

**Burden Lake Preservation Corporation**

87 Gundrum Point Rd  
Averill Park, NY 12018

**Burden Lake Conservation Association**

Box 656  
Averill Park, NY 12018

February 14, 2024

Supervisor Fleming and Town Board Members:

We are writing at this time because we are hopeful construction on the homesites of the Woods Subdivision will begin soon. We are looking forward to sharing the enjoyment of Burden Lake with our new neighbors. It is in the interest of all, that because of the steep slopes and erodible soils, particular attention be paid to development activity on the Woods Subdivision site.

Town officials have made reference to the protection of the rights of the Subdivision Developer and of the homesite owners. We understand and respect those rights. Please note that the rights of the Lakebed Owner against contamination from the site should also be respected. Further, the Public's right to the protections of the Town Zoning Ordinance should be considered as well.

In recent months, information has been developed which has raised concern regarding stormwater management on the site and the requirements of the stormwater permit. It has been suggested that to promote transparency and cooperation, this information should be shared on a periodic basis. Going forward we will endeavor to share information which we believe should be of interest to project stakeholders.

The BLCA and BLPC desire to protect Burden Lake and its habitat. We support the successful development of the Woods Subdivision, providing it is consistent with the 2006 Environmental Record, the Town Zoning and NYS DEC Stormwater Management regulations.

BLCA and BLPC members have presented concerns regarding various issues at Town Board meetings and in correspondence with Town officials. It seems these concerns have not been clearly communicated to the Town Board. We are hoping that presenting information in this form will be clearer. We hope the Board will address the issues that Lake residents and others are bringing forward and respond to our inquiries.

**1: Planning Board, August 2006, Approval Condition for Check dams:**

In August 2006, the Planning Board approval for the Subdivision site plan included a condition for the provision of check dams from the cul-de-sac to the Lake. This information has been highlighted to the Board previously. There is concern about how this requirement was omitted and why check dams are not now included in the channel below the Level Spreader . **Please address this question.**

**2: Town Zoning Authority regarding DEC Permit:** The Zoning Ord, Section 5.1, General Performance Standards includes provisions related to DEC permits. Item 6d of this section reads, in part: "Any permit, Notice of Intent, plans or other documentation filed with DEC... shall also be filed with the Town Code Enforcement Officer and any terms of such permit... **shall be enforceable by the Town**". This information has been highlighted to the Board previously.

**In July 2023 the Developer undertook work on the site, apparently failed to file required Notices, failed to provide Erosion & Sediment Control measures and failed to file required inspections.** As work proceeds on individual lots, it is important that the Town take an active role regarding Stormwater Management requirements, to be sure all required notices and inspections are properly completed and filed. **Please clarify the Town's role & responsibility, especially concerning future work.**

**3: Duty to provide information under the DEC Permit:**

Recently, information pertaining to Part VII.F of the "Construction General Permit" was shared with the Board. It was noted that the NOI, the SWPP & Inspection Reports are public documents and the Owner/Operator has a duty to provide information "to any person within 5 business days". Further Part.II.B.4 states that there is a duty to provide information as of the date of the NOI submittal. Unfortunately, the Developer and others have failed to honor requests for information. **The Town's assistance is requested to assure compliance with these requirements and to obtain access to these documents.**

**4: Performance criteria of the Level Spreader under the DEC Permit:**

Concerns have been brought to the Board regarding the Spreader constructed at the site in July 2023. The Developer's Engineer has noted that the Spreader design was based on a design from an agency of the State of Virginia, **not based on NYS design guidance.** Under Part III.B.2 of the Permit, the Owner/Operator must demonstrate the equivalence of this "non-standard" design to the technical standard. **Given the potential impact on the Lake, the Town should confirm the technical documentation for the design of this structure.**

**5: Apparent discrepancies between the SWPPP and NOI:**

In the SWPPP, submitted in 2004, it is indicated that 1.12 Acre of Impervious surface is treated for water quality by micropool detention. The Developer's 2020 NOI cites 2.5 acres for the micropool. The HOA NOI submission cites no treatment. The design requirements say that the Water Quality Volume for the impervious surfaces SHALL be treated. **These issues were recently presented to the Town Board and these apparent discrepancies should be resolved before the Town allows the Closeout of the Developer's Permit.**

**Further, the NOI submission of the HOA indicate, in Item #38, that the entity responsible for the long term operation and maintenance of the Post-Construction Stormwater Management Practices is the Town of Nassau.**

**6: Issues with previously approved site plans**

In 2022, the Town Planning Board approved a Plan for Lot 13 with a driveway grade exceeding that allowed in the Zoning Ordinance. The Planning Board has also approved Plans without required "Berm/Dry Swales" to control water quality, included in the FEIS Addendum, Appendix F, December 2005. It is in all parties interest that plans for work on these sites conform with the Town Zoning Ordinance and with the Stormwater requirements for the Subdivision. **Because of these issues, Planning Board approvals for these projects may be invalid, so these issues should be resolved before the Town issues work permits for these sites.**

Please contact us if you wish to review these inquiries.

We look forward to your response,



Larry McKeough  
Vice President,  
BLPC



Chelsea Zantay  
President.  
BLCA

CC:

Town Clerk  
Planning Board  
Woods HOA Members