

# A PLAN FOR MORE AFFORDABLE HOUSING IN THE TOWN OF SOMERS, NEW YORK

June 9, 2005

The need for housing affordable to families and individuals with low/moderate incomes has been recognized by the Town of Somers since at least 1973. Town officials, working with the advice and assistance of resident volunteers, have worked over the years to define and implement means to encourage the development of such housing and to increase the range of housing opportunities in Somers. Periodic assessments have been conducted to identify current trends and opportunities. This effort continues today.

This plan is organized into five sections: the planning background, the regional need, accomplishments, next steps and references.

## A. THE PLANNING BACKGROUND

The first comprehensive plan adopted by the Town of Somers, the 1973 *Town Development Plan*, stated that "in order to provide housing opportunities for senior citizens, young married couples, teachers and those employed by businesses serving the Town's residents, the development of a limited amount of town house and garden apartment type housing should be permitted." This policy was based on a finding of the Plan that "the housing needs of moderate- and middle-income families" could not be met through the construction of conventional single-family homes. The Plan also called for implementation of a new zoning technique termed "designed residential development" to promote new housing that would be affordable across a range of cost, type, and character.

The second comprehensive plan adopted by the Town is the current plan, the 1994 *Comprehensive Master Plan*. In developing this Plan, Town officials reviewed what happened in several areas of residential development since 1973. This review led to refinement of the 1973 Plan's objectives and policies shaped by a more specific call to "promote diversity of housing options in type, cost and size." The Plan promotes the opportunities presented through accessory apartments and congregate housing for seniors. The background work in preparing the Plan found that experience and changed circumstances justified new or revised recommendations on multi-family housing, designed residential development, cluster development, accessory apartments and the subdivision process. The Plan contains an extensive discussion of the housing needs of seniors and of the cost of housing. The Plan recommends that the Town take several new steps to encourage the development of affordable housing.

A third comprehensive plan update process is now underway in Somers. A Master Plan Advisory Committee is working with a planning consulting firm to review and update all sections of the 1994 Plan. This review process has relied on the participation of a large number of residents and officials and is targeted to come to conclusion in 2005. The new plan will address housing and housing needs in the same comprehensive manner as the 1973 and 1994 plans.

Obviously, this "Plan for More Affordable Housing" cannot stand apart from the comprehensive plan update process or its outcome. Recommendations for the physical and locational aspects of housing construction may be revised in the upcoming new comprehensive plan. However, this housing plan serves as an outline for immediate actions that are not in conflict with the planning goals and objectives for housing originally set by the Town 32 years ago and reemphasized in 1994. This plan should help shape the new comprehensive plan. This plan may also require revision at the appropriate time when the new comprehensive plan is completed.

## B. REGIONAL HOUSING NEEDS

In 1991, the Westchester County Housing Opportunity Commission prepared an affordable housing needs assessment. This assessment identified a need for 5,000 additional units of affordable housing in Westchester for the period 1990 through 1999. As a follow-up, the Commission prepared an "Affordable Housing Allocation Plan" which served as the basis for a Statement of Need that was adopted by the County Board of Legislators 1992. The Allocation Plan placed the need for 188 of the 5,000 new affordable units within the Town of Somers.

In March 2004, an updated affordable housing needs assessment was prepared for the County Board of Legislators through the County Housing Opportunities Commission. This study affirmed the continuing need for new affordable housing units in the county. Taking this study into consideration, the Housing Opportunities Commission prepared and released an "Affordable Housing Action Plan" in August 2004. The Action Plan states, "The total projected affordable housing need for the 2000-2015 period amounts to 10,000 units...The County has determined that those municipalities that failed to meet the 1990-1999 affordable housing Allocation Plan would still be expected to continue to make a good faith effort to meet that goal." As for how the remaining needed units would be obtained, the Action Plan suggest, "One alternative is to develop an Allocation Plan based on the regions delineated in the County Planning Board's *Patterns for Westchester* Report rather than on municipalities."

## C. ACCOMPLISHMENTS

The Town of Somers has taken many actions to address the recommendations of the 1973 and 1994 comprehensive plans with regard to promoting the establishment of moderate income housing. These steps also help attainment of the affordable housing units found needed by Westchester County studies. Key actions taken by the Town of Somers are:

**1972 Designed Residential Development.** In 1972, the Town Board and Planning Board embraced the concept of allowing a large, somewhat self-contained residential community, to be built over a period of several years, which would cover a large tract of land with extensive infrastructure and recreational facilities provided by the developer. In the zoning provisions adopted to regulate a DRD, it was also specified that one-third of a development's gross acreage must be maintained as natural open space. A DRD was considered as means to diversify housing cost and type because of the project scale and the fact that the regulations permitted a wide variety of housing configurations.

Two DRD special permits were issued by the Town Board – Heritage Hills and Primrose Farms. While Primrose Farms never advanced beyond the construction of model homes, Heritage Hills is only now nearing completion 33 years later with almost 2,606 residences, most of attached or town house configuration, on 1,000 acres. It is the largest residential development of any type to be constructed in Westchester County.

**1981 Multi-Family Residence Zoning Districts.** The 1973 Plan's call for the establishment of multi-family housing in Somers was taken further with the preparation of a detailed planning study in August 1979. This study was revised in September 1981 and, as a result, zoning amendments were drafted and two Multi-Family Residence District floating zones were enacted by the Town Board in November 1981. The regulations for the new district included a density bonus incentive. For every 2% of the basic density set aside for low/moderate income families, a developer receives a 3% increase in density up to a maximum increase of 25% (with a 1% bonus for every 1% set aside above 25%).

**1982 Lincolndale MFR District.** In 1982, 120 acres in Lincolndale hamlet were rezoned to one of the new Multi Family Residential District ("MFR") Districts and the Planning Board subsequently approved the development of 120 town houses in a development known as "The Willows." This developer did not take advantage of the low/moderate income family density bonus; the new housing units did provide a type of housing previously unavailable in Somers, increasing the diversity of the housing market in cost and format. The development was completed in 1987.

**1982 Accessory Apartments.** In August 1982, Somers was one of the first municipalities in Westchester County to amend its zoning ordinance to permit the establishment of accessory apartments. The apartment may be located in an existing principal dwelling or in an existing accessory building on a lot with an area of at least 40,000 square feet.

The special permit provisions for accessory apartments were amended in July 1992 as a result of work then being conducted on the master plan update. The changes eliminated some restrictions so as to permit more opportunities for apartments to be created and made the application process easier by shifting approval authority from a site plan review in front of the Planning Board to an appearance before the Zoning Board of Appeals. One change allowed apartments to be included in the construction of new single-family homes instead of limited to creation in principal structures built no less than three years earlier.

Several of these modifications were reversed by the Town Board in May 1995 when the zoning ordinance was again amended; at the same time some additional restrictions were placed on establishment of accessory apartments. In 1995 the Town Board revised the accessory apartment law such that accessory apartments were permissible only in buildings built before 1992 and limited the maximum floor area of such an apartment. The Town Board also limited a property to no more than one accessory apartment and required new owners to apply for a new permit, mandated inspections upon application and added criteria under which the Zoning Board of Appeals was authorized to deny a permit. As of January 2005, approximately 38 accessory apartments have been approved through the issuance of special permits.

**1992 Affordable Housing Board** In May 1992, the Town Board amended the Town Code to establish an Affordable Housing Board (AHB) to consist of five members appointed by the Town Board. The Code establishes the following powers and duties for this board:

- To define, refine and provide oversight in the development and implementation of proposals for the Somers Affordable Housing Code utilizing the Affordable Housing Report as a guide.
- To confer with banks and lending institutions for the purpose of identifying proposals to encourage affordable housing and to encourage such banks and lending institutions to identify and implement methods of reducing down payments, closing costs and mortgage rates.
- To advise and consult with public officials and boards for the purpose of advancing affordable housing concerns.
- To provide for public dissemination of information on affordable housing issues.
- To periodically report to the Town Board on progress relating to affordable housing.

**1992 Congregate Housing for Seniors.** Somers was also in the forefront of Westchester municipalities in implementing detailed zoning provisions permitting the construction of congregate housing for seniors. Again as part of the work to prepare the 1994 *Comprehensive Master Plan*, local officials concluded that there was a need in Somers for this emerging type of housing that could provide tailored services to seniors no longer able or interested in living on their own in single family homes. New zoning provisions were added to the zoning ordinance in July 1992 that permitted the establishment of congregate housing for seniors via special permit in Residence Districts. These provisions mandated that no less than 10% of the units in such a development shall be restricted in basic rent or sale price, exclusive of contract services, to serve persons of low/moderate income. One development was granted approval under these zoning provisions; however it never advanced to construction and the approval has lapsed.

**1996 Planned Hamlet District** In August 1996, as part of the Town Board's effort to implement recommendations of the 1994 *Comprehensive Master Plan*, the zoning code was amended to include a new Planned Hamlet District that was mapped on a large tract of land in the Baldwin Place hamlet. The regulations for this district (as amended by the Town Board in May 2002) contain the following provisions for multifamily residences:

Multifamily residences (must be provided in any PH District development, either alone or in combination with other permitted uses, and at least 10% of the permitted multifamily dwelling units shall consist of affordable dwelling units).

In addition, the regulations for the Planned Hamlet District include congregate housing and assisted-living facilities as a permitted use subject to the same requirement that at least 10% of the dwelling units must be affordable to persons of low/moderate income.

An application for approval of a development in the Planned Hamlet District is now being processed by the Town Planning Board. As currently configured in a sketch master plan, this development would provide 154 townhouses of which 15 would be built to meet the Town's definition of "affordable dwelling unit" (see below). The proposal also includes a congregate housing for seniors facility which

would be required to establish 10% of its units as affordable; the number of proposed senior units is not specified in the developer's application.

**2002 Affordable Housing Amendments** As noted above under "Planned Hamlet," the Town Board amended the zoning code in May 2002 to include more precise definitions and requirements for the provision of affordable housing. For example, the "purpose:" of the Multi Family District was revised to include "housing designed to satisfy the needs of households maintained by...families earning less than 80% of the county's median income." Further, the schedule of permitted uses was amended to require, "At least 10% of the basic permitted density shall consist of affordable dwelling units."

The "incentive density" provisions were also amended to partially implement the recommendations of the 1994 Town Plan. These amendments deleted several means by which a developer could qualify for a density bonus and placed greater emphasis on providing affordable housing. The current housing qualifiers for incentive density are:

- 1] Dwelling units designated for low-/moderate-income families. Dwelling units specifically restricted as follows
  - a] Affordable dwelling units: one additional market-rate unit for each affordable unit in excess of the required 10% of the base permitted density, but not to exceed a maximum increase of 15% in the number of market-rate units.
  - b] Senior citizen dwelling units: one additional market-rate unit for each three units of the basic permitted density which are reserved for senior citizen households, but not to exceed a maximum increase of 15% in the number of market-rate units
  - c] Rental dwelling units: one additional market-rate unit for each five units of the basic permitted density which are reserved for rental purposes only, but not to exceed a maximum increase of 15% in the number of market-rate units.

So as to remove any ambiguity about what the Town of Somers considers to qualify as housing for "low/moderate" income families, the definitions section of the zoning code was amended to include the following:

AFFORDABLE DWELLING UNITS -- Dwelling units limited in occupancy to households whose annual income does not exceed 80% of the actual Westchester County median income (not capped), as defined and periodically updated by the United States Department of Housing and Urban Development, and the annual rental cost of which does not exceed 30% of said income or, for homeowners, the annual ownership cost of which [the sum of principal, interest, taxes and insurance (PITI) and common charges, if any] does not exceed 30% of said income.

**2003 Business Historic Preservation District** In December 2003, the Town Board amended the permitted use schedule of the BHP District so as to limit many commercial uses in new structures to the ground floor and to require residential use on the upper floor(s). This change was intended to further the District's purpose of being a "mixed-use area of small-scale business, residential and public uses" as well as to encourage the construction of different, potentially more affordable, types of residences. The current provision states:

Such (specific types of commercial uses) uses shall also be permitted in a new building constructed after the effective date of this provision, provided that all such permitted offices are located only on the lowest level at grade that faces the major roadways of U.S. Route 202, N.Y. Route 100 or N.Y. Route 116 and residential uses are established on the upper level(s) of such building.

**2004 Waiver of Recreation Fee** In 2004, the Town Board revised its fee schedule so as to permit the Town to waive, in whole or in part, the payment of a recreation fee otherwise required to be paid as part of a development application. This waiver would only be granted if the waiver was found necessary or desirable so as to facilitate the development of affordable dwelling units.

#### **D. NEXT STEPS**

Since 1973, the Town of Somers has initiated many efforts to encourage the development of affordable housing. This groundwork was intended to open the way for private developers, property owners and homeowners to make proposals for private developments that would increase the supply of affordable housing. The number of private proposals has been less than expected. In addition, a few projects that went through a lengthy review process and received approvals did not advance to construction.

In recent years, the Town Board has recognized that there is a need for the Town to take more aggressive and pro-active steps to promote establishment of affordable housing. The zoning code amendments made in 2002 took a further step toward mandating the inclusion of affordable housing as part of specific types of new developments. These amendments built on the requirement to include affordable housing set for congregate housing for seniors in 1992. Further moves in this direction are warranted. As such, the Town acknowledges that housing should be produced for all persons of all income levels in Westchester County and there may be a shortage of affordable workforce housing in Westchester County. The Westchester County Housing Opportunity Commission in 1992 created an Affordable Housing Allocation Plan which sets forth its statement of affordable housing allocation goals for each municipality located within Westchester County. The Town has agreed to make good faith efforts to develop and implement this Plan as part of a program by the Town to facilitate development of affordable workforce housing. The Town's actions shall represent good faith efforts to realize within 10 years the development of the affordable housing allocation goals as specified in the aforementioned Westchester County Affordable Housing Allocation Plan. In order to achieve this affordable housing schedule the Town shall exercise good faith efforts to take measures within its authority to facilitate the development of this Plan while remaining consistent with the Town's obligations under the State Environmental Quality Review Act ("SEQR), the regulations of other government agencies with specific authority to regulate certain activities such as the permitting of a sanitary sewage treatment facility and the Town's obligations under its comprehensive plan and development policies and applicable Town laws, rules and regulations. The Town agrees to make a good faith effort to support applications for County, state and federal funding to aid the financial feasibility of an affordable housing development which are in accordance with the Town's comprehensive Plan and development policies and which comply with applicable laws, rules and regulations.

This plan outlines two areas of action – regulatory and other means.

### 1. REGULATORY ACTIONS

The Town Board will continue to explore and implement a variety of new measures that promote the establishment of affordable housing units. Town staff will be requested to draw on the experience of other Westchester municipalities to identify any regulatory measures that have taken that may be adaptable to Somers. Town staff will also be requested to consult with the Westchester County Department of Planning and other sources to identify example legislation from around the nation that may be suitable under New York State laws to consider for application in Somers.

Among others to be identified, the Town Board shall consider implementation of the following regulatory measures within the next five years. In considering such regulatory matters the Town Board will consider among other things: architecture, water overlay district, aquifer, infrastructure and other relevant factors.

- a. Further amend the incentive density provisions of the MFR District so as to limit the award of bonus density only for the inclusion of units meeting the Town's definition of "affordable dwelling unit."
- b. Amend the special conditions on the establishment of accessory apartments so as to make them consistent with the original recommendations of the 1994 *Town Comprehensive Master Plan*, in particular, to allow apartments to be permitted as part of new construction.
- c. Amend the special conditions on the establishment of accessory apartments to add necessary provisions that would permit such units to qualify as "affordable dwelling units."
- d. Amend the Business Historic Preservation district regulations so as to require all or a percentage of new housing units in new developments to be affordable.
- e. Based on the approach taken in the Town of North Salem, amend the zoning code so as to require a percentage of affordable housing units in all single-family subdivisions of ten lots or more. The regulations should permit flexibility in the physical configuration of such units (e.g. two-family homes) subject to buildings having a compatibly appearance of a single-family home.
- f. Review the provisions for housing, in particular affordable housing, in the regulations of the Neighborhood Shopping and Community Shopping districts to identify the need for amendments that could encourage a greater mix of uses that would include housing, appropriate for a hamlet center.
- g. Give consideration to the utilization of Traditional Neighborhood Zoning for the Planned Hamlet and the former "The Oaks" property (previously discussed in Section C. Accomplishments, 1992 Congregate Housing for Seniors)."

## 2. OTHER MEANS

The Town Board shall initiate the following items:

- a. The Town owns two rental properties that are leased with a caretaker/residence provision. The Town's Park and Recreation Department administers a rental unit at Koegel Park and the Town's Historic Properties Board administers the second unit, located at the Reis House. The Town shall explore the feasibility of leasing these housing units under provisions that would ensure that the units qualify as affordable housing units
- b. Staff support shall be provided to the Somers Affordable Housing Board ("AHB") to assist the board in meeting its purposes as set forth in the Town Code. The Town Board shall request regular updates on the activities of this board and direct it to work closely with the Westchester County Department of Planning and non-profit housing providers in the area (e.g. A-HOME).
- c. Specific plans of the Somers AHB such as the development of affordable housing for Senior Citizens will be reviewed and considered by the Town Board.
- d. Town staff will be directed to review the recommendations of the "Affordable Housing Action Plan" (August 2004) prepared by the Westchester County Housing Opportunity Commission for the purpose of identifying and recommending to the Town Board any measures that would be suitable and appropriate for action by the Town of Somers.
- e. The Somers Town Board will review policies and recommendations proposed to achieve the objectives regarding residential housing in the Town's Comprehensive Plan.

## E. REFERENCES

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**A PLAN FOR MORE AFFORDABLE HOUSING  
IN THE TOWN OF SOMERS, NEW YORK**

Page 9

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