

11/3/2004

107-O-04

AN ORDINANCE

**Granting a Special Use for a
Type 2 Restaurant at 1168 Dodge Avenue**

WHEREAS, the Zoning Board Appeals ("ZBA") met on October 5, 2004 pursuant to proper notice in case number ZBA 04-38-SU (R) to consider an application for a special use to operate a Type 2 Restaurant pursuant to Section 6-10-2-3 of the Zoning Ordinance from James Fisher, lessee, with written permission from Evanston Plaza, LLC, property owner of the subject property at 1168 Dodge Avenue in a C1 Commercial District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, made a verbatim 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 October 25, 2004 and November 8, 2004 meetings and recommended City Council approval thereof with modifications; and

WHEREAS, the City Council considered the respective records and recommendations of the ZBA and the Planning and Development Committee and adopted same at its October 25, 2004 and November 8, 2004 meetings,

**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 records, findings, and recommendations of the ZBA and the Planning and Development Committee, and hereby approves the special use applied for in case number ZBA 04-38-SU (R) on property legally described in Exhibit A, attached hereto and made a part hereof.

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" or "applicant's successors in interest".

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

B. 1) The owner shall adhere to a litter collection plan requiring the policing of an area located within a two hundred fifty foot (250') 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. 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.

C. 1) Exterior litter receptacles shall be provided and maintained in sufficient number and type, and contain, with lids tightly shut, all litter emanating from operation of the use, and all litter collected pursuant to the litter collection plan. Litter collections must be monitored to assure that they are sufficient in number and scope to achieve and maintain compliance with applicable City Codes. Collections shall be a minimum of three (3) times a week, including collections on Sundays if the City determines that such are necessary to achieve and maintain said City Code compliance. All litter receptacles shall be maintained in a clean condition with tight-fitting lids, and shall be placed on Code-compliant surfaces. Adequate space shall be provided and maintained at the rear of and on the subject property to accommodate the required litter receptacles and collections.

2) 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.

D. Orders for carry-out food or beverages shall not be accepted after 10:00 p.m. on any night.

E. The use approved hereby shall be limited to pick-up and delivery of pizza and and/or non-alcoholic beverages. The principal sales of said use shall be of pizza for consumption off-site. A customer seating area is not permitted.

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: October 25, 2004

Adopted: November 8, 2004

Approved: November 9, 2004

Lorraine H. Morton
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris
Mary P. Morris, City Clerk

Approved as to form:

[Signature]
Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION OF EVANSTON PLAZA:

PARCEL 1:

LOT 1 IN BANBURY THIRD CONSOLIDATION, RECORDED MARCH 27, 1987 AS DOCUMENT 87162463 BEING A CONSOLIDATION OF PART OF LOT 1 IN BANBURY SECOND CONSOLIDATION AND PART OF LOT "A" IN CALHOUN NORTON CONSOLIDATION, BOTH IN THE NORTHWEST ¼ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

EXCEPTING THEREFROM THE FOLLOWING:

THAT PART OF LOT 1 IN BANBURY CONSOLIDATION IN THE NORTHWEST ¼ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN RECORDED MARCH 19, 1986 AS DOCUMENT NUMBER 86107329 AND FILED MARCH 19, 1986 AS DOCUMENT NUMBER 3502281, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 19.88 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 105 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 2 FEET TO THE POINT OF BEGINNING; THENCE WESTERLY, AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 307.33 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 38 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 114 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE LOT 1, A DISTANCE OF 195 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 193.33 FEET; THENCE SOUTHERLY PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 233 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPTING THEREFROM:

PART OF LOT 1 IN BANBURY CONSOLIDATION IN THE NORTHWEST ¼ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 19, 1986 AS DOCUMENT NUMBER 86107329 AND FILED MARCH 19, 1986 AS DOCUMENT NUMBER 3502281, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 1, A DISTANCE OF 19.88 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 15 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING WESTERLY, AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 90 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 235 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 75 FEET; THENCE NORTHERLY PARALLEL

WITH THE EAST LINE OF LOT 1, A DISTANCE OF 5 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE A DISTANCE OF 15 FEET, THENCE SOUTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 240 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

ALSO EXCEPTING THEREFROM:

THAT PART OF BANBURY THIRD CONSOLIDATION PLAT RECORDED AS DOCUMENT NUMBER 87162463, LEGALLY DESCRIBED AS FOLLOWS:

THAT PART OF LOTS 8, 9, 10, 11, AND 12 IN BLOCK 2 IN GROVER AND PITNER'S ADDITION TO EVANSTON, A SUBDIVISION OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 12 AT ITS INTERSECTION WITH A LINE DRAWN 45.00 FEET NORTHWESTERLY OF AND PARALLEL WITH THE CENTER LINE BETWEEN THE TWO MAIN TRACKS (THE NORTHWESTERLY OF TWO MAIN TRACKS HAVING BEEN REMOVED) OF THE CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY, AS SAID CENTER LINE WAS ORIGINALLY LOCATED AND ESTABLISHED; THENCE NORTHEASTERLY PARALLEL WITH SAID ORIGINAL CENTER LINE A DISTANCE OF 241.64 FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE; A DISTANCE OF 5.00 FEET; THENCE SOUTHWESTERLY ALONG A LINE DRAWN 40.00 FEET NORTHWESTERLY OF AND PARALLEL WITH THE AFORESAID ORIGINAL CENTER LINE, A DISTANCE OF 239.38 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF LOT 12 AFORESAID; THENCE WEST; ALONG SAID SOUTH LINE A DISTANCE OF 5.49 FEET TO THE HEREINBEFORE DESCRIBED POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS REQUIRED FOR THE PURPOSE OF MAINTENANCE OF COMMON UTILITY FACILITIES AND OTHER UTILITIES SERVING THE PARCEL AND FOR THE INSTALLATION, OPERATION, MAINTENANCE, REPAIR, RELOCATION AND REMOVAL OF COMMON UTILITY FACILITIES, IF ANY, IN A MANNER WHICH DOES NOT INTERFERE WITH ANY BUILDING USE OR OPERATION, IN AND OVER THAT OF:

PARTS OF LOT 1 IN BANBURY CONSOLIDATION IN THE NORTHEAST $\frac{1}{4}$ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 19, 1986 AS DOCUMENT NUMBER 86107329 AND FILED MARCH 19, 1986 AS DOCUMENT NUMBER 3502281 DESCRIBED AS FOLLOWS:

(A) COMMENCING AT THE MOST EASTERLY SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 19.88 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE EAST LINE OF LOT 1 A DISTANCE OF 105 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1 A DISTANCE OF 2 FEET TO THE POINT OF BEGINNING, THENCE

WESTERLY, AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 307.33 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 38 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 114 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 195 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 193.33 FEET; THENCE SOUTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 233 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(B) COMMENCING AT THE MOST EASTERLY SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 1, A DISTANCE OF 19.88 FEET; THENCE WESTERLY AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 15 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING WESTERLY, AT RIGHT ANGLES TO THE EAST LINE OF LOT 1, A DISTANCE OF 90 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 235 FEET, THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 75 FEET; THENCE NORTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 5 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE A DISTANCE OF 15 FEET; THENCE SOUTHERLY, PARALLEL WITH THE EAST LINE OF LOT 1, A DISTANCE OF 240 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PURSUANT TO RECIPROCAL EASEMENT AND OPERATION AGREEMENT MADE BY LASALLE NATIONAL BANK, TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 17, 1985 AND KNOWN AS TRUST NUMBER 109877 AND TOYS R' US, INC., A CORPORATION OF DELAWARE, DATED JUNE 9, 1986 AND RECORDED JUNE 27, 1986 AS DOCUMENT NUMBER 86264888, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

NON EXCLUSIVE PERPETUAL UTILITY EASEMENT FOR THE BENEFIT OF PART OF PARCEL 1 ON, OVER, UNDER, THROUGH AND ACROSS:

THE WESTERLY 15 FEET, AS MEASURED AT RIGHT ANGLES TO THE WEST LINE THEREOF, OF THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF LOT 1, IN BANBURY CONSOLIDATION IN THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 19, 1986 AS DOCUMENT 86107329, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHWESTERLY CORNER OF SAID LOT 1, THENCE NORTH 87 DEGREES 29 MINUTES 24 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 32.93 FEET TO THE POINT OF BEGINNING, THENCE CONTINUING NORTH 87 DEGREES 29 MINUTES 24 SECONDS EAST ALONG SAID SOUTH LINE A DISTANCE OF 71.36 FEET TO A CORNER OF LOT 1, BEING ALSO THE SOUTHWEST CORNER OF LOT "A" IN CALHOUN NORTON CONSOLIDATION IN THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 24, RECORDED MARCH 3, 1965 AS DOCUMENT 19396701; THENCE NORTH 21 DEGREES, 51 MINUTES, 29 SECONDS, EAST ALONG THE SOUTH LINE OF SAID

