

Daniel Law Office, P.C.

VILLAGE OF LOMBARD
CREEKVIEW PLAZA PROJECT NARRATIVE
Conditional Uses, Variations, Site Plan Review, Subdivision
855 East Roosevelt Road, Lombard, Illinois, 60148 (PIN 06-21-100-013)

On July 22, 2022, under Ordinance No. 8077 (PC-22-05), the Village approved a freestanding restaurant and banquet facility named Usmania Prime. Unfortunate delays in getting to approval due to COVID and addressing neighbor objections left the owner in a delayed position from which it never could recover. SAFA PROPERTY LLC (“Applicant”) was unable to solve much higher interest rates and skyrocketing construction costs. Earlier in 2024, Applicant informed the Village that its lender’s terms for the construction of the standalone restaurant were too burdensome. Shortly afterwards, Applicant prepared the modified plan that is now part of this application. So as not to waste development permit and title work for Usmania Prime at 855 East Roosevelt Road¹ (the “Subject Property”), Applicant decided to build a smaller multi-tenant building with a second-floor operation for restaurant (primarily breakfast and lunch) and banquet (primarily evenings) services. The second-floor use is planned to operate as either a restaurant or a banquet and do so without relief as to use, bulk or parking. The first floor will host retail, service and restaurant uses (one with a standard drive-through facility).

Applicant provides an Itemization of Relief setting forth the relief provided in Ordinance No. 8077 that will continue, identifying new relief, and listing the forms of relief to be canceled. The site plan substantially continues the form of the prior site plan. Lastly, Applicant submits a proposed plat of subdivision that will be reviewed by the Illinois Department of Transportation to release the west access restriction at Roosevelt Road (IDOT previously approved the plat for the larger Usmania Prime operation).

The building will be oriented toward Roosevelt Road and plans for rooftop dining have been eliminated. The building will also be shorter in feet and stories. Two short-berth loading spaces exist in a loading area on the east side of the building, but it is five (5) feet from the lot line. The drive-through serving the east first-floor unit has sufficient stacking in a standard design. Some lighting variations remain necessary along the east lot line (due to the reciprocal access route and the proximity of Pep Boys’ building). The Landscape Plan reflects that Applicant maintains its prior commitment for landscaping beyond the parking lot and improved landscaping within the parking lot.

¹ The Subject Property has occasionally been known as 849 East Roosevelt. Even after the entitlement process, there were still several references to 849 East Roosevelt, including in the updated title insurance policy provided with the application. 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 is the vacant land directly west of Pep Boys.

Site Planning and Operations

Applicant is not yet at liberty to discuss the tenants on the Subject Property, but the second-floor use and the two first-floor restaurant locations are essentially locked in. More information on these will be provided soon. The building is being reduced from three floors with a cellar (below grade) to two floors without a cellar. The building will be oriented north and there will be no rooftop operations or outdoor sales and display activities. Uplighting from grade elevation will not be necessary.

The west ground floor entry will be the lobby for the second-floor restaurant and banquet use and stair and elevator access will be available. The dining area for restaurant purposes will offer 2,330 square feet. Banquet seating amounts to 156 persons with a standard peak shift of six (6), but eight (8) were utilized for parking calculations in order to remain conservative. Ordinance No. 8077 contemplated ten (10) banquet employees in 2,500-plus square feet of shared kitchen and preparation areas—double the size of the proposed second-floor kitchen.

The first floor offers commercial space for at least two restaurants. The larger east endcap will have a drive-through facility and offer approximately 1,000 square feet for dining. The unit directly west will offer about half the dining area of its neighbor. The retail spaces offer 1,030-1,052 square feet of chargeable retail or service floor area.

Applicant will add a second full access driveway to the site (in addition to the existing east access to Pep Boys). The same cross-access drive that Lombard approved decades ago will allow for dispersal of vehicular traffic from both sides of the building at either driveway. Applicant still respects the large special management area and it has done quite a bit of work to clean this area on a semi-monthly basis. Landscaping relief similar to what has already been approved remains necessary.

The loading area remains tucked behind the east side of the building. Applicant places the waste enclosure near the building rather than at the south end of the drive aisle where it would be closer to the neighbors. Loading occurs during non-peak hours, typically before the restaurants open. Waste operations will typically occur in the early morning, again before the businesses on site open. No loading zone is required.

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, with most of the parking and drive aisles over 110 feet away. The southern spaces are aligned towards the adjacent retail and automotive use. The south end of the drive aisle includes the same substantial landscaping required by the Village in Ordinance No. 8077.

The photometric plan reflects that lighting will comply with Lombard requirements. The only concerns arise in relation to (a) lighting for the shared access aisle near the east lot line north of the building and (b) lighting in an area of the lot line east of the parking area that will

feature landscape screening that will necessarily minimize the impact of lighting needed for safety between the parking lot and the Pep Boys building. Lighting of the cross access will exceed allowable intensity and lighting will also be cast in the direction of the access aisle where it crosses the lot line.

Landscaping planning and site planning for natural areas remains complex, but there is no change to this element since the adoption of Ordinance No. 8077. Applicant continues with similar landscape plans for the special management area south and west of retaining walls along the boundary of the wetland and floodplain area. No change is proposed for the natural wetland area west and southwest of this retaining wall.

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. Applicant has participated in several communications and meetings with Village and DuPage County staff concerning site planning and compliance with the DuPage County Countywide Stormwater and Floodplain Ordinance. Applicant's civil engineering and landscape design team believes the slight adjustments to the plan over the past few months merit support from the same Village and County regulatory officials who substantially approved work to improve the special management area for the project approved in 2022.

About the Subject Property

The Subject Property is the subject of Ordinance No. 8077 and various County and Village permitting efforts. It 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 has maintained this area through site maintenance activities and removal of materials that were not embedded in soils (as permitted by DuPage County). Applicant is close to having permits to initiate mass grading and other work that will improve the area and prepare the rest of the site for development.

The Subject Property was part of the Christofaro & Difebo Subdivision, the plat of which was recorded as R1997-052817. The plat includes a shared access route between the existing Pep Boys 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 Pep

Boys, 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 driveway serving the Subject Property will not conflict with the driveway for the self-storage use to the north.

Surrounding Zoning and Land Use

Ordinance No. 8077 remains consistent with area planning. 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 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 annexation and redevelopment interest. Some land east of School Street is in the Village.

Ordinance No. 8077 and related efforts brought development of the subdivision closer to its intended use. Ordinances Nos. 3961, 4120, 4185, and 4233 approved a conditional use for Pep Boys (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 more capable of hosting a substantial commercial use. Pep Boys shares an access drive, so it is worth noting that the peak hours for trip generation are substantially different for Pep Boys (8 AM) than the Subject Property (midday and evenings, 7:00 PM or later). The customer entrance to Pep Boys is situated on the north elevation while the east elevation contains 11 service garages. A loading zone occupies a lane south of the Pep Boys building and there is no access along the east wall of Pep Boys. There is no practical potential of additional interconnection with the Subject Property unless the Pep Boys site redevelops. Prior to adoption of Ordinance No. 8077, there was some discussion of customer-friendly towing practices involving parking along Roosevelt Road, and there remains no reason to believe that the occasional use of these spaces by someone unaware of the location of the lot line will be disruptive to the businesses on either side of the lot line.

Since the approval of Ordinance No. 8077, the site North of the Subject Property (at 880 E. Roosevelt) developed into an operating self-storage facility. The driveway entrance for this use is roughly 70 feet west of the driveway at the Subject Property. Since the development of the self-storage facility, there was improvement to the flow from the wetland and creek to the north, but more maintenance has been required as a result of uncontrolled trash and fallen branches. The peak hours of the storage facility precede those that will prevail for Creekview Plaza.

Applicant does not need to explore off-site parking at 801-849 E. Roosevelt. Creekview Plaza will have more than sufficient parking from code perspective and from a practical perspective. 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 300 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 (which flows across the Subject Property from the south) begins well south of the Subject Property and flows into a pond that is part of a 3.11 acre open space called Co-op Community Park (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). 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.

APPLICANT'S REQUESTS MERIT APPROVAL

Section 155.417(G)(1)(a)(xl) identifies restaurants as permitted uses, but the character of the second-floor restaurant and the drive-through for the east restaurant on the first floor require conditional use and site plan approval. Applicant addresses the merits of each request below.

The Conditional Use for Entertainment and Dancing (Second Floor) Warrants Continuation

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. Ordinance No. 8077 authorized live music, broadcast music, dancing of patrons, and performance dancing on the second floor. Typically, 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. Applicant does not seek approval of rooftop or outdoor use.

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. The dancing or live/broadcast music will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare since it occurs typically on a limited basis in a cultural or planned even setting and the dancing and entertainment will not be visible or audible outside the building. Ordinance No. 8077 was not conditioned on liquor licensing, but Applicant and its tenants will comply with the Village's codes in this respect. There will be no impact on uses already permitted and the use will not substantially diminish or 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.

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 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.

The Conditional Use for Drive-Through Facilities (First Floor) Merits Approval

The establishment, maintenance, or operation of the drive-through facility will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare. The drive-through facility is twelve (12) feet wide and offers eight (8) stacking spaces in the standard counter-clockwise design. The distance from point of order (90 feet to the pick-up window) approaches that of national drive-through facility operators such as Starbucks. Menu board signs will be placed along the rear of the building at points that are 170-175 feet north of the south lot line and hundreds of feet from single-family homes. The planned loading area east of the drive-through will be unutilized most of the time and this will serve as a bypass lane and second drive lane to the shared access aisle. The establishment, maintenance, or operation of the drive-through facility will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare. The use is planned for an automotive use-oriented corridor. Stop bars, directional signs and other improvements are provided.

The drive-through facility will not be injurious to the use or enjoyment of property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood in which it is to be located. The lane alignment will have vehicle headlights directed either to the east wall of Pep Boys or to Roosevelt Road. Sound will not be audible at the south lot line as a result of the significant distance of homes from the ordering area and the location of the audio devices in relation to vehicles. Orientations similar to the proposed drive-through have succeeded in the Roosevelt Road corridor and they have actually added value to adjacent retail uses due to increased visibility. The Village conducts its own traffic analysis, but Applicant is confident that the design of the drive-through will internalize any effects—all of which are appropriately planned within the development.

The drive-through will not impede normal redevelopment of Pep Boys or any change in use by Pep Boys of its existing principal building. Pep Boys is oriented to heavy automotive use and this will continue. The planned use of the shared access will not change or suffer overburdening as a result of the drive through. There will be no impact on the redevelopment and improvement of any other surrounding property for uses permitted in nearby districts since the design internalizes the drive-through facility.

The drive-through will benefit from adequate public utilities, access roads, drainage and/or other necessary facilities that have been or will be provided. The plans reflect sufficient road access and drainage planning. The drive-through lies within the former active footprint of Usmania Prime. Utilities for all purposes are accessible from or adjacent to the Subject Property.

In planning the drive-through, adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. Well in excess of half of the parking on site is accessible without having to pass the entrance or exit to the drive-through. Additionally, it is standard for employees to park in more remote parking spaces to the south. The drive-through offers a minimum of eight stacking spaces with the three before the window adjacent to a voluntary loading area that will see limited use. Adequate controls exist at the entrance to and exit from the drive-through. Existing vehicles may disburse directly to the east or west along the shared access. Applicant believes that IDOT will allow exiting traffic to disburse from these exits in either direction.

The 2014 Comprehensive Plan supports approval of the drive-through and the use is not contrary to the Plan's objectives. The Subject Property lies in a large corridor of Community Commercial land planning, both historically and under the 2014 Plan. None of the drive-throughs existing in this corridor depart from the character of the corridor which recognizes that it is heavily oriented to automotive use while accessing goods and services. The drive-through facility at this location will maximize land use opportunities along the Roosevelt Road corridor (Plan, 41) in an area where drive-through efficiency is comparatively lacking. Although the location is not one that a Starbucks would consider ideal under its site selection standards, there are several tenants that can benefit from drive-through use at the site. The use is planned for a restaurant use which will add to Village revenues. The use will also offer a significant privately-

owned facility that offers public convenience. The development generally meets with Lombard's planning objectives for access controls by continuing with evaluation and re-evaluation of access controls along Roosevelt Road. (Plan, 48-49) In this instance, it is anticipated that the Village and IDOT will continue to agree that the left-out access prohibition can be avoided. The drive-through is not situated near a current or planned bikeway. (Plan, 51)

Although not relevant to the standards under the Zoning Ordinance, the Comprehensive Plan does call for cooperative and collaborative planning in the public and private sectors. (Plan, 55-56) It is noteworthy that Village administration and planning staff recognized the issues faced by Applicant in its efforts to finance construction. In addition to providing possible alternatives to avoid the circumstance at issue, staff continued to sell the Village as a great place to do business and to indicate that they were available to timely respond to the changed circumstances. Obviously, all discussions are subject to zoning review and approval, but it is important to note that the sole reason for the return to the zoning process relates to the drive-through facility conditional use (the relief related to a voluntary loading zone is not required relief, but is identified since there can be future changes in demand or amendments).

The drive-through conditional use conforms to the applicable regulations of the B4A district and the design intent of the plans approved in Ordinance No. 8077. The drive-through does not impose any additional or unplanned burden on any surrounding owner.

Conditional Uses Subject to Cancellation

Ordinance No. 8077 authorized a building with a height of more than 40 feet under Section 155.417(G)(6). With the change in plans, this conditional use for a taller building is no longer necessary. The building will clearly meet the maximum allowed height and there is no concern related to height adjustments during structural engineering review upon permitting.

Ordinance No. 8077 also authorized a conditional use permit for outside display and sales of products the sale of which is a permitted or conditional use in this district under Section 155.417(G)(2)(a)(v). The planned rooftop display and sales and occasional outdoor activities and bazaars are no longer planned. This conditional use is no longer necessary.

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 No Longer Requires a Parking Variation

Creekside Plaza provides more parking than required under the Zoning Ordinance. Further, since the uses are not all peaking at the same time, Applicant is confident that the market demand for parking appropriately settles in at what is required under the Zoning Ordinance. First, one of the draws to a unit at the plaza will be the restaurant uses or the restaurant and banquet use. Second, it is highly likely that one of the middle units will be a retail space that benefits from traffic to the restaurant and banquet uses (i.e., single trip generation for two stops). Third, the peak demand for parking between all uses on site will ebb and flow from daytime into evening, such that the peak demand for the second floor use as a banquet will arise after the peak demand for the other uses on site.

Applicant Meets 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, loading is best planned for the area east of the building (as it was approved in Ordinance No. 8077). The yard adjacent to the voluntary loading area is five feet less than required, but this relief impacts only the area between the plaza and the Pep Boys building. It would be impractical to force a shift in the building or a reduction in area in order to accomplish the setback of not only a voluntary loading area but one situated directly adjacent to the large, substantially unscreened Pep Boys building.

Applicant Still Meets Lombards Standards in Relation to the Lighting Variation

Uplighting for the rickshaws and certain trees is no longer needed, but Applicant is still required to properly light the east yard and the shared access. 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 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 a major arterial route controlled by IDOT. Planned for longer than 30 years, shared access lighting does 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 and the landscaped east yard next to the Pep Boys building has no effect beyond the immediate location of the lighting.

Applicant Meets Lombards Standards in Relation to the Landscaping Variations

There has been no material change to the approved landscaping scheme. The building is smaller and there are fewer parking rows. 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 and drive-through access around the perimeter of the building. Applicant still more than makes up for the lack of foundation landscaping by preserving 1.2 acres of natural area as was found beneficial under Ordinance No. 8077.

Hardship again arises from the existence of Sugar Creek and the wetland and floodway. As in 2021 and 2022, if Applicant were now 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 than needed to meet the Zoning Ordinance elsewhere. 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. 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

landscape plan preserves the required effort to plant trees desired by neighbors if consistent with County and Village planting schemes in the area south and east of the parking lot.

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 impact on the 1.2-acre natural area. Applicant's change in use did not lead to a change in the protection of the natural area. 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 site plan should still allow for release of the access restriction at the west end of the shared access. The depth of engineering work to date (the project is at the full permitting drawing phase) indicates that there is no known circumstance that prevents the project from being developed. 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 plan preserves intended off-site views while the landscape plan and building elevations show that on-site views will be attractive even though there is no planned exterior use and the building is not oriented to the north. 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 Pep Boys parcel to the east. There are no known unsuitable soils. Although Usmania Prime could not operate from the site as planned, the multi-tenant use still includes a restaurant and banquet operation that will add 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.

Applicant's Plat of Subdivision

Applicant has been working with the Village, IDOT and Pep Boys in order to amend the last plat to eliminate the access restriction at the west end of the shared access route. The conclusion of development planned when the Village approved Ordinance No. 8077 and the ability of this project to fit well within the envelope created in Ordinance No. 8077 support the release of this access restriction. IDOT and the Village prefer the approval of a new plat to adjust the access restriction. The proposed plat does nothing to alter the lot lines or other obligations within the existing plat.

CONCLUSION

Thank you for your consideration. Applicant intends to get to work on site improvements as soon as practicable. To the extent that any improvements are in progress at or before the time of the zoning process, please note that Applicant pursued these improvements under allowable permits and authorizations with no promise that it would receive a drive-through conditional use.

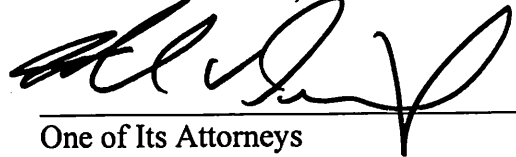
Still, however, the drive-through conditional use at this location is strongly merited. Amid this request for a new conditional use, Applicant has reduced the relief to that which is necessary and it has avoided changes that would implicate planning for neighbors during the last zoning process.

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,

Mark W. Daniel
DANIEL LAW OFFICE, P.C.
17W733 Butterfield Road, Suite F
Oakbrook Terrace, Illinois 60181
(630) 833-3311
Fax: (630) 833-3511
Cell: (312) 927-0177
mark@thedaniellawoffice.com
ARDC No. 6226696

SAFA PROPERTY, LLC

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

One of Its Attorneys