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Sent: Tuesday, October 20, 2020 9:04 PM
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Subject: Written public comments on DGEIS - Dora Straus

Please find attached my public written comments on the DGEIS. I sent my oral comments in a separate email.

Thank you,

Dora Straus

PUBLIC COMMENT SUBMISSION

on the DGEIS in support of the
Form Based Code (“FBC”)

submitted by Dora Straus
(Chappaqua resident since July 15, 2014)

I. The DGEIS and Associated FBC Incentivize A Large-Scale Population Increase Which Will Negatively Impact the Chappaqua School District

The DGEIS’s estimate of the number of school-age children generated per housing unit under the FBC is not credible. The method of analysis used to arrive at its number needs to be examined and re-visited.

The theoretical maximum buildout in the FBC proposal allows for **997** additional apartments.¹ (DGEIS p. 1-2.) Under the FBC’s Alternative C, where no public property is sold, but only private properties are developed, this would allow for **734** new apartments. (DGEIS p. 4-11.). Under these scenarios, the DGEIS states: (1) only **96** new school aged children (or 114 with an estimated growth of already existing children) will be generated by **997** new apartments, and (2) a mere **82** new school aged children will be generated by **734** new apartments. (DGEIS p. 3-146, 4-11.)

These numbers are highly suspect. It is evident that there is no valid analysis behind them. The DGEIS admits that it used a multiplier source that (1) is “over ten years old”; (2) “not specific” to New Castle or even to Westchester County; and (3) “provides very conservative estimates.” (DGEIS p. 3-146.). The true number of school children that would be produced by 997 units, or by 734 units under Alternative C, must be studied very carefully, given that the FBC envisions many 2- and 3-bedroom apartments, or “multifamily” units. It is well known that New Castle has outstanding public schools – people move here specifically for the schools, as my family did. Many people would love to move to Chappaqua, reap the benefit of great schools for their children and opt for a rental apartment or condominium unit which is not taxed at anywhere near the high rates that single family houses are taxed. Given this, and the fact that the multiplier source used was outdated and not specific to New Castle or even Northern Westchester County, I ask the Board to undertake a more credible, more realistic analysis of how many school children could be produced under a maximum buildout under the FBC, as well as under Alternative C of the DGEIS and all the other alternatives presented therein.

As a starting place for empirical consideration, families have already moved into the Cupola building at the old Reader’s Digest site. There are 64 apartment units there. I was told that 20-something new students have come out of the new apartments at the Cupola building. Over 20 students emanating from 64 units amounts to a ratio of over 30%. This is way

¹ This will be *in addition to* the 200 new units already coming in from the Conifer Building (28 units), 91 Bedford (14 units), the Cupola Building (64 units) and the Chappaqua Crossing townhouses (approximately 91 units, with many 2-bedroom and 3-bedroom homes).

off from a mere 9.6% coming out of 997 apartments, or a mere 11% coming out of 734 units, as claimed by the DGEIS. Again, a real analysis needs to be made, based on current, relevant data specific to New Castle or Northern Westchester towns similar to Chappaqua with outstanding public schools. The Board must take care not to underestimate this number by giving any form of a “conservative estimate,” which downplays the real number.² The real number will have significant tax consequences on current residents across the town of New Castle so the Board should not estimate conservatively at the outset.

One of the major problems with the DGEIS in support of the FBC is that it allows and encourages developers to build apartment structures without first getting approvals from the Town as to how many one-bedroom, two-bedroom, three-bedroom or four-bedroom apartment units such buildings will contain. The developer will decide what (s)he wants to build. Everyone knows there is a definite market for two- and three-bedroom units in a top school district – just look at Chappaqua Crossing, where the developer recently came back to the Town Board and asked to go outside his contract to produce additional three-bedroom units (and that request was apparently granted). Under the FBC it becomes almost impossible to predict how many new school aged children there will be because there exist no limits beyond saying “it’s whatever the market may bear.” This leaves the Town with uncertainty and without any control. We are left to guess what a developer might put up. Any such guesses therefore should not be conservative, as we all know there is definitely a market for two- and three-bedroom apartments in a top public school district.

When and if the Board does have a more accurate and reliable estimate of school children under the FBC and its various alternative scenarios, the Board needs to ask this important question: how will the Chappaqua Central School District be able to handle, financially, this influx of new children? If the apartments in question are rentals or condos, there will be no property tax base to support the additional teachers and staff needed to support growing class sizes across the schools (Grafflin, Bell and Greeley).

This is a paramount question that must be answered before the FBC gets passed. Current homeowners cannot be burdened with an even greater school tax to support additional students because our taxes are extremely high already. Please know that not everyone who lives here is “wealthy” to the point where a substantial school tax hike is of no consequence.

Has the Board considered requiring that any residential apartment structure erected under the FBC be condominiums (as opposed to rentals) be taxed at fee simple rates (versus condominium rates, which get taxed at a much lower rate), as was mandated for the Chappaqua Crossing townhouses? There was some discussion of perhaps requiring any development on town owned (publicly owned) property be taxed at fee simple rates, as was done for Chappaqua Crossing. But this neglects the 734 new apartment units that could be built on the non-public properties. (DGEIS p. 4-11). How would, or could, those properties be taxed? Many

² The Town Planner, Ms. Charney Hull, has publicly stated on two occasions that the “very conservative number” of 96 school children means that the DGEIS provides a far larger number than can be expected under real conditions. That is just flat wrong. When someone says numbers are “conservative,” that means the numbers are *underestimated*, not overestimated.

of these will be rental properties, so there would be even less of a tax base stemming from such apartments. How will such properties be able to financially support the school kids emanating from them? This was a serious issue when the Chappaqua Crossing Townhouses were negotiated by past Town Boards. I would like to see the same level of concern reflected in the DGEIS, and by the Town Board when considering the entirety of the FBC.

Additionally, under the GEIS and FBC, could the Board put in place some sort of requirement that before any tear downs or new builds occur, there is a process to determine and control in advance how many new school aged children the apartments will bring in and how those units will be taxed in order to cover the costs of those children? Otherwise, the population of the school aged kids in town could expand rapidly, without any check.

I implore the Town Board to figure out a way to monitor and control potential growth in a manner that does not put undue burden on the schools nor undue tax burden on single family homeowner residents. I pay \$40,000 annually in school taxes alone, and it rises every year. If increased to cover the costs of hundreds of new school children stemming from apartments that do not supply a requisite amount of school taxes to support them, my own public school taxes will approach the cost of private school tuition. That is just not right. The Board has a duty to its current tax paying constituency to guard against excessive tax hikes that will make it no longer affordable to own a home here.

If the answer is that one should not be concerned because the 2% tax cap will protect homeowners, then we are left with the scenario where there is not enough funding for the schools. Class sizes will increase as student population increases and resources will be unduly stretched, thereby lowering the quality and reputation of the schools here. The Chappaqua schools are this town's greatest asset. They are the reason we moved here – the primary reason. I am very concerned about the effect that unchecked development, creating hundreds of apartments, will have on our schools. This is a concern that should not be disregarded by this Board. It affects (a) the reputation and quality of our schools and (b) the taxes of all homeowner residents who live here now, who pay their taxes now or who try to sell their homes in the future.³

Finally, we are now living through the Covid 19 pandemic, which Dr. Fauci has stated could extend into the fall and winter of 2021. Schools have been affected terribly by the pandemic, and our District has struggled to get students back into school buildings in a safe

³ This concern for the schools has nothing to do with a fear of diversity, as some may insinuate and with which I take grave offense. It is undeniable that diversity is good – good for society, and especially good in educational settings where children are learning from everyone around them, not just teachers. I am focused on a different angle – *the academic quality of the public school*. That is my number one value. That why I gave up city life to move to sleepy Chappaqua and take on a high tax burden. I realize that high quality education may not be as important a value to everyone on the Board as it is to me. But *my* sole concern is how do we ensure that we don't make a zoning decision that threatens the quality of the schools by virtue of the fact that it allows for unchecked growth? It's a financial issue at bottom but it is driven by my value system that places education first.

manner. Education has been severely adversely affected. Now is not the time to be adding to that burden by creating opportunities to increase the school population. For this reason alone, we should not be looking to add to population density in the town – not until we are through this pandemic and we can go back to full classrooms without having to make sure that kids are spread out for social distancing, wearing masks all day and struggling to hear, see and learn from a teacher through a small computer screen all day.

II. The DGEIS and Associated FBC Remove Community Input and Give Developers Too Much Control and Decision-Making Power Over Our Town

Pursuant to the DGEIS, the FBC “will primarily regulate the form of development” in Chappaqua (DGEIS p. 1-1) and will “streamline the development process for application review and approval of proposals within the FBC District.” (DGEIS p. 1-5.). Pursuant to the DGEIS, the “primary responsibility for implementation will be with the Town Development Department.” (DGEIS pp. 1-5, 2-20; *see also* FBC §60-840.).

The very aim of the FBC is to “expedite the development application process ... as an incentive” to build. (DGEIS p. 2-20.). If a developer meets the requirements of the FBC, there will be no further consideration by anyone, not the Town Planning Board, not the Zoning Board of Appeals, and certainly not the residents of the town. (DGEIS p. 2-20.). Once the Development Department determines that the project conforms with the FBC, building permits are issued (*see* FBC §60-840(2).). Residents may not object to such projects, nor is there any further vetting by the town. The FBC merely requires “notification” to “abutting single-family detached property owners” a mere 30 days prior to “schematic review” by the Development Department, for “questions or concerns.” (FBC §60-840(5).). But the FBC provides no mechanism to deny a project based on any such questions or concerns of abutting neighbors, and certainly gives no consideration to the views of the other residents of this community.

Thus, so long as a builder-developer conforms to the FBC, that builder-developer may erect multi-storied buildings throughout the downtown, including 4 story buildings in certain areas, such as along North and South Greeley and parts of King Street and the intersection of King, Bedford Rd and Memorial Drive. There will no longer be Planning Board approval nor any Town Board or resident input. Why would any a Town or community want to give such full control and free reign to builder-developers? It makes no sense. It is true that there are current property owners who may decide to lease their space to a particular store that residents do not like (take the Rite Aid/Dollar Store example). So, that could happen. But that current scenario, if it were to occur, would occur on a much smaller scale than what the FBC incentivizes and allows, because the FBC incentivizes buildings of greater size and scale. And nothing under the FBC would prevent a Dollar Store from coming in, in any event. There is even *less* control over what stores come in under the FBC.

Further, there are many people who live in homes on either side of King Street, as well as in the area behind upper King St. If a developer comes in and buys several adjacent properties in those areas, and builds wide apartment buildings 3 stories high, that could adversely affect neighboring homeowners behind it. But these residents, who have invested their lives in

Chappaqua, will be foreclosed from protesting or effecting any change. The developer will get to do what the developer wants. To give such freedom and control to a developer seems so unwise – why would any town give up its control and decision-making power to such a degree? One would think that a town would want to protect its residents from the unchecked decisions of developers, which are guided by a profit motive.

A Board member has consistently stated that residents should not worry, the maximum buildout will never happen due to the legal hurdles that accompany the sale of publicly owned land. Further, this Board member has said that the maximum build out under sale of just private properties also would likely never happen because this would require several property owners to sell in unison, and there may not even be a market for apartment structures. This is pure speculation and not likely the outcome in any event because the very design of the FBC is to attract and incentivize development. Many small property owners who are choosing not to invest in their aging properties would sell to a developer in a heartbeat. And the appetite for building apartment structures is real. Just look at the big 3 story building that was just built at 91 Bedford Road. Look at the Conifer building. Look at the 100 townhouses coming into Chappaqua Crossing. Look at all the townhouses and apartment structures that have gone up in Pleasantville, right next to us. The developer desire to build, and to build as large as possible, is real and exists all around us. It's a developer's dream to allow them to come here and build without a lengthy permit process or approvals, stacking as many apartments above one another, to increase their return on investment. It is foolish to think developers would not come to Chappaqua and take advantage of every benefit the FBC would afford them. Developers know parents want a good school district but would prefer not to have to pay the high taxes commanded by a stand-alone house.

New York State requires images and description of a maximum buildout as a matter of policy precisely because the maximum build out, or something close to it, could well happen. And the very purpose of the FBC is to encourage it to happen. So, to say that a maximum build out may not happen is no solace to anyone. There is no way to know or predict the outcome, and it could very well happen. Even half of it could very well happen – and that would still result in too much development, too many apartments, too much population density and buildings that are too large for the hamlet.

I would like to ask the Board to consider the codification of an express mechanism in the GEIS and FBC which would allow the Town to say “no” to further development projects if growth starts to happen too quickly or on too big of a scale. To say, as I have heard Board members and the Planning Director state, that safety mechanisms exist in the FBC because developers will be limited by where to put parking simply has no teeth. We need affirmative controls placed expressly in the GEIS and the FBC. Otherwise, again, we are just handing our town over to developers. No resident wants that.

III. The DGEIS and Associated FBC Will Turn A Small Town Into A Big Town

My family moved here in July 2014. We spent over a year deciding whether or not to leave the city and move to Westchester, taking that time to evaluate many Westchester towns. Top notch schools were our first priority. After spending time looking at various towns and serious deliberation, we chose Chappaqua. Was it the look of the town, or the stores in the town, that persuaded us? No. It was the reputation of the schools, together with the small stature of the town. At first, I thought Chappaqua may be too “rural” for me. But after seeing Larchmont, Mamaroneck and Scarsdale, which seemed crowded, we came to appreciate the rustic nature of Chappaqua and its small population. The downtown did not “wow” us, but we liked the fact that it was small scale and not over-commercialized. Had I seen three story apartment buildings up and down King Street, like the one now at 91 Bedford Rd, I would have balked. Nor would I have accepted massive 4 story complexes at the intersection of King, Bedford Rd and Memorial Drive. I now stop at the light at the top of King Street and Bedford Rd multiple times a day. Yes, the car wash and the small house, the one with a “For Rent” sign, are unattractive. But what *is* attractive is the huge swath of a trees, including maples, oaks, weeping willows, and other species, that paints a beautiful landscape behind those one story buildings.

I appreciate this landscape every time I wait for the light and make my turn. Allowing for large-scale multistory development there will require removal of all those trees, or at the least, block them from view, ruining the surround of open air and nature. That is the beauty of small-scale buildings; they allow us to co-exist with the natural surround in a calm way, a “bucolic” way. The DGEIS and FBC purport to save the bucolic feel of Chappaqua yet in reality zones certain areas, like the King St-Bedford Rd- Memorial Drive area, as “Hamlet General Urban”. This area is decidedly not urban! Nor should it become urban. Why would we want to destroy areas where we can see trees, the sky and horizon all around us and make them into urban centers, full of people and car garages? It does not make sense to me. It is not what I or many community members want. We did not move to this town for urbanity and apartment complexes. We moved here, as many people did, to get away from the urban. Not to invite it in.

The DGEIS presents a recipe for congestion and traffic, outlining all kinds of increases in traffic volumes in town and at major intersections. The idea that we would have to install new lanes intersections and reconfigure roadways to accommodate a large number of new buildings and people is disturbing. It will be highly disruptive to daily life, particularly since we are finally enjoying some peace and quiet after the years of infrastructure construction. I can’t imagine trying to get to Bell Middle School for drop off and pick up while the intersection at the Bedford Rd-King St is reworked. (*see, e.g.*, DGEIS p. 3-128 (adding a right turn lane)). As discussed below, I would like to ask the Board to consider alternatives to allowing huge development at that intersection and other areas in the hamlet. I don’t think giving free reign to developers to build large scale structures is the only answer.

The Board is promoting high density housing and housing diversity as the reason for the FBC. But now have the new Conifer building, the new 91 Bedford building, the Cupola building and 100 townhouses at Chappaqua Crossing. Why does our small hamlet need to sustain even more at the size envisioned by the FBC? Why not wait to see how these four new

developments play out before promoting even more, especially to see how many new school children are generated by these new residences? The Board's claim that the maximum buildout "may" not happen is not a legitimate response. The goal of the FBC is to allow it to happen. Once developers see an opportunity, the town has lost control to limit the growth.

As if all of this is not bad enough in normal times, right now we are living through the Covid-19 pandemic, where it is widely documented that more densely populated areas suffer much higher infection levels. Please reconsider advocating for increasing population density now, when we are in the middle of a devastating pandemic and living in the small town we all came here for gives us at least one benefit.

Finally, the traffic impacts in the DGEIS are completely outdated due to the effects of Covid-19. In the mornings and afternoons, King Street is completely backed up in both directions due to the fact that so many kids are not taking the bus but are being driven to and picked up from Bell Middle School. I sit in that traffic every day, twice a day. To compound that traffic with new construction on one or both sides will be unfathomable. The DGEIS needs to re-study traffic impacts in light of the pandemic in all affected streets leading to Bell Middle School.

IV. The DEIS and Associated FBC Fail to Address Other Viable Approaches To Development In Chappaqua

The DGEIS asserts, with respect to Alternative A, that "maintaining existing conditions, with no changes, is not realistic or legal since it is not constitutionally permissible to deny development for the sole purpose of keeping conditions exactly the same." (DGEIS p. 1-13.). No one is advocating for denying development in Chappaqua for the sole purpose of keeping conditions the same. There are certain areas of the town that certainly need change, and where *some* development would be welcome.

I have come to understand that there is a perceived problem in Chappaqua, *i.e.*, that the approval process for development is too long, and therefore stymies or even prevents development and revitalization. Why is there no "alternative" that includes making changes to our current permitting and approval process in order to make revitalization and refurbishment of buildings easier, rather than just throwing away the entire baby with the bathwater? Can't we work on fixing the problems *first*, before deciding to throw away the current zoning and process and replace it wholesale with a FBC that threatens the smallness of our town? The FBC is a developers' delight. I have no doubt that we will see properties being bought immediately and largescale buildings going up quickly. Maybe not the next day, but certainly within 3 months to a year. Why can't we make changes and fixes that will allow property owners to more easily refurbish and expand rather than invite in something that could easily morph into something over which the town has no control? I asked this at the third engagement session and my question was dismissed as completely off the table. It's the form based code that is under consideration and no other approach, I was told.

There is no doubt that certain areas of the downtown could use revitalization. The property where the old Rite Aid building sits all the way down North Greeley past the Post Office appears downtrodden and desolate. It would be helpful to see some development there and it feels like that area could handle a larger 3 story building. If indeed the FBC is the *only* way to go, I would like to see the Town start slowly, by applying the FBC to just one part of the town, such as that area. The town could put in place a 3-5 year “watch period” to see what develops and whether that area becomes successful and how many residents and retail shops actually move in. If successful, the Town could decide to expand the FBC to other select areas or streets. I would prefer this slow and cautious approach to applying, in one very broad brushstroke, the FBC to the entirety of the downtown, King Street and the King-Bedford-Memorial Drive area. Especially in the time of Covid, where retail shops are closing up everywhere, we should proceed with caution. My fear is that developers will swoop in to create too many residential structures, which will clog our town with people but result in no actual retail vitality because retail has tanked everywhere, not just in Chappaqua.

The Board seems to be operating under an assumption that if we build any combination of 2-3 or 4-5 story apartment buildings to house thousands of people, stores will follow. Those assumptions seem to be outdated and need to be re-tested. Even before the pandemic, brick and mortar stores were suffering due to online shopping. Now, in the middle of the pandemic, stores all over the place (not just Chappaqua) have closed. A brick and mortar store is no longer considered a good investment. There is no guarantee that erecting huge housing structures will attract quality stores. We may be faced with developers coming in to build apartment structures that will have empty storefronts, or even no storefronts at all. It would be wise to see if the new 91 Bedford building manages to fill its store rentals, as well as the stores at Chappaqua Crossing, where I have heard there are still many vacancies. Why take the risk of turning our hamlet into a haven for apartment structures and more store vacancies? This will cause property values for homeowners to drop significantly. It sounds like a recipe for simply adding more population density without *any* new commercial vitality.

I have also heard that the owner at the newly built 91 Bedford Rd is charging high rents, much higher than the small properties in the downtown, which may result in only chain stores coming in. The Board should inquire into this in order to test the underlying assumptions and projections of the DGEIS and FBC. It would be wise to wait and see what kind of stores do come in that building, so the Board can re-evaluate the desire for a FBC that will encourage additional buildings like 91 Bedford up and down King Street and throughout the town.

The Board has repeatedly stated that with respect to the FBC, this is “what the community wants.” I do not agree. The Board points to meetings that were held in 2014 (before I moved here), as summarized in the 2014 Public Engagement Report. That document reveals that a mere 252 people came meetings over the course of May and June 2014. That document covered a large variety of topics. With respect to “housing,” there was not one person who advocated for high density housing development on the level permitted by the DGEIS and FBC. It is therefore disingenuous to advocate for high density housing development under the guise that this is what “the community wants.” That’s certainly not what we moved here for in July

2014, just after the aforementioned engagement sessions were held. And there is now a petition signed by over 700 people who are against the FBC.

When a town board member votes on a proposal before the board, he or she is representing, though that vote, the views of the residents of the town. The Town Board is charged with representing the voice of the people. The community at large did not give a “buy in” for this FBC. The FBC, with its goal of building many hundreds of apartments, does not have the support of the people, nor was it borne from the people’s voice. The Town’s working group for the FBC included two developers, both of whom own land in the Chappaqua hamlet that would be impacted by the rezoning, and an architect who works for one of the developers of the new 91 Bedford building. The people in that working group brought the FBC to fruition. No regular, run-of-the-mill residents were involved in this process at all. People who live here, pay taxes here, and who came here specifically for a small, uncrowded town, were not given a voice.

In conclusion, I ask the Town Board to act in a manner that reflects the true desires and concerns its community. I again ask that the Town Board hold a vote on the passage of the FBC, in whatever final form it takes. I do not believe that “the community” “wants” the FBC because it allows for unchecked large-scale growth and a level of population density that will damage the schools. I understand that the Board views the FBC as mere legislation thereby requiring simply a vote by the five members of the Town Board. However, this mere legislation has the potential to easily transform our town into something other than what many of us moved here for. It is not inconsequential; it is transformative. Residents should be able to vote to determine what the majority really wants for our town.