

13-O-14

AN ORDINANCE

**Granting a Special Use Permit for a Type 2 Restaurant
Located at 815 Noyes Street in the
B1 Business Zoning District (“DMK Burger Bar & Fish Bar”)**

WHEREAS, the Zoning Board of Appeals (“ZBA”) met on December 17, 2013, pursuant to proper notice, to consider case no. 13ZMJV-0118, an application filed by DMK Burger Bar & Fish Bar, lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 815 Noyes Street (the “Subject Property”) and located in the B1 Business Zoning District, for a Special Use Permit to establish, pursuant to Subsection 6-9-2-3 of the Evanston City Code, 2012, as amended (“the Zoning Ordinance”), a Type 2 Restaurant, “DMK Burger Bar & Fish Bar,” 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 January 13, 2014, 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. 13ZMJV-0118; and

WHEREAS, at its meetings of January 13 and January 27, 2014, the City Council considered and adopted the respective records, findings, and recommendations of the ZBA and P&D Committee, as amended,

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 a Type 2 Restaurant on the Subject Property as applied for in case no. 13ZMJV-0118.

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. 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 12:00 midnight and 10:00 a.m. on any day.
- E. **Employee Parking:** Any employee parking shall park in the designated spaces in the rear of the Subject Property.
- F. **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: January 13, 2014

Approved:

Adopted: January 27, 2014

January 29, 2014

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**

LOT 11, (EXCEPT THE NORTH 196.8 FEET THEREOF AND EXCEPT THE EAST 26 FEET 10 INCHES OF THE SOUTH 130 FEET THEREOF), IN BLOCK 3 IN OWNER'S RESUBDIVISION OF EVANSTON IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS,

ALSO:

THE EAST 26 FEET 10 INCHES OF THE SOUTH 130.0 FEET OF LOT 11 IN BLOCK 3, IN OWNER'S RESUBDIVISION OF BLOCKS 2, 5 AND 6 IN ORRINGTON ADDITION TO EVANSTON IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN,

ALSO:

THE WEST 40.0 FEET OF THE SOUTH 50 FEET OF LOT 5 AND THE WEST 35 FEET OF LOT 5 (EXCEPT THE SOUTH 50 FEET THEREOF) AND THE WEST 35 FEET OF LOT 4 (EXCEPT THE NORTH 45 FEET THEREOF) ALL IN BLOCK 92 IN NORTHWESTERN UNIVERSITY SUBDIVISION IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 11-07-115-019-0000

COMMONLY KNOWN As: 813 – 821 Noyes Street, Evanston, Illinois.