

59-O-15

AN ORDINANCE

Extending the Time for the Applicant to Obtain a Building Permit to Construct the Residential Unit in the Planned Development Previously Authorized by Ordinance 39-O-08

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; 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, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, ("the Zoning Ordinance"); and

WHEREAS, on March 24, 2008, the City Council enacted Ordinance 39-O-08 by a supermajority vote (9-0), as required by Section 6-3-6-6 of the Zoning Ordinance, attached hereto as Exhibit 1 and incorporated herein by reference, which, pursuant to the provisions of the Zoning Ordinance, granted a Special Use Permit for a Planned Development (the "Planned Development") in the R1 Residential Zoning District and the

Lakeshore Historic District at 318-20 Dempster Street (the "Subject Property"), which is legally described in Exhibit 1; and

WHEREAS, the Planned Development Ordinance approved the creation and operation of a seven thousand twenty square feet (7,020 sq. ft.), three (3) unit multifamily residential Planned Development at the Subject Property (the "Project"); and

WHEREAS, by letter to the City dated April 16, 2015, the property owner for the Subject Property, Geoffrey Bushor (the "Applicant") requested an amendment to the Planned Development in order to extend the timeframes to obtain a building permit to construct the residential units and finish the last phase of the Project (the "Amendment"); and

WHEREAS, City Code Sections 6-3-5-15(A) and 6-8-1-10(A) provide for a time period for construction of one (1) year unless the City Council approves for an extended date by which to obtain a building permit in order to allow for a staged development; and

WHEREAS, the City Council previously approved three (3) extensions beyond the initial one (1) year period, the first in 2009 and subsequently in 2011 and 2013; and

WHEREAS, in order to commence construction of the residential units, the Applicant requests an amendment to the Planned Development to provide for an additional two (2) years to obtain a building permit to commence construction of the residential units in the Project, revising the date to obtain a building permit to be June 8, 2017 (the "Extension Request"); and

WHEREAS, on May 26, 2015, the Planning and Development Committee

("P&D Committee") held a meeting, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq*), during which it retained jurisdiction over the Extension Request; and

WHEREAS, during said meetings, the P&D Committee received input from the public, and carefully deliberated on the Extension Request and the Applicant was given notice of the P&D and City Council meetings; and

WHEREAS, at its meetings of May 26, 2015 and June 8, 2015, held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee's deliberations and recommendations, heard public comment, made findings and considered this Ordinance 59-O-15 and the Extension Request,

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

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance and Sections 6-3-5-15(a) and 6-11-1-10(A)(4) of the Zoning ordinance, the City Council hereby grants an amendment to the Planned Development Special Use Permit previously authorized by Ordinance 39-O-08 and subsequently amended in 2008, 2011 and 2013, respectively, to allow for a two (2) year time extension to the Applicant to obtain a building permit for the limited purpose of construction of the residential units at 318-20 Dempster Street in the Planned Development described herein.

SECTION 3: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted for the Planned Development, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use 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 operate the Planned Development authorized by the terms of this ordinance in substantial compliance with the following: the terms of this Ordinance 59-O-15; terms of Ordinance 39-O-08 and subsequently amended in 2009, 2011, and 2013, which have not been amended by this Ordinance; all applicable City Code requirements; the Applicant's testimony and representations to the P&D Committee, and the City Council; and the approved documents on file in this case.
- (b) Construction of Residential Units:** The Applicant must obtain a building permit for the construction of a three (3) unit multifamily residential Planned Development at 318-20 Dempster Street within two (2) years (September 30, 2017). The construction shall be in compliance with all applicable City Code restrictions, including but not limited to, the construction must be completed within a period of twenty-four (24) months after issuance of the building permit.
- (c) Changes in Property Use:** Any change as to the property's use in the future must be processed and approved as an additional amendment to the Planned Development.
- (d) Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, 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 proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 4: Except as otherwise provided for in this Ordinance 59-O-15, all applicable regulations of the Ordinance 39-O-08, 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 59-O-15 shall govern and control.

SECTION 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant and its agents, assigns, and successors in interest" and shall mean Geoffrey Bushor, and any and all successors, owners, and operators of the Subject Property.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 7: Except as otherwise provided for in this ordinance, all applicable regulations of 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 provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 8: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 9: 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 10: The findings and recitals herein are hereby 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 26, 2015

Approved:

Adopted: June 8, 2015

June 11, 2015

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 1
ORDINANCE 39-O-08