#### THIS DOCUMENT PREPARED BY:

Stewart J. Weiss Elrod Friedman LLP 325 N. LaSalle, Ste. 450 Chicago, IL 60654

AFTER RECORDING **RETURN TO:** 

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KAREN A. YARBROUGH COOK COUNTY CLERK

DRTE: 11/13/2023 02:14 PM PG: 1 OF 24

# THIRD AMENDMENT TO THE ANNEXATION (NORTHBROOK) DATED AS OF AUGUST 8, 2023 AND DEVELOPMENT AGREEMENT

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#### THIRD AMENDMENT TO THE ANNEXATION AND DEVELOPMENT AGREEMENT

#### (NORTHBROOK POINTE)

THIS THIRD AMENDMENT is dated as of the 8th day of August, 2023, and is by, between, and among the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation ("Village"), and SFP NORTHBROOK POINTE, an Illinois limited liability company ("Developer").

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Third Amendment, and pursuant to the Village's home rule powers, the parties agree as foliows:

#### 1. Recitals.

- A. 7nc Village, Chicago Title Land Trust Company, as Successor Trustee to LaSalle Bank National Association and LaSalle National Bank, as Trustee u/t/a dated September 7, 1977, and known as Trust No. 53082, Equity Associates Incorporated and Schwartz Family Limited Pannership (collectively, "Original Owners"), and Edward Schwartz & Co., an Illinois Corporation ("Original Developer") entered into that certain Annexation and Development Agreement dated as cirebruary 13, 2002, a copy of which was recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on July 15, 2002 as Document No. 0020769905, pertaining to that certain tract of land consisting of approximately 16.4 acres, in Cook County, Illinois described in Exhibit I or, and defined in Section 2 of the Annexation and Development Agreement as the "Property". The Property is legally described in Exhibit A to this Third Amendment.
- B. The Annexation and Development Agreement was subsequently amended by that (i) First Amendment dated August 9, 2010 which was recorded in the Office of the Cook County Recorder on August 13, 2010 as Document No. 102252053; and (ii) that Second Amendment dated January 29, 2015 which was recorded in the Office of the Cook County Recorder on February 4, 2015 as Document No. 1502518062 (collectively, the Annexation and Development Agreement, the First Amendment, and the Second Amendment are referred to hereinafter as the "Amended Annexation Agreement")
- C. The Developer has succeeded in ownership of Lot 3B, the only portion of the Property not subsequently transferred pursuant to Transferee Assumption Agreements.
- C. The Annexation and Development Agreement designated three distinct segments of the Property: the Condominium Parcel, the Hotel Parcel and the Restaurant Parcel.
- D. Lot 3 in the original subdivision of the Property was designated as the "Condominium Parcel". The Condominium Parcel was subsequently resubdivided into two parcels, the 5.2-acre Lot 3A and the 3.1-acre Lot 3B pursuant to that Final Plat of the

<sup>&</sup>lt;sup>1</sup> All capitalized words and phrases throughout this Third Amendment shall have the meanings set forth in the preamble above and in Section 2 of the Annexation and Development Agreement. If a word or phrase is not specifically defined in this Third Amendment or the Agreement, it shall have the meaning ascribed to it in the Zoning Code or Subdivision Code.

Northbrook Pointe Resubdivision, a copy of which was recorded in the Office of the Cook County Recorder as Doc. No. 0020769908 on July 15, 2002.

- D. On February 12, 2002, the Corporate Authorities adopted Ordinance No. 02-10, annexing the Property to the Village. Ordinance No. 02-10 was recorded in the Office of the Cook County Recorder on July 15, 2002 as Document No. 0020769907.
- F. On July 9, 2002, the Corporate Authorities adopted Ordinance No. 02-41 ("Condominium Approval Ordinance") which granted Cambridge Homes special permits for (a) multiple family dwellings, (b) structures in excess of 7,500 square feet, (c) multiple principal structures on a zoning lot, and (d) landbanked parking, as well as site plan approval, and amendments to the Planned Development Ordinance. The Condominium Approval Ordinance applied to both Lots 3A and 3B.
- E. The Village, the Prior Owners, the Developer, and DRH Cambridge Homes, Inc. ("Camc. idge Homes") entered into that certain Transferee Assumption Agreement dated January 15, 2003 (the "Cambridge Homes Transferee Assumption Agreement"), a copy of which was recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on January 22, 2003 as Document No. 0030099972, in which Cambridge Homes agreed to comply with all of the terms and requirements and assume all of the obligations contained in the Annexation and Development Agreement with regard to a portion of the Condominium Parcel designated as Lot 3A on the Final Plat of the Northbrook Pointe Resubdivision, a copy of which was recorded in the Office of the Cook County Recorder as Doc. No. 0020769908 on July 15, 2002.
- J. Cambridge Homes subsequently constructed two condominium buildings on Lot 3A, but never exercised its purchase option over Lot 3B. To this day, Lot 3B remains undeveloped and vacant.
- K. The Developer, which is the successor in title to Lot 3B from the Original Owners, has submitted an application to develop Lot 3B with a 34-unit rental townhome development ("Townhome Development") on Lot 3B.
- L. To allow for the construction and operation of the Townhome Development on Lot 3B, the Applicant has, in addition to various forms of zoning relief, requested a further amendment to the Amended Annexation Agreement.
- M. The Parties desire to further amend the Annexation and Development Agreement in the manner provided herein to re-designate Lot 3B as the "Townhoine Parcel," establish development requirements for the Townhome Parcel, and amend the development requirements for the Condominium Parcel to reflect the existing conditions on Lot 3A.
- K. Pursuant to Section 11-15.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1 *et seq.*, a proposed amendment to the Annexation and Development Agreement, in substance and form substantially the same as this Third Amendment, was submitted to the Corporate Authorities, and pursuant to notice published in the *Northbrook Star* on December 20, 2022, as provided by statute, a public hearing was convened by the Corporate Authorities on January 3, 2023.
- L. The Corporate Authorities, after due and careful consideration, have concluded that the development and use of the Townhome Parcel pursuant to and in

accordance with this Third Amendment would further enable the Village to control the development of the area and would serve the best interests of the Village.

- M. The Corporate Authorities have reviewed and considered the Third Amendment, and have found the Third Amendment to be consistent with the character of, and existing development patterns in, the vicinity of the Townhome Parcel.
- **2. Amendments.** The Amended Annexation Agreement is further amended as follows:
  - A. Definitions: The following definitions shall be added or amended as follows.
  - i. <u>Condominium Buildings</u>: The defined term "Condominium Buildings" shall be amended to read as follows: "Those two certain buildings to be constructed on the Condominium Parcel as generally depicted on the Condominium Parcel Plans, and depicted and designated on the Preliminary Plan as Building #1 and Building #2."
  - ii. <u>Condominium Parcel</u>: The defined term "Condominium Parcel" shall hereinafter refer to that approximately 5.2-acre portion of the Property designated as Lot 3A on the Final Plat, as legally described in *Exhibit A* to this Third Amendment.
  - ii. <u>Final Plat</u>: 7 he defined term "Final Plat" shall hereinafter refer to the Final Plat of the Northbrook Pointe Resubdivision, a copy of which was recorded in the Office of the Cook County Recorder at Doc. No. 0020769908 on July 15, 2002.
  - iii. <u>Lots</u>: The defined term "Lots" be amended to read as follows: "Lots 1, 2, 3A, and 3B as depicted on the Final Plat."
  - iv. <u>Townhome Development</u>: The defined term "Townhome Development" shall hereinafter refer to that 34-unit six building rental townhome development to be constructed on the Townhome Parcel.
  - v. <u>Townhome Parcel</u>: The defined term "Townhome Parcel" shall hereinafter refer to that approximately 3.1-acre portion of the Property designated as Lot 3B on the Final Plat, as legally described in **Exhibit A** to this Third Amendment.
  - vi. <u>Townhome Parcel Plans</u>: Those certain plans for the development of the Townhome Parcel with the Townhome Development, copies of which are attached to this Third Amendment as **Exhibit B**.
    - a. "Site Plan," prepared by BSB Design, consisting of one sheet, with a latest revision date of November 7, 2022;
    - b. "Engineering Plans," prepared by Pearson, Brown & Associates, Inc. consisting of three pages, dated January 26, 2022, with the last revised date of July 27, 2022 including:(i) Geometric Plan; (ii) Grading Plan, and (iii) Utility Plan.
    - "Existing Site," prepared by BSB Design, consisting of one sheet, with a latest revision date of July 20, 2022;

- d. "Proposed PUD Amendment," prepared by BSB Design, consisting of one sheet, with a latest revision date of October 12, 2022;
- e. "Parking Exhibit," prepared by BSB Design, with most recent revision date of October 12, 2022; and
- f. "Elevations," prepared by BSB Design, consisting of six pages dated August 25, 2022.
- B. <u>Condominium Parcel Provisions</u>. Section 5.B of the Annexation Agreement, entitled "Specific Use and Development Restrictions for the Condominium Parcel," shall be redesignated as Section 5.B.I and shall read as follows:
  - "B.I. Specific Use and Development Restrictions for the Condominium Parcel.
  - 1. <u>Condominium Buildings and Condominium Units.</u> The Condominium Parcel shall be developed with not more than three Condominium Buildings containing not more than 86 Condominium Units.
  - 2. <u>Condominium Building Sizes</u>. No Condominium Building shall consist of more than 43 Condominium Units.
  - 3. <u>F.A.R. Limit.</u> The cotal combined gross floor area of the two Condominium Buildings on the Confominium Parcel and the Outlet shall not exceed 252,800 square feet, and the floor area ratio on the Condominium Parcel and the Outlot shall not exceed 0.48.
  - 4. <u>Maximum Building Height</u>. The maximum height for Condominium Building #1 and Condominium Building #2 snall be 55 feet. Under n no circumstances shall any accessory roof appurtenance on any Condominium Building exceed five feet above the actual building height.
  - 5. <u>Lot Coverage</u>. The total amount of lot coverage on the Condominium Parcel shall not exceed 30.0 percent prior to construction of landbanked parking, and shall not exceed 30.0 percent with the construction of landbanked parking.
  - 6. Architectural Features of Condominium Buildings. The owner of Parcel 3A shall construct the Condominium Buildings in accordance with the building elevation plan, building materials plan, and the color palette included in the Final Plan approved by the Village, in the manner provided in Subsection 4.E of this Agreement.
    - 7. Parking. The owner of Parcel 3A shall construct and maintain:
      - 90 garage parking spaces, four of which shall be dedicated handicapped parking spaces;
      - ii. 125 outdoor off-street parking spaces, four of which shall be dedicated handicapped parking spaces; and

- iii. 46 additional outdoor off-street parking spaces as the Developer may be directed to construct and install pursuant to the Condominium Buildings Special Permit Ordinance.
- 8. <u>Site Features</u>. The Condominium Parcel shall be developed in substantial conformance with the Final Plan and shall include, without limitation, the following specific site features:
  - i. a five foot wide continuous pedestrian sidewalk throughout the Condominium Parcel substantially as depicted on the Development Concept Plan;
    - a landscaped island, with a pedestrian sidewalk of 30 inches in width, in the parking lot between Condominium Buildings #2 and the Townhome Parcel as depicted on the Development Concept Plan; and
  - iii. enhanced landscaping and earth berming along Sunshine Lane and the southerly portion of the Condominium Parcel."
- C. <u>Townhome Parcel Provisions</u>. A new Section 5.B.II shall be added immediately following the amended Section 5.B.I, which new section shall read as follows:
  - "B.II. Specific Use and Development Restrictions for the Townhome Parcel.
  - 1. <u>Townhome Development</u>. The Townhome Parcel shall be developed with not more than six buildings containing not more than 34 rental units.
  - 2. <u>Townhome Building Sizes</u>. No building within the Townhome Development may consist of more than seven rental units.
  - 3. <u>Maximum Building Height</u>. The maximum height for the Townhome Development may not exceed 55 feet.
    - 5. Parking. The Developer shall construct and maintain:
      - i. 68 dedicated unit parking spaces; and
      - ii. 64 outdoor off-street parking spaces, two (2) of which shall be dedicated handicapped parking spaces.
  - 8. <u>Construction Timing</u>. The Townhome Development must be constructed in a single phase. All six buildings of the Townhome Development must be completed and ready for occupancy no later than 36

months after the issuance of the first building permit for the Townhome Parcel.

#### 3. **General Provisions.**

- Α. Authority to Execute. The Village hereby warrants and represents to the Developer that the persons executing this Third Amendment on its behalf have been properly authorized to do so by the Corporate Authorities. The Developer hereby warrants and represents to the Village (i) that they are the record owner of fee simple title to the Townhome Parcel (ii) except as otherwise noted in the Amended Annexation Agreement and this Third Amendment, that no other person or entity has any legal, beneficial, contractual or security interest in either the Townhome Parcel; (iii) that they have the full and complete right, power and authority to enter into this Third Amendment and to agree to the terms, provisions and conditions set forth in and to bind the Townhome Parcel as set forth in this Third Amendment, (iv) that all legal actions needed to authorize the execution, delivery and performance of this Third Amendment have been taken, and (v) that neither the execution of this Third Amendment nor the performance or the obligations assumed by the Developer will (a) result in a breach or default under any agreement to which the Developer is a party or to which it or the Townhome Parcel is bound or (b) violate any statute, law, restriction, court order or agreement to which the Developer or the Townhome Parcel are subject.
- В. Survival of Terms. Except as specifically modified in this Third Amendment, all terms, covenants and conditions of the Amended Annexation Agreement shall remain in full force and effect; provided, rowever, that any other provisions of the Annexation Agreement shall be deemed to be modified as necessary to give practical effect to the provisions of this Third Amendment.
- Exhibits. Exhibits A and B, attached to this Third Amendment are, by this reference, incorporated in and made a part of this Third Argendment.
- D. Counterparts. This Third Amendment may be executed in counterparts, each of which shall constitute an original document, which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the parties have hereunto set their hands on the date first above written.

ATTEST:		AGE OF NORTHBROOK, an Illinois home
Debra J. Ford	rule n By:	nunicipal corporation  Kathryn Viesla
1791 Ol C		Village President
Village Clerk	SFP limited	NORTHBROOK POINTE, LLC an Illinois d liability company
	Ву:	Schwartz Family Limited Partnership
Ox	Its:	Manager
	4	BY: SCHWARTZ FAMILY LIMITED PARTNERSHIP, an Illinois limited
	C	by:  David Schwartz
		Its: Partner

#### **ACKNOWLEDGEMENTS**

STATE OF ILLINOIS ) ) SS.
COUNTY OF COOK )
The foregoing instrument was acknowledged before me on August 8 2023, by Kathryn Ciesla, the Village President of the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation, and by Debra J. Ford, the Village Clerk of said municipal corporation.
Given under my hand and official seal this 8 day of tugust, 2023.  Signature of Notary
SEAL
My Commission expires: Weylet 200200 Notary Public, Science My Commission Expires August 27, 2023
STATE OF ILLINOIS ) ) SS. COUNTY OF COOK )
The foregoing instrument was acknowledged before me on 2023. by David Schwartz, Partner of the SCHWARTZ FAMILY LIMITED PARTNERSHIP as Manager of SFP NORTHBROOK POINTE, LLC, an Illinois limited company y, which individual is known to me to be the identical person who signed the foregoing increment as such Manager of said limited liability company, and that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned.
Given under my hand and official seal this and day of Twee, 2023.
SEAL Signature of Notary
My Commission expires: 3-11-2017

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## EXHIBIT A LEGAL DESCRIPTIONS OF THE PROPERTY

LOTS 1, 2, 3A, 3B AND LOT A IN NORTHBROOK POINTE SUBDIVISION, BEING A RESUBDIVISION IN THE NORTH  $\frac{1}{2}$  OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 4077 Lake Cook Road, 55,101,153 and 205 Pointe Drive, Northbrook, Illinois

PINs: Lot 1: 04-06-200-005-0000

Lot 2: 04-06-200-006-0000

Lot 3A: 04-06-200-013-1001 through 1086

Lot 3B: 04-06-200-010-0000 Lot A: 04-06-200-006-0000

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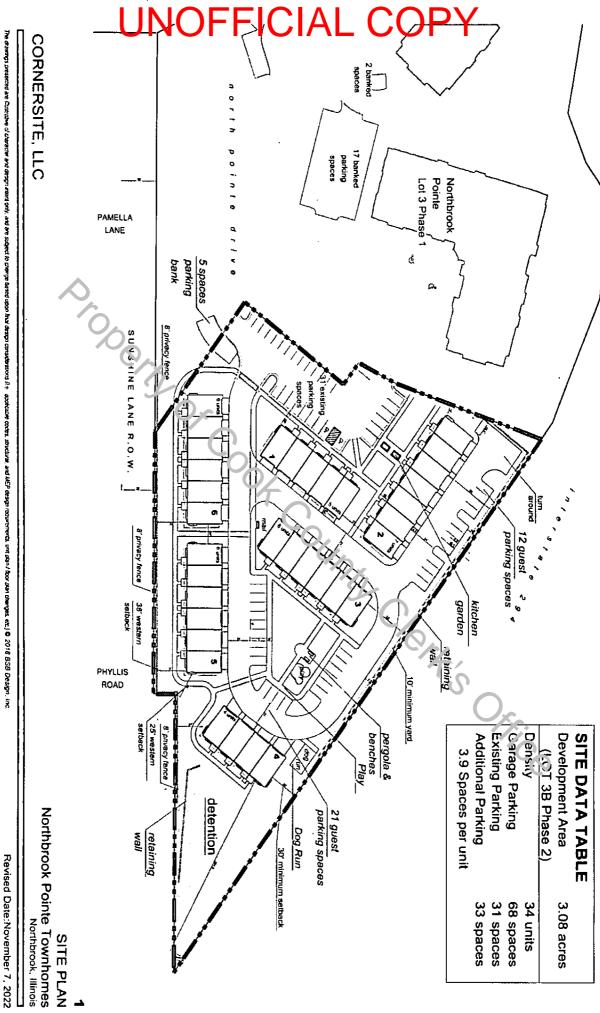
#### **EXHIBIT B TOWNHOME PARCEL PLANS**

COOK COUNTY CISEK OFFICE
RECORDING BINISION
126 N. CLARK ST. RET. M. 120
CINCALO, IL 30.502.40087

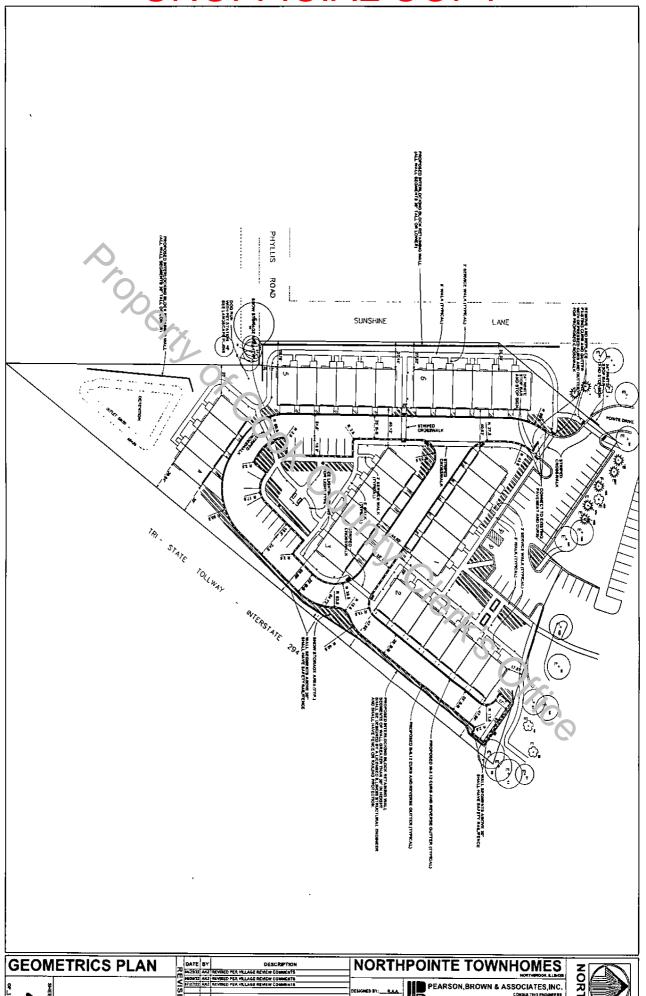
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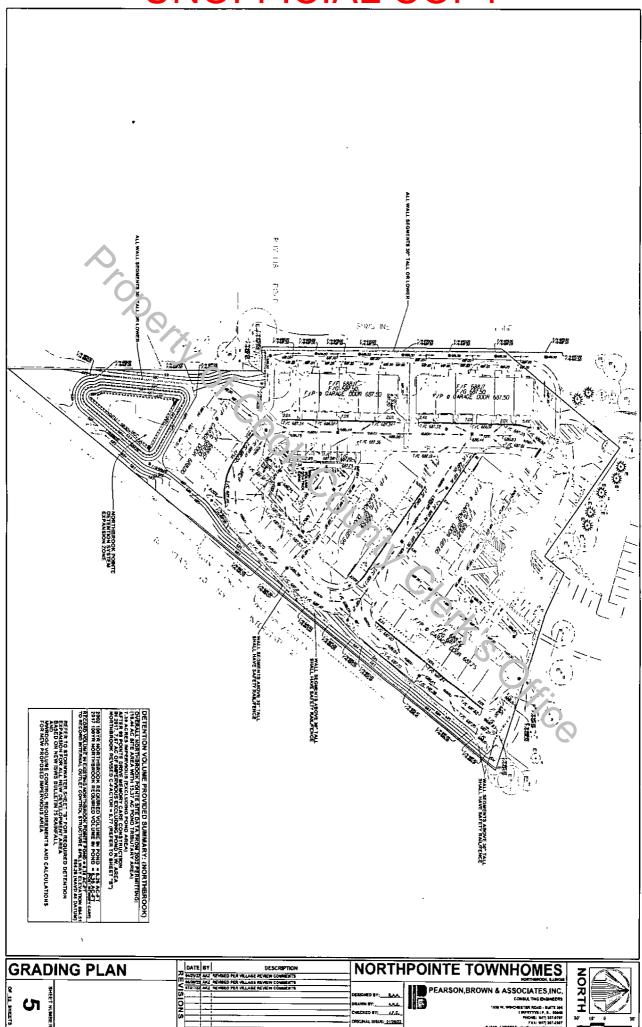
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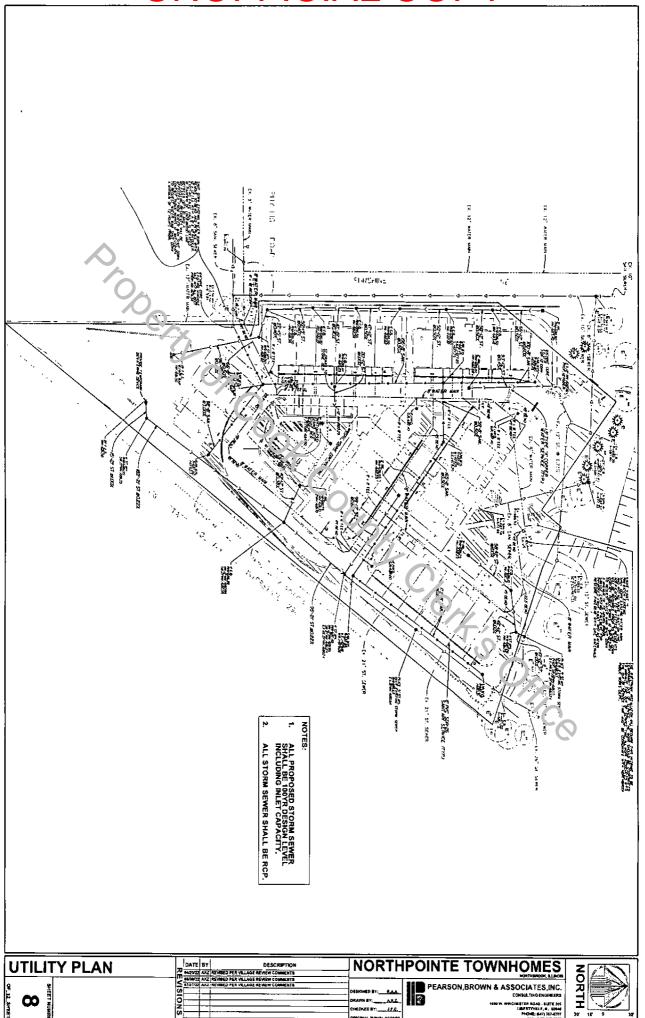
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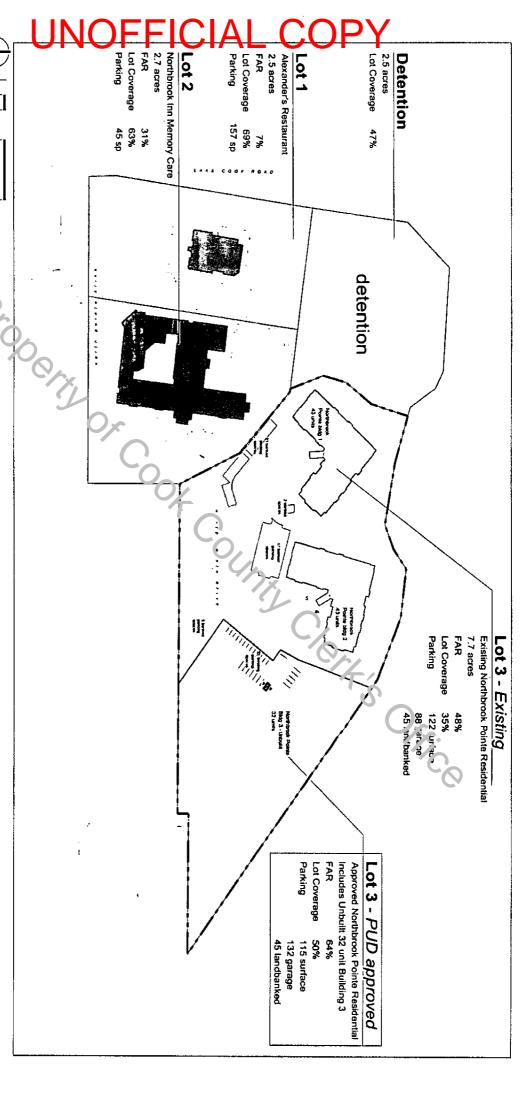


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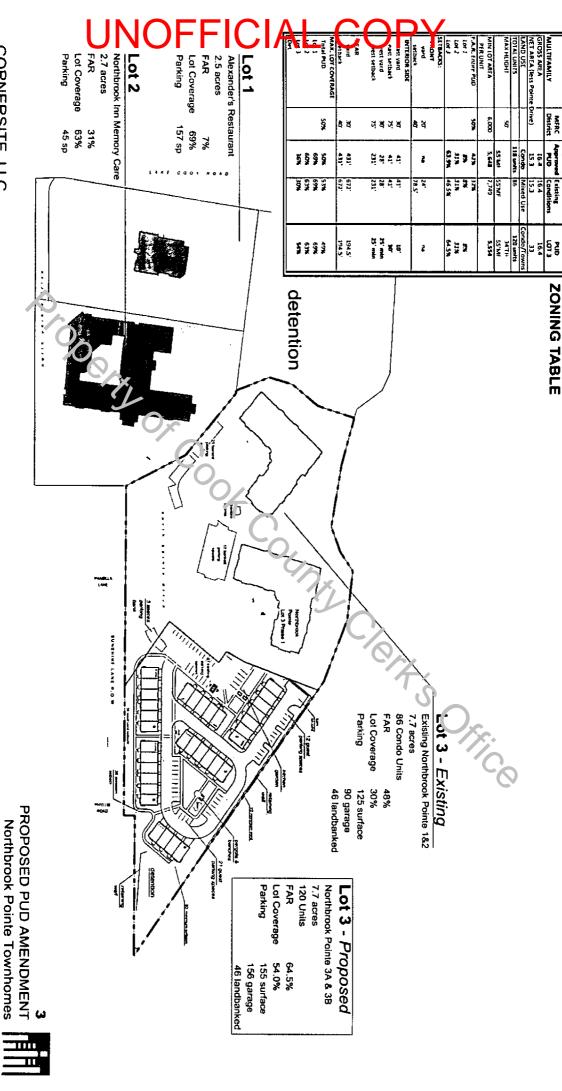
CORNERSITE, LLC

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Date: July 20, 2022

Northbrook Pointe Townhomes
Northbrook Illinois **EXISTING SITE** BSSDESIGN.COM



CORNERSITE, LLC

Northbrook, Illinois

DESIGN BSIGN

The drawings presented are Custodive of Character and design interactive, and are subject to charge based i

shuctural, and MEP design requirements, und pain / Boor pion changes, etc.) © 2018 BSB Designs, Anc

Revised Date: October 12, 2022

CORNERSITE, LLC Lot 1 Parking Parking 2.7 acres Northbrook Inn Memory Care Lot 2 2.5 acres Alexander's Restaurant 157 sp 45 sp DOOD O PALIELA LAME Northbrook Pointe Townhomes
Northbrook, Illinois Lot 3A - Condos 1&2 86 Units ot 38 - Townhomes otal Required (860 - 2.51), per writ ytal Provided Parking Existing Northbrook Pointe 182 Lot 3 - Existing ndbanked Parking and Total Provided 31 guest PARKING EXHIBIT 125 surfaco 90 garago 47 landbanked 215 TOTAL 2.6 sp per unit Parking 120 units Northbrook Pointe 3A & 3B Lot 3 - Proposed Parking Spaces (incl. ADA) 68 Parking Spaces (incl. ADA) 88 (4 ADA) 179 (8 ADA) 91 (4 ADA) 215 225 2.6 sp. per unit 311 TOTAL 3.0 w/landbanked 155 surface 156 garage 46 landbanked DESIGN BSB

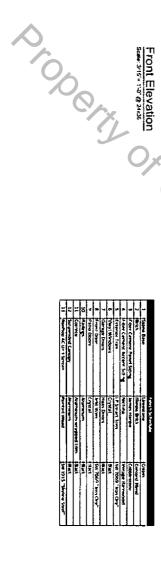
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SFP, LLC

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Townhomes at Pointe Drive



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August 25, 2022 | MS210527.00

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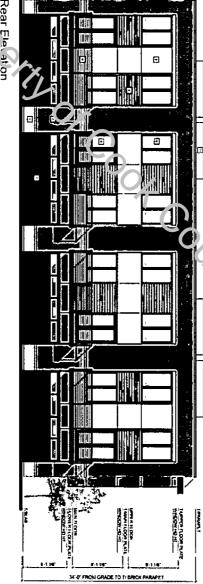
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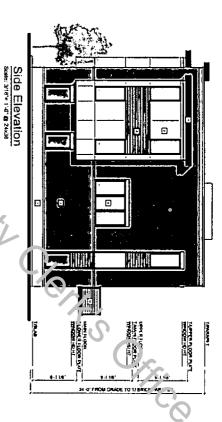
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Elevation Character: 4-Unit Building Assembly

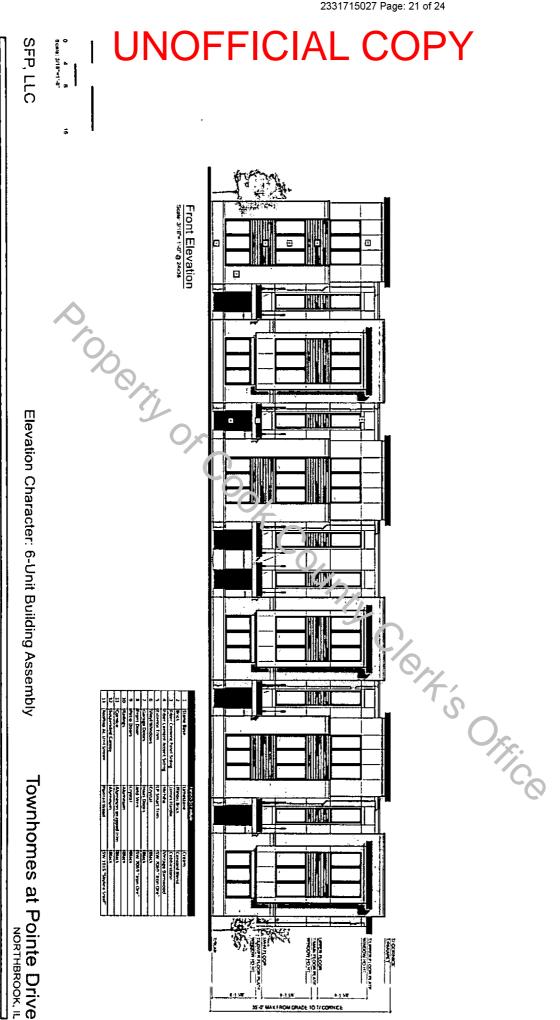
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Townhomes at Pointe Drive NORTHBROOK IL





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SFP, LLC

Rear Elevation

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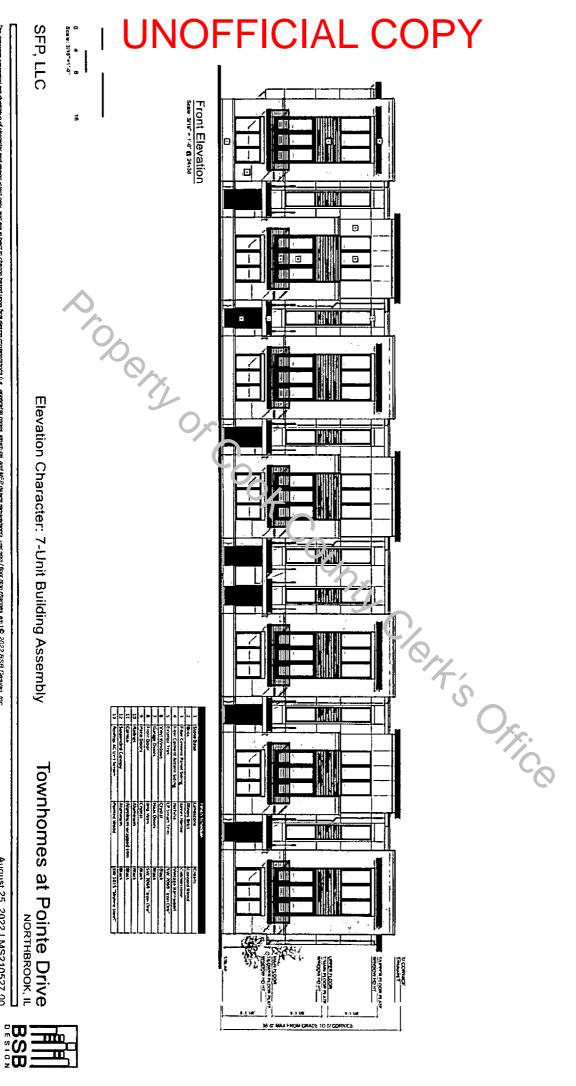
₽ Ð TAPPER PLOOP PLATE

Elevation Character: 6-Unit Building Assembly

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Townhomes at Pointe Drive

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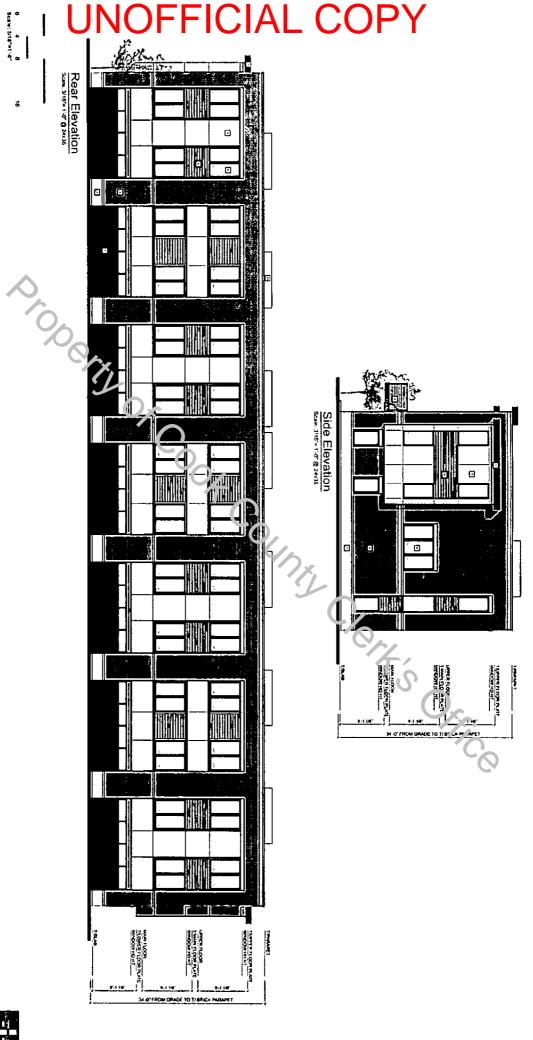
Elevation Character: 7-Unit Building Assembly

Townhomes at Pointe Drive

NORTHBROOK, IL

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SFP, LLC



Townhomes at Pointe Drive NORTHBROOK, IL

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Elevation Character: 7-Unit Building Assembly



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