

*Draft Proposed
Decision*

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. _____**

FINDINGS OF FACT AND RULING

Revised 2-22-13

1. **Construction Materials Services Inc** is hereinafter referred to as "Applicant".
2. Applicant is a party to contracts calling for the continued lease of the premises known and numbered as 379 South Street, Marlborough, Massachusetts described on Marlborough Assessor's Map 93, Parcel 10 (hereinafter the "Site") and proposes to construct a 2,400 square foot two story office building.
3. The Applicant, by and through its site engineer, Hancock Associates, has filed with City Clerk of the City of Marlborough an application for a Special Permit. Pursuant to Sections 650-12 of the Zoning Ordinance of the City of Marlborough, the Applicant is seeking permission to construct the office building on a non-conforming property.
4. The Site is located in a Residence A-1 zone as determined by the Zoning Map of the City of Marlborough.
5. In connection with the Special Permit Application, the Applicant has submitted a certified list of abutters, filing fees, an impact statement and twenty-three (23) copies of a detailed site plan entitled "Permit Site Plan, Construction Materials Services Inc", prepared for Patrick Mauro, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1"=20', consisting of one sheet revised through 2-21-13. Additionally the Applicant submitted a rendering of the proposed two story wood-framed office building with floor plans and outline specifications.
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.
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 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 January 7, 2013.

9. The applicant presented testimony at the public hearing detailing the application, 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 the special permit application.

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. Further the City Council finds the proposed expanded use of the site, consistent with its current use, and of the structure and site as altered, will not be substantially more detrimental to the neighborhood than the continued use of the existing site and structure. The visual and drainage impacts from the proposed use will be mitigated through the proposed enhancements and location of the proposed building.

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 the Applicant a Special Permit to construct a 2,400 square foot, two story office building as shown on the plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on applicant, its successors and/or assigns:

1. Compliance with Building Regulations. Construction and 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 Commonwealth of Massachusetts and shall be built according the site plan entitled "Permit Site Plan, Construction Materials Services Inc", prepared for Patrick Mauro, drawn by Hancock Associates, 315 Elm Street, Marlborough, MA, scale 1'=20', consisting of one sheet, dated as revised, through October 25, 2012, as and if further amended during the application process.
2. Compliance with Site Plan review. 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 all conditions are complied with by the Applicant. Subsequent Site Plan Review shall be consistent with the Conditions of this Special Permit

and 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. **Application and Documents.** All plans, drawings, site elevations and documentation provided by the Applicant as part of this Special permit Application are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same.
4. **Compliance with Local, State and Federal Laws.** The Applicant 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 applicant's facility.
5. **Incorporation of Plans and Drawings.** All terms, conditions, requirements, approvals, plans, and drawings 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, including the Site Plan, are herein incorporated into and become part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council. The Site Plan referred to in this condition is the Site Plan referred to in Condition #1 above.
6. **Improvements Installed Prior to Certificate of Occupancy.** All site improvements that have been shown on renderings and/or the Site Plan are conditions of this Special Permit and will be installed prior to the issuance of any temporary or permanent occupancy certificate; provided, however, that if all other work is completed between October 1, 2013 and June 1, 2014, all landscaping plants will be required to be installed by June 1, 2014. Applicant agrees that the permanent maintenance of the landscaping and other site improvements is an ongoing condition of this Special Permit.
7. **Drainage Improvements.** Applicant shall make all drainage improvements shown on the project plans, prior to the completion of the Project, and prior to obtaining a Certificate of Occupancy.
8. **No Modifications to the Driveway Entrances:** No modifications to the existing driveway configuration from South Street to the subject parcel are proposed. No modifications shall be allowed to the driveway as shown on the Site Plan without the Applicant returning to the City Council.

9. Signage. The locations and design of proposed signage shall be reviewed and approved during site plan review in accordance with the sign ordinance of the City of Marlborough without variance therefrom.
10. Pavement Markings. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved during the site plan review in accordance with applicable rules and regulations of the City of Marlborough.
11. Illumination. 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.
12. Street Opening Permit. In connection with the installation of improvements within public right-of-ways, which requires a street opening permit, the City Engineers shall be provided 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, the Applicant and not the City of Marlborough will bear the costs of any police detail for any work performed within the public way.
13. Trench Permits. All trenching shall be in compliance with Massachusetts Law and pursuant to permits issued by the City's Department of Public Work's Engineering Division.
14. In accordance with the provisions of Mass. Gen. Laws c. 40A § 11, the 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. After recording but prior to issuance of a Building permit, Applicant shall provide the City Council and the City Solicitor's office with a copy of the recorded Special Permit.
15. ~~15.~~—Unless the context otherwise clearly requires, all references in the above conditions to "Applicant" shall also refer to Applicant's successors and assigns.
16. The Applicant shall add stripping to the existing paved area adjacent to the existing building on site for shop employees.
17. If during construction the Applicant anticipates construction noise exceeding normal daily noise levels, he shall notify the abutters appearing Assessor's Certified List accompanying the City Council Special Permit Application at least 48-hours prior to commencing with that portion of the work.