out in the DRI Strategic Plan be provided to the developer for resubmittal of any project plans:

- 1) building may contain approximately 45 residential units
- 2) the provision of approximately 1 acre of public green space
- 3) the 1:1 replacement of public off street parking IN ADDITION to parking to satisfy their own needs

Thank you so much for your consideration of these comments. I also thank you for your service to this city, and hope that you will do the right thing by your community during these uncertain times.

Be well and stay healthy,

Danielle Erb

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:00 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board comment

1 message

Richard Spindler <rich.spindler@gmail.com>

Sun, Apr 5, 2020 at 6:03 PM

To: cityinfo@plattsburghcitygov.com

Hello,

I would like to comment on the Durkee Lot Development. First, for the City of Plattsburgh to prosper, it is imperative to encourage a variety of people to live downtown, including and especially working professionals. They will provide an economic stimulus to the city that is sorely needed for the downtown. Second, it seems very late in the process of the DRI. After all of the public input given, I cannot imagine the city going back to a blank drawing board on this. Third, I think the complaints about parking are baseless. People that are complaining about parking should live in a larger city and experience real parking issues. Besides, we need to get people out of their cars and walking more anyhow.

I'm sure there are probably inevitable conflicts that arise with such developments. They always do and you will never make everyone happy. Thank you.

Sincerely,
Richard Spindler



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board comment

1 message

Richard Spindler <rich.spindler@gmail.com>

Sun, Apr 5, 2020 at 6:02 PM

To: cityinfo@plattsburghcitygov.com

Hello,

I would like to comment on the Durkee Lot Development. First, for the City of Plattsburgh to prosper, it is imperative to encourage a variety of people to live downtown, including and especially working professionals. They will provide an economic stimulus to the city that is sorely needed for the downtown. Second, it seems very late in the process of the DRI. After all of the public input given, I cannot imagine the city going back to a blank drawing board on this. Third, I think the complaints about parking are baseless. People that are complaining about parking should live in a larger city and experience real parking issues. Besides, we need to get people out of their cars and walking more anyhow.

I'm sure there are probably inevitable conflicts that arise with such developments. They always do and you will never make everyone happy. Thank you.

Sincerely,
Richard Spindler



City Info <cityinfo@plattsburghcitygov.com>

RE: PLANNING BOARD SPECIAL MEETING COMMENTS

2 messages

sunshine19542@charter.net <sunshine19542@charter.net>
To: cityinfo@plattsburghcitygov.com

Sun, Apr 5, 2020 at 5:41 PM

Dear Planning Board Members:

My comments are as follows for the April 7th Special Meeting:

PB#2020-01: 5057 South Catherine Street 12 New Apartments.

I would MUCH rather see single family homes than more small apartment units.

12 more units on that street is too much.

1. Units are too small.
2. 2 bedrooms in a +/- 600 SF unit is too many. That will be a small apartment.
3. We need no additional traffic on South Catherine Street. South Catherine is already very busy and you know to stay away certain times of the day when Bombardier shifts gets out.
4. In my view that will create lots of density. That area is already very congested.

I ask that you vote no or have him come back with less units. I know it's R-2 but that doesn't mean it should be allowed.

PB#2019-10, 11 and [24](#) - [22 Durkee Street](#):

I'm in favor of this project. It's time that this project get's approve and put in motion.
Parking is being created all over the City.

The Vilas home is asking for 94 units in an R-1 District. Wow. If you approve that - you really have to consider approving Durkee Street.

Personally I'm concerned after the mis-information that the Plattsburgh Citizens Coalition has spread- it will be a miracle before we get other grant money for any more City development.

Planning Board is just that - planning. The intent of DRI \$ was for Downtown Redevelopment. This is certainly development.

I like the building Façade.

Again - Please approve this project and move on.

Denise Nephew

Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:05 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:40 PM

To: cityinfo@plattsburghcitygov.com

I fully support the City of Plattsburgh DRI project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

City Planning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:41 PM

To: cityinfo@plattsburghcitygov.com

I fully and enthusiastically support the DRI project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

DRI Project

2 messages

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:38 PM

To: cityinfo@plattsburghcitygov.com

Please let it be known that you have my full support for the DRI project. Plattsburgh can no longer afford to have a stagnant downtown!

Sent from Art's iPad

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 8:38 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

ZONING BOARD SPECIAL MEETING AGENDA

2 messages

sunshine19542@charter.net <sunshine19542@charter.net>
To: cityinfo@plattsburghcitygov.com

Sun, Apr 5, 2020 at 4:49 PM

Dear Zoning Board:

In all the years I did minutes for the zoning board - the Special Use Permits were always explained as a "Matter of Right."

Appeal #2232 - [22 Durkee Street](#):

I ask that you approve the SUP for Durkee Street. Durkee Street has been dragged on long enough and needs to be approved. If ever we need a shot in the arm for development, this is the time.

I'm sorry that the Building Inspector's Office, along with the Community Development Office, and Zoning and Planning Boards have to deal with "unfounded and false accusations."

Please continue your hard work and diligence of enforcing the zoning code.

Thank you for listening to my concerns.

Denise Nephew

Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 8:36 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Amend boundaries of an existing PDU and use of apartment on the first floor of multi-story building 22 Durkee St- Planning Board

2 messages

Joseph Rotella <jfrotella@hotmail.com>

Sun, Apr 5, 2020 at 2:18 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

TO: Planning Board

I believe the appeal should be disapproved.

Currently there are no ground floor apartment in the central business district. This would set a precedent for years to come which would slowly erode plattsburgh core.

As a property owner with a vacant store front requesting a permit to convert to an apartment it would be difficult for the board to disapprove. And you could , but an Article 78 could follow by any property owner in the central business district who request it if this is approved.

Has the County Planning Board been required to approve/disapprove the request?

It seems difficult the applicant is the City the city Planning Board reviews and approves?

It like the fox guarding the hen house!

In the current pandemic situation at the very lease to request should be tabled and reconvened when all members and the public be present to voice there opinion/

Joseph Rotella
Property Owner and Past Chair
Of the Planning Board

Sent from my iPad

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 9:03 AM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment April 6, 2020

2 messages

Jeff Moore <jmoore1748@gmail.com>

Sun, Apr 5, 2020 at 1:36 PM

To: cityinfo@plattsburghcitygov.com

I would like to share my thoughts on the Prime development of the Durkee Street lot. First, I'd like to say that I am 100% in favor of the development. The City of Plattsburgh hasn't had an opportunity of this magnitude in generations. This development along with all of the other projects will transform the center city for years to come.

I like the design of the building. I do not think it is too big. It will draw more development downtown. I have attended or watched the Zoning board meetings and listened to the public comments. Prime Plattsburgh LLC has listened and has been very receptive to the concerns and have made many substantial changes in response to these concerns. I've read the report from McFarland Johnson and thought they addressed all of the comments thoroughly and have satisfied the SUP requirements.

I will quote a Letter to the Editor from Bob Smith that echoes how I feel, "If we lose this project, I am very concerned that we will not have future grants from the state. The state has accepted this project and will not accept another. This is an opportunity that will not present itself again, at least in my lifetime, and I fear, forever. Don't let it slip by".

Please do the right thing for Plattsburgh and vote yes on the SUP and move this project forward.

Thank you,

Sue Moore
City of Plattsburgh
Resident/Taxpayer

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 8:26 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment Mon 6 APR 20

2 messages

Jeff Moore <jmoore1748@gmail.com>

Sun, Apr 5, 2020 at 1:16 PM

To: cityinfo@plattsburghcitygov.com

Dear ZBA Members,

I would like to state my support for approving the SUP for the Prime DRI project. After careful review of the FGEIS documents and the McFarland & Johnson answers to the questions raised by the commenters at the public hearings it is clear to me that there are no valid reasons not to approve this SUP request. Specifically: The building design will not tower over the existing downtown structures and has been shown to be aesthetically pleasing to the eye and blending with the surrounding cityscape very well. This project is not anticipated to cause any parking issues as borne out by third party studies, not by assumptions based on speculation. I trust that you will make your determinations based on the facts at hand and not on outside pressure. This is a once in a lifetime opportunity to add a new development to our long dormant Center City. If we continue to allow these empty spaces to remain and propagate we will eventually be left with nothing downtown. In closing I would like to say that I have talked to many people during my daily walks throughout the city and the vast majority are in favor of this project and are looking forward to its construction.

Sincerely,

Jeff Moore

Oak Street, Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 8:23 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Message for zoning board

3 messages

Kelly, Michael <KellyM@cityofplattsburgh-ny.gov>

Sat, Apr 4, 2020 at 9:16 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Hi,

I am writing to express my wholehearted support for the Prime Durkee Street development plan. The project has been closely scrutinized by the GEIS process and has passed with flying colors. Prime Companies, for its part, is developing quality apartment units all over the capital district and will be a good corporate citizen in Plattsburgh, just like they are wherever else they have built apartments.

A handful of misguided and disgruntled citizens are opposed to the Durkee Street development project, but the truth is most of this small group of people don't even live in the city and have little or no stake in the city's future. We citizens do have a stake, though, and we want to see our city grow.

There is no other project planned for Durkee Street! If this does not go through, then there will not be another chance, at least in the framework of the DRI. The State will take their money back and move it to a more deserving location. This will also harm our relationship with Albany, and future monies will be less available for Plattsburgh. That valuable piece of property with so much potential will remain a parking lot.

On the other hand, if the Prime project is approved and built, it will be just the beginning for downtown Plattsburgh. This project, when successfully completed, will spark development and improvements all over downtown and the harborside area. Developers are interested in downtown Plattsburgh, and they are eagerly waiting to see how we as a city handle the Durkee Street project. Please, let's not let this golden opportunity pass us by. Our children and grandchildren will thank us.

Michael Kelly
Plattsburgh City Councilor - Ward 2
[44 City Hall Place](#)
Plattsburgh, NY 12901

518-561-0072

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 8:13 AM

[Quoted text hidden]

City Info <cityinfo@plattsburghcitygov.com>
Draft To: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 6:08 PM

[Quoted text hidden]

Mr. Ronald Nolland, Chairman, City of Plattsburgh Zoning Board of Appeals
James Abdellah, Chairperson of Plattsburgh Planning Board

RE: Request to cancel April 2020 Zoning Board of Appeals meeting & Planning Board meetings due to nationwide state of emergency Corona pandemic

April 4, 2020

TO WHOM IT MAY CONCERN:

I have read the April 3, 2020 letter from Mayor's office which is on CITY OF PLATTSBURGH BUILDING INSPECTOR OFFICE COMMUNITY DEVELOPMENT OFFICE's letter head. The responses to the complaints made by several Plattsburgh residents do NOT dispute the fact that city officials insist to hold public meetings without full face-to-face participation from all concerned citizens. Since the Mayor has stated that it is NOT his decision but rather the Chairpersons of the Zoning Board and Planning Board's choice to conduct all upcoming meetings "remotely via videoconferencing software," without public attendance, I ask that Ron Nolland and James Abdellah postpone scheduled meetings. Though "All board meetings will be livestreamed on the City's YouTube channel for contemporaneous viewing by the public and transcriptions of all board meetings held remotely will be made available to the public," it does NOT enable public participation as these meetings are taking place.

Many residents do not have reliable Internet service nor computer access at this time. Institutions throughout the nation have experienced security breaches using Zoom and other methods of video conferencing to conduct meetings. I like many residents do NOT have the computer capability or access to listen or view them. In fact, those residents who have watched common council meetings had difficulty understanding comments made during meetings and could not view on line. Contrary to the comments made in April 3, 2020 response letter to the public's outcry over holding any ZBA and PB meetings in April conducting NON-ESSENTIAL meetings does NOT comply with *Governor's Executive Orders and current guidance from the NYS Committee on Open Government*, **because Prime's future development is NOT ESSENTIAL to the safety and health of our community.**

As a longtime resident of Plattsburgh, I have always believed that ZBA and PB members work hard to ensure that the public is able to personally attend and participate during all meetings. I am shocked to discover that the Zoning Board of Appeals and Planning Board special meetings are still scheduled for April 6 & 7, 2020 and that the regular meetings are to also take place on April 20 and 27, 2020 respectively.

It is clear that the agenda for April 6 & 7, 2020 meetings are to approve the new boundaries for the Durkee Street parking lot. It is egregious to hold such meetings without full participation from adjacent property owners and stake holders in downtown. Every downtown business person and property owner whom I have spoken to were unaware that these meetings were scheduled and have NOT had ample time to comment. It is incredulous for the Mayor to state that the public commented on all issues for future ZBA & PB meetings now scheduled on April 6 & 7, 2020 in February 2020, stating April 6 & 7 meetings are to replace March 2020 meetings. Since March 2020 meetings were cancelled NO ONE was able to comment.

Any comments made in February 2020 were based on old information. It is ludicrous to even suggest that discussions made in past meetings are the only and final comments to be made by everyone impacted by Prime's project. If that is the case then there should be no reason for any member of the Prime team to attend any future meeting or to provide any further information to either board. Many people due to unforeseen circumstances were unable to attend or comment in the past and welcome the opportunity to fully participate in future meetings.

I thought we lived in a democracy that clearly gives provision for face to face public participation in every meeting. Past comments on any issue are not held in time. It should be noted that every meeting that I have attended regarding Prime's Plattsburgh project has failed to provide complete and accurate information as to all aspects of the Durkee Street project. As someone who has attended many ZBA and PB meetings new information is always provided during the course of any meeting, which is why it is imperative and OUR RIGHT as residents of Plattsburgh to be able to be present to comment during every phase of this project. Furthermore, given the impact such a decision would have on our community and downtown businesses any decisions made on this matter without full participation and personal attendance would be highly suspect. The April 6 & 7, 2020 scheduled meetings are WITHOUT due notice & ability for concerned citizens to attend in person. I like many city residents have been consumed with struggling to keep my business solvent and family members safe from the Corona Virus pandemic.

I am writing to you to plead with you to please postpone ZBA & PB meetings dealing with Prime Development until city residents and other interested parties can attend all meetings in person and fully participate. As chairperson of the Landlord/Tenant committee my colleagues and I have agreed to postpone all meetings until Covid 19 no longer poses a health and economic risk to our community and both our Governor and President have lifted the state of emergency and our local businesses can resume to normal operations. All non-essential businesses have been ordered to close and everyone is struggling to survive. New York State has asked that all NON-EMERGENCY public meetings be postponed until the public can participate in person safely. It is both irresponsible and unethical to hold any ZBA or PB meetings without all city residents and stakeholders being able to comment on Prime's project, especially those who own property adjacent to the Durkee Street Parking lot.

It is the responsibility of both the Zoning and Planning boards to ensure that every resident in Plattsburgh be able to fully participate in all meetings held by ZBA & PB. Zoning and Planning Boards throughout NYS, such as Saratoga, Watertown, and Binghamton have postponed all meetings until further notice due to Covid 19. In reading the Mayor's memorandum pertaining to the manner in which the ZBA and PB meetings are to be conducted, it is clear that the *public is excluded* from participating during these scheduled meetings. Not only is public comment prohibited during any meeting, but it is questionable if either board will accept written comments from city residents prior to ZBA or PB making any decision. I quote, "Please note that, in order to minimize the risk of virus transmission and until further notice, the meetings of both boards will be conducted solely via videoconference. Meetings will not be held at City Hall, access to which is presently restricted...members of the public may watch the meetings live via the City's YouTube channel, the public will NOT be permitted to attend board meetings

via Zoom. Public comments will NOT be received by either ZBA or PB board during meetings. Written comments on the application may, at the discretion of the board, be accepted until 12:00 p.m. on the date one week following the close of the public hearing."

Given the fact that the future development of Durkee Street parking lot has such a significant impact on the economic welfare of Plattsburgh, county and surrounding communities it is not only poor planning and unjust to hold any meetings pertaining to the development of the Durkee Street lot without full public participation, but any meetings pertaining to Prime's project should NOT take place because it is NOT deemed necessary to safeguard the health or welfare of our community under the guidance issued on March 12, 2020 by NYCOM.

I remind both ZBA and PB members that Prime's project must be granted a *SPECIAL USE PERMIT*, which requires that Prime's proposed use and plan be in "harmony" with all zoning ordinances and local laws and to ensure that granting a SUP to PRIME will NOT adversely affect adjacent properties and neighborhoods. It is not only unreasonable but highly unprincipled to hold any meetings pertaining to Prime without in person public participation and comments. Even more disheartening is to think that members of either board would make any decisions without public input throughout every stage of this process.

Everyone throughout our country is faced with the uncertainty of both our physical well-being and financial health. City officials would be better served to work together to assist local businesses and property owners to weather this economic storm rather than planning any future development at this time. Given the fact that NYS was in a deficit prior to this pandemic and estimates that the state will lose billions of dollars from Corona Virus it is not only unwise but foolish to believe that NYS will have sufficient funds to pay for any grants or revitalization of any downtown in NYS. All businesses throughout NYS and US are facing the loss of jobs, tenants and landlords alike are struggling to pay rent or buy essential items to live.

I implore city officials, Zoning and Planning Board chairpersons and members to act in good faith. I once again, PLEAD with everyone to postpone all future meetings regarding Prime Development until our city, state and country is no longer faced with the ongoing threat of this pandemic and all concerned citizens can safely attend all meetings in person.

Sincerely,



Carol J. Klepper

17 Couch Street, Plattsburgh, NY 12901

Plattsburgh



STATE UNIVERSITY OF NEW YORK

CENTER FOR EARTH AND ENVIRONMENTAL SCIENCE

132 Hudson Hall

101 Broad Street
Plattsburgh, NY 12901-2681
Tel: (518) 564-2028
(877) 554-1041
Fax: (518) 564-5267

To the City of Plattsburgh Planning and Zoning Boards,

I hold two decades of professional planning experience throughout the United States, have served on the City Planning Board since 2012, teach planning at SUNY Plattsburgh, and hold a Master's Degree and PhD in planning from the University of Vermont and Virginia Tech.

As a planning and zoning board, the question before you is not one of setbacks, lot lines, parking spaces or design standards. It is about the holistic nature of community, capacity of local residents to build our future and determine our destiny, and the positive reinforcing feedback loop that is created when local social, cultural, material and financial assets are aligned. The DRI funding provides the pathway to build on these assets and align these resources- yet the current proposal for the Durkee PUD gums the works with an irreversible misallocation of resources that disrupts, rather than supports, ongoing local efforts.

One line of the Prime proposal in particular demonstrates the failure of the Durkee Lot to synergize with Plattsburgh's assets and needs. On page 8 of the project narrative (section C.1. General Architecture) the proposal states that the development at Durkee will be "oriented toward the river." In reality the project's main facade faces Durkee and Bridge streets, and the river sees brick walls and a parking lot. If the project were to creatively reflect Plattsburgh's character and strengths it would have more open, public and event space to draw residents and tourists downtown; it would provide activities for all ages and families; it would provide flexible space to evolve with community interests; it would provide diverse opportunities for interacting, recreating, spending and earning; and it would compliment Plattsburgh's natural, cultural and historical strengths.

You will hear from other planning professionals that downtown living space is needed to revitalize the downtown core. I don't disagree with this assessment in principle. The DRI, however, is funding

the renovation and addition of downtown housing options and we should give these initiatives a chance to succeed before adding competition. Furthermore, there are possibilities for repurposing existing buildings as unique living spaces in the downtown core, such as the Key Bank building, that should be explored before launching duplicate construction projects. In uncertain situations such as this, conservative and incremental planning that avoids a large outlay of irreversible resources is the most prudent approach. There may be a time for a large PUD project in the City of Plattsburgh, but the calculus of risk and reward doesn't compute on Durkee at this moment.

In the community planning arena, there are two main theories of economic development: *exogenous development* and *endogenous development*. Exogenous development relies on bringing new, large scale projects such as industrial parks, shopping malls, sports complexes and large mixed-use residential/commercial projects to a community. Municipalities often offer big tax breaks to attract these projects because the upfront costs are high and long-term finances are suspect. In reality, experience shows us that these projects tend to provide short term infusions of cash and jobs that don't have much staying power.

Endogenous development strategies lay the groundwork for locals to cultivate economic activity based on local knowledge, needs, interests and resources. Think business incubators, farmers markets, town festivals, outdoor recreation opportunities, parks and greenspace. These projects get local residents moving and interacting. They build relationships and connections to place that have staying power. Endogenous development provides the audience, clientele and users first, and provides the scaffolding for local community members with long-term commitments to place and people to build the stuff they want and need. Plattsburgh has been doing this for decades. The Saranac River, our multiple waterfronts and the Strand are outstanding local assets that residents across generations love and use. Building infrastructure to access and compliment these resources has little risk and enormous rewards.

Many elements of the DRI, such as funding to upgrade existing apartments, streetscape improvements, improved parks and parking are excellent initiatives and I believe they will, in concert with one another, meet their intended objectives. Yet the Durkee Street Planned Unit Development, as currently proposed, misses its mark.

Sincerely,

A handwritten signature in cursive script, appearing to read "Curt Gervich".

Curt Gervich, PhD.



City Info <cityinfo@plattsburghcitygov.com>

April 6 & 7 zoning and planning board meetings

3 messages

boothins <boothins@primelink1.net> Fri, Apr 3, 2020 at 11:09 AM
To: McMahanJ@cityofplattsburgh-ny.gov, ronnolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board mmeetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Alan B Booth

boothins <boothins@primelink1.net> Fri, Apr 3, 2020 at 12:32 PM
To: McMahanJ@cityofplattsburgh-ny.gov, ronnolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

[Quoted text hidden]
Booth Insurance Agency
20 Brinkerhoff Street
PO Box 990
Plattsburgh, NY 12901
Phone: (518)561-3290
Fax: (518)561-1203

Marbut, Shelise <MarbutS@cityofplattsburgh-ny.gov> Fri, Apr 3, 2020 at 2:14 PM
To: boothins <boothins@primelink1.net>, "McMahon, Joe" <McMahonJ@cityofplattsburgh-ny.gov>, "ronnolland@gmail.com" <ronnolland@gmail.com>, "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>, "Tamer, Malana" <TamerM@cityofplattsburgh-ny.gov>, "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Good afternoon,

Thank you for contacting the City of Plattsburgh Planning Board regarding the upcoming meeting schedule.

Based on comments received by some members of the public, it appears there may exist some misunderstandings regarding the upcoming meetings. Attached, please find responses providing clarification. Additionally, please also find attached a list of all upcoming April board and committee meetings for the City. This information has been made available on the ZBA and Planning Board webpages on the City of Plattsburgh website, as well.

We hope this provides clarification regarding your concerns.

Best wishes,

Shelise Marbut
Senior Account Clerk
Planning Board Secretary

Community Development Office
41 City Hall Place

Plattsburgh, NY 12901
www.cityofplattsburgh-ny.gov
(ph) 518.536.7520

From: boothins <boothins@primelink1.net>
Sent: Friday, April 03, 2020 12:32 PM
To: McMahon, Joe; ronnolland@gmail.com; Beebie, Lisa; Tamer, Malana; Marbut, Shelise; cityinfo@plattsburghcitygov.com
Subject: Re: April 6 & 7 zoning and planning board meetings
[Quoted text hidden]

2 attachments

 **2020_04_02 City Board Meeting Schedule.pdf**
101K

 **2020_04_03 City Reponse to Comments on Special Board Meetings.pdf**
141K



City Info <cityinfo@plattsburghcitygov.com>

Cancel ZBA and Planning Board meetings until COVID 19 Crisis is over

2 messages

Deborah Yokum <debyokum@gmail.com>

Fri, Apr 3, 2020 at 9:54 AM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

To the City of Plattsburgh Zoning Board of Appeals and the City of Plattsburgh Planning Board:

We, the board of The North Country Food Co-op, are writing to urge you to discontinue all meetings, except for those that deal with emergency issues, as ordered by the Governor, until the COVID 19 state of emergency has been lifted. We note that the ZBAs and Planning Boards in cities across New York State are doing so, and Plattsburgh should do so too. We are specifically concerned that very important decisions regarding the Prime Plattsburgh Durkee Street project will be made in a manner that will preclude genuine public comment. Emailed comments before and after a meeting that will be largely inaudible (based on recent Common Council meetings) do not afford true public input. This matter is too important to proceed without proper public feedback.

In addition, we are facing a world-wide crisis, the results of which we cannot predict. We can assume, though, that it will have long-lasting economic consequences. In the meantime, we are all struggling in our personal and professional lives and worrying about our personal safety and whether our businesses will survive this. Having to respond to and keep track of the city's meetings about something that is already threatening our business and not being able to do it in person just adds to this very difficult situation.

We realize you are all voluntarily serving on the ZBA and Planning Board and we are grateful for that. We believe you should not be pressured into meeting and making these very important decisions at a time when we are all facing a global public health and economic crisis. You, as board members, have the authority to cancel these meetings and we ask that you do so.

Sincerely,

Deborah Yokum, President
Board of Directors

Ryan Demers
General Manager

North Country Food Co-op
[25 Bridge Street](#)
[Plattsburgh, NY 12901](#)

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 11:54 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Stop Non-Essential Meetings!

1 message

terrycb12901 <terrycb12901@yahoo.com>

Thu, Apr 2, 2020 at 10:41 PM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com, Barbelli@cityofplattsburgh-ny.gov, kellym@cityofplattsburgh-ny.gov, gibbse@cityofplattsburgh-ny.gov, DeDominicasPa@cityofplattsburgh-ny.gov, mcfarlinp@cityofplattsburgh-ny.gov, moorej@cityofplattsburgh-ny.gov

I urge you to postpone any zoning board or planning board meeting dealing with the Prime project, or ANY non-essential project that's been submitted! These are PUBLIC meetings and holding any such meeting will exclusively exclude the public!

You must postpone the April 6th ZBA meeting and the April 7th Planning Board meetings as non-essential meetings in accordance with the "PAUSE NEW YORK" Executive Order by the Governor.

Municipalities around the state are postponing Zoning Board and Planning Board meetings until at least the end of April while in the midst of this pandemic!

The public has a right to attend these meetings and to be heard! To exclude them from attending and voicing concerns, and even their agreement, is worse than wrong and unfair, it's reprehensible.

Terry Broderick

Sent from my Verizon, Samsung Galaxy smartphone



City Info <cityinfo@plattsburghcitygov.com>

Prime Public Hearing

2 messages

Jennifer Meschinelli <meschinj75@gmail.com>

Thu, Apr 2, 2020 at 7:47 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>, "mcmahonj@cityofplattsburgh-ny.gov" <mcmahonj@cityofplattsburgh-ny.gov>, "ron.nolland@gmail.com" <ron.nolland@gmail.com>

On March 22, Governor Cuomo passed an executive order called PAUSE NEW YORK according to which all non-essential public meetings must be POSTPONED or CANCELLED. Period.

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Due to the numerous concerns this project has raised with city citizens, I urge you to postpone any meetings concerning the Prime project until after the pandemic has passed enough for gatherings to continue. This is NOT an essential project!

Jennifer Meschinelli

Sent from my iPhone

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:09 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

April 6th Meeting?

2 messages

Marc Gendron <mfgendron@icloud.com>

Wed, Apr 1, 2020 at 3:54 PM

To: cityinfo@plattsburghcitygov.com

Dear Sir,

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Thank You,

Marc Gendron

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:02 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Durkee Street project must be delayed

2 messages

John Seiden <johnseiden7@icloud.com>

Thu, Apr 2, 2020 at 4:25 PM

To: cityinfo@plattsburghcitygov.com

Hi I hope this email finds you well. As you might know I used to be on the zoning board for almost 20years I was also on several downtown commissions for the redevelopment of downtown. I was appointed by Governor Cuomo to be on the DRI committee Was also on the city of Plattsburgh revolving loan committee fund I have developed over 17 properties in Plattsburgh most of them in downtown Plattsburgh. There's a right way to develop and a wrong way to develop! What's going on currently in the city of Plattsburgh is bordering on criminal with Colin Read and his shenanigans of trying to jam this Durkee Street project down the citizenry throat. There's a pandemic happening everything has been shut down he puts in place of curfew. What's the matter with this guy, his ego is out of control. The importance of the citizens being able to participate in the planning board meetings and zoning board meetings are crucial. I hope you can convince him to have a shred of decency and integrity to put these meetings off until an appropriate time that the pandemic is under control and the citizens of Plattsburgh can participate in an open meeting. Hey Mayor Read "Open"meeting law means open! Not sneaking around while everyone is on lockdown , there may be a legal foundation to try to sneak this crap through but it's wrong. Hey Mayor Read put your ego away there's no time for it and it's UNAMERICAN!

John S.Seiden

Sent from my iPhone

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 8:12 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Committee Members

1 message

Peggy <peggydegrandpre@yahoo.com>

Mon, Apr 6, 2020 at 1:36 PM

To: cityinfo@plattsburghcitygov.com

This is to inform you of my approval and support of the Prime DRI Project.

Margaret deGrandpre'

Pleasant Street

Plattsburgh, NY



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comment

1 message

Peggy <peggydegrandpre@yahoo.com>

Mon, Apr 6, 2020 at 11:09 AM

To: cityinfo@plattsburghcitygov.com

I support the DRI plan

Sent from Peggy's iPad



City Info <cityinfo@plattsburghcitygov.com>

Planning Board comment

1 message

Richard Spindler <rich.spindler@gmail.com>

Sun, Apr 5, 2020 at 6:03 PM

To: cityinfo@plattsburghcitygov.com

Hello,

I would like to comment on the Durkee Lot Development. First, for the City of Plattsburgh to prosper, it is imperative to encourage a variety of people to live downtown, including and especially working professionals. They will provide an economic stimulus to the city that is sorely needed for the downtown. Second, it seems very late in the process of the DRI. After all of the public input given, I cannot imagine the city going back to a blank drawing board on this. Third, I think the complaints about parking are baseless. People that are complaining about parking should live in a larger city and experience real parking issues. Besides, we need to get people out of their cars and walking more anyhow.

I'm sure there are probably inevitable conflicts that arise with such developments. They always do and you will never make everyone happy. Thank you.

Sincerely,
Richard Spindler



City Info <cityinfo@plattsburghcitygov.com>

Planning Board comment

1 message

sun85@aol.com <sun85@aol.com>

Mon, Apr 6, 2020 at 11:59 AM

Reply-To: sun85@aol.com

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

To Whom It May Concern:

I'd like to express my support for the long-anticipated Durkee Street redevelopment project. While I believe it is wise to take a measured approach in order to achieve the best outcome for everyone who will be affected, I look forward to the revitalized downtown that will result from the plans currently in place. As a long-time user of the Farmer's Market, I look forward to its new, expanded location by the lake. The vendors' enthusiasm for the new space makes it all the more appealing for customers to follow them there.

It appears that much of the new design for Durkee Street will improve use of existing space, including some features that have been underused, like the green space currently used for the walkway from Margaret to Durkee. My hope is that the influx of residents downtown will result in increased traffic for the existing variety of businesses in that locale, and perhaps a few new ones.

Thank you and best of luck as you move forward.



City Info <cityinfo@plattsburghcitygov.com>

April 6 & 7 zoning and planning board meetings

3 messages

boothins <boothins@primelink1.net> Fri, Apr 3, 2020 at 11:09 AM
To: McMahanJ@cityofplattsburgh-ny.gov, ronnolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

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Alan B Booth

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[Quoted text hidden]
Booth Insurance Agency
20 Brinkerhoff Street
PO Box 990
Plattsburgh, NY 12901
Phone: (518)561-3290
Fax: (518)561-1203

Marbut, Shelise <MarbutS@cityofplattsburgh-ny.gov> Fri, Apr 3, 2020 at 2:14 PM
To: boothins <boothins@primelink1.net>, "McMahon, Joe" <McMahonJ@cityofplattsburgh-ny.gov>, "ronnolland@gmail.com" <ronnolland@gmail.com>, "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>, "Tamer, Malana" <TamerM@cityofplattsburgh-ny.gov>, "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

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Shelise Marbut
Senior Account Clerk
Planning Board Secretary

Community Development Office
41 City Hall Place

Plattsburgh, NY 12901
www.cityofplattsburgh-ny.gov
(ph) 518.536.7520

From: boothins <boothins@primelink1.net>
Sent: Friday, April 03, 2020 12:32 PM
To: McMahon, Joe; ronnolland@gmail.com; Beebie, Lisa; Tamer, Malana; Marbut, Shelise; cityinfo@plattsburghcitygov.com
Subject: Re: April 6 & 7 zoning and planning board meetings
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2 attachments

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141K

Mr. Ronald Nolland, Chairman, City of Plattsburgh Zoning Board of Appeals
James Abdellah, Chairperson of Plattsburgh Planning Board

RE: Request to cancel April 2020 Zoning Board of Appeals meeting & Planning Board meetings due to nationwide state of emergency Corona pandemic

April 4, 2020

TO WHOM IT MAY CONCERN:

I have read the April 3, 2020 letter from Mayor's office which is on CITY OF PLATTSBURGH BUILDING INSPECTOR OFFICE COMMUNITY DEVELOPMENT OFFICE's letter head. The responses to the complaints made by several Plattsburgh residents do NOT dispute the fact that city officials insist to hold public meetings without full face-to-face participation from all concerned citizens. Since the Mayor has stated that it is NOT his decision but rather the Chairpersons of the Zoning Board and Planning Board's choice to conduct all upcoming meetings "remotely via videoconferencing software," without public attendance, I ask that Ron Nolland and James Abdellah postpone scheduled meetings. Though "All board meetings will be livestreamed on the City's YouTube channel for contemporaneous viewing by the public and transcriptions of all board meetings held remotely will be made available to the public," it does NOT enable public participation as these meetings are taking place.

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As a longtime resident of Plattsburgh, I have always believed that ZBA and PB members work hard to ensure that the public is able to personally attend and participate during all meetings. I am shocked to discover that the Zoning Board of Appeals and Planning Board special meetings are still scheduled for April 6 & 7, 2020 and that the regular meetings are to also take place on April 20 and 27, 2020 respectively.

It is clear that the agenda for April 6 & 7, 2020 meetings are to approve the new boundaries for the Durkee Street parking lot. It is egregious to hold such meetings without full participation from adjacent property owners and stake holders in downtown. Every downtown business person and property owner whom I have spoken to were unaware that these meetings were scheduled and have NOT had ample time to comment. It is incredulous for the Mayor to state that the public commented on all issues for future ZBA & PB meetings now scheduled on April 6 & 7, 2020 in February 2020, stating April 6 & 7 meetings are to replace March 2020 meetings. Since March 2020 meetings were cancelled NO ONE was able to comment.

Any comments made in February 2020 were based on old information. It is ludicrous to even suggest that discussions made in past meetings are the only and final comments to be made by everyone impacted by Prime's project. If that is the case then there should be no reason for any member of the Prime team to attend any future meeting or to provide any further information to either board. Many people due to unforeseen circumstances were unable to attend or comment in the past and welcome the opportunity to fully participate in future meetings.

I thought we lived in a democracy that clearly gives provision for face to face public participation in every meeting. Past comments on any issue are not held in time. It should be noted that every meeting that I have attended regarding Prime's Plattsburgh project has failed to provide complete and accurate information as to all aspects of the Durkee Street project. As someone who has attended many ZBA and PB meetings new information is always provided during the course of any meeting, which is why it is imperative and OUR RIGHT as residents of Plattsburgh to be able to be present to comment during every phase of this project. Furthermore, given the impact such a decision would have on our community and downtown businesses any decisions made on this matter without full participation and personal attendance would be highly suspect. The April 6 & 7, 2020 scheduled meetings are WITHOUT due notice & ability for concerned citizens to attend in person. I like many city residents have been consumed with struggling to keep my business solvent and family members safe from the Corona Virus pandemic.

I am writing to you to plead with you to please postpone ZBA & PB meetings dealing with Prime Development until city residents and other interested parties can attend all meetings in person and fully participate. As chairperson of the Landlord/Tenant committee my colleagues and I have agreed to postpone all meetings until Covid 19 no longer poses a health and economic risk to our community and both our Governor and President have lifted the state of emergency and our local businesses can resume to normal operations. All non-essential businesses have been ordered to close and everyone is struggling to survive. New York State has asked that all NON-EMERGENCY public meetings be postponed until the public can participate in person safely. It is both irresponsible and unethical to hold any ZBA or PB meetings without all city residents and stakeholders being able to comment on Prime's project, especially those who own property adjacent to the Durkee Street Parking lot.

It is the responsibility of both the Zoning and Planning boards to ensure that every resident in Plattsburgh be able to fully participate in all meetings held by ZBA & PB. Zoning and Planning Boards throughout NYS, such as Saratoga, Watertown, and Binghamton have postponed all meetings until further notice due to Covid 19. In reading the Mayor's memorandum pertaining to the manner in which the ZBA and PB meetings are to be conducted, it is clear that the *public is excluded* from participating during these scheduled meetings. Not only is public comment prohibited during any meeting, but it is questionable if either board will accept written comments from city residents prior to ZBA or PB making any decision. I quote, "Please note that, in order to minimize the risk of virus transmission and until further notice, the meetings of both boards will be conducted solely via videoconference. Meetings will not be held at City Hall, access to which is presently restricted...members of the public may watch the meetings live via the City's YouTube channel, the public will NOT be permitted to attend board meetings

via Zoom. Public comments will NOT be received by either ZBA or PB board during meetings. Written comments on the application may, at the discretion of the board, be accepted until 12:00 p.m. on the date one week following the close of the public hearing."

Given the fact that the future development of Durkee Street parking lot has such a significant impact on the economic welfare of Plattsburgh, county and surrounding communities it is not only poor planning and unjust to hold any meetings pertaining to the development of the Durkee Street lot without full public participation, but any meetings pertaining to Prime's project should NOT take place because it is NOT deemed necessary to safeguard the health or welfare of our community under the guidance issued on March 12, 2020 by NYCOM.

I remind both ZBA and PB members that Prime's project must be granted a *SPECIAL USE PERMIT*, which requires that Prime's proposed use and plan be in "harmony" with all zoning ordinances and local laws and to ensure that granting a SUP to PRIME will NOT adversely affect adjacent properties and neighborhoods. It is not only unreasonable but highly unprincipled to hold any meetings pertaining to Prime without in person public participation and comments. Even more disheartening is to think that members of either board would make any decisions without public input throughout every stage of this process.

Everyone throughout our country is faced with the uncertainty of both our physical well-being and financial health. City officials would be better served to work together to assist local businesses and property owners to weather this economic storm rather than planning any future development at this time. Given the fact that NYS was in a deficit prior to this pandemic and estimates that the state will lose billions of dollars from Corona Virus it is not only unwise but foolish to believe that NYS will have sufficient funds to pay for any grants or revitalization of any downtown in NYS. All businesses throughout NYS and US are facing the loss of jobs, tenants and landlords alike are struggling to pay rent or buy essential items to live.

I implore city officials, Zoning and Planning Board chairpersons and members to act in good faith. I once again, PLEAD with everyone to postpone all future meetings regarding Prime Development until our city, state and country is no longer faced with the ongoing threat of this pandemic and all concerned citizens can safely attend all meetings in person.

Sincerely,



Carol J. Klepper

17 Couch Street, Plattsburgh, NY 12901

Plattsburgh



STATE UNIVERSITY OF NEW YORK

CENTER FOR EARTH AND ENVIRONMENTAL SCIENCE

132 Hudson Hall

101 Broad Street
Plattsburgh, NY 12901-2681
Tel: (518) 564-2028
(877) 554-1041
Fax: (518) 564-5267

To the City of Plattsburgh Planning and Zoning Boards,

I hold two decades of professional planning experience throughout the United States, have served on the City Planning Board since 2012, teach planning at SUNY Plattsburgh, and hold a Master's Degree and PhD in planning from the University of Vermont and Virginia Tech.

As a planning and zoning board, the question before you is not one of setbacks, lot lines, parking spaces or design standards. It is about the holistic nature of community, capacity of local residents to build our future and determine our destiny, and the positive reinforcing feedback loop that is created when local social, cultural, material and financial assets are aligned. The DRI funding provides the pathway to build on these assets and align these resources- yet the current proposal for the Durkee PUD gums the works with an irreversible misallocation of resources that disrupts, rather than supports, ongoing local efforts.

One line of the Prime proposal in particular demonstrates the failure of the Durkee Lot to synergize with Plattsburgh's assets and needs. On page 8 of the project narrative (section C.1. General Architecture) the proposal states that the development at Durkee will be "oriented toward the river." In reality the project's main facade faces Durkee and Bridge streets, and the river sees brick walls and a parking lot. If the project were to creatively reflect Plattsburgh's character and strengths it would have more open, public and event space to draw residents and tourists downtown; it would provide activities for all ages and families; it would provide flexible space to evolve with community interests; it would provide diverse opportunities for interacting, recreating, spending and earning; and it would compliment Plattsburgh's natural, cultural and historical strengths.

You will hear from other planning professionals that downtown living space is needed to revitalize the downtown core. I don't disagree with this assessment in principle. The DRI, however, is funding

the renovation and addition of downtown housing options and we should give these initiatives a chance to succeed before adding competition. Furthermore, there are possibilities for repurposing existing buildings as unique living spaces in the downtown core, such as the Key Bank building, that should be explored before launching duplicate construction projects. In uncertain situations such as this, conservative and incremental planning that avoids a large outlay of irreversible resources is the most prudent approach. There may be a time for a large PUD project in the City of Plattsburgh, but the calculus of risk and reward doesn't compute on Durkee at this moment.

In the community planning arena, there are two main theories of economic development: *exogenous development* and *endogenous development*. Exogenous development relies on bringing new, large scale projects such as industrial parks, shopping malls, sports complexes and large mixed-use residential/commercial projects to a community. Municipalities often offer big tax breaks to attract these projects because the upfront costs are high and long-term finances are suspect. In reality, experience shows us that these projects tend to provide short term infusions of cash and jobs that don't have much staying power.

Endogenous development strategies lay the groundwork for locals to cultivate economic activity based on local knowledge, needs, interests and resources. Think business incubators, farmers markets, town festivals, outdoor recreation opportunities, parks and greenspace. These projects get local residents moving and interacting. They build relationships and connections to place that have staying power. Endogenous development provides the audience, clientele and users first, and provides the scaffolding for local community members with long-term commitments to place and people to build the stuff they want and need. Plattsburgh has been doing this for decades. The Saranac River, our multiple waterfronts and the Strand are outstanding local assets that residents across generations love and use. Building infrastructure to access and compliment these resources has little risk and enormous rewards.

Many elements of the DRI, such as funding to upgrade existing apartments, streetscape improvements, improved parks and parking are excellent initiatives and I believe they will, in concert with one another, meet their intended objectives. Yet the Durkee Street Planned Unit Development, as currently proposed, misses its mark.

Sincerely,

A handwritten signature in cursive script, appearing to read "Curt Gervich".

Curt Gervich, PhD.



City Info <cityinfo@plattsburghcitygov.com>

Cancel ZBA and Planning Board meetings until COVID 19 Crisis is over

2 messages

Deborah Yokum <debyokum@gmail.com>

Fri, Apr 3, 2020 at 9:54 AM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

To the City of Plattsburgh Zoning Board of Appeals and the City of Plattsburgh Planning Board:

We, the board of The North Country Food Co-op, are writing to urge you to discontinue all meetings, except for those that deal with emergency issues, as ordered by the Governor, until the COVID 19 state of emergency has been lifted. We note that the ZBAs and Planning Boards in cities across New York State are doing so, and Plattsburgh should do so too. We are specifically concerned that very important decisions regarding the Prime Plattsburgh Durkee Street project will be made in a manner that will preclude genuine public comment. Emailed comments before and after a meeting that will be largely inaudible (based on recent Common Council meetings) do not afford true public input. This matter is too important to proceed without proper public feedback.

In addition, we are facing a world-wide crisis, the results of which we cannot predict. We can assume, though, that it will have long-lasting economic consequences. In the meantime, we are all struggling in our personal and professional lives and worrying about our personal safety and whether our businesses will survive this. Having to respond to and keep track of the city's meetings about something that is already threatening our business and not being able to do it in person just adds to this very difficult situation.

We realize you are all voluntarily serving on the ZBA and Planning Board and we are grateful for that. We believe you should not be pressured into meeting and making these very important decisions at a time when we are all facing a global public health and economic crisis. You, as board members, have the authority to cancel these meetings and we ask that you do so.

Sincerely,

Deborah Yokum, President
Board of Directors

Ryan Demers
General Manager

North Country Food Co-op
[25 Bridge Street](#)
[Plattsburgh, NY 12901](#)

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 11:54 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

City resident request during COVID 19 and PAUSE NEWYORK

2 messages

Libby Yokum <adklotus@gmail.com>

Wed, Apr 1, 2020 at 4:52 PM

To: ron.nolland@gmail.com, McMahonJ@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, beebiel@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

To City Departments,

I wanted to politely ask you to postpone Zoning and Planning Board meetings dealing with the Prime/ Durkee St/ DRI projects without public in-person participation. However, what I really want to do is to yell- How the heck is it possible during this horrific pandemic, with downtown businesses being partially or totally closed and terribly financially stressed, with residents unable to pay rent (or cover medical expenses or even buy food), with landlords wondering how they will pay city taxes without their income, and I could go on... How can you even consider NOT canceling these meetings in accordance with the "Pause New York" Executive Order?

Televised meetings are not a workable solution for non-urgent business during COVID 19. The public cannot hear clearly or be involved which is totally unacceptable. Some concerned residents don't even have access.

The underlying question is what is the big hurry to have these meetings and rushed decision making before we even know the outcome of this crisis? We have no idea if the current businesses and apartment owners can even survive this pandemic? Will financial assistance be needed to just keep what we have afloat? Isn't is the City's job to see that residents and businesses are a priority.

Again, please postpone the Zoning Board April 6th and the Planning Board April 7th meetings dealing with the Prime/ Durkee St/ DRI projects without public in-person participation until we get to the end of this current crisis.

Thank you,

Elizabeth (Libby) Yokum

[7 Point View Terrace](#)

[Plattsburgh NY 12901](#)

C- 518 570-9570

H-518 310-1678

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Fri, Apr 3, 2020 at 9:02 AM

[Quoted text hidden]

Frank G. Zappala

Attorney at Law

142 Margaret Street

P.O. Box 2886

Plattsburgh, NY 12901

fgzappala@hotmail.com

Telephone
(518) 566-7211

*Facsimile
(518) 566-7214
*not for service

To: The Plattsburgh Zoning Board of Appeals

The Plattsburgh Planning Board

From: Frank Zappala

Date: April 6, 2020

The proposed Durkee Street project has two lanes of angled parking. Angled parking is dangerous. Attached is a memo sent to the City dated January 28, 2019. This document confirms that angled parking is dangerous.

If the present project is approved with angled parking the Zoning Board and the Planning Board are putting the citizens of Plattsburgh at risk.

From: Bibbins, Ken (DOT)
Sent: Monday, January 28, 2019 1:12 PM
To: Bessette, Michael <BessetteM@cityofplattsburgh-ny.gov>
Cc: Basil, Valmekie (DOT); Ricalton, Al (DOT); Kokkoris, Steve (DOT); Docteur, Aaron (DOT); Ortlieb, Craig H. (DOT);

Subject: Angled Parking Proposal, Bridge Street/US Route 9

Hello again Mike,

I've been in contact with a number of folks in the Department's Main Office, to try to establish all of the information that the City needs in order to make an informed decision about potential changes to Bridge Street/US Route 9/NY Bicycle Route 9.

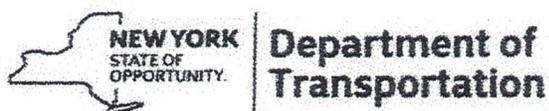
There are two main questions on the table here:

The first question is relative to jurisdiction. It does not appear to me that the right of way that Bridge Street falls within has sufficient width to allow angled parking without severely impacting its lane widths.

The second question is relative to the likely impacts that angled parking would have on traffic safety. It is well established, by multiple studies, that angled parking causes an increase in accidents. This is due to a number of reasons, including the need for a backing maneuver that is made where the operator of the parked vehicle must back into traffic when exiting the parking space, while their visibility is impaired by adjacent vehicles. This maneuver is particularly dangerous if the roadway in question has a significant volume of bicycle traffic, such as this one. There is also an increase in accidents due to the stop-go nature of drivers searching for an open space, which is more difficult with angled parking because the empty spaces are harder to see. There are some locations in our country where back-in angled parking has been used because that provides somewhat improved visibility when exiting the parking space. That improvement would only exist if there was sufficient space to accommodate the angled parking and it would not address the difficulty with spotting empty parking spaces far enough upstream to avoid a quick stop.

I can tell you that, based on the concept and its traffic safety implications, I would use the strongest language possible to discourage the institution of this change.

Kenneth M. Bibbins, P.E.
Regional Traffic Engineer
New York State Department of Transportation, Region 7
317 Washington Street, Watertown, NY 13601
(315)785-2321|ken.bibbins@dot.ny.gov
www.dot.ny.gov





City Info <cityinfo@plattsburghcitygov.com>

Prime Public Hearing

2 messages

Jennifer Meschinelli <meschinj75@gmail.com>

Thu, Apr 2, 2020 at 7:47 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>, "mcmahonj@cityofplattsburgh-ny.gov" <mcmahonj@cityofplattsburgh-ny.gov>, "ron.nolland@gmail.com" <ron.nolland@gmail.com>

On March 22, Governor Cuomo passed an executive order called PAUSE NEW YORK according to which all non-essential public meetings must be POSTPONED or CANCELLED. Period.

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Due to the numerous concerns this project has raised with city citizens, I urge you to postpone any meetings concerning the Prime project until after the pandemic has passed enough for gatherings to continue. This is NOT an essential project!

Jennifer Meschinelli

Sent from my iPhone

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:09 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Durkee Street project must be delayed

2 messages

John Seiden <johnseiden7@icloud.com>

Thu, Apr 2, 2020 at 4:25 PM

To: cityinfo@plattsburghcitygov.com

Hi I hope this email finds you well. As you might know I used to be on the zoning board for almost 20years I was also on several downtown commissions for the redevelopment of downtown. I was appointed by Governor Cuomo to be on the DRI committee Was also on the city of Plattsburgh revolving loan committee fund I have developed over 17 properties in Plattsburgh most of them in downtown Plattsburgh. There's a right way to develop and a wrong way to develop! What's going on currently in the city of Plattsburgh is bordering on criminal with Colin Read and his shenanigans of trying to jam this Durkee Street project down the citizenry throat. There's a pandemic happening everything has been shut down he puts in place of curfew. What's the matter with this guy, his ego is out of control. The importance of the citizens being able to participate in the planning board meetings and zoning board meetings are crucial. I hope you can convince him to have a shred of decency and integrity to put these meetings off until an appropriate time that the pandemic is under control and the citizens of Plattsburgh can participate in an open meeting. Hey Mayor Read "Open"meeting law means open! Not sneaking around while everyone is on lockdown , there may be a legal foundation to try to sneak this crap through but it's wrong. Hey Mayor Read put your ego away there's no time for it and it's UNAMERICAN!

John S.Seiden

Sent from my iPhone

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 8:12 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

PLEASE POSTPONE!!!!

3 messages

Jonathan <jons202@charter.net>
To: cityinfo@plattsburghcitygov.com

Wed, Apr 1, 2020 at 3:03 PM

Moving the hearing from the 20th to the 6th is unfair and self serving.

Postponement is the only appropriate action at this time. The public is all consumed with protecting themselves, their families and livelihoods.

Please postpone any and all actions in the matter of Prime Properties. Its the right thing to do.

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Thank you,
Jonathan Schneiderman
Downtown business owner for 16 years.

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Fri, Apr 3, 2020 at 9:01 AM

[Quoted text hidden]

City Info <cityinfo@plattsburghcitygov.com>
To: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Fri, Apr 10, 2020 at 1:09 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Prime Development project

2 messages

June Foley <konda.foley@gmail.com>

Sun, Mar 29, 2020 at 3:27 PM

To: cityinfo@plattsburghcitygov.com

I would like to express my strong objections to the Downtown Development plans and to the process outlined for Zoom meetings with limited public comment outlined by the mayor.

I have attended 2 meetings on this topic and read such material as I found online. My objections are as follows:

1. Plans for parking are inadequate. Prime company presentations change the number of projected spaces in every presentation, but none of the projections are adequate.
2. The relocation of the farmer's market is inadequate. The new location does not have running water (so we know for sure no employees have washed their hands! Notice that in all public health information hand washing is better than sanitizers) and will occasionally be subjected to sewage smell, both of which are frankly disgusting for a place that sells food.
3. The green space is inadequate, even scary, considering what it would be like to walk between the river and a 5 story building at night.
4. There is no evidence that we need more commercial space in downtown Plattsburgh. The project runs the risk of just bringing more vacant space and the problems associated with such space to our downtown.
5. I object in the strongest possible terms to the granting of large tax breaks over a 20 year period to a private corporation. The costs associated with the building will of course exceed the payment in lieu of taxes, otherwise, why the heck are my taxes what they are? Prime will not be paying it's fair share, and thus will be a weight around the necks of current tax payers. What Evidence is there that the building will be worth anything at all at the end of the 20 years?
6. I have attended 2 public meetings at which many people spoke against this project and no one spoke for it. This process is contributing to the alienation people feel from our government which ultimately fuels the current federal administration.

PLEASE consider supporting a truly open and democratic process.

June Foley

Sent from my iPad

City Info <cityinfo@plattsburghcitygov.com>

Mon, Mar 30, 2020 at 8:54 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Message from 324-CITY

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Postpone meetings due to covid-19 pandemic

1 message

Dr. Kate Mahoney-Myers <DrKateMahoney@hotmail.com>

Thu, Apr 2, 2020 at 1:11 PM

To: "McMahonJ@cityofplattsburgh-ny.gov" <McMahonJ@cityofplattsburgh-ny.gov>, "ron.nolland@gmail.com" <ron.nolland@gmail.com>, "beebiel@cityofplattsburgh-ny.gov" <beebiel@cityofplattsburgh-ny.gov>, "TamerM@cityofplattsburgh-ny.gov" <TamerM@cityofplattsburgh-ny.gov>, "MarbutS@cityofplattsburgh-ny.gov" <MarbutS@cityofplattsburgh-ny.gov>, "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

On March 22, Governor Cuomo passed an executive order called PAUSE NEW YORK according to which all non-essential public meetings must be POSTPONED or CANCELLED. Period.

Please postpone all zoning board or planning board meetings that are related or relevant to the downtown DRI /Prime project immediately. The Covid19 pandemic has brought business and families to their knees. Loved ones are ill. Finances are in ruin. There is no reasonable expectation of public participation at this point especially considering the Mayor himself has issued a state of emergency order in the City of Plattsburgh and also has implemented an 8pm curfew. If these meetings continue, it is a clear and blatant attempt to "never let a good crisis go to waste" and impede any in-person participation by the public. The livestream online is enormously subpar, as no one can reasonably hear anything that is being said and many people lack the technological means to participate.

The April 6th ZBA meeting and the April 7th Planning Board meetings are clearly non-essential meetings in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board, Planning Board and multiple meetings directly because of the current pandemic. In light of the current downtown fiasco, Plattsburgh surely ought to as well.

Sincerely,
Kate Mahoney-Myers
owner of Living Well Chiropractic
[10 Brinkerhoff St.](#)
[Plattsburgh, NY 12901](#)



City Info <cityinfo@plattsburghcitygov.com>

Public Comment for April 6 Zoning Board and April 7 Planning Board

2 messages

Brown, Rodney <Rodney.Brown@clintoncountygov.com> Mon, Apr 6, 2020 at 10:49 AM
To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>
Cc: "Henry, Mark" <Mark.Henry@clintoncountygov.com>

Please provide copies of the attached letter to both the City Zoning Board of Appeals and City Planning Board for their respective meetings on April 6th and 7th. On behalf of Legislator Henry, I ask that the letter be formally recorded as public comment for both meetings, and if possible, be read at the meetings. Thank you.

Rodney L. Brown, Deputy Administrator
Clinton County Legislature
[137 Margaret Street - Suite 208](#)
[Plattsburgh, NY 12901](#)
Tel. 518-565-4709
Email: Rodney.Brown@clintoncountygov.com

 **City DRI Letter Henry 4-6-20.pdf**
68K

City Info <cityinfo@plattsburghcitygov.com> Mon, Apr 6, 2020 at 11:35 AM
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahonj@cityofplattsburgh-ny.gov

[Quoted text hidden]

 **City DRI Letter Henry 4-6-20.pdf**
68K



Mark R. Henry
Clinton County Legislator, Area 3
6 Church Street
Chazy, NY 12921
Phone: (518) 578-4359 (cell)
mhenry2@twcnv.rr.com

April 6, 2020

TO: City of Plattsburgh Zoning Board of Appeals; and
City of Plattsburgh Planning Board

Dear Board Members:

I have recently received information that your respective Boards will be voting on various actions related to the Prime Companies Mixed Use Residential/Commercial project proposed for the Durkee Street Parking Lot, and partially funded by the Downtown Revitalization Initiative (DRI) grant.

By this letter, I express my wholehearted and unconditional support for this project. In many ways the City of Plattsburgh is the lifeblood of Clinton County. A strong downtown will lift up the entire County. I truly believe that stagnant downtowns result in a slow deterioration of the economic, cultural and emotional vigor of a City. Alternatively, a downtown that continues to grow and adapt will remain vital and energize a community.

The downtown for the City of Plattsburgh, in my opinion, needs the invigoration of downtown residents that will result from the Prime Companies' proposed project. The project will bring renewed life to the day-to-day flow of activities downtown, including most importantly business and recreational activities. While some have decried the supposed negative impacts of this project, focusing on the loss of parking, I believe the City of Plattsburgh has taken the steps necessary to provide alternative parking opportunities to prevent any negative impacts. This project has so much promise for the City of Plattsburgh and County of Clinton. I urge you to focus on all the positive impacts that would result from this project, and take the steps necessary to approve the project and usher in a renewed era of optimism and economic growth for the City.

The views expressed in this letter are mine alone, and I do not speak for the Clinton County Legislature as a whole. While the short notice involved does not permit the Legislature to deliberate and provide a collective response, I will encourage my colleagues to provide their own statements as time allows. I wish you the best of luck in guiding the City of Plattsburgh during these trying times.

With best regards,

Mark R. Henry
County Legislator



City Info <cityinfo@plattsburghcitygov.com>

April 6th Meeting?

2 messages

Marc Gendron <mfgendron@icloud.com>

Wed, Apr 1, 2020 at 3:54 PM

To: cityinfo@plattsburghcitygov.com

Dear Sir,

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Thank You,

Marc Gendron

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:02 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board (April 6th) and Planning Board (April 7th)

2 messages

Paul DeDominicas <pdedomin@yahoo.com>

Mon, Apr 6, 2020 at 10:29 AM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Good evening,

To the Zoning and Planning Boards of the City of Plattsburgh, I am writing this to you as a resident of the City and not as a City Councilor. First, thank you for the work that you do as it is challenging in the best of times. On top of that, everyone is now faced with the added stress of the COVID-19 Pandemic unsure of how it will affect Plattsburgh in the short and long term.

I understand that each Board has a decision to make regarding the Prime development project at Durkee St. I am asking for a pause for this project. The project was developed before the unprecedented response to the COVID-19 pandemic. In a short time, NYS and national economies have slowed considerably. Unemployment is up and is predicted to get worse before it gets better. Locally, many downtown businesses are shuttered with no clear idea of when they will reopen again. While we can model outcomes, we cannot know for sure the impact that the COVID-19 response will ultimately have locally.

Again, I am not asking you to vote against the project at this time. I am asking that you delay any vote to see how the pause in the economy affects local business and city revenues and to allow a better understanding of the situation as it develops. I think that there should be a discussion regarding the viability of a large development downtown after we have a better idea of the local impact or, at the very least, a discussion that the plan may need to change to reflect our new reality. Most people believe that even when we are able to start to return to work, it will be some time before anything is "business as usual".

Thank you for your time,

Paul DeDominicas

Trafalgar Drive

Plattsburgh NY 12901

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:31 AM

To: mcmahonj@cityofplattsburgh-ny.gov, Matthew <MillerMa@cityofplattsburgh-ny.gov>

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020 - 1 - Letter from Attorney Matt Fuller

4 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 9:54 AM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, "Parrotte, Sylvia" <parrottes@cityofplattsburgh-ny.gov>
Cc: editor@studleyprinting.com, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rockstroh@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>



PCC_ZBA Ltr 432020.pdf
2119K

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:19 AM

To: mcmahonj@cityofplattsburgh-ny.gov

----- Forwarded message -----

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

Date: Mon, Apr 6, 2020 at 9:55 AM

Subject: Zoning Board of Appeals Comment 4/6/2020 - 1 - Letter from Attorney Matt Fuller

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

Cc: <editor@studleyprinting.com>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, <estigliani@freepressmedia.com>, <news@northcountrynow.com>, <newstips@mynbc5.com>, <rockstroh@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>



PCC_ZBA Ltr 432020.pdf
2119K

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 4:30 PM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, beebiel@cityofplattsburgh-ny.gov, "Parrotte, Sylvia" <parrottes@cityofplattsburgh-ny.gov>, ron.nolland@gmail.com
Cc: "Cc:" <editor@studleyprinting.com>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rockstroh@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>

Dear Zoning Board Members:

The purpose of this communication is to respectfully request that each and every public comment received is read aloud in its entirety at tonight's Board meeting.

People are concerned that, given the short notice and project complexity, public written comments will not be thoroughly read by Board members and contemplated within the context of the public meeting.

The City's program of rushing these special meetings with minimal notice to both Boards and to the public left little time for the public to write or for Board members to read public comments. With only days notice to compose written comment and having them due at noon the day of the meeting, it effectively diminishes and, in fact, all but eliminates public involvement. It also puts an unfair burden on Board members. And that's before even mentioning the severe strain and stress that each of us is under given this global emergency.

Therefore, in order to mitigate this injustice, we would ask that each and every public comment is read aloud in its entirety at the Zoning Board meeting tonight. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling large ones is a brazen and out of touch slap in the face to the community. Reading of the public comments won't change those facts. But it will at least ensure that all Board members thoroughly review comments and will show respect for the public and for the comments received although on a significantly diminished stage.

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. Whether to vote.

Again, thank you for your service.

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

Tue, Apr 7, 2020 at 8:46 AM

----- Forwarded message -----

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

[Quoted text hidden]

[Quoted text hidden]

April 3, 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:

Our firm is been retained by the Plattsburgh Citizens Coalition, Inc., a not for profit coalition and its members, of concerned citizens, property owners, and business owners in the City of Plattsburgh relative to the City's proposed development plans with Prime Plattsburgh, LLC. We understand that a ZBA public hearing has been noticed for the Prime Plattsburgh, LLC application for April 6, 2020. We also understand that applications are pending before the Planning Board. We offer the following comments:

1. Open Meetings Law: We note that given the Covid-19 outbreak, Governor Cuomo on March 13, 2020 issued Executive Order 202.1 which, in part, suspended Article 7 of the Public Officers Law, commonly known as the Open Meetings Law. This Executive Order has subsequently been extended and modified through to and including Executive Order 202.13 (as of March 30, 2020). However, what neither Article 7 of the Public Officers Law, nor Governor Cuomo's do, is address public hearings.

It is our belief that the ZBA is holding this public hearing solely under the guidance provided after Governor Cuomo's Executive Order 202.1 which permitted meetings to be held without

public attendance. That order, however, did not address public hearings. Public hearings continue to require active public input, that is, input during the actual meeting either through mechanisms such as “Zoom” or other similar participation level remote meetings. The procedure adopted by the City of Plattsburgh does not satisfy this law.

In addition, the City’s procedure appears to ignore Executive Order 202.10 (March 23, 2020, copy attached) which states clearly “Non-essential gatherings of any size for any reason (e.g. parties, celebrations or other social events) are canceled or postponed at this time.” With due respect, and particularly given the level of public interest in this project, this project is under no definition “essential”. Indeed, it covers literally none of the essential categories covered by New York State Empire State Development at <https://esd.ny.gov/guidance-executive-order-2026>. [Last accessed 4-1-2020]

What is the reality, however, is that this scheduling of this hearing during this COvid-19 pandemic is a blatant attempt to push a controversial project through with as little public participation as possible. Indeed, it is quite clear that the City’s public hearing procedures were perhaps adopted with this exact project in mind.

The ZBA and Planning Board are NOT obligated to follow the City’s adopted hearing protocol. The ZBA and Planning Board are well within their respective powers to table this matter until Governor Cuomo lifts the pending prohibition against in person meetings. This matter is the largest project in recent history in the City of Plattsburgh. For this to be rushed through when the public is actually prohibited from appearing in person, for a project that is clearly not essential, is in and of itself an abuse of discretion and irrational. We ask the ZBA and Planning Board to table this matter until the pending prohibition against in person meetings is lifted.

As an update, subsequent to the draft of this letter, we received the correspondence issued by the City by email from the “Mayor’s Office” of April 3, 2020 at 12:10pm. Notwithstanding that letter, and the Q&A attached thereto, government meetings are and should be limited to matters that are essential, no different than “essential businesses” are limited to those portions of business that are essential. **The fact is that this Durkee Street project is not essential.** That is

the entire point missed by the meeting guidance, the meeting procedures, and the statement issued by the Mayor's office of this day. Not every government function is essential. Were this a project for a hospital, or a health care center, or a production facility for PPE, the facts would be different, and a reviewing this project would be warranted.

2. Applicant: The applicant is not the "City of Plattsburgh" as noted on the applications. In reviewing the "Development Agreement" between the City of Plattsburgh and Prime Plattsburgh, LLC dated March 29, 2019 (hereinafter the "Agreement"), the pending applications before the ZBA and Planning Board are flawed as a matter of law. A copy of this Agreement is enclosed.

Pursuant to Section 4 of the Agreement titled "Permitting", Prime is the applicant, not the City of Plattsburgh. See Section 4(a)- "*Prime and its agents shall prepare and submit all necessary municipal, state and federal permit applications required for the approval of the Durkee Development and shall present such applications to the applicable governmental authorities.*" Indeed, the SEQRA EAF form in the ZBA's materials note Prime Plattsburgh, LLC as the applicant, not the City. Prime has submitted no such application.

Moreover, not cited in any application materials is the authority or ability of the City of Plattsburgh as a municipal entity to even make this application. In this regard, we believe that City staff time used in pursuing an application that by written agreement is required to be submitted by a private business entity is actually an unconstitutional gift of public resources. While there are contractual obligations that a city may enter into, this Agreement specifically states that Prime, not the City, is to be completing and submitting the applications for this project. Thus, taxpayer dollars cannot be spent as they are now.

Lastly, on this point, the ZBA and Planning Board have to ask: How can the ZBA or Planning Board possibly receive unbiased support from the very community development and code enforcement staff that is bringing this application? Pursuant to General City Law §81-a, and indeed City of Plattsburgh Zoning Law §360-56[C]: "*Assistance to the Boards. Such Boards shall have the authority to call upon any department, agency or employee of the City for such assistance as shall be deemed necessary and as shall be authorized by the legislative body. Such*

department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.” You cannot possibly rely on that assistance of those providing the assistance are the applicant!

The City of Plattsburgh cannot be the applicant as note above, and this needs to be remedied.

3. Waterfront development: We are enclosing our letter to the Common Council of September 9, 2019. To date, this letter has not been answered. However, this same legal issue presents itself to the ZBA and Planning Board. As proposed, the project application will include the alienation of waterfront property. We point you to the full content of our letter as if fully set forth herein. The ZBA and Planning Board are without power to approve any project that would alienate waterfront property.

4. SEQRA: The EAF submitted by the City is shockingly incomplete for a project of this magnitude. Little to no thought or consideration was put into this document. The following questions were not even answered in Part I of the EAF: C.1., C.2.c, C.3.c., D.1.c., D.1.d., D.1.e (incomplete), D.1.h., D.2.a., D.2.b., D.2.e. (incomplete), D.2.f., D.2.g., D.2.h., D.2.i., D.2.j., D.2.o., D.2.p., D.2.q., D.2.s., D.2.t., E.1.b. (incomplete), E.1.c. E.1.e., E.1.f., E.1.g., E.1.h. (incomplete), E.2.h (incorrect- the project site does include a river), E.2.q., and E.3.b..

In addition, we note the City’s response at EAF question D.D.2.e.ii.: The City notes that this project will discharge to the Saranac River. The legality of this discharge needs to be researched. We do not believe that the City can legally create a point source discharge from this new project directly to the Saranac River.

Lastly, the underlying facts upon which the SEQRA findings has changed. Indeed, just this week it was reported that a record 6.6 million Americans filed for unemployment. The recession created by the Covid-19 pandemic cannot be ignored, and the underlying need for this project as well as the finances upon which it is based must be reviewed. In short, no board of the City can ignore the economic realities of the current environment.

5. Conflict: We believe the City's corporation counsel has a conflict of interest. The Corporation Counsel's allegiance is to the Common Council. The ZBA's and Planning Board's obligations are to review the pending PUD, site plan, subdivision, special use permit and variance applications. Thus, where questions of law are before the ZBA and Planning Board, or indeed even procedure, the ZBA and Planning Board cannot reasonably rely on the advice of counsel that is beholding to the Common Council, as again, corporation counsel's goal is to further the interests of the Common Council. Indeed, this letter raises significant, valid legal issues that the ZBA and Planning Board needs to address on their own- not in reliance on the Common Council. To the extent that you have legal questions on this matter, you need your own attorney.

Thank you.

Sincerely,



Matthew F. Fuller, Esq.
mfuller@meyerfuller.com

cc: Plattsburgh Citizens Coalition, Inc.

DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is by and between the **CITY OF PLATTSBURGH**, a New York municipal corporation located in Clinton County, New York (the "City") and **PRIME PLATTSBURGH, LLC**, a New York limited liability company with a place of business in Cohoes, New York ("Prime"), and is made and entered into as of the date of execution by the last party to execute this Agreement (the "Effective Date").

Background

1. Prime is a development company with experience and expertise in the design, development and management of mixed-use development projects.

2. The City is the owner of the so-called "Durkee Street Property". This site consists of two separate properties: 40 Bridge Street and 22 Durkee Street. Combined, the footprint of these properties totals approximately 4.3 acres. A portion of the Durkee Street Property is a leased parcel of approximately 1.3 acres on the southern end of the property (the "Leased Parcel"). This leased site contains a three-story office building and a two-level parking structure. It is leased by Investors Corporation of Vermont ("ICV") and shall not be part of the mixed-use development project. The intent of the City is to merge the 40 Bridge Street with the parcel located at 22 Durkee Street and subdivide the Leased Parcel as well as any lands located to the South of Broad Street which may be associated with the 22 Durkee Street property (the "Merger and Subdivision"). Upon completion of these steps, there shall remain an approximately 3.4-acre parcel bordered to the South by the Leased Parcel, to the North by Bridge Street, to the West by Durkee Street, and to the East by the Saranac River (the "Project Site").

3. New York State ("NYS") awarded the City \$10 million in grant funding through Governor Andrew Cuomo's Downtown Revitalization Initiative ("DRI") to implement catalytic investment projects in downtown Plattsburgh as part of a longer-term strategy to attract additional public and private investment for revitalization. The Durkee Street redevelopment project is the centerpiece of Plattsburgh's DRI revitalization effort and NYS allocated \$4.3 million towards its implementation that can be used as funding for infrastructure improvements, construction, and gap financing.

4. The City DRI's associated Streetscape Improvements and Riverfront Access projects will complement and support redevelopment of the Project Site, which may include improvements on Durkee and Bridge Streets as well as riverfront improvements bordering the Project Site (collectively, "the City's Other DRI Projects").

5. The City issued a Request for Proposals on October 17, 2018 ("RFP"), for a mixed-use development on the Project Site. Prime submitted a proposal in response to the RFP to develop, finance, construct and manage a mixed-use development to be built on the Project Site that is to be purchased from the City.

6. The City and Prime (collectively, the "Parties") memorialized their understandings with regard to the Project Site via a Letter of Intent dated February 22, 2019, incorporated herein and attached hereto as Exhibit "B" (the "Letter of Intent").

7. Prime intends to develop and construct a mixed-use development on the Project Site consisting of 2 buildings which will include approximately 127 +/- market rate apartments including furnished corporate apartments by ExecuStay, approximately 13,515 square feet of commercial space (retail, restaurants and/or office), approximately 7,883 square feet for Farmers' Market/civic space/

community space; approximately 233 parking spaces; and public access to the Saranac River waterfront (the “Durkee Development”). The City and Prime acknowledge and agree that the plans, including the configuration and size of the buildings, are conceptual and, to achieve the goals of each party as set forth herein, may be amended as design and permitting progress in accordance with the terms and conditions of this Agreement.

7. The City supports the Durkee Development. In order to complete the Durkee Development, the 40 Bridge Street parcel will need to be merged with the 22 Durkee Street parcel, the ICV leased parcel and other lands to the south of Broad Street will need to be subdivided from the resulting parcel, and easement rights for utilities and public access will need to be retained by the City. In addition, there will be public parking on the Project Site.

8. The City, as referenced in this document, is defined as follows:

- (a) The City Common Council (“City”). The City of Plattsburgh, as the legal entity of the municipality shall be responsible for approval of the Plans, financing, and this Development Agreement and terms and conditions associated with it as outlined below. This shall also include City staff assisting the City Common Council in this capacity.
- (b) The City’s review boards (“City Boards”): The Planning Board and Zoning Board of Appeals, are independent bodies that will make their own evaluations of the Durkee Development and Project Site under applicable zoning requirements and the terms and conditions of this Agreement shall not be binding on these boards.

9. Prime and the City wish to formulate the necessary terms to proceed with the design, permitting, financing, construction, ownership and management of the Durkee Development.

10. Prime and the City enter into this Agreement to describe the framework for the Parties to proceed with the Durkee Development.

N O W, T H E R E F O R E,

In consideration of the promises and the mutual covenants and agreements herein set forth, and in reliance on the representations and warranties contained herein, the Parties hereby agree as follows:

Section 1. **Prime’s Due Diligence.** Prime shall have 40 days from date of execution of the Letter of Intent to complete its general due diligence of the Project Site (the “Due Diligence Period”). Due diligence will be the responsibility and at the expense of Prime and includes, without limitation, the following potential analysis:

- Review of existing City Boards, City, and NYS permitting history and analysis, and needed City, City Boards, and NYS permitting requirements,
- Review of environmental and brownfield restrictions and analysis,
- Title research and examination,
- Engineering analysis,
- Traffic analysis,
- Utility analysis,
- Geotechnical and soil boring analysis, and
- Other items as determined that need to be considered for the development of the site.

To aid in Prime's Due Diligence, the City will promptly provide Prime with any and all environmental documentation and requirements between the City and the NYS Department of Environmental Conservation on complying with the Site Management Plan in place for the Project Site and the environmental easement on the Project Site in the possession or control of the City. The City agrees to work with Prime as needed for amending NYS documents related to the Site Management Plan as may be necessary for change of use, transfer of certificate of completion, and ownership in connection with the Durkee Development. Prime understands that initial brownfield remediation work has been completed on the Property. If following any sale of the Project Site additional contamination is found during construction and further remediation is needed, such remediation shall be the responsibility of Prime. The City shall engage in reasonable efforts to assist Prime with securing potential NYS funding for this work should the need for it arise.

Prime shall provide the City with necessary information for determining utility allocation needs and connections for the Durkee Development. The City will provide Prime copies of title research, an ALTA survey completed in November of 2018, and utility easements on the Project Site. Prime's title research shall identify items that may be of issue and shall work with the City to resolve them during the Due Diligence Period.

The above Due Diligence Period, which is Prime's responsibility, shall be completed within forty (40) days after the execution of the Letter of Intent. Notwithstanding the foregoing, Prime may extend the Due Diligence Period for an additional thirty (30) days upon written notice to the City, delivered to the City no later than the close of business on the fortieth (40th) day of the initial Due Diligence Period, provided that Prime uses its best efforts to complete its due diligence within the initial forty (40) day period.

During the Due Diligence Period, the City and Prime agree to communicate regularly and express their mutual goodwill to coordinate and resolve potential obstacles.

In the event that either the City or Prime determine, for any reason, during the Due Diligence Period, that they do not wish to proceed with the Durkee Development, a written notice of termination shall be delivered to the other party no later than the close of business on the last day of the Due Diligence Period, as same may be extended. Upon such written notice, this Agreement shall terminate with each party having no further obligation or liability to the other, except such obligations and liabilities that expressly survive the termination or expiration of this Agreement.

Section 2. **Access, Prime's Responsibilities, Prime's Indemnity**

- (a) From the date of the Letter of Intent through the expiration of the Due Diligence Period, Prime and its authorized agents or representatives shall be entitled to enter upon the Project Site during normal business hours upon advance notice to the City and make such reasonable, minimally invasive investigations, studies and tests including, without limitation, surveys, environmental surveys, geotechnical borings, and engineering studies as Prime deems necessary or advisable, provided, however, that, except as set forth below, Prime shall not be permitted to conduct subsurface environmental testing without City's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that it is anticipated that Prime will conduct geotechnical studies and ground penetrating radar studies at the Project Site, which shall include subsurface activities. Prior to conducting such subsurface activities, Prime will provide the City with the scope of such activities for the City's review and approval. The Project Site currently provides public parking in the City so Prime will use reasonable efforts to minimize any anticipated disruption of parking spaces or access.
- (b) Prime agrees that in conducting any inspections, investigations or tests of the Project Site, Prime and its agents and representatives shall: (i) not unreasonably interfere with the operation and maintenance of the Project Site; (ii) not unreasonably disturb the tenants or occupants of adjacent properties; (iii) not damage any part of the Project Site or any personal property owned or held by

the City or any tenant or third party; (iv) not injure or otherwise cause bodily harm to the City or its respective guests, agents, invitees, contractors and employees or any tenant or their guests or invitees; (v) maintain comprehensive general liability insurance in terms and amounts reasonably acceptable to the City covering any accident arising in connection with the presence of Prime, its agents and representatives on the Project Site, and deliver a certificate of insurance verifying such coverage to the City prior to entry upon the Project Site; (vi) promptly pay when due the costs of all tests, investigations and examinations done with regard to the Project Site; (vii) not permit any liens to attach to the Project Site by reason of the exercise of Prime's rights hereunder; and (viii) fully restore the Project Site to the condition in which the same was found before any such inspection or tests were undertaken.

- (c) Prime covenants and agrees to restore any damage to the Project Site resulting from the conduct of any such inspections, tests, surveys and/or studies and to save and hold the City and its successors and assigns harmless from any claim, damage, cost or expense, including reasonable attorneys' fees, for any damage to the Project Site or the property of third persons and/or adjacent property of third parties or for any personal injuries arising in whole or in part from any inspections, tests, surveys and/or studies performed by Prime or Prime's agents, employees or invitees on the Property. In no event shall the foregoing be construed to render Prime liable in connection with the presence or existence of any hazardous materials or environmental contaminants that exist on or beneath the Property and which were discovered through Prime's inspections, tests, surveys and/or studies except to the extent that any such hazardous materials or environmental contaminants were brought onto the Project Site and released by Prime or its agents. Prime's obligations hereunder shall survive the termination of this Agreement for any reason
- (d) Prime shall share with the City all plans, surveys, site plans, building elevations, landscaping and lighting plans, traffic studies, engineering drawings, and all other plans, permits, applications, soil borings and tests, environmental site assessments, reports, and similar materials and products currently existing or generated for, by or on behalf of Prime in connection with the development of the Property during the term of this Agreement ("Work Product"). Prime shall provide copies and review its Work Product and proposed permit applications with the City before Prime submits them to any permit authority for the City's consent which shall not be unreasonably withheld or delayed. In the event that Prime fails to close, all Work Products, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, shall be assigned to and shall become the property of the City. The City shall provide to Prime, within five (5) days of the Effective Date, all permits, applications, environmental site assessments, reports, and similar materials and products currently existing or generated for, by or on behalf of the City in connection with the development of the Property, or which the City otherwise has in its possession, or are in the possession of the City's agents or consultants and of which the City has actual knowledge.
- (e) Prime shall be solely responsible in its sole discretion for selecting the members of its development team including the architect, attorneys, general contractor, property manager, funding sources, consultants and other participants, and coordinating between them.

Section 3. **Pre-Permitting and Design.** In the event neither party provides the written notice of termination provided for in Section 2 above, the Parties shall promptly proceed with the next phase of development of the Durkee Development, the "Pre-Permitting and Design Phase" which shall consist of a ninety (90) day period commencing within fifteen (15) days following the end of the Due Diligence Period, as it may be extended. During the Pre-Permitting and Design Phase, Prime and the City will conduct the following:

- (a) Design Process. Prime has engaged the services of Mackenzie Architects to complete the conceptual plan of the Durkee Development. Prime and its agents shall be responsible for preparing the preliminary design plans for the Durkee Development and Project Site, including hiring the

necessary architectural, landscape, engineering and related consultants needed to develop the plans for the permitting of the Durkee Development (the “Plans”). The Plans shall be in sufficient detail to be submitted in connection with the permit proceedings referenced below in the Permit Phase. Prime shall coordinate and communicate with the City regarding conceptual plans so as to foster and encourage City input. The City shall have access to the preliminary designs for the Plans. The City’s approval of the Plans is also required, which shall not be unreasonably withheld, conditioned or delayed. The City shall notify Prime in writing of its approval or non-approval (together with detailed reasons as to such non-approval) of the Plans within fourteen (14) days of the City’s receipt of the Plans.

- (b) The Parties also incorporate by reference the Vision and Project Requirements as set forth in the Appendix A to the Letter of Intent, which is attached hereto as Exhibit “B”.
- (c) The Parties agree to incorporate energy efficient measures and green infrastructure that could work towards a LEED certification for the Durkee Development provided that such efforts and recommendations can be accommodated in a cost effective manner as determined and agreed to by the Parties.
- (d) The City has engaged the services of Saratoga Associates to design the City’s Other DRI Projects. Prime and City agree to work cooperatively on the Plans for the Durkee Development and the design of the City’s Other DRI Projects with the objective of well-coordinated designs that benefit each.
- (e) Farmers’ Market. Prior to April 30, 2019, the City will make a determination regarding the viability of a farmers’ market on the Project Site. In the event the City determines the farmers’ market will remain on the Project Site, the Plans shall incorporate the farmers’ market in a manner mutually agreeable to the Parties. In the event a farmers’ market will not remain on the Project Site, as determined by the City, then the Parties will propose an alternative public amenity, public parking, or community-oriented project to be incorporated into the design of the Durkee Development to meet the City’s DRI goals as outlined in the Letter of Intent. In the event the City determines that a farmers’ market on the Project Site is not viable, the Parties agree to work together to relocate the existing Plattsburgh Farmers’ and Crafters’ Market structure off the Project Site.
- (f) Merger and Subdivision. The Plans shall include all documentation reasonably required to merge the 40 Bridge Street parcel with 22 Durkee Street parcel, and then subdivide the ICV leased parcel as well as any lands to the South of Broad Street. The parcels described above are indicated on the Robert M. Sutherland P.C. ALTA SURVEY Plan for the City of Plattsburgh dated 10/16/16 and certified on 11/02/2018, herein attached at Exhibit C.
- (g) Public Parking. Prime shall generate an initial draft parking plan for the Project Site and proximate public parking areas which shall be distributed to the City. The proximate public parking areas shall include any parking areas on Bridge Street and Durkee Street to be constructed as part of the City’s Other DRI Projects. The plan shall detail the number of public parking spaces, the management system for these spaces, and shall also detail parking lot maintenance and liability. The portion of the parking plan which directly encumbers the Project Site shall be approved by the City, which approval shall not be unreasonably withheld, conditioned or delayed. The Parties shall execute a mutually satisfactory project site parking agreement (the “Project Site Parking Agreement”). There shall be, at a minimum, 30 parking spaces designated exclusively for the public’s use on the Project Site.
- (h) Public Access Easements. An essential component of the Durkee Development is public access to the Saranac River waterfront. The Plans shall identify those areas identified by the City that it shall retain for public access easements over and across the Project Site and along the Saranac River.

Alternatively, by mutual agreement of the Parties, the Plans may show the property being subdivided in such a manner as shall result in the City retaining ownership of one or more of the areas that provide such public access.

- (i) **Utility Easements.** The Durkee Development may require the relocation of the existing utility easements that encumber the Project Site. The City will work with Prime to identify and grant utility easements on the Project Site, and the Plans shall show any such easements.
- (j) **Project Schedule.** The Parties have created a schedule for the Durkee Development (the "Project Schedule"), a copy of which is attached as Exhibit "A", that sets forth the Parties' best estimate of dates to accomplish the list of tasks delineated within said schedule, with the understanding that some dates may need to be reasonably modified during subsequent phases based on the results of the Parties' reports and investigations. In no event shall the dates set forth in the Project Schedule be considered Times is of the Essence.
- (k) **City Common Council Approvals.** In order to proceed to the Permit Phase (as defined below), the City Common Council shall approve the Plans generated during the Pre-Permitting and Design Phase, which approval shall not be unreasonably withheld, conditioned or delayed. Any objection the City Common Council may have to the proposed design based on standards set forth in the City of Plattsburgh, New York Request for Proposals, Section IV. Vision and Project Requirements attached to the Executed Letter of Intent in Appendix A shall not be deemed unreasonable. The City shall notify Prime in writing of the approval or non-approval of the Plans by the City's Common Council (together with detailed reasons as to such non-approval) of the Plans within fourteen (14) days of the City's receipt of the Plans. In the event of non-approval of the Plans by the City's Common Council, Prime may re-submit modified Plans.

On or before the end of the Pre-Permitting and Design Phase, Prime and the City shall promptly meet to review the Project Budget (outlined in Section 5 Financing below), Project Schedule, Plans, and findings, recommendations and reports referenced above to determine whether to proceed to the next phase of development.

In the event that either the City or Prime determine, for any reason, after their review of all such data and information that they do not wish to proceed with the development of the Project, a written notice of termination shall be delivered to the other party, and upon such written notice, this Agreement shall terminate with each party having no further obligation or liability to the other except as specifically set forth on the Payment Schedule and all of Prime's Work Product, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, collected during the Pre-Permitting and Design Phase shall be assigned to, and shall become the property of the City. The decision as to whether or not to proceed to the next phase shall be made within fifteen (15) days after the end of the Pre-Permitting and Design Phase, as it may be extended.

Section 4. **Permitting** In the event neither party provides the above referenced written notice of termination as provided for in Section 3, the Parties shall promptly proceed with the next phase of development, the "Permit Phase," which shall consist of a ninety (90) day period and which shall include the following steps:

- (a) **Permit Applications and Process.** Prime and its agents shall prepare and submit all necessary municipal, state and federal permit applications required for the approval of the Durkee Development and shall present such applications to the applicable governmental authorities. In the event that the City's Other DRI Projects require permit approvals, those permit applications shall be prepared, submitted and pursued by the City in conjunction with the Durkee Development. Each party's responsibility for the cost and expense for the engineering work and permit costs shall be set forth on the Payment Schedule. Both the City and Prime shall actively participate

during the Permit Phase and shall execute permit applications and attend informational meetings, pre-permitting meetings and public hearings, as requested. During the Permit Phase, each party shall review and approve any material permit conditions with respect to the design of the Durkee Development that would substantially or adversely affect the construction, development, cost and operation of the Project, as contemplated by this Agreement. The Parties shall undertake such reasonable efforts to ensure permits are obtained in accordance with the target dates set forth on the Project Schedule.

Prime understands that the City Boards are independent bodies that will make their own evaluations of the Durkee Development and Project Site under applicable zoning requirements and that the terms and conditions of this Agreement shall not be binding on these boards.

- (b) **Planned Unit Development Approval.** Simultaneously with the Merger and Subdivision, Prime, with assistance from the City, will use reasonable efforts to obtain an amended Planned Unit Development (“PUD”) approval for the Durkee Development on the Project Site per the process described by the City of Plattsburgh Zoning Code.
- (c) **SEQRA Approval.** As part of the City permitting, the Parties will need to obtain SEQRA approval. The Parties agree to work together on preparing and submitting the needed applications to obtain SEQRA approval.
- (d) **State and Federal Approvals.** Prime shall be responsible for obtaining all needed state and federal approvals for the Durkee Development. The City shall be responsible for obtaining all needed state and federal approvals for the City’s Other DRI Projects. The Parties agree to work collaboratively as needed for obtaining these approvals.

Section 5. **Financing**

- (a) **Preliminary Financial Review.** Prime shall provide updated financials, to the extent same exist, and operating proforma to City for review and approval during the Due Diligence phase.
- (b) **Financing.** Within forty-five (45) days of receiving all final, non-appealable permits for the Durkee Development (the “Financing Phase”), Prime shall prepare, submit and use its best efforts to obtain the necessary financing for the entire Durkee Development. This shall include monies provided by NYS and awarded to the City as part of the City’s DRI grant in an estimated amount of Four Million Dollars (\$4,000,000.00) subject to NYS contractual obligations, private financing, and/or other sources. Prime will make all decisions on matters relating to the financing of the Durkee Development, including financial modeling and structuring, analysis of available financial incentives, and the identification and selection of, and all communications and negotiations with, financing sources. Prime will coordinate directly with NYS for the use and acquisition of DRI funds which will be used to leverage Prime’s \$26M investment. Prime will communicate regularly with the City with respect to the allocation, use and acquisition of DRI funds. The City will review all financing sources and associated commitments. If satisfied with the amount and format of the financing, the City shall provide Prime with a written approval of the financing plan, which approval shall not be unreasonably withheld, conditioned or delayed. The City shall use its commercially reasonable efforts to cooperate with Prime in its efforts to obtain the financing for the Durkee Development.
- (c) **Real Estate Taxes/PILOT.** It is the expectation of the Parties that Prime shall be responsible for payment of real estate taxes for the Durkee Development once the Project Site is conveyed to Prime. Prime intends to pursue a PILOT agreement with Clinton County Industrial Development Agency and the other taxing jurisdictions, including the City and the City of

Plattsburgh School District (the "PILOT Agreement"). Prime will apply for the PILOT Agreement during the Due Diligence Phase.

- (d) Project Budget. Except as otherwise set forth herein, it is the Parties' intention that each party will pay for its own costs for the permitting, engineering, design and construction of their respective projects: the Durkee Development by Prime, and the Other DRI Projects by the City. Each party shall prepare its own budget during this phase (including any expectation of reimbursement of costs from the other party and the reasons for such reimbursement). The Parties shall work together to ensure that each project budget is as final as possible given the information available to the Parties during the Pre-Permitting and Design Phase, with the understanding that as the Durkee Development evolves, each budget may require adjustments and modifications. The Parties agree during each phase to periodically review together each party's budget, making any necessary adjustments.
- (e) Payment Schedule. The Parties agree during this phase to finalize a schedule (the "Payment Schedule") that sets forth the Parties' best estimate of each party's responsibility for the costs and expenses for their respective projects based on each party's Project Budget, together with a schedule of when such payments will be due. This Payment Schedule will be subject to the Financing Phase as set forth above. It is anticipated that Prime will coordinate and engage directly with NYS regarding its use of the DRI funds. However, due to the inter-related nature of the City's Other DRI Projects, the Parties will also benefit from a Payment Schedule which clearly delineates each Parties' responsibilities for the related projects.

Section 6. Conditions Precedent to Closing. The Parties hereby agree to the following conditions, which must be established and satisfied prior to the Closing Date as defined in the Project Schedule:

- (a) City's Closing Conditions. The City's obligation to close shall be subject to the satisfaction of the following conditions (the "City's Closing Conditions"): (i) Prime being in a position to initiate the Durkee Development on the Property with a start date for construction as defined in the Project Schedule (ii) the City and Prime entering into the Project Site Parking Agreement, (iii) Prime obtaining construction financing for the Durkee Development at commercially reasonable terms after good faith, diligent efforts to obtain said financing, with closing on the construction financing to occur contemporaneously with the Closing under this Agreement; (iv) Prime and the City come to agreement on items in the Pre-Permitting and Design Section above including, but not limited to, incorporation of energy efficient measures and green infrastructure as noted above, incorporation of a farmers' market or an alternate public amenity, public access easements, and utility easements; and (v) Prime obtaining all permits and approvals necessary to construct and operate the Durkee Development.

In the event City's Closing Conditions have not been satisfied on or before the Closing Date, City may, in City's sole discretion elect to: (i) terminate this Agreement by providing written notice of termination to Prime on or before the Closing Date in which case all rights and obligations of the Parties to this Agreement shall cease and terminate, except those that expressly survive the termination or expiration of this Agreement; or (ii) may waive the satisfaction of one or more of City's Closing Conditions and proceed with the sale contemplated by this Agreement.

- (b) Prime's Closing Conditions. Prime's obligation to close shall be subject to the satisfaction of the following conditions ("Prime's Closing Conditions"): (i) Prime being in a position to initiate the Durkee Development on the Property with a start date for construction as defined in the Project Schedule, (ii) the City and Prime entering into the Project Site Parking Agreement; (iii) the City providing all of the easements described in Section 1 above; (iv) Prime obtaining all necessary financing for the Durkee Development at commercially reasonable terms after good faith, diligent efforts to obtain said financing, with closing on the construction financing to occur

contemporaneously with the Closing under this Agreement; (v) Prime obtaining a PILOT Agreement and other financial assistance from the County of Clinton Industrial Development Agency and other taxing jurisdictions, including the City and the City of Plattsburgh School District, (vi) Prime obtaining a title commitment from a national title insurance company of Prime's choice for the Project Site insuring fee simple title to the Project Site and showing the title to the Project Site to be free and clear of all liens, restrictions, charges, encumbrances, easements, covenants, conditions and other matters affecting title, with the exception of any existing NYS environmental easements, City utility easements, public access easements, and, except for those acceptable to Prime, in its sole and absolute discretion. Any title issues of record as of the end of the Due Diligence period to which Prime has not objected to by the end of the Due Diligence period are considered acceptable to Prime and are waived; (vii) the City having performed all of its obligations hereunder, and (viii) Prime obtaining all permits and approvals necessary to construct and operate the Durkee Development issued without conditions to which the City reasonably objects, and such permits, approvals and consents having become final and unappealable.

In the event Prime's Closing Conditions have not been satisfied on or before the Closing Date, Prime may, in Prime's sole discretion elect to: (i) terminate this Agreement by providing written notice of termination to City on or before the Closing Date in which case all rights and obligations of the Parties to this Agreement shall cease and terminate, except those that expressly survive the termination or expiration of this Agreement; or (ii) may waive the satisfaction of one or more of Prime's Closing Conditions and proceed with the sale contemplated by this Agreement.

Section 7. **Closing**

Purchase and Sale Phase. Within thirty (30) days of Prime obtaining all permits and approvals in final unappealable form the City's review and approval of Prime's financing plan, and the satisfaction of Prime's Closing Conditions, the Parties shall enter into a Purchase and Sale Agreement for the Project Site in a form drafted no later than April 30, 2019 (the "Purchase and Sale Agreement"). The Purchase and Sale Agreement shall include the customary terms and cost allocations for a sale of commercial property in Clinton County. The purchase price (the "Purchase Price") for the Property shall be one dollar U.S. (\$1.00), the obligations contained herein, including the obligation to construct and operate the mixed-use development, and other good and valuable consideration.

Within thirty (30) days of the Parties obtaining needed municipal, NYS and federal permits for the Durkee Development and the City's Other DRI Projects, the Parties shall complete a closing. The prospective deed from the City to Prime shall include the City's retention of easements for utilities and public access. The specific easement descriptions will be provided by the City to Prime for its review and approval (and the approval of Prime's lender) and, following such approval, will be recorded in the Clinton County Clerk's Office

Section 8. **Pre-Construction Phase.** Within forty five (45) days of the Closing and as defined in the Project Schedule, Prime shall promptly proceed to the Pre-Construction and Construction Phase, which shall include the following responsibilities:

(a) **City's Pre-Construction Obligations.**

- (i) During the Pre-Construction Phase, the City shall communicate and cooperate with Prime and its agents as Prime completes the bidding process for the contractors and subcontractors.

(b) Prime's Pre-Construction Obligations.

- (i) Prime has established with the NYS Department of Labor that Prime's use of DRI funds shall not subject the Durkee Development to prevailing wage laws, but Prime will be required to use best efforts to fulfill NYS Minority and Women Owned Business Enterprise (MWBE) requirements during the bidding process for contractors and subcontractors.
- (ii) Once the bidding process has been completed, Prime shall enter into a construction contract per the Plans.
- (iii) The principals of Prime agree to deliver for the City's benefit a completion guaranty in a form to be negotiated and agreed upon no later than April 30, 2019 (the "Completion Guaranty"), whereby the principals for Prime guaranty Prime's obligations to construct and complete the Durkee Development in accordance with the Plans. The Completion Guaranty shall be subject to the review and approval of Prime's lender(s).

Upon completion of the Pre-Construction Phase the Parties shall proceed to the Construction Phase in accordance with Section 9 below.

Section 9. Construction Phase. During the Construction Phase, the Parties shall have the following responsibilities and obligations:

(a) City's Construction Obligations:

- (i) Absent a written agreement with Prime to the contrary, pay all costs, expenses and fees incurred in connection with the construction of the City's Other DRI Projects.

(b) Prime's Construction Obligations:

- (i) Pay all costs, expenses and fees incurred in connection with the construction of the Durkee Development.
- (ii) Supervise the construction of the Durkee Development to ensure compliance with all laws and obtain all final permits and certificates of occupancy for the Durkee Development.
- (iii) Ensure that the insurance requirements set forth on Exhibit D, attached hereto, are met.

The Parties acknowledge and agree that subject to construction sequencing constraints, it is the Parties' intent that the construction of the Durkee Development and the City's Other DRI Projects shall occur simultaneously, and that all reasonable efforts shall be made by both Parties to ensure that each project is substantially complete at relatively the same time.

Each party shall have the right to reasonably review and inspect the other's project during construction to ensure compliance with the Plans and approved permits.

Following substantial completion of the Durkee Development, Prime, or an equally qualified management company, shall manage the Durkee Development while same is owned by Prime.

Section 10. Joint Obligations of the Parties. During the term of this Agreement, the City and Prime agree as follows:

- (a) To cooperate and communicate with each other on a regular basis including arranging joint meetings to address issues set forth in this Agreement and to discuss any change orders so as to permit the orderly and efficient construction and development of the Durkee Development.
- (b) To perform their activities as to the Project Site in a commercially reasonable manner.
- (c) To act in a manner designed to cause the Durkee Development to be placed in service by September 1, 2021 when the Certificate of Occupancy is issued as noted in the Schedule in Exhibit A.
- (d) To indemnify and hold harmless the other from and against any and all costs, expenses, damages and liabilities arising out of or in connection with: (i) breach by such party of its obligations under this Agreement; and (ii) any negligent or willful activities of the party with respect to the Durkee Development, except to the extent attributable to the fault or neglect of non-indemnifying party.

Section 11. **Term**. The term of this Agreement (the "Term") shall commence on the Effective Date and, unless earlier terminated pursuant to the provisions of Section 1, 3, 13(i) (below), shall terminate on the date that the Durkee Development is substantially complete. As used herein, the Durkee Development will be deemed to be "substantially complete" when: (a) certificates of occupancy have been issued for the Durkee Development by the City; (b) a certificate of substantial completion has been issued by the architect for the Durkee Development; (c) the physical construction of the Durkee Development is complete, subject only to a minor punch list of completion items; and (d) all legal documents by and between the City and Prime finalized with regard to the use and operation of the Durkee Development.

Section 12. **Ongoing Role of the Parties**. During the Term:

- (a) The City shall not encumber the Project Site with any liens or mortgages and shall not convey any easements or related interests to third parties except as contemplated in this Agreement, or enter into any leases for the Project Site, except for the leases contemplated in this Agreement, without Prime's prior written consent, not to be unreasonably withheld.
- (b) The Parties shall cooperate to execute legal documents required for the Durkee Development, such as easements, licenses or other legal interests needed for the success of the Durkee Development.
- (c) The Parties shall provide assistance to each other to support the success of the Durkee Development including supporting and attending permit proceedings and pre-development meetings with neighborhood groups.

Section 13. **Default/Termination**. At any time during the term of this Agreement, if either party is in default, the non-defaulting party shall be entitled to the following remedies.

- (a) Except as set forth above, if either party shall fail to commence their work in accordance with the provisions of this Agreement; fail to prosecute their work to the completion thereof in a diligent, efficient, workmanlike, skillful and careful manner and in strict accordance with the Plans and the terms and conditions of the federal, state and municipal permits for the Project (including without limitation in conformance with the City's code standards and other applicable standards); fail to perform any of its obligations under this Agreement or the Plans; file a voluntary case under bankruptcy laws; be adjudged bankrupt; or fail to make prompt payments as outlined in the Payment Schedule, the non-defaulting party shall have the right, if the defaulting party shall not cure such default within thirty (30) days written notice thereof (provided, however, that if such default is not susceptible of cure, given commercially reasonable

diligence on the part of the defaulting party within such thirty (30) day period and the defaulting party during such thirty (30) day period commences curing such default and continues with diligence and continuity to cure such default, the defaulting party shall have such additional time, as shall be reasonable under the circumstances, within which to cure such default) to terminate this Agreement.

The above-described rights and remedies set forth in this Agreement are cumulative and in addition to any other rights and remedies at law or in equity. Additionally, in the event of a default by Prime, the City shall be entitled to all of Prime's Work Product, except for architectural and conceptual plans that are proprietary to Prime or Prime's architect, for the Durkee Development which shall be assigned to and become the property of the City. Neither party, however, shall be liable to the other for any consequential or indirect damages.

- (b) Notwithstanding the terms of Subsection 13(i), this Agreement may be terminated under the terms set forth above in Sections 1 and 3.

Section 14. **Dispute Resolution.** The development of the Project will involve a number of future decisions among the Parties and will require ongoing cooperation and fair dealing. If a dispute arises out of or relates to this Agreement or its breach (a "**Dispute**"), the Parties shall endeavor to settle the Dispute first through direct discussions. In the event that such Dispute cannot be resolved within thirty (30) days after written notice to the other party thereof specifying the subject of the Dispute, the Parties hereby expressly agree to mediate the matter before an impartial mediator before proceeding with arbitration or litigation. The costs of mediation shall be shared equally between the Parties. In the event both Parties do not agree to proceed with arbitration, then either party shall have the right to have the Dispute adjudicated in court in Clinton County, New York, in which case the court shall have the authority to award costs and reasonable attorneys' fees to the substantially prevailing party.

Section 15. **Independent Contractor.** Each party is an independent actor and entity, and nothing in this Agreement shall be deemed to make either party an agent or partner of the other, or to give either party the right to bind the other in any way.

Section 16. **Force Majeure.** In the event that either party shall be delayed, hindered in or prevented from the performance of any act required hereunder, by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive state or federal governmental laws or regulations, riots, insurrection, war, terrorism, or other reason beyond its reasonable control (including the act, failure to act or default of the other party), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Section 17. **Waiver.** The failure of either party to insist on strict performance of any of the provisions of this Agreement or to exercise any right it grants will not be construed as a relinquishment of any right or a waiver of any provision of this Agreement. No waiver of any provision or right shall be valid unless it is in writing and signed by a duly authorized representative of the party granting the waiver.

Section 18. **No Assignment.** Neither party may assign or convey this Agreement or its obligations hereunder without the other's prior written consent, except that Prime may assign this Agreement to a newly formed entity either having the same members/majority owners as Prime.

Section 19. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the state of New York.

Section 20. **Notices.** Any notices to be given pursuant to this Agreement shall be sufficient if given by a writing deposited in the United States mails, certified mail or registered mail, return receipt requested, postage prepaid, by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, by facsimile or by email (provided that the electronic process used is reasonably secure and not easily susceptible to manipulation) addressed as follows:

If to the City: City of Plattsburgh
Attn: Office of Community Development,
City Hall, 41 City Hall Place
Plattsburgh, NY 12901
Telephone No.: (518) 536-7510
Telecopier No.: (518) 561-7367
MillerMa@cityofplattsburgh-ny.gov

With a copy to: Dean C. Schneller, Esq.
Law Offices of Dean C. Schneller
121 Bridge Street
Plattsburgh, NY 12901
Telephone No.: (518) 647-8877
Telecopier No.: (518) 647-8316
Dean@schnellerlaw.com

If to Prime: Prime Plattsburgh, LLC
c/o Prime Companies
Attn: Dean Devito
621 Columbia Street
Cohoes NY 12047
Telephone No.: (518) 785-9000
ddevito@CBCPrime.net

With a copy to: Whiteman Osterman & Hanna LLP
One Commerce Plaza
Albany, New York 12260
Attn: Randall S. Beach, Esq.
Telephone No.: (518) 487-7740
Telecopier No.: (518) 487-7777
rbeach@woh.com

or to such other person, address or number as the party entitled to such notice or communication shall have specified by notice to the other party given in accordance with the provisions of this Section 8. Any such notice or other communication shall be deemed given: (i) if mailed, three days after being deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by courier, the next day after being deposited with the courier, properly addressed and with prepaid; (iii) if sent by telecopy, when transmission has been electronically confirmed; and (iv) if sent by email, upon receipt of a read-receipt or other acknowledgment of receipt by the recipient.

Section 21. **Representations and Warranties.** As of the date hereof and as of the Closing Date, the City represents, warrants and covenants to Prime that:

- (a) There are no contracts, agreements, undertakings or otherwise which would be binding on Prime or the Project Site from and after the closing other than those disclosed or of record.
- (b) Except as has been disclosed to Prime, the City has not received any notice, nor is the City aware, of any violation of any ordinance, regulation, law, statute, rule, insurance requirement, or restriction relating to the Project Site.
- (c) There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws or any other litigation contemplated by or pending or threatened against the City or the Project Site.
- (d) No other signatures or approvals are required to make this Agreement fully enforceable by Prime with respect to the City or the Project Site.
- (e) There is no pending or threatened condemnation or similar proceeding or assessment affecting the Project Site or any part thereof, nor to the knowledge of the City is any such proceeding or assessment contemplated by any governmental authority.
- (f) There is no existing lease or service, management, maintenance, repair, employment, construction or other contract or agreement currently affecting the Project Property.

The City hereby indemnifies and holds harmless Prime from and against any and all loss, expense (including, without limitation, reasonable attorney fees), penalty fees, liability, cost, claim, demand, action, cause of action and suit arising out of or in any way related to any breach of any representation or warranty of Seller in Section 21 of this Agreement.

Section 22. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 23. **Further Assurances**. The Parties agree to execute, acknowledge, if necessary, and deliver such documents, certificates or other instruments and take such other actions as may be reasonably required from time to time to carry out the intents and purposes of this Agreement.

Section 24. **Waiver of Rule of Construction**. The Parties waive the benefit of any rule that this Agreement is to be construed against one party or the other.

Section 25. **Severability**. If a court of competent jurisdiction determines that any portion of this Agreement is illegal, unenforceable or invalid, then that portion shall be considered to be removed from this Agreement, the remainder shall remain in full force and effect, and the Parties shall cooperate to modify the Agreement to cause it to conform to the original language of the Agreement to the extent consistent with the finding of the court.

Section 26. **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties relating to its subject matter, and supersedes all prior representations, understandings and agreements, written or oral, express or implied. The Agreement can be modified only by written agreement executed by authorized representatives of each party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties, as evidenced by the signature of their Duly Authorized Agents, do hereby execute this Agreement this 29th day of March, 2019.

IN PRESENCE OF:

[Signature]
Witness

CITY OF PLATTSBURGH

By: [Signature]
Colin Read, Mayor

IN PRESENCE OF:

[Signature]
Witness

PRIME PLATTSBURGH, LLC

By: [Signature] - Member
Duly Authorized Agent

STATE OF NEW YORK
COUNTY OF CLINTON

On this 29 day of March, 2019, personally appeared COLIN READ, to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed as the Mayor of the City of Plattsburgh.

STATE OF NEW YORK
COUNTY OF Albany

SYLVIA PARROTTE
Notary Public, State of New York
No. 01PA6304470
Qualified in Clinton County
Commission Expires May 27, 2022

On this 1 day of APRIL, 2019, personally appeared [Signature], to me known to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed as the duly authorized member of Prime Plattsburgh, LLC.

DANIELLE KOONCE
Notary Public - State of New York
NO. 01K06229404
Qualified in Albany County
My Commission Expires 12/22

Exhibit "A"

Project Schedule

Durkee Development - Schedule
Development Agreement Exhibit "A"

The Parties shall develop a schedule for the proposed project that anticipates construction of needed utility realignments and adjustments for the proposed project based on the following outline. This schedule assumes no extensions.

February 21, 2019	Execution of the Letter of Intent.
March 31, 2019	Prime's Completion of Due Diligence Work.
April 1, 2019	Execution of the Development Agreement.
April 30, 2019	Draft Purchase and Sale Agreement; Negotiated Completion Guaranty complete.
May 21, 2019	City approves Prime's proposed Project conceptual design prior to obtaining permits.
November 30, 2019	Prime obtains needed municipal, NYS and federal permits for proposed project. City obtains needed municipal, NYS and federal permits for the other DRI projects.
December 30, 2019	Closing on sale of property.
January 30, 2020	Prime to break ground on construction of proposed project.
May 1, 2020	City to break ground on construction of other DRI projects.
September 1, 2021	Prime to complete building 1 of proposed project, Certificate of Occupancy issued.
February 28, 2022	Prime to complete building 2 of proposed project, Certificate of Occupancy issued.

Exhibit "B"

Executed Letter of Intent

Letter of Intent

By and Between the City of Plattsburgh, New York and Prime Companies, LLC.

February 21, 2019

This non-binding Letter of Intent (LOI) sets forth the basic terms, conditions and process upon which Purchaser and Seller will enter into a Development Agreement for the Property described below.

Background

New York State (NYS) awarded the City of Plattsburgh \$10 million in grant funding through Governor Andrew Cuomo's Downtown Revitalization Initiative (DRI) to implement 10 catalytic investment projects in downtown Plattsburgh as part of a longer-term strategy to attract additional public and private investment for revitalization. The Durkee Street Site (Project Site) is the centerpiece of Plattsburgh's DRI revitalization effort and NYS allocated \$4.3 million towards its implementation that could include public infrastructure and gap financing. The DRI's Streetscape Improvements and Riverfront Access projects will complement and support the Project Site redevelopment, which will include improvements on Durkee and Bridge Streets, and Saranac River riverfront improvements bordering the Project site.

The City of Plattsburgh, New York (the "City") issued a Request for Proposals on October 17, 2018 ("RFP"), for a mixed-use development on several City owned parcels of land approximately 3.4 acres in size located on Durkee Street and bordering the Saranac River in downtown Plattsburgh. Prime Companies, LLC ("Prime Companies") submitted a proposal in response to the RFP to develop, finance, construct and manage a mixed-use development to be built on the Project Site that is to be purchased from the City. The City's Common Council subsequently authorized negotiation of both a LOI and a Development Agreement ("DA") based on Prime Companies' proposal.

The City and Prime Companies (collectively, the "Parties") wish to memorialize their understandings with regard to the Project in this LOI, which shall also form the basis for the drafting of a DA.

Seller: The City of Plattsburgh, New York

Purchaser: An entity to be formed through Prime Companies, LLC.

Property: The Project Site consists of two separate properties: 40 Bridge Street and 22 Durkee Street and is approximately 4.38 acres combined. A portion of this is a leased parcel of approximately 1.3 acres on the southern end of the Project Site that contains a three-story office building and a two-level parking structure (the "Leased Property"), which is not part of the Property. Access to the Property is from Durkee Street and Bridge Street. Seller shall be responsible for the subdivision of the Leased Property from the Property and the merger of 40 Bridge Street and 22 Durkee Street, both of which may be part of the permitting for the Project.

Purchase Price: The purchase price (the "Purchase Price") for the Property shall be one dollar U.S. (\$1.00), the obligations contained herein, including the obligation to construct and operate the mixed-use development, and other good and valuable consideration. The Purchase Price shall be paid at Closing.

Project Development: Purchaser intends to develop and construct a mixed-use development consisting of 2 buildings consisting of approximately 127 +/- market rate apartments (exact number of units TBD) including furnished corporate apartments by ExecuStay, approximately 13,515 square feet of commercial space (retail, restaurants and/or office), approximately 7,883 square feet for Farmers' Market/civic space; approximately 233 parking spaces; and public access to the Saranac River waterfront. Seller and Purchaser acknowledge and agree that the plans, including the configuration and size of the buildings, are conceptual and, to achieve the goals of each party, may be amended as design and permitting progress. The proposed Project may be phased with building 1 to start construction first and building 2 to begin construction approximately 6 months later.

DRI Funding: Seller has \$4 million remaining of their DRI awarded funding to be used towards a public ~ private partnership to support public infrastructure investments and provide vertical development gap financing to incentivize development on the Project Site. Purchaser and Seller, in consultation with NYS Empire State Development (ESD), shall work to determine how best to allocate the DRI funds to this Project. The final determination of the use of the DRI funding for the Project will be outlined in the DA.

Seller and Purchaser shall work with ESD and the NYS Department of State (DOS) to determine which specific elements will be covered by other DRI funded projects bordering the Project Site: Streetscape Improvements for Durkee and Bridge Streets, and Riverfront Access for the Saranac River ("Seller's other DRI projects"). The final determination of the specifics of the work to be covered by the other DRI funded projects will be outlined in the DA.

Due Diligence: Purchaser shall have 40 days from the date both Parties have executed this LOI for completing general due diligence of the Property. Due diligence will include, but not be limited to,

- Existing City and NYS permitting history and analysis, and needed City and NYS permitting requirements,
- Environmental studies and brownfield restrictions and analysis,
- Title research and examination,
- Engineering analysis,
- Traffic analysis,
- Utility analysis,
- Geotechnical and soil boring analysis, and
- Other items as determined that, in Purchaser's sole discretion, need to be considered for the development of the site.

Purchaser may extend the due diligence for an additional thirty (30) days upon written notice to Seller, delivered to Seller no later than the close of business on the fortieth (40th) day of the initial due diligence period, provided that Purchaser uses its best efforts to complete its due diligence within the initial forty (40) day period.

Seller will provide Purchaser with any and all environmental documentation pertaining to the Property and requirements between the City and the NYS Department of Environmental Conservation on complying with the Site Management Plan and the environmental easement on the Project Site. Seller agrees to work with Purchaser as needed for amending NYS documents related to the Site Management Plan as may be necessary, for change of use, transfer of certificate of completion, and ownership. Purchaser understands that initial brownfield remediation work has been completed on the Property. If during construction, additional contamination is found and further remediation is needed, it shall be the responsibility of the Purchaser. The Seller will assist the Purchaser in efforts to secure potential NYS funding for this work.

The Purchaser shall provide the Seller with necessary information for determining utility allocation needs and connections for the proposed project. The Seller will provide the Purchaser needed information for utility easements on the Property as outlined in the Schedule below.

Seller will provide Purchaser with title research prepared by the City's attorney and an ALTA survey completed in October 2018.

Open Issues: The following open issues will involve negotiations between the Purchaser and Seller prior to execution of the DA.

Farmer's Market / Public Amenities: The Seller will work with the Purchaser to determine whether the Farmer's Market remains within the Purchaser's proposed project, and if so, how it will be physically laid out, designed and operated prior to beginning construction. Seller shall determine the logistics of the Farmer's Market utilizing space within the proposed project prior to execution of the DA. The Seller shall work with the Purchaser to determine what will be the public amenities proposed for the Property and how they will be managed.

Public Parking: Purchaser will work with the Seller to determine the specific number of parking spaces to be available for public use. When agreement on the number of parking spaces is reached, the Seller and Purchaser shall draft a parking agreement that will be referenced in the DA.

Public Access: Purchaser shall provide public access to the Saranac River riverfront through the Property. Purchaser will work with the Seller on the locations and management/maintenance of the public access.

Coordination with Streetscape and Riverfront Access Projects: Both parties acknowledge that Seller's other DRI projects need to progress during the same timeframe as the Purchaser's proposed project. Purchaser shall coordinate with Seller on design drawings and construction schedules for the Purchaser's proposed project and the Seller's other DRI projects to begin concurrently.

Purchaser shall be responsible for construction of the Purchaser's proposed project. It is currently contemplated that Purchaser may also construct Seller's other DRI projects under terms to be negotiated. In which event, Seller and Purchaser agree to negotiate a construction agreement addressing reimbursement for construction costs associated with Seller's other DRI projects, construction management, and oversight prior to commencing construction for the Purchaser's proposed project and the Seller's other DRI projects.

Permitting: Purchaser understands and acknowledges that the City as a permitting authority is separate and distinct from the City as Seller of the real estate. Seller makes no representation to Purchaser with respect to compliance of the proposed project with any applicable regulations, including, but not limited to, local zoning ordinances. Except as otherwise set forth herein, Purchaser will be required to apply for and obtain all permits that would be

required regardless of the City being the Seller. Purchaser and Seller shall work cooperatively throughout the design and permit process and make changes as needed. Purchaser shall receive design approval from the City as Seller of the real estate prior to applying for any permits, which approval shall not be unreasonably withheld, conditioned or delayed. Any objection the City may have to the proposed design based on standards set forth in the City of Plattsburgh, New York Request for Proposals, Section IV. Vision and Project Requirements attached in Appendix A shall not be deemed unreasonable.

The parties agree that it may be most efficient to seek permits for the Purchaser's project and the Seller's other DRI projects as a single permit process. Purchaser may assume lead responsibility for all permitting, with Seller's cooperation and support as necessary and appropriate. Seller is responsible for providing designs and any design changes for the Seller's other DRI projects to Purchaser in a timely manner to facilitate permitting. It is anticipated that the proposed project will apply for approvals as a Planned Unit Development (PUD) and subdivision as a single permit process. It is currently contemplated that the PUD will be configured as follows:

- the former Highway Oil site will be merged by the Seller with the larger Durkee parking lot.
- the parking lot south of Broad Street will be subdivided by the Seller such that it may be part of the PUD.
- The portion of the site currently leased to ICV will be a separate lot, through subdivision obtained by Seller, which may be within the PUD.
- Boundary adjustments with the abutting public rights-of-way will be made as needed to keep the streets, associated parking and sidewalks within the public rights-of-way.
- Subject to further review by the parties, the area with public riverfront improvements may also be subdivided with ownership being retained by the Seller.

Purchaser's Financing: Purchaser shall be responsible for obtaining all necessary public and/or private financing for the Purchaser's proposed project. This will include the DRI funding and may include a PILOT agreement and other public support.

Purchaser's Financial Obligations: As part of Purchaser's and Seller's negotiation for a definitive DA, the parties agree to Purchaser's financial obligations to Seller as follows:

- a. Purchaser's costs – provided Purchaser's proposed project has been found through due diligence to be suitable, in Purchaser's sole discretion, for Purchaser's intended purposes on financial terms typical for the industry, and has not been denied necessary permits,

Purchaser agrees to use best efforts to obtain necessary funding to cover the costs associated with the proposed project.

- b. Purchaser's construction of its project – Purchaser shall be responsible for construction of Purchaser's proposed project.

Purchaser's Contingencies: Purchaser's obligation to purchase the Property and construct the proposed project will be contingent upon satisfaction of the following contingencies prior to closing:

- a. **Funding:** Purchaser securing necessary funding for the proposed project, which is to include the DRI funding as negotiated above.
- b. **Purchaser's Permits and Approvals:** Purchaser obtaining all necessary, final and non-appealable City, NYS, and federal permits and approvals for the Purchaser's proposed project and, if applicable, the Seller's other DRI projects in final form not subject to appeal, containing terms and conditions reasonably acceptable to Seller and Purchaser.
- c. **Seller's Permits and Approvals:** Seller obtaining final, non-appealable subdivision and merger approvals as may be combined in a single permit process with the Purchaser's Permits it is responsible for in accordance with this LOI.
- d. **Developer Agreement:** Purchaser shall have executed a DA with Seller to purchase the Property, construct buildings and site improvements for Purchaser and Seller's use, provide public amenities and a public access easement to the Saranac River riverfront, provide a negotiated number of public parking spaces, provide needed easements for public utility access, and, if warranted, lease a portion of one building to Seller for operation of a farmer's market
- e. **Due Diligence:** Purchaser's satisfaction, in Purchaser's sole discretion, with its due diligence studies conducted in accordance with the terms of this LOI. Failure to object by the end of the Due Diligence period shall constitute satisfaction with this contingency.

Seller's Contingencies: Seller's obligation to sell the Property will be contingent upon satisfaction of the following contingencies prior to closing:

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

- a. **Developer Agreement:** Seller shall have executed a DA with the Purchaser to purchase the Property, construct buildings and site improvements for Purchaser and Seller's use, provide public amenities and a public access easement to the Saranac River riverfront, provide a negotiated number of public parking spaces, provide needed easements for public utility access, and, if warranted, lease a portion of one building to Seller for operation of a farmer's market.
- b. **Purchaser's Funding:** Reasonable evidence of full funding commitments for the Purchaser to purchase the Property and pay for the construction of all phases of the proposed project.
- c. **Permits and Approvals:** Purchaser has obtained all required federal, NYS, and municipal permits and approvals for Purchaser's proposed project and, if applicable, Seller's other DRI projects.

Closing: Closing to take place within 30 days of the following: obtaining all permits and approvals in final unappealable form and Purchaser obtaining all necessary financing.

Schedule: The Parties shall develop a schedule for the proposed project that anticipates construction of needed utility realignments and adjustments for the proposed project based on the following outline.

- February 21, 2019 Execution of the Letter of Intent.
- March 31, 2019 Purchaser's Completion of Due Diligence Work.
- April 1, 2019 Execution of the DA.
- June 1, 2019 Seller of real estate approves proposed Project design prior to obtaining permits.
- October 31, 2019 Purchaser obtained needed municipal, NYS and federal permits for proposed project. Seller obtained needed municipal, NYS and federal permits for the other DRI projects.
- November 30, 2019 Closing on sale of property.
- December 1, 2019 Purchaser to break ground on construction of proposed project.

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

May 1, 2020 Seller to break ground on construction of other DRI projects.

May 31, 2021 Purchaser to complete building 1 of proposed project.

December 31, 2021 Purchaser to complete building 2 of proposed project.

Reversionary Rights: If Purchaser fails to commence construction within 30 days of closing or fails to make substantial construction progress for any period exceeding 2 weeks, as such breach will be set forth in the DA, all right, title, and interest in the Property would revert back to the Seller. The foregoing shall not apply in the event Purchaser is delayed or hindered in or prevented from the performance of any work because of strikes, lockouts, labor troubles, inability to procure material, failure of power, unreasonably restrictive governmental laws or regulations, riots, insurrection, war, acts of terror, any reason not in the control of Purchaser or other reason of a like nature not the fault of Purchaser.

Development Agreement: Within 14 days of full execution of this LOI, Seller shall provide a first draft of DA to Purchaser. The Parties agree to negotiate and enter into a final, executed DA no later than April 1, 2019. In the event that the Parties have not reached agreement and executed a DA by this date, this LOI shall be of no further force and effect, and the Parties shall be free to pursue other options for the Project Site.

Non-Binding: The provisions of this LOI do not constitute a binding agreement between the Parties, but instead are intended to set forth the Parties' understanding of the basic terms, conditions and process upon which a binding, definitive DA will be based. Purchaser shall not be obligated to purchase, and Seller shall not be obligated to sell the Property until the Parties have executed a binding, definitive DA. Notwithstanding these limitations, this LOI is a sincere expression of the Parties' intent to proceed. This LOI is contingent upon the approval of the City's Common Council, which approval the City shall diligently pursue.

Joint Letter of Intent by and Between
The City of Plattsburgh, New York and Prime Companies, LLC
February 21, 2019

The Parties do hereby set their signatures and seals to the Joint Letter of Intent on this 22nd day
of February 2019.

Prime Companies, LLC

By: [Signature]

Title: Member

Name: Tom Conroy

City of Plattsburgh

By: [Signature]

Title: Mayor

Name: Feb. 22, 2019 / Colin Read

Letter of Intent

By and Between the City of Plattsburgh, New York and Prime Companies, LLC.

February 21, 2019

APPENDIX A

I. VISION AND PROJECT REQUIREMENTS

- **New Buildings and Site Development:** The proposed development must consist of multi-story buildings that have mixed-uses. The City envisions residential, office, and retail uses for the Project Site. It should provide for public access to nearby amenities and should have community green space. The City's goals for the project include:
 - Include market rate residential development, Class A office space, and retail space,
 - Capitalize on local and regional initiatives focusing on food, agriculture, arts, history and tourism,
 - Serve multiple community functions,
 - Provide for physical/visual connections to Westelcom Park (across Durkee Street), the Saranac River riverfront, and the regional waterfront trail extensions, and
 - Provide community green space.

The City will consider uses other than what has been identified above.

The primary goal is to realize buildings and uses on the site that fit in well with the diverse urban fabric, maintain the historical look and feel of the downtown area, add to the increasing vibrancy of downtown, are economically feasible, and help contribute to a stable tax base.

Design and Configuration:

- The buildings and site shall be constructed of quality materials and design. The design of the buildings shall require approval of the City.
- Maximizing lot coverage and placing the buildings in a manner that enhances pedestrian access and visual appeal from the street is highly encouraged.
- The proposed site and building layout shall be handicap accessible, barrier free and customer oriented, providing easy pedestrian access.

- The buildings/spaces shall be designed and fit up in accordance with general standards for the use being provided and shall meet all applicable code requirements as specified and currently adopted by federal, NYS and local municipal authorities and permit grantors having jurisdiction.
- The City requires multiple stories for the buildings taking advantage of streetscape proximity and riverfront views.
- Developers are encouraged to incorporate the existing farmers' market structure into their proposals and develop it for three-season use. This could involve leaving the existing structure in its current location, relocating it to a different location on the site, or constructing a new three-season structure. The DRI funds could potentially be used for this work and could also be combined with other uses. If the developer is not able to include the farmer's market structure in their proposed plan, they should explain why.

Parking

Parking for the uses being proposed shall be provided on site as much as is reasonably possible. The proposed developer must address its parking needs on and off site for its build out. The City will cooperate with the developer in addressing parking requirements. Parking should be provided on site for residential units and commercial/office space. If a parking structure is part of the proposed development, the City may be interested in additional spaces for public use. The City will consider all proposed options. If the developer proposes a phased development, it is possible to use a portion of the existing parking lot for meeting parking needs while development is ongoing. The developer should consider parking under the buildings if feasible.

The City is working on a downtown parking plan that will include on street and off-street parking which they will be implementing over the next six months. The City is in the process of buying real property to develop into a municipal lot that will help accommodate the loss of parking from redevelopment of the Durkee parking lot. A managed parking system for the downtown area is also in the process of being implemented.

As mentioned above, the Streetscape Project is considering adding angled parking along Durkee and Bridge Streets bordering the site, which could be available for use by the development on the Project Site.

The City will work with the selected developer to identify other adjoining and nearby City-owned parking spaces/lots that may provide some of the parking for the proposed project through a development agreement to be executed between the selected developer and the City. The selected developer shall provide a calculation of the number of parking spaces that will be required to meet the needs of the uses being proposed and such number of parking spaces shall require approval of the City's Planning Board.

For additional information regarding parking, the current Code of the City of Plattsburgh may be found at the following website:
<http://www.cityofplattsburgh.com/DocumentCenter/View/1213/City-of-Plattsburgh-Code>
The section of the Code applicable to parking begins on Page 534 (25301) and ends of Page 556 (25321).

Exhibit "C"

Alta Survey Plan

Plan entitled "ALTA SURVEY Showing Certain Lands of The City of Plattsburgh, Clinton County, State of New York" prepared by Robert M. Sullivan, P.C. dated October 16, 2016 and certified November 2, 2018.

Exhibit "D"

INSURANCE AND INDEMNIFICATION REQUIREMENTS

A. Architect

During design and construction, the architect and all other design professionals shall carry professional liability assurance (E&O insurance) covering claims arising out of negligent errors or omissions in rendering or failure to render professional services, in any amount not less than \$1.0 million each claim and \$1.0 million annually aggregated. Coverage shall include liability arising out of a contract. If such insurance is on a claims made bases, Architect shall maintain liability coverage for not less than five years following the date of substantial completion of the Durkee Development.

B. General Contractor/Construction Manager

During construction, the GC/CM shall carry:

"All risk" Builders Risk Insurance with a limit of liability of 100% of completed value of the project, to include the interests of Prime's and the City's respective mortgagee, contractors and subcontractors involved in the project.

Workers Compensation insurance in accordance with New York State statutory requirements and Employers' Liability insurance in the amount not less than \$1.0 million each occurrence, \$1.0 million annual aggregate.

Owners and Contractors Protective Liability for the Durkee Development protecting the interests of the City and general contractor/construction manager, \$1.0 million per occurrence.

Commercial General Liability Insurance including Bodily Injury and Property Damage Liability, Independent Contractors Liability, Contractual Liability, Product Liability and Completed Operations Liability in an amount not less than \$5.0 million combined single limit, per occurrence, and \$5.0 million aggregated to this Project, naming the City and Prime as additional insureds.

Commercial Automobile Liability Insurance in an amount not less than \$1.0 million per occurrence for bodily injury and property damage liability arising out of the operation and use of owned, hired, and non-owned vehicles and naming the City and Prime as additional insureds.

Performance Bond and Labor & Materials Payment Bond. At the option of Prime, the general contractor shall provide performance and payment bonds. If required by Prime or Prime's lender, such bonds shall be in amount equal to 100% of the contract sum or an amount to be determined based on its lender's requirements.

C. Proof of Insurance

Companies authorized to do business in the State of New York and rated no less than "A-" by the latest edition of Best's Insurance Guide, published by Alfred M. Best Co. or equivalent, shall issue all insurance policies. Certificates of Insurance shall be furnished prior to the award of the contract. Certificates shall clearly indicate the coverage type, insurance amount, and additional insured status as noted above. The Certificates must provide that in the event of any material change or cancellation of the policies, each party will be given thirty (30) days' notice thereof. Each party will review the insurance coverage every 3 years and each party will update its coverage over the term of the ground lease (in the event the legal structure is for a ground lease), or over the term of the mortgage (in the event the legal structure is for a fee title conveyance) as required by the City as an operating expense.

September 5, 2019

City of Plattsburgh Common Council
c/o Hon. Colin L. Read
City Hall
41 City Hall Place
Plattsburgh, New York 12901

Re: City of Plattsburgh Downtown Area Improvement Projects Draft Generic Environmental Impact Statement (DGEIS) Draft Scoping Document Comments

Dear Mayor Read and City of Plattsburgh Common Council:

Our firm is been retained by the Plattsburgh Citizens Coalition, Inc., a not for profit coalition and its members, of concerned citizens, property owners, and business owners in the City of Plattsburgh relative to the City's proposed development plans with Prime Plattsburgh, LLC. In reviewing the "Development Agreement" between the City of Plattsburgh and Prime Plattsburgh, LLC dated March 29, 2019 (hereinafter the "Agreement"), we believe this Agreement is a nullity. The City of Plattsburgh is without power to convey the waterfront property, or any portion of it, identified in the Agreement broadly as "40 Bridge Street and 22 Durkee Street" (hereinafter the "Properties").

The Properties that are subject to the Agreement are identified by Tax Map Parcels 207.20-1-14 and 207.20-1-15. Both of these parcels lie along the Saranac River, and therefore constitute, by law, "water front" properties. The City may not legally convey these Properties.

Pursuant to New York General City Law §20(2), a city is empowered to: "***To take, purchase, hold and lease real...property within...the limits of the city;..., and to sell and convey the same, but the rights of a city in and to its water front,...streets,...avenues, parks, and all other public places, are hereby declared to be inalienable, except in the cases provided for by subdivision seven of this section.***" *Emphasis added.* In this instance, New York General City Law §20(7) included in the foregoing exception does not apply as there connection to any of the exceptions contained therein.

There is no question that this river front property, which includes the entirety of the Properties, constitutes "water front" as set forth in New York General City Law §20(2). See for example,

Gladsky v. City of Glen Cove, 164 A.D.2d 567, 2nd Dept. 1991 for a thorough discussion of this issue now posed to the City of Plattsburgh.

- As in this instance, the City of Glen Cove attempted to convey a portion of property that included “frontage on Glen Cove Creed”. *Id.* at 567.
- The question of whether or not the property in Glen Cove, as with the property along the Saranac River here, had ever been “used, acquired or dedicated” to public purpose is irrelevant. “*While other forms of City-owned property may be converted to public use and thereby be rendered inalienable under the statute, waterfront property has been expressly declared to be inalienable, regardless of the manner in which the property is used. Although we recognize that the statutory restriction against the alienation of certain municipal property emanates, to a large extent, from the “public trust” doctrine (see, Matter of Lake George Steamboat Co. v. Blais, 30 N.Y.2d 48, 330 N.Y.S.2d 336, 281 N.E.2d 147; Brooklyn Park Commrs. v. Armstrong, 45 N.Y. 234, supra; Matter of Central Parkway, 140 Misc. 727, 729–730, 251 N.Y.S. 577; Gewirtz v. City of Long Beach, 69 Misc.2d 763, 330 N.Y.S.2d 495, aff’d 45 A.D.2d 841, 358 N.Y.S.2d 957) the Legislature did not see fit to include a public-use limitation in the statute, and we decline to engraft such a limitation in a statute which is otherwise clear and unequivocal on its face.*” *Id.* at 571. **Emphasis added.** Thus, in this instance, we need not delve into whether or not the City ever “dedicated” this property to protection under the public trust doctrine. New York General City Law §20(2) preempts that decision or action.’
- The exceptions of New York General City Law §20(7) do not include alienation of waterfront property. See again, Gladsky: “*Nor does General City Law § 20(7), upon which the plaintiff relies, compel a contrary result. This subdivision creates a “discontinuance” exception to the statute’s blanket prohibition against the alienability of public property by empowering a municipality to “lay out, establish, construct, maintain and operate markets, parks, playgrounds and public places, and upon the discontinuance thereof to sell and convey the same” (emphasis supplied). Notably absent from the enumeration of the type of property which may be freely sold by a municipality upon the discontinuance of its public use is waterfront property. The reason for this absence is clear—waterfront property, as we have noted, is entitled to special protection by virtue of its geographical location rather than by virtue of its use. Unlike a public playground, which may cease to be a playground if its use is altered, waterfront property is intrinsically unique. That the discontinuance exception does not, and should not, apply to waterfront property becomes all the more compelling given the significant ecological, scenic, and aesthetic qualities inherent in it.*” **Emphasis added.**

In addition, it is also noted that the parking lot here may very well also be protected by the public trust doctrine, in addition to the issues surrounding New York General City Law §20(2) above.

See generally 10 East Realty, LLC v. Incorporated Village of Valley Stream, 49 A.D.3d 764, Second Department 2008, as well as the related 10 East Realty cases at 17 A.D.3d 474, 49 A.D.3d 770. Although the Second Department found in the case of the village in 10 East Realty that the public trust doctrine was not violated by the conveyance of a parking lot there, here, we have a bit of a different scenario. In the City of Plattsburgh, this parking lot, and indeed other similar parking lots within the downtown parking district, are held for the benefit of that parking district. Taxpayers are charged a special tax for the maintenance, repair and upkeep of those parking lots, evidencing an intention by the City of Plattsburgh to hold those public parking

spaces in public trust for this district. That is, the City cannot, absent legislative approval, remove the benefit that it has charged the City's parking district. Thus, no parking property may be alienated without addressing the underlying special taxing district.

The continuing wrong evidenced by the Agreement in violation of New York General City Law §20(2) must be reversed. The City of Plattsburgh does not possess the legal authority to enter into the Agreement.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Fuller', written in a cursive style.

Matthew F. Fuller, Esq.
mfuller@meyerfuller.com

cc: Plattsburgh Citizens Coalition, Inc.



City Info <cityinfo@plattsburghcitygov.com>

Planning Board Comment 4/7/2020 - 2 - Professional Review fees

1 message

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Mon, Apr 6, 2020 at 11:56 AM

To: Sylvia <parrottes@cityofplattsburgh-ny.gov>, cityinfo@plattsburghcitygov.com, WIRY Radio <wiry@wiry.com>, 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>, rick@fesetterealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecocpas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerov001@plattsburgh.edu

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 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>

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

2 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.

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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]



City Info <cityinfo@plattsburghcitygov.com>

Fwd: Planning Board Comment 4/7/2020 - 3 - Reading of Public comment during meetings

2 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Tue, Apr 7, 2020 at 12:45 PM

To: cityinfo@plattsburghcitygov.com, Sylvia <parrottes@cityofplattsburgh-ny.gov>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotemplio@pressrepublican.com, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>, rick@fesetterrealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecocpas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerv001@plattsburgh.edu

Dear Planning Board Members:

The purpose of this communication is to respectfully request that each and every public comment received is read aloud in its entirety at tonight's Board meeting.

People are concerned that, given the short notice and project complexity, public written comments will not be thoroughly read by Board members and contemplated within the context of the public meeting.

The City's program of rushing these special meetings with minimal notice to both Boards and to the public left little time for the public to write or for Board members to read public comments. With only days notice to compose written comment and having them due at noon the day of the meeting, it effectively diminishes and, in fact, all but eliminates public involvement. It also puts an unfair burden on Board members. And that's before even mentioning the severe strain and stress that each of us is under given this global emergency.

Therefore, in order to mitigate this injustice, we would ask that each and every public comment is read aloud in its entirety at the Planning Board meeting tonight. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling a large one is a brazen and out of touch slap in the face to the community. Reading of the public comments won't change those facts. But it will at least ensure that all Board members thoroughly review comments and will show respect for the public and for the comments received although on a significantly diminished stage.

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. Whether to vote.

Once again, thank you for your service.

City Info <cityinfo@plattsburghcitygov.com>

Wed, Apr 8, 2020 at 7:14 AM

To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Re: Planning Board Comment 4/7/2020 - 4 - -TO ALLOW PUBLIC SIGN-UP LIST TO SPEAK AT PLANNING BOARD MEETINGS (AND REQUEST TO LEAVE THAT SIGN-UP LIST OPEN THROUGHOUT THE MEETING)

2 messages

Plattsburgh Citizens Coalition <plattsburghcitizencoalition@gmail.com>

Tue, Apr 7, 2020 at 1:03 PM

To: cityinfo@plattsburghcitygov.com, Sylvia <parrottes@cityofplattsburgh-ny.gov>, WIRY Radio <wiry@wiry.com>, Amanda Dagley <amanda@wnbz.com>, estigliani@freepressmedia.com, news@northcountrynow.com, newstips@mynbc5.com, rrockstroh@mychamplainvalley.com, nate@suncommunitynews.com, jlotemplio@pressrepublican.com, pbradley@wamc.org, McKenzie Delisle <mdelisle@pressrepublican.com>, Emily Russell <emily@ncpr.org>, rick@fesetterealty.com, Loretta Rietsema <lrietsema@gmail.com>, Jim Abdallah <jaa@aedapc.com>, Maurica <maurica@aecopas.com>, derek.rosenbaum@gmail.com, Reginald Carter <reg_carter@sbcglobal.net>, cgerv001@plattsburgh.edu

Dear Planning Board Members:

All non-essential government meetings, including this Planning Board meeting, should be postponed. The Planning Board has the authority to do that. The hasty scheduling of this non-essential meeting during the COvid-19 pandemic is a blatant attempt by City leadership to push a controversial project through with as little public participation as possible. The lack of reconsideration of the DRI at this time of historic economic crisis when the Mayor and Council should be thinking about saving small businesses, not bankrolling a large one is a brazen and out of touch slap in the face to the community.

However, if you insist on conducting a virtual meeting, then we would respectfully request and suggest that you create and keep open a sign-up list of people who would like to speak at the meeting. The list should remain open until the meeting begins and even during the meeting. This approach most closely resembles the past practice in which people are free to raise their hand during the meeting if they feel so inclined to make a comment. Remember that often people are shy about public speaking. But sometimes something that they learn a meeting or something that is said may inspire that person to raise their hand and ask to be heard. That same practice should be continued in a virtual meeting, or you can't say that your doing everything in your power to create a continuum of the Plattsburgh Planning Board meetings

Remember, we have a half-century of precedence of Plattsburgh Planning & Zoning that includes public participation which is being disrupted tonight. Your decision whether or not to discard that half-century long tradition will be an historic one. You (the Board members) are free to do whatever you think is the right thing. You are in control of virtually every aspect of your meeting; whether to meet, whether to postpone, whether to conduct public meetings without the public. How long to allow people to speak. Whether to vote.

Once again, thank you for your service.

City Info <cityinfo@plattsburghcitygov.com>

Wed, Apr 8, 2020 at 7:18 AM

To: mcmahonj@cityofplattsburgh-ny.gov, "Read, Colin" <ReadC@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Suspend meetings

2 messages

Shawna Mefferd Kelty <shkelty@gmail.com>

Mon, Apr 6, 2020 at 12:02 PM

To: cityinfo@plattsburghcitygov.com

I am urging the Mayor and the ZBA and the Common Council to stop taking advantage of the state of emergency and to conduct only the essential business of the City. Colin Read should stop putting the Prime Project before the residents of the City of Plattsburgh.

Thank you,
Shawna Mefferd Kelty

--

Shawna Mefferd Kelty, PhD

she | her | hers

RYT 200, PRYT

Associate Professor of Theatre

101 Broad St, 124 Myers

SUNY Plattsburgh

Plattsburgh, NY 12901

(518) 564-2480

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 12:34 PM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Dri project

2 messages

s king <moalem56@yahoo.com>
To: Cityinfo@plattsburghcitygov.com

Mon, Apr 6, 2020 at 11:31 AM

Given the current pandemic health situation, it is complete irresponsible for the City to hold any meeting, especially one as important as this project with its impact on our city. I also question the legality of holding such meetings with the inability for public input.

The City, if it allows this and other meeting like it to proceed, is being dishonest, and secretive and does the citizenry a great disservice.

NOT MEETINGS FOR DRI until the emergency passes and public meetings can be held properly

Steve graf
8 lynde
Plattsburgh

Envoye de mon iPad Pro

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 12:07 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Stop Non-Essential Meetings!

1 message

terrycb12901 <terrycb12901@yahoo.com>

Thu, Apr 2, 2020 at 10:41 PM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com, Barbelli@cityofplattsburgh-ny.gov, kellym@cityofplattsburgh-ny.gov, gibbse@cityofplattsburgh-ny.gov, DeDominicasPa@cityofplattsburgh-ny.gov, mcfarlinp@cityofplattsburgh-ny.gov, moorej@cityofplattsburgh-ny.gov

I urge you to postpone any zoning board or planning board meeting dealing with the Prime project, or ANY non-essential project that's been submitted! These are PUBLIC meetings and holding any such meeting will exclusively exclude the public!

You must postpone the April 6th ZBA meeting and the April 7th Planning Board meetings as non-essential meetings in accordance with the "PAUSE NEW YORK" Executive Order by the Governor.

Municipalities around the state are postponing Zoning Board and Planning Board meetings until at least the end of April while in the midst of this pandemic!

The public has a right to attend these meetings and to be heard! To exclude them from attending and voicing concerns, and even their agreement, is worse than wrong and unfair, it's reprehensible.

Terry Broderick

Sent from my Verizon, Samsung Galaxy smartphone



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board

1 message

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:40 PM

To: cityinfo@plattsburghcitygov.com

I fully support the City of Plattsburgh DRI project.

Sent from Art's iPad



City Info <cityinfo@plattsburghcitygov.com>

DRI Project

2 messages

Art Degrandpre <adegrandpre2483@icloud.com>

Sun, Apr 5, 2020 at 5:38 PM

To: cityinfo@plattsburghcitygov.com

Please let it be known that you have my full support for the DRI project. Plattsburgh can no longer afford to have a stagnant downtown!

Sent from Art's iPad

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 8:38 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020

2 messages

Dani G <danirae11683@gmail.com>

Mon, Apr 6, 2020 at 2:57 AM

To: cityinfo@plattsburghcitygov.com, "McMahon, Joe" <mcmahonj@cityofplattsburgh-ny.gov>, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, Tamerm@cityofplattsburgh-ny.gov, Marbut@cityofplattsburgh-ny.gov

City of Plattsburgh Zoning Board of Appeals,

I am writing to express my concern with the continuation of Zoning Board meetings, as well as concerns regarding the application by Prime Plattsburgh requesting a Special Use Permit for their project at the current Durkee Street Municipal Parking Lot.

Considering the Governor's PAUSE New York order which was issued in response to the Coronavirus outbreak, I encourage the Board to postpone any meetings which are not of an urgent matter. The Prime project can hardly be considered "essential", and if it has, please inform the public of such determination. Unless the board intends to vote this application down decisively, moving forward with such meetings to consider such non-essential issues, at a time when the public is not allowed to attend in person to observe and make public comment, will open any decisions made up to legal challenge in the future. I urge you to postpone any meetings that are not of critical concern to the health and well being of members of this community.

Please also accept the following comments in regards to the Prime application for Special Use permit, should the board decide to move forward with its determination:

In accordance with section 360-31 of the city code regarding special use permits, I believe the Zoning Board of Appeals simply CANNOT approve this application as submitted. Approval for such a permit requires that the proposed development must safeguard public health, convenience, and preserve the general character of the neighborhood. It is clear that this project is far too large for the space, and does not satisfy ANY of the criteria by which this application must be measured.

The sheer mass of this structure will dwarf the surrounding buildings of the downtown area. The DGEIS failed to produce an inventory of existing buildings and land within the designated downtown district as was requested; however, I would venture to guess that the proposed structure is close to five times the largest building that currently exists downtown, and at least ten times larger than the average building in our HISTORIC downtown district. The footprint of the building appears to occupy somewhere around 20% of the entire downtown area. We have a small, quaint, downtown which will simply be swallowed up by Prime if this is permitted to move forward. It is imperative that the nature and historic character of our downtown be preserved, as it is one of the ONLY assets we currently possess as a city. The use of differing exterior treatments will fool no one, and this structure will overpower our entire downtown, and stick out like a sore thumb.

The surrounding open space is also severely lacking, and the project provides NO meaningful public amenities as was supposed to be required per the RFP for developers. While the Durkee Street Lot's primary use is a parking lot, it has many secondary uses within the community, and provides an open space with vista views of the Saranac River, as well as gathering space for public events and festivities. Past precedent of this can be seen through the City's public permitting records, in which hundreds of events over the years have applied for and received approval for permits allowing such activities in this space. The project as proposed offers no meaningful public space, and effectively blocks nearly all view of one of our most treasured resources, the Saranac River. By creating such an uninviting environment along the river, this project will effectively squander this resource and all funding being poured into the development of the Saranac River Trail as well.

It is also concerning that parts of the building will have residential units on the first floor. This is not conducive to a downtown urban experience. All residential units should start on the second or third floors.

The parking issues are also of concern. The building simply does not provide adequate parking for its uses per the city code. The developer mentions that they are providing their own formula for their own parking needs based on a

model that works in another location for them. This is unacceptable. They tout this other project as being an acceptable model because it is completely isolated and not in any core city area, and they have no need for any additional parking. However, this is not an equivalent model precisely BECAUSE of the fact that this example is not in an urban downtown environment. The developer should be required to satisfy the city code. It is also concerning that, at the same time the developer wants to provide less parking than required, the city is also coming up short on replacing the public parking spaces that Prime is going to occupy with the footprint of their building. They should be required to replace those parking spaces as well - either on or off site - as was required of the Gateway building project. This must be equivalent long term off-street parking.

Finally, the conversion of Durkee Street to one way with diagonal parking is extremely concerning regarding the street capacity and use of this building. With 114 new households coming in and out of this new massive structure, as well as all of the businesses' employees and customers, this will result in massive congestion and dangerous situations for both pedestrians and drivers. There will also be issues with garbage. The developer proposes to locate their dumpsters for this massive structure right on Durkee Street, which appear far too small to handle the proposed capacity of this structure. So not only is the public insulted by being given a sidewalk in return for our \$4.3 million investment and lucrative tax breaks which we will have to subsidize through our own taxes, but we will also have to be affronted by the refuse from the occupants of this gated community as we walk past garbage heaps on the pathway from the "arts park" to the "riverwalk". Sounds inviting, doesn't it? Insufficient dumpster capacity is also a public health issue, which will attract rodents and wild animals. Considering the proposal now includes the expectation of restaurant space for this location, there will also be an issue of smell when locating these dumpsters street-side. This plan is just terrible.

Considering that the proposed project fails at every point of consideration required by the Board, I ask that the application for SUP be rejected. However, as the board has the ability to put conditions on the developer for any SUP, I also ask that the following criteria which were laid out in the DRI Strategic Plan be provided to the developer for resubmittal of any project plans:

- 1) building may contain approximately 45 residential units
- 2) the provision of approximately 1 acre of public green space
- 3) the 1:1 replacement of public off street parking IN ADDITION to parking to satisfy their own needs

Thank you so much for your consideration of these comments. I also thank you for your service to this city, and hope that you will do the right thing by your community during these uncertain times.

Be well and stay healthy,

Danielle Erb

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:00 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

ZONING BOARD SPECIAL MEETING AGENDA

2 messages

sunshine19542@charter.net <sunshine19542@charter.net>
To: cityinfo@plattsburghcitygov.com

Sun, Apr 5, 2020 at 4:49 PM

Dear Zoning Board:

In all the years I did minutes for the zoning board - the Special Use Permits were always explained as a "Matter of Right."

Appeal #2232 - [22 Durkee Street](#):

I ask that you approve the SUP for Durkee Street. Durkee Street has been dragged on long enough and needs to be approved. If ever we need a shot in the arm for development, this is the time.

I'm sorry that the Building Inspector's Office, along with the Community Development Office, and Zoning and Planning Boards have to deal with "unfounded and false accusations."

Please continue your hard work and diligence of enforcing the zoning code.

Thank you for listening to my concerns.

Denise Nephew

Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 8:36 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

ZBA Meeting

2 messages

Zukowski Properties <zukowskiproperties@gmail.com>

Mon, Apr 6, 2020 at 4:52 PM

To: McMahanJ@cityofplattsburgh-ny.gov, ron.nolland@gmail.com, beebiel@cityofplattsburgh-ny.gov, TamerM@cityofplattsburgh-ny.gov, MarbutS@cityofplattsburgh-ny.gov, cityinfo@plattsburghcitygov.com

Hello ALL

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

We urge that you cancel the April ZBA and Planning Board meetings and all meetings, except for those that deal with emergency issues as ordered by the Governor, until the COVID 19 state of emergency has been lifted. We note that ZBA's and Planning Boards in Cities across New York State are doing so and Plattsburgh should too.

from all of us at EZ Properties !!**EZ Properties**

518.563.6021

e-zproperties.com

City Info <cityinfo@plattsburghcitygov.com>

Tue, Apr 7, 2020 at 8:49 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>, mcmahanj@cityofplattsburgh-ny.gov

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Panning Board Comment

2 messages

bobcatgb1@aol.com <bobcatgb1@aol.com>

Mon, Apr 6, 2020 at 9:21 AM

To: cityinfo@plattsburghcitygov.com, readc@cityofplattsburgh-ny.gov, plattsburghcitizencoalition@gmail.com, mdelisle@pressrepublican.com

To: City of Plattsburgh Planning Board

With respect to the DRI Durkee St. project I am requesting the following actions:

Do not approve said project for many factors that the community has previously set forth. Attached are three documents to support this position.

1. A "letter to editor" published in the Suncommunity news dated March 24, 2020. This addresses better options for said project
2. A position letter dated February 28, 2020 addressed to Prime Plattsburg LLC stating facts that are to be considered herein.
3. A "letter to editor" published in the Suncommunity news dated April 4, 2020. This addresses the financial burdens that will also affect the subject DRI project.

The City of Plattsburgh should caution against an approval in light of the current financial situation. Certainly the City does not want to be in a position similar to Burlington with the stalled "City Place" project.

In the alternative, delay a decision until the virus crisis is over and the new financial balance is established for a just decision.

Thank you for your consideration to these facts and documents that are to be entered into the record of the Prime Plattsburgh LLC application

Geoffrey B. Barker
4079 State Route 9
Plattsburgh, NY 12901
518 563-0685

**Scan Docs opposing DRI 4-6-2020.pdf**

1228K

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 11:17 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]

**Scan Docs opposing DRI 4-6-2020.pdf**

1228K

will be responded to in the order in which received. Please take the time to explore these sites and engage students in discovering the vital importance of local history and geography as a basis for understanding other places more distant in time and location.

— Robert L. Arnold, SUNY Professor Emeritus of Education ■

Plattsburgh parking

To the editor:

The best course to "increase the availability of free parking" is to cancel the Prime Plattsburgh LLC project. Back in the mid 1960s the City of Glen Cove, New York, had a city structure much like Plattsburgh. They were smart then to take the only large parking area and make a multi story parking garage to handle the then current and future parking needs of that city. The virus crisis will be settled eventually. What is of concern to all of us is the economic recovery needs.

The state was in dire financial \$6 billion debt prior, with maybe \$4 billion more to add. Locally we are going to be tasked to cover our "fair share". My suggestion is to anticipate loss of some of our airline service once this passes and the low cost carriers may not survive. Shut down the "International Arrivals Facility" since it serves only a few corporate and small prop aircraft and no International airline can be profitable with service here. Cut payroll and operating costs.

Cancel the planned "International Air Cargo Facility" as impractical and a waste of money. The Clinton County Legislators are aware of this but enjoy spending our limited tax monies. Airlines loaded with passengers from high density Florida to Plattsburgh/ Montreal

is a major threat. So are the packed warehouses and factory facilities that continue to ignore common health concerns.

The unemployed restaurant and leisure business community workers would like to know if any staffing reductions made by the governments means with or without pay for them. And being paid for "telecommunication" from home is unfair and a waste of money. Curtail CCIDA tax relief. Schluter, for example is large enough to not need the pending PILOT relief. Cancel the Prime Plattsburgh LLC PILOT relief application.

The elected and employed public employees need to immediately address the loss of tax revenue we are going to experience.

— Geoffrey B. Barker, Plattsburgh ■

Thank you

To the editor:

Free the money

PR 4-1-20

TO THE EDITOR: Due to the devastation wreaked upon our city economy by the COVID-19 virus, local businesses will need all the aid and support from City Hall which they can get.

Prior to the pandemic, over 70 local business owners signed a petition against the sale and development of the public land of Durkee Street parking lot to a private downstate concern. I have attended meetings and no provision to replace city snow ban parking has even been made.

City Hall has persisted in its unrelenting pursuit of this project. One can only hope the council has no conflict of interest.

Now would be the perfect time for Mayor Read to abandon this project, to free up DRI monies for our own local existing/struggling businesses, the true purpose of the Downtown Rehabilitation Initiative.

KATHY BAUMGARTEN, TSGT USAF, Ret.
Plattsburgh

Prime Plattsburgh LLC
621 Columbia St. Extension
Cohoes, NY 12047

Dear Sir or Madam;

This letter is written with respect to your application for PILOT relief and the planned Plattsburgh Durkee Street Plattsburgh NY project.

As a resident of the area I want to express to you the following adverse factors your plan is causing for your immediate consideration:

1. The overwhelming majority of Clinton County residents do NOT want this project.
2. The project is being pushed thru with apparent bias and prejudice that will lead to protracted litigation.
3. The loss of the parking lot will have adverse effects on the dwellings and businesses in that area. In spite of what is proposed, the City and County do NOT have viable plans for parking. This will adversely affect the income Prime expects to receive and adversely affect all in the area. Prime will be held responsible for this.
4. The PILOT relief, if granted, will adversely affect the City school tax base as well as the tax base for ALL residents of Clinton County NY
5. There is recent activity that may indicate improper consideration of the PILOT awarding process, again leading to litigation. Many other adverse factors exist. Available upon request.

In light of the above adverse facts, the people of Clinton County request that Prime Plattsburgh LLC withdraw the planned Durkee Street DRI "redevelopment" proposal. Please call me anytime to discuss this request.

Sincerely,



Geoffrey B. Barker
4079 Route 9
Plattsburgh, NY 12901
(518) 563-0685

February 29, 2020

Opinion

Letters *SCW COMM News*
APR. 4, 2020

Taxpayer of Clinton County

To the Editor:

As a resident taxpayer of Clinton County, I am requesting a reply to how the Clinton County Legislators and Legislature is addressing the unemployment and shortfall in sales tax revenue as a result of the COVID virus.

Specifically, the Legislators are requested to address the financial shortfalls in operating budget incomes now and reassess the operating budgets.

Consider:

1. Cancel any further CCIDA PILOT relief and cancel grants to "The Development Corporation" are in order until the virus is under control and economic recovery is positive and/or the new economic reality of the North Country is known.
2. Cancel the planned "International Air Cargo Facility" as not viable. This is an irresponsible progressive waste of taxpayer money and is not economically viable for numerous reasons the Legislators are well aware of.
3. Shutter the "International Arrivals Facility" until International air traffic is deemed profitable with respect to the cost structure.
4. Lease out the renovated hangers or shutter to cut operating expenses.
5. Re-access Plattsburgh International Airport lease and utility fees charged to airport vendors to include the parking facility. Brace for potential loss of airline service and revenue.
6. Redirect or cancel county "pork" budgeted items to help maintain core businesses in the area. This is not the major manufacturing jobs that Governor Cuomo overspent in his aggressive economic development programs that we are now tasked to pay for. "Cut costs and live within our means" should be your new moto.
7. Brace for tasking to pay locally for a large increase in Medicaid mandates.
8. Plan for possible unpopular increases in realty taxes and state income taxes that the residents will mostly be unable or unwilling to support.

Thank you for your anticipated attention to this request.

— Geoffrey B. Barker, Plattsburgh, N.Y. ■



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment Mon 6 APR 20

2 messages

Jeff Moore <jmoore1748@gmail.com>

Sun, Apr 5, 2020 at 1:16 PM

To: cityinfo@plattsburghcitygov.com

Dear ZBA Members,

I would like to state my support for approving the SUP for the Prime DRI project. After careful review of the FGEIS documents and the McFarland & Johnson answers to the questions raised by the commenters at the public hearings it is clear to me that there are no valid reasons not to approve this SUP request. Specifically: The building design will not tower over the existing downtown structures and has been shown to be aesthetically pleasing to the eye and blending with the surrounding cityscape very well. This project is not anticipated to cause any parking issues as borne out by third party studies, not by assumptions based on speculation. I trust that you will make your determinations based on the facts at hand and not on outside pressure. This is a once in a lifetime opportunity to add a new development to our long dormant Center City. If we continue to allow these empty spaces to remain and propagate we will eventually be left with nothing downtown. In closing I would like to say that I have talked to many people during my daily walks throughout the city and the vast majority are in favor of this project and are looking forward to its construction.

Sincerely,

Jeff Moore

Oak Street, Plattsburgh

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 8:23 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment April 6, 2020

2 messages

Jeff Moore <jmoore1748@gmail.com>

Sun, Apr 5, 2020 at 1:36 PM

To: cityinfo@plattsburghcitygov.com

I would like to share my thoughts on the Prime development of the Durkee Street lot. First, I'd like to say that I am 100% in favor of the development. The City of Plattsburgh hasn't had an opportunity of this magnitude in generations. This development along with all of the other projects will transform the center city for years to come.

I like the design of the building. I do not think it is too big. It will draw more development downtown. I have attended or watched the Zoning board meetings and listened to the public comments. Prime Plattsburgh LLC has listened and has been very receptive to the concerns and have made many substantial changes in response to these concerns. I've read the report from McFarland Johnson and thought they addressed all of the comments thoroughly and have satisfied the SUP requirements.

I will quote a Letter to the Editor from Bob Smith that echoes how I feel, "If we lose this project, I am very concerned that we will not have future grants from the state. The state has accepted this project and will not accept another. This is an opportunity that will not present itself again, at least in my lifetime, and I fear, forever. Don't let it slip by".

Please do the right thing for Plattsburgh and vote yes on the SUP and move this project forward.

Thank you,

Sue Moore
City of Plattsburgh
Resident/Taxpayer

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 8:26 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Meeting comments

2 messages

Kathy L. Baumgarten <foofusdotcom@aol.com>

Mon, Apr 6, 2020 at 10:16 AM

To: cityinfo@plattsburghcitygov.com

Dear Sirs

These are my comments I am submitting prior to the Zoning Board meeting today. I'll be watching the youtube broadcast to see if they are acknowledged and added to the permanent record of the meeting, which will be posted on the city website.

Especially during this pandemic, it seems like all Downtown Revitalization Initiative monies should go toward helping currently existing downtown businesses, revitalizing them when this is over. Not to be used to bring in competition against them!

Mt additional objections to the Prime development are as follows:

Will affect county tourism by limiting parking (the best and cheapest support we can offer), especially for our biggest regional events- the Battle of Plattsburgh, Fourth of July and Mayor's Cup. If the Mayor intends to relocate these events, he would have said so to relieve the criticism, so we can rightly assume he intends to discontinue city support of them. Noted members of our community have dedicated their entire lives to planning and organizing these events, which are advertised nation-wide.

Pull-in parking is the most popular of handicapped accessible parking; no amount of parallel parking the city has suggested can replace it.

Speaking of parking, at NO TIME has City Hall publicly broached the topic of where snow emergency parking will be relocated to once the Durkee lot is removed. The City of Burlington allows free parking in its three parking ramps to facilitate clearing its streets. But yet Plattsburgh seeks to end it, demonstrating their utter disregard for current downtown apartment dwellers and their landlords in downtown Plattsburgh.

(In fact, I spoke with an official at Community Bank on Margaret St. At no time has the city invited any conversation about the business aspect of the bank parking lot and the Pavone lot being constructed next door. They told me that during snow, folks park in there all night. Which would be okay except that their own plow can't get in in the morning, nor can their own employees. This speaks to a greater need for snow parking than is acknowledged.) This is not some little detail the city can figure out later. Like all good emergency planning, it needs to be done well in advance. Frankly, if they break ground in summer, it will be utter mayhem during peak weather and no one will know what to do come snow. People in our area can be economically devastated by one tow ticket. Small businesses can go bankrupt from one bad week.

The edifice will block from view the Saranac River and prevent for all



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Meeting comments

2 messages

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Mon, Apr 6, 2020 at 10:16 AM

To: cityinfo@plattsburghcitygov.com

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The edifice will block from view the Saranac River and prevent for all

future generations any enjoyment of this priceless natural wonder. Plattsburgh IS the Saranac! Visitors will ask why we are casting a shadow over it when everyone knows that water access is the best attraction a city can possibly have.

The edifice will be built within inches of the very bridge where the Battle of Plattsburgh was fought . That the bridge and its surroundings are not currently considered to be valued as they deserve in this context is irrelevant. There should be a memorial and historical interpretation center where Highway Oil was to mark this event of National import.

Over 70 local businesses signed a letter stating their opposition to this project; to date, City Hall has dismissed their concerns with utter contempt and have reached out to not even a single one. This is unconscionable and I want the Mayor and City Council to answer directly to the citizens their reasons for acting with this contempt and as if they govern in a vacuum.

The sheer size of this edifice is out of keeping with the nature of Downtown Plattsburgh, regardless of what color they paint it.

Prime has not allowed enough parking for customers, staff and tenants of its proposed development. It should not be our city's responsibility to pay for their parking. Additionally, any promises they have made about allowing public parking on their premises will be null and void as soon as they take possession. Therefore, the City's premise of adequate replacement parking for the loss of Durkee by including these "promised" parking spots is utterly false.

The County Zoning Board's conclusion that the project is thoughtless and without attraction is 100% correct and deserves your complete support. Plattsburgh is and always will be the County Seat and the people of the county park at Durkee lot whenever they come to town. The lot is always well utilized . It is the public's city space.

The Green space/ park at the parking lot as City Hall is touting it is merely a narrow sidewalk along the river and a narrow sidewalk leading to it from Durkee St. That is not a riverwalk. A Riverwalk has room for benches and gardens and features such as fountains, swings, overlooks, etc. Tourists driving by will assume the currently planned narrow walk is on private property and for all intents and purposes, it will be. Foot traffic from the apartments scurrying back and forth from the parking lot, delivery trucks, dumpsters and trash collection trucks will make the Prime's parking lot as busy and unattractive to tourists as possible. The River is already permanently blocked up on its East Shore with grandfathered buildings; this edifice will destroy ANY future hope of public enjoyment, at TAXPAYER EXPENSE!

The proposed building will exponentially increase the downtown traffic congestion rather than relieve it in any way! Imagine all the proposed buildings' tenants leaving for work during our downtown rush hour, deliveries coming in, employees and customers coming in - all crowding Bridge Street, and cars waiting for pedestrians. It will be a nightmare that could not be relieved at that point by ANY amount of action.

The proposed restructuring of the "tried and true as is" Durkee Street roadway should never have to have even been considered. The taxpayers in no way should be paying the price for a building we did not want, nor should we have to bear the unimaginable inconvenience of changing this important branch of Route 9 to one-way traffic to make any accommodations for any private concern. Nor should we later have to pay the price of turning it back to two-way after the fact, nor should we have to lose any parking places to boot. The building should have been designed to be completely self-sufficient without requiring anything from the current structure of the city parking and roads.

This development will hinder the operations of government agencies which use the Durkee Lot, and who have many handicapped patrons who are nowhere else accommodated for.

As others have said, there is no need for apartments and new shop space downtown. There IS a need to draw locals and visitors to the downtown and get them to stay longer. The best draw for this would be park area around the perimeter of the existing lot. Indeed, City Roads and Grounds could quite easily build more curbing, bring in dirt and stick in a few benches before the end of this month, throw in a few trees and grass seed and it would be the jewel of downtown before the first day of summer. All ready for social distancing baby buggies and joggers.

Members of the zoning board are entrusted with protecting the spaces in our city - that they are used appropriately and correctly, cost-effectively and in the best interests of those who pay for them- the taxpayers. The opposition by taxpayers to this development is unprecedented in the 30 years I have owned my home on Elm Street, seven blocks from the parking lot. I think we know how we want our city to be.

Also unprecedented is the tenacity with which city hall has pushed back against the will of the people who pay their salaries. Any other mayor would have respectfully backed down to the wishes of their electorate, as the good civil servants they are paid to be.

There is already a contact in place for waterfront development as part of the DRI. The rest of the DRI monies need to revitalize our devastated and ALREADY EXISTING downtown so it can recover from the pandemic.

Regardless of what anyone may lead you to believe, or whatever amount of pressure may be used to sway your conclusions, or who is pressuring you, it is not too late to stop this project. Remember who you really work for.

At the very least, set this deviation aside until after the pandemic. What's the hurry? They can't work on it anyways! If it's a good idea now, it will still be a good idea a few months down the road, right?

God Bless and Happy Easter

Sincerely,

Kathy L Baumgarten
TSGT USAF (Ret.)

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 11:28 AM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

April 6th Meeting?

2 messages

Marc Gendron <mfgendron@icloud.com>

Wed, Apr 1, 2020 at 3:54 PM

To: cityinfo@plattsburghcitygov.com

Dear Sir,

Please postpone any zoning board or planning board meeting dealing with the Prime project without direct, in-person participation by the public. The April 6th ZBA meeting and the April 7th Planning Board meetings is a non-essential meeting in accordance with the "PAUSE NEW YORK" Executive Order by the Governor. Municipalities around the state are postponing April Zoning Board and Planning Board meetings in light of the current pandemic.

Thank You,

Marc Gendron

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 9:02 AM

To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Comment for Zoning Board Meeting scheduled for April 6, 2020

1 message

Peggy <peggydegrandpre@yahoo.com>

Mon, Apr 6, 2020 at 1:34 PM

To: cityinfo@plattsburghcitygov.com

April 6, 2020

To Zoning Board Members, this is to inform you I am in agreement with the Durkee Street Project.

Margaret deGrandpre'

Pleasant Street

Plattsburgh, NY



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board Comment

2 messages

Peggy <peggydegrandpre@yahoo.com>
To: cityinfo@plattsburghcitygov.com

Mon, Apr 6, 2020 at 11:08 AM

I support the DRI
Sent from Peggy's iPad

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 12:04 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Message for zoning board

3 messages

Kelly, Michael <KellyM@cityofplattsburgh-ny.gov>

Sat, Apr 4, 2020 at 9:16 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Hi,

I am writing to express my wholehearted support for the Prime Durkee Street development plan. The project has been closely scrutinized by the GEIS process and has passed with flying colors. Prime Companies, for its part, is developing quality apartment units all over the capital district and will be a good corporate citizen in Plattsburgh, just like they are wherever else they have built apartments.

A handful of misguided and disgruntled citizens are opposed to the Durkee Street development project, but the truth is most of this small group of people don't even live in the city and have little or no stake in the city's future. We citizens do have a stake, though, and we want to see our city grow.

There is no other project planned for Durkee Street! If this does not go through, then there will not be another chance, at least in the framework of the DRI. The State will take their money back and move it to a more deserving location. This will also harm our relationship with Albany, and future monies will be less available for Plattsburgh. That valuable piece of property with so much potential will remain a parking lot.

On the other hand, if the Prime project is approved and built, it will be just the beginning for downtown Plattsburgh. This project, when successfully completed, will spark development and improvements all over downtown and the harborside area. Developers are interested in downtown Plattsburgh, and they are eagerly waiting to see how we as a city handle the Durkee Street project. Please, let's not let this golden opportunity pass us by. Our children and grandchildren will thank us.

Michael Kelly
Plattsburgh City Councilor - Ward 2
[44 City Hall Place](#)
Plattsburgh, NY 12901

518-561-0072

City Info <cityinfo@plattsburghcitygov.com>
To: Matthew <MillerMa@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 8:13 AM

[Quoted text hidden]

City Info <cityinfo@plattsburghcitygov.com>
Draft To: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 6:08 PM

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board comment

1 message

Richard Spindler <rich.spindler@gmail.com>

Sun, Apr 5, 2020 at 6:02 PM

To: cityinfo@plattsburghcitygov.com

Hello,

I would like to comment on the Durkee Lot Development. First, for the City of Plattsburgh to prosper, it is imperative to encourage a variety of people to live downtown, including and especially working professionals. They will provide an economic stimulus to the city that is sorely needed for the downtown. Second, it seems very late in the process of the DRI. After all of the public input given, I cannot imagine the city going back to a blank drawing board on this. Third, I think the complaints about parking are baseless. People that are complaining about parking should live in a larger city and experience real parking issues. Besides, we need to get people out of their cars and walking more anyhow.

I'm sure there are probably inevitable conflicts that arise with such developments. They always do and you will never make everyone happy. Thank you.

Sincerely,
Richard Spindler



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board comment

2 messages

sun85@aol.com <sun85@aol.com>

Mon, Apr 6, 2020 at 11:57 AM

Reply-To: sun85@aol.com

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

I'd like to express my support for the long-anticipated Durkee Street redevelopment project. While I believe it is wise to take a measured approach in order to achieve the best outcome for everyone who will be affected, I look forward to the revitalized downtown that will result from the plans currently in place. As a long-time user of the Farmer's Market, I look forward to its new, expanded location by the lake. The vendors' enthusiasm for the new space makes it all the more appealing for customers to follow them there.

It appears that much of the new design for Durkee Street will improve use of existing space, including some features that have been underused, like the green space currently used for the walkway from Margaret to Durkee. My hope is that the influx of residents downtown will result in increased traffic for the existing variety of businesses in that locale, and perhaps a few new ones.

Thank you and best of luck as you move forward.

Steve Patnode

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 12:27 PM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

[Quoted text hidden]



City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020

3 messages

Denise Tetreault <garden.lady59@outlook.com>

Sat, Apr 4, 2020 at 1:07 PM

To: "cityinfo@plattsburghcitygov.com" <cityinfo@plattsburghcitygov.com>

Cc: Denise Tetreault <garden.lady59@outlook.com>

My name is Denise Tetreault and I live at [8 University Pl.](#) in Plattsburgh New York. In the past I've had to contact Vilas Home about their staff smoking under the tree on University Place which is directly in front of my porch. I could not sit on my porch without inhaling all their cigarette smoke! The staff very quickly rectified this problem by insisting that they move closer to the building. One of my main concerns is that this edition does not allow smoking anywhere near our homes. I already cannot spend time in my backyard because people are constantly smoking on the hospital grounds near the pond pump house which is directly next to my garden. It's been very frustrating to not be able to go outside for fresh air!

Second, University Place currently is only wide enough for one car to go by at a time. It would be nice if the city would make it the proper width so that two cars could go by and would be lovely if we had some extra side parking on the road.

We hope the designers keep in mind that Vilas Home backyard is our front yard and we would appreciate if we did not have to be looking at their garbage bin or hear the loud generator or have it the gathering space for smokers.

I very much hope that you consider our concerns and appreciate you taking the time to read this.

Sincerely,

Denise F. Tetreault
[8 University Place](#)
[Plattsburgh, Ny](#)
518-593-9015

Get [Outlook for iOS](#)

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 9:09 AM

To: "Read, Colin" <ReadC@cityofplattsburgh-ny.gov>

Cc: "Carlin, Beth" <CarlinB@cityofplattsburgh-ny.gov>

[Quoted text hidden]

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 10:40 AM

To: mcmahonj@cityofplattsburgh-ny.gov, "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

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City Info <cityinfo@plattsburghcitygov.com>

Appeal 2198, 2199 61 Beekman St. Class B and Special use permit respectively.

2 messages

cciatedh appre <woodpiggie@verizon.net>

Mon, Apr 6, 2020 at 12:34 AM

To: cityinfo@plattsburghcitygov.com

Dear members of the Zoning board of Appeals:

We are Howard and Silvia Goodman, owners of 4 University Place.

As we contemplate the scope, and operation of the project in question we find cause for alarm.

It's size, construction, proximity to our property, loss of green space and heightened level of traffic will negatively effect aesthetic enjoyment of our property and the neighborhood. Accordingly, we would anticipate a decline in property values,

For these reasons we feel that the petition as set forth should not go forward.

Thank you for considering our position.

Howard and Silvia Goodman

City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 9:06 AM

To: mcmahonj@cityofplattsburgh-ny.gov

Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

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City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020

2 messages

Kathy Livingston <Uplace44@charter.net>

Sun, Apr 5, 2020 at 1:11 PM

To: cityinfo@plattsburghcitygov.com

Appeal 2198 61 Beekman St Class B AND
Appeal 2199 61 Beekman St Special Use Permit

Members of the Zoning Board of Appeals,

Zoning variances should be the exception not the rule. In order for a Zoning Board of Appeals to make a determination the Board should consider the following criteria -

1. Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?
2. Can the benefit sought by the applicant be achieved by some method other than an area variance?
3. Is the area variance requested substantial?
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?
5. Has the alleged difficulty been self-created?

The property is now a nonconforming use in an R-1 district. We strongly object to any development on this Historic Site.

We find it very disheartening that the applicant hasn't chosen not to be forthright in his application. Let's not make this a back room deal.

We trust the integrity of this Zoning Board of Appeals to deal with this equitably and to the satisfaction of all concerned.

Respectfully,

Mike & Kathy Livingston
2 University Place
518-563-9616

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:02 AM

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City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020

2 messages

Maureen Martin <mamesq@vermontel.net>
To: cityinfo@plattsburghcitygov.com

Sun, Apr 5, 2020 at 6:59 PM

Appeal 2198 **61 Beekman St Class B** **AND**
Appeal 2199 **61 Beekman St Special Use Permit**

Dear Members of the Zoning Board of Appeals:

I am the Trustee for the residential property located at [71 Beekman Street, Plattsburgh, New York](#).

I have today been informed by a neighbor that there is a Zoning Board of Appeals proceeding in play which effects my property.

I am entitled to receive direct notification from the Zoning Board of any proceedings that effect my property.

As I have not received any such legally required notice, a Zoning Board of Appeals meeting in this matter can not be legally held on 4/6/2020.

My contact information is available to the Board from the City Chamberlains's Office as I receive billing and also issue payment for all utilities and taxes assessed to the property by the City.

Further, on the issue itself, I believe that by long standing legal precedent, zoning variances should be the exception not the rule.

In order for a Zoning Board of Appeals to make a determination in this matter, the Board must consider the following criteria:

1. Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?
2. Can the benefit sought by the applicant be achieved by some method other than an area variance?
3. Is the area variance requested substantial?
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?
5. Has the alleged difficulty been self-created?

The subject property is now a nonconforming user in an R-1 district.

I strongly object to any development whatsoever on this Historic Site.

I find it very disturbing that the variance applicant has apparently chosen not to be forthright in it's application by failing to provide the mandated responses., and thereby making his application incomplete.

As a Trustee/property owner who will be negatively effected by the grant of a non-comforming use variance in this circumstance, I have the right to demand that the Zoning Board of Appeals deal with this situation equitably and in transparency to the satisfaction of all parties who are legally concerned with any determination that may be made.

Respectfully,

Maureen A. Martin, Esq., Trustee of the Diana M. Cron Living Trust UTD 10/16/13

Re: [71 Beekman Street, Plattsburgh, N.Y.](#)
1-802-436-3191

City Info <cityinfo@plattsburghcitygov.com>
To: mcmahonj@cityofplattsburgh-ny.gov
Cc: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

Mon, Apr 6, 2020 at 9:05 AM

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City Info <cityinfo@plattsburghcitygov.com>

Zoning Board of Appeals Comment 4/6/2020 (visibility question)

3 messages

Aaron Stanley <ppraaron@gmail.com>

Fri, Apr 3, 2020 at 12:48 PM

To: cityinfo@plattsburghcitygov.com

My question relates to appeal 2235 for a fence to replace a cedar shrub.

What is the setback distance of the proposed fence from South Peru Street? Will the fence be closer to the road than the current shrub foliage?

The concern is visibility when exiting our driveway.

Ultimately there are no objections from my wife and I at 257 South Peru Street provided visibility is not impacted adversely.

--
Aaron Stanley
257 S. Peru St.
(518)314-9595

City Info <cityinfo@plattsburghcitygov.com>

Fri, Apr 3, 2020 at 2:24 PM

To: mcmahonj@cityofplattsburgh-ny.gov

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City Info <cityinfo@plattsburghcitygov.com>

Mon, Apr 6, 2020 at 10:18 AM

To: "Beebie, Lisa" <BeebieL@cityofplattsburgh-ny.gov>

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