

46-O-18

AN ORDINANCE

**Granting a Special Use Permit for a Type 2 Restaurant Located at
1301 Chicago Avenue in the B1 Business District
("Frio Gelato")**

WHEREAS, the Zoning Board of Appeals ("ZBA") met on March 20, 2018, pursuant to proper notice, to consider case no. 18ZMJV-0006, an application filed by Sebastian Koziura (the "Applicant"), lessee of the property legally described in Exhibit A, attached hereto and incorporated herein by reference, commonly known as 1301 Chicago Avenue (the "Subject Property") and located in the B1 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, "Frio Gelato," 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 April 9, 2018, 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. 18ZMJV-0006; and

WHEREAS, at its meetings of April 9, 2018 and April 23, 2018, 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. 18ZMJV-0006.

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, including but not limited to: the Sustainability Practices for Type 2 Restaurants submitted on January 5, 2018.
- B. Hours of Operation:** The Applicant may operate the Type 2 Restaurant authorized by this ordinance only between the hours of 12:00 p.m. and 11:00 p.m. on any given day.
- C. Employee Parking:** Employees may not utilize street parking surrounding the Subject Property during the hours of operation.
- D. Seating:** The Applicant agrees to limit the seating within the facility to eight (8).

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: April 9, 2018

Approved:

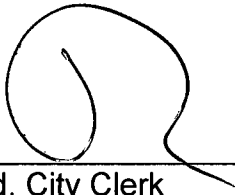
Adopted: April 23, 2018

May 11, 2018



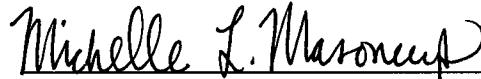
Stephen H. Hagerty, Mayor

Attest:



Devon Reid, City Clerk

Approved as to form:



Michelle L. Masoncup, Interim City
Attorney

EXHIBIT A

LEGAL DESCRIPTION

LOT 10 IN BLOCK 38 IN THE ORIGINAL VILLAGE (NOW CITY) OF EVANSTON IN SECTION 18, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 11-18-418-011-0000

COMMONLY KNOWN AS: 513-517 Dempster Street and 1301-1305 Chicago Avenue, Evanston, Illinois.