

**158-O-15**

**AN ORDINANCE**

**Amending the Special Use Permit for a Child Daycare Center Located at  
2812 – 2814 Central Street in the oCSC Central Street Overlay District  
and B1a Business District  
("Little Green Tree House")**

**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, 2012, as amended, ("the Zoning Ordinance"); and

**WHEREAS**, on September 15, 2015, the City enacted Ordinance 105-O-15, attached hereto as Exhibit 1 and incorporated herein by reference; and

**WHEREAS**, pursuant to the provisions of the Zoning Ordinance, Ordinance 105-O-15 granted a Special Use Permit for a Child Daycare Center on the property located at 2812 – 2814 Central Street, Evanston, Illinois (the "Subject Property"), which is legally described in Exhibit 1; and

**WHEREAS**, Section 3 of Ordinance 105-O-15 imposes specified conditions on the use of the Subject Property, including: (i) Compliance with Applicable

Requirements; (ii) Hours of Operation; (iii) Employee Parking; (iv) General Parking; (v) Signage; (vi) Parking Lease Requirements; and (vii) Recordation; and

**WHEREAS**, Kevin Gazley (“the Applicant”), owner of the Child Daycare Center on the Subject Property, requests amendments of two conditions imposed on the Special Use Permit pursuant to Sections 3-D and 3-G of Ordinance 105-O-15; and

**WHEREAS**, on November 23, 2015, 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 meeting of November 23, 2015 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:** Section 3 of Ordinance 105-O-15 is hereby amended in its entirety and revised as follows:

**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. Hours of Operation:** The Applicant shall operate the Child Daycare Center authorized by this ordinance only between the hours of 7:00 a.m. and 6:00 p.m. on any given day.
- C. Employee Parking:** Employees may not utilize on-street parking in residential neighborhoods during hours of operation. Central Street is not considered a residential street and employees shall be permitted to park anywhere along Central Street.
- D. General Parking:** Five on-street parking spaces directly in front of 2812-2814 Central Street shall be reserved as fifteen (15) minute loading/unloading zones from 7:00 a.m. through 9:00 a.m. and 4:00 p.m. and 6:00 p.m. on any given Monday through Friday for the use of all Central Street Patrons.
- E. Signage:** The Applicant shall make a one-time payment of \$150.00 towards the installation of signage in the loading/unloading zone, and an annual payment of \$1,170.00 due on or before January 31st of each year Ordinance 105-O-15 is in effect to compensate the City for lost parking revenue in the loading/unloading zone. For the first year in which the Applicant requires the utilization of the aforementioned five parking spots, Applicant agrees to pay to the City the prorated annual payment prior to the City's issuance of the Final Certificate of Occupancy.
- F. Parking Lease Requirements:** The Applicant shall enter into a private lease agreement for a minimum of eleven (11) off-site parking spaces for the sole use of its employees. Applicant shall provide the City with an initial parking report by November 15, 2016, evidencing the number of off-site parking being used by its employees. The evidence shall be in the form of an affidavit signed by the Applicant. If the Affidavit states that the off-site parking spaces are not being used by the Applicant's employees, the Director of Community Development shall eliminate the off-site parking space requirements. If the Affidavit states that a portion of the off-site parking spaces are being used by the Applicant's employees, the Director of Community Development may reduce the off-site parking space requirements accordingly.

- G. 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 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 158-O-15, all applicable regulations of Ordinance 105-O-15, 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 158-O-15 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 158-O-15 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: November 23, 2015

Approved:

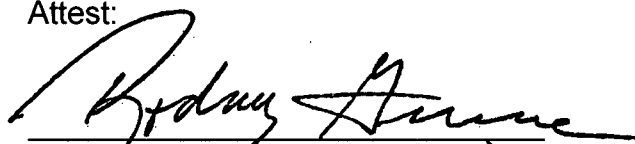
Adopted: November 23, 2015

December 2, 2015

  
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

  
Rodney Greepe, City Clerk (LB)

  
W. Grant Farrar, Corporation Counsel

**EXHIBIT 1**

**Ordinance 105-O-15**

**105-O-15**

**AN ORDINANCE**

**Granting a Special Use Permit for a Child Daycare Center Located at  
2812 – 2814 Central Street in the oCSC Central Street Overlay District  
and B1a Business District  
("Little Green Tree House")**

**WHEREAS**, the Zoning Board of Appeals ("ZBA") met on June 16, 2015, pursuant to proper notice, to consider case no. 15ZMJV-0036, an application filed by Kevin Gazley, owner of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 2812 – 2814 Central Street (the "Subject Property") and located in the oCSC Central Street Overlay District and the B1a Business 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 Child Daycare Center, "Little Green Tree House," 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 Child Daycare Center did not meet the standards for Special Uses in Section 6-3-5 of the Zoning Ordinance and recommended City Council deny the application; and

**WHEREAS**, at its meeting of August 17, 2015, the Planning and Development Committee of the City Council ("P&D Committee") received input from the public, carefully considered the ZBA's record and findings and recommended the City Council reject the ZBA's recommendation and instead approve the application in case no. 15ZMJV-0036; and

**WHEREAS**, at its meetings of August 17, 2015 and September 15, 2015, the City Council considered the ZBA's and P&D Committee's records, findings, and recommendations, and amended and adopted the recommendation of the 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 Child Daycare Center on the Subject Property as applied for in case no. 15ZMJV-0036.

**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. Hours of Operation:** The Applicant shall operate the Child Daycare Center authorized by this ordinance only between the hours of 7:00 a.m. and 6:00 p.m. on any given day.
- D. Employee Parking:** Employees may not utilize on-street parking in residential neighborhoods during hours of operation.
- E. General Parking:** Five on-street parking spaces directly in front of 2812-2814 Central Street shall be reserved as fifteen (15) minute loading/unloading zones from 7:00 a.m. through 9:00 a.m. and 4:00 p.m. and 6:00 p.m. on any given Monday through Friday for the use of all Central Street Patrons.



- F. **Signage:** The Applicant shall make a one-time payment of \$150.00 towards the installation of signage in the loading/unloading zone, and an annual payment of \$1,170.00 due on or before January 31<sup>st</sup> of each year Ordinance 105-O-15 is in effect to compensate the City for lost parking revenue in the loading/unloading zone. For the first year in which the Applicant requires the utilization of the aforementioned five parking spots, Applicant agrees to pay to the City the prorated annual payment prior to the City's issuance of the Final Certificate of Occupancy.
- G. **Parking Lease Requirements:** The Applicant shall enter into a private lease agreement for a minimum of eleven (11) off-site parking spaces for the sole use of its employees. Applicant shall provide the City with an initial parking report by November 15, 2016, evidencing the number of off-site parking being used by its employees. If the Director of Community Development determines that the eleven (11) off-site parking spaces are underutilized, the Director of Community Development may reduce or eliminate the off-site parking space requirement as required by Ordinance 105-O-15. The Applicant shall submit an annual parking report no later than November 15<sup>th</sup> of every year that this provision is in effect.
- H. **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.

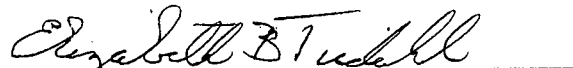
**SECTION 8:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: August 17, 2015

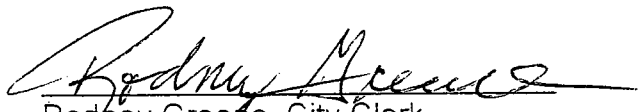
Adopted: September 15, 2015

Approved:

September 17, 2015

  
Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Approved as to form:

  
W. Grant Farrar, Corporation Counsel

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOTS 2 AND 3 IN BLOCK 4 IN E. T. PAUL'S ADDITION TO EVANSTON, A SUBDIVISION OF PART OF THE NORTHEAST FRACTIONAL  $\frac{1}{4}$  OF SECTION 11 AND THE NORTHWEST FRACTIONAL  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PINs:** 10-11-202-011-0000  
10-11-202-012-0000

**COMMONLY KNOWN AS:** 2812 – 2814 Central Street, Evanston, Illinois.