

70-O-14

AN ORDINANCE

**Granting a Special Use Permit for a Type 2 Restaurant
Located at 635 Chicago Avenue #7 in the C1a Commercial Mixed Use
Zoning District ("YoFresh Yogurt Café")**

WHEREAS, the Zoning Board of Appeals ("ZBA") met on May 6, 2014, pursuant to proper notice, to consider case no. 14ZMJV-0039, an application filed by Larry Murphy, lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 635 Chicago Avenue #7 (the "Subject Property") and located in the C1a Commercial Mixed Use District, for a Special Use Permit to establish, pursuant to Subsection 6-10-3-3 of the Evanston City Code, 2012, as amended ("the Zoning Ordinance"), a Type 2 Restaurant, "YoFresh Yogurt Cafe," 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 May 27, 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. 14ZMJV-0039; and

WHEREAS, at its meetings of May 27, 2014 and June 9, 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. 14ZMJV-0039.

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 operate the Type 2 Restaurant authorized by this ordinance only between the hours of 9:00 a.m. and 11:00 p.m. on any given day.
- E. **Employee Parking:** Employees cannot park on the street when travelling to and from work.
- 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: May 27, 2014

Adopted: May 27, 2014

Approved: May 29, 2014

Elizabeth B Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel

EXHIBIT A**LEGAL DESCRIPTION**

THAT PART OF LOT 1 OF THE SOUTHPOINT CONSOLIDATION OF LOTS 11 TO 18, 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, PER THE PLAT RECORDED MARCH 7, 1984 AS DOCUMENT NO. 26996718, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE ON AN ASSUMED BEARING SOUTH 89°51'52" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 173.40 FEET TO THE SOUTHEAST CORNER OF LOT 1; THENCE NORTH 08°54'12" WEST ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 182.19 FEET TO THE SOUTHEAST CORNER OF AN EXISTING 1-STORY BRICK BUILDING, A DISTANCE OF 68.01 FEET; THENCE NORTH 08°55'35" WEST, A DISTANCE OF 17.79 FEET; THENCE SOUTH 81°04'25" WEST, A DISTANCE OF 26.31 FEET; THENCE NORTH 39°07'45" WEST, A DISTANCE OF 20.74 FEET; THENCE SOUTH 80°45'25" WEST, A DISTANCE OF 66.49 FEET TO THE WEST LINE OF SAID LOT 1 ALSO BEING THE EAST LINE OF CHICAGO AVENUE; THENCE SOUTH 08°54'02" EAST ALONG THE LAST DESCRIBED LINE, A DISTANCE OF 190.25 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 11-19-407-028-0000

COMMONLY KNOWN AS: 635 Chicago Avenue, #7, Evanston, Illinois.

