

# CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: January 21, 2014

Time: 5:30 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street 2014 JAN 14 A 10:32

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

Agenda Items to be addressed:

10-21-13 – ORDER #13-1005582

Application for Special Permit by Atty. Bergeron on behalf of Sandra & Anthony Antico Real Estate LLC and Sky High Studios, Inc. to open commercial recreation establishment at the property, specifically an exercise and fitness facility, at 289 Elm Street.

-REFER TO URBAN AFFAIRS

PUBLIC HEARING: JANUARY 13, 2014

10-21-13 – ORDER #13-1005578

Proposed Zoning Amendment submitted by Councilor Clancy to amend the Medical and Dental Clinic Use by making them separate uses and by adding two new definitions – Medical Clinic and Dental Clinic and, further, to allow dental clinics as of right in the Business (B) district.

-REFER TO URBAN AFFAIRS AND PLANNING BOARD

PUBLIC HEARING: JANUARY 13, 2014

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

**NOTICE OF DECISION  
GRANT OF SPECIAL PERMIT**

In City Council  
Order No.

Application of:  
Sandra and Anthony Antico Real Estate LLC  
72 Jefferson Street  
Marlborough, MA 01752

And

Sky High Studios, Inc.  
289 Elm Street Unit 114

Locus:  
289 Elm Street, Unit 114  
Map 68, Parcels 20B and 19

**DECISION**

The City Council of the City of Marlborough voted to **GRANT** a Special Permit to Sandra and Anthony Antico Real Estate LLC (hereinafter "Applicant Landlord") and Sky High Studios, Inc. (hereinafter "Applicant Tenant"), for a commercial recreation establishment at 289 Elm Street, Suite 117, based on the Findings of Fact and Conditions attached hereto.

Decision filed: \_\_\_\_\_

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**APPEALS**

Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough, MA.

ATTEST:

City Clerk

**DECISION ON A SPECIAL PERMIT  
CITY COUNCIL ORDER NO.**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Sandra and Anthony Antico Real Estate LLC (the "Applicant Landlord ") and Sky High Studios, Inc. (hereinafter "Applicant Tenant"), as provided in this Decision and subject to the following Findings of Fact and Conditions:

**FINDINGS OF FACT AND CONDITIONS**

1. The Applicant Landlord is a duly organized and existing Massachusetts Limited Liability Company with its principal place of business located at 72 Jefferson Street, Marlborough, MA 01752. Applicant Tenant is a duly organized Massachusetts corporation with a principal place of business at 289 Elm Street Suite 114, Marlborough, MA.

2. The Applicant Landlord is the title owner of the property located at 289 Elm Street, Suite 114 (the "Site"). Applicant Landlord and Applicant Tenant have executed or will execute a Lease regarding Suite 114 at the Site, and its use pursuant to the terms of this special permit.

3. The Applicants seeks permission to utilize Suite 114 as a commercial recreation establishment.

4. The Applicant Landlord and Applicant Tenant, on October 18, 2013, filed with the City Clerk of the City of Marlborough, an Application for a Special Permit under the provisions of §650-17 and pursuant to the procedures specified in §650-59 of the Marlborough Zoning Ordinance (the "Application").

5. The Site contains an existing commercial building as shown on the site plan submitted with the Application (the "Site Plan"), an 8 ½ " x 11" version of which is attached hereto. No modifications are proposed to the exterior of the building, no structural modifications are proposed to the interior of the building, and no parking areas will be created or modified.

6. The Applicants seek a special permit allowing the establishment of commercial recreation establishment that will provide for fitness training using both pole fitness and aerial aerobics techniques.

7. The Site Plan was certified by the Building Commissioner, acting as the City Planner, as having complied with Rule 5, items A through J, of the Rules and Regulations promulgated by the City Council for the issuance of a special permit.

8. Pursuant to the Rules and Regulations of the City Council and the provisions of M.G.L. c.40A, the City Council established a date for public hearing for the Application and the City Clerk caused to be advertised said date in the MetroWest Daily News and sent written notice of said hearing to those abutters entitled to notice under law.

9. The Marlborough City Council pursuant to M.G.L. c.40A held a public hearing on \_\_\_\_\_, concerning the Application. The hearing was opened and closed at that meeting.

10. The Applicants' attorney presented evidence at the public hearing detailing the proposed use and its limited impact upon City services, the neighborhood and traffic.

11. At the public hearing, Lauren Forest, President of Sky High Studios, Inc., who will also be managing the operation of the business, described the proposed business as being one that would provide a unique combination of exercise instruction, combining two forms of adult exercise and fitness training that have become increasingly popular: pole fitness and aerial aerobics. She testified that neither of these forms of fitness training is currently available in this geographical area. She provided illustrations of the equipment to be used in such training. All of the equipment, she said, is currently available for viewing at the proposed permit location. She indicated that her proposed hours of operation would be:

- Monday-Thursday: 1000 AM - 9:00 PM
- Friday-Sunday: (regular) 10:00 AM – 4:00 PM
- Friday-Sunday (special events) 5:00 PM – 10:00 PM

She indicated that, given the location of Suite 114, the operation of the business would not in any way disrupt area residences. She estimated that the total number of people at the site at any one time would be 20, and that the peak parking demand would be for 20 parking spaces. She said that she also intends to allow the use of the facility for private functions. She showed building plans indicating where Suite 114 is located in the building, and showing that it is located far away from any residence in the area.

### **REASONS FOR APPROVAL OF APPLICATION FOR SPECIAL PERMIT**

A. The City Council finds that the Applicants have complied with all Rules and Regulations promulgated by the Marlborough City Council for an application as they pertain to the Special Permit.

B. The use of Unit 114 for an commercial recreation establishment to provide instruction in pole fitness and aerial aerobics is an appropriate use of the Site and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough, subject to appropriate terms and conditions provided for herein. The use sought and its impacts and characteristics are not in conflict with the public health, safety, convenience and welfare, provided the safeguards and limitations imposed herein are met.

C. The City Council, pursuant to its authority under M.G.L. c.40A, §9 and Chapter 650 of the Marlborough City Code, **GRANTS** the Applicants, their successors and assigns, a Special Permit to operate a commercial recreation establishment as per plans filed with the City Council and the City Clerk, **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Signage: Any signage installed or erected on the Site shall meet the requirements of the Sign Ordinance of the City of Marlborough, without variance.

2. Compliance with Local, State and Federal Laws: The Applicants agree to comply with all rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and the Federal Government as they may apply to the construction, maintenance, equipping and operation of the facility.

3. Hours of Operation: The hours of operation of the facility shall not be earlier than \_\_\_\_ AM or later than \_\_\_\_ PM on any day.

4. Limits of Use: The proposed use of the premises is to provide a place for pole fitness and aerial aerobic instruction and functions related thereto. No other kinds of recreation or public amusement shall be allowed on the premises except those ancillary to this use.

5. Certificate of Occupancy Required: No use of the premises will be made pursuant to this special permit unless and until a Certificate of Occupancy has been obtained from the Building Commissioner regarding the use of the premises.

6. No Expansion of Use Area: Only the area of Suite 114, containing approximately 2,000 sq. ft, which has been specified in a sketch in the files of the Urban Affairs Committee, a copy of which is attached hereto, will be used for the proposed use. To the extent that a substantial increase in the area used for this use is desired, the Building Commissioner shall determine whether such increase constitutes a substantial change of the permitted use, and if so, no such expansion shall be permitted unless and until this special permit has been modified by the City Council

7. Recordation: In accordance with the provisions of M.G.L. c.40A, §11, the Applicant shall, at its expense, record this Special Permit with the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal hearing being filed. The Applicant shall provide a copy of the recorded Special Permit to the City Clerk, the City Solicitor, and the Building Commissioner.

APPROVE

Yea: \_\_\_ Nay: \_\_\_

Yea:

ADOPTED \_\_\_\_\_

In City Council

Order No. 13- \_\_\_\_\_

Adopted: \_\_\_\_\_

Patricia A. Pope  
City Council President

A TRUE COPY

ATTEST:

City Clerk