

**Resolution No. 6B**

RESOLUTION OF THE GLEN COVE INDUSTRIAL DEVELOPMENT  
AGENCY PURSUANT TO THE STATE ENVIRONMENTAL  
QUALITY REVIEW ACT ADOPTING POSITIVE FINDINGS FOR A  
CERTAIN PROJECT FOR 135 GLEN COVE AVE. CORP. AND/OR  
ITS AFFILIATES OR RELATED DESIGNEES

**Name of Project:** Villas at Glen Cove

**Location:** 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York

**SEQR Status:** Type I

**Determination of Significance:** Adoption of Lead Agency Positive Findings for an Action that has been the subject of a Final Environmental Impact Statement

WHEREAS, the Glen Cove Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 374 of the 1974 Laws of New York, as amended, constituting Section 919 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, industrial and commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, 135 GLEN COVE AVE. CORP., a corporation organized and existing under the laws of the State of New York, on behalf of itself and/or its affiliates or related designees (the "Company"), presented a certain application for financial assistance (the "Application") to the Agency, which Application requested that the Agency consider undertaking a proposed project consisting of the following (the "Project"): (A)(1) the acquisition of an interest in certain parcels of land located at 1 & 5 Ralph Young Avenue, 8 Craft Avenue, and 113, 127, 131, 133, 135 & 145 Glen Cove Avenue, City of Glen Cove, Nassau County, New York (Section: 21; Block: 38; Lots:

152, 196, 202 and 203; Section 21; Block: 244; Lots: 55, 60, 61, 66 and p/o 67) (collectively, the “Land”), (2) the construction of six (6) buildings aggregating approximately 353,394 square feet of space (collectively, the “Building”) on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the “Equipment”) necessary for the completion thereof (collectively, the “Project Facility”), all of the foregoing for use by the Company as a residential rental facility consisting of approximately 176 residential rental units, a portion of which shall be affordable units; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the New York Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“NYSDEC”), being 6 NYCRR Part 617, et. seq., as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, on May 6, 2008, the City of Glen Cove Planning Board (“Planning Board”) declared itself to be Lead Agency pursuant to the requirements of SEQRA and issued a positive declaration for the Project, thereby requiring the preparation of a Draft Environmental Impact Statement (“DEIS”); and

WHEREAS, the Planning Board’s coordinated review of the Project did not include the Agency as the Agency had not yet received an application and been identified as an Involved Agency; and

WHEREAS, on July 6, 2010, the Company submitted a DEIS to the Planning Board; and

WHEREAS, on September 7, 2010, the Planning Board determined that the DEIS submitted by the Company was complete and adequate for the purposes of commencing public review; and

WHEREAS, the Planning Board held a public hearing on the DEIS on October 19, 2010, with a written public comment period that expired on November 16, 2010; and

WHEREAS, in or about November, 2010, the Company was provided a list of substantive comments from the Planning Board regarding the DEIS to be addressed in the Final Environmental Impact Statement (“FEIS”); and

WHEREAS, in accordance with SEQRA, the Planning Board filed the FEIS (together with the DEIS, the “EIS”) in June 2014; and

WHEREAS, on April 6, 2016, the Planning Board issued a Findings Statement with respect to the Project; and

WHEREAS, the Company, by letter dated June 9, 2020 to the Planning Board, submitted an amendment to its application to the Planning Board which, among other changes, proposed to: (1) reduce the number of bedrooms from 320 to 278; (2) reduce the height of certain buildings; (3) modification of the parking layout of the site to provide for an increase in the number of parking spaces proposed; (4) elimination of certain rooftop recreational space on certain buildings; (5) the acquisition of an additional adjacent parcel for passive outdoor recreation; (6) modification in the proposed form of ownership of proposed residential units from condominium to leasehold; (7) to account for a greater depth of cut for the larger structured parking area proposed; (8) elimination of a previous proposal to underground utility wires along Glen Cove Avenue; (9) modification of the type of stormwater management infrastructure utilized; and (10) delay of the build year for the proposed structure and site (collectively, 1-10 shall be referred to as the “Project Modifications”); and

WHEREAS, on November 20, 2020, the Planning Board adopted a Supplemental Findings Statement and resolved not to require the preparation of a supplemental EIS (“SEIS”) as the Project Modifications would not result in any significant adverse environmental impacts not addressed in the EIS; and

WHEREAS, pursuant to SEQRA, to aid the Agency in determining whether, considering the relevant environmental impacts, facts and conclusions disclosed in the EIS, and weighing and balancing relevant environmental impacts with social, economic and other considerations, the Agency has certifies that, consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures which were identified as practicable, the Agency has received and reviewed: (1) the EIS, including all appendices, figures, tables, and other materials referenced in the EIS (2) an Application for Financial Assistance; (3) the Planning Board’s Findings Statement; (4) a memorandum prepared by Lorianne DeFalco, AICP dated June 4, 2020 (“AKRF Memo”), together with a traffic report prepared by R&M (“Traffic Supplement”); (5) a memorandum prepared by Osman Barrie, PE, PTOE, PTP dated July 17, 2020 (“Traffic Supplement Review Memo”); (6) a memorandum prepared by Max Stach, AICP dated September 14, 2020 (“Stach Memo”); (7) the Planning Board’s Supplemental Findings Statement (together with the original Findings Statement, the “Project Findings”); (8) a letter from Frederick Eisenbud, Esq. dated July 21, 2021 (“Eisenbud Letter”); (9) the complete docket of the Matter of the Application of Roni Epstein v. Planning Board of the City of Glen Cove, City Council of the City of Glen Cove, 135 Glen Cove Ave. Corp., Livingston Development Corp., Gaspare Tumminello, and Gregory Kalintsky (“Litigation”); (10) a memorandum prepared by the Company’s counsel dated July 28, 2021 (“Company Memo”); and (11) other relevant environmental information (collectively, 4-11 shall be referred to as the “2020 SEQRA Update” which, together with 1-3, shall be referred to as the “Environmental Information”); and

WHEREAS, after careful review of the Environmental Information, the Agency must now issue its own findings statement in accordance with the requirements of SEQRA; and

WHEREAS, the findings contained herein are based on the full record of the proceedings and submissions that were presented to the Planning Board and the Agency and are included as part of its administrative record;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GLEN COVE INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

**Section 1.** Based upon a thorough review and examination of the Project and Environmental Information, and upon the Agency's knowledge of the area surrounding the Land and such further investigation of the Project and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings with respect to the Project:

- (A) The Planning Board exercised due diligence in identifying all other involved agencies and provided written notice to the identified involved agencies of its determination of significance, such that the Agency may not require the preparation of an environmental assessment form, negative declaration, or an EIS pursuant to SEQRA (6 N.Y.C.R.R. 617.6(b)(3)(iii)), as described below;
- (B) The Agency must issue a findings statement in accordance with the requirements of SEQRA.

**Section 2.** Based upon the Agency's review of the Environmental Information and considering the relevant environmental impacts, facts and conclusions disclosed in the EIS, and weighing and balancing relevant environmental impacts with social, economic and other considerations, the Agency certifies that, consistent with the social, economic and other essential considerations from among the reasonable alternatives available, the Project remains one which avoids or minimizes adverse environmental effects to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigation measures which were identified as practicable.

**Section 3.** The EIS sufficiently evaluates impacts of the Project Modifications.

The Project Modifications, as detailed in the AKRF Memo, result in a net decrease in the number of bedrooms of 42 beds, a corresponding decrease of 4 parking spaces, a reduction of the height of 5 of the 6 buildings on the Land, a change from valet to self-parking, and a minor increase in the size of the Land associated with the project, reflecting the addition of approximately 23,000 square feet of property.

The EIS and associated Project Findings thoroughly evaluated impacts to land use, zoning, public policy, visual and aesthetic resources, socioeconomics and demographics, soil conditions and topography, hydrology and water conditions, ecological conditions, transportation, historic and archaeological resources, community facilities and services, air quality, noise, and cumulative impacts of adjacent development.

The 2020 SEQRA Update generally, and the AKRF Memo specifically, provided an extensive summary of the Project Modification's potential impacts on each of the above areas, and the Stach Memo concurred in the AKRF's analysis of such impacts. Overall, the Project Modifications, analyzed in the context of the EIS and Project Findings, do not result in any significant adverse environmental impacts not addressed in the EIS. Further, the Project Modifications, coupled with the mitigation requirements contained in the Project Findings, are at least as protective of the environment as the original Project.

#### Objections Raised by Neighbors are Sufficiently Addressed in the EIS

The Eisenbud Letter raised certain objections to the Project Modifications on the basis of SEQRA. Specifically, the Eisenbud Letter asserts that a new determination of significance must be issued by the Agency, and a new DEIS prepared (if a positive declaration is issued pursuant to SEQRA). The Eisenbud Letter further makes reference to the Litigation, which includes certain allegations as to the insufficiency of the Planning Board's SEQRA review of the Project Modifications. The Agency, after careful consideration and deliberation, finds that these objections are without merit, for the reasons discussed below.

#### SEQRA does not Permit the Agency to Issue a new Determination of Significance

As to Mr. Eisenbud's initial point that the Agency should require a new DEIS, the Agency rejects this contention on the basis that SEQRA does not permit the Agency to require the Company and the Project to work through a duplicative SEQRA review of the Project. *See* 6 N.Y.C.R.R. 617.6(b)(3):

(iii) If a lead agency exercises due diligence in identifying all other involved agencies and provides written notice of its determination of significance to the identified involved agencies, then no involved agency may later require the preparation of an EAF, a negative declaration or an EIS in connection with the action. The determination of significance issued by the lead agency following coordinated review is binding on all other involved agencies.

As the Eisenbud Letter notes, the Planning Board was not aware at the time of the issuance of the EIS that the Agency would become an Involved Agency. The Project was not, at the time the Planning Board established itself as Lead Agency, seeking Financial Assistance from the Agency. As such, the Planning Board exercised proper due diligence in following the SEQRA requirements.

Further, SEQRA requires that "Agencies must carry out the terms and requirements of this Part with minimum procedural and administrative delay, must avoid unnecessary duplication of reporting and review requirements by providing, where feasible, for combined or consolidated proceedings, and must expedite all SEQR proceedings in the interest of prompt review." 6 N.Y.C.R.R. 617.3(h). In the event the Agency required the preparation of a new DEIS, the Agency would be requiring duplication of nearly a decade's worth of environmental review, while delaying the Project for months if not years, with no tangible gain or increased protections for the environment. As such,

SEQRA does not permit the Agency to issue a new determination of significance for the Project Modifications, or the associated preparation of a duplicative DEIS.

*Impacts of High-Density Apartments on Health/Safety during the Pandemic are Highly Speculative*

In the Litigation-related papers attached to the Eisenbud Letter, it is alleged that the EIS is insufficient for the review of the Project Modifications as the EIS does not include an analysis of the impact of high-density apartments on the health and safety of residents during a pandemic. The Agency rejects this contention, as the alleged environmental impacts are too speculative to be properly considered.

According to the SEQR Handbook, information to warrant preparation of an EIS must be relevant to the discussion of significant adverse environmental impacts, and important for the accuracy of the assessment of those impacts. Further, environmental assessment must be limited to impacts that are probable, not speculative.

The Project, as previously approved, is permitted to proceed as-of-right with more bedrooms than currently proposed. The Eisenbud Letter (and Litigation) provide no explanation for how the Project Modifications exacerbate the alleged harms associated with high-density apartment construction. It would be unreasonable for the Agency to speculate as to the potential impact that future variants of the COVID-19 may have upon such development several years into the future, when the Project Modifications are constructed.

There is no precedent to require an EIS to study the impact of COVID-19. At this point, any study of the impacts of the Project Modifications would be purely speculative. As such the Project Modifications impacts are sufficiently addressed in the EIS and Project Findings.

*Traffic and Parking are Sufficiently Addressed in the EIS*

The Litigation further alleges that the impacts of the Project Modifications on traffic and parking are insufficient. The change from condominium units to rental units will not have a change in the quantity of traffic generated by the development. The Planning Board's Supplemental Findings note that potential traffic impacts were thoroughly studied as part of the 2016 SEQRA review of the Project. The 2016 review included an extremely conservative traffic growth rate factor as it related to traffic growth in the area (1.5% per year where the ambient traffic growth rate rose by .5% per year per the Traffic Study) so that the traffic generated by other new development projects in Glen Cove which were not specifically included in the 2016 traffic analysis would be covered and the traffic studies for those other developments would have included traffic anticipated from the subject development.

Further, the Traffic Supplement has determined that for developments that generate fewer than 100 added peak hour trips, no traffic impact study is suggested. In this instance, it was determined that a maximum of 77 peak hour trips would be created.

The City's traffic engineers, Nelson and Pope further concluded that "the trip generation

estimates provided in the letter for the comparison of the trip generation characteristics of the uses is accurate. Based on the numbers calculated, we agree with the applicant's engineer that the current proposal will generate less traffic than the previously approved project and hence the potential impact to the roadway network associated with the proposed project will be less than what was projected for the previously approved project." as detailed in the Traffic Supplement Review Memo.

As to parking, a full analysis was done in 2010, a supplemental analysis was done in 2016, and then the Traffic Supplement was in done in 2020 as a comparative analysis to confirm that the conditions mentioned in the 2016 Findings Statement remain valid from a traffic engineering perspective.

The project is zoning compliant as to parking, and on a whole, provides for 2 spaces per unit and does not require a variance. As such the Project Modifications impacts on traffic and parking are sufficiently addressed in the EIS and Project Findings.

#### Potable Water is Sufficiently Addressed in the EIS

The Litigation claims that the availability of potable water was not properly considered in the Project Findings. The Agency rejects this contention, as there were no infrastructure or utility changes to the Project that would substantially alter the findings in the EIS.

As noted in the Company Memo, the availability of potable water and the cumulative impact of the Project, along with the other development projects, was thoroughly analyzed in the EIS. The change in ownership structure and involvement of the Agency does not amount to a change in circumstance which would require a reassessment of the cumulative impacts of this Project's impacts on potable water. As noted in the Litigation papers included in the Eisenbud Letter, the Planning Board obtained a letter from the Director of Public Works for the City stating that water will be available for the Project as a whole (including the Project Modifications). As such the Project Modifications impacts on potable are sufficiently addressed in the EIS and Project Findings.

#### Socio-Economic Impacts are Sufficiently Addressed in the EIS

The Litigation also claims that the Planning Board failed to take into account impacts the Project Modifications could have on socio-economic matters, specifically with respect to the number of children going to local schools as a result of the type of ownership of the units.

The Project Modifications, as noted in the Project Findings, would result in a decrease in the number of residents from what was analyzed in the EIS for a 216-unit project (366 compared to 406), and a slight increase in residents (366 compared to 353) compared to the Project already approved by the Planning Board. The Company's Memo prepares an extensive analysis which appropriately concludes that, even assuming a wide margin for error, the net impact on the public school system would be negligible in terms of the number of school-aged children resident at the Project per year, and that the impacts of the PILOT payments would more than offset any costs to the school system.

As such, the Project Modifications would not be expected to result in any significant

adverse impacts on socioeconomic or demographic conditions. As with the previously approved Project, redevelopment of the site with active, high-quality residential uses would be a positive impact as it would increase the level of activity on a vacant and underutilized site in this historically blighted and economically challenged part of the city. The Project Modifications also includes much-needed affordable housing. Therefore, as with the previously approved Project, the Project Modifications are not expected to result in any significant adverse impacts on socioeconomic and demographic conditions, and no further analysis is warranted.

*The Agency's SEQRA Record is not Deficient*

The Litigation with respect to SEQRA concludes with the claim that the Stach Memo was not properly before the Planning Board due to the timing of its production, and that therefore the Planning Board could not rely on the Stach Memo when preparing its SEQRA Project Findings. The Agency notes that the Stach Memo was provided in advance of the preparation of this Resolution, and that SEQRA does not require that a public hearing be held in advance of merely the issuance of a findings statement.

**Section 4.** After careful review and consideration, the Agency concurs with the Project Findings as the Project Findings respond fully to the environmental concerns of the Agency, and the Agency hereby adopts all of the Project Findings in their entirety as the Agency's own finding statement, the contents of which are incorporated herein by reference.

**Section 5.** Having considered the Environmental Information, and having considered the relevant environmental impacts, facts and conclusions relied upon to meet the requirements of 6 N.Y.C.R.R. § 617.11, and having weighed and balanced the relevant impacts with social, economic and other considerations, the Agency certifies that the requirements of 6 N.Y.C.R.R. Part 617 have been met; and

**Section 5.** The Chair, Vice Chair and Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 6.** This Resolution, together with the Project Findings, which are adopted by a majority vote of the Agency, shall serve as the Findings Statement (as described in 6 N.Y.C.R.R. 617.11) for the Project, and is issued by the Agency pursuant to and in accordance with SEQRA in connection with the Planning Board's coordinated environmental impact review, and shall take effect immediately.



The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u>VOTING</u>
Timothy J. Tenke	AYE
Vincent C. Hartley	AYE
Joseph Gioino	AYE
James J. Cappiello	AYE
John Tetta	NO
David Jimenez	AYE
Ion Puspurica	AYE

The foregoing Resolution was thereupon declared duly adopted.

ENTERED  
7-29-21

GC-IDA


STATE OF NEW YORK     )  
  ) SS.:  
COUNTY OF NASSAU     )

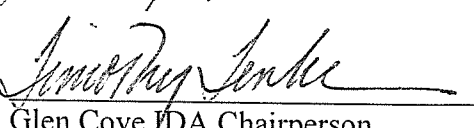
WE, the undersigned officers of the Glen Cove Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on July 29, 2021 with the original thereof on file in our offices, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

WE FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, we have hereunto set our hand this 29<sup>th</sup> day of July, 2021.

  
Glen Cove IDA Secretary

  
Glen Cove IDA Chairperson