

43-O-99

AN ORDINANCE

**Granting a Special Use and
Certain Variations to Allow a Retail Sales
Use and Drive-Through at 430 Asbury Avenue**

WHEREAS, the Zoning Board of Appeals ("ZBA") held a public hearing on April 16, 1999, in case number 99-10-SU & V(R), pursuant to proper notice, on the application of Mid-Northern Commercial Services, Ltd., contract purchaser, as agent for Michael Leider Real Estate Corporation, property owner, for a special use pursuant to Section 6-9-3-3 of the Zoning Ordinance, to allow use of 430 Asbury Avenue for a drive-through facility, for variations from Section 6-9-3-7 that buildings be built to lot lines and that parking in the subject yards be prohibited; and a variation from the off-street loading requirements of Section 6-16-5 to reduce the number of required loading berths from two to one, on property located in a C1 Commercial District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made written findings pursuant to Section 6-3-5-10 and Section 6-3-8-12 of the Zoning Ordinance that the application met the standards for special uses and major variations, respectively, and recommended that the City Council grant the application; and

WHEREAS, the Planning and Development Committee of the City Council considered and adopted the ZBA's findings and recommendation; and

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

SECTION 1: The City Council hereby adopts the findings and recommendation of the Planning and Development Committee in the aforescribed case number 99-10-SU & V(R) and grants said special use and major variations on the property legally described in Attachment 1, attached hereto and made a part hereof.

SECTION 2: That pursuant to Section 6-3-5-12 and Section 6-3-8-14 of the Zoning Ordinance which provide that the City Council may impose conditions upon the grant of special uses and variations, respectively, this condition is hereby imposed:

(A.) Construction, landscaping, operation, and maintenance of the development authorized by this grant of special use and variations shall be in substantial compliance with the testimony and representations of the applicant and documents placed on file in connection with this case, and with all applicable legislation.

(B.) As represented by the applicant at the ZBA hearing, alcoholic liquor shall not be sold on the subject property, nor shall the retail use and drive-through be operated other than during the hours of 8:00 AM through 10:30 PM.

(C.) The applicant shall submit a landscape plan, which shall provide for maintenance of landscaping, for review and approval by the City Superintendent of Parks and Forestry which shall guarantee that any plants planted pursuant to the landscaping plan which die or fail to thrive shall be replaced during the earliest available planting season thereafter, upon written notification by the City. Failure to replace plantings within the time specified by the City shall require payment of \$5,000.00 to the City within thirty (30) days after expiration of the time given by the City for such replacement.

(D.) The applicant shall submit a litter collection plan, acceptable to the City Manager, for the subject property and adjoining public rights-of-way. Said plan shall be applicable to the subject property beginning with the construction phase and continuing throughout the term of this grant. As a minimum, said plan shall require policing of the subject property and said adjoining public rights-of-way no less than twice daily and removal of shopping carts, trash and garbage, including, but not limited to, discarded construction materials, food, beverage containers, cigarette butts, plastic and paper bags, lottery tickets, and all other discarded waste materials, regardless of type, emanating from any source. Said plan shall be submitted and approved prior to the issuance of any building permits.

(E.) The applicant, developer, or operator of the retail use shall erect, place, or implement safety devices and procedures to direct and control vehicular and pedestrian traffic on the subject property as well as with regard to entrances and exits.

(F.) The applicant shall prepare in form and content satisfactory to the City's Law Department, a covenant running with the land containing the provisions of this Section 2A through 2E. The covenant shall provide that it shall be released only by the City Council. No building permits shall be issued until a copy of the recorded covenant has been filed with the Zoning Administrator.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: April 5, 1999

Adopted: April 20, 1999

Approved: April 23, 1999

Carl Naman
Mayor pro tem

ATTEST:

Mary S. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel