

3/27/2019
4/4/2019

30-O-19

AN ORDINANCE

**Granting a Special Use Permit for a Planned Development at 2425
Oakton Street**

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 1979, as amended, (“the Zoning Ordinance”); and

WHEREAS, HPCW LLC (the “Applicant,”), developer of the property located at 2425 Oakton Street, Evanston, Illinois (the “Subject Property”), legally

described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of the Zoning Ordinance, specifically Section 6-3-5, "Special Uses", Section 6-3-6, "Planned Developments", and Subsection 6-14-1-10, "Planned Developments" in Industrial Zoning Districts, to permit the construction and operation of a Planned Development at the Subject Property in the I1 Industrial Zoning District ("I1 District") and the oRD Redevelopment Overlay Zoning District ("oRD District"); and

WHEREAS, the Subject Property is located in the oRD District. Pursuant to Subsection 6-15-13-5, "Any person requesting a building permit [in the oRD District] involving construction of a new building or structure shall be required to submit an application for a planned development in accordance with the procedures set forth in Section 6-3-6." Additionally, at the time of application Subsection 6-15-13-7 designated "any use listed as permitted or special in the underlying base zoning district" as a permitted use in the oRD District; and

WHEREAS, the Applicant seeks approval to construct a car wash facility with 20 vacuum spaces, and 4 additional parking spaces on the Subject Property; and

WHEREAS, construction of the Planned Development, as proposed in the application, requires exception from the strict application of the Zoning Ordinance for an accessory structure that is three (3) feet from the principal structure where ten (10) feet is required, in the I1 Industrial District and oRD Redevelopment Overlay District; and

WHEREAS, pursuant to Subsection 6-3-6-5 of the Zoning Ordinance, the City Council may grant Site Development Allowances to the normal district regulations established in the Zoning Ordinance; and

WHEREAS, on February 13, 2019, and March 13, 2019, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and the Zoning Ordinance, the Plan Commission held public hearings on the application for a Special Use Permit for a Planned Development, case no. 18PLND-0085, heard extensive testimony and public comment, received other evidence, and made written minutes, findings, and recommendations; and

WHEREAS, the Plan Commission's written findings state that the application for the proposed Planned Development meets applicable standards set forth for Special Uses in Subsection 6-3-5-10 of the Zoning Ordinance and Planned Developments in the I1 District; and

WHEREAS, the Plan Commission recommended the City Council approve the application with conditions; and

WHEREAS, on April 8, 2019, the Planning and Development ("P&D") Committee of the City Council held a meeting, in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered and adopted the findings and recommendations of the Plan Commission, and recommended approval thereof by the City Council; and

WHEREAS, at its meeting on April 8, 2019, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee, the Applicant application, received additional public comment, made certain findings, and adopted said recommendation; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of*

Deerfield, 213 Ill.App.3d 747 (1991)) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995)),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as facts and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the Special Use Permit applied for in case no. 18PLND-0085, to allow construction and operation of the Planned Development described herein.

SECTION 3: The City Council hereby grants the following Site Development Allowance:

(A) Accessory Structure: A Site Development Allowance is hereby granted for an accessory structure that is three (3) feet from the principal structure where ten (10) feet is required, in the I1 Industrial District and oRD Redevelopment Overlay District.

SECTION 4: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted hereby, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

(A) Compliance with Applicable Requirements: The Applicant shall develop and operate the Planned Development authorized by the terms of this ordinance in substantial compliance with: the terms of this ordinance; the Site and Landscape Plans in Exhibits B and C, attached hereto and incorporated herein by reference; all applicable legislation; the Applicant's testimony and representations to the Design and Project Review Committee, the Plan Commission, the P&D Committee, and the City Council; and the approved documents on file in this case.

- (B) **Construction Management Plan:** The Applicant shall sign and agree to a Construction Management Plan (CMP) with the City of Evanston prior to issuance of the Building Permit. The CMP shall include but is not limited to the following: construction phasing/staging plans; construction hours; site access including traffic and pedestrian safety plans; contractor parking; damage control and vibration monitoring; construction exhibits; project communication and signage.
- (C) **Traffic Light:** The Applicant is responsible for all intersection improvements due to the project, including relocating existing traffic signals and coordinating the signal timing. The Applicant's responsibilities will include all intersection improvement costs including, but not limited to, design, any required construction, installations, materials, testing of the relocated traffic signals, and all labor costs. The Applicant will coordinate with the City on all improvements prior to making any changes to the intersection.
- (D) **Bus Stop Improvement:** The Applicant shall provide a one-time contribution of five thousand dollars (\$5,000) to be used for improvements to a CTA bus stop in the vicinity of the proposed development.
- (E) **Continued Traffic Study:** The Applicant agrees to contract with a traffic consultant to study circulation patterns and make necessary revisions to the site plan and/or access points if the City identifies traffic issues with the development at any time in the future.
- (F) **Changes in Building Use:** Any material changes in the use of the building on the Subject Property must be approved as an amendment to this Planned Development in accordance with Subsection 6-3-6-12 of the Zoning Ordinance.
- (G) **Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's tenants, agents, assigns, and successors in interest."

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 7: Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 8: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

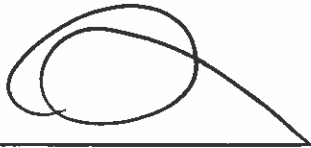
SECTION 9: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 10: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: April 8th, 2019

Adopted: April 22nd, 2019

Attest:



Devon Reid, City Clerk

Approved:

May 6, 2019


Stephen H. Hagerty, Mayor

Approved as to form:

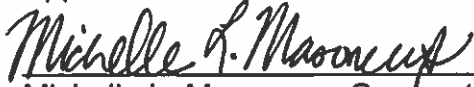

Michelle L. Masoncup, Corporation Counsel

EXHIBIT A

Legal Description

THAT PART OF LOT 'A' IN OAKTON CONSOLIDATION IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST SOUTH WESTERLY CORNER OF SAID LOT BEING 81 FEET EAST OF THE WEST LINE AND 33 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST 1/4 (AS MEASURED PARALLEL TO SAID SECTIONAL LINES), THENCE EAST ALONG THE SOUTH LINE OF SAID LOT, A DISTANCE OF 179 FEET TO A CORNER OF SAID LOT; THENCE NORTHERLY ALONG AN EASTERLY BOUNDARY LINE OF SAID LOT, AND ITS EXTENSION NORTHERLY 233 FEET; THENCE WEST PARALLEL TO THE SAID SOUTH LINE OF SAID LOT, 111 FEET; THENCE NORTHERLY PARALLEL TO THE MOST WESTERLY LINE OF SAID LOT, 172 FEET TO A POINT IN THE NORTH WESTERLY LINE OF SAID LOT, BEING ALSO THE SOUTH EASTERLY LINE OF THE CHICAGO, AND NORTH WESTERN RAILROAD; THENCE SOUTH WESTERLY ALONG SAID LINE 181.85 FEET TO THE SAID MOST WESTERLY LINE OF SAID LOT; THENCE SOUTHERLY ALONG SAID LINE 239.80 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PINs: 10-24-310-046-0000

COMMONLY KNOWN As: 2425 Oakton Street, Evanston, IL

EXHIBIT B

Development Plans

EXHIBIT C
Landscape Plans