

Final Environmental Impact Statement
for
Rapp Road Residential / Western Avenue Mixed Use
Redevelopment Projects
Town of Guilderland, New York

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Date of Notice of Completion of FEIS:

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EXECUTIVE SUMMARY

1.0 DOCUMENT PURPOSE

Pursuant to New York State Environmental Conservation Law (ECL) Article 8, SEQRA [SEQRA refers to the State Environmental Quality Review Act, while SEQR refers to the environmental review process stipulated in the statute and implementing regulations (6 NYCRR Part 617)]; and Part 617 of Chapter 6 of the New York Codes, Rules and Regulations (6 NYCRR Part 617), environmental review must be completed for projects that may result in a significant adverse environmental impact so that these impacts can be identified and avoided or mitigated to the maximum extent practicable. This Final Environmental Impact Statement (FEIS), which incorporates the previously issued Draft EIS (DEIS) by reference, has been prepared to evaluate potentially significant adverse impacts and reasonable alternatives. Moreover, measures to reduce/mitigate the significant adverse impacts that may potentially result from the construction and operation of the projects are identified in the EIS. Steps of the SEQR process are summarized below.

2.0 PRIOR PROCEEDINGS

2.1 Application and SEQRA Background

In November 2018, Rapp Road Development, LLC (“RRD” or the “Applicant”) filed site plan and subdivision applications to the Planning Board for a proposed development of 222 one and two bedroom apartments in five buildings with underground and surface parking on a ±19 acre site on Rapp Road (the “Proposed Rapp Road Project”) within the Town’s Transit Oriented Development (“TOD”) district. RRD submitted a completed Part 1 of a Full Environmental Assessment Form (“FEAF”), which identified agencies that may be required to issue a permit or approval, including the Town Board, Guilderland IDA, NYS Department of Environmental Conservation, Albany County Planning Board and NYS Office of Park, Recreation and Historic Preservation.

The Planning Board determined that the Project constituted a Type 1 action under SEQRA, that a coordinated environmental review was required, and declared its intention to act as Lead Agency under SEQRA. None of these identified agencies expressed a desire to act as SEQRA Lead Agency and the Planning Board became the SEQRA lead agency. At its July 10, 2019 meeting, the Town Planning Board designated itself as SEQRA lead agency. On July 19, 2019, RRD filed a revised FEAF.

Although the Planning Board had already undertaken a nine-month SEQRA and zoning review of the Rapp Road apartment project (November 2018 through July 2019), as lead agency, stopped the process and determined to expand the scope of the environmental review to include the assessment of the cumulative impacts of developing additional TOD zoned lands owned by the applicant or related entities in the immediate area of the Rapp Road site.

2.2 The Positive Declaration

A determination of significance is the critical step in the SEQRA process in which the Lead Agency, having considered Parts 1 and 2 of an FEAF, decides whether an environmental impact statement must be prepared for an action.

In furtherance of this determination, the Planning Board issued a Part 3 to the FEAF which redefined the “SEQRA Action” as Rapp Road Residential Development and Additional Lands. In support of that decision, Part 3 of the FEAF provided:

Based on the information in Parts 1 and 2 and the entire record before the Planning Board, including expert environmental reports, the proposed action consisting of the development of 222 apartments on 19.68 acres will not have a significant adverse environmental impact on the environment. However, because the proposed action is 1) in the vicinity of other property within the Transit Oriented District located between Crossgates Mall Road and Western Avenue (see attached plan); and 2) this property is owned or controlled by entities affiliated with the project sponsor and

developable with the TOD that utilize the same transportation and municipal facilities, the Planning Board determines that there may be a potentially significant cumulative adverse environmental impact.

The FEAF, now consisting of Parts 1, 2 and 3 (completed by the Planning Board), attached a map identifying the three parcels of land which were included in the expanded definition of the “SEQRA Action.”

On August 14, 2019 the Planning Board, acting as SEQRA Lead Agency and recognizing the potential development of nearby lands, adopted a resolution issuing a Positive Declaration requiring a cumulative impact analysis of the larger “SEQRA action” described in Part 3 of the EAF. The Positive Declaration included the requirement that a Draft Environmental Impact Statement (“DEIS”) be prepared for the three-site “action,” and that a public Scoping procedure be undertaken to determine the content of the DEIS.

The Positive Declaration described two additional sites to be analyzed in the DEIS: (1) lands located within the TOD district at the intersection of Crossgates Mall Road and Western Avenue (“Site 2”) would be evaluated for development of a potential ±160,000 square feet retail store and fueling facility on ±16 acres; and (2) lands immediately adjacent to Site 2 totaling ±11.34 acres of land (“Site 3”). While no development plans were identified for Site 3, the Planning Board required that the site be analyzed in the DEIS as part of the cumulative impact review as conceptually including a zoning compliant potential ±115,000 SF of retail, 50,000 SF of office space, and 48 apartments.

The Positive Declaration states that:

[T]wo public meetings were held by the Planning Board on the proposed Rapp Road Residential project, and written comment letters were received from agencies and members of the public. Several commenters indicated that the environmental review should include the preparation of an environmental impact statement. **Based on this record, and giving consideration to the development potential of additional TOD zoned lands under ownership or control of the Applicant that will utilize the same transportation network and municipal utilities, the Planning Board has determined to undertake a cumulative impact review of the areas described in Part 3 of the EAF and shown on the attached plan.** (emphasis added)

2.3 The Public Scoping Session

As required by the SEQRA regulations, the applicant provided a draft Scope for the DEIS, addressing all three sites, which was then subjected to a public comment period.

The SEQRA regulations require that a draft Scope for a DEIS be made available for public comment for not less than 30 days. The Planning Board initially received written comments on the

draft Scope until September 17, 2019 (34 days), extended the deadline to October 2, 2019 (49 days), and on October 23, 2019 (70 days) adopted a final scope.

2.4 The Costco Special Use Permit Application

On November 12, 2019, Crossgates Releaseco, LLC filed an application to the Town of Guilderland Zoning Board of Appeals seeking approval of a Special Use Permit to construct a Costco with fueling facility on Site 2.

2.5 Preparation and Acceptance of the DEIS

As provided for in the SEQRA Regulations, following acceptance of the Scoping document, the project sponsor prepared a draft of the DEIS, which was provided to the Town for consideration. The proposed DEIS was evaluated by the Planning Board, its professional consultants, and Town staff who recommended that the Planning Board accept the DEIS “as complete and adequate with respect to its scope and content for the purpose of commencing public review.” 6 NYCRR 619.9(a)(2).

On February 12, 2020, the Planning Board accepted the DEIS as complete and commenced the public comment period on that document on February 20, 2020. The SEQRA Regulation require a minimum of 30 days for the public comment period on the DEIS. 6 NYCRR 617.9(a)(3). The DEIS consists of comprehensive traffic studies and multiple alternative mitigation scenarios, expert environmental site analyses of flora, fauna, natural resources, stormwater management, hydrology, soil conditions, archeological/cultural resources reports, fiscal impact analyses, and detailed site plans. The Planning Board published a copy of the DEIS on its website. *See <https://www.townofguilderland.org/planning-board/pages/environmental-impact-statement-rapp-road-residentialwestern-avenue-mixed-use>.*

The SEQRA public comment period on the DEIS commenced on February 20, 2020. While the SEQRA regulations do not require a public hearing on the DEIS, the Planning Board scheduled a public hearing for March 11, 2020. As a result of the failure of the official Town newspaper to timely publish the notice of the public hearing, the Planning Board adjourned the public hearing to March 25th. Due to the COVID-19 pandemic, the Planning Board rescheduled the public hearing to May 13th.

On May 13, 2020, the Planning Board held a remote public hearing in accordance with the New York State Governor’s Executive Orders for public hearings during the COVID 19 pandemic. The public hearing lasted over four hours and there were approximately 100 speakers. Under 6 NYCRR 617.12(a)(2)(iii), the public comment period remained open for an additional 10 day period, until to May 26th, for a total of 96 days of public comments. Over 600 written public comments were submitted to the lead Agency.

2.6 Permits and Approvals

Sections 2.6.1 and 2.6.2 of the DEIS contain the comprehensive list of permits and approvals required for development of Sites 1, 2 and 3, including:

For Site 1:

- Planning Board Site Plan and Lot line Adjustment/Subdivision (combination).
- Highway Superintendent Driveway permit.
- NYSDEC Stormwater SPDES General Permit for construction activities.

For Site 2

- Zoning Board of Appeals Special Use Permit. This approval will include, by referral, an advisory site plan review by the Town Planning Board. The application for an area variance has been withdrawn.
- Town Board Discontinuance of all or portions of Town roads, approval of road improvements, and acceptance of the dedication of extended Gabriel Terrace.
- Planning Board Lot line Adjustment/Subdivision (combination).
- NYS DOT Highway Work Permit.
- US Army Corps of Engineers Nationwide Permit for the filling of a 0.093 acres wetland

NYSDEC Stormwater SPDES General Permit for construction activities will also be obtained. A building permit for the development projects will be required from the Town Building and Zoning Administrator. Depending on conditions adopted by the Planning Board (Lead Agency) with respect to traffic mitigation, additional approvals or authorizations may be required from the Town Highway Department, the City of Albany, NYSDOT, and the FHWA.

2.7 Final Environmental Impact Statement

This Final Environmental Impact Statement (“FEIS”) is the next step in the SEQRA process. This FEIS, which was prepared upon the close of the public comment period, consists of the following documents:

- The DEIS, by reference.
- Any necessary corrections or revisions to the DEIS.
- Copies of comments received, indicating their source (correspondence, hearing, etc.).
- The minutes of the public hearing.
- The Lead Agency's responses to substantive comments. General statements of objection or support should be noted in the comment summary, but need no response. The Lead Agency may choose to group comments by topic, and respond only once for each topic, so that responses in the FEIS are not repetitive.

The FEIS will be used by the Involved Agencies (including the Town Planning Board, as SEQRA Lead Agency) to make written findings regarding the potential environmental effects of the proposed action. In their respective findings, Involved Agencies weigh and balance the relevant environmental impacts along with social, economic, and other essential considerations to determine whether the action will minimize or avoid environmental impacts to the maximum extent practicable. “Findings” will be based on information presented in the FEIS. Implementation

of the action will not proceed until written findings are filed and all other applicable permits and approvals to facilitate the development, or part of the development, are obtained.

The Lead Agency decides which comments on a DEIS constitute substantive comments and must, therefore, be responded to in the FEIS. In determining whether comments received are substantive, the Lead Agency should assess the relevance of the comments to identified impacts, alternatives and mitigation, or whether the comments raise important, new environmental issues, not previously addressed. The Lead Agency may also choose to use its responses to comments as an opportunity to explain why an impact is not significant, why a topic is not included in the FEIS, or how an alternative or proposed mitigation would work. Clarification of scientific terms, concepts or data interpretation may also be necessary in a FEIS. Speculative comments, or assertions that are not supported by reasonable observations or data, need no response. Where comments identify minor discrepancies in wording, or typographical errors, the Lead Agency should make those corrections, but no other response is needed.

3.0 CORRECTIONS AND REVISIONS TO DEIS

The following information has been updated to address comments from the public, and involved and interested agencies since the release of the DEIS:

1. 2.6.2 Planning Board Add [subdivision (lot consolidation)]
2. Appendix 1 Site 1 Site Plan (C130) Revised lot coverage from 31% to 28%
3. Appendix J Site 1 SWPPP Appendix M Sheets C130 lot coverage
Appendix M Sheet C160 CB21 location
Appendix M Sheet C180 white pine replaced
scotch pine
4. The request for a light pole height variance has been removed.
5. Based upon comments from Guilderland residents, NYS Department of Transportation, town officials and consulting engineers, the Applicant has agreed to facilitate all of the traffic improvements summarized below. The items will be completed prior to Costco opening for business to customers, unless otherwise noted.

Roundabout at Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 Ramps)

A roundabout will be constructed on Crossgates Mall Road and the Fuller Road Alternate ramps to/from I-87/I-90 intersection.

A roundabout is a circular intersection where drivers travel counterclockwise around a center island. The circular shape is designed to control the direction of traffic and reduce speeds to 15 to 20 mph. There are no traffic signals or stop signs in a roundabout. Drivers yield at entry to traffic in the roundabout, then enter the intersection and exit at their desired location. Studies by the Federal Highway Administration have found that roundabouts can increase traffic capacity by 30 percent to 50 percent compared to traditional intersections.

It will be designed to accommodate vehicles of all sizes, including emergency vehicles, buses, and truck and trailer combinations. The circular shape is designed to control the direction of traffic and reduce speeds to 15 to 20 mph. It also reduces the likelihood of severe t-bone or head-on collisions. A main feature of the roundabout is the raised central island. The central island of the roundabout will include a truck apron, a raised section of concrete that acts as an extra lane for large vehicles so the back wheels of an oversize vehicle can ride up on the truck apron to easily complete the turn. The raised portion of concrete also discourages use by smaller vehicles. In addition to the central island, the roundabout will feature triangular splitter islands designed to slow and direct traffic.

The roundabout at this location has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. The roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Gabriel Terrace intersection with Crossgates Mall Road

The primary access for Site 2 (Costco) will be at Gabriel Terrace and Crossgates Mall Road. The Gabriel Terrace intersection will be located east of the mall driveway on the west side of Dick's Sporting Goods resulting in two "T" intersections. As part of the design, the current four lanes will be reduced to three lanes, and a center turn-lane will be provided on Crossgates Mall Road.

Gabriel Terrace Intersection with Western Avenue

Access to and from Gabriel Terrace at Western Avenue will be constructed to physically restrict right turn in / right turn out movements only. Left turns into and out of Gabriel Terrace will not be permitted.

Costco Driveway Entrances from Crossgates Mall Road

The northernmost driveway (main) access to Costco from Crossgates Mall Road (between Western Avenue and Rapp Road) will be restricted to a right turn in /right turn out movements only and a raised median will be constructed to prevent the left turn movements. Similarly, the southernmost driveway access to the fueling area will be restricted to a right turn in only. Both driveways will be designed to prohibit left turns.

Crossgates Mall Road

Crossgates Mall Road from the hotel driveway to the vicinity of Rapp Road will be reconfigured from four lanes to three lanes to provide a center turn lane.

Crossgates Mall Road and Rapp Road

The channelized right turns from Rapp Road to Crossgates Mall Road (southbound) and Crossgates Mall Road (eastbound) will be eliminated to create a four-way intersection. These right turns will now be made at lower speeds under signal control to improve safety as per the recommendations of a regional intersection safety study conducted by VHB on behalf of the Capital District Transportation Commission.

Western Avenue and Johnston Road / Crossgates Mall Road

At the intersections identified below, the NYSDOT has recommended signal timing adjustments to maintain similar operating conditions. Modems will also be provided as per NYSDOT specs as a means to adjust signal timings as needed. The modem will allow for synchronized timing amongst the traffic signal controllers to provide a common cycle length and establish the appropriate offsets to aid the flow of traffic.

1. Western Avenue and Crossgates Mall Driveway
2. Western Avenue and Johnston Road/Rapp Road

For the 2025 Design Year, the Applicant will construct a westbound right turn lane on Western Avenue at Johnston Road/ Rapp Road (Crossgates Mall Road).

Western Avenue Driveway Closures

As requested by the NYS Department of Transportation, seven (7) existing Western Avenue driveways for properties owned by the applicant within Site 2 and Site 3 will be eliminated in coordination with the development of Site 2.

Rapp Road

As detailed in Section 2.3 Traffic, the Planning Board (Lead Agency) is considering multiple alternatives designed to alleviate traffic in the Rapp Road Historic District located north of Site 1, at the north end of Rapp Road.

Section 1 Introduction

This Final Environmental Impact Statement (“FEIS”) has been prepared at the direction of the Town of Guilderland Planning Board for the Rapp Road Residential /Western Avenue Mixed Use Redevelopment Projects. The Planning Board is the lead agency under Article 8 of the New York State Environmental Conservation Law (ECL) and its implementing regulations (6 NYCRR Part 617), otherwise known as the New York State Environmental Quality Review Act (“SEQRA”).

The project sponsor plans to develop 222 apartments in five buildings with underground and surface parking on a 19 acre site on Rapp Road, immediately west of Crossgates Mall (“Site 1”). The analysis for Site 1 includes the potential future development of 90 additional apartment units strictly for the purpose of examining all potential future cumulative impacts. In addition, a ±160,000 square feet retail store (Costco) and fueling facility is proposed on ±16 acres of land (“Site 2”) located at the intersection of Western Avenue and Crossgates Mall Road. Finally, lands immediately adjacent to Site 2 totaling ±11.34 acres of land (“Site 3”) is considered for development of a mixed-use project, including ±115,000 SF of retail, 50,000 SF of office space, and 48 apartments. While there are no development plans for Site 3, a potential development scenario was required by the Planning Board to be analyzed as part of the cumulative impact review.

The FEIS consist of two parts. The first part is the Draft Environmental Impact Statement (“DEIS”), which was accepted as complete by the Town of Guilderland Planning Board acting as lead agency, on February 12, 2020 and included herein by reference.

The second part of the FEIS consists of three sections. The first section is the Introduction. The second section presents written responses to the substantive comments on the DEIS made during the public hearing and public comment period. The third section contains the public hearing transcript and copies of written comments.

The FEIS has been prepared at the direction of the Planning Board as SEQRA lead agency to ensure that the Planning Board, together with other involved agencies and the public, are able to carefully analyze and take a “hard look” at potential environmental impacts of the proposed action and proposed measures to mitigate such impacts.

Section 2 Responses to Substantive Comments

2.1 Biological, Terrestrial and Ecology

Comment 1: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

Protection: The proposal for Site 1 will result in the irreversible loss of the ability to protect and manage 19.68 acres recommended for partial protection (Area 57). We do not disagree with the conclusions regarding potential impacts to listed wildlife species, and the fact that the site is highly degraded and dominated by invasive plant species. However, the soils analysis indicates the site supports APB soils and could be restorable to pitch pine-scrub oak barrens (PPSOB). As such, the applicant's proposed mitigation to offset the loss of this restorable acreage on Site 1 is appreciated and consistent with the site's Partial Protection recommendation.

Proposed mitigation includes:

- protecting approximately 8.4 acres within Full Protection Areas 62 and 79;
- providing new/updated indoor and outdoor education/outreach space highlighting KBB and PPSOB conservation, the APBP, and the applicant's role in balancing conservation and economic development in the APB;
- modifying Rapp Road to improve ecosystem function within the KBB corridor; and
- maintaining a heavily forested 200-foot permanent buffer near Gipp Road in Partial Protection Area 57.

Response 1: Comment noted. None of the proposed development Sites 1, 2 or 3 contain Albany Pine Bush habitat in their existing condition. Site 1 is identified as Area 57 in the Albany Pine Bush Management Plan Update of 2017. Site 1 is located south of Gipp Road and Albany Pine Bush occurs north of Gipp Road. Site 1 is the closest development area to the Albany Pine Bush Preserve and was designated for "partial protection" in the Commission's Pine Bush Management Plan meaning that the site may be appropriate for development under certain conditions. With the project's residential development, the Site's northern 200 feet of existing, secondary growth woodlands (containing numerous invasive species and filled soils) will be preserved. This 200 foot wide, ± 2.5 acre buffer will occur immediately south of Gipp Road and will continue to protect the Albany Pine Bush areas occurring north of Gipp Road from disturbance.

As noted in Comment 2, Sites 2 and 3, while in the APB Study Area, are not within areas recommended for protection in the 2017 Management Plan Update and have no Pine Bush protection designation.

The only involvement of Albany Pine Bush habitat included with the project will be preservation in perpetuity of 8.4 acres within Full Protection Areas 62 and 79. At present, Areas 62 and 79 occur north of Crossgates Mall and the Karner Blue Butterfly habitat represented by the KBB hill and the east-west National Grid power line right-of-way. These areas are currently owned by the Applicant. They will be transferred to ownership by the Albany Pine Bush Commission for preservation and management as Albany Pine Bush in perpetuity.

In short, the Proposed Action:

- will not remove any Albany Pine Bush habitat
- will transfer 8.4 acres known as Management Plan Areas 62 and 79 to the Albany Pine Bush Commission for preservation and management in perpetuity as Albany Pine Bush and identified for Full Protection; and,
- Will maintain the existing 200-foot-wide, 2.5 +/- acre buffer on Site 1 consistent with its partial protection designation.

Comment 2: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

Protection: The proposed and conceptual development described for Sites 2 and 3, respectively, are not within areas recommended for protection in the 2017 Management Plan Update. Consequently, their development is unlikely to result in significant adverse impacts on APBPC's ability to create and manage a viable preserve. Native plant landscaping, LED exterior lights, and eliminating non-native invasive plants on Sites 2 and 3 would be consistent with APBPC comments for other non-protection areas in the APB Study Area.

Response 2: Comment noted. Sites 2 and 3 in the Proposed Action are re-developments of a residential neighborhood and old Rapp Road southern corridor. These areas are not Albany Pine Bush habitats. Further, they are south of the two ring roads, the parking lots and buildings which currently constitute the Crossgates Mall. Therefore, they are located more than 1,000 feet south of the nearest significant Albany Pine Bush habitat. The development of Sites 2 and 3 will not significantly impact the Albany Pine Bush Preserve Commission's ability to create and manage the Albany Pine Bush Preserve. Native plantings are proposed in the landscaping plans and exterior lighting LED lighting will use LED fixtures which use hues that reduce glare and are more representative of daylight conditions and therefore less attractive to insects.

Comment 3: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

Preserve Habitat Management: We appreciate the applicant's incorporation of meaningful measures to avoid potentially significant impacts on the ability of the APBPC and NYSDEC to manage adjacent protected lands north and east of the Site 1. However, contrary to the summary provided within Section 3.3.1.9 (page 63), it is important to clarify that while it is not envisioned that prescribed fire will be used to manage lands within the proposed 200 foot buffer on Site 1, the APBPC and NYSDEC do intend to use this ecological management tool to restore and maintain adjacent and nearby protected wildlife habitat.

Response 3: Comment noted.

Comment 4: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

Traffic: The applicant's hard look at evaluating, and potentially offsetting, multiple traffic-related impacts associated with the proposed development of Sites 1, 2 and 3 are appreciated. The DEIS and Appendix I identified several potential options for mitigating traffic on Rapp Road. As

outlined in our earlier comments, the APBPC's evaluation of traffic mitigation options is from the perspective of reducing potential impacts on protected lands and the effective conservation of the rare wildlife populations they support. While we empathize with the traffic-related concerns of the Rapp Road Historic District residents and other adjacent neighborhoods, we trust the Planning Board will ultimately select a traffic mitigation option that simultaneously minimizes potential traffic impacts, while maximizing cumulative potential benefits, consistent with the 2017 Management Plan Update, the Guilderland Comprehensive Plan, and the Albany 2030 Comprehensive Plan. The Commission opposes traffic alternatives 1-3; alternatives 4-5 are most effective, alternative 6, combined with Alternative 4 may expand the size of the KBB area, alternative 7 reduces traffic impacts on ecosystem function, and improves the current condition, and offer some benefits to conservation and neighborhood traffic concerns.

Response 4: Comment noted.

Comment 5: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

Site 1 Landscaping: We appreciate that the applicant has proposed using some native plants and native cultivars for landscaping the site, including the use of white pine for screening. However, we suggest eliminating species that would be potentially problematic should they escape into the nearby-protected lands, including scotch pine (which could be replaced with red or white pine).

Response 5: The proposed landscaping plans will be changed to eliminate Scotch pine and replace it with White pine a native species.

Comment 6: Albany Pine Bush Preserve Commission, March 10, 2020 letter.

With the exception of traffic mitigation Alternatives 1, 2 and 3, the DEIS overall appears to satisfy the hard look required by SEQR from the perspective of the APBPC and our mission. The DEIS also appears to have adequately considered, and is consistent with, earlier APBPC comments. The APBPC appreciates the Town of Guilderland's and the applicant's efforts to support creating and managing a viable preserve while balancing conservation and economic development interests.

Response 6: Comment noted.

Comment 7: May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

I'm calling on behalf of the Pine Bush Preserve Commission. I would like to start with the commission's conclusion then try for the sake of time give a little bit of context and if it's the planning board has any questions. In a nutshell you've seen the three letters regarding this project that the commission has submitted and in particular our most recent letter dated March 10, 2020 providing our summary of comments on the DEIS. In summary, the Commission does not believe that the current proposal depending upon the alternatives for any realignment of Rapp Road given the scope of the project in the totality and the mitigation proposed that the project is likely to have a significant negative impact on the commission's ability to create and manage viable Preserve.

Response 7: Comment noted.

Comment 8: May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

While the sites may support plants and animals and some kind but given the scope of the project, the location of sites two and three it is unlikely that the project as proposed depending again on the realignment of Rapp Road is likely to have a significant negative impact on the commission's ability to create and manage a viable Preserve.

Response 8: Comment noted.

Comment 9: May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The management plan that was unanimously adopted by commission members spells out how we try and create and manage a viable preserve. It's important to us in support of the commission that would remain consistent in with our word with that management plan as such considering that site one that area recommend the partial protection. It is adjacent to preserve and protected land that's managed by the commission and DEC. The proposed mitigation for impacts to that site in particular adding land in the Preserve and various things that the applicant has outlined that they intend to complete will offset any potentially significant negative impact on the commission's work to create a manage a viable preserve.

Response 9: Comment noted.

Comment 10: May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

You've seen the letters that the commission has submitted and are familiar with and our recommendations outlined in the management plan for partial protection and full protection areas that we believe that the applicant's proposal in a nutshell is consistent given mitigation with that management plan.

Response 10: Comment noted.

Comment 11: Grace Nichols, March 5, 2020 email. See also substantively similar comment of Karen White, April 22, 2020 email; May 13, 2020 public hearing comment of Grace Nichols.

The Pine Bush is a rare habitat necessary to the survival of an ecosystem with many rare species. Karner Blue Butterflies are sensitive to any disturbance and needs more land. Science shows that enough habitat has been taken. That buffers matter. That pine bush species need peripheral territory to flee to in times of fire or disturbance. That the Karner Blue Butterfly will not tolerate environmental disturbance or habitat loss.

Response 11: Development of Sites 1, 2 and 3 will not impact any existing pitch pine-scrub oak barrens and as attested to by the Albany Pine Bush Preserve Commission’s letter dated March 10, 2020, the developments are consistent with the “2017 Management Plan Update for the Albany Pine Bush Preserve.”

In 1988, the New York State Legislature established the Albany Pine Bush Preserve Commission for the purpose of managing lands dedicated to the Albany Pine Bush Preserve. In 1993, the Commission, created the first Management Plan for the Pine Bush Preserve which has been updated several times over the years. The last update occurred in 2017 and is entitled “2017 Management Plan Update for the Albany Pine Bush Preserve.”

The Commission reviewed the proposed development projects for consistency with the current Management Plan, and made the following findings in a comment letter dated March 10, 2020:

- “...the applicant’s proposed mitigation to offset the loss of this restorable acreage on Site 1 is appreciated and consistent with the site’s Partial Protection recommendation.”
- “The proposed and conceptual development described for Sites 2 and 3, respectively, are not within areas recommended for protection in the 2017 Management Plan Update. Consequently, their development is unlikely to result in potentially significant adverse impacts on APBPC’s ability to create and manage a viable preserve.”
- “The applicant’s hard look at evaluating, and potentially offsetting, multiple traffic-related impacts associated with the proposed development of Sites 1, 2 and 3 are appreciated.”
- “In conclusion, with the exception of traffic mitigation Alternatives 1, 2 and 3, the DEIS overall appears to satisfy the hard look required by SEQR from the perspective of the APBPC and our mission. The DEIS also appears to have adequately considered, and is consistent with, earlier APBPC comment.”

Potential impacts on endangered and threatened species and species of special concern, and other species, protected or otherwise, were examined in detail in the DEIS, including the potential impacts on the overall Pine Bush Preserve and the Commission’s ability to maintain same. Wildlife biologists at B. Laing Associates have studied Site 1 for numerous years, as well as the other two sites. Following their in depth review of the site, in their report, they concluded:

- i. None of the proposed development Sites 1, 2 or 3 contain any Albany Pine Bush habitat in their existing condition. Site 1 is identified as Area 57 in the Albany Pine Bush Management Plan Update of 2017. Site 1 occurs south of Gipp Road and Albany Pine Bush occurs north of Gipp Road. Site 1 is, therefore, the closest to the Albany Pine Bush preserve lands (but, itself does not contain any Albany Pine Bush habitat). The current Management Plan classifies this Site as “partial protection”. With the project’s

residential development, the Site's northern 200 feet of existing, secondary growth woodlands (containing numerous invasive species) will be preserved. This 200 foot wide buffer will occur immediately south of Gipp Road and will continue to provide protection to the Albany Pine Bush habitat occurring north of Gipp Road from disturbance.

- ii. The only involvement of Albany Pine Bush habitats included with the project will be preservation in perpetuity of 8.4 acres designated as Full Protection Areas 62 and 79. At present, Areas 62 and 79 occur north of the Mall and the existing KBB hill preserve area and National Grid right-of-way. These areas are currently owned by the Applicant and not managed by the Pine Bush Commission or NYSDEC. This property will be transferred to ownership by the Albany Pine Bush Commission for preservation and future management as Albany Pine Bush in perpetuity.
- iii. In short, the Proposed Action:
 - will not remove any Albany Pine Bush habitat.
 - will maintain a heavily forested 200-foot wide, 2.5+/- acre permanent buffer near Gipp Road in Partial Protection Area 57.
 - will transfer 8.4 acres known as Management Plan Areas 62 and 79 identified for full protection to the Albany Pine Bush Commission for preservation and management as Albany Pine Bush in perpetuity.

Therefore, additional lands identified as full protection and currently consisting of Albany Pine Bush habitat will be preserved by the Proposed Action and not impacted by it.

In direct response to the comment, previously established buffer areas will not be impacted. An additional 4+/- acres of open space to the rear of the development on Site 1 will be preserved to buffer residential properties on Paden Circle resulting in 6.5+/- acres of contiguous open space on Site 1 that can be utilized by a variety of wildlife species. The existing Butterfly Hill preserve area and migration corridor will be expanded. There will be no environmental disturbance or Pine Bush habitat loss.

Comment 12: Invertebrates, Reptiles, Trees and Flying Mammals. Part Two, Public Comment by Grace Nichols. 5/25/2020 Dr.'s Lane and Kiviat.

The Karner Blue Butterflies in the Albany Pine Bush had a very serious drop in population after the establishment and expansion of the Crossgates Mall, but with extraordinary measures, including sending eggs to a New Hampshire to be lab hatched and placed in the Pine Bush, have, over time, increased its population, even as populations in Minnesota, Indiana and Canada were extirpated over that same period. Barrens Buckmoths remain extremely rare, but are still found in the Pine Bush. These species are similar in that they all are dependent on the prairie features of the pine bush, and are having trouble in the Northeast where there isn't much prairie (grasslands) left. They all have specific host plants and controlled burns are beneficial for them.

Response 12: The comment regarding the increase in KBB population is noted. In the 1980's KBB numbers at the Hill preserve and in the associated electrical right-of-way numbered in the hundreds. At last count, KBB numbers have increased into the thousands. In recent public comments this month, it was reported that “the population of the quarter-sized butterfly has been more than 7,000 for the last seven years.” <https://www.spotlightnews.com/news/2020/07/23/butterfly-is-taking-off-in-the-pine-bush/>.

Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens or Pine Bush “prairie” habitat and have no impact on any listed species as detailed in the DEIS. Dr.’s Lane and Kiviat indicate that the lack of an exact speciation of all grasses on all Sites makes the EIS incomplete. The Family Poaceae (grasses) is mentioned and one example of a common species is provided. No listed or even conservation-sensitive grass species appear in the New York State Natural Heritage report¹ or are known to occur in such disturbed habitats (in fact, there are many invasives which often dominate in lieu of grasses which would normally occupy these niches). These Sites are not “grassland” habitats² where such speciation would matter to some degree for conservation and planning purposes. Additionally, Sites 2 and 3 have residential lawns. These are dominated by common species of grasses, but this does not materially affect the EIS’s existing condition and impact evaluation.

Comment 13: Sudhakar Pillai, March 12, 2020 email. Mark Plaat, March 24, 2020 email.

Commenter’s question mitigation regarding the Pine Bush Preserve. Regarding the Site 1 project, in my opinion that the EIS has not adequately addressed the long term environmental issues surrounding the proposed development as it relates to Pine Bush preservation. The Pine Bush is a bio-geographic island, meaning its isolated from similar eco-systems. In other words plants and animals found in one section must have continuous or nearly continuous areas in order to migrate back and forth. If this project goes forward the preserve which was set aside adjacent to Crossgates will be completely isolated from similar environs further increasing the chances that it will disappear. As considerable time and effort and resources have been expended to preserve this area – it is my opinion that these expenditures will have been wasted – and that the Town of Guilderland and the region as a whole will have lost a precious resource forever.

Response 13: See Comments 1-10, above, by the Albany Pine Bush Preserve Commission and the Responses thereto.

Additional “full protection” land will be added to the Karner Blue Hill Preserve area and migration corridor. The Planning Board, as lead agency, is considering the mitigative measures as part of the EIS process.

In connection with the original Crossgates Mall approval, NYSDEC required the Applicant to set aside approximately five acres of land on a hill north of the Mall designed to buffer and preserve a one acre area identified as habitat for the Karner Blue Butterfly. This area has been preserved and managed by the Applicant and NYSDEC, and funded by Crossgates Mall, pursuant to a “Management Plan for the Conservation of the Crossgates Karner Blue Butterfly Habitat” dated

¹ Even with all the research which has been conducted in the Albany Pine Bush.

² Such grassland habitats are common in the upper Hudson Valley. Site 1, 2 and 3 have wooded habitats where shading of the herbaceous layer excludes most grasses as they are not shade tolerant.

October 5, 1981. See Appendix 1. Compliance with the plan has resulted in the preservation and management of one the most stable KBB populations in the Albany Pine Bush.

In 1994, the Applicant, working with NYSDEC, relating to the continued management and enhancement of the Butterfly Hill preserve and management area, generally committed to set aside approximately seven and one half acres of additional land adjoining the Management Area for the creation and preservation of a “migration corridor” and buffer area to encourage the movement of KBB from the Management Area toward the existing Pine Bush Preserve areas located to the north and west. See DEIS Figure 10 Karner Blue Hill Preserve map. The Applicant also has provided funding for the management of the Management Area and the migration corridor since 1994.

The Crossgates Mall was constructed in 1981 and expanded in 1994. The above donation/establishment of the KBB Hill and regular maintenance plan funding were concurrent with these efforts to enhance the Albany Pine Bush and preserve the KBB. In the 1980’s KBB numbers at the Hill preserve and in the associated electrical right-of-way numbered in the hundreds. At last count, KBB numbers have increased into the thousands. Thus, the Mall’s creation and expansion have not led to the KBB decline but rather, that its mitigating actions (the KBB Hill and ROW donations and establishment plus funding management efforts) have aided in the KBB’s increased numbers in this portion of the Albany Pine Bush. Further mitigating efforts are associated with the current Proposed Action as described below.

As described above, the Albany Pine Bush Preserve lands occurs/begins north of the Mall (as preserved in prior Mall actions) and extends to the north and west of these Preserve corridors. Sites 1, 2 and 3 of the Proposed Action occur in the opposite direction, to the south and east of Albany Pine Bush habitats and the preserved lands. Thus, the Proposed Action cannot and will not “isolate” Albany Pine Bush habitat. Rather, as further described below, the Proposed Action will add to this system’s preservation and is consistent with the identified purposes in the current Management Plan.

As part of the current Proposed Action, the Applicant has worked with the Albany Pine Bush Preserve Commission and has proposed additional preservation features in connection with development of Site 1, including:

- protecting approximately 8.4 acres within Full Protection Areas 62 and 79;
- providing new/updated indoor and outdoor education/outreach space highlighting KBB and PPSOB conservation, the APBPC, and the applicant’s role in balancing conservation and economic development in the Albany Pine Bush; and
- maintaining a 200-foot, 2.5+/- acre permanent buffer near Gipp Road in Partial Protection Area 57.

The additional 8.4 acres to be preserved are situated immediately adjacent to and north of the existing Management Area, thereby expanding the Management Area and preserving high value habitat for future management for the KBB.

In a July 10, 2019 correspondence, NYSDEC also supported the proposed land conveyance stating:

The proposal by Crossgates to convey the three parcels on the east side of Rapp Road is beneficial. The opportunities provided by transfer of these parcels are likely to provide much greater benefit for KBB management efforts than what may be lost as a result of this project's development. It should be noted, however, that one of the parcels is already partially encumbered as part of the defined KBB Management Area. See, DEIS Appendix R.

The proposed action will increase the prior set asides, promote connectivity and migration of species within the Albany Pine Bush consistent with the objectives and goals of the Pine Bush Management Plan.

Regarding Sites 2 and 3, the Commission, in a letter dated March 10, 2020, found:

The proposed and conceptual development described for Sites 2 and 3, respectively, are not within areas recommended for protection in the 2017 Management Plan Update. Consequently, their development is unlikely to result in potentially significant adverse impacts on APBPC's ability to create and manage a viable preserve.

The proposed action avoids all potential significant, adverse environmental impacts relating to the Pine Bush Preserve and will, in fact, add important lands to the Pine Bush Preserve's public lands for future management.

Comment 14: Robyn Gray, March 23, 2020 email.

Commenter expressed concern that the proposed action will negatively impact the protected lands of the Pine Bush with emissions from the Gas Station, lighting from Light Poles and overall disturbance of the general environment by increasing commercial use of the land.

Response 14: See Comments 1-10, above, by the Albany Pine Bush Preserve Commission and the Responses thereto and the response to Comment 13 above.

Sites 2 and 3 in the Proposed Action are re-developments of a vacant residential neighborhood and the former Rapp Road southern corridor. These areas are not Albany Pine Bush habitats. They are formerly developed sites that are proposed to be redeveloped. Further, they are across the two ring roads, the parking lots and buildings which currently constitute the Crossgates Mall and on the opposite side of Crossgates Mall. The light poles at Site 2 will comply with the Town Zoning requirements and the variance application for higher poles has been withdrawn. They abut the periphery of the overall Pine Bush Study Area which comprises ±13,000 acres of land and uses major roadways as the boundaries for the Study Area in the current Management Plan and were not identified for any protection classification. They are located more than 1,000 feet south of the nearest Albany Pine Bush habitat and away from the main part of the Pine Bush Preserve. The development of Sites 2 and 3 will have no impact on Albany Pine Bush habitat or the Pine Bush Preserve. Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens.

Site 1 will include noise and lighting measures to mitigate impacts. Noise mitigation will include the construction of berms with landscaping and 6-foot-high fencing. The cul-de-sac will be relocated, and new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace). The relocated cul-de-sac, berm and plantings shall be constructed prior to construction taking place on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4). Exterior lighting will use LED fixtures which use hues that reduce glare and are more representative of daylight conditions and therefore less attractive to insects.

The existing 200 foot wide, 2.5 +/- acre forested buffer area located along the northern boundary of the Site will be maintained and continue to act as a buffer area to the lands to the north of the Site.

Comment 15: Dr. Jeffrey D Corbin, April 2, 2020 letter, Steve Wickham, May 26, 2020 letter; Dr. Corbin 4/2/2020, Dr. Stager 3/11/2020, Dr. Kiviat 4/14/2020, Andy Arthur, undated letter, Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020, J. Curt Stagler, PhD., Paul Smith College, letter March 11, 2020, Invertebrates, Reptiles, Trees and Flying Mammals. Part Two, Public Comment by Grace Nichols 5/25/2020, Jack Magai, May 3, 2020 letter report. Russell Ziemba, May 26, 2020 email, Russell Ziemba, May 26, 2020 email, Erik Kiviat, PhD, Affidavit dated April 24, 2020; Steve Wickham, May 26, 2020 letter. Hudsonia Report April 14, 2020, J. Curt Stagler, PhD., Paul Smith College, letter March 11, 2020.

The proposed development sites have the potential to support significant ecosystem services including habitat for pitch pine and scrub oak, hosting wild blue lupines, and supporting the endangered Karner blue butterflies and could be restored to Pine Bush habitat. The DEIS describes well-drained sandy and sandy-loam soils that are typical of the Albany Pine Bush Preserve including Colonie and Elnora soil types. Nothing noted in the DEIS suggests that restoration of this site is not possible, including past use as a pig farm and the deposition of mesic tree leaves. Soils of the study area are loamy fine sands and belong to the Colonie series, similar to the core Pine Bush a short distance to the north.

Response 15: See Comments 1-10, above, by the Albany Pine Bush Preserve Commission and the Responses thereto.

The development sites are not and have no potential to support significant ecosystem services. It is noted that the commenter does not assert that Sites 1, 2 and 3 are currently pine bush habitat; rather, that the sites, “have the potential” to be converted to such habitats. Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens.

Sites 1, 2 and 3 are not conducive to the establishment of pitch pine-scrub oak habitat which is characteristic of the Albany Pine Bush. Given the location of Site 1, surrounded on three sides by development and not providing any connectivity to other Preserve lands, restoring Pine Bush habitat is not advisable, nor was it recommended by the Pine Bush Commission when they called for partial protection and identified its best attribute as serving as a buffer. It might also

inadvertently draw KB butterflies off course from the established corridor if restored contrary to the Management Plan.

Sites 2 is a re-development. Similarly, when Site 3 is developed in the future, it will be a redevelopment project. That is, these lands are already developed to residential uses and the former Rapp Road. This includes homes, roadways, drainage, electrical lines, underground utilities, etc. These sites are not identified for any action or inclusion in the Pine Bush Preserve as set forth in the Albany Pine Bush Management plan update of 2017. These lands are isolated and separated from the Pine Bush Preserve by a regional mall, parking lots and roadways. They were previously developed parcels located on Western Avenue, a major highway in a commercial area of the Town.

To theoretically convert these properties to Albany Pine Bush habitat is not consistent with the 2017 Management Plan. It would include demolition of all of the existing thirteen (13) structures, extensive fill removal and soils replacements with pH adjustments prior to attempting to establish the pitch pine, scrub oak and related species. Moreover, even attempting such a project would be economically unfeasible with estimated costs in the millions of dollars. Finally, the resulting system would be disconnected from the balance of the existing Albany Pine Bush Preserve as it would be separated from it by the Mall and adjacent to Western Avenue and Crossgates Mall Road and would provide no ecological benefit.

In short, restoration of pitch pine-scrub oak habitat on Sites 2 and 3 would be very complex, prohibitively expensive and would be isolated from the balance of such habitats.

With regard to Site 1 (the parcel west of Rapp Road and south of Gipp Road), the Albany Pine Bush Commission in a March 10, 2020 letter states:

We do not disagree with the conclusions regarding potential impacts to listed wildlife species, and the fact that the site is highly degraded and dominated by invasive plant species. However, the soils analysis indicates the site supports APB soils and could be restorable to pitch pine-scrub oak barrens (PPSOB). As such, the applicant's proposed mitigation to offset the loss of this restorable acreage on Site 1 is appreciated and consistent with the site's Partial Protection recommendation.

Proposed mitigation includes:

- protecting approximately 8.4 acres within Full Protection Areas 62 and 79;
- providing new/updated indoor and outdoor education/outreach space highlighting KBB and PPSOB conservation, the APBP, and the applicant's role in balancing conservation and economic development in the APB;
- modifying Rapp Road to improve ecosystem function within the KBB corridor area; and

- maintaining a 200-foot permanent buffer near Gipp Road in Partial Protection Area 57.

While we agree with the above conclusion that the proposed mitigation (i.e., donating 8.4 acres of designated Albany Pine Bush Management Plan parcels) will be beneficial and offset any “partial protection,” we note that following:

- The northern 200 foot wide, 2.5+/- acres of Site 1 will be preserved as a buffer to the Albany Pine Bush habitat north of Gipp Road (i.e., the site plan includes partial protection).
- The site’s soils are very disturbed in the existing condition as a result of the prior pig farming, extensive 6 to 8 foot high piles of fill on the northern end, extensive, prior erosion of soils and fill from higher to lower positions in the topography and the construction of a berm along the western edge of the property.
- Any habitat creation would not merely be a removal on the existing vegetation (through clearing or burning) and replanting but rather, would require extensive removal of fills and disturbed soils and importation of the proper soils.

Restoration of pitch pine-scrub oak habitat on Site 1 would be very complex and prohibitively expensive.

The Commission reiterated its position at the SEQRA public hearing, stating:

In summary, the Commission does not believe that the current proposal depending upon the alternatives for any realignment of Rapp Road given the scope of the project in the totality and the mitigation proposed that the project is likely to have a significant negative impact on the commission's ability to create and manage viable Preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The management plan that was unanimously adopted by commission members spells out how we try and create and manage a viable preserve. It's important to us in support of the commission that would remain consistent in with our word with that management plan as such considering that site one that area recommend the partial protection. It is adjacent to preserve and protected land that's managed by the commission and DEC. The proposed mitigation for impacts to that site in particular adding land in the Preserve and various things that the applicant has outlined that they intend to complete will offset any potentially significant negative impact on the commission's work to create a manage a viable preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

As B. Laing found, Sites 2 and 3 differ from Site 1 as:

- They are significantly south of the Albany Pine Bush Preserve property;
- Sites 2 and 3 are already developed;
- Sites 2 and 3 would require extensive demolition and soil removals and restorations prior to any attempt at re-vegetation to pitch pine- scrub oak habitats; and
- Any prescribed/controlled burns in proximity to residential developments, electric utility lines, commercial properties and Western Avenue could be deemed unsafe.

As provided in the DEIS, regarding Sites 2 and 3, it has been demonstrated that they are highly disturbed and currently occupied by (i) a residential subdivision (and homes), roads, utilities (above and underground) and a Mall, satellite parking lot. Sites 2 and 3 are re-developments. This is clearly shown in the APB Preservation Commission's 2017 Management Plan Update, where/when these specific properties were included in the "Study Area" of that plan (but not deemed as required for protection/conservation).

While it is true that, any site in the area, such as the existing Mall, residential properties along Gipp Road and Westmere Terrace, plus Sites 1, 2 and 3 could, with a tremendous amount/number of efforts and cost, be "restored" to APB. This would include (as a brief outline):

- A. Purchase price of commercial and developed residential lands,
- B. Cutting County, City and Town government budgets and services due to decreased tax revenues,
- C. Demolition of existing developments/houses/parking/commercial buildings/roads/utilities, etc.
- D. Hauling debris and highly disturbed soils off site (probably 75,000³ to 150,000 cubic yards for landfilling or incineration; this could be much more),
- E. Filling the wetland (to raise the channel back to its original level),
- F. Refilling most locations with "native" soils (probably 75,000 plus, additional cubic yards; this could be much more) excavated from a sand or gravel pit – e.g., It has to be sand, so possibly from a former APB site itself or from the Pine Barrens of Long Island -there are several such locations – or from the Pinelands of New Jersey?
- G. Possible soil chemical treatments for pH adjustments (APB soils are acidic),
- H. Growing in a nursery and then replanting native species,
- I. "Weeding" or treating with pesticide (given the 47 acres, hand weeding would be prohibitive in effort and cost) for invasives' control,
- J. Fire/controlled burns (next to the remaining, largely residential developments on the expanded APB fringe),
- K. Possibly adding a fly-over or tunnel beneath the 4 lane wide, busy SW Mall access roadway to allow APB wildlife access to Sites 2 and 3, or, alternately cutting off the mall ring road(s) (as bypasses to Washington Avenue traffic and so, increasing traffic on same),
- L. Generally managing (fire management, etc.) same for many years.

³ An acre of material, one foot deep is approximately 75,811 cubic yards. This assumes an average of one foot deep of soils and one foot to two feet of debris per acre. Both would likely be more.

Dr. Kiviat confirmed, “The sites have potential for the restoration of pine barrens vegetation although this would be difficult...” and that such restoration would be, “tenuously-achievable.” The restoration of Sites 1, 2 and 3, *prima facie*, is not a reasonable undertaking/SEQR-EIS alternative⁴.

It is notable that the commenters does not assert that Sites 1, 2 and 3 are currently pine bush habitat; rather, that the sites have the potential to be “restored” to such habitats. As provided by the commenter, the DEIS does acknowledge that there will be impacts to the secondary-successional woodlands now occurring on the former pig farm-fill site (i.e., Site 1) and in the more sparse and disturbed, secondary-successional woodlands now occurring in the residential neighborhoods and along old Rapp Road south of the Mall’s southern ring road (i.e., Sites 2 and 3). However, these impacts will not include any impacts to existing Albany Pine Bush and will occur to previously and substantially disturbed properties. Thus, these impacts are deemed to be insignificant. Further, any indirect potential for impacts will be mitigated by preservation of 8.4 acres of existing Albany Pine Bush habitats.

Thus, as provided in the DEIS, the impacts of pig farming, and allowing pigs to interact with the local environment, were very destructive to (i) the Site 1 soils plus vegetation and (ii) the wildlife originally on Site 1, especially fossorial animals, such as herptiles (e.g., snakes, etc.).⁵

Further, Dr. Stager also states (1) that white pine are common on the sites (this is especially true on Sites 2 and 3 per the DEIS and Dr. Kiviat -also appended to the Pace submission) and (2) that their presence suppresses⁶, “lupine-friendly habitat.” This also supports the DEIS’s conclusion that Sites 2 and 3 do not contain Pine Bush habitat.

⁴ The commenters in opposition to the project are split on the APB restoration concept. The “general public” allied with or actually principals in the Save the Pine Bush organization and the body of the Pace Law School submission assert or strongly imply that the project Sites (especially Site 1) are currently Albany Pine Bush. Dr. Corbin, Dr Starkloff and Dr. Stager assert that the Sites are currently not APB but a restoration to APB is ‘possible’ and a ‘reasonable alternative’ with only minor effort/management; although, fire management in proximity to existing residential and commercial developments is not a minor concern. Dr. Kiviat states that the Project Sites are currently not APB and that restoration is most likely not practical, especially on Sites 2 and 3.

⁵ Feral Hog/Pig Sources:

USDA-APHIS “Feral Swine Damage to Natural Resources”

<https://www.aphis.usda.gov/aphis/ourfocus/wildlifedamage/operational-activities/feral-swine/feral-swine-damage/feral-swine-natural-resource-damage>),

Mississippi State University Extension- Wild Pig Info

<https://www.wildpiginfo.msstate.edu/damage-environment-wild-pigs.html>,

University of California Agriculture & Natural Resources Statewide Integrated Pest Management Program- Wild Pigs

<http://ipm.ucanr.edu/PMG/PESTNOTES/pn74170.html>,

National Park Service- Wild Pigs - nps.gov

⁶ Dr. Stager’s statement is that the removal of white pine allows “lupine-friendly habitat” to re-establish (it will take a lot more effort in this case – see below) but what can be inferred from this statement is that the extensive presence of white pine ensures that “lupine friendly habitat” - a.k.a. APB - is not currently present at that location – i.e., Site 1, 2 and 3.

Several remnant pitch pine occur on the project sites at present (as included in the DEIS species' list). They number between one and two dozen. Pitch pine also dominate the trees in the APB. Per the Albany Pine Bush Preserve Commission, Appendix B, states, "Pitch pine (*Pinus rigida*) dominates the Albany Pine Bush forest variant (>60% cover) and tops scattered to thicket-forming scrub oak, having less cover (usually 20–60%) in barrens and thickets."

Invasive species (those introduced by humans to environments in which they are not native) are a concern and present in all environments influenced by humans. In this case, all three Sites have had substantial human disturbance throughout. Sites 2 and 3 are still a residential neighborhood, an old roadway-road bed and a Mall parking lot. B. Laing Associates discovered a number of invasive species and reported them in the DEIS. Dr. Kiviat and Dr. Lane spend some of their efforts discussing how the human influence of this re-development will increase invasives' occurrence. However, in the same critiques, it is described as a "deficiency" of the DEIS analysis to have discovered and reported invasive species. Further, the presence of some of these invasive species is not what Commenters would have expected⁷ when following the 'orthodoxy' of the literature.

Comment 16: Hudsonia Report April 14, 2020.

The wood thrush could breed in the study area; wood thrush is a Species of Greatest Conservation Need (SGCN) in New York. Eastern red bat, silver-haired bat, and Indiana bat (in addition to northern long-eared bat, see below) roost in trees during the active season (Whitaker and Hamilton 1998) and could occur in the study area woodlands where there are dead and live trees with suitable bark voids. All three are SGCN and Indiana bat is listed as Endangered in New York. Laing (2019a) implied that the history of farming and soil alterations made Site 1 unsuitable for rare wildlife. Notwithstanding, New York City (Kiviat and Johnson 2013) and the New Jersey Meadowlands region (Kiviat and MacDonald 2004) support many rare animals and plants of conservation concern, despite massive alterations of soils, hydrology, and vegetation over hundreds of years making those regions far more disturbed than the present study area.

Response 16: Commenter's hypotheticals are noted. As to thoroughness and transparency, B. Laing Associates personnel located and reported the wood thrush (*Hylocichla mustelina*), a conservation-sensitive species but not listed as "threatened" or "endangered." Sites 2 and 3 are redevelopment sites and do not contain environmentally significant habitat.

Comment 17: Hudsonia Report April 14, 2020.

The Colonie soils of the study area indicate that it was once part of the Pine Bush but has since been altered by farming, road building, ditching, and other activities. The sites have potential for the restoration of pine barrens vegetation although this would be difficult due to the probable increases in soil organic matter and nutrients, as well as an increase in pH, suggested by the current plant cover. The study area in its current condition as greenspace may be more valuable for

⁷ In 40 years as a natural scientist, I have seen numerous, very odd examples of invasive species. As one example, I have seen South American Monk Parakeets (*Myiopsitta monachus*) nest/reproducing in Brooklyn, NY. The monk parakeet is also called by some the Quaker Parrot.

ecosystem services (including habitats for biodiversity) than any tenuously-achievable and sustainable pine barrens restoration.

Response 17: Comment noted. As set forth in the 2017 Management Plan:

Approximately 20,000 years ago, the retreat of the Wisconsin ice sheet resulted in the creation of a lake that geologists refer to as “Glacial Lake Albany.” The lake resulted from glacial meltwater which could not flow north due to the retreating ice sheet (LaFleur, 1976). Flow from the Mohawk Valley emptied into this lake forming a large delta with layers of silt, sand, and clay deposited on the lake bottom. When Lake Albany drained approximately 12,000 years ago, the sand deposits were exposed to wind and shaped into dunes. The sandy, well-drained soils in this area were eventually dominated by communities and species adapted to dry conditions and periodic fires. Although its exact size cannot be documented, this ecosystem, characterized by extensive areas of pitch pine-scrub oak barrens, at one time covered between 25,000 and 68,000 acres in the area between Albany and Schenectady (Rittner 1976).

It is, therefore, possible that at one point in time there was habitat, pitch pine scrub oak barrens, throughout the area. Commenter appears to agree, however, that it is not feasible to restore the Sites to such a condition, and advocates to simply not develop the sites. Per SEQRA, the range of reasonable alternatives to the action that are feasible, includes “considering the objectives and capabilities of the project sponsor.” The no action is not a feasible alternative of the project sponsor. 6 NYCRR 617.9(b)(5)(v). The greenspace reference by the Commenter is only applicable to Site 1 since Site 2 and Site 3 are largely developed. However, it should be noted that the heavily forested 200-foot wide, 2.5+/- acre permanent buffer to the KBB corridor and an additional 4+/- acres of open space buffer to the rear of the development on Site 1 will be preserved. The result is approximately 6.5+/- acres of contiguous open greenspace on Site 1 that can be utilized by a variety of wildlife species.

Comment 18: Grace Nichols March 25, 2020 letter, Erik Kiviat, PhD, Affidavit dated April 24, 2020, Zachary Davis, undated letter, May 13, 2020 public hearing statement of Ward Stone, Hudsonia Report April 14, 2020, Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020. Dr. Cynthia Lane, April 15 2020 report, Lynne Jackson, May 26, 2020 letter; May 13, 2020 public hearing statement of Dr. Cynthia Lane Invertebrates, Reptiles, Trees and Flying Mammals. Part Two, Public Comment by Grace Nichols. 5/25/2020, Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020. Naima Starkloff, Ph.D., May 15, 2020 report, Zachary Davis, undated letter.

Commenters questioned the site surveys methods for soils, plant and wildlife species analyzed in the Vegetation, Wildlife, and Soil Conditions Reports, such as dates of the surveys and more testing may be needed. For instance, a garter snake was found near the site but not list in the report. Should survey for the presence of other threatened species, impacts of traffic and pesticides, the presence of wetlands, the impacts on climate change and air quality, proper mitigation measures to address these issues.

The EIS should provide mitigative efforts to protect the avian species that will be impacted. Two of the biggest risks to bird mortality are light pollution and building glass panes. Putting in bird-safe glass, limiting light pollution and causing minimum impact to the sites will not only help save avian lives, but also those of bats and insects as well.

Response 18: Species were examined utilizing standard scientific methodology:

B. Laing properly performed the site surveys as noted in the DEIS. The Wildlife report contains comprehensive analysis of the Sites over a multi- year review of Site characteristics. The surveying methodology was appropriate.

The DEIS adequately examines the potential significant adverse environmental impact of the proposed action. The DEIS addresses potential air quality impacts and potential mitigative measures.

As set forth in the DEIS, B. Laing examined on site species and found that there was not suitable habitat for the worm snake. A common garter snake located off the site is not considered to be an environmentally significant finding.

Comprehensive, long-term, studies of the Sites (including herptile and insect surveys) were conducted over three plus years, on dozens of occasions and over all seasons of the year utilizing proper and appropriate scientific testing methodologies. The results are included in detailed reports in the DEIS.

The reports in the DEIS are not deficient. Michael P. Bontje was in charge of supervising, and often conducted the Site surveys himself, accompanied by an associate. Mr. Bontje has 40 years of experience as a natural scientist throughout New York State, plus much of New England and the mid-Atlantic States. He has also worked in and around the Albany Pine Bush and Capital area for at least 25 years. His resume is attached. See [Appendix 2](#).

The methodology for the DEIS natural resource surveys was to search the Sites in an organized way, and in general, to describe their general nature and to search for species and/or habitat types which may have greater environmental value than the “norm,” especially as represented by species of plants and animals characteristic of the nearby APB in the Town of Guilderland and the City of Albany (which have been extensively and publicly studied for decades). This would also include recording more “common” species along the way to generally characterize the Sites’ habitat and to determine that is was or was not APB, grasslands and/or wetlands⁸.

To that end, surveys (as described elsewhere) were focused on Albany Pine Bush and its characteristic species, the possibility that wetlands might occur (even in the absence of their being shown on regional mapping- soils survey showed possible hydric soils) and species-specific searches as guided by the Natural Heritage database and NYSDEC species-specific guidance⁹.

⁸ Habitats widely known in the region to have a somewhat “higher environmental significance/value” than the “norm.” “Normal” for example would be a secondary growth woodland or residential development.

⁹ A DEIS-FEIS is not a Ph.D. thesis or series of Ph. D. thesis where the focus is most often on the minutia of each and every species and subspecies of the biota or individual examination of soil grains.

Thus, B. Laing Associates, Inc. personnel:

1. Conducted general and specialized surveys in all seasons and on numerous days as described below.
2. Focused on Albany Pine Bush plant and animal species, especially those which are characteristic of that habitat or specifically dependent upon it.
3. Focused on other possible habitats in the region which may have elevated “environmental value.” In this case, wetlands or even “grasslands.”
4. Focused on habitats, plants and animals as provided in correspondence from the New York State Natural Heritage Program, and USFWS’ IPaC system, as specifically sought and received for the project. These lists always includes, among others, any plant or animal species which is officially listed by New York State DEC or the US Fish and Wildlife Service as Threatened or Endangered, as well as those considered “special concern” or “of conservation need” by these agencies.
5. Specifically searched for herptiles, and insects as these were called out in the Natural Heritage report and are specifically and well known in the Albany Pine Bush.

In adhering to the above approach, B. Laing Associates personnel surveyed Sites 1, 2, and 3 for state and federally listed, as well as general, flora and fauna (species of special concern and rare species) for a total of approximately 300 person-hours over 3 years. Each survey day included at least 2 and as many as 4 search periods (dawn-crepuscular, mid-day, dusk--crepuscular and night) of at least 2 to as many as 4 hours each. A spreadsheet of these field investigation dates is attached. See [Appendix 3](#).

Plants were surveyed by walking roughly 30-meter transects along the Sites (‘roughly’ is used here as the Sites are often thick with invasive species, debris, houses, etc. which cause a deviation from a straight line transect) and making note of all observed flora during site investigations. This survey transect method was repeated many times, at differing starting points (i.e., never the same starting point). Sometimes the surveys ran north to south; sometimes they ran east-west. (or vice versa). Thus, the overall survey over 35 days created transects which were less than 10 meters apart over all three sites. Plant observations were also noted incidentally during other field efforts, such as wetland investigations, and wildlife investigations. These transects were not kept rigorously as they would be for academic research. In addition to diversions necessitated as described above, whenever additional locations required investigation, or an area outside the transect had additional flora which required investigation, the transects were modified to accommodate the possible species additions. Hence the term “rough transects.”

For locating herpetofaunal organisms, including those which are New York State or federally listed as Endangered, Threatened or Special Concern (e.g., worm snake, eastern hognose snake, etc.), trained observers methodically walked the Sites, again, in rough transects, searching for individual organisms, as well as their habitat and under objects beneath which they might sun, shade¹⁰, roost/hide (rocks, limbs, debris, etc.). This survey transect method was repeated many times, at differing starting points (i.e., never the same starting point) and (given the numerous survey days

¹⁰ Since herptiles are “cold-blooded” animals, they use their environment to regulate their body temperatures. This often causes them to be in sunny locations in early morning and shady locations later in the day. This behavior can be used to narrow the search areas to higher probability locations.

and times) reduced the effective separation to less than 10 meters apart. These surveys were dedicated searches and occurred through various times of day, including and especially during seasons when herpetofaunal organisms would be (most) active (e.g., in dawn to early morning periods for snakes or during rain events for frogs/toads). In addition, nocturnal surveys were conducted, including listening for vocalizing frogs and toads.

For locating invertebrates (i.e., insects), field biologists walked rough transects through the site and identified, by sight or by photo-documentation, the encountered organisms. For State and federally listed lepidopterans (i.e., butterflies), more rigorous transects were walked throughout habitat which could be conducive to flying, nectaring adults. These included the few sunny areas with a higher high concentration of suitable flowers (there were not many as all three sites are dominantly wooded or developed). This survey transect method was repeated many times, at differing starting points (i.e., never the same starting point) and so, reduced the effective separation to less than 10 meters apart. In addition, these transects (and those floral surveys) were specifically searched for host plants (e.g., lupine, etc.), of which the larvae of these listed butterflies are specialists. To survey for moths and night-flying-insects, nocturnal surveys of Site 1 (including the northern end closest to actual APB) were conducted which included UV-light attraction methods.

For the endangered and threatened butterflies occurring in the APB, B. Laing Associates, Inc. personnel focused on the seasons when the adults would be in flight. Field biologists found adult Karner Blue Butterflies (hereinafter referred to as KBB) during three spring seasons in APB, occurring in the electrical right-of-way (hereinafter referred to as ROW) to the east of Rapp Road (i.e., north and east of Site 1) - across both Gipp and Rapp Roads. Surveyors searched on Site 1 the very same days and within an hour (i.e., under identical light, time and weather conditions) and then, Sites 2-3. No KBB were found on the Project Sites. Flowering blue lupine, a plant on which KBB heavily depend for survival, was located frequently on the APB ROW but did not occur on Sites 1, 2 or 3. In one of the above survey seasons, frosted elfin adults were also found. With the same technique, no frosted elfin were found on Sites 1, 2 or 3.

Avian (bird) surveys were conducted by trained observers during all seasons including those for winter resident birds, migrants, and breeding birds. These focused efforts were carried out usually during morning, when birds are most active (though afternoon and evening surveys also occurred) and included a mix of transect walking (as above) and point observations. Counts of individual species' numbers were noted though not necessary data for the DEIS unless a "listed" species was/is observed. If such a species was observed on site (and none were), only then does population size and the exact the habitat life requirements being utilized by the bird become relevant. The transect and point observations method maximizes the observation of birds. In addition to focused bird surveys, birds were observed and recorded during all other site inspections, including for wetlands investigations and during transects for other wildlife and plants. Birds were observed by sight and sound. The birds reported in the DEIS also included those which were observed on or immediately adjacent to the Sites though not necessarily using the Sites for foraging or other uses (this includes fly-over birds such as migrating raptors, etc.). For species observed in the general area but not on the sites themselves, these were not included in the DEIS as their identification in the region had been recorded many times in the APB or other regional literature (i.e., there is no necessity be duplicitous).

As evaluated in the DEIS, and following review and determination of the Albany Pine Bush Preserve Commission, the proposed project is consistent with the APB Preservation Commission's Management Plan Update the 2017. The Commission has also confirmed its support for the project, with the proposed mitigative measures. In short, possible, broader (i.e., cumulative) impacts to the APB Preserve, its habitat and avian species (among others) *were* considered for this project's specific parcels of land and the habitats on them (i.e., secondary growth woodlands and a wooded area associates with a largely residential subdivision).

Since the DEIS was completed, B. Laing Associates. Inc. personnel have had to be on site or in the Capital area for a variety of reasons. A list of additionally-observed species of the sites' biota is attached. See Appendix 4.

As explained in the DEIS, B. Laing Associates specifically looked for, but did not locate a worm snake on any of the three sites. The Wildlife Report found that there was no suitable habitat for this species on any of the sites.

In addition, it should be noted that Commenters also raised similar issues regarding potential impacts on various species of special concern in New York. In rejecting such concerns the New York Court of Appeals found:

It is true that the record shows no investigation relating to the Hognosed Snake, the Worm Snake or the Eastern Spadefoot Toad. We do not suggest that these species are unimportant, but we think that the City did not act arbitrarily in omitting them from its investigations. While DEC did identify them in a letter commenting on the scoping checklist, it offered no particular reason to believe that the project would threaten them, and no other commenter in the SEQRA process mentioned them at all. When they were omitted from the DEIS neither DEC nor anyone else called attention to the omission. It would, it seems, have been a formidable task to determine whether these species even existed on the site; petitioners' brief informs us that two of them, the Worm Snake and the Eastern Spadefoot Toad, "are very difficult to locate and identify" because "they spend much of their time underground and generally emerge only after heavy rain storms."

While it is essential that public agencies comply with their duties under SEQRA, some **common** sense in determining the extent of those duties is essential too. We quoted above our warning in Society of Plastics that SEQRA proceedings "can generate interminable delay." This case illustrates the point. It does not involve a project of mammoth size or obvious destructive potential, but simply the building of a hotel on a 3 ½ acre site, on a thoroughfare already in commercial use. The developer first sought rezoning more than six years ago. In those years, the City has identified several relevant environmental concerns, taken the required hard look at them, and explained in a detailed report the result of its investigations. That it chose not to investigate some matters of doubtful relevance is an insufficient reason for prolonging the process further, and for adding to the expense. A "rule of reason" (Matter of Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d at 417) is applicable not only to an agency's judgments about the environmental concerns it investigates, but to its decisions about which matters require

investigation. See, Save the Pine Bush v. City of Albany Common Council, 13 N.Y.3d 297 (2009).

In light of the above, and using common sense reasoning, it is clear that the DEIS and FEIS provides a hard look at such species.

Further, measures employed for Site 1, to mitigate lighting will comply with Town Code requirements to avoid any light spillage onto adjacent property. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4). Exterior lighting will use LED fixtures with hues that reduce glare and are more representative of daylight conditions.

See Response to Comment 27 for further information on climate change.

Comment 19: Grace Nichols March 25, 2020 letter; May 13, 2020 public hearing comment of Grace Nichols.

The Albany Pine Bush Preserve Commission has, in its 2018 Fire Management report, declared their intention to conduct controlled burns near Crossgates, and this plan has been approved. When this happens, where will the species go?

Response 19: Please consult the APBPC and New York State Department of Environmental Conservation for their future management plans for the Albany Pine Bush. The above considerations will no doubt be incorporated by them in “controlled burns”, if any, proposed in the vicinity of the Butterfly Hill and National Grid Right-of-Way.

Site 1 occurs across and south of Gipp Road, for those species able to safely navigate an existing roadway (with no curbs now or proposed), the northern 200 foot wide, 2.5+/- acre buffer will be preserved as a buffer to the Albany Pine Bush Habitat represented by Butterfly Hill and National Grid Right-of-Way. An additional 4+/- acres of open space buffer to the rear of the development on Site 1 will be preserved. The result is approximately 6.5+/- acres of contiguous open greenspace on Site 1 that can be utilized by a variety of wildlife species. Additionally, 8.4 acres of existing Pine Bush Habitat in the area will be donated to expand the Butterfly Hill area and National Grid Right-of-Way for Agencies to consider in their management plans.

The Pine Bush Preserve Commission and NYSDEC have evaluated potential prescribed fires in the Pine Bush Preserve and the fire management plan is set forth as Appendix C in the 2017 Pine Bush Management Plan, which is incorporated herein by reference.

Also, many of these “common” species which utilize/occur in APB will also utilize a variety of habitats (which, in part, is the reason they occur commonly) but are not characteristic or diagnostic of APB¹¹.

¹¹ None of the experts assert that Albany Pine Bush habitat currently occurs on Sites 1, 2 or 3. This is accurate because it does not occur on any of the project Sites.

Comment 20: Grace Nichols March 25, 2020 letter. See also substantively similar public hearing comment May 13, 2020 public hearing statement of Wendy Dwyer. Andy Arthur, undated letter.

We are concerned about the stormwater and about the invasive species on the site and how, with development, they will be eliminated without exposing the pine bush to herbicides. We are concerned about the pesticides and salts which are likely to contaminate the stormwater. We are concerned about both light pollution and shade patterns which can impact butterflies, moths, humans and other species.

Response 20: The proposed project sites will disturb greater than 1 acre of land. As such, coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities (GP 17-01) is required and three Stormwater Pollution Prevention Plans will be prepared to include post-construction stormwater management practices, as well as erosion and sediment controls. All post-construction stormwater management practices will be designed in accordance with the NYSDEC Stormwater Management Design Manual. All erosion and sediment controls will be designed and installed in accordance with the NYSDEC Standards and Specifications for Erosion and Sediment Control. See, DEIS, Appendix J and K (SWPPP's)

Measures employed for Site 1, to mitigate lighting and noise include the construction of berms with landscaping and 6-foot-high fencing. The cul-de-sac will be relocated, and new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace). The relocated cul-de-sac, berm and plantings will be constructed prior to construction taking place on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4). Exterior lighting will use LED fixtures with hues that reduce glare and are more representative of daylight conditions.

In addition:

- Invasive plants will be controlled by physical removal during site construction. They will then be controlled by weeding during operational landscaping activities.
- The Albany Pine Bush located north of Gipp Road will be protected from lighting on Site 1 by the 200 foot wide buffer remaining on the Site's northern end, just south of Gipp Road. Trees in this buffer were measured at 50 feet high. This is approximately the height of the proposed residential buildings.
- The same woodland 200 foot buffer already casts some shade north of Gipp Road. Given the above information, the residential buildings will be too far south to contribute to or modify this existing, shading effect.
- The Albany Pine Bush preserve lands located north of Gipp Road will be more than 1,000 feet away from Sites 2 and 3 and on the opposite site of the Mall. Lighting on these sites and shading resulting from the buildings will not have any impact upon light and shading in the Albany Pine Bush.

Comment 21: Ann Hunter, May 14, 2020 email. Grace Nichols March 25, 2020 letter. May 13, 2020 public hearing statement of Wendy Dwyer.

Commenter stated that as is noted in Dr. Curt Stager's report and Dr. Erik Kiviat's reports, the three sites of proposed development are Inland Pine Barrens, a rare habitat required by the federally endangered Karner Blue Butterfly and other rare pine bush species. In our walks through Site 2 and 3, we observed several specimens of living healthy pitch pine, a hallmark of pine barrens; there were copious oak varieties, both shrubs and tree species throughout Site 1.

Response 21: The site findings by B. Laing Associates, Inc. wildlife biologists following years of study found the contrary:

- i. No pitch pine scrub oak barrens will be destroyed by the proposed action. None of the proposed development Sites 1, 2 or 3 contain any Albany Pine Bush habitat in their existing condition. Site 1 is identified as Area 57 in the Albany Pine Bush Management Plan Update of 2017. Site 1 occurs south of Gipp Road and Albany Pine Bush preserve lands occur north of Gipp Road. Site 1 is, therefore, the closest to the Albany Pine Bush (but, itself does not contain any Albany Pine Bush habitat). It has been designated for partial protection under the 2017 Management Plan and specifically noted in the Plan as an important buffer area.

With the project's residential development, the Site's northern 200 feet of existing, secondary growth woodlands (containing numerous invasive species and filled soils) will be preserved. This 200 foot wide, 2.5+/- acre buffer will occur immediately south of Gipp Road and will protect the Albany Pine Bush habitat occurring north of Gipp Road from disturbance and continue to perform its buffering function as noted above.

- ii. The only involvement of Albany Pine Bush habitats in the project will be protecting 8.4 acres of such habitat in Full Protection Areas 62 and 79. At present, the only Albany Pine Bush habitats included with the project will be preservation in perpetuity of 8.4 acres within Full Protection Areas 62 and 79. At present, Areas 62 and 79 occur north of the Mall and the KBB habitat represented by the KBB hill preserve and electrical right-of-way. These areas are currently owned by the Applicant and will be transferred to ownership by the Albany Pine Bush Commission for preservation and management as part of the Albany Pine Bush Preserve.
- iii. In short, the Proposed Action:
 - will not remove any Albany Pine Bush habitat but instead,
 - will transfer 8.4 acres known as Management Plan Areas 62 and 79 to the Albany Pine Bush Commission for preservation and management as Albany Pine Bush in perpetuity.

That is, additional Albany Pine Bush habitat will be preserved by the Proposed Action and not destroyed by it.

Sites 2 and 3 consists of a developed residential area and the former, abandoned Rapp Road and ancillary mall parking area which may contain some remnant pitch pines, which are also prevalent throughout the Town and does not constitute significant Pine Bush habitat. It is not a wildlife sanctuary and not a buffer zone for the Albany Pine Bush. The Sites are located approximately 1,000 feet to the nearest part of the Albany Pine Bush Preserve and separated by a regional mall, its parking facilities and roads. They are adjacent to Western Avenue a major roadway in a commercial area of the Town. As found in the DEIS and in comments from the Pine Bush Preserve Commission, the proposed development of Sites 2 and 3 will have no adverse impact in the Pine Bush Preserve.

Comment 22: Report on Acoustic Bat Survey Conducted for Save the Pine Bush By Conrad Vispo, Hawthorne Valley Farmscape Ecology Program, May 2020. Invertebrates, Reptiles, Trees and Flying Mammals. Part Two, Public Comment by Grace Nichols. 5/25/2020, see also substantively similar comment of Susan DuBois, May 25, 2020 email; May 13, 2020 public hearing comment of Grace Nichols.

A bat diversity study was undertaken to examine regional bats that are facing a variety of modern challenges such as White Nose Syndrome. Maintaining summer habitat is one ingredient for bat conservation because forests seem to be key habitat components for most of bat species, because they provide summer roosts and/or help support ample insect populations. The projects will reduce local bat populations. This short study was undertaken at the behest of Save the Pine Bush in response to proposed development on lands within Albany Pine Bush ecological area. Acoustic sampling from the properties of collaborating land owners was used to gather preliminary information on bat diversity.

Response 22: Commenter's opinion is noted. Sites 1, 2 and 3 are not forests. In fact, a forested over-story will produce shade which would inhibit the pitch pine scrub oak which is the essential vegetation required by the Karner Blue butterfly.

The DEIS provides a comprehensive, multi-year analysis of all wildlife species, including state and federally listed species, on or in the vicinity of the three development sites. NYSDEC confirmed that the site is beyond the 5 mile radius from the Northern Long Eared Bat hibernaculum (wintering site) and such bat species has not been reported as found within the County of Albany during summer months (i.e. away from hibernacula. See Response to Comment 18.

Comment 23: Report on Acoustic Bat Survey Conducted for Save the Pine Bush By Conrad Vispo, Hawthorne Valley Farmscape Ecology Program, May 2020.

Commenter's detected the definite presence of Big Brown Bat (*Eptesicus fuscus*), and the probable presence of Silver-haired bat, Hoary Bat and Eastern Red Bat. There were no apparent recordings of the Tri-colored Bat or any species of *Myotis*. The potential presence of these even rarer species further suggests that a careful evaluation of the bat fauna should be made if one wants to

understand the potential ecological impact of development on lands in this area. Report on Acoustic Bat Survey Conducted for Save the Pine Bush By Conrad Vispo, Hawthorne Valley Farmscape Ecology Program, May 2020.

Response 23: The Sites were analyzed with regards to their potential for endangered and threatened bat species. In addition to those analyses, consultations with the NYSDEC have shown that endangered and threatened bat species do not exist at this location, and so, no growing season tree cutting restrictions apply to these sites.

Comment 24: Invertebrates, Reptiles, Trees and Flying Mammals. Part Two, Public Comment by Grace Nichols. 5/25/2020; May 13, 2020 public hearing comment of Grace Nichols.

Because of insect declines, Albany County Pollinator-Friendly County Resolution was a popular measure, because the general public is concerned about the declines in pollinators, and the drivers of the declines which are habitat loss, management chemicals - especially persistent neonicotinoids --, pathogens and polluted water, and climate change. If we think about a world in which the food chains are collapsing due to an absence of the species at the bottom of the pyramid, this is what insect declines represent. And, as expected, insectivorous birds and bats are experiencing steep population declines in the wake of this global problem.

Response 24: Comment noted. Per the Albany County Pollinator-Friendly County Resolution—a proposal by “Save the Pine Bush” -- the project will include pollinator friendly host plants and nectar plant species for local pollinators as set forth in the landscaping plans.

Comment 25: Sierra Club, Hudson-Mohawk Group, undated letter. Lynne Jackson comment.

The DEIS states that the scope of the analysis in the DEIS will be three sites totaling approximately 45 acres of the Pyramid property. As pointed out by Save the Pine Bush approximately 81 acres of the Pyramid property in this area is undeveloped yet buildable land unexamined. To properly perform an EIS, the cumulative impacts of the planned development plus the anticipated development of this additional 81 acres must be considered. In other words, the DEIS should consider all of the land owned by Pyramid, not just the three parcels outlined in the “site plan”. This includes any land currently owned by the Town that Pyramid will be requesting to be appended to the plans. This would include Lehner Road which the Town abandoned in 2017 apparently for purposes of conveying to Pyramid.

Response 25: A cumulative analysis need not include all land owned by a project sponsor, particularly where, as here, the Planning Board as lead agency determined that the cumulative analysis required would include specific land within the Transit Oriented District as Sites 1, 2 and 3. For instance, the 81 acres of land shown on Commenter’s map includes land in another jurisdiction, under separate ownership, located as part of a different shopping center. Moreover, there are no plans to develop such lands, therefore any analysis would be pure speculation and not the purpose of a cumulative impact review and not required under SEQRA.

A proper cumulative impact analysis was performed and contained in the DEIS. A cumulative impact analysis does not include “all historical impacts to the Albany Pine Bush” or re-reviewing alleged “poor choices of generations previous”.

Comment 26: Hudsonia Report April 14, 2020.

The study area sites are connected to, or close to, a network of woodlands in small and large patches within and adjoining the developed areas of Guilderland. These woodland patches include preserves as well as privately-owned “vacant” lands, and are loosely connected to the numerous, mostly larger, preserves described by Schmitt and Brennan (1991). Although some animals and plants may not be able to disperse across four-lane roads such as Rapp Road between Sites 1 and 2, and Crossgates Mall Road, many birds and many flying insects, among other wildlife, can easily disperse across roads from one habitat patch to another. The presence of pileated woodpecker sign on Site 2 attests to this kind of connectivity, inasmuch as the pileated woodpecker typically has a home range much larger than any one of the three sites. The impact of removal of substantial areas of woodland habitat as a result of the proposed developments has not been adequately assessed in the DEIS, nor has the cumulative impact of these habitat changes in combination with the many other land use projects proposed or being undertaken in Guilderland and neighboring towns. In addition to the individual and collective habitat functions of the sites, urban woodlands provide important ecosystem services by storing carbon, absorbing stormwater, shading and evapotranspiration (which cool the local environment in summer), and providing healthful amenity value to human residents (e.g., Livesley et al. 2016).

Response 26: As described in the DEIS, Sites 2 and 3 are a redevelopment of previous substantially developed areas including a vacant residential subdivision, ancillary Crossgates Mall parking lot, utilities (above and below) and an abandoned town road. They do not provide any habitat for any listed species, species of special concern or rare species. Similarly, Site 1 is a woodland, secondary growth habitat. This Site is property that has a long history of use as a pig farm and, based on this activity, no habitat is suitable for the Karner Blue butterfly, or any other relevant threatened or endangered species or species of special concern. What has occurred over the years is that trees, many of which are invasive or covered with invasive vine species, have grown on the Site. Upon completion of the project, approximately 9 acres will remain as greenspace that can be utilized by a variety of wildlife species, plus 8.4 acres will be conveyed to the Pine Bush Commission for management purposes for the Preserve. Each project site will require preparation of a SWPPP to address potential stormwater impacts.

With regards to the comment about the “network of woodlands” or discussing the local area as a whole, with the project areas as parts of that whole, it should be mentioned that this has already been analyzed in the Town of Guilderland. When the Albany Pine Bush Preserve Commission analyzed 13,000 acres of Albany Pine Bush surroundings properties south to Western Ave., areas were specifically designated as to their protection status. Sites 2 and 3, the existing, residential development areas (i.e., these are not “woodlands”) were analyzed as a part of the study but, were not designated for any protection. Site 1 was designated partial protection, as it is closer to (although not a part of) the Pine Bush. Site 1’s 200-foot, 2.5 +/- acre northern buffer is consistent with the Management Plan. The Management Plan was approved by the Albany Pine Bush Commission Board including members from Guilderland, Colonie, Albany, etc. Given that the Town and Pine Bush Commission approved this comprehensive analysis of the surrounding area in the 2017 Management Plan Update, specifically in regards to which lands require and do not require protection, the notion that “The impact of ... the proposed developments has not been

adequately assessed in the DEIS, nor has the cumulative impact of these habitat changes in combination with the many other land use projects proposed or being undertaken in Guilderland and neighboring towns” is incorrect.

Comment 27: Sierra Club, Hudson-Mohawk Group, undated letter; see also substantively similar comment of C. Sullivan, May 26, 2020; May 13, 2020 public hearing statement of Carol Waterman. Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

With the effects of global climate change being experienced daily, mature trees which are very effective at sequestering carbon should be saved at all costs, unless cutting is absolutely necessary. The number of mature trees lost due to the projects on these sites must be indicated and supported. The Town of Guilderland zoning code requires that all trees over 12” in diameter be mapped and accounted for, and that tree clear cutting be avoided. This action directly affects the carbon footprint of this project. The DEIS should state how much green space and how many trees are to be lost and transformed into acres of pavement and structures.

Response 27: The Guilderland Zoning Law (Site Plan Approval 280-53) requires the identification of natural features including trees with a diameter greater than 12 inches and further declares that such significant natural features should be preserved to the maximum extent practicable. The intent is to encourage site design that can preserve these features where practicable not to identify every large tree on site. The site plans depict the location of vegetation in the existing condition.

Chazen provided estimated area of green space and pavement/structure acreage for Site 1. On Site 1 a significant contiguous green area of approximately 6.5+/- acres will be preserved along the perimeter of the site as a buffer to residential properties and the Pine Bush Preserve. The site plans for Site 2 also depict a bulk use table that summarizes the coverage statistics. Chazen provided an existing conditions plan for Site 1 within the Stormwater Pollution Prevention Plan. Maser included an existing condition plan in their site plans as well.

The contribution of a project of this scale to climate change is insignificant in the context of global climate change. With respect to greenhouse gases, there is no currently established numerical threshold for determining the significance of greenhouse gas emissions. However, the project is consistent with land use practices that minimize greenhouse gas emissions.

In general, mixed use development with access to transit and existing roadways is consistent with sustainable land use planning to reduce carbon footprints. For example, the New York City Environmental Quality Review Technical Manual assesses consistency with greenhouse gas reduction goals by consideration of the following factors:

1. *Pursuit of transit-oriented development.*

Working in conjunction with CDTA, a new bus stop is in the planning process. In addition, as set forth in the DEIS, CDTA has commenced a new ride service called Bus Plus, that includes Crossgates and the area surrounding it including Sites 1, 2 and 3 where residents within the area will be able to utilize public transit services.

2. *Construct new resource and energy efficient buildings (including the use of sustainable construction materials and practices) and improve the efficiency of existing buildings.*

As discussed in the DEIS the project will incorporate energy efficient and environmentally sensitive construction materials and mechanical systems. All aspects of construction will comply with the NYS Uniform Fire and Building Code, the New York State Energy Conservation Construction Code.

Measures which will be included in the Project plans at Site 2 include: extensive use of insulation materials; strictly controlled use of exterior glass; installation of a computer controlled Energy Management System which will control peak load usage; HVAC equipment equipped with economizer equipment which senses the most economical introduction of fresh air; time clock and photo cell controlled lighting circuits which reduce unnecessary energy consumption; and water conservation fixtures which reduce water usage and sewer discharges.

Vegetated areas adjacent to the building will consist of deciduous and evergreen trees. The addition of the trees will help to provide passive cooling of the building in summer and act as windbreaks during the winter.

3. *Encouraging sustainable transportation through improving public transit, improving the efficiency of private vehicles, and decreasing the carbon intensity of fuels.*

As noted above, the project will encourage sustainable public transportation by improving public transit.

It is noted that the residential component of the project is unlikely to attract new residents to the region. Rather, it is likely to provide housing for people who prefer to live in a location that has access to public transit and that may be closer to their places of employment as well as be within close walking distance to the regional attraction that is the Crossgates Mall. The US EPA notes that “the most effective way to reduce energy consumption is to locate homes of all types in areas where households could replace some automobile use with transit use, leading to reductions of 39 to 50 percent in household energy use.” See, <https://www.epa.gov/smartgrowth/location-efficiency-and-housing-type>. The project is wholly consistent with this recommendation.

Similarly, with respect to the Costco, patrons presently travel approximately 87 miles to Springfield, MA, the location of the nearest Costco. The project may result in a net reduction of vehicle miles travelled (VMT) and therefore a net reduction in greenhouse gas emissions.

Lastly, the project will result in the permanent preservation of 8.4 acres of land designated as “Full Protection” by the Albany Pine Bush Preserve Commission, allowing this land to permanently sequester carbon. The percent greenspace after construction will be 72% and preserve the 200’ wide, 2.5+/- acre buffer to the north and a 4+/- acre

western buffer which acts as a significant buffer for the surrounding residential developments.

Comment 28: Hudsonia Report April 14, 2020. Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

About 10 acres of vegetation were proposed to be removed from Site 1 and replaced with structures and landscaping. Topsoil was also proposed to be stockpiled and reapplied (DEIS). This represents a substantial loss of carbon storage in plant material (including wood) and soil organic matter – even if topsoil is stockpiled and reapplied carbon loss will occur. Conveying 8.4 acres of land (at another location) to be preserved by the Pine Bush Commission is not really a greenhouse gas offset as claimed (DEIS:127 etc.) – there will still be net emissions of GHGs from organic matter that will decompose faster than if left onsite in existing live and dead vegetation and soil. I do not find meaningful consideration of GHG emissions and climate change implications in the DEIS as is strongly encouraged under SEQRA (Ahrens et al. 2009). The vegetation on the sites currently act like carbon sinks, and without meaningful vegetative offset, carbon sequestration loss will occur.

Response 28: See Response to Comment 27.

Comment 29: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020. Zamurs and Associates, LLC, undated report.

Commenters suggests possible mitigative measures to reduce the effect that the project will have on climate change, including require sufficient electric vehicle charging stations and ensure sufficient charging capacity for all in-use stations, enhance transit service to the project area, facilitate ride-sharing and taxi service drop-off and pick-up areas, require electric powered construction and staging equipment, require renewable fuels in construction and staging equipment, require leadership and environmental design certification for building design, and require building fixtures, furnishings, merchandise to be sustainably sourced.

Commenter indicated that there will be an increase in greenhouse gas emissions from various sources, such as vehicle trips, possible congestion, construction equipment, etc and make it harder for the State to reach its greenhouse gas emission targets. It will generate greenhouse gas emissions (both direct and indirect emissions).

Response 29: Comment noted. Similar to the relocated and renovated transit center completed in 2019, the applicant will continue to work with CDTA to identify programs and cutting edge initiatives that can enhance ridership. As set forth in the DEIS, CDTA has commenced a new ride service called Bus Plus, that includes Crossgates and the area surrounding it including Sites 1, 2 and 3 where residents within the area will be able to utilize public transit services within this area. Additionally, 8.4 acres of land will be protected in perpetuity protected from future development. Construction of the proposed roundabout will also reduce idling time and therefore improve air quality. See Response to Comment 27.

Comment 30: Sierra Club, Hudson Mohawk Group, undated letter; see also substantively similar comment of C. Sullivan, May 26, 2020 email.

In section 8.0, “Effects on the Use and Conservation of Energy Resources”, this section should explain how Pyramid is going to conserve energy in these new development projects and move toward greener energy. Actions such as installing increased insulation in the walls and ceiling for additional energy efficiency and installation of solar panels on the roofs of these apartments or townhouses should be explained. This section of the DEIS should focus on what Pyramid is going to do to fight climate change and reduce negative effects its proposal will have on the environment. These projects will do a lot of environmental damage, as already mentioned; this section is where they should explain how they are going to try to at least promote energy efficiency and use green energy and green principles.

Response 30: See Response to Comment 27.

Comment 31: Sierra Club, Hudson-Mohawk Group, undated letter.

The impact on all endangered or rare species identified by Save the Pine Bush and/or the Albany Pine Bush Preserve Commission must be examined and reported, including the Karner Blue Butterfly (an endangered species on both the state and federal level) and the frosted Elfin. The Albany Pine Bush Preserve is the home to 74 other animals listed as ‘Species of Greatest Conservation Need in New York State,’ and two rare plants.

Response 31: The DEIS provides a comprehensive analysis of potential significant adverse environmental impacts on all threatened, endangered species and species of special concern and rare species, as well as the Species of Greatest Conservation Need in New York State. Also see Response to Comment 18.

In a letter dated March 10, 2020, the Pine Bush Preserve Commission commented, as follows:

In summary, the Commission does not believe that the current proposal depending upon the alternatives for any realignment of Rapp Road given the scope of the project in the totality and the mitigation proposed that the project is likely to have a significant negative impact on the commission's ability to create and manage viable Preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The management plan that was unanimously adopted by commission members spells out how we try and create and manage a viable preserve. It's important to us in support of the commission that would remain consistent in with our word with that management plan as such considering that site one that area recommend the partial protection. It is adjacent to preserve and protected land that's managed by the commission and DEC. The proposed mitigation for impacts to that site in particular adding land in the Preserve and various things that the applicant has outlined that they intend to complete will offset any potentially significant negative impact on the commission's work to create a manage a viable preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The Commission's ability to "create and manage viable Preserve" necessarily includes all the species identified in Commenter's comment.

Comment 32: Steve Wickham, May 26, 2020 letter. Margaret Stein, May 25, 2020 email, Lynne Jackson, May 26, 2020 letter. Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

Commenters suggested that additional mitigation was necessary for the loss of Pine Bush Habitat and questions the purpose of the 200 foot buffer area. The mitigation offered is much less than stated, possibly as much as 25% less. The DEIS should accurately reflect the exact amount of land being donated which could actually be developed, so that an accurate evaluation of this proposed mitigation could be made.

Response 32: The DEIS accurately reflects the amount of land that will be conveyed to the Pine Bush Commission. A small portion of the southern end of tax map no. 52.2-1-16 in the City of Albany was identified as being a portion of the Karner Blue Hill Preserve corridor area as part of the 1994 Crossgates expansion. The property to be conveyed has frontage on and direct access to Rapp Road and Springsteen Road and is zoned R-1L (Single Family, Low Density).

Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens and as a result of the proposed action, an additional 8.4 acres of land identified by the Pine Bush Preserve Commission as "Full Protection" will be conveyed to the Commission for effective management and expansion of the Karner Blue butterfly management area and corridor area.

Comment 33: Margaret Stein, May 25, 2020 email, Lynne Jackson, May 26, 2020 letter.

The cumulative impact of this development plus other proposals on the Pine Bush is not adequately addressed. The DEIS is incomplete because it does not adequately address the effect this development would have on the ecosystem of the Pine Bush, or the effect on people's homes, neighborhoods, and plant and animal species. The DEIS should cover all of the land owned by Pyramid, not just the three parcels outlined in the Site Plan. There is no doubt Pyramid has plans for much of the land they own, much like they knew they were going to propose a Costco long before it became part of this SEQRA process.

Response 33: The DEIS provides a full range of analysis of the potential cumulative impacts of the proposed action on the Pine Bush Preserve. As noted, the Pine Bush Commission has commented that the proposed action is consistent with the Management Plan. Commenters fail to specify what "other proposals" might be pending, their classification in the Management Plan or what municipality they might be located within. Similarly, the DEIS contains significant analysis of potential impacts on community character and historic resources.

The Lead Agency determined and provided its reasoning in its positive declaration that the environmental review should include Sites 1, 2 and 3. The positive declaration states:

The Town of Guilderland Planning Board (the “Planning Board”), acting as Lead Agency, has determined that the proposed Rapp Road Residential development described below, if considered with certain additional land within the Town’s newly enacted Transit Oriented District owned by the project sponsor or affiliated entities, may have a potentially significant cumulative adverse environmental impact. Therefore, a Positive Declaration of Environmental Significance should be issued and a Draft Environmental Impact Statement prepared...

Based on this record, and giving consideration to the development potential of additional TOD zoned lands under ownership or control of the Applicant that will utilize the same transportation network and municipal utilities, the Planning Board has determined to undertake a cumulative impact review of the areas described in Part 3 of the EAF and shown on the attached plan.

The project sponsor has no development plans for any of the other properties cited by Commenter. In fact, one of the areas cited along Western Avenue, to the east of the main access road to Crossgates, has been identified as greenspace for Crossgates Mall. Therefore, the Lead Agency properly identified the appropriate scenarios for evaluation in the DEIS.

Comment 34: May 13, 2020 public hearing comment of Lynne Jackson.

The issue of the current cumulative impact of the Pine Bush and analysis of what other projects are going on right now today in the Pine Bush and how these projects in a cumulative manner if you look at all these projects together, how do they affect the ability of the Albany County Pine Bush Preserve Commission to manage the land? How does the Commission control burns near the 20-acre site.

Response 34: The cumulative impact of the projects on the Pine Bush and the ability of the Albany Pine Bush Preserve Commission to manage the land was analyzed in the DEIS. The B. Laing report concluded that there would be no significant adverse impacts. In fact, Sites 2 and 3 are not listed as providing any functionality or purpose for the Pine Bush Preserve. This is obvious because these Sites have already been developed and will be redeveloped. Site 1 was identified by the Pine Bush Commission as a partial protection area which was evaluated extensively in the DEIS including analysis of the 2017 Pine Bush Management Plan. The Management Plan contains the Commission’s vision for the Pine Bush Preserve and provides classifications of all the parcels necessary for an ecologically viable preserve. The DEIS concluded that there would be no significant cumulative impacts on the Commission’s ability to create an ecologically viable Preserve. The Commission agreed stating:

In summary, the Commission does not believe that the current proposal depending upon the alternatives for any realignment of Rapp Road given the scope of the project in the totality and the mitigation proposed that the project is likely to have a significant negative impact on the commission's ability to create and manage viable Preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The management plan that was unanimously adopted by commission members spells out how we try and create and manage a viable preserve. It's important to us in support of the commission that would remain consistent in with our word with that management plan as such considering that site one that area recommend the partial protection. It is adjacent to preserve and protected land that's managed by the commission and DEC. The proposed mitigation for impacts to that site in particular adding land in the Preserve and various things that the applicant has outlined that they intend to complete will offset any potentially significant negative impact on the commission's work to create a manage a viable preserve. May 13, 2020 Public Hearing statement of Neil Gifford for the Albany Pine Bush Preserve Commission.

The need for conservation of additional lands around the entire Albany Pine Bush was investigated and discussed (including insects, herptiles, avian species, APB plant species, etc.) in preparing the APB Preservation Commission's Management Plan Update 2017. It studied 13,000 acres (20.3 square miles) of undeveloped and developed lands in the region and included the subject Sites 1, 2 and 3 within the Study Area. The 2017 Plan Update was reviewed and unanimously approved by the Towns of Guilderland and Colonie, the City of Albany, the County of Albany, and New York States' Departments of Environmental Conservation and Office of Historic Preservation. The DEIS contains a significant amount of analysis and discussion of the 2017 Plan Update.

In Guilderland, Site 2 and 3 were specifically included with the study area but not deemed necessary for any protection in the Plan. This is understandable as these sites were existing developed areas. As discussed in the DEIS, Site 1, being immediately south of Gipp Road was identified for "partial protection" for its value as providing buffer. The 2017 Management Plan states:

Partial development of area 57 may be appropriate provided that proper set-asides are protected and native pine barren plantings are used for landscaping to ensure that the area can widen and protect the existing Karner blue butterfly linkage between the Crossgates Hill and Preserve lands to the east. 2017 Management Plan Update at p. 60

Therefore, as discussed in the DEIS, and following review and determination of the Albany Pine Bush Preserve Commission, the proposed project is consistent with the Commission's 2017 Management Plan Update. The Commission has also confirmed its support for the project, with the proposed mitigative measures. In short, possible, broader (i.e., cumulative) impacts to the APB Preserve, its habitat and avian species (among others) *were* considered for Site's 1, 2 and 3 and the habitats on them (i.e., secondary growth woodlands and a wooded area associates with a largely residential subdivision). See [Appendix 5](#) (a reproduction of the relevant portion of Figure 8 in the APB Management Plan update of 2017). This map shows the very minor southeastern portion of the overall 13,000 acre Pine Bush Preserve Study Area map in context as evaluated by the Pine Bush Preserve Commission for purposes of establishing overall property protection priorities.

The project sites occur south and east of the APB occurring in the ROW while the APB and ABP Preserve stretch to the north and west. Further, the project will not interfere with "linkages"

between portions of the APB in the National Grid electrical ROW/Butterfly Hill to the north of the Crossgates Mall and the body of the APB Preserve (Blueberry Hill).

The Pine Bush Commission has identified current considerations for development projects within the Pine Bush Study Area: 1) the City of Albany landfill (ongoing use and operation and continuing restoration plans); 2) the Rapp Road Residential development (the subject of the DEIS and FEIS); 3) Regal Cinema increase in height (application withdrawn); 4) a minor subdivision at Sprout Lane (Full Protection Area 54, conveyance of property, no change in the use of the land); and in the Town of Colonie, a 2019 concept plan for a Community Solar & Pollinator Project at 2792 & 2772 Curry Road (Full Protection Area 72b). See [Appendix 22](#) - Albany Pine Bush Preserve Technical Committee June 18, 2020 Project Review Update. Consequently, there are no other current development projects within the Pine Bush Study area that would or hinder or otherwise negatively impact its goals and objective to create and manage a viable Preserve. In fact, it will promote it by conveying 8.4 acres of Full Protection land to the Commission. The 2017 Management Plan update provides the estimated current size and configuration of the Preserve, its vision and goals, and fire management plan, among other plans. The Management Plan indicates that there is approximately 3,300 acres of “protected lands” with a goal to achieve 5,380 total acres within the Preserve. As indicated by the Commission, the proposed development projects are consistent with the goals and objectives of the Management Plan, with the appropriate mitigation measures as proposed, to perpetuate the Pine Bush ecology, the Karner Blue butterfly and other species within the Preserve.

Comment 35: Russell Ziemba, May 26, 2020 email.

All of these parcels should be added to the preserve to make it more viable. The DEIS does not adequately examine how the desired acreage for the Preserve can be achieved, and rare, threatened and endangered species helped if these parcels are not included.

Response 35: The Commission’s Management Plan identifies the land necessary for a viable Pine Bush Preserve. The DEIS provides a full range of analysis of the potential cumulative impacts of the proposed action on the Pine Bush Preserve, including rare, threatened and endangered species, and found none. As noted, the Pine Bush Commission has commented that the proposed action is consistent with the Management Plan. See also Response to Comment 35.

Comment 36: Russell Ziemba, May 26, 2020 email, May 13, 2020 public hearing statement of Dr. Cynthia Lane.

The long term sustainability of the Crossgates Butterfly Hill and the migration of Karner blue butterflies will become more tenuous if the habitat on this 20 acre parcel is destroyed, and thousands of daily car trips are added to Rapp Road and the Crossgates Mall Road. It’s theoretically important because it’s proven in the scientific literature on the subject that you could eliminate one population and cause the demise of the entire questionable population. So it’s not insignificant that there could be potentially reduction of dispersal between the Karner Blue butterfly.

Response 36: The AADT confirms that thousands of “new” vehicles on a daily basis will not be added to Rapp Road. See [Appendix 6](#) - Maser Consulting responses to New York State Department

of Transportation. It is not anticipated that there will be any significant impact to the movement of the Karner Blue butterfly along its migratory route to the main Preserve area located to the west. The Lead Agency is considering several alternative transportation measures that, if implemented, would reduce traffic traveling along Rapp Road from current traffic levels or at minimum reduce the proposed increase.

Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens. As a result of the proposed action, the existing migration corridor will be expanded to the north and away from the Project Sites, which will benefit the Commission's and NYSDEC's management plans for the Karner Blue butterfly. Both the Commission and NYSDEC support the conveyance of the 8.4 acres of land.

Moreover, Rapp Road is a narrow road approximately 20 feet wide. There are traffic control devices utilized, such as a stop sign and lower speed limits, to slow the speed of traffic. There are no plans to widen the road in the Town or the City. The Lead Agency is considering several transportation alternatives from the DEIS showing advantages and disadvantages that involve creation of new bypass roads that the City of Albany favors, which would allow for faster vehicular speeds between Washington Avenue Extension and Western Avenue, and may bifurcate, or interfere with the Karner Blue migration corridor. The City's preferred alternative would be to construct a new road to City specification on land identified as Full Protection land which the Albany Pine Bush Preserve strongly opposes. Other alternatives include methods to reduce traffic on upper Rapp Road in the City of Albany that would be intended to benefit the Rapp Road Historic District residents and meet the Pine Bush Commission's goals and objectives by reducing traffic flows through the migration corridor, thereby reducing the impact on dispersal on the species

Comment 37: Russell Ziemba, May 26, 2020 email.

Developed areas, vacant malls, brownfields, and parking lots are more suitable locations for proposals like this. The DEIS did not adequately identify where alternative areas like those mentioned above exist nearby where these units could be constructed.

Response 37: The DEIS contains a comprehensive analysis of reasonable alternatives to the proposed action that "are feasible, considering the objectives and capabilities of the project sponsor. 6 NYCRR 617.9(b)(5)(v). As detailed in the DEIS, Sites 2 and 3 are redevelopment projects of formerly developed areas. There are no areas within the Crossgates Mall site that could support any of development projects.

Comment 38: Lynne Jackson, May 26, 2020 letter.

The DEIS includes "Appendix B - SEQRA FEAF". However, only one site is evaluated in the EAF, Site 1. Sites 2 and 3 should be included.

Response 38: An EAF is used to determine the environmental significance of actions, and whether a positive or negative declaration of significance would be appropriate. This is a threshold determination. If a positive declaration is issued, then it has been determined that a proposed action may have at least one potential significant adverse impact on the environment. Here, the

Lead Agency issued a threshold determination, a positive declaration, and determined that the proposed action may have a potential significant adverse environmental impact and required the preparation of a DEIS which is the subject of this comment.

Although the Planning Board has already undertaken a substantial SEQRA and zoning review of the Rapp Road apartment project, the Planning Board, as lead agency, called a halt to that process and expanded the scope of the environmental review to assess the cumulative impacts of developing additional lands owned by the applicant in the immediate area of the Rapp Road site. The Planning Board issued a Part 3 to the EAF which redefined the “SEQRA Action” as Rapp Road Residential Development and Additional Lands (emphasis supplied). In support of that decision, Part 3 of the EAF provided: Based on the information in Parts 1 and 2 and the entire record before the Planning Board, including expert environmental reports, the proposed action consisting of the development of 222 apartments on 19.68 acres will not have a significant adverse environmental impact on the environment. However, because the proposed action is 1.) in the vicinity of other property within the Transit Oriented District located between Crossgates Mall Road and Western Avenue (see attached plan); and 2.) this property is owned or controlled by entities affiliated with the project sponsor and developable with the TOD that utilize the same transportation and municipal facilities, the Planning Board determines that there may be a potentially significant cumulative adverse environmental impact. The EAF, now consisting of Parts 1, 2 and 3, attached a map identifying the three parcels of land which were included in the expanded definition of the “SEQRA Action.”

On August 14, 2019, pursuant to SEQRA, the Planning Board adopted a resolution issuing a Positive Declaration requiring a cumulative impact analysis of the larger “SEQRA action” described in Part 3 of the EAF. The Positive Declaration included the requirement that a Draft Environmental Impact Statement (DEIS) be prepared for that three-site “action,” and that a public Scoping procedure be undertaken to determine the content of the DEIS.

The Positive Declaration describes the two additional sites to be analyzed in the DEIS: (1) lands located within the TOD district at the intersection of Crossgates Mall Road and Western Avenue (“Site 2”) would be evaluated for development of a potential ±160,000 square feet retail store and fueling facility on ±16 acres; and (2) lands immediately adjacent to Site 2 totaling ±11.34 acres of land (“Site 3”). While no development plans were identified for Site 3, the Planning Board required that the site be analyzed in the DEIS as part of the cumulative impact review as conceptually including potentially ±115,000 SF of retail, 50,000 SF of office space, and 48 apartments.

The Positive Declaration states that: [T]wo public meetings were held by the Planning Board on the proposed Rapp Road Residential project, and written comment letters were received from agencies and members of the public. Several commenters indicated that the environmental review should include the preparation of an environmental impact statement. Based on this record, and giving consideration to the development potential of additional TOD zoned lands under ownership or control of the Applicant that will utilize the same transportation network and municipal utilities, the Planning Board has determined to undertake a cumulative impact review of the areas described in Part 3 of the EAF and shown on the attached plan.

Comment 39: Lynne Jackson, May 26, 2020 letter. May 13, 2020 public hearing comment of Lynne Jackson.

The earth is currently undergoing the sixth major extinction of animals, and this extinction is caused by human activity. Paving over these three sites will add to this extinction. The DEIS should address how the loss of the plants and animals on these three sites can be mitigated in light of the mass extinction happening now. When we take away the places where the plants and animals live and we destroy them then there's more interaction between people and wild animals because wild animals are losing their homes and they have nowhere to go so the animals and people are more like to come in contact.

Response 39: Comment noted. Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens, or have any significant impacts on any threatened or endangered species, rare species or species of special concern, or plant species. The proposed action will include the conveyance of 8.4 acres of private property to the Commission for perpetual management. Sites 2 and 3 were previously developed lands proposed to be redeveloped. The Pine Bush Commission has expressed support for the proposed action as being consistent with the 2017 Management Plan.

It is anticipated that any common wildlife that might be on the development Sites would relocate to areas conducive to them in the future and away from human interaction and avoid human contact.

Comment 40: Lynne Jackson, May 26, 2020 letter.

On Page 23, paragraph 4, the DEIS describes the area surrounding Site 1. The description omits that land directly north of Gipp Road is protected Pine Bush ecosystem. And to the north of that, is more Pine Bush ecosystem. This omission gives an incorrect description of Site 1. It is important to acknowledge that the only thing separating Site 1 from the Pine Bush Preserve is a narrow road.

Response 40: Comment noted. To the north of Site 1 is a small sliver of land and Gipp Road. On the opposite side of Gipp Road is a 1.59 acre parcel owned by the Nature Conservancy zoned Residential and Land Conservation (overlay). To the northeast of the Nature Conservancy property on the opposite side of the National Grid ROW is the southern boundary of City of Albany Historic District. To the immediate west of the Nature Conservancy property is the existing Wilan Lane development which impedes the potential migration of the Karner Blue butterflies from reaching the main part of the Preserve (Blueberry Hill) along the utility ROW. Such existing residential developments require that the migration corridor veer to the northwest and around these properties in order for the butterflies to reach Blueberry Hill and away from Site 1 which the 200' wide 2.5+/- acre buffer helps to facilitate.

Comment 41: May 13, 2020 public hearing statement of Dr. Cynthia Lane. May 13, 2020 public hearing statement of Wendy Dwyer. Hudsonia Report April 14, 2020.

Commenter expressed concern about night lighting impact and heat island. Light pollution from artificial night lighting has had negative impacts on the Pine Bush moth fauna, according to moth researcher Tim McCabe (personal communication). Night lighting associated with the proposed buildings and infrastructure may exacerbate this effect. (See, e.g., van Langevelde et al. [2017] regarding light pollution effects on moths.)

Response 41: As explained in the DEIS, the existing Karner Blue Hill Preserve and management area are in close proximity to existing parking facilities with lighting and Crossgates Mall and Karner Blue butterflies have, and are, currently thriving in this area of the Preserve. The Rapp Road Residential project will be situated significantly farther away from the migration corridor area. Lighting will be installed consistent with Town requirements. The existing trees within the 200 foot wide buffer area have been measured to be approximately 50 feet in height and will continue to provide a buffer area from lower Site lighting. Light pole fixtures (or exterior lighting fixtures) will use LED fixtures with hues that reduce glare and are more representative of daylight conditions.

In regard to “heat islands,” to the extent such occurs, it is already a part of the existing condition as it would be created by the Mall and its associated parking. These commercial developments have occurred at this location for decades, adjacent to APB and the KBB population it sustains. In this time, the KBB population has significantly increased.

Comment 42: May 13, 2020 public hearing statement of Dr. Cynthia Lane.

Commenter inquired about the purpose of the 200 foot buffer area.

Response 42: The 200 foot wide buffer was established in connection with the expansion of Crossgates Mall as a buffer for the migration corridor area established for the Karner Blue butterfly to promote the migration of the Karner Blue butterflies away from this habitat that is not conducive to Karner Blue butterfly survival and along the corridor to the main part of the Preserve (Blueberry Hill). Leaving this buffer area will continue to allow it to provide this identified benefit for the Karner Blue butterfly and further buffer the proposed development from the corridor. As noted throughout this FEIS, the Pine Bush Commission supports the efforts of the project sponsor’s development plan and mitigative measures.

Development of Sites 1, 2 and 3 will not destroy any existing pitch pine-scrub oak barrens. There is no “loss of 19 acres”. Overall Site 1 is approximately 19 acres and includes the 200 foot wide 2.5 +/- acre buffer area on the northern boundary and an additional 4+/- acres of open space buffer to the rear of the development. The result is approximately 6.5+/- acres of contiguous open greenspace on Site 1 that can be utilized by a variety of wildlife species. The off-site 8.4 acres is private property proposed to be conveyed to the Pine Bush Commission for future management. Comparing ACOE wetland regulations regarding wetland replacement and the instant applications are not applicable. The Lead Agency is considering the proposed mitigative measures associated with the proposed action.

Comment 43: Erik Kiviat, PhD, Affidavit dated April 24, 2020.

A number of species, including the Indiana bat, a federal and state-listed endangered species and the Northern Long-eared bat, (NLEB), a federal and state-listed threatened species, could occur in the woodlands on the west side of Lawton Terrace where there are dead and live trees with suitable bark voids. Large trees such as these used to form a forest canopy and provide very important

potential habitat features for several bat species, many birds, insects and other invertebrates, mosses, liverworts, lichens, fungi, and other organisms.

Response 43: Comment noted. The NLEB has not been located in Albany County and while they “could occur” somewhere in the County it has not been proven yet. The NYSDEC provided an email confirming: “[The Site] is beyond the distance to the nearest Northern long-eared bat hibernaculum that would require that all tree cutting be done within the November 1-March 31 window....” See, NYSDEC email in Appendix 7 and B. Laing Associates Report in Appendix 21.

Comment 44: Hudsonia Report April 14, 2020.

DEIS (52-53) stated that the NLEB species was not found on Site 1, but did not say how bat surveys were performed (e.g., by means of bat call detector equipment; however the calls of the several *Myotis* bats in the region are difficult or impossible to distinguish in bat detector recordings). The DEC recommends (<https://www.dec.ny.gov/animals/106090.html>), regardless of location with respect to documented hibernacula or summer roosts, “Leave uncut all snag and cavity trees unless their removal is necessary for protection of human life and property.” The DEIS did not refer to this recommendation although it is now posted on the Town Planning Department Web page at <https://www.townofguilderland.org/planning-department/news/tree-cutting-begin-proposed-costco-site>. It is important to note that retention of snags and cavity trees is very important for many birds, as well as arboreal mammals, and many invertebrates, fungi, lichens, mosses, and liverworts, as well as potentially the gray treefrog. At least a few snags were cut on 26 March on Site 2; two are shown in Figure 1.

Response 44: See Response to Comment 45, 46, 47.

Comment 45: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

Commenter contends, based on its consultant report, that the project sites in their current state are capable of supporting organisms of conservation need including the Wood Thrush, (a species of greatest conservation need in NY) Eastern red bat, Silver-haired bat and Indiana bat. All three bats are of species of greatest conservation need in NY and the Indiana bat is listed as endangered in NY. Use of NYSDEC’s five mile radius from the nearest known hibernaculum is an inappropriate guideline, because northern long-eared bat has seasonal migration distances up to 25 miles. Furthermore, the EIS does not state how any of the bat surveys were performed.

Response 45: This does not change the accuracy of the DEIS. It is possible that some species of bat use the Site for various aspects of their life history, and it is probable that Wood Thrush breeds on Site 1. While they may be considered “species of greatest conservation need” they are also relatively abundant, and are not afforded any protection under the Endangered Species Act or Article 11 of the NYS Environmental Conservation Law. The five-mile radius guideline cited by the commenter is a standard set forth by the NYSDEC and they have specifically noted that it does not apply to the project sites.

Comment 46: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

Commenter cites a local study by concerned citizens near the properties to observe and document bats living on or near the sites that purports to identify different species of bat and documented the methodologies used to observe and lure the bats out for observation. The study puts into question the legitimacy of the EIS's bat surveys, requiring further research into the presence of bats on the sites.

Response 46: Comment noted. The results of the local study do not change the legitimacy of the analysis or conclusions in the DEIS. While not reported, environmental appendices to this DEIS did not claim bats did not exist on Site or that habitats to bats did not exist on Site. However, the Sites were analyzed with regards to their potential for endangered and threatened bat species. In addition to those analyses, consultations with the NYSDEC have shown that the endangered and threatened bat species do not exist at this location and so, no growing season tree cutting restrictions apply to these sites.

Comment 47: Erik Kiviat, PhD, Affidavit dated April 24, 2020; see substantively comment of Steve Wickham, May 26, 2020 letter.

Clear cutting the site during the comment period on the DEIS, should not have occurred while the evaluation of the site was ongoing to assess the natural resources, wildlife and plants prior to damage to the inventory.

Response 47: Comment noted. After prior notification and discussions with the Town, and determination that no Town permit was required, on March 26, 2020, the project sponsor cut trees on a portion of Site 2, in accordance with NYSDEC's guidance intended to avoid impacts on habitat of certain endangered bat species, i.e., that all such tree-cutting within a defined radius of protected bat habitat occur before April 1. The tree cutting operation left the downed trees and stumps in place to ensure that no soil or other physical disturbance of the land would occur. On the same day, the Town posted a public notice on its website, confirming that the tree-cutting was taking place to comply with NYSDEC guidance related to summer bat roosting habitats. In its notice, the Town confirmed that "no ground disturbance" or physical alteration of the land or soil would occur. The public nevertheless raised concerns about the tree cutting. In response, the Town issued a cease and desist order to consult with NYSDEC about these activities. NYSDEC subsequently advised that the tree cutting activity was outside of the 5-mile protected radius of bat habitat, and therefore was not necessary to avoid impacts to the NLEB. The Town's cease and desist order remains in place and no further work has occurred and the project sponsor has confirmed none is scheduled to occur.

The NLEB has not been located in Albany County and while they "could occur" somewhere in the County it has not been proven yet.

Comment 48: Hudsonia Report April 14, 2020.

Urban forests usually have a mixture of nonnative and native plants, some of which are invasive species. These characteristics do not contradict the importance of urban forests, including Site 2, for biodiversity and other ecosystem services. The vegetation cutting and soil disturbance on Site 2 will make the site more invasible, and repeated management treatments may be needed to control the very weeds that Laing (2020) implied were justification for clearing the forest.

Response 48: Site 2 is not an “urban forest”. Site 2 is a previously developed residential area, and abandoned road, with utilities (above and below ground) where partial tree cutting occurred during the winter, out of an abundance of caution to prevent the possibility of bat mortality. While invasive species do not always contradict the importance of a habitat at any given locale, the invasive species (on Site 2 in particular) were a significant aspect of the existing condition, hence its discussion.

Comment 49: Hudsonia Report April 14, 2020.

Commenter saw several clumps of a woodfern and other plants species in the ditch and at the north end of Site 2. The central ditch, on both days, had discernible flow from south to north, steep (excavated) sides ca. 2-3 meters high, water up to 15-20 cm deep, and a firm silty-sandy bottom. Cobble-size rocks were present in old riprap at the mouths of culverts at each end of the ditch, within the site. The south-north ditch, a channelized stream, was delineated as a wetland; the tributary ditch from Rapp Road to the western side of the south-north ditch may be part of this wetland but was not included in the delineation nor did the wetland report explain how the non-wetland status of the tributary was determined.

Response 49: The wetland report identifies the small, man-made channelized ditch/wetland (0.93 acres). This delineation has been confirmed by the ACOE. See [Appendix 8](#). While no regional mapping of wetlands occurs on the US Fish and Wildlife Service’s National Wetland Inventory, New York State DEC’s Resource Mapper (including 300 foot wide check zones), or the Albany County GIS, a very small, 0.093 acre wetland was located on Site 2 and reported as to its composition and regulatory/environmental significance in the DEIS. The wetland is federal. As such, it is common procedure to provide a delineation report to the US Army Corps of Engineers. This was done and concurrence from the Army Corps of Engineers has been obtained. See [Appendix 8](#). It is not a NY State wetland pursuant to ECL Article 24. As provided in the DEIS ([Appendix Page 16](#)), “as the delineated wetlands on Site do exhibit the three wetland parameters as set forth in the 1987 Manual, per the Clean Water Act, the ACOE have jurisdiction over small, linear wetlands on site.” Further, Page 6 of the wetland report does explain how the non-wetland status of the “tributaries” were determined. B. Laing Associates explained, “The southwestern side of the old Rapp Road (and the culvert underneath) is characterized by two drainage ditches which converge at the culvert. These ditches collect water from nearby uplands and channel them into the linear wetland. The ditches are lined with stones and have little to no vegetation (hydrophytic or otherwise). In addition, these ditches are always dry (i.e. no standing or surface water present) except for during and immediately after (i.e. within 24 hours of) a rain event.” Contrary to the comment, this is a stormwater conveyance feature and there is no “channelized stream” as identified in the comment.

Comment 50: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

The wetland report fails to provide methodology on how they concluded there were no wetlands, and fail to account for the contradiction between the wetland moths and their conclusion that there are no wetlands on the project sites raises serious questions as to the existence of a wetland on the Project sites, that needs to be addressed by the applicant.

Response 50: The DEIS adequately addresses the potential wetlands on each site. B. Laing Associates have been delineating wetlands for decades utilizing the required methodology. The ACOE confirmed the wetland delineation on Site 2. The “wetland moths” identified on Site 1 were in their adult (flying) stage of life and were attracted to the site by a UV-light. It is not unusual for flying adults to seek new areas, or search for mates, outside of those habitats in which they breed. While there are no wetlands on Site 1, there are wetlands in the general vicinity from which a flying insect may have originated.

Comment 51: Hudsonia Report April 14, 2020.

The wetland report contains no mitigation. The wetland report does not mention the common reed in the ditch. An interesting point is that Laing (2019c) identified a histosol, which is a highly organic wetland soil that would have taken centuries or millennia to form. I don’t know the exact spot in the ditch where this soil boring was done or whether it’s representative of a larger area. There may be a buried histosol that remains from a formerly larger wetland, and it is possible that this wetland could be restored.

Response 51: Comment noted. No mitigation is required for filing 0.093 acres of wetlands per the applicable ACOE requirements.

Comment 52: Hudsonia Report April 14, 2020.

Worm snakes may well occupy the study area. Appendices F and G (Laing 2019 a, b) asserted that the worm snake (*Carphophis amoenus*), a Special Concern species in New York, requires damp soils and would therefore not inhabit an area lacking Somewhat Poorly Drained or Poorly Drained soils and formerly affected by pig rooting (on Site 1). Worm snakes have been found across Rapp Road from Site 1, and in the electric transmission right-of-way near Site 1, as recently as 2009 (Conrad 2017, Gabriel 2019). The worm snake, however, has been reported from dry soils as well as moist soils (Willson and Doras 2004).

Response 52: Commenter’s concern about the possibility of such species to be located on the site is not supported by the B. Laing investigations as reported in the DEIS. Worm snakes, are not a threatened or endangered species, and do not occupy Sites 1, 2 or 3. As documented in the DEIS, worm snakes were specifically looked for on each site and none were found. B. Laing Associates is very familiar with this species having located one at another site in 2008. Save the Pine Bush attempted to have NYSDEC examine protection status of worm snakes and NYSDEC issued an opinion finding such species enjoy no such protection status. See, [Appendix 9](#).

However, due the severe depredation of herptiles and historic destruction of habitat on Site 1 during its use as a pig farm, no worm snakes were found to exist.

Comment 53: Hudsonia Report April 14, 2020.

There is a well-known population of the eastern hog-nosed snake (*Heterodon platirhinos*; New York Special Concern) in the Pine Bush (Stewart and Rossi 1981). I have no reason to think that past soil disturbance would limit the hog-nosed snake as it has been reported from soil mine pits in Connecticut (Klemens 1990) and I have found it in disturbed areas around occupied buildings in Maryland and in Dutchess County, New York. A sparse population of the hognosed snake would be difficult to detect and this has been my experience where It is possible that hog-nosed snake and worm snake have persisted in the study area from the time when it was ecologically part of the Pine Bush.

Response 53: Comment noted. Commenter's concern about the possibility of such species to be located on the site is not supported by the B. Laing investigations as reported in the DEIS. It is possible that the worm snake and hog nosed snake may have been present at some point, however, as set forth in the DEIS, none were found on the Sites during recent surveys and none of the sites possess appropriate habitat for such species. Hognosed snakes and worm snakes are not a threatened or endangered species and according to NYSDEC have no protection status. Even if they were located on the site, the 6.5+/- acres of contiguous open area that will remain on Site 1 post-construction might provide areas where they could settle.

Comment 54: Hudsonia Report April 14, 2020. Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

The sandy Colonie soils are very permeable and groundwater is easily polluted (Dineen 1976, 1979). A gas station on these soils is a risk for leaks and spills of gasoline and other motor vehicle fluids that could move through the permeable soils into the unconsolidated aquifer.

Response 54: It is noted that Commenter's client operates a gasoline station located approximately 380 feet from the property boundary of the sites. Numerous safety precautions will be included with the development of the proposed gas station, including:

The Costco fuel facility will be equipped with the most current technology and environmental monitoring systems, meeting or exceeding federal and state regulatory requirements. The facility will include:

1. Double-Walled Fiberglass Fuel Storage Tanks, surrounded by gravel fill, and capped with an 8" thick reinforced concrete slab. Piping is double-contained flexible or fiberglass.
2. Containment sumps to capture any fluid from dispenser and incorporating fluid detection sensors.

3. Tank Monitor/Leak Detection System: Veeder-Root TLS450 tank level monitor and leak detection system providing automatic system shut down technology, located in the interstitial tank space and in each dispenser and piping sump.
4. Emergency Shut-Off Switch/Alarm, provided at several locations around the station, which immediately shut off power to the pumps.

Comment 55: Hudsonia Report April 14, 2020, Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

DEIS (33) stated “Additional grading and clearing activities will also be required and will include removal of the trees, shrubs, stumps and topsoil in the western portion of Site 2.” – not only does this represent additional GHG emissions, but also seems to include the many native trees among which are the pitch pines on the dune in the northwest of the site (Laing [2019b] did not mention the northwestern pitch pines, or the pitch pines in the eastern edge of Site 3, only those among the unoccupied houses). The DEIS apparently did not state whether the logs, stumps, and slash from forest clearing would be carted to a dump or used to build brushpiles for wildlife onsite.

Response 55: Comment noted. All materials will be taken and disposed of off-site.

Comment 56: Hudsonia Report April 14, 2020.

Did the tree cutting impact the nodding trillium reported in DEIS?

Response 56: A small (grass-sized), herbaceous and relatively rare species¹², nodding trillium (*Trillium cernuum*), was found and reported. Following a recent site investigation, no impacts to this plant occurred and the relocation plan remains the same as discussed in the DEIS.

Comment 57: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

The pollutants should be analyzed for their effects on humans as well as endangered and threatened species and species of special concern in the project area (Karner blue butterfly, frosted elfin, northern long-eared bat, worm snake, eastern spadefoot toad, eastern hog-nosed snake, eastern whip-poor-will). The NYSDEC monitors cited in the DEIS do not reflect the air quality in the project area and their measurements do not reflect the air quality in the project area that will occur with the completion of the project. Appendix P in the EIS doesn't list where the nearest NYSDEC monitors are located.

Response 57: The air pollution modeling conducted for the project demonstrates that the relevant pollutant standard will not be contravened. Further, it should be noted that the Karner Blue Butterfly, etc. in the adjacent Albany Pine Bush immediately north of the Crossgates Mall have increased in numbers in close proximity to the Crossgates ring road and parking facilities.

Comment 58: Zachary Davis, undated letter.

¹² State Rank S3 - Typically 21 to 100 occurrences, limited acreage, or miles of stream in New York State and considered “exploitably vulnerable” in NYS, per NYSDEC.

Commenter suggests that potential avian impacts may be mitigated by alternative project builds: using bird-safe glass, implementing bird safe structural designs, limiting the number of light fixtures on the structure and reducing their luminosity through shades, as well as through increasing the size of the buffer proposed. In order to not interfere with the fire management goals of the APBC, a reduction in the footprint to allow for increased buffering, or conveyance of equivalent parcels should be considered.

Response 58: The development of the residential project will not result in any significant adverse impacts to threatened or endangered avian species and none have been identified. Light pole fixtures (or exterior lighting fixtures) will use LED fixtures with hues that reduce glare and are more representative of daylight conditions.

Comment 59: Grace Nichols email dated July 27, 2020:

Our citizen science group (The All Volunteer Ecology Study Team) has been visiting the proposed development sites 1, 2 and 3 regularly. We have gathered acoustic data on the variety of bat calls that are on these sites. Acoustic monitoring suggests the probable presence of five bat species: Big Brown Bat, Silver-haired Bat, Hoary Bat, Red Bat and a species of Myotis... While our ongoing monitoring with Anabat recorders, yielding pictograms of the high frequency calls the bats make, which allow their identification, found 5 species of bats, we couldn't help but notice that the species inventory in the DEIS submitted by Pyramid omitted all bats from their list of mammals onsite... We also find it perplexing that no fireflies were found on Sites 2 and 3, when our observations indicated there were numerous fireflies (Lampyridae species) at all the sites.

Response 59: Receipt of this Comment on July 27 is acknowledged, with the note that the public comment period on the DEIS closed more than sixty days ago. In response, none of the bat species identified in the Comment are listed as threatened or endangered under state or federal regulations. The DEIS and the environmental report at Appendix G do not represent that no bat species exist or that no bat habitat can be found on the Sites. The Sites were analyzed with regards to the presence of and potential for occupancy by endangered and threatened bat species. In addition to those analyses, consultations with the NYSDEC have confirmed that the endangered and threatened bat species do not exist at this location. As with any development proposal, common species, including bats and fireflies, occupying a development area will be disturbed. In the case of this Project, however, there are substantial habitat relocation opportunities in the immediate vicinity, including the +/-2.4 acre and +/- 4.0 wooded buffers on Site 1, the +/- 8.4 acres of Pine Bush Preserve primary protection area lands to be donated by the applicant, and the 3,000 acre Pine Bush Preserve to the north and west of the Project Sites.

2.2 Historic, Cultural and Archeological Resources

Comment 1: Parks, Recreation and Historic Preserve, March 26, 2020 letter.

Within the DEIS, Section 3.1 notes that all three sites will require Stormwater Pollution Prevention Plans (SWPPP). The approval of such plans require review under Section 14.09 of New York State Parks, Recreation and Historic Preservation Law (PRHPL) by the New York State Department of Environmental Conservation in consultation with our office.

Response 1: Comment acknowledged. All three sites are subject to NYSDEC SPDES General Permit (GP-0-20-001). Although not all sites fall within an archeologically sensitive area, coordination with the NYSOPRHP, occurred and will continue to occur relative to potential historical/archeological matters on each site.

Comment 2: Parks, Recreation and Historic Preserve, March 26, 2020 letter.

We note that Section 2.6.2 states that Site 2 (Costco) will require coverage under a United States Army Corps of Engineers (ACE) Nationwide Permit (39). As you know, this would involve a review under Section 106 of the National Historic Preservation Act (NHPA). At this point in time these statutory reviews have not been initiated with our office by the applicant or the involved permitting agencies.

Response 2: Comment noted.

Comment 3: Parks, Recreation and Historic Preserve, March 26, 2020 letter.

Our letter dated April 11, 2019 to Mr. Feeney (attached) stated, "it has become clear that the relentless traffic associated with the steady commercial growth now surrounding the Rapp Road Historic District has reached a level of adverse impact. The use of this intact and evocative section of Rapp Road by commuters and shoppers as a short-cut is now having a profound, direct and negative impact on the serene rural qualities that the first settlers sought as their refuge from the city of Albany."

Response 3: As part of the SEQRA process, the lead agency is evaluating several alternative traffic alternatives, for instance, some of which call for a new by pass road, one way streets etc. In other words, the lead agency is evaluating potential alternatives that can reduce traffic within the subject historic district, while others that might impact the Albany Pine Bush Preserve. The lead agency will balance the metrics of all alternatives.

Comment 4: Parks, Recreation and Historic Preserve, March 26, 2020 letter.

In reviewing the DEIS Section 3.5.3 (Mitigative Measures), our office continues to support alternatives that will eliminate the use of Rapp Road (within the Historic District) as a bypass for non-residential traffic. The significant expansion of the original project, as presented to this office

for comment, reinforces our concerns over the negative impacts that this increased nonresident traffic will have on the district and its unique character.

Response 4: As part of the SEQRA process, the lead agency is evaluating several traffic alternatives, for instance, some of which call for a new by pass road, one way streets etc. In other words, the lead agency is evaluating potential alternatives that can reduce traffic within the subject historic district, while others that might impact the Albany Pine Bush Preserve. The lead agency will balance the metrics of all alternatives. While referred to as a “short cut” by the Commenter, it should be noted that this section of Rapp Road is a federal aid highway, has a functional class as an Urban Minor Arterial and serves a role in the local roadway network. Eliminating the use of Rapp Road as a “bypass for non-residential traffic” may involve changing the functional classification.

Comment 5: City of Albany, May 13, 2020 letter.

The Rapp Road Community Historic District is one of the most culturally significant historic districts in the City of Albany and was listed on the National Register of Historic Places in 2002. The City of Albany remains committed to protecting this community, its cultural importance, and its historic significance.

Response 5: Comment noted.

2.3 Traffic and Transportation

1. Capital District Transportation Authority

Comment 1: CDTA, March 9, 2020 letter.

We have a solid working relationship the Pyramid and in 2019 we relocated the bus stop at Crossgates to make it safer and more efficient for our customers and bus operators which has eased traffic congestion and improved pedestrian access for everyone who travels to the Mall.

Response 1: Comment noted.

Comment 2: CDTA, March 9, 2020 letter. CDTA started our Flex On-Demand transit program and Crossgates is one of our partners and has already proven to be one of the most popular destinations in the service area.

Response 2: Comment noted.

Comment 3: CDTA, March 9, 2020 letter.

The project is within the Town's TOD and through discussions with the applicant our shared goal is to provide the best possible experience for customers and encourage people to use transit and working toward more services for new residents and guests. With fewer cars on the road and more people using CDTA services, it will make a positive impact on traffic and our environmental.

Response 3: Comment noted.

Comment 4: CDTA, March 9, 2020 letter.

CDTA and Pyramid are working on roadway/intersection design associated with the proposed development. New bus stops at/near the intersection of Rapp and Crossgates Mall Road will improve access to CDTA's services. CDTA is offering the option to join the Universal Access program to allow tenants with free access to the transit network, further increasing transit use and reducing traffic volumes.

Response 4: Comment noted.

Comment 5: CDTA, March 9, 2020 letter, CDTA supports Crossgates and Pyramid and CDTA will continue efforts to secure state and federal funding for the Bus Rapid Transit line to the Crossgates area. We support Pyramid's development and look forward to working with them to enhance service and connect people to economic opportunities.

Response 5: Comment noted. It was recently announced that CDTA had been approved for a \$60.9 million federal grant that will allow the transit authority to move ahead with the BRT Purple Line at Crossgates.

Comment 6: CDTA, May 12, 2020 letter.

As you know, our team at the Capital District Transportation Authority (CDTA) has worked closely with the Town of Guilderland to create clear guidelines on how to improve traffic and transit near Crossgates Mall. We have made great strides and continue to work with the Town and Pyramid Management Group (PMG) on best practices in this regard.

This work resulted in the creation of a Transit-Oriented Development District (TOD) which includes areas on and around Western Avenue, more specifically, Crossgates Mall. Crossgates is one of the busiest stops in our system and the number one retail destination for transit customers. On an average day, CDTA buses provide transportation for more than 1,000 riders to and from Crossgates. This significantly reduces the number of automobiles and emissions that would be drawn to the area without our services.

CDTA has enjoyed working with Town Officials as well as regional and business leaders to study transit issues in the area and determine best practices for future improvements. This planning and forward thinking by Town Officials helps to coordinate the needs of the community with the desire for responsible future development and safe transit.

We have been invited by PMG to take part in the planning process and to offer suggestions about the infrastructure with an eye toward easing congestion and improving safety. Through this relationship, we are planning for expanded bus stops on the property, pedestrian and bicycle crossings, and additional safety measures. This will be a marked improvement for customers and the community. Through these efforts, the owners have been willing to make improvements — and pay for them — at our request.

Response 6: Comment noted.

2. City of Albany

Comment 1: City of Albany May 13, 2020 letter.

The City takes no position on the overall continued development on the Pyramid Corporation and Crossgate Mall parcels, provided that the negative impacts to nearby Albany residents and neighborhoods are fully mitigated.

Response 1: Comment noted. Based on the updated Traffic Impact Study, Levels of Service along Rapp Road, Springsteen Road, Pine Lane and Wilan Lane, will be generally maintained at “C” or better and therefore there is not a capacity issue.

Comment 2: City of Albany May 13, 2020 letter.

Based on a review of the trip generation estimate and methodologies, our traffic consultants believe that the trip generation has been over-estimated during the AM peak hour and under estimated during the PM and Saturday peak hours. Their trip generation estimates is as follows:

- 150 fewer trips during the AM peak hour
- 90 more trips during the PM peak hour
- 220 more trips during the Saturday peak hour
- The distribution of traffic traveling through the City of Albany is expected to be higher than presented in the traffic study. Specifically, the TIS estimates that 20% of the Rapp Road residential project will go through the City but only 10% of the traffic from Costco and the mixed-use project. It’s likely that the Costco and mixed-use traffic will be closer to 20% like the Rapp Road residential project.
- Based on the trip generation and trip distribution changes, the increase in traffic through the City of Albany will likely be higher than presented in the traffic study.
- An estimate of the number of site-related trips that will travel through the City of Albany will be provided for each of the roadway alternatives as part of the detailed review.

Response 2: The trip generation was based on ITE standards and trip distributions were reviewed by the Town’s traffic consultant and NYSDOT and were found to be reasonable. However, after consultation with NYSDOT, a sensitivity analysis was undertaken with the elimination of the trip credits between the fueling station and Costco for the three State signalized intersections as well as the Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 ramps) intersection. The changes in the trip credits recommended by the NYSDOT resulted in no additional trips along Rapp Road through the historical district, or Gipp Road, Wilan Lane and Sprinsteen Road, during the Weekday Peak AM Hour, with 6 additional trips during the Weekday Peak PM Hour and 5 additional trips during the Saturday Peak Hour. As shown in the DEIS Traffic Impact Study, the resulting Levels of Service along Rapp Road through the historical district would continue to

operate at acceptable LOS “C” or better during Peak Hours. See July 1, 2020 Maser Consulting P.A. Response Letter contained in Appendix 6 of this FEIS.

Comment 3: City of Albany May 13, 2020 letter.

ALTERNATIVE 1 | EASTERN BYPASS This is the City of Albany’s preferred alternative and the only which eliminates through traffic in the already constrained area of Rapp Road, minimizes any increase in emergency response time, and does not impact the quality of life or convenience of the Albany residents in the Rapp Road Community Historic District, Pine Lane, or Willan Lane and provides other benefits.

Response 3: The assertion that Alternative 1 will accomplish the statements appear to be inaccurate, and/or unproven and it is not clear whether the Commenter contacted the residents along Rapp Road for their review and input regarding this alternative. This alternative would shift Rapp Road to run directly behind homes located in the east side of Rapp Road, adjacent to the backyards that residents currently use. Bringing a new modern roadway in close proximity to the backyards could be considered to be a detriment to the residents. Commenter also omitted any reference to the potential impacts to the Pine Bush Commission Management Plan which this alternative would run counter to by placing a new road on land areas identified as “full protection” and effectively bisect the existing Karner Blue butterfly migration corridor twice. Moreover, the Albany Pine Bush Preserve Commission strongly opposed such an alternative.

Comment 4: City of Albany May 13, 2020 letter.

ALTERNATIVE 2 | WESTERN BYPASS 1 While this alternative does eliminate through traffic in the already constrained area of Rapp Road, it is not recommended as the City’s preferred alternative for various reasons:

- It would have a negative impact on the quality of life of residents of the Daughters of Sarah;
- The land is not owned by either the City of Albany or Pyramid Corporation;
- It does not bring traffic out to a signal on Washington Avenue Extension, but instead puts traffic on a frontage road, west of the traffic signal;
- Would impact emergency response time to residents of Pine Lane and Wilan Lane;
- Provides a direct connection to Crossgates Mall, greatly increasing the traffic near the Daughter’s of Sarah and on the frontage road;
- Requires more road construction than Alternate 1; and
- Bisects a larger area Recommended for Full Protection in the 2017 Management Plan Update.

Response 4: Comments noted.

Comment 5: City of Albany May 13, 2020 letter.

ALTERNATIVE 3 | WESTERN BYPASS 2 While this alternative does eliminate through traffic in the already constrained area of Rapp Road, it is not recommended as the City’s preferred alternative for various reasons.

- Greater negative impact to the Daughters of Sarah;
- Requires more road construction than Alternative 1;
- Would greatly increase emergency response time to residents of Pine Lane and Wilan Lane;
- Provides a direct connection to Crossgate Mall, greatly increasing the traffic through this area;
- Would cause traffic cut-through from Columbia Circle office developments;
- Adds traffic at Gipp Road and Pine Lane; and
- Bisects a larger area Recommended for Full Protection in the 2017 Management Plan Update.

Response 5: Comment noted.

Comment 6: City of Albany May 13, 2020 letter.

ALTERNATIVE 4 | SOUTHBOUND ONLY - MIDDLE OF RAPP ROAD While this alternative does eliminate legal through northbound traffic in the already constrained area of Rapp Road, it is not recommended as the City’s preferred alternative for various reasons:

- Impacts the residents of Rapp Road Historic District, Pine Lane and Willan Lane. No connection from Western Avenue;
- Difficult enforcement of the one-way, unnatural mid-road change;
- Decreases traffic in one direction, but highly likely that some motorist will ignore. During major congestion, motorist will seek the path of least resistance;
- Increase traffic in the southbound direction while doing nothing to improve Rapp Road through the historic district; and
- Provides direct connection to Crossgates Mall, greatly increasing traffic potential.

Response 6: Comment noted. With proper signage and design, it is unlikely that motorists will disobey the traffic laws. Based on the traffic impact study, there is not likely to be any “major congestion in this area. Direct connection to Crossgates at the northwest corner of the site has been proposed since the inception of the Rapp Road Residential project in November 2018 and will not “increase traffic potential”; rather it will relieve traffic pressure for this area.

Comment 7: City of Albany May 13, 2020 letter.

ALTERNATIVE 5 | EMERGENCY ACCESS ONLY - MIDDLE OF RAPP ROAD While this alternative does eliminate legal through north and south bound traffic in the already constrained area of Rapp Road, it is not recommended as the City’s preferred alternative for various reasons:

- Impacts the residents of Rapp Road Historic District, Pine Lane and Willan Lane. No connection to or from Western Avenue;
- Difficult enforcement without physical barrier;
- During major congestion, motorist will seek the path of least resistance;

- Potential traffic increases with no improvements to Rapp Road through the historic district; and
- Provides direct connection to Crossgates Mall— difficult to monitor / enforce; and
- May decrease traffic, but at a convenience cost to Albany residents in the area.

Response 7: Comment noted. There is no potential increase in traffic within the historic district by directing traffic to southbound-only traffic. It would be expected that the number of trips eliminated from travelling north would be substantially greater than any new trips that might travel southbound.

Comment 8: City of Albany May 13, 2020 letter.

ALTERNATIVE 5A | NO THROUGH ACCESS - CLOSURE OF RAPP AT PINE LANE AND GIPP While this alternative does eliminate traffic in the already constrained area of Rapp Road, it is not recommended as the City’s preferred alternative for the following reasons:

- Completely severs any connection through the City of Albany from Wilan Lane from Washington Avenue Extensions;
- Greatly increases response times for emergency services for Wilan Lane residents; and
- Requires access for all services to Wilan Lane to enter from the Town of Guilderland.

Response 8: Comment noted.

Comment 9: City of Albany May 13, 2020 letter.

ALTERNATIVE 5C | NO ACCESS - CLOSURE OF RAPP AT PINE LANE AND GIPP Although this alternative has not been presented, it would be a modification of Alternative 5. The major difference would be that the emergency access portion (shown in yellow on the plan) would be eliminated as would that section of the road. Although this alternative would impact travel times for Albany residents in the area, the City would consider this as a possibility, with further study based on the following:

- Removes connections to Rapp Road from Crossgates, the proposed Costo, and the proposed housing development—therefor ensuring there is no increase in traffic through the Historic District from these developments; and
- Would not affect emergency response times for Wilan Lane, Pine Lane, or the Rapp Road Community Historic District.

Response 9: The Commentor offers qualified support for the complete closing of Rapp Road between the northern Site 1 driveway in Guilderland to Gipp Road in Albany. However, Alternative 4 also would remove the northbound connection to Rapp Road from Crossgates, the

proposed Costco and housing development by creating a one-way southbound segment of road between Gipp Road and the Crossgates connection. Southbound traffic between Washington Avenue Extension would still be allowed, thereby not impacting emergency services or other services for Wilan Lane, Pine Lane or the Rapp Road Community Historic District.

Based on the public comments, the following, Alternative 5D, is provided as a variation on another alternative, which would limit traffic through the Historic District. This alternative would restrict southbound traffic on the upper portion of Rapp Road that today is one-way. This can be achieved by dead ending the southern end of the road where it intersects with Springsteen Street with a “hammerhead”. The one-way section of upper Rapp Road would then become available to two-way traffic with no southbound thru-access. A “hammerhead” or cul-de-sac can be constructed for vehicle to turn around. Springsteen Street would then become available to two-way traffic. Alternative 5D would not impact emergency and other services for Wilan Land, Pine Lane or the Rapp Road Community Historic District.

Comment 10: City of Albany May 13, 2020 letter.

ALTERNATIVE 6 | GIPP ROAD REALIGNMENT This option would be strongly opposed by the City of Albany for various reasons:

- Greatly increases traffic through the Rapp Road Community Historic District from Costco, the proposed housing development, and Crossgates Mall with no improvements to a section of roadway that cannot accommodate any increase;
- Greatly increases response times for emergency services for Wilan Lane residents; and
- Requires access for all services to Wilan Lane to enter from the Town of Guilderland.

Response 10: Alternative 6 will not increase traffic through the historic district. This alternative requires the City of Albany approval because the eastern most portion of Gipp Road from Wilan Lane is located within Albany. The proposed re-routing of Gipp Road to align with the proposed Crossgates mall driveway connection at Rapp Road would decrease northbound vehicular traffic through the historic district by restricting the left turn movements from Gipp Road to Rapp Road. The Crossgates Mall ring road and Crossgates Mall Road provide access to I-87 and Washington Avenue Extension. With enforcement the north and south bound vehicular traffic on Rapp Road between Western Avenue and Washington Avenue Extension could restrict thru-traffic during the AM/PM peak commute times to further reduce vehicle traffic through the historic district. Access for emergency and all other services for Wilan Lane would remain without restriction.

Comment 11: City of Albany May 13, 2020 letter.

ALTERNATIVE 9 | RAPP ROAD REALIGNMENT This option would be strongly opposed by the City of Albany for the following reasons:

- Greatly increases traffic through the Rapp Road Community Historic District from Costco and Crossgates Mall, and potentially the proposed housing development, with no improvements to a section of roadway that cannot accommodate any increase.

Response 11: Alternative 9 will not increase traffic through the historic district. The proposed re-routing of a portion of Rapp Road south of Gipp Road to directly connect with the Crossgates Mall ring road will encourage vehicles to use Crossgates Mall Road to access Western Avenue and Washington Avenue Extension because it is effectively a more direct route.

This alternative could potentially divert 30 - 40 existing vehicles from traveling through the historic district during the Weekday Peak AM, Weekday Peak PM and Saturday Peak Hours. In addition, this alternative could also reduce the number of vehicles from the proposed residential and proposed Costco development.

3. Greenman Pederson Letter dated March 27, 2020 for Town of Guilderland Planning Board

Comment 1: Greenman Pederson Letter dated March 27, 2020.

Trip Generation numbers (before adjustments) shown in the tables appear reasonable and are consistent with Trip Generation, 10th Edition, though the entering and exiting numbers shown in the Section F text have not been updated to reflect those currently in Table 2.

Response 1: Comment noted. Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See Appendix 6 and 23.

Comment 2: Greenman Pederson Letter dated March 27, 2020.

The number of new trips shown entering and exiting site's 1, 2 & 3 in the figures generally correlate with the trip generation tables (give or take a couple trips on various movements, which are assumed to be rounding errors insignificant to the analysis).

Response 2: Comment noted. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS.

Comment 3: Greenman Pederson Letter dated March 27, 2020.

Trip reduction percentages used for interplay and pass-by trips are not discussed in the text, and the methodology selected to apply interplay credits does not appear to correlate with ITE recommended procedures. We request background information and discussion methodology is needed to justify the percentages used as part of the trip forecasting.

Response 3: The DEIS Traffic Impact Study discussed “that not all the trips to Costco facility would be “new” to the adjacent roadway system and a significant portion would be “interplay” between Crossgates Mall, “interplay” between Costco retail and fueling stations, and as “pass-by” traffic from the existing traffic stream along Western Avenue, Rapp Road and Crossgates Mall Road. The Trip Generation table (Table No. 2) outlined the trip reduction percentages used for “interplay” and “pass-by”

The Institute of Transportation Engineers (ITE) as outlined in their “Trip Generation Handbook, 3rd Edition, September 2017 indicates that at a development site consisting of two or more land uses, there is potential for interaction among those uses (referred to as “internal capture trips”) particularly where trips can be made by walking. As a result, the total generation of external trips (those entering and exiting the overall site) may be less than the simple sum of the trips generated by each discrete land use.” In addition, ITE also outlines “not all traffic entering or exiting a site driveway is necessarily new traffic added to the street system. The actual amount of new traffic is dependent upon the purpose of the trip and the route used from its origin to its destination. A

pass-by trip is made as an intermediate stop on the way from an origin to a primary trip destination without a route diversion. Pass-by trips are attracted from passing the site on an adjacent street or roadway that offers direct access to the generator.

The following is a further discussion of the Trip Generation Rates and “internal/interplay” and “pass-by” credits utilized in the Traffic Impact Study. As outlined in the Traffic Impact Study, “In order to provide a conservative analysis, estimates of the amount of traffic to be generated by Site 2 were based on the Hourly Trip Generation Rates for both the retail and 18 fueling stations components separately based on information contained in the Institute of Transportation Engineers (ITE) “Trip Generation Manual”, 10th Edition, September 2017 – Land Use 857 – for Discount Club (Costco) and ITE Land Use 944 for the fueling stations”. NOTE: ITE Land Use 857 - Discount Club indicates that some sites may include on-site fueling pumps”. Since the trip generation estimates were based on both components separately, a 25% “interplay” credit was taken (only for the fueling station generation). This equated to a reduction in combined trip generation of 18% (PM) and 20% (SAT). In addition, a 10% “interplay” credit was also taken between both the Costco warehouse and fueling stations with the Crossgates Mall (which consists of some 1,600,000 s.f. of retail space) resulting in a reduction of 92 (PM) and 124 (SAT) trips. In addition, a 25% “pass-by” credit was taken from the existing traffic stream along Western Avenue, Rapp Road and Crossgates Mall Road. Based on information contained in the ITE Trip Generation Handbook, 3rd Edition, September 2017, the Average Pass-By Trip Percentage for ITE Land Use 857 – Discount Club is 37% (PM) and 30% (SAT) while the Average Pass-By Trip Percentage for ITE Land Use 944 – Fueling Stations is 42% (PM) .

Based on the above, it is our opinion that the trip reduction percentages used for “interplay” and “pass-by” are appropriate and can be considered conservative.

See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS.

This response is further amplified in July 1, 2020 responses by Maser Consulting to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

After consultation with NYSDOT, all recommendations have been accepted with respect to trip rates. Note: The trip credits between the fueling station and Costco have been eliminated. Based on the accepted trip rates, the only change in Levels of Service from No-Build to Build Conditions resulted at the Western Avenue/Johnson Road/Rapp Road intersection during the Weekday Peak PM Hour with an overall Level of Service “D” under the Year 2022 No-Build Condition to an overall Level of Service “E” under the Year 2022 Build Condition. This was a result of updated signal timings provided by NYSDOT. It should be noted that the recommended changes to the trip credits resulted in 11 additional vehicle at this intersection during the Weekday Peak PM Hour.

The following is a summary of our responses to the NYSDOT comments (as outlined in the above referenced Maser Consulting NYSDOT Response Letter dated July 1, 2020) and resulting recommendations.

Based on consultation with NYSDOT, the build traffic volumes have been updated to reflect no interplay credit between the fueling stations and Costco, the restriction of left turns to and from Western Avenue at Gabriel Terrace, and signal timing adjustments on Western Avenue. Updated figures, tables and analysis have been provided. Appendix A contains the information for the 2022 Design Year with Appendix B containing the information for the 2025 Design Year. Based on the updated analysis, we note the following:

Western Avenue and Crossgates Mall Driveway

- Signal timing adjustments to maintain similar operating conditions at this location will be implemented. A modem will be provided as per NYSDOT specs as a means to adjust signal timings as needed. The modem will allow for synchronized timing amongst the traffic signal controllers to provide a common cycle length and establish the appropriate offsets to aid the flow of traffic.

Western Avenue and Johnston/Rapp Road

- For the 2022 Design Year, signal timing adjustments will be required to maintain similar operating conditions. However, to provide a means to adjust these timings or provide coordination, the Applicant will provide a modem as a means to adjust signal timings as needed for this location.
- For the 2025 Design Year, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue. This will maintain similar operating conditions compared to No-Build Conditions.

Western Avenue and Gabriel Terrace

- It is recommended that left turn entering and exiting movements at this location be prohibited on the north side of Western Avenue.

Comment 4: Greenman Pederson Letter dated March 27, 2020.

At Intersection # 2 (Western Ave and Gabriel Terrace) – Given the high traffic volumes and number of lanes on Western Ave, the fact that site traffic can access full movement traffic signals from the site via Crossgates Mall Rd and that the opposing side street already experiences excessive delays and LOS F operations, it is recommended that the Gabriel Terrace approach to Western Ave be physically converted to a channelized right in/right out only as part of the project. Full access at this location allowing left turns on and off Western Ave could be a safety issue and left turn or through vehicles on this approach could significantly impact delay for all vehicles on the approach. This modification to Western Ave will likely require a Highway Work Permit from NYSDOT Region 1.

Response 4: Gabriel Terrace at its intersection with Western Avenue is a public street. The Applicant does not object to the Town's requesting that this street be right turn in/out. The Applicant will fund the required improvements if approved by the Town/NYSDOT. It should be noted that the 2022 Build condition for Costco (Site 2) did not assign any left turn traffic at Western Avenue/Gabriel Terrace.

See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS.

Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

Comment 5: Greenman Pederson Letter dated March 27, 2020.

For Intersection # 3 (Western Ave and Rapp Road), the projects have a measurable impact to the delays in the PM peak hour. While the overall LOS stays in the D range from 2022 No Build the 2025 build conditions, the overall intersection delay increases from 38.3 sec to 50.6 sec an increase of over 30%. Several movements at the intersection are forecasted to drop a LOS due to the new development traffic. The TIS should identify if there are any reasonable mitigation measures available to address this impact. It appears there is additional DOT ROW on the north side of Route 20 east of the intersection that could allow for a dedicated right turn lane and/or CDTA bus stop movements. The applicant should discuss this with DOT.

Response 5: The Applicant will discuss with the NYSDOT improvements at this location. This intersection could be monitored after the opening on Costco (Site 2) to determine actual traffic volumes and if any improvement would be necessary including phasing/signal prior to the Site 3 application. (i.e. 2025 Build Conditions).

See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS.

Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

Comment 6: Greenman Pederson Letter dated March 27, 2020.

In the site 1 area, the TIS recommends a connection to the Crossgates Mall North Ring Road and "additional access to I-87/I-90 as well as Washington Avenue" although no details or concepts of these actions are presented in the TIS. Additional detail on these actions are suggested so the Town can properly evaluate these recommendations.

Response 6: There is no design to provide new access to I-87/I-90 on Washington Avenue. The referenced roadway would connect to the North Ring Road and would provide a new alternate way to reach existing access points to the State's system. The Site 1 concept plan (C131) is contained in DEIS Appendix A. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS. Since the date of this comment, the project has been revised to include

construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, [Appendix 6 and 23](#).

Comment 7: Greenman Pederson Letter dated March 27, 2020.

For the Costco driveways to Rapp Road (Intersection #6) the Town does not support a full access intersection on Rapp Road to the Costco site. The Comprehensive Plan and Westmere Corridor Study all encourage the Crossgates Mall Ring Road to be used for the site access to this location. The Town supports the right-in/right-out access for the fuel pump area, and possibly a right-in/right-out for the Costco site from Rapp Road. The applicant should present an access alternative that does not allow left turns entering or exiting along the Rapp Road frontage. It is recommended that physical barriers (raised medians/curbed islands) be constructed to restrict the access to only the allowed movements.

Response 7: The northerly (main) access to Costco from Rapp Road will be a right turn in/out driveway with geometrics and a raised median constructed to prevent left turns to discourage left turns. A right turn in only driveway to the fueling area is also recommended. Since this would result in a redistribution of traffic, an updated traffic analysis is shown in [Appendix 10](#) of the FEIS - April 10, 2020 Maser Consulting P.A. Response Letter.

Comment 8: Greenman Pederson Letter dated March 27, 2020.

The TIS should identify potential opportunities for providing pedestrian (and bike) connections between the existing and proposed land uses in the Crossgates mall area. This would be especially appropriate for the residential uses proposed in site 1 as well as the planned CDTA transit center. The applicant should refer to the Westmere Corridor Study Section 5.6 for recommendations on pedestrian and bicycle improvements.

Response 8: Pedestrians and bicyclists considerations are included within the DEIS (Section 2 – Description of the Proposed Action, Section 3.5.1.4 Pedestrian Transportation System, and Trail Map Enlargement 1 – Figure 2) relative to the provision of sidewalks, crosswalks, bike lanes, and location of bike racks. The proposal for a “tighter” intersection at Rapp Road/ring road also considered these elements as part of the overall design. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS. Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, [Appendix 6 and 23](#).

Comment 9: Greenman Pederson Letter dated March 27, 2020.

For intersection # 10, the Mall Ring Road and I-87 on/off Ramps, the development of the three sites is impacting the LOS especially in the Saturday peak hour. During the 2025 Sat peak hour a LOS D is reported with many movements experiencing a LOS E and one with a LOS F. These results are representative of “normal”, not holiday season conditions. During holiday season the congested conditions at this intersection routinely result in queues that extend onto the freeway mainline and often require police presence. Although the TIS points out that improvements to this

location are included in the CDTA Transit Center proposal, the TIS should explore alternatives for capacity improvements to this location if the CDTA project is delayed beyond 2025 or cancelled. Also, NYSDOT maintains vehicle detection on the off ramp that is connected to the traffic signal controller at this intersection. In addition to exploring capacity improvements, the applicant should confer with NYSDOT about this and if the sensor its use can be adjusted to improve signal timing and operations.

Response 9: The Applicant will discuss with the NYSDOT the existing signal (detection, timings, etc.). The existing intersection can accommodate the existing and future traffic stream from Site 1 (Residential Development) and Site 2 (Costco). The development of Site 3 will be at a later date. The Applicant proposed that as part of the development of Site 3, the issue of CDTA’s improvements at this location be confirmed (see CDTA’s March 3, 2020 letter – Section 3 of this FEIS). Should CDTA’s project be significantly delayed or canceled, the Applicant will pursue additional improvements at this location, including the construction of the roundabout (as part of the Site 3 Application), if warranted. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS.

Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. Thus, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Intersection 10 – Crossgates Mall Road/Fuller Road Alternate Ramps (I-87/I-91 Ramps)

Year 2022 Build Traffic Volumes

The roundabout analysis conducted utilizing the Year 2022 Build Traffic Volumes indicates that the intersection is projected to operate at an overall Level of Service “A” during the Weekday Peak AM Hour, projected to operate at an overall Level of Service “C” during the Weekday Peak PM Hour, and projected to operate at an overall Level of Service “B” during the Saturday Peak Hour from the Year 2022 No-Build Conditions.

Year 2025 Build Traffic Volumes

The roundabout analysis conducted utilizing the Year 2025 Build Traffic Volumes indicates that the intersection is projected to operate at an overall Level of Service “A” during the Weekday Peak AM Hour, projected to operate at an overall Level of Service “C” during the Weekday Peak PM Hour, and projected to operate at an overall Level of Service “C” during the Saturday Peak Hour from the Year 2022 No-Build Conditions.

Comment 10: Greenman Pederson Letter dated March 27, 2020.

For Intersection 11 (Crossgates Mall Rd and Driveway 1/Gabriel Terrace) the northbound approach is projected to operate at a LOS F in Sat peak hour with the only mitigation to monitor to determine if a traffic signal should be installed. The LOS summary tables seem to indicate that signalization is required to achieve an acceptable LOS. We suggest considering adding right turn lanes to the side street approaches to alleviate the future LOS F conditions on those approaches without signalization. Those analyses with these right turn lanes should be presented to be determine in that would be a viable means to mitigate future traffic without signalization. Also, if signalization is recommended to alleviate future build condition failing levels of service, a Traffic Signal Warrant analysis should be prepared and presented as justification. If a traffic signal is shown to be warranted on day of opening or any time in the future based on the forecasted traffic volume, the applicant should analyze the impact of this new traffic signal on the traffic flows on the ring road. This is a concern since if a signal is installed at Gabriel Terrace it would result in 4 signalized intersections along the ring road in less than a ½ mile (2300 feet). Another alternative at this location is the align Gabriel Terrace a sufficient distance east of the mall driveway to create two offset “T” intersections as a way of reducing traffic conflicts and potentially avoiding the need for signalization.

Response 10: The four-legged intersection calls for a future traffic signal based on traffic signal warrant criteria. Projected traffic for the Gabriel Terrace Driveway is anticipated to meet traffic signal warrants. This intersection should be monitored after the opening on Costco (Site 2) and prior to the Site 3 application to determine actual traffic volumes and if Traffic signal warrant will be met. If a traffic signal is not warranted, the Applicant will discuss with the Town the possibility of moving the Gabriel Terrace Driveway further to the east to provide two “T” intersections.

This signal will have to be coordinated with the upgraded signal at the intersection of Rapp Road/Mall Ring Road.

See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS. Since the date of this comment, the project has been revised to include construction of two offset “T” intersections, a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

Comment 11: Greenman Pederson Letter dated March 27, 2020.

For all locations along the mall ring road, TIS should explore alternatives for capacity improvements if the CDTA project is delayed beyond 2025 or cancelled.

Response 11: See response to Comment 9. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS. Since the date of this comment, the project has been revised to include construction of a roundabout and other traffic improvements. See subsequent responses to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See Appendix 6 and 23.

Comment 12: Greenman Pederson Letter dated March 27, 2020.

VHB recently completed a safety review for the Rapp Road Mall ring road intersection for the Town and CDTC which identified the likely contributing factors to the crash history and outlines several recommendations for addressing this history as follows:

- Install a Signal Ahead warning sign on the Crossgates Mall Road westbound approach to the intersection.
- Confirm that the traffic signal phasing and timings have been optimized.
- Restripe the westbound approach to provide a left-turn and shared through/right-turn lane, install a 5-section head on the westbound approach to control left-turn movements, and widen the median (or provide hatching) on Rapp Road westbound departing the intersection so there is only one receiving lane for westbound vehicles. Review existing signal detection and install where needed to accommodate the upgrade.
- In the longer term, remove the right-turn slip lanes and bring the right-turn maneuvers into the traffic signal control reducing the speed of right turning vehicles at the intersection and providing better geometry for multimodal accommodations.
- As growth and development continue to occur in the area, a plan to provide bicycle and pedestrian connectivity from Rapp Road to the mall should be established. The installation of full pedestrian accommodations at the intersection should be included.

Response 12: The DEIS included for informational purposes the VHB Safety Evaluation Memorandum. In addition, since we (Maser Consulting) did not author the memorandum, we cannot comment on the information used by VHB in preparing their Memorandum. That said, we have adopted many of the recommendations enclosed therein, namely:

- Elimination of the channelized right turns. These turns will now be made at lower speeds and under signal control.
- Installation of a state-of-the-art traffic signal with advance warning, protected left turn phases, and signal head alignment.
- Provision of sidewalks and pedestrian crosswalks as part of a new updated traffic signal. This will enhance pedestrian safety as called for with the Westmere Corridor Study.
- Intersection lighting to assist motorists and bicyclists during hours of darkness. Note since this intersection is used in off hours by the public, the lighting should be independent of Costco or mall lighting.
- Provision of bicycle lane traveling through the intersection.
- The modification to the ring road approaching Rapp Road to three lanes.

See April 10, 2020 Maser Consulting P.A. Response Letter contained in [Appendix 10](#) of this FEIS.

Comment 13: Greenman Pederson Letter dated March 27, 2020.

We acknowledge the March 13, 2020 comment memo regarding the project from the Albany County Planning Board. The applicant should provide a response to these comments as part of the TIS process.

Response 13: The Albany County Planning Board Comments have been addressed and are contained within this FEIS. See April 10, 2020 Maser Consulting P.A. Response Letter contained in Appendix 10 of this FEIS. See also April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

4. Greenman Pederson Letter dated May 8, 2020.

GPI Response to Maser Comments: We accept the Maser responses to our comments 1, 2, 3, 7, 9, 12 and 13 and have no further comment on these items. We offer the following regarding the remaining comments/responses:

Response: Comment noted.

GPI Response to Maser Comment 4:

We accept the response and suggest the traffic redistribution noted be included in any subsequent traffic analysis provided.

Response 4: These redistributions have been included in our sensitivity analysis to NYSDOT. (See July 1, 2020 Maser Consulting P.A. Response Letter), Appendix 23.

GPI Response to Maser Comment 5:

Typically, all identified traffic mitigation required is to be in place on the day of opening of the new facility. The Town of Guilderland would have to accept and enforce any monitoring and/or phased mitigation plan. The applicant should identify the specific mitigation needed at this location for each development site.

Response 5: The Applicant proposes the following improvements and modifications:

Crossgates Mall Road and Rapp Road

- Restripe Crossgates Mall Road in the vicinity of Rapp Road to three lanes to provide a center turn lane.
- Elimination of the channelized right turns. These turns will now be made at lower speeds under signal control to improve safety as per the VHB safety study.
- Modify detection and signal head locations as needed.

Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 Ramps)

- The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. Thus, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Western Avenue and Johnston/Rapp Road

- For the 2022 Design Year, signal timing adjustments will be required to maintain similar operating conditions. However, to provide a means to adjust these timings or provide coordination, the Applicant will provide a modem for this location.
- For the 2025 Design Year, for Site 3, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue. This will maintain similar operating conditions compared to No-Build Conditions.

Western Avenue and Gabriel Terrace

- It is recommended that left turn entering and exiting movements at this location be prohibited on the north side of Western Avenue.

GPI Response to Maser Comment 8:

We acknowledge that DEIS Figure CN-2 presents a reasonable concept plan for bicycle and pedestrian connectivity in the Crossgates mall area although it would seem appropriate to include bike racks in the site 1 area. It would also seem appropriate for the Town to conduct a review of each proposed component of this plan and its implementation during Site Plan Review of each site area.

Response 8: Comment noted.

GPI Response to Maser Comment 10:

The response does not adequately address the issue of potentially having 4 traffic signals within 2300 feet along the Mall Ring Road. Stating only that signals will need to be coordinated is not sufficient. We believe the applicant should provide an analysis of this corridor’s operation (consisting of the four traffic signalized intersections including the proposed signal at Gabriel Terrace) with the ultimate buildout traffic volumes including site 3. A Synchro/SimTraffic model could provide an indication on the ability to coordinate these closely spaced intersections. Additionally, the Town is considering a “Complete Streets” approach to the Mall Ring Road that may include roundabouts in lieu of signalized intersections.

Response 10: Based on consultation with the Town and to avoid turn prohibition, the Gabriel Terrace Connector Road will be relocated to the east resulting in two “T” intersections. As part of the design, a center turn-lane will be provided on Crossgates Mall Road. The primary access to Site 3 (hypothetical Mixed-Use Development), would also be from Crossgates Mall Road via the Gabriel Terrace Connector Road and Hotel Connector Road. Attached as Exhibit 1.

GPI Response to Maser Comment 11:

The response to comment 9 only addressed the conditions at intersection # 10, the Mall Ring Road and the I-87 Ramps and is not an appropriate response to this comment. The Town of Guilderland is responsible for determining the appropriate mitigation for the Mall Ring Road, not NYSDOT.

The applicant should confirm that they intend to pursue additional improvements along the Mall Ring Road as part of the site 3 application if the CDTA improvements are delayed.

Response 11: The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. Thus, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

5. Albany County Department of Public Works March 13, 2020 Letter

Comment 1: Albany County Department of Public Works March 13, 2020 Letter.

The following comments apply to the driveways on Crossgates Mall Road:

- a. There is a substantial crest vertical curve about halfway between the Mall Road/Rapp Road intersection and the main driveway. Has sight distance been evaluated?

Response 1a: Based on the Town's (and other) comments, the northerly driveway will be modified to a right turn in/out only. The southerly driveway will be a right turn in only driveway for the fueling station. Thus, the issue of sight distance due to left turns has been eliminated. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

- b. Unless the raised median is extended to the main driveway, violations of the left turn prohibition will be common. Drivers headed west or south may be unwilling to go around the block to make the turn.

Response 1b: The northerly (main) access to Costco from Rapp Road will be a right turn in/out driveway with geometrics and a raised median constructed to prevent left turns. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

- c. Has moving the main entrance to the ring road been considered, perhaps at the Gabriel Terrace location? With the center turn lane, left turns out of the site could be provided.

Response 1c: This has been analyzed by Costco on several occasions. Due to site constraints, i.e., building location, grades, etc., the main driveway cannot be moved. However, the Gabriel Terrace extension to Crossgates Mall Road has been shifted slightly to the east. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 14 to this FEIS.

- d. Care needs to be taken to make sure the right-in driveway is far enough from the Western Avenue intersection to prevent conflicts.

Response 1d: The final design will locate the driveway to prevent conflict with Western Avenue. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS

Comment 2: Albany County Department of Public Works March 13, 2020 Letter.

Since 4-to-3 lane conversions result in crash reductions from 19 to 47%, this treatment should be investigated for all four-lane segments of Crossgates Mall Road, not just the area proposed.

Response 2: Comment Noted. The Applicant will monitor the proposed changes to determine the appropriateness of similar conversion along the ring road. Note that the conversion will not require the addition of impervious surfaces. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

Comment 3: Albany County Department of Public Works March 13, 2020 Letter.

Low-cost interim improvements should be prepared for the mall road/flyover ramps intersection in case the BusPlus Purple Line project is delayed. Possibilities include signal retiming and skew reduction of the channelized right turn lanes (see Figure 9-19, 2018 Green Book).

Response 3: Depending on the timings of the proposed CDTA project, the Applicant will explore interim improvements with the Town and the NYSDOT, including retiming of the traffic signal. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS. This response is further amplified in July 1, 2020 responses by Maser Consulting to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23. The roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Comment 4: Albany County Department of Public Works March 13, 2020 Letter.

If available, Costco should provide actual parking utilization rates from comparable stores rather than relying on parking minimums. This may allow impervious surface reduction.

Response 4: The parking design meets the needs for the prototypical Costco site criteria and is consistent with the Town's zoning code. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

Comment 5: Albany County Department of Public Works March 13, 2020 Letter.

TIS page 11. The discussion of the 1700 Designer Residences states the Town could prohibit left turns. NYSDOT has that authority, not the Town. Is there an acceptable alternate access for left turns?

Response 5: The NYSDOT (not the Town) has the authority to prohibit turns into and off of State highways. The Town's prohibition of left turns into/from Gabriel Terrace would need approval of the State. The document did not recommend restricting turns into or out of 1700 Designer Residences. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS. This response is further amplified in July 1, 2020 responses by Maser Consulting to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See Appendix 6 and 23.

Comment 6: Albany County Department of Public Works March 13, 2020 Letter.

TIS page 13-14. At the Rapp Road/Mall Road intersection, was conversion to a single-lane roundabout considered? There is plenty of room, and a 78% crash reduction can be expected

(Highway Safety Manual Table 14-4, suburban one-lane roundabout). The discussion of removing the channelized right turns should include the intent and expected effectiveness.

Response 6: In lieu of a single lane roundabout the Applicant has elected to implement several items included in the VHB Safety Evaluation Memorandum. The current design of this location is to eliminate the high speed channelized right turns and “tighten up” the intersection. Lane continuity, new signal installation, and intersection lighting will have a greater benefit to the motorist as well as bicyclists and pedestrians. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS. This response is further amplified in July 1, 2020 responses by Maser Consulting to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See Appendix 6 and 23

Comment 7: Albany County Department of Public Works March 13, 2020 Letter.

TIS page 18. The Washington Avenue Extension frontage road should be realigned to the south at Springsteen Rd, providing more separation from the W.A.E. mainline.

Response 7: This location is somewhat distant and minimally impacted by the proposed development. Its geometrics have been in place for many years and therefore any comments should be directed to the City of Albany. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

Comment 8: Albany County Department of Public Works March 13, 2020 Letter.

TIS page 29. According to Highway Safety Manual Table 14-2, aligning Gabriel Terrace to the east to provide two three-leg intersections can reduce injury crashes by one third compared to the proposed four-leg intersection. This assumes the Gabriel Terrace and the Crossgates driveway AADTs will be over 30% of the Crossgates Mall Road driveway. The projected peak hour volumes support this assumption.

Response 8: The four-legged intersection calls for a future traffic signal based on traffic signal warrant criteria. Projected traffic for the Gabriel Terrace Driveway is anticipated to meet traffic signal warrants. This intersection can be monitored after the opening on Costco (Site 2) and prior to the Site 3 application to determine actual traffic volumes and if Traffic signal warrant will be met. If a traffic signal is not warranted, the Applicant will discuss with the Town the possibility of moving the Gabriel Terrace Driveway further to the east to provide two “T” intersections. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS. This response is further amplified in July 1, 2020 responses by Maser Consulting to the GPI Letter dated May 8, 2020 and NYSDOT Letter dated May 26, 2020. See, Appendix 6 and 23.

Since the date of this comment, the project has been revised to include construction of two offset “T” intersections, a roundabout and other traffic improvements.

Comment 9: VHB Safety Evaluation Memorandum to Capital District Transportation Committee dated January 14, 2020.

Pedestrian Access Plan. This should have been included in the Traffic Impact Study, since the Vehicle and Traffic Law says pedestrians and bicyclists are traffic, too.

Response 9: Pedestrians and bicyclists considerations are included within the DEIS (Section 2 – Description of the Proposed Action, Section 3.5.1.4 Pedestrian Transportation System, and Trail Map Enlargement 1 – Figure 2) relative to the provision of sidewalks, crosswalks, bike lanes, and location of bike racks. The proposal for a “tighter” intersection at Rapp Road/ring road also considered these elements as part of the overall design. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in [Appendix 11](#) to this FEIS.

Comment 10: VHB Safety Evaluation Memorandum Pedestrian Access Plan to Capital District Transportation Committee dated January 14, 2020.

The crosswalk at the end of the northbound to eastbound channelized right turn on the Pedestrian Access Plan could cause problems. Crosswalks of channelized right turn roadways should be near the beginning of the roadway, to maximize visibility of the crossing. Make sure that adequate stopping sight distance is provided to the crosswalk. Better yet, eliminate the channelization, as discussed in the traffic impact study.

Response 10: As noted previously, the channelized right turns have been eliminated. Appropriate pedestrian crosswalks, pedestrian signals, and intersection lighting have been incorporated into the design. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in [Appendix 11](#) to this FEIS.

Comment 11: VHB Safety Evaluation Memorandum to Capital District Transportation Committee dated January 14, 2020.

Pedestrian Access Plan. The multi-use path termini should connect bicycle parking near mall entrances to signalized crosswalks where people on bicycles can safely cross Western Avenue and Crossgates Mall Road. Attention to getting bicyclists riding in the contraflow direction back to the right side of the roadway is needed.

Response 11: This has been incorporated into the design of the project. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in [Appendix 11](#) to this FEIS.

Comment 12: VHB Safety Evaluation Memorandum to Capital District Transportation Committee dated January 14, 2020.

On the Pedestrian Access Plan a multi-use connection from the Washington Avenue south frontage road to the mall entrance by Uno’s would be useful.

Response 12: Comment noted. See April 9, 2020 Maser Consulting P.A. Response Letter to Albany County Town Planner contained in Appendix 11 to this FEIS.

6. Albany County Planning Board, April 22, 2020 memo

The Albany County Planning Board is requesting clarification on the points below.

Comment 1: Albany County Planning Board, April 22, 2020 memo.

A traffic analysis should be included to understand the impacts of the Thruway entrance to I-87 when the NYS transfers to cashless toll booths and toll booths are removed. Currently the toll booths are a traffic calming measure.

Response 1: Since tolls are still to be collected there should be no significant change in the distribution of vehicles to and from Crossgates Mall. We are unaware of studies that have evaluated the use of toll booths as a traffic calming measure. In fact, toll booths normally resulted in extensive queueing and increases in air pollution. If the removal of toll booths results in a "surge" at the ramps to Crossgates Mall Road, the impact of that surging will be addressed by the NYSDOT by adjusting the signal timings at that location to minimize the potential for queueing on to the mainline. The roundabout will facilitate the movement of traffic at this intersection.

Comment 2: Albany County Planning Board, April 22, 2020 memo.

The traffic study should address the seasonal traffic patterns during the holidays. Currently at peak times the lighted billboard on I-87 directs traffic to Western Ave. Is this addressed in the traffic study? This should also be addressed in the accident study along Western Ave.

Response 2: The traffic counts for the AM Peak Hour were taken during September/October when schools were open. The AM Peak Hour is not seasonally impacted by Mall traffic since the Mall is not in full operation during this peak hour. Knowing that the peak times for Mall traffic are during the months of November/December, the Peak PM and Peak Midday Saturday Hours were taken during this period of time. Thus, there is no need to seasonally adjust these traffic volumes.

The evaluation of accidents were not part of the Scope prepared by the Town. However, the Applicant was aware of two studies, the Westmere Corridor Study Final Report dated December 2, 2016 and VHB Safety Evaluation for the Rapp Road/Crossgates Mall Road intersection dated January 14, 2020.

On page 43 of the Westmere Corridor Study Final Report, accidents along Western Avenue were evaluated by the NYSDOT. The NYSDOT concluded "Analysis carried out by NYSDOT as part of the recent sidewalk project did not reveal any pattern in contributing factors or any notable accident pattern that would suggest actionable engineering solutions, and neither crash map reveals a notable accident pattern. More enforcement by the Town and State Police as well as more education about safety may be beneficial".

As part of the VHB Safety Evaluation for the Rapp Road/Crossgates Mall Road intersection, there were several recommendation for improvements for that intersection. As outlined in the DEIS Traffic Impact Study, the Applicant has adopted many safety improvements to the Rapp

Road/Crossgates Road intersection including the elimination of the channelized right turns, installation of a state-of-the art traffic signal with advanced warning, protected left turn phases, sidewalks and pedestrian crosswalks, intersection lighting, and modification to the ring road approaching Rapp Road from four lanes to three lanes.

7. New York State Department of Transportation, May 26, 2020 Letter followed by other comments.

We have reviewed the TIS, prepared by Maser Consulting PA (Maser), dated February 17, 2020 and have the following comments:

Comment 1: New York State Department of Transportation, May 26, 2020 Letter.

Fuller Road Alternate (FRA), State Route 910F, was referred to incorrectly as I-87 on/off ramp by Maser in the TIS. The ramps to/from Crossgates Mall Road cross over I-87 (New York State Thruway) and connect to FRA and the I-90/I-87 interchange.

Response 1: Comment noted.

Comment 2: New York State Department of Transportation, May 26, 2020 Letter.

Since the CDTA/Crossgates Transit Center is proposed and not yet scheduled for construction, we concur with no trip credits.

Response 2: Comment noted.

Comment 3: New York State Department of Transportation, May 26, 2020 Letter.

The trip credits identified as “interplay” should be categorized as internal and/or passby trips per ITE Trip Generation Handbook.

Response 3: Comment noted.

Comment 4: New York State Department of Transportation, May 26, 2020 Letter.

Since Costco is a discount club, pass-by trips are not entirely applicable (secondary trip to site by vehicles on adjacent roadway network with other primary destination) due to having to be a member and pay a fee to use services and purchase goods; a more appropriate trip credit distribution would be 10% internal trip credit for Costco from/to the mall, 10% internal trip credit for Costco from/to fueling stations, 25% internal trip credit for the fueling stations from/to Costco and 15% pass-by credit for both Costco and fueling stations.

Response 4: After consultation with NYSDOT, all recommendations have been accepted with respect to trip rates. Note: The trip credits between the fueling station and Costco have been eliminated. Based on the accepted trip rates, the only change in Levels of Service from No-Build to Build Conditions resulted at the Western Avenue/Johnson Road/Rapp Road intersection during the Weekday Peak PM Hour with an overall Level of Service “D” under the Year 2022 No-Build Condition to an overall Level of Service “E” under the Year 2022 Build Condition. This was a result of updated signal timings provided by NYSDOT. It should be noted that the recommended

changes to the trip credits resulted in 11 additional vehicles at this intersection during the Weekday Peak PM Hour.

As outlined in Responses to NYSDOT Comments 10 and 13, for the 2022 Design Year, signal timing adjustments will be required to maintain similar operating conditions at this location. To provide a means to adjust these timings or provide coordination, the Applicant will provide a modem for this location. For the 2025 Design Year, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue. This will maintain similar operating conditions compared to No-Build Conditions. The updated table, figures and analysis are included in Appendix "A". See, Appendix 6. See Response to Comment 3 at P. 57.

Comment 5: New York State Department of Transportation, May 26, 2020 Letter.

Pass-by credits for Saturday the Costco site are unusual since it would be a primary destination and not a secondary destination; there should be no pass-by trip credit for Saturday. A pass-by credit of 15% would be appropriate for the fueling stations on Saturday.

Response 5: Based on consultations with NYSDOT, the trip credits have been updated. The updated table, figures and analysis are included in Appendix "A". See, Appendix 6. See Responses to NYSDOT Comments 4, 10 and 13 for results of analysis and proposed mitigation.

Comment 6: New York State Department of Transportation, May 26, 2020 Letter.

The 3900 SF commercial in Site 1 is unidentified, please assign an ITE Land Use Code to this proposed development.

Response 6: As noted in the TIS, the commercial space was considered as ancillary spaces and would be accounted for as interplay/internal trips from the proposed residential and as pass-by from the existing roadway network and surrounding uses. If the commercial retail space (3,900 s.f.) was considered as a separate traffic generation, it would equate to an additional 4 (AM), 15 (PM) and 17 (SAT) trips based on ITE Land Use 820 and would be more than accounted for as interplay/internal and pass-by credit.

Comment 7: New York State Department of Transportation, May 26, 2020 Letter.

Depending on land use, the 3900 SF commercial space may generate few or many trips; It is unusual to see trips be attributed completely to other adjacent development (pass-by, internal) - provide the guidance/standard this was based on.

Response 7: See Response to Comment 6.

Comment 8: New York State Department of Transportation, May 26, 2020 Letter.

The trip distribution of Site 1 apartment seems skewed to the southern section of ring road. Vehicles would have to go through 4 signals to access the on-ramp, instead of 2 on northern section of ring road?

Response 8: In developing the Site 1 - residential trip distribution, consideration was given the fact that the southern ring road distance is a shorter and less circuitous route than the northern section. While it is noted that Site 1 could also access the Fuller Road Alternate and the I-87/I-90 ramps, via the northern ring road, a conservative, worst case scenario, analysis assuming more traffic along the southern ring road was analyzed.

Comment 9: New York State Department of Transportation, May 26, 2020 Letter.

Should Springsteen Road be made two-way as part of the project to consolidate traffic? It will become increasingly difficult to have trips generated to/from the North and West of site(s) avoid use of Springsteen and Rapp Roads to access/depart from the sites.

Response 9: There are no plans to make Springsteen Road two-way as part of the Project. In fact, making it two-way would encourage greater use through the Historic District.

Comment 10: New York State Department of Transportation, May 26, 2020 Letter

The following NYSDOT intersections have a lane group that has LOS degrade from LOS D to LOS E (unsatisfactory operation) during various build peak hours:

- Western Avenue and Johnston/Rapp Rd.
- Western Avenue and Crossgates Mall Driveway
- Western Avenue and Gabriel Terrace

There appears to be no mitigation provided or a narrative explaining why mitigation will not be provided for the unsatisfactory condition. The developer must provide Department-approved mitigation. Signal timing adjustments are not considered appropriate traffic mitigation measures.

Response 10: Based on consultation with NYSDOT, the build traffic volumes have been updated to reflect no interplay credit between the fueling stations and Costco, the restriction of left turns to and from Western Avenue at Gabriel Terrace, and signal timing adjustments on Western Avenue. Updated figures, tables and analysis at the two signalized intersections noted above have also been provided. Appendix A contains the information for the 2022 Design Year with Appendix B containing the information for the 2025 Design Year. Based on these, we note the following:

Western Avenue and Johnston/Rapp Road

- For the 2022 Design Year, signal timing adjustments will be required to maintain similar operations conditions. However, to provide a means to adjust these timings or provide coordination, the Applicant will provide a modem for this location.

- For the 2025 Design Year, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue. This will maintain similar operating conditions compared to No-Build Conditions.

Western Avenue and Gabriel Terrace

- It is recommended that left turn entering and exiting movements at this location be prohibited on the north side of Western Avenue.

See, Appendix 6.

Comment 11: New York State Department of Transportation, May 26, 2020 Letter.

Due to the existing occurrence of frequent, crash inducing, queues on the Crossgates ramp from southbound FRA during peak periods and that this proposed project will only exacerbate that condition, we strongly recommended the proposed roundabout at the Crossgates Mall Rd. and FRA ramps be constructed with this proposed development, or alternative traffic mitigation measures presented to reduce ramp queues.

Response 11: The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. Thus, the roundabout will be constructed and operational prior the opening of Costco to customers on Site 2.

A roundabout has been recommended by the NYSDOT to address existing crash history and the applicant has incorporated the roundabout into the project. For informational purposes, the roundabout analysis for 2022 and 2025 is contained in Appendix C. See, Appendix 6.

Comment 12: New York State Department of Transportation, May 26, 2020 Letter Intersection 10, Crossgates Mall Rd and FRA ramps, is not modeled correctly in Synchro. Right turns are assigned to the northern left-turn lane.

Response 12: As discussed in the TIS, the Fuller Road Alternate Off Ramp (westbound approach) consists of three lanes in the form of a double left turn lane and a separate channelized right turn lane at Crossgates Mall Road. For analysis purposes, the FRA Off Ramp approach was analyzed as two lanes in the form of a separate left turn lane and shared left/right turn lane to account for short storage lanes and the one lane ramp from the Interstate. However, as noted in Response 11, a roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Comment 13: New York State Department of Transportation, May 26, 2020 Letter.

All state signalized intersections appear to be modeled incorrectly since timings and phasing do not match existing timing and phasing. Intersections are shown as coordinated when by controller settings they do not appear to be coordinated. Maximum recalls are modeled where minimum recalls are used. Obtain current signal timing and update model.

Response 13: The signal timings were modified after discussion with NYSDOT for the following three (3) intersections. The results of the analysis are shown in Appendices 15 and 16, respectively.

- Western Avenue and Crossgates Mall Driveway
- Western Avenue and Johnston Road/Rapp Road
- Washington Avenue Extension and Springsteen Street/Crossgates Commons

The following is a summary of the resulting Levels of Service based on the updated build traffic volumes to reflect no interplay credit between the fueling stations and Costco, the restriction of left turns to and from Western Avenue at Gabriel Terrace, and signal timing adjustments on Western Avenue and Washington Avenue Extension. The updated figures, tables and analysis at the three signalized intersections noted above are contained in Appendix A for the 2022 Design Year and Appendix B for the 2025 Design Year in Appendices 15 and 16, respectively.

- Western Avenue and Crossgates Mall Driveway

Year 2022 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2022 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “B” or better during each of the Peak Hours from the Year 2022 No-Build Conditions.

Year 2025 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2025 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “B” or better during each of the Peak Hours from the Year 2025 No-Build Conditions.

Signal timing adjustments to maintain similar operating conditions at this location will be implemented. A modem will also be provided as per NYSDOT specs as a means to adjust signal timings as needed.

- Western Avenue and Johnson Road/Rapp Road

Year 2022 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2022 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “D” during the Weekday Peak AM Hour and projected to continue operate at an overall Level of Service “C” during the Saturday Peak Hour from the Year 2022 No-Build Conditions. During the Weekday Peak PM Hour, the overall Level of Service is projected to change from an overall Level of Service “D” to and overall Level of Service “E”. However, with

signal timing adjustments, a Level of Service “D” will be maintained under the Weekday Peak PM Hour - Year 2022 Build Condition.

A modems will be provided as per NYSDOT specs as a means to adjust signal timings as needed.

Year 2025 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2025 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “D” during the Weekday Peak AM Hour, projected to continue to operate at an overall Level of Service “E” during the Weekday Peak PM Hour and projected to continue operate at an overall Level of Service “C” during the Saturday Peak Hour from the Year 2025 No-Build Conditions.

For the 2025 Design Year, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue resulting in an improved overall Level of Service “D” during the Weekday Peak PM Hour.

- Western Avenue and Washington Avenue Extension/Crossgates Commons

Year 2022 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2022 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “C” during the Weekday Peak AM Hour, projected to continue operate at an overall Level of Service “D” during the Weekday Peak PM Hour, and projected to continue to operate at an overall Level of Service “C” during the Saturday Peak Hour from the Year 2022 No-Build Conditions.

Year 2025 Build Traffic Volumes

Capacity analysis conducted utilizing the Year 2025 Build Traffic Volumes indicates that the intersection is projected to continue to operate at an overall Level of Service “C” during the Weekday Peak AM Hour, projected to continue operate at an overall Level of Service “D” during the Weekday Peak PM Hour, and projected to continue to operate at an overall Level of Service “D” during the Saturday Peak Hour from the Year 2025 No-Build Conditions.

Comment 14: New York State Department of Transportation, May 26, 2020 Letter.

Page 18, Washington Avenue Extension (WAE) northbound approach has a shared through/right-turn movement.

Response 14: The geometry for the Washington Avenue Extension/Springsteen Road/Crossgates Commons intersections was verified in the field. The Washington Avenue Extension northbound approach was correctly analyzed in the DEIS/TIS as a five-lane approach consisting of a separate left turn lane, three through lanes and a separate right turn lane as indicated on page 18 of the TIS and used in the Synchro Model. A review of Google Earth shows that sometime between 2015 and 2017, this approach was restriped.

Comment 15: New York State Department of Transportation, May 26, 2020 Letter.

Pedestrian connections (sidewalks/crosswalks) from the proposed dwelling sites to the mall should be included in design.

Response 15: Pedestrians and bicyclists considerations are included within the DEIS (Section 2 – Description of the Proposed Action, Section 3.5.1.4 Pedestrian Transportation System, and Trail Map Enlargement 1 – Figure 2) relative to the provision of sidewalks, crosswalks, bike lanes, and location of bike racks. The proposal for mitigation improvements at the intersection of Rapp Road and Crossgates Mall Road also considered these elements as part of the overall design. Detailed pedestrian connections will be provided as part of the Site Plan approval process.

Comment 16: New York State Department of Transportation, May 26, 2020 Letter.

The primary access for Sites 2 and 3 should be at Gabriel Terrace and Crossgates Mall Driveway with center turn-lanes provided on Crossgates Mall Road. Limiting leftout movements from Gabriel Terrace to Crossgates Mall Road should be considered.

Response 16: Based on consultation with the Town and to avoid turn prohibition, the Gabriel Terrace Connector Road will be relocated to the east resulting in two “T” intersections. As part of the design, a center turn-lane will be provided on Crossgates Mall Road. The primary access to Site 3 (hypothetical Mixed-Use Development), would also be from Crossgates Mall Road via the Gabriel Terrace Connector Road and Hotel Connector Road. The analysis is contained in Appendix D. See, [Appendix 6](#).

Comment 17: New York State Department of Transportation, May 26, 2020 Letter.

A second access, further north on Gabriel Drive, should be added for Site 2, closer to Crossgates Mall Road.

Response 17: The location of a second access from the Costco site to Gabriel Terrace south of Crossgates Mall Road would enter/exit onto a service drive behind the building. This will mix customers with employee and delivery vehicles. Customers would then be required to use the roadway behind the building to reach the parking areas provided along the north-south section of Rapp Road (Crossgates Mall Road). As a result, a second access point is not recommended.

Comment 18: New York State Department of Transportation, May 26, 2020 Letter.

The northern access onto Rapp Road, for Site 2 should be eliminated.

Response 18: Based on comments from the Town, the northerly (main) access to Costco from Rapp Road has been modified to be a right turn in/out driveway with geometrics to discourage left turns. The southern access has been modified as a right turn in only driveway for access to the fueling area.

Comment 19: New York State Department of Transportation, May 26, 2020 Letter.

The southern access for Site 2, a right-in/right-out should be relocated further north, away from the Western Ave intersection.

Response 19: See Response to Comment 18.

Comment 20: New York State Department of Transportation, May 26, 2020 Letter.

The Department will require closure of all existing driveways for properties on Western Ave, including Lawton Terrace, which per the proposed site plan will be abandoned.

Response 20: Those driveways that are under the control of the Applicant and part of the proposed action will be closed.

Comment 21: New York State Department of Transportation, May 26, 2020 Letter.

Left-turn movements for Gabriel Terrace should be restricted.

Response 21: As noted in Response 10, it is recommended that left turn entering and exiting movements at Western Avenue and Gabriel Terrace on the north side of Western Avenue be prohibited.

Comment 22: New York State Department of Transportation, May 26, 2020 Letter.

The Department will require a Stage 1, Commercial driveway permit application (perm33-com) be submitted for this Major Commercial development (work type 5a4).

Response 22: Comment noted: Part I of the PERM 33 COM will be completed and submitted to NYSDOT with the Major Commercial Permit Fee of \$2,000.00.

Comment 23: Albany County Planning Board Recommendation dated May 4, 2020.

Traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities:

A. The ACPB finds the traffic impact will have detrimental effects in and around the proposed project. There will be an increase in accidents at the I-87 exit ramp leading to Crossgates Mall Ring Road, increased accidents and congestion along State Route 20 and increased traffic through the Rapp Road Historic District.

B. In June 2001 the Altamont Enterprise published an article on the traffic accidents at the I-87 exit ramp leading to Crossgates Mall titled “Ending the ramp’age?” It noted 26 accidents in 1994 and jumped to 140 in 2000.

C. New York State Department of Transportation provided accident reports on this same exit ramp. It noted 52 accidents in 2016, 48 accidents in 2017 and 54 accidents in 2018.

D. In addition, the Westmere Corridor Study noted 502 accidents along the eastern portion of the Westmere Corridor in a three-year span.

E. New York State Thruway Authority is expecting cashless tolls by 2020. These tolls act as a “traffic calming measure” to the entrance onto I-87. How will this affect the traffic patterns and accidents at the Crossgates I-87 entrance?

F. The proposed warehouse does not appear to show any traffic mitigation that address the accident prone exit ramp nor the heavily traveled eastern section of the Westmere corridor.

Response 23: The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. As part of the Project, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

On page 43 of the Westmere Corridor Study Final Report, accidents along Western Avenue were evaluated by the NYSDOT. The NYSDOT concluded "Analysis carried out by NYSDOT as part of the recent sidewalk project did not reveal any pattern in contributing factors or any notable accident pattern that would suggest actionable engineering solutions, and neither crash map reveals a notable accident pattern. More enforcement by the Town and State Police as well as more education about safety may be beneficial”.

Comment 24: Art Storey, May 1, 2020 email, see substantively similar comment of Debra E. Trees, May 26, 2020 email.

Commenter’s commented regarding the Traffic Impact Study.

- Current Conditions – The TIS assessment of current and near-term future traffic flows does not accurately relate to what most of us residents now see on a daily basis, such as typical, realistic situations school bus stops, turning traffic, construction, accidents, emergency vehicle traffic, distracted drivers, and the unexpected events which are very much a part of our normal driving experiences here, particularly during rush hours and peak loading conditions, Were CDTA (Transit Authority), Guilderland School Bus, and other agency traffic observations considered? They would seem to be a very practical means for assessing real traffic conditions, because their scheduling processes are highly dependent upon realistic flow observations at different times of the year and day.
- 2022 and 2025 Build Projections - Generally, the Consultant indicates minimal impacts of all three of the project additions on traffic. That is based in large part on their

assumptions that the Mall and Costco flows will be primarily contained within Mall related roadways. Nevertheless, increased amounts of traffic can be expected to appear on Western and Washington Avenues, the Northway "stub" (South of I-90), and local crossroads, to access and depart from an enlarge facilities. The increased traffic associated with the sizable proposed residential additions will, if accepted, further load those thoroughfares. Another, common situation, that is not evident in the study is that when current traffic loading on the in-bound Northway "Crossgates Ramp" becomes heavily congested, highway signage often advises "Lot Full" and directs drivers to utilize Western Avenue for Mall entrance. South/West bound traffic entering the Mall via this ramp often causes extensive right lane stoppages on the Northway, with back-ups frequently extending up to the I-90 ramps. Minor rear end collisions often result. The consultant's distribution estimates do not seem to recognize this situation which results in a very appreciable shifting of traffic from the Loop paths to the Western Avenue distribution category. This situation can also occur without being directed as such by Northway signage. If the southbound back-up for the ramp occurs, many drivers will decide to proceed on to Western Ave just to avoid the wait. Therefore, the Consultant's distribution factors do not accurately reflect this spill-over condition which often occurs during the Mall's busy periods. West-bound Western Avenue traffic will substantially increase during such times.

Response 24: The Traffic Impact Study evaluated existing and future traffic conditions for the Weekday Peak AM, Weekday Peak PM and Saturday Peak Hours. The existing (base) traffic volumes included passenger cars, school bus, CDTA bus and truck traffic.

The Applicant proposes the following mitigation:

Crossgates Mall Road and Rapp Road

- Restripe Crossgates Mall Road in the vicinity of Rapp Road to three lanes to provide a center turn lane.
- Elimination of the channelized right turns. These turns will now be made at lower speeds under signal control to improve safety as per the VHB safety study.
- Modify detection and signal head locations as needed.

Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 Ramps)

- The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. As part of the Project, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2. The roundabout is designed to help facilitate traffic flow and reduce accident rates.

Western Avenue and Johnston/Rapp Road

- For the 2022 Design Year, signal timing adjustments will be required to maintain similar operations conditions. However, to provide a means to adjust these timings or provide coordination, the Applicant will provide a modem for this location. The modem will allow for synchronized timing amongst the traffic signal controllers to provide a common cycle length and establish the appropriate offsets to aid the flow of traffic.
- For the 2025 Design Year, in addition to signal timing changes, the Applicant is proposing to construct a westbound right turn lane on Western Avenue. This will maintain similar operating conditions compared to No-Build Conditions.

Western Avenue and Gabriel Terrace

- The intersection is proposed to be constructed as a right-in and right-out only.

Comment 25: Judy Bliven, March 15, 2020 email. Sudhakar Pillai, March 12, 2020 email.

I live on Johnston Road and the traffic is very busy already with people heading to Crossgates Mall. It will become worse if Costco and the other plans for that area are constructed. The traffic in and around Crossgates Mall area is already a problem.

Response 25: See Section C1.2 Response 5 to Greenman Pederson Letter dated March 27, 2020 for Town of Guilderland Planning Board.

For the 2022 Design Year, signal timing adjustments will be required to maintain similar operating conditions. However, to provide a means to adjust these timings or provide coordination, the Applicant will provide a modem for this location. The modem will allow for synchronized timing of the traffic lights.

As summarized in the DEIS Traffic Impact Study, “the proposed Rapp Road Residential (Site 1) and Costco (Site 2) developments will not result in a significant impact on the existing roadway network. Similar Levels of Service and delays will be experienced under the Future 2022 No-Build and Future 2022 Build Conditions.

Comment 26: Lisa and Tom Hart, March 12, 2020 email; see also substantively similar May 13, 2020 public hearing statement of Iris Broyde.

Traffic at Westmere/Western is bad and will get worse. It doesn't matter that Costco will open at 10 a.m.; it will still produce much more traffic during the hours that are not peak and the increase during peak will be that will degrade traffic levels of service. Traffic studies show Westmere is LOS F and cannot get lower, but as residents of this street, we know it will get worse.

Response 26: It should be noted that for unsignalized intersections, it is not uncommon for the side road (Westmere Terrace) to operate with delays while the major road (Western Avenue) operates at better Levels of Service. Costco is projected to add approximately 80 new trips (an

increase in traffic of 2.5 %) during the Peak PM Hour and 113 new trips (an increase in traffic of 4.5 %) during the Peak Saturday Hour along Western Avenue at Westmere Terrace. Two alternatives for the Westmere Terrace residents to more easily access the roadway network are included in the DEIS. One alternative provides for the direct connection to the southern parking facilities which will allow a connection to the main access driveway connection to Rapp Road. The second alternative provides for a direct connection to Rapp Road. Both alternatives provide for access to Western Avenue at a signalized intersection.

Comment 27: Sharon and Ed Cupoli, April 19, 2020 email.

Our concerns are with Maser's recommendations:

1. that people traveling easterly turn right at the light on to the Rapp Rd heading to Western Ave. Currently there is a concrete median with grass near the traffic light. We want a median to continue down to Western Ave so that no one can make a left turn into Costco from this road. Nor can anyone coming out of Costco make a left turn onto Mall/Rapp Rd to go Western Ave. It is an accident waiting to happen.

2. Traveling north on Rapp Rd from western Mall Road to go to Costco should be a right turn only lane. The exit lane should also be a right turn only lane. Not left turn to go to Western. The concrete median would prevent this and avoid major accidents.

We would want to see that the traffic flow for Costco be in and out at the new traffic light at Gabriel Terrace and Crossgates Mall Rd.

Response 27: Based on the Town's (and other) comments including the Albany County Department of Public works, the Costco northerly driveway to Rapp Road will be modified to a right turn in/out. The proposed northerly (main) driveway (right in/out) will have geometric components incorporated to prevent left turns and a raised median will be constructed to prevent the left turn movements. The southerly driveway will be a right turn in only driveway for the fueling station. See also Responses C.3.1a and C.3.1b.

Comment 28: Sharon and Ed Cupoli, April 19, 2020 email.

In the Maser Concept document it sites Roadway improvements for Rapp Road residential/Western Developments. Here is where we have real concerns. We can see removing the slipways and getting all traffic at the lighted intersection with the Mall Rd. We can see having a left turn only, right turn only lane and a thru lane to go onto the local Rapp Rd. We hope that the Rapp Rd in front of the development stays a local Road smaller in size so that traffic does not speed and keeps some of its windy character.

Response 28: As outlined in the DEIS Traffic Impact Study, the Applicant has adopted many safety improvements to the Rapp Road/Crossgates Road intersection including the elimination of the channelized right turns, installation of a state-of-the art traffic signal with advanced warning, protected left turn phases, sidewalks and pedestrian crosswalks, intersection lighting, and

modification to the ring road approaching Rapp Road to three lanes with two through lanes and a center turning lane.

In addition, as summarized in the DEIS Traffic Impact Study, “the proposed Rapp Road Residential (Site 1) and Costco (Site 2) developments will not result in a significant impact on the existing roadway network including the Rapp Road Corridor. Similar Levels of Service and delays will be experienced under the Future 2022 No-Build and Future 2022 Build Conditions.

See also Responses C.2,12, C.3.1a, C.3.1b, C.3.9 and F.4.4

Comment 29: Jerry Houser, April 18, 2020 email

Access from the Ring Road which feeds directly to the Northway/Thruway will create little impact on traffic in the surrounding area.

Response 29: Comment noted.

Comment 30: Frank Casey, April 28, 2020 email.

Any and all efforts should be made to contain the Crossgates traffic within the ring road with the major entrance and exit located off the end of the Northway and Washington Ave. Ext., not Western Avenue. The 1998 proposal included consideration of widening the ring road and the ramps to and from the Northway extension. This should be implemented with the inclusion of a Costco on the current Crossgates footprint.

Response 30: The proposed traffic mitigation measures are set forth in the Executive Summary Section 3.0 and Response to Comment 24.

Comment 31: McKownville Improvement Association Board, May 25, 2020 letter.

Traffic flow into the Crossgates Mall area, especially across the Northway ramp and along Western Avenue, is highly congested. This long-standing problem poses a significant toll in the resulting traffic accidents, use of fire and emergency resources and personnel, and traffic backup into other areas, including McKownville.

Response 31: The roundabout has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. As part of the Project, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Comment 32: Viola M. Desch, May 25, 2020 letter,

Current draft project plans do not show a cul-de-sac at the planned terminus of Lawton Terrace. A cul-de-sac is needed for commercial vehicles and automobiles. There will be no place to turn around. Also, many cars currently turn onto Lawton Terrace, the drivers thinking that they can access the Crossgates Mall Road. This traffic will only increase once the COSTCO is built. Without a cul-de-sac, these vehicles will have no safe or convenient place to turn around to return

to Western Avenue. Some will try to turn around in my driveway/yard off of Lawton Terrace, as they currently do. In addition to a cul-de-sac, I ask that a large DEAD END sign be placed in a visible and prominent location at the corners of Western Ave. and Lawton Terrace to discourage attempts to access the COSTCO site.

Response 32: A cul-de-sac is not a part of the planned improvements. The Applicant will work with and obtain the approval of the Town Highway Superintendent for the installation of appropriate signage.

Comment 33: May 13, 2020 public hearing statement of Steve Wickham.

I think its magical thinking that you can do all this development on Rapp Road, the mall's ring road and Western Avenue and think that somehow traffic problems we have in Westmere already will be mitigated. There are several proposed and approved projects occurring in Guilderland and traffic impact should be considered cumulatively with these other projects.

Response 33: In addition to the background growth factor, as part of the detailed traffic analysis, traffic from other projects in the immediate vicinity of the Site including the Great Oaks Residential (120 apartments) and 1700 Designer Residences (210 apartments) have been included in the future traffic projections.

Comment 34: James Bacon, May 8, 2020 letter.

The Maser Consulting traffic projections do not resemble the actual traffic counts at Costco in Melville, New York and Hackensack, New Jersey, as well as Costco's own traffic projections for a store in La Habra, California which report the generation of hundreds of more trips as compared with Maser's estimate, and therefore a SEIS is needed. Maser underreported traffic trips by over 300 trips.

Response 34: The traffic counts, projections and mitigation in other locations in New York and New Jersey are dissimilar to traffic conditions in Guilderland New York. The trip generation was based on ITE standards and were reviewed by the Town's traffic consultant and NYSDOT and were found to be reasonable. However, after consultation with NYSDOT, a sensitivity analysis was undertaken with the elimination of the trip credits between the fueling station and Costco for the three State signalized intersections as well as the Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 ramps) intersection. See July 1, 2020 Maser Consulting P.A. Response Letter contained in [Appendix 6](#) of this FEIS.

Comment 35: James Bacon, May 8, 2020 letter attaching Ferrandino & Associates Inc. 2016 letter.

Commenter provided a 2016 letter to the Town of Patterson, New York that disagreed with an engineering report concerning potential traffic impacts associated with a site plan modification to add a Costco that concluded there would be no significant traffic impacts as a result of such change. The letter contends that Costco traffic is different from traditional retail resulting in more traffic and different distributions onto the roadway network.

Response 35: The Applicant proposes the mitigation measures as more fully set forth in Section 3.0 of the Executive Summary. See Section 2.3 Response to Comment 24.

Comment 36: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding the Traffic Impact Study, a comparison to the final Scope was performed resulting in the following comments:

Comment 36.1. A list of the intersections to study in detail.

The applicant's updated February 17, 2020 Traffic Impact Study (TIS) includes all of the intersections required in the Scope and each has been studied in detail.

Response 36(1): Comment noted.

Comment 36.2: Availability of transit and pedestrian facilities proximate to development sites and include the CDTA Transportation Center.

The applicant's updated TIS mentions data from the CDTA studies for a Bus Rapid Transit (BRT) system but does not include information on the likely timeframe for completion. Also, any details of the operation of the system by CDTA and how its implementation may affect traffic conditions in the study area should be discussed. The text of the TIS describes the potential layout of access at the Mall and Appendix F of the TIS includes a plan showing access alteration to include a pair of roundabouts and peak hour Level of Service analyses. Discussion of pedestrian facilities also is limited to a drawing that shows some sidewalk extensions along Western Avenue and some bicycle paths in the same general areas. If available, the applicant should expand the discussion of the proposed BRT system and its potential impacts on the subject development as well as area development in general to conform with the Scope.

Response 36(2): There is currently no timetable for the implementation of a new CDTA Transportation Center at Crossgates Mall. See Response to Comment 36(3).

Comment 36.3: Evaluate roundabouts. See #2, above. More detailed discussion of the BRT system should be required for the Town to understand potential future traffic conditions and to conform with the Scope.

Response 36(3): The roundabout at Crossgates Mall and the Fuller Road Alternate ramps to/from I-87/I-90 has been part of the Capital District Transit Authority (CDTA) Bus Rapid Transit (purple line) for several years and has been previously examined from a SEQRA perspective. As part of the Project, the roundabout will be constructed and operational prior to the opening of Costco to customers on Site 2.

Comment 36.4 Examine potential transportation alternatives to upper Rapp Road in Albany.

While previous versions of the TIS contained discussions of possible closing of access on Rapp Road north of Site 1, the current February 17, 2020 TIS makes no mention of

any changes to circulation through the Historic District to the north of Site 1. No potential alternative routes or changes in travel patterns are discussed in the current TIS. Trip distributions of newly generated traffic are stated to be based on existing travel patterns including existing flows through the Historic District between Pine Lane and Washington Avenue. The applicant should include a discussion of impacts on the Historic Community to the north of their sites to conform with the Scope. Reference to previous studies should be included.

Response 36(4): The DEIS considered eight (8) alternatives that would change the travel pattern of vehicular traffic that would eliminate or reduce vehicle trips through the historic district on upper Rapp Road within Albany.

Should Albany continue to object to severing through-traffic on Rapp Road, Alternative 9 is an option that would also work to effectively minimize to the extent practicable traffic through the historic district, thereby accomplishing a similar result and a potentially feasible alternative. Alternative 9 proposes to re-route a portion of Rapp Road south of Gipp Road to directly connect with the Crossgates Mall ring road. The re-routing of traffic to the Crossgates Mall ring road will encourage vehicles to use Crossgates Mall Road to access Western Avenue and Washington Avenue Extension.

Comment 36.5 Discuss reasonable alternates to the proposed development.

As a function of the broader DEIS, the TIS does not analyze possible alternate development scenarios that may include smaller numbers of dwelling units, smaller areas of retail and office space and changes in the types of developments proposed: for example, less residential and more commercial space, or a more balanced development with a few complementary uses. The applicant should include a discussion of reasonable alternatives to the proposed use of their sites to conform with the Scope.

Response 36(5): Section 280-18A (Transit Oriented Development (TOD) District) of the town code states the only allowed uses west of Rapp Road are Multifamily Dwellings which may include ground floor uses that are a Permitted Use, Site Plan Use or Special Use Permit in the GB District. The maximum gross floor area of a use is limited to 4,000 square feet. The applicant has not included alternatives because residential is the only permitted use and the least intensive. Furthermore, the commercial space is considered an ancillary use as a part of the proposed residential as an amenity to the residents.

Comment 37: Ferrandino & Associates Inc., March 31, 2020 letter.

Field Counts at study intersections were conducted in November 2017, November and December 2018 and again in September and October 2019.

The applicant should address the following: were the 2017 and 2018 counts adjusted to reflect the more recent 2019 levels? Also, were the November and December counts adjusted for the seasonal variations per the New York State Department of Transportation (DOT) database?

Response 37: The traffic counts for the AM Peak Hour were taken during September/October when schools were open. The AM Peak Hour is not seasonally impacted by Mall traffic since the Mall is not in full operation during this peak hour. Knowing that the peak times for Mall traffic are during the months of November/December, the Peak PM and Peak Midday Saturday Hours were taken during this period of time. Thus there is no need to seasonally adjust these traffic volumes.

The resulting Year 2019 Existing Traffic Volumes have been reviewed and accepted by the Town and NYSDOT.

Comment 38: Ferrandino & Associates Inc., March 31, 2020 letter.

A Build Year of 2022 was chosen for the completion of the first phases of the project and 2025 was chosen for the completion of the future planned development.

The applicant should address the following: are those buildout years appropriate given the size of each component, the time it would take to reach full occupancy and the fact that there are a significant number of competing developments already approved and under construction in the Town of Guilderland?

Response 38: The time frame (Design Years) are reasonable. It should be noted that the residential and Costco are also included in the 2025 Design Year which would account for any delay in opening and full build-out

Comment 39: Ferrandino & Associates Inc., March 31, 2020 letter.

The TIS uses a background growth factor of 0.5% per year resulting in a small growth factor of 1% or 1.5% for the 2022 Build year.

The applicant should provide the documentation for this small growth factor, given the rather long list of potential developments in the Town and along Western Avenue. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 39: The background growth factor used in the Traffic Impact Study was based on NYSDOT historical data. The resulting 1.5% growth factor used for the 2020 No-Build and 2020 Build year has been reviewed and accepted as reasonable by the Town's Traffic Consultant and NYSDOT.

Comment 40: Ferrandino & Associates Inc., March 31, 2020 letter.

The TIS lists other developments as two apartment complexes - one with 210 dwelling units and the other with 120 units.

The Town's website lists considerably more development - proposed, approved and under construction. That list includes the following:

- a. Cumberland Farms on Western Avenue
- b. The Preserve at West Creek (112 apartments)
- c. Winding Brook Commons PUD (283 units residential, 156,000 sq. ft. office and 7,000 sq. ft. bank and restaurant)
- d. Fuller Station (single family homes)
- e. Great Oaks Office Park (includes 120 apartments)
- f. Pine Bush Seniors (192 units independent and assisted living units)
- g. Hiawatha Trails Seniors (256 units independent living)
- h. The Summit at Mill Hill (92 units senior housing)
- i. Ritano Senior Living (72 units senior housing).

The Summit, Ritano, Winding Brook and 1700 Residences are already under construction. To confirm its accuracy, the applicant should review both the background growth factor and the list of other developments that will contribute traffic to the study area –particularly because of their proximity to Crossgates Mall, a destination that draws and will continue to draw traffic from all parts of the Town and region. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 40: In addition to the background growth factor, as part of the detailed traffic analysis, traffic for the Great Oaks Residential (120 apartments) and 1700 Designer Residences (210 apartments) which are in the immediate vicinity of the Site have been included in the future traffic projections. It should be noted that other listed developments are located outside the study area (west of Crossgates Mall) and any additional traffic at the study area intersections would be accounted for as part of the background growth factor used in the traffic analysis.

Comment 41: Ferrandino & Associates Inc., March 31, 2020 letter.

Although the CDTA Bus Rapid Transit (BRT) plan is included in the TIS, other transit options are not discussed.

The applicant should provide a section on public transportation facilities that already exist and could be available to the proposed developments in the absence of the proposed BRT. A broader explanation of pedestrian and bicycle usage should also be provided. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 41: The existing CDTA service and facilities at Crossgates are substantial. Currently, Crossgates is one of the busiest stop within the CDTA system and is served by seven (7) bus routes (Routes 10, 12, 114, 117, 155, 190 and 712). Over the last year CDTA has reported there were more than 300,000 boarding's and 330,000 alighting's annually. Additionally, in 2019 Crossgates and CDTA jointly relocated the transit center to provide for improved access and updated facilities.

Pedestrian and bicycle access to Site 1, Site 2, Site 3 (future) will be provided with connectivity to the network of already existing access from Western Avenue and Crossgates Mall Road.

There is currently no timetable for the implementation of a new CDTA Transportation Center at Crossgates Mall. CDTA has commenced a new ride share service called Bus Plus that includes Crossgates and the area surrounding it including Sites 1, 2 and 3 where residents within the area will be able to utilize public transit services. It was recently announced that CDTA had been approved for a \$60.9 million federal grant that will allow the transit authority to move ahead with the BRT Purple Line serving Crossgates.

Comment 42: Ferrandino & Associates Inc., March 31, 2020 letter.

The base trip generation rates for the residential component are acceptable; however, the Costco rates are based on the *ITE's Trip Generation Manual* for a land use titled "Discount Club." Commenter suggests that Costco has more sales than other Discount Clubs, such as BJ's and Sam's Club and assumes such sales translates to more trips. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 42: The trip generation was based on ITE standards and trip distributions were reviewed by the Town's traffic consultant and NYSDOT and were found to be reasonable. After consultation with NYSDOT, certain trip credits were eliminated. The changes in the trip credits recommended by the NYSDOT resulted in no additional trips along Rapp Road through the historical district during the Weekday Peak AM Hour, with 6 additional trips during the Weekday Peak PM Hour and 5 additional trips during the Saturday Peak Hour. As shown in the DEIS Traffic Impact Study, the resulting Levels of Service along Rapp Road through the historical district would continue to operate at acceptable LOS "C" or better during Peak Hours. See July 1, 2020 Maser Consulting P.A. Response Letter contained in Appendix 6 of this FEIS.

Comment 43: Ferrandino & Associates Inc., March 31, 2020 letter.

Commenter cites a study in California that used higher trip rates and produce higher "trip ends" for the fueling facility than the current TIS. Please clarify. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 43: See Response to Comment 35.

Comment 44: Ferrandino & Associates Inc., March 31, 2020 letter.

Commenter cites a comment made by Michael Maris Associates, Inc. in connection with a Costco in Yorktown, NY in 2014 suggesting that trip generation rates for Costco's should be higher than for a discount club and lower interplay and pass-by reductions resulting in a higher number of trips. The low trip rates used in the DEIS should be documented or appropriately increased, and all subsequent analyses revised as needed. Ferrandino & Associates Inc., March 31, 2020 letter.

Response 44: As indicated previously, the trip generation was based on ITE standards and were found to be reasonable by the Town's traffic consultant and NYSDOT. See Response to Comment 43.

Comment 45: Ferrandino & Associates Inc., March 31, 2020 letter.

The TIS applies a 10% interplay credit between Costco and the mall, a 10% interplay credit between the gas station and the mall and a 25% interplay credit between the gas station and the Costco store. This results in a 45% reduction in traffic generated by Site 2 development. Trips are then further reduced by 25% for "pass-by" trips - a term used to describe a trip that is already on the street passing the site and simply diverts into the site before continuing on to its initial destination.

Trip generation rates and adjustments based on interplay and pass-by credits appear to understate the potential traffic from the proposed developments. Trip generation - which may be too low at the outset of the study as outlined above - is further reduced by application of 10% and 25% interplay and pass-by factors, respectively. These reduction factors may be too high. No documentation for the reduction percentages used in the analysis is provided. All interplay and pass-by reductions used in the TIS should be explained and documented. In the San Marcos study noted above, a Costco without a fueling station used a 15% reduction for pass-by trips and no interplay reduction was used. The interplay reductions and high pass-by credits should be documented or reduced/eliminated, and all subsequent analyses revised as needed.

Response 45: As previously discussed, the trip generation was based on ITE standards and were reviewed by the Town's traffic consultant and NYSDOT and were found to be reasonable. However, after consultation with NYSDOT, a sensitivity analysis was undertaken with the elimination of the trip credits between the fueling station and Costco for the three State signalized intersections as well as the Crossgates Mall Road and Fuller Road Alternate (I-87/I-90 ramps) intersection. See July 1, 2020 Maser Consulting P.A. Response Letter contained in Appendix 6 of this FEIS addressing interplay and pass-by trips.

Comment 46: Ferrandino & Associates Inc., March 31, 2020 letter.

The TIS includes a Synchro Level of Service and capacity analysis that also calculates queue lengths at each intersection analyzed.

Field observation on Saturday March 7, 2020 indicated that queuing of vehicles at the study intersections reached significant lengths. In fact, at several mall ring-road intersections, queues developed at the signalized intersections that extended back to the adjacent intersection causing a condition sometimes referred to as gridlock. The applicant should report the queuing information contained in the Synchro analyses and discuss how the significant queues affect flow conditions at the study intersections. The queuing summaries should be both the average and 95th percentile values. Any unacceptable results should be reported and measures to mitigate those impacts included in the study.

Response 46: Queuing at signalized intersection are not unusual and the anticipated queues are shown on the Synchro analysis contained in the Traffic Impact Study. Queuing along the mall ring road most likely occurs at the Fuller Road Alternate (I-81/I-90 ramps) which will be improved with the proposed roundabout.

Comment 47: Ferrandino & Associates Inc., March 31, 2020 letter.

The site plans include a number of driveways onto the adjacent streets - Rapp Road and Gabriel Terrace for Sites 1 and 2, respectively.

The applicant should include sight distance analyses at each driveway to ensure that safe access can be provided in accordance with applicable guidelines. Any locations that do not meet the minimum and desirable standards must be identified and measures to provide the required sight lines must be included in the plans.

Response 47: Driveway locations have been reviewed by NYSDOT and the Town's traffic consultant and access driveways have been modified accordingly. This will be further reviewed as part of the Special Use Permit and Site Plan Approval Process.

Comment 48: Ferrandino & Associates Inc., March 31, 2020 letter.

The TIS describes Costco's northern and southern Rapp Road accesses as not allowing left turns. This would mean that all of Costco's traffic that wants to get to Western Avenue must leave the site at the Gabriel Terrace access or turn right toward the Mall and circulate with other Mall traffic while trying to go south toward Western Avenue. At the same time, the site plan in the TIS shows a left turn lane at the northern exit to Rapp Road. Please clarify. Furthermore, a review of the Costco site plan indicates that the vast amounts of parking spaces are located between the building and Rapp Road and the route to Gabriel Terrace is through a parking aisle in the narrow space between the building and existing properties on Western Avenue. Notwithstanding the apparent left turn restrictions onto Rapp Road, and given the awkward access to Gabriel Terrace, it is likely that many exiting trips will ignore the restriction and turn left from the northern (and possibly the southern) access to get back to Western Avenue. This could have significant negative impacts on traffic conditions at the Western Avenue/Johnston Avenue intersection. Moreover, how would the turn restrictions be enforced?

Response 48: As previously discussed, the Applicant will coordinate with the Town and NYSDOT the prohibition of left turns entering and exiting Gabriel Terrace on the north side of Western Avenue and would be designed accordingly to prevent left turn movements.

Similarly, the Rapp Road driveways would be designed to prohibit left turn entering and exiting movements and the access closest to Western Avenue is for right-in entrance only.

Comment 49: Ferrandino & Associates Inc., March 31, 2020 letter.

Commenter suggests that there should be a discussion of the parking supply vs. demand in the Traffic Impact Study. That discussion should include the reasons for the uniformly higher proposed number of spaces than required by code. This is important for the residential development, especially given the fact that the plan includes parking spaces on Rapp Road along the site frontage. Are the on-street parking spaces needed to meet the requirements for this development? Please clarify.

Also, it is important for the Costco development because all of the additional parking spaces are paved, adding to impervious surface and unnecessarily increasing the amount of stormwater

runoff. The reasons for the Rapp Road on-street parking and the general parking over-supply should be provided and explained in the DEIS.

Response 49: The proposed parking for Site 1, Site 2 and Site 3 (future development) conforms to the parking requirements of Section 280-25 of the Town Code. The code states Multifamily Dwellings require a minimum of 1.5 spaces per dwelling unit. A retail store requires 4 spaces per 1,000 square feet of gross floor area. The maximum number of parking spaces shall not exceed 125% of the minimum number of spaces required.

As indicated in the SWPPP documents for Site 1, Site 2 and Site 3 (future development), there will be not be an increase in the amount of stormwater runoff.

Comment 50: Ferrandino & Associates Inc., March 31, 2020 letter.

The mitigation measures proposed by the applicant for the various Build scenarios are primarily confined to the Crossgates Mall circulation roadways.

Based on our field observations and review of the Level of Service and capacity analyses presented in the February 17, 2020 Traffic Impact Study, we believe a more widespread mitigating improvement package should be examined. For example, two Western Avenue intersections are expected to exhibit worsening peak hour conditions as a result of the 2022 and 2025 developments. However, no impact mitigation is offered. The two locations are Western Avenue at Johnston Avenue/Crossgates Mall Road (Rapp Road) and Western Avenue at Gabriel Terrace.

Another location where peak hour conditions are negatively impacted is the Washington Avenue Extension at Springsteen Road/Crossgate Commons intersection. Also, the intersection of the Mall ring road with the relocated Gabriel Terrace was analyzed with a traffic signal, yet the signal is not included on the conceptual improvement plan.

Traffic impact mitigation measures should be further explored and expanded as noted above.

Response 50: See Executive Summary 3.0 for a list of the proposed mitigation measures.

Comment 51: Zamurs and Associates, LLC, undated report.

An unsystematic spot check of the traffic study found some odd results. For example,

- At the intersection of Route 20 and Johnston Road, the traffic study concludes that there will only be 5 additional vehicles with the project completed, compared to the NoBuild case, on one of the approach legs of the intersection during one of the peak hours. This seems unrealistically low. What will likely happen at this intersection is that additional cars and trucks will be queueing on Johnston Road (as well as the other approaches), with the queues (and emissions) moving closer to Westmere Elementary School.
- The traffic study indicates that at the intersection of Washington Ave Extension/Springsteen Road/Crossgates Common Road during one of the peak hours analyzed, the LOS will improve

from LOS D to LOS C between 2022 and 2025. This is unrealistic unless there is some physical improvement at this intersection to account for this “improvement” is LOS. These incongruities suggest that the traffic study be revisited.

Response 51: The anticipated site generated traffic at each of the study area intersections were based on anticipated arrival and departure distributions which were developed on a review of existing traffic volumes patterns, expected travel patterns, site layout/driveway locations and access to the area roadways including the I-87/I-90 highway system. The commenter is not looking at the cumulative increase in traffic by each of the Sites. The number in question (5 vehicles) is the Rapp Road/Crossgates Mall Road right turn movement to Western Avenue for only the residential development (Site 1) during the Weekday PM Peak Hour. The Traffic Impact Study clearly shows the additional traffic volumes for each of the Sites (1, 2, 3) for each of the Peak Hours studied (Weekday AM, Weekday PM, Saturday Peak).

A review of the Level of Service Summary Tables contained in the Traffic Impact Study does not show an improved LOS from D to C at the Washington Avenue Extension/Springsteen Road/Crossgates Commons between 2022 conditions (Table No. 3) and 2025 conditions (Table No. 6).

2.4 Land Use and Zoning

Comment 1: Albany County Planning Board recommendation and several other commenters opined that the proposed action was inconsistent with the Comprehensive Plan, Westmere Corridor Study and the Town’s Transit Oriented District legislation.

Pursuant to GML 239-1, review and recommendation by the County Planning Agency includes consideration of “pertinent inter-community and county-wide planning, zoning, site plan, and subdivision considerations” with respect to:

1. Compatibility of various land uses with one another:

The ACPB find the proposed use is not a compatible land use as it does not meet the purpose of an approved use in a Transit Oriented Development District (TOD) as described in the Town of Guilderland (TOG) Zoning Code Chapter 280-18.1 A. Purpose.

Response 1: The well established law in New York is that the inclusion of a specially permitted use in a zoning code is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood. See, Matter of Blanchfield v Town of Hoosick, 149 AD3d 1380, 1383 [3d Dept 2017] (when a zoning law enumerates a use as allowed by special use permit, it “is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood” [cases omitted]).

The following is an analysis of the Comprehensive Plan, the Westmere Corridor Study which is a planning document that springs from the Comprehensive Plan and the Town Board’s legislative determination to adopt the TOD legislation.

- Town of Guilderland Comprehensive Plan 2001

The Town of Guilderland Comprehensive Plan was adopted in 2001. See Appendix 12. According to the Executive Summary:

Westmere is a much larger neighborhood or planning area and is highly influenced by Crossgates Mall and other commercial development along Route 20. Primary recommendation for this area include:

Dialogue with residents, mall owners and other businesses in this area, and regional planning agencies is recommended to identify potential solutions to issues of traffic, pedestrian environment, and land use. This should occur in anticipation of preparing a future neighborhood master plan. A design charrette should also be considered as a means of beginning to address land use, pedestrian and traffic issues in the Crossgates Mall area. Executive Summary, p 9.

The Comprehensive Plan notes that

The most intense concentration of commercial development occurs along Route 20, west of Fuller Road. This area includes a mix of commercial/retail development with the dominant land uses being Crossgates Mall and Stuyvesant Plaza. Id. at p. 10.

Regarding “*Community Vision*”, Section B.1 Growth Management provides goals and objectives such as:

- Adopt a future land use plan which identifies a balance between preservation and development - one which promotes ongoing fiscal health without compromising the Town’s character.

And regarding Transportation and Mobility, the Plan states:

- Provide safe, convenient, and efficient transportation options for people and goods within, through and around the Town of Guilderland, which are supportive of the Town’s future land use plan and which minimize the impact of traffic on the Town’s character and quality of life.
- Promote an attractive and efficient transportation network that integrates pedestrians, bicycles, automobiles and public transit.

Id at p. 11

Regarding Business, Employment, and Fiscal Resources, section B.4 provides:

- Promote a diverse economic base that provides income, employment and fiscal resources to the community in a manner that is compatible with the future land use plan and character of Guilderland.
- Identify existing and potential centers for economic and community development, and establish mechanisms and partnerships to encourage appropriate development in these locations
- Attract well-paying, job-creating employers who will be able to provide employment opportunities for Guilderland’s residents

Chapter IV: Plan Recommendations

B.5 Economic Development

Specific to the Westmere Commercial Area, the Plan provides:

The Westmere Commercial area encompasses the Route 20 corridor between Fuller Road and Johnston Road. This area has the potential to realize significant land use changes.

The suitability of future development in the Westmere Commercial Area will be a function of good access and traffic circulation. To achieve this, the Town should consider utilization of some existing road infrastructure as well as new linkages. The Crossgates Mall Ring Road provides direct access to the Northway and, therefore, an excellent opportunity for a bypass to Route 20 and access management for new development. The Ring Road was developed as a bypass but does not appear to function as intended. P. 20

The Plan provides: If any future commercial infill occurs along the north side of Rt. 20, the Ring Road should be used as an alternate means of access, thus enhancing the ability to implement corridor management techniques such as reducing curb cuts. Id at p 21.

Finally, regarding the Crossgates ring road and ramps to the interstate highway system, the Plan provides:

The following observations and recommendations are proposed to guide the Town until the further study has been conducted for the Route 20 corridor:

- The poorly functioning southbound access ramp to the Crossgates Mall from the Northway is a traffic issue of regional and local concern and should be addressed prior to further development that would utilize this point of access.
- Evaluate the Crossgates Mall Ring Road and require improvements as necessary to improve circulation and to achieve its originally intended function as a bypass, prior to future development of this area. Opportunities for access management and future linkages to Stuyvesant Plaza should also be evaluated.

Regarding public transportation, the Plan states:

- Public transportation is an important tool in relieving traffic congestion both at the origin and the destination. However, public transportation is not designed for rural or even suburbanized areas. It is most effective where populations are concentrated and there is a good pedestrian system. Therefore, it can only be reasonably assumed that future improvements in the public transportation system will benefit the developed areas of McKownville, Westmere ... area.
- Provide additional park-n-ride lots, car pooling incentives and assistance, bus shelters, bike lanes and bike lockers at bus shelters. Emphasis should be placed on increasing the opportunity for public transportation and easy access to pick-up and drop-off points. This is also an important component of the pedestrian environment.

Specific land use plans for the Westmere Commercial Corridor include:

Despite the developed condition of the area there is opportunity for significant infill, especially **if the remaining residential uses convert to commercial** or office. A major attraction of the area for economic development is quick access to the Northway.

- Evaluate the function of the Crossgates Mall Ring Road for more efficient use as a bypass for Route 20 and to provide access management for future development on the north side of Route 20, adjacent to the Mall property. The ring road is owned by the Town and provides two widely separated access points to Route 20 as well as direct access to the Northway. It was originally intended to provide access to the Mall and to function as a bypass. Its function as both a bypass and mall access/service road is questionable and should be evaluated prior to further development within the Westmere Commercial Corridor. Currently, the road is inadequate to serve shoppers, especially during holidays seasons, resulting in a significant amount of traffic using Western Avenue.
- Work with CDTA to provide bus shelters, benches and other related infrastructure to facilitate bus use (applicable to all corridor segments east of the railroad tracks). p. 40 D.3

Based on the 2001 Comprehensive Plan, the proposed action is consistent with numerous features, such as: 1) connection to the Crossgates ring road for access to Sites 2 and 3; Working with CDTA to implement several transportation improvements along the southern ring road and at the ramps to and from Fuller Road Alternative, including installation of a roundabout.

The proposed action also proposes changes to Crossgates Mall Road to reduce the number of lanes, with new median allowing for left turns to the Mall, and intersection changes at the Crossgates Mall Road/Rapp Road intersection. In addition, the DEIS contains a proposed pedestrian and bicycle access plan to facilitate such intended purposes consistent with the Comprehensive Plan.

- Westmere Corridor Study

This study was a recommendation of the Comprehensive Plan and, as stated above, identifies a balance between preservation and development - one which promotes ongoing fiscal health without compromising the Town's character. In December 2016, following a year long review process, the Town of Guilderland Town Board accepted the Westmere Corridor Study, the last of the neighborhood studies envisioned by the Town's Comprehensive Plan that builds upon the Comprehensive Plan. A copy of the Study is attached as Appendix 13.

The Study was based, in part, upon public meetings where residents, local business owners, professional planners, and regional transportation and planning representatives discussed goals and objectives for the Study and provided detailed recommendations, as recommended in the Comprehensive Plan.

The Study's area included Western Avenue from the Northway on the east to Route 155 on the west, including parcels with frontage on Western Avenue, and, in particular, the "Crossgates Mall Ring Road, due to its importance to the commercial and traffic characteristics of the area." See Appendix 13 at 9.

Among the Study's core recommendations was the creation of a Transit Oriented Development ("TOD") district in the area of Crossgates Mall which would provide a mix of housing, shopping, entertainment and employment within walking distance (1/2 mile) of the transit center at Crossgates Mall which is proposed to be enhanced with a bus rapid transit service. See Appendix 16 at 56, 60-69. The proposed permitted uses included "a wide range of residential, institutional, retail, service, entertainment and employment uses found in the 'General Business' (GB) District." Appendix 13 at 62. The Study discouraged, in the area's interior, auto-dependent uses, "such as car dealerships, car rentals, car washes, service garages, drive through windows and other like uses."

- Transit Oriented Development District

Consistent with the recommendations in the Westmere Corridor Study, after a public hearing on June 5, 2018, the Town Board adopted Local Law No. 4 establishing the new TOD district recommended in the Study. The TOD's area matched the area recommended in the Study. See Appendix 14.

The TOD imposed regulations, consistent with the Westmere Corridor Study to allow a wide variety of residential, institutional, retail, service, entertainment and employment uses found in the 'General Business' (GB) District. In order to ensure that such a mix of commercial uses are developed along Western Avenue, single family residences are now prohibited and constitute nonconforming uses. It also sets forth protections for existing residential neighborhoods outside/adjacent to the TOD such as requiring additional larger setbacks from existing residential uses to provide buffers for such uses, height limitations, density limitations, and prohibiting commercial uses in certain areas of the TOD. See Appendix 14.

It should also be noted that the project sponsor has been working in conjunction with the CDTA for several years to implement a new BRT rapid transit facility at Crossgates. Funding for such project has been delayed at the federal level, but was recently awarded.

In adopting the TOD, the Town Board found:

In an advisory opinion the town planning board recommended adoption of the proposed local law as consistent with the recommendations of the comprehensive plan and the Westmere corridor study. Due to the presence of crucial patronage including the heavily used CDTA transit center, direct access via the underutilized ring road to the Northway and walking distance to a regional shopping and entertainment center. The local law has been amended consistent with the planning board's suggestion... The proposed local law adopts the Westmere Corridor

recommendations on restricting the types of uses and imposing density and set back building height and buffering requirements.

Finally, it should be noted that although stability and regularity are essential to the operation of zoning plans, zoning is not static; the obligation is the support of comprehensive planning with recognition of the dynamics of change, not a slavish servitude to any particular plan. Kravetz v. Plenge, 84 AD2d 422 (4th Dept. 1982).

The Town Board adopted that TOD legislation for the betterment of the Town to improve general welfare of the community. Its determination to establish the TOD and the new uses and zoning restrictions to protect existing uses, including authorizing the GB uses as specially permitted uses within the TOD area, is not at issue here. The terms of the TOD legislation authorizing the proposed action are controlling.

Comment 2: Albany County Planning Board recommendation dated May 4, 2020.

Page 56 in the Westmere Corridor study states, “While several elements of TOD are recommended throughout the Westmere Corridor with regard to access management, traffic calming, pedestrian, bicycle and transit improvements, this particular part of the corridor has critical features that would be necessary for a successful TOD neighborhood. These features include the availability of underutilized or vacant land adjacent to major destinations that attract high volumes of people (such as shopping, entertainment and employment centers) and could support high ridership transit stops. The missing elements, mixed use structures and compact, walkable more “urban” form can be created when land exists to integrate and transition uses into a more connected area with short blocks, mixed use buildings, public spaces and a strong pedestrian, bicycle and transit presence.” A warehouse retail store does meet the goals for the “missing elements” as described.

Response 2: The overall proposed action includes numerous features consistent with the Town’s land use plans. Moreover, the well established law in New York is that the inclusion of a specially permitted use in a zoning code is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood. See, Matter of Blanchfield v Town of Hoosick, 149 AD3d 1380, 1383 [3d Dept 2017] (when a zoning law enumerates a use as allowed by special use permit, it ““is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood”” [cases omitted]).

Complete streets is a transportation policy and design approach that focuses on planning, design, operation of roadways to enable safe, convenient and comfortable travel. The intent is to make it easy to cross the street, walk to shops, and bicycle to work. Complete Streets make it safe for people to walk to and from public transportation.

The Guilderland Transit Overlay District (TOD) was created to implement the recommendations of the Westmere Corridor Study which are consistent with the objective of Complete Streets design elements.

Various elements of Complete Streets can include the following:

- Sidewalks, crosswalks, raised crosswalks, curb ramps, pedestrian control signals
- Road diets, lane striping, bicycle lanes, paved shoulders suitable for use by bicyclists, signage, curb cuts
- Traffic calming measures, curb extensions, bus bulbs, gateways, speed humps, speed tables
- Transit streets with dedicated bus lanes, bus pull-outs, and
- Stormwater management – bioswales, flow through planters and pervious surfaces.

Over the last several years, companies affiliated with the applicant have previously began including components of Complete Streets to Crossgates Mall and the Homewood Suites / Tru by Hilton hotels with the addition of enhanced pedestrian / bicycle safety and the recently relocated and enhanced Crossgates CDTA transit center.

Proposed improvements outlined in the FEIS are also consistent the objectives of Complete Streets design elements:

1. The Roundabout at the I-87/FRA ramps at Crossgates Mall along with the lane reduction on a portion of Crossgates Mall Road.
2. Should the CDTA move forward with the BRT Purple bus line enhancements, a second roundabout could be constructed in place of the English Couplet road entrances to Crossgates Mall from Western Avenue.
3. Removal of the channelized right turn lanes at Rapp Road and Crossgates Mall Road provide a traffic calming measure that will improve pedestrian and bicycle access through the intersection by including right turn movements and pedestrian improvements at the traffic signal.
4. The reconfiguration of a portion of Crossgates Mall Road from the hotel driveway to Rapp Road is considered a “Road Diet” by reducing the segment from four lanes to three lanes with a center turn lane. The lane reduction is a traffic calming measure. The addition of a center turning lane will reduce rear end collisions.
5. Unsignalized T-intersections will be constructed at Gabriel Terrace / Crossgates Mall Road creating an off-set intersection with the Mall Driveway / Crossgates Mall Road to the west. An enhanced pedestrian crosswalk will be constructed at the Mall Driveway / Crossgates Mall Road to the west.
6. Proposed traffic mitigation/roadway realignment in the area of Rapp Road to minimize existing and future traffic to the Rapp Road Historic neighborhood.
7. Reasonable multi-use trail and sidewalk improvements are planned as a part of the Site 1, Site 2 and Site 3 developments that are on property owned by the Applicant.
8. As referenced above, the newly relocated and enhanced Crossgates CDTA transit center with seven (7) bus lines servicing the center from various parts of the Capital Region

promote public transit. Furthermore, the proposed future addition of the BRT Purple bus line would result

9. The integration of sidewalks, bike lanes and other amenities encourages physical exercise by creating an environment that encourages walking, jogging and bicycling.
10. The addition of the roundabout will improve air quality by reducing carbon dioxide (CO₂) emissions.

Comment 3: Albany County Planning Board Recommendation dated May 4, 2020.

Large warehouse stores are typically found in auto-oriented commercial zones that rely on highway infrastructure and are not found in TOD zones that promote walkability.

Response 3: The proposed use is a retail use which is authorized under the Town's Zoning Law General Business uses. A pedestrian and bicycle path plan was included in the DEIS which promotes walkability and use of the CDTA transit center. Costco only represents a portion of the mixed-use development proposed. See Response 2 above.

Comment 4: The Albany County Planning Board issued a recommendation pursuant to General Municipal Law 239-m regarding Costco.

Majority of customers visiting warehouse stores drive in. The closest Costco store is two hours away. Conceivable customers will be driving from many miles away to buy in bulk and leave. In this situation customers will typically not travel by bicycles or bus.

Response 4: Commenter's opinion is not supported by the record. It is not atypical for customers to travel by bicycle or public transportation, particularly with the CDTA improvements and additional new services that currently exist in the area to and from the proposed Costco. Those residents that live near the project site will continue to walk, bicycle and take public transportation. The new purple BRT line will expand and enhance the public transportation options opportunities to access the site. The pedestrian and transit enhancements proposed will serve employees at the Costco facility in addition to nearby residents.

Comment 5: Albany County Planning Board recommendation dated May 4, 2020.

The proposed warehouse along with 700 parking spaces does not show evidence of reducing the number of parking spaces and is in direct contradiction of the purpose of a TOD zone.

Response 5: The number of proposed parking spaces is consistent with the parking requirements for the TOD zone. Through the Site Plan approval and Special Use Permit process the Town will ensure that the parking lot design meets the requirements of the design standards established in the TOD.

Comment 6: The Albany County Planning Board recommendation dated May 4, 2020.

In an article published by the American Planning Association dated May 2003 “How to Make Transit-Oriented Development Work” quotes Peter Albert, a Planner for Bay Area Rapid Transit (BART), “If the parking requirements doesn’t reflect the transit resource, it’s not TOD. It’s just a development close to a transit station.”

Response 6: Comment noted. The proposed action complies with and is consistent with the Town’s zoning law.

Comment 7: The Albany County Planning Board recommendation dated May 4, 2020.

In the Albany County Planning Board case #10-180503020 Town of Guilderland Local Law 4: Transit Oriented Development District (May 14, 2018) published meeting minutes states; “Michael Shanley addressed the board explaining that this town-wide initiative helps Crossgates Mall, which is a major employer and tax revenue generator for the county and town. Crossgates is forced to look at doing business in a different way; the TOD will help to create a mixed “community.” Crossgates has bought property in the surrounding area, and is hoping to build something that is first floor commercial, upper floors residential apartments/condos; perhaps a civic component as well, maybe government offices, a Police station, and medical offices all of which will help support the overall health of Crossgates.”

Response 7: The proposed action for the three development sites is consistent with the vision of the Town Board for the TOD zone and the comments contained in the meeting minutes. The proposed action contains all the components – commercial, residential, and office development, and provides for pedestrian and bicycle connectivity.

Comment 8: Iris Broyde, March 14, 2020 letter; see also substantively similar comment of Sierra Club, Hudson-Mohawk Group, undated letter, Russell Ziemba, May 25, 2020 email, Kevin McDonald, May 26, 2020 email; May 13, 2020 public hearing comment of Ginny Sussman; May 13, 2020 public hearing comment of Iris Broyde, May 13, 2020 public hearing comment of Kevin McDonald, May 13, 2020 public hearing comment of Steve Koch, James Bacon

The Rapp Road project is inconsistent with the purposes outlined in the Westmere Corridor study supporting a TOD district, including:

- Development should adequately protect nearby residential neighborhoods

Westmere Terrace/Western decreases in LOS from E/F to F;

New connection to Rapp Road will compromise the buffering that had been established through negotiations and referenced in the DEIS;

The ability to provide buffering is limited in that there will be no buffering of the illumination and privacy invasion from stories 3, 4 and 5 of the apartment building. The character of Westmere Terrace or the quality of life for residents will be denigrated by this project.

Encourages traffic calming measures

- The addition of numerous vehicles will not be traffic calming

Adding cars to the ring road is opposite to the 2000 Comp plan

Improves the environment for non-automobile oriented modes of transportation/
reducing the number of required parking spaces

- A TOD area is to reduce emphasis on automobiles. Additionally, the abundance of surface parking here (700 spaces) directly conflicts with this concept in form and function.
- Focusing intense development away from existing residential neighborhoods.

Per the Westmere Corridor Study the intent of focusing density in a proposed TOD area is to ‘protect viable residential areas/neighborhoods from commercial and higher density residential development pressure.’ Visiting the extreme limits in residential density and inviting high volume commercial endeavors to our doorstep, this project is the very definition of what TOD development is supposed to be protecting us from. In addition to the apparent contradictions with development in a TOD area, there are omissions from the DEIS that require addressing by the applicant.

Response 8: The proposed action including the uses, and area restrictions (building heights, setbacks and area and bulk requirements) comply with the Town’s code.

The Westmere Terrace residential area is situated in close proximity to Crossgates Mall, a 1.7M sq. ft. regional shopping center, the Westmere Fire Department and Emergency Services complex, and extensive commercial development on Western Ave.. Measures employed for Site 1 to mitigate potential lighting and noise impacts to the north end of Westmere Terrace include the construction of berms with landscaping and 6-foot-high fencing along the southern border of Site 1. The cul-de-sac currently located on private property will be relocated, and new cul-de-sac will be constructed to Town standards on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace) and offered for dedication to the Town. The relocated cul-de-sac, berm and plantings shall be constructed prior to commencement of building construction on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4). Residents living on the east side of Westmere Terrace also benefit from an existing substantial berm and fence previously constructed by the applicant, and mature landscaping and trees previously planted by the applicant, all in order to buffer the transition from the residentially zoned property property on Westmere Terrace from the roadways and commercially zones property to the east

The proposed Site 2 and Site 3 developments are consistent with the character of the area and the TOD zoning. Area setbacks, greenspace and building height requirements have been met.

The Site 2 building and site lighting elevations will be situated below the elevation of Crossgates Mall Road (Rapp Road) and surrounding properties in a range of between +/-1 foot at the southern end to +/-8 feet at the northern end. This is because the Site 2 finished floor building elevation is +/-284.4 feet above sea level. The elevation of Crossgates Mall Road ranges from +/- 285 feet above sea level at Western Avenue to +/-292 feet above sea level at Rapp Road. The Site 2 parking lot elevation ranges from 282 feet above sea level – 288 feet above sea level in the northwest portion of the site to coincide with the rise in elevation of Crossgates Mall Road (Rapp Road). Also, the proposed greenspace along the western edge of Site 2 is at an average elevation of +/-297 feet above sea level with a highest elevation of +/-302 feet above sea level in the northwest corner.

Residents living on the east side of Westmere Terrace benefit from an existing berm, fence, mature landscaping and trees.

The Comprehensive Plan and Westmere Corridor Plan each encourage use of Crossgates Mall Road as a by pass to encourage access to and from the interstate and move traffic off Western Avenue. The plans are consistent with these recommendations.

See Response to Comment 1.

Comment 9: Russell Ziemba, May 25, 2020 email

In downtowns people often walk, bike, or take buses because there are a multitude of venues that are easily available using these forms of transportation. The DEIS did not adequately examine where 270 units could be better located so that non-car methods of transportation would be viable, and if this site is chosen, how these non-car methods could be made viable.

Response 9: The proposed development for Site 1 provides multi non-car methods of transportation. A multi-use path is proposed connecting Site 1 and Western Avenue, as well as Site 1 and Crossgates Mall, creating a more walkable and bikeable community. Sidewalks interconnecting all the Site 1 buildings are also proposed. In addition, the project currently proposes a CDTA bus shelter at the intersection of Rapp Road and Crossgates Mall Road. Detailed pedestrian connections will be provided as part of the Site Plan approval process.

Comment 10: Russell Ziemba, May 25, 2020 email.

Psychological problems can be induced by environmental conditions. Separation from others with everyone in their own car is a cause of isolation and depression. Rational and empathetic people often change when they get behind the wheel of a car. The experience of driving pits drivers against each other. It becomes easy to dehumanize other drivers. Road rage is only the most obvious pathology associated with driving. The DEIS did not adequately examine what the hidden costs of thousands of additional car trips per day will be. How many more people will be injured or killed? How many more accidents will occur? What will be the added costs to the average driver?

Response 10: The commenter is raising issues that are obviously beyond the scope of an EIS for a project being developed in accordance with the Town's adopted zoning. Large scale issues such as the commenter raises are properly addressed by a Town when it adopts its comprehensive plan and implementing zoning, which in turn specify what types and density of uses are allowed. The residential component of the project complies with the Town's planning and zoning documents.

Comment 11: Russell Ziemba, May 25, 2020 email.

Although density and even high-rise buildings make sense and are appropriate in an urban setting, five story buildings are out of place in the Pine Bush. They will be a visual intrusion to the Preserve and for miles around.

Response 11: The proposed development for Site 1 meets the building height, density, lot coverage and setback requirements outlined in the TOD. The proposed buildings are located a significant distance from any Pine Bush Preserve property and will be visually buffered by greenspace.

Comment 12: Russell Ziemba, May 25, 2020 email.

Hard, dense surfaces and more parking lots and paved areas create temperature extremes more readily than vegetation and soil. There is more heating (and cooling). Runoff is contributing factor to soil and water pollution and to flooding. The DEIS did not adequately examine how heating, water and soil pollution, and runoff can be avoided during construction and throughout the lifespan of this proposed development, or avoided by not building any of this.

Response 12: Each site proposes disturbance greater than one acre and is therefore subject to the requirements set forth in the NYSDEC Stormwater Management Design Manual (SWMDM) and the NYSDEC SPDES General Permit from Construction Activity (GP-0-20-001). As part of these requirements, the project sites will be required to capture and treat a specific amount of water based on the qualifications of new development versus redevelopment. The project proposes infiltration practices across all three sites as a means for stormwater management. Infiltration practices standard stormwater management practice with the NYSDEC and all practices will be designed to requirements set forth in the NYSDEC SWMDM. In addition, each project site will meet or exceed the water quantity and quality requirements set forth in the NYSDEC SWMDM. Infiltration practices will reduce the amount of stormwater entering the Town of Guilderland municipal storm sewer system by promoting groundwater recharge over off-site discharge.

Comment 13: May 13, 2020 public hearing statement of Jonathan Kaplan

The "Transit-Oriented District" was created by the Town in response to the findings of the Westmere Corridor Study, a planning document created by a collaboration between the Town of Guilderland and the Capital District Transportation Committee, with significant input from a variety of other stakeholders, as well as the general public.

Response 13: Comment noted.

Comment 14: May 13, 2020 public hearing statement of Charles Klaer.

The quality of life in Guilderland is changing drastically with the explosion of growth that is incurred in the previous building of the hotel and now its expansion of the Crossgates Mall on over forty six additional acres with multiple high-rise apartment buildings, office buildings and our proposed big box retail, Costco's. Is creating a very dense City urban area that will directly impact neighborhoods and should remain suburban. The transit-oriented district is supposed to incentivize development “that adequately protects nearby residential neighborhoods, according to the stated purpose in section 280-18 19A of the town code. This development does not meet that standard and the town appears to be losing control of a vaguely developed concept in the Westmere Corridor Study. The proposed expansion by Pyramid to build a Costco store does not fit the stated purpose of the transit-oriented district and gas station should never be built over known aquifers and environmentally sensitive areas of traffic to and from the gas pumps like the traffic to and from the car wash will aggravate traffic on Route 20 and the Ring Road, even though traffic during this covid-19 era.

Response 14: The proposed action includes all uses specifically contemplated and permitted in the TOD zone and meets all area and bulk requirements. These include commercial, residential and office uses. The plan proposes numerous other TOD features, such as pedestrian and bicycle accommodations, new connector road to Crossgates Mall Road that will also serve as access to Site 3, when it is eventually developed. Changes to the Crossgates Mall Road to reduce the number of lanes from 4 to 3 with a center turning lane and reconfigured Rapp Road/Crossgates Mall intersection to eliminate two slip ramp that will reduce vehicular speed. In addition, seven (7) driveways will be eliminated on Western Avenue. In addition, when a zoning law enumerates a use as allowed by special use permit, it “is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood” cases omitted. See, Matter of Blanchfield v Town of Hoosick, 149 AD3d 1380, 1383 [3d Dept 2017].

There are no sole source aquifers in the vicinity of the proposed action.

See Response to Comment 1 for additional information.

Comment 15: May 13, 2020 public hearing statement of Charles Klaer.

The Capital District Transportation committee was a sponsor of the Westmere Corridor. CDTA is mentioned almost twenty four times and what hasn't been discussed by other people that I've been able to listen to while I've been waiting is that CDTA in addition to the Crossgates is planning to and is part of their deal with regards of development of their contribution and the TOD to build a very large Port Authority Center.

Response 15: Comment noted.

Comment 16: James Bacon, May 8, 2020 letter; May 13, 2020 public hearing comment of Jonathan Kaplan; May 13, 2020 public hearing comment of James Bacon.

The proposed use of Site No. 2 as a Costco selling gasoline is contrary to the purposes and goals of the Westmere Corridor Study, (WCS), and the Town's Transit-Oriented District (TOD) zoning

overlay. States that these documents were generated due to traffic congestion on Western Avenue and the types of uses in the TOD would reduce traffic congestion Cites several provisions in the WCS and TOD to support such contentions, including:

- Encourage reinvestment and redevelopment of vacant/underutilized buildings and sites...accompanied by repairs and upgrades to the existing infrastructure. (p. IV-16). 3
- Prepare an access management study/plan to develop guidelines for shared access, shared parking, and the development of access roads. Priority should be given to more creative solutions that provide common parking and shared access for multiple owners.” (p. IV20)
- Develop a pedestrian access plan for the Route 20 corridor that provides for continuous sidewalks and the development of appropriately located linkages to adjoining neighborhoods.” (p. IV- 20)
- Consider using the Crossgates Ring Road as a bypass around congestion on Route 20/Western Avenue, perhaps with a physical linkage over the Northway to Stuyvesant Plaza. Most significantly: A TOD strategy inherently requires a focus on improving access to non-auto oriented modes of transportation and integrated street networks.

Response 16: See Response to Comment 1 with respect to the compatibility of the Project to the Westmere Corridor Study and TOD zoning District.

In addition, the Project is a significant reinvestment in vacant/underutilized buildings and sites fronting on the eastern portion of the Town’s most productive business corridor, Western Avenue. It consolidates multiple driveways to Western Avenue into one location in order to accomplish the goal of “shared access” and invests heavily in existing infrastructure. See section 2.3, Traffic and Transportation. Pedestrian and bicycle access plans for the Project are identified in Appendix Q of the DEIS.

Crossgates Mall Road has been upgraded and dedicated to the Town of Guilderland as a Town road for the specific purpose of bypassing the congestion on Route 20/Western Avenue by providing an alternative public access from the Western Ave/Johnston Road intersection to the Fuller Road Alternate and I-87/I-90 ramps. This contribution to the Town infrastructure diverts thousands of cars daily from the more congested portions of Western Avenue.

With respect to access to non-auto oriented modes of transportation, the project components cluster around the Crossgates Mall CDTA bus stop on the south side of Crossgates Mall, where seven regional bus lines converge, resulting in one of the busiest public transportation hub in the CDTA system. This non-auto oriented component of the project will be enhanced by the pedestrian and bicycle access facilities internal to the Project and connecting the Project to Crossgates Mall. See DEIS Appendix Q.

Comment 17: James Bacon, May 8, 2020 letter.

Elimination of a residential neighborhood is contrary to the TOD zone. The TOD was to: Create... neighborhoods or areas that are pedestrian friendly, supportive of transit and emphasize alternate modes of transportation. The TOD model provides a mix of housing, shopping, entertainment and employment within walking distance (½ mile) of transit... A TOD neighborhood is expected to be

fairly dense to keep walking distances shorter and maximize the number of people living in, working and visiting the area. Here, there is a neighborhood comprised of approximately 20 homes arranged around the four interconnected streets of Gabriel Terrace, Lawton Terrace, Rielton Court, and Tiernan Court. The CWS Map 5-1 identifies this neighborhood as the center of the TOD. However, rather than “creating a neighborhood” as repeatedly called for in the CWS, the Applicant proposes to entirely eliminate this neighborhood that has functioned for more than 50 years as a safe and secure haven for its residents and has been used by the neighboring Westmere residents for recreational walking and bicycling.

Response 17: The Project components include a total of 222 residential units, 163,900 square feet of new shopping opportunities from the sought-after retailer in today’s market, and potentially another 138 residential units, 50,000 square feet of office space, an additional 115,000 square feet of retail or commercial space, thus clustering a mix of housing, shopping, entertainment and employment in close proximity to one of the busiest public transportation hubs and the largest center for shopping, entertainment and dining in the region. All development in the area will be tied together by a network of pedestrian/bicycle facilities to promote alternative transportation and nearby recreational opportunities. Single family dwellings are not a permitted use in the TOD.

Comment 18: James Bacon, May 8, 2020 letter.

Costco’s size and reliance on automobile traffic and new traffic trips violates the WCS and TOD. There is no “model neighborhood design” and no “mix of housing, shopping, entertainment and employment.” And no pedestrian or cyclist is going to carry off multiple boxes of wholesale goods. Based on Costco’s own reporting and traffic counts at other Costcos, there will be hundreds of new vehicles on the current transportation network. There is no “traffic calming, and pedestrian, bicycle and transit improvements” that can mitigate the new traffic volume. And, a parking lot with 700 parking spaces is entirely at odds with the CWS’ recommendation to “Reduce Surface Parking Lots.” CWS at 5.2.1.5. And, there is no hint of any potential for shared parking as called for by the CWS. (At pg. 64). In sum, a Costco with 700 parking spaces and fueling facility, conflicts with the WCS. While “[a] TOD neighborhood is expected to be fairly dense to keep walking distances shorter and maximize the number of people living, working and visiting the area,” an existing residential neighborhood will be replaced by single automobile-centric use.

Response 18: See Responses to Comments 14, 16, 17. All uses proposed for the Project, including the parking lot, are permitted in the TOD Zone.

Comment 19: James Bacon, May 8, 2020 letter.

Costco’s merger of retail use and gasoline sales is a new use in the Town of Guilderland and therefore is prohibited. Costco presents a combination of retail and services. The Code does not list a big box store selling gasoline as a use. 280-6 of the Code prohibits any use that is not specifically authorized. A big box store selling gasoline is that type of use. It is not listed as a permitted use and does not conform to either the Code’s definition of Retail, General or an Automobile Service Station. To permit such a use would render the Code’s definitions inoperable and therefore be unlawful.

Response 19: The Commenter offers the inconsistent arguments in his May 8, 2020 letter that the Costco component of the Project is an impermissible combination of two primary uses (pages 9-11) , and later, at great length, that the Costco fueling facility is an accessory use to the primary retail building on the site (pages 13-15). While both general retail and automobile fueling stations are permitted uses in the TOD zone, the General Business uses in the Guilderland Zoning Law permitted in the TOD zone expressly include both the principal use (i.e., retail) and the accessory uses for those principal uses Guilderland Zoning Law Section 280-18.1(D)(1). The Zoning Law defines “accessory use” as “a use that is incidental and subordinate to the principal use and located on the same lot with such principal use”. Guilderland Zoning Law Section 280-5. The premise for the Commenter’s argument that an automobile fueling station is not a permissible accessory use is apparently because that accessory use “is not specifically authorized” in the Zoning Law (Bacon May 8, 2020 letter, page 15). In fact, there are no accessory uses “specifically authorized” in the Guilderland Zoning Law which, in all cases, provides general authorization for accessory General Business uses in the TOD zone under Section 280-18.1(D)(1). The Site 2 uses proposed for the Project are in full compliance with the Guilderland Zoning Law.

Comment 20: James Bacon, May 8, 2020 letter.

The Code prohibits the Costco fueling facility as an accessory use Costco’s fueling facilities are fully merged with Costco’s operations. Unlike the Code’s definition of an automotive service station where gasoline is the primary retail product, Costco simply uses low cost gasoline as a means to draw Costco customers to its primary warehouse. Where retail sales are not restricted and open to the public, the use is not accessory.

Response 20: Comment noted. See Response to Comment 19.

Comment 21: James Bacon, May 8, 2020 letter.

Costco’s fueling facility is not an independent use. The Applicant’s special use permit application argues that Costco’s fueling facility is an independent use falling under the definition of automobile service station. However, Costco’s fueling facility is not an independent use and could never survive independent from the Costco retail facility.

Response 21: Comment noted. See Response to Comment 19.

Comment 22: James Bacon, May 8, 2020 letter.

A Supplemental Environmental Impact Statement is required, based on report of Ferrandino and Associates, (F&A), that determined the DEIS analysis was incomplete. I informed the Planning Board about the F&A report in December 2019 too which should have required its consideration.

Response 22: See Responses to Comments by Ferrandino and others within Section 2.4 of this FEIS. The Comments raise no new issues or questions of fact which require the preparation of a Supplemental DEIS.

Comment 23: James Bacon, May 8, 2020 letter.

Failure to assess the project's compliance with zoning requires a SEIS. SEQRA explicitly requires inquiry into whether a project creates "a material conflict with a community's current plans or goals as officially approved or adopted".

Response 23: See Responses to Comment 22 and Comment 19.

Comment 24: James Bacon, May 8, 2020 letter attachment.

Commenter provided a 2015 Retail Market Analysis report for a proposed Costco in Yorktown, New York, including nine merchandising categories and whether it would result in an oversaturation or displacement of existing retail resulting in blight. The report concluded that for the merchandize categories supported by households, given the size and product line of the proposed Costco, the consumer trade areas can absorb the proposed retail space. For the three market areas, there is more than sufficient market share to absorb the proposed Costco store.

Response 24: The Comment suggests that the SEQRA process be mis-used to regulate economic competition in the local marketplace. This is expressly not the purpose and function of SEQRA. In any event, a 2015 retail market analysis in Yorktown NY provides no basis for and is not relevant to the Project and the Guilderland NY market.

See also Response to Comment 2.5 (22).

Comment 25: James Bacon, May 8, 2020 letter attaching February 27, 2020 affidavit of James Calvin; see substantively similar comment of Steve Wickham, May 26, 2020 letter.

Commenter provided an affidavit from the New York Association of Convenience Store regarding economic impacts and the Guilderland Zoning Law contending that a members only gas facility that offers lower fueling prices is not a permitted use under the Zoning Law citing various provisions of the Zoning Law and the Costco website. Commenter believes that other gas stations may go out of business because of the lower fueling prices and cause a blighting impact on the area.

Response 25: Costco is a mass merchandiser of goods and services, no different than Wal-Mart or Target, selling products and services directly to the public.

See Response to Comment 19.

Comment 26: Commenter alleges improper segmentation regarding alienation of portions of five town roads, which were not identified in the EIS or the scope. May 13, 2020 public hearing comment of James Bacon.

Response 26: The abandonment of the Town roads located on Site 2 is clearly identified in the DEIS. See DEIS Section 2.6.2. The discontinuance of these roads became a required approval only when the Lead Agency Guilderland Planning Board determined to add the cumulative impacts

of development on Sites 2 and 3 to the required environmental analysis of the Project in August 2019. This expanded the scope of the environmental review and inclusion of the road abandonment in that process is effectively the opposite of the “segmentation” suggested by the Comment.

Factually, it should be noted that all abutting properties on the four former residential streets in question, Gabriel Terrace, Lawton Terrace, Tiernan Court, and Rielton Court are owned or controlled by the Applicant and are unoccupied. These roads are an isolated location between Western Avenue and Crossgates Mall Road with no interconnection to any other neighborhood or part of Town. The Comment fails to identify any possible environmental impact from the abandonment of these roads in connection with the redevelopment of Site 2. See also, Response to Comment 2.11 (6) Response to General Opposition (page 163).

Comment 27: May 13, 2020 public hearing comment of Wendy Dwyer.

Regarding lighting. On page 24 of the DEIS, it says the project is tenant driven. Lighting has been proposed as a variance. I learned from the Albany Planning Board meeting that light poles exceeding the town zoning are requested. Why? I do not see the reason in the DEIS, maybe I missed it. Is it just that it's tenant driven? The Albany planning board said the lighting would be way overboard. There's research and far more research needed and being done regarding the impact of artificial lighting on human health, wildlife, birds insects and more.

Response 27: The application for a variance has been withdrawn.

2.5 Character of the Community/Neighborhood

Comment 1: Albany County Planning Board recommendation dated May 4, 2020.

Impact of proposed land uses on existing and proposed county or state institutional or other uses:

A. The special use permit does not demonstrate conclusively that no such negative impacts with regard to traffic and accidents in and around the proposed location and has not proposed any mitigation. B. We understand there is conversation with Town of Guilderland, Rapp Road Historic District, City of Albany and Pyramid regarding the adverse impacts to the Rapp Road Historical District. However at this time we don't have a conclusive traffic mitigation proposal that was deemed viable either by the Town of Guilderland or the City of Albany to be commenting on.

Response 1: The DEIS is proposing several traffic alternatives to help minimize existing traffic flows. See Responses to Comments in 2.3.

Comment 2: Albany County Planning Board recommendation dated May 4, 2020.

Protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas:

The proposed warehouse ignores the community character. If built, this structure will be the largest single use retail building found along State Route 20 in the Town of Guilderland.

New York State General Municipal Law §96-a. Protection of historical places, buildings, and works of art states, "In addition to any power or authority of a municipal corporation to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing board or local legislative body of any county, city, town, or village is empowered to provide by regulation special conditions and restrictions for the protection, enhancement, perpetuation, and use of places, districts, sites, buildings, structures, works of art, and other objects having a special character or special historical or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both."

The Rapp Road district was designated on the Nation's list of properties worthy of preservation in 2002. The Director of New York State's Technical Preservation Bureau within the State Historic Preservation Office, has advised that the impact of traffic and high density development is an adverse impact on the historical preservation of the Rapp Road historical community.

The origin of the Historical Rapp Road community is an African American community that migrated from Shubuta, Mississippi during the Great Migration. The community is singular in Albany County in its living presentation of the agrarian lifestyle that remained

intact through a community's chain migration to the north and the subsequent five generations. Multiple decedent families from the original property owners still live on Rapp Road. The Great Migration was the largest migration of United States citizens in American History that culminated in the mass urbanization of most of the migrants. The historical Rapp Road community provides an alternate and unique oral and living history that is increasingly hard to maintain as development and density continues to encroach.

Response 2: Within approximately ½ mile of the Costco site there are numerous large retail buildings along Western Avenue and Washington Avenue including the 1.7 million SF Crossgates Mall, 350,000 SF Stuyvesant Plaza, 520,000 SF Crossgates Commons and the 75,000 SF Town Center Plaza directly across Western Avenue from the site. At 160,000 SF the proposed Costco will be approximately one tenth the size of Crossgates Mall and not out of character with the area.

The nearest occupied home in the historic district is approximately 700 feet away from the closest proposed structure on Site 1 and separated by a 200 foot wide 2.5+/- acre densely vegetated buffer, Gipp Road and Pine Lane. No structure on Site 1 will be visible from any occupied home in the historic district. The proposed Costco site is over 1/3 of a mile away from the nearest occupied home in the historic district and will have no visual impact on the historic district. The applicant is proposing to dedicate over 8 acres of land to the Albany Pine Bush Commission for preservation. These lands are located between the historic district and Crossgates Mall and other developed properties to the south and east and will provide a permanent buffer for the historic district and prevent further encroachment of incompatible uses. Additionally, the applicant is proposing to transfer five parcels within the historic district, including one contributing structure, to the Rapp Road Historical Association.

This section of Rapp Road is a federal aid highway, has a functional class as an Urban Minor Arterial and serves a role in the local roadway network. Eliminating the use of Rapp Road as a "bypass for non-residential traffic" may involve changing the functional classification. The DEIS has proposed several traffic alternatives to help minimize existing traffic flows some of which would involve a change in the roadway's functional class. The project applicant has been working with all stakeholder to minimize existing non-Crossgates morning and afternoon commuter traffic and mitigate any additional traffic impacts associated with the project to the maximum extent practicable.

Comment 3: Official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures:

The proposed warehouse does not meet recommendations of the Westmere Corridor Study; it does not protect nearby neighborhoods, it does not create neighborhoods, it is not pedestrian friendly, it does not support bus transit services and does not emphasize alternate modes of non-automobile-oriented modes of transportation.

Page 56 in the Westmere Corridor study states, "While several elements of TOD are recommended throughout the Westmere Corridor with regard to access management, traffic calming, pedestrian, bicycle and transit improvements, this particular part of the corridor has critical features that would be necessary for a successful TOD neighborhood.

These features include the availability of underutilized or vacant land adjacent to major destinations that attract high volumes of people (such as shopping, entertainment and employment centers) and could support high ridership transit stops. The missing elements, mixed use structures and compact, walkable more “urban” form can be created when land exists to integrate and transition uses into a more connected area with short blocks, mixed use buildings, public spaces and a strong pedestrian, bicycle and transit presence.”

Response 3: The proposed action includes not only a Costco, but will contain an aggregation of mixed use residential and office development in combination with public transportation services and pedestrian improvements. See Section 2.4 Responses 1, 2 and 3.

Both Site 1 and Site 2 will be significantly buffered from the nearby residential neighborhood. See 2.4 Response 8.

Comment 4: A satisfactory community environment should be planned and based on a process that involved analysis of existing conditions, as well as public and professional input. The Westmere Corridor study established the TOD zone and based its recommendations on an “analysis of the existing conditions information found in the previous sections, discussions with the Study Advisory Committee (SAC) and comments received from the public at the project open house (pg. 55).

Based on the study a satisfactory community environment would contain “mixed use structures and (a) compact, walkable more “urban” form (that) can be created when land exists to integrate and transition uses into a more connected area with short street blocks, mixed use buildings, public spaces and a strong pedestrian, bicycle and transit presence (pg. 56). The environment would ideally consist of “at least 80% coverage”(pg. 63), “orienting buildings to the street with a consistent build-to line with maximum setbacks of no more than 15 feet”, and “parking in the rear” (pg. 68).

Response 4: The TOD zoning district as adopted by the Town Board implemented the findings and recommendations of the Westmere Corridor Study, which specifically authorizes the proposed action which includes – commercial retail, residential, and office uses within proximity to the CDTA transit hub. The Westmere Corridor Study is part of the vision of land use activity in the Town, the requirements of the TOD district represents the legislative intent of the Town Board and is controlling. The proposed action is consistent with the requirements of the TOD zoning district.

The proposed Costco use is a specially permitted use in the TOD district, therefore, by definition, it is consistent with the Town’s overall land use plans. See Response to Comment 2.4(1)(16, 17, 19).

Comment 5: All perimeter lighting shall be shielded. No light should be allowed to spill out past property boundaries.

Response 5: Development of the Costco project will fully comply with lighting requirements consistent with the lighting plan contained in the DEIS. The site lighting illumination will conform to Chapter 280-28 of the town code. It will provide adequate illumination for the property and

will not negatively impact neighboring properties. The maximum illumination level at the property line shall not exceed 0.2 footcandle.

Comment 6: Lisa and Tom Hart, March 12, 2020 email; May 13, 2020 public hearing statement of Lisa Hart; see also substantively similar May 13, 2020 public hearing statement of Kathleen Liebman. Grace Nichols, March 25, 2020 letter.

Westmere will be changed including the tranquility of our street and privacy to neighbors who live closest to the apartments will be gone due to the upper floors of the apartments. The animals homes will be lost and lead to them being displaced. Please reconsider these projects as they will be changing the lives of the residents on our street for a very long time to come. Development on Site 1 will allow lighting from Crossgates to intrude into area.

Response 6: The building heights on Site 1 comply with the required setbacks from residential districts as outlined in the Town's code.

The existing 200 foot wide 2.5+/- acre buffer/green area on Site 1 will be maintained. An additional 4+/- acres of open space to the west of the development on Site 1 will be preserved to buffer residential properties on Padden Circle resulting in 6.5+/- acres of contiguous open space on Site 1 that can be utilized by a variety of wildlife species.

Measures employed for Site 1, to mitigate lighting and noise include the construction of berms with landscaping and 6-foot-high fencing. The cul-de-sac will be relocated, and new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace). The relocated cul-de-sac, berm and plantings shall be constructed prior to construction taking place on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4).

Comment 7: Robyn Gray, March 23, 2020 email.

The homeowners who live adjacent to this proposed development face a total disruption to their lives during the building and operation of the project that could span several years. In addition, they will be subject to poor air quality, noise pollution as well as seeing an increase of migration of wildlife looking for a new habitat. Although there are claims to reroute traffic and reduce congestion, it appears to be very inappropriate to set entrances off a residential street for a commercial purpose.

Response 7: Access for the proposed development is from Rapp Road (Urban Minor Arterial), Western Avenue (Principal Arterial), and Crossgates Mall Road. No residential streets are used to access the development. Construction on each Site will conform with the requirements of the Town Code for hours of operation, dust control, etc. See Response to Comment 6 and Section 2.4 Responses 8 and 10 for construction discussion.

Comment 8: Glenn Liebman, March 26, 2020 letter; May 13, 2020 public hearing statement of Glenn Liebman. The recent move to cut the trees outside of the planned Costco property is an affront to Town's reputation as a town of both sociability and fellowship. Adding Costco, the town

house community behind Westmere Terrace and other commercial properties on Western Avenue also contradicts that vision. I would think that the town would do everything in its power to not turn Western Avenue into a vision of suburban sprawl instead of a family welcoming town. I would also think that a community with already overtaxed resources would oppose a plan that would increase pollution, increase traffic and dramatically increase safety issues.

Response 8: Westmere Terrace is in the middle of commercial businesses with Western Avenue, a major highway, on one side and Crossgates Mall, a regional shopping center on the other. A short distance away is another large shopping center, Stuyvesant Plaza and the Town Center Plaza is directly across Western Avenue. From a land use and planning perspective, the TOD authorizes the uses proposed for the area. The proposed development is in conformance with the TOD requirements for building heights, setbacks, use, parking, lot coverage and density. In fact, the residential use proposed on Site 1 north of Westmere Terrace is the only type of use permitted. The TOD specifically limited Site 1 to residential uses to prevent commercial uses immediately adjacent to residential neighborhoods and also required additional setback and buffering requirements that are adhered to in the application. Concentration of businesses in this area where there is an excellent local and state highway network and repurposing of previously developed land makes good planning sense.

Comment 9: Glenn Liebman, March 26, 2020 letter; May 13, 2020 public hearing statement of Glenn Liebman.

Costco may have great values and friendly customer service. My concern is not that Costco comes to our area but rather that it be located in a space that should not impact neighborhoods or traffic. There are numerous open spaces in Guilderland. Costco is a place where people will come from any destination---why not site it in a location that does not have such a dramatic effect on a neighborhood that represents what Guilderland should be all about.

Response 9: The proposed development is in conformance with the TOD requirements for building heights, setbacks, use, parking, lot coverage and density. Costco has evaluated alternative sites in the area and chosen Site 2 as the most appropriate as it contains sufficient acreage and excellent access to local and state highway networks. Repurposing substantially previously developed land is a smarter development approach than “green field” or open space development suggested by the commenter.

Comment 10: Sharon and Ed Cupoli, April 19, 2020 email.

There is a lot to this project and my husband and I want to see what can be done best for our neighborhood and the community in general. We also hope that consideration can be given that the entire Apartment complex not be all built at once but rather in phases. Meaning do the 2 story ones and then if demand for occupancy is there do one of the 5 story buildings. Only build the last one if there still is the demand.

Response 10: The proposed development for Site 1 is in conformance with the TOD requirements for building heights, setbacks, use, parking, lot coverage and density.

Measures employed for Site 1, to mitigate lighting and noise include the construction of berms with landscaping and 6-foot-high fencing. The cul-de-sac will be relocated, and new cul-de-sac

will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace). The relocated cul-de-sac, berm and plantings shall be constructed prior to construction taking place on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4).

It is not anticipated that the residential project will be built in phases. Construction will be advanced in accordance with all applicable Town regulations.

Comment 11: Jerry Houser, April 18, 2020 email.

I am writing to express my support of two Pyramid projects now under consideration. The Costco project is on private land and not contiguous with Pine Bush property. It is also in the middle of commercial businesses with Western Avenue on one side and Crossgates on the other. It's better to concentrate such businesses where one business can feed the other and would draw a larger customer base for all. The proposed multiple housing units to the west end will provide living accommodations for new tax paying residents and is within the transportation zoning district created for this purpose. This property has not been maintained by the Pine Bush Commission for the benefit of the Karner Blue. To designate it as a "buffer" zone really means that the municipality has confiscated private property.

Response 11: Comment noted.

Comment 12: Karen White, April 22, 2020 email.

We do know that the proposed development would replace some of the last remaining green space in this part of town with concrete and asphalt, thereby exacerbating climate change and displacing many species of butterflies, birds, and animals.

Response 12: Site 1 is private property and not public parkland or public "greenspace". As part of the project, a ± 2.5 acre, 200 foot wide buffer area will be maintained. In addition, 4+/- acres of open space to the west of the development on Site 1 will be preserved to buffer residential properties on Padden Circle resulting in approximately 6.5+/- acres of contiguous open space on Site 1 that can be utilized by a variety of wildlife species. Approximately 72% of the site will remain as pervious surface upon completion of the project. A substantial number of trees will be planted and the area landscaped with native plantings.

Comment 13: Brian Sheridan MD, Apr 29, 2020 email.

I am writing this letter in full support of the development of a new Costco in the Town. I do believe that this is a perfect location. I also believe that it will help the economy of the community. Seeing as it is being built in a commercial part of the Town, next to our largest commercial property, I feel that it was not significantly impact the rest of the community in a negative way. I do appreciate the work the town has been doing in making it a community that is economically stable.

Response 13: Comment noted.

Comment 14: Frank Casey, April 28, 2020 email.

I am not opposed to Costco, but at that location. The structure would be disproportionately large for a parcel of that size and inclusion of a gasoline station at a time when the country is moving towards renewable energy including vehicles is just simply wrong. The intensifying of the already traffic congestion along that portion of Western Avenue would make it unbearable. Crossgates, a city unto itself, should be surrounded by a green buffer to shield it from Western Avenue including reestablishment of a green space east of the hotels. Costco should and could be contained within the ring road. There is sufficient unused parking lot space that could be utilized.

Response 14: Site 2 is in the middle of commercial businesses with Western Avenue, a major highway, on one side and Crossgates Mall, a ±1.7 million square foot regional shopping center on the other. A short distance away is another large shopping center, Stuyvesant Plaza. From a land use and planning perspective, the TOD authorizes the uses proposed for the area and the proposed development is in conformance with the TOD requirements for building heights, setbacks, use, parking, lot coverage and density. The Costco site will be landscaped both on the perimeter of the site and within the site. Concentration of businesses in this area where there is an excellent local and state highway network and repurposing of largely previously developed land makes planning sense. where the businesses can draw customers from all over to help all businesses.

There is insufficient space either within the Mall or any of its parking facilities to support the proposed Costco. Therefore, it is impossible to site Costco within the parking facilities. Moreover, loss of parking spaces may cause noncompliance with the Town's parking requirements for the existing Mall, which must be avoided.

A detailed traffic impact study was included in the DEIS, which has been revised and supplemented based on public and agency comments. See [Appendix 6, 10, 11, 23, 24](#). See Section 3 of the Executive Summary for a list of traffic mitigation measures that have been incorporated into the project.

Comment 15: Margaret Stein, May 25, 2020 email.

This proposed development which would further encroach upon a historic neighborhood and ecologically sensitive ecosystem. For over thirty years, area municipalities and agencies across the board have allowed for the destruction of an ecologically significant area, and now they are proposing threatening quality of life for neighborhoods including a historic district and its residents.

Response 15: Commenter's opinion is noted. The proposed action does not encroach upon or threaten a historic neighborhood or an ecologically sensitive ecosystem. None of the proposed development will be visible from any occupied structure within the historic district. See Section 2.1, Response 11.

Comment 16: Margaret Stein, May 25, 2020 email.

Unique and vital historical and cultural characteristics would be negatively affected by traffic, high density, and out of control development. Visual impacts, traffic, and removing lands potentially intended to protect species and provide for public recreation is a mistake. These species are important not only to the Pine Bush but to the local ecosystem as well.

Response 16: As concluded in Appendix G of the DEIS, no land is being removed that might potentially protect unspecified species. The Site is private property, not parkland and no public recreation is, therefore, contemplated. The project does provide for a multi use pedestrian/bicycle path as part of the project. The proposed development is in conformance with the TOD requirements for building heights, setbacks, use, parking, lot coverage and density. Potential traffic alternatives for Rapp Road are set forth in the DEIS that are under consideration by the Lead Agency to address potential traffic impacts. None of the development will be visible from any occupied structure within the historic district.

Comment 17: McKownville Improvement Association Board, May 25, 2020 letter

The Rapp Road Community Historic District is an asset that should be appreciated and preserved as the unique treasure that it is. Quality of life for residents of the Rapp Road community and the Gipp Road corridor has already been decreased by the effects of increased traffic in those neighborhoods, and further degradation is certain to result if these new projects are approved. To protect the Gipp Road and Rapp Road neighborhoods a new traffic pattern between Western and Washington Avenues must be required by the Town.

Response 17: The proposed development is in conformance with the TOD requirements for uses, building heights, setbacks, use, parking, lot coverage and density. Potential traffic alternatives for Rapp Road are set forth in the DEIS that are under consideration by the Lead Agency to help mitigate traffic along Rapp Road. This section of Rapp Road is a federal aid highway, has a functional class as an Urban Minor Arterial and serves a role in the local roadway network. Eliminating the use of Rapp Road as a “bypass for non-residential traffic” may involve changing the functional classification. The DEIS has proposed several traffic alternatives to help minimize existing traffic flows some of which would involve a change in the roadway’s functional class. The project applicant has been working with all stakeholder to minimize existing non-Crossgates morning and afternoon commuter traffic and mitigate any additional traffic impacts associated with the project to the maximum extent practicable.

Comment 18: Russell Ziemba, May 25, 2020 email.

The Rapp Road Historic District would be affected by increased traffic with the accompanying air, noise and light pollution from vehicles. These forms of pollution would affect the historic integrity and aesthetics of the Historic District and diminish the quality of life for the residents. The increase in traffic would be a major safety hazard for drivers and pedestrians. Residents now have trouble pulling out of and into their driveways. Since there are no sidewalks, pedestrians usually walk in the street. This would increase their risk of injury and death. There isn't enough room to expand the roadway or to add sidewalks to this narrow road and doing so would detract from the historic qualities of the district. The DEIS did not adequately examine how any additional traffic above

current levels can be avoided, and how the quality of life of those who live here and their safety can be enhanced rather than diminished.

Response 18: See Response to Comment 17.

Comment 19: Russell Ziemba, May 25, 2020 email.

I would like to see a system of trails that runs between Albany and Schenectady that would connect to the bikeway and other trails, including those in the Preserve.

Response 19: The proposed action includes a multi-use path along Rapp Road connecting to Western Avenue for pedestrians and bicyclists, promoting walkability and alternate travel, as well as a series of sidewalks interconnecting the Site 1 buildings. The DEIS also includes a pedestrian and bicycle plan showing locations of such enhancements on property owned by the Applicant and how they can potentially interconnect with existing and proposed trail network in the vicinity. Potential connections to the existing Six Mile Waterworks and SUNYA Campus trail system and proposed New Karner Road (CR 155) trail are identified. The Applicant will continue to work with the Town of Guilderland and other stakeholders to implement the interconnection of the trail system from Crossgates' property.

Comment 20: Viola M. Desch, May 25, 2020 email.

Crossgates property at the north end and west side of Lawton Terrace should be fenced to discourage people from cutting through from the Costco parking lots to Western Avenue. The type/height of fencing and the placement of the fencing bordering my property should be subject to my review and prior approval. Also, several gates are needed to provide me easy access to my front lawn for lawn and garden maintenance and to Lawton Terrace for garbage pickup. There should also be a vehicle access gate for vehicles turning from Lawton Terrace into my driveway near the rear of my property. The gate should be large enough to accommodate commercial vehicles such as a pickup truck with a plow, or an oil delivery vehicle. Crossgates has agreed to provide landscaping as a buffer on the parking lot side of the fencing and on my property-side in order to hide the fence and preserve visual appeal. I am concerned that Crossgates and/or Costco provide in writing their long-term permanent commitment to maintaining (and replacing if need be), the fencing and the landscaping on both sides of the fence (for example, replacing arborvitaes or other plantings if they die).

Response 20: Lawton Terrace will not be used for any access to Site 2 whatsoever. The Applicant will work with the Town for the installation of appropriate signage indicating there is "no through access." The Applicant will install a fence and landscaping along the property line separating Site 2 from the Commenter's property. Additionally, snow will not be stock piled along the property line separating Site 2 from the Commenter's property. Any nighttime activities will conform to the town noise ordinance requirements. Vehicle gates will not be installed.

Comment 21: Viola M. Desch, May 25, 2020 letter.

Increased lighting from the Costco store, the planned gas station and the parking lots is also of concern. Increased traffic and pollution from 700+ cars, in addition to an increase in the already congested traffic on Western Avenue is also of concern. Dust, air pollutants and noxious odors such as gasoline fumes and car exhaust will be a detriment to myself and other nearby residents. I ask that these concerns be taken into consideration as Crossgates and Costco make plans for demolition schedules and processes, for determination of hours of store operation, for hours and routes of scheduled deliveries and for hours for property maintenance such as snow removal.

Response 21: The site lighting illumination will conform to Chapter 280-28 of the town code. The request for a light pole height variance has been removed. It will provide adequate illumination for the property and will not negatively impact neighboring properties. The maximum illumination level at the property line shall not exceed 0.2 footcandle.

Construction and demolition activity will conform to Section 205 of the town code. See Section 2.7, Response to Comment 15.

Comment 22: James Bacon, May 8, 2020 letter. Ferrandino & Associates Inc., March 31, 2020 letter.

The DEIS fails to include a fiscal/market/community character assessment to determine business displacement requiring an SEIS. There are vulnerable gasoline stations on Western Avenue.

Response 22: Commenter's opinion is noted.

The issue of economic competition is beyond the scope of SEQRA. This fundamental legal principal is grounded in the essence of the American economic system: the right to compete in the free marketplace without artificial interference from government or competitors. A new entry into the marketplace brings greater consumer choices, lower prices, and instigates competitive responses from other retailers. It is this sense of fairness that distinguishes the American economic system from other, less vital systems. It is also this sense of fairness and belief in the American economic system that eliminates the need for local government officials to decide who competes in the marketplace, either directly or disguised as environmental or zoning "impacts".

For this reason, the New York State Department of Environmental Conservation ("DEC") and New York courts have recognized that impacts on economic competition from area retailers are beyond the scope of SEQRA. SEQRA governs environmental consequences to land, air, water, minerals, flora, fauna, noise, resources of agricultural, archaeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health (6 NYCRR §617.2(L)). However, "economic impact is not a physical condition within the contemplation of the statute." Wilder v. New York State Urban Develop. Corp., 154 A.D.2d 261, 262 (1st Dept. 1989). As a strictly legal issue, the determination as to what merchants are entitled to enter into market competition, and to succeed or fail based on consumer shopping preferences, is not a burden placed on local public officials.

The NYSDEC "handbook" on SEQRA states that it is inappropriate to consider "[t]he potential effects that a proposed project may have in drawing customers and profits away from established

enterprises or in reducing property values in a community” because economic consequences and competition are not environmental factors. NYSDEC, The SEQR Handbook, p. 60-61. This interpretation of the scope of review under SEQRA has been approved by the New York courts:

“[the lead agency’s] failure to address the economic impacts of the project on the overall [municipal] economy did not violate SEQRA. Those impacts involved purely competitive factors, not environmental ones, and, therefore, were beyond the scope of SEQRA.” (citations omitted). Sun Oil Co., Inc. v. Syracuse Indus. Dev. Agency, 209 A.D.2d 34, 50 (4th Dept. 1995).

The New York Court of Appeals has further addressed the issue of whether economic impacts may be considered under SEQRA:

“[economic] challenges unrelated to environmental concerns can generate interminable delay and interference with crucial governmental projects...[there is a recognized] danger of allowing special interest groups or pressure groups, motivated by economic self-interest, to misuse SEQRA for such purposes.” (citations omitted). Society of Plastics Industry, Inc. v. Suffolk, 77 N.Y.2d 761, 774 (1991).

Secondly, as stated by the Court in East Coast Development Co. v. Kay, (174 Misc. 2d 430):

A judicial consensus has emerged that SEQRA does not authorize governmental agencies, under the guise of environmental protection, to manipulate the flow of private investment in order to advance their own economic master plan (see, Society of Plastics Indus. v. County of Suffolk, supra; Matter of Mobil Oil Corp. v. Syracuse Indus. Dev. Agency, 76 N.Y.2d 428, 433; Sun Co. v. City of Syracuse Indus. Dev. Agency, supra; Matter of Nixbot realty Assocs. v. New York State Urban Dev. Corp., 193 A.D.2d 381; Matter of Wilder v. New York State Urban Dev. Corp., 154 A.D.2d 261, 262, leave denied, 75 N.Y.2d 709). We conclude that the Board decision cannot be sustained if based solely upon the anticipation that a Wal-Mart store would adversely affect the existing downtown retail marketplace.

Finally, the impact of economic competition on “community character” cannot in any real sense be quantified, accurately analyzed, or form a rational basis for a planning board decision. Whether a new entry into a marketplace has a positive, negative or no impact on existing retailers depends on a myriad of unknowable variables, including the general strength or weakness of the economy in the future, future transportation patterns, future land use decisions by government agencies, decisions by existing retailers to reinvest in their properties and strengthen their competitive position or to focus resources in other areas, etc.

It is anticipated, as noted by numerous commenters that expressed support for Costco, including the local hardware store and diner across the street, that smaller retail businesses will benefit from the increase in traffic in the area that will be generated by Costco. In order to capitalize on the increase in traffic, such businesses will, in order to remain competitive, need to adopt changes in the way they conduct business

In summary, the law on SEQRA consideration of “character of the community” has been confined to extremely unique settings and limited to the special facts of the cases. Venturing into this issue through the prohibited back door of economic competition is without precedent and certainly beyond the role of any town planning board.

Comment 23: Michael and Kimberly Whelan, March 17, 2020 email.

Commenters expressed concern that they would like the existing berm and pine trees along the western boundary of the Rapp Road Residential site be extended to the southern of the site.

Response 23: Appendix 25 shows the location of 3 Brooks Lane and its separation from the Rapp Road Residential site by the +/- 75 foot wide National Grid parcel located in between.

The Applicant proposes to keep the +/- 14,000 square feet of trees and vegetation in this area because it will provide more thorough screening as compared to the suggested berm and tree planting. The line-of-site shown in Appendix 25 demonstrates the comparison between the existing trees and berm.

2.6 Schools, Community Facilities and Municipal Services

Comment 1: Iris Broyde, March 14, 2020 letter

There is/will be acknowledged deterioration of traffic conditions at the intersection of Westmere Terrace and Western Avenue which is close to the Fire Dept and Ambulance Service. Degrading traffic conditions will impact the capability of these service providers to respond with continued efficiency. This means, not only egress from the stations, but also the capability of the volunteers to get to the origination sites. The DEIS states that the evaluation of this consisted of verbal confirmation from the Westmere Fire Chief that 'no adverse impacts are anticipated.' Provision of safety for the town necessitates that this be analyzed with greater scrutiny.

Response 1: Comment noted. See, Appendix 15 - June 9, 2020 Westmere Fire Department letter.

Comment 2: Amanda Milne, March 16, 2020 email; see also substantively similar May 13, 2020 public hearing comment of Lisa Hart.

The amount of apartment complexes going up is unreasonable and concerns me that our school district will not be able to handle the influx of new children.

Response 2: The density proposed for Site 1 is in conformance with the requirements outlined in the TOD. For the units proposed on Site 1 it is not anticipated that there will be a significant amount of school age children added to the Town of Guilderland school district as summarized within the DEIS. Information contained on possible new students being enrolled within the Guilderland School District from residential living units on Site 1 in the DEIS was secured from several sources including the New York State Department of Education, the Capital District Regional Planning Commission, Rutgers University, the National Association of Home Builders, the Guilderland School District and also from the Town of Guilderland Planning Department. Based on all of the data analyzed the projections are at the high range of possible students. As noted, the proposed apartments are a mix of one and two bedroom units with a target market of young professional and empty nesters. See DEIS Section 3.8.1.4.

Comment 3: Jerry Houser, April 18, 2020 email.

Obviously, the increase in tax base with minimum demand on the school system is beneficial to Guilderland at time when this income will be in desperate need by the town and especially the school district.

Response 3: Comment noted. See Response to Comment 2.

Comment 4: May 13, 2020 public hearing statement of Wendy Dwyer

Regarding water, the DEIS claims Guilderland has ample water to manage the miles per gallons per day daily demand of 81,107 gallons cumulatively for the current plan for the proposed sites. I was on a call where Bill McKibben, founder of 350last.org was speaking about the future of water,

it is frightening the US has a major threat to our 40 aquifers that are being rapidly depleted. Per the US Geological Survey of 2013, National Geographic has reported on this as well. Some aquifers are down so far, it would take twelve years to refill them. There is a projected increase of water use as more is needed in population growth, farming to provide population growth and so on. And will cause water wars. Is Guilderland planning for the future?

Response 4: An analysis of the anticipated cumulative impacts and water demand for each of the three project sites is provided within the DEIS. The Town of Guilderland water supply system consists of four elements. First, the primary source is the Watervliet Reservoir, permitted to withdraw 5 mgd, but averages 3 to 3.5 mgd during the summer months. The second source is an interconnect with the City of Albany, in the summer months it averages 2 mgd. The third source is an interconnect with the Town of Rotterdam and is currently producing on an average 1 mgd. The fourth source are two town owned wells which are capable producing 1 mgd combined. These wells are still usable, but were removed from full service and placed in an emergency back up role due to elevated levels of iron. The Town of Guilderland Department of Water and Wastewater provided a will serve letter, dated February 11, 2020. See [Appendix 16](#) and DEIS Section 3.8.

Comment 5: May 13, 2020 public hearing statement of former president of Protect Your Environmental organization.

The other thing is the water impact is very important. We're right now, we have a problem and we're buying water from at this point and how much water and what is the cost going to be for making it for all the three developments. You have to look at the three developments cumulative impact of all three developments in all these areas I'm going to talk about.

Response 5: An analysis of the anticipated cumulative impacts and water demand for each of the three project sites is provided within the DEIS. The Town of Guilderland Department of Water and Wastewater provided a will serve letter, dated February 11, 2020. See, [Appendix 16](#).

Comment 6: May 13, 2020 public hearing statement of former president of Protect Your Environmental organization.

The last thing that we can't the clay layer where we have 2.5 billion gallons of pure water, the three different layers of pure water. And, they're looking to put gas tank and gas facilities and we got to make sure that we don't break any of the structures. The structures don't basically break the clay layer for the pure water.

Response 6: Comment noted. There are no sole sources aquifers anywhere near the project site, which coincidentally is located 380 feet from the property boundary of an existing gas station. See Response to Comment Section 2.1 (54). See Section 2.7 of this FEIS for additional information.

The gasoline pump infrastructure and monitoring systems will comply with all NYSDEC requirements, include the following:

1. Double-Walled Fiberglass Fuel Storage Tanks: (3) 30,000 gallon gasoline, (1) 20,000 gallon Diesel (where applicable) & (1) 1,500 gallon or 3,500 gallon split (where applicable) additive double-walled fiberglass tanks are installed underground, surrounded by gravel fill, and capped with an 8" thick reinforced concrete slab. Piping is typically double-contained flexible or fiberglass.
2. Containment Sump: Beneath each dispenser is a containment sump to capture any fuel that might accumulate from dispenser leakage. All such sumps feature a sensor that alerts the attendant if liquid is present.
3. 14' long dispenser hoses: This allows fueling from both sides of the vehicle.
4. Tank Monitor/Leak Detection System: Veeder-Root TLS450 tank level monitor and leak detection system provides shut down should an alarm condition occur, i.e., a leak from piping or tank. Sensors are located in the interstitial tank space and in each dispenser and piping sump. The station cannot operate without a functioning Veeder-Root monitoring system.
5. Emergency Shut-Off Switch/Alarm: Emergency Shut-off switches are provided at several locations around the station, which immediately shut off power to the pumps.

Comment 7: May 13, 2020 public hearing statement of Wendy Dwyer.

The DEIS does address fire protection briefly 3.8.3.2, but as a former volunteer firefighter in Columbia County where the companies are volunteers like Guilderland, I know expansion can tax departments. EMT's especially as covid-19, taxes, resources firematics, car crashes and so on. Can the department really handle it?

Response 7: Comment noted. See, Appendix 15 June 9, 2020 Westmere Fire Department letter.

Comment 8: Ferrandino & Associates Inc., March 31, 2020 letter.

A letter from the Fire Department stating there is an adequate supply of water available to meet required fire flows and adequate existing firefighting apparatus is available, including a provision that residents will not bear any tax consequences in either capital or additional service costs due to an increased number of incidents should be included.

Response 8: Comment noted. See, Appendix 15 - Westmere Fire Department "will serve" letter.

Comment 9: Ferrandino & Associates Inc., March 31, 2020 letter; see also substantively similar May 13, 2020 public hearing statement of Christine Napierski

While the statement that police protection will be provided by the Guilderland Police Department, supported by the Albany County Sheriff and the New York State Police as may be required, and rescue and emergency transportation are provided by Guilderland Emergency Medical Services appear accurate; (1) what impact will the proposed development have on police and EMS services; (2) potential impacts on response times; (3) increased personnel needs and/or capital expenses; and (4) what will be the cost to local residents in terms of increased taxes for covering capital expenses and/or increased personnel needs?. The applicant must project the need for increased services and the costs of such services, minus the tax revenues to be

generated. Any tax incentives provided by the Town, County and/or State would need to be factored into any related discussion.

Response 9: Comment noted. See, Appendix 15 and Section 3.8 and 3.10 of the DEIS.

Comment 10: Ferrandino & Associates Inc., March 31, 2020 letter.

Under Police and Fire Protection and Ambulance services, while the applicant outlines the jurisdictional roles of each enforcement authority, the capacity and costs for services are not discussed as required. Costs for (1) additional personnel; (2) capital costs; (3) capacity costs (lock-up capacity, equipment costs, etc.) should be provided, as appropriate, for both law enforcement entities and EMS services. Impacts to response times for all services should also be provided, along with the projected number of increased calls for each jurisdiction, based on standard multipliers.

Response 10: Comment noted. See, Appendix 15.

Comment 11: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding Schools, The applicant discusses declines in student enrollment, with an unstated implication that the project will bolster declining enrollment numbers. However, the applicant indicated on page 10 of the DEIS that a very modest number of school children will be generated (see comments related to page 10 above). The issue here does not relate per se to declining enrollment. The drop in enrollment has already occurred, and the schools/school district have already recalibrated to reflect these changes. Rather the DEIS should indicate, based on a robust projection of additional school children to be generated, the new costs (personnel, transportation, equipment/supplies, capital costs, etc.) that will be borne by the school district, minus the new revenue slated for the school district that will be generated by the project. Multipliers vary and will ultimately dictate the number of school children projected. It is recommended that a range be used, with a minimum and maximum to better predict potential impacts to the school district.

Response 11: See Section 2.6 Response to Comment 2.

Comment 12: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding Water and Sewer Services, the applicant states current services are adequate to service the new facility, but additional information should be provided, such as (1) costs for additional personnel; (2) capital costs; and (3) maintenance costs, documentation from the Water/Sewer District stating adequate supply exists; Documentation from the Water District stating adequate supply exists; cost of infrastructure for water services (construction, maintenance, etc.). Residents should not bear the costs of new infrastructure.

Response 12: The DEIS provides a cumulative water demand analysis and sewer flow analysis for each of the three project sites. The Town of Guilderland Department of Water and Wastewater provided a will serve letter, dated February 11, 2020, stating “This letter is being written to inform you that Town of Guilderland has the capacity, and will provide water and sewer services for the as depicted in the DEIS Rapp Road Residential/Western Avenue Mixed Use Redevelopment

Project. This is also contingent on the sewer being redirected to the Nott Road Waste Water Treatment Plant”.

Additionally, the Applicant proposes to construct a temporary holding tank, properly sized to store wastewater throughout the day and discharge during off peak hours at a rate and time acceptable to the Town to the Dillenbeck Pump Station. The advantage of this approach is to allow the Site 1 and Site 2 projects to operate while the municipal upgrades are constructed. During this time, the Dillenbeck Pump Station will not be over taxed with the Site 1 and Site 2 discharge occurring off peak. Sanitary sewer infrastructure will already be in place when construction of the municipal upgrades are complete allowing Site 1 and Site 2 to discharge to the Nott Road WWTP. For further analysis of wastewater flow and redirection of flow to Nott Road sewer station, see, Appendix 17 Engineer’s Report for Wastewater Management for Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects.

Should the the Dillenbeck Pump Station be expanded, wastewater from the three project sites could then utilize existing municipal infrastructure to discharge flows to the Dillenbeck Pump Station.

Town of Guilderland residents will not bear the cost for any new infrastructure related to the three project sites.

Comment 13: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding Cumulative Water Analysis, has the Fire Department confirmed the applicant’s analysis of sufficiency of water flow?

Response 13: The Town of Guilderland Department of Water and Wastewater provided a will serve letter, dated February 11, 2020.

See, Appendix 15 - Westmere Fire Department “will serve” letter.

2.7 Air Quality and Noise

Comment 1: Iris Broyde, March 14, 2020 letter; Lisa and Tom Hart, March 12, 2020 email, see substantively similar comment of Ginny Sussman, May 13, 2020 public hearing.

The assessments of air quality were based on traffic study analysis limited to queuing at intersections. What has not been assessed as an impacting condition will be the addition of automobile emissions produced from queuing at the fueling stations on Site 2. Long lines are expected at the fueling bays. This would be a new and harmful component being introduced to an environment requiring greater scrutiny in analysis.

Response 1: See Responses to Comment 7.

Comment 2: Viola Desch, May 25, 2020 letter.

It is understandable that there will be a reduction in air quality as Crossgates demolishes all the buildings on the properties surrounding my property in Sites 2 & 3. However, I ask that all possible precautions be taken to keep negative impact at a minimum. If this project is approved, I ask that the Town please deny all construction vehicles the use of Lawton Terrace during the construction phases. Long term, the new fencing and landscaping and extended 100 foot buffer area on the north side of my property line should help to prevent debris from the parking lots and the stores from entering my property. However, increased noise and vibrations from store activity during business hours and from potential nighttime activities such as garbage removal, gasoline deliveries, other commercial deliveries, and snow removal are also of concern.

Response 2: Lawton Terrace will not be used for any access to Site 2. The Applicant will install a fence and landscaping along the property line separating Site 2 from the Desch property. Additionally, snow will not be stock piled along the property line separating Site 2 from the Desch property. Any nighttime activities will conform to the town noise ordinance requirements

Comment 3: May 13, 2020 public hearing statement of former president of Protect Your Environmental organization.

The air impact you briefly talked about the highway but you almost have to do a roundabout to change the whole aspect so we don't have problems.

Response 3: A roundabout will be constructed. See, Appendix 6 - Maser Consulting July 1, 2020 letter response to NYSDOT. Roundabouts reduce vehicle emissions vs signalized intersections/stop signs and are a preferred method to address and mitigate vehicle emissions because roundabouts improve the efficiency of traffic flow, they also reduce vehicle emissions and fuel consumption.

Installing roundabouts in place of traffic signals or stop signs has been found to reduce carbon monoxide emissions by 15-45 percent, nitrous oxide emissions by 21-44 percent, carbon dioxide

emissions by 23-34 percent and hydrocarbon emissions by 0-40 percent (*Hu et al., 2014; Várhelyi, 2002*).

Constructing roundabouts in place of traffic signals or stop signs reduced fuel consumption by an estimated 23-34 percent (*Hu et al., 2014; Várhelyi, 2002; Höglund & Niittymäki, 1999*).

A 2005 Institute study documented missed opportunities to improve traffic flow and safety at 10 urban intersections suitable for roundabouts where either traffic signals were installed or major modifications were made to 10 intersections with signals (*Bergh et al., 2005*). It was estimated that the use of roundabouts instead of traffic signals at these intersections would have reduced vehicle delays by 62-74 percent.

Based on the results of that study, it was estimated that the conversion of 10 percent of the signalized intersections in the United States to roundabouts would have reduced vehicle delays by more than 981 million hours and fuel consumption by more than 654 million gallons in 2018.

Additional studies confirming the efficiency of roundabouts include:

<https://www.hindawi.com/journals/jat/2018/3940362/>

<https://safety.fhwa.dot.gov/intersection/innovative/roundabouts/docs/fhwasa15071.pdf>

In addition, the House Select Committee on the Climate Crisis prepared a document titled "Solving the Climate Crisis: The Congressional Action Plan for a Clean Energy Economy and a Healthy, Resilient and Just America" which was released in June 2020. <https://climatecrisis.house.gov/sites/climatecrisis.house.gov/files/Climate%20Crisis%20Action%20Plan.pdf>. The document is over 500 pages, and contains information that support the proposed transportation mitigation measures as part of the proposed action that will improve transportation, reduce congestion and thereby benefit air quality in the area.

Design elements of the proposed action incorporate and are in compliance with recommendations as summarized below.

Page 104 "Encourage Smart Transportation Policies to Increase Consumer Choice, Reduce Congestion and Cut Carbon Pollution"

Building Block: Require States and Metropolitan Planning Organizations to Set and Meet Goals to Reduce Transportation-Related Carbon Dioxide Emissions and Provide Households with Alternatives to Driving (page 106)

- Recommendation: Congress should require the DOT to establish new minimum performance measures for greenhouse gas emissions, transportation system access, and vehicle miles traveled and require states and MPOs to consider emissions reduction, climate change, resilience, and hazard mitigation throughout the transportation planning process.
- Regarding CMAQ - roundabouts are a preferred method of reducing greenhouse gas emissions.

Building Block: Require States and Metropolitan Planning Organizations to Develop and Implement “Complete Streets” Programs (page 108)

- Recommendation: Congress should require states to use “complete streets” and context-sensitive principles when designing and implementing transportation projects and provide grant funding to support associated infrastructure investment. Federal support for projects should be conditioned on recipients meeting strong labor standards (including Buy American and Davis-Bacon prevailing wage requirements), complying with all labor, environmental, and civil rights statutes, and signing community benefit agreements and project labor agreements, where relevant.
- The proposed corridor improvements to the Crossgates Mall Road are implementing "Complete Streets" design elements.

Building Block: Encourage States and Cities to Build More Housing, Including Affordable Housing, Near Public Transit (page 109)

- Recommendation: Congress should provide grants, technical assistance, and other incentives to encourage the development of affordable housing near proposed transit projects, including coordination between transit agencies and local governments.
- Consistent with the TOD, Site 1 provides residential density together with Site 2 density and their proximity to the CDTA transit center at Crossgates and proposed new CDTA bus stop at Rapp Road/Crossgates Mall Road.

Building Block: Support State and Local Efforts to Encourage Zero- and Near-Zero-Carbon Modes of Travel, Such as Biking and Walking (page 110-111)

- Recommendation: Congress should update, reauthorize, and increase funding for the Transportation Alternatives Program and other programs to make roads safer for bicyclists, pedestrians, and other vulnerable users.
- The proposed action proposes complete streets design elements related to bike/pedestrian features, such as trails, sidewalks, bike lanes, pedestrian accommodations at intersections.

Building Block: Expand Public Transit Service Between Underserved Communities and Green Spaces (page 112)

- Recommendation: Congress should fund public transit systems that provide underserved communities with access to open spaces. Project developers should engage representatives from underserved communities early in the planning process to ensure the transit system will benefit the intended population.
- CDTA Purple Line improvements are proposed at Crossgates Mall to improve the free flow of bus traffic and customer accommodations. The Purple line originates at Broadway in downtown Albany and will terminate at Crossgates Mall in the Town of Guilderland. According to US Census population estimates from 2019 the City of Albany has a 29.9% black or African-American population as compared to a black or African-America population of 3.3% in the Town of Guilderland.
- The Purple Line can provide opportunities for underserved populations in the City to have access to the Pine Bush Preserve. The new trails, sidewalks and pedestrian

accommodations proposed as part of the proposed action will allow easy access from the mall to the Pine Bush Preserve.

- Enhanced educational opportunities for the Albany Pine Bush Preserve will be added within and outside of Crossgates Mall including: space for exhibits and materials, a wall mural to update and replace the current Karner blue butterfly display and outdoor signage recognizing the Albany Pine Bush.

As noted above, the proposed action incorporates many principles recommended by the House Select Committee to reduce climate change/impacts.

Comment 4: James Bacon, May 8, 2020 letter. May 13, 2020 public hearing statement of Carol Waterman.

Typically, a fueling facility that may transport, handle and sell 10 million gallons of gasoline a year must disclose air quality impacts. However, the DEIS is devoid of any similar analysis or discussion. In fact the term “gasoline” is not even mentioned in the cursory DEIS Air Quality section at 3.9.1.2 or in the air quality study at Appendix P of the DEIS. Thus, again the DEIS is deficient in identifying and discussing potential air quality impacts resulting from the transport, storage and sale of 10 million gallons of gasoline.

Response 4: The proposed refueling station and suppliers will comply with all applicable New York State regulations for liquid and vapor controls. See Response to Comment 7 and Appendix 18 to this FEIS.

Comment 5: Donna Hintz, April 11, 2020 letter. See also substantively similar comment of Frank Carl, April 24, 2020 email; May 13, 2020 public hearing statement by Donna__

Has air quality been analyzed of cars queuing at the gas pumps and cars waiting to enter Western Avenue from all nearby intersections.

Response 5: See Response to Comment 7.

Comment 6: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

The air quality report failed to analyze the impact the 1700 new parking spots will create on air quality. Failing to use the proper tests given by the NYSDEC, as well as failing to consider 1700 new parking spots is an oversight, and before the project is approved these revisions need to be implemented into the air quality studies.

Response 6: See Response to Comment 7.

Comment 7: Zamurs and Associates, LLC, undated report.

The air quality discussion in the DEIS and Appendix P is inadequate as follows:

1) it does not properly apply the New York State Department of Transportation (NYSDOT) air quality analysis procedures, as described in Section 4.4.16 (Chapter 1 Air Quality) of The Environmental Manual (TEM). The three existing signalized intersections that will operate at a LOS of D must be screened using the capture criteria. The Build/No-Build volumes must be examined to determine if there is a 10% increase in traffic volume at these intersections. The traffic study appears inadequate to determine if screening capture criteria 3 and 5 are triggered. The traffic study must be enhanced to allow for evaluation of these intersections against all the screening capture criteria as listed in the TEM.;

2) it does not recognize the importance of minimizing exposure of the public and wildlife to air pollutants that will be generated by this project. Operating motor vehicles (cars, trucks, busses, motorcycles) emit a myriad number of different substances as a result of combustion of fuel. Some are harmless (e.g. water vapor), while most have serious negative implications for human health and wildlife populations. As a result of these emissions (and from other sources such as smokestacks), the Clean Air Act establishes a process for the USEPA to enact National Ambient Air Quality Standards (NAAQS). Primary NAAQS are promulgated to protect public from adverse health effects of these pollutants. These standards are designed to protect sensitive populations (children, the elderly, people with cardio-vascular and pulmonary conditions) from unhealthful levels of air pollution with an adequate margin of safety. Secondary NAAQS are promulgated to protect wildlife, crops, vegetation, buildings and visibility. For the pollutants of concern for this project, primary and secondary NAAQS are in place for carbon monoxide (CO), Particulate Matter 10 microns in diameter or less (PM10), Particulate Matter 2.5 microns in diameter or less (PM2.5), and Nitrogen dioxide (NO2). Primary and secondary NAAQS are also in place for ozone, but it is more of a regional pollutant, in that its concentration in the lower atmosphere does not vary substantially over relatively large distances. The other pollutants listed previously are localized (or microscale) pollutants in that their concentrations can vary substantially over short distances. These are the pollutants of most concern for this project and should be analyzed for their impact on public health in general and on sensitive populations such as visitors and shoppers to the project area, pedestrians walking near the project area, nearby current and future residents and businesses, and their impact on the endangered and threatened species and species of special concern in the project area (Karner blue butterfly, frosted elfin, northern long-eared bat, worm snake, eastern spadefoot toad, eastern hog-nosed snake, eastern whip-poor-will). These pollutants are also localized in that their concentration varies significantly over short distances. Due to the emissions from increased traffic and new parking lots from this project and emissions from construction equipment that will be used for this project, a comprehensive study of the impacts of these pollutants from this project is needed also.;

3) it does not address parking lots, which are expected to be the highest source of emissions in the project area;

4) it does not address all air pollutants that will be emitted as a result of this project; and

5) the traffic study is insufficient for a project of this scale and magnitude.

Response 7: The updated Maser traffic analysis includes several additional roadway improvements, including a roundabout (see FEIS, Section 3.0 Corrections and Revisions to DEIS) relevant to the Air Quality analysis. As a result, a supplemental Air Quality Analysis has been

prepared which takes into consideration of the benefits of those improvements. See, FEIS Appendix 18.

The report determined that the capture screen criteria found in the New York State Department of Transportation, The Environmental Manual Chapter 9 applies to certain intersection analyzed for project traffic. A traffic volume threshold was triggered which then determined that a quantitative analysis was necessary.

This traffic includes the existing volumes, a growth factor and project induced vehicles. The Environmental Manual provides that up to three intersections should be modeled for air quality, if they exceed traffic Level of Service C and exceed several volume threshold or emissions criteria. In this case, two signalized intersections exceeded level of service C in the no build and build conditions. These signalized intersections were Western Avenue at Rapp and Johnston Roads, Washington Avenue Extension and Springsteen Road. The traffic modeling includes development of Site 2 by 2022, all three project sites by 2025 and a general increase in traffic growth accounting for cumulative and regional effects.

The two intersections operating at Level of Service D in the future build conditions were modeled for air quality, per The Environmental Manual. All nearby receptors were included in this analysis including both residential and commercial locations. CO modeling included the number of vehicles anticipated to park at the proposed Costco (Site 2) and Sites 1 and 3 (i.e., 1,700 vehicles). These “parked” vehicles are incorporated into the model as queueing (i.e., at the gas refueling station – although refueling vehicles are generally turned off for safety reasons), accelerating and decelerating and analyzed with start and stops. Thus, cars queueing at gas pumps and cars waiting to enter Western Avenue have been incorporated into the quantitative analysis. Emission factors were determined using MOVES2014b (for up to 1 mile of the primary roadway in the intersections) and then “dispersed” utilizing the first level Gaussian distribution model recommended in The Environmental Manual. Carbon monoxide is a dominant emission from vehicular traffic. These intersections readily meet the carbon monoxide standard as provided in the New York State Ambient Air Quality Standards. (SAAQS).

Comment 8: Zamurs and Associates, LLC, undated report.

Appendix P of the DEIS suggest that because NYSDEC air quality monitors show concentrations below the primary and secondary NAAQS that air quality is not, and will not be, a problem at locations in and around the project area. As Appendix P lists, the NYSDEC monitors are in Loudonville, downtown Albany and the Bronx, miles away. The NYSDEC monitors do not reflect the air quality in the project area and their measurements do not reflect the air quality in the project area that will occur with the completion of the project.

Response 8: See Response to Comment 7.

Comment 9: Zamurs and Associates, LLC, undated report.

Another important consideration is the impact of more traffic congestion in the project area due to the completion of this project. Emissions quickly increase as vehicle speeds decrease. Although Figure 2 shows the change in emission with speeds for CO, similar trends occur for the other

localized pollutants described above (see Figure 23 in “Near-road Dispersion Modeling Of Mobile Source Air Toxics (msats) In Florida”; K. Westerlund, University of Central Florida, 2013 for a similar figure for benzene emissions) . The traffic studies don’t describe what will happen to speeds at affected intersections in the project area. Calculations of LOS are not adequate since each LOS has within that LOS a range of delay and associated speeds. Thus, within one LOS category, speeds, and therefore emissions (as shown in Figure 2) could change substantially. This is especially true for the worse LOS cases (D, E or F). The degrading of the Route 20/Johnston Rd intersection to LOS D will result in an increase in emissions and could result in unacceptable levels of air pollution. An analysis is needed to determine if this will be the case, and, if so, how those levels of air pollution could be mitigated.

Response 9: See Response to Comment 7.

Comment 10: Zamurs and Associates, LLC, undated report.

By the nature of this project, more heavy-duty vehicles will be operating in the project area and nearby area. These vehicles will be in the project area during construction bringing construction materials, equipment and supplies to the area, as well during the operation of the Costco facility, with the constant need to re-supply the facility. Typically, this re-supply will be with heavy-duty trucks. These vehicles emit much more pollution than light-duty vehicles (passenger cars). Large increases in emission rates for heavy-duty vehicles (trucks), compared to passenger cars, occur also for the other pollutants discussed above. This expected significant increase in truck traffic in the project area likely triggers a need for an air quality analysis per screening capture criteria 3 of NYSDOT’s TEM air quality analysis procedures.

Response 10: A quantitative analysis was performed to determine potential air quality impacts associated with the project. See above Air Quality responses. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

Comment 11: Zamurs and Associates, LLC, undated report.

This project will create 1700 new parking spaces. This amount of parking spaces will likely have a significant impact on air quality in the project area. In terms of vehicle operation and emissions, parking lots have substantially different operating characteristics compared to highways, intersections and roadways. In addition to the typical air quality effects of parking lots, the Costco parking lot will have the added negative effect of vehicles idling in lines at the gas pumps. This will only exacerbate the potential negative air quality impact of the parking lots associated with this project.

Response 11: There is no air quality testing methodology for outdoor parking lots.

A quantitative analysis was performed to determine potential air quality impacts associated with the project. See Response to Comment 7. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

The proposed parking for Site 1, Site 2 and Site 3 (future development) conforms to the parking requirements of Section 280-25 of the Town Code.

Comment 12: Zamurs and Associates, LLC, undated report.

The NYSDOT air quality analysis procedures do not address the air quality aspects of parking lots. However, USEPA does recognize the nature of vehicle operation and emissions in parking lots. Their latest version of the emission model, Motor Vehicle Emission Simulator (MOVES), MOVES2014b, does take into account vehicle emissions from parking lots and generates much higher emissions than from vehicles operating on roadways. This feature, so-called “offnetwork”, captures start, evaporative and extended idle emissions, typical of parking lots. The DEIS for this project should include an air quality analysis of all the new parking lots, especially the Costco parking lot, using the “off-network” approach as if they are all in operation.

Response 12: A quantitative analysis was performed to determine potential air quality impacts associated with the project. See Responses to Comments 7 and 13. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

Comment 13: Zamurs and Associates, LLC, undated report.

The air quality analysis for this project must consider concentrations of these pollutants (CO, PM10, PM2.5, NO2 and MSATs) near parking lots and near congested existing and to be built intersections (at least LOS D or worse) to fully assess the potential air quality impacts of the project on visitors to and residents of the area. Should the analysis uncover any primary or secondary NAAQS violations or unhealthful levels of hazardous air toxics, mitigation measures must be implemented to eliminate or reduce these negative impacts.

Response 13: The intersection analysis determined that the proposed project meets the carbon monoxide standard as provided in the New York State Ambient Air Quality Standard. (SAAQS). Carbon monoxide acts as the indicator for other vehicle pollutants. Further, particulate matter analyses are not required for a project vehicular mix as expected for these particular proposed uses. See attached supplemental Air Quality Analysis in [Appendix 18](#).

Comment 14: Zamurs and Associates, LLC, undated report.

An important element that is missing from the traffic study is the prediction of traffic levels and speeds in the project area during the winter holiday season. This time of year attracts many more visitors to shopping centers in general and will likely also do so in the project area as well if this project is completed. There will also be extra diesel truck trips to re-supply the Costco facility. This time of year is also of particular concern for air quality. The cold, stable atmosphere makes it more difficult to disperse some air pollutants. Thus, concentrations of these pollutants will likely be higher than other times of year with warmer temperatures and less congested traffic and will be more likely to cause a negative air quality impact.

Response 14: The intersection analysis determined that the proposed project meets the carbon monoxide standard as provided in the New York State Ambient Air Quality Standards. (SAAQS). Modeling input values for MOVES 2014b included the month of January. A supplemental report containing the air quality modeling analysis is provided in Appendix 18.

The proposed refueling station and suppliers will comply with all applicable New York State regulations for liquid and vapor controls.

Comment 15: Lisa and Tom Hart, March 12, 2020 email; May 13, 2020 public hearing comment of Lisa Hart.

We will have to deal with the noise, use of heavy equipment, etc., with construction going on for possibly 2 years for the apartments and the gas station at Costco and where the tanks will be going, trucks going in to fill them up and fumes from cars and gas pumps as this will not be far from Westmere. The light poles closest to our home are thirty feet high and others will be thirty-six feet high. We're also concerned as the location of the gas station as it seems to be within a couple hundred feet of our yard. What kind of odors will we have to deal with? What will the air pollution from the cars do to us as we will be exposed to this daily? How often will tankers be in there filling up in the in ground tanks? Will there be an odor from that too?

Response 15: Industry standard construction noise construction mitigation measures would be employed, which include:

- Construction activities would be limited to the hours permitted by the Town Code (205-6.f)
- The contractor would be required to prepare a noise control plan to identify the potential for noise impacts according to the specific construction equipment and usage that is expected.
- Stationary construction equipment would be located as far as possible from noise-sensitive sites (i.e. residences).
- Mitigation for diesel engine noise may include use of shields, shrouds, or intake and exhaust mufflers.
- Equipment required to have back-up alarms for safety purposes may utilize an ambient-adjusted alarm tone, or "quackers," which have a less tonal character. Flagging may also be used to eliminate the need for back-up alarms.
- Temporary noise barriers or noise blankets can be installed between construction equipment and sensitive receptors to provide significant noise reduction (typically five to 15 dBA).
- All construction equipment used on-site during construction would be inspected periodically to ensure that properly functioning muffler systems are used on all equipment in accordance with the NYSDEC Best Management Practice (BMP) for reducing noise.

- Equipment may not idle on-site, except as permitted by the Town Code.

An average of 15 fuel deliveries/week which are scheduled during off peak times as feasible.

The on-site light poles will be equipped with shields and downward facing with no light spillage off the site with no impacts to adjoining properties or properties in the vicinity. The request for a light pole height variance has been removed.

Comment 16: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

There are three intersections which will operate at a level of service of “D” upon completion of the project and they were not screened using the proper methodology required by The Environmental Manual.

Response 16: See Response to Comments 7. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

Comment 17: Christopher Walker, Pace Environmental Litigation Clinic, Inc. letter, May 26, 2020.

The traffic study conducted in the EIS did not properly account for criteria three and five in The Environmental Manual.

Response 17: See Response to Comment 7. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

Comment 18: Zamurs and Associates, LLC, undated report.

The traffic study must look at impacts to the regional transportation network. It should use a transportation demand model to examine the impacts on roadways of, at least, the one-hour drive upstream from the project area. The Capital District Transportation Committee, the local Metropolitan Planning Organization, has such a model that may be available for use, or the project sponsor could choose to use a different, technically-sound model. In either case, the number of additional trips must be identified and the roadway network extending out at least one hour’s drive must be modeled. Roadways expected to experience a 10% increase (using one of NYSDOT’s screening capture criteria) in traffic, or trigger one of the other capture criteria must be identified. The emissions impact from all these affected upstream roadways must be accounted for and documented, and other potential sites (neighborhoods, schools, nursing homes, etc.) must be examined to make sure that those locations do not suffer the same air quality impacts that will likely occur in the immediate project area with the completion of the project.

Response 18: See Response to Comment 7. A supplemental report containing the air quality modeling analysis is provided in [Appendix 18](#).

2.8 Municipal Revenues and Finances

Comment 1: Daniel McCoy County Executive, March 13, 2020 letter.

Crossgates is an economic driver for the County of Albany employing over 2,700 people most from the Town and County. Crossgates is a tremendous contributor to property and sales tax revenue for the Town and surrounding communities. The projects are consistent with the Westmere Corridor Study and the Transit Oriented District. The County Executive supports the projects which will lead to needed job creation and government revenue while supporting responsible growth.

Response 1: Comment noted. Based on the Camoin Report in the DEIS, it is anticipated that the projects will provide an economic benefit to the County, Town and School District and contribute to the local economy by providing numerous construction and operational job opportunities for the County and local community.

Comment 2: The County Executive supplements his prior letter dated April 10, 2020 now addressing the impact of the COVID 19 pandemic and supporting the need to restart the economy and the economic benefits of the proposed action. The need to get businesses re-opened and people back to work. The proposed action will greatly assist in this effort.

Response 2: Comment noted. The Planning Board agrees that restarting the economy is an important goal as the state and localities emerge from the COVID-19 pandemic.

Comment 3: May 13, 2020 public hearing statement of Karen White.

Commenter questions tax revenue and school tax revenue projections in light of pandemic. People's buying habits are going to be changed for a very long time. We're going to have to pay for water, fire, sewer, and police.

Response 3: Commenter assumes that the pandemic will continue indefinitely. Since the onset of the pandemic, Costco was deemed an essential service by New York State and has been open on a continual basis. The project will be required to pay its own water and sewer charge and property taxes will contribute to fire and police services. The concern over lower demand for the use of the property during the pandemic will also decrease the use of emergency services.

Comment 4: Jed Brewer, PhD, May 13, 2020 letter; May 13, 2020 public hearing statement of Dr. Jedediah Brewer. Laura Shore, May 26, 2020 email.

Economic Comment on Incumbent Firms for DEIS Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects. I am a private-sector consultant in the convenience retail and petroleum marketing industries among other industries. I live in Bellingham, WA.

In 2007, Commenter wrote a paper titled "Big-Box Stores and Pricing by Traditional Retailers: 'Hypermarkets' and the Retail Gasoline Industry" published as part of my full dissertation titled

“Competition in the Retail Gasoline Industry” and funded in part by the National Science Foundation and found various impacts of competition on existing gas stations. I encourage you to review my full study.

Response 4: See Response to Comments of James Bacon, May 8, 2020 letter in Section 2.4, Responses 1, 16-26.

Comment 5: Lisa Wloch, May 25, 2020 email.

As a real estate professional and Guilderland resident, I've also heard this from longtime Guilderland residents who believe expansion of commercial enterprise makes residential properties less attractive to future buyers and to current owners.

Response 5: Comment noted. See, May 13, 2020 public hearing comment of Bill Coons below.

Comment 6: Lynne Jackson, May 26, 2020 letter.

For such a popular store, why are tax breaks needed? Why should tax payers have to pay to have a Costco built? No tax breaks should be sought by Pyramid or given to Pyramid for this project and the DEIS should specifically state this. In this time of a public health emergency, money is needed for the public benefit, not for a Costco.

Response 6: Comment noted.

Comment 7: May 13, 2020 public hearing comment of Bill Coons.

I'm an associate broker with a local real estate firm and a few concerns that I've heard them, have been property values and is this going to hurt them. Over the years that has not been the case. Crossgates Mall went in back in the 80s and from that point on property values have increased substantially. The other thing I'm looking at is traffic. I don't believe the traffic is going to be a problem. We have 87, 90, Washington Avenue, which a lot of this traffic is going to be diverted to. I heard a lot of talk about the Pine Bush. The land that Costco and the apartments are going on after looking into the application and reviewing things and my understanding is it's not prime land to the Pine Bush. It's not conducive for the Karner Blue or any of the other species. Crossgates is donating 15 acres of land to the Pine Bush. That land is going to be land that borders the other preserve which is more conducive to what we're looking for. I'm all in favor of doing whatever we can to save the Pine Bush and all its species. The other thing I'm looking at is I heard one of the callers talk about bankruptcy with Pyramid. That also is not the case that has since been corrected. It was falsely put out there. So I just want to call and say that I am a hundred percent in favor. It's going to be a huge asset to the town and what construction like this does with the crisis that were in right now the activity gets people going. They see this stuff going on. The store goes in and helps bring traffic into the area. It's going to help other businesses, and with that one of the restaurants that came into town recently people were concerned that the other restaurants in the same mall we're going to get hurt - their business actually increased. That's going to happen with a lot of the other businesses on Route 20. We're going to bring some new traffic in, it's going to

help generate revenue for those business. So, I just want to say I'm one hundred percent in favor of the project and hope you get it approved.

Response 7: Comment noted.

Comment 8: May 13, 2020 public hearing statement of Robin Gray. May 13, 2020 public hearing statement of Frank Casey.

Costco does not hire a lot of full-time staff, most are part time. The residential project will only hire a few people.

Response 8: Site 1 will attract new residents to the Town of Guilderland and Albany County. The Camoin Report included as Appendix H in the DEIS outlines the job creation resulting from Site 2 being developed into a Costco as being over 300 positions (approximately 50% full-time).

Comment 9: May 13, 2020 public hearing statement of Frank Casey.

As far as the economy is concerned, yes a Costco would generate a lot of sales tax, the apartments of course would generate no sales tax but the sales tax is going to go primarily to the county and very little will come back to benefit the town. So I don't see a benefit to the Town of Guilderland from that perspective either.

Response 9: Sales Tax is one form of revenue that will be generated directly by the project for the Town of Guilderland and Albany County. New residents on Site 1 will drive additional sales tax revenue. In Albany County, the Town's share of the sales tax collected by the County is based upon the Town's percentage of the County's total population based on the most recent census. Property tax revenues over what exists today will also benefit the Town.

Comment 10: Ferrandino & Associates Inc., March 31, 2020 letter. May 13, 2020 public hearing statement of former president of Protect Your Environmental organization.

Under Project Benefits, it is projected that more than \$2 million in new annual sales tax being generated as a result of visitors traveling to Albany County and the Town of Guilderland largely driven by the Costco development and new residents being attracted to the new multi-family housing that will attract residents from the region to Guilderland. There is no evidence to indicate that the majority of residents will be relocating from out of the county. If the majority of residents are simply moving within the county, the benefits projected are overstated. Similarly, a market study pertaining to visitors traveling to the proposed Costco should be provided to document the primary, secondary and tertiary markets in order to better determine actual capture rates. In addition, the applicant fails to provide details regarding financial offsets/tax incentives being provided by the Town, County and State governments. Such offsets would need to be balanced against projected new annual sales tax benefits. The positive fiscal impact on the Town depicted by the applicant is likely overstated given that revenues are not balanced against costs.

Response 10: See the Camoin Report in Appendix H of the DEIS which outlines the projected sales tax generation resulting from the proposed development, the majority of which is a result of Costco.

The biggest source of net new sales is from brand-loyal customers who will choose to shop at Costco over any other retail option. Costco is known to carry quality, brand-name merchandise at lower prices than are typically found at conventional wholesale or retail sources. Costco warehouses present one of the largest product category selections to be found under a single roof. Categories include groceries, candy, appliances, electronics, automotive supplies, tires, toys, hardware, sporting goods, jewelry, watches, cameras, books, housewares, apparel, health and beauty aids, furniture, office supplies, and office equipment. Although Costco is known for carrying top quality national and regional brands, members can also shop Costco's private label, Kirkland Signature. As a result of this offering, Costco has amassed a following of extremely brand loyal consumers. Brand loyal consumers that were considered to be net new to the geographies include residents and non-residents who currently travel over an hour and a half away to get to the nearest existing Costco and who would instead do this shopping closer to home at the new Costco. Net new customers also includes people in the region who shop at grocery stores, big box stores, and other retailers outside of Albany County and Guilderland, and who would then choose to do this shopping at Costco.

It is acknowledged that there is a Sam's Club, BJ's, and Restaurant Depot within Albany County; however, the 50% net new assumption only considers the portion of spending that is shifted from outside of the municipalities to Albany County and Guilderland.

Comment 11: Ferrandino & Associates Inc., March 31, 2020 letter.

Under Project Benefits, the DEIS provides estimated figures are not intended to bind either the applicant or the Town Assessor. The applicant should provide projections for all three sites (rather than only for sites 1 and 2). A letter from the Town Assessor would be useful in better quantifying revenues and should be provided.

Response 11: Comment noted. There is no specific project proposed for Site 3.

Comment 12: Ferrandino & Associates Inc., March 31, 2020 letter.

Under Project Benefits, it states the Project will result in the generation of more than 1,175 construction related employment opportunities. The construction payroll is estimated to be approximately \$53 million. The Project will also create approximately 133 part-time and 189 full time permanent employment opportunities, with an annual payroll of \$16.1 million. The median salary for full time employees at Costco was \$38,810 in 2018. Sources and citations, including appropriate multipliers, should be provided for all of the above figures in order to verify authenticity. Regarding Annual Economic Benefits, the positive fiscal impacts depicted by the applicant are likely overstated given that revenues are not balanced against costs. In addition, citations needed to be provided for all figures used.

Response 12: The Economic and Fiscal Impact Report prepared by Camoin Associates included as Appendix H of the DEIS includes the source of projected jobs, payroll, sales tax revenue, etc.

By way of example, The projection of 90% of construction spending being sourced from within Albany County and 60% being sourced from within the Town of Guilderland is a conservative assumption based on construction market data from Esri and Economic Modeling Specialists International (Emsi) for the local area.

Data from Esri shows the supply of building materials far exceeds demand in both geographies. According to Emsi, the percent demand for construction being met in-region is higher for both geographies than the assumptions used.

The jobs and wages are calculated based off the net new sales. Therefore, the jobs/wages displayed are only the net new jobs/wages.

Comment 13: Ferrandino & Associates Inc., March 31, 2020 letter. Judy Bliven, March 15, 2020 email.

Regarding Growth Inducing Aspects, the DEIS states the potential impacts associated with the redevelopment of Site 2 have been analyzed in this DEIS. The decision to construct this Project is guided by market and tenant demands. Contrary to the statements in this section of the DEIS, there is no substantive analysis of potential impacts associated with redevelopment of Site 2; therefore, the decision to develop this use lacks empirical evidence that the cited market area will be able to absorb another "big box" establishment without the existing retail and commercial businesses being negatively impacted, given that it will sell goods and services already available in the community. The addition of Costco gasoline and other related sales in other communities like Guilderland has shown that these volumes cannot be absorbed and has led to existing gas stations' volumes significantly decreasing, with the possibility that existing gas stations' gross profits could be cut by up to 50%. Gas stations with convenience store and tires sales could also take a hit. Decreases in gas, snacks, tire and other related sales (that Costco also sells) could put many of the existing stations in a precarious state. These negative impacts on existing gasoline stations can lead to unemployment, business closures, blight and tax certiorari filings that should be balanced against any tax, other fiscal and community benefits projected by the applicant, and should also be considered by the Lead Agency when gauging the impact of big box stores as required under SEQRA. There is no empirical evidence presented that the applicant's determined market area has guided the decision to build. A full market study and community character assessment must be provided as part of the DEIS in order for the lead agency to assess its impacts on the community in compliance with SEQRA.

Response 13: See Response to Comment Section 2.5 (22).

Comment 14: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding Appendix H in the DEIS Camoin Associates Economic and Fiscal Impact Report, Commenter questions:

Sales Tax Revenue assumptions

Construction Phase Impacts assumptions

Economic Impact - Construction Phase assumptions

Household Spending Impacts assumptions

Spending by New Tenants assumptions

Tables 21-22 and Tables 25-26 assumptions and multipliers

Impact of on Site Employment assumptions and multipliers

New on- Site Sales assumptions

Annual Operations Impact outside market capture rate

New Sales From Brand Loyal Customers, impacting other similar retailers in area

Table 32: Gap Analysis analysis

Response 14: Camoin Associates documented their sources and followed industry standards in preparing the Economic and Fiscal and Impact Report which was included in the DEIS as Appendix H.

Camoin utilized Esri, Economic Modeling Specialists International (Emsi), Town of Guilderland, Albany County, NYS Comptroller's Office, Institute of Transportation Engineers, Bureau of Labor Statistics, National Apartment Association.

By way of example, the analysis incorporated projections of activity that would be net new to the municipality, including new sales from Costco customers for which this location will be more conveniently located than existing locations in Massachusetts as well as sales from people who currently shop at various stores outside of the municipality but who would choose to shop at Costco if it were located in Albany County. Since there are a few large, direct competitors within Albany County, 50% of sales are projected to be net new.

Comment 15: Paul Yakel, May 21, 2020 email.

Due to the Coronavirus, New York State counties are going to lose more than \$2 billion in sales tax revenue. This will strain governing bodies, who will have to plug this hole with other dollars, most likely through tax increases. Today, you have in front of you a sure homerun — plans to bring Costco, an economic engine, to the region. This will put hundreds of people to work, will provide a new option for shoppers and will create more County sales tax revenue. As a resident of Albany County, I understand that Crossgates is the number one shopping attraction in the region. Adding to this by putting a Costco near to the mall will ensure the success of the area while creating opportunity as well. I hope that you will do the sensible thing and support this development for the benefit of Guilderland, Albany County and the Capital District.

Response 15: Comment noted.

2.9 Alternatives

Comment 1: Sharon and Ed Cupoli, April 19, 2020 email.

When reviewing the Gipp Road Alternatives so as to reduce traffic in the Historical District we favor Alternative 9. Alternative 6 has possibilities as well. We do understand that the City of Albany must agree but it works and emergency vehicles have access to the community which has always been my main concern. My husband and I and several of our neighbors do not turn left at the Gipp and Rapp Road intersection just so we do not drive through the historical district. But that is a conscious decision we make.

Response 1: Comment noted. The DEIS included multiple alternatives with the treatment of Rapp Road to reduce the impact on the Historic District. The type of information provided in the comment will be useful in the Town's decision with respect to Rapp Road. The Applicant will work with the Town and the City of Albany to implement that decision.

Comment 2: Andy Arthur for Save the Pine Bush, undated letter.

We concur with Albany Pine Bush Commission, that Alternative 1 provided by the City of Albany would be an ecological disaster and must be vigorously opposed at all levels of government and community advocacy.

Response 2: Comment noted.

Comment 3: Andy Arthur for Save the Pine Bush, undated letter. Save the Pine Bush is generally supportive of any of the alternatives that reduce traffic along Rapp Road, such as those described in Alternatives 4 and 5.

Response 3: Comment noted.

Comment 4: Andy Arthur for Save the Pine Bush, undated letter.

We think additional traffic calming measures, not considered by Rapp Road Development, LLC or the City of Albany, could further slow and discourage traffic on Rapp Road – and improve wildlife crossings over the Butterfly Corridor and suggest “Alternative 10: Convert Rapp Road to Historically Accurate Sand Road between Gipp and Pine Lane.”

Response 4: Comment noted. Creation of a sand road is not a feasible alternative.

Comment 5: Andy Arthur for Save the Pine Bush, undated letter.

Commenter suggests “Alternative 11: Narrow Rapp Road to a Historically Accurate Single-lane Ten Foot Lane between Gipp and Pine Lane.”

Response 5: Comment noted. The lead agency is considering several traffic alternatives.

Comment 6: Andy Arthur for Save the Pine Bush, undated letter.

Commenter suggests Proposed Alternative 12: Consider Both a Sand Road and One Lane 10-foot wide, Two-Way Rapp Road.

Response 6: Comment noted. The lead agency is considering several traffic alternatives.

Comment 7: Andy Arthur for Save the Pine Bush, undated letter.

The best alternative solution for the Pine Bush would be to reject the proposed Rapp Road Apartment Complex and Costco in its entirety and dedicate these lands to the preserve.

Response 7: Commenter's opinion is noted.

Comment 8: Sierra Club, Hudson Mohawk Group, undated letter; see also substantively similar comment of C. Sullivan, May 26, 2020 email, Lynne Jackson, May 26, 2020 letter.

Section 5.0 - "*Reasonable Alternatives Analysis*", the DEIS states that "*The alternative site layout will consider rearrangement of the proposed uses within the Sites that meet the Project Sponsor's objectives.*" This highlights a fundamental flaw in the DEIS. According to SEQRA section 617.9(2) it is implied that the developer's determination as to what the ideal alternative location of buildings and infrastructure should be is not the only consideration, rather this section should be based on examining and diagraming all other possible and reasonable sites for this project, especially those sites on other areas of Pyramid land.

Response 8: Pursuant to 6 NYCRR 617.9(b)(5)(v), the DEIS must evaluate the "range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor". The Alternatives in the DEIS meet this requirement.

Comment 9: Sierra Club, Hudson Mohawk Group, undated letter; see also substantively similar comment of C. Sullivan, May 26, 2020 email; see substantively similar May 13, 2020 public hearing statement of Wendy Dwyer.

Pyramid is attempting to skew building placement and sites to what it favors, and therefore attempting to foreclose consideration of other alternative configurations and sites. The scope of alternative sites should include alternatives such as in the green area between the ring road and Rapp Road, or building residential units in the already built yet vacant areas of the large mall building, or locating them in the parking lot next to the existing hotel (which is much closer to the proposed CDTA center), or moving them to any other side of the Mall structure because no other side will destroy a residential neighborhood.

Response 9: The DEIS does not skew building placement or foreclose other alternative configurations. As set forth in the DEIS, the Crossgates Mall site is made up of several tax parcels, with different ownership. For instance, Macy's owns its own parcel comprising the building and parking area. It operates cohesively through reciprocal easements. There is insufficient land within the mall to support the proposed project on Site 1. Moreover, construction of buildings in the parking facilities may result in parking ratio deficiencies which must be avoided.

Comment 10: Steve Wickham, May 26, 2020 letter.

The DEIS does not adequately address reasonable alternatives for the development or mitigation efforts.

a. In section 3.4.1.3.2 Road Alternatives it describes 7 potential alternatives to mitigate traffic through the Rapp Road Historic District. None of these alternatives are really viable and expose how the only real alternative to this development is to not do it at all.

- i. The City of Albany has advocated for the “Eastern Bypass” which would go directly through the land the applicant is offering to protect as a “mitigation” measure for destroying the ecosystems of Site 1. The land for the “Eastern Bypass” is designated for Full Protection by the Albany Pine Bush Commission. Page 6
- ii. Both options for the “Western Bypasses” have similar ecological concerns as the “Eastern Bypass” and would require land not owned by the applicant.
- iii. Alternates 4, 5, 6 and 9 will all cause hardships to current residents on Gipp Road, Paden Circle, Wilan Lane, Pine Lane and/or residents of the Rapp Road Historic District. Some alternatives would annex Wilan Lane from the City of Albany

Response 10: The Eastern Bypass and Western Bypass were proposed by the City of Albany and evaluated in the DEIS. Commenter’s opinion about potential “hardships” to residents on Gipp Road, Paden Circle, Wilan Lane, Pine Lane and the historic district are noted. The Lead Agency is evaluating such alternatives as required by SEQRA.

Comment 11: Laura Shore, May 26, 2020 email.

Rather than an 18-pump gas station, wouldn’t it be better to construct a public transportation hub there with a Park and Ride that could service Guilderland with bus service? This would bring customers to Crossgates, improve traffic and provide a real benefit to town residents.

Response 11: Comment noted. It is not the objective of the project sponsor to construct a public “park and ride” facility. However, the project sponsor is partnering with CDTA to construct a bus rapid transit facility and improvements at Crossgates Mall, which recently resulted in a new bus stop location at the Mall. In addition, CDTA will be adding a Bus Rapid Transit “Purple Line” beginning in downtown Albany and ending at Crossgates Mall. CDTA describes an existing park and ride on its website as containing 50 parking spaces located on the Western Avenue side of the Mall by the Cafe Court. These improvements and additional services being offered demonstrate the project sponsor’s current and future commitment to public transit services.

Comment 12: Russell Ziemba, May 25, 2020 email.

Why not make money while doing something helpful for the community and the planet? We could have a win/win situation if we created the right plan. I’ve proposed some alternative development

proposals for Crossgates in the Pine Bush and within neighborhoods in the urban core of Albany. The DEIS did not adequately consider these types of alternatives to what is now being proposed by the applicant.

Response 12: The Applicant does not own property in the “urban core of Albany”. Costco has expressed a desire to locate their store at Site 2 which has excellent access to local and state highway networks, not in any other location.

Comment 13: Lynne Jackson, May 26, 2020 letter.

This project, if built, will impact not only Guilderland residents, but Albany residents too. Pyramid owns land in this area in both municipalities. In addition, the DEIS offers several different alternative road configurations, some of them require changes in the roads in Albany. The Town of Guilderland Planning Board should not be the lead agency on this project, as it has no control over mitigation in another municipality. The lead agency should be an agency with jurisdiction in both municipalities, such as the NYS Department of Environmental Conservation. NYSDEC was the lead agency for the original construction of Crossgates; they should be the lead agency on this major expansion. The Town Planning Board changed the scope of the project between the adoption of lead agency status and the issuing of the Draft Scope. The project doubled in size, and added different types of businesses with more intense uses. The project is one that will draw people from the region, not just locally. The proposed traffic alternatives alone would require a different lead agency for consideration. Many of the road alternatives are located in the City of Albany and the Town of Guilderland Planning Board has no jurisdiction over road configurations in the City of Albany.

Response 13: The Town Planning Board is the appropriate Lead Agency for the proposed action. NYSDEC expressly consented to the Planning Board acting as Lead Agency. Some, but not all of the alternative road configurations would require the approval by the City of Albany. The Lead Agency is evaluating all the alternatives as part of the SEQRA process.

Although the Planning Board had already undertaken a nine-month SEQRA and zoning review of the Rapp Road apartment project, the Planning Board, as lead agency, called a halt to that process and expanded the scope of the environmental review to assess the cumulative impacts of developing additional lands owned by the applicant in the immediate area of the Rapp Road site.

The Planning Board issued a Part 3 to the EAF which redefined the “SEQRA Action” as Rapp Road Residential Development **and Additional Lands** (emphasis supplied). In support of that decision, Part 3 of the EAF provided:

Based on the information in Parts 1 and 2 and the entire record before the Planning Board, including expert environmental reports, the proposed action consisting of the development of 222 apartments on 19.68 acres will not have a significant adverse environmental impact on the environment. However, because the proposed action is 1.) in the vicinity of other property within the Transit Oriented District located between Crossgates Mall Road and

Western Avenue (see attached plan); and 2.) this property is owned or controlled by entities affiliated with the project sponsor and developable with the TOD that utilize the same transportation and municipal facilities, the Planning Board determines that there may be a potentially significant cumulative adverse environmental impact.

The EAF, now consisting of Parts 1, 2 and 3, attached a map identifying the three parcels of land which were included in the expanded definition of the “SEQRA Action.”

On August 14, 2019, pursuant to SEQRA, the Planning Board adopted resolution issuing a Positive Declaration requiring a cumulative impact analysis of the larger “SEQRA action” described in Part 3 of the EAF. The Positive Declaration included the requirement that a Draft Environmental Impact Statement (DEIS) be prepared for the three-site “action,” and that a public Scoping procedure be undertaken to determine the content of the DEIS.

The Positive Declaration describes the two additional sites to be analyzed in the DEIS: (1) lands located within the TOD district at the intersection of Crossgates Mall Road and Western Avenue (“Site 2”) would be evaluated for development of a potential ±160,000 square feet retail store and fueling facility on ±16 acres; and (2) lands immediately adjacent to Site 2 totaling ±11.34 acres of land (“Site 3”). While no development plans were identified for Site 3, the Planning Board required that the site be analyzed in the DEIS as part of the cumulative impact review as conceptually including ±115,000 SF of retail, 50,000 SF of office space, and 48 apartments.

The Positive Declaration states that:

[T]wo public meetings were held by the Planning Board on the proposed Rapp Road Residential project, and written comment letters were received from agencies and members of the public. Several commenters indicated that the environmental review should include the preparation of an environmental impact statement. **Based on this record, and giving consideration to the development potential of additional TOD zoned lands under ownership or control of the Applicant that will utilize the same transportation network and municipal utilities, the Planning Board has determined to undertake a cumulative impact review of the areas described in Part 3 of the EAF and shown on the attached plan.**

(Emphasis added)

As required by the SEQRA regulations, the applicant then provided a draft Scope for the DEIS, addressing all three sites, which was then subjected to an extended public comment period.

Comment 14: Lynne Jackson, May 26, 2020 letter.

The road re-configurations outlined in Alternatives 1, 2, and 3 are located in the City of Albany, and all three propose destroying existing Pine Bush ecosystem. The Town of Guilderland should not entertain these road alternatives and these should be removed from the DEIS. These alternatives would more than negate any mitigation proposed by Pyramid because of how much Pine Bush ecosystem would be destroyed and the environmental impact of building roads in the Pine Bush. These alternatives themselves would require a SEQRA process, with a different lead agency.

Response 14: Commenter's opinion is noted. The Lead Agency is evaluating all the alternatives as part of the SEQRA process.

Comment 15: May 13, 2020 public hearing comment of Andy Arthur; see also substantively similar May 13, 2020 public hearing statement of Lynne Jackson.

Section 6 of the DEIS says irreversible and irretrievable commitment of resources. My concern is analysis in the DEIS to not provide a cumulative impact analysis. The 42 acres of land that is being used to develop in these sites is relatively small in the current context of the Pine Bush but ignores all historical development and that's what the real problem because there has been so much development over the years. I would hope that the planning board would require the developer to take a more cumulative look at the whole proposal and how it fits into a historical development patterns over the past sixty years and work to insure that that we don't continue to lose Pine Bush.

Response 15: Commenter's opinion is noted. The DEIS provides an in depth analysis of the current Pine Bush Management Plan which evaluates cumulative impacts, and identifies property for different levels of inclusion in the Preserve. These classifications include "full" protection lands and "partial" protection lands and plans for future fire management. The proposed action was evaluated in the context of the recommendations in the Pine Bush Management Plan prepared by the Pine Bush Commission, and fully complies with the recommendations. The Commission confirmed as such in their comment letter dated March 10, 2020 and statements during the public hearing before the Lead Agency.

Comment 16: May 13, 2020 public hearing comments of Iris Brodye.

The mitigation strategy here, because there needs to be one when creation of an adverse condition is proven to open up a resident access road from a replacement cul-de-sac to be built is a violation of a twenty-five-year-old special use permit agreement with Pyramid from their 1994 expansion. In it Pyramid is required to maintain a cul-de-sac a defining feature of the street and intended to ensure a boundary of seclusion from the expansion. In the new configuration, access to Rapp Road off of the cul-de-sac does not comply with either the definition of a cul-de-sac or the intent of the commitment to that provision.

Response 16: In 1994, a condition associated with a special use permit, provided for construction of a cul-de-sac at the end of Westmere Terrace. The Site 1 site plan proposes relocating the existing cul-de-sac to keep Westmere Terrace separate from the Rapp Road residential apartments and provide space for the proposed berm and tree plantings. Upon completion of the project a cul-de-sac will exist at the end of Westmere Terrace.

The residential access road was an alternative design option to provide the residents of Westmere Terrace access to the traffic light at the intersection of Rapp Road and Western Avenue.

In fact, potential access from Westmere Terrace to Rapp Road was also raised in 1994 by a Westmere Terrace resident with the NYSDOT to address left hand (eastbound) turns from Westmere onto Western Avenue. In a letter dated October 7, 1994, NYSDOT responded that: “there does appear to be one potential solution and that would be to essentially build a one-way exit roadway from the back of Westmere Terrace on to Rapp Road” which could be built in such a way “from becoming a bypass into the new Crossgates Mall complex. The advantage is it would allow residents of Westmere Terrace to exit on to Rapp Road and be able to take a protected, signalized left turn on Western Avenue.” See [Appendix 19](#).

The Site 1 site plan proposes removing and relocating the existing cul-de-sac to 28 Westmere Terrace to keep Westmere Terrace separate from the Rapp Road residential apartments and provide space for the proposed berm and tree plantings. The residential access road was an alternative design option to provide the residents of Westmere Terrace access to the traffic light at the intersection of Rapp Road and Western Avenue.

Comment 17: May 13, 2020 public hearing statement of Kathleen Liebman.

Commenter from Westmere opposes alternative allowing resident access to Rapp Road.

Response 17: Comment noted. See Response to Comment 16.

Comment 18: May 13, 2020 public hearing statement of Steve Wickham.

They also did not consider any alternatives east of Rapp Road or the development of the proposed Site #1 which would make better use of the already developed mall property and the underutilized parking lots. The applicant claims “Rapp Road development does not have common ownership with Crossgates Mall”, but it's my understanding that Pyramid Companies are behind all of this development and they own the mall. In the day of ever-increasing climate-change, burgeoning insect decline and outright species extinction, it is not responsible to turn vacant land into parking lots.

Response 18: Comment noted. In addition to separate ownership, there are specific obligations to different tenants, as well as financial agreements which prevent development east of Rapp Road.

Comment 19: James Bacon, May 8, 2020 letter.

The DEIS is replete with conclusory statements and lacks the supporting data necessary to allow the lead agency to identify, discuss and examine mitigation measures as required by SEQRA.

Response 19: Commenter’s opinion is noted. The DEIS contains professional reports from an engineering firm, a traffic engineering firm report and an environmental consulting firm.

Comment 20: James Bacon, May 8, 2020 letter.

The DEIS contains no information on fuel truck deliveries or projected annual sales of gasoline. It is reasonable to require analysis of how gasoline sales in excess of 10 million gallons a year would affect traffic generation estimates. In every respect, the lead agency must consider that “[i]n evaluating the potential environmental impact, agencies generally consider the ‘reasonable worst-case scenario,’ with the maximum development and negative environmental impact.

Response 20: See Responses to Comments in Section 2.4 of this FEIS.

Comment 21: James Bacon, May 8, 2020 letter.

The DEIS fails to analyze a reasonable range of alternatives. Given the SEQRA parameters applied to the Costco application, the lead agency should analyze an alternative that does not include the Costco fueling facility. This would accomplish several goals. First, it is reasonable to consider a use that conforms in all respects to the zoning code. There is no question that a 160,000 sq. ft. Costco meets the Code’s definition of “Retail, General.” It is only when that use is merged with elements of the Code’s definition of an automobile service station that the merged use assumes a new identity that is not listed as a permitted use in the Code. Proposing a Costco that does not sell gasoline avoids all issues regarding the project’s conformance with the Town Code.

Response 21: See Responses to Comments in Section 2.4 of this FEIS.

Comment 22: James Bacon, May 8, 2020 letter.

Another alternative is urged by the CWS involving shared parking. Immediately adjacent to Site No. 2 is the Crossgates Mall. The western section of the Mall includes approximately 15 acres of unused and/or underutilized parking. Reconfiguring the Costco to be sited within the Crossgates Mall is a reasonable alternative that meets several key CWS recommendations.

Response 22: See Responses to Comments in Section 2.4 of this FEIS.

Comment 23: James Bacon, May 8, 2020 letter.

The scope called for reduced scale alternatives and investigating other areas of the Crossgates mall for potential in-fill development; However, Pyramid claimed examination of alternatives was not feasible due to different ownership. However, the ownership of the adjacent mall tax parcels that might be used for in-fill are all owned by Pyramid affiliates or subsidiaries all sharing the same address and contacts, according to the New York State Department of State corporation search database. And, in a public announcement dated March 18, 2020, Pyramid acknowledged ownership and control of the Crossgates mall along with a number of other malls.

Response 23: See Responses to Comments in Section 2.4 of this FEIS.

Comment 24: Donna Hintz, April 11, 2020 letter. See also substantively similar comment of Frank Carl, April 24, 2020 email; May 13, 2020 public hearing statement Donna__; Steve Wickham, May 26, 2020 letter.

Can the project be relocated to the underutilized parking area to lessen impacts and obtain tax revenue? Alternative section contains conclusory sentence and all Crossgates property or facilities should be analyzed. City of Albany has not responded to the alternative traffic analysis, and Alternative 5 defeats the goal of interstate access, a goal of the TOD and for the residents. In section 5.4 Alternative Locations, the applicant claims "the Rapp Road development does not have common ownership with Crossgates Mall" but it's my understanding that the Pyramid companies are behind all of this development and they own the Mall. In fact, Guilderland Police waited for representatives of Crossgates Mall management to arrive and file a formal complaint against me when I attempted to stop the illegal clear-cutting in act of spontaneous civil disobedience on March 26, 2020. If there is no common ownership, where did these representatives have the authority to file that complaint?

Response 24: Shifting the Rapp Road residential development to the interior ring road to the west of Macy's has been examined and is not feasible for many reasons. First, the Rapp Road development does not have common ownership with Crossgates Mall. Additionally, Crossgates Mall is subject to tenant and lender restrictions prohibiting and limiting outparcel development. The location is not of sufficient acreage to support the project, including the size of the project and number of parking spaces and required greenspace. The area is approximately 5.50 acres and currently utilized as parking and greenspace for the mall. Moving the five story buildings and other buildings to this location would be immediately south of the established Karner Blue Butterfly Hill which is located adjacent to the north of this parking area. Furthermore, it could have other unintentional adverse environmental consequences. Moreover, approved and required parking spaces for the mall would be removed. Traffic generated from the project at this location would still utilize upper Rapp Road for ingress and egress not address the desire for decreased traffic on the upper Rapp Road neighborhood.

The City of Albany provided a written response to the proposed Rapp Road traffic mitigation alternatives on May 13, 2020 rejecting all of the reasonable alternatives. The City's preferred alternative is not a reasonable alternative because it eliminates access to Western Avenue southbound and emergency access.

2.10 Water Resources

Comment 1: Albany County Department of Public Works.

Summary:

- 14.8 ac
- Stormwater Infrastructure drains to Crossgates SW infrastructure, then drains to Krumkill Crk (Class A Stream)
- 3 Water Quality Structures: 3 Contech CDS Units, 1 StormTrap System
- Wetland Disturbance: .093 ac, seeking permit from USACOE for fill
- Oil Water Separator is not connected to Sanitary Sewer lines, needs to be
- Test Pits/Borings:
 - o Groundwater encountered between 2.5' and 18'- on average 14.3'
 - o Excavations will be encountering groundwater- Underground storage tanks, utility excavations.

Response 1: See [Appendix 20](#) - April 21, 2020 Maser Consulting Response Letter

Comment 2: Albany County Department of Public Works.

Fill:

- Stream/drainage ditch area to the North receiving roughly 20' of fill, settling issues with utilities placed in fill
- Geotechnical Report:
 - o Concerns with sandy soil presenting structural support issues for structures
 - o Underground Storage Tanks may require tie downs due to groundwater infiltration into excavations
 - o Cut and mass fills averaging +/- 8 feet throughout the majority of the site
 - o Structural fill may need to be brought on site if excavated soil does not meet compaction requirements

Response 2: See [Appendix 20](#) - April 21, 2020 Maser Consulting Response Letter

Comment 3: Albany County Department of Public Works.

Site Plans:

- Sheet 5, "Water that accumulates in the open trench will be completely removed by pumping, as required, to a facility for removal of sediment in accordance with NJ-DEP guidelines."
- NYSDOT guidelines are to be used for this project, not NJ-DEP

Response 3: See [Appendix 20](#) - April 21, 2020 Maser Consulting Response Letter.

Comment 4: Albany County Department of Public Works.

Phases of Work:

- SWPPP states 3 Phases of Work will occur, each phase is encompassing the entire property and ROW for utility excavation
 - o Phase 1: Initial Site Prep Phase, Total Disturbance 17.41 acres
 - o Phase 2: Rough Grading Phase, Total Disturbance 17.41 acres
 - o Phase 3: Final Phase, Total Disturbance 17.41 acres
- Per MS4 SWPPP Checklist:
 - o “Request to disturb greater than 5 acres at any given time including justification for disturbance, additional erosion and sediment control measures to mitigate disturbance, phasing plan, cuts and fills plan, and total acreage to be disturbed in each phase.”
 - o Each phase is over 3x the recommended 5 acre maximum disturbance of a construction site at one time (GP-0-20-001). The idea of phase work is to prevent expansive disturbances to a construction site from occurring.
 - o Consideration should be made to reduce the size of the disturbance in each phase, or justify why the disturbance is necessary for the scope of work.
- Copied from GP-0-020-001:

The owner or operator of a construction activity shall not disturb greater than five (5) acres of soil at any one time without prior written authorization from the Department or, in areas under the jurisdiction of a regulated, traditional land (Part II.D.3) 16 use control MS4, the regulated, traditional land use control MS4 (provided the regulated, traditional land use control MS4 is not the owner or operator of the construction activity). At a minimum, the owner or operator must comply with the following requirements in order to be authorized to disturb greater than five (5) acres of soil at any one time:

A. The owner or operator shall have a qualified inspector conduct at least two (2) site inspections in accordance with Part IV.C. of this permit every seven (7) calendar days, for as long as greater than five (5) acres of soil remain disturbed. The two (2) inspections shall be separated by a minimum of two (2) full calendar days.

B. In areas where soil disturbance activity has temporarily or permanently ceased, the application of soil stabilization measures must be initiated by the end of the next business day and completed within seven (7) days from the date the current soil disturbance activity ceased. The soil stabilization measures selected shall be in conformance with the technical standard, New York State Standards and Specifications for Erosion and Sediment Control, dated November 2016.

C. The owner or operator shall prepare a phasing plan that defines maximum disturbed area per phase and shows required cuts and fills.

D. The owner or operator shall install any additional site-specific practices needed to protect water quality.

E. The owner or operator shall include the requirements above in their SWPPP.

Response 4: See [Appendix 20](#) - April 21, 2020 Maser Consulting Response Letter.

Comment 5: Albany County Planning Board, April 22, 2020 memo.

The Albany County Planning Board is requesting clarification on the points below. In the Costco SWPPP Narrative there is a mention of USACOE jurisdictional wetlands. These need to be delineated on site plans and mitigation efforts for their disturbance need to be described.

Response 5: Potential aquatic resources were delineated and located as shown on a survey map entitled “Aquatic Resource Delineation Lands Now or Formerly of Crossgates Releasco LLC” as prepared by The Chazen Companies and included in the DEIS. No mitigation is required by ACOE for the Nationwide Permit.

Comment 6: Albany County Planning Board, April 22, 2020 memo.

The Albany County Planning Board is requesting clarification on the points below.

A. Confirm if wetlands, including ACOE wetlands, were impacted from the tree clearing. 2. If wetlands were impacted did Pyramid file for an ACOE permit? 3. A SWPPP inspector should provide documentation that either a SWPPP is not required to cut the trees and/or a SWPPP has been followed, and issue a report as it pertains to the tree cutting. 4. There is a letter from DEC stating that the Town of Guilderland needs to make a determination if there was physical disturbance to the site due to the tree removal. Is the DEIS still valid or will it need to be updated?

Response 6: Tree cutting on Site 2 occurred on March 26, 2020 following notification to the Town, and as published on the Town’s website in conformance with NYSDEC guidance. No wetlands were impacted by such tree cutting. Because there was no land clearing, grading or soil disturbance, the SWPPP requirements were not triggered. The tree clearing activities do not invalidate a DEIS. A report was prepared by B. Laing Associates prior to such tree clearing finding that there would be no significant adverse environmental impacts as a result of such activities. See FEIS [Appendix 21](#).

Comment 7: Albany County Planning Board Recommendation.

Drainage: Maser Consulting, on behalf of Pyramid LLC, responded to the Department of Public Work’s comments about the exceeding 5 acres disturbances in their phasing descriptions as such: “Due to the extent of mass grading +/-8’ across the majority of the site and the complexity of the proposed site improvements, it is not feasible to split up construction in such a way that there is less than 5 acres of disturbance at any given time.”. For construction activities outside of grading, Pyramid should adhere to recommended 5 acre maximum disturbance of a construction site at one time (GP-0-20-001).

Response 7: Comment noted.

Comment 8: Sierra Club, Hudson-Mohawk Group, undated letter; see also substantively similar comment of C. Sullivan, May 26, 2020 email, May 13, 2020 public hearing statement of Karen White.

The Town should retain an expert to examine the effects that the additional runoff waters will have on the accumulation of water on Western Avenue that creates flooding in front of Stuyvesant Plaza. The report must also state how a principal aquifer currently on the development site will be affected.

Response 8: Each project site proposes disturbance over one acre and therefore must meet the requirements of the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) and the NYSDEC Stormwater Management Design Manual (NYSDEC SWMDM). Per the SPDES permit, the Town of Guilderland is an MS4 and will review the SWPPP prior to NYSDEC approval. Any further review is at the discretion of the Town of Guilderland.

Comment 9: Sierra Club, Hudson-Mohawk Group, undated letter.

Water engineers for the Town of Guilderland and the City of Albany must formally approve of the plans contained within the DEIS. The City of Albany is included here because most certainly, transformation of greenspace at this scale into impervious surfaces will undoubtedly affect runoff and sewage overflows within the City due mainly to the combined sewage overflows (CSOs) frequently experienced by the City in this region (as mentioned above at Stuyvesant Plaza) during heavy rain events.

Response 9: The Town of Guilderland is an MS4 and will review the SWPPP prior to NYSDEC approval. The project proposes infiltration practices across all three sites as a means for stormwater management. Infiltration practices standard stormwater management practice with the NYSDEC and all practices will be designed to requirements set forth in the NYSDEC SWMDM. In addition, each project site will meet or exceed the water quantity requirements set forth in the NYSDEC SWMDM. Infiltration practices will reduce the amount of stormwater entering the Town of Guilderland municipal storm sewer system by promoting groundwater recharge over off-site discharge.

The project sites do not lie within the City of Albany jurisdiction, and therefore does not require review and approval by the City of Albany prior to NYSDEC approval. We concur that areas within the City of Albany are part of the combined sewer overflow districts, however the project site does not propose connecting to them.

Comment 10: Viola M. Desch, May 25, 2020 letter.

Additional measures are needed to ensure protection from negative environmental impacts. Current plans show no erosion fencing. The parking lot appears to be higher than my property which could cause drainage issues.

Response 10: Each project site will be required to prepare an Erosion and Sediment Control Plans per GP-0-20-001. Erosion and Sediment Control plans will meet the requirements of GP-0-20-001 and the NYSDEC Standards and Specifications for Erosion and Sediment Control (Blue Book). Project sites are designed with grading that directs stormwater runoff into stormwater management

practices that meet the requirements of the NYSDEC SWMDM for treatment prior to infiltration or entering the municipal storm sewer system.

Comment 11: Ferrandino & Associates Inc., March 31, 2020 letter.

Though stormwater is discussed on page 40 of the DEIS and in the Appendix on stormwater management, the cost to the Town in servicing this stormwater is not fully discussed, other than a reference that the property owner is responsible for servicing the on-site system. However, who is responsible for the costs associated with feeder lines, etc.?

Response 11: The operation and maintenance of feeder lines is the responsibility of the entity that the feeder lines are within. Storm sewers within Town roads are the responsibility of the Town of Guilderland. Storm sewers within NYSDOT roads are the responsibility of the NYSDOT. Storm sewers on private property are the responsibility of the property owner, unless an easement and maintenance agreement has been provided. If an easement and maintenance agreement is provided then the responsible party is outlined in the agreement.

Comment 12: Erik Kiviat, PhD, Affidavit dated April 24, 2020.

Heavy equipment caused deep ruts in the soils which will cause eroded soils to erode into the wetlands from stormwater because there were no stormwater controls.

Response 12: No wetland or site disturbance occurred during the tree cutting. During construction, each project site will be required to prepare an Erosion and Sediment Control plan per GP-0-20-001 and the NYSDEC Blue Book. The practices in the Blue Book are designed to prevent erosion and sediment traveling across the site. During construction, a, disturbed areas will be either temporarily stabilized if work is proposed at a later date or permanently stabilized if disturbance in a given area is no longer proposed.

2.11 Miscellaneous

Opposition Form Letters

Introduction. A local group of Town residents formed an association regarding development in the Town and, in furtherance of its cause to oppose the Proposed Action, created a website to help members send pre-written comments to the Town Planning Board, as SEQRA Lead Agency, by clicking a few buttons on their website. The website encourages members and the public to send such form letters to the Planning Board. The link to the website is here. <https://www.guilderlandcrg.com/campaign/guilderland-impact-comment-for-rapp-roadcostco-deis>. The below are copies of the form letters and the members who chose to send such letters as comments on the DEIS. While the Lead agency respects the right of the Town residents to submit petitions to the governing bodies of the Town, all of the topics in each of the letters are thoroughly addressed within the text in the various relevant sections of the DEIS and are not responded to herein, but referred to such other sections.

Form Letter 1: Concerns quality of life impact due to the development, inconsistent with TOD, crime at Crossgates, gas station over aquifer, traffic impacts, impact on first responders due to possibly more accidents, impact on water, sewer and road infrastructure, alternative should be development within ring road, no to any future corporate expansion in town and financial status of applicant. Jane Armstrong, May 8, 2020 email; see also substantially similar comment of Kimberly Wagoner, May 11, 2020 email, see also substantively similar comment of Charles Klaer, May 11, 2020 email, Karen Howe 12, 2020, Nancy Relyea, May 11, 2020 email, Chrisine Napierski, May 12, 2020 email, Candace Gauld, May 17, 2020 email, Diana Wright, May 13, 2020, Janine Moon, May 16, 2020 email; Jack Delehanty, May 18, 2020 email, Marjorie Geiger, May 16, 2020 email, Elise Harrison Smith, May 18, 2020 email, Susan VanDerWende, May 22, 2020 email, Steve Wickham, May 26, 2020 letter, James Barrie, May 23, 2020 email, Joe Zuchowski, May 23, 2020 email, Maureen Ridge, May 23, 2020 email; May 13, 2020 public hearing statement of Chrisine Napierski, May 13, 2020 public hearing statement of Claire Nolan, May 13, 2020 public hearing statement of Alex Brownstein, May 13, 2020 public hearing statement of Harry Howe, May 13, 2020 public hearing statement of Susan Griffith, May 13, 2020 public hearing statement of Sarah McDonald.

Response to Form Letter 1: All substantive issues have been addressed in the DEIS and FEIS.

Form Letter 2: The DEIS for the proposed development projects should be rejected because the following are not adequately addressed: impact on plant and animal species in the Pine Bush, the cumulative impact of this development plus other proposals on the Pine Bush is not adequately addressed, sixth major extinction is occurring, mitigation and decreasing the size of the Pine with no expansion of habitat, impact on ecosystem. Ann Hunter, May 14, 2020 email, see substantively similar comment of Diana Morales Sat, May 16, 2020 email, Gale Leonard, May 17, 2020, Janine Moon, May 16, 2020 email, Jeanne Finley, May 14, 2020 email, Laura Welles, May 14, 2020, Steve Wickham, May 26, 2020 letter, Serap Salik, May 26, 2020 email, Rick Byron, May 26, 2020, Adam Vanburen, May 24, 2020, Alexa Haggerty, May 26, 2020 email, Amy, May 24, 2020 email, Anita Deragon, May 26, 2020 email, Anne Liljedahl, May 22, 2020 email, anonymous (3x), May 25 email, McMahan, Ashling, May 26, 2020, Bailey Godson, May 26, 2020 email, Barbara

Wickham, May 22, 2020, Bri Hill, May 24, 2020 email, Cameo Ivie, May 26, 2020 email, Cari Gardner, May 25, 2020, Carlee McDonald, May 26, 2020 email, Caroline Hillen Sun, May 24, 2020, Carolyn Rand, May 26, 2020 email, Cassandra Davis, May 26, 2020 email, Zoey Shepard, May 26, 2020 email, Charity Lanthier, May 26, 2020 email, Charlotte Parker, May 26, 2020 email, Christine Connell, May 23, 2020 email, Christine Primomo, May 24, 2020 email, Claudia McNulty, May 25, 2020 email, Crystal Heshmat, May 26, 2020 email, Cynthia Pooler, May 22, 2020 email, Dan Wilcox, May 25, 2020 email, Dana Sela, May 26, 2020 email, Dave Walker, May 25, 2020 email, David Patterson, May 25, 2020 email, Debra Walker, May 25, 2020 email, Diana Abadie, May 26, 2020 email, Elaine Doremus, May 24, 2020 email, Elena Nezdurova, May 25, 2020 email, Fran Peceri, May 24, 2020 email, Frances Adams, May 25, 2020 email, Frances Weatherwax, May 24, 2020 email, Haley Peckham, May 26, 2020 email, Heather Mulcahy, May 23, 2020 email, Hugh Johnson, May 25, 2020 email, James Barrie, May 23, 2020 email, Jane Carmody, May 24, 2020 email, Janel Dievendorf, May 26, 2020 email, Janet Wright, May 25, 2020 email, Jeffrey Schenck, May 25, 2020 email, Jessica Ika, May 23, 2020 email, Jessica Koehler, May 26, 2020 email, Jill Lein, May 25, 2020 email, Jill Panetta, May 24, 2020 email, Jo Salas, May 26, 2020 email, Joanne Steele, May 26, 2020 email, Joe ___, May 23, 2020 email, john zuspan, May 25, 2020 email, Joshua Quiles Mon, May 25, 2020, Juanita Aikens-English, May 25, 2020, Kathleen Walion, May 24, 2020 email, Kathy Manley, May 24, 2020 email, Kevin McKay, May 26, 2020 email, Kristen Skaarup, May 25, 2020 email, Laura Drexel, May 24, 2020 email, Lex Osher, May 25, 2020 email, Lisa Levasalmi, May 25, 2020 email, Lisa Wloch, May 25, 2020 email, Mahera Kachwala, May 25, 2020 email, Marcelo J. del Puerto, May 25, 2020 email, Margaret Stein, May 25, 2020 email, mark maniak, May 26, 2020 email, Marsha Penrose, May 24, 2020 email, Martha Houghton, May 26, 2020 email, Mary Finneran, May 24, 2020 email, Maureen Werntz, May 26, 2020 email, Melissa Elliott, May 24, 2020 email, Michael Marston, May 26, 2020 email, Michelle Lin, May 24, 2020 email, Mickie Lynn, May 25, 2020 email, Mike Smith Tue, May 26, 2020 email, Ness Doughty, May 23, 2020 email, Nicole Ellsworth, May 26, 2020 email, Phillip Head, May 24, 2020 email, R Polito-Bernard, May 24, 2020 email, Renee Parsons, May 25, 2020 email, Rita Maguire, May 24, 2020 email, RL Kuiper, May 25, 2020 email, Russell Ziemba, May 25, 2020 email, Ryan Caruso, May 24, 2020 email, Sabrina Albritton, May 24, 2020 email, Silverman, Samantha, May 26, 2020 email, Sandra Steubing, May 23, 2020 email, Sandy Miller, May 24, 2020 email, Sarah Hodgens, May 26, 2020 email, Sarah Hodgens, May 26, 2020, Sean Mclaughlin, May 26, 2020 email, Serap Salık, May 26, 2020 email, Stephen Piasecki, May 24, 2020 email, Susan Fiehl, May 26, 2020 email, Sylvia Barnard, May 24, 2020 email, Terry Phelan, May 23, 2020 email, Tina Lieberman, May 23, 2020 email, Tony Federici, May 24, 2020 email, Victoria Roberts, May 24, 2020 email, Wendy Parker Chauncey, May 26, 2020 email, Gabrielle Corrodo, May 26, 2020 email, John Wolcott, May 26, 2020 email, Justin Bishop, May 26, 2020 email, Karen Holmes, May 26, 2020 email; May 13, 2020, Alison Selsky, May 26, 2020 email; Public Hearing statement of Hugh Johnson, Margaret Stein, Tatiana Morani, Dennis File, Susan Mosier, Wendy Dwyer, Tina Lieberman, Rosemary Tobin, Janet Maddox,

Response to Form Letter 2: All substantive issues have been addressed in the DEIS and FEIS.

Form letter 3: The DEIS should be rejected because the following are not adequately addressed: contrary to TOD, gas station over aquifer, aggravate traffic on route 20 and the ring road, Increased traffic will only make it more difficult to patronize local businesses, ecosystem of the Pine Bush, or the effect on plant and animal species, the cumulative impact of this development

plus other proposals on the Pine Bush is not adequately addressed, sixth major extinction, insufficient mitigation measures, preserve and protect the current way of life, postpone until COVID-19 pandemic is over. Charles Klaer, May 11, 2020 email; see also substantively similar comment of Alex Brownstein, May 12, 2020 email, Andrea Schwartz, May 18, 2020 email, Elise Harrison Smith, May 18, 2020 email, Barbara Dorato, undated letter, Candice Lider May 17, 2020 letter, Mary Frye, May 22, 2020 email, Sierra Club, Hudson-Mohawk Group, undated letter, May 13, 2020 public hearing statement of Fran Porter, May 13, 2020 public hearing statement of Karen White, May 13, 2020 public hearing statement of Dana Brady, May 13, 2020 public hearing statement of Sandy Stuben

Response to Form Letter 3: All substantive issues have been addressed in the DEIS and FEIS.

Form letter 4: The Planning Board should remove itself as Lead Agency because: the Town allowed illegal clear-cutting, DEIS was not complete when it was accepted, the full scope of the project was revealed until after the lead agency designation, delay until lawsuits are resolved. Jane Armstrong, May 11, 2020 email; see also substantively similar comment of Bob Elmendorf, May 12, 2020 email; see also substantively similar comment of M Callahan, May 12, 2020 email, Anonymous, May 12, 2020 email, Janis Veeder, May 12, 2020 email, Jens Braun, May 12, 2020 email, Pat Mccarthy, May 12, 2020 email, Sarah McDonald, May 12, 2020 email, Tatianna Moragne Tue, May 12, 2020, Dustin Reidy, May 13, 2020 email, Candace Gauld, May 17, 2020 email, Janine Moon, May 16, 2020 email, Sierra Club Hudson-Mohawk Group, undated letter, Christine Kielb, May 26, 2020 email, Stephany Brennan, May 24, 2020 email, Subashree Rai , May 25, 2020 email, Susan DuBois, May 25, 2020 email, Lynne Jackson, May 26, 2020 letter; May 13, 2020 public hearing comment of Susan Dubois.

Response to Form Letter 4: All substantive issues have been addressed in the DEIS and FEIS.

Form Letter 5: Inconsistent with TOD, gas station over aquifer, increased traffic, more difficult to patronize local businesses in that area, Pine Bush habitat is being threatened, quality of life, crime, preserve the way of life, impact on water, sewer and road infrastructure, no to any future corporate expansion in town. Gordon McClelland , May 5, 2020 email. May 13, 2020 public hearing comments of Elizabeth Floyd Mair, Ginny Sussman May 13, 2020 public hearing statement. May 13, 2020 public hearing statement of Gordon McClelland

Response to Form Letter 5: All substantive issues have been addressed in the DEIS and FEIS.

Correspondence in General Opposition

Comment 1: John and Virginia Zuspann March 25, 2020 email; see also substantively similar May 13, 2020 public hearing statement of Robin Gray.

My husband John and I live on Westmere Terrace and oppose the Rapp Road Development Project. Westmere Terrace is the only residential neighborhood being affected by these proposals. Traffic studies show that our street will have the highest impact. Getting in and out of our street is and will be nearly impossible! After a full year and multiple neighborhood meetings with town and applicant representatives, we were promised that our street would always remain a dead-end street.

It is now shown as open with a gate and fob. We do not want our street open. We will be impacted greatly. Our families and homes will be experiencing months or years of pollutants, emissions, dust and construction noise. The foundations of our homes will be affected. And once again, the traffic is projected to be an “F”. All this while your “Westmere Corridor TOD” is worded to “adequately protect nearby neighborhoods”. We are the nearby neighborhood and we need Town of Guilderland appointed officials to help us. What about the values of our properties? Do we get “property value Guarantees”? What about the cost to our School District as new wings will be necessary to school more resident children? We ask you to consider this about Westmere Terrace. What if it was your backyard? What if it was your Parents property? We own and love our homes and we ask that you preserve and protect the quality of this neighborhood. Also, in light of this unbelievable Pandemic, we find it imperative that you provide us a chance to appear before the entire board to express our thoughts and concerns in person.

Response 1: For the units proposed on Site 1, it is not anticipated that there will be a significant amount of school age children added to the Town of Guilderland school district as summarized within the DEIS.

Measures employed for Site 1, to mitigate lighting and noise include the construction of berms with landscaping and 6-foot-high fencing. The cul-de-sac will be relocated, and new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace). The relocated cul-de-sac, berm and plantings shall be constructed prior to construction taking place on the Site 1. The Applicant will install parking lot light poles that are no higher than 12-feet in the southern most parking lot closest to Westmere Terrace. The exterior lighting will conform to Town Code section 280-28(C) (2), (3) and (4).

The proposed project sites will disturb greater than 1 acre of land. As such, coverage under the NYSDEC SPDES General Permit for Stormwater Discharges From Construction Activities (GP-0-20-001) is required and three Stormwater Pollution Prevention Plans will be prepared to include post-construction stormwater management practices, as well as erosion and sediment controls. All post-construction stormwater management practices will be designed in accordance with the NYSDEC Stormwater Management Design Manual. All erosion and sediment controls will be designed and installed in accordance with the NYSDEC Standards and Specifications for Erosion and Sediment Control.

It should be noted that for unsignalized intersections, it is not uncommon for the side road (Westmere Terrace) to operate with delays while the major road (Western Avenue) operates at better Levels of Service. Costco is projected to add an 80 new trips (an increase in traffic of 2.5 %) during the Peak PM Hour and 113 new trips (an increase in traffic of 4.5 %) during the Peak Saturday Hour along Western Avenue at Westmere Terrace.

See, Response to Comment 2.9 (16) regarding street opening.

Comment 2: James Bacon, May 8, 2020 letter; May 13, 2020 public hearing comment of James Bacon.

Citing his memorandum of law commenced in a federal court action against the Town and project sponsor, Commenter asserts that the Planning Board should recuse itself as lead agency and re-circulate all SEQRA documents to all involved agencies to allow re-establishment of lead agency.

Response 2: Commenter's opinion is noted. In the Federal Court action, the Court has dismissed the Commenter's application for a preliminary injunction requesting that the Planning Board not continue acting as Lead Agency in the matter.

Pursuant to 6 NYCRR 617.6(6), this assertion is not a valid basis to reestablish lead agency. No agencies objected to the Planning Board acting as lead agency.

According to SEQRA, "lead agency" means:

an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.

The Planning Board meets this definition because it is required to review and potentially approve the site plan and subdivision for the Rapp Road project and subdivision review for the Site 2 project. It is the agency principally responsible for approving the proposed action.

The Planning Board properly became the SEQRA lead agency for the proposed action and there is no basis to re-establish the SEQRA Lead Agency.

Comment 3: James Bacon, May 8, 2020 letter.

The lead agency violated SEQRA by allowing the applicant to propose the Costco application after completing scoping. Costco was not announced as the proposed tenant of Site No. 2 until November 19, 2019, almost a month after the close of the scoping comments even though the Applicant had been studying Costco at that location for two years. Costco's proposed use presents a unique classification of impacts. A big box store selling fuel to members only is a new use not contemplated by the Code and Costco's traffic generation is higher than other big box retailers. And, Costco will have significant impacts upon community services and community character, especially other businesses on Western Avenue, including gasoline retailers.

Response 3: The scope properly called for the evaluation of a 160,000 square foot retail facility with fueling facilities, which is consistent with the proposed Costco use. Commenter's opinion that Costco is a unique use is misplaced and purported economic impacts on other gasoline stations located on Western Avenue are speculative and not a proper environmental impact under SEQRA. See Response to comments 2.4(1, 16, 17, 19); 2.5 (22) and further discussion of the permissibility of the use, community services and community character.

Comment 4: James Bacon, May 8, 2020 letter.

Conclusory Statements unsupported by empirical evidence requires an SEIS. As demonstrated by the F&A report, the DEIS is rife with conclusory statements and findings unsupported by any documentation. In the absence of supporting data, the DEIS fails to comply with SEQRA..

Response 4: Commenter’s opinion is noted. The voluminous DEIS consists of five volumes (over 1,500 pages) and includes comprehensive traffic studies, including numerous traffic mitigation alternatives for Rapp Road, expert environmental site analyses of flora, fauna, natural resources, stormwater management, hydrology, soil conditions, archeological/cultural resources reports, fiscal impact analyses, alternatives analysis, pedestrian/bicycle transportation plans and detailed site plans for Site 1 (apartments) and Site 2 (Costco). If additional clarification is requested, it will be evaluated and if appropriate, provided. See Response to comments 2.4(1, 16, 17, 19); 2.5 (22).

Comment 5: James Bacon, May 8, 2020 letter; May 13, 2020 public hearing comment of James Bacon.

The damage to Site No. 2 from clear cutting is “newly discovered information” involving a significant impact to the environment and requires a SEIS. The clear cutting is hard evidence of a pre-determined outcome. Any neutral examination of the “no action” alternative or potential alternatives involving unused or underutilized western areas of the Crossgates Mall would be a “hollow exercise” – meaningless in the context of SEQRA’s goals and purposes. It was a SEQRA violation to establish lead agency before announcing that additional sites were to be developed with two additional type one actions a Costco at Site 2 and over two hundred thousand square feet of commercial office and residential development at Site #3.

Response 5: Commenter’s opinion is noted. In the Federal Court action, the Court has dismissed the Commenter’s application for a preliminary injunction requesting that the Planning Board not continue acting as Lead Agency in the matter.

A supplement to the DEIS is not necessary or required. The applicant representatives advised the Town of its plans to follow NYS Department of Environmental Conservation’s guidelines for tree removal activities between November 1 and March 31 to avoid any potential impacts on wildlife and endangered or threatened bat species.

Some trees were cut down and left on the site with no physical disturbance to the soil.

The Town Code requires no permit for such activity. The Town Planner confirmed this with the Town’s Stormwater Management Officer.

A comment letter from the Albany Pine Bush Preserve Commission on the DEIS regarding this property stated:

The proposed and conceptual development described for Sites 2 and 3, respectively, are not within areas recommended for protection in the 2017 Management Plan Update. Consequently, **their development is unlikely to result in potentially significant adverse impacts on APBPC’s ability to create and manage a**

viable preserve. (emphasis added).

On March 24, 2020, the applicant provided an environmental report prepared by B. Laing Associates that examined the types of trees and vegetation on Site 2, and the potential impacts of such proposed tree cutting activities. The Report concluded:

In summary, the proposed tree clearing of Site 2 would not have a significant impact on northern long-eared bat. Even though no confirmed summer occurrences of northern long-eared bats have been observed in the Town of Guilderland, if all tree clearing is done between November 1 and April 1, the owner's actions will be consistent with state and federal guidance and such tree clearing (and leaving the stumps) before April 1, 2020 is specifically authorized and no significant environmental impacts are to be expected. Therefore, we recommend, in an abundance of caution, that tree clearing activities on Site 2 occur between November 1 and April 1. See Appendix 21 for B. Laing Associates Report.

A notice of such activities was then posted on the Town's website summarizing the contents of the report and advised the public that tree cutting activities would commence on March 26, 2020. The notice provided details concerning the tree-cutting activities that would take place, the types of trees that would be cut, including the numerous invasive trees and that there would be no physical disturbance to the site because the tree stumps would remain on site.

The Town Planner also consulted with NYSDEC regarding this issue and was advised by Nancy Baker, Region 4 Permit Coordinator that pursuant to 6 NYCRR 617.3(c)(2), the application was deemed complete considering the Planning Board had previously accepted the DEIS as complete. Ms. Baker also commented that if the trees are cut with stumps left in place and felled trees left in place that this was an allowed activity as DEC does not consider this type of activity physical disturbance of land. The Town Planner also consulted with Mary Barrie, Environmental Program Specialist, who provided similar guidance on tree cutting as Ms. Baker.

In any event, because the Town has no permitting authority over the tree cutting activity, there was not physical disturbance of the site, and this activity is regulated by the NYSDEC, neither the Town, nor the Planning Board authorized the tree cutting activity. Based on all of the documentation and information, there was no potentially significant environmental impact from such activities and an SEIS is not required.

Comment 6: May 13, 2020 public hearing comment of James Bacon.

The complaint also alleges improper segmentation regarding alienation of portions of five town roads, which were not identified in the EIS or the scope.

Response 6: By way of background, the four Town Roads within Site 2 used to service a former residential neighborhood adjacent to Crossgates Mall, a regional shopping center. These roads do not provide through-connections to any other Town Roads or access to any other properties or

parts of the Town. The applicant owns or controls all of the unoccupied properties abutting the roads. The abandonment of these roads to the abutting landowner is not in conflict with any of the Town's land use plans, is within the Town's recently enacted TOD district and is now zoned for development with multi-family and commercial uses and not the current, unoccupied single family home structures, which are considered to be nonconforming uses.

The Town Board was identified as an involved agency in the EAF, and it declined to assert their right to contest the Planning Board's determination to act as lead agency. It is equally important that there were no Town Road abandonment approvals contemplated for the project until the Planning Board issued Part 3 of the EAF and expanded the scope of the "SEQRA action" to include Site 2.

Finally, Section 2.6.2 of the DEIS clearly identifies the abandonment of all or a portion of Town Roads as an approval for a project that includes Site 2. This inclusion allows the public to voice their concerns, and allows the Planning Board to take appropriate action if needed. See Response to Comment 2.4(26).

Comment 7: May 13, 2020 public hearing comment of James Bacon.

As shown by Kiviat's affidavit more than two acres of trees were felled up to eighty years of age and up to three feet in diameter. Some say DEC authorized this but there's no proof of that. Now why is this important? Well the purpose of SEQRA for the lead agency to assess all reasonable alternatives and to choose from among those alternatives a design or layout that minimizes significant impacts of the maximum extent practicable. By clear-cutting Site #2 any real analysis preventing harm to those woodlands is impossible. Thus on paper the board might review a scaled-down Costco without a fueling facility for example, but the environmental damage has been done.

Response 7: The tree cutting activity on Site 2 will not affect the Planning Board's ability to assess site design or layout alternatives on that site. The site design alternatives available to the applicant on Site 2 are limited to those reasonable alternatives that take into consideration the objectives of the project sponsor, and include those for which no discretionary approvals may be required. Site design alternatives, including building and parking layout, access roads, landscaping, etc., are not affected by the tree cutting. See DEIS Section 5.0 and Section 2.9 of this FEIS for an evaluation of reasonable alternatives for Site 2.

Comment 8: Ferrandino & Associates Inc., March 31, 2020 letter.

Regarding the Full EAF:

The EAF states that line extensions to service the site are not necessary. This does not seem correct, given that some of this project is on undeveloped land, and should be confirmed as this has impacts related to infrastructure costs

The applicant states no disposal of solid waste. This seems unlikely. Please provide supporting documentation for same.

Response 8: Sites 2 and 3 have existing sanitary sewer services on site, and the existing connections to the municipal sanitary main will be utilized for development. Site 1 proposes connecting to both the existing municipal water main within Westmere Terrace as well as the existing municipal water main within Rapp Road to create a system loop for the Town of Guilderland. Solid waste for the three project sites will be managed by a private entity.

The following Commenters provided substantively similar comments to the “Opposition Form Letters noted above.

Greg Shields March 12, 2020 email. See also substantively similar comment of Stephany Brennan, April 24, 2020 email. Craig Kennedy, March 15, 2020 email, Patty O'Hare, May 18, 2020, B. Shields, March 9, 2020 email. Mary Leach, March 17, 2020 email, Stephanie Warlik, March 28, 2020 email; Glenn and Lauren Duffy, April 30, 2020 email, Susan Mosher March 16 and March 23, 2020 email, Dennis Feil, March 17, 2020 and March 23, 2020 email, Anonymous, undated letter; see also substantively similar comment of Antonia Bartoli, May 14, 2020, Susan Mosher, undated letter, Ann Helbling, April 27, 2020 email, Nancy Benedict, May 2, 2020 letter, Michelle Martin, March 15, 2020 email, Sharon Pelton, March 15, 2020 email, Amanda Milne, March 16, 2020 email, Deborah Wright, April 29, 2020 email, Susan Groves, March 15, 2020 email, Wendy Dwyer RN BS, March 20, 2020 email, Ann Kistler, March 24, 2020 email, Barry Howe, March 23, 2020 email, Carol Siracusa, March 24, 2020 email, Sierra Club, Hudson Mohawk Group, undated letter, C. Sullivan, May 26, 2020 email, John R. Canino, March 22, 2020 email; Nancy Buenau, May 20, 2020, Rick Byron, May 20, 2020 email, Lynn Fischer March 24, 2020 email, Patti Packer, March 22, 2020 email, Robyn Gray, March 23, 2020 email, Brian Mearns, March 29, 2020 email, Glenn Liebman, March 26, 2020 letter, Gordon McClelland, March 31, 2020 email; Susan Mosher, undated letter, John Szumigata, March 26, 2020 email, Pat McCarthy March 28, 2020 email; May 13, 2020 public hearing statement of Pat McCarthy, Stephen Cope and Susan Griffiths, March 31, 2020 letter, Theresa Chrysler, March 28, 2020 email, Constance Morgan, May 4, 2020 email, Christine Govin, April 3, 2020 email, Mari Mazzeo, March 26, 2020 email, Kathleen Hannaford March 26, 2020 email, Robyn Gray, April 7, 2020 email, Suzanne Wall, April 8, 2020 letter, John Szumigata Wed, April 15, 2020, Ginny Sussman, May 13, 2020 public hearing, Barbara Heinzen, PhD., March 29, 2020 letter, Donna Hintz, April 11, 2020 letter, Frank Carl, April 24, 2020 email, May 13, 2020 public hearing statement Donna__, Margaret Carle, April 19, 2020 email, Julie Burnham, April 18, 2020 email, Susan Mosher, undated letter, John Sheevers, April 27, 2020 email, Glenn & Lauren Duffy, April 30, 2020, Thea Hoeth, May 4, 2020 email, Mia Morosoff, May 10, 2020 email, Cimmie L. Mabee May 21, 2020 email, Laura Barrie, May 24, 2020 email, Linda Becker, May 24, 2020 email; May 13, 2020 public hearing comment of Steve Ridler, Arthur Storey, May 1, 2020 email, Christine Napierski, May 12, 2020 email, Alexis G., May 13, 2020 email, May 13, 2020 public hearing comment of Grace Nichols, Ann Hunter, May 14, 2020 email, Sue Cypert, May 13, 2020 email, Steve Wickham, May 26, 2020 letter, Steven Davis, May 26, 2020 email, Steve Wickham May 13, 2020 public hearing statement, Christine Kielb, May 26, 2020 email, McKownville Improvement Association Board, May 25, 2020 letter, May 13, 2020 public hearing statement of Lynne Jackson, Ann Hunter, May 14, 2020 email.

Correspondence in Favor

There were approximately **374 separate comments** in support of the proposed action.

Commenter's included representatives of organizations that support economic development in the area, such as the Center for Economic Growth (CEG), Chamber of Commerce, and labor organizations, charitable organizations, such as the Salvation Army, local businesses, including the diner located directly across the street from Costco, and local hardware store located on Western Avenue.

Correspondence in favor generally expressed support for the following themes:

- This project would bolster CEG's efforts to attract talent to the Capital Region as well, as retain the talent already here, by highlighting the vibrancy of our regional economy while also creating a unique shopping destination that could draw people outside the region into it.
- This project will create opportunities for both workers and shoppers who would otherwise have to travel more than 90 miles to visit the nearest Costco in West Springfield, Massachusetts.
- Further, by bucking national trends, this major investment in a brick-and-mortar store will not go unnoticed by the businesses we also work to attract to the Capital Region. Retail remains strong in the region.
- With a stable economy as well as many high paying technology jobs, the Capital Region is capable of supporting a major retailer such as Costco over the long-term. In 2019 alone, annual sales tax collections in the region increased by 4.3 percent to \$790.6 million, according to New York State Office of the Comptroller data. In 2018, traveler spending accounting for \$168 million in sales taxes, according to Empire State Development data.
- With a 2019 Business Review study identifying Costco as the most desired, new national brand for local residents, this project will also help us retain talent already in the Capital Region. Andrew Kennedy, Feb 27, 2020 email
- Support of additional business brought to the Town of Guilderland for 1) job growth and 2) minimizes additional increase in taxes.
- The tax revenue generated that would go towards property and the school district is welcomed especially from vacant land.
- The two projects help the area keep and attract talent and will also help existing construction and supporting businesses and residents with work, jobs created, convenient living options and more variety of stores to shop at without travel.
- Eliminate travel elsewhere to spend their money.
- Development of top retailer Costco will only enhance the Crossgates Mall community and the addition of more employment opportunities will draw new residents to the area. The new affordable housing will be a huge attraction for all businesses in the area, as new residents will frequent local businesses as well as mall employees and the Guilderland Community.

- The expansion of Crossgates is much needed! We need to keep up with the times. Crossgates is looking to expand with apartments... Yes! Much needed. My daughter would've chose to stay in the area if we had living situations that were more appealing to a younger professional. As for Costco... The parcel that they are looking to develop... Is on a main road... Is in a developed area.
- Work for local contractors.
- To entice new residence. To enhance the lives of the residents that live in the town. Growth and change is something that is very important to a town and it's economy.
- additional sales and property taxes
- The projects will have a "multiplier" effect benefitting the tenants and owners but also other local businesses and service providers. This is a win-win meeting growing population and shopping demands while contributing to the continued success of our region's cultural and economic development.
- And now for people looking to rent a unit and call Guilderland their home, this latest project seems to be a wonderful thing for families looking to call Guilderland their home. I'm sure there will be some who feel that this is too much, but when you consider the demographics of who will be moving here, I believe that these are the families that Guilderland would want to have as part of our community.
- creation of construction jobs, permanent and part time jobs at Costco, increased revenue to the Town and County and increased spending from local and out of town area visitors, which contributes to a strong local economy.
- Access to Crossgates and the major highways are a positive to the area allowing ease of access.
- The redevelopment projects are anticipated to create an influx of jobs to the local economy, providing construction jobs and once completed, new employment opportunities. The jobs provided by Costco are expected to be quality employment opportunities, for Costco was ranked the Number 4 out of 25 of America's Best Large Employer's according to a 2019 survey by Forbes & Statista.
- On top of the benefits to the local job economy, the projects will also be an economic development driver for the region. The residential project proposed includes 222 new units that will provide an attractive addition to the Guilderland housing market for young professionals and empty nesters. The residential project will also allow Guilderland to compete with other local destinations to retain residents and attract new residents to live, work, and spend money in the local economy. The potential of bringing a Costco to Guilderland, will create a draw to our town from around the capital region and beyond. The addition of Costco to the retail market in Guilderland will potentially attract new visitors & customers to the town, who will in turn patronize other businesses along Western Avenue and in the Town.
- it is incredibly difficult to increase the footfall traffic and sales in any mall due to the ever growing E-commerce competition. To make this addition to the property would tremendously support our mall and community. We are also looking forward to the growth and new job opportunity's to be created within mainstream retail as a result of the exposure.
- As young professionals ourselves, we think there is a huge draw for the convenience of housing next to the largest mall in the area. Let's keep businesses here, and attract them to eat, shop, play, and stay longterm, not only at Crossgates, but in Guilderland.

- The traffic in and around Crossgates has been managed well with town and county leaders working with regional authorities, as well as Pyramid. Studies have been done in recent years to address traffic as well as the high likelihood of future development. From the information I have read on the Town of Guilderland website, the proposed development follows these well-maintained guidelines.
- The additional business traffic is always appreciated and believe this could be a driver for additional economic growth.
- I believe the benefits of this expansion far outweigh any potential negatives. The presence of Costco in Guilderland will put our community in the position of having one of the strongest retail chains as a contributor to our town resources.
- The economy will see the advantage of adding the residents within walking distance to these restaurants, stores and entertainment facilities that make a neighborhood desirable. It would be astute to aid in the groundwork for the betterment of the town. This would provide jobs, tax revenue and a sense of pride in the upkeep in the surrounding property. We are grateful for a company that is taking the initiative to advance the progress of this area. This undertaking is for the betterment of all existing, developing and future businesses. This will bond this neighborhood into a destination and establish a symbiotic community that will help residents and businesses alike.
- Costco is a highly sought after brand, and will bring many consumers to our area. The increased job availability is also not to be overlooked. I feel that Western ave is capable of handling the increased traffic. Crossgates Mall has been a good neighbor, and an asset to the Town of Guilderland.
- There will be additional walking and bike trails, connecting the community. It will allow senior citizens to downsize and encourage youth to stay. It will create jobs which will help the economy. Local construction companies will benefit and permanent jobs. Town and schools will receive more revenues. CDTA ridership will benefit.
- encourage competition among big box stores in the region.
- Opponents of the proposed development are not only saying no to new development, they are saying no to entrepreneurs looking to grow their businesses. They are saying no to growing economic activity, increasing the tax base and creating new jobs for their neighbors.
- We were pleased that the Fencing would be replaced with white vynal fencing along with 12-15 ft evergreens planted on the top of the berm along Paden Circle on the westerly side of the project. Also that the lighting will be 12 ft and no higher. Hopefully on timers so that even the apartment residents have dark time.
- additional housing, construction jobs and permanent jobs and tax revenues for the Town and school district
- Costco will have a positive impact on the community and also foster competition. Because of the current crisis we should be fostering further development because we will lose other businesses.
- These project fit within the Westmere Corridor Study and Transit Oriented District.
- We strongly believe in a capitalistic model and that this project will serve as inspiration for the region to evolve and embrace change.
- I don't see why we wouldn't want a retailer like Costco to land here in Guilderland. In an area that was built for commercial development .

- It is true that the introduction of Costco may bring some inconvenience to local residents, including me. However, in my view, such inconvenience aspects are something minor compared with the benefits that it may bring.
- I also heard comments from those opposing the project that spoke to the traffic on Western Avenue in particular. What's interesting to note, is that if you do some digging online, while the change in population has increased over the past 10 years, data from the DOT, which is publicly available for all to see, shows that traffic along Western Avenue has actually decreased. I've traveled that portion of Western Avenue for years now and never see the sheer amount of traffic that those folks spoke of in that area. Why would we not want this great national retailer to add to the selection we have, right here in Guilderland, on a stretch of Route 20 that was made for commercial use?
- I am in favor of the plan to build a Costco in Town. In closing, I also want to point out the donation of acres of land to the Albany Pine Bush and the Rapp Road Association.

See comments of Brian Kelly, undated letter, David Moore & Nicholas Galusha, February 27, 2020 letter, Adam & Noelle DiPietro, February 20, 2020 letter, Jason Zarillo, Feb 23, 2020 email, Maureen Galofaro, February 28, 2020 email, Michelle Straight, February 27, 2020 email, Nicholas Winchell, undated letter, Loren Roberts, February 24, 2020 email, Michael Werner, February 27, 2020 letter, Rick Bult, March 2, 2020 email, Andrea Crisafulli letter, Ira Dorsey, February 28, 2020 letter, Danielle Walsh, Chamber of Commerce, March 6, 2020 letter, Lisa Stevens, March 3, 2020 email, Melissa Renzi, March 5, 2020 email, Michael Palmer, March 2, 2020 letter, Danielle Grelek, March 5, 2020 email, Dana Galusha and Gabrielle DeFrancesco, February 26, 2020 letter, Stephanie & Paul Premo, March 1, 2020 email, Todd Kilburn, March 3, 2020 letter, Steve Wacksman, March 3, 2020 email, Nicole Ventresca-Cohen, March 8, 2020 email, Carolyn Drooby, March 10, 2020 email, Jack Collett, March 9, 2020 letter, Sobhan Potluri, March 10, 2020 email; May 13, 2020 public hearing statement, Michael Hoover, undated letter, Praveen Bandi, March 10, 2020 email, Purna Potluri, March 10, 2020 email, Raghavendra Gorkal Tue, Mar 10, 2020 email, Rena Cunningham, March 10, 2020 email, Susha Potluri, March 10, 2020 email, Heidi Barcomb, March 11, 2020 email, Brendan Brown, March 12, 2020 letter, Helen Beth Pagan, March 13, 2020 email, Douglas Zautner, March 12, 2020 letter, Lutfulla Ahrarov March 12, 2020 email, Samuel Brumsey, Assistant Director of Operations, Salvation Army, March 13, 2020 letter, Earl Peters, March 13, 2020 email, Barbara Peplowski, March 13, 2020 email and May 13, 2020 public hearing statement, Barry Vadalina, March 14, 2020 email, jiaqi peng, March 13, 2020 email, Justin Bopp, March 13, 2020 email, Keerthi Shastri, March 13, 2020 letter, Laura Szesnat, undated letter, Marcus Kemblowski, March 13, 2020 letter, Phillip Pevzner, March 13, 2020 email, Sandra Elkiins, March 13, 2020 letter, Abida Abbas, March 15, 2020 letter, Abu Nasher, March 16, 2020 email, Brandon Gutierrez, March 16, 2020 email, Carver Laraway, March 16, 2020 letter, Chingiz Jafarov, March 16, 2020 email, Erica West, March 16, 2020 email, Harish Kumar, March 16, 2020 email, James Dawson, March 16, 2020 email, Janel Cocoma, March 15, 2020 email, John Mcniven, March 16, 2020 email, Mahmut Salik, March 16, 2020 email, Raghava Vemula, March 15, 2020 email, Taslim Yousaf, March 16, 2020 email, Tim Cooper, March 16, 2020 email, William J. Smith Jr, March 15, 2020 letter, Yunus DEMİRCAN, March 16, 2020 email, William Trigg, III, CEO Make a Wish letter, William Brayton, March 16, 2020 letter, Tom and Carolyn Iapoce, March 17, 2020 email, Steven Reo, March 16, 2020 letter, Eileen Handelman, March 20, 2020 email, James Hamilton Mar 20, 2020 email, Mr. Jeffrey Tario, March 20, 2020 email, Jessica

Tremblay, March 20, 2020 email, Mary and Steve Bjork Mar 21, 2020 email, Richard Ruzzo, March 15, 2020 letter, Scot Asher, March 20, 2020 email, Terri Fazio, March 21, 2020 email, Adam Southwood, March 23, 2020 email, Cindy Keller Marra, March 23, 2020 letter, Karen O'Shaughnessy, March 22, 2020 email, Mark and Jean Drislane, March 24, 2020 email, Kathy Andreski , March 23, 2020 email, Mary Hillmann, March 22, 2020 email, Michelle McHale, March 22, 2020 email, Nancy Palma, March 24, 2020 email, Sal Merola, undated letter, Stephen G. Knuth, March 25, 2020 email, Adam Rosen, March 20, 2020 letter, Andrew Little, March 27, 2020 email, Chuck Hunt, March 31, 2020 email, Anne Sternbach, March 29, 2020 email, Anonymous, March 29, 2020 email, Brandon May Mar 26, 2020 email, The Brumsey Family March 26th, 2020 letter, CJ Lyons, March 27, 2020, Debra L. Petnel, March 27, 2020 email, Anonymous, March 20, 2020 email, Edward Wuntsch, March 31, 2020 email, Ed Glenning, March 28, 2020 email Edward McDonnell, March 28, 2020 email, Elena Surls, March 29, 2020 email, Fiona Hance, March 27, 2020 email, Gerry Fassett, March 26, 2020 email, Gillian Hance, March 27, 2020 email, Jacob Swift, March 31, 2020 email, J. Dawson, March 27, 2020 email, Jim Hurley, March 24, 2020 letter, Jonahida Cruz, March 27, 2020 email, Julie Carpenter, March 27, 2020 email, Brian Rubin, April 7, 2020, Laura West, March 28, 2020 email, Lori Peng, April 1, 2020 email, M Reameri, March 27, 2020 email, Maria Jones, March 30, 2020 email, Marie O'Brien, April 1, 2020 email, Mary Schoonover, Mar 27, 2020 email, Molly Dooley, Mar 27, 2020 email, Pastor Charlie Muller, March 27, 2020 letter, Paul Miller, March 27, 2020 email, Patty Martin Sun, Mar 29, 2020, email Pat Sunkes, March 27, 2020 email, MaryAnn Gomes, March 28, 2020, Mike, March 28, 2020 email, The RWS Team, March 25th, 2020 letter, Scott Momrow, March 28, 2020 email Susan Belasen, Mar 26, 2020 email, Tina Johnston, March 26, 2020 email, Sandy Commisso, April 2, 2020 email, Molly Karrel, March 30, 2020 email, Christian Saines, April 1, 2020 email, Tiffany Orner, April 3, 2020 email, Wayne McMahon V.P. local 7 Plumbers and Steamfitters Albany, NY Apr 2, 2020 email, Amie and James Wilson, April 3, 2020 email, The Wilson Family, April 3, 2020 email, Dennis Schager, April 4, 2020 email Deanna Picou, April 5, 2020 email, Deborah L McCauslin, April 4, 2020 email, Jeffery Hale, April 5, 2020 email, Jordan and Mike Page, April 3, 2020 email, Michelelee Vellekoop, April 4, 2020 email, Rajesh P., April 4, 2020 email, Peter Ryan, undated letter, Anoop Singh, Apr 8, 2020 email, Charlotte Fuss, April 10, 2020 email, Carol Wysomski, April 8, 2020 email, Frank Natalie, April 10, 2020 letter, Josh Kowalski, undated letter, Paulina Ly, Apr 8, 2020 email, Rick Vesely, April 8, 2020 email, Steven Potter, April 10, 2020 email, vamshi naini, April 7, 2020 email, Thomas O'Connor, March 18, 2020 letter and May 13, 2020 public hearing statement, Bill Coons, April 9, 2020 email, Gayathri Naidu, April 13, 2020 email, Danielle Walsh Executive Director, Guilderland Chamber of Commerce, April 13, 2020 letter and May 13, 2020 public hearing statement, Carver Laraway, March 16, 2020 letter, Adam Gollub |General Manager Homewood Suites & Tru by Hilton, undated letter May 13, 2020 public hearing comment of Adam Gollub, Audra Paro, April 7, 2020 letter, Bill Paro, undated letter; May 13, 2020 public hearing statement, Chad Nims, undated letter, Drue Sanders, Drue Sanders Custom Jewelers, undated letter; May 13, 2020 public hearing statement, James Valentino, March 16, 2020 letter, Jonathan Dal Pos, March 12, 2020 letter; May 13, 2020 public hearing statement, Kamryn Peterson CEO Ice Out LLC, March 8, 2020 letter, Louis Lanzillo, CEO, Next Geneation, March 3, 2020 letter, Matthew Robbins, March 13, 2020 email, Raja Shekar Anireddy, April 27, 2020 email, Matthias Besse, undated letter, Richard K Sturm, Kiwanis Chairperson Albany Pediatric Trauma Program, March 9, 2020 email, Adela Johnson, April 15, 2020 email, Al Parascandola, April 15, 2020 email, Andres Jacinto, April 15, 2020 email, Bridget Schultz, Esq., April 14, 2020 email, Max Yankevich, April 15, 2020 email,

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Response : Comments noted.

Neutral Comment letters

Comment 1: Donald Csaposs, May 26, 2020 email.

Comments have been submitted by a couple of groups that I have been associated with for many years that I find to be vitriolic, over-the-top, and off-point. I am referring specifically to commentary by the groups Save the Pine Bush and the Sierra Club. I have written checks to both of these organizations, written letters in support of their views, and spoken in support of their views at public meetings and hearings in multiple jurisdictions. That said, I'm not in support of the commentary provided by these groups, both of which infer that the views expressed have the universal support of their memberships. On the contrary, I believe that the scattershot opposition to the proposed development projects put forth in vast quantity largely misses the point on the realities that I find most significant: The environmental science is, I believe, most informed by the views of the Albany Pine Bush Preserve Commission, the public authority tasked by law with working to create and manage a viable Pine Bush ecosystem. The Commission points out in its comments that the areas proposed for development are areas subject to prior development, and therefore of little or no value to the Commission in furthering its mission. The potential traffic issues associated with the proposals involve Western Avenue, Gabriel Terrace, The Crossgates Mall Ring Road, and the exit ramp from the southbound Fuller Road alternate. Comments received from Save the Pine Bush and the Sierra Club provide no coherent analysis of or meaningful recommendations for mitigation of these issues. Further, the subject of traffic mitigation within the Rapp Road Historic Community, a location listed on the National Register of Historic Places, is not meaningfully dealt with by either group. Therefore, while the Town is in possession of voluminous commentary from these groups on the DEIS, and while this commentary claims to represent a monolithic view of the membership, this long-time member- and dedicated activist takes this opportunity to let the Planning Board know that the views expressed in the names of these groups are not in fact universal.

Response 1: Comment noted.

Comment 2: Sharon and Ed Cupoli, April 19 and April 26, 2020 email.

We were pleased that the Fencing would be replaced with white vnyal fencing along with 12-15 ft evergreens planted on the top of the berm along Paden Circle on the westerly side of the project. Also that the lighting will be 12 ft and no higher. Hopefully on timers so that even the apartment residents have dark time.

When reviewing the Gipp Road Alternatives so as to reduce traffic in the Historical District we favor Alternative 9. Alternative 6 has possibilities as well. We do understand that the City of Albany must agree but it works and emergency vehicles have access to the community which has always been my main concern.

Response 2: Comment noted

Comment 3: Sharon and Ed Cupoli, April 19 and April 26, 2020 email

Our concerns are with Maser's recommendations 1. that people traveling easterly turn right at the light on to the Rapp Rd heading to Western Ave. Currently there is a concrete median with grass near the traffic light. We want a median to continue down to Western Ave so that no one can make a left turn into Costco from this road. Nor can anyone coming out of Costco make a left turn onto Mall/Rapp Rd to go Western Ave. It is an accident waiting to happen. 2. Traveling north on Rapp Rd from western Mall Road to go to Costco should be a right turn only lane. The exit lane should also be a right turn only lane. Not left turn to go to Western. The concrete median would prevent this and avoid major accidents. We would want to see that the traffic flow for Costco be in and out at the new traffic light at Gabriel Terrace and Crossgates Mall Rd. There is a lot to this project and my husband and I want to see what can be done best for our neighborhood and the community in general. We also hope that consideration can be given that the entire Apartment complex not be all built at once but rather in phases. Meaning do the 2 story ones and then if demand for occupancy is there do one of the 5 story buildings. Only build the last one if there still is the demand.

Response 3: Comment noted.

Comment 4: Sharon and Ed Cupoli, April 19 and April 26, 2020 email.

I understand that the Costco site will be built below grade one Rapp Rd and assume also of the Mall Rd so that the existing berm, albeit modified on the Mall Rd side should stay and be landscaped with trees and bush to prevent car lights on the road from distracting drivers in the parking lots and to prevent distracting driver on the roads as well. Putting trees all along the Rapp Rd side will help to keep car headlights and poles lights from disturbing residents on Westmere Terrace and Western Avenue drivers. Since Costco closes at 9 by 10 pm the lights in the parking lot and gas station should also significantly dim so as the reduce the light pollution on residents and drivers in Western Ave and Westmere Terrace. The houses and apartment on Western need a break from the new additional light from this project. After all they had a treed area to look at all of these years. So trees along Western Ave would help as well to create a buffer. We hope that the trees along the berm on Rapp Rd at the Macy's side of the Mall. Will get cleaned up and replaced as well. That will help the Apartment residents, residents along Rapp Rd, and Paden Circle. More buffering and something pleasing to look at. I know the 200 ft wide strip along Gipp Road is forever wild and can't be built on but can some cleanup of the dead trees and vines be done? Would help things to grow better in there providing the wildlife with a better habitat. As well as keeping branches from falling in the road. Ed and I are just trying to make this a better project for all. Trees help the environment and in this day and age of true climate change we need to think of how to help the planet as well as help business.

Response 4: Comment noted.

Comment 5: John Sheevers, April 27, 2020 email.

Do not allow Costco to come to Guilderland unless they can guarantee their facility will be a Zero net energy building. It must be developed in accordance with the Climate Leadership and Community Protection Act. If Costco can build their facility where it is in no way reliant on fossil fuels, then it should be allowed to do business in the capital region. Do your job. Utilize

smart policy and read the roadmap ahead. That roadmap is a zero net energy future as is required by the Climate Leadership and Community Protection Act.

Response 5: Comment noted.

Comment 6: Dustin Reidy, May 13, 2020 email.

I'm reaching out in my capacity as a Guilderland resident and representative for the 30th District in the Albany County Legislature regarding tonight's planning board meeting and public hearing on the DEIS for the Rapp Road/Western Avenue mixed use development plans. I want to thank you first and foremost for the work already done to listen to and consider community voices, concerns, questions and opinions in this process. The proposed developments have the potential to significantly impact Guilderland and our county. This is especially true for my district which contains Westmere Terrace, Paden Circle, Rapp road and their surrounding residents. I've been fortunate to get to know many of our residents there and to have an ongoing conversation with them regarding their homes, streets and our town. Over the past week, in light of the tree clear cutting done at the Lawton Terrace 'ghost neighborhood' area and with the public hearing being conducted through conference call tonight I've listened to concerns that keeping this process open and taking the time needed to hear and consider every voice may not be successful. I am sure you are aware of these concerns as well. I know our town government works hard and succeeds in working to create a full and open dialogue with residents at our town board, zoning and planning board meetings. But, especially during this COVID19 crisis I believe we need to do everything we can to make this process a full one. If everyone who wishes to speak does not have the chance to do so before the 11pm cut off time tonight, or does not have the chance to express their full sentiment and statements, I request and urge the planning the board to immediately or as soon as possibly can be done, hold another public comment period.

Response 6: Comment noted.

Section 3 Written Agency Comments, Public Comments and Public hearing transcript

See Town of Guilderland website for compilation of Written Comments and hearing transcript <https://www.townofguilderland.org/planning-board/pages/environmental-impact-statement-rapp-road-residentialwestern-avenue-mixed-use> and separate Section 3 Binder for complete compilation of written documents.