



## **STATE ENVIRONMENTAL QUALITY REVIEW FINDINGS STATEMENT**

Pursuant to Article 8 (State Environmental Quality Review Act – SEQRA) of the Environmental Conservation Law and 6 New York Codes, Rules and Regulations (NYCRR) Part 617, the Planning Board of the Town of Guilderland, New York (hereinafter “Planning Board”), as Lead Agency, makes the following findings:

***NAME OF ACTION:***

**RAPP ROAD RESIDENTIAL / WESTERN AVENUE  
MIXED USE REDEVELOPMENT PROJECTS**

***LEAD AGENCY:***

Town of Guilderland Planning Board  
Guilderland Town Hall  
5209 Western Turnpike  
Guilderland, New York 12084  
Hon. Peter G. Barber, Supervisor

***CONTACT PERSON:***

Kenneth Kovalchik, AICP – Town Planner

***DATE DEIS FILED:***

February 19, 2020

***DATE FEIS FILED:***

July 31, 2020

## I. PROJECT DESCRIPTION AND HISTORY

1. In November 2018, Rapp Road Development, Inc. (the "project sponsor") submitted site plan and subdivision applications to the Planning Board together with a Full Environmental Assessment Form seeking approval of development of 222 one and two bedroom apartments in five buildings with underground and surface parking on a ±19 acre site on Rapp Road (["Site 1"](#)). The application also included analysis of a potential development scenario of 90 apartment units for Site 1 strictly for the purposes of analysis of all potential future cumulative impacts (the "Rapp Road Project").
2. On July 10, 2019, pursuant to the New York State Environmental Quality Review Act and its implementing regulations ("SEQRA"), the Planning Board determined to act as SEQRA Lead Agency.
3. Since the Rapp Road Project is in the immediate vicinity of two other developable sites within the Town's Transit Oriented Development ("TOD") District that are owned or controlled by entities affiliated with the project sponsor that utilize the same transportation and municipal facilities, the Planning Board determined that there may be a potential significant cumulative environmental impact associated with the development of all three sites which should be evaluated in a Draft Environmental Impact Statement.
4. The second development area identified by the Planning Board and evaluated in the DEIS is located within the TOD at the intersection of Crossgates Mall Road and Western Avenue (["Site 2"](#)) and is analyzed for development of a potential ±160,000 square feet Costco store and fueling facility on ±16 acres (the "Costco Project").
5. The third development area is located on ±11.34 acres of TOD zoned property between Site 2 and the hotel site (["Site 3"](#)). There are no development plans for this acreage and a hypothetical zoning compliant site plan was analyzed conceptually in the DEIS for a potential ±115,000 SF retail, 50,000 SF office space, and 48 apartments project.
6. Collectively, the Rapp Road Project, the Costco Project and the potential development on Site 3 constitute the proposed action.
7. On August 14, 2019 the Planning Board, as SEQRA Lead Agency, adopted a resolution issuing a [Positive Declaration](#) requiring a cumulative impact analysis of the larger "proposed action" described in Part 3 of the EAF, requiring that a Draft Environmental Impact Statement ("DEIS") be prepared for the three-site "proposed action," and that a public Scoping procedure be undertaken to determine the content of the DEIS; and
8. 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.

9. The Planning Board determined to accept written comments on the [Draft Scope](#) for a total of 59 days and, on October 23, 2019, after due consideration, adopted the Final Scope.
10. 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.
11. 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 617.9(a)(2).
12. 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.
13. The SEQRA Regulations require a minimum of 30 days for the public comment period on the DEIS [6 NYCRR 617.9(a)(3)], in addition, the Planning Board determined to conduct a public hearing on the DEIS, although not required, for March 11, 2020. The public hearing was delayed first due to the failure of the official Town newspaper to timely publish the notice of the public hearing, and ultimately the rescheduled date was postponed until May 13 as a result of the COVID-19 pandemic.
14. On [May 13, 2020](#), the Planning Board held a remote/virtual public hearing in accordance with the New York State Governor’s Executive Orders for public hearings during the COVID 19 pandemic which lasted over four hours with approximately [100 speakers](#).
15. Under 6 NYCRR 617.12(a)(2)(iii), the public comment period remained open for an additional 10-day period, until to May 26<sup>th</sup>, allowing a total of 96 days of public comment on the DEIS. [Over 600 written public comments were submitted](#) to the Lead Agency during the public comment period.
16. The [Final Environmental Impact Statement](#) (“FEIS”) was prepared upon the close of the public comment period, which, consistent with SQERA, 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.
17. The FEIS identified, examined and evaluated relevant areas of environmental concern, including responses to substantive comments received, on the following topics:
- Biological, Terrestrial and Ecology
  - Historic, Cultural and Archeological Resources
  - Traffic and Transportation
  - Land Use and Zoning
  - Character of the Community/Neighborhood
  - Schools, Community Facilities and Municipal Services
  - Air Quality and Noise
  - Municipal Revenues and Finances
  - Alternatives
  - Water Resources
  - Miscellaneous
18. To provide comprehensive and thorough responses, the FEIS contains supplementary analyses, information, and confirmatory documentation when appropriate to aid the Planning Board in its analytical and decision-making obligations under SEQRA.
19. As more fully discussed in the FEIS, the additional information and/or confirmatory analyses contained in the FEIS amplify and further examine issues examined in the DEIS as a result of comments received from the involved agencies and the public. The additional information and analyses are consistent with the examination of issues contained in the DEIS and do not result in the identification of any new or different significant adverse environmental effects. Based on these considerations, the Planning Board determined that a supplemental environmental impact statement is not warranted or required and would not aid the Planning Board in analyzing the proposed action and otherwise perform its obligations under SEQRA.
20. The FEIS was evaluated by the Town's designated engineers – Delaware Engineering and Greenman Pederson – as well as Town Planning Staff and other Town Departments for substance, completeness and accuracy with all concluding that the FEIS properly responds to substantive comments and recommending that the FEIS be adopted.
21. Substantive comments were received from the public, NYS Department of Transportation, Office of Parks Recreation and Historic Preservation, Albany County Planning Board, Albany Pine Bush Preserve Commission, Save the Pine Bush, and their consultants, the Rapp Road Historic District, City of Albany, town officials and consulting traffic engineers, that resulted in revisions to the proposed action and a number of mitigation measures identified which are discussed in detail in Section 3 of this Findings Statement.
22. On [July 29, 2020](#), the Planning Board, as Lead Agency, adopted the FEIS.

23. The FEIS includes and considers the most accurate, current and complete information available concerning the environmental aspects of the Project. It incorporates the DEIS by reference, sets forth revisions and supplements to the DEIS and contains copies of, and responses to, all substantive comments, thus enhancing the thoroughness and detail of the environmental analysis conducted by the Planning Board.
24. On July 31, 2020 a Notice of Completion was filed with the NYSDEC Environmental Notice Bulletin (ENB).
25. The FEIS was used by the Town Planning Board, as SEQRA Lead Agency, to make these written findings herein regarding the potential environmental effects of the proposed action and has enabled the Board to weigh and balance the relevant environmental impacts along with social, economic, and other essential considerations to determine whether the proposed action will minimize or avoid environmental impacts to the maximum extent practicable.

## **II. FINDINGS**

Based on the record before the Planning Board, including the information set forth in the accepted DEIS and FEIS, all comments made during the public comment period and public hearings, the knowledge and familiarity of the Planning Board with Sites 1, 2, and 3, and Crossgates Mall and its surrounding areas where the proposed action is contemplated, the following findings are made:

### **1. Biological, Terrestrial and Ecology**

#### Albany Pine Bush Preserve Commission and Management Plan

a. In 1988, the New York State Legislature established the Albany Pine Bush Preserve Commission for the purposes of managing lands dedicated to and establishing the Albany Pine Bush Preserve. In accordance with the legislation, in 1993 the Commission adopted the first Management Plan/Final Environmental Impact Statement, which sets forth proposals for the management of pitch pine-scrub oak barrens habitat.

b. The Management Plan examined a 19+ square mile area of lands located in Albany County which is divided into three categories: existing Pine Bush Preserve, Primary Protection Area and Secondary Protection Area.

c. As the Pine Bush Preserve has grown over the years, the Albany Pine Bush Preserve Commission has created new management plan updates for the Preserve. Most recently, the Albany Pine Bush Preserve Commission adopted the [2017 Management Plan Update](#) for the Albany Pine Bush Preserve.

d. The DEIS and FEIS contain extensive analysis of all the Sites under the 2017 Management Plan Update. See, e.g. [DEIS Section 3.3](#) and [FEIS Section 2.1](#). It is noted that Site 2 is a redevelopment project of a former residential area with municipal infrastructure fronting on Western Avenue.

e. The Albany Pine Bush Preserve Commission concurred both in writing and at the public hearing stating:

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](#) by the applicant conveying fee title to the Commission;
- 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](#).

Regarding Sites 2 and 3, the Albany Pine Bush Preserve Commission found:

f. 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.

g. Studies prepared by B. Laing Associates, which are set forth in the DEIS and FEIS, determined there will be no significant adverse impacts from the Site 1 development from temperature increases, parking lot lighting, shading from the building, or increased automobile emissions.

h. The DEIS and FEIS and other information submitted by the Applicant includes expert reports which conclude that Site 1 does not support valuable Pine Bush habitat, cannot feasibly be transformed to valuable Pine Bush habitat, is not suitable for fire management due to the proximity

of major expanses of paved areas and extensive commercial and residential development. The Albany Pine Bush Preserve Commission, however, did note that it has plans to attempt [fire management](#) in the vicinity.

i. The Planning Board also notes that several Pine Bush Management plans have been adopted and updated over the years concerning acquisition and management of lands to be incorporated and managed as part of a viable Pine Bush Preserve. These plans are incorporated into the DEIS and FEIS. Based on the foregoing and the various recent developments concerning the establishment of the Pine Bush Preserve (see FEIS Section 2.1), the Albany Pine Bush Preserve Commission has advised the Planning Board that Site 1 and Sites 2 and 3 are not necessary or appropriate for incorporation into the Pine Bush Preserve.

j. The Planning Board has considered the current [Management Plan](#) as it concerns the proposed action, and the written and oral comments received from the Albany Pine Bush Preserve Commission, and has determined that the proposed action will not negatively impact or impede those efforts of the Commission to create and maintain a viable Preserve Area.

k. As part of the proposed action the Applicant has proposed mitigative measures, which have received the support of the Albany Pine Bush Preserve Commission and NYSDEC, consisting of:

Voluntarily conveyance of a ±6.8 acre parcel to the Commission (Tax Map parcel no. 52.02-1-16) identified as “Area 62” on the Pine Bush Management Plan, as well as Tax Map parcels 52.06-2-35 (±1.0 acre) and 52.06-2-29.1 (±0.60 acres) totaling 8.4 acres of land designated for Full Protection.

This land conveyance supports expansion of the existing Karner Blue Hill Preserve and migration corridor by providing an improved protected linkage to the Pine Bush Preserve lands to the west.

l. Area #62 has very sandy, dry soils and contains pitch pine-scrub oak vegetation, typical of the Albany Pine Bush. This area is adjacent to and north of the Karner Blue Hill Preserve which is managed by NYSDEC and the Albany Pine Bush Preserve Commission. Area 62 contains a mature overstory tree canopy. With an extension of the Karner Blue Hill Preserve corridor northward, the area would significantly contribute to available Karner Blue Butterfly habitat in that area. This conveyance will enable expanded management, and continue to foster, the [recovery plan](#) for the [Karner Blue Butterfly](#) (KBB).

m. As noted above, both the Albany Pine Bush Preserve Commission and the New York State Department of Environmental Conservation support this proposed mitigation. In a [July 10, 2019](#) correspondence, NYSDEC supported this proposed 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.

n. The DEIS and FEIS contain extensive and detailed analysis concerning endangered and threatened listed species – the Karner Blue Butterfly, Frosted Elfin and Northern Long eared bat, as well as several species of Special Concern, including, among others, the Spadefoot Toad, Worm Snake, Eastern Hog-Nosed Snake, numerous other avian species, other butterflies and moths and their habitat as well as vegetation species. Special concern species do not have regulatory status, nevertheless such species were examined in detail in the EIS's. The professional reports concluded that there would be no potential significant adverse environmental impacts on any of such species as a result of the proposed action.

While the record indicates the likely presence of the more common species of bats on the three project sites, these sites were analyzed with regards to their potential for endangered and threatened bat species and none were found. The record also provides that consultations with NYSDEC have shown that no endangered bat species are known to exist at this location.

Acoustic survey information demonstrates that the most likely *Myotis* species on the sites is the common Little Brown Bat. An analysis of that survey data indicates the proposed development is not likely to impact the survival of any bat species due to the development area being characterized as one modest patch of summer bat habitat.

o. Regarding cumulative impacts of the proposed action with other projects in the Albany Pine Bush and the ability of the Commission to achieve and maintain a viable Pine Bush Preserve, the analysis in the DEIS and FEIS establish that there are no other projects that considered together with the proposed action that will negatively impact the ability of the Albany Pine Bush Preserve Commission to establish and maintain a viable Pine Bush Preserve. Moreover, 1) the sites are not appropriate or suitable for incorporation to the Preserve; 2) the sites do not provide suitable habitat and restoration is not feasible; 3) the 200-foot buffer on the northern perimeter of Site 1 will be maintained; 4) other more suitable habitat will be conveyed to the Albany Pine Bush Preserve Commission to help facilitate its goals and objectives of the Commission, and 5) both NYSDEC and the Albany Pine Bush Preserve Commission support the donation of land, and the Albany Pine Bush Preserve Commission found that the development on Site 1 will not impact its ability to manage and establish a viable Pine Bush Preserve. Therefore, there will be no such potential adverse cumulative impacts as a result of the proposed action.

## 2. **Historic, Cultural and Archeological Resources and Traffic Alternatives**

- a. All of the sites have been the subject of a Cultural Resources Survey prepared by Hartgen Archeological Associates, Inc. The [Phase I](#) Archeological Investigation Land West of Rapp Road and [Phase I](#) Archeological Investigation, Western Avenue Mixed Use Redevelopment the Lawton and Gabriel Terrace Neighborhood. Each archaeological investigation concluded that no archeological or historical resources are known to exist or expected to occur on the proposed project areas.
- b. The [Rapp Road Historic District](#) is located north of Site 1 by approximately 1,300 feet and across the municipal boundary between the Town of Guilderland and the City of Albany. Rapp Road is classified as a Minor Arterial Highway connecting US Route 20/Western Avenue with Washington Avenue Extension.
- c. As described in the DEIS, in 2002, the Historic District was created as a result of the Great Migration (1927-1963) and has remained intact with descendants of the original homeowners for 90 years. The families who migrated predominately from Shubuta, Mississippi to Albany, New York built their Rapp Road homes, mostly by hand, and relied on scrap materials from deteriorating buildings throughout the City of Albany. The buildings were built as small southern-style homes, similar in style to the former Shubuta, Mississippi homes.
- d. The existing 200-foot wide perimeter buffer on the north side of the Site 1 is densely vegetated with mature trees. This buffer will be maintained and continue to provide a visual buffer between the proposed development on Site 1 and the residences in the Historic District.
- e. Based on comments from the residents within the Historic District, existing traffic volumes from commuters and other traffic generators within the District are high and an increase in traffic volumes will cause a negative impact. The DEIS contains a Traffic Impact Study prepared by Maser Consulting which concluded that there would not be a significant adverse impact on traffic conditions within the Historic District with Levels of Service at the South Frontage Road/Washington Avenue/Springsteen Road intersection maintaining acceptable Levels of Service.
- f. The New York State Office of Parks, Recreation and Historic Preservation Office provided several letters regarding:
  - [March 11, 2019](#) Letter to the Town Planning Board Chairman – finding that their “office has assessed both the archaeological and historical impacts that might be associated with this action. Based upon this review, it is the OPRHP’s opinion that the project, as submitted, will not impact cultural resources in or eligible for inclusion in the State and National Register of Historic Places.”
  - [April 3, 2019](#) Letter to the Albany County Planning Board – Reversing its prior position and stating that commuter and shopper traffic “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”.

- [June 14, 2019](#) Letter to the Town Planning Board Chairman – Supporting the potential alternative of a road closure to protect the historic district from increasing traffic.
  - [March 26, 2020](#) Letter to the Town Planner – stating that their “office continues to support alternatives that will eliminate the use of Rapp Road (within the Historic District) as a bypass for non-residential traffic.”
  - [August 12, 2020](#) Letter to the Town Planner – stating that their “office continues to find that adding any additional traffic to Rapp Road will be detrimental to the district...”
- g. Although none of these comments provided any specific support or opposition to the several alternatives analyzed in the DEIS, in response to the comments raised by residents in the Historic District, SHPO and the City of Albany, and others, additional alternatives were analyzed in the FEIS.
- h. As a result of the analysis of the numerous potential traffic alternatives, as described in the FEIS, several alternatives were determined by the Planning Board to be feasible, reasonable alternatives that address the existing commuter traffic concerns and mitigate traffic from the projects to the maximum extent practicable by limiting traffic between the Town of Guilderland and the City of Albany.

[Alternative 1](#) has not been identified as an acceptable Alternative as a result of traffic impacts and environmental concerns. Alternative 1 would relocate the existing travel corridor through the Rapp Road Historic District by terminating Rapp Road just north of Pine Lane. North-south commuter and project related traffic on Rapp Road would be re-routed to a new road located east of several houses in the Rapp Road Historic District. (the “Eastern By-Pass”) effectively relocating traffic from their front yards to their backyards. The Eastern By-Pass would be constructed in Area 62, a parcel adjacent to the Karner Blue Butterfly migration corridor and designated as requiring “Full Protection” under the Albany Pine Bush Management Plan.

All emergency vehicle access to the Rapp Road Historic District would be from the Frontage Road in the City of Albany.

Alternative 1 is the only Alternative found to be acceptable to the City of Albany. The Rapp Road Historic District and Albany Pine Bush Preserve Commission opposed implementation of Alternative 1. The City’s only preferred alternative (the Eastern By-Pass) has been evaluated and determined, on balance, to potentially cause more environmental harm, such as bisecting the existing Karner Blue Butterfly Corridor with a new road, at higher speeds, which has the additional

negative impact of more noise impacts, than this Alternative might provide. It also would eliminate the proposed conveyance of 8.4 acres of land to the Albany Pine Bush Preserve Commission by the Applicant to create an expanded Karner Blue Butterfly corridor area, which is considered to be another environmental negative of this Alternative. Additionally, stormwater management features would need to be designed implemented to accommodate the new paved area.

**Alternative 9** - terminates any direct connection via Rapp Road between the Projects and the Rapp Road Historic District. A connection between Rapp Road and the shopping center ring road would insure that City residents on Pine Lane and Wilan Lane would have access to Washington Avenue Extension east-bound by way of the Crossgates Mall Ring Road, but traffic from the Site 1 apartments, the Site 2 Costco development and Site 3 would be effectively discouraged from travelling through the Rapp Road Historic District by the inconvenient route required, and the availability of more efficient travel routes. Existing traffic that goes to Washington Avenue Extension would also be discouraged from taking this route.

Emergency vehicle access from the north and south would be permitted via a bollard-protected connection between lower and upper Rapp Road.

On balance, Alternative 9 will mitigate traffic impacts from the projects in the Rapp Road Historic District to the maximum extent practicable and have the added benefit of reducing existing commuter traffic in the Rapp Road corridor.

Alternative 9 is located entirely within the jurisdiction of the Town of Guilderland and will be implemented in the event the City of Albany declines to participate in the implementation of any of the other acceptable Alternatives

**Alternative 5A** – terminates the connection between the Rapp Road Historic District on northern Rapp Road and the projects on southern Rapp Road and Crossgates Mall Road. This Alternative would eliminate both existing commuter traffic and project related traffic from the south. Access to and from Gipp Road would be from the south only and Pine Lane and Wilan Lane would be accessible exclusively from the north. No emergency vehicle access would be available between the northerly and southerly sections of Rapp Road.

Alternative 5A would reduce existing commuter traffic and mitigate project related traffic to the maximum extent practicable. The Rapp Road Historic District has identified Alternative 5A as the preferred Alternative. Alternative 5A is within the City of Albany and its implementation would require cooperation and participation by the City of Albany.

**Alternative 5D** – dead-ends the northernmost segment of Rapp Road at its intersection with Springsteen Road, and restores two-way traffic on Springsteen, providing north and south bound traffic access to and from Washington Avenue Extension. All access to the northernmost segment of Rapp Road, including emergency vehicle access, would be from the north via the Frontage Road.

Alternative 5D would eliminate all traffic, including commuter traffic and Project related traffic, from the segment of Rapp Road located north of the Rapp/Springsteen intersection in the Rapp Road Historic District, and would mitigate traffic impacts from commuter traffic and the projects on the northernmost segment of Rapp Road..

Alternative 5D is located entirely within the jurisdiction of the City of Albany and its implementation would require the cooperation and participation by the City of Albany.

**Alternative 4/6.** The Planning Board has also considered an alternative which combines the elements of two alternatives presented in the record, Alternatives 4 and 6. This alternative would re-route Gipp Road through the northern 200' buffer in the northwest corner of Site 1 and connect the Gipp Road traffic to the northernmost internal access drive on Site 1, move the Gipp Road/Rapp Road intersection to the south, and establish a cross-connection to the Crossgates Mall ring road at the new Gipp Road intersection with Rapp Road. A realignment of the internal Crossgates ring road would make this cross connection work more efficiently. The alternative 4 component of this alternative calls for the segment of Rapp Road north of this intersection to be converted to one-way south bound, thereby eliminating all northbound commuter and project generated traffic from travelling through the Rapp Road Historic District

North bound emergency vehicle access would require vehicles to proceed northbound over the short one-way southbound segment of Rapp Road north of the relocated Gipp Road/Rapp Road intersection. Southbound emergency vehicle access would continue in its current pattern.

As with Alternative 6, this combined alternative would impact a portion of the forested 200' northerly buffer between the apartment development on Site 1 and the Albany Pine Bush Commission protected lands to the north of the current location of Gipp Road. However, this alternative would remove the segment of Gipp Road within the Karner blue butterfly migratory corridor and limit traffic to one way on Rapp Road within this migratory corridor. The rerouting of Gipp Road would create a wider more contiguous wildlife migratory corridor and combined with restricting traffic to one way southbound, reduce traffic that currently bisects the corridor significantly.

This combined alternative would (1.) re-route east and north-bound Gipp Road traffic to the Crossgates Mall ring road, (2.) eliminate all north-bound commuter and project-related traffic from entering northern Rapp Road and the Rapp Road Historic District. This combined alternative would also significantly reduce existing commuter and project-related traffic impacts within the Rapp Road Historic District.

Several components of this combined alternative are located in the City of Albany and its implementation would require the cooperation and participation of the City.

**Alternative 4/5D/6.** Finally, the Planning Board has also considered an alternative which combines the elements of three alternatives presented in the record, Alternatives 4, 5D, and 6. This alternative would add the road improvements identified in Alternative 5D to the Alternative 4/6 alternative described above. - The Alternative 5D component of this plan would terminate the northernmost segment of Rapp Road at its intersection with Springsteen Road, and convert Springsteen Road back to two-way traffic. 100% of the pass-by traffic is eliminated in the section of upper Rapp Road between Columbia Circle (service road) and Springsteen Road.

Emergency vehicle access to the new dead-end northernmost segment of Rapp Road would be available only from the Frontage Road.

As described above with respect to Alternative 4/6, this combined alternative would also impact a portion of the forested 200' northerly buffer between the apartment development on Site 1 and the Albany Pine Bush Commission protected lands to the north of the current location of Gipp Road. However, as noted above, the rerouting of Gipp Road and traffic reductions along Rapp Road have environmental benefits for the Pine Bush habitat and existing Preserve lands.

This combined alternative would (1.) re-route east and north-bound Gipp Road traffic to the Crossgates Mall ring road, (2.) eliminate all north-bound commuter and project-related traffic from entering northern Rapp Road and the Rapp Road Historic District, and (3.) eliminate all traffic, including commuter traffic and project related traffic, from the segment of Rapp Road located north of the Rapp/Springsteen intersection in the Rapp Road Historic District.

This combined alternative would significantly reduce existing commuter and project-related traffic impacts within the Rapp Road Historic District

Several components of this combined alternative are located in the City of Albany and its implementation would require the cooperation and participation of the City.

### 3. Traffic and Transportation

- a. A [Traffic Impact Study](#) analyzing the potential cumulative impacts of development of Sites 1, 2 and 3 was prepared by Maser Consulting, PA for this Project (the “Traffic Study”). The Traffic Study evaluates the impact of projected increases in traffic and the anticipated effects of the Project on transportation-related use and infrastructure.
- b. The [Traffic Study](#) was reviewed by and comments were received from the New York State Department of Transportation, the Town designated traffic engineering consultant, Greeman Pederson, Inc. (“GPI”), the Albany County Department of Public Works, the Albany County Planning Board, and the City of Albany. In addition, substantive comments on the Traffic Study were received from individuals and outside consulting engineering firms. The Traffic Study includes supplemental analyses provided by Maser in response to comments by NYSDOT, GPI, the Town’s traffic consultant and others.
- c. The Planning Board retained GPI to provide traffic engineering expertise for its review and evaluation of the Maser Traffic Study. GPI submitted two review and comment letters into the record, and Maser provided written responses to all GPI comments.
- d. VHB, a traffic engineering firm, conducted a region-wide intersection safety study for the Capital District Transportation Committee. The intersection of Rapp Road and Crossgates Mall Road was among the ten intersections in the Capital District selected for evaluation, and the [VHB study recommended certain modifications to the intersection](#). These modifications have been adopted by the Applicant and are included in its traffic mitigation plans.
- e. Access to the three Sites is currently provided by Washington Avenue Extension, US Route 20, the Northway, Rapp Road and Crossgates Mall Road. On and off ramps service the Crossgates Mall ring road from Washington Avenue Extension from both east and westbound lanes. Similarly, access to and from the Northway is provided by two separate inbound and outbound service ramps/flyovers. Access to US Route 20 exists at the Mall main entrance. These roadways provide connections to the New York State Thruway (I-90) and the New York State Thruway/Northway (I-87).
- f. Based upon the location, proposed use, estimated number of trips and input from the Town of Guilderland and their consulting engineer and public review of the Draft Scope, the study area intersections that were assessed include the following:
  - Westmere Terrace and Western Avenue
  - Western Avenue and Crossgates Mall Driveway
  - Western Avenue and Gabriel Terrace
  - Western Avenue and Crossgates Mall Road/Johnston Road
  - Rapp Road and Crossgates Mall Road
  - Rapp Road and Gipp Road

- Rapp Road and Pine Lane
  - Rapp Road and Springsteen Road
  - Springsteen Road and S. Frontage Road
  - Washington Avenue Extension and Springsteen Road/Crossgates Commons
  - Crossgates Mall Road and I-87 On/Off Ramp
  - Crossgates Mall Road and Crossgates Mall Entrance #1
  - Crossgates Mall Road and Crossgates Mall Entrance #2 / Hotel Access
  - Crossgates Mall Road and Crossgates Mall Driveway (from Western Avenue)
  - Crossgates Mall Road/Proposed Site Driveways
  - Crossgates Mall Road/proposed Gabriel Terrace Extension
  - South Frontage Road and Rapp Road
- g. 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. Peak times for Mall traffic are during the months of November/December. The Traffic Study utilizes Peak PM and Peak Midday Saturday Hours taken during this period of time.
- h. The trip generation levels employed in the Traffic Study were based on industry standard [Institute of Transportation Engineers Trip Generation Manual, 10<sup>th</sup> Edition](#) calculations and were found to be reasonable by NYSDOT and the Town-designated traffic engineer, GPI.
- i. A detailed description of each of the Study Area intersections, including existing and future levels of service is provided in the Traffic Impact Study. The Traffic Study concluded:
- As summarized in this Study and as shown on the Level of Service Summary Table No. 3, 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 Future 2022 No-Build and 2022 Future Build Conditions. In addition, as also analyzed in this Study and as shown on Level of Service Summary Table No. 6, the future potential Rapp Road Residential development area identified on Site 1 and future potential Western Avenue Mixed-Use (Site 3) will not result in a significant impact on the existing roadway network. Similar Levels of Service and delays will be experienced under Future 2025 No-Build and 2025 Future Build Conditions.
- j. Based upon comments from the public, NYS Department of Transportation, interested and involved agencies, 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.

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

Roundabouts are a preferred method to address and mitigate vehicle emissions. 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.

## **Gabriel Terrace intersection with Crossgates Mall Road**

The primary access for Sites 2 (Costco) and Site 3 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 a Complete Streets design, a center turn-lane will be provided on Crossgates Mall Road. In the future, the primary access to Site 3 will also be from Crossgates Mall Road via the Gabriel Terrace Road and Hotel Connector Road.

### **Gabriel Terrace Intersection with Western Avenue**

Access to and from Gabriel Terrace at Western Avenue will be restricted to right turn in / right turn out movements only.

### **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. 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**

A [Complete Streets](#) design will be incorporated on Crossgates Mall Road, from the hotel driveway to the vicinity of Rapp Road, and will be reconfigured from four lanes to three lanes and a center turn lane will be added.

### **Crossgates Mall Road and Rapp Road**

As a means to increase pedestrian and vehicle safety and incorporate a Complete Streets design on Crossgates Mall 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 Committee.

### **Western Avenue and Johnston Road / Crossgates Mall Road**

At the intersections identified below, the Applicant has recommended signal timing adjustments to maintain similar operating conditions. Modems will be provided as per NYSDOT specs as a means to adjust signal timings as needed.

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

In connection with the development of Site 3, 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, approximately 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. [Driveway consolidation](#) is a method supported by DOT for improving vehicle safety.

## **Rapp Road**

The Planning Board, as Lead Agency, has considered multiple alternatives designed to alleviate traffic in the Rapp Road Historic District located north of Site 1, at the north end of Rapp Road. Findings related to these Alternatives are found at Section 2 of this Findings Statement, Historic, Cultural and Archeological Resources.

- k. From a traffic perspective, the Traffic Impact Study shows that the Levels of Service along Rapp Road through the Rapp Road Historical District will continue to operate at acceptable LOS “C” or better during Peak Hours after development of the Project. See, Findings at Section 2 of this Findings Statement, Historic, Cultural Resources with respect to Findings related to alternative road improvements as mitigation for character of the Historic District.
- l. The City of Albany advised the Planning Board that it takes no position on the overall continued development on the Pyramid and Crossgates Mall parcels, provided that the impacts to nearby Albany residents and neighborhoods are mitigated.
- m. Public transportation is currently provided to Crossgates Mall by the Capital District Transportation Authority (“CDTA”).
- n. 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 on Crossgates property to provide for improved access and updated facilities.
- o. CDTA has advised the Planning Board that it 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. CDTA also advised the Planning Board that it supports Pyramid’s development and look forward to working with them to enhance service and connect people to economic opportunities. 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. As one of the busiest stops in the CDTA system and the number one retail destination for transit customers, combined efforts of the Town, Crossgates and CDTA will significantly reduce the number of automobiles and emissions that would be drawn to the area without CDTA’s services.
- p. Westmere Terrace is a dead-end residential street comprised of 27 residences, located west of the intersection of Crossgates Mall Road and Western Avenue. The unsignalized intersection of Westmere Terrace and Western Avenue experiences significant delays under current conditions that will increase if the Project is developed. The Applicant has proposed to construct a one-way north-bound connection from the north end of Westmere Terrace to Crossgates Mall Road, giving the residents of

Westmere Terrace access to the signalized intersection at Crossgates Mall Road and Western Avenue.

In meetings with Town officials and the Applicant, the residents of Westmere Terrace have rejected this alternative access solution. The record includes a [1994 letter from NYSDOT](#) recommending the same alternate access plan for Westmere Terrace. More recently, in conversations with DOT, Town officials were informed that the signal spacing between the Westmere Fire Station signal on Western Avenue and Crossgates Mall Road/Johnston Road/Western Avenue signalized intersection were too close to include a new signalized intersection at Westmere Terrace and Western Avenue. DOT reiterated their comments from their 1994 letter that a one way exit road could be provided from the Westmere Terrace cul-de-sac to Rapp Road to allow residents easy and safe vehicular access to the traffic signal at Rapp Road/Western Avenue.

- q. 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. The Site 2 development is projected to add 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.
  
- r. The Applicant's plans present a reasonable concept plan for [bicycle and pedestrian connectivity](#) in the Crossgates Mall area. The Town will conduct a review of each proposed component of this plan and its implementation during its site plan and special use permit reviews.

#### 4. Land Use and Zoning

- a. Properties surrounding the proposed uses on Site 1-3 include Crossgates Mall, restaurants, a cemetery, gas stations, a shopping plaza, apartments, residential uses and vacant land. See also Findings Statement Section 5 - Character of the Community/Neighborhood for description of area.
- b. The Town Board adopted the [Transit-Oriented Development \(TOD\) District](#) legislation as a primary recommendation from the [Westmere Corridor Study](#), completed in December 2016, after a year-long planning process that included extensive public participation. The Town Board's determination to establish the TOD and the permitted uses was completed as part of a 6 month long public participation process. As part of that process the Town Board established zoning restrictions, such as additional setbacks from existing residential uses and limiting land uses west of Rapp Road to protect existing residential land uses. The Town Board authorized General Business (GB) District and Multiple Residence (MR) District land uses as either a permitted site plan use or special use.
- c. The Rapp Road apartment/townhome project is a permitted use within the TOD, subject to issuance of site plan approval by the Planning Board, and meets all area and bulk requirements for the district, including increased building setback requirements. It is the only type of permitted use on Site 1.
- d. Prior to the issuance of the [Positive Declaration](#) in August 2019 requiring a DEIS analysis of cumulative impacts arising from the development of the Rapp Road Project on Site 1 together with additional development on TOD zoned lands making up Sites 2 and 3, the Planning Board had already undertaken a nine month SEQRA review of the Rapp Road apartment project. Part 3 of the Full Environmental Assessment Form and Positive Declaration provides that based on "...the entire record before the Planning Board, including the expert environmental report, the proposed project consisting of 222 apartments on 19.68 acres will not have a significant effect on the environment." The record also includes analyses of any future development of an additional 90 apartments in Site 1 and supports the conclusion that development of these units would not have a significant effect on the environment. A site plan application for approval of these additional 90 units would be required to be approved by the Planning Board.
- e. The Costco Project on Site 2 is a permitted use within the TOD, subject to issuance of a Special Use Permit by the Town Zoning Board of Appeals. Permitted uses in this area include "regional shopping centers" and "General Retail" and "automobile service centers, including gas service stations.
- f. [New York statutes](#) define a special use permit as the authorization of a particular land use that is permitted in a zoning law subject to specific requirements that are imposed to assure that the proposed use is in harmony with the immediate neighborhood and

will not adversely affect the surrounding properties. It is well established law in New York that the inclusion of special use permit uses in a zoning code is tantamount to a legislative finding that the permitted use is in harmony with and compatible to existing adjacent land uses, and will not adversely affect those uses.

- g. The overall proposed action includes numerous features consistent with the Town's land use plans.
- h. The proposed action includes all uses specifically listed as permitted uses in the TOD 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. A new multi-use trail will be provided on the west side of Rapp Road, from the vicinity of Gipp Road to Western Avenue. A new CDTA bus stop will be installed at the intersection of Rapp Road/Crossgates Mall Road. A new pedestrian crossing will be installed at the intersection of Gabriel Terrace/Crossgates Mall Road. All of these design improvements incorporate a Complete Streets design by designing a roadway for all uses, not just vehicular uses. The Complete Streets design will allow pedestrian connectivity from existing neighborhoods and proposed residential uses on Site 1 and Site 3 to commercial uses such as Crossgates Mall, proposed Costco, and existing retail uses along the Western Avenue corridor. The pedestrian and bicycle facilities proposed are in compliance with and encouraged by [§280-18.1.G.2 of the Town of Guilderland Town Code](#).
- i. [Complete Streets](#) are streets designed and operated to enable safe use and support mobility for all users. Those include people of all ages and abilities, regardless of whether they are travelling as drivers, pedestrians, bicyclists, or public transportation riders. The concept of Complete Streets encompasses many approaches to planning, designing, and operating roadways and rights of way with all users in mind to make the transportation network safer and more efficient. Complete Streets approaches vary based on community context. They may address a wide range of elements, such as sidewalks, bicycle lanes, bus lanes, public transportation stops, crossing opportunities, median islands, accessible pedestrian signals, curb extensions, modified vehicle travel lanes, streetscape, and landscape treatments. Complete Streets reduce motor vehicle-related crashes and pedestrian risk.
- j. The adoption of the [Transit-Oriented Development District](#) (TOD) was created to implement the recommendations of the [Westmere Corridor Study](#), which promotes elements consistent with the objectives of Complete Streets design.
- k. 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.
- l. Over the last several years, companies affiliated with the applicant included components of Complete Streets as part of the construction of 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.
- m. Proposed improvements outlined in the FEIS is also consistent with the objectives of Complete Streets design elements:
- (i) The Roundabout at the I-87/FRA ramps at Crossgates Mall along with the lane reduction on a portion of Crossgates Mall Road.
  - (ii) 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.
  - (iii) 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 to the traffic signal.
  - (iv) 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.
  - (v) 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.
  - (vi) Proposed traffic mitigation/roadway realignment in the area of Rapp Road to minimize existing and future traffic to the Rapp Road Historic neighborhood.

- (vii) 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.
  - (viii) 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.
  - (ix) The integration of sidewalks, bike lanes and other amenities encourages physical exercise by creating an environment that encourages walking, jogging and bicycling.
  - (x) The addition of the roundabout will improve air quality by reducing carbon dioxide (CO<sub>2</sub>) emissions.
- n. The proposed action consists of permitted uses within the TOD and incorporates numerous access and circulation design features to facilitate the goals and objective of the TOD legislation, particularly [§280-18.1.G.1 of the Town of Guilderland Town Code.](#)

## 5. Character of the Community/Neighborhood

- a. The area in the vicinity of the Project is a mix of extensive commercial and business uses on Western Avenue and Washington Avenue and residential streets (Westmere Terrace, Paden Circle, Gipp Road, Pine Lane, Wilan Lane and Upper Rapp Road). The predominant land use in the immediate area of the Project is Crossgates Mall, a 1.7 million square foot regional shopping center.
- b. With respect to Site 1, specific restrictions in the TOD District for property west of Rapp Road limits permitted uses to only multi-family dwellings, which may include certain ground floor commercial uses. The development proposed for Site 1 complies in all respects with the requirements of the Transit-Oriented Development (TOD) District, including building height, setbacks, greenspace, density and design standards.
- c. Site 1 is located on a commuter connector road, Rapp Road, which is classified by the Federal Highway Administration as an Urban Minor Arterial. Rapp Road links two FHWA Principal Arterials, U.S. Route 20 and Washington Avenue Extension.
- d. To the south of Site 1 is the Westmere Terrace neighborhood and to the west is a National Grid right of way and the Paden Circle neighborhood. During the early stages of the site plan review process for Site 1, the Project Sponsor and Town officials engaged the residents in the nearby neighborhoods in a dialogue to address site plan concerns. This resulted in development of site enhancements that includes extensive landscaping, additional berms, and fencing to provide a visual screen and mitigate to the maximum extent practicable any noise impacts for the existing neighborhoods near Site 1 including:
  - A new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace), which is owned by the applicant. The relocated cul-de-sac, berm and plantings will be constructed prior to construction taking place on the Site 1.
  - A 20-foot high berm along the southern boundary of Site 1 is proposed to mitigate to the maximum extent practicable visual and noise impacts to the Westmere Terrace residences, which is in compliance with and encouraged by [§280-18.1.G.3 of the Town of Guilderland Town Code](#).
  - A double row of 12-15 foot tall trees will be planted on top of the berm referenced above, along the southern boundary of Site 1, to mitigate to the maximum extent practicable visual and noise impacts to Westmere terrace residences, which is in compliance with and encouraged by [§280-18.1.G.3 of the Town of Guilderland Town Code](#)
  - A double row of 8-10-feet tall pine trees will be planted along the northern boundary of tax map parcel number 52.09-4-43.1 (24-26 Westmere Terrace), which

is in compliance with and encouraged by [§280-18.1.G.3 of the Town of Guilderland Town Code](#).

- A 6-foot high solid panel vinyl fence will be constructed in the following locations to further mitigate to the maximum extent practicable visual and noise impacts to surrounding existing residential uses:
  - (i) along the top of the 20-foot berm at the southern boundary of Site 1; the fence will run from the northwest boundary of tax map parcel number 52.09-4-43.2 (28 Westmere Terrace) to the northeast boundary of parcel number 52.10-1-6 (31 Westmere Terrace).
  - (ii) along the western boundary of tax map parcel number 52.09-4-43.2 (28 Westmere Terrace).
  - (iii) along the northern boundary of tax map parcel number 52.09-4-43.1 (24-26 Westmere Terrace).
  - (iv) along the northern boundary of tax map parcel number 52.10-1-6 (31 Westmere Terrace).
- The existing wood fence along the western boundary of tax map parcel number 52.10-1-25 will be replaced with a 6-foot high solid vinyl fence.
- The Applicant will install light poles that are no higher than 12-feet in the southern most area closest to Westmere Terrace. The exterior lighting will conform to [Town Code §280-28\(C\) \(2\), \(3\) and \(4\)](#).
- The Applicant will avoid removal of on-site mature trees near the southern property boundary unless necessary for building development and site improvements so that these existing mature trees will act as a natural buffer to existing residential uses on Westmere Terrace.
- The berm along the western border of Site 1, which contains existing trees, will be planted with additional 12-15 foot tall double row of trees to further mitigate to the maximum extent practicable visual and noise impacts, which is in compliance with and encouraged by [§280-18.1.G.3 of the Town of Guilderland Town Code](#).
- All construction work will comply with the Town's Noise Ordinance.
- Construction hours for building construction and site work on the site near Westmere Terrace shall be between 7:00 AM and 5:00 PM, Monday through Friday and 9:00 AM to 4:00 PM on Saturday with no construction activities on Sundays or holidays (New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas). This limitation shall not apply to construction work being performed within the interior of any buildings after building walls have been constructed, or exterior building or site work being performed, for example landscaping work, or

masonry work on the outside of buildings, etc., within acceptable dBA levels set forth in the noise ordinance.

- e. The two-story buildings proposed on the western side of Site 1 will act as a transition from the existing residential uses on Paden Circle to the 5-story apartment buildings. The five story buildings are situated in closer proximity to Rapp Road and comply with the additional setback requirements from the Westmere Terrace residential district, and is consistent with the TOD building height and setback requirements.
- f. During operation, consistent with Town Code lighting requirements, the parking lot lighting will not exceed 16 feet in height from finished grade and shall have cutoff type luminaires to prevent light above the fixture. The Applicant will install light poles that are no higher than 12-feet in the southern most area closest to Westmere Terrace. The exterior lighting will conform to [Town of Guilderland Town Code §280-28\(C\) \(2\), \(3\) and \(4\)](#).
- g. Site 1 parking lot lighting will be located and screened without intruding upon the environment or adjacent residential properties. Based on the proximity of the Site 1 to the Albany Pine Bush Preserve, sodium vapor lighting is proposed so as to reduce the attraction of such lighting on insects. The lighting will be at least 200 feet south of the established Albany Pine Bush corridor located north of Gipp Road and will conform to the 0.2 foot-candle limit set in the Town Code. The existing trees and vegetation on the 2.4 acre buffer area, just south of Gipp Road, will not be disturbed and will further serve to provide mitigation for Site 1 impacts to existing residential uses north of Gipp Road, in the City of Albany.
- h. As depicted on the Site Plan, Site 1 will be landscaped with an emphasis on native plant material to achieve a visually appealing site with appropriate site screening to mitigate to the maximum extent practicable visual and noise impacts.
- i. The Project's Stormwater Pollution Prevention Plan (SWPPP) includes watering practices to mitigate potential impacts from construction dust.
- j. The potential use of native "Pine Bush" species for screening atop the existing and proposed berms is not proposed at this time. Because the purpose of the proposed landscaping is to act as a visual screen between the project and the existing neighboring residential properties, low level "Pine Bush" vegetation species is not preferred. Maintaining the currently existing thick vegetation in the northern berm will encourage wildlife species to continue to migrate to the north and west of the site and act as a buffer to the land uses to the north. It is not the intent of the Project to attract endangered species away from the established Pine Bush Preserve area located to the north of the Site with native plantings, but such plantings may be incorporated into the Project landscaping during site plan review. The Site currently does not provide any habitat for such species and in such condition fulfills the Management Plans goals of the Albany Pine Bush Preserve to encourage migration to the north and west away from Site 1.

- k. Sites 2 and 3 are located within a primarily vacant residential neighborhood between the existing Crossgates Mall Road and US Route 20 (Western Avenue). Development along US Route 20 is highly commercial in character. In addition to Crossgates Mall, existing commercial uses in the general vicinity include gas stations, fast food restaurants, service stations, a funeral home, a church, a real estate office, an office building complex and other commercial uses, and a fire department/EMS complex.
- l. The redevelopment projects proposed at Sites 2 and 3 are permitted under the TOD District subject to issuance of a Special Use Permit by the Zoning Board of Appeals.
- m. Construction on Sites 2 and 3 will be limited to the hours specified in the Town Code. Potential dust from construction will be addressed in the SWPPP and include watering practices to avoid such potential impacts. Noise will be temporary in nature. Demolition of thirteen (13) residential structures will occur. Structures will be subject to lead and asbestos surveys and demolition will occur in accordance with the Town's building code permitting requirements.
- n. During operation, site lighting will be provided to illuminate the parking lot and building consistent with Town Code requirements.
- o. To maintain a visual continuity throughout Site 2, landscaping associated with the proposed retail use will be consistent with existing landscaping in the vicinity at Crossgates Mall. The landscaping plan will include a variety of tree and plant materials compatible with local soils and climatic conditions in a variety of sizes and colors to provide continuous foliage throughout the year. A mixture of plant species will be selected so that if a specific disease or insect impacts one type of plant, others will be in place that will not be affected.
- p. Ornamental trees, shrubs, and ground covers will be planted adjacent to the building within planting beds. Plant material will be selected on the basis of the following characteristics: hardiness, aesthetics, growth characteristics, safety, and ability to withstand sun and shade. Plant material will be planted in masses in order to create a pleasing landscape. No invasive plant species shall be used.
- q. Additional mitigation measures will be employed at Sites 1, 2 and 3:
  - Construction equipment will be properly muffled in accordance with all applicable regulations.
  - Equipment will be required to be properly maintained to reduce noise and vibration.
  - The site will be required to be maintained in an orderly manner during all construction periods. Crews will be responsible for daily maintenance/cleaning of the site.

- All packaging, demolition and construction debris will be promptly removed from the site by a private waste-hauler and disposed of in an approved construction and demolition debris landfill.
  - Demolition of the structures will be in accordance with all state and local laws, rules and regulations.
  - Dust suppression measures will be implemented as required.
  - Erosion control measures will be implemented in accordance with the approved SWPPPs.
- r. The issue of economic competition has been raised by the owner of a nearby gas station during the course of the SEQR proceedings. The regulation of economic competition is beyond the scope of SEQRA. A new entry into the marketplace brings greater consumer choices, and instigates competitive responses from other retailers, and eliminates the need for local government officials to decide who competes in the marketplace, either directly or disguised as environmental or zoning “impacts”.
- s. 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.
- t. The record includes numerous comments 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.

## 6. Schools, Community Facilities and Municipal Services

### Water/Sewer

- a. The Town of Guilderland Department of Water & Wastewater Management provides sewer services to more than 25,000 customers in the Town of Guilderland by collecting wastewater for high-level treatment. The town's system meets or exceeds the standards set by the Department of Environmental Conservation (DEC) and the New York State Department of Health (DOH).
- b. Site 1, 2 and 3 are part of the Town of Guilderland sewer district. Based on consultations with the Town Department of Water & Wastewater Management, the Town's sewer service possesses adequate capacity to meet the current and future needs of the Town and accommodate the proposed development for Site 1, 2 and 3. Engineering details for the collection, distribution, and treatment of the Project's discharges will be coordinated in consultation with the Town of Guilderland Water/Wastewater Department and the Town Designated Engineer (Delaware Engineering).
- c. By [letter dated February 11, 2020](#), the Town Department of Water and Wastewater Management has indicated that sufficient excess water and sewer capacity exists to accommodate the proposed action, contingent on the sewer being redirected to the Nott Road Waste Water Treatment Plant. It has further been determined by Town of Guilderland Water/Wastewater Department and the Town Designated Engineer (Delaware Engineering) that the Dillenbeck Pump Station has sufficient capacity to accommodate the development of Site 2 because the projected flows are significantly less than those permitted for the existing residential neighborhood.
- d. While the existing sewer pump station has sufficient capacity to accommodate the proposed action, to further improve the sewer system, the Applicant has agreed to Town requests to assist in diverting sewer flow to the Town's [Nott Road pump station](#).
- e. An alternate to the project discharging to the Dillenbeck Pump Station would be to redirect the flows from the project area to the receiving sewers that convey sewer to the Nott Road wastewater treatment plant. It has been reported that the Nott Road WWTP has a permitted facility design flow of 3.60 MGD and is operating under capacity.
- f. Redirecting existing and future demand to the Nott Road WWTP will require new distribution infrastructure, a new pump station to be constructed at the Project, as well as improvements to the municipal sewer network from the terminus manhole, near the intersection of Johnston Road and Western Avenue to Ashford Drive. The new pump station would be located near the newly constructed hotel. Approximately 4,900 linear feet of new sewer lines would be required to be extended from the new pump station along Crossgates Mall Road to Johnston Road and connect near the intersection of Johnston Road and Ashford Drive.

- g. Under existing conditions, per conversations with the Town Water/Wastewater Department and record drawings, the eight-inch sanitary sewer main within Johnston Road experiences a bottleneck where the slope of the main is approximately 0.27% and is underperforming. The existing sanitary sewer main between Johnston Road and Ashford Drive would be required to be upgraded to a ten-inch main with adequate slope, creating more capacity within the line. The existing eight-inch main, at the bottleneck, has a capacity of approximately 0.76 cfs. Improving the municipal sanitary sewer from the terminus Johnston Road manhole to the Ashford manhole to a 10-inch main would allow for enough capacity to accommodate the increase in flow, as well as alleviate the existing bottleneck in the main. A 10-inch PVC pipe laid at a slope of approximately 0.27%, to match the existing slope, would have a capacity 1.14 cfs (737,133 GPD; 512 GPM) of flow, enough to handle the flow generated by the Project.

#### Police, Fire and Emergency Services

- a. By [letter dated June 9, 2020](#) Chief Anthony Carrow of the Westmere Fire District, Board of Commissioner confirmed that the Westmere Fire Department determined there will be no significant change in service level required by the Department to serve the proposed uses on Sites 1-3. They reviewed the plans and determined that the Department “has the necessary personnel, resources, equipment and facilities to support the development”.
- b. Police protection will be provided by the Town of Guilderland Police Department, the Albany County Sheriff’s Department and the New York State Police. The Guilderland Police Chief, Daniel McNally issued a [letter dated June 10, 2020](#) indicating that there are adequate resources available to serve the proposed action without adverse impact on such sources.
- c. By [letter dated July 13, 2020](#), Jay Tyler, Director of EMS issued a letter on behalf of the Guilderland Emergency Medical Services confirming that the Town EMS department “determined there will be no significant change in service level required by our department to serve the proposed Rapp Road Residential/Western Avenue Mixed Use Redevelopment Projects” and that “[a]fter review of the plans, we have determined the level of service required will not impact our department and that our department has the necessary personnel, equipment and facilities to support the development.

#### Guilderland School District

- a. The Guilderland School District has five elementary schools, one middle school and one high school. The area in the vicinity of Site 1-3 is served by the Westmere Elementary School.
- b. Three private elementary schools are located in the Town of Guilderland: the Hebrew Academy of the Capital District, Christ the King, and St. Madeline Sophie.

- c. Based on the [Camoin Report](#) (DEIS, Appendix H), Census Data for new multifamily residential construction, and the location and design of the Project, a minimal number of school-age children are anticipated to reside in the development and no impacts to the Guilderland School District are anticipated.
- d. The [presentation](#) to the Town Board in December 2018 by the Town Planner noted that:
- On average multi-family developments with 100 units will generate 29 students
  - On average single-family developments with 100 units will generate 74 students
  - Between 2001 and 2017, the Guilderland School District experienced a 15.1 % decline in enrollment (approximately 1 % per year) from 5,694 students in 2001 to 4,836 students in 2017.
- e. According to the New York State Department of Education statistics, enrollment at the Guilderland School District has decreased by 89 students from academic year 2013/2014 through 2017/2018. In the last academic year class sizes have ranged from 326 students in the 2<sup>nd</sup> grade to 412 students in the 12<sup>th</sup> grade. In 2001, the District enrollment was at its peak with 5,694 students. In 2017, there were 4,836 students, a decrease of 858 students (approximately 15 %) since 2001.
- f. National statistics from Rutgers and the National Association of Homebuilders estimate that multi-family housing could generate between 0.22 and 0.36 school age children per unit, which may be a higher estimate. At 222 units, multiplied by the average of the two statistics, it is estimated that Site 1 could yield 64 new school age children at a stabilized occupancy which is expected to be approximately three years from grand opening. According to data prepared by the CDRPC based on the 2000 Census, for newer residential construction in Albany County (outside of the City of Albany) apartments generated 0.03 school age children/unit. For southern Saratoga County, apartments generated 0.24 school age children/unit. These potential new student metrics are significantly less than new enrollment that might be generated by single family homes. See, presentation by Town Planner to the Town Board posted on the Town's website at [https://www.townofguilderland.org/sites/guilderlandny/files/uploads/town\\_board\\_development\\_powerpoint\\_presentation\\_2018-12-18\\_-\\_final.pdf](https://www.townofguilderland.org/sites/guilderlandny/files/uploads/town_board_development_powerpoint_presentation_2018-12-18_-_final.pdf). According to CDRPC (2000 Census), single family homes generated 0.81 and 0.73 school age children/unit in Albany and Saratoga County, respectively.
- g. Therefore, it is not anticipated that there will be a significant adverse impact on the Guilderland School District, with the existing facilities being sufficient to accommodate the proposed action. Based on the planned single-two bedroom units, the location and target population of the development in Site 1 is for young professional and empty nesters. Therefore, it is not anticipated that there will be a significant amount of school age children added to the Town of Guilderland.

- h. The School District will receive substantial tax revenue from the Project which will more than offset the costs from any additional students. See Section 8 of this Findings Statement. Current property tax generation from all three sites totals \$175,718. While the following figures are not intended to be binding on the applicant or the Guilderland Tax Assessor, it is projected that a future assessed value for the Site at full build out would be in the range of \$ 18,799,326. Annual revenues to the School District are estimated to be \$437,778. See Section 9 of this Findings Statement for additional revenue information.

#### Solid Waste and Utilities

- a. The proposed action is expected to generate solid waste. The vast majority of this waste is cardboard and paper from the Costco retail store and will be recycled. Private entities currently provide recycling services.
- b. Electric, natural, gas and telephone service will be provided by expansion of existing on-site utilities. All utilities have ample existing capacity to serve the proposed action.

## 7. Air Quality and Noise

- a. The DEIS included an [Air Quality Analysis and Impact Report](#) by B. Laing Associates in order to assess any potential air quality impacts as a result of vehicle traffic generated by the Project. This Air Quality Report was based on the DEIS Traffic Impact Study prepared by Maser Consulting PA.
- b. As a result of input from [NYSDOT](#), the Town's consulting traffic engineer, [GPI](#), the Planning Board as Lead Agency and others, the Maser Traffic Impact Study was supplemented by additional analyses and mitigation measures described in Maser Consulting response letters included in the FEIS. These supplemental traffic analyses and additional mitigation measures are reflected in the B. Laing Associates [Supplemental Air Quality Report](#), also included in the FEIS.
- c. The B. Laing Air Quality Analysis found:

No significant air quality impacts are anticipated as a result of the buildout of the Project. Twenty-three (23) signalized and unsignalized intersections were analyzed by the traffic consultant. These analyses were utilized to determine the impacts, if any, to air quality as a result of the proposed action. As provided above, similar Levels of Service and delays will be experienced under the 2022 and 2025 No-Build and Future Build Conditions and so, again, no significant air quality impacts are anticipated.
- d. The Report models peak p.m. traffic to determine potential impact upon air quality. NYSDOT's Environmental Manual provides that up to three intersections should be modeled for air quality if they exceed traffic Level of Service C and exceed certain 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, and Washington Avenue Extension at Springsteen Road. The traffic modeling includes all three project sites by 2025 and a general increase in traffic growth accounting for cumulative and regional effects. Carbon monoxide modeling included the number of vehicles anticipated to park at the proposed Costco. These "parked" vehicles are incorporated into the model as queueing, accelerating and decelerating and analyzed with engine starts. Thus, cars queueing at gas pumps and cars waiting to enter Western Avenue have been incorporated into the quantitative analysis. The intersection analysis determined that the proposed project will meet the carbon monoxide standard as provided in the New York State Ambient Air Quality Standards. (SAAQS).
- e. As a significant mitigation measure with respect to air quality, a roundabout will be constructed and the eastern ramps to Crossgates Mall Road, from Fuller Road Alternate, as part of the proposed action. The level of service at this intersection remains at C when this mitigating measure is applied and so, reduces it to a NYSDOT's Environmental Manual level 1 screening analysis. 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, and 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 also reduced fuel consumption by an estimated 23-34 percent (Hu et al., 2014; Várhelyi, 2002; Höglund & Niittymäki, 1999).

- f. With respect to the potential air quality impact of traffic generated from the projects proposed on Sites 1-3 on the Karner Blue Butterfly migration corridor located north of Site 1, the Project's traffic mitigation measures include modifications to the upper Rapp Road corridor designed to reduce existing traffic volumes in the Rapp Road Historic District and, as a result, minimize any impact to the Karner Blue Butterfly migration corridor and other Pine Bush Preserve areas located north of the Project.
- g. A [Sound Level Measurements and Impact Review Report](#) was prepared by B. Laing Associates to evaluate sound levels that may occur as a result of the Project. The report examined the data at four monitoring locations to establish an existing base line for sound in the area. Existing vehicular traffic was identified as the primary source of sound. The report examines the results of Maser Engineering Traffic Impact Study and the anticipated additional traffic that will result from the Project and its potential impact on noise. In addition, the mitigative measures employed for Site 1, including the 20 foot high berm and 6 foot high fencing at the north end of Westmere Terrace will mitigate noise impacts to the maximum extent practicable. The report concluded: "The analysis revealed that no significant noise impact will occur as a result of the proposed action."
- h. Industry standard construction noise mitigation measures will be employed, which include:
  - The contractor will 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 will be located as far as possible from noise-sensitive sites (i.e. residences).
  - Mitigation for diesel engine noise will 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.

**8. Municipal Revenues and Finances**

- a. The proximity of the proposed action to the interstate highway system and existing municipal services indicates the proposed action is suitably located in relation to transportation, water and sewerage requirements.
- b. The proximity of the proposed action to the interstate highway system, the existing demand in the market area for upscale shopping opportunities, and the possible use of the Costco facilities for community-based and charitable events, and overall positive impact on the municipal tax base and the private sector economy indicate the proposed action is reasonably necessary and convenient to the public health, welfare, economic or social benefit of the community.
- c. To the limited extent that the proposed action could be viewed as encouraging additional commercial and/or residential development, such growth is contemplated by the Town's Comprehensive Plan, Westmere Corridor Study and would be expected to positively impact the local economy. Any such additional development would be required to be consistent with the Town Code and would be subject to full review under SEQRA by local and state agencies.
- d. The proposed action will have a substantial positive impact on municipal revenues and finances within the Town of Guilderland and surrounding municipalities. Currently, Sites 1, 2 and 3 are vacant land within the Town. Based on current tax rates, these properties generate the following in taxes to the Town and School District combined:

	Assessed Value	Town	School District
Site 1 (Four Parcels)	\$ 1,299,800	\$ 2,285	\$22,945
Site 2 (Twenty-five Parcels)	\$5,087,531	\$16,645	\$89,809
Site 3 (Thirteen Parcels)	\$ 3,566,769	\$ 13,441	\$62,963
Total	\$ 9,954,100	\$ 32,372	\$175,718

These values do not include existing revenues to Albany County of \$28,259.

- e. The proposed action is expected to generate additional property tax revenues for the Town of Guilderland, and other governmental entities, which has been demonstrated to exceed the cost of any additional municipal services required. Estimates indicate the following potential additional revenue benefits:

Site 1 - Rapp Road Apartment/Townhome Project

Guilderland School District	\$331,861 annually
Town of Guilderland	\$61,506 annually
County of Albany	\$50,633 annually

Site 2 - Costco

Guilderland School District	\$105,917 annually
Town of Guilderland	\$19,630 annually
County of Albany	\$16,160 annually

- f. In addition, the proposed action will generate construction and operational jobs, as follows:

Rapp Road (Site 1)

489 Construction Jobs  
Estimated Payroll \$19,488,410

76 Operational Jobs  
Estimated Payroll \$3,010,294

Costco (Site 2)

181 Construction Jobs  
Estimated Payroll \$13,171,980

300 Operational Jobs (full and part time)  
Average salary of \$58,000 per year for full time  
Average Rate of \$23.00 per hour for part time

- g. Sales taxes were calculated according to the NYS Comptroller's Office Division of Local Government Accountability methodology. Albany County keeps 60% of sales tax revenue and distributes 40% of sales tax revenues to the cities and towns on the basis of population. The "Amount Kept by County" and the "Amount Distributed to Town" are calculated to reflect this. Based on population, approximately 12% of the 40% that is distributed to the cities and towns will be distributed to the Town of Guilderland. This methodology is used throughout the entire report in all sales tax calculations. Sales taxes are estimated to significantly contribute to the local government and the economy, as follows:

Site 1 - Rapp Road Apartment/Townhome Project

Town of Guilderland	\$4,420 annually
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County of Albany \$55,255 annually

Site 2 - Costco

Town of Guilderland \$157,516 annually  
County of Albany \$1,845,892 annually

Site 3

Town of Guilderland \$9,592 annually  
County of Albany \$119,905 annually

- h. The Town will also receive additional fees from Building Permit application fees; Open Space, Parks and Parkland fees (\$500.00 per unit) and Sewer mitigation fees.
- i. The proposed action will result is a significant increase in revenues to the Town, Albany County and School District.

## 9. Alternatives

- a. The SEQRA regulations provide that the alternatives to be evaluated in a DEIS should include “the reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor” and such alternatives “for which no discretionary approvals are needed may be required”. The SEQRA regulations also provide that “site alternatives may be limited to parcels owned by, or under option to, a private project sponsor”.
- b. Alternative sites for the Project involving Crossgates Mall property or facilities have been considered but determined to be not feasible. Crossgates Mall and lands are under different ownership from the applicant, including ownership by a department store, are subject to separate tenant approval development rights, and separate financing requirements which limit the applicant’s ability to locate the Project on these properties.
- c. The applicant notes that land and associated development costs for the Project Sites are extremely high and require a use which generates significant revenue in order to make a reasonable return on the project sponsor's investment.
- d. Site 1 is located west of Rapp Road and, pursuant to the TOD, no alternative residential or commercial land uses are permitted west of Rapp Road. An alternative land use of restoring lands on Site 1 to pitch pine and scrub oak barrens was examined by the Applicant and Albany Pine Bush Preserve. In a [letter dated March 10, 2020](#) prepared by the Albany Pine Bush Preserve Commission, it 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.*

Therefore, alternate land uses were feasibly examined and after consultation with the Albany Pine Bush Preserve Commission an acceptable mitigation was agreed upon to offset the loss of this restorable acreage.

- e. Regarding Site 1, the existing site configuration, including building-floor plan, parking layout and ring road must, however, be considered as it is within the goals, objectives and capabilities of the Project sponsor. Additionally, the existence of Pine Bush Preserve lands to the north are key factors in considering alternative site layouts. The development restriction on the parcels of land west of Rapp Road is also a factor in determining site configurations.
- f. The record also includes a detailed evaluation of the most feasible alternative use of Site 2 developing a standalone office building. The acreage available to support an office use is approximately 15± acres. According to the TOD, the maximum allowable lot coverage of structures and parking areas is 75 percent. Additionally, per the TOD, three parking spaces per 1000 square feet of gross floor area is required, or a total of 1,086 spaces 362,500 SF of building coverage (2.5 acres) x 4 floors/one building = 362,500 SF (Footprint assumes 108,750 SF – 20% additional for common areas).
- g. In a [letter dated March 10, 2020](#) the Albany Pine Bush Preserve Commission 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. 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.”*

The Applicant did not consider restoring Site 2 to native Pine Bush lands/habitat based on these comments from the Pine Bush Preserve Commission.

- h. The local service demands as they relate to roads, parks and other municipal services would be similar to that required by the retail facilities. However, an office development would be expected to generate more peak hour traffic. This type of facility would not generate sales tax, and therefore net tax revenues to the community will be substantially lower than the proposed retail use.
- i. The record demonstrates that current vacancy rates within the Albany Central Business District for Class A, Class B and Class C office space are currently within an unacceptable range for the applicant to undertake the financial risk of an office development of this size.
- j. With respect to Site 2, and assuming that a retail facility of a reasonable and appropriate use of the site, the record also includes an analysis exploring the development of larger as well as smaller facilities. A retail facility of a smaller scale than that proposed, while in theory possible, is not economically feasible and does not meet the goals or objectives of the project sponsor. Land costs and development costs preclude this option. Commitments to the potential tenant requires specific floor areas which do not

allow the size of the facility to be reduced. The Applicant advises that the high development costs, and existing site constraints make a smaller retail facility infeasible.

- k. Retail, office and residential redevelopment proposed for Site 3 is consistent with the TOD and may be developed at some point in the future. No other land uses are within the capabilities of the project sponsor. The maximum square footage that may be developed was evaluated in the DEIS. Increasing the scale would likely require one or more variances from the Zoning Board of Appeals and depending upon the required number of parking spaces that would be required to support the use and the provision of sufficient greenspace.
- l. Alternate site layouts may be considered in the future for Site 3 that may include individual uses or buildings on the site rather than all uses enclosed in a single structure. The configuration of the site, size of the project and number of parking spaces is hypothetical at this time may change if and when Site 3 is proposed for development.
- m. In a [letter dated March 10, 2020](#) the Albany Pine Bush Preserve Commission 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. 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.”*
- n. The Applicant did not consider restoring Site 3 to native Pine Bush lands/habitat based on these comments from the Pine Bush Preserve Commission
- o. Should the Project sites remain as underdeveloped lands they would generate limited revenues to the Town, School District, and County and not provide the significant beneficial impacts to the local municipal economy and employment rolls. The potential environmental and public benefits of the conveyance of 8.4 acres of land for the expansion of the Karner Blue Hill Preserve and corridor area to the north and the implementation of a traffic calming alternative in the Rapp Road Historic District would also not be realized.

## 10. Water Resources

B. Laing Associates investigated each Site for the presence of wetlands.

### Wetlands – Site 1

- a. Site 1 was operated for decades as a pig farm and partially filled. The site is dominated by a closed canopy, secondary successional woodland. The disturbed, ecological condition is the result of the prior operations of the pig farm and fill placement which substantially altered the original soils and topography on the subject property. No wetlands or hydric soil conditions were found on the Site. The dominant characteristics of the uplands are disturbed, fill soils and secondary succession vegetation. [DEIS Appendix F](#).

### Wetlands – Site 2

- a. The [Wetland Delineation Report for Site 2](#) identifies a small, [man-made channelized ditch/wetland](#) (0.93 acres) that was constructed for the old Rapp Road, and meets the criteria to be classified as a wetland which has been confirmed by the US Army Corps of Engineers. Impacting federal wetlands under 0.1 acre are typically approved ministerially through an ACOE Nationwide Permit 39.
- b. As provided in the DEIS, “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.” The wetland report explains how the non-wetland status of the “tributaries” were determined. The Report found, “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.”
- c. The wetland will be filled and channelized and discharge to the existing stormwater facilities along Crossgates Mall Road.
- d. There are no sole source aquifers in the vicinity of the proposed action.

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.

1. The primary source is the Watervliet Reservoir, permitted to withdraw 5 mgd, but averages 3 to 3.5 mgd during the summer months.

2. The second source is an interconnect with the City of Albany, in the summer months it averages 2 mgd.
3. The third source is an interconnect with the Town of Rotterdam and is currently producing on an average 1 mgd.
4. 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.

Numerous safety precautions will be included with the development of the proposed gas station at Site2, 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.

#### Stormwater Management

- a. The proposed action is not located in a floodplain.
- b. The stormwater management plans have been designed to mitigate the adverse effects of stormwater runoff, specifically sedimentation and site controlled release of stormwater are methods which have been implemented to achieve this result.
- c. The Planning Board and its independent Town Consultant, Delaware Engineering, have reviewed the comprehensive Stormwater Management/Erosion Control/Pollution Prevention Plans for Costco and the Rapp Road Apartment/Townhome Projects designed to address the on-site and off-site impacts related to construction phase and operational phase drainage of stormwater from the respective Sites.

#### Site 1 – Apartment/Townhomes

- a. The project will disturb greater than one acre of land 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). A [Stormwater Pollution Prevention Plan](#) was prepared which also contains the Erosion and Sediment Control Plan to be implemented during construction, and a long-term Operation & Maintenance Plan to be followed after construction is complete.
- b. As part of these requirements, stormwater from the site is required to capture and treat a specific amount of water based on the qualifications of new development versus redevelopment. The project proposes infiltration practices 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. By following such requirements, stormwater will meet or exceed the water quantity and quality requirements set forth in the NYSDEC SWMDM.
- c. 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.

#### **Site 2 - Costco**

- a. A [Stormwater Pollution Prevention Plan](#) was prepared by Maser Consulting (See DEIS) for Site 2 which also contains the Erosion and Sediment Control Plan to be implemented during construction, and a long-term Operation & Maintenance Plan to be followed after construction is complete.
- b. The report indicates that the peak flow analysis demonstrates that the proposed development will result in a reduction in flow rates entering the tributary to Krum Kill. Additionally, the proposed development will not have any adverse impacts on the storm sewer system in Crossgates Mall Road nor the adjacent properties to the east of the subject property.
- c. A phased construction sequence has been developed for the project which incorporates stabilized construction accesses, compost filter sock, inlet protection, and temporary/permanent stabilization techniques to minimize erosion and sedimentation.
- d. The storm water pollution prevention plan provides reductions in peak flows for the required storms, and runoff reduction/water quality mitigation meeting the applicable standards, there should be no adverse impacts due to storm water, on-site or off-site, as a result of the proposed development.
- e. Implementation of the Erosion Control Plans will adequately protect against and control soil erosion during construction of the proposed action to the greatest extent possible.

## 11 Miscellaneous – Climate Change/Tree Cutting

### Climate Change

- a. The contribution of a project of this scale to climate change is insignificant in the context of global climate change. The project is consistent with land use practices that minimize greenhouse gas emissions.
- b. 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. 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.

It has been reported that 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. Constructing roundabouts in place of traffic signals or stop signs reduced fuel consumption by an estimated 23-34 percent.

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. The document 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. As noted in the FEIS, the proposed action incorporates numerous recommended "Building Blocks".

It is also 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." 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.

### Tree cutting

- a. In March 2020, representatives of the applicant 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.
- b. On March 24, 2020, the applicant provided to the Town 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, [FEIS, Appendix 21](#) for B. Laing Associates Report.

- c. The Town Code does not require a permit for such tree cutting activity. The Town Planner confirmed this with the Town's Stormwater Management Officer.
- d. A [comment letter](#) from the Albany Pine Bush Preserve Commission on the DEIS regarding Site 2 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).

- e. A [notice](#) of such activities was posted on the Town's website summarizing the contents of the report and advising 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.

- f. 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.
- g. NYSDEC also advised in an email that the tree cutting activity was outside of the 5-mile protected radius of bat habitat, and therefore was not prohibited.
- h. On March 26, 2020, some trees were cut down and left on Site 2 without physically disturbing the soil and consistent with the NYSDEC's guidance.
- i. 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 (Lead Agency) authorized the tree cutting activity. Based on all of the documentation and information, there was no potentially significant environmental impact from such activities.
- j. The tree cutting activity on Site 2 has not affected 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 the FEIS](#) for an evaluation of reasonable alternatives for Site 2.
- k. The tree cutting activity on Site 2 was the subject of federal court litigation brought by nearby property owners against the Town and the applicant. [Hart v. Town of Guilderland, et al.](#), U.S. Dist. Ct., NDNY, 1:20-CV-475. The plaintiffs sought to enjoin further tree cutting on the site, halt the Planning Board's SEQRA review process of the projects, and require the replacement of the Planning Board as the SEQRA Lead Agency.

On June 1, 2020, the federal court denied the plaintiffs' request for a preliminary injunction and allowed the SEQRA proceeding to continue with the Planning Board as SEQRA Lead Agency.

On July 28, 2020, the federal court denied the motion by Save the Pine Bush to file a legal brief in support of the plaintiffs' claims with respect to the tree cutting.

On August 5, 2020, the federal court issued a decision and order denying all of the plaintiffs' claims and dismissing the case in its entirety.

### **III. SEQRA Findings Statement Conditions**

#### **a. Traffic**

Based upon comments from the public, NYS Department of Transportation, interested and involved agencies, 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.

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

Roundabouts are a preferred method to address and mitigate vehicle emissions. 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.

### **Gabriel Terrace intersection with Crossgates Mall Road**

The primary access for Sites 2 (Costco) and Site 3 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 a Complete Streets design, a center turn-lane will be provided on Crossgates Mall Road. In the future, the primary access to Site 3 will also be from Crossgates Mall Road via the Gabriel Terrace Road and Hotel Connector Road.

### **Gabriel Terrace Intersection with Western Avenue**

Access to and from Gabriel Terrace at Western Avenue will be restricted to right turn in / right turn out movements only.

### **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. 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**

A Complete Streets design will be incorporated on Crossgates Mall Road, from the hotel driveway to the vicinity of Rapp Road, and will be reconfigured from four lanes to three lanes and a center turn lane will be added.

### **Crossgates Mall Road and Rapp Road**

As a means to increase pedestrian and vehicle safety and incorporate a Complete Streets design on Crossgates Mall 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 Committee.

### **Western Avenue and Johnston Road / Crossgates Mall Road**

At the intersections identified below, the Applicant has recommended signal timing adjustments to maintain similar operating conditions. Modems will be provided as per NYSDOT specs as a means to adjust signal timings as needed.

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

In connection with the development of Site 3, 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, approximately 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. Driveway consolidation is a method supported by DOT for improving vehicle safety.

### **Rapp Road**

The Planning Board, as Lead Agency, has considered multiple alternatives designed to alleviate traffic in the Rapp Road Historic District located north of Site 1, at the north end of Rapp Road. Findings related to these Alternatives are found at Section 2 of this Findings Statement, Historic, Cultural and Archeological Resources.

## **b. Community Character**

1. To the south of Site 1 is the Westmere Terrace neighborhood and to the west is a National Grid right of way and the Paden Circle neighborhood. During the early stages of the site plan review process for Site 1, the Project Sponsor engaged the residents in the nearby neighborhoods in a dialogue to address site plan concerns. This resulted in development of [site enhancements](#) encouraged by and in compliance with [§280.18-1.G.3](#) of the Town of Guilderland Town Code, that includes extensive landscaping, additional berms, and fencing to provide a visual screen and mitigate any noise impacts for these neighbors including:
  - A new cul-de-sac will be constructed on tax map parcel number 52.09-4-43.2 (28 Westmere Terrace), which is owned by the applicant. The relocated cul-de-sac, berm and plantings will be constructed prior to construction taking place on the Site 1.
  - A 20-foot high berm along the southern boundary of the Project site is proposed.
  - A double row of 12-15 foot high pine trees along the southern boundary of Site 1 across the top of the berm referenced above.
  - A double row of 8-10-foot tall pine trees will be planted along the northern boundary of tax map parcel number 52.09-4-43.1 (24-26 Westmere Terrace).
  - A 6-foot high solid panel vinyl fence will be constructed in the following locations:

- (A) along the top of the 20-foot berm at the southern boundary of Site 1; the fence will run from the northwest boundary of tax map parcel number 52.09-4-43.2 (28 Westmere Terrace) to the northeast boundary of parcel number 52.10-1-6 (31 Westmere Terrace).
  - (B) along the western boundary of tax map parcel number 52.09-4-43.2 (28 Westmere Terrace).
  - (C) along the northern boundary of tax map parcel number 52.09-4-43.1 (24-26 Westmere Terrace).
  - (D) along the northern boundary of tax map parcel number 52.10-1-6 (31 Westmere Terrace).
- The existing wood fence along the western boundary of tax map parcel number 52.10-1-25 will be replaced with a 6-feet high solid vinyl fence.
  - The Applicant will install light poles that are no higher than 12-feet in the southern most area closest to Westmere Terrace. The exterior lighting will conform to Town Code [§280-28\(C\) \(2\), \(3\) and \(4\)](#).
  - The Applicant will avoid removal of on-site mature trees near the southern property boundary unless necessary for building development and site improvements so that these existing mature trees will act as a natural buffer.
  - The berm along the western border of Site 1 will be planted with 12-15 foot tall double row of trees.
  - All construction work will comply with the Town's Noise Ordinance.
  - Construction hours for building construction and site work on the site near Westmere Terrace shall be between 7:00 AM and 5:00 PM, Monday through Friday and 9:00 AM to 4:00 PM on Saturday with no construction activities on Sundays or holidays (New Years Day, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas). This limitation shall not apply to construction work being performed within the interior of any buildings after building walls have been constructed, or exterior building or site work being performed, for example landscaping work, or masonry work on the outside of buildings, etc., within acceptable dBA levels set forth in the noise ordinance.
2. During operation, consistent with Town requirements, the parking lot lighting will not exceed 16 feet in height from finished grade and shall have cutoff type luminaires to prevent light above the fixture. The Applicant will install light poles that are no higher than 12-feet in the southern most area closest to Westmere Terrace. The exterior lighting will conform to Town Code [§280-28\(C\) \(2\), \(3\) and \(4\)](#).

3. Site 1 parking lot lighting will be located and screened without intruding upon the environment or neighboring properties. Based on the proximity of the Site, sodium vapor lighting is proposed so as to reduce the attraction of such lighting on insects. The lighting will be at least 200 feet south of the established Albany Pine Bush corridor located north of Gipp Road and will conform to the 0.2 foot-candle limit set in the Town Code. The nature trees and vegetation on this 2.4 acre buffer area will not be disturbed and will further serve to provide mitigation for Site 1 impacts.

c. Stormwater/Construction

Additional mitigation measures will be employed at Sites 1, 2 and 3:

- Construction equipment will be properly muffled in accordance with all applicable regulations.
- Equipment will be required to be properly maintained to reduce noise and vibration.
- The site will be required to be maintained in an orderly manner during all construction periods. Crews will be responsible for daily policing/cleaning of the site.
- All packaging, demolition and construction debris will be promptly removed from the site by a private waste-hauler and disposed of in an approved construction and demolition debris landfill.
- Demolition of the structures will be in accordance with all state and local laws, rules and regulations.
- Dust suppression measures will be implemented as required.
- Erosion control measures will be implemented in accordance with the approved SWPPPs.

d. Rapp Road Alternatives

As a result of the analysis of the numerous potential traffic alternatives, as described in the FEIS, several alternatives were determined by the Planning Board to be feasible, reasonable alternatives that address the existing commuter and development related traffic concerns by limiting traffic between the Town of Guilderland and the City of Albany. Of the following five alternatives, Alternative 9 is the only one located entirely within the Town of Guilderland and will be implemented in the absence of an agreement with the City of Albany to implement one of the other Alternatives partially located within the City.

[Alternative 9](#) - terminates any direct connection via Rapp Road between the Projects and the Rapp Road Historic District. A connection between Rapp Road and the shopping center ring road would insure that City residents on Pine Lane and Wilan Lane would have access to Washington Avenue Extension east-bound

by way of the Crossgates Mall Ring Road, but traffic from the Site 1 apartments, the Site 2 Costco development and Site 3 would be effectively discouraged from travelling through the Rapp Road Historic District by the inconvenient route required, and the availability of more efficient travel routes.

Emergency vehicle access from the north and south would be permitted via a bollard-protected connection between lower and upper Rapp Road.

On balance, Alternative 9 will mitigate traffic impacts from the projects in the Rapp Road Historic District to the maximum extent practicable and have the added benefit of reducing existing commuter traffic in the Rapp Road corridor. The reduced traffic in the vicinity of the Karner Blue Butterfly migration corridor would also be an environmental benefit.

Alternative 9 is located entirely within the jurisdiction of the Town of Guilderland and will be implemented in the event the City of Albany declines to participate in the implementation of any of the other acceptable Alternatives.

The following Alternatives will also mitigate potential traffic impacts to upper Rapp Road but require cooperation and participation by the City of Albany.

**Alternative 5A** – terminates the connection between the Rapp Road Historic District on northern Rapp Road and the projects on southern Rapp Road and Crossgates Mall Road. This Alternative would eliminate both existing commuter traffic and project related traffic from the south. Access to and from Gipp Road would be from the south only and Pine Lane and Wilan Lane would be accessible exclusively from the north. No emergency vehicle access would be available between the northerly and southerly sections of Rapp Road.

Alternative 5A would reduce existing commuter traffic and mitigate project related traffic to the maximum extent practicable. The Rapp Road Historic District has identified Alternative 5A as the preferred Alternative. Alternative 5A is within the City of Albany and its implementation would require cooperation and participation by the City of Albany.

**Alternative 5D** – dead-ends the northernmost segment of Rapp Road at its intersection with Springsteen Road, and restores two-way traffic on Springsteen, providing north and south bound traffic access to and from Washington Avenue Extension. All access to the northernmost segment of Rapp Road, including emergency vehicle access, would be from the north via the Frontage Road.

Alternative 5D would eliminate all traffic, including commuter traffic and Project related traffic, from the segment of Rapp Road located north of the Rapp/Springsteen intersection in the Rapp Road Historic District, and would mitigate traffic impacts from commuter traffic and the projects on the northernmost segment of Rapp Road..

Alternative 5D is located entirely within the jurisdiction of the City of Albany and its implementation would require the cooperation and participation by the City of Albany.

**Alternative 4/6.** The Planning Board has also considered an alternative which combines the elements of two alternatives presented in the record, Alternatives 4 and 6. This alternative would re-route Gipp Road through the northern 200' buffer in the northwest corner of Site 1 and connect the Gipp Road traffic to the northernmost internal access drive on Site 1, move the Gipp Road/Rapp Road intersection to the south, and establish a cross-connection to the Crossgates Mall ring road at the new Gipp Road intersection with Rapp Road. A realignment of the internal Crossgates ring road would make this cross connection work more efficiently. The alternative 4 component of this alternative calls for the segment of Rapp Road north of this intersection to be converted to one-way south bound, thereby eliminating all northbound commuter and project generated traffic from travelling through the Rapp Road Historic District

North bound emergency vehicle access would require vehicles to proceed northbound over the short one-way southbound segment of Rapp Road north of the relocated Gipp Road/Rapp Road intersection. Southbound emergency vehicle access would continue in its current pattern.

As with Alternative 6, this combined alternative would impact a portion of the forested 200' northerly buffer between the apartment development on Site 1 and the Albany Pine Bush Commission protected lands to the north of the current location of Gipp Road. However, this alternative would remove the segment of Gipp Road within the Karner blue butterfly migratory corridor and limit traffic to one way on Rapp Road within this migratory corridor. The rerouting of Gipp Road would create a wider more contiguous wildlife migratory corridor and combined with restricting traffic to one way southbound, reduce traffic that currently bisects the corridor significantly.

This combined alternative would (1.) re-route east and north-bound Gipp Road traffic to the Crossgates Mall ring road, (2.) eliminate all north-bound commuter and project-related traffic from entering northern Rapp Road and the Rapp Road Historic District. In addition to providing environmental benefits to the adjoining Pine Bush Habitat, this combined alternative would significantly reduce existing commuter and project-related traffic impacts within the Rapp Road Historic District.

Several components of this combined alternative are located in the City of Albany and its implementation would require the cooperation and participation of the City.

**Alternative 4/5D/6.** Finally, the Planning Board has also considered an alternative which combines the elements of three alternatives presented in the record, Alternatives 4, 5D, and 6. This alternative would add the road improvements

identified in Alternative 5D to the Alternative 4/6 alternative described above. The Alternative 5D component of this plan would terminate the northernmost segment of Rapp Road at its intersection with Springsteen Road, and convert Springsteen Road back to two-way traffic.

Emergency vehicle access to the new dead-end northernmost segment of Rapp Road would be available only from the Frontage Road.

As described above with respect to Alternative 4/6, this combined alternative would also impact a portion of the forested 200' northerly buffer between the apartment development on Site 1 and the Albany Pine Bush Commission protected lands to the north of the current location of Gipp Road. However, as noted above, the rerouting of Gipp Road and traffic reductions along Rapp Road have environmental benefits for the Pine Bush habitat and existing Preserve lands.

This combined alternative would (1.) re-route east and north-bound Gipp Road traffic to the Crossgates Mall ring road, (2.) eliminate all north-bound commuter and project-related traffic from entering northern Rapp Road and the Rapp Road Historic District, and (3.) eliminate all traffic, including commuter traffic and project related traffic, from the segment of Rapp Road located north of the Rapp/Springsteen intersection in the Rapp Road Historic District.

This combined alternative would also significantly reduce existing commuter and project-related traffic impacts within the Rapp Road Historic District .

Several components of this combined alternative are located in the City of Albany and its implementation would require the cooperation and participation of the City.

It is noted that the [City's](#) only preferred alternative ([Alternative 1 - the Eastern By-Pass](#)) has not been identified as an acceptable Alternative as a result of traffic impacts and environmental concerns. Alternative 1 would relocate the existing travel corridor through the Rapp Road Historic District by terminating Rapp Road just north of Pine Lane. North-south commuter and project related traffic on Rapp Road would be re-routed to a new road located east of several houses in the Rapp Road Historic District (the "Eastern By-Pass"), effectively relocating traffic from their front yards to their backyards. The Eastern By-Pass would be constructed in Area 62, a parcel adjacent to the Karner Blue Butterfly migration corridor and designated as requiring "Full Protection" under the Pine Bush Management Plan. The new By Pass Road would also increase speed of traffic and related noise impacts based on such greater speeds.

All emergency vehicle access to the Rapp Road Historic District would be from the Frontage Road in the City of Albany.

Alternative 1 has been evaluated and determined, on balance, to potentially cause more environmental harm, such as bisecting the existing Karner Blue Butterfly Corridor with a new road, at higher speeds, which has the additional negative impact of more noise impacts, than this Alternative might provide. The Eastern By Pass would be located in the backyards of residents in the Rapp Road Historic District, as opposed to their front yards. It also would eliminate the

proposed conveyance of 8.4 acres of land to the Albany Pine Bush Preserve Commission by the Applicant to create an expanded Karner Blue Butterfly corridor area.

## **DECLARATION OF FINDINGS CERTIFYING THE PROJECT IS APPROVABLE**

Based upon the information contained in the DEIS and FEIS, and as outlined in this Findings Statement and the supporting documentation provided, the Town of Guilderland Planning Board, as Lead Agency, hereby finds that the project, as proposed, is approvable and minimizes potential environmental impacts to the maximum extent practicable and will provide the necessary balance between the protection of the environment and the need to accommodate social and economic considerations. Having considered the complete EIS record, including the DEIS and FEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of [6 NYCRR Part 617.11](#), this Findings Statement certifies that:

1. The requirements of 6 NYCRR Part 617 have been met; and;
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

### **Copies of the DEIS and FEIS were made available at:**

- Town of Guilderland Town Hall
- Online via a link on the Town of Guilderland website:  
<https://www.townofguilderland.org/planning-board/pages/environmental-impact-statement-rapp-road-residentialwestern-avenue-mixed-use>

### **Copies of this Findings Statement will be filed with:**

- Town of Guilderland Town Clerk
- Town of Guilderland Supervisor
- Involved Agencies
- Planning Board
- The applicant