

6/11/2013

72-O-13

AN ORDINANCE

**Amending the Special Use Permit for a Type 2 Restaurant
Located at 519 Main Street ("Starbucks")**

WHEREAS, the City of Evanston, Cook County, Illinois, (the "City") is a home rule unit of government under the Illinois Constitution of 1970; and

WHEREAS, Article VII, Section 6a of the Illinois Constitution of 1970 confers certain powers upon home rule units, among which are the powers to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code, 2013, as amended, ("the Zoning Ordinance"); and

WHEREAS, on January 14, 2002, the City enacted Ordinance 121-O-01, attached hereto as Exhibit 1 and incorporated herein by reference; and

WHEREAS, pursuant to the provisions of the Zoning Ordinance, Ordinance 121-O-01 granted a Special Use Permit for a Type 2 Restaurant on the property located at 519 Main Street, Evanston, Illinois (the "Subject Property"), which is legally described in Exhibit 1; and

WHEREAS, the Starbucks Corporation ("the Applicant"), operator of the Type 2 Restaurant on the Subject Property, requests relief from the condition imposed on the Special Use Permit pursuant to Section 3-c of Ordinance 121-O-01; and

WHEREAS, on June 24, 2013, the Planning and Development Committee (“P&D Committee”) of the City Council held a meeting, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), during which it considered the Applicant’s request and recommended approval thereof by the City Council; and

WHEREAS, at its meetings of June 24 and July 8, 2013, the City Council considered the P&D Committee’s recommendation, heard public comment, made findings, and amended and adopted said recommendation, as amended; and

WHEREAS, it is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747),

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 deletes the condition set forth in Section 3-c of Ordinance 121-O-01 in its entirety, and said condition shall no longer have any force or effect on the operation of the Type 2 Restaurant on the Subject Property.

SECTION 3: 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 a copy thereof to the City.

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: Except as otherwise provided for in this Ordinance 72-O-13, all applicable regulations of Ordinance 121-O-01, 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. To the extent that the terms and/or provisions of any of said documents conflict with any of the terms herein, this Ordinance 72-O-13 shall govern and control.

SECTION 6: The findings and recitals 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: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 8: This Ordinance 72-O-13 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law, and after Applicant records a certified copy of it with the Cook County Recorder of Deeds.

Introduced: June 24, 2013

Approved:

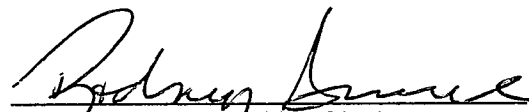
Adopted: July 8, 2013

July 15, 2013


Ann Rainey, Mayor Pro Tem

Attest:

Approved as to form:


Rodney Greene, City Clerk



W. Grant Farrar, Corporation Counsel

EXHIBIT 1

Ordinance 121-O-01

01/15/2002

121-O-01

AN ORDINANCE

**Granting a Special Use to Allow a
Type 2 Restaurant at 519 Main Street**

WHEREAS, the Zoning Board of Appeals ("ZBA") held a public hearing on August 1, 2000 pursuant to proper notice in case no. ZBA 00-20-SU(R) ("subject case") on the application of John A. Wesche, Construction Manager for Starbucks Coffee Company, with written permission from Evanston Trust and Savings Bank, property owner, for a special use pursuant to Section 6-9-4-3 of the Zoning Ordinance to allow a Type 2 restaurant at 519 Main Street, within the B3 Business District; and

WHEREAS, the ZBA, after hearing testimony and receiving other evidence, making a written record thereof, made written findings pursuant to Section 6-3-4-5 of the Zoning Ordinance and found that the application did not meet the standards for special uses, and recommended City Council denial thereof; and

WHEREAS, the subject case was held in Committee by the Planning and Development Committee of the City Council on October 10, 2000 and October 23, 2000 at the request of the Applicant; and

WHEREAS, the Planning and Development Committee considered the subject case at its meetings on October 22, 2001, November 13, 2001, and December 3, 2001; and

WHEREAS, the Planning and Development Committee considered the ZBA's record and recommendation to deny the application, heard comments from the public

and the Applicant, and reported the case out of Committee on December 3, 2001 without a recommendation; and

WHEREAS, at its December 3, 2001 meeting, the City Council reviewed the ZBA's record and recommendation to deny the special use, the Planning and Development Committee's record, heard public comment, and voted to overturn the ZBA's recommended denial and grant the special use; and

WHEREAS, the Planning and Development Committee made findings at its December 17, 2001 meeting that the application met the standards for special uses set forth in the Zoning Ordinance and recommended City Council approval thereof by this Ordinance 121-O-01; and

WHEREAS, the City Council considered this Ordinance 121-O-01 at its December 17, 2001 and January 14, 2002 meetings;

WHEREAS, at the December 17, 2001 meeting, the City Council made certain revisions to the conditions imposed upon the grant of special use,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the City Council hereby adopts the findings and recommendation of the Planning and Development Committee at its December 17, 2001 meeting in the aforescribed case no. ZBA 00-20-SU(R) and grants said special use to operate a Type 2 Restaurant on property commonly known as 519 Main Street and legally described in Exhibit A attached hereto and made a part hereof.

SECTION 2: That the City Council hereby accepts the findings of the Planning and Development Committee that the application met the standards for the special uses set forth in Section 6-3-5-10 of the Zoning Ordinance:

- a. Type 2 Restaurants are a listed special use in the B3 Zoning District.
- b. The subject use is in keeping with the purposes and policies of the Comprehensive General Plan ("CGP") and the Zoning Ordinance.
 1. The property is classified as "retail and mixed uses" in the CGP Land Use Map, it is within an area on CGP Map 2 designated as a corridor for commercial and mixed use development, enhances existing neighborhoods, and contributes to the overall social and economic quality of Evanston.
 2. The use promotes pedestrian-oriented retail activity in a neighborhood business area and is part of a residential/commercial mixed use development designed to enhance the existing character of the neighborhood.
 3. Among the purposes of the Zoning Ordinance set forth in Section 6-1-2 is to conserve and enhance the taxable value of land and buildings throughout the City. Operation of the subject use will bring additional income in the form of property, sales, and other taxes to the City from a property.
- c. The subject use will not cause a negative cumulative effect in that the most intense impact from this use on traffic and parking occurs when other uses in the area have lesser demands.
- d. The subject use does not interfere with or diminish the value of property in the neighborhood, in that it will aid the retail sales potential of this designated business area. The added retail sales potential will increase residential convenience and add to the value of neighboring business property.

- e. The subject use can be adequately served by public facilities and services, in that neither new public facilities nor additional public services will be required.
- f. The subject use does not cause undue traffic congestion, in that parking is available within a reasonable distance of the subject property, the most intense impact from this use on parking occurs when other uses in the area have lesser demands and actions to mitigate congestion are imposed in Sections 3(c), 3(d), and 3(e), below.
- g. The subject use has no effect upon significant historical and architectural resources, in that the use is located in new construction.
- h. The subject use has no impact on significant natural or environmental resources in that no such resources are located at the subject property.
- i. The subject use will comply with all applicable regulations of the B3 Business District in which it is located and other applicable ordinances.

SECTION 3: Pursuant to Section 6-3-5-12 of the Zoning Ordinance, which provides that the City Council may impose conditions and limitations on the grant of a special use, these conditions and limitations are hereby imposed:

- a. The special use granted hereby shall be subject to compliance with all applicable provisions of the Zoning Ordinance and other applicable laws;
- b. The approval is subject to construction and operation of the use in substantial compliance with representations of the Applicant, documents placed on file in connection with this case by the Applicant, and the plans, as approved by the City.
- c. Persons who shall have previously applied for and been granted authority by the City pursuant to Section 9-1-11 of the Evanston City Code of 1979, as amended, to issue citations for parking

regulation violations in the area designated by the City, shall be hired and their employment maintained. Said persons shall enforce parking regulation violations in the subject alley and on the public street and sidewalk in front of the subject use from 7:00 A.M. through 9:00 A.M., every Monday through Friday the use is open for business, and from 7:30 A.M. through 10:30 A.M. every Saturday the use is open for business. No relief from the condition set forth in the Section 2(c) shall be sought prior to one (1) year after the City has issued a final Certificate of Occupancy for the use granted hereby. Any such request for relief shall be in writing and shall be filed with the Planning and Development Committee for consideration prior to City Council action. The City Council, may, in its sole discretion, grant, deny, or modify the relief requested.

- d. If installation of speed bumps in the alley directly east of the subject property on the north side of Main Street ("subject alley") is approved by the City Council upon written request of two-thirds (2/3) of the residents of properties abutting the alley, the Applicant shall reimburse the City an amount equal to the City's cost of installation and maintenance of the speed bumps. The speed bumps shall be of such type(s) and in such number and location as determined by the City. The Applicant's failure to reimburse the City for the cost of installation of said speed bumps or of maintenance or of replacement, within thirty (30) days after invoicing therefor by the City shall, at the City's option, void this special use. The Applicant and its successors in interest shall, in like manner, reimburse the City for all costs of maintenance and installation of replacement speed bumps.
- e. Installation and assumption of all costs in connection therewith of a parabolic mirror or other similar device at the intersection of the subject alley and the north sidewalk on Main Street for use by southbound alley traffic to detect cross traffic. The mirror must be of a type and installed in a location satisfactory to the City's Division of Traffic Engineering, all as a condition to the City's grant of a Final Certificate of Occupancy. Applicant must provide a written recommendation from a traffic expert as to location of the mirror.

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

SECTION 5: 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: December 17, 2001

Adopted: January 14, 2002

Approved: January 17, 2002
Jerraine H. Norton
Mayor

ATTEST:

Mary J. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

Exhibit A
Ordinance 121-O-01
(519 MAIN)

LOTS 1, 2 AND 3 IN BLOCK 2 IN GIBBS, LADD AND GEORGE'S
ADDITION TO EVANSTON, BEING A SUBDIVISION OF PART OF THE
SOUTH $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 19, TOWNSHIP 41
NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN
COOK COUNTY, ILLINOIS.

