

Drafted but not finally edited due to time constraints.

August 24, 2020

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

Re: Prime Plattsburgh, LLC PUD Application

Dear Mr. Abdallah, ZBA and Planning Board members:

As you know our firm is counsel to the Plattsburgh Citizens Coalition, Inc. We see that significant updated application materials were submitted to the Planning Board today, August 24, 2020 with, according to the City of Plattsburgh City Planner Malana Tamer's letter, the intent of seeking an approval tonight. With due respect to this entire process, the submission of materials on the day of the hearing, or indeed even in the past week, is not sufficient time for anyone to review the volumes of material, let alone the planning board or the public. Holding a public hearing on such short notice of submission is unreasonable and the matter should be tabled.

Turning to the actual application materials, we offer the following:

1. It is noted that the applicant (both the City and Prime) seek to utilize City of Plattsburgh Zoning §360-21(d)[5] for Mixed or multiple uses, which reads as follows: "*In the case of mixed or multiple uses within a single structure or building or in the use of land, the amount of off-street parking required shall be determined by the sum of the requirements of the various uses computed separately in accordance with § 360-26 of this chapter, except where the applicant can demonstrate to the satisfaction of the Planning Board that another method of*

computation will adequately serve the proposed mixed or multiple use.” See Letter from McFarland Johnson dated August 10, 2020 and review letter of Chazen Engineers dated August 17, 2020, as well as the revised site plans. We do not believe the City and Prime can propose this shared parking solution because the parking is not completely shared.

It is respectfully submitted that the Chazen Engineers letter of August 17, 2020 does not take into account the fact that the below-grade parking beneath the “amenities” area is going to be exclusive to the building. Indeed, the plans filed with the Planning Board and ZBA are actually not clear in this regard, and we believe therefore entirely misleading to this entire parking discussion. The applicant (both the City and Prime) should identify clearly what portions of the parking will be gated and/or exclusive to the building and/or its businesses and tenants, and not allowed for public use.

With the delineation of parking, we submit to you that this parking plan is not “shared” and therefore does not meet the intent of City of Plattsburgh Zoning §360-21(d)[5]. That section does not mention or apply to “public” parking there is no consideration for “exclusive” parking under City of Plattsburgh Zoning §360-21(d)[5]. As such, that section is inapplicable.

In addition, since this entire Durkee Street Parking Lot is part of a municipally owned, and special district taxed, parking lot, we reiterate that the City lacks the authority to turn the public lot over to private hands, and also to charge for any public parking that is already paid for by a special district. This project needs to replace the lost parking period. Otherwise you are handing the private developer public improvements and public benefits without any return compensation in terms of parking.

2. An approval conditioned on ZBA approval is inappropriate. It is respectfully submitted that the City Planner’s recommendation that the Planning Board condition its approval on a ZBA special use permit is inappropriate, likely unlawful. The special use permit can directly impact the site plan review. We believe it would be more appropriate for the Planning Board to offer its comments to the ZBA so that the ZBA can take them into account in the special use permit review. If the special use permit were granted, perhaps then the application would be “zoning compliant” therefore allowing the Planning Board to proceed. Until that time, however, it is submitted that the application is not zoning compliant, and that the Planning Board ruling on a non-zoning compliant application would be inappropriate.

We thank the board for its consideration of these comments on such extreme short notice.

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.