

3/6/2015

**37-O-15**

**AN ORDINANCE**

**Granting a Special Use Permit for a Type 2 Restaurant Located at  
1622 Sherman Avenue in the D3 Downtown Core Development District  
("Epic Burger")**

**WHEREAS**, the Zoning Board of Appeals ("ZBA") met on March 3, 2015, pursuant to proper notice, to consider case no. 15ZMJV-0013, an application filed by Aaron Langguth, lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 1622 Sherman Avenue (the "Subject Property") and located in the D3 Downtown Core Development District, for a Special Use Permit to establish, pursuant to Subsection 6-11-4-3 of the Evanston City Code, 2012, as amended ("the Zoning Ordinance"), a Type 2 Restaurant, "Epic Burger," 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 March 23, 2015, 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. 15ZMJV-0013; and

**WHEREAS**, at its meetings of March 23, 2015 and April 13, 2015, 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-0013.

**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. **Hours of Operation:** The Applicant shall operate the Type 2 Restaurant authorized by this ordinance only between the hours of 6:00 a.m. and midnight on any given day.
- D. **Employee Parking:** Employees shall not park on the street during hours of operation.
- E. **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 23, 2015

Approved:

Adopted: April 13, 2015

April 15, 2015

Elizabeth B Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene  
Rodney Greene, City Clerk (MB)

W. Grant Farrar  
W. Grant Farrar, Corporation Counsel

**EXHIBIT A****LEGAL DESCRIPTION****PARCEL 1:**

LOTS 2, 3 AND 4 IN SHERMAN PLAZA RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPLE MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH PLAT WAS RECORDED DECEMBER 9, 2001 AS DOCUMENT NO. 0434404084.

**PARCEL 2:**

PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 1 FOR SUPPORT, INGRESS AND EGRESS, AND OTHER PURPOSES AS DESCRIBED AND DEFINED IN SECTION 4 AND, FOR THE BENEFIT OF LOT 3, AS DESCRIBED AND DEFINED IN SECTION 9, OF THE RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404085.

**PARCEL 3:**

LEASEHOLD ESTATE AS CREATED BY THE LEASE BETWEEN CITY OF EVANSTON AND SHERMAN PLAZA VENTURE, LLC, (AS DISCLOSED OF RECORD BY THE MEMORANDUM THEREOF RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404088), AS ASSIGNED TO SHERMAN PLAZA PARTNERS, LLC, BY ASSIGNMENT AND ASSUMPTION OF AGREEMENTS RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404089, WHICH DEMISES AND LEASES THE FOLLOWING DESCRIBED PORTION OF LOT 1 IN SHERMAN PLAZA SUBDIVISION, AFORESAID, FOR A TERM COMMENCING AND EXPIRING AS THEREIN DEFINED:

THAT PART OF LOT 1, AFORESAID, LYING ABOVE GROUND TIER FINISHED FLOOR ELEVATION OF 600.8, MORE OR LESS, AND BELOW SECOND TIER RAMP AND PARKING AREA FINISHED FLOOR ELEVATIONS RANGING FROM 609.83 THROUGH 623.58, MORE OR LESS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 21 MINUTES 30 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 44.55 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST 2.69 FEET FOR THE PLACE OF BEGINNING; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 14.45 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 3.17 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.67 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 44 SECONDS WEST, 0.31 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 16.62 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.31 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 0.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 3.17 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.67 FEET; THENCE NORTH 00 DEGREES 23 MINUTES 4 SECONDS WEST, 0.31 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 16.94 FEET; THENCE NORTH 80 DEGREES 40 MINUTES 27 SECONDS EAST, 0.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 3.17 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.67 FEET; THENCE NORTH 00 DEGREES 28 MINUTES 08 SECONDS WEST,



DEGREES 40 MINUTES 27 SECONDS WEST, 10.43 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.29 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 4.00 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 0.67 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 58 SECONDS WEST, 0.29 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 14.58 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.29 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 3.17 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 33 SECONDS EAST, 1.04 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 59 SECONDS WEST, 0.04 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 0.21 FEET; THENCE NORTH 06 DEGREES 39 MINUTES 58 SECONDS WEST, 0.38 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 12.62 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 0.67 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 1.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 36.50 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 27 SECONDS EAST, 1.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 2.67 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 1.67 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 33 SECONDS WEST, 2.04 FEET; THENCE NORTH 86 DEGREES 50 MINUTES 50 SECONDS WEST, 0.17 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 27 SECONDS WEST, 20.75 FEET TO THE PLACE OF BEGINNING.

**PARCEL 4:**

PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 3 FOR SUPPORT, INGRESS AND EGRESS, AND OTHER PURPOSES AS DESCRIBED AND DEFINED IN SECTION 3 OF THE RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404085.

**PARCEL 5:**

LEASEHOLD ESTATE AS CREATED BY THE RETAIL PARKING LEASE BETWEEN CITY OF EVANSTON AND SHERMAN PLAZA PARTNERS, LLC, RECORDED DECEMBER 9, 2004 AS DOCUMENT NO. 0434404092, WHICH DEMISES AND LEASES THE FOLLOWING FOR A TERM COMMENCING ON THE COMMENCEMENT DATE AS DEFINED THEREIN AND TERMINATING UPON THE 40<sup>TH</sup> ANNIVERSARY THEREOF:

"...SUFFICIENT UNASSIGNED AND UNRESERVED AUTOMOBILE PARKING SPACES TO COMPLY WITH THE CITY OF EVANSTON'S ZONING ORDINANCE, AS THAT ORDINANCE MAY BE MODIFIED FROM TIME TO TIME, LOCATED AT THE PLANNED NEW PUBLIC PARKING GARAGE LOCATED..." ON LOT 1 IN SHERMAN PLAZA SUBDIVISION, AFORESAID.

**PINs:** 11-18-304-030-0000  
11-18-304-031-0000

**COMMONLY KNOWN AS:** 1622 SHERMAN AVENUE, EVANSTON, ILLINOIS.