

City of Glen Cove, NY
Friday, January 6, 2017

Chapter 280. Zoning

Article XV. Industrial Districts

§ 280-73.2. MW-3 Marine Waterfront-3 District.

[Added 4-13-1999; amended 11-23-2004]

A. Purpose and applicability.

(1) Purposes and objectives.

- (a) The Marine Waterfront-3 District (MW-3) is designed to apply to waterfront areas and adjacent areas on the north side of Glen Cove Creek.
- (b) The purpose of this district is to permit and encourage a range of water-dependent and water-enhanced uses and other related uses within the Glen Cove Creek corridor so that the City's valuable waterfront resources are utilized properly and in a manner that will ensure an attractive waterfront setting for a variety of appropriate uses that are beneficial to the City's residents, waterfront property owners and business community. A further purpose is to establish a zoning framework conducive to the creation of an attractive mixed-use community with residential/retail/commercial business/recreation/tourist/entertainment and cultural components. The intent is to create a marketable and sustainable development that will benefit the City and the surrounding environment.
- (c) In addition, since portions of the Glen Cove Creek area contain structures considered to be substandard and uses that are considered obsolete and inappropriate for this location, the objectives of the district also include the elimination of blight and blighting influences, incompatible uses, the assemblage of sites and redevelopment of areas with uses more appropriate to this strategic location within the community.
- (d) It is further the intent of this district to assure that development optimizes the waterfront location and encourages water-dependent or water-enhanced uses, public access and use of the waterfront for residents and/or employees of, and visitors to, the area and the entire Glen Cove community.

- (2) Applicability. These purposes and objectives will be considered in the mapping of this zone and in the review of any site plan or special permit use within the district.

B. Permitted principal uses on the south side of Garvies Point Road and Herb Hill Road:

- (1) Restaurants, excluding catering facilities, provided that they are located on the land and provide table service, and boat access and/or pedestrian access to the waterfront. No structure on flotation will be permitted. For purposes of this section, no moored barge or houseboat can be considered to be located on the land.
- (2) Yacht broker or marine insurance broker.
- (3) Retail uses limited to: sail loft or ship's chandlery, retail sale and/or rental of boating, fishing, diving and bathing supplies and equipment, provided that no single store shall exceed 10,000 square feet. Such retail uses in a larger space may be permitted at the discretion of the Planning Board. All retail uses shall occur in structures or spaces limited in size as noted to ensure visual access from public walkways and esplanades. The Planning Board shall have the right to determine the final size and configuration of such

buildings to achieve the objectives of this zoning district. Multiple structures with shared parking and interconnected by pedestrian ways are encouraged. If the property in retail use abuts the water, continuous public pedestrian access to the waterfront must be provided.

C. Special permit uses at the discretion of the Planning Board on the south side of Garvies Point Road and Herb Hill Road:

- (1) Yacht clubs and marinas. No boat may be occupied overnight that does not have a holding tank for sewage waste with deck fittings permitting mechanical pump-out at dockside.
- (2) Marina slips for transient boaters accessory to a principal use, provided that no boat may be occupied overnight that does not have a holding tank for sewage waste with deck fittings permitting mechanical pump-out at dockside that can be mechanically pumped out.
- (3) Planned Unit Development (PUD). On sites with a minimum area of 25 contiguous acres, a planned unit development subject to the following use and design criteria, provided that at least four of the uses indicated in Subsection **C(3)(a)** below are included and achieve the purposes and objectives of this district in the opinion of the Planning Board. Each applicant for a PUD shall comply with the requirements of Article 8 of the Environmental Conservation Law and shall prepare a draft environmental impact statement (EIS) and a final EIS for consideration by the lead agency, which contains a cumulative assessment of the buildout of the MW-3 Zone. Notwithstanding anything to the contrary, any PUD approved by the Planning Board pursuant to these provisions may include additional contiguous and noncontiguous property on the south side of Garvies Point Road or Herb Hill Road and may include additional acreage on the north side of Garvies Point Road or Herb Hill Road.

(a) Uses.

- [1] All uses permitted in Subsection **B(1)** through **(3)** above and special permit uses included in Subsection **C(1)** and **(2)** above and accessory uses as provided in Subsection **F** (Accessory uses).
 - [2] Educational, cultural, or entertainment uses, which may include uses such as museums, galleries, exhibit facilities, aquariums, theaters or other similar uses the primary focus of which is on waterfront, marine or Long Island's north shore culture and history and/or will contribute to the City's objective to create the Glen Cove waterfront as a destination. Such uses may include offices and retail use as part of the principal use, and accessory thereto.
 - [3] Hotel, spa, conference center, catering and restaurant uses, provided that for sites with water frontage the use is designed with public access to the water via one or more of the following: boat slips for transient or seasonal use, marina use, esplanade, boardwalk, park, plaza or open space.
 - [4] Business and professional offices and retail uses. Such retail uses shall fulfill the purposes and objectives of this district. In particular, such retail uses and services shall be of a type and quantity that will appeal to both residents and visitors as well as attract people to the waterfront and complement the Central Business District.
 - [5] Boat docks, pump-out stations, slips, piers, terminals and wharves for yachts, pleasure boats, dinner cruises, ferries, water taxis or boats for hire any and/or all of which are intended to carry passengers on excursion, commuting, pleasure or fishing trips, or for vessels engaged in fishery or shell fishery.
 - [6] Multiple dwellings, residences and townhouses. Where such residences are in mixed-use structures, they shall be designed in an approved manner.
 - [7] Food kiosks, provided they are located on land.
 - [8] Retail sale of fish, shellfish and/or produce.
- (b) PUD criteria. The provisions of Subsection **G** regarding lot area and building requirements of the MW-3 District shall not apply to a PUD within this zone, including accessory uses in said PUD,

provided that the following criteria are satisfied:

- [1] Maximum residential density: 20 units per acre of the site devoted to the planned unit development, provided that a minimum of 10% of the dwelling units shall be workforce housing as defined by the City of Glen Cove. The gross residential density is an aggregate number to be distributed by the PUD massing.
- [2] Height and open space. Maximum height shall be established by the Planning Board during site plan review. The Planning Board shall, to the maximum practical extent, consider maximum height in light of the following objectives for development within the PUD site area:
 - [a] The balancing of building scale and density with the maximization of publicly accessible open space within the PUD site area, and the use of landscaping to mitigate and balance the visual impact of building size (including landscaped roof terraces to the extent practicable).
 - [b] The creation of view corridors, from public streets and open spaces on the site and/or surrounding streets, to Glen Cove Creek and Hempstead Harbor, and to the Garvies Point Preserve.
 - [c] The creation of varied and interesting vistas when viewed from the south side of Glen Cove Creek and from various points within and around the PUD site area. This will include an appropriate variety and range of building scales and heights and careful transitions between scales.
 - [d] The height of buildings and structures shall not exceed the treetop elevation of the ridgeline of the Garvies Point Preserve. The creation of appropriate transition of building size between the waterfront of Glen Cove Creek and the ridgeline shall be considered.
 - [e] The architectural treatment of buildings, such that when viewed from a distance, building masses are broken up visually through the use of techniques such as, but not limited to, stepping bays and recesses, balconies and terraces, changes of material, to create a sense of scale and visual relief.
 - [f] The architectural treatment of those portions of buildings, in particular the facades of first and second floors, that face or adjoin pedestrian-oriented streets, sidewalks, open spaces and esplanades, such that the quality of the pedestrian experience is maximized through the use of techniques such as, but not limited to, quality and variety of faade materials, architectural detail, variety in massing such as bays and recesses, location and scale of windows and doors, inclusion of features such as porches, steps, planters, awnings, etc.
 - [g] The balancing of building scale and density with the maximization of concealed parking facilities within the PUD area, and the use of landscaping, architectural treatments, roof gardens and courtyards, to conceal or mitigate the visual and environmental impacts of parking structures or surface lots on the site and the surrounding areas.
- [3] Minimum distance between principal structures to be determined by the Planning Board to maximize the creation of view corridors and open space.
- [4] Minimum off-street parking.
 - [a] Off-street parking shall be as determined by the Planning Board, taking into consideration criteria established in Subsection I(1) herein and the objectives of Subsection C(3)(b)[2] [g] above. All required parking for residential uses and at least one-half of parking required for all other uses shall be provided within structures or covered. Tandem spaces may be permitted if both of the spaces are assigned to one dwelling unit or commercial or other permitted user or if valet or attendant parking is provided. On-street parking may be permitted at the discretion of the Planning Board. Shared parking may be permitted by the Planning Board in accordance with Subsection I(3) below.

- [b] The treatment of parking shall include the integration of parking facilities into landscape designs and building structures to minimize visual impacts of parking garages and parking lots on public streets, open spaces, esplanades and view corridors.
 - [5] No structure or parking area may be located within 30 feet of the mean high water line or bulkhead line unless the project involves a walkway or esplanade along the water accessible to the public or some other means of public access acceptable to the Planning Board, in which case said setback requirement may be reduced or eliminated.
 - [6] The PUD shall contain an ample amount of public open space (but not less than 25% of the overall PUD site), including, but not limited to: squares, greens, parks, new or enhanced wetlands and esplanades whose use by residents and the public is encouraged through prominent placement and design.
 - [7] The PUD shall have a connected network of pedestrian and bicycle access. Automobile traffic and parking shall be accommodated in ways that respect the safe and comfortable movement of pedestrians throughout the development. The PUD shall contain well-designed pedestrian-oriented streetscapes, including sidewalks, street trees, and lighting, and shall have appropriate relationship of building faade and entrances to pedestrian areas.
 - [8] Inclusion of an intermodal transportation system, which may include, but not be limited to, trolleys, jitneys, people movers, and streetcars, in order to connect the waterfront with downtown, and reduce automobile dependency.
 - [9] The use of an interconnected street system where possible, avoiding cul-de-sacs and utilizing street design which encourages "traffic calming."
 - [10] The submission of a plan by the applicant for the provision of off-site public amenities and/or infrastructure required as a result of the proposed PUD, whether by transfer, gift, lease, easement or otherwise, to the extent that the same may be acceptable to the Planning Board, and is feasible and adequate. The public amenities and/or infrastructure items may include, but are not limited to, the construction and maintenance of sidewalks, roadways, sewer systems, water systems, other types of off-site infrastructure, transportation systems and facilities, waste disposal systems and facilities, police and fire protection facilities, cultural facilities, recreational facilities, or a cash payment to the City in lieu thereof. The determination whether any such plan is acceptable, in form and substance, feasible and adequate, shall rest in the sole and unfettered discretion of the Planning Board. The Planning Board may impose any additional reasonable terms and conditions which it finds necessary and appropriate to effectively secure for the City the benefit of one or more community amenities, or cash in lieu thereof, in order to ensure that the purpose and intent of this subsection is fulfilled.
- (c) PUD procedure.
[Added 7-28-2009 by L.L. No. 5-2009]
- [1] Authority. The City Council hereby designates the Planning Board to review and act upon all Planned Unit Development ("PUD") applications, as set forth in this section.
 - [2] Definitions. As used in § **280-73.2C(3)(c)**, the following terms shall have the meanings indicated:

PUD MASTER DEVELOPMENT PLAN

A proposal for a PUD, which may be developed in phases or sections, showing the layout of the proposed project, including, but not limited to, maps, plans or drawings relating to the proposed land uses, approximate location and dimensions of buildings, the proposed facilities, including preliminary plans and elevations, architectural features, lot sizes, setbacks, height limits, buffers, screening and landscaping, lighting, open space areas, parking and loading, traffic circulation, protection of natural resources, public or private amenities, adjacent land uses and physical features, and such other elements as may be required by the Planning Board.

PUD MASTER DEVELOPMENT PLAN APPROVAL

The approval, or approval with conditions or modifications, of the layout of a PUD as set forth in a PUD Master Development Plan, subject to PUD site plan approval for each phase or section of the approved PUD Master Development Plan. PUD Master Development Plan approval shall constitute the special permit use required for a PUD under § 280-73.2C(3).

PUD SITE PLAN

The plans or drawings constituting a PUD Master Development Plan, or a phase or section thereof, prepared by an architect, landscape architect, civil engineer, surveyor, land planner or other licensed professional which contains any additional detail or documentation deemed necessary by the Planning Board and includes those elements listed in § 280-16 of the Code of the City of Glen Cove.

PUD SITE PLAN APPROVAL

The approval, or approval with conditions or modifications, of a PUD site plan by the Planning Board in accordance with the standards, requirements and procedures as set forth in General City Law § 27-a and Chapter 280 of the Code of the City of Glen Cove (specifically Article IV of Chapter 280, entitled "Site Plan Review"). A PUD site plan approval may be granted in the Planning Board's discretion for the entire PUD Master Development Plan, or one or more phases or sections of the PUD Master Development Plan.

PUD SUBDIVISION

The plans or drawings indicating the proposed division of any parcel of land that is part of a PUD Master Development Plan into two or more lots, blocks, sites or units, with or without streets or highways, for the purpose of sale, transfer of ownership or development.

PUD SUBDIVISION APPROVAL

The approval of a PUD subdivision by the Planning Board in accordance with the standards, requirements and procedures as set forth in General City Law § 32 and Chapter 245 of the Code of the City of Glen Cove.

- [3] Two-phase process. Application for development approval for a PUD within the MW-3 District shall follow a two-phase review process:
 - [a] Application for PUD Master Development Plan approval shall be made to the Planning Board.
 - [b] Application for PUD site plan approval shall be made to the Planning Board, subject to the requirements of an approved PUD Master Development Plan, and in accordance with the standards, requirements and procedures as set forth in General City Law § 27-a and Chapter 280 of the Code of the City of Glen Cove.
 - [c] An applicant may also make an application for PUD subdivision approval in connection with an application for PUD Master Development Plan approval as set forth in this section.
 - [d] Applications for PUD site plan approval and PUD subdivision approval may be submitted together with an application for a PUD Master Development Plan approval and all such applications may be processed concurrently by the Planning Board.
- [4] PUD Master Development Plan application. Any application for PUD Master Development Plan approval pursuant to the provisions of this section shall be submitted in 12 copies to the Planning Board, and shall include the following:
 - [a] PUD Master Development Plan. A proposed PUD Master Development Plan drawn at a scale of not less than one inch equals 100 feet and consisting of one or more sheets, indicating the following information for the entire proposed project:
 - [i] Property lines, and the names of all adjoining streets and property owners;

- [ii] Topographic information, including contours with a vertical interval of no more than two feet measured from mean high-water level;
 - [iii] Existing natural features, and existing and proposed man-made features;
 - [iv] Location of all existing zoning district boundaries, roads, buildings, structures and parking areas located within 300 feet of the proposed PUD boundary;
 - [v] Proposed elements of the vehicular and pedestrian circulation systems;
 - [vi] A land use plan showing the proposed location of all buildings and uses, their type, size and composition, sites reserved for open space and public utilities, and any on-site or off-site public amenities, etc. (A summary schedule of proposed uses and the gross floor area of each for the entire PUD shall be included.);
 - [vii] Nature and location of all existing and proposed utility and service systems and facilities, including sanitary sewage, water supply, stormwater drainage, public utilities and refuse collection;
 - [viii] Name and address of the applicant, the property owner and, if the applicant is other than the property owner, evidence of the applicant's authority to act; and of the planner, engineer, architect, surveyor and/or other professionals engaged to work on the project;
 - [ix] Illustrative design concepts (including preliminary architectural drawings, and preliminary landscaping and lighting plans), indicating how the design of buildings and development areas will meet the stated legislative intent, purposes and goals for PUD development; and
 - [x] Any other information deemed reasonably necessary by the Planning Board.
- [b] Written statement. A written statement accompanying the PUD Master Development Plan containing a narrative description of the proposed PUD, which shall include:
- [i] Basic concept and rationale of the proposed plan, including, an explanation of how its approval will serve to implement the intent, purposes and goals of this section and the Master Plan of the City;
 - [ii] Explanation of the extent to which the proposed plan may be in conformance with a conceptual site or other preliminary design plan, if any, which is the subject of any preexisting agreement concerning the PUD development;
 - [iii] A preliminary analysis estimating the various quantitative elements of the proposed plan, such as the gross floor area of all uses, the proposed number of residential units and number of off-street parking spaces;
 - [iv] Proposals for the construction, operation and maintenance of all utility systems and road improvements and other infrastructure;
 - [v] Proposals for the ownership, use and maintenance of all open spaces and other common areas, roads, walkways, utilities and other infrastructure; and
 - [vi] A description of any proposed covenants and restrictions intended to be offered by the applicant.
- [c] Phasing plan. A proposed phasing plan, indicating the approximate phasing of site development and infrastructure improvements, both on site and off site, including, the general order of construction and estimated timing of each phase.
- [d] Visual simulations. Visualizations demonstrating a clear understanding of the potential visual impacts of the proposed development.

- [e] List of approvals required. A list of anticipated approvals required from various government agencies prior to proceeding with the first phase, and any subsequent phases of development.
 - [f] Proof of ownership. Proof of title and affidavit as to ownership and/or control of all involved properties.
 - [g] SEQRA documentation. A full environmental assessment form ("Full EAF") or draft environmental impact statement ("DEIS") in lieu of a full environmental assessment form.
 - [h] Disclosure affidavit. A disclosure affidavit as required by the Planning Board pursuant to General Municipal Law § 809.
 - [i] Fee. All PUD Master Development Plan applications shall be accompanied by a processing fee as established and amended from time to time by resolution of the City Council.
 - [j] Qualifications. A statement of qualifications and experience of the applicant and all professional members of the development team, which shall include, where applicable, a reference to any agreement with or resolution by the City of Glen Cove or any of its agencies that approves or designates the applicant as the developer of the project.
- [5] Building Department review. An application for PUD Master Development Plan approval shall be reviewed by the Building Department Director ("BDD") to determine whether or not the application contains all the requisite information for completeness as set forth in Subsection **C(3)(c)[4]** above. The BDD's determination shall be made within 20 calendar days of receipt of the application by the Planning Board. Once the application meets the requirements for application completeness, the date shall be recorded and used as the official submission date of the PUD Master Development Plan application, and the application shall be referred to the Planning Board to commence its review in accordance with the procedures set forth in this section.
- [6] Public hearing. The Planning Board shall conduct a public hearing within 62 days from the day a PUD Master Development Plan is deemed complete by the Planning Board. For purposes of this section, a PUD Master Development Plan application shall be deemed complete upon the filing of a negative declaration or a notice of completion of the draft environmental impact statement, as the case may be, by the Planning Board. Public notice of said public hearing shall be provided in accordance with the requirements of § **280-21** of the Code of the City of Glen Cove, and shall also be given by at least one publication in the official newspaper of the City not less than 10 days before the date of such hearing. The public hearing on the PUD Master Development Plan application may be held jointly with any other public hearings, which may be applicable to the specific project. The proposed PUD Master Development Plan, as well as the proposed PUD site plan and/or PUD subdivision if concurrent applications are made, together with the Full EAF or DEIS, shall be made available for public review on the City's website and at the office of the City Clerk and any other public place designated by the Planning Board. The time within which the Planning Board shall conduct a public hearing may be extended by mutual consent of the applicant and the Planning Board.
- [7] Referral to County Planning Commission. The Planning Board shall comply with the requirements of § 239-m of the General Municipal Law.
- [8] Planning Board review considerations of PUD Master Development Plan. The Planning Board shall consider the following factors in determining whether to approve a proposed PUD Master Development Plan application, including, but not limited to:
- [a] Extent to which the application serves to implement the legislative intent, purposes and goals set forth in this section and the Master Plan of the City;
 - [b] Extent to which the application may be in conformance with a conceptual site or other preliminary design plan, if any, which is the subject of any preexisting agreement concerning the PUD development;

- [c] Proposed mix of land uses and their planned design and arrangement on the site, including compatibility with environmental conditions, neighboring sites and land uses;
 - [d] Potential impact of the proposed development upon the area in which it is located, and upon the City and the region as a whole; and
 - [e] Adequacy of the phasing plan relative to the uses in each phase.
- [9] Planning Board action on PUD Master Development Plan.
- [a] The Planning Board shall act to approve, approve with conditions or modifications or disapprove the PUD Master Development Plan application within 62 days after the close of the public hearing or the completion of SEQRA as evidenced by a resolution of the Planning Board, whichever is later. The time frames provided under SEQRA shall govern whenever there is a conflict in time frames. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
 - [b] The Planning Board shall have the authority to impose conditions and restrictions, which are directly related to and incidental to the proposed PUD Master Development Plan. Such conditions may include, without limitation:
 - [i] Required modifications of any aspect of the PUD Master Development Plan, including partial approval of all or any portion of the plan;
 - [ii] Restrictions on the quantity, type and location of each permitted land use;
 - [iii] Requirements relating to construction, ownership, operation, and maintenance responsibility for both on-site and off-site infrastructure improvements;
 - [iv] Provisions ensuring the permanent ownership, preservation and maintenance responsibility for required open spaces, public amenities, and for buildings or sites of significant historical and/or archeological value;
 - [v] The establishment of standards, including design, performance, and/or bulk standards, as deemed appropriate by the Planning Board, to govern future PUD site plan approvals and/or PUD subdivision approvals for individual phases or sections of the proposed development;
 - [vi] Requirements relating to the phasing, timing and/or sequencing of the proposed development and related improvements; and
 - [vii] Any other items relating to the health, safety and general welfare of the public.
 - [c] A copy of the Planning Board's decision to approve, approve with conditions or modifications, or disapprove the PUD Master Development Plan application shall be filed with the City Clerk within five business days of the date of the decision, together with a copy of any approved PUD Master Development Plan.
 - [d] Approval or approval with modifications of a PUD Master Development Plan application shall expire 12 months after the date of the PUD Master Development Plan approval unless the applicant has submitted an application for PUD site plan approval for the entire PUD Master Development Plan, or a phase or section thereof within such time frame, and is pursuing said application in good faith. The Planning Board may extend for good cause shown the duration of the PUD Master Development Plan approval period for additional six-month periods, without limitation.
- [10] SEQRA. In its review of any PUD Master Development Plan pursuant to this section, the Planning Board shall comply with the provisions of the State Environment Quality Review Act, and its implementing regulations.
- [11] Planning Board action on applications for PUD site plan approval and PUD subdivision approval.

- [a] Upon the Planning Board's approval, or approval with conditions or modifications of the PUD Master Development Plan, it may act on applications for PUD site plan approval and/or PUD subdivision approval, which relate to the entire project or to individual sections thereof.
- [b] The review and consideration of applications for PUD site plan approval and PUD subdivision approval shall be in accordance with the standards, requirements and procedures as set forth in General City Law §§ 32 and 27-a, and Chapters **245** and **280** of the Code of the City of Glen Cove, and with the additional requirements as set forth herein. PUD site plan approval and/or PUD subdivision approval shall be required prior to the issuance of any permit for building, demolition, land clearing, land use or land development within a PUD, or any phase or section thereof, unless this requirement is waived by the Planning Board in connection with any proposed site work, which the Planning Board determines to be in furtherance of the health, safety and general welfare of the public.
- [c] The Planning Board, when reviewing an application for PUD site plan approval and/or PUD subdivision approval, which relates to the entire PUD Master Development Plan, or to individual phases or sections thereof, shall consider, without limitation:
 - [i] Conformity of the application to any approvals or agreements that may pertain to the development, and any conditions imposed by the Planning Board as part of its PUD Master Development Plan approval;
 - [ii] Adequacy, location, arrangement, design and appearance of each aspect of the development for consistency with the approved PUD Master Development Plan;
 - [iii] The applicant's efforts to comply with all applicable timing and sequencing requirements and conditions of the PUD Master Development approval, as well as the applicant's diligence in acting on any prior PUD site plan approvals that may have been granted;
 - [iv] Any phase or section of the PUD Master Development Plan for which the Planning Board shall grant PUD site plan approval shall be determined to be capable of being self-supporting and sustainable and environmentally sound in the event that the applicant does not proceed with other sections, provided that the intent of this section is that the applicant will proceed with and complete the entire PUD Master Development Plan;
 - [v] Functional relationship between the individual phases or sections for which the applicant seeks PUD site plan approval and/or PUD subdivision approval, and the other phases or sections of the approved PUD Master Development Plan, to ensure, among other things, that the appropriate infrastructure and amenities shall be completed in accordance with future timetables and conditions.
 - [vi] Dedication of land for permanent preservation and the construction of on-site and/or off-site infrastructure improvements shall be accomplished in conformance with the phasing plan approved as part of the PUD Master Development Plan approval, as may be modified by the Planning Board as part of a PUD site plan approval or PUD subdivision approval, and shall be installed so as to properly serve the proposed site development. In order to make such determination, the Planning Board may require the preparation and submission of additional detailed plans and/or studies with respect to water supply, sewerage service, stormwater drainage, road improvements and other utilities and services, as the Planning Board may deem necessary to serve not only the individual phases or sections proposed, but the PUD as a whole.
- [d] Any action taken by the Planning Board on an application for PUD site plan approval or PUD subdivision approval shall be made subject to the applicant obtaining all other necessary approvals, licenses and/or permits as may be required from other federal, state or local governmental agencies having jurisdiction thereof. As a condition of approval, each

applicant shall be required to file appropriate legal documentation as the Planning Board determines necessary to provide for and ensure the continued proper future maintenance, use and ownership responsibility for all land dedications, common areas, facilities, utilities and services, for the individual phases or sections proposed and the PUD as a whole. Such documentation shall be acceptable to the City Attorney in form and substance.

[e] In its review of any PUD site plan and/or PUD subdivision pursuant to this section, the Planning Board shall comply with the provisions of the State Environment Quality Review Act, and its implementing regulations.

[f] The Planning Board in its sole and reasonable discretion may waive any design requirement or requirement for the provision of improvements contained in Chapter **245**, where waiving said requirement is consistent with an approved PUD Master Development Plan.
[Added 8-24-2010]

[g] Approval of a PUD site plan by the Planning Board shall expire 18 months after the date of the PUD site plan approval. The Planning Board shall extend the duration of the PUD site plan approval period for additional six-month periods, without limitation, if an applicant demonstrates that it is proceeding in good faith to develop its property in accordance with the PUD site plan approval.
[Added 3-27-2013 by L.L. No. 1-2013]

[12] Applicability. This § **280-73.2C(3)(c)** shall be applied to any application pending before the Planning Board at the time of the effective date of this section, provided that any such application pending before the Planning Board upon the effective date herein shall be deemed to have complied with the relevant provisions of this section, which may have passed in time.

(d) Vested rights.

[Added 3-27-2013 by L.L. No. 1-2013]

[1] Legislative intent and findings. The implementation of a PUD Master Development Plan often involves a multiyear build-out following substantial investment in the land use approvals process. This vested rights regulation is enacted with the intent of providing a reasonable balance between the expectation and desire of private applicants/property owners seeking to implement an approved PUD Master Development Plan to know that zoning and other applicable laws and regulations will not change during the project build-out period, and the right of the present and future City Council to enact and apply zoning amendments and other planning and environmental regulations when the public health, safety, or general welfare requires. The City Council finds that it is necessary and desirable, as a matter of public policy, to provide for the establishment of certain statutory vested rights given the practical timing, cost, phasing and other considerations involved in implementing an approved PUD Master Development Plan, as well as to stimulate economic growth and foster cooperation between the public and private sectors in land use planning. The City Council further finds that this vested rights regulation is consistent with the general principles set forth in the City's Master Plan, dated May 2009. Nothing in this section shall prohibit, preempt or otherwise prevent in any way an applicant from obtaining vested rights to complete any part of its approved PUD Master Development Plan by common law or otherwise.

[2] Vested rights.

[a] For 12 years following the Planning Board's approval of a PUD Master Development Plan in the MW-3 District located on the south side of Garvies Point Road and Herb Hill Road, and including the portion of the approved PUD Master Development Plan for the RXR Glen Isle Mixed-Use Waterfront Development Project located on the north side of Garvies Point Road and Herb Hill Road, and subject to the extension provisions below, an applicant, or its successor(s) in interest, shall retain vested rights to undertake and complete the development shown on said PUD Master Development Plan, and under the terms and conditions of all relevant approving resolutions and SEQRA findings. All City local laws, ordinances, and enactments, and all other City zoning, planning, and environmental rules,

requirements or regulations, which are in effect at the time of the Planning Board's approval of a PUD Master Development Plan, shall remain applicable to said approved PUD Master Development Plan for 12 years, except when there is:

- [i] Newly discovered information or a change in circumstances establishing that the project or any portion thereof is likely to materially harm or endanger the public health, safety, general welfare or biological habitat if the project were to proceed as contemplated in the approved PUD Master Development Plan, and that such harm or endangerment would not be prevented by existing laws, codes, ordinances, rules or regulations, or by any governmental entities, as determined by the Planning Board in its sole discretion, which determination shall be set forth in writing and shall be deemed a final agency action; or
 - [ii] A change in supervening federal or state laws, rules or regulations, which would materially and adversely affect said development as contemplated in the approved PUD Master Development Plan.
- [b] In the event that a vesting exception set forth in Subsection C(3)(d)[2][a][i] and/or [ii] above is implicated, said exception shall relate only to the portion or aspect of the development affected by the newly discovered information, change in circumstance or new law, rule or regulation, and the vesting protections provided herein shall continue with respect to any portion or aspect of the development not affected by the newly discovered information, change in circumstance or new law, rule or regulation. A vested property right is not a personal right, but shall attach to and run with the applicable property. The twelve-year vesting period shall not be extended by any amendments or modifications to the PUD Master Development Plan unless expressly provided by the City Council.
- [3] Status report. An applicant that has retained vested rights hereunder shall submit annually to the Planning Board, City Council, Glen Cove Industrial Development Agency, and Glen Cove Community Development Agency, a written status report describing the progress of the development of the approved PUD Master Development Plan. Such yearly status report shall be submitted not sooner than 30 days, and not later than 15 days, prior to each anniversary of the Planning Board's approval of the PUD Master Development Plan.
- [4] Rescission.
- [a] Following the Planning Board's approval of a PUD Master Development Plan, the Planning Board shall evaluate periodically the progress of the development of the PUD Master Development Plan, and shall have the right to rescind any vested rights retained hereunder through approval of a PUD Master Development Plan for a particular applicant at any time if the Planning Board finds in a written determination supported by substantial evidence that the applicant's actions or inactions with respect to developing the approved PUD Master Development Plan constituted extreme or egregious unreasonableness under a rational commercial person standard.
 - [b] The City Council may, by a duly adopted resolution, make a referral to the Planning Board to notify the Board of a potential basis to rescind any vested rights retained hereunder. The Planning Board shall make a written determination supported by substantial evidence regarding whether rescission is warranted in accordance with the standard set forth in Subsection C(3)(d)[4][a] above. The Planning Board's determination shall be made within sixty (60) days after referral from the City Council, unless said time period is mutually extended by the City Council and Planning Board.
- [5] Extension. Upon the expiration of the aforementioned twelve-year period or any time prior thereto, the City Council shall have the right in its discretion to adopt a resolution extending the vested rights retained hereunder based upon the applicant's good faith efforts in completing the build-out of the PUD Master Development Plan. Notwithstanding anything to the contrary in this section, the vested rights retained hereunder shall be extended automatically for the amount of time equal to any material delay in the City's completion of any major public

infrastructure work, environmental remediation or any other obligations required for the PUD development that the City or any of its agencies is responsible for completing pursuant to any agreement concerning the PUD development, provided that the delay was not caused by the actions or inactions of the applicant.

[6] Expiration of PUD Master Development Plan approval. Nothing herein relating to vested rights shall be deemed to modify or alter in any way the expiration date of a PUD Master Development Plan approval, or the Planning Board's right to grant an extension of said approval, as provided for by law.

[7] Applicability. This section shall be applied only to PUD Master Development Plans approved by the Planning Board in the MW-3 District located on the south side of Garvies Point Road and Herb Hill Road, and including the portion of the approved PUD Master Development Plan for the RXR Glen Isle Mixed-Use Waterfront Development Project located on the north side of Garvies Point Road and Herb Hill Road.

D. Permitted principal uses on the north side of Garvies Point Road and Herb Hill Road:

- (1) Any non-water-dependent uses permitted in Subsection **B** on the south side of Garvies Point Road or Herb Hill Road as indicated above.
- (2) Business and professional offices and research, design and development laboratories.
- (3) Uses related to the production of cinema and other entertainment mediums.

E. Special permit uses on north side of Garvies Point Road and Herb Hill Road:

- (1) Light industry, as defined herein, limited to assembly, prototype development and processing that does not utilize chemicals in the process.
- (2) Expansion of existing industry not covered in Subsection **E(1)** above, provided that such expansion is within the permitted bulk requirements of this district and that such expansion does not hinder the achievement of the objectives of the MW-3 Zone.
- (3) A portion of a PUD approved by the Planning Board in accordance with Subsection **C(3)** above, including any conditions applicable thereto.

F. Accessory uses:

- (1) Uses customarily incidental or accessory to the principal uses subject to review and approval by the Planning Board, including but not limited to swimming pools, tennis courts, rest rooms, showers, maintenance, service and utility buildings and laundry facilities.
- (2) Signs in accordance with City of Glen Cove sign regulations. All signs shall be approved by the City of Glen Cove Planning Board or Sign Review Committee (SRC).
- (3) Off-street parking.

G. Lot area and building requirements for principal uses, except for properties covered by the provisions of Subsections **C(3)** and **E(3)**.

- (1) Minimum lot area: 40,000 square feet.
- (2) Minimum width: 100 feet.
- (3) Minimum frontage along street: 100 feet.
- (4) Minimum setback from street: 20 feet (no parking permitted in this setback).
- (5) Minimum rear yard: 20 feet to property line. When a use abuts the water, no structure may be closer than 30 feet to the mean high water line or bulkhead unless the project includes a walkway or esplanade along the water accessible to the public or some other means of public access acceptable to the Planning Board, in which case said setback requirement may be reduced or eliminated.

- (6) Minimum side yard: not required. If provided, such yard shall be 15 feet.
- (7) Minimum corner side yard: 25 feet.
- (8) Maximum height: two usable stories and in no event to exceed 35 feet. Where a building is at least 300 feet from a one- or two-family zone, the height may be four stories, but not more than 52 feet. Such increase in height shall be subject to a special permit.
- (9) No single building or group of attached buildings shall exceed 100 feet in length without a break in the plane of the facade. The distance between buildings, if any, shall be at least 15 feet. Buildings located within 100 feet of the bulkhead or high water line along the Glen Cove Creek shall not exceed 50 feet in dimension facing such waterfront.
- (10) Maximum development coverage (all impermeable surfaces) shall be 65% except as otherwise provided herein.
- H. Lot area and building requirements for accessory uses, except for properties covered by the provisions of Subsections **C(3)** and **E(3)**:
- (1) Minimum distance to front (street) property line: 60 feet, except parking which may be 20 feet from the front street line.
- (2) Minimum distance to any other property line: same as for principal use.
- (3) Maximum height: one story, and in no event to exceed 20 feet.
- I. Parking and loading requirements except for properties covered by the provisions of Subsections **C(3)** and **E(3)**.
- (1) Off-street parking.
- | Use | Spaces Required |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Yacht club | 1 for each 2 slips, plus 1 for each 2 total employees |
| Restaurant/Catering | 1 per 3 seats, plus 1 space per 2 employees on the largest shift |
| Retail | 1 per 250 square feet of gross floor area |
| Professional or business office | 1 per 200 square feet of space (exclusive of bulk storage, common area or utility areas) |
| Medical, dental office | 1 per 150 square feet of office space (exclusive of bulk storage, common area or utility area) |
| Hotel | 1 per hotel room or suite, plus 1 per 2 employees on the largest shift, plus 1 space for each 4 total seats in a meeting or conference facility |
| Light industry or laboratory | Same as I-1 District §280-69G |
| Residences | 2 spaces per dwelling unit with 1 or more bedrooms; 1 space per efficiency or studio dwelling unit |
| Other uses | As deemed necessary by the Planning Board |
- (2) Loading.
- | Use | Spaces Required |
|------------------------------------------------|---------------------------------------------------------------|
| Retail and industry | 1 per 25,000 square feet of building area or fraction thereof |
| Office in excess of 50,000 square feet | 1 per 50,000 square feet of building area or fraction thereof |
| Yacht club and related services and other uses | As deemed necessary by the Planning Board |
- (3) Shared parking. Where two or more uses are on the same lot, or part of a planned unit development, the total amount of parking spaces to be provided shall be the sum of the requirements, if any, for each individual use on the lot; the Planning Board may vary this requirement if the Board finds that the sharing of parking during the probable time of maximum use of such establishments is such as to permit a variation; however, once one or more of the uses terminates, the property owner shall be responsible for assuring adequate parking in conformance with the standards set herein. The Planning Board may also

approve the joint use of a parking area for uses of contiguous parcels as long as the Board is satisfied that the total number of spaces is adequate as computed above.

- J. Other provisions and requirements/guidelines, except for properties covered by the provisions of Subsections **C(3)** and **E(3)**.
- (1) Except as may be otherwise required, wherever an off-street parking area of three or more spaces faces a street, a planting area with a minimum width of six feet shall be provided between the parking area and the sidewalk. The planting plan for this strip shall be approved by the Planning Board as part of the site plan review. Plantings shall be a minimum of three feet in height planted three feet on center. The remaining portion of the required setback may be grass or other acceptable ground cover.
 - (2) Any use that abuts the Glen Cove Creek must provide a walkway/esplanade at least 16 feet wide, which will include a surface wide enough and stable enough to accommodate walking, jogging, rollerblading, biking and similar activities in a safe and attractive manner. The esplanade may also include benches and trees or shrubs within the 16 feet. The walkway must extend the entire width of the property along Glen Cove Creek and must be consistent with design guidelines established by the City. In addition, access to the water or waterfront may include, to the maximum practical extent, some type of public access such as, but not limited to, a park or plaza area. Where such access includes a plaza or open space in addition to an esplanade along the entire width of the property, the Planning Board may permit an increase in development coverage up to a total of 70%.
 - (3) Public pedestrian or boat access plans shall be approved by the Planning Board and the access shall be available for public use under a mutually acceptable arrangement between the City and the property owner. Where public access is provided, for security and safety reasons the times that access shall be available to the public shall conform to reasonable business or recreation hours.
 - (4) Non-navigable vessels shall not be permitted to be permanently or temporarily docked and occupied in waters within the Marine Waterfront District. Transient houseboats must have a permanent motor and holding tank for sewage waste with dock fittings permitting mechanical pump-out at dockside. Non-navigable houseboats shall not be permitted.
 - (5) Structures in this district shall be sited so as to preserve views of Glen Cove Creek and Hempstead Harbor.
 - (6) Structures shall adhere to guidelines to be established by the Planning Board as part of site plan rules and regulations. Guidelines shall include use of materials and designs consistent with the objectives of the MW-3 Zone.
 - (7) Runoff from parking lots, maintenance, and washdown facilities must be treated in a manner that prevents oils, grease and detergents from reaching adjacent water.
 - (8) Landscaping shall, to the maximum practical extent, include plants that require minimal water and use of pesticides.