



# Housing and Educational Inequality: The Case of Long Island (Appendix 2)

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### Appendix 2. Comparing the Land Use Systems of Flower Hill and the Village of Hempstead

Flower Hill, a village on Long Island, [describes itself](#) as “the best Village in New York State with access to North and South Shore beaches, easy access to New York City, and a community that truly cares for one another.”<sup>1</sup> It claims “wonderful businesses and restaurants you can take advantage of, as well as a world class hospital . . . a strong financial record and . . . high quality vital services and infrastructure.” Its housing stock is all single family homes. The [zoning ordinance](#)<sup>2</sup> divides the village into eight residential districts. R-1 requires a one-acre lot, a single-family detached house that cannot cover more than 15 percent of that lot, is thirty-five feet or less in height, and includes a garage for two to four cars. The vast majority of the Village is zoned for R-1 through R-4, which requires lots of at least one-third of an acre. The smallest lots allowed are in the R-7 district, which requires at least 7,500 square feet, with a single family detached house and a one to two car garage covering no more than 30 percent of the lot and no more than thirty feet in height.

The zoning code references an R-8 cluster district, which is shown on the [zoning map](#)<sup>3</sup> covering a small area on the village’s border, but the zoning text includes no details about that district. Inspection of the area mapped for R-8 shows a cul-de-sac with about thirty detached single-family condo units, with those listed for sale asking between about \$600,000 to more than \$932,000. The only mention of multifamily housing in the zoning code is a note that in the commercial district (a very small and shallow area on the edge of the Village), “a multiple dwelling or apartment house or residential construction of any kind” is a prohibited use, but can be permitted by the Village’s Board of Trustees after public hearings (but on a lot of at least 15,000 square feet, with the building covering no more than 40 percent of the lot and no more than two stories, or thirty feet, high, and with one off-street parking space for each 250 square feet in the building).

The Village of Hempstead was founded in 1643; in the late 1700s, George Washington and other prominent leaders of the Revolution often stayed in the village; in the 1800s, the village served as an important trading center for Long Island. It became a [center of Long Island society](#), and “many prominent families such as the Vanderbilts and the Belmonts built large homes here.”<sup>4</sup> After World War I, it began to attract commuters from Manhattan. Today, it is “a full service community with a population in excess of 53,000 people encompassing an area

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<sup>1</sup> Village of Flower Hill website, accessed May 2023, <https://villageflowerhill.org/>.

<sup>2</sup> Flower Hill’s zoning ordinance is available at its legislation website, <https://ecode360.com/10591351>.

<sup>3</sup> Flower Hill’s zoning map is available at its legislation website, [ecode360.com/attachment/FL0568/FL0568-240c%20Zoning%20Map.pdf](https://ecode360.com/attachment/FL0568/FL0568-240c%20Zoning%20Map.pdf).

<sup>4</sup> Village of Hempstead website, accessed May 2023, <https://www.villageofhempstead.org/189/About-the-Village>.

of 3.7 square miles.” The village today has a fairly dense, mixed-use land use system.<sup>5</sup> It allows lots as small as 4,000 square feet for a two-story, single-family detached house with a garage (one car is allowed for each 2,000 square feet of lot area, to a maximum of three cars) or a one-car carport. The maximum lot area required for a single-family home is 7,500 square feet. Much of the village’s land is zoned Residence B, which allows either single-family detached housing or multifamily buildings (broadly defined to include apartment houses and attached row houses, as long as the occupancy is permanent rather than a hotel or other transitory use) at a density of up to thirty-five homes per acre. Several blocks are zoned to allow only multifamily use, at a density of up to forty-five homes per acre. Six different areas are zoned to allow only apartment buildings of up to six stories, for a maximum density of 105 apartments per acre. Two additional areas are zoned for apartment buildings especially designed for seniors or people with disabilities, which are allowed to reach seven stories high, and have a maximum density of 100 apartments per acre.

In 2012, the Village of Hempstead adopted a downtown overlay zone to cover a significant portion of the village’s land.<sup>6</sup> The overlay zone is a form-based code incorporating transit-oriented design principles and allowing a live/work mix of homes, retail, office, and other uses. Multifamily housing of up to eight stories is allowed in much of the zone.

While the Wharton Land Use Regulatory Index<sup>7</sup> gives Flower Hill a composite score that qualifies as “lightly regulated” and considers Hempstead to be “highly regulated,”<sup>8</sup> a hard look at the components reveals significant limitations on the score’s usefulness. First, the score is based upon a survey completed by each jurisdiction. A comparison of Flower Hill’s responses to Hempstead’s shows the difficulty of relying on surveys: on questions about the degree to which the state and the courts are involved in local land use, for example, Flower Hills’s answers are recorded as being half of what Hempstead reported, even though the two villages fall under the same state and court system.

Second, the score is based, in part, upon whether the jurisdiction requires developers to provide open space or affordable housing, which Flower Hill does not. But such requirements are typically imposed on multifamily housing or subdivisions with multiple single-family homes. Flower Hill does not impose any requirements on such

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<sup>5</sup> The Village of Hempstead zoning code is available at its legislation website, <https://ecode360.com/7218812>. The Village of Hempstead zoning map is available at its legislation website, [ecode360.com/attachment/HE0909/HE0909-139c%20Fig%20205-1.pdf](https://ecode360.com/attachment/HE0909/HE0909-139c%20Fig%20205-1.pdf).

<sup>6</sup> The Village of Hempstead downtown overlay zone map is available at its legislation website, <https://ecode360.com/16220421>.

<sup>7</sup> For a description of the survey upon which the index is based, and an explanation of how the index is constructed, see Joseph Gyourko, Albert Saiz, and Anita Summers, “A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index,” *Urban Studies* 45, no. 3 (March 2008): 693–729, <https://doi.org/10.1177/0042098007087341>.

<sup>8</sup> See Joseph Gyourko, Jonathan S. Hartley, and Jacob Krimmel, “The local residential land use regulatory environment across U.S. housing markets: Evidence from a new Wharton index,” 124 *Journal of Urban Economics* 124 (July 2021), <https://www.sciencedirect.com/science/article/abs/pii/S009411902100019X>.

developments because it has no multifamily housing, and the one small cluster attached housing development appears to have resulted from a remapping in which whatever requirements were imposed were negotiated just for that development. That makes Flower Hill *more*, rather than less restrictive than jurisdictions that allow, but impose some constraints on, denser housing. Hempstead requires that new development in its downtown overlay zone include 10 percent of the units as restricted to families making moderate to middle incomes. That modest attempt to ensure that housing is available for households at a range of incomes signals that Hempstead is less, not more exclusionary than Flower Hill. The index is focused on the extent to which a local government constrains development, but doesn't (and wasn't intended to) focus on how the land use system acts to perpetuate or create patterns of racial or economic segregation.

Third, Flower Hill scores well on the length of time it takes to review applications for rezonings or subdivisions for projects of different sizes. But it has an as-of-right single family detached housing scheme, with few if any rezoning or subdivision applications, which are for projects much smaller than those in the survey's hypotheticals. Flower Hills' answer is really just saying it takes a few months to get a building permit, but that is being compared to land use schemes in which rezonings and subdivisions are both more common and more complex. In sum, the index reflects the fact that Flower Hill has a largely as-of-right, rather than discretionary, land use system, but fails to reflect just how much that very restrictive but as-of-right system makes the housing built unaffordable to most households.

Flower Hill's land use scheme has produced and maintained a very low-density, expensive, exclusively single-family housing stock. Hempstead's system has produced a higher-density community with a variety of housing choices for both renters and homeowners at different levels of income and in different stages of life, and has adapted its land use scheme to provide an even greater range of live/work opportunities.