From: Jeffrey Lacilla [mailto:jlacilla@tenfoldrep.com]
Sent: Wednesday, October 14, 2020 5:13 PM
To: Chappaqua Forward <chappaquaforward@mynewcastle.org>; TownBoard <townboard@mynewcastle.org>
Cc: Karim Hindi <khindi@tenfoldrep.com>; Arthur Collins <acollins@collins-llc.com>
Subject: Form Based Zoning Letter for 10/20 Hearing

Town Board,

I am a principal at a Westchester based real estate development company. I have attached for your consideration some thoughts from us regarding the proposed form based zoning code and its application to a possible project we are examining within the town center. We have reviewed the draft code and believe it is well done, but we have identified some key issues. These issues would not only make our project economically unviable, but likely produce the same results for other developers who might otherwise invest in the town under the new code provisions.

We look forward to connecting with the board following the 10/20 hearing to discuss the issues we see and potential solutions described within the attached letter.

Sincerely,
Jeff

TENFOLD
REAL ESTATE PARTNERS
INTEGRITY FIRST

Jeff Lacilla
CEO
Tenfold Real Estate Partners
200 Fifth Avenue

Pelham, NY 10803
(T) 917-647-2562 | e-mail jlacilla@tenfoldrep.com
Website: www.tenfoldrep.com

October 14, 2020

Town Board
New Castle Town Office
200 S Greeley Avenue
Chappaqua, NY 10514

Re: Draft Form Based Zoning Code

VIA E-MAIL: TownBoard@mynewcastle.org
chappaquaforward@mynewcastle.org

Dear Board Members:

My firm, Tenfold Real Estate Partners, Inc., is a Westchester based real estate development and investment company. We are in discussions with certain owners of property located within the downtown to potentially purchase their property for redevelopment into a mixed-use project consisting of rental apartments over ground level retail as permitted under the proposed form-based zoning code. We love the town and being a close neighbor living here in Pelham (serving as a Planning Board member for a couple years) I understand Chappaqua's issues and the need to tackle those issues with a new zoning code because our town did the same thing. Both towns are similar in terms of enjoying transit-oriented development attributes, small town charm, good schools, stale downtowns and a desire to address housing issues and enhance the downtown component.

Overall, we think the new code is well done with well-developed regulating plans and regulations to streamline new development/redevelopment projects and to help transform in particular the downtown core of Chappaqua. It will bring about a revitalized town center through transit-oriented development that encourages a more walkable built environment with increased residential density to address changing trends in housing needs. The new code and the issues it addresses is very much consistent with widespread trends in Westchester and other places generally. Importantly as well, it demonstrates the Town Board's commitment to the town's future by assessing community needs and through development/redevelopment positioning it to meet those needs through the creation of new spaces, places and community experience.

While the intent of the code is noble with aims of improving the community, there are some practical challenges it poses for all developers and owners in our view. For the Board's consideration, I will broadly outline two key code issues in addition to the impact that real estate taxes will have on the financial viability of any new development. It goes without saying that all new projects are required to make financial sense obviously. However, I'd like to define what that means. Generally, it means that new multifamily developments in Westchester need to earn a minimum market rate return ("Minimum Development Yield") as required by both lenders and investors in exchange for making an investment and taking on development, construction, leasing and financing risks. Today, a new multifamily project will likely not get financed and therefore not built unless the project can demonstrate a Minimum Development Yield of 6.00% - 6.50% (defined as Stabilized Net Operating Income / Total Project Cost). Given the code issues and real estate taxes, The Minimum Development Yield will not be achievable for out contemplated redevelopment of the property and I suspect other developers will run into the same issue without some creative solutions.

Parking

The code requires off-street parking in accordance with minimum standards expressed as ratios listed in a chart (Figure 880-09) on page 51 of the draft code. Imagining that most multifamily developments in the downtown core will be for one, two- and three-bedroom apartments, the given ratios make it exceedingly difficult (if not impossible) to create sufficient off-street parking to accommodate prospective residents. Many lots simply won't be large enough to provide off-street parking in accordance with the enhanced density under the code unless some kind of assemblage of multiple properties can be done to accommodate a structured parking garage. To the extent a lot is large enough for a structured parking garage, the garage would not likely be large enough to handle the required parking specified in the referenced chart, especially when adding the parking required for any retail component (2.8 spaces per 1,000 sf) as part of a mixed-use project with residential and retail.

Further, costs for an above grade structured parking garage generally are very expensive at between $25,000 and $30,000 per apartment unit and for any portion of a deck below grade costs can really escalate as high as $40,000 per unit. I would also point out that for smaller projects under 50 units (likely to be many of any projects pursued under the new code I would imagine) these costs could be even higher because smaller projects have no economies of scale.

The code is thoughtful and flexible with solutions to this problem by offering off-site and on-street parking solutions including allowing parking in municipally owned lots if the property is within a certain distance of the off-site or municipal lot and further provided that a shuttle or valet service is provided. However, these solutions present practical issues including resistance by tenants for extra effort of parking off-site vs convenient on-site parking with easy access to vehicle from/to apartment (even cumbersome) and the added operating cost a developer/owner will have to incur for running a shuttle/valet service.

Pelham changed its zoning a few years ago for very much the same reasons as Chappaqua is now doing. In terms of parking, Pelham only required 1 parking space per multifamily unit not only because of the constraints described here, but also to align with its desire to create a more walkable built environment. Generally, the reduction in parking is a trend that is occurring nationally with more ridesharing use by millennials and self-driving cars are not too far off in the distance.

Affordable Housing

Quality affordable housing in Westchester is certainly needed. However, the impact of requiring new developments (focusing here on smaller developments of less than 50 units) to provide affordable/workforce housing equal to 10% of all units built will reduce the minimum development yield by as much as .25% (to be clear 1/4th of 1% and not a percentage change but percentage point reduction). Therefore, a project that otherwise might be within the Minimum Development Yield range requirement can easily fall out of that range. This sizeable reduction is due to the lost income from market rent compared to 80% AMI rent levels defined by AFFH. The affect would be less impactful for larger projects (over 100 units) because operating efficiencies through economies of scales could absorb most of lost market rental income.

A solution could be creating more flexibility where instead of a blanket 10% requirement, setting it to say 5% for projects with 50 or fewer units assuming the developer can demonstrate through its budget and income projections (submitted to lender for financing) that the 10% requirement would result in a development yield below the Minimum Development Yield. Another solution could be to allow for an additional floor for those projects under 50 units while holding the 10% affordability to a count of units on four floors.

Taxes

This may be the most significant issue for any contemplated project. We discussed the assessed value and taxes for our contemplated project with Mr. Josh Herman the town's tax assessor. We provided Mr. Herman with a projection of the net operating income for the project and he was able to give us project estimates of appraised value, assessed value and taxes. The real estate taxes for the multifamily component came to almost $16,000 per unit while the retail component notched in at over $17.00 psf. The total tax bill for the project would equal 35% of its total income or $785,000. Comparison is the key to any analysis, so comparing this to a similar project illuminates the issue. A project we considered in Pelham projected taxes at $8,700 per unit and up to this point in time the highest we have observed in Westchester (but still only roughly half of the subject project in Chappaqua) and retail taxes at $8.00 psf (less than half the subject property and also the highest for retail we have observed). The total tax bill for the Pelham project came in at 20% of the total income meaning the taxes for the Chappaqua project would be 75% higher with rents maybe only 10% to 15% higher in Chappaqua. I would also point out that Pelham has negotiated PILOTs for several new development projects under the new zoning overlay to make these projects financially feasible.

To give additional perspective on this issue and to take land value out of the equation completely, the owner of the land/property to be redeveloped by us would need to sell us the land for zero in order for the project to deliver the Minimum Development Yield described above before considering the ability to fully park the project and provide 10% of the project multifamily units as affordable/workforce housing. Extrapolating this further, it can be assumed that the new code provisions and tax realities actually make the land less valuable for development/redevelopment begging the question will anything get built under these forces or will buildings trade at ongoing existing uses thereby thwarting the good intentions of the code?

Given the significant impact of taxes to any development/redevelopment project, we would like the Board to consider PILOT's (Payment in Lieu of Taxes) to allow for the justification of projects to be built. Presently the property we are considering pays $105,313 of total real estate taxes compared to $785,000 of conceptual taxes for a new project at the site (7.5 times existing taxes). A PILOT that paid taxes even four times current taxes would still seem to be a windfall for the town even after considering marginal increases to public services including schools, roads, safety, etc., but make the project more viable. In our experience, PILOT's seem to be construed as bad things. In fact, they are just the opposite with the ability to be structured so the community is not operating at a loss because of the PILOT, but is actually net positive from day 1 with increases each year throughout the duration of the PILOT hitting full taxes at the end.

Final Thoughts

I am attaching our estimated project development budget and projected net operating income based on the provisions of the code (keeping in mind we cannot fully accommodate the parking required under the code) and full taxes as estimated with Mr. Herman. This will give the Board a sense of the practical implications of both the new zoning code provisions and tax affect when applied to an actual project. I would note a couple of important items in the attached: i) the total development budget assumes a zero land value (the seller effectively gives us the land for free) and ii) projected income assumes aggressive vs conservative market rents, but nonetheless rents that we think are achievable for the right project.

We would be delighted to come visit or conduct a remote video workshop to further go through things in more detail and to answer questions if you are so inclined.

Thank you in advance for considering our thoughts and we look forward to hearing back from you

Very truly yours,

Jeff Lacilla
Principal

cc: Karim Hindi
Arthur Collins

PROJECT DEVELOPMENT BUDGET

HARD COSTS	$/Gross SF	Gross SF	Unit Descr	Cost	$/Unit	Comment
SITE WORK						
Demolition - 70 -76 Kings Street	$15	11,764	SF	$176,460	$4,304	
Fill Basement	$27	4,357	CY	$117,640	$2,869	
Site Work/Landscaping/Hardscape	$350,000	0.3987	Acres	$139,550	$3,404	
Subtotal: Site Work				**$433,650**	**$10,577**	
OFF SITE	$0	Allowance	0	$0	$0	
Subtotal: Site/Off-site				**$433,650**	**$10,577**	
BUILDING COSTS						
Building Costs-Residential Trades	$210.00	53,872	SF	$11,313,120	$275,930	Includes retail concrete podium for resi
Amenities FFE	$30.00	1,500	SF	$45,000	$1,098	
Retail TIA	$70.00	7,468	SF	$522,760	$0	
Subtotal: Building Costs	**$256.03**	**46,404**		**$11,880,880**	**$277,027**	
Total Site Work + Bldg Costs	**$265.38**	**46,404**		**$12,314,530**	**$287,604**	
Parking Garage + Resi Podium	$85.00	**15,600**		**$1,326,000**	**$32,341**	
Total Site Work + Bldg Costs + Parking	**$293.95**	**46,404**		**$13,640,530**	**$319,946**	
Total Site Work + Bldg Costs - Resi Only						
General Conditions	As % SW + BC	3%	%	$409,216	$9,981	
GC Fees	As % SW+BC+GC	4%	%	$561,990	$13,707	
GC Insurance	As % SW + BC	3%	%	$421,492	$10,280	
Bond	As % SW - Ins	2%	%	$300,665	$7,333	
Contractor Contingency	As % SW + BC	3%	%	$409,216	$9,981	
Total: Site + Hard Costs				**$15,743,109**	**$691,174**	
Owner Contingency	As % Total	5%	%	$787,155	$34,559	
Total Construction Costs	**$356.22**	**46,404**		**$16,530,264**	**$725,732**	

SOFT COSTS	$/Gross SF	Gross SF	Unit Descr	Cost	$/Unit	
Architectural/Engineering	$8.00	53,872	SF	$430,976	$10,512	
General & Admin	$4.16	1.75%	%	$289,280	$7,056	
Marketing & Leasing	$8.16	53,872	SF	$439,628	$10,723	
Operating Deficit	$1.86	53,872	SF	$100,000	$2,439	Estimated
Testing & Inspections	$0.74	53,872	SF	$40,000	$976	
Permits	$3.25	53,872	SF	$175,000	$4,268	
Leasing Commissions-Com'l	$2.45	53,872	SF	$131,736	$3,213	
Review and GEIS Fees	$0.28	53,872	SF	$15,000	$366	Estimated
Legal	$2.78	53,872	SF	$150,000	$3,659	
Construction Permits & Fixtures	$4.07	53,872	SF	$219,502	$5,354	
Utility Connection Fees	$0.19	53,872	SF	$10,000	$244	
Parkland Fees	$2.81	53,872	SF	$151,375	$3,692	Per Code
Taxes During Construction	$1.28	53,872	SF	$68,750	$1,677	Per Josh Herman Assessor--$94.5k
Title	$1.49	53,872	SF	$80,000	$1,951	Estimated
Recording	$0.05	53,872	SF	$2,500	$61	
Insurance During Construction	$2.52	53,872	%	$135,548	$3,306	
Developers Fee	$10.56	53,872	3.00%	$569,087	$13,880	
Subtotal Soft Costs	**$55.84**	**53,872**		**$3,008,380**	**$73,375**	
Total Costs Before IR/Fin Fee/Land	**$362.69**	**53,872**		**$19,538,644**	**$799,107**	
Soft Cost Contingency		5.0%		$150,419	$3,669	
Financing Fee		1.0%		$127,979	$3,121	
Transfer & Mtg Recording Tax		1.3%		$166,373	$4,058	
Interest Reserve			See Below	$379,937	$9,267	
Total Project Costs Before Land	**$378.00**	**53,872**		**$20,363,352**	**$819,222**	
Land Cost	$0.00	53,872		$0	$0	
Working Capital	$0.00	53,872		$0	$0	
Total Project Costs	**$378.00**	**53,872**		**$20,363,352**	**$819,222**	

PROJECT PROJECTED NET OPERATING INCOME

	RESIDENTIAL					
RENTAL INCOME/EXPENSE	**Rent/Month**	**Sq Ft**	**#**	**Rent/SqFt**	**Rent/Month**	**Annual Rent**
Studio	$2,400	500	5	$4.80	$2,400	$144,000
Studio-Aff	$0	500	0	$0.00	$0	$0
1 BDR	$3,400	725	12	$4.69	$3,400	$489,600
1 BDR-Aff	$1,762	725	2	$2.43	$1,762	$42,288
2 BDR/1 BA	$0	0	0	$0.00		$0
2 BDR/1 BA-Aff	$0	0	0	$0.00		$0
2 BDR/2 BA	$4,500	1,100	20	$4.09	$4,500	$1,080,000
2 BDR/2 BA-Aff	$2,266	1,100	2	$2.06	$2,266	$54,384
Averages/Totals		**899**	**41**	**$4.09**	**$3,679**	**$1,810,272**
			Avg Market Rent	**$4.30**	**$3,859**	
Residential Income						**$1,810,272**
Retail Rent NNN		**7,468**		$42.00		**$313,656**
Total Rental Income						**$2,123,928**
Plus: Other Resi Income				1.0%		$18,103
Plus: RET Recovery						$129,746
Plus: Resi Parking Income		**49**			$125.00	$74,175
Gross Potential Income						**$2,345,952**
Less: Vacancy/Credit Loss/Bad Debt		**2.47**		5.0%		-$117,298
Effective Gross Income						**$2,228,654**
Utilities						$32,800
Payroll						$41,000
Concierge						$0
R&M (includes Cleaning, Ground Maint, Window Cleaning, Snow Removal)						$12,300
R&M-Contracts (includes HVAC, Elevator, Pest Control, Fire Protection)						$24,600
R&M-Turnover						$16,400
G&A (Accounting, Legal, Fines/Violations, Postage, Bank Fees, Misc)						$12,300
Marketing						$24,600
Management Fee				3.00%		$66,860
Insurance						$16,400
Retail RET						$129,746
Residentail RET						$645,372
Total Operating Expenses				45.9%		**$1,022,378**
Replacement Reserves						$6,150
NOI						**$1,200,126**

Minimum Development Yield: NOI / Total Project Costs

↓

$1,200,126 / $20,363,352 = 5.89% (with land at $0 value)

Minimum Development Yield = 6.00% - 6.50%