



# IN CITY COUNCIL

Marlborough, Mass., NOVEMBER 27, 2023

ORDERED:

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### DECISION ON A SPECIAL PERMIT ORDER NO. 23-1008965D

The City Council of the City of Marlborough hereby **GRANTS** the Application for a Special Permit to Somar Landscape Inc. (the "Applicant") for a landscape contractor's yard at 59 Airport Boulevard, Unit 16, in the Limited Industrial Zoning District, as provided in this Decision and subject to the following Findings of Fact and Conditions.

#### FINDINGS OF FACT

1. The Applicant, Somar Landscape Inc., is a Massachusetts corporation with an address of Post Office Box 5602, Marlborough, MA 01752.
2. The Applicant is the prospective owner of the property located at 59 Airport Boulevard, Unit 16, being shown as Parcel 52-1-16 on Assessors Map 73 (the "Site").
3. In accordance with Article V, Section 650-17 and Section 650-18(A)(48), of the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance"), the Applicant proposes a landscape contractor's yard at the Site (the "Use"). As shown on the Plans referenced in paragraph 5 below, the Use consists of a building, accessory parking, outdoor storage areas, and landscaped areas.
4. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an Application for a Special Permit ("Application") for the Use.
5. In connection with the Application, the Applicant submitted a certified list of abutters, filing fees, a site plan entitled "Proposed Site Plan of Use Area #16 Airport Boulevard in Marlborough, MA" by Connorstone Engineering, with the last revision date of October 13, 2023, and a landscaping plan entitled "Proposed Landscape Plan of Use Area #16 Airport Boulevard" by Connorstone Engineering, dated October 17, 2023 (collectively the "Plans") attached hereto as "**ATTACHMENT A.**"
6. The Application was certified as complete by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, in accordance with the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.
7. The Site is located in the Limited Industrial Zoning District.
8. The Site has an area of 30,000 square feet +/- as shown on the Plans.



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9. 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 a 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.
10. The Marlborough City Council, pursuant to Massachusetts General Laws Chapter 40A, opened a public hearing on the Application on Monday, October 23, 2023. The public hearing was held at the Marlborough City Hall, 140 Main Street. The hearing was closed on October 23, 2023.
11. The Applicant, through its representatives, presented testimony at the public hearing detailing the Use, describing its impact upon municipal services, the neighborhood, and traffic.
12. At the public hearing, one member of the public spoke in favor of the Use and no members of the public spoke in opposition to the Use.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING  
FINDINGS 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 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 the 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** the Applicant a Special Permit for a landscape contractor's yard at 59 Airport Boulevard, Unit 16, as shown on the Plans filed, **SUBJECT TO THE FOLLOWING CONDITIONS**, which conditions shall be binding on the Applicant, its successors and/or assigns:
  1. Construction in Accordance with Applicable Laws. 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.



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### ORDERED:

2. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review by the Site Plan Review Committee, 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 final occupancy permit shall be issued until the Applicant has complied with all conditions, provided, however, that subsequent to the issuance of this Special Permit and Site Plan Approval, the Site Plan Review Committee may authorize the phasing of site and building work depending upon weather conditions and other factors. 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.
3. Modification of Plans. Notwithstanding conditions #1 and #2 above, the City Council or the Site Plan Review Committee may approve engineering changes to the Plans, so long as said changes do not change the Use as approved herein, or materially increase the impervious area of the Use, reduce the green area, alter traffic flow, or increase the size of the building, all as shown on the Plans.
4. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised 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.
5. Storm Water and Erosion Control Management. The Applicant, its successors and/or assigns, shall ensure that its site superintendent during construction of the project is competent in stormwater and erosion control management. This individual(s)' credentials shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan and the approved erosion control plan. The Applicant, its successors and/or assigns, shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.



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6. Fencing. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the Applicant shall install solid fencing to screen areas of the Site used for the storage of vehicles, equipment, and materials from the street and adjacent properties, and shall maintain the fencing in good repair. The fencing shall comply with the requirements of all applicable City Ordinances.
7. Outdoor Storage Areas. In accordance with Section 650-18(A)(48) of the Zoning Ordinance, the outdoor storage of vehicles, equipment, and materials shall be located on impervious and otherwise dust-free surfaces. Materials shall be stored with sufficient protections to avoid damage to landscaped areas and to avoid interference with the proper functioning of stormwater infrastructure. Lawn areas shall be separated from adjacent parking/storage areas with curbing and barriers to prevent the use of lawn areas for materials or vehicle storage. The bulk storage of bark mulch at the Site shall be subject to fire safety conditions approved through the Site Plan Review process. The Site shall not be used to store grass clippings or similar debris.
8. Indoor Storage Areas. Building areas used to store vehicles, equipment, and materials indoors shall be equipped with floor drainage systems designed to prevent fuel, oil, and other hazardous materials from entering the stormwater or sewer systems, approved through the Site Plan Review process.
9. Vehicle Repairs and Maintenance. The Site may not be used for major repairs of vehicles and equipment, but minor maintenance of vehicles and equipment which are exclusively operated as part of the Use may be performed indoors only, subject to Condition 10.
10. Noise and Air Quality. The Applicant, its successors and/or assigns, shall comply with the City's Noise Ordinance, and shall comply with all state and federal requirements governing air quality and emissions.
11. Lighting. Exterior lighting at the Site shall be downward facing and shielded to minimize impacts on neighboring properties, with a lighting plan for the Site to be reviewed and further conditioned during the Site Plan Review process. Exterior lighting at the Site shall be shut off outside of operating hours, except for lighting necessary for security and emergency access.
12. Compliance with Applicable Laws. The 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 the Use.



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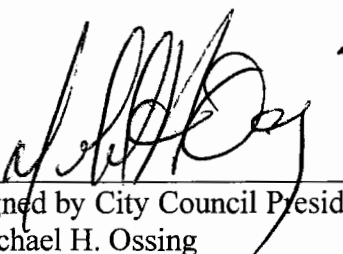
### ORDERED:

13. Recording of Decision. In accordance with the provisions of Massachusetts General Laws, Chapter 40A, Section 11, the 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 the Applicant has applied to the Building Commissioner for a building permit. Upon recording, the Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office, the Building Department, and the City Solicitor's office.

**Yea: 10 – Nay: 0 – Absent – 1**

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

**Absent: Robey.**

  
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Signed by City Council President  
Michael H. Ossing

ADOPTED  
In City Council  
23-1008965D

ORDER NO. 23-1008965D

# ATTACHMENT

# A









