

**RESOLUTION GRANTING PUD SITE PLAN APPROVAL (PHASE TWO)  
AND AMENDED PUD SUBDIVISION APPROVAL FOR THE  
GARVIES POINT WATERFRONT PROJECT**

**WHEREAS**, on December 19, 2011, the City of Glen Cove Planning Board, as Lead Agency, adopted a SEQRA Findings Statement and granted to RXR Glen Isle Partners LLC (“RXRGIP”) a Special Use Permit for a Planned Unit Development (“PUD”) Master Development Plan, regarding the mixed-use waterfront redevelopment now known as “Garvies Point,” encompassing approximately 56-acres on the north side of Glen Cove Creek (the “Project Site”), in the MW-3 Zoning District (the “Project”); and

**WHEREAS**, on November 18, 2014, the Planning Board issued a Resolution granting PUD Site Plan Approval for Phase One of the Project, and PUD Subdivision Approval for the Project (the “Phase One Resolution,” which is incorporated herein by reference);

**WHEREAS**, Phase One of the Project will be constructed on the east side of the Project Site, and will include, in summary, 387 multi-family rental units in Buildings H and I, 3,055 gsf of retail, Renaissance Park, Crescent Park, relocation of Anglers Club building and boat slips, Marina Support Building, esplanade to Ferry Terminal, related parking, and associated site improvements and infrastructure; and

**WHEREAS**, on October 6, 2015, the Planning Board issued a Resolution granting Amended PUD Master Development Plan Approval (the “Amended PUD”), and Amended PUD Subdivision Approval for the Project (the “Amended PUD Resolution,” which is incorporated herein by reference); and

**WHEREAS**, the Amended PUD resulted in, among other things, a reduction in the overall density of the Project, and the creation of more parks and open space on the west side of the Project Site; and

**WHEREAS**, two (2) hybrid Article 78 proceedings and declaratory judgment actions were filed in the Supreme Court, Nassau County, seeking to overturn the Planning Board’s approval of the Amended PUD Resolution (the “PUD Lawsuits”); and

**WHEREAS**, by Short Form Orders, dated August 17, 2016, the Supreme Court, Nassau County denied and dismissed the PUD Lawsuits in their entirety; and

**WHEREAS**, the Planning Board is aware that on November 22, 2016, the Glen Cove Industrial Development Agency (“IDA”) transferred approximately 44 acres of land within the Project Site to RXRGIP (the “Closing”); and

**WHEREAS**, the Closing occurred pursuant to that certain Contract for Sale of Land for Private Development by and among the IDA, Glen Cove Community Development Agency (“CDA”) and Glen Isle Development Company, LLC (as assigned to RXRGIP), dated as of May 14, 2003, as amended (the “Land Disposition Agreement” or “LDA”); and

**WHEREAS**, the purpose of the LDA was to govern the terms and conditions upon which the IDA (and CDA) would transfer the land they owned to RXRGIP in connection with the Project; and

**WHEREAS**, at the time of the adoption of the SEQRA Findings in 2011, the Planning Board recognized that LDA-related economic issues fell outside of its jurisdiction under SEQRA, but nonetheless made recommendations to the IDA and CDA regarding certain issues for future LDA negotiations and amendments; and

**WHEREAS**, on or about June 29, 2012, the IDA and CDA memorialized most, if not all, of the Planning Board's recommendations in the Fourth Amendment to the LDA, including issues relating to (i) eligible income range for the Project's workforce housing units, (ii) maintenance obligations of the public amenities, (iii) a Local Participation Plan, which includes certain requirements for hiring local residents and vendors, (iv) a Joint Environmental Monitor for the Project, (v) the Rason Asphalt Plant's apparent incompatibility with the Project, and (vi) timelines for Project construction and PUD Site Plan and/or PUD Subdivision Applications; and

**WHEREAS**, the Planning Board is also aware that, as part of the normal evolution of the Project, the LDA was terminated upon the Closing, because the LDA's purpose to govern the transaction had been fulfilled; and

**WHEREAS**, to replace the LDA, the IDA and RXRGIP entered into a Garvies Point Continuing Covenants Agreement (the "CCA"), effective as of the date of the Closing, which sets forth certain terms and conditions with respect to the construction and operation of the Project after the Closing; and

**WHEREAS**, while the CCA, like the LDA, is not within the Planning Board's jurisdiction, the Board recognizes that the CCA continues to memorialize many of the Planning Board's recommendations it made with respect to the prior LDA as set forth in the SEQRA Findings (and as also may have been discussed in the DEIS and/or FEIS); and

**WHEREAS**, the Planning Board is further aware that in connection with the Closing, the IDA obtained a perpetual exclusive easement for public use and enjoyment of public use easement areas, totaling approximately 29 acres, within the Project Site (the "Public Use Easement Areas"); and

**WHEREAS**, in furtherance of the development of the Project, the IDA will construct (or cause to be constructed) and own public amenities, infrastructure and improvements related to the Project on the Public Use Easement Areas (the "Public Use Improvements"); and

**WHEREAS**, the Public Use Improvements include, but are not limited to, parks and playgrounds, esplanade, underground utilities, stormwater management facilities, wetlands, marine bulkheads, marinas, boardwalks and other walkways, an ecology pier, landscaping, lighting, roadways, and other public improvements, infrastructure and amenities; and

**WHEREAS**, also on November 22, 2016, the Glen Cove Local Economic Assistance Corporation (“GCLEAC”) issued Public Improvement Bonds, in an aggregate principal amount of approximately \$125 million, in order to finance, among other things, the construction of the Public Use Improvements on the Public Use Easement Areas; and

**WHEREAS**, the Planning Board understands that the CCA obligates RXRGIP (and its successors), among other things, to pay for 100% of the IDA’s costs to maintain the Public Use Improvements, including the Project’s stormwater management system, in perpetuity; and

**WHEREAS**, RXRGIP’s financial obligation to cover the IDA’s maintenance costs applies even if such maintenance is performed by a third-party maintenance company having the proper technical experience and expertise to maintain such Public Use Improvements; and

**WHEREAS**, all determinations made by the IDA and/or GCLEAC regarding the CCA, the issuance of the Public Improvement Bonds for construction of the Public Use Improvements, and other issues relating to the Closing were outside of the Planning Board’s jurisdiction; and

**WHEREAS**, the Planning Board’s jurisdiction over the Project, as Lead Agency under SEQRA, continues to include processing applications for PUD Site Plan Approval and/or PUD Subdivision Approval for the Project in accordance with the approved Amended PUD Master Development Plan, as well as to decide whether supplemental review under SEQRA is required for the Project in accordance with SEQRA’s implementing regulations; and

**WHEREAS**, RXRGIP has submitted to the Planning Board PUD Site Plan Applications for Phase Two of the Project (“Phase Two”), in accordance with the MW-3 District regulations, SEQRA Findings Statement, and the City’s Site Plan regulations (Article IV of Chapter 280 of City Code); and

**WHEREAS**, Phase Two pertains to (i) Building B, which would include 167 condominium units in a 5-story building on the west side of the Project Site, and (ii) the balance of the Public Use Improvements on the west side of the Project Site (extending west from the Ferry Terminal), including, but not limited to, Garvies Point Park, a Dog Park, Sunset Park, esplanade from Ferry Terminal to west end of Project Site, and a boardwalk; and

**WHEREAS**, the PUD Site Plan Applications for Phase Two were originally submitted to the Planning Board on February 10, 2016 (Public Use Improvements), and June 15, 2016 (Building B), and were processed jointly as one application (collectively, the “PUD Site Plan Application”); and

**WHEREAS**, the PUD Site Plan Application for Phase Two included a set of Civil Drawings, prepared by PS&S Engineering, P.C., Architectural Drawings, prepared by Handel Architects LLP, and Landscape Architecture and Urban Design Drawings, prepared by M. Paul Friedberg & Partners; and

**WHEREAS**, on November 9, 2016, RXRGIP submitted a complete Amended PUD Subdivision Application for the Project in accordance with the City’s subdivision regulations (Chapter 245 of City Code) (the “Amended PUD Subdivision”); and

**WHEREAS**, the originally approved and prior amended PUD Subdivision Plan has not been filed with the Nassau County Clerk’s Office; and

**WHEREAS**, the purpose of the Amended PUD Subdivision Application, in summary, is to divide the Property into 17 individual lots to facilitate the development, financing and potential future conveyances of the Project and its individual development blocks, as well as to reflect the Public Use Easement Areas that were recently delineated in connection with the Public Improvement Bonds; and

**WHEREAS**, the most current drawings submitted to the Planning Board in support of the PUD Site Plan and Amended PUD Subdivision Applications, and which are being approved pursuant to this Resolution, subject to the conditions set forth herein and in the SEQRA Findings Statement, are, as follows:

- Civil Drawings, prepared by PS&S Engineering, P.C., last revised October 4, 2016 (unless otherwise indicated below):

C2-1	Cover Sheet
C2-2	Legend And General Notes
C2-3	Existing Conditions Plan
C2-4	Overall Site Plan
C2-5	Site Plan A
C2-6	Site Plan B
C2-7	Site Plan C
C2-8	Grading Plan A
C2-9	Grading Plan B
C2-10	Grading Plan C
C2-11	Utility Plan A
C2-12	Utility Plan B
C2-13	Utility Plan C
C2-14	Soil Erosion And Sediment Control Plan A
C2-15	Soil Erosion And Sediment Control Plan B
C2-16	Soil Erosion And Sediment Control Plan C
C2-17	Roadway Profiles
C2-18	Site Details
C2-19	Site Details
C2-20	Utility Details (Water Distribution)
C2-21	Utility Details (Drainage Details)
C2-22	Utility Details (Drainage Details)
C2-23	Utility Details (Irrigation Chambers)
C2-24	Utility Details (Irrigation Chambers /Water

Quality Units)

C2-25 Soil Erosion And Sediment Control Details  
 C2-26 Soil Erosion And Sediment Control Details  
 C2-27 Stormwater Pollution Prevention Plan Details  
 C2-28 Sanitary Sewer Profiles  
 C2-29 Sanitary Sewer Profiles  
 C2-30 Storm Sewer Profiles  
 C2-31 Storm Sewer Profiles  
 C2-32 Storm Sewer Profiles  
 C2-33 Storm Sewer Profiles  
 C2-34 Wall Profiles  
 C2-35 Utility Details (Sanitary Details)  
 C2-Rm-5 300' Radius Map For Phase II Limits  
 Drawing FA-2 entitled "Building B Fire Apparatus Access Plan," last revised on September 16, 2016

- Architectural Drawings, prepared by Handel Architects LLP, last revised October 4, 2016:

A-0 Architectural Cover Sheet  
 A-1 Level 01 Plan  
 A-2 Level 02 Plan  
 A-3 Level 03 Plan  
 A-4 Level 04 Plan  
 A-5 Level 05 Plan  
 A-6 Roof Plan  
 A-7 Building Sections  
 A-8 Building Elevations  
 A-9 Rendered View  
 A-10 Rendered View  
 A-11 Rendered View  
 A-12 Automobile Maneuvering  
 A-13 Loading Truck Maneuvering  
 A-14 Garbage Truck Maneuvering

- Landscape Architecture and Urban Design Drawings, prepared by M. Paul Friedberg and Partners, last revised on October 4, 2016 (unless otherwise indicated below):

L-100 Key & Dimension Plan  
 L-101 Key & Dimension Plan  
 L-102 Key & Dimension Plan  
 L-200 Material Plan  
 L-201 Material Plan  
 L-202 Material Plan  
 L-300 Planting Plan

L-301	Planting Plan
L-302	Planting Plan
L-303	Planting Schedule
L-304	Rain Garden Enlargement Plan
L-305	Rain Garden Enlargement Plan
L-400	Lighting Plan
L-401	Lighting Plan
L-402	Lighting Plan
L-500	Sections
L-501	Sections
L-502	Sections
L-600	Pavement Details
L-601	Furniture Details
L-602	Furniture Details
L-603	Planting Details
L-604	Dog Run Details
L-605	Irrigation Details
L-700	Trellis & Gazebo Enlargements

Rain Garden Plans & Details for Phase 1 and Phase 2, last revised November 18, 2016, Drawings L-302 (Building H), L-314A (Phase 1), L-304 & L-305 (Phase 2)

- Waterfront Permitting Plans, prepared by Advanced American Engineering, PLLC, last revised August 8, 2016;
- Amended Subdivision Map, Sheet Nos. FM-1 and FM-2, prepared by PS&S Engineering, P.C., dated June 10, 2015, and last revised November 7, 2016, together with metes and bounds descriptions of the proposed lots;

**WHEREAS**, the Planning Board, its independent consultants, and its special counsel reviewed the PUD Site Plan Application when it was originally submitted in February and June 2016; and

**WHEREAS**, the Planning Board and its consultants issued various comment letters to RXRGIP between March and July 2016; and

**WHEREAS**, the Planning Board's and RXRGIP's respective consultants conducted a series of discussions and meetings regarding the comment letters, and related technical details pertaining to the PUD Site Plan; and

**WHEREAS**, RXRGIP appeared before the Planning Board at a duly scheduled regular meeting on September 6, 2016, to present the PUD Site Plan Application, and respond orally to the comments issued by the Board and its consultants; and

**WHEREAS**, the Planning Board and its consultants issued a second set of comment letters to RXRGIP on or about September 14, 2016; and

**WHEREAS**, on October 11, 2016, RXRGIP made a supplemental submission to the Planning Board regarding the PUD Site Plan Application, which was intended to respond in writing to the comments issued by the Board and its consultants; and

**WHEREAS**, the Planning Board, its independent consultants, and its special counsel reviewed the supplemental submission; and

**WHEREAS**, RXRGIP appeared before the Planning Board at a duly scheduled regular meeting on October 18, 2016, to present the updated PUD Site Plan Application as reflected in the supplemental submission; and

**WHEREAS**, during the October 18<sup>th</sup> meeting, the Planning Board expressed various comments regarding the PUD Site Plan Application, including with respect to certain modifications to the Project's stormwater management system; and

**WHEREAS**, the Project's stormwater collection, conveyance and treatment system has evolved from a system that relies upon "infiltration," to a system that is designed as a "closed system," which does not allow for the interaction of stormwater with the Project Site's underlying groundwater and/or soils; and

**WHEREAS**, the Planning Board's and RXRGIP's professional engineering consultants have advised the Board that, consistent with recommendations made by New York State Department of Environmental Conservation ("DEC"), a closed stormwater system is preferred due to the potential for residual soil and/or groundwater contamination on the, which is normal in brownfield and superfund redevelopment; and

**WHEREAS**, during the October 18<sup>th</sup> meeting, the Planning Board specifically asked about, among other things, the evolution of the stormwater system, design of the rain gardens, potential for flooding/ponding on the Project Site, preparation of the SWPPP, and maintenance/inspection requirements of the stormwater system (including the rain gardens and stormwater treatment structures called "Jellyfish" units); and

**WHEREAS**, the Planning Board scheduled a Work Session for November 2, 2016, so that the Board could discuss and evaluate in greater detail various technical issues relating to the PUD Site Plan Application with the Board's and RXRGIP's respective consultants, including, among other areas, stormwater treatment; and

**WHEREAS**, the Public Notice of the Work Session was duly noticed in accordance with Section 104 of the Open Meetings Law; and

**WHEREAS**, during the Work Session, the Planning Board and RXRGIP conducted an extensive technical discussion concerning, among other things, the: (i) evolution of the stormwater management system to a "closed system;" (ii) status of the outside agency reviews of the bulkhead and other shoreline/waterfront improvements; (iii) handicapped parking; (iv) maneuverability in the parking garage of Building B; (v) design of the central façades of Building B; and (vi) access to Building B; and

**WHEREAS**, by Resolution adopted on November 17, 2016, the Planning Board scheduled a Public Hearing to receive public comment on the PUD Site Plan and Amended PUD Subdivision Applications, subject to the receipt of additional information from RXRGIP; and

**WHEREAS**, the Planning Board required RXRGIP to submit the following materials by November 22, 2016, and in advance of the Public Hearing: (i) revised stormwater drawings and related information consistent with the discussion at the November 2<sup>nd</sup> Work Session and pursuant to the comments of the Board's engineering consultants, (ii) plans, as appropriate, showing the proposed improvements relating to the bulkhead system, wetland plantings, marinas, docks, ecology pier, boardwalk and beach, and other shoreline improvements, and (iii) details and renderings, as appropriate, of the esplanade and all public amenity structures; and

**WHEREAS**, on November 22, 2016, RXRGIP submitted to the Planning Board the additional materials required by the Board, including, but not limited to, (i) "Stormwater Management Summary for Garvies Point Waterfront Redevelopment – Phase 1 & 2," dated November 2016, prepared by PS&S Engineering, P.C., (ii) Photos of surface materials, fixtures and furniture to be used in connection with the esplanade, walkways, playground and retaining walls and seat walls, dated November 18, 2016, prepared by M. Paul Friedberg and Partners (3 Sheets), and (iii) Waterfront Permitting Plans (referenced above); and

**WHEREAS**, by letter dated December 1, 2016, the Planning Board referred the PUD Site Plan and Amended PUD Subdivision Applications to the Nassau County Planning Commission pursuant to Section 239-m of the General Municipal Law; and

**WHEREAS**, the Planning Board conducted a Public Hearing on the PUD Site Plan and Amended PUD Subdivision Applications on December 6, 2016, at 7:30 p.m. in City Hall, Council Chambers, 9 Glen Street, Glen Cove, New York, at which time public comments were heard regarding the aforementioned Applications; and

**WHEREAS**, the Public Hearing Notice was published in the Gold Coast Gazette, mailed to each owner of all parcels of property located within a radius of 300 feet of the Project Site, and was posted on the City website; and

**WHEREAS**, the Public Hearing date and other related information was also advertised on signs posted on the Project Site; and

**WHEREAS**, during the Public Hearing, RXRGIP's consultant made a full presentation regarding the PUD Site Plan and Amended PUD Subdivision Applications, including with respect to stormwater, the bulkhead, ecology pier and other waterfront improvements, architecture, and LEED status; and

**WHEREAS**, the Planning Board has carefully considered all of the comments and questions raised at the Public Hearing, including, but not limited to, comments relating to stormwater, requests for supplemental SEQRA review, dredging/excavation in Glen Cove Creek, placement of lighting structures, sub-slab depressurization/ventilation system, the modifications of interior lot lines as shown on the Amended PUD Subdivision Plan, and wetland plantings; and

**WHEREAS**, all of these issues have been addressed either as part of the prior SEQRA review and SEQRA Findings Statement, during the Planning Board’s review and approval of the Amended PUD Master Development Plan, and/or the Board’s current review of the PUD Site Plan and Amended Subdivision Applications; and

**WHEREAS**, the Planning Board, its independent consultants, and its special counsel have reviewed the Amended PUD Subdivision Plan; and

**WHEREAS**, the Planning Board and its consultants did not have any material comments on the minor adjustments to the interior lot lines as shown on the Amended Subdivision Plan, as it is consistent with the Amended PUD Master Development Plan and the delineated Public Use Easement Areas; and

**WHEREAS**, consistent with the Planning Board’s prior PUD Subdivision Approvals for the Project, and based upon the advice of its Consultants, the Amended PUD Master Development Plan Approval essentially constitutes preliminary Amended PUD Subdivision Approval, and thus the Planning Board is positioned to grant final Amended PUD Subdivision Approval; and

**WHEREAS**, the Planning Board voted unanimously to close the Public Hearing on December 6, 2016, and accept written comments for fourteen (14) days; and

**WHEREAS**, at its meeting held on December 15, 2016, the Nassau County Planning Commission reviewed the PUD Site Plan and Amended PUD Subdivision Applications pursuant to Section 239-m of the General Municipal Law; and

**WHEREAS**, the Nassau County Planning Commission voted unanimously to adopt Resolution No. 10139-16, which recommended that the Planning Board “take action as it deems appropriate, the Commission having no modifications;” and

**WHEREAS**, the Planning Board received comment letters from the public on or before December 21, 2016, which was the end of the written public comment period; and

**WHEREAS**, the Planning Board carefully reviewed and considered all of the written comment letters submitted by the public, which focused primarily on stormwater, in addition to comments about wetlands, archaeology, zoning compliance, and other topics; and

**WHEREAS**, the Planning Board’s consultants asked RXRGIP to respond to the material technical comments presented in the comment letters; and

**WHEREAS**, on January 19, 2017, RXRGIP submitted its rebuttal letter to the Planning Board, addressing the material comments presented in the comment letters, particularly with respect to stormwater (the “Rebuttal Letter”); and

**WHEREAS**, Nelson & Pope, the Planning Board’s engineering consultants, reviewed the Rebuttal Letter, and issued its own independent letter, dated February 3, 2017 (the “N&P Letter”), expressing its concurrence with the Rebuttal Letter and summarizing the responses; and

**WHEREAS**, the Planning Board refers to the Rebuttal Letter and the N&P Letter for a full discussion of the pertinent technical stormwater issues; and

**WHEREAS**, in summary, with respect specifically to stormwater, the Planning Board recognizes that one of the main questions in these proceedings has been why an 8-inch storage requirement is not being utilized in the design of the stormwater management system; and

**WHEREAS**, the Planning Board’s engineering consultants have advised the Board that in accordance with the NYS Stormwater Management Design Manual, the 8-inch stormwater storage requirements would be inappropriate here given that the Project Site drains directly into Glen Cove Creek, which is a large receiving tidal water body, and thus there is no risk of stormwater discharges from the Project Site flooding downstream properties as the Site is directly adjacent to a large tidal waterbody; and

**WHEREAS**, rather than stormwater storage, the important concern and design criterion for this Project is the quality of the stormwater leaving the Project Site, and entering Glen Cove Creek and/or Hempstead Harbor; and

**WHEREAS**, the Project’s stormwater facilities, including a stormwater management practice known as Jellyfish, which is a treatment practice approved by the DEC, as well as rain gardens, green roofs and cisterns, will treat, at a minimum, the first 2 inches of runoff, which is sometimes referred to as the “first flush”; and

**WHEREAS**, the “first flush” accounts for a large percentage of the contaminants typically carried by stormwater runoff, as rain water collects contaminants (including particulates, solids, nutrients, oil, etc.) as it falls on pavement and lawn/landscaped areas; and

**WHEREAS**, the 2-inch stormwater quality treatment design of the proposed stormwater system exceeds the DEC’s stormwater quality treatment requirement, which is 1.5 inches for Glen Cove; and

**WHEREAS**, the Planning Board also recognizes that another important question raised by the public, and of importance to the Board, has been whether stormwater runoff from the Project Site could increase contamination in Glen Cove Creek and/or Hempstead Harbor; and

**WHEREAS**, the Planning Board’s engineering consultants have further advised the Board that any potential risk of possible contamination has been minimized to the greatest extent practicable by relying upon a closed system of pipes and structures, rather than infiltration through the Site’s soils; and

**WHEREAS**, while DEC recommended that hydrodynamic separator units or similar systems should be used as an alternative to typical infiltration systems, the Planning Board’s

engineering consultants recommended a more robust drainage system incorporating additional treatment measures (*i.e.*, Jellyfish and rain gardens), which is consistent with the Board's SEQRA Findings Statement; and

**WHEREAS**, the Jellyfish and rain gardens are approved practices accepted by DEC, as they provide additional filtration of stormwater contaminants resulting in improved water quality of stormwater discharge; and

**WHEREAS**, currently there are no stormwater management facilities on the Project Site, which means that all stormwater runoff either infiltrates through the Project's soils, or runs off untreated into Glen Cove Creek and/or Hempstead Harbor; and

**WHEREAS**, regarding subsurface environmental conditions at the Project Site, the Planning Board's consultants have been keeping the Board informed of the status of certain soil removal work that was performed by RXRGIP on Li Tungsten and Captain's Cove pursuant to a Remedial Action Work Plan approved by DEC and the United States Environmental Protection Agency ("EPA"); and

**WHEREAS**, this soil removal work was specifically contemplated by recent Record of Decision Amendments issued by DEC and EPA, which confirmed that these sites will be suitable for the mixed-use Project with this soil removal; and

**WHEREAS**, the SEQRA Findings Statement contemplated that additional soil removal would occur either before or during construction; and

**WHEREAS**, neither DEC nor EPA – the regulatory agencies now having jurisdiction over environmental matters and approvals regarding the Project – have raised any material issues or concerns about the development capability of the Li Tungsten and Captain Cove's sites pursuant to the approved Amended PUD Master Development Plan; and

**WHEREAS**, no contaminants have been found that were not expected, or previously known and identified during SEQRA; and

**WHEREAS**, the environmental condition of the Project Site only continues to improve as a result of such soil removal; and

**WHEREAS**, the Planning Board is also aware that EPA is currently performing certain final soil removal activities on Li Tungsten Lower Parcel C, which is intended to prepare Lower Parcel C for commercial redevelopment; and

**WHEREAS**, the Planning Board has reviewed the PUD Site Plan and Amended PUD Subdivision Applications in accordance with the standards, requirements and procedures as set forth in General City Law Sections 27-a and 32, as well as Glen Cove City Code Chapter 245 ("Subdivision of Land") and Chapter 280 ("Zoning"), including specifically Article IV of Chapter 280 ("Site Plan Review"), and the MW-3 District regulations; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Board finds that the PUD Site Plan and Amended PUD Subdivision Applications are consistent with the approved Amended PUD Master Development Plan, including, but not limited to, with respect to proposed uses, conceptual layout, general footprint, and building height; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the potential environmental impacts associated with the PUD Site Plan and Amended PUD Subdivision Applications are consistent with and fall within the conditions and Thresholds (as defined in the SEQRA Findings Statement) established in the SEQRA Findings Statement; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that its environmental review under SEQRA for the PUD Site Plan and Amended PUD Subdivision Applications is based, therefore, upon the SEQRA Findings Statement for the original PUD Master Development Plan, and the additional environmental review conducted as part of the Amended PUD Master Development Plan process in 2015; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the PUD Site Plan and Amended PUD Subdivision Applications do not present any new information or changed circumstances that may result in potential significant adverse environmental impacts that were not previously studied during the full SEQRA process for the PUD Master Development Plan, the additional environmental review conducted as part of the Amended PUD Master Development Plan process in 2015, and/or the Board's current review of the PUD Site Plan and Amended Subdivision Applications; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that no additional or supplemental environmental review is required under SEQRA for the PUD Site Plan and PUD Subdivision Applications; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that no additional or supplemental environmental review is required under SEQRA specifically with respect to the modification in the Project's stormwater management system; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the evolution of the Project's stormwater management system from infiltration to a closed system will not result in any new potential significant adverse environmental impacts that have not been studied; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the closed stormwater management system, which is based, in part, on recommendations of DEC, is an improved design given the Project Site's constraints, and that it exceeds the design requirements in the NYS Stormwater Management Design Manual; and

**BE IT FURTHER RESOLVED**, that the Planning Board has reviewed the Project's stormwater management plan with its engineering consultants, and finds that the proposed stormwater management system, which will include Jellyfish units, rain gardens, green roofs, cisterns and other piping and related infrastructure, will substantially improve the quality and control of stormwater runoff from the Project Site in the post-development condition; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds, based on the advice of its professional engineering consultants, that the Project's stormwater management plan satisfactorily addresses any potential impacts associated with sediment loading and increased nitrogen runoff from Garvies Point Park and other lawn areas; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds, based on the advice of its professional engineering consultants, that the Project's stormwater management system will be subject to all necessary maintenance requirements, which shall be memorialized in the final SWPPP for the Project; and

**BE IT FURTHER RESOLVED**, that the Planning Board recognizes that maintenance of the Project's stormwater management system shall be performed by IDA (or a third-party maintenance company to be hired by the IDA), at the cost and expense of RXRGIP (and its successors and assigns) pursuant to the CCA; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the relevant provisions in the CCA regarding maintenance of the Public Use Improvements, including that the IDA is authorized to enter into a contract with a third-party maintenance company having the proper technical experience and expertise in maintaining the types of stormwater facilities designed for the Project, satisfactorily addresses the Board's questions about responsibility and funding for the maintenance of the Project's stormwater management system; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds, based on the advice of its professional engineering consultants, that the Project's stormwater management facilities have been designed to support the land banked parking areas shown on the Amended PUD so that such facilities are adequately sized to handle run-off from the land banked parking spaces, pursuant to Condition #3d in the Amended PUD Resolution; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds, based on the advice of its professional engineering consultants, that no additional or supplemental review is required under SEQRA regarding potential sea level rise, because the Project's proposed buildings have all been designed with their lowest floor elevations a minimum of 2-feet above the FEMA 100-year flood elevation, and the stormwater management system outfalls include in-line valves, which are designed to prevent seawater from entering into the stormwater system during high water conditions, but still allow the stormwater systems to continue to function; and

**BE IT FURTHER RESOLVED**, that the Planning Board also finds that no additional or supplemental environmental review is required under SEQRA specifically with respect to subsurface environmental conditions at the Project Site; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the environmental condition of the Project Site continues to improve as a result of certain soil removal that was performed by RXRGIP on Li Tungsten and Captain's Cove pursuant to a Remedial Action Work Plan approved by DEC and EPA; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the environmental condition of the Project Site continues to improve also as a result of certain final remedial activities being performed by EPA on Li Tungsten Lower Parcel C, which is intended to prepare Lower Parcel C for commercial redevelopment; and

**BE IT FURTHER RESOLVED**, that, except as may be modified herein or inconsistent with this Resolution, all other terms, provisions, requirements, conditions, and mitigation measures set forth in the Planning Board's SEQRA Findings Statement, issued on December 19, 2011, are incorporated herein by reference, and shall remain in full force and effect, regardless of whether or not they are specifically cited or referenced in this Resolution; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the PUD Site Plan and Amended PUD Subdivision Applications are consistent with the approved PUD Master Development Plan, and meet the criteria set forth in Section 280-73.2(C)(3)(c)[11][c][i]-[vi] of the Zoning Ordinance, including, but not limited to, the following:

- The PUD Site Plan and Amended PUD Subdivision Applications conform to the SEQRA Statement of Findings, and the Amended PUD Master Development Plan;
- The location, arrangement, design and appearance of each aspect of the PUD Site Plan and Amended PUD Subdivision are consistent with the Amended PUD Master Development Plan;
- RXRGIP has complied with the timing and sequencing requirements and conditions of the Amended PUD Master Development Plan approval;
- Phase Two of the PUD Master Development Plan is capable of being self-supporting and sustainable in the event that RXRGIP does not proceed with other phases, provided that it remains the Planning Board's and RXRGIP's intent that RXRGIP will proceed with and complete the entire Amended PUD Master Development Plan;
- Phase Two of the PUD Master Development Plan will have no adverse impact on, and will have a functional relationship with, the infrastructure and amenities of other phases; and
- The proposed infrastructure improvements are in conformance with the Amended PUD Master Development Plan; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the architectural design of Building B is suitable for the waterfront area, and will promote a harmonious character of the waterfront community; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the design of Garvies Point Park, Dog Park, Sunset Park, and the other public open spaces and amenities planned for the west side of the Project satisfactorily addresses the Planning Board's concerns

about ensuring that the west side of the Project serves as an inviting destination for the general public, subject to the conditions below; and

**BE IT FURTHER RESOLVED**, that the Planning Board has reviewed the Project's Waterfront Permitting Plans, last revised August 8, 2016, regarding the bulkhead, wetland plantings, marinas, docks, ecology pier, boardwalk and beach, and other shoreline improvements, and finds the Plans acceptable for purposes of PUD Site Plan review as the Plans are consistent with the Amended PUD Master Development Plan; and

**BE IT FURTHER RESOLVED**, that it shall be an express condition of this Resolution that no building permit may be issued for the Project's waterfront/shoreline improvements until all other agencies having jurisdiction issue their respective approvals, including DEC and U.S. Army Corps of Engineers; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that the Project satisfies the minimum area requirement of 25 contiguous acres for PUD developments in the MW-3 District (Zoning Ordinance § 280-73.2(C)(3)) based upon the Amended PUD Master Development Plan Approval, and the Project Site may be subdivided (and if necessary later re-subdivided) into individual lots (to be owned by one or more entities) pursuant to the PUD Subdivision regulations in the Zoning Ordinance; and

**BE IT FURTHER RESOLVED**, that the Planning Board finds that an updated archaeological assessment is not required, as the SEQRA Findings require the performance of a Phase IB Archaeological Field Investigation if archaeological resources are found during construction; and

**BE IT FURTHER RESOLVED**, that the PUD Site Plan and PUD Subdivision Applications, as shown on a (i) 37-page set of Civil Drawings, prepared by PS&S Engineering, P.C., dated or last revised September 16, 2016/October 4, 2016, (ii) 15-page set of Architectural Drawings, prepared by Handel Architects LLP, last revised October 4, 2016, (iii) 26-page set of Landscape Architecture and Urban Design Drawings, prepared by M. Paul Friedberg & Partners, last revised October 4, 2016, (iv) 46-page set of Waterfront Permitting Plans, prepared by Advanced American Engineering, PLLC, last revised August 8, 2016, and (v) 2-page set of Subdivision Drawings, prepared by PS&S Engineering, P.C., last revised November 7, 2016, which all are more specifically described above, are all hereby conditionally approved, subject to compliance with the following conditions and modifications:

1. All of the conditions set forth in this Resolution shall apply to RXRGIP's successors and assigns.
2. This PUD Site Plan Approval (Phase Two) and Amended PUD Subdivision Approval authorizes RXRGIP to undertake only the activities specifically set forth herein, in accordance with this Resolution of Approval, and as delineated on the PUD Site Plan (Phase Two) drawings and Amended PUD Subdivision Plat endorsed by the Planning Board Chairman. Any material change in use, alteration or modification to the PUD Site Plan (Phase Two), or to the Amended PUD Subdivision Plat, except as herein authorized,

shall require the review and approval by the Planning Board of the City of Glen Cove, provided that the Building Department may permit minor field changes as may be reasonable and appropriate during construction without further Planning Board review.

3. No material changes, additions, erasures, modifications or revisions shall be made to the PUD Site Plan and Amended PUD Subdivision Plat as approved herein.
4. RXRGIP shall furnish the Planning Board with one (1) print set and a CD (in .pdf) of the PUD Site Plan.
5. RXRGIP and all owners of subdivided lots shall observe and comply with all requirements, conditions and mitigation measures contained in this Resolution, prior Resolutions adopted by the Planning Board in connection with the Project, and the SEQRA Findings Statement. Nothing in this Resolution, or the plans referenced herein, shall be construed or interpreted as limiting or impacting any of the requirements, conditions and mitigation set forth in the SEQRA Findings Statement or other Resolutions adopted by the Planning Board in connection with the Project, except as may be modified herein.
6. RXRGIP shall obtain all other necessary approvals, licenses and/or permits as may be required from any other City, County, State, or Federal Agency having jurisdiction over the Project. Nothing in this Resolution, or the plans referenced herein, shall be construed or interpreted as limiting or impacting any other City, County, State or Federal agency having jurisdiction over the Waterfront Project. Such agencies may include, but are not limited to, GCDPW, Glen Cove Zoning Board of Appeals (“ZBA”), Glen Cove Police Department, NCDPW, Nassau County Department of Health, Nassau County Fire Marshal, DEC, New York State Department of Transportation (“DOT”), New York State Department of State, United States Environmental Protection Agency (“EPA”), and U.S. Army Corps of Engineers. RXRGIP shall provide the City with copies of each of these permits as they are granted.
7. RXRGIP may not receive a building permit for construction or site disturbance associated with Phase Two until such time as the EPA and DEC (and any other agency having jurisdiction) finalize their respective approvals, including, but not limited to, approval of the Ongoing Environmental Obligations (*e.g.*, SMP, ICs/ECs, EE, as defined in the SEQRA Findings Statement), to allow residential and the other uses approved for Phase Two to be constructed on the Project Site, or otherwise authorize construction or site disturbance to begin. RXRGIP shall submit all relevant information related to the final EPA and DEC approvals to the City Building Department when applying for a building permit. RXRGIP shall provide the Planning Board, City and IDA with copies of these final environmental approvals as they are granted.
8. RXRGIP shall revise the PUD Site Plan and Amended PUD Subdivision Plan to the satisfaction of the Planning Board Consultants in order to make clarifying, non-material modifications, which are consistent with the intent and substance of this Resolution. All plans and other documents submitted in support of the PUD Site Plan and Amended PUD

Subdivision Applications shall continue to be reviewed for consistency with each other, and with the previously approved Amended PUD Master Development Plan and PUD Site Plan (Phase One) for the Project. Any additional non-material revisions required in order to ensure consistency of the information presented on such plans and in such documents shall be made to the satisfaction of the Building Department Director, GCDPW Director, and/or the Planning Board Consultants, as the case may be.

9. RXRGIP shall continue to pursue the highest level of certification that is reasonably possible under the US Green Building Council's LEED ND and LEED BD+C rating systems, including, if necessary, pursuing reasonable applications and/or appeals for alternative paths to achieve certifications under the rating systems.
10. The architectural design of all buildings and associated site improvements for subsequent phases in the Project shall be compatible with the design of Building B and all other buildings and associated site improvements approved in earlier phases.
11. All capitalized terms used in his Resolution and not otherwise defined shall have the meanings ascribed to such terms in the SEQRA Findings Statement and/or approved Amended PUD Master Development Plan.

**Conditions required to be satisfied prior to the issuance of a Building Permit:**

12. Obtain signature of the Receiver of Taxes on an appropriate form indicating that taxes on the Project Site have been paid.
13. Submit and record a Declaration in favor of the Planning Board with respect to the future potential installation of land banked parking spaces, pursuant to Condition #3 in the Resolution of Approval for the Amended PUD Master Development Plan.
14. Submit any other agreement, in recordable form satisfactory to the Planning Board's Special Counsel, which the Planning Board's Consultants determine is required for the Project.
15. Submit proof that there is or will be available capacity of each utility, including, but not limited to, sewer and water availability letters, or that the necessary improvements will be made as part of Phase Two.
16. An Engineering Inspection Fee, in an amount to be determined upon the advice of the GCDPW Director, shall be paid to the City of Glen Cove (not to be duplicative of any Engineering Inspection Fee required as part of Phase I).
17. SWPPP shall be submitted to the Planning Board's engineering consultants and the City's duly authorized representative (for MS4 SWPPP acceptance), as well as any other agency(ies) having jurisdiction, for review and approval prior to filing a Notice of Intent with DEC.

- a. SWPPP shall include, among other things, a completed Notice of Intent Application, a completed MS4 SWPPP Acceptance Form, erosion and sediment control practices, and an operations and maintenance plan.
18. Submit proof of having coverage under New York State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-0-15-002. In the event that approval of the SWPPP is contingent upon material modifications to the PUD Site Plan and/or Amended PUD Subdivision, RXRGIP shall be required to secure amended PUD Site Plan and/or PUD Subdivision Approval from the Planning Board.
19. Submit proof of approval from NCDPW of the Drainage Plan, which is designed for treatment of a 2-inch storm event, in lieu of Nassau County's standard stormwater storage requirement.
20. Revision of the Landscaping Plans (and other applicable plans) to the satisfaction of the Planning Board Consultants, including, but not limited, revisions to address the following goals and objectives:
  - a. Provide spaces and power connections for food trucks, push carts, etc., including near the beach plaza, gazebo, dog park, shade structure in Sunset Park, and trellis structure in Garvies Point Park.
  - b. Incorporate family-oriented programming into Garvies Point Park and/or Sunset Park (ex. Ping-pong tables, pool tables, chess board, etc.).
  - c. Soften the amphitheater area so that it has a more sculptural, less static appearance (e.g., incorporate a series of flattened sitting boulders on the hillside, which would provide an inviting place to socialize and engage small scale events).
  - d. Finalize all details, including final plant selections and locations.
  - e. Incorporate additional benches along the boardwalk and other locations on the west side of the Project.
21. Finalize geometry of esplanade connection near Road D/Ferry Terminal to ensure pedestrian and bicycle connectivity along the waterfront.
22. Provide an emergency egress plan for Building B, particularly for the upper pool area.
23. Submit final details and locations of informational, park-related, emergency, and wayfinding signage consistent with the signage for Phase One.
24. Submit locations for electric and water connections to support public spaces and amenities.

25. Submit final construction details for site structures (ex. trellis, shade structures, gazebo), stairs, retaining and sitting walls leading up to pool area.
26. Revise Lighting Plans to finalize the integration of the lighting and shoreline fence/guardrail.
27. All civil, landscaping, and architectural plans shall be reviewed for consistency with each other, including with all details provided and keyed in.
28. Submit construction details showing the dimensions, materials, colors, textures and finishes of the surface materials, fixtures and furniture to be located within the Public Use Easement Areas to the satisfaction of the Planning Board Consultants.
29. Submit sample boards consistent with the renderings for Building B as depicted in the approved Architectural Drawings, showing the specific exterior colors, textures, and finishes to be specified in the construction documents, including, but not limited to, building cladding, roofing, windows, doors, grill-work, railings, stone face, marquees, canopies, typography, exterior mounted lighting fixtures, and commercial signs (if any), to the satisfaction of the Building Department Director and Planning Board Consultants.
30. Submit construction details and locations of pet waste stations and trash receptacles to the satisfaction of the Building Department Director and Planning Board Consultants.
31. Payment of all outstanding Planning Board fees.
32. The hours of construction activity shall take place in conformance with the applicable City regulations, including the City Noise Code.

**Conditions required to be satisfied prior to the issuance of a Certificate Of Occupancy:**

33. Prior to the issuance of a Certificate of Occupancy by the Building Department, an “As-Built” Survey showing all of the installed and completed improvements, certified by a New York State licensed Land Surveyor shall be prepared at the sole expense of RXRGIP. Said As-Built Survey shall be provided to the Building Department GCDPW and the Planning Board’s engineering consultants, documenting satisfactory completion of all approved and authorized construction activities and zoning compliance.
34. RXRGIP shall file the Application for Final Construction Review of the US Green Building Council, to obtain at a minimum LEED Certified designation, with the understanding that RXRGIP will make all reasonable efforts to achieve a higher level of certification.
35. Perform a Phase IB Archaeological Field Investigation if determined to be required during construction in accordance with the SEQRA Findings Statement (pp. 93-94).

36. Submit a copy of the signed contract with a private on-site security company. RXRGIP shall be responsible for funding said on-site security until such time as the future Property Owners Association is established, at which time the property owners association shall fulfill this responsibility.
37. A draft Declaration and By-Laws for the Property Owners Association shall be submitted to the Planning Board's Special Counsel for review and approval to confirm that these documents are consistent with the purpose and intent of the conditions of this PUD Site Plan and Amended PUD Subdivision Approval, and the SEQRA Findings Statement.
38. Submit text with respect to the educational signage for the Project consistent with the SEQRA Findings Statement to the satisfaction of the Planning Board Consultants.

**Conditions required to be satisfied prior to the Chairman signing the Subdivision Plat:**

39. RXRGIP shall execute and deliver to the Planning Board's Special Counsel the following:
  - a. Title company certification as to the ownership of the land covered by the Subdivision Map, and confirming that RXRGIP (and/or its successors) is the proper party to be executing the instruments required pursuant to this Resolution.
  - b. Consents by any and all mortgagees to the filing of the Subdivision Map.
  - c. Evidence of payment to the City Clerk of all required fees.
  - d. Submit Declarations, Easements, Maintenance Agreements, and other similar documents, in recordable form satisfactory to the Planning Board's Special Counsel, which the Planning Board's consultants determine are required to be recorded, consistent with Conditions 12 and 13 above.
40. Submit proof of approval from NCDPW in accordance with Condition #19 above.
41. RXRGIP shall file the signed Amended PUD Subdivision Plat and all other covenants, restrictions and legal instruments required by this Resolution or law with the Nassau County Clerk's Office in accordance with Real Property Law Section 334-a, Nassau County Charter Section 1610, General City Law Section 32, and City of Glen Cove City Code Section 245-11.

**BE IT FURTHER RESOLVED**, that except as otherwise shown on the PUD Site Plan and the Amended PUD Subdivision Plan, or referenced in or inconsistent with this Resolution, all other terms, provisions, requirements, conditions, and mitigation measures set forth in the Planning Board's SEQRA Findings Statement and Special Use Permit Approval, issued on December 19, 2011, and the Planning Board's Resolution granting PUD Site Plan Approval (Phase One) and PUD Subdivision Approval, issued on November 18, 2014, and the Planning

Board's resolution granting Amended PUD Master Development Plan Approval and Amended PUD Subdivision Approval, issued on October 6, 2015, are incorporated herein by reference and shall remain in full force and effect, regardless of whether or not they are specifically cited or referenced in this Resolution; and

**BE IT FURTHER RESOLVED**, that the Planning Board's approval of the PUD Site Plan Application shall expire eighteen (18) months after the date of this Resolution, subject to an extension(s) requested by RXRGIP and approved by the Planning Board pursuant to Section 280-73.2(C)(3)(c)[11][g] of the Zoning Ordinance, and RXRGIP is hereby instructed to apply for any extension request(s) no sooner than forty-five (45) days prior to said expiration of PUD Site Plan Approval; and

**BE IT FURTHER RESOLVED**, that the Planning Board's approval of the Amended PUD Subdivision Application shall expire within one hundred eighty days after the date of this Resolution unless all requirements stated in this Resolution have been certified as completed, subject to extension(s) of ninety days each requested by RXRGIP and approved by the Planning Board pursuant to New York General City Law Section 32, and the RXRGIP is hereby instructed to apply for any extension request(s) no sooner than thirty (30) days prior to said expiration of PUD Subdivision Approval; and

**BE IT FURTHER RESOLVED**, that the Planning Board Secretary shall file this Resolution with the City Clerk within five (5) days from this date, and the Nassau County Planning Commission within seven (7) days from this date; and

**BE IT FURTHER RESOLVED**, that if the conditions of this Resolution are not fully complied with within the above time limits, then this Resolution of PUD Site Plan and Amended PUD Subdivision Approval shall no longer be valid or in effect, and RXRGIP shall apply for new approvals.

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately.

VOTE:

AYES:

NOES:

ABSENT:

RESOLUTION ADOPTED. SO ORDERED.

Approved for Filing:

Lois Stemcosky,  
Planning Board Secretary

Dated:  
March 7, 2017

DRAFT