

Wm. Patrick Madden  
Mayor

Christopher Nolin  
Deputy Mayor



Dylan Turek  
Commissioner of Planning

Phone: (518) 279-7166  
steven.strichman@troyny.gov

### Planning Commission

433 River St., Ste. 5001  
Troy, New York 12180

### MEETING MINUTES

The Planning Commission of the City of Troy, New York, conducted a public meeting at **6:00 P.M. on Wednesday, September 20, 2023**, in person for the Board and available via Zoom conferencing, to act upon the following requests, referred by the Bureau of Code Enforcement of the City of Troy, for review and approval.

**6:04 pm – Meeting called to order.**

Commissioners in Attendance

William Comiskey (WC), Suzanne Spellen (SS), Anthony Mohen (AM), James Rath (JR), Stephen Maples (SM)

Also, in Attendance

Andy Brick (Planning and Zoning Attorney), Eric Ferraro (Assistant Planner), Dylan Turek (Commissioner of Planning), Richard Morrissey (Corporate Counsel)

### Administrative Items

Adoption of Meeting Minutes from August 16<sup>th</sup>, 2023, by Resolution

- **A.M. Motions to: Adopt August PC meeting minutes. . . seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath	X				
William Comiskey		X			
Stephen Maples		X			

- **Motion to: Adopt August PC meeting minutes. passed 4-0**

\*Commissioner Rath enters at 6:07 PM

### Old Business

**PLPC 2023 0039** –1011 2<sup>nd</sup> Avenue (70.64-1-1, 70.56-1-6) [Planned Development District]  
Concept/Site Plan Review – SEQRA (Type I)

The applicant, Starlight Development LLC, is proposing to construct 3 multifamily apartment buildings (231 units) with underground parking and surface parking, travel lanes, sidewalks, and multiuse path on an undeveloped 11-acre parcel. Site enhancements include private connections to municipal water/sewer as well as on site stormwater management.

**\*Corporate Counsel Richard Morrissey stands in for Andy Brick, who has recused himself from this agenda item.**

Written by Eric Ferraro, On Behalf of the Executive Secretary

Additional information regarding the above listed actions is available by contacting the Planning Commission’s Assistant Planner, [eric.ferraro@troyny.gov](mailto:eric.ferraro@troyny.gov).

As required by the Americans with Disabilities Act, auxiliary aids and services are available upon request. Please give one-week advance notice for services needed.

- Applicant presentation: Brian Osterhout and John Ahearn
- Commissioner comments and questions to applicant:
  1. B.C. Asks about any pending lawsuits related to the property.
    - Understands Mr. A’Hearn’s position and rights but also that the community has rights to express their concerns too. He has read all public comments and heard all testimony and maintains he has concerns.
  2. B.C. Asks whether SEQRA can be bifurcated for zoning purposes and for planning purposes; “Is it flexible?”
  3. J.R. – Explains how City Council was declared lead agency and recaps PDD zoning.
    - “I just want to point out that the PC did vote to recommend not to re-zone.”
    - Asks the applicant to address comments made stating there are no delicate plants or animals on site. How did you arrive at that?
      - Asks applicant to detail their search efforts and clarify their “site walk”;
        - Wondered if there are things that would be worth protecting, voluntarily, on the site. “Things that might be rare in our region.”
  4. S.S. – Asks about site protection of the lower part of Troy from erosion, water, and flooding. Has that been studied? What is the impact of that? You’re going to have to grade the land to some degree in order to build this, so have you done anything for that?
  5. (S.M.) Friends of the Mahicantuck submitted a detailed letter of recommendations and concerns. Have you had a chance to look at that and have a point by point?
  6. (A.M.) 1 theme I heard repeatedly was about minimizing the footprint of the development on the site and that echoes concerns that this board has raised, particularly in terms of the parking. Is happy to wait for applicant to address comments by Friends of the Mahicantuck until PC has the updated plan in front of them.
    - “I just wanted to point that out, that is a concern from the public; it sounds like numerous people have that concern. I have that concern. It sounds like other members of the commission have that concern. I just wanted to flag that as seemingly an issue that could address at least some of the peoples concerns about this project, is seeing what could be done to minimize the footprint.”
  7. (S.S.) Asks about SHPO’s involvement.
- Feedback on the design:
  1. S.S. – Wants to see renderings/architecture of all 3 buildings together. S.M. agrees and states it’s not his favorite.
  2. A.M. – Agrees with S.S. and S.M. Thinks design is an improvement but still not something he’s fond of. Wants to see better massing in renderings.
  3. B.C. –“I don’t think it’s any worse; The primary question is how does this fit into the texture of the whole neighborhood?” A.M. seconds.
  4. A.M. – “I would say that we’re at somewhat of a disadvantage because we’re lacking our architect and engineer.”
  5. J.R. – Agrees with A.M. Not terribly fond of it. Looks forward to seeing improvements in the context of the other buildings and the rest of the site.
- Request for public comment: Yes
  1. Dan Curry – against
  2. Harshil Patel – against
  3. Larissa W. – against
  4. Jess Bennet – against
  5. Keith Tarakawa – against
  6. Rachel Carter – against
  7. David Banks – against
  8. Jacob Freedman – against
  9. Kanna K. – against
  10. Friends of the Mahicantuck – against
  11. Daniel Morrissey – against
  12. Elliot Chen – against

13. Carson Oliver – against
- Commissioner deliberation:
  1. B.C. Asks corporate counsel if SEQRA is still on the table. Wants clarification of extent of what PC can affect. S.S. seconds.
  2. R.M. → – “As the project is currently conceived, SEQRA has already been resolved. An early objection to the SEQRA process before the city council was that consideration was being segmented, which it was not. The council considered the project as a whole. As far as I know there’ve been no material changes to the project and the SEQRA determination was litigated in Supreme Court and decided against the petitioner, Ms. Bennet, so the SEQRA is done as far as I can say, legally.”
    - Discussion ensues regarding SEQRA and Commission’s authority to affect site plan.
    - “I was just going to make the point as far as the litigations are concerned, both petitions were dismissed. The petitions raised all the issues that you heard tonight and all the issues that were raised before the city council. I haven’t heard a new issue tonight. Judge Jordan issued 2 lengthy and thorough and comprehensive decisions. They are on appeal. As far as I know the appeals have not been perfected. Whether they will be or not I don’t know. But there’s been no interim relief that was ever requested. And therefore, I think you have to consider the applicant’s application.”
  3. A.M. – I’m going to leave the public comment period open just in case with the changes [anticipated].
- Applicant response:
  1. To Public testimony:
    - Ms. Bennet lost both of her lawsuits against the city council and the ZBA. Litigation has been concluded.
    - Mr. Tarakawa described illegal segmentation under SEQRA; not true.
    - Explains reasons why buildings are placed where they are.
    - There is no development on the portion of the site that extends into Schaticoke therefore no permits were necessary [from town of Schaticoke].
    - Not sure how we could get away without building what gets approved.
    - There are no rare plants or animals on the site and all impacts have been studied.
  2. To Commissioners:
    - (B.C.) A notice of appeal has been filed, however the appeal has not been perfected.; pending decision could take years to come and there’s no basis to deny applicants a decision on an application based on a pending lawsuit.
      - There was a remedy for Ms. Bennet to seek during that litigation if she wanted to prevent that and she did not. The flip side to that coin is that if in 3 years if the 3<sup>rd</sup> appellate comes back and says that everything was done just fine, my client has been denied his constitutional property right to develop his lands for 3 years.
      - Ms. Bennet was afforded a seat at the table when SEQRA was being reviewed.
      - The Neg Dec in the SEQRA record covered the entirety of the project. Rezoning, site plan application and approval and ZBA variances.
    - Explains how City Council was appointed lead agency [under SEQRA]
    - (J.R.) There’s no threatened or endangered species on the Gov.t’ websites and identified by those who have walked the site. Says nothing was observed.
      - Asks J.R. to clarify “unique characteristics.”
      - B.O. - “There’s nothing protected on that site.”
    - (S.S.) Responds to questions about erosion, water, and flood protections. “We’ve done all the stormwater modeling for the site.”
    - (S.M.) We’re still working on addressing the other site plan comments that the board had. We couldn’t get the site plan updated in time for the submission date. So as part of our next submission there will be a point-by-point response to that. Staff’s comments, etc.
    - (S.S.) S.H.P.O. is currently reviewing the data recovery plan.
  3. On design: The idea was to make a representative sample and see what you thought about colors and design.

4. A.M. adjourns to October 18<sup>th</sup>.

- **A.M. Motions to: Table to the October 18<sup>th</sup> Hearing . . . seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

- **Motion to: Table to the October 18<sup>th</sup> Hearing passed 5-0**

[PLPC 2023 0021](#) –124 Fourth Street (101.61-2-11), [DMU/DT I]  
 Sketch Plan Conference –SEQRA (Type I)

The applicant, Michael Kang, proposes a 25-seat cocktail bar with tapas and cold snacks on the first floor as well as office and event space on the 2<sup>nd</sup>. The third-floor use is TBD. Additionally, Mr. Kang looks to make minor site improvements and update the exterior façade.

- Applicant presentation: Michael Kang
- Commissioner comments and questions to applicant:
  1. J.R. asks about HRC photo from 1994; Asks about HRC process and if intention is to meet their requests. Asks about a timeline. Wants to point out that HRC is an advisory board. Recommends formation of a sub-committee for review of final details. A.M. agrees.
  2. S.S. asks to see photo.
  3. A.M. wants to confirm the following:
    - Applicant to be on HRC’s agenda in October.
    - HRC had recommended that applicant move the main egress.
    - After speaking with a consultant for SHPO, you’re going back to HRC to confirm that not moving the egress is acceptable.
  4. A.M. Doesn’t feel comfortable approving the project tonight but can take action on SEQRA.
  5. E.F. Just make sure you send me any form of approvals.
  6. A.B., I suggested to the board to articulate any concerns. No one articulated them. So, I think we’re literally just waiting for HRC.
  7. S.M. Asks about lighting.
- Request for public comment: No public comment.
- Commissioner deliberation:
  1. A.M. addresses Env. review.
  2. A.B. points out that under the new code, there’s specific language that seeks to address the relationship and coordination between PC and HRC. Explains. “That said, I think you can act on SEQRA tonight.”
  3. J.R. We did also get their recommendation already. That the storefront is altered to represent what was there previously. We do have their recommendation, right?
  4. A.B. then what is he waiting on them for.
  5. J.R. → A.B. Does your earlier comment still stand, in that you think we should wait?
    - A.B. explains position; “So I think as a matter of policy, wait until you get a final recommendation from them [HRC].”
  6. J.R. We could put the item on “consent”. A.B. seconds.
- Applicant response:
  1. Photo from 1994 prior to when storefront was changed in 1998. It was for a clothing retail store.
  2. Wishes to go along with HRC requests. Most of the focus for SHPO will be façade.
  3. 6-8 months for construction to finalize.

4. Looking for conditional approval.
5. They [HRC] were waiting on the consultant to see if SHPO consultant has a strong opinion on whether the storefront would be able to be moved or not. They were wanting to ensure that from applicant’s end, that they would be in compliance with SHPO to get tax credits.
6. (A.M.) HRC was okay with the initial plan, but once SHPO was going to be taking a look, HRC mentioned that they may push for main egress to be moved to the middle. SHPO felt comfortable that the storefront wouldn’t have to be moved especially considering I’m just looking to replace the glass, the front door and paneling.

- **J.R. Motions to: Issue a negative declaration for SEORA S.S. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

- **Motion to: Issue a negative declaration for SEORA passed 5-0**

- **J.R. Motions to: Table item to the October 18<sup>th</sup> PC meeting under ‘consent’ S.M. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

- **Motion to: Table item to the October 18<sup>th</sup> PC meeting passed 5-0**

**PLPC 2021 0076** – 1467 Fifth Avenue (101.61-12-9) [MU-1/N-IV]  
 Special Use Permit – SEQRA (Type II)

The applicant(s), Yesfolk LLC and Chabacano LLC, wish to produce, package and sell nonalcoholic and alcoholic beverages including Kombucha, seltzer, cider, mead and fruit wines, through their retail tasting room that is open to the public for on-premise and to-go sales. Outdoor seating will be provided in a gated lot when weather permits.

- Applicant presentation: Yesfolk LLC
- Commissioner comments and questions to applicant:
  1. S.S. – Do you need to have a liquor license? Do you have to have our approval to move forward with that process?
  2. A.M. – My understanding, is that having outdoor areas where people can consume is part of the SLA application and all disclosed on there, correct?; Is there anything really different here than what’s currently in place?
  3. J.R. – Mentions parking, seating and how they would interact. When open to the public, will there be both seating and parking at the same time?
  4. S.M. – Asks about bike racks. Asks about the spiral staircase on top of building.
- Request for public comment: No
- Commissioner deliberation:
  1. J.R. points out a nonprofit organization he works for received a donation from Yesfolk recently. But doesn’t impact his ability to objectively review this item.
  2. A.M. – This is a type II action, so no SEQRA is required.

3. A.B. “This is an application for a Special Use permit in addition to amending the previous site plan application. You will need to declare application complete and schedule for a public hearing.”
  4. A.M. asks about the refrigerator in front.
  5. J.R. Why does it need a special use permit?
    - A.B. Changing the use from nonalcoholic to alcoholic. So the sought for use is Industry/artisan/maker space is the most applicable and requires a SU permit in the MU-1.
- Applicant response:
    1. (S.S.) Explains the [fermentation] process. Will be working with attorney that does liquor law to help and make sure we’re compliant.;
    2. (A.M.) Yes the SLA wants an extremely detailed interior and exterior site plan of where the public is, how the finished product is stored, where it’s stored, etc.
      - We’d like to put in shipping containers for things that don’t need to be temperature controlled. Explains seating and greenspace additions.
    3. (J.R.) We prefer to close the gate while patrons are outside. There’s always a lot of street parking. Talks about the physical barricades [from seating: parking]
    4. (S.M.) People can park their bikes there all day. We’re not getting rid of the staircase. Wants to spruce up.
    5. Explains the refrigerator is part of an Albany Free food fridge organization.

• **A.M. Motions to: Declare Application complete J.R. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Declare application complete passed 5-0**

• **A.M. Motions to: Schedule public hearing for October 18th J.R. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Schedule public hearing for October 18<sup>th</sup> passed 5-0**

[PLPC 2021 0030](#) – 309 & 311 Eighth Street (101.30.10.12 & 101.30.10.13) [TF/N-III]  
 Site Plan Review – SEQR (Type II)

The applicant, Unity House of Troy Inc., is proposing a Change of Use from administrative use to a 6-bed Situational Crisis Center Residence that will provide residential services to adults experiencing acute symptoms of their mental illness. A Use Variance and Area Variance (parking) have previously been obtained. The applicant is represented by Sara Drury, EIT, of Chazen Engineering.

- Applicant presentation: Sara Drury with Labella representing Unity House.
- Commissioner comments and questions to applicant:
  1. J.R. Are there any other changes to the site plan [from previous PC appearance]
- Request for public comment: No request for public comment was made by PC this evening.

- Commissioner deliberation:
  1. S.W. can sit out this item in October.
- Applicant response:
  1. (J.R.) No.
  2. Our situation depends on if S.W. is here because her firm is the architect.

• **J.R. Motions to: Declare Application complete** **S.M. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Declare application complete** **passed 5-0**

• **A.M. Motions to: Schedule public hearing for October 18<sup>th</sup>** **S.S. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Schedule public hearing for October 18<sup>th</sup>** **passed 5-0**

E.F → A.B. Asks about ‘Consent’ items and how they may be placed on the agenda under the new zoning code.

**New Business**

**PLPC 2023 0042** – 133-137 Fourth Street (101.61-6-4) [DMU/DT-I]  
 Special Use Permit – SEQRA (Type I)

The applicant, Thomas Roland, wishes to set up an open-air market for a Cannabis Grower’s Showcase (CGS), as detailed under NYS Office of Cannabis Management. The site, located in the historic district, will provide vendors for cannabis, vegetables, crafts, and small foods. All laws governing CGS will be observed, including no on-site consumption.

- Applicant presentation: Thomas Roland
- Commissioner comments and questions to applicant:
  1. J.R. Is it the building or in the lot? How frequent is the market?
  2. S.S. People won’t be able to consume?
  3. A.M. There’s a separate license for onsite consumption, right?
  4. S.S. Asks about site security.
  5. J.R. Will those individuals charged with security stop anyone who attempts to consume on site as well?
  6. A.M. “S.S. & J.R.’s comments are worth considering when the public hearing opens because I anticipate that’s going to be a question that members of the public have;”
  7. A.B. A couple things you should be prepared to put on the record at the hearing:

- In your power point submission, slide 6 says “once approved by OCM”. [Be prepared to state] If you need approval from NYS to conduct these events.
  - Slide 7: It states its not authorization for growers and processors to make sales directly to customers. So, it wasn’t clear to me what/who exactly can walk up and buy cannabis at your event.”
    - “My suggestion would be, do yourself a favor, do us a favor, and walk through the process at the public hearing.”
- 8. S.M. I would recommend steering clear of the acronyms.
- 9. B.C. Where on your schematic will the fulfillment table be?
- 10. A.M. So this lot will be used predominantly for parking and then on Saturdays for the Showcase?
- 11. S.M. Corrects applicant in that this [location] is actually on the bike network.”
- Request for public comment: No public comment
- Commissioner deliberation:
  1. A.M. For anyone on zoom, this application requires a public hearing and we’ll open up the public testimony period at that time.
- Applicant response:
  1. (J.R.) Just in the parking lot. Would like to invite other vendors and activate the streetscape; Every Saturday, 10-6.
  2. NYS does not allow consumption on site. This will just be purchasing.
  3. (A.M.) There’s talk of cannabis [on-site] consumption, but those regulations haven’t been passed yet.
  4. (S.S.) NYS has made it legal to consume cannabis in any place where you can smoke cigarettes. Responds to S.S. about site security and buying process. There will be security on site.
  5. (J.R.) Consumption not allowed. We’re trying to play it safe with NYS, so we’ll self-police. There should be a lot of discussion and effort to prevent discord and uphold rules.
  6. (A.B.) Explains sale process.
  7. (B.C) In the back corner of the building and lot (this is the NW corner of the parking lot)
  8. (J.R.) The seating from the breweries will be removed.
  9. (A.M.) Correct.
  10. (S.M.) I was looking on the [bike trail] map and it wasn’t entirely clear.

• **A.M. Motions to: Declare Application complete** **J.R. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Declare application complete** **passed 5-0**

• **A.M. Motions to: Schedule a hearing for October 18<sup>th</sup>** **S.M. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan	X				
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

• **Motion to: Schedule a hearing for October 18<sup>th</sup>** **passed 5-0**



**S.M. motioned to: Adjourn September PC meeting at: 8:18 PM . J.R. seconded.**

	Absent	Yes	No	Abstain	Recused
Roddy Yagan		X			
Sara Wengert	X				
Suzanne Spellen		X			
Anthony Mohen		X			
James Rath		X			
William Comiskey		X			
Stephen Maples		X			

**Motion to: Adjourn hearing at: 8:18 P.M. passed 5-0.**