



LAKE • GEORGE
WATERKEEPER®

PO Box 591, Lake George, NY 12845
Tel: (518) 668-5913 Fax: (518)-668-5915
Email: info@lakegeorgewaterkeeper.org
www.lakegeorgewaterkeeper.org

March 8, 2011

Ben Leerkes, Chair
Town of Ticonderoga Zoning Update Committee
132 Montcalm St
PO Box 471
Ticonderoga, NY 12883

**RE: Ticonderoga Land Use and Development Code
January 20, 2011 DRAFT**

Dear Mr. Leerkes,

The Lake George Waterkeeper has reviewed the revisions made and published January 20, 2011 for the DRAFT Ticonderoga Land Use and Development Code. We continue to support the efforts of the committee and feel that the overall document is well done, concise and addresses some critical issues that will help protect the natural resources of Ticonderoga. The Lake George Waterkeeper asks that the committee discuss the following issues that have been identified as necessary to strengthen the proposed ordinance to avoid negative impacts on the water quality of Lake George and the natural resources of the Town.

2.A Zoning Districts

2.A | 06 Use Table

2.A | 06.01 to 06.17.07 *Because of the environmentally critical nature of the shoreline surrounding Lake George, accessory structures and dwellings within the Shoreline Residential (SR) District should be not be designated with “P – Permitted; may require site plan review” but always a “C – Permitted upon conditional use approval” (2.A 05.01.02 - Uses Allowed Conditionally. Uses listed as allowed upon conditional use approval (C) require approval by the Planning Board in accordance with 4.C | 02 before the Code Enforcement Officer may issue a land use permit).*

2.A | 07 Floor Area Ratio (FAR) *Requirements to restrict structure size using a FAR calculation should not be limited to non-residential buildings in specific districts only (downtown, mixed use, industrial). Single family dwellings (SFD) within the Shoreline Residential (SR) District should also be limited to a FAR calculation. Queensbury uses a 22% maximum FAR defined as “...all square footage from exterior to exterior of walls of all structures on the property, including all*



THE FUND for LAKE GEORGE

floors of the structures, garages, basements and attics with more than 5 feet of ceiling height and covered porches are included in the FAR calculation...". This would ensure a maximum threshold limit for total living space on a parcel of land. The Floor Area Ratio and Gross Floor Area definition should be revised, and all ambiguity of interpretation should be removed from the definitions in Article 5.

2.G Shoreline Residential (SR)

2.G | 02 Density and Dimensional Standards Table

2.G | 02.03.02 Water Setback *50 foot shoreline setback is being proposed in this district. We recommend a 75 foot setback since 50 feet is not adequate to sufficiently infiltrate and treat stormwater runoff, which is the number one polluter to Lake George.*

2.G | 03 Special District Standards

2.G | 03.02 Additions and Replacements *This section should be consistent with the Adirondack Park Agency Shoreline Regulations effective December 31, 2008, §575.5(b)(2).*

"An existing structure located within the shoreline setback area may not be expanded in any direction within the shoreline setback area, including an increase of structure height, without a variance. Additions up to a maximum of two hundred fifty (250) square feet may be added to a lawfully existing non-conforming shoreline structure provided the additions (1) are rearward, and (2) the existing ridge lines are not raised by more than two feet."

2.G | 03.03 Steep Slopes - No principal structures shall be located on land with an average slope of 15% or greater. *We would recommend no structures shall be located on slopes of 15% or greater to reduce impacts from stormwater runoff, erosion and sedimentation.*

3.B Engineering

3.B 06 Wastewater

3.B | 06.02.01 *The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a qualified professional in full compliance with state requirements. Subsurface sewage disposal should be designed by a licensed professional engineer as per New York State Department of Health and Department of Education Regulations.*

3.E Environmental Quality

3.E 01 Agriculture and Farmland *No provisions have been specified for stream protection utilizing stream buffer requirements. Buffers are extremely important for water quality protection. Buffer protection as proposed in the Stream Corridor Management Regulations for the Lake George Park should apply.*

3.E 04 Ridgelines and Hillside

3.E | 04.03.02.02 *The Lake George Waterkeeper supports the vision and concept of visual protection. However, the sketch gives the appearance of creating a bench on the hillside to accommodate the principle structure, and this type of development is not supported. The structure should fit the landscape and not have the landscape be altered to fit the structure.*

3.E | 04.03.02.08 Cuts and fills should be minimized, and where feasible, driveways shall be screened from public view. *Cut and fill should be limited to 6 foot maximum allowable. Recommended addition: Driveways not to exceed 12% should be included in this section.*

3.E 05 Riparian Buffers and Surface Waters

3.E | 05.01 Setback. All buildings, structures and other impervious surfaces, other than water-dependent uses or structures (e.g. boathouses, docks, dams, etc.), shall be set back a minimum of 50 feet from the mean high water mark of any surface water....” *Setbacks from the mean high water mark should be 75 feet (vs. the 50 feet that has been proposed).*

3.E | 04.03 Buffer Establishment *Riparian buffers should include 75 feet from a lake, pond or stream if practicable (vs. the 50 feet that has been proposed). In addition, measurement should be from the ‘stream bank at bank full’ instead of the ‘stream centerline’ as proposed.*

3.E | 06 Steep Slopes

3.E | 06.05.04.02.04 *Site Plan Review should be required for all retaining walls greater than 6 feet in height.*

3.E | 07 Stormwater Management and Erosion Control

3.E | 07.03 Applicability

3.E | 07.03.04 The clearing of, grading of, removing of vegetative cover or soil from, and/or the overlaying of natural vegetative cover with soil or other materials on 20,000 or more square feet of land. *This should be deleted from the proposed regulations as it is not consistent with 3.E | 07.04.02.*

3.E | 07.04 Exempt Activities

3.E | 07.04.02 Development or land use activities within the Downtown Business, Hamlet Mixed Use, Neighborhood Mixed Use, Hamlet Residential, Shoreline Residential or Historic Resource Management districts that involve disturbance and/or clearing of less than 5,000 square feet of land and that results in a site with less than 4,000 square feet of impervious surface *should be revised to state “...involve disturbance and/or clearing of less than 5,000 square feet of land and/or that results in a site with less than 1,000 square feet of impervious surface...” (to be consistent with the LGPC Stormwater Management Regulations Section 646-4.5 (f) (2)).*

3.E | 07.04.08 Routine maintenance activities that disturb less than 5 acres of land, which are performed to maintain the original grade, hydraulic capacity and purpose of a facility or site. This shall include the ordinary maintenance, cleaning and/or repair of stormwater control measures. *This should be deleted from the proposed regulations as it is not consistent with LGPC Stormwater Management Regulations.*

3.E | 07.07 Classification of Projects *The classification of Minor and Major Projects should be consistent with LGPC Section 646-4.12 Project Classification in Stormwater Regulatory Programs for the Purpose of Review and not redefined as the following:*

3.E | 07.07.01 Minor Projects. Any development or land use activity that does not otherwise require Planning Board approval shall be considered a minor project.

3.E | 07.07.02 Major Projects. Any project not expressly exempted from review and approval under this section or defined as a minor project above shall be classified as a major project.

3.E | 07.08.01 Professional Preparation. For major projects, applicants shall submit professionally prepared plans. The Planning Board may waive the requirement for professional preparation, if it finds that the proposed project involves the creation of less than 10,000 square feet of impervious surface, and will have no impacts to adjacent

properties, wetlands or streams. *This should be deleted from the proposed major project requirements.*

3.E | 07.09.02 To the greatest extent feasible, stormwater shall be managed on-site using stormwater control measures designed to afford optimum protection of ground and surface waters. All water from newly created impervious surfaces that would otherwise run off the parcel shall be directed to a stormwater control device. *To afford optimum protection, changes in groundcover should be included; “All water from newly created impervious surfaces and changes in groundcover that would otherwise run off the parcel shall be directed to a stormwater control device.”*

3.E | 07.09.03 Stormwater management practices that are designed and constructed in accordance with the technical documents listed below shall be presumed to meet the technical standards of this section:

3.E | 07.09.03.01 New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, referred to as the Design Manual). Applicants for a stormwater permit under the provisions of this section shall use the DEC Design Manual formula for calculating runoff volume.

3.E | 07.09.03.02 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, referred to as the Erosion Control Manual). *The reference to the New York State Stormwater Management Design Manual for design and construction of stormwater management and treatment is inappropriate and does not meet the statutory requirements for stormwater management and treatment within the Lake George watershed. We recommend the implementation of the Lake George Park Commission regulations for consistent water quality protection.*

3.E | 07.11.01 Applicability. Before issuance of a certificate of occupancy for any major project, or any minor project where it is deemed necessary, the applicant shall arrange for the future maintenance of stormwater control measures subject to the approval of the town. *See Schedule E – Sample Stormwater Control Facility Maintenance Agreement in LGPC Stormwater Management Regulations.*

3.E | 07.11.04 Initial Maintenance Security. The project owner(s) or sponsor may be required to establish a maintenance security... *should state “...shall be required...” ...instead of “may be required...” (LGPC Stormwater Management Regulations).*

3.E | 07.12 Review of Minor Projects. The Code Enforcement Officer shall have primary responsibility for the review, approval and issuance of stormwater management permits for minor projects. Prior to the issuance of a permit for any project, the Code Enforcement Officer shall determine that the project as proposed is in accordance with the standards of this section.

3.E | 07.13 Review of Major Projects. The Planning Board shall review and approve applications for major projects in conjunction with all other applicable reviews for the project (site plan, conditional use or subdivision). If no other review is required for the project, the Planning Board shall follow the process set forth for site plan review in 4.C | 01 (page 4-9) to review the application.

The above Review of Major and Minor Projects by the Code Enforcement Officer and Planning Board appear to be in conflict with projects within the Lake George watershed that would require a permit from the Lake George Park Commission. In addition, we recommend that a test pit be

performed for all stormwater management devices to determine the adequacy of soils for treatment.

3.E | 07.16 Filing Requirements. Final subdivision plats shall contain stormwater control measures for all commonly owned roads, buildings, parking areas and impervious surfaces. Disturbance limits should be included in the requirements for filing final subdivision plats.

3.E | 07.17 Definitions The following should be included in the definitions as they do not appear in Article 5.A Definitions:

*Bioretention
Land Disturbance
Point Source
Predevelopment
Redevelopment
Stormwater Runoff*

3.G Specific Uses

3.G | 12 Lodging Facilities

3.G | 12.01.04.03 Shoreline Residential District - If the property is not connected to a municipal sewer, the applicants shall demonstrate to the satisfaction of the Planning Board that their onsite septic system is functioning properly and is adequately sized for the proposed use. We recommend that the applicant be required to provide a certification from a licensed professional engineer that the septic system is functioning properly and is adequately sized.

3.H Subdivision

3.H | 01 Purpose

3.H | 01.01.06 Provide for the conservation of natural and cultural resources. A definition of natural resources should be specified; including wetlands, steep slopes, natural forests, etc.

3.H | 03.03 General Standards - Protection of Natural and Cultural Features

3.H | 03.03.01 Design Process. All subdivisions shall be prepared with a process that first identifies natural and cultural resources and then lays out the subdivision to preserve the identified resources to the greatest extent feasible. This process to initiate subdivision design is critical and supported.

3.H | 11 Conservation Subdivisions

3.H | 11.05 Density The Lake George Waterkeeper supports that 75% of the area should be designated as 'conservation areas', but would recommend that all "unbuildable land" be removed from the applicable zoning district standards for density calculations prior to conservation area design.

4.A General

4.A | 07 Public Hearing and Notice

4.A | 07.04.01 We recommend that all residents within 500 feet of a proposed public hearing be notified. This would elicit more public involvement, which should not be limited to residents within 200 ft as proposed.

4.B Code Enforcement Officer

4.B | 01 Powers and Duties

4.B | 01.01.05 *In addition to “...provide, in writing, the specific reasons for denial of any land use permit...”, the Code Enforcement Officer should also be required to provide a written response to requests for determination of the Zoning Code.*

4.B | 03 Inspections

4.B | 03.02 Required Inspections *The CEO should also be required to inspect all septic systems prior to backfilling.*

5.A Definitions and Maps

5.A Terms

5.A | 19.10 SHORELINE. *The point at which land and the waters of a navigable body of water meet, at the mean high water mark. A shoreline definition should not be limited to navigable water bodies. A Shoreline definition should include: the mean high-water mark at which land adjoins the waters of lakes, ponds, wetlands, rivers and streams within the Town. The shoreline for non-Lake George bodies of water will be defined as the contour line as established by the mean high-water mark (MHWM), the point on the bank or shore where the presence and action of surface water is so continuous as to leave a distinctive mark by erosion, destruction of vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.*

In addition to the above comments regarding the DRAFT Land Use and Development Code, the Waterkeeper would ask the committee to discuss the following important issues that have not been addressed, but are important components in most other municipal documents.

1. Planting of native vegetated buffers should be required for all shorefront and stream corridor development (and encouraged for all existing parcels). The degradation of water quality in Lake George is too important to be ignored by development that does not recognize the importance of vegetated shoreline and stream buffers. Lakefront homeowners have taken the liberty to clear-cut and remove all vegetation on the shoreline in order to enjoy a lawn and/or a view (this occurs even though limited cutting restrictions exist). Removing vegetation on the shoreline contributes to a continuous source of sand and sediment entering the lake, carrying with it nutrients and pollutants. The result of sheet flow off the land creates shallow bays with increased nutrients feeding and accelerating aquatic plant growth and algae that eventually dies and decomposes, creating a mucky lake bottom. Shoreline buffers and planting of native vegetation are conditioned during site plan review.

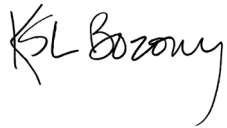
2. Low Impact Development (LID) should be an underlying focus and commitment. Excessive removal of trees and natural ground cover should be avoided and construction should be limited to the constraints of an existing site (the intent is to design the building around the site vs. removing all trees and topsoil, followed by grading or blasting the site level for construction).

3. Ensuring that existing on-site wastewater treatment systems (OWTS) are functioning properly should be addressed in the Ticonderoga Land Use and Development Code. The Lake George Waterkeeper recommends that when properties change hands, or when the floor area of the principal structure is proposed to be increased, the septic system should be inspected and brought into compliance with the current New York State Department of Health (NYSDOH) sanitary code. This would include additional bathrooms, an upgraded kitchen or a

change of use from 'seasonal' to 'year-round' for all homes. Any septic usage (regardless that the number of bedrooms is not proposed to increase) should require that the septic system integrity, location and its sizing be inspected and certified.

The Lake George Waterkeeper would like to thank the committee for time spent on developing Ticonderoga's Land Use and Development Code. The Lake George Waterkeeper looks forward to working with the Town of Ticonderoga to defend the natural resources of Lake George and its watershed.

Sincerely,

A handwritten signature in black ink that reads "KSL Bozony". The initials "KSL" are written in a stylized, cursive font, followed by the name "Bozony" in a similar cursive script.

Kathleen SL Bozony
Natural Resource Specialist / Lake George Waterkeeper

cc: Ticonderoga Zoning Committee members:
Stuart Baker, Karen Crammond, Joe Michalak, Robert Pell-deChame, Bob Porter,
Sue Rathbun, John Rayno, Sharon Reynolds, Cheri Sammis
Ticonderoga Town Board members
Brandy Saxton, PlaceSense
Jim Connelly, Executive Director Adirondack Park Agency
John Banta, Esq. Adirondack Park Agency
Brian Grisi, Adirondack Park Agency
Michael White, Lake George Park Commission