

3/9/2020

42-O-20

AN ORDINANCE

Extending the Time for the Applicant to Obtain a Building Permit to Construct the Planned Development at 2425 Oakton St. Previously Authorized by Ordinance 30-O-19

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 22, 2019, the City Council enacted Ordinance 30-O-19 by a supermajority vote, 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 oRD Redevelopment Overlay District

at 2425 Oakton Street (the "Subject Property"), which is legally described in Exhibit 1; and

WHEREAS, the Planned Development Ordinance approved the creation of a car wash facility with twenty (20) vacuum spaces, and four (4) additional parking spaces on the Subject Property; and

WHEREAS, on March 4, 2020, the property owner's (the Applicant) attorney, Mark Daniel, requested an amendment to the Planned Development in order to extend the timeframe for the Applicant and any successor in interest to obtain a building permit to construct the Planned Development (the "Amendment") because the application for building permit is still under review, and therefore the building permit will likely not be obtained and construction begun by the current expiration date; and

WHEREAS, City Code Section 6-3-5-15(A) provides 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, in order to commence construction of car wash facility, the Applicant requests an amendment to the Planned Development to provide for an additional one (1) year to obtain a building permit to commence construction of the car wash facility, revising the date to obtain a building permit to be April 13, 2021 (the "Extension Request"); and

WHEREAS, on April 13, 2020, 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 meeting, 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 meeting on April 13, 2020, 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 42-O-20 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 Section 6-3-5-15(A) of the Zoning ordinance, the City Council hereby grants an amendment to the Planned Development Special Use Permit previously authorized by Ordinance 30-O-19 to allow for a one (1) year time extension to the Applicant to obtain a building permit for the limited purpose of construction of a car wash facility at 2425 Oakton 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 42-O-20; terms of Ordinance 30-O-19; 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 the Car Wash Facility:** The Applicant must obtain a building permit for the construction of a car wash facility with twenty (20) vacuum spaces and four (4) additional parking spaces on the Subject Property within one (1) year (April 13, 2021). 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 42-O-20, all applicable regulations of the Ordinance 30-O-19, 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 42-O-20 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 include 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.

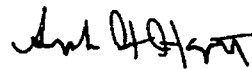
SECTION 10: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois

Introduced: April 13, 2020, 2020

Adopted: April 13, 2020, 2020

Approved:

04 / 20 / 2020, 2020



Stephen H. Hagerty, Mayor

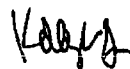
Attest:

Eduardo Gomez

~~Devon Reid, City Clerk~~

Eduardo Gomez, Deputy City Clerk

Approved as to form:



Kelley A. Gandurski
Corporation Counsel

EXHIBIT 1
ORDINANCE 30-O-19