



January 25, 2019

Mr. Kenneth Kovalchik (*via electronic mail only*)
Town of Guilderland Planner
Guilderland Town Hall – 2nd floor
5209 Western Avenue
P.O. Box 339
Guilderland, NY 12084

RE: 222 Unit Rapp Road Residential Development

Dear Mr. Kovalchik,

Thank you for providing the Albany Pine Bush Preserve Commission (APBPC) with a copy of the Site Plan Application materials for the above referenced project and requesting APBPC review and comment. The APBPC appreciates the opportunity to work with the Town of Guilderland and the applicant to balance appropriately located development with the successful conservation of the Albany Pine Bush (APB). The APBPC Technical Committee and staff reviewed the initial concept for this site at the committee's January 15, 2019 meeting. The comments provided below are a result of that meeting and the application materials provided.

The APB supports the world's best remaining example of an inland pitch pine-scrub oak barrens, 76 wildlife Species of Greatest Conservation Need (SGCN), including the federal and state endangered Karner blue butterfly (Kbb) and state threatened frosted elfin butterfly, the largest inland sand dune system in eastern North America and has been designated a National Natural Landmark, a National Heritage Area Site, a NYS Bird Conservation Area and a National Audubon Society Important Bird Area. Coordinating the review of development proposals within the Albany Pine Bush Preserve (APBP) Study Area is therefore an essential part of achieving the vision for the APBP consistent with Environmental Conservation Law (ECL) Article 46, the 2017 Management Plan Update for the APBP (APBPC 2017; <http://www.albanypinebush.org/commission/management-plan>) and the Town of Guilderland Comprehensive Plan.

The Technical Committee indicated several concerns and recommendations regarding the potential short and long-term adverse environmental impacts associated with the proposed site plan concept, including:

Protection: The proposal is located within the APB Study Area, described in the 2017 Management Plan Update for the APBP and, as proposed, would result in the irreversible loss of the ability to protect and manage 19.68 acres that are recommended for partial protection (Area 57) as part of the APBP.

State Environmental Quality Review Act (SEQR): The application exceeds several SEQR Type 1 thresholds, and is likely to have a significant adverse impact on the environment, impacts that should be thoroughly evaluated within a Draft Environmental Impact Statement (DEIS) consistent with the hard look required by 6 NYCRR Part 617.

Full Environmental Assessment Form (FEAF): The SEQR FEAF provided by the applicant included several errors and omissions. According to the New York State Department of Environmental Conservation (NYSDEC) EAF Mapper (<http://www.dec.ny.gov/eafmapper/>) the following items require correction and in several cases follow-up on-site evaluation by a qualified biologist in consultation with the NYSDEC and US Fish and Wildlife Service (USFWS).

Specifically, correct FEAF items:

- C.2.b. Yes – the site is within a NYS Heritage Areas: Mohawk Valley Heritage Corridor
- E.2.i. Yes – the site is located over a principal aquifer
- E.2.n. Yes – the site likely contains a portion of Pitch Pine-Scrub Oak Barrens; 210.97 acres
- E.2.o. Yes – the site likely contains Karner blue butterfly and frosted elfin (a portion of the site is within the Karner Blue Butterfly Preserve and immediately adjacent to known occurrences of both species).
- E.2.p. Yes – the site is likely to contain several NYS rare species or species listed as special concern including, but not limited to the eastern hognose snake, worm snake, eastern spadefoot, fowlers toad, eastern whip-poor-will, Cooper’s hawk, sharp-shinned hawk, inland barrens buckmoth, and mottled duskywing skipper.
- E.3.c. Yes – the site is substantially contiguous to a designated National Natural Landmark - APB, Acres: 3165.255038
- D.1.b.b. – Physical disturbance ~10.5 acres; P. 9. E.1.b shows a loss of 11.64 acres of forest.

In addition, the applicant should note that a State Historic Preservation Office Section 14.09 review is required for this project.

Preserve Management: The proposed residential complex is likely to have potentially adverse impacts on the APBPC’s ability to manage adjacent protected lands as outlined in the 2017 Management Plan Update for the APBP (APBPC 2017). The project is likely to have similar potentially negative impacts on the NYSDEC’s ability to manage the Karner Blue Hill Preserve pursuant to NYSDEC Permit #4-0130-00007/0002, issued December 10, 1996 (See map below). The site of the proposed residential complex includes a portion of the Karner Blue Butterfly Preserve, owned by the applicant and managed by the NYSDEC in consultation with the APBPC. Accordingly, the SEQR review of this project should accurately identify and evaluate the potential direct, indirect, short and long-term cumulative impacts

of the above referenced project to rare, threatened and endangered species and their habitats. These potential impacts should be part of the SEQR coordinated review and DEIS scoping. Consultation with NYSDEC and the U.S. Fish and Wildlife Service is requisite to determining the extent to which the site is occupied by listed species.

Traffic: A coordinated SEQR review should also provide the necessary hard look at how potential changes in traffic volume and timing on Rapp Road, may affect the ability of rare wildlife to disperse. The City of Albany, The Nature Conservancy (TNC) and Albany County have all helped protect considerable acreage on the West Side of Rapp Road that provides a critical linkage between the Karner Blue Butterfly Hill Preserve and APBP lands to the west. Successful dispersal between these properties, however, is highly contingent upon these species successfully crossing Rapp Road. Studies of Kbb and spotted turtle movement and dispersal patterns along Albany County Route 155 illustrate that traffic volume plays a significant role in impeding wildlife dispersal across roads. When combined with potential direct impacts to wildlife habitat, the impact of increased traffic on Rapp Road may be significant and further reduce the APBPC's and NYSDEC's ability to successfully manage these rare wildlife populations.

Mitigation: Once all potentially adverse impacts are fully-vetted through a coordinated review the applicant should lastly identify and evaluate all appropriate measures to avoid, minimize and mitigate those impacts.

Interested and Involved Agencies: Since federal and state endangered and threatened species and storm water management permits (or permit modifications) are likely required for this project, please include the USFWS and NYSDEC as involved agencies and the City of Albany, Albany County and the APBPC as interested agencies in SEQR-related coordinated review of the project.

Alternatives: Whether in a DEIS or other appropriate vehicle, a SEQR coordinated review should include an evaluation of development alternatives and associated potential environmental impacts including reduced footprint and no-build alternatives.

In conclusion, the conceptual proposal for this project is likely to result in significant direct and indirect short and long-term adverse effects on the environment and the APBPC's ability to create and manage a viable preserve as described in ECL Article 46 and the 2017 Management Plan Update for the APBP, and the long term potential viability of the species that exist within it. As such, it appears appropriate to issue a positive declaration under SEQR for this proposal and request/require that the applicant prepare a DEIS, consistent with 6NYCRR Part 617.7. The APBPC applauds the Town of Guilderland's long-standing support for creating and managing a viable preserve and for its efforts to balance conservation and economic development throughout the Town. The APBPC looks forward to continuing that tradition with this proposal. Thank you for your consideration of these comments and recommendations. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Sincerely,



Neil A. Gifford
Conservation Director
Albany Pine Bush Preserve Commission

Encl: Southeast Pine Bush Context Map

cc: APBPC Technical Committee
Mr. Keith Goertz, APBPC Chair – NYSDEC Region 4 Director
Mr. Christopher A. Hawver, APBPC Executive Director
Ms. Robyn Niver, Endangered Species Biologist, USFWS – NYS Field Office
Ms. Kathy O'Brien, Endangered Species Biologist, NYSDEC
Ms. Trisha Gabriel, NYSDEC Environmental Analyst – Region 4
Mr. Michael Clark, Regional Wildlife Supervisor, NYSDEC-Region 4

Citations:

APBPC. 2017. Management Plan Update for the Albany Pine Bush Preserve. Albany, NY. (www.albanypinebush.org)



Southeastern Pine Bush

