



Save the Pine Bush, Inc.

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April 25, 2006

Town of Clifton Park Planning Board
One Town Hall Plaza
Clifton Park, NY 12065

RE: Wood Road Flex Space Light Industrial Buildings

Dear Board Members:

This letter is in regard to the application of the DCG Development Company to construct "(7) Flex Space Light Industrial Buildings totaling approximately 142,000 sf." on Wood Road in the Town of Clifton Park.

Save the Pine Bush (SPB) is an all-volunteer, not-for-profit organization dedicated to the preservation of the Pine Bush. Preservation of the Pine Bush includes preservation of the rare and endangered species that live in the Pine Bush. One of those endangered species is the Karner Blue butterfly. The population of the Karner Blue has declined drastically in the past 15 years. According to the Federal Register, this decline is primarily due to habitat destruction.

Save the Pine Bush knows that survival of the Karner Blue Butterfly depends not only on protecting Karner Blue habitat and Karner Blue Butterflies which are located in the Pine Bush, but also Karner Blue Butterflies and Karner Blue habitat in other locations. Because of the significant decline in the number of butterflies, it is essential that all Karner Blue habitat be protected from development. Should the Karner Blue Butterflies become extirpated from the Pine Bush, it would be possible to re-introduce butterflies from other locations into the Pine Bush. It is no longer possible to allow even the smallest patch of known habitat to be destroyed.

Save the Pine Bush has members who reside in Clifton Park and are concerned about the survival of the butterfly. Members of Save the Pine Bush made written comments on the Wood Road GEIS, have spoken to the Town Board on Karner Blue Butterfly issues, and have spoken at numerous Town Board meetings and public hearings.

Because of the tremendous significance of the Wood Road site for the survival of the Karner Blue Butterfly, Save the Pine Bush submits these comments.

This Project is a Type I Action Under SEQRA

The first step in the State Environmental Quality Review Act (SEQRA) process is to classify the proposed action as a Type I, Type II or Unlisted.

This project is clearly a Type I Action.

Section 617.4 (b)(6) TYPE I ACTIONS of SEQRA states:

“(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

“(6) activities. . . that meet or exceed any of the following thresholds . . . :

“(i) a project or action that involves the physical alteration of 10 acres; . . .

“(iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;”

According to the Environmental Assessment Form (EAF), page 3 item #2, submitted for the project on April 5, 2006, the project will disturb 9.65 acres of meadow or brushland and 4.41 acres of forested land for a total land disturbance of 14.06 acres, more than the minimum threshold for this project to be considered a Type I action (see 617.4(b)(6)(i) above).

According to the Environmental Assessment Form (EAF), page 2 under “Description of Action”, submitted for the project on April 5, 2006, the project will result in a gross floor area of 142,000 square feet, more than the minimum threshold for this project to be considered a Type I action (see 617.4(b)(6)(iv) above).

This proposed project clearly meets two of the minimum requirements for a Type I Action under SEQRA. The Town of Clifton Park Planning Board (Planning Board) must declare this project a Type I action.

A Coordinated Review of the Project Should Be Conducted Because This Action is a Type I Action

From “Taking the Necessary Steps to Satisfy SEQRA“ found at:
<http://www.dec.state.ny.us/website/dcs/seqr/seqrsc3.html>

“Coordinated Review is required for all Type I Actions. [emphasis added]

“The involved agency initially receiving an application for approval circulates the completed Part 1 of the full EAF and any other information

supplied by the applicant to the other involved agencies.

“All involved agencies should be identified by the applicant in the full EAF (Part 1B, questions 24 & 25).

“If only one agency is approving, funding or directly undertaking an action, that agency is automatically the lead agency. If there are two or more involved agencies, the involved agencies must agree on a lead agency within 30 calendar days. If any involved agency desires to be lead agency, it can indicate in the coordination request its willingness to act as lead agency, by stating that if no response is received within 30 days, it will assume the role of lead agency.”

Involved agencies include, but are not limited to: the NYS Department of Environmental Conservation and the US Geological Survey.

Because the site has on it identified Karner Blue Butterfly Habitat, the NYS Department of Environmental Conservation must be consulted as to how best to protect and restore the Karner Blue Butterfly and its habitat and may wish to be the lead agency. Because the site is located over an aquifer which supplies water to the Town of Clifton Park, the USGS must be consulted and may wish to be the lead agency.

Because this is a Type I Action under SEQRA, a coordinated review and designation of the Lead Agency is required.

The Planning Board of the Town of Clifton Park Should Complete Part II of the EAF

From “Taking the Necessary Steps to Satisfy SEQRA“ found at:
<http://www.dec.state.ny.us/website/dcs/seqr/seqrsc2.html>

“Type I Actions

“Complete a full Environmental Assessment Form (Full EAF) for any Type 1 action. The project sponsor / applicant completes Part 1 of the form and submits it to an involved agency together with any other applications that are required. When the lead agency is established (See step 3), that agency is responsible for completing Part 2 of the EAF, and as needed, Part 3. The requirement for a full EAF may be waived if a draft EIS is prepared and submitted with the application.”

After the lead agency has been established, that agency is required to fill out and complete Part II of the EAF, unless a draft EIS is submitted with the application. As of today, no draft EIS has been submitted with the application, therefore the lead agency must fill out Part II of the EAF prior to making a determination of significance.

This Project Requires a Supplemental Environmental Impact Statement to be Prepared as Required in the GEIS Prepared for the Wood Road Area Because the Site is Karner Blue Butterfly and Blue Lupine Habitat

Once a Generic Environmental Impact Statement is prepared for an area, the lead agency must follow that GEIS. Section 617.10 (c) of SEQRA states:

“(c) Generic EISs and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved, including requirements for any subsequent SEQRA compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS.”

On or about November 25, 1991, the Planning Board adopted the “Findings Statement for the FEIS Relating to Northern Distributing Company, Inc. and the FGEIS for the Wood Road Corridor in the Town of Clifton Park.” (herein afterwards referred to as the “Findings Statement”). A complete copy of the Findings Statement can be found at Attachment #1.

On page 1, item #4, the Findings Statement states “Lastly, the Findings Statement also *presents generic conditions and thresholds* for future development in the Wood Road Corridor (See 6 NYCRR 617.15(c)(1)” [emphasis added]

The Findings Statement clearly identifies thresholds for requirements for the preparation of supplemental environmental impact statements for projects proposed to be constructed in the Wood Road Area.

This proposed “Flex Space Light Industrial Buildings“ project clearly falls in the purview of the Findings Statement.

The Findings stated the Town desires to protect its natural resources and habitat for the Karner Blue Butterfly, Frosted Elfin, and Dusted Skipper, and will not permit any disturbance or impact to their habitat, even to the point that *site plan approval would be denied* for any project which causes destruction or disturbance of such habitat (page 7 of Findings statement, emphasis added).

The Planning Board especially points out the importance and significance of the Karner Blue Butterfly (KBB) and emphasizes the importance of protecting this endangered species (page 7, item 41):

“ . . . the Planning Board finds that any disturbance or impacts to the known endangered species habitats *will not be allowed and that no site plan proposal will be approved if such would involve the destruction of or disturbance of known Karner Blue Butterfly habitat.* ” [emphasis added]

The Findings Statement clearly describes the circumstances for which a supplemental environmental impact statement is required to be prepared. On page 17, item 93 states in part:

“ . . . The following is a list of items to be reviewed that are necessary to determine if a subsequent site specific action or collective impacts of site specific actions will be in conformance with the conditions and thresholds established by the FGEIS and this set of findings for the Wood Road Corridor: . .

“2. Karner Blue and Blue Lupine Habitats. . .

“Because the FGEIS for the Wood Road Corridor is, in some cases, based on conceptual information, a supplement to the FGEIS ***must be prepared by any subsequent applicant . . . if the subsequent proposed action or actions have site specific impacts which involve one or more of the items listed above . . .***[emphasis added]

The land where this project is proposed to be built is known Karner Blue Butterfly and Blue Lupine Habitat:

1. The Blue Lupine plant is the feed plant of the Karner Blue Butterfly caterpillar. On the applicant's site plan map, blue lupine plants are clearly identified. This alone must trigger a supplemental EIS be prepared.
2. The US Fish and Wildlife Service defines occupied Karner Blue habitat as “land within 200 meters of lupine plants.” See Attachment #2, letter dated April 18, 2005 from the US Fish and Wildlife Service to Mr. Richard Nicolson, City of Albany Department of Development and Planning. See ESA Take Prohibitions (bottom of page):

“Our current definition of 'occupied' habitat includes:

“all suitable habitat within 200m of a lupine patch occupied by Karner blue butterflies,

“plus additional suitable habitat deemed likely to be occupied based on the dispersal capability of the Karner blue butterfly population.”

A significant portion of the proposed “Flex Space” site is within 200 meters of the known Karner Blue Butterfly habitat on the south (west) side of Wood Road and within 200 meters of the known Karner Blue Butterfly Habitat on the north (east) side of the road.

3. The Natural Heritage Map of Rare Species and Ecological Communities prepared on August 7, 2003 by NY Natural Heritage Program, NYS DEC, Albany, NY

(attachment #3) clearly identifies the current site as occupied Karner Blue Butterfly habitat. The report states in part:

“[Karner Blue] Butterflies are north and south of the [Wood] road.”

Please see the attached Natural Heritage Map which clearly shows this proposed site has been mapped by independent experts and shows that Karner Blue Butterflies occupy this site.

4. A map dated April 18, 1997, prepared by Smith & Mahoney, PC for the Clifton Park Industrial Development Agency titled “Proposed Sanitary Sewer Plan of the Wood Road Industrial Corridor, Exhibit C”, designates almost the entire site of the proposed development as “known Karner Blue Butterfly Habitat”.
5. The EAF submitted by DCG Development Corporation on March 15, 2006 identified on page 4, item 11, that the site contained “Karner Butterflies”, an endangered species. However, in the EAF submitted on the same project on April 5, 2006, on page 4, identified that the site contains the “Frosted Elfin Butterfly” and that it is an endangered species.

As the flight season for the Karner Blue Butterfly is not until June, there is no way for anyone to determine if the Karner Blue Butterfly could have disappeared from the site between March and April.

The evidence from independent experts demonstrates that the endangered species, the Karner Blue Butterfly, occupies this site. The April 5, 2006 EAF should be corrected to show this.

If the reason the reference to the Karner Blue Butterfly was removed from the April 5, 2006 EAF was because the applicant changed the proposed project to exclude land on the south (west) side of Wood Road from the project proposal, this could indicate “segmentation” of the project.

The applicant owns approximately 48 acres on the south/west side of Wood Road. If the applicant is planning to develop this land, which is a reasonable assumption as the land has the same zoning and owner, then the cumulative impact of the proposed “Flex Space” development must be considered along with the land the applicant owns on the south (west) side of the road.

Case law on SEQRA specifically prohibits segmentation. The applicant cannot avoid looking at the total impact of a development by developing the project in phases.

In addition, in the March 15 EAF, on Page 6, Item 7(d), the applicant checked as "Yes" to the question, “Is phase 1 functionally dependent on subsequent phases?” It appears that in the original EAF, the applicant anticipated a "phased" project, and

in the second EAF the applicant has decided the project has no phases. If the applicant can not honestly answer that the applicant does not anticipate ever developing the south (west) side of the road, then the cumulative impact of this current “Flex Space” project must be considered along with a build-out of the land owned by the applicant on the south (west) side of the road.

This Project Requires a Supplemental Environmental Impact Statement be Prepared as Required in the Wood Road Area GEIS Because No Preserve Area for the Karner Blue Butterfly Has Been Created

On pages 7 & 8 of the Wood Road GEIS, the Planning Board expresses the importance of preservation of the Karner Blue Butterfly, and outlines specific actions to be taken by any applicant who proposes projects on current Karner Blue and Blue Lupine Habitat or Karner Blue and Blue Lupine Habitats that existed at the time the GEIS was prepared.

Specifically, the GEIS states:

“41. Based on the record established in the draft and final Environmental Impact Statement for the Wood Road Corridor, the Town’s desire to protect, to the extent practicable, its natural resources and the fact that the Karner Blue Butterfly, in particular, is an endangered species in New York State, the Planning Board finds that any disturbance or impacts to the known endangered species habitats will not be allowed and that no site plan proposal will be approved if such would involve the disturbance or destruction of known Karner Blue Butterfly habitat. Further for projects within parcels which currently, or at the time of application, contain areas of known or potential Karner Blue habitat as shown on FGEIS Drawing W-H-1 the applicant shall submit a management plan which at a minimum contains the following:

“• Develop a designated preserve area. The proposed preserve will be area depicted [sic] on a tax map. The following issues shall be considered in developing a preserve area:

“1. location and abundance of blue lupine plants and adult Karner Blue nectar sources;

“2. location and abundance of adult Karner Blue butterfly;

“3. use and location of buffer areas;

“4. size of preserve as it relates to the ability of the area to

sustain the Karner Blue and insulate it from random environmental events that might cause extinction; and

“5. habitat linkages between the Wood Road east and west Karner blue populations.”

To meet the requirements of the GEIS, the applicant must prepare an EIS or Supplemental EIS that will specifically address the issues above.

First, the applicant needs to address item 41 (4) size of preserve as it relates to ***the ability of the area to sustain the Karner Blue and insulate it from random environmental events that might cause extinction;***

Since this GEIS was prepared, a great deal of research has been conducted on the Karner Blue Butterfly. Among the many findings, the Karner Blue Butterfly has been identified as one that is a “patrolling” species, which means that the adult butterflies may fly quite a distance from where it metamorphosed. Though the adult butterfly only lives a maximum of five days, it can routinely fly up to 200 meters and sometimes 600 meters from the nearest lupine plant.

A proposal to set aside a 1-acre “preserve” by the applicant is totally inadequate to sustain the Karner Blue and to insulate it from random environmental events that may cause extinction. For example, the size of the Karner Blue Butterfly habitat in New Hampshire, called the Concord Pine Barrens, was once around 300 acres in size, but the butterfly became extirpated at this site in July, 2000.

Adult butterflies routinely fly farther than 1-acre. If the land around this hypothetical 1-acre preserve consisted of buildings and pavement, then those butterflies that flew out of the preserve would undoubtedly die.

A 1-acre preserve cannot ***sustain the Karner Blue and insulate it from random environmental events that might cause extinction,*** as required in item 41 (4)

Only by having independent experts can the Planning Board determine the size of the preserve need to fulfill requirement 4 above.

Item 41(5) required that a habitat linkage be created between the Wood Road east and west Karner blue populations. There is no mention in the EAF of creating these linkages.

To fulfill the requirements of the Wood Road GEIS, the applicant must be required to prepare a Supplemental EIS to address the issue of linkages between the Wood Road east and west Karner Blue populations and linkages to Usher’s Road south sites.

This Project Requires a Supplemental Environmental Impact Statement be Prepared as Required in the Wood Road Area GEIS, Because No Management Area for the Karner Blue Butterfly on the Wood Road Sites Has Been Created

Item 41 has additional requirements for the creation of a management plan to ensure the survival of the Karner Blue Butterflies in perpetuity. Specifically, on page 8, the Findings Statement requires:

- “• A legal mechanism to ensure preserve lands are maintained in perpetuity (eg., conservation easement, deed restrictions or transfer of Title to the Town or a conservation organization acceptable to the Town).
- “• A plan to introduce Karner Blue Butterflies to the preserve area if the species is not present at the time the management plan is implemented.
- “• Site specific management techniques which will be used to ensure the long-term viability of the Karner Blue Butterfly habitat.
- “• A financial mechanism to implement the Management Plan for the foreseeable future.”

The applicant has offered no management plan. The applicant has not outlined a legal mechanism to ensure the preservation of the Karner Blue Butterfly habitat in perpetuity, site-specific management techniques, or a financial mechanism.

The applicant must prepare a Supplemental EIS in order to explain the management plan. In addition, the Supplemental EIS is the proper mechanism for the determination of a management plan, because a Supplemental EIS would require a public hearing, which would allow for comments about the plan, and comments from independent experts.

This Project Requires a Supplemental Environmental Impact Statement be Prepared as Required in the Wood Road Area GEIS Because the Karner Blue Butterflies Have Not Been Restored to the Site

The Findings Statement addresses the issue of what to do in case a known Karner Blue Butterfly site is found to have no butterflies. On page 8, the Findings Statement requires:

- “• A plan to introduce Karner Blue Butterflies to the preserve area if the species is not present at the time the management plan is implemented.

No one disputes the fact that the site where the applicant proposes to build the “Flex Space Industrial Buildings” was once home to Karner Blues. Even the applicant’s representative, at the March 28, 2006 Planning Board meeting acknowledged that Karner Blues were once on the site and that the wild blue lupine, the Karner Blue’s obligate larval food source, still exists on the site.

If there are Karner Blue Butterflies currently on the site, to fulfill the GEIS requirements, the applicant is obligated to use “Site specific management techniques which will be used to ensure the long-term viability of the Karner Blue Butterfly habitat.”

If the Karner Blue Butterfly has truly become extirpated at the site, then the applicant is required to create “A plan to introduce Karner Blue Butterflies to the preserve area. . .”

The applicant needs to develop a plan to re-introduce the Karner Blue to the site or, if butterflies exist on the site, create a plan to ensure the long-term viability of the butterfly and habitat. The proper mechanism to create a plan to re-introduce the Karner Blue Butterflies to the site north (east) of Wood Road or manage the Karner Blues is a Supplemental EIS.

It cannot be emphasized enough that independent experts must be consulted to fulfill this requirement of the Findings Statement. A significant body of research about the Karner Blue has been conducted in the past fifteen years. Experts have been re-introducing Karner Blue Butterflies in Ohio, New Hampshire and other locations. Methods to manage habitat so that the butterfly can survive in perpetuity are being used. People who have extensive experience in the re-introduction and management of Karner Blue Butterflies must be consulted to determine the best method to re-introduce and manage these species.

**This Project Requires a Supplemental Environmental Impact Statement
be Prepared Because the Applicant Did Not Fulfill Site Plan
Requirements for the Site Known as the Bobrick Washroom Site**

In 1994, the Town of Clifton Park Planning Board granted subdivision and site plan approval to certain projects in the Wood Road corridor south of Ushers Road. Approval was granted to the Ushers Road Industrial park subdivision and the Bobrick Washroom Equipment Company site plan. Associated with these approvals were conditions of approval imposed by the Planning Board stipulating that a management plan be created for all the habitats of the Karner blue associated with properties of the subject landowner, DCG Development Co. This requirement included not only lands south of Ushers Road near the Bobrick site, but also lands north of Ushers Road along Wood Road.

These conditions reflected the Findings Statement of the Planning Board issued in

1991 for the Wood Road FGEIS, including Finding Statement items #s 40, 41 and 85. Item # 85 states,

“The DGEIS/ FGEIS also conclude, and the Planning Board finds, that the development of the Corridor for light industrial uses must protect existing significant wildlife habitat within the Corridor, particularly the Karner Blue Butterfly habitat, ***through requiring landowners to cooperate in the active management activities and expenditures required to preserve, enhance and protect these habitats. Land conservation easements or other devices will be required to insure that management activities are permitted by future developers.***”
[emphasis added]

Pursuant to these Findings and the established conditions of site plan and subdivision approval, an agreement was created dated July 15, 1994 between Mr. Donald C. Greene (DCG), Bobrick Washroom Equipment Company, Inc., the Saratoga Land Conservancy, Inc. and the Endangered Species Unit of the NYS Department of Environmental Conservation (DEC ESU). See copy of complete contract at Attachment #4.

The purpose of this agreement was to provide protection for a federally listed endangered species, the Karner blue butterfly, and its habitat. The first part of the agreement required DCG to turn over a habitat area locate immediately adjacent to the proposed Bobrick facility to the Saratoga Land Conservancy. This was done in 1994.

On Page 8 of this agreement, DCG also agreed to work with DEC ESU to delineate two areas of habitat along both sides of Wood Road, which were to be turned over to Saratoga Land Conservancy for perpetual management.

DCG also agreed on pages 8 and 9 of the agreement that “Grantor agrees to mow the two areas at the times set forth in and pursuant to the standards applicable to, the management area at the Ushers Road site, as previously set forth in this Agreement, until such time as Grantor grants a conservation easement to the owner for management of such finally delineated area...”

The Agreement states on page 9:

“The restrictions herein shall be enforceable by the Town of Clifton Park against the Grantor of said Lands as a condition of subdivision and site plan approval.”

The applicant for the “Flex Space” property is the same applicant which made the above-mentioned agreement.

Some of the land which was to be preserved in perpetuity according to the agreement will be destroyed if this “Flex Space” proposal is allowed to be built.

The Planning Board should not allow the applicant to weasel out of a prior site plan requirement.

The Planning Board should require the applicant to fulfill the requirement of the prior site plan for the Bobrick Washroom site and should require the applicant to fulfill the agreement.

Because so much new scientific information is available on the Karner Blue Butterfly, in addition to requiring the applicant to fulfill this prior site plan requirement, the Planning Board should require a Supplemental EIS to address the new information on how best to restore and preserve these Karner Blue Butterfly sites in perpetuity.

The Planning Board Should Make A Positive Declaration for SEQRA Because of the Possibility of Significant Adverse Impacts on the Water Re-charge for the Water Supply for the Town of Clifton Park

The proposed project is located over the peripheral channel area of the Colonie Channel Aquifer.

According a report prepared by the US Geological Survey in 2002 (abstract of the report can be found at <http://ny.water.usgs.gov/pubs/wri/wri014104/>)

“Ground water is the sole source of public water supply for Clifton Park, a growing suburban community north of Albany, New York. Increasing water demand, coupled with concerns over ground-water quantity and quality, led the Clifton Park Water Authority in 1995 to initiate a cooperative study with the U.S. Geological Survey to update and refine the understanding of ground-water resources in the area.”

The report concludes with:

”Comparison of pre- or early-development water-level data with water levels measured in 1998 indicate that water levels have declined significantly in the central channel area of the aquifer—an indication that, over time, withdrawals have exceeded recharge rates. “

For example, buildings and pavement typically shed about half of the water it receives - runs off to streets, storm sewers, etc. This 8-acre proposed development could rob the aquifer of an average of 3,801,505 gallons of water a year.

This is calculated by:

One acre foot of water equals 325,851 gallons. If it rains three inches, that would be one quarter of an acre foot: 81,862.75 gallons. Three inches is a very heavy rain.

But, if we experience a one inch rain the volume (at 1/12 of a foot) is 27,154.25 gallons for one acre. If you multiply that by 8 acres of the proposed development and you get 217,234 gallons.

Take away half of that (which is typical for buildings and pavement) and you get the diminished recharge for each one inch of rain at the site 108,617 gallons.

In New York average yearly rainfall is about 35 inches. That means for an average year (35 times 108,617 gallons) or 3,801,505 gallons is the amount of water not getting recharged to the groundwater to feed the aquifer. In short the proposed development would rob the aquifer of an average of 3,801,505 gallons of water a year.

There should be a thorough evaluation of the effect of the proposed project on recharge to the Clifton Park water supply, in terms of quantity and quality. USGS notes inadequate recharge in relationship to withdrawal for at least one of the aquifers. USGS also notes fractured bedrock associated with one of the aquifers, making movement of any contamination caused more difficult to address. This is a complicated situation that needs a thorough assessment.

Though the EAF observes that there are no streams evident on the site, there are significant wetlands. Wetlands, streams and the aquifer are probably interconnected. Altering one will alter the others.

Altering the land alters surface and groundwater hydrology, which are of significance to the health of the plants and animals and the health of people who are dependent on the interconnected aquifers for water supply. It is not only this site alone, but, it in combination with past and reasonably foreseeable similar development, development creating impervious surfaces and diminishing recharge to groundwater aquifers, that needs to be fully assessed.

In addition to diminished recharge, the activities (storage, automobiles, etc) associated with the development will bring to the area overlying the aquifers, activities that generate pollutants and have the potential to cause long lasting harm to the aquifer in terms of water quality.

Even where practices might be proposed to recharge water to the aquifer, that may very well result in recharging polluted water to the aquifer. The best management practices for storm water control from paved surfaces typically do not remove pollutants that are used for deicing. DEC's Storm water management design manual recommends caution when recharging storm water over aquifers.

There is enough known to warrant a thorough study. We know enough to have a sense that there may be significant environmental impacts. That is why an EIS is essential

An Supplemental Environmental Impact Statement is required to consult the experts (the USGS), regarding whether the site of the proposed development contributes recharge water to one of the three the aquifers, if the development will diminish recharge to one or more of the three aquifers, and regarding the potential for the type of development planned (given the properties of the aquifers, soils and hydrology of the site) to contribute pollution to Clifton Parks water supply or future water supplies for other municipalities.

The Planning Board Should Make A Positive Declaration for SEQRA Because of the Possibility of Significant Cumulative Adverse Impacts on the ability of the Karner Blue Butterfly to Survive

The cumulative impacts of developing both the north (east) and south (west) sides of the road on the ability of the Karner Blue Butterfly to survive must be assessed. The applicant for this project owns land on both sides of the road. Though no site plan for the south (east) side of the road is currently under consideration, a reasonable person would draw the conclusion that the applicant will proposed to build on that side of the road. The applicant has proposed developments in the past for land occupied by Karner Blue Butterflies. Attachment #5 includes other site plan proposals for this property.

To address the cumulative impact of this “Flex Space” project on the ability of the Karner Blue Butterfly to survive, this project must be evaluated in conjunction with a full build-out on the south (east) side of Wood Road.

In addition, to meet the requirement on page 8 of the Findings Statement to “introduce Karner Blue Butterflies to the preserve area if the species is not present at the time the management plan is implemented” and to use “Site specific management techniques which will be used to ensure the long-term viability of the Karner Blue Butterfly habitat.”, the cumulative impacts of a complete build-out of the south (east) side of the road must be taken into consideration.

Because the GEIS specifically refers to “long-term viability of the Karner Blue Habitat”, and the fact that the decline in Karner Blue Butterflies is directly related to habitat destruction, the cumulative impact must be examined.

Conclusion

The Planning Board needs to declare this application a Type I Action, needs to take the proper steps to determine lead agency status, and needs to fill out Part II of the EAF.

To fulfill requirements of the Town's GEIS for this area, the Town must require a Supplemental Environmental Impact Statement or a complete Environmental Impact Statement.

The Finding Statement clearly emphasizes the Town's desire to protect and preserve the endangered species that reside within its borders. The Town Planning Board must take this into account when reviewing the site plan proposal on land that is Karner Blue Habitat.

There is another action that the Town of Clifton Park may wish to take instead. The Town should purchase both parcels of land on the north (east) and south (west) side of Wood Road and create a Preserve for the Karner Blue Butterfly and other endangered and threatened species.

Purchasing these two properties would have many benefits for the Town, including fulfilling the Town's intended desire to protect endangered species which live within its borders.

Sincerely,

Lynne Jackson
Volunteer Secretary to the Board
Save the Pine Bush

Attachments:

- 1 Findings Statement for the FEIS Relating to Northern Distributing Company, Inc. and the FGEIS for the Wood Road Corridor in the Town of Clifton Park.
- 2 Letter dated April 18, 2005 from the US Fish and Wildlife Service to Mr. Richard Nicolson, City of Albany Department of Development and Planning
- 3 Natural Heritage Map of Rare Species and Ecological Communities prepared on August 7, 2003 by NY Natural Heritage Program, NYS DEC, Albany, NY
- 4 Agreement dated July 15, 1994 between Mr. Donald C. Greene (DCG), Bobrick Washroom Equipment Company, Inc., the Saratoga Land Conservancy, Inc. and the Endangered Species Unit of the NYS Department of Environmental Conservation (DEC ESU).
- 5 Other site plan proposals for the south (east) side of Wood Road.