



Technical Committee (TC) Project Review Update #57

Projects Reviewed and/or Under Review

Prepared for the Albany Pine Bush Preserve Commission (APBPC)

June 18, 2020

Neil A. Gifford, Conservation Director

Patricia McLaughlin, Office Manager

Update incorporates projects reviewed since the December 2019 APBPC meeting. New information italicized.

Technical Committee Project Review Summary

No. of Projects reviewed in:	<i>City of Albany</i>	<i>Town of Guilderland</i>	<i>Town of Colonie</i>	<i>Village of Colonie</i>	<i>Inter-municipal</i>	Total projects in:
<i>“Full Protection Areas”</i>	1	1	1	--	--	3
<i>“Partial Protection Areas”</i>	--	1	--	--	--	1
<i>In/affecting protected areas</i>	1	1	--	--	--	2
<i>Non-protection areas</i>	1	--	--	--	--	1
<i>“Open Space Areas”</i>	1	--	--	--	--	1
<i>Outside of Study Area</i>	--	--	--	--	--	0
Total Projects Reviewed	*1	3	1	0	0	N/A

** An individual project may affect more than one type of APBPC Protection category: see project details below.*

I. City of Albany

1. City of Albany Landfill Modified Permit, Area 15a, Full Protection Area, Open Space, In/Affecting Protected Areas and Non-Protection Area.

- Background:**

In 2009, the New York State Department of Environmental Conservation (NYSDEC) issued the City of Albany a permit to expand the Rapp Road landfill. The project involves a 23-acre overfill and a 15-acre lateral landfill expansion, extending the life of the landfill by seven years. Mitigating negative impacts includes the restoration of approximately 250 acres of wildlife habitat in the preserve and on the landfill. The goals include creating approximately 20 acres of wetlands, 3200 feet of stream, a native plant nursery, and restoring/enhancing approximately 233 acres, including 34 wetland acres and 200 acres of globally rare pitch pine scrub oak barrens (PPSOB) communities.

- Technical Committee Recommendation:**

A letter of comment submitted; the APBPC does not support another expansion of the landfill but recognizes that no protected PB lands are directly impacted by the proposed expansion. Comments focused on 1) a 2:1 replacement of habitat and a NYSDEC public access easement lost to the expansion; 2) placing of an Article 49 NYS conservation easement on all City-owned preserve lands; 3) a change in the mitigation funding to APBPC for habitat management to be 3-4% of gross income received from landfill operations; and, 4) the implementation of a Habitat Management Plan for the restoration project with a team to include science staff from NYSDEC and the APBPC.

- Municipal Determination/Project Outcome:**

A findings statement was released and the NYSDEC Part 360 Permit was issued June 25, 2009. The NYSDEC will hold an easement for City owned lands in the preserve surrounding the landfill. Habitat restoration within the former mobile home park is nearly complete, with all designed streams and wetlands functional. Consultant, Applied Ecological Services, has been retained by the City for continued habitat monitoring and landfill restoration services. The City is actively restoring the site of former trailers. NYSDEC is evaluating easements for use of the former trailer

park access road. A future trailhead is possible. Greater Albany Landfill (GAL) test plots are providing valuable information, with deeper soiled test plots (18-24 inches) proving most beneficial to native plant establishment. Lupine and Karner blue butterflies (Kbb) are on the GAL and throughout the restoration project area. Invasive plant work is ongoing. The Interagency Habitat Management Team (IHMT) consisting of the City of Albany, its consultants, APBPC, NYSDEC, NY Field Office-United States Fish and Wildlife Service (NYFO-USFWS), and US Army Corps of Engineers (USACE) meet annually to review work plans in contemplation of APBPC Temporary Revocable Permit (TRP) issuance for work in the preserve. The IHMT discusses wetland mitigation and endangered species management. The NYFO-USFWS provided an updated biological opinion to the USACE allowing Take of Kbb and frosted elfin (FE) associated with restoration in the preserve and on the landfill. NYSDEC and APBPC staff continues to monitor progress through regular meetings and site visits. The closing and capping of the landfill cap for barrens restoration as required by the NYSDEC Permit is to promote native plant establishment, minimize invasive species, and increase contiguity between different parts of the preserve. City consultants attended two TC meetings to discuss potential restoration plans for the capped landfill as required in their Permit. TC members asked for details, cost estimates and technical specifications. The restoration plan was proposed as part of the closure (anticipated 2023) plan for the entire facility, which requires approval by NYSDEC Central Office Solid Waste. The restoration plan for the closed landfill appears consistent with the Permit conditions but is a modification of typical closure plans. The 2017 Compliance Report was submitted to all regulatory agencies in December, along with the 2017 Annual Wetland Mitigation Monitoring Report. The landfill closure and restoration plan was approved by NYSDEC. The City has received a USACE permit modification to facilitate transport of stockpiled sand to the landfill. *A temporary road to facilitate transporting stockpiled sand to the landfill was completed in November, 2019. The City has submitted the 2019 Annual Restoration Compliance Report and the 2019 Annual Wetland Mitigation Monitoring Report to the NYSDEC, US Army Corps of Engineers (USACOE) and APBPC.*

II. Town of Guilderland

1. Rapp Road Residential Development, Partial Protection Area 57.

- **Background:**

Crossgates Releaseco, LLC., proposes constructing 222 apartment units and 4,300 SF of commercial space, within 5 buildings, on 19.68 acres on Rapp Road, immediately west of Crossgates Mall. The proposal includes two five-story buildings and three two-story buildings.

- **Technical Committee Recommendation:**

The TC provided initial review and comment on January 25, 2019 indicating short and long-term concerns and recommendations. The proposal would result in irreversible loss of 19.68 acres recommended for Partial Protection, and likely have significant adverse impacts on the environment. The TC recommended a coordinated SEQR Type I review and preparation of a Draft Environmental Impact Statement (DEIS), correction of several errors to the Full Environmental Assessment Form (FEAF), and consultation with NYSDEC and USFWS. TC also indicated potential negative impacts on management of adjacent Karner Blue Hill Preserve and nearby Albany Pine Bush Preserve protected lands and potential negative traffic impacts on rare wildlife management. APBPC staff provided supplementary comments on April 18, 2019, in response to a request by the Albany County Planning Board, summarizing proposed offsetting measures proposed by the applicant. Applicant proposed donating 8.4 acres within Full Protection Area 62, adjacent to the Karner Blue Preserve owned by Pyramid and managed by NYSDEC-Region 4, to the Albany Pine Bush Preserve, and proposed enhanced education and outreach opportunities within and outside the Mall. In response to a request from the Town of Guilderland the TC provided additional comment on October 7, 2019. DEIS scoping comments suggested the review of two alternative re-routes for Rapp Rd. TC comment indicated neither proposed traffic mitigation option was consistent with the 2017 Management Plan Update for the APBP, or the Comprehensive Plans of the City of Albany and Town of Guilderland. The TC indicated that both options would likely increase the potentially significant adverse impacts on the environment, the creation and management of the preserve and numerous rare and endangered species. *APBPC TC provided DEIS comment on March 10, 2020 and Conservation Director, Neil Gifford, attended the May 13 online public hearing, providing a summary of APBPC-TC comments by phone. Contingent on the traffic mitigation plan selected, and considering on and off-site offsetting measures, the project does not appear inconsistent with the protection recommendations described in the 2017 Management Plan Update.*

**The APBPC is a public benefit corporation created by the NYS Legislature in 1988. Comments on development proposals are provided to minimize impacts to the successful creation and management of a viable preserve and balance the conservation of rare and sensitive PB habitat with economic development, consistent with the 2010 Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve.*

- **Municipal Determination/Project Outcome:**

The Town of Guilderland Planning Board classified the proposal as a SEQR Type I Action, initiated a coordinated review of the proposal and required the preparation of a DEIS. The Planning Board has included a Transit-Oriented-District (TOD) wide traffic evaluation, as a result of Draft Scope comments received from the public and in light of additional proposals within the TOD, including Costco, CDTA Rapid Transit Center at Crossgates, and a proposed Regal Cinemas renovation that would raise the building height. *The Planning Board accepted DEIS as complete on February 12, 2020. Public hearing initially scheduled for March 11, 2020 was postponed and held online on May 13, 2020; public comment period closed May 26, 2020. All project information including public comments are available at <https://www.townofguilderland.org/planning-board/pages/environmental-impact-statement-rapp-road-residential-western-avenue-mixed-use>.*

2. Regal Cinemas-Crossgates Mall, In/Effecting Protected Lands

- **Background:**

Regal Cinemas has requested an Area Variance from the Town of Guilderland to raise the roof 20 feet to accommodate an IMAX theater. The application included an analysis of shade to be projected on the adjacent Karner Blue Butterfly Preserve, owned by Pyramid and National Grid and managed by the NYSDEC as required by permit #4-0130-00007/0002, issued on December 10, 1996.

- **Technical Committee Recommendation:**

The TC and staff indicted, in a December 13, 2019 comment letter, that the project has the potential to have direct, indirect, and cumulative adverse impacts on the protection and management of adjacent protected lands, and rare and endangered wildlife species. TC comment noted that the project was inadvertently/incorrectly classified as a SEQR Type II Action and recommended the Town reclassify the action as a SEQR Unlisted Action, require a Full Environmental Assessment Form, and initiate a coordinated review with adjacent municipalities and state and federal agencies.

- **Municipal Determination/Project Outcome:**

Application withdrawn by applicant.

3. 300 Prout Lane, Minor sub-Division, Full Protection Area 54.

- **Background:**

Applicant proposes subdivision of a 43.24 acre parcel into two lots. Lot 1 would consist of 25 acres and would be conveyed to an adjoining owner. Lot 2 would consist of 18.24 acres and continued to be used as an existing horse farm. The site is valued in the APBPC 2010 Management Plan and Final Environmental Impact Statement (FEIS) for its linkage, buffer and existing/restorable pitch pine-scrub oak barrens.

- **Technical Committee Recommendation:**

Reclassify from SEQR Type II to SEQR Unlisted Action and complete FEAF, since the site is substantially contiguous with protected lands listed on the Federal Registry as a National Natural Landmark.

- **Municipal Determination/Project Outcome:**

Reclassified and required FEAF. Final approval pending (6/10/2020).

III. Town of Colonie

1. 2792 & 2772 Curry Road, Eden Renewables – Community Solar & Pollinator Project, Full Protection Area 72b.

- **Background:**

Eden Renewables attended the August 6, 2019 TC meeting to discuss a concept for a community solar and pollinator project on 73 acres. The proposal will include maintaining a native prairie with locally-derived native grasses and wildflowers and annual sheep grazing or mowing.

- **Technical Committee Recommendation:**

**The APBPC is a public benefit corporation created by the NYS Legislature in 1988. Comments on development proposals are provided to minimize impacts to the successful creation and management of a viable preserve and balance the conservation of rare and sensitive PB habitat with economic development, consistent with the 2010 Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve.*

The TC and staff discussed potential issues and solutions with the applicant. In particular given the proximity to endangered species, the site may become occupied. The TC and staff also discussed implications for management on adjacent preserve lands and decommissioning plans.

- **Municipal Determination/Project Outcome:**

An application to the Town is pending.

REFERENCES:

Albany Pine Bush Preserve Commission (APBPC). 2010. Management Plan Update and Final Environmental Impact Statement for the Albany Pine Bush Preserve. Albany, New York.

Albany Pine Bush Preserve Commission (APBPC). 2017. Management Plan Update for the Albany Pine Bush Preserve. Albany, New York.