

7/12/2010

**56-O-10**

**AN ORDINANCE**

**Granting a Special Use for a Type 2 Restaurant  
Located at 816 Church Street in the  
D3 Downtown Core Development District  
("Five Guys")**

**WHEREAS**, the Zoning Board of Appeals ("ZBA") met on July 6, 2010, pursuant to proper notice, to consider case no. 10ZMJV-0041, an application by Five Guys Operation, LLC (the "Applicant"), lessee of the property legally described in Exhibit A, attached hereto and made a part hereof, commonly known as 816 Church Street (the "Subject Property") and located in the D3 Downtown Core Development District, with permission from Lambert Group LLC, owner of the Subject Property, for a Special Use to establish, pursuant to Subsection 6-11-4-3 of Title 6 of the Evanston City Code, 1979, as amended, ("the Zoning Ordinance"), a Type 2 Restaurant, "Five Guys", on the Subject Property; and

**WHEREAS**, the ZBA, after hearing testimony and receiving other evidence, made a written 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 meeting of July 26, 2010, the Planning and Development Committee of the City Council ("P&D Committee") considered and adopted the ZBA's record and findings and recommended City Council approval thereof; and

**WHEREAS**, at its meeting of August 9, 2010, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA and P&D 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 approves the Special Use for a Type 2 Restaurant on the Subject Property as applied for in case 10ZMJV-0041.

**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 the approved plans and documents on file in this case.
- B. 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.

- C. 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.
- D. Hours of Operation:** The Applicant may operate the Type 2 Restaurant authorized by the terms of this ordinance only between 11:00 a.m. and 12:00 midnight on any day.
- E. Parking Plan:** The Applicant and its employees shall not occupy any metered parking spaces on Church Street between Benson Avenue and Sherman Avenue while working at the Type 2 Restaurant authorized by the terms of this ordinance.

**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, before it may operate the Special Use authorized by the terms of this ordinance, the Applicant shall record, at its cost, a certified copy of this ordinance with the Cook County Recorder of Deeds.

**SECTION 6:** 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 7:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 8:** 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: July 26, 2010      Approved:  
Adopted: August 9, 2010      August 11, 2010

Elizabeth B. Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene By Elaine Aukwell      W. Grant Farrar  
Rodney Greene, City Clerk      Deputy Clerk      W. Grant Farrar, City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOTS 9 AND 10 (EXCEPT THE WEST 5 FEET THEREOF) IN BLOCK 65, IN THE CITY OF EVANSTON, IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PIN:** 11-18-304-006-0000

**COMMONLY KNOWN AS:** 816 Church Street, Evanston, Illinois.

