



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2007

ORDERED:

## NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council  
Order No. 07-1001650B

Application of:  
First Student Inc.

Locus:  
Hayes Memorial Dr.  
Map 99, Parcel 1 & Parcel 88-35

### DECISION

The City Council of the City of Marlborough hereby GRANTS the Application of First Student Inc. as provided in the DECISION and subject to the following FINDINGS OF FACTS AND CONDITIONS.

Decision filed: January 19, 2008

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 19<sup>th</sup> day of January, 2008.

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 22nd day of January, 2008.

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

A TRUE COPY  
ATTEST:

City Clerk



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ORDERED:

## PERMIT WITH FINDINGS OF FACT AND RULINGS CITY COUNCIL ORDER 07-1001650

- (1) First Student Inc. having its principal place of business at 68 Industrial Boulevard Suite 6, Hanson, Massachusetts 02341 is hereinafter referred to as the Applicant.
- (2) Owner of the premises at Hayes Memorial Drive Map 99 Parcel 1 is Arturo J. Gutierrez Trustee of Marlborough Northborough Land Realty Trust with an address of 1 Wall Street, Burlington. The premises are located in an industrial zoning district.
- (3) Applicant is a prospective owner of a portion of the premises located at Hayes Memorial Drive which will consist of an approximately 6.3 acre lot pursuant to Purchase and Sale Agreement dated August 3, 2007. The portion of the premises for which Applicant is the prospective owner is "the Site" and is further described as follows:

A certain parcel of land located in the Commonwealth of Massachusetts, County of Middlesex, City of Marlborough, situated on the southwesterly sideline of Hayes Memorial Drive, and is shown on "Plan of Land in Marlborough, MA, by Precision Land Surveying, Inc.," a copy of which plan is contained in the files of the City Council, more particularly bounded and described as follows:

Beginning at a point on the southwesterly sideline of Hayes Memorial Drive, said point being the most northerly corner of the parcel; thence running

S 15°52'59"E 407.87' by the southwesterly sideline of Hayes Memorial Drive to a point; thence turning and running

S 74°07'01"W 68.48' to a point; thence turning and running

N 69°34'30"W 242.69' to a point; thence turning and running

S 75°45'53"W 408.94' to a point; thence turning and running

N 15°45'50"W 408.03' to a point; thence turning and running

N 74°08'13"E 315.57' to a point; thence turning and running



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## ORDERED:

S 82°18'33"E 388.86' to the POINT OF BEGINNING.

Containing 275,992 square feet or 6.336 acres, more or less.

- (4) On or about August 14, 2007, Applicant filed with the City Clerk of the City of Marlborough an Application for a special permit for outdoor storage of school buses in an Industrial Zone, a use incidental to a proposed use which is a school bus maintenance facility and driver training and staging area. Pursuant to Article V. Section 200-17 of the Zoning Code of the City of Marlborough, applicant agrees that the entire subject parcel site of the proposed project, regardless of the specific use of any portion thereof, may be made subject to conditions set forth in this special permit.
- (5) The principal use, with outdoor storage, will be located on approximately a 6.3 acre lot to be created from the subject parcel.
- (6) Applicant will be acquiring a portion of the existing lot for its school bus facility operations.
- (7) In conjunction with the special permit application the applicant on or about August 14, 2007 filed an original and twelve 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; and
  - (f) Filing fee in the amount of \$500 (collectively, the "Documents") and which documents are incorporated herein and become part of this decision.
- (8) The specially permitted use of the Site will consist of a new two story office building with accessory maintenance bays containing 20,800 square feet of floor area with outdoor storage of school buses and parking for motor vehicles together with an above ground diesel fuel storage tank.
- (9) The Urban Affairs Committee review was conducted on October 23<sup>rd</sup>, 2007, October 30<sup>th</sup>, 2007, November 13<sup>th</sup>, 2007, November 20, 2007, November 27, 2007 and November 30, 2007 and voted the project favorably to the full City Council as Special Permit granting authority.



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## ORDERED:

- (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 M.G.L. c.40A, held a public hearing on September 24, 2007, concerning this application, which was concluded on that evening,
- (13) Applicant presented testimony at the September 24, 2007 public hearing detailing the application, describing its impact upon municipal services, the neighborhood and traffic at the public hearing. Detailed Plans were submitted displaying the project layout, access and driveway layout, drainage and landscaping all of which are part of this record of proceedings.
- (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 construction and site modifications, landscaping, drainage, lighting, and other improvements to the Site.
- (15) By its submittals as reviewed, the applicant has conformed to the provisions of the City Zoning Ordinance Sections 200-17 and 200-18, and all requirements of Chapter 200 of the City Code entitled "Zoning".

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.



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## ORDERED:

- 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 and that the use sought and its impact and characteristics are not in conflict with public health safety, convenience, and welfare and is not detrimental or offensive. The City Council makes these determinations 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, in making available school bus storage and maintenance facilities together with driver staging and training.
- D) The City Council, pursuant to the authority of M.G.L. c.40A GRANTS the Applicant a Special Permit to construct an outdoor storage facility for school buses that would serve Marlborough residents, 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:
- (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 Tetra Tech Rizzo, dated May 17, 2007 and Architectural Plans prepared by Integrated Design Group Inc. dated November 20, 2007 and 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.



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ORDERED:

(2) The issuance of a Special Permit is further subject to completion of detailed and 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 will 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 violation of a condition of site plan approval shall be a violation of this special permit.

(3) 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 complete by June 30, 2009.

(4) In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the Commissioner 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.

(5) 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.

(6) The applicant will comply with all applicable state and local laws, ordinances and regulations, in order to remove any and all trees and vegetation within any city-owned property including, but not limited to, the layout of Hayes Memorial Drive.

(7) Upon final acceptance to the completed landscaping improvements as shown on the approved plan, the proponent shall be responsible for maintaining all areas within the site and within the adjoining layout of Hayes Memorial Drive in accordance with the approved plan as determined by City Council and Site Plan Review Committee.



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## ORDERED:

(8) The entrance display sign will be of wooden construction, double sided and installed along the Hayes Memorial Drive traveled way upon Applicant's property. The sign is to be painted with flat tone paint without gloss and with exterior illumination only.

(9) 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.

(10) All illuminations of individual parking area light fixtures shall not exceed 400 watt fixtures and shall be screened from abutting property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.

(11) Applicant shall, at the time of application for a Building Permit, pay the sum of \$1,500.00 to the City of Marlborough Inspectional Services Funds to offset the increase in cost associated with the project's construction such as materials of the project. Issuance of a final Occupancy Certificate by the Building Commissioner shall be deemed to have demonstrated compliance with the terms of this Condition.

(12) In recognition and consideration of the anticipated Site and traffic impacts of the proposed project and in mitigation thereof, the Applicant shall provide 50 school bus trips for use by the City of Marlborough School Department and Recreation Department. These 50 trips will comprise 40 School Day Trips and 10 Full Day Trips. School Day Trips are defined as those trips leaving and returning within the normal school day so that there is no schedule overlap between the normal busing responsibilities and those required for the day trip. Full Day Trips are defined as those trips extending into normal busing schedules.



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50% of the trips will be available for use within the first year following occupancy of the facility and the balance available of the following year. Trips will be limited for use within the State of Massachusetts or within a 75 mile radius of the City of Marlborough. A single "Trip" shall be defined as use of a single bus and driver for a period not to exceed 10 hours. Use of the provided Trips will be at the discretion of the Superintendent of Schools or Designee but are intended to be divided between the School Department and Recreation Department on a 4 to 1 basis. Trips shall be coordinated and scheduled through the Marlborough School bus facility and are redeemable for as long as the proposed facility is in operation. Applicant also agrees to a mitigation payment of \$20,000.00 for traffic enforcement purposes related to school bus safety whereby a first payment of \$10,000.00 will be made upon issuance of an occupancy permit for the Site. Thereafter, the second payment of \$10,000.00 is to be made within one year after such occupancy issuance.

(13) 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.

(14) Reasonable engineering changes excluding architectural changes as submitted may be made to said plans by the Site Plan Review Committee and Marlborough Conservation Commission so long as said changes do not change the use of the Site as approved herein, do not change the size of the Site by more than 2%, do not increase the impervious area of the Site by more than 2 %, do not reduce the green area by more than 2 %, do not alter traffic flow, do not increase the size of the building shown on the plan, or deviate from the conditions or purpose of the Special Permit as granted. No changes shall be made that would result in a lesser number of trees and bushes on the Site than that which is displayed on the Landscape Plan as filed.



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## ORDERED:

(15) 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, and in compliance with the Conditions of the Grant of the Special Permit.

(16) The existing catch basins and all drainage structures and detention facilities shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be developed by applicant, with report given to the City Engineer and Conservation Commission by June 1<sup>st</sup>, of each year. The catch basins are to be cleaned by Applicant when debris buildup is within 24 inches of the pipe invert to remain functioning properly.

(17) All maintenance of school buses will be conducted inside the facility except for non-mechanical minor repairs which may be conducted on the facility site. Only applicant's school buses are to be stored or maintained on the site. Disabled or abandoned school buses will not be stored on the Site for more than a three week period. In the event that Applicant does not vacate its school bus maintenance facility in Framingham, MA within six months of issue of temporary occupancy, Applicant shall forthwith apply to the City Council for an amendment to this special permit seeking to reduce the scope of the use of the Site relative to school bus maintenance.

(18) No direct sale of school buses shall occur on the Site.

(19) School buses and other vehicles permitted on the Site by this special permit may only be parked within designated parking spaces.

(20) Not more than four school buses will be taken from the Site Facility to bus driver's homes for overnight parking. Further, such number will be reduced when such drivers leave the employ of Applicant. School buses based at the Site Facility will not be permitted to be parked upon public ways during the day.



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ORDERED:

- (21) No painting or body shop repair will be permitted on the facility site. Further, no school bus washing will occur outside of the facility; school bus washing will occur only within the washing bay. No excessive noise shall be permitted on the facility site. Buses will be permitted idling consistent to ensure roadworthiness of vehicles, pursuant to 310 CMR 7.11(1)(b) and M.G.L. c. 90 sec 16A as amended.
- (22) No more than 100 school buses shall be permitted on the site at any time. The site shall not be utilized for rental or lease or sale by any other school bus or motor transport company other than Applicant. Applicant shall not store, maintain, rent, lease or operate any commercial buses on or from the Site.
- (23) Applicant shall maintain on Site security measures for surveillance of activities so as to deter improper entry to the Site. A gate will also be installed near the bus storage area to control unauthorized access to the site.
- (24) The Applicant will meet on an annual basis, unless otherwise requested by any City Councilor, with the Wards 3 and 4 Councilors to discuss any general or specific citizen's issues of concern that arise with respect to the Site and address and resolve said concerns in a timely fashion including, without limitation, the road training of bus drivers.
- (25) Pollution Control Hoods will be utilized in all catch basins. A cement concrete pad will be installed under the diesel fuel tank and fueling area.
- (26) Snow storage is to be provided within paved areas on-site, but not within 20 feet of the wetlands. The Applicant may elect to utilize off-site storage. Snowmelt runoff is to be directed toward catch basins.
- (27) Applicant shall provide as-built Plans for the Site prior to the issuance of an occupancy permit.



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ORDERED:

(28) Pursuant to the provisions of M.G.L.c.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.

(29) Applicant agrees to plant and maintain the project landscaping as shown on a site plan submitted to the City Council entitled: Landscaping plan dated November 1, 2007 and revised November 13, 2007. Further Applicant agrees to preserve when possible any trees in excess of 4" caliper within the first 50' feet of the Site along Hayes Memorial Drive, except those trees located on the area that will be used as the entry to the Site as shown on the Site Plan submitted to the City Council and Urban Affairs Committee.

(30) The project shall be sufficiently screened with landscaping so that the building and storage areas are not significantly visible from Hayes Memorial Boulevard. The Site Plan Review staff are authorized to assure that this condition is implemented through the Site Plan Review process. In addition, following the construction of the project, but before final signoff is approved by Site Plan Review staff prior to occupancy, the Site Plan Review staff shall again review the adequacy of the landscaping that was planted in conformance with the project's Site Plan. The Site Plan Review staff shall determine whether the planted landscaping is adequate to screen the site and, if staff determines that it is not, they shall have the authority to require reasonable landscaping changes to assure that the project's building and storage areas are not significantly visible from Hayes Memorial Boulevard.

(31) Water and sewer services provided to the Project shall be subject to current citywide water and sewer charges subject to annual adjustment by the Commissioner of Public Works. Water and sewer connections shall be subject to a separate approval process and conditions.



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(32) In accordance with the provisions of M.G.L. c.40A sec.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, and before a Building Permit is issued. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

(33) If Applicant fails to be awarded the school bus transportation contract with the Marlborough Public Schools in future years, Applicant agrees that it shall not use the site to provide school bus transportation on behalf of any other school district (except Assabet Valley Regional Vocational School District) during those years, without first seeking and obtaining an amendment by the City Council to this special permit.

Yea: 11 – Nay: 0

Yea: Levy, Ossing, Pope, Vigeant, Katz, Ferro, Juare, Schafer, Webster, Clancy and Towle.

ADOPTED

In City Council

Order No. 07-1001650B

Signed by City Council President  
Arthur G. Vigeant