

Supplemental Final Environmental Impact Statement

March 19, 2009

“The Lake at Sylvan Way”

Grafton, NY 12082

Lead Agency: Grafton Town Planning Board

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Exhibit Schedule

Exhibit A.....Letter from Harold Berger, P.E. dated March 19, 2009

Exhibit B.....Letter from Nancy M. Baker of NYSDEC dated
March 19, 2009

I. Project Summary and Introduction.

The action which is the subject of this Environmental Impact Statement (“EIS”) 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”) the Second Supplemental Draft Environmental Impact Statement (“SSDEIS”), the Final Environmental Impact Statement (“FEIS”) and the subject Supplemental Final Environmental Impact Statement (“SFEIS”) 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 EIS consists of the DEIS, the SDEIS, the SSDEIS, the FEIS and the SFEIS all of which are hereby expressly incorporated by reference, revisions and corrections to these documents, public comments received and all associated exhibits and appendices thereto all of which shall be collectively referred to as the “EIS”.

The intent of this SFEIS is to further supplement and clarify the FEIS and in so doing, the EIS in general. This SFEIS is structured as an outline which contains revisions and information supplemental to the FEIS as well as errata sheets.

II. Revisions and Supplemental Information- Errata Sheets.

A. FEIS- Section I

No changes.

B. FEIS- Section II

Section II-p.12

- Edit to date of Planning Board Meeting from March 16, 2009 to *March 23, 2009*.

[Appearance adjourned to allow further review and consideration of the FEIS by the Planning Board and its consultants.]

C. FEIS- Section III

Section III (D) (3) - p.15

- Boat Launch. The Project shall also require a permit for the boat launch on Parcel H from NYSDEC.

[Edit to provide supplemental information.]

D. FEIS- Section IV

Section IV (E) (1) - p.18

- Exhibit “G” to the SDEIS. [Typographical error].

Section IV (E) (3) - p.18

- Exhibit “H” to the SDEIS. [Typographical error].

E. FEIS- Section V

1. Section V (C) (1) - p.25

- Test Wells- additional information.
- The average depth of the three test wells is 500’, with an average flow of 4-5 gallons per minute. With respect to water quality, the water quality met the applicable standards of the Rensselaer County Department of Health (“DOH”) for water quality.

[Edit to provide supplemental information.]

2. Section V (C) (7) - p. 26

- Change heading from “No Impact to the Ponds” to “Impact to the Ponds”. [Typographical error].

- Insert at the end of this Section on page 28 the following summary of a supplemental letter to The Town of Grafton Planning Board from Project Engineer Harold Berger:

i.) The Project Engineer’s investigation into the subject of impacts on the Ponds was based on documented results of the absorption, assimilation and the treatment of wastewater through the use of raised bed design.

ii.) There are substantial additional factors impacting the Ponds which are completely unrelated to this Project, such as:

x.) The impact of outdated and likely failing septic systems of the estimated 100+ campsites around the Ponds.

y.) The significant amount of existing boat traffic on the Ponds originating from these 100+ campsites and other properties around or with access to the Ponds. Impacts from 12 additional motor powered boats from the subject Project is de minimus by comparison.

iii.) Based upon the fact the shortest distance from the toe of the fill of the septic system to the Pond at high water mark is 145’ with two other lots at 180’ with all remaining lots at 200’ or more, engineering documentation submitted with Mr. Berger’s 2/28/09 letter confirms that the raised bed septic systems will properly treat household wastewater through the

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decomposition, absorption and assimilation of microorganisms as well as the biodegradation of detergents that contain phosphates. It has also been demonstrated that domestic waste is sufficiently treated through 4' of vertical height permeable soil (the raised bed systems) and within 100' of horizontal travel distance.

iv.) With respect to nitrogen, which enters the system as ammonia, this is oxidized to nitrate ions that are substantially diluted to lower the nitrate concentration to within acceptable drinking water standards. The dilution occurs early on in the treatment process due to the large surface area and volume of the seepage bed.

v.) The design of the Project subdivision, septic systems and stormwater management practices are in conformance with NYS and NYSDEC standards.

vi.) Assuming that construction activities are implemented according to the approved plans, there will be only minimal environmental impacts to the Dyken Pond water shed area and the Pond itself as related to this Project, especially in comparison to existing circumstance and activities around the Ponds discussed above.

Attached hereto as Exhibit "A" is a copy of the letter from Harold Berger, P.E. dated March 19, 2009.

[Edit to provide supplemental information and clarification.]

3. Section V (D) - p.28

- Insert additional Section. [Edit to provide supplemental information.]

D. Air Resources.

I.) Air Quality.

The Project and construction activities could create limited air quality impacts. The Developer proposes the following mitigation measures to address this issue:

a.) On-site Air Quality.

- 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.
- 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.

b.) Off-site Air Quality.

- 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.

[Edit to provide supplemental information.]

4. Section V (D) - p.28

- Change “D. Ecological Resources” to “E. Ecological Resources”
[Renumbering edit due to insert above]

5. Section V (E) - p.30

- Change “E. Land Use” to “F. Land Use”
[Renumbering edit due to insert above]

- Insert at end of this section a new paragraph:

“Master Plan. This Project and its design is fully consistent with both the spirit, intention and actual language of the “Town of Grafton Master Plan Revision” dated as of December 1990 as evidenced by the following:

a.) The mildly clustered configuration of this Project with the substantial preservation of open space much of which will be preserved in its natural state.

b.) The extensive use of buffer zones/ set backs along the Project perimeter.

c.) The use of an HOA to manage such a cluster development.

d.) All lots exceed 2 acres in size.

e.) The alternative sewage disposal systems presently under consideration for the Project by the DOH.

f.) The green and walkable aspects of this Project.

g.) The agreement to convey and to place a conservation easement on the 22.87 acre waterfront Parcel F to the Friends of Dyken. This Parcel, which is adjacent to the

Dyken Environmental Center, would be available for educational and passive recreational use.

h.) No development on slopes exceeding 15% absent use of appropriate stabilization measures.

A copy of the Master Plan is available at the Town of Grafton Town Hall.” [Edit to provide supplemental information.]

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6. Section V (F) - p.30

- Change “F. Traffic Related Impacts” to “G. Traffic Related Impacts”.

[Renumbering edit due to insert above]

7. Section V (G)-p.33

- Change “G. Utilities and Community Services” to “H. Utilities and Community Services”.

[Renumbering edit due to insert above]

- Insert on p.34:

“The Town is requesting that all electric, telephone and board band cables be installed above ground on utility poles to further minimize site disturbance. The Developer has agreed to this and will make the necessary communications to National Grid.”

[Edit based upon additional information provided]

8. Section (V) (G) (1) - pp.33-34.

- Septic System Clarification as follows:

“All septic system designs shall be reviewed and approved by the Rensselaer County DOH with the septic systems to be in full compliance with the Rensselaer County Sanitary Code.”

[Edit to provide supplemental information and clarification.]

9. Section (V) (H) - p.35

- Insert new Section. [Edit to provide supplemental information.]

H. Visual Resources.

The Project is bounded along its Southeasterly portion by Dyken Pond.

The following mitigations have been proposed by the Developer to mitigate visual impacts:

a.) Reduction in the number of lake front lots from 18 to now 11.

b.) elimination of all back to back lots at lake front.

c.) Protective Covenants which will be incorporated into the final approval and shall be enforceable by the Town pursuant to a

proposed Local Law as follows:

i.) 100’ green buffer along the entire lake front in which at least 50% of the native vegetation remains.

ii.) Clearing on individual lots is limited to one acre which shall include the home site, septic, well and driveway, with the forest understory to be preserved beyond this one acre.

iii.) The exterior of all homes and garages shall be in earth-tone colors.

iv.) No individual boat launches to prevent direct run off down driveways into the Pond.

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v.)No clear cutting or uprooting within the 100' buffer along the Pond.

d.) Staggered Site Disturbance. To provide additional protections to water quality of Dyken Pond as well as to address potential 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.

10. Section V (H) - p.35

- Change “H. Historic and Archaeological Resources” to “J. Historic and Archaeological Resources”.
[Renumbering edit due to insert above]

11. Section V (I) - p.35

- Change “I. Demographics and Fiscal Impacts” to “K. Demographics and Fiscal Impacts”.
[Renumbering edit due to insert above]

12. Section V (J) - p.36

- Change “J. Unavoidable Impacts” to “L. Unavoidable Impacts”.
[Renumbering edit due to insert above]

13. Section V (K) - p.37

- Change “K. Resource Commitments to “M. Resource Commitments”.
[Renumbering edit due to insert above]

14. Section V (L) - p.37

- Change “L. Growth Inducing Impacts” to “N. Growth Inducing Impacts”.
[Renumbering edit due to insert above]

F. FEIS- Section VI

No changes.

G. FEIS- Section VII

No changes.

H. Comment on the EIS from NYSDEC.

- Insert at Section VI at page 37.
By letter dated March 19, 2009 from Nancy M. Baker of NYSDEC to Town of Grafton Town Attorney Salvatore Ferlazzo, NYSDEC offered comment on the EIS which is summarized as follows:

1. The significant reduction in the development resulting from comments was noted.

2. It is mentioned that the potential 1 acre clearings of all lake front lots taken together represents “ecologically one big clearing” and would represent a significant change from existing overall conditions around the lake.

Response: For a reasonable balance, 50 acres are set aside as two large land preservation areas resulting in 20 and 23 acre parcels being protected from development, with 1,160’ and 836’ of contiguous shoreline protection. Extensive vegetative buffers along both the ponds and abutting property owners are attached to these preservation parcels and other green space parcels for stormwater absorption (4.86 acres) and within the cul-de-sac (2 acres) for aesthetic purposes.

3. Comment offered that no point in a 100’ lake front buffer if the landowner can remove 50% of it. NYSDEC has requested clarification on what can and cannot be done in the 100’ buffer and a definition of “clear cutting”, if this term is to be used in the deed restrictions.

Response: Within the 100’ buffer clearing up to 50% of the vegetation is permissible and in no case may uprooting of trees or clear cutting occur. “Clear Cutting” is defined as the wholesale elimination of vegetation in an area greater than 900 sq. This 100’ buffer is intended to strike a reasonable balance between protecting the lake from clear cutting while allowing the homeowners the right and benefit to enjoy the aesthetics of their lakefront home site.

4. NYSDEC has requested an opportunity to review the full text of the deed restrictions along with any maps or plans that describe the areas to be protected. It is requested that the deed restrictions be presented to the NYSDEC for review prior to the approval of the project by the Town and prior to filing with the County Clerk’s Office. The Developer will present the deed restrictions and any maps or plans describing the area to be protected to NYSDEC for review prior to the approval of the project and prior to the filing with the County Clerk.

Factual clarification: The helicopter clearing is 0.14 acres not 2.0 acres.

A copy of Nancy M. Adams letter to Salvatore Ferlazzo, Esq. dated March 19, 2009 is attached hereto as Exhibit “B”.

[Edit to provide supplemental comment.]