



IN CITY COUNCIL

Marlborough, Mass., JUNE 6, 2016

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:
New England Sports Management Corporation, General Partner of Quad Rink Limited Partnership
121 Donald Lynch Blvd.
Marlborough, MA 01752
Order No. 16-1006516B

Locus:
121 Donald Lynch Blvd.
Assessors Map 13, Parcel 13,14,15

DECISION

The City Council of the City of Marlborough hereby GRANTS the application of New England Sports Management Corporation, a Massachusetts limited liability company having a mailing address of 84 South St., Carlisle, MA 01741 as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: June 6, 2016.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 14th day of June, 2016.

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 5th day of July, 2016.

Given under Chapter 40A Section 17 of the General Laws.

A TRUE COPY
ATTEST


City Clerk



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ORDERED:

Order No. 16-1006516B

DECISION ON AN APPLICATION TO FURTHER AMEND
SPECIAL PERMIT NO. 94-5460B,
AS PREVIOUSLY AMENDED BY CITY COUNCIL ORDER NO. 04-100359B,
CITY COUNCIL ORDER NO. 10-1002448B,
AND CITY COUNCIL ORDER NO. 11-1002790B

The City Council of the City of Marlborough hereby Grants the Application for Amendment to Special Permit # 94-5460B, as amended by Council Order # 04-100359 filed on May 12, 2004, City Council Order # 10-1002448B filed on April 12, 2010, and by City Council Order # 11-1002790B filed on January 31, 2011, to Quad Rink Limited Partnership/New England Sports Management Corporation, General Partner, 84 South Street, Carlisle, Massachusetts 01741, and H. Larue Renfroe, Trustee of Donald Lynch Boulevard Realty Trust u/d/t dated December 23, 1994 and recorded in the Middlesex South District Registry of Deeds (the "Registry") in Book 25093, Page 467, both having a place of business at 84 South Street, Carlisle, Massachusetts 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, Massachusetts 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, further described on the Marlborough Assessors Maps as Map 26, Parcel 32, as well as certain contiguous land in the Town of Hudson, for a total of 23.10± acres. This property is shown as Parcel B on a plan recorded with the Registry in Plan Book 18967, Page 279; is further described in the deed recorded with the Registry in Book 25093, Page 474; and is hereinafter referred to as "Parcel B".



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3. New England Sports Management Corporation, General Partner of Quad Rink Limited Partnership, is the owner of property located adjacent to 121 Donald Lynch Boulevard, and further described on the Marlborough Assessors Maps as Map 26, Parcel 31, from which a Lot 13A, containing 4.02 acres, has been endorsed by the Marlborough Planning Board in 2016 as a separate Approval Not Required parcel, hereinafter referred to as "Lot 13A." Lot 13A will be combined with Parcel B at 121 Donald Lynch Boulevard, hereinafter referred to as the "Site," to create a single 27.12± acre lot for the New England Sports Center facility. The Site is located in the Limited Industrial (LI) zoning district.
4. The Applicant, on March 31, 2016, filed with the City Clerk of the City of Marlborough an Application for Amendment to Special Permit # 94-5460B, as amended, herein referred to as the "Application."
5. On May 10, 1994, the City Council had granted the Applicant a Special Permit to construct a multi-sport facility consisting of up to four major activity areas (the "Special Permit"). The activity areas are known as "rinks." Notice of Grant of Special Permit # 94-5460B is recorded in the Registry in Book 25042, Page 572.
6. The Special Permit was first amended on May 10, 2004, by City Council Order No. 04-100359B, notice of which was recorded in the Registry in Book 43009, Page 25. The Special Permit was amended a second time on April 5, 2010, by City Council Order # 10-1002448B, notice of which was recorded in the Registry in Book 54646, Page 143. The Special Permit was amended a third time on January 24, 2011, by City Council Order # 11-1002790B, notice of which was recorded in the Registry in Book 62316, Page 325. The Special Permit, as so amended, is hereinafter referred to as the "Amended Special Permit."
7. 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 Section 650-18 "Conditions for Uses," subsection A(23) "Recreation Centers." The reason for the Application is to further amend the Amended Special Permit to allow the construction and use of an additional seventh and eighth rink and to allow for service of alcoholic beverages at designated food service areas at the Site (the "Project"), subject to the provisions of the Amended Special Permit as further amended hereby and as allowed in the LI zoning district by special permit.



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8. The Application filed with the City Clerk on March 31, 2016, consisted of the following: (a) Application Fee in the amount of \$500.00; (b) three (3) original copies of the Application; (c) Certification of Delivery of copies of the 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) an outline of 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; as well as site plans entitled "New England Sports Center, 'Recreation Facility Expansion,' Donald Lynch Boulevard, Marlborough, Massachusetts, Prepared for: New England Sports Management Corporation, 80 South Street, Carlisle, Massachusetts 01741, Prepared by: GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, Dated March 23, 2016" (the "Site Plans") (collectively, the "Documents"). Twelve sets of the 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 650-59 of the Zoning Code of the City of Marlborough. The Documents are incorporated herein and become part of this Decision.
9. The Applicant filed with the Application a Certificate of Completeness of Application on a form signed by the Building Commissioner, 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).
10. 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 April 25, 2016, 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 April 9, 2016 and April 16, 2016 in the Main Street Journal; 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.
11. The Marlborough City Council held a public hearing on the Application on April 25, 2016, at 8:00 PM in accordance with the published notice (the "Public Hearing"). The hearing was opened and closed on said date.



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12. The Applicant presented testimony at the Public Hearing detailing the construction and use of the 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, one spoke against, and some members of the City Council asked questions.
13. 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, effect on nearby wetlands water and sewer use, the design and construction of the seventh and eighth rinks, including operational considerations during and after construction, handicap accessible issues, issues related to the service of alcoholic beverages, 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 OF FACT:

- A. The City Council finds that it may amend the Amended Special Permit, subject to terms and conditions as it deems necessary and reasonable to protect the health, safety and welfare of the citizens of the City of Marlborough.
- B. The City Council finds the Application does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough or Massachusetts General Laws Chapter 40A.
- 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 complement 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.



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- D. The Site Plans, as submitted and as may be amended by the Site Plan Review Committee during the site plan review process, provide for improvements that will protect the environment and not have adverse impacts to the community. 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, to an order of conditions as may be issued by the City of Marlborough Conservation Commission, to any conditions imposed by the Marlborough Licensing Board and the Marlborough Board of Health, and to 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, §§ 9 and 11.

GRANT OF FURTHER AMENDMENT TO AMENDED 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 the Amended Special Permit to construct a seventh and eighth rink to be used as a multi-sport facility as set forth in the Amended Special Permit, in the Application, and as per the Documents submitted to the City Council, and to allow the service of alcoholic beverages at designated food service areas at the Site (hereinafter the "Further Amended Special Permit"), all subject to the following conditions:

CONDITIONS

1. The Amended Special Permit is hereby affirmed, and 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.



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2. Unless modified by the provisions hereof, all conditions outlined in Paragraph 4. (a) through (z) of the Special Permit and all conditions outlined in the amendments to the 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 this Further 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 Plans. (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 Inspectional Services Staff to provide adequate, timely supervision to the Project. Prior to issuance of a Building Permit, Applicant shall also provide a payment to the City in the amount of eighty thousand dollars (\$80,000.00) to mitigate the costs of future upgrades to the sewer pump station at the eastern end of Donald Lynch Boulevard, which amount shall be deposited into a suitable municipal account as directed by the City Council.
4. **Parking Areas:** Six hundred (600) parking spaces shall be provided as shown on the Site Plans.
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.



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6. **Project Plans and Specifications:** (a) The Project shall be constructed, maintained and operated according to the specifications, terms and conditions of the 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 Application are herein incorporated into and become a part of this Further Amended 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 the Site 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 Site Plans.
7. **Granite Curbing:** In order to provide a stop for vehicles parking in the east parking lot, Applicant will maintain the vertical granite curbing, with no less than a 6 inch reveal, along the east side of the Site.
8. **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.
9. **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 Rinks 7 and 8, which will be accessed by the public, including its locker rooms.



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10. **Exterior Camera and Signage:** Applicant will install a security camera with recording capabilities on the south side of Rinks 7 and 8 for the purpose of observing and recording activities that take place in the south parking lot. Applicant will also install signage at the south parking lot that prohibits loitering.
11. **Radar Speed Signs:** Within thirty (30) days of the issuance of this Further Amended Special Permit, the Applicant shall provide a payment to the City in the amount eight thousand dollars (\$8,000.00) for the installation of two radar speed signs, the exact placement of which shall be determined by the Police Chief. If the Police Chief determines that additional radar speed signs are necessary and so notifies the Applicant, the Applicant shall provide payment of an additional eight thousand dollars (\$8,000.00) and the additional signs shall be placed at the Police Chief's discretion in the vicinity of the New England Sports Center property.
12. **Cross-Walk Markings:** The Applicant will install cross-walk lighting, signage and markings at the southwest entrance of the sports facility acceptable to the City Traffic Commission.
13. **Catch Basin:** Subject to the approval of the City Engineer, the Applicant will install an additional catch basin on the far edge of the north-by-northeast parking lot by the property now owned by Albert Bombard, and the Applicant will adjust the curb height to the extent necessary along the far edge of said parking lot to a height of six (6) inches.



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14. **Serving Alcoholic Beverages:** Paragraph 4. (p) of the Special Permit is hereby modified by striking the first full sentence, including the condition enumerated as (i), and replacing it with the following: “Alcoholic beverages may be served by the Applicant to be consumed only in designated food service areas under the following conditions: (i) There shall be no bar facilities for patron seating, and all seating shall be at tables in, or immediately adjacent to, the designated food service areas.” The issuance of this Further Amended Special Permit is further subject to review by the Marlborough Licensing Board as to all matters within the scope of the Applicant’s common victualer all-alcoholic beverages license as may be amended, and within the scope of the Applicant’s entertainment license as may be amended and automatic amusement license as may be amended. All further reviews, additions and/or amendments for the purposes of the Licensing Board shall become conditions of this Further Amended Special Permit, and any violations of such Licensing Board conditions may lead to possible revocation of the Further Amended Special Permit by the City Council.

15. **Site Plan Review:** The issuance of this Further Amended 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 Further Amended Special Permit, and any violations of such Site Plan Review conditions may lead to possible revocation of the Further Amended Special Permit by the City Council. Subsequent Site Plan Review shall be consistent with the conditions of this Further Amended Special Permit and the Plan submitted, reviewed and approved by the City Council as the special permit granting authority. Any changes to the Site 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.



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16. **Board of Health:** The issuance of this Further Amended Special Permit is further subject to review by the Marlborough Board of Health as to all matters governed by the Applicant's food establishment permit as may be amended. All conditions issued by the Board of Health shall become conditions of this Further Amended Special Permit, and any violations of such Board of Health conditions may lead to possible revocation of the Further Amended Special Permit by the City Council.
17. **Conservation Commission:** The issuance of this Further Amended Special Permit is subject to an order of conditions, DEP 212-1144, issued by the Marlborough Conservation Commission; and will be further subject to an order of conditions anticipated to be issued by the Conservation Commission relative to Site drainage which is and/or will be discharging into the riverfront area. All conditions issued by the Conservation Commission shall become conditions of this Further Amended Special Permit, and any violations of such Conservation Commission conditions may lead to possible revocation of the Further Amended Special Permit by the City Council.
18. **Traffic Commission:** The issuance of this Further Amended Special Permit is further subject to review by the Marlborough Traffic Commission as to all matters within its jurisdiction.
19. **Recording:** In accordance with the provisions of Mass. Gen. Laws c. 40A, § 11, the Applicant at its expense shall record this Further Amended Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Further Amended 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 Further Amended Special Permit to the City Council's office, the City Solicitor's office and the Building Department's office.

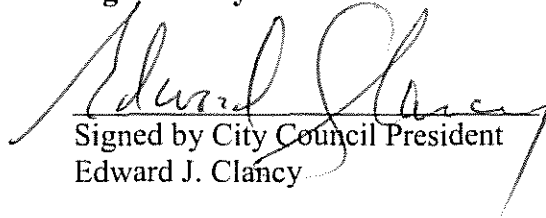


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ORDERED:

**Yea: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juaire, Oram,
Ossing & Robey**


Signed by City Council President
Edward J. Clancy

ADOPTED
In City Council
16-1006516B
X11-1002790B
X10-1002448B
X04-100359B
X94-5460B