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June 24, 2021

VIA EMAIL (malex@washingtonny.org)

Supervisor Ciferri and
Members of the Town Board
Town of Washington
10 Reservoir Dr.
Millbrook, NY 12545

***RE: Town of Washington Comprehensive Plan Review
Draft Committee Charge Comments***

Dear Supervisor Ciferri and Members of the Town Board:

This firm has been retained by Veronica Bulgari, Stephan Haimo, and Alain Wertheimer (collectively the “Adjacent Owners”) to participate in the Town’s current review of its existing Comprehensive Plan. Initially, we were retained to participate in the Town’s review of the proposed Special Purpose Area Overlay District (“SPA Overlay District”), which was designed to specifically facilitate and permit the proposed Second Mountain Development (“Second Mountain Development” or “Project”) proposed by Janet Farms, LLC (“Janet Farms”). Janet Farms appropriately withdrew its application after the Adjacent Owners and others in the community opposed the development and very clearly demonstrated that the Project is in direct contravention of the current Town of Washington Comprehensive Plan, dated 2015 (the “2015 Comprehensive Plan”).

Realizing that the Project and any rezoning would be subject to legal challenge, the Town Board started the process of amending the 2015 Comprehensive Plan, including appointing a Comprehensive Plan Review Committee (the “Committee”). Unfortunately, after a review the draft Comprehensive Plan Review Committee Background & Charge (the “Charge”) it appears that the Committee is to amend the Comprehensive Plan, ***at the taxpayers’ expense***, and allow the Project to proceed. This is further evidenced by recent news articles where the Town Supervisor stated that Will Guidara, the developer from Janet Farms, is “still here. Will is still in the game.” See Northern Dutchess News, Vol. 13, Issue 18 (May 5, 2021).

The Charge is vital to the Committee's deliberations because it governs the boundaries of its review. As written, the draft Charge appears to ensure that Janet Farms would be able to develop the Migdale Estate without worry of density limitations, impacts on the environment, or impacts on the community. We respectfully submit comments to the Charge, which are designed to equal the playing field between Janet Farms and the community. It is evident that Janet Farms is "still in the game" despite having withdrawn its development proposal.

To assist with our review of the Comprehensive Plan, the Adjacent Owners have retained J. Theodore Fink, AICP. Mr. Fink has prepared comments to the Charge as well as a redline version of the Charge. *See* Enclosed. The comments included herein are designed to ensure an accurate and unbiased review of the 2015 Comprehensive Plan.

As noted by Mr. Fink, the adoption of comprehensive plan amendments is a Type I action under the New York State Environmental Quality Review Act ("SEQRA") and therefore carries the presumption that significant environmental impacts may occur warranting the preparation of a Draft Environmental Impact Statement ("EIS"). *See* 6 NYCRR 617.4(b)(1). Our office will be monitoring the amendment process closely and expects that the Town Board will take the appropriate steps under SEQRA to ensure that the requisite "hard look" is taken at all potential environmental impacts. To this end, we submit that the Town-wide environmental impacts of any proposed comprehensive plan amendment or resulting rezoning must be evaluated.

Conclusion

We commend the Town Board for taking the initiative to review the 2015 Comprehensive Plan. However, the Town should not simply go through the motions as a pre-requisite to an eventual approval of the Project. This comprehensive plan review should be substantive and guided by community input. Otherwise, the review is simply an extension of the original Janet Farms application.

We look forward to being a part of the comprehensive plan review process.

Very truly yours,

/s/ *Charles J. Gottlieb*

Charles J. Gottlieb

Enclosure

cc: Jeffrey Battistoni, Esq., Van De Water & Van De Water (*via email*)
John Lyons, Esq., Grant & Lyons, LLP (*via email*)
J. Theodore Fink, AICP, GREENPLAN (*via email*)
Veronica Bulgari (*via email*)
Stephan Haimo (*via email*)
Alain Wertheimer (*via email*)

GREENPLAN

June 24, 2021

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Members of the Town Board
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Re: Town of Washington, Dutchess County
Comments on Proposed Comprehensive Plan Review Committee

Dear Supervisor Ciferri and Members of the Town Board:

On behalf of properties owners directly adjacent to the Migdale Estate, Veronica Bulgari, Stephan Haimo, and Alain Wertheimer, GREENPLAN Inc. has been asked to review and provide commentary on the Town Board of the Town of Washington's proposed Comprehensive Plan Review Committee's Background and Charge (Charge) [DRAFT dated June 8, 2021]. My understanding is that the Town Board's Charge has been designed to provide specific direction to the Committee's work efforts in relation to updating the Town's adopted 2015 Comprehensive Plan (Plan) to address hospitality uses. This letter will present my review and analysis of the Charge document, whether the focus of the potential Comprehensive Plan amendments on the singular issue of hospitality is advisable, and whether there exists a likelihood for unintended consequences and undesirable environmental impacts as a result of the narrow focus. This letter posits that any amendment to a comprehensive plan requires a broad perspective and I urge the Town Board to include in the Charge additional suggestions found in this letter. I have included a summary of my authority to comment on the above at the end of this letter.

General Comments

First, my overall impression of the Charge comes directly from the first sentence of the document, which is for a "limited review of the Town Comprehensive Plan." I am aware of the prior comprehensive plan process and the eight years it took for the Town to draft and adopt the Plan. The process of preparing a comprehensive plan is often difficult and time-consuming for a community. My concern however, is that the Town Plan is a foundational policy document that expresses the entire community's desired future and addressing only one issue, like hospitality

uses, may overlook other important and interrelated policies that are now firmly established and should also be examined for the: “Town’s vision for the future.” [see Plan page 6].

The Town’s Plan establishes a framework to guide public and private decision-making about future growth, preservation, and change within Washington over the next 20 to 30 years. A good comprehensive plan will always have a broad scope, meaning that the Plan addresses a considerable range of topics of community-wide concern. The topics are comprehensive in their geographic extent, meaning that it covers the full area of the Town. Comprehensive plans also cover multiple goals and policies to be implemented over a long period of time. In short, a good comprehensive plan like Washington’s presents a careful balancing of public and private interests and each policy is developed to work together. When one issue is targeted in response to a development opportunity like the Second Mountain Development, there are likely to be unintended consequences that will result unless the Town develops a Charge for its Committee that recognizes the value and interrelatedness of its prior eight years of policy-making.

Second, by their very nature, comprehensive plans must be constantly assessed for relevance in the face of changing conditions in a community. That is a given. This is certainly the case with hospitality uses, as visitors to Washington and the Hudson Valley in general have created demands for lodging that have increased with the availability of online platforms for short term rentals. While the 2015 Plan addressed rental housing, it does not appear to have addressed the exponential increase in online web services like Airbnb, VRBO, and others, which was nascent at that time and carry with them certain environmental and community impacts that must be considered and evaluated.

Third, hospitality uses are similar to commercial uses and in many cases are commercial by scale. Due to their transient nature, such uses can potentially create a variety of problems for communities and nearby residents. According to the American Planning Association (APA): “Typically, vacationers exhibit a higher intensity of activities (such as car trips, late-night noise and light, and trash generation) than do long-term residents. These impacts can be more problematic for very short-term renters (e.g., one family renting a property for a month tends to cause fewer “externalities” than four families each renting for a week). Because traditional vacation rentals tend to attract large numbers of people, they may require large numbers of vehicles, either requiring paved yards or creating parking shortages in the area. Moreover, permitting short-term vacation rentals can lead to escalation in area home prices which may encourage speculative investors to purchase properties while creating conditions that are inhospitable to permanent residents.” [see the American Planning Association’s Planning Advisory Service: Short Term Rentals, January 8, 2014].

Specific Comments

Addressing only hospitality uses in a comprehensive plan update, unless it is paired with a full examination of the entire scope of issues addressed by Washington’s Plan, may lead to proposed amendments in conflict with the underlying vision, goals, objectives, and actions articulated in the Plan. In my professional opinion, the full scope of issues addressed in the Plan should not be limited in the Committee’s Charge to ensure that the full scope and effect of the Plan is properly

addressed by the Committee. The potential disconnect with the draft language in the Charge and the goal of creating and maintaining a comprehensive plan that affects: “The immediate and long-range protection, enhancement, growth and development” [see Town Law 272-a.1(a)] of the Town are outlined below:

1. **“Suggest definitions for hospitality uses”** [First Charge paragraph]. The Charge here is worded as if the issue of hospitality uses is already settled within the Town and adding this new use to the Plan is a foregone conclusion. This is not the way a planning process proceeds. The comprehensive plan is the legal foundation that legitimizes local development regulations. New York State Town Law at Section 272-a.11(a) requires “consistency” such that: “All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.” The comprehensive plan is often described by professional planners, including the American Planning Association [see PAS QuickNotes Issue No. 43, American Planning Association Planning Advisory Service] as the “constitution” for future development and the “basic instrument” of land-use planning. The New York State Legislature declared that town comprehensive planning is: “Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens.” [see Town Law Section 272-a.1(b)].

If a comprehensive plan is to be equated with a “constitution” then, it is particularly important to follow the process and procedures established by planning professionals, the legislature, and the courts to amend the so-called “constitution” for the Town of Washington. Here again, the American Planning Association provides clarity to the process of planning: “Everything Is Related to Everything Else. Urban and regional planners firmly believe that plans affecting a community’s future should be comprehensive in scope. Plans should analyze the interconnectedness of all aspects of a community or region. For instance, one cannot address one topic, such as transportation, without exploring its relation to the use of land, to economic development, to environmental considerations, and to a host of other community attributes. You cannot look at a single community factor in isolation.” [see PAS QuickNotes Issue No. 17, American Planning Association Planning Advisory Service].

So what then are the standards recommended for a defensible process of preparing or amending a comprehensive plan? In my professional experience, which includes preparation of numerous comprehensive plans and plan amendments and updates for a variety of municipalities throughout the Hudson Valley, there is a well-defined set of steps and tasks that are illustrated on the attached “Town Comprehensive Plan Process” that I’ve prepared for other communities. This process applies regardless of the particular circumstances related to the plan preparation or plan amendment. While every community is different and the actual tasks carried out will vary depending upon the extent of the plan amendments, the five phases of plan preparation will not and many are mandated by New York State Town Law. I urge the Town Board to modify the first paragraph in the Charge to reflect the potential complexities associated with amending the Plan and to ensure that the full scope of issues related to changing the Plan, to accommodate an entirely new use in the community, has been fully subjected to the “Town Comprehensive Plan Process” document attached to this letter.

2. **“The committee is charged with determining how hospitality could play a role in mitigating said risks to the potential erosion of the tax base, including property tax and a potential hospitality tax.”** [Second Charge paragraph]. Impacts on the Town’s tax base may be an important political consideration in the Town of Washington, but identifying this as a stand-alone topic as part of the Committee’s Charge may not be consistent with New York State’s Town Law. This is because of all the topics included in Section 272-a of Town Law [i.e. the comprehensive plan enabling law], tax issues are not specifically called out. Section 272-a.3 lists 15 topics that are appropriate to the development of a comprehensive plan or a comprehensive plan amendment. Section 272-a.3(l) however, states that: “Specific policies and strategies for improving the local economy in coordination with other plan topics” may be included. An important clause in this Town Law section is “...in coordination with other plan topics.” Isolating a tax issue as a responsibility of the Committee without coupling it with “other plan topics” is not advisable, as discussed in item 1 above.

Further, an examination of the local economy and the local socio-economic makeup of the community is certainly warranted in a comprehensive plan. Indeed, the 2015 Plan includes an examination of population, housing, income and employment, and government services in the profile of the community. Updating these topics is certainly warranted, especially now that 2020 US Census data will be available for use in updating the Plan.

Here again, isolating one new use and tying it to speculative tax issues, including temporary COVID effects, in my professional opinion is a mistake. First, tax issues of the Town cannot be separated from those of the Village. The 2015 Plan recognized this nexus in the following statement: “Conceptually in the Comprehensive Plan process it is essential to view the Village and the Town as one entity, each with a unique function in making our entire community the special place that it is. The Village has been relied on in its traditional role as the region for high density housing, commerce, government, entertainment, education, and transportation for the Town and Village combined. The Town in turn contributes to the community's rural atmosphere and scenic beauty. The Town's low density development and large tracts of open space, which pay taxes without demanding a high rate of services in return, help to maintain a stable tax base for all.” [see Plan page 49].

Second, allowing for commercial hospitality uses in the Town when none legally exist at present except for bed and breakfasts, may have unintended consequences on the local economy. Numerous studies have been conducted on the economic effects of the hospitality economy where it has been permitted in rural residential areas. The effects are not at all uniform nor does a “rising tide lift all boats” so to speak. Host Compliance LLC, (now Granicus) a provider of services to communities that have established hospitality programs in their land use control regulations, has published a Practical Guide to Effectively Regulating Short-Term Rentals on the Local Government Level [see <https://granicus.com/learning-center/>]. The Guide lists several impacts of the hospitality economy as follows: “Local service jobs can be jeopardized as unfair competition from unregulated and untaxed short-term rentals reduces demand for local bed & breakfasts, hotels and motels...Towns often lose out on tax revenue (most often referred to as Transient Occupancy Tax / Hotel Tax / Bed Tax or

Transaction Privilege Tax) as most short-term landlords fail to remit those taxes even if it is required by law....The existence of “pseudo hotels” in residential neighborhoods (often in violation of local zoning ordinances etc.) may lead to disillusionment with local government officials who may be perceived as ineffective in protecting the interests of local tax-paying citizens.”

Hospitality uses in a community can also affect housing affordability and housing demand as documented in the above Guide: “Conversion of residential units into short-term rentals can result in less availability of affordable housing options and higher rents for long-term renters in the community.” The American Planning Association and others have also documented the effects of hospitality uses on affordable housing. When property owners elect to rent their homes on a short-term basis rather than renting on a longer-term basis (e.g., by the season or by the year), “they essentially squeeze the supply of housing, pushing up the demand, and subsequently, the cost of housing in the community.” [see “Short-Term Vacation Rentals: Residential or Commercial Use?” Zoning News, March 2002, American Planning Association]. The consequences to the local economy go far beyond the short-term implications of COVID and the structural changes that are happening in the retail economy. The Town Board cannot solve economic issues that go well beyond the Town and region but it does need to be mindful of the unintended consequences of its actions when related subjects such as the community’s rural and agricultural character, its environmental quality, and housing affordability are at issue. I suggest that all aspects of the local economy be investigated as part of the Committee’s Charge so that the comprehensive plan amendments are truly comprehensive in scope.

This can and should include a close examination of special features in the Town like Migdale. The examination should not be limited to hospitality uses but to viable alternatives such as the already permitted hospitality use in the District, namely Bed and Breakfasts. This type of use is already permitted with the issuance of a special use permit and such uses have been well established for decades in the Town and Hudson Valley with few if any negative consequences.

What is also essential in the Charge is a reaffirmation of the Town’s strong values for preserving its scenic, rural, historic, and environmental resources for both present and future generations. These value statements appear over and over again throughout the Plan document and are the basis for the Vision Statement on page 37. The Vision Statement also affirms the need to maintain business uses in the Village.

3. **“The committee is charged with determining how hospitality could be of help to the business within the Millbrook village and the said hamlets.”** [Third Charge paragraph]. The 1987/1989 Plan and the 2015 Plan are both clear that “New growth should contribute to the local economy and the rural environment.” [see Plan page 57]. This is a worthwhile objective that resonates well with other existing goals and objectives of the Plan. It also is mutually supportive of other goals and objectives of the Plan, such as Goal I: “Keep the Town scenic and rural and the Village the one developed center,” and Objective A.1 to “Maintain existing land use types which keep the Town rural.” [see Plan page 39]. These bedrock policies in the 2015 Plan are not consistent with the Charge to determine how hospitality uses “could be of help” to the Town’s concern “about the viability of businesses in the Town as a whole” when

other policies establish a plan for keeping the Village “the one developed center.” How then would the introduction of new commercial uses in the form of transient hospitality uses, that have been likened to hotels in residential neighborhoods, be consistent with keeping the Village as the one developed center? Further, how does commercial expansion into the Town remain consistent with the established Town policy to: “Avoid creating new Hamlet-Mixed Use Zoning, or new commercial areas in the Town.”? [see Plan Recommendation 3 for Goal I, Objective 1 on page 50]. Goal III further supports the Village as the location for new commercial development when the Plan states: “Sustain the Village in its role as the concentrated site of the Town’s commercial activity” and “Avoid the creation of new commercial development or mixed-use areas that are outside of the existing Village business district.” [see Plan Goal III and Objective A.1 on page 49]. These are just a few examples of how the Plan would need to be fundamentally overhauled to accommodate new commercial uses in the Town if amendments were to be made in favor of new projects like Second Mountain.

4. **“If a property contains a unique structure of historic significance, even though that structure might not be on a registry of historic places, should the Comprehensive Plan be amended to support an adaptive reuse of such a structure? If so, what is the best way to do so?”** [Fourth Charge paragraph]. The Plan already addresses what are sound planning policies for use of existing buildings rather than new development. In Goal I, Objective 1, Recommendation 4, it states: “Encourage reuse and rehabilitation of existing buildings and sites rather than new development whenever possible.” Concerning protection of valuable natural habitats and the biodiversity they support, Goal II, Objective 3.c likewise establishes a Town policy to: “Promote redevelopment of previously altered sites, ‘infill’ development, and reuse of existing structures wherever possible.” [see Plan pages 40 and 47]. These types of statements represent orthodox planning principles that most communities strive for. Historic structures are even more important to conserve due to their contributions to cultural values, community character and identity, and to creating a sense of place among other benefits.

Reconciling the need to support adaptive reuse of historic structures with protection of the character of the community and neighborhood is an issue ripe for consideration in the Plan and as a Charge to the Committee. My only caution is to thoroughly investigate other communities that have permitted hospitality uses in historic homes. Many have encountered a vigorous and complex debate about the benefits versus negative effects of this policy. The National Trust for Historic Preservation (Trust) has set up a webpage devoted to monitoring the costs and benefits to historic structures from an allowance to use them for commercial purposes like hospitality. The Trust has documented some of the changes as follows: “Residents of some historic communities maintain that STVRs [i.e. short term vacation rentals] take the ‘neighbor’ out of neighborhoods...A 2016 study found that most of New Orleans’ STVRs are in historic neighborhoods, noting: ‘As homes are converted to short term rentals...this changes the neighborhood from one that serves residents to one that serves tourists.’ In December 2016 the short-term rental division of the New Orleans City Council amended the zoning code with new regulations that, among other things, ban STVRs in the French Quarter.” [see <https://forum.savingplaces.org/blogs/david-brown/2017/07/25/do-short-term-vacation-rentals-change-the-character-of-historic-neighborhoods>]. I urge the Town

and Committee to conduct a thorough review of the experiences of other communities with historic resources to ensure that any new policies addressing adaptive reuse do not result in adverse changes to the Town's important community character.

5. **“The Town will retain a planner or consultant to work with the committee.”** [Fifth Charge paragraph]. The Town Board is to be commended for requiring a professional planner to work with the Committee. Due regard to selection of a planner with demonstrated experience in dealing with a rural and agricultural community like Washington as well as a background in the complexities of the hospitality economy will be essential to a successful outcome.

Finally, I will address public participation in the Committee's Charge. I am happy to see that the Committee is directed to prepare a survey of Town residents on the issues surrounding possible amendments to the 2015 Plan. However, unless the public engagement process goes beyond simply one survey instrument and only includes two public hearings, which is the minimum required by Section 272-a of New York State Town Law, then the Town may find itself in a position where public trust in the ultimate decisions reached by the Town Board are not supported by all community members.

The goals for any public engagement process on a comprehensive plan or comprehensive plan amendment is to provide residents with an open and transparent opportunity to take a meaningful role in comprehensive planning for the community before saying yes or no to a change as significant as permitting commercial uses in the Town's residential and agricultural Zoning districts. Permitting hotel-like commercial uses in areas designated for these uses in the 2015 Plan is contrary to: “Maintaining existing land use types, protecting environmental resources, and supporting the Village of Millbrook as the location for concentrated diverse housing and commercial activity” [Plan page 7] and could transform Washington for decades to come.

Citizen participation on comprehensive plans is required by Town Law and must include the use of proven engagement techniques such as public opinion surveys, visioning sessions, public meetings, town hall meetings, online surveys, and town halls, among other effective techniques. But most important, a bona fide comprehensive plan process results in broad discussions among residents over time of what they want for the future of the Town. This ensures that the planning process actively involves all segments of the community in analyzing issues, generating visions, developing plans, and monitoring outcomes for the future of their community.

The American Planning Association outlines the proper role of citizen participation in a planning process as follows: “Public participation in planning is a mainstay of democratic governance and decision making. By actively involving the whole community in making and implementing plans, the government fulfills its responsibilities to keep all citizens informed and to offer them the opportunity to influence those actions that affect them.” [David R. Godschalk, FAICP, and David C. Rouse, AICP, Planning Advisory Service Report 578: Sustaining Places: Best Practices for Comprehensive Plans, (Chicago: American Planning Association Research Department, 2015), page 19].

The New York State Department of State's Office of General Counsel has prepared a Legal Memorandum [LU09 - Defining a Community Through the Plan] that states: "Defining a town, village or city's sense of place and its vision through a plan requires extensive community input." [emphasis added]. When planning addresses the needs of the community through a total planning process involving citizen input and through consensus building, it will be more effective in creating a plan for the "long-range protection, enhancement, growth and development" of the community. [Town Law § 272-a.1(a)]. The way that a new commercial land use like hospitality is considered in a comprehensive plan process is to examine all available evidence about the issue, carefully review the interrelatedness of changing the vision of Town residents to confine new commercial uses to the Village, and examining the secondary impacts of the Charge as discussed above. Only then can comprehensive planning truly rise to its role as one of the "most important powers and duties" of local government envisioned by the State Legislature and where: "The participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum town comprehensive plan." [Town Law §§ 272- a.1.(b) and (e)]. I do not believe that a single survey of Town residents will be sufficient for Town residents to engage in an open planning process and to influence those actions that affect them.

I would like to add a related note about the Town's participation in the Hudson River Valley Greenway. The Town Zoning Law at Article I, Section 111 refers to the Town's participation in the Greenway program and its adoption of Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities, as a statement of land use policies, principles and guides to supplement established land use policies in the Town. However, I was unable to locate any reference in the 2015 Plan to the Greenway and Greenway Criteria for attaining the goal of a Hudson River Valley Greenway. The 2015 Plan was prepared with funds from the Dyson Foundation and the Greenway. The Town Board should consider updating the Charge with a statement about the Greenway program and how any proposed amendments to the Plan should fit in with the Greenway's principles of natural and cultural resource protection, regional planning, economic development, public access, and heritage environmental education as appropriate.

Conclusions

Many other communities in the Hudson Valley have struggled with whether to accommodate hospitality uses and if they decide to, how to ensure that the impacts of such a choice are avoided. There are no magic bullets available to address the issues effectively. While there may be some benefits to a few landowners if the Town's policies are amended to allow commercial development in residential and agricultural areas, there are also early warning signs. These include the impacts of hospitality uses on residents and the community and such signs go beyond the nuisances associated with intensive transient occupancy on the "scenic beauty, rural atmosphere, small town feel, safety, quiet/peacefulness, green/open spaces, horses, knowing neighbors, the friendliness of people, and proximity of family." [Plan page 35]. The economic costs alone were summed up in a study by the Economic Policy Institute [see The Economic Costs and Benefits of Airbnb, January 30, 2019 accessed at epi.org/157766] as follows:

- Potential cost one: Long-term renters face rising housing costs
- Potential cost two: Local government tax collections fall

- Potential cost three: Externalities inflicted on neighbors
- Potential cost four: Job quantity and quality could suffer

My last comment has to do with the State Environmental Quality Review Act (SEQR). The Charge is silent on SEQR and the need to comply with SEQR as an integral part of the comprehensive plan amendment process. Adoption of amendments to a comprehensive plan are subject to SEQR and must be classified as a Type I Action [see 6 NYCRR 617.4(b)(1)]. As a result, a full Environmental Impact Statement (EIS) process should be included as part of the adoption of any amendments proposed for the 2015 Plan. This is because the regulations for Type I actions state that they are: “more likely to require the preparation of an EIS than Unlisted actions.” [see 6 NYCRR 617.4(a)] and other factors including those discussed below.

The EIS process is also a means for the Town Board to fully involve residents in the assessment of the options for hospitality uses and other reasonable alternatives for facilities such as Migdale, given the important scenic, rural, historic, and environmental resources of the Town. Section 8-0109.4 of the New York State Environmental Conservation Law is clear that public input is essential to the SEQR review process. As stated in this section of the statute: “The purpose of a draft environmental statement is to relate environmental considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the environment, and to solicit comments which will assist the agency in the decision making process in determining the environmental consequences of the proposed action.” When important resources like scenic viewsheds, National Register and other historic sites, the rural character of the community, and other important environmental resources are involved, it becomes incumbent upon the agencies that administer SEQR to ensure that its terms are followed correctly, including a well-defined agency and public engagement component.

Authority to Comment

I am a certified professional planner and have worked primarily in the Hudson River Valley for 56 different agencies (state, county, local) over the past 40+ years. I have worked on a variety of municipal planning projects, including the preparation of comprehensive plans, zoning laws, subdivision regulations, special natural resource laws, and other related land use rules affecting development and the environment. I am also a part-time professor at Marist College, teaching three environmental science and policy courses including “Principles of Environmental Assessment” (ENSC 380) that focuses on SEQR and the National Environmental Policy Act (NEPA)..

Very Truly Yours,



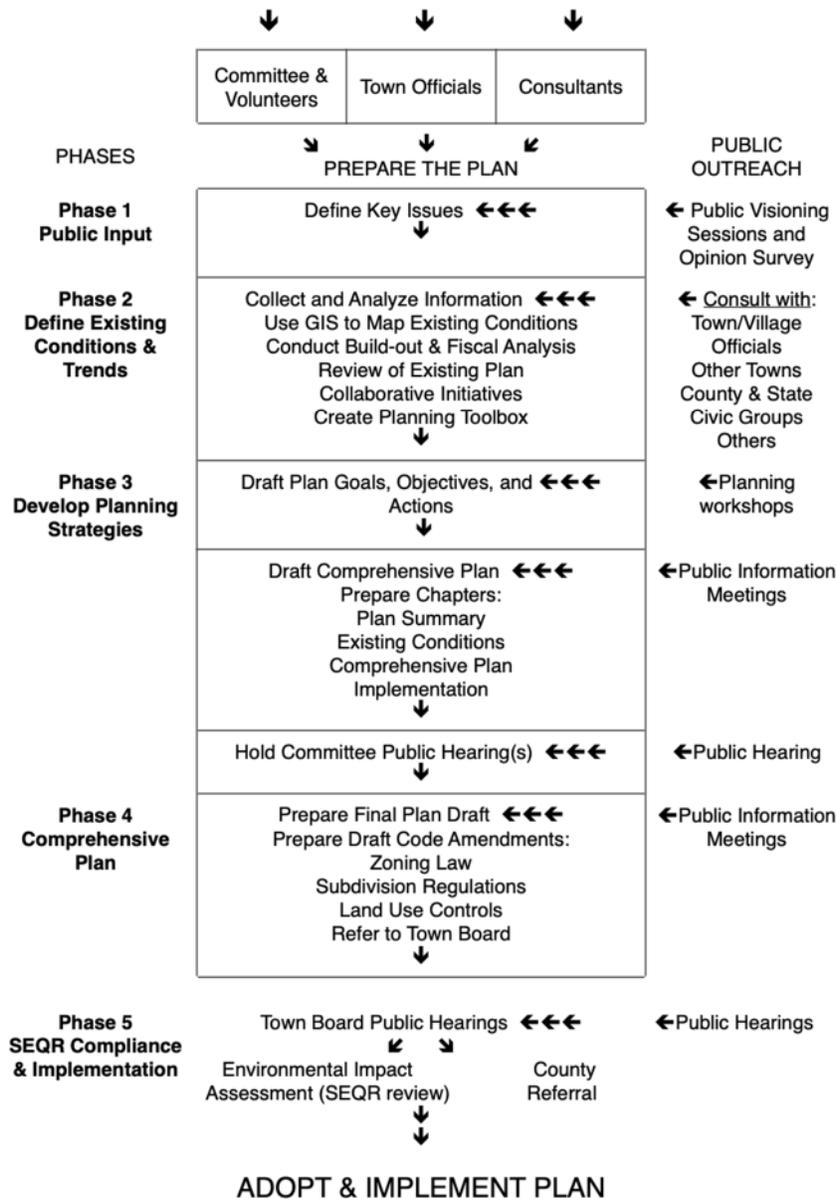
J. Theodore Fink, AICP
President

Cc: Charles J. Gottlieb, Esq.
Veronica Bulgari
Stephan Haimo
Alain Wertheimer

Attachment: Town Comprehensive Plan Process Chart

TOWN COMPREHENSIVE PLAN PROCESS

Town Board prepares or appoints Planning or Special Board to prepare a new or amend an existing Town Plan



Revised Comprehensive Plan Charge

REDLINE

TOWN OF WASHINGTON
COMPREHENSIVE PLAN REVIEW COMMITTEE
BACKGROUND & CHARGE

The Town Board ("Town Board") of the Town of Washington (the "Town") has created a committee (the "Committee") to perform a limited review of the Town Comprehensive Plan ~~the "Comprehensive Plan"~~. The Town Board provides the following background and charge to this ~~committee~~Committee.

~~First, amend~~A. The Committee is charged with reviewing the current zoning and land uses within the Town to determine whether hospitality uses (i.e., hotels, resorts, motels, Air BnB's, etc.) are an appropriate land use and zoning designation within the Town. In doing so, the Committee should seek input from citizens of the Town in the form of public surveys, meetings, or other effective means as it deems appropriate. The Committee should also interview officials and land use board members from other area municipalities that have recently established similar hospitality uses, to gain insights from their experiences.

The Committee should start its review by evaluating the need to disrupt the principles within the existing Comprehensive Plan, dated 2015, to expand hospitality uses beyond how they are currently permitted within the Town. Should the Committee conclude that hospitality uses are not appropriate for the Town, it should end its review of the Comprehensive Plan and provide a report to Town Board.

Should the Committee conclude that hospitality is an appropriate land use in the Town, the Committee is charged with proceeding with its review of the Comprehensive Plan in accordance with the terms of this Charge.

The Committee shall also make suggestions to the Town Board if they find that, based on community input, certain areas or parcels within the Town should be "down zoned" to limit dense commercial or residential development to preserve environmental or community character qualities.

In addition to the above, and in compliance with the requirements of New York Town Law, the Committee should not be constrained by this charge in thinking that they are only charged with the review of hospitality uses. The Committee shall also consider all aspects of the Comprehensive Plan and the Towns current land use patterns to consider all that is needed for the immediate and long-range protection, enhancement of growth and development within the Town.

B. Specifically, and notwithstanding the above, the Committee should identify those areas and properties within the Town where hospitality uses would be the most appropriate. In doing so, the Committee should consider the current zoning and land uses, availability of public utilities, sensitive environmental resources, and community character, in addition to the specific considerations outlined in Section D below.

C. If appropriate areas are identified for hospitality uses, the Committee is charged with making recommendations to the Town Board for amending the Comprehensive Plan to suggest definitions for hospitality uses, including air b and bs, and to the scope and purpose of said uses, the density and types of permitted hospitality uses, and suggest locations in Town where such uses might best be located. ~~Examine~~In making this recommendation, the Committee should examine the current Comprehensive Plan to determine what was intended for hospitality in the Comprehensive plan. Consider (if anything) and what protections against commercial uses may still be applicable. The Committee should consider input on the need (or lack of need) for hospitality from the community at large and judge whether the ~~comprehensive plan~~ Comprehensive Plan is succeeding or failing on meeting that need. If

D. In reviewing the plan is failing Comprehensive Plan in accordance with the committee above, the Committee is charged with seeking improvements based on feedback from the specifically considering the following factors and others as it deems appropriate:

1. **Rural Nature of the Town:** The Town Board is aware that many of the residents of the Town value the rural/residential nature and character of the surrounding community. This is set forth in the current comprehensive plan. The Committee is charged with determining how to (if at large via a survey discussed further all) incorporate hospitality uses while maintaining this quality.

2. **Environmental Considerations & Sensitive Resources:** The Town Board is aware of the potential adverse environmental impacts that hospitality uses could have on the Town and community. The Committee is charged with reviewing these potential environmental impacts including traffic, the adequacy of local roads to support increased use, creating commercial activity in residential areas, land disturbance, water quality, air quality, geological features, compatibility with adjoining land uses and in particular

rural density neighborhoods and neighborhood character, noise, lighting, signage, parking, etc. to ensure that these impacts are reduced and mitigated to the maximum extent possible.

~~Second, the~~ **3. Real Property Tax Base:** The Town Board has always been sensitive to the real property tax base in the Town. There is ~~probably a general~~ an increasing awareness that more and more people are shopping online and that the need for traditional retail and commercial space has been declining. As that decline continues, the real property tax revenue generated by such properties may decline and will have to be made up elsewhere. In addition, there is ~~probably~~ a general awareness that more and more people can work remotely and possibly from home, and the need for traditional office space has been declining. This has become particularly evident during the COVID-19 pandemic. As that decline continues, the real property tax revenue generated by such properties may decline and will have to be made up elsewhere. The ~~committee~~ Committee is charged with determining how hospitality could play a role in mitigating said risks to the potential erosion of the tax base, including property tax and a potential hospitality tax.

~~Third, the~~ With that said, the Committee should assess whether existing uses within the Town have been impacted by COVID-19 and the declining of such uses, as they may not be a large part of the Town's land uses. The Committee is also charged with investigating the evidence that hospitality uses in a community impacts local residents by raising housing costs, decreasing the supply of long-term rental housing, and increases fire, safety, emergency, disability access, and potential overcrowding. That said, the Committee should evaluate whether COVID-19 impacts are temporary in nature versus long standing impacts. Recently, the Governor has ended the COVID-19 restrictions and the State is no longer under a state of emergency. The Committee should consider that pre-pandemic land use patterns may likely be on the rise.

The Committee shall also assess the fiscal impact that any commercial or hospitality use will have on existing residential homes and properties in the Town.

4. Village of Millbrook & Hamlets: The Town Board is concerned about the viability of businesses in the Town as a whole, but particularly in the Village of Millbrook and the

traditional hamlets of Mabbettsville and Washington Hollow. The ~~committee~~Committee is charged with determining how hospitality could be of help to the ~~business~~businesses within the Millbrook village and the said hamlets. The ~~committee~~Committee is further charged with considering a way for the Comprehensive ~~plan~~Plan (and then the Zoning Code) to be updated to better support these areas. That said, consistent with the current Comprehensive Plan, the Committee shall evaluate the desire of the residents to maintain the Village/Town- duality and the Plan's intent to keep commercial uses within the Village and hamlet areas.

~~Fourth, if a property contains a unique structure of historic significance, even though that structure might not be on a registry of historic places, should the Comprehensive Plan be amended to support an adaptive reuse of such a structure? If so, what is the best way to do so?~~

~~Fifth, the~~**5. Historic Properties:** The Town is home to many properties and buildings of historical significance. The Committee is charged with determining how these properties, some of which are not on any registry of historic resources, could potentially be transformed into an adaptive reuse project without conflicting with existing/surrounding land uses and without any adverse environmental impacts. The Committee must evaluate how this is currently addressed in the existing Comprehensive Plan and determine whether any amendments may be warranted.

E. The Town will retain a planner or consultant to work with the ~~committee~~.

~~Finally,~~Committee. Any consultant should have experience in dealing with a rural and agricultural community like Washington as well as a background in the complexities of the hospitality economy.

F. The Committee shall work directly with the Town Attorney and other Town consultants to ensure compliance with all relevant state and local laws including, among others, the New York State Environmental Quality Review Act and the NYS Town Law.

G. Community input is essential in this review process. The ~~committee~~Committee is directed in conjunction with a planner or consultant to prepare a survey for ~~town~~Town-wide circulation and present it to the Town Board for approval, along with a recommendation as to the best method for circulating the survey (e.g. electronically versus paper and mail, or a combination of both) and tabulating the results. The Committee shall have the obligation to adhere to the results of the community survey, to

the extent that they are reasonably within the bounds of this charge. The Committee shall also hold one or more informational meetings, including in person and/or electronic meetings, as it sees fit to provide further opportunities for Town residents to be informed of the progress of the Committee, to ask questions, and to raise issues of potential negative neighborhood impacts that will need to be addressed.

The Town Board looks forward to a collaborative working relationship with the ~~committee~~Committee and gives thanks to our ~~committee~~Committee members for their willingness to serve.

Dated: June 8, 2021

DR

Revised Comprehensive Plan Charge

CLEAN

TOWN OF WASHINGTON
COMPREHENSIVE PLAN REVIEW COMMITTEE
BACKGROUND & CHARGE

The Town Board ("Town Board") of the Town of Washington (the "Town") has created a committee (the "Committee") to perform a review of the Town Comprehensive Plan (the "Comprehensive Plan"). The Town Board provides the following background and charge to this Committee.

A. The Committee is charged with reviewing the current zoning and land uses within the Town to determine whether hospitality uses (i.e., hotels, resorts, motels, Air BnB's, etc.) are an appropriate land use and zoning designation within the Town. In doing so, the Committee should seek input from citizens of the Town in the form of public surveys, meetings, or other effective means as it deems appropriate. The Committee should also interview officials and land use board members from other area municipalities that have recently established similar hospitality uses, to gain insights from their experiences.

The Committee should start its review by evaluating the need to disrupt the principles within the existing Comprehensive Plan, dated 2015, to expand hospitality uses beyond how they are currently permitted within the Town. Should the Committee conclude that hospitality uses are not appropriate for the Town, it should end its review of the Comprehensive Plan and provide a report to Town Board.

Should the Committee conclude that hospitality is an appropriate land use in the Town, the Committee is charged with proceeding with its review of the Comprehensive Plan in accordance with the terms of this Charge.

The Committee shall also make suggestions to the Town Board if they find that, based on community input, certain areas or parcels within the Town should be "down zoned" to limit dense commercial or residential development to preserve environmental or community character qualities.

In addition to the above, and in compliance with the requirements of New York Town Law, the Committee should not be constrained by this charge in thinking that they are only charged with the review of hospitality uses. The Committee shall also consider all aspects of the Comprehensive Plan and the Towns current land use patterns to consider all that is needed for the immediate and long-range protection, enhancement of growth and development within the Town.

B. Specifically, and notwithstanding the above, the Committee should identify those areas and properties within the Town where hospitality uses would be the most appropriate. In doing so, the Committee should consider the current zoning and land uses, availability of public utilities, sensitive environmental resources, and community character, in addition to the specific considerations outlined in Section D below.

C. If appropriate areas are identified for hospitality uses, the Committee is charged with making recommendations to the Town Board for amending the Comprehensive Plan to suggest definitions for hospitality uses, the scope and purpose of said uses, the density and types of permitted hospitality uses, and suggest locations in Town where such uses might best be located. In making this recommendation, the Committee should examine the current Comprehensive Plan to determine what was intended for hospitality (if anything) and what protections against commercial uses may still be applicable. The Committee should consider input on the need (or lack of need) for hospitality from the community at large and judge whether the Comprehensive Plan is succeeding or failing on meeting that need.

D. In reviewing the Comprehensive Plan in accordance with the above, the Committee is charged with specifically considering the following factors and others as it deems appropriate:

1. Rural Nature of the Town: The Town Board is aware that many of the residents of the Town value the rural/residential nature and character of the surrounding community. This is set forth in the current comprehensive plan. The Committee is charged with determining how to (if at all) incorporate hospitality uses while maintaining this quality.

2. Environmental Considerations & Sensitive Resources: The Town Board is aware of the potential adverse environmental impacts that hospitality uses could have on the Town and community. The Committee is charged with reviewing these potential environmental impacts including traffic, the adequacy of local roads to support increased use, creating commercial activity in residential areas, land disturbance, water quality, air quality, geological features, compatibility with adjoining land uses and in particular rural density neighborhoods and neighborhood character, noise, lighting, signage, parking, etc. to ensure that these impacts are reduced and mitigated to the maximum extent possible.

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