

AS ACTED UPON DURING A DULY NOTICED OPEN MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, HELD AT THE HENRIETTA TOWN HALL AT 475 CALKINS ROAD, HENRIETTA, NEW YORK ON MARCH 24, 2021 AT 7:00 P.M.

RESOLUTION #6-80/2021 To approve Special Use Permit No. 2021-018 for the Marketplace Mall mixed-use development area submitted by The Marketplace to allow a mixed-use development.

On Motion of
Councilmember Barley

Seconded by
Supervisor Schultz

WHEREAS, The Marketplace has submitted plans for a mixed-use development, Special Use Permit Application No. 2021-018, in the Mixed-Use Redevelopment Area Overlay District associated with the application for Special Use Permit No. 2021-009 [senior apartments], for property comprising the parcels commonly known and referred to as the Marketplace Mall, including 3400 West Henrietta Road and multiple parcels on Miracle Mile Drive (20, 25, 30, 15, 1200, & 1100 Miracle Mile Drive) including the parcels with Tax Account Nos. 161.12-1-1.11, 161.12-1-1.1/A, 161.12-1-1.1/B, 161.12-1-1.1/D, 161.12-1-1.1/E, 161.12-1-1.1/F, and 161.12-1-1.1/G. (the "Property"), or as more particularly described in plans on file in the Town Clerk's Office; and

WHEREAS, the Mixed-Use Development Concept Plan (attached hereto and made a part hereof as Schedule "A") calls for the continued use of the Marketplace Mall along with the construction of a 4 story 150 unit residential apartment building for senior housing to be located on a ~3.6 acre portion of the ~105.6 acre Marketplace Mall property, representing an approximate 14% residential use a part of the Marketplace Mall property; and

WHEREAS, the Mixed-Use Development Concept Plan (Schedule "A") and Phasing Plan (attached hereto and made a part hereof as Schedule "B") were submitted and discussed, as per Article IX-A of the Zoning Codes, along with associated material for the SEQR Review process; and

WHEREAS, the Rochester Cornerstone Group, Ltd. have also applied for Special Use Permit No. 2021-009 for the Senior Housing (the 150 unit residential apartment senior housing building) that is a component use as part of this mixed-use development; and

WHEREAS, public hearings were duly advertised and held relative to the proposal on February 24, 2021 and March 24, 2021, and any feedback, comments, and concerns received on the proposal have been heard and considered; and

WHEREAS, the Town Board has carefully considered all relevant documentary, testimonial, and other evidence submitted, including but not limited to the Special Use Permit applications, the Letter of Intent (dated February 19, 2021) and any other plans and reports, materials and information submitted by the Applicant, including any correspondence and oral testimony from the public, State, County and local agencies, and other information; and

WHEREAS, the Town Board has considered each of the criteria for granting of the requested Special Use Permit approvals, as set forth in Town Code Section §295-54; and

WHEREAS, on March 24, 2021, in accordance with the New York State Quality Review Act ("SEQR"), the Town Board, as the Lead Agency, issued a Negative Declaration for the proposal.

THEREFORE, BE IT RESOLVED, the Town Board finds that, given the conditions imposed herein, and for the reasons discussed during public meetings, elaborated upon as part of the SEQR review, and as set forth in the Letter of Intent submitted by BME Associates (dated February 19, 2021, which is attached hereto and made a part hereof as Schedule "C"), the Town Board finds that criteria set forth at Town Code Section §295-54 are satisfied.

BE IT FURTHER RESOLVED, that Special Use Permit Application No. 2021-018 be and hereby is approved, permitting the proposed mixed-use development within the Mixed-Use Redevelopment Area Overlay District, subject to the following conditions:

1. The Developer shall comply with the Phasing Plan submitted. Moreover, any portions that are not currently under construction must be left in their original natural state – no earthwork, grading or clearing shall be conducted unless such work is in accordance with a current progressing phase. If roads, utilities, or other infrastructure must pass through a portion that will be developed in a later phase, only the path of that infrastructure is to be disturbed and the ground quickly stabilized and seeded with grass or other green plant cover. Large earth piles are not to be formed and left on the portion not being developed.
2. This approval authorizes the development of the proposal consistent with the Mixed-Use Development Concept Plan at Schedule "A" hereto. Should changes be proposed which are materially inconsistent with the approved Mixed-Use Development Concept Plan, the applicant will be required to either amend this Special Use Permit or apply for a new one, including possibly requiring additional SEQR review. For purposes of allowed land use percentages only (and not orientation, placement, setbacks, etc., for example), development within the following ranges shall generally be deemed to be materially consistent – Industrial: 7.5 - 17.5%, Residential: 10 - 20%, Commercial: 55 - 70%, and Civic: 5 - 10%.
3. Development of the proposal shall require Site Plan review by the Planning Board, including review pursuant to the mixed-use design guidelines at Section §295-34.5 of the Code.
4. The developer shall provide any easements required by the Planning Board, as identified during Site Plan review, including potential cross-access easements between parts of the property.
5. The developer shall provide security, as per Section §295-34[N] of the Code.
6. The property will be treated as a single "composite" parcel for purposes of zoning, as set forth at Section §295-34[J] of the Code.

Duly put to a vote:

Councilmember Barley	voting	Aye
Councilmember Stafford	voting	Aye
Councilmember Sefranek	voting	Aye
Councilmember Bolzner	voting	Aye
Supervisor Schultz	voting	Aye

Carried

Schedule "B"



MEMORANDUM

To: Steve Schultz, Supervisor; Town of Henrietta

From: Peter G. Vars, P.E.; BME Associates

Date: March 12, 2021

Re: **Marketplace Mall Mixed-Use Redevelopment Area Special Permits** **2742**

As requested, we provide the Town with the information known to date for the phasing of mixed-use development at the Marketplace Mall. The following information accompanies the Mixed-Use Development and Phasing Exhibit (BME Dwg. 2742-03), which illustrates the mixed-uses and phasing plan for the property.

1. URMC Development: March 2021

The conversion of the former Sears building and Sears wing of the mall to a medical use for ambulatory surgery, physical therapy, and other related functions commenced in the first quarter of 2021. The project received approval from the Town of Henrietta in the first quarter of 2020.

2. Marketplace Senior Apartments: Fall 2021

The development of a 4-story, 150-unit senior apartment building is planned for fall 2021 construction. The project will be located on a lease parcel within the mall property at the site of the former Marketplace theatre, to the west of Sportsman Warehouse. The project will introduce a residential use component onto the Marketplace site. The applications for the necessary Special Permit for the use have been submitted to the Town Board for consideration at their March 24, 2021 meeting. After receiving the Special Permit, the necessary application for site plan approval will be submitted.

3. Remaining Commercial / Retail Uses: Existing

The remaining current commercial, civic, retail, and entertainment uses on the mall property will remain as is as of this current date. The submitted map exhibit illustrates these uses which consist of the primary mall building itself, excluding the URMC building/lot, and outparcel buildings of M&T Bank, Lands End, and Sportsman Warehouse. The primary mall building includes the civic/public spaces for walkers and also the food court area.

Marketplace Mall is commencing its transition to a mixed-use property. The year 2021 will see the introduction of the medical/surgery use and the residential use to the mall property. The new uses will compliment each other and the existing commercial and civic uses within the property.



February 19, 2021

Town Board
Town of Henrietta
475 Calkins Road
Henrietta, NY 14467

Re: Marketplace Senior Apartments **2742**
Special Permit Application – Senior Housing within a Mixed Used Development

Dear Board Members:

On behalf of Rochester's Cornerstone Group, Ltd., we submit the enclosed application for Special Permit to allow the construction of senior housing within the Mixed-Use Redevelopment Area Overlay District (MURA) that is the Marketplace Mall property per Section 295-34.2.H & 295-34.3.B of the Town Code. We request to appear at your March 24, 2021 Town Board meeting to present the Special Use Permit application. We have enclosed the following application materials for your review:

- Letter of Intent
- Special Use Permit Application Form
- Statement of Professional and Consulting Fees
- Owner Authorization to Make Application
- Four (4) Concept Site Plans
- Application Fee (Paid on January 22, 2021)

The area of application includes a new ± 3.6 -acre lease parcel area within an existing lease parcel area (Tax Account Number 161.12-1-1.1/F), located to the west of Sportsman's Warehouse, which represents the location of the former Marketplace movie theater. This project proposes the construction of a proposed 4-story ($\pm 151,650$ SF total), 150-unit residential apartment, senior housing structure as part of the Marketplace Mall Mixed Use Development area.

The underlying zoning district for this property is Commercial B-1. Senior housing is permitted within the Commercial B-1 zoning district because of the granting of a Special Permit for the Marketplace property by the Town Board. This application is submitted as per §295-34.3.B and Appendix B in the Town Code, senior housing is allowed in the MURA with a distinct special permit.

The Town Code identifies standards for residential density as well as component percentage ranges required for the allowable uses within a Mixed-Use Overlay District. Per §295-34.4.D.(1) of the Town Code, the maximum multiple-dwelling residential density is 18 dwelling units per acre. The proposed 150-unit senior housing structure placed within the 105.6-acre Marketplace Mall property results in a density of 1.42 (≈ 2 dwelling units per acre); thus, meeting the Town Code requirement.

The proposed $\pm 151,650$ SF new residential use represents 14% of the $\pm 1,080,132$ SF Marketplace Mall Mixed Use Development area. Therefore, the proposed senior housing application meets the intent of the MURA by introducing a new residential use not currently present within the Marketplace Mall Mixed Use Development area.

We are requesting a Special Permit per §295-34.3.B of the Town Code to allow the construction senior housing in the MURA. We acknowledge that there are factors that the Town Board must consider per §295-54 of Town Code when reviewing a special permit request. For your consideration, we offer the following information to assist you in your review of the criteria:

- A. Whether the proposed use is substantially consistent in its scale and character with those uses permitted and the existing built permitted uses in the subject zoning district and neighborhood or will otherwise impair such uses due to inconsistency.*

The proposed senior housing redevelopment is consistent with the existing Marketplace Mall structures and approved (URMC) structure within the surrounding area and immediate vicinity on the Marketplace Mall property. Immediately northeast of the proposed senior housing structure exists the Marketplace Mall primary structure and the Sportsman's Warehouse structure is located to the southeast. The senior housing structure is proposed within a developed portion of the Marketplace Mall property and with a proposed height of less than 50' it complies with the Town Code height requirement of the MURA.

- B. Whether the proposed use aligns with the vision, goals and recommendations of the Comprehensive Plan and other applicable plans and studies conducted by or on behalf of the Town.*

The proposed senior housing structure aligns with the vision, goals and recommendations of the Town's Comprehensive Plan. The proposal furthers the Town's goal to re-develop the Marketplace with mixed-uses that was the impetus to establish the MURA for this area of the Town. As stated in the Comprehensive Plan, "reuse of vacant and underutilized commercial and industrial properties needed to be encouraged." As such, the proposed senior housing application accomplishes this goal by repurposing a previously developed vacant parcel and by providing additional senior housing opportunities in the Town of Henrietta.

- C. Whether the proposed use aligns with the purpose, intent, and applicable design and development standards of the zoning district(s) in which the use is proposed to be located.*

The Town Code states: "The intent of the Mixed-Use Redevelopment Area Overlay District is to provide opportunities for the redevelopment of existing vacant, underutilized and single-use properties in areas of potential transition from single-use commercial and industrial properties into more vibrant mixed-used neighborhoods." "The Mixed-Use Redevelopment Area allows for the integration of residential and nonresidential uses with a compatible mix of businesses and multiple-dwelling housing opportunities of various styles and densities."

Therefore, the proposed Special Use Permit application for senior housing as part of a mixed-use redevelopment area aligns with the purpose and intent of the Mixed-Use Redevelopment Overlay District. The proposed redevelopment has been designed to meet the standards for density and the intent to provide multiple uses within a Mixed-Use Overlay District.

- D. Whether the proposed use will be a nuisance in law or in fact due to its being materially noxious, offensive or injurious by reason of the production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions, or will contaminate waters.*

The proposed senior housing residential use will not be a nuisance or create any of the conditions noted above that are out of the ordinary within the Marketplace Mall property or the vicinity of the project. The proposed senior housing structure will be designed to conform with local, State and County agency requirements, as necessary.

- E. *Whether the proposed use will create material hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of vehicles, or other causes.*

The senior housing proposal will not create any hazards or dangers to the public, or persons in the vicinity of the use. The proposed development will be designed in accordance with the Town of Henrietta and appropriate County/State agency standards. The proposed height of the senior housing structure will be less than the MURA Code maximum of 50', which can be served by the Fire District's aerial apparatus. The layout of the senior housing redevelopment area includes emergency access routes to serve the application area.

- F. *Whether the proposed use will create materially adverse impacts that cannot be adequately mitigated, such as to adversely impact natural resources or the environment, agriculture, community services or other areas required to be addressed by the State Environmental Quality Review Act (SEQRA).*

The proposed senior housing project to be located within the Marketplace Mall Mixed Use Development area will not create adverse impacts to natural resources, the environment, agriculture, community services or other areas required to be addressed by the State Environmental Quality Review Act (SEQRA) as the site is located on a previously developed portion of the Marketplace Mall property. The proposed senior housing structure will utilize existing vehicular access to the site (Miracle Mile Drive) and maintain the existing stormwater runoff patterns for the previously developed site. Disturbance to the project site necessary for demolition, building construction, surface treatments and the associated landscape areas and will be completed meeting the NYSDEC requirements to minimize impacts to the environment and surrounding area. The project site is not located within an agricultural district. The building height of the proposed senior housing structure is less than 50' which complies with the requirements of the Town Code for the Mixed-Use Redevelopment Area Overlay District. A Part I Long Form Environmental Assessment Form for the proposed action is enclosed with this application.

- G. *Whether the physical conditions and characteristics of the site are suitable for the proposed use considering site size, configuration, location, access, topography, vegetation, soils, and hydrology for effective stormwater management and, if necessary, the ability to be screened from neighboring properties and public roads.*

The physical conditions and characteristics of the site are suitable for the proposed senior housing use as part of the mixed-used redevelopment district, as the site is located within the developed portion of the Marketplace Mall Mixed Use Development area. The proposed senior housing structure will be constructed to conform to the surrounding property and be consistent with the functionality of the Marketplace Mall property. The Marketplace Mall property offers significant assets such as access to Town, County and State roads, ample parking, parcel size, as well as existing stormwater management, utility and public transportation infrastructure. The proposed senior housing application area is buffered to lands external from the Marketplace Mall property to the west and south via an existing on-site vegetated buffer proposed to remain and the proposed building will meet all setback requirements of the MURA to the exterior property lines.

- H. *Whether there are adequate public infrastructure, utilities, community facilities and emergency services, either existing or to be provided by the applicant or others, to effectively serve the proposed use. A proposed use shall not create or contribute to an existing inadequacy.*

The Marketplace Mall property offers adequate existing assets, including those listed above, and the proposed mixed-use redevelopment application area will not create or contribute to any known existing inadequacies in the area. The location of the proposed senior housing structure does not require an extension of existing infrastructure. The Marketplace Mall property is currently served by emergency services and the proposed use does not alter their ability to serve. The proposed senior housing structure will have a height of less than 50' and is proposed to be served on (2) sides of the structure with aerial fire apparatus access roads (Miracle Mile Drive to the north and the existing drive aisle to the east), that meet the standards of the Town of Henrietta and the International Fire Code. The proposed building height can be served with the existing apparatus of the Fire District.

- I. *Whether the proposed use will provide, maintain, or enhance, as necessary, safe and efficient vehicular traffic patterns, nonmotorized travel, and pedestrian circulation as well as, where feasible, access to public spaces, parks, recreation, and open space resources.*

The proposed senior housing structure is anticipated to enhance the Marketplace Mall by repurposing a vacant area that was previously developed, and by introducing a new use not currently provided on the property, but allowed per the MURA overlay to the underlying zoning district. The proposed senior housing development will be designed to not interfere with onsite pedestrian and vehicular traffic circulation throughout the Marketplace Mall property. Both pedestrian and vehicular access will be provided to allow connectivity to adjacent areas on the Marketplace Mall property.

We have enclosed a conceptual Site Plan of the proposed Marketplace Senior Apartments. Upon completion of the Special Permit process, we will prepare the necessary site plans for Planning Board Site Plan review. Also included are architectural exhibits illustrating the height and intent of the proposed senior housing structure. These plans will be subject to building permit review by the Town Building and Fire Prevention Department upon completion of the Special Use Permits process.

We look forward to appearing at the March 24, 2021 Town Board meeting to present this Special Permit application. We also request the application is referred to the Planning Board for their March 16, 2021 meeting for a discussion item prior to the Town Board meeting.

Per NYSCRR 617.4 the application is considered an Unlisted action under SEQR. The Town Board declared their intent to designate themselves lead agency at their January 27th meeting for the SEQRA process. The SEQRA determination for this project will be completed by the Town Board as part of their review of the Marketplace Mall Mixed Use Development Special Use Permit application.

Rochester Cornerstone Group, Ltd., looks forward to working with the Town of Henrietta to bring this transformative project to reality. We thank you for your consideration of this application.

Please contact our office if you require any additional information concerning the Special Use Permit application prior to the meeting.

Sincerely,

BME Associates



Ryan T. Destro, P.E.

/RTD

Encl.

c: Ryan Brandt; Rochester Cornerstone Group, Ltd.
James Wilmot; The Marketplace
Eric Wright; The Marketplace
Shawn Griffin; Harris Beach, PLLC.