

FRIENDS OF THE STURGEON
 BAY PUBLIC WATERFRONT,
 SHAWN M. FAIRCHILD,
 CARRI ANDERSSON,
 LINDA COCKBURN,
 RUSS COCKBURN,
 KATHLEEN FINNERTY,
 and
 CHRISTIE WEBER,

Case No. 16-CV-23
 Code: 30701

Plaintiffs,

vs.

CITY OF STURGEON BAY,
 a Wisconsin municipal corporation,
 and
 WATERFRONT REDEVELOPMENT AUTHORITY
 OF THE CITY OF STURGEON BAY
 a municipal redevelopment authority,

Defendants.

AFFIDAVIT OF DONALD C. CHAPUT, R.L.S.

STATE OF WISCONSIN }
 }
 COUNTY OF MILWAUKEE } SS.

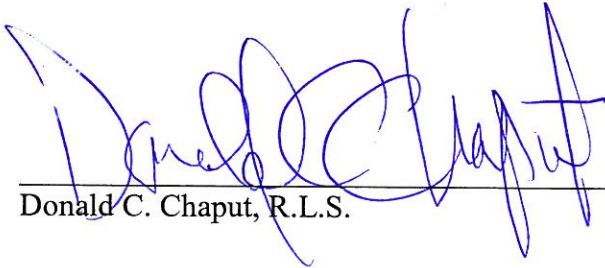
DONALD C. CHAPUT, first being duly sworn under oath, subscribes and states as follows:

1. I am a Registered Land Surveyor retained in this case on behalf of the Plaintiffs to produce maps showing the location of the parcel described as Lot 1, CSM No. 2953, recorded in the Door County Register of Deeds' office on July 20, 2015, in Vol. 18, CSM, pages 57-61 ("Hotel Parcel"), in relation to historic surveys, plats and maps of the shoreline area of the west waterfront of Sturgeon Bay. Attached as Exhibit 1 is a true and correct copy of my current CV.

2. I have extensive education and experience in the use of digital software for the production of orthophotographic overlay maps utilizing GIS parcel mapping lines, surveyed legal descriptions, historical plats and maps, subdivision plats, and government survey notes. "Orthophotography" refers to the use of aerial photographs corrected for scale, used for base mapping.
3. The attached Exhibits 2, 3 and 10-15 consist of digital overlays of the boundaries of the Hotel Parcel and other information on orthophotos and historical base maps, which are geo-referenced to the Door County Wisconsin Coordinate System. These exhibits were prepared by compiling the current mathematical locations of the government corners, obtaining the records and notes from the original government public land survey, and orienting that information on the modern day Public Land Survey System ("PLSS") record. The information on the maps is coordinated on the PLSS system using section corners and dimensioning from section corners north and south of the Hotel Parcel. The underlying historical maps were aligned to modern boundaries using the platted street lines. The observed scale accuracy or margin of error of the street grid in the localized area of the Hotel Parcel was between 5 and 10 feet in a north/south direction and 10 to 20 feet in an east/west direction.
4. Attached as Exhibit 2 is an orthophotographic map utilizing the Door County Geographic Information System ("GIS") system current aerial photograph as a base map and showing the boundaries of the Hotel Parcel and underlying boundaries of the two former tax parcels at 92 and 100 East Maple Street in the City of Sturgeon Bay.
5. Attached as Exhibit 3 is an orthophotographic map showing the same information as in Exhibit 2, with the addition of shading to show the area shown in the survey attached to the document entitled "WDNR Concurrence With the Approximate Ordinary High Water Mark for the City of Sturgeon Bay West Side Waterfront Project," recorded on October 28, 2014, in the Door County Register of Deeds' office as Document No. 782928.
6. Exhibits 2 and 3 depict the approximate location of the meander line as evidence of the shoreline of Lake Michigan from the Public Land Survey by Sylvester Sibley in 1835 commissioned by the federal General Land Office, on file at the Wisconsin Board of Commissioners of Public Lands office. The 1835 Sibley survey is the earliest survey of record of the Lake Michigan shoreline in this area. In the field of surveying, a "meander line" is run on the ground close to the shoreline of a navigable lake, with the meander corners generally being placed and referenced to the shore.
7. Attached as Exhibit 4 is a true and correct copy of the Plat of the Village of Bay View, the second earliest survey of record of this area of the shoreline, recorded in the Door County Register of Deeds' office on December 9, 1873, in Book H of Deeds, at Page 409, depicting the location of the shoreline at the time of the survey.
8. Attached as Exhibit 5 is a true and correct copy of the plat of Harris' First Addition to Bay View, recorded in the Door County Register of Deeds' office on September 11, 1888, as Document No. 122610, depicting the location of the shoreline at the time of the 1888 survey.


9. Attached as Exhibit 6 is a map showing the boundaries of the Hotel Parcel in relation to the locations of: (a) the water's edge in the Plat of the Village of Bay View (1873), and (b) the water's edge depicted in the plat of Harris' First Addition to Bay View (1888).
10. Attached as Exhibit 7 are copies of historic survey maps prepared by the Sanborn Fire Insurance Company dated 1891, 1904 and 1919, obtained from the online collection of the Wisconsin Historical Society digital maps collection, available at: <http://content.wisconsinhistory.org/cdm/compoundobject/collection/maps/>
Digital versions of these maps were used in the preparation of Exhibits 10, 12 and 13.
11. Attached as Exhibit 8 are copies of two Army Corps of Engineers maps dated 1901-1904 and 1925, respectively. Digitalized (pdf) versions of these maps were used in the preparation of the attached Exhibits 11 and 13. The 1904 ACOE map is from the publication Staffin, Peter A., and United States War Department Corps of Engineers, Sturgeon Bay, Canal, and Harbor of Refuge, Lake Michigan (War Dept., Corps of Engineers 1907). The 1925 map is a United States War Department Corps of Engineers publication, Survey of the Northern and Northwestern Lakes - Made In Obedience To Acts of Congress and orders of The Chief of Engineers, U.S. Army. Sturgeon Bay Canal and Harbor of Refuge, Lake Michigan (May 27, 1925).
12. Attached as Exhibit 9 is an orthophotographic map utilizing the Door County GIS system as the base map, showing the boundaries of the Hotel Parcel in relation to the edge of water and historic docks extending from the shore, all as shown in the 1891 Sanborn map.
13. Attached as Exhibit 10 is an overlay map utilizing the 1904 United States Army Corps of Engineers survey as the base map, showing the boundaries of the Hotel Parcel and locations of the 1835 government survey meander line and shorelines from the earlier plats of the Village of Bay View (1873) (Exhibit 4) and Harris First Addition (1888) (Exhibit 5) in relation to the shoreline as shown in the 1904 ACOE map (Exhibit 9).
14. Attached as Exhibit 11 is an overlay map utilizing the 1904 Sanborn map as the base map, showing the boundaries of the Hotel Parcel and locations of the 1835 government survey meander line and shorelines from the earlier plats of the Village of Bay View (1873) and Harris First Addition (1888) in relation to the shoreline as shown in the 1904 Sanborn map.
15. Attached as Exhibit 12 is an overlay map utilizing the 1919 Sanborn map as the base map, showing the boundaries of the Hotel Parcel and locations of the originally surveyed meander line and shorelines from the earlier plats of the Village of Bay View (1873) and Harris First Addition (1888) in relation to the shoreline as shown in the 1919 Sanborn map.

16. Attached as Exhibit 13 is an overlay map utilizing a 1925 United States Army Corps of Engineers survey as a basemap, showing the boundaries of the Hotel Parcel and locations of the originally surveyed meander line and shorelines from the earlier plats of the Village of Bay View (1873) and Harris First Addition (1888) in relation to the shoreline as shown in the 1925 ACOE map.
17. Attached hereto as Exhibit 14 is a orthophoto overlaying the Hotel Parcel boundaries and the surveyed bulkhead line from the City of Sturgeon Bay's 1955 Bulkhead Ordinance No. 460 on an aerial photo dated 1963 captioned "Aerial photos of Ahnapee & Western tracks in Sturgeon Bay and Sawyer, with the railroad tracks highlighted for greater visibility." The aerial photo was obtained from a railroad history website, greenbayroute.com, at: <http://greenbayroute.com/1963sawyer.htm>.
18. The professional opinions expressed in this affidavit and reflected in the attached exhibits are made to a reasonable degree of certainty in my field as a Registered Land Surveyor.

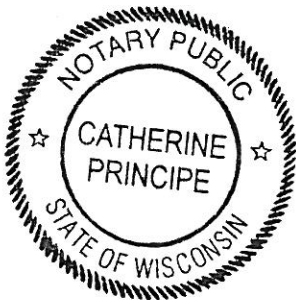


Donald C. Chaput, R.L.S.

Subscribed and sworn to before
me this 6 day of October, 2016



Notary Public, State of Wisconsin
My Commission expires 2-18-18.



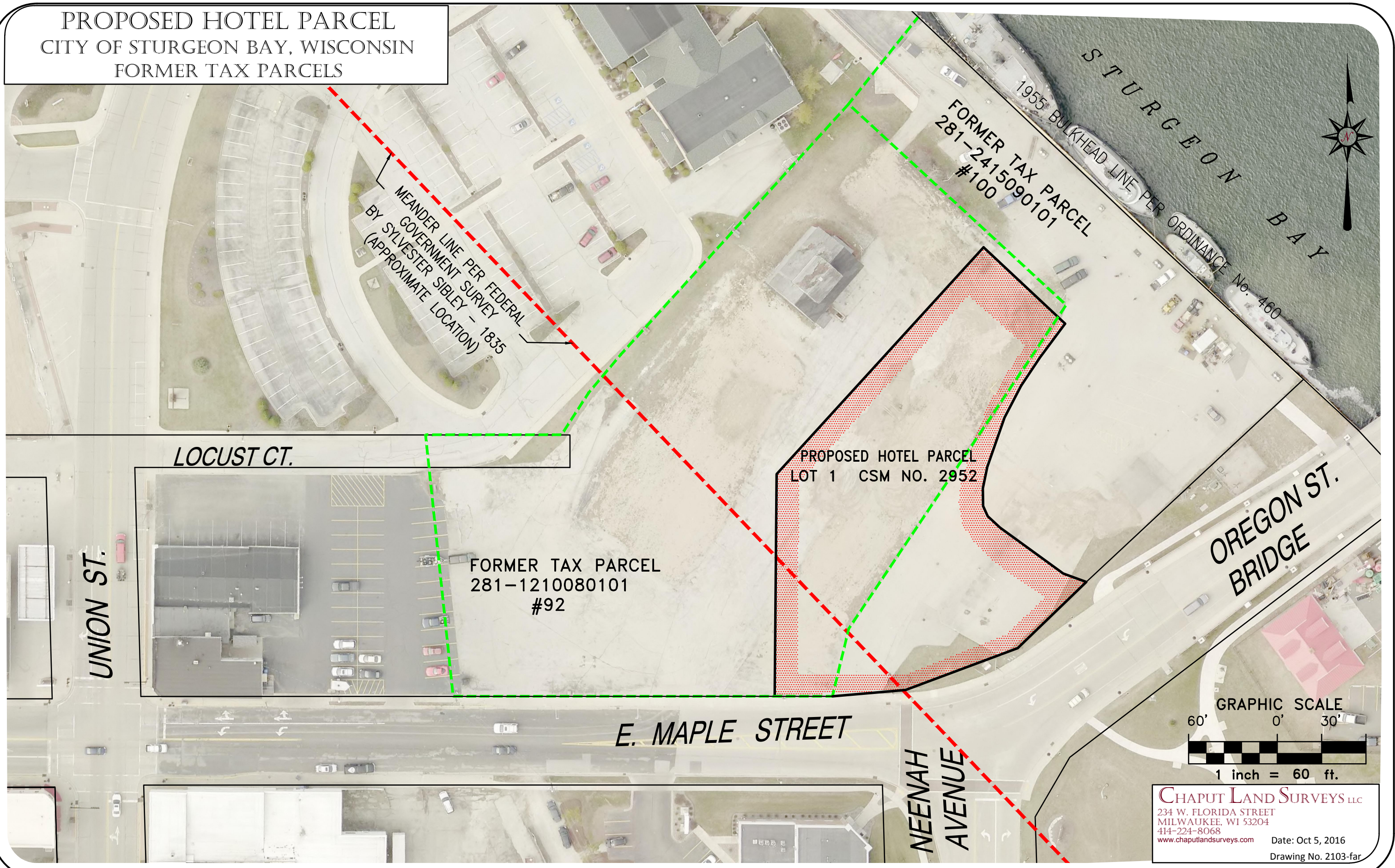
(this page intentionally blank)

Donald C. Chaput, R.L.S.
Principal, Chaput Land Surveys, LLC

<p>Education</p> <p>University of Wisconsin - Parkside Applied Science and Engineering 1972 –1977</p> <p>Gateway Technical College AAS Land Surveying 1975</p> <p>Professional Registrations</p> <p>Wisconsin Registered Land Surveyor, 1976</p> <p>Colorado Professional Land Surveyor, 1980 (inactive)</p> <p>Professional Affiliations</p> <p>Member, Wisconsin Society of Land Surveyors.</p> <p>Member National Society of Professional Surveyors</p> <p>Member, Southeast Chapter, Wisconsin Society of Land Surveyors. (Past Secretary/Treasurer)</p> <p>Member, Southeast Society of Wisconsin Land Surveyors (Milwaukee Chapter WSLS)</p>	<p>SUMMARY OF EXPERIENCE</p> <p>The Cornerstone Group, Waukesha WI (1980 – 1984) – Survey Department Manager overseeing 3 survey personnel. Surveyor in charge of survey activities including property boundary, construction and topographic survey projects.</p> <p>Terra Technology of Wisconsin, Waukesha WI – (1984-1988) – Principal owner of 10 person land surveying firm located in Waukesha WI, performing property boundary, topographic and construction surveys.</p> <p>National Survey and Engineering, Brookfield WI – (1989-1994) – Survey Project Manager responsible for survey projects performed by a staff of 28 surveyors. Survey activities included performing property boundary surveys, land divisions, condominiums, subdivisions, topographic and construction surveys.</p> <p>R.A. Smith National (d/b/a National Survey and Engineering) - (1995- 2009) – Director of Surveying in charge of four offices throughout Wisconsin with 58 survey personnel organized in four service sector groups, Commercial Property, Transportation, Land Development, and Construction.</p> <p>Chaput Land Surveys (2009 to present) - Principal owner of 11 person land surveying firm performing property boundary, topographic and construction surveys with focus on land development and transactional commercial real estate, property rights identification and problem resolution.</p> <p>ACCOMPLISHMENTS</p> <p>Author of published articles on ALTA/ACSM Land Title Surveys, spatial survey technology and construction layout risk avoidance. Presenter at seminars to law firms and land development firms on the subject of ALTA/ACSM Land Title Surveys.</p> <p>AWARDS</p> <ul style="list-style-type: none">■ Multiple Winning Entries, Wisconsin Society of Land Surveyors (WSLS) 1998-2009 Plat Competition■ 2004 Best of State, Engineering Excellence Awards, ACEC of Wisconsin: GPS surveying services for Milwaukee Metropolitan Sewerage District’s Northwest Side Relief Sewer, Milwaukee■ 2003 Best of State, Engineering Excellence Awards, ACEC of Wisconsin: Land surveying services for Pabst Farms multi-use development, Oconomowoc, Wis.■ 2002 Recognized by the Wisconsin Society of Land Surveyors for dedication to the advancement of the survey profession
---	--

(this page intentionally blank)

PROPOSED HOTEL PARCEL
CITY OF STURGEON BAY, WISCONSIN
FORMER TAX PARCELS



MEANDER LINE PER FEDERAL
GOVERNMENT SURVEY
BY SYLVESTER SIBLEY - 1835
(APPROXIMATE LOCATION)

FORMER TAX PARCEL
281-2415090101
#100

1955 BULKHEAD LINE PER
ORDINANCE No. 460

LOCUST CT.

PROPOSED HOTEL PARCEL
LOT 1 CSM NO. 2952

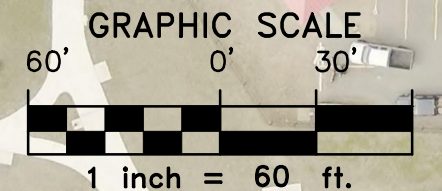
FORMER TAX PARCEL
281-1210080101
#92

OREGON ST.
BRIDGE

UNION ST.

E. MAPLE STREET

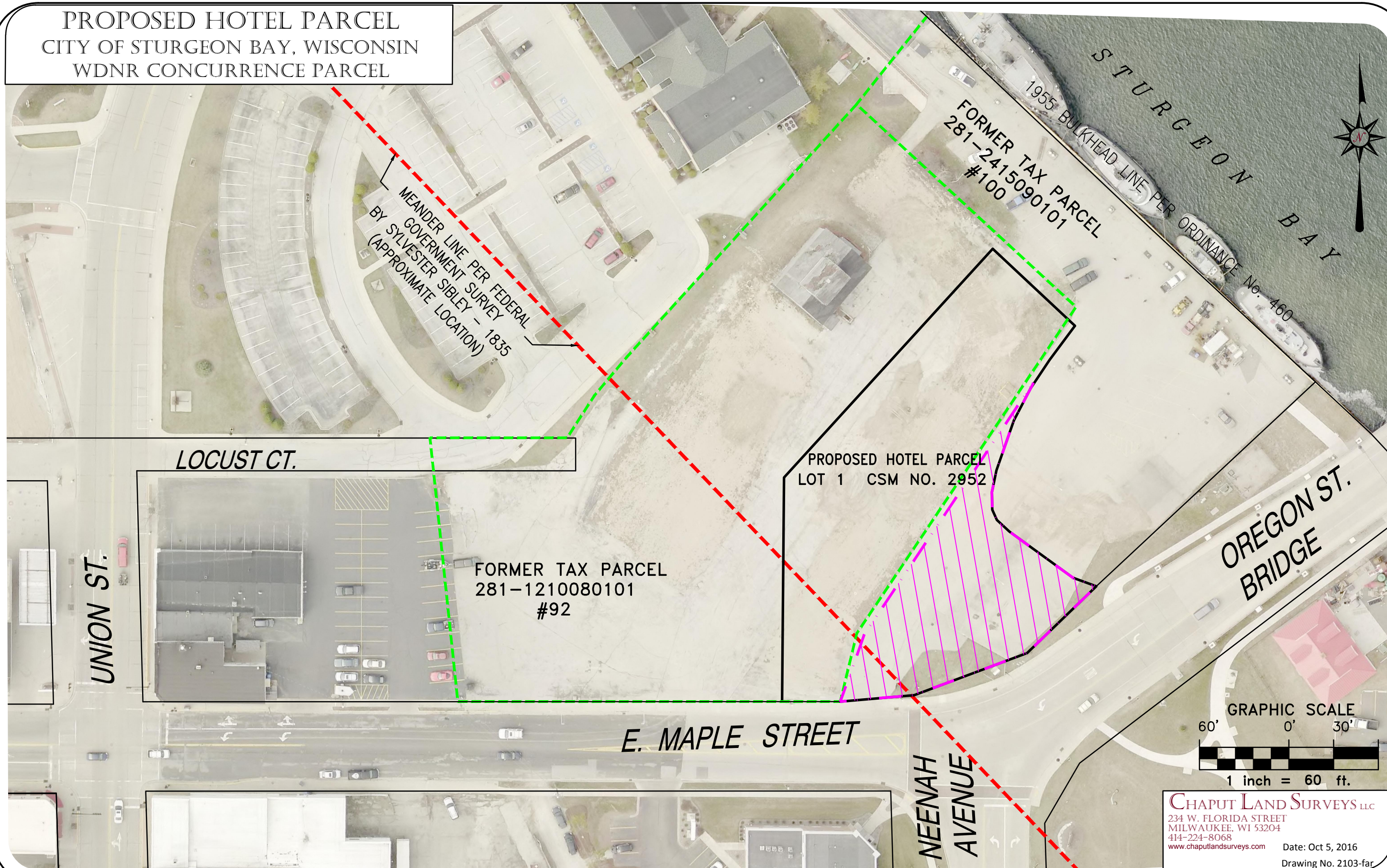
NEENAH
AVENUE



CHAPUT LAND SURVEYS LLC
234 W. FLORIDA STREET
MILWAUKEE, WI 53204
414-224-8068
www.chaputlandsurveys.com
Date: Oct 5, 2016
Drawing No. 2103-far

(this page intentionally blank)

PROPOSED HOTEL PARCEL
CITY OF STURGEON BAY, WISCONSIN
WDNR CONCURRENCE PARCEL



CHAPUT LAND SURVEYS LLC
234 W. FLORIDA STREET
MILWAUKEE, WI 53204
414-224-8068
www.chaputlandsurveys.com
Date: Oct 5, 2016
Drawing No. 2103-far

(this page intentionally blank)

Bay View

Village of Bay View
Sturgeon Bay Door County Wisconsin
Joseph Harris Sr. Proprietor

State of Wisconsin I hereby certify that on the 8th and 9th days of August
A. D. 1873 with John Darling and Joseph Harris Sr. his assistants
did lay out a part of lots 2 and 3 in section 7 Town 27

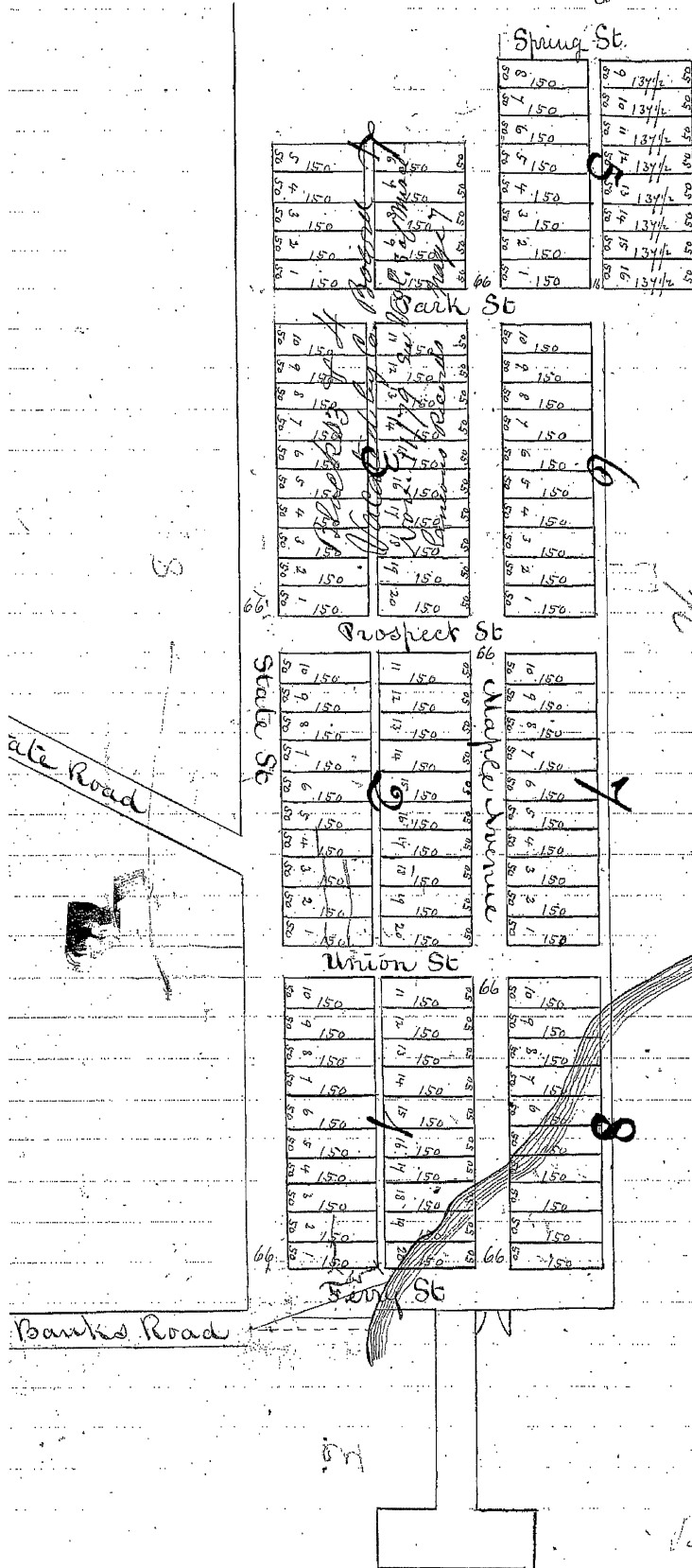
Range 26 East, Commencing NE corner of the NW 1/4 of the SE 1/4 of said
Section 7, run North 33 feet for 1/2 of State Street and West 66 feet
for Perry Street, thence West setting Stakes every 50 feet for corner
of lots 500 feet for Block 1, thence 60 feet for Union Street, thence
same as above 500 feet for Block 2, thence 60 feet for Prospect
Street, thence same as 500 feet for Block 3, thence 60 feet for
Park Street, thence same as above 250 feet for Block 4, thence
North 150 feet for lot, thence 66 feet for Alley, thence 150 feet
for lot, thence 66 feet for Maple Avenue, Northern bound-
ary of aforesaid Blocks 1, 2, 3, 4, and Southern boundary
of Blocks 5, 6, 7, 8, all lots are 50 feet, East and West by 150 feet
North and South, each full Block contains 20 lots, all lots
from 1 to 10 inclusive are numbered on the Stake at SE cor-
ner, and all lots from 11 to 20 inclusive are numbered on
the Stake on the NW corner, lots in Block 5 from 9 to 16
inclusive are 50 feet by 137 1/2 feet, lots 19 and 20 in Block
1 and lots 6, 7, 8, 9, 16 in Block 8 are fractional on line
of Sturgeon Bay, Blocks 6, 7, 8 contain one tier of lots
each numbered respectively from 1 to 10, Block 5
contains 16 lots, and Block 4 contains 10 lots, attached
herewith is a correct Plat

J. C. Pinney
County Surveyor
Door Co

Whereas Joseph Harris Sr. of the town of Sturgeon Bay in the county of Door and State
of Wisconsin did on the 8th & 9th days of August 1873 cause to be surveyed and laid out by
James C. Pinney the County Surveyor of this county a certain plat of the village of Bay
View in said town, the said village plat being upon a part of lots 2 & 3 in section 7 Town 27 Range
26 East and the same being recorded on the 9th day of September 1873 in Vol. 11 of Deeds on page
408 & 409 by the Register of Deeds of said county. And whereas the said Joseph Harris Sr. did
at the time of laying out and platting said village, neglect to acknowledge the same before
an officer duly authorized to receive and execute the same. Therefore he it is remembered
that on this 15th day of May 1878 personally appeared before me the above named Joseph
Harris Sr. to me known as the proprietor and owner of the village of Bay View
aforesaid and acknowledged the aforesaid plat for the uses and purposes therein mentioned.
O. C. Dreutzer Not. Public Commissioner
Eastern District of Wisconsin
Joseph Harris Sr.
Proprietor

Sturgeon Bay Door County

Wisconsin



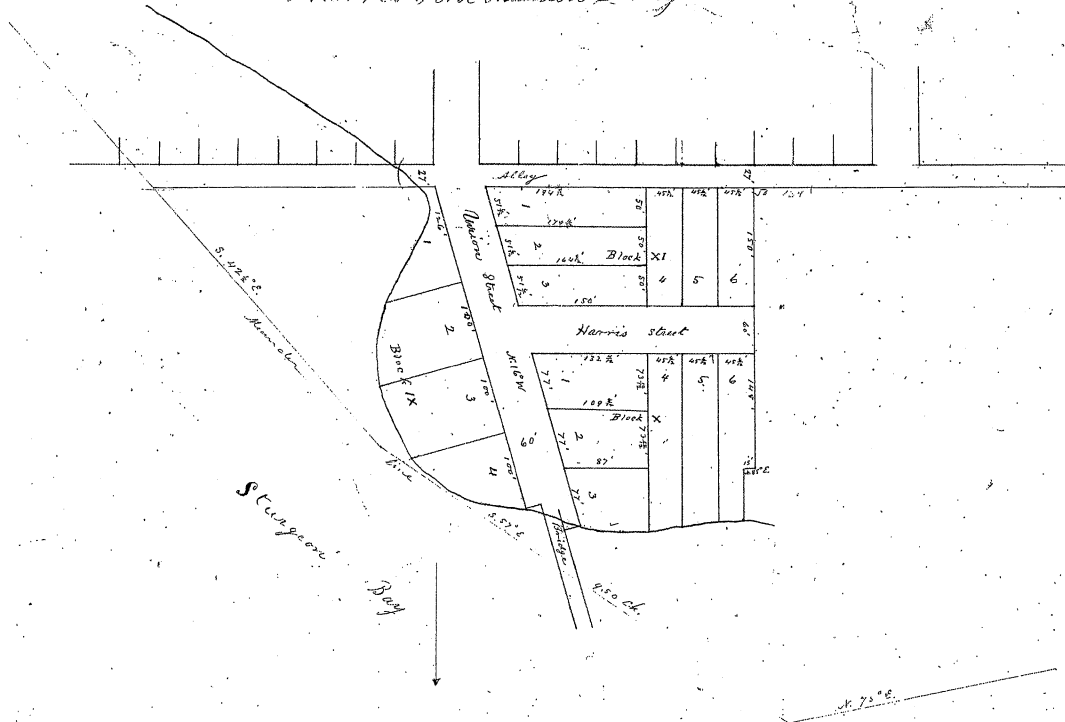
Recorded Sept 9, 1873
at 6 o'clock P.M.
Peter Zimmers, Register
vs. John Cassard, Deputy

(this page intentionally blank)

Harris First Add.

No. 122 & 17

Harris' First Addition to Bay View.



Harris Addition to Bay View is situated on part of Lot three (3) of Section Seven
 North of the East part of the Original Plan of the Village of Bay View and is separated therefrom
 by an Alley 27 feet wide. The streets are each 60 feet wide.

Union Street is a continuation (at an angle of 16 degrees) of Union Street of the
 Original Plan, running N. 16° W. to the Bridge, its West line starting from the North East
 corner of Lot 1 Block Seven (7), of the Original Plan.

The form and size of all the Lots and Blocks are shown on the annexed map except
 that the length of the lines terminating at the shore are not given because of
 the variability of the Water line.

The lots in Block 9 extend easterly, at right angles with Union Street, to the
 shore except that the South line of Lot 1 runs East, along the North line of
 the Alley, to the shore and Lot 4 is bounded northerly as well as easterly
 by the shore.

Lot 3 in Block 10 is bounded northerly by the shore.

I hereby certify that the foregoing description and the annexed map are a
 correct description and map of Harris' First Addition to Bay View, as sur-
 veyed by me, which survey I completed on the 25th day of August, 1855 and that
 I have fully complied with the requirements of Chapter 101 of the Revised Statutes.

W. H. Warren, Surveyor.

I hereby certify that I caused the land described in the foregoing Certificate of
 W. H. Warren, Surveyor, to be surveyed and mapped as represented in the foregoing
 description and on the annexed map.

Joseph Harris Esq.

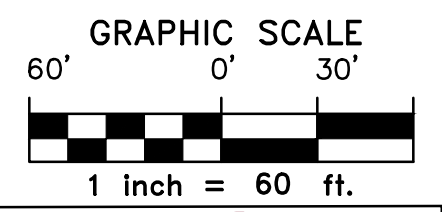
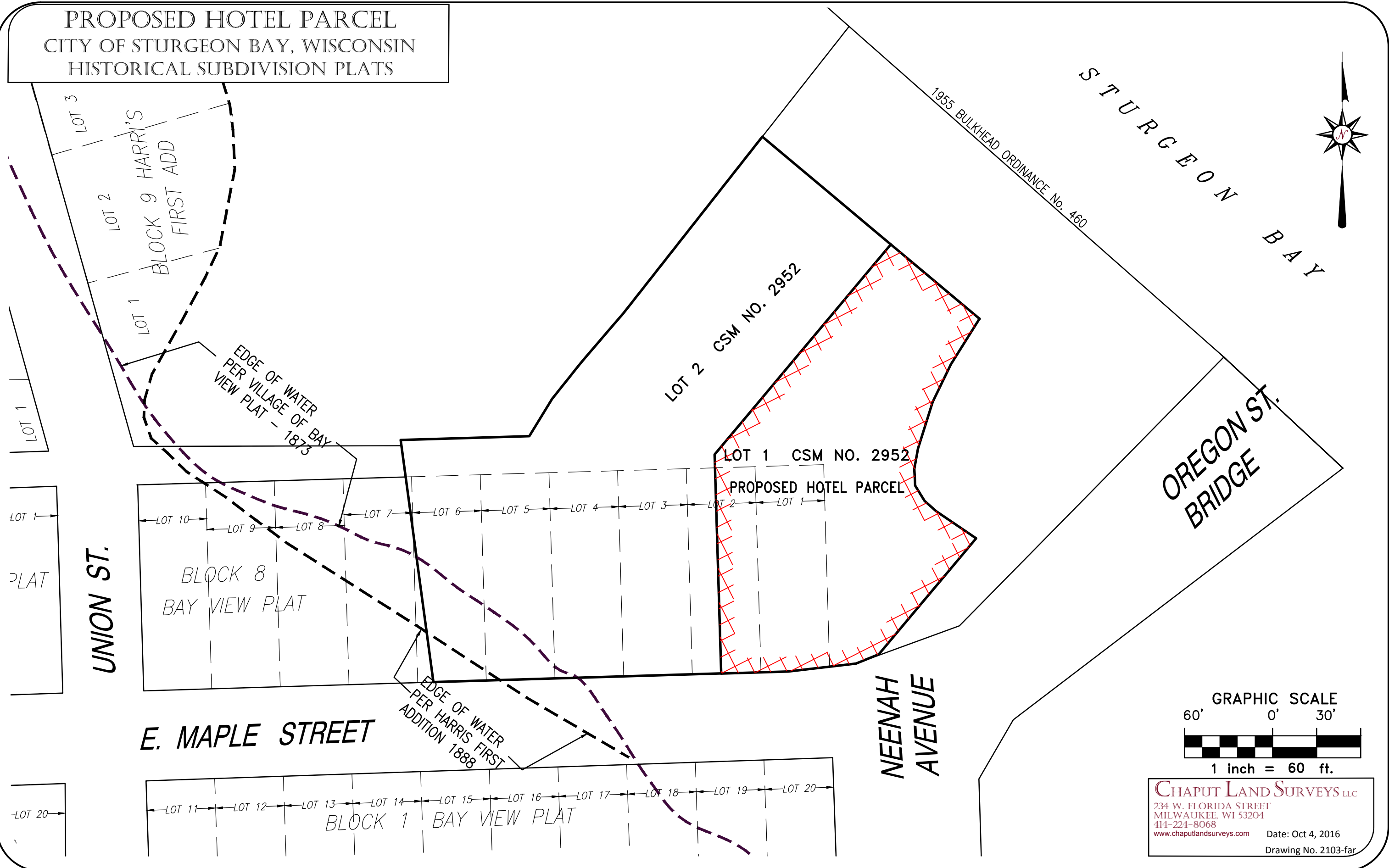
State of Wisconsin, County of Oconomowoc. Personally appeared on the 5 day of Sept. 1855, Joseph Harris
 Town Clerk, who claims to be the person who executed the foregoing metes and bounds and
 acknowledged the same.

W. H. Warren Esq.
 Justice of the Peace.

Received and Recorded Sep. 11th 1855 at 3 o'clock P. M. Jas. Keogh Jr. Register.

(this page intentionally blank)

PROPOSED HOTEL PARCEL
CITY OF STURGEON BAY, WISCONSIN
HISTORICAL SUBDIVISION PLATS



CHAPUT LAND SURVEYS, LLC
234 W. FLORIDA STREET
MILWAUKEE, WI 53204
414-224-8068
www.chaputlandsurveys.com Date: Oct 4, 2016
Drawing No. 2103-far

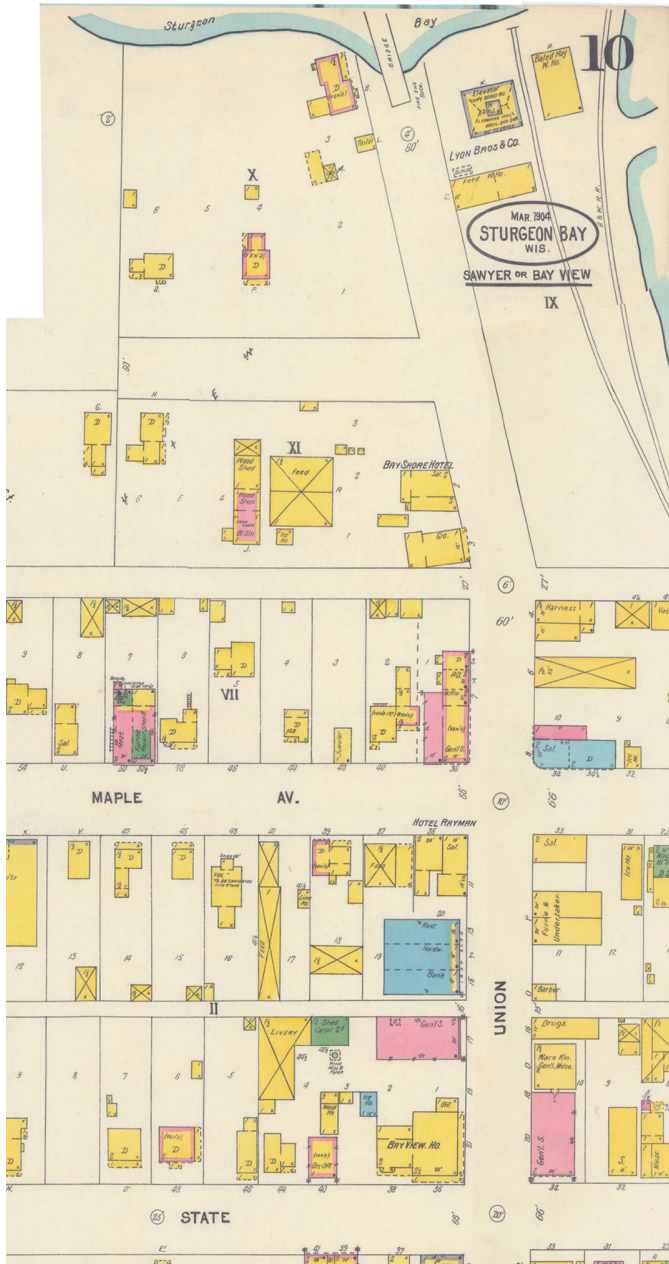
Exhibit 6

(this page intentionally blank)



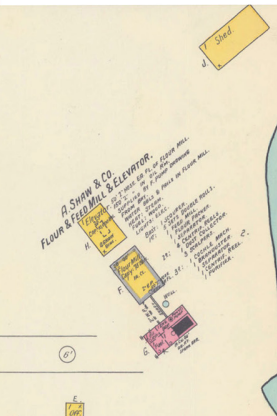
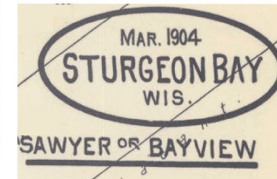
Sturgeon Bay, Door County, Wisconsin September 1891
Sanborn Map Company
Date Original 1891
Wisconsin Historical Society
Electronic Publication Date 2014
Stitched by Aten from multiple pages March 2015. For educational nonprofit use only.





Sturgeon Bay, Door County, Wisconsin March 1904
 Sanborn Map Company
 Date Original 1904
 Wisconsin Historical Society
 Electronic Publication Date 2014
 Stitched by Aten from multiple pages March 2015. For educational nonprofit use only.

KEY	
	FIRE WALL 6 IN. ABV ROOF.
	METAL CORNICE
	FIRE WALL 12 IN. ABV ROOF.
	WOOD CORNICE
	FIRE WALL 18 IN. ABV ROOF.
	FRAME PARTITION.
	OPENING WITH IRON DOOR.
	" " " " STANDARD " " IRON DOOR.
	WINDOWS & IRON SHUTTERS.
	WINDOW - 1ST STORY.
	WINDOWS 1ST & 3RD STORIES
	" " 2ND & 4TH " "
	STABLE
	BUILDINGS COLORED YELLOW ARE FRAME
	" " " " RED BRICK
	" " " " BLUE STONE
	" " " " GRAY IRON
	" " " " BROWN ADOBE
	" " " " GREEN SPECIALS
	(5) (2) INDICATE RELATIVE HEIGHTS.
	FIRE STATION, AS SHOWN ON KEY MAP.
ALTERNATE STREET NUMBERS ARE ACTUAL CONSECUTIVE STREET NOS ARE ARBITRARY.	



1919 Sanborn Map
Wisconsin Historical Society



(this page intentionally blank)

1901-1904

US Army Corps of Engineers

Mean Stage: 581.36 ft

Plane of Reference this chart: 581.63 ft

Low Water Datum for all new charts: 578.51 ft

SURVEY OF THE NORTHERN AND NORTHWESTERN LAKES
 Made in obedience to Acts of Congress
 and orders from
 HEADQUARTERS CORPS OF ENGINEERS, U.S. ARMY.

STURGEON BAY, CANAL AND HARBOR OF REFUGE, LAKE MICHIGAN.

Prepared under the direction of
 Major W. L. FISK, Corps of Engineers, U.S. Army.
 in 1901 & 1904.
 SCALE - 1 : 25,000

NOTES.

Soundings, in feet, are reduced to a plane, which is 306 feet below highwater of 1838 and 581.63 feet above mean tide at New York (adjusted levels of 1903.)


The limits of 6, 12 and 18 ft. depths are indicated by corresponding curves, and these water areas are tinted in blue.

Topographic contours are 20 ft. apart and the figures thereon indicate elevations in feet above mean lake level.

6 ft. contours

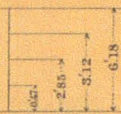
12 ft. "

18 ft. "



Comparative Elevations of Water Levels on Lake Michigan
 referred to Mean Tide at New York,
 (adjusted Levels of 1903.)

High Water of 1838.	584.69 ft.
Plane of reference of this Chart	581.63 ft.
Mean stage 1860-1903, both inclusive.	581.36 ft.
Lowest recorded monthly mean (Dec. 1895).	578.98 ft.
Standard Low Water adopted for all New Charts.	578.51 ft.




1925

US Army Corps of Engineers

Mean Stage: 581.07 ft

Plane of Reference this chart: 578.50 ft

Low Water Datum: 578.50 ft

SURVEY OF THE NORTHERN AND NORTHWESTERN LAKES
Made in obedience to Acts of Congress
and orders of
THE CHIEF OF ENGINEERS, U.S. ARMY
STURGEON BAY
CANAL AND HARBOR OF REFUGE
LAKE MICHIGAN
1925
POLYCHROME PRODUCTIONS

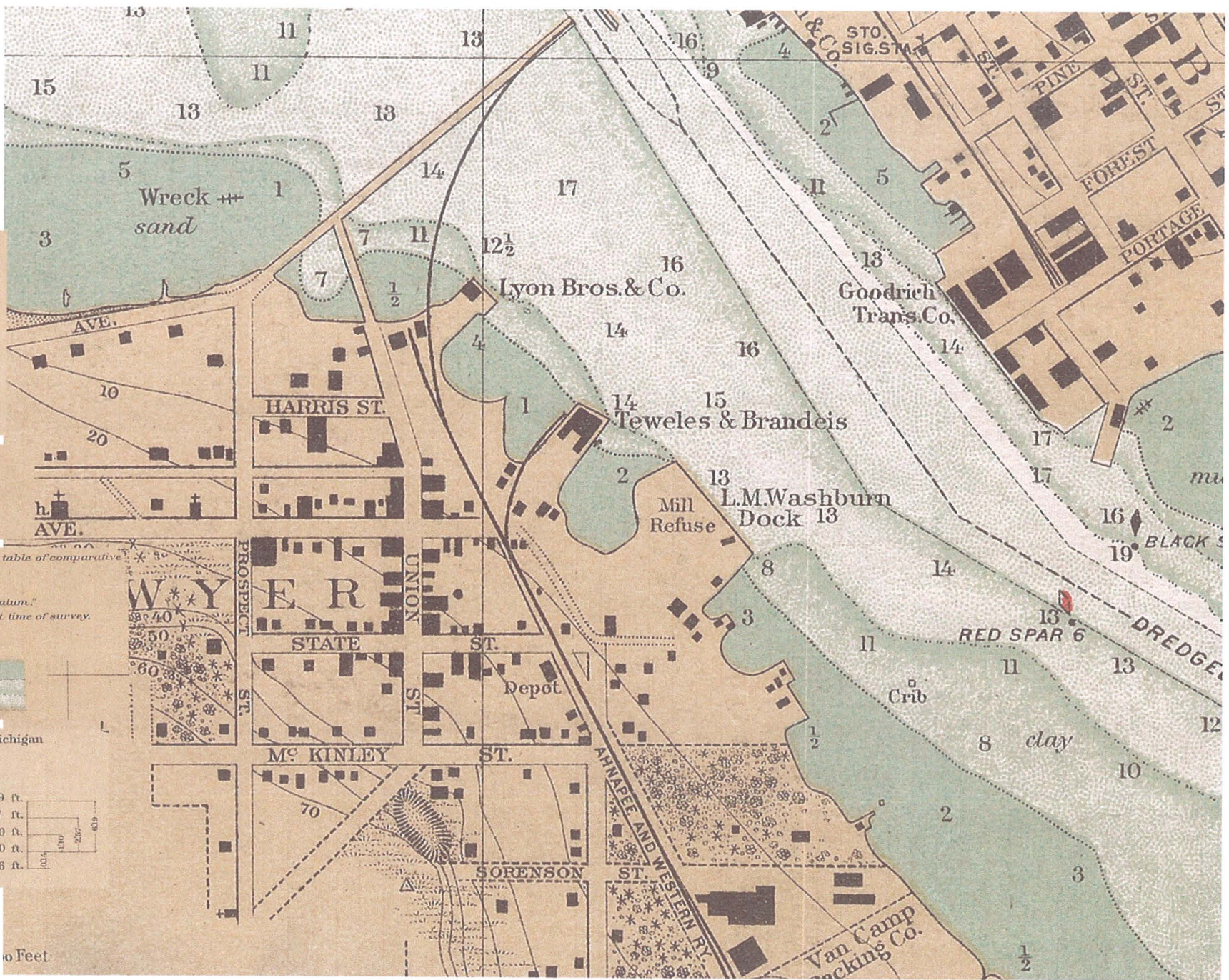
SCALE 1:10,000
NOTE
Soundings in feet are referred to Standard Low Water datum.
The limits of 6, 12 and 18 fathoms are indicated by corresponding curves.

Soundings in feet, are referred to Standard Low Water Datum. See table of comparative elevations of water levels.
Water areas with depths to 6, 12 and 18 feet are tinted in blue.
Latitudes and Longitudes are based on the "North American Datum."
Shore line and land contours are referred to the water surface at time of survey.
Topographic contour interval 10 feet.



Comparative Elevations of Water Levels on Lake Michigan referred to Mean Sea Level (adjusted Levels of 1903)

High Water of 1838	584.69 ft.
Mean stage 1860-1924, both inclusive	581.07 ft.
Low water datum for Harbor Improvements, (1916)	579.60 ft.
Plane of reference of this chart, (Standard Low Water)	578.50 ft.
Lowest recorded monthly mean, (Dec. 1924)	578.36 ft.



0 Feet