

3/11/2013
2/25/2013

26-O-13

AN ORDINANCE

**Granting a Special Use Permit for a
Commercial Indoor Recreation Facility
Located at 739 Main Street in the B2 Business Zoning District**

WHEREAS, the Zoning Board of Appeals ("ZBA") met on February 19, 2013, pursuant to proper notice, to consider case no. 13ZMJV-0005, an application filed by Fernando Rivera, lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 739 Main Street (the "Subject Property") and located in the B2 Business Zoning District, for a Special Use Permit to establish, pursuant to Subsection 6-9-3-3 of Title 6 of the Evanston City Code, 2012, as amended ("the Zoning Ordinance"), a Commercial Indoor Recreation Facility 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 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 March 11, 2013, the Planning and Development Committee of the City Council ("P&D Committee") considered the ZBA's record and findings and recommended the City Council accept the ZBA's recommendation and approve the application in case no. 12ZMJV-0084; and

WHEREAS, at its meetings of March 11 and March 18, 2013, 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 incorporated herein by reference.

SECTION 2: The City Council hereby approves the Special Use Permit for an Indoor Commercial Recreation Facility on the Subject Property as applied for in case no. 13ZMJV-0005.

SECTION 3: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council hereby imposes the following conditions on the Applicant's Special Use Permit, violation of any of which shall constitute grounds for penalties or revocation of said Permit pursuant to Subsections 6-3-10-5 and 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. Hours of Operation:** The Applicant shall not operate the Special Use authorized by this ordinance after 9:00 p.m. and before 6:00 a.m. on any day.
- C. Sound:** The Applicant shall not make use of amplified sound in the operation of the Special Use authorized by the terms of this ordinance. The Applicant shall mitigate any sound that emanates from the Subject Property due to its operation of the Special Use authorized by the terms of this ordinance and violates Section 9-5-20 of the City Code, as amended.
- D. Recordation:** 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 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: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

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

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: 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.

Introduced: March 11, 2013

Approved:

Adopted: March 18, 2013

March 22, 2013

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 WEST 50 FEET OF THE SOUTH 100 FEET OF THAT PART EAST OF SHERMAN AVENUE AND NORTH OF MAIN STREET OF THE NW ¼ OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 11-19-117-045-0000

COMMONLY KNOWN AS: 739 Main Street, Evanston, Illinois.