

From: Suzanne Chazin [mailto:suzannechazin@gmail.com]
Sent: Sunday, December 6, 2020 3:31 PM
To: PublicComment <PublicComment@mynewcastle.org>
Subject: Why the form based code is flawed and must be put on hold

To the Town Board,

I appreciate the Town Board's desires to increase our hamlet's retail offerings and the diversity of both our housing stock and those who choose to move here. I support those goals. However, I believe the Form Based Code in its current iteration is so flawed that it cannot properly achieve them—and may even undermine them. I urge the Town Board to put the FBC on hold until it can do what it should have from the start: build strong community consensus. Yes, I know the Town Board says it's "listening." But that's after too much of the menu, as it were, has already been decided. We are well into the process without significant opportunity for the community and key stakeholders to change or table the majority of the plan.

That's not how things are supposed to be done.

The Form Based Codes Institute (www.formbasedcodes.org), a national organization focused on advancing the use of form based codes, outlines 3 key steps to researching and implementing a successful form based code. They are:

1. Robust, purposeful and timely resident engagement at the outset to make sure the FBC reflects the will of the community.
2. Solicitation of feedback and modifications early in the process from key stakeholders (ie: the school district, local merchants, hamlet residents, emergency service providers and the library).
3. Community-wide presentations of detailed, block-by-block illustrations ("charrettes") so that residents and merchants can decide—as a community—which elements should be preserved, enhanced, evolved or transformed.

None of these steps were adequately undertaken to achieve the current FBC, which is why the entire process was flawed from the outset.

Here's why:

1. There was no robust or timely resident engagement

- The only time residents were asked what they liked and disliked about Chappaqua was in 2014 in a series of informal public engagements that drew a total of 250 residents. See report here: <https://www.newcastlenow.org/files/wp-content/uploads/2014/12/new-castle-pub-engage-report-final-with-greenway-information.pdf>
- The 2014 comments from residents (all anonymous) mainly focused on traffic concerns and a desire to retain the bucolic and quaint nature of the community. In most categories, the number of responses (1-5) was so low as to be statistically insignificant and not representative of a community of over 17,000 residents.
- There was no mention of increasing the height of hamlet buildings above 3 stories.

- At present, the FBC has received more than 280 comments from the community. The overwhelming majority of these comments have been opposed to the FBC, demonstrating that residents did not ask for this plan in 2014 and don't want it now.

2. **Residents were never told about the FBC or how it would affect the hamlet**

- At no point during the 2014 public engagement was any mention made of implementing a form based code.
- The 56-page detailed Comprehensive Plan which the prior Town Board created in 2017 to spell out the future of New Castle only mentioned "form based code" once in passing, when talking about a number of "alternative zoning approaches."
- Only 3 residents were chosen in 2019 to advise the Town Board and Planning Board on creation of an FBC as part of the Downtown Working Group: 2 resident/landlords with substantial property holdings that would directly benefit from the FBC and an architect employed by one of those landlords.

3. **Key community stakeholders were not consulted early in the process**

- Although the Downtown Working Group was meeting with their paid planning consultants throughout 2019, key stakeholders were unaware of the scope and impact of the FBC until the environmental impact statement (the "DGEIS") was released on 9/29/20.
- As a result of failing to consult key stakeholders early, many of the planning consultant data in the DGEIS has significant flaws. For example, the DGEIS estimates that nearly 1,000 new rental units in town would yield only 100 school-age children—a figure obtained from a decade-old Rutgers University study that the planners themselves cautioned was "conservative." Worse, the planners failed to apply the residential demographic multipliers contained in the study for districts such as Chappaqua heavily favored by families with school-age children.
- The flawed data has forced the Chappaqua Central School District—already stressed by COVID and hybrid/remote teaching—to hire an outside consultant to study the true impact of the FBC on student enrollment, which the district believes is many times higher than the DGEIS estimates.
- Likewise, merchants who rent in the hamlet were never consulted about how the FBC would affect their businesses. Ibiza is currently housed in a building that is up for sale and being touted as having "a huge potential market upside" because the FBC will rezone the one-story building for 4-story development. Instead of "invigorating" the town, the FBC could decimate small merchants whose livelihoods were never taken into account.
- The Chappaqua Fire Department, Chappaqua Volunteer Ambulance Corps and Chappaqua Library were also not consulted until after the DGEIS came out. These organizations will also be impacted by a large increase in the downtown population and greater demand for services.

4. **The Town Board never commissioned charrettes to give the community a visual sense of the massive changes that the FBC would bring to the hamlet**

- "Charrettes can build trust and provide space for people to work together to solve divisive issues and create successful projects," notes the American Planning Association. Yet despite authorizing more than \$400,000 to outside planning consultants to research and design the town's form based code, the Town Board never requested detailed visual drawings of what the hamlet will look like when developed.
- Compounding this issue has been the glaring mistakes and omissions in the DGEIS that heavily impact the FBC. For instance, the DGEIS used inaccurate figures to conclude that development capped at 3 stories would not return a profit to investors. Those figures assumed a much lower rental rate than the new 3-story building at 91 Bedford is asking or market rates in new buildings in Pleasantville. The DGEIS also assumes that only 28% of units built will be 2-bedrooms (the rest, 1-bedroom or studios) without any supporting data—in a town where most people settle with school-age children.

- COVID has rendered the sort of true give-and-take public engagement advised by experts impossible—another reason why the FBC should be put on hold. The hearings are one-sided, with only residents speaking or, in the case of the Town Board session, only the board speaking.
- Without true real-time engagement, residents must resort to email and Facebook correspondence, which is not always met with open-minded or accurate information. The Town Board has given misinformation about whether residents have a say in the sale of town land (they don't) and whether an exposed basement of less than 50% counts toward the maximum story height (it doesn't, in effect turning a 3-story building into a 4-story one).

In conclusion, the current New Castle Form Based Code plan is not derived from robust community engagement and does not reflect the will of residents then or now. It did not consult key stakeholders and uses faulty data that further compromises those stakeholders' interests. It failed to create a forum whereby residents feel free to discuss what should be preserved, enhanced or transformed in our community.

Such a massive reimagining of a town deserves greater community and stakeholder input in a manner consistent with the best practices outlined by planning experts. The current FBC fails these benchmarks, which is why it should be put on hold until these key steps are undertaken to ensure that the FBC reflects the best practices vision that has been undertaken by other communities.

Sincerely,
Suzanne Chazin