

30-O-03

**AN ORDINANCE**

**Granting a Special Use for a Type 2  
Restaurant at 1741 Sherman Avenue**

**WHEREAS**, the Zoning Board Appeals ("ZBA") met on March 4, 2003 pursuant to proper notice in case no. ZBA 03-18-SU(R) to consider an application for a special use to operate a Type 2 Restaurant pursuant to Section 6-11-3-4 of the Zoning Ordinance from Gary Seltzer, lessee and Gordon Magill, trustee of the Kaplan Family Trust, property owner of the subject property at 1741 Sherman Avenue in a D2 Downtown Retail Core District; and

**WHEREAS**, the ZBA, after hearing testimony and receiving other evidence, made a written record and written findings that the application for the Type 2 Restaurant met the standards for special uses in Section 6-3-5 and recommended City Council approval thereof; and

**WHEREAS**, the Planning and Development Committee of the City Council considered the ZBA's findings and recommendation at its March 24, 2003 meeting and recommended City Council approval thereof; and

**WHEREAS**, the City Council considered the respective records and recommendations of the ZBA and the Planning and Development Committee at its March 24, 2003, April 8, 2003, and April 21, 2003 meetings; and

**WHEREAS**, the Planning and Development Committee on April 8, 2003 considered additional conditions on the special use,

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

**SECTION 1:** The foregoing recitals are found as fact and made a part hereof.

**SECTION 2:** That the City Council hereby adopts the ZBA's record, findings, and recommendation, and the Planning and Development Committee's record, findings, and recommendation, and hereby approves the special use applied for in case no. ZBA 03-18-SU(R) on property legally described as:

LOT 9 (EXCEPT THE EAST 6 FEET THEREOF) IN BLOCK 16 IN THE VILLAGE OF EVANSTON IN THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

commonly known as 1741 Sherman Avenue, Evanston, Illinois.

**SECTION 3:** That, pursuant to Section 6-3-5-12 of the Zoning Ordinance, which provides that the City Council may impose conditions on the grant of a special use, the following conditions are hereby imposed. When necessary to effectuate said conditions and limitations, "applicant" shall be read as "owner" or "operator".

- A. Development and use of the subject property shall be in substantial compliance with all applicable legislation, with the testimony and representations of the applicant to the ZBA, Planning and Development Committee, and City Council, and with the approved plans and documents on file in this case.
- B. 1) The operator shall adhere to a Litter Collection Plan requiring the policing of an area located within a 250-foot radius of the building in which the use is located. This area shall be policed once every three hours during the hours the use is in operation and shall be kept free of all litter, including, but not limited to, food, beverages, napkins, straws, containers, bags, utensils, plates,

cups, bottles, cans, and all other litter of any type emanating from any source.

2) For the purpose of this Ordinance, "litter" shall include, but is not limited to: putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food; other putrescible waste, including animal waste, dead animals, yard clippings and leaves; nonputrescible solid waste, including rubbish, ashes, street cleanings, abandoned automobiles, solid business, commercial, and industrial wastes, paper, wrappings, cigarettes, cardboard, tin cans, glass, bedding, crockery and similar materials; and all other waste materials which, if thrown or deposited as herein prohibited, may create a danger to public health, safety, or welfare.

- C. The operator of the Type 2 Restaurant shall locate exterior litter receptacles on the east side of the building on the subject property, not in the public alley to the south.
- D. The owner of the subject property shall exert his best efforts to cause his tenants to place all of their exterior litter receptacles on the east side of the building on the subject property and not in the public alley to the south, and to comply with City Code requirements relating to maintenance of litter receptacles and litter removal.
- E. The operator shall remove all litter on the exterior of the subject property to the interior every Sunday, if necessary to effectuate the conditions of this Ordinance.
- F. Each Type 2 Restaurant on the subject property shall have litter receptacles in a number adequate in the City's judgment and collections therefrom a minimum of three times a week. Receptacles shall be sufficient in number and capacity to contain, with the lids tightly shut, all litter emanating from operation of the use and collected pursuant to the above-described litter collection plan, and accumulating between collections. All litter receptacles shall be clean and maintained in accordance with City Code requirements, and shall be placed on Code-compliant surfaces.
- G. Within seven (7) days of written notice from the City to do so, the number of litter receptacles and/or the number of collections from

each shall be increased or modified in accordance with the City's directive.

- H. The applicant shall cause implementation of and adherence to an employee parking plan requiring, as a minimum, the operator of the subject use and the operator's employees to park at an off-street parking facility available in the downtown area when driving to their employment at the subject use.
- I. At no time shall the operator of the type 2 restaurant sell or dispense beverages in containers other than the containers in which said beverages are packaged by their manufacturer, and at no time shall the operator of the type 2 restaurant sell or dispense beverages in paper or plastic cup.

**SECTION 4:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** That 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 8, 2003

Adopted: April 21, 2003

Approved:

April 28, 2003  
Lorraine H. Morton  
Mayor

ATTEST:

Mary P. Morris  
City Clerk

Approved as to form:  
[Signature]  
Corporation Counsel