

8/8/2011  
7/26/2011

**66-O-11**

**AN ORDINANCE**

**Granting Major Variations Necessary for the Construction  
of a Cultural Facility Located at 1026 Davis Street  
in the D2 Downtown Retail Core District (“Grace Music Theater”)**

**WHEREAS**, DS Productions Holding Company LLC (the “Applicant”), contract purchaser of the property commonly known as 1026 Davis Street (the “Subject Property”), located within the D2 Downtown Retail Core District (“D2 District”) and legally described in Exhibit A, attached hereto and incorporated herein by reference, submitted an application seeking approval of Major Variations pursuant to Subsections 6-11-3-8, 6-11-3-9, and 6-16-5 of Title 6 of the Evanston City Code of 1979, as amended (“the Zoning Ordinance”); and

**WHEREAS**, the Applicant seeks to construct a Cultural Facility on the Subject Property with a maximum building height of forty-five feet (45’) and a gross floor area of approximately twenty-one thousand, eight hundred square feet (21,800 ft<sup>2</sup>); and

**WHEREAS**, on July 19, 2011, the Zoning Board of Appeals (“ZBA”) held public hearings, pursuant to proper notice, in case no. 11ZMJV-0046, to consider the application, received testimony, made written record and findings that the application met the standards for Major Variations set forth in Subsection 6-3-8-12-(E) of the Zoning Ordinance, and recommended City Council approval thereof; and

**WHEREAS**, at its meeting of August 8, 2011, the Planning and Development Committee of the City Council (the “P&D Committee”) considered the

ZBA's findings, amended, and accepted the ZBA's recommendation and recommended City Council approval of the requested Major Variations, as amended; and

**WHEREAS**, at its meeting of August 8, 2011, the City Council considered and adopted the record and recommendation of the 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 incorporated herein by reference.

**SECTION 2:** That the City Council hereby adopts the P&D Committee's records, findings, and recommendations, and hereby approves the Major Variations on the Subject Property applied for in case no. 11ZMJV-0046.

**SECTION 3:** That the Major Variations approved hereby are:

- (A) To permit a rear-yard setback of zero feet (0') whereas Subsection 6-11-3-8-(E) of the Zoning Ordinance requires a rear-yard setback of fifteen feet (15') for structures in the D2 District.
- (B) To permit a maximum building height of forty-five feet (45') whereas Subsection 6-11-3-9 of the Zoning Ordinance establishes a maximum building height of forty-two feet (42') in the D2 District.
- (C) To allow for zero (0) off-street loading berths whereas Section 6-16-5 of the Zoning Ordinance requires one (1) long off-street loading berth for Cultural Facilities between twenty thousand (20,000) and one hundred thousand (100,000) square feet in gross floor area.

**SECTION 4:** That, pursuant to Subsection 6-3-8-14 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the Major Variations granted hereby, violation of any of which shall constitute grounds for revocation thereof, 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, with 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 Lease:** Before the Applicant may apply for a construction permit pursuant to the Major Variations authorized by the terms of this ordinance, it shall negotiate and execute a lease, in form and content approved by the City, for no fewer than sixty-two (62) parking spaces, including at least three (3) spaces reserved for the handicapped, in the City's Sherman Plaza parking garage or other such location as may be permitted by Subsection 6-16-2-1-(B)-1 of the Zoning Ordinance. For as long as the Applicant makes use of any of the Major Variations authorized by the terms of this ordinance, it shall maintain and keep current said lease, and shall comply with all terms of said lease and any amendment(s) thereto.

Subsection 6-16-2-1-(B)-2 of the Zoning Ordinance states that, except in the R1, R2, R3, and R4 Residential Districts, part or all of the required parking spaces, regardless of the number required, may, at the City's discretion, be leased from the City to serve a lot, so long as the leased spaces are located not more than one thousand feet (1,000') from the lot requiring said parking and are not located in a more restrictive Zoning District than the building and uses they are to serve. The Sherman Plaza garage is located less than one thousand feet (1,000') from the Subject Property and in the D3 Downtown Core Development District, which is not more restrictive than the D2 District.

- (C) **Recordation:** The Applicant shall, at its cost, record a certified copy of this ordinance, including all Exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any construction permits pursuant to the Major Variations authorized by the terms of this ordinance.

**SECTION 5:** 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 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.

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

**SECTION 8:** 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 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: August 8, 2011

Adopted: August 8, 2011

Approved:

August 11, 2011

Elizabeth B. Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene  
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar  
W. Grant Farrar, City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION**

**PARCEL 1:** THE NORTH 135 FEET OF LOT 5 AND THE NORTH 135 FEET OF LOT 6 (EXCEPT THE WEST 51 FEET & 7/8 INCHES OF LOT 6) IN BLOCK 62, IN EVANSTON, IN SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:** NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY A DEED FROM PHILO JUDSON AND ELIZABETH JUDSON TO WILLIAM H. GRANT DATED MAY 19, 1871, AND RECORDED ON MAY 14, 1872 AS DOCUMENT 30726 FOR PEDESTRIAN AND VEHICULAR EGRESS AND INGRESS OVER THE FOLLOWING DESCRIBED LAND: THE SOUTH 10 FEET OF THE NORTH 135 FEET OF THE WEST 51 FEET & 7/8 INCHES OF LOT 6 IN BLOCK 62, IN EVANSTON, IN SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PIN:** 11-18-309-031-0000

**COMMONLY KNOWN As:** 1026 Davis Street, Evanston, Illinois.

