



**CITY OF MANITOWOC TID NO. 22
DEVELOPMENT AGREEMENT WITH
RIVER LANDING DEVELOPERS LLC**

DOCUMENT NO.

DOC# 1267817

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NAME AND RETURN ADDRESS

City Clerk
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

16 Chg

Parcel Identification Numbers: 052-
000-170-010 & 052-000-148-010

This instrument was drafted by:
Adam Tegen
City of Manitowoc
Community Development Director



**CITY OF MANITOWOC TID NO. 22
DEVELOPMENT AGREEMENT WITH
RIVER LANDING DEVELOPERS LLC**

THIS AGREEMENT (hereinafter called the "Agreement") made as of the 21st day of November, 2023, by and between The City of Manitowoc (hereinafter called the "CITY") and RIVER LANDING DEVELOPERS LLC (hereinafter called the "DEVELOPER"). The CITY and DEVELOPER may be referred to individually as a "PARTY" and may collectively be referred to as the "PARTIES."

WITNESSETH:

WHEREAS, DEVELOPER seeks to develop the Project defined below on two parcels of land with an address of 1101 and 1201 River Point Drive, City of Manitowoc, Manitowoc County on Parcels 052-000-170-010 and 052-000-148-010, more specifically described as and shown on Exhibit A (the "Property"); and,

WHEREAS, DEVELOPER will invest a total of approximately \$15,000,000 on the Property for site preparation, construction, and soft costs (collectively, the "Project"). The purpose of the Project is to construct three residential condominium buildings with 8 dwelling units each, ranging from one bedroom to three bedrooms. The final phase is expected to include an approximately 5,000 square foot restaurant/retail space. The Project will continue building momentum within the River Point District by adding owner occupied residential units and creating new commercial activity focused on the Manitowoc River. The redevelopment will also result in the creation and support of construction jobs while adding another needed residential option within the downtown; and,

WHEREAS, the Property is located in Tax Increment Finance District No. 22 ("TID 22"), and development incentives were identified in the Project Plan for TID 22 to support projects within the district. The use of Tax Incremental Financing is necessary for the Project to take place as the Project is faced with continued pressure from higher than normal construction costs, unique soil conditions, requirements created by the property being a contaminated site, and an unproven condominium market; and,

WHEREAS, the CITY has targeted the downtown core to support additional residential options, development, and tax base for the community; and,

WHEREAS, the completed Project is anticipated to result in additional economic activity, housing options, and quality of life while increasing property values throughout TID 22 and the entire downtown.

NOW, THEREFORE, in consideration of the promises and obligations set forth, it is mutually agreed between the PARTIES as follows:

I. PROJECT SCOPE AND CONSTRUCTION.



- A. The DEVELOPER agrees to complete the Project which includes the construction of three new residential condominium buildings with 8 dwelling units each totaling 24 residential units ranging from one bedroom to three bedrooms in accordance with the Concept Plan. DEVELOPER also agrees to construct a new minimum 5,000 square foot restaurant / retail space on the Property which may be utilized as one space or subdivided into more than one restaurant / retail space in the discretion of DEVELOPER provided, however, that the same is done in accordance with applicable laws. Such restaurant / retail space may be included as one of the three buildings referenced above. The total Project costs will be approximately \$15,000,000. The Project shall begin construction no later than May 31, 2025.
- B. The DEVELOPER shall use its good faith best efforts to complete the Project (the Project shall be deemed complete by the delivery of a final certificate of occupancy on the final building) by no later than December 31, 2028 (the "Completion Date") in accordance with site and building plans as approved by the CITY. CITY acknowledges that site and building plans may be subject to change throughout the Project, subject to CITY's further review and approval, which shall not be unreasonably withheld.
- C. The CITY will make all reasonable efforts to facilitate the approval of any and all local permits necessary for completion of the Project.
- D. The DEVELOPER shall comply with all applicable federal, state, and municipal codes throughout the Project, including submitting site plans and obtaining applicable permits.
- E. The Exterior Concept Plans and Interior Floor Plans for the Project (hereinafter, collectively, the "Concept Plan") are attached as Exhibit B and are incorporated by reference to this Agreement. By execution of this Agreement, the PARTIES expressly approve the Concept Plan. The CITY or the DEVELOPER may at any time propose modifications to the Concept Plan subject to the agreement of the CITY and the DEVELOPER. All site and building plans are subject to review and approval by the CITY for compliance with federal, state and municipal code requirements.
- F. The CITY will continue to work in good faith with DEVELOPER towards closure on the site from the WDNR. To that end, the CITY will pay for any grant eligible expenses that DEVELOPER encounters while working towards closure with the WDNR subject to grant funding availability, including but not limited to Phase I investigations prior to the purchase of the parcels.
- G. The CITY shall sell parcel 052-000-170-010 to DEVELOPER (or its assignee) totaling .59 acres for the fee of \$24,000 by December 31, 2023. The DEVELOPER shall have an exclusive option to purchase on parcel 052-000-148-010 until December 31, 2026. The CITY shall sell parcel 052-000-148-010 totaling .8 acres for the fee of \$32,000. The DEVELOPER agrees to final grade the parcel



consistent with the overall River Point District Development Plans. If available, DEVELOPER shall have access to the CITY's clean granular fill stockpiled within the River Point District at no cost.

- H. In the event the DEVELOPER is unable to complete the Project in its entirety, the CITY shall have the right of first refusal/option to purchase the undeveloped portion of the Property at \$40,000 per acre
- I. The time for performance of any term, covenant, or condition of this Agreement shall be extended by any period of unavoidable delays. In this Agreement, "unavoidable delays" means beyond the reasonable control of the PARTY obligated to perform the applicable term, covenant, or condition under this Agreement and shall include, without limiting the generality of the foregoing, delays attributable to adverse environmental conditions (such as contaminated soil or groundwater), adverse weather conditions, acts of God, pandemic or epidemic, any other PARTY (or such PARTY's failure to perform including failure of CITY to install "River Point District" infrastructure) in this Agreement, strikes, labor disputes, governmental restrictions, court injunctions, riot, civil commotion, acts of public enemy and casualty or delay in obtaining any necessary permit from any governmental agency.
- J. The CITY agrees to work in good faith with DEVELOPER to provide the Property with new, adequately sized, water, sanitary sewer, and stormwater laterals as part of the "River Point District" infrastructure that was approved with the City of Manitowoc's 2023 Budget. It is anticipated that additional water, sanitary sewer, and stormwater laterals will be provided in future CITY budgets. CITY further agrees to grant easement(s) across CITY owned property and / or otherwise provide access and connection to any storm sewer system (and other related infrastructure) installed by the CITY in/on/under the area commonly known as the "River Point District". Further, the CITY shall provide DEVELOPER use of its stormwater discharge permit to eliminate the need for any stormwater detention on the Property.
- K. The CITY agrees to complete phase 2 infrastructure including, without limitation, the following by the following dates:
- a. water, sanitary sewer, stormwater laterals and roadways no later than December 31, 2023;
 - b. paving, sidewalks and landscaping no later than July 1, 2024.
- L. The CITY agrees to work in good faith to continue to develop (and encourage private development of) the River Point District including, but not limited to, continued development of infrastructure, additional private development including retail shops, restaurants, and residential options, and promoting the use of the River Point District for festivals, community gatherings, markets and family friendly and other events.



- M. While it is not currently an objective of DEVELOPER at this time, The CITY agrees to work in good faith with the DEVELOPER to permit docking in the Manitowoc River adjacent to the Property should that be requested in the future.
- N. CITY agrees to work in good faith with the DEVELOPER to incorporate overnight on street parking on the street adjacent to the Property.
- O. CITY agrees to work in good faith with DEVELOPER to obtain grants on behalf of, in the name of, or for the benefit of DEVELOPER for purposes of environmental remediation to the extent needed for the Property.

II. FINANCIAL ASSISTANCE

- A. The City shall provide to the DEVELOPER a Total Incentive of 20% of the assessed value created by January 1 after the final occupancy permit is issued for the final phase of the Project or the Completion Date whichever comes first (Project Completion Tax Value). Based upon the estimated assessed value of \$13,300,000, the Total Incentive is estimated at \$2,660,000. The City shall provide the Total Incentive through an Annual TIF Payment to be paid beginning in 2025 per subsection II(C). Adjustment to the Total Incentive shall be accomplished by increasing or reducing the value of the Annual TIF Payment.
- B. The Total Incentive shall be calculated by subtracting the 2022 Base Tax Value, which is \$0, from the Project Completion Tax Value and multiplying the increase by 20%.
- C. The Annual TIF Payment shall begin in 2025 (based on 2024 real estate taxes) and continue until the Total Incentive is paid, estimated to take 16 years. CITY shall reimburse the DEVELOPER at 65% of increment created on an annual basis until the Total Incentive equals 20% of the Project Completion Tax Value. The City may elect to complete the Annual TIF Payment sooner than the period outlined if funding allows.
- D. The CITY shall take no action to terminate or dissolve TID 22 prior to December 31, 2042, unless the Annual TIF Payment has been fully paid to the DEVELOPER. For the avoidance of doubt, the cumulative value of the Annual TIF Payment shall not result in an exceedance of the Total Incentive.
- E. The Annual TIF Payment will be made each year by August 15 following the CITY receiving proof from DEVELOPER and/or any other individual owners of real estate at the Property that the annual real estate and personal property tax bills for the Property have been paid in full, whether in one payment or in installments as permitted by state law and the Manitowoc Municipal Code. If only a portion of the total annual real estate and personal property tax bills has been paid by August 15, the Annual TIF Payment shall be reduced proportionally by the outstanding balance until such time that all annual real estate and personal property tax bills are paid in full.



III. DEVELOPER'S TRANSFER RESTRICTIONS AND OBLIGATIONS

- A. The DEVELOPER shall be prohibited from selling the Property or a part of the Property to an entity which is exempt from real estate taxes without the approval of the Manitowoc Common Council.
- B. Until completion of the obligations under Sections I and II above, there shall be neither sale of the Property nor any assignment of rights or obligations under this Agreement, without CITY consent, which shall not be unreasonably withheld, except to the extent such sales of the Property are sales in the DEVELOPER's ordinary course of business including, without limitation, the selling of the condominiums to be developed on the Property. This statement shall not prohibit mortgages, leases or easements, which leave DEVELOPER liable to CITY under this Agreement. DEVELOPER may assign their payments to a lending institution as collateral, and the Community Development Director for CITY is authorized to consent to such an arrangement upon approval of the Finance Director and City Attorney. For the avoidance of doubt, DEVELOPER may sell (and may pre-sell) any of the units developed in the condominium(s) complexes to be developed on the Property as anticipated hereby, and any such sale shall not be deemed a violation of this provision.
- C. DEVELOPER and/or their successors shall not challenge any Property tax assessment within the first twenty years of this agreement, real or personal on the development parcel, nor cause the Property to be used in such a fashion that taxes cannot be assessed.

IV. OTHER RIGHTS AND REMEDIES.

- A. **Termination and Remedies.** Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, such PARTY shall, upon written notice from any other PARTY, proceed promptly to ensure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice unless such default or breach cannot, with reasonable diligence, be cured within such period in which case said defaulting PARTY shall commence such cure within such period and diligently proceed to cure such default. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved PARTY may institute such proceedings to compel specific performance by the PARTY in default or breach of its obligation.
- B. Completion of the development in accordance with the terms and conditions of this Agreement is the essential and unique consideration for the obligations of the DEVELOPER and the CITY; accordingly, the CITY and the DEVELOPER shall, in the event of legal proceedings, seek remedies to compel the specific performance of the defaulting PARTY as the only adequate remedy and shall not seek damages in lieu of specific performance unless specific performance is legally unavailable, in which event the CITY and the DEVELOPER may seek damages. No other remedies for the PARTIES to this agreement exist outside of this Agreement.



- C. The CITY and the DEVELOPER shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purpose of this Agreement; provided that any delay in instituting or prosecuting any such actions or proceedings or otherwise asserting such rights, shall not operate as a waiver of such rights to, or deprive it of or limit such rights in any way (it being the intent of this provision that a PARTY should not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of any remedy because of concepts of waiver, laches or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems involved); nor shall any waiver in fact made with respect to any specific default, be considered or treated as a waiver of any rights with respect to other defaults or with respect to the particular default except to the extent specifically waived in writing.
- D. Except as expressly provided otherwise in this Agreement, the rights and remedies of the PARTIES to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any PARTY of any one or more such remedies shall not preclude the exercise of it, at the same different times, of any other such remedies for any other default or breach by any other PARTY. No waiver made by any such PARTY with respect to the performance or manner of time thereof, of any obligation of any other PARTY or any condition of its own obligation under this Agreement shall be considered a waiver of any rights of the PARTY making waiver with respect to the particular obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the PARTY making the waiver of any other obligations.
- E. No official or employee of the CITY shall have any personal interest in this Agreement, nor shall any such person voluntarily acquire any ownership interest, direct or indirect, in the legal entities which are PARTIES to this Agreement. No official or employee of the CITY shall be personally liable to the DEVELOPER or any successor in interest, in the event of any default or breach by the CITY, or for any amount which becomes due to the DEVELOPER or its successors under this Agreement. No member of DEVELOPER or any member of its members shall be personally liable to the CITY or any successor in interest, in the event of any default or breach by DEVELOPER, or for any amount which may become due to the CITY by DEVELOPER or its successors under this Agreement.
- F. **Applicable Law, Severability and Entire Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin governing agreements made and fully performed in Wisconsin. If any provision of this Agreement, or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, then (unless in the judgment of the PARTY or PARTIES thereby adversely affected such provision was a material part of the consideration for their entering into this Agreement, that without it they would not have entered into this Agreement) the remainder of this Agreement or the application of such provision, or portion thereof, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement sets forth the entire understanding between the CITY and the DEVELOPER with respect to its subject



matter, there being no terms, conditions, warranties or representatives with respect to its subject matter other than that contained herein. This Agreement shall be binding upon and shall inure to the benefit of the PARTIES hereto, their respective successors and assigns.

- G. **Amendments to Agreement.** This Agreement may not be changed orally, but only by agreement in writing and signed by the PARTIES hereto.
- H. **Third Parties.** Except as expressly provided otherwise in this Agreement, the provisions of this Agreement are for the exclusive benefit of the PARTIES hereto and not for the benefit of any other persons, as third-party beneficiaries or otherwise, and this Agreement shall not be deemed to have conferred any rights, expressed or implied, upon any other person.
- I. **No Partnership Created.** This Agreement specifically does not create any partnership or joint venture between the PARTIES hereto, or render any PARTY liable for any of the debts or obligations of any other PARTY.
- J. **Formalities and Authority.** The PARTIES hereto represent and warrant that they are validly existing and lawful entities with the power and authorization to execute and perform this Agreement. The headings set forth in this Agreement are for convenience and reference only, and in no way define or limit the scope of content of this Agreement or in any way affect its provisions.
- K. **Notices and Demands.** A notice, demand or other communications under this Agreement shall be sufficiently given or delivered if it is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested or delivered personally:

To DEVELOPER: RIVER LANDING DEVELOPERS LLC
 Attn: Abby Diederichs
 828 Winnetka Court
 Manitowoc, WI 54220

With a copy to: Attorney Trent R. Nelson
 Kummer, Lambert, Fox, Glandt & Nelson LLP
 205 N. 8th Street
 Manitowoc, WI 54220

To CITY: City of Manitowoc
 Attn: City Clerk
 900 Quay Street
 Manitowoc, WI 54220

or to such other address, within the United States, with respect to a PARTY as that PARTY may from time to time designate in writing and forward to the other as provided in this Section. A copy of any notice, demand or other communication under



this Agreement given by a PARTY under this Agreement to any other PARTY under this Section shall be given to each other PARTY to this Agreement.

- L. **Nonmerger and Survival.** Any provision in this Agreement which has not been fully performed prior to transfer of possession shall not be deemed to have terminated, but shall, unless expressly waived in writing, survive such transfer of possession and be in force and effect until performed.

{SIGNATURE PAGES FOLLOW}



IN WITNESS WHEREOF, the PARTIES have executed this Agreement as of the year and date set forth above, and by so signing this Agreement, certify that they have been duly and properly authorized by their respective entities to make these commitments, and intend them to be binding upon their respective entities and to execute this Agreement on their behalf.

RIVER LANDING DEVELOPERS LLC:

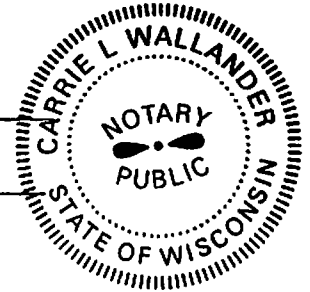
By: [Signature]
Dan Diederichs - owner of 50% of Membership Units RIVER LANDING DEVELOPERS, LLC

By: [Signature]
Abby Diederichs - owner of 50% of Membership Units in RIVER LANDING DEVELOPERS, LLC

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this 20 day of November, 2023, the above named Dan Diederichs and Abby Diederichs, to me known be the persons who executed the foregoing instrument on behalf of RIVER LANDING DEVELOPERS, LLC.

[Signature]
Notary Public, State of Wisconsin
My Commission: 9-10-25



{RIVER LANDING DEVELOPERS LLC SIGNATURE PAGE TO DEVELOPMENT AGREEMENT}

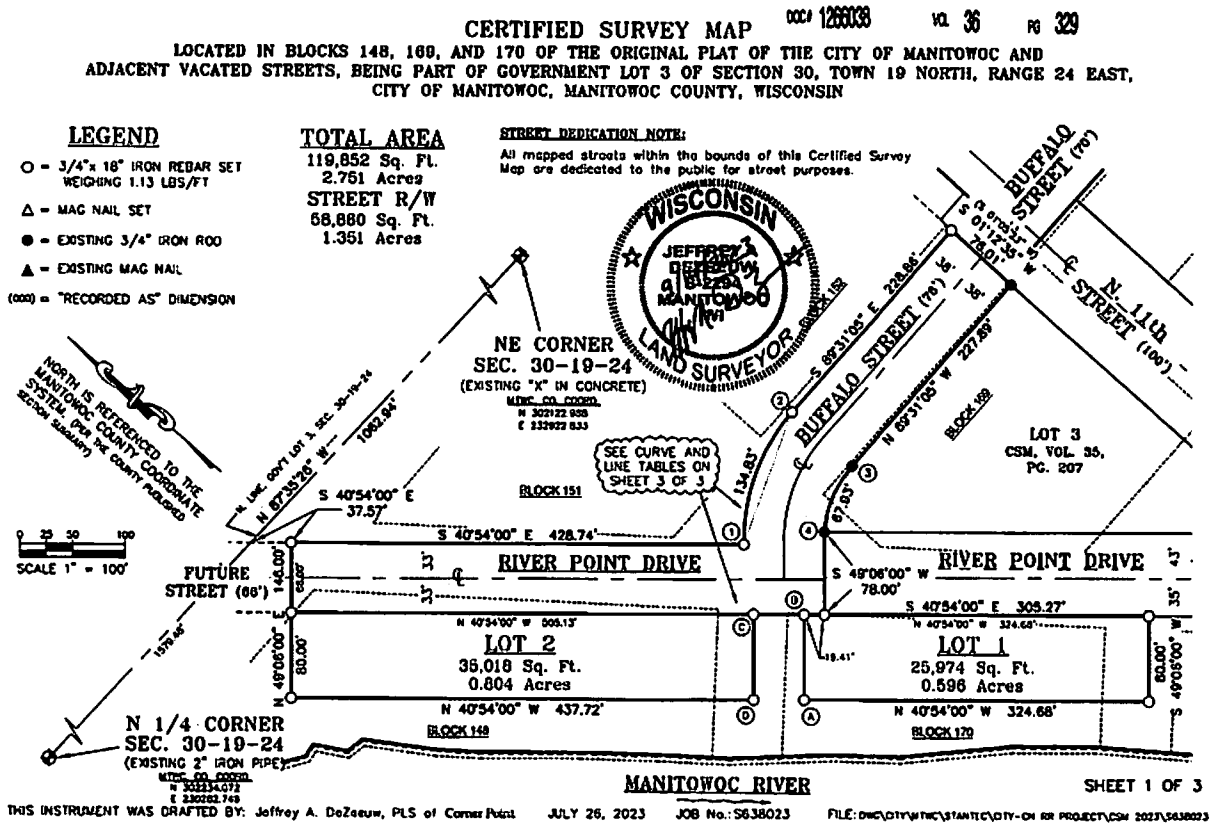


Exhibit A Legal Description of the Property:

Lot 1 and Lot 2 of the Certified Survey Map Recorded as Document 1266038 in Volume 36 Page 329 with said CSM being located in Blocks 148, 169, and 170 of the Original Plat of the City of Manitowoc and adjacent vacated streets, being part of Government Lot 3 of Section 30, Town 19 North, Range 24 East, City of Manitowoc, Manitowoc County, Wisconsin.

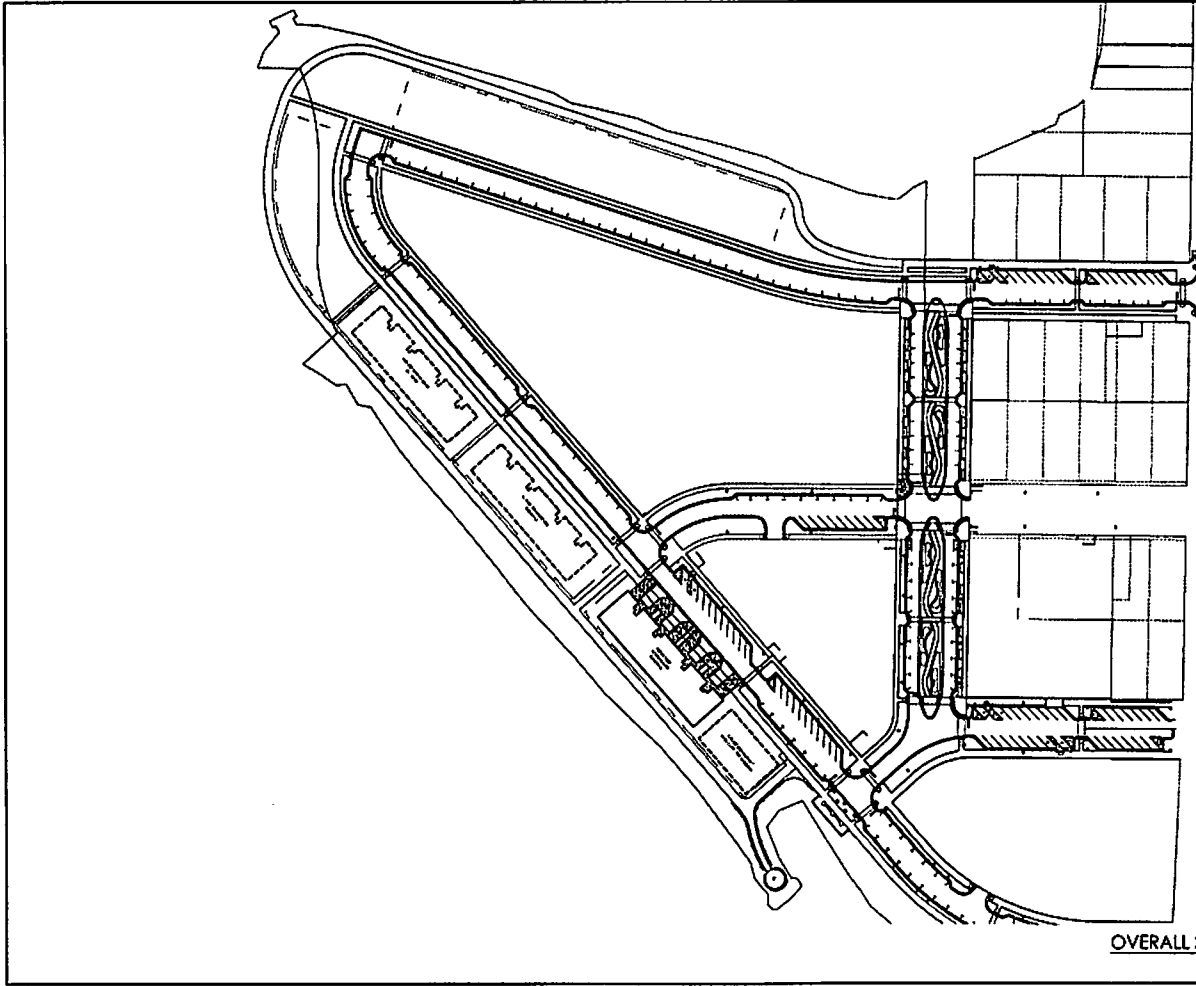
Depiction of the Property:

The "Property" is the area identified as Lot 1 and Lot 2 in the drawing below:





**Exhibit B
Concept Plans**



OVERALL SITE PLAN
SCALE 1"=40'



REVISIONS:

PROJECT NO. 2022-27
 NEW CONSTRUCTION
 RIVER LANDING TOWNHOMES
 RIVER POINT DRIVE, ANNAPOLIS, MD 21403
 11/20/2022
 DRAWN BY: JAV
 CHECKED BY: JAV

SCALE: 1"=40'

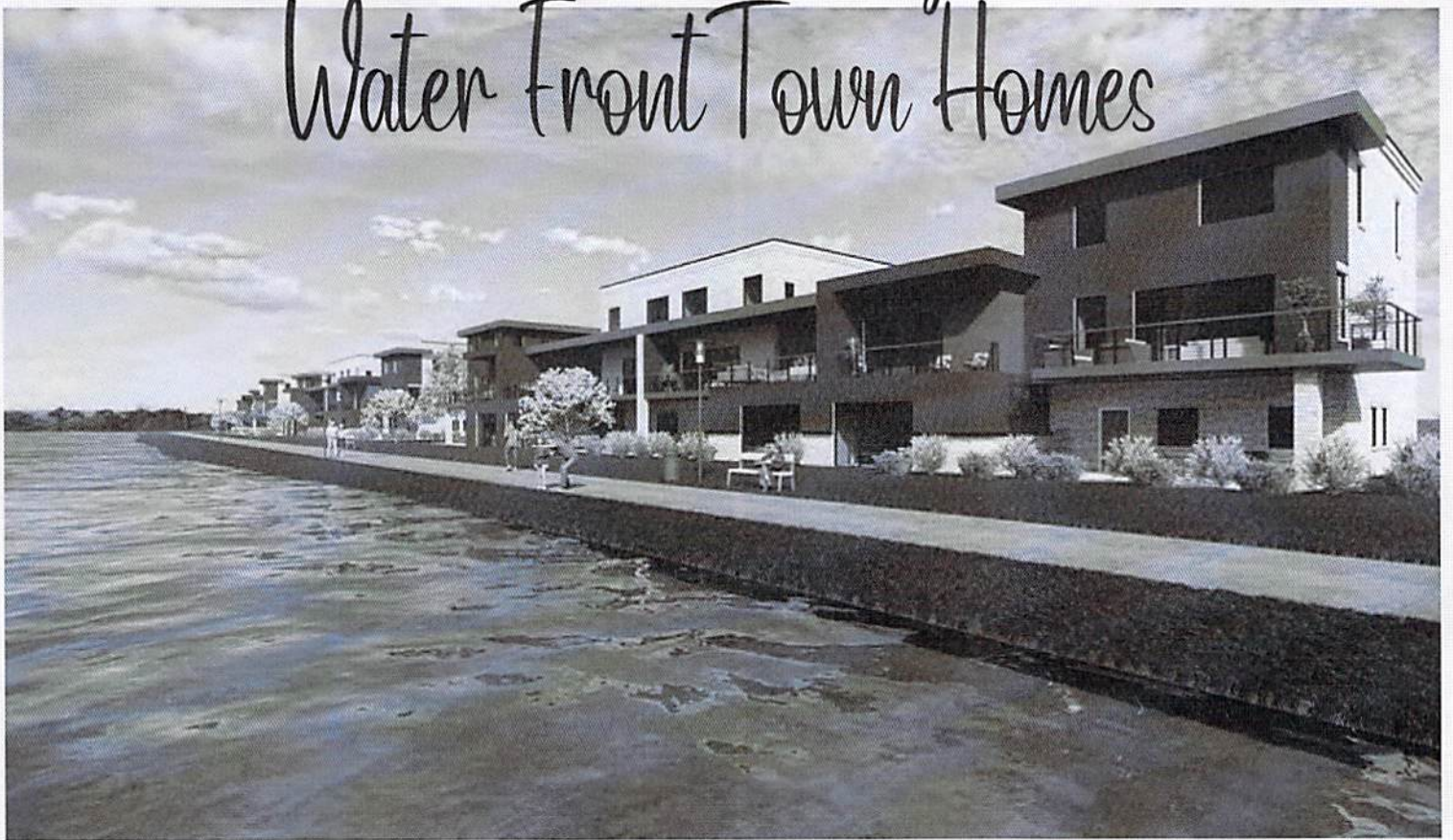
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PROJ. NO. 2022-27

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River Landing Water Front Town Homes





NorthEast Front Corner

