



July 15, 2022

Mr. Mat Reimer
Redevelopment Authority City of Milwaukee
809 North Broadway #2
Milwaukee, WI 53202
Email only to – Mathew.reimer@milwaukee.gov

Ms. Nicole Robbins
Five Points MLKEDC, LLC
2745 N MLK Jr. Drive, Suite 200
Milwaukee, WI 53212
Email only to – nrobbins@mlkedcmke.org

Subject: Building on a Historic Fill Site Exemption Approval
3317-3345 North Dr. Martin Luther King Jr. Drive and
456 West Concordia Avenue, Milwaukee, Wisconsin
BRRTS# 07-41-589924 FID# 341350240

Dear Mr. Reimer and Ms. Robbins:

On June 2, 2022, the Wisconsin Department of Natural Resources (Department) received your application for a grant of exemption from regulation under Wis. Admin. Code § NR 506.085. The proposed development area (the Site) consists of five adjoining vacant parcels (282-1204-100, 282-1205-000, 282-1206-100, 282-1209-100, and 282-2782-110) as depicted on the attached Figure 2, Site Plan Map, dated May 12, 2022 (The Sigma Group, Inc. (Sigma)). The Site is proposed to be developed into a multi-family residential and commercial complex. The application includes a methane gas risk assessment that concluded that since only a small percentage of material on the Site is solid waste (the majority of which is fragments of concrete, asphalt, or other inorganic material), the historic fill material will not be a source of methane gas and will not pose a threat to human health and the environment.

The application describes subsurface soils across the property as generally consisting of three to twelve feet of fill soil or reworked soil overlying native clay. The reworked/fill soil includes trace amounts of non-exempt waste including brick fragments, concrete fragments, other building debris, and foundry waste partially attributed to buildings historically demolished on the property. The reworked/fill soil is also contaminated with polycyclic aromatic hydrocarbons and metals at concentrations greater than Wis. Admin Code Ch. NR 720 residual contaminant levels. Contaminated soil that is excavated during Site development is proposed to be managed as described in the *Site Investigation Report and Conceptual Remedial Action Plan*, dated May 31, 2022, and approved on July 14, 2022. A barrier will be constructed across the Site to prevent contact with the soil contamination. It will be regularly inspected and maintained. Documents and activities pertaining to the site investigation soil and remedial action

are tracked under Bureau of Remediation and Redevelopment Tracking System (BRRTS) activity # 02-41-589558.

The Department is issuing this conditional grant of exemption for the construction of a multi-unit residential apartment building with first floor commercial/retail space, paved surface parking, access drives, new utilities, stormwater features, and green space as shown on the attached Figure 10, Engineered Barrier Plan Map (Conceptual), dated May 18, 2022 (Sigma). This conditional approval is limited to the proposed development described above. If you are considering additional changes beyond those described in the application, a new application must be submitted to the Department for approval.

Please review the information contained in the publication *Development at Historic Fill Sites and Licensed Landfills: Considerations and Potential Problems* PUB-RR-685 to assist you in preventing environmental or safety problems during and after development.

You are reminded that this approval does not relieve you of obligations to meet all other applicable federal, state and local permits, as well as zoning and regulatory requirements including site closure under Wis. Admin. Code Chapter NR 726. If you have any questions concerning this letter, please contact Paul Grittner at (262) 405-0764 or paul.grittner@wisconsin.gov.

Sincerely,



Pamela A. Mylotta, Supervisor
Remediation and Redevelopment Program
Southeast Region

cc: Cory Katzban, The Sigma Group, Inc. - ckatzban@thesigmagroup.com
Jezamil Arroyo, City of Milwaukee Inspection Services – javega@milwaukee.gov

Attachments: Figure 2, Site Plan Map, dated May 12, 2022 (Sigma)
Figure 10, Engineered Barrier Plan Map (Conceptual), dated May 12, 2022 (Sigma)

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

CONDITIONAL GRANT OF EXEMPTION
FOR
DEVELOPMENT ON A PROPERTY
WHERE SOLID WASTE HAS BEEN DISPOSED

FINDINGS OF FACT

The Department finds that:

1. The Sigma Group, Inc., on behalf of the City of Milwaukee Redevelopment Authority, has submitted a request received June 2, 2022, for an exemption from the prohibition in Wis. Admin. Code § NR 506.085.
2. The proposed development consists of a multi-unit residential apartment building with first floor commercial/retail space, paved surface parking, access drives, new utilities, stormwater features, and green space as depicted on Figure 10, Engineered Barrier Plan Map (Conceptual), dated May 18, 2022 (Sigma).
3. Historically the Site was filled with reworked soil containing brick fragments, concrete fragments, other building debris, and foundry waste.
4. The “*Site Investigation Report and Conceptual Remedial Action Plan*” and subsequent updates are approved by the Department and are tracked under BRRTS activity # 02-41-589558. These documents describe the extent of soil and groundwater contamination at the Site, a plan for managing material during construction, and a draft Cap Maintenance Plan that will be in effect at the completion of the development.
5. If the conditions set forth below are complied with, the development of the Site will not result in environmental pollution as defined in Wis. Stat. §§ 289.01(8) and 299.01(4).

CONCLUSIONS OF LAW

1. The Department has the authority under Wis. Admin. Code § NR 500.08(4) to issue an exemption from the prohibition in Wis. Admin. Code § NR 506.085, if the proposed development will not cause environmental pollution as defined in Wis. Stat. §§ 289.01(8) and 299.01(4).
2. The Department has authority to approve a grant of exemption with conditions if the conditions are necessary to ensure compliance with the applicable provisions of Wis. Admin. Code Chapters NR 500 to 538, or to assure that environmental pollution will not occur.
3. The conditions set forth below are necessary to ensure compliance with the applicable provisions of Wis. Admin. Code Chapters NR 500 to 538, and to assure that environmental pollution will not occur.
4. In accordance with the foregoing, the Department has the authority under Wis. Admin. Code § NR 500.08(4), to issue the following conditional grant of exemption.

CONDITIONAL GRANT OF EXEMPTION

The Department hereby issues an exemption to the City of Milwaukee Redevelopment Authority from the prohibition in Wis. Admin. Code § NR 506.085, for development on a property which contains solid waste as proposed in the submittal received June 2, 2022, subject to the following conditions:

1. No action related to the development of the property may be taken which will cause a significant adverse impact on wetlands as provided in Wis. Admin. Code Chapter NR 103.
2. No action related to the development of the property may be taken which will cause a significant adverse impact on critical habitat areas, as defined in Wis. Admin. Code § NR 500.03(55).
3. No action related to the development of the property may be taken which will cause a detrimental effect on any surface water, as defined in Wis. Admin. Code § NR 500.03(62).
4. No action related to the development of the property may be taken which will cause a detrimental effect on groundwater, as defined in Wis. Admin. Code § NR 500.03(62), or will cause or exacerbate an attainment or exceedance of any preventive action limit or enforcement standard in Wis. Admin. Code Chapter NR 140.
5. No action related to the development of the property may be taken which will cause an emission of any hazardous air contaminant exceeding the limitations for those substances contained in Wis. Admin. Code § NR 445.03.
6. No action related to the development of the property may be taken which will cause an exceedance of a soil clean up standard in Wis. Admin. Code Chapter NR 720.
7. No action related to the development of the property may be taken which will cause a discharge of contaminated storm waters or sediment.
8. This grant of exemption should not be construed as a site closure under Wis. Admin. Code Chapter NR 726.
9. This grant of exemption shall apply to 3317-3345 North Martin Luther King Jr. Drive and 456 West Concordia Avenue as shown on the attached Figure 2, Site Plan Map (5/12/22).
10. The development construction activities shall be coordinated with required remedial response actions and shall not prevent the completion of the approved remedial response actions.
11. This exemption shall transfer with changes in property ownership. In accordance with Wis. Stat. § 289.46(2), any person having or acquiring rights of ownership in land where a solid or hazardous waste disposal activity occurred may not undertake any activities on the land which may cause a significant threat to public health, safety or welfare. The Department should be contacted to discuss any proposed changes to avoid activities that could violate the statute.

This grant of exemption is limited to the proposed changes described in your application. If you are considering additional changes beyond those described in the application, a new application must be submitted to the

Department for approval. The Department reserves the right to require the submittal of additional information and to modify this grant of exemption at any time, if in the Department's opinion, modifications are necessary. Unless specifically noted, the conditions of this grant of exemption do not supersede or replace any previous conditions of approval for this property.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

For judicial review of a decision pursuant to Wis. Stat. §§ 227.52 and 227.53, you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

Dated: July 15, 2022

DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Pamela A. Mylotta, Supervisor
Remediation & Redevelopment Program
Southeast Region



Paul Grittner, Hydrogeologist
Remediation and Redevelopment Program
Southeast Region

LEGEND

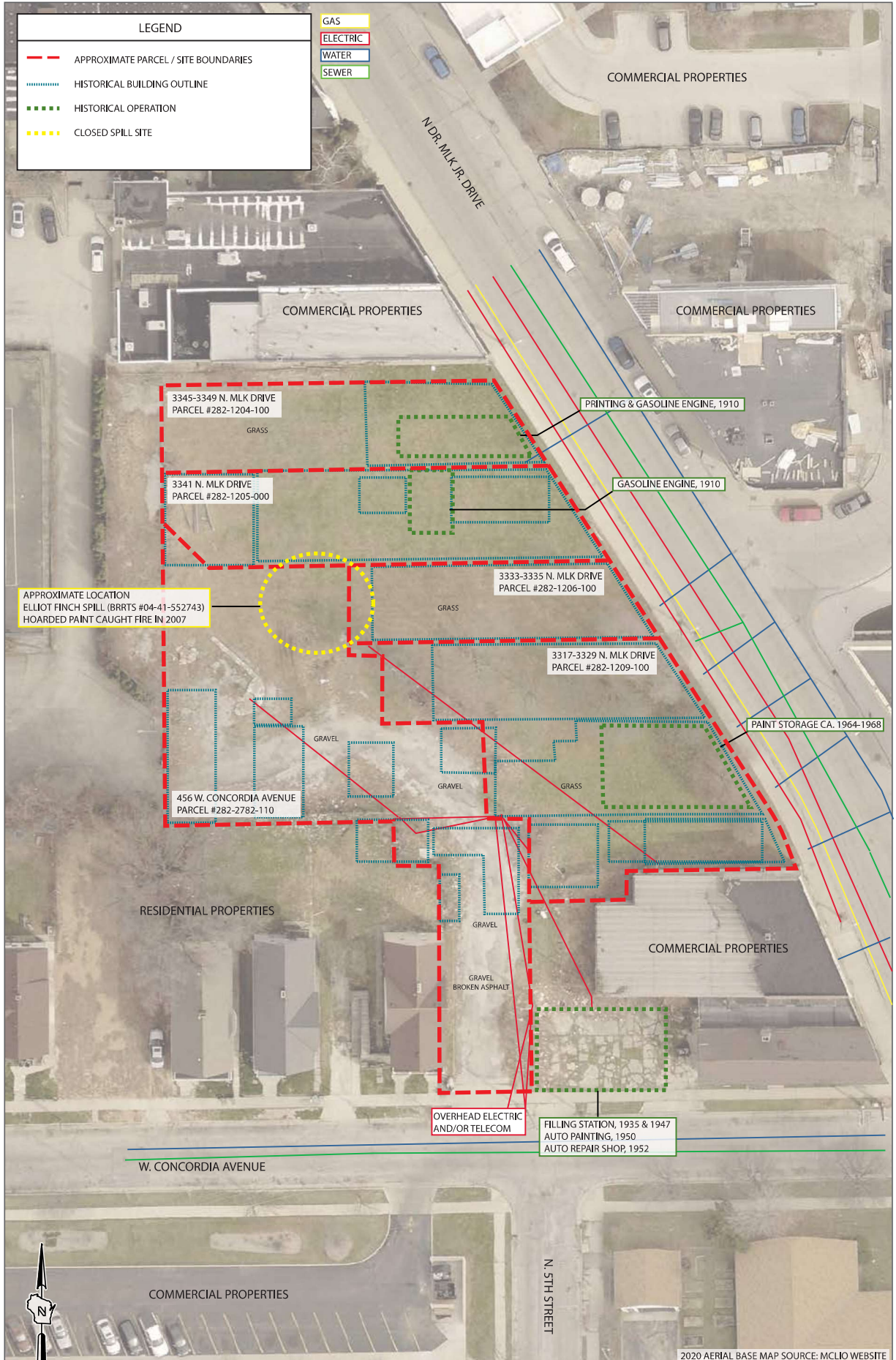
- APPROXIMATE PARCEL / SITE BOUNDARIES
- HISTORICAL BUILDING OUTLINE
- HISTORICAL OPERATION
- CLOSED SPILL SITE

GAS

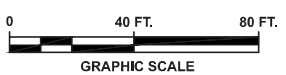
ELECTRIC

WATER

SEWER



PROJECT: 20457 | DIRECTORY: CAD | FILENAME: 20457_Master Map_17x11.rvt | CREATED BY: JMD/CKC | DATE: 05/12/2022



SITE PLAN MAP
 5 POINTS DEVELOPMENT
 N. MLK DRIVE & W. CONCORDIA AVENUE
 MILWAUKEE, WISCONSIN

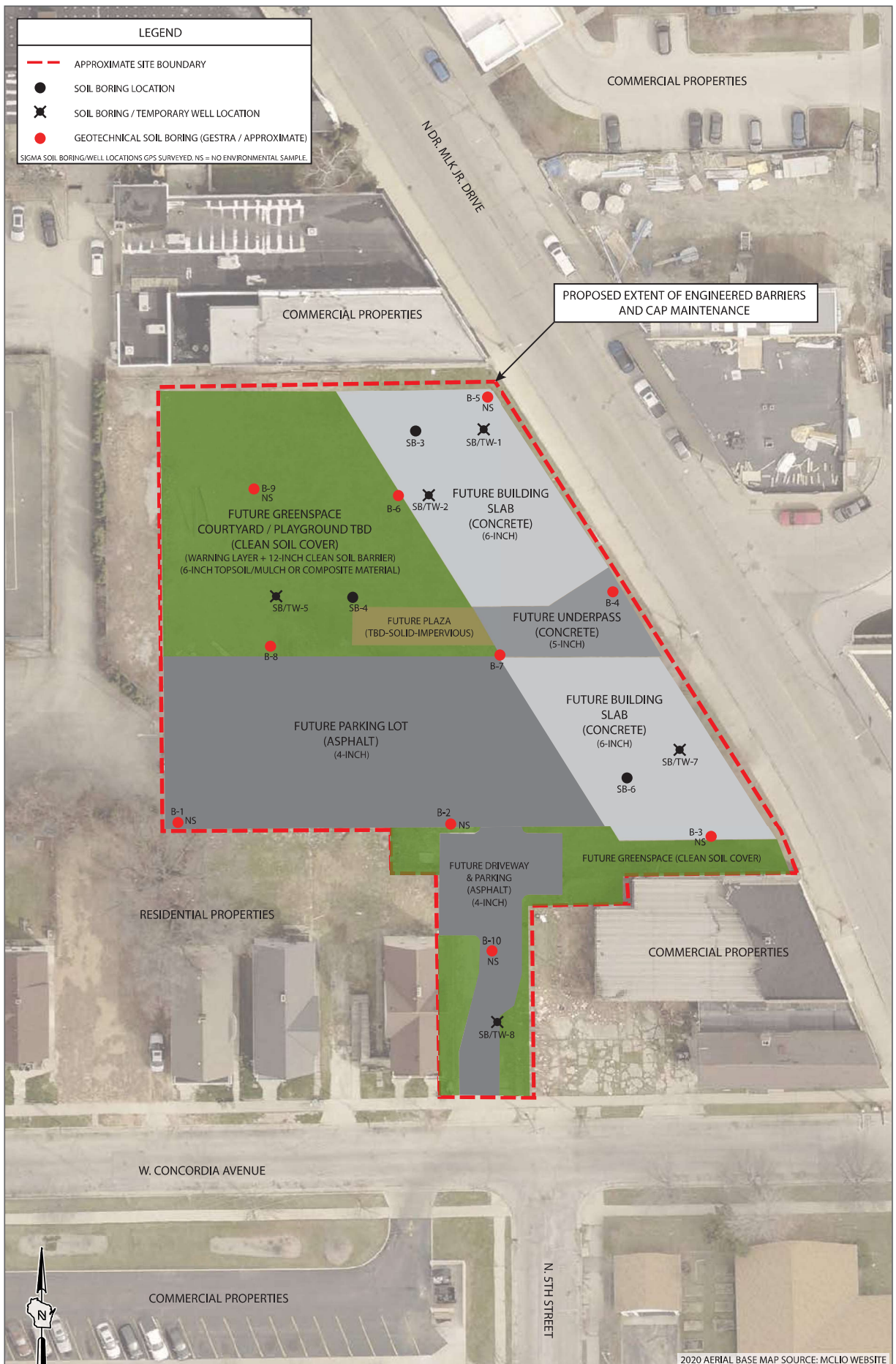
FIGURE
2

2020 AERIAL BASE MAP SOURCE: MCLIO WEBSITE

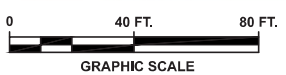
LEGEND

- APPROXIMATE SITE BOUNDARY
- SOIL BORING LOCATION
- ✕ SOIL BORING / TEMPORARY WELL LOCATION
- GEOTECHNICAL SOIL BORING (GESTRA / APPROXIMATE)

SIGMA SOIL BORING/WELL LOCATIONS GPS SURVEYED. NS = NO ENVIRONMENTAL SAMPLE.



PROJECT: 20457 | DIRECTORY: CAD | FILENAME: 20457_Master Map_17x11.rvt | CREATED BY: JMD/CKC | DATE: 05/18/2022



ENGINEERED BARRIER PLAN MAP (CONCEPTUAL)
 5 POINTS DEVELOPMENT
 N. MLK DRIVE & W. CONCORDIA AVENUE
 MILWAUKEE, WISCONSIN

FIGURE
10

2020 AERIAL BASE MAP SOURCE: MCLIO WEBSITE