

2/6/2006

18-O-06

AN ORDINANCE

**Granting a Special Use for a
Type 2 Restaurant at 1968 Dempster Street
In a C1 Commercial District
(Panino's Café & Bar)**

WHEREAS, the Zoning Board Appeals ("ZBA") met on January 17, 2006 pursuant to proper notice in case number ZBA 05-55-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 filed by Leonardo Rago, lessee, with written permission from Mark J. Snider, property manager of Evanston Plaza, LLC, property owner of the subject property, 1968 Dempster Street, located 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 a special use for a Type 2 Restaurant met the standards for special uses in Section 6-3-5 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 record, findings, and recommendation at its February 13, 2006 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 February 13, 2006 and February 27, 2006 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 05-55-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, and when necessary to effectuate said conditions and limitations, "applicant" shall be read as "owner" or "operator" or "applicant's successors in interest":

A. Compliance with Applicable Requirements: 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. Litter Collection:

1) The applicant shall implement and 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 (3) 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 2 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.

C. Litter Pick-Up Plan:

1) The owner of the subject property, the operator, and/or applicant of the Type 2 Restaurant shall provide and maintain on the subject property exterior litter receptacles in sufficient number and type adequate, in the City's judgment, and with collections therefrom of sufficient frequency, also in the City's judgment, to contain, with lids tightly shut, all litter emanating from operation of the use, 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, in the City's judgment, 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. The owner of the subject property shall provide adequate space at the rear of and on the subject property to accommodate the litter receptacles and collections required.

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 considers extending the sidewalk from the edge of the shopping center north to connect with the sidewalk along Dempster Street.

E. The applicant shall submit a landscape maintenance plan to the Superintendent of Parks and Forestry for review and approval. Following approval by the Superintendent of Parks and Forestry, the applicant shall record the landscape maintenance plan with the Cook County Recorder's Office. The City of Evanston shall not issue a final Certificate of Occupancy until the applicant records the landscape maintenance plan. The landscape maintenance plan shall cover any on-site landscaping, including existing landscaping, landscaping required by the Site Plan and Appearance Review Committee in conjunction with this project, and landscaping installed in the future. At a minimum, the landscape maintenance plan shall include a schedule for watering and for the removal of litter, debris, or other garbage that collects within the landscaping, regardless of the source. In addition, the applicant shall be

required to replace any dead, dying, or diseased landscape material within thirty (30) days of notification by the City of Evanston, or the applicant may replace the landscape material within the first thirty (30) days of the earliest available planting season, if the original thirty (30) -day notification period is during a season inappropriate for the installation of new plant material.

F. The applicant considers utilizing the existing covered area as an outdoor seating area.

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: February 13, 2006

Adopted: February 27, 2006

Approved: March 3, 2006

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 FOR 1968 DEMPSTER STREET**

PARCEL 1: LOT 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 1/4 OF SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, IL.

EXCEPTING THEREFROM THAT PART OF BANBURY THIRD CONSOLIDATION 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 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 2, 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: NON-EXCLUSIVE PERPETUAL UTILITY EASEMENT FOR THE BENEFIT OF PART OF PARCEL 1 ON OVER, UNDER, THROUGH AND ACROSS:

THE WESTERLY 15.00 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 1/4 OF THE NORTHWEST 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 1/4 OF THE NORTHWEST 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 LOT 1, BEING ALSO THE WEST LINE OF SAID LOT "A" IN CALHOUN NORTON CONSOLIDATION, A DISTANCE OF 326.30 FEET, TO A CORNER OF LOT 1; THENCE NORTH 87 DEGREES 29 MINUTES 24 SECONDS, EAST ALONG THE SOUTH LINE OF SAID LOT 1, BEING ALSO THE WEST LINE OF SAID LOT "A" IN CALHOUN NORTON CONSOLIDATION, A DISTANCE OF 16.47 FEET, TO A CORNER OF LOT 1; THENCE NORTH 21 DEGREES 51 MINUTES 29 SECONDS, EAST ALONG THE SOUTH LINE OF SAID LOT 1, BEING ALSO THE WEST LINE OF SAID LOT "A" IN CALHOUN NORTON CONSOLIDATION, A DISTANCE OF 34.53 FEET; THENCE SOUTH 87 DEGREES 29 MINUTES 24 SECONDS WEST 87.83 FEET; THENCE SOUTH 21 DEGREES 51 MINUTES 29 SECONDS, WEST 360.84 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: **1968 DEMPSTER STREET, EVANSTON, ILLINOIS**