

3/29/2012

36-O-12

AN ORDINANCE

**Granting a Major Variation and Special Use Permits
for a Planned Development and Drive-Through Facility
Located at 635 Chicago Avenue in the
C1a Commercial Mixed Use Zoning District
("Walgreens")**

WHEREAS, Craig Stevens Development Corp. (the "Applicant"), owner of the property located at 635 Chicago Avenue, Evanston, Illinois (the "Subject Property"), legally described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of Title 6 of the Evanston City Code, 1979, as amended, ("the Zoning Ordinance"), specifically Section 6-3-5, "Special Uses", Section 6-3-6, "Planned Developments", Section 6-3-8, "Major Variations," and Subsection 6-10-1-9, "Planned Developments" in Commercial Zoning Districts, to permit the construction and operation of a commercial Planned Development and Drive-Through Facility, with a Major Variation regarding rear-yard setback requirements, located at the Subject Property in the C1a Commercial Mixed-Use Zoning District ("C1a District"); and

WHEREAS, the Applicant sought approval to demolish the existing commercial structure and drive-through on the Subject Property and replace it with a new commercial structure with a defined gross floor area of approximately thirteen thousand, nine hundred sixty-eight square feet (13,968 ft.²), with a drive-through and eighty-three (83) open, off-street parking spaces; and

WHEREAS, on March 14, 2012, pursuant to proper notice, the Plan Commission and Zoning Board of Appeals (“ZBA”) held a joint public hearing on the application, case nos. 12PLND-0012, 12ZMJV-0013, and 12ZMJV-0014, heard testimony and received other evidence, and made written findings; and

WHEREAS, the Plan Commission’s written findings state that the application meets the standards, set forth in Subsections 6-3-5-10 and 6-10-1-9 of the Zoning Ordinance, for Special Uses and Planned Developments in the C1a District; and

WHEREAS, the Plan Commission recommended that the City Council approve the application for a Special Use for a Planned Development; and

WHEREAS, the ZBA’s written findings state that the application for a Drive-Through Facility meets the standards set forth in Subsection 6-3-5-10 of the Zoning Ordinance for Special Uses, but not the standards for a Major Variation set forth in Subsection 6-3-8-12-(E); and

WHEREAS, the ZBA recommended the City Council approve the application for a Special Use for a Drive-Through Facility but deny the application for a Major Variation; and

WHEREAS, at its meeting of April 23, 2012, the Planning and Development (“P&D”) Committee considered the findings and recommendations of the Plan Commission and ZBA, recommended approval of those of the Plan Commission and those of the ZBA regarding the Planned Development and Drive-Through Facility, rejected the findings and recommendations of the ZBA regarding the Major Variation, and recommended City Council approve the Special Uses and the Major Variation; and

WHEREAS, at its meetings of April 23, 2012 and May 14, 2012, the City Council considered and adopted the records and recommendations of the 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 hereby found as facts and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the zoning relief applied for in case nos. 12PLND-0012, 12ZMJV-0013, and 12ZMJV-0014, to permit the construction and operation of the Planned Development, Drive-Through Facility, and Major Variation, described herein, on the Subject Property.

SECTION 3: The City Council hereby grants a Major Variation to permit a rear-yard setback of zero feet (0') on the Subject Property, whereas Subsection 6-10-3-8-(D) of the Zoning Ordinance requires a rear-yard setback of ten feet (10') for structures in the C1a District that abut a Residential District.

SECTION 4: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the Special Use Permits and Major Variation 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) Recordation:** The Applicant shall record, at its cost, a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, before the City may issue any permits related to the construction and/or operation of the Special Uses and Major Variation hereby authorized.

- (B) **Compliance with Applicable Requirements:** The Applicant shall develop and operate the Special Uses and Major Variation authorized by the terms of this ordinance in substantial compliance with: the terms of this ordinance; the Development Plans in Exhibit B, which are attached hereto and incorporated herein by reference; all applicable legislation; the Applicant's testimony and representations to the Plan Commission, ZBA, the P&D Committee, and the City Council; and the approved plans and documents on file in this case.
- (C) **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.
- (D) **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.
- (E) **Employee Parking:** When driving to work at the Planned Development authorized by this ordinance, the Applicant and its employees shall not park in the parking lot on the Subject Property.

SECTION 5: 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 6: 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 7: 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 8: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9: 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 10: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: April 23, 2012

Approved:

Adopted: May 14, 2012

May 16, 2012

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, City Attorney

EXHIBIT A

Legal Description

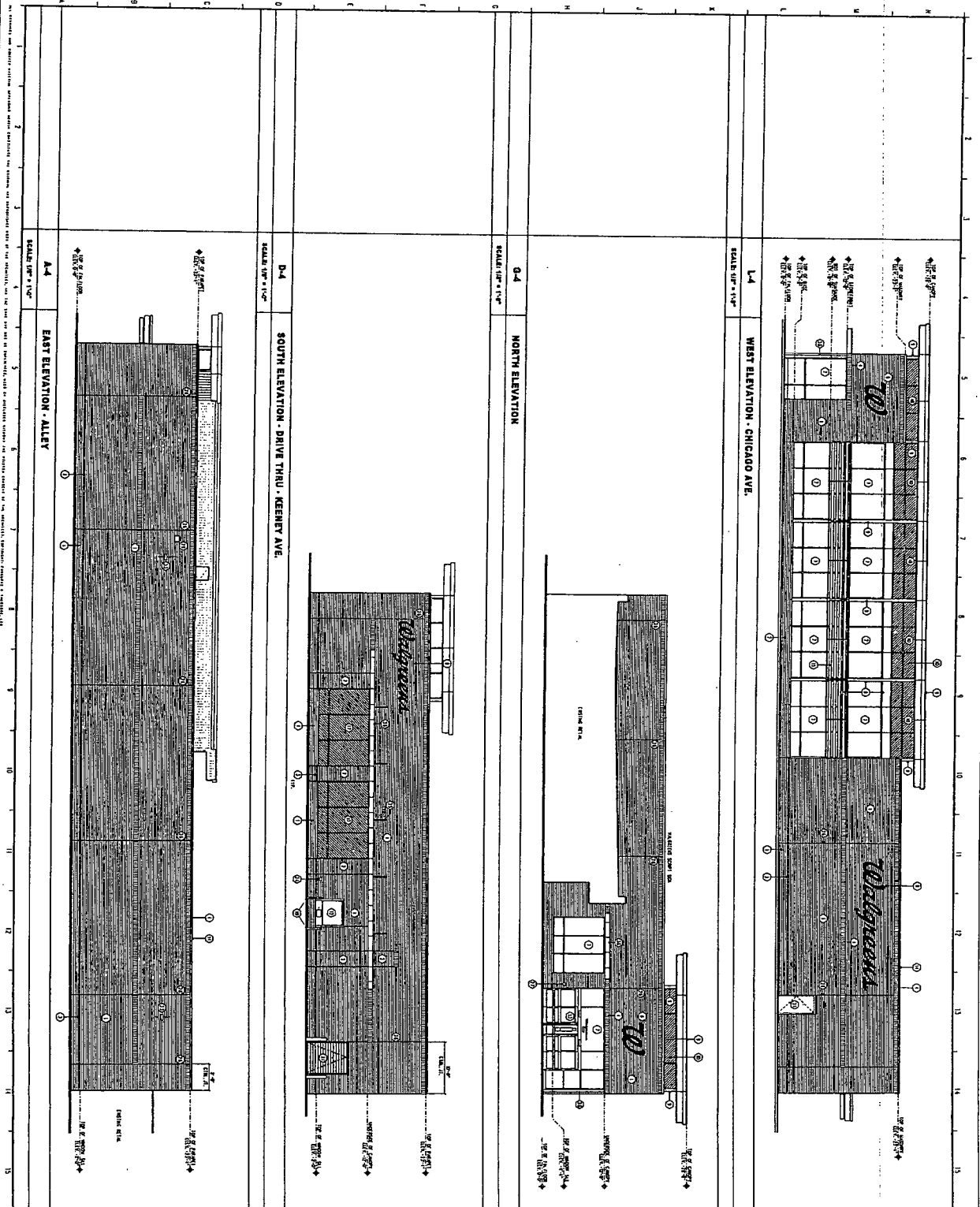
LOT 1 OF THE SOUTHPORT CONSOLIDATION OF LOTS 11 TO 19, BOTH INCLUSIVE, IN BLOCK 2 IN KEDZIE AND KEENEY'S ADDITION TO EVANSTON IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, PER PLAT RECORDED MARCH 07, 1984 AS DOCUMENT NO. 26996718.

PIN: 11-19-407-028-0000

COMMONLY KNOWN As: 635 Chicago Avenue, Evanston, Illinois.

EXHIBIT B

Development Plans



EXTERIOR ELEVATIONS KEYED NOTES

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CONSTRUCTION 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Architect 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Contractor 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Project 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Contract No. 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Scale 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
Date 1100 WEST WASHINGTON AVENUE CHICAGO, ILL. 60606 TEL: 312.467.1000 FAX: 312.467.1001 WWW.GIBCONSTRUCTION.COM	
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