

7/25/2007

7/12/2007

**76-O-07**

**AN ORDINANCE**

**Granting a Special Use for a  
Type 2 Restaurant at 1840 Oak Avenue  
in the RP Research Park District,  
("Café Enterprise")**

**WHEREAS**, the Zoning Board of Appeals ("ZBA") met on June 19, 2007, pursuant to proper notice, in case no. ZBA 07-17-SU (R), to consider an application by Dr. Mark Rosenbloom, on behalf of the Evanston Enterprise Center, LLC (the "Applicant"), owner of the property located at 1840 Oak Avenue (the "Subject Property"), located in the RP Research Park District, for a special use to establish a Type 2 restaurant, "Café Enterprise", pursuant to Section 6-11-4-3 of the Zoning Ordinance, to expand the operation of the existing Type 1 restaurant to include carry-out and delivery business; 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, amended, and adopted the ZBA's record, findings, and recommendation, as amended, at its July 23, 2007 meeting and recommended City Council approval thereof; and

**WHEREAS**, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA, as amended, and the Planning and Development Committee at its August 13, 2007 meeting,

**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, as amended, and the Planning and Development Committee, and hereby approves the special use for a Type 2 Restaurant applied for in case no. ZBA 07-17-SU (R) on the Subject Property, legally described in Exhibit A, attached hereto and made a part hereof, and commonly known as 1840 Oak Avenue.

**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 City Council hereby imposes the following conditions:

- A. Compliance with Applicable Requirements:** The Applicant shall develop and use the Subject Property 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 Plan:**
- 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 Applicant, the owner of the Subject Property, and/or the operator 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 there from of sufficient frequency, also in the City's judgment, to contain, with lids tightly shut, all litter emanating from operation of the use. Litter shall be collected a minimum of three (3) times per 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 Applicant, the owner of the Subject Property, and/or the operator of the Type 2 Restaurant shall increase or otherwise modify the number of litter receptacles and/or the number of collections from each, in accordance with the City's directive.

- D. **Parking Plan:** The Applicant, the owner of the Subject Property, and/or the operator of the Type 2 Restaurant shall implement and adhere to an employee parking plan, that, as a minimum, requires the operator of the Type 2 Restaurant and the operator's employees to park at an off-street parking facility available in the neighborhood when driving to their employment at the Type 2 Restaurant approved hereby.
  
- E. **Special Use Exclusive to the Existing Building:** The special use granted herein shall allow for the operation of a Type 2 Restaurant only as an accessory use to the building located at 1840 Oak Avenue in existence on the effective date of this ordinance. Should said building be demolished, the special use shall automatically expire.

**SECTION 4:** When necessary to effectuate the terms, conditions, and purposes of this Ordinance, "Applicant" shall read as "Applicant's agents, assigns, and successors in interest."

**SECTION 5:** If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

**SECTION 6:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 7:** That this Ordinance 76-O-07 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 23, 2007

Approved:

Adopted: August 13, 2007

August 16, 2007

Lorraine H. Morton  
Lorraine H. Morton, Mayor

Attest:

Approved as to form:

Mary P. Morris  
Mary P. Morris, City Clerk

Herbert D. Hill  
Herbert D. Hill  
First Assistant Corporation Counsel

**EXHIBIT A****LEGAL DESCRIPTION****PARCEL 1:**

THE SOUTH 11½ FEET OF LOT 3, MEASURED ALONG THE EAST LINE THEREOF, IN OWNER'S SUBDIVISION OF LOT 21 IN COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

LOTS 13, 14 AND 15 IN BLOCK 1 IN CIRCUIT COURT SUBDIVISION IN PARTITION OF LOT 22 IN CLERK'S DIVISION OF UNSUBDIVIDED LANDS IN SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF LOTS 13 AND 14, IF ANY, WHICH FALLS IN LOTS 1 AND 3, IN OWNER'S SUBDIVISION OF LOT 21, IN COUNTY CLERK'S DIVISION, AFORESAID, OF UNSUBDIVIDED LANDS IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

**PARCEL 3:**

THE SOUTH 11½ FEET OF LOT 2 IN OWNER'S SUBDIVISION OF LOT 21 IN COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS IN THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

**PARCEL 4:**

LOT 4 OF THE CHURCH MAPLE RESUBDIVISION, BEING A RESUBDIVISION OF PART OF DEMPSTER'S SUBDIVISION OF BLOCK 66 OF THE VILLAGE OF EVANSTON, COOK COUNTY, ILLINOIS; PART OF THE CHICAGO AND NORTHWESTERN RAILROAD RIGHT OF WAY (FORMERLY CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD RIGHT OF WAY); PART OF BLOCK 18 IN THE VILLAGE OF EVANSTON; ALL OF BLOCKS 2 AND 3 IN CIRCUIT COURT SUBDIVISION IN PARTITION OF LOT 22 IN THE COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS; AND PART OF VACATED CLARK STREET AND EAST RAILROAD AVENUE; BEING IN THE NORTHWEST ¼ AND THE SOUTHWEST ¼ OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 2, 1999 AS DOCUMENT 99528041.

Commonly known as: **1840 Oak Avenue.**