

Approved Conditionally by CPC on 05/07/2018

1. Approval of land use change by the Common Council.

2. Dept. of City Development staff to approve final exterior landscape design plan

Request for Deviation from Performance Standards

Midtown Center DIZ

5800 W. Hope Avenue (Former Lowe's)

Phoenix Midtown LLC (Owner) is requesting a deviation from the performance standards for the Midtown Center Development Incentive Zone (DIZ) to allow the indoor wholesale and distribution facility use to occupy the former Lowe's building located at 5800 W Hope Avenue, Milwaukee, WI. This use is defined as an establishment providing indoor storage and sale of factory-direct merchandise and bulk goods. This term includes, but is not limited to, mail-order and catalog sales, importing, wholesale or retail sale of goods received by the establishment, and wholesale distribution, but does not include sale of goods for individual consumption. Owner is currently in active talks with a tenant who is planning to solid stack store paper products two bundles high in the existing warehouse. Initially the tenant will be creating minimally 6 new jobs during the start of the operation with the opportunity to create more in the future. The tenant plans on having 10 to 20 trucks max picking up and dropping off throughout the day to day operation. Owner is planning to create appropriate screening to create minimal disturbance to its neighbors. This screening includes bringing the existing landscaping back up to Type 'B' style along with repairing any portions of the existing fence and masonry piers surrounding the site.

Currently, the property falls in the RB2 Zoning district and within the "Midtown Center Development Incentive Zone (DIZ)". The uses permitted by the DIZ currently does not include indoor wholesale or distribution facilities. The owner is proposing to occupy the site with this use because it's a good adaptive reuse of a large building where retail has not been viable over the past 9 years. The owner believes that bringing new jobs and companies to the area it will help revitalize the neighborhood and bring activity to this vacant lot. If the use approved for the site, the owner is proposing to add 4 new loading docks with a recessed dock approach to the southwest corner of the facility. This change would bring the existing facility up to the sufficient number of docks to be adequate for an indoor wholesale and distribution facility. Currently, the existing building at the property has an existing canopy overhanging south towards the parking lot. This was previously a customer entrance and loading/unloading point for customers at the old Lowe's. This existing canopy will be demolished/removed from its concrete pillars supporting it and the overhang back to the building. There is also an existing exterior vestibule used for entering the building that will also be removed. All the removal points from the building will be patched, repaired, and painted to match the existing building adjacent to the problem areas. As stated, owner will be adding 4 new loading docks. The existing opening into the building will be able to house 2 of the loading docks, and 2 others will be installed, 1 on each side of the existing opening. Owner will be installing a new recessed dock approach to give access to the trucks using the docks. There will be an 8 foot tall concrete masonry unit block wing wall installed on the west side adjacent to the recessed pit from the building to south to the end of the recessed dock approach. A guard rail will be installed on the east side adjacent to the recessed dock approach. As noted owner will be repairing any existing damages to the existing fence line and masonry pillars.

Deviation Criteria:

The former Lowe's has been sitting vacant since 2009, and the Walmart across the parking lot is also vacant. The purpose of the deviation is to bring an indoor wholesale and distribution facility to the

vacant former Lowe's facility to bring new jobs, provide life back into the site which could attract more businesses to the other vacant buildings in the area, create a positive and friendly environment from a well-known and prospering tenant, and go through all the review and approval processes to get the site back up to code. Owner believes that the steps being taken both by the Owner and working with the City of Milwaukee will meet the purpose of the overlay zone.

As the property has been vacant for some time now the site improvements stated above will not only bring the property back up to code, but will add additional features (wing wall, updated landscaping) that will improve the aesthetics of the site. Besides the non-permitted use, the site does not offer any features that will not allow users to operate within the facility. Owner believes that the upgrades to the property along with the new life the tenant will be bringing into the neighborhood that the deviation is consistent with the comprehensive plan of the overlay zone.

As the owner we feel that the four criteria outlined in 295-311-9 of the Milwaukee Zoning Code are met with respect to this request for a deviation from the performance standards:

1. The purpose of the overlay is met: The owner feels that the operations of the site will be completely internal to the building/site and will not interfere with circulation to/from the shopping complex, nor will it negatively impact the retail component. The site is located on the north end of the center, out of the central retail node, and will bring activity back to the site. In addition to this the Owner is exploring the option of creating a new out lot in the south east corner of the existing parking lot. This would create the opportunity to add an additional retail user closer to the existing retail uses within the Midtown Center.
2. The deviation improves the aesthetics of the site: As of now the site has been vacant for years which has seen some of the landscaping not being maintained. Owner plans on bringing the landscaping back up to current zoning standards. Additionally, owner plans to explore the option of creating an out lot in the south east corner of the site for the possibility of building new development for a retail or restaurant in the future. This would bring more activity and locate additional retail/restaurant users closer to the existing retail within the complex.
3. If applicable, the deviation addresses on or more unique site factors that make application of the standard impractical: As stated the building has been vacant since 2009 and there have been no other retail style users who have opted to go in the building. With this deviation we will allow a similar style user to occupy the space, bring new jobs and activity to the area, and breathe some life back into the site.
4. The deviation is consistent with the comprehensive plan: At the request of the property owner, a proposal to amend the West Side Area Comprehensive Plan has been introduced for consideration by the City Plan Commission and Common Council. This proposed amendment would modify the land use recommendations contained within the West Side Area Comprehensive Plan for the property to indicate that if it is determined that commercial is no longer a feasible use for the former Lowe's store, a broader range of uses may be considered, including distribution and light manufacturing. If this amendment is approved by the Common Council, the proposed deviation would be consistent with the Plan.

# ALTA/NSPS LAND TITLE SURVEY

**CLIENT**  
Phoenix Investors, A Limited Liability Company, a Wisconsin limited liability company

**SITE ADDRESS**  
5800 West Hope Street, City of Milwaukee, Milwaukee County, Wisconsin.

**LEGAL DESCRIPTION**  
Parcel 1:  
Parcel 2 of Certified Survey Map No. 7388, recorded on March 15, 2004, as Document No. 8746511, being a division of Parcel 1 of Certified Survey Map No. 6762 recorded on December 20, 1999, as Document No. 7850166 and Parcel 2 of Certified Survey Map No. 7035 recorded on November 9, 2001, as Document No. 8166306 modified by Affidavit, of Correction recorded on May 2, 2002, as Document No. 8274057 and lands being a part of the Northeast 1/4, Southeast 1/4, Northwest 1/4 and Southwest 1/4 of the Southwest 1/4 of Section 2, Town 7 North, Range 21 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin.

Parcel 2:  
A Non-Exclusive Easement for ingress and egress set forth in Restriction and Easement Agreement recorded as Document No. 7184899 and Amendment recorded as Document No. 7252424.

Parcel 3:  
Non-exclusive easements for ingress and egress set forth in Easements with Covenants and Restrictions affecting land recorded as Document No. 8429300 as amended by Amendment recorded March 15, 2004 as Document No. 8746514.

Parcel 4:  
Non-exclusive easements for signs set forth in Easement and Covenant Agreement recorded March 16, 2004, as Document No. 8746754. Affects Property, the location of which cannot be determined from the record document.

Parcel 5:  
Non-exclusive utility easements set forth in Access and Utility Easement Agreement recorded March 16, 2004, as Document No. 8746753.

**BASIS OF BEARINGS**  
Bearings are referenced to the West line of the SW 1/4 of Section 2, whose assumed bearing is N00°00'07"W.

**TITLE COMMITMENT**  
This survey was prepared based on First American Title Insurance Company Commitment No. NCS-775194-MKE, effective date of January 22, 2016 which lists the following easements and/or restrictions from schedule B-II:

- 2, 3, 5 & 8 visible evidence shown, if any.
- 4, 6, 7, 12, 22 & 23 not survey related.
9. Access Agreement recorded as Document No. 4981034 and Amendment to Access Agreement recorded as Document No. 5620857. (Affects Parcels 2-5) **Affects property, general in nature cannot be plotted.**
10. Utility Easement Restriction and Zoning Note providing that all utility lines to provide electric power and telephone service and cable television or communications systems lines or cables to all lots in the CSM shall be installed underground in easements provided therefor, where feasible, as set forth on Certified Survey Map No. 7035 and also on Certified Survey Map No. 7388. **Affects property, general in nature cannot be plotted.**
11. Terms and Conditions of Restriction and Easement Agreement recorded as Document No. 7184899 and First Amendment to Restriction and Easement Agreement recorded as Document No. 7252424. **Affects and benefits property by location, shown.**
13. Declaration of Reciprocal Easement Agreement recorded as Document No. 8585907. **Affects and benefits property by location, shown.**
14. Declaration of Restrictions and Grant of Easement recorded as Document No. 7278749 and First Amendment to Declaration of Restrictions and Grant of Easement recorded as Document No. 8415398. (Affects Parcels 2-5) **Benefits property, approximate location shown on Vicinity Map.**
15. Utility Easement dated December 1, 2003 and recorded February 4, 2004, as Document No. 8726614, partially superseded by Distribution Easement Underground executed December 29, 2004 and recorded January 4, 2005 as Document No. 08926795. **Affects property by location, shown.**
16. Ameritech General Easement granted to Wisconsin Bell, Inc d/b/a Ameritech Wisconsin, a Wisconsin Corporation, dated September 18, 2002 and recorded on November 13, 2002, on Reel 5455, Image 788 to 791 as Document No. 8385882. **Affects property by location, shown.**
17. Easements with Covenants and Restrictions affecting land recorded on January 13, 2003 on Reel 5495, Image 6177, as Document No. 8429300 and amended by Amendment recorded as Document No. 8746514. **Benefits property, approximate location shown on Vicinity Map.**
18. Certified Copy of Resolution recorded on October 24, 2001, on Reel 5186, Image 0955 as Document No. 8156517, as amended by Certified Resolution for Public Access Easement and Maintenance Agreement recorded as Document No. 8468214. (Affects Parcel 3). **Benefits property, approximate location shown on Vicinity Map.**
19. Easement and Covenant Agreement recorded March 16, 2004, as Document No. 8746754. **Affects Property, the location of which cannot be determined from the record document.**
20. Access and Utility Agreement recorded March 16, 2004, as Document No. 8746753. First Amendment to Access and Utility Easement Agreement dated March 25, 2014 and recorded April 2, 2014 as Document 10347852. **Affects and benefits property by location, shown.**
21. Distribution Easement Underground by BV/CIJF MIDTOWN VENTURES LLC recorded January 12, 2005 as Document No. 8934035. **Affects property by location, shown.**

TO: Phoenix Investors, A Limited Liability Company, a Wisconsin limited liability company  
First American Title Insurance Company

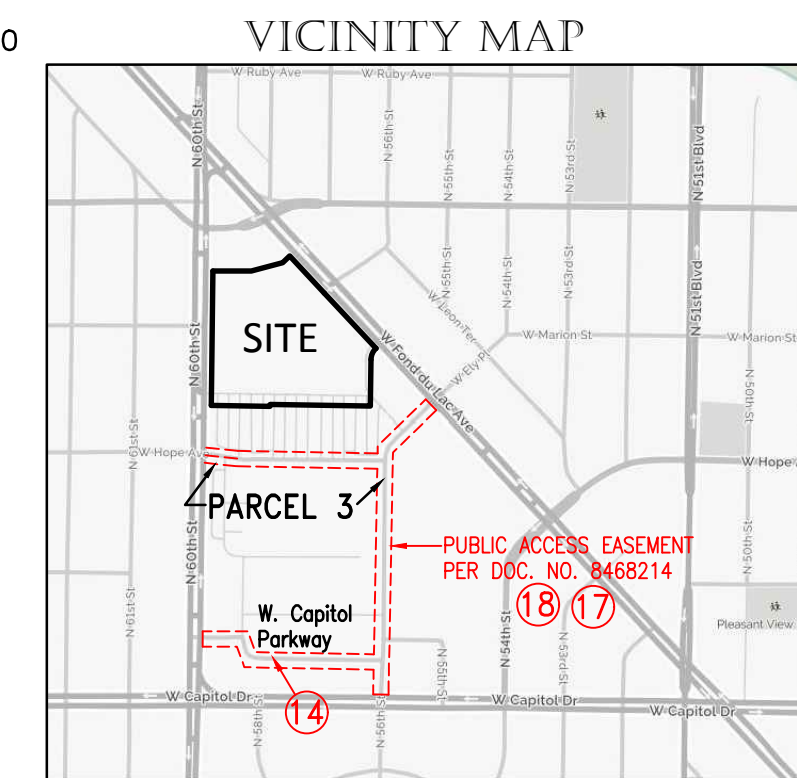
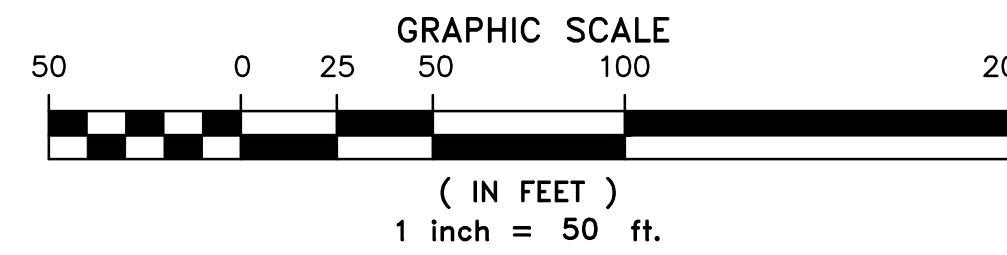
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 7(a), 7(c), 8, 9, 20 and 22 of Table A thereof. The field work was completed on June 21, 2016.

Date of Map: June 23, 2016.

DONALD C. CHAPUT  
S-1316  
MILWAUKEE, WI  
Professional Land Surveyor  
Registration Number S-1316  
Drawing No. 2332-grb

## LEGEND

● INDICATES FOUND 1" IRON PIPE	⊕ HYDRANT	⊙ TELEPHONE MANHOLE	✉ MAILBOX
○ INDICATES SET 1" IRON PIPE	⊖ WATER MANHOLE	⊙ TELEPHONE PEDESTAL	✕ RAILROAD CROSSING SIGNAL
+ INDICATES FOUND CHISELED CROSS	⊖ WATER SERVICE CURB STOP	⊙ CABLE PEDESTAL	♿ HANDICAP SPACE
⊕ SANITARY MANHOLE	⊖ WELL HEAD	⊙ CONTROL BOX	★ CONIFEROUS TREE
⊕ SANITARY CLEANOUT OR VENT	⊖ STAND PIPE	⊙ FIBER OPTIC SIGN	⊙ DECIDUOUS TREE
⊕ M.I.S. MANHOLE	⊖ WALL INDICATOR VALVE	⊙ TRAFFIC LIGHT	— SANITARY SEWER
⊕ UNKNOWN MANHOLE	⊖ POST INDICATOR VALVE	⊙ COMMUNICATION MANHOLE	— STORM SEWER
⊕ STORM MANHOLE	⊖ LIGHT POLE	⊙ BOLLARD	— WATERLINE
⊕ INLET (ROUND)	⊖ SPOT/YARD LIGHT	⊕ SOIL BORING/MONITORING WELL	— MARKED GAS MAIN
⊕ INLET (SQUARE)	⊖ UTILITY POLE	⊕ WATER SURFACE	— MARKED ELECTRIC
⊕ CURB INLET	⊖ GUY POLE	⊕ WETLANDS FLAG	— OVERHEAD WIRES
⊕ STORM SEWER END SECTION	⊖ GUY WIRE	⊕ MARSH	— MARKED TELEPHONE
⊕ GAS VALVE	⊖ ELECTRIC MANHOLE	⊕ FLAGPOLE	— MARKED CABLE TV LINE
⊕ GAS METER	⊖ ELECTRIC PEDESTAL	⊕ PARKING METER	— MARKED FIBER OPTIC
⊕ WATER VALVE	⊖ ELECTRIC METER	⊖ SIGN	

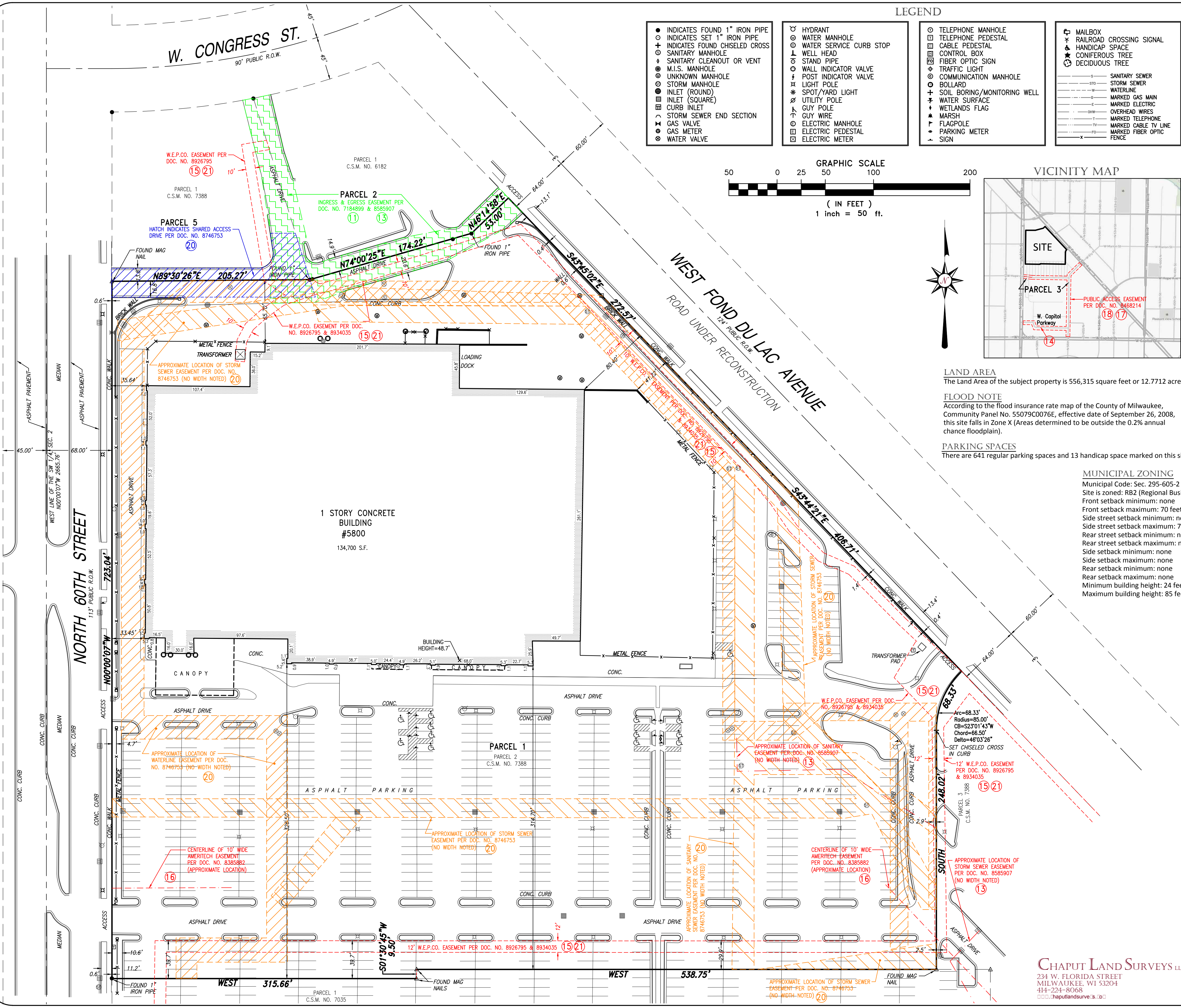


**LAND AREA**  
The Land Area of the subject property is 556,315 square feet or 12.7712 acres.

**FLOOD NOTE**  
According to the Flood insurance rate map of the County of Milwaukee, Community Panel No. 55079C0076E, effective date of September 26, 2008, this site falls in Zone X (Areas determined to be outside the 0.2% annual chance floodplain).

**PARKING SPACES**  
There are 641 regular parking spaces and 13 handicap space marked on this site.

**MUNICIPAL ZONING**  
Municipal Code: Sec. 295-605-2  
Site is zoned: RB2 (Regional Business District)  
Front setback minimum: none  
Front setback maximum: 70 feet  
Side street setback minimum: none  
Side street setback maximum: 70 feet  
Rear street setback minimum: none  
Rear street setback maximum: none  
Side setback minimum: none  
Side setback maximum: none  
Rear setback minimum: none  
Rear setback maximum: none  
Minimum building height: 24 feet  
Maximum building height: 85 feet



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