

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

THE LANDMARKS SOCIETY OF GREATER UTICA,
JOSEPH BOTTINI, #NOHOSPITALDOWNTOWN, BRETT
B. TRUETT, JAMES BROCK, JR., FRANK MONTECALVO,
JOSEPH CERINI, AND O'BRIEN PLUMBING & HEATING
SUPPLY, a division of ROME PLUMBING AND HEATING
SUPPLY CO. INC.,

Petitioners-Plaintiffs

For a Judgment pursuant to Article 78 and Section 3001 of the
Civil Practice Laws and Rules,

against-

PLANNING BOARD OF THE CITY OF UTICA, NEW YORK
STATE OFFICE OF PARKS, RECREATION AND
HISTORIC PRESERVATION, ERIK KULLESEID, ACTING
COMMISSIONER, DORMITORY AUTHORITY OF THE
STATE OF NEW YORK AND MOHAWK VALLEY
HEALTH SYSTEM,

Respondents-Defendants.

**VERIFIED ANSWER TO
AMENDED VERIFIED
PETITION AND COMPLAINT**

Index No. 02797-19

Assigned Judge:
Hon. Michael Mackey, J.S.C.

Respondent-Defendant, Planning Board of the City of Utica ("Respondent" or "City" or "Planning Board"), by and through its Attorney Kathryn F. Hartnett, Esq., Assistant Corporation Counsel, as and for its Verified Answer herein, responds to the allegations in the Amended Verified Petition and Complaint, dated November 4, 2019 (the "Petition"), upon information and belief, as follows:

NATURE OF THE PROCEEDING

1. City neither admits nor denies the allegations contained in paragraph 1 of the Petition, and further states that the allegations set forth the nature of the proceeding, but to the extent that paragraph 1 is construed to contain allegations of fact, denies the allegations in

paragraph 1 of the Petition; specifically denies that the project site is 34 acres; and further denies any inference of illegality.

2. City neither admits nor denies the allegations contained in paragraph 2 of the Petition, and further states that the allegations set forth the nature of the proceeding and the relief requested in the Petition, but to the extent that paragraph 2 is construed to contain allegations of fact, denies the allegations in paragraph 2 of the Petition; and further denies any inference of illegality.

3. With respect to the allegations set forth in paragraph 3 of the Petition, City admits only that the Dormitory Authority of the State of New York ("DASNY") and the Office of Parks, Recreation and Historic Preservation ("OPRHP") entered into a Letter of Resolution ("LOR") together with MVHS; denies the remainder of the allegations and respectfully refers the court to the LOR which speaks for itself.

4. With respect to the allegations contained in paragraph 4 of the Petition denies that the Respondent-Defendant Planning Board of the City of Utica, as lead agency under SEQRA, also has signed off on the Project; and only admits that the Planning Board accepted the Final Environmental Impact Statement, dated March 21, 2019 ("FEIS"), and issued its SEQRA Findings Statement on or about April 18, 2019 ("Findings Statement"); but denies any inference of illegality and further states that these steps were not a final agency action because the Planning Board had an additional project approval to issue.

5. City denies the allegations set forth in paragraph 5 of the Petition and states in the affirmative that the Planning Board took a hard look at all the environmental impacts as demonstrated by the 5700+ page EIS record submitted to the court.

6. City denies the allegations set forth in paragraph 6 of the Petition, specifically

denies that issuance of the FEIS and Findings Statement constituted project "approval," and states in the affirmative that Petitioners mischaracterize the nature of the "historic impacts" to the area.

PARTIES

7. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Petition.

8. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Petition.

9. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Petition.

10. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Petition.

11. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Petition.

12. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Petition.

13. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Petition.

14. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Petition.

15. City admits that Respondent Planning Board is an administrative board of the City of Utica with an office/address of 1 Kennedy Plaza, Utica, New York 13502.

16. City denies knowledge or information sufficient to form a belief as to the truth of

the allegations in paragraph 16 of the Petition.

17. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Petition.

18. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Petition.

19. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19 of the Petition.

JURISDICTION AND VENUE

20. City denies the allegations set forth in paragraph 20 of the Petition.

21. City denies the allegations set forth in paragraph 21 of the Petition and specifically denies that venue is proper under CPLR § § 503, 505(a), 506 (b) and/or 509 because the City of Utica is a City of the Second Class.

FACTUAL BACKGROUND

22. City denies the allegations set forth in paragraph 22 of the Petition and respectfully refers the Court to Response 32 in the FEIS.

23. With respect to the allegations in paragraph 23 of the Petition, City admits that the Project is a nine-story, 165-foot hospital building (with associated uses, including parking facilities) that will require certain street closures, but denies the remainder of the allegations in their entirety.

24. With respect to the allegations set forth in paragraph 24 of the Petition, and upon information and belief, admits MVHS owns or controls all of the properties located within the footprint of the hospital building, specifically denies the allegation eminent domain "will" be used to acquire other properties as wholly speculative; and denies knowledge or information sufficient

to form a belief as to the truth of the remaining allegations in paragraph 24 of the Petition.

25. With respect to the allegations in paragraph 25 of the Petition, City admits that the Project is a public benefit project, further admits, upon information and belief, that MVHS indicated that the use of eminent domain by certain municipal entities could be an option used to acquire the properties that MVHS could not acquire voluntarily; but specifically denies that Planning Board has asserted that the properties will be acquired by eminent domain, and denies the remainder of the allegations and denies any inference of illegality; and respectfully refers the court to the referenced documents which speak for themselves.

26. With respect to the allegations set forth in paragraph 26 of the Petition, City states that MVHS owns or controls all of the properties located within the footprint of the hospital building, further states that the properties that are not yet owned or controlled by MVHS are needed for other parts of the project such as parking and medical offices; but denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations and further denies any inference of illegality.

27. City admits the allegations set forth in paragraph 27 of the Petition and denies any inference of illegality.

28. With respect to the allegations set forth in paragraph 28 of the Petition, City denies any inference of illegality; and respectfully refers the Court to the site selection analysis which is included in the DEIS.

29. With respect to the allegations set forth in paragraph 29 of the Petition, City, upon information and belief, states that St. Luke's was analyzed together with a number of other sites in the site selection analysis; denies the remainder of the allegations, denies any inference of illegality; and respectfully refers the Court to the site selection analysis which is included in the

DEIS.

30. With respect to the allegations set forth in paragraph 30 of the Petition, City, upon information and belief, states that St. Luke's was analyzed together with a number of other sites in the site selection analysis; further states that the Oneida County Health Care Transformation Program, Public Health Law § 2825-b provided for up to \$300 million in grant monies for an integrated health care facility located in the "largest population center in Oneida County;" denies the remainder of the allegations, denies any inference of illegality; and respectfully refers the Court to the site selection analysis which is included in the DEIS and to the Public Health Law, which speaks for themselves.

31. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the Petition.

32. With respect to the allegations set forth in paragraph 32 of the Petition, City states that St. Luke's was analyzed together with a number of other sites in the site selection analysis; denies the remainder of the allegations, denies any inference of illegality; and respectfully refers the Court to the site selection analysis which is included in the DEIS and to the DEIS itself, which speak for themselves.

33. With respect to the allegations set forth in paragraph 33 of the Petition, City, upon information and belief, states that in September of 2016, MVHS announced its selection of the Downtown Site as the preferred alternative for the Project; but denies the remainder of the allegations, and further denies any inference of illegality.

34. City, upon information and belief, admits the allegations set forth in paragraph 34 of the Petition; but denies any inference of illegality.

35. City admits the allegations set forth in paragraph 35 of the Petition; but denies any

inference of illegality.

36. City admits the allegations set forth in paragraph 36 of the Petition; but denies any inference of illegality.

37. City admits the allegations set forth in paragraph 37 of the Petition; but denies any inference of illegality.

38. City denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 of the Petition.

39. With respect to the allegations set forth in paragraph 39 of the Petition, City states that by letter dated June 18, 2018, OPRHP identified certain potential impacts with respect to historic resources; but denies the remainder of the allegations, and further denies any inference of illegality; and respectfully refers the court to the letter from OPRHP which speaks for itself.

40. With respect to the allegations set forth in paragraph 40 of the Petition, City states that by letter dated June 18, 2018, OPRHP identified certain potential impacts with respect to historic resources; but denies the remainder of the allegations, and further denies any inference of illegality; and respectfully refers the court to the letter from OPRHP and the DEIS which speak for themselves.

41. With respect to the allegations set forth in paragraph 41 of the Petition, City, upon information and belief, states that by letter dated August 16, 2018, MVHS's consultant responded to OPRHP; but denies the remainder of the allegations, and further denies any inference of illegality; and respectfully refers the court to the letter from MVHS which speaks for itself.

42. With respect to the allegations set forth in paragraph 42 of the Petition, City, upon information and belief, states that by letter dated August 16, 2018, MVHS's consultant responded to OPRHP; but denies the remainder of the allegations, and further denies any inference of

illegality; and respectfully refers the court to the letter from MVHS and to the DEIS which speak for themselves.

43. City denies the allegations set forth in paragraph 43 of the Petition, and specifically denies that EDPL § 404 was applicable as alleged by Petitioners.

44. City denies the allegations set forth in paragraph 44 of the Petition, and specifically denies that EDPL § 404 was applicable as alleged by Petitioners.

45. With respect to the allegations in paragraph 45, City states that in January 2019, the parties executed the LOR; but denies the remainder of the allegations, and further denies any inference of illegality; and respectfully refers the court to the letter from MVHS and to the DEIS which speak for themselves.

46. City denies the allegations set forth in paragraph 46 of the Petition and respectfully refers the court to the LOR which speaks for itself.

47. City denies the allegations set forth in paragraph 47 of the Petition and respectfully refers the court to the FEIS and the LOR which speak for themselves.

48. City denies the allegations set forth in paragraph 48 of the Petition and respectfully refers the court to the LOR, the FEIS and the Findings Statement, which speak for themselves.

49. With respect to the allegations set forth in paragraph 49 of the Petition, City states that the public raised questions about alternative sites; but denies the remainder of the allegations and denies any inference of illegality.

50. City denies the allegations in paragraph 50 of the Petition; and respectfully refers the court to the Siting Memo and the DEIS which speak for themselves.

51. City denies the allegations in paragraph 51 of the Petition; states that the public comments are not determinative pursuant to SEQRA, that comments were addressed in the FEIS, and respectfully refers the court to the Siting Memo and the FEIS which speak for themselves

52. City denies the allegations in paragraph 52 of the Petition.

53. City denies the allegations in paragraph 53 of the Petition.

54. With respect to the allegations set forth in paragraph 54 of the Petition, City states that the Oneida County Health Care Transformation Law requires that a new hospital be sited in the "largest population center of Oneida County," which according to the latest census data is the City of Utica, denies the remainder of the allegation and respectfully refers the court to the text of the Law which speaks for itself.

55. City denies the allegations set forth in paragraph 55 of the Petition.

56. City denies the allegations set forth in paragraph 56 of the Petition and respectfully refers the Court to the DEIS which speaks for itself.

57. City denies that that the downtown site is "not within the largest population center"; and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 57 of the Petition.

58. City denies the allegations set forth in paragraph 58 of the Petition.

59. City denies the allegations set forth in paragraph 59 of the Petition.

60. City denies the allegations set forth in paragraph 60 of the Petition.

61. City denies the allegations set forth in paragraph 61 of the Petition.

62. City denies the allegations set forth in paragraph 62 of the Petition.

63. City denies the allegations set forth in paragraph 63 of the Petition.

64. City denies the allegations set forth in paragraph 64 of the Petition.

65. City denies the allegations set forth in paragraph 65 of the Petition.

66. City denies the allegations set forth in paragraph 66 of the Petition.

67. With respect to the allegations set forth in paragraph 67 of the Petition, City, upon information and belief, states that MVHS owns or controls all of the properties located within the footprint of the hospital building, further states that the properties that are not yet owned or controlled by MVHS are needed for other parts of the project such as parking and medical offices; states that MVHS does *not* have authority to condemn and no municipal entity with such authority has commenced eminent domain proceedings in accordance with the process provided by the EDPL; and denies the remainder of the allegations.

68. City denies the allegations set forth in paragraph 68 of the Petition.

69. City denies the allegations set forth in paragraph 69 of the Petition..

70. City denies the allegations set forth in paragraph 70 of the Petition.

**AS AND FOR A FIRST CLAIM FOR RELIEF —
A DECLARATION THAT THE LOR IS INVALID BECAUSE
IT IS INCONSISTENT WITH PRHPL 14.09 AND 9 NYCRR § 428.10**

71- 88. [The first claim was dismissed by the Court.]

**AS AND FOR A SECOND CLAIM FOR RELIEF —
A DETERMINATION THAT THE LOR IS IRRATIONAL
BECAUSE IT IS BASED ON A LEGALLY INACCURATE PREMISE**

89 - 95. [The second claim was dismissed by the Court.]

**AS AND FOR A THIRD CLAIM FOR RELIEF —
A DETERMINATION THAT THE FEIS IS FATALLY DEFECTIVE BECAUSE IT
DEFERS ASSESSING ARCHEOLOGICAL/HISTORIC IMPACTS AND
DEVELOPING MITIGATION PLANS UNTIL AFTER CONCLUSION OF THE
SEQRA PROCESS**

96. City repeats and realleges each and every response set forth in ¶¶ 1 through 95 as if fully set forth herein.

97. City denies the allegations set forth in paragraph 97 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

98. City denies the allegations set forth in paragraph 98 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

99. City denies the allegations set forth in paragraph 99 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

100. City denies the allegations set forth in paragraph 100 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

101. City denies the allegations set forth in paragraph 101 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

102. City denies the allegations set forth in paragraph 102 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

103. City denies the allegations set forth in paragraph 103 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

104. City denies the allegations set forth in paragraph 104 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

105. City denies the allegations set forth in paragraph 105 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

**AS AND FOR A FOURTH CLAIM FOR RELIEF —
A DETERMINATION THAT THE FEIS IS FATALLY DEFECTIVE
BECAUSE IT FAILS TO ADEQUATELY CONSIDER CUMULATIVE IMPACTS**

106. City repeats and realleges each and every response in ¶¶ 1 through 105 as if fully set forth herein.

107. City denies the allegations set forth in paragraph 107 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

108. With respect to the allegations set forth in paragraph 108 of the Petition, City states that Section 1.5 of the Final Scoping Document addresses the assessment of Cumulative Impacts with respect to the Project; and further states that Section 1.5 identified certain projects that would potentially be occurring within or proximal to the project area and within a similar timeframe as the Project; and further states that Expansion of the Utica Memorial Auditorium, including the proposed NEXUS center is one of those projects; and further states that traffic and utility infrastructure are two of the cumulative impacts that would be assessed; denies the remainder of the allegations; denies any inference of illegality and refers the Court to the Final Scoping Document.

109. City denies the allegations set forth in paragraph 109 of the Petition and respectfully refers the Court to the FEIS which speaks for itself.

110. City denies the allegations set forth in paragraph 110 of the Petition and respectfully refers the Court to the FEIS which speaks for itself

111. With respect to the allegations set forth in paragraph 111 of the Petition, City states that the goals and objectives of the Applicant (MVHS) includes “providing one integrated location for acute care with greater access to residents of the City of Utica, Oneida County and the region, particularly those populations of refugees and low-income individuals; to improve operational efficiency, patient satisfaction, and safety for both patients and caregivers; attracting new and younger providers; and to act as a catalyst for economic growth in downtown Utica in

compliance with the Oneida County Health Care Facility Transformation Program Law;” denies any inference of illegality and denies the remaining allegations. See, FEIS, Section 3.3, Responses 26.

112. City denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 112 and further denies any inference of illegality.

113. With respect to the allegations set forth in paragraph 113 of the Petition, City states that the proposed Nexus Center is located within close proximity to the Project; further states that the FEIS evaluated cumulative impacts to infrastructure and traffic; further denies any inference of illegality and further denies the remaining allegations.

114. City denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 114 and further denies any inference of illegality.

115. City admits there is a Downtown Revitalization Initiative Submission dated May 2016, denies the remaining allegations in paragraph 115, and further denies any inference of illegality.

116. With respect to the allegations set forth in paragraph 116 of the Petition, City states as follows: the Final Scoping Document addresses the assessment of Cumulative Impacts with respect to the Project; and further states that Section 1.5 of the Final Scoping Document identified certain projects that would potentially be occurring within or proximal to the project area and within a similar timeframe as the Project; and further states that Expansion of the Utica Memorial Auditorium, including the proposed NEXUS center is one of those projects; and further states that traffic and utility infrastructure are two of the cumulative impacts that would be assessed; further states that those cumulative impacts were adequately assessed in the FEIS; denies the remainder of the allegations; denies any inference of illegality and refers the Court to

the Final Scoping Document; and further denies any inference of illegality and denies the remaining allegations.

117. City admits the allegations set forth in paragraph 117 of the Petition, but denies any inference of illegality.

118. City admits the allegations set forth in paragraph 118 of the Petition, but denies any inference of illegality.

119. With respect to the allegations in paragraph 119 of the Petition, City states that expert opinion, corroborated by the Department of Transportation supports the statement that typical commuter peak periods will not be impacted; denies any inference of illegality; and further states that Petitioners offered no expert studies to the contrary.

120. With respect to the allegations in paragraph 120 of the Petition, City states that traffic generated from special events associated with the Nexus Center was considered by traffic experts and by the Department of Transportation; further states that Petitioners offer no expert opinion to the contrary; denies any inference of illegality and denies the remainder of the allegations.

121. With respect to the allegations in paragraph 121 of the Petition, City states that traffic generated from special events associated with the Nexus Center was considered by traffic experts and by the Department of Transportation; further states that Petitioners offer no expert opinion to the contrary; denies any inference of illegality and denies the remainder of the allegations.

122. With respect to the allegations in paragraph 122 of the Petition, City states that traffic generated from special events associated with the Nexus Center was considered by traffic experts and by the Department of Transportation; further states that Petitioners offer no expert

opinion to the contrary; denies any inference of illegality and denies the remainder of the allegations.

123. City denies the allegations set forth in paragraph 123 of the Petition.

**AS AND FOR A FIFTH CLAIM FOR RELIEF —
A DETERMINATION THAT THE FEIS IS FATALLY DEFECTIVE BECAUSE
IT FAILS TO EVALUATE VIABLE ALTERNATIVES IN SUFFICIENT DETAIL**

124. City repeats and realleges each and every response in ¶¶ 1 through 123 as if fully set forth herein.

125. City denies the allegations set forth in paragraph 125 of the Petition.

126. City denies the allegations set forth in paragraph 126 of the Petition.

127. City denies the allegations set forth in paragraph 127 of the Petition.

128. City denies the allegations set forth in paragraph 128 of the Petition.

129. With respect to the allegations in paragraph 129 of the Petition, City states that Public Health Law § 2825-b requires that the Project be “located in the largest population center in Oneida county,” which according to the most recent census data is the City of Utica; denies the remaining allegations and refers the Court to the text of the Public Health Law which speaks for itself.

130. With respect to the allegations set forth in paragraph 130 of the Petition, City denies knowledge or information sufficient to form a belief as to the truth of “Demographics analyses demonstrate that St. Luke's is in a greater population center than is the Downtown Site relative to Oneida County, the 3-County Region (Oneida, Herkimer, Madison) (denominated by MVHS as its service area), and the geometric (triangulated) population center of the population

centers of the City of Utica, Oneida County, and the 3-County Region. *See generally*, Minicozzi Affidavit & Exhibits thereto;” and further denies any inference of illegality.

131. City denies the allegations set forth in paragraph 131 of the Petition.

132. With respect to the allegations set forth in paragraph 132 of the Petition, City states that page 27 of the DEIS reads as follows: “However, the Level 2 analysis did not weight any of the criteria and sub-criteria based on the Oneida County Health Care Facility Transformation Program found in Section 2825 of the New York State Public Health Law. Rather, all Level 2 sites were deemed equal with regard to their status in terms of the legislation”; further states that all sites were treated equally; denies any inference of illegality, and denies any remaining factual allegations or implications.

133. City denies knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 133 of the Petition.

134. City denies the allegations set forth in paragraph 134 of the Petition.

135. City denies the allegations set forth in paragraph 135 of the Petition.

136. City denies the allegations set forth in paragraph 136 of the Petition.

137. City denies the allegations set forth in paragraph 137 of the Petition.

138. City denies the allegations set forth in paragraph 138 of the Petition.

139. City denies the allegations set forth in paragraph 139 of the Petition.

140. With respect to the allegations set forth in paragraph 140 of the Petition, City states that the FEIS identifies the economic revitalization of downtown Utica as a benefit of siting the Project in downtown Utica; denies any inference of illegality; and denies the remainder of the allegations.

141. City denies the allegations set forth in paragraph 141 of the Petition.

142. City denies the allegations set forth in paragraph 142 of the Petition.
143. City denies the allegations set forth in paragraph 143 of the Petition.
144. City denies the allegations set forth in paragraph 144 of the Petition.

**AS AND FOR A SIXTH CLAIM FOR RELIEF —
A DETERMINATION THAT THE PLANNING BOARD DECISION APPROVING
PART OF THE PROJECT AND ALL SUBSEQUENT APPROVALS ISSUED FOR THE
PROJECT ARE FATALLY DEFECTIVE DUE TO RELIANCE ON AN INVALID LOR
AND INCOMPLETE, DEFECTIVE FEIS**

145-149. [The sixth claim was dismissed by the Court.]

AS AND FOR A FIRST OBJECTION IN POINT OF LAW

150. Venue is not proper in Albany County.

AS AND FOR A SECOND OBJECTION IN POINT OF LAW

151. The remaining claims are time barred.

AS AND FOR A THIRD OBJECTION IN POINT OF LAW

152. The remaining claims are not ripe for judicial review.

AS AND FOR A FOURTH OBJECTION IN POINT OF LAW

153. The remaining claims are moot.

AS AND FOR A FIFTH OBJECTION IN POINT OF LAW

154. Petitioners have failed to state a claim upon which relief can be granted.

AS AND FOR A SIXTH OBJECTION IN POINT OF LAW

150. Petitioners have failed to name Oneida County as a necessary party.

WHEREFORE, the Planning Board of the City of Utica respectfully requests that this Court issue a Judgment and/or Order:

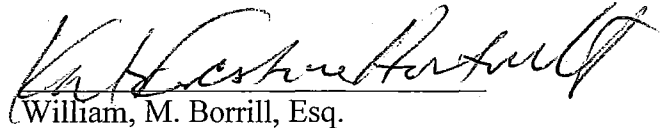
1. Dismissing the Petition in its entirety;
2. For costs, expenses and fees, including attorneys' fees pursuant to CPLR §8601;

and

3. For such other and further relief as this Court may deem just and proper.

Dated: February 14th, 2020

OFFICE OF THE CORPORATION COUNSEL



William, M. Borrill, Esq.

Corporation Counsel

By: Kathryn F. Hartnett, Esq.

Attorneys for Respondent-Defendant

Planning Board of the City of Utica

City of Utica

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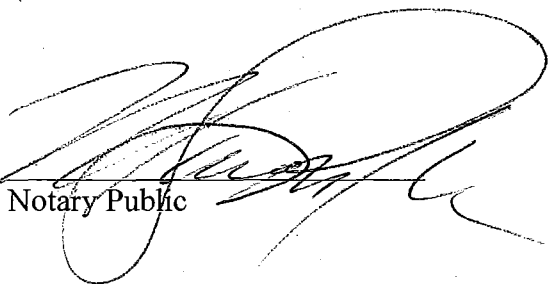
VERIFICATION

Kathryn F. Hartnett Esq., being duly sworn, deposes and says:

Deponent is an Assistant Corporation Counsel for the City of Utica, New York, a Respondent in the within action; deponent has read the foregoing Verified Answer and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.


Kathryn F. Hartnett, Esq.

Sworn to before me this
14th day of February, 2020.


Notary Public

MERIMA SMAJIC
Notary Public in the State of New York
Qualified in Oneida County 02SM6298695
My Commission Expires Mar. 17, 20 22