

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 19, 2024 AT 4:30 P.M.

RESOLUTION #13-199/2024

To suspend Special Use Permit No. 2020-032 for a truck parking facility located adjacent to 39 Commerce Drive.

On Motion of
Supervisor Schultz

Seconded by
Councilmember Page

WHEREAS, Marlwood Partners, LLC, (the "Applicant") was previously approved for a Special Use Permit (Application No. SP2024-022) under Henrietta Town Code §295-14[B](6) for a truck parking lot (the "Application") located in an Industrial Zoned District at the property, Tax ID No. 161.15-1-4, adjacent to 39 Commerce Drive, Rochester, New York, 14623, (the "Property"), or as more particularly described in plans on file in the Town Clerk's Office, with the approval granted on March 24, 2021; and

WHEREAS, the Application approval included five conditions the approval was subject to, enumerated here:

1. The applicant will be required to address all outstanding comments from the Director of Engineering & Planning, in addition to those recommendations set forth from the Henrietta Conservation Board at their March 2, 2021 meeting.
2. The applicant will be required to supply the Town with either a letter or a permit from the New York State Department of Environmental Conservation (NYSDEC) indicating that the applicant has approval to park trucks on the property.
3. Per the letter from the NYSDEC dated March 10, 2021, the applicant shall reach out to the department of NYS OPRHP regarding potential impacts to archaeological resources from the development of this area.
4. As stated in the Planning Board approval letter dated March 19, 2021, the applicant shall return to the Planning Board in approximately ninety days to show compliance with the outstanding issues and conditions set forth herein.
5. Applicants/Owners must meet all DEC, State, County, and Town requirements, both prior to making any improvements and during operations, to the satisfaction of the Town Engineer or designated Town representative; and

WHEREAS, during the Application process, representatives from Marlwood Partners, LLC presented a site plan that included seven parking spaces for large trucks and "about twelve parking spaces" for the drivers of those trucks so that they do not need someone to drop them off or pick them up for their truck run; and

WHEREAS, prior to the Application process, representatives from Marlwood made modifications on the adjacent 39 Commerce Drive parcel that is a contaminated site being monitored by the New York State Department of Environmental Conservation (DEC) and subsequently had their DEC permit pulled or suspended due to unapproved modifications to the adjacent contaminated site; and

WHEREAS, during the Planning Board approval process, with Planning Board Application No. 21-003, heard on March 16, 2021, as indicated in a letter sent to the Applicant by the Director of Engineering and Planning, the site plan was to define (a) the limits of proposed gravel parking areas, (b) the location and size of the parking lot entrances, (c) the details of the gated access, and (d) all improvements to the property; and

WHEREAS, the site has deviated significantly from the approved site plan with parking far beyond

what was approved both in area, as the gravel was added far beyond the limits in the site plan as shown in the latest GIS Imagery, as well as for vehicles, as observed by the Deputy Town Supervisor where he counted 17 trucks/trailers and over 54 cars on the site; and

WHEREAS, the site has repeatedly had un-plated and un-registered vehicles on site and has been engaging in the selling of vehicles, in direct violation of Town Zoning Laws, §295-26[E]; and

WHEREAS, unauthorized improvements were made to the adjacent parcel of 39 Commerce Drive, including in areas that were considered off-limits due to the aforementioned contamination; and

WHEREAS, the operations have spilled over to the adjacent parcel of 39 Commerce Drive, though not allowed to do so under the original Special Use Permit; and

WHEREAS, improvements promised, especially with regards to adding greenspace and/or adding permeable surfaces for drainage, in the Site Plan approval process have still not been installed now three years after approval; and

WHEREAS, a public hearing was duly advertised for and held relative to the potential suspension and revocation of Special Use Permit Application No. 2020-032, on May 29, 2024 at 6:00 p.m. and continued on June 19, 2024 at 4:30 p.m.; and

WHEREAS, the Town Board has carefully considered all information relevant to the Application and the violations as presented by Town officials, as well as correspondence and oral testimony from the Applicant, correspondence and oral testimony from Town officials, and comments and testimony from the public; and

WHEREAS, the Town Board believes this site is in conflict with the approval conditions on the original Special Use Permit, and has considered those deficiencies, the inability of the Applicant to resolve the issues even after repeated attempts, the significant change in the site plan, the failure to meet Town Code, the additional unapproved use(s) on the property, and continued problems after notification of a potential revocation of the Special Use Permit.

THEREFORE, BE IT RESOLVED, that the Henrietta Town Board hereby suspends Special Use Permit No. 2020-032 until the site is in full compliance with an approved Special Use Permit and an approved Site Plan, whether that is the original Permit and Plan as currently approved, or a subsequent Special Use Permit and/or Site Plan approved by the Town Board and/or Planning Board, respectively, and that all issues have been resolved to the satisfaction of the Director of Engineering and Planning.

BE IT FURTHER RESOLVED, that until such time as the suspension of this Special Use Permit is lifted, through a subsequent Town Board action, there can be no commercial activity, including but not limited to the use of the lot for the parking and dispatching of trucks or the storage of vehicles.

BE IT FURTHER RESOLVED, that if the suspension of this Special Use Permit is not lifted by August 31, 2024, unless this deadline has been subsequently extended by Town Board resolution, then this Special Use Permit shall be permanently revoked.

Duly put to a vote:

Councilmember Page	Aye
Councilmember Bellanca	Aye
Councilmember Barley	Aye
Councilmember Stafford	Aye
Supervisor Schultz	Aye

RESOLUTION ADOPTED

TOWN OF HENRIETTA

MEMORANDUM

DATE: 6/13/2024

TO: File

FROM: Craig Eckert, Deputy Town Supervisor

SUBJECT: 39 Commerce Special Use Permit 2020-032

On June 12th at 4:00 pm Steve MacIntyre and I met with Mina on the property to review the punchlist work that has been completed. Attached to this document is an updated punchlist that was completed during yesterday's meeting. At the beginning of the meeting, Mina stated that everything on the punchlist was completed. During our review, that was deemed not to be true.

I have spoken with Brianna Scharf of the NYSDEC and they are planning a site visit and will return the results as soon as possible

In summary, the following items have been completed:

The eastern parcel has been cleaned up from the debris and about half of the vehicles, there is still some debris and or equipment on this parcel, as they are still utilizing it.

The access for the Fire Department has been taken care of and confirmed by the Fire Marshall.

Functionality of the Catch basin was supposedly completed. Verification to the Town should be En route.

Items that ae still open and ongoing:

Two storage trailers are evident. They have not moved and are blocking the employee parking area which has not been installed. The trailers are located in the southern landscaped area and are being used to store tires, equipment and trash underneath.

Landscaping not installed, no schedule for a contractor to complete.

Many areas of debris are still present onsite.

Landscape areas not installed, this is the western property line



Landscape areas not installed, this is the northern property line.



Landscape areas not installed, this is the southern property line



Debris is still onsite



Debris is still onsite



Debris is still onsite



Debris is still onsite



Debris is still onsite



Debris is still onsite



This debris is in the southern landscape area, along with a vehicle with no plates or registration.



Storage trailers



Hazardous material is being stockpiled on site. Checking with the DEC

