

Prepared by and Return to:  
Village of Arlington Heights  
Legal Department  
33 S Arlington Heights Rd  
Arlington Heights, IL 60005

THIS SPACE FOR CLERK'S USE ONLY

VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2022-\_\_\_\_\_

AN ORDINANCE GRANTING AN AMENDMENT TO A  
SPECIAL USE PERMIT AND VARIATIONS  
(2300 East Rand Road)

ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF ARLINGTON HEIGHTS  
THIS 6th DAY OF SEPTEMBER, 2022.

Published in pamphlet form  
by the authority of the  
President and Board of Trustees  
of the Village of Arlington Heights,  
Cook County, Illinois this  
6th day of September, 2022.

\_\_\_\_\_  
Village Clerk

AN ORDINANCE GRANTING AN AMENDMENT TO A  
SPECIAL USE PERMIT AND VARIATIONS  
(2300 North Rand Road)

WHEREAS, Sam Mokhtarian (“*Applicant*”) is the owner of that certain property located in the B-2 General Business District (“*B-2 District*”), commonly known as 2300 N Rand Rd, Brandenberry Park Shopping Center located at the northeast corner of Rand Road and Waterman Avenue, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“*Property*”); and

WHEREAS, the President and Board of Trustees, have heretofore by Ordinance Numbers 78-063 and 08-029, granted and amended a special use permit for the Property to allow a sit-down/carry-out restaurant with an outdoor dining area;

WHEREAS, the Applicant desires to further amend the special use for the Property to allow the addition of a 909 square foot dining room with a seating area of 858 square feet (“*Proposed Use*”); and

WHEREAS, pursuant to Sections 28-8 ad 28-11 of the Zoning Code, the Applicant has filed an application for approval of: (i) an amendment to a special use permit to allow the Proposed Use on the Property; and (ii) variations from the following sections of the Zoning Code: Section 10.4, requiring a certain number of parking spaces; and Section 6.13-3b, setting forth the maximum fence height in a rear yard (collectively, the “*Requested Relief*”); and

WHEREAS, a public hearing of the Plan Commission of the Village to consider approval of the Requested Relief was duly advertised in the Daily Herald on July 12, 2022, and held on July 27, 2022; and

WHEREAS, on July 27, 2022, the Plan Commission made findings and recommendations in support of the Requested Relief, with conditions; and

WHEREAS, the President and Board of Trustees have determined that the Requested Relief meets the required standards for special use permits and variations as set forth in Sections 28-8.2 and 28-11.2 of the Zoning Code; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interest of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. GRANT OF SPECIAL USE PERMIT AMENDMENT. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, and in accordance with, and pursuant to, Section 28-8 of the Zoning Code and the home rule powers of the Village, the Village hereby grants a special use permit amendment to the Applicant for the operation of the Proposed Use on the Property.

SECTION 3. GRANT OF VARIATIONS. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, and in accordance with, and pursuant to, Section 28-11 of the Zoning Code and the home rule powers of the Village, the Village hereby grants the following variations to the Applicant in connection with the Proposed Use of the Property:

- A. Schedule of Parking Requirements. A variation from Section 10.4 of the Zoning Code to allow 113 parking spaces where 167 parking spaces are required.
- B. Fence Height in Rear Yard. A variation to allow an eight foot tall fence in the rear yard where a six foot tall fence is permitted.

SECTION 4. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Code, the approvals granted pursuant to Sections 2 and 3 of this Ordinance are hereby expressly subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. Landscape Island Trees. The missing Code required landscaping, consisting of two landscape island trees along the Rand Road access aisle, and three foot tall landscape screening along Rand Road, shall be installed no later than September 30, 2023.
- B. Bicycle Parking Spaces. Two bicycle parking spaces shall be installed no later than 60 days after approval of this Ordinance.
- C. Fence Permit. If the Building Department determines a new or revised permit is necessary, the Applicant shall submit for a fence permit no later than September 1, 2022.
- D. Compliance with Plans. Approval shall be in substantial conformance with the plan in Exhibit “B” (“Plan”) and Exhibit “C” (“Fence Location”) attached to and, by this reference, made a part of this Ordinance.
- E. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Property must comply at all times with all applicable Federal, State and Village codes, regulations and policies, as the same have been or may be amended from time to time.

SECTION 5. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded with the Cook County Clerk. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon the Applicant and each of its heirs, representatives, successors, and assigns, except as provided in Section 5 of this Ordinance.

SECTION 6. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approval granted in Sections 2 and 3 of this Ordinance may, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approval granted in Sections 2 and 3 of this Ordinance unless they first provide the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the B-2 District and the applicable provisions of the Village Code, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such enforcement action as may be appropriate under the circumstances.

SECTION 7. AMENDMENTS. Any amendments to the approvals granted in Sections 2 and 3 of this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Village Code.

SECTION 8. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 9. EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
  - 1. Passage by the Village President and Board of Trustees in the manner required by law; and
  - 2. The filing by the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit D attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.
- B. In the event the Applicant does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 9.A.2 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

AYES:

NAYS:

PASSED AND APPROVED THIS 6th day of September, 2022.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

Special Use Permit: La Zingara Amendment 3

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Unit No. 5 Brandenberry Park East by Zale, being a subdivision of the Southeast quarter of Section 21, Township 42 North, Range 11 East of the Third Principal Meridian (excepting therefrom that part described as follows): commencing at the Southeast corner of said Unit 5; thence West on the South line of said unit 25.00 feet to the point of beginning of this exception; thence continuing West on the South line of said Unit 149.25 feet to the Southwest corner of said Unit; thence Northwesterly of the Southwesterly line of said Unit 152.00 feet; thence North at right angles to the Southwesterly line of said Unit 80.0 feet to its intersection with a line 160.52 feet North of and parallel to the South line of said unit; thence East on said parallel line 81.89 feet to its intersection with a line 134.15 feet Northeasterly of and parallel with the Southwesterly line of said Unit; thence Southerly on said parallel line 170.17 feet; thence South 48.0 feet to the place of beginning in Cook County, Illinois.

P.I.N. 03-21-402-013-0000

2300 East Rand Road, Arlington Heights, IL 60004

EXHIBIT B

PLANS

# Enrique Castel Architect

10368 CENTRAL PARK BLVD . HUNTLEY, IL 60142 .  
P 224-253-8027 . ENCAST@COMCAST.NET

**MAY 12, 2022**

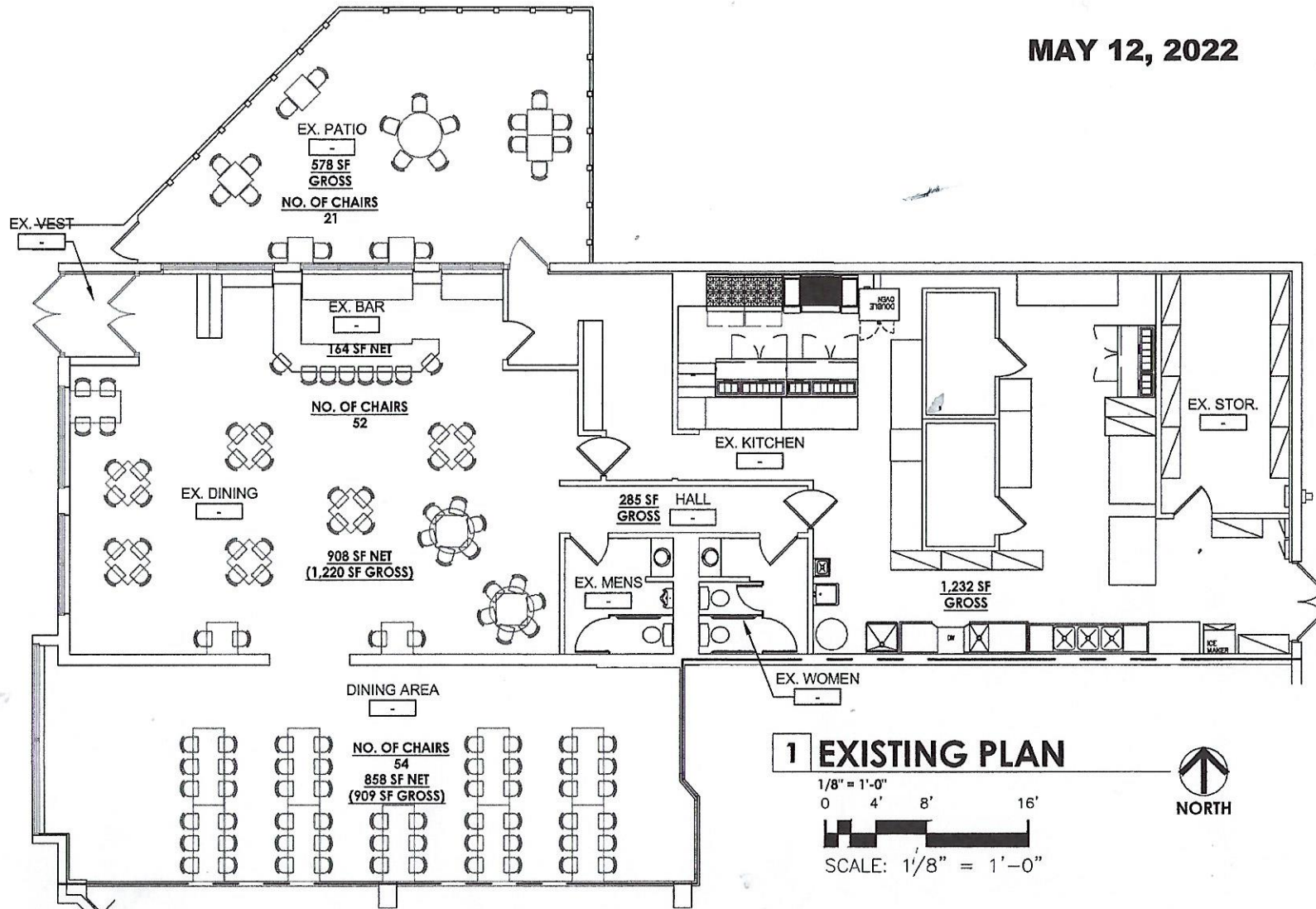


EXHIBIT C  
FENCE LOCATION







EXHIBIT D

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Arlington Heights, Illinois (“*Village*”):

WHEREAS, Sam Mokhtarian, (“*Applicant*”) is the owner of that certain property located in the B-2 One-Family Dwelling District (“*B-2 District*”), commonly known as 2300 E Rand Rd (“*Property*”); and

WHEREAS, Ordinance No. 2022-\_\_\_\_\_, adopted by the Village President and Board of Trustees on September 6, 2022 (“*Ordinance*”), grants an amendment to a special use permit and variations to the Applicant for the operation of a restaurant on the Property; and

WHEREAS, Section 9 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant files, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to, accept, consent to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s granting of the special use permit amendment and variations for the Property or its adoption of the Ordinance, and that the Village’s approvals do not, and will not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant hereby agrees to hold harmless and indemnify the Village, the Village’s corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village’s adoption of the Ordinance granting the special use permit amendment and variations for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: \_\_\_\_\_, 2022

ATTEST:

SD&S Properties

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_