

98-O-20

**AN ORDINANCE**

**Granting A Major Adjustment to the Planned Development  
Located at 1605-1631 Chicago Avenue**

**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

11.9.20

**WHEREAS**, in August 2013, the City Council enacted Ordinance 86-O-13, attached hereto as Exhibit B and incorporated herein by reference, which granted a Special Use Permit for a Planned Development (the "Planned Development") at 1611-1629 Chicago Avenue (the "Subject Property"), which is legally described in Exhibit B; and

**WHEREAS**, Ordinance 86-O-13 approved the construction of an eight (8) story addition to the north of the existing Merion building with two hundred five (205) units, thirty-two (32) parking spaces (9 leased off-site), an FAR of 3.15, and established a special use for an Independent Living Facility, which is detailed at length in Exhibit B; and

**WHEREAS**, the Applicant, Horizon Realty Group ("the Applicant") has proposed a subdivision of the parcel which would create two (2) parcels: one parcel containing an existing one-story commercial building and another parcel containing the existing Merion building and its addition; and

**WHEREAS**, this change in zoning lot size triggers the need for a major adjustment to the 2013 planned development; and

**WHEREAS**, the Applicant has requested a major adjustment that includes an increase in FAR to 4.2 from 3.15; an increase in parking spaces from thirty-two (32) to thirty-eight (38) (all leased off-site); and a reduction of units from two hundred five (205) to one hundred eighty-six (186) (including sixty-five (65) dwelling units); and

**WHEREAS**, in order to approve the major adjustment requested, the Applicants request amendments to Ordinance 86-O-13 (the “Previously Approved Ordinance”); and

**WHEREAS**, the Previously Approved Ordinance is a piece of legislation enacted by the City Council of the City of Evanston, subject to revision only by said City Council; and

**WHEREAS**, on February 26, 2020, May 13, 2020 and September 30, 2020, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and the Zoning Ordinance, the Plan Commission held a public hearing on the application for a Major Adjustment to a Planned Development, case no. 19PLND-0059, heard extensive testimony and public comment, received other evidence, and made written minutes, findings, and recommendations; and

**WHEREAS**, the Plan Commission recommended City Council approval of the application for a major adjustment; and

**WHEREAS**, on October 26, 2020, 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 considered the Applicant’s request; and

**WHEREAS**, during said meeting, the P&D Committee received input from the public, carefully deliberated on the major adjustment, and recommended approval thereof by the City Council; and

**WHEREAS**, at its meetings on October 26, 2020 and November 9, 2020, held in compliance with the provisions of the Illinois Open Meetings Act, the City Council considered the P&D Committee's recommendation, heard public comment, made findings, and adopted said recommendation; and

**WHEREAS**, it is well-settled law in Illinois 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 an amendment to the Special Use Permit previously authorized by Ordinance 86-O-13 to allow for the change in the zoning lot.

**SECTION 3:** The conditions on the Special Use Permit imposed pursuant to Subsection 6-3-5-12 of the Zoning Ordinance by City Council in Ordinance 86-O-13 remain applicable to the Planned Development,

**SECTION 4:** Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council amends condition (B) of the Special Use Permit granted for the Planned Development in ordinance 86-O-13, as 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 Subsection 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

**(B) Parking:** Pursuant to Subsection 6-16-2-1-(B)-1 of the Zoning Ordinance the Applicant shall license no less than thirty-eight (38) parking spaces, required for the Special Use Permit authorized by this ordinance, from the City in an off-street parking facility within one-thousand (1,000) feet of the Subject Property. For as long as the applicant operates said Special Use it shall maintain and keep current said licenses and shall comply with all terms thereof and any amendment thereto.

**SECTION 4:** Except as otherwise provided for in this 98-O-20, all applicable regulations of the Ordinance 86-O-13, 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 98-O-20 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."

**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.

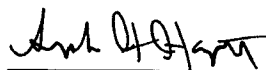
**SECTION 10:** The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: October 26, 2020

Approved:

Adopted: November 9, 2020

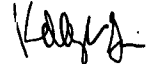
November 13, 2020

  
\_\_\_\_\_  
Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

  
\_\_\_\_\_  
Devon Reid, City Clerk

  
\_\_\_\_\_  
Kelley A. Gandurski,  
Corporation Counsel

**EXHIBIT A****Legal Description**

THAT PART OF LOT A DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTHEASTERLY, ALONG THE NORTHWESTERLY LINE, 264.39 FEET; THENCE SOUTHEASTERLY AT APPROX. AT RIGHT ANGLE 170 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT; THENCE SOUTHWESTERLY, ALONG THE SOUTHEASTERLY LINE, 264.46 FEET; THENCE NORTHWESTERLY, ALONG THE SOUTHWESTERLY LINE; 170 FEET TO THE POINT OF BEGINNING, IN PLAT OF CONSOLIDATION OF 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 QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PINs:** 11-18-403-020-0000

**COMMONLY KNOWN AS:** 521-533 Davis Street & 1605-1619 Chicago Avenue, Evanston, Illinois



**EXHIBIT B**

**Ordinance 86-O-13**

7/11/2013

**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

W. Grant Farrar, Corporation Counsel

By: Michelle Mason  
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.

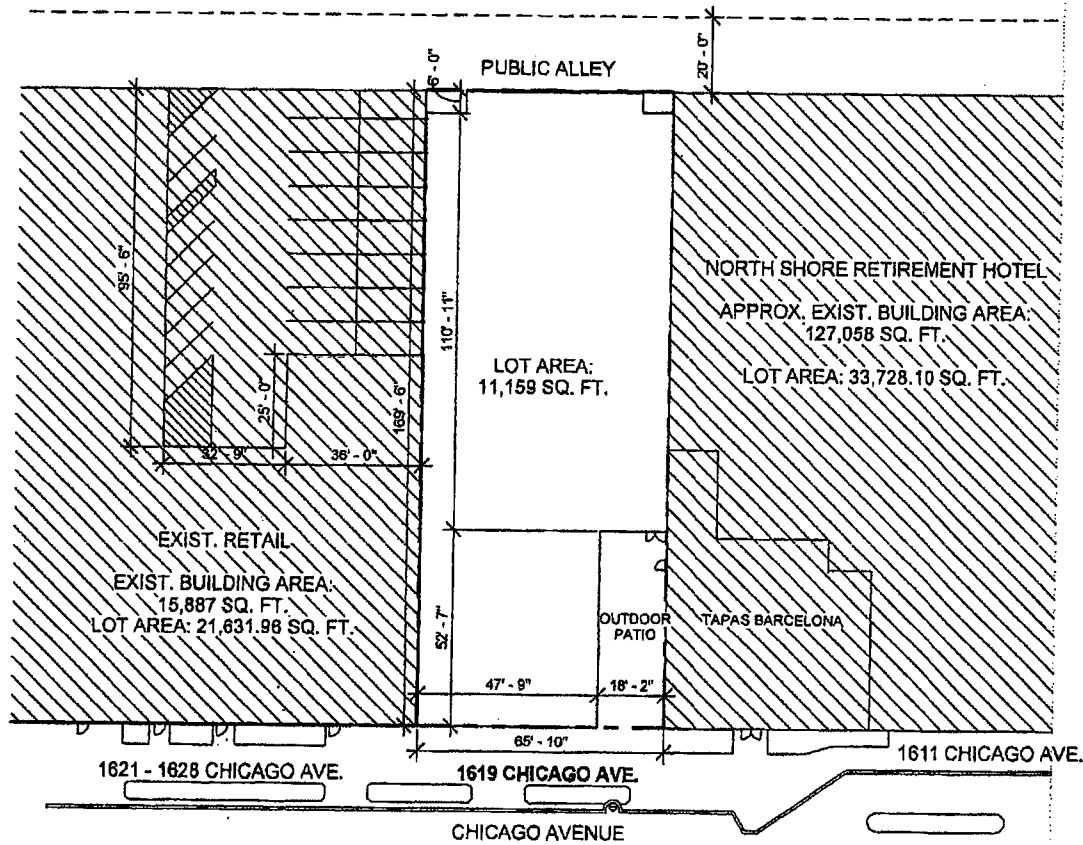
**COMMONLY KNOWN AS:** 1611-29 Chicago Avenue, Evanston, Illinois

**EXHIBIT B**

---

**Site Plans**





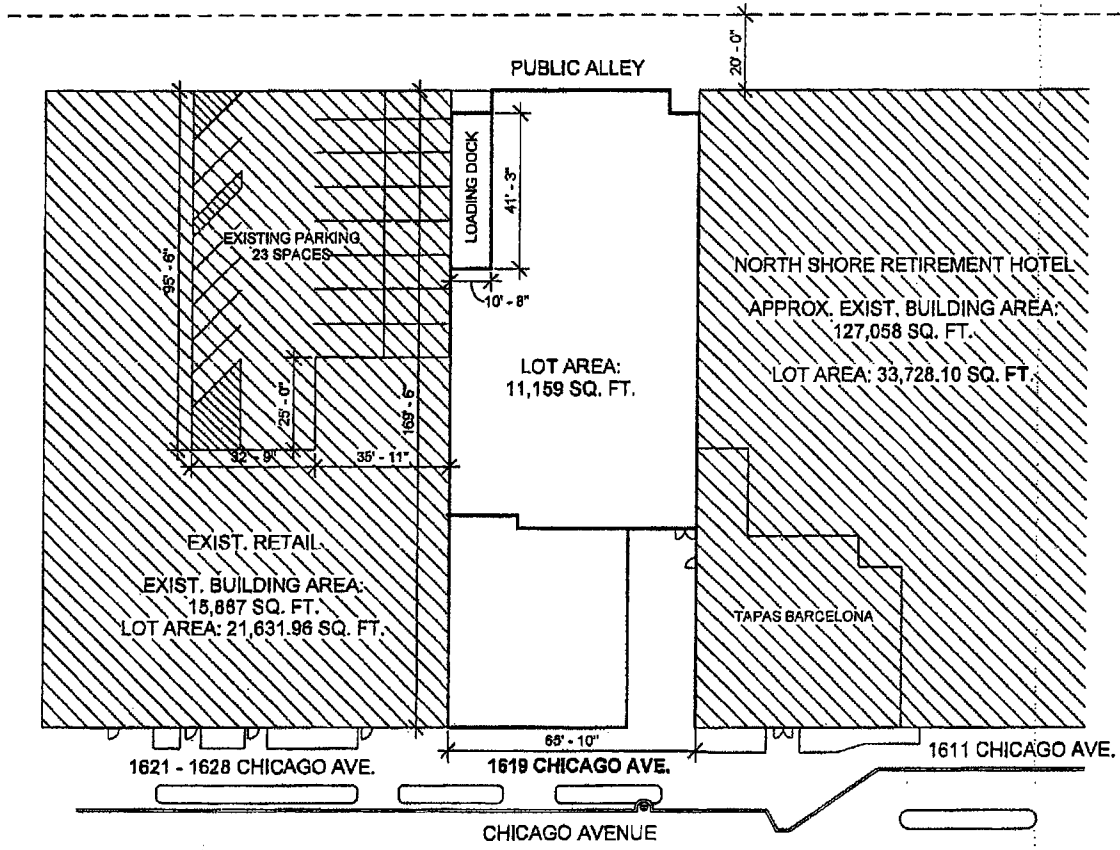
**NORTH SHORE RESIDENCE ADDITION**  
1619 CHICAGO AVE | EVANSTON, IL

**MYEFSKI**  
**ARCHITECTS, INC.**  
© 2019 MYEFSKI ARCHITECTS, INC.

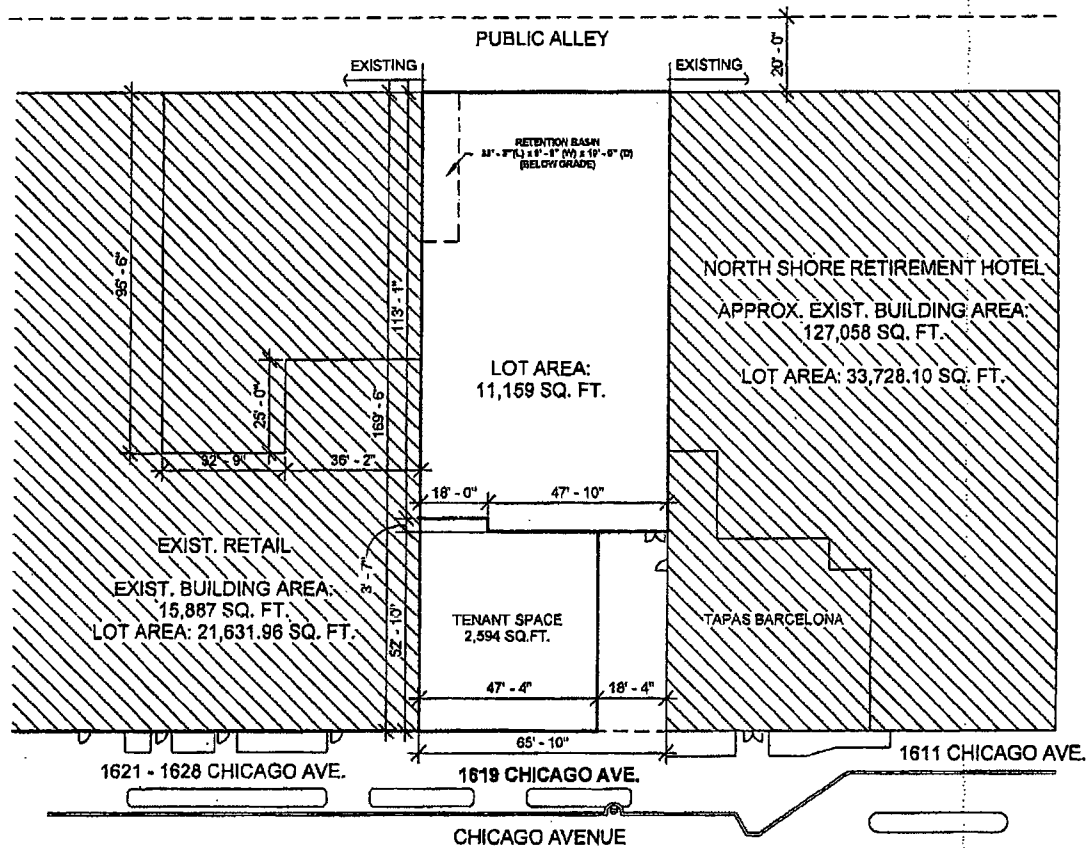
EXHIBIT 3(a)  
SCHEMATIC SITE PLAN  
1" = 30' - 0"

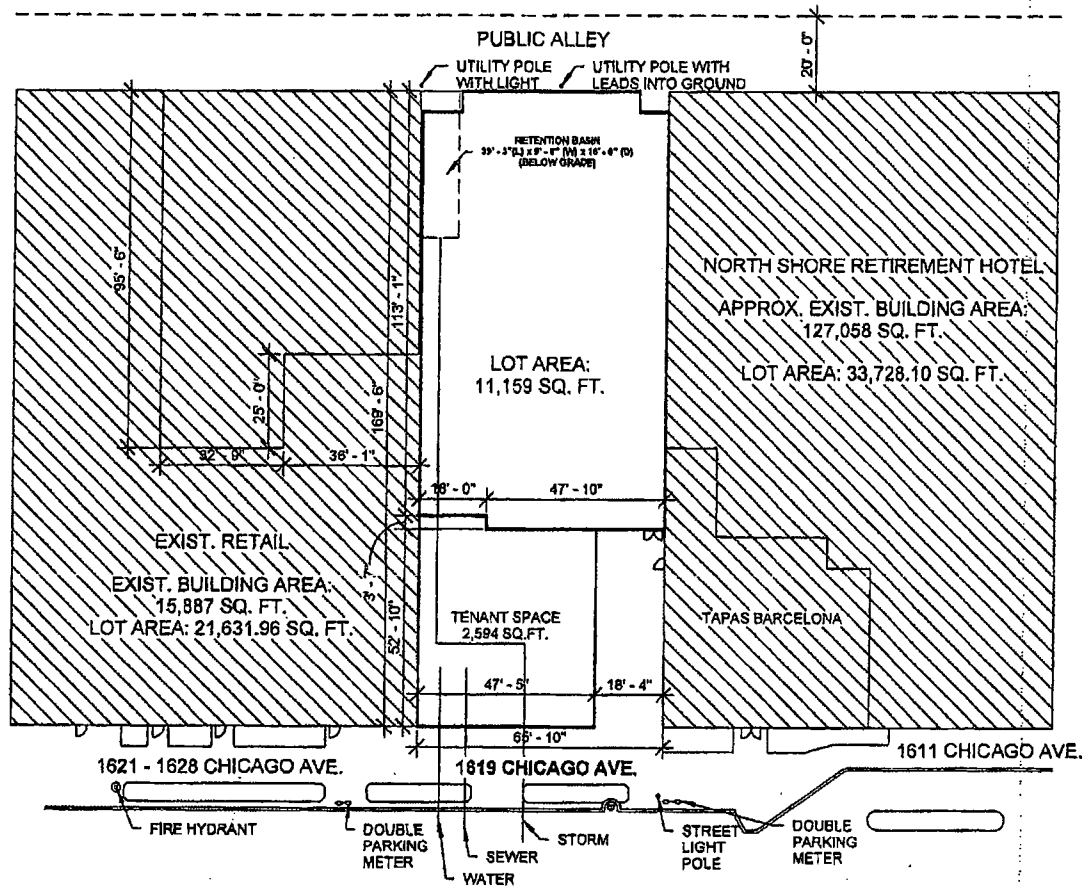


Doc ID: 76f666f1d045931f2c71f320f0c13a2q1ha21h0h1a

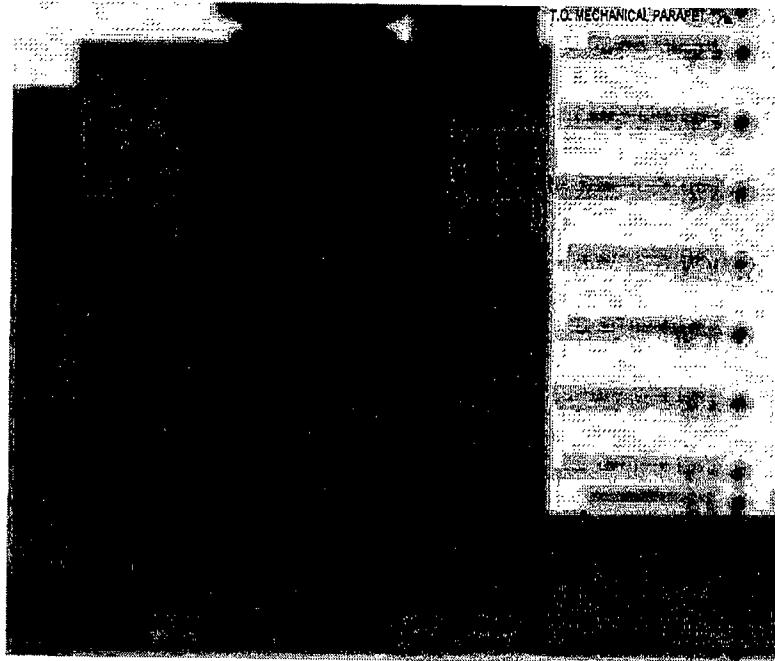


**NORTH SHORE RESIDENCE ADDITION**  
1619 CHICAGO AVE | EVANSTON, IL





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

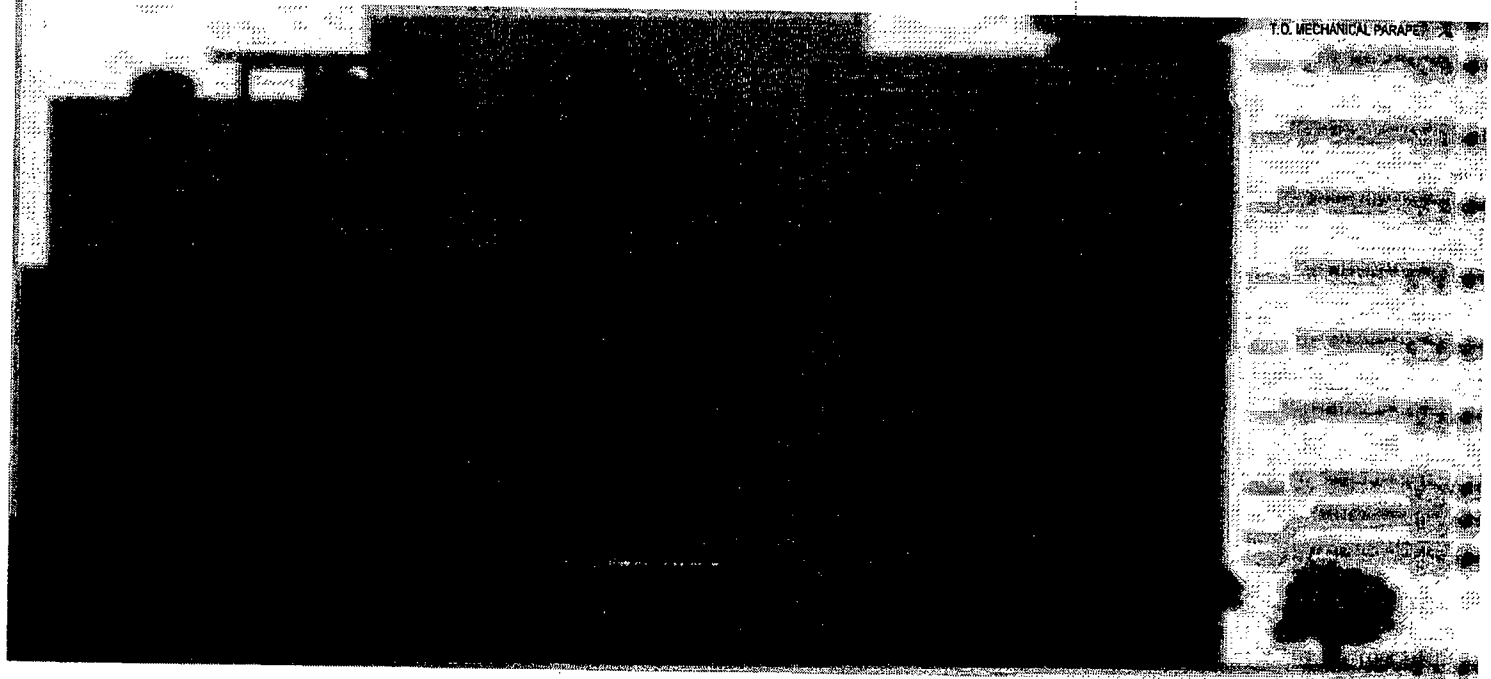


EAST ELEVATION



WEST ELEVATION

- T.O. MECHANICAL PARAPET 30'-8" ◆
- T.O. ROOF STRUCTURE 84'-8" ◆
- T.O. EIGHTH FLOOR SUBFLR 74'-8" ◆
- T.O. SEVENTH FLOOR SUBFLR 64'-9" ◆
- T.O. SIXTH FLOOR SUBFLR 54'-10" ◆
- T.O. FIFTH FLOOR SUBFLR 44'-11" ◆
- T.O. FOURTH FLOOR SUBFLR 35'-0" ◆
- T.O. THIRD FLOOR SUBFLR 25'-1" ◆
- WINTERGARDEN ROOF 18'-0" ◆
- T.O. SECOND FLOOR SUBFLR 15'-2" ◆
- T.O. FIRST FLOOR SUBFLR 0'-0" ◆



NORTH ELEVATION