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Sent: Friday, December 11, 2020 9:11 AM  
To: PublicComment <[PublicComment@mynewcastle.org](mailto:PublicComment@mynewcastle.org)>; TownBoard  
<[townboard@mynewcastle.org](mailto:townboard@mynewcastle.org)>  
Subject: Public comment submission

Please see attached.

**FIFTH PUBLIC COMMENT SUBMISSION**  
on the DGEIS associated with the Form Based Code (“FBC”)  
Dora Straus, Dec. 11, 2020

This is my fifth public comment concerning the DGEIS and associated FBC. This comment raises an additional criticism of the DGEIS. It is in addition to, and does not override, my prior submissions.

The DGEIS repeatedly states that the proposed FBC rezoning is simply “legislation, not a construction project.” (*See, e.g.*, DGEIS at pp. 1-2, 1-4, 1-5, 2-22, 3-7, 3-65, 3-74, 3-77, 3-81, 3-84, 3-140, 3-145, 3-152, 3-160.) This statement is designed to assuage the reader that development – and the concomitant environmental impacts that come with development – will not be immediate. Such impacts include, as referenced by the DGEIS, impacts on land use; impacts on visual character and aesthetics; impacts on soils and steep slopes; impacts on stormwater management; impacts on public water supply; impacts on sanitary sewage capacity; impacts on energy resources; impacts on historic buildings, structures and cultural landscapes; impacts on community facilities and services; impacts on demographics; impacts on employment; impacts on taxes; impacts on noise; and impacts on air quality.<sup>1</sup>

The DGEIS’s mantra has been used numerous times by the Town Board in a similar effort to mollify residents’ concerns about the likely rapid pace of development under the FBC. As recently as the Town’s December 9 Supervisor’s Report, the Report reiterates that the FBC “is a proposed zoning change – not a development plan. . . . Again, the FBC is not a plan to develop the Chappaqua Hamlet. What we are proposing is rezoning the hamlet (think legislation not construction).”

The DGEIS’ minimization of the FBC as mere “legislation, not a development or construction project” is disingenuous. New York law recognizes that rezoning is but the first step to development, given that the creation of rights to construct on property is the necessary prerequisite to the act of construction itself. A legislative grant to develop *as of right* under the FBC will invariably lead to construction throughout the hamlet. Why make specious semantic distinctions, distinctions that are in reality without a difference, and pretend this won’t happen?

Development will happen, and it will happen quickly. This is evidenced by developer Lacilla’s public comment dated Oct. 14, 2020, where he stated his desire to purchase and demolish the Family Britches and Ibiza buildings in order to build 41 residential units under the FBC. This is evidenced by developer Dimovsky’s public comment dated Oct. 16, 2020, where she seeks to develop both 5 Maple Avenue and adjacent 15 Maple Avenue into one larger apartment building under the FBC. This is evidenced by developer Tavolacci, who served on the Downtown Working Group that helped draft the FBC, and his recent purchase of property on King Street, in likely anticipation of building there. This is evidenced by the Admiral Real Estate firm, which is now advertising various Chappaqua properties for development under the FBC, including the property located at 136 North Greeley Avenue and the properties at 140-44

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<sup>1</sup> Notably, the DGEIS does characterize the FBC as mere “legislation, not a construction project” when discussing the FBC’s worsening effects on traffic.

King Street, owned by the second developer who served on the Downtown Working Group. This is evidenced by at least two proposals in recent years to develop larger scale apartment complexes at 120-126 King Street and 133 King Street King Street in the past five years.

I would like to ask that the Town Board be more frank when communicating with residents about the level of development in Town that will occur once the FBC is passed. The FBC is, after all, designed to incentivize development, as the DGEIS itself states. (*See DGEIS at 2-20.*) This is not a secret. Why tip toe around it? To keep downplaying the FBC as “just legislation, not a construction project” gives the community a false sense that the status quo of the hamlet will be preserved, when in fact just the opposite will happen if the FBC is passed. People should not be led to think that development won’t happen, or if it does happen, that it won’t happen quickly. Constituents deserve to understand that the FBC is designed to incentivize development and that development will indeed be accomplished under the FBC. The FBC is not passive legislation that will just sit on the books; the FBC is but the first step to development and construction. This needs to be communicated to constituents in no uncertain terms.