



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ May 21, 2007

ORDERED:

## DECISION AND COUNCIL ORDER SOVEREIGN BANK BRANCH

In City Council  
Order No. 07-1426C

Application of: Sovereign Bank  
75 State Street, Boston, MA 02109

Notice of Decision  
Grant of Special Permit

The City Council of the City of Marlborough voted to GRANT a Special permit to Sovereign Bank to operate a drive thru ATM Bank Branch at 330 Boston Post Road East, based on and subject to the Findings of Facts and conditions as follows.

Decision Filed:

The decision of the City Council was filed in the office of the City Clerk of the City of Marlborough on the 31<sup>st</sup> day of May, 2007.

### 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 filing of this Decision in the Office of the City Clerk of the City of Marlborough, MA.

ATTEST

*Cherie Y. Lucier*  
Acting City Clerk



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ORDERED:

**DECISION ON A SPECIAL PERMIT  
FINDINGS OF FACT AND RULINGS CITY COUNCIL ORDER NO. 07-1426**

- (1) Sovereign Bank is a federally chartered bank authorized to do business in the Commonwealth of Massachusetts and is hereinafter referred to as the "Applicant".
- (2) Applicant is the Lessee of a certain portion of an existing building located at 330 Boston Post Road East, and as further shown on the Marlborough Assessors Map as Map 59, Parcel 10 hereinafter ("the Site"). The owner of the land and building is DLT Family LTD Partnership.
- (3) On or about December 20, 2006 the Applicant filed with the City Clerk of the City of Marlborough an application for a Special Permit to operate a drive-thru ATM Bank Branch at the 330 Boston Post Road East site.
- (4) A portion of the site is currently occupied by East Main Street Donuts Inc., operating under the name and style of "Dunkin Donuts" pursuant to a Special Permit granted by the Marlborough City Council on December 1, 2003, Council Order No. 02-9875J.
- (5) The project, which is the subject of this Special Permit, consists of the renovation of a portion of the existing building for a conventional Bank Branch together with drive-thru Automated Teller Machine (ATM) and will be operated with 1700 square feet of the existing building.
- (6) The site is zoned Business B District and the proposed use for a drive-thru ATM is allowed with a Special Permit from the City Council as Special Permit Granting Authority.
- (7) 43 Parking spaces are provided for the Project and are in accordance with the Zoning Ordinance requirements.



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- (8) In connection with the Special Permit application, the Applicant filed on or about December 20, 2006, a original and two copies of the following: (a) Application to the City Council for Issuance of a Special Permit (b) Special Permit Application Certification by Planning Department (c) Certified copies of Abutter's Lists for the City of Marlborough (d) Summary Impact Statement (e) Site Plans (f) filing fee in the amount of \$500 (collectively, the "Documents") and which Documents are incorporated herein and become part of this decision.
- (9) Urban Affairs Committee review was conducted on February 27, 2007, March 6, 2007, and March 20, 2007.
- (10) The Site plan was certified by the City Planner for the City of Marlborough as having complied with Rule 7 of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
- (11) 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 special permit application and the City Clerk caused to be advertised said date in the Metro West Daily News and sent notice of hearing to abutters entitled to notice under law.
- (12) The Marlborough City Council pursuant to Mass. Gen. Laws c.40A, held a public hearing on February 26, 2007, which was concluded on that evening, concerning this application.
- (13) The Applicant presented testimony at the February 26, 2007 public hearing detailing the application, describing its impact upon municipal services, the neighborhood and traffic at the public hearing. Detailed drawings were submitted displaying the front and side views of the building façade, sign and ATM, and Design and location which are part of this record of proceedings.



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### ORDERED:

- (14) Applicant provided further oral testimony and written documentation to the City Council and the City Council's Urban Affairs Committee regarding the Site, traffic impacts of the proposed project, the adequacy of the proposed parking at the site, proposed building and site modifications, landscaping, drainage, lighting, and other improvements to the Site.
- (15) BASED UPON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:
  - A) The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application.
  - B) The Council finds that the proposed use of this site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough. The City Council makes this determination subject to the completion and adherence by the Applicant, its successors or assigns to the conditions more fully set forth herein.
  - C) The City Council finds that it may issue the Special Permit, subject to such terms and conditions, as it deems necessary, to encourage the most appropriate use of the Site and promote the health and general welfare of the citizens of the City of Marlborough.
  - D) The City Council, pursuant to its authority Mass. Gen., Laws c.40A GRANTS the Applicant a Special Permit to construct and operate a drive-thru ATM Bank Branch under the name of Sovereign Bank, as per the application documents, the findings, and plans submitted to the City Council and the City Council's Urban Affairs Committee, and SUBJECT TO THE FOLLOWING ADDITIONAL CONDITIONS:



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### ORDERED:

- 1) Construction of all structures on the Site is to be in accordance with all applicable Building Codes and Zoning Regulations 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 prepared by Bruce Saluk and Associates, dated November 30, 2006, filed with the Special Permit Application, as amended during the application/hearing process before City Council and/or the City Council's Urban Affairs Committee, and most recently revised March 20, 2007 and the landscape site plan submitted March 20, 2007.
- 2) The issuance of a Special Permit is further subject to completion of technical site plan review in accordance with the City of Marlborough Ordinance prior to the issuance of the actual Building Permit, and the Permanent Occupancy Permit shall not be issued until all conditions are complied with by Applicant, provided however, that temporary occupancy shall issue upon a determination by the Building Inspector that the site is substantially complete. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and Plans submitted, reviewed and approved by City Council as special permit granting authority. Any changes to the property, including any painting of the brick sides of the building inconsistent with submitted building design plans, will require subsequent approval of the City Council.
- 3) All project work will be as shown on a plan entitled, "Site Plan for Sovereign Bank", dated November 30, 2006, as amended during the application/hearing process before the City Council and/or Urban Affairs Committee, and most recently revised on March 20, 2007.



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## ORDERED:

- 4) Prior to the issuance of any Permanent Occupancy Permit for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless weather is prohibitive in which case landscaping and planting installation shall be completed by June 30, 2008. Applicant shall furnish a performance bond sufficient to ensure completion of all approved work. Said bond to be submitted and kept on file with the City Treasurer until such time as a Permanent Occupancy Permit is issued.
- 5) In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the Commission of Public Works shall be provided with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.
- 6) All terms, conditions, requirements, approvals, plans, and drawings and renderings required hereunder are made a part of and incorporated herein as a condition to the issuance of this Special Permit.
- 7) The entrance display sign will be of wooden construction, together with a replaced Dunkin Donuts sign installed along the Boston Post Road travel way upon Owner's property. Both signs are to be painted with flat tone paint without gloss and with exterior illumination.
- 8) All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance, and shall be as shown on the plan dated November 30, 2006 together with entrance way signage as displayed on the Site plan as revised March 20, 2007 together with attachments.



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- 9) All illuminations of individual parking lot light fixtures shall not exceed 250 watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.
- 10) In recognition of site impact of this project and in mitigation thereof, Applicant shall pay a mitigation fee to the City of Marlborough in the amount of \$20,000, said payment to be due before the issuance of any Certificate of Occupancy. Said funds to be used as follows:
  - a) \$20,000.00 for traffic safety purposes.
- 11) As to the subject site, no trash pickup shall occur before 10:00 a.m. or after 7:00 p.m.
- 12) (a) All plans, photo renderings, site evaluations, briefs and other documentation 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 a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.  
  
(b) Notwithstanding condition (a) hereof, reasonable engineering changes may be made to said plans by the Site Plan Review Committee so long as said changes do not change the use of the Site as approved herein, increase the impervious area of the Site, reduce the green area, alter traffic flow, increase the size of the building shown on the plan, or deviate from the conditions or purpose of the Special Permit as granted.



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- 14 [sic].) The Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the Applicant's Special Permit Application, as amended, during the application/hearing process before the City Council and/or the Urban Affairs Committee, Site Plan Review, and in compliance with the Conditions of the Grant of the Special Permit.
- 15.) The existing catch basins shall be monitored by Applicant on an annual basis with report given to the City Engineer. The catch basins are to be cleaned by Applicant when debris buildup is within 24 inches of the pipe invert.
- 16.) Snow storage is to be provided on-site by Applicant. The Applicant may elect to utilize off-site storage. Snowmelt runoff is to be directed toward catch basins.
- 17.) Parking areas will be swept and maintained by Applicant as necessary.
- 18.) Pursuant to the provisions of Mass. Gen. L. Ch. 90 Sec. 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission (the "Commission") to promulgate legally enforceable rules and regulations for the control of on-site traffic and parking. Applicant shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the regulations of the Marlborough Sign Ordinance.
- 19.) 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 and the landscape plan entitled "Landscape site plan, Sovereign Bank, 330 Boston Post Road East, Marlborough, Massachusetts (SMMA) 3/20/07."
- 20.) Water and sewer services provided to the Project shall be subject to current citywide water and sewer charges subject to annual adjustment by the



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## ORDERED:

Commissioner of Public Works. Water and sewer connections shall be subject to a separate approval process and conditions.

- 21.) The hours of operation for the Bank Branch shall be:  
Monday, Tuesday, Wednesday and Friday 8:00am-5pm, Thursday 8:00am-6:00pm, Saturday 8:00am- 1:00pm with ATM operating 24 hrs. 7 days a week.
- 22.) Applicant agrees that the Site will be subject to a review of the traffic configuration after one year to determine whether any alterations need to be made to the entrances and egresses to the Site from the existing access drive to accommodate traffic flow and ensure public safety and agrees to make changes in compliance with the Marlborough Department of Public Works and Traffic Commission's recommendations.
- 23.) There shall be no overnight parking on site.
- 24.) The property as approved by this Special Permit shall be for banking use only.
- 25.) There shall be no LED or animated or sequential signage of any kind on the property.
- 26.) The City Council, as Special Permit granting authority, reaffirms all conditions, limitations, and findings of the Special Permit granted to East Main Street Donuts Inc. on December 3, 2003 by Council Order 02-9875J and incorporates such conditions, limitations, and findings herein as if fully set forth within this Special Permit approval.
- 27.) Applicant agrees to install sidewalks to the front of the premises site at 330 Boston Post Road as fully set forth on the submitted site plan and the DPW Commissioner shall assist in obtaining Mass Highway approvals to the extent permissible in that said sidewalks will be constructed within the state road layout of Route 20, the Boston Post Road.
- 28.) In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South Registry of



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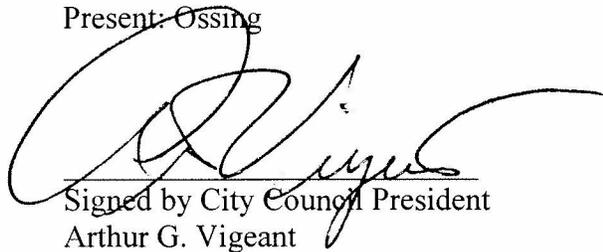
Deeds after the city clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed.

Adopted by Marlborough City Council  
May 21, 2007

Yea: 10 – Present: 1

Yea: Katz, Ferro, Schafer, Juairé, Webster, Clancy, Towle, Pope, Vigeant, Levy

Present: Ossing



Signed by City Council President  
Arthur G. Vigeant

ADOPTED  
In City Council  
Order No. 07-1001426C

A TRUE COPY  
ATTEST:

Acting City Clerk