

B. SAVE THE PINE BUSH, INC.

The following comments are taken from a letter dated April 16, 1996 from Lynne Jackson of Save the Pine Bush, Inc. A copy of the letter is provided in Appendix 1.

1. Comment:

Inadequate time has been given for the public to comment on the DGEIS.

This document is to be the document on which planning for the Town of Colonie is based for the next 20 years. Due to the effect this document will have on the lives of citizens for the next 20 years, the Planning Board should extend the comment period deadline until at least September 30 in order to allow all citizens to comment, and should not charge for copies. This would allow all interested citizens the time and resources to review this extremely important planning document.

Response:

Consistent with SEQR, the Town of Colonie is providing a 30 day public comment period. Additionally, a public hearing was held on April 16, 1996 to allow additional public comment on the GEIS.

2. Comment:

The regulations regarding the preparations of generic environmental impact statements are very specific as to defining the thresholds and criteria for development in order to avoid further environmental impact statements for each individual development.

The regulations (Chapter VI, General Regulations, Section 617-15) state:

*"Generic EIS's and their findings should set forth **specific conditions or criteria under which future actions will be undertaken or approved**, and shall include procedures and criteria for supplements to reflect impacts, such as site specific impacts, which have not been adequately addressed or analyzed in the generic EIS. [emphasis added]"*

This DGEIS has established no specific conditions or criteria whatsoever. The DGEIS is so lacking on specific impacts at this point that it is not ready for public comment, let alone acceptance.

As well as addressing the specific impacts of possible development of the Pine Bush ecosystem, the DGEIS should specifically state specific conditions or criteria for the Pine Bush ecosystem.

Response:

The DGEIS identified numerous mitigation measures that the Town of Colonie could use to minimize impacts on environmental and socioeconomic resources within the Study Area. These measures are identified in Section II of the DGEIS. The Town of Colonie will adopt many of these measures in the Statement of Findings and they will serve as basis for evaluating future site specific projects, as required by SEQRA.

3. Comment:

On page I-2, the DGEIS states that there are 17 projects currently under review. Neither individual nor cumulative impacts of these projects can be assessed because there is no information at all given about these projects.

What are the names of the projects? Where will these projects be located? How much land will they encompass? How much will be buildings, how much parking lots? How will these developments impact the Pine Bush ecosystem? What is the shape and configuration of these developments? State Supreme Court Judge Cobb, in his decision in Save the Pine Bush v. Common Council of the City of Albany stated that the shape and configuration of the Pine Bush Preserve extremely important.

The Town of Colonie's current DGEIS does not take a hard look at either individual or cumulative impacts of these pending 17 projects, clearly in violation of SEQRA and in violation of the above cited court decisions. No analysis is made in the DGEIS regarding the survival of the Pine Bush ecosystem or the minimum acres needed.

Response:

Refer to the response to comment A.9.

4. Comment:

On page II-9, the DGEIS states, "it was concluded that the Town of Colonie could reasonably expect the development of approximately 660 new residential units, 75,000 gsf of commercial space and 3,000,000 gsf of industrial space." This is the expected growth for the next 20 years.

However, on page 1-2, it states that there are currently 17 projects in various stages of review, consisting of 400 residences and 350,000 square feet of commercial and industrial space. That means that the DGEIS expects that 400 of the 660 (60%) residences predicted to be built in the next 20 years will be built in the next year, and that 350,000 sf of the 3,750,000 sf (9%) of the commercial and industrial projects will be built in the next year. This is a drastically higher growth rate than the DGEIS is predicting. The DGEIS is predicting that 400 residences will be built in the next year, with 260 spread out over the next 19 years.

If the DGEIS is serious about keeping the level of development to its 50% of maximum build-out, than much stricter controls on development must be instituted to keep down the growth rate.

Response:

The DGEIS does not state—nor does the Town of Colonie expect—the 17 projects currently proposed will be constructed in the next year. This is neither desirable or realistic.

Approval of projects, particularly large scale projects, can take years. Furthermore, many proposed projects are withdrawn from the approval process, and eventually abandoned. Project funding, changes in real estate markets, tenant availability, and environmental restrictions can cause projects to be abandoned before they are approved or constructed.

Even if a project is approved, multi-phase or multi-unit projects can take several years to complete. This may be especially true for large scale residential projects, when the current real estate market in the Capital District is considered. The large number of houses for sale in the Capital District would appear to indicate any residential projects approved in the near future could take years before all approved units are constructed. Therefore, the pace of development projected under the Projected Growth Development Scenario is reasonable when the projects currently proposed in the Study Area are considered.

5. Comment:

The DGEIS does not adequately examine the effects of fire management on land adjacent to the Pine Bush Preserve. The best way to avoid conflicts with fire management is to zone all of the remaining Pine Bush ecosystem for conservation. This avoids all land use conflicts.

Response:

The issue of controlled burns was addressed, at length, in the *Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve* prepared by the Albany Pine Bush Preserve Commission. The report recognized that controlled burns within the Preserve are sources of carbon monoxide and hydrocarbons, and can add particulate matter to the air. The report, however, indicated that consideration of wind and weather patterns during the planning of controlled burns can mitigate potential impacts. Avoiding periods of high wind and when temperature and relative humidity levels could result in the fire escaping were all recommended. Furthermore, conducting burns when mixing heights and transport wind provide for smoke dispersal were the best times to complete the burns.

The report cited a survey of neighboring residents and business, including nursing homes, completed following a controlled burn in the Spring of 1991. The results of the survey indicated that the burn caused little or no discomfort. The report concluded that controlled burns can be an effective tool in management of the Preserve without adversely effecting air quality or adjacent land uses.

6. Comment:

The original extent of the Pine Bush was closer to 58,000 acres, not the 40 square miles (25,600) as indicated in the report.

The DGEIS mentions that "For years it [the Pine Bush] was considered a wasteland [emphasis added] and generally avoided, but large areas have recently succumbed to development." but fails to mention the national significance of the Pine Bush or the fact that the battle to preserve the Pine Bush has been a long, hard, grassroots battle, fought in the courts for nearly 20 years and outside the courts for decades before that. The DGEIS fails to mention the beauty of the Pine Bush, instead, suggesting that it is just a "wasteland."

The DGEIS states that there are only 2,000 to 2,500 acres of Pine Bush remaining. The Commission has identified approximately 5,000 acres of Pine Bush remaining; Save the Pine Bush has identified approximately 5,800.

The DGEIS mentions that several environmental impact statements were prepared on the Pine Bush in the mid-1980's. It fails to mention that all of them were invalidated in court action.

The Commission identifies 350 acres of Pine Bush that is in the preserve in the Town of Colonie and Village of Colonie (page 28 of the Implementation Guidelines), but does not separate land in the two different municipalities. The

study area does not include the Village of Colonie. On page II-6, the DGEIS states that "Other open space includes approximately 500 acres of Nature Conservancy and Town-owned lands and two parcels belonging to the State of New York; all of which are part of the Pine Bush Preserve." 350 minus the lands in the Village of Colonie does not equal "approximately 500 acres." This needs to be corrected in the FEIS.

On page II-22 of the DGEIS, it states that "In an effort to preserve the ecosystem, NYSDEC purchased 450 acres in 1973." This is a misleading statement, because none of the first 450 acres of Pine Bush purchased by DEC was located in the Town of Colonie.

Response:

The corrections and additions made by Save the Pine Bush are appreciated. The reference to the Pine Bush as "wasteland" was not intended to imply that the DGEIS or the Town of Colonie do not recognize the importance of the area. The reference was attempting to demonstrate at one time the Pine Bush was not recognized for its ecological importance but was considered an area of little value.

It is recognized that within the Town and Village of Colonie, the Preserve lands encompass 375 acres. This includes the 350 acres identified in the Implementation Guidelines and the recent acquisition of 25 acres at the end of Rifle Range Road.

7. Comment:

Nowhere in the DGEIS is the location of the Karner blue butterflies mentioned. In the Commission's Implementation Guidelines findings statement, the Commission acknowledges that the Karner Blue has been identified in parcel number 53 of their Map 9, Vision for the Albany Pine Bush Preserve, page 29. It also states that a corridor to this colony of butterflies should be slated for full protection, meaning that much of the land around Kings Road and Curry Road should be fully protected. This colony of Karner Blues and the corridor the Commission recommends for full protection are located totally in the Study Area. However, this is not reflected in the DGEIS anywhere.

Response:

Refer to the response to comment A.24.

8. Comment:

On page II-23, the DGEIS states that there are only 1,630 fire-manageable acres in the entire Pine Bush Preserve, and that only 370 acres more are needed to complete the preserve of 2,000 acres. This is incorrect. 370 more fire-manageable acres are needed, which is considerably more than just 370 acres.

Response:

Although not clearly stated, the discussion of the 370 acres was intended to indicate 370 fire-manageable acres are needed. It is recognized that acquisition of a larger total area could be required to achieve the goal of 370 fire-manageable acres.

9. Comment:

The DGEIS indicates that development should take place along the zoning designations of LUMAC as shown in the map in Figure II-B-1. In this map, the Pine Bush ecosystem is divided into three main zoning categories: Light Industrial, Large Lot Residential, and Multi-family Residential. The DGEIS fails to identify how these types of developments will specifically impact on the Pine Bush ecosystem or address how the Town of Colonie will do its part to ensure that a 2,000 fire-manageable acre Pine Bush Preserve is created.

The map in Figure II-B-1 is diametrically opposed to the plan for preservation developed by the Albany Pine Bush Management Commission. The Commission states that almost all of the remaining land containing the Pine Bush ecosystem should be fully or partially preserved. The DGEIS suggests that almost all of the remaining land containing the Pine Bush ecosystem should be made into light industrial or multi-family residential units. The Pine Bush cannot be protected by bulldozing it and constructing buildings on it. The DGEIS even indicates that land currently protected in the preserve is zoned light industrial. All of the remaining land in the Town of Colonie that is part of the Pine Bush ecosystem should be protected.

Response:

The DGEIS is not stating that all land within the Pine Bush ecosystem should be made into light industrial or multi-family residential. LUMAC does not recommend multi-family residential for any currently undeveloped part of the Study Area. Furthermore, the Light Industrial proposed by LUMAC, and discussed in the DGEIS, was developed in response to the environmentally sensitive nature of the Pine Bush. LUMAC considered an increase in the minimum greenspace requirement for the Light Industrial Zone as reasonable

approach to protect the extensive wetland and Pine Bush Habitat found south of the railroad tracks.

The DGEIS is not stating that all land containing the Pine Bush Ecosystem should be developed into light industrial uses. The DGEIS is suggesting that if development does occur, it should be consistent with the requirements of the Light Industrial Zone.

Impacts to the Pine Bush and other plant communities were discussed on Page II-29 and II-30 of the DGEIS. The documents states that future development with significant impacts could impact pitch-pine scrub oak barrens, Karner Blue Butterfly habitat or wetlands if it proceeds without the recommended mitigation measures. These measures, taken from the Protection and Project Review Implementation Guidelines are identified on Page II-30 of the DGEIS.

It appears the comment is suggesting that the Town of Colonie prevent any additional development within the Full or Partial Protection Areas. While the Town of Colonie recognizes the importance of Pine Bush and supports efforts to protect it, the Town of Colonie does not have the authority to stop all development within this area. This alternative approach to controlling growth was discussed on Page III-5 of the DGEIS.

The DGEIS states that *“by restricting further development of land within the Study Area, an owner would be denied the right to build, or make improvements to the property. Under New York State Law, the taking of property through government action requires that the governmental entity fairly compensate the property owner when a property cannot be developed or is needed for a public use. While the ultimate decision would lie with the courts, it is probable that the no growth alternative would be perceived as a taking of property since a moratorium on development could not be justified by a deficiency in community services or infrastructure.”*

10. **Comment:**

The DGEIS states on page II-6 that “Open space is considered to be a critical component in the Town of Colonie’s overall land use plan and development management program.” The DGEIS does not separate open space into different categories, preferring to lump everything that is not a parking lot or a building together. According to the DGEIS, open space can be a golf course, little islands of landscaped shrubberies around buildings, or a unique ecosystem such as the Pine Bush. The DGEIS must separate the different types of open space. The Pine Bush cannot survive if it is regulated to set-asides or islands of native plantings, if you could even get such native plantings to grow (where does one

buy a pitch pine or scrub oak tree? These are not exactly the type of plants found in garden stores).

The DGEIS fails to address the configuration of the Preserve, which is essential to the survival of the Pine Bush.

Response:

The DGEIS recognizes that open space can include a mixture of areas such as a golf course, landscaped islands as well as undeveloped areas. In presenting the discussion of open space, the DGEIS was not attempting to state that landscaped areas alone would sufficiently satisfy the Town's goal of maintaining open space. Landscaped areas are only one means of preserving open space, and for the sites that are developed, it is the best method for minimizing the conversion of undeveloped land to buildings, driveways, and parking areas.

Under the Projected Growth Development Scenario approximately 660 dwelling units, and 3,750,000 of industrial and commercial square footage could be developed within the Study Area by the year 2015. Of the 650 acres of developable land this development would require, it is estimated between 150 and 200 acres would be converted to landscaped areas, which would include lawn areas and landscaped islands. If the recommendations for expansion and creation of additional pocket parks are realized this would result in the creation of approximately 45 acres of developed landscaped areas.

As stated on page II-11 of the DGEIS, however, approximately 1,700 acres of the Study Area is State or Federal wetland, and Albany Pine Bush. It is anticipated these lands will remain as undevelopable open space in perpetuity because of the legal protection they receive.

In regards to the configuration of the Pine Bush Preserve, the DGEIS clearly recognizes the configuration of the Preserve as presented both Full and Partial Protection Areas (Figure II-D-2 of the DGEIS), as adopted by the Albany Pine Bush Preserve Commission.

11. Comment:

The DGEIS emphasizes how much land will be kept open space; however, due to the inaccuracies noted in item #3 above, the DGEIS should recalculate these numbers to accurately demonstrate how much land will be preserved as Pine Bush, pocket parks, golf course, or islands of shrubberies.

Response:

Refer to the response to Comment B10.

12. Comment:

In the transportation section, it is recommended that Route 155 be widened. The widening of Route 155 will have severe impacts on the ecosystem of the Pine Bush. The DGEIS needs to address these impacts. For example, experts on the Karner Blue butterfly have stated that the widening of Route 155 could be the death of the Pine Bush Preserve. The Karner Blue butterflies are weak flyers, and can only cross Route 155 now with great difficulty. Widening of Route 155 would in effect, cut the Preserve in two again (the Thruway already cuts the Preserve North from South), thus making it necessary to have at least two preserves of 2,000 acres each. The Planning Board needs to take a hard look at the impact of widening Route 155 on the ecosystem of the Pine Bush and on the ability of the Karner Blue butterfly to survive.

Response:

Refer to the response to comment A.25.

13. Comment:

Additionally, the transportation section focuses exclusively on cars. No mention is made of mass transit, bicycling or pedestrians. Alternatives to automobiles must be addressed in the DGEIS.

Response:

The issue of mass transit and alternative forms of transportation was not addressed in the DGEIS because it was not indicated as a concern during the agency and public scoping sessions for the project held in January 1996. The use of mass transit or alternative forms of transportation, however, is a worthwhile endeavor because it can reduce traffic congestion, conserve gas, and protect air quality. The Town of Colonie encourages the use of alternative forms of transportation by encouraging the development of bike trail/pedestrian walkways in the design of new commercial and residential developments, where appropriate.

14. Comment:

How many miles of trails are there in the Pine Bush compared to the number of residents ("trail density")? Is this above or below national averages? How about the number of acres of unique ecosystem to the number of people ("ecosystem density")? Is this amount adequate? How about the intensive use of the Pine Bush by school groups to study the ecosystem and nature? The Pine Bush ecosystem is not only unique because of the composition of the plants and animals that live there and the interaction with the geology of the area, it is unusual because it is surrounded by so much development. The DGEIS addresses the possibility of expanding the golf course for recreation, which would serve only a small number of the residents of the Town, but does not address the impacts, benefits, or advantages of expanding the land in the Pine Bush preserve to be used as a unique recreational and educational area.

Response:

Although an intensive trail inventory of the Albany Pine Bush Preserve was not completed for the DGEIS, a preliminary review of aerial photographs for that portion of the Preserve within the Study Area indicates that numerous trails are present. National averages or standards for per capita trail requirements, however, are not available.

The importance of the Albany Pine Bush Preserve as a passive recreational resource was identified in Section L of the DGEIS. Figure II-L-1 identifies it as a significant passive recreation area within the Study Area. Page II-92 and 93 discusses the efforts being made to enhance its use as recreational resource including identification of Preserve access points and development of an official trail system.

15. Comment:

The Albany Pine Bush Commission's Implementation Guideline report addresses the issue of minimum preserve size needed and location and numbers of acres of fire-manageable Pine Bush needed for Pine Bush preservation. The DGEIS totally disregards the Commission's report. All of the full and partial protection areas identified by the Commission should be re-zoned by the Town of Colonie as conservation land and all development on these parcels should be prohibited.

Response:

The DGEIS does not disregard the Commission's report. Figures II-D-2 illustrates the Commission's recommendations for Full and Partial Protection Areas and Open Space within the Study Area. Page II-30 of the DGEIS

identifies the Commission's recommended mitigation measures for minimizing impacts on these areas. For additional discussion refer to the response to comment B.9.