

49-O-04

AN ORDINANCE

**Amending Section 6-3-7 and Related Sections of
The Zoning Ordinance to Provide for the Granting of
R1 Residential Preservation Unique Use Exceptions**

WHEREAS, the Plan Commission held public hearings on March 9, 2004 and March 10, 2004, pursuant to proper notice in case no. ZPC 04-02-T, to consider amendments to the Zoning Ordinance which would allow multiple dwelling units on certain zoning lots and in certain single-family residential structures; and

WHEREAS, the Plan Commission heard testimony and received other evidence, made a written record of its proceedings, and, pursuant to Section 6-3-4-5 of the Zoning Ordinance, made findings that the proposed text amendment met the standards therein and recommended City Council approval of amendments to Section 6-3-7, "Unique Uses"; and

WHEREAS, the City's historic structures add visual, cultural, social, and economic value to their neighborhood and the City as a whole; and

WHEREAS, preservation of many of those houses has been addressed by the City's creation of Historic Preservation Districts and the designation of individual structures therein as Evanston Landmarks pursuant to the City's Historic Preservation Ordinance, Title 2, Chapter 9 of the City Code; and

WHEREAS, of the many structures and houses enhanced by large lots which graced the City in its early years, only a few remain; and

WHEREAS, preservation of these resources is desirable and in the best interests of the citizens of Evanston, and

WHEREAS, the Planning and Development Committee of the City Council considered and adopted the Plan Commission's record, findings, and recommendation with modifications at its April 13, 2004, April 26, 2004, and May 10, 2004 meetings and recommended City Council thereof; and

WHEREAS, the City Council considered the respective recommendations of the Plan Commission and the Planning and Development Committee at its April 13, 2004, April 26, 2004, and May 10, 2004 meetings, and

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

SECTION 1: That the City Council hereby adopts the record, findings, and recommendation of the Plan Commission as modified by the Planning and Development Committee and the record, findings, and recommendation of the Planning and Development Committee and amends the text of the Zoning Ordinance to revise the definition of "unique use" and add a definition of "R1 residential preservation unique use exception", and to provide for the granting of "R1 residential preservation unique use exceptions" to properties in Historic Preservation Districts which are City-designated landmarks, as specifically set forth in Section 2 and Section 3 of this Ordinance.

SECTION 2: That the Evanston City Code of 1979, as amended is further amended by adding the following definitions to Section 6-18-3 of the Zoning Ordinance, "Definitions", to read as follows:

6-18-3: **DEFINITIONS:** For the purposes of this Ordinance, the following terms shall have the following meanings:

USE, UNIQUE: A use determined by the city council, to be an unusual one of a kind use that is not listed as an authorized use, but that will be of substantial land use or economic benefit to the city and whose authorization would not be appropriate through a zoning amendment.

USE, R1
RESIDENTIAL
PRESERVATION
UNIQUE A use determined by the city council to be a residential use which is not listed as an authorized use, but that will be of substantial land use or economic benefit to the city, whose authorization would not be appropriate through a zoning amendment. Such a land use may be approved only as follows:

1. It is in an R1 Residential District;
2. It is in a designated Evanston Preservation District;
3. It is in a structure designated by Ordinance as an Evanston landmark;
4. The parcel for which application for the use is made is a minimum of two acres;
5. The parcel for which application for the use is made is improved with a structure with a minimum of 14,500 square feet as defined in Section 6-3-7-10(H);
6. Any multifamily structure for which the use is approved must contain no more than four (4) dwelling units. A development plan for an R1 Residential Preservation Unique Use Exception may provide for more than one principal use on a single zoning lot; and
7. All resultant dwelling units created shall have a minimum floor area, as defined in Section 6-18-3, Definitions, of 2000 square feet.

SECTION 3: That Section 6-3-7-1 is amended by deleting the existing language and substitution therefore:

6-3-7-1: PURPOSE:

(A) Unique Use

The purpose of a unique use permit is to allow a use which is determined by the City Council, to be an unusual one-of-a-kind use that is not listed as an authorized special or permitted use within a particular zoning district, but would be of substantial land use or economic benefit to the City, and whose authorization would not be appropriate through a zoning amendment.

(B) R1 Residential Preservation Unique Use Exception

The purpose of the R1 Residential Preservation Unique Use Permit is to allow for a residential use not listed as an authorized special or permitted use in an R1 Zoning District to be developed in that District within a structure or structures which have been designated an Evanston Landmark in a designated Historic District. Such use may include multifamily use of a structure originally designed as a single-family structure, or subdivision of a portion of such land for single-family dwellings as a means to preserve and assure the continued existence of a designated landmark structure.

6-3-7-2: AUTHORITY:

The City Council may, in accordance with the procedures and standards set forth in this Section and other regulations applicable to the district in which the subject property is located, approve unique uses by ordinance.

6-3-7-3: INITIATION:

An application for a unique use permit may be filed with the Zoning Administrator by the owner or lessee of the subject property or other person having a legal or equitable interest in the subject property.

6-3-7-4: SUBMISSION REQUIREMENTS:

An applicant for a unique use shall file an application in accordance with the following requirements:

(A) Formal Application: Application for unique use approval shall be filed with the Zoning Administrator in order to obtain the review and written comments from the appropriate departments, boards, and commissions, including but not limited to the Site Plan and Appearance Review Committee.

(B) Content of Application: Each application shall contain at least the information listed in Section D.5 of Appendix D of this Ordinance, "Submission Requirements for Unique Uses". Each unique use application shall contain or address the information listed in Section D.4 of Appendix D of the Zoning Ordinance, "Planned Development Application Submission Requirements".

6-3-7-5: PROCEDURE FOR REVIEW AND DECISION OF PROPOSED USE:

An application for a unique use shall be processed in accordance with the following procedures:

(A) Public Hearing: After the filing of a perfected application for a unique use, the Zoning Administrator shall transmit the application to the Plan Commission and schedule a date for public hearing.

(B) Staff Review Procedure: The Zoning Administrator shall schedule and conduct a staff review conference to review the comments received from the various departments and boards pursuant to subsection 6-3-7-4(A). Following the staff review conference, the Zoning Administrator shall forward staff's written report to the Plan Commission.

(C) General Notice of Public Hearing: Notice of the public hearing required in subsection 6-3-7-5(A) shall be given by the Plan Commission by one publication in one or more newspapers of general circulation. Notice shall be published within a minimum of fifteen

(15) days prior to the hearing date and a maximum of thirty (30) days prior to the hearing date.

(D) Mailed Notices Required: Notice shall also be given by first-class mail to all owners of property within one thousand feet (1,000) in each direction of the subject property, inclusive of public roads, streets, alleys and other public ways from the subject site whose addresses appear on the current tax assessment list as provided by the applicant. The failure of delivery of such notice, however, shall not invalidate any such hearing. In addition, a sign shall be posted on the property for a minimum of ten (10) working days prior to the public hearing indicating the place, time and date of the hearing.

(E) Content of Published and Mailed Notices: Published and mailed notice shall contain the time, date and place of the public hearing. (Ord. 102-0-94)

(F) Each unique use application shall be processed in conformance with the procedures of Section 6-3-6-7, Planned Developments, Application Procedure, and Section 6-3-6-8, Planned Developments, Review Procedure; Decisions.

(G) Applicants for a unique use and owners of property within one thousand feet (1,000') inclusive of public roads, streets, alleys and other public ways, shall have the following rights, in addition to any others they may possess by law, at any hearing before the Plan Commission:

1. To inspect all documents and material submitted as part of the application for the unique use prior to the hearing.
2. To present witnesses on their behalf.

(H) Eligible property owners, as set forth above, who wish to object shall, upon written request, be granted one continuance for the purpose of presenting evidence to rebut testimony given by the applicant. The date of such continued hearing shall be at the discretion of the Commission.

6-3-7-6: OPPOSITION TO UNIQUE USE:

If prior to the close of a Plan Commission hearing pursuant to subsection 6-3-4-6(E) a written protest against any proposed unique use, signed and acknowledged by thirty percent (30%) of the owners of property whose lot lines are located within a one thousand foot (1,000') radius of the boundary of the area of the unique use, inclusive of public rights of way, is filed with the City Clerk, approval of the unique use shall require a favorable vote of three-fourths (3/4) of the Aldermen elected to the City Council.

6-3-7-7: COMMISSION ACTION:

After receipt of the staff's written report with respect to the proposed unique use, the Plan Commission shall hold a public hearing in accordance with the adopted rules and procedures of the Commission. The staff's written report shall be considered at the public hearing. After the public hearing, the Commission shall recommend to the City Council based on written findings of fact, that the Council: 1) approve the unique use; 2) approve the unique use subject to specific conditions in applicable zoning requirements; or 3) deny the unique use.

6-3-7-8: COUNCIL DECISION:

Upon receipt of the recommendation of the Plan Commission, the City Council shall either approve the unique use, approve the unique use subject to conditions, or deny the unique use.

6-3-7-9: NOTIFICATION OF DECISION:

Following the decision of the City Council, the Zoning Administrator shall notify the applicant in writing of the City Council's decision.

6-3-7-10: STANDARDS FOR UNIQUE USES:

The Plan Commission may only recommend approval, approval with conditions, or disapproval of a unique use permit based upon written findings of fact with regard to each of the following standards:

(A) Evidence of special and extraordinary need for the unique use which shall include evidence of unique characteristics of the subject property, proposed use, and/or the neighborhood surrounding the subject property.

(B) Evidence that the unique use will be of some affirmative benefit, from a land use or economic standpoint, to the City and its residents.

(C) Evidence that authorization of the use would not be appropriate through a zoning amendment.

(D) Evidence that the project is designed to be reasonably compatible with surrounding properties and neighborhood.

(E) Evidence that the proposed use and the development are consistent with and implement the planning goals and objectives of the City, as contained in the adopted Comprehensive General Plan and other pertinent policy resolutions, particularly in terms of:

1. Land use intensity.
2. Housing goals.
3. Preservation goals and policies.
4. Population policies.
5. Traffic impact and parking.
6. Environmental goals and policies.

(F) Each unique use application, shall address the planned development standards of Section 6-3-6-9, the public benefit standards of Section 6-3-6-3, and the standards for special uses of Section 6-3-5-10.

(G) For each R1 Residential Preservation Unique Use exception application evidence that these requirements are met:

1. It is in an R1 Residential District;
2. It is in a designated Evanston Preservation District;
3. It is in a structure designated by Ordinance as an Evanston landmark;
4. The parcel for which application for the use is made is a minimum of two acres;
5. The parcel for which application for the use is made is improved with a structure with a minimum of 14,500 square feet as defined in Section 6-3-7-10(H);
6. Any multifamily structure for which the use is approved must contain no more than four (4) dwelling units. A development plan for an R1 Residential Preservation Unique Use Exception may provide for more than one principal use on a single zoning lot; and

7. All resultant dwelling units created shall have a minimum floor area, as defined in Section 6-18-3, Definitions, of 2000 square feet.

(H) For purposes of this Section 6-3-7-10(H), gross floor area is the product of the footprint of the building times the number of floors plus any otherwise uncounted roofed areas, or other areas above the first floor that extend past the perimeter of the first floor.

6-3-7-11: CONDITIONS ON UNIQUE USES:

The Plan Commission may recommend, and the City Council may impose, such conditions and limitations concerning use, construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a unique use as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. However, such conditions shall not be used as a device to authorize as a unique use that which is intended to be temporary in nature. Such conditions shall be expressly set forth in the ordinance granting the unique use permit. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the unique use permit.

6-3-7-12: EFFECT OF APPROVAL OF UNIQUE USE:

The approval of a proposed unique use by the City Council shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the City, including, but not limited to, a unique use permit, a building permit, a certificate of occupancy and subdivision approval. Development of an approved R1 residential preservation unique use will not require a recommendation from the Plan Commission or City Council approval provided that it is in conformance with the R1 district regulations.

6-3-7-13: LIMITATIONS ON UNIQUE USE:

(A) Subject to an extension of time granted by the City Council, no unique use permit shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use commenced within that period.

(B) The approval of a proposed unique use by the City Council shall be deemed to authorize only that particular use for which it was issued.

(C) Except when otherwise provided in the ordinance for approving a unique use, a unique use shall be deemed to relate to, and be for the benefit of, the use and lot in question rather than the owner or operator of such use or lot.

6-3-7-14: COORDINATED REVIEW AND APPROVAL OF A UNIQUE USE AND PLANNED DEVELOPMENT:

Whenever in conjunction with an application for a unique use an applicant files an application for a planned development, the Plan Commission shall and the City Council

may combine the applications and review them simultaneously. At conclusion of the public hearing the Plan Commission shall forward its recommendation to the City Council within a maximum of thirty (30) calendar days. Before any action is taken on the planned development, the City Council shall first act to approve, approve with conditions or deny the application for a unique use.

6-3-7-15: COORDINATED REVIEW AND APPROVAL OF A UNIQUE USE AND VARIATION:

Whenever in conjunction with applications for a unique use an applicant files an application for a variation, the Plan Commission and the Zoning Board of Appeals shall combine and review the applications simultaneously. A joint meeting of the Plan Commission and the Zoning Board of Appeals shall be held to hear the combined application. At conclusion of the public hearing each reviewing body shall forward its recommendation to the City Council within a maximum of thirty (30) calendar days. The City Council may combine the applications and review them simultaneously; however, before any action is taken on the variation, the City Council shall first act to approve, approve with conditions or disapprove the application for the unique use.

6-3-7-16: FEES:

An applicant for a unique use shall pay fees in connection with the submittal of the application in accordance with fee schedules adopted, from time to time, by the City Council upon recommendation of the Zoning Administrator.

6-3-7-17: RECORDING REQUIREMENTS:

The Ordinance approving a unique use shall contain a legal description of the property subject to such unique use, and said Ordinance, with the development plan, shall be recorded by the Applicant in the Office of the Cook County Recorder before any permits may issue. A copy of the recorded Ordinance approving a unique use shall be filed with the Zoning Administrator.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

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.

Introduced: April 26, 2004

Adopted: May 10, 2004

Approved: May 13, 2004

Lorraine H. Norton
Mayor

ATTEST:

Mary J. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

