

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 29th day of March, 2023 duly adopted a resolution, an abstract of which is as follows:

RESOLUTION NO. 273 MARCH 29, 2023
GRANTING REZONING APPLICATION OF EMERSON CORNER CORP (PB JOB #22-15ANE)
FOR THE PREMISES IDENTIFIED AS SCTM#: 0100-180-03-022.006 LOCATED ON THE
N/W/C/O MONTAUK HWY & N. EMERSON AVE, COPIAGUE

WHEREAS, Emerson Corner Corp. (the "Petitioner") has heretofore petitioned this Board for a change of zone of certain property which is located on the n/w/c/o Montauk Hwy and N. Emerson Ave, Copiague, New York, identified as SCTM No. 0100-180-03-022.006, and further described on the annexed Schedule A, from split-zoned E-Business and C-Residence to entirely E-Business; and

WHEREAS, more specifically, the proposal involves a change of zone from E-Business and C-Residence to E-Business, in order to demo an existing building and pump island with canopy and construct a new pump island with a 3,900sf canopy and renovate an existing 2,860sf (footprint), two-story building for a gas station convenience store and public garage with storage space on the second floor; and

WHEREAS, a public hearing was held on said petition on the 15th day of March, 2023; 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 interior alterations for a change of use to office and day programming space 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 Emerson Corner Corp, for Job No. 22-15ANE for a change of zone from E-Business and C-Residence District to E-Business 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:

1. Subject to final site plan approval from the Planning Board.
2. Subject to ZBA approval for any associated variances.
3. Subject to SCPC referral.
4. Subject to NYSDOT approval for any work conducted in the NYS ROW.
5. Subject to SCDHS approval for underground tanks as per Article 12.
6. 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.
7. 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.
8. Fugitive dust generation shall be controlled by appropriate means such as watering.
9. Fire and smoke detection systems and carbon monoxide detectors should be installed in accordance with NFPA 72.
10. Address number, building number, or approved building identification to be placed in a position visible from the street.
11. 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.
12. During construction, owner/applicant is responsible to sweep access streets and keep the roadways free of dirt and mud.
13. 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.
14. Sewer district connection required and water saving plumbing fixtures to be utilized.
15. All regulatory 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.
16. 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.
17. Subject to the requirements of Highway, Engineering, and the Fire Marshall.
18. A fixed pipe suppression system to be installed to protect the pumps and canopy and at the direction of the Town of Babylon Fire Marshal.
19. A manual transfer switch to allow for the connection of a emergency generator shall be installed and maintained.
20. E-85 and any other alternative fuel will only be dispensed in accordance with State and Industry Code and Regulations and only after approval from the Town of Babylon Fire Marshal.

21. Any site signage proposed must be located so as to not adversely impact site plan functionality and is subject to further review by the Town of Babylon Planning Department. Sign package and permit application to match elevations, renderings, and plans provided and approved by Planning Board. Upon filing proposed sign package with sign inspector, applicant shall simultaneously submit a copy to the Planning Department for review of location and suitability of proposed signage. Should proposed signage conflict with approved site plan, the Commissioner of the Planning Department reserves the right to require the applicant to file for a site plan modification.
22. SCTM#'s 0100-180-03-022.006, 0100-180-03-022.005, 0100-180-03-024, & 0100-180-03-025 shall be merged.

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. Owner/applicant shall comply with all NYS regulations for handicapped accessibility including, but not limited to, handicapped ramps and handicapped parking spaces.
5. 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.
6. 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.
7. No further development of the site without Planning Board approval.
8. All refuse shall be contained within the perimeter and height of the refuse enclosure as approved by the site plan.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.

14. No exterior paging or public address equipment, beyond the intercom equipment located within each dispenser which allows 2-way communication between self-service customer and the attendant within the building.
15. There shall be no display or sales of vehicles.
16. There shall be no outdoor storage of unregistered or derelict motor vehicles, vehicle parts, tires, etc.
17. Public restrooms shall be provided.
18. All non-contained or "free-blowing" trade waste debris will be removed from the subject property and public properties within 200' of the subject property at 8am and 5pm daily.
19. There shall be no dispensing or sale of propane at any time.
20. No outdoor displays to be located at the pump islands or in front of the building.
21. The Planning Board reserves the right to impose restrictions on the hours of operation for both the gasoline service station and convenience store.
22. There shall be no truck deliveries or entry onto the site for the purpose of truck deliveries between the hours of 11pm and 6am Monday through Friday or between the hours of 10pm and 8am on Saturday and Sunday.
23. No truck idling is permitted at any time. Owner to post signs in the delivery areas "No Idling of Engines—No Exceptions".
24. By virtue of this site plan approval, SCTM #'s 0100-180-03-022.006, 0100-180-03-022.005, 0100-180-03-024, & 0100-180-03-025, are effectively merged. No parcel shall operate independent of the other parcel(s), since they only function conjointly as one contiguous site.
25. All delivery vehicles servicing this location must be contained on-site so as to not impede pedestrian or vehicular traffic off-site.
26. The second floor of the building shall be limited to storage use 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 E-Business to C-Residence and E-Business, 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

DESCRIPTION (SCTM 0100-180-03-22.6)

ALL that certain plot, piece or parcel of land, situate, lying and being in Copiague, Town of Babylon, County of Suffolk and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the northerly side of Montauk Highway (S.R. 27A) and the westerly side of Emerson Avenue (North Emerson Avenue);

RUNNING THENCE South 88 degrees 46 minutes 30 seconds West, 61.72 feet along the northerly side of Montauk Highway (S.R. 27A);

THENCE North 01 degrees 13 minutes 30 seconds West 100.00 feet;

THENCE South 88 degrees 46 minutes 30 seconds West, 77.32 feet;

THENCE North 16 degrees 21 minutes 35 seconds East, 144.70 feet;

THENCE South 73 degrees 38 minutes 25 seconds East, 100.00 feet to the westerly side Emerson Avenue (North Emerson Avenue);

THENCE South 01 degrees 13 minutes 30 seconds East, 207.73 feet along the westerly side of Emerson Avenue (North Emerson Avenue) to the northerly side of Montauk Highway (S.R. 27A) at the point or place of **BEGINNING**.

Containing 20,896 Square Feet, more or less.

Dated: March 29, 2023, Town of Babylon

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