



# TOWN OF NEW CASTLE

200 South Greeley Avenue, Chappaqua, New York 10514

## PLANNING BOARD

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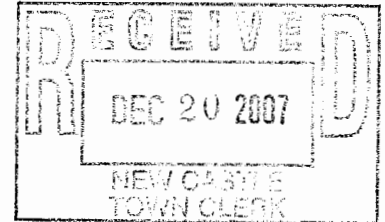
## MEMORANDUM

TO: Town of New Castle Town Board

FROM: Town of New Castle Planning Board

DATE: December 20, 2007

SUBJECT: Chappaqua Crossing – Town Board Referral of Petition for Zoning Map Amendment and MFPD District Preliminary Development Concept Plan Approval



In accordance with your Board's request under Town Code § 60-417.412 pursuant to a resolution adopted on October 9, 2007, the Planning Board has reviewed the documents originally submitted by the Applicant to your Board in July 2007, as well as a set of plans that have been revised and/or supplemented since that time, for the purpose of providing your Board with our preliminary comments on the above-captioned matter. The Applicant's proposal involves a change in zoning district designation of approximately 64.3 acres, or 54%, of the Applicant's total contiguous site area of 119.7 acres from either the existing B-RO-20 or R-1A Districts to the MFPD District, as well as the demolition of approximately 180,000 square feet of existing office space, the construction of 278 multifamily dwelling units and other ancillary site improvements. Under the Applicant's proposal, the area of the existing B-RO-20 District would be reduced from 87.3 acres to 49.4 acres.

The Planning Board discussed this Town Board referral at meetings held on October 16, 2007, November 5, 2007, November 20, 2007, December 5, 2007 and December 18, 2007. The Planning Board specifically requested that the Applicant's representatives be present at the November 20<sup>th</sup> meeting to respond to questions from the Planning Board and members of the public, although representatives of the Applicant were also present at other meetings when the Planning Board discussed this matter. The Planning Board also conducted a site visit on Saturday, November 3, 2007.

The documents provided to the Planning Board for review, either on referral from the Town Board or on the Applicant's own initiative, included the following:

- Letter to New Castle Planning Board from Shamberg Marwell Davis & Hollis, P.C. dated December 12, 2007.
- Letter to New Castle Planning Board from Shamberg Marwell Davis & Hollis, P.C. dated October 11, 2007.
- Cover sheet plan entitled “Chappaqua Crossing – Town of New Castle, N.Y. – Zoning Petition,” dated July 10, 2007, last revised on September 21, 2007, prepared by Divney Tung Schwalbe and other consultants on Applicant’s team.
- Plan labeled “ZP-1,” entitled “Existing Conditions,” dated July 10, 2007, last revised on September 21, 2007, prepared by Divney Tung Schwalbe.
- Plan labeled “ZP-2,” entitled “Preliminary Site Development Plan,” dated July 10, 2007, last revised on September 21, 2007, prepared by Divney Tung Schwalbe.
- Plan labeled “ZP-3,” entitled “Site Sections,” dated August 13, 2007, last revised on September 21, 2007, prepared by Divney Tung Schwalbe.
- Plan labeled “ZP-4,” entitled “Site Sections,” dated September 21, 2007, prepared by Divney Tung Schwalbe.
- Plan labeled “ZP-5,” entitled “Site Sections,” dated September 21, 2007, prepared by Divney Tung Schwalbe.
- Document entitled “Verified Petition in the Application of SG Chappaqua B, LLC for the Establishment of an MFPD District Pursuant to Section 60-417.4 of the Town Code of the Town of New Castle” dated July 9, 2007 (“Verified Petition”).
- Document entitled “Exhibit Book to Accompany Application of SG Chappaqua B LLC,” including but not limited to Part 1 of a Full Environmental Assessment Form dated July 9, 2007 (“Full EAF”).

The Planning Board is also in receipt of additional correspondence submitted by members of the public for the Board’s consideration.

Town Code § 60-417.413 states, in part, that the Planning Board, in its report to the Town Board, may recommend either approval of the proposed application for the establishment of a MFPD District, with or without modifications, or disapproval. At this time, it is not possible for the Planning Board to do either. As the Town Board is already aware, the Planning Board is in a position to offer only preliminary comments at this time in view of the fact that the Applicant has not yet prepared and submitted a Draft Environmental Impact Statement (DEIS). Much of the information that will be needed to fully evaluate the proposed Zoning Map amendments and site-specific development plan will not be available until the Town Board has received, reviewed and issued a notice of completion on the Applicant’s DEIS and that document has been forwarded to our Board for more detailed review. We therefore anticipate that it will be necessary to supplement our preliminary comments as review of the proposal continues under the SEQR process, and we look forward to participating in that process as an Involved Agency. At this stage, we have focused our review on broad policy issues, such as a preliminary assessment of compatibility with *Town Development Plan* policies

and compliance with the criteria for establishment of an MFPD District. In addition, the Planning Board has preliminarily identified a number of issues that the Town Board may wish to consider as it evaluates the adequacy of the Applicant's proposed DEIS Scoping Document on the Applicant's proposal itself. These include the following:

A. Town Development Plan Issues

1. The Applicant's proposal should be carefully reviewed in relation to the *Town Development Plan* policies concerning "Residential Development" as well as "Commercial Development," in addition to any other potentially applicable subsections of the Town Plan.
2. Based upon our preliminary review of the *Town Development Plan*, the Planning Board believes that it was the Town's original intent to provide opportunities for the creation of multifamily housing of the type envisioned for an MFPD District on sites located near the Town's two hamlet centers of Chappaqua and Millwood, where a majority of the Town's retail and service businesses and other types of community facilities and services are located. It would appear that a distance of ½-mile (as referenced in Town Code § 60-417.421) was viewed as a reasonable walking distance between the site of a multifamily development in an MFPD District and the business districts located in those hamlet centers. While the Applicant's proposed MFPD District would be located adjacent to a district that is classified as a business district (B-RO-20), the subject site is located three or more times that ½ mile distance from either the Chappaqua hamlet center or the business center in the adjacent community of Mount Kisco. The B-RO-20 District would not provide for the array of retail and service businesses and other types of community facilities and services that characterize the Chappaqua hamlet center or the Mount Kisco business center.

B. Land Use Issues

1. The Planning Board would not characterize additional development of the subject site under the existing B-RO-20 District as "as-of-right" development, contrary to what has been stated by the Applicant's representatives on a number of occasions. While the construction of additional office development under that zoning may be possible, any proposal to do so would be subject to site development plan review and a full analysis under SEQR. Nonetheless, for purposes of evaluating the Applicant's current

proposal, the Planning Board believes it is essential to also evaluate one or more future development scenarios for the subject site under the existing zoning, both for the existing B-RO-20 District portions and for the R-1A District portions. In addition, it is also important to evaluate all potential impacts that might result if the existing 700,000 square foot office building on the subject site were to be fully occupied. The Town Board should fully understand the potential impacts associated with each of those development scenarios, whether it is possible to mitigate those potential impacts, and whether the necessary mitigation would be considered acceptable.

2. The Applicant should present details on its efforts to lease the existing office space since it acquired the subject site a few years ago. The Applicant should also describe how the existing office building would be used and the number and types of tenants that might occupy the subject building if the existing zoning restriction on number of tenants and size of area leased to any one tenant were to be removed.
3. Additional information is needed on the size of the area currently leased within the existing office building and the number of persons employed on the subject site, whether full-time, part-time, consultants and/or contract workers.
4. It is debatable whether the Applicant's offer to donate two existing single-family lots on Roaring Brook Road to the Town for municipal use will actually be of any value to the Town. Given the location of the two lots identified, it is unlikely that the Town would wish to use either of them for a use with high traffic generating characteristics. Additional analysis of the potential uses of these lots should be undertaken to determine if the Town has any interest in the prospective donation. The Town Board may also wish to examine the Applicant's development proposal on the assumption that those lots are not donated to the Town.

C. Zoning Issues

1. Establishment of an MFPD District requires compliance with all provisions of Town Code § 60-417.4, among other applicable subsections of the Town Zoning Law. Except as specifically modified by the provisions of § 60-417.42, developments within an MFPD District also require compliance with the development standards of the MFR-C District, as set forth in § 60-417.2. Although the DEIS should contain a discussion of all applicable provisions of the Town Code, the need to expand the existing sewer

district to encompass all of the proposed MFPD District is clearly a threshold issue for consideration of the Applicant's petition for rezoning.

D. Site Planning Issues

1. The Applicant's preliminary site plan indicates that none of the proposed dwelling units would be located within a Town-regulated wetlands buffer. However, some of the proposed building footprints would appear to be located on the edge of or very close to the Town-regulated 100-foot wetlands buffer line. Because it is anticipated that construction work would need to occur around the proposed building footprints and the establishment of a maintained lawn area directly behind such units may be desirable and/or proposed eventually, it is likely that the Planning Board would require site plan modifications to ensure that no incursions into the 100-foot wetlands buffer occur in connection with new building construction.

E. Impact Analyses

1. The Applicant is proposing to restrict the occupancy of 80% of the proposed dwelling units to households having at least one person aged 55 years or older and no one under the age of 18, and has stated that such restrictions are legally enforceable. The Planning Board presumes that Counsel to the Town will be offering comments on whether the Applicant's assertions are correct. In our view, it is key that legally binding mechanisms be established for the proposed development itself to ensure that such restrictions can be maintained and enforced even if the original laws under which they were created were to change. Since so much of the Applicant's impact analysis on a variety of topics is expected to be based upon assumptions concerning the number and age of proposed residents, it will be essential to verify the accuracy of those assumptions over the long-term. For environmental analysis purposes, it may also be prudent to examine a "worst-case" scenario based upon the assumption that such restrictions do not remain in effect.
2. Instead of relying on the Applicant's proposed resident age restrictions for the new dwelling units to ensure the outcomes projected by the Applicant, the Town Board may also wish to consider the alternative of establishing a senior citizen housing zoning district and applying that district to a portion of the subject site (if the proposed land use is considered acceptable and/or

preferable to existing conditions or potential future conditions under the existing zoning). For purposes of evaluating the Applicant's proposal, it is recommended that this alternative be examined as well and presented in the DEIS.

3. The Town Board may wish to more closely examine the relative allocation between proposed age-restricted market dwellings units, age-restricted "affordable" dwelling units and "workforce" (non-age restricted "affordable") dwelling units and determine whether a different mix should be examined as part of the environmental impact analysis to be presented in the DEIS. The Town Board may also wish to explore the option of using available public subsidies as a means of funding the construction of "workforce" housing rather than relying on the use of internal subsidies within a privately sponsored residential project to produce that type of housing.
4. The Applicant has stated that the proposed dwelling units would be designed to meet the housing needs of existing Town residents who have raised their families and no longer wish to maintain their own single-family homes, but who would like to continue living in the community, as well as other persons who are employed in New Castle, such as volunteer emergency service workers or employees of the Town and School District, whose incomes are not adequate to finance the purchase of single-family detached homes in New Castle, among others. The Planning Board has identified two issues that flow from those assumptions:
  - a. If the Applicant's assumption about the local housing demand is accurate, it is reasonable to conclude that the existing Town residents would be moving from existing single-family dwellings in New Castle into the Applicant's proposed development, thereby producing new single-family dwellings that are available for sale to others. Given historical trends in New Castle, the newly vacated single-family dwellings are likely to be occupied by families with children. In the Planning Board's view, the impacts associated with this type of "trickle-down" effect need to be examined as part of the overall environmental impact analysis, although it is recognized that those impacts have a temporal component and may only occur during the years of initial occupancy of the Applicant's proposed development.
  - b. To ensure that existing New Castle residents and/or local public employees have an opportunity to relocate to or reside in the proposed development (if it is approved) as envisioned by the Applicant, the Town Board may wish to consider

enacting some type of regulations that would limit access and/or create a priority/preference scheme for occupancy of the new dwelling units by New Castle residents and/or employees. The Town may need to have more involvement in and/or oversight over the operation and management of the proposed “workforce” housing in particular in order to ensure that any adopted priority/preference scheme is being properly implemented.

5. The subject of traffic impacts is clearly one of the most significant issues associated with the Applicant’s proposal, particularly in light of congested conditions that already exist on area roadways surrounding the subject site at certain times of the day and week (e.g., Bedford Road north and south of Roaring Brook Road, Roaring Brook Road itself, especially near the entrance to Horace Greeley High School and closer to the Saw Mill River Parkway, the Saw Mill River Parkway near the intersection with Roaring Brook Road and Old Roaring Brook Road). On this subject, the Planning Board preliminarily notes the following:
  - a. A detailed traffic impact analysis, with supporting backup documentation, is clearly needed to accurately evaluate existing traffic conditions in the area surrounding the subject site at appropriate times of the day and week, to project traffic impacts from the perspective of motorists, pedestrians and cyclists, to identify mitigation measures that would be needed to reduce potential impacts to an acceptable level, and to identify the impacts associated with such mitigation, particularly if such measures produce their own community character impacts (which may or may not be acceptable to the Town). In the Planning Board’s view, the Town Board should be convinced—based upon consultation with other approval authorities as needed—that these issues can be satisfactorily addressed before any decision is made on the Applicant’s proposed Zoning Map amendments, preliminary development concept plan or variance application.
  - b. Although it is anticipated that the Applicant will be proposing multiple types of mitigation to address potential traffic impacts and those measures will need to be reviewed in detail, the Planning Board is preliminarily skeptical about the effectiveness of the proposed jitney service, based in part upon the Town’s experience with another similar service that was provided to and from the Chappaqua train station a few years ago. Although more details need to be provided, it is the Planning Board’s impression that the Applicant’s

proposed jitney service would be distinctly different from the extensive busing service that Reader's Digest provided for its employees many years ago.

- c. The Applicant has preliminarily identified some forms of traffic mitigation. However, one existing problem area that could become worse as a result of the proposed development has not yet been addressed by the Applicant, i.e., Bedford Road northbound at the intersection with Roaring Brook Road. It is noted that some property takings could be involved if additional roadway improvements need to be made at this location to provide for adequate traffic mitigation.
  - d. The implementation of certain types of needed traffic mitigation may only be possible with the approval and/or direct involvement of other agencies outside the Town. This would include any needed improvements along the Saw Mill River Parkway or along Bedford Road. It is too early to know whether such mitigation would be necessary, but the Town will not have the ability to independently dictate the type of traffic mitigation that may be required and/or viable since other agencies will also be involved in this evaluation.
6. The relationship between number and type of office tenants and the amount of off-street parking available for use by those tenants should be examined in detail as part of the environmental analysis presented in the DEIS.
  7. With regard to the subject of utility service and the Applicant's proposal to extend the existing sewer district to encompass additional portions of the subject site, it is noted that New Castle already contains residential neighborhoods that have experienced malfunctioning community sewage treatment plants and/or septic systems. Discussions concerning the need to provide public sewer service to those areas have already begun. To the extent that limited capacity is present and is expected to remain in either the sewage collection system or the sewage treatment plant serving the Town, the need to address the problems of existing residential development may outweigh any benefits that may accrue from expansion of public sewer service to meet the demands of new residential development. Furthermore, the strategy that can and should be employed with regard to expanded public sewer service in the Town may largely be dictated by other approval authorities, such as the New York City Department of Environmental Protection, in addition to the Westchester County Board of Legislators.

8. The existing location of the sewer district boundary on the subject site should be clearly identified. It is also recommended that the Town Board examine opportunities to provide for the development of “workforce” housing on portions of the subject site that are already located within the existing sewer district.
9. To help the Town and other approval authorities (e.g., Westchester County Legislature) evaluate the issues associated with the Applicant’s proposal to expand the existing public sewer district to encompass the proposed MFPD District in addition to areas of the site that are currently served by public sewer service, additional information will need to be provided. Among other factors that may need to be considered, it is recommended that information be provided on the terms, if any, under which sewer service was originally provided to the subject site and whether the subject site was limited to a maximum amount of effluent. If so, the assumptions upon which such a limitation was established should be identified.
10. It will be particularly important to accurately gauge the visual impacts associated with the proposed development, in terms of viewsheds affected and/or created (from different locations outside the subject site and within the subject site, at different seasons of the year and at different times of the day), open space preservation and/or creation, the scale and architecture of the proposed dwellings, the effect of proposed building demolition and new housing construction, and how all of these factors would affect the Town’s overall community character, particularly in areas close to the subject site. The way in which the Town would like to have these issues examined should be carefully defined in the DEIS Scoping Document that will be adopted by the Town Board.
11. The Applicant should describe how its site planning and building design/demolition/construction decisions were guided by efforts to embrace “green” technology and energy efficiency principles.
12. Many of the potential impacts associated with the Applicant’s proposal are likely to be related to the density and scale of the development. For that reason, it would be appropriate to examine those features in more detail and to define alternatives of lesser density and/or scale for detailed examination in the DEIS Scoping Document that will be adopted by the Town Board.

The Planning Board looks forward to providing additional advisory comments to the Town Board as additional information becomes available.