

8/24/2017

**89-O-17**

**AN ORDINANCE**

**Extending the Time for the Applicant to Obtain a Building Permit to Construct the Residential Unit in the Planned Development Previously Authorized by Ordinance 39-O-08**

**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 legislation and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; 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**, on March 24, 2008, the City Council enacted Ordinance 39-O-08 by a supermajority vote (9-0), as required by Section 6-3-6-6 of the Zoning Ordinance, attached hereto as Exhibit 1 and incorporated herein by reference, which, pursuant to the provisions of the Zoning Ordinance, granted a Special Use Permit for a Planned Development (the "Planned Development") in the R1 Residential Zoning District and the

Lakeshore Historic District at 318-20 Dempster Street (the "Subject Property"), which is legally described in Exhibit 1; and

**WHEREAS**, the Planned Development Ordinance approved the creation and operation of a seven thousand twenty square feet (7,020 sq. ft.), three (3) unit multifamily residential Planned Development at the Subject Property (the "Project"); and

**WHEREAS**, on August 22, 2017, the property owner for the Subject Property, Geoffrey Bushor (the "Applicant") requested an amendment to the Planned Development in order to extend the timeframes to obtain a building permit to construct the residential units and finish the last phase of the Project (the "Amendment"); and

**WHEREAS**, City Code Sections 6-3-5-15(A) and 6-8-1-10(A) provide for a time period for construction of one (1) year unless the City Council approves for an extended date by which to obtain a building permit in order to allow for a staged development; and

**WHEREAS**, the City Council previously approved four (4) extensions beyond the initial one (1) year period, the first in 2009 and subsequently in 2011, 2013 and 2015; and

**WHEREAS**, in order to commence construction of the residential units, the Applicant requests an amendment to the Planned Development to provide for an additional two (2) years to obtain a building permit to commence construction of the residential units in the Project, revising the date to obtain a building permit to be September 25, 2019 (the "Extension Request"); and

**WHEREAS**, on September 11, 2017, the Planning and Development Committee ("P&D Committee") held a meeting, in compliance with the provisions of the

Illinois Open Meetings Act (5 ILCS 120/1 *et seq*), during which it retained jurisdiction over the Extension Request; and

**WHEREAS**, during said meeting, the P&D Committee received input from the public, and carefully deliberated on the Extension Request and the Applicant was given notice of the P&D and City Council meetings; and

**WHEREAS**, at its meetings of September 11, 2017 and September 25, 2017, held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee's deliberations and recommendations, heard public comment, made findings and considered this Ordinance 89-O-17 and the Extension Request,

**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 and Sections 6-3-5-15(a) and 6-11-1-10(A)(4) of the Zoning ordinance, the City Council hereby grants an amendment to the Planned Development Special Use Permit previously authorized by Ordinance 39-O-08 and subsequently amended in 2008, 2011, 2013, and 2015, respectively, to allow for a two (2) year time extension to the Applicant to obtain a building permit for the limited purpose of construction of the residential units at 318-20 Dempster Street in the Planned Development 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 Permit granted for

the Planned Development, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit 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 Planned Development authorized by the terms of this ordinance in substantial compliance with the following: the terms of this Ordinance 89-O-17; terms of Ordinance 39-O-08 and subsequently amended in 2009, 2011, 2013 and 2015, which have not been amended by this Ordinance; all applicable City Code requirements; the Applicant's testimony and representations to the P&D Committee, and the City Council; and the approved documents on file in this case.
- (b) Construction of Residential Units:** The Applicant must obtain a building permit for the construction of a three (3) unit multifamily residential Planned Development at 318-20 Dempster Street within two (2) years (September 25, 2019). The construction shall be in compliance with all applicable City Code restrictions, including but not limited to, the construction must be completed within a period of twenty-four (24) months after issuance of the building permit.
- (c) Changes in Property Use:** Any change as to the property's use in the future must be processed and approved as an additional amendment to the Planned Development.
- (d) 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 Planned Development authorized by the terms of this ordinance.

**SECTION 4:** Except as otherwise provided for in this Ordinance 89-O-17, all applicable regulations of the Ordinance 39-O-08, 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/or provisions of any of said documents conflict with any of the terms herein, this Ordinance 89-O-17 shall govern and control.

**SECTION 5:** When necessary to effectuate the terms, conditions, and purposes of this ordinance, “Applicant” shall be read as “Applicant and its agents, assigns, and successors in interest” and shall mean Geoffrey Bushor, and any and all successors, owners, and operators of the Subject Property.

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

**SECTION 9:** 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.

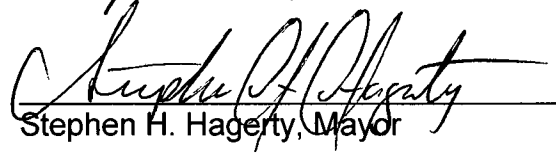
**SECTION 10:** The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: September 11<sup>th</sup>, 2017

Approved:

Adopted: September 11<sup>th</sup>, 2017

September 14, 2017

  
Stephen H. Hagerty, Mayor

Attest.



Devon Reid, City Clerk

Approved as to form:

  
W. Grant Farrar, Corporation Counsel

EXHIBIT 1  
**ORDINANCE 39-O-08**

3/3/2008

**39-O-08**

**AN ORDINANCE**

**Amending the Zoning Ordinance and Granting a Special Use for a Residential Planned Development at 318-20 Dempster Street in the R1 Residential Zoning and Lakeshore Historic Districts**

WHEREAS, Geoffrey Bushor (the "Applicant"), owner of the property located at 318-20 Dempster Street (the "Subject Property"), legally described in Exhibit A, attached hereto and made a part hereof, submitted a complete application on October 19, 2007, pursuant to the provisions of Title 6 of the Evanston City Code, 1979, as amended, ("the Zoning Ordinance"), specifically: Section 6-3-4-5, "Standards for Amendments"; Section 6-3-5, "Special Uses"; Section 6-8-1-10, "Planned Developments"; Section 6-8-1-10 (B)3, "Site Controls and Standards"; and Section 6-8-1-10 (C), "Development Allowances"; for: an amendment to the text of the Zoning Ordinance to allow more than one (1) principal use on a zoning lot within the R1, R2, R3, and R4 single-family Zoning Districts when authorized as a Planned Development and involving an Evanston landmark structure; an amendment to the text of the Zoning Ordinance to allow Planned Developments with a minimum area of seven thousand square feet (7,000 sq. ft.) in Residential Zoning Districts if they involve an Evanston landmark structure; and a Special Use to permit the creation and operation of a seven thousand twenty square feet (7,020 sq. ft.), three (3)-unit multifamily residential Planned Development, at the Subject Property, located in the R1 Residential Zoning and Lakeshore Historic Districts; and

39.0.08



**WHEREAS**, the Applicant sought approval to allow redevelopment of the former livery stable in the rear of the Subject Property as a single family detached dwelling with covered parking, prior to condominium conversion of the entire Subject Property, including the double house and the new unit in the redeveloped stable; and

**WHEREAS**, on January 9, 2008 and pursuant to proper notice, the Plan Commission and the Historic Preservation Commission held a joint public hearing on the application, case nos. ZPC 07-06 PD&T and 07 HIS-0230, heard testimony and received other evidence, and made verbatim transcripts and written findings; and

**WHEREAS**, the Plan Commission's written findings state that the application for the proposed Planned Development meets the standards in Section 6-3-4-5 of the Zoning Ordinance for text amendments; and

**WHEREAS**, creation of the Planned Development, as proposed in the application, requires exceptions from the strict application of the Zoning Ordinance pertaining to minimum area landscape strips, the maximum number of dwelling units, setbacks, and building lot coverage; and

**WHEREAS**, the Plan Commission, with guidance from the Historic Preservation Commission, exercised the discretionary power granted to it by Section 6-15-11-4 of the Zoning Ordinance to grant relief to the Applicant from the minimum area requirements for Planned Developments in Residential Zoning Districts imposed by Section 6-8-1-10 (B)1(a) of the Zoning Ordinance, thereby eliminating the need for an amendment to the text of said Section; and

**WHEREAS**, pursuant to Sections 6-3-6-4, 6-3-6-5, and 6-3-6-6 of the Zoning Ordinance, the City Council may grant site development allowances and exceptions to site development allowances that depart from and/or exceed the normal maximum regulations established in the Zoning Ordinance, provided that the City Council makes written findings of fact that the exceptions are essential to achieve one or more of the public benefits described in Section 6-3-6-3 of the Zoning Ordinance; and

**WHEREAS**, the Plan Commission's written findings state that the application for the proposed Planned Development meets the standards set forth in the Zoning Ordinance for: Special Uses per Section 6-3-5-10; conditions for Planned Developments in the R1 Zoning District per Section 6-8-1-10 (A); site controls and standards for Planned Developments in the R1 Zoning District per Section 6-8-1-10 (B); development allowances for Planned Developments in the R1 Zoning District per Section 6-8-1-10 (C); and provides the public benefit necessary to exceed site development allowances per Section 6-3-6-3; and

**WHEREAS**, the Plan Commission recommended the City Council approve the application, as amended, for an amendment to the text of the Zoning Ordinance and for a Special Use to construct the proposed Planned Development, subject to certain conditions; and

**WHEREAS**, the Historic Preservation Commission granted the Applicant a Certificate of Appropriateness to allow the creation of the proposed Planned Development; and

**WHEREAS**, at its March 10, 2008 meeting, the Planning and Development Committee considered and adopted the findings and recommendations of the Plan Commission, and recommended approval by the City Council; and

**WHEREAS**, at its March 24, 2008 meeting, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee,

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

**SECTION 1:** That the foregoing recitals are found as facts and made a part hereof.

**SECTION 2:** That the City Council hereby amends the text of Section 6-4-1-6 (B) of the Zoning Ordinance to read as follows:

Except when authorized as part of a planned development, approved pursuant to section 6-3-6, "Planned Developments", of this title, and involving an Evanston-designated landmark structure, not more than one principal use shall be established on a zoning lot within the R-1, R-2, R-3 and R-4 single-family zoning districts. For all other districts, except where approved as a mixed use development, not more than one principal use shall be established on a zoning lot.

**SECTION 3:** That the City Council hereby grants the Special Use applied for in case no. ZPC 07-06 PD&T, to permit the creation and operation of a multifamily residential Planned Development on the Subject Property. The creation and operation of said Planned Development shall be in substantial conformance with the Development Plans, attached hereto as Exhibit B and made a part hereof, and the terms of this Ordinance.

**SECTION 4:** That the City Council hereby finds that exceptions to the Planned Development requirements and the site development allowances set forth in Sections 6-8-1-10 (B)3, 6-8-1-10 (C)2(a), 6-8-1-10 (C)3, and 6-8-1-10 (C)4(a) of the Zoning Ordinance, which exceed the normal maximum regulations established in the R1 Zoning District, are necessary to achieve the following public benefits, set forth in Section 6-3-6-3 of the Zoning Ordinance:

- (A) Preservation and enhancement of desirable site characteristics and open space. The proposed Planned Development allows for the creation of a new dwelling unit on the Subject Property, without requiring the creation of a new structure, through the adaptive reuse of the former livery stable
- (B) Preservation and enhancement of historic resources that significantly contribute to the character of the City. The Applicant proposes to preserve a historic structure, the former livery stable, through adaptive reuse as a single family residential building.
- (C) Use of design, landscape, or architectural features to create a pleasing environment or other special development features. The plans for the redevelopment of the former livery stable maintain its historic appearance while simultaneously allowing for its rehabilitation and adaptive reuse.
- (D) Provision of a variety of housing types in accordance with the City's housing goals. The proposed Planned Development allows for a new dwelling unit different than would normally be allowed by the Zoning Ordinance and which may be more affordable than nearby units.
- (E) Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation. The proposed Planned Development provides for the rehabilitation and adaptive reuse of the dilapidated stable.

**SECTION 5:** That, pursuant to the terms and conditions of Section 6-3-6-6 of the Zoning Ordinance and this Ordinance, 39-O-08, the authority to exceed the following site development allowances is hereby granted by a vote of at least two-thirds (2/3) of the Aldermen elected to the City Council:

- (A) To allow relief from the requirement of Section 6-8-1-10 (B)3 that, for Planned Developments in Residential Zoning Districts, all boundaries not immediately abutting dedicated and improved public streets, the Applicant shall provide a transition landscaped strip of at least ten feet (10') consisting of vegetative screening, fencing, or decorative walls.
- (B) To allow three (3) dwelling units on the Subject Property. The Zoning Ordinance allows one (1) dwelling unit on the Subject Property. Section 6-8-1-10 (C)2a allows for a site development allowance of zero (0) additional dwelling units.
- (C) To allow two (2) of the dwelling units be setback fourteen and twenty-two hundredths feet (14.22') from the side yards and one (1) dwelling unit setback zero feet (0') from the side and rear yard line. Section 6-8-2-8 establishes a variety of yard and setback requirements in the R1 Zoning District. Section 6-8-1-10 (C)3 allows for a site development allowance to permit the location and placement of buildings may vary from that otherwise permitted in the residential districts, provided that no dwelling be closer than fifteen feet (15') from any street or development boundary line and that no two (2) residential buildings be closer than twelve feet (12') to each other within the Planned Development.
- (D) To allow a maximum building lot coverage of fifty-seven and nine-tenths percent (57.9%). Section 6-8-2-7 sets the maximum lot coverage in the R1 district at thirty percent (30%). Section 6-8-1-10 (C)4(a) allows for a site development allowance of an additional ten percent (10%), yielding a total of forty percent (40%).

**SECTION 6:** That, pursuant to Section 6-3-5-12 of the Zoning Ordinance, the City Council hereby imposes the following condition on the grant of the requested Special Use for a Planned Development:

- (A) Development and use of the Subject Property shall be in substantial compliance with all applicable legislation, with the testimony and representations of the Applicant to the Historic Preservation Commission, the Plan Commission, the Planning and Development Committee, and the City Council, and with the approved plans and documents on file in this case.

**SECTION 7:** That, 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.

**SECTION 8:** That the Applicant shall record a certified copy of this Ordinance, at its cost, including all Exhibits attached hereto, with the Cook County Recorder of Deeds, before the City may issue any permits related to the creation of the proposed Planned Development hereby authorized.

**SECTION 9:** That, when necessary to effectuate the terms, conditions, and purposes of this Ordinance, "Applicant" shall read as "Applicant's agents, assigns, and successors in interest."

**SECTION 10:** That if any provision of this Ordinance or application thereof to any person or circumstance is held 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 11:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 12:** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: March 10, 2008

Approved:

Adopted: March 24, 2008

March 25, 2008

Lorraine H. Morton  
Lorraine H. Morton, Mayor

Attest:

Mary P. Morris  
Mary P. Morris, City Clerk

Approved as to form:

Herbert D. Hill  
Herbert D. Hill  
First Assistant Corporation Counsel

**EXHIBIT A**

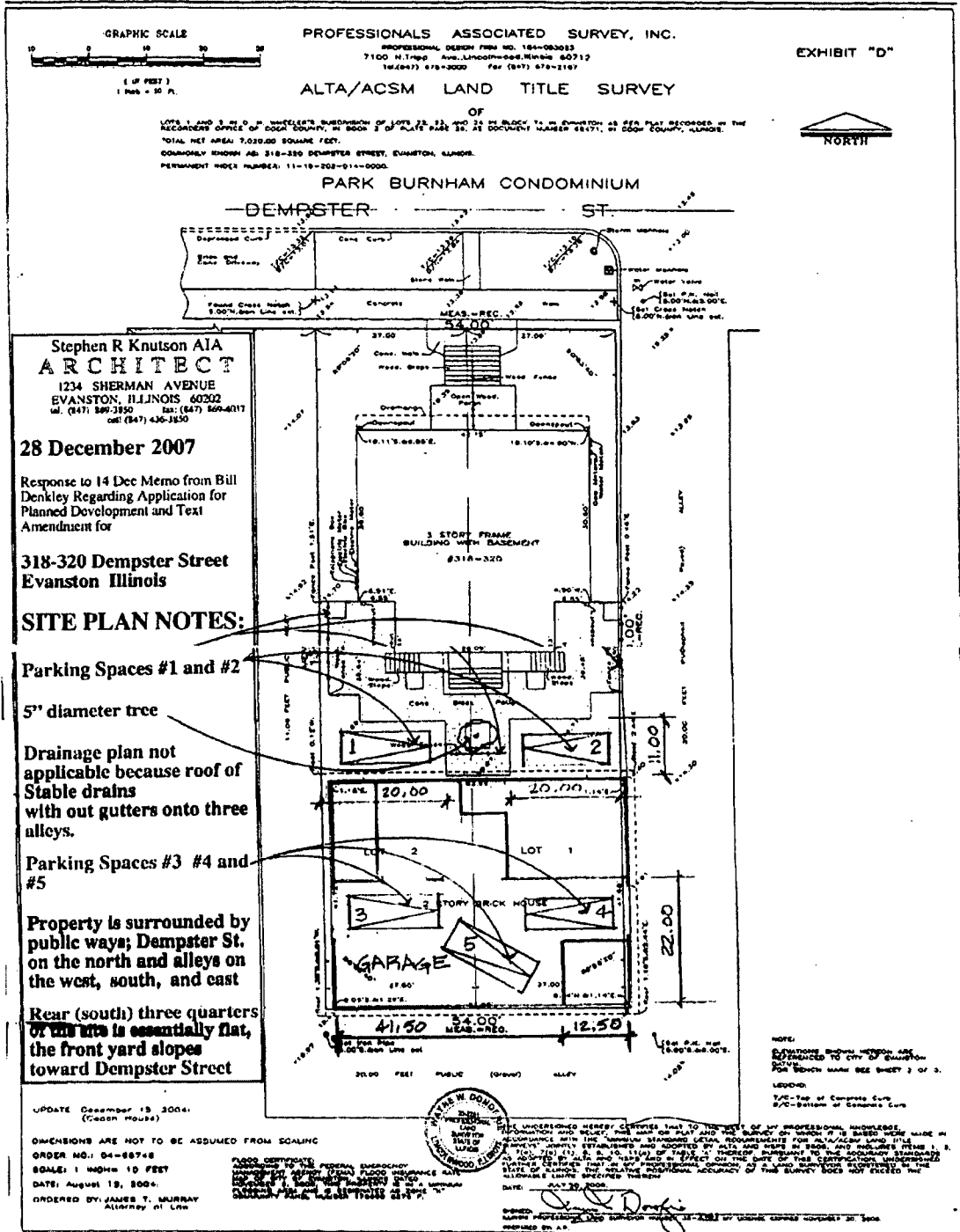
**LEGAL DESCRIPTION OF 318-20 DEMPSTER STREET**

LOT 1 AND 2 in D.H. WHEELER's SUBDIVISION OF LOTS 22, 23 AND 34 in BLOCK 74 IN VILLAGE OF EVANSTON AS PER PLAT RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS, IN BOOK 3 OF PLATS PAGE 38 AS DOCUMENT 68471 IN COOK COUNTY, ILLINOIS.



EXHIBIT B

DEVELOPMENT PLANS



PROPOSED NORTH ELEVATION

PROPOSED SOUTH ELEVATION

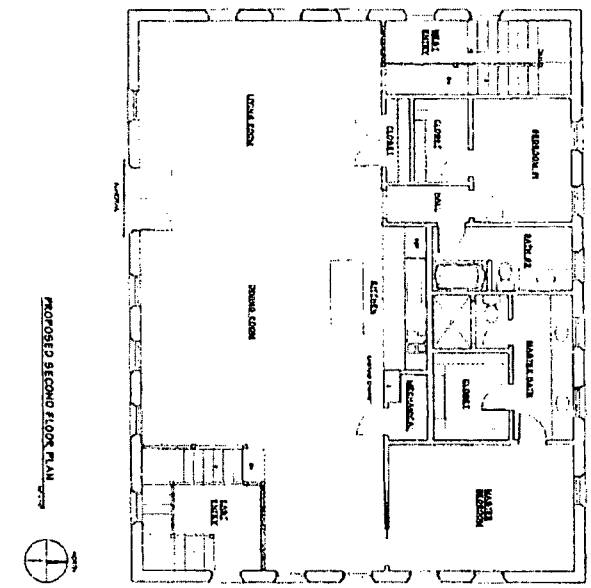
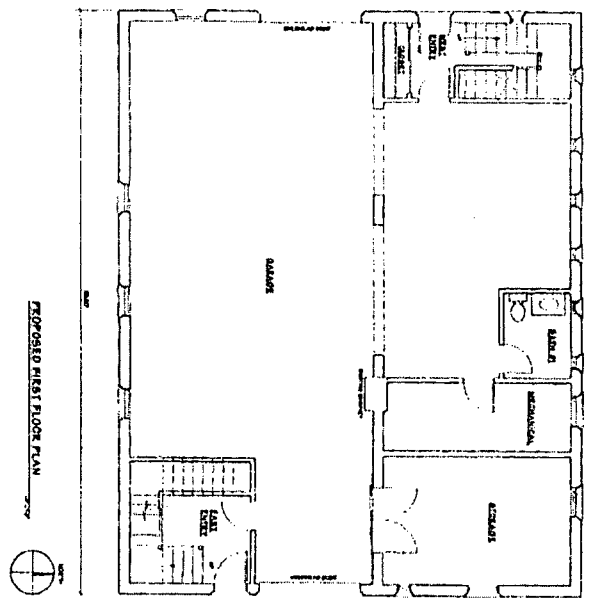
PROPOSED EAST ELEVATION

PROPOSED WEST ELEVATION

**BUSHOR STABLE REMODELING**  
 318/320 DEMPSTER AVENUE  
 EVANSTON, ILLINOIS 60202

STEPHEN S. GARDNER, AIA  
 ARCHITECT  
 1234 SHERMAN AVENUE  
 EVANSTON, ILLINOIS 60202  
 (847) 869-8830

1



2		<p><b>BUSHOR STABLE REMODELING</b>          318/320 DEMPSTER AVENUE          EVANSTON, ILLINOIS 60202</p>	<p>Stephen H. R. Bushor, AIA          ARCHITECT          1100 SHERMAN AVENUE          EVANSTON, ILLINOIS 60202          (847) 869-1150</p>
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