

147-O-18

AN ORDINANCE

Approving a Major Adjustment Regarding Required Parking and On-Site Affordable Housing at 1571 Maple Authorized by Ordinance 19-O-15 and Amended by Ordinance 61-O-16

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 April 13, 2015, the City Council enacted Ordinance 19-O-15, attached hereto as Exhibit 1 and incorporated herein by reference, which granted a Special Use Permit for a Planned Development (the “Planned Development”) at 1571 Maple Avenue (the “Subject Property”), which is legally described in Exhibit 1; and

WHEREAS, Ordinance 19-O-15 approved the construction of a 12-story

mixed use building with 101 residential dwelling units at the Subject Property (the "Project"), which is detailed at length in Exhibit 1; and

WHEREAS, by submitting an application to amend a planned development to the City dated September 12, 2018, the Developer and Applicant, 1571 Maple Avenue, LLC (the "Applicant") requested major adjustments to: (1) reduce the required number of leased parking spaces from one hundred (100) to fifty (50); (2) allow the City to amend the original parking lease; (3) allow the City to provide parking spaces at Sherman Plaza; and (4) seek a change to the affordable housing provisions to allow them to provide one (1) affordable housing unit at sixty percent (60%) of Area Median Income ("AMI") in lieu of two (2) affordable housing units as provided for in Ordinance 19-O-15; and

WHEREAS, in order to remain in compliance with the terms of Ordinance 19-O-15 and 61-O-16 and provide for Applicant to modify its parking requirements and on-site inclusionary housing, the Applicant requests an amendment to the Planned Development; and

WHEREAS, on October 10, 2018, the Evanston Plan Commission ("Plan Commission") held a meeting, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq*), during which it received input from the public, and carefully deliberated on the request and the Applicant was given notice and the opportunity to be heard at the Plan Commission meeting; and

WHEREAS, the Plan Commission recommended that the City council amend the planned development by allowing major adjustments to: (1) reduce the required number of leased parking spaces from one hundred one (101) to seventy (70); (2) allow the City to amend the original parking lease; (3) allow the City to provide

parking spaces at Sherman Plaza; and (4) change the affordable housing provisions to allow the Applicant to provide one (1) affordable housing unit at fifty percent (50%) of Area Median Income ("AMI") in lieu of two (2) affordable housing units as provided for in Ordinance 19-O-15; and

WHEREAS, on November 12, 2018, 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 Planned Development Amendment request; and

WHEREAS, during said meeting, the P&D Committee received input from the public, and carefully deliberated on the major adjustment request and the Applicant was given notice and the opportunity to be heard at the P&D and City Council meetings; and

WHEREAS, at its meeting of November 12, 2018 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 147-O-18,

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, the City Council hereby grants an amendment to the Special Use Permit previously authorized by Ordinance 19-O-15 and subsequently amended by Ordinance 61-O-16 to

allow for the amended parking requirements and on-site affordable housing of the Planned Development described herein.

SECTION 3: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council amends conditions (Q) and (Z) on the Special Use Permit granted for the Planned Development in Ordinance 19-O-15, as 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:

- (Q) Affordable Housing in the Development:** The Applicant shall provide one (1) one (1) bedroom on-site affordable housing to a household earning at or below sixty percent (60%) of Area Median Income (AMI). The units provided shall be equal in size to the market-rate units within the building. The period of affordability for the units shall be for ten (10) years. The Applicant must submit a compliance report by January 31st of each year to the Housing and Grants Division of the Community Development Department showing the following: (1) unit number; (2) number of bedrooms; (3) tenant name; (4) number of persons in each affordable household unit; (5) annual gross income of each household occupying each affordable housing unit; (6) date of income certification; and (7) monthly unit rent. The compliance report must also include the list of any utilities included in rent.
- (Z) Parking Lease:** The Applicant must agree and sign an amended long-term parking lease agreement with the City of Evanston to lease fifty-five (55) parking spaces based on the standard current monthly parking fee from the Maple Avenue Parking garage located at 1800 Maple Avenue. The amended lease agreement will mandate that the Applicant pay any increases in the rental rate structure through the term of the lease agreement. The long-term lease agreement shall be set for a minimum period of seven (7) years. For the lifetime of the project, the Applicant must require all Residents to disclose their vehicle ownership and conduct periodic reviews to ensure that all vehicles owned by Residents of the building are accounted for within the Maple Avenue garage. The Applicant must provide the certified vehicle ownership report to the City of Evanston annually by January 31st of each calendar year during the first seven (7) year. The City of Evanston's Department of Administrative Services will monitor the Applicant's certified vehicle ownership reports and the costs incurred by the City of Evanston for such oversight shall be paid for by Applicant's parking lease fees. If at any time during this seven (7) year period such annual vehicle ownership report indicates that the Residents of the building own more than fifty-five (55) cars and require more than fifty-five (55) parking spaces, the Applicant

agrees to amend the parking lease agreement with the City and lease the additional parking spaces necessary. The Applicant also agrees to deny apartment leases to potential Residents who own vehicles until such time as the number of vehicles owned by the Residents of the building and required to park in the Maple Avenue garage by terms of this Ordinance falls below fifty-five (55) or until the surplus parking spaces can be accommodated in the revised lease agreement with the City of Evanston.

Following the seven (7) year anniversary of the parking lease agreement date, the parking lease agreement may be amended. The number of parking spaces leased from the City may be reduced to match the highest number of vehicles owned by the Residents and required to park in the Maple Avenue garage by the terms of this Ordinance in any year during the seven (7) year period per the annual parking reports. The number of parking spaces leased by the City may not be reduced in the first seven (7) years and any reduction after the seven (7) year anniversary shall be approved by the City Council as an amendment to the parking lease agreement.

Following the expiration of the seven (7) year anniversary of the parking lease agreement, the agreement can be modified every five years thereafter but not before, to match the highest number of vehicles owned by the Residents and required to park in the Maple Avenue garage by the terms of this Ordinance during any calendar year in the preceding five (5) year term per the annual parking report. Any amendments to the number of parking spaces leased from the City of Evanston or any other amendments to the lease agreement, including term extensions, shall be approved by the City Council as an amendment to the parking lease agreement.

The Applicant must hold a valid long-term parking lease agreement with the City of Evanston for the lifetime of the project unless this condition is amended by the City Council of the City of Evanston as an amendment to the Planned Development.

SECTION 4: 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 5: Except as otherwise provided for in this Ordinance 61-O-16, all applicable regulations of the Ordinance 19-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 61-O-16 shall govern and control.

SECTION 6: 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 1571 Maple Avenue, LLC, and any and all successors, owners, and operators of the Subject Property.

SECTION 7: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 8: 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 9: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 10: 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 11: 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.

Ayes: 9

Nayes: 0

Introduced: November 12 , 2018

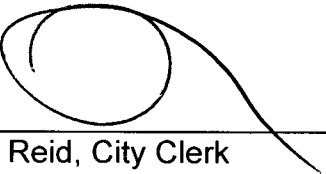
Adopted: November 12 , 2018

Approved:

 November 29 , 2018



Stephen H. Hagerty, Mayor

Attest: 

Devon Reid, City Clerk

Approved as to form:



Michelle L. Masoncup, Corporation Counsel

EXHIBIT 1

ORDINANCE 61-O-16