

George Latimer  
County Executive

November 17, 2020

Sabrina Charney Hull, Director of Planning  
Town of New Castle  
200 South Greeley Avenue  
Chappaqua, NY 10514-3399

**County Planning Board Referral File NWC 20-001B – Chappaqua Hamlet Form Based Zoning  
Zoning Text and Map Amendments  
Draft Generic Environmental Impact Statement**

Dear Ms. Hull:

The Westchester County Planning Board has received a draft generic environmental impact statement (DGEIS) (dated accepted September 25, 2020) for the proposed creation of a new Form Based District for the Chappaqua hamlet. The area to be rezoned spans approximately 72 acres along Greeley Avenue (County Road 79) and King Street (NYS Route 120) including the areas currently zoned B-R, B-RP, B-D and I-P. The new zoning district is intended to implement the goals of the Town's 2017 Comprehensive Plan.

The Form Based District contains nine sub-districts, four of which would pertain to the Chappaqua hamlet. These districts include: F-4 Hamlet General Urban; F-4(-) Hamlet General Urban, Limited Retail; F-5 Hamlet Urban Center; and F-5(-) Hamlet Urban Center, No Retail. Only these four sub-districts would contain regulations at this time. The remaining five would be held in reserve in case the Form Based District were to be expanded.

The Form Based District for the Chappaqua hamlet would place the higher density F-5 sub-districts closest to the train station and along North Greeley Avenue. The F-4 sub-districts would be placed further from the train station as well as in the "upper hamlet" area at the intersection of King Street (NYS Route 120) and Bedford Road (NYS Route 117). Regulations for each sub-district are contained in the Form Based District's regulating plan which contains development controls along with standards for thoroughfares, streetscapes, open space, green buildings and architectural standards.

The Form Based District regulations also outline a three-step review process for development applications that would be administered by the Town's Development Department. This review is intended to be a streamlined process that would only involve the Town's Planning Board in cases where special permits are required since there would be no site plan approval needed for applications determined to be "by right" during the first phase of review, which is to be known as Concept Review. Once conceptual conformance with the requirements is established, an application would enter into the Schematic Review phase where Development Department staff evaluate the design of a proposal according to the form based zoning. During this phase, neighboring property owners are notified and an application may be changed in response to the review. Design Development Review is the final phase of review that includes the changes that were made during Schematic Review.

Because the proposed Form Based District will potentially increase the amount of development in the Chappaqua hamlet as well as increase allowable building heights from 35 feet to 62 feet, the Town has undertaken a GEIS to examine the impacts of the new zoning. This GEIS is intended to cover the SEQR review for all future developments in the Chappaqua hamlet under the form based zoning, and those actions could be classified as Type II. The DGEIS examines a maximum buildout scenario where a net increase of 997 residential units could be constructed along with 20,888 square feet of additional commercial space. Under this scenario, open space would be expanded by 30,824 square feet due to the enlargement of A.H. Smith Memorial Park.

We have reviewed the draft Form Based District zoning regulations and the DGEIS under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and we offer the following comments:

**1. Consistency with County Planning Board policies.**

We find the proposed Form Based District to be consistent with the County Planning Board’s long-range planning policies set forth in *Westchester 2025—Context for County and Municipal Planning and Policies to Guide County Planning*, adopted by the Board on May 6, 2008, amended January 5, 2010, and its recommended strategies set forth in *Patterns for Westchester: The Land and the People*, adopted December 5, 1995.

The new zoning will channel development to the existing hamlet center of Chappaqua where infrastructure can support growth, where public transportation can be provided efficiently and where redevelopment can enhance economic vitality. As our policies point out, “development should be consistent with defined community character and be designed to facilitate or enhance a smart growth urban fabric.” The proposed Form Based District embodies this principal, and we recommend its adoption with consideration given to our additional comments on specific elements of the new zoning.

**2. Referral of applications to the County Planning Board.**

The proposed Form Based District regulations would create a new application process for development proposals that would be administered by the Town’s Development Department and not require site plan approval from the New Castle Planning Board for applications found to be permitted under the regulations by right. While we agree that this application process will have the positive effect of streamlining development applications, we are concerned that this new process will remove the County Planning Board’s review input for development applications since development referrals to the County Planning Board are usually linked to site plan applications submitted to the Town’s Planning Board.

As development applications within the Chappaqua hamlet may impact County facilities and services, we recommend the Form Based District regulations be revised to include procedures to continue to refer applications to the County Planning Board for matters that exceed 7,000 square feet of building area which trigger the three-stage application process consisting of Concept Review, Schematic Review and Design Development Review. Referrals should be made if a site is within 500 feet of a State or County Road or the boundary with the Town of Mount Pleasant and should be made during the Schematic Review phase. We also point out that relevant referrals for variances, special permits, zoning

amendments, official map changes and moratoria should continue to be made since those requirements would be unaffected by the Form Based District regulations.

### **3. Affirmatively furthering fair housing.**

The proposed Form Based District would be consistent with the County's *Model Ordinance Provisions* with respect to affordable affirmatively furthering fair housing (AFFH) which the Town adopted in 2011. However, we note that the Form Based District regulations do not have any incentive provisions for applicants to include additional affordable AFFH units above that which is required. Since the Town's affordable housing regulations offer incentive provisions in other parts of New Castle, we urge the Town to make these incentive provisions applicable in the Chappaqua hamlet.

### **4. Thoroughfare regulations.**

The thoroughfare regulations as shown in Section 60-890 should be revised to show bicycle facilities. We recommend the Town consider adopting a complete streets policy and revise the Form Based District regulations to incorporate complete street standards.

### **5. Parking regulations.**

We are supportive of the flexibility offered by the Form Based District with respect to required parking. While we believe the availability of parking will be an important component for successful infill development in the Chappaqua hamlet, the proposed regulations take reasonable steps to help ensure that new developments are not dominated by excessive amounts of parking.

In addition to the flexibility offered by the regulations, we also recommend the Town consider offering additional parking credits for practices that can reduce parking demand. One such example of this would be to offer a parking credit for the unbundling of parking from housing costs for residential developments. Many prospective apartment tenants look for buildings that are near transit and shopping as a way to reduce car ownership. This can be further incentivized by "unbundling" the cost of a parking space from rents, where a tenant only pays for a parking space that they need. Providing parking spaces that are included in rent incentivizes a tenant to keep additional cars on site, even though they may not need them, because parking is "free".

The County Planning Board's policies aim to reduce unnecessary driving of single-occupancy vehicles and to reduce housing costs so that more housing options are affordable to people who live and work in Westchester. Unbundling parking from rents can help meet both goals and could potentially allow municipalities to eventually lower parking requirements, which can have positive benefits in reducing land disturbance and stormwater runoff.

While we are also supportive of the Form Based Districts requirements for bicycle parking and electric vehicle charging stations, we recommend the Town consider adding additional requirements with respect to parking areas which rely on mechanical systems, such as stacked parking or robotic parking. We recommend that these parking areas be required to have backup generators so that vehicles can be retrieved in situations where there are power failures.

## **6. Sewer impacts.**

The location of the Chappaqua hamlet in the Saw Mill Sewer District makes it an ideal location for additional residential density. The DGEIS anticipates an additional daily average of 222,918 gallons per day of wastewater flow would enter the system and require treatment at Yonkers Joint Water Resource Recovery Facility operated by Westchester County.

Since 2010, it has been the policy of the County Department of Environmental Facilities (WCDEF) that municipal governments require development applicants to identify mitigation measures that will offset the projected increase in sewer flows to County operated wastewater facilities. The best means to do so is through the reduction of inflow and infiltration (I&I) at a ratio of three for one for market rate housing units and at a ratio of one for one for affordable housing units.

We recommend this mitigation policy be discussed in the FGEIS with specific information on how implementation of I&I mitigation is to be accomplished. For example, will applicants be required to place funds into a dedicated account for I&I work based on a per gallon cost of removal of flow through I&I? How will I&I projects be identified? Who will conduct the work and in what timeframe? We recommend the Town also consider incorporating I&I mitigation requirements into the proposed zoning.

As a general matter, the County Planning Board further recommends that the Town implement a Town-wide program that requires inspection of sewer laterals from private structures for leaks and illegal connections to the sewer system, such as from sump pumps. These private connections to the system have been found to be a significant source of avoidable flows. At a minimum, we encourage the Town to enact a requirement that a sewer lateral inspection be conducted at the time property ownership is transferred and any necessary corrective action be enforceable by the municipal building inspector.

## **7. Recycling.**

We recommend the proposed zoning regulations include provisions to ensure sufficient space is provided for the storage of recyclables in all development proposals. Storage areas must be sufficient to accommodate the County's recycling program which includes plastics numbered 1 through 7. We also recommend the zoning regulations consider potential recycling programs that could be added in the future, such as residential food composting.

## **8. Green building and healthy building standards.**

We commend the Town for including green building and healthy building standards in the ordinance.

## **9. Additional regulations.**

We recommend the Town consider adding additional regulations to the Form Based District to evaluate the impacts on buildings eligible for the NYS Register of Historic Places. We also encourage the Town to adopt a displacement policy for any existing tenants in the Chappaqua hamlet who would be displaced by new development.

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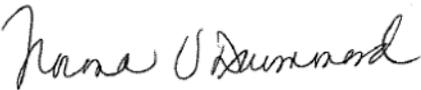
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Please inform us of the Town's decision so that we can make it a part of the record.

Thank you for calling this matter to our attention.

Respectfully,  
WESTCHESTER COUNTY PLANNING BOARD

By: 

Norma V. Drummond  
Commissioner

NVD/LH