

December 2, 2021

Via Email: commoncouncil@kingston-ny.gov

Andrea Shaut
Alderwoman-at-Large
City of Kingston Common Council
420 Broadway
Kingston, New York 12534

Re: Common Council Public Hearing
9-17 & 21 N. Front Street and Fair Street Extension

Dear Alderwoman Shaut and Members of the Common Council:

As you are aware, this firm represents a number of landowners in Uptown Kingston that have serious concerns about the project proposed at 9-17 & 21 N. Front Street and Fair Street Extension, commonly referred to as the Kingstonian (the "Project"), including but not limited to the discontinuance of Fair Street Extension. Please accept this comment letter as part of the record of the public hearing on the proposed discontinuance of a portion of Fair Street Extension.

At the outset, the public has not been provided with meaningful notice and the public hearing must be continued until such time as a discontinuance map or legal description of the portion of the road to be discontinued has been prepared. The City has recently posted a "Preliminary Illustrative Site Plan" last revised July 15, 2019 on its website (the "Preliminary Plan"), but without more, this Preliminary Plan does not provide sufficient information for informed public comment. Fair Street Extension is not labeled on this Preliminary Plan, nor is there any indication of where the city road is proposed to terminate. The City must provide key information on the proposed discontinuance, such as the location of the discontinuance and the means of the public to still access the road once discontinued. Until this basic information regarding the City's proposal is made available, the public will not have had a fair opportunity to provide comment during the public hearing.

We have filed an action in the Ulster County Supreme Court which outlines several procedural and substantive issues with the proposed discontinuance of Fair Street Extension (Index No. EF2021-3014). A copy of our petition is attached hereto and incorporated herein. All claims set forth in the Petition are reserved.

We reiterate that the City is proposing to give away valuable tax payer land without an appraisal or other estimate of the value in proportion to the alleged benefits of the Project.

(845) 516-4323 ph
(845) 516-4528 fax
vpolidoro@rodenhausenchale.com

Once you authorize the discontinuance of Fair Street Extension, it is not clear what happens next. The City has not provided any plans for redirecting traffic in the months, or even years, between the discontinuance and Project construction. No plans for signs to redirect traffic or alert cars or pedestrians to the road closure have been provided or discussed. No plans for safely accessing the municipal parking lot have been provided or discussed. After discontinuance, vehicles would need to turn across Schwenk Drive and cross private property in order to access the municipal parking lot. There is no indication that the City has obtained permanent easements over private property to provide such access or determined that the increase in turns along Schwenk Drive away from a proper intersection with appropriate signals will not cause a traffic impact.

The discontinuance also raises significant Americans with Disabilities Act (“ADA”) compliance issues before and during construction of the Project, as pedestrians with disabilities will need to take a longer route in order to travel from the municipal lot on Schwenk Drive to North Front Street. A copy of a report prepared by Langan Engineering dated November 23, 2021, which identifies the potential ADA issue is enclosed for your review (the “Langan Report”).

The discontinuance of Fair Street Extension is also inconsistent with the City’s I-587/Albany/Broadway Intersection Study, dated February 2011 (the “2011 Study”). The 2011 Study proposes ways to alleviate traffic pressure on Albany and Clinton Avenues while preserving capacity for future economic growth in the City. The 2011 Study suggests that the Fair Street Extension is an important roadway connection to Uptown Kingston and suggests a roundabout at Schwenk Drive and Fair Street Extension. This would have the added benefit of providing additional street frontage for future development opportunities. See 2011 Study, pages 19-20. An excerpt from the Study is attached hereto.

On May 2, 2012, the City of Kingston voted to support the recommendations in the 2011 Study and to consider “recommendations within the Study within its Comprehensive Plan, land use controls and capital programming functions.” See Resolution #103 of 2012. Instead, this ill-advised plan to discontinue Fair Street Extension eliminates the opportunity to improve the roadway network and provide redevelopment opportunities along Schwenk Drive in favor of a Project which turns its back on Schwenk Drive. While the City’s Project Advisory Committee for the Uptown Transportation Improvements Project has since indicated that a roundabout at Schwenk Drive may not be necessary, we note that the Committee contains a member of the Kingstonian development team and apparently came to this conclusion with the Kingstonian in mind. Regardless, the discontinuance of Fair Street Extension still contradicts the City’s findings that Fair Street Extension represents an important opportunity to reconnect Schwenk Drive with Uptown Kingston. That opportunity is lost by this discontinuance.

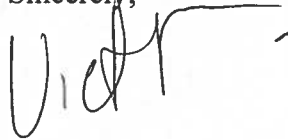
The closure invariably also *increases* traffic on Clinton Avenue and the surrounding streets. See Langan Report p. 13. The additional traffic generated by the Project combined with the elimination of access to Uptown over Fair Street Extension also raises serious concerns regarding the adequacy emergency vehicle access. See the Langan Report at pp. 3-4.

The City must also consider the historic importance of Fair Street Extension, which is included in the City's National Register-listed Kingston Stockade Historic District. The grade change from Schwenk Drive to Front Street provides an important opportunity to interpret the boundaries of the historic Stockade. According to Kerri Culhane, an independent architectural historian and planner, "[t]he Kingstonian's proposed destruction of the landscape sloping to the Esopus Creek would result in the loss of a poorly documented but widely understood and experienced feature of the district." Ms. Culhane's letter identifies several concerns and is enclosed herewith for your review.

We do not understand the City's rush to discontinue a roadway that is widely used by the public for a project which has not even received all required approvals from the City of Kingston. At the same time as this hearing, the City of Kingston Historic Landmarks Preservation and Heritage Area Commissions are reviewing the Project, including the proposed modifications to the Fair Street Extension. The Planning Board and Zoning Board of Appeals also need to issue additional approvals before Project construction can commence. If these Boards require Project changes to remove or minimize the changes to Fair Street Extension, the discontinuance may have been in vain.

We urge the City to rethink this hasty and ill-advised discontinuance and to abide by its obligation to act in the public interest. Thank you for your consideration.

Sincerely,



Victoria L. Polidoro

CC (all via e-mail): Kevin Bryant, Esq.
Barbara Graves-Poller, Esq.
City of Kingston Common Council
City of Kingston Clerk
Daniel Gartenstein, Esq.
Michael Moriello, Esq.
Robert Cook, Esq.
Historic Landmark Preservation Commission
Heritage Area Commission
Suzanne Cahill

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ULSTER

-----X
61 CROWN STREET, LLC, 311 WALL STREET, LLC,
317 WALL STREET, LLC, 323 WALL STREET
OWNERS, LLC, 63 NORTH FRONT STREET, LLC, 314
WALL STREET, LLC, and 328 WALL STREET, LLC,

Petitioners-Plaintiffs,

**AMENDED VERIFIED
PETITION-COMPLAINT**

For a Judgment Pursuant to Article 78 of the Civil Practice
Law and Rules (“CPLR”) and a Declaratory Judgment
Pursuant to Section 3001 of the CPLR and Section 51 of
the General Municipal Law

Index No.: EF2021-3014

- against -

Assigned Judge:
Hon. Richard Mott, J.S.C.

CITY OF KINGSTON COMMON COUNCIL, STEVEN
T. NOBLE in his capacity as MAYOR OF THE CITY OF
KINGSTON, CITY OF KINGSTON DEPARTMENT OF
PUBLIC WORKS, JM DEVELOPMENT GROUP, LLC,
HERZOG SUPPLY CO., INC., KINGSTONIAN
DEVELOPMENT, LLC, PATRICK PAGE HOLDINGS,
L.P., BLUE STONE REALTY LLC, and WRIGHT
ARCHITECT, PLLC,

Respondents-Defendants.

-----X

Petitioners-Plaintiffs, 61 Crown Street, LLC, 311 Wall Street, LLC, 317 Wall Street, LLC,
323 Wall Street Owners, LLC, 63 North Front Street, LLC, 314 Wall Street, LLC, and 328 Wall
Street, LLC (“Petitioners”), by and through their attorneys, Rodenhausen Chale & Polidoro LLP
and Lewis & Greer, P.C., as and for their Amended Verified Petition-Complaint (“Petition”)
respectfully allege as follows:

PRELIMINARY STATEMENT

1. This is a hybrid CPLR Article 78 and Declaratory Judgment action commenced
pursuant to Article 78 of the CPLR, CPLR § 3001, and General Municipal Law §51 to annul and

prevent certain actions of the Respondent-Defendant (“Respondent”) City of Kingston with respect to the improper disposition of public property, or an interest therein, to private parties for non-public purposes.

2. Specifically, Petitioners seek to prevent the City of Kingston Common Council (“Common Council”), Steven T. Noble in his official capacity as Mayor of the City of Kingston (“Mayor”), the City of Kingston Department of Public Works, or any other respondent or related party from taking any action purportedly authorized by Common Council Resolution 215 of 2021, adopted by the Common Council on November 9, 2021, entitled, “Resolution of the Common Council of the City of Kingston, New York, Requesting Authorization for Conveyance of an Easement to the Kingstonian Development, LLC, and Authorizing the Mayor to Execute Any and All Documents Necessary”, or from adopting a second resolution which the Common Council is purportedly contemplating but has not yet published that would purport to close, abandon, or convey, a portion of a public street in the City of Kingston identified as the Fair Street Extension or allow City of Kingston officials to take measures to achieve those ends. A copy of Resolution 215 as adopted by the Common Council is attached hereto as Exhibit “A”.

3. As originally proposed, Resolution 215 was entitled, “Resolution of the Common Council of the City of Kingston, New York, Requesting Authorization for Conveyance of an Easement to the Kingstonian Development, LLC, and for an Easement to the Kingstonian Development, LLC, Written Consent for the Partial Abandonment of Fair Street Extension, and Authorizing the Mayor to Execute Any and All Documents Necessary” and would have authorized the Mayor to discontinue an unspecified portion of Fair Street Extension and to sign and execute unspecified easements for Respondent Kingstonian Development, LLC, and to allow the construction of permanent structures on the to-be discontinued portion of Fair Street Extension

(the “Easements”). A copy of Resolution 215 as first proposed by the Common Council is attached hereto as Exhibit “B”.

4. The Common Council at its meeting held on the evening of November 9, 2021 (“Council Meeting”), suspended its rules, removed the portions of the then-proposed Resolution 215 (Ex. B) pertaining to the “Partial Abandonment of Fair Street Extension” into a separate Resolution that the Common Council will assumedly make public and take up at a later date, and passed the remaining portions of Resolution 215 (Ex. A) which purport to authorize the Mayor to sign and execute documents granting unspecified easements over unspecified portions of Fair Street Extension (the “Amended Resolution 215”).

5. Upon information and belief, no compensation or other consideration will be received or sought by the City in exchange for the Easements.

6. The Easements are for the benefit of the developers of a mixed-use project known as the Kingstonian which includes a 420-car garage, 143 apartments, 32-room boutique hotel, 9,000 square feet of retail/restaurant space, pedestrian plaza, and walking bridge located at the intersection of Fair Street and North Front Street (the “Project”) in the City of Kingston. The Project is to be located, in part, on municipal property identified as tax parcel 48.80-1-26 and is also proposed to be built over and upon Fair Street Extension.

7. The Project has not received all prerequisite governmental approvals for its construction and may not ever receive such approvals.

8. Were the Mayor allowed to take actions to convey the Easements purportedly authorized by Amended Resolution 215 as adopted on November 9, 2021 (Ex. A), the City and Mayor would be unlawfully conveying an interest in public property, and improperly

encumbering a public street in violation of City of Kingston Code and Charter, New York State Law, and the New York State Constitution.

9. Were the City to further adopt another resolution purporting to authorize the abandonment, closure, discontinuance, or impediment to the public use of Fair Street Extension, the City would be improperly discontinuing a public street and unlawfully conveying an interest in Fair Street Extension in contravention of the City of Kingston Code, New York State Law, and the New York State Constitution.

10. Accordingly, Petitioners-Plaintiffs seek judgment for the following relief:

- a. Declaring that the City of Kingston Department of Public Works, Common Council, and Mayor Steven T. Noble are without authority to authorize the discontinuance of Fair Street Extension as it is necessary for public travel, is used for public travel, and there is no public benefit in its discontinuance;
- b. Declaring that the Common Council and Mayor Steven T. Noble are without authority to convey Easements over Fair Street Extension or any other interest therein to Respondent Kingstonian Development, LLC or any other Respondents without following the statutory requirements of *inter alia* the New York State General City Law, the Kingston City Charter, and the Kingston City Code relating to the disposal of public highways;
- c. Declaring that the Common Council is without authority to authorize the conveyance of the Easements over the Fair Street Extension as the proposed Easements are unreasonably vague, do not adequately identify the property to be conveyed, and unlawfully delegate power from the Common Council to the Mayor relating to the conveyance of the Easements;

- d. Declaring any conveyance of the Easements over Fair Street Extension or any other interest therein by the Common Council and Mayor Steven T. Noble without fair and adequate compensation to be prohibited gifts under Art. VIII, § 1 of the NYS Constitution;
- e. Declaring that the Common Council is without authority to delegate its powers to the Mayor or any other official or authority as the State Legislature and the City Charter vest the Common Council alone with the authority and duty to pass upon any contract to alienate or encumber the property of the City of Kingston;
- f. Declaring that the Common Council is without authority to make an overbroad delegation of its powers to the Mayor to encumber or convey the property of the City of Kingston where the terms and conditions of such an encumbrance or conveyance are left undefined by the Common Council and the Mayor is, in essence being allowed to determine for himself the terms and conditions of any conveyance or encumbrance of Fair Street Extension;
- g. Declaring that the purported public hearing on the discontinuance of the Fair Street Extension cannot be scheduled and held until such time as a map or description of the portion of the Fair Street Extension to be discontinued is provided for public review and the required public hearing thereupon is noticed and held in a manner consistent with due process;
- h. Granting the Petitioners a preliminary injunction restraining, during the pendency of this action, the exercise of any authority purportedly permitted by Amended Resolution 215, and further restraining the Mayor and the Common Council from adopting any resolution, or taking any other steps towards, authorizing the

abandonment, closure, discontinuance, or impediment to the public use of Fair Street Extension;

- i. Granting Petitioners a permanent injunction restraining the exercise of any authority purportedly permitted by Amended Resolution 215, and further restraining the Mayor and the Common Council from adopting any resolution, or taking any other steps towards, authorizing the abandonment, closure, discontinuance, or impediment to the public use of Fair Street Extension;
- j. Declaring any conveyance of Fair Street Extension or easement over Fair Street Extension as unlawful and null and void and directing the cancellation of such conveyance including the cancellation of any deed or other instrument recorded with the City of Kingston and/or County of Ulster that documents the conveyance; and,
- k. Awarding Petitioners such other and further relief as the Court deems just and proper, with the costs and disbursements of this proceeding.

PARTIES

11. Petitioner 61 Crown Street, LLC is a duly created limited liability company organized in the State of New York which owns certain properties located at 61 Crown Street and 156-162 Green Street, identified as tax parcels 48.330-3-10 and 48.330-3-28.100, respectively, and located within the National Register-listed Kingston Stockade Historic District (“KSHD”). Petitioner 61 Crown Street, LLC’s properties are located in close proximity to the Project. Petitioner 61 Crown Street, LLC’s properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

12. Petitioner 311 Wall Street, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 311 Wall Street, identified as tax parcel 48.331-1-16, within the KSHD. Petitioner 311 Wall Street, LLC's property is located in close proximity to the Project. Petitioner 311 Wall Street, LLC's properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

13. Petitioner 317 Wall Street, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 317 Wall Street, identified as tax parcel 48.331-1-15, in the KSHD. Petitioner 317 Wall Street, LLC's property is located in close proximity to the Project. Petitioner 317 Wall Street, LLC's properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

14. Petitioner 323 Wall Street Owners, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 323 Wall Street, identified as tax parcel 48.331-1-13, within the KSHD. Petitioner 323 Wall Street Owners, LLC's property is located in close proximity to the Project. Petitioner 323 Wall Street Owners, LLC's properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

15. Petitioner 63 North Front Street, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 63 North Front Street, identified as tax parcel 48.314-2-15 within the KSHD. Petitioner 63 North Front Street, LLC's property is located in close proximity to the Project. Petitioner 63 North Front Street, LLC's

properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

16. Petitioner 314 Wall Street, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 314 Wall Street, identified as tax parcel 48.331-2-10, within the KSHD. Petitioner 314 Wall Street, LLC's property is located in close proximity to the Project. Petitioner 314 Wall Street, LLC's properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

17. Petitioner 328 Wall Street, LLC is a duly created limited liability company organized in the State of New York which owns certain property located at 328 Wall Street, identified as tax parcel 48.331-2-4, within the KSHD. Petitioner 328 Wall Street, LLC's property is located in close proximity to the Project. Petitioner 328 Wall Street, LLC's properties can be accessed by Fair Street Extension and will be harmed by its discontinuance, conveyance, or encumbrance which will hamper the public use of and access thereto.

18. The construction of the Kingstonian Project requires the closure and encumbrance of Fair Street Extension, which will disrupt traffic flow in and around the Project and make the neighborhood, including Petitioner's properties, less accessible to members of the general public.

19. The Kingstonian Project will permanently alter the historic character of the KSHD, in which Petitioners' properties are located, and will interfere with the appearance and environment of the district. Petitioners purchased their properties in part due to the unique setting of the KSHD which the Project will now disrupt.

20. Petitioners stand to suffer harm different from the public at large due to their proximity to Fair Street Extension subject to being closed or encumbered. Closure of the Fair

Street Extension will constrict the flow of traffic in the surrounding area and funnel increased traffic onto the narrow, colonial-era roads of the KSHD.

21. Petitioners stand to suffer actual or potential harm different from the public at large due to the environmental impacts of the closing or encumbering of Fair Street Extension including the deleterious effects of increased noise and traffic due to their proximity to the Project and Easements.

22. Petitioners stand to suffer actual or potential harm different from the public at large due to the economic impacts of the closing or encumbering of Fair Street Extension, including the deleterious effects of the increased congestion of vehicular traffic in the remaining streets that give access to and from the KHSD and lessened foot traffic into and around the KHSD due to their proximity to the Project and Easements.

23. Petitioners are members of the general public and taxpayers, and the matter of the loss or encumbrance of a public highway, as well as ensuring public officials and entities fulfill their duties under the law, are of general public interest and granting the sought relief would benefit the general public.

24. Each of the properties owned by Petitioners has an assessed value in excess of one thousand (\$1,000.00) U.S. Dollars.

25. Based on the assessed value of their properties, as individual parcels or collectively, Petitioners have standing to bring this action pursuant to General Municipal Law §51 in order to prevent an illegal official act on the part of the Mayor and/or the Common Council or to prevent waste or injury to, or to restore and make good, a City-owned property.

26. Upon information and belief, Respondent Common Council is a duly created body established pursuant to the New York General City Law, whose authorized powers include, among other things, the power to approve the sale or lease of real property belonging to the City.

27. Upon Information and belief, Respondent Steven T. Noble is the Mayor of the City of Kingston.

28. Upon information and belief, Respondent City of Kingston Department of Public Works (“DPW”) is the department within the City of Kingston that exercises control over City streets and sidewalks, including the authority to discontinue streets.

29. Upon information and belief, Respondent JM Development Group, LLC is a New York limited liability company with offices at 2975 Route 9W South, New Windsor, NY, and a developer of and/or applicant for the Project.

30. Upon information and belief, Respondent Herzog Supply Co., Inc. is a duly created New York business corporation with offices at 151 Plaza Road, Kingston, NY, and the owner in whole or in part of real property located at 9-17 N Front Street and 51 Schwenk Drive, identified as tax parcel nos. 48.80-1-26 and -24.120, which is a portion of the Project property.

31. Upon information and belief, Respondent Kingstonian Development, LLC is a New York limited liability company with offices at 2975 Route 9W South, New Windsor, NY, and a developer of and/or applicant for the Project.

32. Upon information and belief, Respondent Patrick Page Holdings, d/b/a Patrick Page Properties, is a New York limited partnership with offices at 1613 Route 300, Newburgh, NY, and a developer of and/or applicant for the Project.

33. Upon information and belief, Respondent Blue Stone Realty, LLC is a New York limited liability company with offices at 200 Fair Street, Kingston, NY, and has an interest in the Project.

34. Upon information and belief, Respondent Wright Architect, PLLC is a professional service limited liability company with offices at 200 Fair Street, Kingston, NY 12401, and has an interest in the Project.

VENUE

35. Venue is proper for this action in the New York State Supreme Court, Ulster County, as pursuant to CPLR §§ 7804(b) and 506(b) this is where the official actions being challenged took place, where the material events took place, and where the principal office of most Respondents are located.

36. Venue is further proper for this action in the New York State Supreme Court, Ulster County, as the public highway that is the subject of this action is located in Ulster County.

BACKGROUND

KSHD Background

37. The KSHD comprises eight-blocks in northwestern or uptown Kingston, New York. It is the original site of the mid-17th century Dutch settlement that grew to become Kingston and is listed on the U.S. National Register of Historic Places due to its unique architecture and historic character. *See* attached as Exhibit C the affidavit of historian K. Culhane filed in the related matter of *Creda, LLC, et al. v City of Kingston Planning Board, et al.*, NYSCEF No. EF2020-253, Doc. No. 135, which also involved the impacts of the Project on the KSHD.

38. All of Petitioners' properties, as well as the proposed site of the Kingstonian including Fair Street Extension, are included within the KSHD.

39. The KSHD contains many historic buildings from as early as the 1600's including the Senate House which served as the first Capital of the State of New York in 1777, the Old Dutch Church which is a National Historic Landmark in its own right, and the only intersection in America in which all four buildings on each corner predate the United States of America where Crown and John Streets cross.

Project Background

40. From its inception, the Kingstonian Project has been the subject of procedural mistakes and questionable acts which lessen faith in the intentions of local government officials.

41. On October 27, 2016, the Common Council published its "Request for Qualifications #K16-10, Adaptive Development of Uptown Parking Sites for Mixed Use" (the "RFQ"). A copy of the RFQ is annexed hereto as Exhibit D.

42. The RFQ sought responses "from qualified developers to design, construct and operate a mixed-use development on three separate parcels owned currently by the City of Kingston." Ex. D at 1.

43. The parcels of land offered in the RFQ did not include the land upon which any portion of Fair Street Extension is located. Ex. D. Instead, the RFQ was limited to the site of a municipally-owned parking lot, formerly a parking garage, to the immediate west of Fair Street Extension.

44. The RFQ specifically prohibited public officials from responding to the RFQ.

45. Mayor Steve T. Noble executed a Memorandum of Understanding with Respondent-Defendant Wright Architects, PLLC, an entity related to Respondent Blue Stone Realty LLC on January 10, 2017, indicating their intent to develop the parking lot on property

known as 21 North Front St (SBL: 48.80-1-26). Fair Street or Fair Street Extension were never mentioned in the Memorandum of Understanding, a copy of which is attached as Exhibit E.

46. Upon information and belief, the Common Council never voted on and never passed a resolution authorizing the Mayor to execute the Memorandum of Understanding.

47. The Memorandum of Understanding specifically states that it may not be assigned without the prior written consent of the non-assigning party. Ex. E, p. 3.

48. Upon information and belief, the Mayor executed a letter dated June 26, 2017, that stated “the City of Kingston consents to the Assignment as required by the Memorandum of Understanding dated January 10, 2017.” Ex. E.

49. Upon information and belief, the Mayor executed the June 26, 2017, letter without obtaining a resolution from the Common Council approving the assignment of the Memorandum of Understanding.

50. Upon information and belief, the Memorandum of Understanding was assigned to Respondents JM Development Group, LLC, Patrick Page Properties, and Herzog Supply Co., Inc. (the “Applicants”), who eventually proposed the Kingstonian in its current iteration which is contemplated to be built across and upon Fair Street Extension and to encompass 51 Schwenk Drive (SBL: 48.80-1-25.100) as well. A copy of the assignment is attached as Exhibit F. The Applicants submitted applications to the City of Kingston Planning Board for site plan and special use permits for the same as well as an application to the City for the rezoning of 51 Schwenk Drive in or about November of 2018.

51. Upon information and belief, Bradley Jordan, a member of JM Development Group was and remains a City of Kingston public official, who was prohibited from responding to the RFQ directly. Specifically, this individual was a long-time member of the City of Kingston

Local Development Corporation (“KLDC”) until he resigned in 2021 and continues to serve on the City Police Commission.

52. After Petitioners raised numerous issues with the RFQ process, the Common Council decided to convey the city-owned land to the KLDC, which would then convey the land to Kingstonian Development, LLC for the Project. A copy of Common Council Resolution 43 of 2021 is attached as Exhibit G.

53. Immediately after the resignation of the aforementioned public official and member of the Applicants from the KLDC, the KLDC prepared a Land Development Agreement with the Kingstonian Development LLC. A copy of the Land Disposition Agreement is attached as Exhibit H.

54. Upon information and belief, Blue Stone Realty LLC and its related entities retain an interest in the Kingstonian as they retain a right of reverter and may develop the portion of the property originally offered by the RFQ and owned by the City of Kingston if the Project is not approved.

55. Upon information and belief, Wright Architect, PLLC and its related entities retain an interest in the Kingstonian as they retain a right of reverter and may develop the portion of the property originally offered by the RFQ and owned by the City of Kingston if the Project is not approved.

56. The Project seeks to construct a 420-car garage, 143 apartments, a 32-room boutique hotel, a 9,000 square foot retail/restaurant space, a pedestrian plaza and a walking bridge at the property, which is located within the City of Kingston’s Central Commercial (“C-2”) District. The exact size and makeup of the commercial spaces comprising the Project vary amongst the various documents provided by the Applicants.

57. All of the property within the Project site is also located within the City of Kingston's Stockade Mixed Use Overlay ("MUO") District, with the City having amended the Zoning Map to add 51 Schwenk Drive to the MUO District. 51 Schwenk Drive was the only Project parcel not originally in the MUO District and it was added solely so that parcel could be included in the Project. (Petitioners commenced a separate proceeding challenging this rezoning as impermissible "spot zoning." This Court issued an order dismissing the petition therein which Petitioners have appealed and which is currently pending before the Appellate Division, Third Department. *See* Index No. EF2020-2075; 533032.)

58. Although not originally contemplated by the City, Respondent Kingstonian Development LLC has sought to include land currently occupied by Fair Street Extension as part of the Project for the construction of a parking garage and a pedestrian plaza.

59. The Ulster County Industrial Development Agency ("UCIDA") has awarded the Project a Payment In Lieu of Tax ("PILOT") which would reduce the Project's tax liability by over \$26 million over 25 years. This award has been challenged in a separate proceeding currently pending before this court. *See* Index No. EF2021-1389.

Fair Street Extension

60. The portion of Fair Street Extension between the parcels contemplated to be the site of the Project is an approximately 400 foot long, two-lane, two-way road which provides access into the KSHD from Schwenk Drive and Herzog's Plaza (a shopping center to the north across Schwenk Drive) to its intersection with North Front Street within the KSHD.

61. The portion of Fair Street Extension adjacent to the site of the Project is one of the few means of direct access to the northern portion of the KSHD and its discontinuance or any encumbrance thereof would disrupt local traffic patterns and hamper public access to the area.

See attached as Exhibit I a study prepared by Langan Engineering summarizing the impact a closure of Fair Street Extension would have on the pedestrian and vehicular traffic patterns in and around the KSHD.

62. Such added traffic and access difficulties alone would have negative implications for those wishing to travel to, through, or within Uptown Kingston, but in conjunction with the massive new Kingstonian project, constricting access to the KSHD gives rise to serious concerns regarding the adequacy of accessibility of the area for emergency vehicles among other deleterious effects. Ex. I, p. 3-4.

63. Upon information and belief, Fair Street Extension is the preferred route for Fire Trucks from Kingston Fire Station 2 - Wiltwyck Station responding to calls in or otherwise accessing the KSHD.

64. Two parcels abut Fair Street Extension on either side at its intersection with N. Front Street, one owned by the City of Kingston, and one owned by Respondent Herzog Supply Co., Inc.

65. Aside from serving as an important means of access to and from Uptown Kingston and the KSHD, Fair Street Extension is historically significant in its own right, as it is included in the KSHD and is one of the only remaining places where the KSHD's northern stockade boundary dating to 1658 is still discernible. (*See* Culhane Affidavit attached as Exhibit C). The discontinuance of Fair Street Extension, or even just a portion of it, will thereby permanently detract from the KSHD's historic nature and result in the loss of the historic street pattern and its discontinuance and subsequent development will alter the look, feeling and function of the KSHD. Ex. C.

66. The loss of Fair Street Extension will contribute to the loss of the ability of the public to experience and interpret the KSHD, as the slope of the Street itself reflects the original shape of the Kingston Stockade fortifications and allows people to feel the grade change as they enter the historic, raised stockade.

67. Moreover, the discontinuance of Fair Street Extension will have negative impacts on traffic circulation throughout the KSHD and Uptown Kingston. Ex. I. The Applicants currently spearheading the Project presented a traffic study indicating a massive increase in traffic on Clinton Avenue, along which the Senate House is located, and which was the focal street of the original Historic District initially added to the National Register of Historic Places that was expanded to become the KSHD. The closure of Fair Street Extension will therefore have an adverse impact on the KSHD as well as surrounding residents and landowners including Petitioners as traffic is anticipated to back up along the street due to a nearly four-fold increase in use (33.6 vehicles per hour in a no build/existing scenario to 119 vehicles per hour in a build scenario). See Exhibit J “Traffic Impact Study: The Kingstonian,” Creighton Manning for the City of Kingston Planning Board, July 23, 2019, p.30; *but see also*, Ex. I.

68. Fair Street Extension also provides access to the municipal parking lot located at 21 North Front Street and identified as tax parcel 48.80-1-26. This parking lot, which contains approximately 144 spaces, will be redeveloped in part into a parking garage as part of the Project. The parking garage will primarily serve the Project. Though the Applicants have claimed that some parking spots within the garage will be reserved for public use, the number of spots to be reserved for the public varies among sources and, in any event, the demand for spaces caused by the residents and occupants of the Project will use up enough of the spaces in the garage that the

number of spaces remaining for the public as a whole will actually decrease when the parking lot is replaced with the Project.

69. As the Project is not even fully approved for construction, the discontinuance of Fair Street Extension may eliminate public access to the publicly-owned parking lot from as early as the date of adoption of the forthcoming resolution which will provide for the abandonment or closure of Fair Street Extension until such time as the Project is completed, if ever.

70. Petitioners note that the aforementioned information regarding potential traffic impacts is not included herein in an attempt to relitigate previous issues regarding the City of Kingston Planning Board's review of the Project pursuant to the New York State Environmental Quality Review Act. Rather, this information is vital to the determination by the Common Council as to whether Fair Street Extension is still in use and whether discontinuing the same is in the public interest. Those are separate determinations that need to be made by the Common Council, and the record before the Planning Board during its SEQRA review of the Project is in no way binding on the Common Council as it decides whether to close a public thoroughfare.

The First Iteration of Resolution 215

71. The original version of Resolution 215 was posted on the Common Council's website on or about November 5, 2021, and entitled "Resolution of the Common Council of the City of Kingston, New York, Requesting Authorization for Conveyance of an Easement to the Kingstonian Development, LLC, and for an Easement to the Kingstonian Development, LLC, Written Consent for the Partial Abandonment of Fair Street Extension, and Authorizing the Mayor to Execute Any and All Documents Necessary" and would have authorized the Mayor to discontinue an unspecified portion of Fair Street Extension and to sign and execute unspecified

easements for Respondent Kingstonian Development, LLC, to allow the construction of permanent structures on the to-be discontinued portion of Fair Street Extension. *See*, Ex. B.

72. No map or cognizable description of the proposed portion of Fair Street Extension proposed to be discontinued or encumbered by the original version of Resolution 215 was attached or made part of that version of Resolution 215. *See*, Ex. B.

73. No map, or cognizable description of the proposed Easements was attached or made part of this originally version of Resolution 215 either, nor were the contemplated or possible terms of the Easements delineated. *See*, Ex. B.

74. Upon review of the agenda, and after a demand that the Common Council remove Resolution 215 from its agenda until all procedures have been followed, including a public hearing, this action was commenced on November 8, 2021, by the filing of a Verified Petition and Order to Show Cause.

Amendment and Adoption of Resolution 215

75. On the evening of November 8, 2021, there was a virtual meeting of the members of the majority caucus of the Common Council (the “Caucus Meeting”).

76. The agenda and discussions during the Caucus Meeting were primarily focused on how the Common Council would handle the business of the Council Meeting that was scheduled for the next evening, November 9, 2021.

77. The majority leader, Alderman Rennie Scott-Childress (“Scott-Childress”) conducted the Caucus Meeting including the discussion of Resolution 215 and explained that the then-proposed Resolution 215 would have to be split into two, with one resolution authorizing the conveyance of easements over the land currently occupied by Fair Street Extension by the

Mayor, and the other closing and abandoning Fair Street Extension which would have to be subject to a public hearing.

78. Scott-Childress only read the title of the “new Resolution 215” at the Caucus Meeting, not the full text of the amended resolution, as “Resolution of the Common Council of the City of Kingston, New York, Requesting Authorization of a Conveyance of an Easement to the Kingstonian Development, LLC, and Authorizing the Mayor to Execute Any and All Documents Necessary.”

79. City of Kingston Corporation Counsel Kevin Bryant (“Bryant”) informed the Councilmembers that the City Clerk would read the final version of the Resolution which was not tabled regarding the Easements at the Common Council Meeting the next evening before a final vote of the Common Council was held.

80. On or about the morning of November 9, 2021, the City of Kingston’s website was updated to reflect that at the Common Council Meeting that evening, the Council would consider a revised version of Resolution 215 and the text of a resolution bearing the title read by Scott-Childress the previous evening appeared, replacing the previous version posted online the week prior.

81. No terms, conditions, or description of the proposed portion of Fair Street Extension to be encumbered by this Amended Resolution 215 was attached or made part of Amended Resolution 215, nor were the contemplated or possible terms of the Easements delineated. Upon information and belief, the Common Council does not know what rights or encumbrances might be given pertaining to what land and under what conditions. *See, Ex. A.*

82. No map or cognizable description of the proposed Easements was attached to or made part of Amended Resolution 215. Upon information and belief, the Common Council does

not know the specific locations of the Easements nor the specific property proposed to be encumbered. *See*, Ex. A.

83. Not one Alderperson at the Caucus Meeting discussed the terms or locations of the Easements during the Caucus Meeting, instead focusing on the procedures for expediting a resolution.

84. On the evening of November 9, 2021, there was a virtual meeting of the Common Council.

85. Subsequently, the Councilmembers took the actions planned the evening prior at the Caucus Meeting by first voting unanimously to suspend their rules, and subsequently, moving to separate the authorization for the abandonment of Fair Street Extension from the authorization for the conveyances of the Easements over Fair Street Extension.

86. Common Councilmember Alderman Tony Davis (“Davis”) asked Shaut why the Common Council could not at that time schedule the resolution pertaining to the closure/abandonment of Fair Street Extension to which Shaut responded that she would poll the appropriate members of the Common Council, apparently *ex parte*, and set a hearing date, “tomorrow” outside of the Council Meeting.

87. The motion to split the portions of the original Resolution 215 pertaining to the closure/abandonment of Fair Street Extension from the portions pertaining to the Easements passed the Common Council by a vote of 9-0.

88. Scott-Childress inquired as to whether a specific motion would be needed to send the resultant resolution pertaining to the abandonment of Fair Street Extension back to committee, which Bryant stated was not the case. Bryant further informed the Common Council that nothing would be returning to committee but asked that the Common Council clarify the language for

Amended Resolution 215, a residual version of what had initially been proposed, that would approve just the Easements.

89. The City Clerk read the title of Amended Resolution 215. The full text of Amended Resolution 215, pertaining now only to the Easements, though not discussing any terms or details thereof, was not read.

90. The motions and discussions by the members of the Common Council during both the Caucus Meeting and the Council Meeting never specified what the Common Council members were voting on separating or altering in the Resolution except in the most general sense.

91. The discussions by the members of the Common Council never included a discussion of the terms or locations of the Easements, nor of any logistical problems relating to the closure of Fair Street Extension, which is needed to provide access to the municipal parking lot and to provide access for emergency response vehicles to the northern part of the KSHD. *See*, Ex. I.

92. The Common Council lifted the suspension of its rules and returned to regular order and then voted to adopt the Amended Resolution 215 pertaining only to the conveyance of the Easements on Fair Street Extension by a vote of 8-1.

93. On or about November 18, 2021, the City of Kingston's website was updated to reflect that a public hearing relating to the "abandonment of Fair Street Ext." had been scheduled for December 2, 2021, from 6:30 p.m. to 9:30 p.m. The public notice does not refer to any resolution to effect the same and the text of the resolution pertaining to the proposed abandonment of Fair Street Extension has not yet been published. *See* attached as Exhibit K the Notice of Public Hearing as published in the *Daily Freeman* on November 19, 2021.

94. There is no available description of the location of the Easements, the terms of the Easements, or the fair market value of the Easements, nor is there a description of the portion of Fair Street Extension to be abandoned or provision made for access to and from the municipal parking lot.

95. As of November 22, 2021, the City of Kingston website indicates that the public hearing will be held on December 2, 2021, at the same date and time that the Project is being presented to the City of Kingston Historic Landmarks Preservation Commission (“HLPC”). No explanation was provided as to why the hearing date was scheduled to conflict with the HLPC meeting. A copy of the HLPC meeting agenda, indicating that the Project is being reviewed, is attached as Exhibit L.

96. It is not unreasonable to conclude that persons interested in attending the Project presentation at the HLPC meeting are also likely interested in the Fair Street Extension.

AS AND FOR A FIRST CAUSE OF ACTION
(SEEKING A DECLARATION THAT THE RESPONDENTS DO NOT HAVE THE
AUTHORITY TO DISCONTINUE FAIR STREET EXTENSION)

97. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

98. The rights of the public in city streets are inalienable, and may only be sold or conveyed in limited circumstances. *See* NYS General City Law §§ 20(2), (7).

99. The procedures for discontinuing a public highway or street are laid out by NYS law and expanded upon by a city’s charter or code and must be strictly complied with. *E & J Holding Corp. v Noto*, 126 A.D.2d 641, 643 (2d Dept 1987) (“It is imperative that statutes enabling such subordinate governmental agencies to discontinue roadways be adhered to when terminating the public’s easement over such a roadway”) (citing, *McCutcheon v Terminal Station*

Comm'n of City of Buffalo, 217 N.Y. 127 (1916); *St. Luke's German Evangelical Lutheran Church v City of Rochester*, 115 Misc. 2d 199, 202-03 (Monroe Cty. Sup. Ct. 1982)).

100. It is without question that Fair Street Extension is a street under NYS Law and the City of Kingston Code. *See* VTL § 148 (defining street as “[t]he entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel”) and § 134 (defining “Public Highway” as “[a]ny highway, road, street, avenue, alley, public place, public driveway or any other public way); Kingston City Code § 405-3 (defining “Street” for zoning purposes as “[a]ny public street, court, place, square, lane or way set aside or used as a right-of-way, which affords legal access to abutting property”) and § 390-1 (defining “Street” for vehicle and traffic purposes as “[a]ny public street, avenue, road, boulevard, highway or other public place located in the City of Kingston and established for the use of vehicles”); *see also*, *Williams v State*, 34 AD2d 101 (3d Dept 1970) (finding sidewalks are also part of a “street” as they fall into the boundaries of streets’ rights-of-way).

101. Public streets are and remain public highways under all circumstances once established until the public ceases to travel on them or the public authorities act to officially close them pursuant to law. *Clark v State*, 41 Misc. 2d 714 (Ct. Cl. 1963) (finding failure of government to build a public highway to its full length and width does not extinguish the right of the public to the parts unopened); *Rinaldo v State*, 32 Misc. 2d 1016 (Ct. Cl. 1962) (finding once a highway is laid out and opened for public use, it remains a public highway until it ceases to be such by action of the general public in no longer traveling upon it or by action of the public authorities in formally closing it).

102. The Kingston Charter authorizes the DPW, with the authorization of the Mayor, to construct or discontinue streets. Kingston City Charter § 14-1(b). However, the DPW must temper this authority with its obligation to act for the public benefit of the City of Kingston. NY Const. Art. VIII, Section 1. “It is established that a municipality may lease its public improvements to private concerns so long as the benefit accrues to the public and the municipality retains ownership of the improvement” *Murphy v Erie Cty.*, 28 NY2d 80, 88 (1971). “Of course an incidental private benefit, such as a reasonable proportion of commercial space, is not enough to invalidate a project which has for its primary object a public purpose, but the use is not public where the public benefit is only *incidental* to the private” *Denihan Enterp. v O’Dwyer*, 302 NY 451, 458 (1951) (citations omitted) (emphasis added). Here, any potential public benefit from the closing of Fair Street Extension and the construction of the Project is only incidental to the much greater private benefit afforded to the Applicants who will be gifted public property to use for their own purposes in pursuing a commercial venture.

103. Moreover, Respondents cannot claim there will be no diminution in the rights of the public to make use of the public property subject to the Easements solely because the Applicants may choose to allow the public to access portions of it at times. Permission of the public to access private space, such as a plaza within a private commercial development, can be taken away at any time. It does not afford the public the same rights to congregate, assemble, and speak that the Constitution protects on streets, sidewalks, and other traditional public fora, such as Fair Street Extension.

104. The DPW cannot discontinue a street that is needed for vehicular and pedestrian purposes for the sole or primary purpose of benefiting a private party. *See Baker v Vill. of*

Elmsford, 70 AD3d 181, 185 (2d Dept 2009) (“Municipalities hold the fee of streets in trust for the general public. The trust is publicum juris, meaning, for the whole people of the state”).

105. Any closure or encumbrance of Fair Street Extension will hamper the ability of emergency services and personnel to access Uptown Kingston. *See*, Ex. I, p. 3 (“additional reassigned traffic volumes would have the potential to affect the Kingston Fire Station 2-Wiltwyck Station, which is also located on this block”).

106. Any closure or encumbrance of Fair Street Extension will eliminate an important access route into the northern portion of Uptown Kingston and force the rerouting of traffic. *See*, Ex. I.

107. Upon information and belief, any closure or encumbrance of Fair Street Extension will eliminate the means of public access to the municipal parking lot at 21 North Front Street. *See*, Ex. I, p. 2.

108. The DPW does not have the authority to discontinue a street when that street is a necessary public thoroughfare. *See* General City Law § 29 (requiring the Common Council deem the closing of the street to be “in the public interest”).

109. Finally, the Respondents do not have the authority to discontinue Fair Street Extension, as they have not referred the proposal to the City of Kingston Planning Board. *See* General City Law § 29 (“Before making such addition or change the matter shall be referred to the planning board for report thereon, but if the planning board shall not make its report within thirty days of such reference, it shall forfeit the right further to suspend action”).

110. Accordingly, Petitioners respectfully request the Court issue a judgment declaring that the DPW, Common Council, and Mayor have no authority to discontinue or encumber the Fair Street Extension as it is still in use, is necessary to provide adequate access to and around

Uptown Kingston, is needed for the public use it currently serves and there has been no finding otherwise pursuant to law, and the Common Council has not referred the proposal to the Planning Board, and further enjoining the Respondents from taking any action towards discontinuing or encumbering Fair Street Extension.

AS AND FOR A SECOND CAUSE OF ACTION

(SEEKING A DECLARATION THAT THE RESPONDENTS DID NOT HAVE THE AUTHORITY TO ADOPT AMENDED RESOLUTION 215 AND DO NOT HAVE THE AUTHORITY TO ACT TO CONVEY OR ENCUMBER FAIR STREET EXTENSION)

111. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

112. Even if the DPW has authority to partially discontinue a road that is needed for vehicular and pedestrian travel, the Common Council, and Mayor have no authority to convey the Easements in the partially abandoned road to Respondent Kingstonian Development, LLC.

113. The City of Kingston may only convey a former public street after following the requirements set forth in Chapter 355 of the City of Kingston Code (“Code”) which requires a determination by the Common Council that the subject street is no longer of “public use” after a discernment of “the public benefit to be gained by having the street in private ownership.”

114. A “conveyance” is not limited to an outright sale of fee title in real property. The limitations established by the General City Law have been held to apply in situations where the land is leased as well, as a lease can interfere with the inalienability of public land just as an outright sale of fee could. *See* 1980 N.Y. Op. Atty. Gen. (Inf.) 142.

115. The subject Easements are tantamount to a sale of Fair Street Extension as the intents and purposes of the grants thereof are to allow Fair Street Extension to be permanently removed from public use for vehicular traffic and to permit a large multi-use development to be erected thereupon.

116. The Easements are property interests in the Fair Street Extension and are conveyed by a Deed of Easement.

117. Before conveying the Easements, “The [Common] Council shall determine whether the street is of public use or whether it is in the interest of the City of Kingston to sell such street.” City of Kingston Code §355-58.

118. The Common Council must hold a public hearing on ten days’ notice regarding the proposed sale of the Easements. City of Kingston Code § 355-62. *See also*, General City Law § 29 (requiring “[a]t least five days' notice of a public hearing on any proposed action”[emphasis added]).

119. The City Assessor must determine the value of the Easements before they are conveyed, taking into consideration the dimensions of the Easements and the public benefit to be gained by having the street in private ownership, among other things. City of Kingston Code § 355-61.

120. The Common Council has failed to make the prerequisite finding that the Fair Street Extension was not needed for “public use” or that the proposed removal of the Street is in the “public interest” and has failed to have the Assessor value any potential Easements.

121. The Common Council and Mayor have failed to comply with the requirements to convey the Easements which are set out by State Law as well as the derivative portions of the City Charter and Code. *E & J Holding Corp. v Noto, supra* at 643.

122. Accordingly, Petitioners respectfully request the Court issue a judgment declaring that the Common Council and the Mayor of Kingston have no authority to consider any Resolution or other action to abandon Fair Street Extension until such time as the strictures of the City Code have been followed; and further enjoining the Respondents from taking any action

towards discontinuing or encumbering Fair Street Extension as purportedly authorized by Resolution 215 or any other resolution of the Common Council.

AS AND FOR A THIRD CAUSE OF ACTION
(SEEKING A DECLARATION THAT THE PROPOSED CONVEYANCE OF THE EASEMENTS VIOLATES THE NEW YORK STATE CONSTITUTION)

123. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

124. Article VIII, § 1 of the New York State Constitution prohibits cities from making gifts or loans of “any money or property to or in aid of any individual, or private corporation or association.”

125. The Easements are a property interest which will allow Kingstonian Development LLC to build the Project and will include land currently used by the public as a public highway known as Fair Street Extension.

126. Upon information and belief, the City of Kingston is not receiving fair market value, or any compensation, for the Easements. The Easements are being gifted to Kingstonian Development, LLC in violation of the NYS Constitution.

127. Upon information and belief, an appraisal has not been obtained by the City of Kingston determining the value of the Easements.

128. The parking garage provides no benefit to the community because the Project will result no net gain of available parking spaces for the residents of Uptown Kingston and Ulster County.

129. The Kingstonian is being constructed on an existing surface parking lot which contains approximately 144 parking spaces serving the businesses in Uptown Kingston.

130. The Project will replace the surface parking lot with a parking garage with 420 spaces serving both the public and the needs generated by the Project, or 276 spaces more than the Property currently provides. However, the Project would generate the need for at least 313 to 373 parking spaces, resulting in a net loss of parking spaces available to the public.

131. Section 405-34J of the City of Kingston Zoning Ordinance requires 1.5 spaces for each one-bedroom apartment and 2 spaces for a two- or three-bedroom apartment. The Zoning Ordinance further requires one parking space for each hotel room with an additional space needed for every 600 square feet of space outside of guest rooms.

132. The Project proposes a mix of one-, two- and three-bedroom apartments. Based on the proposed mix of apartments, a minimum of 251 parking spaces are required.

133. The Project's hotel requires another 32 parking spaces plus spaces for employees.

134. Thus, a minimum of 283 parking spaces in the garage will be occupied by residential tenants and hotel guests.

135. The Zoning Ordinance requires one parking space for every 100 square feet of gross floor area for a restaurant, and one parking space for every 300 square feet of floor area for retail. The approximately 9,000 square foot commercial portion of the Project will therefore generate the need for at least 30 to 90 parking spaces.

136. Using a conservative estimate, the minimum number of spaces needed to serve the Kingstonian is 313.

137. The proposed parking garage with 420 parking spaces is not sufficient to replace the existing 144 public parking spaces and provide for the additional 313 parking spaces needed by the Project. The Project will therefore result in net loss of publicly available parking spaces.

138. Essentially, though the number of parking spaces will increase, the residents of Kingston will find themselves facing an even worse shortage of available parking than presently exists due to the fact that the Project will use up the vast majority of those new spaces, each of which will have cost approximately \$96,196.00 in financial assistance through the PILOT.

139. The pedestrian bridge that is included as part of the Project provides no or limited public benefit. Rather, it directly connects to the Kingston Plaza shopping center, owned by one of the Applicants, Herzog Supply Co. Inc. The pedestrian bridge extends north over Schwenk Drive to connect the Kingstonian (and indeed the entire Stockade District of Uptown Kingston) to the Kingston Plaza located directly north of the parking garage site.

140. Kingston Plaza is owned by one of the Applicants, Herzog Supply Co. Inc. and will direct pedestrians into this privately owned shopping center.

141. Kingstonian Development, LLC is already receiving a PILOT worth approximately \$26 million, purportedly in recognition of the costs of constructing the parking garage and pedestrian bridge.

142. Without a valuation of the Easements, the City cannot determine whether the alleged benefits of the Project outweigh the value of municipal property that, for all intents and purposes, is being permanently developed and made unavailable for municipal purposes.

143. The City cannot continuously give away municipal property and assets because it supports the Project and the Applicants. Rather, it has an obligation to the taxpayers to ensure that it is receiving adequate compensation through a diligent financial analysis which has not been undertaken.

144. Accordingly, Petitioners respectfully request the Court issue a judgment declaring that the Easements may not be gifted to Kingstonian Development, LLC or any other Respondent,

and further enjoining the Respondents from taking any action towards discontinuing or encumbering Fair Street Extension as purportedly authorized by Resolution 215 or any other resolution of the Common Council.

AS AND FOR A FOURTH CAUSE OF ACTION
**(THE COMMON COUNCIL HAD NO AUTHORITY TO ADOPT AMENDED
RESOLUTION 215 BECAUSE IT IS IMPERMISSIBLY VAGUE)**

145. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

146. The Common Council is responsible for authorizing contracts for the conveyance of property by a 2/3 vote. City of Kingston Charter § 13-3(c).

147. The Common Council is responsible for authorizing the terms of sale of a road. City of Kingston Code § 355-65.

148. Amended Resolution 215 does not include any terms or conditions of conveyance of the Easements such as the locations of the Easements, the duration of the Easements, the extent of the Easements, the permitted use of the Easements, and any consideration the City of Kingston might gain in exchange for the Easements.

149. Amended Resolution 215 is impermissibly vague.

150. General Municipal Law § 51 provides that Petitioners may maintain an action against the Common Council and the Mayor to prevent any illegal official act. N.Y. Gen. Mun. Law § 51.

151. Accordingly, this Court should declare that Amended Resolution 215 impermissibly delegates authority regarding the alienation of real property belonging to the Common Council to the Mayor.

AS AND FOR A FIFTH CAUSE OF ACTION

**(SEEKING A DECLARATION THAT THE COMMON COUNCIL MAY NOT
DELEGATE ITS AUTHORITY TO APPROVE SPECIFIC CONVEYANCES OF REAL
PROPERTY OWNED BY THE CITY)**

152. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

153. Local governments including counties, cities, towns, and villages in New York State are creatures of State Law which are delegated all of their powers by the State Legislature. *Brown v Board of Trustees of Town of Hamptonburg, School Dist. No. 4*, 303 N.Y. 484 (1952).

154. Local governments in New York may only exercise those powers which have been explicitly delegated to them by the Legislature. *Boening v Nassau County Department of Assessment*, 157 A.D.3d 757 (2d Dept 2018), *leave to appeal denied*, 31 N.Y.3d 907 (2018) (where a county’s exercise of powers relating to audits and tax levying was found to be constitutional only as the Legislature made an “express and unambiguous delegation of the authority”).

155. No local government may further delegate the authority which the Legislature delegated to it without explicit authority to do so from the Legislature. “*Potestas delegata non est delegari* is a general maxim [...] and operates to prevent the governing body of a municipal corporation, intrusted [sic] by the state with police power, from delegating its high functions to any other body or officer; the trust is official and personal, and may be discharged only by those to whom the state commits it.” *City of Glens Falls v Standard Oil Co. of New York*, 127 Misc. 104, 109 (Sup. Ct. Warren Cty. 1926); *see also, Baldwin Union Free School District v County of Nassau*, 62 Misc. 3d 236 (Sup. Ct. Nassau Cty. 2018) (where an ordinance was found to have impermissibly delegated authority to the County Treasurer, “the County Legislature exceeded its authority in delegating duties and responsibilities” which had been exclusively delegated to the

County Legislature).

156. Cities, and the organs and officials thereof, are specifically delegated powers in their respective City Charter by the State Legislature, and may not improperly further delegate these powers. *See, e.g., Luongo v Flanagan*, 230 AD 71, 73 (2d Dept 1930) (“I am of the opinion that the power [of a board of aldermen] is purely legislative and could not be delegated to an administrative officer such as the superintendent of buildings. It is a well-settled principle that public powers or trusts devolved by law or charter upon the council or governing body [of a municipality] to be exercised by it when and in such manner as it shall judge best cannot be delegated to others.” (internal citations omitted)).

157. Here, the Common Council is charged with the responsibility of making “general ordinances, rules, regulations as the [Common] Council may deem necessary to affect the purposes of this Charter and in the interest of the city” (City of Kingston Charter § 13-3(H)), which include but are not limited to the requirement that the Common Council approve by 2/3 vote of the Common Council the “purchase or sale of real estate” (*Id.* at § 13-3(c)).

158. The power to alienate or encumber City property is vested exclusively in the Common Council who must vote on the contractual arrangement to effect the conveyance of interest in said property. *Id.*

159. Amended Resolution 215 impermissibly delegates the authority and duty of the Common Council to the Mayor, as the Resolution contains no attached draft of the Easements and contains no language regarding the length, location, term, use, or consideration for the Easements. By authorizing the Mayor to execute documents to grant the Easements without clarifying what the Common Council was authorizing to be granted in even the most general of

terms, the Common Council has effectively ceded the power to negotiate any and all terms of the conveyance of City property interests to the Mayor without reserving any power or oversight. The Common Council wrote the Mayor a ‘blank check’ which Petitioners’ seek to enjoin Respondents from cashing.

160. Accordingly, Petitioners respectfully request this Court issue a judgment declaring that the Common Council unlawfully delegated its responsibilities when it adopted Amended Resolution 215 and declaring the adoption of Resolution 215 to have been contrary to law, declaring the Common Council’s actions null and void, and further enjoining the Mayor of the City of Kingston from exercising any power he was allegedly delegated by the Common Council by its passage of Amended Resolution 215 as well as enjoining Respondents from considering any resolution or taking any further action preventing them from generally closing, conveying, encumbering, or in any other way interfering with the public right of way or the public’s property interest in Fair Street Extension during the pendency of this case.

AS AND FOR A SIXTH CAUSE OF ACTION
(SEEKING A DECLARATION THAT THE COMMON COUNCIL’S DELEGATION OF AUTHORITY IS INVALID AS OVERBROAD)

161. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

162. Where the legislative bodies of cities seek to delegate their powers to a Mayor or other City official, the rule has long been that, if “‘such delegated duty involves an act of judgment or discretion, and is not merely ministerial, such duty cannot be conferred by the board or body on whom it primarily rests.’” *People ex rel. Economus v Coakley*, 110 Misc. 385 (Sup. Ct. Onondaga Cty. 1920), *citing*, *City of Hudson v Flemming*, 139 A.D. 327, 329 (3d Dept 1910).

163. Vague and open-ended delegations of power by a Common Council to a Mayor

are unsustainable. *See, Little v Young*, 274 A.D. 1005, (2d Dept 1948), *aff'd*, 299 N.Y. 699 (1949) (where delegation by legislative body of municipality of power or authority without prescribing a standard or rule governing the power which is to be exercised was found to be an invalid delegation of legislative power); *see also, Syrtel Bldg., Inc. v City of Syracuse*, 78 Misc. 2d 780, 782 (Sup. Ct. Onondaga Cty. 1974) (authorization from common council to mayor to execute vaguely defined contracts was an invalid delegation of legislative power).

164. When a municipality or municipal official acts without proper delegation, such acts are *ultra vires* and void *ab initio* as a matter of law. *See gen., Joy Builders, Inc. v Town of Clarkstown*, 165 A.D.3d 1084, 1086-87 (2d Dept 2018).

165. Here, Amended Resolution 215 was an impermissibly overbroad delegation of power by the Common Council to City of Kingston Mayor like that in *Syrtel, supra*, as it purports to grant the Mayor broad authority to make a contract without defining what the contract is or even is to be. The Mayor is purportedly being allowed to convey easements he can define, over a portion of public property currently used as a public road known as Fair Street Extension, on terms and in return for compensation, if any, which the Mayor can define, who shall then choose whether or not to sign the documents ultimately conveying the easements. Ex. A.

166. The power to alienate or encumber City property is vested exclusively in the Common Council who alone is duty bound to pass judgment on the terms and conditions of any conveyance or encumberment to city property. City of Kingston Charter § 13-3(c).

167. Accordingly, Petitioners respectfully request this Court issue a judgment declaring that the Common Council has impermissibly sought to make an overbroad delegation of its authority which belongs solely and exclusively to the Common Council and which it cannot

lawfully delegate by way of Resolution 215 or any other resolution which may attempt to delegate the power to abandon the road in the future, declaring the passage of Resolution 215 to have been contrary to law, declaring the Common Council's actions null and void, and further enjoining the Respondents from exercising any power allegedly delegated by the Common Council by its adoption of Resolution 215 as well as enjoining Respondents from taking any other steps by legislative action or otherwise from closing, conveying, encumbering, or in any other way interfering with the public right of way or public's property interests in Fair Street Extension during the pendency of this case.

AS AND FOR A SEVENTH CAUSE OF ACTION
(SEEKING A DECLARATION THAT THE PUBLIC HEARING AS SCHEDULED AND NOTICED FAILS TO MEET THE APPLICABLE STANDARDS OF DUE PROCESS)

168. Petitioners repeat and reallege all the foregoing allegations set forth in this Petition with the same force and effect as though set forth herein at length.

169. Procedural due process requires that there will be no deprivation of any liberty or property interest without notice and the opportunity to be heard. *Lai Chun Chan Jin v. Bd. of Estimate of City of New York*, 92 A.D.2d 218, 222 (1st Dept 1983), *aff'd*, 62 N.Y.2d 900 (1984) (internal citations omitted). "The Fourteenth Amendment does not create protected property interests. Its purpose is to provide procedural safeguards to insure [sic] that rights otherwise created or existent are protected." *Id.*

170. The United States Supreme Court has held that a fundamental requirement of due process is "notice reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections [...] and [...] afford a reasonable time for those interested to make their appearance" *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 315 (1950).

171. Further, the Court held, “when notice is a person’s due, process which is a mere gesture is not due process” *Id.*

172. Courts in this state have held, applying United States Supreme Court and other Federal precedent, that “[n]otice, to be meaningful, must be actual notice.” *St. Joseph Hosp. of Cheektowaga v Novello*, 43 A.D.3d 139, 151 (4th Dept 2007).

173. Here, the public generally enjoys a statutory entitlement to be heard regarding the proposed abandonment of Fair Street Extension as a public hearing is required before the Common Council can make any change to its Official Map, such as discontinuing a public road. General City Law § 29.

174. The notice provided to the public (Ex. K) does not reasonably apprise the public, Petitioners included, of the proposed action the Common Council proposes to undertake relating to the closing of Fair Street Extension as basic information regarding the subject of the hearing, namely, the portion of the Fair Street Extension to be discontinued and how it is to be discontinued, is not specified.

175. Without adequate notice of the proposed action, the public, Petitioners included, cannot be said to have been presented a constitutionally adequate opportunity to present their objections since the average member of the public would not be able to discern from the notice provided what, if anything, they would be objecting to.

176. Without a description of the Official Map or the changes proposed thereto, the public, Petitioners included, are effectively deprived of their statutory right to be heard and present their objections, if any. The elementary principle being that one must have actual notice as to what matter is at issue in order to discern an informed opinion as to that matter.

177. Further, the Respondents can hardly be said to have provided the public, Petitioners included, with a “reasonable time” to make their appearance as the public hearing has coincidentally been scheduled for the same date and time as the presentation of revised Project renderings to the HLPC, a decision that will suppress public participation, as those with strong opinions for or against the Kingstonian Project will find it difficult to participate in two different meetings regarding the same Project at the same time.

178. To offer public notice with no details of what is being noticed, of simultaneous public meetings and hearings that an interested party will not be able to attend, the both of which pertain to necessary approvals for the Kingstonian, is hardly meaningful notice and is more akin to a mere gesture.

179. Accordingly, Petitioners respectfully request this Court issue a judgment declaring that the Common Council has failed to render the appropriate notice due to the public, requiring the public hearing be noticed consistent with the law and Constitution, requiring the public hearing be rescheduled to a date and time when it has been sufficiently noticed and does not conflict with any other public meetings pertaining to the Project and/or the proposed discontinuance of Fair Street Extension which is intended to further said Project, and further enjoining the Respondents from taking any further steps by legislative action or otherwise from closing, conveying, encumbering, or in any other way interfering with the public right of way or public’s property interests in Fair Street Extension during the pendency of this case.

WHEREFORE, the Petitioners seek judgment for the following relief:

- a. Declaring that the City of Kingston Department of Public Works, Common Council, and Mayor Steven T. Noble are without authority to authorize the discontinuance of Fair Street Extension as it is necessary for public travel, is used

for public travel, there is no public benefit in its discontinuance, and the closure has not been referred to the City of Kingston Planning Board;

- b. Declaring that the Common Council and Mayor Steven T. Noble are without authority to convey Easements over Fair Street Extension or any other interest therein to Respondent Kingstonian Development, LLC or any other Respondents without following the statutory requirements of *inter alia* the New York State General City Law, the Kingston City Charter, and the Kingston City Code relating to the disposal of public highways;
- c. Declaring that the Common Council is without authority to authorize the conveyance of the Easements over the Fair Street Extension as the proposed Easements are unreasonably vague, do not adequately identify the Property or interests to be conveyed, and unlawfully delegate power from the Common Council to the Mayor relating to the conveyance of the Easements;
- d. Declaring that any conveyance of the Easements over Fair Street Extension or any other interest therein by the Common Council and Mayor Steven T. Noble without fair and adequate compensation to be prohibited gifts under Art. VIII, § 1 of the NYS Constitution;
- e. Declaring that the Common Council is without authority to delegate its powers to the Mayor or any other official or authority as the State Legislature and the City Charter vest the Common Council alone with the authority and duty to pass upon any contract to alienate or encumber the property of the City of Kingston;
- f. Declaring that the Common Council is without authority to make an overbroad delegation of its powers to the Mayor to encumber or convey the property of the

City of Kingston where the terms and conditions of such an encumbrance or conveyance are left undefined by the Common Council and the Mayor is, in essence, being allowed to determine for himself the terms and conditions of any conveyance or encumbrance of Fair Street Extension;

- g. Declaring that the purported public hearing on the discontinuance of the Fair Street Extension cannot be scheduled and held until such time as a map or description of the portion of the Fair Street Extension to be discontinued is provided for public review and the required public hearing thereupon is noticed and held in a manner consistent with due process;
- h. Granting the Petitioners a preliminary injunction restraining, during the pendency of this action, the exercise of any authority purportedly permitted by Resolution 215, and further restraining the Mayor and the Common Council from adopting any resolution, or taking any other steps towards, authorizing the abandonment, closure, discontinuance, or impediment to the public use of Fair Street Extension;
- i. Granting the Petitioners a permanent injunction restraining, the exercise of any authority purportedly permitted by Resolution 215, and further restraining the Mayor and the Common Council from adopting any resolution, or taking any other steps towards, authorizing the abandonment, closure, discontinuance, or impediment to the public use of Fair Street Extension;
- j. Declaring any conveyance of Fair Street Extension or easement over the Fair Street Extension as unlawful and null and void and directing the cancellation of such conveyance including the cancellation of any deed or other instrument

recorded with the City of Kingston and/or County of Ulster that document the conveyance; and,

- k. Awarding Petitioners such other and further relief as the Court deems just and proper, with the costs and disbursements of this proceeding.

Dated: Rhinebeck, New York
November 24, 2021

Yours, etc.



Victoria L. Polidoro, Esq.
RODENHAUSEN CHALE & POLIDORO
LLP
*Co- Counsel for Petitioners, 61 Crown
Street, LLC, 311 Wall Street, LLC, 317
Wall Street, LLC, 323 Wall Street Owners,
LLC, 63 North Front Street, LLC, 314 Wall
Street, LLC, and 328 Wall Street, LLC*
55 Chestnut Street
Rhinebeck, New York 12572
Telephone: (845) 516-4324

November 23, 2021

**Re: Traffic Peer Review
Kingstonian – Fair Street Extension Closure
9-21 North Front Street, Kingston, NY
Langan Project No.: 190074001**

Attached please find our memorandum (dated: November 23, 2021) prepared at the request of Rodenhause Chale & Polidoro LLP. This memorandum summarizes the peer review of a Traffic Impact Study (TIS) prepared for a mixed-use urban development located on Fair Street Extension between North Front Street and Schwenk Drive in Kingston, NY.

Sincerely,
**Langan Engineering, Environmental, Surveying,
Landscape Architecture and Geology, D.P.C.**



Adnan Pasha, PE
Associate / Director of Transportation
(NY & Langan International)



Brian Weinberg, PE
Senior Project Manager

Enclosure(s): Traffic Peer Review Memorandum

cc: Michael Burke, Langan

Langan Engineering, Environmental, Surveying, Landscape Architecture and Geology, D.P.C.
21 Penn Plaza, 360 West 31st Street, 8th Floor New York, NY 10001 T: 212.479.5400 F: 212.479.5444

To: Victoria L. Polidoro, Esq. - Rodenhausen Chale & Polidoro LLP

From: Adnan Pasha, PE and Brian Weinberg, PE

Date: November 2, 2021 (First Submission)
November 23, 2021 (Revised)

Re: **Traffic Peer Review**
Kingstonian – Fair Street Extension Closure
9-21 North Front Street, Kingston, NY
Langan Project No.: 190074001

Introduction

At the request of Rodenhausen Chale & Polidoro LLP, Langan conducted a peer review of a Traffic Impact Study (TIS) prepared for a mixed-use urban development located on Fair Street Extension between North Front Street and Schwenk Drive in Kingston, NY.

As part of this project, the existing Fair Street Extension roadway segment will be closed to through traffic. This would allow its northern section to be used as a proposed site driveway to/from Schwenk Drive while the southern section of the closed street would become a pedestrian plaza.

Project Background

The TIS for the proposed project was prepared by Creighton Manning Engineers (CME) in July 2019. The TIS was submitted to the City of Kingston Planning Board, which concluded that: *"The closure of Fair Street Extension to through traffic as part of the Kingstonian project is not expected to have an adverse impact on the operation of adjacent intersections based on CME's capacity analysis contained herein."* Furthermore, HVEA Engineers, working for the City of Kingston Planning Board, reviewed the TIS and stated the following in a letter (dated: 7 October 2019): *"The closure of Fair Street Extension is a critical component of the proposed development. It has been adequately demonstrated that this action shall have no significant adverse impact on the adjacent roadway network."*

Consequently, the City of Kingston Planning Board issued a SEQR Type 1 Action Negative Declaration and Determination of Environmental Non-Significance for the project on 16 December 2019.

Peer Review Summary and Findings

The following summarizes our peer review of the traffic assessment and potential adverse traffic impacts related to the closure of Fair Street Extension presented in the TIS.

MEMO

Peak Hour Analysis

The TIS conducted traffic counts and intersection capacity analysis for only the weekday evening peak period. Specifically, the TIS states: *"This traffic study focuses on the weekday PM peak period, which corresponds to peak operations at the proposed site and peak traffic conditions on the surrounding roadway network."* However, the statement that the PM peak period reflects the peak traffic conditions on the surrounding roadway network is not substantiated in the TIS. It should be noted that the *Institute of Transportation Engineers (ITE) Trip Generation Manual*, which was used in the TIS to estimate the PM peak period project-generated traffic volumes, also identifies the weekday morning as a typical peak period for traffic activity for residential and hotel land uses. Therefore, the TIS should have estimated the trips generated by the proposed development in the weekday morning peak hour to determine if additional peak hour analysis was warranted.

Traffic Reassignments

The proposed project would result in the reassignment of traffic due to the closure of Fair Street Extension. The basis and methodology for traffic volume reassignments are not explicitly detailed in the TIS and it only makes a reference by stating: *"The observed 36 vehicles utilizing the [municipal parking lot] driveway on Fair Street Extension as well as through traffic on Fair Street Extension were conservatively redistributed within the roadway network."* To get a better understanding of the detailed traffic reassignments, we subtracted the project-generated trips and 2025 No-Build volumes from the 2025 Build volumes presented in the TIS. Based on this exercise, we identified the following traffic reassignments:

1. For the traffic on southbound Fair Street Extension approaching from Kings Plaza Driveway, nearly half was assigned along eastbound Schwenk Drive to southbound Clinton Avenue and nearly half was assigned along westbound Schwenk Drive to southbound Frog Alley to southbound Green Street.
2. For the traffic on southbound Fair Street Extension approaching from eastbound Schwenk Drive, all was assigned along southbound Frog Alley to southbound Green Street.
3. For the traffic on northbound Fair Street Extension from North Front Street, nearly half was assigned along northbound Clinton Avenue to westbound Schwenk Drive to the Kingston Plaza Driveway and nearly half was assigned along northbound Frog Alley to Schwenk Drive.

Based on the above, the reassignments would increase the traffic levels on critical lane groups at the intersection of Schwenk Drive and Frog Alley. Specifically, the reassignments would result in an additional 44 vehicles using the westbound left-turn pocket lane on Schwenk Drive. This pocket lane is approximately 70 feet long and would not be able to provide the appropriate queuing length for more than three vehicles at a given time. The lack of queuing space would

MEMO

result in vehicular spillback, which could introduce notable delays and potentially adversely impact the through traffic circulation and operations on westbound Schwenk Drive.

Traffic Study Area

The TIS analyzed a traffic study area consisting of 10 intersections. Given the magnitude of traffic reassignments, additional intersections should have been included in the study area. Specifically, the intersections along the following roadway segments should have been analyzed in the TIS to assess the potential impact of reassigned traffic volumes on traffic operations:

Green Street Corridor

Approximately 98 vehicles were reassigned southbound along Green Street. The intersections of Green Street with Lucas Avenue, Crown Street, and Main Street should have been included in the traffic study area.

John Street Corridor

Approximately 45 vehicles were reassigned eastbound along John Street approaching Clinton Avenue. The intersections of John Street with Wall Street and Fair Street should have been included in the traffic study area.

Clinton Street Corridor

Approximately 36 vehicles were reassigned southbound along Clinton Street south of Main Street. The intersection of Clinton Street/Albany Street/Pearl Street should have been included in the traffic study area.

Kingston Fire Station 2 – Wiltwyck Station

Based on the reassignments, approximately 159 two-way north/south additional trips would use Frog Alley between Schwenk Drive and North Front Street. These additional reassigned traffic volumes would have the potential to affect the Kingston Fire Station 2 – Wiltwyck Station, which is also located on this block. The TIS should have analyzed the traffic conditions on Frog Alley, during the morning and evening peak hours, to assess the potential impact of the reassigned traffic volumes on the fire station operations. Specifically, the reassigned traffic could potentially increase congestion leading to longer emergency vehicle response times and could result in longer vehicular queues during the times of fire truck maneuvering. A standalone study is being performed to quantify the impact of the reassignment on response time by Kingston Fire Station 2. The findings of the study will be presented under separate cover and, if they impact the conclusions presented in this memo, an updated memo will be prepared.

MEMO

Southbound Fair Street Reassignments

The reassigned traffic volumes on Frog Alley continued southbound through Green Street to leave the study area. A conservative approach would have reassigned the traffic from Frog Alley to turn onto eastbound North Front Street to continue to southbound Fair Street. This would have been a conservative analysis in terms of pedestrian safety as North Front Street is a pedestrian-oriented retail corridor which could get adversely impacted by additional traffic volumes. Lack of traffic reassignments on North Front Street negates the assertion that the TIS did a conservative reassignment of traffic volumes.

Pedestrian Circulation and ADA/HRL Access During Construction

The Fair Street Extension will be closed to pedestrian traffic during the construction of the project. To our knowledge, temporary accommodations for Americans with Disabilities Act (ADA) and New York State Human Rights Law (HRL) pedestrian access between Schwenk Drive and North Front Street have not been proposed during the construction phase.

In the absence of ADA/HRL accommodations and pedestrian access, patrons will have to take a detour to travel between Schwenk Drive and North Front Street. This would result in significantly longer walk trips and may result in potential delays due to additional intersection crossing locations; thereby, adversely impacting pedestrian safety and access/egress for neighboring businesses, residences, and community facilities. As such, the detour pedestrian routes could include a connection through either Schwenk Drive, Clinton Avenue, and North Front Street or through Schwenk Drive, Frog Alley, and North Front Street. These detour routes would be approximately 800 to 2100 feet longer than the existing 400-foot long pedestrian connection via Fair Street Extension. Furthermore, these detour routes have constraints including sidewalk on only one side of the street, unprotected pedestrian crossings, uneven sidewalk surfaces, and occasional pinch-points, which would particularly affect the mobility of individuals with physical disabilities, making it harder for them to circulate the area. Furthermore, there are locations along the detour routes where a combination of constraints, such as an uneven sidewalk surface at a pinch-point, which could potentially make a sidewalk unpassable for a wheelchair user, forcing them either into the street or onto adjacent grass or dirt surfaces.

Traffic Count Surveys

On Thursday, October 28, 2021, we conducted Turning Movement Counts (TMCs) at four key intersections in the study area during the weekday AM and PM rush hours. Specifically, data was collected at the following study area intersections:

1. Schwenk Drive and Fair Street Extension
2. North Front Street and Fair Street Extension
3. North Front Street and Wall Street

4. North Front Street and Frog Alley

Note that volumes at a fifth study area intersection, Schwenk Drive and Clinton Avenue, were able to be derived based on the volumes counted at adjacent intersections.

Based on a comparison of the PM peak hour traffic volumes at these five intersections from the TMCs to the 2019 Existing Conditions PM peak hour traffic volumes shown in the TIS, traffic levels today are similar to or lower than those in 2019. Therefore, the current PM peak hour traffic conditions would be expected to be similar to 2019. Please note that with the ongoing COVID-19 pandemic, the review agency could request modifications to traffic data to account for changes brought on by the pandemic such as differences in traffic levels due to teleworking and a potential increase in auto-centric trips.

In addition to the TMCs, Automatic Traffic Recorders (ATRs) were used to obtain 24-hour, two-way traffic volumes along Fair Street Extension. The 24-hour profile of traffic volumes shows low levels of traffic overnight and in the early morning and then rising volumes through mid-morning to a local peak of approximately 191 hourly vehicles around noon. The volumes hold steady through the mid-afternoon, and then rise to an overall peak of approximately 222 vehicles between 4:30 PM and 5:30 PM. The volumes start decreasing notably about an hour later and continue dropping throughout the evening and into the night. Based on this profile, the highest traffic volumes of the day are experienced in the PM peak period.

Kingston Intersection Study

I-587 AT ALBANY AVENUE/BROADWAY INTERSECTION



Conceptual Design Report
Technical Memorandum



**City of Kingston I-587/Albany/Broadway Intersection Study
Conceptual Design Report**

Prepared for the Ulster County Transportation Council

Prepared by:

Fitzgerald & Halliday, Inc.

In association with:

**AECOM
Alternate Street Design
URS**

February 2011



City of Kingston I-587/Albany/Broadway Intersection Study



Conceptual Design Report

February 2011

Table of Contents

- Introduction 1
- Public Participation 1
 - Public Survey.....1
 - The Design Workshop6
 - Direction for the Future – What We Heard.....7
- Design Drivers 9
 - Components of a place9
 - Organization of Streets 10
 - The Sparse Network 12
- Transportation Solutions 13
 - Interstate 587 13
 - Albany Avenue, I-587 and Broadway Intersection 13
 - Future Capacity 17
 - Albany Avenue Recommendations..... 17
 - Network Expansion 19
- Additional Considerations..... 21
 - Benefits of a Roundabout 21
 - Concept Visualizations 24
 - Conceptual Cost Estimates 28
- Appendix A: Design Workshop – Stakeholder Interview Comments
- Appendix B: Analysis Summaries
- Appendix C: Route 28/I-87/I-587/Washington Avenue Roundabout
- Appendix D: Public Survey
- Appendix E: Advisory Committee Presentation





Introduction

A major component of the Kingston Intersection Study was the public design workshop. This workshop was held over a three-day period in late September of 2010. The location for this workshop was the First Baptist Church on the northeast corner of the intersection, which served as the base of operations for the study team and the site of a number of public events held during the three days.



Study Area, Kingston NY

This report is a summary of the work accomplished over the three-day period and the feedback that was collected from the public and a number of interested stakeholders. The event was well attended and the result highly positive. A conceptual plan for Uptown Kingston was developed, influenced by the citizens of Kingston that not only addresses problems with the existing intersection, but provides a blueprint for longer-term sustainability of the city.

Public Participation

Public Survey

At the start of this study, the Ulster County Transportation Council (UCTC) articulated a set of interrelated goals for its outcome. The project was motivated in large part by the traffic bottleneck at the intersection of I-587, Broadway and Albany Avenue. The more encompassing goals set for the study included the following:

- Reduce vehicle and pedestrian delays
- Improve vehicular and pedestrian safety
- Minimize impacts to area residents and businesses
- Preserve parking capacity
- Improve freight mobility
- Enhance economic vitality
- Incorporate energy efficiencies/green technologies
- Improve gateway appearance
- Protect the historical character of the area
- Incorporate public input into the process and results

As a precursor to the design workshop, a survey was developed and administered electronically via SurveyMonkey.com. This survey was intended to gather preliminary feedback from the community on some of the study area issues and overarching goals stated above. Over 100 responses to the survey were collected and analyzed (a full set of results can be found in the appendix), and the presentation made to the Advisory Committee and the public at the workshop is summarized in the following pages.



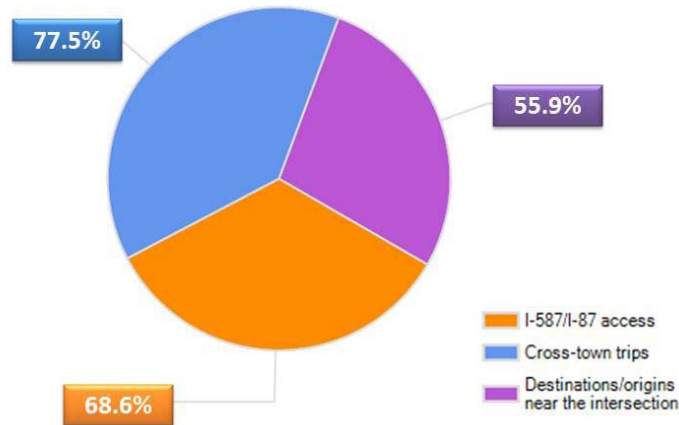
City of Kingston I-587/Albany/Broadway Intersection Study

Conceptual Design Report

February 2011

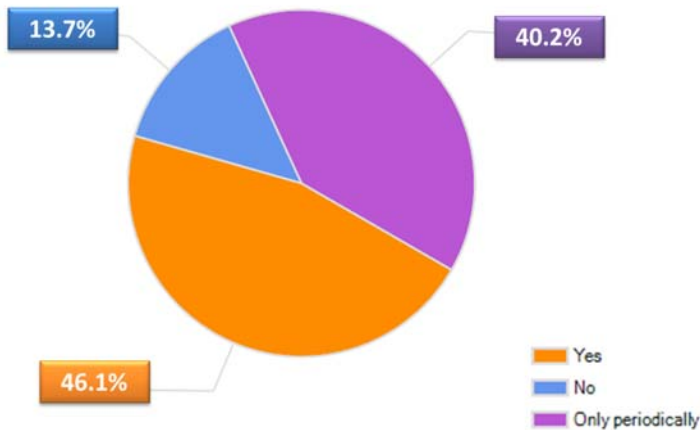


Question: What do you use this intersection for (choose all that apply)?



The results confirm the multi-purpose utility that this intersection provides.

Question: Do you think that traffic congestion is a problem at this intersection?



The results indicate that a majority of the respondents (> 86%) believe congestion is a problem, at least during certain periods of the day.

Question: During what hours (if any) would you avoid driving through this intersection?

Hour	Response Percent	Response Count
6am	2.6%	2
7	19.2%	15
8	57.7%	45
9	50.0%	39
10	9.0%	7
11	7.7%	6
12pm	30.8%	24
1	19.2%	15
2	6.4%	5
3	24.4%	19
4	52.6%	41
5	87.2%	68
6	46.2%	36
7	6.4%	5
8pm	1.3%	1

The responses show a familiar pattern of traffic distribution over the course of a typical work day. The majority of responses point to the usual morning and afternoon peak commuter hours as the ones to avoid, and to a lesser degree, the lunchtime peak hour. As shown in the illustration on the next page, when these responses are overlaid onto the traffic distribution graph that is



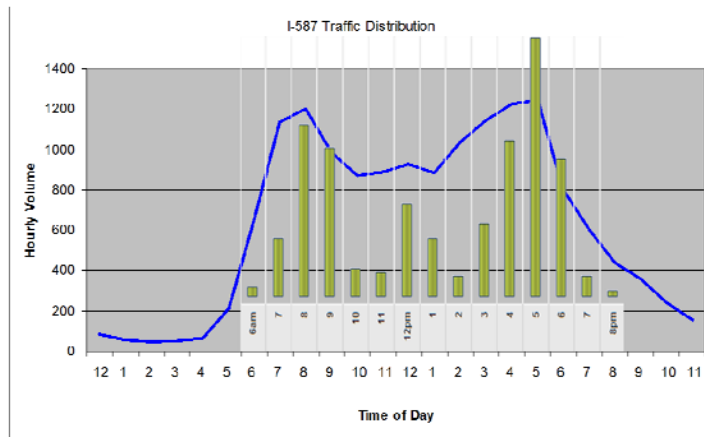
City of Kingston I-587/Albany/Broadway Intersection Study

Conceptual Design Report

February 2011



based on actual traffic counts, the general shape of the graph matches the responses.



It was noted in the presentation that the daily traffic on all approaches to the intersection is relatively balanced, with the lowest volume leg being I-587.

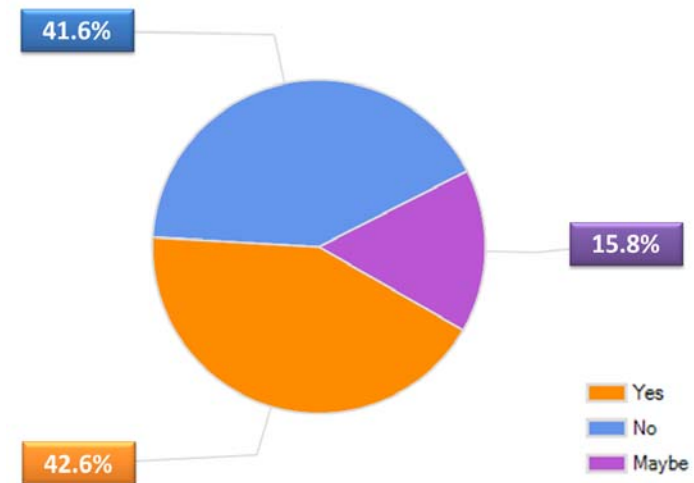


Question: Do you think safety is an issue at this intersection?

Fifty-nine percent (59%) of respondents indicated that safety is an issue and some of the responses were as follows:

- "Cars go straight to I-587 in the left turn only lane from Broadway"
- "Pedestrians are confused; drivers are confused"
- "It is difficult to navigate with a bicycle"
- "I-587 traffic blocks the Albany intersection"
- "I've seen accidents and near misses in many different locations..."

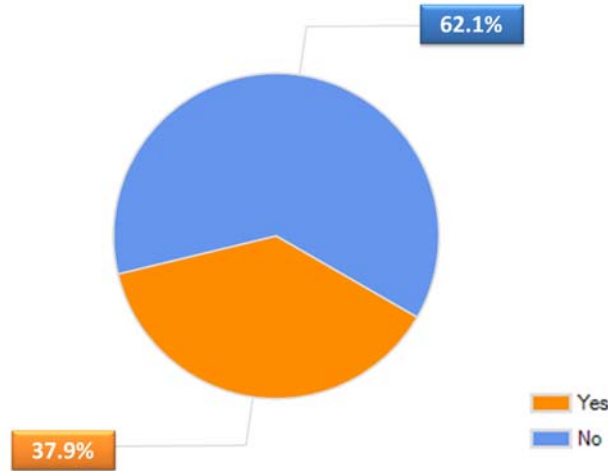
Question: Would you be more likely to walk or bike in the vicinity of this intersection if substantial improvements were made to the sidewalks, crosswalks, bike lanes, and streetscape?



Over half (58.4%) of the respondents indicated that they would walk or bike in the vicinity of the intersection if improvements were made to accommodate those modes. More walking and biking has the potential for reducing congestion created by short trips and also contributes to the economic health of a community.

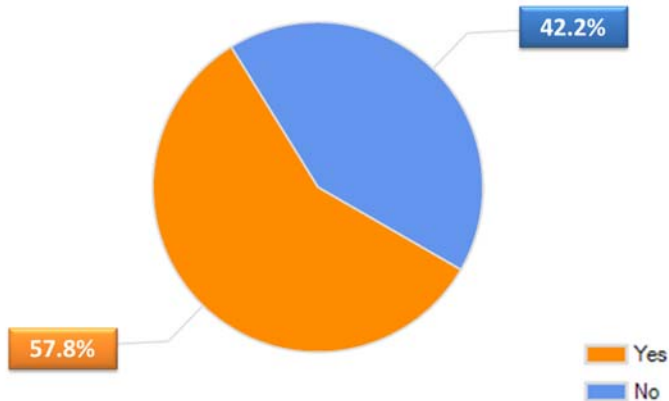


Question: Do you think that there is adequate parking for the businesses in this area?



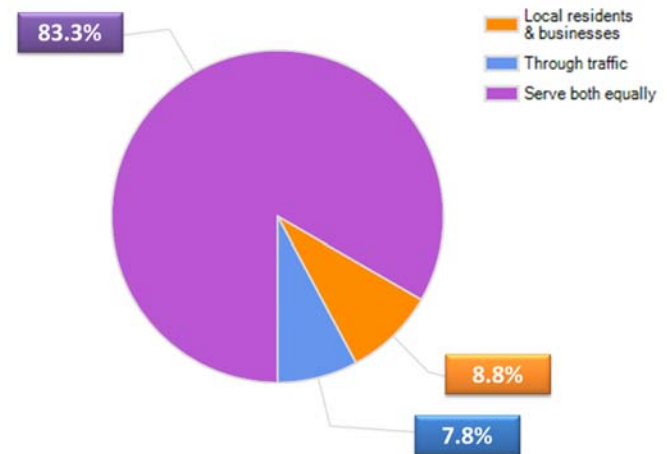
The responses suggest that parking needs are satisfied in the area, but some improvements should be considered.

Question: Is the directional signage at this intersection sufficient?



Although a majority of respondents indicated that directional signage is sufficient, it was noted that the question was potentially misleading since there appears to be an over-supply of directional signage at the intersection that some feel is confusing to drivers. This particular question was requested to be explored in greater detail during the workshop.

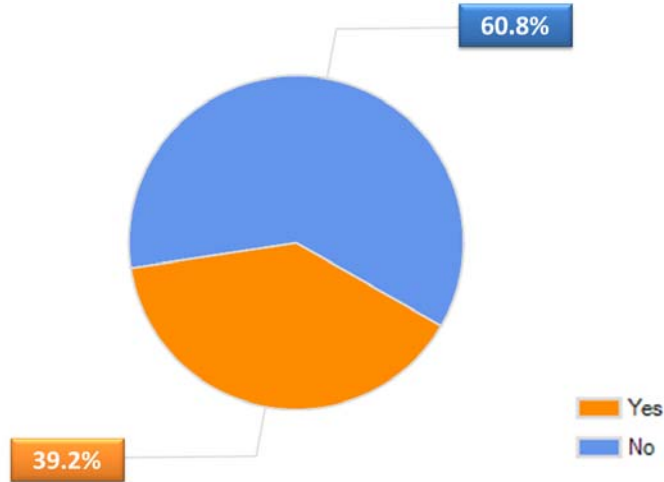
Question: Who do you think this intersection should primarily serve?



The response to this question overwhelmingly points to the recognition that this intersection is important to both local and regional traffic. Any improvement concept developed during the workshop needs to consider the mix of local and through traffic equally.

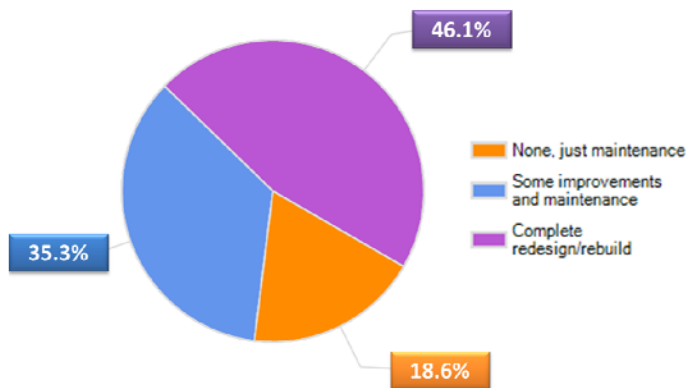


Question: There are many small parcels of green space at this intersection now, if these spaces could be combined, do you think that a small park would be appropriate at this intersection?



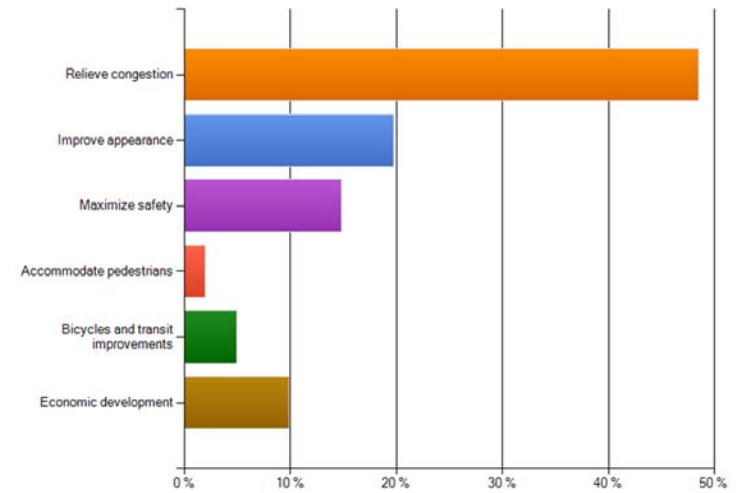
The majority of responses suggest that a small park at the intersection is unnecessary.

Question: How much of an improvement do you think this intersection needs?



Almost half of the responses suggested a complete rebuild of the intersection is necessary. A considerable number of responses also pointed to possible improvements for the intersection, short of a complete rebuild. A small fraction of responses pointed to only maintenance of the existing intersection as a possible solution.

Question: If you had to pick just one type of improvement to this intersection, what should it accomplish?



Clearly congestion reduction should be a major consideration when addressing this intersection. The fact that all of the choices provided in the survey question had some level of importance ascribed to them demonstrates that the overall solution to this intersection should satisfy many goals.



The Design Workshop

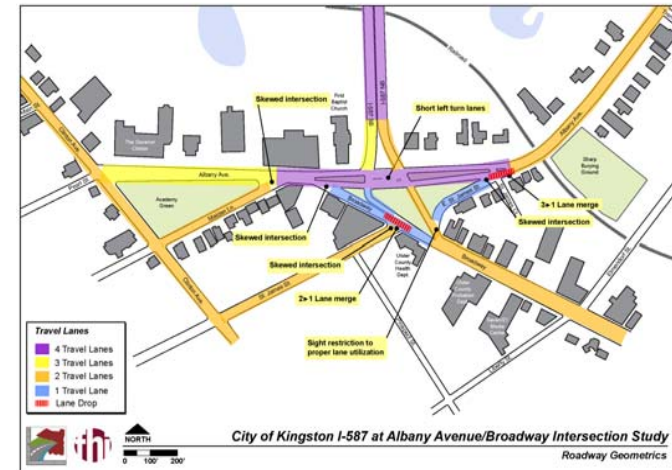
While resolving congestion, accommodating local and regional traffic, and improving safety are important goals, in the end, reclaiming this area as a place of value in the community is an aspiration to aim for. The study must look beyond the limited confines of the I-587-Albany Avenue intersection itself, and understand how travel and conditions there affect the rest of the City; there are impacts to the neighborhoods, to the Stockade Area, to Uptown, to the length of Broadway and as far as the Rondout historic area at the waterfront. Solutions for the intersection must serve the diverse transportation and community quality of life needs of the City as a whole and there is a great opportunity for it to do so.

This design report documents the findings of a three-day workshop which was conducted to develop workable solutions for the I-587/Albany Avenue intersection. The public workshop was conducted over three days in late September, 2010. The general sequence of events was as follows:

Day One

The first day of the workshop was one of discovery. The study team held a meeting with the Project Advisory Committee (PAC) to present information on the findings of their analysis of current conditions and to listen to their concerns and desires for the intersection area. This was followed by a series of interviews with a wide range of stakeholders to ask **a)** what are their experiences with the intersection **b)** what they like/would keep about the area and **c)** what they did not like and would change.

This first long day of discovery was concluded with a public meeting. The community at large was invited to a presentation about conditions and options for the intersection. Then, they were asked to share their issues, experiences and ideas for improving the intersection.



Workshop began with a presentation on study area issues



Public meeting attendees preparing to plan



Day Two

The second day of the workshop was spent interviewing additional stakeholders and sketching out the ideas the study team had heard thus far. This was largely a synthesis of ideas and comments collected from a wide range of study participants and the work produced provided the framework for the ideas presented in the remainder of this report.

Day Three

On the third day of the workshop, the study team did some technical analysis of the feasibility of the ideas or solutions they had sketched. Some preliminary solutions were developed, and drawing of what they would look like developed.



The study team prepares to address the PAC

Also during the day, there was an Open House where the community at large was invited to come see the results of the exploration of options for the intersection and its surroundings. The workshop was concluded with a second meeting of the PAC to share the findings of the three days of work and get their feedback.

Direction for the Future – What We Heard

As the design team listened to the citizens of Kingston, and key stakeholders in the study area, many common themes emerged. The following is a summary of the key ideas expressed during the workshop.

1. **Kingston community is proud of the City!** Many folks who attended one of the workshop events expressed how proud they are of Kingston’s heritage as well as its many assets including the surrounding natural beauty of the area.
2. **Intersection improvements are not just about traffic.** Some folks thought the traffic congestion and hazards were a huge problem and some did not. But everyone seemed to agree that the intersection as a space was a “dead zone” of asphalt and grass that does not benefit the City in the way that it should. The intersection poses many concerns that are not traffic related.
3. **This is the gateway to Kingston.** It was the general consensus that the place where I-587 enters Kingston is major entry point. It is a driver’s first introduction to the City – a doorway into the City environment. As such, it does not serve the City well. It should be attractive, inviting and welcoming.
4. **Mobility improvement is needed for sustainability.** Sustainability is the efficient use of resources to meet the needs of today’s community while not sacrificing the ability of future generations to enjoy the same resources. The transportation network is a resource. It must function well



for all users including those on foot or bicycle. In order for the City of Kingston to be a vibrant community for both today's community and future generations, the transportation network and all modes of travel must function well.

5. **A constrained network is good!** A constrained network is one that allows traffic to flow – but at lower speeds and with room for other uses. An unconstrained network favors traffic over people and community sense of place. There was a consensus that the quality of the intersection area as a place should not be sacrificed to making traffic flow or to continue to handle an increasing number of cars.
6. **A fix at one place should not create problems elsewhere.** There are a variety of things that could be done to 'fix' the I-587/Albany Avenue intersection, but if traffic flow is changed there, it could easily move the congestion safety issues to nearby intersections such as Albany Avenue at Clinton Street, where there are also problems with traffic. It was agreed that this is not a solution. Any solution must take into account the entire local street network and the City mobility needs as a whole, as all the parts are interconnected.
7. **Fulfill Kingston's potential.** Many stakeholders emphasized that Kingston is a City in a strategic location with a wealth of unrealized potential to thrive and be a destination. Revitalizing Kingston is a significant goal for the community.
8. **Aesthetics and sense of place are key goals.** The I-587/Albany Avenue intersection should be an attractive place with not only well designed streets, but landscaping, streetscaping (such as attractive lighting and street art and furniture) as well as complementary architecture, and well placed attractive signage.
9. **Respect the history, hidden potential, and historic and natural assets of Kingston.** The community agreed that

as solutions to traffic issues are developed, Kingston's many assets should be considered and taken into account.

10. **Kingston streets should be complete streets** – good for pedestrians, bicyclists, buses, as well as cars. The intersection solutions need to include bicycle lanes, traffic calming (visual cues to encourage drivers to slow down), well marked pedestrian crossings, a sound sidewalk system and ease of travel for buses and fire trucks.
11. **Improvements should include long and short term options.** Stakeholders suggested that the intersection plan include short term things that are low cost and could be done quickly and compliment the long term solution that may be more costly.

The result of the numerous stakeholder interviews, the meetings with the PAC, and the public workshop was the development of a series of design drivers that set the stage for the types of transportation solutions that evolved over the course of the three-day event.

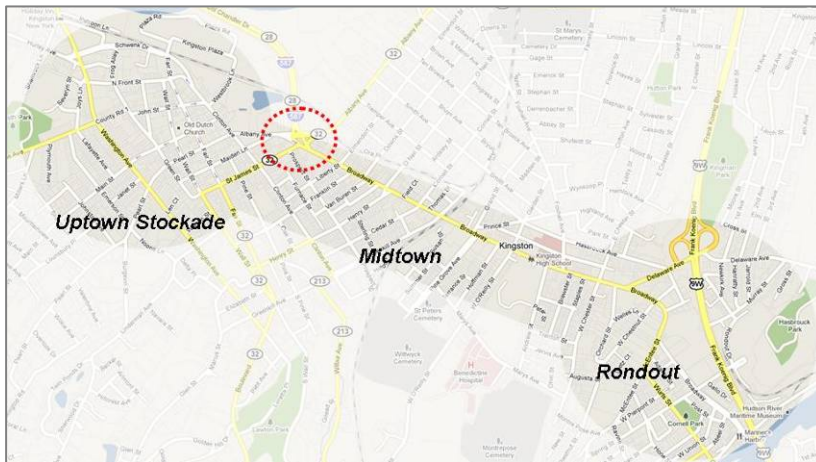
Correlating the eleven themes above to specific design drivers can be generalized in the following way. Themes 3, 7, and 8 speak to the intersection's role as a gateway to Kingston, and the importance of creating a strong sense of place in the area. Themes 1, 2, 9, and 10 relate to the traditional role of Kingston's streets from the early history of the Stockade to today's need for less automobile dominance. The heritage of Kingston needs to be preserved and the orientation of streets is a major factor in the vibrancy of community. Themes 4, 5, and 6 focus on the importance of network in transportation systems. Streets should offer alternatives, and be designed in a way that discourages speeding and prioritizes people. Finally, Theme 11 offers a realistic viewpoint on project funding and implementation, which will be addressed later in the Design Report.

The next chapter in this report provides additional details on these important design drivers.



Design Drivers

The people of Kingston intuitively understand the characteristics of a great place. Comments from a broad array of stakeholders indicate that transportation plays an important role in the shaping of a place. Midtown is viewed as a conduit for traffic (or the bar of a dumbbell) between Rondout and the Stockade district. These later locations are viewed as places that people want to be, and are often cited as sources of community pride by local city residents.



Midtown is sometimes referred to as the handle of the dumbbell

Components of a place

Cities exist because people require access; access to services, jobs, housing, entertainment, social interaction, and information. In the late 19th century, public streets facilitated such access in everyday life. As the horse and buggy averaged about 10 MPH, streets were safe for people to walk and interaction to flourish.

In a sense, the streets themselves were places and busy streets meant a vibrant economy.



City streets were traditionally places that facilitated interaction

Kingston is promoted as a 'place'. As people enter the city via the I-587/Albany/Broadway intersection they are greeted by vibrant banners advertising the unique accommodations that are offered.

The banners are overshadowed by the unnecessary scale and proliferation of signage in the area that communicate vehicular dominance. The sense of place has diminished as a result of a lack of



Gateway Banner



human-scale infrastructure, which is currently prioritized almost solely for the motor vehicle.

Highway-scale signage coupled with multi-lane, one-way streets and dedicated high-speed turn lanes translates to one thing for the driver: **speed**. During times when traffic congestion is not present, the project intersection facilitates high-speed driving behavior that is incompatible with pedestrian and bicycle use. In keeping with directives to balance the needs of all users and develop an enticing gateway to the city, the intersection project should be designed for vehicular speeds of 30 MPH or less.

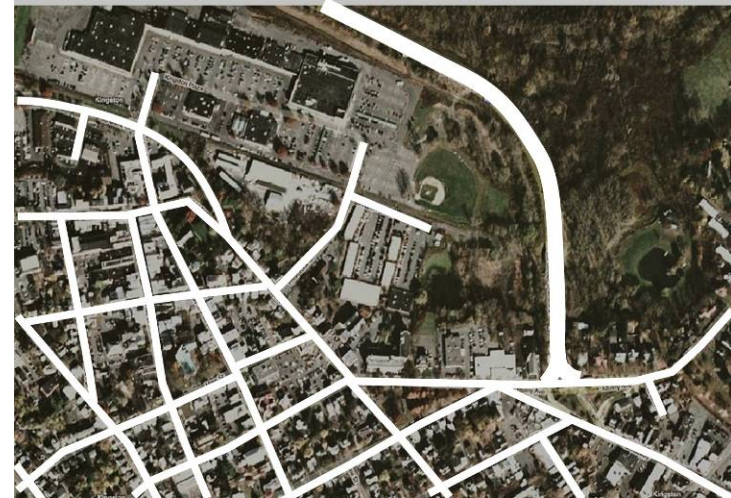


Scale of signage and expansive pavement communicates speed

Organization of Streets

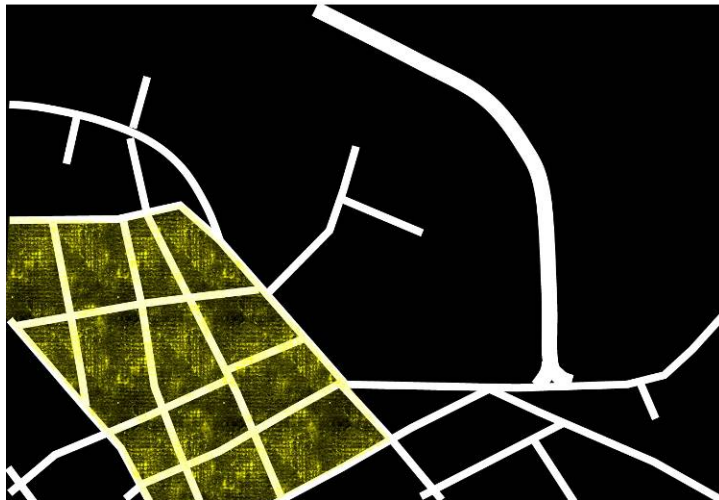
Approaching transportation solutions that achieve long-term sustainability requires an understanding of how the organization of the street network affects mobility and access. Network

structure can be compared to the skeletons in living organisms. The organization of bones in humans and animals is responsible for the way in which they appear, move and perform tasks. Similarly, the 'bone' structure of streets determines how a place will appear and function. The following figure illustrates the network structure in the vicinity of the project area.



Kingston's bones

In 1777, the year the British invaded and burned the City of Kingston, the uptown street network consisted of a traditional grid with small blocks and narrow streets. The Stockade District, as it is now known, is shown in yellow on the figure on the following page. These well-defined blocks were traditionally the way communities were planned and allowed people options for reaching their destinations. Blocks were close together so that people could walk efficiently and buildings were kept close to the street to enhance access.



Grid structure of Kingston in 1777

Today, the Uptown Stockade is still an area that is inviting to visitors and residents alike. Much of this historic area of Kingston is highly walkable and the mix of architectural styles, boutique shopping, dining, and other amenities offers the charm



Uptown Stockade District

to residents and visitors alike.



In the past half century, conventional transportation planning has placed an emphasis on high-capacity streets built for speed and direct access. Instead of the tightly defined grid network, superblocks were formed that contained large scale developments with massive on-site parking supply and limited driveway access. The figure below highlights in yellow the superblock network structure in Uptown Kingston resulting from the development of a shopping center and I-587.



Superblock structure of Kingston in 2010

The network that is created from this style of development consists of wider roads flanking the perimeter of the superblock. The consequence of this type of transportation and land use planning is that traffic volume pressure builds along the edges of the superblock, and in particular, at the intersections of these primary streets. Without a grid to disperse traffic and provide alternate ways to access land, an endless cycle of planning for more and more road widening results.

As evidenced throughout the study area, street life, economic vitality, and aesthetics have been severely compromised by a network that places a disproportionate emphasis on automobile mobility.



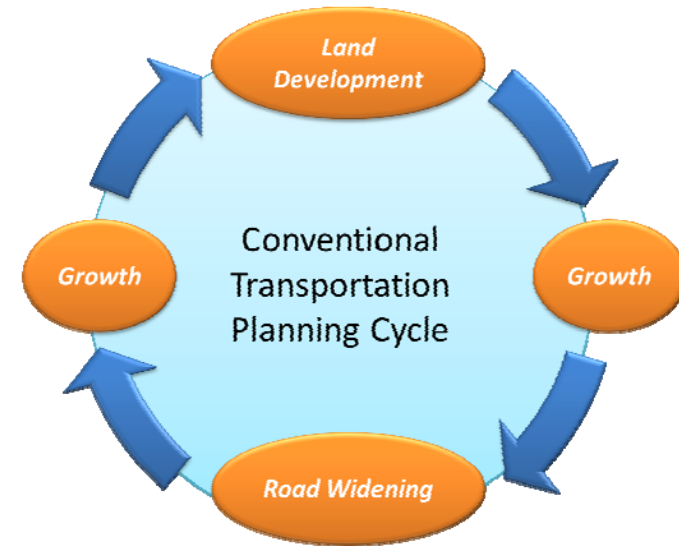
Empty commercial space on Albany Avenue



St. James Street

The Sparse Network

A sparse network limits the overall road system capacity of an area and necessitates the widening of individual roads to solve traffic congestion. This rarely results in long term success. As roads become wider, traffic demand projections are eventually realized and the planning cycle begins all over again. In essence, the constant need for wider roads becomes a self-fulfilling prophecy. The illustration below demonstrates the cycle of traffic growth related to land development, and the need for the constant planning for roadway expansion.



In midtown Kingston, roads such as Albany Avenue and Broadway are already capacity constrained during the peak hours as intersections are unable to process the traffic level that currently exists. Relieving congestion at one intersection has



the effect of moving the problem to another location that likely is already at or approaching its capacity limitation. A return to the grid pattern network can meet multiple objectives associated with growth in the Kingston.

Transportation Solutions

The primary focus of this study was on the intersection of Albany/Broadway Avenue and I-587. This complex intersection is part of a larger overall network and therefore, influenced by surrounding intersections. For this reason, the study team expanded the focus to consider other intersections along Albany Avenue and Clinton Avenue.

It is important to note that sufficient lane capacity exists in the area around the Albany/I-587 intersection to accommodate future growth. Current congestion is primarily related to intersection capacity. The transportation solutions focus on these intersections and include recommendations that meet the goals to improve vehicle capacity along with pedestrian safety and overall character of the area.

Interstate 587

An important element of the overall traffic solution is the potential conversion of I-587 from an Interstate highway to a state road (call it SR 587). This conversion would enable the connection of new streets to SR 587 and divert vehicles currently heading west on Albany Avenue. I-587 carries the lowest vehicular traffic volume of the three roads that comprise the existing intersection. At approximately 15,000 vehicles a day, a two-lane road would be sufficient to accommodate this volume and future growth.

Provided the interstate highway can be re-designated as a state road and reduced to two lanes, the remaining two lanes could

be converted to a wide multi-use trail for bicyclists and pedestrians. Currently bicycle and pedestrian activity along the Interstate has been observed which is an illegal activity.

Albany Avenue, I-587 and Broadway Intersection

The intersection formed at the confluence of I-587, Albany Avenue, and Broadway has outlasted its functional lifespan. The intersection experiences recurrent congestion during the peak travel hours and is unfriendly to pedestrians and bicyclists. Emergency response vehicles avoid the intersection during the busy hours of the day and find alternate routes through neighborhoods. Traffic accidents are frequent and sign clutter contributes to driver confusion.

The workshop developed a number of potential solutions that have various advantages in meeting the design drivers discussed previously. These have been categorized into short- and medium-term time frames. In addition, the workshop produced a network expansion concept as a place-making opportunity for the uptown area.

Short Term Solutions

1. Request a design exception from the NY Department of Transportation to eliminate all of the large overhead signs. Review all other signs with a goal to reduce the number and improve clarity and wayfinding. For example, the proliferation of 'No Parking' signs should be immediately reconsidered and signs eliminated in areas where there is little reason to park due of a lack of immediate destinations. An option is to add a 'No Parking Beyond This Point' sign to the end of the defined parking areas.

2. Move the pedestrian crosswalk on Albany Avenue west of the intersection closer to the intersection (see Figure 1 – page 18).



Sign density and arrangement is confusing

Medium Term Solutions

Option 1: Compact Signalized Intersection. Rebuild the intersection as a compact signalized intersection. This option aims to improve operations over the existing split phased signalized intersection. The compact intersection was analyzed both with and without the high-speed travel lane from Albany Avenue (eastbound) to Broadway (southbound). The lane is marked with a red X on the following illustration.

Goals of this project include creating a gateway to the city and improving safety for pedestrians and bicyclists within the study area. Achieving these goals requires the elimination of the high-speed travel lane from Albany Avenue to Broadway. Eliminating this high-speed lane would force right-turning

vehicles to utilize the redesigned signalized intersection at considerably slower speeds. The elimination of this lane will also limit the overall capacity of the intersection for future growth in traffic; however, this is an essential trade-off if other study goals are to be achieved.



Compact intersection

Option 2: Mixed-Lane Roundabout. Replace the existing signalized intersection with a mixed-lane roundabout. A roundabout would improve both vehicular and pedestrian operations.

Two alternatives for a modern roundabout were explored. The first attempted to reconnect St. James Street and East St. James Street by locating the roundabout southeast of the existing intersection. While this concept is functional, it breaks up the open space component of the intersection into a number of small and unusable parcels.



Modern Roundabout alternative 1

The second alternative places the roundabout in roughly the same location as the existing signalized intersection. This option creates a more effective gateway for midtown and offers ample public space for passive recreation and the relocation of important city monuments.



Modern Roundabout alternative 2

Capacity Analyses

Table 1 lists the results of the capacity analysis performed for each option. The table shows that the roundabout provides comparable operational performance to the compact intersection in most area, but for average delay per vehicle and average queue length, the roundabout is superior.

Additionally, the proposed roundabout layout uses fewer lanes (8 entry lanes) compared to the 11 entry lanes in the signalized intersection option. A picture of the intersection geometry and a copy of the Capacity Analysis Summary Sheets are included in Appendix A.

The roundabout option consists of a single-lane geometry where the I-587 approach has a right turn only lane and a combined through-left lane. A simple change to a through-right lane and a left turn only lane with two circulating lanes makes a considerable difference to the operation of the roundabout, and demonstrates the flexibility of the roundabout design, which provides the opportunity later to refine the lane designation as traffic volumes change.

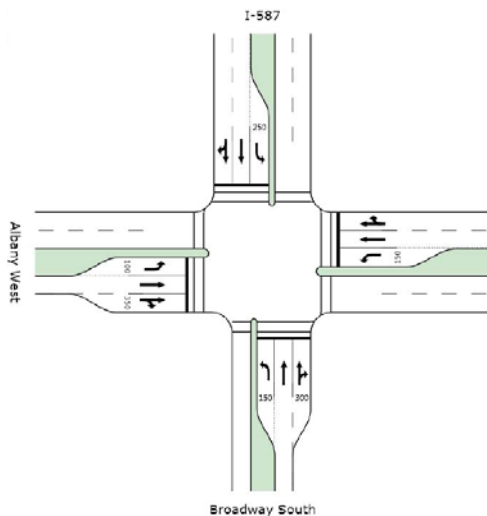
In all but one approach, the roundabout has a shorter 95th percentile queue. This is because at high saturation levels a well-timed, signalized intersection can optimize the balance of the longest queues. However, even though the roundabout may have a longer queue in one case, its throughput is higher, and vehicles are in moving queues that are less frustrating for drivers. Overall delay is less in the roundabout as vehicles are constantly moving rather than being stuck in a static queue waiting at a red light.

Table 1 – Summary of capacity analyses under current traffic levels

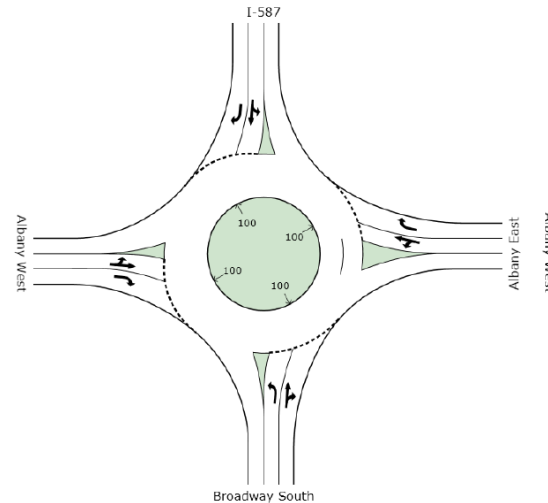
Intersection Alternative	Level-of-service	Average delay (sec)	95 th percentile vehicle queue (ft)	Average Queue (ft)	V/C Ratio
Existing signalized intersection	C	28.1	386	199	.676
Compact signalized intersection (retain high-speed Broadway bypass)	C	27.0	363	180	.733
Compact signalized intersection (without high-speed Broadway bypass)	C	29.4	402	203	.792
Roundabout 1 (right turn only lane and a combined through-left lane with one circulating lane)	B	18.1	355	73	.815
Roundabout 2 (through-right lane and a left turn only lane with two circulating lanes)	B	11.6	156	42	.676

Notes

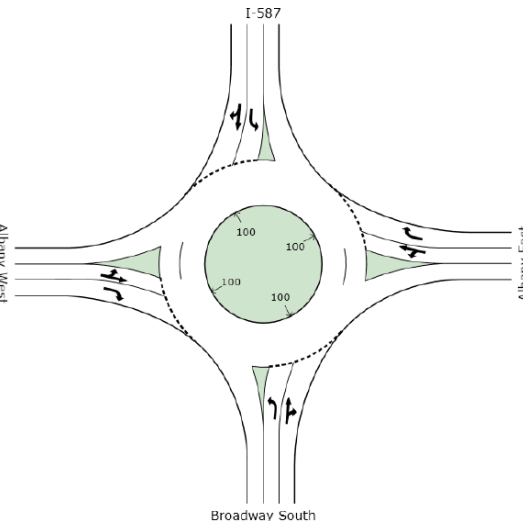
1. All analyses were undertaken in SIDRA 5.0 to provide uniformity in assumptions and analyses.
2. All roundabout analyses were undertaken using an Environmental Factor of 1.2 although it is less relevant as Kingston has had a roundabout for a number of years enabling drivers to become accustomed to it. Therefore, the values for the roundabout could be conservative.
3. All analyses were undertaken using the default peak flow factor of 0.92.
4. Signal analyses were undertaken using fully actuated signals system that will only occur if the signals and loops are fully maintained.
5. Sidra software was allowed to choose the optimum cycle times. Other cycle times will restrain the vehicle flow and reduce the intersection capacity.



Compact Signalized Intersection



Roundabout 1



Roundabout 2



Future Capacity

Table 2 provides an estimation of the amount of traffic growth that potentially can be accommodated by each of the alternatives. In the table, practical spare capacity represents the amount of traffic increase possible before reaching the practical capacity of the intersection (V/C) and creating excessively long vehicle queues. At 2010 traffic levels, 2,528 vehicles enter the existing intersection.

As shown in the table, the compact signalized intersection has minimal additional capacity (6%), roundabout 1 can handle an additional 574 vehicles (23% growth) and roundabout 2 can handle an additional 866 vehicles (34% growth). For this reason, roundabout 2 is the only alternative that will satisfy future traffic growth expectations.

Table 2 – Practical Spare Capacity

Intersection Alternative	Throughput (total entering vehicles)	95 th percentile vehicle queue (ft)	V/C Ratio	Practical Spare Capacity (vehicles)	Practical Spare Capacity (%)
Compact signalized intersection	2,680	458	.853	152	6%
Roundabout 1	3,102	400	.850	574	23%
Roundabout 2	3,394	263	.840	866	34%

Albany Avenue Recommendations

Many intersections along Albany Avenue and Clinton Avenue, such as Albany Avenue/I-587, Albany Avenue/Clinton Avenue, Clinton Avenue/Main Street, and Clinton Avenue/Westbrook Lane are at capacity during the peak period which is

demonstrated by the long vehicle queues at these intersections during peak periods of the day. Of these, only the intersection of Albany Avenue and I-587 can be improved without property acquisition and/or elimination of on-street parking. Minor improvements may be possible to improve pedestrian mobility or perhaps minor improvements in vehicle flow. Given the historic context of the Uptown Stockade, significant expansion of intersections along Clinton Avenue is not recommended.

There are many locations where pedestrians cross Albany Avenue between the I-587 intersection and Clinton Avenue. The following refinements to Albany Avenue to better accommodate this pedestrian demand are as follows and illustrated in Figure 1 on the following page.

1. Relocate the crosswalk across Albany Avenue west of I-587 intersection to the intersection. Where this relocated crosswalk crosses Broadway add pedestrian crossing signs to help highlight the pedestrian crossing. Also the addition of pedestrian crossing signals to the crosswalk across Broadway south of St James Street should have pedestrian crossing signs added to both parts of the crosswalk.
2. Upgrade the signalized pedestrian crossing Maiden Lane, with bulb outs on both sides, new signs, preferably post mounted signals that are closer to the driver's eye and pedestrians, which would not require the driver to take his eyes away from a pedestrian to look into the signal in the air.
3. Provide a signalized pedestrian crossing across Albany Avenue between the Governor Clinton building and the Dialysis Center that includes bulb outs on both sides, a raised pedestrian refuge in the middle and post mounted signs with a signal in the pedestrian refuge.
4. Realigning the pedestrian crosswalk on Albany Avenue, east side of Clinton Avenue, as shown on the attached diagrams.

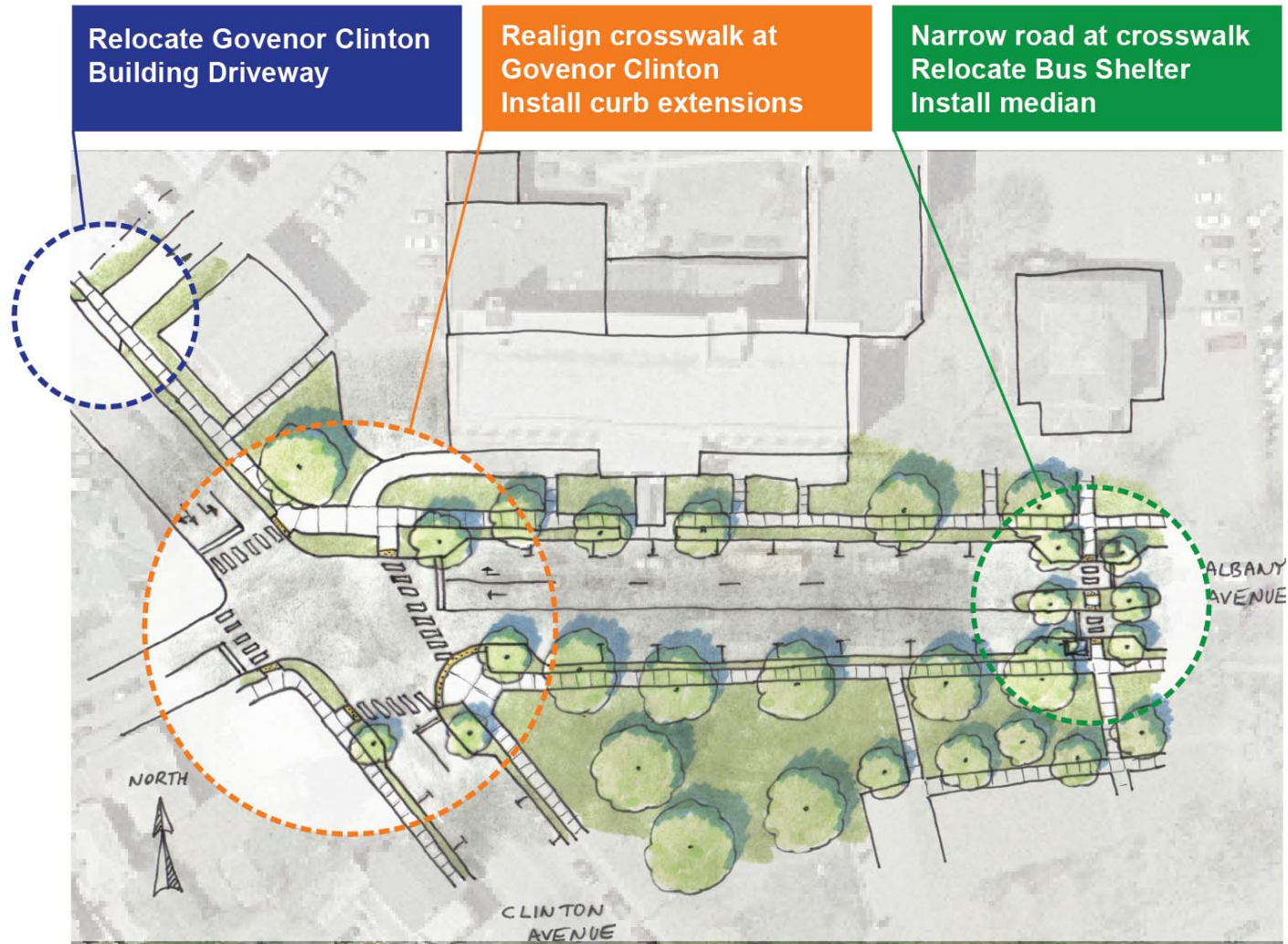
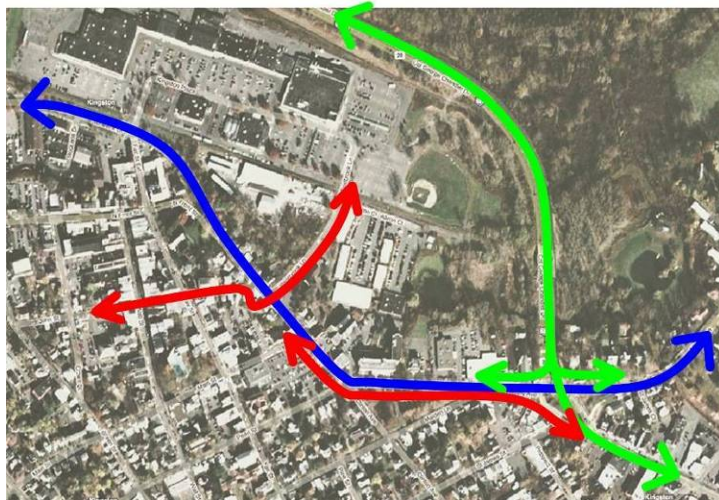


Figure 1: Improvements along Albany Avenue



Network Expansion

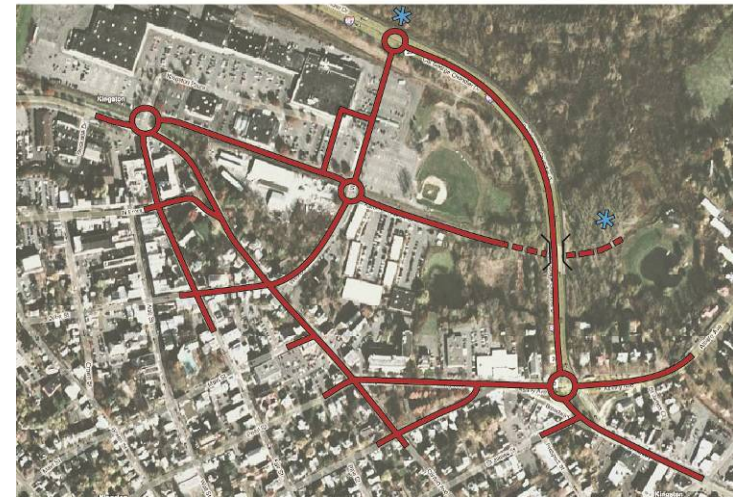
Solving capacity constraints along Albany and Clinton Avenues without major impacts to property and community character requires an extension of the road network north of these two roads. Changing the designation of I-587 to State Road 587 and making a series of new road connections provides alternate access to destinations uptown. In turn, this alternate access alleviates traffic pressure on Albany and Clinton Avenues, and preserves capacity for future economic growth in the city. The following illustration demonstrates how local and regional trips are all routed along Albany and Clinton Avenues under the current network configuration.



Currently, all trips are focused along Albany and Clinton Avenues

The next figure illustrates the expanded network concept. Extending the block structure and street network will provide drivers with a variety of travel routes to their destination and balance the flow through the network. The most important connection is the extension of John Street to Westbrook Lane to

SR-587 (I-587). Intersection control would be handled via roundabouts at SR-587 and the road along the southern boundary of the Kingston Plaza. With only an eight to ten feet grade difference, this connection appears feasible. A roundabout could also be located at the intersection of Clinton Avenue, Fair Street Extension and Schwenk Drive, which would be the terminus for the new road along the southern boundary of the Kingston Plaza. This road could also be extended along the railroad tracks under I-587 and ultimately to Albany Avenue.



Expanded network concept

Place-Making Opportunities

The proposed network expansion concept offers an opportunity to re-imagine how Kingston might be developed in the future. Figure 2 illustrates a conceptual street network with the primary street network in red and a secondary, delivery network in blue. An extension of the street grid would provide a considerable increase in street frontage for additional development.

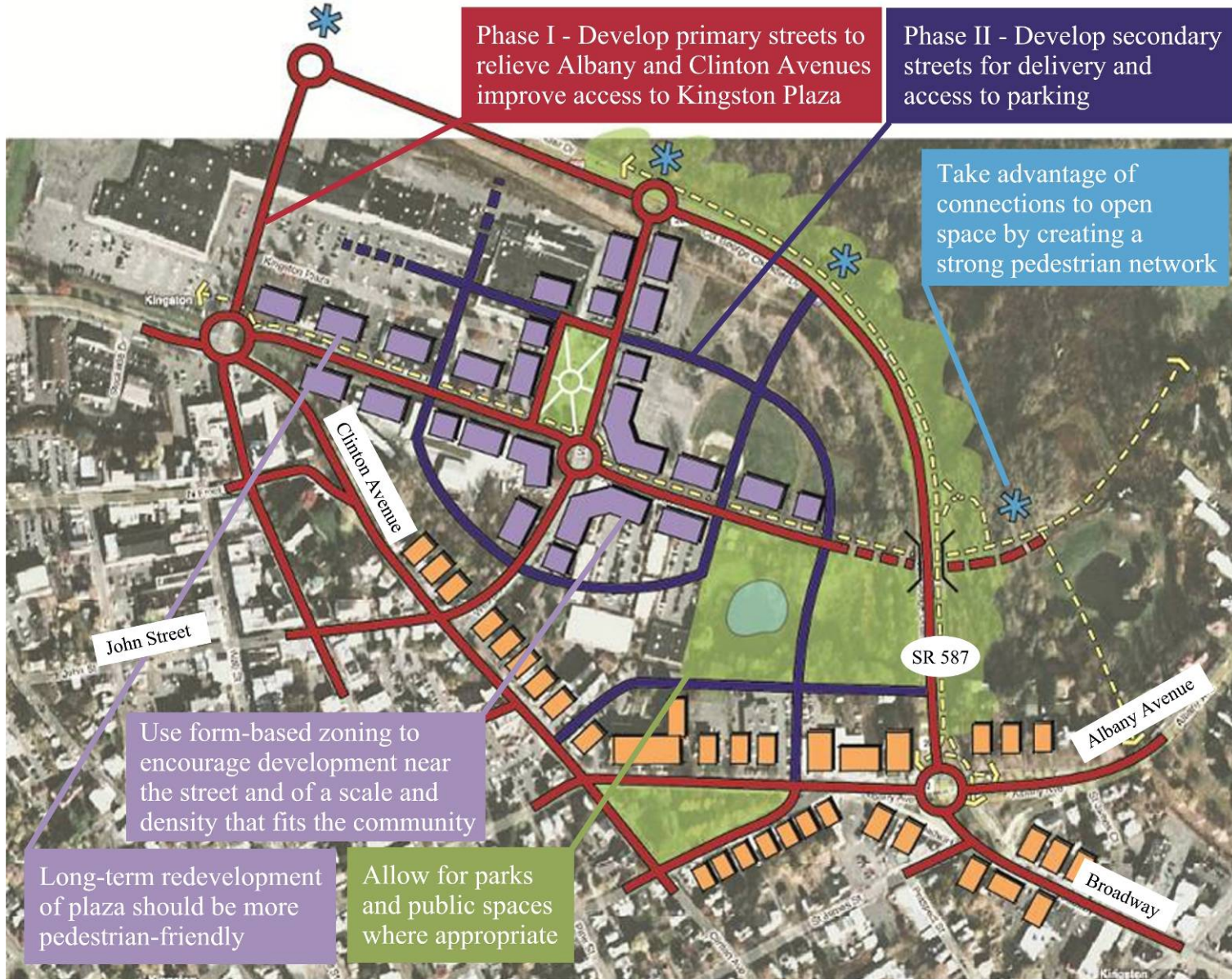


Figure 2: Expanded Street Network and Place Making Opportunities



Additional Considerations

Benefits of a Roundabout

The addition of a roundabout at this intersection would reduce crashes, reduce number and size of signs, and reduce the number of approach lanes from 11 to 8, allowing for 'road diets' on streets such as Albany Avenue, Broadway, and I-587.

Vehicle delay would be substantially reduced, especially in the off peak hours as approaching drivers would only have to slow their vehicle instead of coming to a full stop to enter the roundabout. Slower speeds also create a better environment for bicycles and pedestrians.

Another major benefit of the roundabout design is the improved accessibility into and out of the businesses on the southeast corner of the intersection, which will provide access to and from all directions. This will aid real estate value because of the improved access for customers.

The following sections provide some additional benefits of roundabouts.

Safety

With different crossing and entering movements by drivers, bicyclists and pedestrians, an intersection is one of the most complex traffic situations that drivers can encounter. In a traditional four-way traffic intersection, there are 32 points of conflict in which two vehicles may collide. Modern roundabouts have only eight conflict areas, greatly reducing the potential for crashes. On the other hand, the circulating movement of modern roundabouts nearly eliminates the potential for high-

speed, right angle and left turn/head-on collisions. Rear-end collisions are also often reduced in roundabouts.

Speeds in modern roundabouts are often much slower than in intersections; therefore, any potential roundabout crashes are usually at lower speeds, and at less-dangerous angles (such as sideswipe). This translates into less severe injuries and property damage, if any. A study printed in the Transportation Research Record reported that converting 23 test intersections throughout the U.S. from traffic signals to roundabouts reduced injury crashes by 80 percent, and reduced all crashes by 40 percent, in those areas. Results were much the same for similar studies throughout the U.S. and Europe.¹

Bicycle and Pedestrian Mobility

Roundabouts generally are safer for pedestrians than traditional intersections. In a roundabout, pedestrians walk on sidewalks around the perimeter of the circulatory roadway. If it is necessary for pedestrians to cross the roadway, they cross only one direction of traffic at a time. In addition, crossing distances are relatively short, and traffic speeds are lower than at traditional intersections. Studies in Europe indicate that, on average, converting conventional intersections to roundabouts can reduce pedestrian crashes by about 75 percent.² Single-lane roundabouts, in particular, have been reported to involve substantially lower pedestrian crash rates than comparable intersections with traffic signals.³

¹ Nevada DOT. <http://www.nevadadot.com/safety/roundabout/benefits.asp>

² Schoon, C. and van Minnen, J. 1994. The safety of roundabouts in the Netherlands. *Traffic Engineering and Control* 35:142-48

³ Brude, U. and Larsson, J. 2000. What roundabout design provides the highest possible safety? *Nordic Road & Transport Research* 2:17-21.



Pedestrians can easily cross roundabout

Parking

The roundabout will result in the addition of parking spaces to midtown. The creation of driveways/plazas on the southeast and southwest corners of the intersection will offer more parking than is currently available today.



Additional parking provided in front of existing buildings

Transit/Freight Access

To accommodate vehicles with large turning radii such as trucks, buses, and tractor-trailers, roundabouts provide an area between the circulatory roadway and the central island, known as a truck apron, over which the rear left wheels of these vehicles can safely track. The truck apron generally is composed of a different material texture than the paved surface, such as brick or cobble stones, to discourage routine use by smaller vehicles. Roundabouts provide a better, wider turning radius for semi-trucks and other long vehicles. Even double trailer semi-trucks will be able to easily drive through the roundabouts.

Streetscape/Landscape/Public Realm

Aesthetics of the area would be greatly enhanced especially if a significant feature is added to the center of the roundabout to create a focal point. One of the goals of this study is to create an attractive gateway into the City of Kingston. A roundabout provides an opportunity to do that.



Gateway roundabout in Town of Great Neck Plaza, NY



Roundabout Option 2 - An ideal gateway to Kingston

Green Design

Many vehicles must wait for the light to turn green in a signalized intersection. While stopped, the vehicle's exhaust emits undesirable pollutants and gases into the atmosphere. Because roundabouts often eliminate such stops and improve traffic flow, they also reduce vehicle emissions and fuel consumption. In one study, replacing traffic signals and signs with roundabouts reduced carbon monoxide emissions by 32 percent, nitrous oxide emissions by 34 percent, carbon dioxide emissions by 37 percent and hydrocarbon emissions by 42 percent. Gasoline use is also reduced as traffic moves more efficiently through roundabouts. Studies have shown that fuel savings can be up to 30 percent in roundabouts. Without the stop and start of traditional traffic intersections, roundabouts can also reduce vehicle noise pollution.⁴

⁴ Nevada DOT. <http://www.nevadadot.com/safety/roundabout/benefits.asp>

Maintenance Cost

The modern roundabout will have electrical costs associated with lighting and lower maintenance costs overall. Operational savings from roundabouts have been estimated at an average of \$5,000 per year. In addition, the service life of a roundabout is approximately 25 years, versus approximately 10-20 years of service life for traffic signals.⁵

Economic Revitalization

A modern roundabout is a safe and efficient traffic control solution that is friendly to pedestrians and bicyclists can add value to an area over time. Foot traffic is an essential ingredient for the survival of area businesses.



Roundabout Option 2 – Creation of public space and parking within the footprint of the existing intersection

⁵ Nevada DOT. <http://www.nevadadot.com/safety/roundabout/benefits.asp>

A roundabout offers the opportunity to open up some of the underutilized space at the existing intersection. Also, improving access and circulation in the area will make existing and future business more attractive to customers. The illustration on the previous page shows how a park can be integrated into the design. This space can accommodate existing monuments and public art, and the parking spaces represented by the textured driveway can be a shared resource for pedestrians or vendors during public events.

The following illustration shows how a realignment of Maiden Lane can provide a pocket park or potential outdoor dining area in front of businesses that line the street. The realignment also improves safety and traffic operations.



Realignment of Maiden Lane at Albany Avenue

Midtown is currently economically distressed and the existing roadway environment is diminishing opportunities for improvement. The proposed roundabout solves traffic and safety deficiencies while providing a unique opportunity to remake the area into a place where people want to live, work, and recreate.

Concept Visualizations

Figures 3 through 5 on the following pages are artistic visualizations of the intersection alternatives. The first two are birds-eye perspectives showing the compact signalized intersection and roundabout alternatives hand sketched in pen and ink. These illustrations were products of the three-day workshop and are inclusive of the community feedback received along with the preliminary engineering analysis that was used to determine the proper roadway geometry for each concept.

The third drawing was rendered in Adobe Illustrator to generate the oblique perspective of the roundabout. This visualization was developed to communicate the size of the roundabout within the context of the adjacent environment. Also, numerous community design features have been added to this concept and the rendering offers the flexibility to zoom in to specific areas, as provided in the previous pages of this report.

These illustrations are not intended to be actual designs of the roundabout, but serve to communicate the relationship of the transportation improvement to the surrounding environment. The roundabout concept was received very favorable by the public as well as project stakeholders, and the additional visualizations were created to offer a clearer picture of how the improvement will look when constructed. A traffic simulation of the proposed roundabout compared to the existing intersection was also developed and can be accessed at <http://www.youtube.com/watch?v=YX2bcQuelWc>.



Figure 3: Pen and ink 'birds-eye' view of the compact signalized intersection



Figure 4: Pen and ink 'birds-eye' view of the roundabout

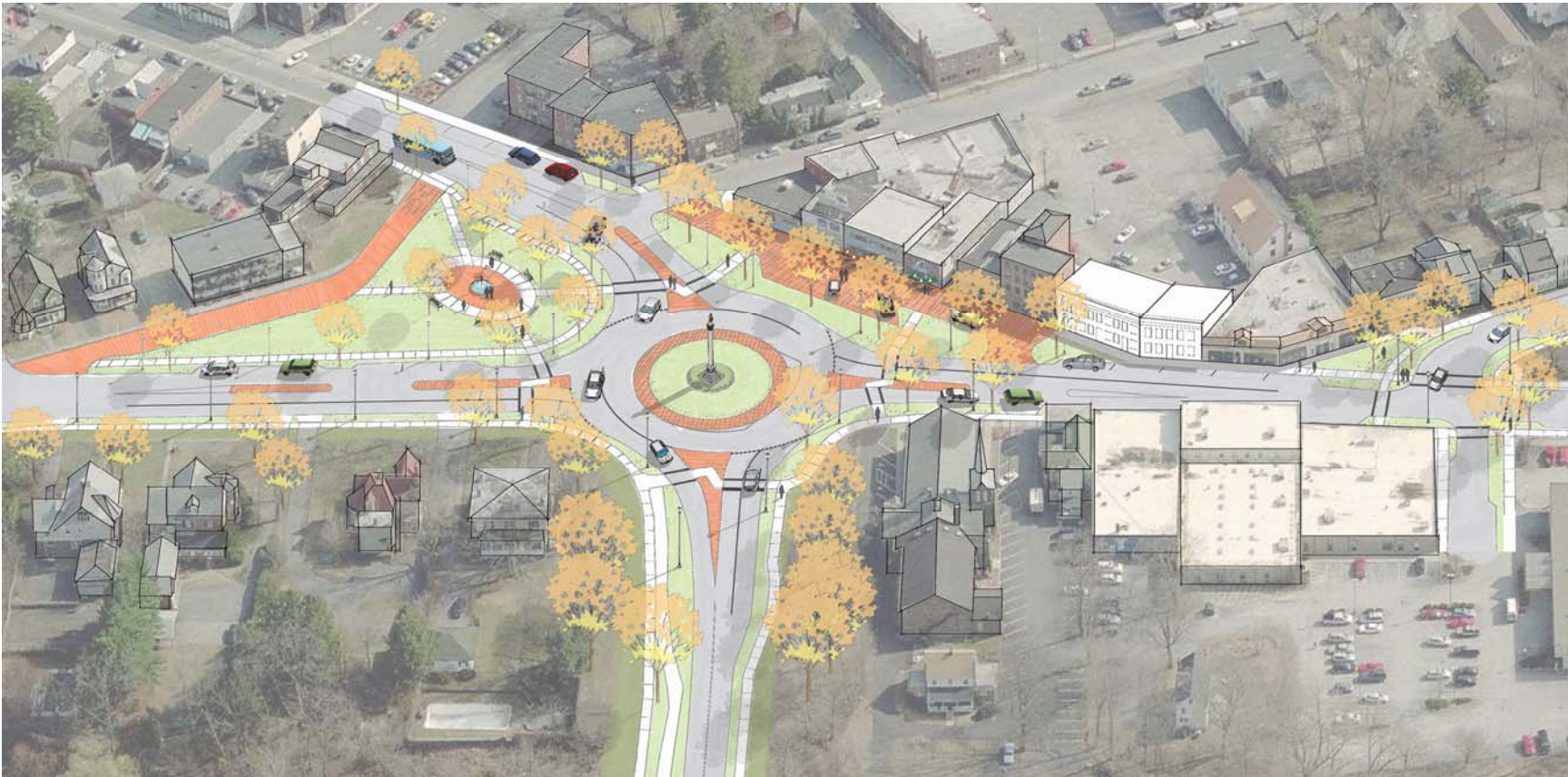


Figure 5: Oblique view of the roundabout looking south from I-587



Compact Signalized Alternative

Conceptual Cost Estimates

The estimated construction cost for the Compact Signalized Intersection alternative is \$5,200,000 and \$4,525,000 for the Roundabout (Option 2 in the preceding text). The estimates assume new full depth asphalt pavement, new concrete curb and new concrete sidewalks throughout the limits of work. They also assume a new storm-water drainage systems consisting of new catch basins, manholes and storm sewer. New signage is included in the estimates. The estimates also include provisions for turf establishment as well as new plantings. New street lighting is also included in the estimates for both alternatives. The estimate for Alternative 2 also includes the cost of a new traffic signal at the intersection.

The estimated construction cost for the improvements to Albany Avenue, as shown in the table on the right, is \$640,000. It assumes new full depth asphalt pavement for the Governor Clinton building driveway relocated from Albany Avenue to Clinton Avenue. No other paving work is included. New concrete curb and new concrete sidewalks were assumed only along the intersection curb "bump-outs" and at the new median at the easternmost crosswalk on Albany Avenue. The estimate includes a provision for minor new storm-water drainage installations consisting of new catch basins, manholes and storm sewer only where water might be trapped as a result of the proposed "bumpouts". It is assumed that any new installations can be tied into the existing system with minimal work. Minimal new signage is included in the estimate. The estimate also includes provisions for turf establishment as well as minimal new plantings. The cost of a new pedestrian crossing signal is included in the estimate; however, no new street lighting is provided in the estimate.

Pavement	\$ 1,500,000
Drainage	\$ 1,200,000
Curbs & Sidewalks	\$ 725,000
Street Lighting	\$ 500,000
Grass & Landscaping	\$ 75,000
Maintenance & Protection of Traffic	\$ 150,000
Traffic Signal	\$ 100,000
Contingencies (+/- 20%)	\$ 950,000
	<u>\$ 5,200,000</u>

Roundabout Alternative 2

Pavement	\$ 1,400,000
Drainage	\$ 1,000,000
Curbs & Sidewalks	\$ 600,000
Street Lighting	\$ 500,000
Grass & Landscaping	\$ 125,000
Maintenance & Protection of Traffic	\$ 150,000
Traffic Signal	\$ -
Contingencies (+/- 20%)	\$ 750,000
	<u>\$ 4,525,000</u>

Albany Avenue Improvements

Pavement	\$ 15,000
Drainage	\$ 250,000
Curbs & Sidewalks	\$ 110,000
Street Lighting	\$ -
Grass & Landscaping	\$ 30,000
Maintenance & Protection of Traffic	\$ 15,000
Traffic Signal	\$ 100,000
Contingencies (+/- 20%)	\$ 120,000
	<u>\$ 640,000</u>

RESOLUTION #103 of 2012

SUPPORTING THE RECOMMENDATIONS OF THE I-587/ALBANY AVE./BROADWAY INTERSECTION STUDY COMPLETED BY THE ULSTER COUNTY TRANSPORTATION COUNCIL AND URGING THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION TO BEGIN DESIGN OF AND IMPROVEMENTS TO THE INTERSECTION AS SOON AS POSSIBLE

WHEREAS, the City of Kingston, the Ulster County Transportation Council and New York State Department of Transportation-Region 8 worked cooperatively over a two year period to analyze alternatives for the intersection of I-587/Albany Avenue/Broadway that included present and future transportation and land use issues in the area around the I-587/Albany Ave./Broadway Intersection in a manner that would consider transportation improvements that preserve and enhance the economic potential and quality of life in the area; and

WHEREAS, the Project Discovery Memorandum, that explored existing conditions, and the Conceptual Design Report recommendations were developed through an extensive public participation process that included surveys, public meetings, stakeholder interviews, and a three day design charrette, whereby the Advisory Committee reached a consensus on a preferred alternative for improvements to the intersection; and

WHEREAS, the Advisory Committee included representatives from the City, stakeholders in the area, UCTC staff and NYSDOT; and

WHEREAS, the recommendations in the Conceptual Design Report not only address improvements directly related to the intersection but also provide additional considerations associated with Albany Avenue and an overview of potential future expansion of the street network in the Uptown area to promote redevelopment and improve traffic flow; and

WHEREAS, the recommendations and associated projects address capacity, safety, and quality of life for all modes of transportation including highway, transit, bicycle and pedestrian; and

WHEREAS, the City will examine its Capital Program, and other funding sources, coordinate with the Ulster County Transportation Council, and address items in its comprehensive plan and zoning statute to help ensure that the recommendations of the Study can be implemented:

NOW, THEREFORE, BE IT RESOLVED, that the City of Kingston supports the recommendations in the Conceptual Design Report for the improvements to the I-587/Albany/Broadway Intersection Study and urges the New York State Department of Transportation and the Ulster County Transportation Council to begin the design and construction process of the intersection improvements as soon as possible and no later than currently scheduled on the UCTC Adopted 2011-2015 Transportation Improvement Program; and

FURTHER RESOLVED, that the City of Kingston will form an I-587 Implementation Committee with stakeholders, residents, and elected officials to work with NYSDOT during the design process to ensure that the issues of special concern to the City are addressed in a timely and coordinated fashion, and

FURTHER RESOLVED that the City will consider other recommendations in the Study within its comprehensive plan, land use controls and capital programming functions.

Submitted to the Mayor this 2nd

day of May, 2012


CARLY WILLIAMS, CITY CLERK

Approved by the Mayor this 2nd

day of May, 2012


SHAYNE R. GALLO, MAYOR

Adopted by Council on May 1, 2012

Kerri Culhane
Architectural Historian & Planner
107 N River Road
Fort Miller, New York 12828
culhaneblack@gmail.com
646/737-3390

November 4, 2021

Mark Grunblatt, Chairman
Historic Landmarks Preservation Commission

Hayes Clement, Chairman
Heritage Area Commission

Andrea Shaut, Alderwoman at Large
Common Council
City of Kingston

420 Broadway
Kingston, NY 12534

By email: commoncouncil@kingston-ny.gov

Re: The Kingstonian, 9-17 & 21 N. Front Street and Fair Street Extension

To the Kingston Historic Landmarks Preservation Commission, Heritage Area Commission and
Members of the Common Council:

I am writing in connection with your consideration of applications for the Kingstonian Project, including a Notice of Preservation and the discontinuance of Fair Street Extension. As set forth in more detail below, the project in its current iteration will have a significant, permanent and irreversible adverse impact on the Kingston Stockade Historic District (“KSHD”) and I urge you not to approve it.

The proposed Kingstonian project lies within the boundaries of the KSHD, a State and National Register-listed historic district encompassing one of the earliest Dutch Colonial settlements in New York, a site chosen by the Dutch settlers for its specific topography. The KSHD’s National Register nomination form notes it as a significant “historical, architectural and archaeological area in New York State,” with a period of significance that extends from the 17th century to the mid-20th century. The Kingstonian would also fall within the boundaries of the locally designated landmark Stockade (Area) District. These two districts are nearly coterminous.

To be clear, the Kingstonian is not adjacent to these historic districts, but within them, posing a great risk of adverse impacts to historic resources. Of the four New York State criteria for determining impact (9 NYCRR 428.7, Assessment of Impact), the Kingstonian project meets three of the four criteria for adverse impact:

- (1) destruction or alteration of all or part of the property;
- (2) isolation or alteration of the property's environment; and
- (3) introduction of visual, audible or atmospheric elements which are out of character with the property or alter its setting.

The only criteria not met was that of demolition by neglect.

On September 19, 2019, Weston Davey, Historic Site Restoration Coordinator of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), determined that the proposed Kingstonian development would have an adverse impact upon the KSHD (Davey to Bonura, September 19, 2019). Among the adverse impacts cited by Davey were:

- The destruction of “the natural contour [that] **clearly** marks the northern boundary of the 1658 stockade”. (emphasis mine)
- Large-scale development beyond the boundaries of the district, thereby impacting its setting and sense of place.
- The elimination of a section of Fair Street Extension north of North Front Street, thereby altering the historic street pattern.
- The monolithic nature and character of the proposed development, in contrast to the scale and material variety of the historic district.

On February 14, 2020, in a letter to Meghan Ferrelli of Empire State Development, John Bonafide, Director of the Technical Preservation Services Bureau and Agency Historic Preservation Officer for OPRHP, only acknowledged the agency’s previous findings of “scale, parking entry (not noted in the original finding of adverse impact), hotel reconstruction and loss of the Fair Street Extension” as having potentially adverse impacts on the KSHD. Approving the project, the OPRHP offered to advise on the content for the developer’s proposed kiosk to interpret local history and advertise local businesses, rather than advocating for the actual historic fabric at risk of loss.

The Closure of the Fair Street Extension & Traffic Impacts on Clinton Avenue HD

In 2019, Weston Davey of the OPRHP rightly called out the adverse impact the alteration of the historic street pattern would have on the KSHD, which was affirmed by John Bonafide in 2020. Not addressed by OPRHP, however, was the traffic study indicating a massive increase in traffic on Clinton Avenue, Kingston's first National Register Historic District. The closure of Fair Street Extension, therefore, will have an adverse impact on the Clinton Avenue National Register Historic District, where traffic is anticipated to back up along the street in a nearly four-fold increase (33.6 in a no build/existing scenario to 119 in a build scenario; “Traffic Impact Study: The Kingstonian”, Creighton Manning for the City of Kingston Planning Board, July 23, 2019, p.30), by far the highest increase anywhere in the study.

Loss of Significant Landscape Features

Omitted from the February 14, 2020 letter is undoubtedly the most significant and unmitigable adverse impact on the KSHD, one previously acknowledged by the NYSOPRHP: The obliteration of the clearly legible northern stockade boundary dating to 1658, a defining feature of the eponymous Stockade District. A plaza on a pedestrianized Fair Street Extension, with a kiosk about local history, has been accepted by OPRHP as a concession for the loss of a nearly four-century-old historic feature (the stockade); and an over 150-year old street pattern. However, your Boards are not bound by OPRHP's concession and can require more, even denying the project altogether.

At the time the KSHD designation was made in 1975, the concept of the landscape as contributing to the significance of a historic district or resource was rarely explored. Within the past three decades, "the Cultural Landscape" has become a central concept in our understanding and documentation of historic places. Particularly in a district such as KSHD, which was chosen by 17th century Dutch settlers specifically for its location along and above the creek, a National Register nomination today would ascribe contributing resource status to this landform as a cultural and/or natural landscape. The Kingstonian's proposed destruction of the landscape sloping to the Esopus Creek would result in the loss of a poorly documented but widely understood and experienced feature of the district.

Public comments have also noted that the Kingstonian would result in the loss of the view from the KSHD toward the Catskills Mountains, which it can be argued is a significant but undocumented borrowed landscape feature of the KSHD that contributes to the feeling and sense of place that characterize the historic district.


Summary of Adverse Impacts

In summary, a number of potential adverse impacts to the KSHD have been documented by citizens and other stakeholders and acknowledged by the OPRHP, yet dismissed by the Kingston Planning Board. These include but are not limited to:

- The loss of the historic street pattern by the closure of Fair Street Extension, which not only alters the look, feeling and function of the KSHD, but it would nearly quadruple the amount of traffic on Clinton Avenue, Kingston's first National Register Historic District. Significant delays within the Clinton Avenue Historic District caused by backed up traffic are acknowledged in the report (Traffic Impact Study, p. 30),
- The loss of the Stockade-related landscape features above the creek, destroying an invaluable connection to New York's early Dutch history, as well as potential pre-historic sites along the Esopus.
- A bulky and dense new development that would adversely visually impact the approach to the KSHD as well as the experience from within the KSHD, including that crucial borrowed landscape view that connects Kingston to its Catskills context.

New development should respect its context, particularly in a uniquely significant place like the KSHD. The approval of the Kingstonian project would diminish 400 years of history in favor of an incompatible development out of scale and context with what came before. This is not an anti-development statement, it is an anti-incompatible development statement. The Kingstonian is not designed to fit seamlessly into the historic district, but rather to overwhelm it. Your Boards have an opportunity to avoid these devastating impacts.

Thank you for your careful consideration of this irreversible decision.

A handwritten signature in black ink, consisting of a vertical line on the left, a horizontal line extending to the right, and a loop on the left side that overlaps the vertical line.

Kerri Culhane, MA, MS
Architectural Historian & Planner

cc: Suzanne Cahill, Planning Director <scahill@kingston-ny.gov>