

**86-O-13**

**AN ORDINANCE**

**Granting Special Use Permits for a Planned Development and Independent Living Facility Located at 1611-29 Chicago Avenue in the D4 Downtown Transition District (“North Shore Residence”)**

**WHEREAS**, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

**WHEREAS**, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); and

**WHEREAS**, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

**WHEREAS**, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

**WHEREAS**, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, (“the Zoning Ordinance”); and

**WHEREAS**, Horizon Group XXIII, LLC (the “Applicant”), owner of the property located at 1611-29 Chicago Avenue, Evanston, Illinois (the “Subject Property”), legally described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of the Zoning Ordinance, specifically Section 6-3-5, “Special Uses,” Section 6-3-6, “Planned Developments,” Subsection 6-11-1-10, “Planned Developments” in Downtown Districts, and Subsection 6-11-5-3, “Special Uses” in the D4 Downtown Transition District (“D4 District”), to permit the construction and operation of a Planned Development and Independent Living Facility located at the Subject Property in the D4 District; and

**WHEREAS**, the Applicant sought said Special Use Permits to replace its status as a legal non-conforming use, “Retirement Hotel,” and allow construction of an addition, approximately eighty-five feet (85’) tall, with approximately two thousand six hundred square feet (2,600 ft<sup>2</sup>) of first-floor commercial space, yielding no more than two hundred five (205) residential units and zero (0) new on-site parking spaces; and

**WHEREAS**, on July 10, 2013, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and the Zoning Ordinance, the Plan Commission and Zoning Board of Appeals (“ZBA”) held a joint public hearing on the application for Special Use Permits, case no. 13PLND-0052, heard testimony, received other evidence, and made written minutes, findings, and recommendations; and

**WHEREAS**, the Plan Commission and ZBA’s written findings state that the application for the proposed Planned Development meets applicable standards set forth for Special Uses in Subsection 6-3-5-10 of the Zoning Ordinance and Planned Developments in the D4 District per Subsection 6-11-1-10 of the Zoning Ordinance; and

**WHEREAS**, the Plan Commission and ZBA recommended the City Council approve the application with conditions; and

**WHEREAS**, on July 22, 2013, the Planning and Development ("P&D") Committee of the City Council held a meeting, in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered and adopted the findings and recommendations of the Plan Commission and ZBA, and recommended approval thereof by the City Council; and

**WHEREAS**, at its meetings of July 22 and August 12, 2013, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee and ZBA, received additional public comment, made certain findings, and adopted said recommendation; and

**WHEREAS**, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124),

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:**

**SECTION 1:** The foregoing recitals are hereby found as fact and incorporated herein by reference.

**SECTION 2:** Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the Special Use Permits applied for in case no. 13PLND-0052, to allow construction and operation as described herein.

**SECTION 3:** Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permits granted hereby, violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permits pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

- (A) **Compliance with Applicable Requirements:** The Applicant shall develop and operate the Special Uses authorized by the terms of this ordinance in substantial compliance with: the terms of this ordinance; the Site Plans in Exhibit B, attached hereto and incorporated herein by reference; all applicable legislation; the Applicant's testimony and representations to the Site Plan and Appearance Review Committee, the Plan Commission, ZBA, the P&D Committee, and the City Council; and the approved documents on file in this case.
- (B) **Parking:** Pursuant to Subsection 6-16-2-1-(B)-1 of the Zoning Ordinance, the Applicant shall license no fewer than nine (9) parking spaces, required for the Special Use Permits authorized by this ordinance, from the City in an off-street parking facility within one thousand feet (1000') of the Subject Property. For as long as the Applicant operates said Special Uses, it shall maintain and keep current said license(s), and shall comply with all terms thereof and any amendments thereto.
- (C) **Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Special Use Permits authorized by the terms of this ordinance.

**SECTION 4:** When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's agents, assigns, and successors in interest."

**SECTION 5:** Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

**SECTION 6:** This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

**SECTION 7:** All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

**SECTION 8:** If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 9:** The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: July 22, 2013

Adopted: August 12, 2013

Approved:

August 15, 2013

Elizabeth B Tisdahl  
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene  
Rodney Greene, City Clerk

Approved as to form:

Approved as to form:  
W. Grant Farrar  
Corporation Counsel

By: Michelle Mason  
W. Grant Farrar, Corporation Counsel Deputy City Attorney

**EXHIBIT A**

**Legal Description**

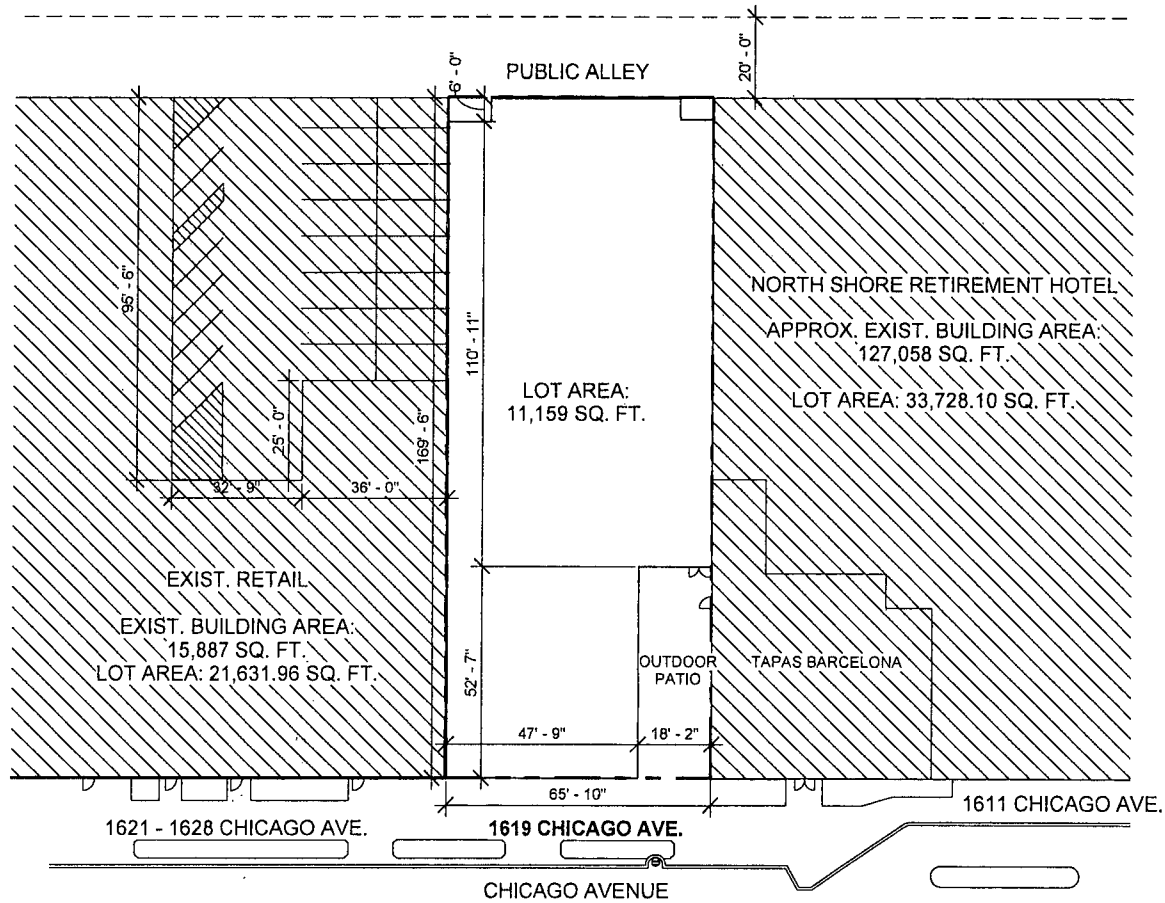
LOT 4 (EXCEPT THE NORTH 5 FEET THEREOF) AND ALL OF LOTS 5, 6, 7, 8 AND 9 IN BLOCK 20 IN EVANSTON IN THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PIN:** 11-18-403-019-0000

**COMMONLY KNOWN As:** 1611-29 Chicago Avenue, Evanston, Illinois

**EXHIBIT B**

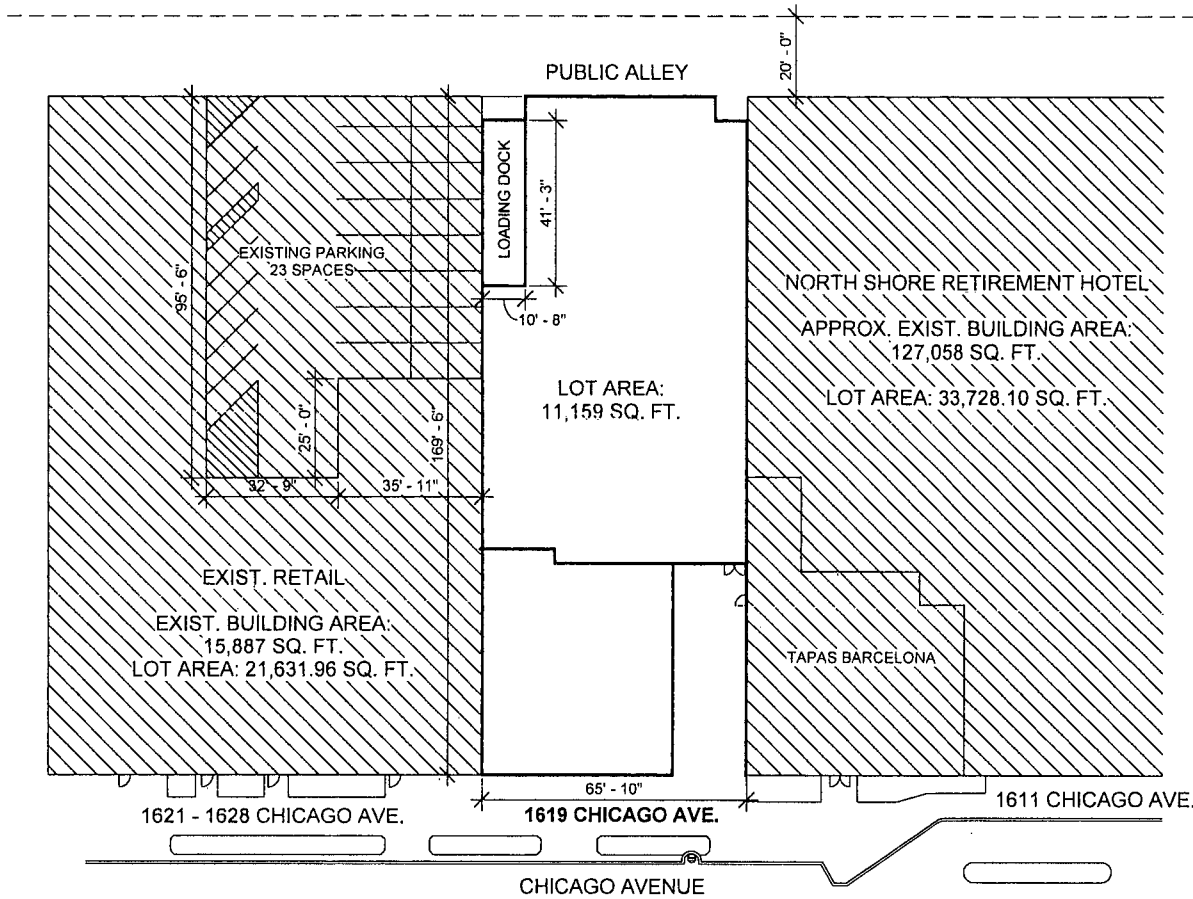
**Site Plans**



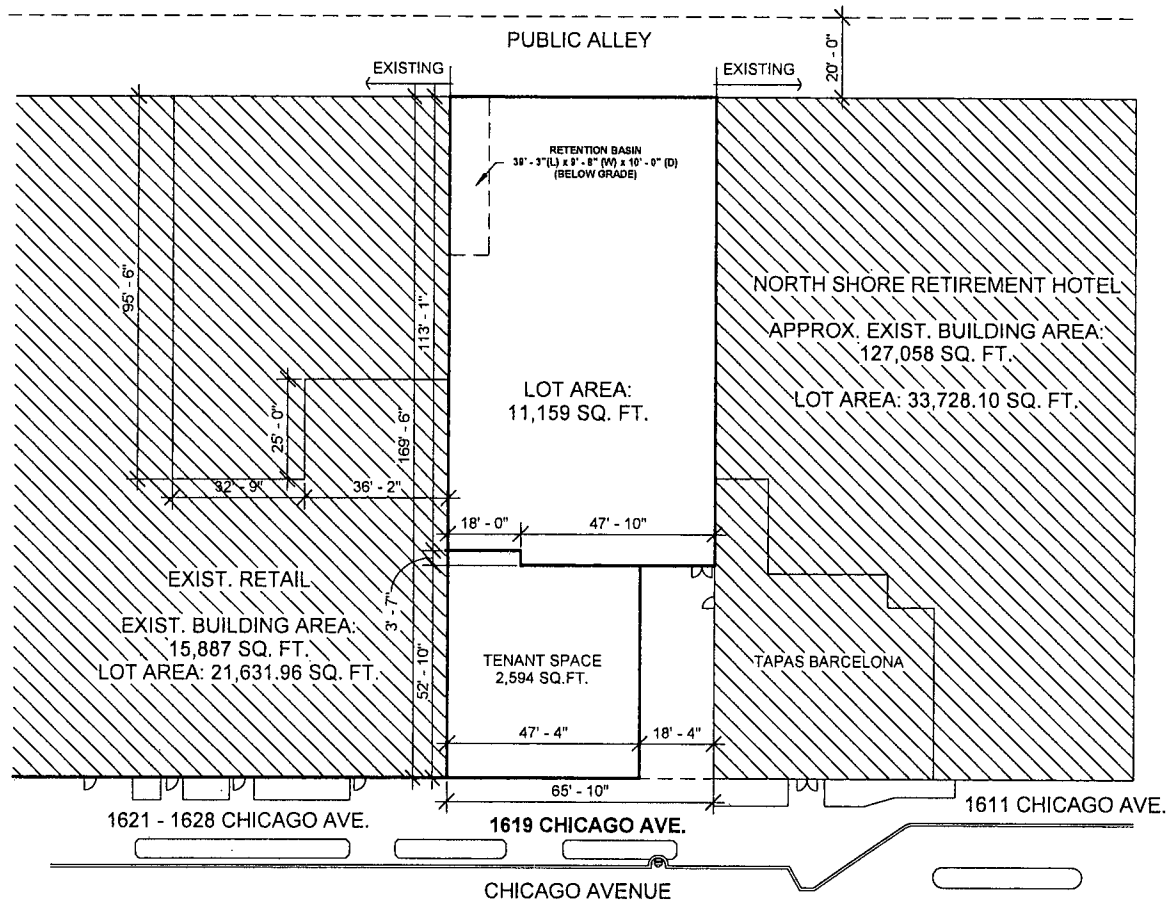
**NORTH SHORE RESIDENCE ADDITION**  
 1619 CHICAGO AVE | EVANSTON, IL





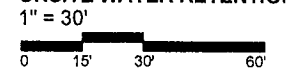


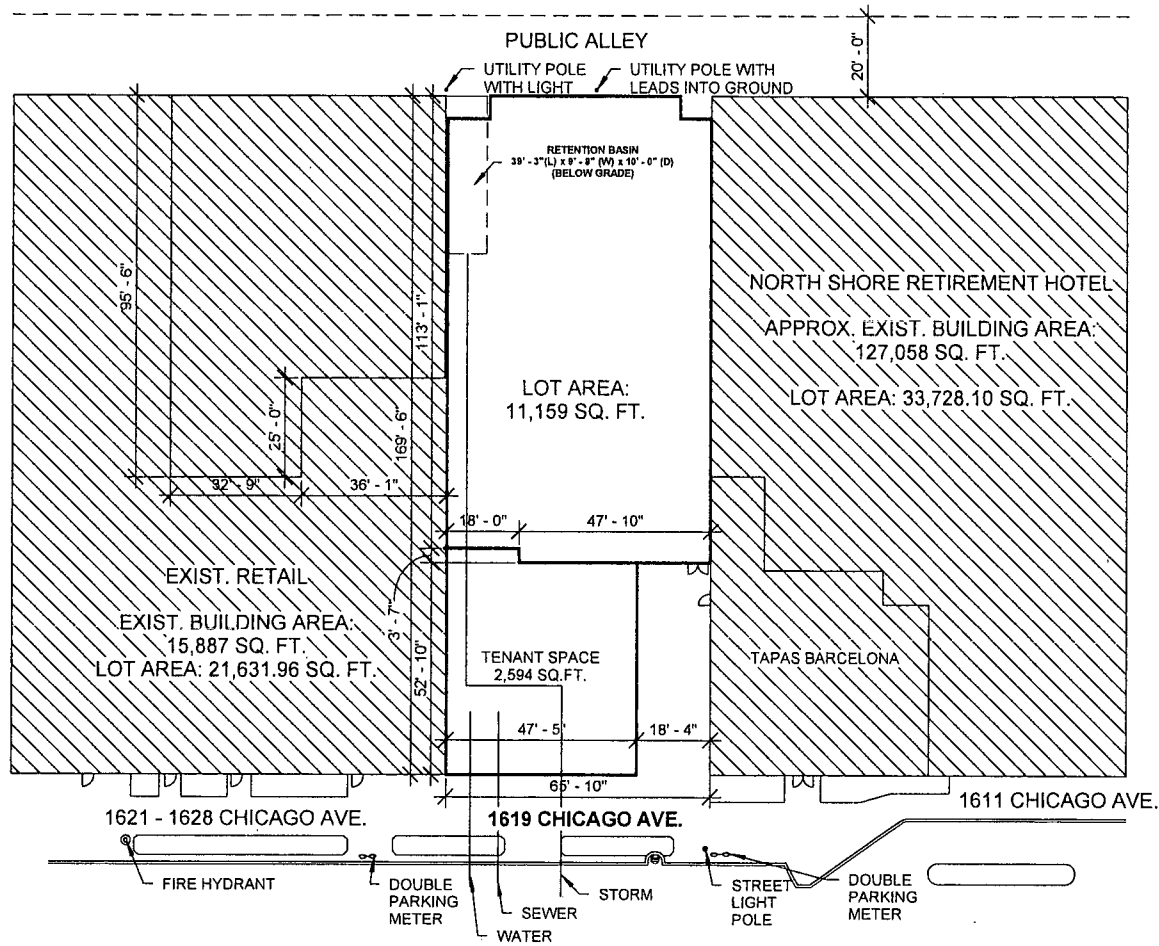
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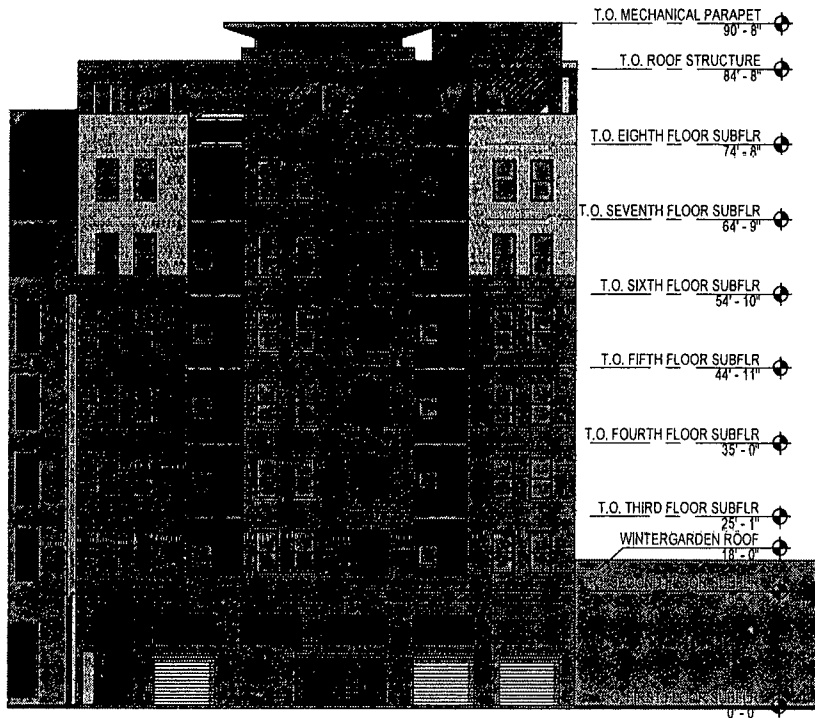
EXHIBIT 3(g)  
 ONSITE WATER RETENTION



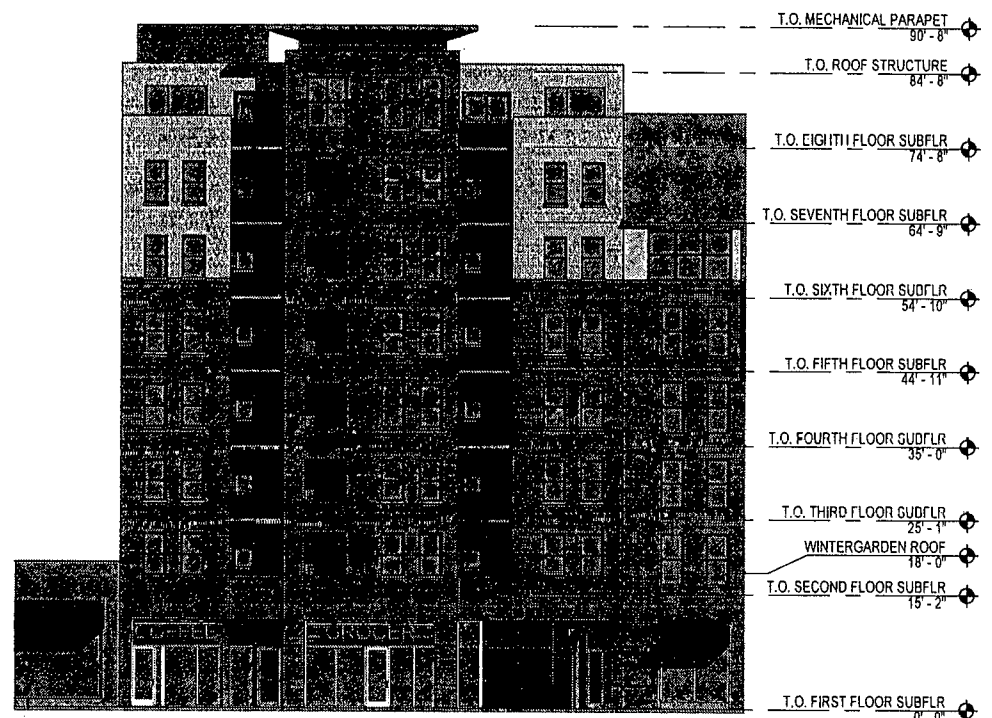


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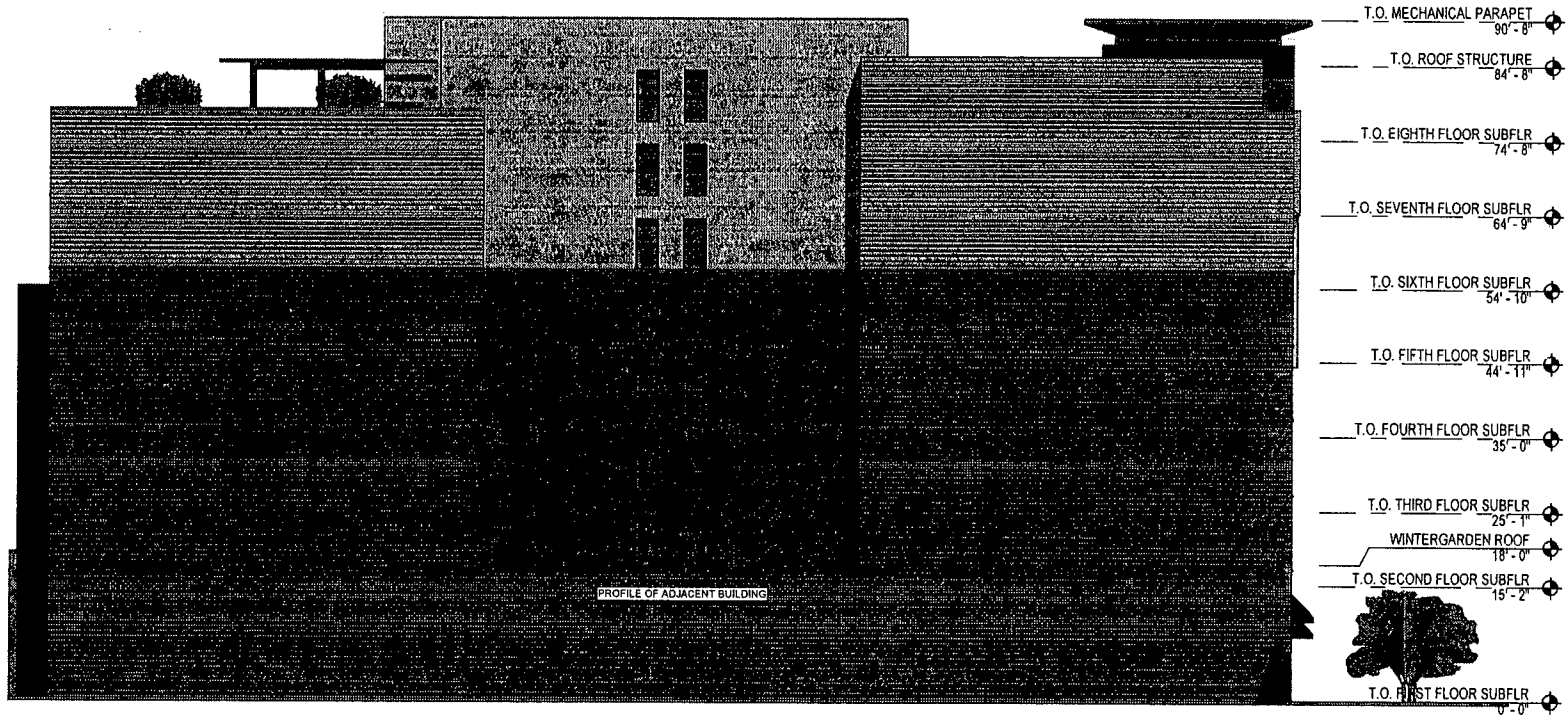




EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION