

6/12/2009
5/27/2009

39-O-09

AN ORDINANCE

**Granting a Special Use for a
Type 2 Restaurant at 3330 Central Street
in the B1a Business Zoning District
("Subway")**

WHEREAS, the Zoning Board of Appeals ("ZBA") met on April 28, 2009, pursuant to proper notice, in case no. 09ZMJV-0019 to consider an application by Moaiz Verani, lessee (the "Applicant"), with permission from 3330 Central Street, LLC, owner of the property located at 3330 Central Street (the "Subject Property"), in the B1a Business District, for a Special Use to establish a Type 2 Restaurant, "Subway", on the Subject Property, pursuant to Subsection 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 *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, at its June 8, 2009 and June 22, 2009 meetings, the Planning and Development Committee ("P&D Committee") of the City Council considered, amended, and ultimately adopted the ZBA's record, findings, and recommendations, as amended, and recommended City Council approval thereof; and

WHEREAS, at its June 22, 2009 meeting, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA, as amended, and the P&D Committee,

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 P&D Committee, and hereby approves the Special Use for a Type 2 Restaurant applied for in case no. 09ZMJV-0019 on the Subject Property, legally described in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 3: That, pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the grant of a Special Use, violation of any of which shall constitute grounds for revocation of said Special Use pursuant to Subsection 6-3-10-6 of the Zoning Ordinance:

- A. Compliance with Applicable Requirements:** The Applicant shall develop and use the Subject Property in substantial compliance with all applicable legislation, the testimony and representations of the Applicant to the ZBA, the P&D Committee, and the City Council, and with the approved plans and documents on file in this case.
- B. 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, when driving to their employment at the Type 2 Restaurant approved hereby, to park at an off-site parking facility and not in the parking lot on the Subject Property.

- C. **Cooking Appliances:** The Applicant shall not use in or on the Subject Property any cooking appliances that ventilate to the building's exterior.
- D. **Litter Collection Plan:** The Applicant shall implement and adhere to a Litter Collection Plan that requires the policing of an area located within a radius of two hundred fifty feet (250') of the Subject Property. The Applicant shall police this area at least once every three (3) hours during the hours the Special Use is in operation and shall keep it free of all litter, from any source. For the purpose of this ordinance, "litter" shall include, but is not limited to: food, food waste, and beverages; solid waste, including paper, wrappings, containers, cardboard, napkins, straws, utensils, plates, cans, glass, crockery, cigarette butts, ashes and similar materials; animal waste and dead animals; yard clippings and leaves; and all other waste materials which, if thrown or deposited as herein prohibited, may create a danger to public health, safety, or welfare.
- E. **Litter Pick-Up Plan:** The Applicant and/or the owner of the Subject Property shall provide and maintain on the Subject Property exterior litter receptacles, in sufficient number and type, and with collections therefrom of sufficient number and frequency, in the City's judgment, to contain, with lids tightly shut, all litter emanating from operation of the Special Use authorized hereby. Litter shall be collected no less than three (3) times per week, including collections on Sundays as 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. Within seven (7) days of written notice from the City to do so, the Applicant and/or the owner of the Subject Property shall modify the number of litter receptacles and/or the number of collections therefrom, as directed by the City.
- F. **Hours of Operation:** The Applicant shall neither operate nor accept deliveries to the Special Use authorized by the terms of this ordinance before 9:00 a.m. on any day.
- G. **Landscaping:** The owner of the Subject Property shall regularly trim all landscaping located within twenty feet (20') of all driveways that serve the Subject Property so as to maintain clear lines of sight for vehicular traffic.
- H. **Stop Sign:** The owner of the Subject Property shall cause a south-facing stop sign to be installed at the driveway exit that leads from the Subject Property to Central Street.

F I. 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 may revoke the Special Use granted by this ordinance.

SECTION 5: 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 6: That the Applicant shall record a certified copy of this ordinance, at its cost, including all Exhibits attached hereto, with the Cook County Recorder of Deeds before the City may issue any permits or licenses related to the construction or operation of the Special Use hereby authorized.

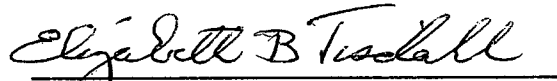
SECTION 7: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, 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: June 8, 2009 Approved:

Adopted: June 22, 2009 June 24, 2009


Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene, City Clerk

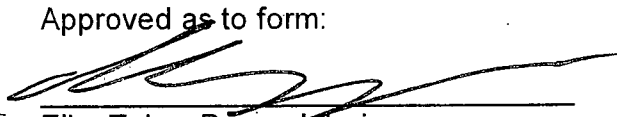
Approved as to form:

Elke Tober-Purze, Interim
First Assistant Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION

LOT 6 AND 7 (EXCEPT THAT PART THEREOF LYING WEST OF A LINE 50 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE FRACTIONAL SECTION 11, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DEDICATED FOR THE WIDENING OF CRAWFORD AVENUE) IN OWNER'S SUBDIVISION OF BLOCKS 4 AND 5, ALSO VACATED CULVER AVENUE IN EVANSTON HIGHLANDS, A SUBDIVISION OF THE NORTHWEST FRACTIONAL OF SECTION 11, 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

PINs: 10-11-100-001-0000
10-11-100-002-0000

COMMONLY KNOWN AS: 3330 Central Street, Evanston, Illinois.