I, RUTH A. SCOTT, do hereby certify that I am the duly appointed Deputy City Clerk of the City of DeKalb, DeKalb County, Illinois, and as such officer, I am the keeper of the records and files of the City Council of said City.

I do further certify that the attached is a true and correct copy of:

ORDINANCE 2018-022

AUTHORIZING AMENDMENTS TO PLANNED DEVELOPMENT ORDINANCE 2017-028 TO ELIMINATE THE REQUIREMENT FOR A COMMERCIAL KITCHEN AND AMEND THE FINAL PLANS REGARDING THE PARKING LOT, HANDICAP ACCESSIBILITY AND LANDSCAPING FOR 1114 BLACKHAWK ROAD (SIGMA NU FRATERNITY).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, on the 14th day of May 2018, and the original is now on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 20th day of June, 2018.

RUTH A. SCOTT, Deputy City Clerk

Prepared by and in behalf of:

Deputy City Clerk Ruth Scott
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
ORDINANCE 2018-022    PASSED: MAY 14, 2018

AUTHORIZING AMENDMENTS TO PLANNED DEVELOPMENT ORDINANCE 2017-028 TO ELIMINATE THE REQUIREMENT FOR A COMMERCIAL KITCHEN AND AMEND THE FINAL PLANS REGARDING THE PARKING LOT, HANDICAP ACCESSIBILITY AND LANDSCAPING AT THE SIGMA NU FRATERNITY LOCATED AT 1114 BLACKHAWK ROAD, DEKALB, ILLINOIS.

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority conferred upon it by the Illinois Municipal Code and the Constitution of the State of Illinois; and,

WHEREAS, Blackhawk Road, LLC, represented by Stefan Wereminski, (herein referred to as the "Owner") of the property commonly known at 1114 Blackhawk Road, Sigma NU Fraternity, DeKalb, Illinois (herein referred to as "Subject Property"), has petitioned the City of DeKalb for approval of an amendment to the Ordinance 2017-028 to eliminate the requirement for a commercial kitchen and to amend the final plan regarding the parking lot, handicap accessibility and landscaping approved in Ordinance 2017-028; and

WHEREAS, the Subject Property is located in the "PD-R" Planned Development – Residential Zoning District in the City of DeKalb (the "City"); and

WHEREAS, the City and Council granted approval on May 22, 2017 of a Development Agreement for the Subject Property via Ordinance 2017-028; and

WHEREAS, pursuant to proper legal notice, a public hearing was conducted by the Planning and Zoning Commission on April 18, 2018; and

WHEREAS, on April 18, 2018 the Planning and Zoning Commission reviewed the evidence presented and forwarded its recommendation of approval for the petition to amend the Development Agreement approved via Ordinance 2017-028 to eliminate the requirement for a commercial kitchen and to amend the final plan regarding the parking lot, handicap accessibility and landscaping approved in Ordinance 2017-028, subject to the following conditions:

1. The Site Plan/Landscape Plan dated 10-30-17 be revised to show:

   a. The addition of three shade trees (2 1/2” min.) on the site including the right-of-way, per the approval of the Community Development Director.
b. A note indicating the existing line of vegetation along the east side of the site adjacent to 912 Edgebrook Drive be trimmed back to increase visibility per the approval of the Community Development Director.

c. The existing dumpster along the east aisle of the parking lot.

2. The Revised Kitchen Plan is approved as shown on Exhibit B.

3. The two existing handicap spaces in the mid-point of the west parking aisle (adjacent to building) be re-striped to regular spaces prior to a final occupancy permit being issued for the building.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.

Section 2. This Ordinance is limited and restricted to the Subject Property, legally described as follows:

Parcel 1: Lot 12 in Block 3 in Fifth Addition to Rolling Meadows Subdivision, a Subdivision of a part of Section 15, Township 40 North, Range 4 East of the Third Principal Meridian, according to the Plat thereof recorded February 27, 1964, as document No. 320234, in Plat Book "M", page 80, in DeKalb County, Illinois

Parcel 2: Lot 13 in Block 3 in Sixth Addition to Rolling Meadows Subdivision, a Subdivision of a part of Section 15, Township 40 North, Range 4 East of the Third Principal Meridian, according to the Plat thereof recorded August 28, 1964, as document No. 323083, in Plat Book "N", page 7, in DeKalb County, Illinois

The aforementioned legal description is comprised of Parcel Identification Number (PIN) 08-15-176-021 and commonly known as 1114 Blackhawk Road, DeKalb, IL 60115.

Section 3. An amendment to the Development Agreement approved via Ordinance 2017-028 to eliminate the requirement for a commercial kitchen and to amend the final plan regarding the parking lot, handicap accessibility and landscaping is hereby approved subject to the following:
1. The Site Plan/Landscape Plan dated 5/7/18 as shown on Exhibit A.

2. The Revised Kitchen Plan is approved as shown on Exhibit B.

3. The two existing handicap spaces in the mid-point of the west parking aisle (adjacent to building) be re-striped to regular spaces prior to a final occupancy permit being issued for the building.

Section 4. All other provisions of Ordinance 2017-028 shall remain in full force and effect.

Section 5. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this Ordinance.

Section 6. All provisions of the Unified Development Ordinance shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law. The City Clerk or designee shall record a copy of this Ordinance included herein after execution of this Ordinance.


ATTEST:

RUTH A. SCOTT, Deputy City Clerk

JERRY SMITH, Mayor
# REVISED KITCHEN PLAN - EXHIBIT B

## FOOD SERVICE EQUIPMENT

<table>
<thead>
<tr>
<th>ITEM NUMBER</th>
<th>QUANTITY</th>
<th>ITEM DESCRIPTION</th>
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<td>2</td>
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<td>2</td>
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<td>1 COMP SINK W/WALL SHELVES &amp; PREP RISE</td>
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<tr>
<td>9</td>
<td>1</td>
<td>TOASTER OVEN</td>
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ORDINANCE 2017-028  PASSED: MAY 22, 2017

AUTHORIZING A ZONING MAP AMENDMENT FROM THE "MFR2" MULTIPLE FAMILY RESIDENTIAL DISTRICT TO "PD-R" PLANNED DEVELOPMENT – RESIDENTIAL DISTRICT TO ALLOW FOR THE ESTABLISHMENT OF A FRATERNITY AT 1114 BLACKHAWK ROAD (BLACKHAWK ROAD, LLC).

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority conferred upon it by the Illinois Municipal Code and the Constitution of the State of Illinois; and

WHEREAS, Blackhawk Road, LLC, (herein referred to as "Owner") of the property commonly known as 1114 Blackhawk Road, DeKalb, Illinois (herein referred to as "Subject Property"), has petitioned the City of DeKalb for approval of a zoning map amendment from the "MFR2" Multiple Family Residential District to the "PD-R" Planned Development – Residential District, to allow for the establishment of a fraternity on the Subject Property; and

WHEREAS, the City and Owner seek to enter into a Development Agreement for the Subject Property contemplated and approved therein; and

WHEREAS, pursuant to proper legal notice, a public hearing was conducted by the Planning and Zoning Commission on April 26, 2017; and

WHEREAS, the City and Owner have conducted all required public hearings before the Planning and Zoning Commission of the City of DeKalb for the rezoning for the Subject Property, and have otherwise satisfied all conditions precedent to the adoption of this Ordinance; and

WHEREAS, the City Council has reviewed and adopts the following findings of fact of the Planning and Zoning Commission of the City of DeKalb, finds that the proposed rezoning is in conformance with the applicable zoning factors contained therein, and finds that approval of the rezoning for the Subject Property is in the public interest and promotes the public health, safety and welfare;

STANDARDS OF REZONING

1. The proposed rezoning conforms to the Comprehensive Plan, or conditions have changed to warrant the need for different types of land uses in that area. The proposed rezoning is appropriate considering the length of time the property has been vacant, as originally zoned, and taking into account the surrounding areas trend in development.
The 2005 Comprehensive Plan recommends the subject site for High Density Residential. The Greek Row Neighborhood Revitalization Plan approved in October, 2002 recommends the continued vitality and revitalization of the Greek Row Neighborhood. The proposed project will meet many of the objectives of the Greek Row Neighborhood Revitalization Plan including improved parking, lighting, neighborhood appearance and public safety. Staff believes that the proposed development meets the intent of the City's Comprehensive Plan.

2. The proposed rezoning conforms to the intent and purpose of the Unified Development Ordinance.

Re-zoning of the subject site to the PD-R District will allow the project to comply with the regulations of the UDO except for waivers to the minimum lot size for a Planned Development, number of required parking spaces, parking lot design and locational requirements, and landscaping. The exceptions to the UDO are justified based upon the limited lot size, adaptive re-use of the property, the need for additional off-street parking and the desire to maintain an open space setting and aesthetically pleasing appearance on the property.

3. The proposed rezoning will not have a significantly detrimental effect on the long-range development of adjacent properties or adjacent land uses.

The surrounding area is already developed. Other greek housing and apartments exist to the north, east and south of the subject site. The proposed rezoning should not have a detrimental effect on the adjacent properties or land uses.

4. The proposed rezoning constitutes an expansion of an existing zoning district that, due to the lack of undeveloped land, can no longer meet the demand for the intended land uses.

The subject property is proposed for "PD-R" Planned Development - Residential zoning. The "PD-R" zoning will allow the property to be used for a use that previously existed on the site and provides additional off-street parking spaces for a use that will be compatible with the surrounding area.

5. Adequate public facilities and services exist or can be provided.

Existing utilities already serve the site. The existing drive off of Kimberly Drive will be extended through the site to Edgebrook Drive. A bus stop exists to the west of the building along Blackhawk Drive. Per the UDO regulations, on-site stormwater detention will not be required. Stormwater will flow to the open areas on the property or to the street and to catch basins along either Edgebrook Drive or Kimberly Drive.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:
Section 1. The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.

Section 2. This Ordinance is limited and restricted to the Subject Property legally described as follows:

Parcel 1: Lot 12 in Block 3 in Fifth Addition to Rolling Meadows Subdivision, a Subdivision of a part of Section 15, Township 40 North, Range 4 East of the Third Principal Meridian, according to the Plat thereof recorded February 27, 1964, as document No. 320234, in Plat Book “M”, page 80, in DeKalb County, Illinois

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The aforementioned legal description is comprised of Parcel Identification Number (PIN) 08-15-176-021 and commonly known as 1114 Blackhawk Road, DeKalb, IL 60115.

Section 3. A zoning map amendment from the “MFR2” Multiple Family Residential District to the “PD-R” Planned Development – Residential District to allow for a fraternity is hereby granted for the Subject Property.

Section 4. The City Council of the City of DeKalb hereby approves of the Planned Development Agreement attached hereto as Exhibit A (“the Agreement”), and authorizes and directs the Mayor of the City of DeKalb to execute the Agreement, subject to such changes as shall be acceptable to him with the recommendation of City Staff. The approvals, conditions, and restrictions in the Agreement are incorporated into and made a part of this Ordinance.

Section 5. PD-R Planned Development Residential Standards: The provisions and restrictions related to the permitted uses, prohibited uses and other development and maintenance standards as described in the Agreement are hereby approved.

Section 6. Approved Plans: The “Plans” attached as “Group Exhibit B” to the Agreement are hereby approved subject to revisions acceptable to the Community Development Director or designee, in accordance with the staff report dated April 21, 2017, from the City of DeKalb, all provisions and requirements of this approval, the findings of fact and the Agreement. Approval of the “Final Plans” shall be in accordance with the governing provisions of the Agreement. Following approval of the “Final Plans” in accordance with the Agreement, the Community Development Director is authorized and directed to record any such plans as shall be appropriate for recording.
Section 7. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 8. That all provisions of the Unified Development Ordinance shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law. The City Clerk or designee shall record a copy of this Ordinance included herein after execution of this Ordinance.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 22nd day of May, 2017, and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Second Reading Waived by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith.

ATTEST:

[Signature]

SUSANNA HERRMANN, City Clerk

[Signature]

JERRY SMITH, Mayor
This Planned Development Agreement (the "Agreement") is made and entered the 21st day of May, 2017 by and among the City of DeKalb, an Illinois municipal corporation located in DeKalb County, Illinois, (the "City"), and Blackhawk Road, LLC (the "Owner"). The City and the Owner are collectively referred to as "Parties" and individually referred to as a "Party."

RECITALS

A. The Owner is the contract owner of record of approximately 0.7 contiguous acres of real property situated at the southeast intersection of Blackhawk Road and Edgebrook Drive in the City of DeKalb, DeKalb County, Illinois, which property is legally described on Exhibit A attached hereto and incorporated herein by reference as the "Property".

B. The Property has previously been improved with a three story residential structure containing 29 residential bedrooms (with a maximum of 45 occupants), with common bathrooms, a common kitchen and common group spaces, served by 21 parking spaces. The Property is proposed to be developed in accordance with the plans attached hereto as Group Exhibit B ("the Plans"), except as such plans are required to be modified under the terms of this Agreement, to include the installation of interior fire suppression systems, the expansion of the parking lot to include 42 parking spaces with 2 handicapped spaces, a handicap-accessible ramp to the garden level of the structure, and similar improvements.

C. The Parties acknowledge that the housing configuration and cohabitation of unrelated persons within a single dwelling unit as contemplated by the Property would violate any available zoning classification from the City of DeKalb, and that thus the only way of accommodating the proposed development would be to utilize Planned Development-Residential ("PD-R") zoning. The Parties further acknowledge that use of PD-R zoning requires a development agreement to provide definition of the terms and requirements of the zoning district, and that this Agreement has been entered into to provide such definition. Based upon the size of the Property, the density of the use, and the failure to meet the required parking count, the Property cannot comply with any existing zoning designation but for a PD-R designation.

D. The City and the Owner thus have negotiated and have voluntarily entered into this Agreement for purposes of enabling the redevelopment of the Property consistent with the Plans and this Agreement.

E. The City acknowledges that the Owner's proposed use of the Property as set forth in this Agreement, will be compatible with and will further the planning objectives of the City and that the redevelopment of the Property to the City will be of benefit to the City, will permit orderly growth, planning and development of the City, will increase the tax base of the City, and will promote and enhance the general welfare of the City and its residents. The Owner acknowledges that the City is not required to rezone the Property as PD-R, and that the City's agreement to rezone the Property in accordance with the provisions of this Agreement, and to otherwise perform the City's obligations under this Agreement constitutes valuable, bargained-for consideration that benefits the Owner and the Property.

F. The City acknowledges and the Owner agrees that the PD-R, as provided under the City of DeKalb Unified Development Ordinance (the "UDO") will be the most appropriate zoning classifications for the development of the Property.
G. Pursuant to notice, as required by statute and ordinance, public hearings were held by the City’s Planning and Zoning Commission on the requested zoning of the Property, and the findings of fact and recommendations made by said body relative to such requests have been forwarded to the Corporate Authorities.

H. All other and further notices, publications, procedures, public hearings and other matters attendant to the consideration and approval of this Agreement and the rezoning of the Property have been given, made and performed by the City as required by the Illinois Municipal Code, and all other applicable statutes, and all applicable ordinances, regulations and procedures of the City.

I. The Corporate Authorities have duly considered all necessary matters to enter into this Agreement, have considered the recommendations of the City’s Planning and Zoning Commission in connection with the proposed zoning of the Property and have further duly considered the terms and provisions of this Agreement and have authorized the Mayor to execute, and the City Clerk to attest, this Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements herein made, the Parties hereby agree as follows:

ARTICLE I: INCORPORATION OF RECITALS

The Parties acknowledge that the statements and representations contained in Paragraphs A through I, both inclusive of the foregoing recitals are true and accurate and incorporate such recitals into this Agreement as if fully set forth in this Article I.

ARTICLE II: ZONING OF THE PROPERTY

A. Density Restrictions:

The allocation or ratio of different types of rooms (e.g. one bedroom, two bedroom, etc.) and the maximum residential occupancy count permitted for the property under the PD-R zoning described above shall be as approved in this Agreement (which the Parties acknowledge is based upon the proposed configuration of the Property), subject to any changes allowed by the City, with approval of such changes being in the sole, reasonable discretion of the City. Review and approval/denial of any such changes proposed by the Owner shall be treated as a major amendment to the proposed development, and shall follow the provisions of the UDO with a staff review and recommendation, Planning and Zoning Commission review and recommendation, and City Council review and approval/denial.

B. Permitted Uses:

The uses permitted shall be as follows:

1) Residential “rooming house” fraternity/sorority use for student housing, with a maximum of 2 occupants per room, a maximum of 45 residents total, and a maximum bedroom count of 29 bedrooms. These counts shall not be altered without the express approval of the City Council. This density and room configuration as described herein and as depicted in the Plans attached hereto shall operate as a limitation on the density of all residential use of the Property, in the aggregate. Said use is only permitted where the Property is used for student housing as described herein, and any non-student housing use of the Property shall require a rezoning of the Property. Mandatory lease provisions are referenced below.

a) The Parties expressly agree and acknowledge that the sole residential permitted use of the Property is for student housing, as a component of a Northern Illinois
University approved and accredited sorority or fraternity, in strict compliance with all terms and conditions outlined herein. The Parties acknowledge that, but for the restrictions contained herein, the City would not be obligated to grant approval for the density contemplated herein, nor for the configuration of the property with 29 bedrooms that are not configured as "dwelling units" in compliance with City Codes, nor for deviations from other applicable requirements. The zoning and approvals granted herein shall only apply where the Property remains in use by a Northern Illinois University approved and accredited sorority or fraternity. The Parties acknowledge that at the time of approval of this Agreement, the Property is vacant and has been vacant for several years, and further acknowledge that accordingly, the Property has no legal nonconforming status with regard to use or configuration of the building or Property. Owner expressly agrees to and acknowledges the contents of this Agreement and further acknowledges that if the Northern Illinois University approved/accreditad sorority or fraternity use terminates or the approval/accreditation of the sorority or fraternity inhabiting the Property ends, the approved residential use for such purpose shall not apply to any other use of the Property, and any other use would require an amendment to the zoning of the Property and an amendment of this Agreement on terms and conditions acceptable to the City.

2) Continuation in existence of the existing recreational and community facilities on the Property consisting of group meeting areas, when maintained for the use of residents and their guests only (and not for use by non-residents). In addition, the group meeting areas may be utilized for the provision of social or other similar services to residents by one or more governmental, for-profit or not-for-profit agencies, when such services are temporary in nature.

3) Operation of a full-service restaurant/cafeteria for residents and their guests, provided that the commercial or for-charge service of alcoholic beverages or the application for or receipt of a liquor license shall be prohibited. In addition, catering of food from outside providers shall be permitted.

4) The approval of these Permitted Uses and the approval of the Plans shall expressly incorporate the approval of the following five departures from the development standards that would be applicable in the absence of the PD-R zoning designation and this Agreement:

a) Lot Size / Maximum Density Deviation: In the absence of this PD-R zoning designation, the minimum lot size would be 3,500 square feet per unit, for a total density not exceeding twelve (12) dwelling units per acre (assuming that each bedroom constituted an individual bedroom with sleeping, cooking, eating and sanitation facilities). As approved herein, the Property shall be permitted to have 29 units on 0.7 acres, for a total net density of 41.4 dwelling units per acre.

b) Parking Requirements: In the absence of this PD-R zoning designation, the Property would be required to provide at least 45 parking spaces based upon the approved unit count and bedroom count. The Property shall be permitted to have 42 parking spaces as shown in the plans.

c) Lot Size: In the absence of this approval, the minimum size for a planned development would be 2 acres. The Property shall receive PD-R zoning designation despite the size of 0.7 acres.

d) Parking Setbacks: In the absence of this PD-R zoning designation, the Property would be required to meet the setback standards contemplated by the City’s UDO. Owner shall be permitted to construct improvements on the Property as contemplated by the Plans, in their location and configuration as designed.
c) Parking Improvements: Owner shall be permitted to construct the parking area in accordance with the plans, with landscaping as shown. Owner shall not be required to install parking area curb and gutter, and shall not be required to meet minimum UDO requirements for landscaping.

C. Prohibited Uses:
None of the following uses shall be allowed in or on the Property:

1) Any use which is not expressly authorized as a Permitted or Special Use.
2) Any home occupation or other form of commercial enterprise.
3) Any residential use other than that described for student housing as described herein.
4) Community residences.
5) Group homes.
6) Rooming houses (unless licensed as a rooming house for use by a recognized sorority or fraternity as contemplated herein).
7) Parking lots, as a principal use (and more specifically, any lease, rental or otherwise offering use of on-site parking by any party other than a resident or employee of the Property).
8) Outdoor storage of any form.
9) Sales or construction trailers, intermodal shipping containers, van trailers or similar items used for storage or office purposes, temporary structures or similar appurtenances used for office, work or storage purposes. Any such item shall be deemed to be used for office, work or storage purposes if it remains on the Property in one exterior location for more than twenty-four (24) hours at any given time. Notwithstanding the foregoing, this Section shall not apply during any time when there is a building or demolition permit outstanding.

D. Special Uses:
Any special use contemplated for the Property shall require the amendment of this Agreement.

E. Parking Provisions:
1) The existing parking lot shall be upgraded consistent with the Plans.
2) The Owner shall not increase the cost of parking permits to residents above the published parking rates for non-reserved annual 'yellow' parking passes issued by Northern Illinois University (or such other standard as the Parties shall mutually agree upon). The Owner shall not limit the number of parking permits available per bedroom, and shall not engage in any conduct to discourage or limit the ability of residents to park on the Property, or to force or encourage residents or guests of residents to utilize on-street parking. The Owner acknowledges that, based upon the density of the residential development contemplated by the PD-R zoning, it is obligated to provide adequate on-site parking for all parking needs generated by the parking, including the obligation to construct the parking lot area shown on the Plans.
3) The Owner shall be responsible for reasonably limiting use of the parking areas to residents and their guests.
4) The Owner shall be responsible for installing, and for thereafter maintaining as operational and functional, all parking lot and common area lighting contemplated by the Plans or as otherwise required by this Agreement. In the event that the City Police Department determines in its reasonable discretion, at any time during the term of this Agreement, that said lighting is inadequate, Owner shall install such additional and supplemental lighting as shall be required by the Police Department.
5) The Owner and City shall enter into a separate written agreement providing for traffic law enforcement on all private drives and areas of the Property within ninety (90) days after execution of this Agreement, in a form acceptable to the CITY, and such agreement shall be recorded against the Property at the Owner’s expense; such agreement shall be substantially in the form attached hereto as Exhibit D.

6) All visitors’ parking shall be regulated with passes or by other means acceptable to the City, and shall be for a duration of two (2) days or less. The Owner shall not lease, offer for lease, or otherwise permit non-residents to park upon the Property. Owner shall provide documentation of parking permits and visitor parking permits to the City at any time upon request. Violation of any of these provisions shall constitute a violation of the City’s zoning restrictions for the property.

7) The Owner shall provide a revised plan showing the location, design, lighting and orientation of bike racks and bicycle parking areas, which bicycle parking area design shall be subject to review and approval by the Community Development Director.

8) The Owner shall issue new parking passes (both resident and guest), in a form and fashion acceptable to the Chief of Police, which are high-visibility in nature and which are required to be prominently displayed so as to be visible from a passing car patrolling the parking lot.

F. Permitted Outdoor Storage:

Outdoor dumpsters and similar rubbish disposal facilities shall be permitted on the Property, provided that all such facilities shall be completely screened from view with a fence constructed of stained cedar wood as contemplated by the Plan. Any proposed expansion or alteration of the outdoor rubbish disposal facilities and their related landscaping/screening shall be subject to prior review and approval by the Community Development Director to confirm compliance with this section. No other outdoor storage shall be permitted, and no storage of dumpsters or garbage or recycling containers shall be permitted outside of the walled garbage enclosure. The outdoor trash facilities shall be constructed to match the Plans or as otherwise approved by the Community Development Director, and shall be constructed of stained cedar wood. Once constructed, the trash facilities shall be maintained at all times in good repair, and the Owner shall take all steps as shall be required to ensure that the main entry gates to the trash facilities are kept closed at all times when the facilities are not actively being serviced by a garbage truck.

Owner shall provide supplemental rolloff dumpsters in a safe and accessible fashion on the Property during move-in / move-out periods so as to avoid the placement of any garbage, debris or furniture on any area of the Property outside of a garbage container. For a two-week period during move-in and move-out, Owner shall be permitted to maintain not more than two rolloff dumpsters on the Property outside of the garbage enclosure. Owner shall also be permitted to maintain not more than two rolloff dumpsters on the Property during such periods that it has an active, valid construction or demolition building permit in effect. At all other times, Owner shall be prohibited from maintaining any garbage facility outside of the garbage enclosure.

G. Setbacks and Building Lines:

Setbacks, building lines, floor area ratios, building dimension limitations, height restrictions and other similar lot/building size/shape restrictions and regulations shall meet those standards as set forth in the UDO unless otherwise approved as part of this Agreement. This Agreement shall expressly serve as the approval of the dimensions of the Property contemplated by the Plans (after such Plans are modified to comply herewith).

II. Design and Appearance Provisions:
The Owner shall design, install and/or construct all signage, landscaping, lighting and improvements in conformance with the Plans. The exterior design, elevations, appearance, dimensions and building materials proposed for any structure or sign proposed to be built on the Property which does not directly comply with these requirements shall be subject to separate review and approval by the City Council, in its reasonable discretion.

Following the installation of such materials, the Owner shall maintain such materials (including the exterior of the building, landscaping, parking areas and other portions of the Property) in good condition and shall take appropriate actions necessary to prevent the deterioration of the Property or its appearance, excepting ordinary wear and tear that does not violate applicable property maintenance codes. The Parties agree and acknowledge that environmental factors, such as the appearance and maintenance of a structure, have a significant impact on crime and on surrounding properties. Accordingly, the Parties agree and acknowledge that inherent in the zoning permissions granted herein (to establish a high-density residential development) is the Owner’s affirmative obligation to comply with all applicable property maintenance codes to maintain the attractiveness and appearance of the Property. The failure to maintain the building façade, architectural improvements, landscaping or other aesthetic components of the Property that are either described herein or contemplated in the Plans shall constitute a violation of the zoning authorization provided under the PD-R designation contemplated herein.

Any future proposal to remodel any portion of the Property which would: a) change the number of bedrooms at the Property; or, b) add additional or revised structures, outdoor signage, facilities or reductions in landscaping shall be subject to review and approval by the Community Development Director, or at the Director’s discretion, may be required to be submitted to the City Council for review and approval. Such approval shall be at the reasonable discretion of the City.

1. **Revisions to Plans:** After approval of this Agreement, the Owner shall submit a revised set of plans that comply with all comments contained herein, all staff comments provided, and all conditions of approval established in the ordinance approving of this Agreement and the annexation and development of the Property. The Community Development Director is thereafter authorized to review and approve such plans (if conforming to the conditions of approval), and to append the revised Final Plans to this Agreement, prior to recording of this Agreement as more fully described below. If such plans do not comply with the terms of this Agreement, the Community Development Director shall determine whether the plans shall be processed as a Minor Amendment or Major Amendment as provided below. The determination as to whether such plans require a Minor Amendment or Major Amendment shall be in the sole and exclusive discretion of the Community Development Director.

1. **Minor Amendments:** In the event that, following approval of this agreement and prior to the issuance of a final certificate of occupancy, the Owner identifies minor revisions required to the Final Plans, the Owner may request review and approval of said minor revisions at the staff level. In the event that the Community Development Director agrees that the requested revisions are consistent with the zoning and use restrictions imposed herein, do not fundamentally alter the nature or configuration of the Property and are otherwise appropriate for review and approval at the staff level, the Director may review and approve such minor revisions. In the event that the Community Development Director does not reach that conclusion, the Director shall refer such plans for recommendation by the Planning and Zoning Commission and for approval by the City Council.

2. **Major Amendments:** Review and approval/denial of any such requested changes proposed by the Owner shall be reviewed by the Community Development Director to determine whether such changes constitute a major or minor change. Any proposed change treated as a
major amendment to the proposed development shall follow the provisions of the UDO with a staff review and recommendation. Planning and Zoning Commission review and recommendation, and City Council review and approval/denial. If a change is processed as a minor change and is subject to staff review, any condition or denial imposed during the staff review may be appealed to the City Council by Owner's request to have the same be considered a major amendment.

J. Rezoning of Property:

The Parties agree that, for a period of twenty (20) years from Closing, the Property shall not be rezoned to any zoning other than that imposed under this Agreement without the approval of the CITY and the OWNER, with such rezoning requiring consent from the CITY in the sole and absolute discretion of the CITY and OWNER without regard to statutory or common law zoning requisites and the agreement of the CITY and the OWNER to an amendment of this Agreement on terms and conditions mutually acceptable to the CITY and the OWNER, and further agree that the approvals described in this Agreement are based upon the Owner and Owner's agreement with the zoning imposed under this Agreement. The Parties further agree that in the event the Owner seeks a rezoning or alteration of the zoning standards applicable to the Property, any provisions in the UDO contemplating a defined time period for review, comment or approval of a zoning application shall be deemed waived. Following that initial twenty year term, the Property may be rezoned in accordance with the then-current practices and procedures applicable to rezoning requests.

K. Building Amenities:

The Owner acknowledges that the density contemplated by the development of the Property exceeds the density which otherwise would be permissible in the absence of PD-R zoning designation, and in order to provide a facility that addresses public welfare concerns that would otherwise be raised by the contemplated density, the Owner agrees and acknowledges that, except during reasonable periods of repair (during which Owner shall actively work in good faith to repair and restore the amenities), it shall maintain as operational, fully functional and in good condition the building amenities contemplated by the Plans and this Agreement at all times that the Property is in operation for the purposes contemplated by the PD-R zoning.

L. Failure to Comply:

In the event that Owner fails to comply with the terms of this Agreement contemplating the redevelopment and subsequent management of the Property, the zoning approvals contemplated herein shall be revocable by the City following the conduct of a due-process hearing. If revocation is granted, the Property shall revert to the “MFR2” (Multifamily Residential) zoning designation which it held immediately prior to the date of approval of this Agreement and the Property shall acquire legal, non-conforming use status. All improvements contemplated herein shall be constructed, operational, inspected and approved by the City within six months of the date of approval of this agreement; once the improvements contemplated herein are timely completed, inspected and approved with a final certificate of occupancy in place, the zoning approvals contemplated herein shall no longer be subject to revocation under this Section.

ARTICLE III: DEVELOPMENT AND MAINTENANCE OF THE PROPERTY:

A. Owner's Responsibility to Maintain:

The Owner shall be responsible for the maintenance and care of any and all common areas, parking lots or other improvements within the Property and for maintaining all buildings on the Property.
in accordance with all City Building, Zoning and Property Maintenance Codes, and in accordance with the terms set forth in this Agreement. The Owner shall assume full responsibility for ensuring the property's compliance with the applicable codes and requirements. The Owner shall also be responsible for construction of all new improvements, pathways and amenities as depicted in the Plans.

B. Backup Special Service Area:

OWNER and its successors, assignees and grantees, shall not object to and agree to cooperate with the CITY in establishing a special service area ("SSA") after Closing, for the Property, to be utilized as a backup mechanism for the care and maintenance of the Common Facilities, which include but are not limited to, lighting, parking lots, bus shelters, private roads, paved areas, drains, valves and related appurtenances, common landscaped areas, bike/pedestrian paths, racks, property monumentation, signage, rubbish disposal facility enclosures, park areas, open space and any other common areas of the Property.

Owner shall have the primary responsibility of providing for the regular care, maintenance, renewal and replacement of the Common Facilities including, without limitation, the mowing and fertilizing of grass, removal of debris or garbage, pruning and trimming of trees and bushes, lighting, sidewalks, removal and replacement of diseased or dead landscape materials, installation or maintenance of detention/retention basins, property monumentation and signage, maintenance of waterways, valves and related appurtenances, landscaping, maintenance of all private curbs and roadways, driveways and drive aisles, and the repair and replacement of signs, so as to keep the same in a clean, sightly and first class condition (the "Common Facilities Maintenance"). Common Facilities Maintenance shall be limited to the maintenance and upkeep of existing improvements, improvements described herein, and any then-current improvements at the time of performing maintenance.

If at any time the Owner fails to conduct the Common Facilities Maintenance within a reasonable time after being notified by the City to do so, then the CITY shall have the right, but not the obligation, to undertake such maintenance and utilize the SSA to provide sufficient funds to pay the costs of the Common Facilities Maintenance undertaken by the CITY. The Owner shall, upon the request of the City, grant the City an easement ("Common Facilities Maintenance Easement") over all of those Common Facilities located on the Property in favor of the CITY. The substance of the Common Facilities Maintenance Easement shall be as approved by legal counsel for the CITY. Said SSA shall have a rate as reasonably determined by the City Engineer.

Approval of this Agreement shall be deemed to constitute consent to the City’s establishment of one or more special service areas (individually, an "SSA") hereafter described.

Nothing in this Agreement shall prevent the City from levying or imposing property taxes, including but not limited to special service areas, special assessment areas, or other ad valorem or flat rate taxes upon the Property in the manner provided by law which are applicable to and apply equally to all other properties within the City or from establishing a special service area that encompasses solely the Property.

C. Environmental:

Prior to the start of any grading or development work on the Property, the OWNER shall provide documentation, in form and content acceptable to the City (and additionally acceptable to DeKalb County if DeKalb County requests any such documentation), indicating that there are no pending IEPA investigations or environmental contamination issues with the Property.

D. Security for Public Improvements:
In the event that the Owner constructs any public improvements (inclusive of improvements within or adjacent to a public right of way), then the provisions of this Agreement pertaining to such public improvements shall be invoked. Security to be provided by the Owner for the completion of the public improvements within or adjacent to the Property or related off-site improvements, if any, shall be provided prior to the commencement of construction on the Property or right of way and shall be in accordance with the terms of this Agreement and applicable City ordinances, as modified by this Agreement. The Owner shall provide such security to the City in the form of cash, irrevocable letters of credit or performance bonds. Bonds and letters of credit shall be in a form approved by the City Attorney and be issued by an entity approved by the City Manager or designee from a bank or financial institution located in the United States of America. Any bonds required under City Code or this Agreement shall be from a company licensed to do business in the State of Illinois. Any Letters of Credit required under City Code or this Agreement shall be from a financial institution acceptable to the City Manager (or designee), and the Owner shall provide such information or documentation as to the status of the proposed financial institution as the City Manager (or designee) shall require, to demonstrate their creditworthiness and stability. The amount of security posted with the City shall at all time equal one hundred twenty percent (120%) of the cost of completing required public improvements. The City Council shall authorize the reduction of such security from time to time, but no more than once every one hundred and eighty (180) days, as related offsite work or public improvements within the Property are completed and approved by the City Engineer and prior to their acceptance of such improvements by the City.

E. Acceptance of Public Improvements and Maintenance Bond for Public Improvements:

Upon completion of public improvements and acceptance by the City, the Owner shall provide a signed bill of sale for any items of personal property to be transferred to the City, and shall execute all documentation customarily required by the City to denote acceptance and transfer of ownership. Prior to the acceptance of the streets by the CITY, the streets shall be in a condition acceptable to the CITY and completed with the final lift of asphalt, and all punchlist items previously identified by the City shall be satisfied. Upon acceptance of any public improvement by the City as described above, OWNER shall be entitled to a corresponding release or reduction of any Subdivision Performance Bond or Letter of Credit. For an 18 month period following acceptance of any public improvement, the Owner shall guarantee the workmanship of any public improvements constructed, and shall be responsible for the performance of any repairs or remediation required on such public improvements, as reasonably determined by the City Engineer, to return them to a condition in which they would be appropriate for initial acceptance by the City, including the repair of any ordinary wear and tear on the aforesaid improvements or the repair of any broken or damaged improvements. To secure the performance of this obligation, the Owner shall provide a Maintenance Bond which shall remain in place for an 18 month period from date of acceptance by the CITY. Said maintenance bond shall be equivalent to twenty percent (20%) of the value of the improvement constructed, and shall be in the form of a cash escrow, letter of credit, or other security acceptable in form and content to the City.

F. Stop Work Orders:

The City shall issue stop orders as necessary to insure development occurs as required by this Agreement and City Ordinances. Unless issued in case of emergency, said stop orders shall be preceded by reasonable notice (not less than three days) and opportunity to comply. In the event that the Owner fails to meet any deadline imposed under the terms of this Agreement or otherwise violates any provision of this Agreement, the City may issue stop work orders for any work at the Property, pending either the posting of a security acceptable to the City to guarantee the completion of all work required, or the entry of the Parties into an amendment to this Agreement.

G. Compliance with City Ordinances and Applicable Regulations:
The Parties agree that, except as specifically modified in this Agreement and the attached drawings and Exhibits, the Property shall be developed in compliance with all ordinances, codes and regulations of the City in effect at the time of development. The Parties acknowledge that it is the ultimate responsibility of the Owner to comply with any and all requirements of this Agreement and applicable City Codes. Thus, in the event that up to, but prior to construction or any time after execution of this Agreement, the City or its consultants issue a permit or give an approval not consistent with the terms of this Agreement or any applicable City Codes, such erroneous permit or approval may be of no force and effect and thus may be revoked. The Owner agrees that it may not rely on any such issued permit or approval for purposes of vested rights or estoppels to compel an improvement not consistent with the terms of this Agreement or applicable City Codes. The Owner hereby waives any claims of damages, of any type or character, against the City, its employees or its consultants based on such erroneously issued permits or approvals. A generic utility easement shall be provided by the Owner as may be requested by the City Engineer. All construction shall be in accordance with the City codes and ordinances and any comments of the Community Development Director or other City consultants which shall be provided at the time of plan review. All such comments must be addressed prior to site development. All permits from the Illinois Environmental Protection Agency or any other agency with jurisdiction over the Property must be issued prior to work on water main, sanitary sewer or storm sewer improvements commences.

H. Site Control:

OWNER acknowledges that, depending on weather conditions, construction traffic entering and leaving a construction site creates debris, especially dirt, dust, and mud clots on streets and roadways adjacent to the construction site. OWNER agrees that it shall inspect and clean the streets and roadways adjacent to and within 1,000 feet of the entrance to OWNER’S construction site, and take measures to control dust as needed daily while construction is occurring on said site. OWNER further agrees to periodically mow weeds, pick up trash and debris and repair and replace soil erosion control fencing so as to comply with applicable ordinances of the CITY, all of which activities may be contracted to its development trades and contractors. Owner shall also patch or repair damage to any roadway, path, driveway, sidewalk or other similar improvement which may be damaged during the course of Owner’s construction or maintenance activities.

I. Building Codes:

In constructing improvements and conducting renovation on the Property, the Owner shall comply with all then-current building codes of the City of DeKalb or any other agency having jurisdiction over the Property. At the time of any future amendments or modifications of the building or the Property, the Owner shall comply with the then-current code requirements of the City.

J. Fire Suppression / Alarm:

The Owner shall install and maintain as operational a full fire suppression and alarm system acceptable to the Fire Chief or designee and shall, except during reasonable periods of maintenance, thereafter keep such systems in service, operational and in good repair.

K. Completion of Building Improvements:

Owner shall complete all of the building improvements contemplated in the Plans within six months of the date of approval of this Agreement. Owner expressly agrees and acknowledges that it shall complete all of the improvements and amenities contemplated by the Plans and by this Agreement, including but not limited to those outlined below. Once any improvement contemplated herein is completed and installed, it shall thereafter be maintained in good repair and operational status.
1) Installation and subsequent maintenance and operation (including remote monitoring) of fire suppression and alarm systems.

2) Installation and maintenance of all required emergency lights and fire extinguishers, based upon the standards originally applicable to the structure at the time of construction (and prospectively, based upon the applicable standard required under the City’s then-current building code).

3) Installation and subsequent maintenance of the garbage enclosures as contemplated herein.

4) Development of a revised plan for snow removal and deicing for all hard surface areas of the Property (inclusive of parking areas, driving areas, sidewalks and paths), in a format acceptable to the Community Development or designee, in a fashion that provides for clearing of snow and ice from such areas without impeding the use or availability of resident parking or walking areas (i.e. without unnecessarily piling snow within parking areas or on walking paths).

5) The Parties acknowledge that Owner contemplates ‘renovation in place’ for the Property. Not less than two (2) weeks prior to the date of any contemplated renovation of an individual unit, Owner shall provide an opportunity for the inspection of the unit by the City’s designated building inspector. Such inspection shall be performed at Owner’s cost. The City shall generate a punchlist arising out of such inspection and identifying all areas where the City has identified a condition which violates an applicable building or property maintenance code. Each punchlist shall also include an agreed-upon moisture remediation plan on a unit-by-unit basis. At the time of such inspection, all items requiring a building permit shall be identified, and all permits shall be obtained prior to commencing any work on the unit. Owner shall apply for and obtain building permits prior to commencing any unit renovation, and at the time of renovation, shall successfully remediate all conditions noted on the City’s pre-renovation punchlist. Each unit shall then be subject to a post-renovation inspection by the City, at Owner’s sole cost, for the purpose of confirming that all renovation has been properly completed, and that all punchlist items have been successfully repaired; such inspection shall be incorporated into the “final” inspection for permitted building improvements. Building permits shall also be obtained for any other component of renovation which requires the same under any applicable Code or Ordinance.

6) In the event that any unit is discovered to have mold, mildew or water damage at any point in time, such conditions shall be professionally remediated in accordance with all then-current building codes and applicable standards. This provision shall apply with regard to the renovation of each individual unit, and shall apply subsequently to the maintenance and operation of the Property.

7) Any structural issue identified in any residential unit (including but not limited to failing or deteriorating patios or porches, failing or deteriorating floor joists, roof joists, supports or beams, or other similar structural issues) shall be professionally repaired in accordance with the then-current building code at the time of unit by unit renovation.

8) Owner shall install and maintain landscaping that meets the approval of the Chief of Police of the City or designee thereof (as to Crime Prevention Through Environmental Design) and the approval of the Community Development Director or designee thereof as to appearance.

9) All other requirements contemplated herein shall be fully satisfied.

10) All exterior site improvements (e.g. sidewalks, bike parking, parking areas, lighting, landscaping and similar issues) shall be completed prior to issuance of a temporary or final certificate of occupancy for the Property or building.

11) The building shall be served by a complete fire suppression system and interconnected,
monitored fire alarm system in form and content acceptable to the Fire Chief and Chief Building Official.

12) The mechanical room of the building and each bedroom therein shall be served by an interconnected carbon monoxide detection system, linked to the monitored fire alarm system, in form and content acceptable to the Fire Chief and Chief Building Official.

13) All bedrooms, exterior doors and stairway doors shall be equipped with automatic door closers, which shall be maintained as operable at all times and which shall not be obstructed, blocked open, or disabled.

14) The kitchen area shall have a code compliant hood and exhaust system installed with an ANSI UL fire suppression system (or equivalent) in compliance with codes, which hood and suppression system shall have a current annual inspection sticker in place at all times, evidencing current inspection status, if used for cooking and food preparation.

15) Emergency lighting, exit lighting and fire extinguishers shall be installed and maintained pursuant to all applicable codes.

ARTICLE IV: INFRASTRUCTURE:

A. Water Mains and Potable Water Supply:

The Property is currently serviced by an existing connection to the City’s potable water system. In the event that the Property requires an additional, oversized or further connection to the City’s water system, and provided that there remains adequate pressure and flow at the time of proposed connection, the Owner shall have the right to connect to and use such system and mains upon payment of those capital, tap-on and user fees required by the then-current City ordinance or resolution. Tap-on / connection and capital fees shall be due at the time of building permit application. Said fees may be changed by the City from time to time in the City’s sole and absolute discretion, and Owner agrees to pay the amount as required by the City at the time such payment is due. The Owner shall be responsible for constructing all on-site and off-site improvements necessary to connect to the Property and any development on the Property to the presently existing water mains and potable water supply of the City. The Owner shall be exclusively responsible for the payment of all costs, expenses and charges associated with the design, construction and permitting of such improvements, including but not limited to any security required under this Agreement or applicable law, any permits required by the City, the Illinois Environmental Protection Agency or any other agency having jurisdiction, or any other costs whatsoever. At any time that Owner replaces any water mains on the Property at any point in the future, all water mains replaced shall be replaced with a water main at least eight inches (8”) in diameter.

B. Intentionally Omitted:

C. Sanitary Sewers:

The City shall cooperate with the Owners and execute all applications, permit requests and other documents required to obtain sanitary sewage treatment service from the DeKalb Sanitary District in order to allow the Owner’s connection to the existing and future sanitary sewer lines installed on the interior and exterior of the Property. The Owner shall pay to the requisite governmental entity their respective shares of all permits, inspection and tap on fees that are required at the time of connection to such sanitary sewer system. It shall be the Owner’s responsibility to contact the DeKalb Sanitary District to ascertain the status of and make the appropriate contributions toward any existing recapture agreements pertaining to sanitary sewer lines, lift stations or other sanitary system infrastructure, or contributions,
accommodations, or agreements regarding the oversizing of sanitary sewer lines or other sanitary system improvements required by the DeKalb Sanitary District. No separate sanitary sewer fees are due to the City, except for standard building permits, connection and inspection fees, and any fees collected by the City on behalf of the DeKalb Sanitary District payable City-wide as a condition to connection to and the use of the system by all properties.

D. Utility Connections:

The installation of the necessary and appropriate on-site electric, natural gas, cable, television, telephone facilities, and future internet access facilities (when available) to the Property shall be by underground installation and pursuant to the requirements of such utility companies or pursuant to the agreement of the City with such entities and at no cost to the City. The City agrees to cooperate with the Owner to permit the extension of all such utilities along existing public right-of-ways and/or City owned property and otherwise allow the extension of all necessary utilities to the Property, provided, however, that the City's agreement to cooperate with the Owner to allow the extension of utilities to the Property shall in no way relieve the Owner of their obligations to obtain any and all easements and permits necessary to do so, at Owner's sole cost and expense.

E. Grant of Easements / Right of Way:

The Parties acknowledge that at present, the City does not contemplate the installation of additional public utilities or street improvements in the vicinity of the Property. However, the Owner agrees and acknowledges that it shall grant to the City, at no cost to the City, easements or right of way along the perimeter of the Property upon request, if required for the construction or maintenance of public improvements owned or operated by the City, or by any governmental entity providing services to the Property. Such easements shall be limited in size as reasonably required to provide area for public improvements, and shall not extend beyond fifteen feet from the edge of the Property without the Owner's express, written consent. The Parties acknowledge that there is presently a utility easement running across the Property, from east to west, that is approximately ten feet in width. Said easement shall be vacated at Owner's expense, within six months of the date of execution of this Agreement.

ARTICLE VI: PROPERTY RELATED PROVISIONS:

Owner shall comply with the following restrictions which shall be deemed to be applicable to the entire Building and Property, as a condition of this Agreement and the incentives included herein, and as a component of the zoning relief granted herein.

1) Owner shall collaborate with the City on the location and installation of fiber optic cables on the Property, in such locations as the City shall reasonably request, to permit service of the Property or other properties by fiber optic connections. Where and if Owner is installing fiber optic service within the Building, Owner shall install additional fiber optic cables for use by the City in providing public wireless internet access and/or security cameras as described herein, at the cost and expense of the City, upon request (and Owner shall reasonably collaborate with the City on such routing). Where Owner is running fiber optic cables on the Property or permitting others to cross the Property with such cables, Owner shall provide the City an opportunity to provide its own cables to be installed in the same location, at the cost and expense of the City.

2) Owner shall, upon request of the City, provide the City with access to the property and a source of 120v power and an internet connection in a convenient location, to provide power for the installation of public security cameras viewing exterior areas of the Property or public areas surrounding the Property. Installation and maintenance of City-owned cameras shall be at the City's expense (provided that Owner shall provide power and internet access). Such cameras shall be for use in viewing exterior common areas of the Property (and surrounding public or private outdoor areas) only.
3) Owner shall grant the City such public access and/or public utility easements as shall be reasonably requested by the City at the time of final plan approval.

4) Owner shall provide building lighting and street lighting on the Property based upon a consistent standard adopted at the time of final plan approval, acceptable to Owner and the City, and shall thereafter maintain lights in such locations in compliance with the adopted standards.

5) Any marketing signs, off-site signage or temporary signs of any form shall be installed only in strict compliance with the applicable provisions of the UDO pertaining to permitting and authorization of such signs.

ARTICLE VII: FEES AND CONTRIBUTIONS:

A. Specified Fees:

The Owner shall pay all fees imposed under City Ordinance in the amount and in the time as described by such applicable Ordinance. The City and Owner shall, at the time of payment of any required fee, cooperate to determine the amount of the fee due.

1. School Impact Fees: The Parties acknowledge that the Property is contemplated pursuant to the terms of this Agreement, to be utilized in a fashion that does not invoke the payment of impact fees. However, the Parties agree and acknowledge that should the Property be used in a fashion inconsistent with the terms of this Agreement at a future date and should the Property thus trigger any obligation of the then-current impact fee ordinances or agreements in effect, the Property shall then be subject to the payment of such fees and this Agreement shall not preclude such fees.

B. Fees Specifically and Uniquely Attributable:

The Parties further agree that the fees contained within this Agreement are specifically and uniquely attributable to the development of the Property and that the OWNER participated in the calculation and reconciliation of said fees, and neither the OWNER nor any successor, hereby agree they will neither file any lawsuit nor take any other legal action challenging the imposition, collection, use, necessity enforceability, validity, or applicability of the fees described in this Agreement, nor shall OWNER pay any such fees under protest. Notwithstanding the foregoing, OWNER or the subsequent owners or developers of any portion of the Property shall be responsible for payment of all future fees, charges and assessments relating to their use or modification of the property, including but not limited to building permit fees for remodeling of any structure on the development, and similar charges or fees.

C. Owner Responsibility for Costs:

Owner agrees and acknowledges that, as a result of the preparation of this Agreement and related documents, and as a result of the ongoing commitment of resources by the City that is caused as a direct result of this Agreement, the process of creating this Agreement, and the Development that is to be constructed under the terms of this Agreement, the City may incur substantial expenses at the request of Owner, and the Owner may become responsible for substantial charges and fees in order to perform its obligations under this Agreement. Owner acknowledges that assignment or transfer of any interest in any property subject to this Agreement can increase the complexity of recovering those costs for the City and, in order to induce the City to enter into this Agreement, Owner agrees as follows:

1. Prior to the sale, assignment, lease or other transfer of any portion or portions of the Property, Owner shall provide not less than thirty (30) days notice to the City that such transfer is contemplated. Transfers among or between family members related by blood or marriage, or between trusts, corporations, partnerships or limited liability companies
which are entirely owned or controlled by family members related by blood or marriage, shall not be construed as transfers giving rise to a potential obligation under this subsection.

2. Within fifteen (15) days of the receipt of such notice, the City shall provide Owner with a calculation of the total amount believed to be outstanding as costs for which Owner is responsible.

3. Prior to, or at the closing of, the consummation of such transfer, Owner shall cause all such amounts to be paid to the City.

4. At any time within ninety (90) days following consummation of such a transfer, the City shall provide final calculations of the total amount due from Owner and Owner shall pay all such amounts within thirty days of the City providing such notice.

5. In the event of a failure of Owner to comply with this subsection, Owner, along with the interest holder to which an interest in the property subject to this Agreement was transferred, shall be jointly and severally liable to the City for all such amounts described above, plus attorneys' fees, court costs, other collection costs, and interest at a rate not to exceed eight (8%) percent per annum, until such amount, including costs and interest, is paid in full.

6. Any notice of amounts so due under this agreement shall include accurate and complete (to the extent that such documentation exists) documentation from the City.

Owner further acknowledges that, at any point, if Owner fails to make a payment requested by the City within thirty (30) days of such request, or such additional time as the City shall agree to provide (with any such extension being acknowledged by the City in writing), the City may unilaterally choose to implement any or all of the following remedies until such point in time as Owner has paid all amounts due and/or restored any escrow accounts maintained by the Owner by virtue of this Agreement:

1. Issuance of a stop work order on any portion of the Development.

2. Refusal to issue further permits for building, occupancy, water tap on, or other development related work.

3. Cessation of any utility service provided by the City to any property owned or maintained by Owner or their successors or assigns.

4. Institution of appropriate legal action to recover any and all amounts due, in which case the City will be entitled to attorneys' fees, court costs, other collection costs, and interest at a rate of eight (8%) percent per annum, until such amount, including costs and interest, is paid in full.

5. Cessation of any or all work on or pertaining to the Property by City staff, employees or consultants.

ARTICLE VIII: OPERATION OF THE PROPERTY:

A. Acknowledgment of Application of Operational Standards:
The Parties acknowledge and agree that the provisions of this Article VIII relating to the operation of the Property following its rezoning and redevelopment are critical and integral to the zoning standards provided for herein. The Owner agrees and acknowledges to comply with the following standards and requirements, and acknowledges that they have been drafted to address the public safety concerns otherwise arising out of the operation of a development with a zoning density that greatly exceeds the density otherwise contemplated by permissible zoning allowances.

B. Operation and Lease Provisions:

In consideration of the provisions herein and in order to construct and maintain a development of the quality intended by the Owners and expected by the City, the Owners agree to secure, through covenants, operational policies or other means acceptable to the City, to provide management of the Property that will comport with the following standards, subject to applicable superior governmental mandates:

1) Any bedroom rented shall have a written lease that shall include a Crime Free Housing Lease Addendum in the format then-currently approved by the City.

2) Any person living in any bedroom, except for children under the age of eighteen (18), must be a party to the lease and must sign the lease.

3) A thorough criminal background check and other screening shall be implemented by Owner to all prospective tenants where permitted by law and the Owner shall, to the fullest extent permissible under the applicable laws, make responsible tenant approval decisions based upon such information.

4) Each individual bedroom shall satisfy all restrictions on consanguinity imposed under applicable City Codes or Ordinances.

5) Leases shall include restrictions limiting rental to persons with valid student identification (and their individual respective family to the extent required under federal law), showing current enrollment at a public or private college or university during the term of the lease (or other adequate documentation evidencing such enrollment). Notwithstanding the foregoing, the Owner may prelease apartments to students who are anticipated to enroll in a qualifying educational institution, provided that enrollment is verified at or prior to move-in, and provided that non-students shall not be permitted to reside at the Property (except as outlined above). The Parties acknowledge that, at present, college student status is not a protected classification under the Fair Housing Act and the Parties are unaware of any disparate impact or other analysis which could suggest that the inclusion of this restriction is a violation of any applicable laws. The Parties further acknowledge that this provision has been drafted to fully comply with all applicable laws and regulations, and to maintain the safety of the Property inclusive of the density contemplated herein. However, in the event that the City or the Owner is the subject of any litigation challenging the legitimacy of this restriction, the Owner shall undertake a defense of said claim in good faith and the Owner shall give the City prompt notice of any such claim. If such claim is resolved in a fashion that results in a judicial or administrative determination that this provision is unenforceable, this provision of the Agreement shall be severable without affecting the enforceability of the remainder of the Agreement. Additionally, employees of a public or private college or university shall be permitted to reside at the Property. The Owner shall, upon request of the City, provide such documentation as shall be reasonably required to demonstrate compliance with the provisions of this Agreement, including student/faculty status and overall occupancy, and shall cooperate with any audit by the City of the same. Owner shall be permitted to have one non-student resident to serve as a manager of the Property.

6) Leases for the individual bedrooms within the building on the Property shall reserve to
the Owner and City the rights of entry and inspection as contemplated herein.

7) Owner shall, at any time upon the City’s request, provide a current list of all inhabitants and their contact information.

8) Owner shall designate an individual as the Property Manager. Said Property Manager shall provide the City with a 24 hour emergency contact cellular telephone and shall be available to respond to any public safety or other emergencies at the Property at any time, and shall respond upon request of the City. The Property Manager shall have authority to grant access to any portion of the Property, including but not limited to individual bedrooms, common areas, bathrooms and kitchen areas, upon the request of the City’s Fire Department or Police Department, at any time. The Property Manager shall be the Owner’s designee and shall be legally responsible for any citations issued to the Property for violation of any City Ordinance, including but not limited to property maintenance violations and disorderly house violations. The Property Manager shall also be responsible for applying for and obtaining any required City permits or permissions prior to the conduct of any event on the Property that requires the same, including but not limited to Mass Gathering Permits. At any time that the Property is occupied and the Property Manager is unavailable, Owner shall provide the City with a supplemental responsible party who shall be available and who shall be accessible at the same emergency phone number as the Property Manager.

Owner agrees and acknowledges that it believes each of the foregoing conditions are fully in accordance with all applicable superior governmental mandates, and that it intends to enforce such requirements based upon current law.

C. Public Safety Regulations: Trespass/Patrol Agreement:

The Parties shall keep in place at all times a No-Trespass Enforcement Agreement, in the then-current format utilized by the City of DeKalb (with such agreement currently being in the form attached hereto as Exhibit C), and shall cooperate at all times with regard to the enforcement of such Agreements. Further, and without regard to the content of such Agreements for exterior common areas of the Property, and shall authorize and request the routine patrol of such areas by the City of DeKalb Police Department or other sworn officers, based upon the availability of resources for such details. Additionally, the Owner shall grant the City access to interior common areas of the Property upon request, in response to a complaint or in response to or in investigation of a possible crime.

Owner shall also make itself and its management representative available for meetings with the City on a periodic basis (or as otherwise requested by the City) for the purpose of reviewing security plans, trespass enforcement lists or similar issues.

D. Knox Boxes:

The Owner shall install and maintain a ‘Knox Box’ entry systems for use by City of DeKalb emergency responders, at locations designated by the City of DeKalb Fire Chief, and shall ensure that such systems are available for use and operational at all times.

E. Crime Free Housing and Inspection Coordination, Rooming House License:

The Parties acknowledge that the Rooming House License program generally contemplates full interior and exterior inspections of properties to confirm compliance with applicable City Codes. Given the density of residential development contemplated for the Property, the Owner agrees that it shall coordinate and permit an annual inspection of the entirety of the Property by such personnel as the City shall designate, shall thereafter promptly remediate any violations observed during such inspections, and shall permit reinspection to confirm that all violations have been corrected. The Owner shall also grant
consent to the City to inspect the Property on not less than 48 hours notice (unless a shorter time period is otherwise required by City Code) at any time the City receives a complaint from any third party regarding an alleged violation of applicable codes or regulations, or at any time where required under City Code. Owner or a representative shall be entitled to be present at any such inspection. Inspections pursuant to this consent may be conducted by any City personnel, including Police Department, Building, Public Works, or Fire Department staff, City Manager or other staff authorized by the City Manager, for purposes of determining compliance with the provisions of City Code, or for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the premises. The Owner shall procure and reserve all required permissions and consents for such inspections from any occupants of the Property. The Owner shall pay all fees associated with any generally applicable current or future inspection or registration program utilized by the City for commercial or residential rental properties. In the event that the City at any time terminates its Crime Free Housing Program or inspection protocol, the Property shall nonetheless continue to be subject to the terms of this Agreement and the inspection provisions herein.

F. Common Area Surveillance:

The Parties acknowledge that the Owner maintains or prospectively shall maintain cameras or other equipment utilized to provide video surveillance and security coverage for the parking lot and for exterior common areas of the Property inclusive of entrances to the interior of the Property. The Owner agrees to provide to the City a connection and inter-link so that the City can remotely monitor such exterior common area surveillance videos from the City Police Department. The Owner shall be responsible for providing and maintaining all technology required to establish an external, static IP address securely accessible by the City with video feed in a format acceptable to the City Police Department. With regard to such interlink, the Parties agree to mutually indemnify and hold harmless the other party from any claim arising out of the monitoring or failure to monitor such systems. Such interlink shall permit the City to access a digital feed of live data collected on the Property, and shall also allow the City to access data stored in any recording devices installed or maintained by Owner with respect to such surveillance. The Owner and a representative of the City’s Police Department shall meet within thirty days of the date of execution of this Agreement to review the Property and determine mutually acceptable locations for cameras to be utilized in such system to their mutual satisfaction, which agreement shall not be unreasonably withheld or conditioned. All security cameras and security equipment in place on the Property shall be maintained in good and fully-operable condition, acts of God and other reasonable and unforeseeable temporary interruptions excluded. All security cameras shall be equipped with a recording system that permits the retention and review of all footage obtained for a period of not less than fourteen days, and Owner shall provide the City with access to such archive and shall provide copies of any footage retained therein at any time upon request.

G. Tenant Notification:

The Parties acknowledge that, because of the density of this development, the Parties have agreed upon a proactive public safety policy to maintain a high-quality and safe development, and to prevent public safety concerns that could otherwise arise. The Owner shall provide each tenant or prospective tenant with a notice in a form acceptable to the City, advising such tenants of the provisions of this Agreement pertaining to City of DeKalb involvement in policing the Property or otherwise inspecting or monitoring the Property.

H. Conflict with Federal Law and Regulations:

In the event that any provision of this Agreement conflicts with applicable federal laws or regulations, including those pertaining to affordable housing, the City and Owner recognize that the federal law shall supersede local regulation to the extent required under federal law. Nothing in this
Agreement shall be construed in a fashion that violates any federal statute governing affordable housing. Notwithstanding the foregoing, the Owner and City agree and acknowledge that they have reviewed and negotiated the terms of this Agreement with great care and precision, and both agree and covenant that they believe in good faith that the terms hereof are in compliance with all applicable laws. In the event that a federal law supercedes any provision hereof, the Parties agree that they shall negotiate in good faith to approve an amendment to this Agreement that complies with the applicable federal law, and which accomplishes the objective of the term of this Agreement which violates federal law.

**ARTICLE IX: MUTUAL ASSISTANCE:**

The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement; to aid and assist each other in carrying out the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms, including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the City of such resolutions and ordinances and the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement.

**ARTICLE X: REMEDIES:**

Upon a breach of this Agreement, any of the Parties, in any court of competent jurisdiction, by an action or proceedings at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance or both. No action taken by any party hereto pursuant to the provisions of this Article or pursuant to the provisions of any other Article of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and nonexclusive of any other remedy either set forth herein or available to any party at law or in equity.

In the event of a material breach of this Agreement, the Parties agree that the party alleged to be in breach shall have forty-five (45) days after written notice of said breach to correct the same prior to the non-breaching party’s seeking of any remedy provided for herein (provided, however, that said forty-five (45) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

If any of the Parties shall fail to perform any of its obligations hereunder, and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within forty-five (45) days of such default notice (provided, however, that said forty-five (45) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default.

The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party’s rights thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

If the performance of any covenant to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, weather, terrorist acts of a direct or indirect nature,
material shortages, flooding, strikes or similar acts), the time for such performance shall be extended by the amount of time of such delay.

The violation of any provision of this Agreement may be deemed by the City to be a violation of the PD-R zoning contemplated herein, which may be prosecuted in the fashion of any other violation of the City's Uniform Development Ordinance, or may be grounds for initiation of a proceeding under Article XII (K) hereto.

ARTICLE XI: TERM:

The Parties acknowledge that this Agreement has been negotiated in furtherance of the designation of the Property with PD-R zoning that authorizes the high density contemplated herein. Accordingly, except as otherwise provided herein, it is the intention of the Parties to maintain this Agreement in full force and effect for the full duration of the time that the Property maintains PD-R zoning and, to the fullest extent of the law, the Parties intend that this Agreement not terminate unless and until the Parties agree to amend this Agreement.

In the event that the law requires any lesser term for this Agreement, then this Agreement shall remain in full force and effect for the maximum duration permitted by law, and in the event that any applicable law requires the specification of a duration, such duration shall be not less than forty (40) years.

ARTICLE XII: MISCELLANEOUS:

A. Amendment:

This Agreement, and the exhibits attached hereto, may be amended only by mutual consent of the City and Owner of an affected Parcel, by adoption of an ordinance by the City approving said amendment as provided by law, and by the execution of said amendment by the City and Owner.

B. Severability:

If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements and portions of this Agreement, and to that end, all provisions, covenants, agreements and portions of the Agreement are declared to be severable. If for any reason the zoning of the Property is ruled invalid, in whole or in part, the Corporate Authorities, as soon as possible, shall take such actions (including the holding of such public hearings and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit and intent of this Agreement and the objectives of the Parties, as disclosed by this Agreement, provided that the foregoing shall be undertaken at the expense of the Owner, as applicable.

C. Entire Agreement:

This Agreement sets forth all agreements, undertakings and covenants between and among the Parties. This Agreement supersedes all prior agreements, negotiations and understandings, written and oral, and is a full integration of the entire agreement of the Parties. In the event of any conflict between two or more components of this Agreement providing standards, guidelines or requirements for OWNER to act upon in or around the Property, construction or related activities for the Property, the more restrictive provision shall apply unless the City agrees otherwise.

D. Successors and Assigns:

This Agreement shall inure to the benefit of, and be binding upon, successors of the Owners and its respective successors, grantees, lessees, and assigns, and upon successor corporate authorities of the
City and successor municipalities, and shall constitute a covenant running with the land. This Agreement may be assigned without the City's approval, and upon said assignment and acceptance by an assignee, the assignor shall have no further obligations hereunder. If a portion of the Property is sold, the seller shall be deemed to have assigned to the purchaser any and all rights and obligations Seller may have under this Agreement which affect the portion of the Property sold or conveyed and thereafter the seller shall have no further obligations under this Agreement as it relates to the portion of the Property conveyed.

E. Notices:

Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at the following addresses, or at such other addresses as the Parties may, by notice, designate:

City Clerk
City of DeKalb
200 South 4th Street
DeKalb, IL 60115
Telephone: 815-748-2095
Fax: 815-748-2089

With copies to:
City Manager
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
Telephone: 815-748-2060
Fax: 815-748-2359
Email: Annemarie.gaura@cityofdekalb.com and joellen.charlton@cityofdekalb.com

City Attorney
City of DeKalb
200 South 4th Street
DeKalb, IL 60115
Telephone: 815-748-2093
Fax: 815-748-2320
Email: dean@frieders.com

If to the Owner:

With a Copy To:

Notices shall be deemed given on the third (3rd) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

F. Time of Essence:

Time is of the essence of this Agreement and of each and every provision hereof.

G. Indemnification:
The Owner covenants and agrees to pay, at its expense, any and all damages, expenses, liabilities and losses resulting from this Agreement, the construction and development activities of the Owner, or its agents, contractors and subcontractors, and to defend and indemnify and save the City and its officers, elected and appointed agents, employees, engineers and attorneys (collectively, the “Indemnifieds”) harmless of, from and against such damages, expenses, liabilities and losses, except to the extent such damages, expenses, liabilities and losses arise by reason of the gross negligence or willful or wanton act or omission of the Indemnifieds. The Owner shall provide satisfactory proof of insurance covering such defense and indemnity of the Indemnifieds. OWNER further agrees to indemnify, defend and hold harmless the CITY and the Corporate Authorities, officers, agents, employees, and consultants (collectively “Indemnitees”) from all claims, liabilities, costs and expenses incurred by or brought against all or any of the Indemnitees as a direct and proximate result of the construction activities of the OWNER.

Without limiting the applicability of the foregoing indemnification provisions, the Owner expressly and without limitation agrees that it shall indemnify and hold harmless the City from any claims, damages, fines, penalties, legal fees or other costs or expenses whatsoever, arising out of Owner’s activities or construction on the Property and relating to any federally protected wetland, the delineation or failure to delineate wetlands, the protection or mitigation or failure to protect or mitigate wetlands, the identification of floodplains, or the construction of any improvement or structure in or near any wetland or floodplain area, within or outside the Property.

H. Exhibits:

The following Exhibits referred to herein and attached to this Agreement are hereby made a part of this Agreement:

- Exhibit A: Legal Description
- Group Exhibit B: Plans
- Exhibit C: No Trespass Agreement
- Exhibit D: Traffic Enforcement Agreement

I. Venue:

Jurisdiction and venue for any dispute arising out of relating to the terms of this Agreement, the zoning or restrictions imposed hereunder, the development of the Property or otherwise relating to the relationship of the Parties or contents hereof shall have its jurisdiction and venue exclusively fixed in the Twenty-Third Judicial Circuit, DeKalb County, Illinois, and the parties expressly and intentionally waive the right to pursue claims in any other jurisdiction or venue.

J. Revocation of Zoning and Termination of Planned Development Agreement:

In the event that the Owner violates the terms of this Agreement, the City shall issue a written notice to Owner. Said notice shall indicate that the City shall terminate the Agreement in accordance with this provision, after affording the Owner an opportunity to present evidence as to why the Agreement has not been violated, in a due process hearing before an officer designated by the City Manager or designee thereof, conducted in the same fashion as a hearing to revoke a Special Use. After the conduct of such hearing, the City shall be authorized and entitled to terminate this Agreement, at which time the Property shall be converted back to its previous status as MFR-2, and the City shall record a notice of such zoning change against the Property. The Owner and City have devised and agreed to the process contained herein so as to afford the Owner with a due process proceeding and so as to avoid an unlawful zoning reversion. Once the improvements contemplated herein are timely completed, inspected and approved with a final certificate of occupancy in place, the zoning approvals contemplated herein shall no longer be
subject to revocation under this Section.
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written and, by so executing, each of the Parties warrants that it possesses full right and authority to enter into this Agreement.

CITY:

CITY OF DEKALB, an Illinois Municipal Corporation
By: ____________________________
   Jerry Smith, Mayor

OWNER:

Blackhawk Drive, LLC
By: ____________________________
   ____________________________
   ____________________________

Attest: ____________________________
   ____________________________
   ____________________________
Exhibit A: Legal Description

The property is legally described as:
EXHIBIT A

Parcel 1: Lot 12 in Block 3 in Fifth Addition to Rolling Meadows Subdivision, a Subdivision of a part of Section 15, Township 40 North, Range 4 East of the Third Principal Meridian, according to the Plat thereof recorded February 27, 1964, as document No. 320234, in Plat Book "M", page 80, in DeKalb County, Illinois.

Parcel 2: Lot 13 in Block 3 in Sixth Addition to Rolling Meadows Subdivision, a Subdivision of a part of Section 15, Township 40 North, Range 4 East of the Third Principal Meridian, according to the Plat thereof recorded August 28, 1964, as document No. 323083, in Plat Book "N", page 7, in DeKalb County, Illinois.

The aforementioned legal description is comprised of Parcel Identification Number (PIN) 08-15-176-021 and commonly known as 1114 Blackhawk Road, DeKalb, IL 60115.
Group Exhibit B: Plans

(Attached)
Exhibit C: No Trespass / Patrol Agreement

Common Area Patrol / No-Trespass Enforcement Agreement

Property Address: 1114 Blackhawk Dr, DeKalb

Commonly Known As: Blackhawk

Property Owner: Blackhawk LLC
Contact #: 815-370-4151

Property Manager: Chris Chouteau
Contact #: 815-747-4741 ext. 21

24 Hour Contact #: Same

This Common Area Patrol / No-Trespass Enforcement Agreement ("Agreement") is entered into by and between the Owner of the Property identified above ("Owner" and "the Property") and the City of DeKalb ("City"). Under the terms of this Agreement, the Owner expressly authorizes and requests that the City utilize its Police Department and City Employees to undertake the following actions:

- **No-Trespass Warnings and Arrests:** The Owner appoints the City of DeKalb, its employees and agents, as an agent of the Owner, authorized and requested to undertake any actions which the Owner could lawfully take with regard to persons present on any public or private area of the Property. The City’s personnel shall be deemed to be representatives of the Owner for purposes of enforcing no-trespass laws and ordinances and signing and testifying with regard to related complaints only. This includes providing no-trespass warnings, verbal or written, to any person on the Property other than a tenant of the Property. The City shall also be authorized to sign complaints, serve as complaining witness, and arrest or cite any person who has violated such a no-trespass warning, or who remains on the Property after being asked to leave. The City has the complete authority to enforce any State Statute or City Ordinance relating to trespass. The City shall maintain accurate records of all persons who have been advised not to trespass on the Property and shall provide a copy of the same to Owner upon request.

- **Patrol Common Areas:** The City, its employees and agents are authorized and requested to enter into any common area of the Property that is accessible either to the public or to tenants of the Premises, including parking lots, open spaces, common hallways, gathering areas, or other similar common areas of the Property, for purposes of patrolling, observing, and enforcing the Codes and Ordinances of the City of DeKalb or any applicable State Statutes. For purposes of this Agreement and any charges arising out of the City’s activities on the Property, the City and its personnel shall be deemed to have been invited upon the common areas of the Property. Notwithstanding the foregoing, this shall not constitute authority for the City to enter into tenant private areas (e.g. individual tenant apartments or individual tenant businesses) without required legal authority (such as a search warrant, probable cause, exigent circumstances, etc. where required). The City is authorized to sign complaints; serve as complaining witness, and arrest or cite any person who has violated a State Statute or City Ordinance.
Report Cars for Relocation: Owner employs the entity described at signs posted at the Property for purposes of relocating unlawfully parked cars from the Property. The City is authorized and requested to contact the tow relocator to report any vehicles on the Property that appear to be unlawfully parked, so that said vehicles may be towed in accordance with applicable regulations.

The Owner agrees that, if necessary, Owner or its authorized representative shall appear at any trial or proceeding arising out of the performance of this Agreement. Owner further acknowledges that the City shall not have any duty to patrol the Property, and that the Owner is responsible for the condition and monitoring of its Property. The City is not undertaking any special relationship with or obligation to Owner, other than the authority to enter the Property’s common areas, and to take the actions outlined above. The City is not an agent or representative of the Owner for any purpose other than having authority to provide warnings or direct persons to leave the Property, and for serving as complaining witness and for signing complaints for legal violations occurring on the Property.

The City agrees that it shall provide notice to the Owner of any legal violations occurring on the Property upon request, and also in accordance with the requirements of City Code.

Owner shall post appropriate signage on the Property advising that its common areas, including but not limited to parking lots and open areas, are posted for No Trespassing, and appropriate signage advising of any parking restrictions for vehicles in its parking lots. Owner is encouraged to post additional signage advising that the Police Department may engage in regular patrols of common areas.

This Agreement shall remain in full force and effect until terminated in writing by either party. Notices shall be delivered to Owner at the address listed above, or to the City at 200 S. Fourth Street, DeKalb, Illinois, 60115, Attention City Attorney.

Agreed this ___ day of Nov., 2017.

Owner or Representative: Blackhawk Inn LLC

City of DeKalb

[Signature]

[Seal]
Exhibit D:

Traffic Enforcement Agreement
Exhibit D: Private Property Traffic Enforcement Agreement

AGREEMENT

WHEREAS, the affiants or subsidiaries (hereinafter collectively "OWNER"), are the owners of a certain commercial or residential facility, or other facility as described in the Illinois Vehicle Code identified below, and named or identified as "1114 Blackhawk"; and,

WHEREAS, the OWNER and the CITY are desirous of protecting the public health, welfare and safety by the regulation of vehicles in those areas of the COMPLEX which have not been dedicated to the CITY and are intended for public use; and

WHEREAS, it is intended by the parties that this Agreement should apply to any property in the COMPLEX where a question may arise as to whether any particular portion of the COMPLEX which is intended to be or become public property through dedication or otherwise, has been so dedicated, or to any portion which is to remain private property but available for general public use; and

WHEREAS, the CITY has the authority to contract with the OWNER to provide such regulation under the provisions of §11-209 of the Illinois Vehicle Code (625 ILCS 5/11-209);

IT IS THEREFORE AGREED by and between the OWNER and the CITY, in consideration of the public health, welfare and safety, as follows:

1. That the CITY is empowered to accomplish all or any part of the provisions enumerated in the above referenced statutory provision, including, but not limited to the following, within the COMPLEX:

   A. Erect traffic regulatory signs, parking, including handicapped parking, and all other traffic control signs.

   B. Regulate the turning of vehicles or restrict vehicle types.

   C. Regulate pedestrian crosswalks within parking lots.

   D. Designate one-way traffic lanes.

   E. Establish and regulate loading zones.

   F. Regulate stopping, standing or parking in specified areas of lots.

   G. Designate fire lanes and safety zones.

   H. Provide for removal and storage of vehicles during public emergencies, or of abandoned vehicles, and the payment of reasonable charges therefor.

   I. Provide for cost sharing of planning, installation and maintenance of traffic regulations.

   J. Contract for or provide by ordinance, resolution or other official action of the CITY, reasonable additional rules.

2. That the cost of the planning, installation and maintenance of parking and traffic regulations, markings, signs, striping and painting pursuant to this Agreement, and pursuant to the Development Agreement between the parties and the subdivision control ordinance of the CITY, shall be borne by the OWNER. OWNER shall be responsible for maintaining all traffic control measures and markings within the Property in good condition.
3. This Agreement shall be effective and enforceable three days after it has been recorded in the Office of the Recorder of Deeds of the county in which the COMPLEX is located and shall continue to be in full force and effect for a period of twenty years, except that after one year from the effective date of this Agreement, either party may cancel this Agreement upon sixty days' written notice to the other party.

EXECUTED this 6th day of Nov., 20__

CITY OF DEKALB
DEKALB COUNTY, ILLINOIS

By:
Mayor Jerry Smith
Blackhawk Drive, LLC

By:
Jeremy Addison, manager

By:
STATE OF ILLINOIS  
COUNTY OF DEKALB  
CITY OF DEKALB  

I, RUTH A. SCOTT, do hereby certify that I am the duly appointed Deputy City Clerk of the City of DeKalb, DeKalb County, Illinois, and as such officer, I am the keeper of the records and files of the City Council of said City.

I do further certify that the attached is a true and correct copy of:

ORDINANCE 2017-028

AUTHORIZING A ZONING MAP AMENDMENT FROM THE “MFR2” MULTIPLE FAMILY RESIDENTIAL DISTRICT TO “PD-R” PLANNED DEVELOPMENT – RESIDENTIAL DISTRICT TO ALLOW FOR THE ESTABLISHMENT OF A FRATERNITY AT 1114 BLACKHAWK ROAD (BLACKHAWK ROAD, LLC).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, on the 22nd day of May, 2017, and the original is now on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 9th day of March, 2018.

[Signature]

RUTH A. SCOTT, Deputy City Clerk

Prepared by and Return to:

Deputy City Clerk Ruth Scott
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115