

10/2/2008  
9/23/2008  
9/9/2008  
8/20/2008

**99-O-08**

**AN ORDINANCE**

**Granting a Special Use for a Convenience Store  
Located at 2536 Ewing Avenue in the B1a Business District  
("7-Eleven")**

**WHEREAS**, on July 15, 2008, the Zoning Board of Appeals ("ZBA") met pursuant to proper notice and, in ZBA case no. 08-ZMJV-0078, considered an application by Susan Swanson, on behalf of 7-Eleven, Inc., lessee ("the Applicant"), and with permission from Cole Taylor Bank, owner of the property located at 2536 Ewing Avenue, Evanston, Illinois, in the B1a Business District and legally described in Exhibit A, which is attached hereto and incorporated herein by reference ("the Subject Property"), for a Special Use for a Convenience Store, pursuant to Section 6-9-5-3 of Title 6 of the Evanston City Code, 1979, as amended ("the Zoning Ordinance"); and

**WHEREAS**, the ZBA, after hearing testimony and receiving other evidence, made a written record and written findings that the application met the standards for Special Uses in Section 6-3-5 of the Zoning Ordinance and recommended City Council approval thereof; and

**WHEREAS**, at its September 8, 2008, September 22, 2008, and October 13, 2008 meetings, the Planning and Development Committee of the

City Council considered the ZBA's findings and recommendation and ultimately recommended City Council approval thereof, with amendments; and

**WHEREAS**, at its September 8, 2008 and October 13, 2008 meetings, the City Council considered and adopted the respective records and recommendations of the ZBA, as amended, and the Planning and Development Committee,

**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:** That the City Council hereby adopts the ZBA's and Planning and Development Committee's records, findings, and recommendations, with amendments, in ZBA case no. 08-ZMJV-0078, and approves the Applicant's request for a Special Use for a Convenience Store on the Subject Property.

**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 operate the Special Use authorized by the terms of this ordinance 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. Hours of Operation:**

Between the hours of 12:00 midnight and 6:00 a.m. on any day, the Applicant shall not operate the Convenience Store authorized by the terms of this ordinance.

**C. Litter Collection Plan:**

- 1) The Applicant shall implement and adhere to a Litter Collection Plan requiring the policing of an area located within radius of a two hundred fifty feet (250') of the building in which the Convenience Store is located. This area shall be policed once every three (3) hours during the hours the Convenience Store 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 Convenience Store 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 deposited as herein prohibited, may create a danger to public health, safety, or welfare.

**D. Litter Pick-Up Plan:**

- 1) The Applicant, owner of the Subject Property, and/or the operator, of the Convenience Store 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 modified in accordance with the City's directive.

**E. Penalty for Non-Compliance:**

Should the City determine that the Applicant has failed to comply with any of the terms of this ordinance, the City may deliver written notice of non-compliance to the Applicant. If the Applicant does not cure the non-compliance identified in the notice within five (5) days, the Applicant shall owe the City a fine in the amount of two hundred fifty and no/100 dollars (\$250.00) per day that the Applicant is not in full compliance. If, in the City's determination, the Applicant is diligently pursuing the cure of such non-compliance and that such cure cannot be completed within five (5) days, the City may grant the Applicant additional time that the City determines to be reasonably necessary. The Applicant shall pay the total fine assessed within thirty (30) days after written notice from the City to do so. If the Applicant fails to pay the total amount of the fine within the thirty (30) days after written notice from the City to do so, the City Council may revoke the Special Use granted by this ordinance.

**F. Deliveries and Collections:**

The Applicant shall neither schedule nor permit any commercial deliveries to the Subject Property or collections therefrom, except between the hours of 7:00 a.m. and 7:00 p.m. on any day. Such collections shall include, but not be limited to, garbage collection.

**G. Alleyway Access:**

The Applicant shall not permit drivers of commercial vehicles that make deliveries to or collections from the Subject Property to block the alleyway adjacent thereto with their vehicles during said deliveries or collections.

**H. Anti-Idling:**

The Applicant shall not permit drivers of commercial vehicles that make deliveries to the Subject Property to allow their vehicles to idle during said deliveries. The Applicant shall also post a sign in a conspicuous place on the Subject Property that indicates that idling of motor vehicles is prohibited by Section 10-4-18 of the City Code.

**I. Lighting and Signage:**

- 1) The Applicant shall remove the square, illuminated logo sign, located above the front entrance to the Convenience Store, which has a white background. The Applicant may keep the red and green logo sign which is located above said entrance.
- 2) The Applicant shall install window shades and/or apply a tinted film to the Convenience Store's windows to reduce light that emanates from within said store.
- 3) Between the hours of 9:00 p.m. and 12:00 midnight on any day, the Applicant shall operate no more than one-half ( $\frac{1}{2}$ ) of the existing fluorescent lights that run the length of the Convenience Store's façade along Ewing Avenue. The Applicant shall add shades to said light fixtures to direct their illumination towards the ground.
- 4) Between the hours of 12:00 midnight and 6:00 a.m. on any day, the Applicant shall not operate: the illuminated pole sign located on the northwest corner of the intersection of Central Street and Ewing Avenue; any exterior illuminated signage on the Subject Property; any exterior or interior lights on the Subject Property except those necessary for security purposes or required by law.

**J. Loitering:**

To the extent allowable by law, the Applicant shall discourage loitering on the Subject Property and shall post a sign in a conspicuous place thereon that indicates that loitering is prohibited on the Subject Property.

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

**SECTION 5:** That at its cost, the Applicant shall record a certified copy of this ordinance with the Cook County Recorder of Deeds.

**SECTION 6:** That, except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms of this ordinance, this ordinance shall govern and control.

**SECTION 7:** That 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 8:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 9:** 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: September 8, 2008

Approved:

Adopted: October 13, 2008

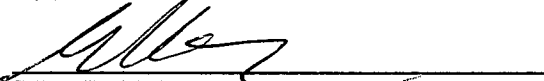
October 16, 2008

  
Lorraine H. Morton, Mayor

Attest:

  
Rodney Greene, City Clerk

Approved as to form:

  
Elke B. Tober-Purze, Interim  
First Assistant Corporation Counsel

**EXHIBIT A**

**Legal Description**

LOT 1 IN BLOCK 4 IN E.T. PAUL'S ADDITION TO EVANSTON SUBDIVISION OF PART OF THE NORTHEAST FRACTIONAL  $\frac{1}{4}$  OF SECTION 11, AND THE NORTHWEST FRACTIONAL  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PIN:** 10-11-202-013-0000

**COMMONLY KNOWN AS:** 2536 Ewing Avenue, Evanston, Illinois