



Save the Pine Bush

May/June Newsletter

Apr/May No. 152 • 223 S. Swan St., Albany, NY 12202 • email pinebush@mac.com • phone 518-366-7324 • web www.savethepinebush.org • Circ. 625

No Vegetarian/Vegan Lasagna Dinner

Wednesday, May 20, 2020, at 7:00 p.m.

Grace Nichols, Steve Wickham and Lynne Jackson

will speak about

Pyramid Clear Cut and the Proposed Development in the Pine Bush

Pyramid/Crossgates clear cut about 14 acres of land on the site of the proposed Costco in Guilderland in March. Join us for a description of the actions Steve and Grace took to attempt to stop the clear cut, and the actions that did stop the clear cut. Grace, Steve and Lynne will also discuss the scope of the proposed development and the actions that Save the Pine Bush is taking to oppose the project.

People can join using their computers or phones. **Join the call to test connection between 6:00 and 7:00 p.m. The program begins at 7:00.** Dial-in number (US): (712) 770-4104; use the access code: 878906#. The online meeting ID: lynnejackson9. Join the online meeting: <https://join.freeconferencecall.com/lynnejackson9>

See you online! • Everyone is welcome!

No Save Pine Bush Hike

However, the Pine Bush is open for social distancing hikes and walks. The Discovery Center and outdoor rest rooms are closed. But, the ecosystem is open to visitors. Please practice social distancing, and take precautions for ticks, and enjoy the great outdoors

Stop Crossgates Expansion

Virtual Hearing: May 13, at 6:00 p.m.

The Town of Guilderland Planning Board will hold a virtual public hearing on Wednesday, May 13. Everyone should plan to attend. Use your computer to see and listen to the hearing. Use your phone to call in to make comments. The phone number to call is (518) 579- 3721.

You can also make written comments on the proposed Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects in the Pine Bush. Pyramid/Crossgates is the developer. Comments on the Draft Environmental Impact Statement (DEIS) are due on Tuesday, May 26. Email comments to Kenneth Kovalchik, Town of Guilderland Planner, kovalchik@togny.org or postal mail Guilderland Town Hall, P.O. Box 339, 5209 Western Turnpike Guilderland, NY 12084. Participants are limited to only a 3 minute comment(!). Information on virtual hearing can be found online here:

https://www.townofguilderland.org/sites/guilderlandny/files/uploads/deis_public_hearing_announcement.pdf

Proposed Crossgates Development

by Lynne Jackson

GUILDERLAND, NY: Rapp Road Development, a corporate entity of Pyramid/Crossgates, is proposing to build on about 46 acres of land. Originally, the proposal was to build 222 apartments on 20 acres of land adjacent to the Pine Bush preserve. After the Town Planning Board appointed themselves the lead agency, the project was expanded to include a proposed Costco and an undefined commercial/residential development on an additional 26 acres of land.

The proposal is huge. To put this proposed development in perspective, the original mall spread over 61 acres, the expansion in 1995 added another 46 acres to the original size to make a total of 107 acres. This proposed development is as big as the 1995 expansion, and 42% of the original size of the mall.

In this day and age of climate change and the sixth major extinction of species, it is extremely *continued on page 2*

COVID-19 and Dunn Landfill

by Tom Ellis

RENSSELAER, NY: The Covid-19 pandemic highlights a major problem with government in the USA, NYS, and locally.

Executive agencies employ vastly more people than legislatures despite the complaint that legislatures are bloated. Elected executives (presidents, governors, county executives) appoint commissioners and other top staff, often subject to approval by a legislative body, to lead executive agencies.

These appointed officials are thus directly answerable to the executive, who can fire them at any time. Lower ranking employees have civil service and labor union contract protections.

Civil servants unfortunately do not make policy decisions; they recommend them. It is often unclear if appointed officials decide policy on major issues. One example is the Dunn landfill in Rensselaer.

Does the NYS Department of Environmental Conservation (DEC) allow the dump to continue operating or does DEC pretend that

continued on page 2

COVID-19 and DUNN continued from page 1

it does, when maybe it is the governor who is making the decision? Maybe DEC's top staff read the governor's mind and determine he wants the dump to continue operating, so it does with DEC's seal of approval.

Allowing a dump to operate right next to a school is insane but nobody at DEC dares say so out loud due to the severe punishment that might or would occur; loss of job if an appointed official, or being ostracized if a civil servant.

What we get is an agency of several thousand employees, many of them fine human beings, some of whom would love to immediately close the dump if they could, but who risk their careers if they try to advance that goal. Meanwhile the dump remains open.

Does the DEC commissioner have the power to close the dump or is he a pawn of the governor?

The state Health Department (DOH) is no different. During 2018, 2019, and 2020, as the Dunn dump was becoming increasingly notorious for poisoning Rensselaer and East Greenbush residents and Rensselaer public school students and staff, DOH had nothing to say. DOH was not the slightest bit proactive on this issue. It was like DOH lived on another planet or was unable to comprehend the English language. DOH seemed to not notice all the negative attention dump operations were receiving in the local news media.

Until February 27, 2020 when DEC and DOH held an "availability session" at the Rensselaer public school to hear from residents about the dump, DOH had said nothing about the dump. At the Feb. 27 meeting, DOH and DEC handed out a two-page information sheet to attendees in which DOH endorsed DEC's talking points about the dump. DOH refused to provide any meaningful response to me when I followed up with three letters asking DOH to provide "medical and science-based evidence" in support of DEC and DOH's assertion that "Exposure [to hydrogen sulfide odors] at the levels detected is highly unlikely to result in long-term health effects." DOH would not respond at all to my question: "Are there any physicians employed in the state health department who are willing to back such an assertion?"

As for the governor, he says absolutely nothing about the Dunn dump, despite it being only a mile or two from the Governor's Mansion and his state Capitol Building office. Meanwhile the governor pontificates daily on public health and the Covid-19, usually from his Capitol office. On May 2, he said, "I disagree with people who say put the economy ahead of public health...I am not going to put dollar signs over human lives. You do not have the right to jeopardize my health."

Left unanswered of course is the question of why the state government allows the Dunn dump to damage the health of Rensselaer and East Greenbush residents.

It is my view that state government needs to be reconfigured in a manner that assures the governor does not have total control over state agencies, and so as to make the agencies accountable to the public, supportive of their missions, transparent in their decision-making processes and operations, and where employees can safely and publicly express their professional views even when they disagree with established policy.

President Trump is widely criticized for muzzling science and scientists employed by the federal government but we have a similar problem here in New York State.

It should be a no-brainer that siting and operating a large landfill literally right next to a school is unacceptable. No one employed in DEC or DOH has the ability to say so in public. State government lacks a mechanism for state agency employees to make their views public without fear. Dump owners hope to keep the dump operating well past the year 2030.

Governor Cuomo gets lots of good state, national, and even international press for his Covid-19 initiatives while he continues to ignore the other public health emergency in his own neighborhood.

Save the Pine Bush Loses a Friend

by Tom Ellis

Labrador: Jim Learning of the Labrador Land Protectors, who spoke at the April 20, 2016 SPB dinner about his work to preserve rivers in Canada from needless destruction, died on April 16. He was 81. He was a Grand River Labrador board member and Nunatu-Kavut councilor.

Jim's 2016 stop in Albany was part of his ten-day educational and advocacy tour on NY, New England, and Nova Scotia in which he pleaded with listeners to reject electricity imports from Quebec and Labrador. He said the provincial governments literally destroy rivers and river valleys constructing dams, power stations, and enormous reservoirs to generate electricity, to be transported often more than a thousand miles to distant markets where electricity users are unaware of the devastation that occurs where the power originates.

"I am begging you. Push back on taking our electricity." He said, "it is not clean. Dams starve the sea of nutrients. We need a front to tell our government not to do this. I want to create a liaison between our group and your group."

Jim was jailed for non-violently resisting dam construction in 2013 and 2017. After learning of his death, his colleague, Denise Cole, wrote

that "he left us as an elder and he'll stay with us as an ancestor."

Jim was a strong advocate for an independent, united Labrador. Labrador is part of Newfoundland and Labrador (NL). NL was a British colony until after World War Two when it became Canada's tenth province. Labrador was a separate political entity from the island of Newfoundland until 1927 when the British government combined them without consulting Labrador's aboriginal people. Labrador has less than one-tenth the human population of Newfoundland island but contains more than seventy percent of the province's total land area. Labrador possesses immense quantities of iron ore, nickel, copper, uranium, and water. Labrador is thus dominated politically by Newfoundland whose politicians often treat it like a colony. It was Jim's hope that Labradorians could control the destiny of Labrador and protect it from predator corporations.

Pyramid Development continued from page 1

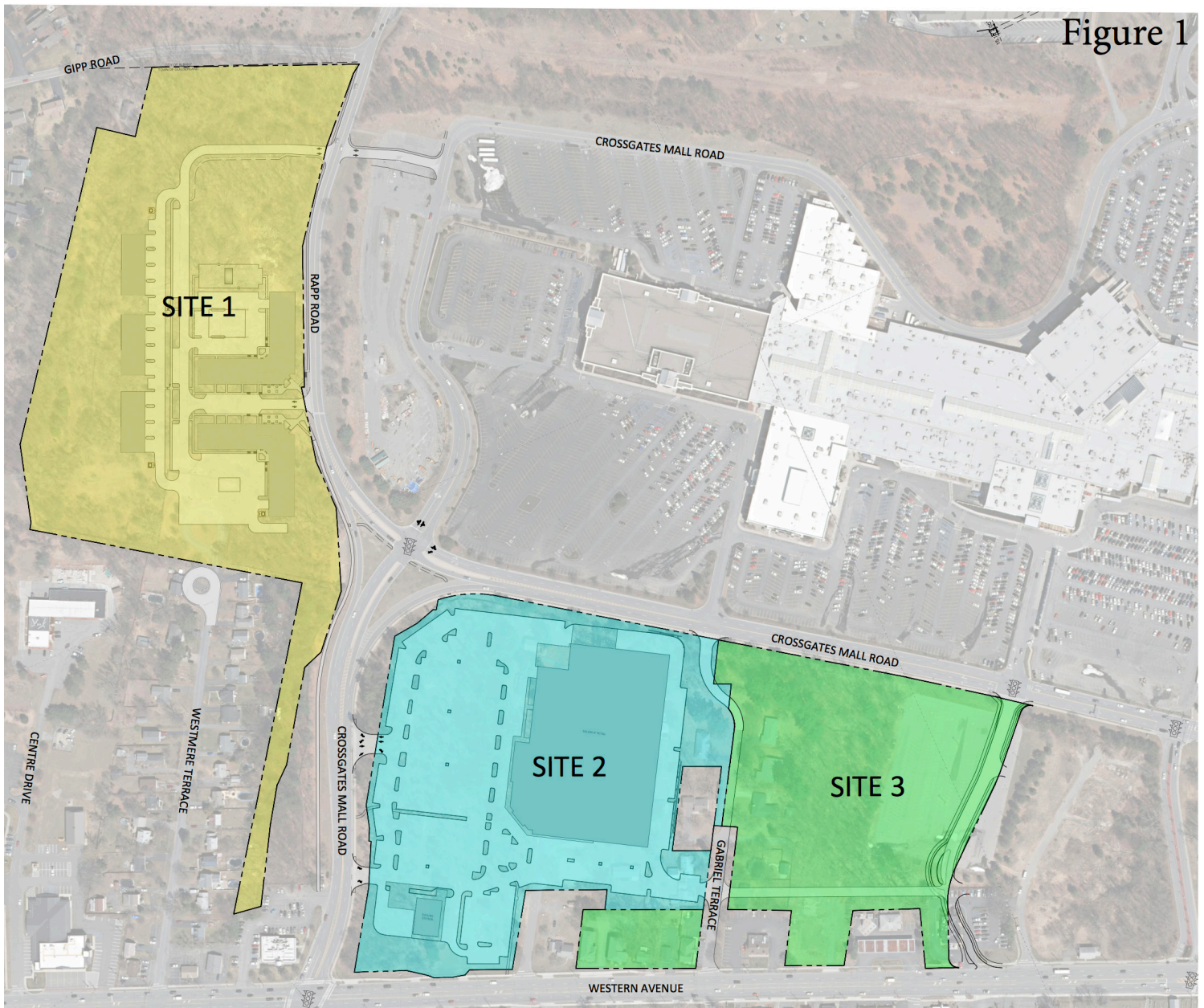
important now more than ever, for the Town of Guilderland to protect the Pine Bush ecosystem and all of the plants and animals that make their home there.

The Town Planning Board is holding a "virtual public hearing" on Wednesday, May 13. This project, if built, will make a huge change in the Town of Guilderland. For the Planning Board to hold a hearing during this time of a pandemic seems grossly unfair. There are many people who wish to be heard. The Town Planning Board is limiting comments of participants to three minutes (plus 30 seconds to finish up). If the technical setup is the same for this hearing as for the last Planning Board meeting, it will exclude people. First, one can see and hear the Planning Board on cable TV - if one has that particular TV station which is not available outside of the Town of Guilderland. The Planning Board will livestream the hearing, but, sometimes the livestream does not work. When people call in to make comments, the callers do not hear the public hearing, instead, they just hear "on hold" music. One cannot call in using a phone and hear the meeting. Also, people viewing the meeting either with a computer or on cable TV are not able to hear what the callers say.

Save the Pine Bush will be making written comments on the Draft Environmental Impact Statement (DEIS). The comments will be written by Christopher Walker, the legal intern from the Pace Environmental Litigation Clinic who is representing Save the Pine Bush in this matter. In addition, Save the Pine Bush has hired several experts including an expert in the Karner Blue

continued on last page

Figure 1



Screen shot of map on the Town of Guilderland website, included here to show general location of the proposed project. The complete map is found in the Draft Environmental Impact Statement (DEIS). To view full map, go to the Town of Guilderland website, click on Planning Board, then select “Environmental Impact Statement - Rapp Road/Western Avenue Mixed Use Redevelopment Projects”. Then, click on Draft Environmental Impact Statement - Figures. Direct link: https://www.townofguilderland.org/sites/guilderlandny/files/uploads/deis_text_figures.pdf.

Brief description of proposed development

All of the proposed developments are in the newly created Transit Oriented Development District (“TOD”). The total acres to be developed is approximately 46.

Site 1

The proposal includes two five-story buildings and three two-story buildings with 84 covered and 278 surface parking spaces, made up of 222 one- and two-bedroom apartments and 3,900 square feet of commercial space on a ± 19 acre site on Rapp Road.

Potential future development on the north-

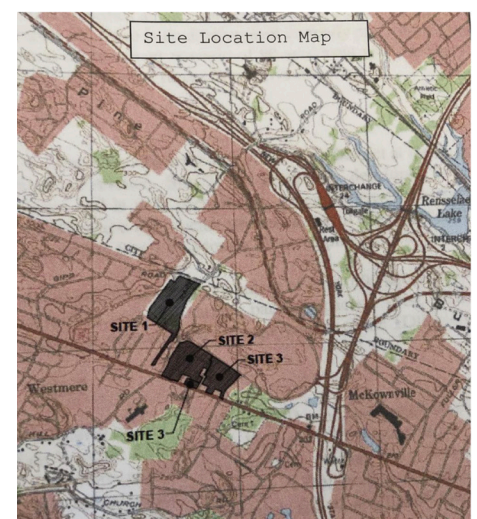
ern portion of the site could include 90 apartment units. Site 1 is bordered by the Pine Bush Preserve to the north.

Site 2

This ± 16 acres site is proposed for development of $\pm 160,000$ square feet Costco retail use with gas station and 700 surface parking spaces. This is the site of the “ghost subdivision,” Pyramid has purchased most of the houses in this subdivision years ago, and have left them vacant.

Site 3

This ± 11.34 acre site, according to Pyramid, has no specific proposal, but Pyramid says this site could include 115,000 SF of retail, 50,000 SF of office space, and 48 apartments.



Pyramid Development continued from page 3

butterfly, birds, soils, trees and other specialties. The reports written by these experts will inform Save the Pine Bush comments.

The DEIS for the proposal is inadequate. The report includes two appendices that supposedly review the “vegetation, wildlife and soil conditions” on the proposed sites. These two appendices are unsigned, and do not describe the method by which the vegetation and animal studies were conducted. Common local species were missed in the list of species found on the land. Wetlands reports are missing.

On March 26, Pyramid clear cut Site 2, the site of the proposed Costco. This paved a way for a federal suit to be filed against Crossgates. The plaintiffs on the lawsuit are four neighbors of the proposed Costco and the owner of a gas station. The suit was filed in the Northern District of New York by James Bacon of New Paltz.

Mr. Bacon said, “In more than 30 years of involvement in SEQRA proceedings, I have never heard of an agency allowing the clear-cutting of woodlands during the SEQRA process. Clear cutting part of the Costco site improperly pre-determines critical aspects of the SEQRA review such as alternative site layouts and designs which is significant for a project potentially resulting in more than 300 residential units, 275,000 sq. ft of commercial/retail use and 50,000 sq. ft. of offices while also depending upon the alienation of portions of five Town Roads. The scope of federal and state violations coupled with the scope of the project requires re-establishment of lead agency allowing another involved agency to adhere to SEQRA’s procedures and act as “stewards of the... land, and living resources” with “an obligation to protect the environment for the use and enjoyment of this and all future generations” as required by the New York State Environmental Conservation Law. ECL 8-§0103(8).”

Made Your Voice Heard about the Proposed Crossgates Development in the Pine Bush Called the Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects

Participate in the Virtual Public Hearing on **Wednesday, May 13 at 6:00 PM**

Write comments on the Draft Environmental Impact Statement (DEIS) to the Town of Guilderland Planning Board. Comments are due by **Tuesday, May 26**

See: <https://www.townofguilderland.org/planning-board/pages/environmental-impact-statement-rapp-road-residential-western-avenue-mixed-use>

Write to the Town of Guilderland Planning Board

Name of the project: Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects

Email comments to: Kenneth Kovalchik, Town Planner, Kovalchikk@togny.org

The Town of Guilderland Planning Board should reject the Draft Environmental Impact Statement (DEIS) for the proposed development by Pyramid (Crossgates) to build massive apartment complexes, office space and expansive retail on Rapp Road, the Mall Road and Western Avenue. This proposed development includes a Costco with 700 car parking lot and a gas station.

The Town of Guilderland Planning Board should remove itself as lead agency because it illegally allowed alteration of the site during the State Environmental Quality Review Act (SEQRA) review by permitting a wooded lot to be clear-cut of its trees on March 26, 2020.

The following are not adequately addressed in (DEIS):

The proposed development borders the Pine Bush Preserve and the proposed development is completely within the boundaries of the Pine Bush study area. The Albany Pine Bush is considered the best example of an inland pine barrens ecosystem in the world. The Pine Bush contains 78 wildlife Species of Greatest Conservation Need, including the federal and state-endangered Karner blue butterfly) and state-threatened frosted elfin butterfly, and the largest inland sand dune system in eastern North America. The site 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. Appendices F and G in the DEIS are inadequate to evaluate the impact of the proposed development on the plant and animal species in the Pine Bush.

This Pine Bush habitat is threatened by the proposed development, whether it is adjacent to the construction or a few hundred feet away. These species are important not only to the Pine Bush, but to the local ecosystem as well. The cumulative impact of this development plus other proposals on the Pine Bush is not adequately addressed in the DEIS.

The world is experiencing the sixth major extinction. The mitigation measures offered in the DEIS are inadequate to address the destruction of 46 acres of land. The proposed development decreases the size of the Pine Bush and the mitigation measures offer no possibility for expanding the habitat.

The Draft Environmental Impact Statement is woefully incomplete because it does not adequately address the effect this massive development would have on the ecosystem of the Pine Bush, or the effect on plant and animal the species.

Please make sure to get your comments in to the Planning Board by Tuesday, May 26, 2020.

Return Service Requested

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Save the Pine Bush
A Project of the Social Justice Center
33 Central Avenue
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