

TOWN OF FORESTBURGH  
332 KING ROAD  
FORESTBURGH, NEW YORK 12777  
845-794-0611 EXT.21  
845-794-0678 FAX  
townofforestburgh@hvc.rr.com

Appearance Application  
ZONING BOARD OF APPEALS  
Town of Forestburgh, New York

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Date: January 20, 2022 Telephone: (718) 302-9641

Name: Lost Lake Holdings LLC

Address: 991 Willoughby Ave., #200, Brooklyn, NY 11221

Email: holdingslostlake@gmail.com

Hereby Appeal from the decision of the Building Department  
of the Town of Forestburgh, Forestburgh, New York.

Dated: November 23, 2021 For: Denial of Building Permit

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Signature of Official making decision

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Applying For:

Variance ( ) Interpretation (X)

Property Location: Lost Lake Lot 303

Section: 3 C Block: 6 Lot(s): 3 Zoned: \_\_\_\_\_

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**\*\*Is property within 500 feet of a County of State Highway, County or State property or boundary of another municipality?**

Yes ( )      No (X )

If so, application will be subject to County review.

**\*\*Provisions of the Zoning Ordinance Appealed. State Article, Section and paragraph n/a**

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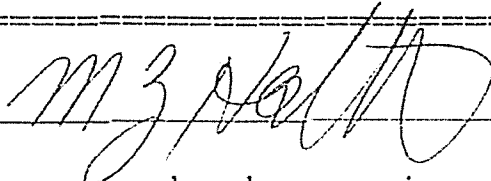
AN APPEAL IS MADE HEREWITH FOR:

- (X) An interpretation of the Zoning Ordinance or map in regards to the denial of a building permit application
- ( ) A variance to the provision of the Zoning Ordinance or map.

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Signature of property owner: \_\_\_\_\_



(If applicant is NOT the property owner, owner's endorsement signature MUST be notarized)

Notary: \_\_\_\_\_



Date: \_\_\_\_\_

1/19/22

State of New York  
County of Kings

The foregoing instrument was acknowledged before  
Me on this 19th day of January 2022  
by Mordechai Holmstrom (name of constituent)  
who is personally known to me or has produced  
NYS ID (type of ID) as identification.

Notary's Signature



HAMMES ASA JAMES  
Notary Public, State of New York  
No. 01-HA6261308  
Qualified in Kings County  
Commission Expires 05 14, 2024



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Date: January 20, 2022 Telephone: (718) 302-9641

Name: Lost Lake Holdings LLC

Address: 991 Willoughby Ave., #200, Brooklyn, NY 11221

Email: holdingslostlake@gmail.com

Hereby Appeal from the decision of the Building Department  
of the Town of Forestburgh, Forestburgh, New York.

Dated: January 14, 2022 Denial of Building Permits

Signature of Official making decision

Applying For:

Variance ( ) Interpretation (X)

Property Location: Lost Lake Lots 293, 295, 297, 298, 300, 389, 392, 393,  
394, 395, 396, 397, 398, 399

Section: 3 C Block: 6 Lot(s) (listed) \_\_\_\_\_ Zoned: \_\_\_\_\_

Lots: 6, 8, 9, 11, 13, 17, 18, 19, 20, 21, 22, 23, 24, 27



**\*\*Is property within 500 feet of a County of State Highway, County or State property or boundary of another municipality?**

Yes ( )      No (X )

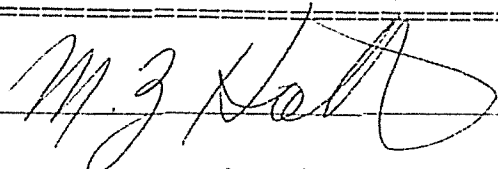
If so, application will be subject to County review.

**\*\*Provisions of the Zoning Ordinance Appealed. State Article, Section and paragraph n/a**

AN APPEAL IS MADE HEREWITH FOR:

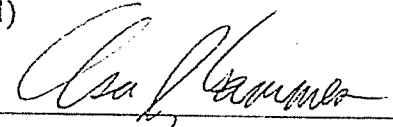
- (X) An interpretation of the Zoning Ordinance or map in regards to the denial of building permit applications
- ( ) A variance to the provision of the Zoning Ordinance or map.

Signature of property owner: \_\_\_\_\_



(If applicant is NOT the property owner, owner's endorsement signature MUST be notarized)

Notary: \_\_\_\_\_



Date: \_\_\_\_\_

1/19/22

State of New York

County of Kings

The foregoing instrument was acknowledged before

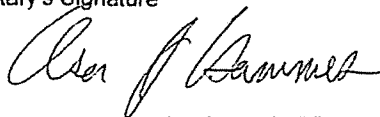
Me on this 19th day of January 2022

by Mordechai Halberstam (name of constituent)

who is personally known to me or has produced

MS ID (type of ID) as identification.

Notary's Signature



HAMMES ASA JAMES

Notary Public, State of New York

No. 01-HA6261308

Qualified in Kings County

Commission Expires 05 14, 2024





TOWN OF FORESTBURGH, NEW YORK  
ZONING BOARD OF APPEALS

----- X  
In the Matter of the Application of :  
 :  
ROSE IMPROVEMENT and : **APPEAL FROM THE**  
LOST LAKE HOLDINGS LLC : **DENIAL OF BUILDING**  
 : **PERMIT APPLICATIONS**  
 :  
For a Building Permit for Lost Lake Development Lots :  
293, 295, 297, 298, 300, 303, 389, 392, 393, 394, 395, :  
396, 397, 398, 399 :  
----- X

LOST LAKE HOLDINGS LLC (“LLH”) and ROSE IMPROVEMENT (“Rose”) (collectively, the “Applicants” or “Appellants”), by and through their attorneys SIVE, PAGET & RIESEL, P.C., hereby state as follows for their Appeal from the denial of their application for a building permit for a single-family unit on Lot 303 (the “Second Application”) and application for building permits for 14 single-family units on Lots 293, 295, 297, 298, 300, 389, 392, 393, 394, 395, 396, 397, 398, 399 (the “Third Application”) in the approved Lost Lake subdivision (“Lost Lake” or the “Project”):

**PRELIMINARY STATEMENT**

1. The review and approval of building permit applications is ministerial, not discretionary, which means that the Town of Forestburgh Code Enforcement Officer (the “Code Enforcement Officer” or “Gabbard”) is required to follow the mandatory requirements in the Town of Forestburgh Code (the “Town Code”) regarding the review and approval of building permit applications. *See* Point I.A, *infra*.

2. The Town Code mandates review of building permit applications by the Code Enforcement Officer and also mandates approval and issuance of a building permit if the applications are in compliance with the New York Uniform Fire Prevention and Building Code and the New York State Energy Code. *See* Point I.B, *infra*.



3. The denial of the Second Application (the “Building Permit Denial”)<sup>1</sup> did not identify any noncompliance with either the Uniform Code or the Energy Code. Thus, both the Building Permit Denial and the denial of the Third Application (the “Third Application Denial”)<sup>2</sup> were arbitrary and capricious because neither was based on any noncompliance with the Uniform Code or Energy Code. *See* Point I.C, *infra*.

4. The Code Enforcement Officer is required by law to follow his prior decisions. *See* Point I.D, *infra*. There is no dispute that before receiving the Second Application, Mr. Gabbard received a prior building permit application for a single-family unit on Lot 301 (the “First Application”) and he issued a building permit (the “First Building Permit”). In reliance on the First Building Permit, LLH caused Rose to commence construction, pour foundations, and complete framing of the unit on Lot 301. Pursuant to the First Building Permit, construction is ongoing. The issuance of the First Building Permit has never been challenged or appealed by anyone, including any member of the public or any elected or appointed officer of the Town of Forestburgh (the “Town”).

5. The Second Application does not differ in any material respect from the First Application. Because there are no material differences between the approved First Application and the Second Application, the Code Enforcement Officer was required to make the same decision on the Second Application as he did on the First Application. Instead, the Code Enforcement Officer issued the Building Permit Denial, which was arbitrary and capricious, and contrary to law. *See* Point I.D, *infra*. Because the Third Application Denial is on the same basis, it too is arbitrary and capricious.

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<sup>1</sup> A true and correct copy of the Building Permit Denial is appended hereto as Exhibit A.

<sup>2</sup> A true and correct copy of the Third Application Denial is appended hereto as Exhibit X.



6. The only basis articulated in the Building Permit Denial and Third Application Denial for disapproval is that LLH plans to market units to families in the Hasidic Jewish community at an affordable, which the Building Permit Denial alleges violates an alleged requirement that the Project be “upscale.” Whether or not Rabbi Mordechai Halberstam, the principal owner of LLH, chooses to maximize profits or sell units at less than the maximum profit, is not a lawful basis for denial of a building permit. The Code Enforcement Officer lacks the power or authority to add additional criteria to the review and approval of building permits. Whether or not such a so-called “upscale” requirement exists is not a matter for the Code Enforcement Officer to review or consider when issuing a ministerial building permit. Accordingly, his denial of the Second and Third Applications on this basis was arbitrary and capricious. *See* Point I.E, *infra*.

7. Independent of the Code Enforcement Officer’s lack of authority to import an “upscale” criterion into the review of building permit applications, the fact is that the Project approvals do not include such a requirement. Nowhere in any Project approval is there a requirement that units sell at a minimum price or profit margin, or that units be priced only for wealthy or “upscale” families. *See* Point I.F, *infra*.

8. Moreover, like the courts in many states, the New York courts have unequivocally ruled that land use laws cannot be interpreted or applied to exclude people or groups who are not deemed wealthy or “upscale” enough. The very face of the Building Permit Denial is an overt and express declaration of an unlawful exclusionary land use practice specifically targeted at the Orthodox Jewish community. Obviously, no interpretation of the Project approvals can be favored if it would be unconstitutional or otherwise illegal. *See* Point I.F, *infra*.

9. In addition, the Building Permit Denial states that the Second Application was denied because the Applicants did not affirmatively represent that the Project’s recreational



amenities would be built. LLH has not requested a single modification of the Project's approvals and will comply with all Project approvals, including construction of the Project's amenities. Not only is it ridiculous and unlawful to predicate a building permit denial on assuring compliance with approvals that the applicant has not sought to modify, virtually all of the Project amenities are not even part of the first phase of the Project. Indeed, the only project amenity that is to be part of Phase 1 is a 9-hole golf course. The Project's pool, driving range, clubhouse, restaurant, tennis court, wildlife observation stations, beach, boat dock, hotel, etc., are all to be built in future phases. These amenities in future phases have nothing whatsoever to do with approval of a building permit or permits for units in the first phase of the Project. *See* Statement of Facts and Point I.G, *infra*.

10. In addition, LLH has a vested constitutionally protected right in and to the approvals issued for the Project, including its subdivision plat approval. The Building Permit Denial and Third Application Denial are unlawful deprivations and obstructions of Lost Lake's vested constitutional right to construct the Project. *See* Point II, *infra*.

11. The sad truth is that while this appeal is from the Town Code Enforcement Officer's issuance of the Building Permit Denial and the Third Application Denial, the reality is that Mr. Gabbard is a pawn and the vehicle used by others in the Town government who were the ones who orchestrated both the Building Permit Denial and the Third Application Denial. Mr. Gabbard admitted openly to Zalman Stein of Rose that the Second Application was a matter that was out of his hands. Mr. Gabbard was forthright and truthful in acknowledging that the decision on the Second Application was not his but was orchestrated by others in the Town government who caused him to issue the Building Permit Denial. *See* Point III, *infra*.





12. Such a course of conduct is not only illegal, but also shameful. It is because such a patently illegal and shameful course of conduct was being orchestrated, that that this appeal includes a demand that the Town of Forestburgh Zoning Board of Appeals (the “ZBA”) exercise its statutory power to issue subpoenas for written documents and compel oral sworn testimony, so the truth is revealed for all citizens in the Town to see. The specifics of the subpoena demands are set forth at the end of this Appeal. *See* Points III and IV, *infra*.

13. It is up to the ZBA to right the wrong committed by the unlawful denial of the Second Application. The ZBA should reverse the Building Permit Denial and Third Applications Denial LLH can build and sell units in peace.

#### **STATEMENT OF FACTS**

A. Double Diamond, the Prior Owner, Obtained All Required Project and Phase 1 Subdivision Approvals and Lost Lake Holdings Purchased the “Shovel-Ready” Project

14. Lost Lake was originally proposed by, and Project approvals were issued to, Double Diamond, a Texas company. The Town of Forestburgh Town Board (the “Town Board”) rezoned the Lost Lake property (the “Property” or the “Project Site”) as a Planned Development District and approved the Lost Lake Master Plan, which authorizes creation of more than 2,600 single family unit lots. Phase 1 of the Project would consist of 400 single family unit lots and a nine-hole golf course. All other Project amenities—including hotel, pool, driving range, clubhouse, restaurant, tennis court, wildlife observation stations, beach, boat dock, etc.—were included in subsequent Project phases. A true and copy of the Town Board approval resolution is appended hereto as Exhibit B.

15. Prior to adoption of the Town Board resolution rezoning the Property, the Town Board issued the Project Findings Statement (the “Findings Statement”), which concluded that the



Project would not have the potential to generate any significant unmitigated adverse environmental impacts and avoids or minimizes significant adverse environmental impacts, as well as social, economic, and other essential considerations, to the maximum extent practicable. *See Findings Statement*, a true and correct copy of which is appended hereto as Exhibit C, at 73.

16. The Town Board issued site plan and subdivision approval for Phase 1 of the Project, consisting of 400 single family unit lots (the “Subdivision Approval Resolution”). A true and correct copy of the Subdivision Approval Resolution and final subdivision plat are appended hereto as Exhibit D.

17. Double Diamond obtained all other outside agency approvals and permits for Phase 1 of the Project. The Project was shovel-ready, meaning that all discretionary approvals had been obtained and only ministerial permits, such as building permits, were needed for construction of units.

18. In reliance on the foregoing governmental approvals and permits, Double Diamond installed millions of dollars of Project infrastructure for both the Project as a whole and Phase 1. This infrastructure included paved roads, miles of graded road sub-bases, miles of water and sewer lines, miles of stormwater collection and management networks, a sales building, and a security building.

19. Double Diamond sold some lots in Phase 1 of the Subdivision, but neither it nor any other lot owner applied for a building permit to construct any residential units. The Project languished with few lot sales. Eventually, Double Diamond elected to sell the Property and all of its development rights and approvals.

20. In July 2020, LLH acquired the Property from Double Diamond and was assigned all of the Project approvals and permits.



B. LLH and Rose Applied for and Obtained the First Building Permit  
And Have Undertaken Significant Installation of Project Infrastructure

21. On November 6, 2020, LLH through Rose submitted the First Application seeking a building permit for a single family unit on Lot 301 within Phase 1 (Section 3.C, Block 6, Lot 4). A true and correct copy of the First Application is appended hereto as Exhibit E.

22. Upon receipt of the First Application, the Code Enforcement Officer personally reviewed its contents. During Mr. Gabbard's review of the First Application, there is no evidence that other Town officials interfered with his review or attempted to direct its outcome. The Code Enforcement Officer's review of the First Application was normal and routine. Mr. Gabbard did not request or obtain the review of the First Application by any outside consultant.

23. As he has typically and regularly done with respect to other building permit applications for new construction in the Town, Mr. Gabbard personally reviewed the First Application to determine whether it complied with all applicable laws, codes, regulations, and the Project approvals. Approximately two weeks after submission of the First Application, on November 17, 2020, the Code Enforcement Officer approved the First Application and issued the First Building Permit. A true and correct copy of the First Building Permit is appended hereto as Exhibit F.

24. LLH has installed a stone base on emergency and maintenance roads, installed sewer collection piping, and completed the framing for a unit on Lot 301 pursuant to the First Building Permit. Town officials have observed this work and inspected the Property.

25. The Code Enforcement Officer has not issued a single notice of violation to LLH, Rose, or any of their subcontractors. Neither the Code Enforcement Officer nor any Town elected or appointed officer has issued any notice to LLH or Rose that any infrastructure or utility



installation, or construction of the single-family unit on Lot 301, violates any law, code, rule, regulation, or Project approval.

26. The Code Enforcement Officer has never issued a stop work order to LLH, Rose or any subcontractor halting any work on the Property. The Code Enforcement Officer has not suspended or revoked the First Building Permit pursuant to which unit construction on Lot 301 has commenced. The foundation has been poured, and the unit is framed and soon will be fully enclosed.

27. At no time since LLH acquired the Property has LLH sought any waiver or modification of any of the permits, approvals, or requirements for the Project.

C. The Second Application is Submitted and the Code Enforcement Officer's Building Permit Application Review Powers are Usurped by Other Town Officials

28. On June 21, 2021, LLH and Rose submitted the Second Application requesting a building permit for construction of a single-family unit on Lot 303 (Section 3.C, Block 6, Lot 3), which is within 200 feet of Lot 301. A true and correct copy of the Second Application is appended hereto as Exhibit G.

29. The Second Application was not materially different from the First Application. The Second Application contained the same types of information and included the same types of documents. The only difference between the Second and First Applications were some of the details of the layout and configuration of the proposed unit. The Second Application did not include requests for any waivers or modifications of any kind. The building for which a building permit was sought in the Second Application complied with all applicable codes, including the building code and Town Zoning Code, as well as the Project approvals. There was no material difference between the First and Second Applications.





30. From the first communication issued in response to the filing of the Second Application, it was apparent that the review of the Second Application was being undertaken in a very different manner than the review of the First Application.

31. On June 25, 2021, Mr. Gabbard emailed Zalman Stein, an officer of Rose. A true and correct copy of the June 25, 2021 Gabbard email is appended hereto as Exhibit H. The email states in part:

It has been brought to my attention that additional permits from other regulatory agencies are required to be in place prior to issuance of any construction permits for the Lost Lake development. . . .

When the owners have such permits in place, kindly contact this office for confirmation of receipt of required permits/approvals. No Construction permits can be issued until the required conditions are met.

(Emphasis added.)

32. Mr. Gabbard did not identify who had brought this matter to his attention, but it was obvious from his very first communication that someone else had interjected himself or herself into the review of the Second Application. At least one of those people was the Planning Board Chair, Richard Robbins, who sent a text message and email to Issac Rosenberger of Rose referencing the June 25 email from Mr. Gabbard to Zalman. A true and correct copy of this correspondence is appended hereto as Exhibit I.

33. Neither Mr. Gabbard nor Mr. Robbins explained why such information regarding outside agency permits and approvals was required when Mr. Gabbard had not requested it in connection with his review of the First Application. Nor did Mr. Gabbard or Mr. Robbins explain why the Planning Board Chair was involved in the review of a building permit application. In addition, there was no indication that the State and non-Town agency approvals had been revoked or modified.



34. To attempt to assure that the Second Application was processed efficiently, cooperatively, and without further delay, Steven Barshov, counsel for LLH, communicated by email on July 20, 2021 with the Town Supervisor (copying both the Code Enforcement Officer and Planning Board Chair) requesting a coordinating telephone call or zoom conference. In response, the Town Supervisor copied Javid Afzali, outside counsel retained by the Town specifically for assistance with review of the Project. A true and correct copy of the email to the Town Supervisor and his response are appended hereto as Exhibit J.

35. Soon thereafter, Mr. Barshov and Mr. Afzali spoke. That conversation was referenced in a letter from Mr. Barshov to Mr. Gabbard emailed on July 30, 2021, a true and correct copy of which is appended hereto as Exhibit K. Mr. Barshov confirmed that all outside agency permits were in place and that there was no reason to delay issuance of the Second Application any longer. Mr. Barshov did not give any indication that LLH, in developing Phase 1 of the Project, would need or seek modifications to any of the Project approvals or permits, or that LLH would need any additional approvals or permits. Submitted with the letter was a chart listing all of the outside agency permits and attaching copies of the current permits. In addition, a letter from Orange & Rockland Utilities was submitted confirming that they would service the Project with electricity. A true and correct copy of the submissions accompanying the July 30, 2021 letter is appended hereto as Exhibit L.

36. On or about July 30, 2021, Zalman Stein, an officer of Rose, met at the Forestburgh Town Hall with the Code Enforcement Officer. The Code Enforcement Officer stated that the Town's attorney had determined that a building permit could not be issued because LLH did not have approvals for the Project's sewer system. The Code Enforcement Officer admitted that others in the Town government were reviewing the Second Application and determining whether a



building permit could be issued. Affirmation of Zalman Stein, dated January 19, 2022 (“Stein Aff.”) ¶ 2.

37. On or about August 2, 2021, Mr. Stein spoke with Mr. Gabbard over the phone. Mr. Gabbard confirmed that he received Mr. Barshov’s July 30 letter with the outside agency permits and approvals for the Project, as the Town had requested. Mr. Gabbard said that he forwarded the materials to the Planning Board Chair and the Town’s attorney and that he would follow up with them. Stein Aff. ¶ 3.

38. On or about August 6, 2021, Yehuda Miller, LLH’s representative, met with the Town Supervisor. They discussed the Project and LLH’s frustration that the Second Application was still being reviewed and no building permit had issued. The Town Supervisor stated that he would speak to the Town’s attorney, the Planning Board, and the Code Enforcement Officer. Mr. Miller inquired as to who was undertaking the review. The Town Supervisor acknowledged that it was the Planning Board and the Town’s counsel that were undertaking most of the review and that the Town had hired an outside consultant as well. Affirmation of Yehuda Miller, dated January 19, 2022 (“Miller Aff.”) ¶¶ 2-3. The Town Supervisor acknowledged what the Code Enforcement Officer would later confirm – that the real review of the Second Application was being undertaken and directed by the Planning Board Chair and the Town Attorney. The Code Enforcement Officer was relegated to the role of signing off on what the Planning Board Chair and Town Attorney decided.

39. On August 11, 2021, Yehuda Miller, another representative of LLH (Jack Gold), and the Town’s consultant, Chuck Voss, met at the Project. During Mr. Voss’s inspection of the Project, Mr. Voss said that the Planning Board had retained him and directed him to review the Lost Lake building design guidelines and evaluate the Second Application for conformity. Mr.



Voss further stated that the Town was just beginning its review and that he would be meeting with the Town's counsel, the Planning Board Chair, and the Town Supervisor to discuss the process. Mr. Miller asked Mr. Voss with whom he should be communicating going forward, and Mr. Voss said the Planning Board Chair and the Town. Miller Aff. ¶ 4.

40. Mr. Voss confirmed what the Town Supervisor communicated to Mr. Miller. The review of the Second Application was being directed by the Planning Board Chair, the Town's counsel, and the Town Supervisor. Mr. Voss made no mention of the Code Enforcement Officer playing any role. Mr. Voss admitted to being retained by the Planning Board, not by the Code Enforcement Officer. Mr. Voss admitted what Mr. Gabbard would later confirm to Mr. Stein – the review of the Second Application was out of his hands and being directed and controlled by the Planning Board Chair, the Town Supervisor, and the Town's counsel. Miller Aff. ¶ 4.

41. By mid-August, 2021, nearly two months after the filing of the Second Application, and after all the information regarding non-Town agency approvals had been submitted, there still was no decision issued. So, on August 12, 2021, Mr. Barshov emailed a memorandum to Mr. Afzali, copying Mr. Gabbard and the Town Supervisor, stating that all the necessary Project approvals were in place and that Town officials confirmed the same. A true and correct copy of the August 12, 2021 Memorandum to Mr. Afzali is appended hereto as Exhibit M.

42. Mr. Barshov further stated that Mr. Gabbard had not communicated any technical deficiency regarding the Second Application. He further stated that a building permit is not a discretionary approval and that its issuance is a ministerial duty:

My client has repeatedly been asking for building permits from the building inspector but has received no response as to why they have not been issued or a time when they will be issued. Mr. Gabbard has not communicated that there is any technical deficiency with the building permit applications. So, I do not understand what is going on.





As you know, a building permit is not a discretionary approval and its issuance is a ministerial duty. My client has been very patient but has been delayed by almost two months for no lawful reason that I can discern. My client wants to maintain a cooperative and good working relationship with the Town. But that is a two-way street. So, I need written confirmation that Mr. Gabbard will be issuing building permits within the next day or two.

Exhibit M (Emphasis added.)

43. No one responded to Mr. Barshov's August 12, 2021 Memorandum. Attempts by representatives of LLH to obtain a response or arrange a meeting with the Town Supervisor or with the Planning Board Chair were all unsuccessful.

44. Having received no response from the Code Enforcement Officer or any other Town official indicating why the Second Application was not being acted upon, Mr. Barshov wrote a letter to Mr. Gabbard on August 17, 2021, a true and correct copy of which is appended hereto as Exhibit N. In that letter, Mr. Barshov stated as follows:

You previously granted one building permit for a home in Phase I which remains in effect. As to the more recent building permit application, you have failed to grant or deny it. Rather, you have failed to act on it even though you are required to do so under applicable provisions of the Forestburgh Town Code and New York State Law. Put simply you are required to act on a ministerial building permit application and you have no authority under the law to ignore it.

Recently, I emailed the Town's Attorney, Javid Afzali at the Harris Beach firm, with a copy to the Town Supervisor and to you, imploring that action be taken on the building permit application. I received no response to my Memorandum from anyone. My client reached out to the Planning Board Chair to arrange a meeting and also has received no response. The Town Supervisor has been contacted and also has been unable to shed any light on what is going on.

. . . The issuance of a building permit is a ministerial duty whose responsibility is yours and yours alone. If I have reason to believe that other Town officials have interfered with the lawful exercise



of your duties as building inspector and precluded or impeded you from performing your duties under the law, I will seek redress against those Town officials for denial of my client's right to due process of law.

Exhibit N (emphasis added.)

45. Mr. Gabbard responded on August 18, 2021 with a request for additional information, none of which he had requested in connection with the First Application. A true and correct copy of Mr. Gabbard's letter is appended hereto as Exhibit O. Mr. Gabbard could have requested all of this information on the day that he received the Second Application. The Town's pattern of delay and search for any reason to deny the Second Application were becoming more and more obvious.

46. On September 13, 2021 Mr. Barshov issued a letter to Mr. Gabbard addressing each and every matter raised in Mr. Gabbard's August 18, 2021 letter. A true and correct copy of Mr. Barshov's September 13, 2021 letter is appended hereto as Exhibit P. Mr. Barshov confirmed that, although irrelevant for issuance of a building permit, contracts had been signed for construction of the water supply and sewage systems, with the goal of having them operational by mid-summer 2022 and certainly before any request for a certificate of occupancy. Mr. Barshov ended his letter stating: "Based on the foregoing, it is requested that you deem the application complete and issue a building permit forthwith."

47. On September 17, 2021, Zalman Stein spoke on the telephone with the Code Enforcement Officer. During that call the Code Enforcement Officer stated that the review he was undertaking would be run by others in the Town government. Stein Aff. ¶ 4.

48. Mr. Barshov again wrote to Mr. Gabbard on September 20, 2021 to remind him that his duties as a Code Enforcement Officer reviewing a building permit application did not extend to review of the Project's private Restrictive Declaration. Mr. Barshov also reminded Mr.



Gabbard that the Lost Lake Architectural Review Committee had reviewed the Second Application for compliance with the Project's Restrictive Declaration and Design Guidelines and had issued an approval, which had been transmitted to Mr. Gabbard one week earlier. A true and correct copy of Mr. Barshov's September 20, 2021 letter to Mr. Gabbard is appended hereto as Exhibit Q.

49. On September 30, 2021, Mr. Gabbard again refused to deem the Second Application complete and demanded yet additional information, including when water, sewer, and electrical services would be operational for the Project. As detailed *supra*, this information had already been provided to Mr. Gabbard and was irrelevant for issuance of a building permit. A true and correct copy of Mr. Gabbard's letter is appended hereto as Exhibit R.

50. The next day, Mr. Barshov responded. A true and correct copy of Mr. Barshov's October 1, 2021 letter to Mr. Gabbard is appended hereto as Exhibit S. In that letter, Mr. Barshov once again informed Mr. Gabbard of the limited scope of review of a building permit application under the Town Code and State law. He also corrected multiple mischaracterizations of his prior September 20, 2021 letter. (Ex. Q.) While LLH had supplied documents and information to the Town in an effort to be cooperative and communicative, Mr. Barshov again reminded Mr. Gabbard that those matters had no bearing on his review or approval of the Second Application.

51. It was obvious at this point that Town officials were operating behind the scenes to orchestrate Mr. Gabbard's responses, fabricate reasons why the Second Application was incomplete, and search for a reason to ultimately deny the Second Application. There had been no such delay or frivolous requests for information during Mr. Gabbard's review of the First Application, making it plain that others in the Town government were interfering with and/or directing Mr. Gabbard's work:

It has been months since the building permit application was submitted to your office and my client is going in circles. I remind



you that you have previously and properly issued a building permit for my client without any of the matters raised in your recent correspondence ever having been raised. It is obvious that others in the Town government are interfering with the performance of your duties and directing your responses. The failure to deem the building permit application complete and to approve the application are making it impossible for my clients to begin construction during this building season, and this is unacceptable.

Exhibit S (emphasis in original).

52. On October 7, 2021, Mr. Barshov received yet another letter from Mr. Gabbard requiring even more information. That letter stated that the Town had engaged an outside consultant, Bergmann Associates, to analyze the simple, routine application for a single, as-of-right unit. True and correct copies of Mr. Gabbard's letter and the accompanying eight-page Bergmann Associates memorandum dated October 5, 2021 are appended hereto as Exhibit T.

53. The Town did not need any outside consultant to review the nearly identical First Application, and it was painfully obvious that Bergmann had been instructed to mine for any potential deficiencies in the Second Application. The Bergmann Memorandum is replete with inaccuracies and comments that have nothing to do with the review of the Second Application, including the Project's conformity with Lost Lake's private Restrictive Declaration and Design guidelines, the status of infrastructure installation that must be completed before issuance of a certificate of occupancy not a building permit, and the content and status of governmental approvals that were already provided to the Town or that Mr. Gabbard had previously said were not required.

54. On October 12, 2021, Zalman Stein met in person with the Code Enforcement Officer regarding the Second Application. At that time the Code Enforcement Officer responded to Zalman's inquiries by stating that it was the attorneys for LLH and the Town that would have





to resolve any outstanding issues with the Second Application. Again, Mr. Gabbard acknowledged that the decision as to whether to approve or disapprove the Second Application was out of his hands. Stein Aff. ¶ 5. In fact, Zalman Stein met again with the Code Enforcement Officer a few days later, on October 15, 2021, and Mr. Gabbard said that his hands were tied regarding the Second Application. *Id.* ¶ 6. The Code Enforcement Officer admitted not only that he had abdicated his review and decision-making authority but also that the Town's counsel would decide whether the Second Application would be approved or denied.

55. On October 28, 2021, Mr. Barshov issued a nine-page response to Mr. Gabbard's October 7, 2021 letter and the October 5, 2021 Bergmann Memorandum. A true and correct copy of Mr. Barshov's October 28, 2021 letter, which is also addressed to Mr. Afzali, is appended hereto as Exhibit U. Mr. Barshov's letter begins by stating once again that Town officials were acting beyond the scope of their authority and intentionally delaying a decision on the building permit:

I am writing to you both in response to Mr. Gabbard's letter of October 7, 2021 (the "Gabbard Letter") because it is obvious that Mr. Gabbard is not acting alone and that the protracted delays associated with the processing and review of my client's single building permit application are being orchestrated with the intent to obstruct the issuance of a building permit to my client.

. . . [T]here is no role for the Town Planning Board or its Chair to play vis-à-vis an application for a building permit in Lost Lake. The Project has been approved by the Town Board and neither the Planning Board nor its Chair have any role in administering the approvals issued by the Town Board, especially as to whether a building permit application is complete or whether a building permit application is to be issued. . .

56. Mr. Barshov's letter continues with him informing the Code Enforcement Officer and the Town's outside counsel retained for this matter that the Town's obstruction of the building permit issuance was impeding Rabbi Halberstam from providing housing needed by the Orthodox Jewish community:



Next, be advised that my client will be offering reasonably priced and affordable units to Hasidic Jewish families who have a very significant unmet demand for such units. The Town's obstruction and delay in issuing building permits, if it continues, will frustrate my client's ability to offer such units to the Jewish community and will give rise to civil rights and fair housing claims, with associated liability.

Exhibit U (emphasis added).

57. Mr. Barshov then proceeded over the course of his 9-page single-spaced letter to address each and every matter raised in the October 7 Gabbard letter and the associated October 5 Bergmann Memorandum. Mr. Barshov concluded his letter as follows:

It is patently obvious, given the foregoing, that the vast majority of items you deem to be required for the building permit application to be complete you are not authorized to require. You are acting outside the scope of your duties by attempting to enforce the Restrictive Declaration and its associated Design, Site, Landscape, and other Guidelines.

You have ignored your prior decisions and have acted arbitrarily and capriciously in attempting to impose new building permit criteria you did not require previously. You are attempting to obstruct my client from undertaking this previously approved project. . .  
There will be no more letter writing. Either the building permit application is determined to be complete, and a building permit issued, or my client will sue to hold accountable all those who are unlawfully obstructing issuance of the building permit. . . .

Exhibit U, pp. 8 – 9 (emphasis added).

58. Also on October 28, 2021, Rose Improvement submitted to Mr. Gabbard a package of Project documents to supply information and materials requested by the Town. The package included, among other things, a complete set of construction plans, an architect's letter certifying compliance with LEED standards, a plot plan showing easements, and an insurance certificate for workman's compensation. A true and correct copy of the October 28, 2021 submission to Mr. Gabbard is appended hereto as Exhibit V.



59. Then, five months after LLH submitted the Second Application to the Code Enforcement Officer and after all of the correspondence detailed exhaustively above, Mr. Gabbard issued the Building Permit Denial on November 23, 2021. (Exhibit A.) In the Building Permit Denial, Mr. Gabbard does not any longer maintain the fiction that the Second Application was incomplete. Mr. Gabbard abandons every prior objection or “concern” previously raised in the extensive communications between Town officials and the Applicants, including the Bergmann Memorandum. Mr. Gabbard does not cite a single inconsistency with the Town Code; any state statute, rule, or regulation; or any Project permit or approval condition. The Building Permit Denial only states one basis for denial: that the Second Application “is inconsistent with the 2013 project approval documents.” Ex. A at 1. Mr. Gabbard explained that the basis for this purported inconsistency is that Mr. Barshov “represented in his October 28, 2021 letter that Applicant’s intent is to build ‘reasonably priced and affordable [housing] units’ with no indication regarding whether other project components will remain the same or whether anticipated impacts of an affordable housing community were contemplated or reviewed prior to the 2013 approval.” *Id.* Mr. Gabbard ignored the numerous instances in which the Applicants and Mr. Barshov had confirmed that Phase 1 Project development would comply with Project permits and approvals. Even if the Applicants had not so confirmed, Mr. Gabbard did not explain why that would be a lawful basis for denying the Second Application. Mr. Gabbard did not cite any instance in which LLH sought a modification of the Project permits and approvals.’

60. As Mr. Gabbard stated that this single reason for denying the Second Application was final and that the only remedy would be an appeal, LLH and Rose filed this appeal within the required 60-days after the date of the Building Permit Denial.



D. LLH Applies for Building Permits for 14 Units, and  
The Building Department Declines to Accept the Applications

61. On January 6, 2022, LLH and Rose filed building permit applications with the Building Department for construction of single-family units on the following Lost Lake lots: 293, 295, 297, 298, 300, 389, 392, 393, 394, 395, 396, 397, 398, 399. All of these lots are within a close distance to Lot 301 (the subject of the First Application) and Lot 303 (the subject of the Second Application). As with the First and Second Applications, the January 6 applications included the Building Department's application form, affidavit of intent, and architectural drawings. A true and correct copy of all unsigned applications is appended hereto as Exhibit W (note that the final, signed originals were filed with the Building Department but not scanned and therefore unavailable in electronic form).

62. On January 14, 2022, Mr. Gabbard sent a letter to LLH and Rose acknowledging receipt of the 14 building permit applications submitted on January 6. Mr. Gabbard advised that the Building Department did not accept the applications and would not undertake a completeness or technical review because the applications "share the same unresolved issue(s) for which Applicant's Lot 303 was denied as discussed in the Department's November 23, 2021 letter to which we refer you to." Mr. Gabbard provided no other explanation for the denial of the Third Application. A true and correct copy of Mr. Gabbard's January 14 letter is appended hereto as Exhibit X.

63. As the Town has used the same justification for its denial of the Third Application as the Second Application, LLH and Rose appeal both decisions together.





## ARGUMENT

### POINT I

#### THE BUILDING PERMIT DENIAL AND THIRD APPLICATION DENIALS WERE ARBITRARY AND CAPRICIOUS

A. The Review and Approval of a Building Permit Application is Ministerial

64. New York State law is crystal clear that the review of a building permit application and issuance of a building permit are ministerial, non-discretionary actions. The New York Court of Appeals squarely addressed this question in *Incorporated Village of Atlantic Beach v. Gavalas* (“*Atlantic Beach*”), 81 N.Y.2d 322 (1993). There, the Court evaluated the nature of the decision making involved when a building permit application is presented for approval. Relying upon *Matter of Filmways Communications v. Douglas* (“*Filmways*”), 106 A.D.2d 185, *aff’d* 65 N.Y.2d 878 (4th Dep’t 1985), the Court of Appeals reaffirmed the Fourth Department’s holding that a building inspector’s decision to grant or deny a building permit is ministerial because that decision involved “no latitude of choice.” *Atlantic Beach*, 81 N.Y.2d at 325. The Court of Appeals focused on the fact that the decision to approve or deny a building permit application turned on whether the application did or did not comply with the building code, and thus no discretionary review was triggered:

Since under the applicable regulations a decision on the permit application could only be predicated on the applicant’s compliance or noncompliance with the Building Code, the determination constituted a . . . ministerial act.

*Id.*

65. In *Filmways*, *supra*, the Fourth Department summarized the applicable principles of law succinctly and clearly. The Court held that when reviewing a building permit application,



the code enforcement officer or building inspector must adhere to the standards in the building code and must issue the building permit if those standards are met:

[T]he act of the building inspector in granting or denying the building permit is ministerial; it does not involve exercise of discretion. There is no provision in the building code that gives the building inspector a latitude of choice. In determining whether to grant or deny a building permit, he must adhere to the definite standards of the code and if the applicant meets these standards, he must issue the permit. If he erroneously refuses, mandamus will lie to compel the performance of his mandatory duty. Conversely, if the applicant fails to meet the standards, the building inspector must deny the permit.

*Filmways*, 106 A.D.2d at 186 (emphasis added); *see also Waterways Development Corp. v. Town of Brookhaven Zoning Board of Appeals* (“*Waterways*”), 126 A.D.3d 708, 713 (2d Dep’t 2015) (holding that issuance of a building permit is a ministerial act). Similarly, the Code Enforcement Officer lacks discretion to refuse to review or process the Third Application.

B. The Town Code **Mandates** Review of a Building Permit Application, Followed by **Mandatory** Building Permit Issuance if the Application Complies with the NYS Uniform Fire/Building Code and Energy Code

66. The aforementioned foundational common law rules are expressly codified in Forestburgh Town Code § 68-4, which mandates review of a building permit application and permit issuance if the permit application complies with the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and the New York State Energy Conservation Construction Code (the “Energy Code”).

67. Thus, in Town Code § 68-4D, a building permit application is required to include “such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code.” (Emphasis added.) Indeed, Town Code §§ 68-4D(1)



– (5) and 68-4E identify the specific documents required from an applicant so that the Code Enforcement Officer can determine one question and one question only: whether the submitted building permit application conforms with the Uniform Code and the Energy Code.

68. Predicated upon the submission of the aforementioned documents, Town Code § 68-4F mandates that the Code Enforcement Officer examine building permit applications for compliance with the Uniform Code and Energy Code. Town Code § 68-4F further mandates that if the permit application is found to be in compliance with the Uniform Code and Energy Code, then the Code Enforcement Officer shall issue a building permit:

An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

Town Code § 68-4F (emphasis added).

69. Thus, the Town Code accords with the rules of law enunciated in *Atlantic Beach*, *Filmways*, and *Waterways*. The Town Code mandates that a building permit be examined to determine if it is in compliance with the Uniform Code and Energy Code. The Code Enforcement Officer violated the Town Code by refusing to review the Third Application.

C. The Building Permit Denial Does Not Identify any Noncompliance with the Uniform Code or the Energy Code

70. The Building Permit Denial does not state that the Second Application fails to comply with a single provision of the Uniform Code or the Energy Code. This is not an argument, but an undisputed fact based on the plain and unambiguous contents of the Building Permit Denial. The Building Permit Denial does not even contain the words “Uniform Code” or “Energy Code,” no less specify even one noncompliance with either Code. *See Ex. A.*



71. The Building Permit Denial sets forth only one basis for denial which is the assertion claim that the “Application is inconsistent with the 2013 project approval documents.” Ex. A at 1. The Third Application Denial simply refers to the Building Permit Denial and states no additional or separate basis for denial. *See* Ex. X.

72. Aside from the other deficiencies that are inherent to this fundamentally flawed basis for denying the Second and Third Applications, which are analyzed in detail below, the most obvious defect is that the “2013 project approval documents” are neither the Uniform Code nor the Energy Code.

73. Thus, the Building Permit Denial, and the Third Application Denial are arbitrary and capricious because neither sets forth any violation of the Uniform Code or the Energy Code.

D. The Code Enforcement Officer is Required to Make the Same Decision When Subsequent Applications Present the Same Material Facts and Circumstances as a Prior Application

74. The law is crystal clear that an administrative agency or official must follow prior determinations and make the same decision when presented with the same or similar facts or explain why the prior precedent is not being followed. In *Matter of Charles A. Field Delivery Service, Inc. v. Roberts* (“*Field Delivery Service*”), 66 N.Y.2d 516 (1985), the Court of Appeals stated the applicable rule of law in the first sentence of its Opinion:

A decision of an administrative agency which neither adheres to its own prior precedent nor indicates its reason for reaching a different result on essentially the same facts is arbitrary and capricious.

*Id.* at 516-17; *see also Richardson v. Commissioner of N.Y.C. Dep’t of Social Services.*, 88 N.Y.2d 35, 40 (1996) (following *Field Delivery Service* and holding that an administrative agency must follow its prior precedent or explain its reasons for not doing so).

75. Not long after *Field Delivery Services* was decided, the Court of Appeals reaffirmed the same rule of law in *Knight v. Amelkin* (“*Knight*”), 68 N.Y.2d 975, 977 (1986) and applied it to





local government administrative land use matters. *See also Matter of Tall Trees Constr. Corp. v. Zoning Board of Appeals of the Town of Huntington* (“*Tall Trees*”), 97 N.Y.2d 86, 93 (2001) (quoting *Knight* and repeating the same rule of law quoted above in *Field Delivery Services*).

76. Obviously, the Code Enforcement Officer acts in an administrative quasi-judicial capacity when presented with a building permit application. The Code Enforcement Officer is first required to determine whether a building permit application is complete, and then, once a complete application is presented, the Code Enforcement Officer is required to determine whether or not to issue a building permit. As to both determinations, the Code Enforcement Officer is required to follow his prior determinations that were made under the materially same facts and circumstances, or, if a different outcome is required, then the Code Enforcement Officer must state logical reasons grounded both in fact and law to justify the different subsequent determination.

77. There is no dispute that the Code Enforcement Officer reviewed the First Application, determined it was complete, and issued the First Building Permit. The First Building Permit is still in full force and effect. It has not been suspended or revoked. Construction of a unit pursuant to the First Building Permit has been commenced and is ongoing as of the date of this Appeal. At no time since its issuance has the Code Enforcement Officer issued a stop work order. Thus, the First Building Permit was lawfully issued and remains lawful and in full force and effect.

78. Because the First Building Permit was lawfully issued and remains in full force and effect, its issuance by the Code Enforcement Officer is binding precedent as to the review and approval of the Second and Third Applications, so long as the material facts had not changed.

79. All three sets of Applications had the following facts in common:

- a. they were applications for the same approval, a building permit;
- b. they sought approval of a detached single-family unit;



c. the lots on which the units were proposed to be located were in the same phase of the same subdivision in the same Project and were in close proximity to one another;

d. the Applications were to be evaluated for compliance with the Uniform Code and the Energy Code, neither of which had been amended in any material way between the issuance of the First Building Permit and the submission of the Second and Third Applications;

e. the relevant provisions of the Town Code, including but not limited to the provisions relating to building codes, construction, and zoning, had not changed;

f. LLH had not sought any amendments or modifications to any of the approvals for the Project issued by the Town;

g. aside from the unlawful issuance of the Building Permit Denial, no notice had been provided by or on behalf of the Town or any Town official that LLH had violated or failed to comply with any provision of any Town approval for the Project;

h. no notice had been provided by or on behalf of any other governmental agency or official that LLH had violated or failed to comply with any provision of any approval for the Project issued by any other state or local governmental agency;

i. the Applications were filed by the same Applicants;

j. the Applications were submitted on the same application forms;

k. the Applications were reviewed by the same Code Enforcement Officer, Mr. Glenn Gabbard;

l. the First Building Permit had not been revoked, suspended, or modified, and has been in full force and effect at all times since its issuance; and

m. the Second and Third Applications included no requests for any waiver or modification of any applicable requirements.



See Exhibits E, G, and W.

80. As confirmed in the prior paragraph, the material facts and circumstances were the same for all three Applications. Accordingly, the Code Enforcement Officer was required to follow the precedent set by his issuance of the First Building Permit or explain in his determination the reasons for the different outcome and decision when applying the same mandatory permit approval criteria as set forth in Town Code § 68-4.

81. The Building Permit Denial and Third Application Denial fail to mention, no less follow, the precedent set by issuance of the First Building Permit and contain no explanation of why a different result was reached in respect of the criteria for issuance of a building permit set forth in Town Code § 68-4. See Exhibits A and X. Thus, the Building Permit Denial and Third Permit Denial were arbitrary and capricious. *Field Delivery Services*, 66 N.Y.2d at 516-17 (holding that an administrative determination “which neither adheres to its own prior precedent nor indicates its reason for reaching a different result on essentially the same facts is arbitrary and capricious”); *Knight, supra*; *Tall Trees, supra*; *Moore v. Town of Islip Zoning Bd. of Appeals*, 70 A.D.3d 950, 951 (2d Dep’t 2010) (holding that the “determination of an administrative agency is arbitrary and capricious when the agency does not adhere to its prior precedent and fails to set forth its reasons for reaching a different result on essentially the same facts.”); see also *Nozzleman 60, LLC v. Village of Cold Spring Zoning Board of Appeals*, 34 A.D.3d 682, 683 (2d Dep’t 2006); *Lucas v. Bd. of Appeals of Village of Mamaroneck*, 14 Misc. 3d 1214(A) (Sup. Ct., Westchester Cty. 2007), *aff’d*, 57 A.D.3d 784 (2d Dep’t 2008).

82. Because the Code Enforcement Officer failed to follow the precedent set in the grant of the First Building Permit in issuing the Building Permit denial and the Third Application Denial, both denials are arbitrary and capricious.



E. The Building Permit Denial and Third Application Denial  
Were Arbitrary and Capricious Because They Were Issued on  
Grounds Other Than the Standards Specified in The Town Code

83. The law in New York is settled that an administrative agency or official is required to decide whether to issue a permit on the grounds specified in the statute, law, code, or regulation that confers the permitting authority on that agency or official. Such an administrative agency or official lacks any power to expand such review authority and is prohibited from making permitting decisions on other or additional grounds. In *Larkin Co., Inc. v. Schwab* (“*Larkin*”), 242 N.Y. 330 (1926), the New York Court of Appeals stated the applicable rules as follows:

Refusal to grant a permit must be considered arbitrary where based solely upon grounds which under the statute the administrative body may not consider. . .

Refusal to grant a permit to a qualified applicant who complies with these conditions, but fails to comply with other conditions which the administrative body seeks to impose, is arbitrary as matter of law.

*Id.* at 335.

84. The requirement that administrative officials must decide whether or not to issue a permit based solely on the grounds stated in the law that vests them with permitting authority was applied to a fire chief in *Carpenter v. Grab* (“*Carpenter*”), 257 A.D. 860 (2d Dep’t 1939) and the court stated the rule as follows:

The fire chief may only deny a permit or a renewal thereof on grounds which relate to fire hazard or the like. Here it appears that every requirement affecting fire hazard has been met by the petitioner. A refusal to issue a permit upon a ground other than one which comes within the scope of the fire chief’s powers constitutes an arbitrary act and upon such a refusal the petitioner is entitled to the relief accorded.

*Id.*





85. The rules enunciated in *Larkin* and *Carpenter* were followed and applied when the permit in question is a building permit. In *Plander v. Koehler* (“*Plander*”), 150 N.Y.S.2d 879 (Sup. Ct. Nassau Cty 1956), the court stated the applicable rules clearly and definitively:

It has been held that the administrative official charged with the duty of issuing permits is bound by the provisions of the ordinance pursuant to which he purports to act, *Larkin Co. v. Schwab*, . . . and a refusal to issue a permit upon a ground other than one which comes within the scope of the building inspector’s authority as spelled out by the ordinance constitutes an arbitrary act. *Carpenter v. Grab*. . .

*Id.* at 881(some citations omitted; emphasis added).

86. The court in *Plander* makes it absolutely clear that the official responsible for issuance of a building permit cannot withhold issuance of the permit if the applicant has complied with the requirements set forth in the applicable municipal ordinance or code:

Ordinarily the issuance of a building permit is purely an administrative act, and the person charged with its issuance must follow the literal provisions of the zoning ordinance. He is circumscribed by their provisions and absent some cogent reason based on the wording in the ordinance, the granting of a permit is required as a matter of course. The granting or withholding of a permit is not a matter of arbitrary discretion. If the applicant complies with the requirements of the ordinance, he is entitled to his permit.

*Id.* (emphasis added).

87. The leading national treatise on local government law, McQuillin, THE LAW OF MUNICIPAL CORPORATIONS § 26:227, states the general rule as follows:

The granting or withholding of a building permit is not a matter of arbitrary discretion and generally if the applicant complies with the applicable laws that applicant is entitled to a permit as a matter of right, regardless of the opinion or action of the issuing officials. On the basis of right to uniform treatment under the law one is



entitled to a permit where another has a permit issued under substantially similar conditions.

88. Similarly, the legal encyclopedia for New York, the New York Jurisprudence, states the rule as follows:

While reasonable conditions may be imposed by law upon the grant of building permits, conditions imposed by a municipality other than those contained in the law are ultra vires, and a refusal by an administrative official to issue a permit on a ground not within the scope of his or her authority is an arbitrary act. An administrative official in charge of issuing building permits may not consider matters outside the scope of his or her authority, such as traffic burdens or hazards, restrictive covenants or agreements, title to property, or that the owner of a tract of land has been selling lots therefrom without the approval required by law.

12 N.Y. Jur.2d Buildings § 49 (footnotes omitted; emphasis added).

89. Contrary to the requirements of the Town Code and the cited New York decisional law, the Code Enforcement Officer denied the Second and Third Applications without identifying a single noncompliance with the Uniform Code or the Energy Code, which are the only bases for building permit denial set forth in Town Code § 68-4.

90. The Building Permit Denial and the Third Permit Denial instead rely on an alleged deficiency that has nothing whatsoever to do with either the Uniform Code or the Energy Code, to wit: “the project approved in 2013 was proposed to be a planned resort community and upscale recreational destination,” not a development with “reasonably priced and affordable [housing] units” that LLH has proposed to construct.” Ex. A at 1.

91. The Building Permit Denial and the Third Application Denial do not cite any provision of the Town Code delegating authority to the Code Enforcement Officer to interpret and evaluate the Project approvals regarding whether the Project’s proposed buildings are “upscale.” No such citation is possible because it does not exist.



92. The fact that Rabbi Halberstam, the principal in control of LLH, chooses not to maximize his profits and sell units at a more affordable price than the absolute maximum the market will bear, is not a factor that the Code Enforcement Officer can consider when reviewing a building permit application. Because the Code Enforcement Officer had no authority under the Town Code to deny building permits on the grounds stated in the Building Permit Denial and the Third Application Denial, their issuance was arbitrary and capricious. *See Larkin, supra; Carpenter, supra; Plander, supra. See also Fox v. City of Buffalo Zoning Bd. of Appeals*, 60 A.D.2d 991, 991 (4th Dep't 1978) (applying the same rules to the ZBA and holding that the ZBA was "without the power to deny a permit on grounds not expressly stated in the ordinance."); *Leemac Sand & Stone Corp. v. Anderson*, 57 A.D.2d 916, 917 (2d Dep't 1977).

F. The Project Approvals Do Not Require The Sale Or Marketing Of The Project's Units At A High Price Point Or Only To Wealthy or "Upscale" People

93. Even putting aside the fact that the Code Enforcement Officer cannot import additional building permit application review criteria, there is still no basis for denying a building permit on so-called "upscale" grounds because none of the Project approvals require Lost Lake lots and units to be marketed or sold at the highest price or only to wealthy people. None of the Project approvals are conditioned on these factors.

94. The first Project approval was the Town Board's PDD rezoning, issued after a full environmental review. *See Exhibits B and C.* The Town Board approved the PDD rezoning on a variety of conditions, summarized as follows: (a) that the Project be developed substantially consistent with the Site Master Plan, Open Space Plan, and Phasing Plan, and "shall consist of a resort and residential community" with a total of 2,627 residential units, resort amenities, and associated infrastructure; (b) that the applicant comply with the mitigation measures set forth in



the Findings Statement; (c) that the applicant secure all necessary permits and approvals from every other agency having regulatory jurisdiction over the Project; and (4) that the applicant pay all outstanding fees due the Town in connection with the review of the PDD application. *See Ex. B at 7-8.*

95. The list of conditions does not require the Project to be “upscale,” does not require that Lost Lake units be marketed or sold at any particular price point, nor is it required that Lost Lake units be marketed or sold to any particular segment of the population. The list of conditions also does not require the Project developer to comply with the Restrictive Declaration or the Design Guidelines, which are matters entirely left to the discretion of the owner of the Lost Lake Property. *See Ex. B.*

96. The PDD approval resolution also makes various findings about the Project as proposed at that time, including the environmental conditions of the land, the consistency with the Town’s zoning and surrounding land uses, the consistency with the community’s general welfare and the Town’s comprehensive planning, etc., as evaluated in the draft environmental impact statement. *See Ex. B at 5-7.* These findings summarize the Town’s review of the Project and are distinct from the conditions of approval described above.

97. The Town Board resolution approving the site plan and subdivision plat application for Phase I followed the same structure as the resolution approving the PDD application: it made findings as to the proposed Project and established conditions for approval. *See Ex. D.* The Town Board approved the application on a variety of conditions, summarized as follows: (a) payment of all outstanding fees and escrow due to the Town; (b) satisfaction of any remaining conditions set forth in communications from C.T. Male Associates; (c) reimbursement to the Town for outstanding escrow charges in connection with the Town’s consultants’ review of the application;





and (d) securing all remaining necessary permits and approvals from the NYS Department of Health and any other agency. *See* Ex. D at 4-5. The list of conditions does not require the Project to be “upscale,” does not require that Lost Lake units be marketed or sold at any particular price point and does not require that Lost Lake units be marketed or sold to any particular segment of the population. The list of conditions also does not require the Project developer to comply with the Restrictive Declaration or the Design Guidelines. *See* Ex. D.

98. The site plan and subdivision approval resolution also makes various findings about the Project as proposed at that time, including that the applicant satisfied the conditions set forth in the C.T. Male Associates March 12, 2012 letter; the applicant obtained all outside agency approvals except those from the NYS Department of Health, which are pending; the site plan and subdivision plat are consistent with the PDD site master plan, with the evaluation and mitigation measures set forth in the Findings Statement, with the approved preliminary subdivision plat, and with the Town’s PDD Zoning Law and Subdivision Law and the New York State Town Law. *See* Ex. D at 3-4. These findings do not require the Project to be “upscale,” do not require that Lost Lake units be marketed or sold at any particular price point, and do not require that Lost Lake units be marketed or sold to any particular segment of the population. Just as with the findings in the Town Board’s PDD approval resolution, the findings in the site plan and subdivision plat approval summarize the Town’s review of the Project and are distinct from the conditions of approval described above. *See* Ex. D.

99. The only reference to Lost Lake being an “upscale” community is in a “whereas clause” in the site plan and subdivision plat approval resolution, where the Town Board describes the Project as proposed by Double Diamond at the time: “the Applicant has proposed a planned resort community that will provide an upscale recreational destination . . .” Ex. D. at 2. This is



the resolution provision that Mr. Gabbard cites in the Building Permit Denial and states is the reason the Second Application is inconsistent with the Project approvals. *See Ex. A.*

100. However, the site plan and subdivision approval unquestionably did not make fulfillment of Double Diamond's vision of an "upscale" recreational destination a condition of approval or of securing any future building permits. The approval resolution simply describes Double Diamond's vision for the Project, nothing more. *See Ex. D.* Indeed, Double Diamond's vision proved unmarketable, its development never got off the ground, and it sold the Property to LLH.

101. To the extent the Town is trying to enforce the Restrictive Declaration and Design Guidelines for Lost Lake, such action is beyond the limits of a building permit review as set by the Town Code and common law:

Neither the Board nor the Building Department Manager has 'power or discretion to refuse a permit on the ground that the proposed building violates a restrictive covenant, as this is not a matter for him [them] to decide.'

*Forte v. Wolf*, 225 N.Y.S.2d 858, 859 (Sup. Ct., Nassau Cty. 1961) (quoting *People ex rel. Rosevale Realty Co. v. Kleinert*, 204 A.D. 883 (2d Dep't 1922)).

102. Moreover, Double Diamond reserved unfettered discretion to modify the Restrictive Declaration and Design Guidelines. Regardless, the Restrictive Declaration and Design Guidelines are private documents and unquestionably not enforceable by the Town or its Code Enforcement Officer. *Rubin v. McAlevey*, 29 A.D.2d 874 (2d Dep't 1968) (holding that the private declaration of restrictive covenants was "of no consequence to the determination of whether a building permit should be granted").

103. The Restrictive Declaration delegates to the Lost Lake Architectural Control Committee -- not the Code Enforcement Officer -- the authority to review applications for proposed



improvements to ensure (i) conformity of the proposed improvements with the covenants, conditions and restrictions contained in the Declaration, (ii) compliance with construction standards promulgated by the Declarant, and (iii) harmony of external design thereof in relation to surrounding structures and topography. *See Ex. Q.*

104. The Design Guidelines are similarly privately enforceable and explicitly state that they may be amended from time to time by the Lost Lake Design Review Board. In any case, even if the Restrictive Declaration and Design Guidelines were enforceable by the Town, they do not require Lost Lake to be “upscale,” do not require that Lost Lake units be marketed or sold at any particular price point, and do not require that Lost Lake units be marketed or sold to any particular segment of the population.

105. Moreover, to the extent the Code Enforcement Officer interpreted the Project approvals as mandating that the Project be “upscale” and prohibiting sale of lots and units at less than at a maximum profit to families the Hasidic Jewish community, this is exclusionary zoning and a plain violation of LLH’s constitutional rights. *See Robert E. Kurzius, Inc. v. Inc. Village of Upper Brookville*, 51 N.Y.2d 338, 343 (1980) (holding that land use laws enacted with an exclusionary purpose of that have an unjustifiable exclusionary effect are unconstitutional); *Berenson v. Town of New Castle*, 38 N.Y.2d 102 (1975) (requiring that zoning take into account regional needs and promote a balanced and integrated community); and *Suffolk Hous. Servs. v. Town of Brookhaven*, 70 N.Y.2d 122, 129 1987 (holding that “a municipality may not legitimately exercise its zoning power to effectuate socioeconomic or racial discrimination”).

106. To the extent Mr. Gabbard in the Building Permit Denial was interpreting “upscale” to mean that Lost Lake units must be marketed or sold at a certain price or to a certain segment of the population, that is a legal interpretation and not entitled to deference. A Code Enforcement



Officer's interpretation of the municipal code is typically given deference; however, where "the issue presented is one of pure legal interpretation of the underlying zoning law or ordinance, deference is not required." *Matter of Yeshiva Talmud Torah Ohr Moshe v. Zoning Board of Appeals of the Town of Wawarsing*, 170 A.D.3d 1488, 1489 (3d Dep't 2019). Here, the Code Enforcement Officer's determination that the Project as proposed to be marketed by LLH was not "upscale" is not a technical interpretation but rather, if anything, is a legal interpretation. Therefore, the Code Enforcement Officer's interpretation of the word "upscale" in the Project approvals and the related analysis in the Building Permit Denial are not entitled to any deference.

107. Moreover, even if Mr. Gabbard had authority to interpret the project approvals, which he does not, then he would be required to make an interpretation that rejects unlawful exclusionary zoning. In *Matter of Jacob*, 86 N.Y.2d 651, 667 (1995) the Court of Appeals held that when multiple interpretations are possible "the courts will adopt that which avoids injustice, hardship, constitutional doubts or other objectionable results.". Constitutional interpretations are favored and interpretations that result in illegality or unconstitutionality are not. *See Empire State Chapter of Associated Builders & Contractors, Inc. v. Smith*, 98 A.D.3d 335, 346 (4th Dep't 2012) (holding that interpretations that result in unconstitutionality are to be avoided whenever possible); and *People v. Viviani*, 36 N.Y.3d 564, 579 (2021) (It is a canon of statutory interpretation in New York that "a statute should be construed, whenever possible, in a way that avoids placing its constitutionality in doubt.").

G. The Building Permit Denial and Third Application Denial are Conclusory and Unsupported by any Evidence in the Record

108. New York law is clear that if a Code Enforcement Officer's decision is conclusory and not supported by substantial evidence in the record, then it will be set aside as arbitrary and capricious. *See, e.g., Richter v. Curran*, 5 A.D.3d 687, 688 (2d Dep't 2004). In *Tozzo v. Bd. of*





*Zoning Appeals of City of New Rochelle*, 179 A.D.2d 810, 811 (2d Dep't 1992), the court found that "[t]he appellant's entirely conclusory assertion that a parking lot would be out of character with the surrounding neighborhood was on its face an insufficient reason for the denial of the area variances." (Emphasis added.) An administrative board or official must make specific findings and must predicate its decision on a complete the record so that a reviewing court possesses of all of the facts. *Lusby v. Shoemaker*, 14 Misc. 2d 421, 423 (Sup. Ct., Rockland Cty. 1958); *Elite Dairy Prod.*, 271 N.Y. at 498.

109. The Building Permit Denial states that the Second Application was denied because the Applicants did not affirmatively represent that the Project's recreational amenities would be built. LLH has not requested a single modification of the Project's approvals and will comply with all Project approvals, including construction of the Project's amenities. Not only is it ridiculous and unlawful to predicate a building permit denial on assuring compliance with approvals that the applicant has not sought to modify, virtually all of the Project amenities are not even part of the first phase of the Project.

110. Indeed, the only project amenity that is to be part of Phase 1 is a 9-hole golf course. The Project's pool, driving range, clubhouse, restaurant, tennis court, wildlife observation stations, beach, boat dock, hotel, etc., are all to be built in future phases. These amenities in future phases have nothing whatsoever to do with approval of a building permit or permits for units in the first phase of the Project.

111. There is no evidence in the record that LLH will not build the Project as approved and the Code Enforcement Officer's unfounded belief that future phases and Project amenities would be built as approved is not based on any evidence, is conclusory, and arbitrary and capricious.



H. Conclusion

112. For all of the foregoing reasons, the Building Permit Denial and the Third Application Denial are arbitrary and capricious. The ZBA is required to annul both, order the approval of the Second Application, order the review of the Third Application, and order building permits to be issued for the Third Application unless there is noncompliance with the Uniform Code and the Energy Code.

**POINT II**

**THE BUILDING PERMIT DENIAL AND THIRD APPLICATION DENIAL DEPRIVE LLH OF ITS CONSTITUTIONALLY PROTECTED VESTED RIGHTS**

113. New York law provides that “a property owner obtains a vested right when pursuant to a legally issued permit, the landowner demonstrates a commitment to the purpose for which the permit was granted by effecting substantial changes and incurring substantial expenses to further the development.” *Glacial Aggregates LLC v. Town of Yorkshire*, 14 N.Y.3d 127, 136 (2010); see *Ellington Const. Corp. v. Zoning Bd. of Appeals of Inc. Village of New Hempstead*, 77 N.Y.2d 114, 122 (1990). As recently clarified by the Second Department, “Although many cases speak in terms of reliance on permits, a right may vest in certain situations when subdivisions have been given a final grant of approval.” *Waterways Dev. Corp.*, 126 A.D.3d at 711 (internal quotations and citations omitted).

114. While substantial construction and expenditures are hallmarks of actions that vest property rights, “[t] here is no fixed formula which measures the content of all the circumstances whereby a party is said to possess a vested right. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action.” *Estate of Kadin v. Bennett*, 163 A.D.2d 308, 309 (2d Dep’t 1990) (internal quotations omitted).



115. The record is clear that LLH's right to building permits to construct units in Phase 1 of the Project has vested. The following facts are not disputed: (a) the Town Board approved the PDD application and site plan and subdivision plat after issuance of the Findings Statement (*see* Exhibits B and C); (b) other governmental bodies granted LLH all required discretionary permits and approvals for construction of the Project (*see* Exhibits D, K, and L); (c) together, both LLH and its predecessor, Double Diamond, expended millions of dollars in construction and installation of sewer lines, electric power infrastructure, roads, and the like; (d) Mr. Gabbard issued a building permit for the first units under identical circumstances as those existing during the review of and decision on the Second and Third Applications; and (e) the Second and Third Applications comply with the Town Code and all permit and approval conditions.

116. The foregoing is more than sufficient to constitute the "substantial expenses" required for LLH's rights to vest. *See, e.g., Cine SK8, Inc. v. Town of Henrietta*, 507 F.3d 778, 784-85 (2d Cir. 2007) (finding vested right where "plaintiffs obtained a valid permit . . . and, in reliance on that permit, made \$2.3 million worth of improvements to transform the property . . ."); *Town of Southampton v. Todem Homes, Inc.*, 50 A.D. 2d 844, 845 (2d Dep't 1975) (finding that "defendant acquired a vested right to proceed under the original permit" where the "[o]bligations incurred by the defendant in connection with the [proposed use] exceeded \$100,000, including the purchase price of the property [and] construction of several units is nearly complete."); *United Talmudical Acad. Torah V'Yirah, Inc. v. Town of Bethel*, 24 Misc. 3d 1240(A), 899 N.Y.S.2d 63, at \*4 (Sup. Ct., Sullivan Cty. 2009) ("deprivation of the permit might very well constitute a violation of the land owners due process rights [where plaintiff] spent over two million dollars in the construction of its shul [in reliance upon Town's] promise of issuing a temporary Certificate of Occupancy . . .").



117. LLH has obtained all permits and approvals necessary to build units in Lost Lake as required by applicable law and governmental approvals—except for ministerial, nondiscretionary building permits. LLH would have received a building permit for the second unit had the Code Enforcement Officer not acted in an arbitrary and capricious fashion and contrary to law. In reliance on these permits and approvals, LLH has undertaken substantial construction and made substantial expenditures at Lost Lake. Therefore, LLH’s right to building permits to construct units in Phase 1 of the Project has vested.

118. The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution prohibits the government’s deprivation of a vested property interest where that deprivation is wholly without legal justification. *See Bower Associates v. Town of Pleasant Valley*, 2 N.Y.3d 617, 627 (2004) (articulating a two-prong standard for substantive due process claims in the land use context: claimants must establish a vested property interest and show that the government action was “wholly without legal justification”); *Town of Orangetown v. Magee*, 88 N.Y.2d 41, 53 (1996) (“The municipality’s . . . decision regulating a landowner’s use of its property offends due process when the government acts with no legitimate reason for its decision.”). As detailed *supra*, the Code Enforcement Officer had no legal basis for denying the Second and Third Applications. In contravention of New York decisional law and the Town Code, the Building Permit Denial fails to articulate any violation of the Town Code or any Project approval conditions or requirements.

119. The Due Process Clause also prohibits the government’s deprivation of a vested property interest where that deprivation is arbitrary. *See Ceja v. Vacca*, No. 11 CV 1660 VB, 2011 WL 6097143, at \*4 (S.D.N.Y. Dec. 7, 2011), *aff’d*, 503 F. App’x 20 (2d Cir. 2012) (“To assert a substantive due process claim, plaintiff must plead: (1) that a constitutionally-cognizable property interest is at stake, and (2) defendants’ alleged acts against [the] land were arbitrary, conscious-





shocking, or oppressive in the constitutional sense, not simply incorrect or ill-advised.” (quoting *Ferran v. Town of Nassau*, 471 F.3d 363, 369-71 (2d Cir. 2006))).

120. As detailed exhaustively above, the Code Enforcement Officer’s denial of the Second Application and Third Applications was arbitrary and capricious. As LLH has acted lawfully and in accordance with its permits and approvals, it has the constitutionally protected vested rights to build its approved Project and to receive the ministerial building permits needed for it to do so. The Town cannot contort the Project approvals to deny the Second and Third Applications, thereby depriving LLH of its vested rights. See *Waterways Dev. Corp.*, 126 A.D.3d at 712; *Ellington Const. Corp.*, 152 A.D.2d at 373; *Ringewald v. Struppmann*, 14 A.D.2d 547, 547 (2d Dep’t 1961).

### **POINT III**

#### **TOWN OFFICIALS IMPROPERLY INFLUENCED THE DECISIONS ON THE SECOND AND THIRD APPLICATIONS**

121. The Forestburgh Town Code is explicit that the Code Enforcement Officer must decide building permit applications. Section 68-3 provides: “The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter.” That section enumerates the Officer’s duties including: “(1) To receive, review, and approve or disapprove applications for building permits . . .” and “(2) Upon approval of such applications, to issue building permits . . ., and to include in building permits, certificates, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate.”

122. Town Code Section 68-3 explicitly prohibits the Code Enforcement Officer from “engag[ing] in any activity inconsistent with his or her duties for the Town.” If the Code Enforcement Officer is unable to serve for any reason, then the Town Board will appoint someone



to act as Acting Code Enforcement Officer. The Town Board can also appoint assistants to act under the supervision and direction of the Officer and to assist with fulfillment of the duties conferred upon the Officer by the Code.

123. The Code Enforcement cannot delegate decision making to anyone else. While the Code Enforcement Officer can seek the views of others, the Code Enforcement Officer cannot as a matter of law abdicate and allow others to determine the outcome on a building permit application. *See Winkler v. State Liquor Auth.*, 3 A.D.2d 1011, 1012 (1st Dep't 1957), *aff'd*, 4 N.Y.2d 856 (1958); *Elite Dairy Prod. v. Ten Eyck*, 271 N.Y. 488, 495 (1936).

124. Here, the Code Enforcement Officer's decision making on the Second and Third Applications was usurped by other governmental officials, including the Planning Board Chair and the Town's outside counsel. As detailed in the Statement of Facts and the Miller and Stein Affirmations, these officials were involved in phone, email, and letter communications throughout the review process. Their meddling extended and broadened what should have been a few weeks ministerial review by the Code Enforcement Officer (as was the case with the First Application), to a five month expansive review that resulted in arbitrary and capricious decisions. Their involvement is contrary to law and warrants a reversal of the Building Permit Denial and the Third Application Denial.

#### **POINT IV**

#### **THE ZBA SHOULD SUBPOENA DOCUMENTS AND WITNESSES**

125. The extent to which the Code Enforcement Officer relinquished his powers, or they were unlawfully usurped is not fully documented in the appended exhibits. The Stein Affirmation confirms that the Code Enforcement Officer admitted that the review of the Second and Third



Applications and whether to issue building permits were matters out of his hands. This very serious violation of the Town Code needs to be fully investigated.

126. New York law permits zoning boards of appeals to issue subpoenas for documents and witnesses. *See* Town Law § 267(a) (“Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.”); *Stockdale v. Hughes*, 173 A.D.2d 1075, 1077 (3d Dep’t 1991).

127. LLH requests that the ZBA issue subpoenas for the production of relevant and material documents and witnesses to confirm who actually controlled the review and decisionmaking process regarding the Second and Third Applications. Documents, correspondence, emails, text messages, and records of communication among and between the Planning Board Chair, Chuck Voss, and Mr. Gabbard need to be produced and they need to appear and testify under oath.

### CONCLUSION

128. For all of the foregoing reasons, the Building Permit Denial and Third Application Denial should be overturned. The Code Enforcement Officer should be ordered to issue the Second Building Permit and issue building permits for the Third Application lots so long as the Third Application is in compliance with the Uniform Code and Energy Code.

Dated: New York, New York  
January 20, 2022

SIVE, PAGET & RIESEL P.C.  
*Attorneys for Appellants*

By: 

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560 Lexington Avenue, 15th Floor  
New York, New York 10022  
(646) 378-7229  
sbarshov@sprlaw.com



## INDEX OF EXHIBITS

Exhibit	Date	Description
Exhibit A	2021.11.23	Letter from G. Gabbard denying the June 21, 2021 building permit application for Lost Lake Lot 303 (“Building Permit Denial”)
Exhibit B	2011.08.04	Resolution of the Town Board Granting PDD Approval for the Lost Lake Resort
Exhibit C	2011.05.18	Forestburgh Town Board SEQRA Findings Statement
Exhibit D	2012.12.17	Resolution of the Town Board Granting Conditional Final Subdivision Plat Approval for Phase 1 of the Lost Lake Resort Final Subdivision Plan
Exhibit E	2020.11.06	Building permit application for Lost Lake Lot 301 (“First Application”)
Exhibit F	2020.11.17	Building Permit for Lost Lake Lot 301
Exhibit G	2021.06.21	Building permit application for Lost Lake Lot 303 (“Second Application”)
Exhibit H	2021.06.25	Email from G. Gabbard to Z. Stein
Exhibit I	2021.07.14	Email and text from R. Robbins to I. Rosenberger
Exhibit J	2021.07.20	Email from S. Barshov to D. Hogue

## INDEX OF EXHIBITS

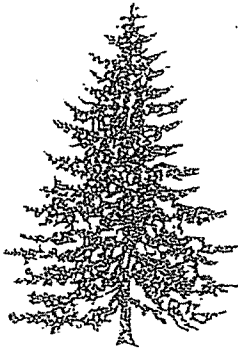
<b>Exhibit</b>	<b>Date</b>	<b>Description</b>
Exhibit K	2021.07.30	Letter from S. Barshov to G. Gabbard
Exhibit L	various	Attachments to July 30, 2021 Letter from S. Barshov to G. Gabbard
Exhibit M	2021.08.12	Memorandum from S. Barshov to J. Afzali
Exhibit N	2021.08.17	Letter from S. Barshov to G. Gabbard
Exhibit O	2021.08.18	Letter from G. Gabbard to S. Barshov
Exhibit P	2021.09.13	Letter from S. Barshov to G. Gabbard
Exhibit Q	2021.09.20	Letter from S. Barshov to G. Gabbard
Exhibit R	2021.09.30	Letter from G. Gabbard to S. Barshov
Exhibit S	2021.10.01	Letter from S. Barshov to G. Gabbard
Exhibit T	2021.10.07	Letter from G. Gabbard to S. Barshov, attaching the Bergmann Memorandum



## INDEX OF EXHIBITS

<b>Exhibit</b>	<b>Date</b>	<b>Description</b>
Exhibit U	2021.10.28	Letter from S. Barshov to G. Gabbard
Exhibit V	2021.10.28	Letter from Rose Improvement to G. Gabbard
Exhibit W	2022.01.14	Building permit applications for Lost Lake Lots 293, 295, 297, 298, 300, 389, 392, 393, 394, 395, 396, 397, 398, 399
Exhibit X	2022.01.06	Letter from G. Gabbard to Rose Improvement and Lost Lake Holdings LLC





TOWN OF FORESTBURGH  
332 King Road  
Forestburgh, New York 12777

Tel. (845) 794-0611  
Fax (845) 794-0678

November 23, 2021

Rose Improvement / Lost Lake Holdings LLC  
P.O. Box 483  
Monsey, NY 10952

Re: October 28, 20201 Lost Lake Building Permit Application for Lot 303

Dear Applicant,

The Town of Forestburgh Building Department (Department) is in receipt of your October 28, 2021 Lot 303 building permit application ("Application"). The Department also received a letter from Lost Lake Holding LLC's attorney Steven Barshov dated October 28, 2021 with respect to the same Application.

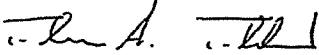
Be advised that your Application is hereby denied. This denial is based on my review of the Application and Mr. Barshov's representations in his October 28, 2021 letter, and my finding that the Application is inconsistent with the 2013 project approval documents.

Specifically, the project approved in 2013 was proposed to be a planned resort community and upscale recreational destination consisting of a gated community of single family residence lots built to certain design standards, hotel/conference facilities, a cottage and condominium component, and extensive recreational amenities. The 2013 project also proposed recreational amenities for residents and guests, including an 18-hole championship golf course and driving range, clubhouse and restaurant, swimming and boating facilities at Lost Lake, tennis courts; a health and wellness spa, and a system of wilderness trails for passive recreation. The project approved in 2013 also included development of interior road systems, utilities and stormwater infrastructure, a community water supply, and wastewater treatment facilities.

Instead of the project described above and approved in 2013, your attorney represented in his October 28, 2021 letter that Applicant's intent is to build "reasonably priced and affordable [housing] units" with no indication regarding whether other project components will remain the same or whether anticipated impacts of an affordable housing community were contemplated or reviewed prior to the 2013 approval.

This letter constitutes the Department's final decision on the Application. If you disagree with all or parts of this decision, you may appeal to the Town of Forestburgh Zoning Board of Appeals within 60 days from the date of this letter as authorized by Town Law section 267-a.

Respectfully,

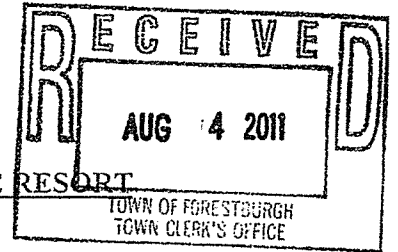


Glenn A. Gabbard  
Forestburgh Code Enforcement Officer

c.

D.S. Hogue Jr., Town Supervisor  
C. Amaditz ZBA Chair  
J. Afzali, Esq.

RESOLUTION OF THE TOWN BOARD  
GRANTING PDD APPROVAL FOR THE LOST LAKE RESORT



TOWN OF FORESTBURGH  
COUNTY OF SULLIVAN  
STATE OF NEW YORK

WHEREAS, the Town Board of the Town of Forestburgh, County of Sullivan, State of New York, met on the 4<sup>th</sup> day of August, 2011 at 7:00 p.m. to review the request of Lost Lake Resort, Inc., formerly doing business as Double Diamond, Inc., for the LOST LAKE RESORT project property (the "Lost Lake Resort"), to be designated as a Planned Development District (PDD); and

WHEREAS, the Applicant seeks Planned Development District ("PDD") approval from the Town Board, pursuant to Chapter 85 (Zoning Law) of the Town of Forestburgh Town Code; and

WHEREAS, the Town created the PDD law for Planned Development Districts "to provide a recognized and innovative zoning and planning technique for potential new development of relatively large areas located in the RR-1 and RC zoning districts within the Town of Forestburgh that are specifically chosen by property owners or developers for well designed projects that incorporate a mixture of compatible uses, open space, economies of scale, environmental and community sensitivity, and creative architectural or planning concepts that are in accordance with the Town's economic and land use policies and goals."; and

WHEREAS, the Lost Lake Resort site is located entirely in the Town of Forestburgh, in the RR-1 zoning district; St. Joseph's Road (County Route 108) transverses the project site in a

west-east orientation and Cold Spring Road (CR 102) passes the northeast corner of the site, CR 102 and Forestburgh Road (NYS Route 42) connect the project site to the Village of Monticello and NYS Route 17 to the north; and a 52-acre lake, locally known as Lost Lake, is situated in the northeastern portion of the property; and

WHEREAS, the Lost Lake Resort site is made up of the following tax map parcels: 3-1-1.1, 3-1-2.1, 3-1-3, 4-1-7, 4-1-10.2, 7-1-1, 8-1-1.2, 8-1-2, 20A-1-1, and 20B-1-1; and

WHEREAS, the Applicant has proposed a planned resort community that will provide an upscale recreational destination consisting of a gated community of single family residence lots, hotel/conference facilities, a cottage and condominium component, and extensive recreational amenities. On-site recreational amenities for residents and guests will include an 18-hole championship golf course and driving range, clubhouse and restaurant, swimming and boating facilities at Lost Lake, tennis courts, a health and wellness spa, and a system of wilderness trails for passive recreation; and

WHEREAS, the Lost Lake Resort will include development of interior road systems, utilities and stormwater infrastructure, a community water supply, and wastewater treatment facilities; and

WHEREAS, on September 9, 2008 the Town Board granted sketch plan approval for the Lost Lake Resort pursuant to § 85-19 of the Town Code; and

WHEREAS, following the designation of the Town Board as lead agency by the Commissioner of the New York State Department of Environmental Conservation ("NYSDEC") on February 9, 2009, the Town Board has served as lead agency for the environmental review of

the proposed Lost Lake Resort project pursuant to the State Environmental Quality Review Act ("SEQRA"), and has previously required the preparation of an environmental impact statement; and

WHEREAS, on June 11, 2009, following a public comment period and public input, the Town Board adopted a final scope for a Draft Environmental Impact Statement ("DEIS"); and

WHEREAS, on May 19, 2010 the Town Board determined that the DEIS was complete for the purposes of commencing public review; and

WHEREAS, on June 16, 2010 the Town Board held a combined public hearing on the DEIS and on the PDD application; and

WHEREAS, on June 16, 2010 the Town Board closed the public hearing on the DEIS, and adjourned the public hearing on the PDD application; and

WHEREAS, on February 3, 2011, the Town Board unanimously passed a resolution accepting the proposed project density in light of its discussion with the Applicant about project phasing as a mitigation measure and the ability of the Town and other permitting agencies to monitor how the project fulfills its specific mitigation commitments while under development and affording agency control over future phases of development; and

WHEREAS, on April 7, 2011 the Town Board accepted the Final Environmental Impact Statement ("FEIS") for the Lost Lake Resort; and

WHEREAS, subsequent to the distribution of the FEIS, the New York State Department of Transportation ("NYSDOT") notified the Applicant and the Town Board that neither NYSDOT's comments on the DEIS nor any responses thereto were included in the FEIS; and

WHEREAS, on April 20, 2011 the Town Board accepted an addendum to the FEIS which contained NYSDOT's comments on the DEIS and its responses thereto (the "FEIS Addendum"); and

WHEREAS, on June 2, 2011 the Town Board adopted a SEQRA Findings Statement, and thus concluded its environmental review of the Lost Lake Resort proposal; and

WHEREAS, The Town Board, as lead agency, has reviewed over a period of several months, in detail, the plans for the Lost Lake Resort and, as a result of garnering that information, has amended the Town's PDD Zoning Law such that the Town Board now shall be the board which shall review and approve the subdivision and site plan applications for all PDD projects proposed in the Town, including the Lost lake Resort application. The current PDD Zoning Law was adopted on July 7, 2011 by local law and has been filed with the New York Secretary of State.

WHEREAS, on August 4, 2011 the Town Board reconvened the public hearing on the PDD application and heard additional public comment; and

WHEREAS, on August 4, 2011 the Town Board closed the public hearing on the PDD application; and

WHEREAS, the application, the DEIS, the FEIS and related materials were submitted to the Sullivan County Division of Planning and Environmental Management ("SCDP") for its



review pursuant to the requirements of the General Municipal Law § 239-1, m & n, and SCDP has responded in writing with its comments; and

WHEREAS, the Town Board has carefully considered all of the comments raised by the public, the Board's consultants, SCDP, other involved agencies, and interested organizations and officials, including those presented at numerous meetings of the Board as well as those submitted separately in writing; and

WHEREAS, the Applicant has submitted a revised Site Master Plan that was included as part of the FEIS, prepared by Brinkash & Associates, Inc. and Tim Miller Associates, Inc. dated February 17, 2011.

**NOW THEREFORE, THE TOWN BOARD HEREBY MAKES THE FOLLOWING FINDINGS:**

1. The lands comprising the Lost Lake Resort site are suitable for a resort development such as the one proposed. The project site is zoned Residential Recreation District (RR-1) and is currently vacant and undeveloped. To be consistent with the rural character of the Town, the Lost Lake Resort Master plan preserves over 50 percent of the site as open space in keeping with the Town's definition of open space in its PDD regulation. The proposed Open Space plan consists of approximately 221 acres of managed open space (including the vegetated areas of the golf course, stormwater basins, pervious recreational trails, Bush Kill Park west pervious areas, front entrance landscaped areas, and the beach area), approximately 807 acres of unmanaged, undisturbed woods and other open space (includes 343 acres of wetlands and regulated wetland adjacent area except crossings, 71 acres in steep slopes, additional area in 50' perimeter buffer, 100' St. Joseph's Road buffer, and streams), and approximately 54 acres of open water. In total the Open Space Plan

incorporates more than 50% of the site, or 1082 acres, of land to be permanently designated as open space.

2. The Lost Lake Resort is compatible with the surrounding land uses in the vicinity of the project area. Land uses in the vicinity of the project area are a mix of seasonal and year round single family uses and undeveloped land. To the west of the project site is a private community known as Merriewold consisting of both seasonal and year round residences situated around Merriewold Lake. To the east, north, and south of the project area land use is predominately woodlands with scattered rural residences. The Saint Joseph Lake community exists approximately one-half mile northwest of the property. The Melody Lake residential community exists within one-half mile northeast of the property. To the southeast is the Neversink River Unique Area, a New York State owned and managed natural preserve comprised of 4,881 acres.

3. Possible detrimental impacts to the natural resources of the region and the environment of the local community have been considered and addressed during the SEQRA review of the Lost Lake Resort. The mitigation measures contained in the SEQRA Findings Statement shall be and hereby are conditions of the PDD approval.

4. The adequacy of drainage, water supply and sewerage disposal facilities, traffic access and municipal services has been duly considered and evaluated during the SEQRA review of the Lost Lake Resort. The Applicant has demonstrated compliance with the requirements of: stormwater management requirements; water supply requirements in terms of both quality and quantity of water to serve the project without adversely impacting neighboring wells; sewage treatment capable of handling the full build out of the project; traffic safety improvements

commensurate with the anticipated increased traffic attributable to the project; and providing support to limit the impact of the project on municipal services.

5. As evaluated in the DEIS, net property tax revenues of \$1,101,836.00 are projected to the Town of Forestburgh annually at full build out, while the Board acknowledges that such tax benefit will be gradual over the life of the development.

6. In regards to the overall scope of the Lost Lake Resort, combined with the mitigation measures included in the SEQRA Findings Statement, the Lost Lake Resort will further the general welfare of Town residents with sufficient protection for the health and safety of Town residents.

7. The Lost Lake Resort conforms to relevant policies contained in the Town of Forestburgh and Sullivan County comprehensive plans. The proposed action will result in a variety of residential housing styles as well as recreational amenities in a setting that will be compatible with the rural character of the Town. The proposed architecture will be compatible in style, scale, and detail with the surrounding development and the natural landscape. The proposed action will result in a development that will increase both the residential and recreational opportunities in the Town of Forestburgh.

**NOW THEREFORE, THE TOWN BOARD HEREBY RESOLVES THAT APPROVAL** of the Planned Development District (PDD) application for the Lost Lake Resort is hereby GRANTED, subject to the following conditions:

1. That the Lost Lake Resort be developed substantially consistent with the Applicant's revised Site Master Plan, revised Open Space Plan, and revised Phasing Plan, all contained in the

project FEIS, and shall consist of a resort and residential community of 2,557 single-family residential lots, 30 single-family cottages, and 40 multi-family townhouse-style condominium dwellings, for a total of 2,627 residential units, resort amenities, and associated infrastructure including a private road system, an onsite water supply system, and an onsite wastewater treatment plant. Amenities shall include an 18-hole championship golf course, driving range, a lodge and restaurant, swimming and boating facilities at Lost Lake, tennis courts, a health and wellness spa and a variety of passive recreational uses including open space, parklands, and walking trails.

2. That the Applicant shall comply with the mitigation measures set forth in the SEQRA Findings Statement, a copy of which is annexed hereto and made part of this approval;

3. That the Applicant shall secure all necessary permits, approvals and authorizations required from every other agency having regulatory jurisdiction over the project; and

4. That the Applicant shall pay all outstanding fees due the Town in connection with the review of this application. The Town Board further determines that, based on the recreational amenities provided in the Master Plan, a fee of \$200.00 per lot shall be required in lieu of providing any additional recreation or parkland as part of this PDD approval. Such fee shall be paid on a lot by lot basis at the time of receiving site plan approvals for such lot.

**THE TOWN BOARD FURTHER RESOLVES THAT** the Town's Zoning Map is hereby AMENDED to designate the Lost Lake Resort site as a PDD, consisting of the following tax map parcels 3-1-1.1, 3-1-2.1, 3-1-3, 4-1-7, 4-1-10.2, 7-1-1, 8-1-1.2, 8-1-2, 20A-1-1, and 20B-1-1.

**AND THE TOWN BOARD FURTHER RESOLVES THAT** based upon the significant amount of recreational amenities provided in the Lost Lake Resort Master Plan, including the Applicant's offer to dedicate Bushkill Park East to the Town, the Town Board hereby determines that no additional recreation areas or parklands shall be required as a condition of the PDD approval or any subsequent subdivision plat or site plan approval for the Lost Lake Resort. The Town Board further determines that a fee shall be required in lieu of providing recreation or parkland as part of this PDD approval or in any subsequent subdivision plat or site plan approval.


**AND THE TOWN BOARD FURTHER RESOLVES THAT** this PDD approval shall be considered a determination of conformity to the character of the land and the Official Map and Comprehensive Plan of the Town, pursuant to §75-19 A and B.

**AND THE TOWN BOARD FURTHER RESOLVES THAT** the Town Board shall review, consider and approve any and all subdivision and site plan applications for the Lost Lake Resort, including review of the subdivision and site plan applications for the Lost Lake Resort, that are substantially consistent with and in conformance with the PDD regulation and this PDD approval. To the extent that this PDD approval, including any term, condition, mitigation measure, plat or plan or detail thereon, is inconsistent with any other provision of the Town Code, then this PDD approval shall control. The Town Board recognizes that market conditions and other factors may necessitate modifications to the subdivision or site plan submitted for any particular phase relative to the overall master plan for the project. The Master Plan is not intended as -- nor is it -- a final subdivision plat or site plan. Modifications to any subdivision plat or site plan for the Lost Lake Resort that (1) exceed the overall limits of this PDD approval, (2) exceed the approved overall density, or (3) substantially contradict a mitigation measure set forth in the SEQRA

Findings Statement may require a further review or consideration from the Town Board. The Town Board reserves unto itself the sole jurisdiction over the permitted density and use of the Lost Lake Resort site.

**AND THE TOWN BOARD FURTHER RESOLVES THAT** due to the PDD Zoning Law change adopted on July 7, 2011, subsequent to the adoption of the SEQRA Findings Statement, the Town Board now has exclusive review and approval jurisdiction over the subdivision and site plan applications for the Lost Lake Resort and furthermore all references in the SEQRA Findings Statement regarding review or approval by the Planning Board shall be deemed to refer to the Town Board exclusively.

Moved: *Councilman Halligan*  
Seconded: *Councilman Lipos*  
Vote: 5 Ayes  
-0- Nos  
-0- Abstentions

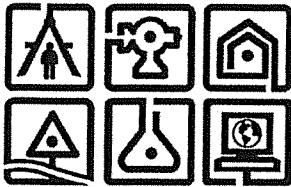
  
FORESTBURGH TOWN BOARD  
BY: Joanne Nagoda, Town Clerk

Adopted May 18, 2011

# Findings Statement

## Lost Lake Resort

Town of Forestburgh  
Sullivan County, New York



*Prepared for:*

**Lead Agency: Forestburgh Town Board**  
P.O. Box 114 - King Road  
Forestburgh, New York 12777  
*Contact Person: James Galligan, Supervisor*



*Prepared by:*

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# LOST LAKE RESORT FINDINGS STATEMENT

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# LOST LAKE RESORT FINDINGS STATEMENT

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## 1.0 INTRODUCTION

This Findings Statement has been prepared by the Town of Forestburgh Town Board pursuant to and as required by 6 NYCRR Part 617.11 implementing the New York State Environmental Quality Review Act (SEQRA). This Findings Statement draws upon the information in the Town of Forestburgh Town Board (Town Board) record in connection with the application submitted to approve the Lost Lake Resort Planned Development District (PDD), including the Draft Environmental Impact Statement (DEIS) dated May 20, 2010, the substantive comments received on the DEIS and addressed in a Final Environmental Impact Statement (FEIS) dated March 21, 2011 which was accepted as complete by the Town Board on April 7, 2011, and an Addendum to the FEIS dated April 13, 2011 which was accepted as complete by the Town Board on April 20, 2011.

In preparing this Findings Statement, the Town Board has given due consideration to the DEIS and FEIS documents prepared in conjunction with the SEQRA process, inclusive of the technical appendices contained in these two (2) documents. This Findings Statement contains a summary of the proposed action and summaries of the facts and conclusions in the SEQRA record relied upon by the Town Board to support its decisions, and considers and balances the relevant environmental impacts with "social, economic and other considerations" which form the basis for its decision (6 NYCRR 617.11(d)).

## LOST LAKE RESORT FINDINGS STATEMENT

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### 2.0 PROPOSED ACTION & SEQRA PROCESS OVERVIEW

The proposed action involves the approval of the Lost Lake Resort PDD to implement the development of a master planned golf course resort and residential community consisting of approximately 2,557 single-family residential lots, a cluster of 30 single-family cottages, and 40 multi-family townhouse-style condominium dwellings, for a total of up to 2,627 residential units, and associated infrastructure including a private road system, an on-site water supply system, and a wastewater treatment plant. Amenities include an 18-hole championship golf course, a lodge and restaurant, a spa and a variety of recreational uses including open space, parklands, and walking trails. Lost Lake Resort, Inc. (the Applicant) proposes to preserve a minimum of 50 percent of the property defined as open space in the Town PDD law with the objective of conserving natural areas and native wildlife habitats and maintain recreational open space. The application seeks to re-designate the zoning district for the project site from RR-1 to PDD. Approvals from various Federal, State and regional agencies will also be required and will be applied for on a phase by phase basis along with Subdivision and Site Plan applications to the Town of Forestburgh Planning Board. The project consists of ten tax parcels totaling 2,079.51 acres, all owned by Lost Lake Resort, Inc., and located entirely in the Town of Forestburgh, New York. St. Joseph's Road (County Route 108) traverses the project site in a west-east orientation and Cold Spring Road (County Route 102) passes the northeast corner of the site.

In accordance with the regulations implementing SEQRA, the following procedural steps have been undertaken:

- On October 2, 2008, the Town Board resolved to circulate a Notice of Intent to act as Lead Agency for the subject project;
- On February 9, 2009, the Town Board was designated Lead Agency by the Commissioner of the New York State Department of Environmental Conservation;
- On March 5, 2009, the Town Board issued a Positive Declaration requiring the Applicant to prepare a DEIS;
- On March 23, 2009, the Town Board held a public scoping session on the draft Scoping Document;
- On June 11, 2009, the Town Board adopted the DEIS Scoping Document;
- The Applicant's Consultant prepared a preliminary DEIS which was subsequently reviewed by the Lead Agency and its consultants, and substantively revised;
- On May 19, 2010, the Town Board accepted the DEIS as complete and subsequently filed and circulated the DEIS Notice of Completion and a Notice of Public Hearing;

## LOST LAKE RESORT FINDINGS STATEMENT

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- On June 16, 2010, a Public Hearing on the DEIS was held at which time the hearing was closed;
- Public comments were received by the Lead Agency until July 2, 2010, for the requisite minimum 10 calendar days following the close of the public hearing;
- The Applicant's Consultant prepared a preliminary FEIS which was subsequently reviewed by the Lead Agency and its consultants, and substantively revised during three (3) submissions;
- On April 7, 2011, the Lead Agency accepted the FEIS (incorporating the DEIS by reference) and subsequently filed the FEIS and FEIS Notice of Completion;
- Upon the submission of the FEIS to involved agencies and interested parties, it became known that the New York State Department of Transportation (NYSDOT) had filed comments on the DEIS, but the FEIS did not contain this comment letter, or responses to the comments contained therein. An Addendum to the FEIS dated April 13, 2010 was prepared incorporating responses to the NYSDOT comments.
- On April 20, 2011, the Lead Agency accepted the Addendum to the FEIS.
- The Lead Agency afforded the public the opportunity to review the FEIS for the requisite minimum 10 calendar days following acceptance of the FEIS; and,
- The Lead Agency has caused the preparation, review and adoption of this Findings Statement.

Importantly, the proposed action is being proposed by Lost Lake Resort, Inc. who will construct and operate the Lost Lake Resort, and much of the planned level of development that will occur as a function of time is predicated on their experience with similarly owned developments, most notably Eagle Rock in Pennsylvania. If at any time in the future, Lost Lake Resort, Inc. sells the project to another entity, the acquiring entity will be required to undertake an environmental assessment of any portion of the proposed future development that significantly deviates from the approved Master Plan proposed and evaluated in the DEIS and FEIS.

## 3.0 DESCRIPTION OF THE PROPOSED ACTION

### *3.1 Proposed Master Plan*

The project site will be rezoned to the Planned Development District (PDD) to accommodate the proposed project. The Applicant is required to construct the roads, infrastructure and resort amenities and will market the sale of individual house lots with memberships to an extensive range of recreational amenities in the resort community as described in the DEIS. The Lost Lake Resort master plan includes approximately 2,557 single-family residential lots, a cluster of 30 single-family cottages, and 40 multi-family townhouse-style condominium dwellings. Other facilities to provide hospitality services will include lodging, restaurant, spa/fitness center and conference facility, and business offices such as real estate sales, utility services and property management offices, and open / recreational space.

All resort facilities will be constructed by the Applicant in accordance with a site master plan approved as the PDD, subject to the review and approval of the Planning Board. Individual single-family residences will be constructed by individual lot purchasers. The Applicant will retain ownership of the recreational amenities and all infrastructure, and will retain responsibility for their operation and maintenance. Lot ownership will include responsibility as set forth in a Property Owners Association (POA) to financially support the operation and maintenance of the common elements associated with the PDD pursuant to bylaws established for the POA. Each lot owner that elects to build a home on a lot will need to do so in full accordance with Design Guidelines that will be set forth in the Offering Plan and POA bylaws, so that the Lost Lake Resort community will maintain its quality, look and aesthetic appeal.

The project developer has established the design theme and sustainable design and construction philosophy for Lost Lake Resort in its Design Guidelines which are included in the DEIS (Appendix E2). The declaration of covenants and restrictions<sup>1</sup> for Lost Lake Resort stipulates that all single-family residential dwellings constructed on a lot, and all hospitality structures, are required to meet the minimum criteria for the first level of certification as set forth by applicable LEED (Leadership in Energy and Environmental Design) Guidelines (e.g. LEED for Homes, LEED New Construction), or the NAHB (National Association of Home Builder's) Green Building Program Specifications, subject to the review and approval of the Town Engineer and Building Inspector.

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<sup>1</sup> Declaration of Exceptions, Reservations, Covenants, Restrictions and Conditions for the Lost Lake Resort and Development, a draft of which is included in DEIS Appendix E1.

## LOST LAKE RESORT FINDINGS STATEMENT

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### 3.2 Development Density

The Town's PDD law sets forth the procedures by which an applicant initiates its application for a PDD zone change and the density of the proposed development associated with its PDD site plan and the Town of Forestburgh Town Board makes a final determination of PDD density and the overall site plan to be approved for the zone change. The proposed zoning for the subject property is a Planned Development District pursuant to the Town's PDD law. There is no defined maximum development density in a PDD but rather the regulation allows the density to be defined by the mix of residential units, commercial uses, recreational amenities and open space proposed. Integration of the various activities throughout the development plan were considered in the determination of a project's density. The permissible density was initially established with a calculation of various land constraints. The Initial Residential Development Density (IRDD) in this PDD was calculated as follows:

<b>Calculation of Initial Residential Development Density</b>		
Town of Forestburgh PDD Law		
Gross acreage	2079.51	ac *
Constrained Land:		
Steep slopes > 25%	75.45	ac
100-yr floodplain	15.88	ac **
Wetlands (excluding open water)	211.89	ac
Open water	55.99	ac
Lands in easement	3.50	ac
Total Constrained:	362.71	ac
Buildable acreage (gross acreage minus total constrained)	1716.80	ac
Minimum lot area per zoning (min. 100,000 sf lots in underlying RR-1 zone)	2.296	ac
Initial Residential Development Density (IRDD)	<b>748</b>	<b>units</b>
* 2089.53 ac. per boundary survey minus 10.02 ac. for right-of-way of CR108 ** Floodplain area less overlapping slopes, wetlands, open water & park land. Source: DEIS Table 2-4		

Increases in permissible density proposed by the Applicant are listed in the table below and further described in DEIS Section 3.6. There are no PDD waivers requested for this application.

## LOST LAKE RESORT FINDINGS STATEMENT

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The Town's PDD law identifies criteria for the calculation of increases in the permissible density beyond the IRDD. Section 3.6 of the DEIS describes each one of the applicable criteria as they relate to the proposed master plan for Lost Lake Resort, along with a tabulation of the proposed increase for each item (as a percent of IRDD). Section 3.6 also outlines the benefits of the Lost Lake Resort proposal and briefly identifies how the amenities and benefits of the project are consistent with the goals of the Town's PDD law in support of the proposed density increases.

In total, the Applicant's requested bonuses in the DEIS add up to 278 percent, or 2,082 units. The table below shows the calculation of the total number of dwelling units proposed and total area of PDD-defined open space proposed.

<b>Tabulation of Units Proposed and PDD Open Space</b>		
Initial Residential Development Density (IRDD)	748	units
Total Bonuses Requested - 251%	+ 1879	
Total Potential Dwelling Units:	= 2627	units
Proposed Single Family lots	2557	units
Proposed Single Family Cottages	30	units
Proposed Multi-Family Condominiums	40	units
Total Dwelling Units Proposed:	2627	units
Managed Open Space	220.73	ac
Unmanaged Open Space	807.43	ac
Open Water Open Space	53.88	ac
Total Open Space Proposed: <sup>1</sup>	<b>1082.04</b>	ac
Gross acreage <sup>2</sup>	2079.51	ac
Percent Open Space Proposed:	52	%
<sup>1</sup> Does not include land with impermeable surfaces, land on residential lots, land to be donated or offered to the Town. <sup>2</sup> 2089.53 ac. per boundary survey minus 10.02 ac. for right-of-way of CR108. Source: DEIS Table 3.6-9 updated per FEIS Table 1-1		

All of the benefits described in the DEIS were determined by the Lead Agency to warrant density bonuses, as are outlined in the Town's PDD law, and the proposed Master Plan addresses the various required components of a PDD in accordance with the Town's law. Further, the Applicant's open space resort theme that encompasses second home residential development and recreation-related commercial uses was

## LOST LAKE RESORT FINDINGS STATEMENT

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determined by the Town Board to be consistent and compatible with land use in the surrounding area of the community and that the proposed action conforms to the Town of Forestburgh's most recent comprehensive plan.

Relative to comments raised about the proposed density of the Applicant's Master Plan during review of the DEIS, the Applicant provided additional information in support of its application and explained how a considerable number of single-family house lots are necessary to support its investment to construct and manage the resort facilities. Accommodating sustainability measures into a project such as this, including green building concepts and landscape management procedures, comes at a cost to the developer for which, in keeping with the concept of the PDD, a sizable density bonus is warranted to support those measures.

On February 3, 2011, the Forestburgh Town Board unanimously passed a resolution accepting the proposed project density, particularly in light of its discussion with the Applicant about project phasing as a mitigation measure and the ability of the Town and other permitting agencies to monitor how the project fulfills its specific mitigation commitments while it is under development and affording agency control over future phases of development.

### ***3.3 Residences***

The residential components are as follows:

- *Single family detached* - 2,557 single-family residential lots for homes to be constructed by individual lot purchasers; and
- *Cottages and Condominiums* - Cottages are typically built with two or three bedrooms (average 2.5); the condos are typically 2 bedrooms. Each of the 30 cottages and 40 condos will be equipped with a large living area with a fireplace and a full kitchen. It is anticipated that approximately half of the cottages and condominiums will be sold to private owners and half will remain owned by Lost Lake Resort, Inc. for use as hospitality units, including time shares. Each unit will have two off-street parking spaces. Each unit will be conveniently located within walking distance of the Lost Lake Resort Amenity Village.

### ***3.4 Amenity Buildings***

Lost Lake Resort, Inc. will maintain ownership and control over the operation of the hospitality facilities to maintain a quality and reliability of service at all resort amenities. The Amenity Village will include:



## LOST LAKE RESORT FINDINGS STATEMENT

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- *Clubhouse/Pro Shop and Restaurant (open to the public)* - The approximately 10,500 square foot golf clubhouse will feature an upscale restaurant and full service bar as well as a pro shop for the sales of golf merchandise and apparel.
- *Conference Center (open to the public)* - Lost Lake Resort will host a variety of functions, family and school reunions, weddings, receptions, corporate events and similar limited events. The Conference Center will have several function rooms available to accommodate functions up to 80 people, plus staff. The conference center is approximately 8,000 square feet in size.
- *Spa and Fitness Center (open to the public)* - The approximately 7,000 square foot Spa will feature professional therapists, estheticians and hair and nail technicians to perform a variety of skin and body treatments, hair styling and nail care. The Fitness Center will offer exercise equipment for cardiovascular and strength training. Each locker room will be equipped with personal lockers, sauna and showers.
- *The Inn (open to the public)* - The approximately 28,000 square foot Inn at Lost Lake (hotel) will be located at the end of the entrance boulevard. Its exterior will combine native stone and natural wood that create the look and feel of a grand lodge. Each of the thirty-two (32) rooms will have views of the lake. The Grand Hall will also be used for private functions.
- A small component of offices for property management and real estate sales will be housed in the Inn or Clubhouse building.
- *Marina and Beach Facilities (open to lot owners and resort guests)* - The marina will carry fishing tackle, bait, canoes, kayaks, paddle boats and sun block. Boats will be powered by hand, foot or by electric, low noise motors to maintain the serenity of the lake. No motorized combustion engine boats will be allowed. A lakeside sand beach will be constructed adjacent to the dock. This beach will be handicapped accessible.
- *Pool and Bath House (open to lot owners and resort guests)* - The swimming pool will feature natural stone decking with space for activities for both adults and children. The Bath House will hold a snack bar, showers, lockers and changing rooms. A playground will be situated nearby.
- *Tennis Courts and Cabana (open to lot owners and resort guests)* - Two (2) tennis courts are proposed in the Master Plan and will include a covered pavilion with tables, chairs, restrooms and refreshment counter.
- *Sales Office* - An approximately 6,000 square foot sales office will be located at the main entrance.

## LOST LAKE RESORT FINDINGS STATEMENT

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### *3.5 Building Architecture*

The common buildings in Lost Lake Resort are proposed to be primarily one story, with wood and native stone facades and gable roofs. The Inn will be a two story structure.

### *3.6 Open Space and Recreation Component*

In accordance with the PDD law, the site Master Plan must provide at least 50 percent open space as defined by the regulation. Pursuant to the regulation, "open space" means an area of land set aside and designated in perpetuity for protection from development" and may include land in its natural state, land improved for passive outdoor recreation, and land for active outdoor recreation excluding buildings and impervious surfaces (Planned Development District Law of 2008, §85-17E. Definition of Open Space). *"In any PDD application, the area of land that constitutes open space is ultimately a determination of the Town Board taking into consideration all of the factors of the proposed PDD and the purposes of a PDD set forth in §85-17."*

The Lost Lake Resort Master Plan preserves over 50 percent of the site as open space in keeping with the Town's definition of open space in its PDD law. The proposed Open Space Plan consists of approximately 221 acres of managed open space (includes the vegetated areas of the golf course, stormwater basins, pervious recreational trails, Bush Kill Park west pervious areas, front entrance landscaped areas, and the beach area), approximately 807 acres of unmanaged, undisturbed woods and other open space (includes 343 acres of wetlands and regulated wetland adjacent area except crossings), 71 acres in steep slopes, additional area in 50-foot minimum perimeter buffer, 100-foot minimum St. Joseph's Road buffer, and streams), and approximately 54 acres of open water.

In total the Open Space Plan in the FEIS incorporates 1,082 acres of designated open space, including 221 acres of managed open space and 807 acres of unmanaged open space. Excluded from this calculation are infrastructure facilities (WWTP, water tank and wellhead areas), the land proposed for dedication to the Town for an emergency services facility, house lots, amenity and maintenance buildings and land immediately surrounding any buildings, pavements, roads and road rights-of-way, golf cart paths, and Bush Kill Park East. The Applicant proposes to deed restrict all areas of the golf course except where buildings are located to satisfy the Town's requirement for open space.

**3.6.1 Golf Course (open to the public)**

In accordance with the DEIS, an 18-hole, 7,200 yard championship golf course is proposed to be set within the natural beauty of the Forestburgh landscape through the preservation of tree groves between the course and adjoining development, preservation and visual enhancement of natural rock outcrops, and preservation or enhancement of the natural contours of the land. The golf course design will be based on sustainable design principles developed by the Golf Course Superintendents Association of America (GCSAA) and will be supplemented by a site specific Turf Management Plan to be implemented by Lost Lake Resort, which is outlined in DEIS Appendix L.

**3.6.2 Wildlife Observation Stations, Pedestrian Trails and Parks (open to lot owners and resort guests)**

Lost Lake Resort's trails and observation stations will offer a variety of self-guided activities. The primary trail is shown on the Master Plan. This will be a permeable surface walking trail built with minimal disturbance to the natural woods (such as wood chips placed on the existing ground). One or more informal wildlife observation stations will be sited on the main trail that winds through the woods and beside streams and wetlands. A wildlife station will consist of a bench or small Adirondack-style shelter.

**3.6.3 Bushkill Park East (open to the public)/Bushkill Park West (open to lot owners and resort guests)**

A portion of the Bush Kill River enters the property in the southeastern end providing opportunities for passive recreation such as picnicking and fishing. Bushkill Park West, located along the west side of the river, will offer pedestrian access to the Bush Kill from inside the resort where visitors can enjoy a relaxing picnic, fly-fishing or bird watching. Bushkill Park East will also offer areas for picnics and fishing on approximately 1.5 acres on the east side of the river, and adjoining land owned by the State of New York. Located close to and accessible from Cold Spring Road, Bushkill Park East will be available for public use.

**3.7 Access, Internal Circulation and Parking**

The main access to Lost Lake Resort is from Cold Spring Road in the northeast corner of the property via the main security gate. The Lost Lake Resort will be a gated community with one street connection for public access from the public road, which will be a controlled-access entry and 24-hour security. Inside the Gated Entry will be

## LOST LAKE RESORT FINDINGS STATEMENT

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the General Postal Station, a bus stop with a shelter and a Greeting Center building for resort staff to provide visitors with tours of the resort as well as information about local attractions and services located in the resort and in the surrounding communities.

No public access is proposed from St. Joseph's Road. To cross St. Joseph's Road between the northerly and southerly portions of the project, Phase 1 will include a surface road connection, which will provide access for construction and resort maintenance vehicles, emergency vehicles and golf carts but will not be available for any public use. It will have a restriction (a gate) to prevent public use. In Phase 7, the internal road system will include a tunnel that will provide vehicular, pedestrian, and golf cart access under St. Joseph's Road. The overall site plan includes four points of emergency vehicular access, two each from the northerly and southerly portions of the development onto St. Joseph's Road.

The project proposes the development of minimum 20-foot wide asphalt paved roads within 50-foot rights of way. Where dictated by the fire code<sup>2</sup> or the local Fire District, road surfaces will be minimum 26 feet wide. The roads are designed to have roadside swales that are either vegetated or stone lined, depending on slope, on one or both sides to manage runoff from the pavement. These roads will be privately owned, managed and maintained by the POA. Preliminary profiles of the proposed roads indicate that site circulation can be developed with road gradients of less than twelve percent. Most roads will have gradients of between one and six percent, with a few areas of up to 10 percent and one at 11.4 percent (Road OO). In some locations the revised Master Plan provides dead-end streets in excess of 800 feet in length to accommodate steep slope or wetlands (i.e., Roads K/L, M, N, Q/R, V, AA, DD, and JJ/KK). Except as noted above, all roadway geometry will be designed in accordance with Town of Forestburgh Street Design regulations, subject to the review and approval of the Planning Board.

The project requires the construction of approximately 25 miles of internal roads. The roadways are designed to follow the existing contours, thereby allowing for trees to be preserved close to the road to provide canopy over much of the pavement. The curvilinear alignment of the internal roads is intended to create a network of access routes over most of the property while retaining and unveiling the natural character of the forest for the enjoyment of the residents and visitors. The network of roads will connect the southern portion with the northern portion of the development at a single crossing of St. Joseph's Road. No access other than temporary construction access and permanent emergency access will be provided from St. Joseph's Road. Most of the roadways will form loops, with cul-de-sacs laid out where the topography limits through access.

No provisions for on-street parking are included on the project roads. Off-street parking is proposed for the amenities and house lots.

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<sup>2</sup> New York State Uniform Fire Prevention and Building Code and other rules and regulations referenced therein.

### *3.8 Project Phasing Plan*

The project is planned to be permitted and built in seven (7) phases, starting with development at the north end of the property to establish the main entrance, sales office, and access to house lots and the center of the Amenity Village area. Construction of infrastructure (roads, stormwater management, water supply systems and sewer systems) will commence to service the amenities and dwellings north of St. Joseph's Road. The golf course will be developed in Phases 1 and 2 and concluding with the construction of the golf clubhouse/restaurant and driving range in Phase 3. Subdivision of house lots will be applied for in each phase, generally consisting of up to 400 lots at one time, followed by construction of infrastructure to service the approved lots. The number of lots associated with each phase of development is provided in the Revised Phasing Plan (Figure 2-3 of the FEIS). Construction will continue in the central portions of the property, including construction of the cluster of 30 cottages (cabins) and cluster of 20 townhouse condominium buildings, and additional amenities such as the pool, tennis courts, beach and boat dock, and walking trails. Development of the hotel, health spa and conference center buildings will complete the primary resort amenities. Replacement of the at-grade crossing of St. Joseph's Road with installation of a tunnel is proposed in Phase 7. Subdivision of house lots and providing infrastructure in the southern end of the property will complete the implementation of the project Master Plan.

Permit applications for the project will be submitted to permitting agencies on a phase by phase basis, subject to the concurrence of such agencies, thereby allowing the permitting agencies to review relevant information and effectiveness of mitigation from the prior constructed phases associated with their particular areas of jurisdiction, including PDD open space requirements, wetlands, stormwater management, access, effects of construction, water supply, Fire Prevention and Building Code compliance, emergency service needs, and green building designs. Amenities, roads and utility infrastructure for the current phase will be substantially complete before commencing applications on the next phase, subject to the review and approval of the Town Engineer and Building Inspector.

For each proposed phase of development, the Applicant will be required to obtain subdivision and site plan approval from the Town Planning Board and all applicable permits and approvals from other involved agencies and interested parties. Applications will be made concurrently to all agencies and the initial application to the Planning Board must include a list of permits and approvals which the Applicant knows to be required. Copies of such applications will be provided to the Planning Board as part of each phase of application.

## **3.9 Infrastructure**

### **3.9.1 Drainage and Erosion Control Plans**

Stormwater management systems are proposed for the conveyance and treatment of surface runoff. Stormwater management infrastructure will be designed to meet Town of Forestburgh and the most current NYSDEC standards and requirements. Preliminary drainage measures are shown in the plans that accompany the FEIS. All single-family home sites will have on-lot stormwater controls of roof and driveway runoff via infiltration or surface treatment, the size and type of which will be determined by soil permeability and other engineering considerations evaluated during the site design process. Soils properties will be determined by field testing prior to final design for each phase of the development. The approved plan set for each phase of construction will include erosion control plans developed in accordance with the most current NYSDEC regulations and Design Manual.

### **3.9.2 Water Supply**

The project will be serviced by a privately-owned community water supply that derives water from on-site wells. The water supply system will be developed in accordance with the applicable regulations and requirements of the New York State Department of Health (NYSDOH), NYSDEC, and Delaware River Basin Commission (DRBC). The applications to the Planning Board for subdivision and site plan approval must include a statement that the Applicant has also made application for permits from these three (3) agencies. Copies of such applications will be provided to the Planning Board as part of each phase of application. The system will be designed to provide a residual static pressure of 60-80 pounds per square inch (psi) for most areas and a normal operating pressure of not less than 35 psi for the remaining areas for normal flows. The system will have a minimum pressure of 20 psi for fire flows.

The project plan calls for the water supply tanks to be built in phases as needed as the number of constructed lots and amenities increases. The three storage tanks will provide a total water storage volume of 1,017,055 gallons for full buildout of all seven (7) phases of the development. To meet the requirements of NYSDEC, the first tank installed during Phase 1 will provide 120,000 gallons of fire flow and enough storage for approximately 400 homes. The current design indicates each tank will be 28-feet in diameter by approximately 77-feet high, slightly higher than the tree tops in this area. The finished water storage tank location was chosen to provide gravity feed and to avoid any visual impact from off the property. Appendix K of the DEIS includes the engineer's report of the proposed water supply and distribution system and Appendix J of the FEIS includes revised preliminary utility plans.

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An initial water supply investigation was conducted by the Applicant, and a water supply report (Appendix M1 in DEIS) was prepared based on testing of the onsite wells demonstrating that sufficient water supply is available to permit the first phases of the project to be approved and built and further asserting that there is an adequate supply of groundwater for the whole and complete project. There were several commentors on the DEIS that questioned whether or not the bedrock aquifer beneath the project site would be capable of supporting the planned build out of the whole and complete project, and the Town Board required that the Applicant perform additional water supply investigations. These additional water supply investigations were presented as Appendix E to the FEIS. Based on the supplemental hydrogeological data in the FEIS, the Applicant has exercised a high level of due diligence towards demonstrating that there is an adequate supply of groundwater for the whole and complete project, despite the fact that the Lost Lake Resort is not expected to be built out in a manner that would result in a house being built on every lot. Based on the supplemental data it appears that there is a sufficient water source from the bedrock formation to provide a community public water supply for the proposed development, subject to the specific permitting requirements of the NYSDEC, NYSDOH and DRBC on a phase by phase basis. It is possible that additional wells may be required to make this demonstration. Utilizing actual water use data for subsequent phase approvals, the project will mitigate and avoid any potential significant adverse impact resulting from the water supply.

A transportation corporation will be formed and will own and be responsible for the operation and maintenance of the water supply system. This entity will be responsible for compliance with all applicable water quality standards set forth by the NYSDOH, NYSDEC and DRBC in the water supply permits.

### **3.9.3 Wastewater Treatment**

The project will be serviced by a privately-owned onsite wastewater collection and treatment system with discharge of treated effluent to surface waters, subject to NYSDEC and DRBC approvals. The wastewater system will be developed in accordance with NYSDOH, NYSDEC, and DRBC requirements. The proposed wastewater treatment plant (WWTP) will be located approximately 3,000 feet south of St. Joseph's Road and adjacent to the easternmost property boundary. The WWTP treated effluent will discharge into the Bush Kill. The WWTP will be located outside regulatory separation distances and designed to produce minimal odor and noise impacts. Permits from the NYSDEC, NYSDOH, and DRBC will be required for each phase of development. The applications to the Planning Board for subdivision and site plan approval must include a statement that the Applicant has also made application for permits from these three (3) agencies. Copies of such applications will be provided to the Planning Board as part of each phase of application.

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The projected average daily flow of wastewater from the fully built Lost Lake Resort is 870,335 gallons per day (gpd), or 604 gallons per minute (gpm). The peak daily flow at full build out is projected to be 2,611,005 gpd or 1,813 gpm, using a peaking factor of 3.0. The treatment process will be activated sludge. The facility will utilize package units to facilitate expansion as the development of house lots progresses. A NYSDEC State Pollutant Discharge Elimination System (SPDES) Permit will be obtained for this facility and the Applicant will request the NYSDEC permit effluent limits for three different flow rates (100,000 gpd, 250,000 gpd, and 550,000 gpd) to account for the increasing amounts of wastewater that will be produced as construction of the development progresses.

The proposed sewage collection system will utilize a low pressure grinder pump system and three pump stations to direct wastewater to the treatment facility. Appendix K of the DEIS includes the engineer's report of the proposed wastewater treatment system, Appendix J of the FEIS includes revised preliminary utility plans, and Appendix K of the FEIS includes a waste assimilative capacity analysis.

A transportation corporation will be formed and will own and be responsible for the operation and maintenance of the wastewater collection system and treatment plant. This entity will be responsible for compliance with all applicable water quality standards and the effluent limits set forth by the NYSDEC in the SPDES Permit.

As a condition of approval, it is understood that the Town Board will enter into an agreement with the Lost Lake water and sewer transportation corporations to provide a mechanism by which the Town could assume ownership and operation of the water and sewer works in the unlikely event that one or both of the transportation corporations fail to operate and maintain those systems. Prior to receiving a site plan approval, the Applicant will petition the Town to form, and obtain, water and sewer special improvement districts that would remain un-levied and only utilized in the event that the Town assumes ownership and operation of those utilities. In that event, the Town would have the districts in place to ensure that only the homeowners within Lost Lake would bear the cost of providing water and sewer service and as such the costs associated with water and sewer district formations would not be borne by other residents of the Town.

### **3.9.4 Electricity, Communications, and Heating Fuel**

The common facilities and residences will be served by underground electric, telephone, and cable connections. Building heating systems are expected to utilize liquid petroleum gas (e.g., propane) or fuel oil. There may also be buildings with solar heating systems supplemented by electric heat.



### **3.9.5 Golf Course Operations**

The proposed golf course will be managed in accordance with best management practices (BMP's) for turf management and water conservation. The Applicant will develop and implement a site-specific Turf Management Plan that includes provisions for water conservation, drought management, BMP's and standard operating procedures for turf management, integrated pest management, chemical and petroleum storage, handling and spill response, and surface water and groundwater monitoring applicable to both the construction period and ultimate operational period at Lost Lake Resort.

The golf course will be irrigated utilizing surface water drawn from Lost Lake, with backup water sources of the on-site wells and WWTP effluent when conditions warrant such use. All three sources of irrigation water will require permits from NYSDEC and DRBC.

The overall Turf Management Plan will address provisions discussed in the Preliminary Water Quality Management Plan, DEIS Appendix L.

### **3.10 Landscaping and Lighting Plans**

Conceptual design concept for landscaping includes street trees, ornamental shrubbery, and ground cover vegetation, consisting of a combination of native and adaptive plant species. Landscaping is also required to be installed by every individual lot owner after the house is built on the lot. These plantings will typically include a combination of shrubbery and perennial plants such as ornamental grasses, and small ornamental trees. Buffer planting will also be installed in select locations (not detailed on the preliminary plans) where screening or buffering is found to be desired within the resort as the project develops.

Landscape plantings will be incorporated into the golf course design, in keeping with the specific needs of the course designer. Seeding of the fairways, tees and greens will be as specified for this course by the golf course architect.

Minimal street lighting is proposed for the development to retain a rural atmosphere. The landscape and lighting plan shows the general spacing and locations of light poles proposed at major street intersections, at parking and primary circulation areas and in the amenity building clusters. A street light pole will be selected that complements the wooded character of the resort and provides an illumination source that casts light downward to the road surface with minimal glare or stray light. Posted street signs will be provided for each of the internal roads. Indirect lighting is proposed to be installed to allow for nighttime illumination of the Lost Lake resort main entrance signs.

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No lighting is proposed for the golf course or driving range as these facilities will only operate during daylight hours. Lighting at the sales office, Amenity Village buildings and associated parking and circulation areas will be provided to appropriate levels for safety and security. Street lighting is proposed within the townhouse and cottage neighborhoods.

### **3.10.1 Setbacks and Buffers**

The project Master Plan provides a minimum 50-foot wide natural buffer around the entire project parcel. There is a minimum 100-foot wide natural buffer provided on the north and south sides of St. Joseph's Road. The plan will provide a minimum setback of 60 feet for any single family house from the property line (the 50-foot perimeter buffer plus a 10-foot minimum rear yard imposed by the Applicant's Design Guidelines).

### ***3.11 Covenants and Restrictions on Home Site Development***

Lost Lake Resort, Inc. will require strict adherence to its Design Guidelines for Single Family Homes in Lost Lake Resort (Design Guidelines) that are binding on all lot owners. The owner of each lot in the Resort will be subject to a declaration of exceptions, reservations, covenants, restrictions and conditions for the Lost Lake Resort (Declaration), as well as a Builder's Packet outlining information required to be submitted to the Lost Lake Architectural Control Committee (ACC) for internal review for each proposed lot development. This design review board will review and approve individual site plans in accordance with the Design Guidelines in conjunction with review by the Town for building permits. A copy of the draft Design Guidelines is included in DEIS Appendix E2.

The developer will establish and incorporate the Lost Lake Property Owners' Association (POA) as a New York non-profit association to administer and enforce the easements, covenants, conditions, restrictions, and limitations set forth in the Declaration.<sup>3</sup> The covenants, conditions, restrictions, and limitations will run with the land and will be binding on all parties having any right, title or interest in the property or any part thereof.

The ACC will review and approve or disapprove all planned improvements on the lots. The developer's design and construction standards will apply to all construction, improvements and landscaping in the Resort, including minimal requirements for

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<sup>3</sup> Declaration of Exceptions, Reservations, Covenants, Restrictions and Conditions for the Lost Lake Resort and Development, a draft of which is included in DEIS Appendix E1.

## LOST LAKE RESORT FINDINGS STATEMENT

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aesthetic compatibility of the landscaping and exterior design of all residential dwellings on the property.

## 4.0 ALTERNATIVES CONSIDERED

The following alternatives were evaluated during the SEQRA process in addition to the preferred alternative presented in this Findings Statement.

### *4.1 No Build Alternative*

The No Build alternative evaluates the adverse or beneficial impacts that would occur in the future in the absence of the proposed action, assuming the undeveloped status of the property. As there are no known restrictions on the use of the property at this time, the property could be converted to residential use at some time in the future in accordance with the applicable zoning district use regulations. The No Build alternative is inconsistent with the objectives of the Applicant, who has purchased the property with the intent of developing it into a resort community. In order for the entire site to remain in its current, undeveloped state, the Town or a land conservation organization would need to acquire the property and establish open space preservation restrictions, and compensate the property owner accordingly.

### *4.2 Conventional Subdivision Alternative*

The Conventional Subdivision Alternative examines the impacts of a subdivision with 491 lots for single-family detached dwellings developed in accordance with the existing zoning of the site. This alternative is inconsistent with the objectives of the Applicant to develop a resort community.

### *4.3 Cluster Residential Subdivision without Amenities*

This alternative examines the potential impacts associated with a cluster design concept with a total of 491 single-family detached dwellings. The alternative would allow a contiguous area of open space to be retained around the central wetland complex. This alternative is inconsistent with the objectives of the Applicant to develop a resort community.

### *4.4 Hotel Expansion Alternative under PDD Law*

This alternative examines the effects of an expanded hotel facility from the size currently proposed by the Applicant. There are no provisions in the PDD law that would require a hotel nor limit the size of a hotel. Expansion of the facility proposed would be limited by the physical area available on the property, and possibly by how

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such a facility would “fit” into the mix of uses proposed in the PDD. It is the Applicant's experience, however, that the modest size of hotel proposed could be supported by the overall size of development proposed.

### *4.5 PDD Subdivision Layout of 735 units<sup>4</sup>, with zero bonus units*

This alternative evaluates a development scenario of 735 dwelling units (the base density calculated in the Lost Lake Resort PDD application) without consideration of any bonus units allowed in the PDD law. As a PDD, this scenario requires a mix of land uses and is designed in a clustered concept. This alternative includes the same variety of resort amenities as the proposed action but cottages and condominiums would strictly be rental units operated as part of the commercial resort operations. The layout would allow a contiguous area of open space surrounding the central wetland complex and all land to the southwest of it.

This alternative does not support the Applicant's resort development model that is supported by the investment of lot purchasers who gain, along with their ability to build a home in the subdivision if desired, membership rights to use the on-site recreational amenities at very low or no cost. The Applicant has indicated this reduced size alternative could not support the complement of quality amenities that make up a Double Diamond resort.

### *4.6 PDD Subdivision Layout of 1,235 units, with 500 bonus units*

This alternative examines a project layout using the predetermined base density of 735 dwelling units plus 500 bonus units. This alternative is laid out in accordance with the PDD law incorporating a mix of land uses and is designed in a clustered concept. The alternative layout includes the same variety of resort amenities as the proposed action, with cottages and condominiums in this case being strictly rental units operated as part of the commercial resort operations. The layout would allow a contiguous area of open space adjoining the central wetland complex and to the southwest of it. As with the prior reduced density alternative, the Applicant has indicated this reduced size alternative could not support the complement of quality amenities to be economically viable.

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<sup>4</sup> Base density (IRDD) of 735 was originally identified during the scoping process (based on calculations in the PDD Sketch Plan Submittal and PDD Application) and was subsequently revised to 748 units as calculated in the DEIS due to refinement of the measurements of various site resources during the investigations for the DEIS.

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### 5.0 REQUIRED PERMITS & APPROVALS

The agencies identified in the table below have review, direct approval, or permit issuing authority over the proposed action. The DEIS, FEIS and other SEQRA documents were filed with each of these agencies.

Required Approvals and Issuing Agencies	
Regulatory Authority	Type of Approval or Permit
Forestburgh Town Board	<ul style="list-style-type: none"> <li>• PDD Approval</li> <li>• Consent to form transportation corporations for sewer and water service</li> </ul>
Planning Board, Town of Forestburgh	<ul style="list-style-type: none"> <li>• Subdivision/Site Plan Approval</li> </ul>
New York State Department of Health	<ul style="list-style-type: none"> <li>• Water Supply</li> </ul>
Sullivan County Department of Public Works	<ul style="list-style-type: none"> <li>• Highway Work Permit</li> </ul>
New York State Department of Environmental Conservation	<ul style="list-style-type: none"> <li>• SPDES Permit for STP Wastewater Discharge</li> <li>• SPDES General Permit for Stormwater, Article 15</li> <li>• Waiver for &gt;5 acres construction disturbance</li> <li>• Wetlands Disturbance, Article 24</li> <li>• Stream Disturbance, Article 15</li> <li>• Sewer Collection</li> <li>• 401 Water Quality Certification</li> <li>• Water Supply</li> </ul>
Delaware River Basin Commission*	<ul style="list-style-type: none"> <li>• Permits for wastewater discharge, groundwater withdrawal, surface water withdrawal</li> </ul>
US Army Corps of Engineers*	<ul style="list-style-type: none"> <li>• Section 404 Wetlands Permit</li> </ul>
<p>* Notes:                      The DRBC is not defined as an involved agency under SEQRA (it is an interstate compact), although it will need to issue permit(s) as noted.                      The USACOE is not defined as an involved agency under SEQRA (it is a federal agency), although it will need to issue permit(s) as noted.</p>	

Interested parties identified in the DEIS are as follows. The DEIS, FEIS and other SEQRA documents were filed with each of these parties:

US Fish & Wildlife Service  
 New York State Office of Parks, Recreation, and Historic Preservation  
 Sullivan County Department of Planning  
 Monticello School District  
 Town Conservation Advisory Board  
 Forestburgh Fire District  
 Local Volunteer Ambulance Corps  
 New York State Police  
 The Merriewold Club, Inc.  
 Lake Joseph Homeowners Association, Inc.  
 New York State Department of Transportation

## 6.0 SUMMARY OF IMPACTS AND MITIGATION MEASURES

The Forestburgh Town Board, as SEQRA Lead Agency, makes the following Findings.

### 6.1 *Geology, Soils and Topography*

The Lead Agency finds, upon due consideration of the DEIS and FEIS, that the proposed project will not have a significant adverse impact upon geology, soils, and topography for the following reasons:

#### 6.1.1 Topography

Typical of the Sullivan County landscape, areas of exposed bedrock, cobbles and boulders are found throughout the property. The project site contains varying topography. The highest elevation on the property is located along the western boundary south of St. Joseph's Road and is approximately 1,630 feet above sea level. The lowest elevation on the site is located within the central portion of the site, south of St. Joseph's Road, within the wetland and is at approximately 1,373 feet above sea level. Approximately 1,828 acres of the site contain nearly level to moderately sloping terrain, with slopes of 15 percent or less. Approximately 327 acres contain slope areas greater than 20 percent.

Impacts to steep slopes of 25 percent or greater are primarily located south of St. Joseph's Road and are associated with the construction of the road network as well as grading for stormwater detention basins and homes. Approximately 12.4 acres of steep slopes will be impacted by the fully built project. Exposing soils on steep slopes during construction increases the potential for erosion in the short term. The road layout proposed in the DEIS was adjusted in the revised Master Plan in the FEIS to reduce disturbance of such slopes and lots were adjusted to avoid slopes at the front of the lot where the house would be located.

#### 6.1.2 Geology

The specific locations of shallow bedrock and amount of rock removal required for the proposed project have not been identified on the property. The rock outcrops within 200 feet of St. Joseph's Road and visible from the public road were identified in the DEIS, and will not be disturbed for construction of the development.

Preliminary road profiles show approximately 21 areas that require a cut of material greater than 10 feet. Where rock is encountered, removal will be attempted using methods such as hammering, ripping or chipping with excavators. Blasting will only be

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used where these methods are not feasible. All rock excavated on the site in connection with the proposed development will remain on the site to be used as road base.

Blasting will be carried out in accordance with the Industrial Code Rule 39 of the New York State, Department of Labor, Industrial Board of Appeals and the applicable section of the New York State Labor Laws. New York State regulations require insurance and licensing for the contractor and provide guidelines for the possession, handling, storage, and transportation of all explosives.

The proposed plan for the development of Lost Lake Resort does not include any drilling of natural gas associated with the Marcellus Shale formation.

### 6.1.3 Soils

The property is underlain primarily by one soil type: Wellsboro and Wurtsboro soils; and is also underlain by twenty-one less predominant soil types. Grading and recontouring of soils is required for the construction of roads, residential dwellings, recreational facilities, the golf course and the storm water detention basins. The total area of grading or site disturbance is estimated to be approximately 601 acres. Grading is to be detailed on the construction plans for each phase, along with soil erosion controls to mitigate the effects of soil disturbance during construction.

### 6.1.4 Cut and Fill Estimates

A preliminary estimate for earthwork required to construct Phase 1 roadways, stormwater management features and the main entrance structures is approximately 85,700 cubic yards (cy) of earth cut and the same amount of fill. There will be a net balance of earth grading (cut and fill). A preliminary estimate for the total earthwork required to construct the full buildout is approximately 677,500 cy of earth cut and the same amount of fill, therefore there is a net balance of material for the overall project.

There are no areas of steep slope disturbance (25% and greater slopes) for the Phase 1 road network. Given the more gentle topography on the north side of the site, it is expected that little rock excavation will be necessary for Phase 1 construction. The other phases may involve rock excavation. Transition areas back to existing grade at the edges of the roadway section will be graded at 3H:1V or less in most locations. Proximity to properties and steep slopes may warrant slopes of 2H:1V (with slope protection) or 1H:1V in areas of rock cut. Slope protection will be in the form of rolled erosion control protection mats and hydroseeding with tackifier. Excess soil will be stockpiled and skirted with silt fence barrier to prevent sediment transport. Excess rock will be stockpiled for use onsite. Crushed rock will be used for roadbed construction or for fill areas where the material is suitable.



## 6.1.5 Sub-Soils for the Golf Course

On-site soils within the proposed golf course area are Wellsboro and Wurstboro soils (WIC) and Wurtsboro loam (Wu). These soils are moderately well drained, gravelly fine and sandy loam. Typically, a quality golf course is constructed with a manufactured sand-mix for the sub-soils of the fairways. A peat/sand mixture will be used for green and tee areas. It is expected that the existing soil types will provide adequate base for the manufactured surface mix that will be brought on site.

## 6.1.6 Soil Erosion and Sediment Control Plan

A site specific soil erosion and sediment control plan will be prepared for each phase of the project. Erosion control and slope protection will be undertaken in accordance with the Erosion and Sediment Control Guidelines in the New York State Department of Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activities (Permit No. GP-0-10-002) and the most current version of the *NYSDEC Stormwater Management Design Manual*.

Potential erosion and sedimentation will be controlled during the construction period by measures specified in the Preliminary Stormwater Pollution Prevention and Erosion and Sediment Control Report, included in the DEIS as Appendix G. The SWPPP must be approved by NYSDEC prior to commencement of construction. Implementation of the SWPPP will include monitoring and enforcement as required by NYS law and NYSDEC General Permit requirements.

## 6.1.7 Construction Sequencing

During each phase of construction, a sequencing plan will follow the general steps as detailed on the Phase 1 Preliminary Erosion and Sediment Control/Stormwater Management Plans:

- Site disturbance (clearing, grubbing and grading) will be limited to those areas necessary for construction in each construction sequencing stage.
- Each stage will be substantially completed before the next construction sequencing stage is initiated.
- At the completion of each earth disturbance activity, stabilization will immediately occur to the disturbed areas to protect from erosion.

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- Responsibilities for ongoing inspection and maintenance of the erosion and sediment control measures for the duration of the construction are specified on the erosion control plans.

### 6.2 Wetlands

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon wetlands for the following reasons:

Wetlands were delineated during the Fall 2007 and Spring 2008. Subsequent revisions to the wetland boundaries were made in the Summer 2009 based on a number of site visits made by U.S. Army Corps of Engineers (ACOE) and NYSDEC personnel. The wetland delineation resulted in the flagging of wetlands totaling 267.88 acres of the property. Validation of the wetland survey was issued by NYSDEC on June 8, 2010 and by the ACOE on April 27, 2010.

The proposed wetlands impacts will require permits from both the NYSDEC and the ACOE. Both NYSDEC and the ACOE require that any impacts to regulated wetlands (and other waters of the U.S.) be minimized to the maximum extent practicable. The applications to the Planning Board for subdivision and site plan approvals must include a statement that the Applicant has also made application for permits from these agencies. Copies of such applications will be provided to the Planning Board as part of each phase of application.

#### 6.2.1 Regulatory Wetland Impacts

Impacts to NYSDEC Freshwater Wetland HA-40 (flagged as Wetland ABD) will occur as a result of two (2) proposed road crossings. These road crossings will cause a total of approximately 0.44 acres (19,000 square feet) of disturbance to the Class II State-regulated wetland and approximately 2.6 acres of adjacent area thus requiring a NYS Article 24 Freshwater Wetlands Permit, and qualifying for coverage under the Federal Nationwide Permit.

An Article 15 Protection of Waters Permit will also be required for the road crossings since HA-40 encompasses a Class B stream, and for any additional crossings of regulated streams on the project site.

An Individual 401 Water Quality Certification must also be obtained from the NYSDEC, its issuance indicating that NYSDEC anticipates that the proposed action will comply with State water quality standards and other aquatic resource protection requirements

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under the NYSDEC's authority. The Individual 401 Certification can cover both the construction and operation of the proposed action.

Current design plans utilize open-bottom, low profile arch culverts to span the regulated watercourse within the wetland to minimize disturbance of wetland areas.

Potential impacts to the Neversink River Unique Area are limited to the indirect effects of changes to surface water (sedimentation during construction, pesticide and fertilizer loading, and thermal impacts). No direct impact to wetlands or wetland buffers found within the Neversink River Unique Area will result from the proposed development.

### **6.2.2 Wetland Creation**

To mitigate for the loss of 0.44 acre of wetland, approximately 1.01 acres of wetland will be created to provide a 2:1 mitigation ratio as is typically required for forested wetlands. The location of the proposed mitigation area is shown in the DEIS. The creation of forested wetland within the same wetland complex as the area of disturbed forested wetland allows for an in-kind replacement of wetland functions lost due to the two road crossing disturbances.

The creation of stormwater basins, graded and planted in a manner that is consistent with the open marsh portions of the existing wetlands, also contributes to mitigating the potential impacts on the entire wetland corridor. The stormwater basins will be planted with herbaceous wetland vegetation, and provide wetland habitat as well as control of stormwater quality and quantity. While no direct credit is taken for these basins as wetland creation areas, they will in fact perform several wetland functions and result in a net increase of wetland function and benefits on the site following construction.

### **6.2.3 Water Quality in Wetlands**

A site specific erosion and sedimentation control plan was developed for Phase 1 construction to assist in preventing degradation of wetlands as a result of the proposed action. The erosion and sediment control plans for each phase will follow the format and content of the Phase 1 Preliminary Erosion and Sediment Control/Stormwater Management Plans. A preliminary water quality management plan has been developed for the golf course and other managed areas (Appendix L of the DEIS) to address the use of pesticides and fertilizers on the project site and a sampling plan has been created to monitor surface water quality on the site.

### 6.2.4 Mitigating Thermal Impacts

During and following construction stormwater on the project site will be conveyed through surface swales and underground piping and detained in temporary basins prior to discharge to any receiving wetlands through a level spreader. This will allow time for dissipation of collected heat in the water. Further, the stormwater management basins will be located in a largely wooded setting to minimize the potential for solar heating of detained stormwater, to the extent possible and are designed to limit detention times so that standing water has less time to absorb surface heat.

### 6.3 Vegetation

The Lead Agency finds, upon due consideration of the Draft and Final EIS that the proposed project will not have a significant adverse impact upon vegetation for the following reasons:

Formal site investigations of vegetation were conducted on June 6, September 3, and September 23, 2008, and May 6, May 20, and June 17, 2009. Observations of additional vegetative species were also noted by biologists during wetland delineations and other biological surveys. Table 3.3-1 of the DEIS lists the vegetative species observed on the project site. No federal or state-listed rare, threatened, or endangered plant species, habitats or significant natural communities were identified or observed by the Applicant's biologists during surveys of the site. This finding will be verified during the environmental permitting process with the NYSDEC and ACOE, or mitigation will otherwise be required. The project site includes twelve principal habitat/ecosystems which correspond with the following "Ecological Communities of New York State": Allegheny Oak Forest; Appalachian Oak-Pine Forest; Hemlock-Northern Hardwood Forest; Beech-Maple Mesic Forest; Talus Slope; Shallow Emergent Marsh; Shrub Swamp; Red Maple-Hardwood Swamp; Hemlock-Hardwood Swamp; Highbush Blueberry Bog Thicket; Vernal Pool; and Impounded Lake:

Approximately 601 acres of the project site will be disturbed either permanently or temporarily during construction. Of this total, approximately 194 acres of vegetation will be removed for proposed buildings, roads, driveways and parking areas. Approximately 407 acres will be revegetated by lawn, landscaped areas, golf course areas and stormwater management basins. Approximately 1,478 acres of existing undisturbed vegetation will be retained on the property.

As per the Town of Forestburgh's PDD zoning, at least 50 percent of the project site must remain as open space. The proposed master plan shows approximately 1,082 acres (52 percent) of the project site to remain as vegetated open space in the form of existing ecological communities, lawns and landscaped areas, golf course and stormwater management practices.

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The proposed development plan has been designed to minimize wetland and buffer impacts to the maximum extent practicable and by doing so will preserve substantial wooded areas around the more sensitive vegetation habitats. Undisturbed land will remain within the wooded wetland buffer areas, wooded wetlands and wooded stream corridors.

Road centerlines will be staked for review by the Town during site plan review. Clearing limit lines will be marked on the site prior to commencing the construction activity to contain impacts to approved areas and keep other portions of a project site undisturbed. No trees in healthy condition beyond the field-identified limits of disturbance will be disturbed. These limits will be delineated by fencing or similar methods.

Native and adaptive plant species will be utilized for landscaping purposes and for revegetating the proposed water quality and stormwater detention basins where practical. Plant selection is based on plant adaptability to local climatic conditions, including temperature, precipitation and length of the growing season. Many species selected for landscape use will also be beneficial to indigenous wildlife, especially birds, by providing wildlife benefits such as nesting, cover and food. Adaptive species that are non-invasive or otherwise non-problematic will also be allowed in the project.

Landscaping on the single-family lots will be determined by the individual lot owners, subject to review and approval by the proposed Lost Lake Design Review Board ("Architectural Control Committee"). Each individual owner will choose landscape vegetation from a master list provided in the Applicant's *Design Guidelines for Single-Family Homes* (Appendix E2 of the DEIS).

### *6.4 Wildlife Ecology*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon wildlife ecology for the following reasons:

Numerous field surveys were performed for the DEIS to determine what species of wildlife currently inhabit the site and to assess the potential for species to utilize the site based on the on-site ecological habitats. The project site is currently a part of a large tract of unfragmented forest with minimal development. The addition of roads and development to the project site will impair wildlife movement, however this impact is not anticipated to be significant. The retention of approximately 1,215 acres<sup>5</sup> of upland

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<sup>5</sup> This number refers to the total area of undisturbed upland woods after construction, to be distinguished from the term "open space" discussed elsewhere in this document.

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forest, along with the revegetation of temporarily disturbed areas in the form of landscaping, stormwater management practices and golf course will still allow opportunities for wildlife to move into and out of the project site. The gradual construction of homes through a phased construction plan will allow wildlife time to adjust their movement patterns and seek out new areas to utilize. Some wildlife that is displaced will migrate to adjoining open space areas. In the revised Master Plan, portions of the ecological communities identified on-site will remain available for habitat at a smaller scale after the development is complete and connected to adjacent off-site natural areas.

During development of the site, construction activities could potentially result in a temporary increase in road mortality rates for some of the species vacating the site. After the proposed development and the alteration of the habitat on the project site, wildlife movements into and out of the project site are likely to be reduced, as the site will offer fewer opportunities for food and cover.

After the project development is completed, the composition of the wildlife population on the project site will adjust to the final site conditions. Species better able to adapt to generally open and landscaped environments (such as raccoons, opossum, woodchucks, mice and certain songbirds) will have a greater ability to populate the site in comparison to species that are less tolerant of human activity.

Of the nine productive vernal pools identified on the project site, all Tier I pools will have 100% of the vernal pool envelope (VPE)<sup>6</sup> undisturbed and in the existing condition and at least 50% of the critical terrestrial habitat (CTH) undisturbed and preserved within dedicated open space. All Tier II pools will have 100% undisturbed VPE and at least 33% of the CTH undisturbed. These numbers do not include additional undisturbed CTH land that will exist in the rear yards of house lots on account of the Applicant's limitations on lot development. The vernal pool depression of all nine will remain intact. Impacts to vernal pool breeding amphibians will result from construction within the upland areas near the vernal pool. The reduction in vernal pool amphibians resulting from a loss of critical terrestrial habitat is not expected to be significant at a regional scale since none of the vernal pool dependent species observed on the project site are identified as species of special concern or species of greatest conservation need.

The proposed plan includes preservation of an expanse of the central wetland and buffers surrounding it in contiguous, undisturbed forest cover (comprising approximately 233 acres not counting additional forest left undisturbed on adjoining house lots) that would continue to provide breeding habitat for many forest interior bird species.

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<sup>6</sup> 100-foot vernal pool envelope ("VPE") and the 750-foot critical terrestrial habitat ("CTH") suggested by Klemens for protection of vernal pool species.

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The project's potential effect on other species is as follows:

- *Bog turtle (Glyptemys muhlenbergii)*: The project site does not contain the habitat needed to support a population of bog turtles, therefore impacts to this species are not anticipated as a result of the proposed action.
- *Wood Turtle (Clemmys insculpta)*: Approximately 99 percent of typical wood turtle habitat provided by NYSDEC wetland HA-40 will be preserved in its entirety and will continue to provide habitat for the species if a population is, in fact, present on the project site.
- *Timber Rattlesnake (Crotalus horridus)*: The absence of timber rattlesnakes on or within close proximity to the project site significantly reduces the potential for impacts to this species. While populations of timber rattlesnakes occur within several miles of the project site, the proposed action is not expected to impact these populations in any way.
- *Eastern Hognose Snake (Heterodon platirhinos)*: Significant adverse impacts to this species are not anticipated by development of the proposed action. Since the proposed development will preserve wooded and wetland habitats, the property could continue to maintain a population of hognose snakes.
- *Bald Eagle (Haliaeetus leucocephalus)*: This species is known to nest within close proximity to the project site at two nesting sites located on St. Joseph's Lake. Development on the western portion of the project will be approximately 4,000 feet from the shoreline of St. Joseph's Lake. The forested hillside between St. Joseph's Lake and the project site will likely provide a dense visual buffer between the St. Joseph's Lake eagle's nest(s) and development on the project site. Since there are no known nest trees on the site and only inconsistent use of Lost Lake for hunting, significant impacts to the species are not expected. However, the project Applicant proposes to incorporate a management strategy following the United States Fish and Wildlife Services (USFWS) guidelines, specific for foraging areas. The Applicant's proposal includes the following mitigation measures: 1) Where rock removal is necessary within ½ mile of an active nest, no blasting or rock hammering will be conducted during the breeding and nesting period, which is generally between February and July. 2) Potentially disruptive (noisy) activities associated with construction in the northwestern portion of the site will be limited to short periods of time (21 day duration or less) during February through July. 3) No blasting or preparatory rock work for blasting will be conducted in the northwestern portion of the site in the months of February through July. 4) No blasting will be allowed on any lot for individual house construction in the northwestern portion of the site. Further measures include: the

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proposed development will not introduce aircraft to the area, the extent of water dependent facilities will be limited to the beach/marina area and activities will be passive boating, fishing and a limited area of swimming, there will be no use of combustion engine motor boats allowed on the lake, and all healthy, non-hazardous trees within 100 feet of Lost Lake will be preserved (except for the beach and boat mooring area). Should a pair of bald eagles build a nest on the project site prior to the start of construction, the Applicant will work with the NYSDEC to develop an acceptable plan that will limit impacts to this protected species, specific for nesting areas.

- *Pied-billed Grebe (Podilymbus podiceps)*: While this species was not directly identified as using the project site, a single individual of this species, likely in migration, was observed on Crane Pond south of the project site. While the open water resource of Lost Lake could provide migratory stopover habitat, the proposed action will not eliminate the resource.
- *Northern Goshawk (Accipiter gentilis)*: The disturbance of approximately 600 acres of upland forest will impact hunting and nesting opportunities currently provided to northern goshawk. The removal of trees associated with the limit of disturbance will remove potential nesting trees for goshawk, though the species was not identified as a species utilizing the site for breeding purposes. The disturbance associated with the project will also impact prey species (e.g. ruffed grouse) of the goshawk.
- *Red-shouldered Hawk (Buteo lineatus)*: Impacts to red-shouldered hawk are anticipated to be minimal. Observations of this species typically occurred near the vast stretch of NYSDEC Wetland HA-40. Wetland HA-40 will be preserved as open space and will not be disturbed at any point. The preservation of this wetland corridor and its 100 foot buffer area, along with tracts of connected forested open space throughout the property, will continue to meet the habitat requirements for this species.
- *Red-headed Woodpecker (Melanerpes erythrocephalus)*: The red-headed woodpeckers observed on the project site were likely migrants due to their presence only during an April 2009 amphibian survey. Nevertheless, the species could reside on the property within any of the wooded swamps, in particular NYSDEC wetlands HA-40 and HA-39 near the locations of the observations. Approximately 99 percent of NYSDEC wetland HA-40 will remain undisturbed after completion of the proposed action and NYSDEC wetland HA-39 will be preserved in its entirety, and thus these wetlands will remain as potential habitat for red-headed woodpecker. The addition of a 200 acre golf course to the project site will provide an increase in suitable breeding habitat for the species and thus, could increase the species population.



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- *Sharp-shinned Hawk (Accipiter striatus)*: The removal of approximately 600 acres of upland forest will impact hunting and potential nesting opportunities for the sharp-shinned hawk. This species was not observed regularly during surveys of the project site and is not believed to nest on the site. While the elimination of upland forest will reduce habitat for sharp-shinned hawk, impacts are not anticipated to be significant due to the preservation of half of the project site as open space that will still present hunting and nesting opportunities to the species.
- *Cooper's Hawk (Accipiter cooperii)*: Cooper's hawk habitat requirements are nearly identical to those of the sharp-shinned hawk. The removal of upland forest will impact potential nesting and hunting habitat for Cooper's hawk. The preservation of half of the project site as open space will continue to provide habitat suitable for Cooper's hawk.
- *Osprey (Pandion haliaetus)*: Foraging habitat provided by NYSDEC Freshwater Wetland HA-40 will be preserved nearly in its entirety, and the open water of Lost Lake will remain after construction of the proposed action. The preservation of these two areas will continue to allow osprey to utilize the property.

It is anticipated that the above findings will be verified during the environmental permitting process with the NYSDEC and ACOE, or mitigation will otherwise be required.

Sedimentation from soil erosion during construction and development can create potential indirect impacts to aquatic species downstream in the Bush Kill and Neversink River. Soil erosion and sedimentation controls throughout the site will be installed prior to other construction activities according to the current NYSDEC standards for erosion and sediment control plans<sup>7</sup>.

The creation of stormwater basins, graded and planted in a manner that is consistent with the open marsh portions of the existing wetlands, also contributes to mitigating the potential impacts on the entire wetland corridor. The stormwater basins will be planted with native herbaceous wetland vegetation, and provide wetland habitat as well as control of stormwater quality and quantity. While no direct credit is taken for these basins as wetland creation areas, they will in fact perform several wetland functions and result in a net increase of wetland function and benefits on the site following construction.

The addition of a 200-acre golf course will introduce open habitat that is not found on the project site and therefore will attract wildlife species that do not currently inhabit

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<sup>7</sup>NYSDEC. 2005. New York Standards and Specifications for Erosion and Sediment Control - April 2005.

<sup>1</sup> <http://www.dec.state.ny.us/website/dow/toolbox/escstandards/>

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the existing site. Songbirds that reside in open habitat, such as bluebird and eastern meadowlark, will colonize the golf course area after its completion. Nesting boxes will be placed in appropriate perimeter areas of the golf course to provide a safe nesting area for these species. Larger nesting boxes for the open habitat-dwelling American kestrel, a species of falcon showing a steady population decline, will be placed as well.

In addition to the placement of nesting boxes within the golf course, nest boxes for larger species will be placed within tracts of preserved forest and within wetlands. Wood ducks are known to successfully utilize nesting boxes in wooded wetland habitats and some species of owls take advantage of nesting boxes within upland forests. The placement of these nesting boxes will be determined in the field by a qualified biologist after localized construction is completed, and subject to site plan approval by the Planning Board.

In the long term, the composition of the wildlife populations will be altered in areas immediately adjacent to the development, as species able to adapt to a more suburbanized environment (such as raccoons, opossum, woodchucks, mice, songbirds, etc.) will have a greater ecological advantage over species that are less tolerant of human activity. Edge habitats created by encroachment of the development footprint on forested areas could favor such species, but are not expected to substantially increase local populations of "pest" wildlife as these species (raccoons, skunks, opossum, and geese) will be managed, if necessary, by a licensed pest control specialist upon the addition of the proposed residential development.

The Lost Lake Resort quarterly newsletter will provide residents with instructions on how to avert the behaviors of nuisance wildlife (bear, coyotes, raccoons, etc.). This newsletter will also contain seasonal reminders on the proper care of pets during active months for bears and coyotes, as well as the proper care of garbage receptacles and back yard grills. Reminders in the newsletter may include:

- Garbage containers should not be placed curbside longer than one day before a scheduled pick-up;
- Composting should be done in a secured compost system;
- Residents wishing to have bird feeders will be encouraged to do so outside of the summer months to reduce bear attraction to feeders and coyote attraction to the birds and small mammals that utilize the feeders;
- Residents will be encouraged to bring feeders inside overnight and during periods of time when they will be away from home;
- Feeding of household pets outside the home will be discouraged;
- Pets should not be left outside while residents are away from home.

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A provision in the Covenants and Restrictions for Lost Lake Resort stipulates, "Each lot shall have proper trash receptacles with lids or covers. All trash receptacles shall be kept inside or shall be kept in outdoor areas screened from view from roads, recreational facilities and common areas, and shall be of such construction so as to prevent intrusion by animals." The resort will also require that solid waste storage at resort facilities be in enclosed containers or fenced enclosures and the resort will also require regular weekly garbage pickups by a private carter.

The landscaping plan developed for each phase will utilize native or adaptive vegetation in areas where practical. The landscaping plan will include species that are less attractive to deer.

The limits of disturbance will be established in the field with visible markers, including on every house lot, prior to clearing. No trees beyond these limits will be disturbed. These limits will be delineated by fencing or similar methods prior to commencing clearing or grading activities.

### *6.5 Water Resources*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon water resources for the following reasons:

The project will require wastewater discharge permits from both the NYSDEC and the DRBC.

#### **6.5.1 Wastewater Treatment**

The projected average daily flow (ADF) of wastewater for the proposed Lost Lake development is 870,335 gallons per day (gpd) or 604 gallons per minute (gpm). The peak daily flow (PDF) at full build out is projected to be 2,611,005 gpd or 1,813 gpm, using a peaking factor of 3.0.

The proposed sewage treatment system will use a low pressure collection system to direct the wastewater to the treatment facility. Each residence will have a grinder pump. Additionally, three pump stations will be required to move the wastewater to the treatment facility in areas of lower elevation to higher elevation. The locations of the pump stations are shown on the Plan sheets. The entire system will be designed to meet the requirements of NYSDEC.

The proposed WWTP is to be located approximately 3,000 feet south of St. Joseph's Road and approximately 50 feet from the eastern most property boundary. The effluent

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from this treatment facility will discharge into the Bush Kill, which is located south of the proposed treatment plant. The system will be designed and operated to produce minimal odor and noise impacts.

The sewage will be treated by an activated sludge treatment facility. The facility will be a package unit that can be expanded upon as the phases of the Lost Lake development progress. Phase 1 is anticipated to produce a wastewater flow of 128,545 gpd (89 gpm). A NYSDEC State Pollutant Discharge Elimination System (SPDES) Permit will be obtained prior to construction of this facility. The Applicant will request the SPDES permit provide effluent limits for three different flow rates (100,000 gpd, 250,000 gpd, and 550,000 gpd) to account for the increasing amounts of wastewater that will be produced as the construction of the development progresses.

A NY State transportation corporation will have ownership and be responsible for the operation and maintenance of the collection system and the treatment plant proposed for the development. This entity will be responsible to comply with all applicable water quality standards and the effluent limits set forth by the NYSDEC in the SPDES Permit.

The applications to the Planning Board for subdivision and site plan approval must include a statement that the Applicant has also made application for wastewater discharge permits from NYSDEC and DRBC. Copies of such applications will be provided to the Planning Board as part of each phase of application.

### **6.5.2 Post-Development Stormwater Conditions**

Potential impacts to the on- and off-site surface water resources that might be expected to result from the proposed action include sedimentation during construction, post development increases in pollutant loading in stormwater, post development flooding from increased peak rates of stormwater discharge, and bed and bank erosion in receiving watercourses resulting from increased stormwater discharge velocities. A full Stormwater Pollution Prevention Plan (SWPPP), including water discharge quality and quantity control components, will be required for the project. Conformance with conditions of the NYS State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges for Construction Activities (GP-0-10-002) must be demonstrated. In addition, it is understood that authorization for coverage under the SPDES General Permit will not be granted by NYSDEC until their approval of the SWPPP and issuance of any necessary NYSDEC permits.

### **6.5.3 Project Groundwater Demand**

The water demand proposed for the Lost Lake Resort development has been calculated by the project engineer based upon common engineering and planning estimates of 330

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gpd per connection or residential unit. In addition to the residential connections, the water demand estimate included: the club house, sales office, restaurant, cabins, spa, conference center and other recreational facilities. The average daily demand has been calculated as 897,055 gallons per day (gpd) or 623 gallons per minute (gpm) for all seven phases, or full project build-out. The maximum daily demand or two times the average daily demand, is 1,794,110 gpd or 1,246 gpm. The average daily demand for Phase 1 has been calculated to be 132,545 gpd (92 gpm) and the maximum daily demand (or twice the average daily demand) was calculated as 265,090 gpd (184 gpm).

### 6.5.4 Recharge Analysis

A recharge analysis was completed to estimate the amount of water available for recharge from the Lost Lake Resort property, only. This analysis provides a conservative estimate of available groundwater within the site boundaries. The actual area contributing groundwater to the on-site wells will be larger due to bedrock fractures extending beyond the property boundaries. Using a fairly conservative recharge rate of 25 percent (the percentage of precipitation available to recharge groundwater) results in about 1,917,256 gpd available from the site alone or 1,331 gpm. This recharge rate exceeds the full build-out estimated project maximum daily demand of 1,794,110 gpd or 1,246 gpm leaving the post-construction recharge amount to be 123,146 gpd or 86 gpm. Based on this theoretical analysis, the available groundwater resources appear to be adequate for existing on-site water demand, as shown by this recharge analysis.

Under drought conditions, sufficient groundwater will be available for the project, as well as for existing development. The Town of Forestburgh and Sullivan County do not have specific aquifer testing requirements that relate to drought conditions. While it does not have regulatory jurisdiction over this project, the Susquehanna River Basin Commission (SRBC) is referenced in the DEIS which required an analysis of recharge accounting for 1-in-10 year annual drought conditions or "...60 percent of the average annual recharge rate (which approximates a 1-in-10 year annual drought)"<sup>8</sup>. A 40 percent reduction in annual recharge will result in 1,661,929 gallons per day available in the contributing drainage area to the project site. This amount is equivalent to 1,154 gallons per minute (GPM). Therefore, the drought condition watershed area recharge rate exceeds the average project water demand of 623 gpm.

### 6.5.5 Water Supply Wells

A total of seven wells drilled on the property were designated as future water supply wells, including: Wells FFF, JJJ, HH TW-3a, TW-5 TW-6, and O. Each of the supply

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<sup>8</sup> Aquifer Testing Guidance, Susquehanna River Basin Commission, Policy No. 2007-1, December, 2007

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wells are constructed in bedrock and the majority tap groundwater from a deep set of fractures 400 to 800 feet in depth. Groundwater from Well TW-3a is primarily provided by more shallow fractures less than 100 feet in depth. Static water levels in certain deep wells and hydrogeologic testing suggest a confined (artesian) aquifer condition, in those wells.

### 6.5.6 Pumping Test Results

The proposed seven water supply wells for the project were tested by the Applicant's consultants over several periods in 2009 and 2010. Wells FFF, JJJ HH and TW-3a were tested for the NYSDEC recommended 72 hours. Wells TW-5 TW-6 and O were tested for a minimum of 48 hours. A stabilized rate of drawdown was stated to be demonstrated in all of the wells tested. The results of testing were summarized in the DEIS (*Lost Lake Water Supply Report, April 21, 2010*) and in the FEIS (*Lost Lake Resort - Addendum to Hydrogeologic Report, November 2010*). Based upon the testing, the estimated maximum safe pumping rate for all wells pumping simultaneously is 1,202 gpm or 1.731 MGD.

A request to reduce the anticipated full build-out water demand was submitted to the NYSDOH. The NYSDOH replied in a letter dated January 21, 2001 with the following conclusions:

- (a) The project would need to demonstrate adequate water supply for the full project build-out using an estimated demand of 330 gpd for each residential unit,
- (b) A maximum day factor of 1.8 may be used instead of the typical 2.0,
- (c) The project must meet the requirements of the "largest well out of service",
- (d) The NYSDOH will consider a phased approach for plan approval and actual project construction. This will "involve periodic reviews to ensure that adequate water supply will be available as per NYS codes and standards as overall project build-out progresses.

As indicated above, the maximum sustained well yield for the project has been demonstrated at 1,202 gpm or 1.731 MGD. This proven well yield will meet the total project average daily demand of 623 gpm (0.897 MGD), and the maximum daily demand of 1,121 gpm (1.615 MGD), which is based upon a NYSDOH agreed upon factor of 1.8. The existing well network with the best well out of service (Well TW-5 at 365 gpm) provides 837 gpm (1.205 MGD). This projected well volume, does not meet the NYSDOH requirement of maximum daily demand (1.8 times the average daily demand) with the "best well out of service". It should be noted that the estimated average and maximum day water demands are conservative estimates for the entire project, which is not anticipated to be fully constructed for decades, if at all. Given the NYSDOH agreement to review and approve the project in phases, the project will be

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required to demonstrate adequate water supply for each subsequent phase of project development.

### 6.5.7 Water Quality

Four of the seven proposed wells were tested for NYSDOH Part 5 Water Quality parameters. Two wells were sampled for Microparticulate Analysis (MPA) which can provide an indication of the connection of groundwater sources to surface water resources or wetlands. The analytical results indicate the water is of good quality, and no exceedances of NYSDOH drinking water standards were reported. The MPA analysis was also negative, indicating that there is likely no connection between surface water and wetland resources and the underlying aquifer providing water supply. Given the water quality results, the water supply should require no treatment beyond disinfection, subject to NYSDEC, NYSDOH, and DRBC concurrence.

### 6.5.8 Off-site Impacts

Based upon the results of the multiple pumping tests, it is believed that the future operation of the Lost Lake Resort water supply system will not have a significant impact upon any off-site wells. It is estimated that the maximum impact to the nearest off-site well is approximately 8 feet of interference drawdown, which represents an approximate 10 percent reduction in available water column. This impact is not expected to reduce the use of this specific off-site well, other local wells or groundwater available at those locations. However, the Applicant will monitor identified off-site wells after the resort wells are in normal operation, if authorized by the private well owner(s). Any impact recorded in the off-site private wells resulting from this project will be mitigated by the Applicant. The results of such off-site monitoring will be reported to the Planning Board in applications for the 2<sup>nd</sup> through 7<sup>th</sup> phase of site plan approvals.

### 6.5.9 Irrigation

The Applicant proposes using Lost Lake surface water for irrigation water, providing that the Lost Lake surface is at least 0.05 foot above the spillway surface (i.e., 0.6-inch), and subject to NYSDEC and DRBC concurrence. At this height there would still be a discharge from the lake, and the water storage above the spillway height would be in the range of 0.8 MG. This trigger level would be determined from a gage accurate to  $\pm 0.01$  foot installed at the spillway that is monitored and recorded on a daily basis by the golf course superintendent. By implementing this simple procedure there would be no need for any further monitoring or mitigation measures at Lost Lake due to

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declining lake level. The results of this surface water monitoring will be reported to the Planning Board in applications for the 2<sup>nd</sup> through 7<sup>th</sup> phase of site plan approvals.

For those periods when the lake surface is less than 0.05 foot above the spillway, the irrigation system will use groundwater from the supply wells until such time in the future as there is sufficient treated wastewater to use as an alternate source. The maximum irrigation rate is estimated at 0.180 MGD and would occur during July. This equates to a water source of 125 gpm, and would be available as excess daily groundwater production capacity from the potable water system. At such time as there is sufficient volume, use of the treated wastewater for irrigation will reduce or eliminate the need to utilize Lost Lake or groundwater as a source of water for irrigation. Sufficient treated wastewater volume will be available to replace the irrigation demand on surface water or groundwater sometime after Phase 3 of the project is developed and at least 150 houses are occupied.

During an extreme drought condition, further mitigation to reduce water use will include implementing a drought condition irrigation plan that may include reducing the normal irrigation volume (e.g., to 70% of the average volume applied) and reducing the acreage that is irrigated. In an extreme condition, the turf grass may be permitted to go dormant. Sufficient surface water is available to provide for golf course irrigation with minimal potential affect upon Lost Lake, its associated wetland fringe and downstream tributaries.

### **6.5.10 Geothermal Systems**

A geothermal system or geothermal heat pump is defined as a central heating and/or cooling system that pumps heat to or from the ground, depending on the need and the season. This system uses a heat pump to transfer the heat from either the ground into the structure to be heated or to take the heat from the structure and pump it into the ground. The proposed geothermal system for the Lost Lake Resort property is associated with heating the pool. This system will use a closed loop geothermal system so that no pollutants are introduced into the aquifer. In general, geothermal systems make use of more shallow groundwater. This closed loop geothermal system is not expected to have any impact to local aquifers or drinking water supplies.

### **6.5.11 Mitigation Measures**

Turf, including home lawns, roadsides, and the golf course, is often the most intensively managed land use in the urban landscape. Substantial inputs of fertilizers and water to maintain turf systems have led to a perception that turf systems are a major contributor to non-point source water pollution. Lost Lake Resort has formulated a Preliminary Water Quality Management Plan (Appendix L of DEIS) to address this issue. This plan



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describes a monitoring plan comparing pre to post development to assist in the management of the Golf Course, Lost Lake Recreational Areas, Commercial Zone and the Residential Areas to ensure that no downstream adverse impacts are caused by the development.

Tree removal will be the minimum feasible to construct the required infrastructure and clear the lots for buildings, driveways, roadways and stormwater facilities. Forest buffers of 100 feet will be placed around all regulated wetlands and streams on the site creating an extensive riparian buffer that will remain in perpetuity. This will allow the ecological systems that currently exist to continue to function as they currently do providing woody debris and cover for macro invertebrates, fish and other residing organisms and maintain water temperatures. Natural landscaping mimicking the existing vegetation community types on the site and the local area will be incorporated into replanting plans for the site.

On individual house lots, treatment of the area disturbed by construction but outside of the immediate area of typical homeowner activities (called the "Transition Zone" in the Lost Lake Resort Design Guidelines) will be restored to a naturalized state, thereby limiting the creation of lawn. The Design Guidelines stipulate goals for limiting the area of disturbance on house lots, acceptable treatments for the immediate landscape around the house and the transition zone, and preservation of the undisturbed forested areas. Therefore, by minimizing managed lawn areas the likelihood of pollutants entering the Bush Kill will be reduced. Providing a natural forest setting surrounding the homes and roadways will decrease the pollutant loading on the Bush Kill in the same manner as a natural forest: evapotranspiration, interception of rainfall, sequestering of nutrients, etc.

Turfgrass surfaces, such as a golf course, provide enhanced groundwater recharge, decreased runoff, and enhanced biodegradation of synthetic organic compounds. This conclusion is qualified by the assumption that chemical use is performed by well qualified course superintendents and staff. As indicated above, the Preliminary Water Quality Management Plan prepared for Lost Lake Resort will stipulate the standard operating procedures for proper use and storage of fertilizers and pesticides.

Based on the evaluation of the proposed development with special focus on the golf course and other managed landscaped areas, it is the Applicant's opinion that the project will result in no unreasonable risk to the surface and ground water quality of the area. Much of the site soils are underlain by a fragipan, which is a hydraulically restrictive soil horizon. Fertilizers and selective pesticides, applied at rates recommended by product manufacturer and at minimum rates to provide healthy turf grass, is not anticipated to impact groundwater. The permanent turf grass surface of a golf course will greatly reduce runoff except during the most intense rainfall events, and provides substantial water quality improvement benefits through the attenuation and biological degradation of many inorganic and organic compounds.

### 6.5.11.1 Preliminary Stormwater Pollution Prevention Plan

To mitigate the potential adverse impacts on water resources identified above, the Applicant has developed a preliminary SWPPP that is incorporated into the proposed action. The preliminary SWPPP has been prepared to comply with the NYSDEC State Pollution Discharge Elimination System General Permit for Stormwater Discharges GP-0-10-002 as well as any subsequent revisions to the stormwater design manual. Temporary and permanent erosion control facilities are proposed.

The project stormwater management practices will control post construction stormwater discharge to rates lower than pre-development rates during each of the storm events analyzed, and will mitigate the potential for downstream flooding.

### 6.5.11.2 Stormwater Runoff Quality

The primary stormwater management practices proposed for Lost Lake Resort were selected from the NYSDEC *Design Manual* to meet all State requirements. Open vegetated channels with check dams (dry swales) and detention ponds are the recommended practices to reduce or remove pollutants in the first flush from impervious surfaces. The practices designed by the project engineer, including on-lot stormwater management controls, sediment forebays, bio-retention areas and detention ponds, were selected from the current NYSDEC *Design Manual* to meet the WQV requirement. The stormwater collected on developed portions of the property will be conveyed to the permanent stormwater detention ponds and treated using these practices to reduce off-site discharge of post development increases in pollutants.

As further mitigation, the Applicant will engage an appropriate professional (Professional Engineer, Landscape Architect, or Certified Professional in Erosion and Sediment Control) to oversee implementation of the erosion control and stormwater management elements of the SWPPP. An individual with appropriate credentials will also be responsible for inspecting and ensuring the proper maintenance of all stormwater management practices until the project site has been stabilized.

### 6.5.11.3 Low Impact Design Mitigation Measures

Due to the character of the resort development planned by Lost Lake Resort, Inc., it is anticipated that the use of structural stormwater management practices will be limited to the greatest extent practicable. This goal will be accomplished by implementing design practices outlined in the NYSDEC publication entitled *Better Site Design* (April 2008). The DEIS outlines the following low impact design (LID) practices that can be applied during the development of the Lost Lake Resort.

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- Natural Area Conservation - This credit may be granted when undisturbed natural areas are permanently preserved on a site, thereby maintaining their natural hydrologic characteristics.
- Stream and Wetland Buffers - This credit may be granted when stormwater runoff is effectively treated by a stream or wetland buffer that is located substantially within the boundaries of the site.
- Vegetated Open Channels - This credit may be granted when site drainage is achieved using open swales instead of closed conveyance systems. Vegetated swales allow for water quality treatment while extending the time of concentration for the site, lowering peak flows. Only channels with slopes less than 4% may function as a water quality treatment practice, although the project engineer has taken no treatment credit for swales in this project in the engineering design.
- Overland Flow Filtration to Groundwater Recharge Zones - This credit may be granted when "overland flow filtration zones" are incorporated into a design to receive runoff from rooftops or other small impervious areas. Drywells, or alternatively rain gardens where soils are not conducive to infiltration, located on individual lots will serve as water quality treatments resulting in groundwater recharge.

### 6.5.11.4 Groundwater Mitigation Measures

A series of pumping tests by the Applicant has demonstrated that the existing wells drilled for the project can meet the estimated average daily water demand for the entire project, under full build-out. The projected well capacity does not meet the NYSDOH requirement of maximum daily demand (1.8 times the average daily demand) with the "best well out of service".

For purposes of SEQRA, a water supply sufficient to accommodate initial phases of the project at full build-out has been demonstrated, and potential impacts from groundwater withdrawal from the established wells on-site have been assessed. Based on the water analysis and information provided by NYSDOH, the Applicant believes it has demonstrated that sufficient water supply is available to permit the first phases of the project to be approved and built, and utilizing actual water use data for subsequent phase approvals, the project will mitigate and avoid any potential significant adverse impact resulting from the water supply.

The following mitigation measures are proposed for Lost Lake Resort:

- Water supply for the project will be permitted on a phase by phase basis after demonstrating adequate supply for full build of that phase and all prior phases using 330 gallon per day per unit for residential water demand and 1.8 peaking factor, with the best well out of service.

## LOST LAKE RESORT FINDINGS STATEMENT

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- Actual water use data from prior developed phases may be considered in subsequent phase permit approvals, subject to the review and approval of the permitting agencies.
- Additional on-site wells will be developed if determined to be needed to meet permitting requirements.
- Water supply wells proposed for use must be subjected to a 72-hour pump test demonstrating a stabilized yield for at least 6 hours, and must be subjected to Subpart 5 water quality analysis. Any added well must also be evaluated for impacts to off-site wells.
- The Applicant will monitor identified off-site wells after the resort wells are in normal operation, if authorized by the private well owner(s). Any impact to any existing off-site private well requiring a response action that is demonstrated to be a result of this project must be mitigated by the Applicant.

### *6.6 Zoning, Land Use and Public Policy*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon zoning, land use and public policy for the following reasons:

The project site is zoned Residential Recreation District (RR-1) and is currently vacant and undeveloped. Land uses in the vicinity of the project area are a mix of seasonal and year round single family uses. To the west of the project site is a private community known as Merriewold consisting of both seasonal and year round residences situated around Merriewold Lake. To the east, north, and south of the project area land use is predominately woodlands with scattered rural residences. The Saint Joseph Lake community exists approximately one-half mile northwest of the property. The Melody Lake residential community exists within one-half mile northeast of the property. To the southeast is the Neversink River Unique Area, a New York State owned and managed natural preserve comprised of 4,881 acres.

The Applicant has applied to the Town Board to rezone the property as a Planned Development District (PDD), which requires a mix of uses. A mix of allowed uses is planned that includes single- and multi-family residences, commercial uses (hospitality services with lodging, restaurant, spa/fitness center and conference facility), offices for real estate sales, utility services and property management offices, and recreational space. No waivers or variances from the PDD law are being requested for the project as proposed.

The minimum lot size proposed for single family homes at Lost Lake Resort is approximately 7,000 square feet. The following table outlines bulk and yard characteristics for the house lots set forth in the proposed master plan or in the Design

## LOST LAKE RESORT FINDINGS STATEMENT

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Guidelines for Single-Family Homes that will be implemented by the Lost Lake Architectural Control Committee.

### Bulk and Yard Guidelines for Lost Lake Resort Single Family Homes

Minimum	
Lot area (square feet)	7,000
Front yard setback (feet)	30
Side yard setback (feet)	10
Rear yard setback (feet)	10
Maximum	
Building height (feet)	35
Dwelling units on a lot	1

Provision of off-street parking will conform to Town requirements and all parking will be well within the maximum distance (500-feet from the use) set forth in the Code.

The project will result in a change in use of the site from vacant, wooded land to a recreational / residential resort community with substantial remaining open space.

The proposed action conforms to relevant policies contained in the Town of Forestburgh and Sullivan County comprehensive plans. The proposed action will result in a variety of residential housing styles as well as recreational amenities in a setting that will be compatible with the rural character of the Town. The proposed architecture will be compatible in style, scale, and detail with the surrounding development and the natural landscape. The proposed action will result in a development that will increase both the residential and recreational opportunities in the Town of Forestburgh.

The Lost Lake Resort project has been designed to become an integral part of the local development and preservation pattern to provide a mix of recreational and residential opportunities in a natural, wooded environment without significant adverse effects on the surrounding area. As no significant impacts to public policies have been identified that will result from the project development as proposed, no further mitigation measures are proposed.

### *6.7 Historic and Archaeological Resources*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon historic and archaeological resources for the following reasons:

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A Phase 1A Literature Review and Sensitivity Analysis and Phase 1B Archaeological Field Reconnaissance Field Survey were conducted for the entire project site during the summer and fall 2010. The Lost Lake site was excavated in three phases: a Phase 1B testing survey, an add-on to the initial Phase 1B testing, and a Phase 2 level excavation of a small midden site identified in the Phase 1B survey. Surveys were performed in accordance with the requirements of the State Environmental Quality Review Act (SEQRA) 6NYCRR, part 617 of the New York State Environmental Conservation, as well as relevant federal standards (36 CFR 61). The work completed also conforms to the State Historic Preservation Office requirements (in effect as of May 30, 2005), which conform to those laid out in Section 106 of the National Historic Preservation Act and Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, and the New York State Archaeological Council's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (The New York Archaeological Council 1994). The cultural resource surveys are included as Appendix G of the FEIS.

The field results of the Phase 1B testing within the initial APE and the add-on to the Phase 1B APE are one hundred percent negative for prehistoric cultural material despite the fact that almost seven thousand (7,000) shovel tests were excavated within the APE. None of these shovel tests yielded prehistoric cultural material of any kind.

A small midden containing historic artifacts dating to the 19th century was identified in the central section of the project area north of St. Joseph's Road. The assemblage dates, based on the ceramics and pipe bowls recovered, to the mid-19th century. A Phase 2 investigation of the midden site was conducted to identify whether the resource is eligible for listing on the National Register of Historic Places. The artifact assemblage for the site suggests that a structure was present and that the occupation of the site dated from the 1840s until sometime around 1870. It is suggested that the structure on the site was an ephemeral building as it was not included on the historic maps of the area. Based on the results of the survey, the project archaeologist does not consider the Lost Lake Historic Site to be National Register Eligible (NRE). This determination is subject to OPHRP concurrence.

Based on the lack of significant cultural material recovery from the project site, it is the professional opinion of the Applicant's archaeologist that no further investigation of historical and archaeological resources at the Lost Lake site is warranted. The Phase 1A, 1B and Phase 2 surveys have been submitted to NYS OPRHP for review. The Applicant acknowledges that State permits cannot be granted, no final site plan approval can be granted by the Planning Board, nor can any project site construction commence until OPRHP has issued its determination of No Impact on cultural resources (or no adverse impact after mitigation through the successful implementation of an OPRHP approved recovery plan), thereby ensuring that there are no adverse impacts to any historic or archaeological resources.

### *6.8 Transportation*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon transportation for the following reasons:

A traffic impact study was conducted to assess the project's effect on the transportation network. The following intersections were investigated:

- St Joseph's Road (CR 108), and Cold Spring Road (CR 102)
- Cold Spring Road (CR 102) and Rose Valley Road
- Cold Spring Road (CR 102) and Waverly Avenue (Thompson)
- Rose Valley Road and East Broadway (CR 42), Monticello
- St. John Street (CR 102), Bank Street, and Broadway (NYS Route 42), Monticello
- Forestburgh Road (NYS Rt. 42), W. Broadway, and Broadway (NYS Rt. 42), Monticello
- St Joseph's Road (CR 108), and Forestburgh Road (NYS Route 42)

Existing traffic conditions were evaluated during the Summer 2009. To evaluate the impact of the development, traffic projections were prepared for the interim year (2016) and planned build-out year (2021). The Proposed Action is projected to generate 325 external trips during the summer Friday p.m. peak hour, and 454 trips during the summer Sunday p.m. peak hour for Phases I through III. The remainder of the site development will generate 462 external trips during the summer Friday p.m. peak hour, and 622 trips during the summer Sunday p.m. peak hour.

With the development, there will be decreases in levels of service at a number of intersections (Future Build Condition) when compared to the future No Build Condition. The minor movements of Waverly Avenue and Rose Valley Road show declines in level of service in both the Interim Build and Full Build Conditions, although remain no worse than level of service D. Other unsignalized intersections remain at levels of service A and B. At the signalized intersection of NYS Route 42, St. John Street, and Bank Street in the Build condition, level of service for NYS Route 42 west is projected to decline to D on the Summer Friday peak hour and C in the Summer Sunday peak hour as a result of additional left turning vehicles.

The at-grade crossing of St. Joseph's Road, emergency access, and the main entrance will require the review and approval of the Sullivan County Department of Public Works (DPW). The 1<sup>st</sup> and 7<sup>th</sup> phase applications to the Planning Board for subdivision and site plan approval must include a statement that the Applicant has also made application for permits from the DPW. A copy of these applications will be provided to

## LOST LAKE RESORT FINDINGS STATEMENT

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the Planning Board as part of the 1<sup>st</sup> and 7<sup>th</sup> phases of subdivision and site plan approval.

### **6.8.1 Site Access**

The primary access will be completed in Phase 1 to serve as the main access for all phases. The main entrance road is proposed as two (2) lanes. The full build Master Plan shows four (4) emergency access points proposed onto St. Joseph's Road from the internal roadway network. These are not intended for general vehicular use but will be designed to allow emergency access to or from the property. Two of the emergency access drives are to the portion of the site north of St. Joseph's Road and two to the south. The proposed tunnel will be constructed during Phase 7.

In addition to the emergency accesses to the public road at St. Joseph's Road, most of the internal circulation system is designed with more than one route to any particular location in the resort that will allow emergency vehicles to navigate around a blockage within the development.

### **6.8.2 Internal Traffic Circulation**

Most internal traffic circulation will be focused toward the amenity area where the hotel, golf, spa, tennis, beach and other activities will be located. The proposed road system is laid out with two primary loops. Smaller loops and short cul-de-sacs branch off of the main loops in a design that is intentionally circuitous to create opportunities to view the natural features on the property and preserve the leisure resort atmosphere. The interior road system within the gated community will allow ease of access to the golf course, spa and fitness center, and other activities without having to leave the site. Intersections will be stop sign controlled with posted speed limits of 20 mph.

### **6.8.3 Pedestrian Circulation**

No sidewalks are proposed along the roadways. Informal pedestrian circulation will be facilitated on multipurpose trails that are proposed to meander in the interior of the development. The trails will provide access for passive recreation from adjoining house lots and road crossings through the perimeter of some of the open space areas including the central wetland and parallel to St. Joseph's Road along most of the frontage. In the golf course, cart paths will provide circulation for golfers.



### 6.8.4 Special Events

Special events at the resort will consist of weddings held at the clubhouse or conference center, golf tournaments and conferences at the conference center. Anticipated frequency is up to six of each type of event per year and involving up to 80 people. These activities will be expected to occur between April and October, the weddings and conferences being either daytime or night events. Such activities will be coordinated through the hospitality office to avoid simultaneous events. Parking has been centralized in the amenity area to avoid vehicles driving throughout the residential areas and will allow cross use of parking facilities during special events. No major spectator events are anticipated at Lost Lake Resort.

### 6.8.5 Facility Maintenance Operations

A centralized maintenance building will be located on site to facilitate golf course operations and landscape maintenance. Road and utility maintenance, garbage removal, and large scale maintenance work will be contracted out.

### 6.8.6 Access to Parks on the Site

Access to all facilities within Lost Lake Resort will require passing through the main entrance gate. Bush Kill Park West is proposed as a semipublic park area adjacent to the Bush Kill in the Phase 4 area to provide resident and visitor access to passive recreation areas on and near the Bush Kill. A small parking area is proposed at this park. In addition, multiuse trails will be developed around the resort. There will be no restriction on use of these facilities by any resort resident or visitor. Bush Kill Park East is proposed as a public, passive recreation area located on the east side of the Bush Kill. This area will be adjacent to existing New York State owned land, affording connectivity to the Neversink River Unique Area, and could be accessible from Cold Spring Road via a trail over the State land.

### 6.8.7 Sight Distances

Based on an on-site survey, the available sight distances at the proposed project main entrance are approximately 569 feet looking north and 775 feet looking south. These distances meet AASHTO stopping distance requirements for the posted speed along Cold Spring Road. The project design does not preclude the provision of adequate area to allow future road widening along the project frontage, if determined by the County to be needed. The DEIS recommends lowering of the speed limit on Cold Spring Road between Rose Valley Road and the site access to reduce the speed differential between through vehicles governed by the 55 mile per hour limit and turning vehicles below 30

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miles per hour. The length and exact location of the speed zone would be established by the County.

A field reconnaissance survey was done at the three unsignalized intersections for approaches anticipated to receive the majority of site traffic. Sight lines at the existing intersections looking to the left and right from the minor street were found to meet the required stopping sight distances.

Rose Valley Road at Cold Spring Road has a sight line to the right partially blocked by vegetation. Although no additional sight distance is needed, the removal of trees closest to the road will improve safety and slightly improve the sight line.

### **6.8.8 Impact on Condition of Area Roads**

The condition of existing roads upon which site traffic will travel is generally fair. Most of the site traffic is anticipated to be non-trucks. Most of the site generated traffic will occur during the warmer months of the year, attracted to the resort for seasonal recreation and leisure activities. These characteristics of site traffic will reduce the potential for road damage during the winter freezing and thawing cycles that is difficult to repair until temperatures improve. Cold Spring Road, Rose Valley Road, and Waverly Avenue will see the highest increases in traffic volumes.

### **6.8.9 Construction Traffic**

The primary components of construction traffic are the construction vehicles arriving at the beginning of the construction period, trucks carrying materials onto the site, and daily trips of construction workers. Equipment storage areas will be identified on-site to reduce trips of construction equipment during the construction season. Project plans will be detailed to the extent that on-site earthwork will be balanced, with soil stockpile areas designated on site. The site roadways and infrastructure will be constructed in phases to reduce the intensity of construction. Truck access for initial construction activity will be possible from either Cold Spring Road at the main entrance location or St. Joseph's Road at the emergency access points, depending on the phase of construction and origin of the truck.

Throughout the construction process the NYSDOT list of posted and restricted bridges will need to be reviewed to ensure proper truck routing.

Most construction truck traffic will be routed to the main access on Cold Spring Road except for local contractors. As a result, it is expected that heavy construction truck traffic will not travel local roads to reach the site except Rose Valley Road. This should minimize road damage and limit impacts on the Town's roads resulting from

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construction vehicles. Local contractors will generally use State and County roads to move their equipment except between the contractor's yard and the site. These contractors already use local roads to move equipment between their yards and job sites.

Construction workers typically arrive and depart a construction site prior to the peak hours of traffic as will the initial construction equipment vehicles. Trucks will bring construction materials and remove the excess construction materials during the day. The grading plan will be designed to closely balance earthwork thereby avoiding movement of excess materials on- or off-site. The non-local construction traffic will primarily be routed via NYS Route 17 at exit 106 using CR 173A (East Broadway and Rose Valley Road), with local contractor traffic using NYS Route 42, Cold Spring Road, and Rose Valley Road.

### **6.8.10 Site Traffic**

Site traffic is anticipated to cause noticeable increases of traffic particularly on Cold Spring Road, Rose Valley Road, and Waverly Avenue during summer Friday and Sunday afternoons. These roads allow access from the site to the Broadway commercial center and access toward NYS Route 17. Nevertheless, levels of service should remain adequate for the studied intersections.

Cold Spring Road to the south is the shortest route toward New Jersey and thus is anticipated to see traffic increases as site residents arrive and leave on weekends. Site area traffic will be the highest at the site access itself. This location is anticipated to need turn lanes as all project traffic will be turning at this location and affecting nearby vehicle speeds on Cold Spring Road. Evaluation for this need is recommended before Phase 4.

The Existing Condition of the NYS Route 42 intersection of Forestburgh Road and West Broadway is less than desirable in the existing condition and will likely worsen with development in the NYS Route 42 Forestburgh Road area. Traffic will seek alternate routes during summer peak hours. The Lost Lake Resort access is positioned away from St. Joseph's Road thereby routing less traffic westward to Route 42 and thus is not anticipated to contribute much traffic to this intersection.

### **6.8.11 Traffic Mitigation**

When a turning movement into or out of the site reaches 150 vehicles in one hour, the need for a turning lane will be reviewed by the Applicant and presented to the Planning Board. This vehicle threshold will be reduced to 100 vehicles per hour subject to Sullivan County DPW concurrence if subsequent large developments occur in or near

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the Town that increase the through movements on Cold Spring Road past the project site. To provide for this possible future mitigation, the project design provides adequate area along the project frontage and along the main entrance road to allow future road widening for turn lanes if determined to be needed. New utilities installed along the Cold Spring Road frontage will be located to avoid the need to move them in the future in the event that turning lanes are required.

As part of the Phase 4 site plan application, the Applicant will be required to make a demonstration to the Planning Board that coordination has been done with both the County and NYSDOT to evaluate the updated traffic conditions. At a minimum, such demonstration will include specific correspondence from both the County and NYSDOT. Updated intersection traffic counts will be included for the project main entrance on Cold Springs Road and the at-grade crossing on St. Joseph's Road to evaluate traffic conditions and the need for improvements at the main entrance and at-grade crossing. If needed, the Applicant will prepare an engineering plan for transportation improvements and any needed land transfers. Transportation improvements at the main entrance may include a second exiting lane, a right turn-in lane southbound, and/or a left turn lane northbound.

As the turning volumes increase at the main entrance the County will need to consider a speed reduction in this area. This will reduce the speed differential between the majority of vehicles turning into and out of the project site and the through Cold Spring Road traffic. The Applicant will fund the required transportation improvements, subject to County approval.

Along both sides of the St. Joseph's Road right-of-way, a minimum one hundred foot buffer will be maintained to preserve existing vegetation on this rural roadway. The buffer will set the nearest property line for individual residential dwelling lots at least 100 feet from the edge of St. Joseph's Road right-of-way. No clearing or grading is allowed within this protective buffer with the exception of required utility crossing work, at-grade crossing, future road tunnel, and emergency access roads. Areas of grading will be stabilized during construction. Areas cleared or disturbed for sight lines at emergency accesses and the at-grade crossing will be appropriately revegetated.

The Applicant will make a written request to the County for posting a reduced speed limit on St. Joseph's Road. This speed limit reduction would be more consistent with the rural nature of the existing roadway (physical condition, narrow width and short horizontal and vertical curves).

The Applicant will work with the Town of Forestburgh, Town of Thompson and Sullivan County Highway Superintendents and the NYSDOT to identify desired construction truck routing for each phase. A traffic routing plan will be designed in detail and presented as part of the site plan application. In addition, the Applicant will conduct a road inspection with the Town and County Highway Superintendents during

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the site plan review of each phase to ascertain the existing condition of proposed truck routes. The Applicant will be responsible, at the direction of the highway superintendents, to rectify or pay for any road damage caused by construction, and the Town will be able to monitor the status of such repairs with its reviews before each subsequent phase is approved. The Town and County Highway Superintendents will be responsible for determining that any road repairs done by the Applicant meet their requirements. During each phase of the site plan approval process, the Applicant will summarize the prior phase of roadway impacts and corrective measures taken.

### *6.9 Fiscal & Employment Analysis*

The Town Board finds that the proposed project, if constructed and operated as presented in the Draft and Final EIS will not have a significant adverse impact upon fiscal resources or employment for the following reasons:

#### **6.9.1 Full Buildout Scenario**

While this project is expected to have a long term buildout, SEQRA requires assessment of the fully built project. Table 3.9-5 of the DEIS summarizes the annual property tax revenues projected to be generated by the project upon completion of the Full Build Scenario: Sullivan County would receive \$ 5,370,271, the Town of Forestburgh General/Highway Fund would receive \$4,837,891, of which, based upon current apportionment, \$3,193,008 would be available annually to the Forestburgh Highway Department. Lost Lake Resort would also generate \$190,135 annually to the E.B. Crawford Memorial Library; \$11,992,023 to the Monticello Central School District; and \$659,136 to the Forestburgh Fire District.

Based upon the scope of this development at full buildout, increased municipal costs will be expected to be incurred by the Town of Forestburgh to accommodate the projected population. The Per Capita Multiplier Method of estimating future municipal costs as defined by noted practitioners Robert Burchell, David Listokin and William R. Dolphin<sup>9</sup> was utilized to determine these costs. Using the estimated, current annual per capita expense of \$1,127 for general municipal services in Forestburgh as a basis for the projection, additional costs are projected to total \$3,736,005 annually at full build out. Thus, net property tax revenues of \$1,101,886 are projected to the Town of Forestburgh at full build.

The cost to the Monticello Central School District were determined using information published by the New York State Education Department (NYSED)<sup>10</sup>. The School

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<sup>9</sup>The New Guide to Fiscal Impact Analysis, Robert Burchell and David Listokin, 1986

<sup>10</sup>New York State Education Department, Property Tax Report Card, Monticello CSD (591401), 2007-2008

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District's enrollment for the 2009-2010 school year was 3,276 students, resulting in a programming cost raised through the tax levy of approximately \$9,020 per student. If all proposed residence units are built and occupied, 1,508 school age children would be generated by the development. In keeping with the Applicant's experience at Eagle Rock Resort where 57% of the homes are used as second homes, the expected school age children population would be 648 students in the full build scenario. The cost of education associated with a population of this size would be \$5,844,960 annually. At full buildout, Lost Lake Resort would generate \$11,992,023 in annual property tax revenue to the School District. Therefore, the District would see an annual net benefit of up to \$6,147,063 from full development of Lost Lake Resort.

### 6.9.2 Partial Build Scenario

Given the long term buildout anticipated for this project, a Partial Build Scenario was also presented in the DEIS, representing development of the amenities, all of the single family lots being sold, and up to 635 of the single family homes built and occupied after 10 years from the start of development. Under this Scenario, Sullivan County would receive \$2,573,947 annually, the Town of Forestburgh General and Highway Fund would receive \$2,318,780 annually, of which, based upon current apportionment, \$1,530,395 would be available to the Forestburgh Highway Department; E.B. Crawford Memorial Library would receive \$91,131 annually; Monticello Central School District would receive \$5,747,723; and the Forestburgh Fire District would receive \$315,921.

Municipal costs to the Town of Forestburgh are projected to total \$908,362 annually as a result of the Partial buildout. Thus, net property tax revenue to the Town would total \$1,410,418 annually.

With regard to school district costs, at a cost of approximately \$9,020 per student, the cost associated with a population of 159 students under the Partial Build Scenario would be \$1,434,180 annually. Based on the above-cited annual property tax revenues, the District would see an annual net benefit of approximately \$4,313,543 from Lost Lake Resort.

Based upon the anticipated tax revenue and the projected net surplus impact to the Town and School budgets, no further mitigation measures are proposed.

### 6.9.3 Employment

Construction of the Partial Build Scenario including 635 single family homes and amenities in the proposed Lost Lake Resort development is estimated to create 2,763

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construction jobs over the course of ten years<sup>11</sup>. The secondary multiplier effect, services to support the direct construction labor, raise the total number of jobs to 3,965 over the course of the 10 year build out period, or an average of almost 400 full time jobs each year during the 10 year construction period.<sup>12</sup>

The continued residential development beyond the first 635 homes is projected to add an additional 2,288 construction jobs to the local economy. Upon completion of development of the Amenity Village, more than 200 full-time jobs are anticipated to be needed for the operation of the resort amenities. This does not account for the employment opportunities to be created by ancillary development in the local area, i.e. food stores, drug store, bakery, hair salon and other services in addition to recreational rental establishments, etc., that is likely to develop to serve the resort residential population.

The creation of short term construction jobs and long term jobs, both for house construction and for sales and hospitality services provided within the resort, will provide a beneficial impact to the local economy. Based upon the availability of residential rentals, no temporary housing for construction workers is proposed on site.

### *6.10 Community Services and Utilities*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon community services for the following reasons:

#### **6.10.1 Population Projections**

At Full Build, the proposed 2,627 dwelling units could add up to 7,709 persons to the Town of Forestburgh's existing population. However, as a large proportion of residences would be seasonal, estimated up to 57 percent, the full-time population is estimated to be 3,315 persons. Of this total, 648 residents would be school age children. The Partial Build Scenario, representing 635 dwelling units, would introduce 806 full time residents of which up to 159 would be school age children.

#### **6.10.2 Police Protection**

Police protection for the Town of Forestburgh is provided by the Sullivan County Sheriff's Department and the New York State Police Department. According to Lieutenant Erik J. Dauber, Troop F Zone Assistant Commander of the New York State

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<sup>11</sup>Source: Urban Land Institute. Development Assessment Handbook. TMA 2010.

<sup>12</sup>Source: Secondary Effect Multiplier - 2004 IMPLAN (Impact Analysis for Planning)

## LOST LAKE RESORT FINDINGS STATEMENT

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Police, average response time to the project site will be 3-5 minutes. There are no perceived impacts from this project. Patrol/manpower requirements will be adjusted to compensate for any increase in calls for service/response times. In Lieutenant Dauber's letter he states "The State Police maintains patrol coverage for the entire Sullivan County area and will continue to do so at no additional cost."

For the full build scenario Sullivan County will receive and estimated \$5,370,271 annually in property tax revenues, and for the partial build out scenario \$2,573,947 is estimated. This property revenue could be used to offset any increase in police protection necessitated by the increased demand placed on police protection services by the development.

The proposed project will be a gated community with one means of public access, a controlled-access entry that will be manned 24 hours per day by Lost Lake Resort security staff. Emergency access points will be gated. Additional on-site security will be available during higher activity times. The employment of a full time security staff will reduce demands on public police protection services.

### **6.10.3 Fire Protection**

The project is located in the Forestburgh Fire District. The fire house for the Forestburgh Fire District is located at 2539 NYS Route 42, west of the project site. The District is a part of the Sullivan County Fire Mutual Aid plan. The Applicant will designate a liaison from the Resort who will make periodic reports to the Commissioners at the District meetings to provide input into the District's ongoing services planning.

The anticipated increase in population will generate a potential demand for 5.5 additional fire personnel, based on population multipliers (1.65 fire personnel per 1,000 population). The District's current personnel level of 26 fire personnel exceeds this standard by 19 fire personnel, or more than three times the standard, even after the proposed Lost Lake population increase. At full build out, the Lost Lake Resort will generate property tax revenues to the Forestburgh Fire District of approximately \$659,136 annually.

The partial build scenario would result in a population of 806 full time residents and will generate a demand for 1 additional fire personnel. It is expected that the calls for service will increase by about 110 calls per year. At the completion of the Partial Build Scenario, the Lost Lake Resort will generate property tax revenues to the Fire District of approximately \$315,921 annually. The additional revenue can be used to augment the District's capabilities as necessary.



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A concern in the future has been recruitment of a sufficient number of volunteers to meet the service needs in the future. The Applicant is proposing to offset the future increase in need for firefighter volunteers by the following mitigation measures:

- Sales marketing materials for the project will include information about volunteer opportunities in Forestburgh;
- The Resort will provide an incentive program for employees who become and remain active volunteer firefighters in the Forestburgh Fire Department - a \$1.00 per hour increased wage;
- The Resort will provide an incentive program for homeowners who become and remain active volunteer firefighters in the Forestburgh Fire Department - an annual maintenance fee discount; and
- The Resort will provide opportunities for initial and ongoing State mandated firefighter training.

The proposed internal roads are designed to accommodate fire engines and truck traffic. In addition to the primary site access located off Cold Spring Road, there are four points of emergency-only access from St. Joseph's Road, two on the north side and two in the south side of the road. The Property Owners Association (POA) will be responsible for keeping the private roads clear of vehicles and snow for purposes of ensuring adequate emergency access during all times of the year.

The proposed roads and buildings in the resort will be required to meet applicable standards of the New York State Uniform Fire Prevention and Building Code, and will also adhere to applicable regulations of Chapter 107, Fire Prevention, of the Code of the Town of Forestburgh. The approved project plans will include installation of fire hydrants for fire protection. All public, common buildings and residential buildings in the resort will be equipped with automatic sprinklers.

The proposed project will be supplied water from a proposed community water supply system which will supply adequate water pressure to the fire hydrants in the development for fire protection. The minimum system pressure in the distribution system during a fire flow event will be 20 psig. The hydrants will be designed to provide a minimum of 1,000 gpm for a two hour period. The hydrants will be installed in compliance with Ten States Standards. The water mains and fire hydrants in Lost Lake Resort will be maintained and serviced regularly in accordance with standards set forth by the Forestburgh Fire Inspector. The POA will keep a record of inspection and repairs to be made available to the Fire Inspector upon request.

The project is designed to accommodate fire apparatus, including adequate road width with a load bearing surface, adequate turning radii throughout the project, and gated access points with easy access for the Fire Department. The circulation plan is subject to approval by the local Fire Chief and will meet NFPA requirements. Project

## LOST LAKE RESORT FINDINGS STATEMENT

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representatives met with the Forestburgh Fire Commissioners and Chief Bastone on January 27, 2011, to discuss various aspects of fire service impacts, fire response, manpower and plan-related items. The Commissioners indicated that compliance with applicable requirements in the NYS Uniform Fire Prevention and Building Code is sufficient and by meeting these requirements, the project would be in compliance with applicable NFPA and ISO standards. Certifying compliance with the Uniform Code is under the purview of the Town Building Inspector, who would review the project design during Town review of the construction plans prior to approval of each phase. No significant adverse impact on fire department services has been identified that requires mitigation. The Applicant will seek approval of all security gates from the local Fire Chief.

The Fire Commissioners support the Applicant's plan to provide a 2-acre parcel of land for the purpose of a future emergency response facility. At this time the District would not seek to put a firehouse at the site. The Commissioners foresee possible future use of the emergency response facility site to accommodate an unmanned fire station for a truck and an ambulance that would provide first response to a situation in the project. Need for such a facility will be evaluated by the District in the future as Lost Lake Resort expands. The 2-acre emergency services parcel was included in all surveys done for the DEIS, including NYSDEC and ACOE wetlands jurisdictional determinations and archaeology. The parcel is buildable, with no land in wetlands or wetland buffers. There is room in that area of the site for the actual lot configuration to be adjusted for a particular building footprint if needed in the future.

### **6.10.4 Emergency Services – Ambulance and Hospital**

The introduction of 3,315 full time residents in the Town of Forestburgh will result in potential added demand for 0.5 full-time health care personnel and 0.1 vehicles in the full build scenario. The proposed project will not have a measurable impact on emergency services such as hospital care in either the Full Build scenario or the Partial Build scenario.

### **6.10.5 Schools**

The total number of school-age children to be generated by the project in a full build scenario is projected to be 648 students and under the partial build scenario 159 students. The introduction of these students into various grade levels over a period of at least 10 years will allow a gradual absorption of the increase in district enrollment associated with this project. The phased approvals and construction period of this project will provide time to allow the School District to implement measures for the introduction of new students from this and other area projects. The DEIS fiscal analyses projected that the Monticello Central School District will see an annual net benefit of up

## LOST LAKE RESORT FINDINGS STATEMENT

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to \$6,147,063 from development of the full buildout and up to \$4,313,543 from development of the partial buildout of Lost Lake Resort.

The proposed main entrance road for Lost Lake Resort has been designed to allow for easy maneuvering of buses. A safe and convenient location for a bus shelter has been provided for the pick-up and drop off students in the main entrance area.

### **6.10.6 Recreation**

On-site recreational amenities for residents and guests will include an 18-hole championship golf course and driving range, clubhouse and restaurant, swimming and boating facilities, tennis courts, and a system of wilderness trails for walking and passive recreation. The proposed golf course will be open to the public for daily fee golf play during the spring, summer and fall seasons. Bushkill Park West, an area of about 1.6 acres located along the west side of the river (but connected to the much larger open space land), will offer pedestrian access to the Bush Kill from inside the resort where visitors can picnic, fly-fish or bird watch. Bushkill Park East, an area of 1.5 acres will also offer opportunities for picnics and fishing on the east side of the river, and adjoining land owned by the State of New York. Located close to and accessible from Cold Spring Road, the project master plan designates the proposed Bushkill Park East area that is offered for dedication to the Town for a public park as part of this project application.

The Applicant will pay to the Town a fee of \$200 per lot in lieu of providing any additional recreation land or parkland due to the recreational amenities provided in the revised Master Plan. Such fee shall be paid on a lot by lot basis at the time of receiving site plan approvals for such lot.

### **6.10.11 Utilities**

There are no existing water utilities or wastewater collection or treatment facilities that service the site. The project will include development of on-site utilities and stormwater infrastructure, a community water supply, and wastewater treatment facilities to service the resort. [Impact issues and proposed mitigation are described previously in the Findings.]

The proposed project is designed with appropriate infrastructure to support the development and use of the site over a long term buildout, at no cost to the Town of Forestburgh. Permitting of the various utility facilities will occur only after sufficient design detail has been submitted and reviewed by the regulatory agencies having jurisdiction over their specific areas of concern, with issuance of each permit thereby

## LOST LAKE RESORT FINDINGS STATEMENT

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demonstrating that appropriate mitigation measures will be in place to protect the environment.

### 6.10.12 Water Supply

The project is designed to be serviced by a privately-owned community water supply that derives water from onsite wells. The water supply system will be developed in accordance with NYSDEC, NYSDOH, and DRBC requirements. All applicable permits will be applied for and obtained prior to construction of the public water supply system. Permits will include but are not limited to a Public Water Supply Permit, groundwater withdrawal permit, Department of Health permit and a water conservation form. Applications to the Planning Board for subdivision and site plan approval must include a statement that the Applicant has also made application of permits from these three (3) agencies. Copies of such applications will be provided to the Planning Board as part of each phase of application.

The Applicant proposes to install domestic water service and fire supply throughout the proposed development. The design of the water system will conform to requirements defined in the New York State Sanitary Code 10 NYCRR Subpart 5-1, design standards known as the "Ten States Standards for Water", and the National Fire Protection Association (NFPA) standards for fire protection, subject to the review and approval of the Town Engineer and Building Inspector, respectively, prior to site plan approval.

The total required water storage volume of 1,017,055 gallons is equal to total daily water demand (897,055 gallons) plus an additional volume for fire flow (120,000 gallons) based on current building program. The fire flow demand is based on 1,000 gpm from a single hydrant for a period of 2 hours. The proposed water storage volume is approximately 1,130,000 gallons. The finished water storage tank location was chosen to provide gravity feed and to avoid any visual impact from off the property. The finished water storage tank site will have perimeter fencing to prevent trespassing and vandalism. Subsurface conditions adequate to support the tank facility at this location will need to be demonstrated during the site plan approval process.

The water pressure in the distribution system will have a residual static pressure of 60-80 psi in most areas with no area less than 35 psi during normal use. A minimum pressure of 20 psi during fire flow will be provided. The water demands of each phase of the development will be observed as they come online, as will the impact on the groundwater resource, to ensure that groundwater sources are not overdrawn.

The proposed design is based on three (3) water storage tanks with a total water storage volume of approximately 1,130,000 gallons for the fully built project. One tank will initially be built in Phase 1 and the facility expanded based on need. The initial tank will be equipped with radio telemetry equipment that will be used to communicate

## LOST LAKE RESORT FINDINGS STATEMENT

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with the well sites. The second and third tank will be constructed when the average daily demand dictates the need for additional storage. At this time no booster pump stations are proposed. Chlorination is proposed to be done at the well house, and if required, at the water tank site.

Irrigation of the golf course normally will be accomplished with water taken from Lost Lake. The irrigation lines will be separate from the drinking water lines.

Since groundwater is the water source, care will be taken to determine the safe yield of each well and of the entire development. DEIS Section 3.5 includes discussion of pump tests and monitoring performed to determine the safe yield of the wells, including monitoring to assess the potential impacts to other on-site wells. An analysis that examines recharge, evapotranspiration, and watershed accounting during normal and drought conditions is also presented in Section 3.5.2.

Mitigation measures will include water conservation to reduce the amount of water consumed and turf management and integrated pest management plans.

A NY State transportation corporation will be established to own the water utilities within the proposed development. This entity will be responsible for the operation and maintenance of the proposed water distribution system, treatment and storage facilities, and will be responsible to comply with all applicable water quality standards and regulations.

### **6.10.13 Wastewater Treatment**

The project is designed to be serviced by a privately-owned onsite wastewater collection and treatment system with discharge to surface waters. The wastewater system will be developed in accordance with NYSDEC, NYSDOH, and DRBC requirements. The project will utilize low pressure grinder pump systems for the home sites. A low pressure grinder pump system consists of a grinder pump at each property, along with a common low pressure sewer main to the treatment plant. Each grinder pump is housed in a small well, providing the necessary storage volume required by regulations. The low pressure grinder pump system along with three pump stations will provide conveyance of wastewater to the treatment plant. Preliminary locations of the pump station locations are indicated on Plan Sheet 1 in DEIS Appendix K.

The proposed wastewater treatment plant will be built in phases, allowing expandability and adaptability to meet the needs of the project as it grows over time. The plant to be constructed in Phase 1 will look much like what is illustrated in Attachment C of the Proposed Water and Wastewater Systems report (DEIS Appendix K), except with a fewer number of open treatment tanks. Future expansion of the facility will entail adding treatment tanks and redundant system components inside the

## LOST LAKE RESORT FINDINGS STATEMENT

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buildings. Subsurface conditions are adequate to support the facilities at this location. The plant is to be located outside of the 100-year floodplain and at least 250 feet from any lot development on or off the project site.

The sewage system highlighted in Plan Sheet 10 of the Proposed Water and Wastewater Systems report will be installed for Phase 1 to convey sewage to the treatment facility. Sewage will be treated with an activated sludge treatment technology that will discharge to the Bush Kill. This treatment facility will be a package unit, with each portion constructed in modular form to provide additional treatment capacity as the project develops. The Phase 1 plant will be capable of treating a projected average daily flow of 128,545 GPD. The plant design takes inflow and infiltration (I&I) into consideration.

The treatment facility will be located near the confluence of two tributaries of Bush Kill stream in the southeastern portion of the site. A properly designed and operated treatment plant will produce minimal noise and odor impacts, if any at all.

The NYSDEC has set preliminary effluent limits for thermal impacts and chemical loading into the receiving waters, to protect the water quality within the Bush Kill. These preliminary design limits are as follows:

- BOD5 - daily max limits of 10 mg/L, 15 mg/L, and 30 mg/L for flows of 0.55 MGD, 0.25 MGD, and 0.1 MGD respectively.
- TSS - daily max limits of 10 mg/L, 15 mg/L, and 20 mg/L respectively.
- Ammonia - daily max limits of 2 mg/L, 3 mg/L, and 6 mg/L for the three flows respectively.
- pH - 6.5 to 8.5.
- Settleable Solids - 0.1 ml/L
- Phosphorus - 0.5 mg/L (30 day average).
- Disinfection - recommended seasonally per Class B(T) stream. Typically May 15 - October 15.
- Total Residual Chlorine - 0.01 mg/L if chlorine is used for disinfecting.
- Dissolved Oxygen -  $\geq 4$  mg/L.
- Temperature -  $\leq 70$  degrees Fahrenheit.

A transportation corporation will be formed to own the sewer utilities within the proposed development. This entity will be responsible for the operation and maintenance of the proposed sewage collection system and treatment plant. As such, the corporation will be responsible to comply with all applicable water quality standards and effluent limits. The individual grinder pump units on each lot will be the responsibility of the property owner.

### **6.10.14 Electricity, Communications, and Heating Fuel**

The common facilities and residences will be served by underground electric, telephone, and cable connections. There is no natural gas availability in the project area to service this project. Residents will contract with local energy delivery companies to supply the building heating systems. Orange and Rockland has indicated it can provide electrical service to the project. Time Warner Cable can extend cable service to accommodate the Lost Lake project.

### **6.10.15 Solid Waste Disposal**

Solid waste generation will total 5.8 tons per day at full build out. Assuming that solid waste generated by future residents at the project site has a typical three to one ratio of non-recyclable to recyclable materials, the project will generate 4.3 tons per day of non-recyclable solid wastes and 1.5 tons per day of recyclable materials upon completion. The commercial portion of the project in the Amenity Village will generate approximately 5 pounds per 1,000 square feet of commercial space per day, or a total of 535 pounds per day.

Solid waste generation will total 1.4 tons per day for the Partial Build Scenario. The total non-recyclable solid waste will be 1.1 tons per day and the total recyclable materials will be 0.3 tons per day, in addition to the 535 pounds per day for the commercial development in Amenity Village.

Dumpsters and solid waste storage areas are proposed for the hospitality residence areas (cottages and townhouses) as well as the resort buildings. Solid waste generated by the single family detached homes will be stored at individual houses and all project-generated solid waste will be collected by private contractors.

Management of solid waste disposal by established carters utilizing approved methods of disposal at the Sullivan County landfill and County recycling facility will mitigate the waste disposal needs of the proposed development without significant adverse effects. Construction waste generated during project construction will also be managed by private carters using approved methods of disposal and recycling.

### **6.11 Noise**

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon noise for the following reasons:

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Ambient noise levels were measured at five locations along the site's property line and along roadways within the site. Ambient noise monitoring was conducted on June 17, 2009, between the hours of 10:45 am and 12:45 pm. Ambient noise levels were also measured at Location 5 on January 5, 2010, for a 24-hour period. Existing noise levels at the project site were influenced primarily by surrounding land uses since the site itself is vacant. The greatest source of ambient noise detected at the site is from vehicles traveling along the major roads in the area and/or the wildlife noises.

### 6.11.1 Short-term Construction Related Impacts

Local daytime ambient noise levels will increase both on and off of the project site during construction. Noise from construction activities and equipment are an expected and sporadic consequence of any new construction project and cannot be avoided. The noisiest period of construction will occur during site clearing and grading activities although all construction activities at the site are likely to produce increased noise levels. Noise levels experienced on nearby properties will vary, depending upon the distance of the property from the noise source and the type of construction activity.

Due to the shallow depth to bedrock in some areas, it is anticipated that blasting will be required for some of the construction. Blasting will be avoided where another method of rock removal is deemed feasible. Blasting is not anticipated for individual lot construction or construction of the golf course. Where blasting is required, the developer will schedule specific dates and times in order to maintain the operations of the resort and coordinate with other construction activities. The goal will be to perform all blasting in a particular phase or subphase of the project at the same time to minimize frequency of these activities. The frequency will depend on the amount of rock to be removed, however, it is estimated that this will be limited to about once a month in any construction phase. The blasting may need to occur on two or more consecutive days, depending on the amount of rock encountered.

Typically, blasting results in very short term noise impacts. Blasting may result in short term (seconds) noise levels in the range 76 to 108 within 200 feet of the blasting site and 68 to 100 within 500 feet of the blasting site. The closest sensitive receptors, residences, are located northeast of the property. One residence is located along Cold Spring Road approximately 800 feet from the property line, which indicates that residence will be farther than 800 feet from any potential blasting site on the property. A group or neighborhood of residences is also located northeast of the property on Rose Valley Road. These residences are located more than 1,200 feet away from the property boundary and therefore they will be more than 1,200 feet from any potential blasting site. The Applicant will be required to complete pre-blast notifications to area residents within one-half mile from the proposed blast site not more than 20 days nor less than 5 days prior to a scheduled blasting. In addition, the Forestburgh Fire Department,



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Forestburgh Town Clerk, and 9-1-1 will be notified not less than 5 days prior to a scheduled blast.

According to the NYSDEC policy guidance document *Assessing and Mitigating Noise Impacts*, a doubling of the distance between the noise source and the receptor would result in a reduction of the noise level of a stationary object(s) by 6 decibels. Therefore, at a distance of 1,000 feet the noise levels from the property can reduce by approximately 26 dBAs and at a distance of 1,500 feet the noise levels from the property can reduce by approximately 29 dBAs. Given the distance between the site borders and surrounding development, tree clearing should not have any noticeable effect on noise levels for existing project neighbors.

### 6.11.2 Operational Noise

Operational noise levels will include normal vehicular traffic for the proposed residential and recreational development; truck deliveries; snow plowing and shoveling; garbage disposal activities; and customary residential noise. Existing ambient noise levels in the residential areas surrounding the project site range from 46.0 to 56.0 (dBA). The operational noise associated with the proposed development will be similar to the noise generated from the existing adjacent residential areas.

The Lost Lake Resort is a planned resort or seasonal development. It is anticipated that many of the homeowners will be occupying the property during the weekend or summer months to take advantage of the golf course and the amenities. The closest sensitive receptor is a residential community northeast of the property, located approximately 1,500 feet from the northern portion of Lost Lake. Truck deliveries are anticipated to occur during normal business hours so to not impact the residences on the property or surrounding the development. These deliveries will be mainly deliveries for supplies for the clubhouse, restaurant, and conference center.

### 6.11.3 Mobile Noise

To determine the increase in noise levels related to traffic in the Weekday (Friday Peak PM) and Sunday traffic hours for the Build Condition, noise levels at five locations surrounding the Lost Lake Resort project property were monitored.

Noise levels generated by project traffic during the Peak Friday PM period 2016 Build condition will increase by 0.91dB's for Noise locations 1- 2- 3 and 3.4, and 6.3 dB's for Noise locations 4 and 5 (the same traffic data was used for Noise Locations 1, 2, and 3 which yielded the same decibel difference) over the No Build Condition. Noise levels

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for 2016 Build conditions will increase by 3.01, 5.76, and 13.79 over No Build conditions for these same intersections.

Between the 2021 No-Build and Full Build conditions, noise levels from project-generated traffic during the Peak Friday PM period will increase by 1.49 dB's for Noise locations 1-2-3 and 5.26, and 5.94 dB's for Noise locations 4 and 5 respectively (the same traffic data was used for Noise Locations 1, 2, and 3 which yielded the same decibel difference). Noise levels between the 2021 No-Build and Build condition due will increase by 5.88, 8.55, and 16.43 as a result of project generated traffic for these same intersections.

Noise Location 5 is shown to have the greatest increase in noise levels due to the proposed single site entrance located at this location along Cold Spring Road. This increase is greatest on Sundays. The decibel increase presented above is only an approximate number. The actual future noise levels will not be as great as estimated in the above tables, based upon several factors such as actual future truck traffic and future total traffic. The Interim 2016 Build and 2021 Full Build traffic numbers were calculated by using general information provided by the NYSDOT associated with the classification of Cold Spring Road and St. Joseph's Road and may not be indicative of the actual amount of trucks on the roads in that specific area. Further noise monitoring is proposed to mitigate this potential impact - see below.

Although no significant adverse impacts are anticipated, the Applicant will be required to monitor noise at Noise Location 5. Noise monitoring will be conducted at the completion of Phase 3 to determine the actual ambient noise levels and those levels will be evaluated in the context of potential impacts to neighbors.

The Applicant will prohibit gas powered motorized boats from the Lake, i.e., only non-motorized or electric powered boats will be allowed. The Applicant will also prohibit the use of snowmobiles and all terrain vehicles (ATV's) to avoid any noise or nuisance from such recreational vehicles. These two measures will serve to reduce on-site operational noise levels.

### *6.12 Visual Resources*

The Lead Agency finds, upon due consideration of the Draft and Final EIS, that the proposed project will not have a significant adverse impact upon visual resources for the following reasons:

A visual assessment was conducted in accordance with NYSDEC guidelines. Designated scenic and aesthetic resources considered by NYSDEC guidelines to be significant potentially within the Lost Lake Resort site vicinity include: Neversink River

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Unique Area, a New York State Nature Preserve; and Mongaup Valley Wildlife Management Area, a NYS Wildlife Management Area. There are no National Register or State Register properties or locally inventoried historic resource in proximity to the project site or in the Town of Forestburgh from which the site can be viewed. Based on the visual assessment, the project site is potentially partially or fully visible from: St. Joseph's Road; Melody Lake Hamlet Area; Saint Joseph's Lake; Cold Spring Road/Neversink River Unique Area. The site is not visible from the Saint Joseph's hamlet, NYS Route 42, Merriewold Park or Hartwood Road (County Route 48).

The project site will be converted from an undeveloped wooded property with associated wetlands to a residential and recreational resort development. The master plan preserves at least 50 percent of wooded open space throughout the site. A minimum 50-foot vegetated buffer is provided along the perimeter of the entire site and a minimum 100-foot buffer along both sides of the St. Joseph's Road right-of-way.

Lighting on streets, near recreational, community and lodging facilities and related parking areas will be the minimum necessary for safety, security and reasonable enjoyment of these amenities. Street lights will be located at a few key intersections. All lighting will be properly shielded and directed to the specific areas requiring light to avoid off-site glare and stray light above the site. There will be no lighting at the driving range. Tennis court lighting will be timed to be extinguished in the late evening. The potential for off-site glare and stray light above the site will be avoided by the distance of on-site amenities from the site's boundaries and intervening topography and vegetation.

Lost Lake Resort, Inc. will require strict adherence to its Design Guidelines for construction of new single-family homes. The owner of each lot will be subject to a declaration of exceptions, reservations, covenants, restrictions and conditions for the Lost Lake Resort ("Declaration"). An Architectural Control Committee / Design Review Board will review, approve or disapprove all planned improvements on a lot to regulate conformance with the Resort design theme and architectural guidelines. The draft Declaration includes the following points:

- No further subdivision of any lot will be permitted, however, two or more adjoining lots may be consolidated for a building site.
- Landscaping and vegetative cover for soil stabilization will be required on each lot.
- Removal of any tree in excess of 3 inches in diameter within 20 feet of a front lot line or 10 feet from a rear lot line will be prohibited without the consent of the Committee.

## LOST LAKE RESORT FINDINGS STATEMENT

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- Strict guidelines regarding fencing, walls, exterior lighting, and exterior use areas are also specified. In particular, the Design Guidelines specify that "low-level, concealed source lighting shall be used when necessary at walkways and grade changes. Fixtures should not exceed 24 inches in height and may be activated by a motion sensor. No tree up lighting is allowed."

The following visual mitigation measures are included in the Design Guidelines for single-family homes:

- Building heights are limited to 35 feet;
- Exterior building materials may include wood, timber, stone and stucco;
- Roof overhangs and recessed windows are suggested to prevent glare;
- Shingles, slate, simulated slate or textured metal are permitted roofing materials with varied rooflines;
- Building colors should match the native landscape including green, brown, grey or black;
- Minimal lighting should be shielded or directed to avoid off-site visibility;
- Maximum site coverage is limited to 50 percent;
- Area of disturbance should be limited to the immediate area necessary for excavation; and
- Landscaping must limit tree removal and removal must be approved.

### 6.12.1 Changes in views from area roadways evaluated in the DEIS

Rock outcrops within 200 feet of the edge of the St. Joseph's Road right-of-way will not be disturbed during the construction of the proposed Lost Lake development. These rock outcrops will be preserved in undisturbed natural areas of the project, and will continue to display the rugged rural character of Forestburgh. In addition, the proposed site development plan incorporates a minimum 100-foot buffer on each side of St. Joseph's Road to preserve the existing vegetation and natural features in these areas.

The proposed main entrance area for Lost Lake Resort is located closest to the Melody Lake hamlet. Some 1,000 feet of woodland will buffer potential views of the project from the residences in the Hamlet.

Project visibility will be limited to Cold Spring Road immediately in front of the Resort main entrance. The proposed one-story sales office will be visible to some extent and situated in a wooded setting not unlike the existing houses in this area. The sales building is proposed approximately 220 feet from the edge of the road and the controlled access building will be approximately 475 feet back from the public road. It is anticipated that the limited view of the entrance area buildings will "fit" into the wooded landscape.

## LOST LAKE RESORT FINDINGS STATEMENT

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From St. Joseph's Road portions of Lost Lake Resort will be visible through the minimum 100-foot vegetated buffer on both sides of the road, as the proposed buffer will not fully screen (block) the view. The project proposal does not intend to screen these views entirely but includes provisions to retain the existing vegetation and natural features wherever possible in the buffers and dictates the architectural treatment of new buildings and limitations on lot clearing to minimize the effect of any view from the public road.

The project will not be visible from the St. Joseph's Lake community.

From immediately adjoining land in the Neversink River Unique Area (UA) and the area that is proposed to be offered to the Town as parkland (Bushkill Park East), homes in the southeastern portion of the resort may be visible, seen through at least 300 feet of woodland. Roof tops will be well below the tops of trees that will remain on the project site. Homes will be required to use siding and roofing materials that blend with the natural environment. Given the very limited visibility of the proposed development from this vantage point, and the limited number of potential viewers that will be expected, the view of the developed site is not expected to have any significant visual impact on aesthetic resources of the UA.

### 6.12.2 Water Tank Visibility

Given the remote position of the tank site, with the proposed water tanks rising approximately 77 feet high, these project components will not impact any views into the property. Other utility connections for the development, such as electric power and cable, will be routed from existing facilities on St. Joseph's and Cold Spring roads without the need to clear utility corridors through wooded areas.

The overall effect of the site's minimum 50-foot perimeter buffer; minimum 100-foot buffer along St. Joseph's Road; tree preservation and retained wooded areas; limitations on disturbance and landscaping requirements for individual lots; and wooded wildlife access corridors between the developed areas of the site is that the project will be minimally visible from surrounding areas and roads.

Since the proposed residential siding and roofing materials will be earth tone (green, brown, grey or black), it is anticipated that any limited view of the tops and roofs of homes will blend into the site's wooded slopes. The site's sales office, recreational, community and lodging structures will also be constructed using wood, stone facing and siding and roofing will be in earth tones. It is anticipated that these will also blend into the forested landscape.

The proposed plan incorporates design elements, preserved wooded areas, tree preservation, landscaping and standards for individual lot development such that the

## LOST LAKE RESORT FINDINGS STATEMENT

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view of development from adjoining lands and roads will be very limited or will blend into the wooded landscape. Since no significant visual impacts to aesthetic resources are anticipated, no further mitigation is proposed.

## 7.0 CONCLUSIONS

The Forestburgh Town Board, as SEQRA Lead Agency, finds and certifies that:

- The Town Board has given due consideration to the DEIS and FEIS, and information derived from other documents, public hearings and meetings during the course of this SEQRA review process;
- This Findings Statement has been prepared pursuant to and as required by 6 NYCRR Part 617;
- Consistent with social, economic and other essential considerations of the proposed action, the No Action condition and other reasonable alternatives, the proposed action assessed in the DEIS, FEIS, in conjunction with mitigation measures specified in the DEIS, FEIS and this Findings Statement, is an action that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and,
- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be avoided or minimized by incorporating as conditions to the decision those mitigative measures that were identified as practicable in the DEIS, FEIS, and this Findings Statement.
- The Town Board as the Lead Agency has considered reasonably related long-term, short-term, direct, indirect, and cumulative impacts, including other simultaneous or subsequent actions and determined that there are no significant long-term cumulative impacts associated the proposed action as described in the DEIS and FEIS. .

**Adopted by the Town of Forestburgh Town Board on May 18, 2011.**





RESOLUTION OF THE TOWN BOARD  
GRANTING CONDITIONAL FINAL SUBDIVISION PLAT APPROVAL  
FOR PHASE I OF THE LOST LAKE RESORT

TOWN OF FORESTBURGH  
COUNTY OF SULLIVAN  
STATE OF NEW YORK

WHEREAS, the Town Board of the Town of Forestburgh, County of Sullivan, met on the 17th day of December, 2012 at 7:00 p.m. to review the site plan and subdivision plat application for Phase I of the Lost Lake Resort (collectively, the "Application"), submitted by Lost Lake Resort, Inc. (the "Applicant"); and

WHEREAS, the Town Board previously granted preliminary site plan and subdivision plat approval for this Application on February 27th, 2012, and since that time the Applicant has worked to satisfy the conditions of the preliminary approval; and

WHEREAS, the Applicant now seeks conditional final site plan and subdivision approval for Phase I of the Lost Lake Resort from the Town Board, pursuant to Chapter 85 ("Zoning") of the Town of Forestburgh Town Code; and

WHEREAS, the Town Board has previously designated the Lost Lake Resort site as a Planned Development District pursuant to the Zoning Law of the Town of Forestburgh Town Code; and

WHEREAS, the Lost Lake Resort site is located entirely in the Town of Forestburgh, in the RR-1 zoning district; St. Joseph's Road (County Route 108) transverses the project site in a west-east orientation and Cold Spring Road (CR 102) passes the northeast corner of the site, CR 102 and Forestburgh Road (NYS Route 42) connect the project site to the Village of Monticello and NYS Route 17 to the north; and a 52-acre lake, locally known as Lost Lake, is situated in the northeastern portion of the property; and

WHEREAS, the Lost Lake Resort site is made up of the following tax map parcels: 3-1-1.1, 3-1-2.1, 3-1-3, 4-1-7, 4-1-10.2, 7-1-1, 8-1-1.2, 8-1-2, 20A-1-1, and 20B-1-1; and

WHEREAS, the Applicant has proposed a planned resort community that will provide an upscale recreational destination consisting of a gated community of single family residence lots, hotel/conference facilities, a cottage and condominium component, and extensive recreational amenities. On-site recreational amenities for residents and guests will include an 18-hole championship golf course and driving range, clubhouse and restaurant, swimming and boating facilities at Lost Lake, tennis courts, a health and wellness spa, and a system of wilderness trails for passive recreation; and

WHEREAS, the Lost Lake Resort will include development of interior road systems, utilities and stormwater infrastructure, a community water supply, and wastewater treatment facilities; and

WHEREAS, following the designation of the Town Board as lead agency by the Commissioner of the New York State Department of Environmental Conservation ("NYSDEC") on February 9, 2009, the Town Board has served as lead agency for the environmental review of the proposed Lost Lake Resort project pursuant to the State Environmental Quality Review Act ("SEQRA"), and has previously required the preparation of an environmental impact statement; and

WHEREAS, the Town Board, as SEQRA lead agency, evaluated the draft environmental impact statement, all of the public and agency comments thereon, and further required the preparation of a final environmental impact statement to respond to all substantive comments; and

WHEREAS, the Town Board, as SEQRA lead agency, concluded the SEQRA process by the adoption of a SEQRA Findings Statement on May 18, 2011;

and

WHEREAS, thereafter, the Town Board designated the Lost Lake Resort site as Planned Development District ("PDD") and approved the Site Master Plan that was included as part of the FEIS, prepared by Brinkash & Associates, Inc. and Tim Miller Associates, Inc. dated March 21, 2011 (the "PDD Site Master Plan"); and

WHEREAS, a public hearing on the proposed site plan and subdivision plat was duly noticed and held on November 21, 2011; and

WHEREAS, the site plan and subdivision application and related materials were submitted to the Sullivan County Division of Planning and Environmental Management ("SCDP") for its review pursuant to the requirements of the General Municipal Law § 239-1, m & n, and SCDP has responded in writing with its comments; and

WHEREAS, the Town Board has carefully considered all of the comments raised by the public, the Board's consultants, SCDP, other involved agencies, and interested organizations and officials, including those presented at numerous meetings of the Board as well as those submitted separately in writing; and

WHEREAS, the Applicant has submitted a site plan and proposed final subdivision plat for Phase I of the Lost Lake Resort, prepared by Brinkash & Associates, Inc. dated December 5, 2012, consisting of 68 sheets; and

**NOW THEREFORE, THE TOWN BOARD HEREBY MAKES THE FOLLOWING FINDINGS:**

1. The proposed final site plan and subdivision plat for Phase I of the Lost Lake Resort are consistent with the PDD Site Master Plan.
2. The proposed final site plan and subdivision plat for Phase I of the Lost Lake Resort are consistent with the evaluation and

mitigation measures set forth in the SEQRA Findings Statement.

3. The Applicant's proposed final subdivision plat for Phase I of the Lost Lake Resort, is in substantial conformity with the approved preliminary subdivision plat that was the subject of the prior public hearing.

4. The Applicant satisfied the conditions set forth in the C.T. Male Associates, March 12, 2012 letter.

5. The Applicant has obtained all outside agency approvals, with the exception of the Department of Health approvals, which are pending.

6. The proposed site plan and subdivision plat meet the requirements of the PDD Zoning Law and Subdivision Law for the Town of Forestburgh as well as New York Town Law §§ 274-a and 276.

**NOW THEREFORE, THE TOWN BOARD HEREBY RESOLVES THAT** conditional final approval of the subdivision plat for the Lost Lake Resort is hereby GRANTED, and the Supervisor is hereby authorized to affix his signature of approval to the site plan and final subdivision plat upon the Applicant's satisfaction of the following conditions:

1. The applicant shall pay all outstanding fees and escrow due the Town in connection with this application;
2. The Applicant shall satisfy any remaining conditions set forth in the review letter from C.T. Male Associates dated December 14, 2012 and any additional technical comments from C.T. Male Associates in any subsequent letters;
3. The Applicant shall reimburse the Town for any outstanding escrow charges due to the Town in connection with the Town's consultants' review of this Application;


4. The Applicant shall secure all remaining necessary permits, approvals and authorizations required from the New York State Department of Health, and any other agency if required, prior to the Supervisor affixing his signature to the final subdivision.

**BE IT FURTHER RESOLVED THAT** the Applicant shall submit proof of satisfaction of the foregoing conditions and submit a plat for signature within 180 days of the date of this resolution. The Town Board is authorized pursuant to Town Law § 276 to consider and grant further extensions on good cause shown.

Moved: John Galligan

Seconded: Mike Creegan

Vote:   5   Ayes  
  0   Nos  
  0   Abstentions

  
FORESTBURGH TOWN BOARD  
BY: Joanne Nagoda, Town Clerk





PROJ. NO. 102104-01

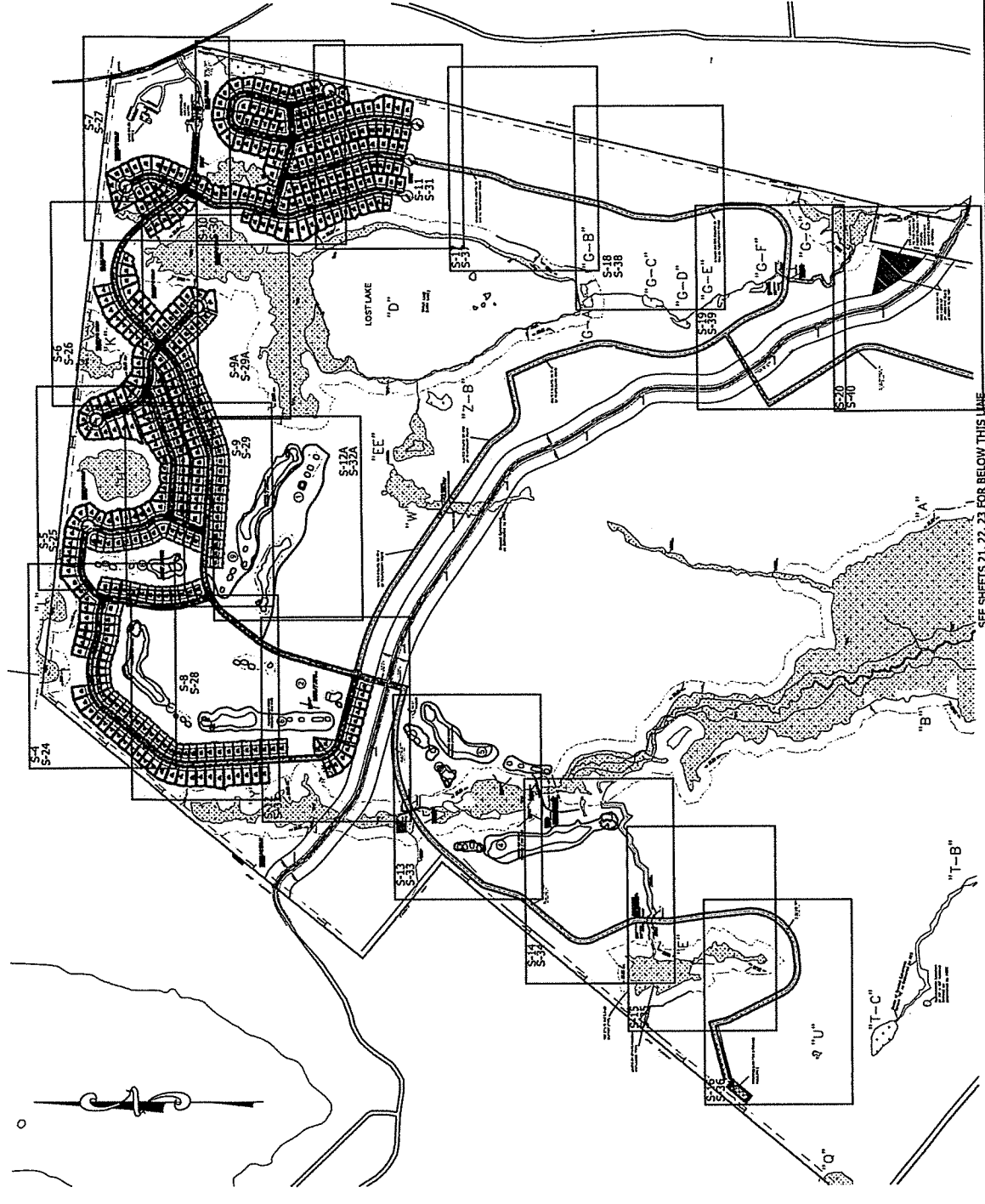
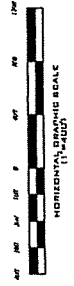
NO.	DESCRIPTION OF REVISION	DATE

DATE: 11/11/11  
 BY: M.A.  
 CHECKED BY: M.A.

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTER STREET, ASPEN, PA 17311  
 (717) 475-1818 (P-404) (717) 475-1829 (FAX)

FINAL SUBDIVISION PLAN  
 OVERALL LOT LAYOUT  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FOSTERBURGH, SALTMAN COUNTY, NY

SHEET  
**C-3**



SEE SHEETS 21, 22, 23 FOR BELOW THIS LINE



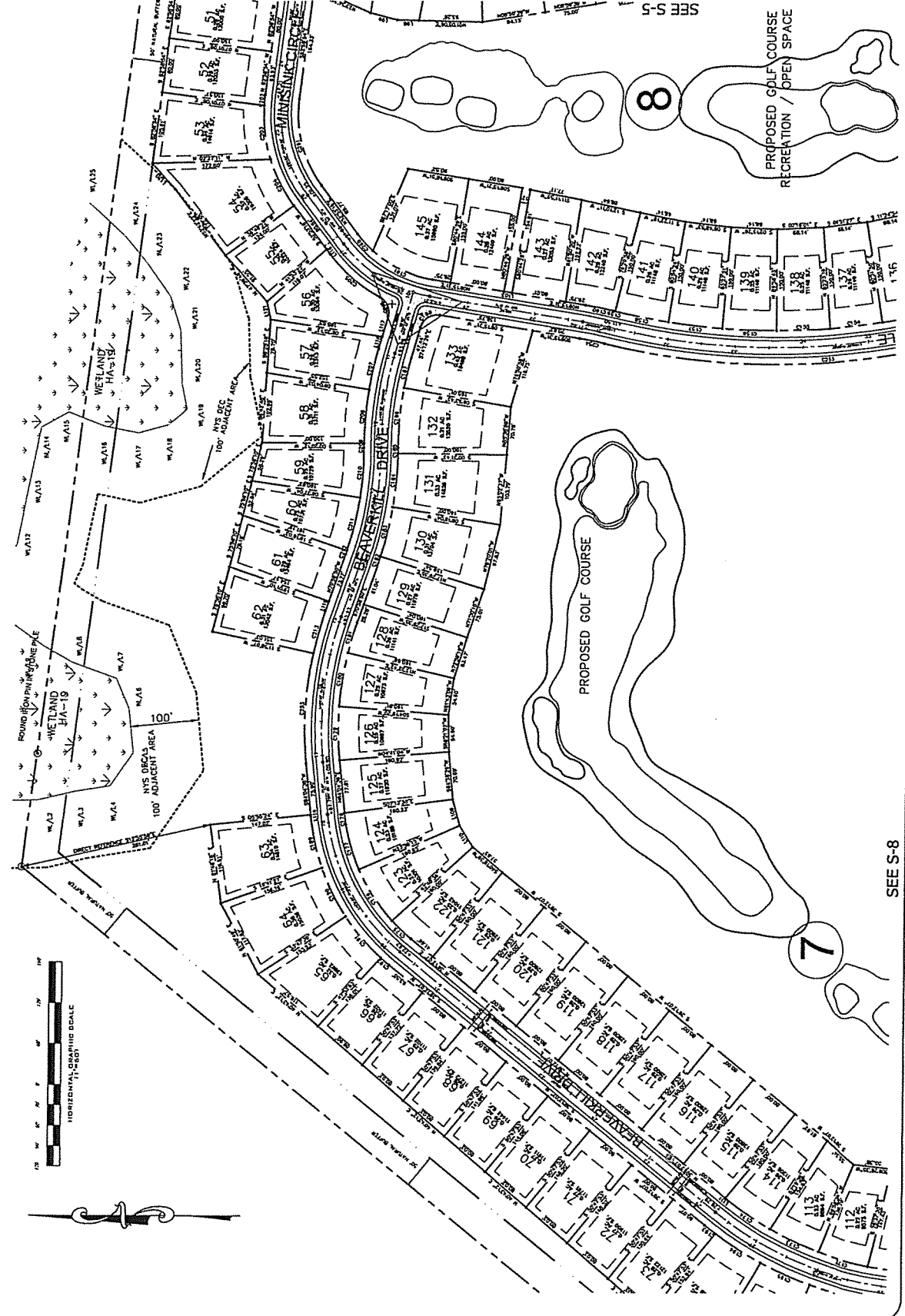
PROJ. NO. 2014-0411

DATE	DESCRIPTION

**BRINKASH**  
 ASSOCIATES, INC.  
 SURVEYING & ENGINEERING  
 1213 CENTRE STREET ASHLAND, PA 17821  
 (717) 415-1018 (PH) (717) 415-1670 (CELL)

PRELIMINARY SUBDIVISION PLAN  
 SUBDIVISION / SITE PLAN - 1  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FOSTERTOWN, SALISBURY COUNTY, NY

SHEET  
 S-4



SEE S-5

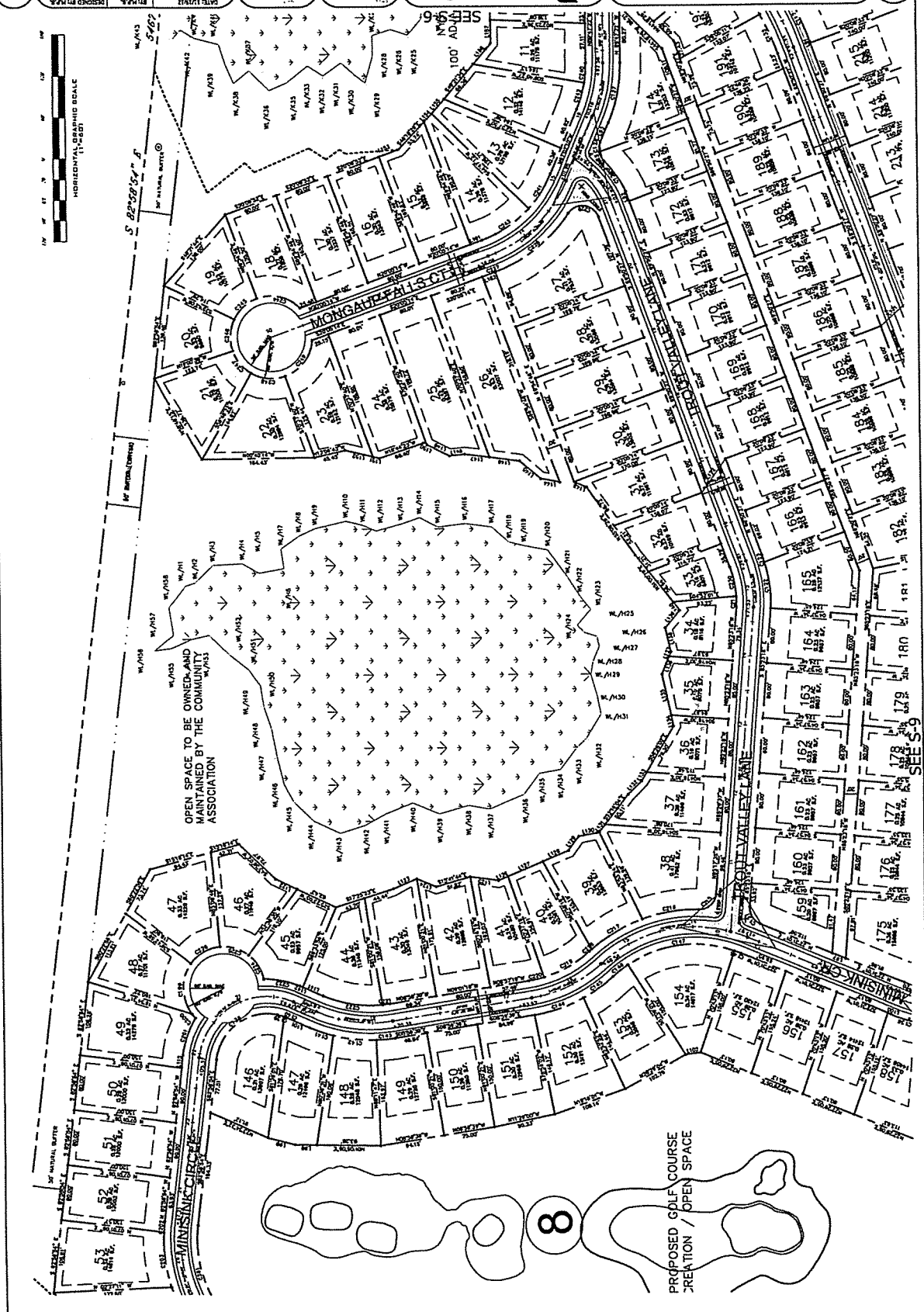
SEE S-8



FINAL SUBDIVISION PLAN  
SUBDIVISION / SITE PLAN - 2  
LOST LAKE RESORT PHASE I

**BRINKASH**  
ASSOCIATES, INC.  
SURVEYING & ENGINEERING  
1213 CHERRY STREET, ASHLAND, PA 17011  
(717) 425-1018 (PHONE) (717) 425-1020 (FAX)

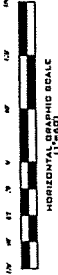
NO.	DESCRIPTION OF REVISION	DATE



SEE S-9

SEE S-4

PROPOSED GOLF COURSE  
CREATION / OPEN SPACE



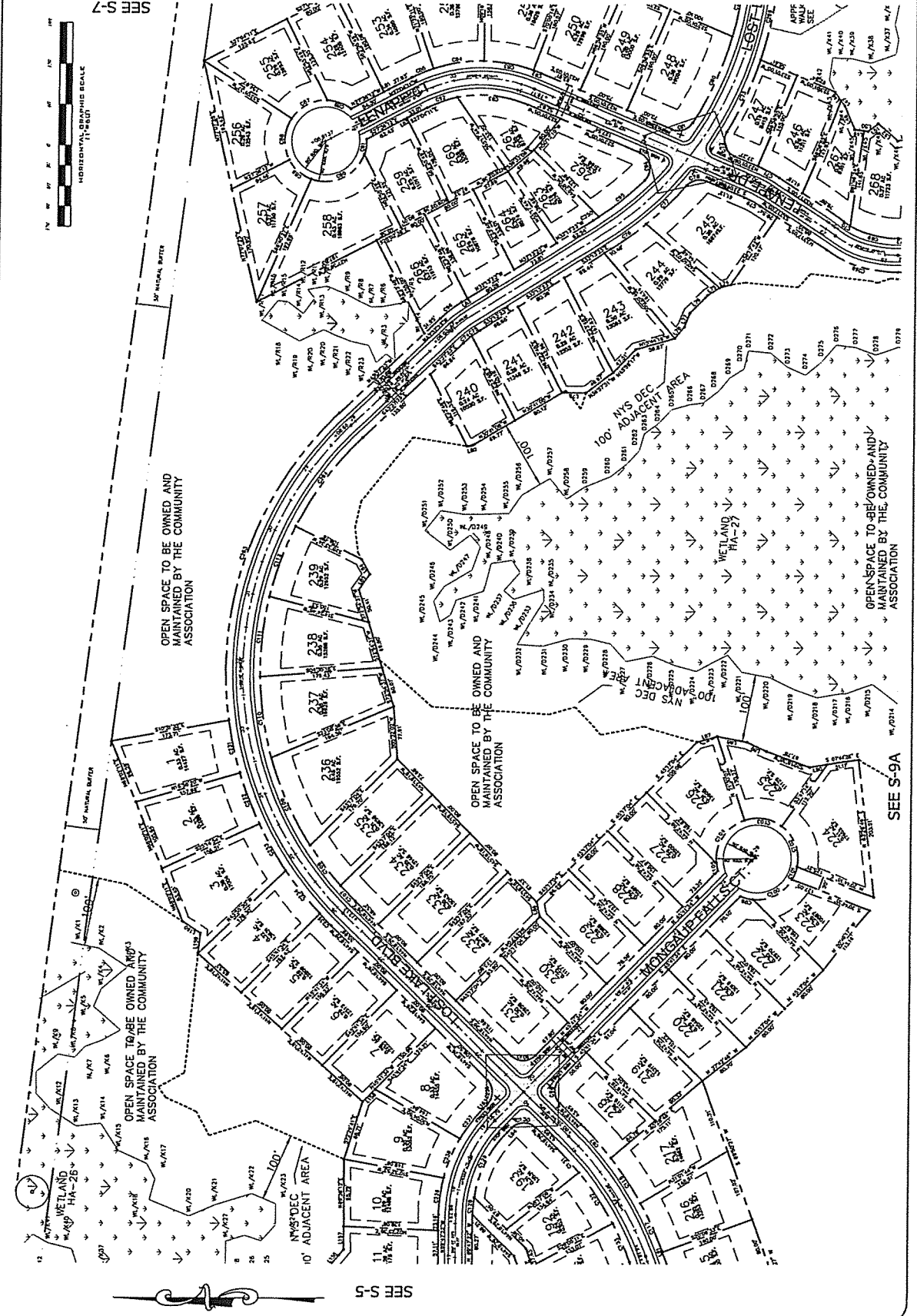
NO.	DESCRIPTION OF REVISION
DATE	BY

SEE S-7

**BRINKASH**  
SURVEYING & ENGINEERING, INC.  
1713 CENTRE STREET, ASPEN, PA 17011  
(717) 875-1018 (PH) (717) 875-1270 (FAX)

FINAL SUBDIVISION PLAN  
SUBDIVISION / SITE PLAN - 3  
LOST LAKE RESORT PHASE I  
TOWNSHIP OF HUNTERDON, SUSSEX COUNTY, NJ

SHEET  
S-6



NO.	DESCRIPTION OF REVISION
DATE	BY

SEE S-5

**BRINKASH**  
SURVEYING & ENGINEERING, INC.  
1713 CENTRE STREET, ASPEN, PA 17011  
(717) 875-1018 (PH) (717) 875-1270 (FAX)

FINAL SUBDIVISION PLAN  
SUBDIVISION / SITE PLAN - 3  
LOST LAKE RESORT PHASE I  
TOWNSHIP OF HUNTERDON, SUSSEX COUNTY, NJ

SHEET  
S-6

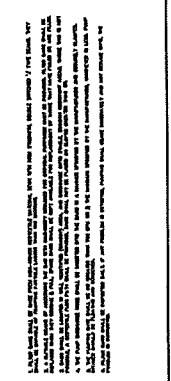
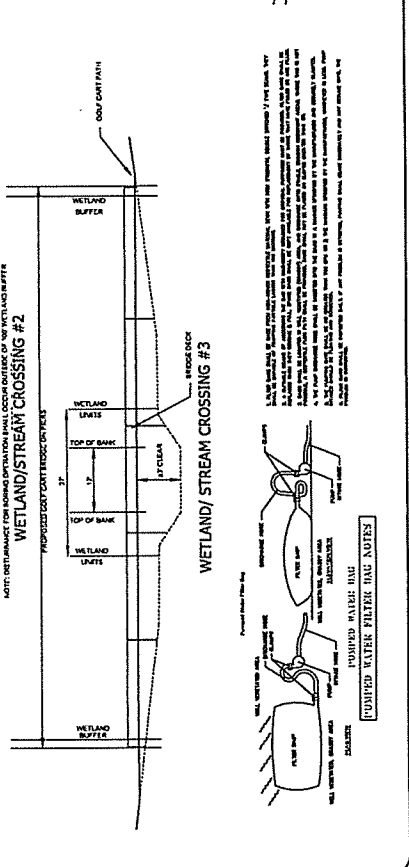
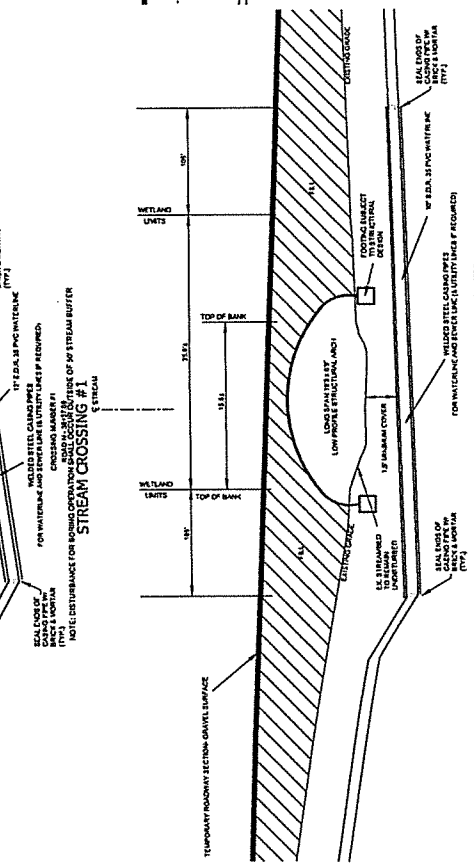
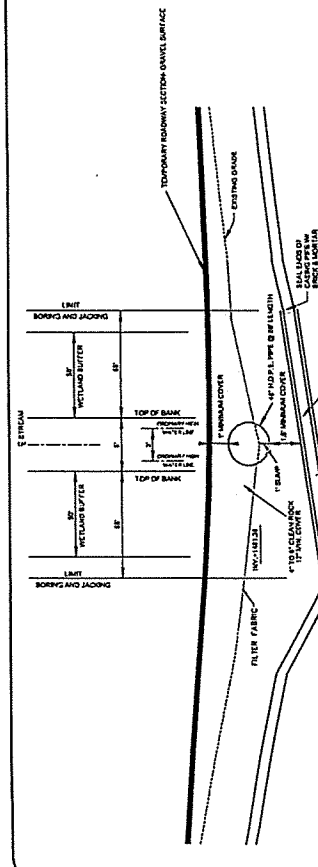
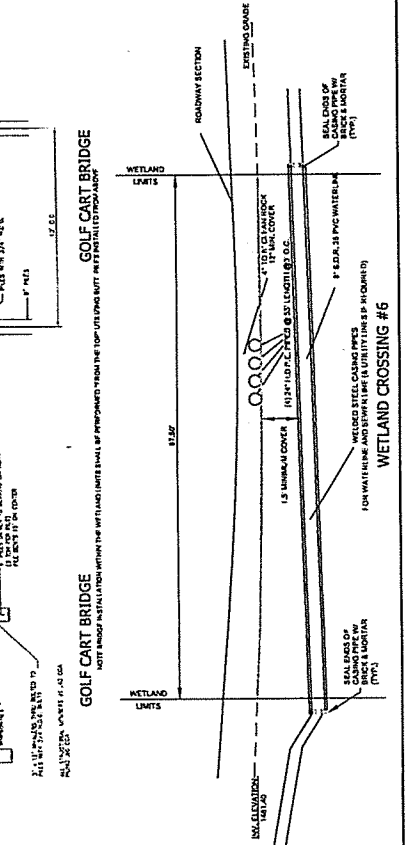
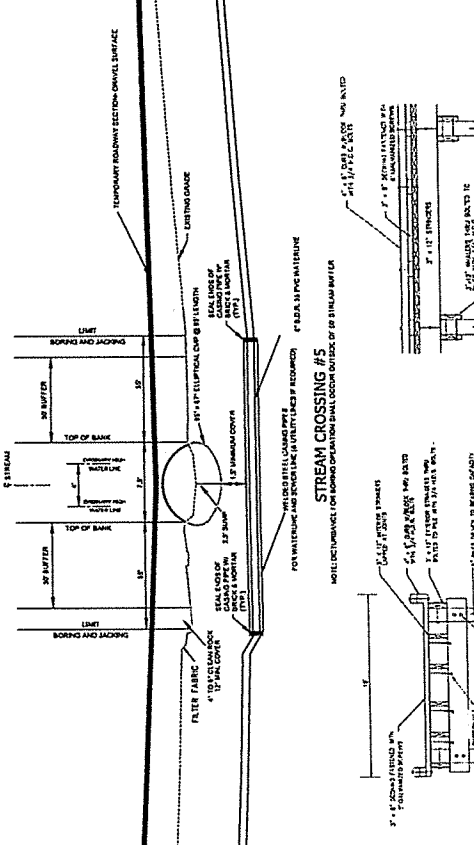
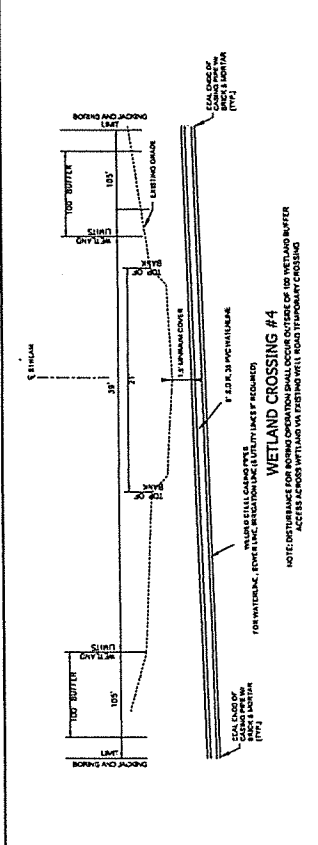
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2	07/27/12	ADD 2" TOP BUTTER TO WETLAND CROSSING #4
3	07/27/12	ADD 2" TOP BUTTER TO WETLAND CROSSING #6
4	07/27/12	ADD DISTURBANCE FOR BORING OPERATIONS TO WETLAND CROSSING #4
5	07/27/12	ADD DISTURBANCE FOR BORING OPERATIONS TO WETLAND CROSSING #6

DATE: 8/8/11  
 BY: M.A.  
 CHECKED BY: M.A.  
 SCALE: \_\_\_\_\_

**BRINKASH**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET  
 PHOENIX, AZ 85016  
 (602) 475-1018 (PHONE)  
 (602) 475-1070 (FAX)

PRELIMINARY SUBDIVISION PLAN  
 WETLAND CROSSING DETAILS  
 TOWN OF FORTSTRENGTH, SALTWATER COUNTY, NV  
**LOST LAKE RESORT PHASE I**

SHEET  
**S-64**

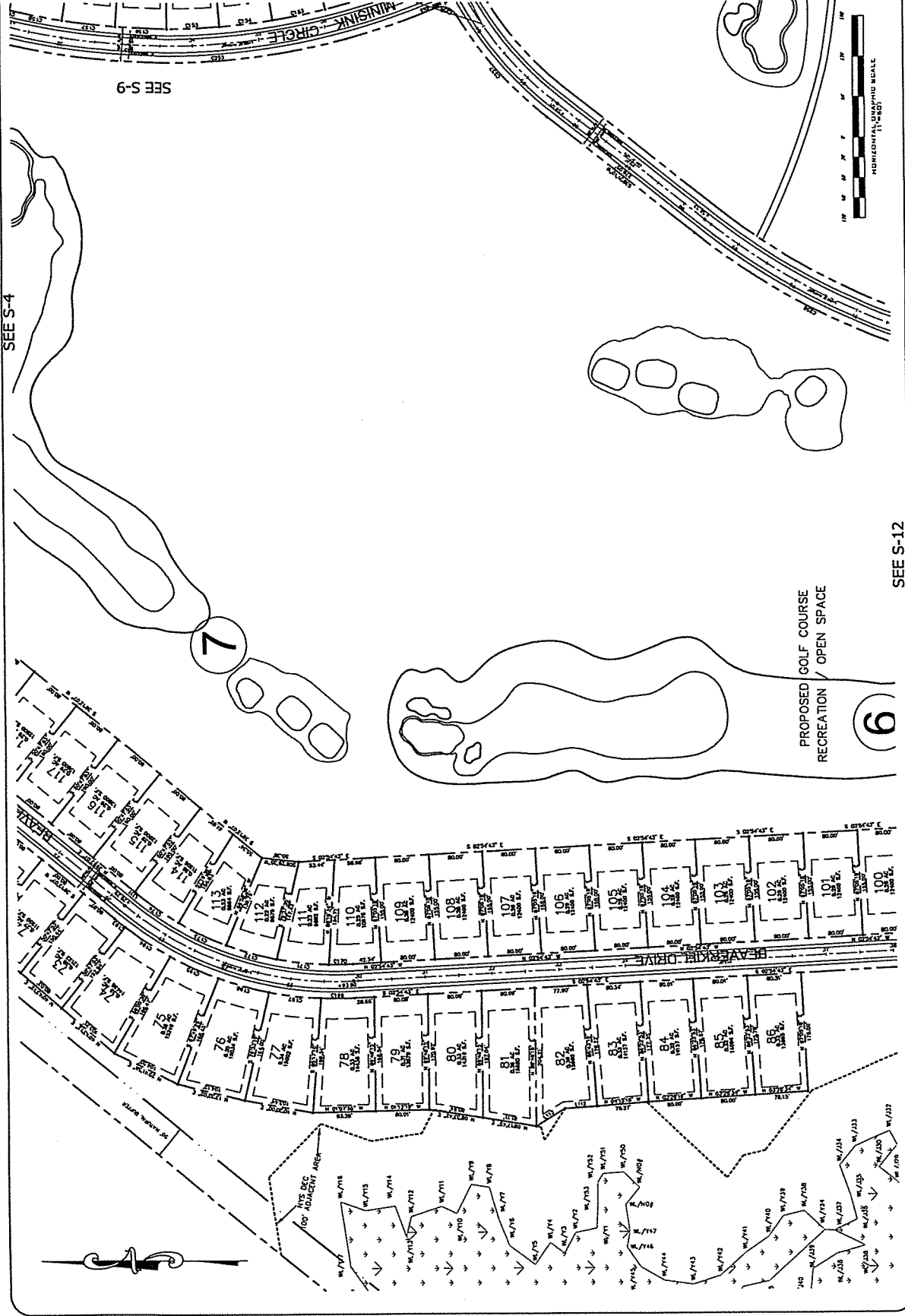




**BRINKASH**  
 SURVEYING & ENGINEERING, INC.  
 1713 CENTRE STREET, 4TH FLOOR, PA 19221  
 (610) 425-1018 (PHONE) (610) 425-1678 (FAX)

NO.	DESCRIPTION OF REVISION	DATE	BY

SHEET  
**8-5**



SEE S-12

SEE S-4

SEE S-9

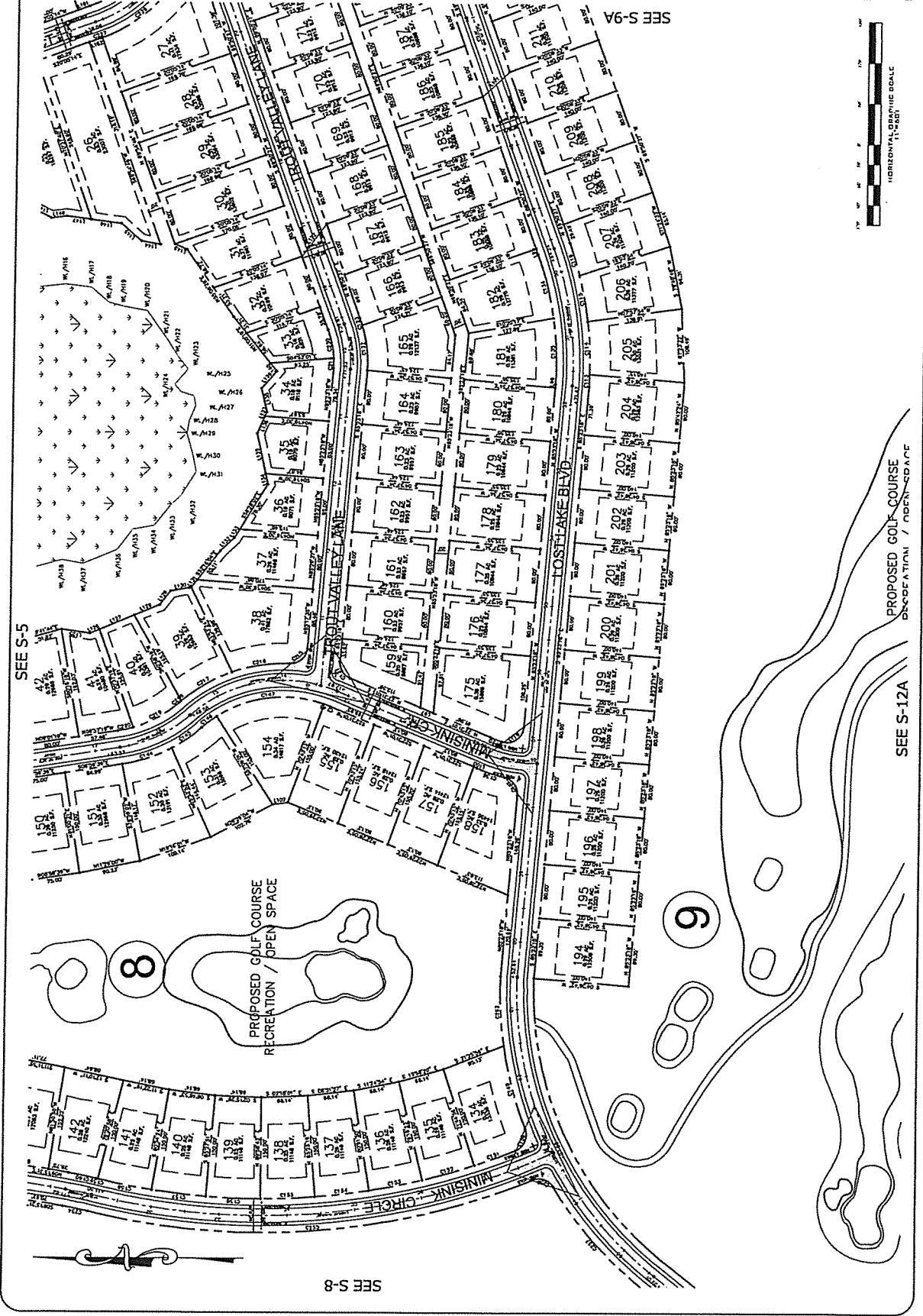
NO.	DESCRIPTION OF EASEMENT	DATE

DATE: 11/24/2011  
 DRAWN BY: J.M.A.  
 CHECKED BY: J.M.A.  
 PROJ. NO.: S-94-11

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1212 CENTER STREET  
 ASHLAND, PA 17013  
 (717) 925-1013 (PHONE) (717) 925-1075 (FAX)

FINAL SUBDIVISION PLAN  
 SUBDIVISION / SITE PLAN - 6  
 LOST LAKE RESORT PHASE I  
 TOWN OF FORESTBURG, SULLY COUNTY, IN

SHEET  
 S-6



SEE S-5

SEE S-9A

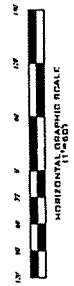
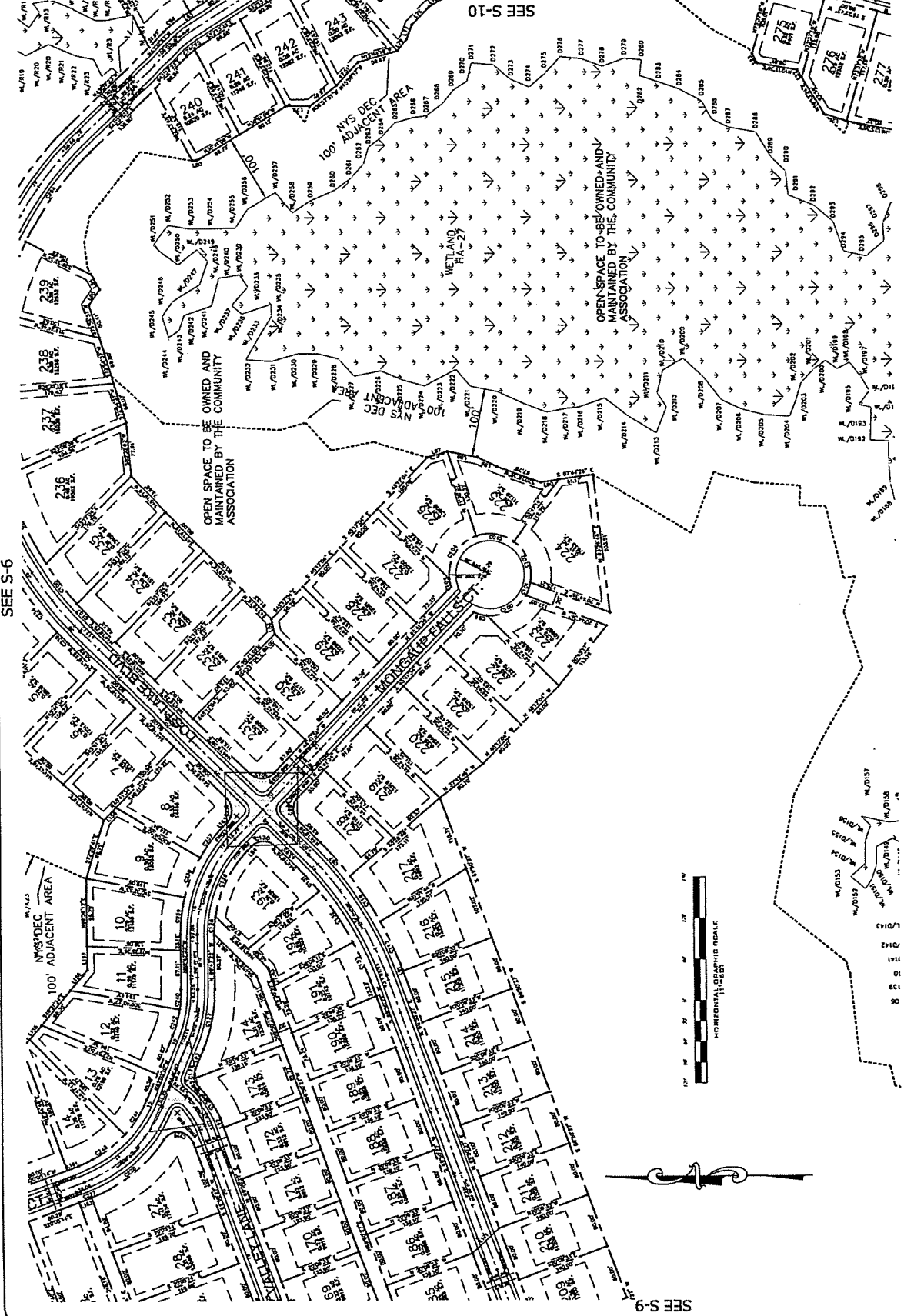
PROPOSED GOLF COURSE  
 DISCREPANCY / UNRECORDED

SEE S-12A

SEE S-8

NO.	DESCRIPTION OF REVISION

11-14-2010





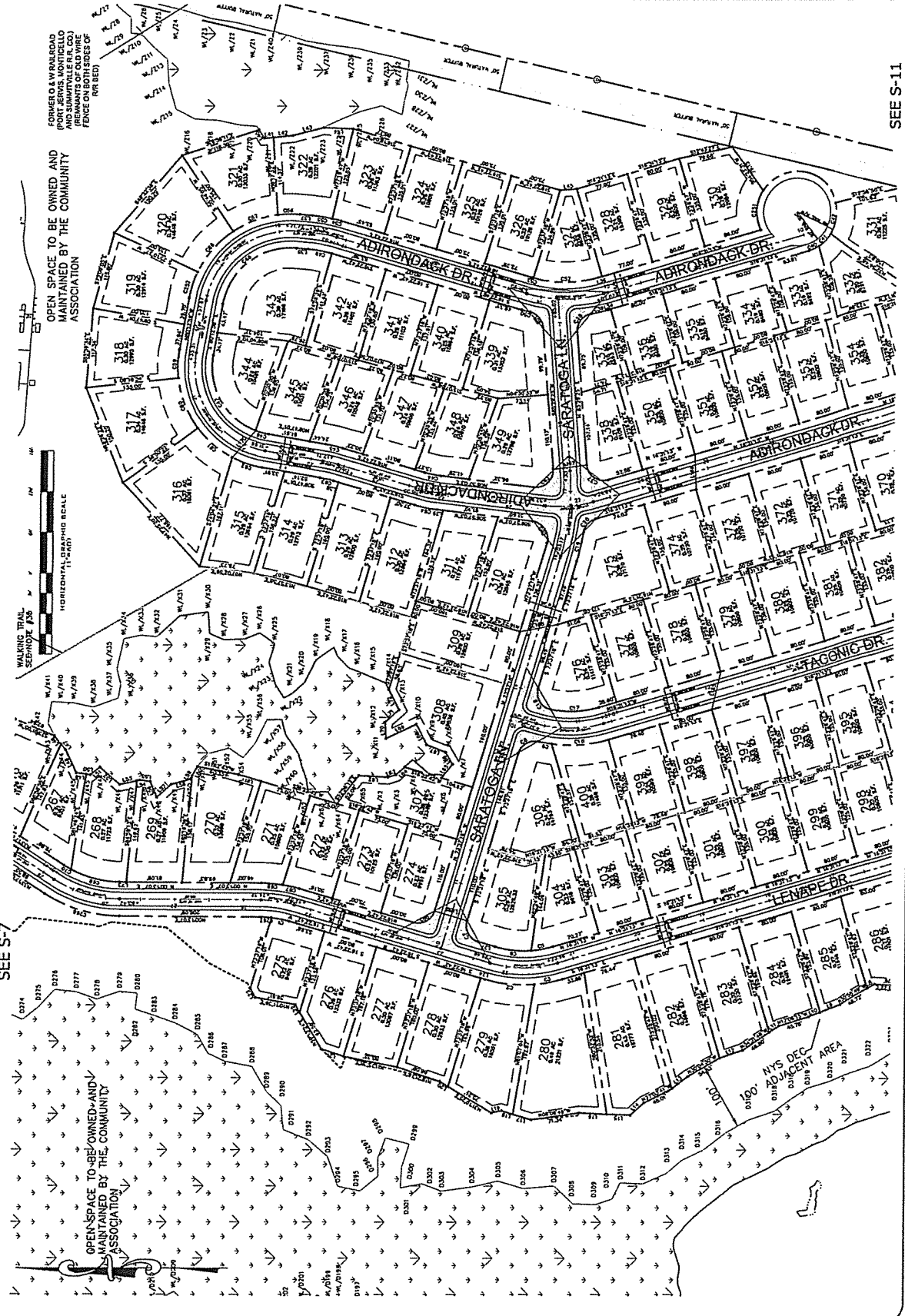
PROJ. NO. 2014-11

NO.	DESCRIPTION OF SECTION	DATE LISTED	BY WHOM	RECORDED BY	DATE

**BRINKASH**  
 SURVEYING & ENGINEERING  
 ASSOCIATES, INC.  
 1713 CENTER STREET, ASHLAND, PA 19211  
 (570) 425-1018 (PH) (570) 425-1620 (FAX)

FINAL SUBDIVISION PLAN  
 SUBDIVISION - SITE PLAN-7  
 LOST LAKE RESORT PHASE I  
 TOWN OF FORESTRICH, SULLYVA COUNTY, NY

S-10  
 SHEET



SEE S-7

SEE S-11

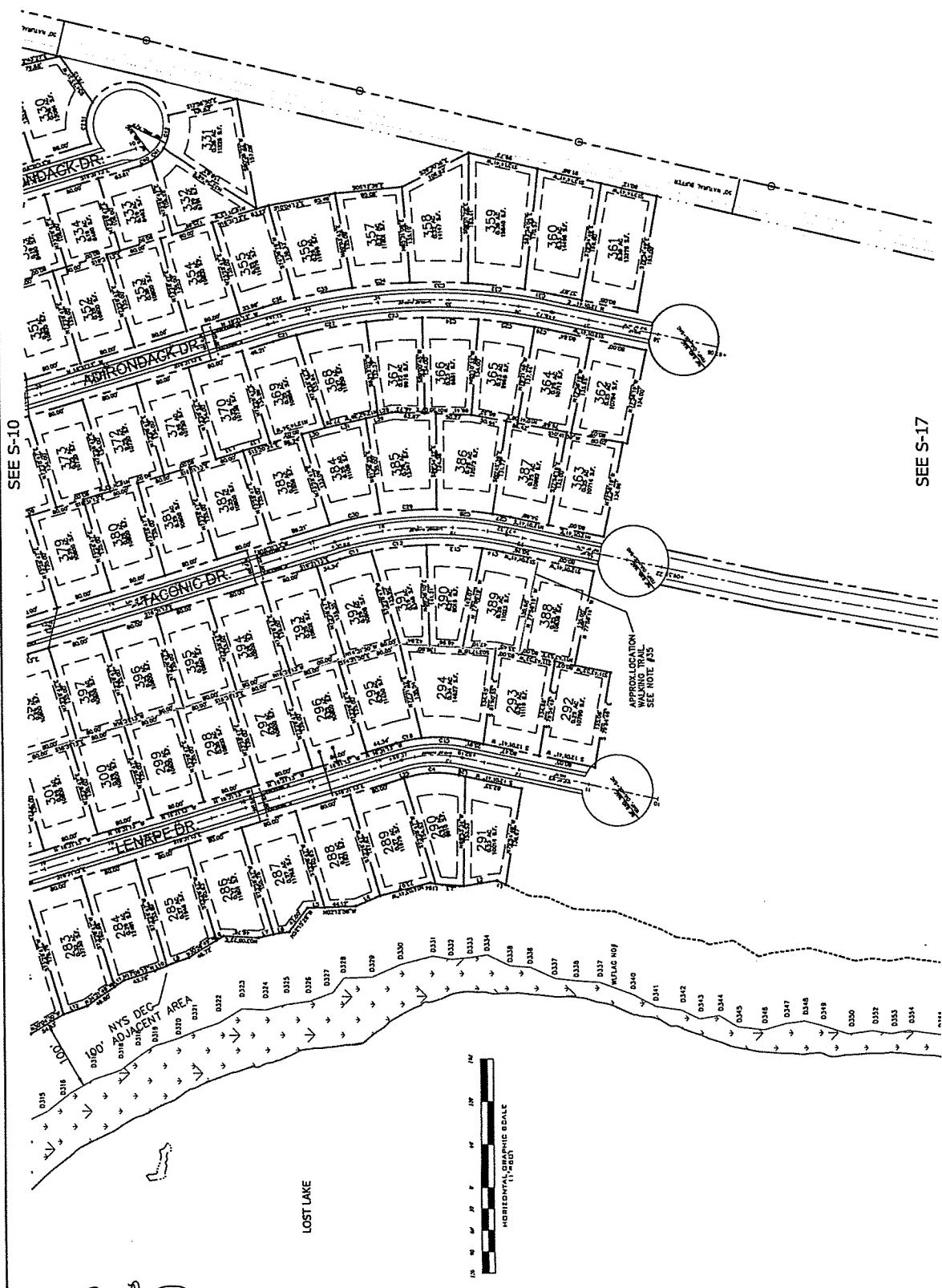
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NO.	DESCRIPTION OF ACTION	DATE

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, 45-4ND, PA 19211  
 (717) 875-1018 (PHONE) (717) 875-1070 (FAX)

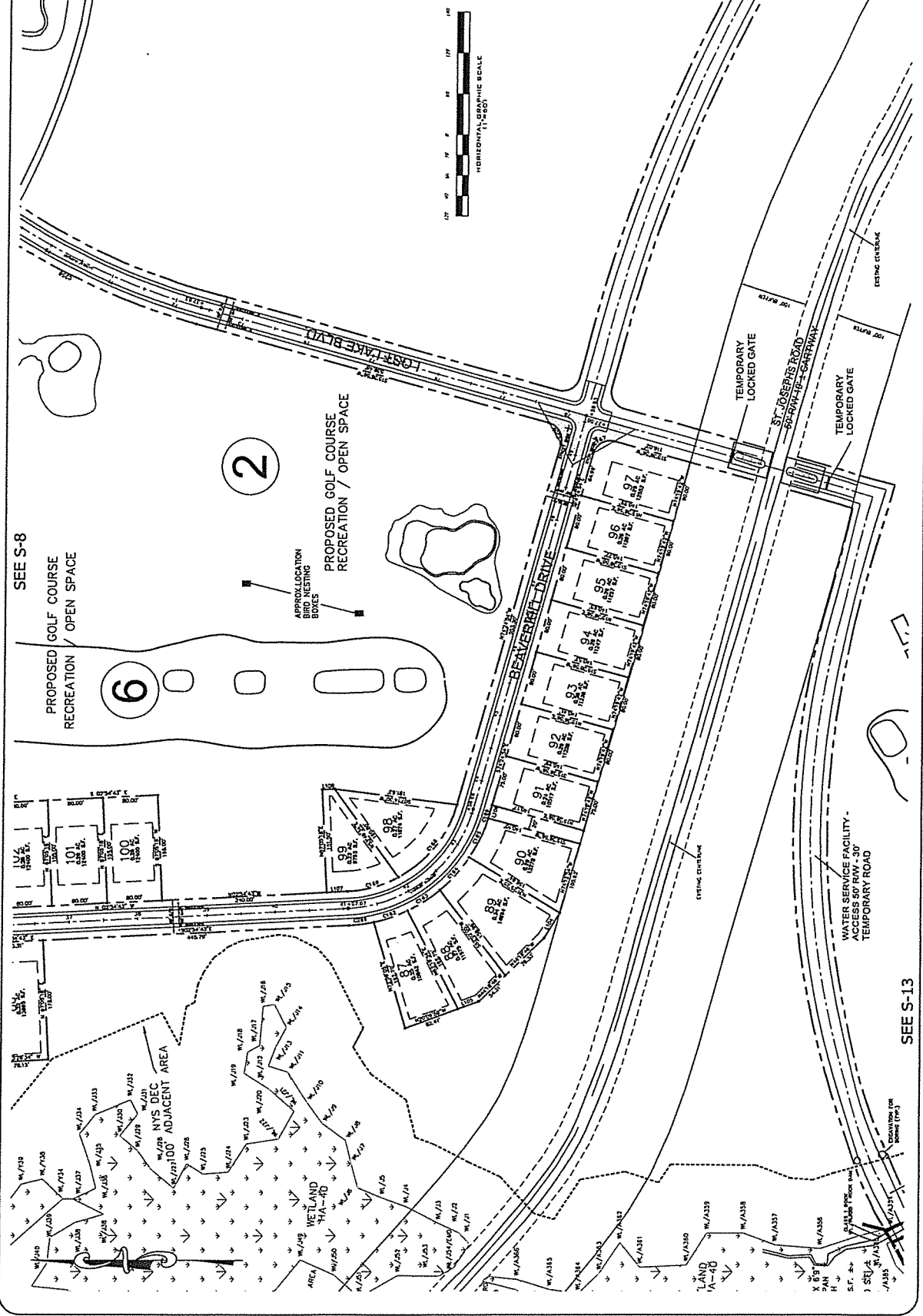
FINAL SUBDIVISION PLAN  
 SUBDIVISION-SITE PLAN-8  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORTSTRAUGH, SALAMANCA COUNTY, NY

SHEET S-11



NO.	DATE	DESCRIPTION OF REVISION

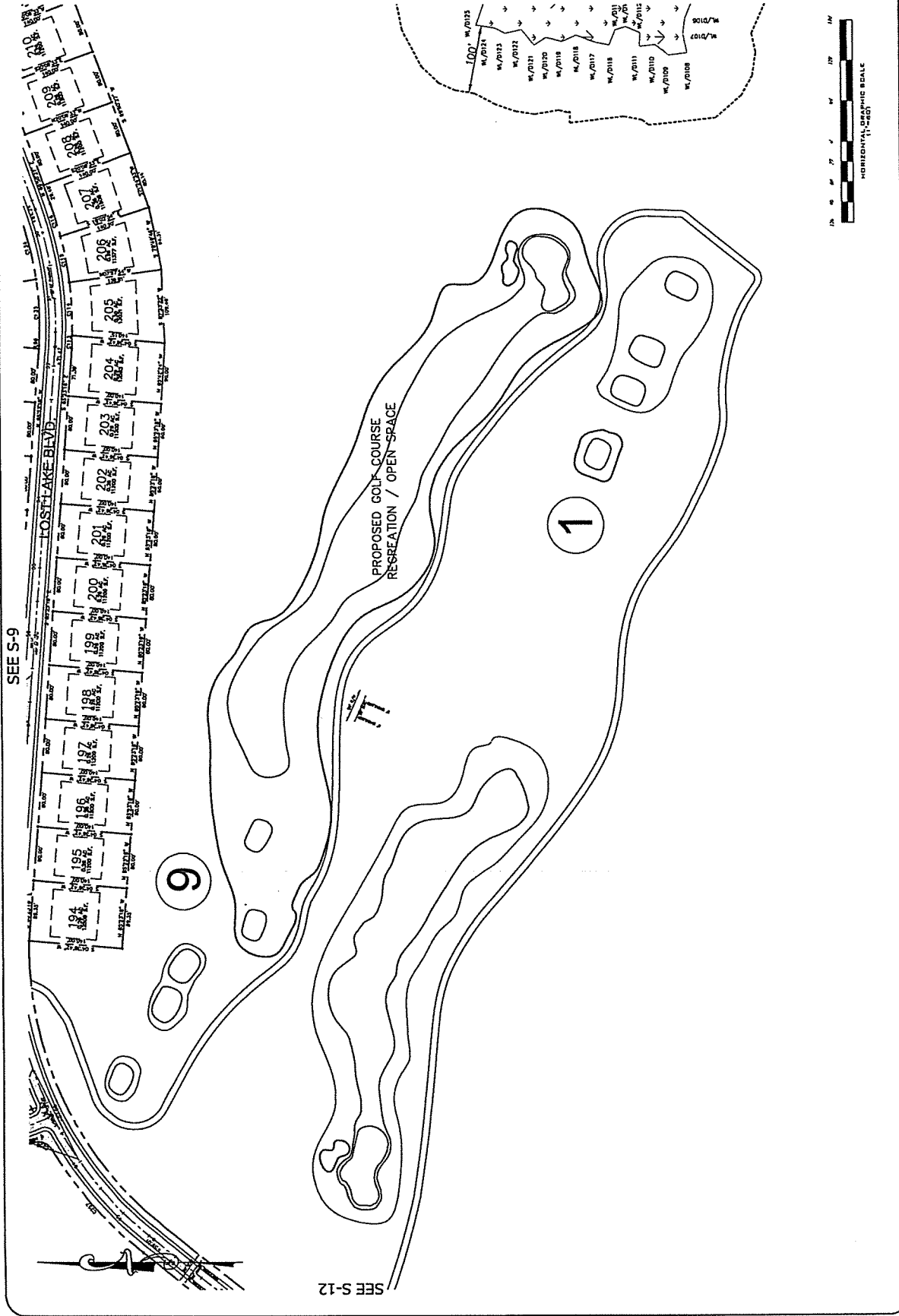
DATE: 11/11/12  
BY: M.A.  
CHECKED BY: M.A.  
PROJECT NO.: 1014-11



SEE S-8

SEE S-13

NO.	DESCRIPTION OF VARIATION	DATE







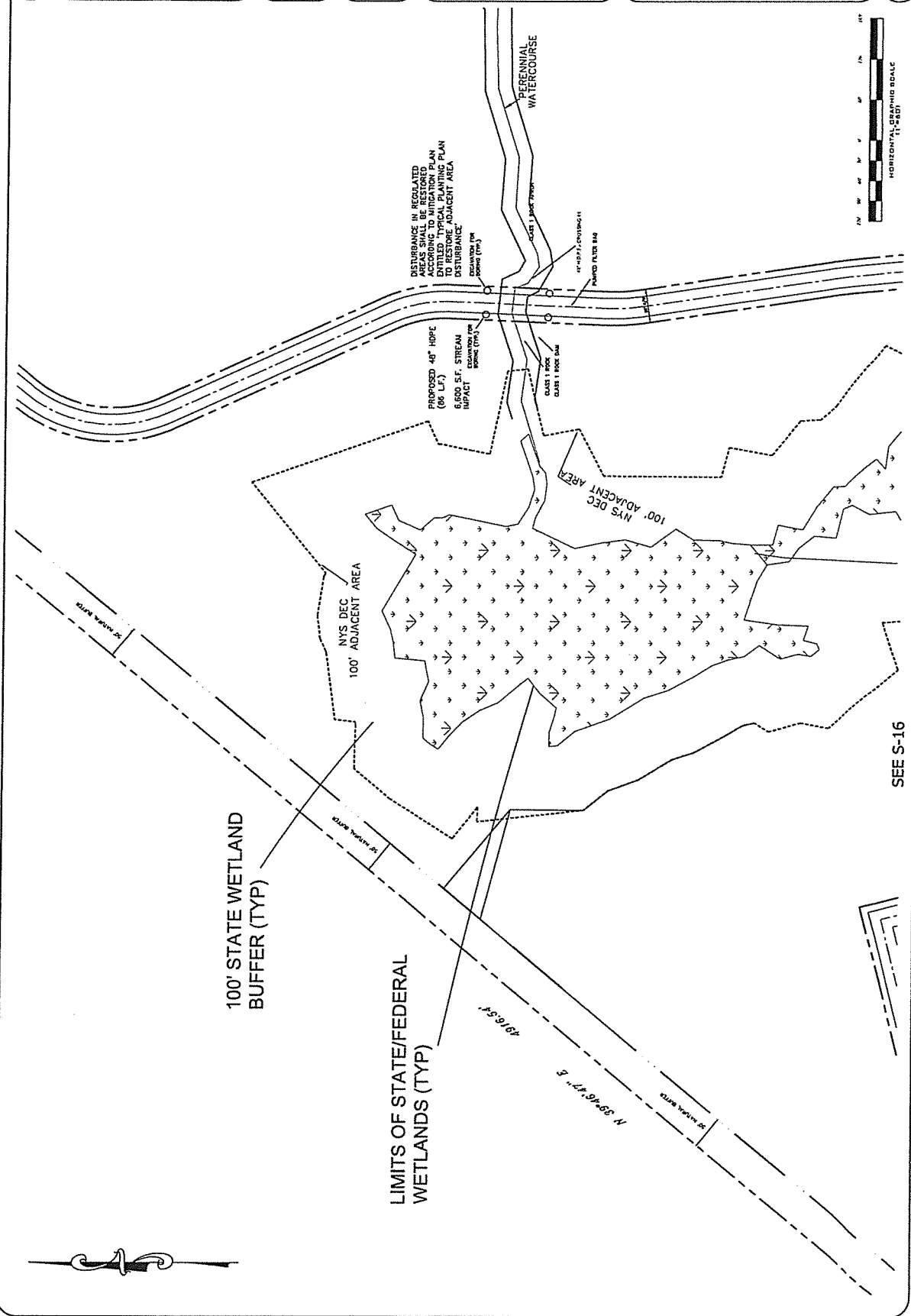
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DATE: 11/17/11  
 BY: M.A.  
 CHECKED BY: M.A.  
 PROJECT: 11-14-1014-11

**BRINKASH**  
 SURVEYING & ENGINEERING ASSOCIATES, INC.  
 1713 CENTRE STREET, SUITE 100, PA 19211  
 (610) 421-1018 (PH), (610) 421-1019 (FAX)

FINAL SUBDIVISION PLAN  
 SUBDIVISION - SITE PLAN-12  
 LOST LAKE RESORT PHASE I  
 TOWN OF FOSTERTON, SULLY COUNTY, NY

SHEET S-15



SEE S-16



PROJ. NO. 13-004-04-11

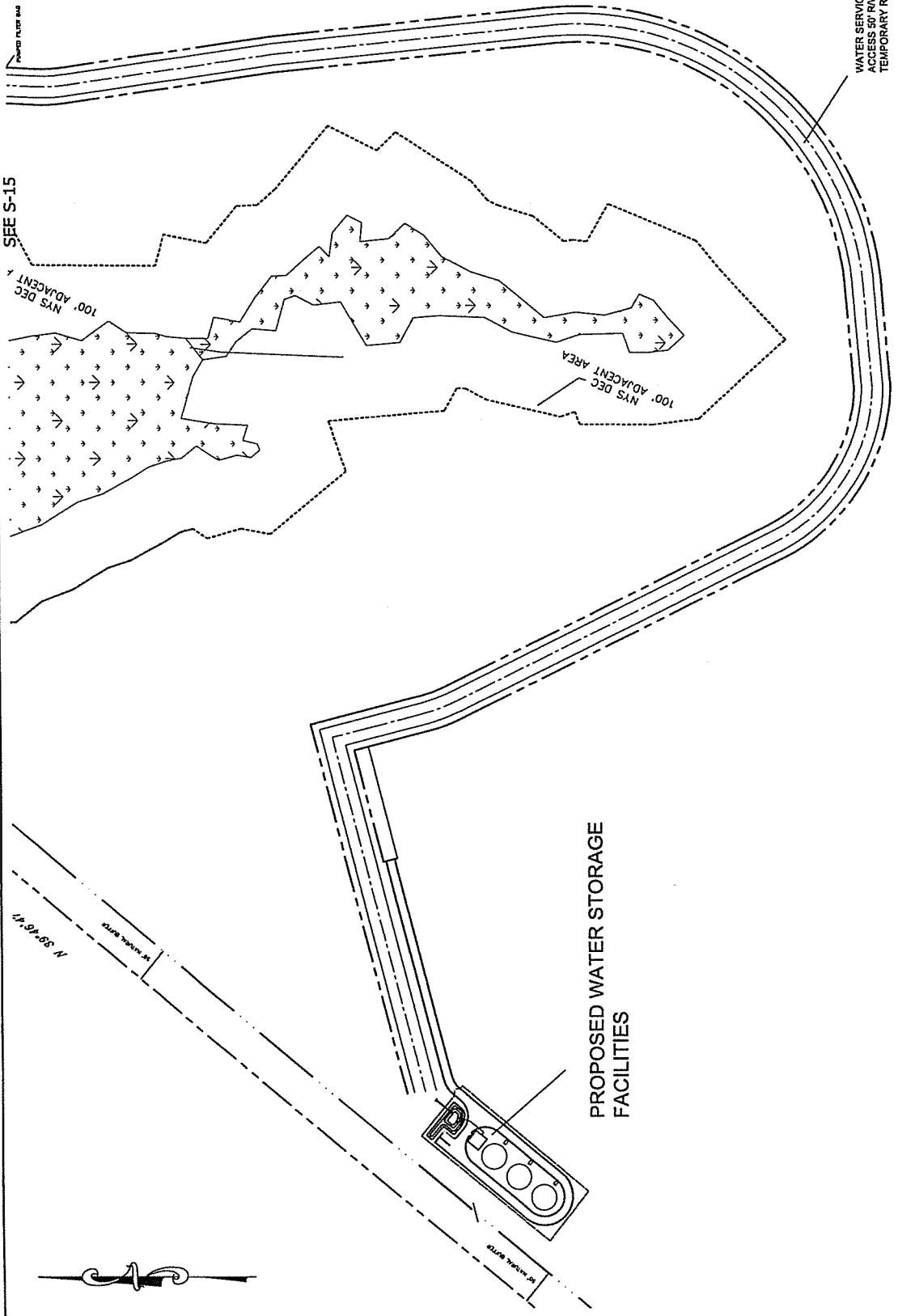
NO.	DESCRIPTION OF REVISION	DATE

DATE: 11/11/12  
 BY: M.A.  
 CHECKED BY: M.A.

**BRINKASH**  
 SURVEYING & ENGINEERING  
 ASSOCIATES, INC.  
 1713 CENTER STREET, ASPHANO, PA 17921  
 (717) 425-1818 (PHONE) (717) 425-1820 (FAX)

FINAL SUBDIVISION PLAN  
 SUBDIVISION - SITE PLAN-13  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORTSTRAUBACH, SULLYMAN COUNTY, NY

SHEET  
**5-16**



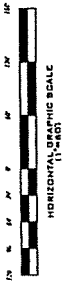
SEE S-15

100' ADJACENT  
 NYS DEC

100' ADJACENT AREA  
 NYS DEC

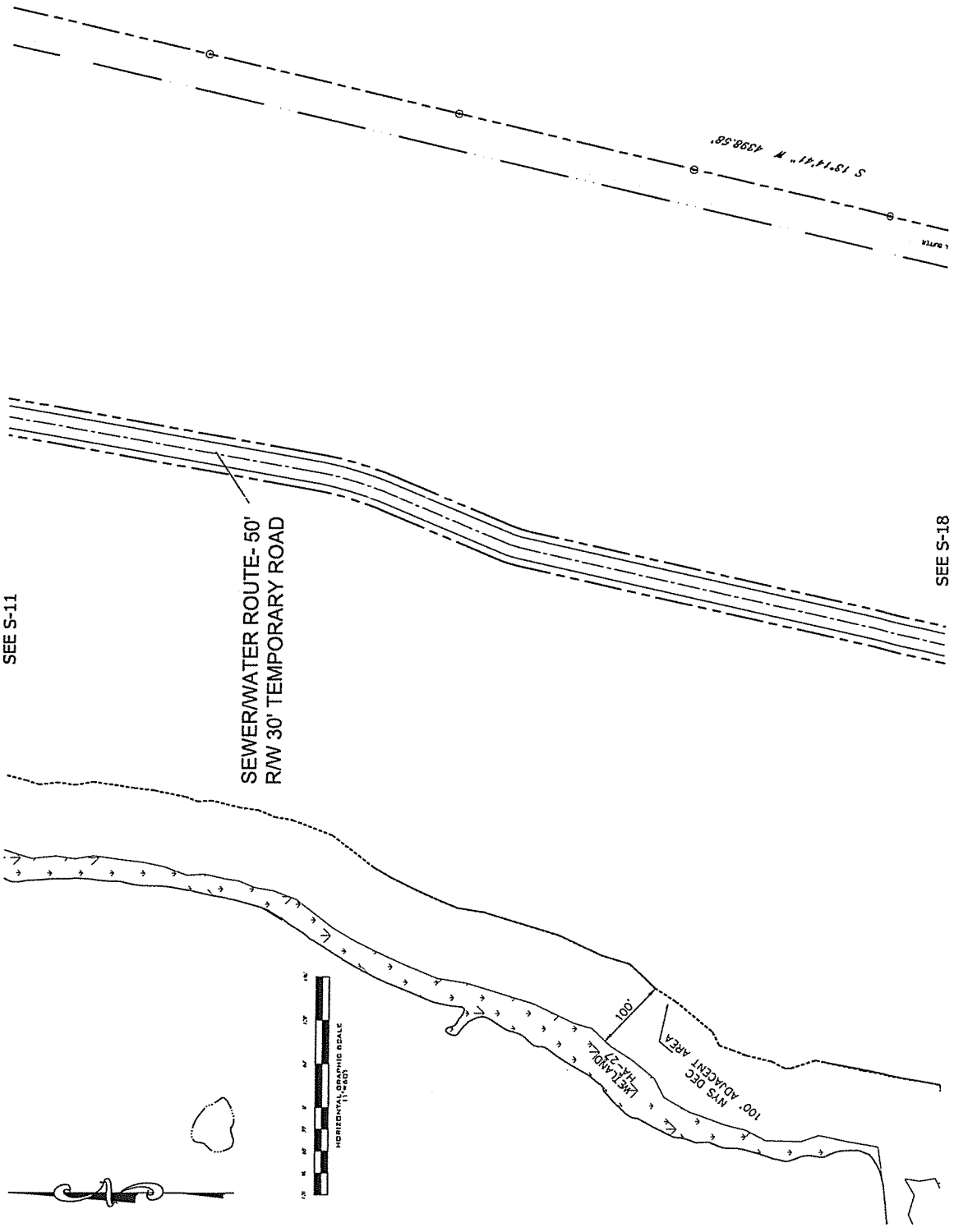
PROPOSED WATER STORAGE  
 FACILITIES

WATER SERVICE FACILITY -  
 ACCESS 50' MIN - 80'  
 TEMPORARY ROAD





NO.	DESCRIPTION OF REVISION	DATE

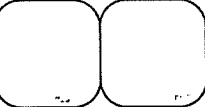


SEE S-11

SEE S-18

PHOTO REFERENCE 111-4-4-11

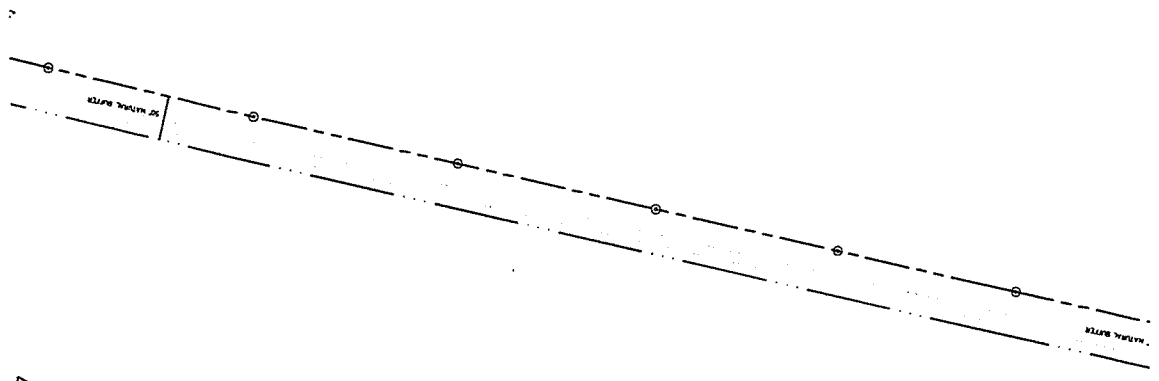
NO.	DESCRIPTION OF REVISION	DATE



**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTER STREET - ASPHANO, PA 17921  
 (717) 412-1818 (PHONE) (717) 412-1828 (FAX)

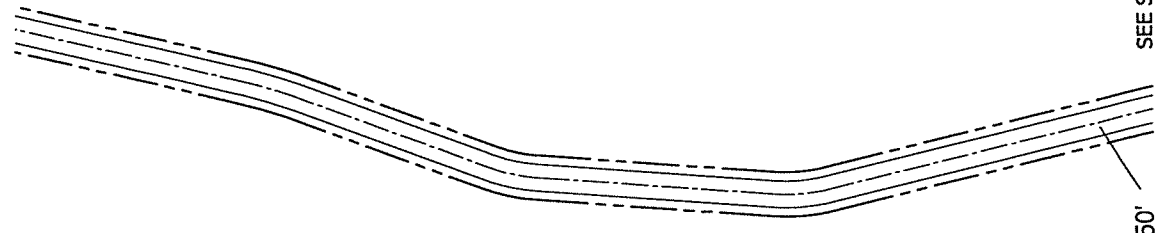
FINAL SUBDIVISION PLAN  
 SUBDIVISION - SITE PLAN-15  
 LOST LAKE RESORT PHASE I  
 TOWN OF FOSTERBURGH, SULLYMAN COUNTY, NY

81-S-18  
 SHEET

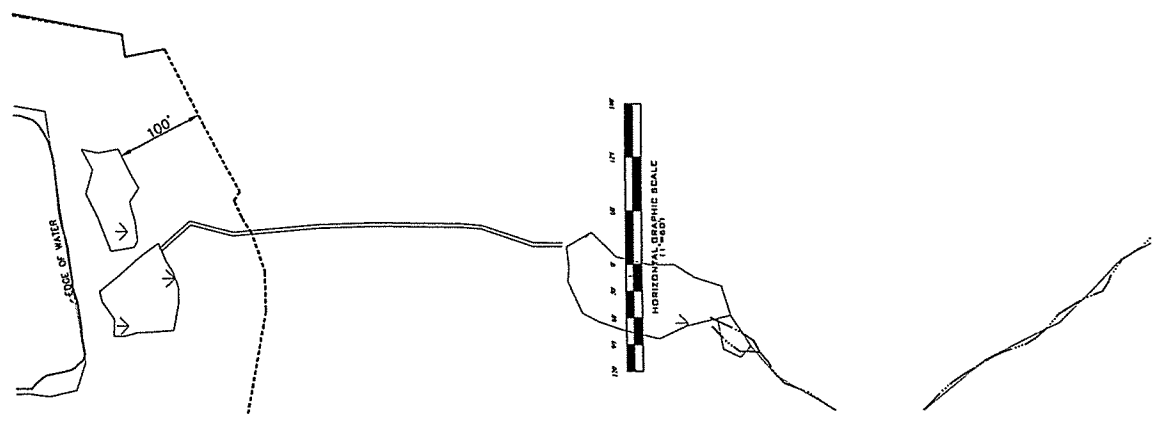


SEE S-17

SEE S-19



SEWER/WATER ROUTE-50'

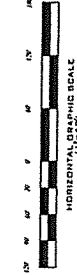
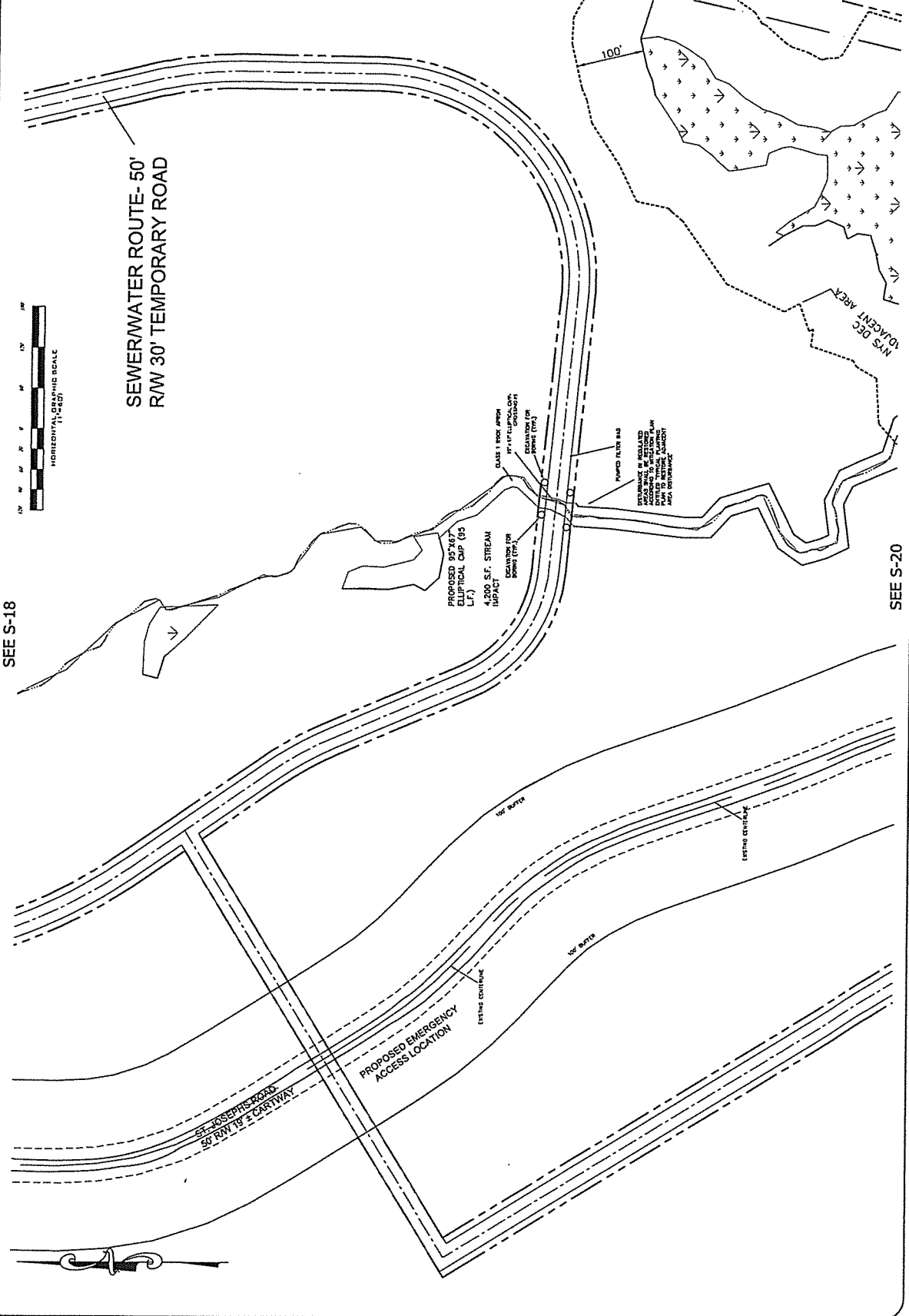
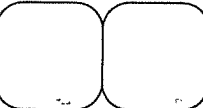


EDGE OF WATER

100'

HORIZONTAL GRAPHIC SCALE  
 1"=500'

NO.	DESCRIPTION OF REVISION	DATE



SEE S-18

SEE S-20

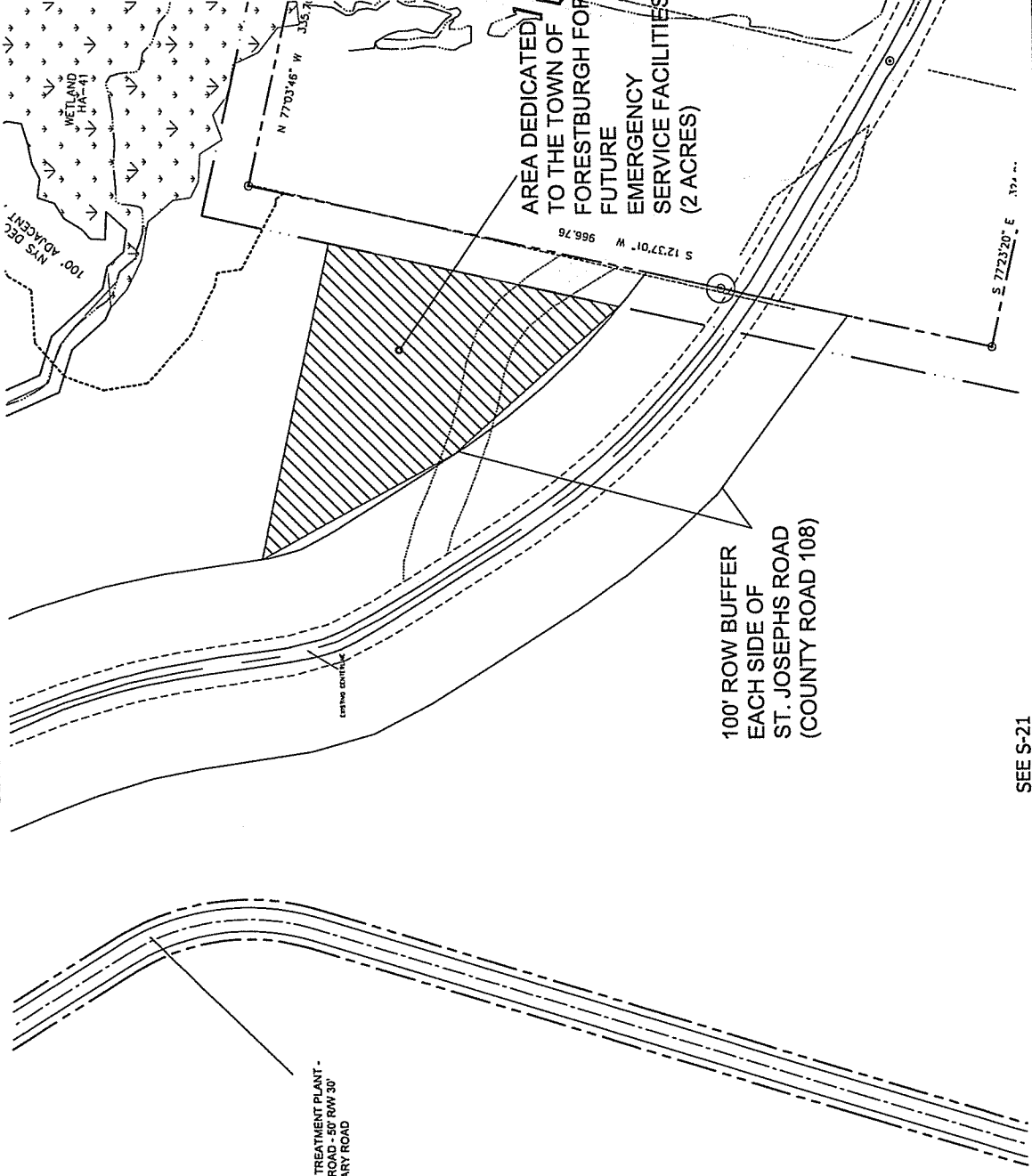
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NO.	DESCRIPTION OF REVISION	DATE

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET ASPEN, CO, PA 17021  
 (717) 435-1018 (PHONE) (717) 435-1570 (FAX)

FINAL SUBDIVISION PLAN  
 SUBDIVISION- SITE PLAN-17  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORESTBURGH, SULLYMAN COUNTY, NY

SHEET S-20



SEE S-19

SEE S-21

SEWAGE TREATMENT PLANT -  
 ACCESS ROAD OF RW 30'  
 TEMPORARY ROAD



11-14-14-11

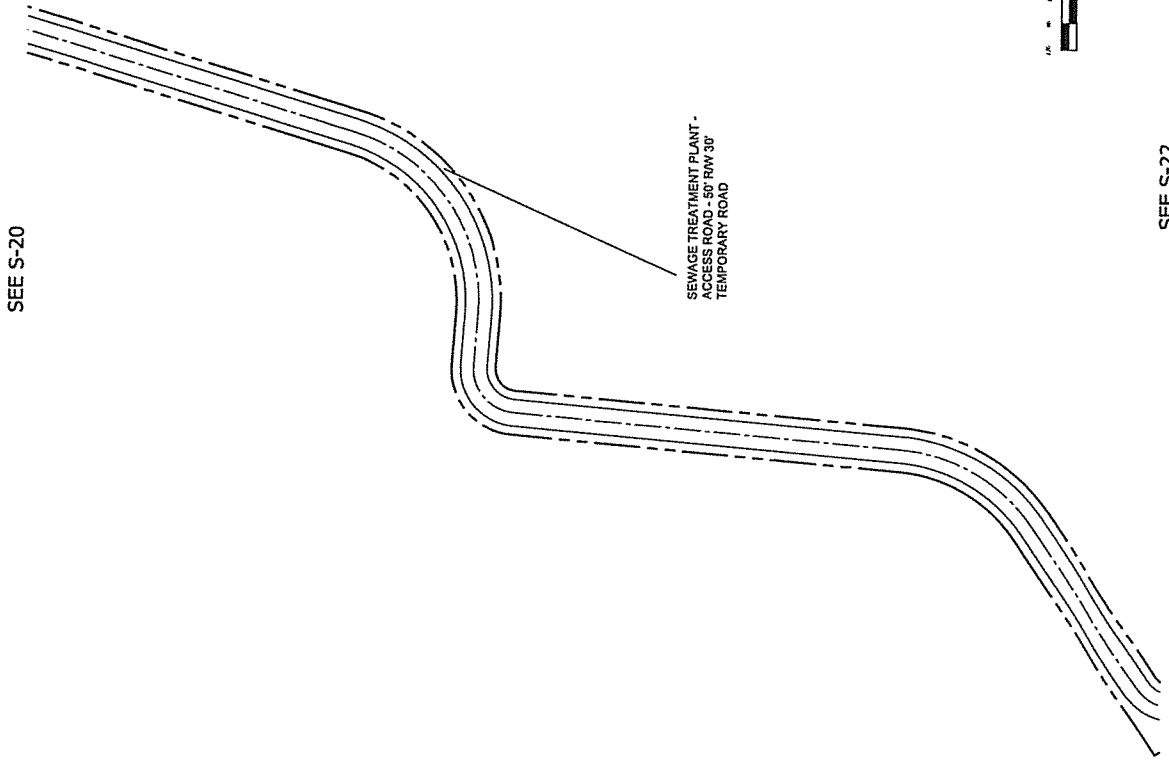
NO.	DESCRIPTION OF REVISION	DATE

DATE: 11/11/13  
 BY: M.P.A.  
 CHECKED BY: M.P.A.

**BRINKASH**  
 SURVEYING & ENGINEERING  
 ASSOCIATES, INC.  
 171 CENTRE STREET  
 ARDARA, NY 12013  
 (518) 475-1818 (PHONE)  
 (518) 475-1828 (FAX)

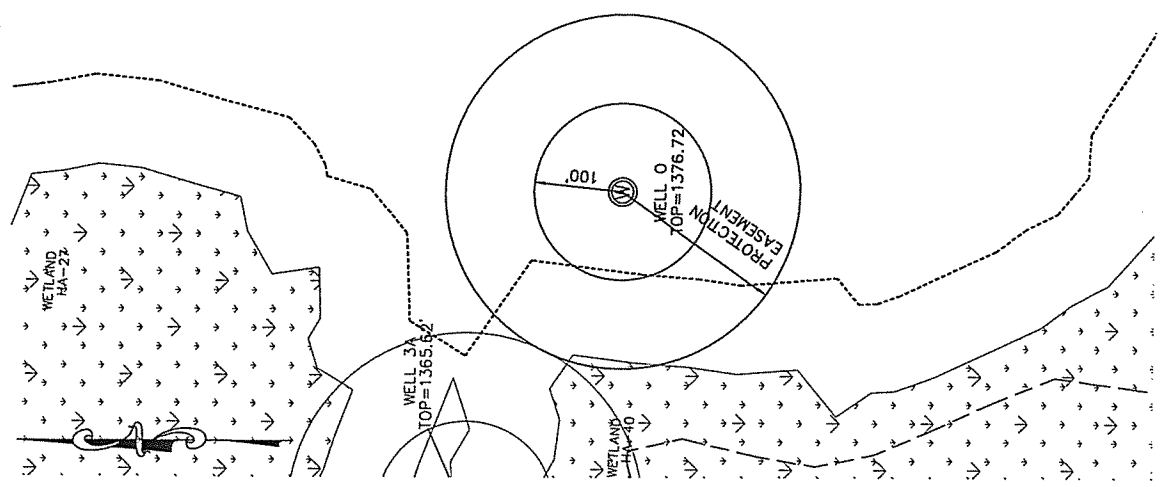
TOWN OF FORTSTURBOR, SULLYMAN COUNTY, NY  
**LOST LAKE RESORT PHASE I**  
 SUBDIVISION - SITE PLAN-18  
 FINAL SUBDIVISION PLAN

SHEET S-21



SEE S-20

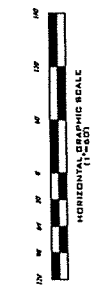
SEE S-22



SEE S-21

PROJ. NO. 1304-011

NO.	DESCRIPTION OF REVISION	DATE

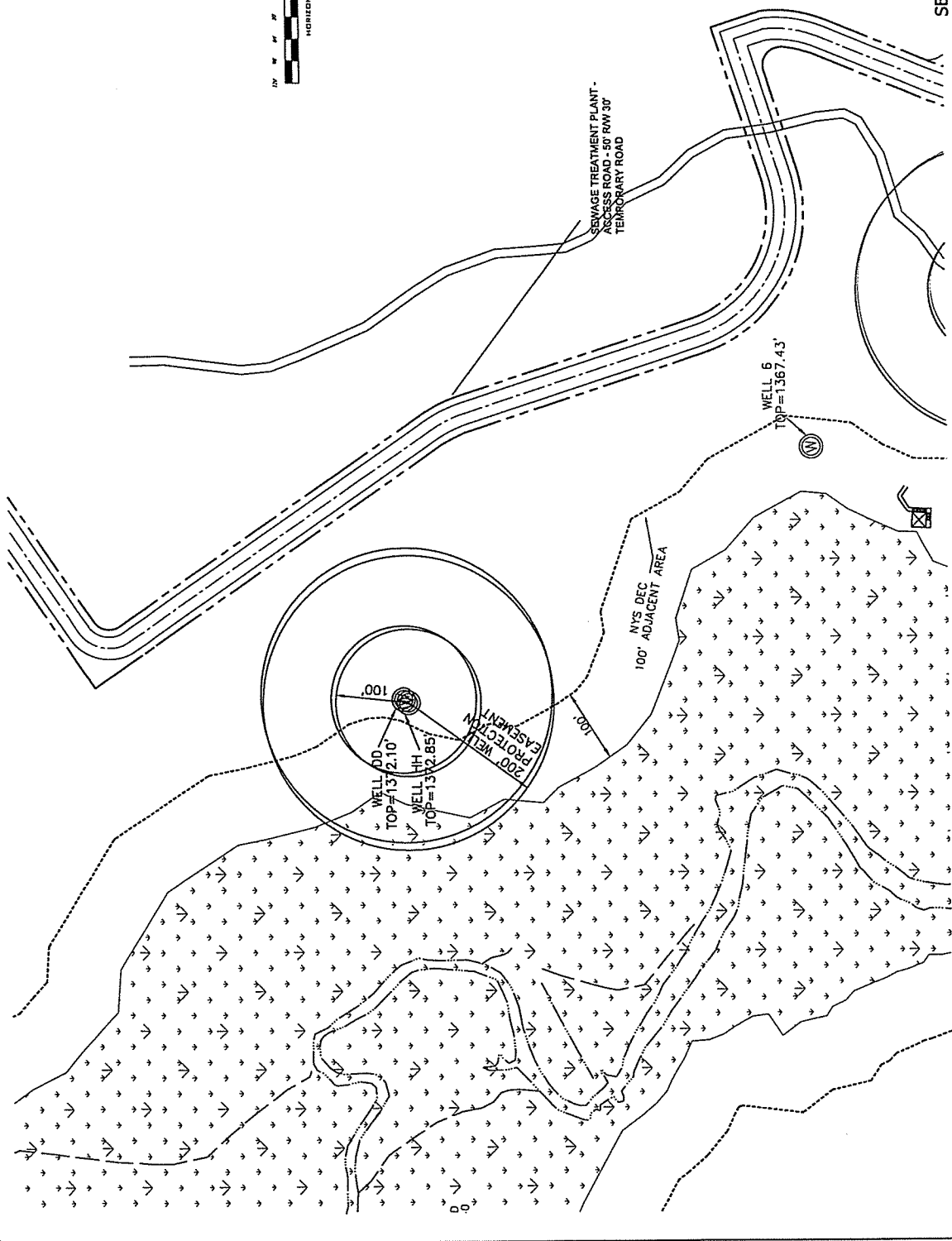


**BRINKASH ASSOCIATES, INC.**  
SURVEYING & ENGINEERING  
1713 CENTRE STREET ASHLAND, VA 23012  
(570) 425-1818 (FAX) (570) 425-1800 (CALL)

FINAL SUBDIVISION PLAN  
SUBDIVISION - SITE PLAN-19  
**LOST LAKE RESORT PHASE I**  
TOWN OF FORESTBURGH, SULLYMAN COUNTY, NY

SHEET  
S-22

SEE S-23



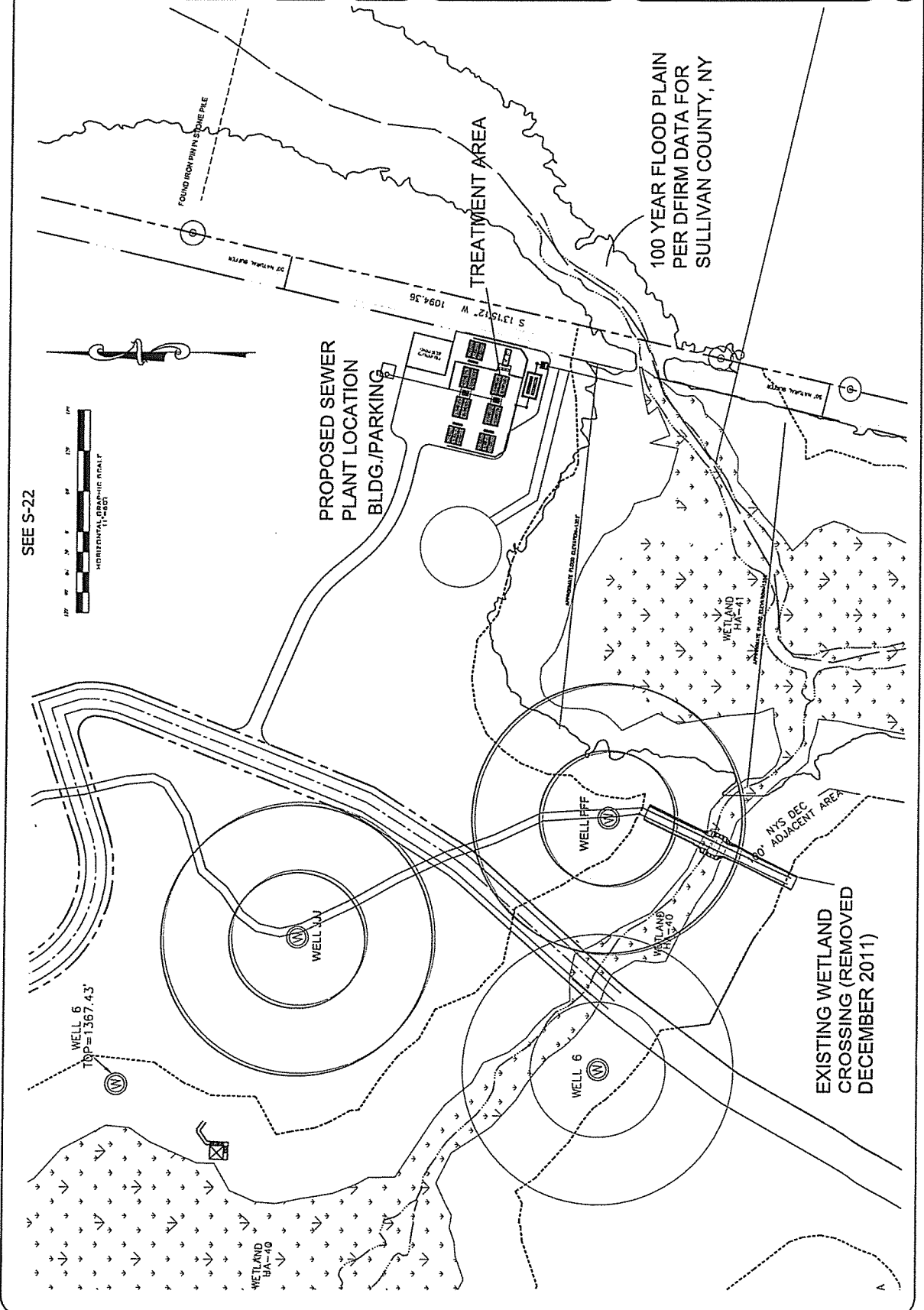
NO.	DESCRIPTION OF REVISION	DATE

DATE: \_\_\_\_\_  
 PROJECT NO.: 11-14-11

**BRINKASH**  
 SURVEYING & ENGINEERING, INC.  
 1713 CENTRE STREET, ASHLAND, PA 19211  
 (610) 875-1318 (P-CHN) (610) 875-1870 (FAX)

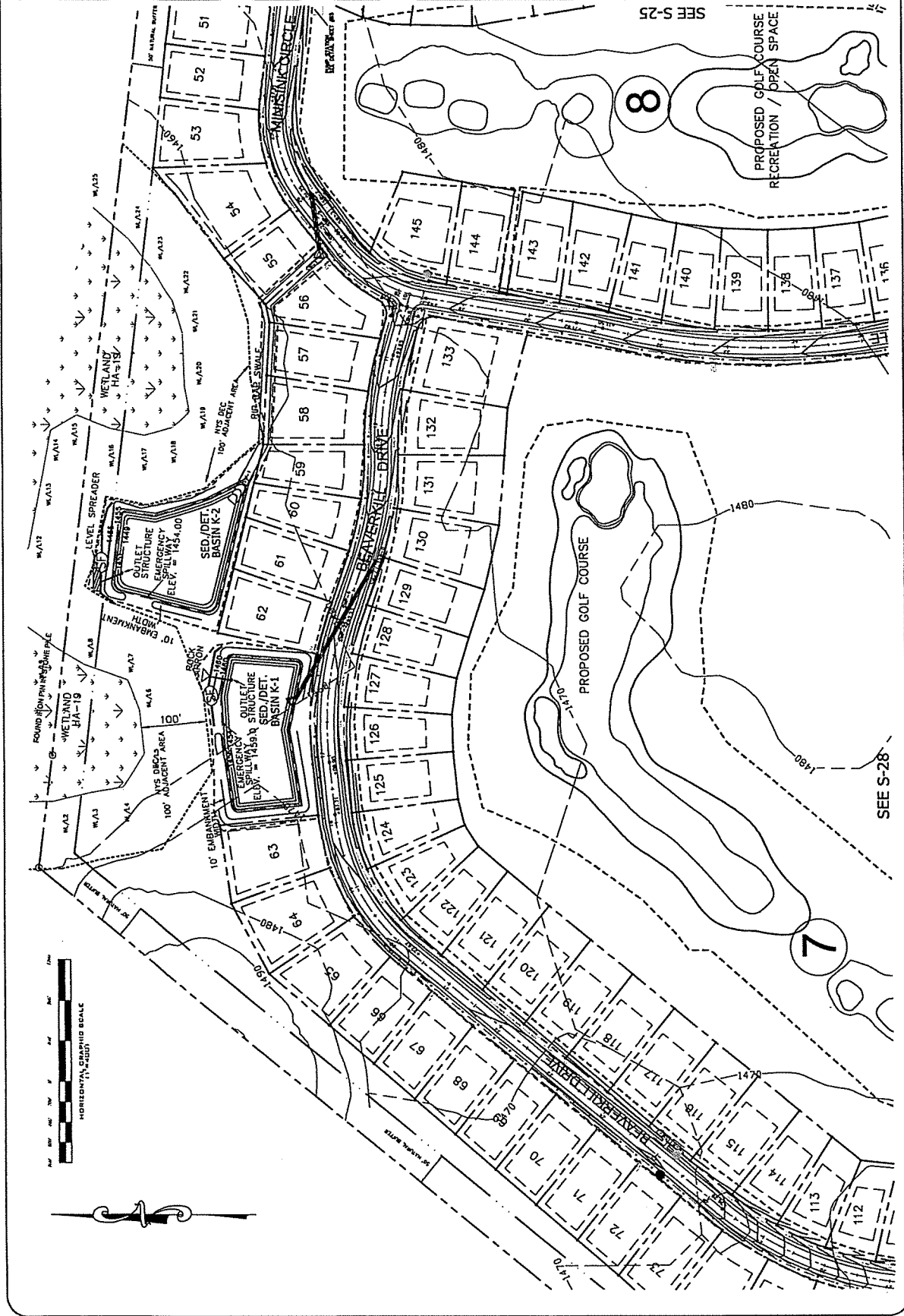
FINAL SUBDIVISION PLAN  
 SUBDIVISION-SITE PLAN-20  
 LOST LAKE RESORT PHASE I

TOWN OF FORESTBURGH, SULLIVAN COUNTY, NY  
 SHEET S-23



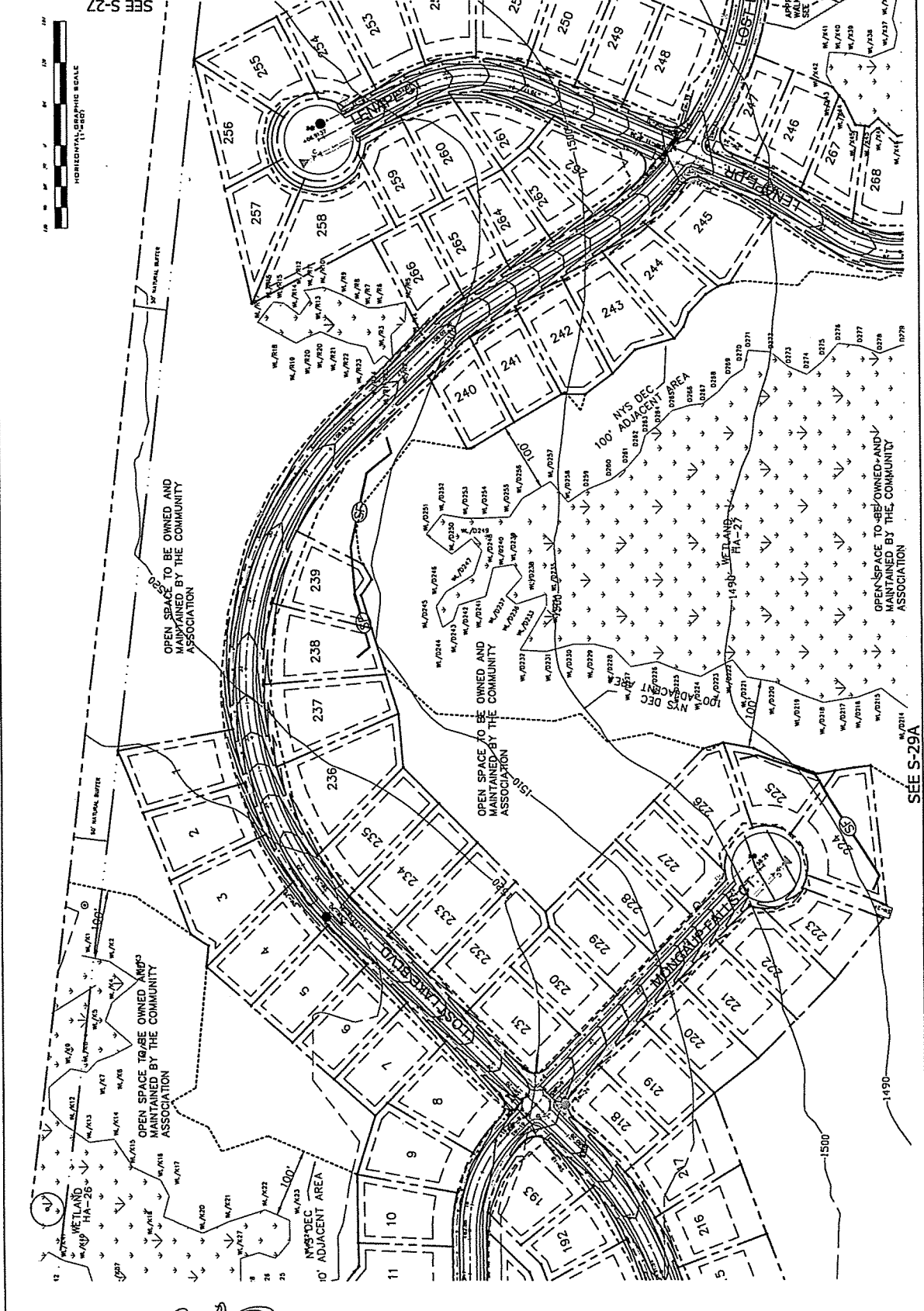
SEE S-22

EXISTING WETLAND CROSSING (REMOVED DECEMBER 2011)



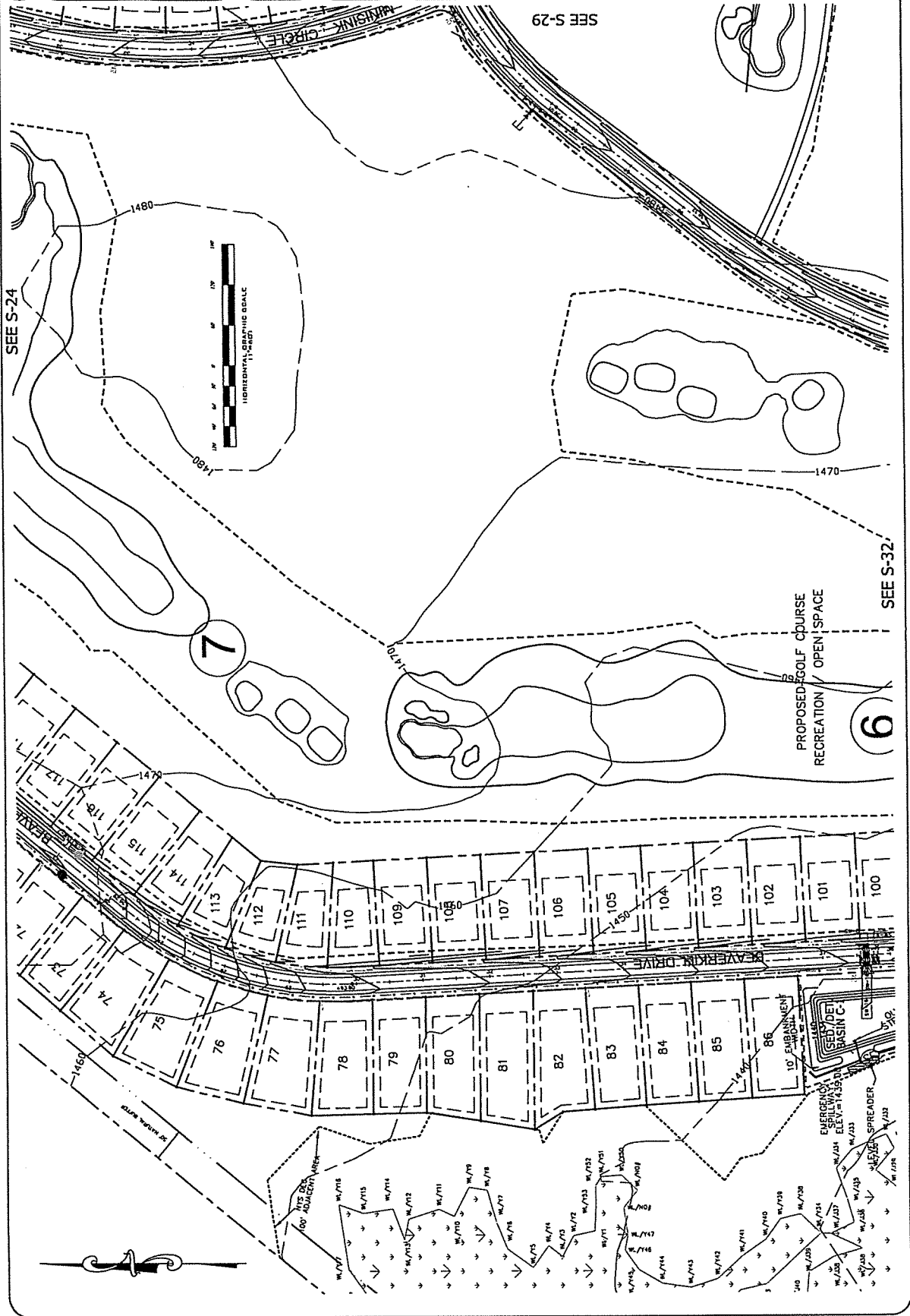








NO.	DESCRIPTION OF REVISION	DATE



SEE S-24

SEE S-29

SEE S-32

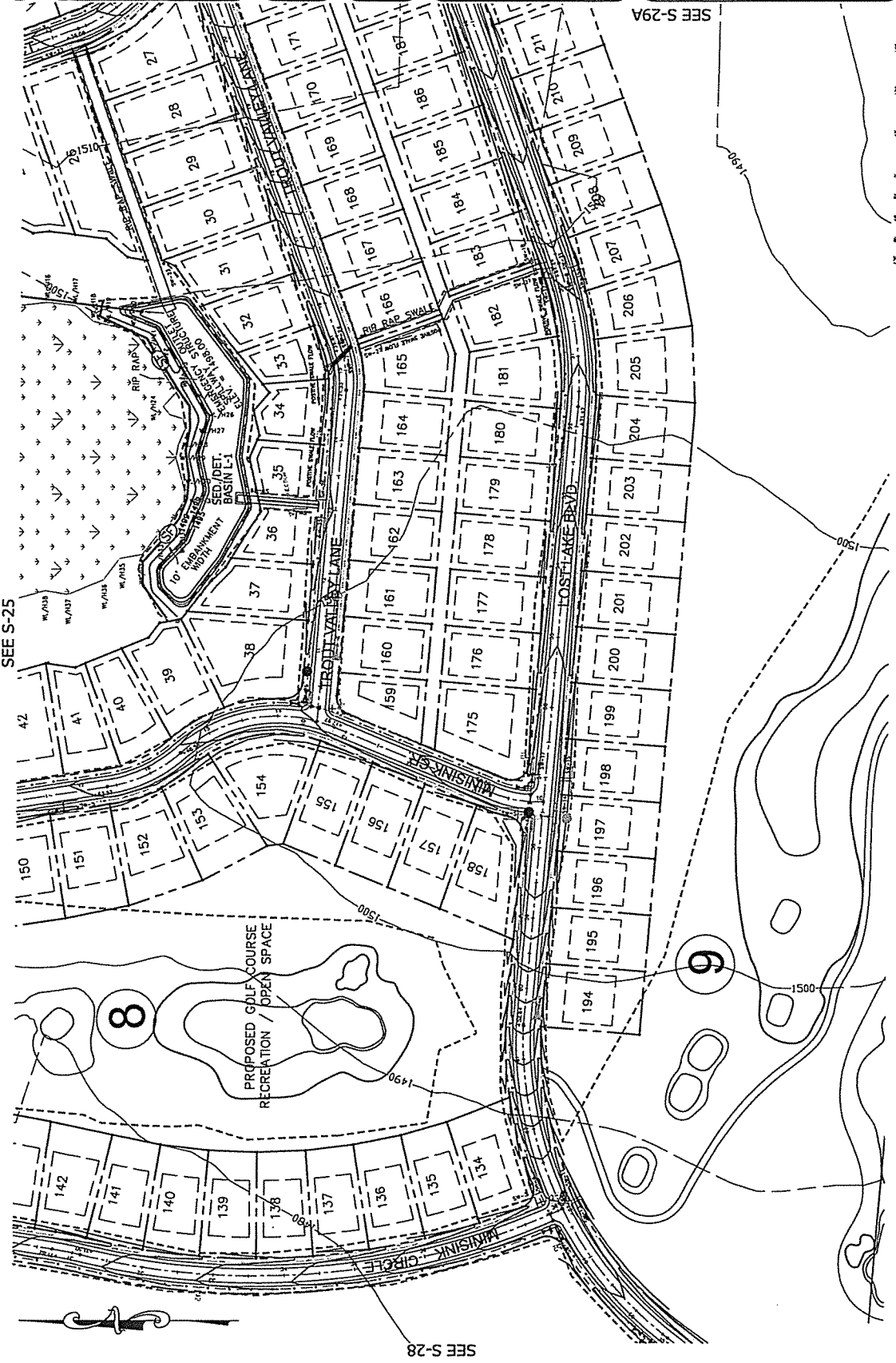
7

6

PROPOSED GOLF COURSE  
RECREATION / OPEN SPACE



NO.	DESCRIPTION OR REVISION	DATE



SEE S-25

SEE S-28

SEE S-29A

SEE S-32A



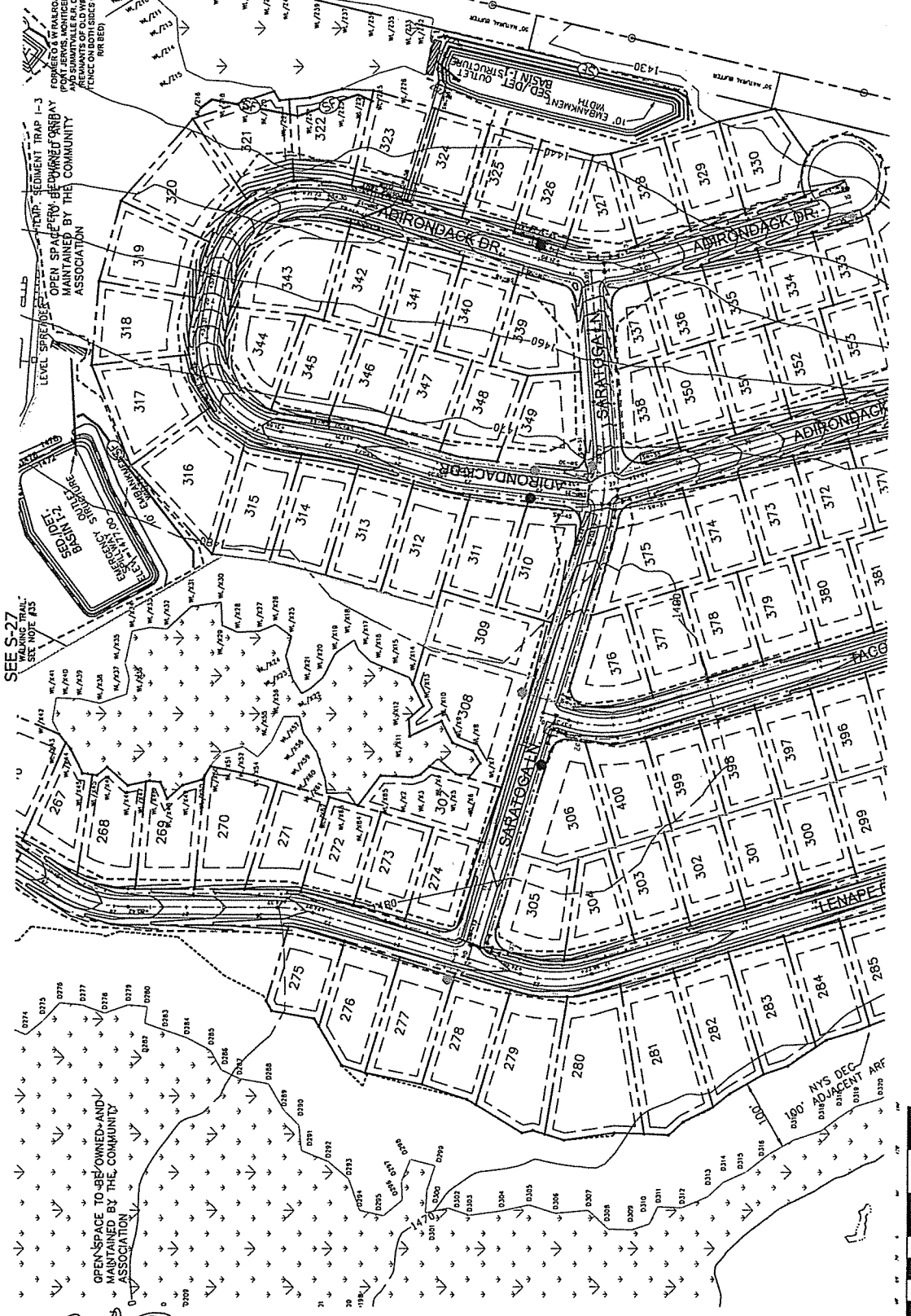
NO.	DESCRIPTION OF REVISION	DATE	BY

PROJ. NO. 1014-11

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1213 CENTRE STREET, ASHLAND, PA 17923  
 (717) 435-1018 (PHONE) (717) 435-1570 (FAX)

FINAL SUBDIVISION PLAN - 7  
 GRADING/UTILITY/DRAINAGE PLAN  
 LOST LAKE RESORT PHASE I  
 TOWN OF FOSTERTON, SULLY COUNTY, NY

SHEET S-30



SEE S-27  
 WALKING TRAIL  
 SEE NOTE #3

OPEN SPACE TO BE OWNED-AND-MAINTAINED BY THE COMMUNITY ASSOCIATION

SEE S-29A

SEE S-31

PROJ. NO. 11-14-14-11

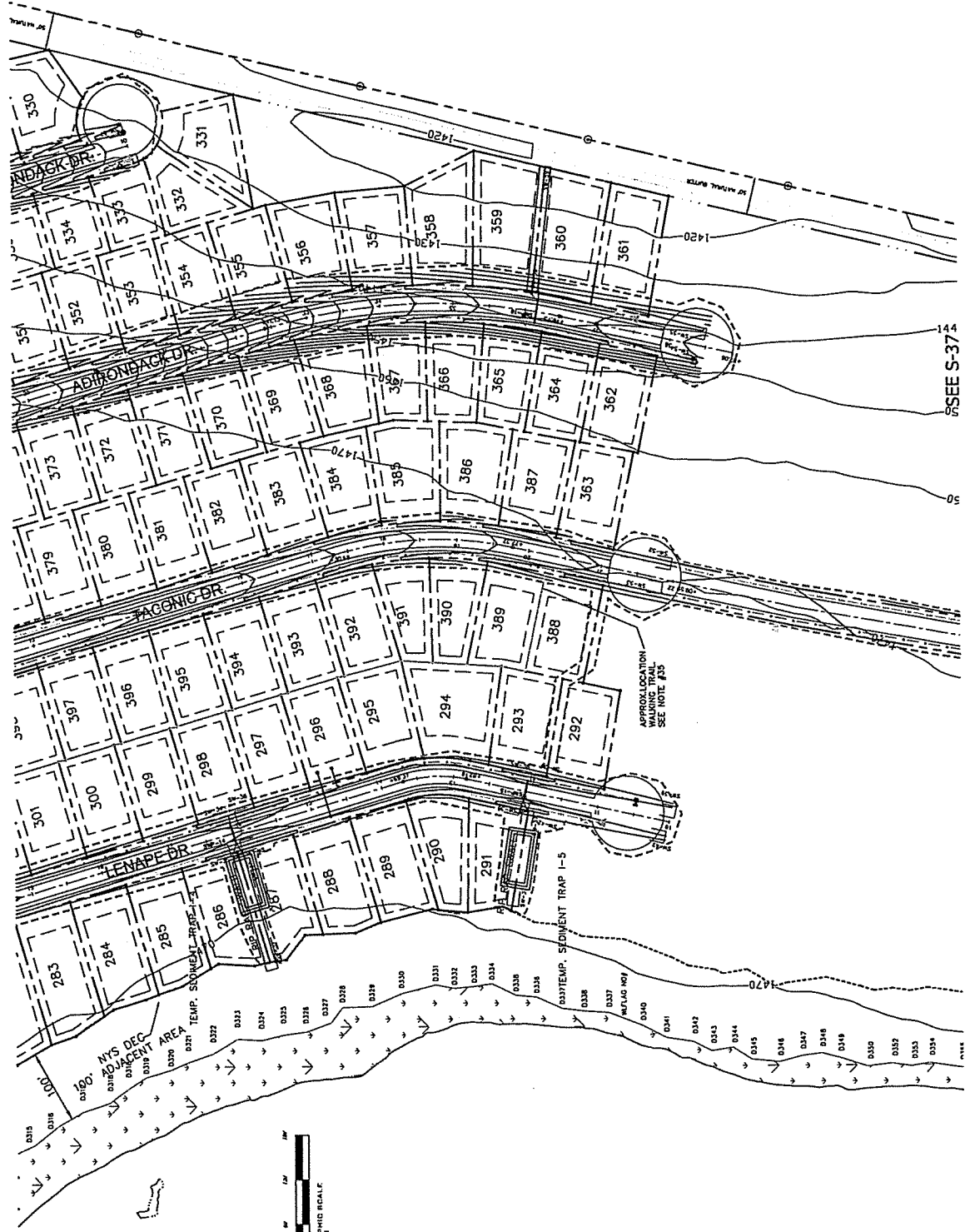
DATE: 11/17/11	BY: M.F.A.	DESIGNED BY: M.F.A.	NO.	DESCRIPTION OF REVISION

1-A

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, ASHLAND, PA 17213  
 (717) 875-1018 (PHONE) (717) 875-1070 (FAX)

FINAL SUBDIVISION PLAN  
 GRADING/UTILITY/DRAINAGE PLAN - B  
 LOST LAKE RESORT PHASE I  
 TOWN OF FORESTBURG, SULLYMAN COUNTY, NY

SHEET S-31



SEE S-30



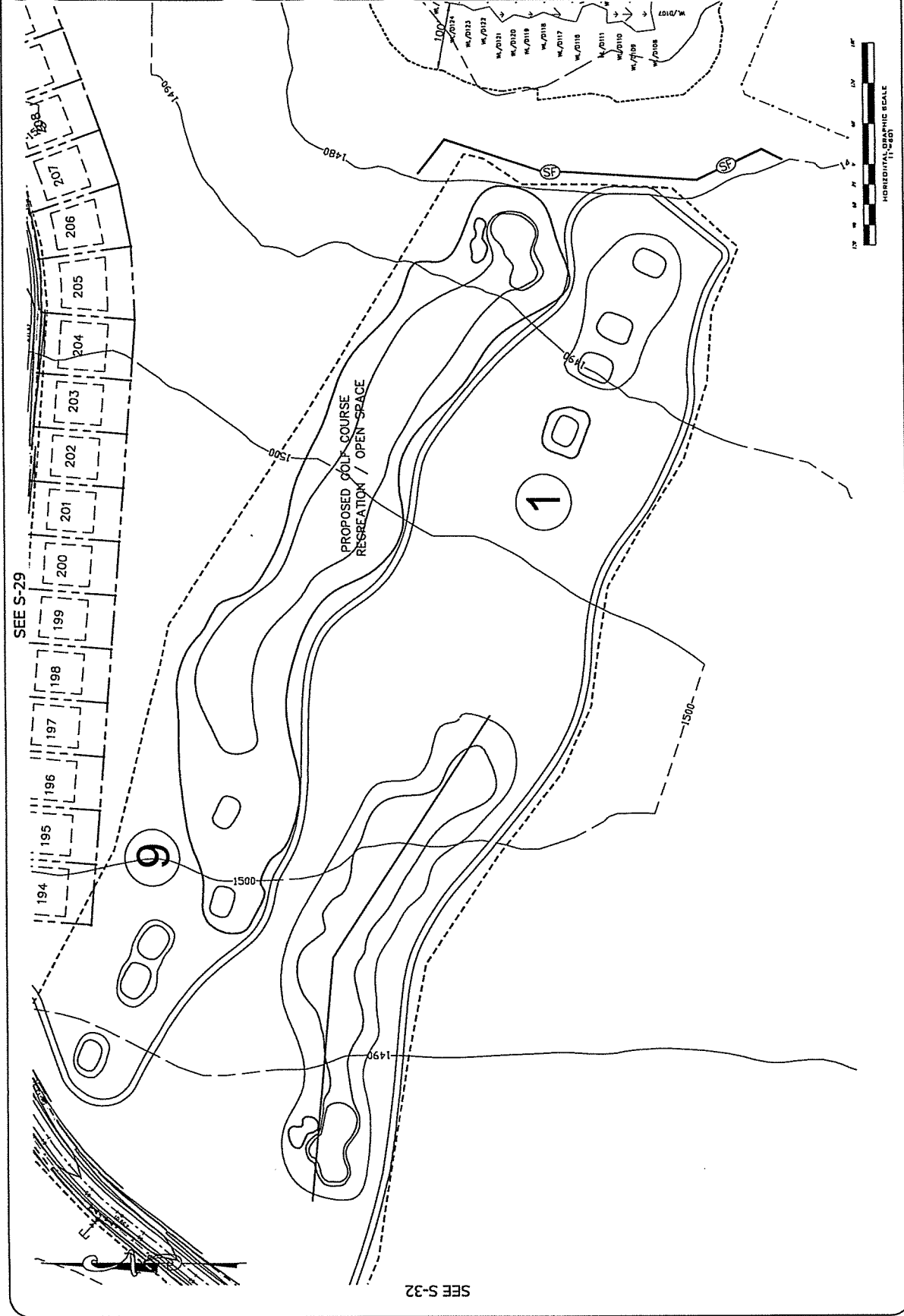
SEE S-37





NO.	REVISION OR REASON	DATE

DATE: 11/11/11 BY: M.A. RECORDED BY: M.A. PROJECT NO.: 10114-S-11



SEE S-32

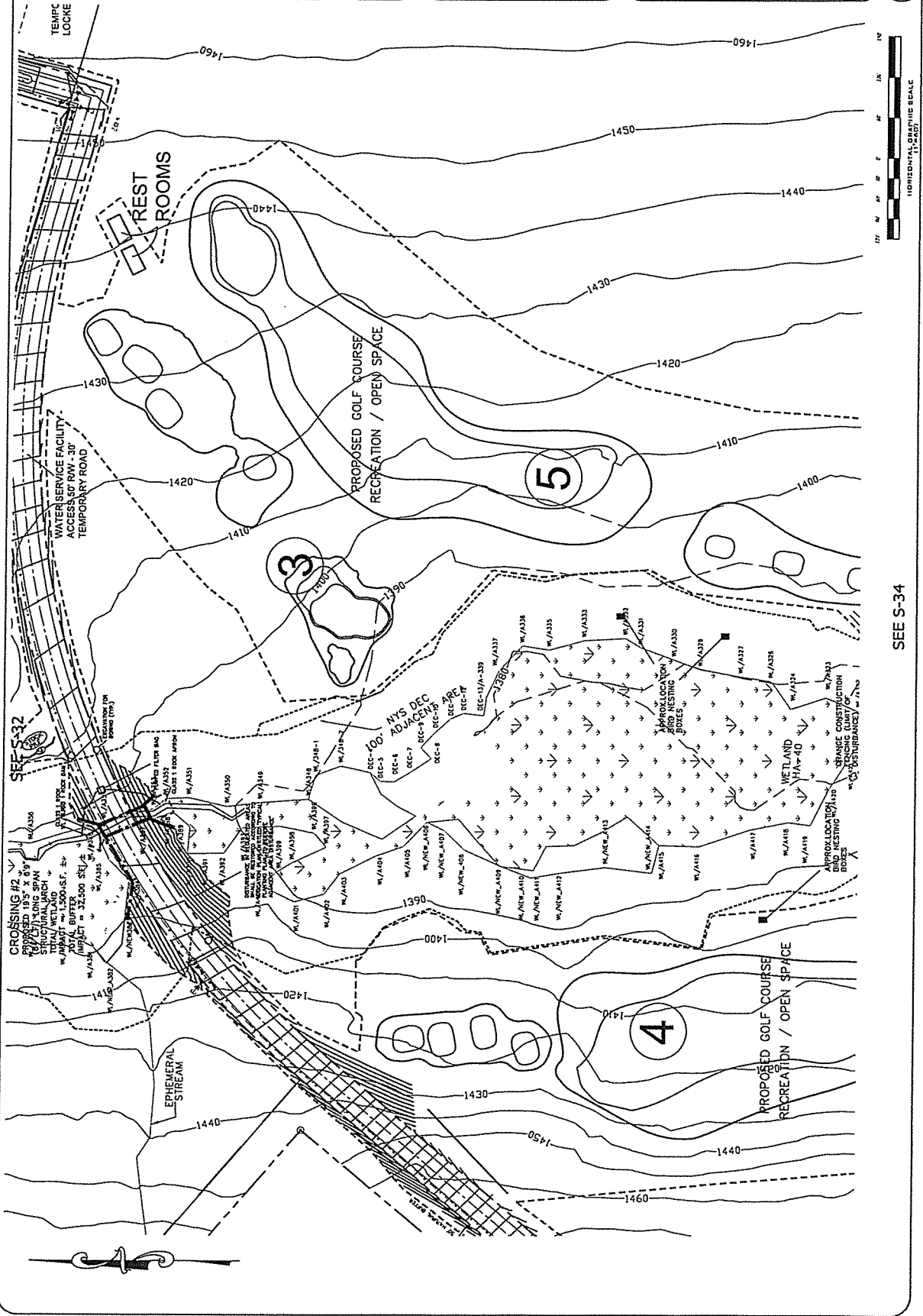
NO.	DESCRIPTION OF REVISION

DATE: 10/11/12  
 BY: K.M.  
 CHECKED BY: K.M.  
 PROJECT NO: 2012-04-11

**BRINKASH**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, ASHLAND, PA 17921  
 (570) 875-1018 (PHONE) (570) 875-1970 (FAX)

FINAL SUBDIVISION PLAN  
 GRADING/UTILITY/DRAINAGE PLAN - 10  
 TOWN OF FORESTRUCK, SULLY COUNTY, MN

SHEET  
 S-33



SEE S-34



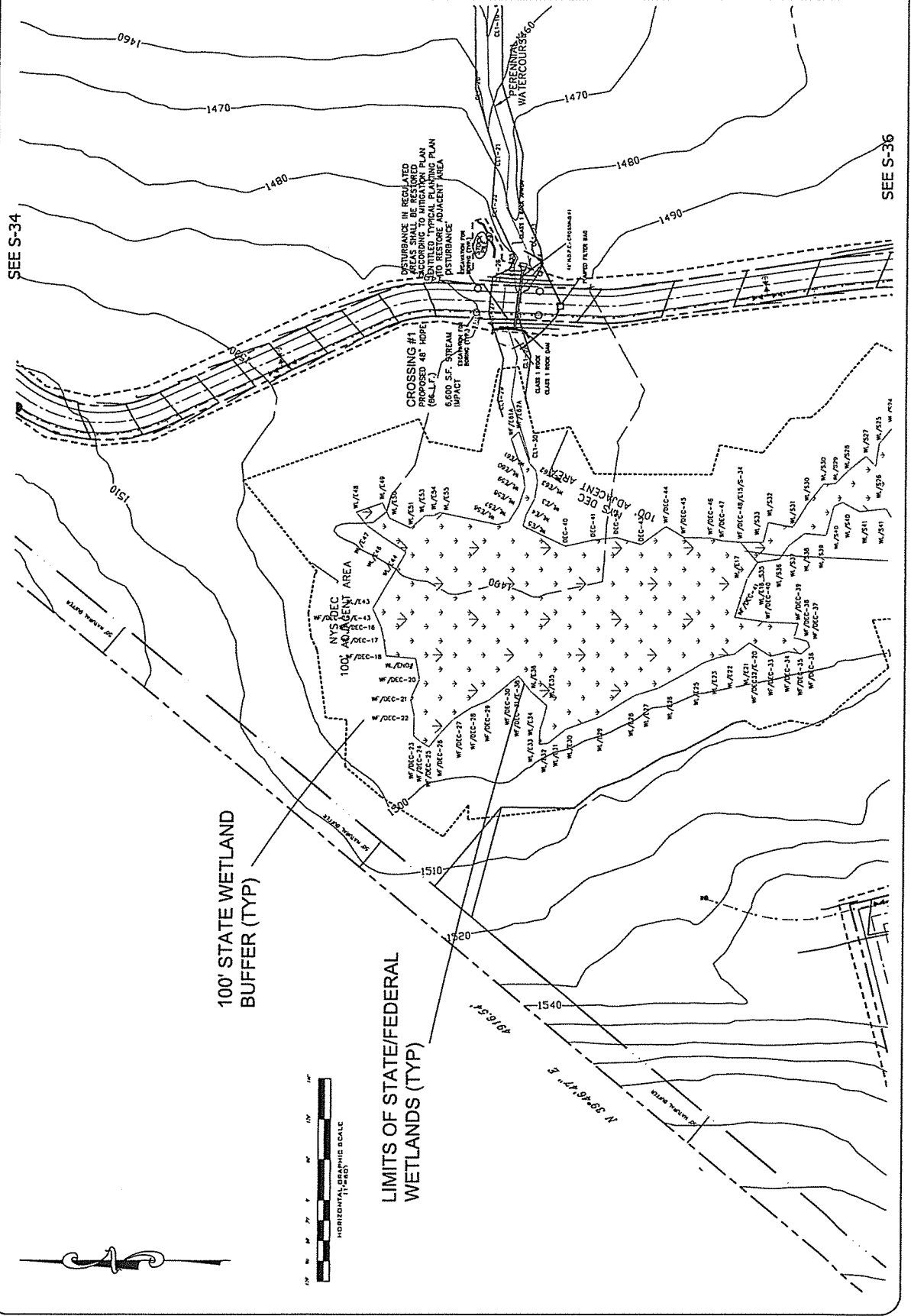
NO.	DESCRIPTION OF REVISION	DATE

DATE: 10/11/17  
 BY: M.A.  
 CHECKED BY: M.A.  
 PROJECT NO: 2017-11

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, ASHLAND, PA 19211  
 (610) 435-1018 (PH) (610) 435-1070 (FX)

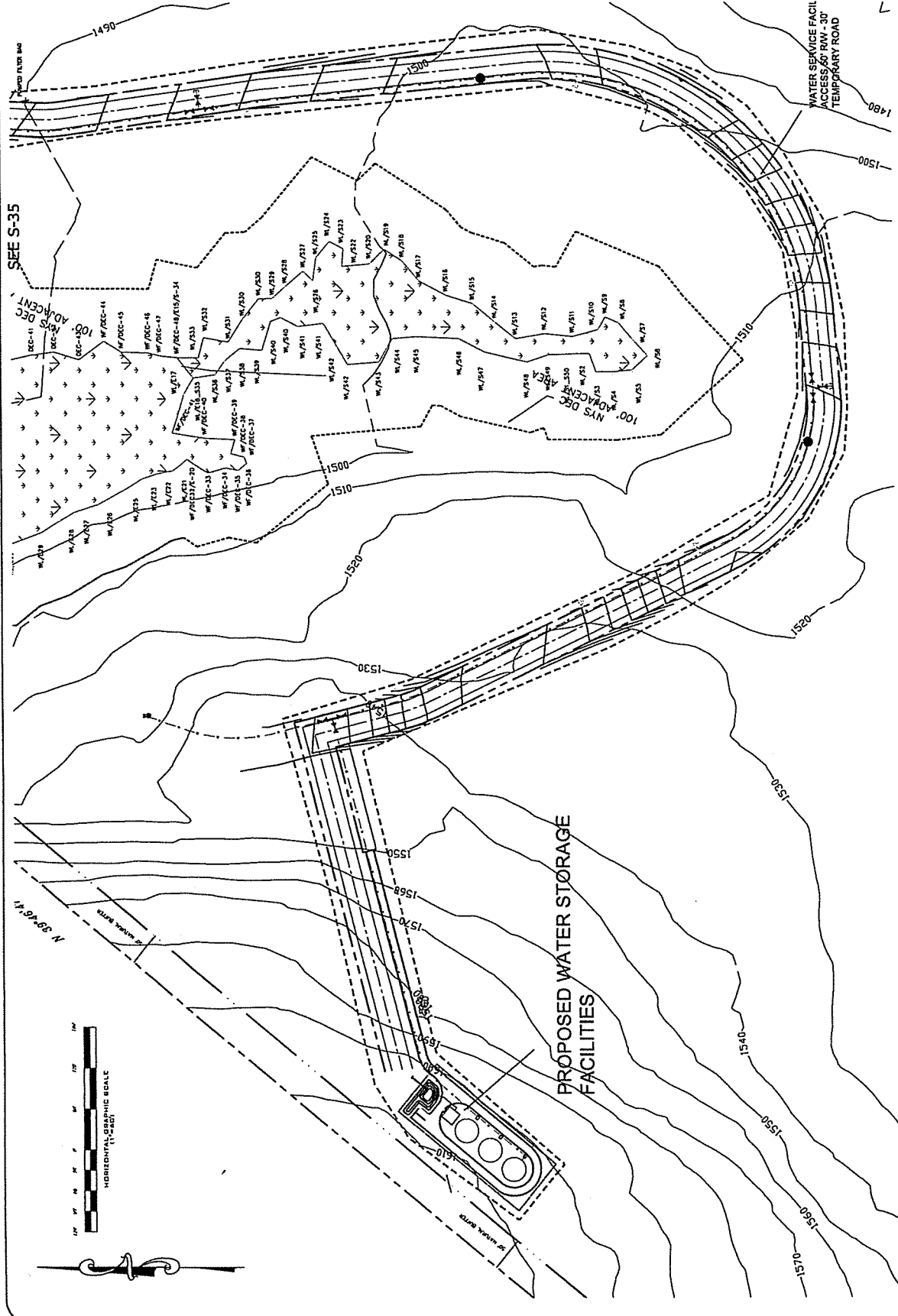
FINAL SUBDIVISION PLAN  
 GRADING/UTILITY/DRAINAGE PLAN - 12  
 LOST LAKE RESORT PHASE I  
 TOWN OF FROSTBURGH, SULLYWAY COUNTY, NY

SHEET S-35

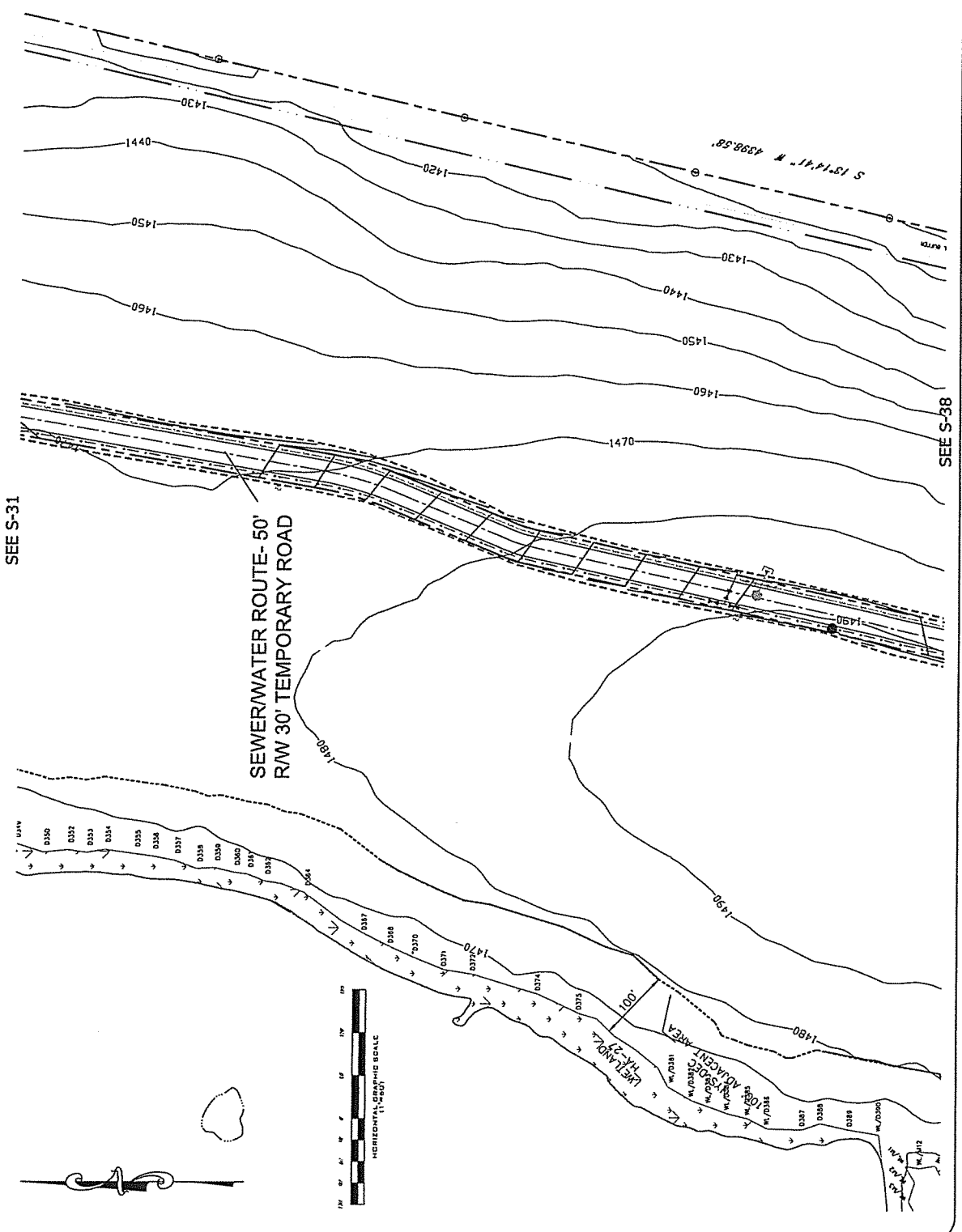


SEE S-34

SEE S-36



NO.	DESCRIPTION OF REVISION	DATE



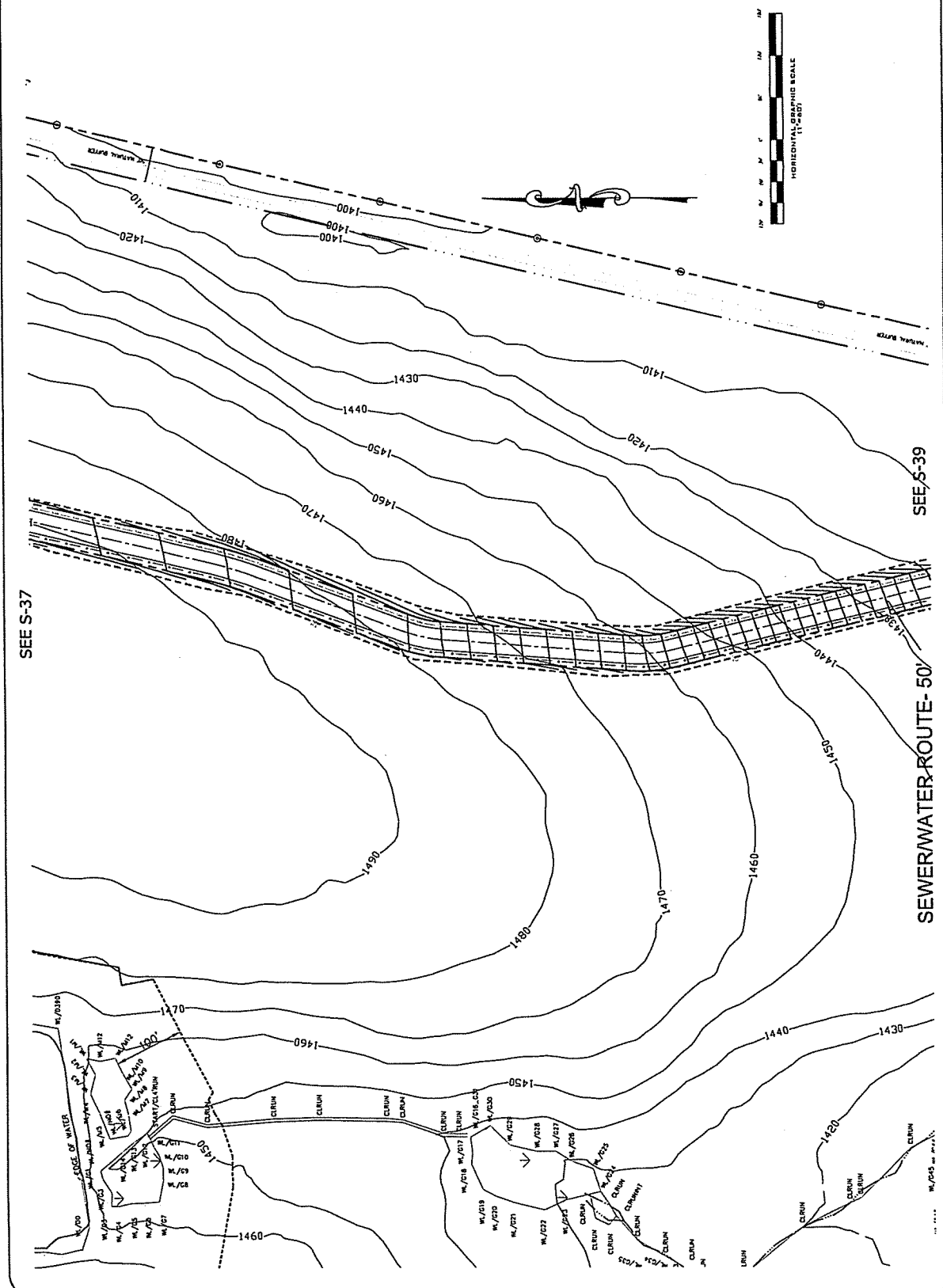
SEE S-31

SEWER/WATER ROUTE- 50'  
R/W 30' TEMPORARY ROAD

SEE S-38

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTER STREET, ASPEN, CO 81611  
 (303) 472-1018 (PHONE) (303) 472-1529 (FAX)

NO.	DESCRIPTION OF REVISION	DATE



SEE S-37

SEE S-39

SEWERWATER ROUTE- 50





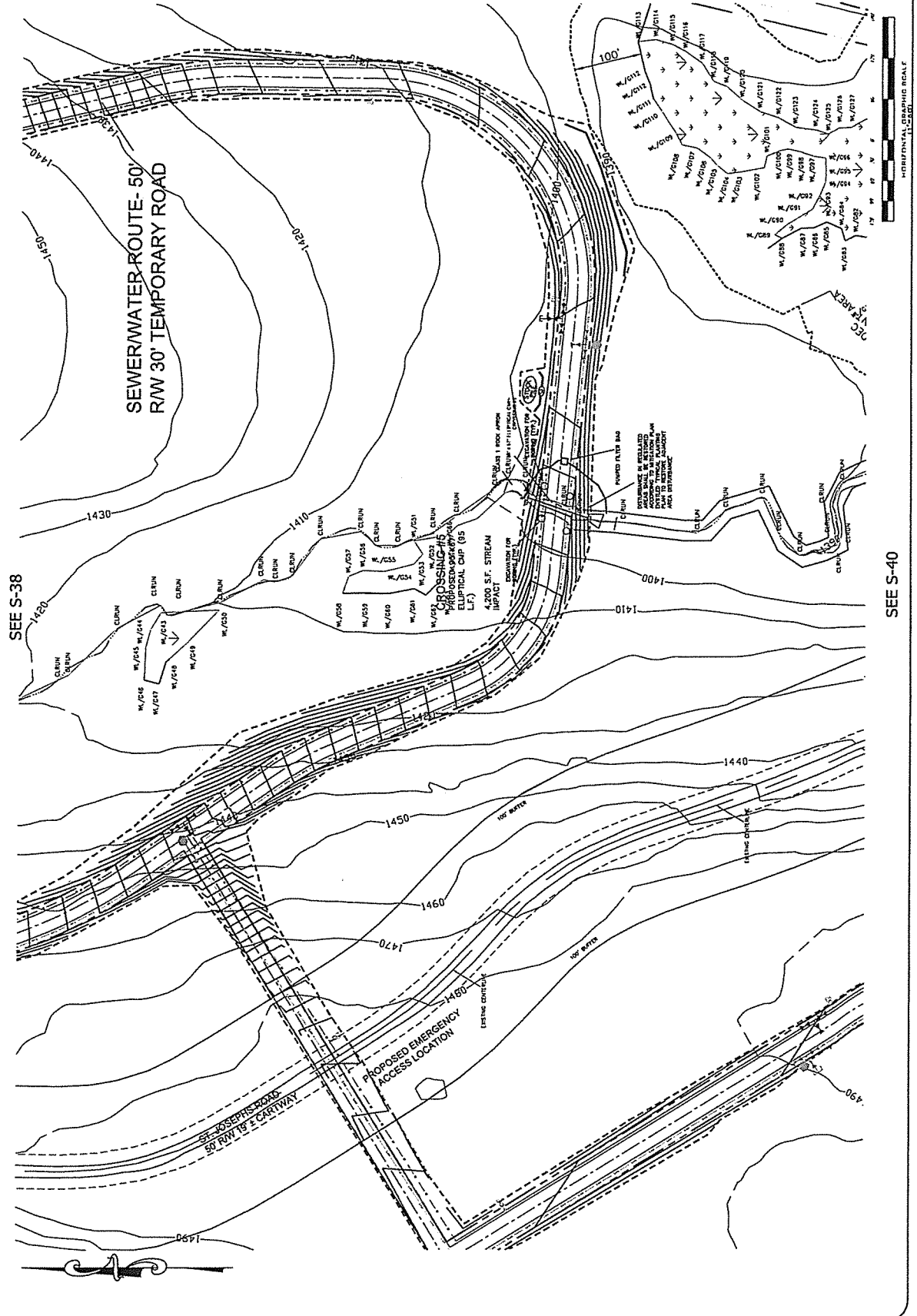
NO.	DESCRIPTION OF REVISIONS	DATE	BY	CHKD

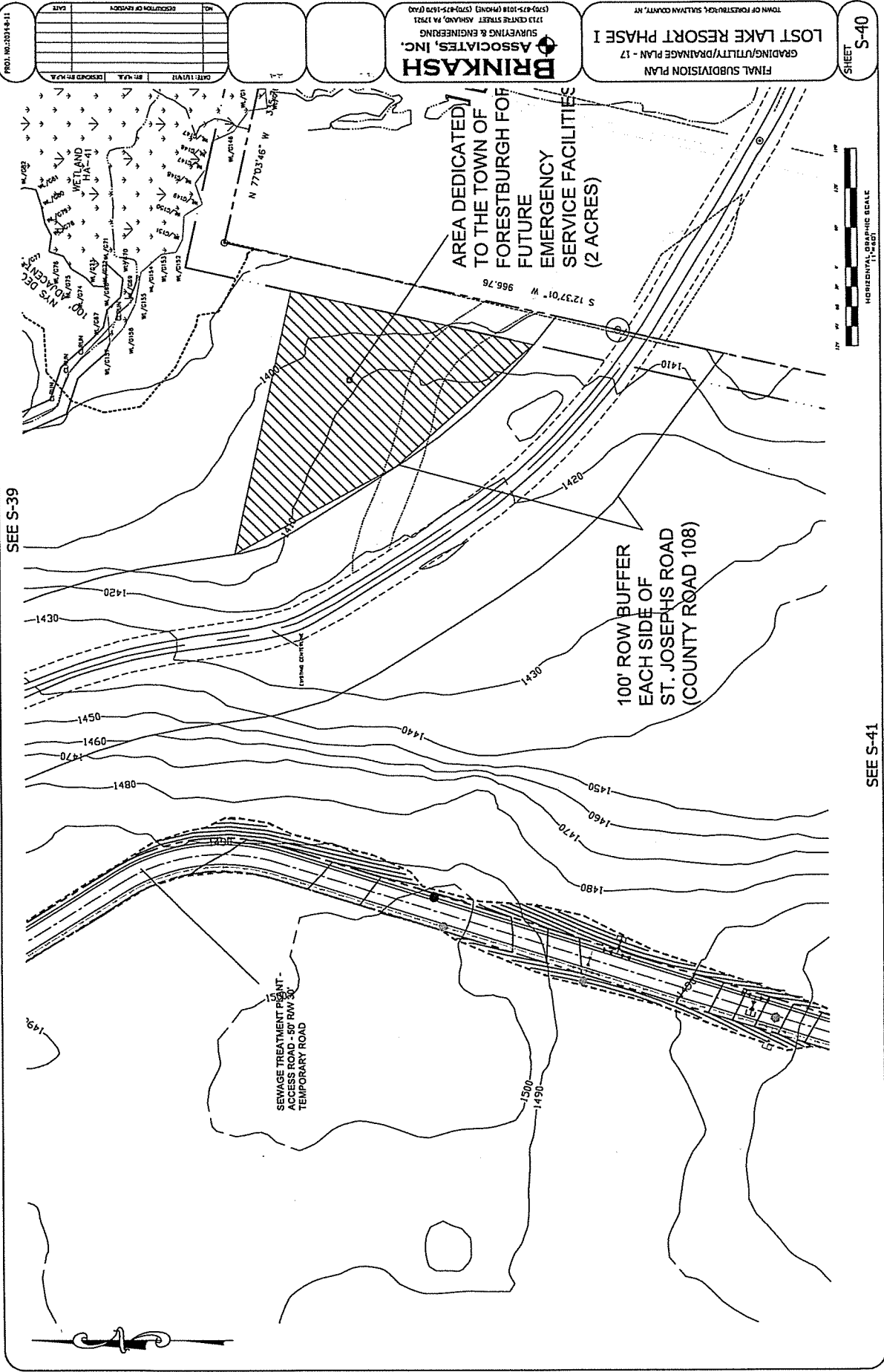
PROJ. NO. 2014-11

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1212 CENTRE STREET, ASHLAND, PA 17921  
 (570) 435-1018 (PHONE) (570) 435-1570 (FAX)

TOWN OF FORESTBURGH, SULLYMAN COUNTY, NY  
**LOST LAKE RESORT PHASE I**  
 GRADING/UTILITY/DRAINAGE PLAN - 16  
 FINAL SUBDIVISION PLAN

SHEET S-39





PROD. NO. 2019-4-11

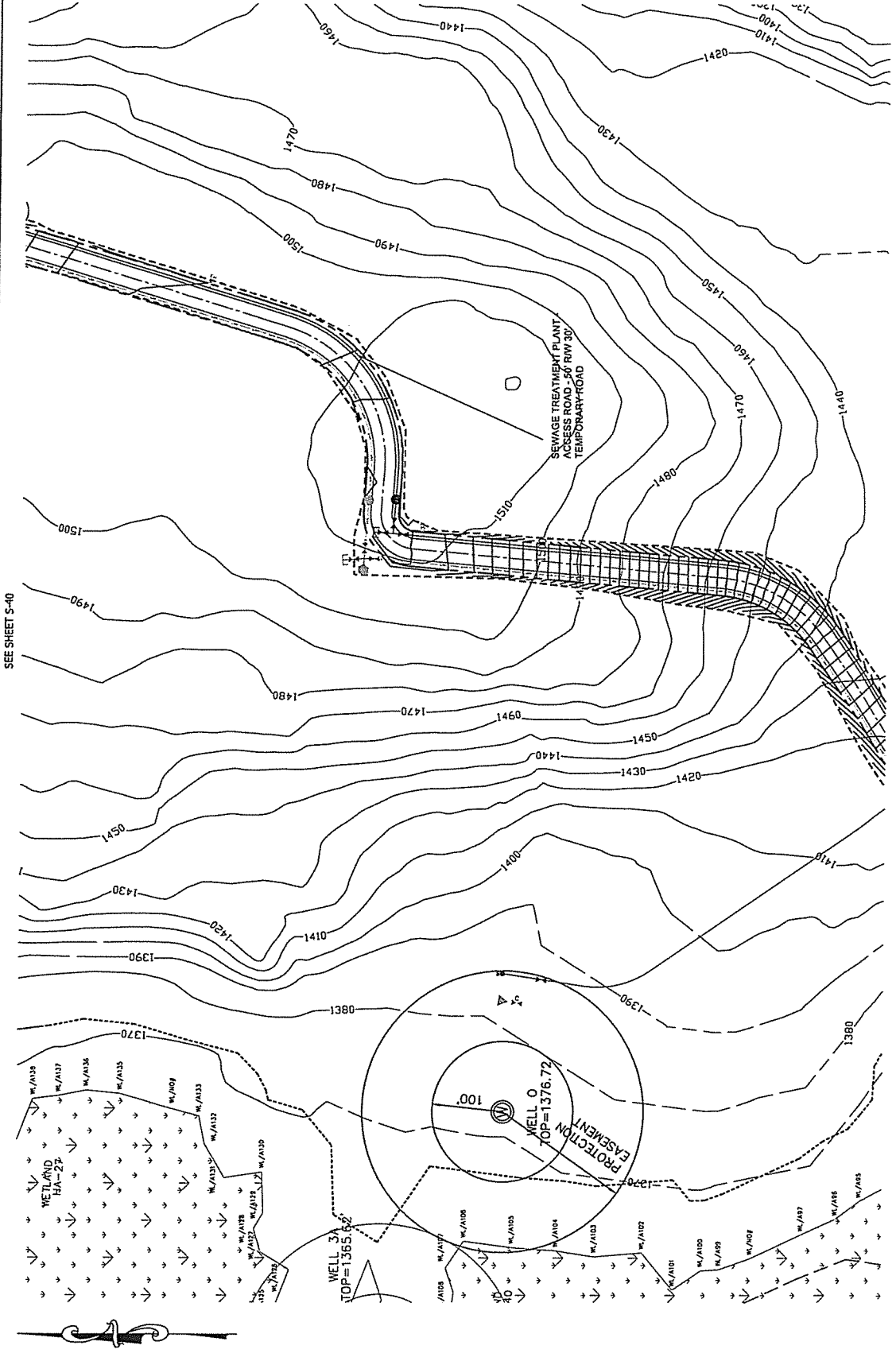
NO.	DESCRIPTION OF REVISION

DATE: 11/17/17 BY: K.F.A. DESIGNED BY: K.F.A.

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, SUITE 100, PA 19221  
 (610) 437-1010 (PHONE) (610) 437-1070 (FAX)

**FINAL SUBDIVISION PLAN**  
**GRADING/UTILITY/DRAINAGE PLAN - 18**  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORESTBURGH, SULLYMAN COUNTY, NY

SHEET S-41



SEE SHEET S-40

SEE SHEET S-42



PROJ. NO. 10114-11

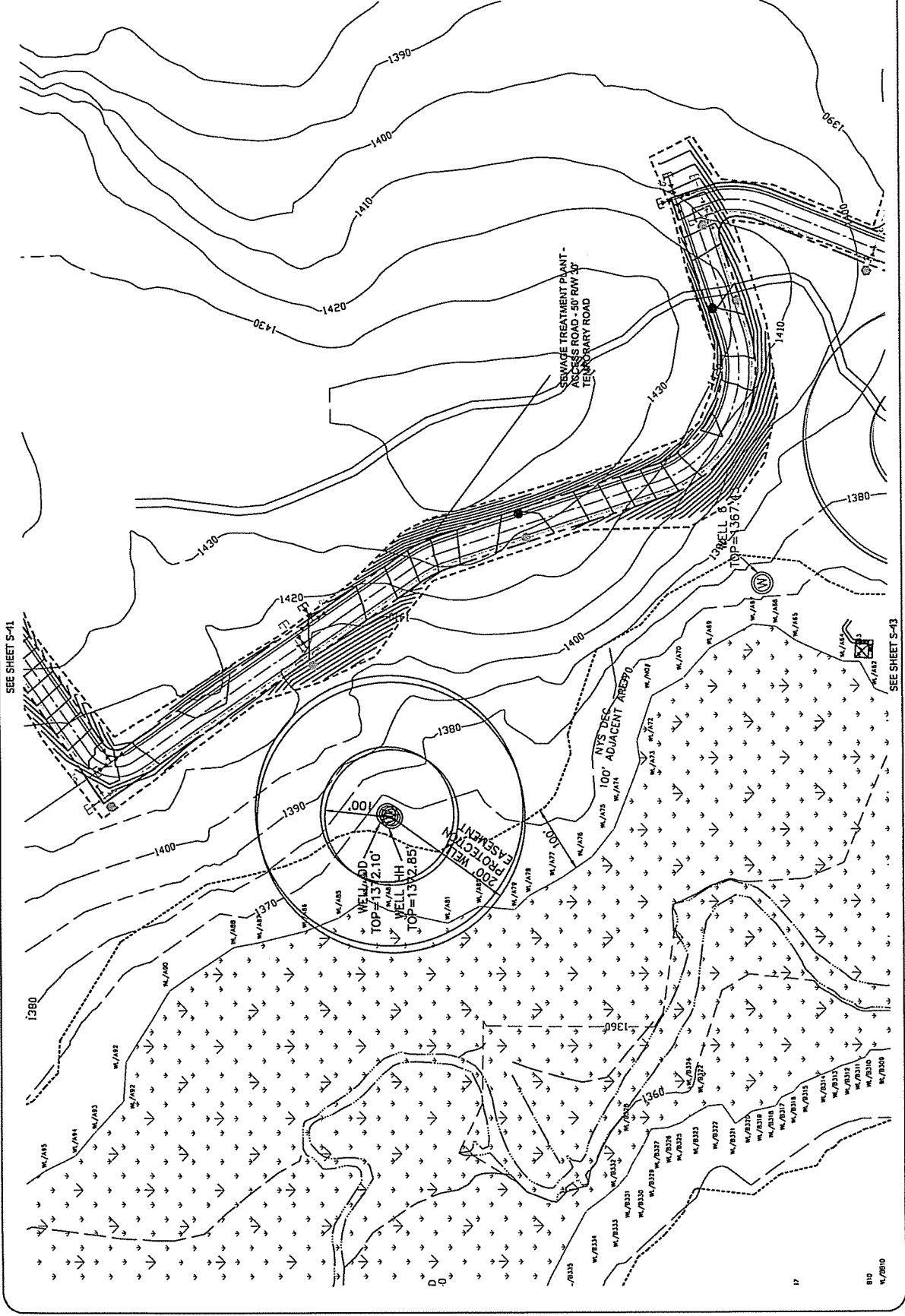
NO.	REVISION OR CHANGE

DATE: 11/17/12  
 BY: M.A.  
 CHECKED: M.A.  
 SCALE

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, ASHLAND, PA 19211  
 (717) 475-1018 (PHONE) (717) 475-1279 (FAX)

FINAL SUBDIVISION PLAN  
 GRADING/UTILITY/DRAINAGE PLAN - 19  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORESTBURG, SULLYMAN COUNTY, PA

SHEET S-42



SEE SHEET S-41

SEE SHEET S-43

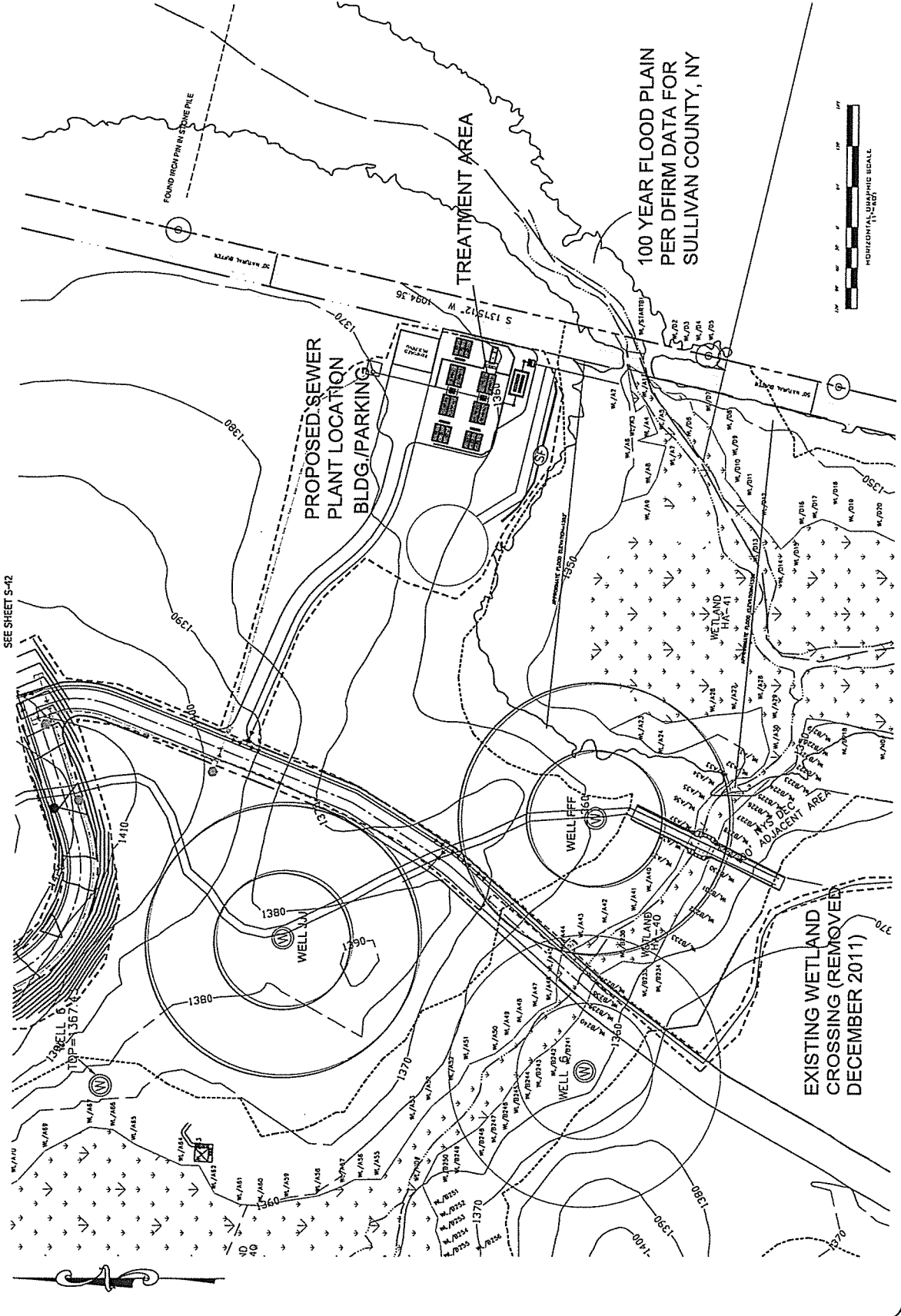
17  
B/D  
W./B/10

NO.	DESCRIPTION OF REVISION	DATE

SCALE

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTER STREET, SUITE 100, PA 19221  
 (610) 321-1018 (PHONES) (610) 321-1070 (FAX)

FINAL SUBDIVISION PLAN  
 GRADING/UTILITY/DRAINAGE PLAN - 20  
 TOWN OF FORESTBURG, SULLIVAN COUNTY, NY  
**LOST LAKE RESORT PHASE I**



SEE SHEET S-42





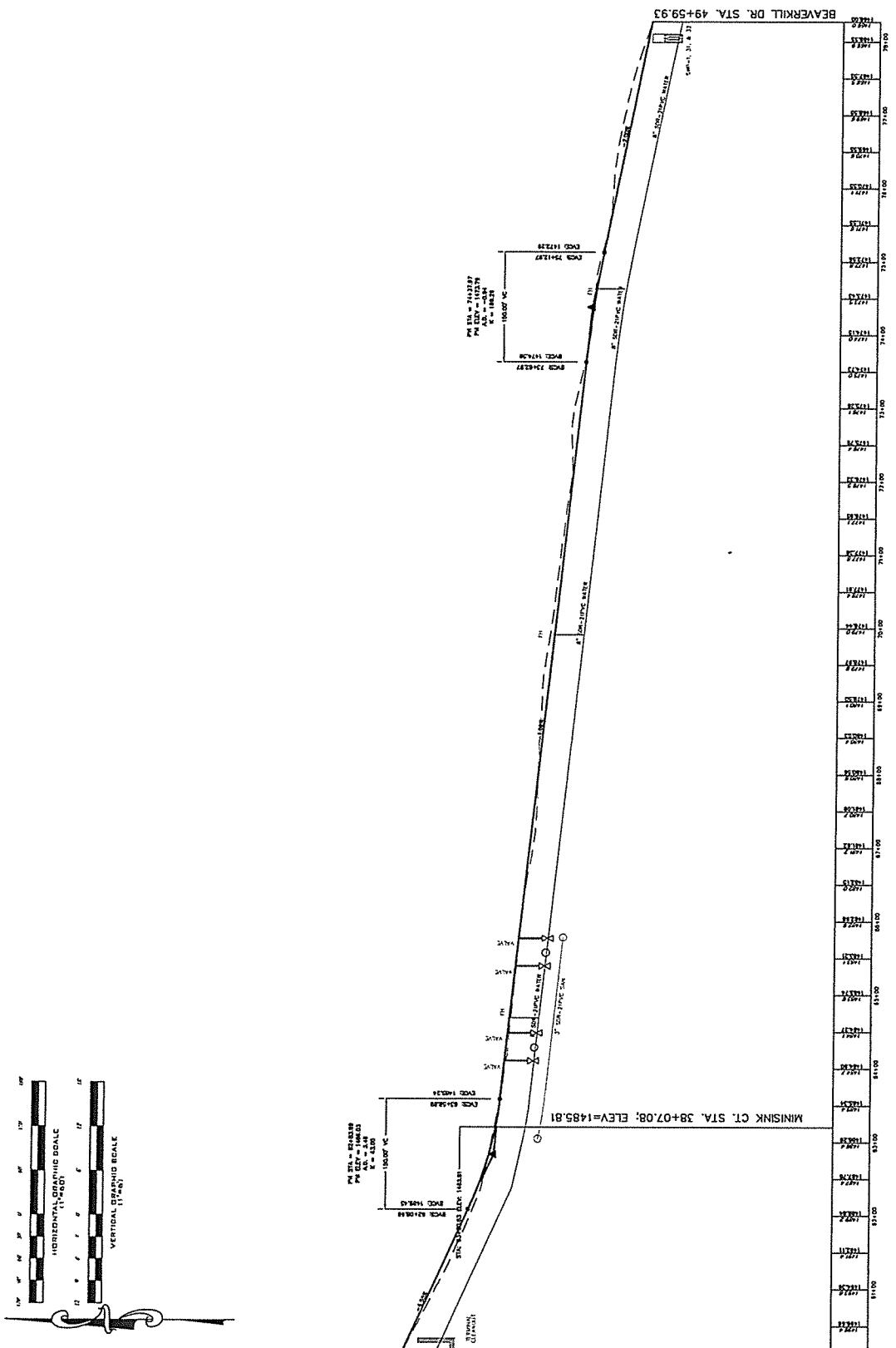






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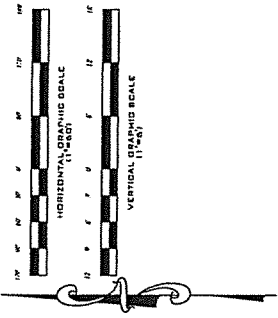
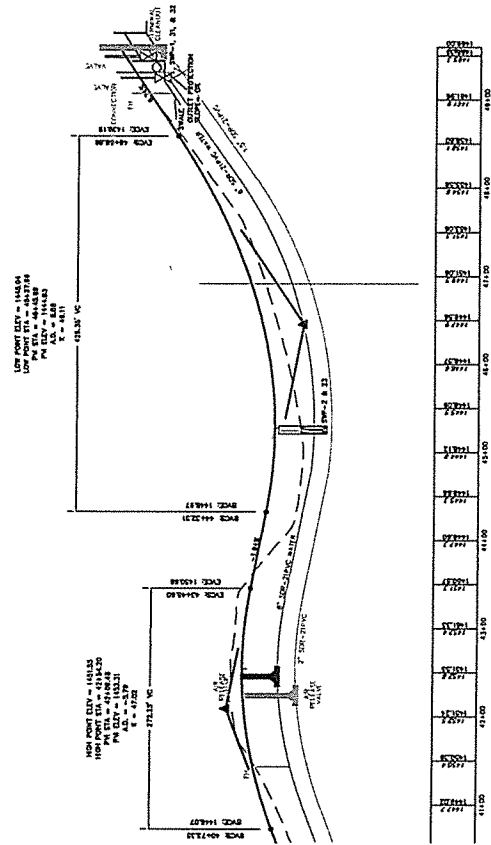
11-14-2010





NO.	DESCRIPTION OF ACTION	DATE

PROJ. NO. 102017010







PROJ. NO. 10373-01-11

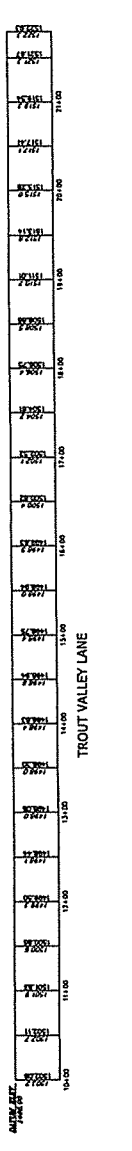
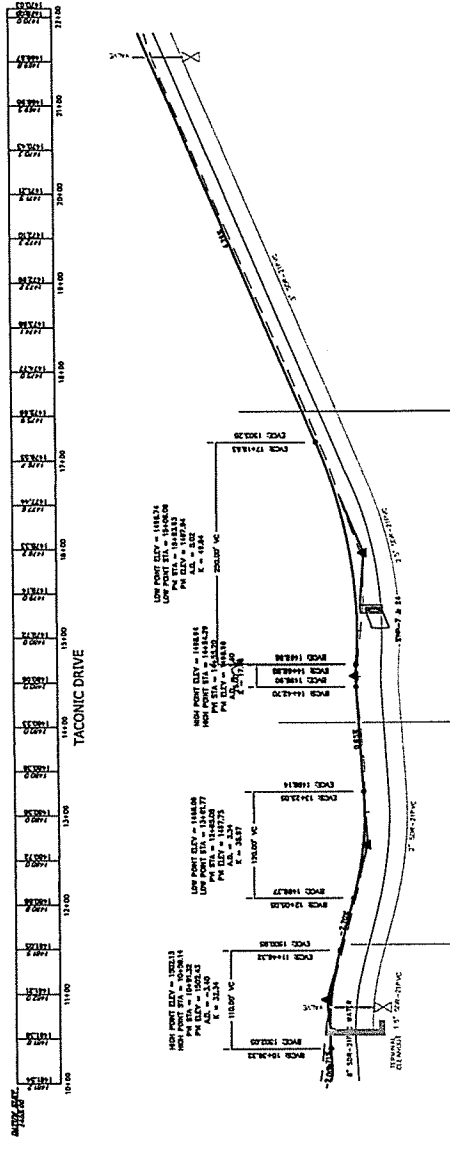
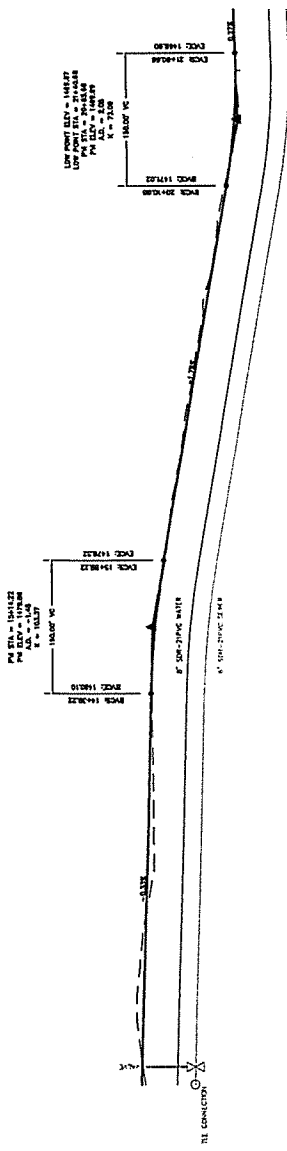
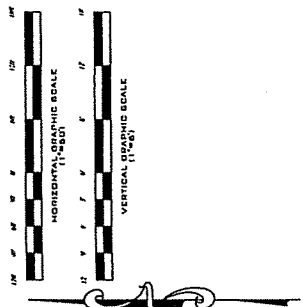
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DATE: 11/11/11  
 BY: M.A.  
 CHECKED BY: M.A.

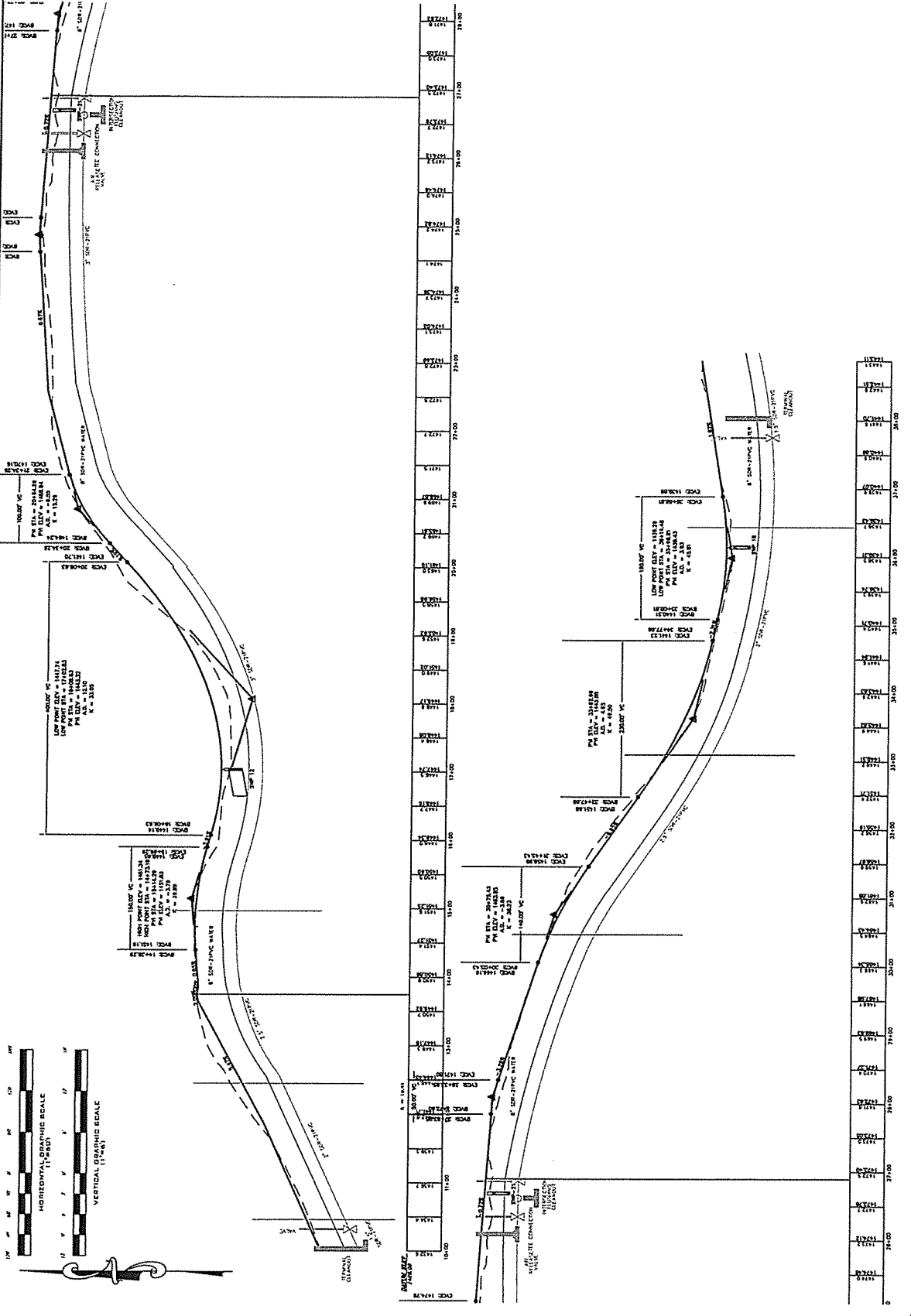
**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, SUITE 400, PA 19261  
 (610) 477-1018 (PH) (610) 477-6757 (FAX)

FINAL SUBDIVISION PLAN  
 PROFILE - TACONIC DRIVE & TROUT VALLEY LANE  
 TOWN OF HOLSTEINBURG, SULLYVILLE TOWNSHIP, NY

SHEET  
 S-52

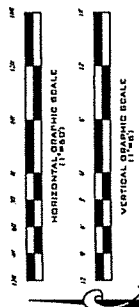
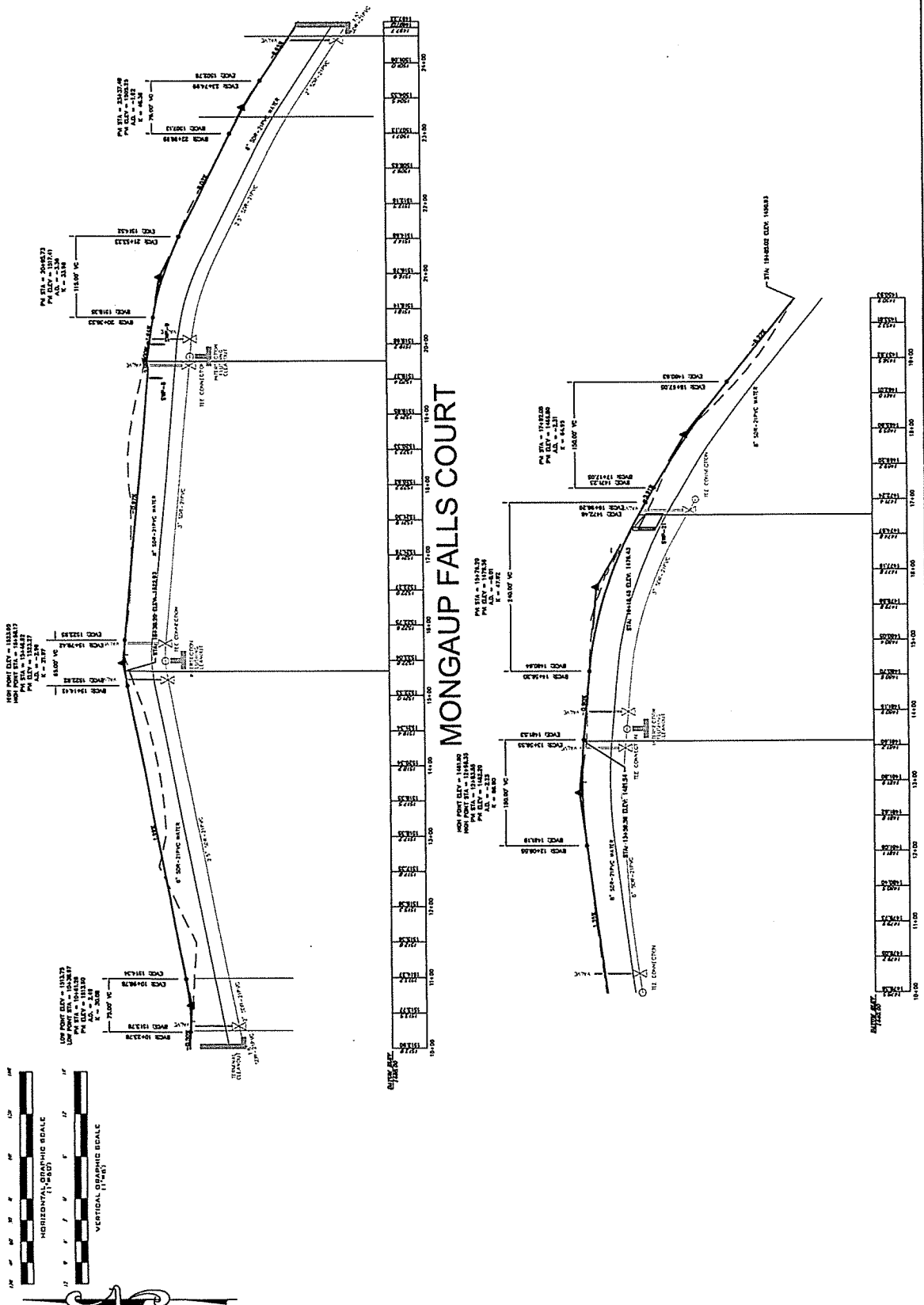


NO.	DATE	DESCRIPTION OF REVISION



NO.	DESCRIPTION OF REVISION	DATE

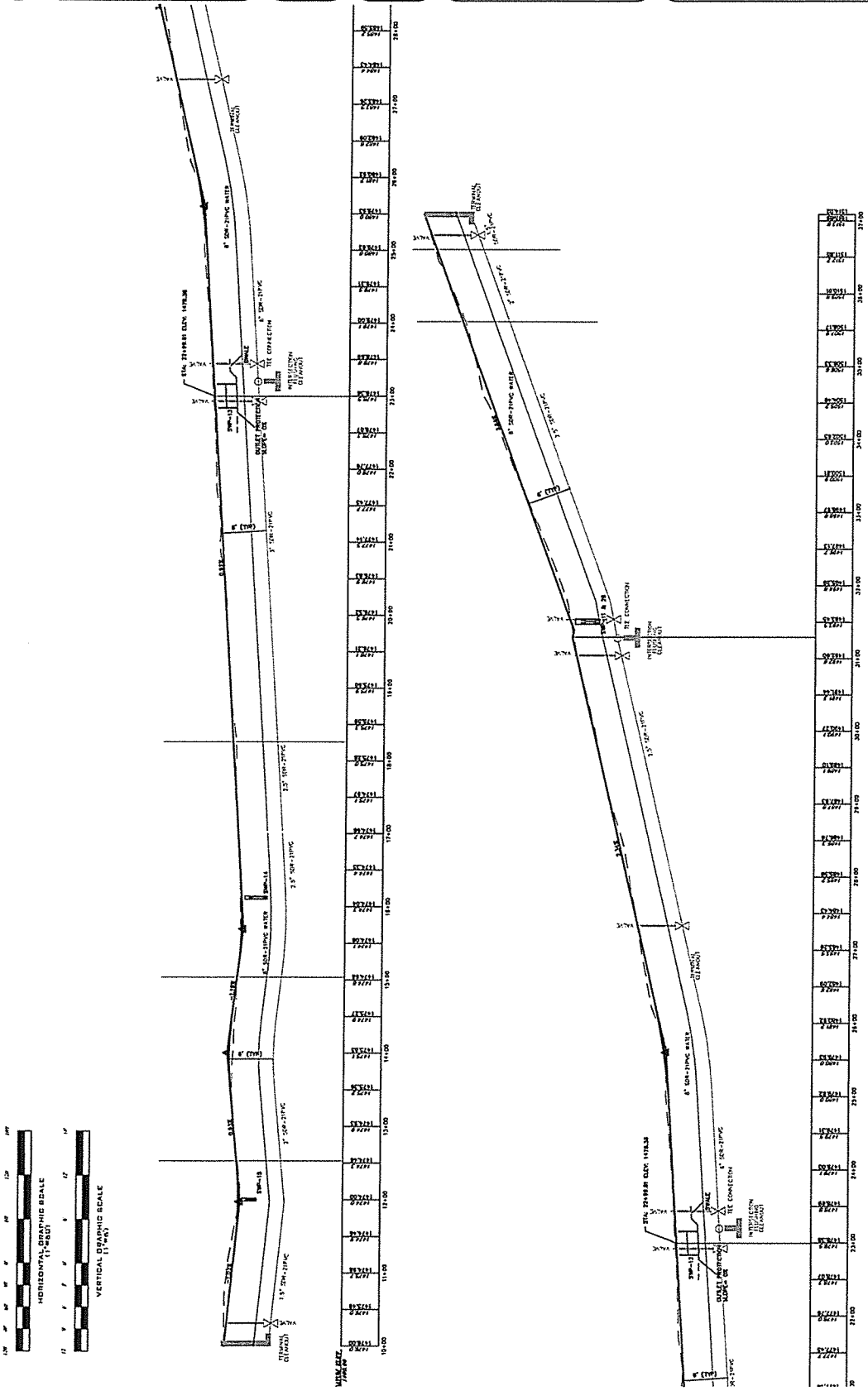
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NO.	DESCRIPTION OF REVISION	DATE

15-9-10(27) (10)



15-9-10(27) (10)

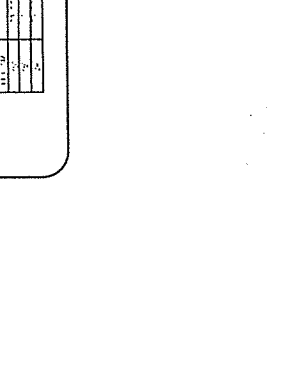
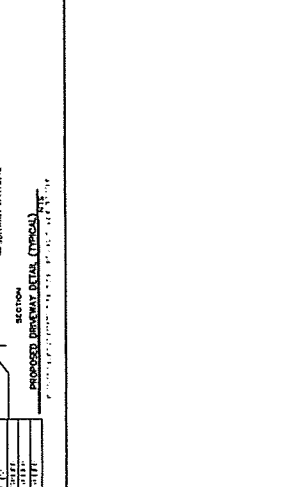
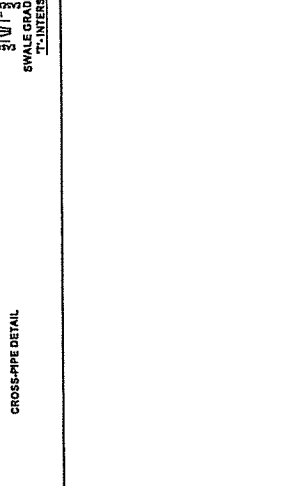
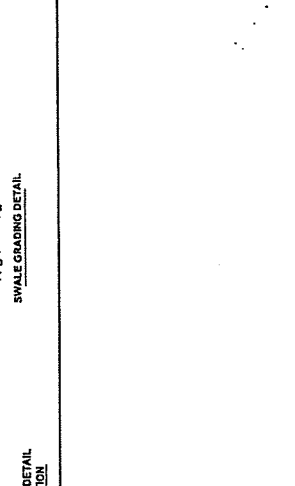
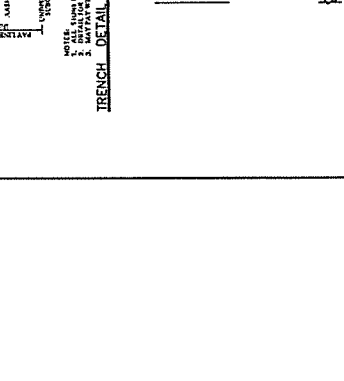
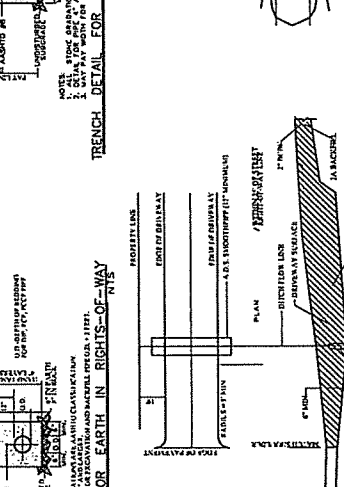
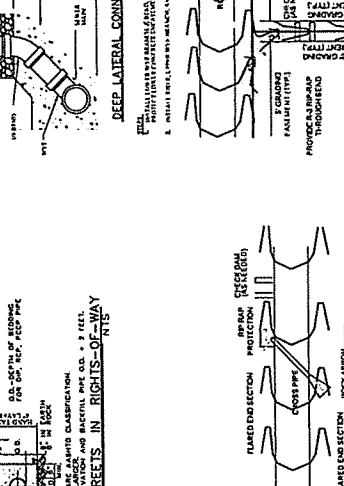
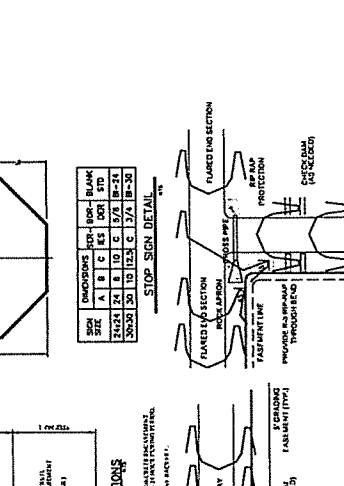
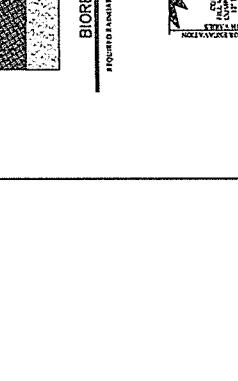
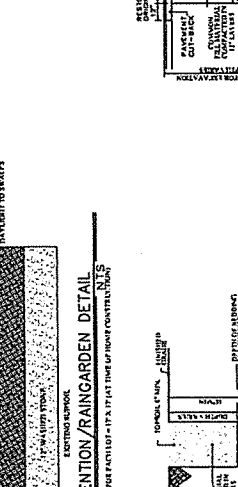
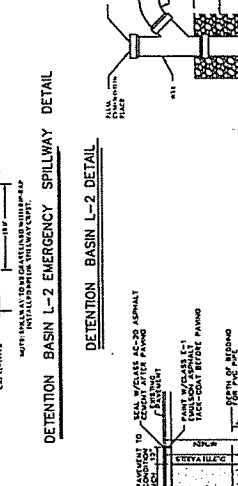
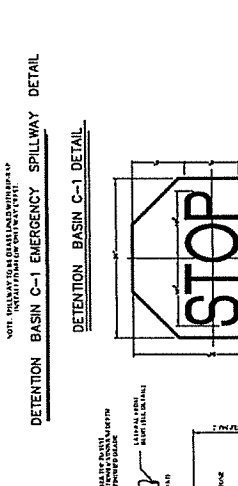
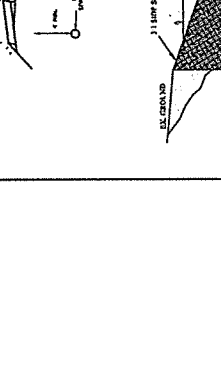
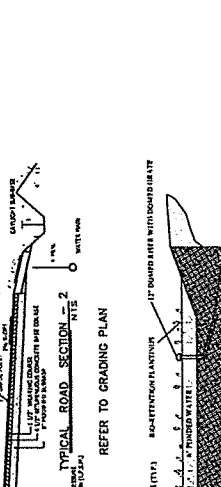
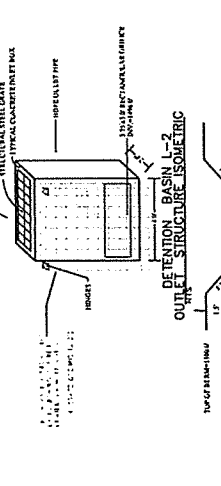
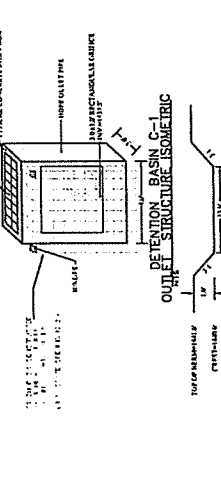
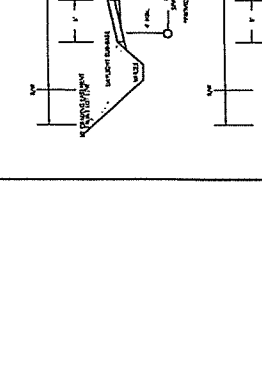
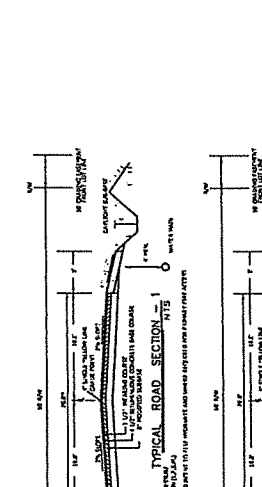
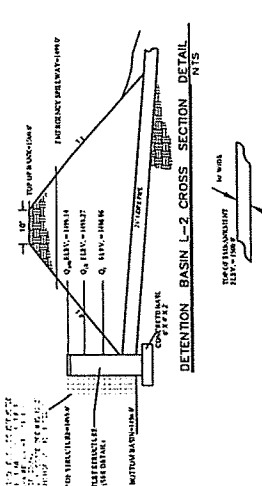
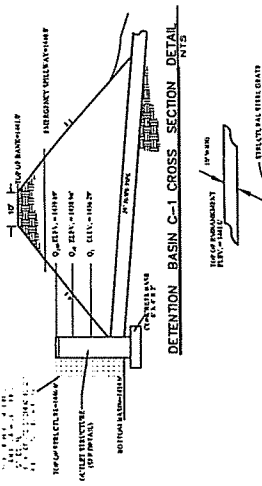
NO.	REV.	DATE	DESCRIPTION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

REFER TO WATER DISTRIBUTION PLANS AND SANITARY SEWER PLANS PREPARED BY ABC ENGINEERING FOR ADDITIONAL CONSTRUCTION DETAILS

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, SUITE 100  
 (570) 475-1818 (PHONE) (570) 475-1870 (FAX)

FINAL SUBDIVISION PLAN  
 CONSTRUCTION DETAILS  
**LOST LAKE RESORT PHASE I**  
 TOWN OF FORESTBURG, SULLYMAN COUNTY, NY

SHEET  
**S-56**

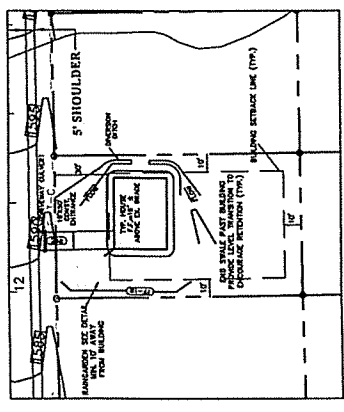








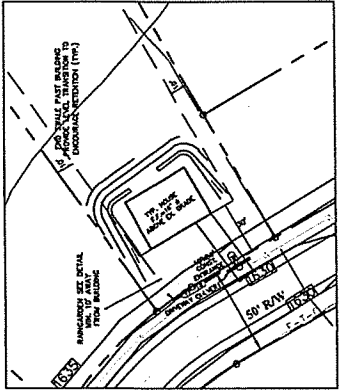
IN ALL CASES, THE OVERFLOW SHALL DISCHARGE TO A CONCRETE OR STONE LEVEL BLOCK TO MINIMIZE EROSION AND SHALL NOT BE DIRECTED TOWARDS ADJOINING LOTS WITHOUT THE IMPLEMENTATION OF PROPER CONVEYANCE.



TYPICAL INDIVIDUAL LOT PCSM PLAN (TYPE 'A')  
SLOPES 15% OR LESS PARALLEL TO ROAD  
SCALE: 1"=30'

**GENERAL NOTES:**  
1. REFER TO THE APPROPRIATE DETAILS FOR EROSION AND SEDIMENT CONTROL PLACEMENT AND MAINTENANCE. IN CASE OF DISCREPANCY BETWEEN THE TYPICAL DETAIL OR UNCERTAINTY EXISTS AS TO THE APPLICABILITY OF THE TYPICAL DETAIL TO A UNIQUE SITUATION, PREPARE AN PCSM PLAN FOR REVIEW BY THE CONSERVATION DISTRICT.  
2. CONSTRUCT DIVERSION DITCH TO DIVERT RUN-OFF FROM SITE AND OFF-SITE AREAS TOWARDS THE ROAD AND THE REAR PROPERTY LINE. DO NOT DIRECT RUN-OFF DIRECTLY TOWARDS EXISTING DWELLINGS OR POTENTIAL LOCATIONS OF EXISTING DWELLINGS. UTILIZE EASEMENTS CENTERED ON PROPERTY LINES IF ADDITIONAL DIVERSIONS ARE NECESSARY.

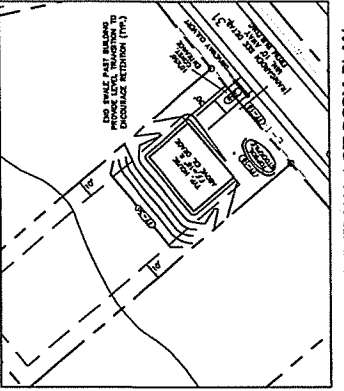
**SEQUENCE OF CONSTRUCTION:**  
1. PRIOR TO ANY INDIVIDUAL LOT EARTHWORK, INSTALL STABILIZED ROCK CONSTRUCTION ENTRANCE. THIS SHALL BE USED BY ANY AND ALL VEHICLES ENTERING OR LEAVING THE LOT. ALL LOTS WITH A SWALE AT THE DRIVEWAY LOCATION WILL REQUIRE THE INSTALLATION OF A CULVERT THAT REQUIRE A CULVERT WILL REQUIRE A TEMPORARY ROCK FILTER AT THE LOWEST POINT OF THE SWALE ADJACENT TO THE LOT.  
2. ESTABLISH AREA OF LOT TO BE GRADED. PRESERVE AS MUCH NATURAL VEGETATION AS POSSIBLE.  
3. INSTALL SILT FENCE AND ROCK FILTER (IF APPLICABLE) AS SHOWN ON THE PLAN.  
4. CLEAR AND GRUB LOT, DISPOSING OF DEBRIS, STRIP TOPSOIL FROM ALL AREAS TO BE GRADED AND STOCKPILE TOPSOIL. INSTALL SILT FENCE. THE CONTRACTOR SHALL DETERMINE THE LOCATION OF STOCKPILE RELATIVE TO PROPOSED SITE IMPROVEMENTS. SILT FENCE IS TO BE INSTALLED DOWN-SLOPE OF TOPSOIL STOCKPILE.  
5. CONSTRUCT DIVERSION SWALES. REFER TO GENERAL NOTE NUMBER 1.  
6. PERFORM GRADING AND INSTALL RANGECARDEN PER DETAIL ON SHEET IMMEDIATELY.  
7. CONSTRUCT HOME AND INSTALL ASSOCIATED UTILITIES. PROVIDE ALL PERMANENT SEEDING AS INDICATED.  
8. INSPECT AND MAINTAIN ALL EROSION AND SEDIMENT CONTROL MEASURES IN ACCORDANCE WITH SCHEDULE.  
9. UPON STABILIZATION, REMOVE CONSTRUCTION ENTRANCE AND PAVE DRIVEWAY.  
10. REMOVE TEMPORARY CONTROLS WHEN THE SITE IS PERMANENTLY STABILIZED. VEGETATED AREAS SHALL BE CONSIDERED PERMANENTLY STABILIZED WHEN A UNIFORM 70% VEGETATIVE COVER IS ACHIEVED.



TYPICAL INDIVIDUAL LOT PCSM PLAN  
SLOPING 15% OR LESS TOWARDS ROAD  
SCALE: 1"=30'

**GENERAL NOTES:**  
1. REFER TO THE APPROPRIATE DETAILS FOR EROSION AND SEDIMENT CONTROL PLACEMENT AND MAINTENANCE. IN CASE OF DISCREPANCY BETWEEN THE TYPICAL DETAIL OR UNCERTAINTY EXISTS AS TO THE APPLICABILITY OF THE TYPICAL DETAIL TO A UNIQUE SITUATION, PREPARE AN PCSM PLAN FOR REVIEW BY THE CONSERVATION DISTRICT.  
2. CONSTRUCT DIVERSION DITCH TO DIVERT RUN-OFF FROM SITE AND OFF-SITE AREAS TOWARDS THE ROAD AND THE REAR PROPERTY LINE. DO NOT DIRECT RUN-OFF DIRECTLY TOWARDS EXISTING DWELLINGS OR POTENTIAL LOCATIONS OF EXISTING DWELLINGS. UTILIZE EASEMENTS CENTERED ON PROPERTY LINES IF ADDITIONAL DIVERSIONS ARE NECESSARY.

**SEQUENCE OF CONSTRUCTION:**  
1. PRIOR TO ANY INDIVIDUAL LOT EARTHWORK, INSTALL STABILIZED ROCK CONSTRUCTION ENTRANCE. THIS SHALL BE USED BY ANY AND ALL VEHICLES ENTERING OR LEAVING THE LOT. ALL LOTS WITH A SWALE AT THE DRIVEWAY LOCATION WILL REQUIRE THE INSTALLATION OF A CULVERT THAT REQUIRE A CULVERT WILL REQUIRE A TEMPORARY ROCK FILTER AT THE LOWEST POINT OF THE SWALE ADJACENT TO THE LOT.  
2. ESTABLISH AREA OF LOT TO BE GRADED. PRESERVE AS MUCH NATURAL VEGETATION AS POSSIBLE.  
3. INSTALL SILT FENCE AND ROCK FILTER (IF APPLICABLE) AS SHOWN ON THE PLAN.  
4. CLEAR AND GRUB LOT, DISPOSING OF DEBRIS, STRIP TOPSOIL FROM ALL AREAS TO BE GRADED AND STOCKPILE TOPSOIL. INSTALL SILT FENCE. THE CONTRACTOR SHALL DETERMINE THE LOCATION OF STOCKPILE RELATIVE TO PROPOSED SITE IMPROVEMENTS. SILT FENCE IS TO BE INSTALLED DOWN-SLOPE OF TOPSOIL STOCKPILE.  
5. CONSTRUCT DIVERSION SWALES. REFER TO GENERAL NOTE NUMBER 1.  
6. PERFORM GRADING AND INSTALL RANGECARDEN PER DETAIL ON SHEET IMMEDIATELY.  
7. CONSTRUCT HOME AND INSTALL ASSOCIATED UTILITIES. PROVIDE ALL PERMANENT SEEDING AS INDICATED.  
8. INSPECT AND MAINTAIN ALL EROSION AND SEDIMENT CONTROL MEASURES IN ACCORDANCE WITH SCHEDULE.  
9. UPON STABILIZATION, REMOVE CONSTRUCTION ENTRANCE AND PAVE DRIVEWAY.  
10. REMOVE TEMPORARY CONTROLS WHEN THE SITE IS PERMANENTLY STABILIZED. VEGETATED AREAS SHALL BE CONSIDERED PERMANENTLY STABILIZED WHEN A UNIFORM 70% VEGETATIVE COVER IS ACHIEVED.



TYPICAL INDIVIDUAL LOT PCSM PLAN  
SLOPING AWAY FROM ROAD  
SCALE: 1"=30'

**GENERAL NOTES:**  
1. REFER TO THE APPROPRIATE DETAILS FOR EROSION AND SEDIMENT CONTROL PLACEMENT AND MAINTENANCE. IN CASE OF DISCREPANCY BETWEEN THE TYPICAL DETAIL OR UNCERTAINTY EXISTS AS TO THE APPLICABILITY OF THE TYPICAL DETAIL TO A UNIQUE SITUATION, PREPARE AN PCSM PLAN FOR REVIEW BY THE CONSERVATION DISTRICT.  
2. CONSTRUCT DIVERSION DITCH TO DIVERT RUN-OFF FROM SITE AND OFF-SITE AREAS TOWARDS THE ROAD AND THE REAR PROPERTY LINE. DO NOT DIRECT RUN-OFF DIRECTLY TOWARDS EXISTING DWELLINGS OR POTENTIAL LOCATIONS OF EXISTING DWELLINGS. UTILIZE EASEMENTS CENTERED ON PROPERTY LINES IF ADDITIONAL DIVERSIONS ARE NECESSARY.

**SEQUENCE OF CONSTRUCTION:**  
1. PRIOR TO ANY INDIVIDUAL LOT EARTHWORK, INSTALL STABILIZED ROCK CONSTRUCTION ENTRANCE. THIS SHALL BE USED BY ANY AND ALL VEHICLES ENTERING OR LEAVING THE LOT. ALL LOTS WITH A SWALE AT THE DRIVEWAY LOCATION WILL REQUIRE THE INSTALLATION OF A CULVERT THAT REQUIRE A CULVERT WILL REQUIRE A TEMPORARY ROCK FILTER AT THE LOWEST POINT OF THE SWALE ADJACENT TO THE LOT.  
2. ESTABLISH AREA OF LOT TO BE GRADED. PRESERVE AS MUCH NATURAL VEGETATION AS POSSIBLE.  
3. INSTALL SILT FENCE AND ROCK FILTER (IF APPLICABLE) AS SHOWN ON THE PLAN.  
4. CLEAR AND GRUB LOT, DISPOSING OF DEBRIS, STRIP TOPSOIL FROM ALL AREAS TO BE GRADED AND STOCKPILE TOPSOIL. INSTALL SILT FENCE. THE CONTRACTOR SHALL DETERMINE THE LOCATION OF STOCKPILE RELATIVE TO PROPOSED SITE IMPROVEMENTS. SILT FENCE IS TO BE INSTALLED DOWN-SLOPE OF TOPSOIL STOCKPILE.  
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6. PERFORM GRADING AND INSTALL RANGECARDEN PER DETAIL ON SHEET IMMEDIATELY.  
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8. INSPECT AND MAINTAIN ALL EROSION AND SEDIMENT CONTROL MEASURES IN ACCORDANCE WITH SCHEDULE.  
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10. REMOVE TEMPORARY CONTROLS WHEN THE SITE IS PERMANENTLY STABILIZED. VEGETATED AREAS SHALL BE CONSIDERED PERMANENTLY STABILIZED WHEN A UNIFORM 70% VEGETATIVE COVER IS ACHIEVED.

NO.	DESCRIPTION OF REVISION	DATE
1	ADD BUILDING SETBACK LINE LABELS	2/28/12
2	ADD BUILDING SETBACK LINE LABELS	2/28/12
3	ADD BUILDING SETBACK LINE LABELS	1/18/13

DATE: 8/2/11 BY: M.P. DESIGNED BY: M.P.  
SCALE: 1"=30'

**BRINKASH ASSOCIATES, INC.**  
SURVEYING & ENGINEERING  
1713 CENTER STREET, ASPHATA, PA 17015  
(717) 425-1818 (PHON) (717) 425-1870 (FAX)

FINAL SUBDIVISION PLAN - 2  
TYPICAL LOT CONSTRUCTION DETAILS - 2  
LOST LAKE RESORT PHASE I  
TOWN OF FOSTERSBURG, SALISBURY COUNTY, MD



PROJ. NO. 2004-041

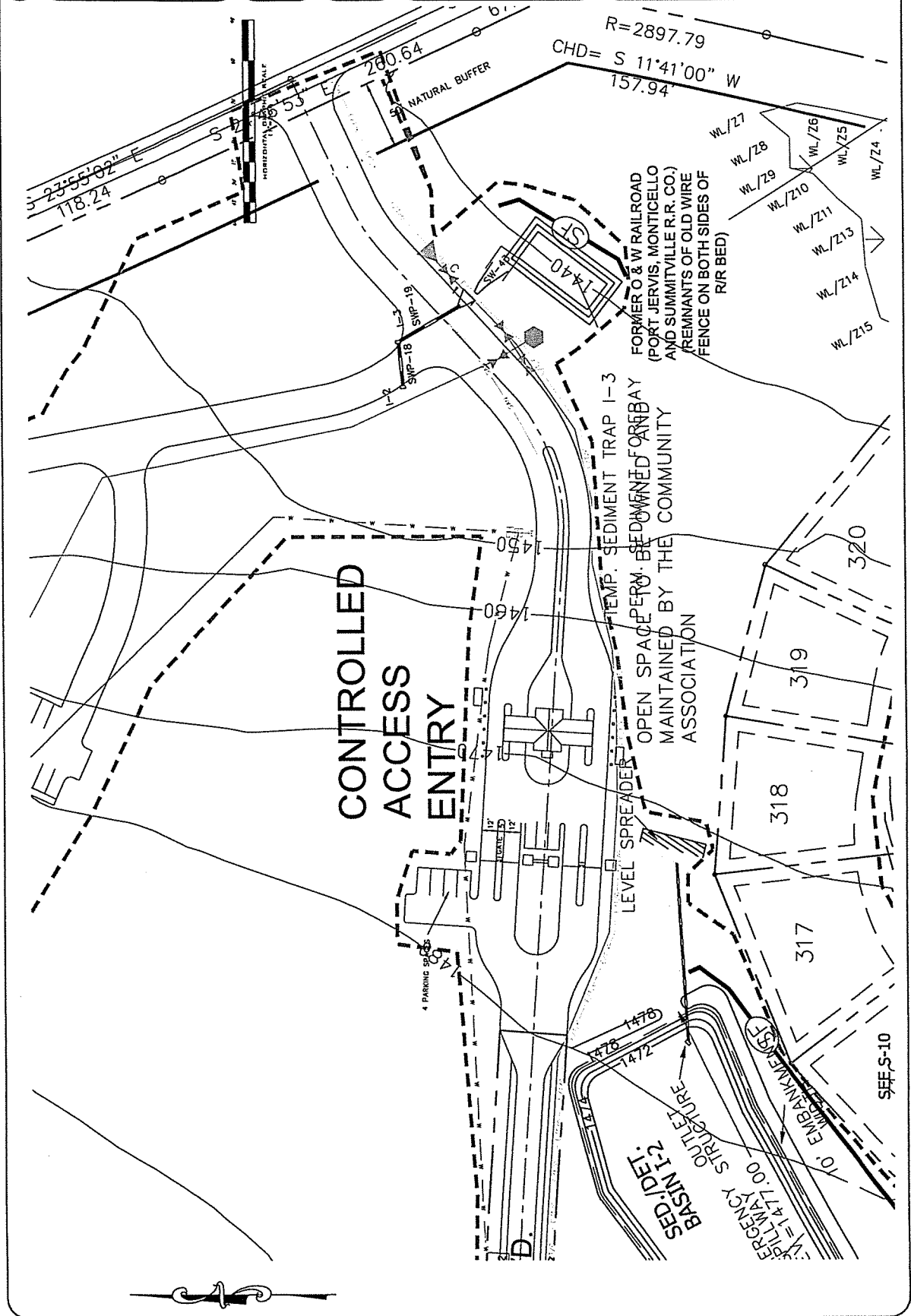
NO.	DESCRIPTION OF REVISION
1	ISSUE FOR PERMITS
2	REV. PER 1/27/11 C.T. HALL REVIEW AND
3	REV. PER 1/27/11 C.T. HALL REVIEW AND
4	REV. PER 1/27/11 C.T. HALL REVIEW AND

DATE: 8/21/11  
 DRAWN BY: [blank]  
 CHECKED BY: [blank]

**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTER STREET, WASHINGTON, VA 22181  
 (571) 412-1018 (PHONE) (571) 412-1020 (FAX)

**LOST LAKE RESORT PHASE I**  
 MAIN ENTRANCE SITE PLAN  
 FINAL SUBDIVISION PLAN

SHEET S-62





ACCORDING TO THE NYSDEC ENVIRONMENTAL RESOURCE MAPPER, ALL STREAMS AND TRIBUTARIES WITHIN THE LIMITS OF THIS PROJECT ARE NYSDEC STREAM CLASSIFICATION B.

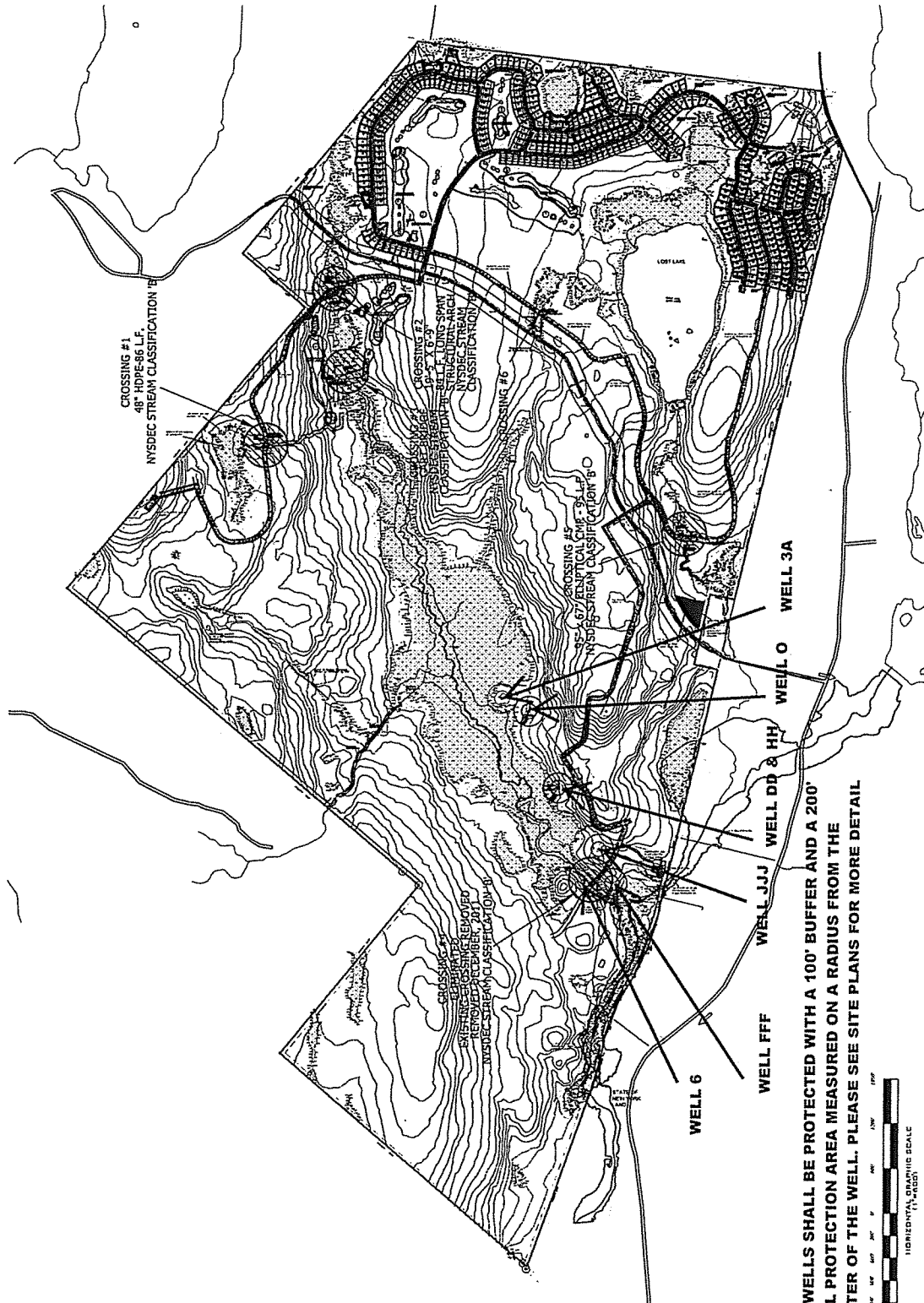
NO.	DESCRIPTION OF REVISION	DATE
1	REV. PER NYSDEC REVIEW	11/21/11
2	REV. PER NYSDEC REVIEW	11/21/11
3	REV. PER NYSDEC REVIEW	11/21/11
4	REV. PER NYSDEC REVIEW	11/21/11



**BRINKASH ASSOCIATES, INC.**  
 SURVEYING & ENGINEERING  
 1713 CENTRE STREET, ASPHARD, PA 17015  
 (717) 675-1018 (PH) (717) 675-1722 (F)

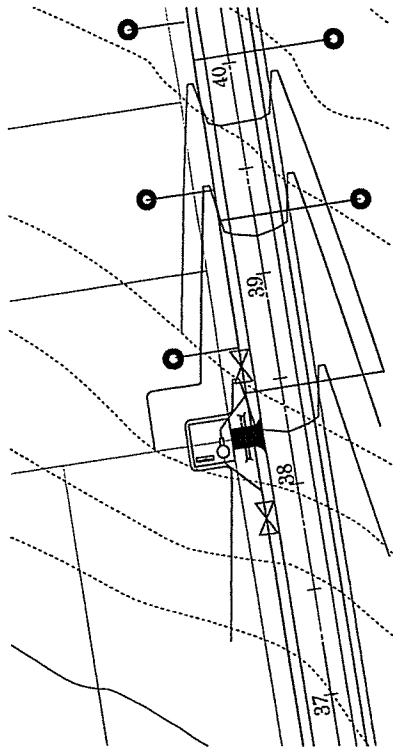
FINAL SUBDIVISION PLAN  
 WETLAND CROSSING KEY MAP  
 LOST LAKE RESORT PHASE I  
 TOWN OF FORESTBURGH, SULLYVAN COUNTY, NY

SHEET  
 S-63

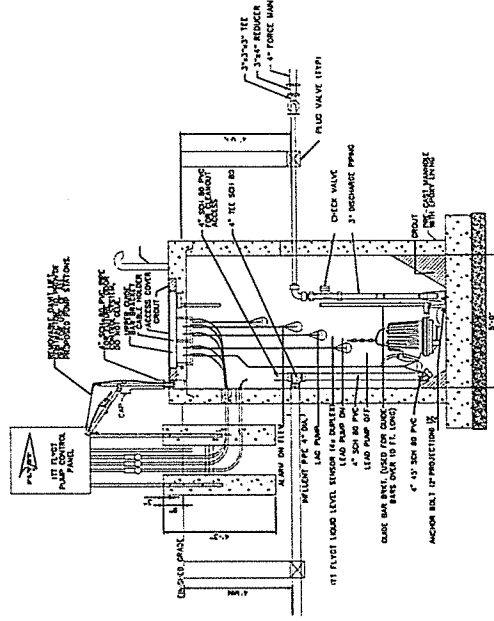


ALL WELLS SHALL BE PROTECTED WITH A 100' BUFFER AND A 200' WELL PROTECTION AREA MEASURED ON A RADIUS FROM THE CENTER OF THE WELL. PLEASE SEE SITE PLANS FOR MORE DETAIL

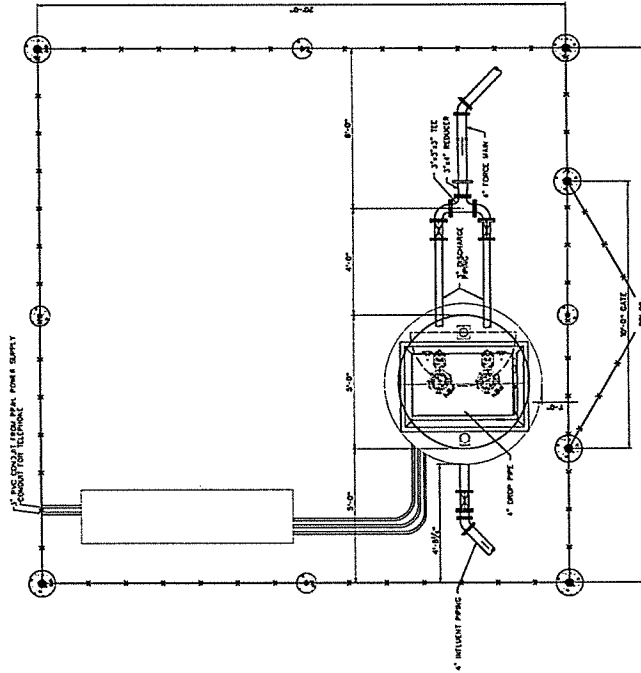




TYPICAL PUMP STATION SITE PLAN  
1/4"



TYPICAL PUMP STATION SECTION  
NOTE: SEE ADJACENT ELECTRICAL PLANS



TOP VIEW  
1/4"

Ref	Date	By	Description
		CHY	

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PRELIMINARY DESIGN PLANS  
PUMP STATION DETAIL  
LOST LAKE RESORT  
TOWN OF FORESTBURGH, SULLY COUNTY, NEW YORK

Sheet No.	AS-010D	Scale	AS SHOWN
Project No.	9027851	Date	30.07.01
Drawn By	S.G.B.	Checked By	

NO.	DATE	DESCRIPTION OF REVISION
1	7/1/11	ADD SHEET 546

