



# IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 8, 2008

ORDERED:

## NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council  
Order No. 08-1001876C

Application of:  
Boston Post 355 LLC

Locus:  
355 Boston Post Rd. West  
Map 88, Parcel 15

### DECISION

The City Council of the City of Marlborough hereby **GRANTS** the Application of Boston Post 355 LLC as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

Decision filed: September 23, 2008

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the September 23<sup>rd</sup> day of September, 2008

### APPEALS

This is to certify that twenty (20) days have passed since the filing of the within decision and no appeal has been filed with this office.  
Given at Marlborough this 14th day of October, 2008.

Given under Chapter 40A sec. 11 of the General Laws.

A TRUE COPY  
ATTEST:

City Clerk



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ORDERED:

## **BOSTON POST 355 LLC**

### **SPECIAL PERMIT (WATER SUPPLY PROTECTION DISTRICT) FINDINGS OF FACT AND CONDITIONS**

#### **DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 08-1876C**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Boston Post 355 LLC to construct a carwash in Zone B of the Water Supply Protection District, as provided in this Decision and subject to the following Findings of Facts and Conditions.

- 1) Boston Post 355 LLC is a Delaware limited liability company having a business address of 154 Southfield Rd, Concord, Massachusetts, and is hereinafter referred to as "Applicant."
- 2) Applicant is the owner of certain real property located at 355 Boston Post Road West, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 88 Parcel 15. The land is entirely located in a Business District and is also entirely located in the Water Supply Protection District.
- 3) The property is currently used as a contractor's yard for a landscaping and snowplowing business.
- 4) The Applicant, on or about April 24, 2008, filed with the City Clerk of the City of Marlborough an application for a Special Permit under the provisions of Article V Sec. 200-24 and pursuant to the procedures specified in Article VIII Section 200-59 of the Marlborough Zoning Ordinance.
- 5) In connection with the permit application, Applicant filed a Summary Impact Statement, certified list of abutters, filing fee and had previously filed twenty (20) copies of the Site Plan.
- 6) The Site Plan was certified by the City Planner for the City of Marlborough as having complied with Rule 4, items (a) through (m) of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.



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7) Pursuant to the Rules and Regulations of the City Council and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for a public hearing for the permit application and the City Clerk caused to be advertised said date in the Metrowest Daily News and sent notice of said hearing to abutters entitled to notice under law.

8) The Marlborough City Council, pursuant to MGL C.40A, held a public hearing on June 9, 2008, concerning the said application. The hearing was opened and closed at that meeting. Pursuant to MGL c. 40A, § 9, the ninety-day time limit for the City Council to make a decision on the Applicant's Special Permit was extended, by written agreement, until 5:00 p.m. on September 30, 2008, and a copy of that agreement was timely filed in the office of the City Clerk for the City of Marlborough.

9) Applicant's attorney presented testimony at the public hearing detailing the application, described the improvements to the environment resulting from improved stormwater control at the site, and showed renderings of the proposed carwash to emphasize the improved aesthetic appearance of the site that would result from approval.

10) Applicant provided further written and oral documentation to the City Council's Urban Affairs Committee regarding the impacts of the proposed project, and proposed building and related site modifications.

11) Applicant provided the Urban Affairs Committee with revised site plans entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, revised 7/10/08, by Cabco Consult, and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08) (hereinafter, "The Revised Plans"). The revised plans show the snow storage area for the site, and also provide a table at Plan page 4 listing all development elements of this project that are in Zone A of the Water Supply Overlay District (hereinafter, "The Zone A Use Table").

**BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:**

A) The City Council finds that Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.



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B) The City Council finds that the proposed use of the site, subject to the conditions imposed below, will be in harmony with the general purposes and intent of the zoning ordinance, in that it will improve the appearance of the site, improve the water quality of the surface water at the site, and will have no significant negative impacts upon abutters. The proposed use of the site, subject to the conditions imposed below, will not be in conflict with the public health, safety, convenience and welfare and will not be detrimental or offensive. The City Council further finds that, subject to the permit conditions enumerated herein, the proposed use will not have an adverse impact on the Marlborough water supply.

C) The City Council has reviewed the uses in this proposal that will be located in Zone A of the Water Supply Protection District, all as listed in The Zone A Use Table provided on Sheet 4 of the Revised Plans. The City Council finds that those uses located in Zone A are not unique to the use of the site as a carwash, but are uses that would be allowable in Zone A as accessory to uses that are otherwise allowable as of right in the underlying Business District. Therefore, the City Council finds that the proposed carwash is not located in Zone A, provided that the permit conditions imposed below are complied with.

D) The City Council, pursuant to its authority under MGL C.40A §9 and under Chapter 200 of the Marlborough City Code, GRANTS the Applicant a Special Permit to allow a carwash on the premises, (the "Project"), SUBJECT TO THE FOLLOWING CONDITIONS:

1) Compliance With Building Regulations. Construction of all structures on the site is to be in accordance with all applicable building codes in effect in the City of Marlborough and Commonwealth of Massachusetts. The Project shall be constructed, maintained and operated according to the specifications, terms, and conditions of the Applicant's Special Permit Application and Site Plan. The Site Plan referred to in this condition is the plan entitled "Proposed Site Plan Set for 355 Boston Post Road West" dated 10/17/07, revised 7/10/08 by Cabco Consult , and a final revised Planting Plan by Bartsch & Radner Design, Inc. dated 7/23/08) (hereinafter, "The Revised Plans"), filed with the Urban Affairs Committee during the application/hearing process. All other terms, conditions, requirements, approvals, drawings and renderings required hereunder are made a part of and incorporated herein as a condition of the issuance of this Special Permit.

2) Compliance With Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Ordinance, prior to the issuance of the actual Building Permit; provided, however, that the Building Commissioner may issue a building permit prior to the completion of site plan review regarding work which, in his opinion, will not be affected by said site plan review. Any additional changes, alterations, modifications or amendments as required by



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## ORDERED:

Site Plan Review shall be further conditions attached to the Special Permit and no Occupancy Permit shall be issued until all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit and Plans submitted, reviewed and approved by the City Council as the Special Permit granting authority. Any changes to the plans which alter the traffic patterns within the site, require the removal of landscaping, reduce the overall green space of the Project, or add any new element in Zone A other than the landscaping, will require subsequent approval by the City Council.

3) Application and Documents. All plans, drawings, site evaluations and documentation provided by the Applicant as part of this Special Permit Application are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same.

4) Compliance with Local, State and Federal Laws. The Applicant agrees 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 and operation of Applicant's facility, except pursuant to the terms of this Special Permit.

5) Incorporation of Plans and Drawings. All terms, conditions, requirements, approvals, plans, and drawings provided by the Applicant as part of this Special Permit Application and as amended during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council. The Site Plan referred to in this condition is the site plan referred to in Condition #1 above.

6) Improvements Installed Prior to Certificate of Occupancy. All site improvements, except those specified on the plans approved on site plan review, that have been shown in renderings and/or are conditions of this Special Permit will be installed prior to the issuance of any temporary or permanent occupancy certificate. If all other work is completed between Oct. 1 and June 1, all landscaping plants will be required to be installed by June 1. Applicant agrees that the permanent maintenance of the landscaping and the other site improvements is an ongoing condition of this Special Permit.

7) Compliance with Conservation Commission Agent Recommendations. Applicant will demonstrate, to the satisfaction of the Site Plan Review Committee, that all "Criteria for Design" required in Section 200-24(F) will be complied with. Without limiting the foregoing, applicant will comply with the recommendations of the Conservation Commission Agent listed in her communication to the City Council dated July 5, 2008, a copy of which is on file with the City Council and attached hereto.



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8) Snow Storage. Snowmelt runoff will be directed toward catch basins. All snow will be stored in the designated paved area shown on the Revised Plans.

9) Catch Basins. All catch basins shall be installed in accordance with the plans submitted to the City Council and/or the City Council's Urban Affairs Committee. The catch basins shall be monitored on a semi-annual basis with reports given to the City Engineer and the Conservation Commission Agent. The catch basins are to be cleaned annually, or at more frequent intervals as determined necessary by the City Engineer and the Conservation Commission Agent.

10) Maintenance of Parking Areas. Parking areas will be swept and maintained as necessary.

11) Landscaping Maintenance. Applicant agrees to plant and maintain the Project landscaping as shown on the Site Plan as submitted to the City Council and/or the City Council's Urban Affairs Committee.

12) Carwash Equipment Monitoring. All carwash equipment shall be monitored on an annual basis with reports given to the Director of the Water and Sewer division of the Department of Public Works. The purpose of said report shall be to demonstrate that the nature of the effluent discharged to the Marlborough sewer system is acceptable and that the total discharge to the system continues to average less than 750 gallons per day on a monthly average basis.

13) Disposal of Chemicals Containers. No container that has been used for the storage of chemicals used in the carwash process will be disposed of in the dumpster located on the property.

14) Storage of Flammables Prohibited. No flammable materials, except those, like diesel and oil, that will be used to heat the premises, will be stored at the site.

15) Activity Prohibition in Zone A. No activity that is accessory to a carwash, including but not limited to the pre-washing of cars, will be allowed in Zone A.

16) Compliance With Related Permit. Applicant has also applied for a special permit, pursuant to Chapter 200-17, to construct a carwash in a Business District. Any conditions attached to the approval of that special permit are also incorporated herein and made a part hereof.



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### ORDERED:

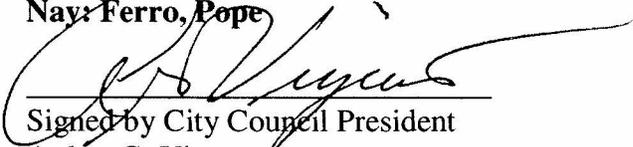
17) As offsite mitigation because of the impact of this permit on the Water Supply Protection District, Applicant will, prior to the issuance of any occupancy permit for the project, pay the sum of Twenty Thousand (\$20,000) Dollars to the Open Space Stabilization Account.

18) Recordation. In accordance with the provisions of MGL C.40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, before a Building Permit is issued.

**Yea: 9 – Nay: 2**

**Yea: Delano, Schafer, Juairé, Seymour, Clancy, Landers, Ossing, Vigeant, Levy**

**Nay: Ferro, Pope**

  
\_\_\_\_\_  
Signed by City Council President  
Arthur G. Vigeant

ADOPTED  
In City Council  
Order No. 08-1001876C