

120-O-21

AN ORDINANCE

**Granting a Special Use Permit for a Convenience Store Located at
1806 Dempster Street in the B1 Business District**

WHEREAS, the Zoning Board of Appeals (“ZBA”) met on October 19, 2021, pursuant to proper notice, to consider case no. 21ZMJV-0065, an application filed by Danielle Dean (the “Applicant”), lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 1806 Dempster Street (the “Subject Property”) and located in the B1 Business District, for a Special Use Permit to establish, pursuant to Subsection 6-9-2-3 of the Evanston City Code, 2012, as amended (“the Zoning Ordinance”), a convenience store on the Subject Property; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made a written record and written findings that the application for a Special Use Permit for a convenience store met the standards for Special Uses in Section 6-3-5 of the Zoning Ordinance and recommended City Council approval thereof; and

WHEREAS, at its meeting of November 22, 2021, the Planning and Development Committee of the City Council (“P&D Committee”) considered the ZBA’s record and findings and recommended the City Council accept the ZBA’s recommendation and approved the application in case no. 21ZMJV-0065; and

WHEREAS, at its meetings of November 22, 2021 and December 13, 2021, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA and P&D Committee, as amended,

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: The City Council hereby approves the Special Use Permit for a convenience store on the Subject Property as applied for in case no. 21ZMJV-0065.

SECTION 3: Pursuant to Subsection 6-3-5 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the Applicant's Special Use Permit, violation of any of which shall constitute grounds for penalties or revocation of said Permit pursuant to Subsections 6-3-5 of the Zoning Ordinance:

- A. The Applicant shall develop and use the Subject Property in substantial compliance with: all applicable legislation; the Applicant's testimony and representations to the ZBA, the P&D Committee, and the City Council; and the approved plans and documents on file in this case.
- B. The Applicant shall install a bicycle rack in front of the business after consultation with the City for proper placement.
- C. That the applicant secure two parking stalls at 1808-10 Dempster Street for customers only and install permanent signage for each stall.
- D. The sale of tobacco products must be no greater than 50% of the total sales revenue.
- E. Before it may operate the Special Use authorized by the terms of this ordinance, the Applicant shall record, at its cost, a certified copy of this ordinance with the Cook County Recorder of Deeds.

SECTION 4: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: 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 8: 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: October 29, 2021
Adopted: December 13, 2021

Approved: 12/14, 2021

Daniel Biss
Daniel Biss, Mayor

Attest:
Stephanie Mendoza
Stephanie Mendoza, City Clerk

Approved as to form:
Nicholas E. Cummings
Nicholas E. Cummings, Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION

Lot 9 in Block 1 in Golee's Resubdivision of Blocks 4, 5, and 8 in Chase and Pitner's Addition to Evanston, being a subdivision of the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of section 24, and the south $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of the southeast $\frac{1}{4}$ (except the north 71 $\frac{1}{2}$ feet thereof) in section 13, township 41 north, range 13, east of the third principal meridian, in Cook County, Illinois.

COMMONLY KNOWN AS 1806 DEMPSTER STREET

PIN # 10-24-200-007-0000

1806 Dempster Street

ZBA 21ZMJV-0065

Danielle Dean, lessee, requests a Special Use Permit for a Convenience Store to sell household goods, food, beverages, and tobacco in the B1 Business District (Zoning Code Section 6-9-2-3). The Zoning Board of Appeals makes a recommendation to the City Council, the determining body for this case in accordance with Section 6-3-5-8 of the Evanston Zoning Code.

Danielle Dean, lessee and business owner of the proposed convenience store, Dempster Snack Shop, described the operations and goods to be sold at his location. He stated that he intended to sell everyday household items like cleaning supplies, toilet paper, etc. and also chips, snacks, and other pre-packaged food. He explained his connection to the neighborhood and why he wanted to open a store at this location. He also said that his employees would park at the parking lot to the west as they had permission from that property owner.

Member Zordan asked how he would get deliveries of goods for his inventory.

Mr. Dean said that he would go to Costco, Sam's Club, and other similar retailers for his inventory. He said he did not plan on having any loading trucks come and deliver goods for his inventory.

Member Puchtel stated that the recommended condition of approval related to the installation of the bike racks be added.

Chair Cullen acknowledged this and that he can bring that up at the end when they draft the motion.

Chair Cullen asked the other members if they have any questions. There were none.

Chair Cullen asked if there were any members of the public that wished to speak.

Kirsten Abrahamson, 1723 Dempster Street, asked to clarify the intended use and other products that would be sold at the store. She asked if tobacco products, alcohol, or other products would be sold.

Mr. Dean said no alcohol would be sold. He said it would be a small corner store and that they would also sell tobacco.

Chair Cullen asked about many people would work there.

Mr. Dean said that his brother, his daughter, and he would work there (for a total of three people).

Ms. Abrahamson said she was concerned about customer parking as traffic and parking was already a major issue in the area.

Mr. Dean said that he anticipated people would park in the public parking on the east side of Darrow. He said people would just walk in and walk out, with not too much foot traffic.

Mr. Abrahamson said she was concerned about garbage and debris and she noted a food truck also was causing issues with garbage. She mentioned recent accidents in the intersection and block area and she did not want the additional activity to add to this issue.

Mr. Dean said that he planned to maintain his storefront and the sidewalk in front to be clear of garbage. He asked her how long she had lived in the area.

Ms. Abrahamson said she had lived there for 14 years, to which he replied it had always been congested. She noted it has gotten worse with the Starbucks.

William Esckridge, 1723 Darrow, asked if there would be assurances to keep people from parking immediately in front of the store and actually park on Darrow.

Mr. Dean said that he would be sure to inform customers that he sees parking in front of the store to park on Darrow and also let his staff know. He said he would plan to put a note or sign on the front of his business.

Ms. Abrahamson asked if it would be possible to put time limits on the parking perhaps in front of Darrow.

Ms. Ashbaugh noted that the Design and Project Review Committee had reviewed the request and required him to get parking for his employees as a condition of approval to the ZBA, and that they had noted customers would be parking on Darrow. She noted that the Parking Manager is a member of that committee and did not suggest any needed changes to the parking in front of the store or Darrow.

No other members of the public were present to speak and no written comments were submitted to be read into the record.

Deliberation:

Member Zordan stated that the only part of the application that raised concern was the prepared food and she was concerned about the garbage. She asked if they had scope to add an exterior garbage can out in front of the location.

Ms. Ashbaugh noted that she would need to contact Public Works to ask about putting an additional garbage can in the right of way as they need to schedule it for pick up.

Member Zordan acknowledged this but wanted to know what the options were for garbage.

Mr. Dean said he would not have an issue with putting a trash can immediately in front of his business.

Member Mirintchev said he does not have an issue with the business but is concerned with the traffic. He noted that the right turn from Dodge to Dempster plus the westbound traffic are squeezed at this area with the road being narrowed. He said that this was not a problem of the applicant to address and wanted to propose no parking on this part of the street. He did want the shop owners to put signs that there is parking on Darrow. He added that it creates a dangerous situation for pedestrians.

Chair Cullen asked if they could get a “no parking” sign out in front of this business.

Ms. Ashbaugh said that she would ask the Parking Manager about this specifically. She noted that taking away parking may be an issue as well, although it conflicts with the traffic congestion concerns directly.

Member Arevalo said she was in favor of the project and that anything to fill a vacant storefront is good. She noted it is a walkable area, and adding this business would be good for the neighborhood so people can go pick up something quick rather than going to the store.

Member Zordan concurred with Arevalo regarding it being good for the neighborhood. She noted she checked Google street view to confirm if a garbage can was available and she said there was, so her prior concern was addressed.

Member Puchtel said he also was in favor, but noted the street there narrowed down and that he would be supportive of a sign for no parking in front of the store. He reiterated the recommended condition from DAPR related to the placement of a bike rack and that the applicant should work with staff for proper placement. Finally, he noted the other condition from DAPR related to the sale of tobacco and questioned if they could regulate the percentage of sales versus the percentage of display area dedicated to tobacco products.

Chair Cullen asked Mr. Dean to speak to his intent regarding tobacco sales as she does not want it to become a smoke shop.

Mr. Dean said he is not intending for this location to be a smoke shop. He noted that he did not anticipate it being 50% of his sales or being 50% of his products.

Chair Cullen noted this storefront had been vacant for some time and agreed this would be a good use for the space.

Standards for Special Uses were addressed:

1. Yes
2. Yes
3. Yes
4. Yes
5. Yes
6. Yes
7. N/A
8. N/A
9. Yes

Member Puchtel motioned for a recommendation of approval to the City Council for the Special Use Permit for 1806 Dempster Street, Zoning Case 21ZMJV-0065, with three conditions: 1) That the applicant installs a bike rack in the front of the business in consultation with the city for proper placement 2) That the City completes a review of public parking on Dempster Street and 3) That the sale of tobacco products must be less than the total sales revenue.

The motion carried with a vote of 5-0.

Chair Cullen asked when the next meeting would be held. Ms. Ashbaugh confirmed it would be Tuesday, November 16th at 7:00 pm.

Member Aervalo motioned to adjourn, Member Zordan seconded, and the motion carried.

Adjourned 8:24pm