



# IN CITY COUNCIL

JUNE 17, 2013

Marlborough, Mass., \_\_\_\_\_

ORDERED:

## DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

### NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:  
McDonalds USA, LLC  
One McDonald's Plaza  
Oak Brook, IL 60523  
Order No. 13-1005341C

Locus:  
155 Boston Post Rd. West  
Assessors Map 78, Parcel 15

### DECISION

The City Council of the City of Marlborough hereby GRANTS the application of McDonald's USA, LLC, as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: **June 17, 2013**

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the **2<sup>nd</sup>** day of **July, 2013**

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 **23rd** day of **July, 2013**.

Given under Chapter 40A Section 11 of the Massachusetts General Laws.

A TRUE COPY  
ATTEST

  
City Clerk



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**ORDERED:**

## **DECISION ON A SPECIAL PERMIT**

### **IN CITY COUNCIL**

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Special Permit  
McDonald's USA, LLC  
Order No. 13-1005341C

## **DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 13-1005341C**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to McDonald's USA, LLC for a drive-through facility at the existing restaurant at 155 Boston Post Road West, Marlborough, MA, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

### **FINDINGS OF FACT AND RULING**

1. McDonald's USA, LLC, One McDonald's Plaza, Oak Brook, IL 60523, has a Northeast Region office located at 690 Canton Street, Westwood, MA 02090, and is hereinafter referred to as the "Applicant."

2. The Applicant is a subsidiary of McDonald's Corporation, One McDonald's Plaza, Oak Brook, IL 60523 which owns the premises known and numbered as 155 Boston Post Road West, Marlborough, Massachusetts and further described on Marlborough Assessor's Maps as Map 78, Lot 15 (hereinafter, the "Site"). As the operator of the existing McDonald's restaurant and drive-through located at the Site, the Applicant proposes to remodel the restaurant and reconfigure the existing drive-through lane at the Site (hereinafter, the "Project").

3. 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 (2008 Code), Applicant is seeking permission for a drive-through facility, since they are proposing to rebuild the existing drive-through, and the original construction pre-dated the need to obtain a special permit.



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### ORDERED:

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 "Site Development Plans for Proposed McDonald's with Drive-Thru, Location of Site: 155 Boston Post Road West, City of Marlborough, Middlesex County, Massachusetts, Map 78, Lot 15", prepared for McDonald's, drawn by Bohler Engineering, 352 Turnpike Road, Southborough, MA, scale 1"=20', dated February 18, 2013 (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, April 8<sup>th</sup>, 2013.

9. Applicant, through its civil engineering consultant, presented testimony at the public hearing detailing the application, describing its impact upon municipal services, the neighborhood, and traffic. No individual in attendance at the public hearing spoke in opposition to the project.

10. The Applicant intends the proposed drive-through reconfiguration to improve site circulation by eliminating the ability to cut into the drive-through for cars entering the site at Northborough Road. Under the proposed conditions, the Applicant intends that vehicles will need to circulate the building in order to enter the drive-through, in order to avoid the potential stacking issue.



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## ORDERED:

### **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 reconstruct and operate the drive-through lane 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.



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## ORDERED:

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 without variance therefrom. Notwithstanding the foregoing, in no event shall the signage contain a so-called electronic message board or LCD components. The existing internally illuminated readerboard can remain. 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. All illuminations of individual parking lot light fixtures shall not be modified from the existing condition without prior approval by the Site Plan Review Committee.

7. There shall be no overnight parking at the Site, except that parking which is incidental to the continued 24-hour site operations shall be allowed.

8. The existing stormwater system is proposed to remain and be unaltered. However, upon issuance of the Special Permit, the applicant, its successors and/or assigns shall monitor the existing catch basins on a semi-annual basis, and shall give reports to the City Engineer as requested. The catch basins are to be cleaned by Applicant, its successors and/or assigns annually, or at more frequent intervals as determined necessary by the City Engineer.

9. 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.

10. The drive-through shall employ a speaker system of a quality that seeks to minimize the noise emanating from the speaker system and with full compliance of 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.



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## ORDERED:

11. The existing Site driveways will not be changed by this Project, and driveway permitting with the local or State highway departments is not required.

12. 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.

13. Notwithstanding condition #1 above, the 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, alter traffic flow or increase the size of the building shown on the Plans.

14. 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.

15. The hours of operation for the restaurant will continue to be 24 hours per day, 7 days per week.

16. The hours of operation for the drive-through facility will continue to be 24 hours per day, 7 days per week.

17. Any work performed within the public way on Boston Post Road West shall be done by Applicant, its successors and/or assigns during off-peak hours and, prior to commencement of such work, Applicant, its successors and/or assigns shall provide a traffic management plan relating to the same for approval by the Engineering Division of the City's Department of Public Works.

18. 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.

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



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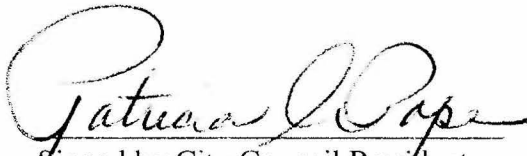
## ORDERED:

20. 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 Inspector 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 and the City Council immediately subsequent to recording.

**Yea: 10- Nay: 0 – Absent: 1**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Pope, Oram & Robey**

**Absent: Ossing**

  
Signed by City Council President  
Patricia A. Pope

ADOPTED  
In City Council  
Order No. 13-1005341C