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Via First Class Mail and Email: supervisor@canaannewyork.org

Brenda Adams
Supervisor
Town of Canaan
P.O. Box 459
Canaan, NY 12029

Re: Concerns Regarding Canaan Comprehensive Plan

Dear Supervisor Adams:

I write this letter in a last ditch effort to convince you and the Town Board that absent a commitment to expeditiously conduct an Environmental Impact Study (“EIS”) in connection with the substantial zoning changes envisioned in the draft Comprehensive Plan to increase density in the Queechey Lake watershed, the Save Queechey Lake task force which I represent comprising over 100 residents of Canaan, will have no alternative but to institute an Article 78 proceeding to nullify the Comprehensive Plan after its passage. That will be a lengthy and expensive process, but it is essential to avoid the consequences of high-density development in the watershed—something we believe will kill Queechey Lake as we know it.

Before delving into the issues, however, I am troubled that I must demand a retraction of defamatory statements that you have made to Roger Long, among many others in Canaan, concerning my credentials as an attorney. You are telling the citizens of this Town that I am not licensed to practice law in the State of New York. The practice of law without a license is a crime in New York. Judiciary Law ¶ 485. Accusing a person of a crime or making allegations to injure a person in his or her trade or business constitutes slander *per se* under New York law. *Brentwood Pharmacy, Inc. v. Shepard*, 229 N.Y.S. 2d 511, 513 (Supp. St. Suffolk Co. 1962). Thus, a person is liable for defamation if he or she accuses an attorney of being unlicensed. *Roberts v. Pratt*, 174 Misc. 585, 587, 21 N.Y.S. 2d 545, 548 (Sup. Ct., Steuben Co. 1940). I and everyone else on the Save Queechey Lake Task Force have been respectful to you and all who want to see the Comprehensive Plan move forward. In contrast, you have attempted to paint our group as privileged elitists with an ulterior motive to preserve the value of our property. While as I noted in my prior letter, that is

untrue (new homes will increase our property values), I recognize that all is fair in war and politics—except for defamation. I have been admitted to practice law in the State of New York for 40 years. I currently have four active cases pending in New York state courts and recently obtained a significant settlement for a client in federal court in Albany. My license status is readily available if you search “NY Attorney Search.” In addition to New York, I am admitted to practice in Pennsylvania, four Federal District Courts, the Federal Court of Claims, three U.S. Courts of Appeal and the United States Supreme Court. Accordingly, I must demand a public retraction of your statements that I am unlicensed in New York. We can disagree without slander.

With that issue hopefully behind us, our group cares about only one thing—the continued health of Queechy Lake and the urgency to protect it in light of the proposed sale of Berkshire Farm comprising over 70% of the Queechy Lake watershed which currently is almost completely undeveloped. Berkshire Farm, for over 100 years, acted as guardian of the Lake, never intending to develop the hillside down to the Lake from Route 22. As we know, and as is proudly proclaimed in the draft Plan, Queechy Lake is one of the clearest lakes in New York State. In contrast, virtually all other nearby lakes, which have more development, are suffering from eutrophication and deadly algae blooms. I am attaching articles about Pontoosuc Lake,¹ Copake Lake² and Saratoga Lake,³ all of which detail the reasons for their pollution and degraded water quality.

Most importantly, I have attached a study of the Saratoga Lake watershed (Skidmore College Study 2007). It focuses on the use of a Comprehensive Plan to guide future zoning decisions, as they must comply with the Plan. With respect to the quality of Saratoga Lake:

We noticed a strong potential for development in the areas that surround Saratoga Lake. This shows that much of the land that surrounds the lake that isn't already developed is currently zoned for potential development. This could have implications for the direct quality of Saratoga Lake and the watershed as a whole. The lack of medium to high density residential zoning in the western side of the watershed leads to less potential for heavy residential development to usurp forested land in that area. Much of that land is zoned for low density residential development which is likely to stay somewhat forested while people build dwelling units on only a small portion of the land . . . We have noticed that most of the build-out potential happens in clusters rather than being scattered in smaller pockets throughout the watershed. This suggest that development brings about more development . . .

¹ Berkshire Eagle, Oct. 25, 2025 (Pontoosuc Lake: “It’s the worst it’s been in 20 years says Lanesborough’s harbormaster.”). (See **Exhibit “A”**)

² “Recovery of Copake Lake’s Water Quality and Control of Nuisance Aquatic Vegetation,” Northeast Aquatic Research. (See **Exhibit “B”**)

³ “The ongoing threat of Algae Blooms-Capital Perspective,” New York Public Interest Research Group, July 28, 2025. (See **Exhibit “C”**)

Development does not seem to happen as much in isolation as it does in partnership with other existing development.

Skidmore study at pp. 16-7, 22 (*see Exhibit “D”*).

The Town of Canaan has conducted no studies of the impact which will result from (1) the creation of a hamlet at the Berkshire Farm campus, (2) the promotion of cluster development in the Queechy Lake watershed and (3) the elimination of 5 acre zoning on the Queechy Lake shoreline in favor of higher density development including the allowance of alternative dwelling units (ADUs), which will further increase the density of development.

While the draft Plan laudably requires all new residential development projects conduct hydrological studies and avoid adverse impacts and suggests a conservation overlay for Queechy Lake, this respectfully is putting the cart before the horse. Unless a proper EIS is conducted identifying the sources of ground and surface water to Queechy Lake, the effects of soil conditions and rock formations upon potential development (such as runoff patterns) and the impact of the creation of impermeable surfaces (roads and driveways) on the steep hillside on the Eastern shore of the Lake, it is impossible to make reasoned decisions as to future zoning. An EIS will create a blueprint for what is possible and what cannot happen and will guide future zoning decisions. Accordingly, it is essential that the Town declare a moratorium on all development in the Queechy Lake watershed until an EIS is conducted because any developer should be aware of the environmental limitations of development in the watershed before any development (under any zoning laws) is attempted. Without an EIS, conducted by the Town of Canaan, Together for Youth will sell the control of the watershed to a developer which will have the economic motivation and resources to control these determinations for us. As you heard at the recent Town meeting, the overwhelming majority of all citizens of the Town of Canaan support the need for an EIS, the primary difference being its timing, not its necessity.

The save Queechy Lake Task Force is not asking for much. But the refusal by you (over the objection of several members of the Comprehensive Plan committee at Monday’s “workshop”)⁴ to consider conducting an EIS at any time even though state grants are available to pay for such studies in connection with a Comprehensive Plan, is inexplicable to us. It appears that you are unwilling to do what is required in light of the potential impact of the Plan for no reason other than achieving a political victory. We cannot afford to leave control of this process to a developer.

As a final note, let me respond to two arguments you have been making publicly in response to our request (along with a majority of Canaan residents who have expressed an opinion) that an EIS should be considered either prior to or within an expedited period after the approval of the

⁴ Members of the Take Force taped Monday’s “workshop” which had the announced purpose of considering the comments of the over one hundred residents who either spoke or wrote to the Town concerning the Comprehensive Plan at the recent public hearing. Although you are not a member of the Comprehensive Plan Committee (you are a “liaison” to the Town Board), you chaired the meeting, shut down any discussion of an EIS and did not consider any comments in a meeting that took only 41 minutes. This is one of the many violations of the Town Law that will be at issue if we are forced to litigate.

Comprehensive Plan. First, you argue that none of the other towns in Columbia County have compiled a GEIS in connection with their Plans. That is true, but that is because none have the unblemished and highly threatened resource we have in Queechy Lake. This argument is akin to the driver who complains to the officer who has pulled him over for speeding that everyone else was speeding too. It is not a legal defense. As I discussed in detail in my prior letters a Comprehensive plan is a Type I action under SEQR (NYCRR Part 617.4) as it sets future land use policy and as such, it is presumed to have a negative environmental impact. Type I actions require a full EAF, a coordinated review and a GEIS or a comparable “hard look” at their environmental consequences to analyze the broad impacts of the proposed land use policies. Simply instructing the Board, which has no environmental expertise, to approve the previously checked negative effect boxes as you were prepared to do in December, will not survive judicial scrutiny. We are aware that you contemplated such a review because you have quoted the cost for an EIS to members of our task force.⁵ Second, you have repeatedly stated that you have a legal opinion that GEIS is not necessary for this Plan. I have spoken to the Town Attorney, who was not familiar with the terms of the Comprehensive Plan affecting zoning changes in the Queechy Lake watershed and you have presented no legal opinion publicly. If you have such an opinion, we request that you disclose it.

The Queechy Lake Task Force does not desire privilege or special favors. We seek only to preserve the perpetual clean water quality of Queechy Lake. We believe that forcing us to file an Article 78 proceeding, which we will be prepared to file, is not in the best interests of Canaan. We only seek that a proper environmental study be conducted under the control of the Town of Canaan on the proposed land use changes either before the Plan is adopted or within an expedited period afterwards along with a temporary moratorium on development until the study is completed. We do not believe that request is unreasonable.

Very truly yours,

/s/ Jonathan J. Bart

Jonathan J. Bart

JJB/jam

Enclosures

cc: Town Board of Canaan
Planning Committee of Canaan
Zoning Board of Canaan
Comprehensive Plan Committee
Members of Queechy Lake Task Force

⁵ However, this was not produced in response to our FOIA request although it clearly was responsive to Item 4. The cursory response to the FOIA request will also be an issue should we litigate this matter when we will have the right to obtain discovery as to the Comprehensive Plan process.