

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 SEPTEMBER 28, 2022 AT 6:00 P.M.

RESOLUTION #21-292/2022 To Approve Special Use Permit Nos. 2022-008/011 for Southridge Landing.

On Motion of
Supervisor Schultz

Seconded by
Councilmember Bolzner

WHEREAS, Dakota Partners, Inc., (the "Applicant") has applied for Special Use Permit No. 2022-011 for the application of "Split-Zoning" to allow for the entire parcel, Tax Map No. 176.06-2-2.11, to be used as the Commercial B-2 Zone, which Zone covers over 40% of the parcel, and Special Use Permit No. 2022-008 for the construction of a multiple dwelling apartment building comprising approximately 62 units on a +/- 6.996 acre parcel with a density of approximately 9 units per acre (where 12 units per acre is allowed per code) on the aforementioned property, which is located near the northeast corner of East Henrietta Road and Calkins Road; and

WHEREAS, on April 12, 2022, June 9, 2022, and September 14, 2022, the Town Board held public hearings to consider the Applications, at which time all parties and citizens were afforded an opportunity to be heard; 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, Letter of Intent, plans and reports, and other materials and information submitted by the Applicant, Fire Marshal opinions and findings, Henrietta Fire District feedback and comments, as well as any relevant correspondence and oral testimony from the public, State, County, and local agencies, and other information, and the Town Board makes the findings of fact set forth in Schedule "A" attached hereto and made a part hereof; 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 295-53, and the Town Board finds that, given the conditions imposed herein, the criteria are satisfied as set forth at Schedule "A," attached hereto; and

WHEREAS, on September 28, 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 based on the aforementioned information, documentation, testimony, and findings (set forth herein and in Schedule "A"), the Town Board hereby grants approval for Special Use Permit No. 2022-011, issuing a Split-Zone Special Use Permit, such that the subject parcel be treated as Commercial B-2 Zone for purposes of permitting the proposed multiple dwelling apartment building use, all as per Town Code Section 295.54.1 (E), all subject to the following conditions:

1. The Split-Zone Special Use Permit is limited to the specific use herein approved – a multiple dwelling apartment building. The Split-Zone Use Special Use Permit shall automatically terminate should the use be converted to another use other than for a multifamily apartment building, including if should the apartment building be destroyed and construction to rebuild does not begin within one year of its destruction.

2. The Zoning Restrictions contained in Town Code Section 295-20.1 (D) for the "East Henrietta, Calkins-Castle B-2 Commercial" zone shall apply as follows:
 - a. The requirement that all buildings must have site plans approved by the Henrietta Planning Board prior to any building permits being issued (Section 295-20.1 (D)(1)) shall be extended to the entire parcel.
 - b. The prohibition against parking lots in the rear of buildings (Section 295-20.1 (D)(1)) shall only apply to the portion of the parcel covered by the "East Henrietta, Calkins-Castle B-2 Commercial" zone.

BE IT FURTHER RESOLVED, that based on the aforementioned information, documentation, testimony, and findings (set forth herein and in Schedule "A"), the Town Board hereby grants approval for Special Use Permit No. 2022-008 for Dakota Partners to construct approximately 62 multi-family dwelling units in a single apartment building on a +/- 6.996 acre parcel with a density of approximately 9 units per acre, with the following conditions:

1. The Project attains all approvals required of the Planning Board; and
2. The Project may not have an exit out to Calkins Road, gated or ungated, unless by connection to an existing driveway of a neighboring commercial property; and
3. The Project must provide for a fire lane and access road that completely loops around the apartment building and must keep that road clear of obstruction, including snow and ice; and
4. The Project must provide a sidewalk connecting the building to the East Henrietta Road sidewalks and/or future sidewalks on Calkins Road; and
5. The Project must orient the apartment building as presented at the September 14, 2022 Public Hearing, so as to keep the windows and balconies of the apartments away from adjacent single family residences; and
6. The Project must provide a berm and other landscaping features, as approved by the Planning Board, so as to provide for additional buffering to the adjacent single family residences; and
7. The Project must reduce the amount of stormwater runoff reaching the neighboring residential properties, especially those along Thompson Road, and must maintain any stormwater management facilities required as part of the site plan; and
8. The Project shall locate its dumpster enclosure at least 250' from any property line shared by a single family residential parcel.

Duly put to a vote:

Councilmember Sefranek	Aye
Councilmember Bolzner	Aye
Councilmember Page	Aye
Councilmember Bellanca	Aye
Supervisor Schultz	Aye

RESOLUTION ADOPTED

Southridge Landing Multi-Family Development
Special Use Permits Assessment by Henrietta Town Board – Schedule “A”

§ 295-54 **Granting or denial of special use permits.**

In considering an application for a special use permit, the Town Board shall make its decision based upon the following factors. The Town Board may impose conditions, including in order to resolve any issues identified via its assessment of said factors.

- 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.

In reviewing the application, the proposed use is an allowed use within the Commercial B-2 Zoning District and at a density of 8.9-units per acre, is below the 12-units per acre requirement of the district. The height is within the allowed range as well. There are other similar apartment buildings in Commercial B-2 Zoning Districts.

However, due to the odd parcel size and the considerable slope on the western side of the parcel, the proposed plan felt a bit “packed in.” Subsequent revisions to the plan substantially alleviated this concern. That being said, the Town Board does not believe this building could be further expanded without being out-of-scale.

- 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 2003 Comprehensive Plan identifies this area for Commercial B-2 Districts which combine many of the uses of commercial districts with the uses of residential districts. The 2019 Update to the Comprehensive Plan identifies this area for a mix of commercial and apartment uses, either through the Mixed Use Revitalization Corridor overlay district or through the underlying Commercial B-2 District.

- 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.

Commercial B-2 Zones allow for multi-residence dwellings, including apartment buildings of up to 12-units per acre. The proposed development is below that upper limit on density. The very front of parcel has restrictions on the Commercial B-2 Zone as per § 295-20.1 (D) requiring Planning Board approval of site plans for any buildings or structures within that zone (Designation E(3) on the Zoning Map) and no buildings within that zone may have parking in the rear of the buildings. These restrictions will be maintained in effect for the portion of the parcel specifically covered by the “East Henrietta, Calkins-Castle B-2 Commercial” zone.

- 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 use presents no nuisance in law or in fact with regards to any of the conditions listed.

- 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 proposed use presents no material hazards or dangers to the public or persons in the vicinity from any of the listed conditions or other causes.

- 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 presented a potential adverse impact for traffic under SEQR – however; this impact was mitigated by moving the access road from Calkins Road, where the bottom of the hill and proximity of other commercial entrances presented a significant potential accident risk, to the traffic light-controlled entrance off of East Henrietta Road.

The proposed use presented a potential adverse impact on adjacent properties under SEQR – however; this impact was mitigated by moving the access road, which would have required to removal of too many trees that provide a buffer to the adjacent single family residences; by reorienting the building so that the windows and balconies of the apartment building are further away from the backyards and homes of the adjacent single family residences; by relocating the dumpster enclosure to the far side of the property such that it is more than 250' away from any property line for the adjacent single family residences; and by maintaining a berm and landscaping to provide additional buffering to adjacent single family residences.

Moreover, the EAF comprising the SEQR analysis is hereby incorporated herein and made a part hereof.

- 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.

Because the topography of the site drains to the east, toward the adjacent single family residences, it is essential that considerable effort be taken in the design of a storm water management system to collect any runoff and steer it away from the adjacent properties and into the storm water management facilities on the site, while controlling the rate of discharge into the creek system that runs through the adjacent neighborhoods. As such, during Site Plan review by the Planning Board, which is a requirement of the Special Use Permit approval, a new stormwater management facility will be required to be constructed in conformance with New York State Department of Environmental Conservation (NYSDEC) requirements, and a Stormwater Pollution Prevention Plan (SWPPP) implemented to address surface water.

As per paragraph F above, the site plan must include, and the property owners must maintain, a berm and landscaping, as approved by the Planning Board, so as to provide additional buffering to the adjacent single family residences, above and beyond just the distance imposed by the buffering requirements in Town Code § 295-60 (E).

The location is suitable for the proposed apartment complex, which will have reduced rents for those earning below the Area Mean Income, as it is on a major public transportation route and also has a Wegmans Supermarket, multiple drug stores, and other shopping plazas all within easy walking distance.

- H. Whether there are adequate utilities, public infrastructure, 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.

There are adequate utilities, public infrastructure, and emergency services for the proposed use. In order to provide adequate emergency vehicle access, especially with respect to a potential fire, it is essential that the property maintains the loop road around the apartment building and keeps it free of obstruction, including snow and ice. The Fire Marshal, in consultation with the Henrietta Fire District, believed without the loopback to the west of the apartment building, the ability of an ambulance or fire district vehicle to exit once ladder trucks have set up in the event of a fire would be severely limited; and as such, the Fire Marshal would not approve a plan that did not have the full loop road. The site plan presented at the September 14, 2022 public hearing included a proposed loop road that, combined with the ability to reach the access road through the adjacent property's parking lot in the event of a closure of East Henrietta Road, provided adequate ingress and egress for emergency vehicles, and as such, did receive Fire Marshal sign off.

- 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.

As discussed above, by relocating the proposed exit from Calkins Road to instead tie into an existing street light-controlled exit onto East Henrietta Road, the proposed use provides safe and efficient vehicular traffic patterns. Furthermore, by adding a sidewalk along the entrance road out to East Henrietta Road, as per recommendation of the Fire Marshal, the proposed use provides safe and efficient pedestrian circulation and connects to the sidewalk system on East Henrietta Road which also connects to the sidewalks on Calkins Road that lead to the Town Library, Town Recreation Center, and the Town's main park, Veteran's Memorial Park, as well as being on a major public transportation route.