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## memorandum

**To:** Advisory Committee Members

**From:** Jane Rice and Walt Kalina

**Date:** January 20, 2017

**Reference:** Technical Memo #1 – Existing Conditions Review  
Multiple Dwelling Zoning Analysis, Town of Henrietta NY

The following information is provided for discussion purposes with the advisory committee based on the review of Town regulations, plans and studies relative to Multiple Dwellings in the Town of Henrietta.

The review included:

- Local Law No. 1 of 2016 – Temporary Moratorium on the New Development of Multiple Dwellings
- Town Code Chapter 295. Zoning Ordinance and Official Zoning Map
- 2003 Town of Henrietta Comprehensive Plan
- 2011 Strategic Plan Update
- 2016 Draft and Final GEIS for the Southwest Quadrant Area
- Town of Henrietta Listing of Existing Apartments (updated 12/7/16)
- Rush-Henrietta Central School District Instructional Space Committee Report (1/10/17)
- Town Sanitary Sewer and Water District Maps

### **A. Town Zoning Code Review**

As stated in the current Temporary Moratorium:

“Multiple Dwellings – Includes all lands, buildings, structures and facilities, or any part thereof, which comprise a “Multiple Dwelling” pursuant to the Henrietta Town Code, including per the definition of Multiple Dwelling in Section 295-2 of the Code: **A building arranged, intended or designed to be occupied by three or more families living independently of each other.** The definition in the moratorium shall additionally include any development of multiple dwellings which would be permitted under Sections 295-25[A](38) and 295-13 of the Henrietta Code.”

#### *Article II: Definitions*

##### *§295-2 Word usage and definitions.*

Apartment House is defined as, “A building arranged, intended or designed to be occupied by three or more families living independently of each other.” Therefore, the terms Multiple Dwelling and Apartment House are synonymous.

Townhouse is defined as, "A one- or two-story single-family dwelling unit joined with another family unit or units in a row or cluster but separated from each other by party walls." Townhouses are permitted as multiple dwellings.

Multiple dwellings may be permitted in the following districts, subject to certain requirements.

- Multiple dwellings are permitted in the I Industrial District, subject to a special permit.
- Apartment houses are permitted in the R-2 Residential District, subject to provisions as set forth in §295-13 including a special permit.
- Townhouses, whether for sale or rent, are permitted as multiple dwellings under §295-13.
- Senior housing is not specifically defined in the code, but is described as *"including assisted living, nursing home and ancillary health-related facilities may be authorized in the Rural Residential (RR-1) Sub-district by a special permit granted by the Town Board, provided such uses are proposed at a density and design that is responsive to the intent of this District, giving consideration to the community needs for such facilities. The Town Board may impose reasonable conditions and request incentives from the development of such projects, including but not limited to provision of land/or funds for on- and off-site open space conservation, in grant of such permit for senior housing and related facilities, the Town Board may modify the density and dimensional requirements of this District."*

§295-13 Multiple dwellings (see attached section pertaining to dimensional requirements)

§295-25. Permitted uses.

- A. *Except as provide in §295-26, the following uses are permitted in I Industrial Districts:  
[Amended 2-18-2015 by L.L. No. 1-2015 includes:  
(38) Multiple dwellings, but only after obtaining a special permit from the Town Board, after notice and a public hearing, to be granted or denied pursuant to the procedures set forth in Article XII of this chapter and in accordance with all provisions of this chapter applicable to apartments houses.*

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

*In granting or denying any special permit, the board shall consider and shall determine, either from its own knowledge and investigation or from testimony or other information submitted to it, the facts with reference to such of the following matters as are relevant and shall make its decision on the basis of such facts:*

- A. *The effect of the proposed use on the orderly development and character of the neighborhood of the proposed use and upon the development and conduct of other lawful uses in the vicinity.*
- B. *Whether the proposed use will be in harmony with the existing and probable future development of the neighborhood in which the premises are situated.*
- C. *The number and proximity of the same or similar uses in the neighborhood of the premises.*

- D. *Whether the proposed use will be a nuisance in law or in fact and whether the use will be noxious, offensive or injurious by reason of production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions or will contaminate waters.*
- E. *Whether the proposed use will create hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of automobiles or other causes.*
- F. *What conditions, restrictions and safeguards are necessary to protect property values in the vicinity of the proposed use and for the protection of the health, safety, morals, peace and general welfare of the community and of the public.*

## **B. Existing Multiple Dwellings**

A listing of Henrietta Apartments (updated 12/7/16) provided by the Town includes the following:

- 46 apartment complexes, categorized as:
  - Regular (16)
  - Senior Living (9)
  - Student Housing (8)
  - Regular/Senior (4)
  - Affordable Family (3)
  - Senior Assisted Living (1)
  - Special Needs (1)
  - Affordable Family/Regular (1)
  - Disabled (1)
  - Community Cottages (1)
  - Nursing Home (1)
- 40 complexes built, 2 under construction, 4 currently on hold
- 4,403 total dwelling units listed
  - studio units (268)
  - 1 bedroom units (1,621)
  - 2 bedroom units (1,674)
  - 3 bedroom units (752)
- Construction by decade:
  - 1960s 8 complexes, 1318 total units
  - 1970s 3 complexes, 678 total units
  - 1980s 2 complexes, 154 total units
  - 1990s 4 complexes, 248 total units

2000s 8 complexes, 583 total units

2010s 11 complexes, 1,084 total units (4 regular, 6 senior, 1 student- includes 2 complexes and 148 units under construction)

The Town's website currently lists two large scale residential apartment projects, one in the design phase and one in the active construction phase.

- 16-006 Town Center South Apartments at 2695 East Henrietta Road - 249-unit multi-family community in design phase
- 15-015 Town Center North Apartments at 655 Calkins Road – 124 unit rental apartments

### C. Draft and Final GEIS Review

The Final GEIS notes the following on page 14 as part of a summary of public comments received on the Draft GEIS relative to the issue of multi-family residential uses:

#### Public Comments

“Multi-Family Residential Use in Industrial District

a) Several residents had input regarding the allowable land use of Multi-Family Residential in Industrial Zoning which is currently allowed with a Special Use Permit. More specifically, the concern was for the increased burden on the school system and the potential impact of a large multi-family residential project could have on police, fire, and ambulance services in the town. Since Multi-Family Residential is not an allowable use in Industrial Zoning in the town without a Special Use Permit granted by the Town Board. Thus, it falls to the discretion of the Town Board on whether or not to grant a special use permit for Multi-Family Residential use on a per project basis. The Town Board is required to consider the potential impacts identified by the project as part of their review process. For the purpose of the GEIS, area wide multifamily developments were not specifically analyzed because the amount of industrial square footage estimated more than accounted for impact from the potential of the allowable multi-family residential use. However, the impact associated with any future multi-family proposal would have to be compared to the threshold projections contained within this documents in order to determine the appropriate mitigation, if necessary.”

#### Traffic

The GEIS Traffic Impact Study of intersection capacity identified five locations where potential Level-of-Service (LOS) could degrade under industrial (or possibly multifamily) development conditions within the southwest quadrant. A LOS of E or F indicates congestion problems.

- West Henrietta Road & Lehigh Station Road  
Intersection with 13 approach lanes as first intersection west of I-390 Exit 12A. Majority of traffic travels west to and from I-390. LOS of B currently and under background growth (1% for each year over 10 years) conditions to LOS of D under developed (industrial) conditions with congestion problems on northbound left and right turns, and southbound left approaches failing

during peak periods requiring lane improvements. Identified in the Active Transportation Plan which calls for several intersection improvements to improve bike and pedestrian circulation.

- **Lehigh Station Road & Middle Road**  
Intersection with 10 approach lanes and first intersection east of I-390 Exit 12A. Currently at LOS of A and under background growth conditions to LOS B under developed (industrial) conditions with all approaches maintaining C or better. No improvements required. The majority of traffic flows along Lehigh Station Road to and from I-390. Identified in the Active Transportation Plan which calls for several intersection improvements to improve bike and pedestrian circulation.
- **West Henrietta Road & Erie Station Road**  
Intersection with 7 approach lanes currently at LOS A and under background growth conditions to LOS B under developed (industrial) conditions with all approaches maintaining C or better. No improvements required. Majority of traffic flows along West Henrietta Road.
- **West Henrietta Road & Rush-Henrietta Town Line Road**  
Intersection with 4 approaches and first intersection north of Exit 11 on I-390. Un-signalized intersection with two way stop in east-west direction. Majority of traffic flows along West Henrietta Road currently at LOS A and under background growth conditions to LOS E under developed (industrial) conditions with congestion problems on eastbound and westbound approaches requiring improvements possibly including signalization.
- **Erie Station Road & Middle Road**  
Intersection with 4 lanes and 4 lane stop. Traffic flow mostly along Erie Station Road. Current LOS of A and under background growth conditions to LOS D under developed (industrial) conditions with eastbound, northbound and southbound at LOS of C and southbound LOS of F, requiring intersection improvements.

### Water

The town is highly served by public water supplies under the jurisdiction of the Monroe County Water Authority. Most roadway corridors and developed areas within the Town appear to be within or adjacent to existing water district extensions. It appears that water supply within the Town and access is not a significant development issue at this time.

The public water supply and capacity evaluation in Appendix 5 of the FGEIS indicated that study areas 1 through 4 and 6 through 8 (study area 5 was removed from consideration) in the southwest quadrant which are served by adjacent mains are sufficient to receive loads from industrial development of those areas based on each area's potential developable acreage, maximum build-out, and anticipated water demand as considered in the GEIS.

Area 1 and 2 served by 12-inch main on Lehigh Station Road

Area 3 and 4 served by 12-inch main on Rush Henrietta Townline Road

Area 6 served by 10-inch main on Middle Road

Area 7 served by 12-inch main on west Henrietta Road

Area 8 served by 24-inch main on Erie Station Road

Sanitary Sewer

The FGEIS identified a bottlenecking issue and an area needing sewer upgrades in the vicinity of the NYS Thruway and Sanitary Sewer Extension #37 from the Thruway underpass northward to Bennington Hills. Other potential issues within the southwest quadrant have not been identified.

**D. Rush-Henrietta Central School District Instructional Space Report**

The Rush-Henrietta Central School District’s Instructional Space Committee released a study in January 2017 on current student enrollment and projections through 2021. The study reviewed enrollment trends and projections, residential development plans, current school space use, and attendance to determine classroom space for future enrollment. The District currently enrolls 5,369 students, 5,247 of these attend 9 schools in the district and 122 are placed out of district (BOCES or special schools). There are 5 elementary schools (K-5<sup>th</sup> grade at Leary, Crane, Fyle, Sherman and Winslow), 2 middle schools (6<sup>th</sup>-8<sup>th</sup> grade at Burger and Roth), 1 ninth grade academy, and 1 high school (9<sup>th</sup>-12<sup>th</sup> grade Rush-Henrietta Senior High School).

In 2016, there was a decrease in enrollment of 101 students from 2015. District trends are shown below.

Year	Elementary	Secondary	Total
2016	2,412	2,835	5,247
2015	2,506	2,842	5,348
2014	2,374	2,853	5,227
2013	2,379	2,876	5,255
2012	2,393	2,973	5,366

The largest elementary school (Leary) experienced significant recent growth and despite a decrease in enrollment was found to be at capacity. In 2017-2018 the District is moving from 5 to 6 elementary schools in response and reconfiguring its buildings to four (K-3) and two intermediate (grades 4-6). The District is projecting lower enrollments due to revised information from the Town of Henrietta on anticipated residential development. Continued steady growth in residential growth is expected over the next five years, but at a slower rate. The District’s study noted that “several of the large developments in Henrietta will be predominantly townhouses, patio homes, duplexes and smaller apartments that are marketed toward demographics other than families with school children.”

The District’s study concluded: “based on analysis of the enrollment projections and space requirements for the next five years, the Instructional Space Committee concludes that the District’s long-range space planning continues to be sound, as schools at all levels – elementary, junior high school and high school – are anticipated to have more than adequate space to meet the needs of expected enrollments and future growth.” The committee did recommend that the Board of

Education “Monitor projected residential growth in the Burger/Vollmer attendance zone over the next three to five years, to determine whether (a) K-3 attendance areas will need adjustment, and/or (b) self-contained class assignments will need to be revised.”

## **E. Town Comprehensive Plan and Strategic Plan Review**

### 2003 Comprehensive Plan

The 2003 Comprehensive Plan states that “Henrietta needs to ensure that a broad mix of housing opportunities is available for its increasing population, especially for senior citizens, and that new housing is accessible to community facilities.” Residential dwellings are the most prevalent land use in the Town. According to 2000 U.S. Census data, there were 13,243 housing units in the Town at the time the plan was prepared. This increased to 16,326 units as estimated by the American Community Survey (ACS) for the period between 2011-2015. The 2010 population in the Town was 42,581. The ACS estimate in July 2015 was 43,453 so the Town is increasing in population.

The 2003 plan states that the hamlets of East Henrietta and West Henrietta should be maintained, expanded, and enhanced and recommended the following. “The hamlets are intended to provide for a variety of pedestrian-friendly mix of activities and services with a village atmosphere that will provide a comfortable gathering place where residents and visitors may come together. A hamlet overlay district is recommended to serve as an overlay to the lot, bulk, and use requirements of underlying zoning districts. The Hamlet Overlay District would include the following components/goals: walkability; mixed use (commercial-residential) areas; a diversity in neighborhood services accessible to the residents and visitors within easy walking distance; and a variety of housing choices for people of all age groups, family sizes, and income levels. Additionally, the plan recommends creating “a floating senior citizen development zone with a minimum lot size of ten acres in which integrated health care, residential, recreational, and commercial uses for elderly persons would be allowed, and in which a specific percentage of units would be required to be affordable to persons of low or moderate income. Specific criteria to determine appropriateness of proposed sites would be established. These would include parcel size (e.g., 10-acre minimum), direct access to a county or state road, availability of on-site sewer and water, etc.”

### 2011 Strategic Plan

The Strategic Update of the Comprehensive Plan is organized around three interrelated initiatives towards achieving a “sustainable community”. These include:

- Community Building
- Green Infrastructure Plan
- Economic Development Strategy

Relative to community building and creating a sense of place, the Strategic Plan revisits the concept of creating a mixed-use Town Center first suggested in the 2004 Comprehensive Plan. The Strategic Plan notes that “Erie Station Village is a new multifamily housing neighborhood in the Hamlet of West

Henrietta. Its pedestrian orientation, interconnected street network, public spaces, and use of vernacular architectural styles make it an excellent example of many of the elements of traditional neighborhood development.” It is also noted however, that Erie Station Village does lack a true mix of uses. The Park Point development, located at the corner of Jefferson Road and John Street adjacent to the RIT campus was also discussed as another example of a mixed-use development in the Town.

Relative to green infrastructure the Strategic Plan noted that agriculture is a significant contributor to the Town’s green infrastructure network, with over 20% of the parcels (in land area) in Town containing active agriculture land. The Plan noted most of Henrietta’s agricultural land is located in the southern and western areas of Town, with large “core” areas of contiguous farmland and are an ideal location to focus future farmland protection efforts.

Relative to economic development the Strategic Plan states:

“Rather than limiting the reuse or redevelopment of the Town’s older commercial areas to the same commercial zoning standards that are in place today, the Town could provide an alternative redevelopment option – creating an overlay zone or a similar designation that would utilize incentive zoning - to allow these areas to be converted to much higher density, mixed-use (residential, commercial, and office) developments. These would include very specific urban design requirements intended to promote the establishment of walkable and public transit-friendly neighborhoods or districts. The inclusion of a more varied range of residential types in these developments would have the added benefit of creating housing options for seniors, young professionals, and others in Henrietta who might be looking for something other than a single-family home.”

The 2011 plan states the following goals relative to housing and residential neighborhoods.

#### Housing Goals

- Promote Diverse Housing Opportunities for All Residents of the Town of Henrietta
- Protect Existing Residential Areas in the Town
- Determine the Areas Where Residential Growth Should Occur and Direct That Growth
- Encourage the Rehabilitation of Existing Substandard Housing

#### Visual Character Goals

- Maintain and Enhance the Rural Visual Character of the Town of Henrietta
- Continue to Improve the Appearance of All Existing Commercial Areas in the Town
- Improve and Strengthen the Character and Visual Quality of Existing Residential Neighborhoods Including the Hamlet Areas

Appendices in the Strategic Plan contain notes of meetings, workshops and community surveys. This information provides considerable insight to how the community views current and future land use including residential development. Below is an example of some of the discussions that took place during community workshops taken verbatim from the 2011 plan.

- *What qualities does the town have that makes Henrietta a good place to live?*  
Participants liked the diversity of Henrietta and also appreciated the affordability of the housing stock, with a median home price of just under \$150,000. They liked the separation of land uses and appreciated the amount of green space in Town. People mentioned Locust Hill as a friendly neighborhood that feels safe and Erie Station as an area that has aesthetic appeal.
- *What qualities are concerning?*  
Participants were concerned about how vacant lands would be addressed in order to avoid losing valued open space. They want to maintain 'family friendly' neighborhoods and were concerned about larger residential developments, such as apartments and student housing, impacting the quality of their neighborhoods. Some participants were concerned about flooding and requested that the Town look into drainage issues, particularly around Locust Hill Drive.
- *What things have you seen in other communities that Henrietta could do to make the town a better place?*  
Participants felt that there should be a balance between open space areas and development; and that the town should encourage open space preservation through initiatives such as Purchase of Development Rights and zoning code revisions that would require more land be set aside for preservation in new developments. They also liked the idea of a town center and would like it designed in a way that was walk able and bicycle friendly. Perinton and Pittsford were mentioned as model communities because of their open space planning and town center feel, respectively. Redevelopment of the vacant shopping centers were points of discussion as well, and one participant recommended that these properties be considered for residential master plans.
- *What type of housing do you think makes sense in Henrietta?*  
Participants seemed to favor single family neighborhoods and recommended that they be kept separate from larger scale development, such as multifamily and student housing. However, others recognized that there is a need to diversify housing and Riverton was mentioned as an area to accommodate higher density housing.

### **Discussion Points**

Based on the review of existing information EDR proposes the following actions and discussion points during the committee meeting scheduled on January 26, 2017.

1. Confirm the information presented in this memo and supplement it with any additional sources of information yet to be identified in discussion with the committee based on local knowledge.
2. Review portions of the zoning code that need clarification or possible amendment relative to definitions, permitted uses by district and special permit criteria.

3. Discuss possible effects of continued multiple dwelling development on community resources and facilities. Based on initial reviews there appears to be few significant concerns in the near future regarding schools, water, sewer and other utilities and services such as police, fire and emergency services.
4. The GEIS identifies intersection capacity issues at some locations in the southwest quadrant, but mitigation seems to be available. More information may be needed for other road corridors within the Town to determine the effects of development.
5. Discussion is needed to determine possible effects on parks, recreation and open space given a lack of current information.
6. Given the age of a substantial number of existing apartment complexes in older neighborhoods that are at or approaching 50 years this may become an issue as decisions will need to be made regarding future redevelopment/refurbishing/replacement opportunities. Similarly, as identified in previous planning initiatives the potential redevelopment of aging, underutilized and vacant properties (industrial and commercial) may provide opportunities for adaptive reuse or mixed use development in lieu of greenfield development.

**§ 295-13. Multiple dwellings.**

- A. No multiple dwelling or group of multiple dwellings shall be erected or altered until a special permit has been granted by the Town Board, after a public hearing in accordance with the procedures set forth in Article XII of this chapter.
- B. No multiple dwelling shall contain more than three stories which are used or designed to be used for human habitation. Where more than one multiple dwelling is constructed or exists on a single site or plot so as to form a group of apartment dwellings, each separate building shall conform to the requirements for a single multiple dwelling and to such additional requirements as are hereinafter stated. Townhouses, whether for sale or rent, are permitted as multiple dwellings.
  - (1) Size of lot. In R-2 Districts there shall be 2,000 square feet of lot area for each dwelling unit erected on the premises, said 2,000 square feet being in addition to the area occupied by buildings, provided that the aggregate lot occupancy of multiple dwellings in residential districts shall not exceed 25% of the total lot area. In commercial districts the lot area is not regulated, except that not more than 35% of the lot area in commercial districts may be occupied by buildings.
  - (2) Size of unit. No multiple dwelling as defined in this chapter shall be erected or existing structure altered or reconstructed to become such, unless each unit thereof shall contain the following minimum habitable area, exclusive of additional building area required for common use of the tenants, such as lobbies, corridors, stairways, elevator shafts and storage space, or for other common building areas essential and incidental to the overall primary purpose:
    - (a) Efficiency or studio dwelling units. An "efficiency" or "studio dwelling unit" is defined as one which has no separate sleeping area and consists of one room combining both living and sleeping space and a kitchenette or kitchen and a bathroom. The area shall be not less than 500 square feet. In residential zones not more than 25% of the dwelling units in any multiple-dwelling building shall be of the efficiency or studio type, and in commercial zones the proportion shall not be over 50%.
    - (b) A one-bedroom dwelling unit shall have an area of not less than 600 square feet.
    - (c) A two-bedroom dwelling unit shall have an area of not less than 800 square feet.
    - (d) A three-bedroom dwelling unit shall have an area of not less than 950 square feet.
  - (3) Content of unit. All dwelling units must contain at least one habitable room and also a kitchenette or kitchen and bathroom with complete bathroom facilities.

- (4) Setbacks. The front, side and rear setbacks from all property lines to all multiple-dwelling buildings, parking areas and driveways shall be not less than 60 feet, except that when adjoining property is commercial, the setback may be not less than 30 feet.
- (5) Parking. All premises occupied by multiple dwellings shall have thereon at the site of the structure and completely off the limits of any street or highway improved and usable parking areas in compliance with § 295-44.
- (6) Distance between buildings in a dwelling group. No part of the main foundation wall of any multiple dwelling in a group of multiple dwellings occupying the same lot or site shall be closer than 40 feet to the main foundation wall of any other apartment building in such group.
- (7) Preliminary hearing. Fourteen preliminary building and site development plans, the latter showing locations of proposed buildings, drives, parking facilities and type of screening as may be required, shall be presented to the Fire Marshal/Building Inspector for staff review and distribution with the application for multiple dwelling or dwelling group development. There may be a preliminary hearing before the Town Board, and the Town Board may require such additional provisions and conditions as appear essential to the promotion of the public health, safety and general welfare. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (8) Garbage and trash.
  - (a) Adequate provisions must be made on the premises for such safe and convenient storage and removal of garbage as will best promote the public health, safety and general welfare.
  - (b) Areas for the storage of garbage shall be readily accessible for removal and clearing, suitably protected from rodent infestation and visually shielded and shall meet all requirements of the Monroe County Department of Health.