## VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2023-\_\_\_\_

AN ORDINANCE GRANTING SPECIAL USE PERMITS AND A VARIATION FOR AN AMUSEMENT FACILITY AND RESTAURANT FOR GOLF VX (622, 626, and 644 E. Rand Rd.)

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

Published in pamphlet form by the authority of the President and Board of Trustees of the Village of Arlington Heights, Cook County, Illinois this \_\_\_\_\_\_day of \_\_\_\_\_\_, 2023

Village Clerk

### AN ORDINANCE GRANTING SPECIAL USE PERMITS AND A VARIATION FOR AN AMUSEMENT FACILITY AND RESTAURANT FOR GOLF VX (622, 626, and 644 E. Rand Rd.)

WHEREAS, Golf VX Corp. ("*Applicant*") is the lessee of record of that certain property owned by MJK Real Estate Holding Company, LLC ("*Owner*") located in the B-3 General Service, Wholesale, and Motor Vehicle District ("*B-3 District*"), commonly known as 622, 626, and 644 E. Rand Rd., and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance ("*Property*"); and

WHEREAS, the Property is currently improved with a vacant commercial structure, parking lots, and other related improvements (collectively, the "*Existing Improvements*"); and

WHEREAS, the Applicant desires to construct an 11,938 square foot amusement facility within the commercial structure on the Property containing a restaurant with food and liquor service (collectively, the "*Proposed Improvements*"); and

WHEREAS, pursuant to Section 8.6 of "The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights," as amended ("Zoning Code"), the amusement facility and restaurants with food and liquor service portions of the Proposed Improvements may only be constructed and used on the Property upon issuance by the Village Board of Trustees of special use permits therefor; and

WHEREAS, pursuant to Section 6.12-1(3) of the Zoning Code, a traffic study and parking analysis prepared by a qualified engineer or prepared in a manner acceptable to the Village is required for any special use that is not adjacent to a major or secondary arterial street as defined by the Village's Thoroughfare Plan; and

WHEREAS, pursuant to Sections 8 and 12 of the Zoning Code, the Applicant has filed an application for approval of: (i) special use permits to permit the construction and operation of the Proposed Improvements on the Property; and (ii) a variation from Section 6.12-1(3) of the Zoning Code to waive the requirement for a traffic and parking study from a qualified engineer (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 October 24, 2023, and held on November 8, 2023; and

WHEREAS, on November 8, 2023, 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 8.2 and 12.2 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 PERMITS. 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 8 of the Zoning Code and the home rule powers of the Village, the Village hereby grants special use permits to the Applicant for both a large amusement facility and for a restaurant with food and liquor service, to authorize the construction and use of the Proposed Improvements on the Property.

SECTION 3. GRANT OF VARIATION. 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 12 of the Zoning Code and the home rule powers of the Village, the Village hereby grants a variation from Section 6.12-1(3) of the Zoning Code to waive the requirement for a traffic and parking study from a qualified professional engineer to the Applicant in connection with the Proposed Improvements of the Property:

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. <u>Compliance with Regulations</u>. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Improvements and the Property must comply at all times with all applicable Federal, State, and Village statutes, codes, ordinances, and regulations, as the same have been or may be amended from time to time.
- B. <u>Compliance with Plans</u>. Except for minor changes and site work approved by the Village Director of Building & Life Safety (for matters within their permitting authority) in accordance with all applicable Village standards, and except as may be approved pursuant to Sections 4.C and 4.D of this Ordinance, the development, use, operation, and maintenance of the Proposed Improvements and of the Property must be substantially compliant with the following plans (collectively, the "*Plans*"):
  - 1. The Shopping Center Site Plan, prepared by Applicant and undated, consisting of one sheet, a copy of which is attached to and, by this reference, made a part of this Ordinance as Exhibit B;
  - 2. The Premises and Employee Parking Plan, prepared by Applicant and undated, consisting of one sheet, a copy of which is attached to and, by this reference, made a part of this Ordinance as Exhibit C;
  - 3. The Furniture Floor Plan, prepared by GLAD Studio and consisting of one sheet, with a last revision date of September 8, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as Exhibit D;

- 4. The Kitchen Floor Plan, prepared by GLAD Studio and consisting of one sheet, with a last revision date of August 29, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as Exhibit E; and
- 5. The Exterior Elevations, prepared by Soos & Associates, Inc., consisting of three sheets, with a last revision date of August 22, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as Exhibit F.
- C. <u>Façade Enhancements</u>. Applicant and Owner must design and implement exterior enhancements to the façade of the Property, including architectural upgrades to the building entry to create an enhanced gateway to this portion of the shopping center, of which the Property is a part, which are subject to Village review and approval and which may require Design Commission consideration. A building permit for the façade enhancements must be obtained no later than occupancy of the Property by Applicant and must be completed no later than six months after issuance of an occupancy permit for the Applicant on the Property.
- D. <u>Sound Attenuation</u>. Adequate sound attenuation for noise emanating from the dog boarding facility adjacent to the Property, as determined by the Village, must be provided by the Applicant and included in the interior remodel work building permit application.
- E. <u>Parking Lot Paving and Striping</u>. Prior to issuance of a building permit for the Proposed Improvements, a paving and striping plan for the parking lot adjacent to the Property must be provided to the Village ("*Paving Plan*") for review and approval. The Paving Plan must identify the entity responsible for parking lot repairs in accordance with the reciprocal easement agreement for the shopping center, of which the Property is a part, the number of parking spots, the location and number of Americans with Disabilities Act accessible ("*ADA*") parking spots, and installation of an ADA curb ramp that is oriented in-line with ADA parking with a corresponding continental-style crosswalk.

SECTION 5. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded on title to the Property with the Cook County Clerk's Recording Division. 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.

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 approvals 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 approvals 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 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 or 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 Zoning 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 G 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 \_\_\_\_ day of \_\_\_\_\_, 2023

Village President

ATTEST:

Village Clerk

## EXHIBIT A

#### LEGAL DESCRIPTION OF THE PROPERTY

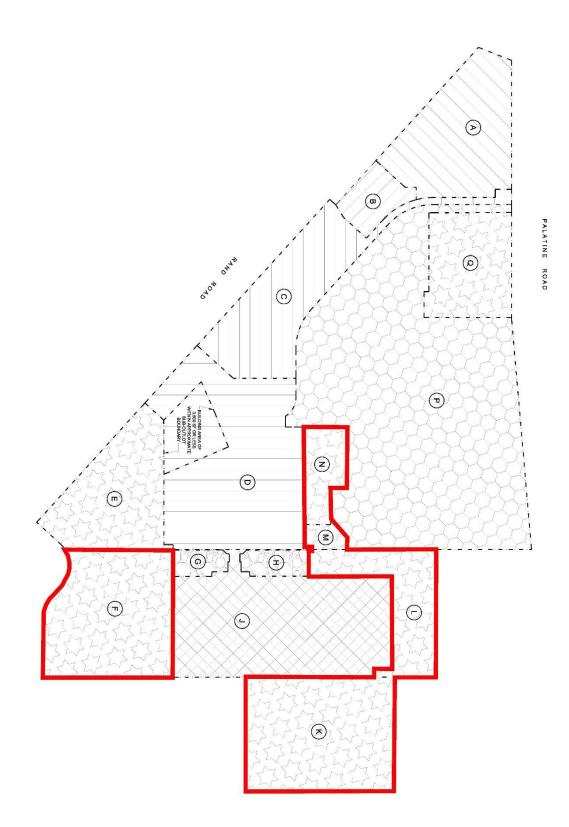
PART OF LOT 1 IN THE CUB ADDITION, BEING A SUBDIVISION IN THE NORTH WEST <sup>1</sup>/<sub>4</sub> OF THE NORTH EAST <sup>1</sup>/<sub>4</sub> OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH EAST CORNER OF SAID LOT 1, THENCE SOUTH 0 DEGREES, 01 MINUTES, 11 SECONDS EAST ALONG THE EAST LINE OF LOT 1 A DISTANCE OF 533 FEET TO THE SOUTH EAST CORNER OF LOT 1; THENCE SOUTH 59 DEGREES, 58 MINUTES, 49 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 1 A DISTANCE OF 140 FEET TO A CORNER OF LOT 1; THENCE SOUTH 89 DEGREES, 58 MINUTES, 49 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 1 A DISTANCE OF 179.40 FEET; THENCE NORTH 0 DEGREES, 01 MINUTES, 11 SECONDS WEST 46.57 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 0 DEGREES, 01 MINUTES, 11 SECONDS WEST 40.30 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 11 SECONDS EAST 40.30 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 11 SECONDS EAST 40.30 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 11 SECONDS EAST 80 FEET; THENCE SOUTH 0 DEGREES, 01 MINUTES, 11 SECONDS EAST 80 FEET; THENCE SOUTH 0 DEGREES, 01 MINUTES, 11 SECONDS WEST 240 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Commonly known as: 622, 626, and 644 E. Rand Rd.

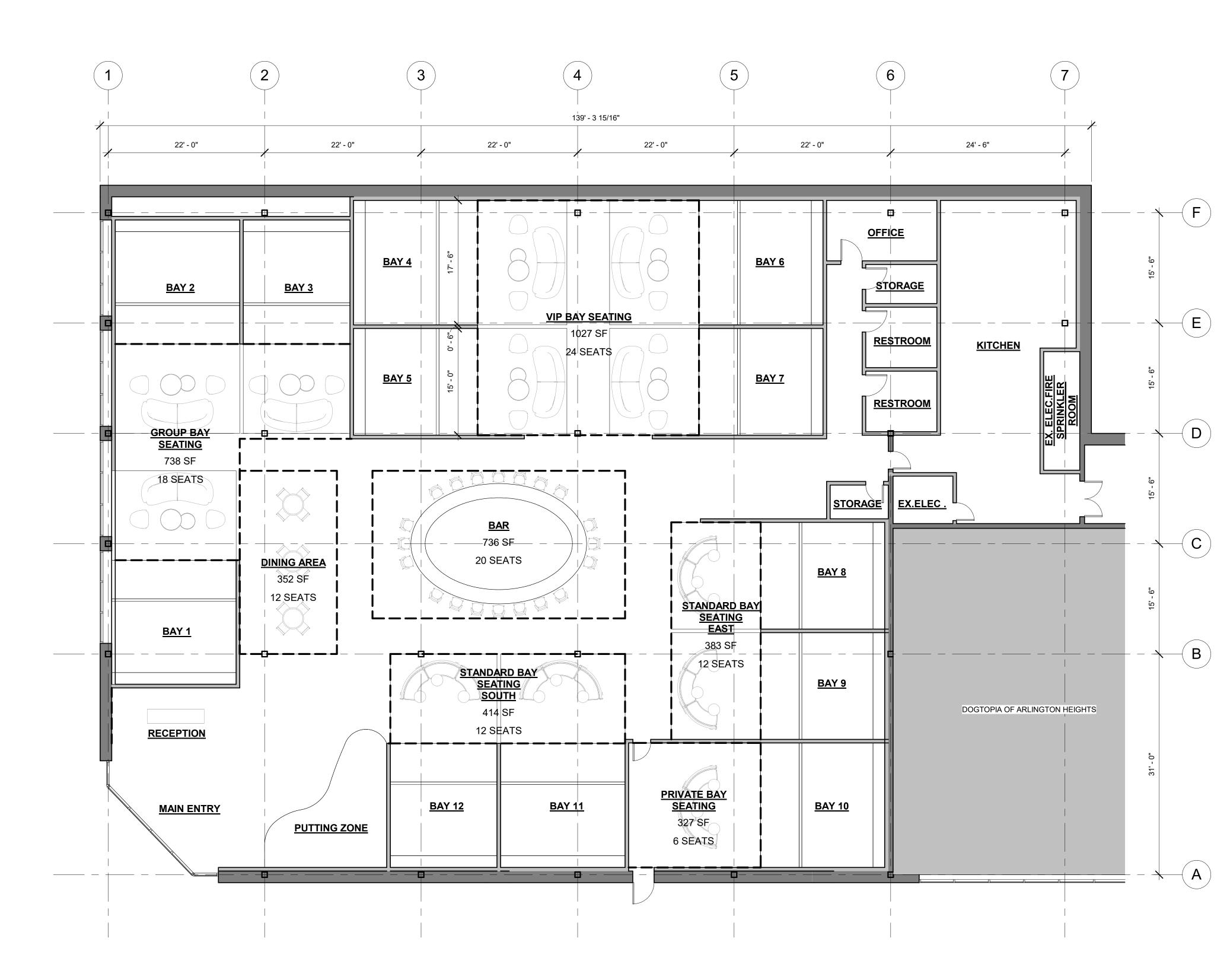
P.I.N.: 03-20-200-008

# SHOPPING CENTER SITE PLAN



## PREMISES AND EMPLOYEE PARKING







Architecture | Interior Design | Sustainable Design

Revision	Description	Date

Client:

Golf VX Corp.

Project Description:

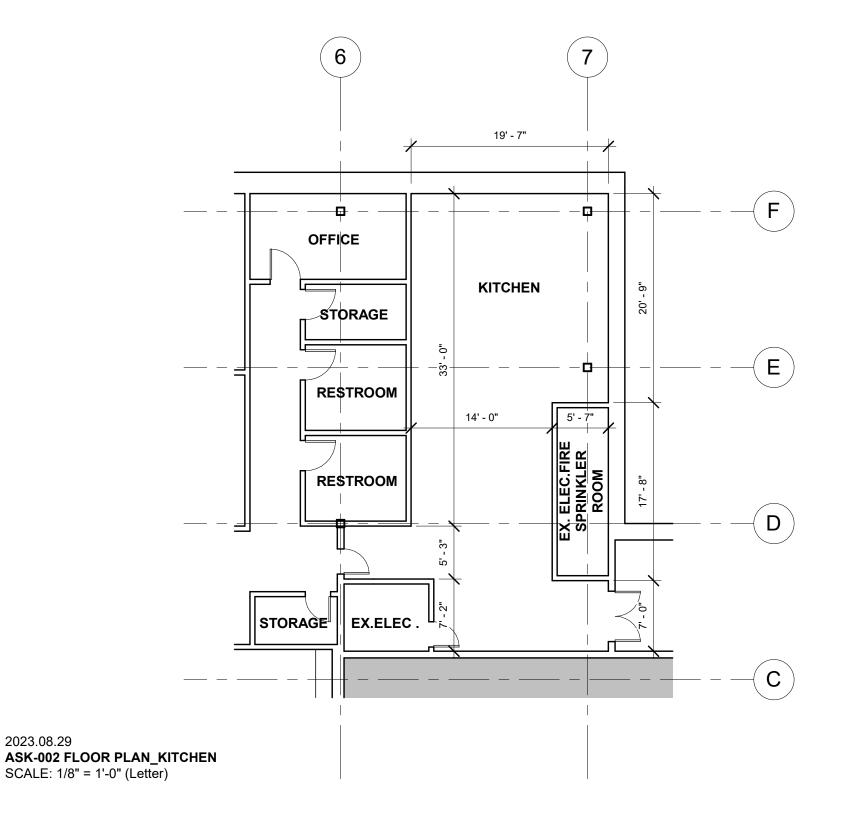
# GOLF VX ARLINGTON HEIGHTS

644 E Rand Rd, Arlington Heights, IL 60004

Drawing Description:

Furniture Floor Plan

Project Number	23-001	
Date	09/08/2023	
Drawn By	JP	
Checked By	JP	
Drawing No. ASK-003		
Scale at ANSI Standard D 1/8" =		



2023.08.29



# 1 SOUTHWEST ELEVATION









### SOUTHPOINT SHOPPING CENTER REDEVELOPMENT

660, 664, 668, 676 EAST RAND ROAD ARLINGTON HEIGHTS, IL 60004

PROJECT

CONSULTANT

	TENANT COORDINATION	2023-08-22
NO.	ISSUE	DATE

SEAL

#### CURSORY REVIEW

DATE	JULY 25, 2019
PROJECT NO.	17 MJ 048
DRAWN	Author
CHECKED	Checker
APPROVED	Approver
TITLE	

## EXTERIOR ELEVATIONS

SHEET

A2



Golf VX\_1

 
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Soos & Associates, Inc.

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SEAL

#### CURSORY REVIEW

DATE	JULY 25, 2019
PROJECT NO.	17 MJ 048
DRAWN	Author
CHECKED	Checker
APPROVED	Approver
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# PERSPECTIVE

SHEET

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	MJK REAL ESTATE		
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CLIENT	NORTHFIELD, IL 60093		
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PROJEC	т		
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	TENANT COORDINATION	2023-08-22	
NO.	ISSUE	DATE	
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DATE			
PROJEC	PROJECT NO. 17 MJ 048		
	DRAWN Author CHECKED Checker		
TITLE	APPROVED Approver TITLE PERSPECTIVES		
SHEET	A4		

#### EXHIBIT G

#### UNCONDITIONAL AGREEMENT AND CONSENT

#### TO: The Village of Arlington Heights, Illinois ("*Village*"):

WHEREAS, Golf VX Corp. ("*Applicant*") is the lessee of record of that certain property owned by MJK Real Estate Holding Company, LLC ("*Owner*") located in the B-3 General Service, Wholesale, and Motor Vehicle District ("*B-3 District*"), commonly known as 622, 626 & 644 E. Rand Rd., and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance ("*Property*"); and

WHEREAS, Ordinance No. 2023\_\_\_\_\_, adopted by the Village President and Board of Trustees on \_\_\_\_\_\_, 2023 (*"Ordinance"*), approves special use permits and grants a variation to the Applicant for the construction of a large amusement facility with a restaurant with food and liquor service 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 and Owner file, 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 and Owner hereby agree and covenant as follows:

1. The Applicant and Owner hereby unconditionally agree 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 and Owner acknowledge that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant and Owner acknowledge and agree 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 permits and the variation 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 or Owner against damage or injury of any kind and at any time.

4. The Applicant and Owner hereby agree 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 permits and the variation for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated:, 2023	
ATTEST:	GOLF VX CORP.
By:	By:
Its:	Its:
ATTEST:	MJK REAL ESTATE HOLDING COMPANY, LLC
By:	By:
Its:	Its: