

# Cloewood Draft Environmental Impact Statement

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## 4.0 ALTERNATIVES

This section evaluates reasonable and feasible alternatives to the Project, considering the objectives and capabilities of the Applicant. In addition to the proposed Project, this section assesses the No Action Condition, Low Density and Base Lot Count Alternatives, as well as a Water Supply Alternative. Potential infrastructure options, such as fiscal impacts relating to whether or not the Village would accept dedication of the roadways internal to the development are addressed in Section 3.2.2.

Although the Project will be available for sale to, and occupancy by, individuals and families without regard to race, religion, family status, or any other protected classification in accordance with federal and state law, the Village Scoping Document has required an analysis from the standpoint of development occupancy by two community types: Scenario No. 1, demographics of a Satmar Hasidic community akin to the adjacent Village of Kiryas Joel; and Scenario No. 2, demographics similar to the existing conditions in the Village of South Blooming Grove. The potential environmental impacts of the alternatives and demographic scenarios are described and evaluated below. These alternative analyses are provided only in response to the Village's requirement in the Scoping Document and do not reflect any restrictions on the use, occupancy, purchase or rental by any particular religious or ethnic group, or by any protected class of persons.

### 4.1 No Action Condition

The No Action Condition is described in the Village Scoping Document as the conditions that would exist on the Project Site if the Project or any other new development would not be constructed. However, the New York State SEQRA Handbook (Section C-32, pg. 126) states that the No Action Condition *"may be simply and adequately addressed by identifying the direct financial effects of not undertaking the action, or by describing the likely future conditions of the property if developed to the maximum allowed under the existing zoning."* The likely future condition and potential impacts of the Project Site if developed to the maximum allowed under the existing zoning would be similar to the proposed Project, with just approximately 2.7% (seventeen additional) more dwelling units as described in Section 2.1.

The direct financial effects of not undertaking the proposed action and leaving the land as is - fallow and without any economically productive use - are sobering. The Project Site owner and Applicant, Keen Equities, is in bankruptcy and is required to have a feasible plan for use of the property to retain it. Otherwise, it would be liquidated at considerable financial loss to the Applicant, who has already invested over \$20 million in this property. Because of the dire financial consequences to the Applicant if the Project Site lays fallow, the No Action Condition is neither a reasonable nor feasible alternative. The No Action Condition would also not yield any economic benefits to the Village and surrounding community, or meet the need for housing, including

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affordable housing, in the community, as set forth in the other sections of the DEIS. Accordingly, no further analysis is warranted for this alternative.

### **4.2 Low Density Alternative**

The Village Scoping Document describes the Low Density Alternative as a development of 70 single family homes with lot sizes of ten acres each, as this is the density allowed by the Village Zoning Code in the RR Zoning District if a landowner decides to not conduct the site analysis process.

This alternative would preserve only 50% of the Project Site as open space versus the proposed Project, which would preserve approximately 80% of the Project Site as open space. This alternative would also require on-site water supply wells and an on-site wastewater treatment system with a demand of 31,920 gpd [(70 units x 110 gpd per bedroom x 4 bedrooms = 30,800 gpd) plus (70 units x 2 swimmers x 8 gpd = 1,120 gpd)]. In addition, this alternative would require over three miles of new roadways. Traffic involved would be roughly 91 trip-ends per peak hour under Scenario No. 1 and 125 trip-ends per peak hour under Scenario No. 2. Wastewater treatment would likely be from individual septic systems instead of a central wastewater treatment plant. Because the Project would have excess water supply from existing wells, this alternative could induce growth elsewhere.

This alternative would not include any affordable housing units or LEED certification and would provide only 11% of the housing proposed by the Project. This alternative would also not be consistent with the community character in the Village, as only approximately 2% of parcels in the Village's RR Zoning District contain a minimum lot size of ten acres as shown in Figure 345 of Section 3.4. Furthermore, this alternative would not be consistent with the Orange County Comprehensive Plan, which specifically identifies the Project Site as being located within a Priority Growth Area as shown in Figure 316 of Section 3.1 and Figure 349 of Section 3.4.

In addition, this alternative would fail to generate the revenue necessary as approved in the bankruptcy plan by the U.S. Bankruptcy Court. According to the Hudson Gateway MLS data from 2018, ten-acre single family lots within a 2-mile radius of the Project Site sold for \$190,000. This means the sales price for 70 ten-acre single family lots would total approximately \$13.3 million and result in a significant financial loss to the Applicant who has already invested over \$20 million. Therefore, this alternative would not be feasible.

Moreover, this 70-unit alternative, which would restrict density to one dwelling unit per ten acres, fails to meet any present and future local and regional housing needs. New York law requires the Village to consider regional housing needs in its land use decisions. See Berenson v Town of New Castle, 38 N.Y.2d 102 (1975). Similarly, the Village's Zoning Code § 235-3(A)(4) requires the

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Village to provide for *“The accommodation of South Blooming Grove’s present and future population by encouraging the development of an appropriate variety and quantity of sound housing to serve various age and economic groups in accordance with local, county and regional considerations.”*

Zoning ordinances must address the needs of the extant and future community as well as nearby communities to promote inclusive, and not exclusive, housing opportunities. A maximum density of one dwelling unit per ten acres would be exclusionary, and would not serve the interests articulated in the Village’s Zoning Code, including addressing the unmet local and regional need for housing.

This alternative would not include affordable housing, which is an articulated goal of the Village’s Zoning Code. In addition, its large minimum lot sizes would drive up home prices and further limit housing affordability. While the development of affordable housing is typically through the construction of designated affordable housing units, housing affordability, as noted in the neighboring Town of Monroe Master Plan (“MMP”), it is also facilitated by designing a new project with housing densities that yield homes which would be affordable. Neither would occur with this alternative due to the large lot sizes.

The MMP addressed the issue of affordable housing for the region (which includes the Village) and called for various actions to encourage the creation of a new supply of affordable housing opportunities within the region. The MMP also recognized the inevitable growth of the community and the need to accommodate such growth. The MMP suggested the following:

*“On Long Island, the Long Island Builders Institute has devised the following plan that was reported in The New York Times Real Estate Section on February 1, 2004: in a development of single-family homes, builders proposed to increase the density on some lots to create affordable units for sale. For example, where the developer has lots that cost \$150,000 to acquire and is building 3,000 square foot homes selling for \$600,000, allowing a density of four 2,300 square foot units on a typical lot would yield affordable units that could be sold for \$160,000. The community thus achieves the affordable housing, while the developer realizes the same profit offered by the \$600,000 home.”*

*“In Monroe, the Long Island Builders Institute model could be applied as follows: the Town Board could define conditions for affordable housing zoning provisions in appropriate areas of Town, thus allowing higher density development within a localized area of a new development, to create an affordable housing cluster within the new development. The affordable housing density would be higher than whatever the future base zoning would otherwise allow. In addition to infrastructure requirements, there would be site plan constraints to ensure that the affordable units were an aesthetically pleasing, harmonious addition to the subdivision. This would not only create*

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*a small supply of affordable housing along with new development, but [it] would also promote a pleasing diversity in neighborhoods, in a manner that is consistent with this Plan.”*

The Long Island Builder’s Institute (LIBI) study quoted above was conducted as a part of the Homebuilder’s Blueprint for Producing More Reasonably Priced Homes (HBP). As summarized in the text above, it found the cost of land for each new home rose as local governments increased minimum lot size requirements, specifically when zoned with minimums of two or more acres. The study found, “Even with relatively reasonable construction costs and low mortgage interest rates; two-thirds of Long Island’s families cannot afford new housing and prices have rise 81% in four years. Federal, State, and local assistance grants and loans together with all of the effort of non-profits were only a drop of water to an ocean of need.”

LIBI declares the solution to the lack of affordable housing is to reduce the minimum lot size per home, thereby reducing the land cost. An increase in density dramatically decreases home costs. The figures, explained above in text and illustrated in Table 41 below, use the industry rule of thumb for land cost based on 25% of the home price and assume a downsizing in the square footage of the home as density increases.

Table 41			
Effect of Density on New Home Sales Prices			
Homes Per Acre	Land Cost Per Home	Square Footage Per Home	Minimum Sales Price
<b>1</b>	\$150,000	3,000	\$600,000
<b>2</b>	\$75,000	2,700	\$300,000
<b>3</b>	\$50,000	2,500	\$200,000
<b>4</b>	\$37,500	2,300	\$160,000
<b>5</b>	\$30,000	2,000	\$120,000

Source: HBP, LIBI, Table 1

Many other governmental and independent studies have also found large lot zoning to be a principal cause of increased housing costs in general, particularly limiting housing opportunities for low and moderate-income households. Consequently, individuals with low and moderate incomes may be forced to live in inadequate housing, placing their health, safety, and general welfare at risk.

The Pioneer Institute for Public Policy Research and Harvard’s Rappaport Institute jointly published a report entitled Regulation and the Rise of Housing Prices in Greater Boston, which summarized data from 187 communities in Eastern Massachusetts. They found large minimum lot sizes had the greatest, “most potent” impact on price. The study stated, “An additional acre in minimum lot size raised the median sales prices of homes in a given town by 19.5%. For each instance that communities increate minimum lot sizes by one-quarter of an acre, about 10% fewer homes are permitted.” Likewise, the Zoning Impacts on Minority Buyers in the Austin Metropolitan Area and Taxes, a Kyle Case Study conducted by the Home Builder’s Association

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of Greater Austin, Texas concluded, “*A minimum lot size increase of 20% increased the cost of housing by 20%.*”

Affordable housing is a significant issue that municipalities in southeast Orange County must address. Reasonable development density is an effective way to create affordable housing opportunities. Limiting density to one dwelling unit per ten acres hinders the development of affordable housing and limits individuals with low to moderate incomes from accessing homes they can afford.

Because limiting development of the Project Site to 70 ten-acre single family lots would not meet present and future local and regional housing needs, would not provide any affordable housing, and likely would be invalidated by the Courts as unconstitutionally exclusionary and unreasonable; and because of the dire financial consequences and significant fiscal loss to the Applicant if the Project Site would be developed according to this alternative; the Low Density Alternative is neither reasonable nor feasible. Accordingly, no further analysis is warranted for this alternative.

### **4.3 Base Lot Count Alternative**

The Village Scoping Document describes the Base Lot Count Alternative as the development of 340 single family homes/lots, as this is the density allowed by the Village Zoning Code in the RR Zoning District if a landowner chooses not to utilize the adjusted base lot count option after completing the site analysis process.

The Base Lot Count Alternative would involve a development of approximately 57% of that of the Project (or 43% less than the Project). While the Village Zoning Code §235-14.1.A(3) encourages the development of affordable housing, public recreational facilities and open space preservation by allowing a landowner to utilize the adjusted base lot count, the Base Lot Count Alternative would not include the adjusted base lot count provision and would therefore not include any affordable housing units, LEED certification or preserved open space in excess of the standard 50%. On the contrary, the Project would include 43 affordable housing units and LEED certification and would preserve approximately 80% of the Project Site as open space by utilizing the adjusted base lot count provisions.

This alternative would also require on-site water supply wells and an on-site wastewater treatment system with a demand of 155,040 gpd [(340 units x 110 gpd per bedroom x 4 bedrooms = 149,600) plus (340 units x 2 swimmers x 8 gpd = 5,440)] versus the Project’s water and wastewater demand of 273,600 gpd. The Village Zoning Code §235-45.6.A(3) permits accessory apartments subject to specific limitations.

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Although the Project has not proposed accessory apartments, each homeowner has the right in the future to propose such an accessory apartment under the above referenced zoning code. In the Project's case, under the Base Lot Count, these accessory apartments would contain two bedrooms. Therefore, the average daily water demand for the accessory apartments would be 74,800 gpd with an additional 2,720 gpd for one swimmer per accessory unit. The combined average water demand of the proposed 340 units (273,600 gpd) and the potential future accessory apartments (74,800 gpd), including associated swimmers (8,160 gpd), is 232,560 gpd versus the Project's water and wastewater demand with accessory apartments of 377,400 gpd.

The site layout as it relates to the roads, infrastructure and utilities would be the same as the proposed Project. However, the density would be one dwelling unit per two acres (340 units on 680 acres of land, excluding the reserved 22 acres and the 6.2 acres in the RC-1 Zoning District) and net lot sizes would be an average of approximately 40,000 square feet (builder's acre) versus the Project's density of one dwelling unit per 1.33 acres and a net lot size of approximately 8,500 square feet.

Traffic involved would be roughly 365 trip-ends per peak hour under Scenario No. 1 and 514 trip-ends per peak hour under the higher traffic scenario under Scenario No. 2. The Base Lot Count Alternative would not include any park and ride facilities; however, the proposed Project would include two park and ride facilities, one for use by the public and another for Project residents, with over 300 parking spaces each in order to mitigate potential traffic impacts.

This alternative would not be consistent with the community character in the Village as approximately 90% of parcels in the Village's RR Zoning District contain lot sizes of less than one acre in size, as shown in Figure 345 of Section 3.4.

Furthermore, this alternative, with a density of one dwelling unit per two acres, would also not be consistent with the Orange County Comprehensive Plan, which identifies the Project Site as located within a Priority Growth Area. The average density of parcels in other comparable Priority Growth Areas in Orange County contain approximately 1,000 parcels per square mile. This alternative would include just 340 units on over one square mile.

In addition, the plan approved by the U.S. Bankruptcy Court assumes a development consisting of 600 lots/homes, which is permitted by the Village Zoning Code as of right and proposed by Project. This Base Lot Count Alternative of only 340 lots/homes would probably not generate sufficient revenue over the investment and expenses to be approved by the U.S. Bankruptcy Court.

The following provides an analysis of the Base Lot Count Alternative's expected impacts, as compared to the proposed Project. The population projections for this alternative are detailed below in Table 42.

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Table 42				
Base Lot Count - Population Projection				
Scenario & Unit Type	Population Multiplier	Population for 340 lots	School Age Children Multiplier	School Age Population
<b>Scenario No. 1 (93.0% Occupancy Rate)</b>				
Primary Unit without Accessory Apt.	5.47	1,730	2.22	702
Primary Unit with Accessory Apt.	6.84	2,163	-	702
<b>Scenario No. 2 (91.4% Occupancy Rate)</b>				
Primary Unit without Accessory Apt.	2.86	889	0.497	154
Primary Unit with Accessory Apt.	3.58	1,113	-	154
<b>Source:</b> US Census, ACS 2012-2016				

The Base Lot Count Alternative would generate \$6,576,320 in tax revenue versus \$11,605,268 which would be generated by the proposed Project. Table 43 quantifies the approximate costs and revenues of the Project for this alternative under both scenarios.

Table 43				
Base Lot Count - Projected Cost V. Revenue				
Municipality	Cost Per Capita/Student	Total Cost	Revenue	Total Net Benefit
<b>Scenario No. 1</b>				
<b>Village</b>	\$150	\$259,500	\$401,018	\$141,518
<b>Town</b>	\$456	\$788,880	\$1,204,884	\$416,004
<b>County</b>	\$236	\$408,280	\$653,311	\$245,031
<b>WCSD</b>	\$862	\$605,124	\$4,317,107	\$3,711,983
<b>Totals</b>		<b>\$2,061,784</b>	<b>\$6,576,320</b>	<b>\$4,514,536</b>
<b>Scenario No. 2</b>				
<b>Village</b>	\$150	\$133,350	\$401,018	\$267,668
<b>Town</b>	\$456	\$405,384	\$1,204,884	\$799,500
<b>County</b>	\$236	\$209,804	\$653,311	\$443,507
<b>WCSD</b>	\$8,624	\$1,328,096	\$4,317,107	\$2,989,011
<b>Totals</b>		<b>\$2,076,634</b>	<b>\$6,576,320</b>	<b>\$4,499,686</b>

Because the Project would not have the potential to generate any significant adverse environmental impacts in relation to land use and zoning, community facilities and services, historic and cultural resources, vegetation and wildlife, geology, soils and topography, surface waters, wetlands and floodplains, water and sewer infrastructure, solid wastes, noise and air quality, visual impacts and aesthetics, hazardous materials and construction impacts, there would be no benefit to the environment from reducing the Project to 340 lots.

Those areas where there could potentially be different environmental impacts under the Base Lot Count Alternative versus the proposed Project are discussed above and summarized in Table 44 below. Reducing the Project to 340 lots would reduce or eliminate the environmental benefits associated with the Project: affordable housing would be eliminated; LEED certification would not occur; preserved open space would be reduced; significantly less tax revenue would be generated for state and local governments; fewer construction jobs would be created; growth in

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priority growth areas would be reduced tending to direct development outside such areas; and no park and ride facilities would be constructed which would leave unmet the existing and future demand for such facilities.

<b>Table 44</b>		
<b>Base Lot Count Alternative Comparison</b>		
Description	Base Lot Count Alternative	Proposed Project
Number of Units	340	600
Affordable Housing	None	43
LEED Certification	No	Yes
Open Space	50%	80%
Population	Scenario No. 1	1,730
	Scenario No. 2	889
	Scenario No. 1 with Acc. Apt.	2,163
	Scenario No. 2 with Acc. Apt.	1,113
Net Benefit to Local Govts. & School District	Scenario No. 1	\$4,514,536
	Scenario No. 2	\$4,499,686
Water & Sewer Demand	Without Accessory Apartments	155,040 gpd
	With Accessory Apartments	232,560 gpd
Community Character	Less Consistent with Adjacent & Surrounding Subdivisions	More Consistent with Adjacent & Surrounding Subdivisions
Public Policy	Less Consistent with Priority Growth Areas in Orange County	More Consistent with Priority Growth Areas in Orange County
Transportation	Approximately 45% less traffic volume than the proposed Project. Would not include any public or private park and ride facilities.	Approximately 45% more traffic than the Base Lot Alternative. Would include two park and ride facilities with over 300 parking spaces each, one for use by the public and another for Project residents to mitigate potential impacts.
Address Regional Housing Needs	Would address current local housing needs.	Would address current and future local and regional housing needs.

### 4.4 Proposed Project (With Action Condition)

The proposed Project would include a 600 single family lot/home subdivision as described in Section 2.0. If the Project's wells would not be connected to and become part of the Village's municipal water supply system, the Project's wells would have sufficient capacity to support the water demand for 600 four-bedroom single-family dwelling units and associated swimmers as detailed in Section 3.8. If the Project's wells would be connected to and become a part of the Village's municipal water supply system, the Project Site's best well would be included in its yield, and therefore, the Project's wells would be able to support the Project's water demand for four-



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bedroom homes and the potential for 600 accessory apartments (300 one-bedroom accessory units and 300 two-bedroom accessory units) and associated swimmers as detailed in Section 3.8.

The potential of the Project to generate significant adverse environmental impacts is analyzed in Sections 3.1 through 3.17 of this DEIS. These analyses confirm that as designed the Project would not have the potential to generate in any significant adverse environmental impacts. Of the potential alternatives, the proposed Project is the only economically viable development and the only one which would concurrently generate sufficient revenue to satisfy the plan approved for the Applicant by the U.S. Bankruptcy Court, while also addressing current and future local and regional housing needs, including the need for affordable housing.

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### **5.0 MITIGATION**

The preceding sections of this DEIS examined the potential of the Project to generate significant adverse impacts upon the environment. The Project has been designed to incorporate multiple measures which would prevent any significant adverse environmental impacts from being generated. Each of these measures is discussed in the individual sections analyzing the potential impacts of the Project. Because the Project would not have the potential to generate any significant adverse environmental impacts, no mitigation is required. The only instance in which mitigation may be required is if future traffic monitoring reveals that the Project is generating significantly more traffic than projected, in which case additional traffic mitigation measures would be implemented. Otherwise, no further mitigation measures would be required because the Project would not have the potential to generate any significant adverse environmental impacts.

### **6.0 UNAVOIDABLE ADVERSE IMPACTS**

Unavoidable adverse impacts are defined as those that meet the following criteria:

- 1) there are no reasonably practicable mitigation measures to eliminate a significant adverse impact; and
  
- 2) there are no reasonable alternatives to the development that would meet its purpose and need, eliminate its impacts, and not cause other or similar significant adverse impacts.

The Project would not result in any unavoidable adverse impacts.

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### **7.0 GROWTH INDUCING ASPECTS OF THE PROJECT**

This section analyzes the potential of the Project to induce future residential and commercial development, as well as additional community facilities and future roadway extensions.

The Project's water supply and sewage treatment capacity would not be sufficient to generate any significant excess capacity to induce growth on lands outside the Project Site.

General business services to serve the residents of the Project would be met from existing commercial properties in the Village or those within driving distance from the Project, including the Village of Kiryas Joel, Woodbury Commons and other nearby regional shopping centers. Bus service to and from the Project to existing commercial centers would be provided, which would diminish the capacity of the Project to induce commercial growth. There is presently vacant commercial space in the Village which could accommodate foreseeable demand for local commercial services that would not be met by established businesses in the area.

Community facilities and recreation areas serving the residents of the Project are included in the Project's plans. There would not be an unmet need for community facilities that would induce such facilities to be developed off-site.

The Project would include the creation of two new roadway connections as depicted on the Project's Site Plan in Appendix A. These connections would be located at the southwestern boundary of the Project Site, and such roadways would not increase the accessibility of previously difficult-to-access properties. However, these roadway connections would have the beneficial impact of potentially reducing traffic burdens on NYS Route 208 and are proposed in accordance with the Village Code which promotes roadway interconnectivity.

The Project Site has 22 acres reserved. There are no plans for development of this acreage and any future development of this acreage would be a separate project requiring its own permitting and environmental review. The Scoping Document directs that the potential uses for this acreage be identified. Since there are no plans for this acreage and no immediately foreseeable need for its development, there are no potential future uses which can be identified and analyzed. For the foreseeable future this acreage will remain undeveloped.

The Project would not have the potential to induce any significant growth.

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### **8.0 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES**

Resources, both natural and man-made, would be expended in the construction and operation of the Project. Certain resources would be irreversibly and irretrievably committed to the Project. Funds committed to the design, construction/renovation, and operation of the Project would not be available for other projects.

These resources include natural resources (such as foliage removed to allow the construction of the Project) as well as the materials dedicated to its construction. Project construction would result in the long-term commitment of lands that are currently mostly vacant and fallow to the development of a residential subdivision, thereby rendering use of the Project Site for purposes other than the Project highly unlikely in the foreseeable future.

The construction of the Project would involve commitment of a variety of natural and manmade resources. These resources would include, but are not limited to: concrete, steel, timber, paint, water, topsoil, etc. The Project would also result in the creation of impervious surfaces for buildings, roads, parking, etc. The operation of construction equipment would involve the consumption of fossil fuels, while the completed buildings would require electricity, natural gas, and oil. However, the Project proposes homes built to LEED standards, which would encourage the use of sustainable building materials and energy-conserving home design features.

Additionally, commitment of human effort in the form of time and labor would be required to develop, construct, and operate the Project. The increase in the need for construction workers may be viewed as a beneficial impact to the construction industry, as an increase in jobs would be created during the years of construction.

Other commitments of labor would include the services of the police, fire, and emergency medical personnel, public works personnel, etc. that would be required to service the Project after its completion. As previously noted in Sections 3.2 and 3.3, the increase in tax revenue as a result of additional development will serve to offset the cost of an increased need for services such as police protection, and the increase in population would provide an ample resource to provide additional volunteers for fire prevention and emergency medical/ambulance services.

These commitments of resources and materials have been weighed against the Project's goal to develop vacant land to meet present and future, local and regional housing needs, while advancing a number of public goals including sustainable design, walkable Smart Growth principles, and open space preservation. For these reasons, the Project would not result in any significant adverse impacts with respect to the irreversible and irretrievable commitment of resources dedicated to its construction and operation.