



Stay and Thrive:

A Blueprint for Fair Rezoning and Development in Port Chester

The Village of Port Chester is planning a dramatic change to its zoning code that will pave the way for major new real estate development throughout the village. This rezoning could create a number of opportunities for Port Chester residents, but without vital community benefits and protections, the development resulting from the rezoning could drive many of us out of our homes and stores, crowd our schools, and bring more low-wage work to Port Chester.

Sustainable Port Chester Alliance is organizing for a rezoning that truly benefits the people of Port Chester. We recently began our “**Stay and Thrive**” campaign to push the Village Board of Trustees (BOT) and Port Chester Industrial Development Agency (IDA) to enact measures that will keep Port Chester affordable and ensure the rezoning leads to economic opportunities for residents. We call the campaign *Stay and Thrive* because we’re fighting for residents and small businesses to be able to **stay** in Port Chester and not be displaced by development or resulting rising rents, and, at the same time, for residents to **thrive** with quality education, successful local businesses and family-sustaining jobs created by the rezoning.

This blueprint explains how Port Chester can do just that. In it, we put forward a set of policies that will help keep families in their homes, prevent small businesses from shutting down, create new affordable housing, ensure fair funding for Port Chester’s schools, and create a path to life-changing careers in the building trades for Port Chester residents. Some of the policies can be written into the new zoning code or the Environmental Impact Statement (EIS) for the rezoning; others will require separate action by the BOT or IDA. But all are reasonable and based on best-practices from around the region or country.

We have divided the policies into two categories: **(a)** those that are designed to help Port Chester residents and small businesses **stay** in Port Chester; and **(b)** those that ensure that Port Chester residents have access to the job and educational opportunities needed to **thrive** right here in our village.

With these policies, the rezoning of Port Chester can create affordability and broadly shared prosperity. Without them, our community faces the threat of widespread displacement of residents and small businesses, worsened school overcrowding, and the continued proliferation of low-wage jobs.

SUMMARY of POLICIES

STAY

- **Expand the affordable housing requirements in the draft zoning code.** To create new affordable housing and offset potential displacement, require developers to set aside 30% of the apartments in their buildings for affordable housing at rents that are affordable for current working families and individuals in Port Chester. Require that existing Port Chester residents be given preference for these apartments.
- **Set aside public land for community land trusts to ensure permanent affordability.** Community land trusts (CLTs) are non-profit organizations that acquire land and make it permanently affordable for working families. CLTs own land and lease it to homeowners who own the houses or apartments on top of the land. This policy will encourage home ownership while creating permanently affordable housing.

- **Study and enact policies to protect residential tenants from harassment and eviction.** The Village should hire an expert to make recommendations about how to best protect tenants from being harassed and/or evicted as a result of the rezoning and resulting development.
- **Pass commercial lease renewal reform to protect small businesses.** To keep Port Chester’s small businesses operating in Port Chester, the Village should pass a resolution giving commercial tenants the right to a minimum 10-year lease with a renewal option, right to fair negotiation over the rent renewal, and restrictions to prevent landlords from passing their property taxes on to small business owners.
- **Work with the Town of Rye to establish a municipal land bank, or identify an alternative method to turn abandoned property into affordable housing.** As the taxing authority for Port Chester, the Town of Rye can create a municipal land bank with the right to acquire abandoned properties and sell them to developers that will turn them into affordable housing. If the Town of Rye won’t do this, the Village should identify alternative methods to accomplish this goal.
- **Use affordable housing funds committed by developers to the Village only to build or preserve affordable housing.** The remaining money contributed by past developers to affordable housing funds, as well as new funds put forth by future developers, should be used only to build affordable homes for residents or to keep residents in their current homes.

THRIVE

- **Ensure fair funding for Port Chester’s schools.** The Village should make sure that development does not lead to school overcrowding and that developers pay their fair share to help educate Port Chester’s schoolchildren. Developers should be required to pay “impact fees” for each new child that enters Port Chester’s schools from their respective developments. The Village and school system should also collaborate to publish data on how many students are being generated by new development.
- **Create a pipeline to well-paid careers in the building trades for Port Chester residents.** The Village and IDA can pass a set of policies that will make construction in Port Chester the path through which local residents begin life-changing, family-sustaining careers in the building and construction trades. It’s important that projects receiving major tax breaks or being developed on public land create these kinds opportunities for residents.
- **Require new developments to provide, or contribute to the creation of, public green space and community centers.** Developers should be required to provide green space or community centers in or around their buildings or else pay into a Village fund that will invest in these kinds of public spaces. A significant portion of this public space should be devoted to arts and cultural uses.

POLICIES in DETAIL

STAY

Expand the affordable housing requirements in the draft zoning code.

The new draft zoning code for the rezoning contains a provision requiring developers of new buildings with 10 apartments or more to set aside 10% of the units in their projects for affordable housing. This is a welcome addition to Port Chester’s housing policies, but the provision needs to be deepened and expanded if the rezoning is going to create anywhere near enough affordable housing to protect existing residents from displacement.

Without affordability requirements, the new luxury apartment buildings resulting from the rezoning will be far too expensive for most of the people living in and around downtown. According to estimates from the U.S. Census Bureau, median household income for renters in Census Tract 80, encompassing the downtown area where most of the largest new development will be, is just \$33,036 per year.ⁱ Nearly three-in-five renter households in the area are already either what the federal Dept. of Housing and Urban Development (HUD) calls *rent-burdened* (meaning they pay more than 30% of their household income toward rent) or *severely rent-burdened* (meaning they pay 50% or more of their household income toward rent).ⁱⁱ By HUD standards, for an apartment to be affordable for households earning the median income for the area, rent would need to be about \$896 per month. That's far less than the \$3,000 to \$4,000 that developers of the new luxury projects are likely to charge for a two-bedroom apartment based on rents at similar downtown buildings like the Castle and the Mariner.

For most tenants currently living in and around downtown to be able to afford to live in the new buildings, then, these buildings will need to include apartments priced for families earning as little as 30% of the Area Median Income (AMI) for Westchester County, or \$31,650 for a family of three. Apartments should also be set aside for families earning up to 50%, 60% and 80% of the County AMI. (Note: AMI for Port Chester is significantly lower than the Westchester County AMI, but developers, municipalities, and financing institutions tend to use the federal numbers put out by HUD, which are only calculated at the county level in Westchester.)

We, therefore, propose that the village revise the draft zoning code to require that 30% of new residential buildings with 10 or more units be affordable housing. Income eligibility for these affordable units shall be divided as follows:

- 8% priced for families earning up to 30% of Westchester AMI (or \$31,650 for a family of 3)
- 8% priced for families earning up to 50% of Westchester AMI (or \$52,700 for a family of 3)
- 8% priced for families earning up to 60% of Westchester AMI (or \$63,200 for a family of 3)
- 6% priced for families earning up to 80% of Westchester AMI (or \$84,300 for a family of 3)ⁱⁱⁱ

As permitted by federal and state law,^{iv} the Village should require that existing Port Chester residents be given preference for affordable housing in the new buildings. Moreover, where residents are displaced by a new building, those residents should be given first preference for affordable housing in the building that caused their displacement.

Set aside public land for community land trusts for permanent affordability.

Alongside the rezoning, the Village is considering contracting with a “master developer” that will guide the new development and negotiate the rights to purchase and build on Village-owned land. We propose that instead of selling *all* of the developable public land to the master developer, the Village should grant some of the land to what is called a “community land trust” to create new affordable home ownership opportunities for Port Chester residents.

Community land trusts (CLTs) are nonprofit corporations that steward and develop land on behalf of a community. CLTs remove land from the speculative market and give over control of the land to a community-controlled nonprofit corporation. Typically, a CLT acquires the land in perpetuity and leases property to individual homeowners on a long-term, renewable basis. While the land is owned by the CLT, any physical improvements on the land – i.e. houses or individual condominiums in a multifamily building – are owned by individual homeowners. The homes, not the land, can appreciate in value and be resold, with certain restrictions to ensure affordability. This arrangement allows homeowners to build up some equity without permitting speculation that drives up housing costs.

CLTs are structured as tax-exempt IRS 501c(3) non-profit corporations and are generally controlled by a board that includes equal representation from (a) the surrounding community, (b) residents

within the CLT, and (c) other important stakeholders (such as elected officials, local clergy, etc.). Currently, there are more than 250 community land trusts in the United States.^v

We call for at least one quarter of the total square feet of developable public land (not including parks) in Port Chester to be set aside as community land trusts. (To be clear, this would not mean that a quarter of every single public lot has to be set aside for the CLT. Rather, the Village would grant to the CLT a collection of publicly-owned developable parcels equal to 1/4 of the total square feet of all such parcels in Port Chester.)

It's important to note that CLTs pay property taxes, so the Village would generate revenue from properties converted to CLTs in Port Chester.

Study and enact protections for residential tenants.

The Village should retain a consultant to advise the BOT and staff on further policies that could be enacted to protect tenants from harassment and eviction. Funding for the consultant could come from what remains from the Affordable Housing Incentive Funds from the Castle and Mariner projects as well as new funds created by future developers. (See below, under **“Use affordable housing funds for...”**)

Pass commercial lease renewal reform to protect small business owners.

To protect small business owners, Port Chester should adopt best-practices from municipalities in other parts of the country that protect commercial tenants from eviction and unfair rent hikes.

One best-practice the Village should adopt is to make commercial leasing fairer for small businesses by guaranteeing commercial tenants the following protections:

1. A minimum 10-year lease with the right to renewal, so that commercial tenants can better plan for the future of their businesses.
2. Equal negotiation terms when it comes time to renew their lease with recourse leading to binding arbitration by a 3rd party if fair terms cannot be found.
3. Restrictions to prevent landlords from passing their property taxes on to small business owners.^{vi}

Work with the Town of Rye to establish a municipal land bank or identify an alternative method to turn abandoned property into affordable housing.

Land banks are generally government-created bodies that convert vacant, abandoned and tax-delinquent properties into productive use, taking advantage of state legislation that allows them to do this more efficiently and effectively than other public entities.

The 2011 New York Land Bank Act allows municipalities that collect property taxes to establish land banks with the power to obtain abandoned properties through tax foreclosure; hold properties tax-free; clear the title and extinguish back taxes for properties; lease properties for temporary uses; and negotiate sales of these properties based not only on the highest bid but also on the outcome that most closely aligns with community needs (like affordable housing).^{vii} The state of New York is currently home to 25 land banks actively working to return abandoned properties to productive use.

^{viii}

Because the Town of Rye collects property taxes for Port Chester, the Village cannot create a land bank on its own. It should, therefore, work with the Town of Rye to create a Town-wide municipal land bank that can acquire abandoned properties and prioritize their conversion to affordable housing. If the Town of Rye is not amenable to working with the Village on this, the Village should identify an alternative method to accomplish the goal of turning abandoned and tax-delinquent properties into affordable housing.

Use affordable housing funds for...the construction or preservation of affordable housing only!

A total of \$800,000 was contributed to Affordable Housing Incentive Funds by the developers of The Castle and The Mariner, luxury apartment buildings in downtown Port Chester. That money has never been used to construct or rehabilitate affordable housing. \$113,000 was used for new software for the Village, and nearly \$114,000 was used for two studies regarding building a new police station/municipal center. Another \$60,000 was used to pay for a village-wide property conditions study, which the Village claims is within a “reasonable nexus” of affordable housing.^{ix}

Combined, the two funds have a remaining \$512,428. These funds need to be used for measures that place or keep working Port Chester families in housing that they can afford, not for anything else. One measure they should be used for is hiring an expert that can identify measures the Village can take to help keep Port Chester residents in their homes as the rezoning and resulting development drive up rents and property values.

Moreover, commitments to these kinds of funds from future developers should not be used for anything other than the construction or preservation of affordable housing for Port Chester families.

THRIVE

Ensure fair funding for Port Chester schools

- **Require impact fees to mitigate overcrowding.** Impact fees are payments made by developers to offset the costs of their impacts on public services or amenities. Port Chester should require developers to pay impact fees to the school system equal to the costs of new students generated by their respective residential units. Rather than being assessed as a one-time payment, these fees should be calculated annually and adjusted based on fluctuations over time of the cost to educate each new student generated by the developments.
- **Regularly publish data about the number of schoolchildren generated by all new developments.** To ensure the public and lawmakers have access to the data they need to assess the impacts of development on the education of Port Chester’s children, the Village should collaborate with the school system to regularly publish the number of children generated by all new developments built within the last twenty years. The published data should also include information about the costs of educating the additional school children.

Create a pipeline to well-paid careers in the building trades for Port Chester residents.

The Village and Village Industrial Development Agency (IDA), the government entity that awards tax breaks and other subsidies to developers, can pass a set of policies that will make construction in Port Chester the path through which local residents begin life-changing, family-sustaining careers in the building and construction trades.

To do this, the Village and Village Industrial Development Agency should pass the following policies for **projects to be built on public land or projects that are substantially publicly-subsidized***:

- At least 10% of total work hours for constructing the project shall be performed by Port Chester residents, and an additional 15% of total works hours shall be performed by Westchester County residents.
- All construction contractors shall be required to have agreements with state-certified apprenticeship programs for each trade in which they employ workers.

- To ensure that workers are paid fairly, all construction contractors shall pay prevailing wages. Alternatively, a developer can enter into a Project Labor Agreement with Westchester building trades unions.
- The Village and/or IDA shall provide funding for a pre-apprenticeship program which will prepare Port Chester residents to begin their apprenticeships with union trades and go to work on Port Chester construction projects.

These policies are given added importance by the history of irresponsible practices on construction projects in Port Chester. Projects like the Castle and the Mariner employed irresponsible contractors with records of wage theft and unsafe jobsites. The Castle had safety issues that endangered workers and the public, such as when plywood blew off the rooftop and into the street and power lines. A group of workers constructing the Castle reportedly faced wage theft. And, just recently, a demolition contractor operating at 18 South Main Street was working illegally, ignoring a stop-work order from the buildings department, when an accident sent debris showering onto the street and sidewalk. In addition to creating job opportunities for residents and a boost for the local economy, policies that require responsible contractors on publicly-subsidized development will ensure that these jobsites are free of wage theft and significantly safer.

*The policy should apply to all projects for which the Village or IDA are a “market participant,” meaning these government entities have a financial interest in the project’s success. This includes projects on land owned by the Village or IDA; projects financed with bonds issued by the IDA; and projects receiving tax breaks from the IDA in the form of a payment-in-lieu-of-taxes (PILOT) program.

Require new developments to provide, or contribute to the creation of, public green space and community centers.

Compared with other parts of the village and with the downtowns of other municipalities of its size, downtown Port Chester has relatively little public green space. The area also lacks public indoor spaces that can serve as community centers where residents can gather to foster a sense of civic participation and pride.

The Village should use the rezoning to address these shortcomings. Developers should be required to provide public green space and/or community centers in their new buildings. A portion of this community space should be committed to arts and cultural space. Alternatively, developers could contribute to a fund maintained by the Village for the creation of these spaces.

ⁱ United States Census Bureau/American Fact Finder, "S2503: Financial Characteristics," *2013-2017 American Community Survey*, U.S. Census Bureau's American Community Survey Office, 2018.

ⁱⁱ United States Census Bureau/American Fact Finder, "DP04: Selected Housing Characteristics," *2013-2017 American Community Survey*, U.S. Census Bureau's American Community Survey Office, 2018.

ⁱⁱⁱ Westchester County Area Median Income data available here:
<https://homes.westchestergov.com/images/stories/pdfs/18IncLimitsGuideMay.pdf>

^{iv} Federal and state law permits local governing bodies to enact so-called “local occupancy preferences” as long as they are (a) based on an assessment of local housing needs, and (b) do not require beneficiaries of the policy to have resided locally for a certain amount of time. See this memo from the NYS Dept. of Homes and Community Renewal:
<http://www.nyshcr.org/AboutUs/Offices/HousingOperations/2016-A-02.pdf>

^v A list and map of CLTs in the United States is maintained by the National Community Land Trust Network and available at: <http://cltnetwork.org/directory/>

^{vi} These measures are the same as policies outlined in the Small Business Jobs Survival Act bill currently under review by the New York City Council. The bill was developed based on best-practices from around the country. The text of that bill and more information is available at:

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3458244&GUID=D10860C6-E6C7-416E-8F05-563B4551EDB7>

vii <http://syracuselandsbank.org/wp-content/uploads/2014/02/NY-Land-Banks-report.pdf>, page 8

viii <http://nylandbanks.org/ny-land-banks/>

ix Jananne Abel, "Village has \$1.4 million to spend," *Westmore News*, Sept. 13, 2018.