

10/28/2011

97-O-11

AN ORDINANCE

**Granting a Special Use Permit for a Type 2 Restaurant
Located at 724 Clark Street in the
D2 Downtown Retail Core Zoning District
("Subway")**

WHEREAS, the Zoning Board of Appeals ("ZBA") met on October 18, 2011, pursuant to proper notice, to consider case no. 11ZMJV-0068, an application filed by Suhas Patel, lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 724 Clark Street (the "Subject Property") and located in the D2 Downtown Retail Core Zoning District, for a Special Use Permit to establish, pursuant to Subsection 6-11-3-4 of Title 6 of the Evanston City Code, 1979, as amended ("the Zoning Ordinance"), a Type 2 Restaurant, "Subway," 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 Permit 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 November 14, 2011, 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 November 28, 2011, 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, THAT:

SECTION 1: The foregoing recitals are found as fact and made a part hereof.

SECTION 2: The City Council hereby approves the Special Use Permit for a Type 2 Restaurant on the Subject Property as applied for in case no. 11ZMJV-0068.

SECTION 3: 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 Permit, 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; the Applicant's testimony and representations 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 shall not operate the Type 2 Restaurant authorized by this ordinance between midnight and 6:00 a.m. on any day.
- E. **Employee Parking:** When driving to work at the Type 2 Restaurant authorized by this ordinance, the Applicant and its employees shall park only in an off-street parking facility.

SECTION 4: 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: 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: 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: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 9: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: November 14, 2011

Approved:

Adopted: November 28, 2011

November 29, 2011

Elizabeth B Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, Corporation Counsel

EXHIBIT A

LEGAL DESCRIPTION

THE EAST 60 FEET OF LOT 9 AND ALL OF LOT 10 IN BLOCK 16, IN VILLAGE OF EVANSTON, A SUBDIVISION OF PARTS OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 13 EAST AND SECTION 7, 18 AND 19, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE CITY OF EVANSTON, COCK COUNTY, ILLINOIS.

PIN: 11-18-127-013-0000

COMMONLY KNOWN As: 724 Clark Street, Evanston, Illinois.

