

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 JUNE 9, 2022 AT 6:00 P.M.

RESOLUTION #12-195/2022

To approve Special Use Permit Nos. 2022-015 and 2022-018 to allow the construction of a Senior Living Masonic Care Community Facility with an increased maximum height.

On Motion of
Councilmember Page

Seconded by
Councilmember Bellanca

WHEREAS, TTMH Henrietta Holdings, LLC (the "Applicant") has applied for Special Use Permit No. 2022-015 pursuant to the Henrietta Town Code at Section 295-10.1[B](7) for the construction of a Multiple Dwelling Senior Living Facility associated with the Masonic Care Community comprising of 200 units on a 88.87 acre parcel with a density of 2.3 units per acre on property at or about Erie Station Rd., Tax Map No. 189.02-1-1.1; and

WHEREAS, the Applicant has also applied for Special Use Permit 2022-018 pursuant to the Henrietta Town Code at Section 295-8 to permit a maximum building height of greater than 35 feet; and

WHEREAS, public hearings were held on May 11, 2022 and June 9, 2022 at Town Hall, at which time feedback and concerns from neighbors, residents, and Town Board members were 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, 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 granting of the requested Special Use Permit approvals, all as set forth in Town Code Section §295-54; and

WHEREAS, on June 9, 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 proposal.

THEREFORE, BE IT RESOLVED, that in assessing each of the criteria for granting of the requested Special Use Permit approvals, all as set forth in Town Code Section §295-54, the Town Board makes the findings set forth at Exhibit "A" hereto, incorporated herein, and made a part hereof.

BE IT FURTHER RESOLVED, that, given the conditions imposed herein, and for the reasons discussed during public meetings, elaborated upon as part of the SEQR review, and set forth as part of the Town Board's review of the Special Use Permit criteria attached hereto as Exhibit A, the Town Board finds that criteria set forth at Town Code Section §295-54 are satisfied for both the Senior Living Special Use Permit and the Height Special Use Permit, supporting approval of the same.

BE IT FURTHER RESOLVED, that Special Use Permit Application Nos. 2022-015, for the construction of a Multiple Dwelling Senior Living Facility associated with the Masonic Care Community comprising 200 units on an 88.87-acre parcel with a density of 2.3 units per acre, and 2022-018, to permit a maximum building height of greater than 35 feet, are approved, subject to the following conditions:

1. This approval is limited to the proposal as presented in and consistent with the application, including that the units shall be utilized for senior housing. Should changes be proposed which are materially inconsistent with the proposal, including that the units will be used for something other than senior housing, the developer will be required to either amend this Special Use Permit or apply for a new one, including possibly requiring additional SEQR review.
2. The Applicant/developer will comply with the Transitional Buffers detailed in Town Code §295-60 (E).
3. Development of the proposal shall require Site Plan review by the Planning Board.
4. The Applicant shall provide any easements required by the Planning Board, as identified during Site Plan review.
5. That the height of specific proposed buildings is permitted to exceed 35-feet, but only in compliance the following:
 - a. The Community Center building be permitted to be built to a height of 53-feet above grade, as measured in accordance with Town Code, with a highest point (the cupola), as measured from the ground, of 68-feet and 5-inches above grade.
 - b. The Community Apartment building be permitted to be built to a height of 46-feet above grade, as measured in accordance with Town Code, with a highest point, the roof ridge line, as measured from the ground, of 50-feet above grade.
 - c. That the highest point on any structure, determined by adding the height above grade to the elevation of the grade, be below 640-feet above sea level, with the exception of the Community Center's cupola, which may reach as high as 645-feet above sea level, which is below the elevation of the intersection of Erie Station Road and Middle Road.
6. As part of the Site Plan review process, the Applicant shall create a drainage and stormwater runoff plan that addresses the concern to the satisfaction of the Planning Board that the disruption of the agricultural clay drain tiles located on the site, combined with the introduction of impermeable surfaces, could result in increased runoff and increased wetness in the fields to the east of the proposed development, disrupting agricultural operations there.
 - a. The developer shall post a bond securing the performance of the stormwater and runoff plan in an amount satisfactory to the Town Engineer. Should the approved drainage and stormwater runoff plan still prove to be insufficient in preventing this adverse condition in the assessment of the Town Engineer, the developer shall introduce additional mitigation or remediation methods and infrastructure in order to eliminate any increase in runoff or agricultural field wetness due to this development, all to the satisfaction of the Town Engineer. Failure to do so may result in the Town utilizing the performance bond to address the situation and/or other enforcement measures.
7. The Applicant shall provide for private connection points to the new sanitary sewer being run south from Lehigh Station Road along Middle Road. In addition, the Applicant shall provide a means to extend the sanitary sewer south from the new pump station up towards the intersection of Erie Station Road and Middle Road, all to the satisfaction of the Town Engineer. This condition, which was further clarified during the Town Board meeting on June 9, 2022 (such additional details/clarifications which are incorporated herein), shall be satisfied prior to the issuance of the certificate of occupancy.
8. In order to address pedestrian transit concerns, the Applicant shall provide a sidewalk connection from the intersection of Erie Station Road and Middle Road to the interior sidewalk and path network of the facility such that neighbors can utilize the sidewalks and paths, including the large

retention pond and memorial proposed during neighborhood meetings and public hearings, all to the satisfaction of the Town Engineer.

9. The Applicant shall grade the land to the north of the retention pond and south of the wetlands so as to provide a sufficient base upon which the Town might build a future park access road should the property to the east of the northern portion of the parcel upon which the proposed development is being built to be ultimately donated to the Town (by a different applicant) as a future Town park, all to the satisfaction of the Town Engineer.
10. As offered by the Applicant, the Applicant will provide to the Town legal access to the future Town Park set forth above, generally in the area upon which the sufficient base noted above is directed to be provided, such legal access to be in the form of an easement, a cross access agreement, a land swap, or other form that is acceptable to the Town in the sole discretion of the Attorney for the Town, all to be completed and accepted by the Town no later than the issuance of the certificate of occupancy.

Duly put to a vote:

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

RESOLUTION ADOPTED

Exhibit A. Masonic Care Community Special Use Permit Assessment by Henrietta Town Board for Proposal at Erie Station and Middle Roads

§ 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.

Senior living facilities are an allowed use within the Rural Residential Zoning District within which the proposed use is located. The campus-like layout of the facility and the low unit density are both consistent with the location and the neighborhood. At one of the numerous public meetings, including both Public Hearings and neighborhood meetings, one of the neighbors commented that of all the uses proposed for the site, this was by far the best in terms of fitting into the area, and a second neighbor commented that while they would obviously prefer it remain undeveloped, if it is going to be developed, they believe this would be a good campus to look down on from their home on the hill overlooking the site. The Town Board agrees with and adopts this assessment.

- 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 Comprehensive Plan identifies the Rural Residential Zoning District as a potential location for lower-density senior living facilities to take advantage of the more peaceful rural portion of Town as well as due to the fact that senior living facilities see far less impact due to vehicle traffic than due traditional multi-family facilities. A need for senior living facilities that are more affordable has been a common response to surveys or questionnaires about Town needs. The proposed facility may be able to provide some of that need.

- 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 site plan and elevations of the proposed development show one that is well integrated into the area and has an architectural and landscaping design that is consistent with the design and development standards of the Rural Residential zoning district. The use of the

sloping terrain to minimize the visual impact on the homes to the south is a good addition and providing a sidewalk connection such that the neighbors can utilize the walking paths and sidewalks, including along the large pond and proposed memorial, integrates well into the existing residential uses. The heights of the proposed buildings are permitted via a special use permit.

- 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. The developer will need to take care to minimize the dust impact from grading and construction, as well as provide good stone construction entrances to attempt to minimize any dirt carried out onto Erie Station or Middle Roads. Proper construction drainage ponds, erosion barriers, site stabilization, and other conservation strategies will need to be employed to prevent improper run-off and/or contamination of the nearby wetlands and inland waterways during construction. The Town will be actively monitoring construction to ensure the above does not happen and that any issues that may occur are immediately corrected and remediated.

- 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.

The Monroe County Department of Transportation has indicated that due to the anticipated traffic volumes, only a single entrance is required. The Fire Marshal believes there needs to be a second entrance for emergency access reasons, and the Monroe County Department of Transportation has requested that the second entrance be gated.

While the gated approach would handle the traffic volume and would not present a material hazard, the Town believes that having both entrances active would be optimal, so as to minimize the amount of traffic that must travel through the intersection of Erie Station and Middle roads. That intersection has poor sight lines due to terrain. While it is a functioning intersection and would remain so even with only one active entrance, local residents expressed concern about additional traffic through it, and so the Town is advocating with the County to make the second entrance active rather than gated.

The plans for the proposed development include both entrances active, and the developer has indicated they agree with the Town that it would be optimal for both entrances to be active.

As such, the Monroe County Department of Transportation is reviewing the Town's proposal to keep both entrances active to further reduce the load on the intersection and will notify the Town of its decision.

Ultimately, and for purposes of clarity, both the gated and non-gated approaches avoid material hazards, but, for the reasons set forth herein, the Town believes the optimal approach is to have both intersections active and will continue to advocate for not adding a gate to one of the entrances. If one entrance will require a gate, the Town believes that the majority of the traffic is likely to head north on Middle Road and as such, believes that should remain the active entrance, should the County DOT be unwilling to allow both entrances to be active.

- 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 presents no materially adverse impacts under SEQRA – all potential adverse impacts identified have been adequately mitigated, including but not limited to the need to ensure proper drainage to the east as the disruption of the existing agricultural clay drain tiles via the requirement of a drainage plan.

- 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 is over 88-acres and the proposed site plan results in a unit density far below the allowed maximum for a Rural Residential senior living complex. As discussed above, the proposed site plan takes advantage of the north-facing slope to minimize the visual impact on the neighbors to the south whose houses overlook the site. The height of the structures is being limited, not just from a vertical rise standpoint, as is standard, but also from an absolute elevation standard such that no structure extends above the elevation of the intersection of Erie Station and Middle Roads. Even the two structures that are above the standard height limited are specifically limited so as to remain below the elevation of the intersection. This means that the development will not impose upon the skyline view of the neighboring houses. In addition, the proposed landscaping plan will provide ample screening of the complex from surrounding properties and roadways.

- 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.

The proposed use will be extending the sanitary sewer south from Lehigh Station Road along Middle Road, with the introduction of a new sanitary pump station at the bottom of the hill, just south of the Thruway. This would allow the houses along Middle Road between Lehigh Station Road and the Thruway to be able to connect to a sanitary sewer instead of relying on septic systems. In addition, the proposed use will also continue the sanitary sewer south from the new pump station, doing so in such a way as to be able to provide a future connection to the homes up the hill to the south.

- 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.

Traffic and circulation will be safe and efficient. See above at “E” for further discussion on entrances.

Furthermore, the extension of the sidewalk to connect the intersection to the interior sidewalk and path network within the complex will enhance the current nonmotorized travel and provide a means for the neighbors to the south to walk on the sidewalks and paths within the complex, including the large retention pond and memorial proposed as part of the site plan. In addition, the land to the south of the wetlands near the Thruway but north of the proposed large retention pond will be graded in a manner so as to provide the basis for a future road should the Town acquire the land to the east for a future Town Park. Should the Town acquire that park, the Applicant would supply legal access to the future potential Town Park land.