



IN CITY COUNCIL

SEPTEMBER 27, 2010

Marlborough, Mass.,

ORDERED:

GRANT OF SPECIAL PERMIT

In City Council
Order No. 10-1002644C

Application of:
Crosspoint Associates, Inc.
217 West Main St.
Natick, MA 04760

Locus:
133 East Main St.
Map 57, Parcel 190

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 10-1002644C

The City Council of the City of Marlborough hereby **GRANTS** the application of Crosspoint Associates, Inc., as provided in the DECISION and subject to the following Procedural Findings and Findings of Facts and Conditions.

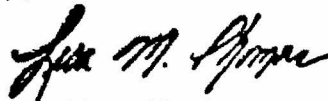
Decision filed: September 30, 2010

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the September 30, 2010

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 21st day of October, 2010.

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

A TRUE COPY
ATTEST:


City Clerk



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DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 10-1002644C

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Crosspoint Associates, Inc. for banking services with 24-hour ATM facilities at 133 East Main Street, 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. Crosspoint Associates, Inc., 217 West Main Street, Natick, MA 01760 is hereinafter referred to as the "Applicant."

2. Applicant is a party to contracts calling for the acquisition of the premises known and numbered as 133 East Main Street, Marlborough, Massachusetts described on Marlborough Assessor's Map 57, Parcel 190 (hereinafter the "Site") and proposes to construct a stand-alone banking facility with a banking services drive-through, including a 24-hour ATM to be located at the Site (hereinafter "Project").

3. Applicant has filed with City Clerk of the City of Marlborough an application for a Special Permit (hereinafter "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, which will include a drive-through ATM to be available to bank customers when the bank itself is closed.

4. The Site is located in both the Business and Residence RB zoning districts as determined by the Zoning Map of the City of Marlborough.

5. In connection with the Application, Applicant has submitted a traffic impact and access study, certified list of abutters, filing fees, and a detailed site plan entitled "Site Plan, 133 East Main Street, Marlborough, MA", prepared for Crosspoint Associates, Inc., drawn by Bruce Saluk & Assoc., Inc., 576 Boston Post Road, Marlborough, MA, scale 1"=20', dated July 12, 2010, with a final revision dated September 5, 2010 (hereinafter "Plans").

6. The site plan was certified by the acting 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.



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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 for a Special Permit 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, August 23, 2010.

9. Applicant, through its site developer and its counsel, 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.

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 construct and operate drive-through banking services 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.



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2. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with 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. 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.

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 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 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 the 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 exceed 200-watt fixtures and shall be screened from abutting residential property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.

7. Snow storage will be located as shown on the Plans referred to in condition #1 above. Applicant, its successors and/or assigns shall provide off-site snow removal as required and if deemed necessary by the City of Marlborough Commissioner of Public Works.

8. There shall be no overnight parking at the Site.



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9. After issuance of a Special Permit, the Project is further subject to the City's Stormwater Management Ordinance. All catch basins and water quality inlets shall be installed in accordance with the Plans submitted to the City Council and/or the City Council's Urban Affairs Committee. Applicant, its successors and/or assigns shall monitor the catch basins on a semi-annual basis, and shall give reports to the City Engineer annually. 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.

10. Applicant, its successors and/or assigns agrees to plant and 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.

11. The drive-through teller window shall employ a pedestal 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.

12. If a dumpster is required by the City or otherwise utilized, the Applicant, its successors and/or assigns agrees to screen the Project's trash area by constructing a six-foot (6') white vinyl fence screen. Applicant, its successors and/or assigns further agrees that the dumpsters located on the Site will be covered. No trash pickup shall occur before 7:00 a.m. or after 6:00 p.m. on weekdays, or at any time during weekends.

13. Applicant, its successors and/or assigns agrees that following the issuance of the Special Permit, both Site entrances will be subject to approval during Site Plan Review for the traffic configuration to accommodate traffic flow and ensure public safety, and agrees to make changes in compliance with the recommendations of the Marlborough Department of Public Works ("MDPW") and the Marlborough Traffic Commission ("the Commission"), as well as the Commonwealth of Massachusetts Department of Transportation ("MassDOT") if applicable. Applicant, its successors and/or assigns agrees that the Site will be subject to a review of the traffic configuration after one year from the issuance of the Occupancy Permit to determine whether any alterations need to be made to the entrances and egresses to the Site to accommodate traffic flow and ensure public safety, and agrees to make changes in compliance with the recommendations of the MDPW and the Commission, as well as MassDOT if applicable.



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14. 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.

15. 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.

16. In connection with the installation of improvements within public rights-of-way which requires a street opening permit, Applicant, its successors and/or assigns shall provide the City Engineer with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, Applicant, its successors and/or assigns, and not the City of Marlborough, will bear the costs of any police detail for any work performed within the public way.

17. Parking areas will be swept and maintained by Applicant, its successors and/or assigns as necessary. Pursuant to the provisions of Massachusetts General Laws c. 90, § 18, Applicant, its successors and/or assigns shall submit to the Marlborough Traffic Commission (the "Commission") a written request and grant of authority to promulgate legally enforceable rules and regulations for the control of on-Site and off-Site traffic and parking. Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.

18. The Police Chief or his designee, may, in the exercise of his professional discretion to protect public safety, order the temporary closure of the drive-through facilities.

- a. The hours of operation for the drive-through teller operation shall not exceed Monday through Saturday 8:00 a.m. to 8:00 p.m. and Sunday 8:00 a.m. to 6:00 p.m.
- b. The operation of the drive-through ATM shall be allowed 24 hours per day, 7 days per week.



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19. All work performed within the public way on East Main Street 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.

20. Prior to construction, Applicant, its successors and/or assigns shall establish and grant to the City utility easements for construction, maintenance or repair of existing City infrastructure including, but not limited to, water, sewer, drain, and traffic control. Landscaping in the area of such easements shall be coordinated by the Applicant, its successors and/or assigns with the Engineering Division of the City's Department of Public Works in the field so as to avoid conflicts with existing infrastructure.

21. 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.

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

23. Applicant, its successors and/or assigns shall be required to hire a site engineer who shall be 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, the approved erosion control plan, and, if applicable, the Conservation Commission's Order of Conditions. 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.

24. If the drainage system (during construction and post-construction) constructed by Applicant, its successors and/or assigns fails and the failure is the cause of damage to another's property, Applicant, its successors and/or assigns shall be responsible to pay the owner of said damaged property the full cost of the repair and or replacement of the damaged property. In the event Applicant, its successors and/or assigns does not pay for the damage, it shall be a violation of this Special Permit.



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25. As it is anticipated that Applicant, its successors and/or assigns will need to conduct demolition operations prior to construction at the Site, Applicant, its successors and/or assigns shall be responsible to pay the owner of any property damaged by said demolition the full cost of the repair and replacement of the damaged property. In the event Applicant, its successors and/or assigns does not pay for the damage, it shall be a violation of this Special Permit.

26. 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 Commissioner 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

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

Councilor Delano abstained

Signed by City Council President
Arthur G. Vigeant

ADOPTED
In City Council
Order No. 10-1002644C