

**From:** Scott Eric Le Vine [mailto:[scottelevine@hotmail.com](mailto:scottelevine@hotmail.com)]

**Sent:** Thursday, March 25, 2021 4:22 PM

**To:** Chappaqua Forward <[chappaquaforward@mynewcastle.org](mailto:chappaquaforward@mynewcastle.org)>; PublicComment <[PublicComment@mynewcastle.org](mailto:PublicComment@mynewcastle.org)>

**Subject:** FBC DGEIS Public Comment

Dear Chappaqua Forward Team --

Please find attached a public comment on the FBC/DGEIS.

Can you please reply to confirm receipt?

Thank you.

Scott Le Vine  
(REDACTED)

3/25/21

Dear Chappaqua Forward Team:

Please find below public comments on the DGEIS for the proposed Form Based Code (FBC); this note supplements my earlier comments. As some of you may know, I am a resident of Chappaqua Hamlet, a professor of urban planning at SUNY, and a member of the American Planning Association. My wife and I chose to make Chappaqua our home because it is a vibrant, lively community and a great place to raise our family. We look forward to participating in genuinely inclusive community planning initiatives to collaboratively plan the hamlet's future.

I open with the following two quotes; the first from the introduction to the inaugural meeting of the *Downtown Working Group* kicking off the development of the form based code back in 2019, and the second from last week as the end of the DGEIS comment period neared, when the broad themes of the public's negative feedback were becoming clear:

- Town Development Director Charney-Hull, giving introduction at the initial DWG meeting (5/23/19):

*I'm going to carry you all back about three years ago, to 2014 [sic], when the town conducted its public outreach process in preparation of preparing the update to the comprehensive plan. At that time we had extensive community outreach where we spoke with the community at large about what it wanted for New Castle as a whole. Resounding was the protection of the community's character, ok, that is kind of the overall umbrella that all of this work will be done in, protecting the character of New Castle, protecting the character of the Chappaqua hamlet.....All of you [Downtown Working Group appointees] are helping create that foundation for the form-based code, so that it speaks to what the community wants, it's not something that one person wants, it's something that is community-wide, has support of the community, and is what is needed to revitalize the Chappaqua hamlet.*

- ~2 years later; Planning Board member Curley, 3/18/21 Planning Board meeting:

*"We [planning board] don't run this town, the town board doesn't run this town, the people run this town, and the people have come out [during the DGEIS comment process] and said: We don't want this town to be as proposed and in the [form-based] code itself, and in the imagery that has been put forward. We want a hamlet-scale hamlet".*

My specific comments follow on subsequent pages.

1. The DGEIS does not contain an evaluation of a “do-minimum” scenario, which would be along the lines of continued trend growth within Chappaqua Hamlet under existing zoning. Neither the “no-development-at-all” nor the “existing zoning maximum buildout” scenario present a reasonable disclosure of future conditions in the absence of the FBC. The DGEIS also does not disclose the adverse impacts (health, etc.) of continuous construction, which are projected not to be fleeting for one or two construction seasons, but rather persistent for 15 years.
  
2. Why, during the period that the consultants have been working on the FBC and the DGEIS, have key members of Town Leadership consistently communicated very different messages when directing their communications to the public versus when speaking with their developer-appointees to the Downtown Working Group in the Town Hall’s conference rooms? e.g.:
  - a. **Jeremy Saland**, in a TH conference room with Downtown Working Group, **July 2019**: *I don’t see this going over in this community with any degree of positive response, that’s just my view, I could be completely wrong, we’re gonna be giving up public space for private development, people are going to see this as crazy traffic, how do you even get through there, when you need it, now it’s miserable. I just, it’s, it looks nothing like Chappaqua. This basically transforms the entire fabric of this community.*
  - b. **Jeremy Saland**, in campaign video published **Sept 2019 (2 months after above statement)**: *The Form Based Code is an exciting opportunity for New Castle. Extension of the Comprehensive Plan, check. Making sure the Hamlet of Chappaqua remains bucolic, check”*
  - c. **Ivy Pool**, addressing the public in candidates’ debate, 10/23/19 (13 days **before** her election as Supervisor): *One of the challenges that this Town Board will face is figuring out a plan to bring sewers to the Millwood Hamlet such that we’re able to see the kind of slow, steady growth in Millwood that we’ve now—will—experience and continue to experience here, here, in Chappaqua.*
  - d. **Ivy Pool**, in a TH conference room with Downtown Working Group, 11/13/19 (8 days **after** her election as Supervisor): *I just wonder if it [the form based code] sets us up for a bit of like a feeding frenzy from the get-go.*
  
3. **The DGEIS’ traffic analysis shows an odd result for the eastern approach to the Greeley/Woodburn intersection: it shows that traffic entering the intersection from this leg would decrease in the FBC buildout scenario.** This is odd because this approach currently services a surface parking lot, and in the FBC buildout scenario would service a 5-6 story parking structure that itself serves much higher-density land uses than at present. You appear to have reached this conclusion by (generally; not limited to this example traffic movement) claiming “credit” for reduced trip-generation from existing land uses that are proposed for demolition or conversion, notably commercial land uses (see eg Table 9 of traffic study). At this example intersection approach, the overall reduction in trips is due to the forecasted replacement of high-traffic-generating commercial land uses with lower-traffic-generating residential land uses. The traffic

counts were undertaken when there was a high number of vacant commercial spaces in Chappaqua. Thus traffic that would normally be generated by this commercial space if it were operational, and observed as ambient background traffic on the road network during traffic counts, was not observed during and encompassed within the DGEIS' field traffic counts, and it is inappropriate to take 'credit' in the trip generation analysis for eliminating it. The effect is to leave the public with a misimpression of the level of traffic congestion that would occur in the FBC buildout condition. Please revise the traffic analysis to not take credit for any trip-generation reduction from demolishing or converting space that was vacant at the time the traffic counts were performed.

4. Why have Town Board members verbally attacked community members that have expressed principled disagreements during the DGEIS' public review period? For instance, Deputy Supervisor Jeremy Saland wrote repeatedly on social media that I have made false insinuations. He then refused to state any specific allegation of a false insinuation. The effect of this behavior of not tolerating dissent is to intimidate and chill public engagement, by creating a hostile environment in place of what should be a collaborative and inviting community planning context. For instance, I am personally aware of a resident on Bischoff Avenue who is very upset because (s)he feels that the proposed scale of the development on the north end of the North Greeley corridor is out of scale with his/her neighborhood (including but not limited to 4.5 story building adjacent to and in very close proximity to single family homes), but fears retaliation/belittling from Form-Based-Code proponents on the Town Board so has not let his/her voice be heard in a public comment. (S)he has indicated (s)he feels that (s)he may need to move to a different community.
5. **Town representatives frequently expressed that adding 'feet on the street' is a major goal of the form based code.** However, the DGEIS' traffic analyses forecast the same number of 'feet on the street' (pedestrians) in the FBC buildout scenario as present-day. This is important because pedestrians conflict with turning vehicular traffic, thus by not including the expected growth of pedestrian traffic in the traffic analysis, the effect is to leave the public with a misimpression of the level of traffic congestion that would occur in the FBC buildout condition. Please present a proper forecast of the increase in feet on the street, undertaken to a reasonable standard, and please include this as conflicting pedestrian movements in the vehicular-traffic analysis.
6. **The DGEIS' traffic analysis suggests that the intersection of Woodburn/Greeley is two-way-stop-controlled. Is this accurate, or at the time the pre-pandemic traffic count data were collected was this intersection normally controlled by an officer directing traffic during the weekday PM peak period?** If this intersection is officer-controlled during peak periods, how would the proposed mitigation measure of a traffic light splitting the 'green triangle' address the impact? Is a traffic light more efficient at moving traffic out of the train station parking lot than an officer directing traffic – if not how is this mitigation?

7. Also at the intersection of Woodburn/Greeley, I cannot reconcile the traffic volumes in the traffic count datasheet (Appendix F, unnumbered page; PDF page 96 of 180) and the existing conditions capacity analysis worksheet (PDF page 117 of 180). For instance, unless I am misinterpreting, the traffic count worksheet appears to show the eastbound left volume during the PM peak hour as 259 vehicles/hour, while the capacity analysis worksheet appears to show it as 176 veh/hr. The Traffic Study states “volumes were balanced”, but this would be a unreasonable adjustment for that purpose. If this is an error and I am not misinterpreting, this needs to be reconciled as it affects the public’s ability to understand the traffic impacts. If this is an error or an unreasonable amount of ‘balancing’ of volumes, please confirm that such reduction in traffic volumes has not occurred at other studied movements at intersections. Please post online the electronic trip distribution/assignment spreadsheets for Figures 5-7, so that the public can review them.
8. Also at this same intersection, Block #9 buildout includes 107 multifamily residential units. There appear to be only two possible access points (Woodburn and Senter Street); they are shown (Figure 10 of Traffic Study) to have an aggregate number of 8 PM peak hour project-generated vehicle trips (summing up “ins” and “outs” across the two access points). Without seeing the trip distribution/assignment worksheets I cannot know whether there is an error, but this level of trip-generation (8 peak-hour vehicle trips from 107 multi-family units) appears low to me – please confirm that there is no error here, if there is one correct it and confirm that it does not also appear elsewhere. Please post online the electronic trip distribution/assignment spreadsheets that convert the trip generation into the turning movement values shown in Figures 9-12, so that the public can review them.
9. Figures 9-12 of the Traffic Study appear to be incomplete. For instance, the number of PM peak hour project-generated westbound left turning movements at Woodburn/Greeley is shown to be 40, 2, and 0 for the three types of land use categories (commercial, residential, and institutional), in Figures 9, 10, and 11 respectively. But in Figure 12, which is titled “Total project-generated trips”, the value show (-19) is not the sum of them (which would be  $40+2+0=42$ ). The difference may be due to the trip generation credits (see paragraph #3 above), some other reason, or may be an error; in whichever case please clarify and correct if necessary.
10. **The DGEIS’ claim that it takes an average of 29.4 seconds to exit Woodburn Avenue during the weekday PM Peak period seems to be inconsistent with evidence from other sources of intense late-afternoon/early-evening traffic congestion at this location following train arrivals.** Comprehensive Plan, for instance, reads: *During peak periods, queuing of cars affects the flow of traffic in and out of the train station and slows vehicular circulation throughout the hamlet.* Supervisor Report 1/30/19: *Many issues still need to be studied before we make a decision on making Allen Place & lower King into a 2 way street. Our traffic consultant will study traffic flow in the commuter parking lot. The PM train traffic is a problem that needs to be addressed. Taking 10 minutes to exit the train station doesn’t have to be the norm.* We will study the potential traffic reduction on Woodburn Avenue (near the Shell) and Washington Avenue.

11. How will trucks from points east access the development in the newly proposed “North Greeley Corridor”? Will they route via westbound King Street to Maple Avenue or Castle-to-Bischoff Avenue, or will they route from westbound King Street to northbound Greeley Avenue? If the latter, is there adequate turning radius for trucks to perform this turn? If not, how will trucks from points east on King Street be accommodated?
12. A goal of form based code is to provide “predictable physical outcomes” of future development<sup>1</sup>. The FBC as proposed in Chappaqua would lead to unpredictable physical outcomes. This would be due to the Parking Toolbox’s inclusion of provisions for off-site parking, the lack of maximum lot coverage standards for development, in some cases zero or very limited side/rear setback requirements, the town’s expectation that ability of developers to provide parking supply will be the binding constraint for many parcels, and the idiosyncratic parcel geometry that characterizes much of the proposed form based district. For instance, on any given site, the physical outcomes (e.g. bulk on parts of the parcel that are located distant from the build-to line) would vary greatly if parking is to be provided on-site and is the binding constraint on number of residential units, or if the parking toolbox’s provisions for off-site parking are taken advantage of.
13. I submitted a 1/21/21 FOIL request for the source information related to the rents in the market scan (Table 1): *...data-gathering, research, assumptions and/or conclusions relating to...average monthly rent of comparable residential units*. In the Town’s response to that request, no source information for the comparable rent data was provided. The only relevant record provided to me was the published market scan report. It is possible but appears unlikely that no responsive records at all were created in the data-compilation of the comparable rents used in the market scan analysis. Please disclose to the public the original data sources, including e-mails if email was the medium for any of the communications, of the comparable rent data contained in the “Avg \$/S.F.” column of the table cited above in this comment.
14. The DGEIS’ traffic analysis covers only weekday PM peak. Particularly given the School District’s suggestion that there may need to be restructuring of school catchment zones (and hence bus routes and staff/parent travel), and the new information of the covid-induced phenomenon of indeterminate duration of much more child-drop-off activity by parents, it is inappropriate to leave out analysis of weekday AM traffic conditions. The statement on page 42 of the traffic study that presents the justification for not also including the standard analysis of AM peak (because traffic volumes are 8% lower in the AM) is stale, given the widely acknowledged increase in AM-peak parental drop-off at schools including Bell by private car. Please fully address weekday AM peak in the traffic analysis. Goal 9 of the Comprehensive Plan reads: *Alleviate traffic congestion*. The FBC will worsen traffic congestion. Goal 9 makes reference to existing traffic congestion in Chappaqua hamlet on weekends, however the DGEIS does not study any weekend

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<sup>1</sup> <https://formbasedcodes.org/standards-of-practice/>

period (e.g. Saturday midday). Please fully address weekend peak in the traffic analysis. The Traffic Study states that: *Thus, since current traffic activity during the weekday PM peak hour is higher than all other peak hours and because the new code is projected to add at least the same level of new trips during this period as during the other peak hours, it was determined that any potential traffic impacts that would show up in the weekday AM or Saturday Midday peak hours will also occur in the weekday PM peak hour and that evaluating the PM peak-hour would be sufficient to ascertain what potential impacts would likely occur as a result of the Proposed Action and how they could be mitigated.* This conclusion cannot be reasonably reached without analysis of turning movement counts during the AM, Saturday, and PM peak periods, because it is entirely possible that the marginally lower overall traffic volumes at these times (PM peak 8% higher than AM and 3% higher than Saturday, per traffic study) could cause greater congestion, if the pattern of left turning volumes versus right turns versus through traffic is different, because each of these types of intersection movements have very different impacts on intersection capacity/delay (notably left-turn movements). For instance, at the southern of the two King/Bedford intersections, the heaviest movement in the PM peak hour is shown as the westbound right turn. It would be expected that this might manifest as a heavy complementary movement (southbound left turn) in the AM peak hour. No analysis of this issue is presented.

**15. Town leadership claimed to have been “doing the best we can” for public outreach.**

**This is patently untrue.** The main mechanisms of outreach efforts appears to have been through the Town e-newsletters and website<sup>2</sup>. Not all residents are online (particularly older residents) or if online have subscribed to the e-newsletters. The website requires a resident to actively seek out information; it is not ‘pushed’ at the relevant public. No outreach was undertaken to residential-renter communities that the FBC puts at high risk of displacement. Some ‘outreach’ (using Supervisor Pool’s terminology) consisted of Town-sponsored professionally produced social media videos that were the subject of viewpoint discrimination: only pro-FBC voices were invited to participate. I specifically asked to participate, to present alternative views of the FBC, and never received a response from Supervisor Pool to that request. The outreach for the Comprehensive Plan does not fill the role of the missing outreach for the FBC, because the Comprehensive Plan does not specify any particular targeted magnitude, style, density, or height of development in the Hamlet. It does not specify whether the housing goal is to be met by tens of units (e.g. from adaptive reuse of currently derelict property), hundreds, ~1,000 units as proposed, or any even very approximate magnitude. The TB reserved for itself, and only itself, the interpretation of the Comprehensive Plan’s vague language. The proposed change to the Hamlet is genuinely enormous relative to existing scale, very roughly \$250M – \$500M of discretionary development would be triggered

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<sup>2</sup> There was apparently one mailed notice inside an annual small-font water quality disclosure report (<https://www.mynewcastle.org/ArchiveCenter/ViewFile/Item/495>) that apparently only property owners, not all residents, received.

and the Hamlet's population multiplied by more than 9 times (an increase in population of ~844%; ~220 → 2,076). The magnitude of the proposed change should have been the focus of a proportionate public outreach effort to generate community vision for the future of the hamlet that would implement the Comprehensive Plan's broad but vague goals. Town Leadership instead actively evaded any level of focused public input that would reveal community preferences, until the SEQR public comment process when it could be evaded no longer. The SEQR public comment process is not an appropriate forum for eliciting community vision, and the Town actively exacerbated this inappropriateness by instructing public commenters not to repeat comments made by others, so there can be no way of knowing the true prevalence of the preferences behind the comments that appear in the record. Town Leadership actively instructed the consultant team not to undertake the consultants' proposed Charrette (initially requested by the Town) intended to develop community vision for the FBC, and to instead prepare "meetings and products directed to Town Leadership"<sup>3</sup>. The Town also did not follow the consultants' advice in their proposal to undertake a visual preference survey. These are standard outreach mechanisms when undertaking a discretionary community-planning action of the proposed magnitude. There was no public involvement at all in the Town Board's Feb-2021 decision to limit the FBC legislation to the "North Greeley Corridor" (a reduction of some ~90% by acreage). The Town's own consultant Joel Russell Esq. has in published writing acknowledged that a charrette must be undertaken prior to implementing a form based code. NYSDOS acknowledges the importance of pre-FBC charrettes to generate community vision, saying that an FBC "community benefit" is that it "encourages greater public involvement [in] community planning & development". After months of pleas from residents to hold a community-wide charrette for the entire 72 acre study area, Supervisor Pool stated her support for a charrette at a future unspecified point in time to generate community vision for the hamlet's public lands, but inexplicably not for the inhabited neighborhoods of Chappaqua Hamlet. When asked 'why' directly, she has declined to answer. In the absence of a properly elicited community vision, a form-based code that implements purely ministerial development review is merely a mechanism to fast-track development that is in transitory favor among current Town Leadership. This is inconsistent with best practices in community planning. This desire for a fast-track approval mechanism that eliminates later public involvement was actively discussed during downtown working group meetings<sup>4</sup>.

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<sup>3</sup> **Charney-Hull to Kimley-Horn, 3/22/2019:** *Please re-frame the charrette task to meetings and products directed to Town leadership.*

<sup>4</sup> **Bill Spade, developers' architect (DWG meeting 1/14/20):** *Just bear in mind, the other thing, I think, an important point. This, our business districts, are essentially strips that are bounded by residential properties. Guarantee you that every one of those residential properties are not going to be happy, as they were at 91 Bedford, with a commercial development that might change the character of that lot. I don't believe that we should be bending at each one of those to, you know, as it goes from lot to lot, it's a different set of residences that are going to come out saying the same thing, you know, why is this building so big, why, that's what the zoning already allowed, that's what most of the people around 91 Bedford were surprised to find out that it could be three stories, well, the zoning has been in place for 30 years that allow that. **So I certainly believe that we should not let that continue in terms of the lot by lot fight...***

16. There are privately owned properties within the proposed form based district that would be granted much higher as-of-right densities than at present, but which are not specified as being redeveloped in the maximum buildout scenarios. Examples include 149 King street townhomes, Music in Chappaqua site, gas station at Woodburn/Greeley, Verizon property. I have previously commented that it is unreasonable to specify that the 149 King townhomes would redevelop under the existing zoning buildout but not the FBC buildout. Are there enforceable mechanisms to prevent the private owners of these sites from building at higher densities than the current uses? If not, it appears to me that all calculations in the DGEIS (traffic, wastewater, etc.) that are based on the FBC buildout scenario's number of residential units, amount of commercial space, etc. are under-estimates of the true reasonably foreseeable impacts, and hence not properly disclosive.
17. Comprehensive Plan states; *The Comprehensive Plan outreach process revealed resident frustrations over inadequate parking access and supply.* Also, statement by Planning Board Chair at downtown working group meeting 11/13/19: *My sense on this is, in going back to one of the very things that we talked about on this whole project, sort of vision, you know, we're creating zoning here to permit, you know, different kinds of housing and more housing, but at the same token, it seems to me that there are certain reasons why people will be attracted to come here, and live here, and one of the most important is not just to be here and be in town, but to be here perhaps one of the most important things is the schools, and the schools around here require, except for the Bell School, if you're in Town you've got to travel [by car]. And it's hard to imagine, in my view, that these [parking requirements] are realistic in terms of needs of cars, and I work in Pleasantville, what Pleasantville has done, of course, with all new development, is making them build underground parking for all the units. And, substantial, and I think the ratios are probably a bit greater than these.* Does the Town Board feel differently, that the proposed lowering of parking ratios, to values that New Castle's Planning Board Chair claims are lower in Chappaqua than in Pleasantville, are reasonable?
18. The FBC makes provision to establish a GEIS reimbursement fee to be paid by developers to reimburse the public for the \$400K+ of public moneys that paid for the GEIS. If the Town enacts an FBC district smaller than originally envisioned (e.g. N. Greeley Corridor), will the GEIS reimbursement fees still reimburse the public for the full cost of the GEIS, which would mean higher fees per unit of development, or will developers only partially reimburse the public, with the public remaining unreimbursed for the fraction of costs associated with acreage not included in the initial FBC district?
19. Goal #26-2 of the Comprehensive Plan is violated by the FBC as presently proposed; it reads: *This analysis should determine the net economic benefits of potential mixed use development and associated revenue forecasts of hamlet land use scenarios.* This was not done.

20. The Downtown Working Group did not contain the broad spectrum of representatives that would characterize a genuinely inclusive community planning process. Instead the actual participants made it a pro-developer echo chamber. It is therefore unsurprising that the FBC as proposed is rejected by the vast majority of public commenters. Conflicts (at least in the lay understanding of the term) have been manifest from the formation of the Downtown Working Group through to the present day, in which a Town Board member owns investment property impacted intimately by recent and future Town Board decisions about the details of the rezoning, with these specifics of this ownership apparently not disclosed publicly.
21. Planning Board requested that Town Board perform same level of analysis on all alternatives in the DGEIS. Without this, the public is unable to gauge the alternative futures in front of it.
22. DGEIS states: *“Due to the availability of public transit and pedestrian facilities provided in the downtown study area, a trip credit ranging from 2 percent to 20 percent was applied to the existing and proposed trip generations to account for expected public transit usage and pedestrian trips within the hamlet.”* Please disclose the “trip credit” value applied to each development-block, and disclose the analysis of how it was decided where this trip credit was to be 2%, or 20%, or intermediate values. The traffic analysis also claimed a 25% (retail) and 50% (restaurant) reduction in trip generation rates for “pass-by credit”. For restaurants, the percentage would be expected to be higher for fast food establishments (which Comprehensive Plan discourages) versus destination restaurants – please take this into account. Pass-by trips should be included as turning (rather than through) movements at the access points of the FBC-development to the public road network – it is not clear to me whether this has been done in the traffic study. It is also good practice that any pass-by credit remain small as a percentage of traffic on the adjacent street network, but no reasonableness checks are reported in the DGEIS. Are there available standard methodologies to quantify pass-by credit, rather than make the blanket 25%/50% assumption for retail and restaurant? If so, please undertake this analysis to a reasonable standard.
23. Goal #1 of Comp Plan reads: *Review and revise existing zoning regulations or develop alternative zoning regulations that encourage development that keeps with the scale and character of development in the Town's various zoning districts. This may include examination of land use characteristics (e.g. density, lot size, FAR, setback regulations, coverage calculations, special use permits).* The proposed bulk, massing, height, density, etc. of the FBC is clearly at odds with the “scale and character of development in the Town’s various zoning districts”. Goal 4 of the Comprehensive Plan reads: *So as to maintain New Castle’s bucolic, single-family residential character, all new housing units should be consistent with the character, aesthetic and scale of the neighborhood within which they will be located.* The outcomes of enacting the form based code would plainly violate these goals.

24. DGEIS scoping comment from John Priscantelli on impacts to 149 King Street condominiums, which may have fiscal consequences to Town, was not addressed in DGEIS. The Town noted his comment, included it on the written list of comments received, and then did not address it in the DGEIS. The DGEIS' extremely superficial reference to taxes generated by the action considers only the creation of taxable value of redeveloped properties; there is no disclosure of the impact of decrement of taxable value among properties the FBC will adversely affect.
25. Town's published materials acknowledge that Form Based Code has "lesser focus on building use than conventional zoning regulations." Yet the Town now indicates that it will attempt a unique form of tight control of use – specifically the Town will attempt to control the mix of units by number of bedrooms. If Town leadership feels the need to try to implement such a strict control on use (not just type of use, but the interior layout of residential space), it follows that a form based code is not an appropriate fit for the Town.
26. No analysis of the relative merits of form based code versus feasible and more traditional zoning approaches (e.g. overlay zones, priority placement on planning board agendas, changes in allowable first-floor uses, etc.) was presented to the public. The public cannot gauge whether FBC is more or less appropriate than other feasible and less disruptive zoning tools to achieve the Comprehensive Plan's goals. This violates Goal 2 of the Comprehensive Plan, which states that "Alternative zoning approaches, including form-based codes, should be **considered** for areas within the hamlets and associated transition areas." Rather than a robust alternatives analysis with due consideration of the relative merits of form based code versus other feasible options, which would be consistent with this Comprehensive Plan objective, the only option presented to the public has been form based code.
27. The form based code grants broad discretionary authority (not merely ministerial) in numerous areas to Town Development Department staff; in general this authority would be transferred from its current home with New Castle's boards of volunteer residents. New Castle's Planning Board Chair stated the following in PB meeting 1/7/21: *I don't think there's any reference in the Comprehensive Plan about a desire for an expedited review process, nor did we ever hear anything from the public about an expedited review process. This has been culled, I believe, you know, and Tom you were there in that committee meeting, the two of us objected to that express process, we thought it was inappropriate, we thought it was inconsistent with what our experience has been many years on the Planning Board and dealing with the public and having public discussions. So, I'm saying there's an example where I think this has popped out that's outside and separate and apart from the Comprehensive Plan, the consultants have put this in, when we questioned the consultants before they put this together, we said, is it necessary to link a form based code with this kind of process, and the answer was clearly given 'no', you could keep your process identical, you could come up with some sort of blended process, but this process that is being proposed is very expedited.*

28. **The disclosed traffic impacts appear lesser than they genuinely would be, by the calculations in the traffic capacity analysis based incorrectly on a -5% downgrade on the westbound approach of King Street at its intersection with Greeley Avenue (the steep downgrade is well to the east of the intersection, not at or near the approach where stopped traffic queues beginning from the stop bar).** I also do not think that there are downgrades on the southbound approach at this intersection, at the approaches to the intersection of Woodburn/Greeley, etc. Please ensure that all upgrade/downgrades in the traffic capacity analysis are accurate.
29. During her run for election in 2019 while preparation of the FBC and GEIS processes were underway, Supervisor Pool stated publicly that: *“We want the development to occur in our hamlets – Chappaqua and Millwood – and to **keep that kind of development out of our quiet residential neighborhoods**”*. New Castle’s ‘quiet residential neighborhoods’ (i.e. rest of Town apart from the hamlets) appear to be far less socio-economically diverse than Chappaqua Hamlet. Statements such as the above, in the 21<sup>st</sup> Century, are regrettable.
30. What is the socioeconomic profile of residents of Chappaqua hamlet, relative to the rest of New Castle – the residents that will breathe the ‘fugitive dust’ from the 15 years of continuous construction as well as other health and welfare impacts? Is it true that the hamlet population and housing stock are both much more diverse than the rest of Town? What is the profile (% non-white ethnicity, % households that are not married couples, % of residential properties under \$500K value, % renters, % living in multi-unit housing, etc.) of residents of New Castle who would retain their access to the Planning Board when development is proposed in their neighborhood, relative to the profile of the residents who will have their right to a fair hearing of a board of impartial volunteer residents taken away and replaced with a vague and unstructured informal discussion with a town employee in the Development department?
31. Supervisor Pool stated (11/13/19; DWG meeting): *one thing that occurs to me, though, is that **it makes your department [Development Department] very powerful in this process***. This statement is only true for the apparently more-diverse population within and proximate to the Chappaqua hamlet; it is not true for the apparently less-diverse population residing in the rest of New Castle. For more on the adverse social equity consequences of implementing Form Based Code, see Tagatachian et al. (2019)<sup>5</sup>:

*Because form-based codes incorporate fewer land-use regulations and embed mass up-zoning into the code, they offer an opportunity for a wide variety of significant land use developments to be approved through the administrative process alone...Consequently, community members in areas that have adopted form-based codes have expressed concerns with their potential*

<sup>5</sup> [https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1735&context=fac\\_articles](https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1735&context=fac_articles)

*displacement due to up-zoning and the lack of involvement in the decision-making process because of the wide-sweeping administrative authority given to cities to make decisions on how neighborhoods should look and feel without meaningful community input...up-zoning by itself has caused mass displacement, and form-based codes have resulted in “dis-placement [of the poor] to outer fringe[s],” “increased gentrification,” and greater “social/economic segregation.”...concerns exist related to what mechanisms are in place for citizens to voice their complaints... Transitioning to form-based codes can have inequitable consequences on vulnerable communities...protections must be implemented to ensure that these communities are not forced to bear the burden of the code, while the rest of society reaps the benefits.*

32. Supervisor Pool wrote on social media during the DGEIS public review period that consultant sketchup renderings that the Town paid thousands of dollars for are “fake news” thereby misleading residents; her fellow form based code proponents then began to repeat this false statement.
33. Traffic study asserts a trip distribution pattern but does not discuss nor disclose the methodology behind it. This matters because FBC-generated traffic will have differential impacts depending on which traffic movement’s volumes are increased and by how much. The asserted trip distribution values appear to be illogical, if I am interpreting them correctly. For instance, it appears to me that 5% of FBC-generated traffic is shown to be assigned as sourced from Maple Avenue. This seems a very high percentage, in a town of many thousands of population and with Maple Avenue having a very small number of properties, primarily single family homes. In general by unreasonably forecasting that vehicle trips will be very short-distance and carrying that through to capacity analysis, the disclosed traffic impacts are smaller than would be if the generated trips were forecasted to be longer trips passing through more of the study-area intersections. Please fully disclose the methodology behind the asserted trip distribution pattern for FBC-generated traffic such that readers can replicate.
34. Key members of Town leadership have repeatedly stated, in both public meetings and informal forums, that they intend for parking-limitations to control the future pace and amount of building. Why propose a development plan that won’t work for the vast majority of parcels? Is it good practice for the Town to allow development as-of-right that there is consensus would be out-of-character for the hamlet, and to knowingly leave parking supply alone as the constraint to prevent that density from being built? My understanding has always been that allowable height/bulk/etc. should be developed in harmony with constraints on sites to be (re)zoned, rather than independently of the known constraints. What are the consequences on the predictability of development of having a large mismatch between as-of-right density and de-facto-maximum density imposed by parking constraints which can be addressed through a complex “parking

toolbox” whose application is subject to the discretion of the Town’s Development Department?

35. Proponents of the form based code in positions of leadership have advised the public that: “...if a potential building could not provide the required parking it could not be built...”. Under the FBC, a developer could provide the required parking by counting on-street parking and other parking substitutes in the ‘parking toolbox”. Could they provide it by pointing to our Town’s existing municipal parking lots? According to the FBC, the answer is yes. Does Town Leadership envision that developers’ proposals to claim those public spaces will be considered on a first-come/first-served basis (DGEIS page 3-136)? Would that incentivize a rush-to-construction out of the starting gate – the ‘feeding frenzy’ that Supervisor Pool acknowledged on 11/13/19 – to claim those spaces? Who would make the determinations regarding these claims of public property/right-of-way — would it be a board of impartial volunteer residents, or the salaried workers in the Development Department who have a professional interest in being accommodative of development applications to generate fees? It seems like the latter with developers working out a parking plan via contact with the Development Department, meaning the decisions will be made by perhaps a single Town employee and there will be no feedback from the community, among many other consequences.
36. There has been community discussion about number of schoolchildren generated by the FBC. DGEIS does not count current schoolchildren living in the study area empirically; it instead estimates there to currently be 18 students using non-local multipliers. It is however knowable how many students actually live in the study area because the addresses of each property in the study area are known and number of CCSD enrollees at each address is known; please compile and disclose this information. Ascertaining whether the DGEIS’ estimate of the number of *current* schoolchildren is on the mark will provide information to help interpret the forecasts of numbers of *future* schoolchildren from the DGEIS, from CCSD’s consultants, and from the community (see the 3/24/21 submission by Straus).

Thank you for your consideration.

--Scott Le Vine