

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 FEBRUARY 24, 2022 AT 6:00 P.M.

RESOLUTION #5-102/2022

To approve Special Use Permit Application No. 2021-034 for The Fairways at Riverton (Formerly known as Riverton Parcel A) to construct +/- 130 single family homes on +/- 55.7 acres.

On Motion of
Councilmember Page

Seconded by
Councilmember Bellanca

WHEREAS, an application (the "Application") was filed with the Town of Henrietta by Forest Creek Equity Corp. (the "Applicant") regarding a proposal for the property commonly known as Riverton Parcel A, said property comprising approximately 55.7 +/- acres at or about the west side of the intersection of Erie Station Road and Countess Drive, bearing and Tax Account Nos. 187.02-2-4.111, 187.04-2-3.11, 187.02-2-8, 187.02-2-9, and 187.02-2-10 (the "Property"), to develop 130 +/- single family homes within the Riverton Planned Unit Development at a density of approximately 2.33 units per acre, for which the Applicant requests that the Town Board grant Special Use Permit approval pursuant to Town Code Section §295-33; and

WHEREAS, on May 12, 2021, May 26, 2021, January 26, 2022, and February 24, 2022 the Town Board held public hearings to consider the Application, at which time all parties and citizens were afforded an opportunity to be heard; and

WHEREAS, on February 14, 2022, the Applicant provided documentation that the two remaining issues discussed at the January 26, 2022 Town Board Meeting were resolved with documentation that (1) the non-jurisdictional wetlands had been filled in by the Applicant as allowed by and prior to the expiration of the Jurisdictional Determination provided by the Army Corps of Engineers in July 2011, and (2) the Applicant agrees with the East River Road Traffic SEQR Mitigation calculations presented by the Town's traffic consultant; 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 application, the Application letter, the Application materials, plans and reports, and other materials and information submitted by the Applicant, 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 the granting of the requested Special Use Permit approval, including those set forth at Section §295-54 of the Town Code, as well as those criteria set forth at Town Code Section §295-33[A]; and

WHEREAS, on February 24, 2022, in accordance with the New York State Quality Review Act ("SEQR"), the Town Board, as the Lead Agency, issued a Negative Declaration for the Project (the "Negative Declaration").

THEREFORE, BE IT RESOLVED, that relative to the Special Use Permit factors at Section §295-54 of the Town Code, the Town Board hereby makes the findings set forth at Schedule "A" hereto, which together support approval of the proposal; and

BE IT FURTHER RESOLVED, that relative to the additional Special Use Permit factors set forth at Section §295-33[A] of the Town Code, the Town Board makes the additional findings set forth at Schedule "B" hereto, which also, together, support approval of the proposal; and

BE IT FURTHER RESOLVED, that based on the aforementioned information, documentation, testimony, and findings (including as set forth herein and in Schedules "A" and "B"), the Town Board hereby grants approval for Special Use Permit No. 2021-034 for the Application, to construct approximately 130 single family homes, with the following conditions:

1. That the Project be developed in accordance with the plan submitted as part of the Application for this Special Use Permit, subject to changes resulting from Site Plan approval at the Town of Henrietta Planning Board, so long as those changes do not contradict the conditions herein; and
2. The Project attains all approvals required of the Planning Board; and
3. In order to mitigate traffic issues at the East River Road Corridor, as required by the Town's Findings Statement on this topic, that the Applicant pay the East River Road Corridor SEQR Mitigation Fees, covering the project's contribution to the overall corridor traffic mitigation as per the Comprehensive Land Use Plan Update, approved by Town Board Resolution #5-103/2019 on February 27, 2019, in an amount of \$142,200, in accordance with the referenced Comprehensive Land Use Plan Update. Such Fee shall be paid prior to the issuance of a Building Permit; and
4. Duly completing real property transaction(s), subject to further Town Board approval, relative to a certain strip of Town-owned lands utilized to access the Riverton Golf Course lands which now run through the Property, such that the Town will transfer said lands to the developer in exchange for the developer transferring to the Town lands generally bordering on the western portion of the Property (for potential use by the Town as a walking trail), and, in connection therewith, the provision of sidewalks within the development at the sole cost of the developer such that access to the Riverton Golf Course through the Property will continue to be preserved; and
5. The developer will create new sidewalks at the developer's sole cost from at or about the southern-most point of intersection of the Property with Scottsville-West Henrietta Road, along the west side of Scottsville-West Henrietta Road, to the intersection of Erie Station Road with Countess Drive.

Duly put to a vote:

Councilmember Sefranek	No
Councilmember Bolzner	Aye
Councilmember Page	Aye
Councilmember Bellanca	Aye
Supervisor Schultz	Aye

RESOLUTION ADOPTED

**THE FAIRWAYS AT RIVERTON
RIVERTON PARCEL A
SPECIAL USE PERMIT STANDARDS
SCHEDULE "A"**

Town Code Section 295-54 sets forth the criteria to be considered by the board in determining whether to grant a Special Use Permit. The Town Board makes the following findings with respect to each of these criteria, based upon its own knowledge and investigation or from testimony or other information submitted to it:

- 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 development is consistent in scale and character with the permitted uses in the Planned Unit Development (PUD) and the existing area surrounding the project site. The Riverton Community consists of residential housing, with single family homes making up the majority of the area. Currently, the PUD contains approximately 570 single family homes, making up the majority of housing types in the PUD. Thus, this 130-lot single family lot development will be consistent with the character of the PUD as well as the scale of the development present. Additionally, the area located south of The Fairways at Riverton are predominately single family homes, which would be consistent with this proposal.

- 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.**

This proposed subdivision complies with the Town of Henrietta Comprehensive Plan (2004) and the 2011 Strategic Update to the Comprehensive Plan. During the public participation workshops in 2009, which informed the goals and objectives of the 2011 Strategic Update to the Comprehensive Plan, it was recognized that there is a need to diversify housing and Riverton was mentioned as an area to accommodate multifamily and single family housing. The Town's comprehensive plan and current zoning of this property as a Planned Unit Development (PUD) indicate that this property is appropriate for development of single family homes. Moreover, this proposal is consistent with the PUD regulations, as well as the historical and amended plans for the Riverton PUD.

- 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 single-family subdivision complies with the Town Zoning Code and is consistent with the PUD regulations, as well as the historical and amended plans for the Riverton PUD. See Exhibit "B" to the approval Resolution for further discussion on this topic, which is incorporated herein.

- 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 single-family homes will be designed in accordance with the New York State Uniform Fire Prevention and Building Code including the energy code requirements. This single-family home development proposal is consistent with other home developments in Town, none of which are nuisances. As such, it is unlikely that this single-family development will generate or emit dust, smoke, odors, fumes, or create any other detrimental conditions to the environment or pose a negative impact to the surrounding properties and residences.

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.

This single-family residential subdivision will not pose any hazards or dangers to the public regarding fire, explosion, electricity, radiation, crowds, or parking. The proposed houses will be designed in accordance with applicable fire safety and building regulations, including the New York State Uniform Fire Prevention and Building Code.

The proposed 130 lot residential subdivision will result in a slight increase in traffic along the Scottsville West Henrietta Road and Erie Station Road corridor. Trip generation numbers for the proposed 130 lot subdivision were prepared by SRF & Associates and incorporated into a "Traffic Impact Assessment" (TIS). This TIS was reviewed by the NYSDOT and was used by the Town's consultant Barton & Loguidice in reviewing the traffic impacts. Based upon this review and in order to mitigate traffic issues along East River Road, the following items shall be implemented as part of the traffic mitigation:

- Even though there is adequate sight distance at both proposed intersections it was noted during the summer months that the sight distance can be restricted due to overgrown weeds and other vegetation growing along Scottsville West Henrietta Road and Erie Station Road. The proposed development will be required to clear the existing vegetation to maintain appropriate sight distance.
- In order to mitigate traffic issues along the East River Road Corridor, as required by the Town's Findings Statement on this topic, the Applicant will pay an amount towards the East River Road Corridor SEQR Mitigation Fees which will cover the projects contribution to the overall corridor traffic mitigation as per the Comprehensive Land Use Plan Update, approved by Town Board Resolution #5-103/2019 on February 27, 2019.
- A sidewalk will be installed along the parcel frontage of Scottsville West Henrietta Road and Erie Station Road.

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 use will not create materially adverse impacts that cannot be adequately mitigated. The only potentially significant moderate impact created is a slight increase in traffic, which is addressed previously herein and via TIS studies, and which is sufficiently

mitigated so as not to create a significant adverse environmental impact. More generally, this issue is more fully addressed via the Town's SEQRA review, which is incorporated herein, and which found there to be no material significant adverse environmental impact.

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 site's physical conditions are conducive to the proposal. The site has access off the existing roadway infrastructure that is adequate to accept the generated traffic from this project. The site also utilizes the topography to its advantage to provide adequate stormwater management and mitigation measures. Soils are typical for the Town of Henrietta, however, the design of the stormwater mitigation measures are in conformance with the Town's zoning codes and with the NYSDEC requirements. The project minimizes the impact to the land by limiting grading work to what is necessary to promote proper drainage.

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 subdivision has access to adequate utilities including water, electric, gas, and sanitary sewers. In terms of emergency services, the residents of the Town have recently passed a referendum allowing the Fire District to construct a new fire station on Erie Station Road to enhance its response times and provide fully staffed emergency first response to this area.

The Town also has other adequate community services such as ambulance and Rush Henrietta Central School District to cover the proposed development.

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 subdivision will incorporate the installation of internal sidewalks on both sides of the road within the subdivision and also along the west side of Scottsville West Henrietta Road and Erie Station Road within the frontage of the parcel. The sidewalks will also connect to the Riverton Community network of paths and trails as well as to the Riverton Golf Course.

**SCHEDULE "B" TO THE RIVERTON PARCEL A SPECIAL USE PERMIT DETERMINATION
RESOLUTION – Assessing Consistency of 2022 Proposal for Riverton Parcel A with
Intent and Function of Riverton PUD**

Pursuant to the Henrietta Town Code at Section 295-33, any change to a PUD after initial construction and occupancy is to be processed as a Special Permit. The Town Board thus considers the Special Permit factors at Schedule "A." However, additionally pursuant to said Section "maintenance of the intent and function of the planned unit" shall be of primary importance when evaluating such a Special Permit. As such, this schedule comprises the Town Board's considerations relative to "maintenance of the intent and function of the planned unit."

The current proposal is consistent with the intent and function of the Planned Unit, as exemplified by its consistency with the PUD regulations and the Town of Henrietta land use plans. The proposal is located on lands zoned as PUD, the intent of which is to provide a "variety of residential types" of housing. The proposal achieves the goals and intent of the PUD by adding additional housing to the existing variety of housing currently available in the PUD.

The most recent past plan for Parcel A apparently called for 100 single family homes, 80 townhouse and patio homes and 0 apartments at a density of approximately 3 units per acre. The current proposal for 130 single family homes thus approximates the original plan – adding only 30 additional single-family homes, but without adding any additional townhouse and patio homes so as to result in a slightly lower density of 2.33. While the total amount of housing provided here is reduced from the original plan, this update nonetheless is consistent with the original intent of the overall PUD given the remainder of the overall PUD – to provide a variety of residential housing.

Moreover, by reducing the density from 3.0 to 2.33, this modification has the additional benefit of reducing impacts to the surrounding area – impacts that current residents of the built portions of the PUD itself have voiced concerns over. As such, this modified approach not only carries forward the intent of the PUD – the provision of residential housing - but does so in a manner which better protects against impacts to the existing PUD residents than was originally proposed. This Board reasons that developing a PUD such that it protects and preserves against impacts to previously developed portions of a PUD aligns not only the implicit intent of the PUD, but also preserves the PUD's function.

Thus, for all the reasons herein, the current proposal is consistent with the Riverton PUD, and allows for the "maintenance of the intent and function of the planned unit."



January 26, 2022

Mr. Christopher Martin, P.E., Town Engineer
Town of Henrietta
475 Calkins Road
Henrietta, New York 14467

Subj: Riverton Parcel A – Erie Station Road
File: 1743.002.001

Dear Mr. Martin:

As requested, Barton & Loguidice, D.P.C. (B&L) reviewed the updated trip generation information (*Update*) for the subject project. We agree with the trip generation volumes used for 130 single family homes, resulting in a combined entering and exiting trips of 97 trips in the AM and 130 trips in the PM peak hours. However, we do want to bring to your attention that some of the back-up trip generation information in the *Update* showed 150 units resulting in higher trip numbers.

We do not agree with how the mitigation fees were calculated. It is our understanding that all trips generated in the 2 peak hours that enter or cross East River Road in the Town of Henrietta are included in the fee calculation. The *Update* did not include trips that crossed East River Road or trips that came or went on East River Road to the south of Scottsville West Henrietta Road. Using the trip distribution for the *TIS* and not counting the traffic entering or exiting the development from / to the south on Erie Station Road, south of the southerly access road, yields a total of 179 trips entering or crossing East River Road, for a total SEQR mitigation fee (\$800 per trip) of \$143,200.

Thank you for the opportunity to provide our services to the Town. If you have any questions or want to discuss our review, please call me at (585) 325-7190 or on my cell at (585) 730-0163.

Sincerely,

BARTON & LOGUIDICE, D.P.C.

Terrence J. Rice, P.E.
Senior Managing Engineer

TJR/jjb

cc (via email): Matthew Schooley, Principal, B&L
Jonathan Walczak, Senior Project Engineer, B&L



July 22, 2021

Mr. Christopher Martin, P.E., Town Engineer
Town of Henrietta
475 Calkins Road
Henrietta, New York 14467

Subj: The Fairways at Riverton – Riverton Parcel A – Traffic Impact Study – Erie Station Road

File: 1743.002.001

Dear Mr. Martin:

As requested, Barton & Loguidice, D.P.C. (B&L) reviewed the updated *Traffic Impact Study (Study)* dated July 2021 for the subject development project.

We have completed our review and the latest *Traffic Impact Study* has addressed all of our comments from our June 23rd letter. Specifically the table and language in the report regarding the sight distance from the two proposed driveways has been updated and clarified. We do recommend that this development be required to clear the existing vegetation along Erie Station Road to ensure adequate sight distance is available and require them or future owners to maintain such.

Thank you for the opportunity to provide our services to the Town. If you have any questions or want to meet to discuss our comments and recommendations, please call me at (585) 325-7190 or on my cell at (585) 730-0163.

Sincerely,

BARTON & LOGUIDICE, D.P.C.

Terrence J. Rice, P.E.
Senior Managing Engineer

TJR/jjb

cc (via email): Matthew Schooley, Principal, B&L
Jonathan Walczak, Senior Project Engineer, B&L





June 23, 2021

Mr. Christopher Martin, P.E., Town Engineer
Town of Henrietta
475 Calkins Road
Henrietta, New York 14467

Subj: The Fairways at Riverton – Riverton Parcel A – Traffic Impact Study – Erie Station Road

File: 1743.002.001

Dear Mr. Martin:

As requested, Barton & Loguidice, D.P.C. (B&L) reviewed the updated *Traffic Impact Study (Study)* dated June 2021 for the subject development project.

As requested by the Town, the initial *Study* was updated to consider the projected traffic from the Riverton - Parcel E development for the background and full development conditions. When comparing the reports for Riverton - Parcel E and Riverton - Parcel A there are some small differences in the traffic volumes projected in the area due to how the traffic consultants arrived at the 2020 base / existing traffic volumes. For instance, under full development conditions at the East River Road / Scottsville-West Henrietta Road intersection, the eastbound left turn volumes in Riverton - Parcel E (2022) for am/pm is projected to be 439/212 vehicles per hour, while for the updated Riverton Parcel A (2026) the am/pm volumes are projected to be 387/171 vehicles per hour. Riverton - Parcel A being 52 and 41 vehicle per hour lower. The revised un-signalized capacity analyses for the East River Road / Scottsville-West Henrietta Road intersection for Riverton - Parcel A now identified an LOS F for eastbound traffic for the morning peak hour under background and full developed conditions, similar to Riverton - Parcel E, although for Riverton - Parcel E the projected vehicle delays were higher due to higher traffic volumes at the intersection.

SRF Associates analyzed the need for a traffic signal at the East River Road / Scottsville-West Henrietta Road intersection and concurs with another past report in recommending that as this development's phase(s) are completed, that more detailed traffic studies be performed to determine if the projected traffic at the intersection materializes and determine if a traffic signal is needed. Monroe County DOT's letter to the Town (December 2020) for the Riverton - Parcel E report did discuss the traffic signal alternative and they also propose monitoring the traffic volumes. In addition The County will consider the appropriate traffic control device as conditions change (traffic signal or all way stop). The County also states that at their next pavement treatment in the area, they will consider enhancing the shoulder to create a dedicated southbound right turn lane. Based on the County's letter, the County is committed to implementing the appropriate traffic and geometric features at their cost at the intersection and did not require any additional mitigation from the Riverton - Parcel E developer beyond their calculated SEQR mitigation fee.

Mr. Christopher Martin, P.E., Town Engineer
Town of Henrietta
June 23, 2021
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As noted by Supervisor Schultz and acknowledged by SRF Associates, the sight distance summary is confusing. Based on the additional measurements taken in April 2021 and commented on by this office in our May letter to the Town, the available intersection and stopping sight distance for the intersection will exceed the recommended sight distances for the projected speed of traffic. However, since intersection and stopping sight distances are measured differently, the table in the *Study* should be modified accordingly. We concur with Supervisor Schultz that the appropriate paragraphs in the *Study* be modified to clearly discuss the available and required sight distances and the developer should be required to keep the area clear of vegetation so as to not restrict sight distances.

Thank you for the opportunity to provide our services to the Town. If you have any questions or want to meet to discuss our comments and recommendations, please call me at (585) 325-7190 or on my cell at (585) 730-0163.

Sincerely,

BARTON & LOGUIDICE, D.P.C.

A handwritten signature in blue ink, which appears to read "Terrence J. Rice".

Terrence J. Rice, P.E.
Senior Managing Engineer

TJR/jjb

cc (via email): Matthew Schooley, Principal, B&L
Jonathan Walczak, Senior Project Engineer, B&L