



Brownfields Financing and Incentives

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2.45 – 4 pm

Presented by:

Melina Ambrosino, Cherrytree
George Naslas, Weston & Sampson
Michael Lozano, Trinity Financial

Speakers



George Naslas
Weston & Sampson



Melina Ambrosino
Cherrytree Group



Michael Lozano
Trinity Financial



Weston & SampsonSM



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Agenda

- Welcome & Introduction
- Resources to Support Brownfields Redevelopment
 - MassDevelopment
 - Tax Incremental Financing
 - EPA Programs
 - Assessment
 - Cleanup
 - RLF
- Tax Credits
- Developer Perspective
- Case Study
- Questions & Answers



Municipal Challenges:

- Blight
- Tax Revenue Losses
- Safety
- Arson
- Homeless
- Attractive Nuisance
- Change



Developer Challenges:

- Premium Costs
- Land use restrictions
- Liability Concerns
- Schedule Impacts
- Bank Financing



Resources to Support Brownfields Redevelopment

- State Resources –
MassDevelopment, MA DHCD,
CT DECD, VT DEC, NHDES,
MEDEP, RIDEM
- Brownfields Tax Credits
- Tax Increment Financing
- Local Incentives
- EPA Brownfields



MassDevelopment

Brownfields Redevelopment Funds

- Located in EDA
- Not responsible for contamination
- Proposed redevelopment must result in one of the following benefits:
 - Job creation or retention
 - Economic or physical revitalization
 - Create / rehabilitate housing
- \$100K Assessment
- \$500K Remediation

Site Readiness Program



Brownfields Tax Credit (BTC)

- Site located in Economically Distressed Area (EDA)
- Cleanup completed in compliance with State standards
- In MA, may apply to MA DOR for tax credit equal to 25% or 50% of cleanup

Tax Increment Financing (TIF)

- Direct upfront benefit to a Developer in the form of tax breaks
- A tax increment is the difference between assessed value of the target property in the beginning or “broken-down” state and the assessed value going forward in time, as the planned improvements take shape
- The tax increment, calculated by the local Assessor, is the tax on the added value of new construction, rehabilitation or new equipment or machinery
- Municipalities may grant property tax exemptions to landowners of up to 100% of the tax increment for a fixed period

Municipal Resources – Housing Development Incentive Program

- MA DHCD incentives – Housing in Gateway Cities, adopted locally
- State credit up to 10% of rehab expenses, capped at \$2M
- CT DECD – Similar programs – Tax Incentives and Enterprise Zones



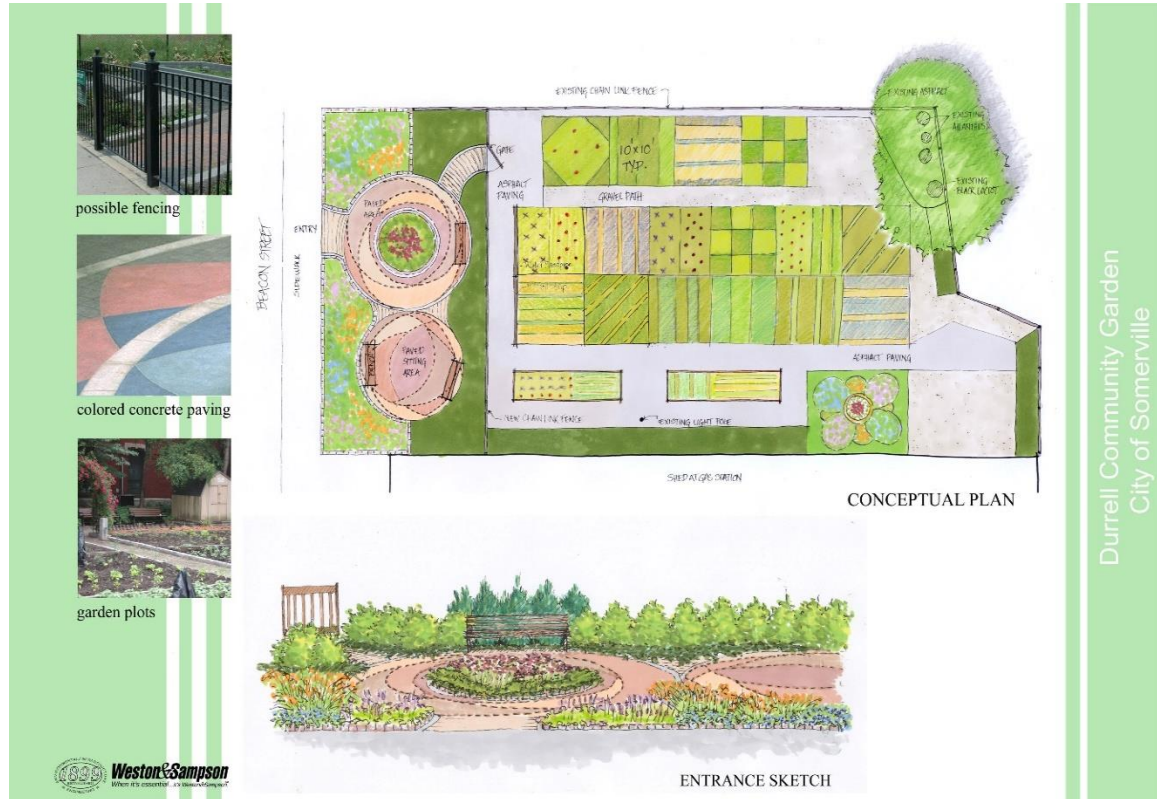
Local Business Loan Programs

- Low interest loans – Gap Funding
- Funds for acquisition, construction, or rehab or property or for capital purchases



Other Funding Sources

- Parkland Acquisition and Renovations for Communities (PARC) Grants – Open Space Design & Construction
- Municipal Vulnerability Preparedness (MVP) Program – Focus on Resilience and Vulnerability



Durrell Community Garden
City of Somerville



EPA Brownfields Program



Assessment Grants funding for brownfield inventories, planning, environmental assessments, and community outreach

Cleanup Grants funding to cleanup brownfield sites owned by the applicant

Revolving Loan Fund (RLF) Grants funding to capitalize loans that are used to clean up brownfield sites

Multipurpose (MP) Grants funding to conduct assessment and cleanup activities at one or more brownfield sites in a target area

*2021 Bipartisan Infrastructure Law –
Infrastructure Investment and Jobs Act (IIJA)*
Historic \$1.5 Billion Investment in Brownfields



EPA Assessment Programs



- Generally Community Wide focused on a target area
- Can be Site Specific
- Inventory / Due Diligence
 - Phase I ESAs
 - Phase II ESAs
 - Soil & Groundwater
 - HBMI
 - Indoor Air
 - Support Construction Activities



EPA Assessment Programs



- Reuse Planning
 - Visioning
 - Remedial Planning
 - Compliance Pathway
 - ABCA
 - Plans and Specifications
- Community Outreach
 - Stakeholder engagement
 - Information transfer
- Area Wide Planning



EPA Cleanup Programs



- Cleanup of Impacted soil & groundwater
- Removal of point sources
 - UST removal
 - Drums
 - NAPL
- Mitigation Measures
 - Source Removal
 - Capping
 - Risk-based closures
 - Land Use Restrictions
- Davis Bacon Wage Rates



EPA Cleanup Programs



- Plans and Specifications
- Construction Oversight
- Construction Administration
- Contractor Costs
- Community Outreach

Brownfields Revolving Loan Fund (RLF)

Provides the essential “gap” financing for the cleanup / remediation component of a redevelopment project that traditional financing generally doesn't cover.



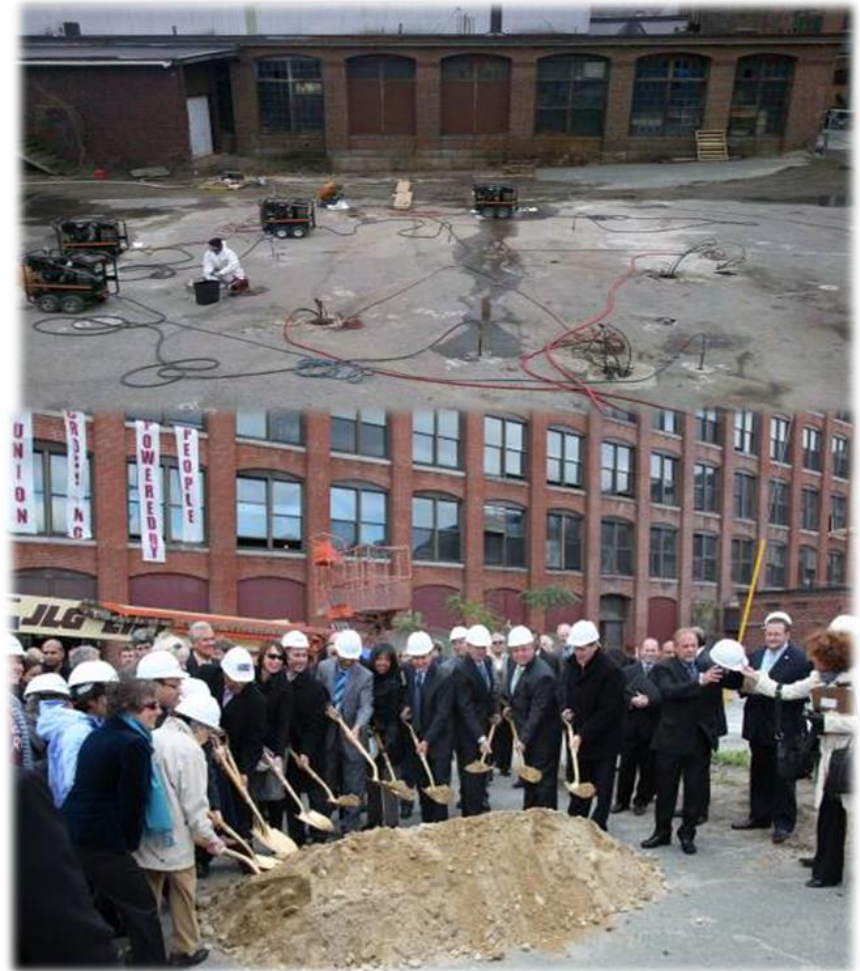
RLF Incentives to Developers



- Below market interest rates
- Flexible repayment terms to meet needs of borrower
- No penalty for early payoff
- Can be used in combination with other financing sources
- Disbursement of loan funds are through reimbursement process

Union Crossing Lawrence

- EPA Assessment Funds
 - Support Site work
 - Pre-Characterization
 - Compliance (UST area)
- MassDevelopment Funds
 - #6 Fuel Oil Remediation
- Brownfields & Historic Tax Credits



Ryan Park and Washington Heights Housing – Norwalk, CT



- Park Cleanup
- Redevelopment of Affordable Housing
- Resilient Street Design
- EPA Funding
- CT DECD Funding
- Tax Credits



Bartlett Landing – Nuestra Comunidad CDC



- Former Bus Garage and Train Maintenance
- EJ Neighborhood
- Multiple EPA Cleanup Grants
- Brownfield Tax Credits
- Affordable and Market Rate Housing

Modern Electroplating / Area B-2 Police Station

- City Funding
- EPA Cleanup Funding
- Mass Development Funding



Weir Riverfront Park – FB Rogers Site, Taunton, MA



Before



After

Former FB Rogers Silversmiths Site, Taunton, MA



- Demolition and Clearance of Industrial Complex
- EPA Assessment, RLF and Cleanup Funding
- MassDevelopment Funding
- PARC Grant
- Redeveloped as Weir Riverfront Park



Peabody / Salem Riverwalk



- Former Tanneries
- EPA Assessment
- MassDevelopment
- PARC Grants
- MVP Planning and Action Grants

Peabody / Salem Riverwalk



VISIONING
RENDERING



PEABODY-SALEM RIVERWALK VISIONING
BODY PERSPECTIVE RENDERING
JULY 22, 2012
stone&sampson

Take Aways



- Typically Need Multiple Sources of Funding
- Plan Sequencing
 - Grant Cycles
 - Enabling Projects
 - Cleanup & Development
- Be Creative
- Be Positive

Types of Credits We Broker and Syndicate:

Brownfields
Historic Rehabilitation
Renewable Energy
Low-Income Housing

Who we work with:

Individuals
Developers
General Contractors
Engineers
Investment Partnerships
Family Offices



CELEBRATING
10 YEARS
since 2011



Development Planning: Utilizing Incentives



What are tax credits?

- Tax credits allow *a dollar-for-dollar* offset **against** taxes due, thereby acting as a tax payment.
- This is a *major distinction* from a tax **deduction**, which only **reduces** adjusted gross income and can lessen the tax due.



Why Does a Developer Need Tax Credits?

Tax credits
can help developers looking to
finance real estate projects.



Types of Federal Tax Credits/Eligibility Requirements

The Federal Renewable Energy Tax Credit (ITC)

- Is a capital investment tax credit;
- Earned when renewable energy equipment is placed in service;
- 26% of cost of equipment and construction of the facility.



Historic Tax Credit (HTC)

- 20% of Qualified Remediation Expenses (QREs);
- Must be income producing Property that is individually listed on National Register; part of a Historic District or eligible for listing on the National Register.



Low Income Housing Tax Credit (LIHTC)

The Low-Income Housing Tax Credit (“LIHTC”) is a federal subsidy program that was created by the Tax Reform Act of 1986, and is the most important resource for creating affordable housing in the United States today.

The LIHTC program gives State and local LIHTC-allocating agencies the equivalent of nearly \$8 billion in annual budget authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households.

Top 5 reasons to invest in Tax Credits:

1. Pay **less** in taxes!
2. You receive a **cash-on-cash** return while paying your taxes.
It's like a cash back reward!
3. Compared to other investments your return is frontloaded, more stable and quantifiable!
4. The playing field is tilted in your favor more so than *investing in stocks, bonds or options!!*
5. You display social responsibility and care for the environment because you will be supporting **historic preservation**, environmental proactivity, **green energy**, and **community centric values**.



History and Overview of the MA Brownfields Tax Credit

1998: Massachusetts Brownfields Program first enacted. It was initially applicable to the tax years commencing on or after January 1, 1999.

2000: The Massachusetts legislature passed, "*An Act Making Appropriations for the Fiscal Year 2001*," extending the time for incurring eligible costs that qualify for the credit and changed the limitations rules where the taxpayer has received state financial assistance ("first amendment").

2006: The program was expanded in 2006 to allow transfer of the tax credit certificate, and to include nonprofit organizations.



History and Overview of the MA Brownfields Tax Credit

2010: The Legislature extended the MA Brownfields tax credit program previously scheduled to expire on August 5, 2011, for two additional years to August 2013.

2013: Governor Deval Patrick signed a \$33.6 billion Fiscal Year 2014 (FY14) balanced budget for the Commonwealth of Massachusetts. Included in the approved budget was a provision extending the sunset date of the Massachusetts Brownfields Tax Credit (BTC) from its original expiration date of August 2013 until August 2018.

2015: Bill 2455, sponsored by House of Representative Antonio Cabral of New Bedford, was referred to the Joint Committee on Revenue on January 20, 2015. A hearing on the Bill was held on 9/22/2015. The Bill if passed will broaden eligibility of the BTC by replacing the “lease” requirement with an “operating” requirement. Specifically, the property operator, rather than only a landlord or a tenant, will now be eligible for the BTC. The Bill also proposes limiting AULs to a particular date.

March 2020 / July 2021

- Massachusetts Department of Revenue (DOR) Released their working draft regulations for the Massachusetts Brownfields Tax Credit.
- These are the first working draft regulations since 1998. Since 1998 we have worked off of a Directive and Technical Information Releases.
- In the beginning of April 2020 Comments needed to be submitted to the DOR regarding the working draft regulations.
- Organizations like NAIOP and the LSPA gathered comments from industry professionals and submitted them on April 3, 2020.
- 2021 A new Draft set of regulations was published by the DOR and there have been listening sessions.
- **July 23, 2021 New Regulations Promulgated!!**



What are some of the Changes?

- Section (11)(c), referenced as “Credits Allowed in Error.”
 - Where the DOR allows all or part of a credit in error, the DOR is authorized to recover such amounts as “payments in error” pursuant to M.G.L. c. 62C, § 36A. If the DOR has made a “payment in error,” has demanded return of that payment, and the full amount has not been repaid within 30 days, the amount demanded is considered a tax assessed under M.G.L. c. 62C.
- Section (12)(b)2 states that “[t]he appeal of a proposed denial or partial denial is a de novo proceeding.”
 - The appeals officer will review the entire application, including any part of the application that the DOR did not propose to deny.
- Section 5 (Eligible Costs) (d) 5-7, which concerns costs not eligible for the credit.
 - Any costs that are not a direct and necessary part of attaining a Permanent Solution or Remedy Operation Status are not Eligible Costs.

New Changes

- **Scope of Review on Appeal** – For partial appeals, DOR will review only the denied portion of an application; the approved portion of an application will only be reviewed if there was a material misrepresentation or omission.
- **Denial Explanation** – DOR will provide an explanation for each credit denial.
- **Asbestos Eligibility** – DOR will deem asbestos removal costs to be generally eligible as long as the soil immediately under the building is contaminated and the building's demolition was required in order to achieve a permanent solution.
- **Expedited Review Process for Massachusetts Brownfields Tax Credit**- Any credit \$250,000 or less could potential qualify under this new procedure.
- **10 day Determination Letter**



Brownfields Tax Credit Proposed Regulations 2020

- Pre-Characterization Reports;
- Weekly Field Reports;
- Breakout of soil – DOR now requires a breakout of soil cost remediation. Please see **Chart A** for an example of the template necessary for soil tracking;
- Trucking and hauling fees per trip. Please see **Chart B** for an example of the template necessary for hauling/trucking tracking;
- Haul logs showing which soils were shipped to which facilities; and
- Any additional documentation you may have showing the cost of the various categories of earthwork

Chart A Example

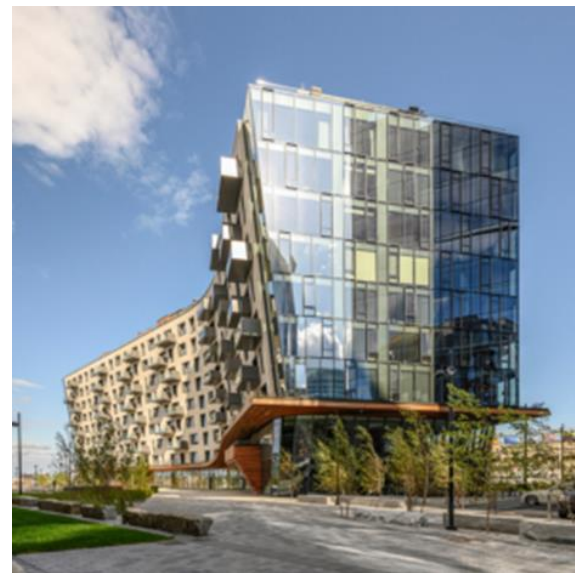
Category of Soil	Unit Price	Tonnage	Disposal Expense
B-1 Material	\$50/ton	100	\$5,000
B-2 Material	\$60/ton	100	\$6,000
Total		200	\$11,000

Chart B Example

Expense Type	Expense
Disposal Total	\$ 500,000
Trucking Total	\$ 200,000
Total	\$700,000

MA BTC Requirements:

- The taxpayer cannot have been the cause of the contamination.
- The taxpayer must be the owner or lessee of the contaminated site during the cleanup period.
- The site must be closed out with a permanent solution (RAO or ROS) with or without conditions.
- The money spent on the remediation must amount to at least **15%** of the site's assessed value at the time the remediation began.
- The site must be in an *Economically Distressed Area*.
- The site must be used for business purposes.
- The remediation expenses must be incurred by an entity, trust, non-profit corp. (i.e. not a government, state, municipal entity)



Brownfields Example

Total Project Cost	\$ 1,000,000.00	
Eligible Brownfields Expenses		
Environmental Engineering - LSP	\$ 50,000.00	5%
Disposal of Contaminated Soils > RCS-1 Standards	\$ 75,000.00	8%
Excavation of Contaminated Soils > RCS -1 Standards	\$ 20,000.00	2%
Demolition to Access Contaminated Soils	\$ 30,000.00	3%
Groundwater Treatment	\$ 10,000.00	1%
Environmental Attorney Fees	\$ 5,000.00	1%
GC Project Requirements (Fencing, Police Detail)	\$ 5,000.00	1%
GC General Conditions	\$ 5,000.00	1%
Total Brownfield Expenses	\$ 200,000.00	20%
50% Brownfields Tax Credit	\$ 100,000.00	
Sale of Credit Proceeds (\$.90 per TC \$1.00)	\$ 90,000.00	
Brokerage and Consulting Fee (10% of TC)	\$ 10,000.00	
Net Proceeds	\$ 80,000.00	



Case Study 1: Charlestown

- 100% Affordable Income Mix-Use Apartment complex
- Client came to us with an estimate of \$900,000.00 in expenses (\$450,000.00 BTC)
- Cherrytree Filed for \$2,717,363.29 in expenses (\$1,358,681.64 BTC)
- Cherrytree was successful is getting \$1,157,450.00
- Cost Approved Included
 - Development Consulting
 - Land Surveyor
 - General Contractor



What Could Have Been Done Differently?

- ✓ Include your consultant in the beginning
- ✓ Let your consultant work with your Architect / General Contractor / Landscape Architect
- ✓ Have your LSP work with more subcontractors
- ✓ Make sure your agreements with all vendors include all scope of work
- ✓ Make sure invoices do not have mistakes



Brownfields Tax Credit Award

The Certificate is issued by MA Department of Revenue.

- It may be used to offset up to 50% of taxes owed to the Commonwealth in current year with a 5 year carry forward (financial institutions or insurance companies can offset 100%);
- OR, may be transferred to another MA taxpayer;
- Certificate dated in year permanent solution was achieved;
- If filing of BTC is in later year, it can only transfer the follow-on years and apply for tax return amendment for “gap” period.



Industry Take Aways:

- The purpose of the program is to encourage redevelopment of distressed land and that these regulations should encourage cleanup of Brownfields sites.
 - The industry feels that these proposed regulations are “restrictive” and “discouraging”
- The industry is in support of these regulation being a guidance but strongly feels that each deal needs to be handled on a case-by-case bases.
- Based on a study by the industry, for each dollar given in a MA Brownfields Tax Credit, studies shows the state makes \$7-\$9 dollars back in taxes. This program is a vital economic tool to promote redevelopment.
 - i.e. Hospitality, Affordable Housing, Factories, Retail, Research and Science Facilities, Mix-Use, etc.



What is needed for the Ideal Structure

CONSISTENCY
IS 

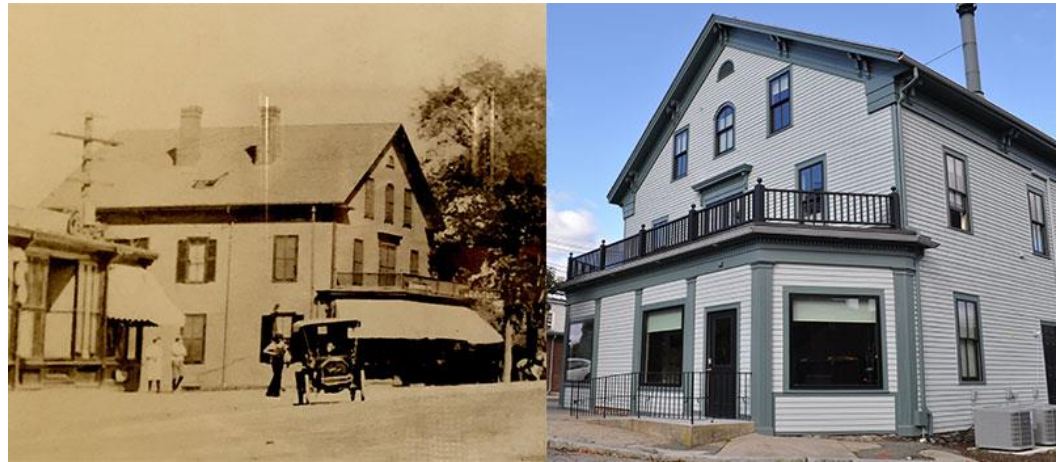


Cherrytree Group

Sophistication, Value and Follow-Through.

Contact Our Team:

- **Warren Kirshenbaum- CEO**
 - (617) 431-2266 ext. 201
 - Warren@Cherrytree-group.com
- **Melina Ambrosino- President**
 - (617) 431-2266 ext. 204
 - Melina@Cherrytree-group.com
- **Jacob Vezga- Vice President**
 - (617) 431-2266 ext. 206
 - Jacob@Cherrytree-group.com
- **Joe Ogonowsky- Senior Tax Credit Associate**
 - (617) 431-2266 ext. 207
 - Joe@Cherrytree-group.com
- **Alex Parrott- Tax Credit Associate**
 - (617) 431-2266 ext. 203
 - Alex@Cherrytree-group.com



Soundview Landing

Norwalk, CT



TRINITY
FINANCIAL

About Trinity

- **Housing developer specializing in affordable, mixed-income, and market rate properties**
- **\$3.0 billion in development**
 - **Developed 9,500+ units of multi-family housing**
 - **Manage 7,600 units of housing**
- **Expertise with programs including federal and state historic tax credits, New Market tax credits, and infrastructure grant programs**

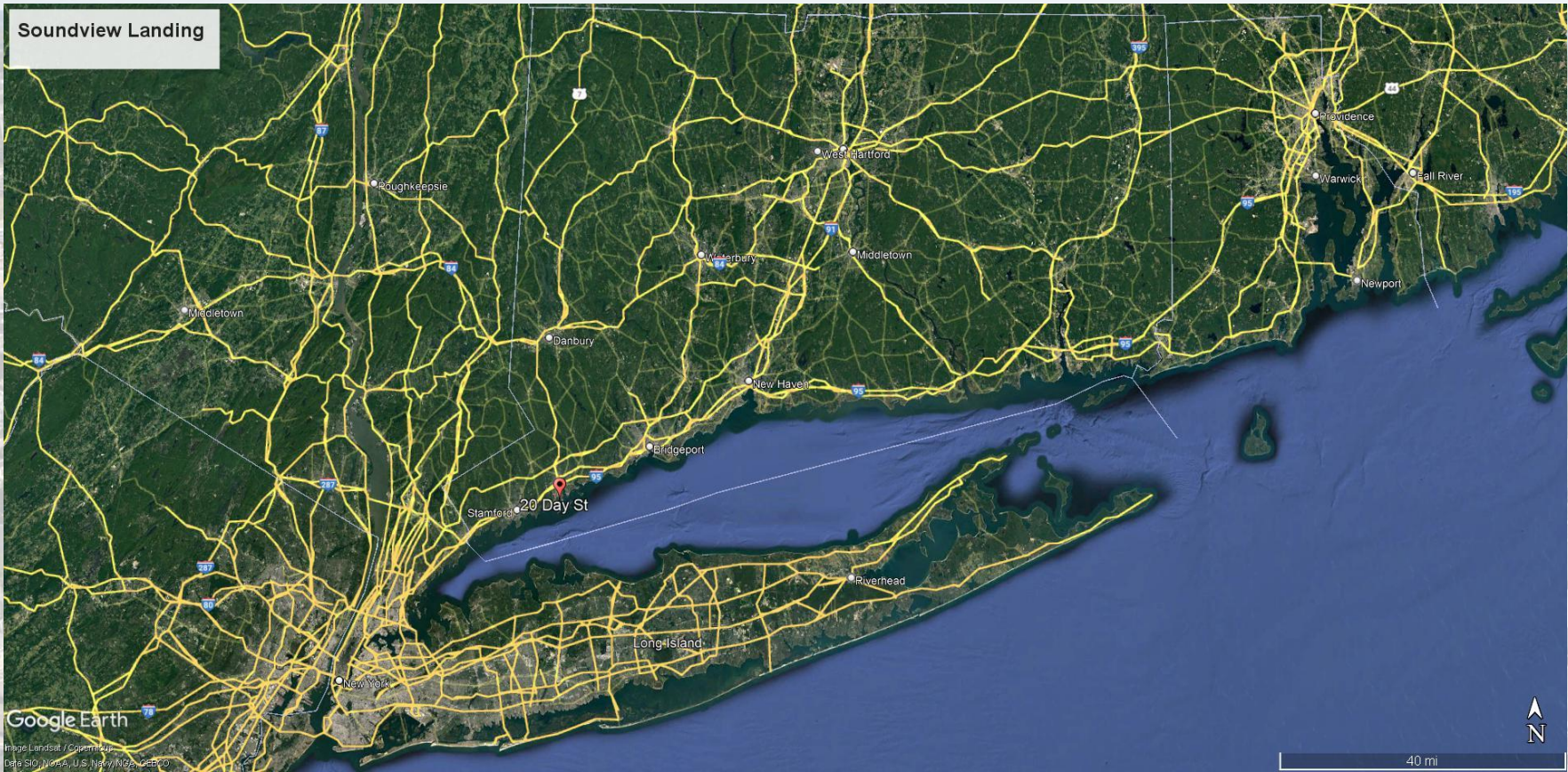
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TRINITY
MANAGEMENT

About Soundview Landing

- **Redevelopment of the oldest public housing site in CT**
- **Site was heavily damaged during Hurricane Sandy and located in a flood zone**
- **Involved the replacement of all 136 existing public housing units and added 136 affordable and market-rate apartments in 5 buildings**
- **LEED ND and Enterprise Green Communities Certified**
- **Resulted in over \$1 Billion investment in South Norwalk**

Soundview Landing

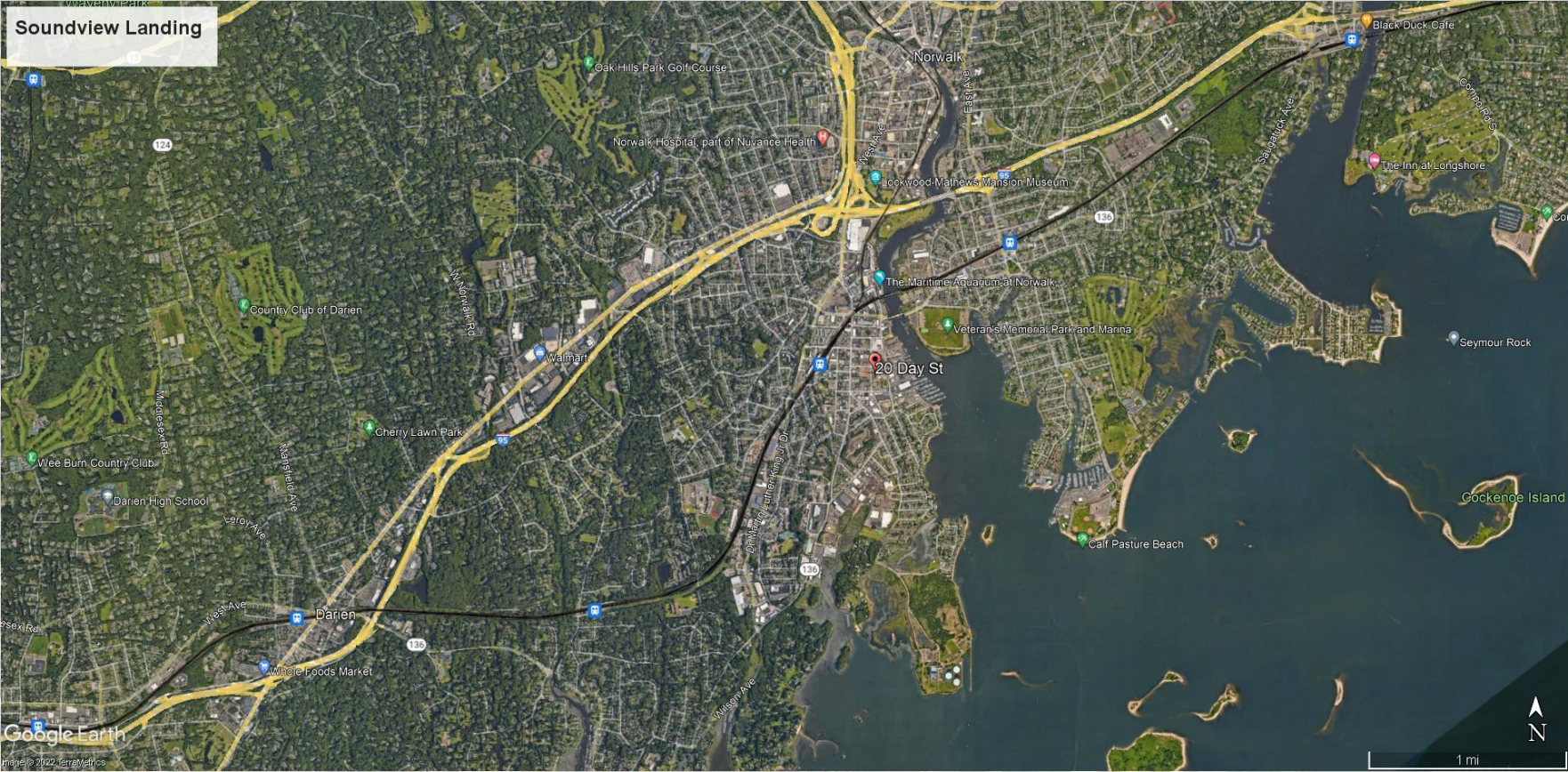


Google Earth

Image Landsat / Copernicus
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

40 mi

About Soundview Landing



Washington Village - *Before*



Soundview Landing - *After*



Soundview Landing - *After*



Soundview Landing - Complexities

- Needed to make site resilient – raise buildings and infrastructure out of flood zone – raised Day Street by over 8 feet
- Environmental contamination – existing buildings were filled with hazardous materials and site with USTs, petroleum, and other from former industrial uses
- Adjacent Ryan Park underutilized and contaminated with PCBs
- Relocation of existing residents
- Required very complicated financing structure – how did we pay for it?

Soundview Landing – How we pulled it off

- **Public/Private Partnership - \$30 Million HUD Choice Neighborhoods Grant**
More than just the buildings
- **CT DEEP/DECD Assistance**
 - **Regulatory/Permitting**
 - **\$3.7 Million of CT Brownfield Remediation Funds**
- **Federal, State, and City Assistance**
 - **CDBG-DR Funds**
 - **CT DOH Funds**
 - **City of Norwalk Funds**
- **Low Income Housing Tax Credits**
 - **First project in CT to use a hybrid structure with both 9% and 4% LIHTC**

Soundview Landing



TO LEARN MORE, CONTACT:

George Naslas – Vice President, Weston & Sampson
naslasg@wseinc.com

Sarah DeStefano – Associate & Team Leader, Weston & Sampson
destefanos@wseinc.com

Warren Kirshenbaum – *CEO*
(617) 431-2266 ext. 201
Warren@Cherrytree-group.com

Melina Ambrosino – *President*
(617) 431-2266 ext. 204
Melina@Cherrytree-group.com

Michael Lozano – Trinity Financial
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