

Final Environmental Impact Statement

March 12, 2009

“The Lake at Sylvan Way”

Grafton, NY 12082

Lead Agency: Grafton Town Planning Board

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Date of Acceptance of DEIS: October 1, 2008

Public Hearing: October 20, 2008

Public Comment Period : November 7, 2008

Date of Acceptance of SDEIS and SSDEIS: January 26, 2009

Public Comment at Planning Board Meeting: February 23, 2009

Public Comment Period: February 27, 2009

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Table of Contents

	<u>Page number</u>
Exhibit Schedule	5
I. Project Summary.....	6
A. Introduction.	6
II. Procedural History/ Project Timeline.....	7
III. Description of the Proposed Action.....	12
A. Project Purpose, Need and Benefits.	12
B. Location.	12
C. Design, Layout, Construction and Operation.....	12
D. Approvals.....	15
1.) Town of Grafton Planning Board.	15
2.) Rensselaer County Department of Health.	15
3.) New York State Department of Environmental Conservation.....	15
4.) Town of Grafton Highway Superintendent.....	15
5.) New York State Department of State and	15
New York State Attorney General’s Office.....	15
IV. Alternatives.	15
A. Acquisition of the Project Site.....	16
B. Project Designs Considered- Evolution.....	16
C. Other Alternative Project Designs-Rejected.	17
D. The 26 Lot Subdivision.	17
E. No Action Alternative.....	18
1.) Sale as a Single Parcel.	18
2.) Development as a Condominium.	18
3.) Develop Pursuant to Already Approved Lake Renee Plan.	18
4.) Comments Regarding the Alternatives Analysis.....	18
F. The Present 22-Lot Subdivision.....	19

V. Environmental Impacts of the Project on the Site and Surrounding Area and Proposed Mitigation Measures.	20
A. Construction.	20
1.) Construction.....	20
i.) Phase 1.	21
ii.) Phase 2.	21
2.) Construction Mitigation.....	21
3.) Construction Route and Hours.	22
4.) Local Law-Protection of the Town Roads.	22
B. Geography, Topography and Soils.	22
1.) Location of Home Sites.	22
2.) Partial Construction of Driveways on Designated Lots.	22
3.) Clearing Limitation.....	23
4.) Erosion and Sediment Control Plan.	23
5.) Erosion Control.....	23
6.) Maintenance of Erosion and Sediment Controls.....	23
7.) Check Dams.....	23
8.) Vegetative Cover.	23
9.) Protection of Stockpiled Soil.....	24
10.) Winter Construction.	24
11.) Staggered Site Disturbance.....	24
12.) Grading Easement.....	24
C. Water Resources.	25
1.) Test Wells.	25
2.) Storm Water Management Areas.	25
3.) Storm Water Easement.	25
4.) Staggered Site Disturbance.....	25
5.) Soil Stabilization.....	26
6.) SWPPP.....	26
7.) No Impact to the Ponds.	26
D. Ecological Resources.....	28
1.) Project Site Features.	28
2.) Wildlife-Displacement.....	28
3.) Ecological Mitigation.	28
4.) No Endangered Species.	28
5.) Friends of Dyken Conveyance.	29

6.) Protective Covenants.	29
7.) Local Law- Town Enforcement of Protective Covenants.	30
E. Land Use.	30
F. Traffic Related Impacts.	30
1.) Traffic Evaluation.	30
a.) Capacity and Level of Service (“LOS”).....	31
i.) Route 2/ Long Pond Road/ County Route 85.....	31
ii.) County Route 85/ South Long Pond Road.	31
iii.) Engineering Report on Level of Service.	31
2.) Bridge Inspection.....	31
3.) Road Evaluation.	31
4.) Sylvan Way Specification.	32
5.) Sylvan Way Description.....	32
6.) Signage for Sylvan Way.....	32
7.) Concrete/Aggregate Haulage Trucks.	32
a.) Truck Route and Hours of Operation.....	32
8.) Road Water Spraying Device.	33
9.) South Long Pond Road Mitigation Fee.....	33
10.) Local Law.	33
G. Utilities and Community Services.....	33
1.) Water Quality/ Septic/ Solid Waste.....	33
2.) Utilities.	34
3.) Police Protection, Fire Protection and Emergency Services.....	34
4.) Public Safety Easement for Access to Dyken Pond and the Helicopter Clearing.....	34
a.) Dyken Pond.	34
b.) Helicopter Clearing.	35
5.) Educational Services.....	35
6.) Disclosure to Lot Purchasers.	35
H. Historic and Archaeological Resources.	35
I. Demographics and Fiscal Impacts.	35
J. Unavoidable Impacts.	36
1.) Construction-related, short-term impacts.	36
a.) Concrete/Aggregate Haulage Trucks.	36
i.) Truck Route and Hours of Operation.	36
b.) South Long Pond Road Mitigation Fee.	36

2.) Unavoidable long-term impacts.36
K. Resource Commitments.....37
L. Growth-Inducing Aspects.37
VI. Summary of Public Comment.37
 A. Hasbrouck Letter.37
 B. Howard Letter.39
VII. Conclusions.40

Exhibit Schedule

- Exhibit A.....Final Subdivision Plat Phase 1 and Phase 2
last revised March 11, 2009
- Exhibit B.....Protective Covenants last revised March 11, 2009
- Exhibit C.....Local Law No.1- Creating New Weight Restrictions on
Town Roads and a Permit System.
- Exhibit D.....Letter dated February 28, 2009 from Project Engineer
Harold Berger to the Town of Grafton Planning Board.
- Exhibit E.....Local Law No.2- Planning Board Enforcement of
Restrictions and Conditions to Approvals.
- Exhibit F.....Land Use Impact Analysis dated January 6, 2009
- Exhibit G.....Public Comment Letters:
February 26, 2009 from Alan Hasbrouck, Jr.
February 27, 2009 from Lawrence E. Howard, Esq.

I. Project Summary.

A. Introduction.

The action which is the subject of this Final Environmental Impact Statement (“FEIS”) consists of a proposal for the subdivision of a 141 acre parcel of land acquired in January 2008 into 22 residential lots. This parcel is located in the Town of Grafton, New York.

The Draft Environmental Impact Statement (“DEIS”), Supplemental Draft Environmental Impact Statement (“SDEIS”) and the Second Supplemental Draft Environmental Impact Statement (“SSDEIS”) were prepared and submitted to evaluate the impacts of, and alternatives to, the proposed Project in accordance with the statutory requirements of the New York State Environmental Quality Review Act, N.Y. Environmental Law Article 8 (“SEQRA”) and the implementing regulations of the NYS Department of Environmental Conservation (“NYSDEC”), 6 NYCRR Part 617.

This FEIS consists of the DEIS, the SDEIS and the SSDEIS all of which are hereby expressly incorporated by reference, revisions and corrections to these documents, public comments received and all associated exhibits and appendices to the FEIS, the DEIS, the SDEIS and the SSDEIS (collectively the “EIS”)

This process and basis is consistent with the foundation required for consideration of an action and with the responsibilities of the Planning Board under SEQRA to take a “hard look” at the Project, its impacts and mitigations.

This FEIS is arranged topically beginning with the procedural history of the Project, then a description of the proposed action which summarizes the present status of all relevant aspects of this Project, necessary approvals are identified and the alternatives are analyzed. This FEIS includes a summary of potential environmental impacts of this Project on its surroundings, identifying the proposed mitigations which have been incorporated into the design as it has evolved throughout this SEQR process. Also addressed is the Developer’s response to comments raised during the public comment period.

II. Procedural History/ Project Timeline.

The following summarizes the procedural history of this Project:

- **November 19, 2007- Planning Board Meeting.**
This site was first presented to the Town of Grafton Planning Board (the “Planning Board”) for discussion on November 19, 2007. The Project presented was a concept design for a 37 Lot subdivision. Concerns expressed by the Board included density, environmental impacts on Dyken Pond and traffic.
- **December 17, 2007- Planning Board Meeting.**
Five letters were received regarding the proposed Project. Town resident Atsushi Akera suggests opening a positive communication line with the Developer on this Project.
- **January 28, 2008- Planning Board Meeting.**
The Project is on the Agenda for consideration as new business. This involves a 3 lot minor subdivision to enable the 20+/- acre Land Conservation Parcel/ Parcel A and the 3.25+/- acre Parcel C to be conveyed off of the main parcel to the Gundrum Family as additional open space for buffering.
- **February 20, 2008- Planning Board- Public Hearing.**
This Public Hearing was held on the 3 lot minor subdivision. Six individuals spoke including comment regarding the SEQR process, native plants, run-off, view shed, Protection of the Dyken Environmental Center and that a parcel at Otter Cove should be conveyed to the Dyken Environmental Center.
- **February 20, 2008- Planning Board Meeting.**
Three letters were received regarding the proposed Project. Developer to submit a revised plan for the subdivision, and a Special Planning Board Meeting was scheduled for March 3, 2008.
- **March 3, 2008- Special Planning Board Meeting.**
Preliminary Plat was accepted, SEQR Determination- Negative Declaration, the preliminary plat is accepted as the final plat and approval granted for the 3 lot minor subdivision. This allows the conveyance off of the two preservation parcels, totaling 23.25+/- acre, to the Gundrums.
- **March 17, 2008- Planning Board Meeting.**
A now 28 Lot major subdivision of the balance of the site is on the Agenda as new business. Discussion of establishment of Lead Agency, acceptance of application and establishing a public hearing.

- **April 21, 2008- Planning Board Meeting.**
 Ten letters were received regarding the proposed Project. By Resolution of this date, the Planning Board assumed lead agency status, declared this now 27 Lot major subdivision to be a Type I Action and issued a positive declaration pursuant to SEQRA. A DEIS was directed to be prepared and a scoping session be held on May 1, 2008.
- **May 1, 2008- SEQR Scoping Session.**
 A SEQR Public Scoping Session was held at the Senior Center. The Scoping Checklist was distributed and discussed; a Scope was agreed upon.
- **May 21, 2008- Scoping Document Adopted.**
 Following public notice and a public hearing, on May 21, 2008, the Planning Board adopted a final Scoping Document to focus the environmental impact statement on potentially adverse impacts and to eliminate consideration of those impacts that are irrelevant or insignificant.
- **July 21, 2008- Planning Board Meeting.**
 The Developer appeared and updated the Planning Board regarding this 27 Lot major subdivision and that the DEIS is in process.
- **August 18, 2008- Planning Board Meeting.**
 The Developer informed the Board of the improvements and progress at the site. The Project road has been relocated and added acreage of lake frontage. The Board agreed to hold a Special Planning Board Meeting for a site visit on September 3, 2008.
- **September 3, 2008- Special Planning Board Meeting: at The Lake at Sylvan Way.**
 A Special Planning Board Meeting was held at Project site of The Lake at Sylvan Way. All five Planning Board Members attended together with twelve neighbors and interested individuals. The site was walked and features of this property were viewed and discussed by the attendees. Questions were asked of the Developer and his development team by the Planning Board.
- **September 15, 2008- Planning Board Meeting.**
 The Town Attorney gave an update on the Project that perc tests are scheduled and that private road may be put in before next year.

- **October 1, 2008- Special Planning Board Meeting.**
 This Special Meeting was held to move the SEQR process forward. The DEIS was submitted to the Planning Board and was determined complete on October 1, 2008, a public hearing was scheduled for October 20, 2008 and a public comment period was established from October 2, 2008 to until November 7, 2008.
- **October 2, 2008 to November 7, 2008- Public Comment Period on DEIS.**
 The general public had the opportunity to submit written comments during the comment period (October 2, 2008 to November 7, 2008) for the DEIS.
- **October 20, 2008- Public Hearing on DEIS.**
 A public hearing on the DEIS was held on October 20, 2008. Ten individuals offered comments which included, favorable regarding the covenants and green marketing, concern about Friends of Dyken not purchasing the parcel offered, impacts to South Long Pond condition and Benker School Road dangerous curve, keep hiking trail narrow to prevent motorized access, Town enforcement of protective covenants, forest/ wildlife concerns, road impacts, density and run-off.
- **November 7, 2008- Close of Public Comment Period on DEIS.**
 Eleven written comments were received during the public comment period on the DEIS which closed on November 7, 2008.
- **November 17, 2008- Planning Board Meeting.**
 The Developer updated the Board on the fact the engineering plans are being considered by the Rensselaer County DOH and that a supplement to the EIS was being prepared. Also, that the Town Engineer and Town Highway Superintendent had been working with the Developer on modifications to the Project Road and storm water system.
- **December 2, 2008- Rensselaer County Dept. of Health Technical Meeting.**
 A technical meeting was held at the Rensselaer County Dept. of Health. Attending were Planning Board Members Owen Grandjean and Tom Withcuskey as well as the Town Engineer, Town Highway Superintendent, Dan Casey of the Rensselaer County of Health (“DOH”), Fred Howard of the Rensselaer County Highway Department and Pierce Hoyt of the Dyken Environmental Center with the Developer and its professionals. Project Design, revisions, mitigations and overall technical aspects of the project were discussed including the reduction from 27 to 22 Lots.

- **December 15, 2009- Planning Board Meeting.**
 The Developer formally proposes the reduction in total Lots from 27 to 22 with now just 11 lake front lots. The Developer also discusses the possibility of alternative septic design for certain Lots to further mitigate any impacts, subject to DOH approval.
- **January 9, 2009- Rensselaer County Dept. of Health Technical Meeting.**
 A second technical meeting was held at the Rensselaer County Dept. of Health. Attending was Planning Board Member Tom Withcuskey as well as the Town Engineer, Town Highway Superintendent, Dan Casey of the Rensselaer County of Health (“DOH”), Fred Howard of the Rensselaer County Highway Department and Pierce Hoyt of the Dyken Environmental Center with the Developer and its professionals. Staggered site disturbance for Lots 15 and 23 was discussed and a mechanism agreed to, serving to protect soils, and water quality as well as visual impacts. Alternative septic systems were discussed, and it was agreed that DOH consideration would be post final approval. At the request of the Highway Superintendent the water front turnaround on Parcel H was enlarged to 100’x100’.
- **January 9, 2009- SDEIS.**
 As a result of comments on the DEIS submitted by the public the applicant prepared an SDEIS dated January 9, 2009
- **January 22, 2009-Rensselaer County Dept. of Health Technical Meeting.**
 A technical meeting was held at the Rensselaer County Dept. of Health. Attending was Planning Board Member Tom Withcuskey as well as the Town Engineer, Town Highway Superintendent, Dan Casey of the Rensselaer County of Health (“DOH”) and Fred Howard of the Rensselaer County Highway Department with the Developer and its professionals. Modified configuration of certain Project leach fields was requested by the DOH and agreed to by the Developer. The Town Highway Superintendent and Town Engineer requested additional modifications to the Project including creation of grading easements on certain lots, engineering design changes to the storm water infrastructure and Road, partial construction of driveways on designated lots, easements to the Town for inspection of storm water infrastructure and addressing any issues as well as an easement for the Town, NYS Police and Urban Search and Rescue to enter the Project to use the water access on Parcel H and the Helicopter clearing on Parcel E. The Developer agreed to all requests made by the Town.

- **January 23, 2009- Rensselaer County DOH Septic Sign-off.**
 By memorandum dated January 23, 2009 from Fred Howard, PE of the Rensselaer County DOH to the Planning Board, the DOH determined that as a result of an
 “extensive collaborative effort on the part of several town officials (Planning Board members, Building Inspector, Highway Superintendent, Planning Board Attorney and Town Engineer); the Developer and his professional team; and the County Health Departmentand the Developer’s revised plan that eliminates the “flagstaff” lots along the pond frontage.....the site becomes approvable from an on site sewage disposal standpoint.”
- **January 23, 2009- SSDEIS.**
 An SSDEIS dated January 23, 2009 was prepared by the Developer to address the technical issues associated with the site and design mitigations incorporated by the Developer as a result of the extensive technical interactions.
- **January 26, 2009- Planning Board Meeting.**
 At this meeting the Developer also summarized the revisions and mitigations to the Project and answered questions from the Board. The SDEIS and the SSDEIS were deemed complete by the Planning Board on January 26, 2009 and a public comment period was established of January 27, 2009 to February 27, 2009 during which time the general public had the opportunity to submit written comments for the SDEIS and the SSDEIS.
- **January 27, 2009 to February 27, 2009- Public Comment on SDEIS and SSDEIS.**
 A public comment period of January 26, 2009 to February 27, 2009 was established for purposes of the SDEIS and the SSDEIS.
- **February 23, 2009- Planning Board Workshop Meeting with Oral Public Comment Period.**
 The Planning Board held a workshop meeting at which the Developer updated the Board on technical aspects of the Project and mitigations. Additional oral public comment on the DEIS, the SDEIS and the SSDEIS was also received at this Planning Board Meeting.
- **February 27, 2009- Close of Public Comment on the SDEIS and SSDEIS.**
 Only two written public comments on the SDEIS and SSDEIS were received.
- **March 6, 2009- Meeting with Town Highway Superintendent.**
 The Developer met with the Town Highway Superintendent. The Town Highway Superintendent requested that the water front turnaround be further enlarged. The

Superintendent also quantified the amount of gravel, 4,500 tons of Item 4 Gravel, to serve as the basis of the South Long Pond Road Mitigation Fee. The Developer agreed to both requests.

- **March 12, 2009- FEIS.**
A FEIS was prepared by the Developer to comprehensively summarize the Project, its procedural history, its design, impacts, mitigations as well as to address the public comments received on the SDEIS and SSDEIS.
- **March 12, 2009- Submission Filed with the Planning Board.**
The Developer's submission was filed with the planning board including the updated Project plat, engineering drawings and the FEIS.
- **March 16, 2009- Planning Board Meeting.**
The Lake at Sylvan Way is on the Agenda for this meeting for further consideration of the Project and this FEIS.

III. Description of the Proposed Action.

A. Project Purpose, Need and Benefits.

The Developer's purpose in undertaking this Project is to create waterfront and water access subdivision for families interested in residing in a quiet, rural community. The Developer believes that this subdivision harmonizes with its natural setting and neighboring properties while creating additional tax revenue for the Town of Grafton.

B. Location.

The Project is located at the Southerly end of South Long Pond Road in the Town of Grafton. The Southeasterly portion of the Project is bounded by the waters of Dyken Pond. The site is accessed by South Long Pond Road, a Town Road located directly south of NY Rt.2, off of County Route 85.

C. Design, Layout, Construction and Operation.

This 22 lot residential subdivision will preserve substantial open areas much of which will not be improved and will remain in its natural state. These lots may not be further subdivided.

Attached hereto as Exhibit "A" is a copy of the present subdivision plat.

The areas to remain in their natural state include

- a 22.87 +/- acre waterfront parcel (“Parcel F”) which shall be protected in perpetuity from development with a conservation easement
- a 20 +/- acre land conservation area (“Parcel A”) which was conveyed back to the grantor for additional forested buffering.

The following open areas shall be maintained, managed and owned in common by The Lake at Sylvan Way, Inc. a Homeowner’s Association to be formed by the Developer (the “HOA”):

- a 4.76 +/- acre Green Buffer (“Parcel D”)
- a 2.22 +/- acre Green Space at the center of the project cul de sac (“Parcel E”)
- a 0.60 +/- acre Access for Common Boat Launch (“Parcel H”)
- a 0.08 +/- acre hiking trail (“Parcel J”)
- Drainage Easement 1 and Drainage Easement 2 which shall be granted to the HOA for purposes of maintaining the Project storm water infrastructure

- The Project road, to be known as “Sylvan Way” (the “Road” or “Parcel G”), which like the above referenced common areas will be owned, managed and maintained by the HOA, shall remain a private road until such time, if ever, as the HOA determines to offer it for dedication to the Town.

Support facilities in this Project shall include:

- Approximately 4,200 linear feet of internal roadway, Sylvan Way, which bisects the site in a north-south direction
- Parcel D and Parcel E which shall function as open space and shall contain components of the project storm water infrastructure.
- Approximately 115 acres of the original 141 acre parcel shall remain open, undeveloped and in a natural state.
- No more than 26 acres or 14.44% of the original parcel will be improved/cleared.

Private wells for water will be drilled on each individual lot.

- Three test wells have been drilled at the Project per the requirements of the Rensselaer County Department of Health.
- Each lot will also have its own septic system which is to be designed to be consistent with the requirements of and approved by the Rensselaer County Department of Health.

Verizon Telephone Corp. will provide phone and broadband services and National Grid Corporation will provide electricity.

Amenities proposed in the development include

- the landscaped entrance way to the Project which shall be improved with stone and appropriate landscaping.
- An Access for Common Boat Launch, known as Parcel H, opening onto Dyken Pond provides access to the single Project boat launch for use by the Project Lot owners.
- Parcel E's helicopter clearing and Parcel H's access to Dyken Pond shall also be available for emergency/ rescue use by the Town, the NYS Police and Urban Search and Rescue.
- In addition to the above, Parcel H is a hiking trail which shall provide access to the Lands of the Dyken Environmental Center.

Buffers and protective areas are employed throughout the Project including:

- The 4.76 +/- Green Buffer/ Parcel D and the 20 +/- acre land Preservation Area/ Parcel A both of which are located along the Northeasterly portion of the site.
- Parcel F is a 22.87 +/- waterfront parcel, located at the Southwesterly portion of the project, which shall forever be protected from development by a conservation easement.
- The Developer has entered into a Purchase Contract to convey Parcel F to the Friends of Dyken. Should this transaction not close, the Developer will attach this preservation parcel to Lot 13.
- Additionally, there is a 100' wide buffer along the entirety of the shore line of the waterfront lots,
- And a 50' or 100' buffer along the Lands of Rensselaer County and Lands of Akera along the Westerly boundary of the Project.

In an effort to further protect the nature of this development, its quality and character the Developer had created a number of Protective Covenants which shall be set forth on the approved subdivision plat and which will be capable of enforcement by the HOA as well as by the Town of Grafton, by virtue of a Local Law, to apply on a Town-wide basis, presently being enacted by the Town. The Developer has been a proponent of the enactment of this Local Law and believes that the Town's ability to enforce these Protective Covenants is a further assurance to both the Lot owners and the community that the best interests of all will be protected.

A copy of the Protective Covenants is attached hereto as Exhibit "B".

Construction inspection of proposed roadways and utilities will be conducted by the Town of Grafton or its representatives, at the expense of the applicant.

The Lake at Sylvan Way, Inc., the HOA referenced above, shall be formed for the Project and is required for the ownership, operation/ management and maintenance of the Road, the storm water management system, the open space, the hiking trail and all property in which the HOA possesses an interest as well as for purposes of the enforcement of the protective covenants.

D. Approvals.

The following approvals are required for the development of the proposed subdivision:

- 1.) Town of Grafton Planning Board.
Lead Agency – SEQRA review and subdivision approval.
- 2.) Rensselaer County Department of Health.
Review and approval of the engineering design for the septic systems as a Realty Subdivision, which shall occur in two phases: Phase 1 and Phase 2.
- 3.) New York State Department of Environmental Conservation.
Permitting for storm water discharge (“SPDES”) with the storm water management design to be reviewed and approved by the Town of Grafton.
- 4.) Town of Grafton Highway Superintendent.
Driveway permit.
- 5.) New York State Department of State and
New York State Attorney General’s Office.
Creation of the HOA and any required Corporation approvals.

IV. Alternatives.

Extensive analysis of Project alternatives have not only been considered by this Developer, but have actually been pursued by the Developer during the course of the ownership of this property. The following summarizes the variety of alternatives considered and in so doing demonstrates the evolution of this Project to its present 22 lot configuration.

In accordance with SEQRA “.....The draft EIS should identify and discuss the following only where applicable and significant:.....”6 NYCRR sec.617.9(b)(5)(iii):

“A description of the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor. The

description and evolution of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative. The no action alternative should evaluate the adverse or beneficial site changes that are likely to occur in the reasonably foreseeable future, in the absence of the proposed action....” 6 NYCRR sec.617.9(b)(5)(iii)(v).

A. Acquisition of the Project Site.

The Developer acquired this 141 acre property over a year ago from a local Grafton property owner/lumber dealer. The objective in purchasing this property was to create a lakefront development, similar to one recently completed on the other side of Dyken Pond. Prior to purchasing the property, the developer hired a surveyor, engineer and landscape architect to design various land plans.

B. Project Designs Considered- Evolution.

Over a period of time nine proposed plans were evaluated with slightly different modifications and refined; eventually a 37 lot plan was finalized.

The original Sylvan Way plan submitted to the Grafton Planning Board in October, 2007, envisioned 37 lots with 22 lots fronting on South Long and Dyken Ponds. A number of concerned neighbors contacted the developer and the Planning Board to seriously consider reducing the number of lots and/or not propose any development along South Long Pond, Deer Run Way and the Cove to the south of Rynard Gundrum, Jr.’s family home. After considerable negotiation among all the parties, the Developer significantly changed the overall plans, namely:

- The number of proposed lots was reduced from 37 to 27 lots.
- All the lots along South Long Pond, Deer Run Way, and the Cove south of the Gundrum’s were eliminated.
- The 2.2 acre lot within the cul-de-sac at the end of Sylvan Way was changed to Green Space.
- The 20 acres around Deer Run Way and the Gundrums was permanently changed to Green Space, as well as 3.25 acres which were annexed to the Gundrum family home. This agreement with the Gundrums resulted in another alternative plan, as follows:
- A 4-lot minor subdivision was proposed that split off the 20.00 acre Green Space, and a 3.25 acre parcel to be annexed to the Gundrum home parcel. Two other parcels were proposed that created a 23 +/- acre “Otter Cove” parcel, and the balance of the land, at 118 +/- acres would be where the primary development would occur. This 4-lot proposal was denied due to concerns about segmentation

in the SEQR process. As a result, only the 20 acre Green Space and 3.25 annexation parcel were approved as a minor subdivision.

In the meantime, additional soils testing eliminated Lot #2 and it was combined with Lot #1, and a new proposed road configuration based on preferred slope, soils and drainage concerns resulted in combining Lots #9 and #10. These subdivision plans were then further modified as the original owner desired more Green Space between the 20 acre land preservation area and the proposed road, so an additional 5 +/- acre Green Space buffer was added.

At approximately the same time that the revised 26 lot subdivision plan was introduced to the public, the Friends of Dyken Environmental Center worked with the Developer to agree to convey the 23 +/- acre Otter Cove parcel to the Friends. This parcel has 1100' of lake frontage on Dyken Pond and was originally proposed to be part of a 26 +/- acre building lot with road frontage access along Sylvan Way.

C. Other Alternative Project Designs-Rejected.

Another alternative plan was designed to create a “non-realty subdivision” of 24 lots. This would enable the developer to create 4 lots less than 5 acres, and then the other lots would be 5+ acres. This design would allow the developer to avoid the rigors of Health Department scrutiny.

However, after the compromise by the Developer to set aside for no development along Deer Run Way (23 +/- acres) and to convey the 23 acre “Otter Cove” parcel to The Friends of Dyken, the number of lots would have to be reduced to 16 in order to comply with the New York State “non-realty” subdivision laws. After considering the expense of the road necessary to reach the center of the property closer to the Lake, the expected sales of 16 lots would not be enough to pay for the land and the road, and would be not only an unprofitable proposition, but actually a losing calculation.

D. The 26 Lot Subdivision.

The proposed plan of 26 lots has had numerous revisions. Another alternative suggested by a neighbor was an open space/cluster style of development with the same number of units clustered on about 30 Acres +/- at the southeast corner of the property. Discussions with the engineer quickly rejected this alternative as unworkable because a common water supply and common sewer system would be necessary. In Grafton no public systems are available and private alternatives are legally questionable and scientifically not favored with the Project engineer flatly ruling it out as an option.

E. No Action Alternative.

1.) Sale as a Single Parcel.

With respect to a “no action alternative”, a no action alternative has been promoted for over a year now through extensive advertising on the web, in magazines and to mailing lists.

Attached as Exhibit “G” is a copy of this ad.

Thus far, no one has desired to purchase the property as one parcel to be used for a private compound or for preservation or as an investment. The Friends of Dyken has indicated that they have discussed the possibility of purchasing the entire parcel for preservation, but other land trusts and government grants have not been forthcoming with the funding.

2.) Development as a Condominium.

Another no action alternative, since the Town of Grafton has no zoning law, would be a condominium-style development; such a development could occur with the subdivision of land not necessary.

3.) Develop Pursuant to Already Approved Lake Renee Plan.

This parcel could have been developed utilizing the pre-existing approved “Lake Renee” subdivision which is recorded in the Rensselaer County Clerks’ office. This development is an extension of the Deer Run Way development with small waterfront lots. All of the Lake Renee lots have already been surveyed, and the road layout design completed. The large remainder of the land could then be more fully developed with lots similar to the Lake at Sylvan Way. See attached map by Continental Placers dated October 18, 2007 which is attached as Exhibit “H”.

4.) Comments Regarding the Alternatives Analysis.

David Hunt, Ph.D. helps to summarize the Alternatives Analysis as follows:

“Pro: As the EIS states, given the large cost paid by Stonybrook to acquire the land, their goodwill in initially offering to sell the entire property to Dyken Pond Center, their goodwill in offering and presumably currently negotiating to sell the 23-acre Otter Cove parcel to Friends of Dyken Pond, and the moderate clustering of houses in the current site

design plan (mentioned as a concern in the public comments of one person at the public hearing who thought that it was too dense), it seems to me that Stonybrook has done much to explore alternatives and I praise their efforts in doing so”.

F. The Present 22-Lot Subdivision.

As a result of comments from the public during this SEQRA process as well as detailed comments from the Town and its professionals as well as County officials the plan now has evolved, into an open space cluster style of development with now 22 total lots and only 11 lakefront lots.

This development centers around a host of 2.09 to 4.58 +/- acre individual lots around Dyken Pond with 46 acres +/- of open space to the west and northeast. These lots offer direct lake frontage and accommodate individual septic systems and wells, with appropriate separation distances. An additional 11 lots, generally around 2.06-5.78 acres +/- acre lots are included that will have lake access only for canoes, kayaks and boats with electric motors.

The 18-month evolution of this eventual 22 lot plan also involved considerable discussion with the neighborhood group and others. These back-and-forth communications and deliberations between the Developer and others has resulted in the creation of 27 protective covenants and to the proposed enactment of two new Local Town laws primarily designed to ensure the enforceability of the covenants and the protection of the roads.

As David Hunt, Ph.D. Ecologist (Ecological Intuition and Medicine, and the Rensselaer County Biodiversity Greenprint Project) points out in his 11/5/08 response to the DEIS: “Overall, as presented in the details below, the project (The Lake at Sylvan Way) probably represents a good balance of protecting and/or minimizing impacts to existing important biodiversity features versus putting a major subdivision in a site that is not conducive to preserving the natural landscapes of the Town or the Rensselaer Plateau region”.

During all of these above-mentioned considerations, the Developer, Stonybrook Land – a land development company, has been paying thousands of dollars in interest expense. Also, Stonybrook has installed a long driveway in the general location of the proposed Sylvan Way as a means to examine the land and proposed roadway to insure that the proposed development will be suitable for the land. While this driveway and the engineering/surveying have cost hundreds of thousands of dollars, its construction has allowed easier access into the property for soils examination, planning board review, engineering review of the future

road and driveways and for wells to be drilled for Rensselaer County Health Department's review.

David Hunt, Ph.D. further summarizes the development plan in his concluding statement on p. 12 of his submission:

“Summary: (A Holistic/Balanced Approach to Protecting Important Biodiversity Features of the Site). (p. 42). Pro: I strongly support the evolution of the development plan to propose the E section of Lot #13 as the building area (and assumed sale of the W part of the lot to Friends of Dyken Pond). Because this action protects 80% of the important biodiversity features of the site that I track, someone who is looking at all “environmental” issues typically addressed in an EIS might consider this an appropriate balance, and I would take satisfaction in knowing that not all of the areas and/or features that I care about, track, and try to preserve were to be destroyed or impacted. The remaining 20% of the features, as mentioned in my October 14, 2008 letter seem best addressed via the goodwill of the developer and more importantly town & regional planning activities that better and more broadly address cumulative impacts”.

The subdivision design, alternative densities, alternative type developments as well as the no-action alternative were all explored by the applicant. The chosen alternative balances the needs of the Project sponsor with the social and environmental characteristics of the area. Please see Section VI of the SDEIS for a detailed summary of the alternatives analysis engaged in for this Project.

V. Environmental Impacts of the Project on the Site and Surrounding Area and Proposed Mitigation Measures.

A. Construction.

1.) Construction.

- a) Construction by the Developer will be limited to construction of the Road, any necessary storm water infrastructure, site work to prepare Lots for sale and preparation of the Lots, as necessary for Lot purchaser construction of on-site septic systems.
- b) The construction of homes by the Lot purchasers is expected to occur gradually as Lots are sold and the purchasers elect to build.
- c) The construction work to be completed by the Developer shall occur in two general phases over a total period of 6- 9 months which shall be as follows:

i.) Phase 1.

- Construction of Sylvan Way, which shall be constructed to in full compliance with the Town of Grafton “Design Type 1” minus the paving, incorporating storm water infrastructure including culverts, as required.
- Appropriate restoration of the disturbed portions of the site shall occur on an ongoing basis.
- Construction of storm water infrastructure including detention ponds, swales, rip rap, etc.
- Installation of utility lines to service the subdivided Lots.
- Create the helicopter clearing on Parcel E.
- Improve Parcel H with turnaround to allow access to the water’s of Dyken Pond.
- Construction of improvements at the entranceway to the Project at the beginning of Sylvan Way.
- Create the Hiking Trail on Parcel J.
- Sale of the Phase 1 Lots will occur during this Phase.

ii.) Phase 2.

- Complete any necessary septic preparation improvements on the Phase 2 lots.
- Sale of Phase 2 lots will occur during this Phase.

2.) Construction Mitigation.

- Mitigation measures will be implemented to control dust during construction.
- Fugitive dust and windborne sediment control will be accomplished by periodic watering of any open graded areas.
- Vegetative cover and landscaping will be established as quickly as practicable to prevent erosion of any disturbed soils.
- Stockpiled materials will be surrounded by silt fence barriers.
- Seed and mulch will be used on disturbed soil areas.
- Construction equipment will be muffled in accordance with the GSA Noise Level Standards for Construction Equipment.

3.) Construction Route and Hours.

- Concrete trucks and trucks used for aggregate haulage, travelling to and from the Project shall use a designated route.
- Such trucks shall use only NYS Rt.2 to County Rt.85 to South Long Pond Road.
- Hours for such truck travel is restricted to Monday to Friday 7:00am to 6:00pm.

4.) Local Law-Protection of the Town Roads.

- As a result of dialogue associated with this Project, the Town is proposing to enact a Town-wide Local Law which will serve to create a permit system for the protection of Town roads and will create a weight limitation for vehicles on certain Town highways to protect the highways from harm.
- This “Local Law No.1” would require that a permit be secured for any truck showing a weight on its registration of 10 tons or more and would additionally require a bond or cash deposit of up to \$10,000.

Attached hereto as Exhibit “C” is a copy of Local Law No.1.

B. Geography, Topography and Soils.

Erosion control measures will be implemented throughout the site with special attention given to areas adjacent to Dyken Pond. Mitigation Measures to be employed are as follows:

1.) Location of Home Sites.

Locating home sites, driveways and other improvements so as to minimize cutting and filling to the maximum extent practicable.

2.) Partial Construction of Driveways on Designated Lots.

- To protect topography and insure driveways on certain lots are properly constructed, the Town Highway Superintendent and Town Engineer requested and the Developer has agreed to partially construct driveways on Lots 3, 4, 5 and 7.
- The need to partially construct driveways on Lots 6 and 8 to be determined in the field, when the Road construction is in process, as

may be agreed between the Developer and the Town Engineer and Town Highway Superintendent.

3.) Clearing Limitation.

Clearing on Lots to be limited to one acre including the home site, driveway, septic and well.

4.) Erosion and Sediment Control Plan.

Utilizing erosion control devices during construction, to control runoff and retain sediments. These include devices such as silt fence, check dams and temporary sediment traps placed down gradient from disturbed areas. A detailed erosion and sediment control plan will be required as part of the final subdivision plans.

5.) Erosion Control.

Down gradient of any site disturbance and prior to the 100' buffer, there will be a series of erosion control measures starting with a vegetation filtration strip prior to a diversion swale. The diversion swale directs run-off into a temporary sediment basin with a siltation fence to be installed below.

6.) Maintenance of Erosion and Sediment Controls.

All erosion and sediment control measures shall be inspected by a qualified engineer at least every seven calendar days. The shores of Dyken Pond shall be checked daily by the site contractor during construction to confirm that no sediment is reaching the pond. Any necessary repairs will be made immediately to maintain all practices as designed.

7.) Check Dams.

Constructing check dams within the swales to mitigate any erosion by restricting the velocity in the channel.

8.) Vegetative Cover.

Establishing vegetative cover and landscaping as quickly as practicable to assist in reducing the rate of runoff and to prevent erosion of exposed soils. Any area of soil disturbance at this project shall be seeded and mulched within 14 days of exposure.

9.) Protection of Stockpiled Soil.

Stockpiled topsoil will be either seeded with an annual ryegrass or covering with an erosion control fabric. Soil slippage at the toe of the stocked area will be prevented by installing filter fabric barriers at the perimeter.

10.) Winter Construction.

Should construction of any aspect of the Project proceed through winter months, a fall planting of annual ryegrass will be applied to stabilize the soils of the site in anticipation of spring thaws, rain and runoff.

11.) Staggered Site Disturbance.

- To provide additional protections to water quality of Dyken Pond as well as to visual impacts, the site disturbance shall be staggered for Lot 15 with Lots 14 and 16, and of Lot 23 with Lots 22 and 24.
- The staggering shall require that neither Lot 15 nor 23 be disturbed until the disturbed area on the respective adjacent lots is stabilized.
- Lot 15 and/ or Lot 23 may be disturbed if the adjacent lot is either undisturbed or already stabilized.
- Methods to be used are those previously mentioned in this document, as approved by the Town Engineer and the Town Highway Superintendent.

12.) Grading Easement.

- A 15' Grading Easement, to be reserved for specifically designated lots, for purposes of allowing the Lot owner to maintain the Lot contours and grade in the immediate area of the permitted 1 acre of Lot clearing for the house, yard, driveway and septic.
- This easement will allow the Lot owner to enter 15' onto the neighboring Lot to perform this maintenance.
- For purposes of establishing the grade and contour to be maintained, this easement shall refer to the Project Layout and Grading Plans that are part of the filed construction documents "Proposed Subdivision: The Lake at Sylvan Way Phase 1" and "Proposed Subdivision: The Lake at Sylvan Way Phase 2" copies of which shall be on file with the Town of Grafton Planning Board and the Rensselaer County Department of Health.

- The Lots required to have Grading Easements shall be on a case by case basis as may be agreed between the Town Engineer, the Town Highway Superintendent and the Developer.

C. Water Resources.

1.) Test Wells.

Three test wells have been drilled at the Project as per the Rensselaer County Department of Health standards.

2.) Storm Water Management Areas.

- The “New York State Storm water Management Design Manuel” was used to design the Project storm water management practices.
- Forebays and rain gardens will treat the water quality and pocket ponds and micropools will be provided to have an extended detention for the 10 year and 100 year 24 hour peak discharge rate to predevelopment rates.
- The storm water management system will be developed and constructed by the Developer and shall be maintained by the HOA in accordance with regulations and approvals from the Rensselaer County Department of Health and NYSDEC.
- The HOA shall be provided with a manual created by the Project engineers identifying requirements and procedures for maintaining the storm water management system/ infrastructure consistent with good engineering practices.

3.) Storm Water Easement.

A storm water infrastructure easement shall be granted by the Developer to the Town to allow the Town to enter into the Project to allow inspection of Project storm water infrastructure including drainage swales, culverts, detention ponds, etc., as well as to allow the Town to address/ remedy any emergency circumstance arising from the Project storm water management system.

4.) Staggered Site Disturbance.

To provide additional protections to water quality of Dyken Pond as well as to visual impacts, the site disturbance shall be staggered for Lot 15 with Lots 14 and 16, and of Lot 23 with Lots 22 and 24. The staggering shall require that

neither Lot 15 nor 23 be disturbed until the disturbed area on the respective adjacent lots is stabilized. Lot 15 and/ or Lot 23 may be disturbed if the adjacent lot is either undisturbed or already stabilized. Methods to be used are those previously mentioned in this document, as approved by the Town Engineer and Town Highway Superintendent.

5.) Soil Stabilization.

All disturbed areas shall be stabilized in accordance with the “New York Standards and Specifications for Erosion and Sediment Controls” August 2005. All seeding and mulching will be in place and vegetation established prior to the removal of silt fencing to avoid potential impacts.

6.) SWPPP.

- Consistent with the requirements under NYSDEC SPEDES, a Storm Water Pollution Prevention Plan (“SWPPP”) has been prepared for this Project.
- This SWPPP shall be approved by the Town of Grafton which will oversee the construction of the storm water infrastructure.

7.) No Impact to the Ponds.

As requested by Town Engineer Russ Reeves, the Project Engineer, Harold Berger, P.E., has prepared a letter to the Town of Grafton Planning Board dated February 28, 2009 to further confirm the extensive water related mitigations of this Project and the fact that this Project and its build out will not adversely impact the waters of Dyken Pond and South Long Pond.

As set forth throughout this FEIS, this Project is designed in full compliance with the NYSDEC Storm Water Regulations which mandate no net increase in flows from the Project as well as in full compliance with the requirements of the NYS DOH “Wastewater Treatment Standards for Individual Household Systems” for the on-site septic systems. Also, as confirmed by this FEIS and the extensive Project submissions and technical reviews, this Project also incorporates extensive and comprehensive mitigation measures relating to topography, soils, construction practices and water resources.

The letter to the Board from the Project Engineer reaffirms the foregoing and additionally offers an analysis confirming the following:

- There is abundant scientific research confirming the facts relating to subsurface sewage disposal as well as the movement of secondary sewage through and over the ground and back into the ground water and eventually discharging into bodies of water.
- In addition to the removal of pathogens from the normal operation of a sewage system and the vertical separation required by law, it has generally been agreed that the removal of bacteria, pathogens and other organic compounds is very nearly complete within the initial 100 feet of lateral travel.
- The average lateral distance for the lakefront lots to the high water mark is 261 feet. Non lakefront lots have even greater separation distances.
- The relative effect of these 22 sewage systems is as follows: the pond surface area is approximately 200 acres with a mean depth of 16'. The amount of water by calculation is approximately one billion gallons.
- The amount of effluent from septic systems from 22 homes at full build out at 300 gallons per day would be 6,600- this number assumes that all homes are year round residences and is therefore the most severe scenario, with gray water per year totaling 2.4 million gallons.
- This gray water total per year represents one quarter of 1% of the volume of the ponds.
- More water than this evaporates yearly from the surface of the ponds than this amount which represents a depth of less than a tenth of an inch.
- With respect to run-off, NYSDEC SPEDES Storm Water Regulations, with which this Project is designed in full compliance, mandate that of-site discharges from a project not exceed predevelopment run-off rates- no net increase.
- Boat traffic, 12 additional motor boats, if all on the ponds at the same time, would affect 0.03% of the surface area of the ponds.
- With respect to the 10 non-motorized watercraft, if all on the ponds at the same time their total area would affect only 0.01% of the surface of the ponds.
- With respect to additional protections to the ponds, the Developer has created extensive Protective Covenants (Please see Exhibit "B" attached hereto) which serve to offer significant mandated buffers and open spaces throughout this Project and a preclusion on individual boat launches.
- Lot owners will also be provided with educational materials on protecting the ponds from milfoil.

In this letter Project Engineer Harold Berger concludes:

“Based upon considerable scientific studies, we can assert that the buildout of this project, as designed, with numerous protections..... will not negatively impact the water quality of the Ponds.”

Attached hereto as Exhibit “D” is a copy of Harold Berger, P.E.’s letter with attachments.

D. Ecological Resources.

1.) Project Site Features.

The project site encompasses forested woodlands with the Southeasterly portion of the site bordering Dyken Pond.

2.) Wildlife-Displacement.

Construction of roadways and home sites will require removal of vegetation, and will cause some wildlife to be displaced.

3.) Ecological Mitigation.

- Mitigation measures proposed include limiting the clearing on each lot to not more than one (1) acre including the home site, driveway, septic and well.
- The Developer has also created extensive Protective Covenants which shall be set forth on the face of the subdivision plat which serve to establish a 100’ buffer along the entire lakefront of the Project and 50’ to 100’ buffers along the western perimeter of the Project.
- Of the 141 acres in this original tract 115 acres or 81.56% of this tract will remain in its natural state.
- This will substantially preserve the continuity of the forest and wildlife corridors.

4.) No Endangered Species.

- No endangered species has been identified.
- With respect to specific State Rare Species, as discussed in more detail in the SDEIS, David Hunt, Ph.D., Ecologist, indicates that Farwell’s Water Milfoil is listed as “threatened” by the New York Natural Heritage Program.

- He further states that no direct impacts from this development will occur to this plant, especially because of the proposed green buffer zone and proposed limited lake access from residences.

5.) Friends of Dyken Conveyance.

- The Developer has entered into an agreement to convey Parcel F, a 22.87 acre waterfront parcel to the Friends of Dyken.
- This parcel is directly adjacent to the Dyken Environmental Center which is owned by Rensselaer County. Originally the County expressed concern about the impacts of this Project on the Dyken Environmental Center.
- As a result the Developer has entered into a contact agreeing to convey this Parcel F to The Friends of Dyken to be used only for conservation purposes and never to be developed.
- This conveyance is planned to close upon final approval of this Project and will serve to preserve for this not-for-profit an important parcel with expansive additional waterfront and great natural beauty.
- Should this conveyance not occur, Parcel F shall have a conservation easement placed on it which shall forever protect it from development and to only be used for conservation purposes; this conservation Parcel will then be attached to Lot 13.
- This Parcel shall be protected in perpetuity from development by a conservation easement.
- Under either scenario the protection of this Parcel is assured which serves to preserve forest continuity for wildlife as well as to protect a spring located on that parcel.

6.) Protective Covenants.

As discussed above, the Developer has incorporated Protective Covenants into this Project; these covenants will be adhered to as ongoing protection for ecological resources.

These covenants include but are not limited to

- prohibition of boat launches on individual Lots
- protection of at least 50% of the native vegetation in the 100' buffer along the shoreline,
- forest understory to be protected beyond the 1 acre of clearing permitted on each Lot,
- 100% of native vegetation to be protected along the 50' and 100' buffers along the lands of Rensselaer County and the Lands of Akera,

- lots 1-12 are limited to canoes, kayaks and electric motorized boats serves to minimize impacts from the recreational use of the lake, etc.

7.) Local Law- Town Enforcement of Protective Covenants.

- As a result of this approval process, the Town of Grafton is in the process of enacting a new Local Law which would authorize the Town and its Code Enforcement Officer to enforce conditions to Town approvals on a town-wide basis.
- Enforcement power through this Local Law would include would include the referenced Protective Covenants created by the Developer of this Project.
- Such enforcement power by the Town serves to support the integrity of the conditions to approvals as well as to protect the expectations of the Town and its residents.

Attached hereto as Exhibit “E” is a copy of the referenced Local Law No. 2 to allow Town enforcement of conditions and restrictions associated with Planning Board Approvals.

E. Land Use.

The existing surrounding land use of the Project site is a combination of seasonal residential single family, year round residential single family, and woodland/forested open space. The proposed use of the site as residential and woodland/forested open space is therefore compatible with the surrounding area and uses.

The significant open space preserved in its natural state, 81.56% of the site, preserves the continuity of the forest and supports the integrity of the site and its wildlife corridors.

Attached hereto as Exhibit “F” is a copy of a Land Use Impact Analysis.

F. Traffic Related Impacts.

1.) Traffic Evaluation.

Based on the trip generation assessment for 27 residences, which is now only 22 residences, a total of 28 vehicle trips during the AM peak hour and 33 trips during the PM peak hour will occur at full build-out. This total would be ratably reduced based upon the reduction in total residences from 27 to 22.

a.) Capacity and Level of Service (“LOS”).

Based upon the engineer’s projections and recent traffic volume counts:

i.) Route 2/ Long Pond Road/ County Route 85.

Eastbound and westbound approaches operate at Level of Service (LOS) “A” during both peak hours. The northbound approach operates at LOS B during peak hours. The southbound approach operates at LOS A during AM peak and LOS B during the PM peak. Similar operations are expected during the No-Build and Build conditions with increases in delay of approximately 0.5 seconds or less. Given the negligible increases in delays, the report concludes that no intersection improvements are necessary

ii.) County Route 85/ South Long Pond Road.

This intersection operates at excellent levels of service during both AM and PM peak hours, with the southbound and westbound approaches both operating at LOS A. Similar operations are expected during the No-Build and Build conditions with delays increasing by only 0.3 seconds. The report also concludes that given the negligible increases in delays, no intersection improvements are necessary.

iii.) Engineering Report on Level of Service.

The engineering report on level of service analysis concludes that the study area intersections will continue to operate at excellent levels of service with the completion of the Project.

2.) Bridge Inspection.

An engineering inspection of the bridge on County Route 85 resulted in a recommendation that the posted weight limit be changed to 6 tons and that necessary repairs be made.

3.) Road Evaluation.

An engineering evaluation of County Route 85 and South Long Pond Road from NY Route 2 to the proposed Project was performed.

- It was recommended that sight distances be improved approaching the bridge by clearing vegetation on the northbound and southbound approaches of County Route 85 to the bridge.

- It is recommended that repairs be made to the bridge and an alternate truck route used in the interim, or, alternatively, it is recommended that South Long Pond Road be inspected at three different points in construction, completion of Sylvan Way, 50% build-out of lots and 100% build out of lots.
- The report also recommends that the signage be added at the bend in South Long Pond Road at Benker School Road or alternatively that the intersection of South Long Pond Road and Benker School Road be converted to a T –intersection with a stop sign.
- The County recognizes that the bridge improvements are necessary regardless of this Project and are planning such. The County has also reset a steel plate for additional bridge strength.
- Additionally, the Developer shall be contributing to the Town the cost of 4,500 tons of Item 4 processed gravel for improving South Long Pond Road.

4.) Sylvan Way Specification.

Sylvan Way is to be built to Town Design Type 1 specification, minus the paving, and will be a private road owned and maintained by the Project’s HOA.

5.) Sylvan Way Description.

This Road, as proposed, is approximately 4,200 feet in length and terminates in a one way, counterclockwise, cul-de-sac.

6.) Signage for Sylvan Way.

Signage shall be paid for by the Developer and shall include a Stop Sign, One Way Sign, Do Not Enter, following the Manual on Uniform Traffic Control Devices. The Road name sign, “Sylvan Way”, shall be depicted in signage of a rustic design.

7.) Concrete/Aggregate Haulage Trucks.

a.) Truck Route and Hours of Operation.

Concrete trucks and trucks used for aggregate haulage, travelling to and from the Project, shall use only NYS Rt. 2 to County Rt. 85 to South Long Pond Road. Such truck travel is restricted to Monday to Friday 7:00am to 6:00pm.

8.) Road Water Spraying Device.

As a further mitigation measure, the Developer shall pay for the purchase of a road water spraying device for the Town. The item number and manufactured shall be specified by the Town Highway Superintendent. Such device shall be used by the Town, in its discretion, throughout the Town.

9.) South Long Pond Road Mitigation Fee.

The site is located at the end of South Long Pond Road which is an unpaved Town Road. All trucks delivering materials to this project will need to travel on this road. The Developer has agreed to pay a “South Long Pond Road Mitigation Fee” to the Town of Grafton which shall be an amount equivalent to 4,500 tons times the cost per ton at which the Town of Grafton is able to purchase Item 4 Gravel.

10.) Local Law.

As a result of dialogue associated with this Project, the Town is proposing to enact a Town-wide Local Law which will serve to create a permit system for the protection of Town roads. This Local Law No.1, a copy of which is attached as Exhibit “C”, would require that a permit be secured for any truck weighing 10 tons or more to use certain Town roads. This Law would also require up to a \$10,000.0 cash deposit or bond as security.

G. Utilities and Community Services.

1.) Water Quality/ Septic/ Solid Waste.

- Water quality for the individual wells on each lot will be analyzed and reported in accordance with the New York State Sanitary Code.
- Wastewater treatment will be accomplished by individual on-site septic disposal systems on each lot.
- The systems will be designed and operated in strict accordance with the Rensselaer County Department of Health regulations.
- The Developer has proposed alternative design septic systems for certain lots. The system proposed is a peat fibre system which, compared to a traditional design septic system, would significantly reduce Lot clearing and would eliminate the need to remove and bring in replacement soils for certain lots.
- This would serve to also reduce impacts on roads in the Town.
- This alternative septic system design is to be considered, in the

discretion of the Rensselaer County Department of Health post- final approval.

- Solid waste disposal from the Project will be in accordance with programs developed by the Rensselaer County.

2.) Utilities.

- Telephone and broadband service will be provided by the Verizon Corporation; Verizon has indicated its ability to provide these services to this site.
- National Grid will provide electricity and has indicated its ability to provide sufficient capacity to the proposed development.

3.) Police Protection, Fire Protection and Emergency Services.

Police protection will be provided by the Rensselaer County Sheriff's Department, headquartered in Troy, New York and by the New York State Police, headquartered at the substation located in Brunswick, New York.

Fire protection will be provided by the Town of Grafton Fire District. The Town of Grafton Fire Department has indicated its ability to provide services to the proposed development. The Developer has agreed to pay a Mitigation Fee to the Town of Grafton Fire Department in the amount of \$5,000.00. The access on Parcel H to the waters of Dyken Pond has been reviewed and approved by the Town of Grafton Fire Chief and Town Highway Superintendent for purposes of fire protection/ emergency use, including the turnaround area.

Urban Search and Rescue with a presence in the Capital Region of New York provides emergency rescue services in this region.

4.) Public Safety Easement for Access to Dyken Pond and the Helicopter Clearing.

An easement for public safety and emergency purposes to be granted to the Town of Grafton, the New York State Police and Urban Search and Rescue to allow public safety and emergency personnel access to:

a.) Dyken Pond.

Access to the waters of Dyken Pond through the Project Road to the "Access for Common Boat Launch", identified on the Plat as Parcel H, and

b.) Helicopter Clearing.

Access to and the use of the Helicopter clearing located on the “Green Space” at the Project Cul de Sac identified on the Plat as Parcel E.

The above referenced easements to be granted to the Town and others by the Developer will provide options for the Town’s inspection and access to HOA lands in necessary/ appropriate circumstance.

5.) Educational Services.

The Berlin Central School District is the school district accommodating the area of the proposed development.

6.) Disclosure to Lot Purchasers.

Article 23-a of the General Business Law of the State of New York requires the Developer to make disclosures to the purchaser of any of the Lot in the subdivision. Such disclosures will advise potential purchasers of the nature of responsibilities associated with the HOA’s ownership, maintenance and operation of the project storm water infrastructure and the Road as well as all other property in which the HOA has an interest.

H. Historic and Archaeological Resources.

Based upon the examination of the Office of Parks, Recreation and Historic Preservation’s Map, the land encompassing the Project is not designated as an Archaeological Sensitive Area on the State or National Register.

I. Demographics and Fiscal Impacts.

At full build-out of the Project, which is likely to be years from now, population projections indicate that this Project will result in an increase of approximately 60 persons, 15 of whom are school age children. Based upon projected property tax revenue anticipated from this project, the increase in school tax revenue significantly exceeds any impact on the school from children residing in this Project.

J. Unavoidable Impacts.

1.) Construction-related, short-term impacts.

Unavoidable construction-related, short-term impacts include increased traffic due to workers and equipment, increased noise levels and fugitive dust from construction equipment. The Developer has agreed to provide a Road water spraying device to be used throughout the Town at the Town Highway Department's discretion.

a.) Concrete/Aggregate Haulage Trucks.

i.) Truck Route and Hours of Operation.

Concrete trucks and trucks used for aggregate haulage, travelling to and from the Project, shall use only NYS Rt.2 to County Rt.85 to South Long Pond Road. Such truck travel is restricted to Monday to Friday 7:00am to 6:00pm.

b.) South Long Pond Road Mitigation Fee.

The site is located at the end of South Long Pond Road which is an unpaved Town Road. All trucks delivering materials to this project will need to travel on this road. The developer has agreed to provide a "South Long Pond Road Mitigation Fee" to the Town of Grafton which shall be an amount equivalent to 4,500 tons times the cost per ton at which the Town of Grafton is able to purchase Item 4.

2.) Unavoidable long-term impacts.

Some unavoidable long-term impacts, while substantially mitigated, will result from the construction of these 22 homes. These include:

- the conversion of undeveloped woodland to a 22 lot low density subdivision
- some forest fragmentation
- an increase in the number of watercraft on Dyken Pond/ South Long Pond
- some impacts to habitat for wildlife.

Substantial mitigation of these items, as identified above, is in:

- preservation of 115 of the total of 141 project acres, 81.56% which remain open space

- restricting 12 of the total 22 lots to non- motorized or electric powered watercraft
- substantial buffers preserving areas of forest continuity.

K. Resource Commitments.

The subdivision of this site into 22 residential lots on which lot purchasers will ultimately construct residences will result in irreversible and irretrievable commitment of land, energy, labor and economic resources.

L. Growth-Inducing Aspects.

Generally, the proposed residential subdivision will result in few, if any, growth-inducing impacts. There will be a minor increase in demand for municipal services, but it is reasonably believed that any such small increase would be offset by the increase in property tax revenue resulting from this Project.

VI. Summary of Public Comment.

As referenced above, only two letters were received during the Public Comment period for the SDEIS and the SSDEIS. A letter dated February 26, 2009 from Alan Hasbrouck, Jr. (“Hasbrouck Letter”) and a letter dated February 27, 2009 from Lawrence E. Howard, Esq. (“Howard Letter”) Copies of both letters are attached as Exhibit “G”.

A. Hasbrouck Letter.

The Hasbrouck letter and the comments offered by Mr. and Mrs. Hasbrouck at the February 23, 2009 Planning Board Meeting Public Comment Period, express concern and questions regarding the SEQRA process and offered a summary of SEQRA requirements based on research and questioned if the EISs submitted in connection with this Project complied with the SEQRA requirements. The Hasbrouck comments include questions on project septic systems, lake impacts from the Project, comment on the DEIS on which the comment period closed on November 7, 2008, as well as suggested contingencies for final approval.

In connection with this approval process, the Developer has retained the services of numerous professionals to insure that the facts underlying this Project are presented in an accurate and complete manner. Two Traffic Evaluations both dated July 14, 2008 and a Traffic Memorandum dated July 1, 2008, were completed by Creighton Manning Engineering, LLC to examine traffic/road impacts (Copies of these documents are found as Exhibit DD to the DEIS and as a supplemental submission to the DEIS Exhibits). A Wetland Survey was completed by KW

Environmental Services dated October 18, 2007 to determine if wetlands existed on the Project site. (See Exhibit T to the DEIS). A Phase I Environmental Site Assessment was completed by CPI Environmental Services, Inc. dated October 18, 2007. (See Exhibit CC to the DEIS). The Developer has had extensive engineering work performed to create the necessary engineering drawings and the reports required, as well as land survey work necessary to create the subdivision plat and the ongoing revisions thereto.

The Developer has engaged in extensive technical review between Project professionals and Town and County professionals and consultants on an ongoing basis to both improve this project and mitigate any potential adverse impacts. This includes reduction in the number of Lots from 37 to 27 to 26 to now a total of 22 with just 11 waterfront Lots. The Developer has also researched alternative septic design which would significantly reduce the amount of clearing necessary on each lot and also limit the need for soil replacement. The Developer has also agreed to a \$5,000 Fire Department Mitigation Fee, a South Long Pond Mitigation Fee which will be equivalent in amount to the cost the Town would pay for 4,500 tons of Item 4 Gravel as well to pay for a road water spraying device to be used throughout the Town at the discretion of the Town.

The Developer has also committed to pay for survey work to remove a dangerous curve in Benker School Road or, alternatively, in the discretion of the Town, to pay for road signage for this location. The Developer has also agreed to convey Parcel F, a 22.87 acre prime waterfront parcel to The Friends of Dyken. This Parcel will be protected in perpetuity from development by a conservation easement. Should this conveyance not close, this Parcel, protected by this easement, will be added to Lot 13.

The Hasbroucks raised question regarding the Project impacts to the lake. As set forth throughout this FEIS, the storm water management system and all septic systems in this Project have been designed in full compliance with applicable regulations and requirements. All septic systems will be reviewed and individually approved by the Rensselaer County Department of Health. The Town Engineer requested and that the Developer have writing prepared to clarify this question raised by the Hasbrouck's. Project Engineer Harold Berger's letter to the Planning Board confirms that there will be no adverse impacts on Dyken Pond/ South Long Pond from this Project. A detailed summary of Project Engineer Harold Berger's letter dated February 28, 2009 to the Planning Board is found above in Section V(C)(7) of this FEIS; a copy of this letter is attached to this FEIS as Exhibit "D".

B. Howard Letter.

Attorney Howard in his letter raises question of the merit of the Planning Board's conducting of the SEQRA process for this Project as well as regarding the EISs submitted in connection with this Project. Question is raised as to whether the EISs submitted have followed the Scope and whether any significant impact is matched to a mitigation measure.

As set forth in detail in this FEIS, this is a 22 Lot low density subdivision of a 141 acre parcel acquired by the Developer in January 2008. The items delineated in the Scope have been identified and discussed throughout the DEIS as well as in the SDEIS. The SDEIS focused on confirming Project evolution and substantial mitigations incorporated as a result of the SEQRA process and public and professional comment received based on the Scope. The SSDEIS addressed and confirmed the substantial ongoing technical scrutiny of this Project and the revisions to the Project design from technical input from Town and County professionals and consultants with the Project development team.

As far as matching up mitigations with impacts, the fact that a mitigation measure addresses one or more items in the Scope does not in any way vitiate the substance and merit of that mitigation. For example, the substantial reduction in the number of Lots from 37 to now 22 with not 19 waterfront lots but now just 11 lakefront lots serves to mitigate potential lake water quality impacts, boat impacts, Town and County Highway impacts, construction noise, road impacts from aggregate haulage, visual impacts, forest fragmentation, wildlife etc. It is the global mitigations employed and the overall effect of these mitigations to reduce or eliminate potential adverse impacts in their entirety. Additionally, SEQRA does not require that all impacts be eliminated, just that appropriate mitigation be considered and utilized to the extent practicable with proposed action given full and thorough consideration by the Planning Board and the referenced "hard look" prior to the grant of an approval.

With respect to the diligence and thoroughness of this Planning Board an example would be the Special Planning Board meeting held at the Project site on September 3, 2008. At this Planning Board Meeting all five Planning Board Members attended together with twelve neighbors and interested individuals; the site was walked and features of this property were viewed and discussed by the attendees. A first hand observation of this site, its features was afforded to all; as was an opportunity for questions to be asked of the Developer and his development team while viewing the location of the proposed project.

With respect to impacts, Attorney Howard acknowledges that "It is apparent that

the applicant has made an effort to evaluate the impacts of the project.”, but adds that the same effort is required for each alternative. It is submitted that the Alternatives Analysis found as Section VI of the SDEIS concisely and accurately identifies the “reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor...” 6 NYCRR Sec.617.9(b)(5)(iii)(v).

This 141 acre site was acquired by the Developer to create a lakefront development similar to one recently completed by the Developer on the other side of Dyken Pond. The Alternatives Analysis next discusses the evolution of the Project from 37 Lots to now 22 Lots. A 37 Lot subdivision would have had nearly double the number of Lots and, based on this density, broader both short and long term impacts would be expected which would be less likely to be eliminated or even substantially mitigated. The Developer considered the Non-Realty Subdivision, but a subdivision of 16 lots would not yield sufficient return to allow the Project to proceed. A 16 lot subdivision would have fewer potential impacts to mitigate, and much less regulatory scrutiny, but was not economically feasible. As set forth in the SDEIS, the No Action Alternative was actually pursued by the Developer since the time this site was acquired in early 2008, by offering this tract for sale as a single parcel (Please see Exhibit G to the SDEIS). No offers have been forthcoming for the purchase of this tract as a single parcel. The short and long term effects of maintaining this tract as a single parcel and undeveloped or with a single residence would be nearly neutral.

It was additionally discussed by the Developer in the Section VI of the SDEIS that since the Town of Grafton does not have zoning, that a condominium project could have been proposed with no need to even seek subdivision approval. A condominium project with necessary density to allow a return after land acquisition, site costs and construction would require substantial density of units. Such a condominium would have significant and continuing impacts short and long term impacts from increased traffic not only from construction, but also ongoing from the large number of residents residing there. Demands on the aquifer for such a projects water system and impacts from such an on-site septic system would be difficult to fully mitigate, but such a project would result in substantial additional tax revenue to the Town.

VII. Conclusions.

This Project has been through a substantial process of comprehensive review for eighteen months. This review has been characterized by extensive professional involvement by not only the Developer’s professionals but also the professionals and consultants to the Town and County. This level of scrutiny and attention to detail has

resulted in a well designed Project which the Developer and the Town believes will be a model for future development work in the Town.

This Project also represents an example of the result of the SEQR process and has been molded by the interaction and comment required in this review. The substantial revisions, modifications and mitigations incorporated into this development are fully consistent with the intent and purpose of the SEQRA.

The Developer believes the result of this process is a Project which is consistent with the character and best interests of the Town, with any impacts having been successfully eliminated or substantially mitigated. The Developer respectfully requests approval of this Project.