



Edward C. Marx, AICP
Commissioner of Planning

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February 17, 2010

April L. Scheffler, Town Clerk
Town of Groton
101 Conger Boulevard
PO Box 36
Groton, NY 13073

Re: Review Pursuant to §239 -l and -m of the New York State General Municipal Law
Action: Draft Town of Groton Land Use and Development Code (January 2010)

Dear Ms. Scheffler:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Planning Department pursuant to §239 -l and -m of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it may have negative inter-community or county-wide impacts. We recommend modification of the proposal including reiteration of our recommendations from our July 14th, 2009 letter. If the Board does not incorporate these recommendations into its approval, such approval will require a vote of a supermajority (meaning majority plus one) of all members of the decision-making body.

The Department recommends the following modifications:

- The Code should specifically address buffer areas along perennial and intermittent streams. Both the *Joint Comprehensive Plan for the Village & Town of Groton (2005)* and the *Tompkins County Comprehensive Plan (2004)* call for the adoption of policies and regulations to better protect stream corridors. We recommend that code require a minimum setback of a minimum 100' from the top of stream bank for all perennial streams, as categorized by the United States Geological Survey. Within that setback the first 50' should be maintained as a natural, vegetated buffer. A buffer width of a minimum 50' from the top of stream bank should be required for all intermittent streams. For further information please see the draft Tompkins County Model Stream Buffer Ordinance enclosed and *Enhancing Water Resources in Tompkins County: Benefits of Riparian Areas and Stream Buffers* (<http://www.tompkins-co.org/planning/Water%20Resources/FINAL%20STREAM%20DOC.pdf>).
- The *Tompkins County Multi-Jurisdictional All-Hazard Mitigation Plan*, of which the Town of Groton is an involved municipality, identifies a mitigation action item to "Whenever practicable, use zoning and other growth management techniques to channel intensive development to areas outside of floodplains." To assist in reducing the risks associated with flooding it is recommended that the Code prohibit all building development in the identified Flood Hazard Areas.

- Some of the land uses allowed in the Rural Agriculture (RA) district run counter to the *Joint Comprehensive Plan for the Village & Town of Groton* (2005) action item to "Establish zoning and other growth management tools that promote development of the existing village, the hamlets and their immediate environs for future residential, commercial and industrial land uses." Also, large portion of the Town of Groton is in an area designated as an Agricultural Resource Focus Area in the *Tompkins County Comprehensive Plan*. Allowing the wide variety of uses including banks, hospitals, hotels/motels, light industry, retail sales and services, multi-family and high density housing, schools, and large events in the RA district may harm the long-term viability of farming in Groton. The list of allowed uses should be reduced to those that would be supportive of or that could coexist with agriculture and that would not create pressure to convert farmland to non-agricultural use.

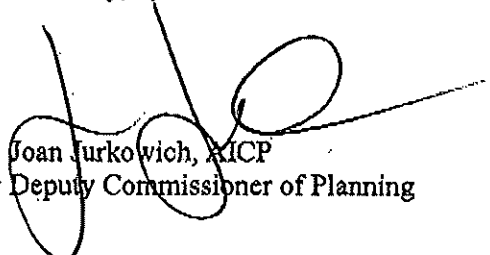
Additionally, the Department offers the following comments regarding the proposed project, which are not formal recommendations under General Municipal Law §239 -1 and -m:

- Mass Gatherings (Section 377)
 - For ease of interpretation and enforcement, this section would be better adopted as a separate local law independent of the Land Use and Development Code, perhaps in tandem with a noise ordinance that specifies public disturbance standards for various land use areas. A separate ordinance may also be preferable as law enforcement officials are better able to enforce a separate ordinance. As they would likely be responding to community complaints, both local and state law enforcement should be clearly allowed to enforce conditions of the permit. The agencies responsible for enforcement should be provided copies of this draft law to allow for their input.
 - While the proposed addition regulating mass gatherings provides a meaningful framework for making a decision as to where and how large events are conducted in Groton, there are several aspects that should be considered for integration into this section. Updates to this section should include:
 - A requirement to route mass gathering applications to the Town of Groton Highway Superintendent, Town of Groton Fire Departments, Tompkins County Sheriff's Department, New York State Police, Tompkins County Highway Division, Tompkins County Health Department, Tompkins County Emergency Response, members of the public potentially affected by the event and any other relevant agencies to assist the Town Board in considering applications. Not only would this provide the Town Board added assistance in considering the approval of an application, but would also inform those entities that may play a role in maintaining a safe event.
 - A modification of the noise provision, which states that noise "shall not exceed 90 dB at the source" (Section 377.8) is difficult to enforce as it would require on-site measurement using metering equipment. Alternatively, it should state that noise should be measured from the property line and should consider defining as a public disturbance noises such as amplified sound and revving of vehicle engines after a certain hour. Such a standard would allow for enforcement by various law enforcement officials who may or may not have access to metering equipment.
 - The inclusion of post-gathering procedures. Although the drafted ordinance addresses many of the details related to large events, some additional requirements should be considered including post-gathering procedures related to solid waste clean-up and disposal as well as signage related to the event.

- The Town of Groton shows considerable forethought in integrating various aspects of green energy production including solar energy collecting fixtures and wind powered electricity generation into the proposed 2009 Land Use and Development Code which should be commended.
- The Subdivision Classification Procedure (Figure 2-A) listed on page 22 outlines a procedure that may have unintended consequences. For example, the *Joint Comprehensive Plan for the Village & Town of Groton* (2005) encourages "Cluster subdivision design (that) can permit a landowner to create smaller residential lots than permitted under conventional subdivision, on poorer quality soils, in exchange for preserving better quality agricultural lands," however the outlined procedure seems to discourage an applicant from proposing a cluster subdivision by requiring a more involved review process. We recommend that the distinction regarding Cluster Subdivision be removed. The procedure should be reworked with this in mind and consider requiring more information, including the location of all on-site physical features, with each application.
- We recommend that at a minimum the Planning Board be authorized to request any of the relevant information for a Major Subdivision – Level 1 that is required for a Major Subdivision – Level 2 if the Planning Board determines that such information is needed to review any potential impacts of the development of the subdivision. Many of the items listed in Section 241.1 d-q could be relevant to subdivisions that would not be classified as Level 2.
- With respect to the reference to referral to Tompkins County Planning Department (Section 205) it should be noted that the *2004 Inter-governmental Agreement for Tompkins County Review of Local Zoning and Planning Actions Under New York State General Municipal Law* can be terminated by either party with 60-days notice.

Please inform us of your decision so that we can make it a part of the record.

Sincerely,



Joan Jurkovich, AICP
Deputy Commissioner of Planning

Enclosure

Cc: Derrick Osbourne, Tompkins County Sheriff's Department
Lee Shurtleff, Tompkins County Emergency Response
Liz Cameron, Tompkins County Health Department