



IN CITY COUNCIL

Marlborough, Mass., JANUARY 24, 2011

ORDERED:

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

In City Council
Order No. 11-1002790B

Application of:
New England Sports Management Corporation
84 South St.
Carlisle, MA 01741

Locus:
121 Donald Lynch Blvd.
Map 26, Parcel 32

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 11-1002790B

The City Council of the City of Marlborough hereby **GRANTS** the application of New England Sports Management Corporation, as provided in the DECISION and subject to the following Procedural Findings and Findings of Facts and Conditions.

Decision filed: **January 31, 2011**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 31st day of January, 2011.

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 February, 2011.

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

A TRUE COPY
ATTEST:

A handwritten signature in cursive script, appearing to read "Lisa M. [unclear]", is written over the printed name of the City Clerk.

City Clerk



IN CITY COUNCIL

JANUARY 24, 2011

Marlborough, Mass., _____ PAGE 1

ORDERED:

DECISION ON AN APPLICATION TO AMEND SPECIAL PERMIT # 10-1002448B

The City Council of the City of Marlborough hereby Grants the Application for Amendment to Special Permit # 94-5460B as previously amended by City Council Order # 04- 100359 and City Council Order # 10-1002448B to Quad Rink Limited Partnership/New England Sports Management Corporation, General Partner, 84 South Street, Carlisle, MA 01741 and H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust u/d/t dated December 23, 1994 recorded in the Middlesex South District Registry of Deeds in Book 25093 Page 467, both having a place of business at 84 South Street, Carlisle, MA 01741 as provided in the Decision and subject to the following Procedural Findings, Findings of Facts and Conditions:

PROCEDURAL FINDINGS

- A. New England Sports Management Corporation, General Partner of Quad Rink Limited Partnership, and H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust u/d/t dated December 23, 1994 each having a place of business at 84 South Street, Carlisle, MA 01741 are hereinafter collectively referred to as the "Applicant."
- B. H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust, is the owner of property located at 121 Donald Lynch Boulevard (hereinafter referred to as the "Site"), as well as certain contiguous land in the Town of Hudson. Said property is further described in a deed recorded in the Middlesex South District Registry of Deeds in Book 24458 Page 324.
- C. The Applicant, on or about December 24, 2010, filed with the City Clerk of the City of Marlborough an Application for Amendment to Special Permit # 10-1002448B, herein referred to as the "Application."
- D. On May 23, 1994 the City Council granted the Applicant a Special Permit to construct a multi-sport facility consisting of up to four major activity areas. The activity areas are known as "rinks." Notice of Grant of Special Permit # 94-5460B, herein after referred to as "Special Permit" is recorded in the Middlesex South District Registry of Deeds in Book 25042 Page 572. Said Special Permit was amended on May 10, 2004 by City Council Order No. 04-100359 notice of which was recorded in the said Registry of Deeds in Book 43009 Page 25 and further amended by City Council Order No. 10-1002448B notice of which was recorded in said Registry of Deeds in Book 54646 Page 143. (collectively the Project)



IN CITY COUNCIL

JANUARY 24, 2011

Marlborough, Mass., ~~PAGE 2~~

ORDERED:

- E. The Application is authorized under the provisions of Chapter 650 (Zoning) of the Code of the City of Marlborough, Article V Section 650-17 Table of Uses and 18 Conditions for Uses A (23) Recreation Centers. The reason for the Application is to amend the Special Permit to allow under Special Permit # 94-5460B Paragraph 4 condition (q) Amusement Devices 42 amusement devices in the areas located on the second floor of the Sports Center.
- F. The Application filed with the City Clerk on December 24, 2010 consisted of the following: (a) Application Fee in the amount of \$250.00; (b) 3 (three) original copies of the Application for Amendment to Special Permit # 94-5460B; (c) Certification of Delivery of copies of application to City of Marlborough Departments and Office of the City Council; (d) Certification of Payment of Municipal Taxes; (e) Application outlining the project; (f) Special Permit Application Certification by Planning Department; (g) Certified copies of Abutters' Lists for the City of Marlborough and the Town of Hudson; (h) Special Permit-Summary Impact Statement; (collectively the "Documents"). Twelve sets of Documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner, the Building Inspector, the City Engineer and the Conservation Officer, all in accordance with Chapter 650, Article VII Section 200-59 of the Zoning Code of the City of Marlborough. The documents are incorporated herein and become part of this Decision.
- G. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by the Building Inspector for the City of Marlborough, on behalf of the City Planner for the City of Marlborough, as having complied with the provisions of Chapter 650 (Zoning Code) Article VII Section 650-59, C. (7) (a), (b), and (c).
- H. In accordance with the Rules and Regulations of the City Council and Massachusetts General Laws Chapter 40A Sections 9 and 11, the City Council established January 24, 2011 at 8:00 PM as a date and time for a public hearing on the Application, caused a notice of said hearing and the date thereof to be advertised on January 10, 2011 and January 17, 2011 in the Metrowest Daily News and caused said notice to be mailed to those entitled thereto. Proof of advertisement and mailing has been submitted to the City Clerk to be placed with the Application documents.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 24, 2011
PAGE 3

ORDERED:

- I. The Marlborough City Council held a public hearing on the Application on January 24, 2011 at 8:00 PM in accordance with the published notice, (the Public Hearing). The hearing was opened and closed on said date.
- J. The Applicant explained to the City Council that the additional amusement devices will serve the public interest; that the adding of the machines will provide entertainment for both users and spectators of the New England Sports Center; that it will occupy idle time of athletes and spectators during a time when there is no event, which the athlete is participating in or the spectator has an interest in; and that with sixteen years of history, management has determined that there is a clear need for the amusements to occupy time of the public while in the facility and waiting for an event to take place. The Applicant explained that the additional amusement devices will not attract more people to the facility. Members of the public had the opportunity to testify at the public hearing.

BASED UPON THE ABOVE THE CITY COUNCIL OF THE CITY OF MARLBOROUGH MAKES THE FOLLOWING FINDINGS AND CONDITIONS:

- A. The City Council finds that it may amend Special Permits #94-5460B, 04-100359B and # 10-1002448B subject to terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough.
- B. The City Council finds the Application for Amendment to Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough or Massachusetts General Laws Chapter 40A, et. seq.
- C. The City Council finds that the proposed use of the Site for the Project is an appropriate use and is in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough.
- D. The Applicant has complied with all the procedural rules and regulations of the City Council of the City of Marlborough, Chapter 650 (Zoning Code) of the City of Marlborough and Massachusetts General Laws Chapter 40A Sections 9 and 11.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 24, 2011
PAGE 4

ORDERED:

GRANT OF AMENDMENT TO SPECIAL PERMIT

The City Council of the City of Marlborough pursuant to its authority under Chapter 650 (Zoning Code) of the Code of the City of Marlborough and Massachusetts General Laws Chapter 40A, GRANTS to the Applicant an Amendment to Special Permits # 94-5460B, # 04-100359B and # 10-1002448B to add sixteen (16) amusement devices for a total of forty-two (42) amusement devices allowed to be used on the premises, subject to the following conditions:

1. Special Permit No. 94-5460B is amended by deleting in its entirety from its Findings and Conditions Paragraph 4, condition (q), and inserting in place thereof the following:
 - (q) Amusement Devices. The Applicant may provide for the public's use, up to forty-two (42) amusement devices in the areas designated as Game Room, Snack Bar Area and Family Area. All video games shall be located on the second floor of the building. Other amusement devices, such as pool tables, foos-ball, ping-pong, shuffle Board, hockey, basketball and similar type amusement games may be located in the Snack Bar and Family Areas. The Applicant may not provide more than four pool tables.
2. Special Permit # 10-1002448B is amended by adding the following new condition to GRANT OF AMENDMENT TO SPECIAL PERMIT paragraph F:
 22. The Applicant shall hire a company to perform an inside grid study of radio communications at a cost of no more than \$500.00. Following the study, Applicant will work with the City to implement procedures to provide better radio communications with City public safety departments.
3. The Special Permit # 94-5460B, # 04-100359B and # 10-1002448B are hereby affirmed, are deemed to be in full force and effect, and apply to the Project without change or modification, except as provided for in the Application, and other conditions herein stated.



IN CITY COUNCIL

Marlborough, Mass., JANUARY 24, 2011
PAGE 5

ORDERED:

4. Unless modified by the provisions hereof, all conditions outlined in Special Permit No. 94-5460B recorded in the Middlesex South District Registry of Deeds in Book 25042 Page 572, Special Permit No. 04-100359B recorded in said registry of deeds in Book 43009 Page 25 and Special Permit No. 10-1002448B shall apply to the Project.
5. In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Amendment to 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. Upon said recording, Applicant shall forthwith provide a copy of the recorded Special Permit to the City Council's office and to the City Solicitor's office.

Yea: 10- Absent: 1

Yea: Ferro, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Vigeant, Levy

Absent: Delano

A handwritten signature in black ink, appearing to read "Arthur G. Vigeant", written over a horizontal line.

Signed by City Council President
Arthur G. Vigeant

ADOPTED
In City Council
Order No. 11-1002790B