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THIS INSTRUMENT PREPARED
BY AND AFTER RECORDING
RETURN TO:
Lawrence Lusk, Of Counsel
McCormick, Braun, Friman, LLC
217 N. Jefferson, 1st Floor
Chicago, Illinois 60606
312-327-3409

Doc#: 0734139056 Fee: \$62.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/07/2007 10:09 AM Pg: 1 of 20

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT ("Declaration") is made this 19th day of November, 2007 Five Star Development and Design, LLC (sometimes hereinafter referred to as "Owner" or "Declarant").

RECITALS:

WHEREAS, Declarant is the Owner and legal titleholder of a certain parcel of real estate in Chicago, Cook County, Illinois commonly known as 1739-1743 North Milwaukee Avenue, Chicago, Illinois, and legally described on Exhibit "A", attached hereto and made a part hereof ("Premises"); and

WHEREAS, Declarant intends that the Premises be utilized as a residential development made up of eight (8) condominium units and ground floor commercial space ("Intended Use"); and

WHEREAS, the present zoning of the Premises is M1-2 Limited Manufacturing/Business Park District; and

WHEREAS, in order to accommodate Declarant's Intended Use, Declarant intends to effectuate a zoning change for the Premises to B2-3 Neighborhood Mixed-Use District; and

WHEREAS, if the proposed zoning change to B2-3 Neighborhood Mixed-Use District, is approved by the City of Chicago, it shall be subject to a restrictive covenant being recorded against the Premises restricting the Premises to the construction of a mixed-use residential development and restricting the development so that it is built in substantial conformance with the site plan and elevations prepared by Tromp Architects, Inc., revisions dated October 15, 2007, attached hereto as Exhibit B; and

WHEREAS, Declarant, in consideration of the City's consent to the B2-3 zoning change, shall encumber the Premises with a restrictive covenant setting forth the afore stated restrictions,

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all as more specifically set forth below.

DECLARATIONS:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purposes stated herein, Declarant declares as follows:

1. The recitals set forth hereinabove are fully incorporated herein by this reference.
2. All of the Premises are and shall be held, sold and conveyed subject to the covenants, conditions and restrictions herein stated, all of which shall run with the land and be binding upon all parties now or hereinafter having any right, title or interest in the Premises or in any part thereof, and upon those claiming under them, with such limitations or exceptions as are herein expressed.
3. The Premises, or any portion thereof, shall be used solely for the purpose of the renovation, construction, development and subsequent sale of a mixed-use development made up of a three-story building with ground floor and basement level commercial space; no more than 7 (seven) residential units on the upper floors and 1 (one) residential unit on the ground floor; a Floor Area (as defined by the City of Chicago Zoning Ordinance) of no more than 26,166 square feet; a building height conforming to the B2-3 Neighborhood Mixed-Use District; and for no other purpose whatsoever.
4. The construction of the development and the materials used to build the building shall substantially and accurately conform to the plans and elevations prepared by Tromp Architects, Inc., revisions dated October 15, 2007, as presented to the Wicker Park Preservation and Development Committee (P&D Committee), and attached hereto as Exhibit B. No portion of the **primary exterior wall** construction shall exceed in elevation the top of the existing building parapet.
5. The street-front exterior masonry walls of the existing building, commonly known as 1739 North Milwaukee Avenue, shall be repaired and reconstructed to be as nearly identical to the original construction in all visual respects as possible. All terra cotta material to be replaced shall accurately match the original existing material in all visual respects. The acceptability of replacement material and replacement assemblies shall be subject to the review and approval by a representative of the Office of the Alderman of the 32st Ward, along with concurrence of the Wicker Park P&D Committee, which approval shall not be unreasonably withheld.
6. The street-front exterior masonry walls of the new construction building, commonly known as 1743 North Milwaukee Avenue, shall be constructed of materials and assemblies to accurately replicate the original existing materials of the adjacent 1739 North Milwaukee Avenue building. In particular, original terra cotta masonry units shall be used for all exterior wall construction, including decorative sills, lintels and pilasters. The acceptability of replacement material and replacement assemblies shall be subject to the review and approval by a

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representative of the Office of the Alderman of the 32nd Ward, along with concurrence of the Wicker Park P&D Committee, which approval shall not be unreasonably withheld.

7. All new masonry incorporated into both side elevations and rear elevation shall be unit masonry, typically referred to as common brick, to match existing masonry. Concrete masonry unit (CMU) blocks (typically 8"x12" face area) are not permitted in any visible exterior exposure. Over sized masonry units, typically referred to as jumbo or economy brick, are not permitted in any visible exterior exposure.

8. Rooftop construction, limited to penthouse enclosures, exterior decks and railings/guards, is permitted only to the extent and location indicated on the Roof Plan drawing. No further addition or expansion of walls, railings, roofs or any other rooftop construction is permitted.

9. No building shall be renovated or erected on the Premises, nor shall construction begin on any building, unless the plans and specifications of any building proposed to be erected or renovated have been submitted to the City and written approval therefrom has been secured. Issuance of a building permit by the City for the Premises shall constitute the City's approval of the submitted plans and specifications.

10. After the development is completed and occupancy permits are received from the City of Chicago, the Owner will cause an application to be filed to rezone the property to B3-3 Community Shopping District.

11. Breach of any of the covenants or violation of any other portions of this Declaration shall not defeat or render invalid the lien of any mortgage or trust deed made in good faith and for value as to any portion of the Premises, but all provisions of this Declaration shall be binding and effective against any owner of any portion of the Premises whose title thereto is acquired by foreclosure, trustee sale or otherwise under such mortgage or trust deed, and shall remain effective as to each portion of the Premises so acquired.

12. Enforcement of the provisions of this Declaration shall be by any proceeding at law or in equity, brought by the Declarant, its successors or assigns, or the City, or the Office of the Alderman which has jurisdiction over the Premises, against any person or persons violating or attempting to violate any covenant, restriction or other provision hereof, either to restrain or prevent such violation or attempted violation or to recover damages, or both. Failure by the Declarant, its successors or assigns, or the City, or the Office of the Alderman, to promptly enforce any covenant, restriction or other provision of this Declaration shall in no event be a bar to enforcement thereafter and shall not waive any rights of the Declarant, its successors or assigns, the City, or the Office of the Alderman, to so enforce any covenant, restriction or other provision of this Declaration.

13. In the event of any litigation arising out of this Declaration, the prevailing party shall be entitled to payment of court costs and reasonable attorneys' fees.

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14. Invalidation of any covenant, restriction or other provision of this Declaration by judgment or court order shall in no way affect any of the other provisions of this Declaration and such other provisions shall remain in full force and effect.

15. All covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding upon all parties and all persons owning any portions of the Premises and all persons claiming under them until the earlier of: (i) fifteen (15) years from the date hereof; (ii) the zoning classification of the Premises changes from B3-2 Neighborhood Mixed-Use District; or (iii) an instrument signed by a majority of the then owners of the Premises and a duly authorized representatives of the Office of the Alderman which has jurisdiction over the Premises is recorded against the Premises modifying, amending or terminating the covenants, conditions and restrictions contained herein.

16. This Declaration is executed by Jason Ding, as Manager of Five Star Development and Design, LLC an Illinois Limited Liability Company, not personally, but solely in the exercise of the power and authority conferred upon and vested in him as a manager of said company. No personal liability shall be asserted or be enforceable against the signer of this Declaration because or in respect to this Declaration or its making, issue or transfer, and all such liability, if any, is expressly waived by each taker and holder hereof.

[Signature on Following Page]

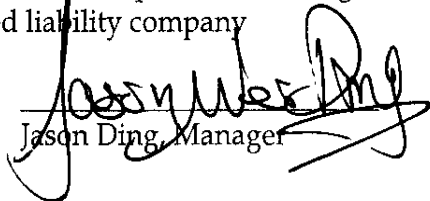
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IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

Five Star Development and Design, LLC, an Illinois limited liability company

By:


Jason Ding, Manager

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)

) SS.

COUNTY OF ILLINOIS)

I, TERESA L. WEST, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jason Ding, Manager of Five Star Development and Design, LLC, personally known to me to be the same person whose name is subscribed to the foregoing DECLARATION OF RESTRICTIVE COVENANT, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 19th day of November, 2007.

Jason J. West
Notary Public



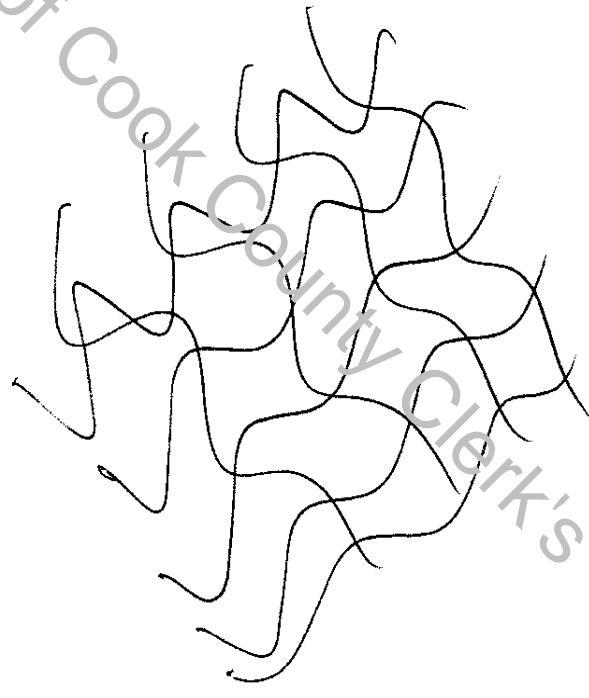
Property of Cook County Clerk's Office

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EXHIBIT "B"

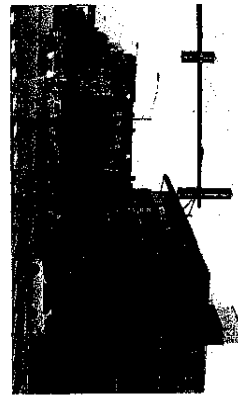
Site Plan and Elevations prepared by Tromp Architects, Inc. revisions dated October 15, 2007.

Property of Cook County Clerk's Office

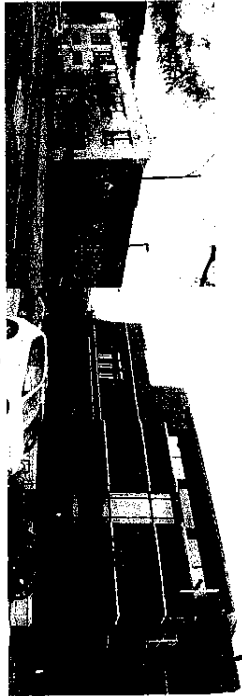


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**RENOVATION/ADDITION TO EXIST. BUILDING
FOR NEW 10-UNIT RES./COMM. BUILDING**
1739-43 N. MILWAUKEE AVE. CHICAGO, IL



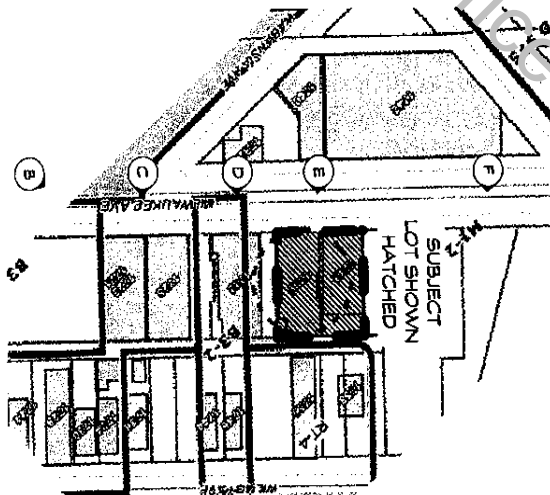
A VIEW LOOKING NORTH



B EXIST. @ 1701

EXIST. @ 1721-25

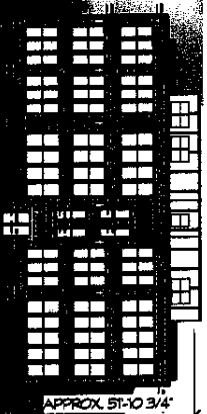
ZONING SCHEDULE		
ZONE	PROPOSED B3.3	
ADDRESS	1739-43 N. MILWAUKEE AVE.	
LOT AREA	88,000 X 100.00' = 8,807,6 S.F.	
ORDINANCE REQUIREMENTS		
ITEM	ORD. REQ.	PROPOSED
MIN. FLOOR TO FLOOR HGT. FOR COMMERCIAL SPACES	13 FT.	8'10"
MIN. FLOOR AREA FOR COMMERCIAL SPACES	MIN. 20% LOT AREA = 1,763.52 S.F.	2,806 S.F.
MIN. LOT AREA PER DWELLING UNIT	400 S.F.	1,002 S.F./D.U. (8 DWELLING UNITS, 2 COMMERCIAL UNITS PROPOSED)
P.A.R.	30' X 8.17'6" S.F. = 2,452.8 S.F. ALL YARD FLOOR AREA	26,166.3 S.F. (NOT INCLUDING OPEN BALCONIES, BARBERENT AND PARKING AREA)
FRONT YARD SETBACK	NOT REQ.	N/A
REAR YARD SETBACK	30' MIN. TO NEW RESIDENTIAL AREAS	30' MIN. TO NEW RESIDENTIAL AREAS
SIDE YARD SETBACKS	NOT REQ.	N/A
MIN. UNIT BUILDING HEIGHT	65 FT.	APPROXIMATELY 57'-10" 3/4"
OFF-STREET PARKING SPACES	1 / D.U.	10 SPACES



A EXIST. ZONING MAP



F EXIST. @ 1745



PROPOSED FRONT ELEVATION @ 1739-43 N. MILWAUKEE



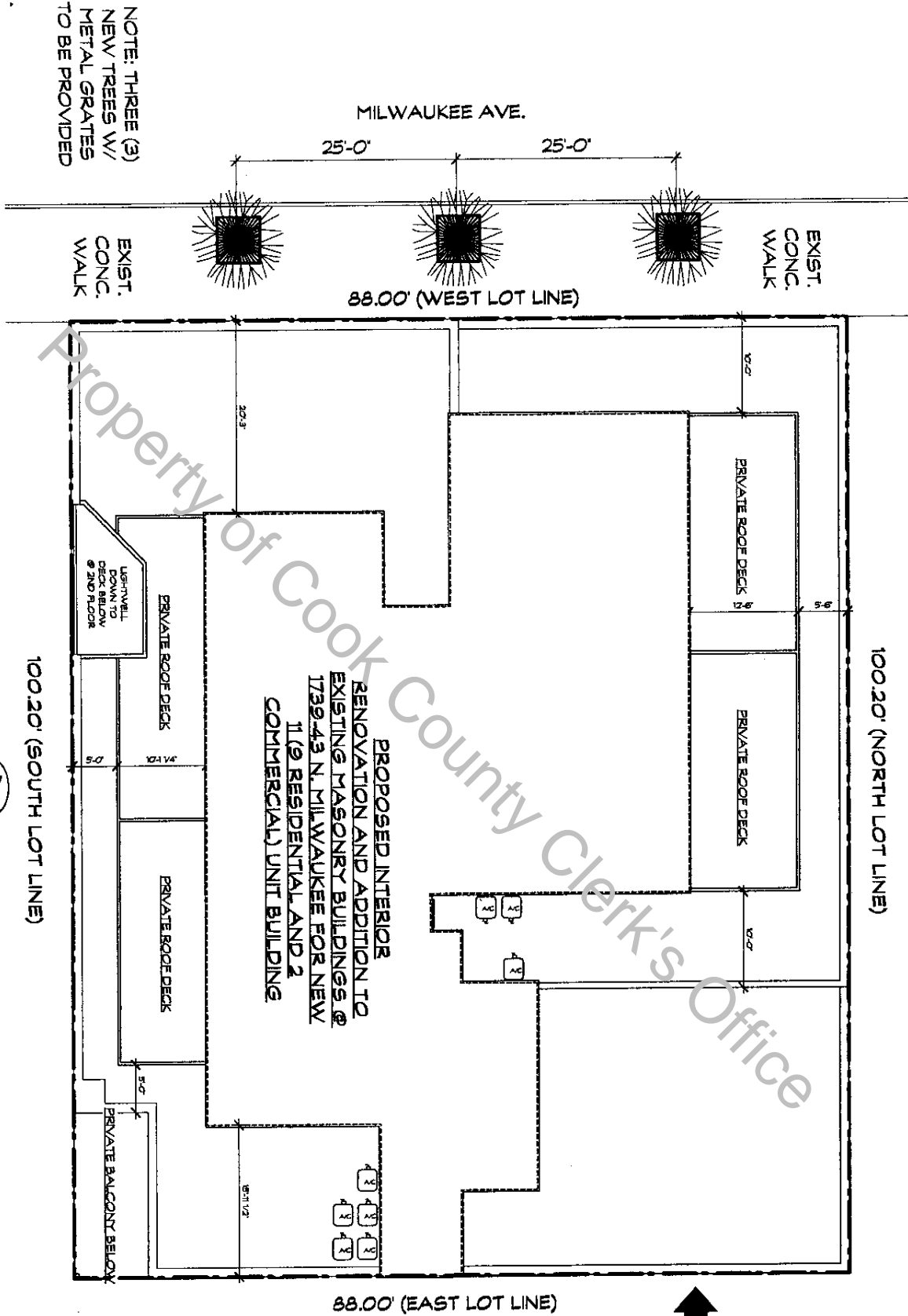
EXIST. @ 1733



EXIST. @ 1721-25

<p>Tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@abcglobal.net fax. (630) 737-1957</p>		<p>RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL</p>	
DATE	5/1/07	SCALE	AS NOTED
DATE	8/15/07	SCALE	AS NOTED
DATE	9/7/07	SCALE	AS NOTED
DATE	10/15/07	SCALE	AS NOTED
SHEET	1	DRAWN	CL
		DATE	7/20/06
		OF	12 SHEETS

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NOTE: THREE (3) NEW TREES W/ METAL GRATES TO BE PROVIDED



SITE PLAN/ROOF PLAN/LANDSCAPE PLAN
Scale: 3/32" = 1'-0"

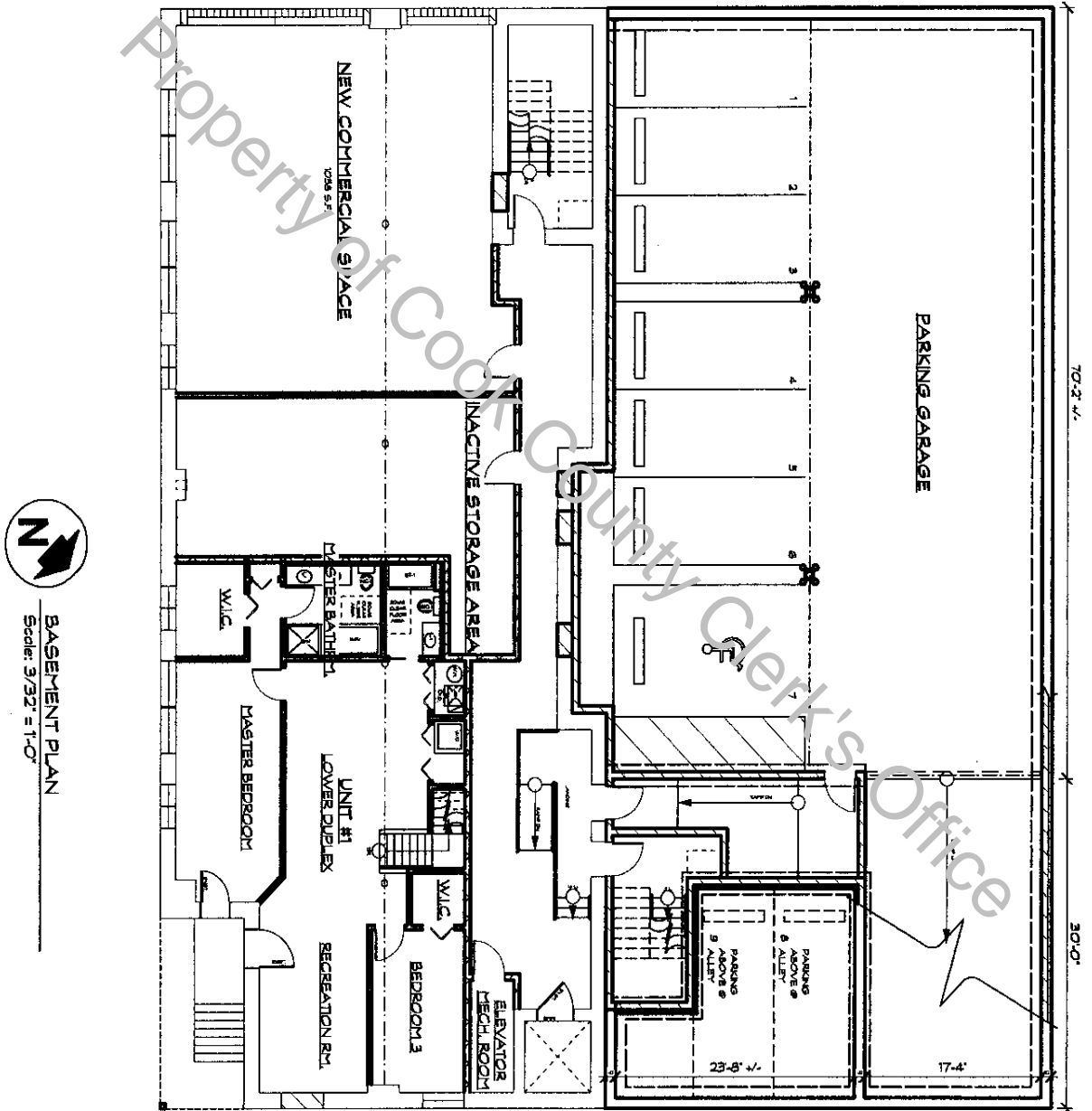
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DATE	9/17/07
DATE	10/15/07
SCALE	AS NOTED
DESIGNER	CL
DATE	2/20/06
SHEET	2
OF	12 SHEETS

Tromp architects
tromp architects

1227 Ogden Avenue Downers Grove, IL 60515
tel. (630) 737-1956 tromparchitects@abcglebanet fax. (630) 737-1957

RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING
1739-43 N. MILWAUKEE AVE. CHICAGO, IL

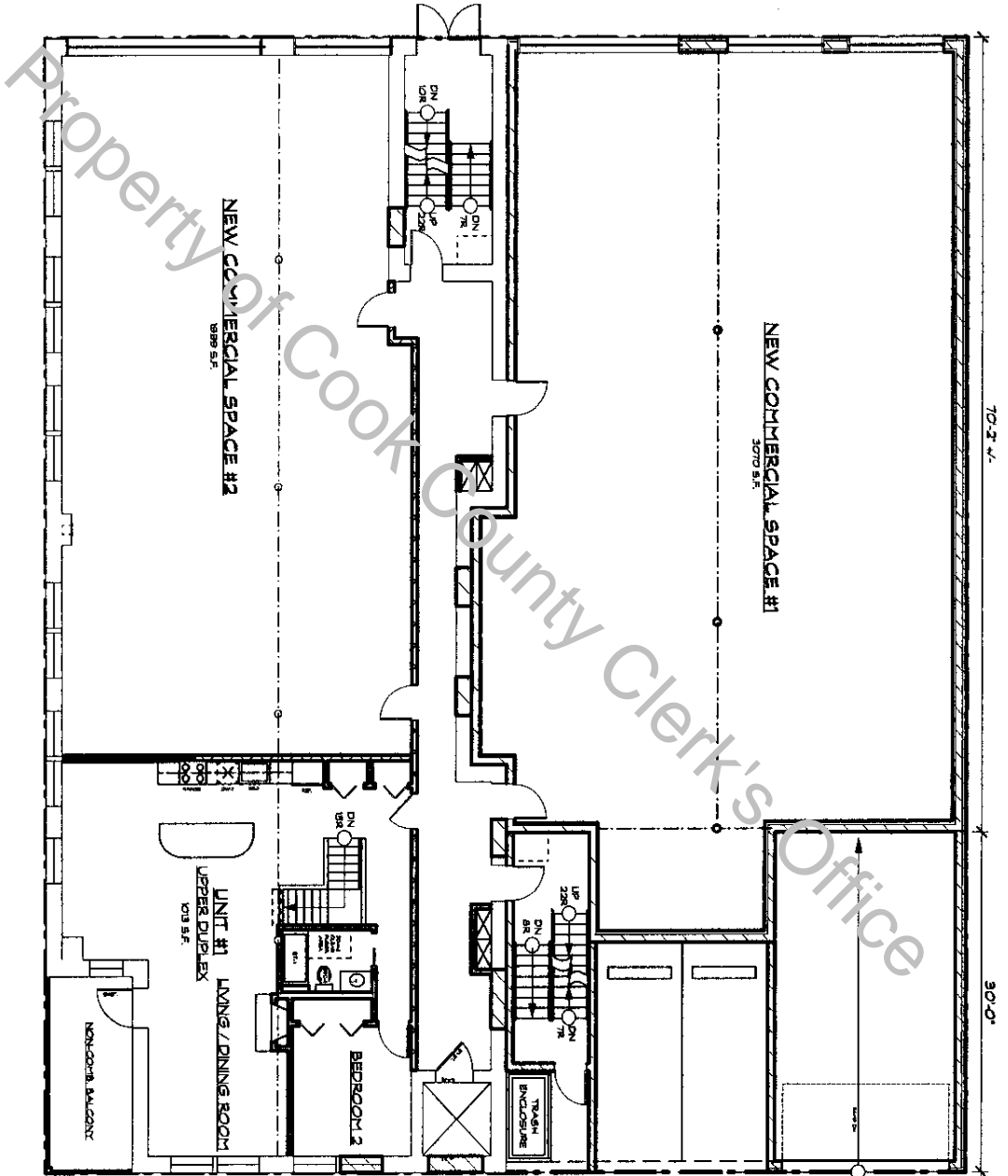
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BASEMENT PLAN
Scale: 3/32" = 1'-0"

DATE	8/1/07	Tromp architects Tromp architects	RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL
	8/15/07		
DATE	9/7/07	1227 Ogden Avenue Downers Grove, IL 60515	
DATE	10/18/07	tel. (630) 737-1956 tromparchitects@sbcglobal.net fax. (630) 737-1957	
SCALE	AS NOTED		
DRAWN	CL		
JOB	770606		
PROJECT	3		
OF	12 SHEETS		

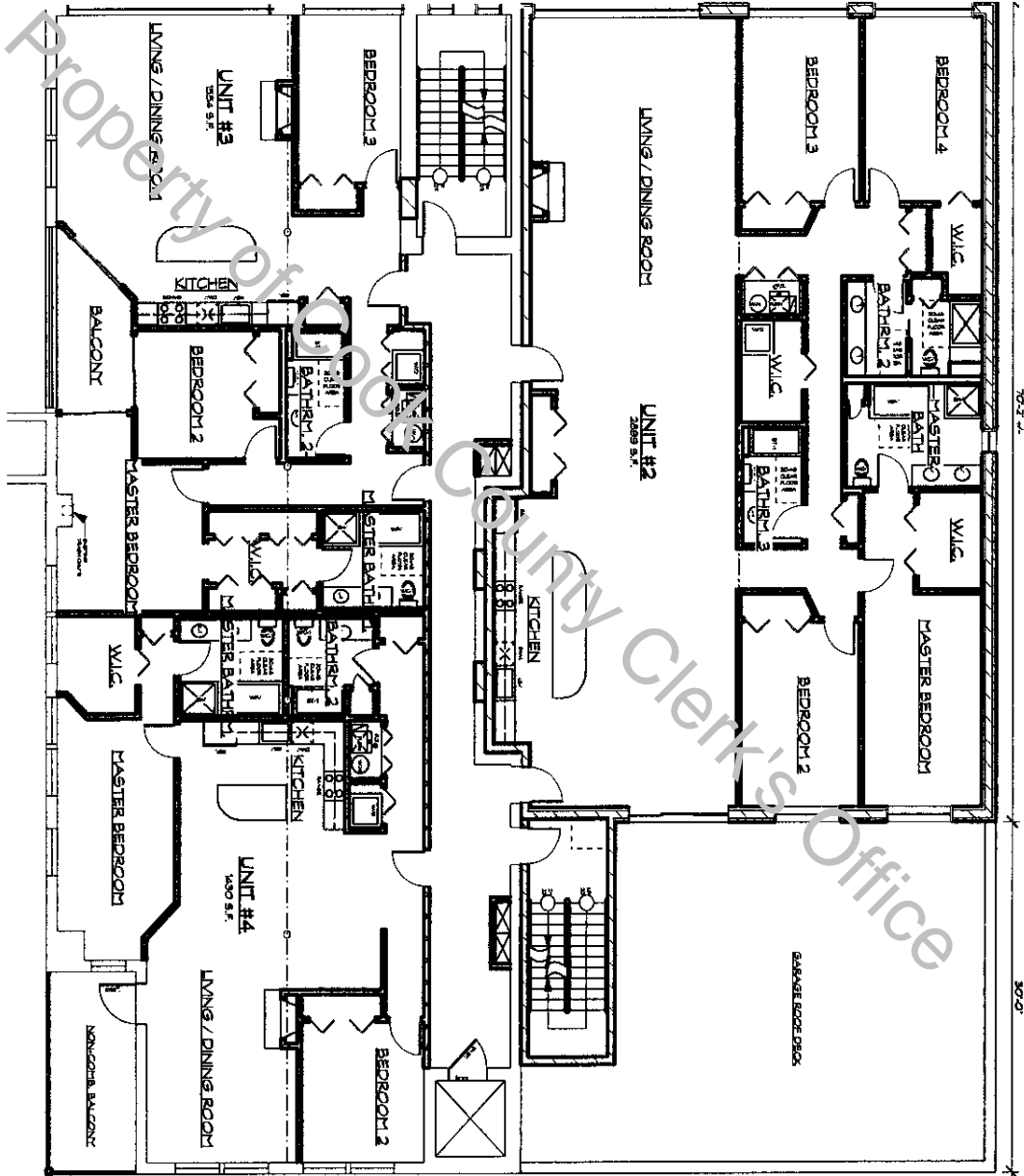
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FIRST FLOOR PLAN
Scale: 3/32" = 1'-0"

DATE	8/1/07	Tromp architects Tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@aboglobal.net fax. (630) 737-1957	RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL
DATE	8/15/07		
DATE	9/7/07		
DATE	10/15/07		
DATE	12/18/07		
SCALE	AS NOTED		
DRAWN	CL		
JOB	2706016		
SHEET	4		
OF	12 SHEETS		

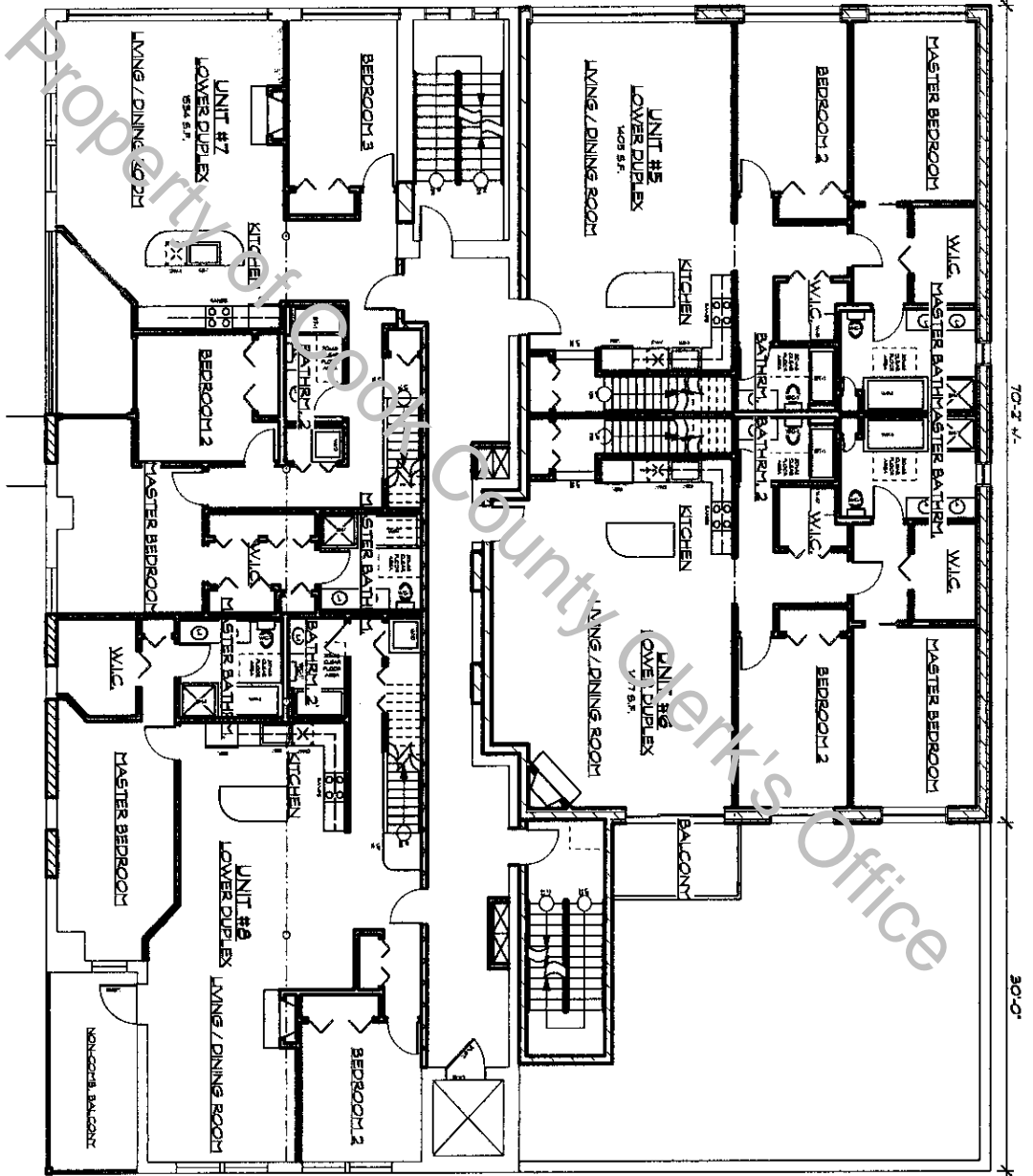
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SECOND FLOOR PLAN
Scale: 3/32" = 1'-0"

DATE	8/1/07	Tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@eboglobal.net fax. (630) 737-1957	RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL
DATE	8/15/07		
DATE	9/7/07		
DATE	10/15/07		
SCALE	AS NOTED		
DRAWN	CL		
JOB	270606		
SHEET	5		
OF	12 SHEETS		

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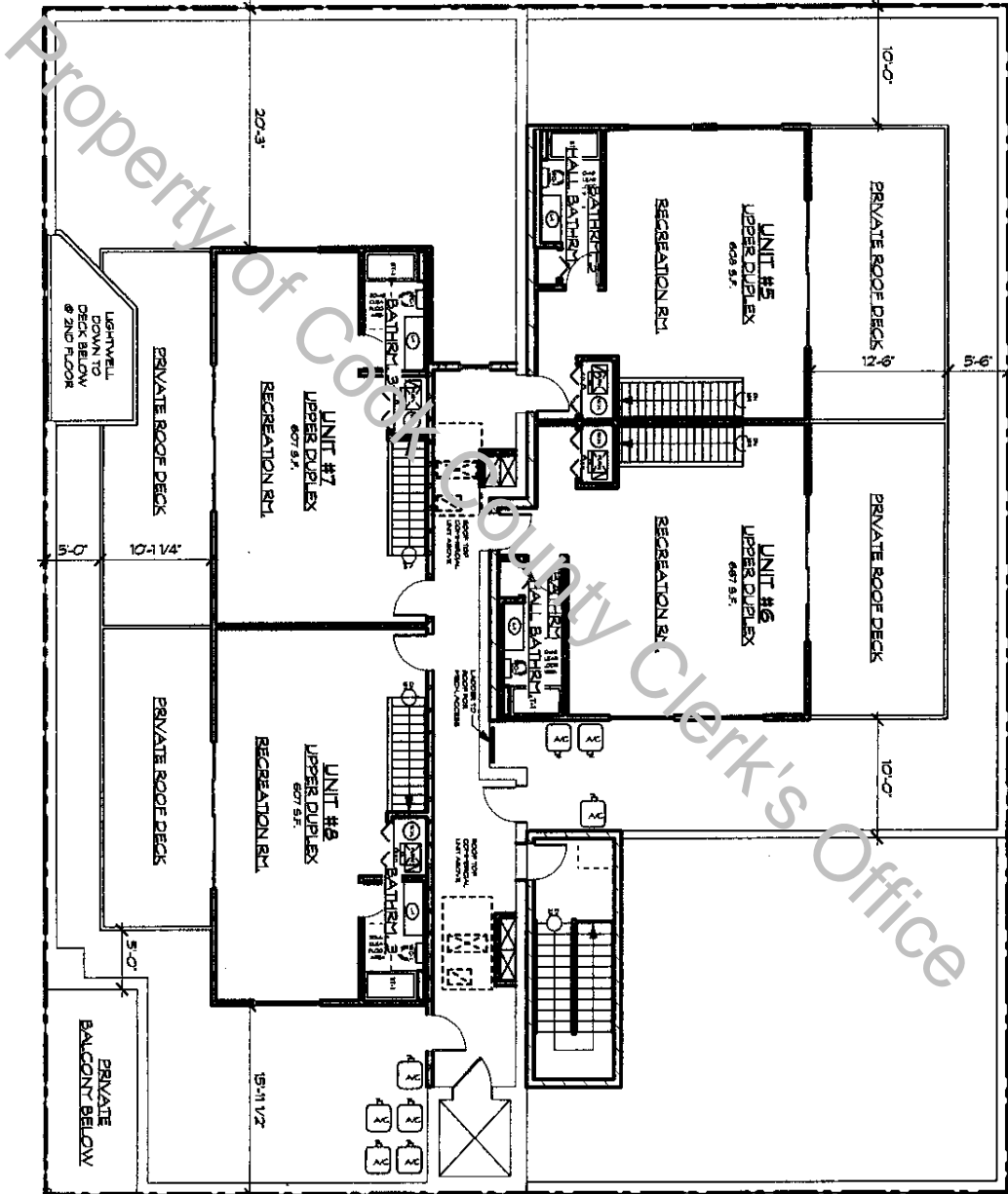
THIRD FLOOR PLAN
Scale: 3/32" = 1'-0"

DATE	8/1/07
DATE	8/8/07
DATE	9/7/07
DATE	10/9/07
SCALE	AS NOTED
DRAWN	CL
JOB	270606
PROJECT	6
OF	12 SHEETS

Tromp architects
Tromp architects
 1227 Ogden Avenue Downers Grove, IL 60515
 tel. (630) 737-1956 tromparchitects@abgglobal.net fax. (630) 737-1957

RENOVATION/ADDITION TO EXIST. BUILDING
 FOR NEW 10-UNIT RES./COMM. BUILDING
 1738-43 N. MILWAUKEE AVE. CHICAGO, IL

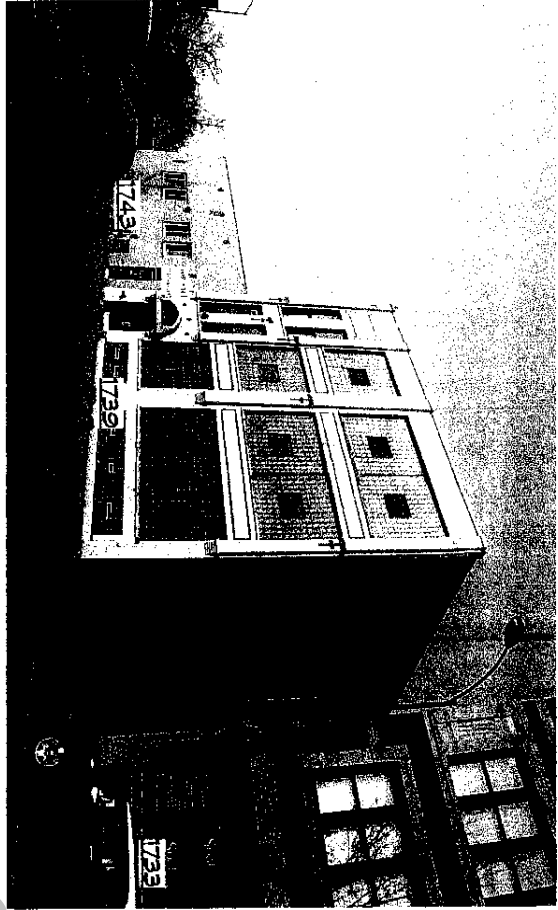
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FOURTH FLOOR PLAN
Scale: 3/32" = 1'-0"

DATE	8/1/07	Tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@aboglobal.net fax. (630) 737-1957	RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL
DATE	8/15/07		
DATE	9/7/07		
DATE	10/18/07		
SCALE	AS NOTED		
DESIGNER	CL		
JOB	270606		
SHEET	7		
OF	12 SHEETS		

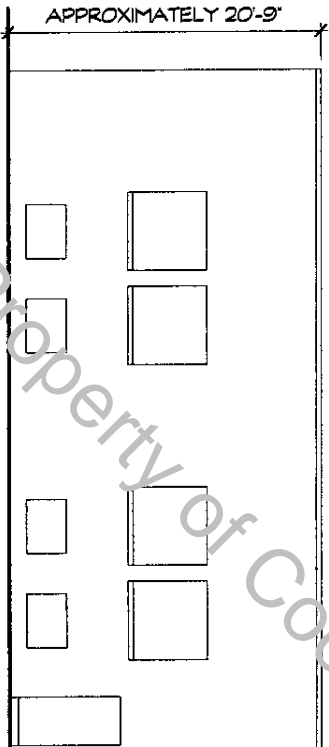
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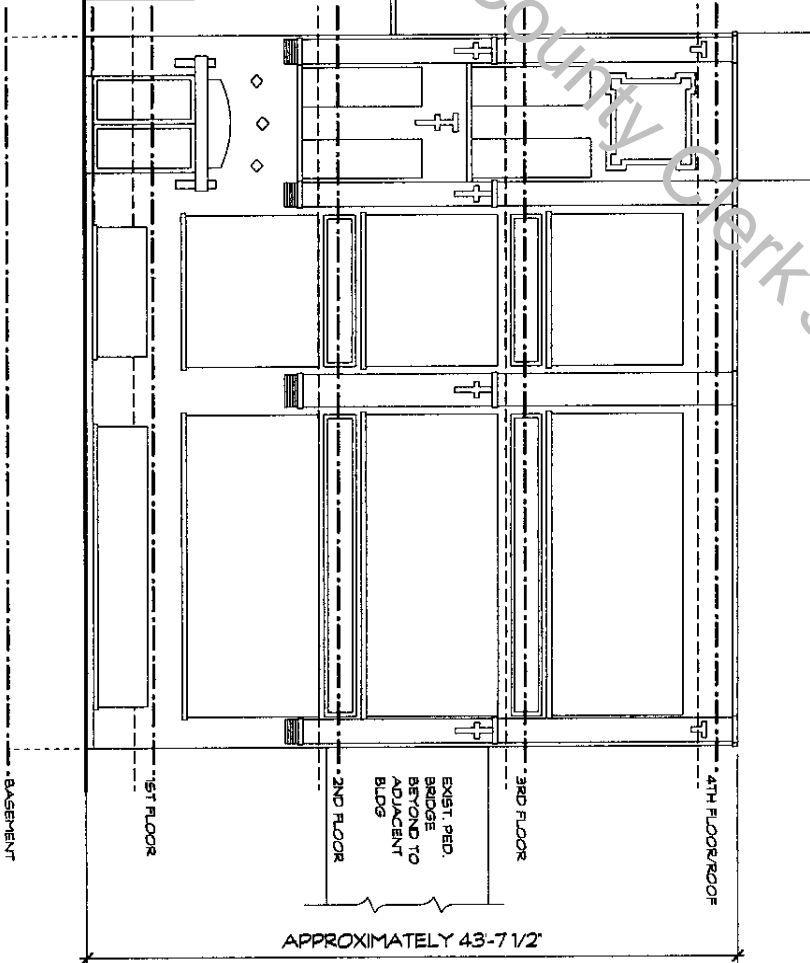
EXIST. BUILDINGS @ 1733, 1739 AND 1743 N. MILWAUKEE AVE.

APPROXIMATELY 20'-9"

EXIST. FRONT ELEVATION
1743 N. MILWAUKEE



EXIST. FRONT ELEVATION
1739 N. MILWAUKEE



APPROXIMATELY 43'-7 1/2"

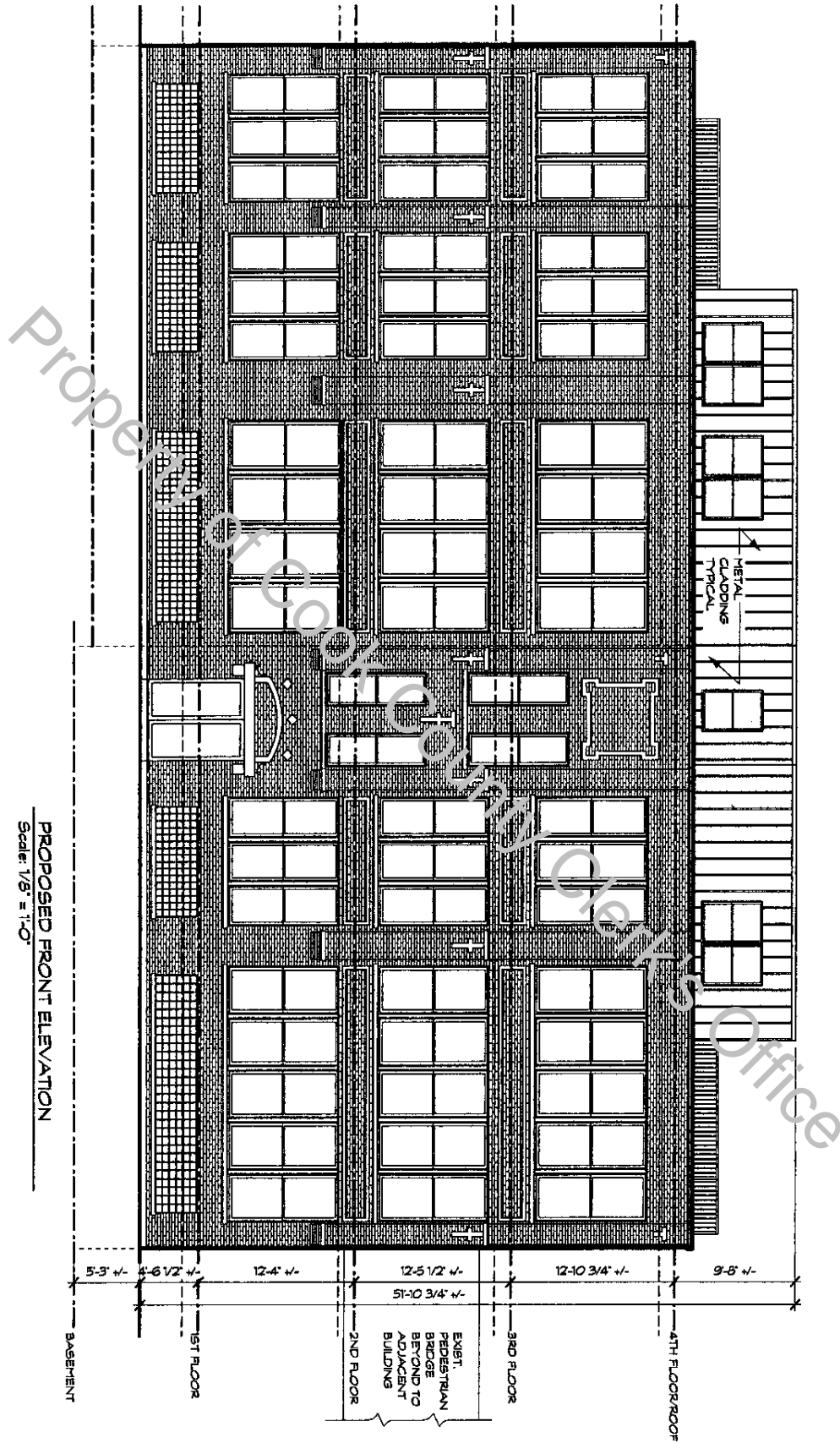
SCALE	AS NOTED
DATE	CL
JOB	270606
SHEET	8
OF	12 SHEETS

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Tromp architects

1227 Ogden Avenue Downers Grove, IL 60515
tel. (630) 737-1956 tromparchitects@earthlink.net fax. (630) 737-1957

RENOVATION/ADDITION TO EXIST. BUILDING
FOR NEW 10-UNIT RES./COMM. BUILDING
1739-43 N. MILWAUKEE AVE. CHICAGO, IL

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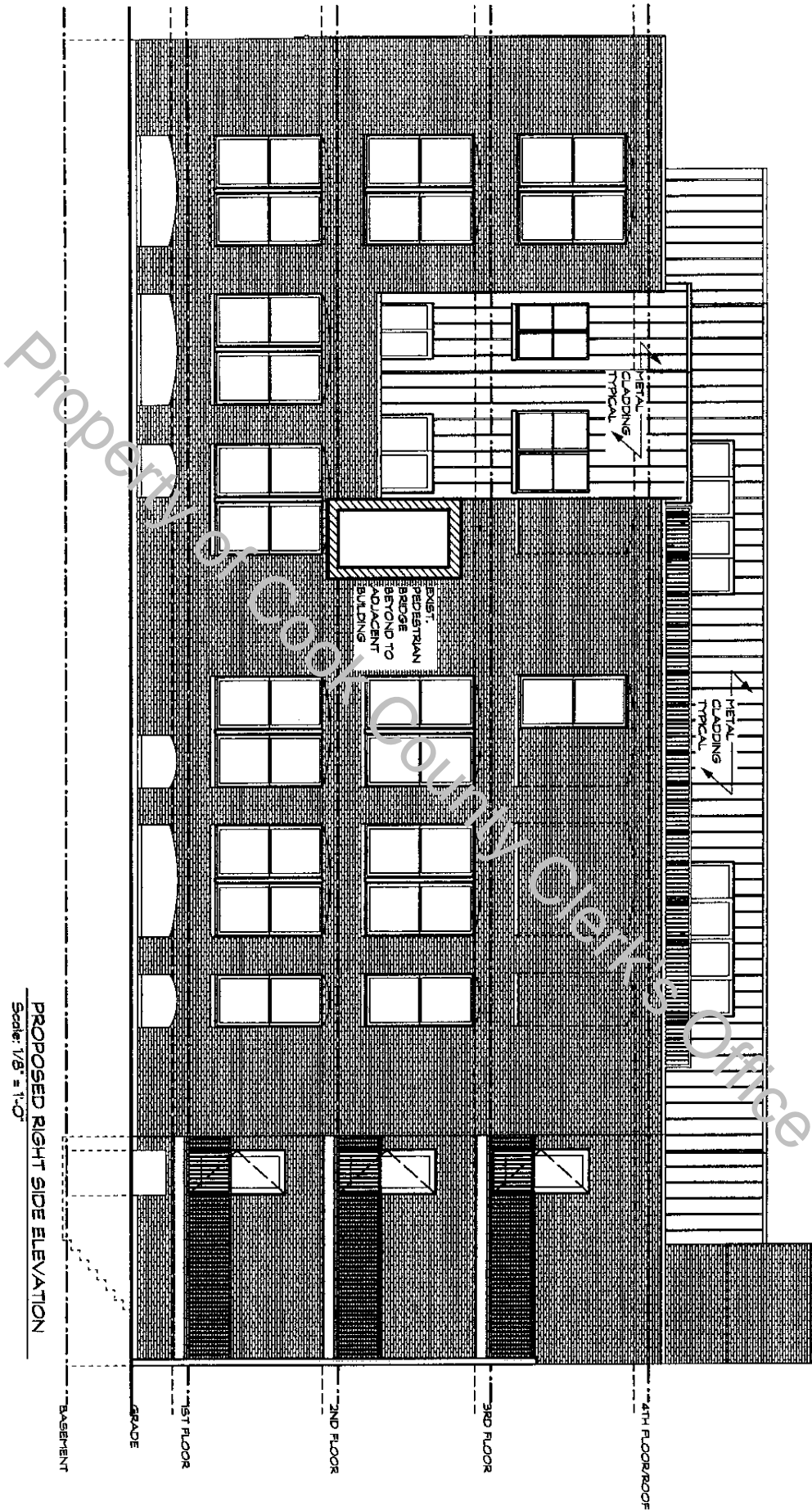
PROPOSED FRONT ELEVATION
Scale: 1/8" = 1'-0"

DATE	8/1/07
DATE	8/15/07
DATE	9/7/07
DATE	10/18/07
SCALE	AS NOTED
DRAWN	CL
NO.	T70606
SHEET	9
OF	12 SHEETS

Tromp architects
tromp architects
 1227 Ogden Avenue Downers Grove, IL 60515
 tel. (630) 737-1956 tromparchitects@psbglobal.net fax. (630) 737-1957

RENOVATION/ADDITION TO EXIST. BUILDING
 FOR NEW 10-UNIT RES./COMM. BUILDING
 1739-43 N. MILWAUKEE AVE. CHICAGO, IL

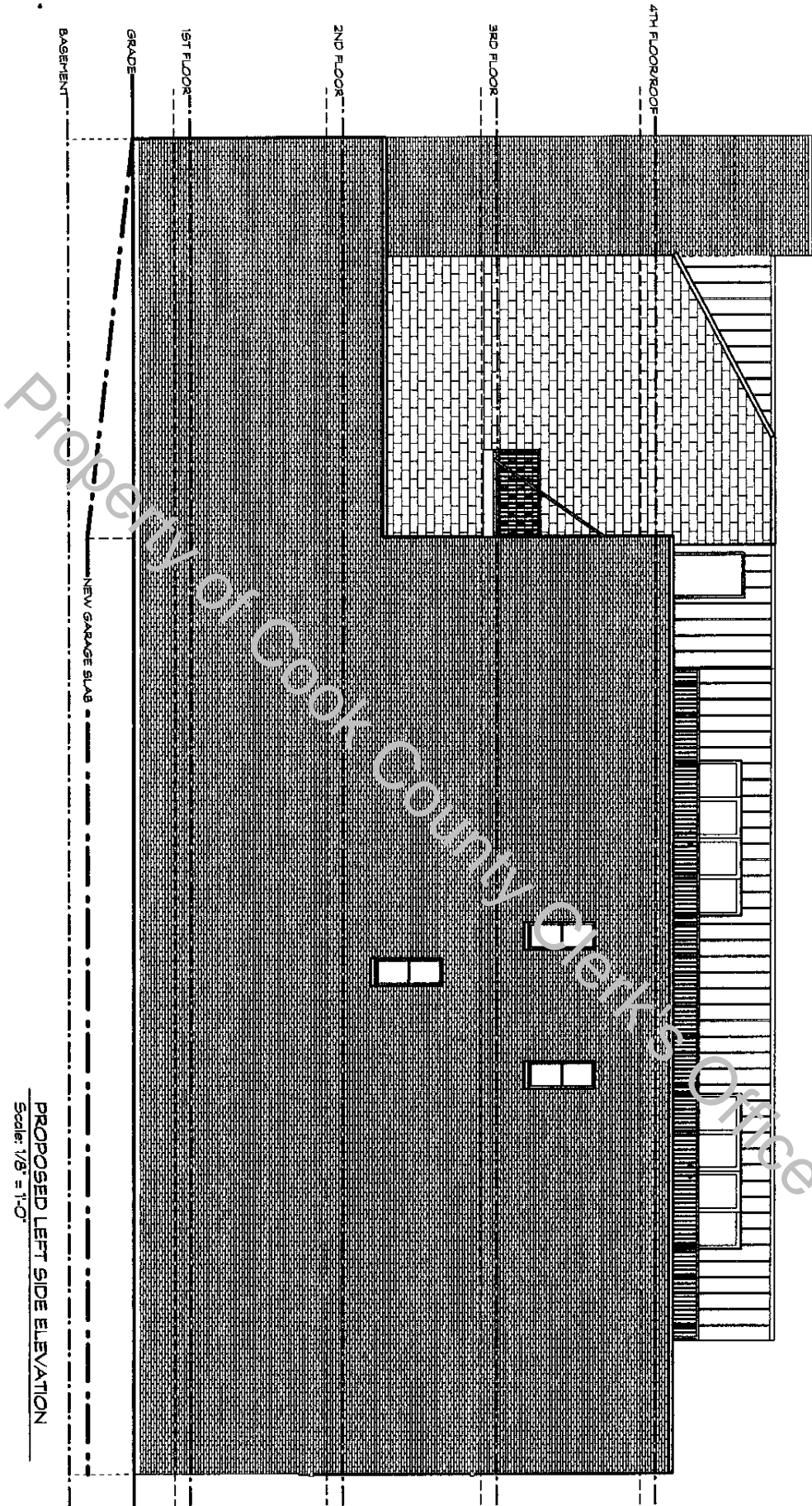
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PROPOSED RIGHT SIDE ELEVATION
Scale: 1/8" = 1'-0"

DATE 8/1/07	SCALE AS NOTED	DRAWN CL	JOB 170606	SHEET 10	OF 12 SHEETS	Tromp architects Tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@abglobal.net fax. (630) 737-1957	RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL

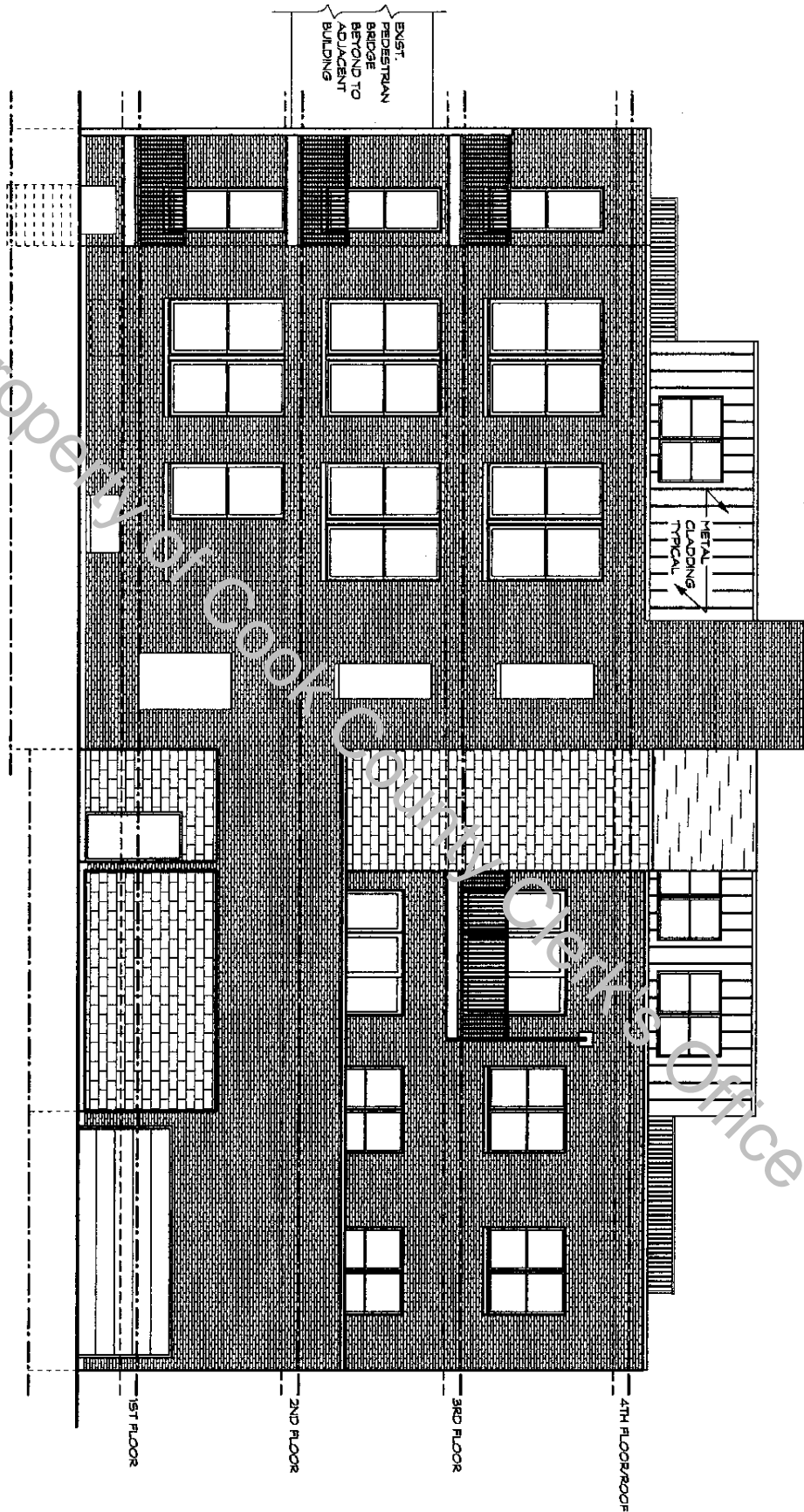
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PROPOSED LEFT SIDE ELEVATION
Scale: 1/8" = 1'-0"

<p>Tromp architects tromp architects</p> <p>1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 737-1956 tromparchitects@aboglobal.net fax. (630) 737-1957</p>		<p>RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES./COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL</p>	
DATE	8/15/07	SCALE	AS NOTED
DATE	8/15/07	DRAWN	CL
DATE	9/7/07	JOB	2706016
DATE	10/18/07	PRINT	11
		OF	12 SHEETS

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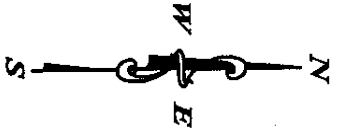


PROPOSED REAR ELEVATION
Scale: 1/8" = 1'-0"

<p>DATE: 8/1/07 8/15/07 9/7/07 10/15/07</p>	<p>Tromp architects tromp architects 1227 Ogden Avenue Downers Grove, IL 60515 tel. (630) 731-1956 tromparchitects@pboglobal.net fax. (630) 731-1957</p>	<p>RENOVATION/ADDITION TO EXIST. BUILDING FOR NEW 10-UNIT RES/COMM. BUILDING 1739-43 N. MILWAUKEE AVE. CHICAGO, IL</p>
<p>SCALE: AS NOTED DRAWN: DL JOB: 270806</p>	<p>12 OF 12 SHEETS</p>	

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1425 Brummel St.
Elk Grove Village, IL 60007



Scale - 1 inch = 20 feet

TOPOGRAPHICAL-ALTA/CASM-BOUNDARY-SUBDIVISIONS-MORTGAGE-CONDOMINIUM

Jens W. Doe
Professional Land Surveyors, P.C.
Legal Description
~~PARCEL 1~~
of

Phone: (847) 734-0530
Fax: (847) 734-0533

ORDER NO.
07-0632

PARCEL 1:
LOTS 10 AND 11 IN BLOCK 5 IN BRADWELL'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF 17 ACRES IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 (NORTH AND EAST OF MILWAUKEE PLANK ROAD OR AVENUE) IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:
LOTS 8 AND 9 IN BLOCK 5 IN BRADWELL'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF 17 ACRES IN THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 (NORTH AND EAST OF MILWAUKEE PLANK ROAD OR AVENUE) IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.
COMMONLY KNOWN AS: 1739-45 N. MILWAUKEE AVE., CHICAGO, IL.

