



Kenneth Kovalchik <kovalchikk@togny.org>

Comment on Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects DEIS

1 message

Susan DuBois <sjdubois@acmenet.net>
To: kovalchikk@togny.org

Mon, May 25, 2020 at 9:44 PM

My comments on the DEIS for the above project are copied below and attached as a pdf document.

May 25, 2020
[24 Jeanette Street](#)
[Albany, New York 12209](#)

via e-mail and postal mail

Kenneth Kovalchik
Planner, Town of Guilderland
Guilderland Town Hall
P.O. Box 339
[5209 Western Turnpike](#)
[Guilderland, New York 12084](#)

Re: Rapp Road Residential /Western Avenue Mixed Use Redevelopment Projects DEIS

Dear Mr. Kovalchik:

This letter is to provide a written version of comments I made during the on-line hearing on May 13, 2020 about the Draft Environmental Impact Statement for the above project and to add a comment and some recent observations.

I do not support the project that is being proposed by Rapp Road Development, LLC, and I ask the Town of Guilderland Planning Board to give serious consideration to the concerns raised by Save the Pine Bush (STPB) and other critics of the project. In addition, due to the recent land clearing that apparently was done with the acquiescence and support of the Town, Town of Guilderland agencies should relinquish lead agency status for the State Environmental Quality Review Act (SEQRA) review of the project.

The Guilderland Planning Board, if it remains as lead agency for the SEQRA review, should require a new evaluation of the economic aspects of the project in view of the coronavirus crisis and the related economic downturn. Hugh Johnson's comment in the May 13, 2020 hearing made good points about there potentially being large vacant store space in the existing Crossgates mall building. Why destroy habitat and existing houses in order to build a new commercial building and parking lot when there may be vacant store space in an existing building nearby?

With regard to the land clearing that occurred on March 26, 2020, I was at the Lawton Terrace site on the late afternoon of that date and observed the clearcutting. I had been notified about the clearcutting from an e-mail sent out to the Save the Pine Bush list. I was struck by several things that I saw that afternoon: the rush to do the clearcutting, which went on until about sunset; the apparent unresponsiveness of Town officials who Town of Guilderland residents I spoke with at the site had tried to contact; and the way in which the Town of Guilderland police force was protecting the clearcutting activity and keeping the public off of Lawton Terrace even in areas that were quite distant from the machinery.

The clearcutting was a violation of the SEQRA process and this violation appeared to have been facilitated by the Town.

An article in the April 30, 2020 *Altamont Enterprise* stated: "The day after the clear-cutting, Supervisor Barber told The Enterprise that Jacqueline M. Coons, Guilderland's chief building and zoning inspector, contacted the DEC, and was told tree-cutting is not a physical alteration of the land and therefore not illegal. 'They're leaving logs on site,' said Barber

at the time. 'I'm not sure what constitutes "physical alteration." Apparently, it's a question that comes up relatively often.' (4/30/20 Altamont Enterprise, page 12).

I hope that a Department of Environmental Conservation employee did not tell Ms. Coons that tree-cutting in the clear-cutting manner that occurred here is not "physical alteration" because, if so, he or she would have been incorrect.

Determining whether the mechanical clear-cutting that occurred on the site on March 26, 2020 is "physical alteration" of the site is not, as suggested by Mr. Barber, an obscure or confusing matter of interpretation. The Department of Environmental Conservation's regulations for SEQRA, at 6 NYCRR section 617.2(ac) state that "*Physical alteration* includes, but is not limited to, the following activities: vegetation removal...[and a list of other activities]."

The regulations, at 6 NYCRR section 617.3(a), also state: "A project sponsor may not commence any physical alteration related to an action until the provisions of SEQR have been complied with" (subject to exceptions not applicable here).

The clearcutting may have destroyed evidence of animals, plants and habitat conditions that were in the area that was clearcut.

My additional observation, which occurred after the date of the on-line hearing, was of bats in or adjacent to two of the areas proposed for development. On the evening of May 16, 2020, around dusk, four other persons and I went to the Lawton Terrace area and to the area around the intersection of Rapp Road and Gipp Road to see if we could observe bats. We used hand-held devices that could be tuned to various frequencies to detect bat sounds. I did some observations on Lawton Terrace, Tiernan Court and Gabriel Terrace and detected clicks indicating bat calls while in the street in front of two houses. While on Tiernan Court, I heard quite a bit of activity on the device and I looked around to see if I could visually see any bats. I saw one bat flying directly overhead, over the street, which appeared to be at a height near the tops of the trees.

Then I went to the corner of Gipp Road and Rapp Road. There, I heard clicks that indicated bats while I was standing at the corner with the listening device pointing roughly west into a wooded area, and heard clicks briefly on Gipp Road.

It's my understanding that several persons did similar observations on another evening, and that someone will be submitting comments about additional bat-related observations.

Yours truly,

Susan J. DuBois

 **DEIS comment - Rapp Road:Western Avenue.pdf**
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