

1/12/2021
1/29/2021
2/16/2021

5-O-21

AN ORDINANCE

**Granting a Special Use Permit for a Planned Development
Located at 718-732 Main Street In the B2 Business District and oDM
Dempster-Main Overlay District**

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 legislation 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, states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule unit be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164, 174-75 (1992)); 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 2012, as amended (“the Zoning Ordinance”); and

WHEREAS, Paul Dincin of Catapult Real Estate Solutions, “the Applicant”, requests approval of a Planned Development to construct a five (5) story, mixed-use building with approximately three thousand seven hundred and seventy-four (3,774) square feet of commercial retail space, one hundred twenty (120) dwelling units, and forty-seven (47) parking spaces in the B2 Business District and oDM Dempster-Main Overlay District; and,

WHEREAS, the Planned Development requires exception from the strict application of the Zoning Ordinance with regards to minimum lot area (density), building height, rear yard setback, parking drive-aisle, and number of parking spaces; and

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

WHEREAS, in December 2020, the Applicant submitted minor revisions to the project; and

WHEREAS, on December 9, 2020, 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 a public hearing on the application for a Special Use Permit for a Planned Development, case no. 20PLND-0079; and

WHEREAS, the Plan Commission received extensive testimony, heard public comment, and made findings pursuant to Subsections 6-3-6-9, 6-9-1-9, and 6-3-5-10 of the Zoning Ordinance, and recommended City Council approval of the application for Special Use Permit for Planned Development; and

WHEREAS, in January 2021, the Applicant submitted further minor revisions to the project; and

WHEREAS, on January 25, 2021, the Planning and Development (“P&D”) Committee of the City Council held a meeting, in compliance with the provision of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered the findings and recommendation for approval of the Plan Commission, and recommended approval thereof by the City Council; and

WHEREAS, at its meetings on January 25 and February 8, 2021, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee, received additional public comment, made certain findings, and adopted said recommendation; and

WHEREAS, while the requested Site Development Allowance for Minimum Lot Area (Density) is above the maximum Site Development Allowance for planned developments in the B2 District, a favorable supermajority (two-thirds) vote of the City Council is not required because of the Applicant’s Inclusionary Housing Ordinance (IHO) compliance; 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) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass’n v. City of Chicago*, 45 F.3d 1124).

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

SECTION 1: The foregoing recitals are found as fact 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. 20PLND-0079, to allow the construction and operation of a five (5) story, mixed-use building with approximately three thousand seven hundred and seventy-four (3,774) square feet of commercial retail space, one hundred twenty (120) dwelling units, and forty-seven (47) parking spaces.

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

- (A) **Minimum Lot Area (Density):** A Site Development Allowance is hereby granted for one hundred (100) dwelling units plus twenty (20) IHO bonus units, whereas Subsection 6-9-3-4 of the Zoning Ordinance allows a maximum of seventy (70) dwelling units plus IHO bonus units in the B2 District, and whereas Subsection 6-9-1-9(C)(2) of the Zoning Ordinance allows a maximum of eighty-four (84) dwelling units plus IHO bonus units as a Site Development Allowance.
- (B) **Building Height:** A Site Development Allowance is hereby granted for an approximately fifty-seven (57) foot maximum building height to the top of the roof, whereas Subsection 6-9-3-8 of the Zoning Ordinance requires a maximum allowed building height of forty-five (45) feet in the B2 District.
- (C) **Rear Yard Setback:** A Site Development Allowance is hereby granted to allow a seven (7) foot rear yard setback where abutting a non-residential district, whereas Subsection 6-9-3-7 of the Zoning Ordinance requires a ten (10) foot rear yard setback where abutting a non-residential district; and a zero (0) foot rear yard setback for open parking and loading where abutting a residential district, whereas Subsection 6-9-3-7 of the Zoning Ordinance requires a fifteen (15) foot rear yard setback for open parking and loading where abutting a residential district.

- (D) **Number of Parking Spaces:** A Site Development Allowance is hereby granted to allow forty-seven (47) parking spaces, whereas Subsection 6-16 Table 16B of the Zoning Ordinance requires seventy (70) parking spaces.
- (E) **Parking Drive-Aisle:** A Site Development Allowance is hereby granted for a twenty-two (22) foot parking drive-aisle, whereas Subsection 6-16-2-7 of the Zoning Ordinance requires a minimum twenty-four (24) foot parking drive-aisle for ninety (90) degree parking spaces.

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 following: the terms of this ordinance; the Development Plan in Exhibit B, attached hereto and incorporated herein by reference; all applicable City Code requirements; 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 that specifically include an enclosed loading dock, dog run, and fence adjacent to the townhome properties.
- (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 staging plan, on-street and on-site construction parking restrictions, hours of operation, a plan including cross sections showing pedestrian access around the site with the use of curb ramps, signage and/or striping, foundation survey of surrounding structures including weekly reporting of seismographs for the duration of construction, submittal of environmental testing report prior to construction, visibility diagram for all construction site access points, proposed schedule for street opening for utility connections with cross section details, and project updates via monthly newsletter and project website. The CMP and Sherman Avenue construction loading area shall be sensitive to the adjacent residential properties.

- (C) **Green Building Ordinance:** The Applicant agrees to comply with the Green Building Ordinance and will obtain a LEED Silver Certification Rating or equivalent certification rating deemed acceptable by the Building Official.
- (D) **Building Resident Parking Permits:** Building residents shall not be eligible for residential on-street and surface lot parking permits in the surrounding area.
- (E) **Inclusionary Housing Ordinance (IHO) and Additional Affordable Housing:** The applicant shall provide on-site affordable housing for the following thirty years in compliance with the 2020 Inclusionary Housing Ordinance. Required unit types and affordability restrictions are as follows: Five (5) studio units, Six (6) one-bedroom units, and one (1) two-bedroom unit all affordable to households at the current 60% AMI. Of the twelve (12) on-site affordable units, ten (10) units are required to comply with the IHO and two (2) units are provided as a public benefit.
- (F) **Harm Mitigation for Migratory Birds:** The building shall incorporate bird-friendly measures, including bird-friendly glass treatment on applicable windows and balconies, and minimizing rooftop lighting during overnight hours.
- (G) **Evanston Business Enterprises Hiring:** The Applicant will have, as a primary goal, the employment of ten (10) Evanston residents, with a required minimum amount of five (5) Evanston resident employees during construction. Said residents, without regard to sex, race or ethnicity, can be sub-contractors or vendors to the development. The Applicant will hire as many competent minority and/or women Evanston subcontractors, workers, and residents as possible for the construction project.
- (H) **Sherman Avenue Streetscape:** The Applicant agrees to continue the Main Street streetscape by constructing the streetscape design around the southeast corner of the Subject Property. The streetscape shall be constructed in accordance with the design guidelines of the Main Street streetscape, shall continue to an appropriate endpoint near the townhomes, and shall be reviewed by the DAPR Committee.
- (I) **On-Street Parking Pay Box:** The Applicant agrees to make a one-time contribution to the City of Evanston in the amount of \$8,650 to pay for the installation of one on-street parking pay box.

- (J) **Lost Meter Revenue:** The Applicant agrees to pay for the cost of lost meter revenue directly related to the construction of the building on the Subject Property, not including the period of reconstruction due to the Main Street Capital Improvement Project or paid for by Applicant pursuant to any other City permit, at a rate of \$90 per parking space per month.
- (K) **Alley Contribution:** The Applicant agrees to make a one-time contribution of \$50,000 to aid in the City's full reconstruction of the alley.
- (L) **DIVVY Station Contribution:** The Applicant agrees to make a one-time contribution of \$3,098 to locate one mobile DIVVY Station along Sherman Avenue or elsewhere in the vicinity of the Subject Property.
- (M) **Landscaping:** The Applicant agrees to provide landscaping on the Subject Property that incorporates suggestions from the Mayor's Monarch Proclamation to encourage appropriate habitat for Monarch butterflies and the at-risk insect population.
- (N) **Transit Fund Contribution:** In recognition of the TOD location of the Subject Property, the Applicant agrees to make a one-time contribution of \$10,000 to establish a Transit Fund for the City of Evanston to utilize for matching 50/50 transit grants and other public transit related improvements.
- (O) **Security Cameras:** Security cameras shall be installed to monitor the exterior of the subject property including where it abuts the alley, and shall be made available to the Evanston Police Department upon request.
- (P) **Alley Signage:** The Applicant shall work with the Public Works Agency to determine and pay the cost of appropriate signage for pedestrian, bicycle, and vehicular safety at the alley and Sherman Avenue intersection nearest the subject property.
- (Q) **Parking Garage:** The Applicant shall ensure the development's parking garage gate utilizes silent notification such as blinking safety lights rather than sound notification that may be a nuisance to nearby residents.
- (R) **Fencing & Gates:** The Applicant agrees to install fencing at the border of the subject property and the adjacent townhomes which may include gates to provide direct access to the alleyway from within the private townhome properties.

- (S) **Tree Planting:** After a final certificate of occupancy (FCO) is issued, the Applicant shall pay \$1,000 each year for five (5) years to fund the planting of trees within a quarter (0.25) of a mile of the Subject Property.
- (T) **Construction Schedule:** Pursuant to Subsection 6-9-1-9(A) of the Zoning Ordinance, the Applicant shall obtain a building permit within twenty-four (24) months of the passing of this Ordinance. Additionally, the Applicant must complete the construction of the Planned Development within twenty-four (24) months from the date the Applicant receives its building permit.
- (U) **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, assigned, 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: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

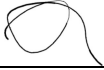
SECTION 8: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 9: The findings and recitals contained herein are 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: January 25, 2021

Adopted: February 8, 2021

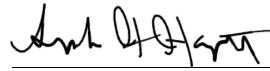
Attest:



Devon Reid, City Clerk

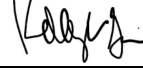
Approved:

March 5, 2021



Stephen H. Hagerty, Mayor

Approved as to form:



Kelley A. Gandurski, Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION

Lots 5 and 6 in Block 1 in Adams and Brown's Addition to Evanston, in the North of the North of the Southwest Quarter of Section 19, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

and

Lot 1 in Bayley's Subdivision of Lots 7 and 8 in Block 1 in Adams and Brown's Addition to Evanston in the North Half of the North Half of the Southwest Quarter of Section 19, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PINs: 11-19-303-030-0000, 11-19-303-029-0000, 11-19-303-001-0000

Commonly known as: 718-732 Main Street

EXHIBIT B
DEVELOPMENT PLANS