

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 9, 2022 AT 6:00 P.M.

RESOLUTION #4-98/2022

Approve Special Permit Application No. 2022-001 for Tesla Motors to operate an automotive service center and vehicle and educational gallery at 3535 West Henrietta Road.

On Motion of
Councilmember Page

Seconded by
Councilmember Bellanca

WHEREAS, Rochester Motors NY, LLC, on behalf of Tesla Motors, has made application for approval of a special permit to operate an automotive service center with an educational gallery / vehicle display (i.e., a limited "motor vehicle showroom, sales and service facility," permitting a limited showroom and service, but not the sales) on the property at 3535 West Henrietta Rd. (the "Property"); and

WHEREAS, Town Code Section 207-3 prohibits the storing of unlicensed or un-plated vehicles on any private property within the Town of Henrietta and since the location will not include sales, it will not enjoy the normal dealership exception to the above prohibition; and

WHEREAS, the Town has received no direct correspondence from the New York State Department of Motor Vehicles on whether an educational showroom is allowed without a dealership license and the only communication received from the New York State Department of Motor Vehicles appears to indicate they are aware of the activity and have no issue with it; and

WHEREAS, the applicant has further indicated that "there will be no sales or financial transactions discussed or taken at this site," that "un-plated vehicles will not be stored outdoors at the facility," and that "loaner and demonstrative drive vehicles will be plated strictly in accordance with the New York State Department of Motor Vehicles guidance."

THEREFORE, BE IT RESOLVED, that the proposal involves the conversion and re-use of an existing commercial structure at the Property and is thus a Type II SEQR action pursuant to 6 NYCRR Part 617.5(c)(18) and not subject to SEQR review.

BE IT FURTHER RESOLVED, that assessment of the Special Permit factors weighs in favor of approval of the application, for all those reasons set forth in the record, including, for example, that the proposed use is consistent with the surrounding area.

BE IT FURTHER RESOLVED, that the Henrietta Town Board approves Special Permit application #SP2022-001 for motor vehicle showroom and service facilities (i.e., a limited "motor vehicle showroom, sales and service facility," permitting the showroom for educational purposes and service, but not the sales), such that Tesla Motors can operate a vehicle and educational gallery (i.e., a showroom for educational purposes only) and an automotive service center at the Property, subject to the following conditions:

1. No sales activity, as according to DMV Regulations, shall take place at the Property or in associated vehicles driven for educational purposes. Any instance of such sales activity may

result in the revocation of this Special Permit and/or citations and fines. Should the applicant wish to engage in such sales activity, it must apply for a new/amended special use permit requesting permission from the Town for such use. This Special Permit is limited to motor vehicle showroom and service facilities, without sales.

2. The showroom / vehicle and educational gallery use is not deemed to be illegal by the New York State Department of Motor Vehicles. If the use is determined to be illegal by the New York State Department of Motor Vehicles, this Special Use Permit shall then become null and void.
3. The vehicle and educational gallery use is not deemed to require licensure by the New York State Department of Motor Vehicles, except that: if a license is required by the New York State Department of Motor Vehicles, Tesla Motors must file for a new license or begin the transfer for an existing license within thirty (30) days of the ruling and said license must be obtained or transferred within six (6) months of the ruling. Failure to do so may result in the revocation of this Special Use Permit and/or citations and fines.
4. No un-plated vehicles will be stored outdoors on the premises. If un-plated vehicles are found outdoors, Code Enforcement Action may be taken, including but not limited to: issuance of a Notice of Violation, potentially resulting in a fine, or other actions as defined by Town Code Section 207-13. Repeated violations of this prohibition may result in the revocation of this Special Use Permit.
5. The number of vehicles used for educational purposes (i.e., "educational vehicles") allowed on the Property at any one time shall not exceed the number of parking spaces in excess of the number of customer and employee parking spaces as required by code. This limit will be determined at Site Plan approval by the Planning Board. If there are more than the allowed number of educational vehicles, a notice of violation may be issued. Repeated violations of this requirement may result in the revocation of this Special Use Permit.
6. All company-owned or controlled vehicles on the premises shall be licensed in accordance with New York State law.

Duly put to a vote:

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

RESOLUTION ADOPTED