

**Report on Zoning by Municipality
in Westchester County, New York**

Subject to the Settlement

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VILLAGE OF CROTON-ON-HUDSON

The Village of Croton-on-Hudson's current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.¹ The limited opportunities are due, at least in part, to restrictive practices on multifamily housing present in the Village's zoning code. The Village's zoning ordinance permits multifamily housing and other typically affordable housing types, but the relatively few existing multifamily zoning districts are built out. Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012). Only 1.9 percent of the Village's acreage is zoned for as-of-right multifamily development and there are no undeveloped sites in those areas. *Id.* The Village has experimented with overlay zones that simplify development, though these may still be too restrictive. VILLAGE OF CROTON-ON-HUDSON CODE Ch. 23 Art. IVA, V.

To date, there is little or no evidence that the Village has taken steps to reform its zoning code or otherwise develop affordable housing. Croton-on-Hudson has not adopted the provisions of the County model zoning ordinance for affordable housing. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230 (2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Although the County has indicated that the Village has been considering the provisions of the County model zoning ordinance since at least December 31, 2011, it is unclear from the County's quarterly reports what progress has been made since that date. Ex. M, *Westchester County 2011 4Q Report*, at 18 (submitted Feb. 2, 2012); Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013). Based on information provided by the County, there is no evidence that the Village has contributed, or developed plans to contribute, towards Westchester County's obligation to build at least 750 affordable housing units under the Settlement. See generally Ex. G, *Westchester County 2013 1Q Report* (submitted May 10, 2013).

Croton-on-Hudson's zoning restrictions on as-of-right development of multifamily housing may also inhibit its ability to meet its share of the most recent and best available estimate of regional need for affordable housing. The 2005 Housing Allocation Plan, developed by Westchester County's Housing Opportunities Commission ("HOC") estimated the Village's fair share of regional need at 115 affordable housing units, yet only 17 units of affordable housing have been constructed or approved in the Village since 2000. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012). The 2005 Housing Allocation Plan is cited by the County in its discussion of regional housing need in its most recent Analysis of Impediments submission, the County relies on the HOC's allocation plan in distributing funds from the County's Legacy Program, and it is the only needs assessment that has been prepared to date. *Id.*; Ex. D, Westchester County, Analysis of Impediments to Fair Housing Choice (updated April 2013), p. 59-60. The

¹ *Berenson* requires that municipalities consider, weigh and balance both local and regional housing needs. *Berenson v. Town of New Castle*, 38 N.Y.2d 102, 110 (1975) ("There must be a balancing of the local desire to maintain the status quo within the community and the greater public interest that regional needs be met."); *Triglia v. Town of Cortlandt*, No. 17976/96, 1998 WL 35394393, at *4 (N.Y. Sup. Ct. Westchester Cnty. Jan. 6, 1998).

allocation plan provides an order-of-magnitude indication of the Village's success in providing for its fair share of regional need for affordable housing.

Model Zoning and County Benchmark

- The Village has not adopted the provisions of the model affordable housing zoning ordinance. See Ex. B, Westchester County Implementation Plan, Appendix D-1(i): Model Ordinance Provisions; Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230; Ex. G, *Westchester County 2013 1Q Report*, at 15-16 (submitted May 10, 2013).
- According to Westchester County's 2013 First Quarter Report, the Village has placed the Model Ordinance Provisions under consideration. Ex. G, *Westchester County 2013 1Q Report*, at 16 (submitted May 10, 2013).
- The HOC's 2005 Affordable Housing Allocation Plan originally called for 115 affordable housing units in Croton, of which 17 have been built or approved, a number falling well short of the Village's estimated fair share of regional housing need. Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012).

Zoning Ordinance

- Multifamily housing (generally defined in this report as developments including three or more housing units) is permitted as-of-right in two of 16 zoning districts, and by special permit in one of the three overlay districts. Schedule of Uses, VILLAGE OF CROTON-ON-HUDSON CODE § 230 Attachment B, April 1, 2005.
- The Multiple Development Use ("MDU") district is a special district intended to simplify the development of large tracts of ten or more contiguous acres. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.B. This district permits as-of-right multifamily housing if and only if such use is consistent with the allowed uses of the underlying districts prior to the special designation. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.D(1).
- The Harmon/South Riverside Gateway Overlay zone permits housing over stores as-of-right. VILLAGE OF CROTON-ON-HUDSON CODE § 230-20.3.A(1). Mixed-use development is also permitted in two commercial districts by special permit. VILLAGE OF CROTON-ON-HUDSON CODE §§ 230-16.B(5), 230-17.B(8).
- Two-family dwellings are permitted as-of-right in four zoning districts. VILLAGE OF CROTON-ON-HUDSON CODE §§ 230-13.B, 230-14.A(1), 230-15.A(1), 230-22.D(2)(b).
- Accessory apartments are permitted by special permit in all residential districts, except for the Waterfront Development District. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41A; Schedule of Uses, VILLAGE OF CROTON-ON-HUDSON CODE § 230 Attachment B, April 1, 2005.

Restrictive Practices

- The MDU only allows multifamily housing if the underlying district so permits. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.D(1). Development cannot exceed the density of the underlying district. VILLAGE OF CROTON-ON-HUDSON CODE § 230-21.E(2).
- Accessory apartments may only be in existing buildings. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.C. The owner or the lessee must be at least 55 years old. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.F. Only one accessory apartment is allowed per unit. VILLAGE OF CROTON-ON-HUDSON CODE

§ 230-41.G. Also, the accessory unit must be at least 400 square feet but not greater than the lesser of 750 square feet or 1/3 of the habitable floor area of the dwelling, effectively limiting them to one bedroom. VILLAGE OF CROTON-ON-HUDSON CODE § 230-41.K.

Incentives and Mandates

- The Waterfront Development District (which appears to contain the only reference to affordable housing in the zoning code) permits an increase in density of 5 percent of the number of market-rate units if the additional units are affordable. VILLAGE OF CROTON-ON-HUDSON CODE § 230-22.l(1)(b); see also Ex. E, Methodology III-C-1 Table August 2012 (submitted Sep. 6, 2012). The code does not define affordability. See VILLAGE OF CROTON-ON-HUDSON CODE § 230-4.
- There are no mandates for affordable housing. See Zoning, VILLAGE OF CROTON-ON-HUDSON CODE Ch. 230.

Zoning Map, Development Pattern and Development Potential

- Multifamily housing (defined for this purpose as apartment, townhouse, or quadruplex development) occupies 4.7 percent of the Village's residential land area; two- and three-family housing occupies another 3.5 percent. Ex. J, Table 2 Residential Land Use Acreage by Municipality, *Land Use in Westchester*, at 17, 2010; Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012).
- The districts that allow multifamily housing as-of-right cover 1.9 percent of the Village's area. Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012). These districts are completely built out; there are no lots available for new development. *Id.* at Methodology II-B Table August 2012 (submitted Sep. 6, 2012).

Master Plan

- The Village's comprehensive plan, which dates to 2003 (prepared by BFJ Planning), includes recommendations for exploring affordable housing opportunities, with a particular interest in affordable housing for seniors. *Village of Croton-on-Hudson 2003 Comprehensive Plan*, at 109-10, adopted Jan. 21, 2003.

Race, Ethnicity and Socioeconomic Characteristics

- Croton-on-Hudson's Black population increased from 1.9 percent of the Village's total population in 2000 to 2.9 percent in 2010, and the Hispanic population increased from 6.9 percent to 11.4 percent of the Village's total population. Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012). The combined Black and Hispanic population increased from 9 percent of the Village's population to 14 percent. *Id.*
- This increase adjusts the Village of Croton-on-Hudson's status under section 7(b) of the Settlement to section 7(c).²

² The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, these percentages are likely higher than they would be for the purposes of determining eligibility.

- In districts that allow multifamily housing as-of-right, the combined Black and Hispanic population rose from 10 percent in 2000 to 17 percent in 2010. *Id.*
- The Village’s median family income rose from \$100,182 in 1999, as reported in the 2000 census, to \$121,250 during the years 2006 through 2010, as reported in the 2007-2011 American Community Survey 5-year estimates. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.* Adjusted for inflation from 1999 and 2008 dollars to 2013 dollars, the median family income declined from \$140,414 to \$131,500. Bureau of Labor Statistics Consumer Price Index (CPI) Inflation Calculator (http://bls.gov/data/inflation_calculator.htm).
- The estimated percentage of the Village’s families earning no more than 80 percent of Westchester County’s Area Median Income (AMI) – that is, the percentage of families in the low and moderate income ranges – increased from about 27.6 percent as of the 2000 census to about 28.3 percent as of the 2007-2011 American Community Survey. *See Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates.*

Implications

- The Village of Croton-on-Hudson’s current zoning code does not appear to provide meaningful opportunities for the development of affordable housing to meet the most recent and best available estimate of its share of regional affordable housing need.
- The Village seems to focus on affordable housing opportunities for seniors. Accessory apartments appear to be exclusively targeted towards seniors, either living alone or with a partner. The master plan pays special attention to senior housing development. There is no other opportunity for accessory housing units.
- Although multifamily housing is permitted in certain districts, those districts are fully built out, with no available sites for new development.
- Thus, the current zoning regime provides insignificant opportunity to develop new affordable units.
- The MDU should be explored as an opportunity for redevelopment with multifamily affordable housing, which could be suitable for a large lot size but would not meet the density requirements of most of the Village’s zoning districts.
- At the right densities, housing values are sufficient to induce multifamily development and mixed-income housing without incentives. The very high value of apartments and condo units in the Village might be sufficient to promote 80/20 mixed-income housing, which would require less redevelopment than the 90/10 mixed-income development that represents the minimum affordable housing component under the County’s model zoning ordinance, and which, unlike 90/10 development, would qualify for federal tax incentives.
- Additional actions will be needed for the Village to make further progress towards meeting its share of regional affordable housing need. These might include, in some combination, adopting the model zoning ordinance and providing mandates and broader incentives for affordable housing, mapping additional areas where multifamily housing is permitted as-of-right, permitting accessory housing units as-of-right and for tenants other than seniors, and providing

opportunities for additional types of development (such as quadraplexes or cottage-style housing).

CROTON-ON-HUDSON DATA SHEET

a. Total acreage of the Village (Ex. E, Methodology III-C-2 Table August 2012 (submitted Sep. 6, 2012))	3,034 acres	100%
b. Total acreage in zoning districts where multifamily housing is permitted as-of-right (Ex. E, Methodology II-A Table August 2012 (submitted Sep. 6, 2012))	58.5 acres	1.9%
c. Undeveloped area in these zoning districts (Ex. E, Methodology II-B Table August 2012 (submitted Sep. 6, 2012))	0 acres ³	0%
d. Undeveloped area not subject to wetlands, floodplain and steep slopes (Ex. E, Methodology II-C Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 acres	0%
e. Order-of-magnitude area available for development (Ex. E, Methodology II-D(1) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 acres ⁴	0%
f. Number of sites available for development	0 sites	
g. Average size of sites (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	N/A	
h. Theoretical number of multifamily units that can be developed as-of-right (Ex. E, Methodology II-D(2) Table August 2012 (submitted Sep. 6, 2012) – Croton-on-Hudson not listed)	0 units	
i. Average selling price for multifamily (condo) units (Ex. E, Methodology III-A-2 Table August 2012 (submitted Sep. 6, 2012))	\$640,000 ⁵	
j. Order-of-magnitude value for land, per condo unit (Ex. E, Methodology III-A-3 Table August 2012 (submitted Sep. 6, 2012))	\$190,000 ⁶	

³ There are no zones that allow multifamily housing as a permitted use in which there are undeveloped parcels that meet the minimum lot size standards for their zoning districts or those that are “under-sized” but are contiguous with “undeveloped” parcels that, as a group of contiguous undeveloped parcels, meet the minimum lot size standards. Since there are zero acres of undeveloped land in the Village, fact sheet points d through h are also zero or not applicable.

⁴ After applying a factor of 80 percent to account for site configuration, setbacks, building form restrictions, and the like.

⁵ Data provided by the County was rounded to the nearest thousand.

⁶ Data provided by the County was rounded to the nearest five thousand.

k. Order-of-magnitude total cost of development, \$375,000⁷
per condo unit
(Ex. E, Methodology III-B-1 Table August 2012 (submitted Sep. 6, 2012))

l. Percent minority population
2000 Census (1.9% Black, 6.9% Hispanic) 9%
2010 Census (2.9% Black, 11.4% Hispanic) 14%
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

m. Percent minority population in the zoning districts
permitting multifamily housing as-of-right
2000 Census (3.3% Black, 6.6% Hispanic) 10%⁸
RC 3.6% Black, 6.5% Hispanic 10%
WD 3.0% Black, 5.1% Hispanic 8%
2010 Census (5.8% Black, 11.3% Hispanic) 17%⁹
RC 6.1% Black, 13.1% Hispanic 19%
WD 5.1% Black, 8.7% Hispanic 14%
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

n. Municipal status under the Settlement based on percent minority population¹⁰
2000 census Section 7(b)
2010 census Section 7(c)
(Ex. K, Racial Composition Table, Village of Croton-on-Hudson – 2000 & 2010 Census Data (submitted Aug. 15, 2012))

o. Westchester County 80% area median income (AMI)
2000 \$66,500
2010 \$83,800
(Fiscal Year Income Limits Data Sets, U.S. Department of Housing and Urban Development)

⁷ Only data for new developments was used, and was rounded to the nearest five thousand. This figure is a countywide average for affordable housing developments, which does not adjust for variation in local land cost. Since land costs in Croton-on-Hudson are in the highest quartile of the 31 eligible municipalities, total development costs in Croton-on-Hudson are likely to be higher than the \$375,000 average. The spread, however, between housing prices and development costs is still likely to be considerable.

⁸ Weighted average of the RC and WD districts.

⁹ Weighted average of the RC and WD districts.

¹⁰ The eligibility status of each municipality for 2000 is based on information provided by the County. Ex. L, *Eligible Municipalities*, Proposed Fair and Affordable Housing Program, dated July 28, 2009. For 2010, the status is based on the percentages in point l of this data sheet. The racial composition data provided by the County includes individuals within group quarters, as defined by the U.S. Census Bureau. To more accurately determine a municipality's eligibility under paragraph 7 of the Settlement as of the 2010 Census, a further step of removing the group quarters population would be necessary. Thus, without the group quarters population data, the percentages calculated in point l of this data sheet are likely higher than they would be for the purposes of determining eligibility.

p. Number of families at or below 80% area median income (AMI)¹¹

2000	573	27.6%
2007-2011	646	28.3%

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

q. Median family income

2000	\$100,182
2007-2011	\$121,250

(*Profile of Selected Economic Characteristics: 2000 Census; Selected Economic Characteristic: 2007-2011 American Community Survey 5-Year Estimates*)

r. Number of units needed to meet the 2000-2015 Allocation Plan benchmark

2000-2015	98 units
2015 Allocation	115 units
Number of units created or approved since 2000	17 units

(See Ex. C, Table, Status of Allocation per Affordable Housing Allocation Plan 2000-2012 – As of November 20, 2012 (submitted Nov. 20, 2012))

¹¹ Data provided by the U.S. Census Bureau is based on ranges of family income, such as \$50,000 to \$74,999 and \$75,000 to \$99,999. Since the 80% AMI figures fall within these ranges, accurate counts of the number of families earning below that benchmark are not possible. Since 66% of the range from \$50,000 to \$74,999 is below the 2000 80% AMI figure of \$66,500 and 35% of the range from \$75,000 to \$99,999 is below the 2010 80% AMI figure of \$83,800, crude estimates were obtained by multiplying the number of families in that range by 66% or 35% and adding the result to the total number of families in all lower ranges.