
South Allen Street development project

Laura Cohen <lcohen100@gmail.com>

Fri, Jun 20, 2014 at 12:01 PM

To: Pat Fahy <fahyp@assembly.state.ny.us>

Cc: sweeney@assembly.state.ny.us, brent@steelwill.com, diana@steelwill.com, Barry Koblenz <zod111@yahoo.com>, Joyce and Wayne Harbinger <jharbinger@hotmail.com>, Julie Elson <jelson510@earthlink.net>, Kerri McCann <KerriMcCann@me.com>, mark larose <mlarose165@icloud.com>, Matt McCann <matthew.mccann.mil@mail.mil>, Norm Gates <ngates@nycap.rr.com>, "Seth D. Rosenblum" <seth@sethrosenblum.com>

Dear Pat,

Thank you very much for your informative response. As I continue to gather information about the South Allen Street development, I gain a fuller understanding of the situation. Your message has been helpful. I feel compelled to reply because there are several statements in Patrick Jordan's message that raise questions.

1. Mr. Jordan states that the property owners within 200 feet of the proposed development were notified by mail of the September 16, 2013 rezoning hearing. I have polled several nearby property owners and *all* of them report that they never received this letter. These people (like me) own property on the east side of Onderdonk Avenue, opposite the Googas land. Onderdonk Avenue is 66 feet wide. Why did none of us receive the mailing? This is an important question, since Mr. Jordan cites the fact that the City listened to the concerns of the neighbors as one of the reasons to proceed with plans for this development. I will investigate this.

2. Mr. Jordan may have given you the impression that a full SEQRA review was conducted. In fact, the Common Council specifically rejected this option. The minutes of the October 17, 2013 meeting state that the proposed project "has no potentially significant adverse impacts upon the environment, as that term is defined in SEQRA, will not require the preparation of a full Environmental Impact Statement and therefore issues a Negative Determination of Environmental Significance."

This was based in part on receiving a Short Environmental Assessment Form and receiving public comments at the September 16 meeting. Only one member of the public attended that meeting to give comments - and now you know why.

3. One must ask why destroying one wetland and building adjacent to a second wetland in a watery neighborhood would not pose "significant adverse impacts" on the environment. How were the wetlands addressed in the reports considered by the Common Council at the time? I have seen the Board of Zoning Appeals Application dated 4/21/2014 and signed by Mr. Googas, the developer. In this application, Mr. Googas indicates (question 13b) that *there is no wetland on his property or any adjacent property*.

4. Mr. Jordan refers to "all environmental reports" that led the City to make its Negative Determination. I understand that a source of information was the study commissioned by Mr. Googas and performed by Bagden Environmental, in other words, a study *privately commissioned by the developer*. Should such a report even be considered by a City agency?

5. From what I have been able to determine, the wetland immediately to the north of the Googas property has not been addressed. With the overflow channel destroyed by the development project, where will the water go? This fact alone shows the limited nature of the environmental reports used by the City to make its Negative Determination under SEQRA.

6. The City of Albany is waiting for a formal declaration by the Army Corps of engineers that the wetland on the Googas property is isolated. I can only repeat that the Army Corps *does not assess flooding or groundwater*, the two major concerns of the property owners in the neighborhood.

7. Mr. Jordan states that the former South Allen Street Playground had "limited use." You must have agreed with this assessment, since you went to the NYS Legislature to seek permission to sell it. We would appreciate seeing the usage data that brought you and the City to this conclusion. Who performed the usage study? How was the study conducted? What were the results? I have lived across the ravine from this playground for many years and I would not call its use "limited." It would be helpful to know how the usage data was interpreted and on what basis the conclusions were drawn. I look forward to your response on this.

Pat, I am trying to impress upon you the distress felt in the neighborhood about the possibility of the destruction of the South Allen Street wetland environment for the development of 48 apartments. We consider you to be involved in this matter because of your role in the sale of the playground (and, in fact, in coordination with the Mayor's office, the relocation of the playground to another part of the city). This allowed the land to be sold to a developer. Now that you know about the environmental issues, and given your previous willingness to be involved with the City government on this issue, we are hoping for your help.

I am copying this message to concerned neighbors. I cannot locate an e-mail address for Mr. Jordan. I am also copying Assemblyman Robert Sweeney, Chair of the Committee on Environmental Conservation, of which you are a member. In this role, perhaps Mr. Sweeney can provide advice about how to deal with the proposed destruction of an environmentally sensitive area in your district.

Thank you.

On Tue, Jun 17, 2014 at 3:18 PM, Pat Fahy <fahyp@assembly.state.ny.us> wrote:

Dear Laura,

Thank you for your email. My office reached out to the City regarding this development proposal and included your email detailing your concerns and received a reply back from the City's Corporation Counsel's office discussing the procedure that was followed in determining whether or not to approve a zone change for the 241 South Allen Street land parcel. I received the following response from Assistant Corporation Counsel Patrick Jordan in which he describes the steps taken by the City in the approval process and provides information regarding future steps you might take if at some future time there is any flooding that can be linked to this development project and mitigation is warranted:

"I have reviewed the email from your constituent below. The City reviewed the applicant's proposed use for the former City-owned parcels on South Allen and Onderdonk for over three years. The Council and all involved City departments studied the proposal, the impact of changing the zoning of the parcels, the limited use of the existing pocket park, the impact on the neighborhood and the concerns of the neighbors.

The Council held numerous public meetings, through the Planning, Economic Development and Land Use Committee as well as before the entire Common Council. The final public hearing to consider the change in zoning

was held on September 16, 2013. That hearing was noticed in the Times Union for two consecutive weeks and all property owners within 200 feet of the proposed rezone were sent notice of the hearing by mail, pursuant to Section 375-30 of the City Code. Only one person appeared before the Council to discuss the proposal and he was not against it.

The Council followed all New York State procedures as mandated by the State Environmental Quality Review Act (SEQRA). The Council followed the proper protocols in declaring itself Lead Agency for SEQRA purposes and notified all required governmental boards and commissions of its intent to review the application. The Council received and reviewed all environmental reports that are required before making any decisions.

The wetlands that are referred to in the email from Ms. Cohen were documented and described as being formed from a topographic depression. This area has not been designated a wetland by the Department of Environmental Conservation and the Army Corps of Engineers has stated informally that this type of wetland does not rise to the level of their jurisdiction.

If there is a flooding issue in the area and it can be linked to this property then the Planning Board may take the necessary steps to mitigate that impact. Often times developers are required to leave green space and construct retention basins to handle the flow of water caused by the introduction of impervious surfaces. Concerns regarding flooding should be directed to the Planning Board for its deliberation.

I am confident that the Council and the City met its legal obligations in reviewing this proposed rezoning. In fact, the amount of information that the City required and the number of meetings and discussions that took place with the public were over and above any Federal, State or City regulations that I am aware of."

It does appear that the City took the appropriate steps required in their decision to approve the zone change for the 241 South Allen Street land parcel. If there is a need to contact the City of Albany Planning Board at some point, please call City Planner, Bradley Glass at 445-0754.

I hope this information is helpful. Thank you again for writing and please contact me again if I can be of further assistance.

Sincerely,

Pat

Patricia Fahy

Member of Assembly

NYS Assembly, 109th District

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From: Laura Cohen [mailto:lcohen100@gmail.com]

Sent: Sunday, May 18, 2014 8:20 AM

To: Patricia Fahey

Subject: South Allen Street development project

Dear Assemblywoman Fahey:

I am contacting you for a second time about issues with a proposed development project on South Allen Street in Albany. This is the site of the former South Allen Street Playground, which you supported dismantling to make way for the sale and development of this land. I appreciate your response at that time that you would look into any necessary remediation. I am wondering about your follow-up.

Let me review the situation.

The Albany Planning Board case number for the proposed project is Case 5-14, 912 at 241 South Allen Street. The builder is James Googas aka 241 South Allen Street Holdings, LLC.

When I contacted you last November, I expressed concern that this property contained a wetland, that the City of Albany should have informed you of this possibility, and that the land never should have been sold because of the flooding risk to the neighborhood if the wetland were destroyed. I turned out to be correct about the wetland. According to Mr. Googas, the Army Corps of Engineers has confirmed the wetland on his property. He showed me the map. Because the wetland is isolated, the Army Corps will not claim jurisdiction. This puts the jurisdiction of the wetland in the hands of the City of Albany. I am unclear if DEC can claim any jurisdiction; as of this writing, I have been unable to find out.

There is considerable concern in the neighborhood that destruction of this wetland will cause flooding. Many of the homeowners, including myself, are struggling with our high water table. Many of us have sump pumps, and I know someone on West Lawrence Street who has two of them to deal with the water. There are underground streams in the area, in other words, there is groundwater.

The property adjacent to the Googas land also contains a wetland identified by the Army Corps in 2005. Its status has not been determined, but it appears to be discharging water downstream onto Teunis Avenue so perhaps it's a Water of the United States. I wonder if the two wetlands were once a single unit that became artificially separated by the former playground. To be honest, I'm surprised that the Googas wetland was found to be isolated. Of course, I'm not an engineer!

Please keep in mind that the Army Corps does not get involved with groundwater or flooding, the two issues that are the concerns in this situation.

I realize that there are engineering strategies designed to avoid flooding, but at what risk? Is one developer's interests more important than the integrity and safety of many properties? This wetland is not in the middle of nowhere. It is surrounded by neighborhoods.

We in the neighborhood are hoping that someone in a leadership position will do whatever can be done to guarantee that our properties will be protected. I hope that you will help us.

Thank you very much for your attention to this matter.

Sincerely,

Laura Cohen

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