

## 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 1<sup>st</sup> day of March, 2022 duly adopted a resolution, an abstract of which is as follows:

**RESOLUTION NO. 211 MARCH 1, 2022**  
**GRANTING REZONING APPLICATION OF 304 COMMACK ROAD, LLC FOR THE**  
**PREMISES IDENTIFIED BY SCTM#: 0100-091-01-112 LOCATED ON THE W/S/O COMMACK**  
**RD, 553' N/O TELL AVE, DEER PARK**

WHEREAS, 304 Commack Road, LLC (the "Petitioner") has heretofore petitioned this Board for a change of zone of certain property which is located on the w/s/o Commack Rd, 553' n/o Tell Ave, Deer Park, New York, SCTM No. 0100-091-01-112, and further described on the annexed Schedule A, from B-Residence District to MR-Multiple Residence; and

WHEREAS, a public hearing was held on said petition on the 16th day of February, 2022; and

WHEREAS, in accordance with Section 617.5(c)(9) State Environmental Quality Review (SEQR), this proposal involves a change of zone in order to construct three (3) two-story apartment buildings for a total of 34 one-bedroom with dens and loft or basement space for each, 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 304 Commack Road, LLC, for Job No. 21-05AE for a change of zone from B-Residence District to MR-Multiple Residence District for the premises 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:

Conditions:

1. Subject to final site plan approval from the Planning Board.
2. Subject to ZBA approval.
3. Subject to SCPC approval.
4. Subject to SCDHS approval.
5. Subject to SCDPW approval.
6. Subject to SWPPP approval.
7. 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 runoff on-site to Engineering requirements.
8. A rodent control plan will be implemented prior to construction in order to remove rodent populations from the site. Additionally, the adjacent landowners will be notified prior to the commencement of construction.
9. Fugitive dust generation shall be controlled by appropriate means such as watering.
10. Fire and smoke detection systems and carbon monoxide detectors should be installed in accordance with NFPA 72.
11. Address number, building number, or approved building identification to be placed in a position visible from the street.
12. 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.
13. 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 \$2,500.00.

14. 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.
15. 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 the site shall be in strict conformance with Chapter 156-9D of the Noise Code of the Town of Babylon.
16. 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.
17. Sewer district and water saving plumbing fixtures to be utilized.
18. Subject to Highway, Engineering, and Fire Marshal requirements.
19. Subject to the requirements of Highway, Engineering, and the Fire Marshall.
20. An automatic/manual fire detection/notification system shall be installed.
21. Audio/visual notifications for all alarms should be installed in all units.

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. The owner/developer is responsible for maintaining all applicable 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.
4. Fire and smoke detection systems and carbon monoxide detectors should be installed in accordance with NFPA 72.
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 189-8 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 with Section 189-8 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 the stormwater infrastructure on the site will include the following:
- a. Monitoring of the 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 structure 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. All units to have central air conditioning or through the wall air-conditioning units, no window units to be permitted.
17. The use of inorganic fertilizers, pesticides, and herbicides shall be minimized as standard operating procedure for the landscape maintenance of the site.
18. Twenty percent of units (8) shall be designated as workforce/affordable housing. Units to be scattered equally throughout the site. Affordable/workforce units shall be targeted to qualified households making 80% or less than the Suffolk County HUD income limits, which are updated annually. A recognized affordable housing provider shall be engaged by the owner/applicant to oversee the affordable component. Proof of such engagement shall be provided to the Planning Department.
19. Dens shall not have closets or doors. Openings to the room shall exceed 4' in width.
20. Lofts shall not contain sleeping quarters.
21. Basements shall be unfinished space used for storage and utilities only.

BE IT FURTHER RESOLVED, that in case of any violation or attempted violation of any of the conditions of approval or covenants and restrictions by the owners or their lessees, heirs, successors, and assigns and failure of said parties 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 MR-Multiple Residence to B-Residence, and be it further

RESOLVED, that if the owners hereto, or any owner, its lessees, heirs, successors, or assignees shall violate or attempt to violate any of the conditions or covenants and restrictions 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 condition, covenant, or restriction herein shall be cumulative and at the discretion of the Town Board as to how best to enforce such condition, covenant, or restriction; the pursuit of one method of

enforcement shall not constitute a bar to pursuing 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 plot, piece or parcel of land, situate, lying and being at Deer Park in the Town of Babylon, County of Suffolk and State of New York, known and described as Plot No. 2, on the Map of Commack Park, Park, filed in the office of the Suffolk County Clerk on March 14, 1935, as file No. 1177, said property being more particularly bounded and described as follows:

BEGINNING at a point on the westerly side of Commack Road (Commack Road, C.R. 4) distant 553.69 feet northerly from the corner formed by the westerly side of said Commack Road and the northerly side of Tell Avenue;

RUNNING THENCE South 86 degrees 50 minutes 00 seconds West, 504.72 feet;

THENCE North 11 degrees 51 minutes 23 seconds East, 175.76 feet;

THENCE North 86 degrees 50 minutes 00 seconds East, 543.74 feet to said westerly side of Commack Road;

THENCE along the westerly side of said Commack Road, the following two (2) courses and distances:

- 1) South 28 degrees 28 minutes 20 seconds West, 57.70 feet; and
- 2) South 21 degrees 04 minutes 10 seconds West, 132.30 feet to the point or place of BEGINNING.

Containing 88,498 Square Feet or 2.0316 Acres, more or less.

Reference SCTM 100-01-01-112

Dated: March 1, 2022 Town of Babylon

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