

Editha

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: August 23, 2012

CALENDAR NO: 29,176

025022

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER GUIDRY *SGP*

AN ORDINANCE to provide for the establishment of a conditional use to permit the sale of alcoholic beverages for consumption on-premises at a standard restaurant in a B-2 Neighborhood Business District, on Square 16, Lots A and B, in the Sixth Municipal District, bounded by Camp, State, Magazine and Eleonore Streets (Municipal Addresses: 5955 and 5961 Magazine Street); and otherwise to provide with respect thereto.

WHEREAS, Zoning Docket Number 68/12 was initiated by DDR Ventures, LLC and referred to the City Planning Commission; and

WHEREAS, the City Planning Commission held a public hearing on this zoning petition and recommended approval, in its report to the City Council dated July 2, 2012, of the conditional use presented in Zoning Docket Number 68/12; and

WHEREAS, the recommendation of the City Planning Commission was upheld and the changes were deemed necessary and in the best interest of the City of New Orleans and were granted modified approval, subject to thirteen (13) provisos in Motion Number M-12-307 of the Council of the City of New Orleans on August 9, 2012.

1. ~~SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY~~
2. **ORDAINS** that a conditional use to permit the sale of alcoholic beverages for consumption
3. on-premises at a standard restaurant in a B-2 Neighborhood Business District, on Square 16,

4 Lots A and B, in the Sixth Municipal District, bounded by Camp, State, Magazine and
5 Eleonore Streets (Municipal Addresses: 5955 and 5961 Magazine Street); is hereby
6 authorized and approved, subject to the following provisos, as specifically set forth herein:

7 **PROVISOS:**

8 No person shall use any of the properties described herein or permit another to use any of those
9 properties described herein for the use authorized by this ordinance, unless the following
10 requirements are met and continue to be met:

11 1. The Department of Safety and Permits shall issue no building permits or licenses for this
12 project until final development plans are approved by the City Planning Commission and
13 recorded with the Office of Conveyances. Failure to complete the conditional use process
14 by properly recording plans within a one year time period or failure to request an
15 administrative extension as provided for in Article 16, Section 16.9.11 of the
16 Comprehensive Zoning Ordinance will void the conditional use approval.

17 2. The developer shall complete the consolidation of all lots comprising the site into one lot
18 of record prior to the issuance of a Certificate of Use and Occupancy for the conditional
19 use.

20 3. The developer shall secure a lease or grant of servitude from the Department of Property
21 Management Division of Real Estate and Records for all encroachments within the
22 public-right-of-way, prior to the finalization of the conditional use by the City Planning
23 Commission.

24 4. ~~The restaurant shall operate between the hours of 6:00 a.m. and 11:00 p.m. Sunday~~
25 ~~through Thursday and between 6:00 a.m. and 12:00 a.m. Friday and Saturday.~~

- 26 5. Alcoholic beverage service for consumption on premises shall be served only in
27 combination with food service. Food service shall comprise at least fifty percent (50%) of
28 the revenue for the restaurant and a full food menu shall be available at all times that the
29 restaurant is open.
- 30 6. The use of disposable or "go" cups shall be prohibited.
- 31 7. The developer shall indicate the location of dumpsters or trash storage containers on the
32 site plan for final approval. At no time other than during trash pick-up shall trash be
33 visible from the public right-of-way.
- 34 8. The developer shall submit a litter abatement program letter to the Department of
35 Sanitation for review and approval. The letter shall be inclusive of the stated location of
36 litter storage out of the public right-of-way, the type and quantity of trash receptacles, the
37 frequency of litter pickup, the clearing of litter from the adjacent right-of-way, and the
38 periodic hosing of the adjacent street rights-of-way, as necessary. The name and phone
39 number of the on-site manager shall be included in this letter to be kept on file in case of
40 any violation.
- 41 9. The developer shall submit a final landscaping and maintenance plan subject to the
42 review and approval of City Planning Commission staff and the Department of Parks and
43 Parkways for any planting within the public right-of-way.
- 44 10. The developer shall submit all proposed exterior signage in accordance with the
45 requirements of Article 5, Section 5.6.6 *Permitted Signs* of the Comprehensive Zoning
46 Ordinance, subject to the review and approval of the staff of the City Planning
47 Commission. In addition, the developer shall remove all existing noncompliant signage
48 from the exterior of the structure. No signage promoting alcoholic beverages or video

49 poker shall be permitted on the exterior of the building or visible from the exterior of the
50 building.

51 11. The developer shall secure approval from the Department of Public Works for the repair
52 of the sidewalks and curbs adjacent to the petitioned site.

53 12. The developer shall secure a sidewalk café franchise license from the Department of
54 Public Works for the proposed sidewalk seating.

55 13. Video poker shall not be permitted.

1 **SECTION 2.** Whoever does anything prohibited by this Ordinance or fails to do
2 anything required to be done by this Ordinance shall be guilty of a misdemeanor and upon
3 conviction shall be subject to a fine or to imprisonment or both, such fine and/or imprisonment
4 set by Section 1-13 of the 1995 Code of the City of New Orleans, or should alternatively be
5 subject to whatever civil liabilities, penalties or remedies the law may prescribe. Conviction shall
6 be cause for the immediate cancellation of the Use and Occupancy permit of the premises.

1 **SECTION 3.** This ordinance shall have the legal force and effect of authorizing this
2 conditional use only after all the provisos listed in Section 1 of this Ordinance which impose a
3 one-time obligation have been completely fulfilled and complied with, and only after all the
4 provisos listed in Section 1 which impose a continuing or on-going obligation shall have begun
5 to be fulfilled, as evidenced by the City Planning Commission's approval of a final site plan, on
6 or before one year from the date of adoption of this ordinance, (which shall be incorporated into
7 this ordinance by reference) and its subsequent recordation, and no use or occupancy certificates
8 or permits (other than the building permits needed to fulfill the provisos) shall be issued until all
9 the provisos which impose a one-time obligation have been completely fulfilled and complied
10 with, and only after all the provisos listed in Section 1 which impose a continuing or ongoing

11 obligation shall have begun to be fulfilled, as evidenced by the City Planning Commission's
12 approval of a final site plan (which shall be incorporated into this ordinance by reference) and its
13 subsequent recordation. If the development or construction of the conditional use authorized herein
14 is not commenced within one (1) year from the date this ordinance becomes law, as contemplated by
15 Section 3-113 of the Home Rule Charter of the City of New Orleans, the provisions of this Ordinance
16 shall be null, void and of no legal force and effect.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS SEP 20 2012

STACY HEAD

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON SEP 21 2012

APPROVED:

SEP 28 2012

MITCHELL J. LANDRIEU

MAYOR

RETURNED BY THE MAYOR ON SEP 28 2012 AT 4 55 PM

PEGGY LEWIS

CLERK OF COUNCIL

ROLL CALL VOTE

YEAS: Bajoie, Charbonnet, Clarkson, Gisleson Palmer, Guidry, Head, Hedge-Morrell - 7

NAYS: 0

ABSENT: 0

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THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Peggy Lewis
CLERK OF COUNCIL