

APRIL 5, 2010

**Suspension of the Rules requested - granted**

**Councilor Juaire read a disclosure statement.**

**NOTICE OF DECISION  
GRANT OF SPECIAL PERMIT**

In City Council  
Order No. 10-1002448B  
X-94-5460B  
X-04-100359

Application of:  
Quad Rink Limited Partnership/New England Sports Management Corporation, General  
Partner and H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust  
84 South Street  
Carlisle, MA 01741

Locus:  
New England Sports Center  
121 Donald Lynch Boulevard  
Map 26, Parcel 32

**DECISION ON AN APPLICATION TO AMEND  
SPECIAL PERMIT # 94-5460B AS PREVIOUSLY AMENDED BY CITY  
COUNCIL ORDER NO. 04-100359 ON MAY 10, 2004**

The City Council of the City of Marlborough hereby **GRANTS** the Application of Quad Rink Limited Partnership/New England Sports Management Corporation, General Partner and H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust as provided in the **DECISION** and subject to the following **FINDINGS OF FACT AND CONDITIONS**.

Decision filed: April 12, 2010

The Decision of the City Council was filed in the Office of the City Clerk in the City of Marlborough on April 12, 2010.

**APPEALS**

Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of the filing of this Notice of Decision in the Office of the City Clerk of the City of Marlborough.

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 3rd day of May, 2010.

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

A TRUE COPY  
ATTEST:

  
City Clerk



# IN CITY COUNCIL

APRIL 5, 2010

Marlborough, Mass., \_\_\_\_\_ PAGE 1

ORDERED:

**DECISION ON AN APPLICATION TO AMEND  
SPECIAL PERMIT # 94-5460B AS PREVIOUSLY AMENDED BY CITY  
COUNCIL ORDER NO. 04-100359 ON MAY 10, 2004**

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 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**

1. 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."
2. H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust, is the owner of property located at 121 Donald Lynch Boulevard as well as certain contiguous land in the Town of Hudson (hereinafter referred to as the "Site"). Said property is further described in a deed recorded in the Middlesex South District Registry of Deeds in Book 24458 Page 324.
3. The Applicant, on or about February 4, 2010, filed with the City Clerk of the City of Marlborough an Application for Amendment to Special Permit # 94-5460B, herein referred to as the "Application."



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## ORDERED:

4. 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 is recorded in the Middlesex South District Registry of Deeds in Book 25042 Page 572. Said Special Permit (hereinafter referred to as "Special Permit") was amended on May 10, 2004 by City Council Order No. 04-100359. The amended Special Permit herein after will be referred to as "Amended Special Permit." Notice of the Amended Special Permit was recorded in the Middlesex South District Registry of Deeds in Book 43009 Pages 25.
5. 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 Amended Special Permit to allow the construction and use of an additional sixth rink at 121 Donald Lynch Boulevard (the Project) to be used under the provisions of the Amended Special Permit as further amended hereby.
6. The Application filed with the City Clerk on February 4, 2010 consisted of the following: (a) Application Fee in the amount of \$500.00; (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) Preliminary Site Plans in accordance with Chapter 650 Article VIII Section 650-59 Paragraph C. (5); (f) Application outlining the project; (g) Special Permit Application Certification by Planning Department; (h) Certified copies of Abutters' Lists for the City of Marlborough and the Town of Hudson; (i) 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.
7. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by 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).



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### ORDERED:

8. 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 March 8, 2010 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 February 16<sup>th</sup> and 23<sup>rd</sup> 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.
9. The Marlborough City Council held a public hearing on the Application on March 8, 2010 at 8:00 PM in accordance with the published notice, (the Public Hearing). The hearing was opened and closed on said date.
10. The Applicant presented a parking and traffic analysis and testimony at the Public Hearing detailing the construction and use of a sixth major activities area (Project), its impact upon municipal services, the neighborhood traffic, parking, drainage and such issues as the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the public hearing. Some members of the public spoke in favor of the project, some spoke against, some had questions, and some commented without stating a position for or against the project.
11. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs Committee regarding the development of the Site, the drainage, traffic, parking, safety considerations during and after construction, affect on nearby wetlands water and sewer use, the design and construction of the sixth rink to include operational considerations during and after construction, handicap accessible issues, the economic impact on the community, impacts on the abutter to the east of the project, and mitigation of impacts.

### **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 Permit # 94-5460B as previously amended (Amended Special Permit) subject to terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough.



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## ORDERED:

- 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. The construction of the Project will compliment the existing business uses in the City of Marlborough and surrounding communities, and will enhance the development goals of the City and the region by providing additional services, increased employment opportunities, increased recreational opportunities, positive impact on the hospitality resources of the City, and a continuation and expansion of a positive asset to the City of Marlborough.
- D. The Site Plan, as submitted and as may be amended by the Site Plan Review Committee during the site plan review process, provides for improvements which will protect the environment, and not have adverse impacts to the community. Those improvements are drainage, lighting, and better control of trash and litter. The City Council makes this determination subject to the completion and adherence by the Applicant to the approved site plan by the Site Plan Review Committee, an order of conditions as may be issued by the City of Marlborough Conservation Commission, and the conditions more fully set forth herein.
- E. 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.

### **GRANT OF AMENDMENT TO SPECIAL PERMIT**

- F. 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 Permit # 94-5460B to construct a sixth rink to be used as a multi-sport facility as set forth in the Amended Special Permit, in the Application, and as per the plans submitted to the City Council, and subject to the following conditions:



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## ORDERED:

1. The Amended Special Permit # 94-5460B is hereby affirmed, is deemed to be in full force and effect and applies to the Project without change or modification, except as provided for in the Application, the Site Plans and other conditions herein stated.
2. Unless modified by the provisions hereof, all conditions outlined in Paragraph 4. (a) through (z) of the Special Permit and conditions 3 through 11 of the Amended Special Permit shall apply to the Project. Where reference is made to the issuance of the Special Permit, it shall also refer to the issuance of the Amended Special Permit.
3. **Construction of the Project:** (a) Construction of the project is subject to the same conditions and limitations as provided in Condition 4. (a) of the Special Permit, except that reference is made to the site plan dated January 21, 2010 and revised on February 4, 2010 and March 22, 2010 and prepared by GLM Engineering Consultants, Inc., which site plan was filed with the Application. (b) The construction site will be fenced as approved by Site Plan Review. (c) To ensure the safety of patrons, employees and the general public during all phases of the construction of the Project, the Applicant will develop a modified emergency exit plan during site plan review and implement the same as a condition hereof. (d) Applicant shall, prior to issuance of the building permit for the project, provide a payment to the City of Marlborough Inspectional Services Fund in the amount of five thousand (\$5,000.00) dollars to offset the increases in costs associated with the Project. The City shall expend said funds as needed to contract for temporary staff, materials, supplies and equipment so as to enable the Inspections Staff to provide adequate, timely supervision to the Project.
4. **Parking Areas:** Four hundred ninety (490) parking spaces shall be provided as shown on the Site Plan.



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ORDERED:

5. **Lighting for Parking Lots:** (a) Exterior parking lot lighting shall not spill onto abutting residential property. (b) Reflectors shall be utilized and configured to mitigate light from entering abutting residential property. (c) Exterior parking lot lighting shall be extinguished each day no later than 1:00 A.M. local time, except for any security lighting required by the Marlborough Police Department.
  
6. **Project Plans and Specifications:** (a) 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 Special Permit and Amended Special Permit. (b) All Plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit Application 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. (c) Notwithstanding condition (a) and (b) hereof, 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 or increase the size of the building shown on the plan.
  
7. **Planting of Additional Vegetation:** In order to mitigate the amount of light going on to the abutting residential property from vehicles using the parking lot, Applicant shall plant a sufficient amount of coniferous trees and evergreen shrubs to block the light from hitting the nearby house and to catch any debris or litter that might blow from the parking lot towards the said residential property. Said plantings will be placed at the crest and on the slope of the hill. Applicant will replace existing damaged trees and shrubs. All plantings will be approved by the Site Plan Review Committee, including but not limited to species, location and quantity, during the site plan review process. Applicant will maintain said plantings for the life of the Special Permit.



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## ORDERED:

8. **Granite Curbing:** In order to provide a stop for vehicles parking in the east parking lot, Applicant will install vertical granite curbing, with no less than a 6 inch reveal, along the east side of the site.
9. **Parking of Buses:** When there are more than three buses at one time utilizing Applicant's parking facilities, they shall park in the off-site parking facilities provided by the Applicant.
10. **Formal Parking and Pedestrian Movement Plan:** (a) Applicant will submit to the Site Plan Review Committee for its review and approval a formal Parking and Pedestrian Movement Plan to be used during major events when off-site parking is utilized. Said plan shall be updated as conditions warrant such an update. (b) Applicant will provide off-site parking sufficient to accommodate overflow parking.
11. **Review of Parking and Traffic:** Twelve months following the opening of Rink 6, Applicant will return to the Site Plan Review Committee to review the parking and traffic considerations. If the Site Plan Review Committee determines a need to adjust the parking and traffic considerations, Applicant will submit an amended site plan for approval of the Site Plan Review Committee.
12. **Scheduling of Tournament Games:** When games with high spectator interest are played, the schedule of games will be at least forty minutes apart to minimize parking and traffic congestion.
13. **Walkways:** Applicant will construct a sidewalk starting from the end of the current sidewalk at the front entrance to the Site at Donald Lynch Boulevard and extending to the driveway. Applicant will mark a cross walk across the driveway to the front lawn in front of the building. Applicant will also construct a walkway across the lawn to the current, marked cross walk which leads to the building.





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### ORDERED:

14. **Handicap Accessibility:** In addition to fulfilling its obligations to provide handicapped accessibility as required under state and federal law, the Applicant will also provide handicapped accessibility to and within facilities and spaces associated with Rink 6 which will be accessed by the public, including its locker rooms.
15. **Exterior Camera and Signage:** Applicant will install a security camera with recording capabilities on the east side of Rink 6 for the purpose of observing and recording activities which take place in the east parking lot. Applicant will also install signage at the east parking lot which prohibits loitering.
16. **Exterior Property Maintenance:** In modification of the condition stated in Paragraph 4. (u)(ii) of the Special Permit, the Applicant will inspect the entire Site on a daily basis, pick up any litter thereon, and appropriately discard the same. At the end of the business day, Applicant will visually inspect the entire Site to ensure that all employees and patrons have left the parking areas.
17. **Detention Basin:** In modification of the condition stated in Paragraph 4. (e) of the Special Permit, Applicant will inspect the on-site detention basin not less than annually with respect to sedimentation accumulation, and will expeditiously give copies of the annual report(s) to the City Engineer and Conservation Officer. To the same extent, if such reports indicate the need for sediment removal, the Applicant shall remove the same.
18. **Catch Basin:** In modification of the condition stated in Paragraph 4. (f) of the Special Permit, the Applicant will install the catch basin with sump(s) and inverted outlet(s) as more fully shown on the Site Plan. The Applicant will monitor the catch basin on a semi-annual basis, and will expeditiously give copies of the semi-annual reports to the City Engineer. The Applicant will clean the catch basins annually, or at more frequent intervals as determined by the City Engineer.



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ORDERED:

19. **Signage:** The locations and design of any new signage shall be reviewed and approved during Site Plan Review in accordance with the sign ordinance of the City of Marlborough without variance therefrom. Notwithstanding the foregoing, in no event shall the signage contain so-called message board or LCD components. 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 any conflicts with existing City infrastructure.
20. 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 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 said recording shall be made before a Building Permit is issued. 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.
21. The issuance of the Special Permit is further subject to detailed technical Site Plan Review in accordance with Chapter 270 of the City of Marlborough 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. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review shall be further conditions attached to this Special Permit, and any violations of such Site Plan Review conditions shall be violations of this Special Permit leading to its possible revocation by the City Council. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plan submitted, reviewed and approved by the City Council as the special permit granting authority. Any changes to the Plan which alter the traffic patterns or landscaping, or reduce the overall green space of the Project, will require subsequent approval by the City Council.




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**ORDERED:**

**Yea: 11- Nay: 0**

**Yea: Delano, Ferro, Elder, Juairé, Seymour, Clancy, Landers, Ossing, Pope, Levy & Vigéant**

  
Signed by City Council President  
Arthur G. Vigéant

**ADOPTED**  
In City Council  
Order No. 10-1002448B  
X-94-5460B  
X-04-100359