

Daniel Law Office, P.C.

PROJECT NARRATIVE

Usmania Prime – Site Plan Review – Conditional Uses and Variations
855 East Roosevelt Road, Lombard, Illinois, 60148
Permanent Index Number: 06-21-100-013

INTRODUCTION

Several years ago, the undersigned made inquiry of staff concerning the availability of parcels in Lombard for a restaurant and banquet center. After obtaining their input, it became apparent that the sites in town were largely unavailable, in part due to regulations that led to synergy in areas such as Yorktown or in shopping centers with large, shared parking fields. These sites generally require heavily-capitalized national restaurant chains and the land has proven to be beyond the reach of more local businesses. After looking at several sites, Safa Property, LLC (“Applicant”) acquired 855 East Roosevelt Road¹ (the “Subject Property”).

Applicant seeks three conditional use approvals, a parking variation, a loading design variation, a lighting variation and a collection of landscape design variations. Applicant is constructing a three-story restaurant with an area for banquets to be operated by Usmania Prime. Specifically, Safa Property, LLC intends to operate a permitted use with the following elements that require a conditional uses:

1. Entertainment and dancing (see Sec. 155.417(G)(2)(a)(vii) of the Zoning Ordinance);
2. An additional five feet for building height (Section 155.417(G)(2)(c)(vii)); and
3. Seasonal non-peak hour cultural events and bazaars along the south side of the building and the rooftop area involve outdoor display, so a conditional use is necessary under Section 155.417(G)(10)(b).

116 parking spaces should be sufficient for operations at the Subject Property. Applicant’s kitchens are exceptionally large and exist on each floor of the building. The standard size of a restaurant dining area is 60% of the overall floor area, but the proposed dining area comprises only 35% of the floor area. A variation from Sections 155.417(G)(12) and 155.602(C)(Table 6.3) will avoid the hardship of being unable to design an attractive smaller building with the same

¹ Please note that the Subject Property has occasionally been known as 849 E. Roosevelt. After closing and obtaining title insurance and a past tax deed that recited 849 E. Roosevelt as the address of the Subject Property and proceeding with portions of the entitlement process (preliminary meetings and EcoCAT), Applicant and the Village determined the application should proceed under the Village-assigned GIS address of 855 E. Roosevelt Road rather than the title policy address of 849 E. Roosevelt Road. The County GIS places 855 East Roosevelt Road slightly east of the Subject Property. The Subject Property, under either address used in this process, is the vacant land west of PepBoys and east of Los Burritos Tapatios.

dining area and do so without the cost and burdens of excessive parking while also recognizing the special management areas on site that present hardship.

The remaining variations relate primarily to design. Applicant tucks a voluntary loading zone on the east side of the building but does not need to forfeit three parking spaces due to the design requirements (Sec. 155.603(A)) for an infrequently-used area. Lighting variations relate to the access easement area and evening uplighting of trees. (Secs. 155.417(G)(14) and 155.602(A)(10)(d)) Applicant seeks a variation from planting area requirements to allow pads for two rickshaws on the approach to the west side of the building. (Sec. 155.706(B)(2)(c)) Applicant is not planting or sodding the special management area which will largely remain in its natural condition, including within the 30-foot transition yard. (Sec. 155.707(B)(4)(d)) Applicant plans for five foot or larger landscaping areas along the foundation and east loading area wall, but asks the Village to approve an attractive plan for foundation landscaping with less depth and no such landscaping on the south side of the building. (Sec. 155.708) Although the Landscape Plan meets nearly every regulation, Applicant seeks general variations from the detailed requirements of Article XI because there are elements of interpretation, staff discretion and authority and a concern that the code was not written for a lot with significant planning challenges such as the Subject Property. (Secs. 155.701 through 155.710)

Approval of the above relief, as well as the site plan and landscaping plan (Sections 155.103(I) and 155.702) will allow a highly productive use of a difficult site that happens to be the last unplanned site along the B4A Roosevelt Road corridor.

About Usmania Prime

Usmania Prime is owned and operated by the same family that operates Usmania on Devon Avenue in Chicago. Prime intends to operate a destination dining and banquet location serving authentic South Asian cuisine. Its menu includes traditional Pakistani-Indian cuisine with authentic traditional flavors in an atmosphere that offers an excellent dining and cultural experience. An extended menu provides a variety of food ranging from traditional, barbeque, fast-food and kid-friendly items. Food items are prepared with top-quality ingredients and Zabiha Halal meat. The dining experience, as well as some banquets, will include musical and dance entertainment, dancing, cultural events and cultural bazaars. Menu items are also available for local catering as well as out-of-state catering options for Usmania's most loyal customers.

The restaurant will be open from noon until midnight most days. There is no alcohol served. While not a driving force behind all of the zoning decisions at issue, the restaurant should have first full year sales of \$3,000,000. Similar banquet sales should be approximately \$1,000,000.00 and catering should bring in \$500,000.00. Year-to-year growth should be 8-11% for a substantial period after the first year. Local revenues from the project will be substantial and the effort falls squarely in line with the intent of the Comprehensive Plan and the general and district regulations in the Zoning Ordinance. Additionally, Usmania Prime and the development of this site add new construction and new cultural opportunity to Lombard and contributes to the

depth of experience residents and guests alike can enjoy while in the Village. The zoning requests related to the project largely improve the experience at the site and the ability of the development and operations to properly blend within the area.

Site Planning and Operations

The building will contain three floors and a cellar (below grade) where storage and large refrigeration occurs. The ground floor entry opens to the host table and main dining room as well as a large staircase with access to the banquet area and indoor and outdoor rooftop dining area. The first-floor dining area offers 1,900 square feet and up to 112 seats, served by a 1,053 square foot kitchen. A feature staircase, emergency stairs, an elevator and a service elevator connect the two floors and rooftop. The second floor features a banquet area with 2,115 square feet and up to 180 seats as well as a 625 square foot kitchen. The third floor features the smallest dining area (1,600 square feet, 58 seats) and kitchen (876 square feet) as well as a 770 square foot rooftop dining area with seating for 14.

The rule of thumb for restaurant planning is that the operator would have a minimum of 60% of the gross floor area reserved for dining. In this instance, Applicant plans 45% of the above ground floor area for dining (including the cellar, 35%). The basis for determining the size of the dining area arose from three circumstances. First, the dining rooms needed to be sized to be operationally independent, yet still function together. Second, Applicant required more and larger kitchens than would normally be used. Third, Applicant understood that parking could be restricted by the westerly special management area. As a result, Applicant necessarily planned to physically limit the intensity of use of the Subject Property by controlling dining area size. In any event, the building is proposed for what is practically the smallest building pad.

The full access driveway is located at the west access for the PepBoys cross-access drive as Lombard has intended for decades. Placement of the building along the east property line allows for a sufficient throat at the driveway and parking on each side of the access drive as it winds east towards PepBoys. The development respects the large special management area, but Applicant may need to obtain reasonable relief in handling site development at the east perimeter of the flood way, floodplain and wetland area.

The waste enclosure and loading area are tucked behind a wall east of the building in order to avoid placement closer to the neighbors to the south. Loading will occur into the rear of the kitchen along the east wall to the service elevator then to the cellar. Loading occurs during non-peak hours, typically before the restaurant opens. Waste operations will typically occur in the early morning, again before the restaurant opens. The design of the loading and waste enclosure area benefits the area, but a distinct loading zone is not required. Due to its limited use, Applicant intends to place three employee parking spaces at the head of the loading area.

Due to the special management area, the parking fields will have no impact on residential uses to the south. The nearest paved area is more than 37 feet north of the residential boundary.

The spaces are aligned towards the adjacent retail and automotive use. The south end of the drive aisle includes substantial landscaping in an area where the growth from the wetland area was insufficient to serve as a screen for the unincorporated residential area to the south.

The photometric plan reflects that lighting will comply with Lombard requirements. The only concerns arise in relation to (a) lighting for the access aisle near the lot east line north of the building and (b) lighting that will highlight trees and the rickshaws on the west side of the building. Lighting of the cross access may exceed allowable intensity and require lighting that is cast in the direction of the access aisle where it crosses the lot line. North of a line that is 100 feet from the residential boundary, Applicant intends to upright the rickshaw in each of the two islands west of the main entrance and to use lighting to highlight trees.

Landscaping planning and site planning for natural areas is complex. The project involves the construction of a retaining wall along the planned east line of the wetland and floodplain area and preservation of the natural wetland area west and southwest of this retaining wall. The density of trees and undergrowth in the wetland and floodplain offer a complete screen even during winter months. There is no intended adjustment to the creek or any other element of the wetland and floodplain area that will have an impact on the public or private properties to the south of the Subject Property.

A system of permeable pavers and underground oversized pipes will contribute to the required retention volume and the development will comply with post-construction best management practices. Following a pre-application meeting with Village and DuPage County staff concerning site planning and compliance with the DuPage County Countywide Stormwater and Floodplain Ordinance, Applicant eliminated southwesterly rows of parking containing 15-20 spaces. Applicant's civil engineering and landscape design team believes adjustments to the plan over the past month merit support from the Village and County regulatory officials.

About the Subject Property

The Subject Property has never been developed. Located in Lombard's B4A Roosevelt Road Corridor District, the Subject Property is comprised of 2.45 acres. The Subject Property includes Sugar Creek which developed following decades of farming and a subsequent lack of maintenance and repair of tiles. With development in the surrounding area, the creek formed in the 1960's and 1970's and was redirected during the construction of Illinois Route 38. Sugar Creek flowed into and through the residential development to the south, but between 1987 and 1993 conditions changed and a pond took hold south of the Subject Property. Sugar Creek, the related wetland, floodway and flood plain impact roughly 1.2 acres (half of the Subject Property). The impacted 1.2-acre area has hundreds of trees and substantial undergrowth, most of which will not be disturbed during development. (Applicant considered spot landscaping work to improve screening between July 2021 and early February 2022, but the impacted area offers a dense screen all year and most of the parking is 100 feet north of the south lot line (all of it is 40 feet north of the south lot line)).

The Subject Property was part of the Christofaro & Difebo Subdivision, the plat of which was recorded as R1997-052817. The plat includes a platted access route between the existing PepBoys driveway and the planned driveway for the project. Applicant is not changing the location of the access easement. There is no known easement for shared or cooperative parking. There is a platted 60-foot building setback line. The public sidewalk along the south line of Roosevelt Road at the west edge of the Subject Property extends east across the Subject Property and PepBoys, transitioning into a public sidewalk easement just west of the proposed driveway. In addition to ordinary easements, a clear sight easement applies on each side of the planned driveway. (Applicant believes its planning exceeds the demands of the clear sight easement).

The Subject Property is nearly 1,000 feet west of Westmore-Meyers Avenue and 500 feet east of a stoplight just west of Century Tile to the west. The state jurisdiction highway offers two through lanes at a 35 m.p.h. speed limit and a central left turn lane the turns into an exclusively left turn lane midway across the Subject Property. The driveway serving the Subject Property will oppose the driveway planned for the self-storage use to the north.

Surrounding Zoning and Land Use

The Subject Property is in Lombard's B4A Roosevelt Road Corridor zoning district. With few exceptions, the B4A district stretches along both sides of Roosevelt Road/Illinois Route 38 from east to its west. Throughout the zoning district, lots vary substantially in shape, dimension and depth and, thus, in capacity for development. The Subject Property abuts B4A zoning and use to its north, east and west (with the exception of a 68-foot southerly portion of the west lot line). South of the Subject Property lies a 100-acre unincorporated R-3 detached single family residential zoning district.

The closest incorporated residential area is the R1 zoning district north of the several lots on the north frontage of Roosevelt Road. Far to the northwest is one of the Village's R2 zoning districts. The Village's R0 zoning classification applies to properties well east of the Subject Property along the west side of School Street past the former Township Highway Department garage. East of this R0 district lies a collection of unincorporated parcels that have occasionally been the subject of expressed interests in annexation and redevelopment.

Ordinances Nos. 3961, 4120, 4185, and 4233 approved a conditional use for PepBoys (851 E. Roosevelt), an automobile service facility accessory to retail sales of automobile parts and accessories. Within the same subdivision approved in 1997, the eastern lot was substantially more capable of hosting a substantial commercial use. PepBoys shares an access aisle, so it is worth noting that the peak hours for trip generation are substantially different for PepBoys (daytime) than the Subject Property (evenings, 7:00 PM or later). The customer entrance to PepBoys is situated on the north elevation while the east elevation contains 11 service garages. A loading zone occupies a lane south of the PepBoys building and there is no access along the east

wall of PepBoys. There is no practical potential of additional interconnection with the Subject Property unless PepBoys redevelops.

North of the Subject Property lies another vacant tract (880 E. Roosevelt), but that parcel is the subject of recent entitlements for Beyond Storage. The driveway entrance for Beyond Storage is roughly 70 feet west of the long-planned driveway at the Subject Property. Beyond Storage contemplates partial filling of the Sugar Creek drainage way, but the project should not increase the volume or rate or change the direction of flow into the Subject Property as a matter of law or as a function of the IDOT improvements lying between the two parcels. The peak hours of the three-story Beyond Storage facility precede those that will prevail for Usmania Prime.

Applicant has a good relationship with the owner of the parcel west of the Subject Property (801-849 E. Roosevelt). This shopping center has generally sufficient parking on the Roosevelt Road side of the stores, but it has an abundance of underutilized rear parking (the site is actually substantially overparked). Applicant has addressed Usmania Prime with this owner, and the owner has indicated a willingness to allow parking for Usmania Prime. The arrangement should not be required as a function of zoning and such an arrangement would likely be the subject of a Village special event permit. To the west of the adjacent shopping center is the 1.1-acre Century Tile site (747 E. Roosevelt, which faces access, parking and wetland challenges and may eventually depend on the adjacent center for its redevelopment).

Smaller commercial establishments line the north and south Roosevelt Road frontages east of the Subject Property to Westmore-Meyers Avenue. Northwest of the Subject Property there is a mix of fast food restaurant, retail, auto service, fitness and recreation, office and brewery use. West along Roosevelt Road, there are small and large commercial developments. Most recent development and redevelopment has occurred well west of the Subject Property.

The few homes that are near the Subject Property are more than 320 feet from the proposed building. A billboard and small strip center (tobacco, beauty, small grocer and fast carry-out) lie between the Subject Property and the closest residence to the north (1156 S. Ahrens). The unincorporated DuPage County territory south of the Subject Property was mostly developed by the mid-1970's. Homes in the area continue to be well-maintained for single-family residential use. Sugar Creek flows across the Subject Property into a pond that is part of a 3.11 acre open space called Co-op Community Park and operated by the York Center Park District. The north extension of Co-op Community Park splits two large single family residential uses that have existed since 1931 (18W780 13th, west) and at least 1956 (east, 18W740 13th). The east tract includes a large tax parcel that remains vacant and faces development challenges due to its elevation and the pond and regulatory wetland primarily located in Co-op Community Park. Further to the west, 1S051 Chase (a 1917 residence) shares a part of the Subject Property's west lot line. None of the residential areas face a risk of cut-through traffic due to the nearby road planning and as a result of the project's lack of connection with areas to the south.

Notably, throughout the Village, it is apparent that large restaurants generally do not occupy individual zoning lots that are not planned in conjunction with other properties. Falak Restaurant and Banquets operates at 233 East Roosevelt Road. Otherwise, there are few if any other large standalone restaurants. Studies of the several restaurant locations that exist in the area indicate that the Zoning Ordinance requires more parking spaces than are reasonably necessary for the use and more parking spaces than are reasonable available to the use. At the west end of the B4A Roosevelt Road Corridor district, Falak (formerly Viceroy) operates with 130 parking spaces. Applicant has no means through which to compare the balance between dining area and kitchen area or the balance between banquet and dining operations, but it presents the dining operations at the Subject Property as restaurant operations as directed by the definitions of use in the Zoning Ordinance (a banquet use is only such a use if it is purely banquet use).

APPLICANT'S REQUESTS MERIT APPROVAL

Section 155.417(G)(1)(a)(xl) identifies restaurants as a permitted use, but it is the character of this restaurant and the planning for its development that merit conditional use approval, approval of variations and site plan approval. Applicant addresses the merits of each type of request below.

The Conditional Use for Entertainment and Dancing Warrants Approval

Section 155.417(G)(2)(a)(vii) authorizes a conditional use permit for “Restaurants, including entertainment, dancing, and/or amusement devices when conducted as part of the restaurant operations and secondary to the principal use.” Applicant proposes a restaurant with entertainment and dancing. Notably, no liquor license is necessary for the use and the service of alcoholic beverages would require an amendment of the conditional use permit. Applicant seeks authorization for live music, broadcast music, dancing of patrons, and performance dancing. All entertainment and dance activities have a cultural or an event element to them. The entertainment and dance activities are customarily associated with banquet-style events. The entertainment and dance activities could also occur in either indoor dining room. They will not occur outdoors except in the event the Village issues a special event permit.

The conditional use for entertainment and dancing meets the standards of Section 155.103(F) of the Zoning Ordinance. The entertainment and dancing will occur indoors, will be of a style that is traditional for a restaurant and banquet operation and is fully respectful of all Village ordinances. Alcohol is not served as part of operations at the Subject Property and this often eliminates or substantially diminishes concerns over ill effects from dancing or live/broadcast music. It will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare. The dancing and entertainment will not be visible or audible outside the building, so it should have no impact on uses already permitted and will not substantially diminish and impair property values nearby. Dancing and live entertainment on the interior of the restaurant will not obstruct or prevent the maintenance, repair or improvement of properties in the area for uses that are authorized within the B4A or any other zoning district.

Although Applicant must address connections that have been removed over the years of inactivity at the Subject Property, there are adequate public utilities, access roads, drainage and other facilities available to serve the development. Applicant is pursuing the long-planned ingress and egress that has been platted so as to minimize traffic congestion in the public streets. The dancing and entertainment is a part of the development of a restaurant that offers real estate tax and high sales tax expectancy (one of the objectives of planning in and along the B4A Roosevelt Road Corridor). Preserving natural areas (even ones of debatable benefit) and adding to the cultural depth of experience available in the Village are two elements of this project that are consistent with the Comprehensive Plan. For a project of this value and with environmental pressures, there are relatively very few variations necessary to the development. Applicant is willing to stand behind its work, including reasonable conditions and restrictions deemed necessary for the protection of the public interest.

The Conditional Use for an Additional Five Feet of Building Height Merits Approval

The ordinary maximum height for a building in the B4A district is 40 feet, but Section 155.417(G)(6) authorizes a conditional use permit to allow a building with a height of 45 feet. The Zoning Ordinance defines building height as follows:

Building height is the vertical distance measured from the reference level (curb level, or its equivalent, or the average elevation of the finished lot grade in front of the building) to the highest point of the roof surface of a flat roof; to the deck of a mansard roof; and to the mean height level between eaves and ridge of gable, hip, pitch and gambrel roofs.

The top of roof elevation depicted in the roof plans is 41 feet. The elevation of the third floor is 31 feet. Applicant wished to maintain roughly the same height on the third floor as was planned for the ground floor and the second floor. The third floor could not operate with a nine foot height and the ten feet reflected in the plans is still meaningfully less than desired for the style of dining experience Applicant and Usmania Prime intend to provide. Applicants' plans and elevations reflect a top of roof elevation of 41 feet and a top of parapet or screening for rooftop mechanical units of 45 feet. The four foot difference is excluded from height, but it is the Applicant's intent to obtain permission for a top of roof at an elevation of 45 feet so that the ground floor can have a height of 16 feet, the second floor can have a height of 15 feet and the upper floor can have a height of 14 feet. The plans provided with the application depict a compliant building, but also reflect that the additional five feet would allow the dining areas to appear (externally and internally) as less compact.

The conditional use for a building with a maximum top of roof of 45 feet and a maximum overall height of 49 feet meets the standards of Section 155.103(F) of the Zoning Ordinance. Applicant will not recite circumstances and conclusions already noted, but the following relate directly to the proposed height:

1. Allowing a roof height of 45 feet substantially improves the dining experience and allows a positively visible enhancement along the Roosevelt Road corridor that will also include a three-story self-storage facility to the north and includes the large 22-foot PepBoys (and both projects are designed with less building articulation);
2. The building is in excess of the length of a football field from homes to the south and the maximum overall height of 49 feet will be visible only to the extent of two additional degrees along the horizon as viewed from the home with the greatest likelihood of seeing PepBoys and the proposed building from the southeast; and
3. Homes to the south and west are south of a substantial floodway with trees and understory dense enough to offer a complete screen even in winter months.

The additional height does not allow an extra floor; rather it allows a better design and, consequently, a better experience. The additional five feet in roof height will not stand out since the building design collectively serves a three-floor building that rises modestly above PepBoys. The articulation of all sides of the building continues to the roofline, so the height will not be noticeable. The additional height does nothing to cause development or re-development concerns on the PepBoys parcel inasmuch as the building is planned further from the shared lot line than required. The building is also further from Roosevelt Road and in line with PepBoys, so the additional five feet does not impose a visual obstruction into the view scape along the corridor.

The Conditional Use for Outdoor Operations (Roof and Seasonal Bazaar) Merits Approval

Section 155.417(G)(2)(a)(v) authorizes a conditional use permit for “Outside display and sales of products the sale of which is a permitted or conditional use in this district.” Technically the outside display and sale occurs in the 770 square foot rooftop patio. In addition, Applicant intends to host occasional outdoor cultural activities and bazaars between May 1 and September 30. These activities and bazaars will occur in the eight (8) parking spaces situated along the south side of the building. The activities would not occur outside the hours between noon and 7:00 PM.

The conditional use for outside display and sale of products in the rooftop patio and in the eight parking spaces adjacent to the south wall of the building meets the standards of Section 155.103(F) of the Zoning Ordinance. In addition to what is noted above, the use of the outdoor area will not lead to impacts on nearby properties due to its limited size (770 square feet) and seating (14 seats). There may be ambient music broadcast into the area, but a condition requiring relocation of speakers below the parapet would suffice if there is any sound from such speakers audible at ground level (there should not be any audible noise below or across areas around the building). The outdoor service of food and beverages is something that all of us have grown to appreciate over the past two years, but even prior to the pandemic, such operations in a

commercial area were viewed as favorable improvements that did not alter the character of the area or cause an undue diminution in land values or the use and enjoyment of land.

Applicant can work with the Village to obtain special event permits to support a cultural bazaar, but it preferred to address this during the zoning process since the cultural bazaar implicated eight (8) parking spaces directly south of the building. Any special event involving artifacts, socializing, learning and even the display or sale of clothes and jewelry would occur in this parking spaces and be a small undertaking in roughly 1,000 square feet (an area large enough to allow a modest cultural activity, but too small for something that could annoy a neighbor or obstruct parking and drive aisle use). Applicant would not use amplified sound in relation to the outdoor events. The events would be open to the public and controlled by Applicant (i.e. not part of a banquet activity). Temporary structures such as sunscreens or tents or freestanding awnings would be subject to and comply with Village ordinances.

The Variations Sought Align with the Intent of the Zoning Ordinance

None of the variations are prohibited under Section 155.103(C)(8). Portions of the relief requested are within the scope of authority reposed in staff, but Applicant raises them in the context of variations in order to allow for full site plan review. Lombard is a home rule municipality, but the handling of the constitutional relief valve known as a zoning variation is governed by the same rule as all municipal variances: consider particular hardship and practical difficulty. While the Zoning Ordinance mentions only particular hardship (and the discussion below proceeds as guided by the code), Applicant notes practical difficulty as well.

Applicant Meets Lombard's Standards for the Requested Parking Variation

Applicant seeks a variation to allow it to operate a restaurant and banquet facility with not more than 6,500 square feet of dining room area to be served by 116 parking spaces, three of which would be designated as employee parking spaces. The first and third floor account for 3,270 square feet of dining room area while the second floor offers 2,115 square feet of dining room area. Total seating, with 180 persons on the second floor in a large table setting, would be 348 persons which aligns with a common 3:1 diner to parking ratios and exceeds parking required under a frequent 4:1 diner to parking ratio.

Lombard's code relies on several established assumptions about restaurant design, including the traditional industry planning of 60% of a restaurant building's floor area for dining when the design of this building. The proposed building contemplates 35% of the gross floor area for dining room use (45% if one excludes the cellar from the calculation). The roughly 18,000 square foot building (gross, including cellar) would normally offer nearly 10,800 square feet of dining area. The building proposed for the Subject Property has 6,385 square feet, which is 40% shy of the industry standard. As shown in the Comparative Parking Table, the ratios per square foot generally contemplate that the restaurant has a bar or lounge, but Applicant does not propose a bar or lounge.

For buildings under 7,000 square feet, Lombard requires 16 parking spaces per 1,000 square feet of gross floor area, excluding cellars, storage not in the main dining or retail area, stairs, and mechanical equipment. However, for larger buildings, the ratio increases to an amount equal to the greater of (a) 18.5 spaces per 1,000 square feet of gross floor area or (b) an equation which in this instance would require 26 parking spaces per 1,000 square feet using the whole area of the floors above grade. With few exceptions, these figures are excessive (see Comparative Parking Table). In relatively recent years, zoning authorities have recognized that there is often too much parking and have begun to adjust their practices by amending to either the ratio or the relevant area definition, pursuing more flexible parking design approaches, allowing buildings in parking fields and approving variations or other adjustments.

The Village's current regulatory scheme imposes additional requirements on restaurant owners that often serve as a disincentive to local or regional business and drive the market to large chains or affiliated operations that can locate at Yorktown where stand alone restaurants are more common (but still require variations or assessment in the context of shared or cooperative parking fields). Indeed, there are few large Lombard restaurants that stand on their own. Exceptions to this arise in fast food and in large restaurants that either obtained zoning relief or operate as nonconforming uses or on nonconforming lots. However, the current regulations remain law and Applicant asks the Village to vary them to allow Usmania Prime.

Applicant's 1.2-acre special management area on the Subject Property is an underlying issue in all of the requests for variation. In fact, only 3% of the Subject Property is at the same elevation as the improved area on the PepBoys parcel to the east. The topographical and wetland issue turns a standard square parcel into one that is shaped more like a flag lot. Additionally, the transitional yard requirement eliminates another ten parking spaces. The transitional yard is generally applicable in the district, but not common across the majority of lots. Again, the large capitalized retail projects met this requirement with no parking pressure. Applicant hoped to have an additional two rows of parking extending southwesterly from the easternmost bays, leading to 131 parking spaces, but this plan was viewed as too aggressive by DuPage County staff.

The special management area and transitional buffer (in practice) are not generally common to other property in the B4A zoning classification. One of the reasons the Subject Property remains to be planned for development relates to the ratio of building area to property area and the cost per square foot to acquire and develop the land. The low ratio of building to property area and the high cost per building square foot is not common in the B4A district, and these factors both have direct correlation to the special management area.

The parking variation is not based primarily upon a desire to increase financial gain. The primary purpose of the variation is to allow recognition of the operational planning for the use and of the design of the building as a factor in planning for parking amid the site concern with the special management area. The natural planning of a building that rises higher than others to

achieve an attractive design happens to have occurred on the Beyond Storage (Public Storage) land opposite the Subject Property. A secondary purpose relates to avoiding overparking in an area where impervious surface is limited and comes at a cost to the environment—even though Sugar Creek is more man-made than natural.

The difficulty and hardship arise from the circumstance that the Subject Property was largely tillable farmland in the 1950's and, at least two decades ago, it eventually came to host a creek, wetland and floodway. Applicant's interest in the Subject Property arose in 2021. Further, Applicant's proposed restaurant is within a category of permitted uses lining Roosevelt Road in the B4A district. The proposal for a restaurant is not unique to planning and such use is common to planning at each retail center along Roosevelt Road. It is the planning for a common use that becomes a hardship of this location compared to others.

The granting of the parking variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. The parking lot offers two routes for ingress and egress as a result of planning for the cross-access route in 1996 and 1997. Further, as shown in the Comparative Use Table, the proposed parking would be viewed favorably in Burr Ridge, Elmhurst, Hinsdale, Lisle, Oak Brook, Oak Park, Schaumburg, Villa Park, Westmont, and Woodridge. In Wheaton, the City Council has the option to approve less the ordained 131 parking spaces for this project and do so without a variation. Oakbrook Terrace has customarily adopted a narrow interpretation of what areas fit within the definition of gross floor area to require less parking than noted in the table. A number of communities allow for 10% to 25% administrative reductions that would also place the project within the range of approval in Bensenville, Carol Stream, Glendale Heights, Naperville, West Chicago and Wheaton as of right.

In addressing actual use, Applicant notes that restaurants that stand on their own without shared parking have a parking ratio that is more similar to that proposed by Applicant. With no exclusions, Applicant's 116 parking spaces serving roughly 13,000 square feet amounts to 8.9 parking spaces per 1,000 gross square feet. This ratio is higher than what prevailed at the venerable Costa's restaurant in Oakbrook Terrace during its run. The rate is similar to that of Giordano's and Gulliver's in Oakbrook Terrace. Additionally, the rate is only slightly below Benihana (Downers Grove) and Viceroy (Lombard). Information for Ki's Steakhouse is provided, but Ki's is a true outlier in its use of a distinct zoning lot that customers do not often rely on and because the distinct lot actually hosts vehicle storage. The proposed parking ratio is also similar to the ratio of spaces identified within +/-200 feet from Greek Islands (22nd Street). A review of the various restaurant uses in the table indicates that the restaurants in larger shared parking fields all generally offer a higher ratio and that these locations are primarily occupied by large chain users. Please note that this was a rough gross floor area comparison using GIS footprint measurements and second floor areas only where they were known to exist (Costa's and Giordano's). The analysis also disregards cellars and basements. Lastly, none of the restaurants are known to have as much non-dining area on a square foot basis or a percentage basis as proposed by Applicant.

The granting of the parking variation will not alter the essential character of the neighborhood. As noted above, the parking ratio of 8.9 spaces per 1,000 gross square feet is similar to what many municipalities legislate or otherwise allow. The Subject Property has not previously contributed anything to neighborhood character and there is plenty of restaurant use along the B4A corridor.

The proposed parking variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. The project will meet DuPage County stormwater and floodplain standards as administered by the County with only slight relief, if any, needed; however, the variation promotes County stormwater interests by avoiding excessive off-street parking where it is not needed. The reduction will have no impact on fire or flooding danger or public safety. The Subject Property will benefit from the same shared access as planned and have no adverse effect on planned traffic volumes along Roosevelt Road. The ratio of parking to floor area is consistent with what has been allowed in the same district and in other similar districts. In light of the circumstance that the parking peaks are noticeably different from those for PepBoys (the only business with shared access—not parking), the access drive will remain reasonably available to PepBoys invitees and nothing in the parking variation will lead to an undue burden on the access easement.

Applicant Meets Lombards Standards in Relation to the Loading Design Variation

Applicant desires a loading area at the location proposed even though one is not required and Applicant can load from inside a drive aisle. Due to the particular physical surroundings of the Subject Property, the shape of the developable portion of the Subject Property and the topographical conditions of the west 1.2 acres of the Subject Property, the waste enclosure naturally gets pressured to the southeast corner. Additionally, loading gets pressured east and then south of the building. For the benefit of the neighbors, Applicant wishes to enclose the loading area with a wall that blends with the building and encloses an area adjacent to the east side of the building. The particular hardship that arises to the owner from having an enclosed voluntary loading zone that moves the waste operation well north of the transition to residential use and avoids a view to loading from the southerly neighbor relates to the loss of parking and the area for turning that is required for an infrequently used loading area. The loss of three or more parking spaces is not mere inconvenience.

Applicant is dealing with Sugar Creek, a large wetland and a floodway in all of its planning. Applicant could plan to load from drive aisles or parking spaces because no loading zone is required. However, rather than load along the south elevation and rather than placing the waste enclosure at the south end of the east drive aisle, Applicant plans to load and manage waste disposal directly east of the building. This isolates the operations from the three residential

properties to the south and also avoids noise which can carry through the heavily wooded area even if it is an excellent visual screen. These circumstances are unique and not based primarily on profit. Applicant had no role in the evolution of Sugar Creek and the construction and maintenance of the single-family homes it wishes to protect with the chosen location for the voluntary loading area. The loading design variation will allow a truck or garbage truck to properly maneuver while keeping the operations distanced from homes nearby. The plan is beneficial to the public welfare and not injurious to other property or improvements in the neighborhood. The variation will not be noticed. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. Applicant notes that fire safety review should ultimately show that emergency services have sufficient access for response actions.

Applicant Meets Lombards Standards in Relation to the Lighting Variation

The topographical condition of the Subject Property presents a particular hardship to the owner inasmuch as there is a large wetland, floodway and flood plain that is naturally overgrown with large trees and underbrush on 1.2 acres of the Subject Property and Applicant needs a means to properly distinguish its planned landscaping from the natural area. For the style and quality of restaurant, the hardship is not mere inconvenience in planning to highlight landscaping in the evenings because the uplighting of trees in the parking lot not less than 100 feet from the south lot line allows Applicant to draw attention to the improved portion of the property. Uplighting also allows the illumination of the rickshaws approaching the west elevation of the building. Being forced to illuminate the decorative rickshaws from above exceeds mere inconvenience because safety is involved and the purpose of the rickshaws is to tastefully highlight a cultural artifact but being required to do so from above obstructs the view to the building and leaves much of the artifact in a shadow or darkness. In addition, the shape and surroundings of the Subject Property include the access easement to which the lighting will be directed for the purposes of safety (this is an adjustment that staff can determine).

The conditions are unique to the Subject Property inasmuch as no other commercial parcel to which the public is invited has become so impacted by the man-made circumstances that led to the creation of Sugar Creek over the years. Sugar Creek extends over another large parcel in the zoning district, but the parcel has been approved for self-storage with a partial filling of Sugar Creek by Public Storage. Additionally, the lot line and access easement configuration are unique since similar shared access aisles do not similarly serve adjoining or nearby large parcel uses or large restaurant and banquet operations (including in the B4A zoning district).

The purpose of the variation is not based primarily upon a desire to increase financial gain. The highlighting the trees and the rickshaws in a fashion that uses light directed from below ties to the enhancement of the cultural experience at the Subject Property. The plan to

accentuate trees in the evenings relates drawing attention to the improvements made rather than allowing them to blend with background or the trees and understory in the wetland.

Neither Applicant nor anyone known by Applicant to be in prior title caused the alleged difficulty or hardship (the special management areas) to come into existence. The use of artifacts as entry items that highlight an element of a dining experience is common in the restaurant field. The variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood since the lighting of the trees and the rickshaws is located 100 feet or more from the rear of residential properties and only on the interior of the Subject Property, east of the wetland. The lighting of the access drive arose independent of Applicant during the 1990's development approvals and as a result of local prerogatives pursuing the objective of shared access along routes controlled by the Illinois Department of Transportation.

The granting of the variation will not alter the essential character of the neighborhood. There is no change in the area as a result of the lighting variation. The lighting variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood. The lighting of the access, the trees and the rickshaws has no effect beyond the immediate location of the lighting.

Applicant Meets Lombards Standards in Relation to the Landscaping Variations

Applicant's principal landscaping relief arises in relation to foundation landscaping. Applicant is preserving the creek, wetland and floodway area and providing all necessary parking lot and transitional screening. Relief from the landscape regulations in Article XI is often something staff is able to determine; the foundation landscaping can be waived by the Director of Community Development. (Sec. 155.708(A)) In this instance, Applicant requires continuous sidewalk access around the perimeter of the building for the two main entrances and the emergency exits. Applicant has more than made up for the lack of foundation landscaping by preserving 1.2 acres of natural area and with cultural amenities at the west elevation.

Hardship again arises from the existence of Sugar Creek and the wetland and floodway. If Applicant were to include ten feet of foundation landscaping on the north and west elevations and any foundation landscaping on the south side of the building, Applicant would be compelled to shift improvements east and south further into the special management area. At this time, Applicant, Lombard staff and DuPage County staff understand that planning as much as possible to avoid impact on the natural amenity is an important part of the project and foundation landscaping is lower on the list of priorities when compared to protection of a natural area that has relatedness to natural areas north of and well to the south of the Subject Property.

As noted elsewhere in this narrative, the conditions upon which an application for a variation is based are unique to the Subject Property and not generally applicable to other property within the same zoning classification (including the much larger parcel over which Sugar Creek's directional flow changed over the decades that Sugar Creek came to exist on the Subject Property). The foundation landscaping adjustment is not based primarily upon a desire to increase financial gain inasmuch as Applicant has done more elsewhere than needed to meet the Zoning Ordinance. Applicant and its predecessors had no role in the course of Sugar Creek and the resulting wetland and floodway. The landscape variation(s) related to foundation landscaping and any other landscaping will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located since there is a more than sufficient landscape screen around the Subject Property, including around the parking lot and in and on the perimeter of the special management area. Most operations in the B4A district, particularly in this area, lack a ten-foot foundation landscaping strip and a five-foot strip as well as the omission of the strip by emergency egress doors will cause no change to the essential character of the neighborhood. As noted above, the landscaping plan is full and well-planned. The Subject Property will be well-landscaped despite any slight departures from Article XI and the relief from Article XI will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Village Should Approve the Site Plan

The site planning for the project will add to the community. The proposal conforms to the Zoning Ordinance in every material respect while avoiding excessive parking beyond the 116 parking spaces. The project is compatible with the surrounding area, respects neighbors and provides for proper special area management. Applicants' plans conform to the plat and related restrictions from 1997 and meet the prerogatives of the Village's subdivision and development ordinances. The preliminary engineering reflects that there is no known circumstance that prevents the project from being developed and that the project will meet the Village's civil engineering expectations. As noted above, the development of this site for the use proposed will not impose upon existing or planned vehicular or pedestrian routes. The dimensioned view scape exhibit shows that the plan preserves off-site views while the landscape plan and building elevations show that on-site views will be attractive. Applicant has placed the building and improvements north and east, away from the floodway and the building is planned for the topographic elevation that most approximates the elevation of the PepBoys parcel to the east. There are no known unsuitable soils. The restaurant offers a cultural dining experience that I have enjoyed personally for years. It adds to the social fabric of the Village and of DuPage County. Applicant has minimized any adverse environmental impact and minimized present and future costs to the Village and private providers in providing utilities to the site.

CONCLUSION

Thank you for your consideration of the application. The project offers an excellent dining opportunity for Lombard and area residents. Additionally, it plans for a beneficial use that respects the natural environment and neighbors while also planning for parking that is sufficient for a use that should generate substantial real estate and sales taxes. I look forward to appearing at hearing with ownership and the design team.

Staff and interested neighbors are welcome to reach me by telephone in the office, by cell at (312) 927-0177 or by electronic mail.

Respectfully submitted,

SAFA PROPERTY LLC

A handwritten signature in black ink, appearing to read 'Mark W. Daniel', written over a horizontal line.

One of Its Attorneys

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