



## Just and Sustainable Development: A Framework for Port Chester

Port Chester has been a Village for more than 150 years, and a place where peoples of many backgrounds and interests have come to live, work and build community for far longer. Given that history, Sustainable Port Chester Alliance (the Alliance) believes that any framework for the future development of our village should be long-range and proactive. In particular,

development policy should not be driven by the short-term needs of a small number of highly vocal actors, including but not limited to, well-funded developers who have only recently become enamored with our Village. Instead, development of the Village should be driven by the long-term needs of the entire Village, including its residents - of all ages, races, incomes and ethnic backgrounds, and its businesses - small as well as large, tenants as well as property owners.

This policy statement lays out a more just and sustainable Framework for development of Port Chester than what is offered by the recently adopted form-based zoning code. We strongly support development that will help the Village grow and prosper. But we are deeply troubled by the Village government's casual encouragement of large scale projects in the historic downtown that will permanently destroy the character that makes Port Chester unique and welcoming, and which will displace wholesale both residents and many unique small businesses which have helped rebuild our Village. These residents and businesses are the foundation of Port Chester's vibrant "visitor economy" and should be supported, not displaced.

The Alliance's framework places greater value on our history, community character and existing residents and small businesses. It values modest, incremental development that will complement and enhance the best of what we now have, not large-scale demolition with the hope that what eventually replaces our current downtown will somehow be better. It requires a greater level of truly affordable housing. It calls for the support of local employment and small businesses by requiring developers and contractors to adhere to a set of guidelines that promote local hiring, good paying jobs and the use of minority- and women-owned small businesses. And it insists that we include and mitigate now, not at some indeterminate future date, with yet-to-be-identified funds, the adverse economic and social impacts of development on current residents and small businesses, including, but not limited to, displacement.

Underlying all aspects of our framework, is a greater emphasis on inclusiveness. The Village needs to foster a much greater level of participation and decision-making than it has to date. It needs to ensure the voices of small businesses, people of all incomes, ethnicities and neighborhoods, and people whose first language is not English, are given equal opportunity to be heard. This includes, for example, measures such as bi-directional translation of government meetings and documents. And it needs to ensure the staff, boards and commissions that implement the Village's development framework reflect the gender, ethnic and socio-economic diversity of Port Chester.

Finally, this paper is a companion to the Article 78 lawsuit filed in September 2020 with the NAACP and others. That suit asks the court to require the municipality to re-study the socio-economic impact of the form-based code on low-income and people of color and offer appropriate mitigation. Our framework is meant to demonstrate what a more inclusive, just and sustainable development policy could look like.

The Alliance's framework is based on six broad pillars outlined in this paper.

## **The Alliance's Six Pillars of Just & Sustainable Development**

### **1. Improve Fiscal Strength and Stability**

- Amplify rather than disrupt Port Chester's vibrant visitor economy
- Focus development on vacant, dilapidated or substantially underutilized parcels
- Discourage demolition of occupied, tax-paying commercial properties
- Focus the IDA's powers to abate property tax revenues to benefit the Village's residents and businesses -not just developers

### **2. Support Local Employment and Small Businesses**

- Require project developers to meet specific requirements for local hire and training, fair bidding, M/WBE participation and jobsite health and safety
- Target tax incentives to existing local business
- Participate in Westchester County's Minority & Women-Owned Business Task Force
- Better promote grant funds available to help small businesses affected by COVID

### **3. Preserve Community Character**

- Dial back the size, height and density of development in the urban core and center
- Encourage development of vacant or truly underutilized parcels downtown in ways that complement and enhance the existing community character of downtown
- Embrace the proposed nomination to the National Register of two historic districts in the downtown as an opportunity for development, not a hindrance
- Promote adaptive re-use of existing older and historic buildings
- Provide stronger protections for existing local businesses
- Require large scale developments to include cultural and community space

### **4. Increase Truly Affordable Housing**

- Require 20% of units in developments larger than 10 units to be truly affordable
- Limit or eliminate the ability of developments to meet affordable housing requirements through payment of in-lieu fees instead of providing units on-site
- Give preference to Port Chester residents in new affordable units, where possible
- Put the Village's existing affordable housing funds to work

### **5. Mitigate the Negative Impacts of Development**

- Require developments to offer commercial tenants displaced by development a right to return when construction is completed.
- Require developments which displace current residential and/or commercial tenants to provide relocation support
- Ensure public schools can accommodate the new students generated by development
- Enforce the collection of fair share mitigation funds

### **6. Envision an Environmentally Sustainable Future**

- Promote transit-oriented development in all areas walkable to the train station, not just the existing urban core and urban center
- Limit additional development in flood-prone areas
- Help property owners access NYSERDA and other funding sources for energy conservation and "green" building improvements
- Require new developments to minimize water runoff and heat-island effects
- Explore ways to incentivize new developments to include green energy
- Plan for alternatives to car-dependent transportation within the Village
- Place a temporary moratorium on new residential development

## 1. Improve Fiscal Strength and Stability

For Port Chester to be a just and sustainable community, it must be fiscally sustainable in the long-run. Development in Port Chester should therefore serve to maintain and improve the Village's fiscal strength and stability. Key steps to achieving this goal include:

- Amplify, rather than disrupt, Port Chester's vibrant visitor economy. It's no accident that the heart of the Village's visitor economy has developed along the historic Main Street and Westchester Avenue corridors with their walkable streets, human-scale structures, and rich, varied architectural fabric. Variety and richness in the built environment foster variety and richness in the economy. We believe that Port Chester's vibrant visitor economy will be irreparably harmed by allowing the diversity of the Village's downtown to be replaced by oversized, cookie-cutter developments tenanted by chain-franchise establishments.
- Increase the Village's real estate tax base by focusing development on vacant, dilapidated or substantially underutilized parcels (including the adaptive reuse of underutilized manufacturing or historic properties), which currently contribute minimally to the Village's tax revenues.
- Actively discourage demolition of occupied, tax-paying commercial properties. Demolition of such structures not only results in the displacement of existing community business and the loss of the Village's architectural fabric, it too often leaves the village with vacant, undeveloped lots for years, which contributes neither economic vitality nor real estate taxes.
- Focus the IDA's powers to abate property tax revenues for years so as to benefit the Village's residents and businesses, not just developers. Developers were incentivized under the prior code to claim development wasn't possible without zoning variances and generous IDA subsidies. One of the main arguments for a form-based code is that a simpler code and more predictable approval process will result in less wrangling, fewer variances and a clearer path to eligible development. The same should hold true for IDA tax subsidies: with a clearer guide for what development is possible, there should be no need for the IDA to give away the fiscal benefits of development to those projects which can afford sophisticated legal counsel, regardless of whether the subsidies are truly necessary for development to happen.

## 2. Support Local Employment and Small Businesses

Port Chester is home to a vibrant and aspiring economy that includes service firms, construction contractors, supply houses, eating and drinking establishments, entertainment venues and young people looking for a career that will support a family. Development policy in Port Chester should support and build on the strengths and diversity of its existing economy, not replace it with cookie-cutter businesses targeted to a "new demographic" that may or may not come here. Most importantly, development in Port Chester needs to support good paying and safe jobs for local residents, as well as new opportunities for local businesses. Key steps to achieving this goal include:

- On a case-by-case basis, require developers to meet the requirements for local hire, proper training, fair bidding, M/WBE participation, and jobsite health and safety spelled out in detail in **Appendix A** (attached).
- Target tax incentives to owners of existing local businesses that want to expand and grow, particularly if they choose to restore and repurpose existing properties.
- Participate in Westchester County's Minority & Women-Owned Business (M/WBE) Task Force to boost opportunities for Port Chester's businesses owned by women and people of color.
- Better promote the availability of grants funded with CDBG and IDA funds (up to \$10K for those with less than 5 employees) to help small COVID impacted businesses survive the pandemic.

### **3. Preserve Community Character**

The unique “village” character and historic charm of downtown Port Chester and adjacent residential areas is an irreplaceable asset that drive a major portion of Port Chester’s economy. Village development policies should protect and enhance this asset for future generations, not put it at risk of irreversible harm for the promise of short-term gains that may or may not be realized. Key steps to achieving this goal include:

- Dial back the size, height and density of allowed development in the urban core and urban center districts to limit the incentive to assemble and demolish multiple properties to create mega-block developments. Fewer stories and narrower lot widths are two necessary changes.
- Encourage development of vacant or truly underutilized parcels in the urban core and urban center in ways that complement and enhance the existing community character of downtown Port Chester. New development should be architecturally compatible with existing, adjacent buildings.
- Embrace the recently proposed nomination to the National Register of two historic districts along Main Street and Westchester Avenue as an opportunity for development, instead of viewing it as a hindrance to development. State and National register status affirms the value of Port Chester’s historic core and offers generous tax credits (up to 40% of rehabilitation costs) for the substantial rehabilitation of historic properties. Free money from the State and Federal governments, if you will, to polish and improve Port Chester’s existing architectural bounty, while simultaneously enhancing the Village’s tax base.
- Promote adaptive re-use of existing older and historic buildings, including industrial and manufacturing properties which may not be eligible for the National or State registers.
- Provide stronger protections for the many unique local businesses that make downtown Port Chester a regional destination.
- Require developments of more than 100,000 square feet to have free or low-cost space for cultural and community activities at a rate of 1,000 square feet per 100,000 square feet developed. Cultural and community activities include arts, music, dance, events and community meetings.

### **4. Increase Truly Affordable Housing**

Port Chester’s median income currently ranks second from the bottom among the 43 municipalities in Westchester. The Village should promote development which meets the needs of existing residents, as well as welcoming new residents. This means requiring new development to go beyond the existing County requirement that 10% of units in buildings with 10 or more units be set aside for affordable housing. Key steps to achieving this goal include:

- Require 20% of units in developments larger than 10 units be set-aside for truly affordable housing, consisting of 10% of units affordable at 60% of the County AMI and 10% of units affordable at 80% of the County AMI.
- Substantially limit or eliminate the ability of developments to meet the affordable housing requirement through payment of a fee-in-lieu of providing units on-site. Much research shows clear benefits to all residents of truly mixed-income communities. New development should

help maintain Port Chester as a vibrant mixed-income community, not create pockets with widely disparate incomes.

- Require developments which do not receive state or federal subsidies to give preference to Port Chester residents when leasing the development's affordable units. Existing residents have a commitment to the community that will likely make them long term tenants, benefiting the new development, as well as the community.
- Put the Village's existing affordable housing funds to work now! Funds from in-lieu affordable housing fees should be put to work supporting developments which meet the Village's goals of maintaining community character and providing affordable housing. Funds must be used in an open and transparent manner to ensure such monies fund the intended purpose of expanding affordable housing.

## **5. Mitigate the Negative Impacts of Development**

Any development framework, including the framework proposed in this paper, may have negative impacts on individual residents, small businesses and the larger community infrastructure. SEQRA requires that environmental reviews provide "a description of mitigation measures" and all Village Board Findings must certify that adverse social, economic and other impacts "...will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable." This applies to the Village as a whole and directly to residents and/or businesses that may be displaced by development. The Village must require developers to provide specific mitigative measures in accordance with the following:

- Require developments to offer commercial tenants displaced by development a right to return when construction is completed.
- Require developments which displace current residential and/or commercial tenants to provide relocation support, including professional relocation assistance, moving expenses, and funds to offset rent increases for at least 3 years.
- Ensure public schools can accommodate the number of new students generated by development. Plan for the school expansion necessary per the full build-out analysis and revisit the one-time fair share contribution of \$27,000 per school-aged child to ensure adequate capital and operating funding for the school infrastructure required by full build-out.
- Enforce the collection of fair share mitigation funds (per the new code's FGEIS Findings) to compensate the Village for the upgrades and expansion of emergency services, wastewater and storm water capacity, and solid waste management required by new development in the Village. Hire or designate dedicated staff to ensure use of such funds is transparent and limited to the intended purposes.
- Place a moratorium on new residential development until the 1,142 units in six projects already approved by the Village are completed and the impacts of those new units on public schools, infrastructure and municipal services can be evaluated. Development policy, including the form-based code, should be adjusted based on that evaluation.

## 6. Envision an Environmentally Sustainable Future

Climate change is but one of several environmental problems that will challenge the Village's future. Development policy in Port Chester must aggressively and pro-actively address those challenges to ensure the health and well-being of the Village for the next 150 years, not just the next 15. Key steps to achieving this goal include:

- Promote transit-oriented development in all areas walkable to the train station, not just the existing urban core and urban center. Substantial areas along the Midland Avenue and Route 1 corridors now zoned CD-4 are within walking distance of the train station, have substantially fewer historically important structures than the urban core and center, and could easily support the kind of denser, mixed-used development currently allowed in the urban core and urban center districts.
- Limit additional development in flood-prone areas. Long Island Sound and the Byram River are not done rising!
- Require that new developments meet nationally recognized standards for environmental sustainability: LEED for large projects capable of handling the documentation and commissioning requirements; all others should conform to ComCheck or ResCheck Energy Standards, Energy Star and WaterSense Sustainability initiatives. Require all developments to have Dark Sky compatible exterior lighting.
- Actively help owners of existing properties, as well as new developments, access NYSERDA and other funding sources for energy conservation and "green" building improvements.
- Require new commercial developments to use water-permeable paving materials for all paved plazas and parking lots to reduce water runoff, and include shade trees in tree-pits and plentiful shrubbery to reduce heat-island effects.
- Explore ways to incentivize new developments to include green energy, such as solar or geothermal.
- Plan for alternatives to car-dependent transportation within the Village to relieve traffic congestion and reduce local parking needs.

## APPENDIX A: Details for the Support of Local Employment and Small Businesses

Development in Port Chester needs to support good paying and safe jobs for local residents as well as new opportunities for local businesses. This can be achieved by requiring developers, on a case-by-case basis, to retain **project managers, contractors and subcontractors** that are:

1. Located in Westchester to perform at least 75 percent of the contractor work, as measured by total contractor hours
2. Minority and Women Owned Business (M/WBE) to perform at least 35% of the contractor work, as measured by total contractor hours
3. Willing to hire local residents for at least 85% of the total construction hours, 10% of which shall be residents of Port Chester, 25% from the other parts of Westchester and the rest from residents of Putnam, Dutchess, Rockland, Orange and Fairfield Counties and the Bronx. Within each of these categories people of color, women and veterans should receive preference
4. Enrolled in a New York State certified apprentice program that has graduated at least 10 students over the last 24 months
5. Willing to pay the costs of any certified pre-apprenticeship training program that will make it possible to meet the local hire provisions of Point #3 above
6. Able to document a history of providing fair and open bidding for unionized firms
7. Able to document the absence of substantial violations of health and safety (including injuries and deaths), wage theft, insurance fraud, racial or sex discrimination or harassment, corruption and waste management
8. Able to document that all their employees and workers have completed the OSHA 10 course within five years and stay current every five years
9. Willing to enter into a negotiated agreement with the Westchester and Putnam Building and Construction Trades Council that can substitute for Point #3 through #8 above
10. Willing to remain neutral with regard to any organizing efforts to unionize the permanent employees of the operating building

Prior to being authorized to go forward with a project, developers must provide a sworn affidavit that attests to their efforts to retain firms that meet the regulations outlined in the nine Points above. All contractors and subcontractors must submit a standardized Disclosure Form that identifies any history of violations listed in Point #7 above for the past five years plus certification of Points #4 and #8. In addition, the developer must file a plan that spells out how they will make sure retained contractors and subcontractors continue to comply with the rules and regulations itemized above.

To help monitor compliance the Village should institute the following enforcement provisions requiring all developers to secure the following reports from all contractors and subcontractors working on their project and make these reports available to the Village:

1. Provide a quarterly report documenting that the provisions In Point #1 and Point #2 above are being achieved.
2. Submit a monthly certified Payroll Report detailing for each contractor or subcontractor employee's hours worked, days worked, rate of pay and total hours worked for each residential group itemized in Point #3 above. The developer shall aggregate the submitted data from each contractor and subcontractor for a monthly Project Report to the Village that will be available for public review on a timely basis.
3. In the event of noncompliance of any of the provisions above, developers, contractors and subcontractors will be subject to liquidated damages as determined by the Village Manager.