

8/3/04

75-O-04

AN ORDINANCE

**Granting a Special Use for a
Type II Restaurant at 1813 Dempster Street**

WHEREAS, the Zoning Board Appeals ("ZBA") met on June 15, 2004 pursuant to proper notice in case no. ZBA 04-25-SU(R) to consider an application for a Type II Restaurant by Carol Kent, lessee, with written permission from JE/RE Properties, Inc., property manager, on behalf of Quy Nguyen, owner, of the subject property, 1813 Dempster Street, in a B1 Business District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made a verbatim record and findings that the application for the Type II restaurant met the standards for special uses in Section 6-3-4-5 of the Zoning Ordinance and recommended City Council approval thereof; and

WHEREAS, the Planning and Development Committee of the City Council considered and adopted the ZBA's findings and recommendation at its July 12, 2004 and July 26, 2004 meetings, made additional findings, and recommended City Council approval of the aforesaid special use; and

WHEREAS, the City Council considered and adopted the respective records and recommendations of the ZBA and the Planning and Development Committee at its July 12, 2004 and July 26, 2004 meetings, and

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

SECTION 1: That the foregoing recitals are found as fact and made a part hereof.

SECTION 2: The Planning and Development Committee made additional findings, hereby adopted by the City Council, that the aforescribed application for a Type II Restaurant in case no. ZBA 04-25-SU(R) met the requirements for special uses set forth in Section 6-3-4-5 of the Zoning Ordinance, in that:

(A) The special use granted hereby is a listed special use in the Zoning Ordinance. Type II restaurants are a listed special use in the B1 Business District. The use will consist primarily of the sale of coffee drinks for consumption on-site. The use will provide performance space to be utilized for live performances of poetry, theatre, and/or music.

(B) The special use granted hereby is in keeping with the purposes and policies of the Comprehensive General Plan and the Zoning Ordinance. The subject property is located within the B1 Business District and the proposed use is consistent with the special uses found in that District. The Comprehensive General Plan identifies the subject property as within the retail and mixed-use commercial area that is characterized by "mixed uses wherein dwelling units can be found above ground floor commercial activity". The proposed use is a ground floor location with residential above.

(C) The special use granted hereby will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special uses of all types on the immediate neighborhood and the effect of this type of special use upon the City as a whole. The proposed use, with various coffees as its main offering, would diversify the types of businesses and Type II restaurants located in the neighborhood. The menu will emphasize various coffees, with other beverages, soups, salads, desserts, and sandwiches also being offered; no fried or grilled foods will be served. Patrons will be encouraged to bring their own refillable coffee mugs to conserve natural

resources and minimize litter. The subject use will not have a drive-through. Pedestrian traffic is expected to exceed vehicular traffic. Type II restaurants within a several-block radius all have drive-through windows, serve fried or grilled foods, do not emphasize coffee as their main offering, and do not encourage the use of refillable mugs.

4) That this special use does not interfere with or diminish the value of property in the neighborhood in that the use granted hereby will benefit the neighborhood by providing a useful service.

5) That this special use can be adequately served by public facilities and services. The subject property is located on a major public street and is served by a sixteen- (16) foot wide public alley.

6) That this special use will not cause undue traffic congestion in that the patrons of this use are anticipated to be largely pedestrians, residents of the community and/or students from the High School. Dempster Street is a high-traffic street with a major bus route and any increase in traffic as a result of the proposed use will be negligible.

7) That the standard regarding the preservation of significant historical and architectural resources is inapplicable.

8) That this special use contributes to the preservation of significant natural and environmental features in that it will not reduce the existing amount of green space or other natural features on the property.

9) That this special use complies with all other applicable regulations of the B1 District in which it is located and other applicable ordinances. The structure will not be altered. All interior construction requires approval by the Building Division prior to issuing a Certificate of Occupancy.

SECTION 3: That the City Council hereby approves the special use for a Type II restaurant applied for in case no. ZBA 04-25-SU(R) on property legally described in Exhibit A attached hereto and made a part hereof, commonly known as 1813 Dempster Street, Evanston, Illinois.

SECTION 4: 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, these conditions are hereby imposed:

(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, and with the approved plans and documents on file in this case.

(B) The menu of this Type II restaurant shall be limited to various coffees, with other beverages, soups, salads, desserts, and sandwiches also being offered; no fried or grilled foods will be served. Patrons shall be encouraged to bring their own refillable coffee mugs. The applicant agreed that live music performances are limited to acoustic instruments such as pianos, guitars, and banjos which produce their own sound and do not use sound amplifiers.

(C) 1) Prior to the opening for business of the Type II restaurant authorized hereby, the operator shall submit to the Zoning Division for approval 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. The operator of the Type II restaurant shall comply with the Litter Collection Plan. This Ordinance shall prevail over any inconsistent or contrary provisions in the Plan.

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.

(D) 1) There shall be maintained on the subject property exterior litter receptacles of a number and type, and with collections therefrom of sufficient frequency, to contain, with lids tightly shut, all litter emanating from operation of the use or on the property from any source, and all litter collected pursuant to the

Litter Collection Plan. Collections shall be a minimum of three (3) times a week, including collections on Sundays to the extent necessary to comply with this condition. All litter receptacles shall be maintained in a clean condition with tight-fitting lids, and shall be placed on Code-compliant surfaces. Adequate space at the rear of and on the subject property to accommodate the litter receptacles and collections is required.

2) Within seven (7) days of written notice from the City to do so, the number of litter receptacles, and/or the frequency of collections from each shall be increased or modified as directed by the City.

SECTION 5: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: 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 July 12, 2004
Adopted: July 26, 2004

Approved: August 3, 2004
Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:
Mary R. Morris
Mary R. Morris, City Clerk

Approved as to form:
[Signature]
Corporation Counsel

EXHIBIT A

Legal Description of 1813 Dempster Street, Evanston, IL:

LOT 6 (EXCEPT THE SOUTH 7.0 FEET DEDICATED FOR STREET) IN N. P. AND W. S. WILLIAMS SUBDIVISION OF BLOCK 3 IN CHASE AND PINTERS 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 $\frac{1}{4}$ OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDAN, IN COOK COUNTY, ILLINOIS.