



IN CITY COUNCIL

Marlborough, Mass., ~~DECEMBER 4, 2017~~

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ORDERED:

IN CITY COUNCIL
Marlborough, Mass. December 4, 2017

DECISION FOR SPECIAL PERMIT

IN CITY COUNCIL

Special Permit
Mina Property Group LLC
New England Auto Max, Inc., dba AutoMax Service Center
Order No. 17-1006800H

DECISION ON AN APPLICATION FOR SPECIAL PERMIT

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Mina Property Group, LLC (Applicant) and New England Auto Max, Inc. dba AutoMax Service Center (Tenant), each having a usual place of business at 400 Maple Street and 386 Maple Street, respectively, Marlborough, Massachusetts 01752 as provided in the Decision and subject to the following Procedural Findings, Findings of Facts and Conditions:

PROCEDURAL FINDINGS

1. Mina Property Group LLC is a limited liability company organized, existing and in good standing under the laws of the Commonwealth of Massachusetts, having a usual place of business at 400 Maple Street, Marlborough (hereinafter referred to as the "Applicant").
2. New England Auto Max, Inc., dba AutoMax Service Center, is a corporation organized, existing and in good standing under the laws of the Commonwealth of Massachusetts, having a usual place of business at 386 Maple Street, Marlborough (hereinafter referred to as the "Tenant").



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3. The Applicant is the owner of land in Marlborough, MA shown as Lots #7 and #8 in Plan Book #56, Plan # 20, dated November 23, 1887 and recorded in the Middlesex South District Registry of Deeds, said land being owned by the Applicant described in said Registry of Deeds in Book 44518, Page 294. Said Lots #7 and #8 are further known as 408 Maple Street, Marlborough, MA, as shown on the City of Marlborough Assessors Maps as a portion of Map 93, Parcel 65 (hereinafter referred to as the "Site").
4. The Applicant, on or about January 23, 2017, filed with the City Clerk of the City of Marlborough, an Application To City Council for Issuance of Special Permit (hereinafter referred to as the "Application") under the Ordinances of the City of Marlborough, Article VI Section 650-18.A, paragraph 25, to permit Tenant to conduct a business owned and operated by Tenant for the service, repair and minor refinishing of automotive cars and trucks on land owned by the Applicant on 16,816 square feet +/- of land located at 408 Maple Street being Lots #7 and #8 referenced in paragraph 3 above (the "Project").
5. The Site is located in the Commercial Automotive zoning district of the City of Marlborough and is subject to the Zoning Ordinance Chapter 650-18.A, paragraph 25 for commercial automotive use on less than an acre of land.
6. The Application consisted of an original and two copies of the following: (a) Application to the City Council for Issuance of Special Permit; (b) Filing Fee check in the amount of \$500.00; (c) Plan Delivery Certification; (d) Tax Payment Certification; (e) Abutters List; (f) Site Plan (the "Site Plan"); and (g) Planning Department Certification (collectively, the "Documents"), which Documents are incorporated herein and become a part of this decision. Twelve sets of documents were delivered to the City Council and one set each to the Police Chief, the Fire Chief, the City Planner (Building Commissioner), the City Engineer and the Conservation Officer, all in accordance with Chapter 650, Section 650-18.A, paragraph 25, and Section 650-59 of the Zoning Code of the City of Marlborough. The Abutters List was updated as of January 1, 2017 and filed with the City Clerk.
7. 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.



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8. Under the provisions of Massachusetts General Laws Chapter 40A, on January 10, 2017 Applicant filed with the City Clerk to be placed on the City Council Agenda for January 23, 2017 the Application for a Special Permit. At the January 23, 2017 meeting, the Council voted to schedule a public hearing to be held on February 27, 2017.
9. 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 February 27, 2017 as the date for a public hearing on the Application, caused to be advertised notice of said hearing and the date thereof in the MetroWest Daily News and mailed said notice to those entitled thereto, all in accordance with Massachusetts General Laws Chapter 40A.
10. The Marlborough City Council held a public hearing on the Application on February 27, 2017 in accordance with the published notice (the "Public Hearing"). The hearing was opened at the time provided for in the notice and following the completion of testimony the hearing was closed on said date. The Applicant timely requested the Council to grant, and was timely granted, extensions of time for the Council to take final action on the application up to and including May 12, 2017, September 12, 2017, and December 18, 2017.
11. The Applicant presented testimony at the Public Hearing detailing the construction to be performed on the Site, including site work, drainage and the construction of the building, especially as it pertained to automotive service and repair, and such issues with the City Council and members of the public deemed appropriate. Members of the public had the opportunity to testify at the public hearing and there was no public input.
12. The Applicant provided written and oral documentation and testimony to the City Council and the City Council's Urban Affairs and Housing Committee ("Urban Affairs") regarding the Site, traffic impacts, landscaping, drainage, lighting, water and sewer use, and other utilities associated with the Site.
13. AutoMax Service Center (Tenant) currently conducts its business at 386 Maple Street, Marlborough, MA.



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14. The Site is located on Route 85 (408 Maple Street) and is bounded to the west by Maple Street, and to the east by River Street.
15. The Site is less than 1/2 acre (16,816 square feet +/-) and is located within the Commercial Automotive Zone. According to the Building Commissioner, the Project proposes a use which is allowed by special permit in the Commercial Automotive zoning district on land less than 1 acre.
16. According to the Building Commissioner, the Project meets all requirements of the City's Zoning Ordinance.
17. The Project consists of one building of approximately twenty-five hundred (2,500) square feet and will be located as shown on the Site Plan.
18. According to the Applicant, natural gas is available to serve the Project.
19. According to the Applicant, telephone, electricity and cable TV services are all available to serve the Project.
20. According to the Applicant, the Site Plan provides for proper management of storm water runoff from the project; proposed runoff rates are less than or equal to but do not exceed existing; there will be no adverse impact to any surrounding areas; the drain systems have been properly designed to handle the design flow rates; and reduced TSS results in improved quality of storm water runoff to receiving areas.
21. According to the Applicant, all buildings will be constructed in accordance with the latest life safety and building codes.
22. The Applicant will maintain all walkways, driveways and storm drainage structures.

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 grant a special permit (the "Special Permit") subject to such terms and conditions as it deems necessary and reasonable to protect the citizens of the City of Marlborough (also referenced herein as the "City").



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B. The City Council finds the Application for the Special Permit does not derogate from the intent or purpose of the Zoning Ordinance of the City of Marlborough, or General Laws c. 40A.

C. The City Council finds that the 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 business nature of the abutting properties and the surrounding neighborhood.

D. The Site Plan, as submitted, and as may be amended by Site Plan Review Committee during the site plan review process, provides improvements that will protect the environment such as improved drainage, a gas/oil separator, landscaping, etc. 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 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 and Chapter 650 (Zoning Code) of the City of Marlborough and Massachusetts General Laws Chapter 40A, Sections 9 and 11.

GRANT OF SPECIAL PERMIT WITH CONDITIONS

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 a Special Permit to construct the Project as set forth in the Application documents and as per the Site Plan submitted to the City Council, and subject to the following conditions which shall be binding on the Applicant, its successors and assigns, as well as on the Tenant:

1. Construction. Construction of all structures on the Site is to be in accordance with all building codes and zoning regulations in effect in the City of Marlborough and Commonwealth of Massachusetts and shall be built according to the Site Plan entitled, "Mina Property Group, 408 Maple Street, Marlborough, MA Preliminary Site Plan," prepared by: Whitman & Bingham Assoc., Inc. Civil Engineering & Land Surveying Mechanic Street Marlborough, MA 01453 Tel: 978-537-5296; dated: January 25, 2016, last revised: December 19, 2016, and filed with the Application and as may have been amended during the application process. The Applicant's Site Plan indicates a permitted building area where the proposed building is to be located.



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2. Compliance with Local State and Federal Laws. The Applicant shall comply with all applicable rules, regulations and ordinances of the City of Marlborough, Commonwealth of Massachusetts and Federal Agencies as they may apply to the construction, maintenance and operation of the Project, including, without limitation, compliance with local Conservation Commission Orders, the Massachusetts Environmental Policy Act (MEPA), and the State Building Code. The terms and conditions of such decisions and findings will become a part of this decision.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review, in accordance with the City of Marlborough Code, prior to issuance of the Building Permit. Any additional changes, alterations, modifications or amendments as required by Site Plan Review shall become further conditions to this Special Permit and no occupancy permit shall be issued until all conditions are complied with by the Applicant. Site Plan Review shall be consistent with this Special Permit. Any violation of a condition of the Site Plan Approval shall be a violation of this Special Permit.

4. Utilities Review. The detailed review of on-Site and off-Site utilities will be performed as part of the Site Plan Review process and such utilities as may be required by the City Engineer during this review shall be provided. The Applicant will deliver to the City Engineer, prior to the commencement of construction of the water and sewer improvements, copies of the final plans and schedule of work of such improvements for final review and approval by the City Engineer.

5. Off-Site Improvements. In connection with the installation of improvements within public rights-of-way which requires a street opening permit, the City Engineer shall be provided by Applicant with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. A police detail shall be provided for any utility work performed within the public way on Route 85 (Maple Street).

6. Construction Traffic. During construction of the Project, the Applicant shall impose on each of its contractors a requirement that all heavy equipment accessing the Site shall use River Street to access the Project as recommended by the Site Plan Review Committee.



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7. Inspectional Services Mitigation. 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 three hundred (\$300.00) 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 and timely inspections of the Project construction.

8. Hazardous Waste/Flammable/Combustible Materials. (a) The Applicant shall comply with all directives by the Department of Environmental Protection of the Commonwealth of Massachusetts, the Conservation Commission, the Fire Chief, and the Department of Public Works of the City of Marlborough relative to the existence and handling of any hazardous waste, toxic chemicals, flammable or combustible materials which may be located on the Site, and shall comply with the provisions of M.G.L. Chapter 21E, Chapter 510 Sewers of the Code of the City of Marlborough and any other applicable government codes and as they relate to the use or disposal of hazardous materials, hazardous waste, toxic chemicals, flammable or combustible materials; (b) Any hazardous materials, hazardous waste, toxic chemicals, flammable or combustible materials (motor oil, lubricants, anti-freeze, etc.) that may be delivered to the Site will be stored and handled and disposed of in a good practices manner and in compliance with all Federal, State and local laws and in accord with the directives of the Marlborough Fire Department; (c) Hazardous materials, hazardous waste (waste oil, etc.), toxic chemicals, flammable or combustible materials that will be stored on the Site will be those used in the normal course of business connected with operating a vehicle maintenance and repair facility .

9. Spill Prevention and Control Plan. A spill prevention and control plan, noting how hazardous and toxic materials are to be stored, transported, and disposed of, shall be provided by the Applicant to, and approved by, the City Conservation Officer and the Fire Department. Any spills that may occur on-Site will be responded to as required by the Massachusetts DEP and Fire Department. Standard Control procedures as set forth by these agencies will be strictly adhered to by Applicant.

10. Abatement. The doors to the service bays shall be kept closed except to allow vehicles to enter or to exit the service bays.

11. Detention Basins. There will be no retention or detention basins on-Site.



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12. Catch Basins. All catch basins and subsurface infiltration systems shall be installed by the Applicant in accordance with the City Code or as required by the Site Plan Review Committee, as more fully shown on the Site Plan. The catch basins shall be monitored on an annual basis with reports given to the City Engineer and the Conservation Agent. The catch basins are to be cleaned by the Applicant annually, or at more frequent intervals as determined by the City Engineer and the Conservation Agent. The existing catch basins and all drainage structures shall be monitored by Applicant on an annual basis, per the storm water operation and maintenance plan to be developed by Applicant, with a written report given to the City Engineer and Conservation Commission by June 1st of each year. The catch basins are to be cleaned by Applicant when debris buildup is within 24 inches of the pipe invert to remain functioning properly.

13. Water-Sewer. Water and sewer services provided to the Project shall be subject to currently applicable citywide water and sewer policies and charges subject to annual adjustment by the Commissioner of Public Works. Applicant shall develop an on-Site water supply for irrigation purposes may only be permitted, upon demonstration by the Applicant to the City Engineer, that on-Site supplies are inadequate, due to quantity or quality.

14. Parking Areas. (i) Parking areas will be maintained by Applicant, as necessary. (ii) Pursuant to the provisions of M.G.L. c. 90, § 18, the Applicant shall submit a written request and grant of authority to the Marlborough Traffic Commission to promulgate legally enforceable rules and regulations for the control of on-Site traffic and parking. Applicant 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 Uniform Manual of Traffic Control Devices.

15. Maximum Number of Vehicles. There shall be a maximum of 25 vehicles allowed as shown on the Site Plan, with employee parking to be located closest to River Street in the 3 double stacked spaces designated and labeled "Employee Parking Only".

16. Labeled Parking Spaces. Parking spaces at the front of the site shall be clearly labeled for Handicap parking and Customer Drop Off and Pick Up. In order to prohibit customers from using or having access to the stacked parking area, Applicant shall erect and maintain proper signage stating that the spaces in the stacked parking area are for AutoMax Service Center Personnel only.



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17. Parking Area Lighting. All illuminations of individual parking area light fixtures shall not exceed 250-watt fixtures and shall be screened from abutting property. Deflectors shall be utilized and configured to mitigate light from entering abutting properties.

18. Site Access and Egress. Access to the building and parking will be off Maple Street (Route 85) (one-way entrance) and exit onto River Street (one-way exit) as shown on the Site Plan and requested by the Police Chief and Site Plan Review Committee. The Site shall be designed, and signage created, to specify enter "one way in" from Maple Street (Route 85) and exit "one way out" onto River Street.

19. Building. The building to be constructed on the Site shall be a freestanding steel building with metal siding and a proposed stone veneer in the front "customer" area of the building, and shall conform to a plan entitled, "AutoMax Vehicle Maintenance Building, 408 Maple Street, Marlborough, Massachusetts," prepared by: Haynes Lieneck and Smith Inc., Architects; dated: November 22, 2017, and attached hereto as Exhibit 1. There will be 5 service bays. The siding and service doors shall be similar in style and design to the siding and doors currently used at AutoMax Service Center. The operation of the business shall be conducted within the facility as to not create abnormal noise or nuisance on the Site. There shall be no external storage of junk vehicles or parts. There shall be minor repair and paint work done on vehicles at this location; however, no major auto body operation involving insurance type collision work shall be allowed to be conducted on-Site.

20. Signage. All Site signage erected on the subject property shall be consistent with low profile entrance and exit signage that is consistent with lighting, size, lay-out and design, including fonts, as signage requested and approved by the City Council. As shown on the building plan (Exhibit 1) referenced in condition 19 above, the signage will be mounted on the building with internal illumination that meets the lighting criteria as set forth in the review of the Site Plan. All signage at the subject location shall comply with the existing City of Marlborough sign ordinance, without variance. The freestanding sign for the Site shall conform to a plan, entitled "Freestanding Sign, 408 Maple Street, Marlborough, Massachusetts," prepared by: Haynes Lieneck and Smith Inc., Architects; dated: November 22, 2017, and attached hereto as Exhibit 2.



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21. Landscaping. Pursuant to Chapter 270 of the Marlborough City Code, the Project shall be subject to Site Plan Review at which time, and under which procedure, changes and alterations to the Site Plan may be incorporated. The Project landscaping shall be implemented as shown on the Site Plan submitted with the Application as may be amended during Site Plan Review. The Site Plan Review staff shall determine whether the planted landscaping is adequate and, if the staff determines that it is not, they shall have the authority to require reasonable landscaping changes to assure that the Project's building is not significantly visible from Maple Street.

22. Dumpster. The on-Site dumpster shall be properly screened so as to create an aesthetic element to the Site and abutting properties as set forth in the City of Marlborough ordinance. Due to the nature of the Site, parking layout and dumpster pick-up the Site design requires that the dumpster be located at the rear of the Site towards River Street.

23. Snow Storage. Snow storage is to be provided on-Site as shown on the Site Plan. The Applicant shall remove accumulations exceeding 6" or more during any snowstorm event to an off-Site storage area. Snowmelt runoff is to be directed toward catch basins. On-site storage shall not be permitted that will create a nuisance to abutting properties.

24. Hours of Operation. The hours of operation will be Monday through Friday 8am-6pm, Saturday 8am-3pm, and Sunday – Closed.

25. Vehicle Sales Prohibited. At no time can there be vehicles presented for sale on this Site.

26. Tractor Trailer Deliveries and Pickups Prohibited. No vehicles are to be delivered or picked up via tractor trailer to this Site at any time.

27. Plans, Photos, Renderings, etc. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of this Special Permit 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.



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28. As-Built Plans. Applicant shall provide to the City's Building Commissioner as-built plans for the Site prior to the issuance of an Occupancy Permit.

29. Occupancy Permit Prerequisites. Prior to the issuance of any Permanent Occupancy Permit ("Occupancy Permit") for this Project, Applicant must complete all landscaping, architectural design and planting installation together with all other site improvements, unless, in the opinion of the Site Plan Review Committee, weather is prohibitive in which case landscaping and planting installation shall be completed within a reasonable time, but no more than 6 months from the issuance of the Occupancy Permit, taking into consideration the weather conditions.

30. Recording. In accordance with the provisions of Massachusetts General Laws c. 40A, § 11, 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 before a Building Permit is issued. Applicant shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 11 – Nay: 0

Yea: Delano, Doucette, Elder, Tunnera, Irish, Clancy, Landers, Juair, Oram, Ossing & Robey.


Signed by City Council President
Edward J. Clancy

ADOPTED
In City Council
17-1006800H

**FREESTANDING SIGN
408 MAPLE STREET
MARLBOROUGH, MASSACHUSETTS**

NOVEMBER 22, 2017

