



TERRA

ENGINEERING LTD.

WU'S HOUSE NAPERVILLE PARKING CAPACITY STUDY



PROJECT ADDRESS

Fitness Drive at Beebe Drive
Naperville, Illinois 60564

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SECTION I

EXECUTIVE SUMMARY

TERRA Engineering was asked to evaluate the parking needs for the proposed Wu's House restaurant in Naperville, IL. TERRA recently evaluated parking at the Palos Park location of Wu's House in July of 2022. The calculations and observations at the existing Palos Park location (which opened in early 2022) were assumed to be a good basis for developing projected parking demands at the Naperville site.

The Naperville location of Wu's House is proposed to be a 16,263 square-foot hibachi-style Japanese Restaurant. The parking lot is proposed with 146 spaces, six (6) of which are handicapped (ADA) spaces. This is roughly 10-11% bigger than the Palos Park site and the parking demand was increased by this percentage to estimate the demand in Naperville. The Naperville location is also proposing to sublease an additional 50 spaces from the XSport Fitness located to the west to exceed the City's requirements of 163 spaces.

The information at Palos Park was collected on a weekend in July 2022 and showed that locations peak demand was approximately 105 parking spaces around 7:00 PM with an average parking duration at approximately 100 minutes. Ownership provided data to TERRA that the summer revenue was about 60% of what was observed at the peak of business which occurred during the winter months. Adjusting for this increase in business during the busy months resulted in a need for 175 spaces at the Palos Park location.

Adjusting for the difference in size it is estimated a 118 total parking space demand would be expected in Naperville for a typical weekend night and adjusting for seasonal fluctuations this could bring demand to approximately 197 vehicles. This would be close to the number of spaces within the proposed lot, inclusive of the six (6) ADA spaces and the 50 proposed spaces to be sublet from the XSport Fitness located to the west.

These calculations are based on extrapolations from another Wu's House site and should provide a close approximation. TERRA believes that the proposed on-site parking and shared spaces should cover the typical expected demand on most nights. Due to the estimated high occupancy of the lot it is suggested that Wu's House monitor the parking demand after the restaurant opens to ensure that the available main lot and shared spaces meets the expected demand as estimated. If this is not the case, Wu's House may need to consider strategies to slightly mitigate the parking demand.

SECTION II

INTRODUCTION/BACKGROUND

TERRA Engineering was hired to analyze the parking supply and demand of a proposed Wu's House restaurant in Naperville, Illinois. The proposed area of the future restaurant building is 16,263 square-feet and will be a hibachi-style Japanese Restaurant with at least 25 tables, a bar, kitchen space and an outdoor seating area. The parking lot is proposed with 146 spaces, six (6) of which are handicapped (ADA) spaces, leaving 140 standard spaces. The restaurant is proposed at the southwest corner of Beebe Drive and Fitness Drive on what is currently a vacant lot. Other uses near the site include the existing XSport Fitness located to the west of the property and the approved KLA Schools of Naperville West preschool located adjacent to the parcel on the south. The proposed KLA Preschool will contain 40 parking spaces, two (2) of which are handicapped spaces, while the XSport Fitness has a large parking area with approximately 380 parking spaces. Figure 1 shows the proposed site plan for Wu's House Naperville and Figure 2 shows the site plan for the proposed KLA Preschool.

The KLA preschool was granted a parking deviation to allow for 40 parking spaces instead of the required 51 spaces recorded by the building code, and a deviation from the ten (10) car stacking requirement for a school drop-off. This deviation was granted because the preschool obtained an easement for 50 non-exclusive parking spaces from the XSport Fitness lot. This provides their site with up to 90 available spaces exceeding its minimum parking space requirement.

Wu's House has petitioned for a variance in its parking spaces, and has obtained an easement for the same 50 non-exclusive parking spaces from the XSport Fitness lot. This would raise Wu's House parking capacity from 146 spaces to 196 spaces. The building code's minimum requirement for the Wu's House fall under the "Eating establishments exclusive of fast food establishments" which requires 10 parking spaces per each 1,000 square feet of gross floor area. Based on the proposed size of the restaurant with 16,263 square feet in size the required parking spots is 163 spaces.



Figure 1 - Wu's House site plan

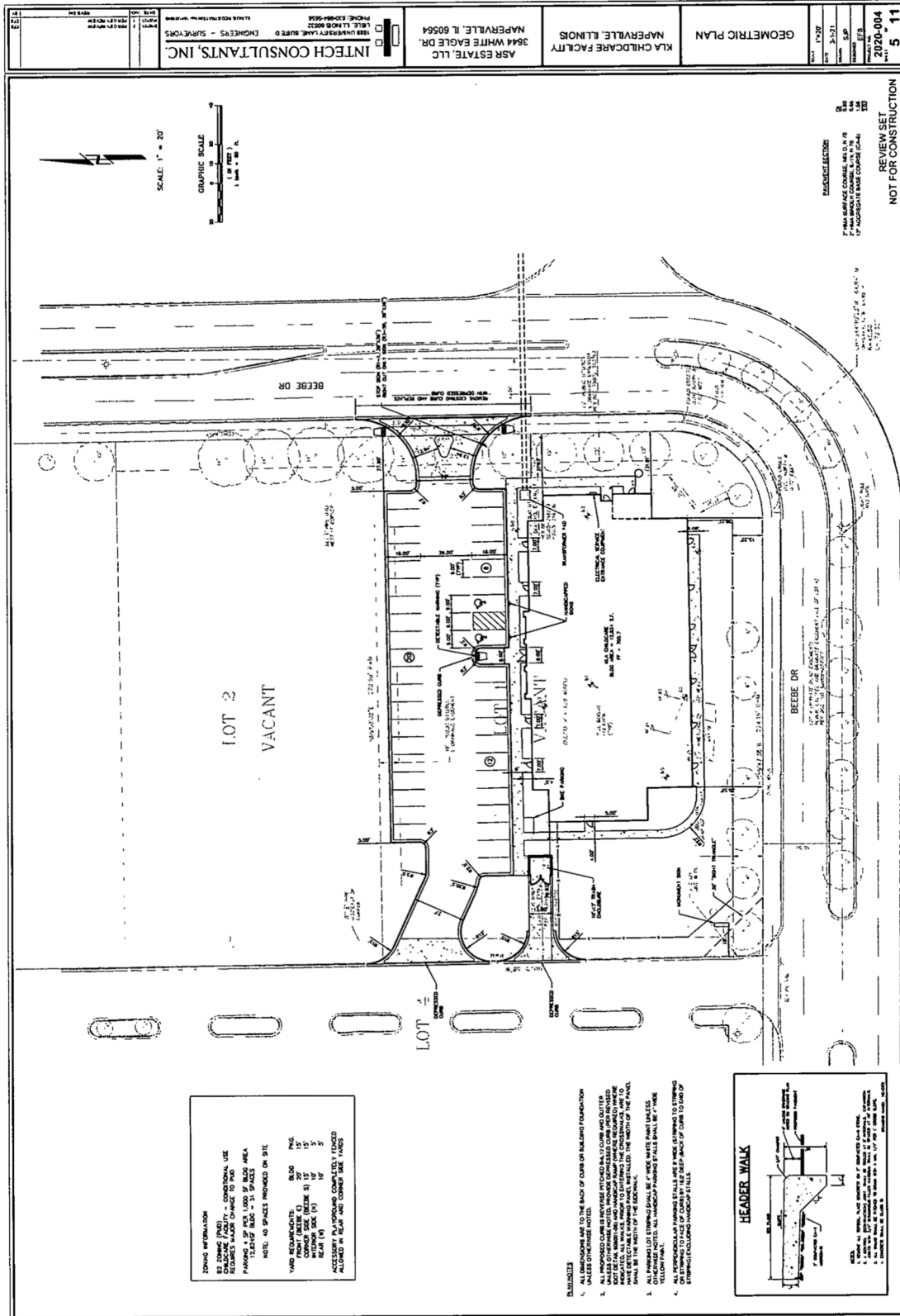


Figure 2 - KLA preschool site plan

SECTION III

STUDY AREA

The proposed site is in Naperville, Illinois at the southwest corner of Fitness Drive and Beebe Drive. The closet major intersection near the site is IL-59 and 75th Street. Beebe Drive intersects 75th Street to the north and turns to run east-west south of the site intersecting with Illinois Route 59. Figure 3 shows an aerial photo of the location of the proposed site, as well as the adjacent parcel to the south for the proposed KLA preschool.



Figure 3 - Locations of Wu's House (red) and KLA preschool (blue) parcels

SECTION IV

WU'S HOUSE PALOS PARK PARKING STUDY

TERRA recently completed a parking study for the existing Wu's House in Palos Park, Illinois. This study included traffic counts and field observations of the existing site which is in operation. The Palos Park restaurant is 14,515 square feet. As of the time of this report, the Palos Park location contains 93 parking spaces, five (5) of which are reserved for employees, and four (4) of which are handicapped spaces. The lot is currently inadequate to serve the parking demand, and a parking lot expansion has been proposed which contains 94 additional spaces.

TERRA performed traffic counts at the Palos Park location and graphed the number of vehicles entering the parking lot throughout the day on Friday, July 16, 2022, as well as Saturday, July 17, 2022, to ascertain the maximum number of vehicles in the lot during the two days. On Friday, July 16, 2022, TERRA also recorded the last three (3) characters of every license plate in the lot every 15 minutes beginning at 5:45 PM to calculate the duration vehicles were parked and the occupancy of the lot at any given time.

From the analysis in the Palos Park parking study, the maximum number of vehicles in the lot during the days it was studied was 105 vehicles, and the average amount of time dine-in patrons spend is approximately 100 minutes. The restaurant employs valet service during busier times, however there was no valet present during the days of TERRA's observations. Wu's House informed TERRA that the volume of gross receipts on the dates of observation were about 60% of what is experienced during busier winter months. TERRA reasoned that if 105 vehicles was only 60% of the traffic volume on a busier winter day, then there would be approximately 175 vehicles during peak business hours during the winter. This value of 175 parking spaces is the approximate needed to meet the parking demands for both patrons and staff during the busier season. The Palos Park restaurant is slightly smaller than the proposed Naperville building, however the traffic distribution would be assumed to be similar and will be used as a comparable alternative for estimating the parking needs for the Naperville location.

SECTION V

WU'S HOUSE NAPERVILLE LOCATION ANALYSIS

Parking Demand

The Wu's House restaurant in Palos Park has been open for a period of less than one (1) year. The Palos Park location has a building area of 14,515 square-feet and has 18 hibachi tables, an area with non-hibachi tables, and an outdoor patio area. The Naperville location has a building area of 16,263 square-feet and is proposed to have 25 hibachi tables and is assumed to have another area without hibachi tables and has an outdoor patio area. As mentioned in the previous section of this report, the peak number of vehicles in the parking lot at the Palos Park when it was studied location was 105 vehicles.

The number of vehicles in the lot during the busiest time can be approximated as a function of the square feet of building area. Assuming the mathematical relationship is linear, if a 14,515 square-foot building area in Palos Park correlates to 105 vehicles parked during the restaurant's peak around 7:00 PM during a summer observation, then a 16,263 square-foot building area in Naperville would correlate to 118 vehicles in the lot during the similar summer peak time.

The data from the Palos Park summer observations was increased based on the adjustment of the size of the building and were plotted as a function of time on a Friday and Saturday. This graph is shown in Figure 4 and is provided to show an approximation of the parking demand as a function of 15-minute periods throughout the day based on our observations and shows a peak of 120 parking spaces needed.

As mentioned in the previous section of this report, the vehicles in Wu's House restaurant in Palos Park parking lot were measured when gross receipts were approximately 60% of what it usually is in winter months. It can be assumed that vehicle volumes were also approximately 60% of what it may be in winter months when the restaurant is busier. If the 105 vehicles counted at the restaurant is only 60% of the vehicle volume during busier months, then it can be estimated that 175 vehicles would need parking spaces during the busier months. Assuming the mathematical correlation of 14,515 square-feet with 175 vehicles during busier months at the Palos Park location, the Naperville location's 16,263 square-feet will correlate with an estimated 197 vehicles that will need parking spaces during its busiest time of the day.

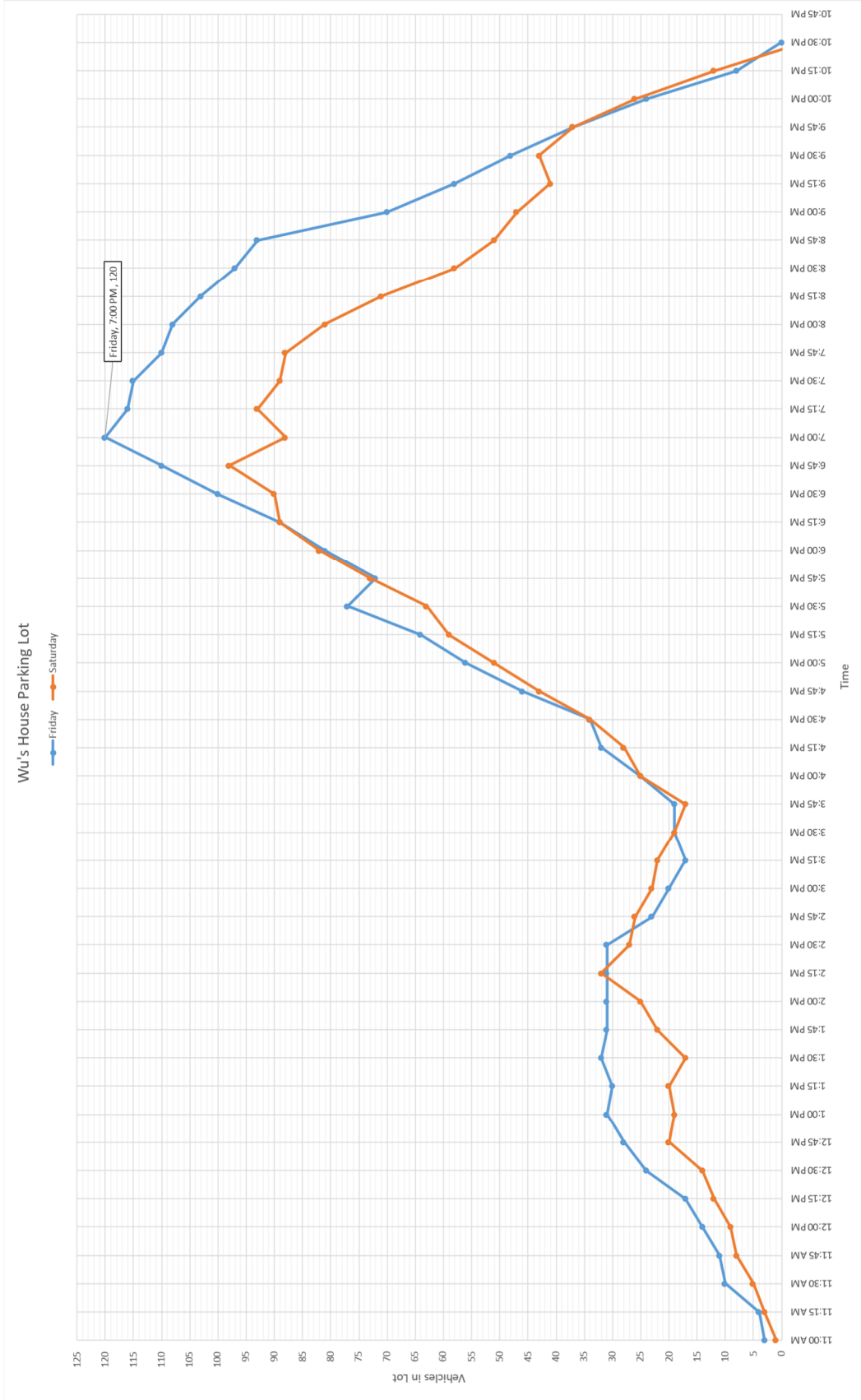


Figure 4 - Forecasted parking for Naperville location based on time of day



The 197 needed spaces during the forecasted peak parking need would be in excess of the available spaces proposed within the lot which exceeds the proposed on-site parking of 146 spaces and the City requirement of 163 spaces. This would show a need for additional parking spaces at the height of demand.

Table 1 – Parking Requirements				
Wu’s House Naperville	Building Size	City Required Spaces	On-site Spaces	Difference
Eating establishment non fast food 10 spaces per 1,000 gross square feet	16,263 sf	163	146	17

Sharing Lots

As mentioned in the introduction section of this report, the KLA Preschool obtained an easement for 50 non-exclusive parking spaces at the XSport Fitness lot. Wu’s House restaurant is in the petitioned for an easement for the same 50 non-exclusive spaces at the XSport Fitness lot which is included in Appendix A.

Wu’s House restaurant is not open for breakfast, so the main lot at Wu’s House would be mostly empty and it would be unlikely that employees would be on site at this time. With that in mind, there would be no need for overflow vehicles to park in the XSport Fitness lot during the morning student drop-off period for the KLA preschool. Therefore, in the morning there would be no competition for these 50 additional spaces.

During midday hours when Wu’s House peak lunch hours may coincide with a potential midday preschool period for picking up or dropping off students, it appears unlikely there would be overflow vehicles from Wu’s House parking at the XSport Fitness lot. Between the hours of 11:00 AM and 4:00 PM on Friday at when the Wu’s House in Palos Park was being studied, the maximum number of vehicles in the lot was 38 vehicles. Like parking demand, if the vehicle volume is modeled as a function of building area, the 38 vehicles at the Palos Park location could translate to 43 vehicles at the Naperville location. And if it is assumed Wu’s House was 60% as busy in summer, then this could translate to an estimated 71 vehicles during a busier time at lunch in the winter. The total of 71 vehicles is less than the number of spots in the main lot of 146 spaces, so it would not be necessary to utilize the overflow parking during the lunch period.

Other KLA preschools in the Chicago area close between 6:00 PM and 6:30 PM. It is expected that parents are most likely to pick up students at the KLA preschool between the hours of 4:00 PM and 6:00 PM. Between the hours of 4:00 PM and 6:00 PM on Friday at the Wu's House in Palos Park, the maximum number of vehicles in the lot was 79 vehicles. Using similar reasoning as the midday estimates, this would translate as 89 vehicles at the Naperville location. During busier months there could be as many as 148 vehicles. This exceeds the 140 available regular spaces within the Wu's lot, but only by 8 spaces if the ADA spaces are not included and 2 spaces if the ADA spaces are included.

There may either be some overflow parking in the XSport Fitness spaces during busier months at Wu's House. However, it is also possible the KLA preschool would not need all its spaces during the same hour, as vehicles arriving at the preschool may not arrive simultaneously within a short period of time but be gradually spread over the span of the two hours. It would be expected that Wu's House and KLA could successfully share the 50 spaces during this time period. It is also expected that Wu's employees would be the most likely vehicles which could be asked to park in these shared spaces to allow the main lot spaces to be left available for restaurant patrons. This would also help to ensure that the spaces used in the XSport Fitness lot are parked in the appropriate spaces within the lot.

Peak Parking at Wu's House

When TERRA studied the Wu's House in Palos Park, the peak number of vehicles in the lot occurred on a Friday at 7:00 PM where there were 105 vehicles in the lot. As mentioned in the Parking Demand section, this can be extrapolated to 118 vehicles for the larger Wu's House in Naperville during a typical weekend night in the summer, and a potential of up to 197 vehicles during busier months. Not including the handicapped spaces, this exceeds the combined parking capacity of Wu's House main lot, and the parking spaces with easements at XSport Fitness by seven (7) vehicles.

It should be noted that while the 105 vehicles were counted during the Wu's House in Palos Park parking study was obtained empirically, extrapolations are theory laden. It is possible the relationship between square feet of the building, hibachi tables and parked vehicles is logarithmic instead of linear, and there is a point of diminishing returns. It is also possible that a linear connection between gross receipts and parking demand during difference seasons may not be exact.

The total number of spaces required based on the calculations for the busiest nights of the year is roughly 197 parking spaces which is one more than the proposed number of regular

and ADA spaces provided. It is likely that the parking provided will meet the demand on the busiest nights of business at the restaurant. It may be advisable with the margin so close to the total required during busier times of the year that the restaurant consider having staff carpool or be dropped off to reduce the parking demand slightly to allow for the available parking spaces to cover demand.

SECTION VI

CONCLUSIONS AND RECOMMENDATIONS

TERRA Engineering's traffic engineers have reviewed the parking conditions at the Wu's House restaurant in Palos Park, IL. The calculations and observations at the existing Palos Park location (which opened in early 2022) have been applied to the proposed site in Naperville to estimate the future expected parking demand. This assumption was determined to provide a comparable estimate of parking demand based on the same use of a hibachi restaurant in a Chicago area suburb. The volumes recorded at this existing location should provide a more accurate traffic and parking estimate than parking calculations developed from industry standard parking manuals.

The Naperville location is proposed to have a parking lot with 140 regular spaces and six (6) ADA spaces with a total on-site parking space count of 146 spaces.

The information at Palos Park was collected on a Friday and Saturday in July of 2022 which was about 6-7 months after the restaurant opened. The parking evaluation for that site showed that the parking demand was lower during the lunch rush and began to build during the early evening hours with a peak demand around 7:00 PM. Data also showed an average parking duration for a meal at approximately 100 minutes per car which is longer than at a typical sit-down restaurant. The peak parking demand for that site was 105 vehicles, however the ownership provided data to TERRA that the summer revenue was about 60% of what was observed at the peak of business which occurred during the winter months.

The Palos Park location is about 10% smaller based on square feet than the proposed location in Naperville. TERRA adjusted the Palos Park parking demand up by 10-11% to adjust for the difference in size between the two locations. This increases the parking demand to 118 parking spaces for a typical weekend night. It would be expected that weekday night visits would be similar to the typical night or lower based on typical

restaurant operations. This 118-vehicle total would be accommodated by the proposed parking lot on most nights of operation throughout the year.

Adjusting the 118 total parking space demand for a typical night to account for seasonal fluctuations in business reported by Wu's House for use in the study, the estimated parking demand for the busiest weekend night would be approximately 197 vehicles. This would be approximately equal to the number of spaces within the proposed lot, inclusive of the six (6) ADA spaces and the 50 proposed spaces to be sublet from the XSport Fitness located to the west. This should meet the demand on the busiest weekend nights when the parking demand will be very close to the available capacity.

As this data is based on theoretical calculations from another Wu's House site, it would be suggested that Wu's House monitor the parking demand and usage after the restaurant opens to ensure that the available main lot and shared spaces meets the expected demand as estimated. If this is not the case, Wu's House may need to consider strategies to mitigate the parking demand, such as encouraging employees to reduce their parking need by carpooling or being dropped off and picked up at the site or other mitigation strategies which free up 5-10 parking spaces on the peak business evenings.

APPENDIX A

PARKING AGREEMENTS

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KATHLEEN V. CARRIER, RECORDER
DUPAGE COUNTY ILLINOIS
06/23/2021 09:21 AM
RHSP

DOCUMENT # R2021-096209

CT Hulley
20034242WF

File No.: 20034242WF

DECLARATION OF COVENANTS RECIPROCAL EASEMENT AGREEMENT

This page is added to provide adequate space for recording information and microfilming.
Do not remove this page as it is now part of the document.

PREPARE BY AND RETURN THIS DOCUMENT TO:

Fishman Haygood, LLP
100 North Street, Suite 800
Baton Rouge, LA 70802

Chicago Title and Trust Company
2441 Warrenville Rd, Suite 100
Lisle, IL 60532

20034242 WF
by Kelly
①

Prepared By &
After Recording Return To:
Louis Quinn, Jr., Esq.
Fishman Haygood, LLP
100 North Street Suite 800
Baton Rouge, Louisiana 70802

DECLARATION OF COVENANTS AND RECIPROCAL EASEMENT AGREEMENT

This Declaration of Covenants and Reciprocal Easement Agreement (hereinafter referred to as the "**Agreement**") is made and entered into as of the 3rd day of June, 2021 (hereinafter referred to as the "**Date of this Agreement**"), by **NAPERVILLE RETAIL INVESTMENTS, LLC**, an Illinois limited liability company, whose business address is 47W210, Route 30, Big Rock, Illinois 60511 ("**NREI**") who declares as follows:

RECITALS:

A. NREI is the owner of two (2) parcels of real property located in Naperville, DuPage County, Illinois, designated as "**Lot 5**" and "**Lot 6**", more particularly described on **Exhibit "A"** attached hereto and made a part hereto ("**NREI Lots**").

B. A Plat Of Easement/Easement Vacation of BRADFORD COMMONS, Naperville Illinois (the "**Plat**") was recorded as Document Number R2005-249736 with the DuPage County Recorder on November 8, 2005 establishing public utility, drainage and access easement provisions for the benefit of the Naperville Lots.

C. A Reciprocal Easement Agreement and Agreement imposing Restrictive Covenants dated as of November 3, 2005 and recorded with the DuPage County Recorder's office as Instrument No. R2005-262510, as amended by First Amendment Reciprocal Easement Agreement and Agreement imposing Restrictive Covenants dated as of September 14th, 2006 and recorded with the DuPage County Recorder's office as Instrument No. R2006-22029 established easements and restrictions for the Naperville Lots ("**REA Easements**", together with the easements located on the Plat, the "**Existing Easements**").

D. The NREI Lots are subject to a Reciprocal Easement and Operating Agreement dated as of October 4, 2002 and recorded with the DuPage County Recorder's office as Instrument No. R2992-295225, as amended, containing non-exclusive easements, use restrictions, maintenance, utility easements, encroachments; drainage, and association assessments ("**Bradford Commons REA**").

E. Under the Bradford Commons REA, the NREI Lots are subject to the payment of assessments imposed by The Hazelen Owners Association, an Illinois non-profit corporation ("**Association**"), based on the Buildable Area (as defined therein) of the NREI Lots and the Buildable Area of all other lots in Bradford Commons ("**Assessments**").

F. NREI plans to subdivide the NREI Lots in the future to convey, transfer and develop all or any portion of the NREI Lots. The term "**Naperville Lots**" includes

without limitation the NREI Lots, as presently situated, and as re-subdivided into additional lots in the future. The term "Naperville Lots" shall mean any one or all of the Naperville Lots, and when used singularly (i.e., "**Naperville Lot**") shall mean any Naperville Lot.

G. In order to plan and coordinate the development of the NREI Lots in the future, NREI hereby covenants, declares and agrees as follows, with the covenants, restrictions and easements granted herein being binding on all present and future Lot Owners, and shall inure to the benefit of all present and future Lot Owners.

H. A "**Lot Owner**" or "**owner**" or "**Party**" or "**Parties**" means, individually or collectively, as the context requires: NREI, and any and all of its successors and assigns, as applicable, and any owner, whether now or in the future, of a fee simple interest in all or any part of a Naperville Lot.

NOW, THEREFORE, for and in consideration of the foregoing, the sum of Ten and 00/100 Dollars (\$10.00), the agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the NREI agrees, acknowledges, covenants and declares as follows:

1. **Grant of Easements.** NREI hereby grants to and for the benefit of each Naperville Lot, and as an appurtenance to each Naperville Lot, the following:

a. **Utility Easements.**

(i) Perpetual non-exclusive easements ("**Utility Easements**") over, under and across and through each Naperville Lot for the installation, operation, removal, transmission, distribution, construction, connection, laying, repair, replacement, relocation, maintenance, use and placement of water pipes, lines and Facilities (as hereafter defined); telephone lines and Facilities; cable, internet and other data transmissions lines and Facilities; gas lines and Facilities; sanitary sewer pipes, lines and Facilities; electrical lines and Facilities; storm water drainage, retention and detention pipes, lines and Facilities; any other utility lines or Facilities necessary or required or otherwise used or to be used in the development and operation of the Naperville Lots, including without limitation the right to install additional utility lines, pipes and Facilities, and to enlarge the size and capacity of any utility lines and Facilities now existing or hereafter constructed in order to develop and operate the Naperville Lots, and to connect utilities to public and/or private utility Facilities and rights-of-way for the provision of utility services to the Naperville Lots (collectively the "**Utility Systems**"). The Utility Systems will be installed underground or otherwise enclosed if constructed aboveground, and will be installed, used, operated and maintained in accordance with all applicable laws, and in a manner which will not materially and adversely interfere with the use and operation of each other Naperville Lot, and if requested by any other Lot Owner, at such requesting Lot Owner's cost and expense to provide additional capacity for the reasonable development of such requesting Lot Owner's Naperville Lot. The Utility Easements granted herein include without limitation the right to connect and tie into the existing utility Facilities on each Naperville Lot, at such Lot Owner's sole cost and expense.

(ii) The Utility Easements are blanket easements, but shall also include a perpetual non-exclusive easement (1) on, over, under, through and across each Naperville Lot for access to the Utility Systems located on each Naperville Lot, or to gain access to Utility Systems located elsewhere; and (2) on, over and across an area ten (10') feet in width on either side of the Utility Systems (to the extent such additional 10' is not located under any buildings located on any Naperville Lot), for the construction, laying, repair, maintenance, replacement, use and placement of Utility Systems. At such time Utility Systems are installed, constructed and placed in service, this Agreement will be amended to particularly define and delineate (through actual metes and bounds legal descriptions) those portions of each Naperville Lot on which the Utility Systems are actually located, and those portions of the Naperville Lot actually encumbered by the Utility Easements.

(iii) The Utility Easements are granted subject to the terms and conditions of the any existing utility easements affecting the Naperville Lots.

(iv) The Utility Easements are granted for the benefit of the present and all present and future Lot Owners, their tenants, lessees, managers, employees, guests, contractors, members, licensees, invitees, customers, successors and assigns ("**Lot Owners' Permittees**").

(v) To the extent a Lot Owner is required to obtain approvals or permits from applicable governmental agencies or private utility companies for the Utility Systems, or for the use of any existing utilities or utility systems on any Naperville Lot, such Lot Owner agrees to obtain such approvals and permits prior to commencing any work in the Utility Easements, at its sole cost and expense. All work done in connection with the installation, repair and maintenance of the Utility Systems will be done in a good and workmanlike manner in accordance with all applicable laws, at the Lot Owner's sole cost and expense.

b. **Access Easements.**

(i) a perpetual, non-exclusive easement for access, ingress, and egress (in those areas used for access, ingress, passage and egress (but excluding parking) on the Naperville Lots when developed in the future, for pedestrian and vehicular traffic ("**Lot Access Easement**") over and across all asphalt, concrete, or other drives, cul-de-sacs, driveways, boulevards; streets, curbs, sidewalks or other passage routes located on the Naperville Lots when developed in the future ("**Access Areas**") in connection with the use and operation of all or any portion of the Naperville Lots, for the sole purpose of allowing each Naperville Lot access, ingress and egress to and from each of the Naperville Lots. The Access Areas do not exist as of the Date of this Agreement, and Lot Access Easement shall encumber those Access Areas when the Naperville Lots are developed in the future.

(ii) The Access Easements shall include (1) pedestrian access to any and all Access Areas utilized for pedestrian traffic, now and hereafter abutting or located on any portion of the Naperville Lots, including sidewalks between Naperville Lots, as long as such sidewalks do not materially and adversely affect the development of such Naperville Lots and (2) vehicular access for the purpose of vehicular traffic

between the Naperville Lots, and public rights-of-way. Construction traffic for the development of a Naperville Lot may not utilize any driveways or drive aisle located on any other Naperville Lot, other than the accessways, driveways, drive aisles shown on the Easement Plat in the Bradford Commons REA.

(iii) Such access, ingress, egress and passage shall be in common with each Lot Owner and the Lot Owners' Permittees over the Access Areas, and others who have been granted the right to use the Access Areas. The Access Easements herein granted may be utilized by the Lot Owners' Permittees in connection with the development and operation of the Naperville Lots.

(iv) The Access Areas shall be used in accordance with all applicable laws, and in such a manner so as to not materially and adversely affect the operation of any business now or hereafter located on the Naperville Lots.

(v) Each of Lot Owner agrees to maintain and replace the Access Areas on their Naperville Lot, and keep the Access Areas on their Lot in a good state of repair. Each Lot Owner shall be responsible for the costs and expenses of maintaining, replacing and repairing the Access Areas on their Naperville Lot, at their cost and expense.

(vi) To the extent approvals from applicable governmental agencies for use of the Access Easements, are required, each Lot Owner agrees to obtain such approvals and permits, at its sole cost and expense.

c. **Drainage Easements.**

(i) A perpetual, non-exclusive storm water drainage easement ("**Drainage Easement**") over, under, through and across each Naperville Lot to accommodate (1) the flow of surface storm water run-off and discharge occurring from the Naperville Lots, and (2) drainage of storm water into any and all storm water drainage facilities or public or private storm water drainage facilities, now located or hereafter constructed for use by the Naperville Lots ("**Drainage Systems**"). The Drainage Easements include without limitation the right to expand, widen, enlarge and increase the size of the Drainage Systems, at such Lot Owner's sole cost and expense, and in accordance with all applicable governmental laws, regulations, codes and permits, and without materially and adversely affecting the operation of the business on any Naperville Lot.

(ii) Each Lot Owner hereby agrees for itself, its successors and assigns, that the Naperville Lots shall not be modified so as to adversely affect (1) storm water runoff from each Naperville Lot to the Drainage Systems or to storm water drainage facilities located within public rights-of-way; and (2) the flow, detention and retention of storm water to, over, under and on the Naperville Lots.

(iii) Each Lot Owner shall bear all costs incurred in obtaining all permits and other governmental approvals, if any, required for storm water drainage from their Lot to the Drainage Systems, and shall bear 100% of the cost of construction of any

additional drainage facilities constructed to accommodate storm water drainage from their Naperville Lot to the Drainage Systems.

(iv) Each Lot Owner agrees to maintain and replace the Drainage Systems located on its Lot, as is necessary, and keep the same in a good state of repair and condition.

(v) The Drainage Easement is granted subject to the terms and conditions of any existing easements affecting the Naperville Lots. The Drainage Easement is granted for the benefit of the present and all future Lot Owners and the Lot Owners' Permittees.

(vi) To the extent a Lot Owner is required to obtain approvals from applicable governmental agencies for use of the Drainage Easement, each Lot Owner agrees to obtain such approvals and permits prior to using the Drainage Easement, at its sole cost and expense.

(vii) The Drainage Easement is a blanket easement, but shall also include a perpetual non-exclusive easement on, over and across an area ten (10') feet in width on either side of the Drainage System (to the extent such additional 10' is not located under any buildings located on a Naperville Lot), for the transmission, distribution, enlargement, construction, laying, repair, replacement, use and placement of Drainage Systems. At such time as any Drainage Systems are installed, constructed and placed in service, this Agreement will be amended to particularly define and delineate (through actual metes and bounds legal descriptions) those portions of the Naperville Lot on which the Drainage Systems are actually located, and those portions of the Naperville Lots actually encumbered by the Drainage Easement. The existing areas affected by the Drainage Easement are shown on the Plat.

2. Actions Regarding Naperville Lots.

(a) Re-Subdivision of Naperville Lots. NREI may be re-subdivide each Naperville Lot owned by it in accordance with applicable laws without the consent of any other Lot Owner. Each Lot Owner agrees not to object to the re-subdivision and to cooperate with NREI, if requested, at no cost or expense to the Lot Owner. A re-subdivision may include the vacation of an existing public utility easement and a relocation of such vacated public utility easement to the boundary lines of the Lots if necessary in connection with such re-subdivision.

(b) Use of Easements.

(i) NREI and the Lot Owners agree that in the event the Existing Easements are "sufficient" to provide the Naperville Lots with the Utility Easements, Access Easements, and the Drainage Easements necessary to develop the Naperville Lots for uses permitted by the applicable governmental authorities, NREI and the Lot Owners will use such Existing Easements in the development of the Naperville Lots, for uses permitted by the applicable governmental authorities, in lieu of using the Utility Easements, Access Easements, and Drainage Easements set forth hereinabove. For

the purposes of this Paragraph 2, the term "sufficient" means, as applicable, that: (i) the Existing Easements are of sufficient size, width and depth to accommodate the needed utility easements, access easements, and drainage easements in accordance with the development of the Naperville Lots for uses permitted by the applicable governmental authorities; and (ii) the Existing Easements are sufficient to provide access, ingress, egress and passage to and from and between the NREI Lots to public roads, public streets and other public accessways and the NRI Lot, in accordance with the development of the NREI Lots for uses permitted by the applicable governmental authorities; and (iii) the Existing Easements grant Lot Owners the absolute right under the Existing Easements to use such Existing Easements for the purposes of developing the Naperville Lots for uses permitted by the applicable governmental authorities; and (iv) the applicable governmental authorities authorize and approve the use of the Existing Easements by Lot Owners and the installation and use of facilities therein, where necessary for the development of the Naperville Lots for uses permitted by the applicable governmental authorities; and (v) the cost to utilize the Existing Easements is not materially in excess of the cost of using the Drainage Easements, Access Easements, and Utility Easements granted herein; and (vi) use of the Existing Easements is more conducive for the development of the Naperville Lots for uses permitted by the applicable governmental authorities of the Naperville Lots, than use of the Utility Easements, Access Easements, and the Drainage Easements granted herein.

(ii) In the event that the Existing Easements are not "sufficient" as defined above, and it is necessary for the development of their Naperville Lot to utilize the Utility Easement, Access Easement, or Drainage Easement set forth hereinabove, the Lot Owners shall coordinate the location, route, and timing of the installation of the Utility Easement, Access Easement and/or Drainage Easement with the Lot Owner upon whose Lot the Utility Easement, Access Easement and/or Drainage Easement will be located, and such coordination to such location, route and timing of installation shall not be unreasonably withheld, delayed or conditioned. The Lot Owner who utilizes the Utility Easement, Access Easement and/or Drainage Easement on another Naperville Lot, shall do so at its sole cost and expense, shall restore the Naperville Lot utilized to its original condition upon completion at its sole cost and expense, and remove any debris at its sole cost and expense. Each Lot Owner will use commercially reasonable efforts to install utility and drainage improvements underground, and in no event shall such utility and drainage improvements materially and adversely affect the operation of the business being operated from the Naperville Lot.

3. Indemnity and Insurance.

(a) Each Lot Owner will defend, indemnify, and hold harmless each other Lot Owner from all claims, losses, actions, proceedings, and costs (including reasonable attorney's fees actually incurred and court costs) (i) resulting from the Lot Owner's exercise of any of the rights, privileges, and easements granted herein to the extent that such use occurs within the boundaries of the its Naperville Lot (provided, however, that the foregoing will not be applicable to events or circumstances caused by the negligence or willful act or omission of any other Lot Owner, its tenants, licensees, invitees, members, customers, contractors, successors and assigns), (ii) resulting from the Lot Owner's violation of any of the rights, privileges, and/or easements established hereby, or (iii)

resulting from the assertion of any mechanics', materialmen's or other liens against the any other Naperville Lot as a result of the indemnifying Lot Owner's action. Provided, however, under no circumstances will any Lot Owner be liable for punitive, consequential or speculative damages under this indemnity.

(b) Each Lot Owner agrees to carry (or cause to be carried) policies of contractual liability and comprehensive general liability for accidents or injury occurring on its respective Naperville Lot. The amounts of such insurance must be no less than \$1,000,000 for bodily injury or death to any one person and \$2,000,000 per occurrence. Each Lot Owner agrees to name the other, and the other's respective beneficiaries, members, partners, shareholders, directors, trustees, officers, agents and employees, as additional insureds on the other's policies, as their interest may appear. Each Lot Owner will, from time to time upon the request of another Lot Owner, furnish certificates evidencing such coverage, which certificates must state that such insurance coverage may not be reduced, canceled or allowed to expire without at least thirty (30) days' prior written notice to all Lot Owners. Each Lot Owner releases the other Lot Owners from any liability for any loss or damage of the type covered by such insurance policies to the extent the policies of insurance are maintained, and grants to each other, on behalf of any insurer providing such insurance, a waiver of any right of subrogation which any insurer might acquire against the other by virtue of payment of any loss covered by such insurance.

4. Legal Effect.

(a) Each of the Easements and rights created by this Agreement are appurtenant to the real property to which they relate and may not be transferred, assigned or encumbered except as an appurtenance to such real property. For the purpose of each such Easement and right, each Naperville Lot will constitute the dominant estate as well as the servient estate.

(b) Each covenant contained in this Agreement: (i) constitutes a covenant running with the land; (ii) binds every Lot Owner, of all or any portion of the Naperville Lots, as applicable; and (iii) will inure to the benefit of each Lot Owner, and their successors and assigns.

(c) Each Lot Owner agrees that on conveyance of all or any part of its Naperville Lot, the new owner, by accepting such conveyance will thereby become a new party to and be bound by this Agreement. In each such instance, the owner conveying an interest in Naperville Lots agrees: (i) to require the owner to assume and agree to perform each of the obligations of the conveying owner under this Agreement with respect to the portion of the Naperville Lot conveyed to such owner by means of a written instrument executed, acknowledged and recorded in Illinois; and (ii) to give notice of each such conveyance and agreement to the other Lot Owners within ten (10) days after the execution thereof, which notice will be accompanied by a copy of such conveyance and agreement. On such assumption by an owner and the giving of notice thereof, the conveying owner will thereafter be released from any obligation under this Agreement arising thereafter with respect to the portion of the real property so conveyed. Each Lot Owner agrees on the written request of the conveying owner, as applicable, to execute and deliver any appropriate documents or assurances to evidence such release.

5. **No Dedication.** Nothing contained in this Agreement will be deemed to constitute a gift, grant, or dedication of any portion of the Naperville Lots to the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Agreement will be strictly limited to the private use as set forth herein. This Agreement is not intended to grant to any person or entity (including without limitation any governmental entity, any tenant, licensee or occupant, or any mortgagee or secured party) not a Party to this Agreement, the rights of a third party beneficiary or to give any such person any rights hereunder.

6. **Term and Amendment.**

(a) This Agreement shall remain in effect for a period of fifty (50) years from and after the date of the recording of this Agreement. Upon the expiration of such fifty (50) year period, the term of this Agreement shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited; provided, however, that there shall be no renewal or extension of the term hereof, if, during the last year of the initial fifty (50) year period or the last year of any ten (10) year renewal period, the Lot Owners agree to terminate this Agreement at the end of the then current term. This Agreement shall run with the land and bind the present and future Lot Owners, and their successors and assigns for the term of this Agreement.

(b) Notwithstanding anything to the contrary contained herein, as long as NREI owns any portion of the Naperville Lots, (i) this Agreement may not be amended without NREI's prior written consent; and (ii) NREI may modify or amend at any time and from time to time, any provision of this Agreement, in any way, without the consent of any other Lot Owner. Provided, however, NREI shall send a copy of the amendment to the other Lot Owners for signature, and each Lot Owner herein appoints NREI as its duly authorized agent and attorney-in-fact to sign the amendment on such Lot Owners behalf if such Lot Owner does not sign and send a signature page to NREI within ten (10) days of receiving the amendment from NREI. This power of attorney shall be irrevocable and coupled with an interest until NREI has sold all of its right, title and interest in and to the Naperville Lots to third parties, in which event the power of attorney shall be null, void and of no effect.

(c) Following the transfer or conveyance of all of the Naperville Lots by NREI, this Agreement may be amended with the written consent of not less than two (2) Lot Owners.

(d) No mortgagee, secured party, tenant, licensee or other person having a security or possessory interest or lien in the improvements constructed on the Naperville Lots will be required to join in the execution of or consent to any action taken pursuant to this Agreement, or to any modification or amendment to this Agreement.

7. **Condemnation.** In the event the whole, or any part, of the Naperville Lots are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, no other Lot Owner will share in any award, compensation or other payment made by reason of the taking, and such award, compensation or other payment will belong entirely to the Lot Owner whose

Naperville Lot was condemned, and no Lot Owner shall have any further liability to any other Lot Owner for the loss of such Easements, or portion thereof, located on the portion of the Naperville Lot so taken. Notwithstanding the foregoing, any Easement not affected by the taking shall continue in full force and effect.

8. **Signage and Assessments.**

(a) **Lot Assessments.** The NREI Lots are subject to Assessment by the Hazelen Association under the Bradford Commons REA, on an annual basis ("**NREI Lots Assessment**"). Following the sale of a Naperville Lot, or the re-subdivision of a Naperville Lot, the Association will assess each Lot Owner its proportionate share of such NREI Lots Assessment, as determined under the Bradford Commons REA.

(b) **Signage.** NREI has signage rights to the (a) existing signage shown on **Exhibit B-1** attached hereto located on Route 59 ("**Existing Route 59 Signage**"); and (ii) existing signage shown on **Exhibit B-2** attached hereto located on 75th Street ("**Existing 75th Street Signage**", together with the Existing Route 59 Signage, the "**Existing NREI Signage**").

(i) Naperville NREI retains the right, at any time and from time to time, until all sign panels are allocated to Lot Owners, to allocate all or any portion of (1) the third (3rd) and the fifth (5th) sign panels on the Existing Route 59 Signage; and (2) the bottom two (2) sign panels on the Existing 75th Street Signage to Lot Owners. However, once the sign panel is allocated to a Lot Owner, such rights to the sign panel allocated runs with the ownership of the Lot to which it was allocated. The signage rights run with the ownership of the Lot. Each Lot Owner shall be liable for the cost of placing its signage on its assigned panel on the Existing NREI Signage, in accordance with all applicable laws and signage permits, at such Lot Owner's sole cost and expense.

(ii) The responsibility to repair, maintain and replace, as appropriate, the Existing NREI Signage, is the responsibility of and shall remain with the owner of the largest portion ("**Lot 4 Owner**") of the following lot:

Lot 4 in Bradford Commons, being a subdivision of part of the southwest ¼ of Section 27, Township 38 North, Range 9 East of the third principal meridian, according to the plat thereof recorded November 3, 2005, as Document Number 2005-246828, in DuPage County, Illinois.

(iii) The Lot 4 Owner may assess each Lot Owner who has been assigned a sign panel on the Existing NREI Signage, its pro-rata share of the cost to repair, maintain and replace the Existing NREI Signage, which costs may include without limitation the utility cost to light the Existing NREI Signage, the cost to landscape the Existing NREI Signage, the cost to repair, maintain and replace the physical elements (including without limitation electrical wiring) of the Existing NREI Signage, and the cost to mow grass and remove snow from the Existing NREI Signage, and the area where it is located, and any other costs allocable to the Existing NREI Signage ("**collectively, the Sign Maintenance Costs**").

(c) Each Lot Owner who has been assigned a sign panel on the Existing NREI Signage shall receive an invoice at any time and from time to time, showing the Lot Owner's pro-rata share of the Sign Maintenance Cost, accompanied by evidence of payment of such expenses by the Lot 4 Owner. Each Lot Owner will pay the Lot 4 Owner the amount of its assessment within thirty (30) days of receiving such assessment, and if a Lot Owner fails to timely make such payment, the amount due shall bear interest at the rate of 10% per annum from the date such payment was due until paid. In addition, Lot 4 Owner shall have the right to (i) remove the sign at such Lot Owner's cost and expense; or (ii) lien the Lot of such Lot Owner for the amount owed, in accordance with applicable laws, provide such lien shall be subordinate to any mortgage lien placed on the Lot by the Lot Owner.

(d) Lot 4 Owner's rights and obligations with respect to the Existing NREI Signage is reflected in the Existing Easements and the Tri-Party Sign Easement dated November 3, 2005, recorded as Document No. R2005-262511, DuPage County Recorder's Office.

9. Miscellaneous.

(a) This Agreement may be enforced by any Lot Owner by any action available at law or in equity, including, but not limited to injunctive relief and specific performance. Provided, however (1) termination of this Agreement is not an available remedy hereunder for breach of this Agreement; and (2) no Lot Owner shall be responsible to the other Lot Owners for punitive, speculative or consequential damages.

(b) The Easements granted herein will inure to the benefit of and be binding on the present and future owners of all or any portion of the Naperville Lots, and their respective legal representatives, successors and assigns. All of the provisions of this Agreement will constitute covenants running with the land pursuant to Illinois law.

(c) All notices will be in writing and will be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) when deposited in the United States Mail, with adequate postage, and sent by registered or certified mail with return receipt requested, to the appropriate person at the address set out below, or (iii) when deposited with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate Party at the address set out below:

NREI: Naperville Retail Investments, LLC
47W210 Route 30
Big Rock, Illinois 60511
Attention: Evan M. Rayman

Other Lot Owners: To be inserted in an amendment to this Agreement upon the transfer of a Naperville Lot, or any portion thereof by NREI.

Rejection or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, will be deemed to be receipt of the notice sent. Any person will have

the right, from time to time, to change the address to which notices to it will be sent by giving the other Lot Owners at least ten (10) days prior notice of the changed address.

(d) This Agreement constitutes the entire agreement between Lot Owners and may not be amended, waived or discharged except as set forth herein.

(e) The validity of any one of the covenants, agreements, conditions or provisions of this Agreement or any portion thereof will not affect the remaining portions thereof, or any part thereof and this Agreement will be construed as if such covenant, agreement, condition or provision had not been inserted herein.

(f) This Agreement will be governed by and construed in accordance with the laws of the State of Illinois.

(g) The prevailing Party in any litigation involving this Agreement will be entitled to recover from the non-prevailing Party all attorney's fees, paralegal fees and costs incurred in connection with such litigation, at arbitration, or appeal or otherwise, including reasonable attorney's fees and paralegal fees in the enforcement of any indemnity hereunder. The owners of the land herein described will only be liable for any violation of this Agreement during their respective periods of ownership, and in the event any action is brought for recovery of monetary damages for any breach hereof, the claimant will look solely to the interest of the then owner of land in breach for the recovery of such monetary damages.

(h) Nothing herein contained will be deemed to be a gift or dedication of any portion of the real property described herein to the general public or for general public purposes whatsoever, it being the intention of NREI that this Agreement will be strictly limited to and for the purposes herein expressed.

(i) Each Lot Owner agree to keep their property free from any mechanic lien claims, but each may, at its own cost, contest the validity, applicability and/or amount of any mechanic lien claims so long as the contesting owner does not allow the affected parcel to be lost through foreclosure. If Lot Owner fails to comply with its obligation to remove any mechanic lien created by such owner within 30 days after the mechanic lien is filed, the other Lot Owners, or any one of them, may pay the amount of the lien and it then will be entitled to prompt reimbursement from the defaulting owner for the sums so expended, upon receipt of an invoice for the same.

(j) For the purposes of this Agreement, the term "**Facilities**" shall mean and include without limitation pipes, wires, lines, manholes, ponds, lakes, conduits, mains, and any other facilities, improvements and related equipment necessary or required or otherwise used or to be used for the installation, operation, removal, transmission, distribution, construction, connection, laying, repair, replacement, relocation, maintenance, use and placement of utility and drainage facilities and systems.

(k) Each Lot Owner agrees to cooperate with the other Lot Owners, and to grant to a Lot Owner any additional easements as may be reasonably necessary or required in order to develop such Lot Owner's property, including without limitation any easements required by governmental authorities, in order to provide utilities services, or to connect to existing utility and drainage facilities, and to provide

access, ingress, passage, for the Naperville Lots, and otherwise reasonably cooperate with each other Lot Owner in all respects regarding development of the Naperville Lots.

(I) In fulfilling the obligations and exercising rights under this Agreement, each Lot Owner shall use commercially reasonable efforts to keep to a minimum interference with the other Lot Owner's property and operations and, to that end, will give to other Lot Owner reasonable advance written notice of work which may interfere with the property or operations of such other Lot Owner and will arrange with such other Lot Owner for reasonable and definite times and conditions at and under which such work shall be done.

**SIGNATURE PAGE
OF THE
DECLARATION OF COVENANTS AND RECIPROCAL EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned have hereto set their hands and seals as of the day and year first above written.

NAPERVILLE RETAIL INVESTMENTS, LLC,
an Illinois limited liability company

By: Consolidated Realty Management, LLC,
its Manager

By: Executive Affiliates, Inc.,
its Manager

By: *Diane Brown*
Diane Brown , not individually
But as Secretary

STATE OF ILLINOIS

) SS.

COUNTY OF KANE

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that before me on this day personally appeared Diane Brown, not individually but as Secretary of Executive Affiliates, Inc., as the Manager of Consolidated Realty Management, LLC, as Manager of Naperville Retail Investments, LLC, the limited liability company that executed the foregoing instrument, and acknowledged that he signed the said instrument in such capacity, as his free and voluntary act and as the free and voluntary act of such limited liability company, for the uses and purposes therein mentioned.

Witness my hand and official seal this 3rd day of June, 2021.

[SEAL]

My Commission Expires:

1-16-22

Jane E. Maves
Notary Public

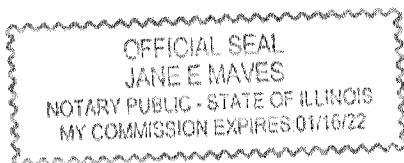


Exhibit A

Legal Description of Naperville Lots

Lot 5 and Lot 6 in Bradford Commons, being a subdivision of part of the southwest ¼ of Section 27, Township 38 North, Range 9 East of the third principal meridian, according to the plat thereof recorded November 3, 2005, as Document Number 2005-246828, in DuPage County, Illinois.

Addresses: 2719 Beebe Drive, Naperville, IL 60564; and Southwest corner of Beebe Drive and Fitness Drive, Naperville, IL 60564

PINS: 07-27-300-027; 07-27-300-026

Exhibit B-1 and Exhibit B-2

NREI Existing Signage



SIGN COMPANY
 2777 N. Greenway, Suite 512
 Chicago, IL 60642-1000
 312-467-8877 Fax 312-467-8878

Other Cities Served:
 Chicago - Los Angeles - Las Vegas
 Dallas - Denver - Fort Worth - Houston
 Kansas City - Minneapolis
 Miami - New York - San Antonio
 Phoenix - San Diego - St. Louis

Standard County stamps for premium business.
 1
 2
 3
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 5
 6

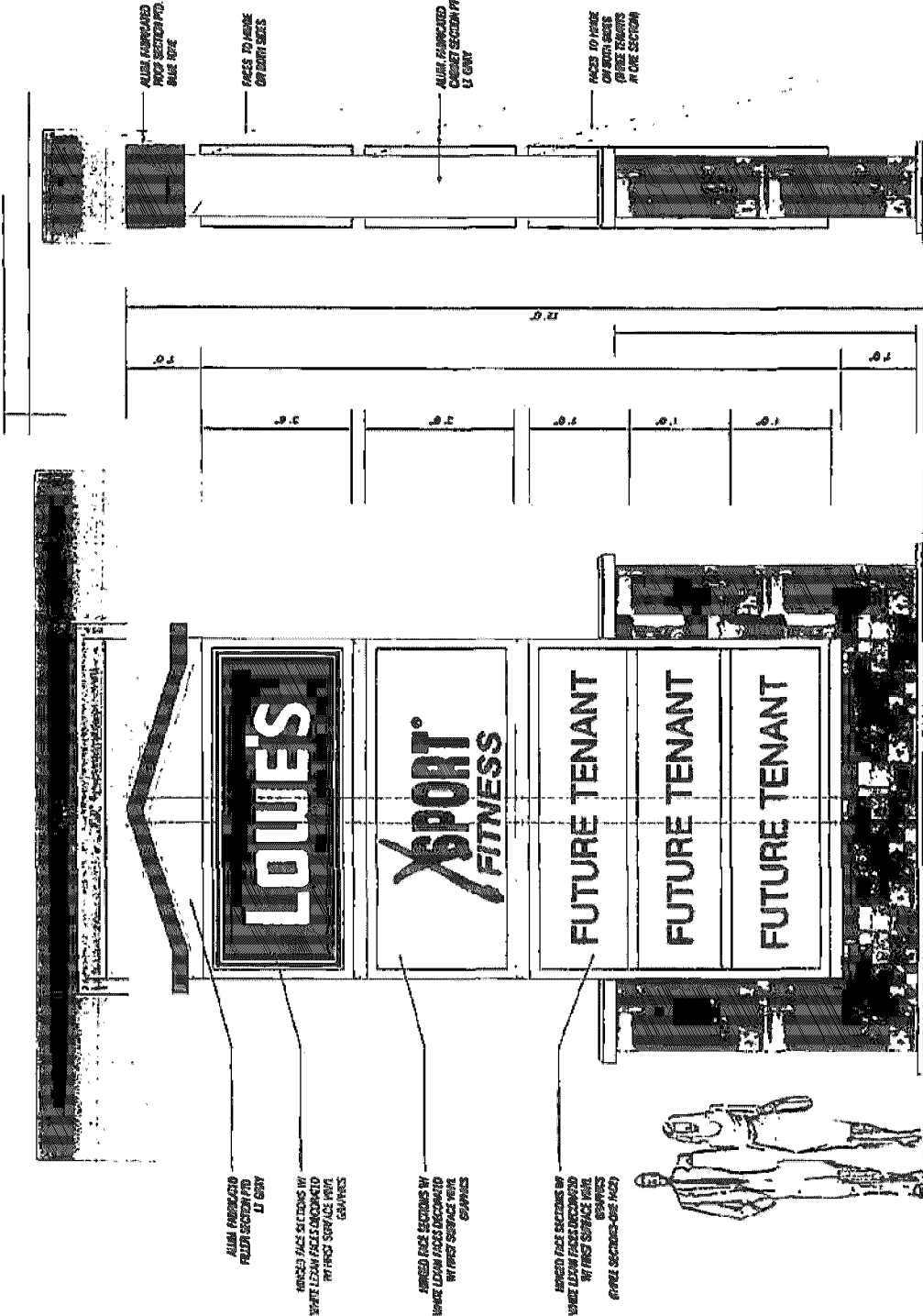
Account No: 820 Subcontract
 Project Manager: Ronald M. Johnson
 Drawn By: Steve Rasmussen
 Paper / Location:

BRADWOOD REAL ESTATE
 Naperville, IL
 Measurement Sign

The entire drawing is prepared as part of a
 development and will not be subject to
 separate review. It is the responsibility of the
 client to ensure that all information is
 accurate and complete. Federal Health Sign Company, LLC is not
 responsible for any errors or omissions.

Job Number: 23-00000-00
 Client: Bradwood/Measurement Sign
 File Name:

Date: 25 MAR 05
 Street Number: 1 Cr 1
 P08-308-01 Measurement Sign
 Design Number:



A TWO REQUIRED
 SIGNAGE SHALL BE INTERNALLY ILLUMINATED THROUGHOUT
 SIGN NOT NECESSARY FACE SECTION AND OTHER SIGNS
 ALL SIGNAGE SHALL BE ILLUMINATED THROUGHOUT
 THROUGHOUT SIGNAGE SHALL BE ILLUMINATED
 THROUGHOUT SIGNAGE SHALL BE ILLUMINATED

Measurement Sign on Route 59

EXHIBIT B-1

2

20034242 WF

CF Muller

KATHLEEN V. CARRIER, RECORDER
DUPAGE COUNTY ILLINOIS
06/23/2021 09:21 AM
RHSP

DOCUMENT # R2021-096210

File No.: 20034242WF

and RECIPROCAL EASEMENT AGREEMENT AND RESTRICTIVE COVENANT

This page is added to provide adequate space for recording information and microfilming.
Do not remove this page as it is now part of the document.

PREPARE BY AND RETURN THIS DOCUMENT TO:

Fishman Haygood, LLP
100 North Street, Suite 800
Baton Rouge, LA 70802

Chicago Title and Trust Company
2441 Warrenville Rd, Suite 100
Lisle, IL 60532

Prepared by ✓
After Recording Return To:
Louis Quinn, Jr., Esq.
Fishman Haygood, LLP
100 North Street Suite 800
Baton Rouge, Louisiana 70802

RECIPROCAL EASEMENT AGREEMENT AND RESTRICTIVE COVENANT

This Reciprocal Easement Agreement (hereinafter referred to as the "**Agreement**") is made and entered into as of the 3rd day of June 2021 (hereinafter referred to as the "**Date of this Agreement**"), by and between **NAPERVILLE REALTY INVESTMENTS, LLC**, an Illinois limited liability company, whose business address is 47W210, Route 30, Big Rock, Illinois 60511 ("**NRI**"); and **NAPERVILLE RETAIL INVESTMENTS, LLC**, an Illinois limited liability company, whose business address is 47W210, Route 30, Big Rock, Illinois 60511 ("**NREI**") (NRI and NREI are each referred to herein as a "**Party**" and, collectively, as the "**Parties**"), both of whom agreed as follows:

RECITALS:

A. NRI is the owner of that certain real property located in Naperville, DuPage County, Illinois, designated as "**Lot 4**", and more particularly described on **Exhibit "A"** attached hereto and made a part hereof ("**NRI Lot**").

B. NREI is the owner of two (2) parcels of real property located in Naperville, DuPage County, Illinois, originally designated as "**Lot 5**" and "**Lot 6**", re-subdivided into "Lot 1" and "Lot 2", all as more particularly described on the Final Plat of Subdivision of Bradford Commons Resubdivision of Lots 5 & 6 ("**Final Plat**"), a copy of which is recorded with the DuPage County Recorder ("**NREI Lots**"). The NREI Lots are legal described on **Exhibit "B"** attached hereto.

C. The NRI Lot and the NREI Lots are adjacent to each other, and are collectively referred to as the "**Naperville Lots**".

D. The NRI Lot is developed and operated as an XSport fitness health club, gym, and fitness center. The NREI Lots are currently undeveloped.

E. A Plat Of Easement/ Easement Vacation of BRADFORD COMMONS, Naperville Illinois (the "**Plat**") was recorded as Document Number R2005-249736 with the DuPage County Recorder on November 8, 2005 establishing public utility, drainage, and access easement provisions for the benefit of the Naperville Lots.

F. A Reciprocal Easement Agreement and Agreement imposing Restrictive Covenants dated as of November 3, 2005 and recorded with the DuPage County Recorder's office as Instrument No. R2005-262510, as amended by First Amendment Reciprocal Easement Agreement and Agreement imposing Restrictive Covenants dated as of September 14th, 2006 and recorded with the DuPage County Recorder's office as

2003444 W F
07 July

Instrument No. R2006-22029 established easements and restrictions for the Naperville Lots ("**REA Easements**", together with the easements located on the Plat, the "**Existing Easements**").

G. A Tri-Party Sign Easement was recorded as Document Number R2005-262511 with the DuPage County Recorder on November 23, 2005 establishing usage for the signage benefiting the Naperville Lots.

H. In order to develop the NREI Lots in the future, NREI has requested easements over the NRI Lot for various purposes, and NRI has requested certain easements over the NREI Lots for various purposes.

I. NRI and NREI are willing to do the same under the following terms and conditions.

NOW, THEREFORE, for and in consideration of the foregoing, the sum of Ten and 00/100 Dollars (\$10.00), the agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Grant of Easements.** NRI hereby grants, bargains, sells, and conveys to NREI, its successors and assigns, to and for the benefit of the NREI Lots, and as an appurtenance to the NRI Lot, the following easements:

a. **Utility Easements.**

(i) perpetual non-exclusive easements ("**Utility Easements**") over, under and across and through the NRI Lot for the installation, operation, removal, transmission, distribution, construction, connection, laying, repair, replacement, relocation, maintenance, use and placement of water pipes, lines and Facilities (as hereafter defined); telephone lines and Facilities; cable, internet and other data transmissions lines and Facilities; gas lines and Facilities; sanitary sewer pipes, lines and Facilities; electrical lines and Facilities; storm water drainage, retention and detention pipes, lines and Facilities; any other utility lines or Facilities necessary or required or otherwise used or to be used in the development and operation of the NREI Lots, including without limitation the right to install additional utility lines, pipes and Facilities, and to enlarge the size and capacity of any utility lines and Facilities now existing or hereafter constructed in order to develop and operate the NREI Lots, and to connect NREI utilities to public and/or private utility Facilities and rights-of-way for the provision of utility services to the NREI Lots (collectively the "**NREI Lot's Utility Systems**"). NREI Lot's Utility Systems will be installed underground or otherwise enclosed if constructed aboveground, and will be installed, used, operated, and maintained in accordance with all applicable laws, and in a manner which will not materially and adversely interfere with the use and operation of the NRI Lot. The Utility Easements granted herein include without limitation the right to connect and tie into the existing utility Facilities on the NRI Lot, and at NREI's sole cost and expense.

(ii) The Utility Easements are blanket easements, but shall also include a perpetual non-exclusive easement (1) on, over, under, through and across the NRI

Lot for access to NREI Lot's Utility Systems located on the NRI Lot; and (2) on, over and across an area ten (10') feet in width on either side of the Utility Easements (to the extent such additional 10' is not located off of the NRI Lot or under any buildings located on the NRI Lot on the Date of this Agreement), for the construction, laying, repair, maintenance, replacement, use and placement of NREI Lot's Utility Systems. At such time as NREI Lot's Utility Systems are installed, constructed, and placed in service, this Agreement will be amended by NRI and NREI to particularly define and delineate (through actual metes and bounds legal descriptions) those portions of the NRI Lot on which NREI Lot's Utility Systems are actually located, and those portions of the NRI Lot actually encumbered by the Utility Easements.

(iii) The Utility Easements are granted subject to the terms and conditions of the any existing utility easements affecting the NRI Lot.

(iv) The Utility Easements are granted for the benefit of the present and all future owners of the NREI Lots or any portion thereof, their tenants, lessees, contractors, employees, managers, agents, members, licensees, invitees, customers, guests, successors and assigns, and others who have been granted the right to use the Access Areas and the NRI Parking Area ("**NREI Permittees**").

(v) To the extent NREI is required to obtain approvals or permits from applicable governmental agencies or private utility companies for NREI Lot's Utility Systems, or for the use of any existing utilities or utility systems on the NRI Lot, NREI agrees to obtain such approvals and permits prior to commencing any work in the Utility Easements, at its sole cost and expense. All work done in connection with the installation, repair, and maintenance of NREI Lot's Utility Systems will be done in a good and workmanlike manner in accordance with all applicable laws, at NREI's sole cost and expense.

b. **Access Easements.**

(i) a perpetual, non-exclusive easement for (a) access, ingress, egress and passage (in those areas used for access, ingress, egress and passage on the NRI Lot from time to time) for pedestrian and vehicular traffic ("**NREI Lot Access Easement**") over, through and across all drives, cul-de-sacs, driveways, parkways, boulevards; streets, curbs, sidewalks or other passage routes located on the NRI Lot as shown on **Exhibit "C"** attached hereto and made a part hereof, and as the same may be modified from time to time ("**NRI Access Areas**"); and (b) parking in the 50 parking spaces shown on **Exhibit "C"** attached hereto and made a part hereof ("**NRI Parking Area**"), in connection with the use and operation of all or any portion of the NREI Lots, including without limitation for the purpose of allowing the NREI Lots access, ingress and egress to and from the NRI Lot and the NREI Lots, and parking. The NREI Lots shall have a perpetual, non-exclusive easement for parking vehicles in the NRI Parking Area, and NREI Permittees shall be allowed perpetual non-exclusive use of the NRI Parking Area for the parking of vehicles under this Agreement in connection with the operation of the NREI Lots.

(ii) NREI hereby grants, bargains, sells, and conveys to NRI, its successors and assigns, to and for the benefit of the NRI Lot, and as an appurtenance to the NREI Lots, a perpetual, non-exclusive easement solely for access, ingress, and egress (in those areas used for access, ingress, passage and egress (but excluding parking) on the NREI Lots when developed in the future, for pedestrian and vehicular traffic ("**NRI Lot Access Easement**") over and across all drives, cul-de-sacs, driveways, boulevards; streets, curbs, sidewalks or other passage routes located on the NREI Lots when developed in the future ("**NREI Access Areas**") in connection with the use and operation of all or any portion of the NRI Lot, for the sole purpose of allowing the NRI Lot access, ingress and egress to and from the NRI Lot and the NREI Lots. The existing NRI Access Areas do not exist as of the Date of this Agreement, and the NRI Lot Access Easement shall encumber those NREI Access Areas when the NREI Lots are developed in the future. Such NRI Lot Access Easement shall be used in accordance with all applicable laws, and in such a manner so as to not materially and adversely affect the operation of any business now or hereafter located on the NREI Lots.

(iii) The NREI Lot Access Easement and the NRI Lot Access Easement are collectively referred to herein as the "**Access Easements**". The NRI Access Areas and the NREI Access Areas are collectively referred to as the "**Access Areas**". The Access Easements are non-exclusive easements.

(iv) The Access Easements shall include (1) pedestrian access to any and all Access Areas utilized for pedestrian traffic, now and hereafter abutting, or located on any portion of the Naperville Lots, as applicable; and (2) the right for vehicular traffic to use the NRI Parking Area for the parking of vehicles; and (3) vehicular access for the purpose of vehicular traffic between the Naperville Lots, and public rights-of-way. If the NRI Lot is subdivided, or otherwise modified or changed in any manner, NRI agrees to retain in its current location, the NRI Parking Area for use by the NREI Lots for the parking of vehicles, and for the purpose of allowing access, ingress, and egress to and from the NRI Lot and the NREI Lots.

(v) Such access, ingress, egress, and parking shall be in common with NRI and its tenants, lessees, contractors, employees, managers, agents, members, licensees, invitees, customers, guests, successors and assigns, and others who have been granted the right to use the Access Areas and the NRI Parking Area ("**NRI Permittees**") and NREI Permittees, as applicable. The Access Easements herein granted may be utilized by NRI Permittees and NREI Permittees in connection with the development and operation of the Naperville Lots, as applicable.

(vi) The Access Areas shall be used in accordance with all applicable laws, and in such a manner so as to not materially and adversely affect the operation of any business now or hereafter located on the Naperville Lots. The NRI Lot and the NREI Lots may be re-subdivided in accordance with applicable laws without the consent of either Party.

(vii) Each of NRI and NREI agree to maintain and replace the Access Areas on their property, and NRI agrees to maintain and replace the NRI Parking Area, as is necessary, and keep the Access Areas and NRI Parking Area on in a good state of repair. NRI and NREI shall each be responsible for the costs and expenses of maintaining, replacing, and repairing the Access Areas on their property, at their cost and expense. NRI shall be responsible for the costs and expenses of maintaining, replacing, and repairing the NRI Parking Area; provided, however, NREI shall pay to NRI 6.35% of the cost of repair, replacement and ice and snow removal of the NRI Parking Area ("**NREI Parking Cost**"). The NREI Parking Cost shall be payable by NREI to NRI within thirty (30) days after receiving an invoice with documentation supporting the amount of such costs from NRI. NREI shall allocate the NREI Parking Cost to each Lot Owner of an NREI Lot, such that Lot 1 and Lot 2 each bear 50% of the NREI Parking Cost (i.e., 3.18%). If Lot 1 or Lot 2 is further re-subdivided, the re-subdivided lots comprising former Lot 1 or Lot 2 shall share such Lot's portion of the NREI Parking Cost, based on a fraction, the numerator of which is the square footage of the re-subdivided lot, and the denominator of which is the square footage of former Lot. NREI shall only have an obligation to reimburse NRI for the NREI Parking Cost if Lot 1 and Lot 2 are developed with buildings and improvements, and a business or businesses are operating thereon. In such event, the Lot so developed and operated shall be responsible for its share of the NREI Parking Cost (i.e., 3.12%). If a business operated on Lot 1 or Lot 2 ceases to be operated as set forth above, at any time and from time to time, for any reason, NREI shall not have an obligation to reimburse NRI for NREI Parking Cost allocated to such Lot until another business is open and operating its business on such Lot.

(viii) To the extent approvals from applicable governmental agencies for use of the Access Easements, are required, NREI agrees to obtain such approvals and permits for those Access Easements located on the NREI Lots, and NRI agrees to obtain such approvals and permits for those Access Easements located on the NRI Lot, each at its own sole cost and expense.

c. **Signage Rights.** NRI assigns to NREI its rights under the Tri-Party Sign Easement to the exclusive use of the bottom two (2) panels (3rd and 4th panels) ("Bottom Sign Panels") of the NRI Sign (as defined in the Tri-Party Sign Easement and located on 75th Street); NRI retaining the exclusive right to use the 2nd panel on the NRI Sign. NREI has the right under the Tri-Party Sign Easement to the exclusive use of the 3rd and 5th panels on the Modified Lowe's Sign (as defined in the Tri-Party Sign Easement and located on Route 59), and NRI has the right under the Tri-Party Sign Easement to the exclusive use of the 2nd panel on the Modified Lowe's Sign. The assignment of rights and right to use the Bottom Sign Panels, includes without limitation the right to use, operate, repair, and replace the Bottom Sign Panels, and the right to designate or grant use of the Bottom Sign Panels to others, including without limitation future

owners and tenants of the NREI Lots, at NREI's sole cost and expense. To the extent that NRI bears a portion of the cost of repairing, maintaining, and replacing the NRI Sign, NREI shall bear the portion of that cost allocated to the Bottom Sign Panels (such allocation to be based on the square footage of the Bottom Sign Panels over the square footage of the sign panel owned by NRI (which is the second sign panel on the NRI Sign) and the Bottom Sign Panels. NREI agrees to comply with all applicable laws, rules, and regulations in connection with its use of the Bottom Sign Panels, and to obtain all governmental approvals and permits necessary or required to use of the Bottom Sign Panels, at NREI's sole cost and expense. The rights assigned herein include without limitation NRI's rights to access the NRI Sign, and all other rights with respect to the Bottom Panels, including the right to operate the Bottom Panels, to place identification letters on the Bottom Panels, and all other rights granted in the Tri-Party Sign Agreement and the Easement Agreement with respect to the Bottom Panels. NRI retains its rights and obligations with respect to the sign itself, and its panel on the NRI Sign. These signage rights are granted for the benefit of the current and future owners of all or part of the NREI Lots.

d. **Drainage Easements.**

(i) A perpetual, non-exclusive storm water drainage easement ("**Drainage Easement**") over, under, through and across the NRI Lot to accommodate (1) the flow of surface storm water run-off and discharge occurring from NREI's Property, and (2) drainage of NREI's storm water into any and all storm water drainage facilities or public or private storm water drainage facilities, now located or hereafter constructed on the NRI Lot ("**NRI's Drainage Systems**"). The Drainage Easements include without limitation the right to expand, widen, enlarge, and increase the size of NRI's Drainage Systems, at NREI's sole cost and expense, and in accordance with all applicable governmental laws, regulations, codes and permits, and without materially and adversely affecting the operation of the business on the NRI Lot. Use of the Drainage Easement, and all improvements constructed by NREI on the NRI Lot pursuant to the Drainage Easement will be (i) at NREI's sole cost and expense; (ii) installed, used, operated, and maintained in accordance with all applicable laws, and in a manner which will not materially and adversely affect the use and operation of the improvements on the NRI Lot; it being acknowledged that temporary interruptions during the installation of such improvements is not a material and adverse use.

(ii) NRI hereby agrees for itself, its successors and assigns, that the NRI Lot shall not be modified so as to adversely affect (1) storm water runoff from the NREI Lots to NRI's Drainage Systems or to storm water drainage facilities located within public rights-of-way; (2) the flow, detention, and retention of storm water from the NREI Lots to, over, under and on the NRI Lot; and (3) the storm water runoff from the NRI Lot to the NREI Lots.

(iii) NREI hereby agrees for itself, its successors and assigns, that the NREI Lots shall not be modified so as to adversely affect (1) storm water runoff from the NRI Lot to NRI's Drainage Systems or to storm water drainage facilities located within public rights-of-way, as it exists today, unless otherwise adequately provided for; and (2) the flow, detention, and retention of storm water from the NRI Lot to, over, under and on the NREI Lots, as it exists today, unless otherwise adequately provided for.

(iv) NREI shall bear all costs incurred in obtaining all permits and other governmental approvals, if any, required for storm water drainage from the NREI Lots to NRI's Drainage Systems, and shall bear 100% of all cost related to the additional drainage facilities constructed on the NREI Lot or the NRI Lot to accommodate storm water drainage from the NREI Lots to the NRI Lot and into NRI's Drainage Systems.

(v) The Drainage Easement is granted subject to the terms and conditions of any existing easements affecting the NREI Lots and the NRI Lot. The Drainage Easement is granted for the benefit of the NRI Permittees and the NREI Permittees.

(vi) To the extent NREI is required to obtain approvals from applicable governmental agencies for use of the Drainage Easement, NREI agrees to obtain such approvals and permits prior to using the Drainage Easement, at its sole cost and expense.

(vii) The Drainage Easement is a blanket easement, but shall also include a perpetual non-exclusive easement on, over and across an area ten (10') feet in width on either side of the Drainage Easement (to the extent such additional 10' is not located off of the NRI Lot or under any buildings located on the NRI Lot on the Date of this Agreement), for the transmission, distribution, enlargement, construction, laying, repair, replacement, use and placement of NREI's drainage facilities. At such time as NREI's drainage facilities are installed, constructed, and placed in service, this Agreement will be amended by NRI and NREI to particularly define and delineate (through actual metes and bounds legal descriptions) those portions of the NRI Lot on which NREI's drainage facilities are actually located, and those portions of the NRI Lot actually encumbered by the Drainage Easement. The existing areas affected by the Drainage Easement are shown on **Exhibit "C"** attached hereto and made a part hereof.

(ix) NRI shall allow an NREI Owner to connect to its storm water drainage pipes contained in the NRI Drainage System,, provided, that (a) the NREI Lot Owner repairs and restores any damage caused to the NRI Lot, including without limitation paving and landscaping, to its original condition, and the NREI Lot Owner's sole cost and expense; and (b) such connection to the storm water drainage pipes is in accordance with all applicable laws and approved by all required governmental authorities. In such event, the NREI Lot Owner shall pay its share of the maintenance and repair costs for the storm water drainage pipes directly impacted by the storm water drainage pipes increased storm water drainage load from the NREI Lot, based on a

fraction, the numerator of which is that portion of the capacity the NREI Lot uses in the storm water drainage pipe it is connected to, and the denominator of which is the total capacity of the storm water drainage pipe NREI is connected to ("**NREI Drainage Cost**"). The NREI Drainage Cost shall be payable by NREI Lot Owner to NRI within thirty (30) days after receiving an invoice with documentation supporting the amount of such costs from NRI. Notwithstanding anything herein to the contrary, NREI Drainage Cost shall be imposed, due or payable if the NREI Lot Owner does not directly connect to the NRI's storm water drainage pipes located on the NRI Lot.

e. **Use of Easements.** NREI agrees that in the event the Existing Easements are "sufficient" to provide NREI with the Utility Easements, the Drainage Easements and the Access Easements provided hereinabove, NREI will use such Existing Easements in the development of the NREI Lots, in lieu of using the Access Easements, Utility Easements and Drainage Easements set forth hereinabove. For the purposes of this subparagraph e., the term "sufficient" means, as applicable, that: (i) the Existing Easements are of sufficient size, width and depth to accommodate the needed utility easements and drainage easements in accordance with the intended development of the NREI Lots; (ii) the Existing Easements are sufficient to provide access, ingress, egress and passage to from the NREI Lots to public roads, public streets and other public accessways and the NRI Lot, in accordance with the intended development of the NREI Lots; and (iii) the Existing Easements grant NREI the absolute right under the Existing Easements to use such Existing Easements for the purposes of developing the NREI Lots; and (iv) the applicable governmental authorities authorize and approve the use of the Existing Easements by NREI and the installation and use of facilities therein, where necessary for the intended development of the NREI Lots; (v) the cost to utilize the Existing Easements is not materially in excess of the cost of using the Access Easements, Drainage Easements, and Utility Easements granted herein; and (vi) use of the Existing Easements is more conducive to the intended development of the NREI Lots, than use of the Access Easements, the Utility Easements and the Drainage Easements for the intended development of the NREI Lots.

2. **Restrictive Covenant.**

Until such time as the building on the NRI Lot "ceases" to be operated as a Gym Use (as hereafter defined) for any reason ("**Terminating Event**"), for a period of six (6) consecutive months ("**Non-Operating Period**"), the NREI Lots will not be operated in whole or in part for a Gym Use ("**Gym Exclusive**"). Notwithstanding the foregoing, if cessation of business operations is due solely to a fire, casualty, condemnation, or other force majeure event which affects the buildings and improvements on the NRI Lot, the Non-Operating Period shall be extended for an additional period of time equal to three (3) months, for a total Non-Operating Period not to exceed nine (9) months. The term "ceases" means the failure to operate a majority of the building on the NRI Lot as a gym, health club and fitness center, as its primary use. The term "**Gym Use**" as used in this paragraph shall mean (1) a gym, health club and fitness center, as its primary use, such as Orange Theory Fitness, F-45, HIT, Core Power, Core Fitness and Soul Cycle,

or (2) any other business offering as its primary use: (a) group fitness training; or (b) personal fitness training; or (c) small format studio concepts offering yoga and Pilates. The term "**Gym Use**" shall not include a business operation for the following uses: medical physical therapy, physical rehabilitation, any medical use or chiropractic therapy businesses, or any other facility whose primary purpose is not the operation of a gym, health club and fitness center. Notwithstanding anything herein to the contrary, upon the occurrence of a Terminating Event, the provisions of this paragraph, shall be automatically and forever terminated, without further action of any party being required, and notwithstanding anything to the contrary contained herein, the Gym Exclusive shall be null, void and of no further force and effect. NRI shall execute and deliver an acknowledgement if requested by NREI, within ten (10) days after the date of the request, acknowledging and agreeing that the Gym Exclusive has been forever terminated.

Notwithstanding the provisions of this Section 2 to the contrary, NRI acknowledges that tenants of an NREI Lot may use their respective premises for a Gym Use in violation of the Gym Exclusive and the provisions of their lease or other occupancy agreement with the NREI Lot Owner (each a "**Rogue Tenant**"). With respect to any Rogue Tenant, NRI acknowledges that its claim for breach of the Gym Exclusive is against the Rogue Tenant and not against NREI or the NREI Lot Owner. NREI consents to NRI's assertion of its claim against the Rogue Tenant, and notwithstanding anything to the contrary contained herein, and NRI agrees not to pursue such claim against NREI or the NREI Lot Owner.

3. Indemnity and Insurance.

(a) NREI will defend, indemnify, and hold harmless NRI from all claims, losses, actions, proceedings, and costs (including reasonable attorney's fees actually incurred and court costs) (i) resulting from NREI's exercise of any of the rights, privileges, and easements granted herein to the extent that such use occurs within the boundaries of the NRI Lot (provided, however, that the foregoing will not be applicable to events or circumstances caused by the negligence or willful act or omission of NRI, its tenants, licensees, invitees, members, customers, contractors, successors and assigns), (ii) resulting from the NREI's violation of any of the rights, privileges, and/or easements established hereby, or (iii) resulting from the assertion of any mechanics', materialmen's or other liens against the NRI Lot resulting from NREI's actions. Provided, however, under no circumstances will NREI be liable for punitive, consequential, or speculative damages under this indemnity.

(b) NRI will defend, indemnify, and hold harmless NREI from all claims, losses, actions, proceedings, and costs (including reasonable attorney's fees actually incurred and court costs) (i) resulting from NRI's exercise of any of the rights, privileges, and easements granted herein to the extent that such use occurs within the boundaries of the NREI Lots (provided, however, that the foregoing will not be applicable to events or circumstances caused by the negligence or willful act or omission of NREI, its tenants, licensees, invitees, members, customers, contractors, successors and assigns), (ii) resulting from the NRI's violation of any of the rights, privileges, and/or easements

established hereby, or (iii) resulting from the assertion of any mechanics', materialmen's or other liens against the NREI Lots resulting from NRI's actions. Provided, however, under no circumstances will NRI be liable for punitive, consequential, or speculative damages under this indemnity.

(c) NREI and NRI each agree to carry (or cause to be carried) policies of contractual liability and comprehensive general liability for accidents or injury occurring on its respective property. The amounts of such insurance must be no less than \$2,000,000 for bodily injury or death to any one person and \$5,000,000 per occurrence. NRI and NREI each agree to name the other, and the other's respective beneficiaries, members, partners, shareholders, directors, trustees, officers, agents and employees, as additional insureds on the other's policies, as their interest may appear. NREI and NRI each will, from time to time upon the request of the other, furnish certificates evidencing such coverage, which certificates must state that such insurance coverage may not be reduced, canceled, or allowed to expire without at least thirty (30) days' prior written notice to NRI and NREI. NREI and NRI each release the other from any liability for any loss or damage of the type covered by such insurance policies to the extent the policies of insurance are maintained, and grants to each other, on behalf of any insurer providing such insurance, a waiver of any right of subrogation which any insurer might acquire against the other by virtue of payment of any loss covered by such insurance.

4. Legal Effect.

(a) Each of the Easements and rights created by this Agreement are appurtenant to the real property to which they relate and may not be transferred, assigned, or encumbered except as an appurtenance to such real property. For the purpose of each such Easement and right, the NREI Lots will constitute the dominant estate and NRI Lot will constitute the servient estate.

(b) Each covenant contained in this Agreement: (i) constitutes a covenant running with the land; (ii) binds every owner now having or hereafter acquiring an interest in the NRI Lot or the NREI Lots, or all or any portion of the NRI Lot or the NREI Lots, as applicable; and (iii) will inure to the benefit of NRI and NREI, and each of their successors and assigns.

(c) Each Party agrees that on conveyance of all or any part of the NRI Lot or the NREI Lots, the new owner, by accepting such conveyance will thereby become a new party to and be bound by this Agreement. In each such instance, the owner conveying an interest in the NRI Lot or the NREI Lots agrees: (i) to require the owner to assume and agree to perform each of the obligations of the conveying owner under this Agreement with respect to the portion of the NRI Lot or the NREI Lots conveyed to such owner by means of a written instrument executed, acknowledged and recorded in Illinois; and (ii) to give notice of each such conveyance and agreement to the other within ten (10) days after the execution thereof, which notice will be accompanied by a copy of such conveyance and agreement. On such assumption by an owner and the giving of notice thereof, the conveying owner will thereafter be released from any obligation under this Agreement arising thereafter with respect to the portion of the real property so conveyed. NRI and NREI each agree on the written request of the conveying owner,

as applicable, to execute and deliver any appropriate documents or assurances to evidence such release.

5. **No Dedication.** Nothing contained in this Agreement will be deemed to constitute a gift, grant, or dedication of any portion of the NRI Lot or the NREI Lots to the general public or for any public purpose whatsoever, it being the intention of the Parties hereto that this Agreement will be strictly limited to the private use as set forth herein. This Agreement is not intended to grant to any person or entity (including without limitation any governmental entity, any tenant, licensee or occupant, or any mortgagee or secured party) not a Party to this Agreement, the rights of a third-party beneficiary or to give any such person any rights hereunder.

6. **Term and Amendment.**

(a) This Agreement shall remain in effect for a period of fifty (50) years from and after the date of the recording of this Agreement. Upon the expiration of such fifty (50) year period, the term of this Agreement shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited; provided, however, that there shall be no renewal or extension of the term hereof, if, during the last year of the initial fifty (50) year period or the last year of any ten (10) year renewal period, the Lot Owners agree to terminate this Agreement at the end of the then current term. This Agreement shall run with the land and bind the present and future Lot Owners, and their successors and assigns for the term of this Agreement.

(b) Notwithstanding anything to the contrary contained herein, as long as NREI owns any portion of the Naperville Lots, or NRI owns any portion of the NRI Lot: (i) this Agreement may not be amended without their prior written consent; and (ii) either NREI or NRI may modify or amend at any time and from time to time, any provision of this Agreement, in any way, without the consent of any other Lot Owner. Notwithstanding the foregoing, the amendment cannot terminate the easements granted hereunder to the Lot Owners if such termination materially and adversely affects the Lot Owner's development or operation of its business on its Lot without its prior written consent, or without providing replacement easements "sufficient" for such Lot Owner's development and operation of its Lot.

(c) Following the transfer or conveyance of all of the Naperville Lots by NREI, and the NRI Lot by NRI, this Agreement may be amended, in any manner, at any time and from time to time, with the written consent a majority of the Lot Owners.

(d) No mortgagee, secured party, tenant, licensee or other person having a security or possessory interest or lien in the improvements constructed on the Naperville Lots will be required to join in the execution of or consent to any action taken pursuant to this Agreement, or to any modification or amendment to this Agreement.

7. **Condemnation.** In the event the whole, or any part, of the NRI Lot is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, NREI will not share in any

award, compensation or other payment made by reason of the taking, and such award, compensation or other payment will belong entirely to NRI, and NRI will have no further liability to NREI for the loss of such Easements, or portion thereof, located on the portion of the NRI Lot so taken. Notwithstanding the foregoing, any Easement not affected by the taking shall continue in full force and effect.

8. Miscellaneous.

(a) This Agreement may be enforced by NRI or NREI by any action available at law or in equity, including, but not limited to injunctive relief and specific performance. Provided, however (1) termination of this Agreement is not an available remedy hereunder for breach of this Agreement; and (2) neither Party shall be responsible to the other for punitive, speculative, or consequential damages.

(b) The Easements granted herein will inure to the benefit of and be binding on the present and future owners of the NRI Lot, and the present and future owners of all or any portion of the NREI Lots, and their respective legal representatives, successors and assigns. All of the provisions of this Agreement will constitute covenants running with the land pursuant to Illinois law.

(c) All notices will be in writing and will be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) within three (3) days after deposited in the United States Mail, with adequate postage, and sent by registered or certified mail with return receipt requested, to the appropriate Party at the address set out below, or (iii) within one (1) day after deposited with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate Party at the address set out below:

NRI: Naperville Realty Investments, LLC
47W210 Route 30
Big Rock, Illinois 60511
Attention: Steven M. Rayman

NREI: Naperville Retail Investments, LLC
47W210 Route 30
Big Rock, Illinois 60511
Attention: Evan M. Rayman

Rejection or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, will be deemed to be receipt of the notice sent. Any Party will have the right, from time to time, to change the address to which notices to it will be sent by giving to the other Party or NRI at least ten (10) days prior notice of the changed address.

(d) This Agreement constitutes the entire agreement between the owners of NRI's Property and NREI's Property and understanding between NRI and the NREI relating to the subject matter hereof and may not be amended, waived, or discharged except as set forth herein.

(e) The validity of any one of the covenants, agreements, conditions or provisions of this Agreement or any portion thereof will not affect the remaining portions thereof, or any part thereof and this Agreement will be construed as if such covenant, agreement, condition, or provision had not been inserted herein.

(f) This Agreement will be governed by and construed in accordance with the laws of the State of Illinois.

(g) The prevailing Party in any litigation involving this Agreement will be entitled to recover from the non-prevailing Party all attorney's fees, paralegal fees and costs incurred in connection with such litigation, at arbitration, or appeal or otherwise, including reasonable attorney 's fees and paralegal fees in the enforcement of any indemnity hereunder. The owners of the land herein described will only be liable for any violation of this Agreement during their respective periods of ownership, and in the event any action is brought for recovery of monetary damages for any breach hereof, the claimant will look solely to the interest of the then owner of land in breach for the recovery of such monetary damages.

(h) Nothing herein contained will be deemed to be a gift or dedication of any portion of the real property described herein to the general public or for general public purposes whatsoever, it being the intention of the NRI that this Agreement will be strictly limited to and for the purposes herein expressed.

(i) Each of NRI and NREI agree to keep their property free from any mechanic lien claims, but each may, at its own cost, contest the validity, applicability and/or amount of any mechanic lien claims so long as the contesting Party does not allow the affected parcel to be lost through foreclosure. If either NRI or NREI fails to comply with its obligation to remove any mechanic lien created by such Party within 30 days after the mechanic lien is filed, the other Party may pay the amount of the lien and it then will be entitled to prompt reimbursement from the other for the sums so expended, upon receipt of an invoice for the same.

(j) An **"owner" or "owners" or "Party" or "Parties"** means, individually or collectively, as the context requires: NRI and NREI, and any and all of their successors, assigns, licensees, tenants, and lessees, as applicable, and the owner of a fee simple interest in all or any part of the land owned by them as described in this Agreement.

(k) For the purposes of this Agreement, the term **"Facilities" or "facilities"** shall mean and include without limitation pipes, wires, lines, manholes, ponds, lakes, conduits, mains, and any other facilities, improvements, and related equipment necessary or required or otherwise used or to be used for the installation, operation, removal, transmission, distribution, construction, connection, laying, repair, replacement, relocation, maintenance, use and placement of utility and drainage facilities and systems.

(l) NRI and any other Lot Owner (excluding NREI) agrees to cooperate with NREI, and to grant NREI any additional easements as may be reasonably necessary or required in order to develop NREI's Property, including without limitation any easements required by governmental authorities, in order to provide

utilities services to the NREI Lots, or to connect to the NRI Lot's or other Lot Owner's utility Facilities, and to provide access, ingress, passage, and drainage for the NREI Lots, and otherwise reasonably cooperate with NREI in all respects regarding developing the NREI Lots.

(m) In fulfilling the obligations and exercising rights under this Agreement, each Party shall use commercially reasonable efforts to keep to a minimum interference with the other Party's property and operations and, to that end, will give to other Party reasonable advance written notice of work which may interfere with the property or operations of such other Party and will arrange with such other Party for reasonable and definite times and conditions at and under which such work shall be done.

(n) NREI may change the zoning and other land use requirements for any or all of the NREI Lots without the prior written consent or approval of the owner of the NRI Lot. NRI may change the zoning or other land use requirements for the NRI Lot without the prior written consent or approval of the owners of the NREI Lots.

(o) NREI may re-subdivide each NREI Lot owned by it in accordance with applicable laws without the consent of NRI, and NRI agrees not to contest such re-subdivision, and will cooperate with NREI, if requested, at no cost or expense to NRI.

(p) Upon the re-subdivision of former Lot 5 and Lot 6, NREI vacated, abandoned, and relocated the existing easements affecting former Lot 5 and Lot 6, as shown on the Final Plat, which is hereby approved by the Parties.

[Remainder of this Page Intentionally left Blank].

**SIGNATURE PAGE
OF THE
RECIPROCAL EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned have hereto set their hands and seals as of the day and year first above written.

NAPERVILLE REALTY INVESTMENTS, LLC,
an Illinois limited liability company

By: Consolidated Realty Management, LLC,
its Manager

By: Executive Affiliates, Inc.
its Manager

By: *Diane Brown*
Diane Brown, not individually
But as Secretary

STATE OF ILLINOIS

) SS.

COUNTY OF KANE

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that before me on this day personally appeared Diane Brown, not individually but as Secretary of Executive Affiliates, Inc., as the Manager of Consolidated Realty Management, LLC, as Manager of Naperville Realty Investments, LLC, the limited liability company that executed the foregoing instrument, and acknowledged that he signed the said instrument in such capacity, as his free and voluntary act and as the free and voluntary act of such limited liability company, for the uses and purposes therein mentioned.

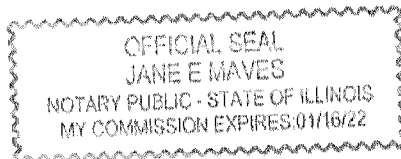
Witness my hand and official seal this 3rd day of June 2021.

Jane E. Maves
Notary Public

[SEAL]

My Commission Expires:

1-16-22



**SIGNATURE PAGE
OF THE
RECIPROCAL EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned have hereto set their hands and seals as of the day and year first above written.

NAPERVILLE RETAIL INVESTMENTS, LLC,
an Illinois limited liability company

By: Consolidated Realty Management, LLC,
its Manager

By: Executive Affiliates, Inc.,
its Manager

By: *Diane Brown*
Diane Brown, not individually
But as Secretary

STATE OF ILLINOIS

) SS.

COUNTY OF KANE

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that before me on this day personally appeared Diane Brown, not individually but as Secretary of Executive Affiliates, Inc., as the Manager of Consolidated Realty Management, LLC, as Manager of Naperville Retail Investments, LLC, the limited liability company that executed the foregoing instrument, and acknowledged that he signed the said instrument in such capacity, as his free and voluntary act and as the free and voluntary act of such limited liability company, for the uses and purposes therein mentioned.

Witness my hand and official seal this 3rd day of June 2021.

[SEAL]

My Commission Expires:

1-16-22

Jane E. Maves
Notary Public

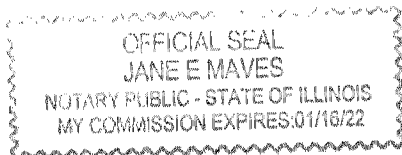


Exhibit A

Legal Description of NRI Lot

Lot 4 in Bradford Commons, being a subdivision of part of the southwest 1/4 of Section 27, Township 38 North, Range 9 East of the third principal meridian, according to the plat thereof recorded November 3, 2005, as Document Number 2005-246828, in DuPage County, Illinois.

Address: 2780 Fitness Drive, Naperville, IL 60564

PIN: 07-27-300-025

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Exhibit B

Legal Description of NREI Lots

Lot 1 and Lot 2 in Bradford Commons Resubdivision, according to the final plat of Resubdivision recorded in DuPage County, Illinois, being a subdivision of former Lot 5 and Lot 6 in Bradford Commons, former Lot 5 and Lot 6 being a subdivision of part of the Southwest ¼ of Section 27, Township 38 North, Range 9 East of the third principal meridian, according to the plat thereof recorded November 3, 2005, as Document Number 2005-246828, in DuPage County, Illinois.

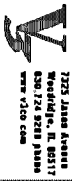
Addresses: 2719 Beebe Drive, Naperville, IL 60564; Southwest corner of Beebe Drive and Fitness Drive, Naperville, IL 60564

PINS: 07-27-300-027; 07-27-300-026

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Exhibit C

Access, Parking and Drainage Areas



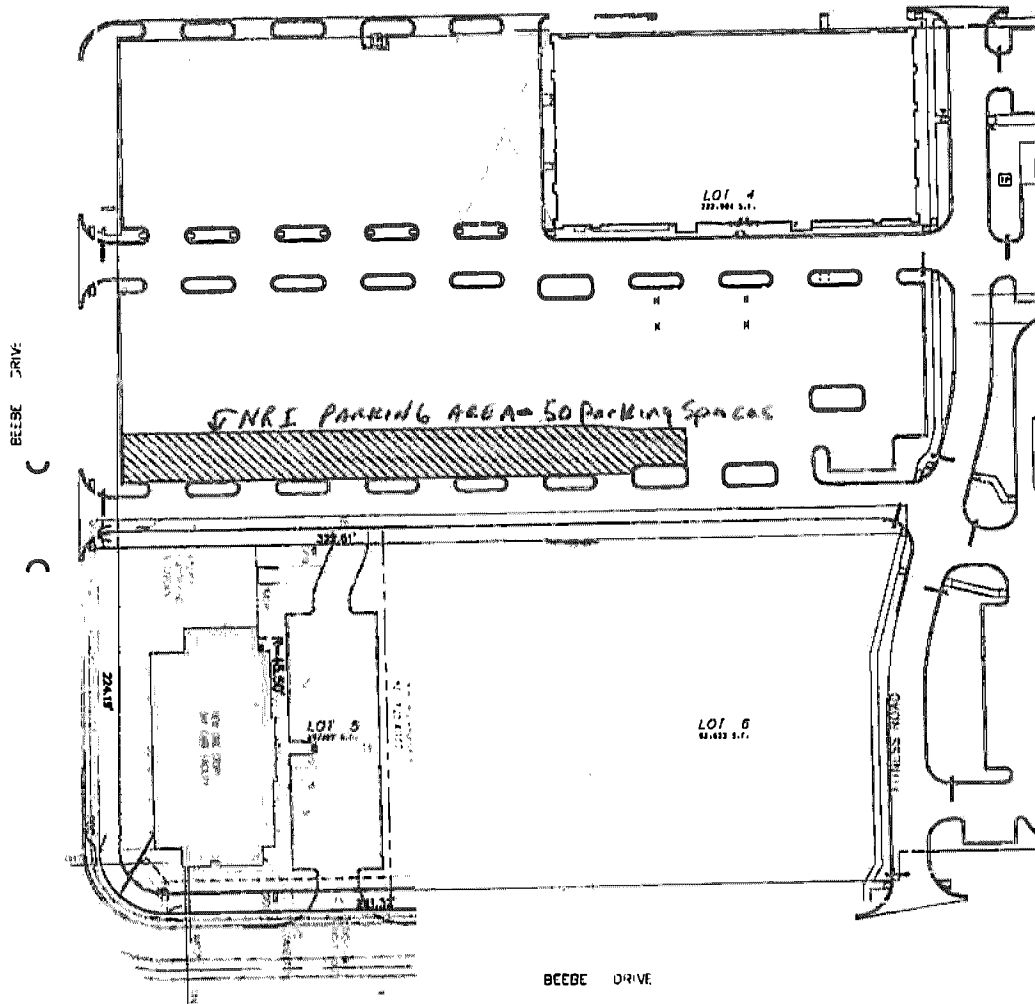
NAPERVILLE

BRADFORD COMMONS

ILLINOIS

EXHIBIT C - Page 1

DATE: 02-04-21



REA EXHIBIT OF BRADFORD COMMONS NAPERVILLE, ILLINOIS

OWNER/DEVELOPER
BRADFORD EQUITIES
10 SOUTH WACKER, SUITE 2935
CHICAGO, IL 60606
312.763.8504

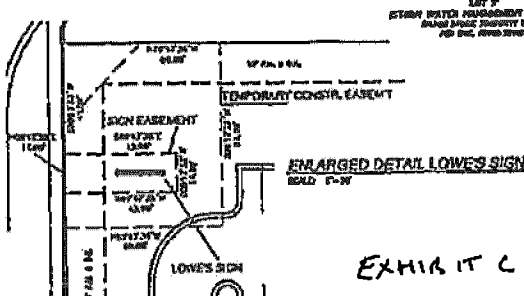
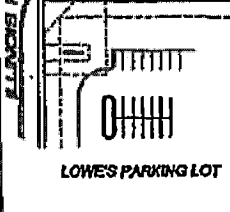
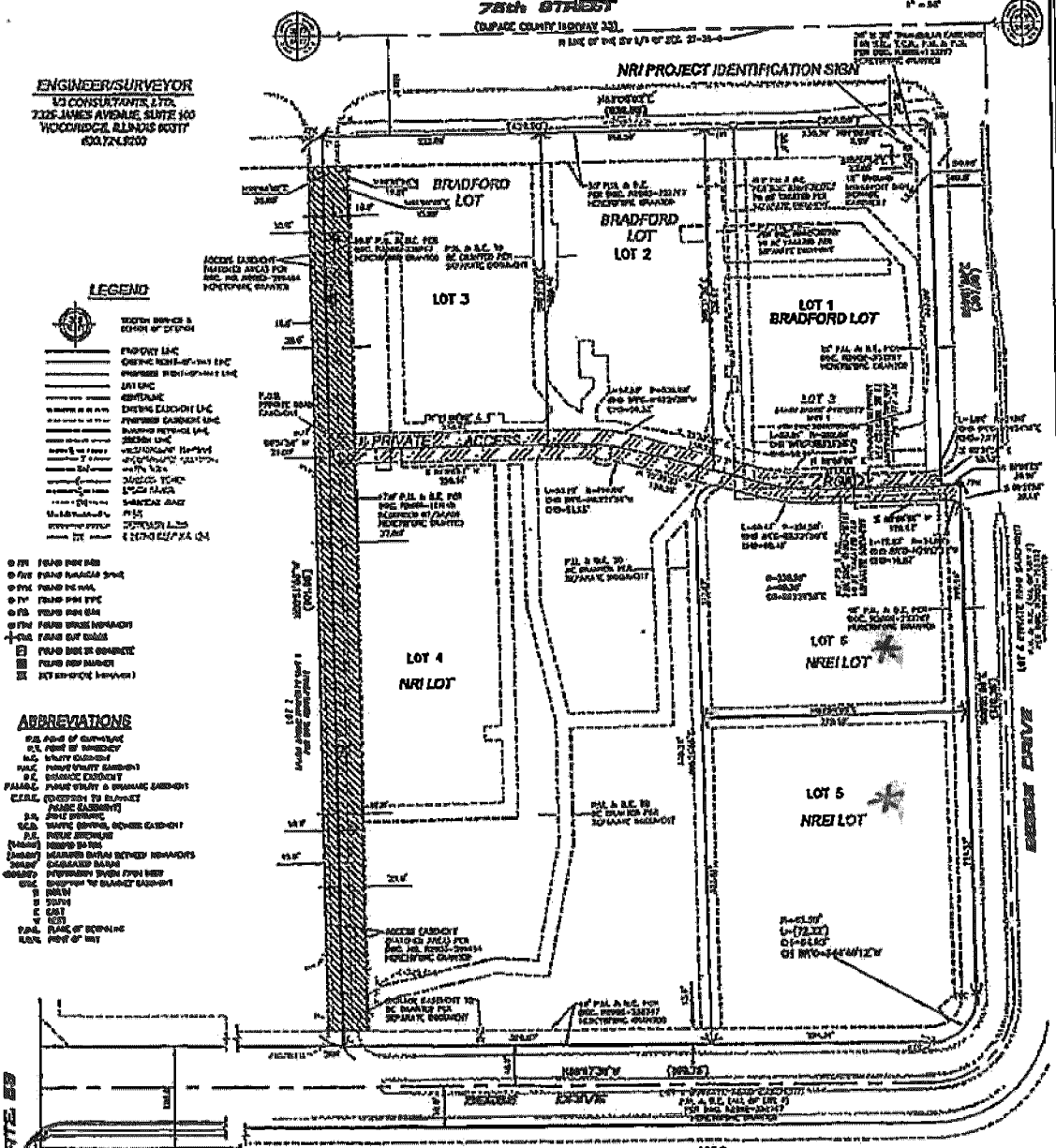
ENGINEER/SURVEYOR
LVI CONSULTANTS, LTD.
7325 JAMES AVENUE, SUITE 100
WOODBRIDGE, ILLINOIS 60097
630.724.8200

GRAPHIC SCALE
1" = 50'

78th STREET
(DUPAGE COUNTY HIGHWAY 33)

NRI PROJECT IDENTIFICATION SIGN

- LEGEND**
- NORTH ARROW & POINT OF OBSERVATION
 - PROPERTY LINE
 - EASEMENT LINE
 - UTILITY LINE
 - SURVEY LINE
 - OTHER SYMBOLS
- ABBREVIATIONS**
- BLK. BLOCK
 - CON. CONCRETE
 - ... (Other abbreviations)



BASIS OF BEARINGS
ALL BEARINGS ARE TRUE BEARINGS, UNLESS OTHERWISE NOTED, AS DERIVED FROM THE 1983 PLAN OF MAPS.

EXHIBIT C - Page 2

	BRADFORD EQUITIES 10 SOUTH WACKER, SUITE 2935 CHICAGO, IL 60606 312-755-8601	PROJECT NO. 2022-001	SHEET NO. 1 OF 1	DATE: 06/23/2022	PROJECT NAME: BRADFORD COMMONS - NAPERVILLE, ILLINOIS	PROJECT NO: 08031
	GROUP NO: V102					

vacated Lot 5 & 6 to be amended pursuant to resubdivision