

From: Beggs, Tauren R - DNR
Sent: Thursday, June 29, 2023 3:13 PM
To: Que El-Amin
Cc: Matt Dahlem; Elizabeth Runge; ramanauskas.peter@epa.gov; Graczyk, Lisa (she/her/hers); Kristin Holloway Jones (kristin.jones@newellco.com); Sawula, Andrew N.; Rodriguez, Gabriel M.; Paul Lindquist; Susan Petrofske
Subject: Remedial Action Plan & Materials Management Plan Approval Letter for Bright Horizon Properties LLC (Former), BRRTS # 02-36-589295
Attachments: 20230629_149_RAP_Appr_857_MMP_Appr.pdf

Hi Que,

Attached is the Remedial Action Plan & Materials Management Plan (RAP/MMP) Approval Letter for the above referenced site. Please see page 2 for reference to some DNR clarification comments in regard to the approved RAP/MMP.

If you have any questions, please feel free to contact me.

Regards,

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Tauren R. Beggs

Hydrogeologist & Northeast Region Land Recycling Expert

Remediation and Redevelopment Program

Wisconsin Department of Natural Resources

2984 Shawano Ave

Green Bay, WI 54313

Phone: (920) 510-3472

Tauren.Beggs@wisconsin.gov (preferred contact method during work at home)

dnr.wi.gov



June 29, 2023

West River Lofts, LLC
Attn: Que El-Amin
4201 N. 27th Street
Milwaukee, WI 53216
Via Electronic Mail to que@scott-crawford.com

Subject: Approval of Remedial Action Plan and On-Site Management of Contaminated Soil under Wis. Admin. Code § NR 718.12
Bright Horizon Properties LLC (Former), 1621 14th Street (formerly 1702 13th Street), Two Rivers, WI
DNR BRRTS Activity #: 02-36-589295
FID #: 436010300

Dear Mr. El-Amin:

On June 12, 2023, Matt Dahlem of Fehr Graham submitted a Remedial Action Plan with Materials Management Plan Request (RAP/MMP) on your behalf requesting to manage 854 cubic yards of contaminated soil on the same site from which it will be excavated in accordance with Wisconsin Administrative (Wis. Admin.) Code § NR 718.12. An addendum to the RAP/MMP was submitted by Fehr Graham on June 21, 2023, to address excavation confirmation sampling and requested revisions from the Environmental Protection Agency (EPA). The Wisconsin Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04(1).

The RAP/MMP addresses the proper management and disposal of contaminated materials excavated during redevelopment of a residential apartment complex and associated concrete patio/sidewalk, parking lot, and greenspace areas. The RAP/MMP includes topsoil removal and multiple remedial excavations to either remove soil with elevated concentrations of polychlorinated biphenyls (PCBs) or polycyclic aromatic hydrocarbons (PAHs), metals, and/or volatile organic compounds (VOCs). Grading for the site will include excavation of 845 cubic yards of contaminated soil with PAHs and metals to be reused on-site in already contaminated areas where the grade needs to be raised outside of the proposed building footprint. Areas of grading where VOC contaminated soil is present will be excavated and disposed at a landfill. The contaminated soil with elevated concentrations of PCBs will be appropriately handled and disposed per EPA requirements under 40 Code of Federal Regulations (CFR) 761.61(b) at the Toxic Substances Control Act (TSCA) approved Chemical Waste Management hazardous waste facility in Arlington, Oregon. A performance based cleanup goal of 1ppm is being used for the PCB cleanup. All other contaminated soil will be taken to Waste Management's Ridgeview landfill in Whitelaw, Wisconsin. The approximate total of contaminated soil to be landfilled is 1,750 cubic yards. Remedial excavations are proposed to be backfilled with clean soil and the site grade will be raised to facilitate a two-foot cap of clean soil over the residual contamination to address direct contact. The existing groundwater monitoring well network will be properly abandoned prior to redevelopment, but monitoring wells are planned to be re-installed after development activities are complete. Refer to the Overall Site Plan, dated 10/20/2021, Figure A 201, Site Plan, dated February 14, 2022, and Figure A 202, Grading Plan, dated February 17, 2022, for the proposed redevelopment and grading.

West River Lofts, LLC, Que El-Amin

Approval of Remedial Action Plan and On-Site Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

Bright Horizon Properties LLC (Former), BRRTS # 02-36-589295

The RAP/MMP is approved with the following clarifications:

- **The vapor mitigation system design, vapor port design, and vapor sampling plan is being handled under a separate review from the RAP/MMP.**
- The site investigation under Wis. Admin. Code ch. NR 716 is not complete. Also, additional remedial action may be needed in the future under Wis. Admin. Code chs. NR 722 and/or NR 724. Therefore, it should not be construed that redevelopment of the property will prevent the potential need for further remedial action.
- A determination on emerging contaminant scoping was already provided in the site investigation work plan approval letter issued by DNR on July 29, 2022. It was determined that based on the historic use of the property as former Mirro Plant No. 4, which is associated with per- and polyfluoroalkyl substance (PFAS) use in the manufacturing operations of non-stick cookware, sampling for PFAS is needed.
- Indicate on figures in future submittals for the northwest portion of the property (parking lot area) that there is residual contamination from the closed case WI DOT Eggers Industries West Plt, BRRTS # 02-36-521430. It is appropriate to just have one maintenance plan to cover both the closed case and the open case on this property. A post-closure modification notice to proceed was provided for the closed case on April 13, 2022, to modify the asphalt parking lot, which acts as the cap over the residual contamination.
- The proposed reuse of the contaminated soil on-site is acceptable even though the site investigation is not complete, and the contaminated soil will be reused in an area that is already known to be contaminated with similar contaminants.
- Based on the available groundwater monitoring data collected under mainly pervious (greenspace) conditions, a cap is not needed for groundwater pathway, only for direct contact.
- Determine if the covers in the remaining areas not included in this redevelopment proposal are adequate for protection of human health and the environment.

Wis. Admin. Code § NR 718.12 Approval

This letter grants an approval to manage contaminated soil under Wis. Admin. Code § NR 718.12 on-site.

Approval is based on the following:

Compliance with Locational Criteria

Managing contaminated soil in areas of the site identified on Figure A 202, Grading Plan, dated February 17, 2022, of the RAP/MMP will meet the locational criteria listed under Wis. Admin. Code § NR 718.12(1)(c), except for the following:

- Within 300 feet of any navigable river, stream, lake, pond or flowage;

Grant of exemption to Wis. Admin. Code § NR 718.12(1)(c)3.

The contaminated soil that is proposed to be moved will be placed in an area with similar contamination and will be capped with clean soil to be protective of direct contact; therefore, the DNR grants an exemption to the locational criteria of Wis. Admin. Code § 718.12(1)(c)3. and will allow placement of contaminated soil material within 300 feet of the navigable river (West Twin River).

Characterization of Soil to be Excavated

Soil samples were collected for analysis of contaminants previously detected or expected to be present at this site including PCBs, PAHs, metals, and VOCs, from areas most likely to contain residual contamination. Based on an estimated volume of 854 cubic yards of material, and a sampling frequency of one sample per 37 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12(1)(e) was met.

Submittal of a Soil Management Plan

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12(2)(b) and (c), was provided to the DNR.

West River Lofts, LLC, Que El-Amin

Approval of Remedial Action Plan and On-Site Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

Bright Horizon Properties LLC (Former), BRRTS # 02-36-589295

Assessment of Risk Posed by Soil Management

The proposed management of contaminated soil (solid waste) at the site is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13(1)(b)1. to 5.

Notice Provided Prior to Commencing Soil Management Activities

Per Wis. Admin. Code § NR 718.12(2), the DNR was provided with written notice at least seven days prior to commencing the proposed material management.

Requirement of Continuing Obligations

You have acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated material on your property as proposed.

The current property owner of the site, and any subsequent property owners, must comply with the following continuing obligations at this site, established under Wis. Admin. Code § NR 718.12(2)(d), to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 approval meet the requirements of Wis. Admin. Code § NR 718.12(2)(e) and are available in PDF on the DNR's Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at dnr.wi.gov, search "WRRD."

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at dnr.wi.gov, search "RR-819."

Please send written notifications in accordance with the following requirements to the DNR Project Manager, Tauren Beggs.

Send documents to the DNR using the RR Program Submittal Portal at dnr.wi.gov, search "RR submittal portal" (<https://dnr.wi.gov/topic/Brownfields/Submittal.html>). Questions on using this portal can be directed to the contact below or to the environmental program associate (EPA) for the regional DNR office. Visit dnr.wi.gov, search "RR contacts" and select the EPA tab (<https://dnr.wi.gov/topic/Brownfields/Contact.html>). More information on submitting electronic documents can be found in the DNR publication "Guidance for Electronic Submittal for the Remediation and Redevelopment Program" (RR-690), which can be found at dnr.wi.gov, search "RR-690."

Residual Soil Contamination and Future Solid Waste Management

If contaminated soil that was managed as proposed in the RAP/MMP is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05(1)(d):

- Determine if contamination is present;
- Determine whether the material is considered solid or hazardous waste; and
- Ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Excavated contaminated soil may be managed in accordance with Wis. Admin. Code ch. NR 718 with DNR pre-approval. In addition, all current and future property owners and occupants of the property need to be aware that excavation of the contaminated soil and solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans.

If material that will be managed under this approval includes solid waste other than soil, it may be required to obtain approval from the DNR prior to excavating the waste or constructing any structure over the materials per Wis. Admin. Code § NR 506.085.

The location(s) where contaminated soil is proposed to be managed at the site is depicted on the attached Figure A 202, Grading Plan, dated February 17, 2022.

The DNR's approval prior to well construction or reconstruction is required where contaminated soil was managed, in accordance with Wis. Admin. Code § NR 812.09(4)(w). This requirement applies to private drinking water wells and high-capacity wells. To obtain approval, complete and submit DNR Form 3300-254 to the DNR Drinking and Groundwater Program's regional water supply specialist. This form is available at dnr.wi.gov, search "3300-254."

Maintenance of a Cover

The building slab, concrete sidewalks, asphalt paved parking lot, and greenspace areas/parking lot islands (cover) are proposed to be installed and maintained over contaminated soil that will be managed at the site as proposed in the RAP/MMP. Some of the proposed redevelopment areas are within the areas of residual contamination for the closed case, WI DOT Eggers Industries West Plt, BRRTS # 02-36-521430. Inspection and maintenance activities will apply to the proposed cover. A maintenance plan must be provided to the DNR once the cover has been constructed and must address actual site conditions per Wis. Admin. Code § NR 724.15(3)(h). Figure A 202, Grading Plan, dated February 17, 2022, is attached which shows where contaminated soil is proposed to be managed and the extent of the proposed cover.

Certain activities in areas where maintenance of a cover is intended to prevent contact with any remaining soil contamination. The following activities are prohibited on any portion of the property where the cover is required, unless prior notification is provided to DNR to determine whether further action may be necessary to protect human health, safety, or welfare or the environment (Wis. Admin. Code § NR 727.07):

- removal of the existing barrier or cover;
- replacement with another barrier or cover;
- excavating or grading of the land surface;
- filling on covered or paved areas;
- plowing for agricultural cultivation;
- construction or placement of a building or other structure;
- changing the use or occupancy of the property to single-family residential use.

Vapor: Future Actions to Address Vapor Intrusion

VOCs are present in multiple locations on-site at levels that may be of concern for vapor intrusion in the future. The vapor mitigation system design, vapor port design, and vapor sampling plan for the currently proposed building is being handled under a separate review from the RAP/MMP.

If a building is constructed or reconstructed on this property, or if use of an existing building is changed to a non-industrial use, vapor intrusion may become a concern. The DNR must be notified before construction or reconstruction of a building or changing the use of an existing building to non-industrial use per Wis. Admin.

West River Lofts, LLC, Que El-Amin

Approval of Remedial Action Plan and On-Site Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

Bright Horizon Properties LLC (Former), BRRTS # 02-36-589295

Code § NR 727.07. The use of vapor control technologies or an assessment of the potential for vapor intrusion will be required at that time per Wis. Admin. Code §§ NR 722.15(2)(e)4. and 5.

Other Information

- 1) Any hazardous substance discharge discovered during contaminated soil management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Contaminated soil management activities approved by this letter are scheduled to be completed by January 2024. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of contaminated soil management activities shall be provided within 60 days of the completion of this project. The documentation must comply with the requirements of Wis. Admin. Code § NR 724.05(2) and § NR 724.15(3). Documentation must include:
 - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05(2)(e)1.
 - b. Owner contact and property location information for the site.
 - c. Maps, drawings and cross sections that depict how contaminated soil was managed.
 - d. A synopsis of the work conducted and an explanation as to how it complied with the contaminated soil management plan and the conditions in this approval.
 - e. A description of any changes made to the planned management activity and an explanation as to why they were necessary for the project.
 - f. Any field observations or results of monitoring conducted during the management activity.
 - g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the site.
 - h. A cover maintenance plan.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07(2).

- 4) This approval is granted under Wis. Admin. Code § NR 718.12 and applies only to the specific activities described within the submitted RAP/MMP. Any contaminated soil that is excavated or otherwise disturbed at the site, not covered under this or another approval, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 599. The management of contaminated soil on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 799.
- 5) West River Lofts, LLC is responsible for obtaining any local, federal or other applicable state permits to carry out the project.

All remediation sites are included in DNR's BRRTS database. All documents and project milestones related to the cleanup of this site are listed in the database under BRRTS Activity # 02-36-589295.

West River Lofts, LLC, Que El-Amin

Approval of Remedial Action Plan and On-Site Management of Contaminated Soil under Wis. Admin. Code § NR 718.12

Bright Horizon Properties LLC (Former), BRRTS # 02-36-589295

The DNR appreciates your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact the DNR Project Manager, Tauren Beggs, by calling (920) 510-3472 or by email at Tauren.Beggs@wisconsin.gov.

Sincerely,



Tauren R. Beggs for Roxanne N. Chronert
Team Supervisor, Northeast Region
Remediation & Redevelopment Program

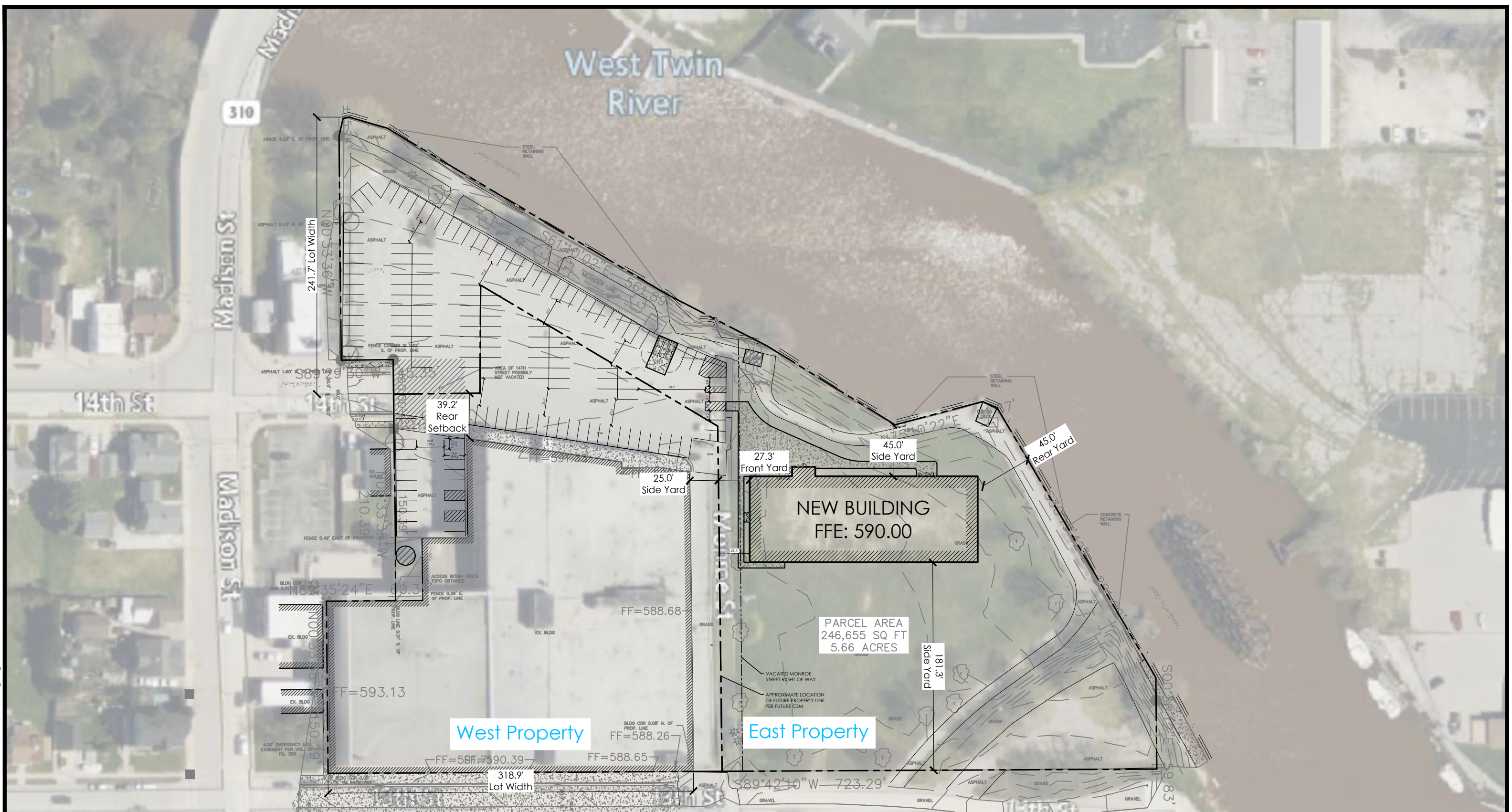
Attachments:

- Overall Site Plan, dated 10/20/2021
- Figure A 201, Site Plan, dated February 14, 2022
- Figure A 202, Grading Plan, dated February 17, 2022

cc: Matt Dahlem, Fehr Graham (mdahlem@fehrgraham.com)
Elizabeth Runge, City of Two Rivers (elirun@two-rivers.org)
Peter Ramanauskas, EPA (ramanauskas.peter@epa.gov)
Kristin Jones, Newell Operating Company (Kristin.Jones@newellco.com)
Andrew Sawula, Arent Fox Schiff (andrew.sawula@afslaw.com)
Gabriel Rodriguez, Arent Fox Schiff (gabriel.rodriguez@afslaw.com)
Paul Lindquist, Ramboll (plindquist@ramboll.com)
Susan Petrofske, Ramboll (spetrofske@ramboll.com)

10/20/2021

P:\2019-CONTRACTS\2019-35 Two Rivers Apartments\Phase - 2\Construction Documents\3.3 Site\2019-35 Design.dwg



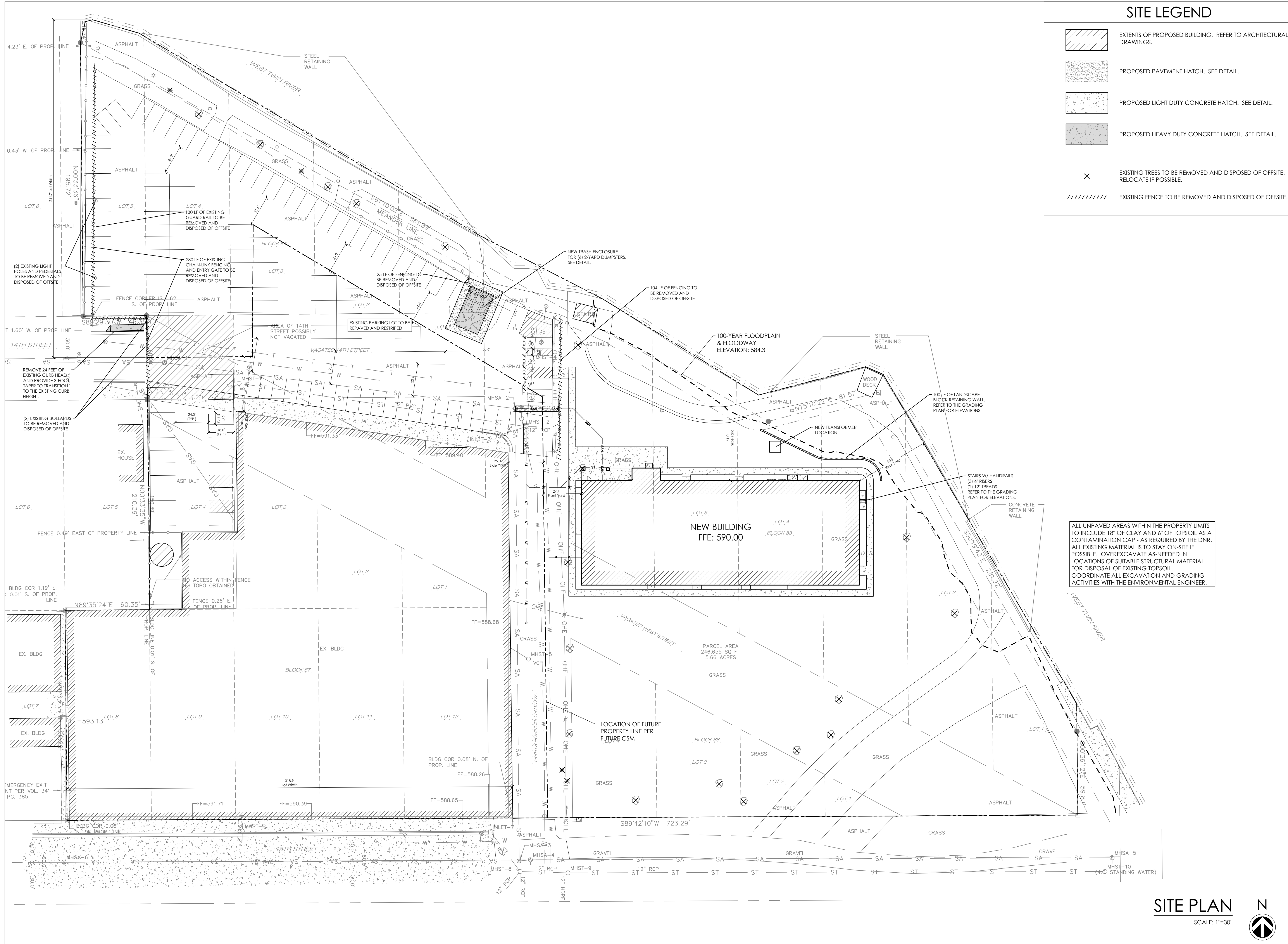
10/20/2021
TWO RIVERS APARTMENTS
 Two Rivers, WI Proj. No. 2019-35

OVERALL SITE PLAN
 SCALE: 1"=80'



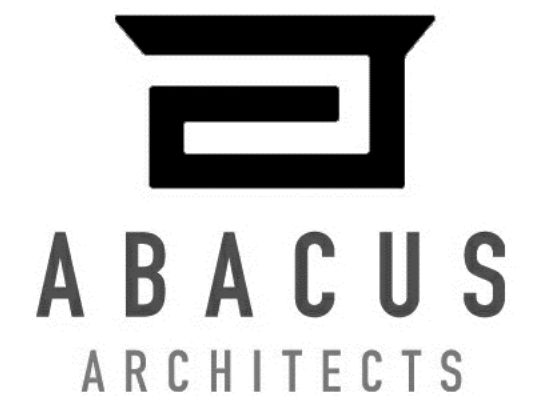
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SITE LEGEND

- EXTENTS OF PROPOSED BUILDING. REFER TO ARCHITECTURAL DRAWINGS.
- PROPOSED PAVEMENT HATCH. SEE DETAIL.
- PROPOSED LIGHT DUTY CONCRETE HATCH. SEE DETAIL.
- PROPOSED HEAVY DUTY CONCRETE HATCH. SEE DETAIL.
- EXISTING TREES TO BE REMOVED AND DISPOSED OF OFFSITE. RELOCATE IF POSSIBLE.
- EXISTING FENCE TO BE REMOVED AND DISPOSED OF OFFSITE.



REVISIONS:

NOTICE TO BIDDERS
 BIDDERS SHALL REVIEW ALL DRAWINGS AND SPECIFICATION SECTIONS TO DETERMINE THE IMPACT OF OTHER SECTIONS OF WORK ON THEIR OWN WORK

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ISSUE DATE: FEBRUARY 14, 2022
 NEW CONSTRUCTION

WEST RIVER LOFTS

1702 13TH ST. TWO RIVERS, WI 54241

1135A MICHIGAN AVE. SHEBOYGAN, WI 53081 (920) 452-4444 | 225 EAST ST. PAUL AVE. MILWAUKEE, WI 53202 (414) 837-6450

ISSUED FOR PERMIT

ALL UNPAVED AREAS WITHIN THE PROPERTY LIMITS TO INCLUDE 18" OF CLAY AND 6" OF TOPSOIL AS A CONTAMINATION CAP - AS REQUIRED BY THE DNR. ALL EXISTING MATERIAL IS TO STAY ON-SITE IF POSSIBLE. OVEREXCAVATE AS-NEEDED IN LOCATIONS OF SUITABLE STRUCTURAL MATERIAL FOR DISPOSAL OF EXISTING TOPSOIL. COORDINATE ALL EXCAVATION AND GRADING ACTIVITIES WITH THE ENVIRONMENTAL ENGINEER.

SITE PLAN

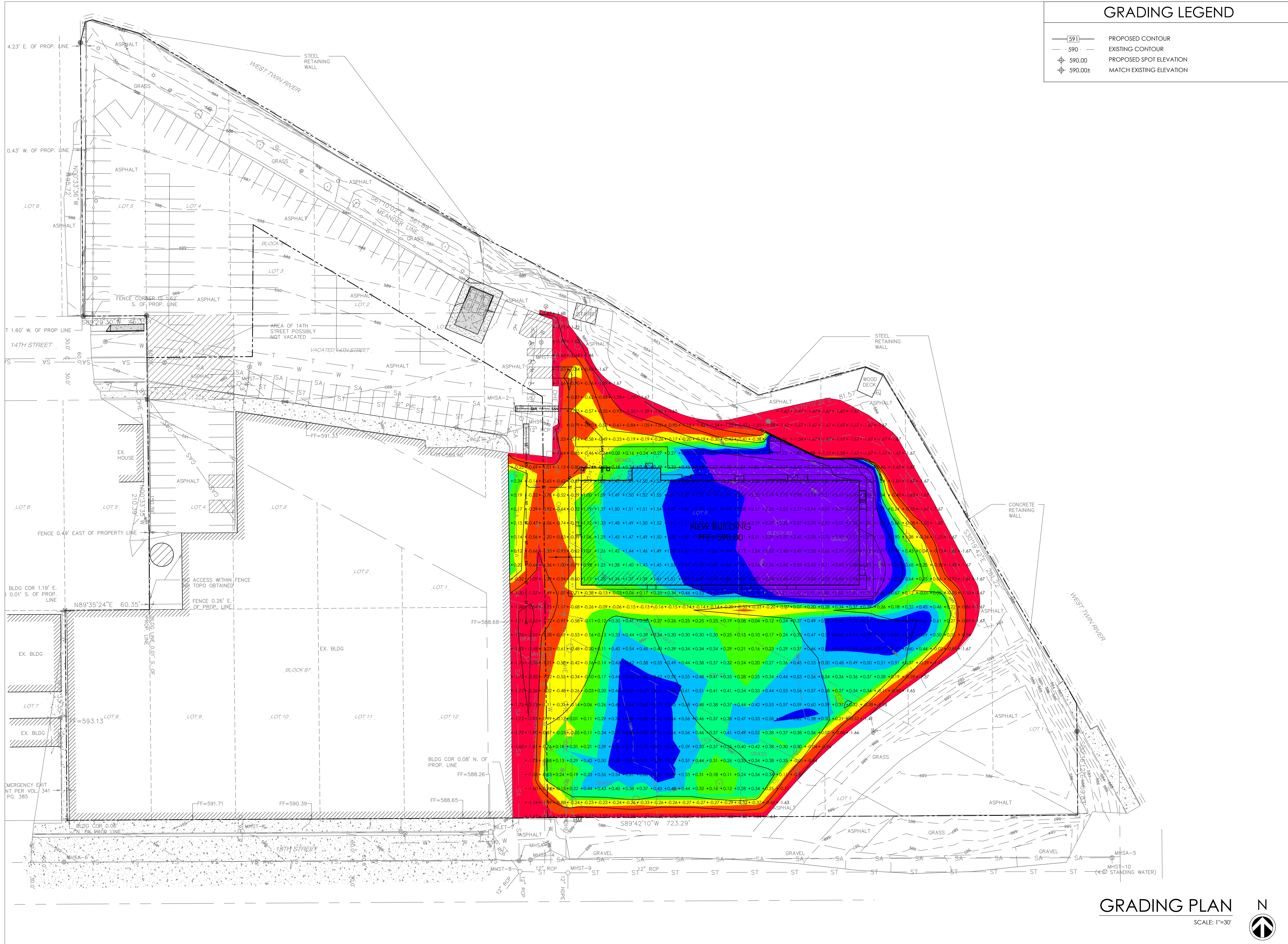
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DRAWN BY: MDW
 CHECKED BY: JRV

A
201

PROJ. NO. 2019-35



GRADING LEGEND

	PROPOSED CONTOUR
	EXISTING CONTOUR
	PROPOSED SPOT ELEVATION
	MATCH EXISTING ELEVATION



REVISIONS:
X XX/XX/2022 ADDENDUM X

NOTICE TO BIDDERS
BIDDERS SHALL REVIEW ALL DRAWINGS AND SPECIFICATION SECTIONS TO DETERMINE THE IMPACT OF OTHER SECTIONS OF WORK ON THEIR OWN WORK

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ISSUE DATE: FEBRUARY 17, 2022
 NEW CONSTRUCTION
WEST RIVER LOFTS
 1702 13TH ST. TWO RIVERS, WI 54241
 1135A MICHIGAN AVE. SHEBOYGAN, WI 53081 (920) 452-4444 | 225 EAST ST. PAUL AVE. MILWAUKEE, WI 53202 (414) 837-6450

DRAWN BY: MDW
CHECKED BY: JRV

A
202

PROJ. NO. 2019-35

GRADING PLAN
SCALE: 1"=30'

