

**VILLAGE OF PORT CHESTER  
BOARD OF TRUSTEES  
Meeting, MONDAY, January 7, 2013  
PROPOSED EXECUTIVE SESSION 6:30-7:00PM  
Regular Meeting: 7:00 P.M.  
VILLAGE JUSTICE COURTROOM  
350 North Main Street  
Port Chester, New York  
REVISED AGENDA**

**TIME: 6:30 P.M.**

|   | <b>PROPOSED MOTION FOR EXECUTIVE SESSION</b> | <b>ACTION</b> |
|---|----------------------------------------------|---------------|
| 1 | Taryn Herbert interview (Beautification)     |               |
| 2 | Evelyn Petrone interview (ZBA)               |               |

**TIME: 7:00 P.M.**

| <b>I</b>   | <b>AWARD PRESENTATION</b>                                                                                                                                                     | <b>ACTION</b> |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 1          | Presentation to Port Chester students selected for NYS Honors Band (7pm).                                                                                                     |               |
| <b>II</b>  | <b>AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:</b>                                                                                                                 | <b>ACTION</b> |
| 1          | Public hearing regarding draft local law to amend Section 354-61W.(1) of the Village Zoning Code, Special Exception Criteria for an Automobile Dealership Service Center Use. |               |
| <b>III</b> | <b>WORK SESSION</b>                                                                                                                                                           | <b>ACTION</b> |
| 1          | Ethics reform                                                                                                                                                                 |               |
| 2          | Housing Rehabilitation Program                                                                                                                                                |               |
| 3          | Consultation with staff and Mr. Finkel from Bond, Shoeneck & King for Temporary Certificate of Permitted Use.                                                                 |               |

|            |                                                                                                                         |               |
|------------|-------------------------------------------------------------------------------------------------------------------------|---------------|
| 4          | Local Waterfront Revitalization Program (LWRP) Workshop                                                                 |               |
| 5          | Comprehensive Plan related Zoning Text & Map Amendments                                                                 |               |
| 6          | NYS Legislative Priorities                                                                                              |               |
| <b>IV</b>  | <b>PUBLIC COMMENTS</b>                                                                                                  | <b>ACTION</b> |
|            |                                                                                                                         |               |
| <b>V</b>   | <b>RESOLUTIONS</b>                                                                                                      | <b>ACTION</b> |
|            | <b>Planning</b>                                                                                                         |               |
| 1          | SEQRA Positive – Starwood Capital Group / United Hospital Redevelopment                                                 |               |
| 2          | Acceptance of Draft scoping document setting of Public Hearing – Starwood Capital Group / United Hospital Redevelopment |               |
|            | <b>Administration</b>                                                                                                   |               |
| 3          | Port Chester Rye Brook Fire Contract                                                                                    |               |
| 4          | Designation of March 19, 2013 as Election Day with polling locations and time.                                          |               |
|            | <b>Senior / Nutrition Program</b>                                                                                       |               |
| 5          | Senior program Agreements                                                                                               |               |
|            | <b>Department of Public Works</b>                                                                                       |               |
| 6          | Equipment purchase – Field Conditioner for parks.                                                                       |               |
|            | <b>Finance</b>                                                                                                          |               |
| 7          | Capital project closing                                                                                                 |               |
| <b>VI</b>  | <b>REPORT OF THE VILLAGE MANAGER</b>                                                                                    |               |
| 1          | FEMA Update                                                                                                             |               |
| 2          | Update on the condition of 350 North Main Street                                                                        |               |
| <b>VII</b> | <b>MINUTES</b>                                                                                                          | <b>ACTION</b> |
| 1          | Minutes from September 4, 2012                                                                                          |               |
| 2          | Minutes from September 18, 2012                                                                                         |               |
| 3          | Minutes from October 1, 2012                                                                                            |               |
| 4          | Minutes from October 15, 2012                                                                                           |               |

|             |                                           |               |
|-------------|-------------------------------------------|---------------|
| 5           | Minutes from October 17, 2012             |               |
| 6           | Minutes from October 22, 2012             |               |
| <b>VIII</b> | <b>CORRESPONDENCE</b>                     | <b>ACTION</b> |
|             | From Evelyn Petrone                       |               |
|             | Zarin & Steinmetz Attorneys at Law        |               |
| <b>IX</b>   | <b>PUBLIC COMMENTS AND BOARD COMMENTS</b> | <b>ACTION</b> |
|             |                                           |               |

**PROPOSED MOTION  
FOR  
EXECUTIVE SESSION**

# **AWARD PRESENTATION**

AFFIDAVIT OF PUBLICATION  
AND  
NOTICE OF PUBLICATION RE

RESOLUTION  
SET PUBLIC HEARING AMENDING CHAPTER 345,  
WITH REGARD TO PERMITTING COSMETIC RECONDITIONING WORK ON  
VEHICLES AT AUTOMOTIVE DEALERSHIP SERVICE CENTERS

On motion of TRUSTEE MARINO, seconded by TRUSTEE BRAKEWOOD  
the

following resolution was adopted as amended by the Board of Trustees of the Village of  
Port Chester,

New York:

WHEREAS, petition was made for the Board of Trustees to amend Chapter 345-  
61 with regard to Automotive Dealership Service Centers so as to permit the cosmetic  
reconditioning of vehicles; and

WHEREAS, the Planning Commission has favorably recommended the proposed  
amendment. Now, therefore, be it

RESOLVED, that a public hearing is to be held on Monday, January 7, 2013 at  
7:00 p.m. at the Village Justice Courtroom, 350 North Main Street, Port Chester, New  
York 10573, to consider the advisability of adopting a local law to amend the Code of the  
Village of Port Chester, Chapter 345, Section 345-61W with regard to permitting  
cosmetic reconditioning work on vehicles at automotive service centers.

Approved as to Form:

\_\_\_\_\_  
Village Attorney

ROLL CALL

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: December 3, 2012

SEQR DETERMINATION OF SIGNIFICANCE  
NEGATIVE DECLARATION  
AND REFERRAL TO BOARD OF TRUSTEES

RESOLUTION OF THE VILLAGE OF PORT CHESTER  
PLANNING COMMISSION

November 26, 2012

110 Midland Avenue  
Section 142.46 Block 1 Lot 1

WHEREAS, the Village of Port Chester Planning Commission is in receipt of a zoning text amendment petition and site plan application submitted by Arconics Architecture and DCH/Dent Wizard, for property located at 110 Midland Avenue, more specifically known and designated as Section 142.38 Block 2 Lots 24 & 25; and

WHEREAS, the proposed action involves the amendment to Section 354-61W of the Village Zoning Code regarding "Automobile Dealership Service Center" special exception use; and

WHEREAS, the project is defined as an Unlisted Action; and

NOW THEREFORE BE IT RESOLVED, that pursuant to Part 617 of the SEQR Regulations, the Village of planning Commission designated itself as the Lead Agency on September 24, 2012 for the SEQR Review of this Unlisted Action; and

BE IT FURTHER RESOLVED, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Unlisted Action will not have a significant effect on the environment for the reasons enumerated in the attached Negative Declaration Form and thus refers the submitted petition for zoning text amendment to the Village of Port Chester Board of Trustees for discretionary action.

On the motion of *CURETON*, seconded by *PELLON*, it was adopted by the following vote:

Ayes: *ANTAKE, BARTON, COPPING, GIBBY, SCAROLA*

Nays:

*[Signature]*  
Michael Scarola, Chairman

*This resolution was thereupon duly adopted*

617.21  
Appendix F  
**State Environmental Quality Review**  
**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**

Project Number \_\_\_\_\_

Date November 26, 2012

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village of Port Chester Planning Commission as lead agency, has determined that the proposed action described below will not have a significant effect on the environmental and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:**

110 Midland Avenue - Automobile Dealership Service Center (ADSC) Special Exception Use Zoning Text Amendment

**SEQR Status:**

Type I

Unlisted

**Conditioned Negative Declaration:**

Yes

No

**Description of Action:**

Text amendment to Section 354-61 W of the Village Zoning Code regarding "Automobile Dealership Service Center" (ADSC) special exception use to permit cosmetic reconditioning equipment including paint less dent removal.

**Location:**

110 Midland Avenue, Port Chester, Westchester County, Section 142.46, Block 1, Lot 1  
(see attached map)

SEQR Negative Declaration

**REASONS SUPPORTING THIS DETERMINATION:**

See attached.

If **Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed.

**For Further Information:**

Contact Person: Christopher Steers, Village Manager

Address: 222 Grace Church Street, Port Chester, NY 10573

Telephone Number: 914-939-2200

**For Type I Actions and Conditioned Negative declarations, a Copy of the Notice sent to:**

Commissioner, Dep't of Environmental Conservation, 625 Broadway, Albany, NY 12233  
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561  
Mayor, Village of Port Chester, 222 Grace Church Street, Port Chester, NY 10573

## REASONS SUPPORTING THIS DETERMINATION

Potential impacts relating to the zoning text amendment:

1. The subject parcel is located in the M2 General Industrial District the most intense industrial zone in the Village. The M2 District is the only one to permit Automobile Dealership Service Centers (ADSC) as a Special Exception Use and is only mapped in two areas in the Village. Existing special exception criteria for the ADSC use (requirement that all repair take place inside facility, proximity to major highway, minimum floor area etc.) effectively limit the ADSC use to several parcels on the Midland Avenue Corridor and as such the proposed text amendment to said special exception use criteria to permit limited paint and auto conditioning activities will be limited to those sites.

The neighborhood surrounding the site has traditionally supported diverse uses, including commercial and industrial uses consistent with the ADSC facility. The zoning text change would permit operation of an accessory use to the dealership that is consistent with the diverse land use character of the neighborhood. No adverse land use impacts will result from the development of the site as proposed.

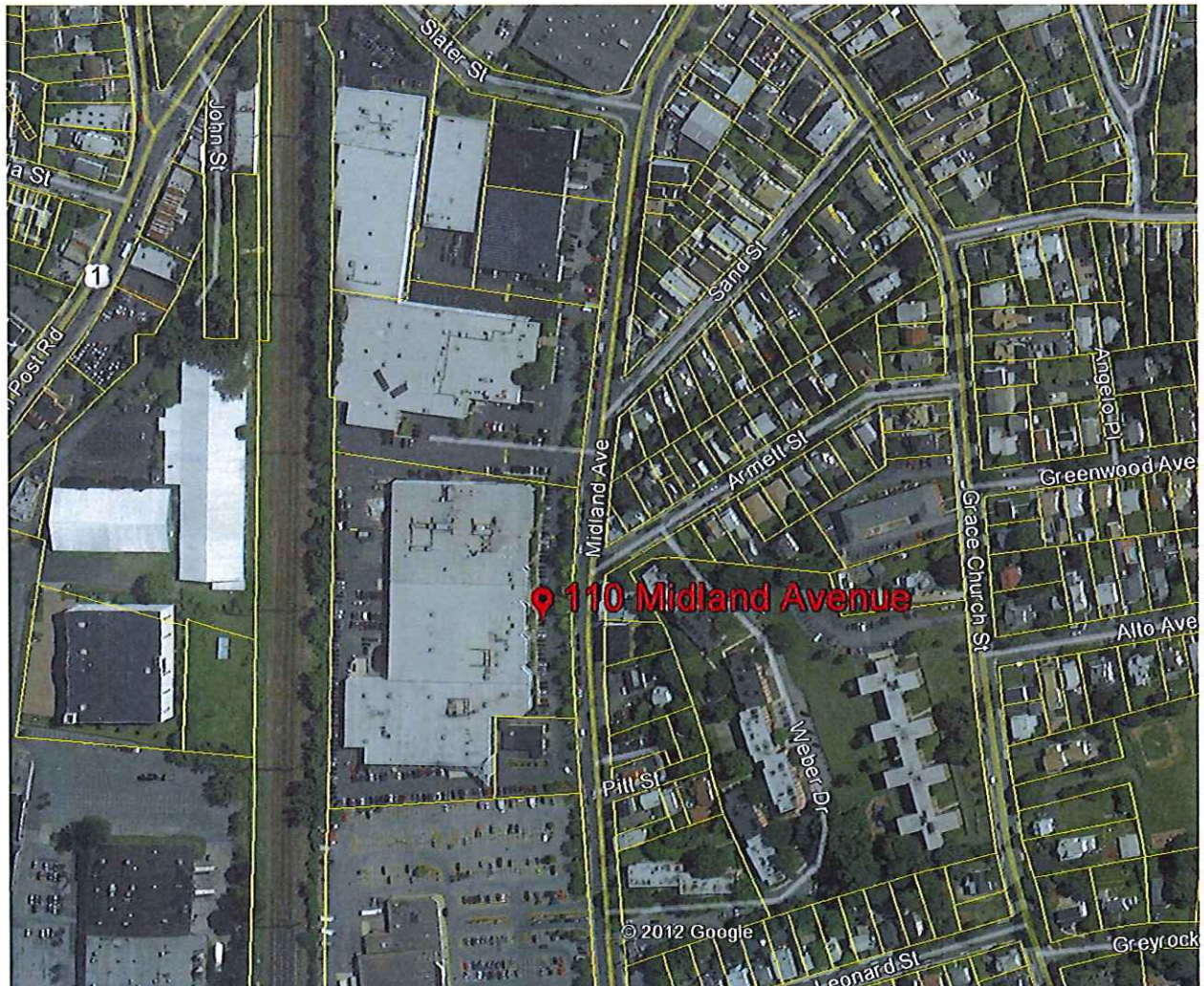
2. All cosmetic reconditioning will be done on the premises, within the existing building envelope and thus will not represent a visually disruptive impact.
3. The site currently has 175 on-site parking spaces and 52 interior service lifts. The off-street parking requirement for ADSC is to provide sufficient parking spaces for all vehicles being stored or being serviced at any period of time. The 52 service bays, 2 alignment bays and 3,200 square foot interior valet serviced vehicle storage more than satisfy this parking requirement. The total office area allotted to this use is 8,000 square feet, which equates to 40 spaces and the retail boutique area are of 750 square feet which equates to four spaces.

Further, new vehicles are dropped off by tractor trailer to the site, warehoused within the structure, and then portered to offsite facilities. No adverse parking or loading impacts are anticipated.

4. The proposed action will not result in the significant increase in new vehicular trips to the site. Only BMW customers will be permitted to utilize the cosmetic reconditioning service during normal hours of operation Monday through Friday, 7am-7pm and Saturday 8am-4pm as a customary accessory use to the existing dealership facilities. As such, no negative traffic impacts are anticipated.
5. The proposed cosmetic reconditioning use will not result in air quality impacts. No new construction activities are proposed. As stated by the Westchester County Department of Health, "Emission from the mixing process is considered trace due to the use of waterborne color coatings, small batches of solvent borne paint mixed, minimal surface area...and minimal exposure of volatile solvents".

6. No negative impacts to surface water features will result from the proposed action. No surface water features are located on the site or in the immediate vicinity of the site. Furthermore, the site is essentially entirely covered by impervious surfaces, and on-site stormwater management facilities adequately address site stormwater impacts and will not be impacted by the proposed use.
7. No new site disturbances are proposed. As such no potential exists to create soil erosion and sedimentation impacts.
8. No noise impacts are anticipated as a result of this zoning text amendment. All cosmetic reconditioning work will be performed within the existing building envelope and will not create an ambient noise condition audible to surrounding properties.
9. All solid waste generated by the project, including excess water-based paint, shall be collected on site, and shall be disposed of through arrangements with private carters. Further, the proposed reconditioning operation is expected to generate five gallons of waste every three months and will be disposed of by Safety Klean, Inc., an environmental vendor. No adverse impacts are anticipated.
10. The project will not result in any impact to the existing infrastructural network. No new sanitary sewer, water or other utility connections are proposed.
11. The project will not create any flooding impacts. No new structures are proposed.
12. The proposed action will not result in any negative impacts on wetland resources. No wetlands are located in the vicinity of the site.
13. The proposed action will not result in any impacts to existing vegetation. The site is currently fully developed.
14. There will be no impact on a significant habitat area as a result of this project. No threatened or endangered species of animals or the habitat of such species have been identified on the site according to the NYS Natural Heritage Inventory.
15. The proposed action will not impair the character or quality of important historical, archaeological, or architectural resources. No such resources are located on or in the vicinity of the site according to the State Historic Preservation Office and the Westchester County Department of Planning.
16. The proposed action will not result in a significant change in the way energy is currently used on the site. It can therefore be concluded that the project will overburden existing utility resources, and no adverse impacts are anticipated.
17. The proposed project does not present any opportunity to adversely affect public safety nor would it create a hazard to human health.

18. The action will not result in changes in two or more elements of the environment, which alone would not have a significant effect on the environment, but when considered together, would result in a substantial adverse impact on the environment.
19. The proposed action is not related to another action which would be funded or approved by an agency which, when considered cumulatively, would meet one or any of the aforementioned criteria.



A LOCAL LAW AMENDING THE CODE OF THE VILLAGE  
OF PORT CHESTER, CHAPTER 345, WITH REGARD TO PERMITTING  
COSMETIC RECONDITIONING WORK ON VEHICLES AT AUTOMOTIVE  
DEALERSHIP SERVICE CENTERS

SECTION 1: Current provisions of the Village Code, Chapter 345, Zoning Regulation, provide for a use classification of Automobile Dealership Service Center. This use is permitted by grant of special exception solely in the M-2 General Industrial Zoning District. Acknowledging the practical operations of such permitted uses, the Board desires to amend the Code so to permit limited work to be done to vehicles but with effective controls to ensure that no negative or external impacts are presented.

SECTION 2: The Code of the Village of Port Chester, Chapter 345, "Zoning", Section 345-61, is hereby amended as follows:

Section 345-61W Automotive Dealership Service Center

(1) All servicing and repair of automobiles shall take place entirely within the building, and no servicing or repair of vehicles shall be visible from any adjacent public street. No painting or auto body repair work shall be permitted, except for cosmetic reconditioning to such vehicles as defined and to the extent permitted herein. There shall be no outdoor storage of vehicles being serviced or repaired except for temporary parking of such vehicles before and after servicing. On-site storage of vehicles for sale or resale shall be permitted at the site, provided that such storage of vehicles is solely contained within the building.

Cosmetic reconditioning shall be defined as repairs and refinishing primarily on plastic and trim parts of the vehicle including bumpers, molding, mirrors, headlight lenses, and restoring alloy wheels. Vehicle side panels may also be refinished on occasion when the bumper scrape may carry into the fender for a uniform repair.

The cosmetic reconditioning equipment and the entire reconditioning operation shall be wholly contained within the existing service building. The exhaust emissions permit for the cosmetic reconditioning equipment shall be through the Westchester County Department of Health. Said equipment shall be limited in size to no more than 3,000 square feet and its operation shall be under the direction of the automobile dealership service center to only serve dealership customers and only on the level of reconditioning limitations noted herein.

No traditional collision repair equipment such as frame machines, alignment racks, welders or unibody straightening machines shall be permitted in conjunction with the cosmetic reconditioning operation.

(2) The minimum gross floor area utilized by the facility within the building shall be 80,000 square feet of which portions of such floor area shall be utilized exclusively as office space and/or employee utility space together having a floor area ratio of more than

.10 with reference to the total service area, and any area utilized exclusively as a customer service area shall not exceed 70% of the total gross floor area.

(3) A retail accessory use shall be permitted at the site, provided not more than 5% of the gross floor area is utilized for such retail use.

(4) Sign regulations. In addition to the requirements of § 345-15 herein, no flashing, moving or intermittently illuminated advertising devices are permitted. All signs shall be integrated with the architectural design of the structure. No sign shall project above the roof of the structure.

(5) Gas pump. One gas pump may be installed at the site, provided it is used solely for the vehicles being serviced or repaired therein, and it is not utilized for sale to the general public and it is installed as required by the State of New York.

(6) Such facility must be duly licensed as an authorized repair facility as required by the State of New York.

(7) The applicant shall submit a traffic analysis which indicates that the proposed project can be accommodated by the existing roadway system and/or proposed improvements to the roadway system at satisfactory levels of service.

(8) All plots, lots or parcels of land containing 15,000 or more square feet of area or having or proposing a use requiring 20 or more parking spaces, or both, shall comply with the following requirements:

(a) The requirements of § 345-14I(1) shall not apply to this use, except that there shall be provided an accessway running from a public road to the parking area of the lot.

(b) The way and drive contained therein shall be for the exclusive use of the property and parking area.

(c) The way at the curbline and throughout its length shall be not less than 15 feet from any other way or driveway providing access to a public street and not less than five feet from any lot line, except a street lot line.

(d) Any driveway providing ingress and egress to a public street shall not pass through the parking and/or drive area of any other lot.

(e) Access, but not frontage, may be provided by grant of easement, but the size of the lot impressed with the easement shall be reduced by the area comprising the easement before computing area, setback, and special exception requirements.

(f) The requirements of this section shall be in addition to the frontage and minimum yard dimension requirements of the Code.

(g) Any modification to the curbs cuts at the site shall be approved by the New York State Department of Transportation.

(9) The site must be located no more than .33 mile from an accessway to a New York State or U.S. highway.

(10) Parking, There shall be provided at the site sufficient parking spaces for all vehicles stored or being serviced at any one period of time. In addition, sufficient parking for the office space and any retail space shall be provided in accordance with § [345-14](#), except that there shall be no parking requirement for any retail space containing less than 500 square feet.

(11) Loading and unloading. Loading spaces shall be provided at the site in accordance with § [345-14](#). All loading and unloading shall be performed entirely within the lot. Loading units shall be designated to ensure that vehicles serving the lot shall do so without backing into or out of any public street. Loading bay doors shall be appropriately screened from any public street.

(12) Collection and storage of waste. Facilities for the collection and temporary storage of rubbish, garbage, and waste shall be provided within the structure or in secured containers on the site, which are appropriately screened from any public street. Disposal of waste shall be performed in accordance with the standards promulgated by the State of New York.

(13) Fencing. The site shall be fenced or otherwise secured in a manner which prevents unauthorized access by the general public to areas where vehicles are stored; however, no electrified and/or razor ribbon fencing shall be permitted.

SECTION 3: If any section of this local law shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair or invalidate the remainder of this local law.

SECTION 4: This local law shall be effective immediately upon filing with the Secretary of State and due publication.

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SECTION 4: This local law shall be effective immediately upon filing with the Secretary of State and due publication.



Robert P. Astorino  
County Executive

County Planning Board

October 15, 2012

Michael Vernon  
Department of Planning and Development  
Village of Port Chester, Suite 202  
222 Grace Church Street  
Port Chester, NY 10573

**Subject: Referral File No. PCH12-006 – Zoning Text Amendment: Dent Wizard International  
Lead Agency**

Dear Mr. Vernon:

The Westchester County Planning Board has received a Lead Agency Notification as well as a referral for a zoning text change for Dent Wizard International, which proposes to install a self-contained, cosmetic spray booth within an open warehouse space on the property of the BMW Automobile Dealer Service Center. A zoning text change is requested to eliminate the specific language prohibiting painting or auto body repair work within motor vehicle sales lots. The applicant wishes to include "Cosmetic Reconditioning" to the list of services provided at the site. Any added equipment will only be used for cosmetic repairs.


We have no objection to the Port Chester Planning Commission assuming Lead Agency status for this project.

We have reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and find that there are no County or intermunicipal planning issues of concern to the County Planning Board. This action is a matter for local determination in accordance with your community's planning and zoning policies.

Thank you for calling this matter to our attention.

Respectfully,  
WESTCHESTER COUNTY PLANNING BOARD

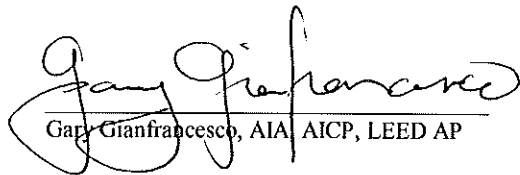
FOR:  
BY:

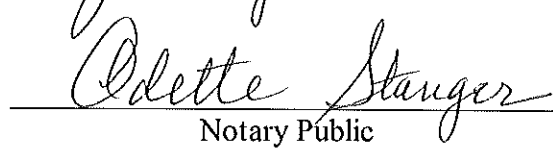
  
Edward Burroughs, AICP  
Commissioner

EEB/KE

Date: January 3, 2013  
To: Village Clerk  
Village of Port Chester  
Re: Dent Wizard  
110 Midland Avenue  
Port Chester, NY 10573

I certify that two (2) public notice signs were posted at the subject property on Friday, December 21, 2012. On the same day a public notice mailing was sent to all property owners within a 500 foot radius.

  
Gary Gianfrancesco, AIA, AICP, LEED AP

Sworn to before me this 3<sup>rd</sup> day  
of January, 2012  
  
Notary Public

ODETTE STANGER  
Notary Public, State of New York  
No. 4828603  
Qualified in Westchester County  
Commission Expires February 28, 2014

# **PUBLIC NOTICE**

**A PUBLIC MEETING WILL BE HELD BY THE  
PORT CHESTER BOARD OF TRUSTEES**

**ON JAN. 7, 2013 AT 7:00 PM**

**AT THE COURTROOM, 350 N. MAIN STREET  
TO CONSIDER A ZONING TEXT CHANGE TO  
PERMIT COSMETIC RECONDITIONING OF VEHICLES**

**PORT CHESTER BUILDING DEPARTMENT**

**939-5203**

# **PUBLIC NOTICE**

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**ON JAN. 7, 2013 AT 7:00 PM**

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**TO CONSIDER A ZONING TEXT CHANGE TO  
PERMIT COSMETIC RECONDITIONING OF VEHICLES**

**PORT CHESTER BUILDING DEPARTMENT**

**939-5203**



ARCHITECTURE - FACILITY PLANNING - INTERIORS

Received  
DEC 28 2012  
Village Clerk  
VILLAGE OF PORT CHESTER

December 27, 2012

Dennis Pilla, Mayor  
and Board of Trustees  
Village of Port Chester  
222 Grace Church Street  
Port Chester, NY 10573

Re: 110 Midland Avenue  
Proposed Text Change, M2 Zone

Dear Mayor Pilla and Board of Trustee Members:

We are the architects and planners representing the applicant, DCH / Dent Wizard Intl., Corp., which proposes a Zoning Text Amendment to Section 354-61W, Automobile Dealership Service Center to include as an accessory use cosmetic reconditioning of portions of vehicle exteriors. Automobile Dealership Service Centers (ADSC) are a Special Exception Use in an M2 General Industrial Zone. There are only two M2 Zoning Districts in the whole Village and the SEU criteria essentially limit ADSCs to 110 Midland Avenue for which the SEU text change was originally created as a hand/glove fit. The subject site, 110 Midland Avenue, backs up to the Metro North railroad tracks and other permitted uses in the M2 Zone are: Public utility facility, gasoline station, construction business, auto sales and repair, shooting ranges, storage buildings, warehouses, cold storage plant, ice plant, bottling and distribution, light or power plant, garbage or sewage disposal facilities, bakery plant, dry cleaning plant, open storage or equipment and materials.

Cosmetic reconditioning shall be defined as repairs and refinishing primarily on plastic and trim parts of the vehicle including bumpers, molding, mirrors, headlight lenses, and restoring alloy wheels. Vehicle side panels may also be refinished on occasion when the bumper scrape may carry into the fender for a uniform repair.

Most dealerships typically contract for reconditioning of minor dings and scrapes with vendors who travel to the dealership to perform minor cosmetic reconditioning on dealership vehicles while being serviced. This common practice is generally unbeknownst to customers. The evolution of this reconditioning concept is to consider this repair and reconditioning practice when wholly contained in the building licensed by Westchester County Department of Health, serving dealership customers only, to be considered a customary accessory use for ADSCs.

545.5 WESTCHESTER AVENUE  
RYE BROOK, NY 10573  
914-937-5596  
914-939-1255 FAX  
INFO@ARCONICS.NET

Most all repairs, due to the limited scope of work, are completed the same day often during the course of other vehicle service. To a large extent almost all cosmetic repairs are the result of normal wear and tear, not collisions, and are discretionary as requested by vehicle owners to improve and/or maintain new vehicle appearance.

Cosmetic reconditioning ends where the traditional auto body repair shop starts as there is no traditional body shop equipment such as frame machines, welders, slide hammers, or unibody straightening machines utilized. This reconditioning service is not about collision repairs or insurance claims.

The DCH automobile dealership service center at 110 Midland Avenue does not want to be an auto body repair shop; however, it does want to take advantage of a potential profit center with quick turnaround in a controlled environment within the existing auto service facility. The reconditioning equipment and staff are provided to the dealership by Mint, a contract vendor, as a package system; however, it is seamlessly run and directed by the ADSC to only serve its customers and only on the level of reconditioning limitations noted herein.

The cosmetic reconditioning as an accessory use should be considered similar to a bank providing ATM equipment service, gas stations providing convenience stores, and hyper-food markets which provide fresh and prepared foods for consumption in stores and at home.

The cosmetic reconditioning center is essentially a "Boutique Car Spa" and is utilized for repairs and refinishing primarily on plastic and trim parts of the vehicle including bumpers, moldings, mirrors, and light lenses. The system is also utilized to refinish and restore alloy wheels by removing "curb rash" and abrasions.

The cosmetic reconditioning center gives customers the opportunity to improve their vehicle's appearance without interruption to the regular service process. All work is performed onsite by Dent Wizard technicians.

Dent Wizard, the world leader in painless dent removal, has leveraged its 20+ years' experience in automotive reconditioning to offer MINT, a cosmetic reconditioning center that provides eco-friendly, non-interruptive service with extraordinary speed and quality. This new opportunity allows dealers to capture revenues that have previously driven out the door.

Mint helps provide customers with services they want. Dealership customers can enjoy the satisfaction of driving a vehicle that always feels "brand new". Increased customer satisfaction and revenue for the dealership service center by providing minor cosmetic and wheel repairs

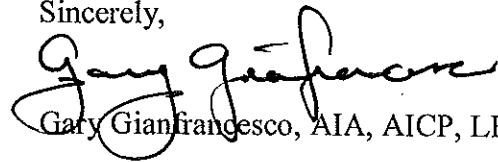
customers want can be done without increasing service time with an on-site Mint Reconditioning Service. All repairs are completed with unparalleled expertise by highly trained, certified Mint technicians onsite using state-of-the-art and eco-friendly equipment and water-based paint colors.

The reconditioning equipment shall be wholly contained within the existing building. Said reconditioning equipment shall be limited to no more than 3,000 square feet, licensed by Westchester County Department of Health, and for reconditioning services for customers of the dealership and whose operation is controlled by the dealership.

Attached herein is the reconditioning brochure which would accompany other on-site customer promotional information regarding cosmetic reconditioning. The essence of the reconditioning services and their full extent is best understood by this material.

We look forward to presenting this material at the Board of Trustee meeting on January 7, 2013, at which time we can answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Gianfrancesco". The signature is fluid and cursive, with the first name "Gary" being particularly prominent.

Gary Gianfrancesco, AIA, AICP, LEED AP

encl.

c c: W. Buckley

***Give Customers More Reasons to Love  
Their Vehicle - and YOUR Dealership***



***Mint***  
COSMETIC RECONDITIONING

Put the love back in your ride.

# Miracle

COSMETIC RECONDITIONING

*Put the love back in your ride.*



| Service                                                                    | Description/Limitations                                                                                                                                      | Price                                                                       |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Paintless Dent Removal                                                     | Ding, dent or crease up to 1 Credit Card Size                                                                                                                | \$159<br><small>additional one credit card size, same panel \$30</small>    |
| Paintless Dent Removal                                                     | Ding, dent or crease up to 2 Credit Card Size                                                                                                                | \$219<br><small>additional two credit card size, same panel \$70</small>    |
| Paintless Dent Removal                                                     | Ding, dent or crease up to 3 Credit Card Size                                                                                                                | \$279<br><small>additional three credit card size, same panel \$110</small> |
| Paintless Dent Removal - Roof                                              | Additional R&I                                                                                                                                               | Quoted                                                                      |
| Partial Bumper Repair                                                      | Lights scuffs and blemishes. Sand and paint only.                                                                                                            | \$399                                                                       |
| Full Bumper Repair                                                         | More severe damage requiring polyurethane fillers to repair.                                                                                                 | \$599                                                                       |
| Side Panel Repair                                                          | Estimates based off of severity of damage and additional blends. Starting at                                                                                 | \$599                                                                       |
| Small Painted Areas (mirrors, moldings, spoilers, windshield wipers, etc.) | Sand and paint existing painted mirrors or moldings etc.                                                                                                     | \$169                                                                       |
| Wet Sand and Polish                                                        | Light Scratches                                                                                                                                              | \$89 Per Panel<br>\$389 Per Vehicle                                         |
| Wheel Scuff and Refinishing                                                | Light scuffs to the face (hub and/or spoke) of a painted, single piece wheel (not including chromed, machined, polished or CNC wheels). Sand and paint only. | \$179                                                                       |
| Wheel Straightening and Refinishing                                        | Repairable dented or bent aluminum wheels (not including chromed, machined, polished or CNC wheels).                                                         | \$299                                                                       |
| Headlight Brightening                                                      | Price per pair                                                                                                                                               | \$129                                                                       |



*Mint*  
COSMETIC RECONDITIONING

- Dents (PDR) \_\_\_\_\_
- Bumper Repair \_\_\_\_\_
- Minor Paint Repair \_\_\_\_\_
- Wheel Repair \_\_\_\_\_
- Other Repairs \_\_\_\_\_

\_\_\_\_\_

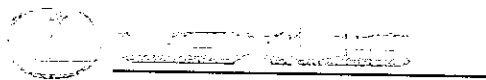
Promised Delivery Date \_\_\_\_\_ Time \_\_\_\_\_

RO# \_\_\_\_\_ Tag # \_\_\_\_\_

VIN \_\_\_\_\_ Year \_\_\_\_\_

Make \_\_\_\_\_ Model \_\_\_\_\_ Clr \_\_\_\_\_

Advisor \_\_\_\_\_



Lexus of Bellevue

WORK SESSION

# Board of Ethics

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222 Grace Church Street  
Port Chester, NY 10573

TO: Port Chester Board of Trustees

FROM: Port Chester Board of Ethics

DATE: December 11, 2012

Gentlemen:

The Board of Ethics respectfully requests that the Board of Trustees review and make a decision to either approve or reject the revised proposed Code of Ethics for the Village of Port Chester, which was first sent to you for consideration on October 30, 2007. For your convenience, we again enclose herewith a copy of the proposed Code.

The BOE believes that this is an important document for the Village of Port Chester to have in place to guide Village employees and officials in their conduct and duties. If the BOT believes that changes should be made to the proposed Code, please advise us accordingly so that work can be commenced in that direction. If the BOT is satisfied with the proposed Code as presented, we request that it be passed forthwith and that the Village Attorney prepare a draft local law on all of these proposed changes to the existing Code of Ethics.

Thank you.

The Board of Ethics

Attachment

## I. CODE OF ETHICS

The Code of Ethics at Section 53-1 currently states that where there is a conflict with General Municipal Law, Article 18, the “latter shall control”. This is actually an incorrect reading of New York State statute. Section 801(1)(a) of the General Municipal Law provides that local codes of ethics may “regulate or prescribe conduct which is not expressly prohibited by this article but may not authorize conduct otherwise prohibited.” This means that municipalities are given the flexibility to impose requirements that are stricter than that in Article 18 of the General Municipal Law.

## II. BOARD OF ETHICS

The Board of Ethics finds that the Code of Ethics is lacking in several areas with regard to organizational structure, jurisdiction and mission. Significant amendment is required to Section 53-12 alone, and new sections must be added.

### *Organizational Structure*

The Board of Ethics should consist of its full complement of five members. Members of the Board of Ethics currently serve at the pleasure of the Board of Trustees. The Board finds that its members should be appointed to staggered terms of office to ensure continuity in work, philosophy and independence of judgment. It is recommended that the term be three years. The Board recommends that the body be bipartisan, with diversity amongst its members as to affiliation with a particular political party, whether by registration, office held within a political party or elective office held in the Village. Further, in a significant change from the current Code, no more than one Village officer or employee should be on the Board. The Board finds that the Code should provide that members serve without compensation for their services, but that they shall be reimbursed for reasonable expenses in the performances of their duties.

The Board finds that there have been long periods where it has not been legally constituted due to lack of appointments. The Code should contain a requirement that vacancies be filled within a reasonable time, e.g. 60 days. Provision should also be made for removal of a member for cause after written notice and opportunity to be heard. Cause would be neglect of duty, gross misconduct in office, violation of the Code of Ethics or Article 18 of the General Municipal Law, etc.

In addition, there should be provisions for: a Chairperson of the Board of Ethics who should be elected by the members of the Board of Ethics, meetings, and the ability of the Board to retain independent counsel or experts if deemed appropriate, which expense shall be a Village charge. In the usual case, the Village Attorney will serve as counsel. The Board of Ethics should be entitled to rely upon the Village Clerk’s office to take minutes and provide administrative support for its proceedings. The Chair, as well as a majority of the Board, e.g. three members, should have the ability to call for a meeting.

The Board should be required to promptly convene after a request for an advisory opinion or when a complaint is filed.

### *Jurisdiction*

The jurisdiction of the Board of Ethics is presently limited to providing an advisory opinion to an officer or employee as to his or her own conduct. This is an important role that should not be understated. Public employees and officers should be strongly encouraged to avail themselves of the Board of Ethics to guide their conduct.

General Municipal Law, Section 808, does not envision that ethics boards have investigatory or enforcement power. However, the State Attorney General has opined that a municipality may, by local law, grant to its board of ethics the authority to receive complaints alleging violation of ethics regulations, investigate those complaints, including the right to serve subpoenas in its name to compel testimony of witnesses and books and records, make a determination, and to provide for the imposition of appropriate penalties.

The Board finds that it should have this additional authority in order to be more fully effective. The Code of Ethics was adopted 39 years ago. It is clear that since that time the environment in which public officials must operate has grown ever more complex. Public expectations have required a heightened sensitivity to ethical issues. The Board of Ethics therefore recommends that it be granted jurisdiction to render to the Village Manager and to the Board of Trustees an opinion or to investigate a complaint brought by the Village Manager or Board of Trustees with regard to the conduct of an officer or employee for conformance to the Code of Ethics and Article 18 of the General Municipal Law. This grant would assist appointing authorities in the exercise of their management functions by providing an advisory opinion with a recommended penalty. This additional jurisdiction would necessarily require that the Board of Ethics have investigatory and enforcement powers.

The Board of Ethics has considered, but does not recommend that such expanded jurisdiction further include the authority to accept and investigate complaints made by other parties, i.e. members of the general public. Responsibility to invoke the jurisdiction of the Board of Ethics on a complaint should be vested with the appointing authority that has the prerogative to initiate same. The Board should be empowered to promulgate rules and procedures to implement this additional authority. The Board, whose determinations would be non-final and non-binding, would necessarily follow the provisions of the Open Meetings Law and Freedom of Information Law to preserve confidentiality in the appropriate case.

### *Mission*

The Board of Ethics finds that its mission should be transformed to a proactive and preventative body. For example, the Board is presently confined to merely making

recommendations on proposed amendments to the Code of Ethics at the request of the Board of Trustees. The Board of Ethics proposes that it provide a written, annual report to the Board of Trustees. The Board of Ethics should be involved in the development of appropriate public forums and training programs to educate officers and employees as well as the public.

### III. NEPOTISM

Nepotism, or favoritism shown to family members, is an abuse of public office or position. The Board of Ethics finds that a prohibition of family members employed by the Village is neither practical nor desirable in a small village such as Port Chester. The Board takes judicial notice that there are many examples of multi-generational employment in the Village and that such a commitment to the public service should be encouraged, not prohibited. The Board concludes that the resolution of the issue should be not by a blanket rule, but rather, how to appropriately prevent public officers and employees from using their office or position of employment to benefit those related to them or from being placed in the position from which they could do so.

Existing provisions are generally adequate to provide such guidance, but some amendments are necessary.

Like Article 18 of the General Municipal Law, the Code of Ethics appears to expressly authorize a public official to hire a close family member. (see underlined) This section should be amended to delete the exception.

#### Section 53-15

As used in this chapter, the following terms shall have the meanings indicated:

INTEREST – Includes, without limitation, any right, title, share or participation in anything or in any advantage, profit, or benefit, whether such right, title, share or participation be direct or indirect, legal or beneficial, contingent or vested, financial or otherwise, as owner, partner, stockholder, mortgagee, creditor, broker, agent or in any other capacity, but shall not include an interest in any corporation listed on any security exchange, subject to the regulations of the Security Exchange Commission. For the purpose of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of his spouse, domestic partner, minor children, dependent, or person residing in the same household, except a contract of employment with the municipality which such officer or employee serves; a firm partnership or association of which the municipality which such officer or employee serves; a firm, partnership or association of which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any

stock of which is owned or controlled or controlled directly or indirectly by such officer or employee.

The Code of Ethics should require an officer or employee to do more than abstain in the decision making process where a close family member, domestic partner or household member is involved (see underlined). It is recommended that such person make formal declaration and take affirmative action at every level so as to ensure there is complete insulation and recusal between the officer or employee and the family or household member. Broader language is necessary to satisfy this objective.

#### Section 53-7A

Any official, officer or employee of the Village shall abstain from making personal investments in enterprises which he has reason to believe may be directly affected in decisions to be made by him or which will otherwise create conflict between his public duty and his private interest and shall refrain from passing upon any questions of which he or any member or his household or immediate family has an interest which might reasonably be deemed to create such conflict.

The Code of Ethics is also imprecise as to the family or household member such that would trigger ethical obligation. For example, as previously stated in Section 53-15, it is spouse, minor children or dependent, but in Section 53-10, it is “immediate family” without definition and in Section 53-10B it is anyone of “kinship” also without limitation.

Code provisions should be reconciled with a common threshold of familial relationship, and to include household members as well, so as to cover other close familial type relationships such as life partners or persons in a committed but not spousal relationship so as to avoid the possibility of circumventing the Ethics Codes simply by not getting married.

#### IV. FINANCIAL DISCLOSURE

Article 18 of the General Municipal Law provides for the option of annual financial disclosure by elected and certain appointed officers and employees in local governments with less than 50,000 in population. The Board of Ethics takes no position with regard to this option with regard to elected officials, but does not recommend that this option be exercised for appointed officials or employees.

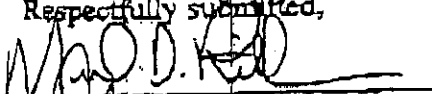
#### V. GIFTS/GRATUITIES

The Board of Ethics finds that the Code of Ethics should be consistent with Article 18 of the General Municipal Law, Section 805-a with regard to the dollar amount of gifts that can be accepted. The Code should prohibit the solicitation of gifts. It should also draw a distinction between gifts and forms of social hospitality, such as a present exchanged on a holiday, the latter of which would be permitted.


## VI. TRAINING

The Board of Ethics finds that training is an essential part of any Code of Ethics and recommends that there be mandatory training of all Village officers and employees on an annual basis.

Respectfully submitted,



Michael Ritchie

  
Evelyn Petrone

  
Vincent DeMarr, Jr.

  
Gerald Washington

**Village of Port Chester  
Rehabilitation Program**

Draft  
1/3/13

Introduction

The Village of Port Chester plans to initiate a Housing Rehabilitation Program to stabilize its existing housing stock and neighborhoods. The primary source for funding for such initiative will be the fees proffered by the developer of *The Castle* and *The Mariner* and future developments that will pay into an Affordable Housing Fund. The following is an outline of the program:

- Background of the contributions to the Affordable Housing Fund
- Re-structuring Issues for the Affordable Housing Fund
- Locational Targeting
- Primary Objective of Housing Rehabilitation Program
- Elements of Program Design – Eligible Applicants; Type of Assistance; Enforcement Mechanism, etc.
- Administration & Costs
- Other Sources of Funding

*The Castle*

The Board of Trustees, in its Negative Declaration Determination dated March 23, 2006 on an action to re-zone a 1.44 acre parcel on Willet Ave and Abendroth Place from RA-3 to C-2 and to amend the Special Exception Use criteria on a setback requirement, accepted the developer's offer to contribute \$200,000 to set up an Affordable Housing Fund. (The Castle is a 4 story multi-family residential project with a parking garage and commercial space – originally proposed as 83 units but later increased to 120.)

**BE IT FURTHER RESOLVED**, that the offer of the applicant to contribute of the sum of \$200,000 is hereby accepted. Said funds shall be utilized for the establishment of an "Affordable Housing Incentive Fund" to assist qualified moderate income families to acquire affordable housing. Such funds may be applied to down payments and other customary closing costs and expenses incurred in such acquisitions or in such manner as the Board of Trustees may determine to promote the goal of affordable home ownership. If appropriate, the qualifications for family participation in the program shall be as determined by the Village authority. The applicant shall tend the said sum no later than the application for a building permit for the construction of 83 units. Said Fund shall be administered by the Board of Trustees or its designee and shall provide benefits, consistent with the provisions of Code Section 345-18(J) which states, "*Preference for moderate-income housing units shall be given to Port Chester residents and employees of the Village of Port Chester, including volunteer firefighters, and the Port Chester School District.*"

### *The Mariner*

The Marine is a 100 unit residential building with a parking garage, waterfront walkway and a 25 slip marina. The Planning Commission on January 25, 2010 gave Final Site Plan Approval condition on the following:

The applicant shall deposit a payment of six hundred thousand dollars (\$600,000.00) into the Village Affordable Housing Fund, prior to the Issuance of a Building Permit.

### *Issues*

1. Has the Village set up a distinct “fund” or financial account for these funds?
2. The Affordable Housing Fund as crafted to date limits its use to the promotion of affordable homeownership. (“Such funds may be applied to down payments and other customary closing costs and expenses incurred in such acquisitions or in such manner as the Board of Trustees may determine to promote the goal of affordable home ownership.”) The Village will need to “re-establish” the Fund and consider whether they want to maintain the Fund in-house or establish a not-for-profit or use an existing not-for-profit organization to accomplish the objectives of the funds.

### Targeted Housing Rehabilitation Program

In order to have an impact, it is recommended that the Housing Rehabilitation Program target the Neighborhood Revitalization Strategy Area (NRSA) which is comprised of 16 contiguous of the 28 census block groups in the Village and is primarily residential. (See attached.)The population of the NRSA represents 67.6% of the Village population and 79.4% of the Village low/moderate income population. The Village has already determined that the rehabilitation of housing units, especially multifamily buildings, in the NRSA is necessary. A goal of the NRSA Plan for FY 2009-2013 is the stabilization of the existing housing stock by rehabilitating single-family and multi-family units. Further support of the Housing Rehabilitation initiative is provided in the recently adopted Comprehensive Plan.. Its first Housing Recommendation is to “Preserve, restore and revitalize Port Chester’s housing stock and neighborhoods” by encouraging the revitalization of the existing housing stock.”

It is also recommended that the Housing Rehabilitation Program complement the Village’s Code Enforcement Program by linking the resources of the rehabilitation program with code enforcement efforts. This too is supported in the Village’s NRSA Plan – “Housing inspections must be increased to eliminate illegal apartments and rehabilitation of housing units is necessary” and “Stabilize existing housing stock by reducing and eliminating housing code violations.” and in the draft Comprehensive Plan Update – “Continue to enforce codes and occupancy limits in all types of housing units”.

## Program Design

**Goal:** To stabilize the existing housing stock and neighborhoods in the Neighborhood Revitalization Strategy Area .<sup>1</sup>

### **Strategies:**

1. To concentrate housing rehabilitation activities in one or more neighborhoods/census blocks at a time;
2. To identify owner occupied one to four family properties with major code violations through linkage with the Village's Code Enforcement Program;
3. To make deferred loans to owner occupants of one to four family properties;

### **Eligible Applicants:**

1. Owner-occupants of one to four units with household incomes at or less than 80% of the median income of Westchester County, including new homebuyers.

#### Household Income Limits as of January, 2013

One Person Household -- \$60,450  
Two Person Household -- \$69,050  
Three Person Household -- \$77,700  
Four Person Household -- \$86,300

### **Eligible Repairs:**

1. Removal of majorcode violations, including correction of illegal apartment conversions
2. Electrical and plumbing repairs, roof repairs and replacement, and replacement of heating systems

## **Type of Assistance**

Deferred Loan due upon sale or conveyance of any interest in the property or fails to occupy the property as his/her principal place of residence

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<sup>1</sup> The program design is focused on neighborhood stabilization, including reducing code violations, making residences safe, and reducing illegal occupancies.

**Maximum Loan Amount:** \$50,000<sup>2</sup> (

**Conditions:**

1. Must occupy home as his/her primary residence. No income requirements imposed on rental units if applicable.

**Enforcement Mechanism:** Mortgage and Note in favor of the Village of Port Chester

**Administration:**

Tasks: Community Outreach  
Coordinate with Code Enforcement Office  
Review Applications for Income Eligibility  
Inspect Properties  
Prepare Scope of Work and Review Bids  
Develop List of Qualified Contractors  
Prepare Contracts with Property Owner  
Inspect Rehabilitation Work

Prepare and Record Mortgages

Financial Recording Keeping & Disbursements  
Program Reports  
Fund Development  
Coordinate with other Potential Funding Sources

Proposed Cost (assuming an Affordable Housing Fund of \$800,000 with an average loan of \$35,000 for 20 to 25 properties)

|                               |                                                                         |
|-------------------------------|-------------------------------------------------------------------------|
| Part-time Program Director -- | \$25,000                                                                |
| Fringe (22%)                  | <u>5,500</u>                                                            |
|                               | \$30,500                                                                |
| Rehabilitation Specialist     | 50,000 (est. at \$2000/property)                                        |
| Office Services               | <u>3,500</u> (office space, telephone, bookkeeping, reproduction, etc.) |
| <b>TOTAL</b>                  | <b>\$84,000<sup>3</sup></b>                                             |

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<sup>2</sup> The maximum amount is based on the experience of local rehabilitation programs, i.e., this level of funding is needed to effectively remove code violations and make major repairs, i.e., the type of repairs targeted under this program.

<sup>3</sup> This budget assumes that the Village would contract with a qualified not-for-profit organization to administer the Housing Rehabilitation Program. It assumes a fixed price 18 month contract.

## Other Sources of Funds

The Affordable Housing Fund may be supplemented with funding from other sources:

YS Division of Homes & Community Renewal (HCR) -- Through the Consolidated Funding process, applications are entertained annually for Local Program Administrator funding which can be used to support a Housing Rehabilitation Program. The program funding limits is \$500,000.

Westchester LeadSafe – This may be available on a building by building basis. Westchester County would assess the presence of lead paint hazards and could provide approximately \$8,000/unit to mitigate the hazards. At the current time, there are no funds available.

NYS Energy & Research Development Authority (NYSERDA) – NYSERDA through intermediaries has a number of programs that could be tapped on a building by building basis for energy related improvements, e.g., boiler replacement, insulation, and window replacements. The Community Environmental Center, one of the intermediaries, also has funding from HUD for similar purposes.

A LOCAL LAW AMENDING CHAPTER 345 OF THE CODE  
OF THE VILLAGE OF PORT CHESTER TO ESTABLISH  
TEMPORARY CERTIFICATES OF PERMITTED USE

SECTION 1: Purpose and Intent

The Board of Trustees has made code enforcement its first policy priority and has taken the initiative by supporting the development and implementation of a comprehensive, non-discriminatory code enforcement program.

In the course of such implementation, the Board has become aware of existing and preexisting *unlawful* non-conforming uses of property that are currently being conducted without the required certificate of occupancy. The requirements for such certificates are not new, and have been in effect since the adoption of the Village's initial Zoning Regulation in 1927.

The Board is also aware that there are lawful existing and preexisting nonconforming uses that do not have a certificate of occupancy simply because they predate the requirement.

The Board finds that the current situation with regard to unlawful nonconforming uses is long-standing and pervasive. The Board also finds that widespread and abrupt termination of such uses would cause undue social and economic hardship upon Village residents, inclusive of displacement, and that while code compliance is of paramount importance, it is in the best interests of the Village and its residents that such compliance be obtained over a period of time sufficient to lessen its potentially disruptive impact. While existing administrative provisions do provide some relief, there is a need to address the issue of existing and preexisting *unlawful* and *lawful* nonconforming uses in a more comprehensive, efficient and equitable manner.

SECTION 2: Definitions: For purposes of this section, the specified term shall have the following meaning:

Unlawful nonconforming- A building, structure or property use that post-dates adoption of the current zoning of the property and is inconsistent with such zoning.

SECTION 3: Temporary Certificate of Permitted Use

A. Upon written request from the owner, the Board of Trustees may, by resolution, authorize the issuance of a Temporary Certificate of Permitted Use for any unlawful nonconforming building, structure, or use duly existing on the effective date of this section, as prescribed herein.

B. An applicant for a Temporary Certificate of Permitted Use shall be required to furnish the Building Inspector with appropriate documentation, including but not limited to, an updated

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survey, electrical underwriters certificate, and/or a floor plan, in order for the Building Inspector to ascertain whether the building, structure or premises meets the criteria for consideration by the Board of Trustees. As part of such consideration, the Building Inspector shall conduct an inspection of the entire premises in order to assess compliance with the provisions of the building code.

C. A fee as required in Chapter 175, the Fee Schedule, must accompany the request for a Temporary Certificate of Permitted Use.

D. A Temporary Certificate of Existing Use shall not be issued unless:

(1) The building, structure and/or premises or use does not comply with the current zoning applicable to the premises, and was constructed, erected, structurally altered, and/or used in its current fashion after the current zoning regulations affecting the premises were in effect in the Village of Port Chester. Additionally, the following criteria must be satisfied:

- a) The building, structure or premises was so constructed, erected or last structurally altered 10 years or more prior to the effective date of this local law, and/or the current use of the premises has continued uninterrupted for 10 years or more prior to the effective date of this local law; and
- b) The use is not a prohibited use under every zoning classification in the Village Code; and
- c) ~~The action is capable of classification either as a Type II Action or negative declaration under the State Quality Environmental Review Act (SEQRA); The use is of a character consistent with the general zoning classification(s) of the zoning district in which the property is located;~~ and
- d) There are no open building code or zoning code prosecutions pending in relation to the subject premises; and
- e) An inspection conducted by the Building Inspector reveals that the premises are in compliance with the building code.

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E. Procedure

(1) Notice

Upon receipt of the application from the Building Inspector, the Board of Trustees shall schedule a public hearing. The public notice requirements contained in Article XXI of this chapter shall be followed with regard to notice.

(2)The Board of Trustees shall consider the documentation and testimony submitted in support of the application, as well as any objections filed, as well as the criteria contained in Section 3(D)(1)(a-e) of this Section, and grant the application only if the applicant shall establish his/her entitlement to the certificate by a preponderance of the evidence.

(3)Upon the granting of the application, the Building Inspector is authorized to issue a Temporary Certificate of Permitted Use.

F. Effect of Temporary Certificate of Permitted Use

A. The Building Inspector shall thereupon issue the Temporary Certificate of Permitted Use to the applicant. The building, structure or use temporarily authorized by the Board of Trustees may continue until the Certificate's expiration. All future alteration, enlargement, change or abandonment of use shall be regulated and proscribed by the restrictions contained in Section 345-13.

B. A Temporary Certificate of Permitted Use issued under this section shall expire upon the earlier of ~~ten (10)~~ five (5) years from the effective date of this local law, or upon a transfer of title. The temporary certificate of existing use shall not be renewed, and shall plainly state on its face that it is temporary. It shall set forth its expiration date and indicate that the certificate is not transferrable. The certificate shall also state that its issuance is not a representation of building or zoning code compliance.

C. The building, structure or premises subject to the Temporary Certificate of Permitted Use must be rendered zoning compliant prior to or upon expiration of the temporary certificate of existing use. Issuance of the certificate shall not be a defense to any zoning prosecution maintained by the Village upon expiration of the temporary certificate of existing use.

D. The Temporary Certificate of Permitted Use creates no legal rights in its holder other than a temporary grant of permission to utilize such building, structure or use in a manner consistent with the certificate, which permission is extinguished immediately upon its expiration.

SECTION 4. Compliance

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A. Nothing herein shall be deemed to excuse compliance with the provisions of the New York Municipal Residence Law or the New York Fire Prevention and Building Code.

B. Issuance of the Temporary Certificate of Permitted Use shall not be construed to indicate that the building, structure or premises is building or zoning code compliant.

**SECTION 5: Supereession**

So as to fully accomplish the intentions of the Board of Trustees, this local law supercedes any inconsistent or otherwise applicable provisions of Chapter 345 of the Village Code.

**SECTION 6: Validity; severability.**

Should any section or provision of this local law be decided by a court of competent jurisdiction to be held unconstitutional or otherwise invalid, such decision shall not affect the validity of the local law in whole or in part not decided to be unconstitutional or otherwise invalid.

**SECTION: Effective Date**

This local law shall be effective upon due publication and filing with the Secretary of State.

DRAFT

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State Environmental Quality Review  
**NEGATIVE DECLARATION**  
Notice of Determination of Non-Significance

Project Number Village of Port Chester Local Waterfront  
Revitalization Program Update

Date: January 7, 2013

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village of Port Chester Board of Trustees, as lead agency, has determined that the proposed action described below will not have a significant adverse environmental impact and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:**

Village of Port Chester Local Revitalization Program Update

**SEQR Status:** Type 1   
Unlisted

**Conditioned Negative Declaration:**  Yes  
 No

**Description of Action:**

In 2011, The Village of Port Chester Mayor and Board of Trustees began the process of updating the 1992 Local Waterfront Revitalization Program (LWRP), to reflect changed demographics; increased development pressures in the waterfront area; and to update key goals, graphics and other information.

The LWRP update encompasses a range of goals and objectives and specific recommendations (see attached narrative).

**Location:** (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Village of Port Chester, Westchester County, New York

**Reasons Supporting This Determination:**

(See 617.7(a)-(c) for requirements of this determination ; see 617.7(d) for Conditioned Negative Declaration)

The LWRP update proposes a mix of uses for the waterfront area of Port Chester, based primarily on existing land use and zoning, as well as future land uses contemplated by the Comprehensive Plan currently in development. No specific zoning changes are proposed as part of the LWRP update. In addition, for the two subareas of Brooksville (at the northern tip of the LWRP area) and Greyrock (at the southern tip of the LWRP area), no alteration to existing land use is proposed. These two areas are intended to be maintained in their current condition.

For the remaining three subareas: Fox Island, Columbus Park/Purdy Avenue and Downtown, the LWRP update proposes a series of recommendations, as described more fully in the attached narrative, which would serve to increase public waterfront access, restore and revitalize vacant and underutilized land and support existing industrial uses in the LWRP area.

Other key recommendations of the LWRP update include implementing a Harbor Management Plan, exploring opportunities for permanently mooring entertainment/dining vessels, exploring the provision of hand-launched watercraft and transient docking facilities, supporting upgrades to the Westchester County Sewage Treatment Plant, considering the extension of utilities along Fox Island Road, supporting measures to improve water quality, improving training of the Waterfront Commission and its coordination with other Village land-use boards, and supporting maintenance dredging of the Byram River and Port Chester Harbor.

Each of these recommendations is anticipated to have a positive environmental impact on the Village, but would in any case be subject to a separate review under SEQRA.

**If Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

**For Further Information:**

Contact Person: Christopher Steers, Village Manager

Address: Village Hall, 222 Grace Church Street, Port Chester, NY 10573

Telephone Number: 914-939-2200

**For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:**

Chief Executive Officer, Town / City / Village of Port Chester

Other involved agencies (If any)

Applicant (If any)

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany NY, 12233-1750 (Type One Actions only)



— County boundary  
 - - - Highways

**PORT CHESTER LWRP**

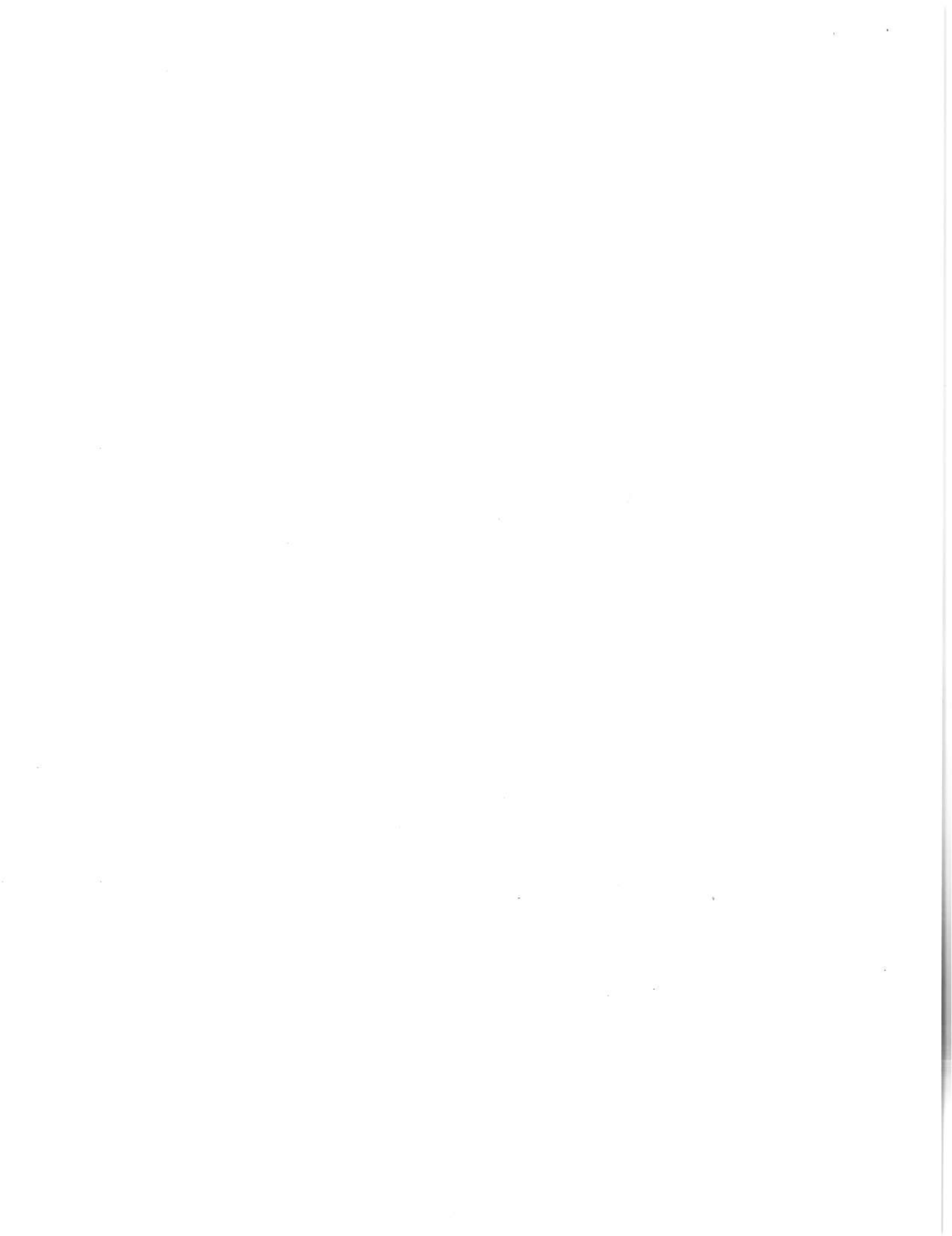
PORT CHESTER, NEW YORK

**FIGURE 1: REGIONAL MAP**

SOURCE: NJDEP GIS, NYS Clearinghouse



**BFJ Planning**



Village of Port Chester Local Waterfront Revitalization Program Update  
Negative Declaration  
Supplemental Narrative

Prepared for:

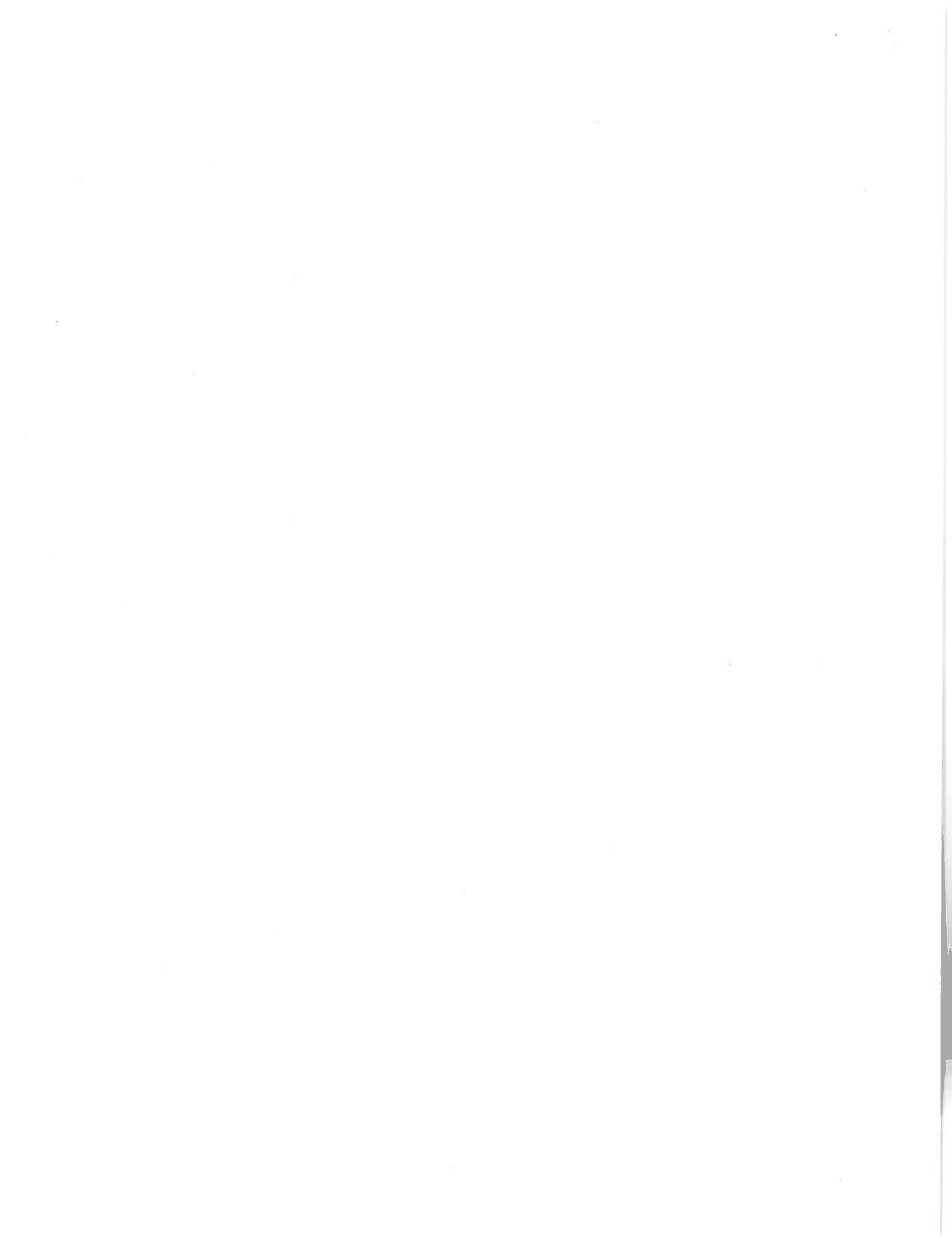
Village of Port Chester Mayor and Trustees  
222 Grace Church Road  
Port Chester, NY 10573

Contact: Christopher Steers, Village Manager  
(914) 939-2200

Prepared by:

BFJ Planning  
115 Fifth Avenue  
New York, NY 10003

January 2013



## 1.0 SUMMARY OF PLAN RECOMMENDATIONS

This section provides an overview of Local Waterfront Revitalization Program (LWRP) recommendations addressing a number of key areas. These recommendations are organized based on the applicable LWRP subarea (see attached figure), or for the entire LWRP area.

### Fox Island Subarea

1. Enhance and expand public waterfront access south of the Westchester County sewage treatment plant.
2. Develop a small boat storage and launch facility at Fox Island Road and I-95, just west of the sewage treatment plant.
3. Explore a potential redevelopment of the Department of Public Works (DPW) site on Fox Island Road, with the DPW facilities to remain on a smaller footprint and the balance of the site devoted a mix of uses including public open space.
4. Implement a vegetated buffer along the edge of the Greyrock residential neighborhood separating it from the DPW site.
5. Consider extending utilities along the length of Fox Island Road.

### Columbus Park/Purdy Avenue Subarea

1. Develop a public access point/fishing pier off the existing parking lot in Columbus Park.
2. Retain and support existing industrial areas along Purdy Avenue.
3. Reduce the overall emphasis on higher-density residential uses in the vicinity of Purdy Avenue.

### Downtown Subarea

1. Extend and repair the public waterfront walkway from the Costco parking lot north to Highland Avenue, with a potential public feature at the southern terminus of the walkway. Implement a future extension of the walkway south to Purdy Avenue and north to the Mill Street Bridge.
2. Fill in the "Cove" area on the Byram River north of Westchester Avenue for use as a new waterfront park that connects with the existing public waterfront walkway.

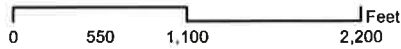


FIGURE 2: SUBAREAS

SOURCE: GIS



## Entire LWRP Area

1. Implement a Harbor Management Plan.
2. Explore opportunities for permanent mooring of entertainment- or dining-themed vessels on the Byram River.
3. Explore providing docking facilities for hand-launched and transient watercraft.
4. Support continuing upgrades to the Westchester County sewage treatment plant.
5. Support measures to improve overall water quality in the Byram River and Long Island Sound/Port Chester Harbor.
6. Improve training of the Port Chester Waterfront Commission and improve its coordination with other Village land-use boards.
7. Support maintenance dredging of the Byram River and Port Chester Harbor.

## 2.0 Summary

Based upon a review of the Full Environmental Assessment Form (EAF), the Village of Port Chester Board of Trustees has made a determination of significance as follows:

- The Proposed Action will not have a significant adverse environmental impact on any Critical Environmental Area (CEA).
- The Proposed Action will not have a significant adverse environmental impact on any unique or unusual land forms.
- The Proposed Action will not have a significant adverse environmental impact on any water body designated as protected.
- The Proposed Action will not have a significant adverse environmental impact on any non-protected existing or new body of water.
- The Proposed Action will not have a significant adverse environmental impact on surface or groundwater quality or quantity, or alter drainage flows or patterns, or surface water runoff.
- The Proposed Action will not have a significant adverse environmental impact on air quality.
- The Proposed Action will not have a significant adverse environmental impact on any threatened or endangered species.

- The Proposed Action will not have a significant adverse environmental impact on agricultural land resources.
- The Proposed Action will not have a significant adverse environmental impact on aesthetic resources.
- The Proposed Action will not have a significant adverse environmental impact on any site or structure of historic, prehistoric or paleontological importance.
- The Proposed Action will not have a significant adverse environmental impact on the quantity or quality of existing or future open spaces or recreational opportunities.
- The Proposed Action will not have a significant adverse environmental impact on existing transportation systems.
- The Proposed Action will not have a significant adverse environmental impact on the community's sources of fuel or energy supply.
- The Proposed Action will not result in objectionable odors, noise or vibration.
- The Proposed Action will not have a significant adverse environmental impact on the public health and safety.
- The Proposed Action will not have a significant adverse environmental impact on the character of the existing community.
- The Proposed Action will not have a significant adverse environmental impact on the availability of affordable housing in the Village.
- The Proposed Action will not have a significant adverse environmental impact on the economic condition of the Village.

Based upon this information, and the information contained in the Full EAF, the Village Board of Trustees finds that the Proposed Action will not have any significant adverse impacts on the environment. This Negative Declaration indicates that no environmental impact statement (EIS) needs to be prepared, and that the SEQRA process is complete.

## 1.0 INTRODUCTION: PURPOSE AND LOCATION OF PROPOSED ACTION

### A. Introduction

Pursuant to the New York State Environmental Quality Review Act (SEQR) this Environmental Assessment Form (EAF) evaluates the potential impacts that could result from the following action by the Village of Port Chester Board of Trustees, Port Chester, New York: Adoption of an updated Local Waterfront Revitalization Program (LWRP). The action consists solely of the LWRP adoption and therefore will not result in any direct construction or development.

### B. Location of Site

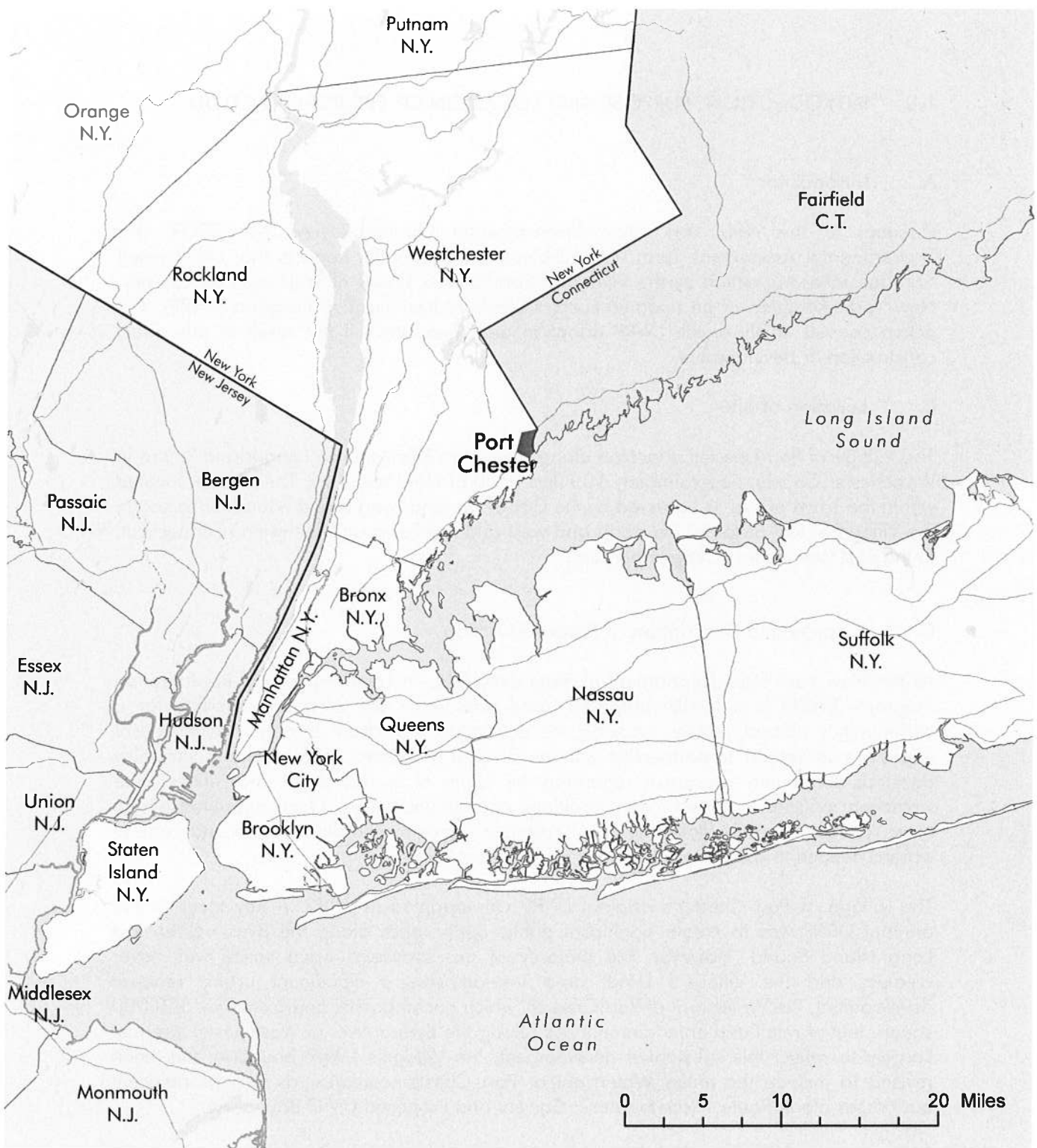
The Village of Port Chester is located along the Byram River and on Long Island Sound in Westchester County, approximately 10 miles north of New York City. The Village, located within the Town of Rye, is bordered by the City of Rye and Long Island Sound to the south, the Village of Rye Brook to the north and west and the Town of Greenwich, Connecticut, to the east (see Figure 1: Regional Map).

### C. Purpose and Description of Proposed Action

As the New York State Department of State describes, "a Local Waterfront Revitalization Program (LWRP) is a locally prepared, land and water use plan and strategy for a community's natural, public, working, or developed waterfront through which critical issues are addressed. In partnership with the Division of Coastal Resources, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. Once approved by the New York Secretary of State, the Local Program serves to coordinate State and Federal actions needed to assist the community achieve its vision."

The Village of Port Chester's original LWRP was adopted in 1992. A key focus of the original LWRP was to create significant public open space along the Byram River and Long Island Sound. However, the majority of this proposed open space was never created, and the Village's LWRP area instead saw a significant urban renewal development, the Waterfront at Port Chester, which encompasses approximately 500,000 square feet of retail and entertainment use, along the Byram River at Westchester Avenue. Largely to reflect this substantial development, the Village's LWRP boundary has been revised to include the entire Waterfront at Port Chester complex, as well as adjacent businesses along Route 1 (see Figure 2: Current and Proposed LWRP Boundary).

Since the 1992 LWRP, the Village has adopted the first phase of an update to its 1968 comprehensive plan (in 2009), and is in the process of preparing the second phase of this plan. In addition, several local laws have been adopted governing Port Chester's waterfront, including stormwater management regulations.



— County boundary  
 — Highways

**PORT CHESTER LWRP**

**PORT CHESTER, NEW YORK**

**FIGURE 1: REGIONAL MAP**

SOURCE: NJDEP GIS, NYS Clearinghouse



**BFJ Planning**

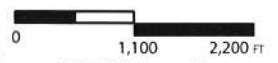


PORT CHESTER LWRP

PORT CHESTER, NEW YORK

FIGURE 2: PROPOSED NEW LWRP BOUNDARY

SOURCE: NYS ORTHOS



BFJ Planning

In addition to subsequent planning efforts by the Village, several other changes have occurred that require the updating of the LWRP. In 1999, the Long Island Sound Coastal Management Program developed a set of 13 new coastal policies for the Long Island Sound shoreline to replace the 44 Statewide LWRP policies. While the new policies do not differ significantly in substance from the original LWRP policies, they are more concise, more simply organized and grouped around a set of four themes: the Natural Coast, the Working Coast, the Developed Coast and the Public Coast. The updated LWRP has been reorganized to reflect the new Long Island Sound policies.

Other “macro” changes that are reflected in the updated LWRP include new development throughout the region, changes in State and Federal laws and current best practices to improve water quality and the impacts of global climate change and sea level rise.

Port Chester’s LWRP addresses a wide range of issues including:

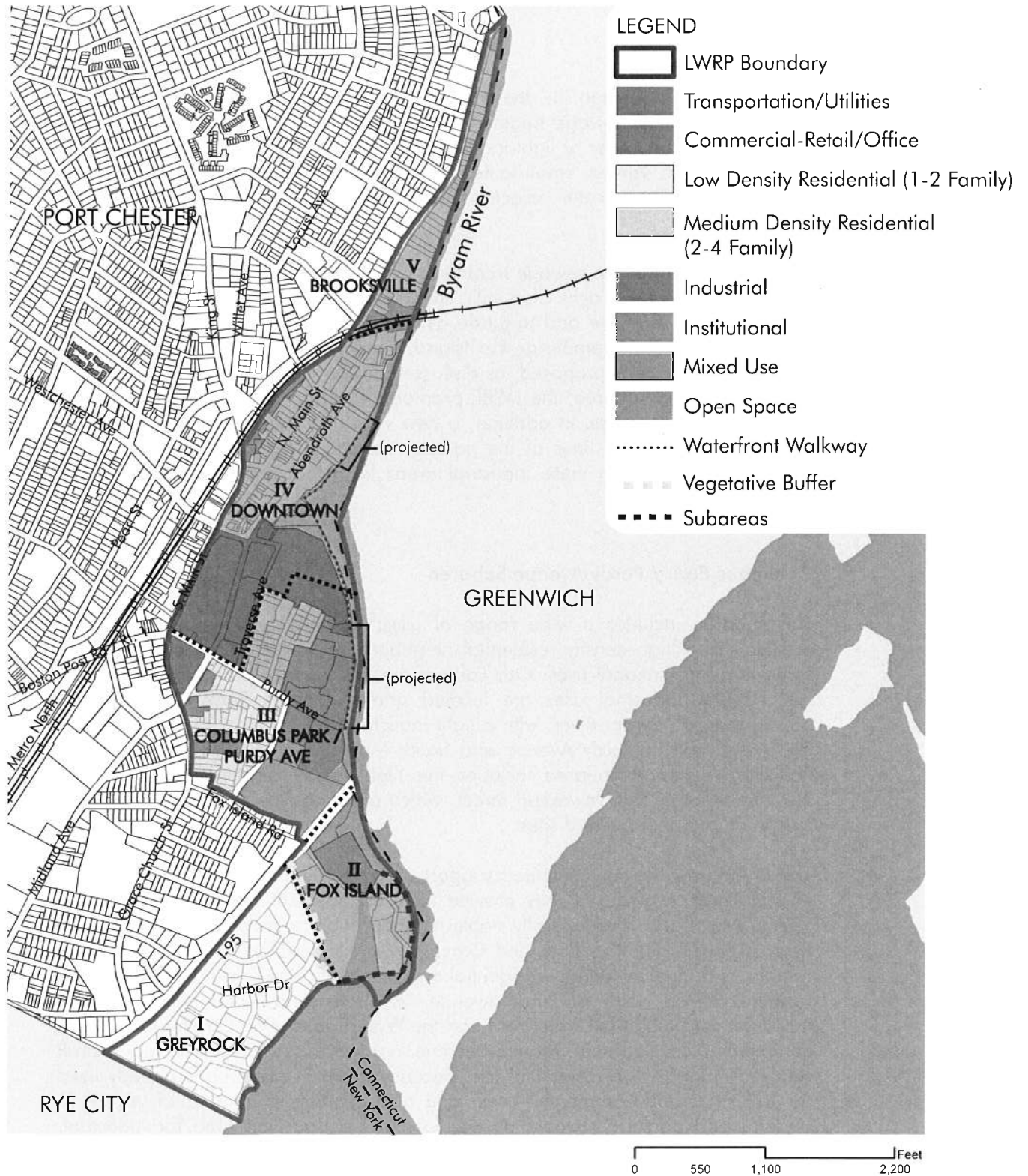
- Underutilized areas
- Water-dependent uses
- Infrastructure
- Water quality
- Climate change and sea level rise
- Public access and recreation
- Visual quality
- Historic resources

The LWRP provides a generalized layout of future land uses intended for the LWRP area. This generalized plan was derived from the existing zoning map and current land uses, as well as consideration of future land uses proposed by the draft Comprehensive Plan. It is not intended to describe the proposed land use pattern on a parcel-by-parcel basis; rather, the future land use plan (see Figure 3) is a broad expression of the range of uses intended for the Village’s LWRP area. Because the future land use plan largely stems from current zoning, no significant changes to Port Chester’s regulatory framework (e.g. zoning and subdivision regulations) are proposed.

Anticipated future land uses within the Port Chester LWRP area are described below for the five LWRP subareas.

#### 1. Greyrock Subarea

Greyrock is a stable low-density residential area on Port Chester Harbor, virtually isolated from the rest of Port Chester by Interstate 95. It is anticipated that this subarea will remain a low-density residential neighborhood, with the remaining vacant parcels to be built out with residential uses of a similar character as allowable under the existing R7 zoning. Due to Greyrock’s character and location, opportunities for public open space are limited. No regulatory changes or projects for this area are proposed.



## 2. Fox Island Subarea

As discussed in Section II, the Fox Island Subarea presently contains the Westchester County sewage treatment plant, the Village's Department of Public Works (DPW), a number of light industrial operations and the Port Chester Yacht Club, as well as various small-scale assorted uses. This subarea is significantly underutilized, although the adjacent harbor and water areas are well-used by area boaters.

It is anticipated that the sewage treatment plant, the existing light industrial uses and the Port Chester Yacht Club will remain in place, and these uses should be encouraged to renovate and upgrade as appropriate. In addition, the Village's DPW facility will likely remain on Fox Island, although a consolidation and overall clean-up of this site is proposed, as discussed below. However, for the remainder of the Fox Island subarea, the LWRP promotes a combination of mixed use and public waterfront access. In addition, a new vegetative buffer is proposed along the rear, landward lot lines of the parcels located on the southern side of Fox Island Road, to screen these industrial areas from the Greyrock neighborhood immediately adjacent.

## 3. Columbus Park / Purdy Avenue Subarea

This subarea includes a wide range of uses: Columbus Park and the largely medium- and high-density residential neighborhood to the west (which includes some large institutional uses: Our Lady of the Rosary church and the South End Fire House). Industrial uses are located primarily along Purdy Avenue as it approaches the Byram River, with a light industrial area found at the south side of the intersection of Purdy Avenue and South Main Street. Finally, the Columbus Park/Purdy Avenue Subarea includes the high-density residential areas along Traverse Avenue and Townsend Street, which also contains a number of vacant, industrial and underutilized sites.

The LWRP provides for continued support of the existing industrial uses at either end of Purdy Avenue, as they provide local employment and contribute to the Village's tax base. The generally stable neighborhood bounded by Purdy Avenue, Ryan Avenue/Columbus Park and Grace Church Street/Don Bosco Place, would remain as a medium-density residential area. However, the existing higher-density residential area north of Purdy Avenue, which is sandwiched between heavy industrial uses along the waterfront and the Waterfront at Port Chester large-scale commercial development, would become a mixed-used area with an overall reduced emphasis on residential use. Because much of this area is already used for industrial and commercial uses, and also contains a number of vacant or underutilized parcels, it would be best used as a transition area for industrial, commercial and some high-density residential uses as appropriate.

The LWRP also supports the creation of new public water access at Columbus Park. Currently, the portion of the park that fronts the Byram River is heavily vegetated, with limited physical or visual access to the water. This area should be

opened up and used for passive and water recreation, as described more fully below.

#### 4. Downtown Subarea

Reflecting the significant diversity of uses within downtown Port Chester, this entire subarea has been designated as mixed use, supporting the existing commercial and light industrial uses as well as promoting new residential development as appropriate.

The Downtown Subarea is also designated for increased public waterfront access, with the existing, manmade "cove" area carved out of the Byram River just north of the foot of Westchester Avenue to be filled in and converted to a public waterfront park. In addition, the existing riverfront walkway north and south of this cove area would be improved and extended northward to Willett Avenue.

#### 5. Brooksville Subarea

This subarea presently contains a mix of uses including industrial at the southern end, open space (William James Park) and commercial uses at the northern end and medium-density residential uses in the middle portion. Because Brooksville is largely stable and provides little future redevelopment potential given the limited size and depth of its lots, no changes in its existing development pattern are proposed. This subarea is indicated as remaining a mixed-use area, accommodating all the uses currently in place. No regulatory changes or projects are proposed for this area.

In conjunction with the future land use plan, the Village's LWRP also outlines a set of site-specific and programmatic projects which will be or are being implemented to improve Port Chester's LWRP area. These projects include:

- Enhanced and increased public waterfront access
  - Filling in the "Cove" area at the foot of Westchester Avenue and converting it to a park.
  - Improving and extending the Byram River Waterfront Walkway
  - Opening up the waterfront portion of Columbus Park for a combination of passive and water recreational use (fishing pier, smallcraft mooring area)
  - Increasing public access on Fox Island (non-motored boat launch, waterfront walkway)
- Implementation of a Port Chester Harbor Management Plan
- Potential permanent mooring of an entertainment-themed vessel
- Extension of all municipal utilities along Fox Island Road
- Continued upgrades to the Westchester County Sewage Treatment Plant
- Measures to improve water quality
- Improved training, coordination of Waterfront Commission

D. List of Involved and Interested Agencies

INVOLVED AGENCIES

Village of Port Chester Board of Trustees (Proposed Lead Agency)

222 Grace Church Street  
Port Chester, NY 10573  
Dennis Pilla, Mayor

New York State Department of State

Division of Coastal Resources and Waterfront Revitalization  
99 Washington Avenue, Suite 1010  
Albany, New York 12231-0001  
Contact: George Stafford, Director

INTERESTED AGENCIES

Village of Port Chester Waterfront Commission

222 Grace Church Street  
Port Chester, NY 10573  
Contact: Gene Ceccarelli, Chair

Village of Port Chester Planning Commission

222 Grace Church Street  
Port Chester, NY 10573  
Contact: Michael Scarola, Chair

Village of Port Chester Zoning Board of Appeals

222 Grace Church Street  
Port Chester, NY 10573  
Contact: William Villanova, Chair

Village of Port Chester Architectural Board of Review

222 Grace Church Street  
Port Chester, NY 10573  
Contact: William Hume, Chair

Village of Port Chester Comprehensive Plan Advisory Committee

222 Grace Church Street  
Port Chester, NY 10573  
Contact: Christopher Steers, Village Manager

Village of Port Chester Industrial Development Agency

222 Grace Church Street  
Port Chester, NY 10573  
Contact: Neil Pagano, Chair

Village of Port Chester Park Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Jerry Terranova, Chair

Village of Port Chester Recreation Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Kim Morabito, Chair

Port Chester-Rye Union Free School District  
113 Bowman Avenue  
Port Chester, NY 10573  
Contact: Jennifer Bisaccia, District Clerk

Town of Rye  
10 Pearl Street  
Port Chester, NY 10573  
Contact: Joe Carwin, Town Supervisor

City of Rye  
1051 Boston Post Road  
Rye, NY 10580  
Contact: Scott Pickup, City Manager

Village of Rye Brook  
938 King Street  
Rye Brook, NY 10573  
Contact: Joan Feinstein, Mayor

Town of Greenwich, Connecticut  
Town Hall  
101 Field Point Road  
Greenwich, CT 06830  
Contact: Peter Tesei, First Selectman

Westchester County Department of Planning  
148 Martine Avenue  
Room 432  
White Plains, NY 10601  
Contact: Edward Burroughs, Commissioner

Metro-North Railroad  
347 Madison Avenue  
New York, NY 10017-3709

New York State Department of Environmental Conservation  
Region 3 Office  
21 South Putt Corners Road

New Paltz, NY 12561-1696  
Contact: Margaret Duke

New York State Office of Parks, Recreation and Historic Preservation  
New York State Historic Preservation Office (SHPO)  
Peebles Island Resource Center  
P.O. Box 189  
Waterford, NY 12188-0189  
Contact: William Krattinger, Historic Preservation Specialist

New York State Department of Transportation  
Region 8  
Eleanor Roosevelt State Office Building  
4 Burnett Boulevard  
Poughkeepsie, NY 12603  
Contact: Melissa Slater, Assistant to the Regional Director

United States Army Corps of Engineers  
Jacob K. Javits Federal Building  
26 Federal Plaza, Room 2109  
New York, NY 10278-0090

## 2.0 ENVIRONMENTAL ASSESSMENT FORM – PARTS I AND II

This EAF evaluates the potential for environmental impacts created by the adoption of the LWRP by the Village of Port Chester Board of Trustees. This legislative action is generic in nature, not site-specific, and does not directly result in physical changes to the environment.

The form that follows is published by the New York State Department of Environmental Conservation and is designed for site-specific actions rather than area-wide or generic proposals. As a result, some questions not relevant to this adoption are answered "not applicable" or "N/A".

**617.20**  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

**Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.

**Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.

**Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

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**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

**Identify the Portions of EAF completed for this project:**       Part 1                       Part 2                       Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be prepared.**
- B. Although the project could have a significant effect on the environment, there **will not** be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore **a CONDITIONED negative declaration will be prepared.\***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore **a positive declaration will be prepared.**

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Adoption of Updated Village of Port Chester Local Waterfront Revitalization Program

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Name of Action

Village of Port Chester Board of Trustees

---

Name of Lead Agency

Dennis Pilla

Mayor

---

Print or Type Name of Responsible Officer in Lead Agency

---

Title of Responsible Officer

---

Signature of Responsible Officer in Lead Agency

---

Signature of Preparer (If different from responsible officer)

## PART 1--PROJECT INFORMATION

### Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Adoption of Updated Local Waterfront Revitalization Program (LWRP)

Location of Action (include Street Address, Municipality and County)

Village of Port Chester, NY

Name of Applicant/Sponsor Village of Port Chester Board of Trustees

Address 222 Grace Church Street

City / PO Port Chester

State NY

Zip Code 10573

Business Telephone 914-939-2200, Village Manager Christopher Steers

Name of Owner (if different) \_\_\_\_\_

Address \_\_\_\_\_

City / PO \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Business Telephone \_\_\_\_\_

Description of Action:

The proposed action is the adoption of the updated Village of Port Chester Local Waterfront Revitalization Program (LWRP).

The Village of Port Chester is located along the Byram River in the southeastern quadrant of Westchester County, New York, bounded on the south by Long Island Sound and the City of Rye; on the north and west by the Village of Rye Brook and on the east by the Town of Greenwich, Connecticut. Port Chester lies within the densely developed New York metropolitan area, 10 miles northeast of New York City, and at the junction of two major regional highways, Interstates 95 and 287. In addition, U.S. Route 1 and Metro-North Railroad's New Haven line pass through the center of the Village and also through the Local Waterfront Revitalization Area. Comprising a total of 2.4 square miles in land area, Port Chester is the second most densely populated municipality in Westchester County. Port Chester is an incorporated village within the Town of Rye.

As the New York State Department of State describes, "a Local Waterfront Revitalization Program (LWRP) is a locally prepared, land and water use plan and strategy for a community's natural, public, working, or developed waterfront through which critical issues are addressed. In partnership with the Division of Coastal Resources, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. Once approved by the New York Secretary of State, the Local Program serves to coordinate State and federal actions needed to assist the community achieve its vision."

The Village's LWRP addresses a wide range of issues including: underutilized areas, water-dependent uses, infrastructure, water quality, climate change and sea level rise, public access and recreation, visual quality and historical resources. The LWRP provides a generalized layout of future land uses intended for the Village, and outlines specific projects and alternatives in the immediate waterfront and adjacent areas. No large-scale changes to existing land uses or patterns or rezoning actions are proposed.

For a more detailed description of the proposed action, please refer to the Introduction: Purpose and Location of the Proposed Action (Section 1.0), which precedes this EAF.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban     Industrial     Commercial     Residential (suburban)     Rural (non-farm)  
 Forest     Agriculture     Other \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. Total acreage of project area: 185 acres.

| APPROXIMATE ACREAGE                                        | PRESENTLY        | AFTER COMPLETION |
|------------------------------------------------------------|------------------|------------------|
| Meadow or Brushland (Non-agricultural)                     | <u>N/A</u> acres | <u>N/A</u> acres |
| Forested                                                   | <u>N/A</u> acres | <u>N/A</u> acres |
| Agricultural (Includes orchards, cropland, pasture, etc.)  | <u>N/A</u> acres | <u>N/A</u> acres |
| Wetland (Freshwater or tidal as per Articles 24,25 of ECL) | <u>N/A</u> acres | <u>N/A</u> acres |
| Water Surface Area                                         | <u>N/A</u> acres | <u>N/A</u> acres |
| Unvegetated (Rock, earth or fill)                          | <u>N/A</u> acres | <u>N/A</u> acres |
| Roads, buildings and other paved surfaces                  | <u>N/A</u> acres | <u>N/A</u> acres |
| Other (Indicate type) _____                                | <u>N/A</u> acres | <u>N/A</u> acres |

3. What is predominant soil type(s) on project site? Variable

- a. Soil drainage:     Well drained \_\_\_\_% of site     Moderately well drained \_\_\_\_% of site.  
 Poorly drained \_\_\_\_% of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes     No

a. What is depth to bedrock N/A (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% \_\_\_\_%     10- 15% \_\_\_\_%     15% or greater \_\_\_\_%    N/A

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?     Yes     No    No individual sites within the LWRP area are located on the State and National Registers of Historic Places. Several sites outside of the LWRP area are listed.

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?     Yes     No

8. What is the depth of the water table? Variable (in feet)

9. Is site located over a primary, principal, or sole source aquifer?     Yes     No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?     Yes     No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No N/A

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

Some areas within the LWRP area contain steep slopes and rock outcroppings.

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

Public open space and recreation options within the LWRP area include Columbus Park, William James Park, a public waterfront walkway along the Byram River and the Port Chester Yacht Club boat ramp on Fox Island.

14. Does the present site include scenic views known to be important to the community?  Yes  No

No scenic resources of statewide significance have been identified in the LWRP area, but locally important scenic views include those from William James Park and the waterfront walkway, and from the Greyrock residential neighborhood.

15. Streams within or contiguous to project area:

Byram River.

a. Name of Stream and name of River to which it is tributary

N/A

16. Lakes, ponds, wetland areas within or contiguous to project area:

A small area of tidal wetlands exists in the coastal vicinity of the Port Chester Yacht Club, and a second area of regulated tidal wetlands is located at the "north cove" between Purdy Avenue and I-95.

b. Size (in acres):

The wetland area in the vicinity of the Port Chester Yacht Club totals about 13,000 square feet, and the area at the north cove is approximately 1.4 acres.

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No N/A
- b. If YES, will improvements be necessary to allow connection?  Yes  No N/A
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No N/A
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No  
Long Island Sound is a Westchester County-designated CEA.
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No N/A

**B. Project Description** Adoption of an Update to the Village of Port Chester Local Waterfront Revitalization Program

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: \_\_\_\_\_xx\_\_\_\_\_ acres.
- b. Project acreage to be developed: \_\_\_\_\_N/A\_\_\_\_\_ acres initially; \_\_\_\_\_N/A\_\_\_\_\_ acres ultimately.
- c. Project acreage to remain undeveloped: \_\_\_\_\_N/A\_\_\_\_\_ acres.
- d. Length of project, in miles: \_\_\_\_\_N/A\_\_\_\_\_ (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. \_\_\_\_\_N/A\_\_\_\_\_ %
- f. Number of off-street parking spaces existing \_\_\_\_\_N/A\_\_\_\_\_ ; proposed \_\_\_\_\_N/A\_\_\_\_\_
- g. Maximum vehicular trips generated per hour: \_\_\_\_\_N/A\_\_\_\_\_ (upon completion of project)?
- h. If residential: Number and type of housing units:
- |            | One Family    | Two Family    | Multiple Family | Condominium   |
|------------|---------------|---------------|-----------------|---------------|
| Initially  | _____N/A_____ | _____N/A_____ | _____N/A_____   | _____N/A_____ |
| Ultimately | _____N/A_____ | _____N/A_____ | _____N/A_____   | _____N/A_____ |
- i. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_N/A\_\_\_\_\_ height; \_\_\_\_\_N/A\_\_\_\_\_ width; \_\_\_\_\_N/A\_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? \_\_\_\_\_N/A\_\_\_\_\_ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? \_\_\_\_\_N/A\_\_\_\_\_ tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- 
- b. Will topsoil be stockpiled for reclamation?  Yes  No N/A
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No N/A
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? \_\_\_\_\_N/A\_\_\_\_\_ acres.

\*The proposed action is the adoption of a Local Waterfront Revitalization Program (LWRP) for the Village. This action is generic in nature, not site-specific, and does not directly result in physical changes to the environment. Thus, the project-related impacts assumed by the EAF are generally not applicable or variable dependent on locations within the Village.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No  N/A

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated N/A (number)

b. Anticipated date of commencement phase 1: N/A month N/A year, (including demolition)

c. Approximate completion date of final phase: N/A month N/A year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No  N/A

8. Will blasting occur during construction?  Yes  No  N/A

9. Number of jobs generated: during construction N/A; after project is complete N/A

10. Number of jobs eliminated by this project N/A.

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No Some portions of land within the LWRP area are located within a 100-year floodplain.

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No N/A

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No N/A

19. Will project routinely produce odors (more than one hour per day)?  Yes  No N/A

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No N/A

21. Will project result in an increase in energy use?  Yes  No N/A

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

The project is being funded with a grant from the New York State Department of State, Division of Coastal Resources.

**25. Approvals Required:**

|                                    |                                         |                                        | Type                       | Submittal Date |
|------------------------------------|-----------------------------------------|----------------------------------------|----------------------------|----------------|
| City, Town, Village Board          | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | <u>Adoption of LWRP</u>    | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| City, Town, Village Planning Board | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| City, Town Zoning Board            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| City, County Health Department     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| Other Local Agencies               | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| Other Regional Agencies            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| State Agencies                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | <u>NYS DOS approval of</u> | _____          |
|                                    |                                         |                                        | <u>Village's LWRP</u>      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
| Federal Agencies                   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |
|                                    |                                         |                                        | _____                      | _____          |

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |                                           |                                             |                                                      |                                      |
|-------------------------------------------|---------------------------------------------|------------------------------------------------------|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan        | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

Zoning classifications within the LWRP area are as follows: Central Business (C2), General Commercial (C4), Designed Waterfront Development (DW), Light Industrial (M1), General Industrial (M2), Marina Urban Redevelopment (MUR), Single-Family (R7), Two-Family (R2F) and Village Center Redevelopment Area (VCRA).

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A. The LWRP sets forth policies and recommendations but does not propose zoning.

4. What is the proposed zoning of the site?

The LWRP recommends generalized future land uses that are consistent with current zoning. No changes to the zoning map are proposed.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

The LWRP is consistent with the recommendations of the current Village of Port Chester Comprehensive Plan.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

The Village of Port Chester is predominantly developed with residential, commercial, institutional and industrial uses.

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? \_\_\_\_\_

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Dennis Pilla Date \_\_\_\_\_

Signature \_\_\_\_\_

Title Mayor, Village of Port Chester

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

Adoption of an Update to the Village of Port Chester Local Waterfront Revitalization Program

**PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE**

**Responsibility of Lead Agency**

**General Information** (Read Carefully)

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable?** The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions** (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

|                                |                              |                                                 |
|--------------------------------|------------------------------|-------------------------------------------------|
| 1                              | 2                            | 3                                               |
| Small to<br>Moderate<br>Impact | Potential<br>Large<br>Impact | Can Impact Be<br>Mitigated by<br>Project Change |

**Impact on Land**

1. Will the Proposed Action result in a physical change to the project site?

NO  YES

**Examples** that would apply to column 2

- |                                                                                                                                                    |                          |                          |                              |                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.                                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.                                                                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.                                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

|  | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change |
|--|-------------------------------------|-----------------------------------|------------------------------------------------------|
|--|-------------------------------------|-----------------------------------|------------------------------------------------------|

- Construction or expansion of a sanitary landfill.  Yes  No
- Construction in a designated floodway.  Yes  No
- Other impacts:  Yes  No

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

- Specific land forms:  Yes  No

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

**Examples** that would apply to column 2

- Developable area of site contains a protected water body.  Yes  No
- Dredging more than 100 cubic yards of material from channel of a protected stream.  Yes  No
- Extension of utility distribution facilities through a protected water body.  Yes  No
- Construction in a designated freshwater or tidal wetland.  Yes  No
- Other impacts:  Yes  No

The LWRP supports maintenance dredging of the Byram River by the U.S. Army Corps of Engineers; however, any dredging would be done at the discretion of the federal agency. The LWRP also proposes filling in the manmade "Cove" area of the river for creation of a new waterfront park. This would involve a potential relocation and upgrading of the existing stormwater outfall at the area, resulting in a minimal or beneficial impact on the river.

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

**Examples** that would apply to column 2

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.  Yes  No
- Construction of a body of water that exceeds 10 acres of surface area.  Yes  No
- Other impacts:  Yes  No



|                                |                              |                                                 |
|--------------------------------|------------------------------|-------------------------------------------------|
| 1                              | 2                            | 3                                               |
| Small to<br>Moderate<br>Impact | Potential<br>Large<br>Impact | Can Impact Be<br>Mitigated by<br>Project Change |

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO       YES

**Examples** that would apply to column 2

- |                                                                    |                                     |                          |                              |                             |
|--------------------------------------------------------------------|-------------------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows                   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion.                   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:                                                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

The proposed filling in of the "Cove" area would involve a potential relocation of the existing stormwater outfall in the area, including addition of an oil/water separator, which would potentially improve water quality from stormwater runoff.

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO       YES

**Examples** that would apply to column 2

- |                                                                                                                                   |                          |                          |                              |                             |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour.                                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour.                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use.                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:                                                                                                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO       YES

**Examples** that would apply to column 2

- |                                                                                                                                         |                          |                          |                              |                             |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|

|                                                                                                       | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|-------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------------|
| • Removal of any portion of a critical or significant wildlife habitat.                               | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Application of pesticide or herbicide more than twice a year, other than for agricultural purposes. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:                                                                                      | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                       |                                     |                                   |                                                          |

9. Will Proposed Action substantially affect non-threatened or non-endangered species?  
 NO  YES

**Examples that would apply to column 2**

|                                                                                                                                              |                          |                          |                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|----------------------------------------------------------|
| • Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:                                                                                                                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                              |                          |                          |                                                          |

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?  
 NO  YES

**Examples that would apply to column 2**

|                                                                                                                                                                                |                          |                          |                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|----------------------------------------------------------|
| • The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Construction activity would excavate or compact the soil profile of agricultural land.                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

|                                                                                                                                                                                                                                                                           | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------------|
| • The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff). | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:                                                                                                                                                                                                                                                          | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                                                                                                                                                                                                                           |                                     |                                   |                                                          |

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO  YES

**Examples that would apply to column 2**

|                                                                                                                                                                                               |                                     |                          |                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|--------------------------|----------------------------------------------------------|
| • Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.                              | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource. | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Project components that will result in the elimination or significant screening of scenic views known to be important to the area.                                                          | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:                                                                                                                                                                              | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

The LWRP proposes enhanced public waterfront access through creation of a new park, improvement and extension of the Byram River Waterfront Walkway, upgrades to Columbus Park and new public space on Fox Island, as well as working with Westchester County on exterior improvements to the Sewage Treatment Plant. Each of these measures would represent an improvement to aesthetic resources. +

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO  YES

**Examples that would apply to column 2**

|                                                                                                                                                                         |                          |                          |                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|----------------------------------------------------------|
| • Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Any impact to an archaeological site or fossil bed located within the project site.                                                                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

|  |                                |                              |                                                 |
|--|--------------------------------|------------------------------|-------------------------------------------------|
|  | 1                              | 2                            | 3                                               |
|  | Small to<br>Moderate<br>Impact | Potential<br>Large<br>Impact | Can Impact Be<br>Mitigated by<br>Project Change |

- Other impacts:    Yes  No

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

- NO  YES

**Examples that would apply to column 2**

- The permanent foreclosure of a future recreational opportunity.    Yes  No
- A major reduction of an open space important to the community.    Yes  No
- Other impacts:    Yes  No

The LWRP proposes enhanced public waterfront access through creation of a new park, improvement and extension of the Byram River Waterfront Walkway, upgrades to Columbus Park and new public space on Fox Island, as well as provision of hand-launched and transient docking facilities in the downtown area. Each of these measures would represent beneficial impacts. +

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

- NO  YES

List the environmental characteristics that caused the designation of the CEA.

Long Island Sound - Exceptional or unique character.

**Examples that would apply to column 2**

- Proposed Action to locate within the CEA?    Yes  No
- Proposed Action will result in a reduction in the quantity of the resource?    Yes  No
- Proposed Action will result in a reduction in the quality of the resource?    Yes  No
- Proposed Action will impact the use, function or enjoyment of the resource?    Yes  No
- Other impacts:    Yes  No

Port Chester's coastline falls into the Long Island Sound Critical Environmental Area, which was designed by Westchester County. The LWRP proposes a number of measures which would be beneficial to this CEA, including improvements to public waterfront access, implementation of a Port Chester Harbor Management Plan, enhanced waterfront recreational opportunities and measures to improve water quality.

|                                |                              |                                                 |
|--------------------------------|------------------------------|-------------------------------------------------|
| 1                              | 2                            | 3                                               |
| Small to<br>Moderate<br>Impact | Potential<br>Large<br>Impact | Can Impact Be<br>Mitigated by<br>Project Change |

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?

NO       YES

**Examples** that would apply to column 2

- |                                                                      |                          |                          |                              |                             |
|----------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in major traffic problems.             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON ENERGY**

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO       YES

**Examples** that would apply to column 2

- |                                                                                                                                                                                                             |                          |                          |                              |                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.                                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:                                                                                                                                                                                            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**NOISE AND ODOR IMPACT**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO       YES

**Examples** that would apply to column 2

- |                                                                                                                          |                          |                          |                              |                             |
|--------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Blasting within 1,500 feet of a hospital, school or other sensitive facility.                                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day).                                                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will remove natural barriers that would act as a noise screen.                                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:                                                                                                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

|                                |                              |                                                 |
|--------------------------------|------------------------------|-------------------------------------------------|
| 1                              | 2                            | 3                                               |
| Small to<br>Moderate<br>Impact | Potential<br>Large<br>Impact | Can Impact Be<br>Mitigated by<br>Project Change |

**IMPACT ON PUBLIC HEALTH**

18. Will Proposed Action affect public health and safety?

NO       YES

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                     |                                                                                          |                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.</li> <li>• Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)</li> <li>• Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.</li> <li>• Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.</li> <li>• Other impacts:</li> </ul> | <input type="checkbox"/><br><br><br><br><br><br><br><br><br><br><input checked="" type="checkbox"/> | <input type="checkbox"/><br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

The LWRP proposes the consideration of extension of utilities along Fox Island Road, which would improve the water and sewer system for that portion of the Village.

**IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD**

19. Will Proposed Action affect the character of the existing community?

NO       YES

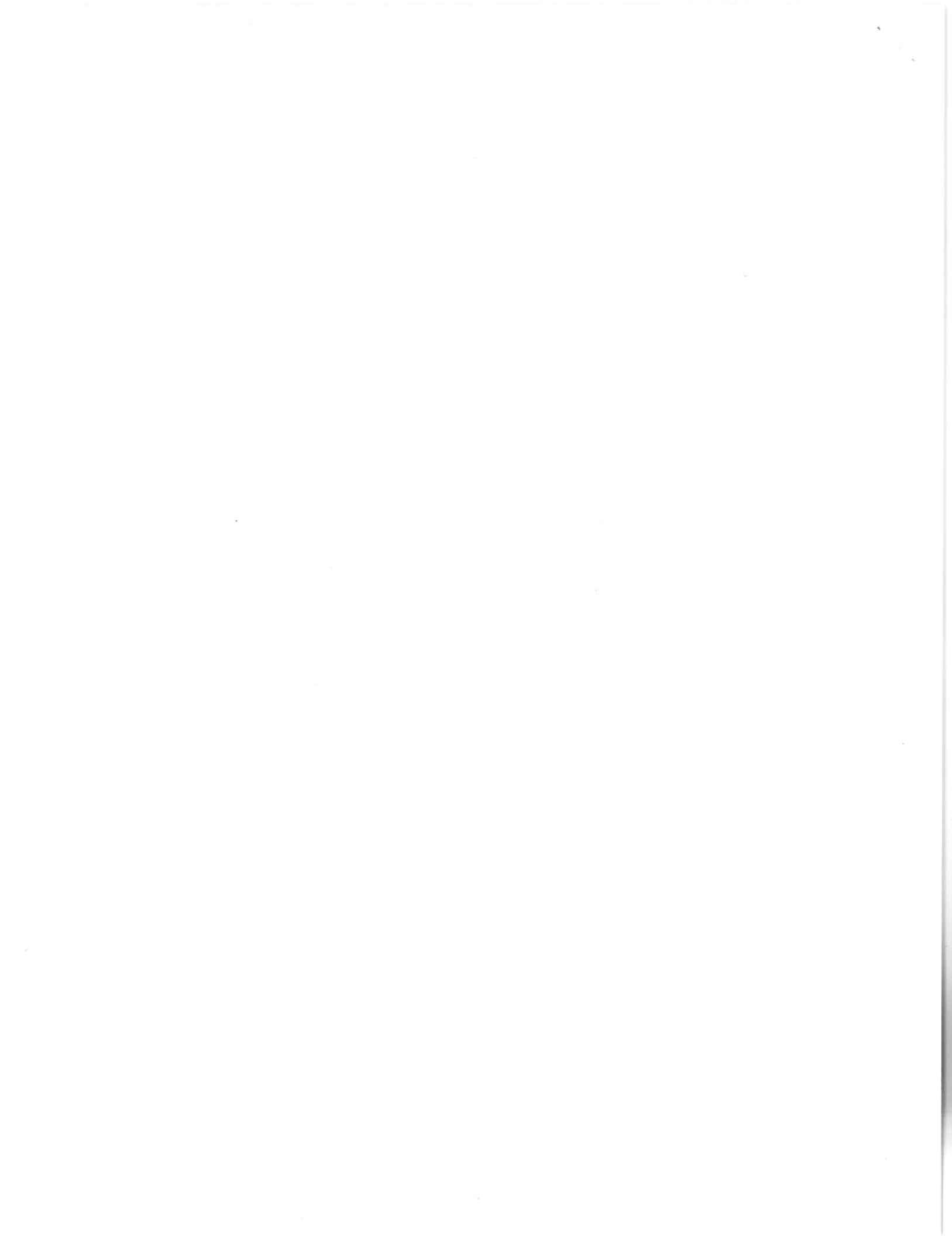
**Examples** that would apply to column 2

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                          |                                                                                          |                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.</li> <li>• The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.</li> <li>• Proposed Action will conflict with officially adopted plans or goals.</li> <li>• Proposed Action will cause a change in the density of land use.</li> <li>• Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.</li> <li>• Development will create a demand for additional community services (e.g. schools, police and fire, etc.)</li> </ul> | <input type="checkbox"/><br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> | <input type="checkbox"/><br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><br><br><br><br><br><br><br><br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                        | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|------------------------------------------------------------------------|-------------------------------------|-----------------------------------|----------------------------------------------------------|
| • Proposed Action will set an important precedent for future projects. | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will create or eliminate employment.                 | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:                                                       | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                                                                        |                                     |                                   |                                                          |

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?  
 NO     YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3 .**



RESOLUTION  
SEQRA NOTICE OF INTENT TO SERVE AS LEAD AGENCY FOR  
THE ADOPTION OF THE VILLAGE OF PORT CHESTER'S  
UPDATED LOCAL WATERFRONT REVITALIZATION PROGRAM

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE KENNER, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, in 1992, the Village of Port Chester adopted a Local Waterfront Revitalization Program (LWRP) that was approved by the New York State Secretary of State; and

WHEREAS, through grant funding secured from New York State, the Village has commenced work on an update to the LWRP; and

WHEREAS, with the assistance of planning consultant, Buckhurst Fish & Jacquemart, New York, New York, which firm had worked on the 1992 document, the Waterfront Commission is developing recommended changes for the Board's consideration and adoption; and

WHEREAS, pursuant to the Notice annexed hereto, in accordance with the provisions of 6 NYCRR Part 617, the Board of Trustees of the Village of Port Chester intends to serve as Lead Agency for the SEQRA review of this Type 1 Action, and, in this capacity, will determine if the proposed action will have a significant effect on the environment; and

WHEREAS, the Lead Agency will undertake a coordinated review of this action. Now therefore, be it

RESOLVED, that the Village of Port Chester Board of Trustees hereby designates its intention to serve as Lead Agency for the SEQRA Coordinated Review of this Type 1 Action, and will circulate the Lead Agency Notice along with the Environmental Assessment Form, to all Involved and Interested Agencies. Involved and Interested Agencies shall be given 30 days from the mailing of the Lead Agency Notice to challenge the Board of Trustees' Lead Agency designation.

ROLL CALL

AYES: Trustees Brakewood, Terenzi, Didden, Branca Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: None

DATE: February 6, 2012

**SEQR**  
**Intent to be Lead Agency**

**MEMO TO: ALL INVOLVED AGENCIES**

**FROM:** Village of Port Chester Board of Trustees  
222 Grace Church Street  
Port Chester, NY 10573

**PROJECT TITLE: Adoption of Updated Village of Port Chester Local  
Waterfront Revitalization Program (LWRP)**  
Village of Port Chester  
Westchester County, New York

**MAILING DATE:** February 6, 2012

This notification is for the purpose of designating a lead agency according to the requirements of Article 8 of New York State Environmental Conservation Law for the following proposed action:

**Adoption of Updated Village of Port Chester LWRP**

The Village of Port Chester Board of Trustees is proposing to adopt an update to its Local Waterfront Revitalization Program (LWRP), in order to account for changes that have occurred since the original LWRP was adopted in 1992 and to reflect the Village's current vision for its waterfront.

**Contact Person:** Christopher Russo, Village Manager  
222 Grace Church Street  
Port Chester, NY 10573  
T. 914.939.2200  
[crusso@portchesterny.com](mailto:crusso@portchesterny.com)

**Involved Agencies:**

Village of Port Chester Board of Trustees (Proposed Lead Agency)  
222 Grace Church Street  
Port Chester, NY 10573  
Dennis Pilla, Mayor

New York State Department of State  
Division of Coastal Resources and Waterfront Revitalization  
99 Washington Avenue, Suite 1010  
Albany, New York 12231-0001  
Contact: George Stafford, Director

**Interested Agencies:**

Village of Port Chester Waterfront Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Peter Pascale, Chair

Village of Port Chester Planning Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Michael Antaki, Chair

Village of Port Chester Zoning Board of Appeals  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: William Villanova, Chair

Village of Port Chester Architectural Board of Review  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: William Hume, Chair

Village of Port Chester Comprehensive Plan Advisory Committee  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Christopher Steers, Assistant Village Manager

Village of Port Chester Industrial Development Agency  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Neil Pagano, Chair

Village of Port Chester Park Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Jerry Terranova, Chair

Village of Port Chester Recreation Commission  
222 Grace Church Street  
Port Chester, NY 10573  
Contact: Kim Morabito, Chair

Port Chester-Rye Union Free School District  
113 Bowman Avenue  
Port Chester, NY 10573  
Contact: Jennifer Bisaccio, District Clerk

Town of Rye  
10 Pearl Street  
Port Chester, NY 10573  
Contact: Joe Carwin, Town Supervisor

City of Rye  
1051 Boston Post Road  
Rye, NY 10580  
Contact: Scott Pickup, City Manager

Village of Rye Brook  
938 King Street  
Rye Brook, NY 10573  
Contact: Joan Feinstein, Mayor

Town of Greenwich, Connecticut  
Town Hall  
101 Field Point Road  
Greenwich, CT 06830  
Contact: Peter Tesei, First Selectman

Westchester County Department of Planning  
148 Martine Avenue  
Room 432  
White Plains, NY 10601  
Contact: Edward Burroughs, Commissioner

Metro-North Railroad  
347 Madison Avenue  
New York, NY 10017-3709

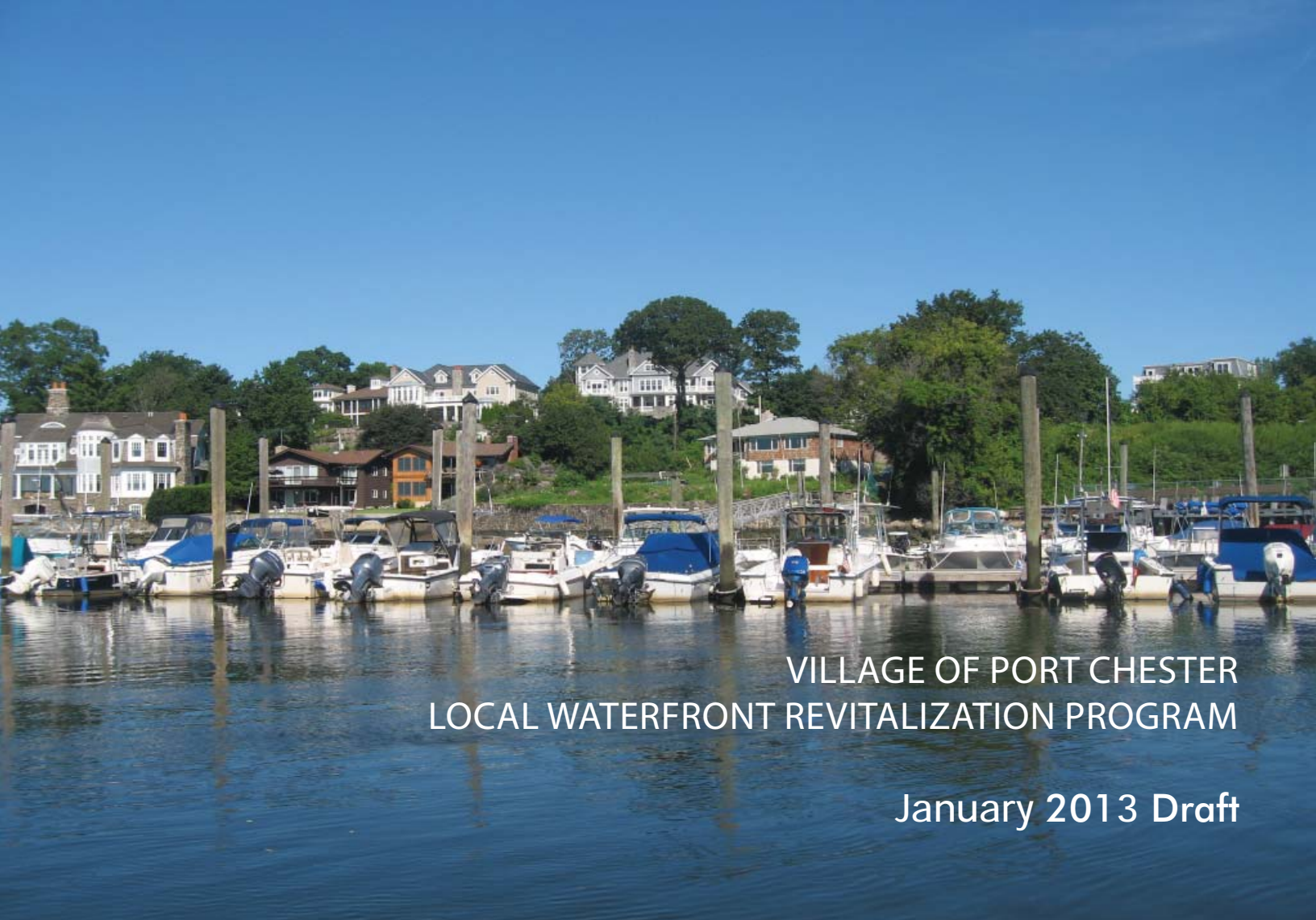
New York State Department of Environmental Conservation  
Region 3 Office  
21 South Putt Corners Road  
New Paltz, NY 12561-1696  
Contact: Margaret Duke

New York State Office of Parks, Recreation and Historic Preservation  
New York State Historic Preservation Office (SHPO)  
Peebles Island Resource Center  
P.O. Box 189  
Waterford, NY 12188-0189  
Contact: William Krattinger, Historic Preservation Specialist

New York State Department of Transportation  
Region 8  
Eleanor Roosevelt State Office Building  
4 Burnett Boulevard  
Poughkeepsie, NY 12603  
Contact: Melissa Slater, Assistant to the Regional Director

United States Army Corps of Engineers  
Jacob K. Javits Federal Building

26 Federal Plaza, Room 2109  
New York, NY 10278-0090



VILLAGE OF PORT CHESTER  
LOCAL WATERFRONT REVITALIZATION PROGRAM

January 2013 Draft



Prepared for:  
The Village of Port Chester Board of Trustees

Prepared by:  
The Village of Port Chester Waterfront Commission,  
with assistance from BFJ Planning and Charles McCaffrey



**VILLAGE OF PORT CHESTER  
LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)**

**January 2013 Draft**

**Prepared on behalf of:  
Village of Port Chester, NY**

**Prepared by:  
BFJ Planning  
115 Fifth Avenue  
New York, NY 10003**



## **Acknowledgments:**

### **Village Board of Trustees**

Dennis Pilla, Mayor  
Daniel Brakewood  
Joseph Kenner  
John Branca  
Saverio Terenzi  
Luis Marino  
Bart Didden

### **Village of Port Chester Waterfront Commission**

~~Gene Ceccarelli~~[Peter Pascale](#), Chairman  
John Hiensch  
Mike O'Connor  
Tav Passerelli  
[Alejandro Payan](#)

### **[Peter Pascale, former Chairman](#)**

Mary Kelley, former member

### **Village of Port Chester Staff**

~~Christopher Russo, Village Manager~~  
Christopher Steers, ~~Assistant~~ Village Manager  
Anthony Cerreto, Village Attorney  
Christopher Gomez, Village Planner  
Patrick Cleary, Village Planning Consultant  
Dolph Rotfeld, P.E., Village Consulting Engineer  
~~Janusz Richards~~[Jean Mancuso](#), Village Clerk

### **BFJ Planning Team**

Frank Fish, FAICP, Principal  
Susan Favate, AICP, PP, [Senior](#) Associate  
Joanna Todaro, Planner  
Charles McCaffrey, Consultant, Former Chief of Local Waterfront Revitalization Programs  
Jonathan Martin, Ph.D., Urban Design  
Winnie Liu, Graphic Design

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**(January 2013 Draft)**

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## **INTRODUCTION**



## **A. PURPOSE AND THEMES OF THE LOCAL WATERFRONT REVITALIZATION PROGRAM**

The Local Waterfront Revitalization Program (LWRP) is a New York State-sponsored program under the direction of the State Coastal Management Program. An LWRP is intended to be a comprehensive, realistic program for the beneficial use, revitalization and protection of a community's waterfront resources. Its major components are:

- A clearly delineated local waterfront revitalization area boundary based on the State's federally approved coastal zone.
- An inventory and analysis of the natural and man-made characteristics and resources of the waterfront area.
- Policies for the management of activities within the waterfront revitalization area which apply to the State coastal policies expressed in the State Coastal Management Program to specific local waterfront resources and conditions and to reflect local objectives.
- Proposed land and water uses for the entire waterfront revitalization area and proposed waterfront projects.
- Local techniques for implementing the policies of the LWRP and ensuring that local actions will comply with the LWRP.

Once completed, an LWRP is submitted to the New York Secretary of State and the U.S. Department of Commerce for review and approval. After approval, the local program replaces the State Coastal Management Program within the local waterfront area and becomes the official plan for governing local, State and Federal actions affecting the defined waterfront revitalization area.

The benefits of a Local Waterfront Revitalization Program include the following:

- A municipality has the opportunity to evaluate its waterfront resources, to develop a comprehensive strategy for the best use of these resources and to put in place a local program to implement that strategy in a fair and predictable manner.
- The consistency provisions of the Coastal Management Program require State and Federal agencies to adhere to the policies of an approved LWRP when those agencies undertake, fund or grant a permit for a project within the LWRP area.

### Coastal Management Program Themes

The Waterfront Revitalization of Coastal Areas and Inland Waterways Act, Article 42 of the Executive Law, is the foundation of the New York State Coastal Management Program. The legislative findings declare that:

The social and economic well-being and the general welfare of the people of the state are critically dependent upon the preservation, enhancement, protection, development and use of the natural and man-made resources of the state's coastal area and inland waterways.

The legislature further finds that it is in the interest of the people of the state that coordinated and comprehensive policy and planning for preservation, enhancement, protection, development and use of the state's coastal and

inland waterway resources take place to insure the proper balance between natural resources and the need to accommodate the needs of population growth and economic development.

In 1999, the New York State Department of State (DOS) released the Long Island Sound Coastal Management program. The program draws its authority from Article 42 of the Executive Law. It refined the existing New York State Coastal Management Program, incorporated existing programs and laws governing activities in the coastal area and integrated the capabilities of state and local government into an enforceable program for the Sound. The Long Island Sound Coastal Management Program replaced the state Coastal Management Program for the Sound shorelines of Westchester County, New York City to the Throgs Neck Bridge, Nassau County and Suffolk County. The program defines what constitutes a balance between appropriate and needed economic development, and protection and restoration of the natural and living resources of the Sound.

The Long Island Sound Coastal Management Program is organized around four themes: the natural coast, the working coast, the public coast and the developed coast. Each coast must be considered for both its own intrinsic value and for its interrelationship with the other coasts. The following section briefly describes these themes.

▪ **Developed Coast**

The Long Island Sound coastal region is essentially a developed coast. Much of community character is defined by the existing patterns and style of development, a pattern and style that over the years has exhibited a close relationship to Long Island Sound and to natural landscapes in the coastal area.

Changing development patterns can enhance the community character of the Long Island Sound coastal region and the sense of place of the individual communities that come together to form the region's identity. To ensure that change maintains or enhances community character and ties to the Sound and the surrounding landscape, the impacts of development must be managed to improve quality of life and the environment. This can lead to the coexistence of successful built-up areas and surrounding natural and working landscapes that respects the natural and economic values of the Sound.

According to the Long Island Sound Coastal Management Program, the Village of Port Chester is one of 17 waterfront centers that serve as the focal point of the developed land pattern. These communities are centers of economic and cultural activity within the region and should be maintained to enhance the region's quality of life, coastal character, and remaining open lands and natural resources. Port Chester has also been identified as one of six waterfront centers that have brownfields and/or significant underused, previously built sites available for redevelopment which, if revitalized, would have a regional economic benefit.

▪ **Natural Coast**

The natural coast is comprised of a rich diversity of natural resources that are the basis for the productivity of Long Island Sound, as well as a source of scenic beauty and recreational enjoyment. The Long Island Sound Coastal Management Program

concentrates on the integrity of ecological communities, appropriate responses to natural coastal processes and improved management of water resources and overall water quality.

Long Island Sound is a complex ecosystem consisting of physical (non-living) and biological (living) components and their interactions. The physical components include the open waters, embayments, and tributaries of the Sound, as well as coastal lowlands, headlands, bluffs, adjacent upland areas, small offshore islands, and soils. These features continue to develop and change through the action of tides and offshore currents, and through weathering by precipitation and surface runoff. The biological components include the plants and animals that make up a wide range of ecological communities in and around the Sound. These ecological communities provide vital habitat for waterfowl, finfish, and shellfish.

Erosion and flooding have been causing changes in the coastal geography of the Long Island Sound region since glacial retreat began thousands of years ago. Beaches and dunes have developed and changed; bluffs have slumped and been washed away; bays have changed shape and depth; wetlands have appeared and disappeared. These events, whether occurring incrementally or in a single storm event, are part of a dynamic natural process that never allows coastal landforms to remain the same for more than a moment in geologic time.

Natural processes acting upon unencumbered coastal features, such as nearshore areas, beaches, dunes, bluffs, wetlands, and floodplains, are not considered hazardous. Coastal hazards arise when people build on these dynamic landforms, which continue to change. This eventually results in those structures being damaged or lost by the naturally occurring erosion or flooding.

While population levels have been relatively stable for the Long Island Sound region in recent years, development in coastal areas, including locations of dynamic shoreline change, has steadily increased. As growing numbers of people choose to live in these areas, greater numbers of structures are at risk.

Population growth and associated development have also had negative effects on the quality of water in the Sound. In urban areas, numerous point and nonpoint sources of pollution have degraded the Sound's waters. Wastewater treatment facilities discharge permitted levels of pollutants into the Sound, and combined storm and sanitary sewers channel untreated overflows directly into its waters.

▪ **Public Coast**

The public's right to gain physical and visual access to the recreational opportunities and beauty of New York's coastal resources has long been recognized. However, this right has not always been easily exercised, particularly in the Long Island Sound region. The nature of existing, as well as continuing, development can make the provision of additional coastal access and recreation facilities difficult. Visual access to the waters and shores of the Sound is often blocked by development. The basic right to use and enjoy public trust lands can be hindered by structures that limit the public's ability to reach public trust lands.

▪ **Working Coast**

The working coast consists of uses and businesses that share a common trait: they require a location on the shoreline to function or they depend on harvesting the living or mineral resources in coastal waters. The Sound's working coast consists of areas where: individual public or private marinas, yacht clubs, and boat yards exist; concentrations of commercial or recreational fishing vessels exist; petroleum products, aggregates, or other waterborne commerce are imported or exported; or ferries arrive or depart from the shore. These uses generate significant revenue for the regional economy and are vital to the economic health of the region. Long Island Sound's working coast uses should be protected and promoted as important elements of the region's maritime heritage and economy.

The Long Island Sound Coastal Management Program notes that there are approximately 200 working coast uses located along the Long Island Sound shoreline, nearly two-thirds of which are clustered in sheltered bays and harbors that have historically been developed with water-dependent commercial and industrial uses. These sheltered bays and harbors, or maritime centers, are essential for waterborne commerce, recreation, and the state's transportation system.

A maritime center is defined as:

A discrete portion or area of a harbor or bay that is developed with, and contains concentrations of, water-dependent commercial and industrial uses or essential support facilities. The harbor or bay area is a center for waterborne commerce, recreation, or other water-dependent business activity, making it an important component of the regional transportation system.

Major challenges facing all water-dependent uses to varying degrees include: competition for space on the waterfront and the water, inadequate or deteriorated coastal infrastructure, impacts of regulation and taxation, degradation of coastal resources, lack of public awareness of working coast uses and businesses, and changing markets and business climate. The designation of maritime centers is a means to address these problems. As noted above, the Village of Port Chester has been designated as a maritime center by the Long Island Sound Coastal Management Program.

Maritime centers are identified to enable better protection of existing water-dependent uses, to foster the development of new water-dependent uses in appropriate locations where growth opportunities exist, to protect and ensure the wise use of underutilized commercial waterfront land that is suitable for water-dependent uses, and to ensure the efficient and effective operation of water-dependent uses. Water-dependent uses have unique siting requirements; thus, it is important to protect suitable developed and underutilized waterfront commercial properties, which are limited in number in the Sound region.

## **B. THE LOCAL WATERFRONT REVITALIZATION PROGRAM IN PORT CHESTER**

Port Chester's first LWRP was prepared as a comprehensive, long-range guide to the future development of the Village's waterfront, and was adopted by the Village Board of Trustees and approved by the New York State DOS in 1992. Since the adoption of the original LWRP, the Village has grown by more than 3,500 residents and has experienced land-use issues within the waterfront area. This updated LWRP is necessary to reflect existing conditions; update graphic elements; and outline policies that both reflect those of the Long Island Sound Coastal Management Program and that will shape future waterfront planning by addressing the key issues of development pressure, population growth and cultural diversification.

In addition, Port Chester is nearing completion of an update to its Comprehensive Plan; the visioning process for that plan has identified the need for:

- Updated land-use regulations to utilize the waterfront as an opportunity for economic development
- Continued improvement and protection of the waterfront for appropriate public and private use
- Protection of environmentally significant and sensitive areas such as the Byram River

The Village began the process of updating its LWRP in June 2011, with the existing Waterfront Commission – which is tasked with reviewing land-use actions to determine consistency with the existing LWRP – acting as a steering committee. The Commission met regularly during 2011 and 2012 to prepare the update, and the Village hosted two public workshops to present draft versions of the updated LWRP and to solicit feedback.

## **A.C. LOCAL AND REGIONAL SETTING**

### **1. Location**

The Village of Port Chester is located along the Byram River in the southeastern portion of Westchester County, New York, bounded on the south by Long Island Sound and the City of Rye; on the north and west by the Village of Rye Brook and on the east by the Town of Greenwich, Connecticut (see Figure 1: Regional Map). Port Chester is within a densely developed metropolitan area, approximately 20 miles northeast of New York City, and at the junction of two major regional highways, Interstates 95 and 287, providing easy access throughout the Tri-State area of New York, New Jersey and Connecticut. In addition, U.S. Route 1 and Metro-North Railroad's New Haven line pass through the Village center and the Local Waterfront Revitalization Area (see Figure 2: Local Map).

Port Chester was incorporated as a Village within the Town of Rye in 1868, and its key industries have evolved over time from shipping to manufacturing, and now the service industry. Between 1990 and 2010, the Village's population increased more than 17%, from 24,728 to 28,967 people, and residents of Hispanic origin now comprise 59% of the

total population. Comprising a total of 2.4 square miles in land area, Port Chester is the second most densely populated municipality in Westchester County.

2. Land Use and Development Patterns:

Southeastern Westchester County is almost completely developed and is characterized by mature suburbs with only a small percentage of vacant land. Early residential and industrial growth at the turn of the century was along the major transportation route, the Boston Post Road, which is the main street of many of the shoreline municipalities. Development also took place quickly along the coast, adjacent to Long Island Sound.

Port Chester, more than neighboring communities, experienced an early surge of local industrial growth, accompanied by related commercial and residential expansion. Port Chester, and in particular its riverfront, remained one of the county's industrial centers until recent years. The Village is still an employment center for the area, although most residents commute to jobs either in New York City or its suburbs. Port Chester's commercial districts also serve neighboring towns for some shopping needs. In comparison, the surrounding municipalities of Rye and Greenwich developed primarily as residential communities. They were built following the construction of the railroad and the establishment of good commuter links to New York City.

The construction of I-287 (the Cross Westchester Expressway) and I-95 (New England Thruway) in the 1950s and 60s fostered increased commercial growth throughout the region. These interstates meet at Port Chester, and have generated considerable construction of retail centers, corporate headquarters, speculative office buildings, hotels and light industrial/back office buildings in proximity to these highways. In Port Chester, this growth is most evident with the Waterfront at Port Chester development, an approximately 500,000-square-foot shopping complex which opened in 2004 and is anchored by Costco, Super Stop & Shop, Loews Cineplex and Bed Bath and Beyond. This complex draws shoppers from throughout the region and has played a key role in spurring the revitalization of downtown Port Chester with new restaurants and small-scale retail establishments.

Westchester County's policy framework, *Patterns* (1996) (supplemented and reinforced by the County's current planning document *Westchester 2025*) identifies Port Chester as an intermediate-sized center, characterized by "unmistakable urban activity." Nearly all intermediate centers are on rail lines, and most provide essential services to a wide surrounding area. In addition to the services and facilities found in smaller local centers, intermediate centers are likely to have mid- and high-rise apartments, large-scale retail stores, office buildings and often light manufacturing.

In addition, the Village is identified as a maritime center by the Long Island Sound Coastal Management Program, which defines maritime centers as "the most suitable and appropriate locations on the Sound coast for expansion of existing, or the development of new, water-dependent commercial and industrial uses."



— County boundary  
 — Highways

PORT CHESTER LWRP

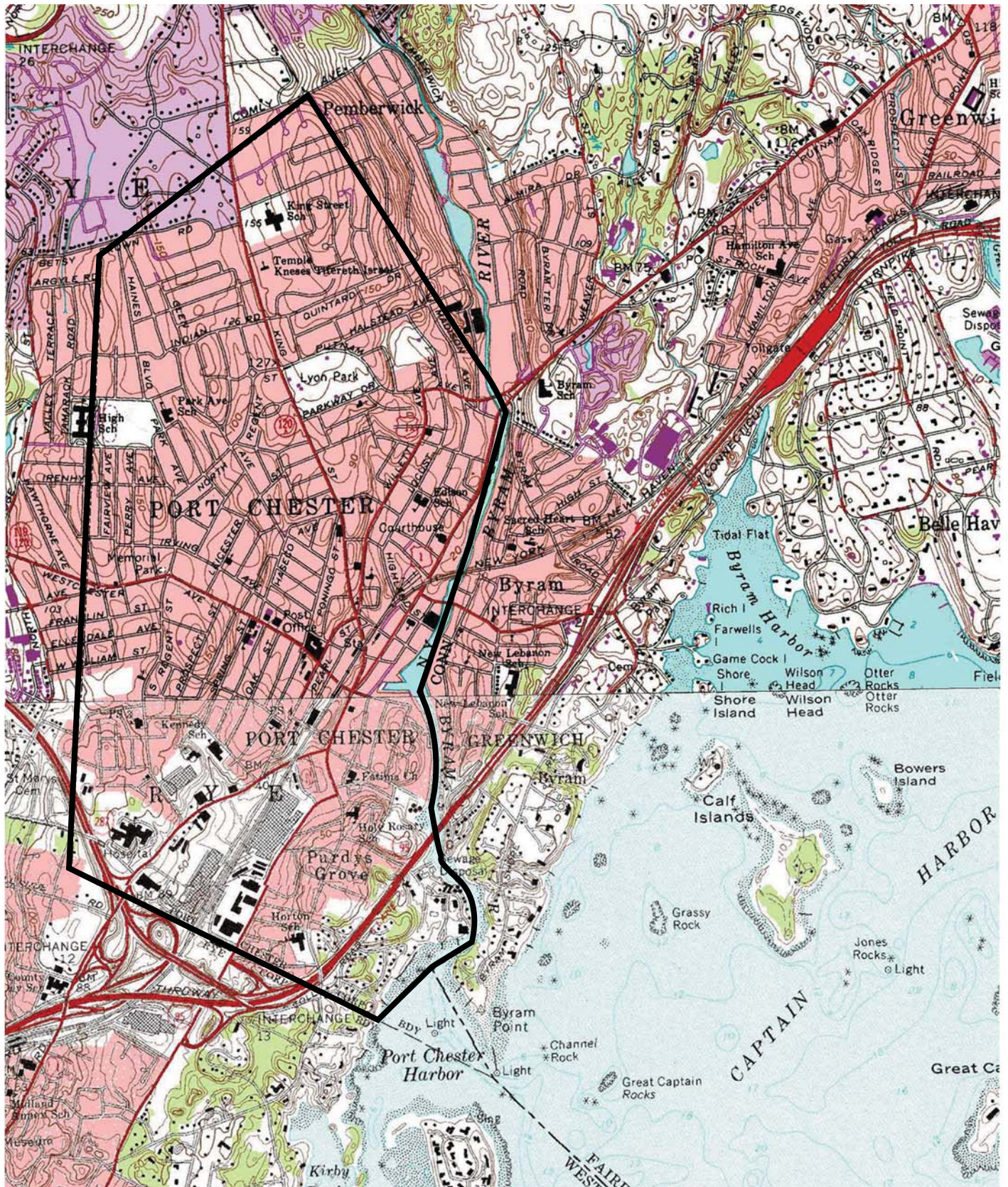
FIGURE 1: REGIONAL MAP

PORT CHESTER, NY

SOURCE: NYS DEP GIS CLEARINGHOUSE



**BFJ Planning**



 Port Chester Village Boundary



## PURPOSE AND THEMES OF THE LOCAL WATERFRONT REVITALIZATION PROGRAM

The Local Waterfront Revitalization Program for the Village of Port Chester has been prepared as a comprehensive, long-range guide to the future development of the Village's waterfront.

The Local Waterfront Revitalization Program (LWRP) is a New York State-sponsored program under the direction of the State Coastal Management Program. An LWRP is intended to be a comprehensive, realistic program for the beneficial use, revitalization and protection of a community's waterfront resources. Its major components are:

- Delineation of the boundary of the local waterfront revitalization area.
- An inventory and analysis of the natural and man-made characteristics of the waterfront area.
- Policies for the management of the waterfront area which apply to the State coastal policies expressed in the State Coastal Management Program to specific waterfront resources and conditions and to reflect local objectives.
- Proposed land and water uses for the entire waterfront area and proposed waterfront projects.
- Local techniques for implementing the policies of the LWRP and ensuring that local actions will comply with the LWRP.

Once completed, an LWRP is submitted to the New York Secretary of State and the U.S. Department of Commerce for review and approval. After approval, the local program replaces the State Coastal Management Program within the local waterfront area and becomes the official plan for governing local, State and Federal actions affecting the defined waterfront revitalization area.

The benefits of a Local Waterfront Revitalization Program include the following:

- A municipality has the opportunity to evaluate its waterfront resources, to develop a comprehensive strategy for the best use of these resources and to put in place a local program to carry out that strategy.
- The consistency provisions of the Coastal Management Program require State and Federal agencies to adhere to the policies of an approved LWRP when those agencies undertake, fund or grant a permit for a project within the LWRP area.

### *Coastal Management Program Themes*

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~~The legislature further finds that it is in the interest of the people of the state that coordinated and comprehensive policy and planning for preservation, enhancement, protection, development and use of the state's coastal and inland waterway resources take place to insure the proper balance between natural resources and the need to accommodate the needs of population growth and economic development.~~

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#### ■ ~~Working Coast~~

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~~The Long Island Sound Coastal Management Program notes that there are approximately 200 working coast uses located along the Long Island Sound shoreline, nearly two thirds of which are clustered in sheltered bays and harbors that have historically been developed with water dependent commercial and industrial uses. These sheltered bays and harbors, or maritime centers, are essential for waterborne commerce, recreation, and the state's transportation system.~~

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underutilized waterfront commercial properties, which are limited in number in the Sound region.



**SECTION I**

**LOCAL WATERFRONT REVITALIZATION PROGRAM BOUNDARY**



## SECTION I LOCAL WATERFRONT REVITALIZATION PROGRAM BOUNDARY

### A. EXISTING LWRP BOUNDARY

The boundary of the current Port Chester Waterfront Revitalization area, as set by the Village's 1992 LWRP and implemented by its Boating and Watercraft Law, is shown on Figure 3 and is as follows: Beginning at the northern end of the LWRP area where North Main Street meets the Greenwich border at the Byram River, the LWRP boundary runs southerly along the center of the Byram river, then the harbor following the Port Chester-Greenwich border, to a point 1,500 feet from the Port Chester shoreline and parallel with the Port Chester-Rye border; thence northwesterly along this border to the New England Thruway; thence northeasterly along the Thruway to Fox Island Road; thence northwesterly along the rear property lines of the properties on the north side of Fox Island Road to Grace Church Street; thence northerly along Grace Church Street to Don Bosco Place; thence northerly along Don Bosco Place to Westchester Avenue; thence westerly along Westchester Avenue to King Street; thence northerly along King Street to the railroad right-of-way; thence northeasterly along that right-of-way to North Main Street; thence northerly along North Main Street to the point of beginning.

The coastal area boundary, as originally defined in the State's Coastal Management Plan, incorporated more inland area, particularly at the southern end of the Village, and merely followed U.S. Route 1 through much of the municipality. The coastal boundary was revised to exclude three areas which did not meet the inclusion criteria described below, and did not have clear connections to the waterfront either by proximity or use.

Specifically, the relationship between the Route 1 commercial corridor and the Midland Avenue Industrial Park was interrupted when Interstates I-95 and I-287 were constructed. Prior to the Interstates, it could have been inferred that these commercial areas did have a link to the coast. The advent of inexpensive truck transportation permanently severed this relationship.

The residential neighborhood between Midland Avenue and Grace Church Street was also removed from the coastal boundary. As was the case with the previous two areas, this portion of the Village did not meet any of the criteria established below, and further has no intrinsic association with the coast. To the east of Grace Church Street is where the residential neighborhoods (i.e. Greyrock) begin to take on a definitive waterfront character. Grace Church Street therefore became an obvious and natural coastal boundary.

The criteria found in the New York State Coastal Management Program which were utilized in defining the coastal boundaries for Port Chester include the following:

- Conform with the nearest cultural features or political boundary.
- Include all land and water uses impacting coastal waters.
- Include any specially designated management area such as a State Park.
- Include tidal and saline waters, islands and beaches.
- Provide buffer areas where appropriate.
- Coordinate boundary lines with those of adjacent municipalities.

## B. PROPOSED LWRP BOUNDARY

This LWRP proposes one minor change to the existing LWRP boundary, primarily to reflect existing built conditions. As described above, from Fox Island Road, the existing boundary follows Grace Church Street to Don Bosco Place, then proceeds northerly along Don Bosco Place to Westchester Avenue and continues westerly along Westchester Avenue. However, this boundary pre-dates the Waterfront at Port Chester development, which encompasses the entire area bounded by Purdy Avenue to the south, South Main Street/Route 1 to the west, Westchester Avenue to the north and Traverse Avenue to the west, and also includes the waterfront area at the foot of Westchester Avenue. The portion of the existing LWRP boundary that follows Don Bosco place would place portions of the Waterfront at Port Chester complex within the LWRP area, and portions outside of the boundary. Thus, this LWRP proposes that the new boundary be somewhat extended to include the entire Waterfront at Port Chester development, as well as some adjacent properties. The new proposed boundary is as follows and is shown in Figure 3:

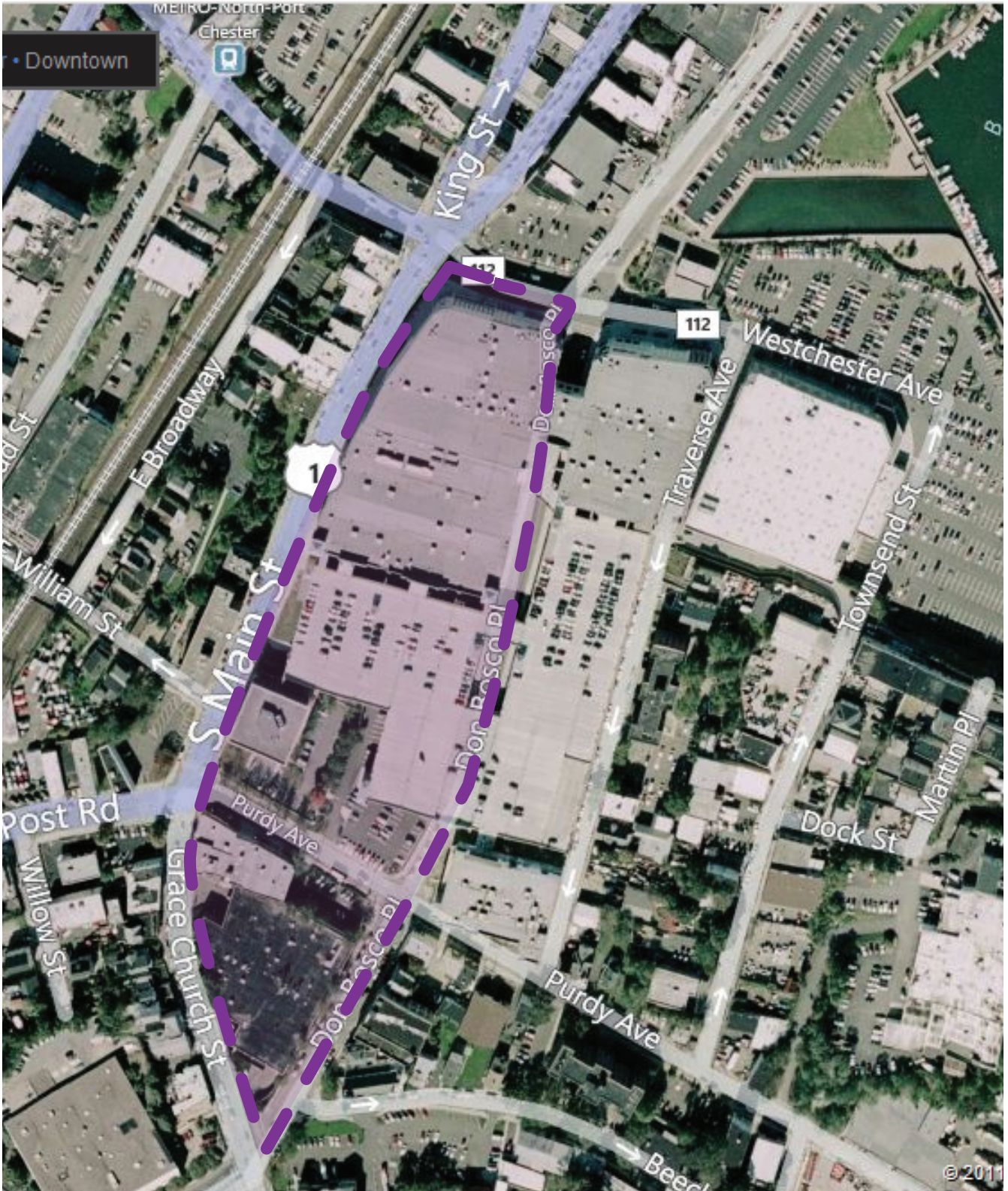
Beginning at the northern end of the LWRP area where North Main Street meets the Greenwich border at the Byram River, the LWRP boundary runs southerly along the center of the Byram river, then the harbor, to the Port Chester-Rye border; thence northwesterly along this border to the New England Thruway; thence northeasterly along the Thruway to Fox Island Road; thence northwesterly along the rear property lines of the properties on the north side of Fox Island Road to Grace Church Street; thence northerly along Grace Church Street to South Main Street~~Westchester Avenue~~; thence northerly along South Main Street to Westchester Avenue; thence westerly along Westchester Avenue to King Street; thence northerly along King Street to the railroad right-of-way; thence northeasterly along that right-of-way to North Main Street; thence northerly along North Main Street to the point of beginning.

Figure 3a shows the proposed change to the existing LWRP boundary in greater detail.



FIGURE 3: PROPOSED NEW LWRP BOUNDARY





 Proposed Addition to LWRP Boundary



## **SECTION II**

### **LOCAL WATERFRONT REVITALIZATION PROGRAM INVENTORY AND ANALYSIS**



**SECTION II LOCAL WATERFRONT REVITALIZATION PROGRAM INVENTORY AND ANALYSIS**

**A. COMMUNITY PROFILE**

Port Chester exhibits many characteristics common to older urban areas. The Village was a busy industrial area in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. As shown in Table 11-1 below, the period of greatest growth was 1910-1940, when local industrial activity was strong. During that period, almost all local residential areas were ~~almost~~ completely built. The villagescape that resulted is characterized by dense mixed-use development. However, the Village experienced a population decline of 9% between 1970 and 1980. Some population decrease was experienced by all but a few of the fast-growing northern Westchester towns during this period, which paralleled a national trend of decreasing population in older urban areas.

**Table II-1: Village and County Population Change 1910-2010**

| <u>Year</u> | <u>Port Chester (% Change)</u> |       | <u>Westchester (% Change)</u> |       |
|-------------|--------------------------------|-------|-------------------------------|-------|
| 1910        | 12,810                         |       | 283,055                       |       |
| 1920        | 16,570                         | (+29) | 344,436                       | (+21) |
| 1930        | 22,660                         | (+37) | 520,946                       | (+51) |
| 1940        | 23,070                         | (+2)  | 573,558                       | (+10) |
| 1950        | 23,970                         | (+4)  | 625,816                       | (+9)  |
| 1960        | 24,960                         | (+4)  | 808,891                       | (+29) |
| 1970        | 25,803                         | (+3)  | 894,104                       | (+11) |
| 1980        | 23,565                         | (-9)  | 866,599                       | (-3)  |
| 1990        | 24,728                         | (+5)  | 874,866                       | (+1)  |
| 2000        | 27,867                         | (+13) | 923,459                       | (+6)  |
| 2010        | 28,967                         | (+4)  | 949,113                       | (+3)  |

*Source: U.S. Census Data*

The Village saw a large population revival after the 1980s, with an increase of 13% between 1990 and 2000. In 2010, the population of Port Chester stood at 28,967, having risen by 1,100 persons, or approximately 4% over 27,867 persons in 2000.

Port Chester’s population is racially and ethnically diverse, and its composition has changed dramatically in the past 30 years. The 1980 Census recorded the population as approximately 80% white, 14% black and 16% Hispanic. The 2010 Census recorded the population as approximately 32% white, 5% black and 59% Hispanic. The rate of Hispanic growth was fourfold the rate of the total population growth between 2000 and 2010. Non-Hispanics, by contrast, contracted 21%, or declined by 3,209 persons over that decade.

All of the Village’s population growth between 2000 and 2010 occurred in three age groups: under 15 years, between 25 and 34 years, and between 40 and 64 of age. The median age of male residents of Port Chester Village is 33.1 years, a fewseveral years younger than that of female residents at 36.2 years. Between the sexes, there is a growing disparity at every age

cohort, with males dominant from birth through 54 years of age, and females dominant from 55 years of age and over.

In ~~2009~~1999, the most recent year for which data are available, the median family income in Port Chester was ~~\$51,025~~58,125, and median household income was ~~\$45,381~~51,652. Family households comprise roughly two in every three Port Chester households and have remained relatively unchanged in number over the decade, standing at 6,348 families in 2010. Virtually all the decline in households has occurred among nonfamily units, which contracted by 265 households, or 8.4%, since 2000.

Although the number of households has declined in Port Chester over the past decade, the number of dwelling units has increased, leading to a rise in vacant housing units. At present (2010), there are 10,046 housing units in the Village, an increase of 274 over 2000 conditions. The rental vacancy rate stands at 5%, compared with a homeowner vacancy rate of 2.2% in 2010. Approximately 57% of the housing units are renter-occupied. However, compared with homeowner housing, of which the average household size represents 2.80 persons, rental housing is occupied by 3.30 persons on average, leading to a 10% increase in household size over the decade.

Port Chester has a fairly old housing stock; units built before 1940 comprise 35% of total housing, and units constructed between 1940 and 1970 account for another 43%. Units built in the last 30 years of the 20<sup>th</sup> century amount to only 2,000 units, or 19% of the total.

#### Historical Development on the Waterfront

Port Chester's character and land use have historically been defined by its Long Island Sound and Byram River coastline. Although the Village is relatively small in area, approximately 2.4 square miles, it has 2.25 miles of waterfront on the Byram River and Port Chester Harbor.

In the early colonial period, the Long Island Sound waterfront proved to be an area with abundant natural resources which could be easily settled. The scattered settlements in the area of present-day Port Chester and Rye were merged in 1665 under the name of "Rye" by the Colony of Connecticut. For nearly 100 years, Rye was disputed territory between the New York and Connecticut colonies, until finally, in 1788, the New York State legislature officially established the Town of Rye boundaries.~~In 1683, the territory again became part of New York State.~~

The Byram River area attracted settlers that engaged in farming, fishing, logging and trading. As the hamlet grew, boat building emerged as a dominant industry, and by the early 19<sup>th</sup> century, it had become the area's principal economic activity. Large pits were created to cut timber for boat building, which lent the town its original name: Saw Pit. In 1837, the New York State Legislature changed the name from Saw Pit to Port Chester.

Port Chester had a superior transportation network due to the river and its railroad line, which was completed in 1849. This enabled the expansion of 19<sup>th</sup> century and early 20<sup>th</sup> century industries, and a number of notable companies operated in the Village, such as:

- Abendroth Brothers Eagle Foundry, established 1840. Largest foundry in the east.

- Russell Burdsall and Ward Bolt Works, established 1882.
- Ernest Simons Manufacturing Company, established 1876.
- P.R. Mallory Plant, largest producer of tungsten filament wire, established 1916.
- Arnold Bakers, moved to Port Chester in 1941.
- Mint Products Company (Life Savers), established 1920.

Many of these industries relied to varying degrees on the waterfront for transportation, power, storage and various other products.

Since about 1900, the Byram River waterfront has been filled in extensively. The river once extended inland from the present marina cove at the foot of Westchester Avenue as far as Main Street and ran south along where Don Bosco Place is today, toward Grace Church Street. The manmade inlet area just north of Westchester Avenue (also known as “the Cove”) remained to allow for oil tankers serving facilities on the Greenwich side of the river to maneuver. These fuel facilities in Greenwich have now been demolished and replaced with condominiums; thus, this inlet area has limited practical use. The Fox Island area has also been substantially infilled, including a large central v-shaped area where the village's leaf mulching facility is located. The Byram River in general is much narrower today than it was 50 years ago.

The first residential development began on the waterfront in the 1930s, when a large harborfront estate on the Rye border was subdivided. Eventually, 47 residences were built in this Greyrock neighborhood. Along Port Chester's downtown waterfront, a large area was cleared and streets were closed in the 1940s to build the present parking lots, which are now privately owned but leased to the Village for public use.

After World War I, the commercial and industrial use of the waterfront began a slow, gradual period of decline. The Abendroth Foundry closed and the Port Chester Transportation Company discontinued steamer service to New York City. The construction of I-95 and 1-287 in the 1950s and 1960s also contributed to this decline of the Port Chester waterfront. Because traffic no longer had to pass through Port Chester, the retail hub of the downtown began to deteriorate.

Also during this period, river pollution reached perhaps its highest levels, and nearly all marine life in the Byram River disappeared. Pollution had been a serious problem since World War I, when major upstream industries began dumping large amounts of acids, oils and toxic metals. Thus, swimming and fishing activities were gradually restricted by the continuously worsening pollution. By the 1950s and 1960s boat mooring was the sole recreational use. In the mid-1950s the Port Chester Marina was built and the river was dredged to provide docking space for boats.

Although the waterfront in Port Chester was not a priority throughout much of the latter 20<sup>th</sup> century, in the 1990s the community began to place more emphasis on revitalizing this underused asset. In 1998, Port Chester made an agreement with Long Island-based G&S Developers permitting a redevelopment of a portion of the downtown waterfront through the use of the Village's power of eminent domain. G&S opened in 2002 the Waterfront at Port Chester, a 500,000-square-foot complex of retail and entertainment use, anchored by Costco, Super Shop & Stop, Loews Cineplex, and Bed Bath & Beyond. The developer is expected to seek the addition of nearby hotel and residential uses in the near future. The Waterfront at Port Chester helped spur other economic development in the Village's downtown. Three new restaurants have opened in the area since 2005: Q Restaurant & Bar (2005), bartaco (2010), and

Tarry Lodge (2008), the latter owned by celebrity chef Mario Batali. A new residential building, the Mariner, ~~was recently is currently being~~ constructed on the waterfront north of the Village-leased parking lot at Abendroth Avenue and ~~Willett AvenueAdee Street~~.

## **B. LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) AREA**

### **1. Orientation and General Character**

The Port Chester Local Waterfront Revitalization Program area lies along the west bank and harborfront of the Byram River and the shores of Port Chester Harbor. The area extends in a generally north-south direction from the Putnam Avenue Bridge to the Rye City boundary. The width that the LWRP area extends inland varies from less than 100 feet at the north end to approximately 1,500 feet at other points. The land area encompasses approximately 185 acres and has a river frontage of about 2.25 miles.

### **2. LWRP Subareas**

As shown in Figure 4, the LWRP area has been divided into five subareas on the basis of land use, development density, area character and topography:

- a. Greyrock Subarea: This is a single-family residential neighborhood consisting of approximately 27 acres, with approximately 1,500 feet of waterfront on the Sound between the City of Rye border and the Village Department of Public Works (DPW) facilities on Fox Island Road.
- b. Fox Island Subarea: This area consists of the portion of land east of the New England Thruway (I-95), and includes the Village's DPW facilities, the Port Chester Yacht Club and the Westchester County sewage treatment plant.
- c. Columbus Park/Purdy Avenue Subarea: This area extends from I-95 westward generally to Grace Church Street to the intersection with South Main Street (U.S. Route 1), then northward to Purdy Avenue, then eastward to Traverse Avenue, then north along Traverse to Townsend Street and eastward to the Byram River. This subarea includes Columbus Park and the residential neighborhood immediately west of the park, as well as the industrial uses along Purdy Avenue and the mixed-use neighborhood centering on Townsend Street.
- d. Downtown Subarea: This subarea is a substantial section of the Village center, generally bounded by Westchester Avenue and Liberty Square on the south, and on the north by North Main Street and the Metro-North right-of-way and bridge. It includes the Waterfront at Port Chester development as well as the traditional low-scale waterfront area and a number of surface parking areas.

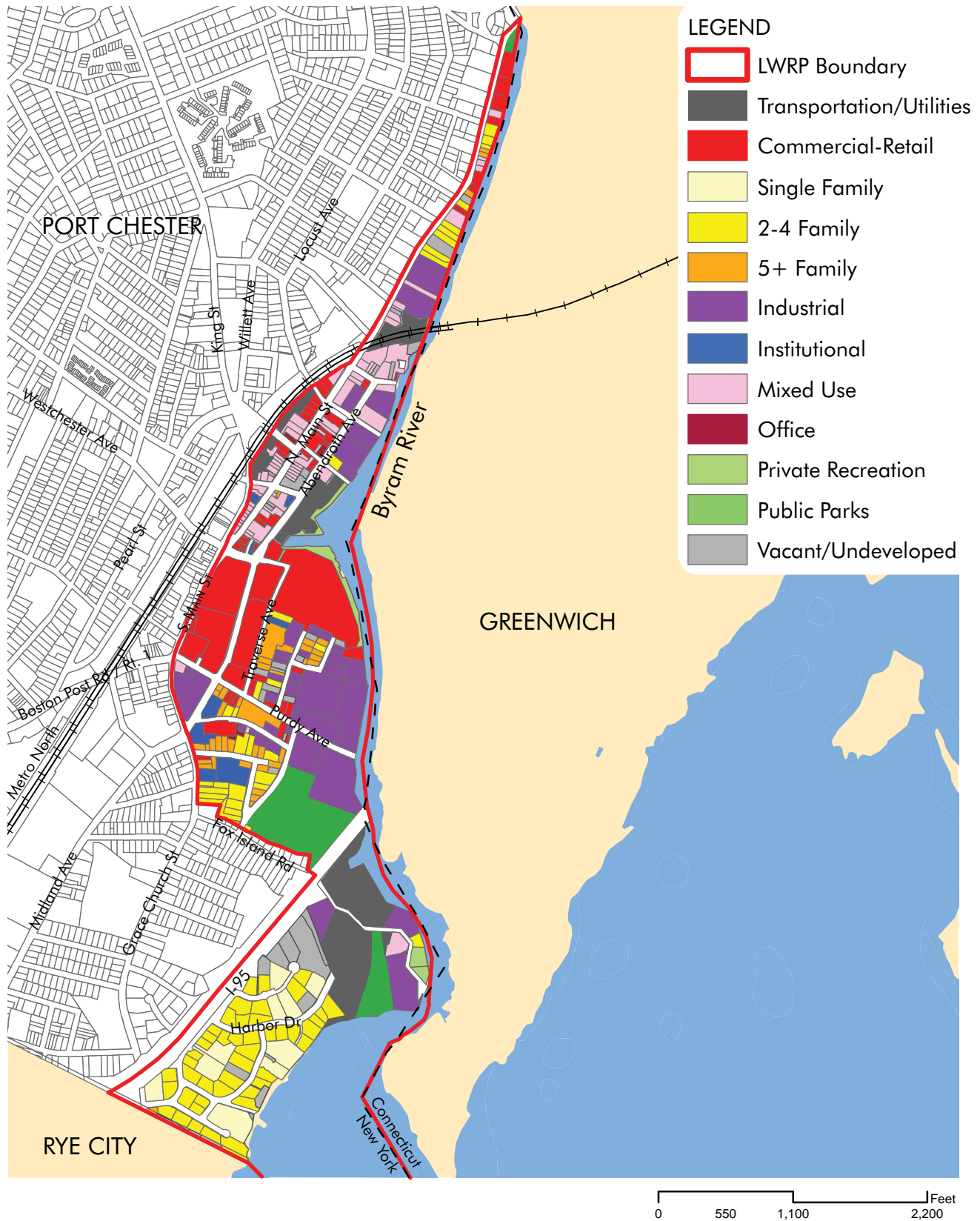


- e. Brooksville Subarea: This subarea is a narrow strip of land, primarily one lot deep, between North Main Street and the Byram River, with the Putnam Avenue Bridge at the north and the Metro-North overpass at the south end.

### C. LAND USE AND DEVELOPMENT

The following is a generalized description of the land and water uses and the built character of the LWRP area, by subarea. The land use patterns are illustrated on Figure 5.

- Greyrock is an attractive, stable neighborhood of approximately 50 single-family houses built on the site of a large estate which was subdivided in the 1930s. The neighborhood faces onto the harbor on the east and is separated from the rest of the Village by the New England Thruway on the west. In character, Greyrock is similar to adjacent neighborhoods in Rye, immediately south. There are no plans for changes in this area in the foreseeable future.
- The New England Thruway defines the western border of the Fox Island subarea. This subarea presently contains the Village Department of Public Works and the Port Chester Yacht Club on 11 Village-owned acres. The Fox Island peninsula also houses the Westchester County Port Chester Wastewater Treatment Plant, industrial plants, an oil tank facility (not in use), a former seafood restaurant (currently vacant). Additionally, currently one or more commercial fishing vessels operate from the shore.
- The Columbus Park/Purdy Avenue Subarea contains a mix of older single-, two- and multifamily residential buildings, and commercial, light industrial and institutional buildings. The uses along Fox Island Road, Nicola Place, Central Avenue and Grace Church Street are almost entirely residential and separated from streets east and north by a steep hill and lack of through streets. The upland areas contain some deteriorated residential, automotive and industrial shops, junkyards and a large block of warehouses. Along the riverfront are an asphalt plant and concrete plant, and in the southeast of the subarea is Columbus Park, occupying 9.4 acres. The park includes a soccer field, parking, playgrounds, a water feature, picnic pavilion, and basketball and volleyball courts. The waterfront is currently inaccessible from the park.
- The Downtown Subarea encompasses all of the riverfront in the Village's central business district, as well as a substantial portion of the downtown. The LWRP boundary of this subarea extends from the riverfront to the railroad right-of-way, and includes the most active commercial area of the traditional downtown, approximately four blocks along North Main Street and the Waterfront at Port Chester shopping center. East of Abendroth Avenue, the riverfront is lined with a large parking lot and landscaped area, a public marina facility, a small number of commercial uses and generally underutilized industrial buildings. The Mill Street Bridge connects Port Chester to the small commercial center of Greenwich, Connecticut. One block west of this subarea is the Port Chester railroad station.



- The Brooksville subarea is the neighborhood bordering the river north of the downtown. The LWRP subarea is a narrow strip running along North Main Street, paralleling the river, to the Putnam Avenue Bridge which crosses the river into Greenwich. This area is characterized by mixed land uses on small, shallow lots which back onto the Byram River. Generally, the condition of the properties is good, but there is an incompatibility among older residential and newer commercial uses. The subarea includes the William James Memorial Park and a restored pumphouse at the north end. West of Main Street in Port Chester and also on the east side of the narrow Byram River in Greenwich are stable, pleasant residential neighborhoods.

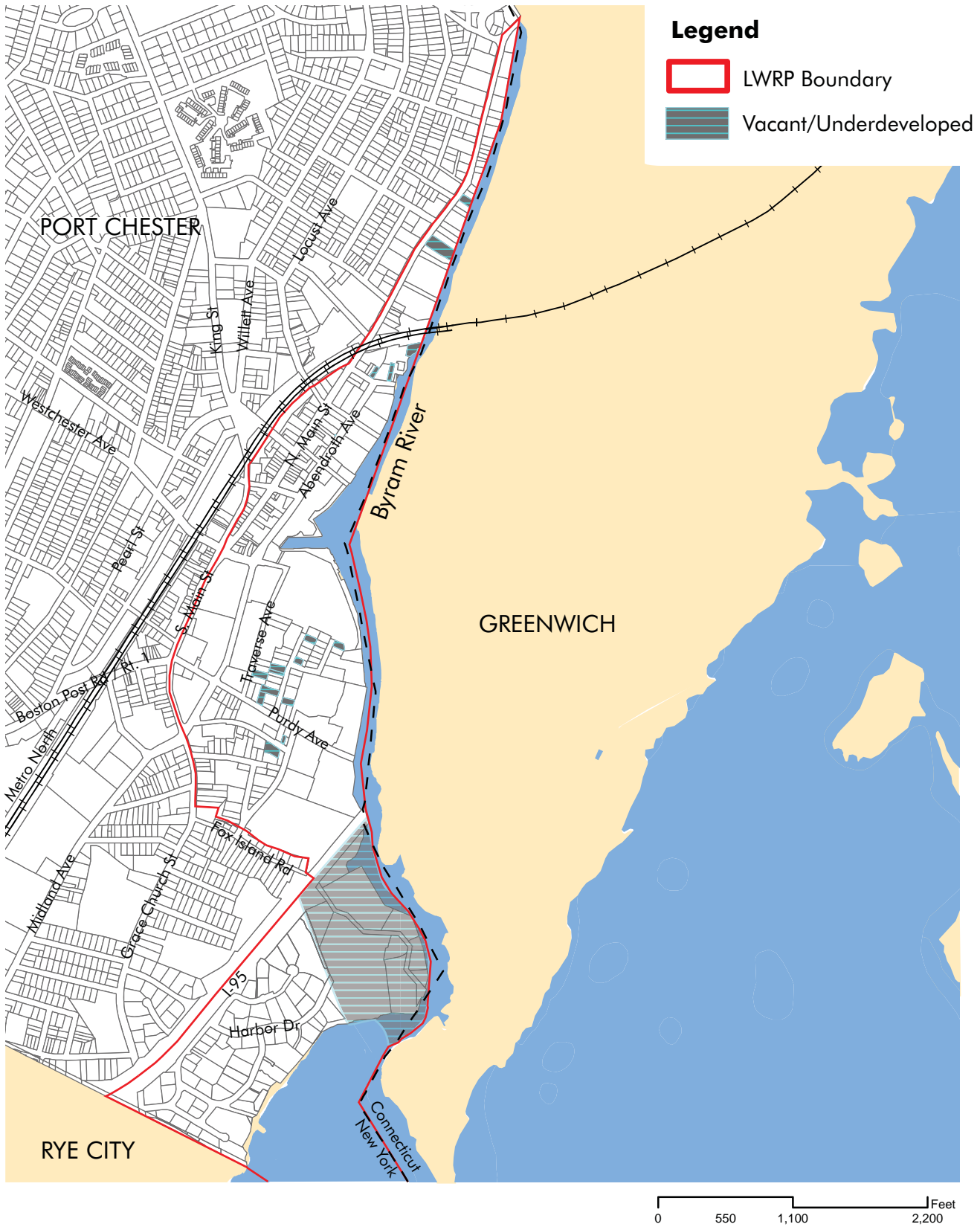
#### 1. Underutilized, Abandoned or Deteriorated Sites

Much of the waterfront area within the LWRP is underutilized. In the most severe cases, such as the Fox Island peninsula and the downtown blocks east of Abendroth Avenue, old industrial uses that formerly occupied those sites are gone. The former area is a storage and leaf mulch site for the Department of Public Works. The latter is a large parking lot owned by developer G&S and leased to the Village, and does not appear to be used at full capacity.

Underutilized Areas are identified on Figure 6. Although most land within the LWRP is put to some use, in many cases it is underutilized for economically marginal purposes or by uses that located there because the land was inexpensive and industrially zoned. Many structures, including houses, warehouses and the industrial buildings, are old and deteriorated and date from a period when the waterfront was commercially active. Many of these structures are not well-built and it is likely that building regulations on the waterfront were never well controlled.

A significant concentration of underutilized lots is in the Columbus Park/Purdy Avenue subarea; at least 10 individual sites have been identified that are underutilized or vacant. While the Fox Island subarea does not appear to have as great a number of vacant or underutilized lots, many large uses in this area are not considered optimal for waterfront land. One example is the Village's Department of Public Works. The facility covers approximately 75% of the Fox Island peninsula and includes garages, an abandoned incinerator, outdoor storage of vehicles, machinery and materials, windrows of leaves, and a closed landfill. The site is kept locked during normal business hours, except for security purposes, further limiting its public accessibility. The remaining parcels primarily include light industrial uses which are not water-dependent nor the best use of waterfront property. Taken as a whole, the peninsula is an underutilized area. The two coves north and south of the I-95 overpass are vacant and largely inaccessible, and the area east of the highway is occupied by the sewage treatment plant.

The neighborhood between Purdy and Westchester Avenues, east of Traverse Avenue, is a mix of residential and underutilized lots. These lots include vehicle storage, industrial uses, and automotive service stations, many of which are deteriorated. West of Traverse Avenue is the large commercial development, The Waterfront at Port Chester, located along South Main Street, bordered by Purdy Avenue to the South and Westchester Avenue to the north and east.



From Westchester Avenue to Willett Avenue, most of the waterfront is bordered by a large public parking lot. The parking lot is bordered by a grassy area and trellis-covered benches that overlooks the public marina. From Willett Avenue north to the railroad bridge, there is a mixture of old buildings, partially occupied for retail, office, automotive, warehouse or light industrial uses. There are also a few residences and more parking and vacant lots. North of the railroad overpass, in Brooksville, North Main Street is a mixture of residential and commercial uses. The former residential character of the street has been lessened by the spread of commercial uses and parking lots. In this subarea, many of the residences are old and in need of repair, but most appear structurally sound.

## 2. Water-Dependent Uses and Harbor Management

In looking at various uses along Port Chester's waterfront, it is useful to differentiate among water-dependent, water-enhanced and other types of uses. 19 NYCRR Part 600 (Policies and Procedures) defines a water-dependent use as "an activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water." Examples of these uses include waterborne transportation of both passengers and cargo, commercial fishing, aggregate transshipment, ship repair and petroleum transfer. A water-enhanced use, by contrast, is defined as "a use or activity which does not require a location adjacent to coastal waters, but whose location on the waterfront adds to the public use and enjoyment of the water's edge. Water-enhanced uses are primarily recreational, cultural, retail or entertainment uses." Some examples would include public parks and restaurants. Other uses may also be present along the waterfront that are neither water-dependent or water-enhanced.

The following sections describe all in-water and shoreline uses (including those that are water-dependent) on the Port Chester waterfront.

### a. *Water-Dependent Uses*

According to the Long Island Sound Coastal Management Program, Port Chester is defined as a maritime center, "essential for waterborne commerce, recreation, and the state's transportation system." Maritime centers are designated to address common problems such as inadequate or deteriorating coastal infrastructure, the impacts of regulation and taxation, degradation of coastal resources, and lack of public awareness of working coast uses, among others.

In Port Chester, as in many waterfront communities, the industrial uses along the Byram River have become less dependent upon the waterfront location. Water-dependent industries which once lined the river up to the Mill Street Bridge are now almost entirely limited to the stretch of water in the vicinity of between Purdy and Westchester Avenues. Peckham Asphalt Company, at the end of Purdy Avenue, formerly useds the river for transporting raw materials but can no longer be considered a true water-dependent use. Additionally, ~~two~~ oil storage facilities, located at the foot of Purdy Avenue and off Fox Island Road continue to rely, currently or formerly relied on waterborne transportation. Any future maintenance by the U.S. Army Corps of Engineers is dependent upon the continued presence of these and other waterborne transport facilities on the Byram River.

In addition to these industries, two marinas are also included in the water-dependent category. The Port Chester Yacht Club, located at the mouth of the Harbor at the end of Fox Island Road, leases space for approximately 118 boaters. The Port Chester Municipal Marina, located near the municipal parking lot off of Abendroth Avenue in downtown Port Chester, provided tie-ups for another 59 boats for the 2011 season. In recent years, the municipal marina has accommodated between 78 and 89 boat slips; the low number in 2011 reflects space limitations caused by the collapsed section of bulkhead. The Village estimates the capacity for approximately 150 boat slips at the municipal marina once the bulkhead situation is resolved. Also, an unknown number of large boats are kept on moorings in the Port Chester Harbor. In the past, this number totaled nearly 40 boats, but current monitoring and oversight of these moorings is not in place, and an accurate count is not available. Dockage for recreational boating exists as an accessory use at several properties along the Byram River.

Some commercial fishing vessels operating in Long Island Sound use dock facilities in Port Chester, but commercial fishing within the village itself does not appear to be present. Some recreational fishing still occurs off the Mill Street Bridge and at the mouth of the Byram River.

In addition to water-dependent uses, there are water-enhanced uses including the William James Memorial Park, waterfront restaurants, and the public walkway and park adjacent to the Waterfront at Port Chester shopping area. All of these uses benefit, to varying degrees, from the proximity to the water. See Figure 7.

Based upon the information provided above, it can be summarized that the water-dependent potential of the waterfront as a whole is significantly underutilized. Port Chester's designation as a maritime center is the first step in the effort to foster the development of new water-dependent uses and better protect those that already exist.

*b. Harbor Management*

*i. Shoreline Uses*

Most of the Byram River and the Port Chester Harbor shoreline of the Village of Port Chester are characterized by water-dependent recreational, industrial or public uses. For the most part, these uses encompass a fairly narrow band of shoreline land and water. The two extremes of the waterfront, the river above Highland Street and the Greyrock neighborhood, contain no water-dependent uses. ~~(See Figure 7 and Figures 8-11, which provide~~ for reference  ~~aerial photos, moving south to north, of the Village waterfront~~ ~~with the Federal channel indicated in blue).~~ The text following the figures describes the uses for each section of the waterfront.

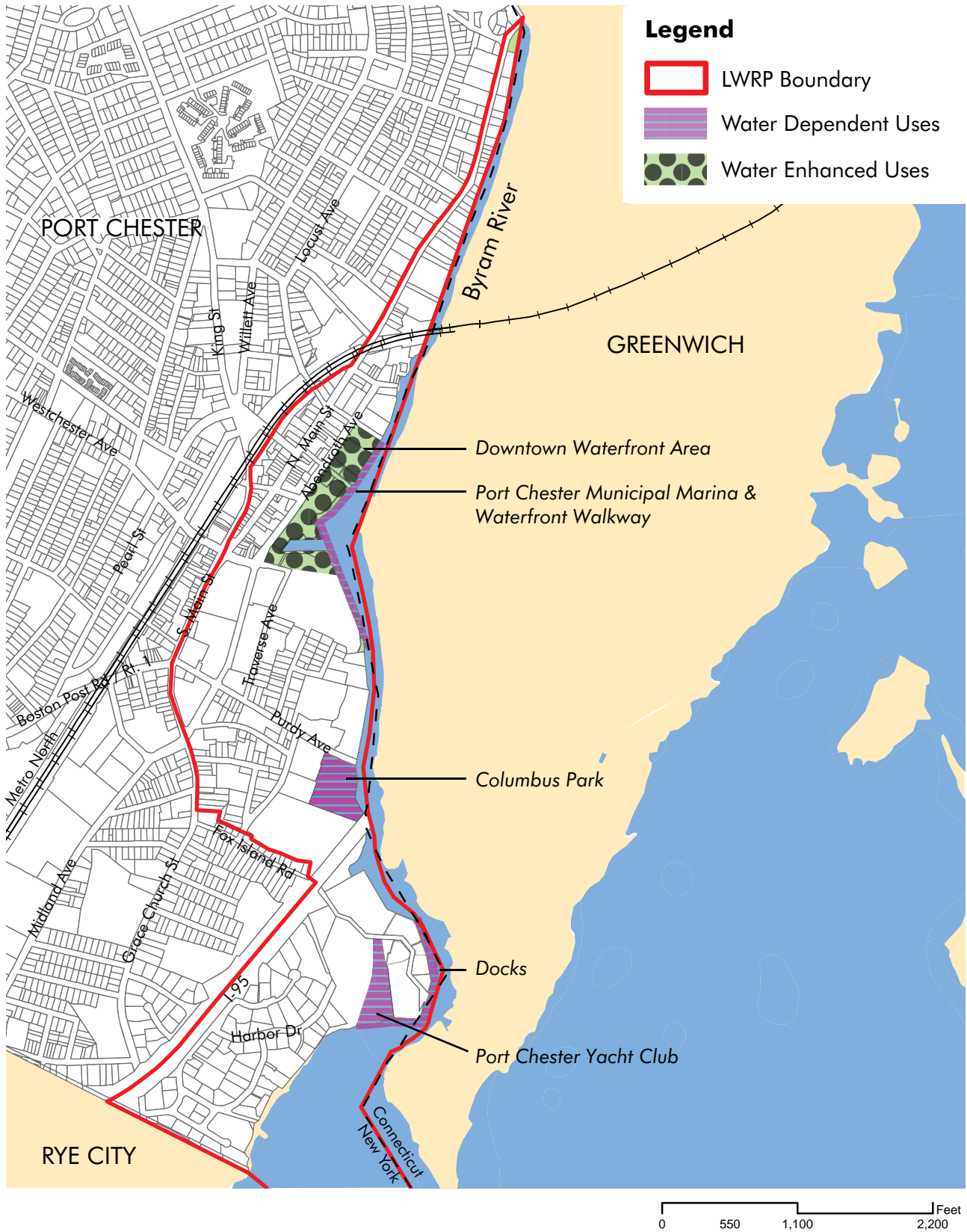
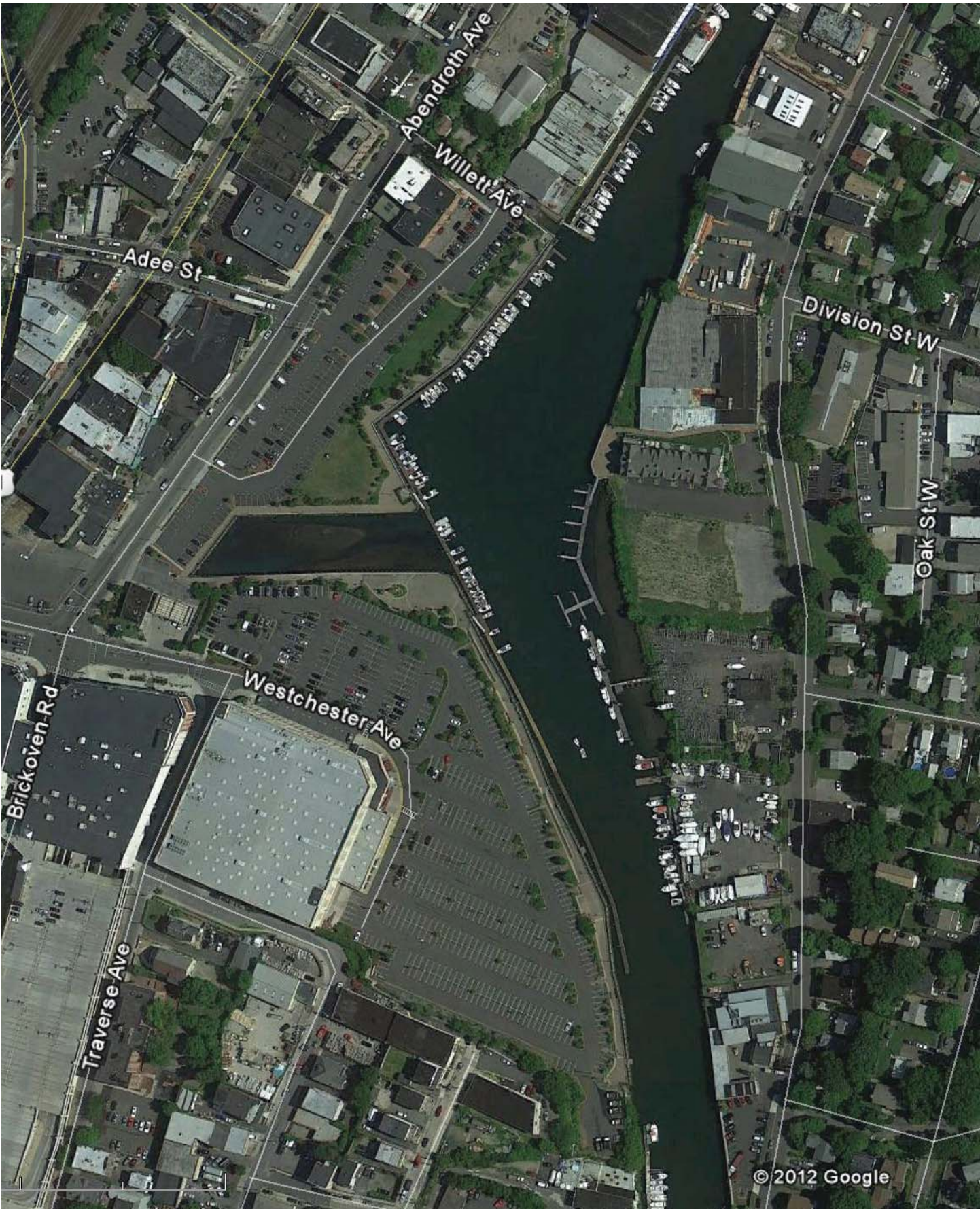


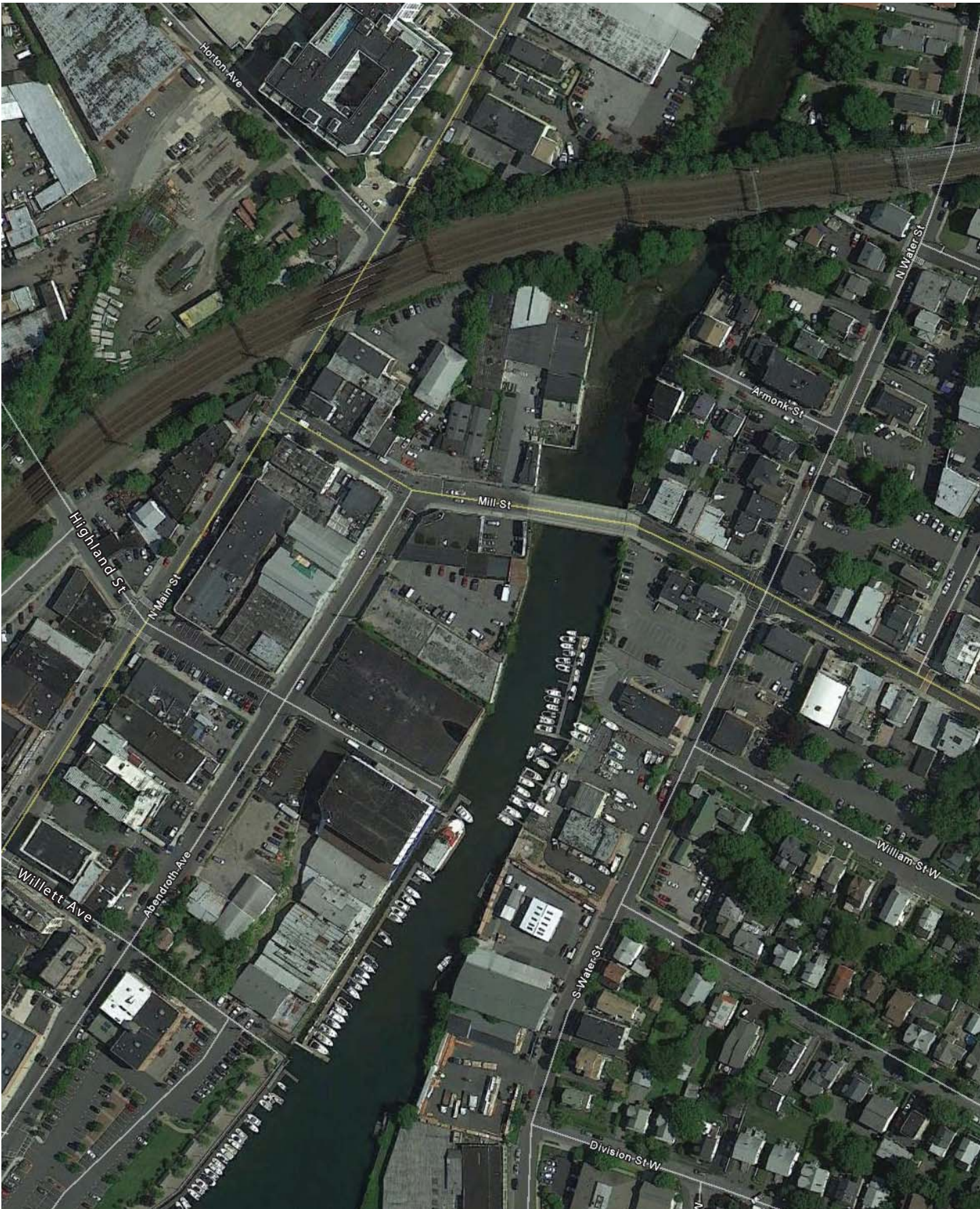




FIGURE 9: WATERFRONT SECTION 2

SOURCE: GOOGLE MAPS, 2012





### **Fox Island Area (Figure 8)**

Beginning from the Port Chester Yacht Club and extending to the Westchester County Sewage Treatment Plant (WCSTP), the entire shoreline consists of docks and the mooring of recreational boats to those docks. The parcel just south of the WCSTP also contains dockage for marine construction barges and upland storage of boats and marine construction supplies or equipment. This facility's docks extend partly in front of the WCSTP. It should be noted that the WCSTP outfall is located off the coast of the City of Rye, outside of Port Chester Harbor and the Byram River. The Port Chester Yacht Club, which occupies land and underwater land leased from the Village, has substantial upland facilities, parking, a public ramp and some permanent dockage to serve recreational boating. The other several properties that provide for recreational boating consist of floating docks and little or no upland service facilities. A mix of non-water-dependent uses comprise the upland portion of this area. There is a small public parcel at the end of Fox Island Road; however, the shoreline at this area is fronted by docks and recreational boats placed by ~~various one or other of the adjacent~~ upland property owners. Above the WCSTP is a small parcel of undeveloped public land with a small cover shoreline. Other than this parcel, the shoreline in this area has been stabilized by bulkhead or other means.

### **Thruway to Purdy Avenue (Figure 9)**

Only one parcel of land encompasses this stretch of shoreline, that of the Purdy Avenue Terminal LLC, an oil storage facility. This facility is a water-dependent use with dock facilities to serve oil barges. However, the portion of the property immediately north of the Thruway bridge is not developed and is not developable for any active use due to the property's narrow upland and the wetland characteristics of the cove that defines this stretch of shoreline. Here the shoreline is natural, while the shoreline adjacent to the oil storage facility is generally stabilized.

### **Purdy Avenue to Downtown (Figure 9)**

There are two parcels of land between Purdy Avenue and the Village marina/Costco parking lot. The first is a former water-dependent use, an asphalt plant which no longer uses water transportation for its operations. The other parcel has water-dependent uses along its shoreline consisting of dockage for commercial fishing vessels and recreational boats. The upland portion of the area is not a water-dependent use. The shoreline ~~is appears to be~~ stabilized.

### **Downtown to ~~Willett Avenue~~ Highland Street (Figure 10)**

The shoreline extending from the Costco parking lot to Willett Avenue consists of a public walkway and Village marina. In the middle of this area is a shoreline indentation formerly serving as a turning basin for commercial vessels. The marina docks extend across the front of the former turning basin. At the present time, the walkway and marina are temporarily closed due to a collapsed bulkhead from the former turning basin ("Cove") to the end of the Costco parking lot. The entire shoreline is bulkheaded. The marina consists primarily of floating docks parallel to the shore, with boat~~see~~ moored perpendicular to the docks.

### **Willett Avenue to Highland Street (Figure 11)**

This area consists of in-water water-dependent uses with the upland devoted to non-water-dependent uses. The shoreline is bulkheaded by a floating dock accommodating recreational boats moored perpendicular to the dock. At the north end of this area, a large floating entertainment vessel is moored.

#### ii. Underwater Land Grants

Much of the shoreline of the Village consists of formerly underwater lands that were filled over the last two centuries. New York State allowed this filling of State land, which is held in trust for the benefit of the public, primarily to facilitate commercial navigation, by making grants to private individuals or corporations. These grants convey varying degrees of property interest to the grantee. Most grants also contained conditions regarding what would be done with the underwater lands. Many grants were for *Beneficial Enjoyment* which convey a full-~~or nearly~~ property interest, while others were *Commerce* grants which conveyed less interest, often limited to a particular use. Since 1995, State law limits grants of underwater land to exceptional circumstances. Information on the locations and terms of all grants may be obtained from the New York Office of General Services and in some cases the State Archives. These grants generally extended to the line of the U.S. War Department bulkhead or pierhead line established around the turn of the 19<sup>th</sup> century. This line appears to be the current shoreline along most stretches of the Byram River shoreline.

#### iii. Federal Channel

A Federal navigation project is the principal feature of the Byram River and Port Chester Harbor. The project, adopted by Congress and modified in 1930, consists of the breakwater at Byram Point in Connecticut, an anchorage area near the breakwater, the turning basin and the channel from Long Island Sound to 100 feet south of the Mill Street Bridge over the Byram River. The authorized channel varies in depth and width. In Port Chester Harbor, the channel is authorized at 150 feet wide and 12 feet deep, from Fox Island to approximately Highland Street it is authorized at 100 feet wide and 10 feet deep, and from Highland Street south of the Mill Street Bridge the channel is authorized at 100 to 175 feet wide and 3 feet in depth. In many parts of the Byram River, the river itself is little more than 100 feet in width. The project was last dredged in 1990 with the removal of 40,000 cubic yards of sediment. In 201~~10~~, the Corps of Engineers undertook a survey of the channel to determine the current depths.<sup>1</sup> The minimum mean low water depths in the Harbor portion of the project were 10.1 feet in the middle part of the channel, 10 feet on the left side of the channel and only 4.1 feet on the right side of the channel. This latter area is in Connecticut. The channel from Fox Island to Highland Street had a minimum

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<sup>1</sup><http://www.nan.usace.army.mil/Portals/37/docs/civilworks/ConDep/Feb12/Port%20Chester%20Harbor,%20NY.pdf> and <http://www.nan.usace.army.mil/Portals/37/docs/civilworks/ConDep/Feb12/Port%20Chester%20Harbor,%20NY%20Survey.pdf>

depth of 5.3 feet in the middle 50 feet, with a minimum depth of 1.5 feet on the Port Chester quarter of the channel, and 6.5 feet on the Connecticut side quarter of the channel. Shoaling occurs along the outside quarters of this portion of the channel. The bathymetry survey also shows the location of docks along the shoreline. In many instances, moored boats and portions of the docks that line the shore extend into the channel. Currently, there are no funds available for the dredging of the channel.

iv. The Water Boundary

The Village has jurisdiction related to navigation and all issues pertaining to harbor management to a distance of 1,500 feet from shore. This jurisdiction is based on Article 46a of the Navigation Law and Article 42 of the Executive Law. In the Byram River, the jurisdiction is much less, because of the width of the river and the New York and Connecticut State line. The state line does not follow the center line of the river but varies in its proximity to the New York or Connecticut shore ~~(see Figures 8-11)~~. Above the railroad bridge, the boundary is closer to the New York shore, and from there to Highland Street it generally follows the middle of the river. Opposite the downtown area, it is closer to the Connecticut side and then generally follows the middle of the river to Purdy Avenue. The Connecticut line comes close to the New York shore near the southern end of Fox Island and runs parallel to the Port Chester Yacht Club dock lying just beyond any boats moored at the dock. Close cooperation with Connecticut is therefore necessary for effective harbor management.

v. Harbor Regulations

Vessel operation is primarily regulated by the provisions of the New York State Navigation Law and the Village Boating and Watercraft Law, Chapter 148. ~~These laws may be enforced by a harbormaster or police.~~ The regulation of structures in the water, such as docks or bulkheads, is done by each level of government: the Village Waterfront Commission both directly under the Boating and Watercraft Law and also through their authority to advise as to the consistency of an activity with the Village LWRP; the New York State Department of Environmental Conservation, primarily for wetland and water quality purposes; and by the U.S. Army Corps of Engineers, subject to the concurrence of the New York State Department of State with regard to coastal policy consistency (the Village LWRP forms the basis for the NYSDOS determination). The Coast Guard's role is generally limited; its focus is on the safety of vessels, primarily commercial vessels.

vi. Harbor Management Issues

It is generally prohibited ~~for that~~ structures or vessels to lie within the lines of a channel. Along the Byram River, many vessels moored at docks, and some docks themselves, lie within the Federal channel. This is specifically prohibited by the Village Boating and Watercraft Law (Chapter 148). Nevertheless, given the width of the channel and the narrowness of the River, most of the boating facilities could not operate without some encroachment on the channel. Additionally, many of these facilities have existed in their present form for many years, and boating facilities are a preferred use of the shoreline in the LWRP.

The Village Boating and Watercraft Law requires that all moored vessels within the Village waters obtain a permit from the harbormaster. This law is not being enforced, with the result that the Village does not have adequate information to manage the safety of boating in the Village waters.

The Federal channel will require dredging at some point, and given the channel's reduced depth, this may be necessary in the near future. Dredging is a long, costly and complicated process, and planning for it should begin. This, and other harbor issues, will require cooperation with Greenwich, Connecticut.

While shoreline stabilization structures are subject to Village approval, the Village should consider improved standards for review of these structures.

There are some open waters in Port Chester Harbor within the Village's jurisdiction; the question arises as to whether the Village should consider establishing a small mooring field, as allowed by water depths in this area.

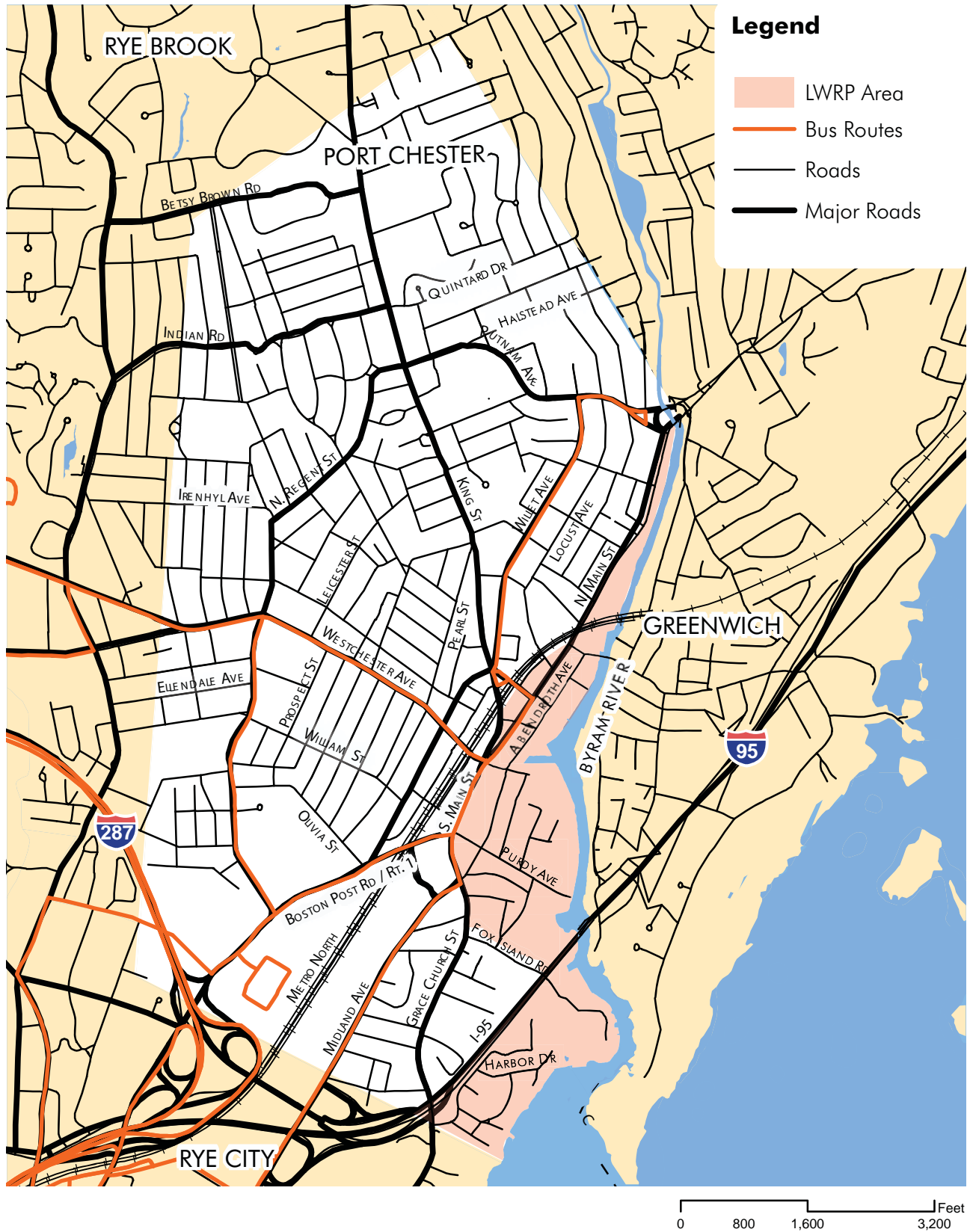
## **D. INFRASTRUCTURE**

### **1. Transportation**

Although the LWRP area is close to or includes many of Port Chester's major roads, access to the waterfront itself is limited, as shown in Figure 12. The New England Thruway (I-95), which bisects the southern portion of the study area just north of the Sewage Treatment Plant, provides regional access for local roads to the southwest in Rye. For local north-south access, Boston Post Road, or Route 1, becomes Port Chester's Main Street before crossing the Byram River into Connecticut at the northern tip of the LWRP. Although this northern section of Main Street runs parallel to the water, there is limited access and views of the water until the area immediately around the bridge which passes into Connecticut. Westchester Avenue provides the major east-west route, with a connection to the Cross Westchester Expressway about two miles to the water. The scale of the road is diminished after Main Street, when it becomes a narrow local street that runs through The Waterfront at Port Chester shopping center.

These roads, plus other major local roads like Midland Avenue and King Street, converge on Main Street in the Village center, providing an opportunity for clear signage and improved streetscapes to encourage movement toward the water. On local roads, actual access to the water is provided only at Fox Island Road, Westchester Avenue, the streets and parking lots off of Abendroth Avenue and from Main Street itself just before the Putnam Avenue Bridge to Connecticut.

Public transportation is provided by Metro-North Railroad. The train station is located just beyond the study area boundary to the west. It is within easy walking distance of most of Subarea IV. Bus service is provided by Westchester County along all major roads like Route 1 in the Village. Port Chester is a major terminus for County bus routes. The Village is accessible by routes 13, 61, and 67 on the Westchester County Bee Line Bus system, and by route 11 on the CT Transit bus.



## 2. Water Supply

The water supply for the LWRP area is provided for by the United Water Company. The primary source of the supply is in Greenwich, where the surface water is sand-filtered to remove the impurities and hardness. Currently, Port Chester's water demand and maximum day demand are at or near the safe yields of the system. Due to small diameter pipe sizes, demands from the City of Rye, storage tank sizes and increases in peak demands from the high storage areas, the Village periodically experiences low system water pressures. In recent years, the construction of larger homes in the area, together with new lawn sprinkler systems, has taxed the system and increased the average and maximum day demands. United Water currently has plans to build a larger clear well at the Aquarion Water plant in Greenwich, making additional water available. Westchester Joint Water Works has some additional water available; however, new agreements to purchase more water would be required between the two water companies.

## 3. Sanitary Sewer

All sanitary sewage generated in the Village is handled by the [Westchester County WastewaterPort Chester](#) Treatment Plant, located on Fox Island Road. The treatment plant is owned, operated and maintained by the Westchester County Department of Environmental Facilities and provides both primary and secondary wastewater treatment. The Port Chester facility sends treated wastewater to the Blind Brook Plant in Rye, where it is then discharged to the Long Island Sound.

The Sewage Treatment Plant presently has the capacity to treat an average wastewater influent flow of 5.5 million gallons per day (MGD). Secondary treatment processes have a peak hydraulic capacity of 12.2 MGD or 13.4 MGD including recycled flows.

The Port Chester Sanitary Sewer District covers an area of approximately 2.7 square miles and is almost contiguous with the Village boundaries, including small portions of the City of Rye and the Village of Rye Brook. The system is completely owned by the Village without any County owned trunk sewers in the Village.

The Sewer District has separate storm and sanitary sewers. Most of the sewers throughout the Village were constructed prior to the 1930s, and the majority of sewers south of Westchester Avenue were installed prior to 1900. There are two pump stations in the Village; one is just outside the LWRP boundary on North Main Street at the intersection of Putnam Avenue, serving approximately 75 houses and businesses. The second is located outside the LWRP boundary on Comly Avenue near the Connecticut state line, serving approximately 30 houses.

A Sewer System Evaluation Survey (SSES) was completed in 1995 on the Port Chester Sanitary Sewer District by the Westchester County Department of Environmental Facilities, to identify sources of Inflow and Infiltration (I/I) into the County's sewer system. This survey verified and quantified I/I problems within the system as a result of manhole deficiencies, pipe breaks/fractures, joint defects, pipe dips, service connection defects, storm/sewer cross-connections and tidal inflows. The study identified 734,000 gallons per day (GPD) of observed infiltration from defective pipe; 265,840 GPD infiltration from defective manholes

and total estimated inflow of approximately 1.6 (MGD) (for a 3-inch rainfall) from both public and private direct connections of storm sewers into the sanitary sewer system.

The results of the study are generally what could be expected of a sewer system comprised mainly of vitrified clay pipe. Open or offset joints, cracked and broken pipes are not uncommon within the system and have led to significant I/I effects, including tidal inflow into the system along the Byram River where the Village sewers are at or below the high tide level of the river. This condition greatly reduces the system's capacity to varying degrees on any given day. Maintenance issues also contribute to reduced capacity, including grease and sediment buildup and root intrusion. These problems are exacerbated by the age and pipe material of the system.

The Village has been actively investigating and addressing the identified I/I sources. A fraction of these sources have been rehabilitated with a combination of techniques including pipe joint repair or manhole replacement, trenchless technology (cured in place pipe liners) and sealing techniques (manhole sealing). In April 2007, Port Chester had flow monitors installed in eight locations covering the entire village. The findings from the flow monitoring were used to start field inspections and dye tests; based on these findings, a rehabilitation program is being prepared to remove the identified inflow sources.

#### 4. Storm Sewer

As discussed above, the Village's storm sewer system is separate from the sanitary sewer pipes. The storm sewer system serves an area roughly contiguous with the Village boundaries, and, as with the sanitary sewer system, much of the infrastructure dates back more than 100 years. There are five outflows into the Byram River in the LWRP area, ranging in size from 9 ft. x 6 ft. to 20 inches (see Figure 13).

Two large outflows serve major portions of the Village. One located at Purdy Avenue is approximately 7 ft. x 4.5 ft. The second, located at the gut, near the intersection of Westchester and Abendroth Avenues, is approximately 9 ft. x 6 ft. Two other outflow points are located in the downtown area, where infrastructure improvements are planned in support of future development. The fifth is located at the end of Wilkins Avenue, just north of the Metro-North railroad tracks.

The Village's stormwater infrastructure is aging and in need of upgrading and/or replacement. In some cases it has deteriorated due to age and lack of repair, and in other locations it is inadequate to meet current needs for capacity.

Port Chester is subject to U.S. Environmental Protection Agency (EPA) regulation for operation, maintenance and discharge of its stormwater collection system. Federal oversight is delegated to the New York State Department of Environmental Conservation (NYSDEC), which has extended permit coverage to the Village via the municipal separate stormwater system (MS4) stormwater management program. The Village has prepared and filed with NYSDEC a five-year program to address six minimum measures for ensuring that stormwater quality discharged to Federal waters meets applicable requirements: public education and outreach, public participation/involvement, illicit discharge detection and

elimination, construction site runoff control, post-construction runoff control, and pollution prevention good housekeeping.

As part of the five year program, the Village is inspecting outfalls from the stormwater system for indications of illicit discharges, and inspecting the system for possible sources of pollutants. This involves locating, and eliminating, cross-connections of the sanitary sewer system and stormwater system. Much of the downtown area is being inspected for locations where pollutants can be entering the system and consequently discharged to the Byram River.

## **E. NATURAL CONDITIONS AND ENVIRONMENTAL QUALITY**

### **1. The Land**

The topography of the LWRP area is diverse, ranging from the gentle, relatively flat slopes of subareas IV and V to the hilly uplands of subareas I, II and III. From Westchester Avenue to the south, steep slopes (15% or greater) separate upland development from a flat stretch of land next to the water. This flat land area varies greatly in depth, ranging from less than 5 feet around the I-95 overpass to more than 1,500 feet in the vicinity of Fox Island Road. This area has been artificially widened by past landfill activities.

Soils are generally classified as urban land, meaning that they have been extensively filled and graded. Most of the soils along the water's edge and in subareas IV and V are former flood plains. The uplands are generally Charlton and Paxton soils, which are both well drained, medium to moderately coarse soils. There are a number of rock outcroppings along the steep embankment.

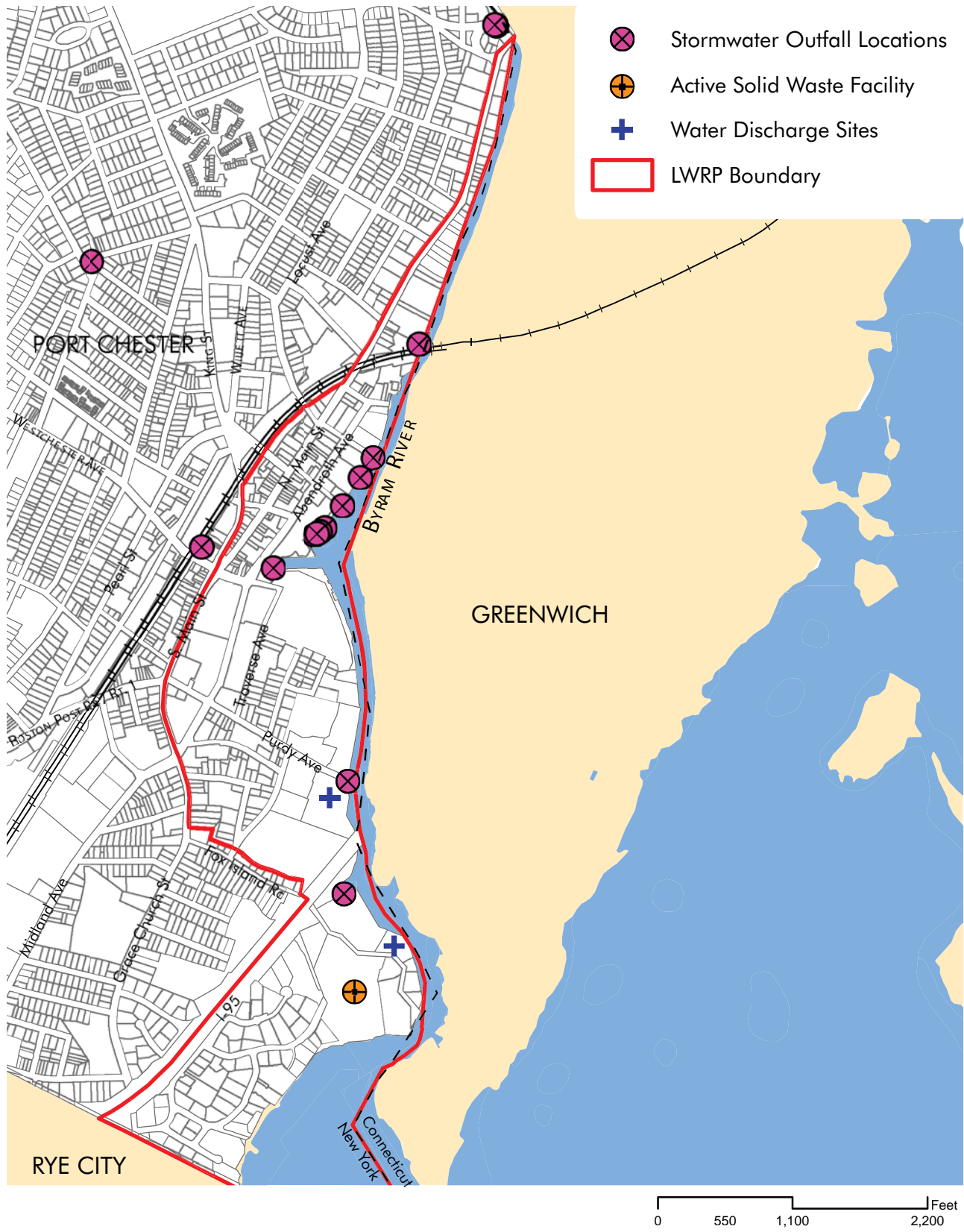
As noted, there are several areas where fill has occurred and one landfill site in Subarea II. Subsurface conditions will be tested and analyzed through the State Environmental Quality Review Act (SEQRA) process required for any development of this site.

There are no existing Critical Erosion Hazard Areas in the LWRP area.

### **2. The Water**

The Byram River flows into Long Island Sound on the boundary between Port Chester, New York, and Greenwich, Connecticut. It originates in New York State at the Byram Lake Reservoir south of Mount Kisco and empties into Port Chester Harbor on the Sound. Major tributaries of the Byram River include its East branch and the Wampus River. The major portion of the central basin enters New York State approximately two miles above the river mouth at the north end of the LWRP area. The regions drained include primarily urban and industrial areas in the study area near the mouth, and woodland, fields and residential land for the remainder of the stream's length.

The river is relatively narrow, ranging in width from 300 ft. in the Harbor to 120-160 feet through most of the Village center and down to a narrow 50-foot width in the Brooksville section.



The primary outfall for the Sewage Treatment Plant has been relocated off the coast of the City of Rye. Only an emergency outfall remains at the plant in Port Chester. There is no other identifiable major point source of contamination in the study area along the river; however, there are other potential sources of pollutants. Although it is illegal in New York State, some watercraft may still be discharging untreated sanitary waste. Also, accidental spills from the transportation of petroleum compounds are a potential threat.

Since 1999, the EPA has mandated urbanized communities, including Port Chester, to establish stormwater management programs aimed at controlling stormwater on developed sites to the maximum extent possible. In accordance with this mandate, Port Chester adopted in 2007 Chapter 281 (Stormwater Management) of the Village Code. The chapter delineates a program that includes public education, detection and elimination of illicit connections, construction site runoff control, postconstruction stormwater control and pollution prevention. Chapter 281 also gives performance and design criteria for stormwater management and erosion control, outlines necessary permits and required maintenance procedures, and authorizes a Stormwater Management Officer to conduct inspections for construction and stormwater management practices (SMPs).

In 2009, however, the EPA found that Port Chester's stormwater contained high levels of two types of bacteria, which exceeded New York State's water quality standards. As a result, the EPA mandated that the Village improve its stormwater management and correct violations of the federal Clean Water Act. In 2011, the Village responded by amending Chapter 281 of the Village Code, adding a new subsection to "encourage the use of green infrastructure practices to control stormwater runoff such as protecting natural areas, reducing impervious cover, and runoff reduction techniques to the maximum extent possible." The amendment also outlines water quantity and quality controls pertaining to land development activities, protocol for the maintenance and repair of stormwater facilities, and deed restrictions on those facilities.

Port Chester stakeholders are also involved with the Byram Watershed Coalition, an organization aimed at improving the watershed and obtaining public support for a water management plan. In September 2011, the coalition released the Byram River Watershed Management Plan, an extensive document that includes significant data on the state of and issues facing the river and its watershed, and outlining a set of goals and an action plan to address these issues. The Village has also made some improvements to infiltration/inflow conditions, tidal influences on the sanitary and storm sewer systems, and the municipal use of pesticides. Additionally, Port Chester participates in the Westchester County's Citizens' Volunteer Monitoring Program, whose mission is to collect and share data about the county's water resources.

Also in 2009, the Interstate Environmental Commission (IEC) received a grant from the NYSDEC to perform sampling and modeling of the Byram River to measure the water quality of the River and its watershed. As of 2010, the IEC had completed the first of two rounds of water sampling, the results of which will be used to develop a water quality model. The model will be used as a GIS-based watershed planning tool, to help design specific programs, prioritize sub-basins that contribute significant nitrogen and pathogen loads, and identify green infrastructure projects for funding recommendations.

While the water quality of the Byram River has improved over time and the Village has taken important steps toward remediation, the River is still listed as a priority water body by the NYSDEC, and aquatic life, recreation, and aesthetics are considered “stressed” due to urban runoff and storm sewers. The NYSDEC has assigned the Byram River a “C” classification for the northern portion – representing water that is suitable for fisheries and non-contact activities – and an “SC” classification for the lower segment – signifying that the water is characterized as saline and that shellfishing may be a use in the area. Recreational fishing on the river exists but is limited in scope. In addition, the area of Port Chester Harbor located within the Village is currently included in the EPA’s Impaired Waters 303(d) List.

The health of the Byram River and Port Chester Harbor have significant impacts on the health of the Long Island Sound, which itself is faced with major water quality issues such as hypoxia, pathogen contamination, debris and threatened habitats.

Port Chester is one of 13 municipalities that make up the Long Island Sound Watershed Intermunicipal Council (LISWIC), formed in 1999 to collectively make decisions promoting a cleaner Long Island Sound. The group’s primary goals include pollution prevention and remediation; preservation of open space and natural resources; provision of open space, recreational and cultural opportunities; and preservation and restoration of wetlands and associated habitat areas. To further these goals, LISWIC commissioned a study on the feasibility of creating a Regional Stormwater Management District (RSMD). The study, completed in 2007, recommended an RSMD to be established as a public authority under New York State law, with implementation of regional watershed management and stormwater management plans. In 2008, Port Chester adopted a draft resolution in support of an RSMD, and in 2009, the LISWIC Board of Representatives began writing legislation for the RSMD.

### 3. Wetlands

There are three levels of wetland protection: national, state, and municipal. The U.S. Army Corps of Engineers is responsible for regulating national wetlands, and issues permits for regulated activities under Section 404 of the Clean Water Act. Any construction activity that may affect these wetlands (excavation, filling, building, obstructions, potential pollution sources, etc.) is regulated, whether it occurs in the wetland itself or in the 500-foot buffer of the wetland.

In New York State, two main types of wetlands are the focus of protection: tidal wetlands around Long Island, New York City and up the Hudson River all the way to Troy Dam; and freshwater wetlands found on river and lake floodplains. Tidal wetland areas are dominated by grasses and other marsh plants which are adapted to the rise and fall of the tide and the salty water it brings. The NYSDEC New York State Official Tidal Wetlands Inventory delineates and classifies all tidal wetlands in the state.

Freshwater wetlands, also known as marshes, swamps, bogs and wet meadows, are transition areas between uplands and aquatic habitats. Although standing water is a key clue that a wetland may be present, many wetlands only have visible water during certain seasons of the year. New York’s Freshwater Wetlands Act (1975) identifies wetlands on the basis of their vegetation, and protects wetlands 12.4 acres and larger. Wetlands smaller

than this threshold size may be protected if they are considered of unusual local importance. Around each protected wetland is an “adjacent area” of 100 feet that is also regulated to provide protection for the wetland itself.

Although Port Chester’s Village Code, in Chapter 281 (Stormwater Management), makes reference to general best practices for protecting wetlands (from the New York State Stormwater Management Design Manual), the Village does not have any specific provisions for regulating development in wetland areas. Thus, only wetlands of 12.4 acres or larger would meet the threshold for regulatory protection, at the state or federal level.

Since much of the LWRP area has been filled or disturbed in some way, there are few natural areas left, including wetlands. A small area of tidal wetlands exists in the coastal vicinity of the Port Chester Yacht Club. This area, equaling about 13,000 square feet, is classified SM (coastal shoals, bars and flats that at high tide are covered by water and at low tide are exposed or covered to a maximum depth of one foot). It is not vegetated by low marsh cordgrass. Past biological inspections have determined that this shore does not contain productive wetlands. A second area of regulated tidal wetlands is located at the “north cove” between Purdy Avenue and I-95. This area is 1.4 acres and also classified as “SM.” Unlike the small wetland in Subarea II, however, past site investigation of this area revealed evidence of biological activity. Mitigation of development impacts on these wetlands should be considered in the event of any development in this area.

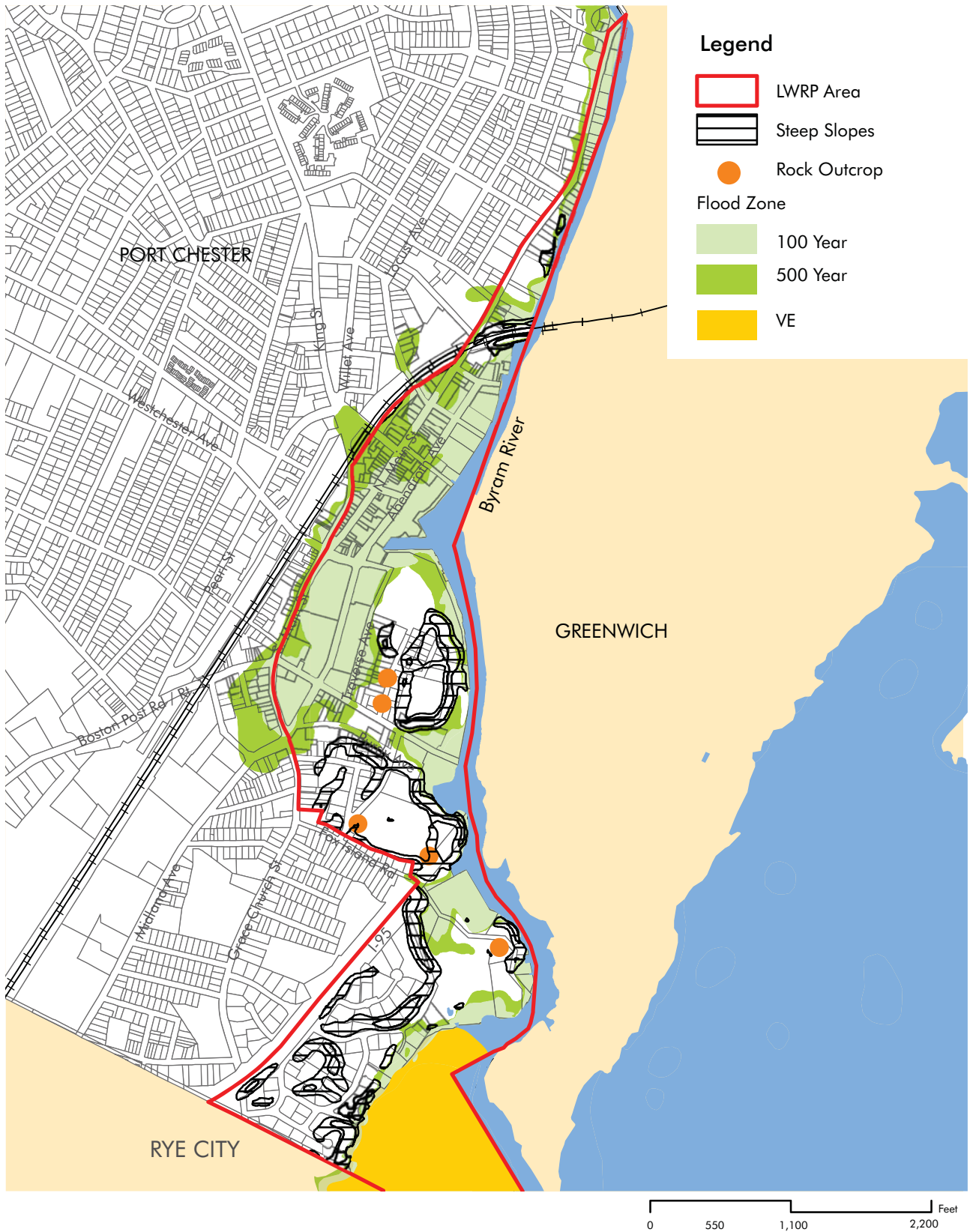
#### 4. Flood Hazard and Floodplain Areas

The Federal Emergency Management Agency (FEMA) has delineated the 100-year floodplains for the Byram River through the preparation of Flood Insurance Rate Maps (FIRMs), which show base flood elevations and identify flood risk zones including Special Flood Hazard Areas (SFHAs). The SFHA is the land area that is subject to a 100-year flood or greater. These high-risk areas are where National Flood Insurance Program (NFIP) regulations must be enforced and where the mandatory purchase of flood insurance applies. Properties located outside of these high-risk areas are still subject to flooding, and owners have the option of purchasing flood insurance.

The FEMA flood hazard areas are divided into zones:

- Zone A – areas of 100-year flood (1% chance of occurring in any given year)
- Zone B – areas between the limits of the 100-year flood and 500-year flood (0.2% chance of annual occurrence); or certain areas subject to 100-year flooding with average depths less than one foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood
- Zone C – areas of minimal flooding
- Zone VE – areas within the 100-year floodplain with additional hazards associated with storm-induced waves.

As shown in Figure 14, floodplains are generally located along the entire length of the Port Chester waterfront; however, the V zones are generally confined to the Greyrock area along Port Chester Harbor.



Section 181 (Flood Damage Prevention) of the Port Chester Village Code provides for flood damage prevention measures and appoints the Building Inspector as local administrator for granting development permits within the areas of flood hazard. Among the requirements of the law, new and substantially improved construction must have the lowest floor (including the basement) elevated to at least 2 feet above the base flood elevation. Utilities must also be designed and/or located to prevent water damage during flooding. Adoption of the local flood damage laws is a prerequisite for participation in the National Flood Insurance Program. The law was enacted by the Village Board of Trustees in July 2007, and reflects guidelines set by the NYSDEC.

#### 5. Fish and Wildlife Habitats

Both fish and wildlife habitats are limited in the Port Chester LWRP area. On land, there are no natural habitats remaining. Various species of birds do inhabit the developed areas where vegetation is present. Aquatic life is limited by the current poor water quality. All of the Byram River and Harbor is developed. Pollution from boats, industry, the sewer system and disturbances from channel dredging have greatly decreased the Byram River's value as a habitat.

While no detailed wildlife surveys have recently been conducted in Port Chester, the U.S. Fish and Wildlife Service has determined that several species of endangered and threatened species are found in Westchester County: bald eagle, bog turtle, Indiana bat and shortnose sturgeon. There is a possibility that some of these species could pass through or inhabit areas within the Village. In addition, the NYSDEC has documented one rare plant species – yellow flatsedge – that could be located within Port Chester in the vicinity of Port Chester Harbor. However, the lists developed by these agencies are highly generalized, not definitive and should not be considered a substitute for on-site surveys.

Improved water quality due to the removal of the sewage treatment plant outflow, plus the decline of waterfront industry usage and improved stormwater management practices, may provide future improvements to some degree. This process will be slow, however, as many pollutants are retained in the sediment at the river bottom.

#### 6. Critical Environmental Areas

A Critical Environmental Area (CEA) is a State or locally designated geographic area with special or unique physical and environmental characteristics. Typically, a CEA is established by identifying fragile or threatened environmental conditions within the State Environmental Quality Review Act (SEQRA). Port Chester's coastline falls into the Long Island Sound CEA, which is a Westchester County-designated CEA. As part of a designated CEA, the potential impact of any Type I or Unlisted Action under SEQRA on the environmental characteristics of the CEA is a relevant area of environmental concern and must be evaluated in the determination of significance prepared pursuant to Section 617.7 of SEQRA.

## 7. Air Quality

Air pollution can stem from point (stationary) sources (such as power plants); area sources (the cumulative impact of small individual sources such as body shops or dry cleaners); mobile sources (such as automobiles); and biogenic sources that naturally occur in vegetation. The most significant sources of carbon monoxide emissions are single-occupancy automobiles.

National Ambient Air Quality Standards (“NAAQS”) have been established for six air pollutants – particulates, sulfur dioxide, nitrogen oxides, carbon monoxide, ozone, and lead. In 1990, ultrafine particulate matter was added to the list of criteria pollutants. This is associated with the combustion of fossil fuels, including natural gas and propane. Primary and secondary standards for varying exposure times have been established for each of these criteria pollutants. Primary standards are designed to protect public health, while secondary standards are established to prevent other adverse environmental impacts and to protect the public welfare.

In 2008, NYSDEC designated most of the New York Metropolitan Area (NYMA) Combined Statistical Area (CSA) a non-attainment area for the 2008 ozone NAAQS. Of the counties included in this CSA, Suffolk, Nassau, Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland, and Westchester, only Putnam County achieved acceptable standards.

Under the Clean Air Act, New York State will be required to develop a State Implementation Plan (SIP) for submission to the EPA. The plan must include enforceable measures for reducing air pollutant emissions, and must describe the steps the area will take toward attaining the fine particulate (PM 2.5) standards.

Generally, the air quality in the study area meets or exceeds national and State air quality standards. Degradation may occur in localized areas such as around new construction sites.

## 8. Climate Change and Sea Level Rise

According to the DEC’s policy for assessing energy use and greenhouse gas emissions in environmental impact statements (EISs), global climate change is a significant environmental challenge, and one that will continue to affect the environmental and natural resources of New York State. There is scientific consensus that human activity is increasing the concentration of greenhouse gases in the atmosphere, and that this, in turn, is leading to climate change. The six main greenhouse gases are carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. Emissions of carbon dioxide represent an estimated 89% of the total greenhouse gas emissions in the state, and the vast majority of these emissions result from fuel combustions. Other sources of greenhouse gases include electricity distribution; refrigerant substitutes; management of municipal waste, municipal wastewater and agriculture; and natural gas leakage.

In 2001, Westchester County joined the Cities for Climate Protection Campaign, a program of the International Council of Local Environmental Initiatives (ICLEI), in order to take stock of and create a plan for reducing the county’s greenhouse gas emissions. An initial study concluded that the county as a whole produced almost 12 million tons of carbon dioxide in

1999, with just over half of the emissions coming from the transportation sector alone, and another third generated by the residential sector.

A federal report, *The Potential Impacts of Global Warming on the Mid-Atlantic Region*, released in 2000, concluded that impacts of climate change could be very severe in Westchester:

- Under different climate change scenarios, the Mid-Atlantic region, with its extensive coastline, is likely to suffer from the impacts of increased flooding and sea level rise.
- Extreme weather events such as heavy rainfall, floods, heat waves, and drought are likely to become more frequent.
- Changes in temperature and rainfall could contribute to summer heat stress, smog and other health risks, and will adversely impact forests, parks and animal habitats.

More recently, in December 2010, a task force created by the New York State Legislature released a report ([New York State Sea Level Rise Task Force: Report to the Legislature](#)) on sea level rise stemming from climate change, which included a set of findings and recommendations for an action plan to protect coastal communities and natural resources from these rising sea levels. The report documented a number of hazards, including rising water tables, saltwater intrusion into estuarine and freshwater environments, inundation and flooding, storm surge and coastal erosion. The sea level rise report outlined the following general recommendations:

1. Adopt official projections of sea level rise and ensure continued and coordinated adaptation efforts.
2. Require State agencies responsible for the management and regulation of resources, infrastructure and populations at risk from sea level rise to factor the current and anticipated impacts into all relevant aspects of decision making.
3. Classify areas where significant risk of coastal flooding due to storms has been identified and implement risk reduction measures in those areas.
4. Identify and classify areas of future impacts from coastal flooding from projected sea level rise and storms to reduce risk in those areas.
5. Reduce vulnerability in coastal areas at risk from sea level rise and storms. Support increased reliance on non-structural measures and natural protective features to reduce impacts from coastal hazards, where applicable.
6. Develop maps and other tools required to assist local decision makers in preparing for and responding to sea level rise.
7. Amend New York State laws and change and adopt regulations and agency guidance documents to address sea level rise and prevent further loss of natural systems that reduce the risk of coastal flooding.
8. Provide financial support, guidance and tools for community-based vulnerability assessments and ensure a high level of community representation and participation in official vulnerability assessments and post-storm recovery, redevelopment and adaptation-planning processes.
9. Undertake a comprehensive assessment of the public health risks associated with sea level rise, coastal hazards and climate change, including compromised indoor air quality, drinking water impacts, post-traumatic stress and other mental health

problems, increases in disease vectors, impaired access to health care and loss of reliable access to food and medical supplies.

10. Raise public awareness of the adverse impacts of sea level rise and climate change and of the potential adaptive strategies.
11. Develop mechanisms to fund adaptation to sea level rise and climate change.
12. Fund research, monitoring and demonstration projects to improve understanding of key vulnerabilities of critical coastal ecosystems, infrastructure and communities from sea level rise.
13. Ensure continued and coordinated adaptation to sea level rise.
14. Seek federal funding, technical assistance and changes to federal programs to make them consistent with, or accommodating to, State policies, programs and adaptation measures related to sea level rise.

Also in 2010, a separate study on sea level rise in New York State ([\*The Likelihood of Shore Protection Along the Atlantic Coast of the United States, Volume 1: Mid-Atlantic\*](#)) found that sea level is rising approximately one inch about every eight years along the State's coast. Effects from this rise would become more widespread if rising global temperatures cause the rate of sea level rise to accelerate. The Intergovernmental Panel on Climate Change, for example, estimates that, by the end of the next century, sea level is likely to be rising 0 to 3 inches per decade more rapidly than today (excluding possible impacts of increasing ice discharges from the Greenland and Antarctic ice sheets).

According to this study – which was part of a larger, multiyear project by the EPA on sea level rise along the Eastern Seaboard – coastal communities must ultimately choose between one of three general responses: using seawalls, dikes, revetments, bulkheads and other structures; elevating the land and perhaps the wetlands and beaches as well; or retreating by allowing the wetlands and beaches to take over land that is dry today. Each of these approaches has both advantages and disadvantages, and each is being pursued somewhere in the state. Because the vast majority of Port Chester's waterfront is already protected with a hardened structure, and few natural areas remain along the water, it is likely that these structures will continue to be strengthened as sea levels rise.

While climate change is often perceived as a federal, state or regional issue, local communities can take actions to mitigate its impacts. In 2008, Westchester County released the Westchester Global Warming Action Plan, created to identify workable strategies and practical actions the County can implement to reduce greenhouse gases and promote sustainable development. The plan's task force set a goal to reduce greenhouse gases by 20% below the 2005 base year by 2015. By 2050, the task force set a goal of an 80% reduction in total greenhouse gas emissions below the base year.

To achieve these goals, the plan identified short-, medium- and long-term strategies on a countywide, municipal, business, educational institution and household level to address five key areas: energy, transportation, land use, water resources and recycling.

Finally, in November 2011, the New York State Energy Research and Development Authority (NYSERDA) released the *Climate Adaptation Guidebook for New York State*, an extensive report intended to provide the state's decision-makers with the latest data on New York's vulnerability to climate change and to facilitate the development of adaptation strategies

informed by both local experience and scientific knowledge. Adaptation strategies do not directly include actions that reduce the likelihood of climate change from occurring (i.e., climate change mitigation), but instead present actions to lessen the impact of climate change or take advantage of changes caused by a shifting climate. Key tools identified in the report include regulatory, design and engineering standards; legal structures; and insurance opportunities. The report's recommendations include that governmental entities incorporate projections of increased sea levels and heavy rains when constructing large infrastructure projects; protecting and nurturing natural barriers to sea-level rise such as coastal wetlands; and revising building codes in areas such as roof strength and foundation depth in regions that would be hit hardest by storms.

## F. PUBLIC RECREATIONAL RESOURCES

There are several public recreational resources within the LWRP area, as shown in Figure 15. The largest is Columbus Park, occupying 9.4 acres and featuring amenities such as a new soccer field with spectator seating and parking, a playground and water-spray playground, picnic pavilion, and basketball and volleyball courts. The public walkway along the Byram River in downtown Port Chester is another of the Village's recreational resources. The walkway runs from Willett Avenue south to the end of the Costco parking lot, where there is a steep grade change. This southern portion of the walkway is currently closed to pedestrians because of safety reasons; the bulkhead that supports the walkway is falling apart and in need of immediate repair.

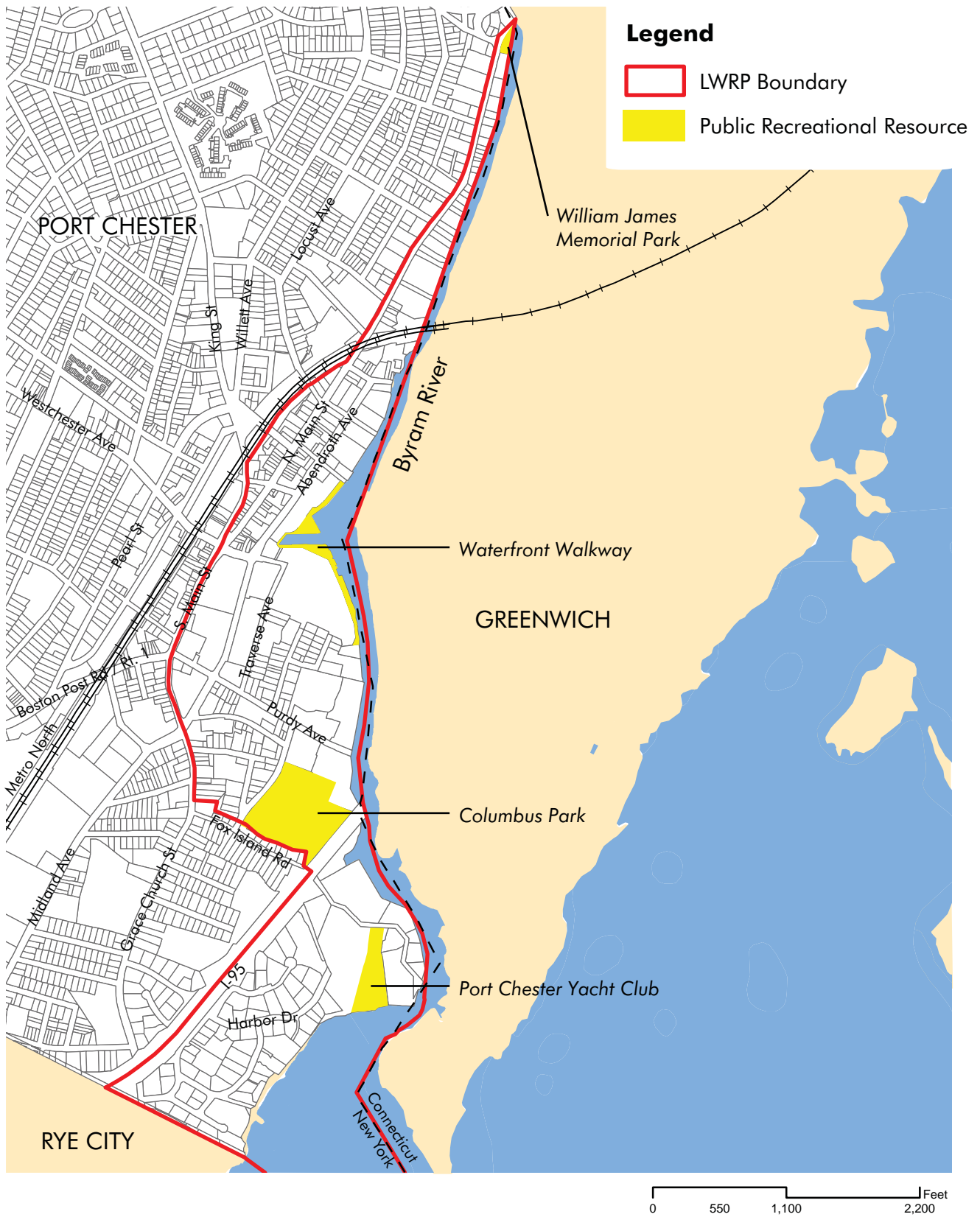
Another public Village recreational resource is the boat ramp at the Port Chester Yacht Club on Fox Island (see Figure 15a). The club has parking for cars and boats, and a ramp leading into a small marina in the Byram River. Under the terms of the club's lease from the Village, the boat ramp must be open to the public at no cost during daytime hours. Unlimited emergency access must be provided to the U.S. Coast Guard and State, County and Village emergency services.

The final public recreational resource is William James Memorial Park, at the northern tip of the LWRP area. The main feature of this park is the restored pumphouse along the waterfront. Because of its location at the intersection of North Main Street and Putnam Avenue at the entrance to Port Chester, the park is not easily accessible by pedestrians and is thus not well used even for passive recreational use. William James Park mainly serves as a green gateway space.

Although not used as such, the end of Fox Island Road represents a potential public water access point. As a public right-of-way, the street-end is municipally owned, and the Village has in the past attempted to assert its rights to this area, with limited success. Nonetheless, Port Chester may wish to reexamine its ownership rights to the street-end as part of efforts to increase and enhance public waterfront access on the Fox Island Peninsula.

Chapter 148 (Boating and Watercraft) of the Village code governs harbor management for Port Chester, including the location of anchorages and moorings, marina sanitation requirements, dredging regulations, permitting, and penalty and enforcement policies. Although this chapter designates a Harbor Master as responsible for assigning mooring areas, keeping records of their locations and enforcing tackle and buoy permits, this position is apparently not active.

~~Therefore, much of the harbor management regulation for the Village is not followed.~~





PORT CHESTER LWRP

PORT CHESTER, NY

FIGURE 15A: PORT CHESTER YACHT CLUB

SOURCE: BILLY FRENZ



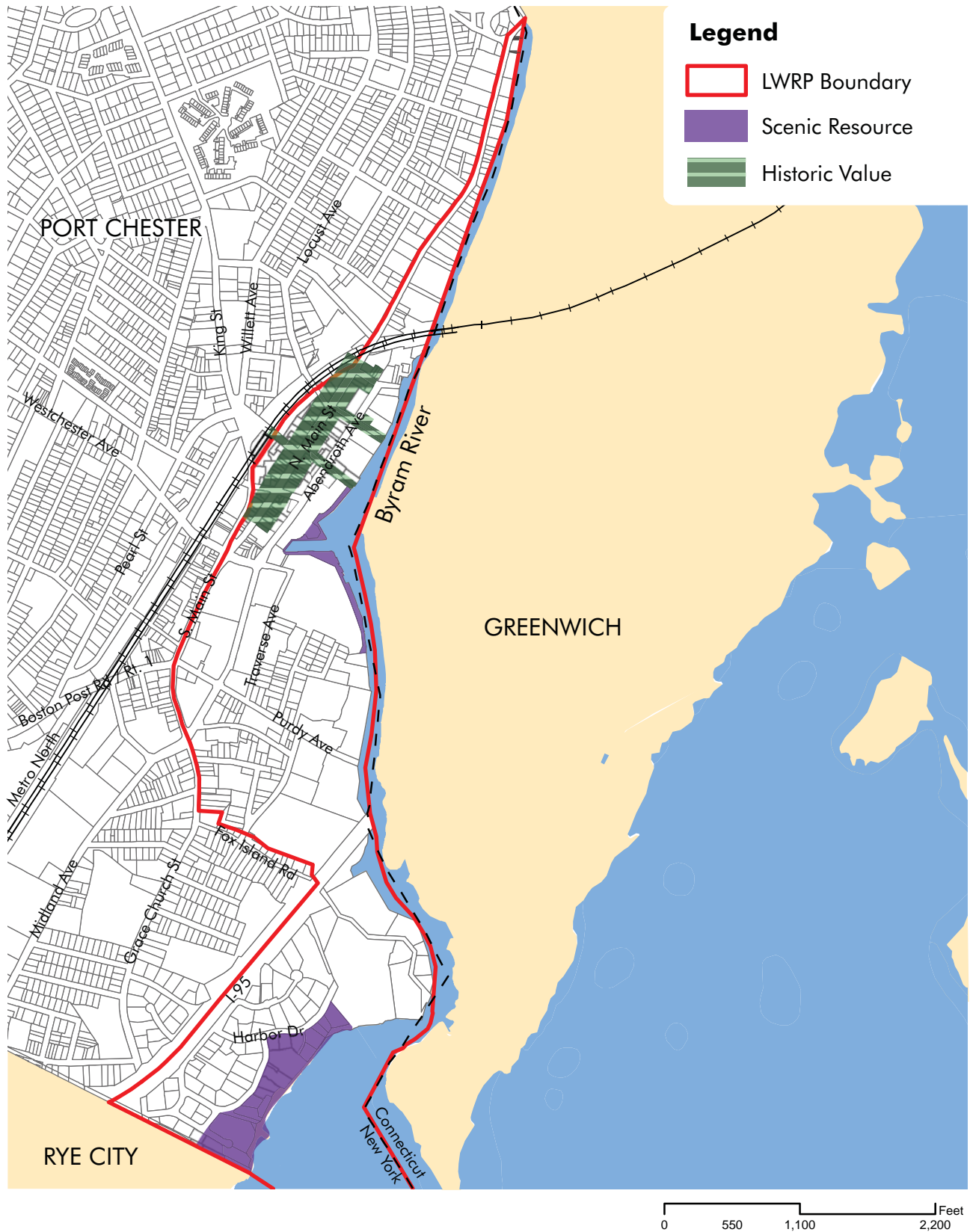
## G. SCENIC, HISTORIC AND ARCHAEOLOGICAL RESOURCES AND VISUAL QUALITY

The visual quality of the Port Chester waterfront is extremely variable due to the differences in river widths and the scenic quality of surrounding land uses. The best views are long water views or views of open space or attractive housing on the Connecticut side of the river. The area with the highest visual quality is the Greyrock residential area. In this area, well-maintained, mature vegetation contributes to the visual quality of the waterfront. William James Memorial Park and the pedestrian walkway downtown along the river also have strong visual quality (see Figure 16). No scenic resources of statewide significance have been identified.

No historic resources are listed on the National or State Registers of Historic Places within the LWRP area, but several properties are either individually eligible for National Register listing or are within a district that is eligible for National Register listing. These properties are predominantly located on Highland Street, Willett Avenue and North Main Street in the downtown area (See Figure 16~~2~~). Other properties in Port Chester outside of the LWRP area that are included on the registers are the Life Savers Building, the Bush-Lyon Homestead, the Capitol Theater, the Port Chester Post Office murals, and the Putnam and Mellor Engine and Hose Company Building. These five sites are also listed on the Westchester County Inventory of Historic Places, along with three other sites in Port Chester: the War Memorial at Wesley and Westchester Avenue; the Spanish American War Memorial at Willett, King and Pearl Streets; and St. Peter's Episcopal Church at 19 Smith Street. There are some properties on Fox Island Road, just outside the study area boundary, that are also eligible for National Register listing.

Other special structural features in the waterfront area include the restored William James Memorial pump house, Putnam Avenue Bridge and the Mill Street Bridge.

Port Chester contains one large archeologically sensitive area in the southern end of the Village, which occupies all of the LWRP area south of Highland Street. Archeologically sensitive areas are designated when a site of some archeological significance is discovered, and represent both the site itself and a surrounding buffer zone between approximately one-half and one mile in radius. Tracts of land, bodies of water or some combination of the two can be found in these areas. Significant areas are designated for innumerable reasons related to the preservation of the history and culture in a region, but all are similarly valued for the nonrenewable nature of the site itself and its associated materials.



## H. DEVELOPMENT CONSIDERATIONS

### 1. Existing Zoning

Existing zoning forms the framework for regulations regarding land use, densities, and building regulations. Figure 17 depicts existing zones. These include:

- Residential Zones
  - **R7 (Single Family):** Permits one-family dwellings, parks and playgrounds, residential community facilities and schools. No businesses are permitted other than home professional offices, although home occupation uses may be granted as a special exception. Maximum FAR is 0.60 while minimum lot size is 7,500 square feet.
  - **R2F (Two Family):** Permits one-family dwellings, parks and playgrounds, residential community buildings, schools, hospitals, membership clubs, nursery schools, public utility buildings and nonresident physicians. No businesses are permitted other than home professional offices, although home occupation uses may be granted as a special exception. Maximum FAR is 0.80 and minimum lot size is 5,000 square feet.
  
- Special Zones
  - ~~**PTD (Planned Tower Development Residential Zone)**~~
  - **DW (Design Waterfront – multiple use):** Only special exception uses have been created for this district, and include multifamily dwellings, churches, convalescent homes, membership clubs, public utility facilities, schools, banks, cabarets, marinas, offices, radio and television studios, table-service restaurants, veterinary hospitals, creameries, non-nuisance industry, printing plants and research laboratories.
  - **ROO (Residential Office Overlay):** Intended to encourage the adaptive reuse of industrial land and buildings of historic significance, preserving the historical character of the property and providing suitable residential units and amenities. Permitted uses include all those listed in the M1 and M2 districts (see below) in addition to multifamily dwelling uses of all types, and cultural/recreational/athletic facilities.
  - **MUR (Marina Urban Redevelopment):** Intended to revitalize a blighted area along the waterfront. Permits retail shops, supermarkets, movie theaters, open storage of materials and equipment, offices, personal service shops, parking and loading uses, parks, water-dependent features and water-related recreational uses.
  - **VCRA (Village Center Redevelopment Area):** Permits light industrial operations, wholesale businesses, storage buildings, warehouses, offices incidental to the primary use, research and laboratory facilities, creameries, ice cream plants, laundry and dry-cleaning facilities, non-nuisance industry, motor vehicle filling stations, printing plants, public utilities, architecture/land surveying/engineering offices, businesses and banking offices.

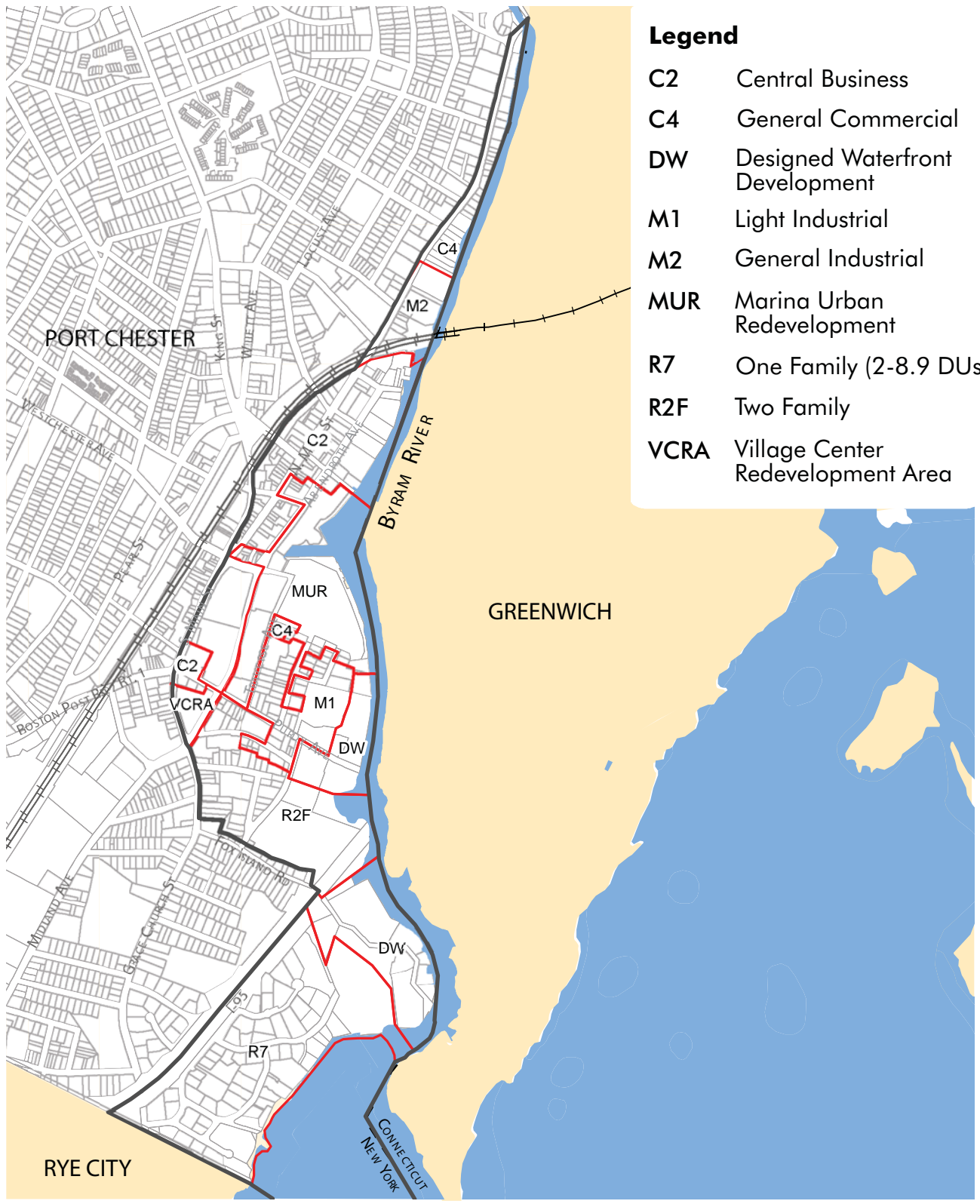
- Commercial Zones
  - **C2 (Central Business District):** Permits offices above the first floor, radio or television studios, table-service restaurants, tax preparation offices, retail stores and personal service shops. It is the only commercially oriented district that permits a residential use – multifamily above the first floor – which is granted by special exception. Other special exception uses include medical and dental offices, catering and event facilities, drive-in establishments, health clubs, hotels, movie theaters and other theaters and ground-floor offices as an accessory use to multifamily development.
  - **C4 (General Commercial):** Permits banks (no drive-in), health clubs, movie theaters or other theaters, offices, radio or television studios, table-service restaurants, wholesale businesses, creameries, non-nuisance industry and printing plants. Special exception uses include churches and other religious institutions, assembly halls, membership clubs, public utility facilities, automobile repair garages, bars, bowling alleys, cabarets, drive-in establishments, food processing shops, funeral homes, gas stations, motor vehicle sales lots, veterinary hospitals and research laboratories.
  
- Manufacturing Zones
  - **M1 (Light Industry):** Permits public utility facilities, banks (no drive-in), offices, radio or television studios, wholesale businesses, creameries, laundry or dry-cleaning facilities, non-nuisance industry, printing plants and research laboratories. Special exception uses include churches or other religious institutions and gas stations.
  - **M2 (General Industry):** Permits public utility facilities, banks (no drive-in), offices, radio or television studios, shooting ranges, wholesale businesses, cold storage plants, creameries, non-nuisance industry, printing plants and research laboratories. Special exception uses include churches or other religious institutions and related businesses, gas stations and the open storage of equipment or materials.

## 2. Proposed Zoning

The Comprehensive Plan recently adopted by the Village Board of Trustees proposes certain changes to existing zoning within the LWRP area, including:

- Decreased floor area ratios (FAR) in all residential districts
- Consideration of site plan approval for two-family dwellings
- Extension of the existing DW zoning district to include the neighborhood north of Purdy Avenue and the area north of Willett Avenue along the waterfront.
- Rezoning the Fox Island subarea to a new district that would encourage “wharf-type” development (restaurants and retail) and a mix of commercial/office uses with the possibility of some light industrial uses. New residential uses would be by special exception permit only, and limited to studio and one-bedroom units. Building heights would be limited to 4 stores, or 50 feet.
- Modifying the C-2 zoning district to a “Main Street Business” zone that will allow for context-sensitive mixed-use development. This district would permit residential

uses over ground-floor retail and would reduce maximum allowable building heights from 8 stories to 5 stores (4 residential stories over ground-floor retail).



**SECTION III**

**COASTAL MANAGEMENT POLICIES**



## **SECTION III COASTAL MANAGEMENT POLICIES**

### **Introduction**

The Policies of the Village of Port Chester Local Waterfront Revitalization Program are adapted from the Coastal Policies of the New York State Coastal Management Program as expressed in the Long Island Sound Coastal Management Program and the 1992 Port Chester LWRP. They account for the circumstances that define the nature and uses of the Village’s waterfront and coastal resources, and consider the economic, environmental, and cultural characteristics of the Village. The policies are comprehensive and reflect Village and State laws and authorities. They represent a balance between economic development and preservation that will permit beneficial use of, and prevent adverse effects on, the Village’s waterfront and coastal resources. They effectively take the place of the Coastal Policies of the New York State Coastal Management Program within the Village of Port Chester. The Policies are the basis for federal, State and Village consistency determinations of activities within or affecting the waterfront area of the Village. Any policy area covered by the New York State Coastal Management Program but identified as “not included” in the following statement of policies remains applicable for any agency subject to federal or State consistency regulations and the relevant New York State Coastal Policy is to be adhered to.

Where a policy explanation cites a Village law, regulation, or plan to which adherence is required in determining the consistency of an activity, the full text of the law or plan is included as an appendix in official copies of the printed Village of Port Chester Local Waterfront Revitalization Program. Electronic versions of the Program will include links to any referenced law, regulation, or plan. Adherence to a referenced law is to the standards and purposes of that law, adherence to the procedures of the law are not required rather the procedures of the federal, State or Village consistency laws or regulations govern.

The activities of federal, State or Village agencies that are required to be consistent with the Village’s Waterfront Policies are determined by the provisions of federal, State or Village law respectively and may vary. The federal agency activities are identified in the New York State Coastal Management Program, as amended, and in consistency determinations for certain U.S. Army Corps of Engineers’ general permits. State agency actions that are required to be consistent with the Village’s Policies are identified in Section VI of the Village Waterfront LWRP.

The Village’s Coastal Policy statements and their explanation are followed by sub policies that refine the policy statement for certain situations and are also subject to consistency; however, they are not to be construed as exhaustive of the intent or scope of the policy statement. Likewise, narrative explanations are not exhaustive of the meaning and intent of the policy or sub policy which they explain.

~~The coastal management policies of the Village of Port Chester are adapted from the Long Island Sound Coastal Management Program policies and consider the economic, environmental and cultural characteristics of the Village’s LWRP area. They effectively take the place of policies of the New York State Coastal Management Program as expressed in the Long Island Sound Coastal Management Program. The policies are comprehensive and reflect existing Village and State laws and authorities and, where appropriate, the policies of the 1992 Port Chester LWRP. The policies represent a balance between economic development and preservation that will permit beneficial use of and prevent adverse~~

~~effects on the Village's coastal resources. They are the basis for Federal, State and Village consistency determinations for actions affecting the Village's coastal area.~~

~~The policies are organized under four headings: developed coast policies, natural coast policies, public coast policy and working coast policies.~~

## **A. SUMMARY LIST OF POLICIES**

### **I. Developed Coast Policies**

- |          |                                                                                                                                                                                                                                                           |            |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Policy 1 | Foster a pattern of development in the Port Chester coastal area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location and minimizes adverse effects of development. | Applicable |
| Policy 2 | Preserve historic resources of the Port Chester coastal area.                                                                                                                                                                                             | Applicable |
| Policy 3 | Enhance visual quality and protect scenic resources throughout the Port Chester coastal area.                                                                                                                                                             | Applicable |

### **II. Natural Coast Policies**

- |          |                                                                                                                               |            |
|----------|-------------------------------------------------------------------------------------------------------------------------------|------------|
| Policy 4 | Minimize loss of life, structures and natural resources from flooding and erosion.                                            | Applicable |
| Policy 5 | Protect and improve water quality and supply in the Port Chester coastal area.                                                | Applicable |
| Policy 6 | Protect and restore the quality and function of the Port Chester coastal area ecosystem.                                      | Applicable |
| Policy 7 | Protect and improve air quality in the Port Chester coastal area.                                                             | Applicable |
| Policy 8 | Minimize environmental degradation in Port Chester's coastal area from solid waste and other hazardous substances and wastes. | Applicable |

### **III. Public Coast Policies**

- |           |                                                                                                                                                                         |            |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Policy 9  | Provide for public access to, and recreational use of, coastal waters, public lands and public resources of Port Chester's coastal area.                                | Applicable |
| Policy 9A | Incorporation of a public pedestrian walkway along the waterfront shall be included as part of development or redevelopment of waterfront parcels wherever practicable. | Applicable |

### **IV. Working Coast Policies**

- |           |                                                                                                                   |            |
|-----------|-------------------------------------------------------------------------------------------------------------------|------------|
| Policy 10 | Protect Port Chester's water-dependent uses and promote siting of new water-dependent uses in suitable locations. | Applicable |
| Policy 11 | Promote sustainable use of living marine resources in Long Island Sound and the Byram River.                      | Applicable |

|           |                                                                                                       |                |
|-----------|-------------------------------------------------------------------------------------------------------|----------------|
| Policy 12 | Protect agricultural lands in the eastern Suffolk County portion of Long Island Sound's coastal area. | Not Applicable |
| Policy 13 | Promote appropriate use and development of energy and mineral resources.                              | Applicable     |

**B. VILLAGE OF PORT CHESTER COASTAL MANAGEMENT POLICIES**

**DEVELOPED COAST POLICIES**

**POLICY 1 FOSTER A PATTERN OF DEVELOPMENT IN THE PORT CHESTER COASTAL AREA THAT ENHANCES COMMUNITY CHARACTER, PRESERVES OPEN SPACE, MAKES EFFICIENT USE OF INFRASTRUCTURE, MAKES BENEFICIAL USE OF A COASTAL LOCATION AND MINIMIZES ADVERSE EFFECTS OF DEVELOPMENT.**

Development that does not reinforce the traditional pattern of human use would result in an undesirable loss of the community and landscape character of the Port Chester coastal area. Development, public investment and regulatory decisions should preserve open space and natural resources and sustain the historic waterfront community as a center of activity. Water-dependent uses generally should locate within Port Chester so as to support the economic base and maintain its character, and to avoid disturbance of shorelines and waters in open space areas.

The policy is intended to foster a development pattern that provides for the beneficial use of the Village's natural resources, and, by extension, of Long Island Sound's coastal resources. The primary components of the desired development pattern are: strengthening the traditional waterfront community as a center of activity, encouraging the appropriate expansion of water-dependent uses, enhancing stable residential areas and preserving open space.

To facilitate such a pattern of development, the Village of Port Chester will make every effort to coordinate existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives is not jeopardized. The Village is in the process of updating its Comprehensive Plan and has adopted a Zoning Law that foster this pattern of development within Port Chester. See Section IV for the proposed land and water uses and the Appendix for the Zoning Law.

As part of any redevelopment or redevelopment project within the Port Chester coastal area, the following infrastructure needs will be met:

- Village public services located within or in close proximity to development or redevelopment projects will be made adequate to meet anticipated growth.

- Any substandard Village facilities will be upgraded as necessary to support new development.
- All infrastructure improvements will be designed to minimize natural hazards, consistent with Policy 4.
- Overhead utility lines will be placed underground as part of any redevelopment which requires the relocation of such facilities.

**1.1 Concentrate development and redevelopment in the Village of Port Chester waterfront area to achieve the proposed land and water uses of Section IV, to advance the Village Comprehensive Plan and to comply with the Village zoning law~~er adjacent to the traditional waterfront community.~~**

Maintain the traditional waterfront community and ensure that development within this community supports and is compatible with the character of the community, as identified in the Long Island Sound Coastal Management Program.

Focus public investment, actions and assistance in waterfront redevelopment areas to reclaim unused waterfront land and brownfields for new purposes.

Locate new development where infrastructure is adequate or can be upgraded to accommodate new development.

**1.2 Ensure that development or uses take appropriate advantage of their coastal location.**

Generally, reserve coastal waters for water-dependent uses and activities. However, a limited number of water-enhanced floating structures may be appropriate in the Village.

Accommodate water-enhanced uses along the Port Chester waterfront where they are consistent with the Village Zoning Law, are compatible with surrounding development, do not displace or interfere with water-dependent uses and reflect the unique qualities of a coastal location through appropriate design and orientation. Restaurants and waterfront parks are particularly appropriate water-enhanced uses for the Village waterfront.

Allow other uses that derive benefit from a waterfront location, such as residential uses, in appropriate areas, and of a density as is permitted by the Village Zoning Law~~locations. Avoid uses on the waterfront which cannot by their nature derive economic benefit from a waterfront location.~~

**1.3 Protect stable residential areas.**

Maintain stable residential areas and allow for continued compatible residential and supporting development in or adjacent to such areas.

**1.4 Maintain and enhance natural areas, recreation and open space.**

Avoid loss of economic, environmental and aesthetic values associated with these areas.

Avoid expansion of infrastructure and services which would promote conversion of these areas to other uses.

Maintain natural, recreational and open space values including those associated with marinas and yacht clubs.

**1.5 Minimize adverse impacts of new development and redevelopment.**

Minimize potential adverse land use, environmental and economic impacts that would result from proposed development.

Minimize the potential for adverse impacts of types of development which individually may not result in a significant adverse environmental impact, but when taken together could lead to or induce subsequent significant adverse impacts.

Ensure that all Village public services are, or will be made, adequate to meet anticipated growth, and that substandard facilities will be upgraded as necessary to support new development.

Provide that overhead utility lines will be placed underground as part of any redevelopment which requires the relocation of such facilities.

**POLICY 2 PRESERVE HISTORIC RESOURCES OF THE PORT CHESTER COASTAL AREA.**

Among the most valuable of the manmade resources are those structures or areas which are of historic, archeological or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. The policy is not to be construed as a passive mandate but must include effective efforts when appropriate to restore or revitalize through adaptive reuse. ~~While the LWRP is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.~~

The structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the State, its communities or the nation include those resources listed,

nominated for listing or determined eligible to be on the National or State Registers of Historic Places. See Section II.G for a general description of such resources within the Village's waterfront area.

~~The mechanism by which compliance with the provisions of this policy is carried out is the State Environmental Quality Review (SEQR) process. Utilizing the existing provisions of SEQR, any action (including adoption of Lead Agency and the determination of significance) affecting a property which has been determined to appear eligible for listing on the State or National Register of Historic Places by the State Historic Preservation Office, shall be required to coordinate the SEQR review with the State Historic Preservation Office. In this way, potential historic sites would be afforded a significant level of review prior to the commencement of any destructive activity. Should the review determine that the site would be negatively impacted by the proposal, then appropriate measures can be initiated at that point, and the development would be required to address the findings.~~

~~The consistency review requirements of the LWRP, along with the provisions of SEQR and the mandated coordination with the State Historic Preservation Office, will adequately assure the integrity of Port Chester's historic heritage.~~

No archeologically significant sites have been identified as being located within the LWRP boundary.

This policy shall not be construed to prevent the construction, reconstruction, alteration or demolition of any building, structure, earthwork or component thereof of a recognized historic, cultural or archeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair or property restoration according to the U.S. Department of Interior's Standards for Rehabilitation of component of a recognized historic, cultural or archeological resource which does not involve a significant adverse change to the resource, as defined above.

## **2.1 Maximize preservation and retention of historic resources.**

Preserve the historic character of the resource by protecting historic materials and features or by making repairs using appropriate measures.

Provide for compatible use of the historic resource, while limiting and minimizing alterations to the resource.

Minimize loss of historic resources or historic character when it is not possible to completely preserve the resource.

Relocate historic structures only when the resource cannot be preserved in place. Allow demolition only where alternatives for retention are not feasible.

Avoid potential adverse impacts of development on nearby historic resources.

## **2.2 Protect and preserve archeological resources.**

Minimize potential adverse impacts by redesigning projects, reducing direct impacts on the resource, recovering artifacts prior to construction and documenting the site.

Prohibit appropriation of any object of archeological or paleontological interest situated on or under lands owned by New York State, except as provided for in Education Law, § 233.

## **2.3 Protect and enhance resources that are significant to the coastal culture of Port Chester and the surrounding region.**

Protect the character of the historic maritime community.

~~Preserve and enhance navigational structures by providing for their long-term protection through the least degree of intervention necessary to preserve the structure. Consider extensive shoreline stabilization only if relocation of the structure is not feasible.~~

### **POLICY 3 ENHANCE VISUAL QUALITY AND PROTECT SCENIC RESOURCES OF THE PORT CHESTER COASTAL AREA.**

~~When considering a proposed action that would not affect a scenic resource of statewide significance, agencies shall nonetheless seek to ensure that the action would be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area.~~

As discussed in Section II, few significant scenic resources exist along Port Chester’s waterfront, as the area has experienced significant physical alteration over the course of its history. Much of the waterfront is dominated by industrial uses or cleared land that was once industrial. A few features such as the Greyrock neighborhood, the stone bridges crossing the river, Columbus Park and the 19<sup>th</sup> century quality of portions of Fox Island Road, have been noted as contributing to the visual quality of the LWRP area. With the exception of the Greyrock area, these visually significant areas will be preserved as publicly accessible.

In addition, the potential for scenic vistas exists, particularly from the Fox Island Peninsula and the waterfront ends of Westchester, Willett and Purdy Avenues. Because the Byram River is so narrow in many portions, no significant view corridors along streets perpendicular to the water exist across the river. Views up and down the river from prominent street endings, however, are very attractive.

~~Signage shall be regulated in the LWRP area to assure visual consistency. The Village shall develop a special waterfront signage program that will enhance or contribute to the waterfront identity. This program will assure visual consistency with the character of each development area.~~

### **3.1 Protect and improve visual quality throughout the coastal area.**

Enhance existing scenic characteristics by minimizing introduction of discordant features.

Restore deteriorated and remove degraded visual elements, and screen activities and views which detract from visual quality.

Preserve existing vegetation and establish new vegetation to enhance scenic quality.

Group or orient structures to preserve open space and provide visual organization.

Improve the visual quality associated with urban areas and the traditional waterfront community within the Port Chester coastal area.

Anticipate and prevent impairment of dynamic landscape elements that contribute to ephemeral scenic qualities.

Recognize water-dependent uses as important additions to the visual interest of Port Chester's waterfront.

Protect scenic values associated with public lands, including public trust lands and waters, and natural resources.

### ~~**3.2 Protect aesthetic values associated with recognized areas of high scenic quality.**~~

~~Prevent impairment of scenic components that contribute to high scenic quality.~~

## NATURAL COAST POLICIES

### **POLICY 4                                    MINIMIZE LOSS OF LIFE, STRUCTURES AND NATURAL RESOURCES FROM FLOODING AND EROSION.**

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to or loss of property, and endangering human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing runoff and the erosion and weakening of shorelands; and the placing of structures in identified floodways so that the base flood level is increased, causing damage in otherwise hazard-free areas.

Within the Port Chester coastal area, large portions of land and buildings are located in 100-year floodplains. As discussed in Section II.5, designated Flood Hazard Areas exist along the entire length of the Village's waterfront, as identified on the Flood Insurance Rate Maps for Port Chester. Local, State and Federal laws regulate the siting of buildings in erosion hazard areas, coastal high hazard areas and floodplains. Locally, development in flood hazard areas is regulated through a floodplain development permit process and standards specified in Chapter 181 (Flood Damage Prevention) of the Village Code, while erosion is addressed with the regulations and standards contained in Chapter 281 (Stormwater Management) and Chapter 345 (Zoning). These regulations, as well as best management practices, are generally sufficient to implement this policy.

Sea level rise relative to the shore is another significant factor in the incidence of erosion and flooding over time. For the overall Long Island Sound coastal area, tidal gauge data collected within the last 100 years suggests a relative sea level rise varying from about 0.1 inches to less than 0.04 inches per year. At that rate, a horizontal movement of mean sea level of 1 to 3 inches per year is anticipated in the region. It should be noted that these historical figures result in a projection of future sea level rise that is less significant than those projections cited in Section II.5, as based on New York State reports. As a result, sea level rise should be considered for projects involving substantial investments of public expenditures.

This policy seeks to protect life, structures and natural resources from flooding and erosion hazards throughout the Port Chester coastal area. It recognizes both the potential adverse impacts of coastal and riverine flooding and erosion on development and natural features which may occur in the coastal area, as well as the costs of protection against those hazards which structural measures entail. The policy reflects State flooding and erosion protections and provides measures for reduction of hazards and protection of resources.

Most of the Port Chester waterfront already has bulkheading, to protect development and natural features against serious impact from flooding and erosion. There are only two areas in the LWRP area that do not have this protection: portions of the Greyrock neighborhood and the undeveloped waterfront area straddling I-95 and adjacent to Columbus Park, south of the Purdy Avenue industrial uses and north of the sewage treatment plant. Within Greyrock, principal and

accessory structures shall be prohibited within the mean high water area. In the area adjacent to Columbus Park, non-structural means shall be used to the greatest extent practicable to protect the site from flood erosion damage. For areas that are already bulkheaded, efforts to replace or rebuild deteriorated erosion protection structures shall be undertaken for reasons of safety and to create an attractive riverfront walkway.

For development areas in the LWRP area that lie within the 100-year floodplain, non-structural measures shall also include (a) the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, or (b) the flood-proofing of buildings or their elevation above the base flood level.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined whether any one, or a combination of, non-structural measures would offer sufficient protection, and if so, then consistency with the policy would require the use of such measures, whenever possible. In determining whether or not non-structural measures protect against erosion or flooding and would afford the degree of appropriate protection, an analysis and, if necessary, other materials such as plans or sketches of the proposed activity or development of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

Dredging of the Byram River has been undertaken previously by the Army Corps of Engineers in order to maintain the channel depths necessary for vessels traveling to and from the water-dependent industries along both the Port Chester and Greenwich banks of the river. All dredging and excavation activities must be conducted in compliance with Federal and State regulations.

#### **4.1 Minimize losses of human life and structures from flooding and erosion hazards.**

Use the following management measures, which are presented in order of priority: (1) avoid development other than water-dependent uses in coastal hazard areas; (2) locate or move development and structures as far away from hazards as practical; (3) use vegetative non-structural measures which have a reasonable probability of managing flooding and erosion; (4) enhance existing natural protective features and processes, and use non-structural measures which have a reasonable probability of managing erosion; (5) use hard structural erosion measures for control of erosion only where the above measures are not sufficient to protect the principal use, or the use is water-dependent or reinforces Port Chester's role as a maritime center and waterfront redevelopment area.

Mitigate the impacts of the existing erosion control structures in Port Chester.

Manage development in floodplains outside of coastal hazard areas so as to avoid adverse environmental effects, to minimize the need for structural flood protection measures and to meet Federal flood insurance program standards.

#### **4.2 Preserve and restore natural protective features.**

Prevent development in natural protective features except development as specifically allowed in 6 NYCRR Part 505.8. For example, portions of the Greyrock shoreline could be considered beach, even if not identified as such under the Coastal Erosion Management Regulations.

Maximize the protective capabilities of natural protective features by: avoiding alteration or interference with shorelines in a natural condition; enhancing existing natural protective features; restoring impaired natural protective features; and managing activities to minimize interference with, limit damage to or reverse damage which has diminished the protective capacities of the natural shoreline.

Minimize interference with natural coastal processes by: providing for natural supply and movement of unconsolidated materials; minimizing intrusion of structures into coastal waters and interference with coastal processes; and mitigating any unavoidable intrusion or interference.

#### **4.3 Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.**

Retain ownership of public trust lands which have become upland areas due to fill or accretion resulting from erosion control projects.

Avoid losses or likely losses of public trust lands or use of these lands, including public access along the shore, which can be reasonably attributed to or anticipated to result from erosion protection measures.

Mitigate unavoidable impacts on adjacent property, natural coastal processes and natural resources and on public trust lands and their use.

#### **4.4 Manage navigation infrastructure to limit adverse impacts on coastal processes.**

Manage navigation channels to limit adverse impacts on coastal processes by designing channel construction and maintenance to protect and enhance natural protective features and prevent destabilization of adjacent areas, including bulkheads and other shoreline stabilization structures, and to allow for shore parallel dockage of vessels; and make beneficial use of suitable dredged material.

Manage stabilized inlets to limit adverse impacts on coastal processes.

#### **4.5 Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.**

Give priority in expenditure of public funds to actions which: protect public health and safety; mitigate flooding and erosion problems caused by previous human intervention;

protect areas of intensive development; and protect substantial public investment in land, infrastructure and facilities.

Expenditure of public funds is: limited to those circumstances where public benefits exceed public cost; and prohibited for the exclusive purpose of protecting private development, except where actions are undertaken by an erosion protection district.

**4.6 Consider sea level rise when siting and designing projects involving substantial public expenditures.**

Utilize sea level rise projections as are published in the most recent reports of New York State agencies.

**POLICY 5 PROTECT AND IMPROVE WATER QUALITY AND SUPPLY IN THE PORT CHESTER COASTAL AREA.**

The purpose of this policy is to protect the quality and quantity of water in the Port Chester coastal area. Quality considerations include both point source (“end-of-the-pipe” discharges) and nonpoint source (site runoff, leaching, spillages, sludge and waste disposal and drainage from raw material storage sites) pollution management. The primary quantity consideration is the maintenance of an adequate supply of potable water in the area.

The Comprehensive Conservation Management Plan developed by the Long Island Sound Study (1994) clearly summarizes the major surface water quality impairments in the region. These impairments reflect the intensity of upland and water uses in the Sound coastal area, and result from both point and nonpoint sources. Impairments also result from pollution sources outside the Sound coastal area. Consequences of water quality impairments include hypoxia; reduced availability of crustaceans and certified, marketable shellfish; increased closure days for beaches; and reduced enjoyment of the Sound shoreline.

Water quality protection and improvement in the coastal area must be accomplished by the combination of managing new and remediating existing sources of pollution. In some areas with existing water quality impairments, more aggressive remediation measures will be needed than for the coastal area or surrounding region as a whole.

Site engineering standards in accordance with best management practices and the Village’s stormwater management law (Chapter 281 of the Village code) are in effect, which ensure that approved development plans will not contribute significantly to the degradation of Port Chester’s water quality. The Village is served by separate sanitary and stormwater collection systems.

Best management practices which are set forth in the latest New York State Department of Environmental Conservation (NYSDEC) Stormwater Management Design Manual (August 2010)

include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff, as well as planning and design of green infrastructure.

Other general best practices used to reduce nonpoint sources of pollution include soil erosion control practices and surface drainage control techniques. The U.S. Environmental Protection Agency (EPA) has also developed a National Menu of Stormwater Best Practices, establishing guidelines for public education, public involvement, illicit discharge detection and elimination, construction, post-construction and pollution prevention/good housekeeping.

The Village has also researched the techniques and practices which are becoming increasingly prevalent in the mitigation of nonpoint source pollution in urban areas. Included among these are extended detention ponds, wet ponds, infiltration trenches, infiltration basins, porous pavement, swales and filter strips, marsh creation and water quality inlets. Of all these best management practices, it has been determined that the most appropriate and effective technique available for the Port Chester coastal area would be the use of water quality inlets (also known as oil/grit separators). The remaining techniques or the utilization of various elements of these techniques may also be of value depending upon the location for which the technique is intended within the coastal area.

Water quality inlets are designed to remove sediment, grit and oil loadings from runoff before they are conveyed to the storm drain network. These devices are normally part of or adjacent to catch basins. While relatively effective in removing pollutants, water quality inlets require periodic manual clean-outs of the chambers to maintain their usefulness.

All new development within the Port Chester coastal area must evaluate the current and most effective nonpoint source mitigation techniques available and incorporate the appropriate technique as a condition of plan or permit approval.

Best management practices which are directly connected to the storm drainage system are only effective if they are beyond the reach of tidal influences. High tides which would back through the drainage system would defeat the purpose of the mitigation measures. As a result, implementation of best management practices must be evaluated on a case-by-case basis for suitability.

In addition to the State and Federal water quality standards which must be adhered to, locally non-stormwater discharges to the storm drainage system are regulated by Chapter 199 of the Village Code, which establishes standards for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The discharge of sewage, garbage, rubbish and other solid and liquid materials from watercraft and marinas into coastal waters is also regulated, and specific effluent standards for marine toilets have been promulgated by the U.S. Department of Transportation. All marinas accommodating 25 or more boats in Port Chester are required to provide pump-out stations sufficient in capacity for the boats moored at the facility, in accordance with Chapter 148 (Boating and Watercraft) of the Village Code.

Dredging of the Byram River is undertaken periodically by the U.S. Army Corps of Engineers in order to maintain the channel depths necessary for vessels traveling to and from the water-dependent industries along both the Port Chester and Greenwich banks of the river. Dredging, although important for maintaining navigation channels at sufficient depths, waterfront revitalization and development, pollutant removal and meeting other coastal management needs, can adversely affect water quality, fish and wildlife habitats, wetlands and other key coastal resources. Often, these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Chapter 148 of the Village Code provides that all dredging activities in the Byram River and Port Chester Harbor must be conducted in compliance with Federal and State regulations. In addition, dredge material will be removed and disposed of in approved landfill areas only. Maintenance dredging will be the responsibility of the operating organization ~~(the Village of the private developer)~~.

Since there are no significant fish or wildlife habitats, natural protective features, important agricultural lands or significant wetlands along the Port Chester waterfront, no negative impacts from dredging are anticipated. Dredging of waterfront areas is also not anticipated to negatively affect scenic quality.

Local controls and best management practices, combined with potential future improvements at the County sewage treatment plant and other point sources of pollution, should result in continued improvements to water quality. It should be noted that the upstream users of the Byram River in Connecticut contribute significantly to the water quality of the river, and those uses are not controlled by the Village's LWRP.

**5.1 Prohibit direct or indirect discharges which would cause or contribute to contravention of water quality standards.**

Restore water quality in Long Island Sound and the Byram River by reducing impairments caused by major sources of pollution by: limiting nitrogen loadings from waste water treatment plants to levels at or below levels occurring in 1990, reducing nitrogen discharges sufficient to limit the occurrence of hypoxia, remediating existing contaminated sediment and limiting introduction of new contaminated sediment.

Prevent point source discharges into coastal waters and avoid land and water uses which would: (1) exceed applicable effluent limitations, or (2) cause or contribute to contravention of water quality classification and use standards, or (3) materially adversely affect receiving water quality, or (4) violate a vessel waste no-discharge zone prohibition.

Ensure effective treatment of sanitary sewage and industrial discharges by maintaining efficient operation of treatment facilities, providing secondary treatment of sanitary sewage, improving nitrogen removal capacity, incorporating treatment beyond secondary for new wastewater treatment facilities, reducing demand on facilities, reducing loading of toxic materials, reducing or eliminating combined sewer overflows and managing on-site disposal systems.

Comply with the substantive provisions of Chapter 281 of the Village Code, Stormwater Management (see Appendix for the text of the local law), pertaining to stormwater prevention plans, performance and design criteria, maintenance and repair of stormwater facilities, and schedules A1, A2, A3 and B.

**5.2 Manage land use activities and use best management practices to minimize nonpoint pollution of coastal waters.**

**5.3 Protect and enhance the quality of coastal waters.**

Protect water quality based on physical factors (Ph, dissolved oxygen, dissolved solids, nutrients, odor, color and turbidity), health factors (pathogens, chemical contaminants and toxicity) and aesthetic factors (oils, floatables, refuse and suspended solids).

Minimize disturbance of streams, including their beds and banks, in order to prevent erosion or soil, increased turbidity and irregular variation in velocity, temperature and level of water.

Protect water quality of coastal waters from adverse impacts associated with excavation, fill, dredging and disposal of dredged material.

**5.4 Limit the potential for adverse impacts of watershed development on water quality and quantity.**

Protect water quality by ensuring that watershed development protects areas that provide important water quality benefits, maintains natural characteristics of drainage systems and protects areas that are particularly susceptible to erosion and sediment loss.

Limit the impacts of individual development projects to prevent cumulative water quality impacts upon the watershed which would result in a failure to meet water quality standards.

Consider, as appropriate, the recommendations of the Byram River Watershed Management Plan.

**5.5 Protect and conserve the quality and quantity of potable water.**

Prevent contamination of potable waters by limiting discharges of pollutants and limiting land uses which are likely to contribute to contravention of surface and groundwater quality classifications for potable water supplies.



SM: Coastal Shoals, Bars and Flats – The tidal wetland zone that at high tide is covered by saline or fresh tidal waters, at low tide is exposed or is covered by water to a maximum depth of approximately one foot, and is not vegetated.

Since much of the LWRP area has been filled or disturbed in some way, there are few natural areas left, including wetlands. The smallest of the tidal wetlands is located in the vicinity of the Port Chester Yacht Club. This area is approximately 13,000 square feet in area. As a result, it has been determined that this shore does not contain productive wetlands. The second area of regulated tidal wetlands is located at the north cove, between Purdy Avenue and I-95. This wetland is 1.4 acres and is also classified as “SM.”

Mitigation of development impacts on these wetlands will be considered. Mitigation may include consideration of creating a wetland of equal or higher value to the current wetland.

### **6.1 Protect and restore ecological quality throughout the Port Chester coastal area.**

Avoid significant adverse changes to the quality of the Port Chester coastal ecosystem as indicated by physical loss, degradation or functional loss of ecological components.

Maintain values associated with natural ecological communities.

Retain and add indigenous plants.

Avoid fragmentation of natural ecological communities and maintain corridors between ecological communities. Maintain structural and functional relationships between natural ecological communities to provide for self-sustaining systems.

Avoid permanent adverse change to ecological processes.

Reduce adverse impacts of existing development when practical.

Mitigate impacts of new development; mitigation may also include reduction or elimination of adverse impacts associated with existing development.

### **6.2 Protect and restore Significant Coastal Fish and Wildlife Habitats**

Protect Long Island Sound’s designated significant coastal fish and wildlife habitats from uses or activities which would destroy habitat values or significantly impair the viability of the designated habitat beyond its tolerance range which is the ecological range of conditions that supports the species population or has the potential to support a restored population where practical.

Where destruction or significant impairment of habitat values cannot be avoided, minimize potential impacts through appropriate mitigation.

Wherever practical, enhance or restore designated habitats so as to foster their continued existence as natural systems.

Protect the Manursing Island Flats Significant Coastal Fish and Wildlife Habitat, which is outside the Village but adjacent to Port Chester Harbor.

### **6.3 Protect and restore tidal and freshwater wetlands.**

Comply with statutory and regulatory requirements of the State’s wetland laws.

Use the following management measures, which are presented in order of priority: (1) prevent the net loss of vegetated wetlands by avoiding fill or excavation; (2) minimize adverse impacts resulting from unavoidable fill, excavation or other activities; and (3) provide for compensatory mitigation for unavoidable adverse impacts. Provide and maintain adequate buffers between wetlands and adjacent or nearby uses and activities to protect wetland values.

Restore tidal and freshwater wetlands wherever practical to foster their continued existence as natural systems.

### **6.4 Protect vulnerable fish, wildlife and plant species, and rare ecological communities.**

### **6.5 Protect natural resources and associated values in identified regionally important natural areas.**

Protect natural resources comprising a regionally important natural area. Focus State actions on protection, restoration and management of natural resources.

Protect and enhance activities associated with sustainable human use or appreciation of natural resources.

Provide for achievement of a net increase in wetlands when practical opportunities exist to create new or restore former tidal wetlands.

Adhere to management plans prepared for regionally important natural areas.

## **POLICY 7 PROTECT AND IMPROVE AIR QUALITY IN THE PORT CHESTER COASTAL AREA.**

This policy provides for protection of the Port Chester coastal area from air pollution, either generated within the coastal area or from outside, which adversely affects coastal air quality.

The requirements of the Federal Clean Air Act are the minimum air quality control requirements applicable within the coastal area. In particular, the sewage treatment plant will use the best available technology to maintain these standards.

The type and intensity of development should not impact air quality standards.

The policies of the State and Port Chester LWRP concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action by the State to reclassify land areas pursuant to the regulations of the Clean Air Act. In addition, the Department of State will provide the DEC with recommendations for proposed prevention of significant land classification designations based upon State and local coastal management programs.

### **7.1 Control or abate existing and prevent new air pollution.**

~~Not included in the Port Chester LWRP; see the New York State Coastal Management Program policy on air quality as expressed in the Long Island Sound Coastal Management Program for purposes of State and federal consistency.~~

~~Limit air pollution resulting from new or existing stationary air contamination sources consistent with applicable standards, plans and requirements.~~

~~Recycle or salvage air contaminants using best available air cleaning technologies.~~

~~Limit air pollution resulting from vehicle or vessel movement or operation.~~

~~Limit actions which directly or indirectly change transportation uses or operation resulting in increased pollution.~~

~~Restrict emissions or air contaminants to the outdoor atmosphere which are potentially injurious or unreasonably interfere with enjoyment of life or property.~~

~~Limit new facility or stationary source emissions of acid deposition precursors consistent with achieving final control targets for wet sulfur deposition in sensitive receptor areas, and meeting New Source Performance Standards for the emissions of oxides of nitrogen.~~

### **7.2 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.**

### **7.3 Limit sources of atmospheric deposition of pollutions to the coastal waters, particularly from nitrogen sources.**

## **POLICY 8**

### **MINIMIZE ENVIRONMENTAL DEGRADATION IN THE PORT CHESTER COASTAL AREA FROM SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTES.**

The intent of this policy is to protect people from sources of contamination and to protect Port Chester's coastal resources from degradation through proper control and management of wastes and hazardous materials. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination in the coastal area.

Solid wastes include sludges from air or water pollution facilities, demolition and construction debris and industrial and commercial wastes. Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in New York State's Solid Waste Management Act (Environmental Conservation Law, Article 27) as "as waste or combination of wastes, which because of its quantity; concentration; or physical, chemical or infectious characteristics may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by the DEC (6NYCRR Part 371).

Chapter 345-17 of the Village Code regulates the deposits of waste materials or landfill. Further, the transfer, storage and disposal of solid wastes and hazardous wastes shall be prohibited within the Port Chester LWRP area.

Local collection of refuse is the responsibility of the municipality along with private carters. Westchester County is responsible for the permanent disposal of Port Chester's solid and hazardous wastes.

Sites in Port Chester where this policy has immediate application include hazardous materials storage systems on the Byram River, the sewage treatment plant and former industrial sites where waste materials may have been dumped or buried.

There shall be no new oil storage facilities established within the Village's LWRP area, nor any addition to the number of existing tanks or the existing tank capacity. All existing storage facilities must be maintained in conformance with Federal and State regulations.

During the use of such facilities by private operators, the Village will monitor for spills which occur as a result of shipment and storage of petroleum and other hazardous materials. In the event that the Village determines either individually or in conjunction with an agency of the State, County or other jurisdiction that environmental damage results from a hazardous material storage facility in Port Chester, the Village shall notify the appropriate agencies to begin mitigating the condition, and cooperate in the recovery of public cleanup costs.

Removal of oil storage facilities, or any other tanks or containers used for the storage of petroleum products, shall be undertaken by an appropriate contractor who must assume all

liability for accidental spills during dismantling, and shall ensure that the facilities are properly cleaned and inspected prior to dismantling.

In Port Chester, major riverfront industrial facilities are located from Westchester Avenue south to Fox Island Road. The area from Fox Island Road north to Purdy Avenue is designated primarily for residential redevelopment with a large recreational component (Columbus Park). No new industrial facilities shall be located in this area. The area from Purdy Avenue north to Westchester Avenue does contain a large number of industrial facilities, with effluent discharges conforming to State water quality standards. Any expansion or new construction in this area resulting in effluent discharges must conform to any applicable Village performance standards as well as State water quality standards.

**8.1 Manage solid waste to protect public health and control pollution.**

Plan for proper and effective solid waste disposal prior to undertaking major development or activities generating solid wastes.

Manage solid waste by: reducing the amount of solid waste generated, reusing or recycling material and using land burial or other approved methods to dispose of solid waste that is not otherwise being reused or recycled.

Prevent the discharge of solid wastes into the environment by using proper handling, management and transportation practices.

Operate solid waste management facilities to prevent or reduce water, air and noise pollution and other conditions harmful to the public health.

**8.2 Manage hazardous wastes to protect public health and control pollution.**

Manage hazardous waste in accordance with the following priorities: (1) eliminate or reduce generation of hazardous wastes to the maximum extent practical; (2) recover, reuse or recycle remaining hazardous wastes to the maximum extent practical; (3) use detoxification, treatment or destruction technologies to dispose of hazardous wastes that cannot be reduced, recovered, reused or recycled; (4) use land disposal as a last result.

Phase out land disposal of industrial hazardous wastes.

Ensure maximum public safety through proper management of industrial hazardous waste treatment, storage and disposal.

Remediate inactive hazardous waste disposal sites (none known at this time).

**8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.**

Prevent release of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources.

Prevent environmental degradation due to persistent toxic pollutants by: limiting discharge of bioaccumulative substances, avoiding resuspension of toxic pollutants and hazardous substances and wastes and avoiding reentry of bioaccumulative substances into the food chain from existing sources.

Prevent and control environmental pollution due to radioactive materials.  
Protect public health, public and private property and fish and wildlife from inappropriate use of pesticides.

Take appropriate action to correct all unregulated releases of substances hazardous to the environment.

**8.4 Prevent and remediate discharge of petroleum products.**

Minimize adverse impacts from potential oil spills by appropriate siting of petroleum offshore loading facilities.

Have adequate plans for prevention and control of petroleum discharges in place at any major petroleum-related facility.

Prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles.

Promptly clean up and remove any petroleum discharge, giving first priority to preventing impacts on public health, and then to minimizing environmental damage.

**8.5 Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being and general welfare of the public; the environmental resources of the Village and State; and the continued use of transportation facilities.**

**8.6 Site solid and hazardous waste facilities to avoid potential degradation of coastal resources.**

**PUBLIC COAST POLICIES**

**POLICY 9 PROVIDE FOR PUBLIC ACCESS TO, AND RECREATIONAL USE OF, COASTAL WATERS, PUBLIC LANDS AND PUBLIC RESOURCES OF THE PORT CHESTER COASTAL AREA.**

The Village of Port Chester lies within one of the most densely populated coastal regions along the eastern seaboard, yet physical and visual access to coastal lands and waters is somewhat limited for the general public. Limitations on reaching or viewing the coast are further heightened by a general lack of opportunity for diverse forms of recreation at those sites that do provide access. Existing development has limited the accessibility of the waterfront, and new development has diminished remaining opportunities to provide meaningful public access. In addition to loss of opportunities for physical access, visual access has also been lost due to the loss of vantage points or outright blockage of views.

Given the lack of adequate public access and recreation, this policy incorporates measures needed to provide and increase public access throughout the Port Chester coastal area. The need to maintain and improve existing public access and facilities is among these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing demand. Another measure is to capitalize on all available opportunities to provide additional visual and physical public access along with appropriate opportunities for recreation.

Port Chester has significant publicly owned foreshore and public lands adjacent to the foreshore; however, these lands have limited public access and recreational opportunity both in terms of quantity and quality. Any future redevelopment of these areas with a mix of uses is intended to maintain and enhance the public waterfront element of the Village's land holdings. Although redevelopment could result in an overall reduction in the publicly owned foreshore or public lands adjacent to the foreshore, the quantity and quality of public access is intended to be increased.

No project will be undertaken or funded by the State or Village which increases access to a water-related recreation resource or facility that is not open to all members of the public.

Nothing in this policy shall be construed to prevent the reasonable use and enjoyment of private property by its owners, including the right of such private property owners to physically occupy their homes or businesses and to make reasonable additions and renovations to the buildings or structures on their properties.

**9.1 Promote appropriate and adequate physical public access and recreation throughout the public area.**

Provide convenient, well-defined, physical public access to and along the coast for water-related recreation. [See Section IV for specific proposals to improve public access.](#)

Provide a level and type of public access and recreational use that takes into account proximity to population centers, public demand, natural resource sensitivity, accessibility, compatibility with on-site and adjacent land uses and needs of special groups.

Protect and maintain existing public access and water-related recreation.

Provide additional physical public access and recreation facilities at public sites.

Provide physical access linkages throughout Port Chester's coastal area.

Include physical public access and/or water-related recreation facilities as part of development whenever development or activities are likely to limit the public's use and enjoyment of public coastal lands and waters.

Provide incentives to private development which provides public access and/or water-related recreation or facilities.

Restrict public access and water-related recreation on public lands only where incompatible with public safety and protection of natural resources.

Ensure access for the general public at locations where State or Federal funds are used to acquire, develop or improve parkland.

**9.2 Provide public visual access from public lands to coastal lands and waters or open space at all sites where physically practical.**

Avoid loss of existing visual access by limiting physical blockage by development or activities. Minimize adverse impact on visual access.

Mitigate loss of visual access by providing for on-site visual access or additional and comparable visual access off-site.

Increase visual access wherever practical.

**9.3 The State shall preserve the public interest in and use of lands and waters held in public trust by the State and the Village of Port Chester.**

Limit grants, easements, permits or lesser interests in lands underwater to those instances where they are consistent with the public interest in the use of public trust lands.

Determine ownership, riparian interest or other legal right prior to approving private use of public trust lands under water.

Limit grants, including conservation grants, in fee of underwater lands to exceptional circumstances.

Reserve such interests or attach such conditions to preserve the public interest in use of underwater lands and waterways which will be adequate to preserve public access, recreation opportunities and other public trust purposes.

Evaluate opportunities to re-establish public trust interests in existing grants which are not used in accordance with the terms of the grant, or are in violation of the terms of the lease, or where there are significant limitations on public benefits resulting from the public trust doctrine.

**9.4 Assure public access to public trust lands and navigable waters.**

Ensure that the public interest in access below mean high water and to navigable waters is maintained.

Allow obstructions to public access when necessary for the operation of water-dependent uses and their facilities.

Permit interference with public access for riparian non-water-dependent uses in order to gain the minimum necessary reasonable access to navigable waters.

Use the following factors in determining the minimum access necessary: the range of tidal fluctuation, the size and nature of the water body, the uses of the adjacent waters by the public, the traditional means of access used by surrounding similar uses and whether alternative means to gain access are available.

Mitigate substantial interference or obstruction of public use of public trust lands and navigable waters.

**POLICY 9A INCORPORATION OF A PUBLIC PEDESTRIAN WALKWAY ALONG THE WATERFRONT SHALL BE INCLUDED AS PART OF DEVELOPMENT OR REDEVELOPMENT OF WATERFRONT PARCELS WHEREVER PRACTICABLE.**

Where incorporated as part of a development or redevelopment project, the waterfront pedestrian walkway should ideally have a publicly accessible right-of-way of a minimum width of 10 feet and an average width of 20 feet. The walkway itself should be a minimum width of 5 feet.

Walkways shall be designed to be visually compatible with the adjacent development. In areas where slopes are less than 10%, there shall be handicap access. Signage shall be provided that clearly establishes the walkway as a public facility.

**WORKING COAST POLICIES**

**POLICY 10 PROTECT PORT CHESTER'S WATER-DEPENDENT USES AND PROMOTE SITING OF NEW WATER-DEPENDENT USES IN SUITABLE LOCATIONS.**

The intent of this policy is to protect existing water-dependent commercial, industrial and recreational uses, to allow for new water-dependent uses, and to enhance the economic viability of water-dependent uses by ensuring adequate infrastructure for such uses and their efficient operation. This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the State's coastal area contribute much to the economic strength and attractiveness of these harbor communities. Port Chester is one of ten maritime centers identified in the Long Island Sound Coastal management Program. Specific water-dependent uses to be protected and promoted are those identified in Section IV and as are allowed in the waterfront zoning districts by the Village Zoning Law (see Appendix).

**10.1 Protect existing water-dependent uses.**

Avoid actions which would displace, adversely impact or interfere with existing water-dependent uses.

**10.2 Promote the Port Chester maritime center as a suitable location for water-dependent uses**

Ensure that public actions enable the Port Chester maritime center to continue to function as a center of water-dependent uses.

Protect and enhance the economic, physical, cultural, and environmental attributes which support the Port Chester maritime center.

Allow and encourage non water-dependent shoreline commercial and industrial uses to provide water-dependent uses along their shoreline, such as docking facilities for recreational and commercial vessels.

**10.3 Improve the economic viability of water-dependent uses by allowing for non-water-dependent accessory and multiple uses, particularly water-enhanced and maritime support services.**

**10.4 Minimize adverse impacts of new and expanding water-dependent uses, provide for their safe operation and maintain regionally important uses.**

Site new and expand existing marinas, yacht clubs, boat yards and other boating facilities where there is: adequate upland for support facilities and services; sufficient waterside and landside access; appropriate nearshore depth to minimize dredging; suitable water quality classification; minimization of effects on wetlands, shellfish beds or fish spawning grounds; and adequate water circulation.

**10.5 Provide sufficient infrastructure for water-dependent uses.**

Protect and maintain existing public and private navigation lanes and channels at depths consistent with the needs of water-dependent uses.

Provide ~~for new or expanded navigation lanes,~~ channels and basins when necessary to support water-dependent uses.

Use suitable dredged material for beach nourishment, ~~dune reconstruction~~ or other beneficial uses.

Avoid placement of dredged material in Long Island Sound when opportunities for beneficial reuse of the material exist.

Allow placement of suitable dredged material in nearshore locations to advance maritime or port-related functions or public access, provided it is adequately contained and avoids negative impacts on vegetated wetlands and other coastal resources. The former turning basin ("Cove") may be an appropriate nearshore location.

Avoid shore and water surface uses which would impede navigation. Accept seasonal minor encroachments of docks and moored vessels in the Federal channel as described in the Village Law, Chapter 148, Boating and Watercraft (see Appendix).

Give priority to existing commercial navigation in determining rights to navigable waters.

Provide for services and facilities to facilitate commercial, industrial and recreational navigation.

Foster water transport for cargo and people.

#### **10.6 Promote efficient harbor operation.**

Limit congestion of harbor waters and conflict among uses, foster navigational safety and minimize obstructions in coastal waters to reduce potential hazards to navigation.

Prohibit any increase or additional use of coastal waters if such an increase or addition poses a public safety hazard which cannot be mitigated.

Prohibit intrusions or encroachments upon navigation channels and other identified vessel use areas. Minor encroachments by vessels within the outer edge of the Byram River channel may occur for floating docks and vessels less than 24 feet in length provide they are removed on demand for dredging, bathymetric surveys and other public necessities, and do not impede navigation through the channel. The Village supports future dredging efforts on the river that extend northward to the Mill Street Bridge.

**POLICY 11**

**PROMOTE SUSTAINABLE USE OF LIVING MARINE RESOURCES  
IN PORT CHESTER’S COASTAL WATERS.**

The commercial fishing industry has had minimal impact on the Port Chester waterfront in the 20<sup>th</sup> century, and has now largely departed from the Village. Recreational uses of coastal fish and wildlife resources in Port Chester are presently limited. However, the Village is an access point to consumptive fishing in Long Island Sound. In addition, although there are at present no edible shellfish resources in the Byram River, and fishing opportunities are severely limited due to river water quality, recent and anticipated improvements in water quality may increase the opportunities for recreational fishing and shellfish harvesting. Improvement in the quality of the water and riverbed sediments is a major consideration and will be advanced through best management practices.

**11.1 Ensure the long-term maintenance and health of living marine resources.**

Ensure that commercial and recreational uses of living marine resources will be managed in a manner that: results in sustained useable abundance and diversity of the marine resource; does not interfere with population and habitat maintenance and restoration efforts; uses best available scientific information in managing the resources; and minimizes waste and reduces discard mortality of marine fishery resources.

Ensure that the management of the state’s transboundary and migratory species is consistent with interstate, state-federal and interjurisdictional management plans.

Protect, manage and restore sustainable populations of indigenous fish, wildlife species and other living marine resources.

Foster occurrence and abundance of coastal marine resources by: protecting spawning grounds, habitats and water quality; and enhancing and restoring fish and shellfish habitat, particularly for anadromous fish, oysters and hard clams.

**11.2 Provide for commercial and recreational use of finfish, shellfish, crustaceans and marine plants.**

Maximize the benefits of marine resource use so as to provide a valuable recreational resource experience and viable business opportunities for commercial and recreational fisheries.

Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups, giving priority to existing fisheries in the state.

Protect the public health and the marketability of marine and fishery resources by maintaining and improving water quality.

~~M~~Promote development of and maintain existing artificial reefs to improve marine resources habitat and expand nearshore fishing opportunities.

**11.3 Maintain and strengthen a stable commercial fishing fleet in Long Island Sound.**

Protect and strengthen commercial fishing harvest operations, facilities and waterfront infrastructure to support a stable commercial fishing industry.

Support nearshore harvesting throughout the Sound region by providing access. Berthing and off-loading facilities suitable for nearshore operators.

Protect commercial fishing from interference or displacement by competing land and water uses.

Strengthen the economic viability of the Sound's commercial fishing fleet through appropriate domestic and international marketing.

**11.4 Promote recreational use of marine resources.**

Provide opportunities for recreational use of marine resources.

Provide adequate infrastructure to meet recreational needs, including appropriate fishing piers, dockage, parking and livery services.

Promote commercial charter and party boat businesses.

**POLICY 12 THE STATE LONG ISLAND SOUND COASTAL POLICY REGARDING THE PROTECTION OF AGRICULTURAL LANDS IN THE EASTERN SUFFOLK COUNTY PORTION OF THE LONG ISLAND SOUND COASTAL AREA IS NOT APPLICABLE TO THE VILLAGE OF PORT CHESTER. NO AGRICULTURAL LANDS EXIST WITHIN THE VILLAGE.**

**POLICY 13 PROMOTE APPROPRIATE USE AND DEVELOPMENT OF ENERGY AND MINERAL RESOURCES.**

In dealing with energy issues in Port Chester's coastal area, the first order of preference is the conservation of energy. Energy efficiency in transportation and site design, and efficiency in energy generation, are the best means for reducing energy demands. Reduced demand for energy reduces the need for construction of new facilities that may have adverse impacts on coastal resources.

For similar reasons, greater use should be made of sustainable energy resources, such as solar, wind and hydroelectric power. In addition to the impacts of construction of new energy generating facilities, the potential impacts of oil and gas extraction and storage and mineral extraction must be considered.

**13.1 Conserve energy resources.**

Promote and maintain energy efficient modes of transportation, including rail freight and intermodal facilities, waterborne cargo and passenger transportation, mass transit and alternative forms of transportation.

Plan and construct sites using energy-efficient design.

Capture heat waste from industrial processes for heating and electric generation.

Improve energy generating efficiency through design upgrades of existing facilities.

**13.2 Promote alternative energy sources that are self-sustaining, including solar- and wind-powered energy generation.**

In siting such facilities, avoid interference with coastal resources, including migratory birds, and coastal processes.

**13.3 Ensure maximum efficiency and minimum adverse environmental impact when siting major energy generating facilities.**

Site major energy generating facilities in a coastal location where a clear public benefit is established.

Site major energy generating facilities close to load centers to achieve maximum transmission efficiency.

Site and construct new energy generating and transmission facilities so they do not adversely affect natural and economic coastal resources.

**13.4 Minimize adverse impacts from fuel storage facilities.**

Regional petroleum reserve facilities are inappropriate in the Long Island Sound coastal area.

The production, storage or retention of petroleum products in earthen reservoirs is prohibited.

Liquefied Natural Gas facilities must be safely sited and operated.

Protect natural resources by preparing and complying with an approved oil spill contingency plan.

**13.5 Minimize adverse impacts associated with mineral extraction.**

Commercial sand and aggregate mining is generally presumed to be an inappropriate use in the Port Chester coastal area.

Preserve topsoil and prevent overburden using appropriate site preparation techniques and subsequent site reclamation plans.



**SECTION IV**

**PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS**



## SECTION IV PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS

This LWRP does not contemplate any large-scale changes to existing land uses and patterns or any rezoning recommendations. In 2009, the Village of Port Chester began the first phase of an update to its 1968 Comprehensive Plan, and recently adopted it is currently finalizing this update, which is expected to result in a series of changes to zoning districts, permitted uses and height and bulk regulations (see Section II.H of this LWRP for a summary of draft zoning recommendations).

Therefore, rather than initiating zoning changes, this LWRP focuses on specific projects and alternatives in the immediate waterfront area. These proposed projects and alternatives are intended to enhance public use and enjoyment of the Port Chester waterfront area, maintain and enhance its environmental quality and strengthen the Village's ability to manage it in the public interest. The recommended projects are also established to advance the Village's policies as outlined in Section III.

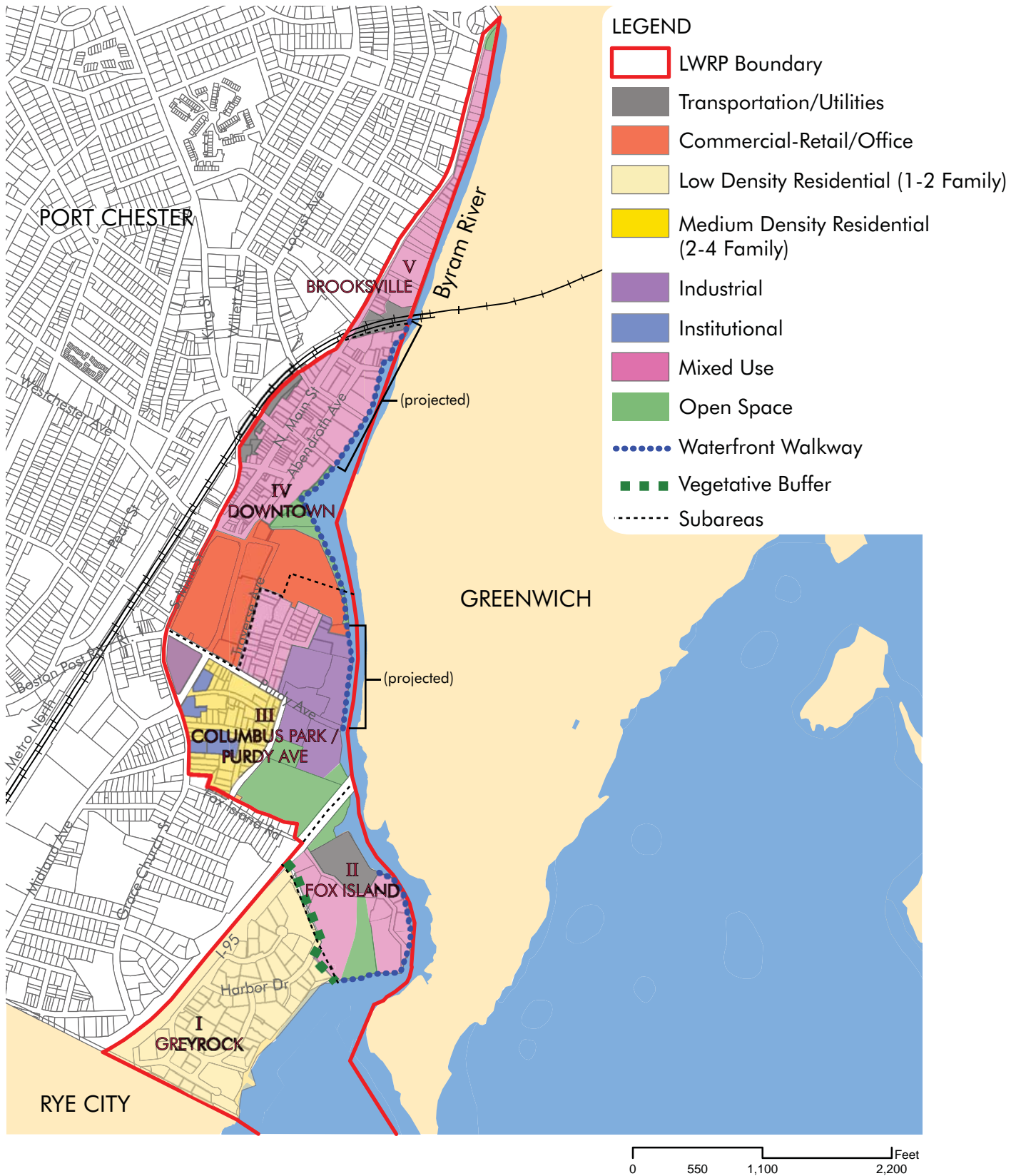
### A. PROPOSED LAND USES

The proposed land and water uses recommended for the Village of Port Chester LWRP area are illustrated on Figure 18, Future Land Use Plan. Because this LWRP does not propose any significant changes to land use patterns, the Future Land Use Plan was derived mainly from the existing zoning map and generalized current land use, as well as consideration to future land uses proposed by the draft Comprehensive Plan. This map is not intended to describe the proposed land use pattern on a parcel-by-parcel basis; rather, it is a broad expression of the range of uses intended for the LWRP area. Because the Future Land Use Plan largely stems from current zoning, no substantial changes to Port Chester's regulatory framework (e.g. zoning and subdivision regulations) are proposed.

Anticipated future land uses within the Port Chester LWRP area are described below for the five LWRP subareas.

#### 1. Greyrock Subarea

Greyrock is a stable low-density residential neighborhood on Port Chester Harbor, virtually isolated from the rest of Port Chester by Interstate 95. It is anticipated that this subarea shall remain a low-density residential neighborhood, with the remaining vacant parcels to be built out with residential uses of a similar character as allowable under the existing R7 zoning. Due to Greyrock's character and location, opportunities for public open space are limited. No regulatory changes or projects for this area are proposed.



## **2. Fox Island Subarea**

As discussed in Section II, the Fox Island Subarea presently contains the Westchester County sewage treatment plant, the Village's Department of Public Works (DPW), a number of light industrial operations and the Port Chester Yacht Club, as well as various small-scale assorted uses. This subarea is significantly underutilized, although the adjacent harbor and water areas are well-used by area boaters.

It is anticipated that the sewage treatment plant, the existing light industrial uses and the Port Chester Yacht Club will remain in place, and these uses should be encouraged to renovate and upgrade as appropriate. In addition, the Village's DPW facility will likely remain on Fox Island, although a consolidation and overall clean-up of this site is proposed, as discussed below. However, for the remainder of the Fox Island subarea, this LWRP promotes a combination of mixed use and public waterfront access. In addition, a new vegetative buffer is proposed along the rear, landward lot lines of the parcels located on the southern side of Fox Island Road, to screen these industrial areas from the Greyrock neighborhood immediately adjacent.

## **3. Columbus Park / Purdy Avenue Subarea**

This subarea includes a wide range of uses: Columbus Park and the largely medium- and high-density residential neighborhood to the west (which includes several large institutional uses: Our Lady of the Rosary and the South End Fire House). Industrial uses are located primarily along Purdy Avenue as it approaches the Byram River, with a light industrial area found at the south side of the intersection of Purdy Avenue and South Main Street. Finally, the Columbus Park/Purdy Avenue Subarea includes the high-density residential areas along Traverse Avenue and Townsend Street, which also contains a number of vacant, industrial and underutilized sites.

This LWRP provides for continued support of the existing industrial uses at either end of Purdy Avenue, as they provide local employment and contribute to the Village's tax base. The generally stable neighborhood bounded by Purdy Avenue, Ryan Avenue/Columbus Park and Grace Church Street/Don Bosco Place, would remain as a medium-density residential area. However, the existing higher-density residential area north of Purdy Avenue, which is sandwiched between heavy industrial uses along the waterfront and the Waterfront at Port Chester large-scale commercial development, would become a mixed-used area with an overall reduced emphasis on residential use. Because much of this area is already used for industrial and commercial uses, and also contains a number of vacant or underutilized parcels, it would be best used as a transition area for industrial, commercial and some high-density residential uses as appropriate.

This LWRP also supports the creation of new public water access at Columbus Park. Currently, the portion of the park that fronts the Byram River is heavily vegetated, with

limited physical or visual access to the water. This area should be opened up and used for passive and water recreation, as described more fully below (see Section B (1) (c)).

#### **4. Downtown Subarea**

Reflecting the significant diversity of uses within downtown Port Chester, this entire subarea has been designated as mixed use, supporting the existing commercial and light industrial uses as well as promoting new residential development as appropriate.

The Downtown Subarea is also designated for increased public waterfront access, with the existing, manmade “cove” area carved out of the Byram River just north of the foot of Westchester Avenue to be filled in and converted to a public waterfront park. In addition, the existing riverfront walkway north and south of this cove area would be improved and extended northward as far as Highland Street.

#### **5. Brooksville Subarea**

This subarea presently contains a mix of uses including industrial at the southern end, open space (William James Park) and commercial uses at the northern end and medium-density residential uses in the middle portion. Because Brooksville is largely stable and provides little future redevelopment potential given the limited size and depth of its lots, no changes in its existing development pattern are proposed. This subarea is proposed to remain~~indicated as remaining~~ a mixed-use area, accommodating all the uses currently in place. No regulatory changes or projects are proposed for this area.

### **B. PROPOSED WATER USES**

The principal use of the waters of the Byram River and Port Chester Harbor is continuation of the federal navigation project which extends from Long Island Sound to 100 feet south of the Mill Street Bridge.

#### **1. Greyrock Subarea**

The waters off the Greyrock neighborhood are to be mostly open with small docks along the shoreline as accessory uses to residential development. A small mooring field may be established off-shore within the Village’s 1,500-foot management jurisdiction and outside the current Federal project.

#### **2. Fox Island Subarea**

The Federal channel and the docks of the Port Chester Yacht Club are the primary use of the water in this subarea. Additionally floating docks for recreational boating and other vessels may line the Byram River shore. Opportunities for hand boat launch should exist in this subarea.

**3. Columbus Park/Purdy Avenue Subarea**

The Federal channel, along with shoreline docking facilities for recreational boating, barge shipment and/or commercial fishing occupy this subarea. A wetland resource will continue in the cove.

**4. Downtown Subarea**

This area's waterside is characterized by the Federal channel and a public marina for resident and transient vessels that parallels the shore and at its northern end private docking facilities accessory to commercial uses. An entertainment vessel, such as the *Showboat*, may be located in this subarea. The former turning basin, no longer maintained as part of the federal navigation project, may be altered substantially (see discussion of the Cove area, below).

**5. Brookville Subarea**

Due to shallow waters, there are no in water uses beyond the navigation allowed by the water depths.

## **C.B. PROPOSED PROJECTS**

The following section describes a set of site-specific and programmatic projects which will be or are being implemented to improve the Village's LWRP area. This section is not intended to anticipate all projects that would further the goals of the LWRP; other future projects may develop that could also improve the LWRP area.

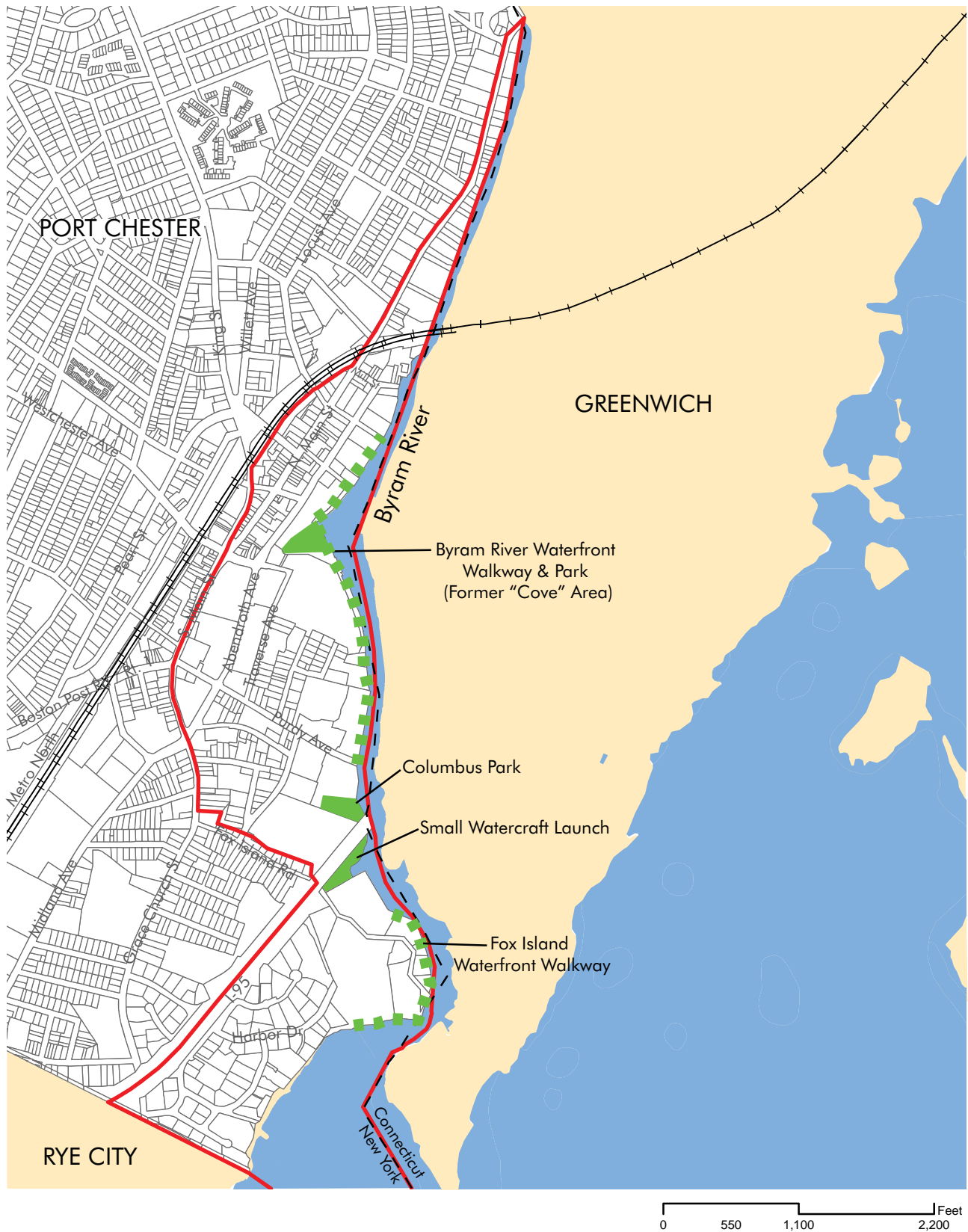
### **1. Enhance and Increase Public Waterfront Access**

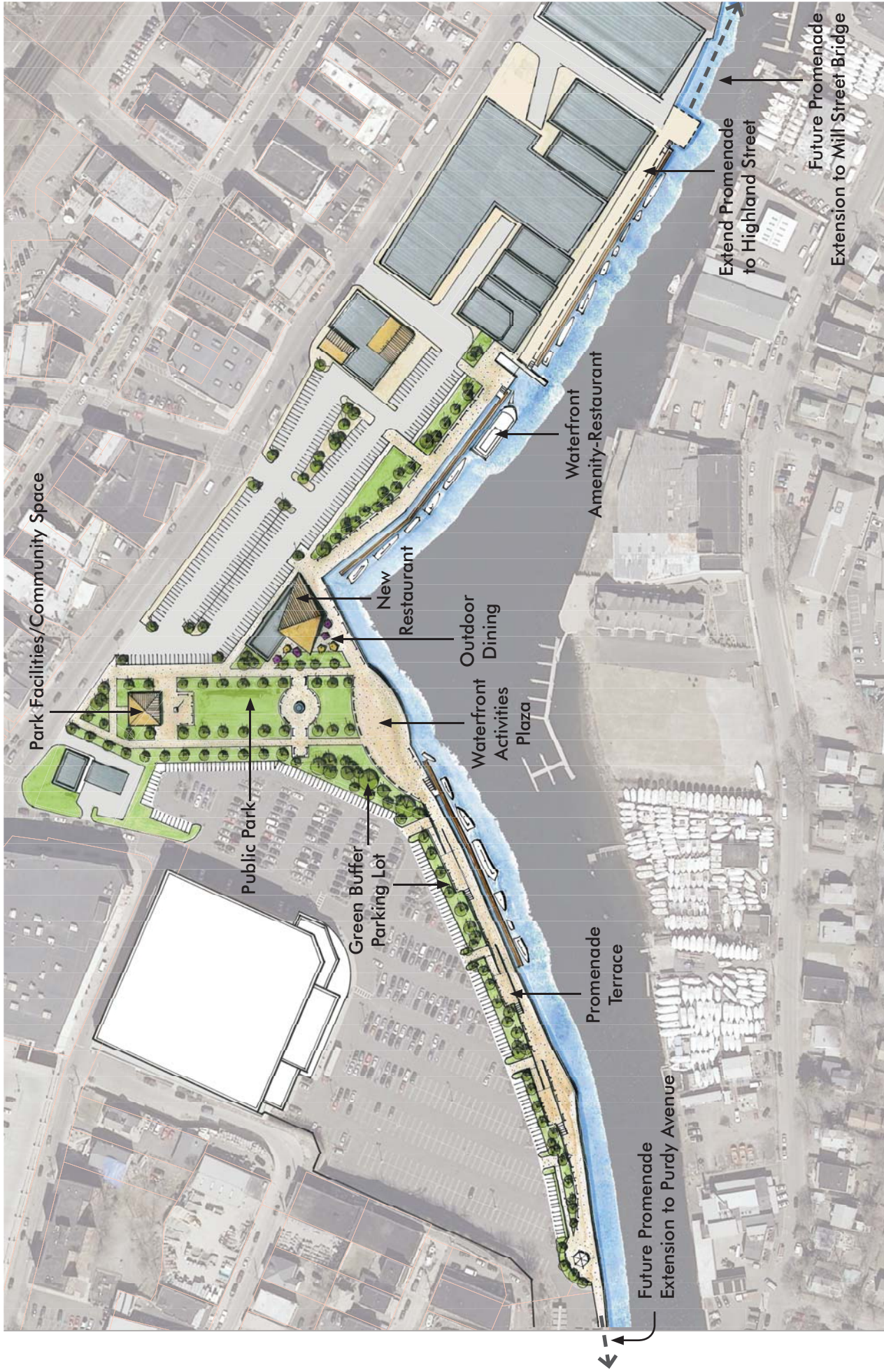
Port Chester presently contains a very limited amount of public waterfront space, with the existing resources primarily confined to the downtown riverfront walkway and the boat ramp at the Port Chester Yacht Club. The 1992 LWRP outlined a series of ambitious proposals for the creation of new waterfront park areas; however, these proposals were never realized. Therefore, the central goal of the proposed projects in this LWRP is to increase public waterfront access in a meaningful and achievable manner. The following specific areas are targeted (see Figure 19):

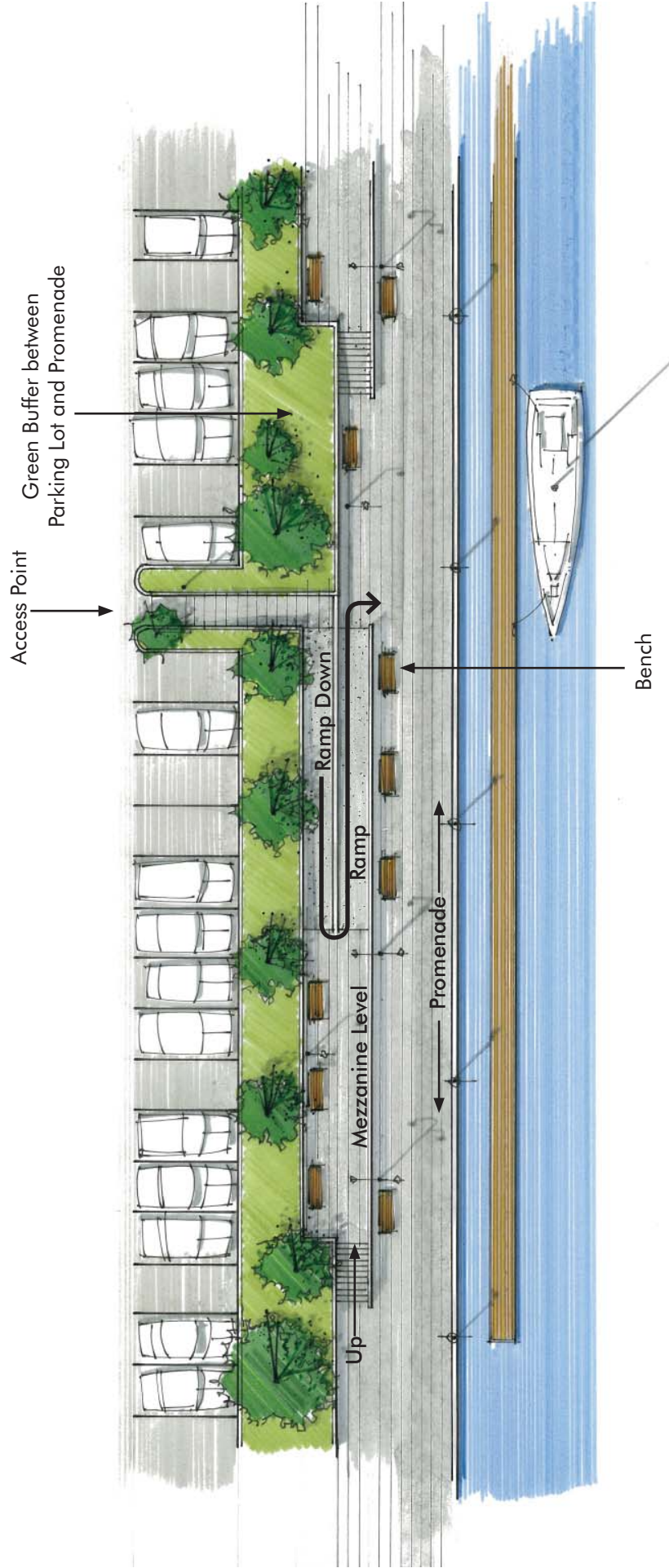
#### **a. "The Cove" area at foot of Westchester Avenue**

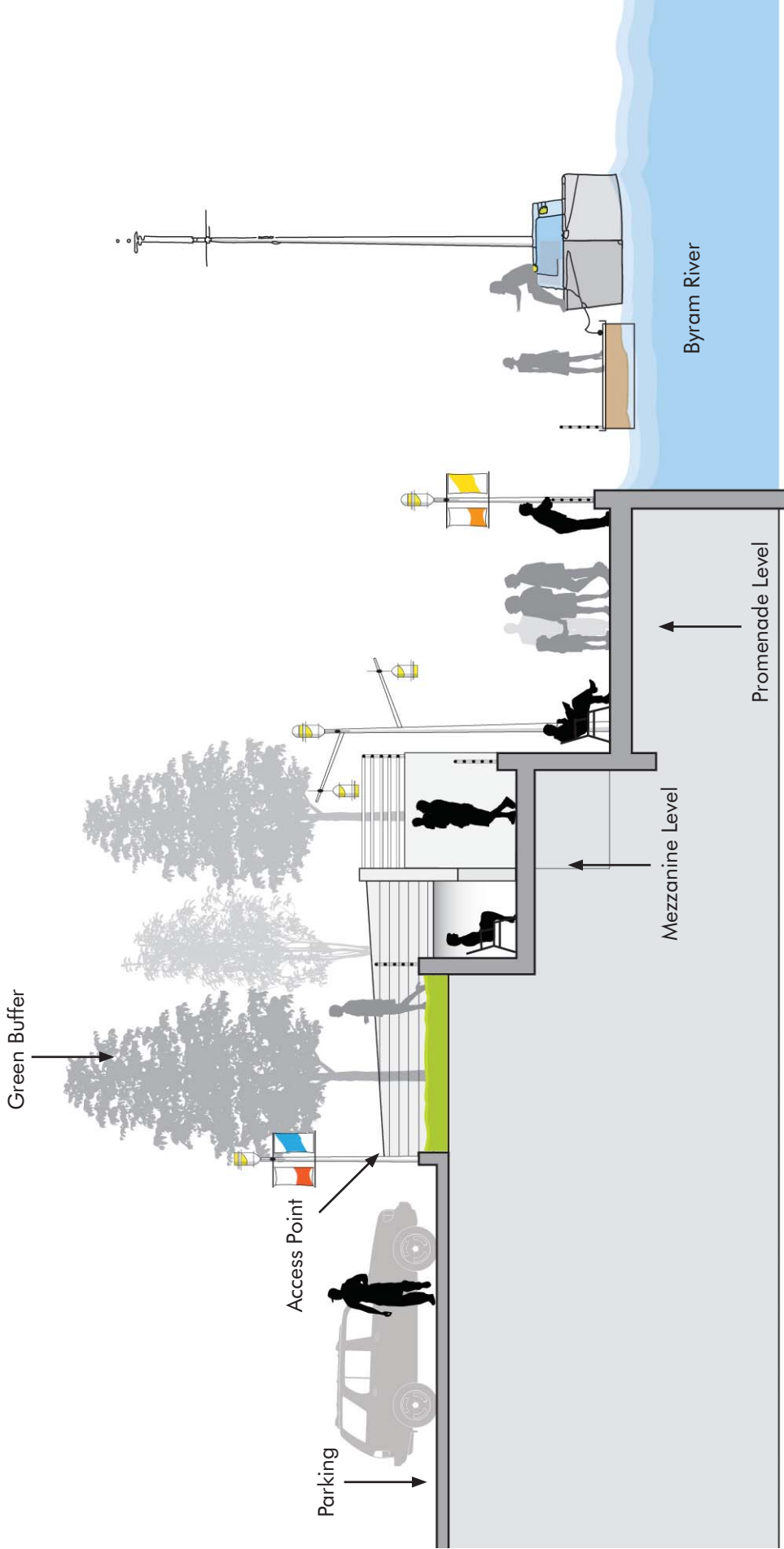
Along the Byram River shoreline just north of Westchester Avenue is a manmade indentation totaling approximately one half-mile in area. This area, known as "The Cove," is a remnant of the river's industrial past; it was carved out to accommodate barges and other large watercraft which serviced the oil tanks directly across the river in Greenwich. However, with those tanks now removed and regular dredging no longer being conducted in this area due to the lack of water-dependent industry, the Cove has no practical function. It is too shallow to accommodate watercraft, and it acts as a collector for waterborne garbage, detracting from the visual quality of the downtown waterfront area. The Cove also interrupts the pedestrian waterfront walkway and the overall fabric at the foot of Westchester Avenue.

This LWRP proposes to fill in The Cove and convert it to the Byram River Waterfront Park~~waterfront park~~, which would also include the existing triangular open space area immediately north of The Cove. This park could be the centerpiece of Port Chester's waterfront, and would be a significant asset in the continued redevelopment of the downtown area. Key issues that would need to be addressed in creation of this park include State permitting approval for filling the area, filling of the floodway and changing of base flood elevation, relocation of the existing stormwater outfall into The Cove and conveyance or use agreement for the existing, privately owned (by G&S) open space area between the parking lot and The Cove. As part of any relocation of the stormwater outfall, the outfall should be upgraded to include an oil/water separator, to improve water quality in the Byram River. Implementation of this project should begin with a feasibility study. See Figures 20-22, below.









**b. Byram River Waterfront Walkway**

The existing waterfront walkway along the Byram River represents a major access opportunity that is not presently being captured. The portion of the walkway adjoining the Costco parking lot is in poor condition, with portions of the structure falling into the river. In addition, the overall design of this walkway does little to promote its use and enjoyment, because the walkway structure is at a lower grade than the adjacent parking lot. This situation makes the walkway completely disconnected from the landward uses, as well as potentially unsafe, given that pedestrians would largely not be visible from upland locations. The Village is currently in negotiations with the owners of The Waterfront at Port Chester complex on the appropriate repairs or replacement of this portion of the walkway. This LWRP recommends that, beyond simply repairing or replacing the structure in kind, the Village coordinate with the shopping center owners to expand and enhance the walkway. This could be achieved by eliminating the row of parking immediately adjacent to the walkway and adjusting the slope of this area down to the river so that the walkway is wider and closer to at-grade with the land. In addition, a public point of interest could be added at the southern terminus of the walkway, where the Costco parking lot dead-ends as it meets a substantial topographical change and abuts heavy industrial uses. A gazebo, pocket park or similar resource could be added to give this area a sense of place and provide pedestrians a reason to travel the full length of the walkway, thus enhancing its usability and safety.

North of The Cove area, the riverfront walkway is in better condition and appears to be fairly well used. This segment should extend at least as far northward as the **b**Bartaco restaurant north of Willett Avenue, with every effort made to continue it **f**urther to Highland Street. This extension could be accomplished through the site plan approval process, as existing uses along the Byram River are redeveloped in the future. In addition, any potential reuse of the public parking lots currently leased to the Village along Abendroth Avenue north of the Cove should include a condition that the waterfront walkway be preserved and enhanced, as practicable. [Figures 19-22 illustrate the potential for an expanded and improved Byram River Waterfront Walkway.](#)

**c. Columbus Park**

Columbus Park is the most significant public open space within the LWRP area, and the Village's recent upgrades have significantly enhanced its attractiveness and potential use by the community, in particular the neighborhoods immediately south and west. However, despite the fact that this park is located along the river, there is virtually no visual or physical access to the water. This LWRP proposes opening up the waterfront portion of the park for a combination of passive and water recreational use. The existing walkway to the park's water feature could be extended to the waterline, and a pedestrian walkway and fishing pier constructed to allow the community to closely interact

with the water. Given the shallow depths at this portion of the Byram River, a shoreline boat launch is not feasible, but the fishing pier could also provide mooring opportunities for small craft. This area also provides a potential opportunity for wetlands creation and restoration, which would attract wildlife and could serve to mitigate potential environmental effects of filling in the Cove farther north. The end result would be a unique passive recreational area that could allow users to relate both to Port Chester's riverfront habitats as well as its robust industrial usage. Development of the Columbus Park waterfront would require close coordination with the existing industrial users to the north and with the New York State Thruway Authority.

**d. Fox Island**

Beginning at the northernmost portion of Fox Island, there is a small, undeveloped area of land between I-95 and the sewage treatment plant that could be used for storage and launch of small watercraft such as canoes, rowboats, dinghies and kayaks. Because of limited space and the proximity of the public boat ramp at the Port Chester Yacht Club, no launch facilities for motorcraft are proposed in this undeveloped area. Communication and coordination with Westchester County would be required to ensure no disruption to the operation of the sewage treatment plant.

There is also the potential for this area to be connected with the redeveloped waterfront portion of Columbus Park (see above), under I-95. Clearly, the public use of land underneath the highway could raise security concerns and would have to be negotiated with the Thruway Authority and other relevant agencies. However, it could provide an important pedestrian and open space link between the Fox Island Peninsula and the rest of the Port Chester waterfront. Recent and current projects throughout the region (including planned renovations to Brooklyn Bridge Park that would allow public access under the Brooklyn and Manhattan Bridges in New York City) have shown that security issues can be overcome in the interest of increasing public open space.

South of the sewage treatment plant, the Village should promote development of a public waterfront walkway southward along the remainder of Fox Island. Much of the land immediately adjacent to the water in this area appears to be devoted to underutilized parking areas and boat storage, and could be reworked to accommodate the walkway. As uses in Fox Island are redeveloped or changed, this public access could be achieved through the site plan approval process.

Another major opportunity to enhance public access and open space on Fox Island lies with the Village's DPW site. While it is anticipated that this facility will remain at the current location due to the extremely limited feasible alternative sites within Port Chester, the DPW operations should be consolidated to the greatest degree practicable away from the water. This would allow for both the

necessary environmental cleanup of the landfill/mulching area and for the public use and access of this area, which provides one of the few unobstructed, public viewsheds of Port Chester Harbor. In conjunction with this creation of new public space, a vegetative buffer would be created at the western edge of the Fox Island Peninsula to provide more clear separation from the industrial uses to the east from the low-density Greyrock neighborhood to the west.

## 2. Implement ~~a Port Chester Harbor Management~~ in the Village Plan

~~A Village Harbor Management Plan would incorporate the proposed water uses described above, and would be expressed in a Harbor Management Chart which would be part of an amendment to Port Chester's Boating and Watercraft Law (Chapter 148 of the Village Code). The Harbor Management Chart would include, at a minimum, the following elements:~~

- ~~▪ Channel and other elements of the Federal project within Port Chester~~
- ~~▪ Mooring and anchorage areas~~
- ~~▪ State boundary~~

~~The Village plan for harbor management is an integral part of this LWRP. Its components are: the in-water boundary of the LWRP (section1); the description of the current water-dependent uses and water-enhanced uses of the shoreline and the waters and the issues to be addressed (section 2); the policies that relate to uses of the shoreline and waters (Section3, particularly policies 9, 10, and 11); the proposed uses of the shoreline and the water (Section 4); projects described in Section 4; the zoning that provides for water-dependent and water-enhanced uses for most of the shoreline (Section 5); the continuation of the Federal channel and its associated facilities; and the provisions of the boating and watercraft law and the designation of personnel to implement it (Section 5 and Appendix).~~

## 3. Explore Future Opportunities for Mooring of Entertainment Vessels

The Village has considered proposals in the past for permanent moorings of vessels intended for use as entertainment and dining space, for example the *Showboat*, which is presently docked at the Highland Street marina. Such uses could present opportunities for Port Chester to gain unique waterfront attractions that would enhance downtown activity. Permanent moorings of entertainment-themed vessels could also provide for upgrades to adjacent marina facilities, as well as potential upgrades or extensions to the waterfront pedestrian walkway.

Although any proposal to permanently moor a vessel for entertainment use along the Village's waterfront would need to address issues of traffic (vessel, vehicular and pedestrian), parking, interference with navigation and other factors, such proposals should be thoughtfully considered as key waterfront redevelopment opportunities.

## 4. Explore Provision of Hand-Launched and Transient Docking Facilities in the Downtown Area

The potential small watercraft launch off Fox Island Road discussed above could take some time to plan and develop, with issues of access and parking to be addressed. In the short-term, the Village could provide for more immediate hand-launched boat facilities in appropriate locations. For example, once repairs to the Byram River bulkhead are complete, the municipal docks are planned to be extended southward to the end of the adjacent Costco parking lot. Until these docks are fully utilized by seasonal permit holders, they could be used for the next 1-2 years for the launching and storage of kayaks, canoes or other hand-launched boats. Once a more permanent location for these small watercraft is developed off Fox Island Road, they could be relocated.

In addition, the Village could explore setting aside a portion of future municipal docks for transient, or short-term, docking. This would allow boaters from throughout the region to tie up and make use of the Waterfront at Port Chester and other nearby shopping and dining attractions. Such an arrangement would need to establish a physical separation between the transient and long-term docks – such as a gate with keycard access – so that the seasonal permit holders could be assured that their boats are secure.

It is important to note that both the provision of hand-launched boat facilities and transient docking facilities in the downtown area are contingent upon the completion of repairs to the Byram River bulkhead.

**5. Consider Extending Utilities Along Fox Island Road**

Much of Fox Island’s redevelopment potential appears to be limited by the fact that municipal utilities do not fully extend to the end of Fox Island Road, which has interfered with the continued operation of some uses and could impair the expansion potential of others. The Village should consider pursuing all available funds, including grants, to fully extend utilities throughout the Fox Island Peninsula, as a means to support the existing uses as well as promote overall redevelopment of the area.

**6. Support Continued Upgrades to the Westchester County Sewage Treatment Plant**

The Westchester County Sewage Treatment Plant recently completed upgrades to the facility, and no further renovations are planned in the near future. However, if current upgrades to the County’s sewage treatment plants in New Rochelle and Mamaroneck do not achieve nitrogen reduction levels required by the DEC, the County will need to retrofit its Port Chester and Blind Brook sewage treatment plants for biological nutrient removal (BNR), which removes nitrogen and phosphorous from wastewater through the use of microorganisms. The Village should support any such future upgrades to the sewage treatment plant, but should maintain close communications with the County to ensure that potential negative impacts to Village residents are minimized.

The Village should also initiate discussions with the County regarding exterior renovations to the sewage treatment plant. Although such renovations would clearly not represent as high a priority for the County as required functional upgrades, the exterior of the plant has a huge impact on Port Chester's image, and in particular on the redevelopment of the Fox Island peninsula. The Village should work with the County to secure funding for exterior improvements through any available means, such as grants through the State's Coastal Management or Brownfield Opportunity Area (BOA) programs. Such efforts would capitalize on the potential for the sewage treatment plant to act as a visual asset for Port Chester, as has occurred elsewhere in the region. For example, the County's sewage treatment plant in Mamaroneck has undergone significant upgrades – both interior functional improvements and exterior renovation – that contribute to its recognition as a significant community resource and point of pride. That situation is clearly unique because the Mamaroneck facility occupies a prominent central location within the village and is eligible for listing on the National and State Registers of Historic Places, but it serves as a potential model for Port Chester.

## **7. Support Measures to Improve Water Quality**

The Village of Port Chester has made major steps in addressing non-point source pollution, largely through the adoption in 2007 of a stormwater management law in accordance with the New York State DEC Phase II regulations; a 2011 amendment to that law to promote "green" infrastructure; and ongoing inspections of stormwater outfalls for illicit discharges and possible sources of pollutants. However, as noted in Section II, the Village is under an EPA mandate to improve its stormwater management program to correct violations of the Federal Clean Water Act.

The Village should continue its diligent efforts to correct stormwater management issues and improve water quality through its compliance with EPA and DEC regulations. Other actions that should be considered include adoption of existing draft local laws on erosion and sediment control and illicit discharge and identification, as appropriately modified for the Village. Port Chester may also want to consider strengthening its stormwater management regulations beyond the minimum Phase II requirements. Specifically, the Village should explore requiring a Stormwater Pollution Prevention Plan (SWPPP) for any land development activity that results in the disturbance of land greater than 1,000 square feet (rather than 1 acre as is required by Phase II regulations). Given that much of Port Chester consists of parcels of less than one acre, this change would significantly increase the Village's ability to regulate stormwater management.

## **8. Improve Training of Waterfront Commission and Ensure Coordination with other Land Use Boards**

The determination of consistency with an LWRP is a unique, often highly technical analysis. According to [information on consistency provided by the New York State Department of Statethe New York State Coastal Management Program Consistency Manual](#), the key distinction of consistency review as compared with other land use decisions is the requirement that activities within the LWRP boundary comply with and

be conducted in a manner consistent with all applicable coastal policies. This requirement is different from the more traditional approaches of the State Environmental Quality Review Act (SEQRA) and the National Environmental Policy Act (NEPA), which call for balancing the potential beneficial effects of a proposed activity against its potential adverse effects. These other environmental analysis processes allow activities to progress when individual beneficial effects “outweigh” certain adverse impacts. This is not the case in consistency review; one applicable policy is not to be advanced to the detriment of any other applicable policies.

Because of the unique requirements and process of consistency review, it is imperative that Port Chester’s Waterfront Commission be adequately trained and prepared, and that procedures are developed and followed to facilitate the orderly and appropriate enforcement of the LWRP policies. The Village has recently made substantial progress in improving Waterfront Commission procedures by appointing a full commission membership, creating a more formalized meeting schedule and developing meeting minutes. In addition, the Village’s planning staff provides advisory support on consistency determination, and that process is planned to be enhanced through the creation of a coastal assessment form.

~~Another key tool to assist in the education and training of Commission members is the New York State Coastal Management Program Consistency Manual, released in April 2010. This document is intended to assist in meeting procedural and substantive coastal management and LWRP consistency obligations, and contains a summary of the basic relevant Federal and State consistency provisions and requirements, as well as more detailed guidance, including case studies, to aid in understanding and meeting these requirements. This manual should be provided to each member of the Waterfront Commission, as well as relevant Village staff, and the Village Clerk should keep abreast of any updates or amendments to the manual and provide them to Commission members in a timely manner.~~

In addition, the Village should explore the feasibility of providing annual training sessions, conducted by a staff member from the Department of State, to Waterfront Commission members. Such sessions have been conducted in other LWRP communities in Westchester County – often jointly organized by more than one municipality to reduce costs – and have generally been found to be helpful to LWRP consistency boards and commissions. When possible, training sessions should be timed to coincide with the beginning of terms for new members, to help ensure a smooth transition between old and new members, with the goal being that each application before the Waterfront Commission has the benefit of a fully trained and knowledgeable commission.

## **9. Support Maintenance Dredging of the Federal Navigation Project**

The Byram River and Port Chester Harbor were last dredged in 1990. Currently, siltation has reduced the project depths considerably. Initiating a maintenance dredging project by the Army Corps of Engineers will require substantial lead time to obtain the necessary Federal fiscal support, as well as cooperation with Connecticut and shoreline

facilities and river users that depend on adequate channel depths ~~in order to function as well as other users of the River~~. Analyzing sediment contamination and identifying suitable disposal options is complex. Opportunities for coordinating dredging needs outside the Federal channel should also be explored. The Village supports future dredging efforts on the river that extend northward to the Mill Street Bridge.



## **SECTION V**

### **TECHNIQUES FOR LOCAL IMPLEMENTATION**



## SECTION V    TECHNIQUES FOR LOCAL IMPLEMENTATION

This section describes the techniques for implementation of the Village of Port Chester LWRP. It describes the land use controls that have been enacted by the Village to implement the policies and projects of the LWRP, and makes recommendations for potential changes to these regulations. All referenced laws are included in an Appendix to this LWRP.

### A. Existing Laws

1.     Zoning Regulations (Port Chester Village Code Chapter 345)

The intent of Chapter 345 is to establish a precise and detailed plan for the use of land in the Village, based on the Comprehensive Plan, in order to promote and protect the health, safety, morals or general welfare of the public. This law regulates and restricts, by district, the location, construction and use of buildings and structures, and the use of land in the Village of Port Chester. Chapter 345 also establishes permitted uses, standards and procedures for the Village’s specialized zoning districts.

Chapter 345 also specifies the process for obtaining building permits and certificates of occupancy as well as the duties of the designated Code Enforcement Officer (Building Inspector). Article VI establishes the Zoning Board of Appeals and outlines its duties. Article V establishes the site plan review procedures and standards. (See Section II.H for further discussion on zoning.)

2.     Land Subdivision Regulations (Port Chester Village Code Chapter A402)

Chapter A402 establishes regulations and procedures for the subdivision of land into two or more individual lots. The law also provides standards for the layout and dimensions of streets and lots, the naming of streets and the provision of open space within subdivisions.

3.     Boating and Watercraft (Port Chester Village Code Chapter 148)

Chapter 148 establishes standards, requirements and procedures for the safe and sanitary operation of watercraft; mooring of watercraft; and use, maintenance and management of marinas and marine structures in Port Chester. The law provides for the enforcement of harbor rules and regulations by a Harbor Master, Assistant Harbor Master and any member of the Village’s Police Department. The Waterfront Commission has the authority to approve permits for the construction or reconstruction of marine structures within the harbor.

This ordinance addresses the following:

- Prohibition of dumping waste
- Required provision of pump-out facilities for marinas accommodating 25 or more vessels
- Removal of improperly moored boats
- Safe operation of boats
- Speed limits

- Prohibition of water skiing and similar water recreation
  - Approval of the location, type, and adequacy of moorings to be placed within the harbor areas.
  
- 4. Waterfront Consistency Review (Port Chester Village Code Chapter 332)  
Chapter 332 provides consistency review procedures for implementation of the Village’s Local Waterfront Revitalization Program, including the responsibilities of the Waterfront Commission as the implementing body. The law establishes the following:
  - Waterfront Commission’s formation and responsibilities
  - Coastal action review procedures
  - Policy standards and conditions
  - Exceptions and negative actions
  
- 5. Stormwater Management (Port Chester Village Code Chapter 281)  
Chapter 281 establishes minimum stormwater management requirements and controls to meet New York State requirements for stormwater discharges; minimize increases in stormwater runoff from land development activities; minimize adverse impacts on water quality from stormwater runoff; and control erosion and sedimentation.
  
- 6. Flood Damage Prevention (Port Chester Village Code Chapter 181)  
Chapter 181 is intended to regulate uses which are dangerous to health, safety and property due to **floodingwater** or erosion hazards, or which result in damaging increases in erosion or in flood heights and velocities; require that uses vulnerable to floods be protected against flood damage at the time of initial construction; control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters; control filling, grading, dredging and other development which may increase erosion or flood damages; regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and quality for and maintain participation in the National Flood Insurance Program. The law provides the basis for establishing special flood hazard areas, establishes the procedures for granting floodplain development permits and outlines construction standards for structures within special flood hazard areas.
  
- 7. Building Code Administration and Enforcement (Port Chester Village Code Chapter 151)  
Chapter 151 provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code in the Village. The law establishes the authority and duties of the Village Building Inspector and provides for standards and procedures for the issuance of building permits and certificates of occupancy.
  
- 8. Parks (Port Chester Village Code Chapter 236)  
Chapter 236 establishes rules and regulations for all parks owned, operated, licensed, used or otherwise under the control or supervision of the Village of Port Chester.

9. Sewers (Port Chester Village Code Chapter 269)  
Chapter 269 provides standards and conditions for ensuring the proper disposal of sewage and wastewaters and the proper operation and maintenance of the public sewers, sewage treatment plan and other sewage works within the Village.
10. Signs and Billboards (Port Chester Village Code Chapter 272)  
Chapter 272 specifies standards and procedures for the issuance of sign permits from the Village Building Inspector.
11. Solid Waste (Port Chester Village Code Chapter 275)  
Chapter 275 regulates the disposal of all refuse within the Village of Port Chester, including the prohibition of dumping, littering and the accumulation of waste. The law also establishes procedures for garbage collection and sets forth the enforcement authority and penalties for non-compliance with regulations.
12. Trees and Shrubbery (Port Chester Village Code Chapter 304)  
Chapter 304 establishes regulations for maintaining trees and shrubs in areas affecting Village sidewalks or roadways. The law also prohibits property owners from maintaining infected trees or shrubs anywhere on a lot; and prohibits the planting, trimming or removal of any tree within the Village right-of-way without permission.
13. Underground Utilities (Port Chester Village Code Chapter 312)  
Chapter 312 sets forth a requirement that utilities be placed underground as part of redevelopment activities or as the opportunity arises, and provides procedures for implementing this requirement.

## **B. Local Laws Necessary to Implement the LWRP**

To implement the policies and provisions of the Village of Port Chester Local Waterfront Revitalization Program, the following amendments shall be made to the Village Code.

1. Revisions to the Boating and Watercraft Law. In addition to clarification language regarding the required permit for moored vessels from the harbormaster, the local law is revised to account for the long-standing but limited encroachment of docks and vessels within the lines of the channel. The law is amended to allow the harbormaster or the Waterfront Commission to permit these encroachments under Village law, provided new or revised permits are obtained and the encroachments are easily removed when necessary to meet navigation needs. Changes in the Village Law do not affect the U.S. Army Corps' authority to enforce their own regulations in this matter. See the Appendix for the proposed revisions to Chapter 148.
- 1-2. Revisions to the Waterfront Consistency Review Law. This section of the Village Code (Chapter 332) will need to be amended to reflect the changes to policies in this LWRP (i.e., reorganizing the existing 44 LWRP policies into 13).

## **C. Other Public and Private Actions Necessary to Implement the LWRP**

*Village of Port Chester Local Waterfront Revitalization Program*

~~JANUARY~~ APRIL 2013~~2~~ DRAFT

There are a number of public and private actions and projects that involve the potential redevelopment or enhancement of certain sites within the LWRP area. These actions hold promise for assisting with the renewal of the waterfront, improvements to the environment and the continued economic well-being of the Village, and are fully outlined in Section IV of this program.

**D. Management Structure Necessary to Implement the LWRP**

1. The Village Board of Trustees shall be the lead agency responsible for implementation of the Local Waterfront Revitalization Program. Implementation is to be accomplished through the previously identified projects and local laws, together with the review procedure whereby local permitting authorities (primarily the Board of Trustees, the Board of Appeals and the Planning Commission) will take into consideration and make determinations regarding the consistency of proposed actions with the policies of the Program. Prior to such determinations being made by permitting authorities, proposed actions in the coastal zone will be referred to the Waterfront Commission for its review and comment and this comment will be considered by the permitting authorities when making determinations of consistency.

All agencies of the Village will maintain their present responsibilities for programs, projects, and regulation. The Waterfront Commission will act in an advisory capacity to review and make recommendations to the Board of Trustees on any application in the LWRP zone, including dredging or construction of any structure in the water under the Village's jurisdiction, or any proposal to alter the shoreline.

The Waterfront Commission and the Harbor Master, in addition to federal and State authorities, shall regulate boating in Village waters. The Planning Board will retain its function to review and approve any land use plans or proposals within the coastal area, including the review of uses affecting tidal wetlands. The Board of Trustees has the authority to approve and fund (or secure funding for) specific improvements necessary to implement the LWRP.

2. The agency for the management of the LWRP will be the Waterfront Commission. The local official responsible for overall management and coordination of the LWRP will be the Chairperson of the Waterfront Commission.

The Waterfront Commission will assume the role of reviewing all public and private proposals for development or regulations in the Waterfront Revitalization Area and, where appropriate, make recommendations to responsible agencies to assure consistency with the LWRP.

The Commission will also be responsible for making its own proposals to various agencies for projects or programs that it believes to be important to the implementation of the LWRP.

3. State and Federal agencies identified in Section VI will notify the Mayor of the Village of Port Chester of proposed actions in or likely to affect the coastal zone. Such actions will be subject to the same consistency review as provided by the Waterfront and Coastal Resources Act, the Federal Coastal Zone Management Act and their implementing regulations.

#### **E. Financial Resources Necessary to Implement the LWRP**

The implementation of the proposed projects identified in Section IV will require funding from a combination of public and private sources. These costs will include capital outlays, maintenance costs and, potentially in some cases, property acquisition. For many of the projects, costs are undetermined at this time. It is recognized that if the majority of the projects identified are implemented, they will be funded privately or supplemented by State and Federal funding. Where applicable, the Village will work diligently to secure funding through grants available through State and Federal program funds to support implementation of the identified LWRP projects.

The Village is obligated to fund a portion of the construction and renovation costs of any proposed improvements on Village-owned property. There are grants available from State and Federal agencies that the Village hopes to obtain and leverage local funds against. The Village will continue to aggressively seek out such grants or in-kind assistance from governmental entities, elected representatives, quasi-governmental organizations and private entities to implement the plans and projects outlined in the LWRP.

Ongoing management of the LWRP will not require outside sources of funding.



**SECTION VI**

**STATE AND FEDERAL ACTIONS AND PROGRAMS  
LIKELY TO AFFECT PROGRAM IMPLEMENTATION**



## SECTION VI STATE AND FEDERAL ACTIONS LIKELY TO AFFECT PROGRAM IMPLEMENTATION

State and Federal actions will affect and be affected by implementation of the LWRP. Under State law and the U.S. Coastal Zone Management Act, certain State and Federal actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same times, the active participation of State and Federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The following State and Federal authorities are part of the institutional framework for local waterfront planning and harbor management that includes planning initiatives as well as regulatory requirements. The Village anticipates that all of the involved governmental entities identified in this section will likely have continuing roles affecting Port Chester’s waterfront area.

### A. State and Federal Actions and Programs

The first part of this section identifies the actions and programs of State and Federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions is the list of actions subject to the State consistency requirement upon the Secretary of State’s approval of the Port Chester LWRP and notification of affected State agencies. Similarly, Federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of ~~State and~~ Federal actions and programs included herein ~~is~~are informational only and ~~do~~es not represent or substitute for the required Federal identification and notification procedures. The current official lists of actions subject to ~~State and~~ Federal consistency requirements may be obtained from the NYS Department of State.

The second part of this section is a more focused and descriptive list of State and Federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or Federal agency’s ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above may not apply; and that the consistency requirements cannot be used to require a State or Federal agency to undertake an action it could not undertake pursuant to other provisions of law.

**1. State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP**

**a. State Agencies**

**OFFICE FOR THE AGING**

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

**DEPARTMENT OF AGRICULTURE AND MARKETS**

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs
- 4.00 Permit and approval programs:
  - 4.01 Custom Slaughters/Processor Permit
  - 4.02 Processing Plant License
  - 4.03 Refrigerated Warehouse and/or Locker Plant License

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY**

- 1.00 Permit and Approval Programs:
  - 1.01 Ball Park – Stadium License
  - 1.02 Bottle Club License
  - 1.03 Bottling Permits
  - 1.04 Brewer’s Licenses and Permits
  - 1.05 Brewer’s Retail Beer License
  - 1.06 Catering Establishment Liquor License
  - 1.07 Cider Producer’s and Wholesaler’s Licenses
  - 1.08 Club Beer, Liquor, and Wine Licenses
  - 1.09 Distiller’s Licenses
  - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
  - 1.11 Farm Winery and Winery Licenses
  - 1.12 Hotel Beer, Wine, and Liquor Licenses
  - 1.13 Industrial Alcohol Manufacturer’s Permits
  - 1.14 Liquor Store License
  - 1.15 On-premises Liquor Licenses
  - 1.16 Plenary Permit (Miscellaneous-Annual)
  - 1.17 Summer Beer and Liquor Licenses
  - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
  - 1.19 Vessel Beer and Liquor Licenses
  - 1.20 Warehouse Permit
  - 1.21 Wine Store License
  - 1.22 Winter Beer and Liquor Licenses
  - 1.23 Wholesale Beer, Wine, and Liquor Licenses

**DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
  - 3.01 Letter Approval for Certificate of Need
  - 3.02 Operating Certificate (Alcoholism Facility)
  - 3.03 Operating Certificate (Community Residence)
  - 3.04 Operating Certificate (Outpatient Facility)
  - 3.05 Operating Certificate (Sobering-Up Station)

**COUNCIL ON THE ARTS**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program

**DEPARTMENT OF BANKING**

- 1.00 Permit and approval programs:
  - 1.01 Authorization Certificate (Bank Branch)
  - 1.02 Authorization Certificate (Bank Change of Location)
  - 1.03 Authorization Certificate (Bank Charter)
  - 1.04 Authorization Certificate (Credit Union Change of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
  - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
  - 1.09 Authorization Certificate (Investment Company Branch)
  - 1.10 Authorization Certificate (Investment Company Change of Location)
  - 1.11 Authorization Certificate (Investment Company Charter)
  - 1.12 Authorization Certificate (Licensed Lender Change of Location)
  - 1.13 Authorization Certificate (Mutual Trust Company Charter)
  - 1.14 Authorization Certificate (Private Banker Charter)
  - 1.15 Authorization Certificate (Public Accommodation Office – Banks)
  - 1.16 Authorization Certificate (Safe Deposit Company Branch)
  - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
  - 1.18 Authorization Certificate (Safe Deposit Company Charter)
  - 1.19 Authorization Certificate (Savings Bank Charter)
  - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
  - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)

- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company – Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

**NEW YORK STATE BRIDGE AUTHORITY**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**OFFICE OF CHILDREN AND FAMILY SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children’s Services)
  - 3.03 Operating Certificate (Enriched Housing Program)
  - 3.04 Operating Certificate (Home for Adults)
  - 3.05 Operating Certificate (Proprietary Home)
  - 3.06 Operating Certificate (Public Home)
  - 3.07 Operating Certificate (Special Care Home)
  - 3.08 Permit to Operate a Day Care Center

**DEPARTMENT OF CORRECTIONAL SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

**EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:

- 2.01 Certification of Incorporation (Regents Charter)
- 2.02 Private Business School Registration
- 2.03 Private School License
- 2.04 Registered Manufacturer of Drugs and/or Devices
- 2.05 Registered Pharmacy Certificate
- 2.06 Registered Wholesale of Drugs and/or Devices
- 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
- 2.08 Storekeeper's Certificate

**EMPIRE STATE DEVELOPMENT CORPORATION**

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

**NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs
- 8.00 New York Harbor Drift Removal Project
- 9.00 Permit and approval programs:

#### Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief – Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

#### Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities.

#### Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit-Article 15, (Protection of Water) – Dredge or Deposit Material in a Waterway
- 9.22 Permit – Article 15, (Protection of Water) – Stream Bed or Bank Disturbances
- 9.23 Permit – Article 24, (Freshwater Wetlands)

#### Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

#### Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

#### Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel
- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit – Article 25, (Tidal Wetlands)

#### Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

#### Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

#### Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
  - 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
  - 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
  - 9.53 Permit – Article 36, (Construction in Flood Hazard Areas)
  - 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazard Areas

- 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.56 Approval – Drainage Improvement District
- 9.57 Approval – Water (Diversion for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit – Article 15, (Protection of Water) – Dam
- 9.60 Permit – Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan
- 11.00 Preparation and revision of Continuous Executive Program Plan
- 12.00 Preparation and revision of Statewide Environmental Plan
- 13.00 Protection of Natural and Man-made Beauty Program
- 14.00 Urban Fisheries Program
- 15.00 Urban Forestry Program
- 16.00 Urban Wildlife Program

**ENVIRONMENTAL FACILITIES CORPORATION**

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

**FACILITIES DEVELOPMENT CORPORATION**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities

**OFFICE OF GENERAL SERVICES**

- 1.00 Administration of the Public Lands Law for acquisition and disposition of State lands, including grants of land and grants of easement of land under water, including for residential docks over 4,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water and oil and gas leases for exploration and development
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233, Sub 5 of the Education Law on removal of archeological and paleontological objects under State water bodies
- 5.00 Administration of Article 3, Section 32 of the Navigation law regarding location of structures in or on navigable waters

**DEPARTMENT OF HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements
  - 2.03 Certificate of Need (Health Related Facility – except Hospitals)
  - 2.04 Certificate of Need (Hospitals)
  - 2.05 Operating Certificate (Diagnostic and Treatment Center)
  - 2.06 Operating Certificate (Health Related Facility)
  - 2.07 Operating Certificate (Hospice)
  - 2.08 Operating Certificate (Hospital)
  - 2.09 Operating Certificate (Nursing Home)
  - 2.10 Permit to Operate a Children’s Overnight or Day Camp
  - 2.11 Permit to Operate a Migrant Labor Camp
  - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
  - 2.13 Permit to Operate a Service Food Establishment
  - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
  - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
  - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
  - 2.17 Shared Health Facility Registration Certificate

**DIVISION OF ~~HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES~~**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance Payment Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program
  - 2.04 Public Housing Programs
  - 2.05 Rural Initiatives Grant Program
  - 2.06 Rural Preservation Companies Program
  - 2.07 Rural Rental Assistance Program
  - 2.08 Special Needs Demonstration Project
  - 2.09 Urban Initiatives Grant Program
  - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

**HOUSING FINANCE AGENCY**

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

**JOB DEVELOPMENT AUTHORITY**

- 1.00 Financing assistance programs for commercial and industrial facilities.

**MEDICAL CARE FACILITIES FINANCING AGENCY**

- 1.00 Financing of medical care facilities

**OFFICE OF MENTAL HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

**METROPOLITAN TRANSPORTATION AUTHORITY (regional agency)**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Increases in special fares for transportation services to public water-related recreation resources.

**DIVISION OF MILITARY AND NAVAL AFFAIRS**

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

**NATURAL HERITAGE TRUST**

- 1.00 Funding program for natural heritage institutions.

**OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
  - 7.01 Floating Objects Permit
  - 7.02 Marine Regatta Permit
  - 7.03 Navigation Aide Permit
  - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation

- Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.

**POWER AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

- 1.00 Corporation for Innovation Development Program
- 2.00 Center for Advanced Technology Program

**DEPARTMENT OF STATE**

- 1.00 Appalachian Regional Development Program
- 2.00 Coastal Management Program
- 3.00 Community Services Block Grant Program
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator
  - 4.03 Uniform Fire Prevention and Building Code

**STATE UNIVERSITY CONSTRUCTION FUND**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**STATE UNIVERSITY OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**

- 1.00 Facilities construction, rehabilitation, expansion or demolition or the funding of such activities
- 2.00 Homeless Housing and Assistance Program
- 3.00 Permit and approval programs:
  - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
  - 3.02 Operating Certificate (Children’s Services)
  - 3.03 Operating Certificate (Enriched Housing Program)
  - 3.04 Operating Certificate (Home for Adults)
  - 3.05 Operating Certificate (Proprietary Home)
  - 3.06 Operating Certificate (Public Home)

- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

**THRUWAY AUTHORITY/CANAL CORPORATION/CANAL RECREATIONWAY COMMISSION (regional agency)**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land and other resources under the jurisdiction of the Thruway Authority, Canal Corporation, and Canal Recreationway Commission.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.
- 3.00 Permit and approval programs:
  - 3.01 Advertising Device Permit
  - 3.02 Approval to Transport Radioactive Waste
  - 3.03 Occupancy Permit
  - 3.04 Permits for use of Canal System lands and waters
- 4.00 Statewide Canal Recreationway Plan

**DEPARTMENT OF TRANSPORTATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
  - a) Highways and Parkways
  - b) Bridges on the State highways system
  - c) Highway and parkway maintenance facilities
  - d) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by CSX
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
  - 4.01 Approval of applications for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities

- 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
- 4.05 Certificate of Convenience and Necessity to Operate a Railroad
- 4.06 Highway Work Permits
- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program – Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

**URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
  - a) Tax-exempt Financing Program
  - b) Lease Collateral Program
  - c) Lease Financial Program
  - d) Targeted Investment Program
  - e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects
- 4.00 Administration of State-funded capital grant programs

**DIVISION OF YOUTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

**b. Federal Agencies**

**DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS**

**DEPARTMENT OF COMMERCE**

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

**DEPARTMENT OF DEFENSE**

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, breakwaters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters
- 2.00 Land acquisition for spoil disposal or other purposes
- 3.00 Selection of open water disposal sites

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities)
- 5.00 Plans, procedures and facilities for landing or storage use zones
- 6.00 Establishment of impact, compatibility or restricted use zones

**DEPARTMENT OF ENERGY**

- 1.00 Prohibition orders

**GENERAL SERVICES ADMINISTRATION**

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government
- 2.00 Disposition of Federal surplus lands or structures

**DEPARTMENT OF INTERIOR**

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

- 3.00 National Park and Seashore management and proposed acquisitions.

**DEPARTMENT OF TRANSPORTATION**

Amtrak, CSX

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal areas

Coast Guard

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses

- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON)
- 4.00 Expansion, abandonment, designation or anchorages, lightering areas or shipping lands and ice management practices and activities

Federal Aviation Administration

- 5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation

Federal Highway Administration

- 6.00 Highway construction

**FEDERAL LICENSES AND PERMITS**

**DEPARTMENT OF DEFENSE**

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403)
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405)
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408)
- 4.00 Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565)
- 5.00 Disposal of dredged soils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344)
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.)

**DEPARTMENT OF ENERGY**

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974
- 2.00 Exemptions from prohibition orders

### Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808)
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b))
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c))
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717 f(b))

### **ENVIRONMENTAL PROTECTION AGENCY**

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328)
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c)
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857)

### **DEPARTMENT OF INTERIOR**

#### Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a))

#### Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185

### **NUCLEAR REGULATORY COMMISSION**

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969

**SURFACE TRANSPORTATION BOARD**

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines

**DEPARTMENT OF TRANSPORTATION**

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501)

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

**FEDERAL ASSISTANCE\***

**DEPARTMENT OF AGRICULTURE**

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

**DEPARTMENT OF COMMERCE**

- 11.300 Economic Development – Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development – Business Development Assistance
- 11.302 Economic Development – Support for Planning Organizations
- 11.304 Economic Development – State and Local Economic Development Planning

- 11.305 Economic Development – State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program – Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization – Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports of Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

**COMMUNITY SERVICES ADMINISTRATION**

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

**ENVIRONMENTAL PROTECTION AGENCY**

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control State and Areawide Water Quality Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

**GENERAL SERVICES ADMINISTRATION**

- 39.002 Disposal of Federal Surplus Real Property

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

- 14.112 Mortgage Insurance – Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance – Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance – Homes
- 14.124 Mortgage Insurance – Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance – Land Development and New Communities
- 14.126 Mortgage Insurance – Management Type Cooperative Projects
- 14.127 Mortgage Insurance – Mobile Home Parks
- 14.218 Community Development Block Grants/Entitlement Grants

- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

**DEPARTMENT OF INTERIOR**

- 15.400 Outdoor Recreation – Acquisition, Development and Planning
- 15.402 Outdoor Recreation – Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historical Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology – Assistance to State Institutes
- 15.952 Water Research and Technology – Matching Funds to State Institutions

**SMALL BUSINESS ADMINISTRATION**

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

**DEPARTMENT OF TRANSPORTATION**

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement – Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement – Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

\*Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

## 2. State and Federal Actions and Programs Necessary to Further the LWRP

### a. State Actions and Programs

#### OFFICE OF GENERAL SERVICES

- Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

#### DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- Planning, development, construction, or expansion of recreational facilities/projects located on the waterfront.
- Provision of funding for capital projects under the Clean Water/Clean Air Bond Act.
- Review of actions within National Register Districts pursuant to SEQR.

#### OFFICE OF PARKS, RECREATION, AND HISTORIC PRESERVATION

- Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreation services programs.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the OPRHP – including the acquisition, development and improvement of parks and historic properties.
- Provision of funding for State and local historic preservation activities.
- Review of Type I actions within the National Historic Districts.
- Certification of properties within the National Register Districts.
- Nomination to State and Federal Register of Historic Places of structures and districts making them eligible for funding and tax incentives.

#### DEPARTMENT OF STATE

- Provision of funding for implementation of an approved LWRP
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the DOS.

#### COUNCIL ON THE ARTS

- Assistance from the Architecture and Environmental Arts program for a harborfront plan.

#### DEPARTMENT OF TRANSPORTATION

- Assistance for street repairs through the Consolidated Highway Improvements Program.

**b. Federal Actions and Programs**

**DEPARTMENT OF DEFENSE**

Corps of Engineers

A U.S. Army Corps of Engineers permit would be required for the following activities:

- Dredging and shoreline stabilization
- Repair or installation of boat ramps
- Installation of piers and marina-related facilities

**ENVIRONMENTAL PROTECTION AGENCY**

1. Review of any proposed action within a National Register District pursuant to NEPA

**DEPARTMENT OF THE INTERIOR**

National Park Service

2. Provision of funding under the Land and Water Conservation Fund Program.



**SECTION VII**

**CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE,  
REGIONAL AND LOCAL AGENCIES**



## **SECTION VII                    CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES**

As part of the preparation of Port Chester’s Local Waterfront Revitalization Program, affected agencies, neighborhood communities, and the representatives of Port Chester’s concerned citizens were consulted to assure that recommendations represented both what the people wanted and what was realistic given the existing resources.

State and National agencies contacted included:

- New York State, Department of State, Division of Coastal Resources and Waterfront Revitalization
- New York State, Office of Parks, Recreation and Historic Preservation
- New York State Department of Environmental Conservation
- U.S. Army Corps of Engineers

Westchester County agencies included:

- Westchester County Department of Environmental Facilities (re: Sewage Treatment Plant)
- Westchester County Department of Planning (re: Village GIS tax maps)

Neighboring communities contacted included:

- Town of Greenwich, Connecticut
- Town of Rye Tax Assessor’s Office

Local agencies included:

- Village of Port Chester (Director of Planning and Development, Village Attorney, Village Manager’s office)
- Village of Port Chester Waterfront Commission

Interviews with agencies were conducted to assure that there were no conflicts with other planning activities or environmental factors, as well as collecting data on which to base the plan.

In addition, the Draft LWRP was reviewed and approved by the Board of Trustees and forwarded to the New York State Department of State. The Department of State then initiated a 60-day review of the Draft LWRP pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the State Environmental Quality Review Act. Copies of the Draft LWRP were distributed to all potentially affected State agencies, Westchester County and adjacent waterfront communities. Comments received on the Draft LWRP were reviewed by the Village and the Department of State, and changes made to the LWRP, as appropriate.

There does not need to be a reference to the public meetings held in this section. The reference in Section VIII is appropriate.

**SECTION VIII**

**OBTAINING LOCAL COMMITMENT**



## **SECTION VIII                      OBTAINING LOCAL COMMITMENT**

### **A.        Public Outreach**

The LWRP was prepared in partnership with the New York State Department of State (DOS) and in accordance with regulations established by the DOS. The DOS initiated a review of the Draft LWRP by potentially affected State, Federal and local agencies to identify, and avoid, conflicts with existing projects, programs and policies.

In addition, the Village undertook efforts to gain public input and comment on the LWRP. In conjunction with BFJ Planning, the Waterfront Commission hosted two public workshops (see appendix for workshop summaries) and all drafts of the LWRP were made available on the Village's website.

### **B.        LWRP Process**

The Village of Port Chester received a grant from the DOS to prepare an update to its existing LWRP, which was originally adopted in 1992. This LWRP update has been prepared by the Village's planning consultant, BFJ Planning, with assistance from Village staff and the Waterfront Commission, which met during 2011 and 2012 to prepare the update to the 1992 LWRP, as follows:

- May 9, 2011
- June 21, 2011
- August 24, 2011
- September 21, 2011
- October 19, 2011
- November 17, 2011
- January 23, 2012
- February 16, 2012
- March 20, 2012
- April 11, 2012

The Village also hosted two public workshops, on October 25, 2011, and February 29, 2012, to present draft versions of the LWRP to the public and to solicit feedback.

Draft of portions of the LWRP were prepared and released in October of 2011 and February of 2012. Thereafter, the Board of Trustees declared itself Lead Agency, accepted the Draft LWRP and completed its SEQRA compliance by issuing a Negative Declaration pursuant to 6 NYCRR 617.7 in May 2012. (See Section IX for a discussion of the Village's SEQRA compliance.)



**SECTION IX**  
**SEQRA COMPLIANCE**



**SECTION IX                    SEQRA COMPLIANCE**

Please see the attached Negative Declaration. TO BE COMPLETED.





# Village of Port Chester

## Department of Planning and Development

222 Grace Church Street, rm. 202 Port Chester, New York 10573

Ph. (914) 937-6780

To: Hon. Mayor Pilla and Board of Trustees

From: Christopher Gomez, Director of Planning and Development

Re: Comprehensive Plan Related Zoning Text and Map Amendments

CC: C. Steers, T. Cerreto, L. Douglas, J. Richards

Date: January 4, 2013

Following the historic adoption of the Village's first comprehensive plan on December 17<sup>th</sup>, the Board's next course of action is to chart a course to adopt the related zoning map and text amendments as studied in the final generic environmental impact statement and contemplated in the SEQRA findings.

The following outlines the necessary steps required to ensure compliance with Village Zoning Code Section 345-34 regarding zoning map amendments including publication, mailing, and signage required. Staff will provide a revised draft local zoning law and draft official zoning map to the Board (as amended during the public hearing and SEQRA Findings process) for the January 22, 2013 meeting in order to schedule a public hearing on said amendments.

### Next Steps:

- ✓ Staff preparation of draft local law and draft official zoning map as edited during public hearing and SEQRA Findings adoption process
- ✓ Set public hearing on draft local law and refer to County Planning Board and Port Chester Planning Commission for report as per Section 345-34. 30-day minimum requirement.
- ✓ Notice public hearing in official papers
- ✓ Prepare detailed notification mailing for all Port Chester residents including address, existing zone, proposed zone, section, block and Lot, and associated maps.
- ✓ Prepare large-scale signs with requisite information, post conspicuously throughout Village
- ✓ Hold Public hearing and upon closure, provide for written comment period
- ✓ Adoption

# MEMORANDUM FROM THE MAYOR

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TO: Trustee Daniel Brakewood  
Trustee John Branca  
Trustee Bart Didden  
Trustee Joseph Kenner  
Trustee Luis Marino  
Trustee Sam Terenzi  
Anthony Cerreto, Village Attorney  
Christopher Steers, Village Manager  
Leonie Douglas, Village Treasurer

FROM: Mayor Dennis G. Pilla

DATE: January 4, 2013

RE: New York State Legislation Priorities

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We have been asked to provide any NYS Home Rule legislation requests to our state representatives as early in the year as possible.

Also, as part of my role with the Westchester Municipal Officials Association (WMOA), I will be meeting with the larger body of Westchester's state representatives on February 10th to discuss issues of mutual interest across local Westchester municipalities. I have attached copies of the NYCOM legislative priorities and WMOA subset for your review and related comments.

As you can see, among other issues, a top priority has been placed on allowing local municipalities to charge non-profits for services rendered, and to expand the scope of such charges. I know this is important to many of you. As such, I have been advocating for this in my role with WMOA and my active NYCOM participation.

In order to obtain your ideas and arrive at a group consensus, I have added a discussion item to our upcoming Board meeting agenda. Please come prepared with your thoughts and ideas on this topic so we can have a productive discussion. For this discussion, I seek both Board and staff input on these legislative matters.

For your consideration, below are some of my thoughts and suggestions on these topics at the moment, for us to include in our Monday discussion.

- To reintroduce a Home Rule request with New Rochelle to pilot electronic reverse auctions for procurement. This pilot should likely mirror the pilot that the State enacted last year for NYS Agencies. While our request did not make it out of committee in time for a State vote, I understand there is much interest, in general, in Governor's office, Senate, Assembly and Comptroller's office to further this idea.

- We should perhaps advocate for similar legislation that Connecticut has, allowing for the continued use of single-family dwellings with certain very old, open permits that we have not been given the opportunity to inspect and close out in a timely fashion. We have discovered in Port Chester, due to our old housing stock and the decades of apparent informality in our Building Department, that current property owners are now being faced with open permits from long ago that they were previously unaware of. With such legislation for single-family dwellings in place from a higher authority, we might provide a more practical approach for current property owners to deal with some of these old prior open-permits that owners were not previously made aware of (and in fact, told they otherwise they did not exist in many cases). This could be a complementary approach to the Certificates of Continued Use concept that staff is also considering. I have attached a copy of Greenwich's implementation, which contains such State legislation for your review.

- Also, I believe we should consider advocating for changes to Real Property Tax Law specific to the methodology for the annual revaluation required by state law. In Port Chester, due to the fact we are a part of Rye Town that undertakes a full annual revaluation, and due to our diverse mix of real estate types (single- multi- families & commercial), we are seeing great volatility in single-family taxes due to the combination of:

- a disproportionate decline in values for single-family (~3%) vs. multi-family (~9%) and commercial properties;

- a very small set of recent annual single-family home sales (~45 each year in Port Chester), which becomes the basis for revaluing all the single-family properties (~2,400) each year;

- the (unintended) impact our successful code enforcement program apparently is having on multi-family property values. We are seeing that no longer are 2,3,4... family homes being sold at values that reflect the (rent) income potential of additional illegal attic and basement apartments etc. Instead, their price reflects their (more limited) legal use. Their recent annual decline in value (~9%) is greater than the single-family value decline. As such, this appears to be contributing to some single-family properties paying a larger (proportional) share of the tax burden, despite our great success to contain village property tax increases in general.

To reduce this related revaluation & property tax volatility, I believe the state should instead consider a revaluation approach (similar to Connecticut's) that is based on a using 5-year average. This would allow a larger set of recent sales to be the basis for revaluation, and would more level the sharp spikes that some single family homeowners have recently experience with their local property tax bills (shown in the attached MLS report).

Since we are rather unique with our experience in this area, I think this is another leadership opportunity for Port Chester to change the way the state does business. I seek your input to get the best of the group's thinking, and for us to consider formalizing a related request in time for the February meeting with the Westchester delegation. As many Westchester communities are presently considering or undertaking full revaluation, there appears to be broader interest in this topic as well.

Of course, as always I welcome your thoughts and suggestions on these ideas - and your own, so we may collaboratively, and in a positive way, advance our village and the entire state, for the good of all residents and taxpayers.

I look forward to hearing your thoughts, and to our productive discussion on Monday.

Please feel free to contact me if you have any questions.

Best regards,  
Dennis

# POLICY ISSUES FOR DISCUSSION

## Finance

### ***Increase AIM Funding***

Aid and Incentives for Municipalities – or AIM funding – has the largely untapped potential to provide significant municipal property tax relief. For decades, the original “revenue sharing” formula – intended to redistribute state tax revenues to municipalities that do not have the tax base or the taxing authority to generate these revenues on their own – has been annually disregarded and various constraints have been imposed on the overall level of state aid to local governments.

Although New York State is currently facing its own – yet diminished – fiscal challenges, the biggest mistake state leaders could make would be to shift these problems onto the backs of local governments and their taxpayers. A strong and growing state-local fiscal partnership is essential to preserving economic vitality at all levels of government. Additionally, now that local governments are limited by the 2% cap on property tax levies, growth in AIM funding is critical. NYCOM, therefore, supports an increase in AIM funding in 2013-14 and beyond that is predictable, based upon a statutorily defined formula that reflects the rising costs of providing essential municipal services, and considers the types and levels of services each municipality provides. The formula should also consider the amount of tax exempt property a municipality has within its boundaries, as this has a significant effect on a community’s ability to raise revenue.

### ***Pension Reform***

Since 2010, average actuarial contribution rates have increased by 182% for ERS employees and 91% for PFRS employees. When combined with other mounting fiscal pressures on local governments, these devastating increases in pension costs have led, and will continue to lead, to further increases in property taxes and cutbacks in essential municipal services. While a new, less expensive Tier 6 will bring about long-term savings, to address this issue in the near-term, the state must reinstate the 3% employee pension contribution that was eliminated in 2000 for Tier 3 and Tier 4 members of the state Employee Retirement System upon completion of 10 years of service.

The state also needs to establish a system that eliminates the “contribution rate rollercoaster” that municipalities currently experience. If employer contributions were based not on a year to year adjustment, but rather on the long-term actuarial contribution rate, they would be more stable and predictable. Under this scenario, when the market return on investments is up, the overage could be banked and subsequently used by employers to cover shortfalls when investments weaken.

### ***Amend the Property Tax Cap***

The newly enacted property tax cap contains limited exclusions for a small portion of local pension costs and settlement expenses arising out of tort actions. The list of exclusions must be expanded to include, at a minimum, emergency expenditures resulting from destruction of or damage to municipal infrastructure or equipment, and expenses related to capital costs.

### ***Maintain CHIPS Funding***

The Consolidated Highway Improvement Program (CHIPS) assists local governments with the cost of construction, reconstruction and improvement of local highways, bridges and highway-railroad crossings. The funding is distributed based on local highway mileage and vehicle travel. While the CHIPS program has been spared from cuts in recent years, locally-owned roads remain in need of substantial near-term improvements. Local governments should receive at least the same amount of bonded or pay-as-you-go transportation funding that was received in the current year.

### ***Prohibit Unfunded State Mandates***

Although in recent years there appears to have been an increasing reluctance to shift or impose additional costs on local governments, there is still nothing that prohibits the State Legislature from enacting unfunded mandates. NYCOM supports legislation to constitutionally prohibit the enactment of statutory or regulatory mandates which would impose a direct or indirect fiscal burden on local governments unless an estimate of such fiscal burden is computed – with input from the State's local government associations, including NYCOM – printed on the bill, and an appropriation is made sufficient to hold each local government harmless from any part of such fiscal burden. In addition, all current unfunded mandates should be required to sunset in two years unless it can be shown that such mandates serve an essential purpose and a funding source can be identified to offset the cost to local governments.

### ***Increase the Rate and Expand the Scope of the Utility Gross Receipts Tax***

Under current law, cities and villages have the option of imposing a gross receipts tax (GRT) on the gross operating income of utility companies located within their boundaries, at a rate of 1%. NYCOM supports legislation that would permit municipalities, at local option, to impose this tax at a rate of up to 3%. The cities of Buffalo, Rochester and Yonkers already have this ability and do impose the tax at the higher 3% rate. NYCOM also supports amendments to the statute to clarify when and what types of gas and electricity transactions are subject to the GRT.

Additionally, in recognition of the predominance of wireless technology and to promote equity in the tax treatment of various types of telecommunications providers, both the state and the City of New York have made changes to their respective statutes to include cellular services as taxable for purposes of the state's excise tax and the city's gross receipts tax. NYCOM supports amendments to current state law to ensure that cellular telephone services are subject to the local GRT.

### ***Authorize Municipalities to Charge for Services Provided to Tax Exempt Properties***

Support legislation that would permit municipalities, at local option, to impose charges on tax exempt properties to defray the cost of services local governments provide, such as police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply. While municipalities currently have the ability to impose user fees to cover some of these expenses, they are prohibited from doing so for some of the most costly services, including police and fire protection. In 1971, a "service charge" law was enacted in New York but it was never implemented, and was ultimately repealed. In 2008,

NYCOM was successful in getting the State Legislature to introduce a "service charge" bill but, unfortunately, it was never acted upon. Since that time, there has been significant discussion but little action on this issue. Local governments must be given the ability to recoup at least a portion of the expenses they incur servicing tax exempt properties.

### ***Define the Scope of Not-for-Profit Exemptions***

The State Constitution, Article XVI, §1, provides that exemptions from real property taxation "may be altered or repealed except those exempting real ... property used exclusively for religious, educational or charitable purposes as defined by law ...". For too long, the responsibility for defining the scope of these exemptions has been left to the courts. This has resulted in the steady expansion of the types of organizations and property uses receiving exemptions from taxation, including those that have only a minimal or tangential relationship to "religious, educational or charitable purposes." This growth in the number of "tax exempt" entities erodes local tax bases and increases the tax burden for the remaining taxable properties. It is time that the Legislature recognize and implement the authority vested in it by the Constitution.

### ***Exempt All Municipal Property Used for Public Purposes from Property Taxation***

Support legislation granting exempt status to all municipally-owned real property used for public purposes, without regard to whether the property is located within the boundaries of the municipality owning the property. Under current law, municipally-owned property that is located outside that municipality's boundaries is generally subject to taxation. (While there are a few exceptions to this provision based upon how the property is used, these exceptions require the approval of the taxing district in which the property is located.) Based on data from the New York State Comptroller's Office, cities and villages pay approximately \$17 million annually in property taxes on municipally-owned property.

### ***Reform Town Taxation of Village Residents***

Support legislation that addresses the inequities that result from the statutory requirement that village residents – as residents of the surrounding town – pay for all town expenses, unless a specific statute requires or permits otherwise. For example, town expenditures for snow removal and purchase of highway machinery are frequently townwide charges upon all town residents – including village residents – even though towns do not provide highway services or snow removal within incorporated villages. Consequently, even when applied according to State law, town taxes frequently impose an unfair burden on village properties. State law must be amended to ensure that village taxpayers do not pay for town services from which they receive no benefit.

### ***Require Sales Tax Sharing***

Generally speaking, local governments have few revenue options available to them, and their resources are even further constrained by the property tax cap. Village governments, for example, do not have the ability to impose a local sales tax. While cities do have the option to impose a sales tax within the city's limits, it is not always in their best interest to do so. Now that counties will begin to benefit from the newly enacted cap on the local share of certain Medicaid expenditures, they should be required to provide cities and villages within their boundaries with an equitable share of any sales tax revenues resulting from an increase in the county sales tax rate granted by the State Legislature.

## ***Equalize Charges for Vital Records and Police Reports***

Support legislation that allows municipalities to charge up to the same amount as the NYS Department of Health for the issuance of vital records. Historically, the statutory amount which may be charged by local offices has been equal to the charge imposed by the state. In 2003, the state's fee was raised to \$30 without a corresponding change for municipalities. Since then, the State Legislature has enacted similar increases for various counties including Monroe, Onondaga, Chemung and Tompkins, as well as the City of Oswego. It should be noted that not only is this an equity argument, the cost of providing this service has increased without a corresponding increase in the charge (at least not for local governments), and many of these document requests come from individuals outside the state so the burden is being "exported."

In addition, written reports generated by a police or firefighter investigation of an automobile accident are currently available to insurance companies at little or no charge. These companies rely heavily on police and fire departments for investigative work, reporting, interviewing witnesses, etc. Municipalities should be authorized to charge for accident reports at the same levels authorized for the State Police (\$15 to search for a report, an additional \$15 for a certified copy thereof, and \$25 for any related photographs or contact sheets).

# Government Operations and Community Development

## ***Create and Enhance Tools to Address Abandoned Property and Downtown Redevelopment***

Many communities in New York are littered with abandoned properties, the result of the decades-long economic decline in upstate New York. Adding to the number of abandoned properties is the recent subprime market meltdown. Local officials need a comprehensive and effective tool-kit to address this increasing problem and successfully revitalize their downtowns. NYCOM supports the following legislative proposals:

- **Create a Local Option for a Real Property Tax Exemption to Cover Gaps in Redevelopment Costs** – A major obstacle to the redevelopment of New York's older communities is the prohibitive costs of renovating and, in some cases, demolishing and rebuilding older structures. Frequently, these costs will exceed a property's resulting market value. In such situations, private sector lenders will never make financing available to cover the cost of development. Local governments should be allowed to grant real property tax exemptions to cover gaps in the cost of renovating or demolishing and rebuilding structures.
- **Allow Municipalities to Pierce the Corporate Veil of Shell Corporations that Abandon Properties** – Many neglected and vacant properties are owned by corporations, limited liability companies or limited liability partnership that abandon those properties when they become economically unviable. These entities leave local governments (and local taxpayers) having to deal with the cost of abating nuisance conditions and demolishing unsafe buildings. State law should be amended allowing local governments to pierce the corporate veil of limited liability entities to hold their parent corporations and their individual owners responsible for nuisance abatement and demolition costs that exceed the property's value. In addition, to ease local challenges with respect to enforcing the state's building and zoning codes, corporations, limited liability companies and limited liability partnership should be required to register their business address with the Secretary of State on an annual basis.
- **Permit Claims Against Fire Insurance Proceeds** – Currently, a municipality has the authority to enforce a lien against the proceeds of a fire insurance policy on all real property unless the property contains a one- or two-family structure. Prohibiting a municipality from placing a lien on these properties while allowing other lienors to, unfairly burdens the local government and significantly inhibits their ability to recover such taxes. NYCOM supports legislation that would permit a municipality to place a lien for unpaid property taxes against the proceeds of a fire insurance policy on any real property located within a municipality. In enacting this legislation, municipalities would then be treated in the same manner as any other lienor who has made a claim to the insurance proceeds.
- **Allow Municipalities to Take Title to Abandoned Commercial Property** – Currently, Real Property Actions and Proceedings Law, Article 19-A, provides a relatively quick and easy method for local governments to take title to residential property that is "abandoned" within their jurisdictions. However, Article 19-A does not apply to

commercial property. This statute should be amended to allow municipalities to take title to all real property that is "abandoned" so that the properties' negative effects on the surrounding community can be promptly and effectively addressed by the municipality.

- **Waive the Asbestos Notification Fee** – Labor Law §904 imposes an asbestos project notification fee which is extremely burdensome for local governments and is a significant unfunded mandate when municipalities are unable to recover the cost of demolishing an unsafe building. State law should be amended to waive the asbestos project notification fee when local governments are abating or demolishing nuisance or unsafe structures.

### ***Revive the Restore NY Program***

Established as part of the 2006-07 State Budget, this program provided a total of \$300 million in grant money over three years, to support municipal efforts to demolish, deconstruct, rehabilitate or reconstruct vacant, abandoned, condemned and/or surplus properties. NYCOM supports continuation of this very worthwhile program.

### ***Enforcement of the State's Uniform Fire Prevention and Building Code***

Enforcement of New York's Uniform Fire Prevention and Building Code is governed by Executive Law §382, which is confusing and ineffective. Courts have interpreted this statute as requiring local governments to issue a notice of violation of a building, property maintenance or fire code violation as a condition precedent to commencing a criminal action as a means of seeking compliance for such infraction. In addition, courts are reluctant to find defendants guilty of violating Executive Law §382 because, as it is currently written, any violation of the Uniform Code is a misdemeanor, convictions of which will saddle defendants with a criminal record. This statute should be amended to create a strict liability "violation" for Uniform Code infractions, thereby giving local officials the option of prosecuting defendants for a violation and not crime. The law should also be amended to clarify that the issuance of a notice of violation is not a condition precedent to commencing a proceeding in criminal court to seek compliance of a violation of the Uniform Code.

### ***Amend the Village Dissolution Law***

In 2009, the law governing the process for dissolving villages was significantly altered. The new law lowers the number of signatures needed to initiate dissolution proceedings. Moreover, the new process requires a study and plan on the dissolution to be performed after a vote on whether to dissolve is conducted. This minimal signature requirement and backwards procedure of developing a dissolution study and plan after voting to dissolve has resulted in a process that is confusing and uninformed. The law should be amended to require petitions initiating dissolution proceedings to contain signatures equal to at least 25% of the number of electors at the last general election of the local government entity or five thousand, whichever is less. In addition, the law should require that a dissolution study and plan be developed and approved by the village board prior to the dissolution vote.

### ***Reform Prevailing Wage***

New York State law requires municipalities that are parties to public works contracts involving the employment of laborers, workers or mechanics to pay those laborers, workers or mechanics "the prevailing rate of wages." The method currently used for calculating the "prevailing rate of wages" for public works projects results in local governments having to pay highly inflated wages, which hampers their ability to provide services to their community. The method currently used by the State to calculate "prevailing wages" for public works projects

should be changed to use the State's Unemployment Insurance Prevailing Wage tables to determine regional prevailing wage rates for projects. The Unemployment Insurance Prevailing Wage tables are updated semi-annually via the Occupational Employment Statistics survey of employers and reflect local economies' actual prevailing wages.

Additionally, under current law, all contracts for public works projects and contracts to provide services to municipally and privately-owned buildings exceeding \$1,500 are subject to prevailing wage. These statutes should be amended to exempt public works contracts of less than \$35,000, and building service contracts of \$20,000 from prevailing wage obligations.

### ***Reduce Public Construction Costs***

- **Authorize Use of Design-Build** – The design-build model is a project delivery system used as an alternative to the traditional design-bid-build model. Under the latter approach, design and construction are split - separate entities, separate contracts, separate work. The design-build system is an integrated approach that provides the municipality with design and construction services under one contract. By relying on a single point of responsibility, the design-build model minimizes risks for the project owner, reduces the delivery schedule by consolidating the design phase and construction phase with a single source of contact, and cuts costs by streamlining the construction process. Several state agencies, including the Department of Environmental Conservation, the Department of Transportation, the Thruway Authority, the Office of Parks, Recreation and Historic Preservation, and the Bridge Authority are authorized to use design-build. Currently, no authority exists for municipalities to use this model.
- **Repeal the Wicks Law** – Dating back to 1912, the Wicks Law is one of the most onerous mandates facing local governments. In 2008, the Governor and the State Legislature agreed to amend this outdated statute but these reforms, while supported by NYCOM, were only a first step toward making meaningful changes to this mandate. The thresholds are now \$3 million in New York City, \$1.5 million in Nassau, Suffolk and Westchester counties, and \$500,000 in the rest of the state. Additionally, public work projects for which a municipality opts to require the contractor to use a project labor agreement (PLA) are exempt from the Wicks Law provisions.

Despite these changes – particularly the threshold increases – many municipal projects are still subject to the multiple bidding requirements under the Wicks Law. This requirement has the effect of increasing costs, delaying projects and, in some cases, preventing projects from going forward at all. Eliminating this onerous mandate will help stimulate our languishing local economies by allowing municipalities to utilize a more cost-effective approach to executing public projects, thereby removing a major impediment to communities investing in much-needed infrastructure and other capital improvements.

### ***Authorize Municipalities to Permit Advertising on Municipal Property***

Under current law, municipalities may only sell or lease advertising space on their property pursuant to express statutory authority, or in connection with a "proprietary" as opposed to a "governmental" function. A municipality acts in a proprietary capacity when it performs functions more commonly associated with a private business operation, such as the operation of a transit system. In the face of dwindling resources, it makes economic sense to

authorize municipalities to contract with private entities to make use of available space on municipal property, including vehicles, websites and newsletters. As long as the opportunity to enter into such contracts is equally available to all interested parties, local governing bodies should be able to take advantage of this potential financial benefit.

### ***Guarantee PILOT Payments of Bankrupt Entities***

Under New York's Industrial Development Agency law, IDAs must have PILOT policies. However, some companies that have received the benefits of IDA projects, namely tax exemptions, subsequently file for bankruptcy without making one or more required PILOT payments. The IDA law should be amended to require IDAs to make the PILOT payments to local taxing jurisdictions when a company that received tax exemptions from the IDA files for bankruptcy.

### ***Procurement Reform***

The competitive bidding and procurement process for local governments can be costly and administratively burdensome. Reforming these processes can provide more flexibility and cost-savings while ensuring that purchases are made ethically and in the public interest.

- **Lower Thresholds for Competitive Bidding** – Pursuant to General Municipal Law §103, local governments are required to follow complex and cumbersome procedures to purchase goods exceeding \$20,000 and to enter into public works contracts exceeding \$35,000. Despite the fact that the thresholds were increased in 2009, they are still among the lowest in the country. New York's bidding thresholds should be raised from \$20,000 for purchase contracts and \$35,000 for public works contracts, to \$35,000 and \$50,000 respectively. Increasing the thresholds to more accurately reflect the cost of projects that the statute was originally intended to cover will enable local governments to operate more efficiently and with greater flexibility.
- **Authorize Reverse Auctions** – In a reverse auction, municipalities specify the highest amount they can spend on a particular contract. Vendors or contractors can then bid at or under the stated price, with the contract awarded to the lowest bidder. This practice is utilized by many states and private sector organizations. By disclosing the highest amount that the municipality can pay, reverse auctions encourage competition among responsive bidders, leading to lower costs for such contracts and, in turn, taxpayer savings. The General Municipal Law should be amended to explicitly authorize this process.
- **Authorize Leasing of Technology** – Under state law, a municipality is not required to comply with competitive bidding laws if it purchases technologies through OGS. However, technology is rapidly changing and many products become outdated or obsolete within a relatively short amount of time, forcing local governments to expend additional money to modernize their equipment. Municipalities should be permitted to lease equipment from OGS technology contracts, which would allow them to acquire such products at a lower price while keeping up with advancements in technology.
- **Establish a Public Contracts Clearinghouse** – NYCOM recently supported enactment of legislation that authorizes the use of cooperative purchasing, a procurement method whereby if a government agency has already gone through the procurement process, the resulting contract can be utilized by other government agencies on the same terms and conditions. To facilitate this cost-saving practice, state law should be amended to require OGS to maintain a clearinghouse of all public contracts in New York eligible for cooperative purchasing. An organized, comprehensive

list of such contracts would better allow local governments to take advantage of cooperative purchasing as a cost-effective, efficient means of procurement.

### ***Allow Publishing of Official Notices Online***

New York State law is replete with provisions requiring local governments to publish official notices in a local newspaper. With the decline in newspaper circulation and the proliferation of Internet access and use, municipalities must be allowed to use their websites to more efficiently and effectively communicate with the public. Allowing local governments to post their notices on their websites for a period of days, in a manner that can be easily viewed by people across the entire state and country is much more effective than publishing that notice once in a local newspaper with a circulation in a relatively small geographic area. Moreover, many of New York's local governments are serviced only by a weekly newspaper. Consequently, municipal officials frequently have to wait as long as two weeks to take action on important matters. State law should be amended to allow local governments to leverage the power of the Internet to reach a larger number of interested parties in a more timely, efficient, and cost-effective manner.

# Employee Relations and Public Safety

## ***Repeal Civil Service Law §58 (1-c) & Village Law Police Chief Mandate***

Pursuant to the provisions of Civil Service Law §58 (1-c), a city or village with a police department serving a population of 150,000 or less and having four or more full-time officers must maintain the office of chief of police. In addition, the Attorney General's Office opined (2012 Op. Atty. Gen. (Inf.) No. 2012-8) that a "village need not establish a police department but if it does, it must also establish the position of chief of police" (emphasis added). Therefore, according to the Attorney General's Office, if a village creates a new village police department regardless of the number of full-time officers it employs, it must also create the position of chief of police. Both provisions of law serve to supersede the judgment of elected municipal officials as to how best to structure a police department and deprives them of administrative flexibility in the organization of a police department, something which is available to all other municipal departments. Consequently, both provisions of law should be repealed.

## ***Make the Decision to Transfer the Work of Unionized Employees a Non-Mandatory Subject of Negotiation***

Under the Taylor Law, a decision to transfer the work of employees represented by a union is generally a mandatory subject of negotiation, if the work has exclusively been performed by the unionized workers. To promote the ability of local governments to outsource and/or consolidate functions, the Taylor Law should be amended to provide that a decision to transfer the work of unionized employees shall be a non-mandatory subject of negotiation.

## ***Limit Payments Under General Municipal Law §207-a and §207-c***

Paid firefighters and police officers are potentially eligible for generous municipal disability benefits if an injury or illness is incurred in the performance of duty under General Municipal Law §207-a and §207-c. In the event of an injury in the performance of duties, the individual is entitled to all necessary medical treatment and receipt of a municipal disability benefit equal to the full amount of regular salary or wages until retirement. These sections of the General Municipal Law should be amended to apply a "heightened risk" standard for the granting of these benefits. Under this standard, an injury incurred while performing a work duty which did not involve a hazardous activity would not be eligible for the municipal disability benefit available under General Municipal Law §207-a and §207-c. A police officer or firefighter who is injured while involved in a nonhazardous work duty would instead file a claim for workers' compensation benefits.

In addition, 207-a and 207-c benefits should be available to an individual for no more than two years. This would not only relieve some of the financial burden for municipalities but could also accelerate the process for determining when an individual is eligible for disability retirement – a process that has been criticized as taking much longer than necessary.

## ***Authorize Unemployment Insurance for Elected Officials Who Lose Regular Employment***

A part-time elected official who loses his or her regular employment, but who receives a salary in his or her capacity as an elected official, is considered by the NYS Department of Labor to be employed. If such an individual files an unemployment insurance claim, he or she must report the total days during a work week on which municipal business is conducted. The Labor Law should be amended to allow part-time elected officials who lose regular employment to still be eligible to collect unemployment insurance benefits, with the amount of any payment reduced by the average weekly salary received as a municipal official.

## ***Repeal Article 18 Of The General Municipal Law***

Article 18 of the General Municipal Law is riddled with deficiencies and should be repealed. Enacted in 1964, Article 18 has wreaked havoc on municipal officials ever since. It has been described by the former Temporary State Commission on Local Government Ethics as "disgracefully inadequate." Most importantly, Article 18 fails to provide municipal officials with any type of meaningful assistance as they struggle to address ethical dilemmas. Article 18 should be repealed and a working committee convened in order to draft a sensible and comprehensive code of ethics for local government officials.

## ***Workers' Compensation Reform***

In 2007, New York State enacted broad workers' compensation reforms. The reforms were passed by the Legislature with bi-partisan support. However, even though five years have passed, the desired effects of the 2007 reform measures have not been achieved. The Governor and the Legislature should implement additional reforms, such as: requiring the Workers' Compensation Board to publicly in an open and transparent process report on the effectiveness and progress of the reform measures; changing the way in which benefits are indexed; reducing New York's assessments, which are currently the highest in the nation; and appointing a Workers' Compensation Czar in order to accelerate the reform effort.

## ***Permit Smaller Municipalities to Join Multiple Employer Health Insurance Trusts that are Experience-Rated***

Under current law, municipalities with fewer than 50 employees must have a community-rated health plan. By extension, a multiple employer trust of several municipalities attempting to jointly purchase health insurance must also be community-rated if any of its constituent employers has less than 50 employees. Unlike an experience-rated plan where premiums are based upon specific claims experience, community-rated plan premiums are determined by the collective claims experience of all insureds in a particular community pool, without regard to age, sex, health status or occupation. It has been reported that in the first year of being subject to community-rating, almost 30% of the insured experienced premium increases ranging from 20% to 60%. NYCOM supports amending the Insurance Law so that smaller municipalities may join multiple employer trusts that are experience-rated, thereby allowing them to share in the health insurance cost savings associated with these trusts.

## ***Authorize Municipal Share of Foreign Fire Insurance Distribution***

Pursuant to §9104 and §9105 of the Insurance Law, numerous fire insurance companies not domiciled in New York pay to the NYS Department of Insurance a premium tax on fire insurance policies written in the state. Each July, the Department distributes the funds to fire departments for their exclusive and unregulated use. In recent years, the distribution totaled nearly \$44 million. These laws should be amended to permit municipalities who sponsor and fund these fire departments to receive at least one-half of the amounts distributed.

## ***Require Medicare-Eligible Retirees to Enroll in a Medicare Advantage Health Insurance Plan***

Medicare Advantage Plans, sometimes called "Part C" or "MA Plans," are offered by private companies approved by Medicare. These plans typically provide all Part A (hospital insurance) and Part B (medical insurance) coverage. Medicare Advantage Plans may also offer extra coverage, such as vision, hearing, dental, and/or health and wellness programs, and most include Medicare prescription drug coverage (Part D). For people who choose to enroll in a Medicare Advantage health plan, Medicare pays the private health plan a fixed amount every month. Members typically also pay a monthly premium in addition to the Medicare Part B premium to cover items not covered by traditional Medicare (Parts A & B). Many municipalities have found that such plans are less costly than municipal health insurance plans but continue to offer a comparable level of benefits. Given that in many municipalities the cost of health insurance for retirees exceeds that of active employees, the state should help reduce these expenses by requiring Medicare-eligible retirees to enroll in Medicare Advantage Plans.

## ***Advanced Life Support Certificate of Need***

Many local government entities have spent considerable time and money purchasing equipment, hiring and training personnel, and complying with the myriad of regulatory requirements associated with operating an advanced life support or emergency services operation. Under current law, however, after two years of satisfactory performance, a regulatory entity – which has no accountability to the municipality or its residents – can unilaterally strip the municipality of its operating certificate for failure to establish a "public need." Legislation is needed to remove the limited presumption of need in favor of a permanent presumption of need for municipalities that operate advanced life support operations. This amendment would save local governments and fire districts significant financial resources and, most importantly, allow municipalities to continue to provide this critically important service to their residents. In 2012, the Cities of Utica and Glens Falls received a permanent presumption via special legislation. Such permanent presumption should be extended to all municipalities.

## ***Repeal/Reform Binding Arbitration***

The compulsory arbitration statute is set to expire in June 2013. While NYCOM supports repeal of this statute, at the very least it must be reformed in the following ways:

- Define Ability to Pay – The statute has no definition of a municipality's ability to pay. It should be amended to require that an arbitration panel accord substantial weight to ability to pay when making an award. The term should be defined as the ability of a public employer to pay all economic costs to be imposed on it by an arbitration award without requiring a reduction of municipal services or an increase in the level of real property taxes in existence for each year or years addressed by the award.
- Prohibit Consideration of Non-Compensation Issues – Other unions (e.g., county sheriffs, State Police) which are permitted to seek arbitration of a bargaining impasse are denied the right to pursue non-compensation matters before an arbitration panel. Municipalities and school districts should be entitled to the same restrictions.

- **Limit Access to Binding Arbitration** – Currently, there is no limit on the number of times police and firefighter unions can seek binding arbitration. This should be changed so that once any union decides to go to binding arbitration, they will lose that ability for the next two successive collective bargaining cycles. This limitation will help to ensure that the option of going to binding arbitration is not routinely used as a way to avoid good faith negotiations.
- **Add Transparency to the Arbitration Process** – Currently, an arbitration panel deliberates and renders its decision behind closed doors. Making their proceedings subject to the Open Meetings Law – by requiring the arbitration panel to deliberate in a public forum within the municipality or school district under arbitration and to present its decision at a meeting of the legislative body or school board – will add a level of accountability to a process that currently lacks any degree of transparency. This much-needed transparency should ultimately be applied to all aspects of collective bargaining.

### ***Institute Maximum Employer Health Insurance Contributions***

Like public pension costs, health care costs continue to rise at rates much higher than inflation. According to the latest information from the Kaiser Family Foundation, the national average employer contributions are 81% for individual coverage and 70% for family coverage. NYCOM proposes that all public employers assume no more than 85% of individual and 75% of family and retiree healthcare premiums, phased in over a three year period. It is estimated that this level of contribution could save nearly \$200 million annually. Not only will this initiative reduce health insurance costs for local governments, it will also change the dynamic at the collective bargaining table since both employers and employees will have a vested interest in ensuring that health benefits and premiums are reasonable and affordable.

### ***Authorize Fees for Volunteer Emergency Rescue and Ambulance Services***

The municipal authorities having control over a volunteer fire department may establish an emergency rescue squad within the department and may further authorize such an emergency rescue squad to provide general ambulance services. However, the statute which authorizes such activities, General Municipal Law §209-b, prohibits any fee or charges for rendering such services. Municipal emergency rescue and ambulance services provided under other sections of law are not subject to such a restriction. General Municipal Law §209-b should be amended to permit a city council or village board to establish a schedule of fees for emergency medical and transport services rendered by members of a volunteer fire department.

### ***Permit Municipalities to Charge for Police Services***

Municipalities in New York are not authorized to impose fees for providing police services to any individual or establishment within the geographic area served by the municipal police department. State law should be amended to allow a local legislative body to establish a fee for the cost of providing police services needed, required or requested at any event for which an admission fee is charged.

# Environment and Energy

## ***Permit Reasonable Return on Sewer Rents***

Currently, General Municipal Law §94 authorizes a municipality to earn a "fair return" from the operation of a water utility service. The profits or surplus resulting from the operation of the water utility system may be used for any municipal purpose. However, this same authority does not exist for municipal sewer utility systems. General Municipal Law §453 limits the use of sewer fund revenues to payment of operation, maintenance and repair of the sewer system; payment of the indebtedness incurred for the construction of the sewer system; payment of the construction of sewage treatment plants; and for the extension, enlargement, replacement of, or additions to the sewer system. During the 2012 legislative session, the villages of Patchogue and Sherburne were given the authority to use a portion of their sewer fund surplus for infrastructure costs. Similar legislation should be granted statewide.

## ***Emergency Management***

The recent natural disasters have brought to light short-comings in the State's emergency management laws. State statute should be amended to:

- Permit municipalities to issue 5-year serial bonds for "extraordinary expenses" caused by natural disasters or emergencies;
- Require the state to pick-up the local share of emergency response and recovery costs when a specified level of destruction occurs; and,
- Allow public bodies to take action via telephone or electronic means in the event that an emergency warrants immediate action by the public body but conditions limit the ability of the public body to comply with the requirements of the Open Meetings Law.

## ***Release Environmental Restoration Program Funds***

The Environmental Restoration Program provides financial assistance to municipalities seeking to cleanup and redevelop underutilized contaminated properties. The program covers 90% of on-site eligible costs and 100% of off-site eligible costs for site investigation and remediation. Once the property is remediated, it can be used for commercial, industrial, residential or public purposes. The last \$20 million of funding is tied to a state budget appropriation which requires a Memorandum of Understanding (MOU) signed by the Governor and the leader of both the Senate and the Assembly. No program applications have been approved since 2008 and new applications are not being accepted due to a lack of funding. This program has the potential to contribute to the revitalization of local governments statewide, improving the neighborhoods and areas within and around them. The Governor, Senate Majority Leader and Assembly Speaker must reach an agreement releasing these funds so that local governments can begin to address the problems associated with contaminated sites, and begin the process of rehabilitating surrounding neighborhoods and communities. In addition, this important program should be given additional funding through the creation of a permanent funding stream not conditioned on a MOU.

## ***Authorize Financing of Stormwater Management***

Stormwater utilities have been used successfully by municipalities in other states to address the administration of the Municipal Stormwater Sewer System (MS4) program. A stormwater utility would operate as a department of municipal government, similar to municipal water or sewer utilities. The use of a utility concept for stormwater would consolidate some or all stormwater functions under one management structure, enhance the ability to address stormwater problems on a regional basis, and implement user fees to pay for stormwater functions. These fees provide a dedicated stream of income and permit the implementation of incentives for water conservation, as well as allow localities to recover local costs from both taxable and tax-exempt properties. This approach is perceived as more equitable by property owners, establishes a more reliable revenue stream, and provides a mechanism to better account for program costs. The stormwater utility concept can also be applied to a county or regional-level authority. In doing so, there can be efficiencies of scale and intermunicipal/drainage basin issues can be more readily addressed. No authority exists in state law for the formation of these districts.



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July 9, 2012

### 2012 SECOND QUARTER RESIDENTIAL REAL ESTATE SALES REPORT Westchester and Putnam Counties, New York

#### Sales volume picked up

At last, the Westchester-Putnam real estate market posted an improved performance that may have some staying power. Realtors participating in the Westchester-Putnam division of the Hudson Gateway Multiple Listing Service reported 1,788 closed residential sales in Westchester County, and 177 sales in Putnam County, during the second quarter of 2012. These were increases of 13.0% and 23.8%, respectively, from the totals posted during the second quarter of last year.

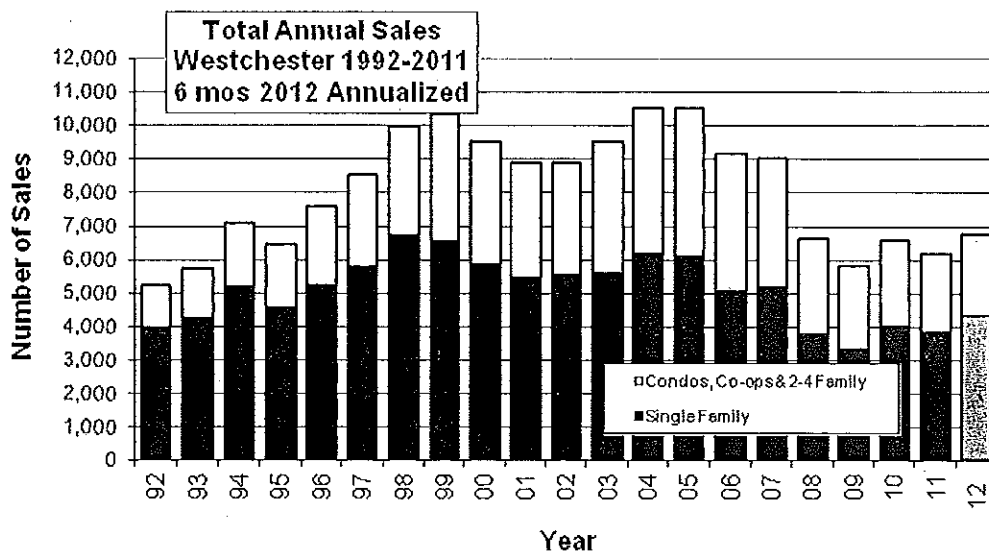
In Westchester, single family house sales led the improvement with a 16.7% increase. Condo sales were up by 12.8% and co-op sales by 7.0%. In Putnam County, single family house sales increased by 31.1%, albeit in comparison to very poor sales results last year.

On a seasonally adjusted<sup>1</sup> basis, the second quarter sales in Westchester were equivalent to an annual sales rate of some 6,810 units, an increase of about 2% from the prior quarter. Taking the first quarter of 2012 into consideration as well, the likely year-end total if this pace of sales persists will be in the range of 6,700 – 6,900 units in Westchester and 650-700 units in Putnam, making 2012 the strongest year since the real estate recession gripped our region in 2008.

#### Prices started to level out

The second quarter median sale price<sup>2</sup> of a Westchester single family house was \$619,000 – a slight decrease of 0.6% from last year. The \$156,250 cooperative median was also down by 0.6% and the condominium median of \$338,000 was down by 3.0% from a year ago. Mean<sup>2</sup> (average) sales prices were down by roughly the same percentages; for example, the mean sale price of a Westchester house was \$852,636, a decrease of 0.5% from last year. When all the averages track in the same direction together, it often signifies that all price ranges and property types are being affected

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the same way, in this case, by ever more gradual price reductions that appear close to bottoming out. High-end properties, defined as those selling for \$1 million or more, amounted to 22.7% of all single family house sales in Westchester, nearly the same ratio as was posted during the second quarters of 2011 and 2010.

In Putnam County, the median sale price of a single family house was \$299,500, a \$20,500 or 6.4% drop from last year. Putnam often lags Westchester on key volume and price indicators.

**Inventory tightened. Market drivers give mixed signals.**

There were 7,081 residential units listed for sale in the Multiple Listing Service in Westchester at the close of the quarter, 11.5% fewer than last year. In Putnam County the decrease was 11.7%. The recent spurt in sales volume accounted for some of the constriction of inventory, but most of it remained due to the reticence of property owners to enter the housing market while economic conditions remained shaky.

The closings that are the subject of this report were largely listed and negotiated during the 2011-2012 winter months and early spring. At that time, mortgage interest rates were quite low – in the range of 4.2-4.3% for 30-year conventional loans. They have since dropped below 4.0%. However, the current inherent affordability of mortgage financing is offset to some extent by much tighter lending criteria.

Uncertain Job growth and job security continue to retard consumer confidence in homebuying. Although unemployment in Westchester and Putnam is well below that of the nation or of New York State as a whole, it is still high here by historical standards. Further, in the opening months of 2012 when some of these closed listings were headed to contract, Westchester’s unemployment rates began to exceed 2011’s levels

– not by much, but enough to give pause to some prospective purchasers. And there still is not enough job growth to stimulate buying activity. The only truly positive indicator during that period was the improvement in the equities markets, especially the Dow Jones average, which we know subsequently lost all of its gains, plus more, by the beginning of June.

Still, these are conditions that existed some 3-4 months ago. There is much commentary by member Realtors in the field that there is very strong market activity right now which they are characterizing as release of pent-up demand. It will take another several months to know if all that showing and marketing activity results in a true, lasting market rebound.

<sup>1</sup> *The seasonally adjusted rate is an annualized rate for a given quarter. It represents what the total sales volume would be for the whole year based on prior quarters' customary shares of total annual sales.*

<sup>2</sup> *The median sale price is the mid-point of all reported sales, i.e., half of the properties sold for more than the median price and half for less. The median is not affected by unusually low or high sale prices. The mean sale price is the arithmetic average, i.e., the sum of all sales prices divided by the number of sales. The mean does reflect the influence of sales at unusually low or high prices.*

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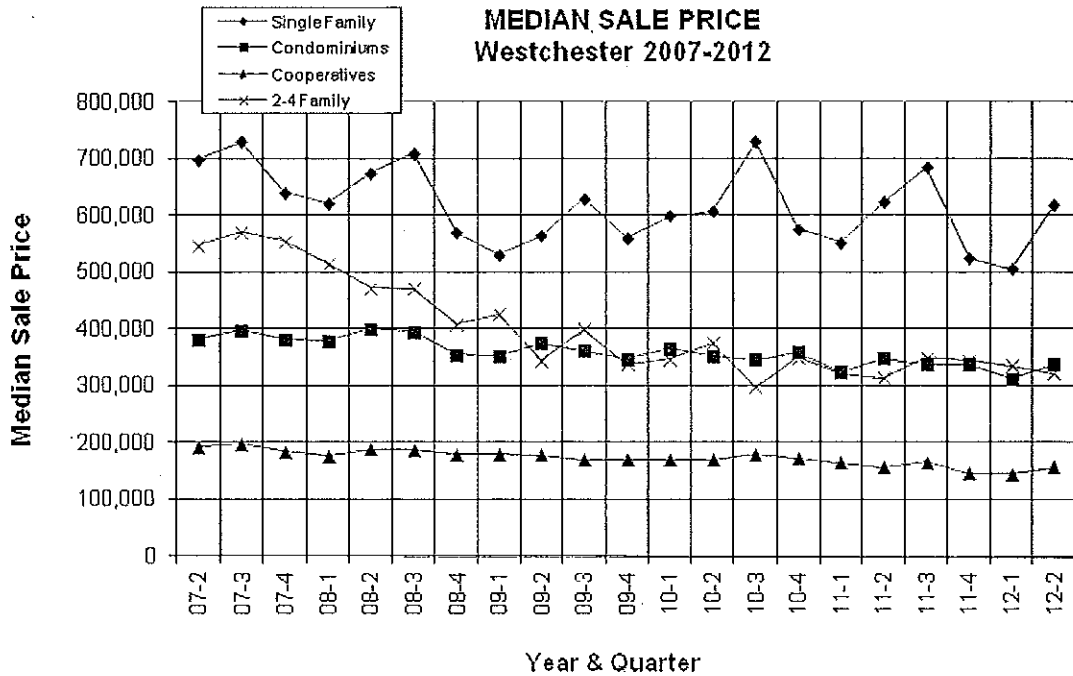
The Hudson Gateway Multiple Listing Service, Inc. (HGMLS) is a subsidiary of the Hudson Gateway Association of Realtors, Inc. (HGAR). The MLS consists of two divisions, one (MLS East) serving Westchester, Putnam, Bronx and Dutchess Counties, the other (MLS-West) serving Rockland, Orange, Sullivan and Ulster Counties. This report is prepared for the East Division and all data tables herein refer to Westchester County sales unless expressly noted otherwise. The West Division will provide separate data for its territory. The reported transactions do not include all real estate sales in the area or all sales assisted by the participating offices but they are fairly reflective of general market conditions.

HGMLS does not provide data on sub-county geographic areas. Persons desiring sub-county data are invited to contact participating real estate offices in the desired areas. Any text or data from this report may be reprinted with attribution to Hudson Gateway Multiple Listing Service, Inc. as the source. Prior reports dating back to 1981 are available on the Realtor Association's website, [www.hgar.com](http://www.hgar.com); click on Market Statistics. A membership directory searchable by municipality is also available on that site.

| Type Of Property          | NUMBER OF SALES |              |              |              | Change 11-12 |              |
|---------------------------|-----------------|--------------|--------------|--------------|--------------|--------------|
|                           | 2nd 09          | 2nd 10       | 2nd 11       | 2nd 12       | Amount       | Percent      |
| <b>Westchester County</b> |                 |              |              |              |              |              |
| Single Family Houses      | 706             | 1,193        | 986          | 1,151        | 165          | 16.7%        |
| Condominiums              | 172             | 315          | 219          | 247          | 28           | 12.8%        |
| Cooperatives              | 269             | 462          | 286          | 306          | 20           | 7.0%         |
| 2-4 Family Houses         | 80              | 103          | 92           | 84           | (8)          | -8.7%        |
| <b>Total</b>              | <b>2,073</b>    | <b>2,073</b> | <b>1,583</b> | <b>1,788</b> | <b>205</b>   | <b>13.0%</b> |
| <b>Putnam County</b>      |                 |              |              |              |              |              |
| Single Family Houses      | 131             | 184          | 122          | 160          | 38           | 31.1%        |
| Condos & Co-ops           | 18              | 24           | 21           | 17           | (4)          | -19.0%       |
| <b>Total</b>              | <b>149</b>      | <b>208</b>   | <b>143</b>   | <b>177</b>   | <b>34</b>    | <b>23.8%</b> |

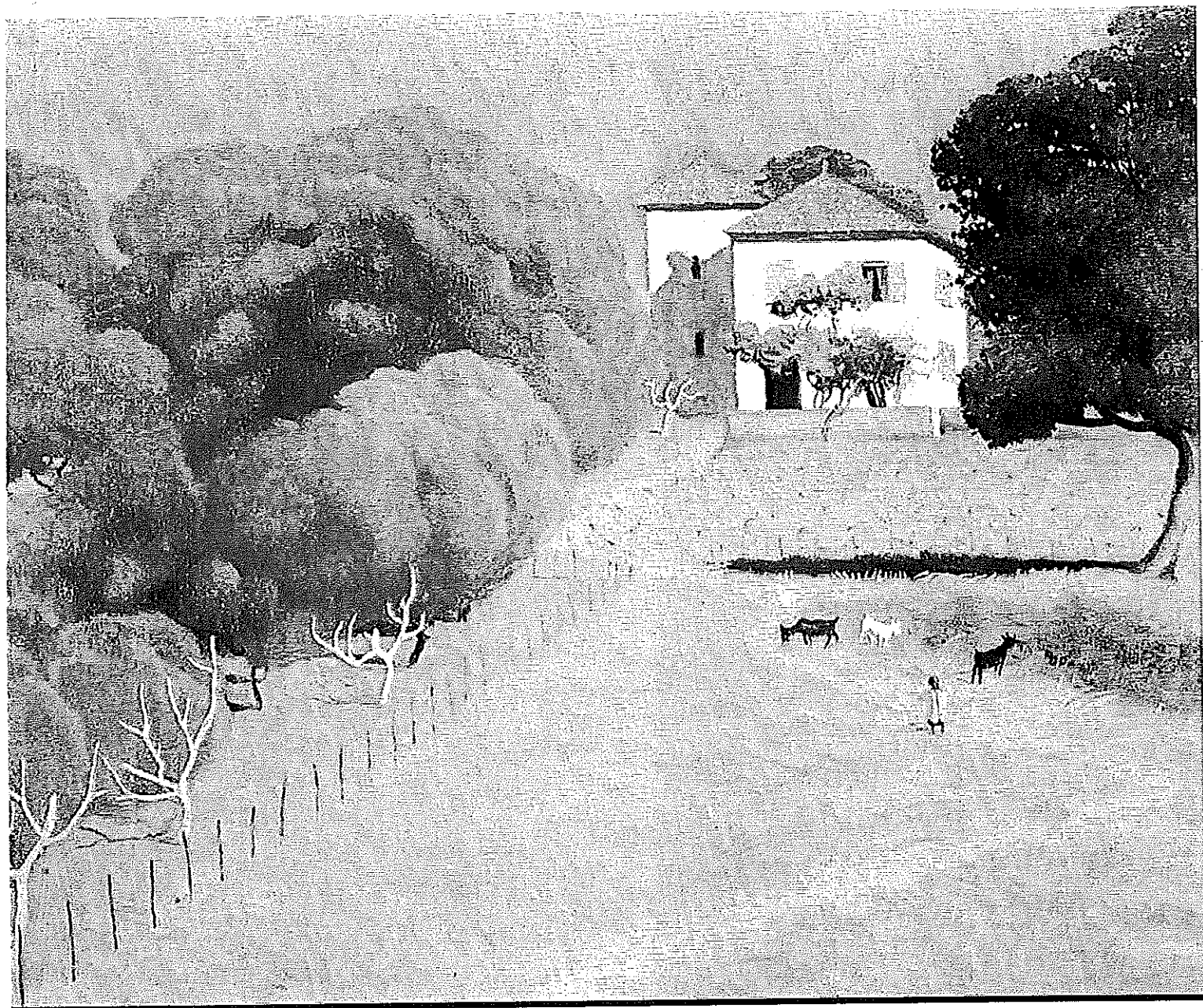
| Type Of Property          | YEAR TO DATE (JAN-JUN) SALES |              |              |              | Change 11-12 |             |
|---------------------------|------------------------------|--------------|--------------|--------------|--------------|-------------|
|                           | 2009                         | 2010         | 2011         | 2012         | Amount       | Percent     |
| <b>Westchester County</b> |                              |              |              |              |              |             |
| Single Family Houses      | 1,132                        | 1,949        | 1,706        | 1,881        | 175          | 10.3%       |
| Condominiums              | 303                          | 495          | 398          | 435          | 37           | 9.3%        |
| Cooperatives              | 500                          | 756          | 554          | 566          | 12           | 2.2%        |
| 2-5 Family Houses         | 142                          | 186          | 172          | 157          | (15)         | -8.7%       |
| <b>Total</b>              | <b>2,066</b>                 | <b>3,386</b> | <b>2,830</b> | <b>3,039</b> | <b>209</b>   | <b>7.4%</b> |
| <b>Putnam County</b>      |                              |              |              |              |              |             |
| Single Family Houses      | 219                          | 308          | 261          | 272          | 11           | 4.2%        |
| Condos & Co-ops           | 37                           | 37           | 36           | 36           | -            | 0.0%        |
| <b>Total</b>              | <b>255</b>                   | <b>345</b>   | <b>297</b>   | <b>308</b>   | <b>11</b>    | <b>3.7%</b> |

| Property Type             | SEASONALLY ADJUSTED QUARTERLY SALES, 2010 - 2012 |              |              |              |              |              |              |              |              |              | % Change 2012/1-2012/2 |
|---------------------------|--------------------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|------------------------|
|                           | 2010                                             |              | 2010         |              | 2011         |              | 2011         |              | 2012         |              |                        |
|                           | 2nd                                              | 3rd          | 4th          | 1st          | 2nd          | 3rd          | 4th          | 1st          | 2nd          |              |                        |
| <b>Westchester County</b> |                                                  |              |              |              |              |              |              |              |              |              |                        |
| Single Family             | 4,700                                            | 3,660        | 3,720        | 3,980        | 3,780        | 4,010        | 3,570        | 4,170        | 4,450        | 6.7%         |                        |
| Condominiums              | 1,210                                            | 810          | 820          | 900          | 800          | 840          | 830          | 970          | 880          | -9.3%        |                        |
| Cooperatives              | 1,850                                            | 900          | 1,010        | 1,260        | 1,060        | 1,120        | 1,220        | 1,200        | 1,140        | -5.0%        |                        |
| 2-4 Family                | 440                                              | 380          | 320          | 330          | 370          | 340          | 380          | 360          | 340          | -5.6%        |                        |
| <b>Total</b>              | <b>8,200</b>                                     | <b>5,750</b> | <b>5,870</b> | <b>6,470</b> | <b>6,010</b> | <b>6,310</b> | <b>6,000</b> | <b>6,690</b> | <b>6,810</b> | <b>1.8%</b>  |                        |
| <b>Putnam County</b>      |                                                  |              |              |              |              |              |              |              |              |              |                        |
| Single Family             | 700                                              | 500          | 550          | 730          | 640          | 760          | 660          | 540          | 630          | 16.7%        |                        |
| Condos+Co-ops             | 100                                              | 40           | 90           | 70           | 100          | 70           | 80           | 90           | 70           | -22.2%       |                        |
| <b>Total</b>              | <b>800</b>                                       | <b>540</b>   | <b>640</b>   | <b>800</b>   | <b>740</b>   | <b>830</b>   | <b>740</b>   | <b>630</b>   | <b>700</b>   | <b>11.1%</b> |                        |



| Type Of Property          | MEDIAN SALE PRICE |         |         |         | Change 11-12 |         |
|---------------------------|-------------------|---------|---------|---------|--------------|---------|
|                           | 2nd 09            | 2nd 10  | 2nd 11  | 2nd 12  | Amount       | Percent |
| <b>Westchester County</b> |                   |         |         |         |              |         |
| Single Family Houses      | 565,000           | 607,500 | 622,750 | 619,000 | (3,750)      | -0.6%   |
| Condominiums              | 375,875           | 352,250 | 348,500 | 338,000 | (10,500)     | -3.0%   |
| Cooperatives              | 178,000           | 169,500 | 157,250 | 156,250 | (1,000)      | -0.6%   |
| 2-4 Family Houses         | 344,750           | 375,000 | 314,000 | 321,750 | 7,750        | 2.5%    |
| <b>Putnam County</b>      |                   |         |         |         |              |         |
| Single Family Houses      | 325,000           | 306,750 | 320,000 | 299,500 | (20,500)     | -6.4%   |
| Condos & Co-ops           | 231,000           | 242,500 | 240,000 | 215,000 | (25,000)     | -10.4%  |

| Type Of Property          | END OF QUARTER INVENTORY |              |              |              | Change 11-12 |               |
|---------------------------|--------------------------|--------------|--------------|--------------|--------------|---------------|
|                           | 2nd 09                   | 2nd 10       | 2nd 11       | 2nd 12       | Amount       | Percent       |
| <b>Westchester County</b> |                          |              |              |              |              |               |
| Single Family Houses      | 4,393                    | 4,528        | 4,720        | 4,120        | (600)        | -12.7%        |
| Condominiums              | 1,024                    | 944          | 967          | 779          | (188)        | -19.4%        |
| Cooperatives              | 1,382                    | 1,511        | 1,721        | 1,626        | (95)         | -5.5%         |
| 2-4 Family Houses         | 603                      | 616          | 590          | 556          | (34)         | -5.8%         |
| <b>Total</b>              | <b>7,402</b>             | <b>7,599</b> | <b>7,998</b> | <b>7,081</b> | <b>(917)</b> | <b>-11.5%</b> |
| <b>Putnam County</b>      |                          |              |              |              |              |               |
| Single Family Houses      | 897                      | 977          | 1,008        | 899          | (109)        | -10.8%        |
| Condos & Co-ops           | 119                      | 144          | 133          | 108          | (25)         | -18.8%        |
| <b>Total</b>              | <b>1,016</b>             | <b>1,121</b> | <b>1,141</b> | <b>1,007</b> | <b>(134)</b> | <b>-11.7%</b> |



# WESTCHESTER MARKET WATCH

— THIRD QUARTER 2012 —



Julia B  
Fee

Sotheby's  
INTERNATIONAL REALTY

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## INTRODUCTION

We are delighted to report that single-family home sales in the majority of Westchester County demonstrated real vitality in the third quarter 2012, a finding that is consistent with recent national trends. While unit sales are not at pre-recession levels, they are significantly improved versus recent periods and are beginning to gain consistent momentum. Overall, Westchester County third quarter 2012 unit sales rose 16% compared to the same period in 2011, while dollar volume increased by a smaller 5%. Both the southern and northern parts of the county followed this trend line. The strength of the third quarter market performance puts our 2012 statistics in strong positive territory with Westchester County unit sales improving 13% year-to-date. With pending sales for the third quarter tracking ahead of 2011, we expect to end 2012 on a high note.

The recovery has not been easy, nor has it been consistent across markets or price points. But in spite of the uncertainty that remains on both the domestic and global fronts, there has been a measurable increase in demand. Today's buyers are stepping into the marketplace as they become more secure in their jobs and personal finances. They see real value with current price levels coupled with the meaningful advantage of record low interest rates.

More than ever Southern Westchester County has benefitted from its proximity to New York City. The historic trend of young families moving from New York City as their children reach school age continues and has become, in fact, a more pressing decision than ever in these uncertain financial times. Rents and school fees are high in New York, and families seek to make prudent financial decisions. Lower Westchester is an easy place to land for these families due to its quick train ride to Manhattan, excellent schools and large inventory of homes on manageable pieces of property.

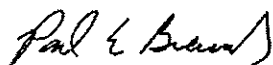
Stable prices are a key component in our housing recovery. We now feel that prices have stabilized at new lower levels in all but the highest-priced sectors, and consumers seem to have acknowledged this. As a result of the bottoming of the market, buyers are more confident in making a purchase. Value remains the driver in a successful sale due to the combination of well-informed buyers, depth of inventory and a real wariness on the part of consumers not to overspend on a property. We note that the ongoing weakness in luxury may in part be attributable to price value, as a number of our more expensive properties have not yet adjusted to today's perceived value.

The rental market remains robust as an alternative for would-be buyers. We expect rental prices to remain high and inventory levels low while we emerge from this period of housing weakness. While high rental prices will clearly encourage some people to buy, many other potential buyers are unable to make the jump at this point in time due to personal finances or the inability to sell their home.

In summary, all indicators suggest that our local housing markets are beginning to gain traction. We are optimistic about continued housing improvement at this juncture.

I hope you find our Third Quarter 2012 Westchester Market Watch helpful as you evaluate your own personal real estate holdings and plans for this coming year. At Julia B. Fee Sotheby's International Realty, we are committed to excellence in everything that we do by providing the highest level of service and expertise to buyers and sellers alike, in all price categories. If we can be of service, please don't hesitate to call.

With best regards,



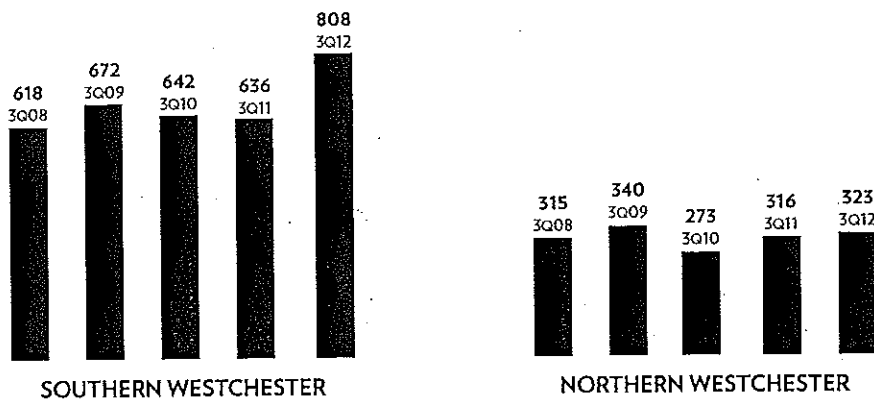
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# SINGLE-FAMILY HOME SALES CONTINUE TO GAIN TRACTION

Building on the unit sales improvements first seen in December 2011, housing activity this summer was vigorous compared to the third quarter of 2011, signifying our area's continued emergence from the housing crisis. In last quarter's market report we projected strong closed unit sales for the third quarter due to the high pending sales levels. This forecast proved to be accurate as third quarter 2012 closed sales volume increased by 16% in Westchester County compared to the third quarter of 2011. In concert with the positive closed sales figures, pending sales activity, which reflects those homes that have a contract on them but have not yet closed, was 19% higher during the third quarter of 2012 than during the same quarter of 2011, indicating continued buyer momentum as we moved through the late summer and into the autumn selling season.

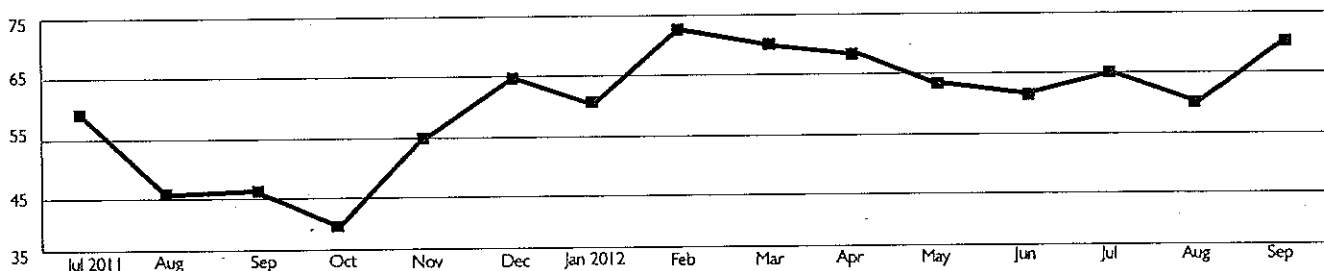
The Consumer Confidence Index currently stands at its highest level since February 2012 and remains ahead of last year. This gauge of consumer sentiment now stands at 70.3 (100=1985). Says Lynn Franco, Director of Economic Indicators at The Conference Board: "Consumers (this month) were more positive in their assessment of current conditions, in particular the job market, and considerably more optimistic about the short-term outlook for business conditions, employment and their financial situation. Despite continuing economic uncertainty, consumers are slightly more optimistic than they have been in several months." This improvement in consumer sentiment toward both their personal financial prospects as well as the current economic climate is important when viewed in the context of the excellent price-value situation with housing. As confidence improves buyers will continue to enter the market to take advantage of the favorable housing conditions.

SINGLE-FAMILY HOME PENDING SALES 2008 - 2012 (In Units)



There exists some ongoing friction in the housing market due to tight underwriting guidelines and changes in the appraisal process, which are designed to ensure a fair and accurate valuation of property. These factors, at times, have presented a challenge for buyers and sellers alike.

Westchester County experienced sales gains across all price ranges during the third quarter of 2012. Despite the dominance of the entry and mid-price range properties, the luxury segment also exhibited small signs of renewed activity. In Southern Westchester County, third quarter single family home sales improved by 15% and dollar volume by 17% compared to the third quarter of 2011.



The combination of an improvement in higher dollar volume and an improvement in unit sales reflects the increased activity in the higher end. In Northern Westchester County unit sales increased by 14%, while dollar volume rose by 4%. What is critical is that unlike a typical summer, which is normally a slow time for agents in our area, this year was robust with activity as a new group of prospective buyers began their home search. This was in contrast to the lack of activity in the third quarter of 2011. We are optimistic that our fourth quarter 2012 sales will surpass last year and that we will conclude the year with more single-family home sales than 2011.

Today's Westchester County buyer represents a broad spectrum from first time homebuyers to relocating executives. Activity is being led by buyers migrating from New York City, looking to simplify their lifestyle. Coop boards, private schools and weekends commuting to the beach are easily replaced with the convenience of the historic lower Westchester communities, exceptional public and private schools and the beauty of local beaches. The local buyer, who has traditionally been a core client base, is also

**SINGLE-FAMILY HOME PENDING & CLOSED SALES**

**SOUTHERN WESTCHESTER**

|                  | PENDING SALES |      |               | CLOSED SALES |      |      |      |      | CLOSED DOLLAR VOLUME |      | DOM* |
|------------------|---------------|------|---------------|--------------|------|------|------|------|----------------------|------|------|
|                  | 2012          | 2011 | 2012 vs. 2011 | 2012         | 2011 | 2010 | 2009 | 2008 | 2012 vs. 2011        | 2012 |      |
| SO. WESTCHESTER  | 808           | 636  | 27%           | 1105         | 957  | 879  | 819  | 893  | 15%                  | 17%  | 144  |
| Ardley           | 16            | 17   | 6%            | 30           | 24   | 31   | 16   | 19   | 25%                  | 44%  | 142  |
| Blind Brook      | 12            | 18   | -33%          | 21           | 21   | 21   | 18   | 23   | 0%                   | 5%   | 148  |
| Briarcliff Manor | 20            | 11   | 82%           | 25           | 20   | 19   | 23   | 26   | 25%                  | 38%  | 172  |
| Bronxville       | 10            | 10   | 0%            | 31           | 26   | 32   | 13   | 22   | 19%                  | 7%   | 132  |
| Dobbs Ferry      | 11            | 10   | 10%           | 20           | 18   | 11   | 11   | 17   | 11%                  | 15%  | 185  |
| Eastchester      | 24            | 22   | 9%            | 28           | 26   | 21   | 31   | 37   | 8%                   | 3%   | 117  |
| Edgemont         | 19            | 10   | 90%           | 33           | 21   | 25   | 26   | 18   | 57%                  | 44%  | 171  |
| Elmsford         | 18            | 12   | 50%           | 12           | 8    | 8    | 10   | 6    | 50%                  | 48%  | 155  |
| Greenburgh       | 30            | 27   | 11%           | 26           | 32   | 33   | 17   | 33   | 19%                  | 7%   | 146  |
| Hartsdale (P.O.) | 19            | 14   | 36%           | 23           | 20   | 18   | 9    | 21   | 15%                  | 16%  | 136  |
| Harrison         | 29            | 29   | 0%            | 40           | 45   | 46   | 40   | 27   | -11%                 | -39% | 142  |
| Hastings         | 16            | 18   | -11%          | 17           | 17   | 19   | 11   | 19   | 0%                   | 9%   | 138  |
| Irvington        | 22            | 7    | 214%          | 38           | 16   | 15   | 12   | 18   | 138%                 | 53%  | 137  |
| Mamaroneck**     | 46            | 40   | 15%           | 90           | 103  | 77   | 78   | 79   | -13%                 | -16% | 132  |
| Mount Pleasant   | 26            | 25   | 4%            | 28           | 23   | 15   | 17   | 24   | 22%                  | 11%  | 111  |
| Mount Vernon     | 24            | 25   | -4%           | 25           | 27   | 19   | 28   | 30   | -7%                  | -4%  | 156  |
| New Rochelle     | 81            | 63   | 29%           | 91           | 69   | 61   | 57   | 74   | 32%                  | 43%  | 147  |
| Ossining         | 44            | 36   | 22%           | 42           | 47   | 52   | 31   | 41   | -11%                 | -11% | 164  |
| Pelham           | 18            | 15   | 20%           | 50           | 34   | 28   | 29   | 35   | 47%                  | 21%  | 154  |
| Pleasantville    | 19            | 11   | 73%           | 26           | 14   | 14   | 11   | 17   | 86%                  | 79%  | 114  |
| Pocantico Hills  | 1             | 1    | 0%            | 4            | 2    | 2    | 2    | 2    | 100%                 | 160% | 78   |
| Port Chester     | 19            | 13   | 46%           | 27           | 16   | 14   | 13   | 26   | 69%                  | 53%  | 133  |
| Purchase (P.O.)  | 9             | 10   | -10%          | 5            | 9    | 10   | 6    | 7    | -44%                 | -66% | 184  |
| Rye City         | 25            | 25   | 0%            | 53           | 52   | 48   | 44   | 26   | 2%                   | 19%  | 145  |
| Rye Neck         | 11            | 10   | 10%           | 15           | 23   | 15   | 14   | 19   | 35%                  | -62% | 109  |
| Scarsdale        | 57            | 40   | 43%           | 90           | 82   | 93   | 65   | 65   | 10%                  | 20%  | 128  |
| Tarrytown        | 15            | 10   | 50%           | 22           | 16   | 9    | 16   | 18   | 38%                  | 48%  | 94   |
| Tuckahoe         | 6             | 10   | -40%          | 11           | 9    | 8    | 13   | 9    | 22%                  | 12%  | 164  |
| Valhalla         | 12            | 2    | 500%          | 15           | 11   | 12   | 17   | 18   | 18%                  | 28%  | 215  |
| White Plains     | 57            | 44   | 30%           | 72           | 51   | 67   | 52   | 60   | 41%                  | 59%  | 142  |
| Yonkers          | 120           | 77   | 56%           | 125          | 104  | 84   | 104  | 82   | 20%                  | 21%  | 136  |

\*DOM: Median Days on Market \*\*Mamaroneck School District includes Larchmont P.O.

tentatively stepping back into the market due to stabilization in pricing. Importantly, the diversity, convenience and sophistication of lower Westchester are also attractive to international buyers, who, in these fragile economic times, deserve added emphasis. The commonality among all buyers is that they remain firmly value-driven. Through their buyers' agents and the internet, they are well-informed about market conditions and will simply pass over any house they feel is priced unrealistically.

All real estate is local, and we have seen marked differences in performance from community to community. In lower Westchester County, Bronxville is notable as it has experienced a 19% gain in closed sales for the third quarter of 2012 and a 54% year-to-date improvement in unit sales, with activity spanning all price points. Buyer demand is high, but now inventory is holding back sales. Bronxville is a community that is benefitting from today's lifestyle trends – smaller is better, homes that are walkable to town are desirable, the train is a positive and excellent schools are a must.

**SINGLE-FAMILY HOME PENDING & CLOSED SALES**

**NORTHERN WESTCHESTER**

|                   | PENDING SALES |      |               | CLOSED SALES |      |      |      |      |               | CLOSED DOLLAR VOLUME |      | DOM |
|-------------------|---------------|------|---------------|--------------|------|------|------|------|---------------|----------------------|------|-----|
|                   | 3Q12          | 3Q11 | 3Q12 vs. 3Q11 | 3Q12         | 3Q11 | 3Q10 | 3Q09 | 3Q08 | 3Q12 vs. 3Q11 | 3Q12 vs. 3Q11        | 3Q12 |     |
| NO. WESTCHESTER   | 323           | 316  | 2%            | 429          | 376  | 345  | 381  | 481  | 14%           | 4%                   | 144  |     |
| Bedford           | 33            | 50   | -32%          | 63           | 59   | 56   | 56   | 50   | 7%            | 18%                  | 158  |     |
| Byram Hills       | 31            | 26   | 19%           | 41           | 42   | 47   | 30   | 33   | -2%           | -17%                 | 133  |     |
| Chappaqua         | 27            | 33   | -18%          | 52           | 58   | 39   | 53   | 74   | -7%           | 11%                  | 123  |     |
| Croton-Harmon     | 17            | 13   | 31%           | 12           | 18   | 15   | 11   | 24   | -33%          | -26%                 | 107  |     |
| Hendrick Hudson   | 19            | 19   | 0%            | 29           | 22   | 24   | 27   | 30   | 32%           | 33%                  | 119  |     |
| Katonah-Lewisboro | 41            | 29   | 41%           | 69           | 41   | 53   | 42   | 58   | 68%           | 53%                  | 168  |     |
| Lakeland          | 52            | 52   | 0%            | 53           | 52   | 37   | 59   | 56   | 2%            | 1%                   | 147  |     |
| North Salem       | 12            | 9    | 33%           | 17           | 10   | 11   | 12   | 25   | 70%           | 61%                  | 181  |     |
| Peekskill         | 25            | 14   | 79%           | 14           | 12   | 8    | 14   | 13   | 17%           | 28%                  | 161  |     |
| Somers            | 25            | 35   | -29%          | 28           | 26   | 24   | 37   | 28   | 8%            | -6%                  | 114  |     |
| Yorktown          | 41            | 36   | 14%           | 49           | 38   | 31   | 40   | 44   | 29%           | 39%                  | 140  |     |

\*DOM: Median Days on Market

RYE, NY - MLS: 3208618



# REALISTIC PRICING IS THE KEY TO A SUCCESSFUL SALE

Prices continue to stabilize as demand improves and inventory returns to healthier levels. Low to mid-priced homes, where activity is heavily concentrated, are clearly the most stable as sellers and buyers alike utilize real benchmarks and competition to determine fair market value. In the luxury segment, high prices continue to be a challenge as many homes have not yet adjusted to the new norm, which is telling us that all price points have been affected by the recession.

Buyers remain price-driven. They are seeking real value in a home and are exceptionally knowledgeable about their chosen price category. Buyers want turnkey properties, even down to a freshly painted house. Lack of time and vision on the part of buyers requires that sellers present their homes in pristine condition. An emerging trend is that many buyers today are factoring the total

## SINGLE-FAMILY HOME MEDIAN SALES PRICE CHANGE: 2012 - 2009

## SOUTHERN WESTCHESTER

|                  | MEDIAN SALES PRICE |           |           |           |           |           | YOY CHANGE    |               |
|------------------|--------------------|-----------|-----------|-----------|-----------|-----------|---------------|---------------|
|                  | 2012               | 2011      | 2010      | 2009      | 2008      | 2007      | 2012 vs. 2011 | 2012 vs. 2007 |
| SO. WESTCHESTER  | \$594,000          | \$632,000 | \$635,500 | \$608,750 | \$675,000 | \$692,250 | -6%           | -14%          |
| Ardley           | 515,000            | 592,000   | 595,000   | 608,500   | 652,500   | 695,000   | 13%           | -26%          |
| Blind Brook      | 739,000            | 769,000   | 760,000   | 720,000   | 820,000   | 904,500   | -4%           | -18%          |
| Briarcliff Manor | 742,000            | 681,505   | 725,000   | 857,500   | 930,000   | 892,500   | 9%            | -17%          |
| Bronxville       | 1,278,000          | 1,715,000 | 1,755,000 | 1,842,500 | 1,772,500 | 2,000,000 | -25%          | -36%          |
| Dobbs Ferry      | 668,000            | 601,000   | 629,650   | 591,000   | 630,000   | 695,000   | 11%           | -4%           |
| Eastchester      | 579,000            | 599,000   | 612,500   | 615,000   | 669,000   | 675,000   | -3%           | -14%          |
| Edgemont         | 972,000            | 879,000   | 1,115,000 | 870,000   | 1,110,000 | 985,000   | 11%           | -1%           |
| Elmsford         | 401,000            | 393,000   | 450,000   | 450,000   | 410,000   | 536,000   | -2%           | -25%          |
| Greenburgh       | 429,000            | 458,500   | 442,500   | 510,000   | 531,000   | 540,250   | -6%           | 21%           |
| Hartsdale (P.O.) | 517,000            | 519,000   | 528,000   | 559,000   | 605,000   | 599,000   | 0%            | -14%          |
| Harrison         | 957,000            | 1,270,000 | 1,250,000 | 1,180,000 | 1,480,000 | 1,575,000 | -25%          | -39%          |
| Hastings         | 635,000            | 695,000   | 675,000   | 595,000   | 779,000   | 770,000   | -9%           | -18%          |
| Irvington        | 692,000            | 813,000   | 710,000   | 765,000   | 790,000   | 915,000   | -15%          | 24%           |
| Mamaroneck**     | 994,000            | 967,000   | 955,000   | 889,500   | 999,500   | 993,500   | 3%            | 0%            |
| Mount Pleasant   | 497,000            | 500,000   | 515,000   | 522,500   | 581,750   | 606,100   | -1%           | -18%          |
| Mount Vernon     | 319,000            | 331,000   | 342,500   | 390,000   | 470,000   | 480,000   | -4%           | -34%          |
| New Rochelle     | 564,000            | 611,000   | 625,000   | 585,000   | 652,500   | 675,000   | -8%           | -16%          |
| Ossining         | 363,000            | 395,000   | 431,500   | 437,250   | 457,000   | 475,000   | -9%           | -24%          |
| Pelham           | 660,000            | 812,000   | 780,000   | 765,000   | 836,000   | 779,500   | -9%           | -15%          |
| Pleasantville    | 520,000            | 534,000   | 620,000   | 647,750   | 635,250   | 630,000   | -3%           | -17%          |
| Pocantico Hills  | 704,000            | 528,000   | 682,500   | 634,000   | 1,042,000 | 985,000   | 33%           | -29%          |
| Port Chester     | 403,000            | 411,000   | 440,000   | 442,500   | 470,000   | 519,000   | -2%           | -22%          |
| Purchase (P.O.)  | 1,418,000          | 1,546,000 | 2,100,000 | 1,550,000 | 1,650,000 | 1,910,000 | -8%           | -26%          |
| Rye City         | 1,734,000          | 1,286,000 | 1,250,000 | 1,268,750 | 1,675,000 | 1,412,500 | 35%           | 23%           |
| Rye Neck         | 709,000            | 766,000   | 925,000   | 1,075,000 | 742,500   | 812,000   | -7%           | -13%          |
| Scarsdale        | 1,224,000          | 1,192,000 | 1,245,250 | 1,112,000 | 1,373,000 | 1,410,000 | 3%            | -13%          |
| Tarrytown        | 574,000            | 616,000   | 552,808   | 635,000   | 650,000   | 697,500   | -7%           | -18%          |
| Tuckahoe         | 622,000            | 583,000   | 635,500   | 641,250   | 758,500   | 690,000   | 7%            | -10%          |
| Valhalla         | 421,000            | 484,000   | 541,250   | 551,500   | 575,000   | 619,500   | -13%          | -52%          |
| White Plains     | 567,000            | 563,000   | 575,000   | 605,750   | 640,000   | 667,500   | 1%            | -15%          |
| Yonkers          | 408,000            | 422,000   | 439,500   | 449,950   | 500,000   | 500,000   | -3%           | -18%          |

\*Median sales price represents rolling twelve-month data \*\*Mamaroneck School District includes Larchmont P.O.

cost of ownership into the home purchase decision. This means that the traditional way of evaluating the cost of a house, which was to factor in mortgage interest, insurance and taxes, is being replaced with a more comprehensive cost analysis that encompasses household maintenance, anticipated repairs and utility costs.

We first noted in January that generally there has been a better marriage between buyer and seller expectations. This continues to be borne out in the marketplace. Sellers today are well-aware of today's conditions and are more accepting of current price levels. Buyers, while still looking for a "deal," typically recognize a realistic valuation. As sales levels continue to improve and more trend data is available, we believe consumer expectations will draw ever more closely together.

Buyers are in the market in substantially greater numbers than this time last year. However, they are ready to wait for the right product to commit to a purchase. Therefore, if they do not identify a home that fully meets their needs and is priced realistically, they remain in a holding pattern until inventory improves or prices adjust to current market conditions. Stale or low inventory levels represent a unique challenge at this time of the year, when our short fall selling season generally results in a smaller number of homes coming onto the market than at other times.

Despite the improvements in unit sales we do remain in a buyers' market. However, there are some early signs that in the most competitive price categories the balance of power between buyers and sellers may be starting to equalize.

In Westchester County the median selling price for a single family home has declined slightly from the same period last year to \$570,000. This is primarily a reflection of the predominance of low to mid-price homes being sold, although there is no question there remains price pressure in the marketplace. In Southern Westchester County the twelve month median selling price now stands at \$594,000, a 6% decline versus the same period a year ago. In Northern Westchester County the twelve month median selling price is now \$498,000, a 5% decline versus a year ago.

For sellers at this point in time the critical thing to know about pricing is that values are down across the board, below their high point by 20 to 30%. To effectively compete for buyers in this market, homes must be priced to reflect this new norm. Buyers should realize that as demand improves we will begin to see some price appreciation, anticipated to begin in the entry price segment where demand is strongest.

**SINGLE-FAMILY HOME MEDIAN SALES PRICE CHANGE: 2012 - 2009**

**NORTHERN WESTCHESTER**

|                   | MEDIAN SALES PRICE* |           |           |           |           |           | YOY CHANGE   |              |
|-------------------|---------------------|-----------|-----------|-----------|-----------|-----------|--------------|--------------|
|                   | 2012                | 2011      | 2010      | 2009      | 2008      | 2007      | 2012 VS 2011 | 2012 VS 2007 |
| NO. WESTCHESTER   | \$498,000           | \$526,000 | \$555,000 | \$526,000 | \$625,000 | \$635,000 | -5%          | -22%         |
| Bedford           | 764,000             | 744,000   | 765,750   | 742,500   | 955,000   | 1,067,000 | 3%           | -28%         |
| Byram Hills       | 869,000             | 1,100,000 | 928,750   | 1,150,000 | 999,999   | 1,050,000 | -21%         | -17%         |
| Chappaqua         | 810,000             | 845,000   | 890,050   | 887,500   | 999,999   | 1,120,000 | -4%          | -28%         |
| Croton-Harmon     | 473,000             | 525,000   | 451,000   | 514,250   | 515,000   | 515,000   | -10%         | -8%          |
| Hendrick Hudson   | 349,000             | 436,750   | 417,500   | 410,000   | 413,000   | 456,250   | -20%         | -24%         |
| Katonah-Lewisboro | 614,000             | 626,000   | 680,000   | 630,450   | 807,000   | 781,000   | -2%          | -21%         |
| Lakeland          | 315,000             | 342,000   | 341,000   | 375,000   | 415,000   | 425,000   | -8%          | -26%         |
| North Salem       | 446,000             | 549,000   | 512,000   | 526,000   | 665,000   | 782,500   | -19%         | -43%         |
| Peekskill         | 239,000             | 250,000   | 245,750   | 309,000   | 357,500   | 360,000   | -4%          | -34%         |
| Somers            | 499,000             | 524,000   | 590,000   | 575,000   | 617,000   | 667,025   | -5%          | -25%         |
| Yorktown          | 390,000             | 405,000   | 427,500   | 434,500   | 507,000   | 530,000   | -4%          | -26%         |

\*Median sales price represents rolling twelve-month data

## CONDOMINIUMS AND COOPERATIVES BEGINNING TO RECOVER

The condominium and cooperative markets are showing some renewed signs of life, with activity strengthening in the third quarter of 2012 compared to both the beginning of this year as well as the third quarter of 2011. Overall in Westchester County condominium sales for the quarter are up by 20% versus the third quarter of 2011 and 15% for the year. Cooperative sales have also seen an uptick, although by a smaller magnitude than condominiums. Unit sales of cooperatives in the third quarter rose by 11% and are ahead of last year by 6% year-to-date.

Condominiums are seemingly leading the way back for the condo-coop market, most likely because they are generally easier to qualify for and finance than a coop. They are also often less restrictive in terms of lifestyle choices such as pet policies and the ability to rent the unit.

While the market is slowly returning to health, the same challenges we have been discussing for some time are affecting sales. These notably include the improved affordability of single family homes for first-time homebuyers, the challenges facing would-be downsizers to sell their homes at an acceptable price to them and the stringent condominium and coop lending guidelines. Despite the ongoing headwinds, we do think that this market will come back in the near future as the single family home market improves and inventory levels shrink. There has been minimal new building in this segment these past several years, so supply and demand will eventually catch up.

### CONDOMINIUM AND COOPERATIVE CLOSED SALES AND MEDIAN SALES PRICE CHANGE

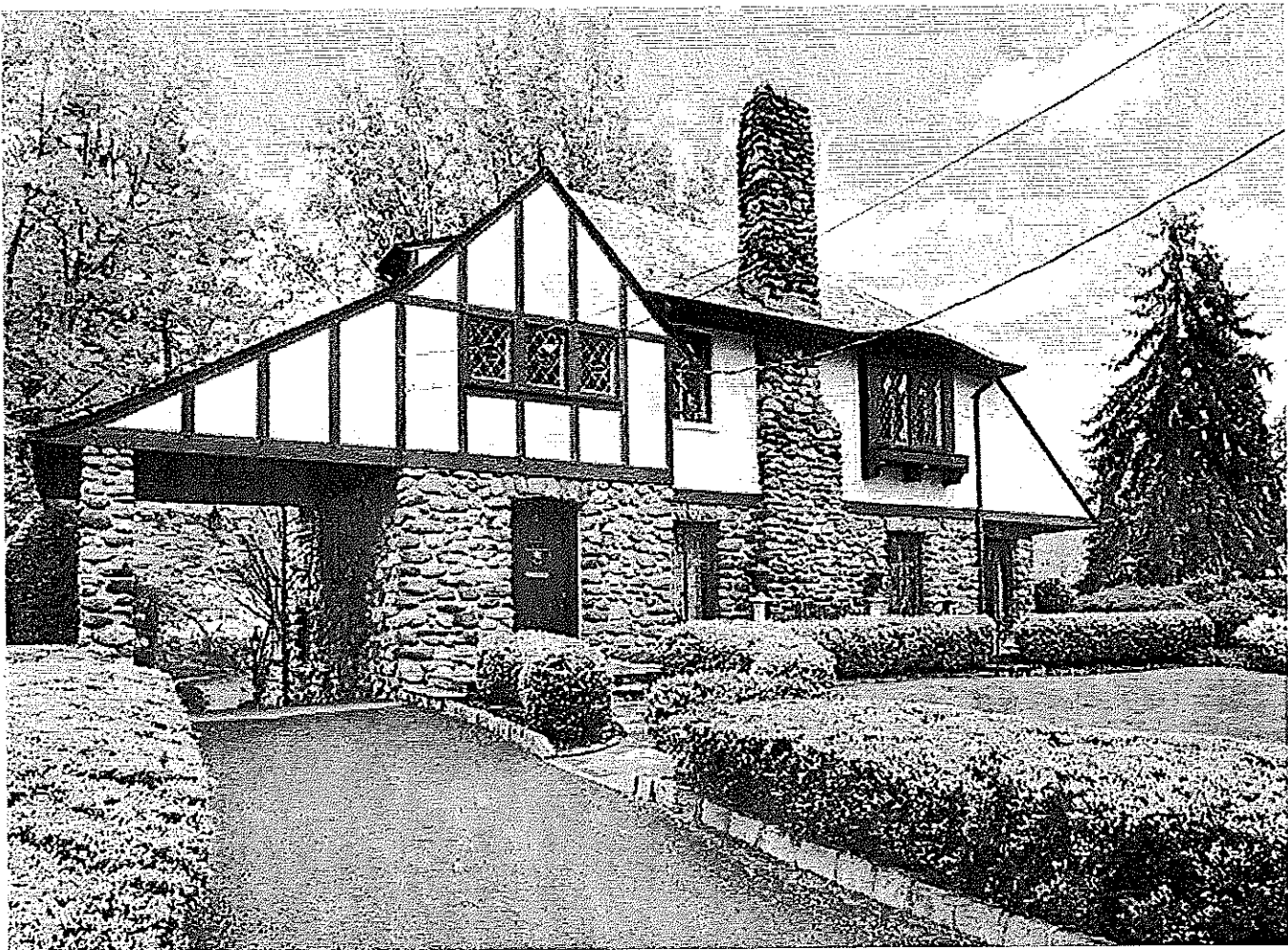
|                 | CLOSED SALES |      |      |               |               | MEDIAN SALES PRICE* |           |               | INVENTORY LEVEL CHANGE | DAYS ON MARKET |
|-----------------|--------------|------|------|---------------|---------------|---------------------|-----------|---------------|------------------------|----------------|
|                 | 3Q12         | 3Q11 | 3Q10 | 3Q12 vs. 3Q11 | 3Q12 vs. 3Q10 | 3Q12                | 3Q11      | 3Q12 vs. 3Q11 | 3Q12 vs. 3Q11          | 3Q12           |
| Southern: Condo | 163          | 144  | 150  | 13%           | 9%            | \$370,000           | \$365,000 | 1%            | -22%                   | 153            |
| Southern: Coop  | 326          | 290  | 249  | 12%           | 31%           | \$153,000           | \$169,000 | -9%           | -5%                    | 166            |
| Northern: Condo | 113          | 89   | 83   | 27%           | 36%           | \$287,000           | \$308,000 | -7%           | -14%                   | 121            |
| Northern: Coop  | 13           | 13   | 10   | 0%            | 30%           | \$89,000            | \$104,000 | 14%           | 1%                     | 157            |

\*Median sales price represents rolling twelve-month data

## LUXURY MARKET PERFORMANCE VARIES

The luxury home market is slower to come back than we would have hoped. Coming off improved activity in the second quarter of this year, both pending and closed units in the third quarter declined compared to the same period in 2011. Despite the somewhat erratic quarterly sales activity, this year homes valued at \$3,000,000 and above are tracking at the same levels as last year. The \$4,000,000 to \$5,000,000 segment is enjoying the greatest improvement with 33 homes being sold year-to-date in 2012 versus 24 homes transacted in the same period last year.

We are fortunate in Southern Westchester County to have a number of one-of-a-kind properties that will hold their appeal no matter what the housing conditions are. In Southern Westchester we have waterfront homes with views of Long Island Sound and the Manhattan skyline, while in Northern Westchester we have large equestrian properties with private trails and stunning manor houses. Given our proximity to New York City, Westchester County attracts a diverse high end population – notably the international buyer who continues to want to invest in the United States as well as the sophisticated Manhattan buyer. These buyers have been in our ultra-luxury market, purchasing homes that they know may not come on the market again for generations. As perspective, in the height of 2006-2007, prices at the highest end of the Rye-Harrison market hovered around \$10,000,000, and one sale at this price point produced about \$1,691 per square foot. In the last twelve months Rye's highest sale closed for \$19.7 million with a \$2,294 price per square foot value, and there have been three transactions over \$10,000,000 in that period.



DRAMATIC AND ONE-OF-A-KIND

SCARSDALE, NY - MLS: 3214871

## WHERE WE ARE HEADED

We are optimistic as we enter the fourth quarter of 2012 that our local housing market will continue to strengthen. We expect both business and buyer confidence to improve as we get through the November elections and have increased clarity regarding our country's leadership and policies. The continued strength of the pending sales numbers is a strong indicator of solid demand, particularly for low to mid-priced homes, as we move into the final quarter of this year.

Market trends that will continue to define those homes that are in highest demand are consistent with today's busy, eco-friendly and more conservative lifestyle trends. These include "right-sized" homes – defined as homes that are not too big or too small for a family's needs, have manageable property, are located in close proximity, within walking distance if possible, to town centers and transportation, feature high quality finishing and importantly are "done." Today's buyers are not willing to settle and have limited time and interest to deal with extensive renovations. They typically want to move in and begin enjoying their new surroundings. Those homes that require work of any significant magnitude require a substantial discount to be appealing, and even then the buyer pool is limited.

We have come a long way from three years ago when it was almost impossible to sell a home. Demand is back, and our markets are becoming stronger by the quarter. We expect the recovery to remain uneven, but are confident the worst is behind us and that we will all be the beneficiaries of improving home sales.

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Information Sources: Case-Schiller reports, Various MLS services, National Association of Realtors, Connecticut Economic Digest, local mortgage brokers, Realty Trac, HGMLS. While information is believed true, no guaranty is made for accuracy. Cover art: "La Maison au Toit, used with permission

From: William Marr [mailto:William.Marr@greenwichct.org]  
Sent: Wednesday, December 12, 2012 09:57 AM  
To: Peter Tesei <Peter.Tesei@greenwichct.org>  
Cc: Diane Fox <Diane.Fox@greenwichct.org>; Pilla, Dennis Mayor (Internal E-Mail); silvermtns@aol.com <silvermtns@aol.com>  
Subject: Re: Grandfathering?

Mayor Pilla,  
Old building or trade permits are handled as follows:

When a title searcher finds an old permit that was never issued a Certificate of Occupancy [CO] we require them to submit a letter requesting that we research the permit to see what was not completed and therefore prevented our office from issuing the CO. The reason usually is that the owner or contractor did not complete the inspection process by failing to schedule all the required inspections.

We charge a \$30 fee per permit for this research which sometimes can be quite involved. Our permit records go back to 1926 so we do have many permits that fall into this category.

There are several options that result from this research:

1. Issuance of a letter for each permit. - The CT State Building Code Section 110 [which quotes the CT General Statutes] allows for continued occupancy of a building 6 years after substantial completion of the work under certain conditions. I have attached a copy of a sample letter that we use that quotes this code section. The letter also has a disclaimer basically stating that the owner/contractor did not schedule all of the final inspections and therefore we were not given the opportunity to make the required final inspections to ensure safety of life or property. It also has a note about zoning compliance. Attorney's in Town refer to this letter as a "six-year letter". They seem to be content to accept this letter at closings as "closing out" the permit. We do not consider the permit as "closed out" once the letter is issued and the permit status is still without a CO.

2. Inspections - If the permit is fairly recent [last 10 years], there has been no inspection activity on the permit for at least six years, and meets all the following criteria we will make inspections for the purpose of issuing a CO:

- a. Research indicates that all the preliminary inspections [rough inspections] were made and approved and the permit is only lacking final inspections.

- b. The scope of the permit is such that we are comfortable making the final inspection[s].

This decision is made on a case by case basis depending on the circumstances of the permit and type of permit that it is.

3. If the permit is more than six years old but there is evidence in our files that there has been activity [inspections] on the permit within the last six years [indicating that the work has not been completed for the minimum six years] the permit is required to comply with all normal inspection procedures to obtain a CO. It is not eligible for the letter.

4. If the permit is not more than six years old none of the above options apply and the permit is required to comply with all normal inspection procedures to obtain a CO. It is not eligible for the letter.

We do not issue the letter for swimming pool or spa permits regardless of the age of the permit. These permits are required to be reactivated and pools/spas retrofitted, if needed, to comply with the current building code.

(See attached file: Shortcut to EXBLDGPeden.doc) SAMPLE SIX YEAR LETTER

If you or the Building Official has any questions feel free to call me at  
203-622-7755

Bill Marr  
Building Official

December 5, 2012

Tom S. Ward, Jr., Esq.  
Ivey, Barnum and O'Mara LLC  
170 Mason Street  
Greenwich, CT 06830

Re: Permit No. 5-2917 (issued 7.26.2005)

62 Lockwood Lane, Riverside

Dear Mr. Ward, Jr.:

In regard to the above referenced permit(s), please be advised that Section R110.1, of the 2005 Connecticut State Building Code (CSBC) states, "Nothing in this code shall require the removal, alteration or abandonment of, or prevent the continuance of the use and occupancy of a single family dwelling within six years of the date of occupancy of such dwelling after substantial completion of construction of, alteration to or addition to such dwelling, or of a building lawfully existing on October 1, 1945, except as may be necessary for the safety of life or property".

It shall be noted that this letter does not constitute any final approvals from this office for the work filed under the above referenced permit(s), since a building permit was filed but all required inspections were not requested in a timely manner by the permit applicant or owner after completion of the work and, therefore, not made by this office to verify compliance with applicable zoning regulations and building codes. It shall also be noted that because the permit holder and/or owner did not schedule all required inspections as required by Section 109.5, CSBC, this office was not provided the opportunity to conduct inspections to ensure the safety of life or property.

If you have any questions regarding this matter feel free to contact this office.

Very truly yours,

William J. Marr  
Building Official

/svz

# RESOLUTIONS

**SEQR DETERMINATION OF SIGNIFICANCE  
POSITIVE DECLARATION AND  
ADOPTION OF SCOPING DOCUMENT FOR SITE-SPECIFIC DRAFT  
ENVIRONMENTAL IMPACT STATEMENT (DEIS)**

**UNITED HOSPITAL REDEVELOPMENT**

**January 7, 2012**

**WHEREAS**, on or about May 21, 2012, PC406 BPR, LLC (the "Applicant") submitted a Petition to the Village Board of Trustees (the "Board") proposing zoning text and map amendments to the Village Code, Chapter 345, relating to the proposed redevelopment of approximately 14.15 acres of land located at 406 Boston Post Road in the Village of Port Chester, consisting of a portion of the former United Hospital site, which proposed redevelopment would be for mixed residential, office and commercial uses (the "Proposed Action"); and

**WHEREAS**, the Petition was accompanied by a Site Plan Application, Long-Form Environmental Assessment Form ("EAF") prepared pursuant to the New York State Environmental Quality Review Act ("SEQRA") and draft scoping document for the preparation of a site-specific draft environmental impact statement (DEIS); and

**WHEREAS**, that pursuant to Part 617 of the SEQR Regulations, the Village Board of Trustees accepted the zoning text and map amendment petition on November 19, 2012 in order to commence the SEQRA review process and designated itself as the Lead Agency for the SEQR Review of this Type I Action; and received no objection from any interested and involved agencies; Now, therefore, be it

**RESOLVED**, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Type I Action will have a significant effect on the environment for the reasons enumerated in the attached Positive Declaration Form and supporting documentation.

**BE IT FURTHER RESOLVED**, that the Board of Trustees approves said draft scoping document for the purposes of scheduling a public scoping session on \_\_\_\_\_ 2013.

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney

State Environmental Quality Review  
**POSITIVE DECLARATION**  
 Notice of Intent to Prepare a Draft EIS  
 Determination of Significance

**Project Number****Date** January , 2013

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village Board of Trustees of the Village of Port Chester, \_\_\_\_\_ as lead agency, has determined that the proposed action described below may have a significant impact on the environment and that a Draft Environmental Impact Statement will be prepared.

**Name of Action:**

Zoning Text Amendemnt/Map Change for development of former United Hsopital Site

**SEQR Status:** Type 1 Unlisted **Scoping:** No  Yes  If yes, indicate how scoping will be conducted:

The Village Board of Trustees will hold a public meeting on a draft DEIS Scoping Outline

**Description of Action:**

The Proposed Action is a Zoning Text Amendment/Map Change to accommodate the development of the 14.14-acre former United Hospital site (the "Site") in the Village of Port Chester, NY replacing a complex of 600,000± square feet of abandoned hospital buildings and ancillary buildings with a mixed use project, including approximately 820 multi-family residential units (a mixture of studio and one- and two bedroom units), approximately 20,000 square feet of commercial, retail and office, parking facilities (through a combination of structured facilities under residential buildings and surface, at grade) and open space. The Site's location at 406 Boston Post Road, near the intersection of the I-287 and I-95 corridors, off Boston Post Road (US Route 1) and proximate to the City of Rye and the Village of Rye Brook, NY, is well-positioned to serve as a gateway to the Village of Port Chester. The Proposed Action is advanced by 406 BPR, LLC, an affiliate of Starwood Capital Group (the owner of the Site).

**Location:** (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

The Site is the former United Hospital in the Village of Port Chester, Westchester County, The street address is 406 Boston Post Road, near the intersection of the I-287 and I-95 corridors, off Boston Post Road (US Route 1).

**Reasons Supporting This Determination:**

The Proposed Action may have significant adverse environmental impacts on a variety of areas, including the following:

1. Consistency with the Village's December 2012 Comprehensive Planning and zoning for the Site recommended therein, and with local, county and regional plans and policies
2. Neighborhood character
3. Visual resources, particularly Abendroth Park
4. Utilities, particularly water supply and sewage
5. Traffic
6. Schools

**For Further Information:**

Contact Person: Janusz Richards, Village Clerk, Village of Port Chester, NY

Address: 222 Grace Church Street, Port Chester, NY 10573

Telephone Number: (914) 939-5202

**A copy of this notice must be sent to:**

Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750

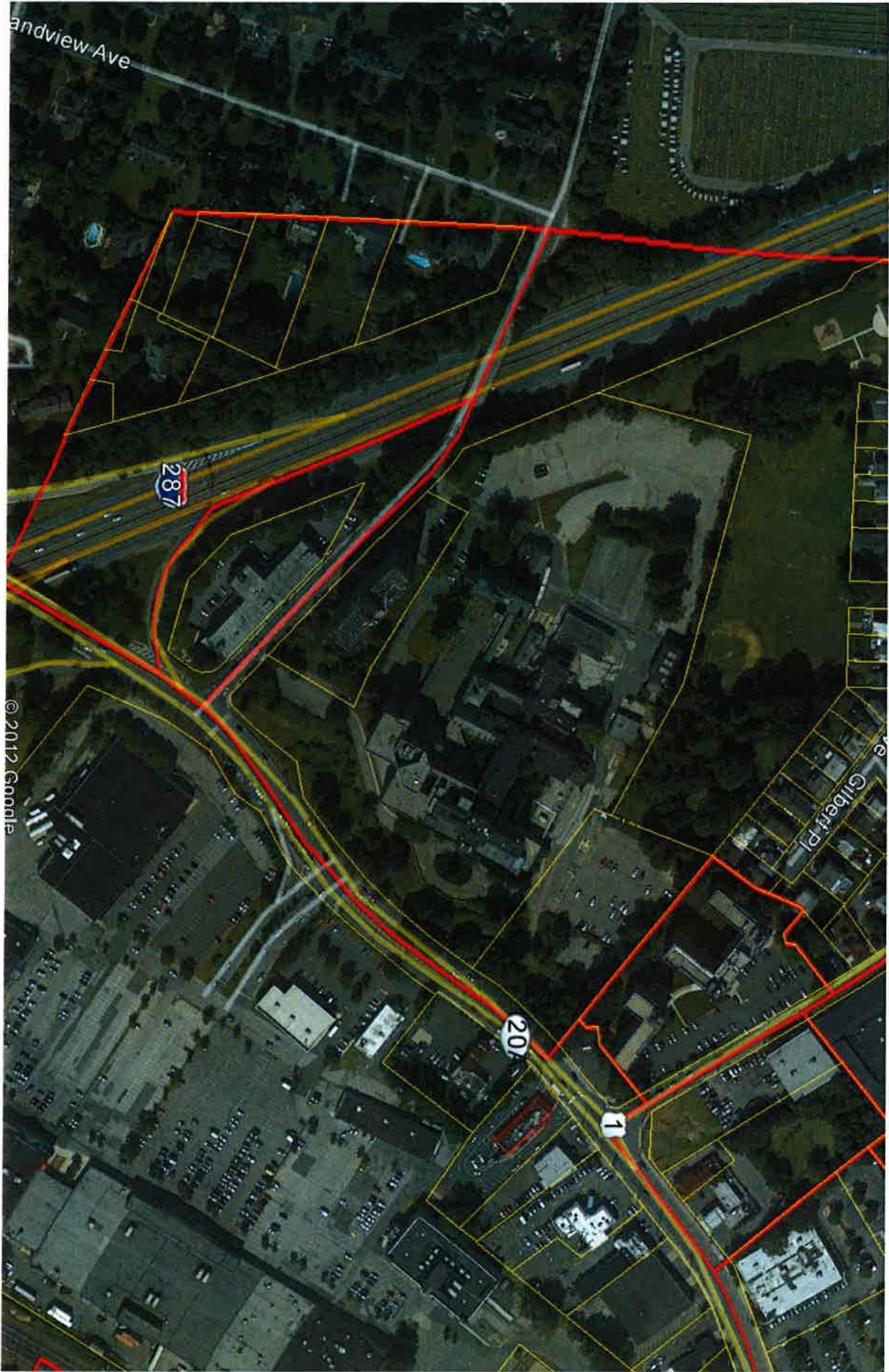
Chief Executive Officer, Town/City/Village of Port Chester

Any person requesting a copy

All Involved agencies

Applicant (If any)

Environmental Notice Bulletin, 625 Broadway, Albany, NY 12233-1750



**DEIS Scoping Outline**  
**United Hospital Redevelopment**  
January 7, 2012

This document identifies the issues to be addressed in a Draft Environmental Impact Statement (“DEIS”) for the proposed Starwood Mixed Use Development. Accordingly, this Scoping Document addresses the items identified in paragraphs (f)(1) through (7) of Section 617.8 of the State Environmental Quality Review Act (“SEQRA”) Regulations.

**DESCRIPTION OF THE PROPOSED ACTION:**

The Proposed Action is a Zoning Text Amendment/Map Change to accommodate the development of the former United Hospital site (the “Site”) in the Village of Port Chester, NY replacing a complex of 600,000± square feet of abandoned hospital buildings and ancillary buildings with a mixed use project, including approximately 820 multi-family residential units (a mixture of studio and one- and two bedroom units), approximately 20,000 square feet of commercial, parking facilities and open space. The Site’s location, near the intersection of the I-287 and I-95 corridors, off Boston Post Road (US Route 1) and proximate to the City of Rye and the Village of Rye Brook, NY, is well-positioned to serve as a gateway to the Village of Port Chester. The Proposed Action, which is advanced by 406 BPR, LLC (the “Sponsor”), an affiliate of Starwood Capital Group (the owner of the Site), is sometimes referred to in this Scope as the “project.”

The development Site consists of one 14.15 - acre parcel, identified on the Village Tax Maps as Section 141.052, Block 1, Lot 2, with a street address of 406 Boston Post Road. The existing Site currently consists of eight abandoned buildings (approximately 600,000 square feet) with related parking areas connected by an interior roadway system, totaling approximately ten acres of impervious surface area. The hospital has been inoperative since 2005. The current zoning is R2F, Two-Family Residential; however, the Village Board of Trustees adopted a new Comprehensive Plan in December 2012 that provides for a Planned Mixed Use Zoning District (“PMU”) for the Site that would allow for mixed-use development, including multi-family residential (market rate and senior) and a variety of non-residential uses (commercial, hotel/convention center and community facilities) with a building height and floor area bonus program to permit increases in allowable height and/or floor area in exchange for providing a designated community benefit. The Sponsor’s proposal would modify the PMU district in the associated draft zoning text and map amendments to permit greater overall density on-site and remove Floor Area Ratio (FAR) caps by specified land use to accommodate the Sponsor’s proposed redevelopment plan.

In addition to including multi-family residential structures throughout the Site, and commercial space along Boston Post Road, the project will provide parking via a combination of structured parking facilities located under the residential buildings as well as at grade, surface parking areas. This mixed-use project will also provide pedestrian access from Boston Post Road to Abendroth Park and include open space areas.

A prior proposal by the Sponsor included the demolition of the existing residential building at 999 High Street and reuse of the property; the current proposal does not alter the correct use of 999 High Street and the Sponsor has stated that it has no plans for reuse of that property.

#### **GENERAL GUIDELINES:**

The analyses of the project shall be performed for the expected first year of full occupancy and operation and, if necessary, for an earlier time frame if significant adverse impacts would be expected to occur at such earlier time.

The DEIS shall cover all items in this Scoping Document. Each impact area shall be analyzed in a separate subsection that includes a discussion of existing conditions, future conditions without the Proposed Action, future conditions with the Proposed Action, and mitigation measures designed to minimize the identified and potential adverse environmental impacts. There shall be a separate chapter to analyze alternatives that would achieve the basic objectives of the Proposed Action, as well as the No Action Alternative. This assessment shall include a detailed comparison of the impacts of the Proposed Action with the PMU District recommended in the recently adopted December 2012 Comprehensive Plan and related draft zoning text and map amendments.

Narrative discussions should be accompanied by appropriate tables, charts, graphs, and figures whenever possible. If a particular subject can be most effectively described in graphic format, the narrative discussion should merely summarize and highlight the information presented graphically. All plans and maps showing the Site should include adjacent properties (if appropriate), neighboring uses and structures, roads, and water bodies, as appropriate.

Information should be presented in a manner which can be readily understood by the public. Efforts should be made to avoid the use of technical jargon.

Discussions of mitigation measures should include an explanation of how those measures would be implemented, any potential environmental impacts of such implementation, the costs and the time frame associated with such implementation, and the entity that would be responsible for implementing and paying for the mitigation. The discussion should indicate any proposed improvements that have been incorporated into the Proposed Action.

The document and any appendices or technical reports should be written in the third person (i.e., the terms "we" and "our" should not be used). The Applicant's conclusions and opinions, if given, should be identified as those of "the Applicant."

All methods used by the Applicant to arrive at conclusions should be stated. Any assumptions incorporated into assessments of impact should be clearly identified.

#### **ENVIRONMENTAL IMPACT STATEMENT CONTENT**

Introductory Material - Cover Sheet that includes:

- A. Title (i.e., Draft Environmental Impact Statement)

- B. Identification of the Proposed Action, including name and Location
- C. Identification of the Village Board of the Village of Port Chester as the Lead Agency for the project
- D. The following contact information:  
 Janusz Richards  
 Village Clerk  
 222 Grace Church St.  
 Port Chester, NY 10573  
 Jrichards@portchesterny.com  
 (914) 939-5202
- E. Date submitted and any revision dates
- F. Date of acceptance of the DEIS
- G. Deadline by which comments on the DEIS are due
- H. Name and address of Sponsor of Proposed Action, and the name, address and email address for a contact person representing the Sponsor
- I. The name and address of the primary preparer(s) of the DEIS and a list of consultants involved with the Project for the Applicant
- J. List of Consultant involved with the Project for the Village
- K. Table of Contents
- L. List of Exhibits If any)
- M. List of Tables
- N. List of Appendices

**I. Executive Summary**

The summary should provide the reader with a clear and cogent understanding of the information found elsewhere in the main body of the DEIS and should be organized as follows:

- A. Brief but complete description of the Proposed Action, including Site history and background leading to the proposed development and anticipated build year.
- B. Reasons for Modifying PMU Zoning District recommended in the December 2012 Comprehensive Plan and related draft zoning text and map amendments.
- C. Listing of required approvals and permits.
- D. List of Involved and Interested Agencies (including neighboring municipalities).
- E. Brief Description of Anticipated Impacts and Proposed Mitigation Measures.
- F. Brief Description of Alternatives to the Proposed Action.
- G. Table comparing impacts of the Proposed Action with the various alternatives.

**II. Description of Proposed Action**

- A. Project Location (including appropriate descriptive graphics).
- B. Project Sponsor (including experience and objectives)
- C. Description of Site's existing character.
- D. Inventory of existing structures on the Site, including identification of buildings to be removed.
- E. Description of surrounding land use, in narrative and graphic form, including hospital operations and use and operation of 999 High Street

- F. Project description, including building locations, square footages, arrangements, dimensions, height, general character, architecture, number and type of dwelling units, compliance with affordable housing requirements, commercial/retail areas, common areas, recreational spaces and amenities (including public access and ownership and maintenance, if applicable), access, off-street parking and traffic circulation, site infrastructure, internal traffic circulation, internal pedestrian circulation, streetscape enhancements and associated site improvements, lighting, description of views from and to Site, connection to surrounding neighborhoods and relationship to public transit, including Metro North train stations and Bee-Line bus stops.
- G. General description of utilities and stormwater management.
- H. Description of the proposed PMU (Planned Mixed Use) zoning amendment.
- I. Construction scheduling, including any phasing and description of project construction, including site preparation (demolition, erosion and sedimentation controls and earthwork).
- J. Purpose, need and benefits of the Proposed Action.

**III. Required Permits and Approvals, Involved and Interested Agencies**

- A. Listing of all Village, County, State and federal permits and approvals that may be required to implement the project.
- B. Listing of all Involved Agencies.
- C. Listing of all Interested Agencies (including neighboring municipalities).

**IV. Existing Environmental Conditions, Anticipated Impacts and Proposed Mitigation**

For the specific issues identified in this Scope, the DEIS should provide a topic-by-topic analysis of existing environmental conditions, future conditions without the project, potential impacts of the project, and potential measures to mitigate adverse environmental impacts. Where useful for background information, a description of the conditions associated with the former United Hospital (as noted herein) should also be included. Where relevant, cumulative impacts should be discussed, including both on-Site and off-Site impacts. The identification of potential mitigation measures in this Scope is illustrative only and not intended to be all-inclusive or specifically required. Where mitigation is identified, the DEIS should discuss any adverse impacts associated with and approvals required for any such measures and identify the entity responsible for implementing any such improvements and the funding therefor.

**A. Land Use and Zoning**

1. Existing Conditions

- a. Include maps and narrative describing generalized land use patterns and neighborhood character in the Village of Port Chester, City of Rye and Village of Rye Brook and more specifically for a primary land use study area within a quarter mile of the project site.
- b. Describe the existing zoning districts generally (including the PMU District recommended in the December 2012 Comprehensive Plan's

related draft zoning text and map amendments), and within a quarter mile of the project site.

- c. Identify any existing use of the Site by the Sponsor and/or neighboring properties and/or residents (e.g., for parking).
- d. Describe development trends and approval activity in the area.
- e. Discuss consistency with Land Use Plans and Policies; including:
  - i. Village of Port Chester December 2012 Comprehensive Plan
  - ii. Route 1/North Main Street Corridor Study (December 2012)
  - iii. Patterns for Westchester
  - iv. Westchester 2025
  - v. Third Regional Plan for New York-New Jersey-Connecticut Metropolitan Area

## 2. Anticipated Impacts

- a. Identify the relationship of the proposed development to overall land use patterns within the study area, and to adjacent properties, including impacts on neighborhood character (e.g., from visual perspective, traffic), and discuss the proposed project's compliance or non-compliance with local land use regulations and its relationship to local, County and regional Plans, including the Village's December 2012 Comprehensive Plan.
- b. Address elimination of any use of the Site by neighboring properties and/or residents (e.g., parking).
- c. Address potential for commercial and retail components of the proposed project to affect key retail stores/anchors stores in the vicinity of the site and to cause a change in community character.

## 3. Proposed Mitigation Measures (as applicable)

### **B. Visual Resources**

#### 1. Existing Conditions

- a. Document the visual character of the Site and the immediately surrounding area through photographs, cross sections and narrative.

#### 2. Anticipated Impacts

- a. Identify views to and from the proposed development from surrounding roads and properties, including Abendroth Park and the residential areas to the north, approaching the site from both Rye and Port Chester on Boston Post Road, from the Kohl's Shopping Center, from the west along High Street and from I-287. Specific views to the proposed development should include the following locations:
  - i. Abendroth Park
  - ii. Grandview Avenue and Grant Street as part of the residential neighborhood to the north
  - iii. US Route 1/Olivia Street looking back towards the site
  - iv. Kohl's Shopping Center

- v. US Route 1 in the City of Rye looking back towards the site on the south side of US 1 in the vicinity of the Rye Country Day School field entrance
- vi. Cope Circle and Hillside Road
- vii. Grandview and High Street
- viii. Grandview and Hillside Road
- b. Describe impacts on the overall aesthetic quality and character of the surrounding area.
- c. Describe the relationship of the proposed Gateway development to the surrounding community, including the project height, general character, bulk and scale in relation to the surrounding area.
- d. Utilize photographs, cross sections and elevations of the proposed development and/or photo simulations as appropriate to describe the resulting visual impact (i.e., before and after conditions), including a comparison of views of the existing buildings to views of the proposed project and images of typical proposed project buildings. This assessment should include consideration of rooftop facilities, such as antenna, etc.

3. Proposed Mitigation Measures (as applicable)

**C. Stormwater Management**

- 1. Existing Conditions
  - a. Including a description of local drainage patterns and their relationship to the Site. Stormwater flow peak rates of runoff would be provided for 1-, 2-, 10-, 25-, 50- and 100-year storm events as required by Village and NYSDEC Phase II regulations.
- 2. Anticipated Impacts
  - a. Describe proposed drainage and stormwater management facilities.
  - b. Discuss compliance with Village of Port Chester MS4 stormwater requirements.
- 3. Proposed Mitigation Measures (as applicable)
  - a. Describe proposed stormwater management system and implementation of Best Management Practices based on NYSDEC Phase II regulation, including methods to maintain and enhance water quality standards and peak runoff rates.

**D. Utilities**

- 1. Water Supply
  - a. Existing Conditions
    - i. Include a description of existing water lines within study area and water system capacities.
    - ii. Include usage under previous hospital use.
    - iii. Include flow tests.

- b. Anticipated Impacts
    - i. Describe proposed water mains, including pipe-sizing, location, and routing.
    - ii. Identify proposed connection points to the existing systems.
    - iii. Identify potential impacts of construction on infrastructure, including during peak usage periods.
    - iv. Compare projected water use with previous hospital use to demand during anticipated peak usage periods.
    - v. Discuss sufficiency of water resources for domestic and commercial use, as well as fire fighting purposes as well.
  - c. Proposed Mitigation Measures (as applicable)
    - i. Use of water saving devices and other water conservation techniques.
    - ii. Evaluate storage and system looping
2. Sanitary Sewage
- a. Existing Conditions
    - i. Include a description of existing sanitary sewer lines servicing the development, including capacity and pipe location.
    - ii. Include estimated sewage flows under previous hospital use.
    - iii. Discussion of capacities of Port Chester Sewage Treatment Plant
  - b. Anticipated Impacts
    - i. Analysis of proposed development's sewage generation and compare with sewage generated by previous hospital use.
    - ii. Description of proposed sewage system.
    - iii. Identify proposed connection points to existing systems.
    - iv. Discuss sufficiency of treatment capacity.
    - v. Discuss any effects on sanitary sewer line capacity.
  - c. Proposed Mitigation Measures (as applicable)
    - i. Provide details of improvements and projections for proposed future demand in the area in addition to the project
3. Gas, Electrical, Cable, Telephone & Telcom
- a. Existing Conditions
  - b. Anticipated Impacts
  - c. Proposed Mitigation Measures (as applicable)

**E. Traffic and Transportation**

- 1. Existing Conditions
  - a. Inventory existing road conditions in the site vicinity, including access, street and lane width, number of lanes, posted speed limits, types of roadways, parking and traffic controls.

- b. Describe the study area.
- c. Determine existing traffic volumes in the weekday AM, PM and Saturday peak hours by conducting manual traffic movement surveys at three locations and using the previous traffic counts or using other comparable available data and determine existing levels of service for each of the study intersections following procedures from the 2000 Highway Capacity Manual. The analyses should be performed using Synchro 8 software which allows for the study of interrelatedness between intersections. The study intersections are as follows:
  - i. Site Access and High Street
  - ii. US Route 1 (Boston Post Road) and Slater Street
  - iii. US Route 1 (Boston Post Road) and Pearl Street
  - iv. US Route 1 (Boston Post Road) and South Regent Street
  - v. US Route 1 (Boston Post Road) and Kohl's Shopping Center Driveway/Proposed Site Driveway
  - vi. US Route 1 (Boston Post Road) and High Street
  - vii. US Route 1 (Boston Post Road) and I-287 Westbound On-ramp/I-95 Northbound Off-ramp
  - viii. US Route 1 (Boston Post Road) and I-287 Eastbound Off-ramp/I-95 Southbound On-ramp
  - ix. US Route 1 (Boston Post Road) and Hillside Road
  - x. Ridge Street and High Street
  - xi. High Street and Grandview Avenue
  - xii. High Street and Evergreen Avenue
  - xiii. U.S. Route 1 (Boston Post Road) and Cedar Street
  - xiv. U.S. Route 1 (Boston Post Road) and Peck Avenue
  - xv. Peck Avenue and Midland Avenue
  - xvi. Hillside Avenue and Purchase Street
  - xvii. Hillside Avenue and Grandview Avenue
  - xviii. US Route 1 (Boston Post Road) and Grace Church/South Main Street
  - xix. Weaving section between the I-95 northbound exit ramp and High Street on northbound (eastbound) US Route 1
- d. Explain the basis for the selection of peak hours (including an explanation of the need, if any, for including a Sunday peak hour analysis)
- e. Describe existing off-street and on-street parking resources.
- f. Compare traffic generated by the proposed project to traffic generated by previous hospital use.
  - i. Explain the basis of the previous hospital use
- g. Describe existing public and private transit options in the site vicinity.
- h. Analyze accident data from NYSDOT and Port Chester Police Department.

using the Rate Quality Control Method and determine whether there is any causative relationships between the roadway and the nature of the accidents. Also, the critical accident rates should be compared to statewide averages.

- i. Document school bus traffic.
  - j. Document truck traffic, particularly I-95 by-pass traffic.
  - k. Document pedestrian patterns
2. No-Build Analysis
    - a. Compare, balance and increase traffic counts to reflect normal growth in the project study area, and any proposed/approved material developments in the vicinity of the project that would generate traffic at the intersections identified in E.1.b above, to constitute the No-Build traffic volume.
    - b. Include future truck traffic as applicable (using the same 2000 Highway Capacity Manual methodology).
  3. Anticipated Impacts
    - a. Estimate traffic generation from the residential and commercial portion of project as well as proposed parking demand. The combination of new traffic coupled with the No-Build traffic will result in the design year Build traffic volumes.
    - b. Provide distribution of project-generated traffic and explanation therefor.
    - c. Perform detailed capacity analysis to establish levels of service under Existing, No-Build and Build conditions for the AM, PM and Saturday peak hour periods (and a Sunday peak hour analysis if needed) at each study intersection, using the same Highway Capacity Manual methodology.
    - d. Conduct a parking demand analysis.
    - e. Assess adequacy of future sight distance conditions at proposed Site driveways and discuss type of traffic controls to be employed at each driveway location
    - f. Analyze anticipated truck activity, including loading and staging activities.
    - g. Discuss pedestrian conditions.
  4. Proposed Mitigation Measures (as applicable)
    - a. Recommend traffic improvements if mitigation is required. These would include but not be limited to standard engineering measures, such as signalization changes, striping, etc.
    - b. Describe any changes to Post Road/Site Access/Kohl's Shopping Center intersection.
    - c. Consider a shuttle bus services to a nearby train station.
    - d. Consider shared parking to reduce parking demand.
    - e. Consider need for traffic control monitors

## **F. Socio-Economic, Community Facilities and Services**

1. Demographics
  - a. Existing and No-Build Conditions
    - i. Discuss existing Village population and housing trends and other demographic characteristics (including as relevant neighboring areas), including income and ethnicity. Supplement 2010 decennial census and American Community Survey data with additional source materials where available.
  - b. Anticipated Impacts
    - i. Describe projected population at the proposed project, including potential number of schoolchildren, public and private.
  - c. Proposed Mitigation Measures (as applicable)
2. Schools
  - a. Existing and No-Build Conditions
    - i. Provide overall description of schools and enrollment in the Port Chester School District and expected increase or decrease in enrollment.
  - b. Analyze anticipated impacts related to projected increase in enrollment from the Proposed Action utilizing standard and accepted schoolchildren generation formulas, as well as actual data from comparable projects in the region.
    - i. Utilize the most recent Rutgers University Center for Urban Research studies as one, but not necessarily the only approach, to estimating the number of school children that would be generated by the Proposed Action.
    - ii. Utilize comparable developments to assist in projecting the number of school children that would be generated by the Proposed Action; such comparables should be of similar scale and development density in suburban New York, to the extent available, and should take into account comparable housing types, housing size, and other relevant factors.
  - c. Proposed Mitigation Measures (as applicable)
3. Police, Fire, Ambulance and Other Emergency Services
  - a. Existing and No-Build Conditions
    - i. Describe police department location, staffing and operations.
    - ii. Describe fire department location, staffing and operations.
    - iii. Describe ambulance service location, staffing and operations.
    - iv. Describe hospitals and similar health service facilities, locations, staffing and operations.
    - v. Describe other emergency services
    - vi. Describe relevant mutual aid agreements

- b. Anticipated Impacts
      - i. Describe impact on calls to service and ability of each provider to handle.
      - ii. Demonstrate adequate water supply/pressure for fire protection purposes.
      - iii. Describe any impacts on mutual aid agreements
    - c. Proposed Mitigation Measures (as applicable)
- 4. Solid Waste
  - a. Existing and No-Build Conditions
    - i. Describe current garbage collection and recycling disposal services.
  - b. Anticipated Impacts
    - i. Explain responsibilities for garbage collection and recycling following redevelopment.
  - c. Proposed Mitigation Measures (as applicable)
- 5. Energy
  - a. Existing and No-Build Conditions
    - i. Describe of energy use of existing site.
  - b. Anticipated Impacts
    - i. Project energy demand for proposed action.
    - ii. Analyze direct and indirect greenhouse gas emissions from both stationary and mobile sources.
  - c. Proposed Mitigation Measures (as applicable)
    - i. Discuss LEED certification, level thereof, and other sustainability approaches.
- 6. Fiscal Impacts
  - a. Existing and No-Build Conditions
    - i. Describe existing tax generation from the site for all affected tax districts.
  - b. Anticipated Impacts
    - i. Provide anticipated tax generation by the project for all affected taxing districts during construction and upon project completion.
    - ii. Discuss effects of any governmental subsidies associated with the proposed project.
    - iii. Describe potential impacts of the proposed project on the nearby commercial areas, stores and businesses, as well as the local economy

- c. Proposed Mitigation Measures (as applicable)
7. Employment
- a. Existing and No-Build Conditions
    - i. Describe existing business activity and employment.
  - b. Anticipated Impacts
    - i. Describe project generated employment: retail, office and residential.
    - ii. Estimate construction period employment and employment upon project completion.
  - c. Proposed Mitigation Measures (as applicable)
8. Workforce (Affordable) Housing
- a. Existing and No-Build Conditions
    - i. Describe workforce housing issues in central Westchester County and the Village of Port Chester.
    - ii. Describe historical Village-wide efforts to provide workforce housing, including participation in HUD, Mitchell-Lama and Westchester County Urban County Consortium programs.
  - b. Anticipated Impacts
    - i. Describe compliance with Village workforce housing provisions.
    - ii. Analyze the implications of Proposed Action on Westchester County affordable housing policy.
  - c. Proposed Mitigation Measures (as applicable)
    - i. Consider inclusion of affordable units in the proposed project or units outside of the project
9. Recreation
- a. Existing and No-Build Conditions
    - i. Describe recreational opportunities in the project area.
  - b. Anticipated Impacts
    - i. Discuss impacts from both residential and commercial site uses, including any impacts from project operations on the adjacent playground area and connection to Abendroth Park.
  - c. Proposed Mitigation Measures (as applicable)
10. Libraries
- a. Existing and No-Build Conditions
    - i. Provide overall description of libraries and usage and expected increase or decrease in usage.

- b. Anticipated Impacts
  - i. Analyze anticipated impacts related to any projected increase in usage.
- c. Proposed Mitigation Measures (as applicable)
  - i. Consider on-site facilities

## **G. Natural Resources**

- 1. Existing and No-Build Conditions
  - a. Describe topography, soil conditions, surficial geology and ecological communities or significant habitat areas, if any.
  - b. Conduct Phase I Environmental Assessment.
- 2. Anticipated Impacts
  - a. Identify and quantify soil and vegetation disturbance and slope impacts.
  - b. Identify amount of impervious surface creation.
  - c. Describe require earthwork.
  - d. Describe construction methods.
  - e. Describe any hazardous materials issues relating to project construction (as opposed to demolition; see Section K).
- 3. Proposed Mitigation Measures (as applicable)
  - a. Describe proposed soil erosion and sediment control plan
  - b. Describe landscaping plan

## **H. Historic Resources**

- 1. Existing Conditions
  - a. Conduct and describe results of Stage 1A literature review and archaeology sensitivity assessment. Include any sites in the area that are listed or eligible for listing on the State or National Register of Historic Places.
- 2. Anticipated Impacts
  - a. Discuss potential impacts on historic or archaeological resources.
- 3. Proposed Mitigation Measures (as applicable)

## **I. Air Resources**

- 1. Existing and No-Build Conditions
  - a. Assess air quality using the latest ambient air quality monitoring data available from the New York State Department of Environmental Conservation-operated monitors closest to the Site and provide a comparison to the applicable National Ambient Air Quality Standards.
- 2. Anticipated Impacts

- a. Assess short-term impacts during construction, long-term parking, vehicle traffic, project stationary sources, etc., by conducting an air quality analysis for the traffic conditions as required under the criteria set forth in the New York State Department of Transportation Environmental Procedures Manual, Chapter 1.1, Air Quality (January 2001, as updated).

3. Proposed Mitigation Measures (as applicable)

**J. Noise**

1. Existing and No-Build Conditions

- a. Measure existing ambient noise levels at key receptors in the vicinity of the Site, including the closest residential areas outside the Site. The receptors at which ambient levels will be monitored are:

- i. Inwood Avenue
- ii. Touraine Avenue (West)
- iii. Touraine Avenue (East)
- iv. Abendroth Park (two receptors)
- v. South Regent Street
- vi. Port Chester Nursing Home and Rehabilitation Centre
- vii. Cope Circle
- viii. 999 High Street

- b. Identify local noise code.

2. Anticipated Impacts

- a. Describe short-term impacts during construction, long-term from site use, HVAC equipment, etc.
- b. Compare project- and construction-generate noise levels to local noise code.
- c. Based on the anticipated traffic to be generated by the project, perform a screening analysis of the receptor locations and at the intersections studied in the traffic analysis closest to such receptors to determine if additional detailed noise studies are warranted. The analysis will include an evaluation increases in noise due to increases in traffic from No-Build to Build conditions. The potential for noise impacts will be assessed utilizing the NYSDEC "DEC Policy DEP-001: Assessing and Mitigating Noise Impacts." If impacts are considered to be potentially significant, a more detailed assessment shall be conducted.

3. Proposed Mitigation Measures (as applicable)

**K. Building Demolition and Construction**

1. Existing and No-Build Condition

- a. Conduct Phases II Environmental Assessment relating to the former United Hospital Building, to identify the potential presence

of asbestos, lead and other hazardous materials that would need to be controlled and managed during demolition activities.

2. Anticipated Impacts
  - a. Provide construction phasing plan
  - b. Describe building demolition and site clearance activities.
  - c. Describe construction activities including the need, if any, for blasting.
  - d. Describe impacts relating to the presence of hazardous materials.
  - e. Identify short-term impacts related to issues such as parking (including construction-related parking and the temporary displacement of on-Site parking), vehicular and truck traffic, air quality, noise, vermin on-site and migration off-site during construction, etc.
  - f. Discuss any impacts to Abendroth Park and other sensitive receptors.
  - g. Describe site security measures.
  - h. Identify any impacts from blasting.
3. Proposed Mitigation (as applicable)
  - a. Describe construction management plans and best management practices to be employed.
  - b. Describe mitigation measures to be employed during demolition, including measures to address and manage hazardous materials and site clearance protocol(s).
  - c. Describe measures to minimize construction-related impacts to air quality, such as fugitive dust control, controls on diesel emissions, prohibition of idling trucks.
  - d. Describe measures to reduce noise during construction.
  - e. Provide blasting plan.

## **V. Alternatives**

- A. No Action Alternative
- B. Redevelopment under existing zoning
- C. Redevelopment scenarios under PMU zoning as recommended in the December 2012 Comprehensive Plan and draft related zoning text and map amendments, including different mix of uses (i.e., hotel /convention center, retail etc.), at least one of which shall consider the development of a limited service hotel.
- D. Redevelopment of the property as hospital use
- E. Alternative site plan proposals, including different building footprints.
- F. Reasonable maximum intensity permitted under the proposed Planned Mixed Use District.
- G. Alternative site access proposals.
- H. Reduced parking alternative
- I. Redevelopment of United Hospital site with renovations or changes to 999 High Street parcel as part of the proposal.

## **VI. Significant Adverse Impacts that Cannot be Avoided**

- A. Long-Term
- B. Short-Term

**VII. Growth Inducement**

**VIII. Commitment of Resources; Effects on Energy**

**IX. Sources and Bibliography**

**X. Technical Appendices**

- A. SEQRA Documentation
- B. Correspondence
- C. Engineering and Environmental Reports

AGREEMENT CONTINUING FIRE PROTECTION SERVICES TO THE VILLAGE OF RYE BROOK

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_

, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester has long provided fire protection services to the Village of Rye Brook; and

WHEREAS, with the expiration of the current agreement on May 31, 2013, the parties have negotiated a successor agreement; and

WHEREAS, General Municipal Law, Section 209-d, requires that the Port Chester Fire Department consent to the agreement; and

WHEREAS, Village Law, Section 4-412, subd.3(9) requires a public hearing prior to the provision of such outside service. Now, therefore, be it

RESOLVED, that on behalf of the Board of Trustees, the Village Clerk is hereby directed to provide the attached proposed successor agreement to the Fire Chief for the consent of the Port Chester Fire Department; and be it further

RESOLVED, that subject to the Fire Department's favorable consideration of same, the Board of Trustees hereby sets a public hearing for February \_\_\_\_\_, 2013 at the Police Headquarters/Justice Court Courtroom, 350 North Main Street, 2<sup>nd</sup> Floor, Port Chester, New York; and be it further

RESOLVED, that the Clerk is directed to make the requisite notice by publication of such hearing.

APPROVED AS TO FORM:

\_\_\_\_\_  
Anthony M. Cerreto  
Village Attorney

THIS AGREEMENT, made this \_\_\_\_\_ day of January, 2013 by and between

THE VILLAGE OF PORT CHESTER, a municipal corporation of the State of New York, having offices at 222 Grace Church Street, Port Chester, New York 10573 (hereinafter sometimes referred to as “Port Chester”), and

THE VILLAGE OF RYE BROOK, a municipal corporation of the State of New York, having offices at 938 King Street, Rye Brook, New York 10573 (hereinafter sometimes referred to as “Rye Brook”).

WITNESSETH:

WHEREAS, by agreement dated August 26, 2010 Port Chester and Rye Brook entered into a fire protection agreement for the period of June 1, 2010 to May 31, 2013; and

WHEREAS, Port Chester and Rye Brook desire to continue their long-standing history of shared services and enter into a successor fire protection agreement; and .

WHEREAS, an agreement for fire protection services is authorized by Village Law § 4-412(3)(9) relating to fire protection agreements and Article 5-G of the General Municipal Law relating to municipal cooperation agreements.

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, Port Chester and Rye Brook do mutually agree as follows:

FIRST: Port Chester shall make available and provide fire protection services to the Village of Rye Brook. Such fire protection services shall include, but not be limited to, all necessary and appropriate fire apparatus and fire department personnel response to all fire alarms, and calls for fire service, and shall specifically include services in the following areas:

(1) Fire Suppression, (2) Hazardous Materials Mitigation, (3) Public Assistance Incidents, (4) Heavy Rescue, (5) Hazardous Conditions, (6) Public fire education for all residents, (7) Carbon monoxide detection and mitigation equipment, (8) Pre-incident deployment for fire apparatus and/or preplanning, and (9) Educational programs and sponsorship opportunities.

Port Chester will use its best efforts to respond to all incidents in accordance with the current Apparatus Response Guidelines of the Port Chester Fire Department, which are attached hereto as Exhibit A, to the extent that those guidelines apply to the services being provided under this agreement. Said Apparatus Response Guidelines are hereby incorporated in and shall become a part of this agreement. Any amendment to such Apparatus Response Guidelines shall be reviewed with and approved by Rye Brook's Village Administrator prior to implementation and the Apparatus Response Guidelines, as may be amended, shall not provide less protection to Rye Brook than the current Apparatus Response Guidelines, a copy of which is attached hereto and made a part hereof.

**SECOND:** Port Chester and Rye Brook intend, in good faith and so far as practicable, to maintain at a minimum the present level of total career personnel and agree to maintain their apparatus and equipment in good working order. Port Chester and Rye Brook shall each be responsible for fire inspection services in their respective municipalities. If career staffing levels should change in either Port Chester or Rye Brook it is agreed that the parties will review this agreement and engage in discussions to evaluate such staffing levels in both communities so as to comply with the provisions of this Paragraph SECOND..

**THIRD:** The fire protection services to be provided under this agreement shall commence on June 1, 2013 and shall terminate on May 31, 2018, subject to the terms and conditions of this agreement.

FOURTH: Rye Brook will pay Port Chester for the fire protection services provided hereunder in accordance with the terms and condition hereof as follows:

- (a) For the period from June 1, 2013 to May 31, 2014, Rye Brook shall pay Port Chester the sum of \$933,292.00.
- (b) For the period from June 1, 2014 to May 31, 2015, Rye Brook shall pay Port Chester the sum of \$951,958.00.
- (c) For the period from June 1, 2015 to May 31, 2016, Rye Brook shall pay Port Chester the sum of \$970,997.00.
- (d) For the period from June 1, 2016 to May 31, 2017, Rye Brook shall pay Port Chester the sum of \$990,417.00.
- (e) For the period from June 1, 2017 to May 31, 2018, Rye Brook shall pay Port Chester the sum of \$1,010,225.00.
- (f) The payments under this agreement shall be made by Rye Brook to Port Chester in three (3) equal amounts on August 31, January 31 and May 10 in each contract year (June 1 to May 31).

FIFTH: Rye Brook may, in its sole discretion, own and maintain fire apparatus and staff a paid fire department that will consist of Rye Brook and Port Chester employees. The Rye Brook Fire Department will report to and be under the command and supervision of the Port Chester Fire Chief, or Assistant Chief, but, nevertheless, will remain the ultimate responsibility of the Village of Rye Brook. Rye Brook firefighters and apparatus will be regularly stationed at the Rye Brook fire station. The Port Chester Fire Chief, however, may schedule or station the Rye Brook firefighters and fire apparatus as the Fire Chief deems proper in an emergency, or as may be agreed to in writing between the Port Chester Village Manager,

Fire Chief and Rye Brook Village Administrator to improve fire protection. After consulting with the Port Chester Fire Chief, Rye Brook may increase, decrease or change the operating schedule of the Rye Brook Fire Department as Rye Brook deems warranted.

SIXTH: The Port Chester Village Manager, Port Chester Fire Chief and Rye Brook Village Administrator, on request of any of them, will promptly meet to discuss personnel issues or other operational issues as they may arise, and such officials shall meet with each other on no less than a quarterly basis to discuss any matter under this agreement. Port Chester and Rye Brook may, as to their respective firefighters, initiate appropriate disciplinary procedures or other such personnel actions, through applicable procedures, as may be deemed warranted by each Village.

SEVENTH: The Port Chester Village Manager and Port Chester Fire Chief will coordinate and consult with the Rye Brook Village Administrator with respect to complaint procedures and personnel matters regarding Rye Brook firefighters and the acquisition and disposal of Rye Brook fire apparatus and equipment. The acquisition and disposal of Rye Brook fire apparatus and equipment shall remain the sole responsibility of the Village of Rye Brook. Leave time will be granted to Rye Brook firefighters in accordance with procedures mutually agreed upon by the Port Chester Fire Chief and the Rye Brook Village Administrator.

EIGHTH: The Port Chester Fire Department agrees to incorporate Rye Brook firefighters and fire apparatus in its training. The Port Chester Fire Training Officer is designated by both Port Chester and Rye Brook as the Municipal Training Officer (MTO) responsible for providing both career staffs with the required in-service training, i.e. 100 hours per year. A copy of all training records for Rye Brook firefighters shall be provided by the Port Chester Fire Training Officer to the Rye Brook Village Administrator and the Port Chester Fire

Chief. If the MTO is required to be exclusively utilized on an overtime basis to train Rye Brook firefighters(s), Rye Brook should assume the cost of such training. If the MTO is conducting training on an overtime basis for both Port Chester and Rye Brook, the cost will be shared 50/50 by each municipality. If other training is required other than that given by the MTO any expense shall be borne by the villages for their own respective firefighters.

NINTH: Port Chester and Rye Brook will each be solely and separately responsible for their respective fire department personnel costs, training mandates, benefits, and for the costs of maintaining, repairing and replacing their respective fire apparatus, equipment and fire stations. Port Chester and Rye Brook will maintain workers' compensation insurance to protect against claims for injury by their respective paid and volunteer firefighters and provide the other village with a certificate of insurance evidencing that said Workers Compensation coverage is in full force and effect

TENTH: The services of the Port Chester Fire Department shall be and remain under the sole discretion of the Chief of the Port Chester Fire Department or Assistant Chiefs designated by the Port Chester Fire Department. Nothing herein shall restrict or limit Port Chester in the internal management of its fire department or company, or limit it in the stationing, acquisition or disposal of its equipment. It is also understood that Rye Brook firefighters may be utilized for additional services within Rye Brook, not inconsistent with fire protection services under this agreement, such as fire inspections or EMS, subject, however, to any written guidelines therefore to be mutually established by the Port Chester Fire Chief and Rye Brook Village Administrator.

ELEVENTH: Port Chester agrees to continue to staff the Rye Brook fire station with a minimum of one (1) career firefighter and fire engine for a minimum of twelve (12) hours per day for the term of this agreement.

TWELFTH: Rye Brook will, at its own cost and expense, defend, indemnify and hold Port Chester, its boards, officials, employees, fire chiefs and firefighters free and harmless from and against any and all suits, proceedings, claims, damages, liabilities, demands, costs and expenses on account of: (1) death or injury of a Rye Brook firefighter(s), while performing services under this agreement; (2) damage to fire apparatus and equipment owned or leased by Rye Brook while performing services under this agreement; and (3) personal injury or property damage claims made by third parties to the extent Rye Brook owned or leased fire apparatus or Rye Brook firefighters are alleged to have been involved, except for such claims arising in connection with fire protection services hereunder where the alleged act or omission was undertaken in compliance with the directive or order of the Port Chester Fire Chief or Assistant Chief.

THIRTEENTH: Port Chester will, at its own cost and expense, defend, indemnify and hold Rye Brook, its boards, officials, employees and firefighters free and harmless from and against any and all suits, proceedings, claims, damages, liabilities, demands, costs and expenses on account of: (1) death or injury of a Port Chester firefighter(s) while performing services under this agreement; (2) damage to fire apparatus and equipment owned or leased by Port Chester while performing services under this agreement; (3) personal injury or property damage claims made by third parties to the extent Port Chester owned or leased fire apparatus is alleged to have been involved; and (4) acts and/or omissions committed in the provision of fire protection services hereunder, under the command and supervision of the Port Chester Fire

Chief or Assistant Chief, to the extent they do not involve matters for which Rye Brook is required to indemnify Port Chester under paragraph TWELVE.

FOURTEENTH: Port Chester and Rye Brook shall each provide general liability insurance with minimum limits equal to those currently maintained under their respective insurance program. Port Chester and Rye Brook may maintain umbrella insurance coverage to cover these minimum liabilities. Rye Brook and Port Chester will each be named as an additional named insured on the other's General Liability Policies in relation to matters covered by this agreement. Each Village may choose to satisfy any or all of its obligations hereunder by a program of self-insurance and the amounts of such self-insured retention shall be provided to the other.

FIFTEENTH: An amount representing seven-eighths ( $7/8^{\text{th}}$ ) of the proceeds of taxes on fire insurance premiums distributed to Rye Brook under Article 91 of the Insurance Law (known as 2% money), accruing after the commencement of services hereunder, shall be paid by Rye Brook to the Port Chester Fire Department promptly after receipt thereof for use and distribution consistent with applicable law.

SIXTEENTH: The "Port Chester – Rye Brook Fire Advisory Board" is hereby continued and consists of six (6) members, of which five (5) members shall be voting members. Of the five (5) voting members, one member shall be the Port Chester Village Manager (or acting Port Chester Village Manager), one member shall be the Rye Brook Village Administrator (or acting Rye Brook Village Administrator), one member shall be appointed by the Port Chester Board of Trustees to serve at its pleasure, one member shall be appointed by the Rye Brook Board of Trustees to serve at its pleasure, and one member shall be appointed by the other voting members for a two (2) year term. The Port Chester Fire Chief shall serve on

the Board, ex officio, as a non-voting member. The voting member appointed for the two (2) year term may be removed by a unanimous vote of the other four (4) voting members at any time. The Port Chester-Rye Brook Fire Advisory Board shall act in an advisory capacity to Port Chester and Rye Brook. The governing boards of both villages shall review the Board's recommendations and, if acceptable, shall cause this Agreement to be amended consistent with applicable law.

- (a.) The Port Chester – Rye Brook Fire Advisory Board shall act by the majority vote of its total voting membership, may adopt and amend rules of procedure, and shall select a chair from among its voting members.
- (b.) The Port Chester – Rye Brook Fire Advisory Board shall:
  - i. Review the proposed fire protection budgets for Port Chester and Rye Brook and may render an advisory recommendation to the Port Chester and Rye Brook Board of Trustees, respectively, as may be deemed warranted; and
  - ii. Study and make recommendations as to the best use of both Village departments' personnel and equipment between the two communities.
  - iii. Meet with the Mayors and/or Board of Trustees of Port Chester and/or Rye Brook to discuss fire protection as may be deemed warranted
  - iv. Study and develop policy recommendations on the management of the fire department, including, but not limited to more efficient allocation of career firefighter personnel and equipment in the fire service response area(s), sharing of resources, joint procurement and other potential cost-

efficiencies to be completed no later than one hundred and twenty days prior to the end of the term of this Agreement.

- v. Approve modifications of the Standard Operating Guidelines (SOG's) based upon recommendations of the Fire Chief.

SEVENTEENTH: The failure of Port Chester or Rye Brook to provide any of the services hereunder shall not be deemed a breach of this agreement, if such failure is caused by "Force Majeure", to wit, acts of God, acts of the public enemy, acts of the Federal, State or County Government, or other acts and conditions of a similar nature. No person or party, other than the parties hereto, shall be deemed to be a beneficiary under this agreement, nor is this agreement intended, in any manner, to create any rights or cause(s) of action, in favor of or in behalf of any third party against either Port Chester or Rye Brook.

EIGHTEENTH: Service of all written notices to the Village of Port Chester shall be by certified or registered mail address to: Village Clerk, Village of Port Chester, 222 Grace Church Street, Port Chester, New York 10573. Services of all written notices to the Village of Rye Brook shall be by certified or registered mail address to: Village Clerk, Village of Rye Brook, 938 King Street, Rye Brook, New York 10573.

NINETEENTH: Port Chester and Rye Brook each affirm that it has held a public hearing on this agreement prior to the execution of the same.

TWENTIETH: This agreement may not be assigned or subcontracted by either Port Chester or Rye Brook without the prior written consent of the other.

TWENTY-FIRST: This agreement constitutes the entire agreement of the parties and may not be changed except in writing signed by both Port Chester and Rye Brook.

TWENTY-SECOND: The Port Chester Fire Chief will provide a semi-annual written report to Rye Brook setting forth a minimum (a) the status of equipment, (b) personnel assignments, (c) special details, and (d) alarm responses for the quarter. The Port Chester Fire Chief shall report to the Rye Brook Board of Trustees on fire service issues at least annually and at other times upon special request of Rye Brook. The Port Chester Fire Chief shall issue an annual written report to the Rye Brook Board of Trustees.

TWENTY-THIRD: Port Chester and Rye Brook affirm their long-standing contractual relationship and are committed to ensuring that such relationship will continue to the benefit of both communities. The parties agree to perform their mutual obligations under this agreement in good faith. Port Chester and Rye Brook will each endeavor to notify the other of their intentions regarding negotiation of a successor agreement at least one year prior to the expiration of this agreement.

TWENTY-FOURTH: If any provision of this agreement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the agreement and the application of such provisions to such persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

TWENTY-FIFTH: In the event that a dispute arises or the parties are at an impasse during a review period concerning the interpretation or application of the terms of this Agreement, the Villages agree to submit their dispute to mediation. Such mediation shall be conducted in accordance with the applicable rules of the American Arbitration Association. The mediation panel shall consist of three (3) individuals, one mediator to be selected by each of Port Chester and Rye Brook, and the third mediator to be selected by agreement of the other two mediators.

IN WITNESS WHEREOF, after a public hearing held individually by each of the undersigned Villages, the Village of Port Chester has caused this agreement to be signed by its Mayor and Village Manager, and the Village of Rye Brook has caused this agreement to be signed by its Mayor and Village Administrator and they each have caused their respective corporate seals to be hereunto affixed the day and year above written.

(corporate seal)

THE VILLAGE OF PORT CHESTER

By: \_\_\_\_\_  
Mayor

THE VILLAGE OF PORT CHESTER

By: \_\_\_\_\_  
Village Manager

(corporate seal)

THE VILLAGE OF RYE BROOK

By: \_\_\_\_\_  
Mayor

THE VILLAGE OF RYE BROOK

By: \_\_\_\_\_  
Village Administrator

**CERTIFICATION OF FIRE CHIEF**

STATE OF NEW YORK        )  
                                          )    SS:  
COUNTY OF WESTCHESTER)

I, Kevin McMinn, residing in Port Chester, New York, do certify as follows:

1. That I am the Fire Chief of the Village of Port Chester and carry the title of Chief Engineer under the Charter of the Village of Port Chester.
2. In such capacity, I have charge of the Fire Department of the Village of Port Chester.
3. That the Fire Department has duly consented to the annexed contract.

\_\_\_\_\_

Sworn to before me this

\_\_\_\_\_ of \_\_\_\_\_ 2013

\_\_\_\_\_  
Notary Public



APPARATUS RESPONSE GUIDELINES

7:00 a.m. to 7:00 P.M.:

2 Port Chester Volunteer Engines

1 Port Chester Paid Engine 58 or 59

1 Port Chester Ladder (only if it affects larger structures than 1 and 2 family homes such as commercial buildings, schools, apartment complexes, and confirmed working fires).

1 Port Chester Rescue Vehicle

Rye Brook Ladder 30 or Engine 14

7:00 P.M. to 7:00 A.M.:

2 Port Chester Volunteer Engines

1 Port Chester Paid Engine 58 or 59

1 Port Chester Ladder

1 Port Chester Rescue Vehicle

RESOLUTION  
DESIGNATION OF VILLAGE 2013 ELECTION

On a motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Port Chester,

New York:

RESOLVED, that the annual Election for the Village of Port Chester, New York, to be called and held pursuant to the Charter of the Village of Port Chester, New York, be held on the 19 day of March, 2013, between the hours of 7:00 A.M. and 9:00 P.M., and that such Election shall be called and held at the following polling places within the Village of Port Chester, NY:

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Fifth Election District** of the Town of Rye shall be in the Don Bosco Center, Don Bosco Place, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Sixth Election District** of the Town of Rye shall be in the Don Bosco Center, Don Bosco Place, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Seventh Election District** of the Town of Rye shall be in the Don Bosco Center, Don Bosco Place, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Eighth Election District** of the Town of Rye shall be in the John F. Kennedy School, Olivia Street, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Ninth Election District** of the Town of Rye shall be in the John F. Kennedy School, Olivia Street, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Tenth Election District** of the Town of Rye shall be in the Corpus Christi School, South Regent Street, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Eleventh Election District** of the Town of Rye shall be in the Carver Center, 400 Westchester Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Twelfth Election District** of the Town of Rye shall be in the Park Avenue School, Park Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Thirteenth Election District** of the Town of Rye shall be in St. George Orthodox Church of Westchester, Irving Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Fourteenth Election District** of the Town of Rye shall be in St. George Orthodox Church of Westchester, Irving Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Fifteenth Election District** of the Town of Rye shall be in St. George Orthodox Church of Westchester, Irving Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Sixteenth Election District** of the Town of Rye shall be in the Antioch Christian Church (formally known as Summerfield United Methodist Church), King Street, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Seventeenth Election District** of the Town of Rye shall be in the Brooksville Gardens Senior Citizens Apts., Terrace Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Eighteenth Election District** of the Town of Rye shall be in the Edison School, Rectory Street, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Nineteenth Election District** of the Town of Rye shall be in the Park Avenue School, Park Avenue, in said Village.

The Polling Place for the qualified voters of Port Chester who reside within the limits of the **Twenty-Fifth Election District** of the Town of Rye shall be in the King Street School, King Street, in said Village.

ROLL CALL

AYES:

NOES:

ABSENT:

DATE:

RESOLUTION  
AGREEMENTS FOR SENIOR CITIZENS PROGRAMS

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester Senior Citizen Program requires instructors; and

WHEREAS, such services have been appropriated in the 2012 to 2013 Village Budget; and

WHEREAS, the Director of the Senior Program has selected several providers to facilitate these programs. Now, therefore be it

RESOVLED, that the Board of Trustees hereby authorizes the Village Manager to enter into the following agreements with regard to the Village of Port Chester Senior Citizens Programs;

- Wendy Lee Rosa, 8 Highland Place, Greenwich, Conn. 06831 Zumba Instructor \$50.00 per hour (1 weekly class)
- Susan Sabato, 21 Linden Street, Port Chester, NY. 10573 Arts & Crafts Instructor \$25.00 per hour (10 classes a month)
- Ron Mineo, Art Life Studios, PO Box 1544, Port Chester, NY 10573, Art Instructor \$70 per class (1 & ½ hr class)
- Dennis Adinolfi, 115 Pembrook Drive, Yonkers, NY 10710, Music Instructor \$100 per class (2x a month)
- Domingo Colon, Tai Chi School of Westchester, 40 Crestview St. Bronxville, NY 10801 \$75 per class (1 weekly class)

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney

ROLL CALL

AYES:

NOES:

ABSENT:

DATE:

RESOLUTION  
PARKS FIELD CONDITIONER PURCHASE

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the  
Following resolution was adopted by the Board of Trustees of the Village of Port Chester,  
New York:

WHEREAS, the Village Manager is recommending the purchase of a Field  
Conditioner to maintain the fields in the Parks, and

WHEREAS, the lowest estimated price for a John Deer 1200 Hydro Rake (Field  
Conditioner) was obtained from Argent and Sons, Inc., One Prospect Avenue, White  
Plains, NY 10607 for \$14,972.87, and

WHEREAS, the funds are already budgeted in the General Fund Transfer to  
Capital line, 1.9900.900. Now, therefore be it

RESOLVED, that the Board of Trustees of the Village of Port Chester, New York  
hereby authorizes the Village Treasurer to modify the 2012-13 Capital Fund Budget as  
follows:

CAPTIAL FUND

Establish Project Budget– Parks Field Conditioner

Revenues:

|                   |                            |             |
|-------------------|----------------------------|-------------|
| 5.5.5031.2012.124 | Transfer from General Fund | \$14,972.87 |
|-------------------|----------------------------|-------------|

Appropriation:

|                     |                         |             |
|---------------------|-------------------------|-------------|
| 5.7110.200.2012.124 | Parks Field Conditioner | \$14,972.87 |
|---------------------|-------------------------|-------------|

**RESOLUTION  
CLOSEOUT OF CAPITAL PROJECTS**

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, that there remain a balance or deficit on completed capital projects; and

WHEREAS, that the Village's independent auditors have identified these balances/deficits and has recommended that corrective action be taken so that these capital projects can be closed out and remaining balances be transferred to the Debt Service Fund to assist in the paying off of debt as per the office of the State Comptroller's guidelines; and

WHEREAS, the Village Treasurer concurs with this recommendation. Now, therefore, be it

RESOLVED, that the following projects in the Capital Fund be closed out, and that the Capital Fund be modified as follows:

| <u>Project</u>                                           | <u>Budget</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Balance</u> |
|----------------------------------------------------------|---------------|-----------------|---------------------|----------------|
| 005.1620.0400.2007.0070: Parking Lot Imprvmnts-2007/08   | \$477,000.00  | \$477,000.00    | \$319,772.56        | \$157,227.44   |
| 005.5110.0400.2009.0090: Street Resurfacing-2009/10      | \$600,000.00  | \$600,000.00    | \$591,365.02        | \$ 8,634.98    |
| 005.7110.0400.2006.0046: Monument Park Imp-2006/07       | \$103,875.00  | \$162,321.00    | \$103,918.70        | \$ 58,402.30   |
| 005.8020.0400.2005.0033: Comprehensive Plan-2005/06      | \$ 30,000.00  | \$ 30,000.00    | \$ 3,609.72         | \$ 26,390.28   |
| 005.8120.0400.2007.0057: Storm Sewer Imp-2007/08         | \$265,000.00  | \$265,000.00    | \$249,527.33        | \$ 15,472.67   |
| 005.8120.0400.2008.0077: Sanitary Swr Line Rehab-2008/09 | \$300,000.00  | \$300,000.00    | \$265,248.21        | \$ 34,751.79   |

**\$157,227.44**     **From:** Parking Lot Improvements-2007/08  
005.1620.0400.2007.0070     **To:** Parking Meter Machines-2009/10  
005.3320.0200.2009.0096  
(Budget Increase from \$522,000.00 to \$679,227.44)

**\$ 8,634.98**     **From:** Street Resurfacing-2009/10  
005.5110.0400.2009.0090     **To:** Road Resurfacing-2010/11  
005.5110.0400.2010.0110  
(Budget Increase from \$1,292,870.94 to \$1,301,505.92)

**Resolution – Closeout Capital Projects**

**Page 2**

**\$ 58,402.30**     **From:** Monument Park Improvements-2006/07  
005.7110.0400.2006.0046     **To:** Comprehensive Plan-2006/07  
005.8020.0400.2006.0040  
(Budget increase from \$506,500.00 to \$564,902.30)

**\$ 26,390.28**     **From:** Comprehensive Plan-2005/06  
005.8020.0400.2005.0033     **To:** Comprehensive Plan-2006/07  
005.8020.0400.2006.0040  
(Budget increase from \$564,902.30 to \$591,292.58)

|                     |                                                                           |                                                                                                                            |
|---------------------|---------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| <b>\$ 15,472.67</b> | <b>From:</b> Storm Sewer Imp-2007/08<br>005.8120.0400.2007.0057           | <b>To:</b> Sanitary/Storm Sewers-2010/11<br>005.8120.0400.2010.0117<br>(Budget increase from \$840,500.00 to \$855,972.67) |
| <b>\$ 34,751.79</b> | <b>From:</b> Sanitary Sewer Line Rehab-2008/09<br>005.8120.0400.2008.0077 | <b>To:</b> Sanitary/Storm Sewers-2010/11<br>005.8120.0400.2010.0117<br>(Budget increase from \$855,972.67 to \$890,724.46) |
| <b>\$ 13,721.70</b> | <b>From:</b> Storm Sewer Rehab-2009/10<br>005.8120.0400.2009.0093         | <b>To:</b> Sanitary/Storm Sewers-2010/11<br>005.8120.0400.2010.0117<br>(Budget increase from \$890,724.46 to \$904,446.16) |

**BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF PORT CHESTER, NEW YORK**

**RESOLUTION  
CLOSEOUT OF CAPITAL PROJECTS**

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, that there remain a balance or deficit on completed capital projects; and

WHEREAS, that the Village’s independent auditors have identified these balances/deficits and has recommended that corrective action be taken so that these capital projects can be closed out and remaining balances be transferred to the Debt Service Fund to assist in the paying off of debt as per the office of the State Comptroller’s guidelines; and

WHEREAS, the Village Treasurer concurs with this recommendation. Now, therefore, be it

RESOLVED, that the following projects in the Capital Fund be closed out, and that the Capital and Debt Service Funds be modified as follows:

| <u>Project</u>                                        | <u>Budget</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Balance</u>      |
|-------------------------------------------------------|---------------|-----------------|---------------------|---------------------|
| 005.1460.0400.2005.0031: Records Management-2005/06   | \$ 95,000.00  | \$102,500.00    | \$100,481.77        | \$ 2,018.23         |
| 005.3320.2138.0000.0000: Dwntrwn Pkng Lot Imp-2002/03 | \$330,000.00  | \$330,000.00    | \$150,326.41        | \$179,673.59        |
| 005.3410.0400.2009.0100: Fire Dept & Bldg Imp-2009/10 | \$100,000.00  | \$100,000.00    | \$ 99,987.19        | \$ 12.81            |
| 005.5110.2099.0000.0000: Beech St Pkg Lot Imp-2000/02 | \$200,000.00  | \$200,000.00    | \$199,999.95        | \$ 0.05             |
| 005.8160.0203.2008.0079: 31 Yard Garbage Truck        | \$224,000.00  | \$224,000.00    | \$216,646.05        | \$ 7,353.95         |
|                                                       |               |                 |                     | <u>\$189,058.63</u> |

|              |              |                                                                             |
|--------------|--------------|-----------------------------------------------------------------------------|
| \$ 2,018.23  | <b>From:</b> | 005.1460.0400.2005.0031 – Records Management – 2005/2006                    |
| \$179,673.59 | <b>From:</b> | 005.3320.2138.0000.0000 – Downtown Parking Lot Improvements – 2002/2003     |
| \$ 12.81     | <b>From:</b> | 005.3410.0400.2009.0100 – Fire Dept. & Building Improvements – 2009/2010    |
| \$ 0.05      | <b>From:</b> | 005.5110.2099.0000.0000 – Beech Street Parking Lot Improvements – 2000/2002 |
| \$ 7,353.95  | <b>From:</b> | 005.8160.0203.2008.0079 – 31 Yard Garbage Truck                             |
| \$189,058.63 | <b>To:</b>   | Debt Service Fund (Transfers from Capital Fund)                             |

**BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF PORT CHESTER, NEW YORK**

**RESOLUTION  
CLOSEOUT OF CAPITAL PROJECTS**

On motion of TRUSTEE \_\_\_\_\_, seconded by TRUSTEE \_\_\_\_\_, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, that there remain a balance or deficit on completed capital projects; and

WHEREAS, that the Village’s independent auditors have identified these balances/deficits and has recommended that corrective action be taken so that these capital projects can be closed out and remaining balances be transferred to the Debt Service Fund to assist in the paying off of debt as per the office of the State Comptroller’s guidelines; and

WHEREAS, the Village Treasurer concurs with this recommendation. Now, therefore, be it

RESOLVED, that the following projects in the Capital Fund be closed out, and that the Capital and General Funds be modified as follows:

**To General Fund:**

| <u>Project</u>                                        | <u>Budget</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Balance</u>      |
|-------------------------------------------------------|---------------|-----------------|---------------------|---------------------|
| 005.3120.2095.0000.0000: Local Law Block Police Grant | \$128,807.00  | \$131,353.61    | \$128,853.61        | \$ 2,500.00         |
| 005.3410.0203.2008.0075: Replace Fire Engine 58       | \$585,000.00  | \$585,000.00    | \$584,347.29        | \$ 652.71           |
| 005.5110.0203.2010.0116: DPW Vehicles-2010/11         | \$136,621.00  | \$136,621.00    | \$133,768.85        | \$ 2,852.15         |
| 005.7110.0400.2007.0069: Lyon Park Restroom-2007/08   | \$141,500.00  | \$174,456.00    | \$123,954.27        | \$ 50,501.73        |
| 005.7110.0400.2009.0102: Edgewood Park Field-2009/10  | \$298,000.00  | \$266,853.50    | \$243,301.61        | <u>\$ 23,551.89</u> |
|                                                       |               |                 |                     | \$ 80,058.48        |

|              |              |                                                                 |
|--------------|--------------|-----------------------------------------------------------------|
| \$ 2,500.00  | <b>From:</b> | 005.3120.2095.0000.0000: Local Law Block Police Grant           |
| \$ 652.71    | <b>From:</b> | 005.3410.0203.2008.0075: Replace Fire Engine 58                 |
| \$ 2,852.15  | <b>From:</b> | 005.5110.0203.2010.0116: DPW Vehicles – 2010/2011               |
| \$ 50,501.73 | <b>From:</b> | 005.7110.0400.2007.0069: Lyon Park Restroom – 2007/2008         |
| \$ 23,551.89 | <b>From:</b> | 005.7110.0400.2009.0102: Edgewood Park Soccer Field – 2009/2010 |
| \$ 80,058.48 | <b>To:</b>   | General Fund (Transfers from Capital Fund)                      |

**Resolution – Closeout of Capital Projects**

Page 2

**From General Fund:**

| <u>Project</u>                                          | <u>Budget</u> | <u>Revenues</u> | <u>Expenditures</u> | <u>Balance</u>       |
|---------------------------------------------------------|---------------|-----------------|---------------------|----------------------|
| 005.1940.2121.0000.0000: Various Village Contaminations | \$ 17,390.63  | \$ 17,390.63    | \$ 20,254.77        | (\$ 2,864.14)        |
| 005.3120.2080.0000.0000: PD Vests-1999/00               | \$ 25,842.50  | \$ 25,842.50    | \$ 26,077.63        | (\$ 235.13)          |
| 005.8020.0400.2005.0042: Multi-Hazard Mitigation Plan   | \$ 24,142.00  | \$ 21,687.36    | \$ 21,803.50        | (\$ 116.14)          |
| 005.7110.0400.2009.0104: Abendroth Pk Grading/Fence     | \$283,516.80  | \$283,516.80    | \$288,688.53        | <u>(\$ 5,171.73)</u> |
|                                                         |               |                 |                     | (\$ 8,387.14)        |

|             |                                                                                |
|-------------|--------------------------------------------------------------------------------|
| \$ 8,387.14 | <b>From:</b> General Fund (Transfers to Capital Fund)                          |
| \$ 2,864.14 | <b>To:</b> 005.1940.2121.0000.0000: Various Village Contaminations             |
| \$ 235.13   | <b>To:</b> 005.3120.2080.0000.0000: PD Vests – 1999/2000                       |
| \$ 116.14   | <b>To:</b> 005.8020.0400.2005.0042: Multi-Hazard Mitigation Plan               |
| \$ 5,171.73 | <b>To:</b> 005.7110.0400.2009.0104: Abendroth Park Grading & Fence – 2009/2010 |

**BY ORDER OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF PORT CHESTER, NEW YORK**

# **MINUTES**

**MEETING HELD SEPTEMBER 4, 2012**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Tuesday, September 4, 2012 at 7:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Daniel Brakewood, Bart Didden, Luis Marino and Joseph Kenner.

It should be noted that Trustees Saverio Terenzi and John Branca were absent.

Also present were appointed Village Manager, Christopher Steers; Village Attorney, Anthony Cerreto; Village Clerk, Janusz R. Richards and Village Treasurer Leonie Douglas.

\* \* \* \* \*

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was declared opened at 7:04 p.m.

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

\* \* \* \* \*

**AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:**

Public Hearing to consider the advisability of adopting an interim local law amending the Code of the Village of Port Chester establishing a Permit Amnesty Program.

The following Public Notices were duly published in the Journal News and the Westmore News on August 24, 2012, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Tuesday, September 4, 2012, at 7:00 P.M., at the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting an interim local law

amending the Code of the Village of Port Chester, establishing a “Permit Amnesty Program.”

Interested persons will be afforded the opportunity to be heard at this time. The proposed local law is available at the Village Clerk’s office or online at the Village website [www.portchesterny.com](http://www.portchesterny.com)

Christopher Russo  
Village Manager  
Dated: August 21, 2012

On motion of Trustee Kenner, seconded by Trustee Didden, the public hearing was declared open.

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

Mr. Richards noted for the record a memo to the Board regarding the Amnesty Law – Type II SEQRA Determination. Please insert “A”

Mr. Steers noted for the record a recommendation resolution from the Port Chester Planning Commission and a letter from Mr. Edward Buroughs, Commissioner of Westchester County Planning Board. Please see inserts “B” and “C”.

Mr. Cerreto asked the Board for an amendment in the proposed permit amnesty local law in Section “2”, Paragraph “B”, after the end of the first sentence should read as follows:

**unless otherwise extended by resolution of the Board of Trustees.**

Mayor Pilla commented that he does not think 90 days is enough time.

Trustee Brakewood asked the Board to wait until December to see if staff needs more time to extend the law.

On a motion of Trustee Kenner, seconded by Trustee Marino, the requested amendment was **withdrawn** for the proposed permit amnesty local law in Section “2”, Paragraph “B”, after the end of the first sentence.

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

Mayor Pilla asked if there was anyone who would like to speak in favor or against the permit amnesty program.

Comments were heard from Ms. Goldie Solomon, Ms. Bea Conetta and Mr. Tom Kissner. Mr. Aldo Vitagliano, P.C. commented regarding the amnesty process and also submitted his comments in writing to the Board for the record. Please see insert "D

On motion of Trustee Didden, seconded by Trustee Kenner, the public hearing was closed.

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

On motion of Trustee Kenner, seconded by Trustee Marino, the following interim local law was adopted: *Please see insert "LL#4" for adopted local law.*

ROLL CALL

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

Mayor Pilla thanked everyone for coming out to the public hearing.

### **PUBLIC COMMENTS**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments. Ms. Goldie Solomon commented about the Board representing the citizens and tax payers of Port Chester. Ms. Bea Conetta commented regarding the Village Clerk position.

**RESOLUTIONS**

VILLAGE BOARD OF TRUSTEES  
PORT CHESTER, NEW YORK  
RESOLUTION

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PORT CHESTER (THE "VILLAGE") (i) AUTHORIZING THE ESTABLISHMENT OF THE PORT CHESTER LOCAL DEVELOPMENT CORPORATION (THE "CORPORATION"); (ii) APPROVING A FORM OF CERTIFICATE OF INCORPORATION FOR THE CORPORATION; (iii) AUTHORIZING THE CORPORATION TO PERFORM ESSENTIAL GOVERNMENTAL FUNCTIONS INCLUDING ACTIVITIES ASSOCIATED WITH JOB CREATION AND THE PROMOTION OF COMMUNITY AND ECONOMIC DEVELOPMENT INITIATIVES; AND (iv) AUTHORIZING THE CORPORATION TO ISSUE CERTAIN BONDS ON BEHALF OF THE VILLAGE.

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution was adopted by the Village of Port Chester, New York:

WHEREAS, it the policy of the State of New York to promote the economic welfare and prosperity of its inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry; and

WHEREAS, the Village of Port Chester (the "Village") is tasked with the responsibility and burden to promote the health, safety and general welfare of the residents of the Village by among other things preventing unemployment and economic deterioration including by increasing and maintaining employment opportunities and attracting and sustaining economically sound commerce; and

WHEREAS, it is essential for the Village to support the operations and activities of both for-profit and not-for-profit entities and corporations within the Village in furtherance of both job creation and retention opportunities within the Village; and

WHEREAS, in furtherance of the foregoing, the Village desires to establish a new local development corporation pursuant to Section 1411 of the Not-for-Profit Corporation Law ("N-PCL") to undertake certain projects and initiatives for the benefit and to relieve the burdens of the Village, including, but not limited to undertaking certain financings through the issuance of tax exempt and taxable bonds, notes and other instruments for the benefit of both for-profit and not-for-profit entities and corporations located within the Village; and

WHEREAS, a proposed certificate of incorporation (the "Certificate of Incorporation", a copy of which is attached hereto as Exhibit A) for the establishment of Port Chester Local Development Corporation (the "Corporation") pursuant to N-PCL Section 1411 (the "LDC Act") has been prepared for review by the Village Board of Trustees (the "Village Board"); and

WHEREAS, in furtherance of the foregoing public purposes and the LDC Act, the Village desires to establish the Corporation to undertake the purposes and powers as set forth within the LDC Act, including (1) to construct, acquire, rehabilitate and improve for use by others industrial or manufacturing plants in the territory in which its operations are principally to be conducted, (2) to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain such plants for others in such territory, (3) to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto, (4) to acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein, (5) to borrow money and to issue negotiable bonds, notes and other obligations therefor, and (6) to sell, lease, mortgage or otherwise dispose of or encumber any such plants or any of its real or personal property or any interest therein upon such terms as it may determine to be suitable; and

WHEREAS, to accomplish the purposes and powers as set forth within the LDC Act and Certificate of Incorporation, including relieving the burdens of the Village and the undertaking of projects for the benefit of both for-profit and not-for-profit entities and corporations in furtherance of their access to cost-effective capital for projects that enhance, create and preserve employment opportunities for residents of the Village, the Village desires to task the Corporation with such burdens and responsibilities and authorizes the Corporation, once established, to issue bonds on behalf of the Village for such purposes pursuant to and in accordance with applicable provisions of the Internal Revenue Code (the "Code").

NOW, THEREFORE, BE IT RESOLVED, by the Village Board that the Village hereby authorizes the establishment of the Corporation pursuant to the LDC Act through the filing of the Certificate of Incorporation in substantially the form attached hereto as Exhibit A, all in substantially the form thereof presented to this meeting, with such changes, variations, omissions and insertions as may be approved by the Village Attorney; and be it

FURTHER RESOLVED, that the Village shall serve as the sole member of the Corporation, and the Village hereby appoints the following individuals to serve as Directors of the Corporation, the terms of such Directors to be co-terminus with each individual's term as Member of the Village of Port Chester Industrial Development Agency:

Neil Pagano  
Hon. Dennis Pilla  
Hon. Joseph Kenner  
James Taylor  
John Heinsch  
Philip C. Semprevivo  
Richard Cuddy

And be it

FURTHER RESOLVED, that the Corporation is hereby designated as an on behalf of issuer of the Village for the purposes of issuing bonds, notes and other instruments with authority to exercise on the Village's behalf all lawful powers as may be deemed necessary to accomplish its public purposes including to enhance, create and preserve employment opportunities for residents of the Village, such purposes and powers to include, but not be limited to, those powers contained within the LDC Act and the Certificate of Incorporation, with the power to issue tax exempt and taxable bonds, notes, or other instruments on behalf of the Village in furtherance of its purposes, provided however that any obligations issued by the Corporation shall never be a debt of the State of New York, the Village or any political subdivision thereof (other than Corporation) and neither the State of New York, the Village or any political subdivision thereof (other than Corporation) shall be liable thereon; and be it

FURTHER RESOLVED, that the Village Board hereby authorizes the Village to covenant and agree with the Corporation in any transaction undertaken by the Corporation in furtherance of the LDC Act, the Certificate of Incorporation, and any initiatives described herein, and for the benefit of the Corporation and the holders from time to time of any bonds, notes or other instruments or other securities (hereinafter collectively, the "Securities") issued by the Corporation that the Village will not limit or alter the rights of the Corporation to fulfill the terms of its agreements with the holders of the Securities or in any way impair the rights and remedies of such holders of the security for the Securities until the Securities, together with the interest due thereon or payable in respect thereof and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. Authorized representatives of the Village are hereby granted the power to make such a covenant to and agreement with the Corporation and to take any and all actions necessary or desirable to cause such covenant and agreement to be made or enforced. The Corporation is hereby authorized to assign to or for the benefit of the holders of its Securities any covenant or agreement made by the Village pursuant to the foregoing provisions.

Approved as to Form:

---

Anthony Cerreto, Village Attorney

AYES: Trustees Brakewood, Didden, Kenner, Deputy Mayor Marino and Mayor Pilla

NOES:

ABSENT: Trustees Branca and Terenzi

DATE: September 4, 2012

**EXHIBIT A**

**FORM OF CERTIFICATE OF INCORPORATION**

**CERTIFICATE OF INCORPORATION**

**OF**

**PORT CHESTER LOCAL DEVELOPMENT CORPORATION**

A Not-For-Profit Local Development Corporation  
under Section 1411 of the Not-For-Profit  
Corporation Law of the State of New York

**THE UNDERSIGNED**, being over the age of eighteen years, for the purpose of forming a not-for-profit local development corporation pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York, hereby certifies as follows:

FIRST: The name of the corporation shall be "Port Chester Local Development Corporation" (hereinafter referred to as the "Corporation").

SECOND: The Corporation will be a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-For-Profit Corporation Law of the State of New York and, as provided in Section 1411 of the Not-For-Profit Corporation Law, will be a Type C Corporation as defined in Section 201 of the Not-For-Profit Corporation Law. The

Corporation shall serve as a supporting organization for, but operate separate and apart from the Village of Port Chester, New York (the "Village").

THIRD: The purposes for which the Corporation is to be formed and operated are exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, lessen the burdens of government, and act in the public interest. In furtherance of said purposes, the Corporation's powers shall include:

(a) To construct, acquire, rehabilitate and improve for use by others, facilities in the territory in which its operations are principally to be conducted, to assist financially in such construction, acquisition, rehabilitation and improvement, to maintain and/or lease such facilities on its behalf or for others in such territory; to disseminate information and furnish advice, technical assistance and liaison with federal, state and local authorities with respect thereto;

(b) To acquire by purchase, lease, gift, bequest, devise or otherwise real or personal property or interests therein;

(c) To apply for loans and borrow money without limit as to amount; to make, draw, accept, endorse, execute and issue negotiable bonds, debentures, notes and other obligations therefor;

(d) To sell, lease, mortgage or otherwise dispose of or encumber any such facilities or any of its real or personal property or any interest therein upon such terms as it may determine;

(e) To enter into covenants and agreements and to comply with all the terms, conditions and provisions thereof, and otherwise to carry out its corporate

purposes and to foster and encourage the location or expansion of facilities and related businesses in the territory in which the operations of the Corporation are principally to be conducted;

(f) To apply for and make grants and loans and to execute any and all documents necessary in connection therewith;

(g) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof, but not for the pecuniary profit or financial gain of its members, directors, officers or any private person.

(h) In general, to perform any and all acts and things, and exercise any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

FOURTH: The Corporation's mission and public objective, which the Corporation's purposes will achieve, shall include the lessening of the burdens of government and fostering the creation, retention and expansion of jobs and economic opportunities for the benefit of the Village, New York State and local economies.

FIFTH: The operations of the Corporation will be principally conducted within the Village of Port Chester, New York and surrounding communities.

SIXTH: Pursuant to the requirements of Section 1411(e) of the Not-For-Profit Corporation Law:

(a) All income and earnings of the Corporation shall be used exclusively for its corporate purposes with the intent being that all income and earnings will be expended or deposited in appropriate reserves for corporate purposes; to the

extent not so used, the income and earnings will accrue and be paid to the Job Development Authority to the extent required by Section 1411 of the Not-for-Profit Corporation Law.

(b) The property of the Corporation is irrevocably dedicated to its corporate purposes. No part of the income or earnings of the Corporation shall inure to the benefit or profit of, nor shall any distribution of its property or assets be made to, any member, director or officer of the Corporation, or private person, corporate or individual, or to any other private interest, except that the Corporation may repay loans made to it and may repay contributions (other than dues) made to it to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1986, as amended.

(c) If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority, the Corporation shall be dissolved in accordance with the provisions of paragraph (g) of Section 1411 of the Not-For-Profit Corporation Law upon the repayment or other discharge in full by the Corporation of all such loans.

SEVENTH: (a) The Corporation shall not attempt to influence legislation by propaganda or otherwise, or participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

(b) The Corporation shall not engage in any activities not permitted to be carried on by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

EIGHTH: In the event of the dissolution of the Corporation or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the

payment of all debts and liabilities of the Corporation of whatsoever kind or nature, distribute all of the remaining assets and property of the Corporation to the Village for furtherance of the purposes set forth in Section 1411 of the Not-for-Profit Corporation Law. Any of such assets not so disposed of shall be disposed of by order of the Supreme Court of the State of New York pursuant to Section 1008 of the Not-For-Profit Corporation Law.

NINTH: The office of the Corporation shall be located in Westchester County, New York.

TENTH: The offices of the Corporation shall be functionally separate from those of the Village or any of its affiliated entities (collectively, the “Village Entities”) (although such office may be in a facility leased from the Village or any of its affiliates on arms-length terms). The Corporation at all times shall:

(a) maintain separate accounting records and other corporate records from those of the Village Entities;

(b) not divert the Corporation’s funds to any other person or for other than the use of the Corporation and not commingle any of the Corporation’s assets with those of the Village Entities;

(c) pay any employee, consultant or agent of the Corporation, or any other operating expense incurred by the Corporation, from the assets of the Corporation and not from the assets of any of the Village Entities;

(d) maintain its own deposit account or accounts, separate from those of the Village Entities, with commercial banking institutions and/or trust companies;

(e) to the extent that the Corporation contracts or does business with vendors or service providers where the goods and services provided are partially for the benefit of any other person, the costs incurred in so doing shall be fairly allocated to or among the Corporation and such persons for whose benefit the goods and services are provided, and the Corporation and each such person shall bear its fair share of such costs;

(f) conduct its business in its own name and conduct all material transactions between the Corporation and the Village Entities only on an arm's-length basis;

(g) observe all necessary, appropriate and customary corporate formalities, including, but not limited to, holding all regular and special members' and directors' meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of such meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records, and accounts, including, but not limited to, intercompany transaction accounts. Regular members' and directors' meetings shall be held at least annually;

(h) ensure that decisions with respect to its business and daily operations shall be independently made by the Corporation (although the officer making any particular decision also may be an employee, officer or director of the Village Entities);

(i) act solely in its own corporate name and through its own authorized officers and agents, and use its own stationery;

(j) other than as expressly provided herein, pay all expenses, indebtedness and other obligations incurred by it;

(k) not enter into any guaranty, or otherwise become liable, with respect to any obligation of the Village Entities;

(l) cause any financial reports required of the Corporation to be prepared in accordance with generally accepted accounting principles and be audited annually and be issued separately from, although they may be consolidated with, any reports prepared for any member of the Village Entities; and

(m) ensure that at all times it is adequately capitalized to engage in the transactions contemplated herein.

ELEVENTH: The types or classes of Membership in the Corporation and the number of Members of the Corporation shall be described in the Corporation's By-laws. The initial Member of the Corporation shall be the Village.

TWELFTH: The Corporation shall be managed by a Board of Directors consisting of not less than three (3) not more than seven (7) Directors. Any subsequent increase or decrease in the size of the Board of Directors will require the unanimous approval of the Members and the affirmative vote of a majority of the Directors.

THIRTEENTH: The names and addresses of the initial Directors of the Corporation will be as follows:

| Name                 | Address                                               |
|----------------------|-------------------------------------------------------|
| Neil Pagano          | 222 Grace Church Street, Port Chester, New York 10573 |
| Hon. Dennis Pilla    | 222 Grace Church Street, Port Chester, New York 10573 |
| Hon. Joseph Kenner   | 222 Grace Church Street, Port Chester, New York 10573 |
| James Taylor         | 222 Grace Church Street, Port Chester, New York 10573 |
| John Heinsch         | 222 Grace Church Street, Port Chester, New York 10573 |
| Philip C. Semprevivo | 222 Grace Church Street, Port Chester, New York 10573 |
| Richard Cuddy        | 222 Grace Church Street, Port Chester, New York 10573 |

FOURTEENTH: The duration of the Corporation shall be perpetual.

FIFTEENTH: The Corporation shall indemnify each Member, each Director, each officer, and, to the extent authorized by the Board of Directors, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the Not-For-Profit Corporation Law.

SIXTEENTH: The Secretary of State of the State of New York is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is as follows: Port Chester Local Development Corporation, 222 Grace Church Street, Port Chester, New York 10573.

SEVENTEENTH: The By-laws of the Corporation may be adopted, amended or repealed by a majority of the Directors of the Corporation.

EIGHTEENTH: The Corporation will not do any of the following:

(a) Without the affirmative vote of all Members of the Corporation and the affirmative vote of a majority of the Directors, increase or decrease the number of Members of the Corporation or increase or decrease the number of Directors of the Corporation.

(b) Without the affirmative vote of a majority of the Directors of the Corporation and all of the Corporation's members, (i) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against it, (iii) file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or a substantial part of its property, (v) make a general assignment for the benefit of creditors, (vi) admit in writing its inability to pay its debts generally as they



## DISCUSSIONS

### *Sewer rent project update.*

Ms. Douglas spoke regarding the information received from the Public Service Commission.

### *Valet parking pilot project.*

Mayor Pilla spoke regarding the proposed concepts from Mr. Russo and Mr. Cerreto. There was further discussion with the Board and Mayor Pilla asked staff to come back to the Board when they have more information.

### *Recommendation for 2012 road resurfacing project.*

The Board asked staff for the resolution at the September 18<sup>th</sup> Board meeting with the list of streets.

## CORRESPONDENCES

The Clerk presented correspondence from the Park Commission recommending Mayor and Board of Trustees ban smoking in designated areas. The Board asked that the Port Chester Cares Community Coalition come to the next Board meeting to present their recommendation to the Board.

The Clerk presented correspondence from Jarden for use of Village roadways on Sunday, September 23, 2012 for the Westchester Triathlon. The Board referred the request to staff subject to restrictions.

## REPORT

The Clerk presented a report from Fire Patrol & Rescue Co. No. 1 on the election of new member Brian Nicholson. The Board congratulated Mr. Nicholson on his election and referred the report to staff.

## PUBLIC COMMENTS AND BOARD COMMENTS

### **Public Comments:**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments. There were none.

### **Board Comments:**

Trustee Brakewood apologized for missing the August 20<sup>th</sup> meeting and congratulated Mr. Richards and Mr. Steers on their new positions. Trustee Brakewood also commented regarding the Capital Theater. Trustee Didden commented about the parking pilot program

and the permit amnesty program. Trustee Didden also commented regarding the hiring process for the Village Clerk position. Trustee Kenner commented about the opening of the Capital Theater. Mayor Pilla thanked staff for their hard work.

Trustee Kenner made a motion to close the meeting at 8:53 p.m., Trustee Didden seconded the motion.

AYES: Trustees Brakewood, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustees Terenzi and Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk



# Village of Port Chester

## Department of Planning and Development

222 Grace Church Street, rm. 202 Port Chester, New York 10573

Ph. (914) 937-6780

To: Hon. Mayor Pilla and Board of Trustees

From: Christopher Gomez, Director of Planning and Development *CG*

Re: Amnesty Law - Type II SEQRA Determination

CC: C. Russo, C. Steers, T. Cerreto, L. Douglas, J. Richards

Date: September 4, 2012

Adoption of the proposed Amnesty Law by the Board of Trustees is classified as a Type II action under SEQRA section 617.5(c)(27), "adoption of regulations, policies and local legislative decisions...". Further, the actual effect of the law itself fits within SEQRA section 617.5(c)(19) "official acts of a ministerial nature involving no exercise of discretion, including building permits...where the issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building codes...".

By definition, SEQR applies to discretionary decisions, not for ministerial decisions where a building permit or certificate of occupancy is issued if a given set of circumstances are met as proposed in the Amnesty Law. No further environmental review is required.

INSERT "A"

**RECOMMENDATION RESOLUTION  
OF THE VILLAGE OF PORT CHESTER  
PLANNING COMMISSION**

**Interim Local Law Establishing a Permit Amnesty Program**

**August 27, 2012**

**WHEREAS**, As referred by the Village Board of Trustees on August 20, 2012, the Planning Commission considered a proposed local law to establish a Permit Amnesty Program; and

**WHEREAS**, under §345-34 (D) of the village code, every amendment or change to the zoning code shall be referred to the Planning Commission by the Village Board of Trustees; and

**WHEREAS**, the Permit Amnesty Program would provide the necessary legislative sanction to code enforcement efforts to encourage voluntary code compliance with respect to open building permits and certificates of occupancy; and

**WHEREAS**, applicants under the proposed Permit Amnesty Program would still be required to obtain any necessary approvals from the Planning Commission, Zoning Board of Appeals approval or any other board approval, except as specified in this local law; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission hereby recommends the adoption of the local law to establish a Permit Amnesty Program; and


**BE IT FINALLY RESOLVED** that this resolution shall have an effective date of August 27, 2012.

On the motion of Commissioner Gregory, seconded by Commissioner Baxter, it was adopted by the following vote:

**AYES: Baxter, Cervinka, Coperine, Gregory, Pellon, Scarola**

**NAYES:**

**ABSENT: Antaki**

  
Michael Scarola, Chairman

INSERT "B"



Robert P. Astorino  
County Executive

County Planning Board

August 27, 2012

Christopher Gomez, AICP, Director of Planning  
Village of Port Chester  
222 Grace Church Street  
Port Chester, NY 10573

**Subject: Referral File No. PCH 12-004 – Amnesty Program Local Law**

Dear Mr. Gomez:

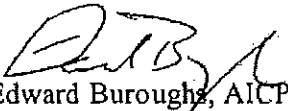
The Westchester County Planning Board has received a proposed Local Law and related material for a proposed "Permit Amnesty Program" which would commence on October 1, 2012 and end on December 31, 2012. The program would offer amnesty to all properties within the Village for site improvements done without building permits, certificates of occupancy or with violations, if those property owners submit applications for the approvals that are required. The proposed local law also allows for deviance from certain requirements of the Village's 1975 zoning regulations under certain conditions.

We have reviewed this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61. The proposed local law appears to have a valid and specific intent and should not extend beyond a reasonable time frame. This action is a matter for local determination in accordance with your community's planning and zoning policies.

Thank you for calling this matter to our attention.

Respectfully,  
WESTCHESTER COUNTY PLANNING BOARD

By:

  
Edward Buroughs, AICP  
Commissioner

EEB/LH

LAW OFFICES  
OF  
ALDO V. VITAGLIANO, P.C.

ATTORNEY AT LAW  
150 PURCHASE STREET - RYE, NEW YORK 10580-2136  
(914) 921-0333  
FAX: (914) 921-0796  
E-mail: avvpc@verizon.net

ALDO V. VITAGLIANO\*

\*Also admitted in Fla. & Conn.

-----  
ANGELO A. GUGLIELMO\*\*

\*\*Also admitted in Conn.

September 4<sup>th</sup>, 2012

Hon. Dennis Pilla, Mayor and  
Board of Trustees  
Village of Port Chester  
222 Grace Church Street  
Port Chester, NY 10573

Re: Amnesty Hearing

Mayor and Board of Trustees:

My comments tonight on the proposed Amnesty for building code infractions are made by myself as a concerned citizen, and not on behalf of any specific client. While I applaud the effort, I do believe that you need to do some more work on this to make sure what you pass is a fair program.

My first comment, relates to the fact that amnesty is not available to one that already is subject to building department enforcement. What this means to me, and perhaps I am wrong, is that any clients who were either interested in learning their property's compliance, or perhaps in selling, that maybe were advised to go to the Building Department, and ended up with a Violation Notice, are now ineligible for amnesty. Those who did what the Board suggested, (find out ahead of time) and learned they are not in compliance (95% of Port Chester homes are not in compliance) are not able to avail themselves of this program. It is simply unfair. This only compounds the current deleterious effect your program has had on the real estate market. Remember, your notices do not say – see us, possible issue, notice of potential violation condition, it says NOTICE OPEN VIOLATIONS in a big stamp. On the several times when we have pointed out mistakes within these reports, until there is total compliance, the NOTICE OPEN VIOLATIONS is not lifted. You must come up with a different threshold or standard for this, or else attentive property owners who did exactly what you told them to do, will not be able to avail themselves of this program. Perhaps the standard needs to be raised to whether the Violation condition rose to a Court filing, or dealt with overcrowding, though that may be hard to draft.

My second comment relates to the fact that properties that received a Certificate of Occupancy for work done according to later or recent codes, should not be asked to clean up your failure to properly monitor your records. Recall the property on Shelley Avenue I spoke to you once, where a later improvement for a kitchen extension which had received necessary variances, and had a building permit which was closed out with a certificate of occupancy were connected to an illegal house, simply because a permit from 1928 was not closed out. How ridiculous is that? This was not a case of – hey you owe us a fee to close out a permit - it involved a re-review of the plans, a trip to the zoning board of Appeals, electrical update, payment of fees, etc.. Is anyone going to reimburse us for the expenses we had? Will anyone reimburse Port Chester property owners for

the diminution in property values the current program has had? That is a rhetorical question of course. A non rhetorical question is where were these records anyway? Were they always available? Why were they never consulted? Is this simply about collecting money, or a subterfuge to root out perceived negative occupancies?

My third comment relates to a more fundamental issue. I firmly believe that the doctrine of municipal estoppel ought to bar Port Chester from any efforts to enforce older permits. Most if not all early permits should be grandfathered, without the need for expensive upgrades except for minimal fire and safety issues. Port Chester has a substantial number of properties with third story occupancies. If you want to cause them to be upgraded with the new building code, say that, do that, do not dance around the issue behind the veil of ancient permit compliance.

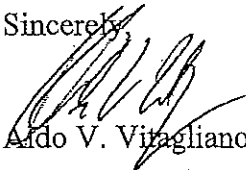
Personally, I believe that the doctrine of municipal estoppel needs to be applied. Municipal estoppel is a legal argument that prevents a municipality from acting, when they had plenty of time and opportunity to act, and when individuals relied on their failure to act to their current detriment. Factors that come into play include the length of time between granting and subsequent revocation or enforcement of the zoning ordinance, as well as the potential damage to the public if the municipality is estopped from enforcement seeking in essence revocation of earlier permits.

Referencing an as yet unpublished but timely pending Law Review Article on this subject at the Cardozo School of Law, the argument goes like this. A zoning estoppel claim based on reliance on an illegal permit or failure to close a permit, is asking the court to disable the municipality from enforcing the laws and regulations that it is tasked with enforcing. Therefore a zoning estoppel claim is not simply an inquiry as to whether there was good faith reliance on a governmental act, but also a balance of the government's duty to regulate land development for the public interest with the damage to the public if it is estopped from doing so. I would argue that there is no damage to the public interest in Port Chester if earlier permits are simply grandfathered.

Port Chester is on thin ice with the administration of its current draconian program, particularly when delaying access to determination of what I believe is an obviously available estoppel argument. I have one case where I am still waiting since June 28<sup>th</sup>, 2012, for a response from Port Chester to an unequivocal and expeditious request demanding a CO for permits taken out in 1930, disclosed for the first time in a report issued by the Building Department March 2, 2012. I want to present this argument for one client to the Zoning Board of Appeals, and am being estopped from doing so by the failure of Port Chester to either grant a CO, or deny it. Restricting access to the Zoning Board of Appeals, just like restricting access to a fair amnesty program on these or many other reasons is unconscionable. If the goal is to ensure Port Chester has safe housing and buildings, that goal can best be met by encouraging upgrades and compliance with a fair and open system.

Again I commend your efforts to address this important relief valve to current "over the top" enforcement. However, to be fair to the residents of Port Chester, new and old, you must err on the side of a generous benevolent amnesty program that shares responsibility for the current state of affairs. Thank you.

Sincerely,

  
Aldo V. Vitagliano

**AN INTERIM LOCAL LAW AMENDING THE CODE  
OF THE VILLAGE OF PORT CHESTER ESTABLISHING  
A PERMIT AMNESTY PROGRAM**

**SECTION 1: Purpose and Intent.**

The Board of Trustees has made code enforcement its first policy priority and has taken the initiative by supporting the development and implementation of a comprehensive, non-discriminatory code enforcement program.

The Board has knowledge that work has been done without a building permit, or work that was done with a permit was not properly closed out with the requisite inspection and certificate of occupancy. Such requirements are not new, and have been in effect since the adoption of the initial Village's Zoning Regulation in 1927.

The Board finds that the current situation with regard to such permits and certificates is not only long-standing, but pervasive throughout the entire village and poses a real and present danger to the safety of all residents. The Board has been advised that such situations often include zoning issues involving area and dimensional requirements. The Board finds that existing legal administrative structures in the Zoning Board of Appeals do provide relief, but that there is a need to address deviances that are deemed de minimus, or so minor as to have no appreciable impact on the neighborhood or surrounding properties.

There is currently an active and effective code enforcement program that may otherwise subject property owners to substantial fines who have failed to obtain permits, failed to close out permits, and/or have failed to obtain the required certificate of occupancy. The Building and Code Enforcement Departments have proactively engaged property owners to resolve permit and certificate of occupancy issues on a case-by-case basis. However, the Board finds and declares that an amnesty program herein would provide the necessary legislative sanction to such efforts and ultimately significantly encourage voluntary code compliance.

**SECTION 2: Permit Amnesty Program.**

- A. There is hereby established a Permit Amnesty Program that shall apply to all properties within the Village of Port Chester. Such program shall include all permitted work without certificates of occupancy, unpermitted past work, and unpermitted work in progress at the time of the adoption of this local law.
- B. The application period for the Permit Amnesty Program shall commence on October 1<sup>st</sup>, 2012 and end on December 31<sup>st</sup>, 2012. This shall be known as the Amnesty Period. To be deemed complete all applications shall be accompanied by an application for a "Certificate of Occupancy, Open Permits, Stop Order, Open Violations Verification Request", and an application for a "Zoning Verification Request"; which will thereby provide the initial basis for related permitting, building inspections, fire inspections, and/or applications to any Boards or Commissions.

- C. The Village of Port Chester Building Department shall accept complete applications on the forms designed for such purpose under the Amnesty Program during the Amnesty Period. No applications shall be accepted for amnesty after the end of the Amnesty Period. Applicants with accepted complete applications shall be vested in the Amnesty Program and deemed eligible for same.
- D. Within 18 months after the completion of any such searches and the date of an Amnesty Consultation with the Building Department the applicant shall complete all requirements as may be necessary for and to obtain any required certificate of occupancy. The Building Inspector, upon showing of just cause, may extend this deadline by not more than six (6) additional months. This shall be known as the compliance period.
- E. Failure of the applicant to cooperate and comply with the lawful directives of the Building Inspector in conjunction with the Permit Amnesty Program shall be cause for loss of their eligibility there under.
- F. The Village Manager or his designee may adopt rules of procedure, consistent with this regulation, for the purpose of assuring efficient and uniform administration of its provisions.

### SECTION 3: Permits

For those applications under the Amnesty Program involving open expired permits, the Building Inspector is authorized to renew said permit(s) under the umbrella of a single new permit that will encompass any number of open expired permits. All work related to those open expired permit(s) may be closed out under a single new permit as may be practical in the judgment of the Building Inspector. Such expedited process would avoid the need for an applicant to obtain a new permit and pay the requisite fees for each expired permit.

### SECTION 4: Zoning

For those applications under the Permit Amnesty Program regarding open expired permits issued prior to the effective date of the 1975 Zoning Regulation that may involve the need for some dimensional variance from the requirements under the applicable zoning regulation, the Building Inspector is authorized to accept deviance from certain of the requirements as "de minimis". To qualify as eligible for this determination, the following standards must be strictly satisfied:

1. The building or structure must be pre-existing and have been issued a building permit prior to the effective date of the 1975 Zoning Regulation.
2. The subject building or structure must otherwise comply with the applicable building code at the time of construction or alteration.
3. The area or dimensional requirement involves front, rear, and/or side yard setback(s).
4. The set-back encroachment is ten (10) inches or less.

5. The building or structure complies with all other aspects of the Village of Port Chester planning and zoning regulations.

Such deviances may be deemed "de minimis" as prescribed above and shall not require waiver or variance from the Zoning Board of Appeals.

#### SECTION 5: Fees.

Notwithstanding the fees established in Chapter 175 Fees of the Village Code, the following shall apply during the Amnesty Period:

- A. All administrative fees for construction activities without a building permit (i.e. fee of ~~\*~~\$250.00 or three (3) times the permit fee) are hereby waived.
- B. For work completed prior to the effective date of the 1975 Zoning Regulation:
  1. Building permit fees shall be reduced by fifty percent (50%). Zoning application fees shall be waived.
  2. Planning application fees may be waived or reduced by fifty percent (50%) depending upon the nature of the application at the discretion of the Village Manager or his designee.

This shall apply to all building, planning, and zoning applications submitted in conjunction with and under the auspices of the Permit Amnesty program within the Amnesty Period intended to correct the targeted violations.

#### SECTION 6: Inspections.

All premises participating in the Permit Amnesty Program shall be subject to a complete walkthrough inspection by the Building Department prior to the issuance of a certificate of occupancy.

#### SECTION 7: Exemptions.

The Amnesty Program is based on voluntary participation. Any and all applicants and/or their subject properties that have either been cited for such violations and are currently under enforcement action and any and all applicants and/or their subject properties that are cited and otherwise put under code enforcement action are not eligible for the Permit Amnesty Program.

#### SECTION 8: Other land use approvals.

Applicants under the Amnesty Program are still required to obtain any necessary approvals from the Planning Commission, Zoning Board of Appeals approval or any other board approval, except as specified in this local law. All supporting documentation and all fees associated with such land use approvals other than those waived or reduced herein, must be submitted. Although

the Board of Trustees strongly encourages that such applications be reviewed and determined in an expeditious manner, the application processes and typical procedures for all such applications shall otherwise be followed.

#### SECTION 9: Penalties and Notices

- A. Those applicants who properly submit complete applications within the Amnesty Period shall not be subject to enforcement action through the court system unless the apparent violations are deemed to be an immediate threat to the health safety and welfare to the Village and/or the occupants of the subject premises, or if there are additional violations not specifically addressed by the permit application. Such determination shall be made by the Building Inspector and Code Enforcement Director.
- B. Applicants that fail to obtain the required Certificate of Occupancy at the expiration of the Compliance Period shall be subject to enforcement action as may be necessary.

#### SECTION 10: Supercession, sunset

- A. So as to fully accomplish the intentions of the Board of Trustees, this local law supercedes any inconsistent or otherwise applicable provision of the Village Code, in particular, chapters 151, 175 and 345.
- B. This local law is in the nature of interim legislation and shall terminate by its terms.

#### SECTION 11: Validity and severability.

Should any section of, or provision, of this local law be decided by a court of competent jurisdiction to be held unconstitutional or otherwise invalid, such decision shall not affect the validity of the local law not in whole or in part so decided to be unconstitutional or otherwise invalid.

#### SECTION 12: Effective date.

This local law shall be effective upon due publication and filing with the Secretary of State.

**MEETING HELD SEPTEMBER 18, 2012**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Tuesday September 18, 2012 at 6:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

It should be noted that Trustee John Branca was absent and Trustee Joseph Kenner arrived at 6:07 P.M.

Present in addition to Mayor Pilla, were Trustees Daniel Brakewood, Saverio Terenzi, Bart Didden, and Luis Marino. Also present were Village Clerk, Janusz R. Richards; Village Attorney, Anthony Cerreto; Village Treasurer, Leonie Douglas; Director of Planning and Development, Christopher Gomez and Police Chief Joseph Krzeminski.

\*\*\*\*\*

On motion of Trustee Didden Marino, seconded by Trustee Terenzi, the meeting was opened at 6:05 p.m.

AYES: Trustees Brakewood, Terenzi, Kenner, Marino and Mayor Pilla  
NOES: None  
ABSENT: Trustees Kenner and Branca,

\*\*\*\*\*

**MOTION FOR EXECUTIVE SESSION**

At 6:05 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for the purpose of a work session with Board of Police Commissioners and Police Chief. Included in the executive session was the Village Attorney and Police Chief, Joseph Krzeminski.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla  
NOES: None  
ABSENT: Trustees Kenner and Branca

No action was taken in executive session.

At 6:25 p.m., on a motion of Trustee Didden, seconded by Trustee Kenner, the Board came out of executive session.

AYES: Trustees Brakewood, Terenzi, Didden Kenner, Marino and Mayor Pilla  
NOES: None  
ABSENT: Trustee Branca

At 6:26 p.m., on a motion of Trustee Terenzi, seconded by Trustee Marino, the Board went into a second executive session on the issue of Starwood Capital Group Tax Certiorari Proceedings.

AYES: Trustees Brakewood, Terenzi, Didden Kenner, Marino and Mayor Pilla  
NOES: None  
ABSENT: Trustee Branca

No action was taken in executive session.

At 6:45 p.m., on a motion of Trustee Marino, seconded by Trustee Didden, the Board came out of executive session.

AYES: Trustees Brakewood, Terenzi, Didden Kenner, Marino and Mayor Pilla  
NOES: None  
ABSENT: Trustee Branca

At 6:46 pm on a motion of Trustee Marino, seconded by Trustee Terenzi, the Board went into a third executive session on consultation with staff on real property negotiations.

The Village Attorney is directed by the Board of Trustees to take a particular action on its behalf, which is protected by the attorney-client privilege.

AYES: Trustees Brakewood, Didden, Marino, Kenner and Mayor Pilla  
NOES: None  
ABSTAIN: Trustees Terenzi (accountant for the owner)  
ABSENT: Trustee Branca

At 7:10 p.m., on motion of Trustee Marino, seconded by Trustee Brakewood, the executive session was closed and the public portion of the meeting was reopened.

\* \* \* \* \*

**CORRESPONDENCE**

*From 110 Midland Avenue zoning text amendment petition.*

Mr. Gomez submitted a memo to the Board regarding the automobile dealership service center use (110 Midland Avenue) proposed zoning text amendment. Please see insert "A".

Trustee Didden made a motion to add-on a resolution for the zoning text amendment referral to Planning Commission and County Planning Board. The motion was seconded by Trustee Kenner.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

RESOLUTION  
ZONING TEXT AMENDMNET  
REFERRAL TO PLANNING COMMISSION AND COUNTY PLANNING BOARD

On motion of TRUSTEE KENNER, seconded by TRUSTEE DIDDEN, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, Dent Wizard Int., Corp. has submitted a complete Zoning Text Amendment petition to the Board of Trustees, dated September 4, 2012, requesting amendment to Section 354-61W.(1), Special Exception Criteria for an Automobile Dealership Service Center Use; and

WHEREAS, An Automobile Dealership Service Center is defined as “*A facility that repairs, services and prepares automobiles for sale or resale and is affiliated with an automobile dealership and is duly licensed under the laws of the state of New York.*” which is a permitted use in the Village’s M2 General Industrial District through the grant of a special exception; and

WHEREAS, the proposed amendment would permit cosmetic reconditioning of automobiles, including painting and minor body repair within an Automobile Dealership Service Center. Now, therefore, be it

RESOLVED, that this Board desires to advance the petition for zoning text amendment submitted by Dent Wizard Intl., Corp., to amend Section 354-61W.(1) of the Village Zoning Code, Special Exception Criteria for an Automobile Dealership Service Center Use, and hereby refers the matter to the Village of Port Chester Planning Commission and Westchester County Planning Board for their review and comment.

Approved as to Form:

\_\_\_\_\_  
Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla  
NOES:  
ABSENT: Trustee Branca

DATE: September 18, 2012

**AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:**

***Public Hearing to consider the advisability of adopting a local law to amend Chapter 345  
“Zoning” of the Village Code with regard to site plan review procedures and standards.***

The following Public Notices were duly published in the Journal News and the Westmore News on August 31, 2012, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Tuesday, September 18, 2012, at 7:00 P.M., in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting a local law to amend, Chapter 345 “Zoning” of the Village Code with regard to site plan review procedures and standards.

Interested persons will be afforded the opportunity to be heard at this time. The proposed law is available at the Village Clerk’s office or online at [www.portchesterny.com](http://www.portchesterny.com)

Christopher Russo  
Village Manager  
Village of Port Chester

Dated: August 31, 2012

On motion of Trustee Didden, seconded by Trustee Kenner, the public hearing was declared open.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla  
NOES:  
ABSENT: Trustee Branca

Mayor Pilla asked if there was anyone who would like to speak in favor or against amending local law, chapter 345, with regard to site plan review procedure and standards.

Several questions and comments were heard from the Board as well as Mr. Dolph Rotfeld, Ms. Goldie Solomon, and Mr. Richard Abel.

On motion of Trustee Didden, seconded by Trustee Kenner, the public hearing was adjourned to October 1, 2012.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustee Branca

### **PRESENTATION**

#### ***Port Chester Cares Community Coalition and Park Commission recommending Mayor and Board of Trustees ban smoking in designated areas.***

Ms. Chelsea Bodansky of Port Chester Cares Community Coalition spoke School gave a presentation on smoke free parks in Port Chester. Several questions and comments were heard from the Board as well as Mr. Terranova, Park Commissioner, Mr. Reavis, Ms. Mikeda James, Westchester County Coalition Coordinator for Power Against Tobacco, Ms. Naomi Butner, School Based Health Coordinator for Open Door and Mr. Philip Mutino, Executive Co-Chairman of Port Chester Cares Community Coalition.

The Board asked Ms. Bodansky to work with the Park Commission in redesigning the signage in the park and to come back to the Board when they have a proposed redesign

#### ***Comprehensive Plan and Draft Zoning Amendments/Map Draft Generic Environmental Impact Statement (DGEIS).***

Mr. Ferrandino of Ferrandino & Associates Inc. spoke to the Board regarding the Comprehensive Plan and the proposed zoning amendments. Mr. Ferrandino presented to the Board the impact environmental analysis and stated to the Board that the next step would be public comments in a public hearing and 15 days following the public hearing. Mr. Ferrandino stated that they will answer all the questions from the public as well as from other government agencies. Mr. Ferrandino stated that he would present all the questions and answers in a final generic impact statement. Mayor Pilla stated for the record his concerns regarding the DW zone district and the need for additional analysis particularly regarding the setbacks.

The Village Clerk stated that the Village Attorney noticed an overlooked formality regarding the DGEIS on the website and the vote to set the public hearing could not be done until the next meeting and to not take any action until October 1, 2012.

### RESOLUTION

COMPREHENSIVE PLAN AND RELATED ZONING AMENDMENTS  
ACCEPTANCE OF DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT AS  
COMPLETE AND NOTICE OF PUBLIC HEARING THERETO

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE MARINO, the following resolution of the Board of Trustees of the Village of Port Chester, New York was TABLED to October 1, 2012 as follows:

WHEREAS, the Board of Trustees adopted a Positive Declaration directing that a Draft Generic Environmental Impact Statement (DGEIS) be prepared with regard to the Village's Comprehensive Plan and related zoning amendments; and

WHEREAS, the Board of Trustees adopted a Scoping Document on May 7, 2012 for which a DGEIS was prepared for the Comprehensive Plan and related zoning amendments; and

WHEREAS, the DGEIS was prepared by Ferrandino & Associates Inc. and submitted to the Board of Trustees on September 14, 2012; and

WHEREAS, the Board of Trustees has reviewed the same.

NOW, THEREFORE, BE IT RESOLVED, that the said DGEIS is hereby accepted by the Board of Trustees as complete for public review and comment; and

BE IT FURTHER RESOLVED, that a public hearing on the DGEIS be scheduled for October 15 2012 at 7:00 p.m. at the Port Chester Police Headquarters/Police Justice Court, second floor, 350 North Main Street.

Approved as to Form:

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Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

### **PUBLIC COMMENTS**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented about the residents of Port Chester, the census figures, taxes and village assessments and the Police DARE program.

**DISCUSSION**

*Starwood Capital Update*

Mr. Anthony Gioffre spoke on behalf of Starwood Capital and asked for another work session with the Board in October. Mayor Pilla said that he will ask Mr. Steers to set up a special meeting with Starwood Capital in October.

**RESOLUTIONS**

RESOLUTION

AWARDING BID FOR CONCRETE SIDEWALKS AND CONCRETE CURBS

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester has advertised for bids for the Concrete Sidewalks and Concrete Curbs Project (Bid No. 12-05); and

WHEREAS, of the seven firms that submitted bids, MVM Construction, LLC, 100 Oak Street, Mount Vernon, New York 10550 submitted the lowest bid; and

WHEREAS, the contractor's references have been verified; and

WHEREAS, the Village Manager recommends that the Board accept this bid which meets all material specifications as set forth in the bid documents. Now, therefore, be it

RESOLVED, that the Village of Port Chester accepts the bid of \$148,310,00 from MVM Construction, LLC, 100 Oak Street, Mount Vernon, New York 10550; and

BE IT FURTHER RESOLVED, that the Village Manager is hereby authorized to sign an agreement with the contractor; and

BE IT FURTHER RESOLVED, that the funding for said work be appropriated from Sidewalk/Curb Improvement Project 5.5110.400.2011.120 in the Capital Fund.

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla  
NOES:  
ABSENT: Trustee Branca

DATE: September 18, 2012

## RESOLUTION

### AWARDING BID FOR STREET RESURFACING 2012

On motion of TRUSTEE DIDDEN, seconded by TRUSTEE, MARINO the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Village of Port Chester has advertised for bids for Street Resurfacing 2012 (Bid No. 12-06) with the work to be done as identified in the annexed report from the Village's consulting engineer; and

WHEREAS, of the five firms that submitted bids, Bilotta Construction Co. submitted the lowest bid; and

WHEREAS, the contractor's references have been verified; and

WHEREAS, the Village Manager recommends that the Board accept this bid which meets all the specifications as set forth in the bid documents. Now therefore, be it

RESOLVED, that the Village of Port Chester accepts the bid of \$466,403.70 from Bilotta Construction Co., Rye, New York

BE IT FURTHER RESOLVED, that the Village Manager is hereby authorized to sign an agreement with the contractor; and

BE IT FURTHER RESOLVED, that the funding for said work be appropriated from Road Resurfacing Project 5.5110.400.2010.110 and that the Capital Fund be modified to reflect additional CHIPS funding of \$270,037 thereby increasing the project budget from \$1,022,833 to \$1,292,870.

Village of Port Chester  
**2012 Road Resurfacing**

|                  |                                                               |
|------------------|---------------------------------------------------------------|
| Abendroth Avenue | From the intersection of Mill and Abendroth to 200 feet south |
| Columbus Avenue  | From Leicester Street to Clark Place                          |

|                                                  |                                                                                               |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Hawley Avenue                                    | From West Glen Avenue to Glen Avenue                                                          |
| Lafayette Drive                                  | From Putnam Terrace to Glen Avenue                                                            |
| Glen Avenue                                      | From Lafayette Drive to North Regent Street                                                   |
| North Regent Street                              | From Columbus Avenue to Glen Avenue                                                           |
| Mill Street<br>Abendroth Avenue                  | From North Main Street to 50 feet east of intersection with                                   |
| Olivia Street                                    | From Spring Street to Boston Post Road                                                        |
| Park Avenue                                      | From Columbus Avenue to North Regent Street                                                   |
| Riverdale Avenue                                 | From Hillside Avenue to the State/Village line (675 feet north of intersection with Hillside) |
| Rockland Avenue                                  | From Clermont Avenue to Summer Street                                                         |
| William Street                                   | From South Regent Street to Soundview Street                                                  |
| The intersection of Purdy Avenue and Ryan Avenue |                                                                                               |

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

#### RESOLUTION

AUTHORIZING A REVOCABLE LICENSE AGREEMENT TO FACILITATE WESTCHESTER COUNTY'S EFFORTS TO REDUCE THE LEVEL OF NITROGEN DISCHARGE FROM THE PORT CHESTER SEWAGE TREATMENT PLANT AND PROVIDE ANCILLARY BENEFITS TO THE VILLAGE

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE MARINO, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, in response to federal requirements, the County of Westchester has established a program to reduce the levels of nitrogen levels discharged from the County's sewage treatment plants; and

WHEREAS, as part of that program, the County retained Engineers Consortium, LLP; and

WHEREAS, Engineers Consortium, LLP. has subcontracted with In-Pipe Technology (IPT) to provide a technical solution that will assist in making the necessary reductions but without the need for costly major capital intensive upgrades; and

WHEREAS, IPT has requested the Village's participation in this program through the installation of certain devices within the Village's sanitary sewer system at locations identified by the Village Manager or his designee; and

WHEREAS, EPT's installation would provide ancillary benefits to the Village through the digestion and control of facts, oil and greases throughout the system, preventing costly blockages and overflows, reduction of noxious odors and associated sulfide corrosion; and

WHEREAS, permission by the Board of Trustees in the form of a revocable license agreement is required; and

WHEREAS, such license agreement would detail the scope of work, and include provisions for liability insurance and a full indemnity sufficient to protect the Village; and

WHEREAS, the Village Manager recommends that the Board grant such permission, subject to the execution of a license agreement that is satisfactory in form and substance by the Village Attorney.

RESOLVED, that the Village Manager is hereby authorized to enter into a revocable license agreement with In-Pipe Technology, Inc., 100 Bridge Street, Wheaton, Illinois 60187 to permit entry into the Village's sanitary sewer system.

APPROVED AS TO FORM:

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Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

**DISCUSSION**

***Finance Department Manual Journal Entry Procedures.***

Ms. Douglas said that she and Trustee Terenzi will have the final details at the next Board meeting.

**Add-on Resolution**

Trustee Terenzi made a motion to add-on a resolution for the Justice Court Assistance Program. The motion was seconded by Trustee Marino.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

RESOLUTION

GRANT APPLICATION FOR THE POLICE JUSTICE COURT

On motion of TRUSTEE TERENZI, seconded by TRUSTEE DIDDEN,

The following resolution was adopted by the Board of Trustees of the Village of Port Chester,

New York:

WHEREAS, the Village of Port Chester Police Justice Court serves a vital purpose to ensure fair justice in the Village; and

WHEREAS, the Court has one of the heaviest dockets of all local courts in the State of New York; and

WHEREAS, the State of New York Unified Court System invited the Village to apply for a Justice Court Assistance Program (JCAP) Grant, with a maximum award of \$30,000; and

WHEREAS, the Court Clerk has recommended that the Village submit a grant for the full amount to fund new computers and furniture. Now, therefore, be it

RESOLVED, that the Mayor be and hereby is authorized to submit an application for a Justice Court Assistance Program (JCAP) Grant, requesting \$30,000.00 in funding in accordance with the needs assessment prepared for such purpose by the Court Clerk.

APPROVED AS TO FORM:

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Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

### **Add-on Discussion**

Trustee Terenzi made a motion to add-on a discussion regarding the housing rehabilitation program. The motion was seconded by Trustee Marino.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: September 18, 2012

Mayor Pilla updated the Board that Mr. Cerreto is going to have a meeting with Mr. Bocanfuso to discuss broadening the language for the program.

### **CORRESPONDENCES**

The Clerk presented correspondence from Saint Peter's Episcopal Church requesting permission for a procession on September 29, 2012 for the patronage of "Señor de la Exaltación". The Board referred the correspondence to staff.

The Clerk presented correspondence from Seth Bengelsdorf requesting to close off a portion of Puritan Drive from Putnam Drive to Indian Road for a Block Party on Sunday, September 30, 2012 from 10:00am to 4:00pm. The Board referred the correspondence to staff.

The Clerk presented correspondence from the Port Chester-Rye Union Free School District for use of a fire truck at their annual homecoming activities on October 19, 2012 from 6:45pm to 11:00pm. The Board referred the correspondence to staff.

The Clerk presented correspondence from Holy Rosary Church for their 13<sup>th</sup> year procession and use of Edgewood Park on Sunday, October 7, 2012. The Board referred the correspondence to staff.

## **MINUTES**

### ***Approval of the Board of Trustees minutes of June 18, 2012 and June 25, 2012.***

On motion of Trustee Marino, seconded by Trustee Brakewood, the minutes of June 18, 2012 and June 25, 2012 were adopted.

AYES: Trustees Brakewood, Terenzi, Marino, Kenner, and Mayor Pilla

NOES:

RECUSE: Trustee Didden

ABSENT: Trustee Branca

## **PUBLIC COMMENTS AND BOARD COMMENTS**

### **Public Comments:**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments. Mr. Abel commented regarding the Capital Theater and parking meters.

### **Board Comments:**

Trustee Brakewood commented regarding Lyon Park and village resident taxes and tax assessments. Trustee Didden commented regarding the Port Chester High School student's presentation, village resident tax assessments and police and fire retirements. Trustee Marino commented regarding fire fighter retirements. Mayor Pilla commented regarding the emergency management system and the upcoming Town Hall meeting.

At 10:58 p.m., on a motion of Trustee Didden and seconded by Trustee Marino, the Board adjourned into a forth executive session on consultation with Village Attorney and staff to discuss Department of Justice voting rights litigation.

A motion was made by Trustee Terenzi, seconded by Trustee Brakewood to include early voting for the Mayoral March 19, 2013 election.

### **ROLL CALL**

AYES: Trustees Brakewood, Terenzi and Mayor Pilla

NOES: Trustees Didden, Marino, Kenner

ABSENT: Trustee Branca

Motion not carried.

A motion was mad by Trustee Marino, seconded by Trustee Didden requesting the Department of Justice to eliminate the early voting for the Village Trustees.

ROLL CALL

AYES: Trustees Didden, Marino, Kenner  
NOES: Trustees Brakewood, Terenzi and Mayor Pilla  
ABSENT: Trustee Branca

Motion not carried.

At 11:30 p.m., on motion of Trustee Terenzi, seconded by Trustee Kenner, the executive session was closed.

AYES: Trustees Brakewood, Terenzi, Didden Kenner, Marino and Mayor Pilla  
NOES: None  
ABSENT: Trustee Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk



# Village of Port Chester

## Department of Planning and Development

222 Grace Church Street, rm. 202 Port Chester, New York 10573  
Ph. (914) 937-6780

To: Hon. Mayor Pilla and Board of Trustees

From: Christopher Gomez, Director of Planning and Development *C*

Re: Automobile Dealership Service Center Use (110 Midland Avenue)  
Proposed Zoning Text Amendment

CC: C. Russo, C. Steers, T. Cerreto, L. Douglas, J. Richards

Date: September 13, 2012

Dent Wizard Int., Corp. has submitted a complete site plan application for 110 Midland Avenue/ DCH BMW and associated petition for a Zoning Text Amendment, provided herein, per Section 345-34 of the Village Zoning Code. The proposal seeks to amend Section 354-61W.(1), Special Exception Criteria for an Automobile Dealership Service Center Use (ADSC), to permit cosmetic reconditioning of automobiles, including painting and minor body repair (bumpers, molding, mirrors, headlight lenses, alloy wheels) inside an existing building. No traditional collision repair equipment such as frame machines, alignment racks, welders or unibody straightening machines would be permitted in conjunction with the cosmetic reconditioning operation.

An Automobile Dealership Service Center (ADSC) is defined in Section 345-2 of the Village Zoning Code as *"A facility that repairs, services and prepares automobiles for sale or resale and is affiliated with an automobile dealership and is duly licensed under the laws of the state of New York."* and is only permitted by special exception in the Village's M2 General Industrial District. The ADSC use was established by the Board in 2004 to facilitate the proposed use of Competition & Sports Car Ltd. (BMW) at 110 Midland Avenue (local law attached).

This proposed text amendment is extremely specific in nature to a single special exception use criteria for an Automobile Dealership Service Center, and as a result is neither consistent nor inconsistent with the general goals and objectives of the draft comprehensive plan or proposed zoning amendments currently before the Board.

With consensus to advance the petition in the process, the Board should take action via add on-resolution (provided) to refer the document to both the Planning Commission and County Planning Board for their review and comment.

## Proposed Zoning Text Change

### 354-61 W. Automobile dealership service center.

[Added 1-5-2004 by L.L. No. 3-2004]

- (1) All servicing and repair of automobiles shall take place entirely within the building, and no servicing or repair of vehicles shall be visible from any adjacent public street. ~~No painting or auto body repair work shall be permitted.~~ There shall be no outdoor storage of vehicles being serviced or repaired except for temporary parking of such vehicles before and after servicing. On-site storage of vehicles for sale or resale shall be permitted at the site, provided that such storage of vehicles is solely contained within the building.

The cosmetic reconditioning equipment and the entire reconditioning operation shall be wholly contained within the existing service building. The exhaust emissions permit for the cosmetic reconditioning equipment shall be through the Westchester County Department of Health. Said equipment shall be limited in size to no more than 3,000 square feet and its operation shall be under the direction of the automobile dealership service center to only serve dealership customers and only on the level of reconditioning limitations noted herein.

Cosmetic reconditioning shall be defined as repairs and refinishing primarily on plastic and trim parts of the vehicle including bumpers, molding, mirrors, headlight lenses, and restoring alloy wheels. Vehicle side panels may also be refinished on occasion when the bumper scrape may carry into the fender for a uniform repair.

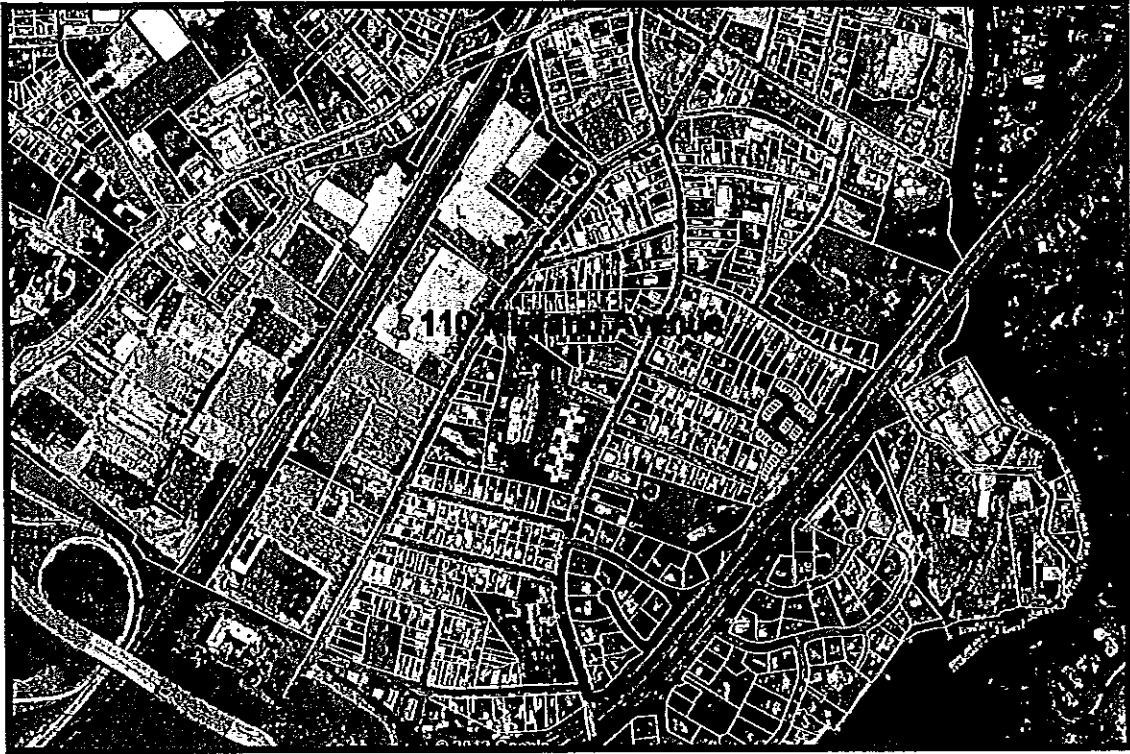
No traditional collision repair equipment such as frame machines, alignment racks, welders or unibody straightening machines shall be permitted in conjunction with the cosmetic reconditioning operation.

- (2) The minimum gross floor area utilized by the facility within the building shall be 80,000 square feet of which portions of such floor area shall be utilized exclusively as office space and/or employee utility space together having a floor area ratio of more than .10 with reference to the total service area, and any area utilized exclusively as a customer service area shall not exceed 70% of the total gross floor area.
- (3) A retail accessory use shall be permitted at the site, provided not more than 5% of the gross floor area is utilized for such retail use.
- (4) Sign regulations. In addition to the requirements of § 345-15 herein, no flashing, moving or intermittently illuminated advertising devices are permitted. All signs shall be integrated with the architectural design of the structure. No sign shall project above the roof of the structure.
- (5) Gas pump. One gas pump may be installed at the site, provided it is used solely for the vehicles being serviced or repaired therein, and it is not utilized for sale to the general public and it is installed as required by the State of New York.

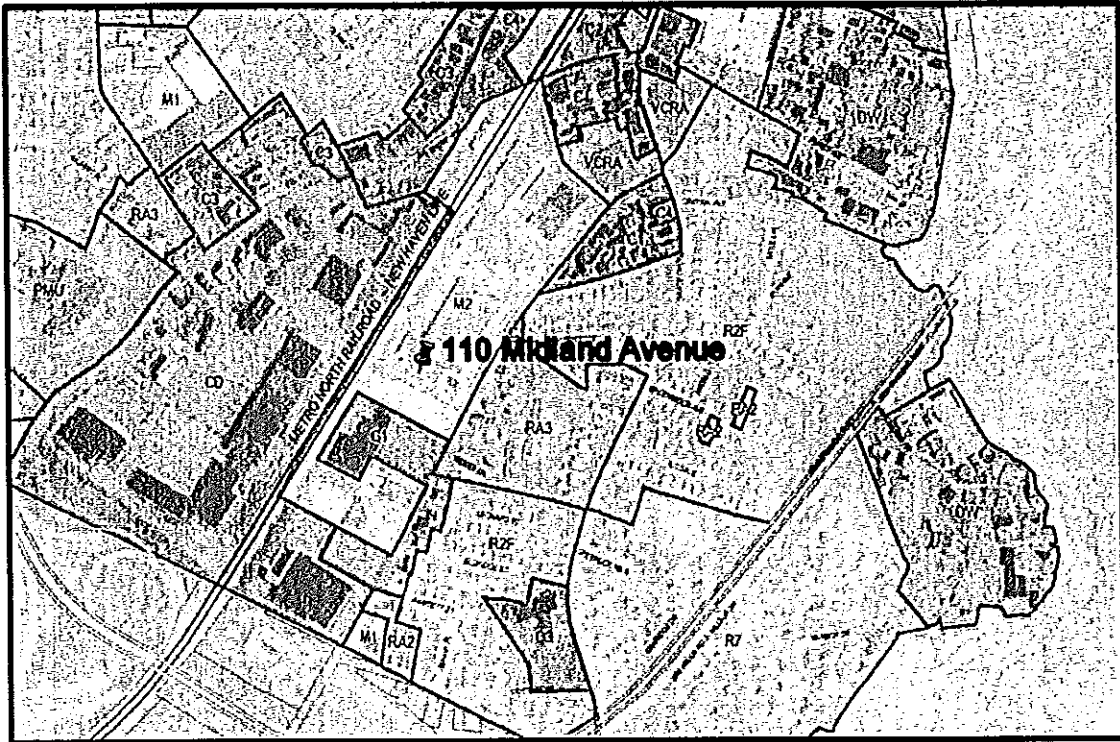
- (6) Such facility must be duly licensed as an authorized repair facility as required by the State of New York.
- (7) The applicant shall submit a traffic analysis which indicates that the proposed project can be accommodated by the existing roadway system and/or proposed improvements to the roadway system at satisfactory levels of service.
- (8) All plots, lots or parcels of land containing 15,000 or more square feet of area or having or proposing a use requiring 20 or more parking spaces, or both, shall comply with the following requirements:
- (a) The requirements of § 345-14I(l) shall not apply to this use, except that there shall be provided an accessway running from a public road to the parking area of the lot.
- (b) The way and drive contained therein shall be for the exclusive use of the property and parking area.
- (c) The way at the curblin and throughout its length shall be not less than 15 feet from any other way or driveway providing access to a public street and not less than five feet from any lot line, except a street lot line.
- (d) Any driveway providing ingress and egress to a public street shall not pass through the parking and/or drive area of any other lot.
- (e) Access, but not frontage, may be provided by grant of easement, but the size of the lot impressed with the easement shall be reduced by the area comprising the easement before computing area, setback, and special exception requirements.
- (f) The requirements of this section shall be in addition to the frontage and minimum yard dimension requirements of the Code.
- (g) Any modification to the curbs cuts at the site shall be approved by the New York State Department of Transportation.
- (9) The site must be located no more than .33 mile from an accessway to a New York State or U.S. highway.
- (10) Parking, There shall be provided at the site sufficient parking spaces for all vehicles stored or being serviced at any one period of time. In addition, sufficient parking for the office space and any retail space shall be provided in accordance with § 345-14, except that there shall be no parking requirement for any retail space containing less than 500 square feet.
- (11) Loading and unloading. Loading spaces shall be provided at the site in accordance with § 345-14. All loading and unloading shall be performed entirely within the lot. Loading units shall be designated to ensure that vehicles serving the lot shall do so without backing into or out of any public street. Loading bay doors shall be appropriately screened from any public street.

**(12)** Collection and storage of waste. Facilities for the collection and temporary storage of rubbish, garbage, and waste shall be provided within the structure or in secured containers on the site, which are appropriately screened from any public street. Disposal of waste shall be performed in accordance with the standards promulgated by the State of New York.

**(13)** Fencing. The site shall be fenced or otherwise secured in a manner which prevents unauthorized access by the general public to areas where vehicles are stored; however, no electrified and/or razor ribbon fencing shall be permitted.



Aerial Photo



Zoning Map

**MEETING HELD OCTOBER 1, 2012**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, October 1, 2012 at 6:45 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Daniel Brakewood, Saverio Terenzi, Bart Didden, Luis Marino and Joseph Kenner.

It should be noted that Trustee John Branca was absent.

Also present were Appointed Village Manager, Christopher Steers; Village Attorney, Anthony Cerreto; Village Clerk, Janusz R. Richards; Village Treasurer Leonie Douglas; Director of Planning and Development, Christopher Gomez and Police Chief Joseph Krzeminski.

\* \* \* \* \*

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was declared opened at 6:45 p.m.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustee Branca

**MOTION FOR EXECUTIVE SESSION**

At 6:45 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with Village Attorney and staff to discuss a proposed acquisition of real property.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

No action was taken in executive session:

At 7:15 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the executive session was closed and the public portion of the meeting was reopened.

\* \* \* \* \*

## **AWARD PRESENTATION**

Mayor Pilla and the Board recognized Mr. Tom Giorgi for receiving the Silver Star for service to our nation.

## **AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:**

*Public Hearing to consider the advisability of adopting a local law to amend Chapter 345 “Zoning” of the Village Code with regard to site plan review procedures and standards.*

The following Public Notices were duly published in the Journal News and the Westmore News on August 31, 2012, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

### PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Board of Trustees of the Village of Port Chester, New York, will hold a PUBLIC HEARING on Tuesday, September 18, 2012, at 7:00 P.M., in the Village Justice Courtroom, 350 North Main Street, Port Chester, New York, to consider the advisability of adopting a local law to amend, Chapter 345 “Zoning” of the Village Code with regard to site plan review procedures and standards.

Interested persons will be afforded the opportunity to be heard at this time. The proposed law is available at the Village Clerk’s office or online at [www.portchesterny.com](http://www.portchesterny.com)

Christopher Russo  
Village Manager  
Village of Port Chester

Dated: August 31, 2012

On motion of Trustee Didden, seconded by Trustee Kenner, the public hearing was declared open.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustee Branca

Mr. Gomez asked the Board that the public hearing be adjourned until November 5, 2012.

Mayor Pilla asked the public if there was anyone who would like to comment in favor or against amending local law, chapter 345, with regard to site plan review procedure and standards. Ms. Goldie Solomon commented regarding the proposed local law and the current financial conditions of the village.

On motion of Trustee Kenner, seconded by Trustee Brakewood, the public hearing was adjourned to November 5, 2012.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner, and Mayor Pilla

NOES:

ABSENT: Trustee Branca

## **PRESENTATIONS**

### ***Sewer Rent Project - Joe Dichter special counsel***

Mr. Dichter spoke regarding the issues with the proposed sewer rent billing.

### **Add-on Resolution**

Trustee Terenzi made a motion to add-on a resolution to retain Mr. Joe Dichter as special counsel for the sewer rent project. The motion was seconded by Trustee Kenner.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

## RESOLUTION

### RETAINING SPECIAL COUNSEL TO ADVANCE THE SEWER RENT PROJECT

On motion of TRUSTEE TERENZI, seconded BRAKEWOOD, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Board of Trustees has made a policy priority the establishment of a multi-year, \$15 million capital program to comprehensively address the repair and replacement of the Village's sanitary sewer system; and

WHEREAS, Article 14F of the General Municipal Law authorizes municipalities to charge annual user fees, known as sewer rent, by enactment of a local law; and

WHEREAS, the proposed basis for the sewer rent is actual water consumption which is the most widely used formula across the nation; and

WHEREAS, The Village of Port Chester is served by a private water company, United Water Westchester; and

WHEREAS, formal approval of the New York Public Service Commission is required to enter into an agreement with the water company to provide water consumption data and bill property owners for the sewer rents on the Village's behalf. Now, therefore, be it

RESOLVED, that the Village Manager be and is hereby authorized to enter into a retainer agreement with Dichter Law LLC, 488 Madison Avenue, 10<sup>th</sup> Floor, New York, New York 10022, based on a fee proposal dated September 27, 2012 to advance the sewer rent project, compensation to be a flat rate of \$15,000.

AYES: Trustees Brakewood, Terenzi, Marino, Kenner and Mayor Pilla

NOES: Trustee Didden

ABSENT: Trustee Branca

DATE: October 1, 2012

***Port Chester Cares Community Coalition and Park Commission regarding the placement of signage in village parks.***

Mr. Jerry Terranova, Chairman, Park Commission and Ms. Chelsea Bodansky of Port Chester Cares Community Coalition spoke about the redesign signage for village parks. There was further discussion with the Board and the Board asked Mr. Terranova and Ms. Bodansky to work with Mr. Steers in revising the signage and to come back to the Board when they have final draft.

***Acceptance of completion and setting public hearing for comprehensive Plan and Draft Zoning Amendments/Map Draft Generic Environmental Impact Statement (DGEIS)***

**RESOLUTION**

COMPREHENSIVE PLAN AND RELATED ZONING AMENDMENTS RESOLUTION

COMPREHENSIVE PLAN AND RELATED ZONING AMENDMENTS  
ACCEPTANCE OF DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT AS  
COMPLETE AND NOTICE OF PUBLIC HEARING THERETO

On motion of TRUSTEE KENNER seconded by TRUSTEE BRAKEWOOD, the following resolution of the Board of Trustees of the Village of Port Chester, New York was adopted as follows:

WHEREAS, the Board of Trustees adopted a Positive Declaration directing that a Draft Generic Environmental Impact Statement (DGEIS) be prepared with regard to the Village's Comprehensive Plan and related zoning amendments; and

WHEREAS, the Board of Trustees adopted a Scoping Document on May 7, 2012 for which a DGEIS was prepared for the Comprehensive Plan and related zoning amendments; and

WHEREAS, the DGEIS and appendices was prepared by Ferrandino & Associates Inc. and submitted to the Board of Trustees on September 26, 2012; and

WHEREAS, the Board of Trustees has reviewed the same.

NOW, THEREFORE, BE IT RESOLVED, that the said DGEIS is hereby accepted by the Board of Trustees as complete for public review and comment; and

BE IT FURTHER RESOLVED, that a public hearing on the DGEIS be scheduled for October 22, 2012 at 7:00 p.m. at the Port Chester Police Headquarters/Police Justice Court, second floor, 350 North Main Street.

Approved as to Form:

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Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Marino, Kenner and Mayor Pilla

NOES: Trustee Didden

ABSENT: Trustee Branca

DATE: October 1, 2012

### **PUBLIC COMMENTS**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented regarding property taxes and the Police Department. Ms. Heather Paul commented regarding signage in the parks, school taxes and the Town of Rye. Mr. John Reavis commented about the traffic congestion in downtown Port Chester. Mr. Abel commented regarding the proposed sewer rent program. Mr. Anthony Morando of Cuddy & Feder commented on behalf of Starwood Capital and requested to have a one hour work session with the Board. Mayor Pilla asked Mr. Steers to set up a date and time with Mr. Morando.

**RESOLUTIONS**

RESOLUTION

On motion of TRUSTEE MARINO, seconded by TRUSTEE BRAKEWOOD, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, Peter Miley has accepted an offer by the Village Manager to become Building Inspector at an annual salary of \$110,000; and

WHEREAS, Mr. Miley will have additional administrative authority over the Department of Code Enforcement; and

WHEREAS, pursuant to Section 77-5 of the Village Code, such appointment is subject to the confirmation and approval of the Board of Trustees. Now, therefore, be it

RESOLVED, that under the conditions aforesaid, the appointment of Peter Miley for the position of Building Inspector is hereby confirmed and approved by the Board of Trustees.

APPROVED AS TO FORM:

\_\_\_\_\_  
Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla  
NOES: None  
ABSENT: Trustees Branca  
DATE: October 1, 2012

## **DISCUSSION**

### ***Finance Department Manuel Journal Entry Procedures.***

Ms. Douglas spoke regarding the journal entry procedures and presented to the Board the final draft.

### **Add-on Resolution**

Trustee Kenner made a motion to add-on a resolution for the Justice Court Finance Department Manuel Journal Entry Procedures. The motion was seconded by Trustee Terenzi.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

DATE: October 1, 2012

## **RESOLUTION JOURNAL ENTRY POLICY**

On motion of TRUSTEE, KENNER seconded by TRUSTEE DIDDEN, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

RESOLVED, that the Village of Port Chester does hereby adopts the annexed Journal Entry Policy, which is intended for the internal controls for the post of journal entries:

### **VILLAGE OF PORT CHESTER FINANCE DEPARTMENT MANUAL JOURNAL ENTRY PROCEDURES**

The Village of Port Chester recognizes that manual journal entries are needed and made for various reasons including but not limited to: record revenues and expenditures, to transfer funds, or to record balance sheet accruals. These procedures are being established in order to create proper segregation of duties. (i.e. there should always be an approval by a person other than the preparer of the journal entry.) Based on the need for manual journal entries, the following policy is being established to document procedures on how journal entries are expected to be processed:

1. Journal entries for all funds/departments will be entered by the Jr. Accountant or another qualified person in the Finance Department. The individual entering the journal entry should pay close attention that the correct posting date and fiscal period are used.

2. Appropriate documentation/support shall be included with the journal entry.
3. The Treasurer will review all journal entries deemed to be of a nonrecurring nature. If a journal entry is determined to be appropriate, the Treasurer or Jr. Accountant will ensure each entry is properly coded, in balance and entered for the correct period. In the event that a journal entry is prepared by the Treasurer, it will be reviewed and approved by the Jr. Accountant.
4. The Treasurer after completing this review and determining the journal entry is correct will then approve and post the journal entry.
5. The person responsible for cash receipts, whom is independent of the month-end bank reconciliation, shall not prepare, review or post any journal entries to cash accounts.
6. The person responsible for preparing payroll journal entry, who is independent of the month-end bank reconciliations for any bank account affected by payroll, shall not prepare, review or post any journal entries to the payroll cash account or trust & agency accounts.
7. These procedures are being established in order to create proper segregation of duties (i.e. there should always be an approval being done by a person other than the preparer of the journal entry.)

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

DATE: October 1, 2012

## **REPORTS**

The Deputy Clerk presented a report from Washington Engine & Hose Co. No. 4 on the election of new member Craig Sweet. The Board congratulated Mr. Sweet on his election and referred the report to staff.

The Deputy Clerk presented a report from Reliance Engine & Hose Co. No.1 on the election of new member John Thompson and the removal of members Kevin Brainard and Steven Charles. The Board congratulated Mr. Thompson on his election and referred all reports to staff.

## **PUBLIC COMMENTS AND BOARD COMMENTS**

### **Public Comments:**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Mr. Abel commented regarding property assessments and taxes.

### **Board Comments:**

Trustee Brakewood thanked Mr. Dolph Rotfeld for his work on the proposed road restriping on Putnam Avenue and commented about the Town Hall Meeting on September 27<sup>th</sup>, village property taxes and the positive changes that are happening in the village.

Trustee Terenzi commented about the property tax assessments and the proposed sewer rent program.

Trustee Didden also thanked Mr. Dolph Rotfeld for his work on the proposed road restriping on Putnam Avenue and commented regarding the Rye Brook fire contract, traffic congestion in downtown Port Chester, property tax assessments and caberet issues at 451 North Main Street.

Trustee Marino commented about the Marshalls for the court, Rye Brook fire contract and caberet licenses.

Trustee Kenner commented regarding the amnesty program.

Mayor Pilla commented regarding the Town Hall meeting on September 27<sup>th</sup> at the Senior Center and early voting for the March 2013 elections.

At 10:55 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session to discuss Rye Brook fire contract negotiations.

AYES: Trustees Brakewood, Terenzi, Marino, Kenner and Mayor Pilla  
NOES: Trustee Didden  
ABSENT: Trustee Branca

No action was taken in executive session.

At 11:30 p.m., on motion of Trustee Terenzi, seconded by Trustee Marino, the executive session was closed.

AYES: Trustees Brakewood, Terenzi, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk

**MEETING HELD OCTOBER 15, 2012**

A meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, October 15, 2012 at 6:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Daniel Brakewood, Saverio Terenzi, Bart Didden, Joseph Kenner and Luis Marino.

It should be noted that Trustee John Branca was absent.

Also present were Village Manager, Christopher Steers; Village Attorney, Anthony Cerreto; Village Treasurer Leonie Douglas; Deputy Village Clerk, Jacqueline Johnson and Police Chief Joseph Krzeminski.

\* \* \* \* \*

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was declared opened at 6:15 p.m.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES:

ABSENT: Trustee Branca

**MEETING OF THE BOARD OF TRUSTEES IN THEIR CAPACITY AS A BOARD OF POLICE COMMISSIONERS**

The Board of Police Commissioners met with the Chief of Police to discuss priorities and other issues. No action was taken in the meeting, but the Board asked for a recurring monthly meeting with the Chief of Police.

**MOTION FOR EXECUTIVE SESSION**

At 6:55 p.m., on motion of Trustee Brakewood, seconded by Trustee Marino, the Board of Trustees adjourned to an executive session for consultation with Village Attorney and staff to discuss a proposed acquisition of real property.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla

NOES: None

ABSENT: Trustee Branca

No action was taken in executive session:

At 7:15 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the executive session was closed and the public portion of the meeting was reopened.

\* \* \* \* \*

**PUBLIC COMMENTS**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Ms. Goldie Solomon commented regarding property taxes and tax assessments and how the Board is here to represent the residents of Port Chester. Mr. Terranova commented regarding the property up for sale near Edgewood Park and school taxes.

Ms. Cortona, Realtor for Keller Williams Realty spoke on behalf of her client who lives at 1 Landmark Square. Ms. Cortona commented about the expired temporary certificate of occupancy at 1 Landmark Square and asked the Board what could be done about this. Mr. Steers answered Ms. Cortona that to alleviate the situation, the Building Department will reissue temporary certificate of occupancy to help with the closings until the certificate of occupancy can be issued for the entire structure.

Mr. Abel commented regarding Landmark Square and Wellington Green. Mr. Abel also noted to the Board that his name was spelled incorrectly in the July 2, 2012 minutes.

Mr. Reavis commented about the no smoking signs in the parks and the property for sale near Edgewood Park.

**DISCUSSIONS**

**Building Department update and proposed local law for Temporary Certificate of Permitted Use.**

Mr. Steers said that right now they have about sixteen (16) applications, but they have received many phone inquiries. Mr. Cerreto said to that based on a previous executive session discussion with the Board, he invited Mr. Richard Finkel from Bond, Shoeneck & King to speak to the Board regarding the proposed draft local law.

Mr. Finkel spoke to the Board about his experience when he was the Town Attorney for the Town of North Hempstead and discussed with the Board the draft local law. The Board asked to meet with Mr. Finkel again in executive session on October 17, 2012, to consult with staff to further discuss temporary certificate of permitted use.

**Review of the rules to use the Senior Community Center.**

Trustee Didden spoke regarding the use of the Senior Community Center. There was further discussion with the Board and Mayor Pilla asked for this topic to be discussed again at a future meeting.

**Planning Commission follow-up for Tarry Market**

***From Michiel Boender, AIA on behalf of Tarry Market, E.J. Port Realty requesting removal or parking spaces on Abendroth Avenue in conjunction with final site plan approval.***

***From Traffic Sargent Charles Vaccaro regarding on- street parking space removal.***

***From Anthony Carbone, Esq. on behalf of Tarry Market, E. J. Port Realty offering existing truss structures to the Village.***

Mr. Anthony Carbone spoke to the Board on behalf of his client E.J. Port Realty. There was further discussion with the Board and Mayor Pilla said that he will meet with Mr. Scarola and Mr. Antaki of the Planning Commission to draft ordinances for the parking. Staff will let Mr. Carbone know when he can meet again with the Board for further discussion.

**Mandate Relief for cost recovery of Village services.**

Mayor Pilla asked the Board for staff to look into clarifying the process for cost recovery of Village services. Staff said that they will get back to the Board at a future meeting.

**Discussion in response to The Village of Rye Brook of a Subdivision, Site Plan and Rezoning petition for 80 Bowman Avenue.**

Trustee Kenner recused himself from the discussion. The Board asked that the Rye Brook subdivision, site plan and rezoning petition for 80 Bowman Avenue to be added to the October 17, 2012 meeting agenda as a resolution.

**REPORTS**

**Request from Putnam Engine & Hose Co. No. 2 to expel the following members: Estuardo Perez, Brandon Hall, and Auriel Fernandez.**

The Board referred the reports to staff.

**CORRESPONDENCES**

**Planning Commission recommendation resolution to Board of Trustees regarding downtown parking.**

Due to Mr. Gomez not being able to attend the meeting, the Board asked that this correspondence be put on the October 17, 2012 agenda.

**Notice of Planning Commission's intent to serve as Lead Agency under SEQRA for 110 Midland Avenue zoning text amendment petition.**

Due to Mr. Gomez not being able to attend the meeting, the Board asked that this correspondence be put on the October 17, 2012 agenda.

**Acceptance of zoning map amendment petition and designation of Lead Agency under SEQRA for 2 Osborne Place.**

Due to Mr. Gomez not being able to attend the meeting, the Board asked that this correspondence be put on the October 17, 2012 agenda.

**Permission from Port Chester Fire Department for use of Oak Street parking lot for their annual inspection on Thursday, October 25, 2012 at 7:15pm and request that the lot be cleared beginning at 3:00pm.**

The correspondence was referred to staff.

**Request from Saint Peter's Church for The Immaculate Virgin of Guadalupe Parade for about 80 people on Sunday, October 21, 2012 from 12:00pm to 1:00pm. The parade will begin at 141 South Main Street and proceed to Pearl Street, 179 Westchester Avenue and finish at Saint Peter's Church Parking lot.**

The correspondence was referred to staff.

**From Tamarack Tower Foundation to hold a Turkey Trot on November 22, 2012 beginning at 9:30am and requesting street closures from 9:30am to 10:30am.**

The correspondence was referred to staff.

**From Church of Our Lady of Rosary requesting permission to have a procession with approximately 300 people on October 21, 2012 beginning at 1:30 pm at Don Bosco center.**

The correspondence was referred to staff.

**Request for "all night permit" for January 1, 2013 from G&A Entertainment Corp. d/b/a La Dolce Vita, 451 North Main Street.**

The Board discussed earlier with the Police Chief regarding this correspondence and asked that staff draft a resolution for the October 17, 2012 meeting.

**Request for “all night permit” for January 1, 2013 from La Gratta Inc., 107 Adee Street.**

The Board discussed earlier with the Police Chief regarding this correspondence and asked that staff draft a resolution for the October 17, 2012 meeting.

**MINUTES**

**Minutes from July 2, 2012.**

On motion of TRUSTEE Kenner, seconded by TRUSTEE Brakewood, the following minutes was adopted with the correction of Mr. Abel’s name by the Board of Trustees of the Village of Port Chester, New York:

AYES: Trustees Brakewood, Terenzi, Marino, Kenner and Mayor Pilla  
NOES: None  
RECUSE: Trustee Didden  
ABSENT: Trustees Branca

**PUBLIC COMMENTS AND BOARD COMMENTS**

**Public Comments:**

Mayor Pilla asked if there was anyone from the audience who would like to make any comments.

Mr. Ceccarelli commented regarding the Rye Brook housing proposal. Ms. Cortona commented regarding the new parking meter machines and how frequently there are out of paper. The Board asked to follow-up on this matter.

**Board Comments:**

Trustee Brakewood commented about the code enforcement policy and process and congratulated the Columbus Day Committee on the parade, dinner dance and Reverend Washington as being the Grand Marshall.

Trustee Terenzi asked staff for a follow-up on the bulkhead, five year plan and Village auditors. Trustee Terenzi also asked for an executive session at the next meeting to discuss about a property.

Trustee Kenner commented that he will give his comments regarding the Comprehensive Plan and asked Mr. Steers if the timeline for the DGEIS is still on schedule for December 2012. Mr. Steers answered yes.

Mayor Pilla commented that he was sorry that he could not attend the Columbus Day parade, but congratulated Reverend Washington as being the Grand Marshall.

At 9:50 p.m., on motion of Trustee Kenner, seconded by Trustee Marino, the meeting was closed.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, Kenner and Mayor Pilla  
NOES: None  
ABSENT: Trustee Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk

**SPECIAL MEETING HELD OCTOBER 17, 2012**

A special meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Wednesday, October 17, 2012 at 6:00 P.M., in the Village Hall Conference, 222 Grace Church Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Daniel Brakewood, Saverio Terenzi, Bart Didden, and Luis Marino.

It should be noted that Trustees Joseph Kenner and John Branca were absent.

Also present were Village Manager, Christopher Steers; Village Clerk, Janusz R. Richards; Village Attorney, Anthony Cerreto and Director of Planning and Development, Christopher Gomez.

\* \* \* \* \*

On motion of Trustee Didden, seconded by Trustee Marino, the meeting was declared opened at 6:17 p.m.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Kenner and Branca

**MOTION FOR EXECUTIVE SESSION**

At 6:19 p.m., on motion of Trustee Didden, seconded by Trustee Brakewood, the Board of Trustees adjourned to an executive session for consultation with staff and Mr. Finkel from Bond, Shoeneck & King for Temporary Certificate of Permitted Use.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, and Mayor Pilla

NOES: None

ABSENT: Trustees Kenner and Branca

No action was taken in executive session.

At 7:10 p.m., on motion of Trustee Didden, seconded by Trustee Terenzi, the executive session was closed and the public portion of the meeting was reopened.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, and Mayor Pilla

NOES: None

ABSENT: Trustees Kenner and Branca

**WORKSESSION**

***Workshop with Starwood Capital.***

Mr. Anthony Gioffre and Mr. David Smith spoke on behalf of Starwood Capital and presented to the Board Starwood Capital’s social impact assessment report. There was further discussion with Starwood Capital and the Board and the Mayor asked for further discussion with Starwood Capital at the next Board meeting.

**RESOLUTION**

RESOLUTION  
VILLAGE OF RYE BROOK, AFFORDABLE HOUSING  
SUBDIVISION, SITE PLAN AND REZONING PETITION FOR 80 BOWMAN AVENUE

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE DIDDEN

, the following amended resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, the Board of Trustees is in receipt of a subdivision, site plan and rezoning petition submitted by Bowridge Commons, LLC. to rezone property located at 80 Bowman Avenue, designated Section 141.27, Block 1, Lots 26, 31 and 32 in the Village of Rye Brook from C-1 Zoning District to the Fair and Affordable Housing (“FAH”) Zoning District; and

WHEREAS, the application entails the construction of 16 units of Fair and Affordable Housing approximately 550 feet west of the Village of Port Chester border; and

WHEREAS, the Board has taken a consistent position that the construction of Fair and Affordable housing so proximate to the Village of Port Chester border does not meet the spirit of the affordable housing agreement to provide for more integrated neighborhoods within the Settlement’s 31 eligible communities; and

WHEREAS, the submission made by the Village of Rye Brook to Port Chester does not appear to have sufficiently addressed nor analyzed all potential environmental impacts presented by the application; and

WHEREAS, it would appear that such analysis would be critical in making a fully informed and reasoned determination, much less for the Village of Port Chester t take a position with respect to same; and

WHEREAS, on October 30, 2012, the Village of Rye Brook Board of Trustees is holding a public hearing to accept oral and written comments on this matter. Now, therefore, be it

RESOLVED, that the Village of Port Chester authorizes the Mayor to submit written comments to the Village of Rye Brook; Hon. Robert Astorino, Westchester County Executive; Sean Donovan, Secretary of HUD; and James Johnson, Federal Housing Monitor, withholding a position on this matter pending additional information until such time that documentation is provided.

Approved as to Form:

---

Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino and Mayor Pilla

NOES:

ABSENT: Trustees Kenner and Branca

DATE: October 17, 2012

### **CORRESPONDENCES**

#### ***Acceptance of zoning map amendment petition and designation of Lead Agency under SEQRA for 2 Osborne Place.***

Mr. Gomez spoke regarding the acceptance of the zoning map amendment petition and designation of Lead Agency under SEQRA for 2 Osborne Place. The Board asked Mr. Cerreto to draft a resolution for the next Board meeting.

#### ***Planning Commission recommendation resolution to Board of Trustees regarding downtown parking.***

Mr. Gomez spoke regarding the Planning Commission's recommendation regarding downtown parking. The Board asked staff to come back with more details at the next meeting.

#### ***Notice of Planning Commission's intent to serve as Lead Agency under SEQRA for 110 Midland Avenue zoning text amendment petition.***

Mr. Gomez spoke regarding 110 Midland Avenue zoning text amendment petition. The Board accepted recommendation for the Planning Commission to serve as Lead Agency.

**MOTION FOR EXECUTIVE SESSION**

At 9:165 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the Board of Trustees adjourned to a second executive session with Mr. Steers and Mr. Cerreto for consultation regarding policy with regard to requests for all-night permits.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, and Mayor Pilla  
NOES: None  
ABSENT: Trustees Kenner and Branca

No action was taken in executive session.

At 9:24 p.m., on motion of Trustee Didden, seconded by Trustee Marino, the executive session was closed and the public portion of the meeting was reopened.

AYES: Trustees Brakewood, Terenzi, Didden, Marino, and Mayor Pilla  
NOES: None  
ABSENT: Trustees Kenner and Branca

**RESOLUTION**

RESOLUTION  
POLICY WITH REGARD TO REQUESTS FOR “ALL-NIGHT PERMITS”  
ISSUED BY THE STATE LIQUOR AUTHORITY

On motion of TRUSTEE BRAKEWOOD, seconded by TRUSTEE TERENCE

, the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, by correspondence dated October 5, 2012, requests have been made to the Police Department for an “all-night permit” to be issued by the State Liquor Authority to serve liquor on January 1, 2013 beyond the usual hours for same; and

WHEREAS, the Board of Trustees has been advised that the grant of such permits is within the discretion of the State Liquor Authority; and

WHEREAS, the Board desires to assure a consistent position with regard to such requests. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby declares that it is opposed to the State Liquor Authority's issuance of "all night permits" to licensed establishments within the Village and that the Mayor be authorized, on behalf of the Board to notify the Liquor Authority of same with regard to individual requests for such permits.

Approved as to Form:

---

Village Attorney, Anthony Cerreto

AYES: Trustees Brakewood, Terenzi, Didden, Marino and Mayor Pilla

NOES:

ABSENT: Trustees Kenner and Branca

DATE: October 17, 2012

Trustee Didden made a motion to close the meeting at 9:26 p.m. The motion was seconded by Trustee Marino.

AYES: Trustees Brakewood, Terenzi, Didden, Marino and Mayor Pilla

NOES: None

ABSENT: Trustees Kenner and Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk

**SPECIAL MEETING HELD OCTOBER 22, 2012**

A special meeting of the Board of Trustees of the Village of Port Chester, New York, was held on Monday, October 22, 2012 at 7:00 P.M., in the Court Room of the Police Headquarters Building, 350 North Main Street, Port Chester, New York, with Mayor Dennis Pilla presiding.

Present in addition to Mayor Pilla, were Trustees, Daniel Brakewood, Saverio Terenzi, and Luis Marino.

It should be noted that Trustees Bart Didden, Joseph Kenner and John Branca were absent.

Also present were Village Manager, Christopher Steers; Village Attorney, Anthony Cerreto; Village Clerk, Janusz R. Richards; Village Treasurer Leonie Douglas and Director of Planning and Development, Christopher Gomez.

\* \* \* \* \*

On motion of Trustee Brakewood, seconded by Trustee Didden, the meeting was declared opened at 7:06 p.m.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

Mayor Pilla asked for a moment of silence for volunteer Firefighter Mr. Charles Melillo who recently passed away.

**AFFIDAVIT OF PUBLICATION AND NOTICE OF PUBLICATION RE:**

***Public Hearing to consider the Comprehensive Plan and Draft Zoning Amendments/Map Draft Generic Environmental Impact Statement (DGEIS).***

The following Public Notices were duly published in the Journal News and the Westmore News on October 5, 2012, certified by Cecilia Hernandez, Principal Clerk of the Journal News and Angelina Brescia, Office Manager of the Westmore News.

**PUBLIC NOTICE**  
Village of Port Chester  
Comprehensive Plan and Related Zoning Amendments  
Draft Generic Environmental Impact Statement Public Hearing

NOTICE IS HEREBY GIVEN that the Board of Trustees of the Village of Port Chester, New York, will hold a public hearing on Monday, October 22, 2012 at 7:00 p.m. or as soon thereafter in the Village Justice Court Courtroom, 350 North Main Street, Port Chester, New York, to consider comments regarding a Draft Generic Environment Impact Statement (DGEIS) prepared for the Village's Draft Comprehensive Plan and related zoning amendments amending Chapter 345 of the Code of the Village of Port Chester.

An electronic copy of the Draft Generic Environment Impact Statement (DGEIS) can be downloaded from the Village's website:

<http://www.portchesterny.com/Pages/PortChesterNYWebdocs/plan>

Paper copies of the Draft Generic Environment Impact Statement (DGEIS) are available for viewing at Village Hall, 222 Grace Church Street, Port Chester, N.Y. 10573 and the Port Chester-Rye Brook Library, 1 Haseco Avenue, Port Chester. For information, please call (914) 937-6780.

Interested persons will be afforded the opportunity to be heard.

Janusz R. Richards  
Village Clerk  
Village of Port Chester

Dated: October 2, 2012

On motion of Trustee Terenzi, seconded by Trustee Marino, the public hearing was declared open.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

Mayor Pilla spoke regarding the vision of the Master Plan and the purpose of the Comprehensive Plan Committee. Mr. Ferrandino spoke regarding the Draft Generic Environment Impact Statement (DGEIS) and stated that once the public hearing is closed there will be a ten day period to accept any written comments and after the 10 days, Ferrandino & Associates Inc. will prepare the final Generic Environment Impact Statement (FGEIS).

Mayor Pilla asked the public if there was anyone who would like to comment in favor or against the Draft Generic Environment Impact Statement (DGEIS).

Ms. Goldie Solomon commented about taxes, tax assessments, residential properties and hired consultants that do not live in the Village of Port Chester. Mr. Gioffre spoke on behalf of Starwood Capital and commented asking for revisions to the PMU text. Ms. Jody Cross and associate of Zarin & Steinmetz presented photos and spoke on behalf of their client on 25 Abendroth Avenue. Mr. Ceccarelli commented regarding Starwood Capital and the impact with school children. Mr. Abel commented regarding the proposed building heights and Starwood Capital.

On motion of Trustee Marino, seconded by Trustee Brakewood, the public hearing was closed.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

### **Add-on Resolution**

Trustee Marino made a motion to add-on a resolution to suspend parking on October 25, 2012 from 12:00 p.m. to 7:00 p.m. in the municipal parking lot for the funeral of volunteer Fire Fighter Charles Melillo. The motion was seconded by Trustee Terenzi.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

DATE: October 22, 2012

Trustee Brakewood made a motion to amend the add-on a resolution changing municipal parking lot to New Broad Street parking lot and also changing the time frame to 7:00 a.m. thru 7:00 p.m. The motion was seconded by Trustee Marino.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

DATE: October 22, 2012

RESOLUTION

RESOLVED, that the parking be hereby suspended on October 25, 2012 from 7:00 a.m. to 7:00 p.m. at the New Broad Street municipal parking lot to facilitate the congregation and Fire Apparatus in recognition for the most recent passing of volunteer Firefighter Charles Melillo.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

DATE: October 22, 2012

Trustee Brakewood made a motion to close the meeting at 8:18 p.m., Trustee Marino seconded the motion.

AYES: Trustees Brakewood, Terenzi, Marino, and Mayor Pilla

NOES:

ABSENT: Trustees Didden, Kenner and Branca

Respectfully submitted,

Jacqueline Johnson  
Deputy Village Clerk

# CORRESPONDENCE

DEC 26 2012

RECEIVED

VM

ZARIN & STEINMETZ  
ATTORNEYS AT LAW  
81 MAIN STREET  
SUITE 415  
WHITE PLAINS, NEW YORK 10601

TELEPHONE: (914) 682-7800  
FACSIMILE: (914) 683-5490  
WEBSITE: WWW.ZARIN-STEINMETZ.NET

December 21, 2012

DAVID S. STEINMETZ\*  
MICHAEL D. ZARIN  
DANIEL M. RICHMOND  
BRAD K. SCHWARTZ

MEREDITH BLACK\*  
DAVID J. COOPER  
JODY T. CROSS\*  
ERIN P. HONAKER  
JEREMY E. KOZIN

\* ALSO ADMITTED IN D.C.  
° ALSO ADMITTED IN CT  
^ ALSO ADMITTED IN NJ

MARSHA RUBIN GOLDSTEIN  
HELEN COLLIER MAUCH^  
LISA R. SMITH\*  
OF COUNSEL

Via Overnight Mail

Hon. Dennis Pilla and  
Members of the Village Board of Trustees  
Village of Port Chester  
222 Grace Church St.  
Port Chester, NY 10573

Re: Proposed Rezoning – Modified DW District

Dear Mayor Pilla and Members of the Village Board:

As you know, we represent TJI Realty (“TJI”), the owner of 25 Abendroth Avenue (the “Property”). We understand that on December 17, 2012, your Board adopted SEQRA Findings with regard to the now-adopted Comprehensive Plan, as well as the proposed zoning text and map amendments intended to implement certain of the goals and objectives of the Comprehensive Plan (the “Proposed Rezoning”).

We were pleased to learn that in adopting the SEQRA Findings, with regard specifically to the DW District, your Board unanimously voted for “Option 3.” “Option 3” acknowledges that the DW District, *with modified and more appropriate dimensional regulations*, “will provide viable future development and public waterfront access opportunities without having significant, adverse impacts to the surrounding environs.” (SEQRA Findings at 15).

We understand that your Board will be discussing the Proposed Rezoning at an upcoming January 2013 meeting. We urge your Board to take that opportunity to adopt the modified DW District in a form substantially similar to what was proposed in the Technical Memorandum prepared by TJI’s planning consultant, Syrette Dym, AICP, dated December 5, 2012, previously submitted to your Board. We respectfully submit that adopting a modified DW District at this time, rather than at an unknown later date, would not only benefit our client, and be consistent with the SEQRA Findings and Comprehensive Plan, but more importantly, would facilitate the development of the applicable subarea in a fashion that advances the vision of the Village and its planners.

Mayor Pilla and  
Members of the Village Board of Trustees  
December 21, 2012  
Page 2

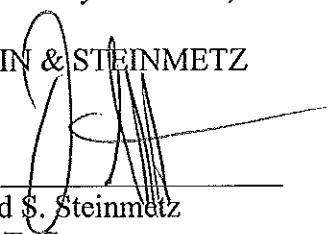
We would welcome an opportunity to discuss the details of the proposed modified DW District dimensional regulations with your staff and/or consultants, either by phone or in person, in advance of the January meeting. We submit that such a meeting would ensure that both our clients' and your Board's concerns are addressed in the most efficient manner possible, without any risk of disturbing the Villages' timeline for adopting the Proposed Rezoning.

As always, if you have any questions, or if you require any additional information, please do not hesitate to contact us. Thank you for your consideration. Happy Holidays, and Happy New Year!

Respectfully submitted,

ZARIN & STEINMETZ

By:



\_\_\_\_\_  
David S. Steinmetz  
Jody T. Cross

Encls.

cc: (via regular mail)  
Chris Gomez, Director of Planning & Development  
Christopher Steers, Village Manager  
Vince Ferrandino, AICP  
Frank Fish, FAICP  
Sarah Yackel, AICP  
Anthony Cerreto, Esq.  
Syrette Dym, AICP  
TJI Realty

# EVELYN PETRONE

49 Lafayette Drive  
Port Chester, NY 10573

VILLAGE OF PORT CHESTER

DEC 27 2012

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M

December 6, 2012

Hon. Dennis Pilla/Board of Trustees  
Port Chester Village Hall  
222 Grace Church Street  
Port Chester, NY 10573

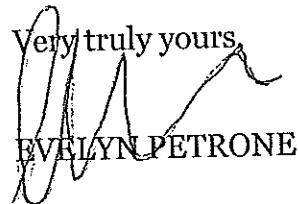
Re: Zoning Board

Dear Mayor Pilla and Honorable Board Members:

My term as a member of the Zoning Board of Appeals is again due to expire and I would like the opportunity to serve as a member of this Board for another three years if you are so inclined to reappoint me. I appreciate and value the time I have spent in this capacity and I feel that I have contributed to the betterment of the Village.

Thank you for your consideration of my request.

Very truly yours,



EVELYN PETRONE

**PUBLIC COMMENTS  
AND  
BOARD COMMENTS**