



HARRIS BEACH <sup>PLLC</sup>  
ATTORNEYS AT LAW

## Case Study – Garvies Point in Glen Cove

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\$1B mixed-use project with a \$97mm Public Use  
Improvement Bond repaid and a unique Tax Agreement  
Structure

# Sometimes you need consents some times you have to proceed without consents

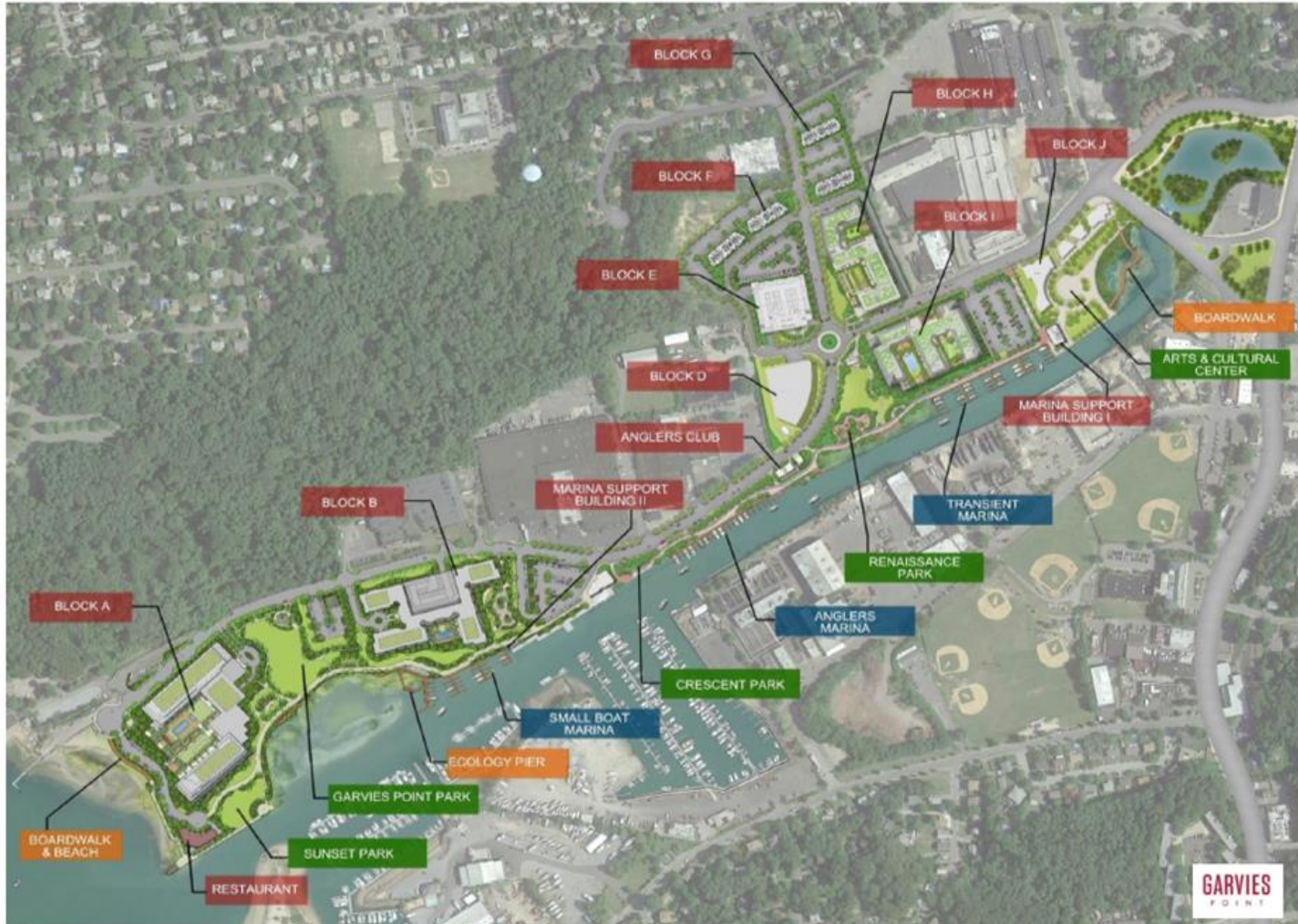
- Green Acres Mall (tax grievance with strong benefit cost analysis)
  - Tax breaks for Green Acres Mall unfair, say state lawmakers (Updated October 10, 2016)
  - Politicians want audit of Green Acres Mall's PILOT agreements (Posted Wednesday, October 19, 2016)
  - Nassau comptroller begins audit over Green Acres Mall tax breaks (Updated October 24, 2016)
- Garvies Point - 1110 Units of Housing with a need for \$98mm in public improvements
  - Glen Cove IDA closes on sale of 44 waterfront acres to developer (Updated November 28, 2016)

# Garvies Point in 2016



**GARVIES**  
POINT

# Garvies Point in 2021



# Issues

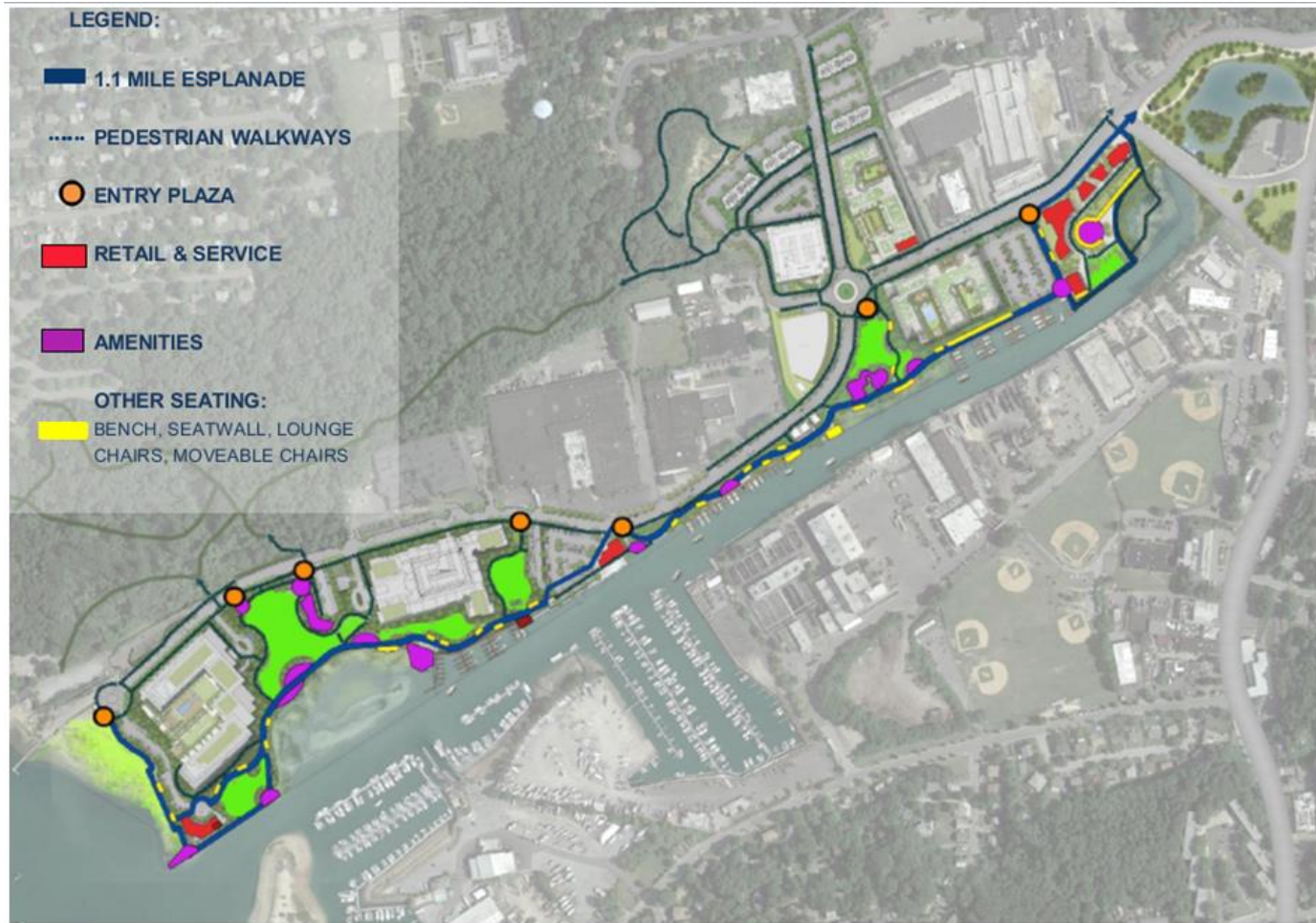
- 550 condo units for sale
- Urban Renewal/Super Fund Area
- Not all the property was under contract
- Needs \$97mm in public oriented improvements
- TIF does not work with turbo payments and terms proposed by Citi

# Garvies Point Development Summary Schedule of Public Infrastructure Costs Eligible to be Refunded by TIF Proceeds

GARVIES POINT DEVELOPMENT SUMMARY SCHEDULE OF PUBLIC INFRASTRUCTURE COSTS ELIGIBLE TO BE FUNDED BY TIF PROCEEDS						TOTAL
Description	Total Estimated Trade Costs	Estimating Contingency	Insurance	General Conditions		
		9.00%	1.50%	3.50%		
1 Demolition	\$ 295,000	\$ 26,550	\$ 4,425	\$ 10,325	\$	\$ 336,300
2 Earthwork	4,241,624	381,746	63,624	148,457		4,835,451
3 Roads	1,931,500	173,835	28,973	67,603		2,201,910
4 Drainage	4,629,300	416,637	69,440	162,026		5,277,402
5 New buildings and grounds	2,320,950	208,886	34,814	81,233		2,645,883
6 Curbs and paths	3,534,925	318,143	53,024	123,722		4,029,815
7 Misc furniture	525,000	47,250	7,875	18,375		598,500
8 Landscaping - plantings	6,825,871	614,328	102,388	238,905		7,781,493
9 Lighting	5,813,450	523,211	87,202	203,471		6,627,333
10 Wetlands	339,270	30,534	5,089	11,874		386,768
11 Boardwalks & Piers	1,300,500	117,045	19,508	45,518		1,482,570
12 Bulkheads	17,800,000	1,602,000	267,000	623,000		20,292,000
13 Retaining walls	3,636,545	327,289	54,548	127,279		4,145,661
14 Marinas	1,945,800	175,122	29,187	68,103		2,218,212
15 Utilities	4,338,000	390,420	65,070	151,830		4,945,320
16 Miscellaneous	1,041,221	93,710	15,618	36,443		1,186,992
17 Fencing	121,270	10,914	1,819	4,244		138,248
18 Clearing and grubbing	340,000	30,600	5,100	11,900		387,600
19 Signs	110,760	9,968	1,661	3,877		126,266
20 Erosion controls	148,596	13,374	2,229	5,201		169,399
21 Dredge Spoils	1,147,750	103,298	17,216	40,171		1,308,435
22 Doxey cleanup	500,000	45,000	7,500	17,500		570,000
23 Garvies Point Road gap*	15,040,422	752,021	-	-		15,792,443
24 Interim amenities	250,000	22,500	3,750	8,750		285,000
25 Creek improvements	1,500,000	135,000	22,500	52,500		1,710,000
26 Survey & stakeout	1,887,538	169,878	28,313	66,064		2,151,793
27 Basic Maintenance & Protection of Traffic	1,130,083	101,707	16,951	39,553		1,288,295
28 Mobilization	1,540,879	138,679	23,113	53,931		1,756,603
29 Incinerator demolition	2,401,351	-	36,020	84,047		2,521,419
	\$ 86,637,605	\$ 6,979,646	\$ 1,073,958	\$ 2,505,901	\$	\$ 97,197,111



# Garvies Approved Amended PUD Master Development Plan



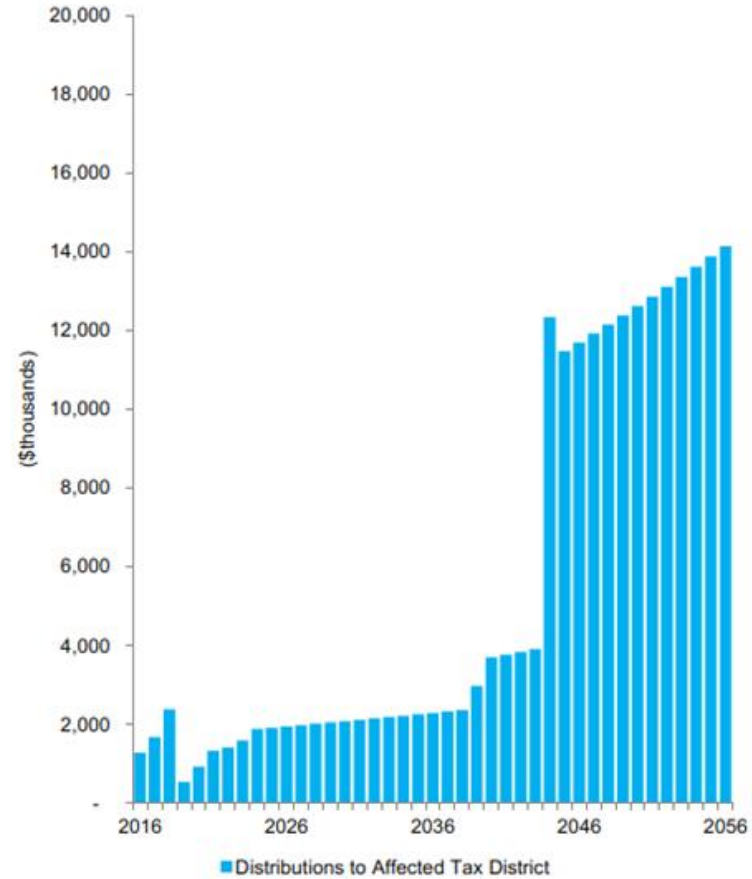
# No Development vs. Development

## No Development



=  
\$0

## Development



Total Distributions: \$225,277,318



# GML Definitions

- (16) “Affected tax jurisdiction” – shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved in a project.
- (17) “Payments in lieu of taxes” – shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of agency involvement

# GML 858 Purpose and Powers

- 15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated amount affected tax jurisdictions in proportion to the amount of real property tax and other taxes with would have been received by each affected tax jurisdiction had the project not be tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;

# Deviation Letter

The amount and distribution of the fixed Tax Payments among the affected tax jurisdictions are attached hereto as Schedule A, provided that the actual amounts of the Tax Payments shown in Schedule A may vary due to certain reasons, including, for example, the final pricing of certain bonds to be issued by the Issuer to finance a portion of the costs of the Public Use Improvements and related costs and expenses related to the Garvies Point Project, or the timing of construction which could lengthen or reduce the term of such bonds and payments thereunder. The Tax Payments represent a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"). Also attached as Schedule B is the amount and distribution of the total Tax Payments, together with other sources of income expected to be received by each affected tax jurisdiction.

# Consent Resolution

WHEREAS, the Public Improvement Bonds will fund the necessary public amenities, infrastructure and other improvements to make the Garvis Point Project a reality and generate tax revenues. After interest on the Public Improvement Bonds is paid, amounts paid by the Company in lieu of taxes will be paid to the Affected Tax Jurisdictions in the amounts described in Schedule A (the “Priority Tax Payments”). After payment of interest to the bondholders, the Priority Tax Payments in the amounts indicated on Schedule A for the years 2017 through 2038 will be paid, then the bondholders will receive repayment of their principal, and thereafter any and all residual amounts as indicated in Schedule A for the years 2044 through 2056 will be paid to the Affected Tax Jurisdictions as payments in excess of the Priority Tax Payments already received. In furtherance of foregoing, the Company and the Agency have requested the consent of the School District pursuant to and in accordance with General Municipal Law Section 858(15) such that the payments in lieu of taxes can be distributed based on the Priority Tax Payments; and

WHEREAS, after considering the positive financial impact of the Garvis Point Project on the Affected Tax Jurisdictions, and the direct impacts of development of the Facility, including positive impacts on the tax base of the School District, the School District desires to consent to the above described Priority Tax Payments.

# Consent Resolution (cont.)

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL DISTRICT AS FOLLOWS:

Section 1. The School District hereby consents to the amount and allocation of the Tax Payments, as well as the deviation from its Uniform Tax Exemption Policy, as shown in Schedule A and described above, as follows:

- (i) the fixed payments with a fixed allocation to the School District and other Affected Tax Jurisdictions based on the Priority Tax Payments payable after interest on the Public Improvement Bonds, as shown in Schedule A herein, for the years 2017 through 2038, then the bondholders will receive repayment of their principal, and thereafter any and all residual amounts as indicated in Schedule A for the years 2044 through 2056 will be paid to the Affected Tax Jurisdictions as payments in excess of the Priority Tax Payments, provided, that the actual amounts of the Priority Tax Payments shown in Schedule A may vary due to final structure and pricing of the Public Improvement Bonds, as well as other variables; and

# Control the Payments

With a waterfall that pays interest  
payments first

# Schedule A: Garvies Point Redevelopment Project Tax Revenue Deviation Schedule

Year	Total PILOT Revenues	Expected Bond Debt Service & Reserves*	City Priority ATJ Distribution & Revenue Surplus	School Priority ATJ Distribution & Revenue Surplus	County Priority ATJ Distribution & Revenue Surplus	Library Priority ATJ Distribution & Revenue Surplus
Total	\$614,843,147	\$282,972,321	\$131,194,160	\$174,848,844	\$21,303,133	\$4,524,688
2017	842,417	487,087	-	250,000	100,000	5,330
2018	1,967,356	1,561,264	-	300,000	100,000	6,091
2019	3,792,334	2,728,924	470,170	571,902	5,387	15,951
2020	4,929,578	3,177,757	637,143	1,079,560	21,980	13,139
2021	6,664,056	4,438,863	983,416	1,197,064	28,024	16,689
2022	12,174,804	9,797,594	996,753	1,328,327	34,301	17,829
2023	12,415,865	9,783,790	1,058,110	1,510,491	43,734	19,741
2024	12,661,699	9,640,744	1,153,830	1,794,468	50,000	22,657
2025	12,912,401	9,835,359	1,170,306	1,833,658	50,000	23,078
2026	13,168,067	10,034,421	1,186,912	1,873,231	50,000	23,502
2027	13,428,794	10,238,017	1,203,651	1,913,196	50,000	23,931
2028	13,694,684	10,446,238	1,230,524	1,943,559	50,000	24,363
2029	13,965,839	10,659,173	1,247,535	1,984,331	50,000	24,800
2030	14,242,363	10,876,920	1,264,685	2,025,517	50,000	25,241
2031	14,524,362	11,099,569	1,281,979	2,067,128	50,000	25,686
2032	14,811,944	11,327,221	1,299,418	2,109,170	50,000	26,135
2033	15,105,220	11,559,970	1,317,007	2,151,654	50,000	26,589
2034	15,404,304	11,797,922	1,334,747	2,194,587	50,000	27,048
2035	15,709,309	12,036,140	1,352,642	2,242,978	50,000	27,549
2036	16,020,353	12,284,804	1,370,695	2,286,838	50,000	28,017
2037	16,337,556	12,544,021	1,388,909	2,326,175	50,000	28,452
2038	17,016,722	13,159,508	1,407,287	2,370,998	50,000	28,929
2039	16,759,528	16,759,528	-	-	-	-
2040	16,844,969	16,844,969	-	-	-	-
2041	17,176,966	17,176,966	-	-	-	-
2042	17,515,514	17,515,514	-	-	-	-
2043	17,860,738	-	-	-	-	-
2044	18,212,772	(2,700,702)	8,365,390	10,665,872	1,568,511	313,702
2045	18,571,753	-	7,428,701	9,471,594	1,392,881	278,576
2046	18,937,813	-	7,575,125	9,658,284	1,420,336	284,067
2047	19,311,097	-	7,724,439	9,848,659	1,448,332	289,666
2048	19,691,744	-	7,876,697	10,042,789	1,476,881	295,376
2049	20,079,899	-	8,031,960	10,240,749	1,505,992	301,198
2050	20,475,713	-	8,190,285	10,442,614	1,535,678	307,136
2051	20,879,335	-	8,351,734	10,648,461	1,565,950	313,190
2052	21,290,919	-	8,516,368	10,858,369	1,596,819	319,364
2053	21,710,625	-	8,684,250	11,072,419	1,628,297	325,659
2054	22,138,611	-	8,855,444	11,290,692	1,660,396	332,079
2055	22,575,040	-	9,030,016	11,513,270	1,693,128	338,626
2056	23,020,080	-	9,208,032	11,740,241	1,726,506	345,301

\*Last year of Expected Bond Debt Service is negative due to release of debt service reserve fund with the final expected payment. Extra funds are released via the ATJ Distributions

