

## NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 13th day of June, 2018 duly adopted a resolution, an abstract of which is as follows:

### RESOLUTION NO. 452 JULY 13, 2018

#### **GRANTING THE REZONING APPLICATION OF LINDENHURST GATE, LLC, FOR THE PARCELS OF LAND AT SCTM NO. 0100-226.00-03.00-059.000, 123.00, 124.00, & 182.00, LOCATED ON THE SOUTH SIDE OF MONTAUK HIGHWAY, BETWEEN DEAUVILLE PARKWAY AND VENETIAN BOULEVARD, LINDENHURST**

WHEREAS, Lindenhurst Gate, LLC. (the "Petitioner") has heretofore petitioned this Board for a change of zone of certain property which is located on the s/s/o Montauk Highway, between Deauville Parkway and Venetian Boulevard, Lindenhurst, New York, SCTM No.: 0100-226.00-03.00-059.000, 123.00, 124.00, & 182.00, located in the SC004 School District, and further described on Schedule A attached hereto, located in the SC004 School District, from C Residence District to E Business District; and

WHEREAS, a public hearing was held on said petition on the 13<sup>th</sup> day of June, 2018; and

WHEREAS, in accordance with Section 617.5(c)(9) State Environmental Quality Review (SEQR), this proposal involves the construction of a 5,036 sq. ft. multi-tenant, one story retail building along with associated site improvements, and the Board has adopted a Negative Declaration and no further action is required pursuant to SEQR; and

WHEREAS, this proposed change of zone conforms to the Town of Babylon Comprehensive Plan,

NOW, THEREFORE, be it

RESOLVED, by the Town Board of the Town of Babylon that the application of Lindenhurst Gate, LLC. for a change of zone, from C Residence District to E Business District; described in the attached Schedule A, be and the same hereby is granted, and further that the Zone Map of the Town of Babylon be and the same hereby shall be amended to reflect the zone change subject to the following conditions:

1. Subject to SCPC referral.
2. Subject to ZBA approval.
3. Subject to NYS DOT approval.
4. Subject to the applicant providing a completed LEED checklist or the local variant of a green building project checklist acceptable to the Commissioner of Planning and Development.
5. Owner/applicant shall comply with the Town of Babylon Stormwater Code (Chapter 189).
  - a. An Industrial Agreement must be signed.
  - b. Stormwater application fee must be submitted.
  - c. Contain all stormwater on-site to Engineering requirements.
6. Fire and smoke detection systems and carbon monoxide detectors should be installed in accordance with NFPA 72.
7. Address number, building number, or approved building identification to be placed in a position visible from the street.
8. As a minimum measure to reduce noise levels, applicant/owner to install sound insulation panels around all air-conditioning units, chillers, refrigeration units and sound insulation blankets around all air-handling units if required by the Town.
9. Owner to contribute to the fund for the installation and maintenance of emergency vehicle optical pre-emption equipment on traffic signals in the area. Estimated cost to be \$1,000.00.
10. All regulatory and warning signs are to adhere to the Manual of Uniform Traffic Control Devices for Streets and Highways specifications. All signs must also be fabricated using high-intensity retro reflective sheeting.

11. Construction will be conducted between the hours of 7am and 8pm on weekdays and between the hours of 9am and 4pm on Saturdays. No exterior construction will be permitted on Sundays, only interior construction. Construction activities on site shall be in strict conformance with Chapter 156-9D of the Noise Code of the Town of Babylon.
12. The location of new transformers and water service devices shall be approved by the Town of Babylon Planning Department prior to installation and shall not be located adjacent to any roadways.
13. Water saving plumbing fixtures to be utilized.
14. SCTM#'s 0100-226-03-059, 123, 124, & 182 shall be merged.
15. Subject to Highway, Engineering, and Fire Marshal requirements.
16. The location of temporary, construction fencing is subject to approval of the Engineering Inspector, as to ensure that it does not cause sight line obstructions.

and be it further

RESOLVED, that the aforementioned change of zone shall not be effective until there has been filed with the County Clerk of Suffolk County the following Covenants and Restrictions to run with the land, subject to the approval of the Town Attorney:

1. No exterior-mounted steel security gates or shutters permitted. Only interior-mounted mesh type security gates permitted.
2. All site lighting to be contained on site and must conform to dark-sky lighting regulations.
3. No outdoor speakers or paging systems.
4. The owner/developer is responsible for maintaining all site development improvements including but not limited to the following: fire and smoke detection system, automatic fire sprinkler system, building, drainage, curbs, sidewalks, fencing, asphalt, landscaping, etc.
5. Owner/applicant shall comply with all NYS regulations for handicapped accessibility, including but not limited to handicapped ramps and handicapped parking spaces.
6. All noise generating equipment on-site including but not limited to heating ventilation and air conditioning (HVAC), chillers, refrigeration units, and compressors shall operate in conformance with Chapter 156 Town of Babylon Noise Code. In the event that any such equipment exceeds Chapter 156 standards immediate steps shall be taken to mitigate those noise levels.
7. All buildings, structures, signs, fences, and landscaping shall be maintained in accordance with all applicable codes and ordinances of the Town of Babylon, and violations thereof may be prosecuted and enforced in the same manner as provided therein.
8. No further development of the site without planning board approval.
9. No truck idling is permitted at any time. Owner to post signs "No Idling of Engines—No Exceptions."
10. All refuse shall be contained within the perimeter and height of the refuse enclosure as approved by the site plan.
11. Maintenance access shall be in accordance with Section 189-9 of the Code of the Town of Babylon. The Town of Babylon shall be provided with access to the stormwater infrastructure at reasonable times for periodic inspection by the Town of Babylon and its officers to ensure that the infrastructure is maintained in proper working condition to meet design standards and any other provisions established by Chapter 189. This agreement shall be binding on all subsequent landowners.
12. Maintenance after construction shall be in accordance Section 189-9 of the Code of the Town of Babylon. Stormwater management practices installed in accordance with Chapter 189 shall be operated and maintained to ensure that the goals of Chapter 189 are fully achieved. Proper operation and maintenance includes, at minimum, the following:
  - a. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of Chapter 189. A written record of stormwater management system maintenance activities shall be established and maintained on site and be available for review by the Town of Babylon upon request.

- b. Written procedures for operation and maintenance and training new maintenance personnel shall be prepared and maintained on site and will be available for review by the Town of Babylon upon request.
  - c. Discharges from SMPs shall not exceed design criteria or contribute to water quality standard violations in accordance with §189-8B of the Code of the Town of Babylon.
13. Upon completion of construction, any stormwater control structures impacted during construction shall be cleaned by the owner or operator. Routine maintenance of stormwater infrastructure on the site will include the following:
- a. Monitoring of drainage inlets (catch basins) will be completed routinely, particularly after larger storm events and must be kept free from obstruction by leaves, trash, and other debris.
  - b. Drainage grates must be kept free from obstruction by leaves, trash, and other debris.
  - c. Drainage structures shall be inspected annually to determine if sediment removal is necessary to ensure that the drainage structures are properly functioning and that they permit adequate conveyance throughout the system. If applicable, the manufacturer's specifications for maintenance procedures and frequency must be strictly followed.
  - d. The drainage structures must be routinely monitored for the removal of surface sediment and trash.
  - e. Street sweeping of the parking areas shall be conducted at least four times annually to remove sediment that may impact the drainage infrastructure and additionally, as necessary due to storm events.
  - f. The grounds and parking area shall be inspected for litter monthly and any litter shall be removed as necessary.
14. The entire building is to have a fully automatic fire sprinkler system installed pursuant to NFPA 13 and Section 213-235 of the Town Zoning Code and as required by the Fire Marshal.
15. The Town of Babylon is not responsible for any damage to the curbs or light poles on site in connection with solid waste pick up.
16. Should SCTM#'s 0100-226-03-059, 123, 124, & 182 not be merged, no parcel shall be sold or operated independent of the other parcel, since the parcels only operate conjointly as a contiguous site.

BE IT FURTHER RESOLVED, that in case of any violation or attempted violation of any of the covenants by the owners or their lessees and failure of the owners to remedy any such violation within thirty (30) days after written notice by the Town, the Town shall have the right, on its own motion and after notice, to rescind said change of zone and the subject premises shall revert from E Business District back to its zoning as of the date of this resolution which is the C Residence District, and be it further

RESOLVED, that if the owners hereto, or any of them, their lessees, their heirs, successors, or assignees shall violate or attempt to violate any of the covenants or conditions required by the granting of this permit, it shall be lawful for the Town of Babylon to prosecute any proceedings at law or in equity, including but not limited to enforcement by way of injunctive relief; any remedies chosen by the Town Board to enforce any covenant, restriction or condition herein shall be cumulative and at the discretion of the Town Board as to how best to enforce such covenant, restriction or condition; the election of one method of enforcement shall not constitute a bar to electing any other method of enforcement permitted by law; and be it further,

RESOLVED, that the Town Clerk of the Town of Babylon be and hereby is authorized to publish a notice of said change of zone in one of the official newspapers of the Town of Babylon.

## SCHEDULE A

All that certain, piece or parcel of land, with the buildings and improvements erected thereon, situate, lying, and being at Lindenhurst, in the Town of Babylon, County of Suffolk, and State of New York, known and designated as Part of Lots 1, 2, 3 & 4, in Block 4 as shown on a certain map entitled "Map of Venetian Shores", filed in the Office of the Clerk of Suffolk County on June 11, 1926 as and by Map No. 149, being more particularly bound and described as follows:

BEGINNING at a point distant 120.12 feet Easterly from the corner formed by the intersection of the Southerly side of Montauk Highway, N.Y.S. Rte. 27A and the Easterly side of Deauville Parkway and from said point or place of Beginning;

Running thence Easterly along the Southerly side of Montauk Highway, N.Y.S. Rte. 27A along the arc of a curve, bearing to the right, having a radius of 1,592.02 feet a distance of 56.60 feet to a point

Running thence Southeasterly along an arc of a curve, bearing to' the right, having a radius of 70.00 feet a distance of 59.30 feet to the Westerly side of Venetian Boulevard to a point,

Running thence Southerly along the Westerly side of Venetian Boulevard South 23° 01' East a distance of 56.86 feet to a point,

Running thence Westerly South 66° 59' West a distance of 80.00 feet to a point,

Running thence Northerly North 23° 01' West a distance of 114.61 feet, to the Southerly side of Montauk Highway, N.Y.S. Rte. 27A to the point or place of BEGINNING.

Dated: June 13, 2018, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON  
GERALDINE COMPITELLO, TOWN CLERK