

**Town of Clifton Park
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PLANNING BOARD

ROCCO FERRARO
Chairman

PAUL PELAGALLI
Attorney

JANIS DEAN
Secretary



MEMBERS
Emad Andarawis
Michael Hale
Joel Koval
Eric Ophardt
Kim Paulsen
Tom Werner
(alternate) Eric Prescott

Planning Board Meeting
September 11, 2012

Those present at the September 11, 2012 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, M. Hale, J. Koval, E. Ophardt,
K. Paulsen, T. Werner
E. Prescott – Alternate Member

Those absent were: None

Those also present were: J. Scavo, Director of Planning
J. Bianchi and C. Dooley, M J Engineering
and Land Surveying, P. C.
P. Pelagalli, Counsel
J. Dean, Secretary

Mr. Ferraro, Chairman, called the meeting to order at 7:00p.m. All in attendance stood for recitation of the Pledge of Allegiance. At the Chairman's request, all in attendance observed a moment of silence in honor of those victims of the September 11, 2001 attack on America.

Mr. Ferraro announced that the Capital District Regional Planning Commission, in cooperation with other agencies, will be sponsoring a Local Government Planning and Zoning Workshop on October 4, 2012 from 8:00a.m. to 3:15p.m. at Hudson Valley Community College in Troy, New York. The plenary session will focus on hazard mitigation planning and the use of green infrastructure techniques to provide sustainable methods for water control. Other topics to be discussed include developing walkable communities, complying with requirements of the NYS Office of Parks, Recreation, and Historic Preservation, and preserving wetlands. Mr. Ferraro noted that the workshop will provide an opportunity for Board members to meet the continuing education requirement.

Mr. Ferraro explained that the Planning Board will be instituting a procedural change related to the timing of the rendering of SEQRA determinations. While the Board had traditionally conducted and concluded public hearings prior to the issuance of such determinations, current case law and directives from the Department of State now require that SEQRA determinations be made prior to the convening of a public hearing. The Chairman explained, however, that such determinations may later be rescinded or modified by the Board. Mr. Scavo commented that the precedent-setting court case was settled as recently as December, 2011. Mr. Pelagalli stated that judgment by which this Board must abide was rendered by the Appellate Division, Third Department: the Town of Clifton Park lies within the jurisdiction of that court. He explained that though it is possible that higher courts may reverse the ruling in the future, this Board is now required to follow policies established by the Department of State as a result of the court's ruling.

Minutes Approval:

Mr. Ferraro explained that due to the interest in the DCG Light Industrial, Phase II application that was reviewed at the August 14, 2012 meeting, approval of the minutes would be considered as the first order of business at this evening's meeting.

Mr. Koval moved, seconded by Mr. Andarawis, approval of the minutes of August 14, 2012 as written. The motion was unanimously carried.

Copies of the draft minutes were made available to all those present.

Public Hearings:

[2012-017] **Genstar FZE** – Proposed accessory use of a building as a home office, 6 Hilltop Court – Preliminary public hearing for Special Use Permit #80846 to permit accessory use of a portion of a residential property for a business pursuant to Section 208-16D(3)[10] and [14] and preliminary site plan review. SBL: 276.-1-2.4

In accordance with Mr. Ferraro's announcement at the beginning of the meeting, he explained that the first order of business would be to render appropriate SEQRA determination(s) for this application. Since approval of a Special Use Permit also requires site plan approval, two determinations must be issued.

The first SEQRA determination is related to the Special Use Permit. Mr. Hale moved, seconded by Mr. Ophardt to establish the Planning Board as Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

The second SEQRA determination is related to the site plan. Mr. Koval moved, seconded by Ms. Paulsen to establish the Planning Board as Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Ferraro, Chairman, called the public hearing to order at 7:16p.m. The Secretary read the public notice as published in the Daily Gazette on September 3, 2012.

Ms. Melissa Lescault, legal representative for the applicant, presented this application that has been reviewed by the Planning Board on several occasions. She explained that the application submitted on behalf of World Logistics Services Corp. remains as presented at the May 23, 2012 meeting. The speaker commented that in 2011 the Zoning Board of Appeals granted a setback variance and certificates of compliance were issued for an addition and basement finish work that were completed without required permits. It is Ms. Lescault's understanding that the variance granted last year does not prohibit the applicant from seeking a Special Use Permit to allow the operation of a business within the residence.

Mr. Scavo reported that the ECC offered no comment on this application. Mr. Myers, Director of Building and Development, has determined that, although the applicant may seek approval for use of a home-based business within the CR zoning district, the number of employees utilizing the site appears excessively large. Based on the average size of a residence within the town, the 1,257 SF proposed for business appears markedly larger than the amount of square footage usually approved for such uses. Mr. Scavo commented that Board members may wish to condition approval on a reduction of the size of the area dedicated to business operations and a limit on the number of employees who may use the site.

Ms. Barbara Nebb, 933 Riverview Road, explained that she had forwarded a letter to Planning Board members asking that the Board deny the requested variance. She read the prepared statement, reporting that she was opposed to the granting of the Special Use Permit for several reasons. Since the applicant has a history of ignoring town regulations, she fears that expansion of the proposed business is likely and that increased traffic will result in safety concerns. Ms. Nebb concluded her remarks by stating that if the Special Use Permit was approved, she would believe that the applicant was able to "buy" favorable treatment.

Mr. Ferraro explained that there are differences between applications for variances which are issued by the Zoning Board of Appeals and applications for Special Use Permits which are reviewed by the Planning Board. He noted that the Board may impose restrictive conditions on the Special Use Permit to make the project more compatible with neighboring properties. He stated that he was not appreciative of Ms. Nebb's comments regarding the decisions rendered by the Board noting that Board members voluntarily give of their time to make the community a better place for everyone.

Ms. Michelle Wildgrube, attorney with the firm of Cioffi, Slezak, and Wildgrube, P. C., spoke on behalf of the following clients: Michael and Mary Anne Mariotti of 4 Hilltop Court; Kenneth and Lynn Manning of 2 Hilltop Court; Frank and Cathy Rotundi of 58 Appleton Road. Ms. Wildgrube explained that the subject property is located at the end of Hilltop Court, a private drive that serves the residences owned by her clients. An existing driveway agreement addresses such issues as shared responsibility for snowplowing and general maintenance. Per the application request, Ms. Wildgrube noted that the applicant proposes to have five non-resident employees and one resident employee utilize the business space. She reported that the owner

currently has one employee on site who is not involved with the shipping business: a handyman who appears to visit the property on a daily basis. The speaker requested that the application as proposed “must be denied since it does not meet the criteria for a Home Occupation or Accessory Use of a Building as required by the Clifton Park Town Code” and presented reasons for her stance. Based upon an “analysis” of the situation with relation to each standard of criteria for approval of a Special Use Permit, Ms. Wildgrube concluded that the “proposed business use of a residential home would diminish the enjoyment of property and the value of the homes” in the neighborhood. Ms. Wildgrube submitted a letter to the Director of Planning that contained all of her comments.

Mr. Ken Manning, 2 Hilltop Court, asked that the Board deny the Special Use Permit as requested, explaining that the residents on the private drive were negatively impacted by the business at 6 Hilltop Court when it was operated illegally a few years ago. He stated that he was concerned with the “type and quantity” of traffic generated by the logistics company, asserting that he observed one employee traveling at excessive speed on the narrow access drive and Appleton Road on several occasions. He reported that a check of license plates indicated that there was an average of six cars per day parked on the site: a difference of two additional employees from the number proposed in the project narrative. In addition to the automobile traffic, the site was visited on a regular basis by large DHL, FedEx, and UPS delivery trucks. Mr. Manning reported that a motion-sensitive camera captured a total of 80 vehicle trips to and from the site within a four day period. In addition to the vehicles used by employees, Mr. Manning stated that it is apparent that a full-time handyman regularly parks a large vehicle and trailer at the site. Mr. Manning concluded his remarks by stating that he does not believe that the owner of 6 Hilltop Court has encouraged employees to drive responsibly on the driveway and that the business has resulted in excessive traffic and drivers traveling at unsafe speeds on both Hilltop Court and Appleton Road.

Ms. Mary Ann Mariotti, 4 Hilltop Court, stated her opposition to the proposed business use at 6 Hilltop Court, explaining that setback requirements had been established based upon residential – not business – uses. She explained that the “tremendous traffic” utilizing the private driveway and those traveling at unsafe speeds while the business was in operation two years ago posed a danger to her family.

Mr. Vince Obremski, Appleton Road resident, reported that speeding and careless drivers - purportedly those employed by the applicant – created a serious threat to those living along Appleton Road. He explained that on two occasions when operating his farm equipment he nearly collided with those traveling too fast on a country road. He asked that the Board deny the Special Use Permit.

Ms. Nancy Bellamy, 147 East Side Drive, commented that, at the request of residents living along East Side Drive, law enforcement officials were stationed on the street to apprehend speeders. She recommended that residents of Appleton Road contact the Sheriff’s Department to request additional patrols.

Mr. Mike Mariotti, 4 Hilltop Court, spoke in opposition to the Special Use Permit, stating that he feared for the safety of his three daughters. He explained that he and his family

purchased their home on a peaceful, dead-end street. The tranquility they experienced there was ended when business operations began next door. Vehicles entering and exiting the property at all hours of the day and night and speeding vehicles presented a dangerous situation for others residing on the private drive. He was especially concerned that careless driving would result in injury to his two daughters who waited for the school bus along Appleton Road.

Mr. Tom Sobor, 17 Appleton Road, referenced the Town's Comprehensive Plan, reporting that the plan calls for "the maintenance of business in appropriate areas." Though he operates a business from his own home, he "cannot conceive of a business of this size" being operated from a residence on Hilltop Court. Since businesses usually seek to expand, he believes that approval of the requested permit would be the start an even more undesirable situation.

Mr. David Curwick, 94 Appleton Road, explained that speeding has become an issue on Appleton Road. He explained that he is owner of a small business that operates from a commercial location. He finds the applicant's request disrespectful to neighbors and asks that the Board reject the application.

Mr. Ed Conway, 25 Appleton Road, stated his opposition to the application, explaining that Appleton Road is frequently used by pedestrians and bicyclists though it is quite narrow and there are no trails or multi-use pathways along its length. Increased traffic traveling at unsafe speeds would increase the potential for accidents. In his opinion, the Board should not permit a business to operate on Hilltop Court.

Mr. Tom Lessard, 20 Appleton Road, stood in opposition to the application, stating that the applicants have acted with disrespect for neighbors sharing the same driveway and with a contempt for the law by failing to obtain proper permits and variances as required. He recommended that the Board "ask the business to leave."

There being no further public comment, Mr. Hale moved, seconded by Mr. Ophardt, to close the public hearing at 8:03p.m. The motion was unanimously carried.

Board members discussed this application at length. Mr. Koval commented that, although a Special Use Permit is a generally permitted use under the zoning code, Board members must consider the intensity of the proposed use. In his opinion, the amount of traffic on a private driveway is of concern as is the amount of square footage to be dedicated to the business within the home. In response to Mr. Ferraro's question regarding the differences between a home occupation and accessory use of a structure, Mr. Scavo explained that while a home occupation is "clearly incidental" to the use of a residence, occupies less than 10% of the living space, is carried on by a member of household, and permits no employees, an accessory use, although also described as "incidental" to the residence, permits use of up to 25% of the space and is generally utilized by those holding professional licenses. Mr. Scavo pointed out that the application recently approved for Donald Frame to bake cookies within a 600 SF area in his home was an example of accessory use of a residence. Upon hearing Mr. Scavo's explanation, Mr. Ferraro observed that given the number of employees compared to the number of residents involved in the proposed business, it appeared that the "residence should be the accessory use." He noted that the square footage dedicated to a business or "accessory use" could be substantial

if the residence was very large. In response to Ms. Paulsen's question regarding the definition of "living space" on which the percentage of use was based, Ms. Lescault stated that Mr. Myers reviewed the calculations provided by the applicant's engineer and found the proposed amount of space to be dedicated to the business acceptable. Mr. Koval remarked that it was likely that Special Use requirements anticipated much smaller areas for business use set-asides within residences; therefore, the Board should carefully consider the intensity of the proposed use and its impacts on adjoining properties. Mr. Pelagalli explained that the 25% figure is not a mandate: it is a "cap". Ms. Paulsen stated her concern with the intensity of the business operation. In response to Mr. Ophardt's question concerning enforcement of restrictions imposed on the business operation should the owner wish to expand the business, Ms. Lescault stated that the business owner is not "looking to grow" the business. Mr. Pelagalli pointed out that since the Planning Board has no enforcement power and the Building Department does not have enough manpower to enforce such restrictions, it would be incumbent on adjoining property owners to monitor the situation and seek redress for failures to comply with conditions attached to a Special Use Permit. Mr. Ferraro stated that because the applicant has a history of violations and non-compliance with town code requirements it would be difficult to assume that conditions imposed by the Board would be respected. He also noted that there was a considerable disparity between the number of vehicle trips estimated by the applicant and the number of vehicle trips actually observed by neighbors when the business was in operation. Ms. Paulsen stated her displeasure with the application. Mr. Koval agreed that the plan as presented seemed "unreasonable" and that limiting the number of employees would "probably not work for the applicant." After reading the ten standards for Special Use Permits listed in Section 208-79E of the Town Code, Mr. Ferraro concluded that, in light of the nature and requirements of the business and its location within a small neighborhood served by a common driveway, there would be "no mitigation measures that could reasonably restrict the business use." Mr. Hale agreed, stating that if this international business is to be run effectively, it is likely that business will be conducted on a 24-hour as necessary basis: it would be difficult to place conditions that would reduce impacts on the adjoining properties. Mr. Koval commented that he viewed the proposed hours of operation – 8:00a.m. to 6:00p.m. - as extended hours of operation. Business-related activity conducted beyond 5:00p.m. would likely impact the neighbors. Ms. Paulsen stated that although she finds it difficult to "say no to business," the proposed business activity will have significant impacts on others and will simply not work where proposed. Mr. Werner thanked those who spoke during the public hearing, commenting that they had made compelling arguments against issuance of the requested permit. He believes that the nature of the business with its international scope would be better located in a more commercial area. Mr. Andarawis stated that the proposed use was more intense than he could approve, particularly in light of the fact that enforcement of restrictions was questionable. Mr. Ophardt stated his concern for the safety of the neighbors and his concern that neighbors would be responsible for enforcement. In response to Mr. Hale's question regarding the durability of the Special Use Permit, Mr. Pelagalli explained that the approval "runs with the land." He recommended that, should the Board approve the application, a condition be imposed that states that only the business described in the application be permitted to operate at the premises. There appeared to be a general consensus, based upon public input and Board discussion, that there were not sufficient mitigation measures that could be imposed on the applicant to ensure that negative impacts of the business use could be adequately minimized.

Mr. Ferraro explained that the Board had three options: to defer any action to a later date; to approve the application with appropriate conditions; to deny approval of the Special Use Permit. Ms. Paulsen supported denial of the application. If the Board wished to consider such action, Mr. Pelagalli advised members to include the reason(s) for denial, such as threats to the health, safety, and welfare of the community or impacts to the character of the community, in the resolution.

Mr. Ferraro offered Resolution #15 of 2012, seconded by Ms. Paulsen, to deny Special Use Permit #80846 to permit the use of a portion of a residential property for operation of an accessory use pursuant to Section 208-16D(3)[10] of the Town Code since based upon information provided by the public and deliberation by the Planning Board the proposed project will prevent the orderly and reasonable use of adjacent properties and legally established uses within the CR (Conservation Residential) zone due to the number of employees regularly accessing the site and the extended hours of operation which would negatively impact the health, safety, and welfare of the adjoining neighbors and those residents residing along or traveling on interconnecting roadways due to increased traffic, diminish the character of the neighborhood and property values by establishing a commercial business within a residential area, run counter to the goals outlined in the Comprehensive Plan which supports open space and less dense development within the CR (Conservation Residential) zone, provide an insufficient parking area for employees, and, in general, establish an undesirable precedent for approval of business uses within residential zones. Ayes: Ophardt, Paulsen, Andarawis, Hale, Werner, Koval, Ferraro. Noes: None.

[2012-017] **DCG Light Industrial Shovel Ready Site, Phase II** – Proposed (16) acre expansion of a shovel ready light industrial site, Wood Road – Preliminary public hearing and possible determination. SBL: 259.-2-74.2

Mr. Ferraro explained that in accordance with new policies established by the Department of State, a SEQRA determination will be issued for this application prior to the reconvening of the public hearing begun and adjourned at the August 14, 2012 meeting.

Mr. Ophardt moved, seconded by Mr. Koval, to establish the Planning Board as Lead Agency for this application, a Type I action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried. The complete negative declaration is attached to these minutes.

Mr. Hale moved, seconded by Ms. Paulsen, to reconvene the public hearing that was adjourned at the August 14, 2012 Planning Board meeting. The motion was unanimously carried.

Mr. Ferraro, Chairman, called the public hearing to order at 8:45p.m. The Secretary read the public notice as published in the Daily Gazette on September 3, 2012.

Mr. Joe Dannible, consultant for the applicant introduced Mr. Donald MacElroy, Vice President of DCG Development Company, Ms. Teresa Bakner, legal representative for the firm, Artie Tompkins, environmental consultant, and Wendy Cimino, Creighton-Manning

Engineering, who were in attendance at the meeting. He then provided a brief overview of the project plan that remains generally as presented at the May 23, 2012, July 10, 2012, and August 14, 2012 Planning Board meetings. Noting that many of the comments issued by M J Engineering, P. C. in its previous comment letter related to the Stormwater Pollution Prevention Plan, he reported that many of the concerns have been addressed without substantial changes to the site plan. A written response to all comments was provided in a letter to the Town Engineer dated August 22, 2012. Mr. Dannible reported that a sign-off letter from the NYS Office of Parks, Recreation, and Historic Preservation has been submitted to the Planning Department. A revised Habitat Management Plan that includes site-specific techniques for protection of the nectar species, provides for additional plantings, and establishes an escrow account to provide for on-going site maintenance has been submitted to the Planning Department. Items listed in the comment letter prepared by M J Engineering and Land Surveying, P. C. on September 6, 2012 are viewed as minor in nature and will be addressed by the applicant's consultant.

Mr. Scavo offered comments provided by Mr. Steve Myers, Director of Building and Development in a memo dated August 30, 2012. The comments issued for the August 14, 2012 meeting are still applicable. Although he notes that a meeting was held to discuss issues of concern regarding the stormwater management plan for the site with those involved with the project, the issues have not been adequately addressed to date.

Mr. Scavo provided several comments prepared by the Planning Department. The Stormwater Pollution Prevention Plan should contain information and a section on Green Infrastructure Practices in accordance with Chapter 5 of the NYS Stormwater Management Design Manual. Based on a review of the materials received, it appears that the applicant has met the Green Infrastructure Practices by preserving naturally vegetated buffers along the identified wetland areas on site, protecting the critical habitat area with an additional 50' lupine habitat buffer, and introducing additional nectar species. Post construction the applicant has offered a management plan to maintain the protected areas in a natural state conducive to both the Karner Blue butterfly and Frosted Elfin. Mr. Scavo reported that Mr. Rob Cherry, NYSDOT representative, notified the town that all of the comments issued by that agency have been satisfied by the applicant. Any future modifications or proposals for the site, however, must be submitted to NYS DOT for review and approval.

Mr. Ferraro commented that when specific site plans are presented for consideration, he will request that applicable green infrastructure practices, such as the use of permeable surfaces, be incorporated in design plans.

Mr. Scavo reported that the ECC offered no comment on this application.

Though Mr. Bianchi, M J Engineering and Land Surveying, P.C. stated that the applicant's consultant has verbally agreed to address all issues identified in the comment letter dated September 6, 2012, the letter is included in its entirety to ensure that the applicant is aware of all issues to be satisfied.

Mr. Bianchi reported that M J Engineering and Land Surveying, P.C. reviewed the revised Phase 2 submission dated August 22, 2012 and supporting documentation including the

following: Site Plans entitled, "Light Industrial Shovel Ready Site (Phase II) DCG Development" as prepared by EDP, last revised August 22, 2012; Response letter prepared by EDP, dated August 22, 2012; Stormwater Management Design Report, as prepared by EDP, last revised August 2012; Stormwater Pollution Prevention Plan Modification Report, as prepared by EDP, dated July 25, 2012. Many prior comments have been addressed; however, additional technical comments have resulted as a result of some of the responses. The amended Stormwater Pollution Prevention Plan provides the requested hydrological and hydraulic calculations. In reviewing these calculations it is understood that its sizing is based solely on a post development condition without a known site development scheme (i.e. locations and extent of impervious areas). The design as it exists appears to meet the design intent, however, once site development proposed is defined, it is likely that the selected SMA (I-2) practice will have to be re-evaluated to ensure that its design complies with the New York State Stormwater Management Design Manual. As previously noted, all runoff entering the proposed stormwater pond must receive pretreatment, compliant with NYSDEC requirements. Section 6.3.3 of the NYSSMDM described various methods to provide pretreatment for an I-2 practice and the submitted SWPPP makes no mention of such provisions being included with SMA#1. As previously requested, sizing calculations have been provided for the proposed swales. In reviewing the supporting HydroCAD data, the sizes of the swales appear inconsistent between the plans and HydroCAD (the plans show a swale with approximate bottom width = 8 ft and depth = 1~3 ft, while the HydroCAD is calculating the swales with a wetted area of 48.0 sf and wetted perimeter of 25.0 ft). This discrepancy should be resolved. Also, the HydroCAD modeling indicates velocities exceeding 5 fps and, therefore, erosive conditions at the lower end of the swales are likely: the plans need to indicate what measures will be incorporated to dissipate flows to non-erosion velocities (between 3 and 5 fps). SMA #1 is proposed as an infiltration basin (I-2 practice). Supporting field investigations have been completed, however the NYSSMDM required 1 test hole per 5,000 s.f., with a minimum of two required. The plans only show one infiltration test (TP#1) within the proposed I-2 practice and a second one is required to conform to Section 6.3.1 of the NYSSMDM. It is noted that the SWPPP notes that infiltration has been disregarding in sizing of the basins. Notwithstanding, the required field testing is still required to ensure the basin design conforms to the applicable design standards. There must be calculations provided demonstrating that each infiltration practice can be fully dewatered within 48-hours as stated in Section 6.3.2 of the NYSSMDM. The calculations provide a required WQv based upon some percentage of impervious. However, the HydroCAD model and associated CN indicates that no impervious areas exist within the contributing watershed. Please provide clarification as to what impervious areas will be included to substantiate the WQv calculated. Under proposed conditions, the CN used of 39 for disturbed areas is the same as the pre-developed condition. It is believed that the curve number under the proposed condition may need to be modified and increased to represent the temporary condition that will result. At a minimum, this temporary condition and resulting higher CN should be evaluated to ensure that the proposed stormwater facilities are adequate. There appears to be a section of the site which will drain directly into the I-2 practice (between the two gravel berms) before entering a pre-treatment facility or stilling basin. It appears that a diversion swale is warranted to appropriately direct runoff to one of the two entry points to the I-2 practice. A note should be added to the plans indicating that upstream construction shall be completed and stabilized before connection to a downstream I-2 infiltration facility. A dense and vigorous vegetative cover shall be established over the contributing pervious drainage areas before runoff can be accepted into the I-2 facility. It is

suggested that silt fencing along with orange construction fencing be placed along the boundary of the 100-foot adjacent area to the NYSDEC regulated wetland located on the northwest corner of the parcel defining the limits of authorized site disturbances. With the I-2 practice, the SWPPP of record needs to be amended to include any required long term maintenance responsibilities of the operator if not already included. It is understood that the Town is requesting green infrastructure to be considered as part of this proposal. The amended Stormwater Pollution Prevention Plan includes a brief discuss of RRv with the I-2 practice being the only element used to achieve RRv. It is understood that the viability of all green infrastructure opportunities cannot be determined at this time because of the unknown development of the site. However, there are some that can be included now or identified as future elements if and when the site is developed. It is recommended that the amended plan include the planning process that evaluates green infrastructure practices that can be included and eliminated. In any instance that a green infrastructure element is to be included now, the amended Stormwater Pollution Prevention Plan must also include maintenance responsibilities that are outlined in the NYSSMDM. The applicant has indicated that they will be requesting a 5-acre waiver from the Town as part of this proposed disturbance. If and when that request is made, it should at a minimum include the following data for the Town's review: the phasing plan shall provide a schedule which indicates time frames for each phase including approximate duration, open and close dates of disturbances. The phasing plan shall provide areas of successive disturbance with new areas as part of the specific phase. A map key indicating which areas are new and which are prior disturbances for each phase shown with specific benchmarks that must be achieved prior to moving to a subsequent phase. All open disturbances shall be minimized to the greatest extent practicable. The phasing plan should include grading to demonstrate how land forms will change from current site contours to the final site contours to facilitate placement of temporary facilities. Cut/ fill information might be required to represent these conditions. This information is necessary in order to demonstrate that soil erosion control measures are be properly placed, that runoff during initial site disturbances and temporary construction will be properly routed to the sediment traps and that site disturbances would not become unmanageable. Inclusion of more aggressive sediment and erosion control measures beyond the minimum standard to ensure that site grading and the extent of the open disturbance(s) do not become unmanageable is recommended. A second stabilized construction entrance has been proposed for the site, however it is shown in conflict with silt fence and a drainage channel, and has been proposed atop 3H:1V slopes. Relocate the second entrance to a place where physical conflicts do not occur, or adjust the silt fence, drainage channel, and site slope to conform to NYSDEC requirements. The temporary sediment basin total storage volume of 2.73+/- ac-ft has been added to the plans. However scaling of the basin results in a volume closer to 1.7 ac-ft (Length ~980 ft, Width ~30 ft, Depth ~ 3 ft → Volume = 2.0+/- ac-ft). Please revise.

Mr. Pete Sheehan, Chairman of the Hudson-Mohawk Group of the Sierra Club, who resides at 32 Buckingham Drive, Albany, NY, stated that it is the goal of the Sierra Club "to enjoy, explore, and protect nature." Reporting that someone at the last meeting stated that "environmentalists make life difficult for developers," Mr. Sheehan stated that one of the goals of the Sierra Club is to ensure that certain laws such as the Endangered Species Act are followed. He presented a PowerPoint presentation entitled: *Wood Road Shovel-Ready Site: Approval Not Warranted or Supported* that was prepared to inform the audience about the history of

development on the DGC parcel and “set a path to move forward.” The “point-counterpoint” presentation with supporting documents was designed to show the discrepancies between what the speaker believes to be past mandates for habitat preservation and the actions of the developer/applicant and approvals granted by the Planning Board. He explained that the Sierra Club has the ability to provide the developer and/or town officials with the names of volunteers and legal advisors who could provide help with the establishment and on-going management of a viable habitat for Karner Blue butterflies. Mr. Sheehan concluded his presentation by stating that it was the goal of the Sierra Club to “work cooperatively to develop a reasonable plan for establishment of a viable management area.”

Mr. Bill Koebbeman, 861 Riverview Road, questioned the order of the proceedings, wondering how a negative declaration pursuant to SEQRA for the project could be approved prior the public hearing since, in his opinion, concerns such as the adequacy of the size of the management site and reintroduction of the Karner Blue butterfly had not been adequately addressed.

Mr. John Wolcott, 344 Sheridan Avenue, Albany, NY spoke as a member of the Save the Pinebush organization. He stated that the Appellate Division, Third Department, whose ruling is apparently responsible for requiring that SEQRA determinations [as discussed at the beginning of the meeting] be made prior to public hearings, has had a “poor record with regard to “preservation of the environment.” He asked that the Board members consider the document prepared by Ms. Dolores Savignano (referenced by Mr. Sheehan) be “considered valuable” and he encouraged members to apply the “old-fashioned values of common sense and fairness” when considering this application. He also recommended that a neutral party evaluate the site and make recommendations for the best ways to manage the habitat area.

Ms. Grace Nichols, 2 Main Street, described herself as a member of the Save the Pine Bush organization and encouraged Board members to be sensitive to nature and natural surroundings. She encouraged the Board to protect the rare eco-system found on the development site and spoke of efforts through-out the country to establish habitat areas and reintroduce endangered species to natural habitats. Speaking of the need for substantial buffers around habitat areas, she recommended the establishment of treed areas along roadways and the establishment of a substantial buffer area between habitat management areas and areas where insecticides are applied. She called on the Board to consider “higher values” than the simple economics of site development and to work to preserve a “precious legacy.” She urged members to issue a positive declaration pursuant to SEQRA.

Mr. Russell Ziemba, 1813 Highland Avenue, Troy, NY, a member of the Save the Pine Bush organization, included a number of issues in his comments. Referencing Ms. Bakner’s comments at the August 14, 2012 meeting regarding the fact that the development site was privately held, he stated that the property on which the Karner Blue butterfly was previously identified was “common property” for thousands of years. In his opinion, development along the Wood Road Corridor has severely impacted natural habitat areas and reduced butterfly populations to near extinction. He believes that the size of the proposed management area is too small, that connectivity between habitats is important, that the proposed \$1,000.00 to be held in escrow to ensure proper maintenance and management of the protected area is insufficient, and

that reintroduction of the Karner Blue should be part of the management plan. He predicted that the proposed habitat management plan was “destined for failure.” He recommended that the Board issue a positive declaration pursuant to SEQRA for this project since it was likely to have a significant negative impact on the environment.

Mr. Ben Jacobson, 71 Spruce Street, member of the Sierra Club, stated his appreciation to the Board for providing time for interested persons to express their concerns about preservation of the Karner Blue butterfly. He encouraged Board members to “consider all the aspects of preservation of all species on earth.”

Ms. Lynne Jackson, 223 South Swan Street, Albany, NY, explained that she has been a member of Save the Pine Bush for nearly thirty years. She spoke of the Discovery Center created within Albany’s Pine Bush area and the opportunity it provides for youngsters to learn about endangered species, the value of eco-systems, and preservation techniques. The speaker described the Crossgates Butterfly Hill (a site approximately 4-5 acres in size) as an area where experiments focused on preservation, migration, and reintroduction are being conducted. She asked that the Board issue a positive declaration for this application and require the completion of a Supplemental GEIS.

Ms. Pam Marshall, 5 Fairlawn Court, reported seeing Karner Blue butterflies in her backyard in years past. Citing illustrations of plant species that sustain butterfly lifecycles in a book her grandson borrowed from the library, she reported that such plants grow in her garden. Having volunteered her services at the Wilton Wildlife Preserve and Park, she is familiar with efforts to establish or reintroduce plants in areas deemed conducive to sustaining the butterfly’s lifecycle. She asked that the Board “be concerned with the area’s flora and fauna.”

Mr. William Engleman, 6 Partridge Plateau, thanked the Board for conducting a public hearing on this application. He commented that he believes that the required 500’ notifications to adjoining property owners did not include all property owners within that boundary. The speaker presented a site plan that included the proposed endangered species management area, stating that the buffer area designed to encourage “connectivity” between managed preservation sites is inadequate: he encouraged the Board to require a much larger buffer area around the sites. He commented that, in his view, the EAF submitted by the applicant contains discrepancies regarding the amount of site disturbance, that the report from Bagdon Environmental regarding observed Karner Blue activity on the site and including recommendations for proper site management was “bias,” that the lack of comment from either NYSDEC or the U.S. Fish and Wildlife Service is of concern, and that inconsistencies in the size of endangered species habitats over a period of several years has not been satisfactorily explained. He asked that the items he cited, the applicant’s “total disregard for extirpation of the species” and the failure to include a proposal for reintroduction of the species provide the “mandate” for the Board to issue a positive declaration and require the preparation of a Supplemental GEIS.

Mr. Dan Hartnett, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, asked that the site plan show the often-requested trail segment from Ushers Road to Wood Road be illustrated on the plan. Mr. Dannible explained that the “20-foot

wide easement or land dedication to the Town of Clifton Park for a multi-use trail and water and sewer utilities” is included on the current site plan.

Mr. Dave Gibson, 107 Longkill Road, called for the Planning Board to “atone” for years of mismanagement in the Wood Road corridor and issue a positive declaration pursuant to SEQRA and require that the applicant prepare a Supplemental GEIS.

Ms. Anna Palmer, 312 Riverview Road, stated that she was attracted to the Town of Clifton Park by its “country character.” She asked that the Board work to preserve that character by issuing a positive declaration of significance pursuant to SEQRA for this application.

Mr. Lee Lakritz, Park Lane Estates, spoke of his grandson’s interest in nature. He urged the Board to be concerned with the preservation and protection of existing eco-systems and natural resources and asked members to take “a second look” at the application, thinking of the “spiritual value” of protection of the endangered species.

Ms. Terresa Bakner, attorney for the applicant, described the site plan approval process as a “frustrating” one, reporting that the applicant has provided extensive documentation to substantiate all mitigation measures required for impacts of development as outlined in the Statement of Findings for the Wood Road Corridor. She emphatically stated that the known Karner Blue butterfly habitat on the site has been accurately illustrated on the current site plan. Mr. McElroy described the habitat delineation as conducted by Mr. Dale Sweitzer in 1989 and its subsequent mapping. In response to accusations that DCG Development has not “lived up to its responsibilities” with regard to the preservation and maintenance of habitat areas, he reported that the area on the Bobrick site was transferred to the Saratoga Land Conservancy in 1994: the Conservancy refused to accept ownership of the protected Wood Road site. He noted that both the Pine Bush and Wilton Wildlife Preserve and Park are publicly owned properties: DCG Development owns the parcel it plans to develop privately.

Mr. Ferraro asked that the applicant clarify the apparent discrepancies in the size of the habitat area between the map created in 1991 and the site plan presented for review. It was unclear if the differences were due to the differences in the scale used to prepare the maps or the inclusion of “potential” habitat areas. It was finally agreed that the area slated for preservation was depicted accurately on the plan. Mr. Koval observed that the “reintroduction of species issue” seems to recur. Ms. Bakner stated that the applicant would monitor the area for several years to determine if there was evidence of the Karner Blue butterfly and she explained that the Planning Board would have the opportunity to review the management plan as site-specific projects are presented for review. In response to Mr. Koval’s question concerning the “trigger” for reintroduction of a species, Ms. Bakner explained that there are now only pilot projects for reintroduction programs. When asked to speculate on a time frame for development, Ms. Bakner stated that such development would be driven by economic demand. Citing the Species Restoration Strategy Plan sponsored by the U. S. Fish and Wildlife Service, Mr. Hale recommended that the Board consider the development of a “dynamic” plan that would evolve as site conditions change.

Mr. Koval moved, seconded by Mr. Ophardt, to close the public hearing at 11:52p.m. The motion was unanimously carried.

Mr. Werner stated that he would appreciate time to review the amount of information provided to Board members at this meeting. Other Board members appeared to agree. Mr. Scavo explained that the Board would have sixty-two (62) days to act on the application.

Old Business:

There were no items of old business scheduled for review at this evening's meeting.

New Business:

There were no items of new business scheduled for review at this evening's meeting.

Mr. Hale moved, seconded by Mr. Ophardt, adjournment of the meeting at 11:55p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on September 25, 2012.

Respectfully submitted,

Janis L. Dean,
Secretary

cc: Planning Board Members, Planning Department, Supervisor, Assessor, Zoning Board, Department of Building and Development, Town Clerk, Town Board Members, Highway Superintendent, Lou Renzi, Town Attorney, Tom McCarthy, Town Attorney, Paul Pelagalli, Town Attorney, ECC, Clifton Park Water Authority

NOTICE OF DECISION

Resolution #15 of 2012

DENIAL
Special Use Permit

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on September 11, 2012 there were:

Present: R. Ferraro, Chairman, E. Andarawis, M. Hale, J. Koval, E. Ophardt,
K. Paulsen T. Werner
Absent: None

Mr. Koval offered Resolution #15 of 2012 and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Genstar FZE for approval of Special Use Permit #80846 to permit the accessory use of an existing residence in an CR (Conservation Residential) zone to provide for operation of a business pursuant to Section 208-16D(3)[10] of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on September 11, 2012 in the Town Office Building,

Whereas, it appears to be in the best interest of the Town that said application be denied,

Now therefore, be it resolved that the Planning Board denies approval of Special Use Permit #80846 to permit to permit the use of a portion of a residential property for operation of an accessory use pursuant to Section 208-16D(3)[10] of the Town Code since based upon information provided by the public and deliberation by the Planning Board the proposed project will prevent the orderly and reasonable use of adjacent properties and legally established uses within the CR (Conservation Residential) zone due to the number of employees regularly accessing the site and the extended hours of operation which would negatively impact the health, safety, and welfare of the adjoining neighbors and those residents residing along or traveling on interconnecting roadways due to increased traffic, diminish the character of the neighborhood and property values by establishing a commercial business within a residential area, run counter to the goals outlined in the Comprehensive Plan which supports open space and less dense development within the CR (Conservation Residential) zone, provide an insufficient parking area for employees, and, in general, establish an undesirable precedent for approval of business uses within residential zones.

Resolution #15 of 2012 passed 7/10/2012

Ayes: Ophardt, Paulsen, Andarawis, Hale, Koval, Werner, Ferraro

Noes: None

R. Ferraro,

Chairman

State Environmental Quality Review Act

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Date: September 11, 2012

This notice is issued pursuant to part 617 of the implementing regulations pertaining to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act or "SEQRA").

The Town of Clifton Park Planning Board (the "Planning Board"), as lead agency, has determined that the proposed action described below will not have a significant adverse environmental impact and a Draft Environmental Impact Statement ("DEIS") will not be prepared. Reasons supporting this determination are explained below.

Name of Action: Wood Road South, Light Industrial Shovel Ready Site (the "Project")

SEQRA Status: Type I

Conditioned Negative Declaration: No

Location of Action: The Project is proposed on the south side of Wood Road, approximately 1,000 feet west of the NYS Route 9 intersection, Town of Clifton Park, Saratoga County, New York.

Description of Action:

The applicant, DCG Development Company ("DCG" or "the applicant"), proposes to clear and grade 15 acres of properties located south of Wood Road to expand a Light Industrial Shovel Ready Site. This proposed Project is located across from an existing light industrial development located on the north side of Wood Road. The property is zoned for this use and is within the Wood Road GEIS area.

The 48.84 acres are partially cleared and vacant and currently provide little economic benefit to the community. The Project will result in a variety of socio-economic benefits for the Town of Clifton Park and the surrounding area. The shovel ready site will be prepared for flex space light industrial use. When tenants are identified and buildings approved the site will provide new jobs and increased tax revenues for the Town, County, School District and State. No specific buildings are proposed at this time as that will be driven by tenant specifications. The maximum amount of development within this area of the GEIS is 400,000 square feet (approximately 42 acres developable land). This proposed Project, as well as existing and

approved projects on adjoining parcels, are well within the approximately 207 acres that were identified as the appropriate amount of development in the GEIS.

Reasons Supporting This Determination

(See 617.7(a)-(c) for requirements of this determination)

After considering the criteria for determining significance as set forth in 6 NYCRR § 617.7(c), and after several public meetings and a public hearing, as well as review by the Town Planning Department and Town Engineer's office, reports and technical analysis submitted by applicant's experts and the deliberation and response of involved and interested agencies, the Town of Clifton Park Planning Board, as lead agency, has determined, for the reasons discussed below, that the proposed Project will not have a significant adverse impact on the environment and the issuance of a negative declaration under SEQRA is warranted.

Prior Environmental Review

On November 21, 1991, the Town of Clifton Park Planning Board adopted a Findings Statement for the Final Environmental Impact Statement ("FEIS") relating to the site plan application of the Northern Distributing Company and the Final Generic Environmental Impact Statement for the future development within the Wood Road Corridor ("Wood Road GEIS"). The Wood Road GEIS evaluated the potential significant environmental impacts and offsetting mitigation measures for the potential light industrial development as allowed by current zoning within the 530 acre Wood Road Corridor study area. The Wood Road GEIS evaluated the cumulative impacts of the potential development of the entire Wood Road Corridor, and included the Project site.

The Wood Road Corridor study area, which was the subject of the Wood Road GEIS, is located in the northeast corner of the Town of Clifton Park, Saratoga County. It is bounded on the south by the railroad right of way south of Ushers Road in the Northway Exit 10 vicinity, on the east by NYS Route 9, on the north by Clifton Park/Malta town line and on the west by the Adirondack Northway [Interstate 87]. At the time of the Wood Road GEIS, no other active development proposals were pending before the Town Planning Board for additional light industrial or business development within the Wood Road Corridor study area other than the application of the Northern Distributing Company. The Wood Road GEIS considered a ten year build-out for analytic purposes, based on a reasonable scenario of future development within the Wood Road Corridor. The Wood Road Corridor has not been developed as predicted in the GEIS during the ten-year period, and in fact, only limited development has occurred. This limited development includes 142,000 square feet of approved and partially constructed light industrial flex space on the north side of Wood Road. One of the reasons for the limited development is that a very large portion of the land zoned light industrial in the Wood Road Corridor contains wetlands and is therefore not suitable for development to the degree originally anticipated.

The Findings Statement concluded that the Planning Board must examine the following when determining whether further environmental review will be required for an individual project in the Wood Road Corridor: (1) traffic and transportation; (2) Karner blue butterfly & Lupine habitat; (3) wetlands; (4) utility services; (5) fire protection; (6) maintenance of visual buffers; (7) Phase I Environmental Audit; (8) cultural resources; and (9) zoning. As noted below, the applicant has provided information addressing the above criteria, and the record demonstrates that none of the above criteria will be adversely impacted by the Project and that the applicant has complied with the requirements of the Findings Statement.

Traffic, Access and Parking

In 2006 the applicant submitted a detailed Traffic Impact Study ("TIS") on a light industrial development project located on a 35 acre parcel on the north side of Wood Road which was prepared by Creighton Manning Engineering, LLP (CM) with the SEQRA Environmental Assessment Form ("EAF"). Based on that TIS, the flexible light industrial space built on the land parcel to the north of Wood Road was projected to generate approximately 97 total vehicle trips during A.M. peak hour (83 trips entering and 14 trips exiting) and 103 vehicle trips during the P.M. peak hour (16 trips entering and 87 trips exiting). CM's level of service analysis found that the NYS Route 9/Wood Road intersection would continue to operate at the pre-build Level of Service ("LOS") B or better during the morning and afternoon peak hours.

CM has reviewed the trip generating potential for the proposed site assuming the total square footage of building to be accommodated would be approximately 400,000 square feet. CM found that at full build-out the site with light industrial land uses has the potential to generate approximately 244 vehicle trips during the A.M. peak hour and 258 trips during the P.M. peak hour.

Moreover, the GEIS Findings Statement provides for the payment of a traffic mitigation fee or for directly undertaking traffic mitigation measures for the development of each project within the Wood Road Corridor at the time of site plan review to mitigate traffic growth in the Wood Road Corridor. Although, based on the above, the Project will not result in a significant adverse impact to traffic, the applicant will be required to pay traffic mitigation fees or to directly undertake traffic mitigation measures. It is noted that the Wood Road Corridor GEIS assessed the impacts associated with approximately 207 acres of developable industrial lands with approximately 1,300 to 1,900 peak hour trips. The subject site with approximately 42 developable acres and less than 300 peak hour trips fits within the assessment conducted for the GEIS.

Access to the site for the clearing and grading project is proposed via the existing full access site driveway on Wood Road. The traffic volume to and from the site during the clearing and grading of the site is expected to be a temporary condition with low traffic volumes that will be serviced by the existing roadway network. Sufficient frontage exists on Ushers Road and

other nearby roads to provide ample permanent access ways. Additional evaluation of the site access will be conducted during the site plan approval process for a specific building or buildings.

Sufficient space exists on site to accommodate future buildings, parking and access roads, as well as ancillary features such as stormwater management areas and the Karner Blue Butterfly and Frosted Elfin Habitat Management Plan.

Based on the foregoing, the Project will not have any significant adverse impact on traffic, access or parking.

Karner Blue Butterfly & Frosted Elfin Habitat Management Plan (the HMP)

A portion of the Project site was previously identified in the Wood Road GEIS as potential Karner blue butterfly (*Lycaeides melissa samuelis*) habitat due to the presence of Blue Lupine (*Lupinus perennis*), the host plant for that species.

The original habitat was delineated and surveyed in 1987 and encompassed an area approximately 0.57 acres in size. The HMP contains a plan showing the lupine plant habitat (survey located) and a buffer area that exceeds 50 feet around the habitat. Moreover, the HMP shows that the area to be protected is connected with another area of KBB and Frosted Elfin (*Callophrys irus*) habitat, similarly protected, and located adjacent to the cemetery on the north side of Wood Road. The applicant, to evaluate the potential habitat, retained two independent consultants to monitor the site for the presence or absence of Karner blue butterflies. The Environmental Design Partnership, LLP ("EDP") began surveying the site in 1997. Bagdon Environmental, the other consultant retained by the applicant, started surveying the site in 2000. From 2000–2006 EDP encountered a total of 270 Karner blue butterflies within the delineated blue lupine areas. In addition to Karner blue butterflies, EDP surveys have resulted in sightings of 711 Frosted elfins since 2000, including 42 during the 2012 season. Bagdon Environmental encountered two Karner blue butterflies on the site in 2001, one during the first brood and one during the second brood. A considerable amount of Blue Lupine remains within the originally delineated habitat. Additionally, the blue lupine areas are still being occupied by frosted elfins which cohabitate with the Karner blue butterfly and both are dependent on blue lupine as a larval host plant and adult nectar source.

The Findings Statement requires the applicant to submit a management plan to preserve areas identified in the Wood Road GEIS as potential Karner Blue habitat. The Findings Statement, at paragraph 41, provides that the management plan must contain the following:

"Develop a designated preserve area."

"A legal mechanism to ensure preserve lands are maintained in perpetuity."

"A plan to introduce Karner Blue Butterflies to the preserve area if the species is not present at the time the management plan is implemented,"

"Site-specific management techniques which will be used to ensure the long-term viability of the Karner Blue Butterfly habitat."

"A financial mechanism to implement the management plan for the foreseeable future."

This applicant has submitted the HMP, prepared by EDP, dated July 23, 2012, which complies with the requirements of the Findings Statement. The HMP was reviewed by Bagdon Environmental, which concluded "the management plan offers a mechanism to preserve and protect the existing Karner Blue butterfly habitat on site." The HMP addresses all of the above-criteria required in the Findings Statement.

With respect to the size of the preserve area, the initial area delineated in the Wood Road GEIS as potential Karner Blue habitat was approximately $0.57\pm$ acres in size. The DCG Management Plan will preserve the original habitat ($0.57\pm$ acres) plus an additional $1.29\pm$ acres of the surrounding area, making the preserve area a total of $1.86\pm$ acres (the "Preserve Area"). As noted in the HMP, the Preserve Area will be enclosed by a post and rail fence and posted with signs indicating the area is protected.

In developing the Preserve Area, the HMP considered the five criteria required by the Findings Statement. The Preserve Area maintains all Blue Lupine plants existing on the property and contains a number of additional nectar sources for the Karner blue butterfly. Additionally, the HMP provides that the buffer and potential habitat will be protected in perpetuity through a Declaration of Restrictive Covenants. The Preserve Area will be approximately 1.86 acres in size, which is over three times the size of the original area designated in the Wood Road GEIS. The Preserve Area will have substantial buffer to protect the habitat. Finally, because the HMP is located adjacent to Wood Road and because an existing Preserve Area is located to the north of Wood Road, and because the proposed Project will not alter the current configuration of the road or the habitat condition along the road, there will be no new conditions that will prevent butterflies from other sites from entering the Preserve Area. Additionally, the Preserve Area includes an area that allows for interaction between the butterfly habitats and this area will also be used to enhance the nectar species that are available to the butterflies. The Preserve Area will be enhanced through the incorporation of a nectar plant seed mixture specified in the HMP. The seed mixture will consist of native herbaceous flowering plants that are known to be used by adult Karner blue butterflies during both first and second flight periods. The HMP describes this in greater detail.

The HMP provides for a legal mechanism for ensuring the preserve is maintained in perpetuity. The HMP includes a draft Declaration of Restrictive Covenants (Attachment 1 to the HMP). This instrument protects the habitat and buffer in perpetuity and will be filed, along with

the plot of the Preserve Area, with the Saratoga County Register of Deeds upon approval of the Map by the Town of Clifton Park.

The HMP also addresses the reintroduction of Karner blue butterflies to the Preserve Area. As noted in the DCG Management Plan, the surveys conducted independently by both EDP and Bagdon Environmental demonstrate a very low number of Karner blue butterflies at the site over the past decade. By protecting the lupine plants and a buffer area, by a biannual mowing of the vegetation and by planting more nectaring species, the applicant will be preserving the KBB and Frosted Elfin Habitat. The management techniques being utilized by the applicant in the HMP will also result in the continued prosperity of the existing Blue Lupine plants, and thus providing additional habitat for Karner blue butterflies potentially utilizing nearby properties. All of the features of the HMP will also support the use of the site by the Frosted Elfins (see below).

As required by the Findings Statement, the HMP provides for the use of a site-specific management techniques including biannual mowing of grassed open canopy areas in and around the management area to be undertaken and funded by the applicant. The applicant has agreed to place the sum of \$1,000.00 in escrow with the Town to guarantee that the requirements of the HMP are fulfilled.

Additionally, Frosted elfins, a state threatened species, have been observed and documented within the Preserve Area by EDP during many surveys. Frosted elfins are known to occupy habitat types identical to that of the Karner blue butterfly. In fact, larvae of both species feed on different parts of the blue lupine plant. Therefore, by preserving and maintaining the habitat as set forth in the HMP the applicant will also be preserving the habitat for the Frosted elfin. This is pointed out in paragraph 40 of the FEIS where the recommendations of Dr. Dale Schweitzer are discussed. The last sentence of this paragraph states: "*Considering that both the frosted elfin and dusted skipper occur with the Karner blue, they would be adequately protected by any management practices directed at that species*".

Based on the compliance of the Findings Statement and the HMP, the Project will not have any significant adverse environmental impacts on the Karner Blue Butterfly.

Wetlands/Groundwater

The site contains approximately 2.30 acres of wetlands, of which, 2.18 acres are federally jurisdictional and 0.12 acres are regulated by the NYSDEC along with an additional 0.56 acre adjacent uplands. These areas are clearly set forth on the site plan and will not be disturbed by the Project.

The Project grading plan includes appropriate design, construction and management practices for portions of a site where the water table exists at a depth of less than 3 feet below grade.

Based on the foregoing, the Project will not have any significant adverse impacts to the quantity or quality of wetlands and groundwater.

Town of Clifton Park Water Recharge

The Project will not have a significant adverse impact on the water recharge for the water supply for the Town of Clifton Park based on the applicant's compliance with the New York State Phase II Stormwater Requirements, the amount of area being preserved as part of the Project and the eventual utilization of municipal sewer and water to serve any structures built on the site in the future.

The Project includes stormwater management facilities that are designed in compliance with the NYS Phase II Stormwater Requirements. The applicant has prepared and will continue to implement an Erosion Sediment Control Plan that will contain and manage surface water runoff to minimize any potential impacts during construction. An Erosion and Sediment Control Plan is part of the Stormwater Pollution Prevention Plan ("SWPPP") that was prepared for the Project to contain stormwater runoff associated with construction activities and to treat the stormwater and to address the volume of stormwater during site operation.

A Stormwater Management Design has been prepared which addresses potential runoff impacts during construction and post construction. Temporary sediment basins have been designed in accordance with the *New York State Standards and Specification for Erosion and Sediment Control* and Intermediate Stormwater Management has been designed in accordance with the *NYSDEC Stormwater Management Design Manual*. No new impervious areas are proposed as part of the project and all disturbed areas will be seeded with a grass mixture that will promote rapid stabilization of the disturbed areas. As no new impervious areas are proposed, stormwater will continue to infiltrate similar to the predevelopment conditions, recharging groundwater supplies, resulting in no significant hydrologic impacts.

The project proposes to disturb greater than five acres of land at one time and will require a waiver from the Town of Clifton Park MS4 Officer. The granting of this waiver will significantly shorten the anticipated construction timeline and reduce potential runoff impacts associated with construction activity. A waiver to disturb up to 15 acres of land at one time was granted on the adjacent shovel ready lands.

There is no potential impact on the water recharge for the water supply for the Town of Clifton Park from sanitary waste because any future buildings will connect to the Saratoga County Sewer District's sewer system. There will be no on-site disposal of sanitary or any other liquid waste. Additionally, there is no potential impact on the water recharge for the water supply for the Town of Clifton Park from water requirements of the proposed land use because the applicant has extending Clifton Park Water Authority service to the site. There will be no on-site wells for water supply associated with the proposed land use.

Based on the foregoing, the Project will not have any significant adverse impacts on the quantity or quality of the water recharge for the Town of Clifton Park.

Utility Services

The applicant contacted both the fire and police departments to ensure that they have adequate staff and equipment to meet the demands of the Project. The Police Department indicated that the department has sufficient staff and equipment to cover the Project. Similarly, the Fire Department stated that the Fire Department has sufficient staff and equipment to protect the new development. Any buildings eventually built will comply with local and State fire prevention codes including requirements relating to the installation of sprinkler and fire suppressant systems, fire extinguishers, fire resistant construction materials and/or use of firewalls. Furthermore, any future structures and their associated parking lots (all of which would be subject to site plan approval) will fully comply with ADA requirements.

Aesthetic Resources

The Site is currently zoned for light industrial use. The Project will only be visible from transportation corridors and adjoining properties. The Project will maintain a buffer from the Adirondack Northway. The Project is located across from existing light industrial buildings on the north side of Wood Road. Moreover, the Project plan shows a trail area to be preserved and made available to be used as part of the Zim Smith Trail. The Project is not visible from any parks or recreation areas.

Cultural Resources

The Applicant retained Hartgen Archeological Associates to conduct a Phase 1A/B study of the site which is archeologically sensitive based on the NYS OPRHP data base. All of the work has been completed and an End of Field letter report dated July 25, 2012 has been submitted by Hartgen indicating that no archeological or historic resources have been found as a result of the study. An OPRHP confirmatory sign off letter will be provided to the Town as soon as it is available.

Based on the foregoing, the Project will not have any significant adverse impact on cultural resources.

Community Character

The Project will not have any significant adverse impact on the community character in the area. As noted in the Wood Road GEIS, the development of the Wood Road Corridor is in accordance with the Light Industrial zoning applicable to the area and will have positive economic and fiscal impacts to the local economy and taxing jurisdiction. Most of the land within that study area is currently undeveloped and therefore yields little in the way of employment or revenues to taxing jurisdictions. As noted in the Wood Road GEIS, when the

land is developed for Light Industrial uses, it will provide the economy with modest growth and employment for construction and permanent jobs related to the low-density service uses allowable in the district. The Findings Statement concluded that the allowable land uses and development will be compatible with the natural resources and public infrastructure of the area.

The Project is compliant with the Town Zoning Code, the Town's Comprehensive Plan and the Wood Road GEIS.

Based on the foregoing, the Project will not have any significant adverse impact on community character.

Exterior Lighting

When buildings are proposed a lighting plan and analysis will be provided to the Town that provides for safe lighting levels, with minimal impacts on neighboring properties. For example, any light fixtures proposed will be down directed to prevent glare or light spillage onto surrounding properties.

Based on the foregoing, the Project will not have an adverse impact on aesthetic resources.

Construction

The construction of the Project is not expected to result in any significant adverse environmental impacts. Although several short term and minor impacts are expected during construction, these will be mitigated whenever practicable by implementing best management practices ("BMPs"). For example, the use of construction vehicles and equipment may increase air emissions and noise temporarily on and around the Site. These temporary emissions are not expected to adversely affect air quality in the area and the efficient use and proper maintenance of both vehicles and equipment will mitigate air and noise impacts. In addition, fugitive dust may be created during construction activities. However, commonly employed construction practices (i.e., water suppressants, blanket screening, limiting activities to non-windy days, etc.) will be used, as necessary, to minimize such impacts, if any. As discussed in greater detail below, the applicant will implement BMPs to control storm water run-off during construction. It is highly unlikely that any of these construction impacts will be significant.

Furthermore, any construction waste will be collected and deposited in large garbage dumpsters or dump trucks on-site and removed on a regular basis for dumping at a regulated waste facility, thus helping to ensure that construction waste will not result in any significant adverse environmental impacts.

Open Space and Recreation

The Site has been partially cleared and is currently vacant. Since the Site is not currently serving as a designated open space or recreation area, there is no direct change in the net amount of acreage available for such uses. The Project is not anticipated to impact any other existing open spaces or recreational areas. An area has been reserved on-site for connection to the Zim Smith Trail as requested by Saratoga County Planning.

Electric Service

The Project will not have any significant adverse impact on electric services provided in the area. There is sufficient capacity to meet any future buildings demand for the services.

Solid Waste

The Project will generate a small amount of solid waste. The waste will be collected and disposed of at an existing, duly licensed solid waste facility.

For Further Information:

Contact Person: Mr. John Scavo, Town Planner

Address: Town of Clifton Park
One Town Hall Plaza
Clifton Park, New York 12065

Telephone Number: (518) 371-6054

Filing: As required by 6 NYCRR § 617.12 a copy of this determination of non-significance shall be filed with the following:

The applicant;

The Town of Clifton Park, Town Clerk;

Other agencies involved or interested in the action, if any;

The editor of the Environmental Notice Bulletin ("ENB");

The Supervisor's Office of the Town of Clifton Park;

The Town of Clifton Park Planning Board, as lead agency; and

Any person requesting a copy.

