

Roaring Brook Road Association
c/o Alexandre Manz
90 Roaring Brook Road
Chappaqua, NY 10514

New Castle Town Board
c/o Town Supervisor
Town Hall
Greeley Avenue
Chappaqua, NY 10524

November 14, 2014

RE: Chappaqua Crossing – Neighborhood Comments

Dear Supervisor Greenstein and members of the Town Board:

We make reference to the Public Hearing in the matter of the Chappaqua Crossing development held on Tuesday, October 28, 2014 in which you requested specific comments from the residents of the 17 homes located on Roaring Brook Road, Apple Tree Close, and Southview Road (hereinafter “RBR”), in immediate proximity to the proposed development.

As you well know, our neighborhood will bear the brunt of any negative impacts from the development as currently proposed. We thank you for the opportunity to present to you the thoughts and concerns of our neighborhood. The undersigned residents have combined their thoughts into this letter, which represents our collective concerns. However, we do not purport to represent the opinion of anyone other than the signatories hereto.

Introduction.

From day one, the neighbors of RBR have been open to a dialogue with the Developer and the Town, as we are keenly aware of – and respect – the right of all property owners to exercise their property rights within the confines of the applicable rules. While there has been a growing chorus of those in town who accuse our neighborhood of “NIMBYism” this is completely unjustified. We have never objected to development of the site *per se*, we merely request that we be equally protected in the enjoyment of our ownership rights in accordance with our reasonable expectations as the developer is; in other words, we are seeking *equitable and fair treatment*. For us, that means not being an afterthought. We should not be consigned to bear the costs of this project on our backs.

While you have suggested that the principal benefit of the proposed retail shopping center would be to bring tax revenues to the town as a whole, in reality the costs will fall on the few – that is, the neighbors whose quality of life and home values will be materially compromised. We submit that the town must identify and take appropriate measures to mitigate that damage, so as to not unfairly discriminate against a group of residents. Fundamentally, *don't take the value of our property either to benefit the developer or to reduce the taxes of others.*

Over the many years that this project has been before the Town Board, we have consistently participated in the public approval process and presented our concerns – first to Summit Greenfield and its team, in meetings they sponsored, and later at the countless hearings held by the Town. Your public records will reflect that our neighborhood has consistently raised the same core concerns, which we outline again below.

To date, however, our concerns appear not to have been given any serious consideration; in fact in our experience Summit Greenfield's approach has been an attempt to indoctrinate us with the virtues of their vision, rather than to seek a dialogue and consider our input. We find this truly regrettable, and hope that this collective appeal to you will be heard and acted upon.

Principal Concerns.

Our concerns can essentially be summarized in one sentence: ***The project, as currently proposed, seeks to combine large-scale retail with condominium development and shoehorn it into on a piece of property surrounded on three sides by R1A residential areas, without the necessary or appropriate infrastructure upgrades and in blatant disregard for the character of the surrounding neighborhoods.***

In particular:

- ***Traffic*** – a development as the one proposed, which is anchored around a “destination” retail store such as Whole Foods, requires adequate ingress and egress, *designed* to safely accommodate the expected exponential increase in vehicular traffic. Instead, what is being proposed can – at best – be described as an attempt to put a Band-Aid on an open flesh wound. Traffic has basically been described as going from bad to worse – and we are expected to bear the consequences.

While clearly acknowledging that intersections along the stretch of RBR between Rte 117 and the Saw Mill River Parkway (“SMR”) already rank as ‘F’ – the lowest possible level-of-service in traffic flow – the various traffic consultants have

failed to offer any understandable estimate of the additional delays that will ensue, let alone any realistic solutions. Just because it is at the lowest level doesn't mean it can't get worse: category 'F' begins at 50 seconds' delay, but it runs to *infinite*-delay. In fact, the traffic experts admit it will become worse – but *how much* worse than 50 seconds has not been addressed in public discussion. And no one has given neighbors confidence that traffic levels will not go from the current state of annoyance and inconvenience to an utter change in the character of this neighborhood.

For those who may pass through this area occasionally, the inconvenience of worse traffic conditions might be outweighed by the promise of lower taxes or organic foods, but for the neighboring R-1A homeowners, materially worse traffic conditions will result in material adverse effects on their quality of life and, most certainly, property values.

It appears that we are supposed to believe that projections of 3, 4, 5 or – for certain times of day – even 10-fold increases in vehicular traffic through an already hopelessly congested area can be acceptably absorbed by widening RBR and adding traffic lights. To paraphrase what was recently said by a traffic consultant at a public hearing: one way to look at it may be that, if you already are at the worst end of the scale, even an infinite increase in traffic flow will not negatively affect your rating any further.

We submit to you that it is unconscionable to approve a plan that provides for the main access to a retail development via a residential street in a school zone, as RBR is. The traffic backup off the SMR and the railroad crossing; existing school traffic; and, last but not least, high school students on foot in the area will make for an untenable and potentially lethal traffic condition. How anyone who has ever witnessed RBR at the beginning or end of the school day can argue with a straight face that this area can handle the projected increased traffic volumes with the proposed “calming” measures – a traffic signal at a six-lane crossing at HGH's entrance – is beyond comprehension. The prospect of increased tax revenues cannot mask the fact that unsafe traffic conditions have potential financial consequences for municipalities, not to mention the humanitarian and good-government considerations that should be guiding the process.

- ***Lack of Comprehensive Planning*** – The developers of Chappaqua Crossing and their various different planned usages have already benefitted from *three* separate zoning changes in their quest to turn a profit on their acquisition and, as a result of those changes and the currently pending approval, the project will *significantly* and *permanently* alter the neighborhood.

We respect the developer's right to enjoyment of its property, but not if it comes unilaterally at the cost of the property rights of the adjoining neighbors. A

project that seeks to turn a residential, school zone street into a multi-lane access route to a shopping mall (with significant ripple-effects on the adjoining parkway and state roads); bring 18-wheel truck traffic to grocery store loading docks facing residential properties; and expose the area to the noise and nuisance of trash compactors, waste removal and compressors on refrigerated trucks, can safely be called a significant impact on a neighborhood zoned R1A.

Such a complete repurposing of the neighborhood requires a large-scale, coordinated plan to address *all* potential impacts to *all* affected parties and cannot possibly be addressed with project-specific fixes that seek only to solve the needs of the developer in getting its project implemented. Each property owner in our neighborhood has rights to quiet enjoyment that should be valued equally – and addressed – before embarking on such a tectonic shift. We note that for most of us, our properties represent a *significant piece of our net worth*, and without adequate planning our property values will materially decline, causing us significant financial harm. These risks need to be adequately addressed *prior* to moving forward. It cannot be your intent that the economic success of one property owner – with hope for small tax reductions for a majority of residents – should result in great financial harm to our neighborhood homeowners.

Proposed Solutions.

We submit that there are several options that would address our principal concerns and still enable Summit Greenfield to move forward with its project. The following represent our collective suggestions, most of which have been repeatedly made over the course of the public hearing process:

- ***Conceive a comprehensive master zoning plan for the entire neighborhood, not just topical, project-related “patches”*** – The norm for review of a proposal of this magnitude – which will fundamentally change an existing residential neighborhood – should be a holistic approach to zoning, which considers *all* aspects and effects on the *entire* neighborhood *prior* to any project approval. The focus of the Town Board’s review of Summit Greenfield’s various proposals thus far has been decidedly site-specific.

Prerequisite for any approval should be a preliminary development concept plan (“PDCP”) that demonstrates, with significant detail, a future that makes sense for the owners of *all* properties in the neighborhood. If the existing R1A land uses remain viable, we expect most property owners would be satisfied. We submit that the steps to be taken include:

- (i) considering the traffic effects the project will have on the *entire area* (many of which remain categorized as “unmitigatable”), require the

developer to move points of heavy traffic flow onto its own property, by the necessary improvements within the developer's property lines, and shielded from the residential areas of RBR.

- (ii) the *entire* neighborhood – not just the planned project – should receive adequate infrastructural upgrades, such as, for example: side walks; pedestrian-friendly lighting; a bicycle/foot path to connect the area to town; sewer access (something the neighborhood properties already pay for as part of the Saw Mill Sanitary Sewer district, without the corresponding benefits); or even contemplating the creation of a Metro North station located at Exit 33 on the SMR, to name just a few;
- (iii) the planned project should be reconfigured to transition gracefully from more intensive uses like retail and office at one end, to apartments and townhouses and single family homes at the other; that is, place the multifamily residential (instead of the retail grocery) along RBR so it can become part of the neighborhood rather than creating two residential “clusters” separated by retail;
- (iv) the PDCP should include significant details about how this project encourages pedestrian activity and offers the civic benefits of *genuine* mixed use development – not just three zones of different uses corralled on the Chappaqua Crossing property.

Our neighborhood should not be an afterthought. To fail to take these steps is, in effect, to make a fundamental determination to change the *character of this neighborhood*. Parity dictates that, if it is determined that this neighborhood should become a high-density, mixed use area that combines the school zone with retail and multifamily space, then the existing R-1A zoning on the remaining properties in the immediate neighborhood should be revised to allow for multifamily, retail and commercial development that matches such a use pattern. This zoning revision cannot be made independently of – and certainly cannot be not made *after* – a retail zoning change for Summit Greenfield. The area zoning needs to be dealt with as a whole.

We believe such an approach would be best served if the Town Board designated the Planning Board as the agency to approve the PDCP. This would incorporate the Planning Board's valuable expertise into the process. It is premature for the Town Board to accept the change to retail zoning without first having a concept plan for the neighborhood. Neighbors have every right to expect a comprehensive design, if the Town is to abandon assurances in the existing 1989 master plan that the site would not be developed for retail use.

- ***Design a comprehensive traffic plan, commensurate with the size and scope of the proposed development*** – In view of the large scale of the project, the traffic modifications currently proposed are woefully inadequate. With an anchor tenant such as Whole Foods – and even a portion of the proposed 80,000 square feet of additional retail space – typical patrons will be coming from areas north and south of the site. Feeding this volume of anticipated additional traffic through an already over-burdened residential road such as RBR is unconscionable, irrespective of how many modifications have been proposed.

Since Summit Greenfield is seeking a drastic change in the use of, and traffic pattern to, the site, it should be required to invest in commensurate upgrades to site access, such as:

- (i) The most appropriate solution would be a *dedicated access ramp* to the site from the SMR, with an overpass to avoid the Metro North train tracks. This would segregate patrons from the already strained intersection and would provide a safe and fluid means of accessing the site. If this is not practicable, then:
 - (ii) All vehicular entrances serving retail uses should be kept off the existing residential portion of Roaring Brook Road. The sensible alternative would be to retain the existing two main retail entrances – one directly facing the Parkway at the west end of the site, and the other facing Bedford Road at the east.
 - (iii) Any lanes or roadways added to accommodate traffic increases for any use on the project site should be built on property provided by the developer – not by adding to the traffic on Roaring Brook Road – and the existing residential properties on RBR should be shielded from such traffic.
 - (iv) In any event, ingress and egress to the site should be restricted *exclusively* to the existing entrances from the primary roadways, i.e., SMR and State Route 117 and no entrance off of RBR should be built. It would be inequitable to permit Summit Greenfield to benefit from a project whose inadequate traffic plan comes at the cost of untenable congestion for other properties in the neighborhood.
- ***As part of the project, consider measures to specifically mitigate the economic as well as quality of life impacts to the adjacent properties*** – As outlined above, the project in its current form will undeniably have *significant* and *permanent* negative effects on the values of adjacent properties as well as on the quality of life of neighborhood residents. It would be neither fair nor equitable to approve a plan that focuses solely on the economic benefit of the developer – or the town’s coffers generally – with the costs concentrated on the backs of adjacent homeowners.

If Summit Greenfield is permitted to go forward with a project that will represent a fundamental change to the surrounding area, it should be required to mitigate, to the greatest extent possible, the negative effects on the adjoining properties, for example:

- (i) the plan should incorporate design and zoning changes aimed at protecting the residential quality of the surrounding neighborhood, either by integrating the residential portion with the existing homes as described above, or by providing a meaningful buffer between the project property and the residential area on the opposite side of RBR. This should include:
 - (a) Within the zoning, require increased yard setbacks for retail and other uses adjacent to more sensitive zones such as single family R-1A.
 - (b) In the PDCP design, *eliminate* the planned entrance from RBR (previously mentioned above); extend the existing median along the entire length of RBR between Rte 117 and the SMR, and/or replace the existing single-family homes Summit Greenfield's RBR property with trees and other vegetative screening; reconfigure the PDCP site layout to ensure that the residents on RBR do not have to face and hear retail loading docks that receive deliveries at all hours of the night/early morning;
- (ii) as part of the approval process, the Town Board should consider a *wholesale zoning change* to the *entire neighborhood*, not just the project property, which would permit existing property owners to equally capitalize on their property values and not saddle them with significant, potentially ruinous losses in value by enforcing the R1A zoning on them; or
- (iii) if the aforementioned mitigating factors are deemed unsuitable or unachievable, the Town Board should consider requiring that Summit Greenfield offer to buy out the adjacent property owners and incorporate their properties into the project.

Summary.

Thank you for the opportunity to voice our specific concerns. As you will hopefully agree, we are seeking a compromise that will enable the developer of the proposed project to capitalize on its investment while maintaining the character of the neighborhood and ensuring that the adjacent property owners do not bear a disproportionate share of the impacts. Our ask is that, in your role as arbiter, you apply the principles of *fairness* to ensure that the rights and economic interests of *all* the property owners affected by this project are equally protected. Finally, we

would appreciate the opportunity to meet with you at your convenience to discuss the foregoing.

Respectfully submitted,

Jeannie & David Aplin	5 Southview Rd
Natasha & Boris Bogojevich	128 Roaring Brook Rd
Therese & Louis Ciabattoni	2 Apple Tree Close
Linda & John Ehrlich	1 Apple Tree Close
Kara & Jim Finnerty	2 Southview Rd
Dana & Jason Gold	16 Roaring Brook Rd
Angela & MoonJu Lee	4 Southview Rd
Maryhelen & Robert Lewis	2 Roaring Brook Rd
Christine & Alexandre Manz	90 Roaring Brook Rd
Suzanne & Kevin McShane	120 Roaring Brook Rd
Jill & Ed Notarpole	52 Roaring Brook Rd
Suzanne Sugar	6 Southview Rd
Mae & Bobby Wang	80 Roaring Brook Rd
Malcolm James Wright	136 Roaring Brook Rd