



IN CITY COUNCIL

Marlborough, Mass., DECEMBER 19, 2016

ORDERED:

DECISION FOR SPECIAL PERMIT IN CITY COUNCIL

NOTICE OF DECISION GRANT OF SPECIAL PERMIT

Special Permit Application of:

Ryan Development LLC

4 Lan Dr.

Westford, MA 01886

Order No. 16-1006634D

Locus:

22 Apex Drive

Assessors Map 78, Parcels 12, 14, 38, & 39

Assessors Map 89, Parcel 77

DECISION

The City Council of the City of Marlborough hereby GRANTS the Application of Ryan Development, LLC, having a mailing address of 4 Lan Dr., Westford, MA 01866 as provided in the DECISION and subject to Procedural Findings and Findings of Facts and Conditions.

Decision date: December 19, 2016.

The Decision of the City Council was filed in the Office of the City Clerk of the City of Marlborough on the 3RD day of January, 2017.

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 24TH day of January, 2017.

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

A TRUE COPY
ATTEST

City Clerk



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ORDERED:

DECISION ON A SPECIAL PERMIT

IN CITY COUNCIL

Special Permit
Ryan Development LLC
Order No. 16-1006634D

DECISION ON A SPECIAL PERMIT CITY COUNCIL ORDER NO. 16-1006634D

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to Ryan Development LLC (the "Applicant") to build and operate a car wash in the Hospitality and Recreation Mixed Use Overlay District (HRMUOD) located at 22 Apex Drive, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant, is a duly organized and existing Limited Liability Company having a business address of 4 Lan Drive, Westford, Massachusetts 01886.
2. Apex WR 1031 LLC is the owner of the property located at 22 Apex Drive, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 78, Parcels 12, 14, 38 and 39, and Map 89, Parcel 7 (the "Site").
3. The Applicant proposes to build and operate a new car wash facility at the Site (the "Use") as part of the larger Apex Center development (the "Project").
4. The Site is located in the HRMUOD, following the City Council's approval of a Master Concept Plan for the Project (Order No. 16-1006443G-1), approval of the Development Agreement for the Project (Order No. 16-1006443G-2), and the Owner's acquisition of the Site (deed recorded in the Middlesex South District Registry of Deeds in Book 67444, Page 575).
5. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an application for a special permit for the Use in the HRMUOD as provided in this Decision and subject to the following.



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6. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan entitled "22 Apex Drive Building Pad and Site Plan" prepared by Hancock Associates and dated May 16, 2014, last revised August 10, 2016 (the "Plans").

7. The Plans were certified by the Building Commissioner 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.

8. 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 a 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.

9. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, September 12, 2016. The hearing was opened and closed on that date.

10. The Applicant, through its representatives, presented testimony at the public hearing detailing the Project, describing its impact upon municipal services, the neighborhood, and traffic.

BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS AND TAKES THE FOLLOWING ACTIONS

A. The 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 the Applicant, its successors and/or assigns, to the conditions more fully set forth herein.



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ORDERED:

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 to the Applicant a Special Permit to build and operate a car wash in Hospitality and Recreation Mixed Use Overlay District (HRMUOD) as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site shall 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. Compliance with Applicable Laws. The 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 the Project.

3. Site Plan Review. The issuance of the Special Permit is further subject to that certain Site Plan Review Decision issued on November 2, 2016 for the overall Project, which Site Plan Review Decision was issued in accordance with the HRMUOD Ordinance and the City of Marlborough Site Plan Review Ordinance.

4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the City Council or 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, or shape or position of the building, all as shown on the Plans.

5. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised 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.

6. Car Wash Safety Factor. The Chief of Police or his designee shall have authority to order the carwash temporarily closed when an "icing" or unsafe condition on the public way exists due to the carwash or weather conditions, as determined solely by the Chief of Police or his designee.



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ORDERED:

7. Carwash Equipment Monitoring. All carwash equipment shall be monitored on an annual basis with reports given by the Applicant to the Assistant Commissioner of Utilities of the Marlborough Department of Public Works. The purpose of said report is for the Applicant to demonstrate that the effluent from the car wash to the City's sewer system is acceptable to the City.

8. Concrete Aprons. The concrete aprons located at the exit of the carwash bays shall be heated during the winter months to prevent icing. This shall be included in the design submitted for a building permit.

9. Disposal of Chemical Containers. All containers that have been used for the storage of chemicals shall adhere to any and all disposal requirements consistent with safety precautions and the RCRA.

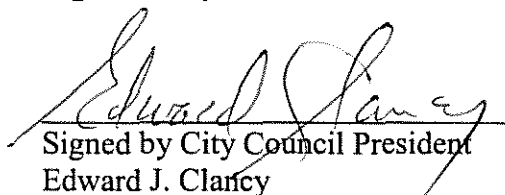
10. Hours of Operation. The hours of operation for the carwash shall be from 6AM to 12AM, seven (7) days per week. The Applicant may, after 12 months from the date of the final occupancy permit for the carwash, request from the City Council a modification to the hours of operation, up to 24 hours per day, through an amendment to this Special Permit.

11. Compliance with Related Special Permit. The Applicant has also applied for a special permit for the Use in Zone B of the Watershed Protection District (Order No. 16-1006635). Any conditions attached to the approval of said special permit are also incorporated herein and made a part hereof.

12. Recording of Decision. 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.

Yea: 11 – Nay: 0

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


Signed by City Council President
Edward J. Clancy

ADOPTED
In City Council
16-1006634D