

**TOWN OF PLATTSBURGH  
TOWN BOARD MONTHLY MEETING  
May 2, 2024**

The meeting was called to order at 6:00 p.m. by the presiding officer at the Town Hall on Banker Road. Pledge.

<b>MEMBERS:</b>	<b><u>PRESENT</u></b>	<b><u>ABSENT</u></b>
<b>Michael S. Cashman, Supervisor</b>	x	
<b>Thomas E. Wood, Councilor</b>	x	
<b>Barbara E. Hebert, Councilor</b>	x	
<b>Charles A. Kostyk, Councilor</b>	x	
<b>Dana M. Isabella, Councilor</b>	x	
<b>Kathryn B. Kalluche, Town Clerk</b>	x	
<b>James J. Coffey, Town Attorney</b>	x	

**Also in attendance:** Kathy Giroux, Geoffrey Barker, Ron Santor, Gail Santor, Sandra Rezac, Marsha Flurey-DeSorcie, and others.

**Resolution No. 024-106**

**Accept Minutes of the Previous Meeting**

**RESOLVED**, that the minutes of **March 21, 2024** and **March 28, 2024** be approved, and the reading of the minutes be dispensed with.

**Motion:** Charles A. Kostyk  
**Seconded by:** Dana M. Isabella  
**Discussion:** None

	<b><u>Yes</u></b>	<b><u>No</u></b>	<b><u>Absent</u></b>	<b><u>Carried</u></b>	<b><u>Tabled</u></b>
<b>Thomas E. Wood</b>	x			x	
<b>Barbara E. Hebert</b>	x				
<b>Charles A. Kostyk</b>	x				
<b>Dana M. Isabella</b>	x				
<b>Michael S. Cashman</b>	x				

**Public Comment – Supervisor Cashman commented on procedure, Geoffry Banker, Marsha Flurey-DeSorcie, Ron Santor.**

Attorney James Coffee  
Town of Plattsburgh Attorney  
151 Banker Road  
Plattsburgh, NY 12901-7307

29 April 2024

This letter is to bring to your attention what I believe is possible misapplication of NY law in the matter of the rezoning of portions of several parcels from R-2 to industrial.

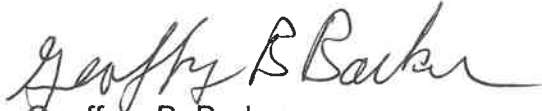
Accordingly, a review and discussion should be undertaken prior to the vote scheduled for May 2, 2024.

1. The record indicates that the Town did not initiate this amendment on their own accord. Rather it was from the special request of Schluter Systems Inc. on or about March 16, 2024. This gives support to the position the amendment is to specifically benefit Schluter which is in violation of NY law.
2. The Town Comprehensive Plan on page 84 indicates the following concerning land use: Section "5.5 Land Use, Natural Resources and Open Space As discussed in Section 3, there is ample room for new development in the Town. Under current zoning and at current rates of development, the Town would not be built out for hundreds of years. There is sufficient land zoned for industrial and manufacturing uses and there are robust commercial areas suitable for expansion."
3. With respect to "2", above, the Town is in error to rezone the subject parcels to appease a private industry while an abundant of available and suitable land is documented and directed to be used in lieu of rezoning.
4. The Agenda for May 2, 2014 does not indicate that a Protest Petition was entered into the record in opposition to the subject amendment. It is my understanding that a majority of the property owners adjacent to or within 100 feet of the subject parcels signed said petition. This petition and the position of the residents are clearly being ignored by the Board.
5. The following is from the NYS "Zoning and the Comprehensive Plan" and provides case law to reject the zoning Amendment:
  - a) "Inasmuch as [the zoning laws] have an intimate effect upon land they should be framed so far as possible with the knowledge and cooperation of the landowners. The enabling act requires preparatory procedure to make sure that the system is worked out as a coordinated whole."
  - b) "The State Environmental Quality Review Act (SEQRA) requires expansive environmental review 5 The question of whether a rezoning constitutes "spot zoning" should be answered by determining whether the rezoning was done to benefit individual owners rather than pursuant to a comprehensive plan for the general welfare of the community and thoughtful consideration of alternatives to governmental actions." (OBVIOUSLY THE AMENDMENT IS TO BENEFIT SCHLUTER IN VIOLATION OF THIS NY LAW)
  - c) "...at zoning be in accordance with a comprehensive plan is the language in those cases indicating that the courts will look to see whether zoning is for the benefit of the whole municipality. This requirement does not, however, preclude future zoning amendments that "respond to changed conditions in the community...". The question is whether the change "conflict[s] with the fundamental land use policies and development plans of the community ...".<sup>27</sup> Against this background principle, the concept of improper "spot zoning" arose."
  - d) "The fact that a rezoning will benefit a landowner will not on its own invalidate the action, so long as the action accords with a comprehensive plan. But to be in accordance with the plan, the rezoning must also further some clearly identified public purpose."

6. The Town's position that "it is the opinion of the members of the Town Board that the best interests of the Town of Plattsburgh will be served by the adoption of certain said amendments" needs to be justified with facts.

The above are just a few of the many legal citations available clearly indicating that the Town of Plattsburgh is erring if it approves the subject Rezoning Amendment.

It would be unjust and not responsible for the Town to approve this amendment and then task the aggrieved landowners to bring the matter before the courts for review.



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

**Resolution No. 024-107**

**Abstract 5A- 24**

**RESOLVED**, that the abstract of audited claims **No. 5A-24** for \$769,555.52, **Abstract 5A-24** prepays for the amount \$213,491.79 be received as reviewed by the Audit Committee and the Supervisor is hereby authorized to pay said abstracts.

**Motion: Barbara E. Hebert**

**Seconded by: Dana M. Isabella**

**Discussion: None**

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
<b>Thomas E. Wood</b>	x				
<b>Barbara E. Hebert</b>	x				
<b>Charles A. Kostyk</b>	x				
<b>Dana M. Isabella</b>	x				
<b>Michael S. Cashman</b>	x				

**Resolution No. 024-108**

**Monthly Department Reports**

**RESOLVED**, to receive and place on file Monthly Department Head Reports.

- Building and Grounds – **March 2024**
- Codes and Zoning – **March 2024**
- Dog Control Officer – **March 2024**
- Historian –
- Highway Superintendent – **March 2024**
- Justice Court –
- Parks and Recreation – **March 2024**
- Planning and Community Development – **April 2024**
- Safety Committee –
- Supervisors Financial Report – **March 2024**
- Tax Receiver –
- Town Clerk – **March 2024**
- Water Wastewater – **March 2024**

**Motion: Charles A. Kostyk**

**Seconded by: Barbara E. Hebert**

**Discussion: None**

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
<b>Thomas E. Wood</b>	x				
<b>Barbara E. Hebert</b>	x				
<b>Charles A. Kostyk</b>	x				
<b>Dana M. Isabella</b>	x				
<b>Michael S. Cashman</b>	x				

**Resolution No. 024-109**

**AEDA Proposal - Town Hall Vestibules  
Accessibility Improvements - Design Phase**

**WHEREAS**, the Town of Plattsburgh Town Hall is an important public facility, asset, and resource; and

**WHEREAS**, the Town of Plattsburgh Town Hall facility access is in need of assessment and design for possible upgrades; and

**WHEREAS**, the Town of Plattsburgh has a two-year term contract with AEDA, located at 1246 State Route 3, Plattsburgh, NY; and

**WHEREAS**, AEDA has provided an adequate scope of services and lump sum quote for approximately \$29,400.00; now, therefore be it

**RESOLVED**, the Town of Plattsburgh Town Board does hereby accept the proposal and scope of services as submitted by AEDA in the letter dated March 1, 2024; and it is further

**RESOLVED**, that the Supervisor is hereby authorized and directed to execute the Agreements for said Town Hall Vestibules Accessibility Improvements; and be it further

**RESOLVED**, that a copy of this Resolution be given to the Finance Manager and Planning Department Head.

**Motion: Barbara E. Hebert**

**Seconded by: Thomas E. Wood**

**Discussion: None**

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
<b>Thomas E. Wood</b>	x				
<b>Barbara E. Hebert</b>	x				
<b>Charles A. Kostyk</b>	x				
<b>Dana M. Isabella</b>	x				
<b>Michael S. Cashman</b>	x				

**Resolution No. 024-110**

**Request to Purchase Modine High Efficiency  
Natural Gas Heater for Town of Plattsburgh**

**WHEREAS**, the Town of Plattsburgh Building and Grounds Superintendent, Mike Drew, has requested to purchase a Modine High Efficiency Natural Gas Heater to replace an existing shop heater in the Highway Department; and

**WHEREAS**, three quotes have been obtained and reviewed and it is of the recommendation of Mr. Drew to purchase the heater from Hulbert Supply of Plattsburgh, NY in the amount totaling \$4,455.37 to include shipping; therefore, be it



<b>Roll Call:</b>	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Dana M. Isabella	x				
Michael S. Cashman	x				

**Resolution No. 024-112**

**Park Memorial Donation for Cadyville Recreation Park**

**WHEREAS**, Resolution No. 024-051 adopted the Town of Plattsburgh Park Memorial Policy; a policy establishing standards and guidelines for the public to commemorate the loss of a friend or loved one with a memorial in one of the Town of Plattsburgh Parks; and

**WHEREAS**, an application has been submitted for a memorial donation (an Adirondack bench) to be placed at Cadyville Recreation Park; and

**WHEREAS**, the Memorial Donation application has been reviewed by the Town of Plattsburgh Parks and Recreation Department; therefore, be it

**RESOLVED**, that the Town Board of the Town of Plattsburgh has reviewed said memorial donation application and does hereby authorize said donation of an Adirondack bench for Cadyville Recreation Park; and, be it further

**RESOLVED**, that, per the Town of Plattsburgh Park Memorial Policy, the applicant is responsible for the cost of the park accessory, plaque, and installation fees; once payment is made by the applicant, Ms. Pangborn is authorized to make said purchase and coordinate installation of said materials for the memorial donation; and, it is further

**RESOLVED**, that a copy of this Resolution be forwarded to Ms. Erin Pangborn, Youth Service and Recreation Director.

**Motion: Charles A. Kostyk**  
**Seconded by: Thomas E. Wood**  
**Discussion: None**

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
Thomas E. Wood	x				
Barbara E. Hebert	x				
Charles A. Kostyk	x				
Dana M. Isabella	x				
Michael S. Cashman	x				

**WHEREAS**, after thorough consideration and deliberation, the Town Board proposes to make the following amendment to the Town Zoning Map:

*Zoning map amendment for portions of parcels 245.-4-22.11, 245.-4-40.1, 245.-4-41, and 245.-4-16.2 located on Route 22, Salmon River Road, and Superior Drive, changing the existing zoning district of said parcels from Residential (R2) to I\* as depicted on the draft map titled “Parcels 245.-4-22.11, 245.-4-40.1, 245.-4-41, and 245.-4-16.2 To Be Considered for Zone Change From R2 to I\*”;*

**WHEREAS**, at its regularly scheduled meeting on March 16, 2023 the Town Board of the Town of Plattsburgh (the “Town Board”) received and placed on file a zoning map amendment petition from Schluter Systems Inc. requesting an amendment of the existing zone classification of the previously said parcels from Residential (R2) to Industrial (I) (the “Zoning Amendment”); and

**WHEREAS**, pursuant to Article XIII, Section 13.3 of the Town of Plattsburgh Zoning Ordinance, all proposed zoning amendments originating by petition or by motion shall be referred to the Town of Plattsburgh Planning Board (the “Planning Board”) for a report and recommendation thereon; and

**WHEREAS**, the Planning Board did submit its report to the Town Board within forty five (45) days of receipt of such referral in accordance with the provisions of said Zoning Ordinance; and

**WHEREAS**, the Town board considered the Zoning Amendment and the recommendations contained in the report of the Planning Board and found merit in the consideration of a zoning map amendment; and

**WHEREAS**, pursuant to Article XVII, Section 17.4 of the Town Zoning Ordinance and Section 264 and 265 of New York Town Law shall refer a full statement of the Zoning Amendment and map to the Clinton County Planning Board

**WHEREAS**, the Clinton County Planning Board was provided a copy of the proposed Zoning Map amendment and Findings and Recommendations Report of the Planning Board, and did, by a 7-0 vote on April 3, 2024, approve the General Municipal Law Section 239-m referral number 24-24 without comment; and

**WHEREAS**, the Town Board duly called for a public hearing for the consideration of the aforesaid amendment and gave due notice thereof as required by law; and

**WHEREAS**, said public hearing was held by this Town Board at the Town Hall at 151 Banker Road, Plattsburgh, New York, on the April 11<sup>th</sup>, 2024 at 6:05 P.M.; at which time the proposed Zoning Ordinance amendment and SEQRA materials were available;



**WHEREAS**, the Town Board has previously declared the zoning map amendments to be a Type I Action and a coordinated review was conducted; and

**WHEREAS**, the Town Board via Resolution Number 24-106 issued a negative declaration of environmental significance under SEQRA for the proposed zoning map amendment listed above; and

**WHEREAS**, after review and discussion of the following:

- Planning Board Report and Recommendations dated April 14, 2023
- The review of part 1 and the completion of parts 2 and 3 of the EAF Long Form (herein SEQRA documentation)
- Comments made at the public hearing on April 11<sup>th</sup>, 2024
- Written public comments submitted to the Town in absentia
- Staff Review and Recommendation dated April 16<sup>th</sup>, 2024
- Negative Declaration of Environmental Significance dated April 18, 2024
- Review of other related materials,

It is the opinion of the members of the Town Board that the best interests of the Town of Plattsburgh will be served by the adoption of certain said amendments; and

The proposed amendments are in conformance with the Town's "Master Plan" for the reasons set forth:

- Since the 2010 Comprehensive Plan recommended that the Town "should reduce industrially zoned land in selected areas and carefully review its other industrial areas for potential re-zoning"; the Town has reduced the number of I-Industrial zoned acres by approximately 600. These former Industrially zoned properties were primarily re-zoned to residential and commercial uses. It has further downzoned approximately 1900 acres of AP-Airport, AB-1 Airbase, and AB-2 Airbase to mixed use districts of SD, T6, MDR, and NC. Approximately 250 acres was re-zoned LC-Land Conservation District and another 40 to R1-Residential.
- The 2013 Economic Development Strategic Plan Goal 1 recommends that the Town "Develop a business-friendly environment to retain and expand the Town's tax base and provide existing and future residents with a wide range of business, employment, and career opportunities."
- Section 1.1 of the 2010 Town Comprehensive plan states "A Comprehensive Plan is a policy guide that sets forth directions for the future of a community. It is not a law or regulation. Rather, it is a blueprint to help guide the future."
- Comprehensive plans are "living documents" intended to be updated over time as a

community changes. The Town has accomplished goals within 19 of the 21 Comprehensive Plan recommendations from 2010 and intends to update the document in 2025 to reflect the changing goals, character, and needs of the Town of Plattsburgh.

For these reasons, the Town Board finds the consideration of these zoning amendments to reflect the purpose and intent of the collective Town “Master Plan.”

**NOW THEREFORE BE IT, RESOLVED**, that the Zoning Map of the Town of Plattsburgh be amended as follows:

*Zoning map amendment for portions of parcels 245.-4-22.11, 245.-4-40.1, 245.-4-41, and 245.-4-16.2 located on Route 22, Salmon River Road, and Superior Drive, changing the existing zoning district of said parcels from Residential (R2) to I\* as depicted on the draft map titled “Parcels 245.-4-22.11, 245.-4-40.1, 245.-4-41, and 245.-4-16.2 To Be Considered for Zone Change From R2 to I\*”; and*

*A 100’ buffer of R2 zone shall remain along the north, south, and west boundaries as shown on the aforementioned map; and*

*This specific proposed area of I- Industrial will be described as I\* and will not include concrete, mining or asphalt manufacturing in the list of allowed uses; and be it further*

**RESOLVED**, that said amendments be entered in the minutes of the meeting of the Town Board of the Town of Plattsburgh, held on the 2nd day of May, 2024; and be it further

**RESOLVED**, in accordance with section 264 and 265 of Town Law, a copy, summary or abstract of the amendments (exclusive of any map) shall be published in the PRESS REPUBLICAN, a newspaper published in the town and that affidavits of publication thereof shall be later filed with the Town Clerk; and be it further

**RESOLVED**, that the amendments shall be effective as provided by and in accordance with section 265 of the Town Law; and be it further

**RESOLVED**, that a copy of this Resolution be given to the Town Clerk, Zoning Department and Planning Department.

**Motion: Barbara E. Hebert**

**Seconded by: Dana M. Isabella**

**Discussion: Michael S. Cashman, Thomas E. Wood**

**Motion to Amend: Thomas E. Wood to add mining as a non-allowed use to the “ I\* ”**

**Seconded by: Barbara E. Hebert**

**Discussion: none**

**Amendment Roll Call:**

Yes

No

Absent

Carried

Tabled

<b>Thomas E. Wood</b>	x
<b>Barbara E. Hebert</b>	x
<b>Charles A. Kostyk</b>	x
<b>Dana M. Isabella</b>	x
<b>Michael S. Cashman</b>	x

<b>Resolution Roll Call:</b>	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Carried</u>	<u>Tabled</u>
				x	
<b>Thomas E. Wood</b>	x				
<b>Barbara E. Hebert</b>	x				
<b>Charles A. Kostyk</b>	Abstain				
<b>Dana M. Isabella</b>	x				
<b>Michael S. Cashman</b>	x				

**Motion to go** into Executive Session to discuss the work history of three specific individuals.

**Motion to come out** of Executive Session

Motion by: Charles A. Kostyk  
 Seconded by: Dana M. Isabella  
 Time: 6:38 PM

Motion by: Barbara E. Hebert  
 Seconded by: Thomas E. Wood  
 Time: 7:12 PM

	<u>YES</u>	<u>NO</u>		<u>YES</u>	<u>NO</u>
<b>Thomas E. Wood</b>	x		<b>Thomas E. Wood</b>	x	
<b>Barbara E. Hebert</b>	x		<b>Barbara E. Hebert</b>	x	
<b>Charles A. Kostyk</b>	x		<b>Charles A. Kostyk</b>	x	
<b>Dana M. Isabella</b>	x		<b>Dana M. Isabella</b>	x	
<b>Michael S. Cashman</b>	x		<b>Michael S. Cashman</b>	x	

**RESOLVED**, that this Town Board meeting be adjourned at 7:12 PM.

**Motion by: Thomas E. Wood**  
**Seconded by: Charles A. Kostyk**  
**Discussion: None**

	<u>Yes</u>	<u>No</u>	<u>Carried</u>
			x
<b>Thomas E. Wood</b>	x		
<b>Barbara E. Hebert</b>	x		
<b>Charles A. Kostyk</b>	x		
<b>Dana M. Isabella</b>	x		
<b>Michael S. Cashman</b>	x		

Minutes Respectfully Submitted by:
Katie Kalluche, Town Clerk

