7.0 LAND USE AND ZONING COMMENTS AND RESPONSES

7.1 FEIS Conservation Plan

The Town of Blooming Grove Comprehensive Plan (December 27, 2005) articulates goals for future land development and conservation, and it recommends amendments to the Zoning Code that would help achieve those goals. As described in the Introduction of this FEIS, the Town of Blooming Grove Zoning Ordinance was amended substantially on December 27, 2005. The portion of the amended Code that applies to the Lake Blooming Grove Subdivision is Section § 235-14.1A(2) entitled Major Subdivision Review for Rural Residential Districts. The Code provides a procedure for determining a base lot count, described as a "site analysis process". This procedure requires an assessment and protection of those resources deemed important to the Town, including "primary conservation areas", such as, wetlands, watercourses, and designated critical environmental areas, as well as "secondary conservation areas" such as areas of steep slope, overlay districts, and sensitive natural resources identified by the Town.

The Zoning Code's site analysis process also considers groundwater resource conservation and the protection of groundwater and surface water resources by adequately designed subsurface wastewater disposal systems or "septic systems".

As described below, a site analysis process consistent with the Zoning Code amendments, was conducted for the Lake Blooming Grove Subdivision. The resulting FEIS Conservation Plan, the preferred plan in this FEIS, conforms to the Zoning amendments and is consistent with the goals of the Comprehensive Plan to preserve sensitive natural resources in the Town of Blooming Grove. This plan was discussed as an alternative in the DEIS.

The Comprehensive Plan states the goals of protecting and preserving open space, scenic vistas, and the character of area roadways. The proposed FEIS Conservation Plan employs a conservation layout that maximizes open space, and preserves the visual qualities of the site and Lake Road.

One of the goals recommended in the Comprehensive Plan was to avoid overburdening the Town's groundwater resources. The Zoning Code amendments reflect these goals with the requirement that new subdivision projects demonstrate adequate water supply. A Drinking Water Supply Analysis prepared by Leggette, Brashears & Graham conducted on the Lake Blooming Grove property in 2007 demonstrates that the two community water supply wells on the property are adequate for the proposed 37 residences, and that use of the wells will not adversely impact the local aquifer.

The Comprehensive Plan also contains the goal of designing waste water disposal facilities to avoid impacts to groundwater and surface water resources. The Wastewater Treatment Analysis prepared by Lanc & Tully, dated April 11, 2007 indicates that the proposed individual septic system locations are adequate and appropriate for the development.

Required Site Analysis Process Conformance

The Town of Blooming Grove Code § 235-14.1A(2) entitled Major Subdivision Review for Rural Residential Districts requires a five-step process to determine base lot count as follows:

- Step 1. Land Conservation Analysis
- Step 2: Determination of Buildable Acreage
- Step 3: Wastewater Treatment Analysis
- Step 4: Drinking Water Supply Analysis
- Step 5: Determination of Base Lot Count

The method of determining the lot count is described below.

Step 1: Land Conservation Analysis

The Land Conservation Analysis includes inventory maps, description of the land, and an analysis of the conservation values of various site features. The analysis must identify "lands with conservation value on the parcel within 100 feet of the boundaries of the parcel" categorized as Primary and Secondary Conservation Areas.

The Applicant originally submitted the Conservation Analysis on April 12, 2006. When the new zoning standards were applied to the property, they afforded a total of 41 lots. The Conservation Analysis Findings were adopted by the Board on August 23, 2006 (see Appendix C of this FEIS). On July 9, 2007 the Planning Board amended §235-14.1A.(2)(e) of the Code to revise the calculation of Base Lot Count and to include slopes greater than 25 percent as Primary Conservation Areas (Figure 7-1 Primary Conservation Areas). The Planning Board approved a Lot Count Determination of 37 lots for the proposed project on January 23, 2008.

The Findings of the Conservation Analysis identified the following:

Primary Conservation Areas:

- ACOE wetlands and watercourses: 16.92 acres
- Slopes $\geq$ 25% : 0.23 acres
- *Total: 17.15 acres*

Secondary Conservation Areas:

- Surface Water Overlay District located in the southwest corner of the site
- Scenic Viewshed Overlay Districts located in the central portion of the site along the northern property line and in the southeast corner of the site
- Hedgerow and stone wall along the eastern property line where it abuts Lake Road

Step 2: Determination of Buildable Acreage

To calculate the buildable acreage for the subdivision, the Primary Conservation Areas are subtracted from the total site acreage.

Project Site Area	79.39 acres
Primary Conservation Areas	-17.15 acres
Total Buildable Acres	62.24 acres

Preliminary Lot Count (1 dwelling unit per 1.5 buildable acres): 41 lots

Step 3: Wastewater Treatment Analysis

Individual on-site subsurface wastewater disposal systems are proposed for the subdivision. The site plan process requires the identification of suitable sites for each of the systems and a one-hundred percent reserve area. Soil tests conducted for this purpose must be performed to the satisfaction of the Town of Blooming Grove Planning Board and approved by the Orange County Department of Health (OCDOH). Based on these tests, the number of on-site septic systems the site can support is calculated to determine the Wastewater Treatment Capacity Lot Count.

The applicant submitted a Wastewater Treatment Analysis prepared by Lanc & Tully, dated April 11, 2007 and revised to reflect the Planning Board's request of 80% 4 bedroom units (33) and 20% 3 bedroom units (8). The analysis includes soil test summary tables for percolation tests and deep hole tests, as well as the Sewage Disposal System Design Drawings dated April 10, 2007 and revised to reflect the aforementioned Planning Board request of 80% 4 bedroom units and 20% 3 bedroom units. The Wastewater Treatment Analysis is provided in Appendix G.

Wastewater Capacity Lot Count: 41 lots.

Step 4: Drinking Water Supply Analysis

The Zoning Code requires that the drinking water supply be analyzed and the Drinking Water Supply Lot Count be calculated based on the availability of water reported. According to §235-14.1A(2)(d) "Production of test wells shall be documented by a qualified hydrologist familiar with conditions specific to Orange County, who shall submit a report (prepared pursuant to relevant New York State Department of Environmental Conservation (NYSDEC) and OCDOH standards and guidelines for drinking water supply resources and Planning Board requirements) to the Town for its review."

The water supply for the proposed Lake Blooming Grove subdivision will be provided by two community supply wells that have been drilled and tested in consultation with the OCDOH. The two wells are located in the southern portion of the property, and are shown in Figure 1-2 Proposed FEIS Conservation Plan. The proposed water supply system and well testing are further described in Chapter 5 - Water Resources. The original 2004 DEIS described a water supply system supplied by individual wells on each building lot.

In January and February 2007 Leggette, Brashears & Graham, Inc., conducted 72 hour pumping tests on the two proposed community supply wells. The pumping tests and well monitoring program were designed to meet the requirements of a preliminary plan with 41 single family homes. The Drinking Water Supply Analysis Report prepared by Leggette, Brashears & Graham, Inc. was submitted to the Planning Board on April 10, 2007 and a revised report was submitted on August 3, 2007 (see Appendix E). The pump testing and analysis supports the estimated 15,760 gallons per day (gpd) water demand for the originally proposed 41 single family homes. The estimated water demand was reviewed by the OCDOH. The recharge to the bedrock aquifer significantly exceeds the estimated water demands under both normal and drought conditions, according to the analysis completed for the site. The water quality results meet all NYS drinking water standards and guidelines with the exception of odor, an exception that is which not unusual for the area where the site is located. The odor is anticipated to be reduced to acceptable levels following chlorination.

Drinking Water Capacity Lot Count: 41 lots.

Step 5: Determination of Base Lot Count

The base lot count is defined in the Code as "the lowest of the lot counts established in Steps 2 through 4, above, following completion of the Land Conservation Analysis required in Step 1, and further provided that the gross density shall not exceed one dwelling per 2.33 acre. [Amended 7-9-2007 by L.L. No. 4-2007]. The Planning Board established a preliminary lot count by dividing the buildable acres by the maximum density of 1.5 units per acre allowed by the Code, yielding 41.6 units. The base lot count is not to exceed 1 unit for every 2.33 gross acres of property. The final Base Lot Count was obtained as follows:

Total Buildable Acres	62.24 acres
1.5 unit per buildable acre (preliminary lot count)	41 units
Maximum Allowable Density (not to exceed 1 unit per 2.33 acres)	79.39 acres / 2.33 = 34.07

Base Lot Count: 34 units.

Adjusted Base Lot Count

The Code allows adjustments to the base lot count to encourage development with additional public benefits including affordable housing, recreational facilities, open space preservation, and energy efficient low-impact design. The proposed plan will follow the New York State Energy Star guidelines and US Green Building Council Leadership in Energy or Environmental Design (LEED) standards, thereby qualifying for a ten percent increase over the base lot count of 34, or an increase of 3 units.

Adjusted Base Lot Count: 37 units.

Lot Layout

The areas to be conserved in the site plan were established according to the site analysis procedures and §235-14.1(4) Lot Layout. A minimum of 50% of the total site area will be preserved as open space that includes both primary and secondary conservation areas in conformance with § 235-14.1(4) (a). Houses have been located so that they are not closer than 100 feet to primary conservation areas, wherever possible, as regulated in §235-14.1(4) (c). The internal roadway system provides access to each lot proposed "in the most reasonable and economical way" and minimizes impacts to primary and secondary conservation areas," as required in §235-14.1(4) (c). Lot lines have been drawn at right angles to the greatest extent feasible, according to §235-14.1(4) (d) of the Zoning Code.

The Rural Residential District regulations do not provide specific setback and bulk requirements, but lot dimensions and setbacks are "determined during the subdivision process by the Planning Board" (Chapter 235, Attachment 2). The project engineer has developed bulk

requirements for the Lake Blooming Grove Subdivision that, in part, result from the Code's site analysis process. These dimensions are as follows:

- Minimum Front Yard Setback - 30 ft.
- Minimum Side Yard one/both - 20/40 ft.
- Minimum Rear Yard Setback - 50 ft.
- Minimum Lot Size - 20,000 sq. ft.
- Width - 100 ft.
- Depth - 150 ft.

Visual Assessment

In order to protect the visual resources of the Town, the Town of Blooming Grove Code §235-14.4 B establishes Scenic Overlay Districts, identified on The Scenic Overlay District Map on the Zoning Overlay Map. The Applicant developed a visual assessment of areas identified on the subject property lying within the Scenic Overlay District. A full discussion of this assessment with illustrations is provided in Section 9.0 Cultural Resources, below. The revised FEIS Conservation Site Plan was developed in consideration of the mapped Viewshed.

Comments and Responses

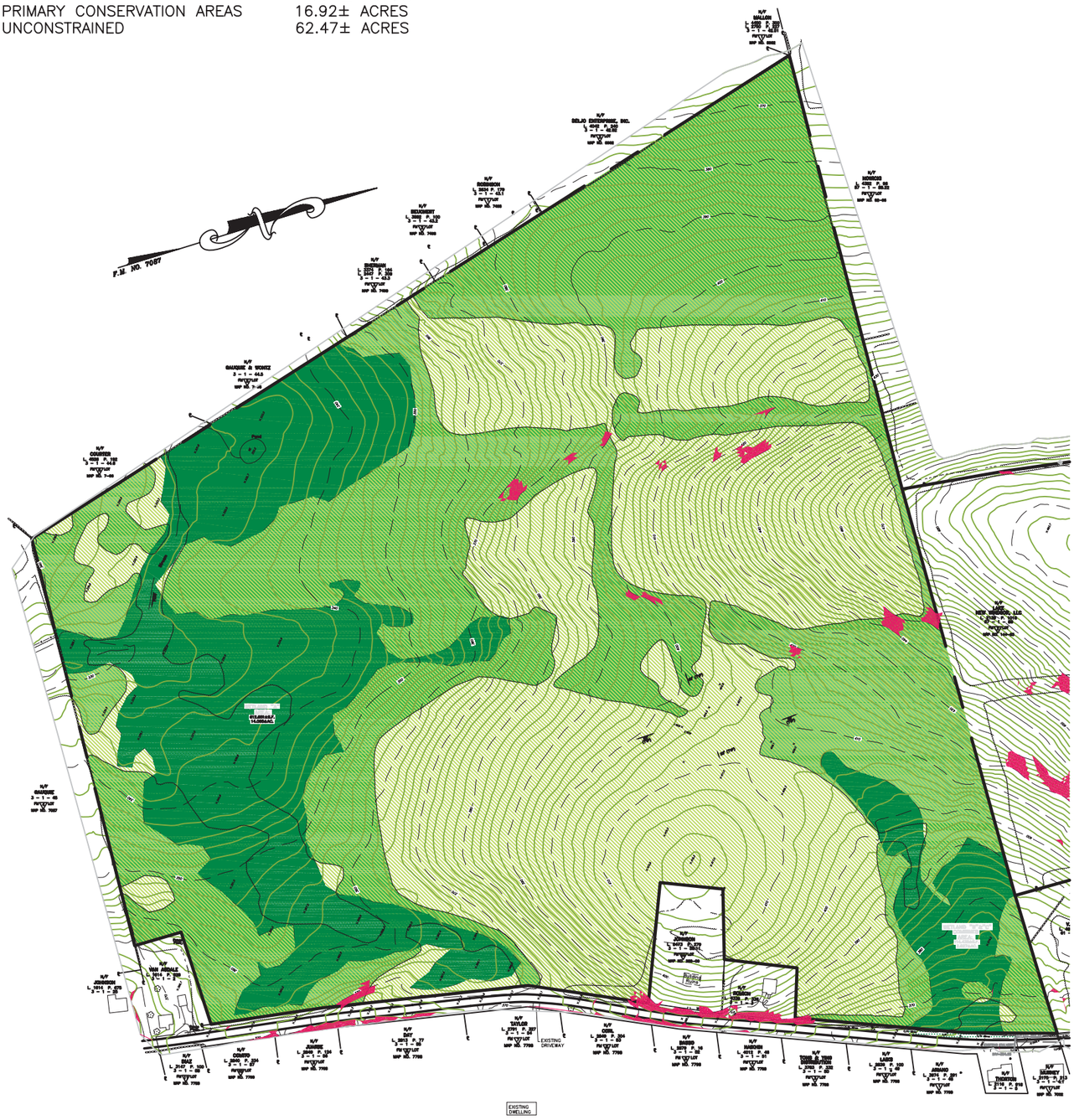
There were no comments on the Land Use and Zoning section of the DEIS.

AREA CONSTRAINTS:

TOTAL PARCEL	79.39± ACRES
WETLAND AREAS	16.69± ACRES
SLOPES >25%	0.23± ACRES
TOTAL PRIMARY CONSERVATION AREAS	16.92± ACRES
TOTAL UNCONSTRAINED	62.47± ACRES

SITE AREA:

3,458,332± S.F.
79.392± AC.



PER § 235-14.1(a) OF THE TOWN OF BLOOMING GROVE CODE, THE FOLLOWING ARE TO BE CONSIDERED PRIMARY CONSERVATION AREAS:

I. WETLANDS
II: WATERCOURSES
III: SURFACE WATERBODIES
IV: 100-YEAR FLOODPLAINS
V: CEMETERIES
VI: DESIGNATED CRITICAL ENVIRONMENTAL AREAS.
VII: AREAS OF STEEP SLOPES (>25%)

LEGEND:

WETLAND AREA

SLOPES ≥25%

Figure 7-1: Primary Conservation Areas
Lake Blooming Grove
Town of Blooming Grove, Orange County, New York
Source: Lanc & Tully Engineering and Surveying, P.C.
April 11, 2006, revised Jan. 15, 2008
Scale: 1" = 300'

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