



Quasi-Public Corporations and Financing Local Development Projects

January 29, 2019, 8:30am- 10:30 am

Judicial Institute Auditorium at Pace Law, White Plains, New York

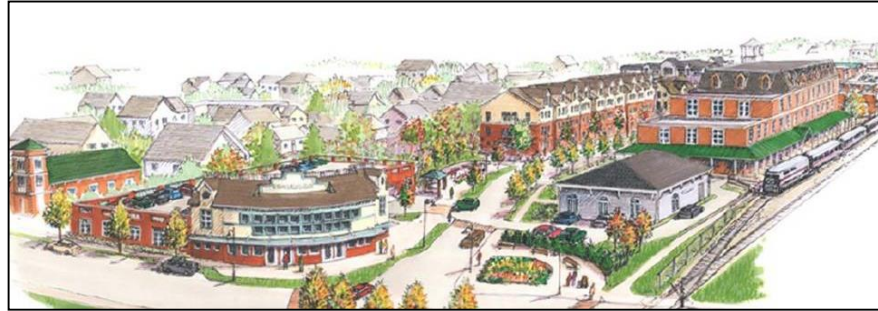
Welcome

William Cuddy

Executive Vice President, CBRE

WCA POLICY PLAYBOOK

- Land Use Plan
- Target Area Plans
- Land Use Regulations
- Streamlined Review & Approval Process & Trained Land Use Boards
- Local Development Corporations/Industrial Development Agencies & Incentives



Available at:

<https://www.westchester.org/policy-playbook/>

RECOGNITION PROGRAM



Agenda

Overview

Darius Chafizadeh, Partner, HARRIS BEACH PLLC

Developer's Perspective

Art Collins, Principal and President, Collins Enterprises

Role of the County

Norma Drummond, Commissioner of Planning, Westchester County

City Context: New Rochelle Example

Luiz C. Aragon, Commissioner, Department of Development, City of New Rochelle

Village Context: Sleep Hollow Example

Ken Wray, Mayor of Sleepy Hollow

Town Context: Mt. Pleasant Example

Carl Fulgenzi, Supervisor, Town of Mt. Pleasant

Q & A

Overview of quasi-public corporations and various types of tools they can use to achieve local economic development goals

Darius Chafizadeh, Partner, HARRIS BEACH PLLC



HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

Industrial Development Agencies (IDA's) and Local Development Corporations (LDC's)

Presentation to Westchester County
Association/Pace Land Use Law Center & ULI-
Westchester/Fairfield

Introduction to Industrial Development Agencies (“IDAs”)

- Formed under the New York State General Municipal Law (the “Act”), as public benefit corporations.
- Created to actively promote, encourage, attract and develop job and recreational opportunities and economically-sound commerce and industry in counties, cities, towns and villages throughout New York State.
- Empowered to provide financial assistance to private entities through tax incentives in order to promote the economic welfare, prosperity and recreational opportunities for residents of a municipality.
- Have the ability to purchase, sell, lease and/or mortgage real property and to borrow and make money available in connection with properly induced IDA projects.
- Subject to open government laws, limited investment powers and specifically are not empowered to make outright gifts to a private enterprise.



Who is a qualified applicant?

What is a “project”?

- A for-profit entity that wants to undertake construction or expansion of a “project” can, in general, be considered a qualified applicant.
 - The IDA ability to provide financial assistance to, or undertake projects for the benefit of not-for-profit corporations has expired. However, through structuring and/or use of a local development corporation, necessary benefits can be made available to not-for-profits.
- A “project” is broadly defined by the Act as “any land, any building or other improvement, and all real and personal property located within the state of New York and within or partially outside the municipality for whose benefit the agency was created...”
 - Eligible types of projects, include, but are not limited to: manufacturing, technology-based, commercial, rehabilitation of existing commercial buildings, student housing and affordable housing.



Financial Assistance

- Mortgage Recording Tax Exemption
- Sales and Use Tax Exemption
- Real Property Tax Abatement
- Tax Exempt Bond Financing



Financial Assistance: Mortgage Recording Tax Exemption

- Whenever a county clerk records a mortgage in New York State, unless an exemption is available, the mortgagor must pay a certain percentage of the mortgaged amount of mortgage recording tax.
 - Between .75% to 1.85% depending on where you are in New York State.
- If an IDA (on a non-recourse basis) has an interest in the property at the time the mortgage is recorded, the IDA will mortgage its interest in the property (exempt from the mortgage recording tax) and the company will simultaneously mortgage its interest in the property (exempt from the mortgage recording tax).



Financial Assistance: Sales and Use Tax Exemption

- 7.375% in Westchester County
- All purchases made by an IDA or its agent are exempt from sales and use tax.
- The IDA will appoint the company as its agent under a Project Agreement to make purchases on the IDA's behalf. These purchases will be exempt from sales and use tax.
- Company appointed as agent of the IDA may appoint subagents.



Financial Assistance: Real Property Tax Abatement (PILOT)

- Any real property owned or controlled by an IDA is not subject to ad valorem real property taxes. When an IDA takes a leasehold interest in real property, the property becomes 100% exempt from ad valorem real property taxes. However, real property owned or controlled by an IDA continues to be subject to special assessments and user fees, like water, sewer, fire, etc.
- To accommodate the needs of the local tax jurisdictions, however, the IDA negotiates a Payment-in-Lieu-of-Tax Agreement (“PILOT Agreement”) with the company.
- The IDA will then direct these payments-in-lieu-of-taxes to be made to the affected tax jurisdictions in the percentage that each affected tax jurisdiction would otherwise have received but for the Agency’s involvement.
- An IDA is required to adopt a “Uniform Tax Exemption Policy” (“UTEP”) which outlines the types of PILOT Agreements the IDA offers and the procedures for deviation from those stated policies.



The Structure of an IDA Assisted Transaction

- The IDA usually participates by taking a leasehold interest in the real and/or personal property involved in the project.
- The length of time the IDA maintains a leasehold interest in the property depends on the financial assistance the IDA is providing. For example:
 - Mortgage Recording Tax Exemption: when the financial assistance is limited to the provision of an exemption from the mortgage recording tax, the IDA need only maintain an interest in the property for a short period of time.
 - Sales Tax Exemption: when the financial assistance is limited to the provision of exemption from sales tax, the IDA may secure an interest in the property through the construction/installation period only.
 - Real Property Tax Abatement: when the financial assistance includes abatement from real property taxes, the IDA will maintain an interest in the property for the duration of the abatement period.



Limitations of Financial Assistance and IDA Powers

While it is the purpose of an IDA to promote the economic welfare and prosperity of a municipality's inhabitants and to actively attract and encourage development of such activities, the Act does place some restrictions on an IDA's ability to participate in certain types of projects.



Limitations of Financial Assistance and IDA Powers: Retail Facilities

- Retail Facilities: an IDA is limited in its ability to provide financial assistance to projects “that are primarily used in making retail sales to customers.” There are some exceptions to the retail restriction, which are:
 - The project is a “tourism destination” which is defined as locations or facilities which are likely to attract a significant number of visitors from outside the economic development region.
 - The predominant purpose of the project is to make available goods or services which would not be, but for the project, reasonably accessible to residents of the municipality where the project is located.
 - The project is located within a “highly distressed area” (which includes projects located in a former Empire Zone).



Financial Assistance: Tax Exempt Bond Financing

- IDAs are authorized by State law to issue bonds and notes.
- The proceeds of these tax exempt bonds can be used to fund all, or substantially all, the costs of the project. Since 2008, this form of benefit is granted through an affiliated Local Development Corporation (LDC).



Local Development Corporations (LDC)

- Empowered to conduct certain projects under the Not-For-Profit Corporation Law
- Similar to IDA's, LDC's can offer mortgage recording tax and sales tax relief. However, they cannot offer real property tax abatements.
- Tax-exempt bond financing for qualified 501(c)(3) organizations.



Tax Exempt Bond Financing

- Facilities that generally qualify for LDC tax exempt bond financing:
 - Manufacturing;
 - 501(c)(3) charitable entity – schools, YM(W)CA ,etc.; and
 - Airports, docks, mass commuting facility, water and sewage facilities, solid waste disposal, qualified residential rental projects (certain affordable housing developments); energy/gas facilities.
- Non-Recourse, Conduit Issuer.
- The Internal Revenue Code imposes an annual limit on the aggregate principal amount of private activity bond that may be issued in each state, commonly referred to as the statewide volume cap. The 2019 state volume cap is just over \$2 billion.
- The volume cap is generally allocated in equal thirds to local IDA's, state agencies and to the statewide bond reserve.



Developer's Perspective

Art Collins, Principal and President, Collins Enterprises

January 29, 2019

Westchester County Association, Pace Land Use Law Center, &
ULI-Westchester/Fairfield

QUASI-PUBLIC CORPORATIONS & FINANCING LOCAL DEVELOPMENT PROJECTS

Developer's Perspective

 COLLINS

Presented by Arthur Collins

Principal, Collins Enterprises

www.collins-llc.com

COLLINS

Mission

- **Collins is focused on urban redevelopment and property acquisition in employment centers and fringe cities**
- **Own and manage a portfolio of commercial and residential properties in New York, New Jersey, and Virginia**
- **Concentrate on redevelopment opportunities in response to population trends, follow smart growth initiatives and engage our specialized skills in developing public/private partnerships in cities**

A Tradition of Distinctive Properties



FINANCING DEVELOPMENT

with Public Sector Involvement

- A pro business administration and knowledgeable agencies to spearhead redevelopment
- A master plan that guides the City's public and private development and economic redevelopment initiatives – including hiring outside planners and updating the plan and ensuring funding is in place
- Financial incentives for developers to build with quantifiable risk that encourages private investment
- Economic development agencies aligned to induce private investment & job growth
 - Ability to appoint developers rather than RFP
 - Support proposals if consistent with master plan, i.e. New Rochelle
 - Usually business minded & have abilities to capitalize public investments
- Initiate public investment to stimulate private investment in a region
- Many times creating a new market for the region



HUDSON PARK –
Hudson River looking south from
Yonkers, NY

Yonkers, NY



**First Ground-Up Housing Development in
downtown Yonkers in 30 Years**

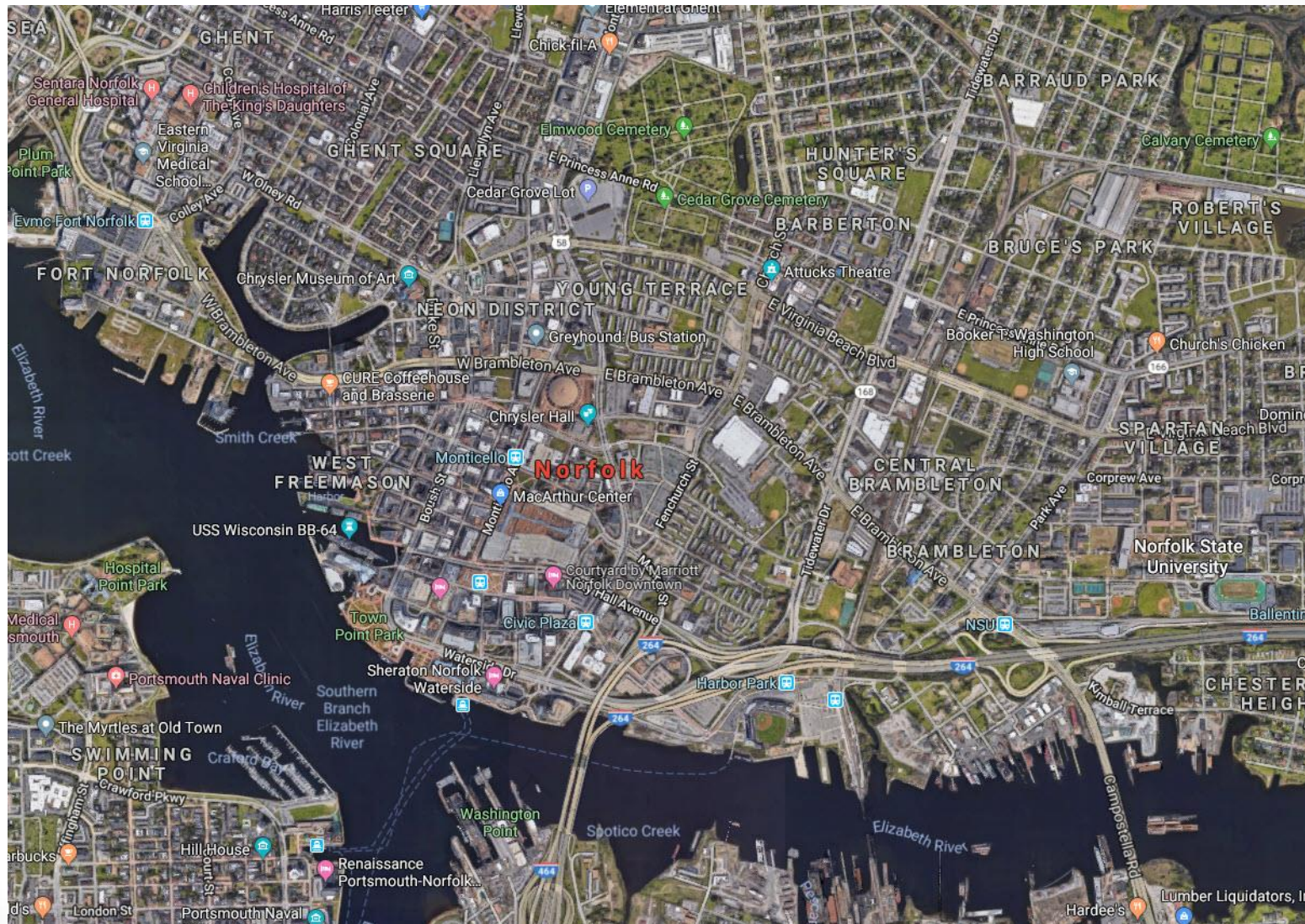


**Hudson Park public/private partnership with
the City of Yonkers to redevelop their
downtown and riverfront**

Hudson Park – Project Details

- 773 residential rental apartments
- 15,000 sq ft of restaurants, office and retail
- Building heights range from 4 to 23 stories, consistent with the master plan guidelines
- Public incentives & benefits
 - Deferred land price takedown
 - Real estate tax deferrals (PILOT)
 - Sales tax exemption from Industrial Development Agency
 - City reimbursement of costs for environmental remediation and underground obstructions
 - Mortgage recording tax exemption from Industrial Development Agency
 - Brownfield tax credits paid for public improvements, infrastructure and amenities

Norfolk, Virginia



Aerial view showing downtown Norfolk along Elizabeth River

Downtown Norfolk



Norfolk waterfront showing Battleship Wisconsin and re-development area

The PierPointe at Freemason Harbor



The Heritage at Freemason Harbor



RiverPark at Freemason Harbor



388 Boush Street



NORFOLK PROJECTS

- 395 residential rental and condominium apartments
- 15,000 SF of restaurants, office & retail
- Buildings 3 to 6 stories, consistent with master plan

Public Incentives/Benefits

- Optioned 7 acres & pier structure
- Land take down at Certificate of Occupancy
- Real estate taxes phased in over 5 years
- Norfolk Redevelopment & Housing Authority funded \$6M for infrastructure & road realignments
- Land price debited by environmental, underground obstructions, poor soils, premium construction costs, i.e. deep pile foundations
- Entitlement support

Public Capitalization Metrics

Yonkers

- Public investment: \$200mm
- Private investment: \$300mm
- Generated annual tax revenue of \$5mm

Norfolk

- Public investment: \$20mm
- Private investment: \$65mm
- Generated annual tax revenue of \$1mm

Conclusions and Observations

- Public/Private partnership yield long-term benefits in redevelopment areas if you are willing to pioneer – difficult to transfer benefits
 - Best to partner with development authority or Economic Development office
- An overlay of IDA, State and Federal benefits covered the financing gap and reduced construction and market risk making project economically feasible & financeable
 - Benefits stimulate private investment, i.e. Opportunity Zones
- Collins brought Institutional and Foreign capital due to higher returns for investors, strategic locations, and new asset classes
 - Re-establishing a vibrant market with numerous third party transactions/transfers

Role of the County

*Norma Drummond, Commissioner of
Planning, Westchester County*

Westchester County and Development

- General Municipal Law 239
- WCIDA and LDC
- CDBG
- Capital Projects

City Context: New Rochelle Example

*Luiz C. Aragon, Commissioner, Department
of Development, City of New Rochelle*



NEW ROCHELLE
IDEALLY YOURS

nyida + nycld



VISION

New Rochelle has created the most ambitious downtown development vision in the Hudson Valley:

- 12 million square feet
- 6,370 residential units
- 1,200 hotel rooms
- 2 million square feet of office space
- 1 million square feet of retail space

NR
NY

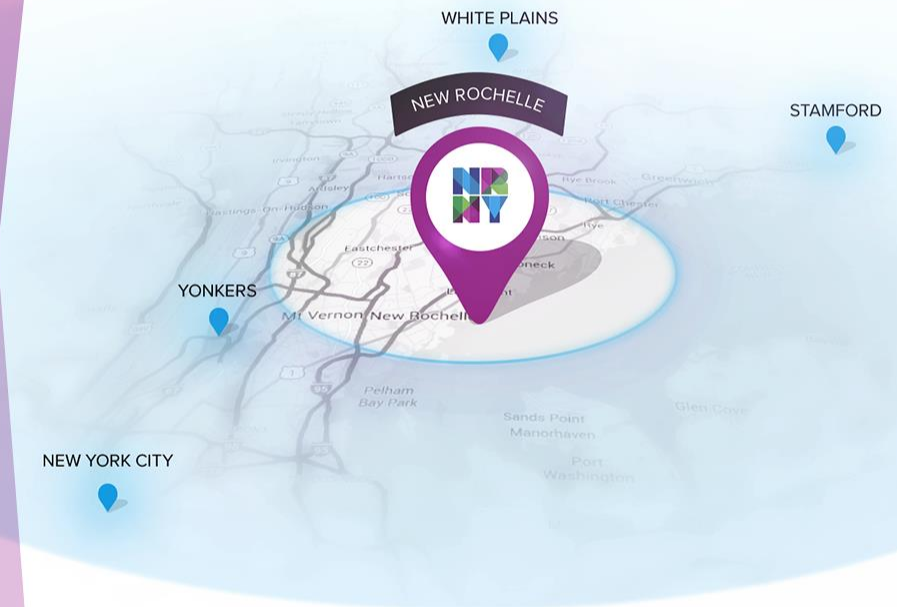
ENVISION 2016



PLANNING EFFORTS

LOCATION

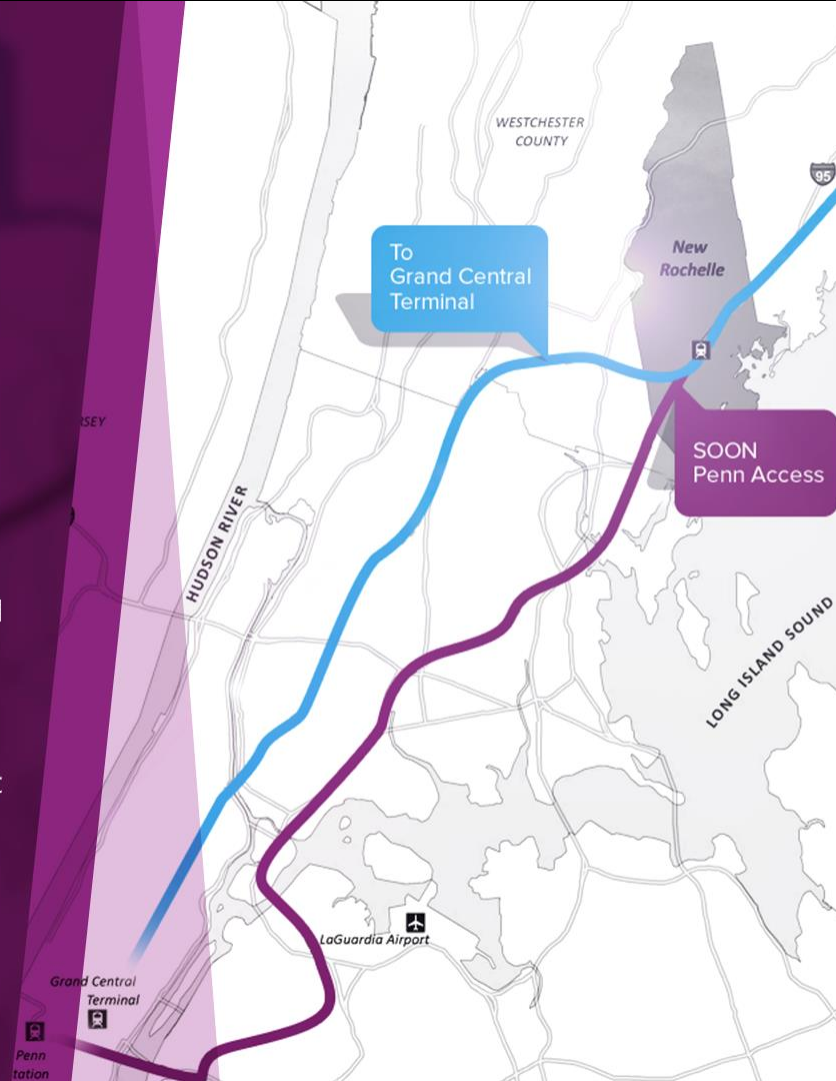
- About 10 million people within 30 minutes
- Regional job creation
- Magnet for Millennials



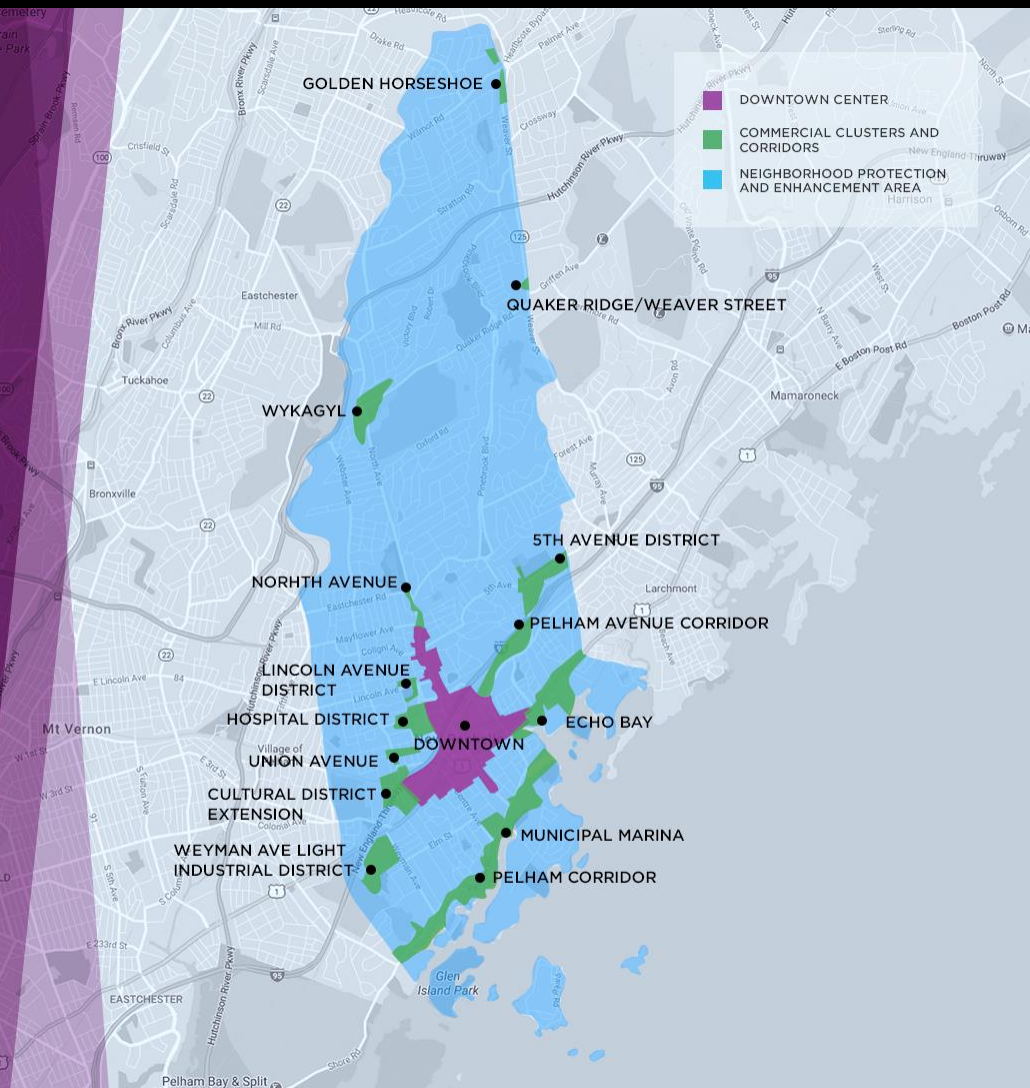
IDEAL IMPACT

10 million people live within a convenient and affordable 30-minute trip to our downtown. Includes:

- Portions of the metropolitan area with high rates of unemployment and underemployment
- Young professionals increasingly priced out of the New York City market and ripe for capture
- Corporate leaders who can easily see that New Rochelle is the hole in a donut formed by Stamford, White Plains, and the five boroughs



DOWNTOWN, NEIGHBORHOOD FOCUS AREAS NEIGHBORHOOD PROTECTION ENHANCEMENT AREAS



3 LEGS OF THE STOOL



A master developer agreement with a well-capitalized partner to undertake catalytic projects on publicly-owned sites.

City Investment ... & The IDA

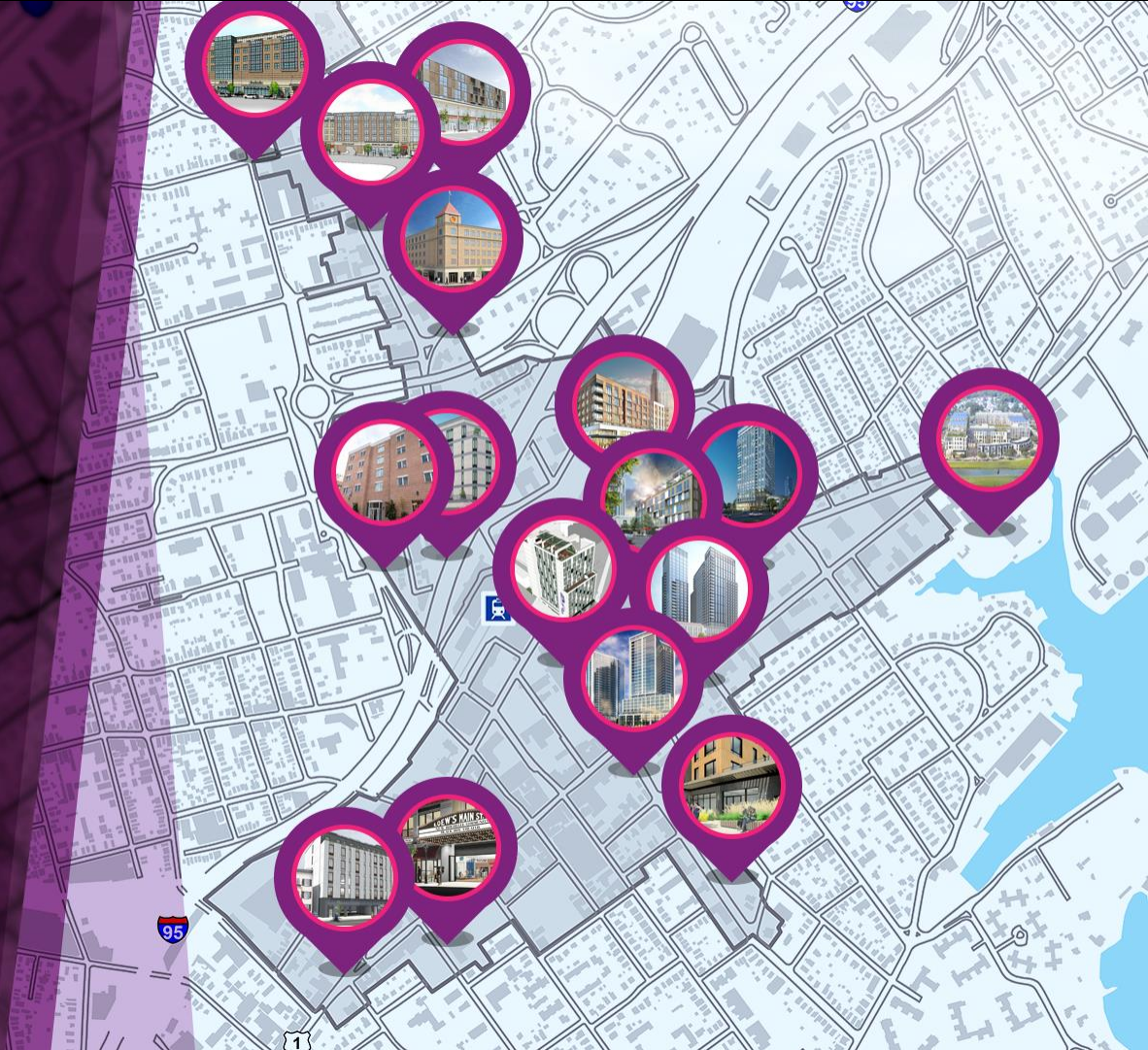
A new form-based zoning code that offers unprecedented flexibility for use, paired with prescriptive requirements for design that create a more pedestrian friendly environment.

And a completed generic environmental review that dramatically reduces procedural and financial impediments to specific developments that match our vision.

IT'S WORKING

More than 10 projects approved:

- 2,300 residential units
- 100,000 square feet of commercial and retail space
- 230 affordable housing units



CERTAINTY

New Rochelle Industrial Development
Agency Uniform Tax Exemption Policy

- DOZ Projects
 - Standard Abatement Schedule
- Artist Live/Work
 - Standard Abatement Schedule for Qualified Live/Work Space projects
- Low Income Housing Tax Credit Program (LIHTCs)
 - PILOTS that match the term of the projects affordability requirement under the term of the LIHTCs



STREAMLINED PROCESS

- Finance Subcommittee
- National Development Council



REAL PROPERTY TAX IMPACTS





IDA VERSUS THE CLD

- Local Development Corporations have broader spending power.
 - Statutory purpose includes lessening the burdens of government and acting in the public interest
- Adoption of the Joint Application & Fee Structure
- Example - The Acceleration Project (TAP)
 - TAP will provide strategic and tactical advice to 5 business to improve business performance



NR
NY



Village Context: Sleep Hollow Example

Ken Wray

Mayor of Sleepy Hollow

Town Context: Mt. Pleasant Example

Carl Fulgenzi

Supervisor, Town of Mt. Pleasant

Projects Benefitted by Financial Assistance

- Regeneron Phase I (Mount Pleasant)
 - \$210 million dollar project (Regeneron Campus)
 - 300,000 square feet of development of Biotech
 - 2 new buildings for a publicly traded pharmaceutical company with parking garage;
 - 400 new permanent jobs created, hundreds of temporary construction jobs;
 - Due to the construction, by 2029, taxes will be **\$2.278 million** per year vs. **\$99,000** as vacant land;
 - Impact on local economy -- Regeneron employees purchased 21 homes at new Summit luxury housing development.
 - Building Permit Fees: **\$1.9 million**
 - Also redevelopment of NY Life Building on Old Sleepy Hollow Road

Rendering of Regeneron (Headquarters)



Projects Benefitted by Financial Assistance

- **Pepsico (Mount Pleasant)**
 - \$160 million dollar project
 - Potential relocation to Texas/.
 - 395 jobs retained in excess of \$125k.
 - 120 temporary construction jobs.
 - By 2033, taxes will be at **\$1.234 million.**
 - Project resolved tax certiorari cases at a savings of over **\$1 million** to the Town.
 - Building Permit Fees: **\$1.5 million.**

RENDERING OF PEPSICO (R&D Headquarters)



Aerial view from Stevens Avenue

Questions?

