



Burden Lake Conservation Association

Since 1960, working together to preserve the beauty
of Burden Lake for future generations.

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Dear Burden Lake Community Members,

In light of the November letter that was written and distributed by the Town to the Sewer District Property Owners in Nassau, the Burden Lake Conservation Association (BLCA) would like to provide a response and update to clarify and highlight certain issues. The Town Letter shares information concerning the Woods on Burden Lake project. There are a number of concerns and considerations which the Town Letter does not address:

In early October 2023, in response to concerns voiced by BLCA members, the BLCA forwarded a Letter Petition to the Town, signed by 76 BLCA members and other concerned residents. This letter raised a number of issues with the work on the Subdivision Project. Unfortunately, the Town letter does not address many of these issues.

The BLCA has a long standing mission to protect the Lake and its ecology. The BLCA Board of Directors believe that development of the project can proceed successfully in a manner consistent with the Environmental Review for the Subdivision. This Review was approved by the Town Planning Board in 2006.

The BLCA supports the development of the Subdivision, based on the provisions of the Town Planning Board's 2006 Review and Approval, as well as the Town Zoning and with NYSDEC requirements for Stormwater Management. It should be noted that because the 18-lot Subdivision involves the disturbance of more than 5 acres of the site, the entire project is subject to the provisions of the NYS DEC Stormwater Permit, including a Stormwater Pollution Prevention Plan, a SWPPP, for the Subdivision.

Principally, there are three concerns as the project proceeds:

- First, adequate provision for the stormwater runoff from the site's Cul-de-sac.
- Second, the quantity of stormwater runoff, associated with impervious surfaces on the site.
- Third, the quality of runoff, the required treatment of the project's Water Quality Volume (WQV).

The Town Letter refers to the August 2006 Planning Board approval, which included provisions for a drainage easement for runoff from the cul-de-sac at the north end of site, as well as conditions stipulating provision for the check dams along the length of this easement.

Although the Town Letter does not make reference to it, it should be noted that in August of 2020, the Subdivision's roadway and drainage infrastructure were converted from the originally approved, municipally owned facilities to a HOA ownership structure. This was authorized by a Resolution of the Town Board. It is believed that this HOA is the first and only HOA in the Town of Nassau.

The roadwork on the site redirected much of the existing "sheet flow" runoff from the site, contributing extra flow emanating from the Cul-de-sac. This directed runoff to existing small channels, and has created risk of additional erosion and sedimentation to the Lake. BLCA representatives raised concerns regarding the Cul-de-sac drainage in the Fall of 2022. As a result of persistent, ongoing advocacy by BLCA members, in July, 2023, the Project Developer redirected the Cul-de-sac drainage to a 300 foot long "rip rap" stone lined channel and to a "level spreader" structure. This spreader consists of a low wall of 6x6 lumber, intended to check the flow of water and spread it.

Unfortunately, this spreader structure does not conform to NYSDEC design standards and the BLCA has, to date, been unable to obtain the documentation required by the DEC Permit for the design or function of this spreader. This is of particular concern because this structure is more than 500 feet from the Lake, at a grade exceeding 10%. Although a rip rap channel has been added directly below the spreader, no provisions have been made to address the impact of the extra runoff from this structure further toward the Lake, and it appears that runoff from this area continues to carry sediment to the Lake.

It should also be noted that over a three week period when the developer constructed the channel and spreader, it appears that they failed to provide required erosion control measures, failed to submit required notices, and failed to properly document required inspections of this work. This, despite notifications to both the Town and DEC concerning the apparent irregularities with the work.

The Town Letter, appropriately so, makes note of the extraordinary requirements for review and approval for work on each lot. These requirements are based on the conditions of the site: the steep slopes and poorly draining clay soils. Also, much of the site consists of mature forest growth which provides stability for the site soils as well as important habitat for the Lake ecosystem. And, DEC stormwater regulations provide limits for stormwater quantity and standards for stormwater quality.

In the documents submitted as part of the Environmental Review completed in 2006, the homes to be built were presented as relatively small with a footprint of roughly 1,800 square feet; most with short driveways and no detached structures. **The analysis for groundwater consumption, included in the environmental record, was based on households consisting of just three persons.**

Despite this, a project presented to the Planning Board in the Fall of 2022 proposed construction of an 8-bedroom house, which was effectively two houses. Although the Planning Board required this project to be reduced to a single 5-bedroom structure. The Board has approved several projects with multiple accessory structures and longer driveways. Although these are very large lots, it is unclear how these projects will conform with the Stormwater Plan for the Subdivision and other DEC requirements.

There is also concern about how these projects will conform with the Town's Zoning requirements, since it appears that the Planning Board has approved projects without fully addressing requirements as outlined in the Town Zoning Ordinance.

Taken individually, it may not seem that the specifics of a home construction project should be of great concern. However, it must be noted that each of these home projects is a part of an 18-lot subdivision on a site with steep slopes and erodible soils. Most of the site drains into Burden Lake. **Thus, there is concern about the cumulative impact of these approvals and how each lot will conform with DEC requirements.**

Although the Planning Board has approved a number of home construction projects, several more than a year ago, no work has begun on these home sites to date. This is in part because of the delay in the transfer of the DEC Stormwater Permit from the Developer to the HOA. Because the Developer sold the unimproved lots to individual purchasers, once the Subdivision Permit is transferred, each home site will require an individual DEC Permit.

DEC does not typically review the details of Stormwater Plans, relying on Certifications by the Owner and SWPPP preparer. Under the DEC Permit, the Permit holder has a duty to provide information upon request. Although the Town, apparently, has not made requests of the developer, the BLCA has. As a result of issues with responses to recent requests for information, the transfer of the subdivision permit may be further delayed. Also, DEC permits for work on individual lots may be delayed unless these Permit applications can demonstrate conformance with the Subdivision Stormwater Plan and other DEC requirements.

Although the DEC Stormwater Permits are primarily the purview of DEC, the Town Zoning Ordinance establishes the Town's authority to enforce DEC stormwater requirements, under Art 5 Supplementary Regulations, Sec 5.1, Gen'l Performance Standards of the Ordinance. So it appears that the Town can take an active role in ensuring compliance with all relevant permit requirements. Although requests have been made to the Town to address concerns regarding the drainage work on the site, there are still questions. This is especially concerning because the Developer has failed to file or provide required routine inspection reports throughout most of 2023.

The Town Letter makes reference to trespass and vandalism on the site. There have been several serious incidents of vandalism on the site, perpetrated by juveniles from other areas and not in any way connected with the Burden Lake community. The Town Letter fails to note that several properties in the Subdivision have been recently listed for sale and BLCA reps have visited these with and on behalf of prospective buyers. One prospective buyer commissioned a study of the drainage onto property listed for sale.

Town representatives have gone to lengths to protect the individual property rights of lot owners in the subdivision. The BLCA respects the efforts of the Town and the Planning Board to protect those rights. **These authorities having jurisdiction must also consider the rights of the public to the protections of the Zoning Ordinance and the other applicable rules and regulations.**

The BLCA retains the position that this project must proceed according to the provisions of the Environmental Review for the Subdivision, DEC regulations, and the Town's own zoning ordinance. The BLCA never opposes construction and development on its own, but voices the concerns of its members when construction compromises the conservation of Rensselaer County's largest recreational lake and our most treasured resource, Burden Lake. **We are excited to welcome our new neighbors and hope that the Stormwater Plan and other requirements will be followed in the best interest of Burden Lake and the Lake Community, including the new homeowners.**

For the Love of the Lake!

A handwritten signature in black ink, appearing to read 'Zantay', with a large, sweeping flourish extending to the right.

Chelsea Zantay
President,
BLCA