

Order No.21-1008307

Special Permit Application

Raising Cane's

Drive Through Window – Two Drive Through  
Service Lanes

141 Boston Post Road West

- Draft Decision from Petitioner
- Comments from Managers
- Memorandum in Support from Petitioner
  - Input from McDonald's

In Urban Affairs – August 16, 2021



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ MAY 24, 2021

## ORDERED:

That there being no objection thereto set **MONDAY, JUNE 21, 2021** as **DATE FOR PUBLIC HEARING**, on the Application for Special Permit from Attorney Michael Brangwynne, on behalf of Raising Cane's Restaurants, LLC, to construct and operate a restaurant with two drive-thru service lanes on the site at, 141 Boston Post Road West, be and is herewith referred to **URBAN AFFAIRS COMMITTEE & ADVERTISE**.

**Yea: 11 – Nay: 0**

**Yea: Wagner, Doucette, Dumais, Tunnera, Irish, Navin, Landers, Oram, Ossing, Perlman, & Robey.**

**Ninety days after public hearing is 09/19/21 which falls on a Sunday, therefore 09/20/21 would be considered the 90<sup>th</sup> day.**

ADOPTED

ORDER NO. 21-1008307

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2021 MAY 18 P 2:45

May 11, 2021

**Via Hand Delivery By Courier**

Tin Htway, Building Commissioner  
Inspectional Services Department  
City of Marlborough  
140 Main Street, 2<sup>nd</sup> Floor  
Marlborough, MA 01752

Re: Raising Cane's Restaurants, LLC  
Application for Issuance of Special Permit  
141 Boston Post Road West (Route 20), Marlborough, Massachusetts

Dear Tin:

Per our recent call, and related to Raising Cane's Restaurants, LLC's (the "Applicant") Application for Issuance of a Special Permit at 141 Boston Post Road West (Route 20), I have enclosed a copy of the following:

1. Special Permit Application Forms
2. Special Permit Memorandum to City Council
3. Site Plans
4. Drainage Report

Per our discussion, the applicant has requested a 400-foot-radius certified abutters list from the Assessor's Office, which I will arrange to have transmitted directly to the City Clerk's office to be included with this application.

The Applicant requests to be placed on the City Council's agenda for its May 26<sup>th</sup> hearing to set a public hearing date for our Special Permit application.

If everything is in order, please sign on page four of the application materials and arrange for this package to be sent inter-office to Eileen Bristol in the Tax Collector's office for her signature.

Once Ms. Bristol has received the package, I can coordinate with her to have the materials filed with the City Clerk for distribution to the various City departments for their review.

Steven Kerrigan, City Clerk  
City of Marlborough  
May 11, 2021  
Page 2 of 2

Thank you for all of your assistance with this matter, and please feel free to get in touch if you wish to discuss, or if you need anything further from the Applicant.

Very truly yours,



**Michael E. Brangwynne**  
FLETCHERTILTON PC  
12 Post Office Square, 6<sup>th</sup> Floor  
Boston, MA 02109  
P: 617-336-2281 | F: 617-336-4481  
Email: [mbrangwynne@fletchertilton.com](mailto:mbrangwynne@fletchertilton.com)

*MEB/encls.*



CITY OF MARLBOROUGH  
OFFICE OF THE CITY CLERK

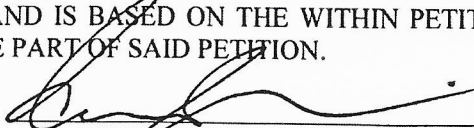
RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2021 MAY 18 P 2:45

APPLICATION TO CITY COUNCIL FOR ISSUANCE OF SPECIAL PERMIT

- Name and address of Petitioner or Applicant:  
Raising Cane's Restaurants, LLC, 6800 Bishop Road, Plano, TX 75024
- Specific Location of property including Assessor's Plate and Parcel Number.  
141 Boston Post Road West (Route 20); Map # 78, Parcel # 78-15A
- Name and address of owner of land if other than Petitioner or Applicant:  
RK Associates Marlboro, Inc., 50 Cabot Street, Suite 200, Needham, MA 02494
- Legal interest of Petitioner or Applicant (owner, lessee, prospective owner, etc.) Lessee.
- Specific Zoning Ordinance under which the Special Permit is sought:  
Article V Section 650-14 Paragraph B Sub-paragraph (2)
- Zoning District in which property in question is located:  
Business
- Specific reason(s) for seeking Special Permit  
The Applicant seeks Special Permit approval for the addition of a two lane drive through  
as set forth in detail in the memorandum submitted with this application.
- List of names and addresses of abutter. SEPARATE SHEET ATTACHED

PETITION IS HEREBY MADE FOR THE ISSUANCE OF A SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH AND IS BASED ON THE WITHIN PETITION OR APPLICATION AS FILED HEREWITH AND MADE PART OF SAID PETITION.

  
Signature of Petitioner or Applicant

Address: Adam Caraci, Raising Cane's Restaurants LLC  
6800 Bishop Road, Plano, TX 75024

Telephone No. 216-769-3206

Date: 5/9/2021

LIST OF NAMES AND ADDRESS OF ABUTTERS  
AS REQUESTED ON THE APPLICATION FOR SPECIAL PERMIT OF:

Raising Cane's Restaurants, LLC  
(Name of Petitioner)

FOR THE ISSUANCE OF SPECIAL PERMIT BY THE CITY COUNCIL OF THE CITY OF  
MARLBOROUGH UNDER CHAPTER 650, ZONING, OF THE CODE OF THE CITY OF  
MARLBOROUGH.

(Abutters as defined in §650-59, Section 4H, Powers and Procedure of Special-Permit Granting  
Authorities

## City Council

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**From:** Mike Brangwynne <mbrangwynne@fletchertilton.com>  
**Sent:** Thursday, July 29, 2021 5:05 PM  
**To:** City Council  
**Cc:** Steven Kerrigan; Wilson Chu; Karen Boule; Mark Donahue  
**Subject:** RE: FROM CITY COUNCIL OFFICE: McDonald's special permit for your info - assistance in drafting Raising Cane's draft decision  
**Attachments:** Raising Cane's Draft Special Permit Decision (04105730xA166B).docx

Hello Karen,

I have attached a draft Special Permit Decision. Please let us know if you need anything else, and when we can arrange for an initial meeting with Urban Affairs. Thanks again.

Mike

**Michael E. Brangwynne**

FLETCHER TILTON PC

12 POST OFFICE SQUARE | 6TH FLOOR

BOSTON, MA 02109

**P:** (617) 336-2281 | **F:** (617) 336-4481

**E:** [MBRANGWYNNE@FLETCHERTILTON.COM](mailto:MBRANGWYNNE@FLETCHERTILTON.COM)

VISIT US AT: [FLETCHERTILTON.COM](http://FLETCHERTILTON.COM)

**Fletcher Tilton** PC



Attorneys at law

WORCESTER • FRAMINGHAM  
BOSTON • CAPE COD • HUDSON  
MEDFIELD • NEW BEDFORD  
PROVIDENCE

[FletcherTilton.com](http://FletcherTilton.com)

**From:** City Council [mailto:citycouncil@marlborough-ma.gov]

**Sent:** Tuesday, July 20, 2021 4:43 PM

**To:** Mike Brangwynne <mbrangwynne@fletchertilton.com>

**Cc:** Steven Kerrigan <skerrigan@marlborough-ma.gov>; Wilson Chu <wchu@marlborough-ma.gov>; Karen Boule <kboule@marlborough-ma.gov>

**Subject:** FROM CITY COUNCIL OFFICE: McDonald's special permit for your info - assistance in drafting Raising Cane's draft decision

**CAUTION: EXTERNAL EMAIL**

Atty. Brangwynne:

Following up on last night's public hearing regarding your special permit application on behalf of Raising Cane's, I am forwarding the 2017 special permit decision for the McDonald's drive through project. The decision is in word and will be of great assistance as you draft the required decision for Raising Cane's.

# IN CITY COUNCIL

ORDERED:

## DECISION ON A SPECIAL PERMIT

### IN CITY COUNCIL

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Special Permit  
Raising Cane's Restaurants, LLC  
Order No. 21-

Locus:  
141 Boston Post Road (Route 20)  
Assessors Map 78, Parcel 78-15A

### DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 21-

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Raising Cane's Restaurants, LLC for the installation of a new restaurant with dual lane drive through service at 141 Boston Post Road West (Route 20), Marlborough, Massachusetts, as provided in this Decision and subject to the following Findings of Fact and Ruling and Conditions.

### FINDINGS OF FACT AND RULING

1. Raising Cane's Restaurants, LLC, has offices located at 6800 Bishop Road, Plano, Texas, and is hereinafter referred to as the "Applicant."
2. The Applicant is party to a lease agreement with RK Associates Marlborough, Inc., which owns the premises known and numbered as 141 Boston Post Road West (Route 20), Marlborough, Massachusetts and further described on Marlborough Assessor's Maps at Map 78, Parcel 78-15A (hereinafter, the "Site"). The Applicant proposes the construction of a new restaurant at the Site with a dual lane drive through service (hereinafter, the "Project").
3. The Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter, the "Application"). Pursuant to Sections 650-14.B and 650-17 of the Zoning Ordinance of the City of Marlborough, Applicant is seeking the approval of a new restaurant with dual lane drive through service at the Site.
4. The Site is located in the Business zoning district as determined by the Zoning Map of the City of Marlborough.



5. In connection with the Application, Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan titled "Proposed Site Plan Documents for Raising Cane's Proposed Restaurant with Drive-Thru. Location of Site: 141 Boston Post Road West, City of Marlborough, Middlesex County, Massachusetts, Map #78, Lot 15A", prepared by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=80', dated April 9, 2021, most recently revised July 12, 2021 (hereinafter, the "Plans").

6. The Plans were certified by the Building Inspector of the City of Marlborough, acting on behalf of 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.

7. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

8. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, June 21, 2021, which was continued to Monday, July 19, 2021.

9. Applicant, through its counsel, traffic consultant and civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic.

10. The Applicant submits that the Project will provide an added benefit to the community in the form of desired quality food services provided in an efficient manner. The Applicant further submits that the Project is in harmony with the general purpose and intent of the City Zoning Code as required for the issuance of a Special Permit.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING  
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

A. Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough, hereby GRANTS Applicant a Special Permit to construct a restaurant with dual lane drive through service as shown on the



Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on Applicant, its successors and/or assigns:

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 the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.
2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the 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 or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.
3. Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, and ordinances as they may apply to the construction, maintenance, and operation of Applicant's facility.
4. The locations and design of signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with the sign ordinance of the City of Marlborough. It is a further condition that the location of the signage shall not be substantially different than that shown on the Plans submitted herewith, allowing, however, for minor changes in the field so as to avoid conflicts with existing City infrastructure.
5. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough.
6. There shall be no overnight parking at the Site.
7. Applicant, its successors and/or assignees agrees to maintain the Project landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee, as may be amended during Site Plan Review.
8. The drive through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and in full compliance with the noise ordinance of the City of Marlborough. The drive through audio speakers also shall not produce noise at the property line greater than that which would be allowed at the property line in a Residential zoning district, in accordance with the noise ordinance of the City of Marlborough.
9. All plans, photo renderings, site evaluations, briefs and other documentation provided by Applicant as part of the 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.

10. Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, or increase the size of the building shown on the Plans.

11. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.

12. The hours of operation for the restaurant will be Sunday through Thursday, 9:00 a.m. to 1:00 a.m. and Friday to Saturday, 9:00 a.m. to 3:30 a.m.

13. The hours of operation for the drive through facility will be Sunday through Thursday, 9:00 a.m. to 1:00 a.m. and Friday to Saturday, 9:00 a.m. to 3:30 a.m.

14. All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

15. During construction, no vehicles shall be staged on public ways.

16. In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns 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 Applicant, its successors and/or assigns has applied to the Building Commissioner for a building permit concerning the Project. Applicant, its successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office, the Building Department and the City Council immediately subsequent to recording.

Yea: \_\_\_\_\_ - Nay: \_\_\_\_\_ - Absent: \_\_\_\_\_

ADOPTED  
In City Council  
Order No. 21-  
Adopted: \_\_\_\_\_ 2021

Approved by Mayor  
Arthur Vigeant  
Date: \_\_\_\_\_ 2021

A TRUE COPY

ATTEST: \_\_\_\_\_ City Clerk

# Manager Comments



## City Council

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**From:** Priscilla Ryder  
**Sent:** Monday, August 2, 2021 2:52 PM  
**To:** City Council; Thomas DiPersio; David Giorgi; Kevin Breen; John Garside; Tin Htway  
**Cc:** Kathleen Robey; Mike Ossing; Patricia Bernard  
**Subject:** RE: TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

Hi,

I have reviewed the draft Special Permit Decision for Raising Cane's and have no comments.

Thanks,

*Priscilla Ryder*

*Conservation/ Sustainability Officer*

*140 Main St., City Hall*

*Marlborough, MA 01752*

*508-460-3768*

*"Whenever there's a large spill of solar energy, it's just called a nice day"* northern sun

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**From:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Sent:** Thursday, July 29, 2021 5:22 PM  
**To:** Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; John Garside <[jgarside@marlborough-ma.gov](mailto:jgarside@marlborough-ma.gov)>; Tin Htway <[thtway@marlborough-ma.gov](mailto:thtway@marlborough-ma.gov)>  
**Cc:** Kathleen Robey <[atlarge\\_4@marlborough-ma.gov](mailto:atlarge_4@marlborough-ma.gov)>; Mike Ossing <[atlarge\\_3@marlborough-ma.gov](mailto:atlarge_3@marlborough-ma.gov)>  
**Subject:** TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

To All:

Thank you for your review of the attached draft special permit decision.

Your comments will assist the Urban Affairs Committee in its deliberations.

Karen

*Karen A. Boule*  
*City Council Office*  
*508-460-3711*

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**From:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>  
**Sent:** Thursday, July 29, 2021 5:16 PM  
**To:** Christian Dumais <[ward\\_3@marlborough-ma.gov](mailto:ward_3@marlborough-ma.gov)>; David Doucette <[ward\\_2@marlborough-ma.gov](mailto:ward_2@marlborough-ma.gov)>; Don Landers



## City Council

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**From:** Kevin Breen  
**Sent:** Wednesday, August 4, 2021 3:04 PM  
**To:** City Council; Thomas DiPersio; David Giorgi; Jason Grossfield; Tin Htway  
**Cc:** Priscilla Ryder  
**Subject:** RE: TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

Good Afternoon Karen:

There are no outstanding concerns from MFD concerning this special permit.

Thank you,

KJB

**KEVIN J. BREEN, FIRE CHIEF**  
**MARLBOROUGH FIRE DEPARTMENT**  
**215 MAPLE STREET**  
**MARLBOROUGH, MA 01752**  
**(508) 624-6986**

**From:** City Council <citycouncil@marlborough-ma.gov>  
**Sent:** Wednesday, August 4, 2021 12:49 PM  
**To:** Thomas DiPersio <tdipersio@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>  
**Cc:** Priscilla Ryder <pryder@marlborough-ma.gov>  
**Subject:** FW: TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

We have heard from Priscilla so far, and Chair Robey has scheduled this drive through special permit application to be heard at the August 16<sup>th</sup> UAC meeting.

You may be aware that McDonald's has expressed some concerns. Your input will assist the committee in its review of this permit.

Thank you.

Karen

**From:** City Council  
**Sent:** Thursday, July 29, 2021 5:22 PM  
**To:** Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; John Garside <[jgarside@marlborough-ma.gov](mailto:jgarside@marlborough-ma.gov)>; Tin Htway <[thtway@marlborough-ma.gov](mailto:thtway@marlborough-ma.gov)>  
**Cc:** Kathleen Robey <[atlarge\\_4@marlborough-ma.gov](mailto:atlarge_4@marlborough-ma.gov)>; Mike Ossing <[atlarge\\_3@marlborough-ma.gov](mailto:atlarge_3@marlborough-ma.gov)>  
**Subject:** TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

To All:

Thank you for your review of the attached draft special permit decision.

## City Council

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**From:** Thomas DiPersio  
**Sent:** Friday, August 6, 2021 4:12 PM  
**To:** City Council; David Giorgi; Kevin Breen; Tin Htway; Jason Grossfield; John Garside; Priscilla Ryder  
**Cc:** Mayor; Patricia Bernard; Ryan Egan; Kathleen Robey  
**Subject:** RE: TO MANAGERS: City Council Urban Affairs Committee to meet August 16, 2021 in Council Chamber, 2nd Floor, City Hall, 140 Main Street - Posting Agenda Attached

To the Urban Affairs Committee,

Regarding **Order No.: 21-1008307**, Application for Special Permit for Raising Cane's Restaurants, LLC to construct a restaurant with two drive through service lanes on the site at 141 Boston Post Road West, I have the following initial comments:

The Site Plan Review Committee reviewed a preliminary site plan for this project several months ago. The Committee made several recommendations on the site layout, with respect to traffic flow at the entrance and through the site. In this revised plan, the applicant has incorporated the Committee's design recommendations from the initial review. Most of my concerns regarding traffic flow are addressed by the revised layout. However I am not yet in receipt of the applicant's traffic report and will reserve final comments with respect to those issues until that has been reviewed.

Please contact me with any questions.

Thank you,

**Thomas DiPersio, Jr., PE, PLS**

City Engineer

Department of Public Works

135 Neil Street

Marlborough, MA 01752

Phone:(508)624-6910x33200

[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)



**From:** City Council <citycouncil@marlborough-ma.gov>

**Sent:** Thursday, August 5, 2021 4:09 PM

**To:** David Giorgi <dgiorgi@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Tin Htway <tthtway@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; John Garside <jgarside@marlborough-ma.gov>; Priscilla Ryder <pryder@marlborough-ma.gov>

**Cc:** Mayor <mayor@marlborough-ma.gov>; Patricia Bernard <pbernard@marlborough-ma.gov>; Ryan Egan

## City Council

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**From:** David Giorgi  
**Sent:** Wednesday, August 11, 2021 3:42 PM  
**To:** City Council; Thomas DiPersio; Kevin Breen; Jason Grossfield; Tin Htway  
**Cc:** Priscilla Ryder  
**Subject:** RE: TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

Good Afternoon Urban Affairs Committee members,

With respect to the application for Special Permit for Raising Cane's Restaurants, suggested changes to the traffic pattern have been implemented and the submitted traffic analysis report indicates that the project "is not expected to have an appreciable impact on operations at any of the existing driveways serving the project site and would not be expected to negatively impact circulation around the existing McDonald's." I do feel that the traffic flow inside of the Raising Cain property may be impacted due to the turning movements in the parking lot, but I am not sure this would negatively affect patrons visiting McDonalds. We have discussed the adjustments at Site Plan and I would agree with the comments from the City Engineer that the applicant has made the requested adjustments.

Thank you,  
David Giorgi

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**From:** City Council <citycouncil@marlborough-ma.gov>  
**Sent:** Wednesday, August 4, 2021 12:49 PM  
**To:** Thomas DiPersio <tdipersio@marlborough-ma.gov>; Kevin Breen <kbreen@marlborough-ma.gov>; David Giorgi <dgiorgi@marlborough-ma.gov>; Jason Grossfield <jgrossfield@marlborough-ma.gov>; Tin Htway <thtway@marlborough-ma.gov>  
**Cc:** Priscilla Ryder <pryder@marlborough-ma.gov>  
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We have heard from Priscilla so far, and Chair Robey has scheduled this drive through special permit application to be heard at the August 16<sup>th</sup> UAC meeting.  
You may be aware that McDonald's has expressed some concerns. Your input will assist the committee in its review of this permit.  
Thank you.  
Karen

---

**From:** City Council  
**Sent:** Thursday, July 29, 2021 5:22 PM  
**To:** Priscilla Ryder <[pryder@marlborough-ma.gov](mailto:pryder@marlborough-ma.gov)>; Thomas DiPersio <[tdipersio@marlborough-ma.gov](mailto:tdipersio@marlborough-ma.gov)>; David Giorgi <[dgiorgi@marlborough-ma.gov](mailto:dgiorgi@marlborough-ma.gov)>; Kevin Breen <[kbreen@marlborough-ma.gov](mailto:kbreen@marlborough-ma.gov)>; John Garside <[jgarside@marlborough-ma.gov](mailto:jgarside@marlborough-ma.gov)>; Tin Htway <[thtway@marlborough-ma.gov](mailto:thtway@marlborough-ma.gov)>  
**Cc:** Kathleen Robey <[atlarge\\_4@marlborough-ma.gov](mailto:atlarge_4@marlborough-ma.gov)>; Mike Ossing <[atlarge\\_3@marlborough-ma.gov](mailto:atlarge_3@marlborough-ma.gov)>  
**Subject:** TO MANAGERS FOR COMMENT: From Atty. Brangwynne: Draft Special Permit Decision, Raising Cane's

To All:



**TOWN OF MARLBOROUGH  
CITY COUNCIL**

**RE: Raising Cane's Restaurants, LLC  
Application for Issuance of Special Permit  
141 Boston Post Road West (Route 20), Marlborough, Massachusetts**

**MEMORANDUM IN SUPPORT OF APPLICATION FOR SPECIAL PERMIT**

I. INTRODUCTION

The applicant, Raising Cane's Restaurants, LLC ("Raising Cane's" or the "Applicant") seeks approval of its plans for the installation of a new restaurant location at 141 Boston Post Road with a dual lane drive through service (the "Project"). The Project requires the issuance of a Special Permit from the City Council pursuant to the City of Marlborough Zoning Code:

§ 650 Attachment 1: Table of Use Regulations - Restaurant with drive-in or drive-thru facilities (31) allowed by Special Permit in Business (B) District.

II. DESCRIPTION OF PROJECT

Raising Cane's was founded in 1996 by Todd Graves in Baton Rouge, LA. Still family owned and operated, it today operates 545 Restaurants in 25 states and the Middle East. The Restaurant's concept is focused on its One Love, the chicken finger meal. That's all Raising Cane's serves ... boxes of chicken fingers, served with crinkle cut fries, coleslaw, Texas toast, and homemade Cane's sauce.

Raising Cane's will be unique to Massachusetts in that it is one of the first national concepts with a single item on its menu to enter the market. Raising Cane's gives back to the local communities we serve in five core areas – education, feeding the hungry, pet welfare, promoting active lifestyles, and developing entrepreneurship.

As part of the Project, Raising Cane's plans to construct dual drive through lanes that will be accessed through the onsite parking area, which can be entered from either Boston Post Road or Northboro Road, per the plans submitted herewith.

III. APPROPRIATENESS OF USE

In support of the issuance of a Special Permit, Raising Cane's states the following:

1. *The proposed drive-through use is in harmony with the general purposes and intent of the City Zoning Code.*

Unlike a traditional drive through facility, the proposed drive-through facility utilizes a dual lane system and the deployment of Crewmembers during peak hours to maximize efficiency

and throughput. The dual lane drive-through has become the industry standard because it reduces queuing and allows for improved circulation for vehicles and pedestrians in and around the parking areas.

Crewmembers will greet guests and direct them to pull forward as far as possible in one of the two lanes while they place and await delivery of their orders. Tablet ordering will be employed during peak hours to take orders in both lanes, take payment, and move cars through at industry-leading speeds of service. Currently, from the time a customer places their order until they leave the parking lot takes 2.5 minutes. Crewmembers will be staged throughout the drive through to ensure customers pull forward and the drive through queue is moving efficiently. Food is walked out to the outer drive through lane customers.

Based on Raising Cane's business model, it is expected that a high level of sales will be via the proposed drive through lanes. Pre-COVID, drive thru sales typically made up 75% of Raising Cane's business. Raising Cane's expects that once dining rooms reopen (currently they are still closed), this number will edge closer to 90% until consumers become comfortable eating inside again. Drive through service is therefore a necessary feature for Raising Canes to succeed as a responsible member of the local business community, particularly where many restaurants in the surrounding area, including the McDonald's restaurant on the adjacent parcel, feature drive through service.

With respect to specific impacts, as requested on the Special Permit Summary Impact Statement, the Applicant responds as follows:

Population on Site:

Raising Cane's will have 12 Crewmembers on site at all time. During off-peak hours, the Applicant expects approximately 10 customers, and up to full capacity of 72 customers at peak hours.

Traffic:

Raising Cane's has worked closely with City staff through the site plan review process to ensure that there will be efficient traffic flow into, within, and out of the site. During regular hours Raising Cane's expects 12-15 cars parked on site, and approximately 25-28 cars parked on site during peak periods. The site includes the necessary 28 parking spaces based on the seating capacity of the restaurant under the Zoning Code.

There will be food deliveries daily after the restaurant closes, and paper product and beverage product deliveries once per week during off peak hours.

The site plan has been designed to accommodate emergency vehicles and allow for turning by trucks and firetrucks.

Light:



The lot will be illuminated with pole lights which will be shielded to have less than 0.5 fC light trespass off the property. The lot is located in a well-lit Business district and therefore the Applicant submits that there will be no negative impact from lighting at the lot.

Noise:

The only noise that will be generated from the proposed drive-through use will be the noise from cars in the drive thru queue and the menu board speaker. There is no outdoor patio at this restaurant due to site constraints so there will be no ambient music onsite.

The drive-through menu board software automatically adjusts the sound to be 14 dB above ambient noise level. Typical suburban background noise is between 40 and 50 dB, and therefore, the Applicant expects the speaker post to be between 54 and 64 dB. By way of comparison, this would be less than the sound of a passing car as heard by a pedestrian on the sidewalk.

Air:

There will be no impact to air quality related to the proposed drive-through use. The restaurant does create exhaust from a Type 1 commercial hood restaurant exhaust fan, which is standard with any restaurant use, and would be expected with or without the proposed drive-through feature.

Water and Sewer:

There will be no impact on water and sewer related to the proposed drive-through use. The proposed restaurant use would have water and sewer needs, which would not change based on the addition of the drive-through feature.

Hazardous Material:

There are no hazardous materials created as a result of the proposed drive-through use.

The restaurant does generate yellow grease (fryers) which is stored in a vacuum system and pumped out into a truck via a hose connected to the vacuum tank. This is similar to a septic tank trunk but is a closed-circuit system so there is no potential for grease spillage. Grease trap waste is pumped quarterly or more frequently if required through a septic style truck.

Raising Caines does not use hazardous materials onsite. Cleaning chemicals are ordinary household type cleaning supplies (hand soap, dish detergent, floor cleaner, glass cleaner,

and sanitizing solution for tables and chairs). Hand sanitizer and alcohol wipes are now used as a response to the COVID-19 pandemic.

IV CONCLUSION

For all of the foregoing reasons, Raising Cane's respectfully submits that the proposed restaurant with drive-through use is in harmony with the general purpose and intent of the City Zoning Code as required for the issuance of a Special Permit. Raising Cane's therefore requests that the City Council issue a Special Permit pursuant to § 650-57(A)(1) and § 650 Attachment 1 (31).

Respectfully submitted,

  
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Mark L. Donahue, Esquire

Fletcher Tilton, P.C.

370 Main Street

Worcester, MA 01608

(508) 459-8029

[mdonahue@fletchertilton.com](mailto:mdonahue@fletchertilton.com)



July 15, 2021

Marlborough City Council  
140 Main Street, 2<sup>nd</sup> Floor  
Marlborough, MA 01752  
Attn: President Michael H. Ossing and Council Secretary Karen A. Boule

**RE: Raising Cane's Restaurants, LLC, 141 Boston Post Road West, Marlborough, MA 01752 - Application for Special Permit**

Dear President Ossing and City Councilors:

On behalf of McDonald's Corporation ("McDonald's"), I write regarding the Application for Special Permit filed by Raising Cane's Restaurants, LLC ("Raising Cane's") to build a Raising Cane's restaurant (the "Project") at 141 Boston Post Road West, Marlborough, Massachusetts (the "Project Site"). McDonald's restaurant, which is located at 155 Boston Post Road, directly abuts the Project Site. McDonald's has significant concerns regarding potential traffic impacts, on-site vehicle circulation, safety and parking which have not been addressed by Raising Cane's which could affect McDonald's. Consequently, McDonald's requests that the City Council require that Raising Cane's properly address those issues by conducting a Traffic Impact and Access Study and Site Circulation Review for the Project. McDonald's has already made the same request to representatives of Raising Cane's.

Bayside Engineering ("Bayside") has reviewed the information filed with the Application for Special Permit for the Project. Specifically, Bayside has focused on the traffic aspects of the Project. Particularly the Project's impacts on traffic flow and circulation on the Project Site, as well as potential impacts to the neighboring McDonald's restaurant.

As indicated in the Application for Special Permit, Raising Cane's restaurant would be located immediately east of the McDonald's restaurant. Access to the Raising Cane's restaurant would be provided by way of existing driveways that currently serve the McDonald's restaurant to Boston Post Road and to Northborough Road pursuant to a Reciprocal Easement Agreement.

Upon entering the McDonald's driveway from Boston Post Road, access to the Raising Cane's restaurant would be an immediate right turn into the Raising Cane's driveway. This would lead to the main parking field located east of the proposed building with access to the double drive-through lane immediately north of the proposed Raising Cane's restaurant. The drive-through lanes would wrap around the west side of the restaurant building and then exit heading to the east, again going around the building and exiting through another easement to Northborough Road.

In the materials submitted with the Application for Special Permit, no traffic data were provided relative to traffic generation to be generated by the Project or expected operations within the Project Site or within the dual drive-through lanes. More specifically, no trip generation information has been provided to assess the Project's impacts on the existing site driveways or



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key intersections in the vicinity of the Project Site, predominantly, the intersection of Boston Post Road and Northborough Road. The only traffic-related information presented in the Application for Special Permit was unsupported, anecdotal statements about the percentage of vehicles expected to use the drive-through lanes.

Bayside is working with McDonald's counsel, Mintz Levin, in evaluating McDonald's concerns about the Project. We expect to present additional information at the Special Permit Hearing on July 19.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'KPC', with a long horizontal flourish extending to the right.

Kenneth P. Cram, P.E.  
Director, Traffic Engineering  
Bayside Engineering, Inc.

cc: City Clerk (via email)  
William J. Squires, III, Esq.  
Michael Brangwynne, Esq. (via email)  
Mark Donahue, Esq. (via email)