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VILLAGE OF WORTH
COOK COUNTY, ILLINOIS

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Karen A. Yarbrough
Cook County Recorder of Deeds
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ORDINANCE NO. 2015-03

“AN ORDINANCE APPROVING SARAYA CAFÉ, INC.’S
REQUEST FOR A SPECIAL USE PERMIT TO ESTABLISH AND OPERATE
A RETAIL TOBACCO STORE AT THE PROPERTY COMMONLY KNOWN
AS 7913 W. 111TH STREET, WORTH, ILLINOIS”

ADOPTED BY THE

VILLAGE BOARD

VILLAGE OF WORTH

THIS 20 DAY OF JANUARY, 2015

Published in pamphlet form by authority of the Village Board of the Village of Worth, Cook County, Illinois, this 20 day of January, 2015.

RECORDING FEE 64
DATE 8-11-15 COPIES 6
CK BY *[Signature]*

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VILLAGE OF WORTH COOK COUNTY, ILLINOIS

ORDINANCE NO. 2015-03

AN ORDINANCE APPROVING SARAYA CAFÉ, INC.'S REQUEST FOR A SPECIAL USE PERMIT TO ESTABLISH AND OPERATE A RETAIL TOBACCO STORE AT THE PROPERTY COMMONLY KNOWN AS 7013 W. 111TH STREET, WORTH, ILLINOIS

WHEREAS, the Village of Worth (“Village”) is an Illinois non-home rule municipality organized and operating under the Illinois Municipal Code (“Code”); and

WHEREAS, Saraya Café, Inc., is an Illinois corporation with offices located at 7011 West 111th Street, in Worth, Illinois (the “Applicant”); and

WHEREAS, John Emseen (the “Owner”) owns the property located at 7013 West 111th Street, Worth, Illinois, which is more fully described and depicted on Exhibit A attached to and, by this reference, made part of this Ordinance (the “Property”); and

WHEREAS, the Applicant, with the Owner’s consent, seeks to establish, operate and maintain the Property as a retail tobacco store (the “Proposed Use”); and

WHEREAS, the Village Code allows the Proposed Use as a special use in the B1 Restricted Retail Business District; and

WHEREAS, the Property is located in the B1 Restricted Retail Business District; and

WHEREAS, public notice was published in Southtown Star on December 19, 2014 and a public hearing was convened before the Real Estate Development Board (the “REDB”) on January 5, 2015; and

WHEREAS, at the conclusion of the public hearing, the REDB made findings pursuant to Section 5-2-10(D) of the Village Code, attached to this Ordinance as Exhibit B and made a

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part hereof, and recommended that the President and Village Board approve the Applicant's special use permit request for the Proposed Use; and

WHEREAS, on January 8, 2015, the Economic Development Commission (the "EDC") considered the Applicant's proposal and prepared the recommendation attached to this Ordinance as Exhibit C; and

WHEREAS, the President and Village Board received and reviewed the REDB's findings and recommendation and the EDC's recommendation, and find that the applicant's proposed use satisfies the Village Code's special use criteria contained in Section 5-2-10(D) of the Village Code; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Worth, Cook County, Illinois, as follows:

Section 1. RECITALS. The foregoing recitals are incorporated as though fully set forth herein.

Section 2. SPECIAL USE PERMIT GRANTED. The Applicant's special use permit request is granted subject to the terms and conditions of this Ordinance.

Section 3. COMPLIANCE WITH APPLICABLE LAWS. The establishment, development, use, operation and maintenance of the Proposed Use will strictly conform to all applicable Village, county, state and federal codes, statutes, ordinances, rules and regulations, as amended, including, without limitation, the Smoke Free Illinois Act (410 ILCS 82/1, *et seq.*), as amended.

Section 4. BUILDING PERMITS AND PLANS. The Applicant must submit all permit applications, building plans, construction drawings, and revisions thereto as required by the Village before making any improvements, modifications or changes to the Property. The

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development, use, maintenance, and operation of the Property will be in strict compliance with all Village codes, rules, policies, standards, and regulations.

Section 5. OCCUPANCY PERMIT. The Applicant may not establish or operate the Proposed Use until applying for and receiving an occupancy permit from the Village in accordance with the Village's ordinances, rules and regulations, as amended.

Section 6. SIGN PERMIT. Before erecting or posting any sign on the Property, the Applicant must file an application for a sign permit in accordance with the Village's ordinances, rules and regulations, as amended, and receive the Village's approval of the same.

Section 7. OFF-STREET PARKING. The Applicant, at its sole cost, must provide valet parking services on the Property during all hours of operation. Applicant is solely responsible for securing off-site parking facilities to store the vehicles being parked by valet. Applicant shall also post a sign in a location visible to patrons as they enter the building located on the Property advising patrons of the parking restrictions in place on 111th Street, Depot Street, and Worth Avenue (collectively, the "Neighborhood"). The Applicant shall be solely responsible for its patrons and employees of the Neighborhood's parking restrictions.

Section 8. COMMENCEMENT OF SPECIAL USE. By no later than January 19, 2016, the Applicant shall (i) obtain all necessary village, local and state permits and approvals required to improve the Property to accommodate the Proposed Use; (ii) complete all necessary improvements to the Property; and (iii) obtain all village, local and state certificates, licenses and permissions necessary to establish, operate and maintain the Proposed Use on the Property.

Section 9. COMPLIANCE WITH CONDITIONS. Upon failure or refusal of the Applicant to comply with the conditions, restrictions, or provisions of this Ordinance, the special use permit granted in Section 2 of this Ordinance will, at the sole discretion of the Board of

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Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Board of Trustees will not revoke the special use permit unless it first provides the Applicant with two months advance written notice of the reasons for revocation and opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the B1 Zoning District, as amended. Further, in the event of revocation, the Village Attorney is authorized and directed to bring all zoning enforcement action as may be appropriate under the circumstances. The Applicant acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this Section 9, and agrees not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Applicant required by this Section is given.

Section 10. BINDING EFFECT; NON-TRANSFERABILITY. The privileges, obligations, and provisions of each and every section of this Ordinance are for the sole benefit of, and will be binding on, the Applicant, except as otherwise expressly provided in this Ordinance. Nothing in this Ordinance will be deemed to allow this Ordinance to be transferred to any person or entity without a new application for approval for any person or entity other than the Applicant.

Section 11. EFFECTIVE DATE.

- A. This Ordinance will be effective upon occurrence of the following events:
- i. Passage by the Board of Trustees in the manner required by law;
 - ii. Publication of this Ordinance in pamphlet form in the manner required law;

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- iii. The Applicant filing with the Village Clerk the Unconditional Agreement and Consent attached to this Ordinance as Exhibit D and, by this reference, made a part of this Ordinance; and
- iv. The recording of this Ordinance in the Office of the Cook County Recorder. The Applicant will bear the full cost of recording.

B. In the event the Applicant does not file with the Village Clerk a fully executed copy of the Unconditional Agreement and Consent identified in Section 11(A)(iii) of this Ordinance within ninety (90) days of the date of passage of this Ordinance by the Board of Trustees, the Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

Section 12. SUPERSEDER. In the event a conflict exists between the terms of this Ordinance and any other ordinance of the Village, the terms of this Ordinance shall govern.

PASSED this 20 Day of January, 2015

AYES: Rhein, Soldan, McElroy, Kats, Dziedzic (5)

NAYS: (0)

ABSENT: Muersch (1)

Approved by the Village President on January 20, 2015


 Mary Werner, Village President

ATTEST:


 Bonnie Price, Village Clerk

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EXHIBIT A

LEGAL DESCRIPTION

THE EAST 50 FEET OF THE WEST 254.5 FEET OF THE SOUTH 124 FEET OF THE NORTH 157 FEET OF THE EAST ½ OF THE WEST ½ OF THE NORTHWEST FRACTIONAL ¼ OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPT THAT PART OF THE WEST 50.00 FEET OF THE EAST 274.50 FEET OF THE NORTH 157.00 FEET EXCEPT FROM THAT PART OF THE LAND CONDEMNED IN CASE NO. 85 L 50245 OR FALLING WITHIN 111TH STREET (EXCEPT THAT PART OF THE SAID NORTH 157.00 FEET OCCUPIED AS A PUBLIC STREET)) OF THE EAST ½ OF THE WEST ½ OF THE NORTHWEST FRACTIONAL ¼ OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 13 TAKEN AS ONE TRACT OF LAND BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT OF LAND THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG THE NORTH LINE OF SAID TRACT 130.00 FEET THENCE SOUTH 00 DEGREES 05 MINUTES 00 SECONDS EAST ALONG THE EAST LINE OF SAID TRACT 14.00 FEET; THENCE SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST 130.00 FEET TO THE WEST LINE OF SAID TRACT THENCE NORTH 00 DEGREES, 05 MINUTES, 00 SECONDS WEST 14.00 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

P.I.N. Numbers: 24-19-104-004; 24-19-104-005

Commonly known as: 7013 West 111th Street, Worth, Illinois

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EXHIBIT B

**VILLAGE OF WORTH REAL ESTATE DEVELOPMENT BOARD
FINDINGS AND RECOMMENDATION
FOR
SPECIAL USE REQUEST BY JOHN EMSEEH AND SARAYA CAFÉ TO ESTABLISH,
OPERATE AND MAINTAIN A RETAIL TOBACCO STORE
AT 7013 WEST 111TH STREET, WORTH, ILLINOIS**

On Monday, January 5, 2015, the Village of Worth Real Estate Development Board (the "REDB") conducted a public hearing to consider a special use request filed by Saraya Café, Inc. (the "Applicant") to establish a retail tobacco store at the property commonly known as 7013 West 111th Street (the "Subject Property"). Notice of the public hearing was published in the Southtown Star on December 19, 2014.

During the public hearing, the Applicant and the Applicant's architect provided testimony concerning the proposed retail tobacco store. The Applicant intends to offer an indoor smoking environment on the Subject Property that fully complies with the Smoke Free Illinois Act. The retail tobacco store will provide an additional service to customer's frequenting the Applicant's restaurant, Saraya Café, which is located immediately east of the Subject Property. The Applicant's proposal is intended to make Saraya Café more family friendly by relocating smoking activities to the Subject Property. The Applicant indicated that the Subject Property has been vacant for at least eight years and that he would like to assist the village with its economic development efforts.

The Applicant also indicated that the retail tobacco store would operate from 10 a.m. to 1 a.m. seven days a week and that the Applicant would use on-site parking, valet parking, and off-site parking to limit parking congestion. The Applicant and the village have agreed to allow the Applicant to use the village-owned commuter parking lot located at the southeast corner of Crandall Avenue and Depot Street for overflow parking. In addition, the Applicant indicated that there are eight parking spaces on the Subject Property. The Applicant also expects many customers to park on the Saraya Café property, enjoy a meal, and walk to the Subject Property afterward.

The public and the REDB discussed the proposed parking solution and the hours of operation. Concerns were raised about the building's location on a school route and the potential impact a smoking facility may have on school children.

Before closing the public hearing, the REDB considered all evidence and testimony presented, the Applicant's application and supporting materials, and all other relevant criteria. The REDB then made the following findings in accordance with the special use criteria set forth in Section 5-2-10(D) of the Village Code.

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I. Findings

- a. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - a) *The proposed use will operate in full compliance with the strict rules set forth by the Illinois General Assembly and all applicable Village Codes, rules and regulations. The proposed use will promote economic growth in the community by occupying a vacant tenant space and providing an opportunity for patrons to purchase and use tobacco products indoors. The proposed use will also assist in expanding Sarya Café's customer base by relocating smoking activities from Saraya's premises to the Subject Property.*
 - b. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - b) *The proposed use will be conducted indoors. All smoking activities will comply with the Smoke Free Illinois Act, and smoke will not be permitted to occur near entrances, exits, or passageways providing access to non-smoking areas. The business's impact on the surrounding properties will be minimal. The Applicant intends to make a significant investment in the property – which is currently vacant – to comply with all applicable codes and make the property attractive to its customers and the public large. This investment coupled with increased tax revenue for the village will have a positive impact on the surrounding area and the village in general. The Applicant will satisfy off-street parking requirements through a combination of on-site parking, off-site parking, and valet services to the village-owned commuter lot located at the southeast corner of Crandall Avenue and Depot Street.*
 - c. The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - c) *Retail tobacco stores are allowed as special uses in the B1 zoning district. The proposed use is consistent with other permitted and special uses allowed in the B1 zoning district and will not inhibit further development of the district in a manner consistent with the village's zoning regulations. The proposed use will offer complimentary services to Saraya Café's customers and produce positive economic synergies between neighboring properties.*
- d. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
 - d) *The Applicant proposes to occupy an existing free-standing building. The Applicant does not anticipate needing to install new utility infrastructure, vehicle access points or storm water management facilities. The Applicant will orient the Subject Property's parking spaces to prevent vehicles from backing directly on to 111th Street and will provide all required accessible parking spaces.*

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e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

e) *Off-street parking facilities are located on site, on the property located immediately to the east (which is also occupied by the Applicant), and at the village-owned commuter lot located at the southeast corner of Crandall Avenue and Depot Street. The Applicant anticipates that its restaurant and tobacco shop will be complementary, with diners retiring to the tobacco shop after dinner. The anticipated traffic generated by the proposed use is not substantial, and the Applicant anticipates that the existing parking facilities will be sufficient to accommodate the anticipated parking demand. The Applicant will also offer valet services for its customers and store cars at the village-owned commuter lot.*

f. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the president and village board pursuant to the recommendations of the real estate development board, or as allowed for planned developments.

f) *The proposed use will operate in accordance with the Smoke Free Illinois Act and all applicable village codes, policies, rules, and regulations. As a condition of approval, the Applicant will offer its customers valet parking to reduce on-street parking and eliminate the need for patrons to cross 111th Street.*

II. Recommendation

Based on the foregoing findings and all evidence entered into the record at the January 5, 2015 REDB public hearings concerning the Applicant's special use proposal, the REDB recommends that the Village Board approve the Applicant's request for a special use to establish, operate and maintain a retail tobacco store at 7013 West 111th Street in Worth, Illinois, subject to the Applicant offering valet parking to its customers.

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EXHIBIT C

ECONOMIC DEVELOPMENT COMMISSION'S RECOMMENDATION

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**VILLAGE OF WORTH ECONOMIC DEVELOPMENT COMMISSION
FINDINGS AND RECOMMENDATION
FOR THE FOLLOWING BUSINESSES APPLICATIONS:**

**January 8, 2015
7pm**

Waseet America Inc., DBA Express Printing located at 11300 S. Harlem

Recommendation: Approved contingent on Tax Identification Number

Yousef Bsharat Inc., DBA Jabri Restaurant located at 10718 S. Harlem

Recommendation: Approved

Harlem Gas & Food Mart Corp. located at 11501 S. Harlem

Recommendation: Approved

**VILLAGE OF WORTH ECONOMIC DEVELOPMENT COMMISSION FINDINGS AND
RECOMMENDATIONS For: Saraya's Retail Tobacco Store Special Use Application**

Recommendation: Approved

Respectfully Submitted,

**John Staunton
Chairman**

Property of Cook County Clerk's Office

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EXHIBIT D

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Worth, Illinois (the “Village”)

WHEREAS, Saraya Café, Inc., an Illinois corporation (the “Applicant”) is the lessee of that certain property commonly known as 7013 West 111th Street, Worth, Illinois (the “Property”); and

WHEREAS, the Applicant has sought approval of a special use permit to develop, operate, and maintain the Property as a retail tobacco store (the “Zoning Relief”); and

WHEREAS, Ordinance No. 2015-03, adopted by Board of Trustees of the Village on January 19, 2015, grants approval of such Zoning Relief, subject to certain conditions (the “Ordinance”); and

WHEREAS, the Applicant desires to evidence to the Village its unconditional agreement and consent to accept and abide by each 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 abide by all terms, conditions, restrictions, and provisions of the Ordinance;
2. the Applicant acknowledges and agrees that the Village will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s review and approval of any plans for the Property, or the issuance of any permits for the use and development of the Property, and that the Village’s review and approval of any such plans and issuance of any such permits does not, and will not, in any way, be deemed to insure the Applicant against any damage or injury of any kind and at any time;
3. the Applicant acknowledges that the 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 any denial of any procedural right, provided that the notice to the Applicant required by Section 9 of the Ordinance is given;
4. the Applicant agrees to and does hereby hold harmless and indemnify the Village, the Village’s corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, volunteers, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in

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connection with (a) the Village's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Property, and (d) the performance of the Applicant of their obligations under this Unconditional Agreement and Consent;

- 5. the Applicant hereby agrees to pay all expenses incurred by the Village in defending itself with regard to any and all claims mentioned in this Unconditional Agreement and Consent. These expenses will include all out of pocket expenses, such as attorneys' and experts' fees, and will also include the reasonable value of any services rendered by any employee of the Village.

Saraya Café, Inc.

By: [Signature]
 Its: _____

ATTEST

By: Bonnie M Price
 Its: Village Clerk

SUBSCRIBED and SWORN to
 Before me this 23 day of
January 2015

[Signature]
 Notary Public

<seal>

