

11/17/2005

11/3/2005

120-O-05

AN ORDINANCE

**Granting a Special Use for a
Type 2 Restaurant at 1111 Chicago Avenue in a
C2 Commercial Zoning District**

WHEREAS, the Zoning Board Appeals ("ZBA") met on October 18, 2005, pursuant to proper notice, in case number ZBA 05-49-SU(R) to consider an application for a special use to operate a Type 2 Restaurant pursuant to Section 6-10-4-3 of the Zoning Ordinance filed by Wild Oats Markets, Inc., lessee, with written permission from Upton Properties, owner of the subject property at 1111 Chicago Avenue, located in a C2 Commercial Zoning 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 and adopted the ZBA's record, findings, and recommendation with modifications at its November 14, 2005 meeting and recommended City Council approval thereof; and

WHEREAS, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA and the Planning and Development Committee at its November 14, 2005 and November 28, 2005 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 respective 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 05-49-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, the Planning and Development Committee, and the City Council, and with the approved plans and documents on file in this case.

(B) 1) The applicant 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. All litter collections are to be at Applicant's expense. Applicant is not to deposit litter in any receptacle other than its own.

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) The Applicant shall provide and maintain at least one exterior litter receptacle at or near the front entrance to the store.

(E) That the approval granted hereby is limited to a Type 2 restaurant accessory to that kind of food store establishment which is commonly called a "grocery store", which grocery store has a building size or occupies a sales floor space of three thousand two hundred (3,200) square feet or more.

(F) This grant and all its terms and conditions shall run with the land. The Applicant is required to record at its cost a certified copy of this Ordinance with the Cook County Recorder's Office, and to provide a copy of same to the City's Zoning Administrator before a final certificate of occupancy may be obtained. This condition cannot be released or modified without the prior consent of the City Council.

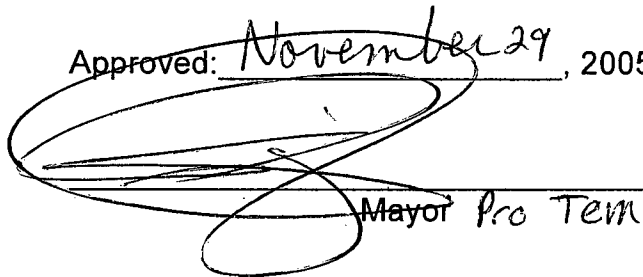
SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

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: November 14, 2005

Adopted: November 28, 2005

Approved: November 29, 2005



Mayor Pro Tem

Attest:



Mary R. Morris, City Clerk

Approved as to form:



Corporation Counsel