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Sent: Tuesday, December 1, 2020 8:08 AM

To: Chappaqua Forward <chappaquaforward@mynewcastle.org>

Cc: PublicComment <PublicComment@mynewcastle.org>; TownBoard <townboard@mynewcastle.org>

Subject: Form Based Code - Additional Comments

To the Town Board and Town Planner:

Thank you for your continued work in an attempt to revitalize downtown Chappaqua. For those who don't know me and may review these comments independent of my other comments I want to share my background again. I have a BA degree in Economics from Johns Hopkins and 18 years of commercial real estate experience as an investor, lender and advisor including on projects similar to those which could be built here in Chappaqua.

The DGEIS requires a number of additions and revisions in order for the town board to accurately assess significant adverse negative impacts under the FBC. These findings will provide the town board with the information necessary to see that they should abandon the plan to implement a FBC.

3 Stories is economically Feasible:

It is an invalid conclusion in the Market Scan that 3 stories is not feasible and the town board should no longer be considering any buildings greater than 3 stories. Existing zoning size limitations are sufficient for developers to achieve required return thresholds. I would like to further supplement my earlier comments regarding an assumption in the Market Scan report used to prove the number of stories that need to be built to be economically feasible. The consultants used a 6.12% cap rate for valuation purposes however evidence of a prevailing 4.4%-5.6% cap rate in this area is proven by the below data points. These data points are more current than those which I previously provided in earlier submitted comments. If the cap rate is adjusted to the high end of the range, 5.5%, the projects at 3 stories are feasible based on the profitability hurdles outlined in the same Market Scan. It is not necessary to allow for development over 3 stories under the FBC. **The Market Scan uses owner estimates (page 4 footnote) to determine the model cap rate which are opinions rather than actual sale data which I have provided. This is a wholly inadequate and unprofessional approach when sales comparables are available. Typical in a real estate feasibility study and appraisal are actual sale comparables not owner estimated values. If the consultants do not agree with the conclusion that 3 stories is feasible I request that a new independent feasibility report be commissioned by the town based on among other things the factual sales data I am providing here. As additional evidence, a project nearing completion, 91 Bedford is only 3 stories so it clearly is economically feasible or it would not have been built. This conclusion underpins the current FBC's allowance for 4-5 stories which is wholly inconsistent with the character of the hamlet and not required from an investment return perspective.**

Property Sale Comparables

Date	Property Name	Submarket	State	Year Built	Price	Units	\$ / Unit	RSF	\$ / SF	Cap Rate
Apr-20	Stratus on Hudson	Yonkers	NY	2019	\$39,500,000	74	\$533,784	141,840	\$278	-
Dec-19	Glass House	Hartsdale	NY	2018	\$29,250,000	51	\$573,529	110,000	\$266	5.50%
Dec-19	Infinity Harbor Point	Stamford	CT	2012	\$90,000,000	242	\$371,901	242,940	\$370	-
Jul-19	AVA Stamford	Stamford	CT	2001	\$105,000,000	306	\$343,137	315,380	\$333	5.10%
Apr-19	Moderna Hudson Riverfront	Yonkers	NY	2017	\$150,500,000	324	\$464,506	276,942	\$543	5.00%
Nov-19	Peaks of Nanuet	Nanuet	NY	1998/2019	\$180,250,000	504	\$357,639	617,992	\$292	5.00%
Oct-19	City Place	White Plains	NY	2004	\$146,000,000	316	\$462,025	290,088	\$503	4.40%
Sep-19	Westfield Green	Coram	NY	2018	\$45,125,000	126	\$358,135	204,498	\$221	-
Mar-19	The Allure Mineola & Hudson House	Mineola	NY	2015	\$150,100,000	311	\$482,637	277,297	\$541	5.30%
Dec-18	Halstead New Rochelle	New Rochelle	NY	2007	\$258,375,000	588	\$439,413	561,981	\$460	5.60%
Oct-18	The Hawthorne	Valley Stream	NY	2012	\$39,800,000	90	\$442,222	100,319	\$397	5.40%
Feb-18	The Apex at 290	Elmsford	NY	2016	\$34,000,000	81	\$419,753	92,370	\$368	5.40%

Source: RCA and JLL data

Parking

Please provide examples of suburbs in Northern Westchester that have downtown parking garages or hydraulic parking or stacked parking. Do not include hospitals or office parks. The aforementioned parking options are not consistent with the character of the community. If these options cannot be eliminated and only surface parking provided please explain how parking will not be reduced for existing merchants, driving away customers. Parking 1/4 mile away or taking a shuttle bus are not acceptable. If this problem cannot be solved the whole concept of increasing the size of buildings permitted in Chappaqua is not possible.

No Market Rate Housing Need

Contrary to data provided by the county planner, REIS data, (a service of Moody's) indicates that there is excess housing supply in the county. Westchester apartment vacancy rates were below 4.0% from year end 2010 through mid year 2017. It has drifted up to 5.0% as of October 2020 and is projected to increase to 6.4% through year end 2021.

More locally, Chappaqua has delivered, and is delivering new rental apartment supply in the form of 91 Bedford, which is not yet leased up, and 91 townhomes at Chappaqua Crossing. Any unsold townhomes can be rented out and will potentially be excess additional supply.

Family Displacement and elimination of existing Affordable Apartments:

How many existing apartment units would be eliminated if buildings in the study zone are replaced with new buildings? Please identify all buildings and number of bedrooms for the units within those buildings.

What is the average rent of those existing units and what is the projected average rent of the replacement units?

What is the net effect of demolition of the Opportunity Shop building and replacement of it with a hypothetical 10 unit project that requires 1-2 affordable units? Could this result in a net loss of 2-3 affordable apartments? Please provide same analysis for all buildings in study zone including 133 King Street.

What is the town's resident displacement plan, as recommended by the County Planner as necessary mitigation?

Retail Market Trends, Displacement of Existing Merchants and Retail Leasing

According to REIS, a division of Moody's analytics Westchester County's retail vacancy rate has increased from 4.8% in 2005 to 11.3% in 2020. Absorption, or new leasing less exiting tenants, has totaled only 5,100 square feet per annum since 2010 for all of Northern Westchester. In fact, Northern Westchester experienced negative absorption, or the give back, of a net 54,000 square feet of space in the 12 months ending September 2020. There is a severe flaw of one of

the premises of the Form Based Code. Additional housing cannot reverse macroeconomic trends.

In terms of the damage from new development, how many existing merchants would be displaced if existing landlords do not renew leases as they expire and instead re-develop or sell properties for redevelopment? New construction asking rents at Chappaqua Crossing, as evidenced by the Market Scan, are 20-100% higher (or double) current rents in downtown Chappaqua. They are also significantly higher than median Northern Westchester retail rents of \$33.41 (again according to REIS). New construction retail rents, driven higher by required return thresholds for developers will result in more vacancies downtown than currently exist. Chappaqua new development retail space will be less affordable relative to other towns so why would a merchant want to sign a lease here? Chappaqua Crossing is an example of a new development retail project where it appears local merchants, with the exception of Rocks, do not actually occupy space in new construction projects because they cannot afford it.

Additional due diligence needed:

Please provide average retail rental rates for competing properties in competing towns including but not limited to Armonk, Pleasantville, Mt.Kisco. Please provide average reimbursements for taxes at those properties and please compare rents and tax reimbursements to both current Chappaqua rents and prospective new development Chappaqua rents.

Please provide square footage for retail, office and mixed use space in total in competing towns and compare same to Chappaqua. Please provide availability rates (vacancy and sublease) by commercial property type in such towns.

Please provide last 3 years of absorption data (new leases signed) in Chappaqua and competing towns - rental rates, reimbursement and square footage.

What is the town's mitigation plan for merchant displacement?

Tax Abatements, Tax Assessments and Grants/Subsidies and impact on Town Finances and plus impact on Developer Returns including impact on Building Heights

If projects qualify for on going tax abatements for 10-25 years how will this affect town and school tax revenues?

What types of projects will qualify and why?

Does the town have any control over this or can IDAs grant such approvals?

How will grants and subsidies affect project returns? If projects receive tax payer funds towards construction from county, state or other programs similar to the Conifer project it will

further enhance their profits and again justify lower building heights because it will require a lower equity investment.

I note that 22 Tarrytown Road, a 28 unit workforce housing project in White Plains is assessed at only \$1.6 million and pays less than \$30,000 per year in school taxes.

How will the 28 unit Conifer property in Chappaqua be assessed? What is its expected fair market value and school and town tax projected to be per annum? Will it similarly make a negligible contribution to town tax revenues?

Can a 100% affordable building potentially reduce the town gross tax revenue associated with an existing parcel?

What is the town's mitigation plan for the creation of one or multiple 100% affordable buildings that could reduce or severely underfund town and school tax costs?

Town Finances:

Please provide an analysis of property tax revenue created from the new developments and the related costs to the town (i.e. increased DPW, police, sanitation contract, etc)?

Construction:

Where will construction staging (equipment and materials) be for projects downtown given how small the parcels are?

Will this require use of town land (ie use of town parking lots)?

If so, how much will the town charge for use?

Can a permissive referendum prevent such use?

FBC Concept:

Please provide examples of the pre and post FBC retail vacancy in towns which have implemented an FBC.

Please provide examples of the pre and post FBC residential vacancy in towns which have implemented an FBC.

Please provide examples of towns that implemented form based codes, or otherwise incentivized development that already had traffic intersections classified as F.

Rollback or Moratorium

Please explain, in a legal memo from town counsel, if the FBC is implemented how it could be rolled back by a future town board without opening the town up to costly litigation. Please cite specific case law.

Recommendations:

1. Modification of existing business/retail use along King Street and North Greeley Avenue to also allow residential use including on ground floors in these “less dense” locations while making no other changes to existing density and size limitations under current zoning code. The reduction in retail spaces over time will result in less vacancy not more vacancy as I project under the FBC.
2. The town should incorporate design concepts of the FBC into new construction but limit the size of construction to existing permitted sizes.
3. Evaluate an expedited approval process for new projects to mitigate long term uncertainty for developers but maintain actual approval rights and public input. Enhancements include pre-meetings with Planning Board, town planner, etc. to educate on submissions and process.
4. In lieu of zoning changes the town must further explore creation of community draws such as a dog park, pop up skate rink, pop up holiday vendor marketplace, and increasing athletic activities for youth and families at Rec Field and Bell Field.

I look forward to reviewing your responses.

Thank you,

Ben Herman

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