



Hudson/Park Neighborhood Association

VIA FIRST CLASS & ELECTRONIC MAIL

September 20, 2018

Albert DeSalvo, Chair
City of Albany Planning Board
200 Henry Johnson Blvd.
First Floor, Suite 3
Albany, NY 12210

Dear Chairman DeSalvo and Members of the Board:

Ref: Master Application Project # 00205
183-189 Elm Street
Applicant: CARES, Inc,

The Hudson/Park Neighborhood Association (H/PNA) is in receipt of the application filed with the City of Albany Board of Zoning Appeals pertaining to the construction of three (3) infill dwellings at 183-189 Elm Street located within the Hudson/Park neighborhood boundaries.

H/PNA has weighed the request against the General Criteria [Section 375-5(E)(14)(c)(i)] of the Albany City Code as approved by the Albany Common Council and effective on June 1, 2017 and has queried its membership and residents of the neighborhood regarding the appropriateness of the proposed major development within its boundaries. Given the history of the proposed development, beginning in 2015, and its current deviation from the approved approach at that time, H/PNA does not support the application.

H/PNA's assessment of the proposal based on the general criteria which the Planning Board must consider is presented below.

In brief, the proposed major development

- will create significant adverse impacts on the neighborhood, in both the short and long term (**SECTION 375-5(E)(14)(c)(i) General Criteria A**).
 - The addition of 9 units would increase the density of rental housing stock in an area with an abundance of rental properties, fundamentally tipping the historic area away from families and owner occupied homes.
 - These concerns were addressed in 2015, when the plan for 3 duplex units were approved.
- may have significant risks to the health and safety of the current residents (**SECTION 375-5(E)(14)(c)(i) General Criteria B**).
 - Urban spaces are notoriously areas of contamination. As the allowable building materials have changed significantly and the unknown nature of the materials used to build/demolish the previous structures, it is expected that some level of for lead, mercury, asbestos, PCB, PFOA, petroleum hydrocarbons to be present at the site.
 - Given the high resident population density and, in particular, the large number of young children (10 to 15 children) located within 250 feet or less of the planned construction

- site, H/PNA expects a thorough environmental testing plan be developed and implemented prior to approval of this project. If the results are positive, H/PNA expects impact and remediation plans to be developed
- It is particularly important to have this work conducted prior to any approval given the history of this developers/builder's (Bonaquisti) poor record of site management from the Jefferson builds a year earlier.
 - During the construction of the two building on Jefferson the developer used the vacant lots on Elm St as a dumping ground for excavation materials and site debris resulting in a pile of material 12-15 feet high placed at the very front of the lots nearest the sidewalk.
 - At no time during the multi-month build period did they employ; 1. Any dust control measures; 2. Any safety signage 3. Any barriers or fencing around the construction zone 4. Any testing measures for air quality.
 - Only after multiple complaints to the city authorities did they place a small amount of caution tape around the pile. In fact, the remains of the pile were left as a 3-4 foot mound in the middle of the lot and are still there more than a year later.
 - Finally, the proposal is not consistent with previous development permits for the lots(SECTION 375-5(E)(14)(c)(i) General Criteria C, F).
 - **The requested variances for lot coverage and rear yard setbacks are substantial and do not provide adequate open space in the rear of the properties that is in keeping with the character of surrounding properties.** H/PNA recommends that setbacks be reduced to create more open space.
 - **Many neighborhood issues are exacerbated by the lack of adequate household trash and recyclable item storage and disposal areas, bicycle parking, etc.** H/PNA therefore recommends that the proposed development provide adequate accommodation for trash storage and disposal, bicycle parking, and general storage to address neighborhood quality of life issues.
 - **The structural integrity of 191 Elm Street must be protected and/or improved. H/PNA requests that a structural analysis be conducted to ensure that 191 Elm Street can properly and safely support the attached construction.** Or, if warranted, a buffer space between 189 and 191 Elm Street should be considered.

The full review of Section 375-5 (E)(14)(c)(i) by the H/PNA is provided below:

SECTION 375-5(E)(14)(c)(i) General Criteria

A. Will not create significant adverse impacts on the surrounding neighborhood, or any significant adverse impacts will be limited to a short period of time;

The Hudson/Park Neighborhood Association (H/PNA) first reviewed its established Codes/Zoning General Standards for the neighborhood to determine whether nor not the proposed project met those baseline standards. The organization's first consideration was to recognize that new uses continue to exist with the property regardless of future ownership. A second consideration, and the one that applies more directly to this application is whether a proposed new use would return an abandoned or substantially uninhabitable/unusable building (in this case vacant lots) to service and the effect such development would have on the area.

General consensus from the residents directly affected by the development as well as H/PNAs Steering Committee and membership agreed that the proposed development would, in fact, have a long lasting and permanent adverse effect on this traditional, historic neighborhood which already offers an abundance of rental properties. Introducing a major development such as this nine-unit complex will forever alter the family-friendly, one- and two-family buildings on Elm Street (between Dove and Swan Streets).

The block of Elm Street between Dove and Swan Streets is currently comprised of more than 73% one-and two-family dwellings (as evidenced by the data compiled by Councilman Richard Conti and provided in the chart below). Further, the block is more than 75% owner occupied, with only a few full rental units. That block also represents significant historic importance for the City of Albany: the south side of the block, from 182 Elm Street to 216 Elm Street (built in 1870-71), represents the longest remaining run of intact, adjacent, 19th century housing in the city (source: National Register of Historic Places).

The application to develop three, three-unit buildings at the proposed location is not new to H/PNA residents; nor is it new to the City of Albany Planning Department. Discussion between all parties – the developer, H/PNA and the Planning Department – began in 2015 and resulted in the acknowledgement that the preference for two-family units was most beneficial to the neighborhood. The developer agreed to revise his original thinking from three units per building to two units per building (which also included two lots on Jefferson Street behind the Elm Street lots) after hearing neighborhood concerns regarding the preference for owner-occupied buildings.

Duplex units plus an income apartment are an attractive opportunity in the H/PNA neighborhood for a variety of reasons including the ability to economically enter the housing market as a first-time owner. And, it has long been the experience of neighborhood residents that owner-occupied properties are better maintained over the long-term and provides for a safer, more cohesive neighborhood experience.

The developer was originally going to build the units as rental properties. After ten years, the buildings were to be placed on the secondary market for sale. That did not happen.

Please see below, *C. Is consistent with any relevant prior approvals or conditions*, for a discussion of the development and approval history for the project.

**Current Housing Configuration
Elm Street (Between Swan and Dove Streets)**

South Side		As of September 4, 2018	North Side	
Type of Unit	Address		Type of Unit	Address
Two-Family	182	15 One-Family (33.3%) 18 Two-Family (40.0%) 12 Three-Family (26.7%)	Garage	179
Two-Family	184		Vacant	181
Two-Family	186		PROPOSED NINE-UNIT DEVELOPMENT 183-185-187-189 Elm Street	
One-Family	188			
Two-Family	190			
One-Family	192			
One-Family	194		One-Family	191
One-Family	196		Two-Family	193
Two-Family	198		One-Family	195
Two-Family	200		One-Family	210
One-Family	202		Three-Family	203
Three-Family	204		Three-Family	205
Two-Family	206		Vacant	207
Three-Family	208		Two-Family	209
One-Family	210		Two-Family	211
Three-Family	212		Two-Family	213
One-Family	214		Two-Family	215
Two-Family	216		One-Family	217
Three-Family	218		Three-Family	219
Three-Family	220		Two-Family	221
Three-Family (O)	222	Vacant	223	
Warehouse	226	Three-Family	225	
One-Family	230	Two-Family	227	

Two-Family	232		One-Family	229
One-Family	234		Three-Family	231
One-Family	236		Three-Family	233
Two-Family	238		Two-Family	235

B. Will not create risks to public health or safety;

The vacant lots on Elm street are the result of a fire more than 20 years ago, which consumed buildings much older than that. There is very good reason to believe that the soil in these spaces may be contaminated with unacceptable levels of multiple contaminants, as the codes for allowable and environmentally safe building materials have changed significantly. In addition, it is impossible to know the nature of the materials used in the construction of these building or the remediation procedures that were used at the time of demolition. *Given the high resident population density and, in particular, the large number of young children (15+) located within 250 feet or less of the planned construction site, H/PNA expects a thorough environmental testing plan be developed and implemented prior to approval of this project. With subsequent impact and remediation plans being developed as need based on the testing results.*

It is particularly important to have this work conducted prior to any approval given the history of this developers poor record of site management from the Jefferson builds a year earlier. During the construction of the two building on Jefferson the developer used the vacant lots on Elm St as a dumping ground for excavation materials and site debris resulting in a pile of material 12-15 feet high placed at the very front of the lots nearest the sidewalk. At no time during the multi-month build period did they employ; 1. Any dust control measures; 2. Any safety signage 3. Any barriers or fencing around the construction zone 4. Any testing measures for air quality. Only after multiple complaints to the city authorities did they place a small amount of caution tape around the pile. In fact, the remains of the pile were left as a 3-4 foot mound in the middle of the lot and are still there more than a year later. A chronic reminder to all the residents of the developers disregard for the neighborhood and it's home owners.

Given this increased risk for environmental health and safety concerns and the demonstrated poor tract record of the developer in managing these concerns it is critical that this be a part of the project planning including testing for lead, mercury, asbestos, PCB, PFOA, petroleum hydrocarbons and a standard heavy metal contamination panel.

C. Is consistent with any relevant prior approvals or conditions;

The proposed development is not consistent with prior approvals or conditions.

On March 25, 2015 a Public Hearing was held by the Albany Board of Zoning Appeals (BZA) regarding the proposed development:

- Application 3-15, 4236, 126 Jefferson Street
- Application 3-15, 4237, 128 Jefferson Street
- Application 3-15, 4238, 185 Elm Street
- Application 3-15, 4239, 187 Elm Street
- Application 3-15, 4240, 198 Elm Street

The Hudson/Park Neighborhood Association, after working closely with the developer to achieve the two-unit development per building, asked the BZA to carefully consider the matter. The following concerns regarding the development emerged:

- **There is general preference for owner-occupied dwellings.** It has been the experience of neighborhood residents that owner-occupied properties are better maintained over the long-term and that the neighborhood already offers an abundance of rental properties. Building layouts that are designed to encourage owner occupancy (with basement apartments) and marketed as such is preferable.
- **Given the scope of the proposed development, every effort should be made to acquire adjacent, vacant land (124 and 130 Jefferson Street and 181 and 183 Elm Street) before the project moves forward.** This would allow the developer to reconsider the rental approach and, instead, develop the preferred owner-occupied housing. It would also provide an opportunity to address parking considerations (see below) as well as provide the neighborhood with much less disruption should future related construction in those lots be considered.
- **The requested variances for lot coverage and rear yard setbacks are substantial and do not provide adequate open space in the rear of the properties that is in keeping with the character of surrounding properties.** H/PNA recommends that setbacks be reduced to create more open space.
- **One particular concern is the impact on parking availability.** Such availability is already strained and while many residents understand that one of the trade-offs of living in our historic district is that you may have to walk a block or so from your car to your house. This development does, in fact, have the potential for increasing the number of cars in the area by as many as ten. While code does not require off-street parking for one- and two-family row dwellings, and residents have mixed views on the subject, the pros and cons regarding provision of off-street parking must be considered. At a minimum, H/PNA recommends that a parking study be conducted by the city to ascertain the immediate impact on the neighborhood.
- **Many neighborhood issues are exacerbated by the lack of adequate household trash and recyclable item storage and disposal areas, bicycle parking, etc.** H/PNA therefore recommends that the proposed development provide adequate accommodation for trash storage and disposal, bicycle parking, and general storage to address neighborhood quality of life issues.
- **The structural integrity of 191 Elm Street must be protected and/or improved. H/PNA requests that a structural analysis be conducted to ensure that 191 Elm Street can properly and safely support the attached construction.** Or, if warranted, a buffer space between 189 and 191 Elm Street should be considered.
- H/PNA understands that this project will require the approval of the City of Albany's Historic Resources Commission (HRC). The current applications provide no renderings or explanations as to what the proposed buildings will look like and/or what materials will be used. Thus, the melding of these infill buildings into the character of the neighborhood is of great concern. **H/PNA requests that the BZA hold its decision on this proposed development until HRC has reviewed all building specifications and has made recommendations addressing those concerns.**
- **H/PNA is also aware that the ownership of 128 Jefferson Street is in question** and, therefore, that the BZA may decide to defer action on this project until all ownership issues are clarified.

H/PNA also recognized that this development could have, if done correctly, a wide-ranging, positive impact

on our neighborhood. As a consequence, H/PNA relied heavily on the BZA to make very careful consideration in weighing this matter.

Please note from the above that ownership of the 128 Jefferson Street lot was in question. Born out of a development requirement by the Albany County auction process, the winning bidder did not act in good faith to develop the lot – instead the bidder promptly advertised the lot for sale. With intervention by Albany County, the sale of the lot was put on hold. As H/PNA indicated to 5th District Albany County Legislator Christopher Higgins, in a more perfect world H/PNA would have supported the hold. However, we instead asked for Mr. Higgins to withdraw his objection to the sale so that 128 Jefferson Street could complete the parcel (including the Elm Street lots).

The sale of 128 Jefferson Street was completed, the Historic Resources Commission (HRC) for the City of Albany reviewed the development plans and the BZA approved the construction of five two-family (3-story) row dwellings on Jefferson and Elm Streets on December 9, 2015.

The Jefferson Street row houses were built and during construction were advertised for sale. Both buildings sold to one owner and recorded on February 28, 2018.

Ground was never broken on the Elm Street lots. It is H/PNA's opinion that the developer waited until the Rezone Code was adopted by the Albany City Council effective June 1, 2017 to pursue alternative development under the aegis of the new code – thereby avoiding any responsibility for the approved approach for the development.

The City of Albany, H/PNA, and neighborhood residents spent countless hours in defining and supporting the approved development. At the time of approval, the development represented the best interests of the neighborhood and was supported by the City of Albany. To manipulate development by loophole is not in anyone's best interest. **We ask that the development plans, as approved by the BZA be honored.**

D. Is consistent with the Comprehensive Plan;

The Comprehensive Plan (Albany 2030, adopted in 2012) is a broad statement of principles and actions. The chapter on Housing and Neighborhoods opens with the following principle:

Key housing and neighborhood system components include housing diversity and choice, neighborhood identity, and neighborhood services.

Strategies and actions within this chapter discuss diversity in housing choices and incentives for homeownership. Arguably, as illustrated elsewhere in this correspondence, the block of Elm Street on which this development is proposed already contains a unique balance of housing types as would be envisioned under the Comprehensive Plan. The proposed development does not further the goal of home-ownership in that 3-unit townhouses are likely to become rental properties vs. 1- or 2-unit residential developments. We would note, this was the point of the 2015 Board of Zoning Appeals (BZA) decision which authorized 2-unit townhouses with the expectation they would evolve to owner-occupant dwellings. Additionally, the fact that these townhouses are proposed for three contiguous lots (creating a de facto small apartment building) is not consistent with the current neighborhood identity and would also concentrate density in a small portion of the block.

E. Is consistent with any provisions of this USDO and the Albany City Code; and

Plan is consistent with the updated provisions of the Albany City Code, although H/PNA contends that existing structures can be converted into 3 units, any new development should have more stringent review and

that new building development should not be allowed to start-off with 3-unit buildings in the RT zones. In addition, the APB should also assess new building development pricing. The current Jefferson lots were listed for over \$100,000 more than the existing buildings for a 2 block radius. While we all hope that our property values will increase, we contend that over-optimistic pricing for new development hurts the neighborhood, especially when the builder then pleads poverty. If a developer/development expects to price property well above the current median price range, the Planning Board may want to suggest that the builder scale back.

F. Complies with all requirements and conditions of any prior development permits or approvals related to the property.

The proposed development **does not comply** with requirements and conditions as approved by the BZA on December 9, 2015. See discussion in *C. Is consistent with any relevant prior approvals or conditions, above.*

In closing, H/PNA asks that the Board reject the current application. We hope that the board recognizes that this development could have, if done correctly, a wide-ranging, positive impact on our neighborhood. In its present form, however, we are unable to support this major development in the H/PNA neighborhood.

Sincerely,

/s/

John Debois
President
Hudson/Park Neighborhood Association

cc: Neil Breslin, Senator, NYS 44th Senate District
Nancy Chiarella, Director, CARES, Inc.
Richard Conti, 6th Ward Common Council Member, President Pro Tempore
Cathy Fahey, 7th Ward Common Council Member
Patricia Fahy, Assemblywoman, NYS 109th Assembly District
Bradley Glass, Planning Director, City of Albany Planning Department
Christopher Higgins, District 5 Albany County Legislator
Rik LaJoy, Director, City of Albany Building & Regulatory Compliance
John McDonald III, Assemblyman, NYS 198th Assembly District
Christopher Spencer, Commissioner, City of Albany Planning and Development Team
Jackaline Ring, President, Center Square Association
John Myers, Chair, Historic Resources Commission, City of Albany
Kathy Sheehan, Mayor, City of Albany New York
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