



# Village of Port Chester Industrial Development Agency

## Uniform Tax Exemption Public Hearing Collated Comments and Responses

*September 8, 2021*

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## Executive Summary

The Village of Port Chester Industrial Development Agency (PCIDA) held an optional public hearing on a proposed amendment to its Uniform Tax Exemption Policy (UTEP) on September 8, 2021.

Public comment was received, both written and oral, that dealt with a wide range of topics, not all of which were germane to the amendment itself. Many dealt with the nature of the PCIDA and its procedures. And some were focused on the development process, irrespective of the PCIDA.

This Comment and Response document has captured all comments, collated according to broad category. The Agency has undertaken to address them all.

There are several recurring themes throughout, which are summarized as follows:

- The IDA maximizes incentives in areas of the Village where development has been encouraged in the Master Plan and Form Based Code. The IDA follows Village policy, it does not work at cross purposes.
- PCIDA is the last stop in the development review process. Many issues addressed to the IDA are considered by and under the purview of other Boards and Commissions, such as the Village Board of Trustees, the Planning Commission, and the Zoning Board of Appeals.
- SEQRA issues, such as flood mitigation, historical nature of buildings, and others, are addressed by the Planning Commission at site plan, not at the PCIDA.
- IDAs in general have a defined process, including a review of all applications by an independent professional financial analyst.
- Tax abatements do not come at the expense of existing taxpayers if impacts from proposed development are mitigated, as they are through the Form Based Code. Rather they represent new and additional revenue to the tax jurisdictions.
- The UTEP amendment, among other things, is designed to obtain additional community benefit in return for an additional 5 years of PILOT that represents minimal overall additional tax abatement.
- The UTEP amendment does not enable anything that is not already within the IDA's scope of options, and the IDA can continue its mission without it, but believes it improves its processes.
- The 100 point scoring system in Appendix B:
  - is designed in part to assist the Agency in benchmarking projects against one another;
  - is designed in part to facilitate the process of obtaining additional community benefit.

- is not intended to have projects score as close to 100 points as possible, but to provide pathways for the delivery of that additional community benefit.

Each of these topics, and many others, are addressed at length within this compendium.

## **1) Questions and Comments on IDA Process**

**Q1a** The IDA is mysterious. Its process is not sufficiently known by residents. It would be helpful to have a “one pager” to explain what you do and how you do it. What does the IDA do to confirm that a project couldn’t proceed without a PILOT?

Arianna Christopher, Port Chester (paraphrased remarks)

on her own behalf and as Chair of the Beautification Commission

### ***PCIDA response No 1a***

The PCIDA purpose and process is not mysterious, and the PCIDA Board fully supports implementation of further enhancements to allow better public input and awareness of the PCIDA’s role and process for benefit applications. To this end a “one pager” is an excellent suggestion and will be added to the PCIDA website.

It should be noted that all IDA actions on applications take place at regularly scheduled and noticed IDA Board meetings that are open to the public, televised and/or live-streamed, and archived for on demand public viewing.

It is also important to note that the IDA Board does not accept any application from a proposed project that does not have all necessary approvals from the Village’s formal zoning, planning and/or Board of Trustees processes.

At its most basic, the IDA process can be summarized as follows:

- Potential Applicant meets with IDA Staff.
  - Staff vets the potential project in alignment with Village policies.
  - Projects that have not gone through the approval process (planning, zoning, BOT) are not allowed to submit applications as the IDA is the last stop.
- Potential applicant appears at an IDA Board meeting to present their project and receive initial Board feedback.
- Potential applicant fills out the PCIDA Application that Staff reviews for completeness and accuracy.
- If an applicant requests a PILOT (not all do) the project needs to be “qualified” by Staff. It must have minimum attributes as set forth in The IDA Act, Section

874(4) (detailed in the Uniform Project Evaluation Policy AND in the UTEP amendment).

- Potential applicant returns to the IDA thereafter to submit the completed application for financial assistance for the Board’s review and acceptance.
- Once accepted for formal review the Board then begins its due diligence as detailed in its Uniform Project Evaluation Policy. The Application is now published on the IDA’s website as an active project.
- Financial details of the project are submitted to an independent financial consultant, of which the IDA has several on its pre-approved roster, for a thorough, impartial review and opinion as to whether the project could get built without the IDA’s financial assistance. This is the State mandated “But for.....” test.
- If the project meets IDA guidelines and the Board agrees that the project would not get built without benefit, the Board decides on a fixed scale of benefits as outlined in the UTEP.
- It then notices a Public Hearing for the purposes of receiving public comment.
- Pertinent information regarding the project is publicly posted for review, including a cost benefit analysis and the accepted report of the independent financial analyst.
- At the Public Hearing the IDA considers all public comment as it relates to the suitability of the project for benefit.
- After the hearing the IDA Board may take pertinent action granting the proposed scope of benefit.

### **1) Questions and Comments on IDA Process (cont’d)**

**Q1b** The process seems rushed. It should be slowed down to allow for greater public input. I am not anti-development, and I do not want to turn downtown into a museum. I acknowledge that the Village needs to grow its assessable base. But the IDA is a powerful public agency and needs to be held accountable to the public. I do not believe the public is confused, I just do not think they have had sufficient time and engagement to understand your process. The documents have not been translated into Spanish. They have been public for an insufficient amount of time, especially given the storm Ida, Labor Day and Rosh Hashanah. You should listen and react to public comments and cannot do this if you vote on this tonight.

Kiki Short, Port Chester (paraphrased remarks)

**Q1b** You should give this process more time. Materials were just released just two weeks ago and extraordinary events in the Village may avert people’s focus, thus responses may be limited.

Russell Butkiewicz, Port Chester (paraphrased remarks)

**Q1b** I returned from a week's vacation a couple of days ago to find out the IDA issued proposed changes to its UTEP in the past week and intends to vote on the UTEP revisions less than 10 days after issuance. If for no other reason than avoiding the appearance that you are slipping through substantial giveaways to developers in the dark of night (never mind a major storm, holiday weekend, COVID resurgence and Rosh Hashanah), don't take a vote on the UTEP changes tonight. Just don't. It looks awful.

...a change of this magnitude should not be made without input from the public. Hold a public hearing (Given the substantial resurgence of COVID, any public hearing should allow virtual comment), listen to what residents and neighbors have to say, and amend the amendment to reflect what you hear, not just what the developer community has already whispered in your ear.

Al Shehadi, Greenwich

***PCIDA response No 1b***

IDAs are not obligated to conduct public hearings on Uniform Tax Exemption Policy (hereinafter, UTEP) amendments but the PCIDA chose to do so in the spirit of openness in which the entire development process has been conducted throughout the Village starting with the Comprehensive Plan Advisory Committee in 2007 culminating in the passage of the Form Based Code in 2020.

The PCIDA always considers public comment and keeps public hearings open for an extended period when there is sufficient interest, as was expressed at the September 8, 2021 public hearing. For example, since the hearing Google Translate has been embedded into the PCIDA website, enabling all postings to be translated into myriad languages.

As will be discussed, the proposed amendment to the UTEP actually is intended to make the granting of benefits more stringent, so it is difficult to respond to questions regarding "a change of this magnitude" or of "substantial giveaways." In fact, many of the concerns raised during the public hearing were the concerns addressed in the current text amendments.

## **2) Suggestions to put a hold on or delay the IDA process**

**Q2a** People didn't pay attention to development when it was hypothetical, but they are becoming engaged as they do not like what is being proposed. The Board of Trustees is reviewing the Form Based Code. Why wouldn't you delay your process?

Jim Brill, Port Chester (paraphrased remarks)

**Q2a** The BOT has suggested they are reviewing the Form Based Code so there should be no rush to approve the UTEP amendment. It should be placed on hold.

Arianna Christopher, Port Chester (paraphrased remarks)

on her own behalf and as Chair of the Beautification Commission

### ***PCIDA response No 2a***

The Village Board of Trustees has recently voted to conduct a professional study of a small portion of the CD6. The end result may see the area rolled back to a CD5 or in no change at all.

Changes around the Form Based Code are considered all the time by the Board of Trustees, but they are on the margins of the code and the Village has not encouraged Boards or Commissions to delay processes on applications before them or to stop accepting applications.

**Q2b** New York State is considering changes to IDAs and given the current political climate I believe they are likely to pass. These include:

- Increasing accountability and transparency in the IDA process
- Preventing Intrastate piracy
- Eliminating conflicts of interest
- Requiring notice of IDA projects
- Prohibit certain persons from receiving compensation
- Allow the public to access and inspect information
- Support the preservation of regionally significant projects
- Eliminating elected officials from IDA Boards

You should pause your process until these laws are passed or at least respect their spirit.

Jim Brill, Port Chester

### ***PCIDA response No 2b***

Varying Assembly members and Senators propose changes to the IDA statute all the time but many of them do not ultimately get passed due to a lack of support (like the recent proposal to limit elected officials, which has been proposed since 2019 and failed yet again this session).

It is difficult to anticipate laws that will be successful. The PCIDA regularly monitors changes that become law and strives to achieve many of the objectives in the spirit of these

proposals, regardless of their prospects. For example, the PCIDA does not engage in intrastate piracy, notices all project hearings, strives to better its website to improve transparency, does not pay its Board members, has no conflicts of interest, etc.

### **3) Tax Jurisdictions oversight of the IDA**

**Q3** Does the IDA need the approval of any of the various effected parties and municipalities (like the County, state and PCRUFSD) for the UTEP Policy since you impinge upon their projected and actual revenues? Do they have the power to with-hold their approval on a given project?

Gregg Hamilton, Port Chester

on his own behalf and on behalf of the Sustainable Port Chester Alliance

**Q3** The UTEP needs to have a more thorough review process. It should be evaluated by the BOT which in turn should hold public hearings.

Arianna Christopher, Port Chester (paraphrased remarks)

on her own behalf and as Chair of the Beautification Commission

**Q3** The Board of Trustees and the School Board should be notified of these impending changes

Jim Brill, Port Chester

#### ***PCIDA response No 3***

To amend its UTEP, any IDA must send a copy of the proposed amendment to the Tax Jurisdictions under its purview for review and comment, and thereafter must address those comments prior to acting. The Tax Jurisdictions do not have the power to withhold their approval on changes to the UTEP or to any project approval, but any comments are fully considered.

The Tax Jurisdictions did not raise any objection to the 2020 UTEP amendment. Bear in mind the Village of Port Chester's Form Based Code was accompanied by a Generic Environmental Impact Statement that served to mitigate impacts from development. This results in significant fees to the Village and Schools as part of the development process. With impacts mitigated, PILOT revenue is likely to be viewed by the Tax Jurisdictions as an additional form of revenue, unaccompanied by excessive obligations, even though the PILOT may represent a significant abatement in the initial years.

Bear in mind as well, two Village Trustees have sat on the IDA Board since 2009 to better align the IDA with Village policy. And the IDA staff meets often with the School Board staff to hear their concerns and communicate developments at the IDA.

#### 4) Rationale for the UTEP Amendment

**Q4a.** Why is the UTEP being updated? What isn't working with the current UTEP, re-adopted only last year? How do the proposed changes address the weaknesses of current UTEP? No rationale for the changes is given.

Al Shehadi, Greenwich

#### ***PCIDA response No 4a***

These changes and their rationale were discussed in a document entitled Summary of Proposed Changes in the UTEP Amendment that was published in advance of the Public Hearing on the PCIDA website.

The UTEP amendment last year better aligned IDA policy with official Village policy as expressed in the Master Plan that informed the Form Based Code. Among other things it limited the availability of 20-year PILOTs in most areas of the Village, except through the IDA's less often used deviation process.

After having lived with the new amendment for over a year, the currently proposed UTEP amendment is designed to address three shortcomings of the current document.

First, in the limited areas where the PCIDA will continue to offer 20-year abatements, the Agency is defining the necessary thresholds and criteria needed for consideration of this level of benefit. The goal is to ensure the Village obtains additional community benefit from a project.

Second, PCIDA is eliminating the split PILOT matrix models that was established for Commercial and Residential projects, as it has been found that most current and anticipated Port Chester projects are a little of both, known as Mixed Use. Deciding which model to use for each Mixed Use project risked setting an arbitrary standard which the IDA Board wanted to avoid and allowed prospective developers the impression that they could "shop" for greater incentives without providing additional community benefits to achieve same. The current proposed UTEP amendments are intended to eliminate these deficiencies.

Third, the Board has heard from the public that its process is not well understood and that concerns of the public may not be incorporated in the document. The Board sought more transparency, for both residents and applicants, by simplifying the language and by being more specific by spelling out the polices, expected community benefits, and limiting assistance based on failure to comply.



#### **4) Rationale for the UTEP Amendment (cont'd)**

**Q4b.** IDA practice has generally been to award shorter term PILOTS (e.g., 10 years). The amendment appears to open the door to longer-term PILOTS (e.g., 20 years). If I remember correctly, the last 20-year PILOT was to G&S for the Waterfront, which is now generally recognized as a bad deal. Do you really intend to make it easier to repeat the G&S PILOT?

Al Shehadi, Greenwich

#### ***PCIDA response No 4b***

The PCIDA has right-sized PILOTS tailored to each specific application based upon prevailing Village policy at the time of application. The PCIDA UTEP has always allowed for 20 year PILOTS. The amendment of 2020 served to limit the 20 year PILOT except in areas where the Village's Master Plan prefers to steer development, and the proposed amendment attempts to make the process more stringent.

The G&S Waterfront Project was a fixed payment PILOT with annual escalators. It must be distinguished from current PCIDA policies. That structure of PILOT essentially saddles the Tax Jurisdictions with inflation risk. If the value of a project increases, the payments remain fixed with just the annual pre-determined increases. It would not be possible under the current or proposed UTEP except by deviation.

Instead of fixed payment pilots where the risk is on the taxing jurisdictions, the PCIDA Board has put in place an improved policy based on percentage abatements of full tax. This approach ensures that as the value of the property increases, the payments to the Tax Jurisdictions increase concomitantly, thus eliminating the possibility of another PILOT similar to that given the Waterfront Project.

It is important to note that pre-existing taxes on a property are fixed, and the Tax Jurisdictions are not at risk of losing what are referred to as "base" taxes. The benefit is given on the incremental new taxes generated from the project with a discount to full taxes.

## 5) Determining need for IDA Assistance

**Q5** You should provide empirical data to see whether you need to offer 20-year abatements. Have you done a competitive analysis to see how development downtown stacks up against development elsewhere along the Sound Shore? Perhaps there is no need to provide abatements.

Jim Brill, Port Chester (paraphrased remarks)

**Q5** The introduction to this Public Hearing the IDA stated it prioritizes projects that cannot proceed without abatement. I suspect that developers that come to the Village and propose these projects are expecting abatements and factor them into their planning and Return On Investment estimation. This allows them to game the system.

It will be interesting to see if denial of benefits to one of these projects actually prevents it from being built.

Gregg Hamilton, Port Chester (paraphrased remarks)

on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response No 5***

Part of PCIDAs due diligence process, as discussed in ***response 1a*** is to obtain an analysis of a project by an independent financial consultant. The developer must submit Income and Construction Proformas detailing their projected costs and income. The consultant reviews these proformas for accuracy and completeness, and vets their accuracy based on their market knowledge as well as published industry benchmarks. They then render an opinion as to whether or not the project generates sufficient return to be undertaken without assistance. These reports are available for review at the time of a Public Hearing when financial assistance for an application is considered.

Bear in mind that the PCIDA offers various levels of assistance. Not every application is for a PILOT. Some projects are successful with a lower scope of benefit. And a PILOT will not necessarily induce every project that applies for the PCIDA's pre-defined scope of benefit.

Since 2012 the PCIDA has received 12 applications:

- 5 for mortgage recording tax and/or sales tax abatement only
- 2 were awarded PILOTs
- 1 has been awarded a PILOT but has not closed on its benefit
- 2 are currently under review
- 2 were withdrawn

## 6) Targeting of PCIDA incentives

**Q6** The IDA was not designed for residential projects. It was designed to attract projects that would bring jobs to the community.

Arianna Christopher, Port Chester (paraphrased remarks)  
on her own behalf and as Chair of the Beautification Commission

**Q6** IDA practice has been to provide PILOTs primarily to commercial development (e.g., Restaurant Depot) and affordable housing projects (e.g., Southport Mews). The amendments open the door to PILOTs for market-rate residential projects.

Al Shehadi, Greenwich

**Q6** PILOTs should only be granted to projects supplying a ton of jobs that pay living wages

Monica Fonseca, Port Chester (paraphrased remarks)

### ***PCIDA response No 6a***

The mission of the PCIDA, as prescribed by the IDA Act, is to induce investment in industrial or commercial projects that will “enhance the general prosperity and economic welfare” of our residents.

While living wage jobs, affordable housing, and qualified retail are included in this mandate, so are commercial multi-family rental projects and the IDA Board does not believe it should narrow its mission.

It is important to note that multi-family Transit Oriented Development, that is endorsed by the Village and favored by the Form Based Code, discourages automobile use, tends to generate less traffic, and brings to the Village lower carbon footprint living that will assist in the fight against climate change. It will bring a self-supportive environment to downtown retail, lessening the reliance on tourists, which has proved an increasingly unreliable model for stand alone retail as Internet based commerce continues to gain market share.

For the record, it has not been IDA practice to avoid PILOTs for commercial multi-family, market rate rental projects. The UTEP amendment under consideration does not open the door to anything the IDA has not previously supported and that is not supported at the State level.

## **6) Targeting of PCIDA incentives (cont'd)**

**Q6b** ...the UTEP should reward developments of six stories or less and should award more points for a larger percentage of affordable housing, which Port Chester desperately needs. PILOTS also should only be considered in areas where development is desperately needed, like the abandoned United Hospital property...

Paul Zaccagnino, Port Chester

**Q6b** Focus incentives on the outskirts of Port Chester as opposed to the too crowded downtown.

Linda Bradford, Port Chester

**Q6b** Section 6 Enhanced Benefit states that the Village's Master Plan and Form Based Code that arose from it encourages development "in and around the urban core away from the more suburban outer ring of the Village." But this contributes to congestion on the roads in and through the Village. The IDA should encourage development on the outskirts of the Village to reduce traffic. You should focus on the Kohl's Shopping Center and the former United Hospital site where there is highway access that will avoid clogging up the Post Road and traffic traversing the Village.

Gregg Hamilton, Port Chester (paraphrased remarks)

on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response 6b***

The purpose of the UTEP amendment last year and proposed this year is to better align the PCIDA with Village policy as expressed by the Board of Trustees through the Master Plan and adoption of the Form Based Code and to bring further transparency of IDA processes to the public. The PCIDA does not have goals that are contradictory to or not in concert with the Village.

The Village's Master Plan and resulting Form Based Code encourage investment in the urban core away from the Village outskirts, except at the Village gateway former United Hospital property, which has its own zone, PMU (Planned Mixed Use). Thus, the PCIDA is focusing enhanced benefits in these areas.

The proposed amendment offers points for additional Affordable Housing and a project on the former United Hospital property is eligible for the PCIDA's most generous assistance under the current UTEP and would continue to be eligible under the amendment if passed.

## **7) The cost of incentives to the community**

**Q7a** I am not inclined to support a developer and fund someone else's lifestyle...Do not even consider giving these people a tax break nor allowing them into the community.

Catherine Rand, Port Chester

**Q7a** I feel that the Village of Port Chester needs a bigger tax base, not a tax abatement for large projects that could last decades.

Linda Bradford, Port Chester

**Q7a** I am a former president of the Board of Directors of Longview Owners Inc., the cooperative apartments at 315 and 325 King Street. Our shareholders include some professional people, but mostly blue collar and middle class workers and many, many senior citizens on fixed incomes. Yet my co-op is often one of the top five taxpayers in the Village of Port Chester. Our shareholders pay their share of the Longview tax bill through their monthly maintenance charges. As village taxes go up, so do our monthly charges. We understand that the village has to increase assessables to collect enough in taxes to pay for its services. We understand that attracting development is crucial to this effort. We know that PILOTS awarded by the IDA is one way to attract development. I, however, believe that the proposed Uniform Tax Exempt Policy rewards developers too generously...My co-op consists of 160 units. I ask the IDA to consider the irony of my high taxed co-op paying a larger share of village taxes than, say, the proposed 12-story, 185 unit apartment planned for lower King Street, two blocks away. It would be another case of wealthy developers beating out the little guys. Taxes should be paid fairly by all.

Paul Zaccagnino, Port Chester

**Q7a** It is one thing to permit development and another to assist developers with tax abatements at the expense to the Village. If developers propose site plans that conform to the zoning and SEQRA, they are permitted to proceed. If they cannot do so without tax abatements costing the Village millions in revenues over 10-20 years, then they simply should look elsewhere.

Richard Hyman, Port Chester

**Q7a** PILOTS lose us millions of dollars over time. During the 20 years of a PILOT a project may pay only 20% of what they are assessed for. This hurts the Village and its taxpayers because you will need to make up for the lost revenue. You are not obligated to give PILOTS. Homeowners don't get PILOTS.

Tom Ceruzzi, Port Chester (paraphrased remarks)

**Q7a** Residents are concerned by the huge incentives that may be granted.

Arianna Christopher, Port Chester (paraphrased remarks)

on her own behalf and as Chair of the Beautification Commission

**Q7a** Taxpayers cannot be holding the bag while we give million-dollar developers handouts  
Monica Fonseca, Port Chester (paraphrased remarks)

**Q7a** Is it really in the interest of existing Port Chester taxpayers to subsidize housing for higher income families to move to Port Chester?

Al Shehadi, Greenwich

**Q7a** ...The real-life fiscal impact of 20 year PILOTS to market rate residential is going to be a disaster for the Village, worsening its fiscal woes not alleviating them.

Al Shehadi, Greenwich

**Q7a** ...does the IDA anticipate and estimate a positive ROI to flow from the future tax revenues (relative to the foregone/forgiven taxes)?

Gregg Hamilton, Port Chester, on his own behalf  
and on behalf of the Sustainable Port Chester Alliance

***PCIDA response 7a***

When the impacts of development are anticipated and mitigated, the strategy of incentivizing development with tax abatements does not cost the community but rather unlocks new and additional sources of revenue for the Tax Jurisdictions while inducing new investment. This is a long term strategy that will increase the assessable tax base in the Village and, over time, minimize the burdens placed on Village properties.

As mentioned in **response 4b**, pre-existing taxes on a property are fixed, thus the Tax Jurisdictions are not at risk of losing what are referred to as the “base” taxes. The new taxes generated from the new project are levied at a discount to full taxes over time in order to stabilize the project and better ensure its success. The suggestion that an applicant might pay only 20% of what they are assessed for is not at all accurate. For those projects that receive only mortgage recording and/or sales tax abatements the assistance amounts to less than 5% of the total capital invested. The “discount” provided by PILOT agreements might generally be about 30-40%, with most of the benefit in the early years.

The Tax Jurisdictions therefore do not lose previous revenue, nor are projects subsidized by existing taxpayers.

And as importantly, PCIDA process ensures that benefits are not given unless a project passes the Stated mandated “but for...” test, whereby an independent financial consultant assists the Board in determining if a project could proceed without assistance from the Agency, as discussed in **responses 1a and 5**.

The mitigation of impacts mentioned above was part of the Village’s Form Based Code rezoning process that was accompanied by a Generic Environmental Impact Statement. As a result of this process developers must make payments:

- To the Village for mitigating traffic impacts
- To the Village for mitigating infrastructure impacts
- To the Schools, for mitigating the cost of anticipated children, based on a demographically specific forecasting tool; this mitigation includes a 10 year look back period
- To produce Westchester County leading 10% Affordable Housing at 60% of County AMI

Further they must:

- Make efforts to accommodate displaced commercial tenants, assisting them to stay in the Village if possible
- Go through the SEQRA process at site plan for the purposes of determining historical significance

It bears repeating: when the impacts of development are anticipated and mitigated, IDA assistance unlocks new revenue to the benefit of the Tax Jurisdictions and existing taxpayers, while assisting the community in realizing its vision.

## **7) The cost of incentives to the community (cont'd)**

**Q7b** If a project couldn't proceed without a tax abatement (PILOT), why would you want it?  
Arianna Christopher, Port Chester (paraphrased remarks)  
on her own behalf and as Chair of the Beautification Commission

### ***PCIDA response 7b***

Port Chester is a completely built out community. Thus, almost any development is redevelopment. Redevelopment in an already built out ("as built") environment is costly. It is common throughout the country to use some form of abatement of future tax revenue to encourage investment in as built environments such as Port Chester.

The Waterfront project was a trigger for great reflection in the Village. A Big Box retailer and parking lot on waterfront property was not a vision widely shared throughout the Village at that time. But the Village had no plan and ended up reacting to someone else's vision.

This led to a 13 year community wide effort, beginning in 2007, where the Village produced a commonly shared vision. That resulted in a Master Plan and gave rise to the recent Form Based rezoning, that reflects the community's vision, to ensure that redevelopment when it occurs matches that vision.

Seen in this light, tax abatements, properly deployed, are a tool to assist the Village in realizing its vision.



## **8) Process of Awarding Enhanced Benefit as Detailed in Section 6 and Appendix B**

**Q8a** I have grave concerns about Appendix B. You say it is not a major change, but it feels like one.

Kiki Short, Port Chester (paraphrased remarks)

### ***PCIDA response 8a***

The PCIDA has always had the option to offer 20 year PILOTs at its discretion. The intention of the proposed inclusion of Appendix B in the UTEP is to extract additional community benefit from a project in exchange for this enhanced benefit. The effect of the UTEP amendments is to make it incrementally more difficult to achieve a 20 year PILOT than under any previous incarnation of the UTEP.

**Q8b** The 20 year scoring matrix...should be more reflective of the objectives of the Form Based Code.

Arianna Christopher, Port Chester (paraphrased remarks)  
on her own behalf and as Chair of the Beautification Commission

### ***PCIDA response 8b***

The inclusion of Appendix B is intended in part to enhance the quality of development by accentuating the community benefits that are encouraged but not mandated in the Form Based Code. To cite just two examples:

- In 2017 the Village obtained a grant to pursue a professional, Port Chester focused, Green Infrastructure Guide, that was published in 2018. It is referred to in the Form Based Code, mostly as a reference where developers are encouraged but not mandated to pursue Green Infrastructure initiatives. The IDA gives developers an option to pursue initiatives in that guide over and above code as a way to score points.
- The Village embraced the County model for 10% Affordable Housing at 60% AMI in the Form Based Code. There is consistent advocacy for more, but communities have found it difficult to mandate beyond this level without disincentivizing development. The City of Yonkers, which is eager to do more, recently declined to increase their requirement citing an independent study they commissioned that suggested a 20% set aside would require excessive tax abatement. For projects that have a cost structure that might accommodate additional Affordable Housing, the PCIDA is willing to award points.

## 8) Process of Awarding Enhanced Benefit as Detailed in Section 6 and Further in Appendix B (cont'd)

**Q8c** The language is not well defined. “Robust” labor standards, and “public amenities” are insufficiently defined to qualify as an extra benefit.

Kiki Short, Port Chester (paraphrased remarks)

**Q8c** Criteria are exceedingly vague.

- “contributes to economic diversification”
  - very easy to qualify
- “Leads to Considerable increase in Assessed value of property”
  - define it
- “Above average wages”
  - is not specific
- “Robust worker safety program”
  - needs clarification
- “Provide fire safety measures exceeding those mandated by code and building requirements”
  - Would one more fire extinguisher in the building lobby qualify for a 20 year PILOT?

Gregg Hamilton, Port Chester (paraphrased remarks)

on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response 8c***

Comments that the criteria can be vague and in need of better definition are valid and the PCIDA Board will review them with the intention of defining them more tightly.

But bear in mind that the lack of specificity was designed to allow the PCIDA to retain flexibility in the process as points are awarded on a sliding scale. So, while the addition of one more fire extinguisher in a building lobby might qualify for “fire safety measures exceeding minimum standards,” it would likely result in, at most, 1 point out of the 10 available.

The inclusion of Appendix B is intended in part to further the mission of the PCIDA, which under the IDA Act is to induce investment in industrial or commercial projects that will “enhance the general prosperity and economic welfare” of our residents, as discussed in ***response 6a***.

Some of these criteria are drawn directly from the IDA Act, Section 874 guidelines. For example, quoting from Section 874, “the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts” is reflected in the awarding of points for “Considerable increase in Assessed value of property.”

## **8) Process of Awarding Enhanced Benefit as Detailed in Section 6 and Further in Appendix B (cont'd)**

**Q8d** The 20 year scoring matrix seems less rigorous than other PILOT categories.  
Arianna Christopher, Port Chester (paraphrased remarks)  
on her own behalf and as Chair of the Beautification Commission

**Q8d** The scoring system is not logical. 20 year PILOTs should only be for extra benefits. The proposal makes it too easy. Every development can get an A+++.  
Kiki Short, Port Chester (paraphrased remarks)

**Q8d** Per Appendix B, only 40 of 100 points are required to qualify for a 20 year PILOT. That's not a high bar, more like a layup. Can the board point to a project developed in Port Chester in the last 15 or 20 years that wouldn't have gotten 40 points? If not, is it really the intent that any project developed in Port Chester get a 20 year PILOT? What's the fiscal impact of that?  
Al Shehadi, Greenwich

**Q8d** These are not difficult bars. The scoring matrix should make it more difficult to qualify for a 20 year PILOT.  
Gregg Hamilton, Port Chester (paraphrased remarks)  
on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response 8d***

Projects in the Zones that qualify for Enhanced Incentive Program under Section 6 will be awarded PILOTs longer than 10 years as the PCIDA aligns itself with Village policy.

Appendix B is being designed to extract additional community benefit for eligibility for a maximum term PILOT but must be realistic in its expectations.

The 100 point system was designed for benchmarking projects as a way to compare one to the other. It was not designed to expect 100 point scores, which would be unrealistic, especially given that each category awards points on a sliding scale as discussed in **response 8c** (i.e., in a 10 point category a project may get 10 points, zero, or anywhere in between).

Rather, Appendix B is intended to give developers myriad options as to how to provide that extra benefit in a manner that best realistically suits their projects and the Village's needs. Seen in that light, the IDA welcomes the extra benefit in exchange for perhaps 5 additional years of what is minimal tax abatement according to the proposed PILOT matrix in Schedule A.

To be clear, the goal is not to avoid 20 year PILOTs, nor to make them impossible to achieve, but to obtain additional community benefit in the context of the project when one is awarded.

## 8) Process of Awarding Enhanced Benefit as Detailed in Section 6 and Further in Appendix B (cont'd)

**Q8e** I realize points are designed to encourage or incentivize a feature. But no points are awarded for adaptive reuse or Flood mitigation, both of which are desirable. Instead, adaptive reuse of historically or architecturally significant structures as determined by the agency is considered a Deviation in Section 7.

Gregg Hamilton, Port Chester (paraphrased remarks)  
on his own behalf and on behalf of the Sustainable Port Chester Alliance

**Q8e** With the recent storm, flooding is a concern and should be taken into account. The IDA should include incentives for developers that take a comprehensive approach and a long-term view of Flood mitigation and fighting the impacts of climate change, rewarding developments that provide significant improvements.

Kiki Short, Port Chester (paraphrased remarks)

### ***PCIDA response 8e***

As discussed in **responses 8c and 8d**, Appendix B was constructed using a 100 point system as a means of benchmarking projects and enabling the PCIDA to compare one to another. As such, only items that are universally applicable were included in the scoring matrix. Not every project will be built on a site that could be adaptively reused. Flooding is a serious issue in only certain parts of the Village and not at all in the PMU zone that encompasses the former United Hospital, where Appendix B will be applied.

For this reason, adaptive reuse is listed as a Deviation in Section 7. Bear in mind Section 7 is the PCIDAs mechanism for essentially going outside of the UTEP to provide incentives for a project it finds compelling that might not sufficiently benefit under its regular procedure (see **response 9** for a further discussion of deviations). Thus, Appendix B would not come into play for a Deviation.

Fighting climate change is covered under Green Infrastructure, previously discussed above.

Flood mitigation measures are best handled in the zoning itself and at Site Plan in front of the Planning Commission and this seems to be occurring. The PCIDA has had two applications from projects in areas that have a history of flooding. One agreed at site plan to build their structure on an artificially constructed elevation, the other has agreed to incorporate an extensive anti flooding system that they claim would have avoided flooding even from the recent remnants of Hurricane Ida that caused record flooding in the Village. Ida may well be the best argument yet for redevelopment in areas that frequently flood.

It is important to remember that many of these issues are best addressed on a holistic basis by the Planning Commission at Site Plan, rather than ad hoc at the IDA, as they are not part of the IDA's purview under the IDA Act. As mentioned in **response 8d** the intent of Appendix B is to extract incremental community benefit in areas that best suit a project and the Village, so there is no guarantee that any particular benefit will accrue to a project.

### **8) Process of Awarding Enhanced Benefit as Detailed in Section 6 and Further in Appendix B (cont'd)**

**Q8f** Appendix B has no "negative points" – demolishing historic buildings, displacing local business, increased demand on Village resources. Two similar projects providing the same "positives", one of which is built on vacant land, displaces no existing business and generates limited or no additional demand for public services (infrastructure, schools) should not be scored the same as one which demolishes historic buildings, displaces existing businesses and whose residential units WILL generate additional demand for schools and infrastructure.

Al Shehadi, Greenwich

#### ***PCIDA response 8f***

When Port Chester enacted its Form Based Code it did so alongside a Generic Environmental Impact Statement which served to mitigate the impacts from development, as discussed in **response 7a**. It is important to note that the IDA is the last stop on the development journey. Many of these issues are dealt with through the SEQRA process at site plan in front of the Planning Commission. That is the time and place to address these concerns holistically. The PCIDA does not involve itself in SEQRA issues, which are not part of its purview, and does not usurp the policy making decisions of the Village proper.

It would therefore not be appropriate to subtract points for demand for schools or demand on infrastructure when mitigation payments are made to the Village and Schools, respectively.

There is a commercial displacement policy as well, that seems to be having its intended impact. The PCIDA has an application from a developer that has offered to bring its commercial tenants back at subsidized rents should they so wish. Again, negative points where a mitigation policy is in place seems inappropriate.

The Form Based Code mitigations also cover potentially historic properties, and these are dealt with outside of the IDA process at site plan, again, as part of the SEQRA process.

## 9) Concerns about PCIDA's Deviation Process per Section 7

**Q9** Deviations in Section 7 are qualitative not quantitative. For example:

- Project will have a positive impact on existing and proposed businesses and economic development projects in the vicinity
    - How do you measure such a thing
  - Projects that include Green infrastructure
    - What standards are used to qualify this?
    - Does this include items such as bike racks, being near a farmer's market, or are they actual infrastructure elements that will benefit the Village and reduce emissions or runoff issues, which is a big reason we had such catastrophic flooding in the Village recently
  - Projects will create housing units affordable to current Village residents
    - What is the benchmark: Westchester or Port Chester Area Median Income (AMI)?
  - Projects that include the creation of or upgrades of open spaces and recreational resources
    - What kind of upgrades? Bare minimums or scale upgrades?
    - Provide a guideline such as a percentage of the project value to contribute to the Village
  - Projects that feature adaptive reuse of an historically or architecturally significant structure as determined by the Agency
    - does the agency have architects or historians?
    - How is the significance being determined?
    - The State Historic Preservation Office (SHPO) has noted historically significant areas of the Village. Shouldn't the expertise of SHPO, local architects, or historians be used to help determine historic significance
- Russell Butkiewicz, Port Chester (paraphrased remarks)

### ***PCIDA response 9***

According to the IDA Act, IDAs must adopt what is known as a "deviation" policy, whereby an IDA can suspend its usual procedures for a project it finds compelling but might not sufficiently benefit from the IDA's established procedures. Perhaps it creates more than the typical number and quality of jobs; perhaps there is significant investment in Village infrastructure; perhaps it is a targeted industry; perhaps the design, composition, or local impacts are such that it brings other significant community benefits to the Village. So, while the PCIDA has listed the most common reasons it might consider a deviation, it is not limited to them. Essentially, a deviation policy is to allow for flexibility for these compelling projects, thus the reason for the absence of specificity.

## **10) Monitoring of IDA projects per Section 9**

**Q10** You should hold recipients responsible on jobs promised to be created beyond meager self-reporting.

Jim Brill, Port Chester

**Q10** Section 5 project criteria indicate “whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided.” In my opinion this should not be a question. If a project fails to meet its objectives the incentive needs to be paid back. The risk should be with the investor, not the Village.

Russell Butkiewicz, Port Chester (paraphrased remarks)

**Q10** The tax abatements which the IDA grants are justified, in theory, by the jobs which new projects yield and by the future (long-term) property taxes which flow from those projects. But the estimates of "jobs created" can seem questionable (see The Castle case where 33 full time jobs were projected – absurdly high for a residential project without retail). Shouldn't there be a check and balance in place? It seems as if the Treasurer simply rubber-stamps the job creation figures that the developer (and then the IDA) reports. The current process calls into question the credibility of all projects.

**Q10** There should also be an analysis of the Return On Investment comparing the jobs created to the tax abatements granted.

Gregg Hamilton, Port Chester

on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response 10***

As the Agency appears to be getting busier the PCIDA has discussed at length the matter of enhancing its ability for ongoing monitoring of its projects. From the above comments it is clear the public believes this would be the correct path and at its September meeting the Board asked staff to bring forward an RFP for the purpose of securing the services of an outside, independent authority to assist in this goal.

Bear in mind that in compliance with New York State Authorities Budget Office guidelines, jobs are tracked only while IDA projects are active. When the period of benefits is concluded, projects are no longer reported.

In the case of the 2013 Castle project the application appears to have been filled out incorrectly, with the applicant adding up jobs per year of the project as opposed to just the total number of jobs. This project did not receive a PILOT, only sales tax abatement, and was thus only tracked for 3 years. They reported 11 jobs in each of 3 years, and incorrectly counted 33 jobs, which was obviously erroneous. It is likely that they did initially have 11 jobs, as there was originally a leasing office there in addition to the building support jobs. The Board's focus on enhanced, ongoing monitoring of its projects will help avoid these errors in the future.

## 11) Mortgage Recording Tax abatement clarification

**Q11** Page 5 of the new 14 page PCIDA UTEP Draft begins with this paragraph:

### Mortgage Recording Tax (MRT) Exemption

*At the adoption date of this UTEP, the mortgage recording tax in Westchester County is 1.30% of the principal amount of the mortgage. Under current law, the PCIDA can grant an exemption for 1% of the total amount, subject to compliance with Section 859-a of the IDA Act.*

I find this second sentence to be unclear. Does "total amount" refer to the principal amount of the mortgage? Thus, does the second sentence intend to mean that PCIDA can grant an exemption for 1.00% of the principal amount of the mortgage, or that PCIDA can grant an exemption for 1% of 1.30% the principal amount of the mortgage? Thank you in advance for your clarifying response...

Gregg Hamilton, Port Chester (paraphrased remarks)  
on his own behalf and on behalf of the Sustainable Port Chester Alliance

### ***PCIDA response 11***

The text could indeed use clarification and will be addressed.

For the record, PCIDA can abate 1% leaving the unabated MRT at 0.3%.

The 0.3% is for the Metropolitan Transportation Authority (MTA). To protect their funding the New York State Legislature exempted the MTA portion of the tax from being abated in 2017.



## **12) Overbuilding and Infrastructure concerns**

**Q12** We do not need any more building in this town. The schools are overrun, the traffic is a disgrace, there is no parking, the infrastructure cannot support any more activity...I've been a Port Chester resident for over 10 years and I've seen it deteriorate rather quickly with all these buildings coming in.

Catherine Rand, Port Chester

**Q12** PILOTS also should ... not be awarded to projects that will smother our crowded downtown and increase already stifling traffic.

Paul Zaccagnino, Port Chester

**Q12** The UTEP assumes PILOTS will generate no less revenue for the Village than the existing property use (see 'Base Value' discussion on page 4). What is the IDA assuming about the costs to the Village from a new development? It seems the UTEP is also assuming costs will be no greater, and therefore the PILOT is at least net zero to the Village. Really? Adding several hundred units of housing on Main Street won't generate greater costs to the Village in terms of schools and infrastructure? For those of you who think there won't be any school-age kids living in all those proposed one-bedroom apartments, I'd suggest a quick read of the article in the January 3, 2021 Sunday NY Times Real Estate Section entitled "A Family of Four and a Home Office in 660 Square Feet." You will have school age kids in those units, likely a lot.

Al Shehadi, Greenwich

**Q12** One of your proposed amendments includes giving enhanced benefits (tax exemptions and/or payment in lieu of taxes) to development projects in the downtown area (CD5 and CD6). This means that they will have discretion to award projects 15- and 20-year tax abatements versus the current standard of 10 years in those areas. This is where most development proposals are currently being considered. This would not benefit the village and the people who live here because it will cause over development in this town, which is already impacted by over development, which overwhelms the infrastructure and increases demands that will be placed on our public services, police, volunteer firemen, garbage disposal, school system, etc. Do not over develop Port Chester it will not benefit the village or the people living here. I ask you not to approve this proposal that will affect us for decades to come.

Linda Bradford, Port Chester

**Q12** Residents are concerned about the impacts of proposed development.

Arianna Christopher, Port Chester (paraphrased remarks)

on her own behalf and as Chair of the Beautification Commission

## 12) Overbuilding and Infrastructure concerns (cont'd)

### *PCIDA response 12*

**Responses 3, 7a, 8a, and 8f** have referred to the Generic Environmental Impact Statement that sought to mitigate the broad impacts of development. Developers are responsible for payments to schools and the Village for school child generation, traffic and infrastructure impacts among myriad other mitigations.

It is appropriate to cite here the bases for many of these mitigations. As part of its Final Generic Environmental Impact Statement the Village published a Build Out Analysis, a Traffic Study & Fair Share Contribution Traffic Mitigation, and a Schools Overcrowding and Mitigation Analysis, which included a demographically custom tool to project schoolchildren that varying types of development would be likely to generate.

The Schools report originated at the IDA in 2013 and was most recently updated in 2019 in an effort to address concerns that new housing would overwhelm already overcrowded schools. Both the original report and its update suggested that Transit Oriented Mixed Use residential was unlikely to generate significant numbers of schoolchildren. The report suggests that schoolchildren are projected to continue to decline in number in Port Chester and throughout the county, which is consistent with the continually falling domestic fertility rate.

Indeed, if anything, the report has overestimated the number of children likely to attend Port Chester Schools. Over the last 10 years 263 new apartments have opened in the Village's downtown. The tool suggested over 30 children would be likely to attend Port Chester schools, but in 2019, when the apartments were fully leased up and the last year for which information is available, there were a total of two (2) children attending the schools.

It seems appropriate at this point to repeat from **Response 6a**: Transit Oriented Development, that is endorsed by the Village and favored by the Form Based Code, discourages automobile use, tends to generate less traffic, and brings to the Village lower carbon footprint living that will assist in the fight against climate change. It will bring a self-supportive environment to downtown retail, lessening the reliance on tourists, which has proved an increasingly unreliable model for stand alone retail as Internet based commerce continues to gain market share.

The "tourism" model is responsible for excessive automobile use, requires an abundance of parking, takes a heavy toll on Village roads, and does not directly benefit the Village as it is not a city and does not retain a portion of its sales tax.

## **Addendum - TOPICS NOT SPECIFIC TO THE IDA**

*Most topics addressed in the following comments are not specific to the PCIDA and not within the Agency's purview.*

*It is appreciated that people are looking for information and answers to their questions and the Agency is pleased to offer the following thoughts.*

### **General Concerns Around the Development Process**

**QA1** Development is happening too quickly and without public involvement. Residents are voicing their concerns about the development they see that is not what they expected. There are developments that are not consistent with the Form Based Code. When does aesthetic evaluation take place? Or consideration of the value of historic buildings? Many projects seem oversized.

Arianna Christopher, Port Chester (paraphrased remarks)  
on her own behalf and as Chair of the Beautification Commission

**QA1** Unacceptable for Port Chester residence [sic] to find a developer is destroying the nature of the town by building 12 story building in an area that is so overcrowded and overrun with traffic.

Catherine Rand, Port Chester

**QA1** I am awakening from my Covid lockdown and do not like the development process I see that is underway.

Monica Fonseca, Port Chester (paraphrased remarks)

**QA1** Do not let developers come in and do whatever they want.

Linda Bradford, Port Chester

### ***PCIDA thoughts A1***

Suggestions that development is unfolding too quickly and without public involvement, and that developers can build whatever they please, suggest that there has been no process or plan. But what is unfolding now is the product of a 13 year public input process that the Village undertook after the negative reaction to the Waterfront Project, which occurred precisely because of those reasons: a lack of planning and public input.

Beginning in 2007 the Village had volunteer residents populate a Comprehensive Plan Advisory Committee. This committee, that did not include elected officials, drew from residents across the Village and provided direction for what would become the Village's Master Plan in 2013. The Form Based Code was the result of a 2 ½ year process that was informed by the Master Plan.

The community's vision was to steer new investment to the downtown urban core and former United Hospital property. It was very clear that the downtown should be walkable, with small footprint retailers that would encourage mom and pop businesses that have historically thrived in Port Chester, and that the resulting design should retain the look and feel of the downtown, which was enabled by passing a Form Based Code that dictates the aesthetics of a building as much as its use.

Proposed projects must submit site plans to the Planning Commission for review at the Commission's regularly scheduled televised monthly public meetings, where they are vetted for zoning compliance and mitigation of impacts. They are not approved if they are not consistent with the Form Based Code. Public input is continually invited during this time. Attributes such as historical significance, and impacts such as flood mitigation, are reviewed and settled during this process.

### **Fire concerns**

**QA2** The Fire Department does not know how to approach fires in buildings as tall as 12 and 15 stories.

Linda Bradford, Port Chester

### ***PCIDA thoughts A2***

The Village Fire Department has all the tools at its disposal as do Fire companies in New York City. They are amply capable of tackling fires in tall buildings.

The Village has taken steps to improve fire safety. Among those are requiring utility wires to be buried around buildings above a given height, and the inclusion of commercial fire suppression systems in taller buildings.

### **Provision of Service concerns**

**QA3** The Police Department has told me that they only have a couple of cops on duty and cannot assist with an issue at certain times. Code enforcement violations go unaddressed because there is only one code enforcement officer in the Village at present.

Linda Bradford, Port Chester

### ***PCIDA thoughts A3***

Because of complaints about the high level of taxation and in an effort to control higher spending, the Village Board of Trustees sharply cut staff in certain departments. While it did not cut staff in the Police Department, it curtailed overtime. The overall result has had an impact on the delivery of Village services.

Village Tax Jurisdictions have challenges in raising sufficient funding because they rely mostly on property taxes, and the Village has a property tax base that is simply insufficient to provide the level of services many would like to see at levels of taxation that are acceptable to the community.

One solution for this is properly planned development, in which the impacts are anticipated and mitigated up front. This expands the property tax base giving the Village and the Schools the option to have higher operating budgets without impacting individual levels of taxation.

### **Main Street Flooding Concerns**

**QA4** Port Chester needs to focus on fixing the problems on main street due the flooding.  
Catherine Rand, Port Chester

#### ***PCIDA thoughts A4***

Correcting this problem will require significant investment on the part of the Village, and the State has offered to assist. But private investment can contribute to mitigating the problem as well.

Flood mitigation is discussed when a new project submits a Site Plan for review by the Planning Commission. Over the last few years two significant projects have been approved in areas that have a history of flooding and each was required to address prospective flooding issues. One project opted to build on top of an artificial elevation, the other will install an extensive anti flooding system that they claim would have avoided flooding even from the recent remnants of Hurricane Ida that caused record flooding in the Village.

### **Concerns About Overbuilding**

**QA5** We are overrun with vacant apartments.  
Catherine Rand, Port Chester

#### ***PCIDA thoughts A5***

The PCIDA stays abreast of demand for both retail and residential space in the Village. To the best of its knowledge apartment occupancy is robust throughout the region. If anything, the area has seen an uptick in demand since the onset of Covid.

## **Appendix 1 – Glossary of Terms**

CD5 – Character Based District 5 – A zoning area of the urban core that allows 6 stories maximum to be constructed under the Form Based Code.

CD6 - Character Based District 6 – A zoning area of the urban core that allows 12 stories maximum to be constructed under the Form Based Code.

GML – General Municipal Law – Essentially, New York State’s constitution. The IDA Act is Chapter 18-A of the NYS GML.

MRT – Mortgage Recording Tax

PCIDA – Port Chester Industrial Development Agency

PILOT – Payment In Lieu Of Taxes – IDA properties are tax exempt by law. IDAs levy payments in place of the waived taxes.

PMU – Planned Mixed Use – The zoning area encompassing the former United Hospital.

UTEP – Uniform Tax Exemption Policy – The governing document that must be adopted by all IDA’s throughout New York State, in compliance with the NYS IDA Act.

Appendix 2 – Port Chester Zoning Map

