

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

P: (518) 357-2069 | F: (518) 357-2460

www.dec.ny.gov

Sent electronically to: kovalchikk@togny.org

March 8, 2019

Kenneth Kovalchik, AICP, Town Planner
Town of Guilderland Planning Department
Guilderland Town Hall
5209 Western Turnpike, PO Box 339
Guilderland, New York 12084

**RE: Lead Agency Coordination Response
Rapp Road Residential Development
Off Rapp Road – West of Crossgates Mall
Town of Guilderland, Albany County**

Dear Mr. Kovalchik:

This letter responds to your correspondence received on February 12, 2019 regarding lead agency coordination for the project referenced herein, under Article 8 (State Environmental Quality Review – SEQR) of the Environmental Conservation Law and 6 NYCRR Part 617. The New York State Department of Environmental Conservation (the Department) has the following interest in this project:

Name of Action: Proposed 222-Unit Residential Development
DEC Contact Person: Trish Gabriel
SEQR Classification: Type I Unlisted Type II

DEC Position: Based on the information provided:

- DEC has no objection to your agency assuming lead agency status for this action.
- DEC wishes to assume lead agency status for this action.
- DEC needs additional information to respond (see comments).
- DEC cannot be lead agency because it has no jurisdiction in this action.

Potential DEC Permitting Requirements

A review of NYS protected resources near or within the project site was performed using existing GIS data (see enclosed NYS Resources Map). Please note that jurisdictional maps are meant to provide approximate sizes and locations of resources. Actual field conditions may vary from

those depicted on the maps. The following provides a summary of potential State permitting requirements for the project, based information submitted with your correspondence.

SPDES General Permit for Stormwater Discharges from Construction Activity

The applicant must comply with the State Pollutant Discharge Elimination System (SPDES) Phase II regulations for Stormwater Discharges Associated with Construction Activities since it appears that this project will disturb one acre of land or more. Additional information about the SPDES Construction Stormwater Program can be found at <http://www.dec.ny.gov/chemical/43133.html>.

Additional Comments:

The following general comments on the project are provided by the Department's Bureau of Wildlife staff:

1. The site plan provided does not show the current boundaries of the portion of the Crossgates - Karner blue butterfly (KBB) Management Area that exists within the project site. The site plan should be revised to properly depicted the Crossgates - KBB Management Area. It appears that the previously set-aside Crossgates - KBB Management Area falls entirely north of the proposed access road and bike path/pedestrian walkway (see enclosed Albany Pine Bush Map). The opportunity may exist to expand the existing Crossgates - KBB Management Area to incorporate the entire segment north of the project's access road.
2. Staff has concerns about the area shown on the site plan as "*potential future development*". Due to the proximity to the Crossgates - KBB Management Area, which is occupied by Karner blue butterfly (state-listed endangered) habitat, there are potential impacts that should be considered and evaluated as a whole from the outset of project review. To do otherwise would certainly appear to constitute project segmentation under SEQRA regulations.
3. The plan to connect to the Crossgates Mall Inner Loop Road will likely increase the amount of traffic using that road and will take that traffic along the south edge of the portion of the Crossgates - KBB Management Area situated on the east side of Rapp Road. Whether this would result in any impacts to that portion of the Management Area, or the Karner blue butterfly population at that location cannot be determined at this point but should be evaluated in the overall context of the project. The possibility of restoring previously developed (paved) areas and adding to the Management Area's natural buffer should be thoroughly explored as part of the project's alternatives analysis, which should include possible mitigation options to offset KBB population impacts that may result from the project.

4. On page 6 of the Site Plan Approval application is the statement that “*the buffering attributes of the existing berms that extends along the western boundary of the Site will be **effectively maintained** and...*”. The Department requests that the applicant clearly explain what is meant by “effectively maintained”, including a site and/or grading plan of this area.
5. On June 23, 2009 a dead eastern worm snake (Special Concern; Species of Greatest Conservation Need) was found on the pedestrian sidewalk just a short distance east of Rapp Road. (see photos attached). Eastern worm snakes had previously and subsequently been found at the east end of the powerline near Crossgates Mall. This species occurrence record suggests that eastern worm snakes may occur in a broader area at this general location than previously thought and raises the distinct possibility that they may occur on the west side of Rapp Road on the property currently proposed for development. Because of their secretive habits, eastern worm snakes may be more widely distributed than reflected in current herp atlas records, but little is known about them, and they have fairly restricted habitat preferences.
6. On page 7 of the Site Plan Approval application is a reference to an ecological study of the property performed by B. Laing Associates. It is not clear whether B. Laing Associates considered the potential presence of eastern worm snakes during their ecological study, though this firm was involved in eastern worm snake issues associated with a development at the eastern end of the powerline. The Department requests a copy of this study for staff review.
7. Eastern hog-nosed snakes (Special Concern; High Priority Species of Greatest Conservation Need) have also been found east of Rapp Road near the powerline, as well as west of Rapp Road on the Daughters of Sarah property (see attached photo near the eastern end of the KBB Management Area, near Crossgates, taken 7/1/09). Based on these documented occurrences, it is reasonable to suspect that this species may also occur on the project site. Therefore, the Department recommends that the applicant conduct surveys for eastern hog-nosed snakes on the project site in order to better evaluate potential impacts to the species.
8. Increased traffic on Rapp Road due to this proposed development may impact the ability of Karner blue butterflies to move across Rapp Road along the powerline. Page 9 of the application states that 20 percent of the traffic generated by the project will move to/from the north. This issue needs to be carefully considered and addressed.
9. The plant list provided on the site plan includes only two trees – white pine and scotch pine, neither of which are desirable in the Albany Pine Bush area. The Applicant should utilize native pine bush species for all plantings. The Department recommends the Applicant consult with Albany Pine Bush staff to obtain a list of recommended species.

Do not hesitate to contact me by telephone at (518) 357-2445 or by e-mail at trish.gabriel@dec.ny.gov if you have any questions.

Sincerely,



Patricia M. Gabriel
Environmental Analyst

Encl: NYS Resources Map
Albany Pine Bush Map

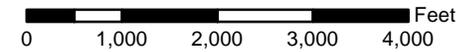
ecc: S. Feeney, Guilderland Town Planning Board Chair (sfeeney001@nycap.rr.com)
K. Parker, NYSDEC R4 BOW
M. Clark, NYSDEC R4 BOW
N. Gifford, APBPC Conservation Director
C. Hawver, APBPC Executive Director



NYS RESOURCES MAP

RAPP ROAD RESIDENTIAL DEVELOPMENT CROSSGATES RELEASECO, LLC Off Rapp Road Town of Guilderland Albany County

March 6, 2019



1 inch equals 2,000 feet

Legend

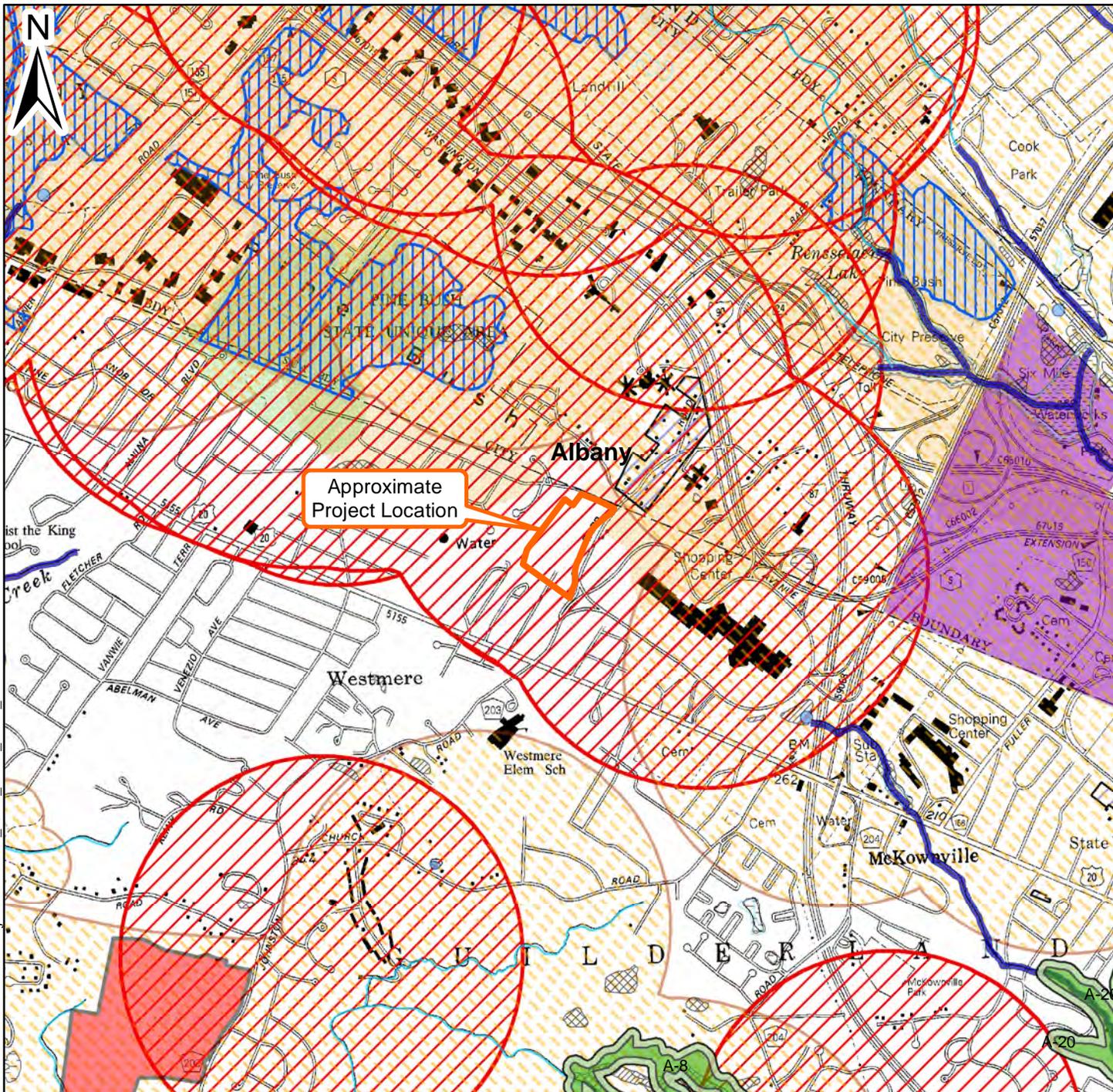
- Regulated Adjacent Area Boundary
- Deed Restrictions
- Protected Streams (C(t) and higher)
- Non-protected Streams (C and D)
- Water Quality Classifications (Polygon)

National Wetlands Inventory

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other

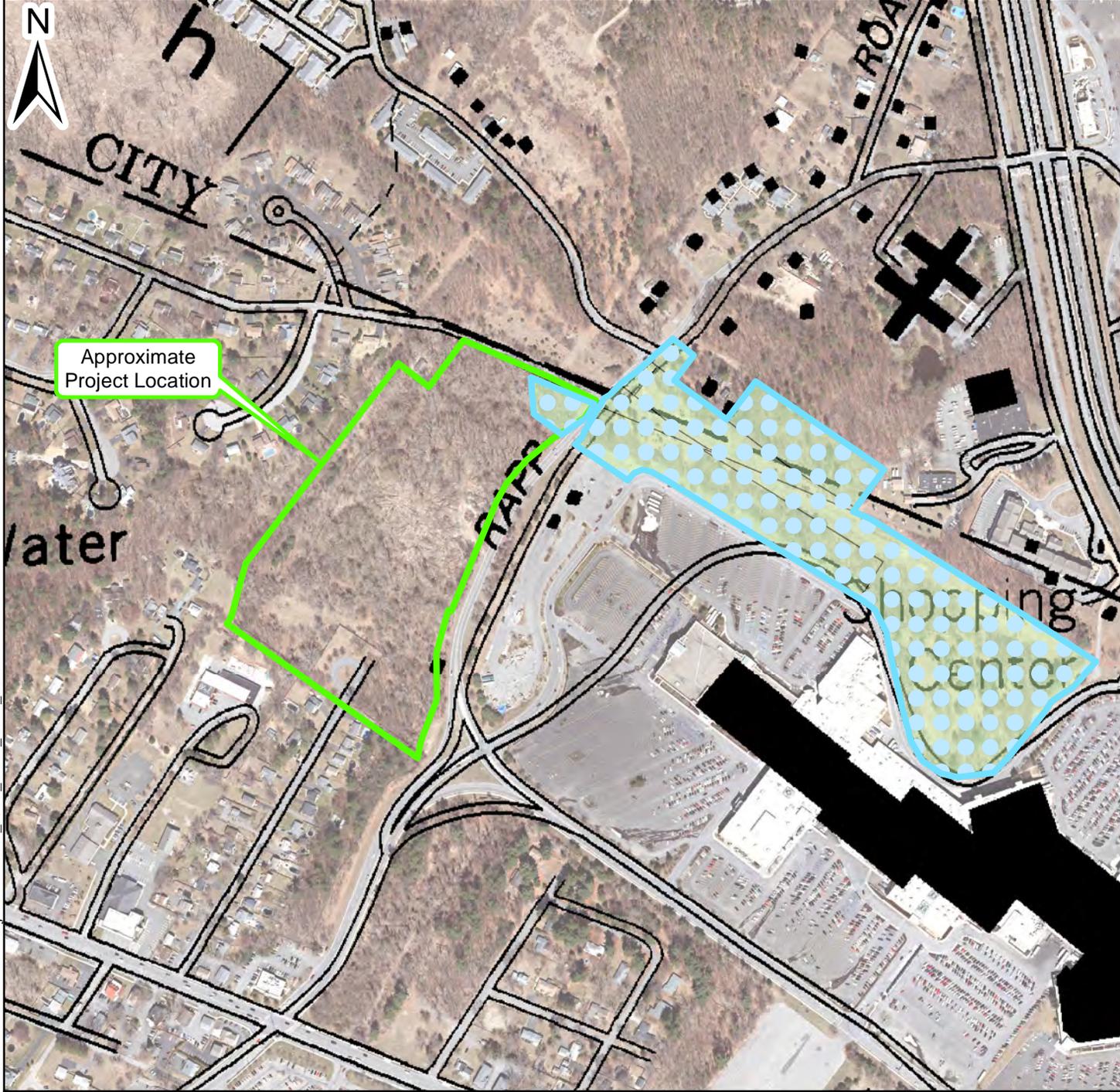
Other Resources

- Archaeologically Sensitive Area
- National/State Register Site
- State Historic Site or Historic Park
- Primary Aquifers
- Critical Environmental Areas
- Potential EJ area
- Scenic Areas of Statewide Significance
- State Park
- T&E (except fish)
- Freshwater Mussels
- Fish
- Wetland/Aquatic Community
- Upland/Terrestrial Community
- Animal Important Areas



Disclaimer: This map was prepared by Region 4 NYSDEC Division of Environmental Permits using the most current data available. It is deemed accurate but is not guaranteed. NYSDEC is not responsible for any inaccuracies in the data and does not necessarily endorse any interpretations or products derived from the data. This map may contain information that is considered sensitive and therefore the distribution of this map is strictly prohibited. Additional resources may be present but not depicted on this map.

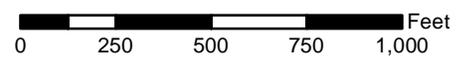
Division of Environmental Permits Projection: NAD_1983_UTM_Zone_18N



NYS RESOURCES MAP

**CROSSGATES MALL CO LP
PROPOSED RAPP ROAD
RESIDENTIAL DEVELOPMENT
Off Rapp Rd / Crossgates Mall Rd
Town of Guilderland
Albany County**

December 12, 2018



1 inch equals 500 feet

Legend

 Crossgates_KBB_Preserve

Division of Environmental Permits Projection: NAD_1983 UTM_Zone_18N



**Department of
Environmental
Conservation**

Disclaimer: This map was prepared by Region 4 NYSDEC Division of Environmental Permits using the most current data available. It is deemed accurate but is not guaranteed. NYSDEC is not responsible for any inaccuracies in the data and does not necessarily endorse any interpretations or products derived from the data. This map may contain information that is considered sensitive and therefore the distribution of this map is strictly prohibited. Additional resources may be present but not depicted on this map.