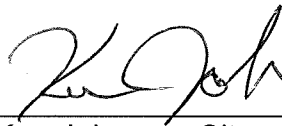


SPECIAL MEETING NOTICE

MUSKEGON CITY COMMISSION Muskegon City Hall 933 Terrace Street Muskegon, MI 49440

A meeting of the Muskegon City Commission will be held on Friday, September 16, 2022 at 9:00 a.m. in the Commission Chambers (Room 107) at Muskegon City Hall, 933 Terrace, Muskegon, MI 49440.

1. City Manager Interviews
2. Shaw Walker Environmental Assessment Financial Assistance



Ken Johnson, City of Muskegon Mayor

AMERICANS WITH DISABILITIES ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE CITY OF MUSKEGON AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting with twenty-four (24) hours notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Marie Meisch, MMC
City Clerk
933 Terrace Street, Muskegon, MI 49440
(231) 724-6705

Post Date: 9/13/22

Muskegon City Manager Interview Schedule

September 16, 2022

9:00 am	Jerry Gabrielatos
10:00 am	Joseph W. Neeb
11:00 am	Dennis Durham
12:00-1:30 pm	Break
1:30 pm	Gerald Smith
2:30 pm	LeighAnn Mikesell
3:30 pm	Jonathan Seyferth



PRESS RELEASE

Six Candidates Chosen to Interview for City Manager

Date: September 12, 2022

Contact: Ann Marie Meisch, City Clerk
231-724-6705

On Friday, September 16, 2022 the City Commission will interview six candidates for City Manager.

The Commission hired the Michigan Municipal League to recruit candidates for the position. After an extensive search, the following candidates were presented the opportunity to interview.

Dennis Durham – Located in West Des Moines, IA. Mr. Durham is currently the City Administrator for the City of Windsor, IA for the past two years. Previously he was the City Manager for the City of Carlton, OR for two years, City Manager for the City of Parchment, MI for ten years, Deputy City Manager for the City of Kalamazoo, MI for two years, Assistant City Manager for the City of Kalamazoo, MI for one year, and Assistant City Manager for the City of Portage, MI for six years.

Dennis' education includes a Bachelor of Arts Degree from Michigan State University, graduate-level coursework in Business Administration from the University of Colorado at Denver Co for one year, and graduate-level coursework in Public Administration at Western Michigan University for one year.

Jerry Gabrielatos – Located in West Linn, OR. Currently City Manager at West Linn, OR for the past two years. Previously he was the Assistant City Manager at Albert Lea, MN for one-year. Mr. Gabrielatos also served various roles in the Chicago City Council including Senior Advisor (1st Ward) for one year, Chief of Staff (45th Ward) for one year, and Director of Constituent Services (1st Ward) for four years.

Jerry's education includes a Bachelor's Degree in Political Science and History and a Master's Degree in Public Policy and Administration from Northwestern University.

LeighAnn Mikesell – Located in the City of Muskegon. Ms. Mikesell is currently Interim City Manager for the City of Muskegon since April 2022. Previously she was Deputy City Manager from July 2021 to present, Director of Development Services for two years, and Director of Municipal Services from November 2017 to February 2019 all with the City of Muskegon. Previously, Ms. Mikesell worked for the Michigan Department of Transportation as an Operations Manager for 15 years.

LeighAnn's education includes a Bachelor's Degree in Civil Engineering from the University of Michigan.

Joe Neeb – Located in the City of Roswell, New Mexico. Mr. Neeb is currently the City Manager for the City of Roswell for the past five years. Previously he was City Administrator for the City of Spearfish for seven years, Town Manager for the Town of Dyer for six years, Town Manager for the Town of Fortville for four years, and Town Manager for the Town of Morristown for three years.

Joe's education includes an Associates of Arts Degree in Liberal Arts from Concordia College, a Bachelor of Science Degree in Business Administration from Indiana Wesleyan University, and a Masters Degree in Business Administration from Indiana Wesleyan University.

Jonathan Seyferth – Located in the Muskegon area. Mr. Seyferth is currently the Township Manager for the Charter Township of Gaines, MI since May 2021. Previously he was with the City of Coopersville, MI, for six years and three of those years he served as City Manager. Mr. Seyferth also served on Muskegon Area First and was the Executive Director of Downtown Muskegon Now for a combined total of four years.

Jonathan's education includes a Bachelor of Science degree from Central Michigan University, a Master of Science in International Administration from Central Michigan University, and a Master of Public Administration Degree from the University of Colorado Denver.

Gerald C. Smith – Located in Creedmoor, NC. Mr. Smith is currently the City Manager for the City of Creedmoor since March 2021. Previously he was the City Manager for the City of Maquoketa, IA for four years, the City Manager for the City of Junction City, KS for one year, and Director of General Services for the City of Kansas City, MO six years.

Gerald's education includes a Bachelors of Arts and Urban History and Political Science, and a Master's of Public Administration Degree from Northern Illinois University.

Interviews are open to the public at the City Commission Chambers beginning at 9 am, 933 Terrace Street, Muskegon, MI 49440.

Citizens have the opportunity to meet the candidates at a meet-and-greet on Thursday, September 15th from 6 pm to 8 pm at City Hall or on the Aquastar earlier in the day from 11:30 am to 1 pm (tickets are limited). Tickets are free and may be ordered at www.aquastarcruises.com or by calling the City Clerk's Office at 231-724-6705.

WATCH MUSKEGON

Agenda Item Review Form

Muskegon City Commission

Commission Meeting Date: September 16, 2022	Title: Shaw Walker Environmental Assessment Financial Assistance
Submitted By: Jake Eckholm	Department: Development Svcs.
Brief Summary: Staff is recommending an appropriation of \$25,000 to match the Downtown Development Authority's commitment to environmental and other due diligence items faced by Parkland Properties related to purchase of the Shaw Walker Building.	
Detailed Summary & Background: Parkland Properties is under contract to purchase the Shaw Walker/Watermark complex from its current owner, the BALBEC Group based in New York City. This distressed assets/alternative financing firm has been transparent that they did not wish to end up with the property and are motivated to sell it to a local developer that has the expertise to implement a solid reuse of the site. As such, they have listed the property for the last several months and attracted Jon Rooks/Parkland Properties as a buyer. During the initial 30 day due diligence period, Parkland discovered some potentially complex and costly environmental issues that required further professional investigation as well as an extension of the due diligence period. BALBEC has granted a 45-day extension to complete this work. Parkland has asked to split the considerable cost for this work between their funds, a site assessment grant from our county-wide Economic Development Organization, and city funds. With a total cost of \$150,000, the request is for \$50,000 from the city. Staff has requested and received \$25,000 from the Muskegon Downtown Development Authority towards this effort, and is further requesting \$25,000 from the Muskegon Economic Development Revolving Fund. A fund balance report in this item reflects a current fund balance of 1.16 million, and the developer has agreed that in the event a Brownfield TIF is proposed and implemented for the redevelopment onsite that the City and DDA can take a pro-rata position to get these funds repaid through tax capture.	
Goal/Focus Area/Action Item Addressed: Focus Area 2: Progress toward completion of existing economic development projects Goal Action Item: 2.3 Increase variety of housing types	
Amount Requested: \$25,000	Amount Budgeted: N/A (Capital Fund)

Fund(s) or Account(s): N/A	Fund(s) or Account(s): N/A
Recommended Motion: Motion to approve the appropriation of \$25,000 for environmental investigation and other due diligence items for the Shaw Walker/Watermark Building as presented.	
Approvals: Immediate Division Head ☐ Information Technology ☐ Other Division Heads ☒ Communication ☐ Legal Review ☐	Guest(s) Invited / Presenting: Yes ☒ No ☐
For City Clerk Use Only: Commission Action:	

**Parkland Properties | Shaw Walker Furniture Redevelopment
Explanation of Request**

Parkland Properties is investigating the purchase of the historic Shaw Walker property. This property consists of 700,000 square feet of buildings that were used as a furniture factory. The factory ceased operation in 1989 and the buildings have remained mostly vacant and deteriorating for the last 30 years. Parkland's goal is to redevelop the former furniture factory into residential apartments and condominiums.

Parkland has developed other large buildings such as the Boardwalk (formerly the Berkley Gay Furniture Factory) and Union Square (formerly the Union Square High School) in Grand Rapids. Boardwalk was a 400,000 square foot, 110-year-old, 5-story furniture factory and Union Square was a 250,000 square foot, 100-year-old, 4-story high school. The Shaw Walker property is slightly larger at 700,000 square feet of building space. Parkland spent less than \$30,000 to investigate the environmental conditions at the Boardwalk and Union Square.

Due to the size and historic use of the Shaw Walker property, Parkland is required by the State of Michigan to perform expanded environmental testing and research to determine the current state of contaminants from the prior factory usage. This includes a BEA, Phase I, Phase II, PFAS, and Vapor Intrusion study. Parkland also has to perform engineering studies to confirm what parts of the buildings will require structural repairs; and Parkland has to work with EGLE to remove the restrictive covenants on the property. The cost for just the above is in excess of \$150,000.

Separately, Parkland has a quote for \$72,000 to perform a hazardous material survey (asbestos, lead paint, creosote, etc.) of the buildings. Parkland has been told that this study already exists and Parkland has been attempting to locate these records to avoid this cost.

Parkland has been communicating with EGLE's Brownfield Redevelopment Division and due to the timing and other circumstances, EGLE is unable to provide any financial assistance to assist with the above work. The due diligence for the project needs to be completed by October 20, 2022.

Parkland has received a commitment from Greater Muskegon Economic Development for \$50,000. Parkland is requesting that the City of Muskegon match the \$50,000 contribution, and Parkland will also contribute \$50,000. If Parkland closes on the property, Parkland will agree to reimburse the City from the eventual Brownfield TIF plan for the site, on a pro rata basis with other TIF reimbursements.

The Shaw Walker furniture factory is an important part of Muskegon's history. Parkland is excited about this project and the potential to complete the largest adaptive reuse projects that it is aware of in West Michigan.

**Parkland Properties | Shaw Walker Furniture Redevelopment
Summary of Known Site Investigation Costs During Due Diligence Phase**

Vendor	Description of work	Amount
ERG	Phase I, Phase II, BEA, PFAS and Vapor Intrusion studies	\$82,300
ERG	Amend restrictive covenants to relax restrictions on property	\$38,000
Nederveld	Civil Engineering/survey for complex title work on property	\$8,645
CDS	Architectural fees to determine feasibility for residential use	\$10,200
JDH	Structural Engineering to confirm scope and cost to repair areas of the buildings requiring structural repair	\$9,600
JDH	Ground penetrating radar	\$3,500
TBD	Electrical engineering to determine electrical supply requirements	TBD
TBD	Plumbing engineering to determine waterflow supply Requirements	TBD
Total		\$152,245

* "TBD" means to be determined (and not yet included).

* The total above assumes existing hazardous materials survey (asbestos, lead paint, creosote, etc.) will be located by the seller. If not, the quote for \$71,720 will also need to be paid.

**Parkland Properties | Shaw Walker Furniture Redevelopment
Preliminary Development Phasing**

After closing, Parkland Properties' current plans involve developing the building into condominiums and apartments. Parkland would perform the project in several phases to prevent oversaturating the market and ensure the viability of the project.

- | | |
|-----------|---|
| 2022/2023 | Preliminary work including market demand/product research, further environmental research, environmental remediation, structural design, architecture, electrical engineering, permitting, etc. |
| 2023/2024 | Commence marketing and construction on Phase 1 consisting of approximately 56 condominium units on the north part of the property closest to Western Avenue. |
| 2025/2026 | Commence marketing and construction on Phase 2 consisting of approximately 45 condominium units and 60 apartments on the middle section of the property. |
| 2027/2028 | Commence marketing and construction on Phase 3 consisting of approximately 50 condominium units and 90 apartments on the southern part of the property. |

* Phase timelines may be adjusted based on market demand. Parkland's hope is to presell sufficient units to justify starting the later phases sooner.

* Additional units may be created depending on number of 1-bedroom units.

* Phase 1 plans currently include a rooftop pool, oversized hot tub, clubhouse, fitness center, library, and a small rooftop restaurant and bar open to the public.



September 13, 2022

Re: Shaw-Walker Brownfield Environmental Site Assessment

Muskegon City Commission:

I am writing to encourage the Muskegon City Commission to fully support the matching funding proposed for the Shaw-Walker property assessment. As stated by Jonathan Rooks of Parkland Properties at the City Commission meeting on Monday, September 12, Greater Muskegon Economic Development (GMED) is in full support of this environmental site assessment project.

GMED is expected to receive EPA funding through a grant in October for Brownfield Environmental Site Assessments. We understand the importance of the Shaw-Walker project and the pivotal impact that it will have on Muskegon as we extend the boundaries of downtown development. The Shaw-Walker building is currently the most prominent example of blight for our downtown area.

GMED believes that this project will be a leading example of public-private partnership. For that reason, GMED's intention is to provide a 1:3 match of \$50,000 distributed from the EPA Brownfield Environmental Site Assessment grant, on the condition that GMED receives final grant approval from the EPA, which is fully anticipated.

The Shaw-Walker project is a top redevelopment priority, not only for the reason of transforming blight into beauty, but also as a means of talent attraction and retention. As our community fights to meet the challenges of today's business climate, the most evident and frequent hurdle cited by our industries is the lack of an available workforce. Having a skilled labor pool not only depends on providing good paying jobs or education and training, but also it also requires a community to focus on product development within the downtown area. As plans move forward with other adjacent developments, public art, and public access projects, we need to transform the Shaw-Walker building into a redevelopment that entices a qualified workforce to live, work, play, and stay in the community.

The passion that our local developers have for transformative projects in downtown Muskegon and on the Muskegon Lake shoreline is an outstanding asset for the community. In that regard, we are fortunate to have a seasoned, proven developer such as Mr. Rooks, to proactively take interest in this project and work quickly towards assessing the environmental condition of the site.

Thank you for your quick deliberation and consideration of this project. Knowing the environmental condition and the remediation work needed on the property is the first step in transforming this building into something that will positively impact our community and continue to elevate Muskegon as a top competitor for talent and jobs in our region.

Respectfully,

A handwritten signature in dark ink, appearing to read 'M. Schneider'.

Marla Schneider, President/CEO



Environmental Resources Group

75 W. Walton Avenue • Suite C • Muskegon, MI 49440
Phone: 231-747-8556 • Fax: 231-747-8558

August 26, 2022

Mr. Jon Rooks
Parkland Properties
75 W. Walton Avenue, Suite A
Muskegon, MI 49440

**RE: Proposal for Phase I ESA, Phase II ESA, and BEA
 965 W. Western, 920 Washington, 930 Washington, and 1330 Division Street
 Muskegon, MI 49441
 ERG Proposal # 9657.002**

Dear Mr. Rooks:

Pursuant to your request, Environmental Resources Group, LLC (ERG) is pleased to provide you (the "Client") a proposed fee to conduct a Phase I Environmental Site Assessment (ESA), Phase II ESA, and a Baseline Environmental Assessment (BEA) for the above referenced Site in Muskegon, Michigan.

BACKGROUND

According to public records and materials provided by the Client, the property consists of four (4) parcels. The first Parcel (Parcel #1) has a parcel ID number 61-24-205-468-0001-10 and is located at 965 W Western Avenue, Muskegon, Michigan. Parcel #2 has a parcel ID number 61-24-205-467-0001-00 and is located at 920 W Washington Avenue, Muskegon, Michigan. Parcel #3 has a parcel ID number 61-24-855-000-0000-00 and is located at 930 W Washington Avenue, Muskegon, Michigan. Parcel #4 has a parcel ID number 61-24-205-466-0001-00 and is located at 1330 Division Street, Muskegon, Michigan. The Site is located on the southern side of W Western Road, west of Seaway Drive.

SCOPE OF SERVICES

Phase I ESA

ERG will complete a Phase I ESA for the subject property and provide a written report summarizing the work performed, results, and conclusions. This ESA will be performed in accordance with the All Appropriate Inquiry (AAI) rules and ASTM E 1527-13 protocol for Phase I ESAs.

A title search is not included in the proposed scope of work. If required (i.e. when other historical references do not provide ERG with sufficient knowledge of past site occupancies and uses to render a



supportable determination regarding the environmental condition of the site), a 50-year title search can be provided on a cost plus 10 % basis.

To prepare a complete and thorough report, we would appreciate your assistance and cooperation. By signing the attached Fee Estimate, you agree to accept responsibility for the following:

- Providing ERG with a knowledgeable site contact
- Providing ERG with a legal description and/or site plan of the property
- Providing ERG with access to the property
- Checking the title records for environmental liens prior to purchase of the property
- Disclosing any prior environmental assessment reports prepared for the property
- Providing verification that the purchase price is not below fair market value
- Answering any questions regarding the subject property in good faith

If out-of-scope considerations are requested, ERG will provide an additional fee estimate to assess these at the subject property.

Based on the size of the site, the number of floors within the buildings, and the large volume of files that ERG will need to review, the costs of the Phase I ESA will be more than the typical Phase I ESA. The below costs are in addition to the previously signed proposal for the Preliminary site walk-through and file review.

Phase II ESA

Due to the presence of the known RECs at the Site based on ERG's preliminary review of historical documents made available, further investigation is warranted. To complete the Phase II investigation, ERG proposes to conduct the following:

Field Sampling

1. Contact MISS-DIG for utility location.
2. Prepare a site-specific Health and Safety Plan (HASP).
3. Advance up to 14 soil borings to maximum depths of 15-feet below ground surface (bgs), or to the depth of an aquifer. The 14 soil borings will be advanced across all four (4) parcels and the locations will be based upon the observed and known RECs.
4. Collect continuous soil samples during drilling, classify the soil, and record the information on field logs for each soil boring. An ERG geologist will field analyze the soil samples for the presence of volatile organic compounds (VOCs) with a photoionization detector (PID), used as a screening tool. Based on the field analysis, the geologist will select the appropriate soil and/or groundwater sample(s) from each boring for laboratory analysis. If groundwater is encountered, a groundwater sample may be collected as well as a soil sample.



5. All drilling and sampling equipment will be decontaminated between each boring. All investigative wastes (soil cuttings and decontamination water) will be left on site and returned to their respective borehole.
6. The Site will be repaired and restored to its original condition, to the extent possible. ERG's drilling contractor is careful to operate their equipment such that site damage is minimized.
7. Based on the former use of the Site, a total of up to 28 soil and/or groundwater samples will be collected and delivered to a laboratory. All 28 samples will be analyzed for VOCs and polynuclear aromatic hydrocarbons (PNAs). Based on the RECs and former property use, select samples will be analyzed for Per- and Polyfluoroalkyl Substances (PFAS), polychlorinated-biphenyls (PCBs), and mercury.
8. All samples will be submitted under proper chain-of-custody protocol to an independent laboratory and will be collected, preserved, and analyzed according to appropriate EPA and Michigan Department of Environment, Great Lakes, and Energy (EGLE) protocols.

Baseline Environmental Assessment

Following the receipt of the Phase II ESA analytical results, a Baseline Environmental Assessment (BEA) can be prepared to exempt the new owner from liability from existing contamination at the time of property transfer. ERG can prepare a BEA in compliance with Section 20104 of 1994 Michigan Public Act 451 and applicable rules. The BEA document verifies the presence of contamination on the parcel(s) of property at the time of property acquisition. **The BEA must be conducted within 45 days of purchase or occupancy of the property** and submitted to EGLE within six (6) months.

Vapor Intrusion Investigation

Also, upon receipt of the Phase II ESA analytical results, ERG will determine if there is a vapor intrusion (VI) risk at the site. Should the soil and/or groundwater sample results indicate that there is a VI risk, ERG will conduct a VI assessment in only those areas where the risk was identified. For the purpose of this proposal, ERG has provided an estimated cost scenario based on the size of the existing buildings and proposed renovation/development areas. The quoted scenario includes up to 90 sub-slab vapor points and analysis of the soil gas for VOCs via Method TO-15. Costs do not include analyses for any PNA constituent or mercury. If the Phase II ESA analytical results indicate PNA or mercury concentrations above applicable criteria, the costs may vary per sample location, as appropriate, to analyze for these compounds.



PROPOSED COST ESTIMATE

The proposed estimated fee for the scope of work as defined above, is as follows:

Phase I ESA	\$ 6,800.00
Phase II ESA Investigation	\$ 23,000.00
BEA	\$ 2,500.00
<u>* VI Investigation (as needed / upon request)</u>	<u>\$ 50,000.00</u>

Total with Phase I ESA, Phase II ESA, and BEA \$ 32,300.00

Total with VI Investigation \$ 82,300.00

* Only a cost scenario. Price may vary due to Phase II ESA findings.

Any additional services beyond those described, such as building design considerations, hazardous building material assessments, Brownfield consulting, meetings, and consultations, etc., will be billed on a time and materials basis. If out-of-scope considerations are requested, ERG will provide an additional fee estimate for your approval, prior to proceeding.

This proposal will expire in 60 days. If this proposal meets with your approval, please sign in the space provided on the attached Professional Services Authorizations and return the copy to us.

Thank you for the opportunity to provide this proposal to you. If you have any questions, please contact us at 231-578-0329.

Sincerely,

ENVIRONMENTAL RESOURCES GROUP, LLC

A handwritten signature in black ink, appearing to read "Alfred J. Jordan II".

Alfred J. Jordan II, CPG
Executive Vice President

Enclosures



PROFESSIONAL SERVICES AUTHORIZATION

Proposal Prepared for:

Mr. Jon Rooks
Parkland Properties
75 W. Walton Avenue, Suite A
Muskegon, MI 49440

Site Location:

965 W. Western, 920 Washington,
930 Washington, and 1330 Division Street
Muskegon, MI 49441

ERG Proposal No.:

9657.002

Type of Project

Phase I ESA, Phase II ESA, BEA, and VI Investigation

Project Description:

Prepare a Phase I Environmental Site Assessment (ESA) in accordance with the All Appropriate Inquiry (AAI) rules and ASTM E 1527-13 protocol for Phase I ESAs, conduct a Phase II ESA, prepare a BEA in compliance with Section 20104 of 1994 Michigan Public Act 451 and applicable rules, and, if needed, conduct a VI Investigation.

Proposed Fee:

Phase I ESA	\$ 6,800.00
Phase II ESA Investigation	\$ 23,000.00
BEA	\$ 2,500.00
VI Investigation (as needed / upon request)	\$ 50,000.00
Total with Phase I ESA, Phase II ESA, and BEA	\$ 32,300.00
Total with VI Investigation	\$ 82,300.00

Attached and made part of this Fee Estimate are ERG's General Conditions.

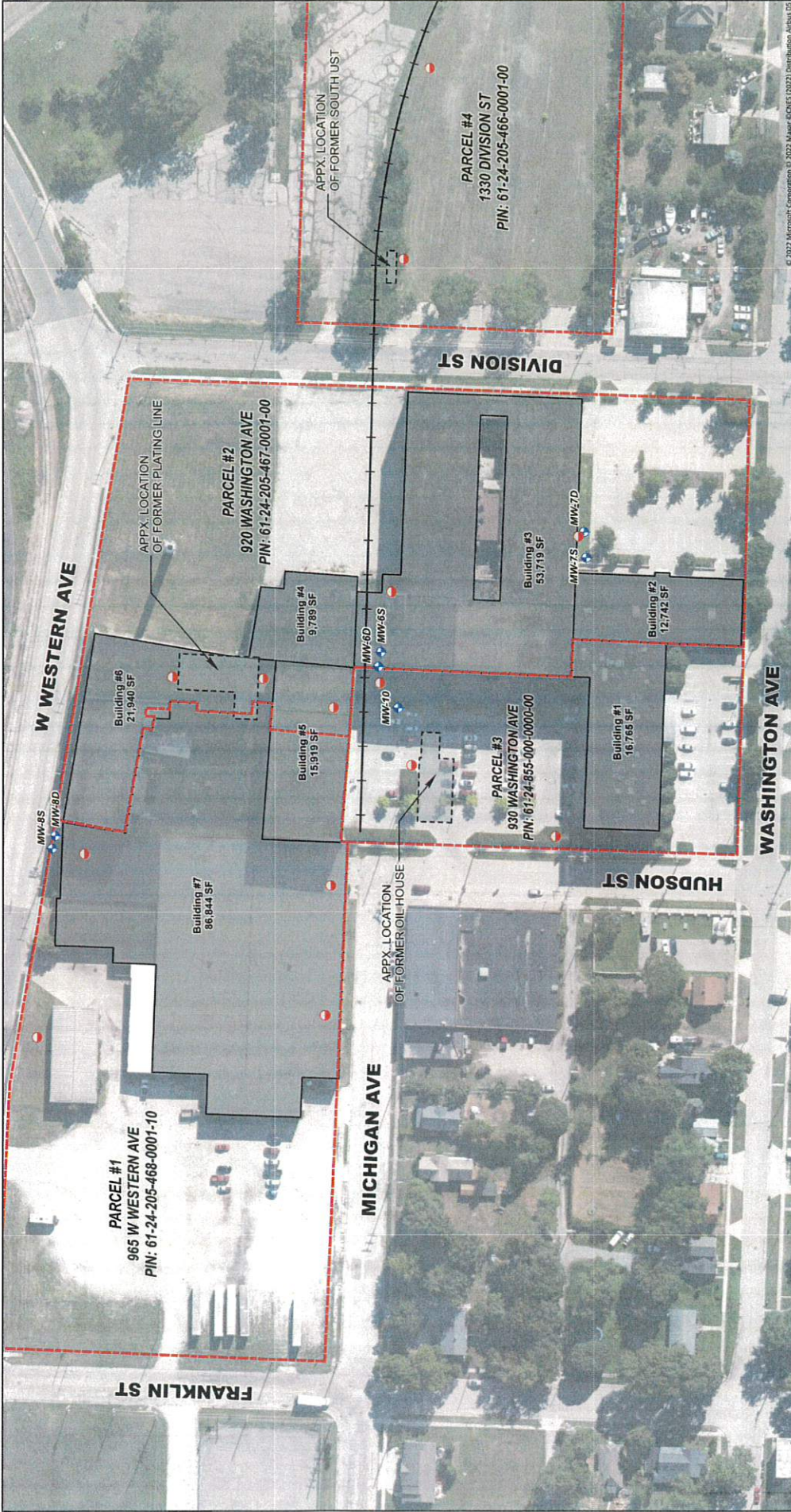
Offered by:  Date: August 26, 2022
Alfred J. Jordan II

Accepted by: _____ Date: _____

Please provide the contact name, phone number and email address for us to send invoices. Thank you.

Name: _____ Email: _____ Phone: _____

*Payment terms are net 30 days. Client agrees to pay a finance charge of one and one-half percent (1-1/2%) per month on past due accounts. Attached and made part of this Fee Estimate are ERG's General Conditions.



LEGEND

- Proposed Soil Borings
- + Monitoring Wells (Abnormarche, 1993-95)
- Appx. Parcel Boundaries
- Former Site Features
- + Former Railroad Spur
- Site Buildings

WATERMARK

DEVELOPMENT

920 - 930 WASHINGTON AVE, MUSKOGEE, MI

PROPOSED SOIL BORING LOCATION MAP

JOB NO.: 9657

BY: TNV DATE: 8/31/2022

FIGURE 2

Environmental Resources Group

28003 Center Oaks Court • Suite 106 • Wilkum, MI • 48393

Phone: 248-773-7986 • Fax: 248-924-3108

ERG

NOTE: BUILDING AREAS SHOWN ARE APPROXIMATE FOOTPRINT AREAS AND DO NOT REPRESENT TOTAL BUILDING SQUARE FOOTAGE.

1 INCH = 100 FEET



September 2, 2022

Jon Rooks
Parkland Properties of Michigan
75 W. Walton Avenue, Suite A
Muskegon, MI 49440

RE: ALTA/NSPS Land Title Survey Estimate – W. Western Avenue, Muskegon, MI

We appreciate the opportunity to work with you and to submit our estimate for professional surveying services for the W. Western Avenue project located in Blocks 466, 467, 468, 474 & 475 of the Revised Plat of 1903, City of Muskegon, Muskegon County, Michigan. (PP# 61-24-205-468-0001-10, 61-24-205-466-0001-00, 61-24-205-467-0001-00 & 61-24-855-000-0000-00)

Scope of Services

The scope of services for an ALTA/NSPS Land Title Survey with Topographical data will be as follows:

- Standard ALTA/NSPS Land Title Survey with Table A Items 1, 2, 3, 4, 5, 7a, 8, 9, 11, & 13
- Location of above ground improvements & utilities from observed evidence
- Topographic survey showing relief of terrain at one-foot contour interval
- Spot grades of the site (max 50 ft. grid) and improvements on an established datum (i.e. NAVD 88)
- Establish Two (2) site benchmarks (at least one outside area to be developed)
- Drafting of easements listed in the current title commitment (to be provided by client)
- Scaled survey map with above items sealed by a Professional Surveyor

The total cost of the survey is **\$14,465** and could be completed within 3 – 4 weeks +/- of authorization to proceed.

Alternatively, the scope of services for an ALTA/NSPS Land Survey without Topographical data will be as follows:

- Standard ALTA/NSPS Land Title Survey with Table A Items 1, 2, 3, 4, 7a, 8, 9, 11, & 13
- Location of above ground improvements & utilities from observed evidence
- Boundary Corners staked with permanent markers & wood stakes
- Drafting of easements listed in the current title commitment (to be provided by client)
- Scaled survey map with above items sealed by a Professional Surveyor

The total cost of the survey is **\$8,645** and could be completed within 2 – 3 weeks +/- of authorization to proceed.

Deliverable

1. Three (3) original copies of a signed and sealed land survey drawing indicating the items listed in the above scope of services mailed to your address.
2. A PDF copy of the land survey drawing indicating the items listed in the above scope of services emailed to an address provided.

We anticipate completion of the total project within 3- 4 weeks +/- of authorization to proceed. Any additional services requested of us will be discussed and will be performed based on a scope and fee to deliver those

additional services. A written contract amendment will be sent upon request describing the nature of the request.

Our fee includes one (1) round of combined comments/revisions and up to 10 full sized copies. Nederveld's fee does not include the cost of procuring a title commitment/policy

Additional Review Comments

If additional review comments/revisions are requested beyond our included one set of review comments/revisions, an additional fee will be invoiced on a time and expense basis.

Update Title after Survey Submittal

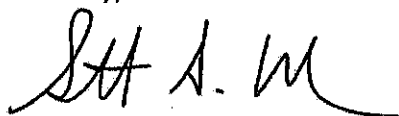
A request for a revised survey (after the initial survey is provided to the client) based on an updated title commitment will be invoiced on a time and expense basis.

Terms and Conditions

All services provided under this scope of services will be subject to our standard terms and conditions except as noted within this section. If any conflict exists between this section and the standard terms and conditions, this section will take precedence. By signing this contract, you acknowledge that you have read and understand these items and agree to them. This contract constitutes the entire contract between you and Nederveld Inc. and supersedes all prior written or oral understandings. This contract may only be amended, supplemented, modified or canceled by mutual written consent.

Thank you for the opportunity to be of service to you. We look forward to the successful completion of your project. If you have any questions about the information above, please do not hesitate to contact us at 616-393-0449.

Sincerely,



Scott A. Hendges, P.S.
Director of Surveying

Contract Acceptance – W. Western Avenue, Muskegon, MI

By signing below, I hereby acknowledge and accept the terms and conditions as set forth in this contract and authorize Nederveld to proceed.

Contract Accepted By (print name): _____

Signature: _____

Title: _____

Company Name: _____

Company Address: _____

Date Contract Accepted: _____



Environmental Resources Group

75 W. Walton Avenue • Suite C • Muskegon, MI 49440
Phone: 231-747-8556 • Fax: 231-747-8558

August 30, 2022

Mr. Jon Rooks
Parkland Acquisition Seven, LLC
75 W. Walton Avenue, Suite A
Muskegon, MI 49440

RE: Proposal for Restrictive Covenant Amendment Services
965 W. Western, 920 Washington, 930 Washington, and 1330 Division Street
Muskegon, MI 49441
ERG Proposal # 9657.004

Dear Mr. Rooks:

Pursuant to your request, Environmental Resources Group, LLC (ERG) is pleased to provide you (the "Client") a proposed fee to conduct environmental services for the purpose of amending the current on-site Restrictive Covenants (RCs) for the above referenced Site in Muskegon, Michigan.

BACKGROUND

According to public records and materials provided by the Client, the property consists of four (4) parcels. The first Parcel (Parcel #1) has a parcel ID number 61-24-205-468-0001-10 and is located at 965 W Western Avenue, Muskegon, Michigan. Parcel #2 has a parcel ID number 61-24-205-467-0001-00 and is located at 920 W Washington Avenue, Muskegon, Michigan. Parcel #3 has a parcel ID number 61-24-855-000-0000-00 and is located at 930 W Washington Avenue, Muskegon, Michigan. Parcel #4 has a parcel ID number 61-24-205-466-0001-00 and is located at 1330 Division Street, Muskegon, Michigan. The Site is located on the southern side of W Western Road, west of Seaway Drive.

Two (2) RCs have been placed on the Site that restrict current and future owners from freely redeveloping the property due to the existing on-site contamination. The first RC was filed by Lakeview Industrial Center, Inc. in 2000 and a subsequent RC was filed by P & G Holdings NY, LLC in 2004. With proper characterization of site conditions, agreement, and approval from EGLE, and potential response activities, however, these RCs can be amended. The objective is to amend the RC(s) to allow more freedom in redevelopment while ensuring the health and safety of the public and environment.



SCOPE OF SERVICES

Task 1 - Subsurface Investigation

There have been numerous historical environmental investigations at the Site to define the environmental impact and to access potential human and environmental exposure pathways. To eliminate exposure pathways, particular controls have been set on the property (infiltration barrier, i.e.). In order to modify and/or remove these controls, additional site assessment is needed. Based on provided historical correspondence and our September 7, 2022, meeting with EGLE, the following activities may be required: additional soil borings, temporary / permanent groundwater monitoring wells, vertical delineation of soil impact, synthetic precipitation leaching procedure (SPLP) soil analysis, etc. A definite scope cannot be constructed at this time without additional discussions with EGLE and an EGLE-approved work plan. Due to the uncertainties of this scope of work, the projected subsurface investigation budget has been included as estimate but it subject to change. This task includes project management investigation setup, field personnel, supplies, subcontracted drillers, laboratory costs, etc.

Task 2 - Consulting Services

This task includes the project management time needed to draft a scope of work and subsequent work plan for EGLE submittal; meetings with EGLE and RC filing parties; work plan discussions and correspondence with EGLE; and reporting. The total cost for this task can vary greatly based on back and forth nature of such negotiations and work plan approval. ERG has provided an estimate for this task based on experiences with similar project scope.

PROPOSED COST ESTIMATE

The proposed estimated fee for the scope of work as defined above, is as follows:

Task 1 – Subsurface Investigation	\$ 25,000.00
<u>Task 2 – Consulting Services</u>	<u>\$ 13,000.00</u>
Total	\$ 38,000.00

The proposed cost estimate is only included for estimation purposes. These above tasks will be billed on a time and materials basis.

This proposal will expire in 60 days. If this proposal meets with your approval, please sign in the space provided on the attached Professional Services Authorizations and return the copy to us.

Parkland Properties
Proposal #9657.004
September 13, 2022
Page 3



Thank you for the opportunity to provide this proposal to you. If you have any questions, please contact us at 231-578-0329.

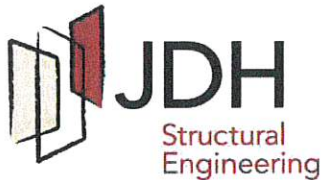
Sincerely,

ENVIRONMENTAL RESOURCES GROUP, LLC

A handwritten signature in black ink, appearing to read "Alfred J. Jordan II".

Alfred J. Jordan II, CPG
Executive Vice President

Enclosures



**AGREEMENT FOR STRUCTURAL ENGINEERING SERVICES –
WaterMark Development – 970 W. Western Ave., Muskegon, MI 49441**

A. GENERAL NOTES

1. Structural evaluation and opinions will be based on conditions directly visible.
2. Evaluation will apply only to those items noted in the scope listed below. Items not listed or otherwise noted are not implied to be included.
3. Trades other than structural related items (e.g., mechanical, electrical, etc.) should be evaluated by a professional competent in those areas if necessary.

B. SCOPE OF SERVICE

This is an estimate of our services for the investigative phase of our August 24, 2022 proposal of the purchase and renovation of the of the Watermark Center property in Muskegon. The conceptual plan is to develop this large facility into a multi residential project.

The building is an old factory, mostly concrete framed, with a total area of somewhere between 500,000 and 700,000 square feet. Most of the building is 5-story, with some 4-story areas and a one-story portion. The southern wing of the “complex” has already been renovated, about 20 years ago; the other portions of the complex will end up with views of Muskegon Lake.

The investigative phase will consist of a review the existing building to identify conditions, deterioration, member sizes and layouts as required. We will perform structural evaluation and analysis to determine capacities of existing floors for the intended reuse of the facility. We will provide guidance for locations where ground penetrating radar (GPR), selective demolition or material testing would help inform this work and the work in future steps.

The investigative phase will verify the proposed location of the pool and do some investigation on the structure there. We recommend exposing the footing below one of those columns and performing a soil boring test right next to the footing to verify bearing capacity. We would also recommend GPR scanning the columns to determine the reinforcing and how it varies from floor to floor. Some destructive demolition may be done to uncover some of the reinforcing (after the GPR scanning).

Ground penetrating radar is NOT a service provided by JDH Engineering. We have contacted GPRS and obtained an estimate of their services. They estimated scanning (6) columns, 5-stories would cost approximately \$3,500.

C. COMPENSATION

Compensation shall be on an hourly basis not to exceed \$9,600. Payment is to be in full within thirty (30) days of date of invoice.

g:\22jobs\2208-029 watermark development, muskegon - jon rooks\outbox\watermark development_muskegon-mi_investigation.docx

- D. The undersigned agrees to the terms, conditions, and scope of services within this document and its attachment.

OWNER:

Signature: _____

Print: _____

Title: _____

Date Signed: _____

Address: _____

ENGINEER: JDH Engineering, Inc.

Signature: _____

Print: _____

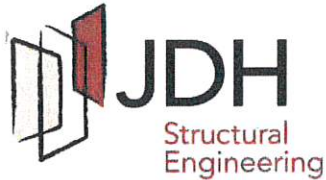
Title: _____

Date Signed: _____

Address: _____

3000 Ivanrest SW Ste B

Grandville, MI 49418



August 24, 2022

Mr. Jon Rooks
Parkland Development

RE: Watermark Center Review
Muskegon, MI

Dear Jon,

Based on this proposal and the attached Terms & Conditions, JDH Engineering, Inc. is pleased to propose structural consulting services on the above project.

Project Understanding:

Based on the information provided, we understand that you are looking into the Watermark Center property in Muskegon to develop this large facility into a multi residential project. The first part of our involvement included a walk-through to get a sense of what the building is like, to help you decide whether to continue your negotiations.

The building is an old factory, mostly concrete framed, with a total area of somewhere between 500,000 and 700,000 square feet. Most of the building is 5-story, with some 4-story areas and a one-story portion. The southern wing of the "complex" has already been renovated, about 20 years ago; the other portions of the complex will end up with views of Muskegon Lake.

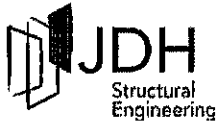
You plan to include parking in the lower level(s) of the building, away from views of the lake, including the one-story portion toward the west. You will also be adding a pool on the 5th floor of an "infill area".

After our initial walkthrough we've found that the building appears to be in good condition in most (interior) areas, with significant loading capacity for this use. However, there are some interior areas with evidence of water leaking through the roof (and down through the floor) that need to be investigated, and many perimeter conditions must be reviewed (and likely repaired).

Structural Scope:

The "structural" portion of this project will include the following:

1. Retrofit and repair of existing structural components in disrepair or being found to have insufficient structural capacity. For example, areas that have had floor collapse, concrete deterioration, exterior wall/system deterioration, etc.
2. Analysis and retrofit for new loads imposed on existing structure. For example, verification of acceptability for new usage, addition of the pool on the upper level, new mechanical equipment, snow drifts at high/low roof conditions, and new concrete or gypcrete topping on floor areas.



3. Architectural and MEP changes to the building as part of the renovation. For example, new elevator and stair towers.

Existing drawings of the facility are not available. We understand that a scan was performed on the building that will become available when the project proceeds; this will be helpful for identifying the different areas of the project but will not be of any help in determining the specific structural components of the building. Site visits will be necessary to review and identify areas of concern and to provide recommendations for repairs; this work can be performed in coordination with the contractor that will be doing the work. Where existing construction is not accessible or exposed to view, assumptions will have to be made about existing components, to be verified (by the contractor) during the work. Revisions to the design may be needed if unforeseen conditions are discovered.

We understand that the work will be done in "phases". The property is arranged in different areas/wings, that can be developed independently of each other, and the plan is to do minimal work in some areas (partly to appease the building authorities) while moving forward with the better locations of the building complex. This may include removing the windows in some of the "wings", opening the structure up to the elements. Although it's been quite open for a long time already (due to broken windows), we will recommend protecting the perimeter areas (the first 15' - 20' or so) with a membrane (to prevent further deterioration of the floors).

Structural Fees:

We propose to do our work on an hourly basis at this point, plus reimbursable expenses, not knowing the extent of the work we'll need to do; hourly rates are indicated on the attached schedule.

As the project moves along and the scope becomes clearer, we may be able to transition to a lump sum arrangement; however, we recommend continuing on an hourly basis for a structure of this age and condition.

Payment of invoices shall not be contingent on owner financing or any other arrangement that would delay payment. We reserve the right to pause our work after each phase of design until invoices through that phase of work are paid in full, or at any point when the age of our invoices exceeds 60 days. JDH Engineering shall not be held responsible for consequences to the design or construction schedule caused by late payment of our invoices.

Project Design Phases – Renovation:

Investigate

- Review the existing building to identify conditions, deterioration, and member sizes and layouts as required. Having a point cloud ("scan") to work from before we begin this work would be very helpful.

- Perform structural evaluation and analysis to determine capacities of existing floors for the intended reuse of the facility.
- Provide guidance for locations where selective demolition or material testing would help inform this work and the work in future steps.

Design

- Design reinforcement and repairs for structure found to have insufficient strength or condition during the Investigative Phase
- Design for alterations to the structure that are needed to accommodate the architectural and MEP design. This phase would include the traditional DD and CD phases.
- Create and issue construction documents.

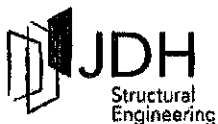
Contract Administration (Construction)

- Review shop drawings for general compliance with the design intent.
- Provide clarification to construction issues and questions by telephone, email, etc.
- Visit the site periodically to review construction for general compliance with the contract requirements, where exposed to view. Provide a written field report that addresses items that are not in compliance.

Design Assumptions:

(Note that some of these "assumptions" are made because they would affect the amount of structural design work required; in an hourly billing arrangement this may not be an issue)

- Existing structure and foundations are adequate unless obvious problems exist. This is reasonable because the proposed use of the facility will be much lighter than the original use.
- Where new loads are added, conventional shallow spread footings will be utilized. Special foundations such as piles, mat slab foundations, and caissons will not be required.
- Stairs are "design-build" with structural review for connections to the primary building structure. Monumental stairs requiring special engineering attention are not part of the project scope.
- Design of field modifications for incorrectly constructed work will be billed as an additional service, at the discretion of the consultant.
- Bid alternates requiring a significant amount of additional work are not part of the project scope, unless outlined in the scope description above.
- Building design revisions that occur after work is complete, requiring work to get back to same level of completeness, may be an additional service. Common causes for late revisions of this nature include owner or designer changes, revisions based on budgeting considerations, changes prompted by unforeseen conditions within existing buildings, and revisions based on local code review.
- Sequencing, constructability, equipment access, means and methods and evaluation of the floors or other structural elements for construction activities is not included in our



base fee. If needed this work can be handled with the appropriate contractor on an "as-needed" hourly basis.

- Compiling as-built for record drawings will not be required.
- Formal signed and sealed submittal of calculations will not be required.

Please call if you have any questions. Please respond your acceptance of this proposed agreement by email; we will assume that authorization to proceed further constitutes acceptance as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph DenHartigh".

Ralph DenHartigh, P.E.
JDH Engineering, Inc.

A handwritten signature in black ink, appearing to read "Keith Ritsema".

Keith Ritsema, P.E.
JDH Engineering, Inc.



Proposal

Date: September 09, 2022

Client: Parkland Properties of Michigan
Jon Rooks
75 W. Walton, Suite A
Muskegon, MI 49440

Project: Watermark Master Plan

Thank you for the opportunity to prepare this proposal. Please review and contact me at 231-799-4838 or e-mail me at kosterhart@conceptdesignstudio.net if you have any questions or concerns.

Project Understanding / Scope of Services

Parkland Properties of Michigan is requesting proposals for Design / Master Planning Services for an approximate 500,000 sf of existing vacant space within the Watermark Property of Muskegon, Michigan. Design services are to include Master Plan / Schematic Design Services and a Feasibility Study to renovate the existing facility into a phased, mixed use / residential development with Condominiums, Apartments, Community Spaces, some light commercial and covered parking.

The schematic plans will take into consideration the existing conditions of the building, and include some overall code compliance requirements. Views, circulation, flow, and overall functionality of a modern residential facility are also incredibly important. CDS intends to have a couple meetings between the design team and the Ownership / Development team to develop a specific program and a usable / functional facility.

The schematic documents shall include a preliminary site & building floor plans, along with an initial code review, project budgets and anticipated timelines. The master plan will also provide a phasing plan of capital improvements over the next 2-5 years. These deliverables will be provided in .pdf format.

Once the schematic plans are reviewed and approved, construction documentation may proceed, under a future contract.

Design Development Phases, Construction Document Services, and Construction Administration services as needed for permitting, bidding and construction of the new buildings will be negotiated at a later date based on the scope and design of the building, following Schematic Design. CDS intends to provide future services that include Architectural, Civil, Structural, Mechanical, Electrical and Plumbing in these phases, which will include the design and specifications of the facility.



Cost of Work

CDS proposes to perform the Schematic Design Services at 50% of our hourly rates, up to a not-to-exceed design fee of **\$10,200.00 (ten thousand, two hundred and 00/100 dollars)**.

The remainder of the Schematic Design Fees will be rolled into the future contract for the design documents. All other work beyond this limit will need to be further negotiated, preapproved and paid upon completion.

Please see the attached 2022 Billing Rates and Terms & Conditions for additional information.

Services Not Included:

This proposal does not include full construction documents, fire suppression drawings, existing building conditions assessment or documents, electronic media / tools of service, ALTA Survey, Soil Borings, printing, owner provided F, F & E items, environmental remediation, or any remodeling of other portions of any of the existing facilities.

Authorization

If you find the terms and conditions (see attached sheet) of this proposal acceptable, you may e-mail a signed copy and we will begin work upon receipt of your approval.

We look forward to working with you on this project.

Kim D. Atha, RA
Authorized Signature / Concept Design Studio, Inc.

9/9/2022
Date

Authorized Signature / Client

Date

STATE OF MICHIGAN
COUNTY OF MUSKEGON
RECEIVED FOR RECORD

200 NOV 30 PM 2:51

Mark F. Fairchild
REGISTER OF DEEDS

RC #1

DECLARATION OF RESTRICTIVE COVENANT

In the Matter of:

Lakeview Industrial Center, Inc.
Muskegon County, Michigan

MDEQ Reference No.:
RC-ERD-00-006

This Restrictive Covenant has been recorded with the Muskegon County Register of Deeds for the purpose of protecting public health, safety and welfare and the environment.

Lakeview Industrial Center, Inc. (Lakeview) has received notice of approval from the Michigan Department of Environmental Quality (MDEQ) dated 11-14-00, for a Remedial Action Plan (RAP) that includes land use-based cleanup criteria as defined and set forth in Section 20120a(1)(g) and (i) of Part 201 of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.20101 *et seq.*, for the environmental remediation associated with the property located in the City of Muskegon, County of Muskegon, (Property) more particularly described as:

[Main Plant Property]: See Attachment A for legal description of Property

See Attachment B for a survey of the Property subject to land-use restrictions

Property Tax ID Number of Property: 61-24-205-468-0001-00, 61-24-467-0001-00

As used herein, the term "Owner" shall mean at any given time the then current title holder of the Property.

NOW THEREFORE, Lakeview, with the consent of the current Owner of the Property, MelloWood Development Co. (MelloWood), at 728 Randall Road, Muskegon MI 49441, pursuant to Section 20120b(4) of NREPA and the Agreement for Combination Limited Industrial, Commercial and Residential Remedial Action entered by and between Lakeview and the MDEQ (LANDUSE-ERD-00-002), hereby imposes restrictions on the Property and covenants and agrees that:

1. The Owner shall restrict the uses of the Property to those uses compatible with commercial subcategories III and IV and the industrial category as defined in MDEQ, Operational Memorandum #18, the RAP, or other use that is consistent with the assumptions and basis for the cleanup criteria established pursuant to Section 20120a(1)(g) and (i) of Part 201 of NREPA. See Attachment C for a description of allowable land uses.
2. The Owner shall restrict activities at the Property that may interfere with a remedial action, operation and maintenance, monitoring, or other measures necessary to assure the effectiveness and integrity of the remedial action.
3. The Owner shall restrict activities at the Property that may result in exposures above levels established in the RAP. These activities include:
 - A. Any use of existing or future wells on the Property to pump groundwater.
 - B. Any other activity which may result in contact with groundwater underlying the Property, or use of the Property in any manner that could cause exposure of humans or animals to contaminated groundwater.
 - C. Any construction, demolition, or excavation on the Property which results in the destruction or removal of the existing concrete flooring or pad underlying the buildings presently on the site. A survey showing these buildings is attached as Attachment B.
 - D. The Owner shall manage all soils located on the Property in accordance with Section 20120c of Part 201 of NREPA and other applicable state and federal laws.
4. The Owner shall provide notice to the MDEQ of the Owner's intent to convey any interest in the Facility 14 days prior to consummating the conveyance. A conveyance of title, an easement, or other interest in the

Property shall not be consummated by the Property owner without adequate and complete provision for compliance with the terms and conditions of this Covenant.

5. The Owner shall grant to the MDEQ, Lakeview and their designated representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the RAP, including the right to take samples, inspect the operation of the remedial action measures and inspect records.

The state and Lakeview may enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of appropriate jurisdiction.

This Restrictive Covenant shall run with the Property and shall be binding upon all future owners, successors, lessees or assigns and their authorized agents, employees, or persons acting under their direction and control, and shall continue until the MDEQ or its successor approves modifications or rescission of this Restrictive Covenant. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, assigns and transferees by the person transferring the interest.

If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired in full force and effect.

The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner, and represents and certifies that he or she is duly authorized and has been empowered to execute and deliver this Restrictive Covenant.

IN WITNESS WHEREOF, the said Owner of the above-described Property has caused this Restrictive Covenant to be executed on this 25th day of October, 2000.

Witnessed as to John Leister:

Barbara A. Zang
Barbara A. Zang
Eric R. Gielow
Eric R. Gielow

MELLOWOOD DEVELOPMENT CO.

By: John Leister
John Leister
Its: Member

By: Shane Shaw
Shane Shaw
Its: Member
MelloWood Development Co.
728 Randall Road
Muskegon MI 49441

Signed in the presence of * As to Shane Shaw

Christopher L. Kelly
Witness Christopher L. Kelly *
[Print or type name]

Judy E. Yonker
Witness Judy E. Yonker *
[Print or type name]

STATE OF MICHIGAN
COUNTY OF MUSKEGON

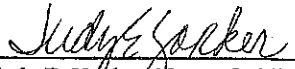
The foregoing instrument was acknowledged before me this 25th day of October, 2000 by John Leister ~~xxxxxx~~ on behalf of Mellowood Development Company, a Michigan limited liability company.

Barbara A. Zang
Notary Public Barbara A. Zang
Ottawa County, Michigan Acting in Muskegon County
My Commission Expires: 05-02-2001

✓ Prepared by: Eric R. Gielow, Esq. (P-33191)
Lague, Newman & Irish
600 Terrace Plaza, P.O. Box 389
Muskegon MI 49443
231-725-8148

STATE OF MICHIGAN
COUNTY OF MUSKEGON

The foregoing **Declaration of Restrictive Covenant** was acknowledged before me this 29th day of September, 2000, by Shane Shaw, on behalf of Mellowood Development Company, a Michigan limited liability company.



Judy E. Yonker, Notary Public
Muskegon County, Michigan
My Comm. Expires: 05/26/01

LEGAL DESCRIPTION

Entire Blocks 467, 468 and 474; together with the C&O Railway Company right of ways in said blocks; vacated Hudson Street between said Blocks 467 and 468; vacated Michigan Avenue between said Blocks 467 and 474; the vacated alley in said Block 468 and the 2 vacated alleys in said Block 474 of the Revised Plat of 1903 of the City of Muskegon, Muskegon County, Michigan.

Also, that part of Blocks 466 and 475; vacated Michigan Avenue and vacated Clay Avenue of the Revised Plat of 1903 of the City of Muskegon, Muskegon County, Michigan; also part of the parcel of land formerly known as Block 5 of Beidler Manufacturing Company's Subdivision of Blocks 332, 333 and 334 of the City of Muskegon; included in the following described: Commencing at the Southwest corner of said Block 475 for point of beginning; thence North along the East line of Division Street 337.47 feet; thence North 89 degrees 40 minutes 00 seconds East 427.35 feet to the West line of Henry Street; thence South 05 degrees 18 minutes 10 seconds West along said West line 144.97 feet to the Northeast corner of said Block 475; thence South 00 degrees 28 minutes 45 seconds West along said West line 194.75 feet to the Southeast corner of said Block 475; thence South 89 degrees 52 minutes 30 seconds West along the South line of said block 412.33 feet to point of beginning.

property owners. Such restrictive covenants are not currently available. Therefore, the groundwater use ordinance is an appropriate method for effectuating a limited closure at this site.

7.3 PROPERTY ZONING

MDEQ Operational Memorandum #14, Revision 2, dated June 5, 1995, indicates that the zoning of properties addressed under the generic industrial/commercial land-use categories must be either industrial/commercial, anticipated to be industrial/commercial, or a legal non-conforming use. The Operational Memorandum further requires that documentation of the zoning be provided in the RAP. In accordance with this requirement, the section the City of Muskegon zoning map that includes the LIC properties is provided in Appendix H.

The zoning map indicates that the portion of the site containing the two buildings is zoned "general industrial," I2. The northern parking lot is zoned "business," B2. The adjacent lakefront property is zoned "lakefront recreation," LR. The main property has recently been rezoned for planned unit development (PUD), allowing industrial and commercial use. The rezoning is too recent to be reflected on the zoning map; however, Appendix H includes a copy of the City of Muskegon Planning Commission's recommendation for approval of the PUD zoning.

The combination of industrial and commercial PUD zoning of the main property is consistent with the proposed limited industrial/commercial RAP. The proposed limited residential RAP for the northern parking lot will afford a greater degree of protection than required by the business zoning. However, the northern parking lot has potential future use for medium-density housing (such as condominiums), which is consistent with the adjacent "lakefront recreational" zoning.

MDEQ Operational Memorandum #14 also requires that the nearest current residential land uses and nearest parcels that are zoned for residential use be identified in the RAP. As shown on the zoning map, the nearest residentially zoned parcels are located to the south and southwest of the LIC facility. These areas also constitute the nearest residential land uses.

7.4 SOURCE CONTROL ANALYSIS

The following information is provided to comply with Part 201, Section 18(8), which requires a source control analysis as part of a RAP submitted to the MDEQ for approval. The following information

CITY OF MUSKEGON
PLANNING COMMISSION
STAFF REVIEW: LAKEVIEW INDUSTRIAL CENTER

April 23, 1998

BACKGROUND

Applicant: Bruce Walker, president, Lakeview Industrial Center.

Property Address/location: 1321 Division, corner of Western and Division (Shaw/Walker complex).

Request: Case 98-11 Alley and street vacation.
Case 98-12 Preliminary approval for a planned unit development in the I-2 zone.

Present Land Use: Industrial, commercial (commercial uses are currently illegal)

Zoning: I-2, General industrial and commercial.

STAFF OBSERVATIONS - Vacations

The two alleys and leg of Michigan Avenue proposed to be vacated have, over the years, been consumed by the Shaw-Walker complex. Old city records suggest previous vacation, but they are not clear. This case is brought before you to clarify the record of vacation and clear the development of encumbrances. Staff recommends approval of vacations.

STAFF OBSERVATIONS - PUD

1. The subject property is just over 21 acres and houses 39 buildings that total approximately 920,000 sq. feet. Larger buildings in the complex are 5 stories high. The construction dates of buildings in the complex range from 1894 to 1984. Many of the older buildings have been rehabilitated, many of them still need a great deal of work. More detailed information on each structure has been provided to building and fire officials for review.
2. Reuse of such a massive complex is a challenge for developers because of its size, multiple buildings and usefulness for modern industrial processes. The owners have found a mixed use market for the complex which includes office, warehousing, retail and recreational uses. Eventually, loft apartments are proposed for the upper levels. This conglomerate of uses, however, is not permitted in the zoning ordinance unless a planned unit development is provided (section 1502).
3. Proposed uses in the complex include: light industry, splat ball, banquet facilities, antique

mall, upholstery shop, business offices, and small stores. The concept of this PUD is to allow flexibility in uses as long as fire separation and access requirements are adhered to. Inasmuch as the mixed use concept can offer exciting opportunities for a dynamic complex, it could also create dangerous situations if not properly monitored. Staff proposed that the developer earmark areas for general uses for Planning Commission approval. When a specific use locates in the complex, building and fire officials will work with the property manager to ensure proper access and fire separation.

4. Many of the structures have independent walls which offer a total of 4 feet of fire separation between uses. The building is also sprinkled for fire suppression.
5. Approximately 3 acres of parking is situated on the North side of Western Avenue. Another 6 acres of parking located East of Division. Parking is provided on the corner of Michigan and Franklin for trucks and industrial uses. None of the parking complies with current zoning ordinance standards. The two lots (excluding semi parking) provide 556 parking spaces.
Parking areas need to be paved, marked and screened from neighboring residential uses. Since this could be a significant expense, staff is recommending the improvements be phased. The developer would need to propose a schedule of improvements as part of the final PUD approval.
6. Since an industrial PUD would permit any use in the B-1, B-2, B-4 and I-1 districts, undesirable uses for this complex should be delineated.
7. The City should consider upgrading 11th Street to Henry to promote complex development. Parallel parking spots should also be marked on Division and Western.

RECOMMENDATION

Provide preliminary approval of the PUD based on the proposed conditions and the provision of performance guarantees.

DELIBERATION

Standards for discretionary uses
emphasis provided

Prior to authorization the Planning Commission shall:

1. Give due regard to the nature of all adjacent uses and structures and the consistency with the adjacent use and development.
2. Find that the proposed use or activity would not be offensive, or a nuisance, by reason of increased traffic, noise, vibration, or light.

3. Adequate water and sewer infrastructure exists or will be constructed to service the activity.
4. The proposed site plan complies with section 23.13 (4) of the ordinance and has:
 - a. proper ingress and egress
 - b. sufficient parking areas, streets, roads and alleys
 - c. screening walls and/or fences
 - d. adequate fire and police protection
 - e. provisions for disposal of surface water run-off, sanitary sewage
 - f. adequate traffic control and maintenance services
 - g. preserves property values to related or adjoining properties.

MOTION FOR CONSIDERATION

I move that the preliminary planned unit development approval for Lakeview Industrial Center be (approved/denied) pursuant to the determination of (compliance/lack of compliance) with the intent of the City Zoning Ordinance and City Master Land Use Plan based on the following conditions (only if approved):

1. The applicant provides a site plan of the entire complex with landscaping, parking and outdoor recreation areas clearly delineated and a schedule of improvements for same.
2. The owner permits zoning, building, and fire code officials in the complex at reasonable times to review compliance with this permit.
3. The sprinkling system be tested prior to occupancy of new uses and maintained in good working order.
4. The complex meets existing requirements set forth by the Fire Marshall.
5. The following general uses are permitted by floor:
 - First Floor: Recreational, commercial and industrial.
 - Second Floor: Office, industrial, and warehousing phasing into residential.
 - Third Floor: Office, industrial and warehousing phasing into residential.
 - Fourth Floor: Warehousing phasing into residential.
 - Fifth Floor: Warehousing phasing into residential.

The following uses are expressly prohibited in the PUD: adult entertainment, adult foster care, correctional facilities, automobile service and vehicle repair, motorized vehicle storage, car wash, bus passenger station, aggregate storage, and foundries.
6. Warehousing or production of hazardous, toxic or explosive materials is prohibited. The facility manager shall provide information on warehoused materials to the Fire Marshall.
7. The owner works with the state historian to maintain, as much as practical, the historic integrity of the complex. The brick façade and existing window openings shall be maintained on the structure.
Provide marked crosswalks on Division and Western and signs directing visitors to established parking areas.

9. Provide on-site stormwater management as much as practical.
10. Provide lighting in the complex that adheres to current zoning standards.
11. Parking areas need to be properly paved, landscaped, screened, and marked. Specific screening and landscaping requirements include:
 - a. Provide a 4-foot wall or obscuring fence between the complex and adjacent residential uses along Washington, Hudson and Michigan. Earth tone slats may be placed in existing chain link fence.
 - b. Provide a 20-foot yard setback with landscaping along 11th and Henry.
 - c. Retain the berm on the southern edge of the complex along Washington Ave. and augment existing plantings.
 - d. Provide a schedule for removing barbed wire throughout the complex.
 - e. Provide a 20-foot yard setback with landscaping around the Franklin parking area.
 - f. Maintain existing green space as usable open space areas. Provide pedestrian walkways around the complex with usable areas to sit outside. Also provide bike lock up facilities.
 - g. Provide trellis or low growing plantings along 33% of the blank walls along Western and Division Aves.
 - h. Note existing trees in the complex and delineate which ones will be retained.
 - i. Remove fencing along the building on Western.
2. A performance guarantee shall be provided for landscaping and parking lot development.

ARTICLE XV I-2 GENERAL INDUSTRIAL DISTRICTSPREAMBLE

The I-2 General Industrial Districts are established primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations whose external physical effects may be felt to some degree by surrounding districts. The I-2 District is so structured as to permit, in addition to I-1 Light Industrial District uses, the manufacturing, processing and compounding of semifinished or finished products from raw materials.

SECTION 1500. PRINCIPAL USES PERMITTED:

In an I-2 General Industrial District, buildings and land may be used for one (1) or more of the following specified uses, unless otherwise provided in this Article.

1. Any Principal Use Permitted in the I-1 District, subject to the requirements of this District.
2. Primary metal industries, including foundries, smelting and refining of metal or alloys, rolling and extruding plants.
3. Chemical plants whose manufacturing process produce products which are not hazardous materials as defined in the Fire Code.
4. Paper and pulp manufacturing.
5. Power generating plants.
6. Junk yards and scrap metal processing.
7. Rubber manufacturing or the remanufacturing of rubber products.
8. Uses similar to the above principal uses.
9. Non-accessory signs provided that the signs conform to Section 2308(1) of this Code.

SECTION 1501. SPECIAL LAND USES PERMITTED:

The following uses, and their accessory buildings and accessory uses, shall be permitted as a special land use if it is found to meet the standards outlined in Section 2332 of this Ordinance, subject to applicable conditions imposed by Ordinance or other reasonable conditions imposed by the Planning Commission:

1. Any use with outside storage of aggregate, sand or other soil, or raw materials used in a manufacturing process such as brick, tile manufacturing plants, asphalt and cement batch plants.
2. Gasoline storage facilities.
3. Bulk storage or the production of acetylene, natural gas, and oxygen or other highly explosive or toxic gases. The storage of such gases for use in a production process or of an industry, business, or health care facility shall not be considered bulk storage.
4. Chemical plants whose manufacturing process produce products which are hazardous materials as defined in the Fire Code.
5. Uses similar to the above Special Land uses.

SECTION 1502. PLANNED UNIT DEVELOPMENTS:

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the I-2 General Industrial District is to allow certain land uses, which are comparable to each other. Examples, but not by way of limitation, are:

1. Combinations of principal and special uses land uses permitted in the B-1, B-2, B-4, and I-1 Districts, and uses permitted in Section 1500 and 1501, provided such uses are located on parcels of at least ten (10) acres and abut a major thoroughfare.
2. Accessory buildings and accessory uses customarily incidental to the above combination.
3. Uses similar to the above combinations.

SECTION 1503. AREA AND BULK REQUIREMENTS:

See Article XXI, "Schedule of Regulations", limiting the height and bulk of buildings, the minimum size of lot permitted by land use and maximum density permitted.

ARTICLE XVI OSC OPEN SPACE CONSERVATION DISTRICTSPREAMBLE

The OSC Open Space Conservation Districts are intended to provide for permanent open spaces in the community, and the protection of sand dunes and other natural features, and are designed to provide undeveloped recreational areas and to safeguard the health, safety, and welfare of the citizens of Muskegon and adjacent areas by limiting development in locations where police and fire protection, protection against flooding by high water table or storm water, and dangers from excessive erosion are not possible without excessive costs to the City.

SECTION 1600. PRINCIPAL USES PERMITTED:

In the OSC Open Space Conservation District, no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Fishing docks and piers.
2. Hiking, bicycling, jogging, or ski trails.
3. Wildlife preserves or refuge structures.
- 3a. Watershed or erosion protection facilities.
4. Uses similar to the above Principal Uses Permitted.

SECTION 1601. SPECIAL LAND USES PERMITTED:

The following uses, and their accessory buildings and accessory uses, shall be permitted under the purview of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission:

1. Public and private utilities and services.
2. Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.
3. Uses similar to the above Special Land Uses Permitted.

Parking areas for Principal Uses.

SECTION 1602. AREA AND BULK REQUIREMENTS:

See Article XXI, "Schedule of Regulations", limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

ARTICLE XI B-2 CONVENIENCE AND COMPARISON

BUSINESS DISTRICTS

PREAMBLE

The B-2 Convenience and Comparison Business Districts are designed for the convenience and community shopping needs of residents in the Muskegon Area, and they are intended to be located in planned groups near the intersection of major thoroughfares. All business establishments shall be retail or service establishments dealing directly with consumers, and all goods produced on the premises shall be sold at retail on the premises where produced. All business, servicing or processing, except off-street parking or loading, shall be conducted within a completely enclosed building, unless otherwise provided by this Ordinance and specifically approved by the City.

SECTION 1100. PRINCIPAL USES PERMITTED:

In a B-2 Convenience and Comparison Business District no building or land shall be used and no building shall be erected, structurally altered, or occupied except for one (1) or more of the following specified uses, unless otherwise provided for in this Ordinance:

1. Any generally recognized retail business which supplies commodities such as: groceries, meats, dairy products, baked goods or other foods, drugs, drygoods, and notions or hardware.
2. Personal service establishments such as: shoe repair, dry cleaning shops, tailor shops, beauty parlors, barber shops, banks and savings and loan offices, pharmacist and laboratories, or any service establishment of an office-showroom or workshop nature of an electrician, decorator, dressmaker, tailor, shoemaker, baker, printer, upholsterer, appliance repair, photographic reproduction, and similar establishments that require a retail character no more objectionable than the aforementioned.
3. Restaurants, or other places serving food.
4. Professional offices of doctors, lawyers, dentists, chiropractors, architects, engineers, accountants, and similar or allied professions. Offices may be permitted for similar or allied professions. Offices may be permitted for applied technology, light technological research, research and development facilities with laboratories, but no industrially oriented production facilities shall be permitted.
5. Office buildings for any of the following types of occupations: executive, administrative and professional.

6. Post offices and other governmental office buildings.
7. Newspaper offices and printing offices.
8. Private clubs, lodge halls, social, and similar organizations, including assembly or rental halls.
9. Residential uses as part of a building in this business zone shall be allowed upon issuance of a Certificate of Occupancy from the Department of Inspections, but provided that the minimum lot area requirements of the RM-2 District are met.
10. Accessory buildings and accessory uses customarily incidental to the above Principal Uses Permitted.
11. Uses similar to the above Principal Uses Permitted.

SECTION 1101. SPECIAL LAND USES PERMITTED:

The following uses, and their accessory buildings and accessory uses, shall be permitted under the review of Section 2332 after review and approval of the use (and a site plan, if required) by the Planning Commission, after Public Hearing, subject to the applicable conditions, and any other reasonable conditions imposed by the Planning Commission. A site plan shall not be required when no external changes are made to the buildings or properties.

1. Automobile service stations for the sale of gasoline, oil, tires, muffler tune up, not including major repair such as engine rebuilding, undercoating, and similar industrially oriented activities, and subject further to the following:
 - a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured from the roadway) or from adjacent residential property, and subject to other ordinances of the City.
 - b. The minimum lot area shall be ten thousand (10,000) square feet, and so arranged that ample space is available for motor vehicles which are required to wait.
 - c. There shall be provided, on those sides abutting or adjacent to a residential district, a four foot (4') completely obscuring wall or fence. The height of the wall or fence shall be measured from the surface of the ground.

- d. All lighting shall be shielded from adjacent residential districts and from abutting streets.
 - e. All rest rooms doors shall be shielded from adjoining residential property.
2. Banks with drive-in facilities, when said drive-in facilities are incidental to the principal function.
 3. Business in the character of a drive-in restaurant, or open front store, subject to the following:
 - a. A setback of at least sixty (60) feet shall be provided from the street right-of-way line of any existing or proposed major thoroughfare.
 - b. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two (2) streets
 4. Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. The site shall be so located as to provide for ingress and egress from said site directly onto a major or secondary thoroughfare.
 - b. The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than thirty (30) feet.
 - c. Buildings of greater than the maximum height allowed in Section 2100 may be allowed provided front, side, and rear yards are increased above the minimum requirements by one (1) foot for each foot of buildings that exceeds the maximum height allowed.
 5. Accessory buildings and accessory uses customarily incidental to any of the above Special Land Uses Permitted.
 6. Uses similar to the above Special Land Uses Permitted.
 7. Self-serve, coin operated, automobile car wash, enclosed in a building.

SECTION 1102. PLANNED UNIT DEVELOPMENTS:

Planned developments may be allowed by the Planning Commission under the procedural guidelines of Section 2101. The intent of Planned Unit Developments in the B-2 Convenience and Comparison Business Districts is to allow mixed land uses which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings.

1. Uses permitted in Sections 1100 or 1101 together with combinations or residential types such as one (1) family, two (2) family, multiple family, cluster residential, zero lot line residential, and attached and detached units in varying numbers, provided such uses are located on parcels of at least five (5) acres in area, and abut a major thoroughfare.
2. Accessory buildings and accessory uses customarily incidental to the above combinations.
3. Uses similar to the above combination

SECTION 1103. AREA AND BULK REQUIREMENTS:

See Article XXI, "Schedule of Regulations", limiting the height and bulk of buildings, the minimum size of lot permitted by land use, and maximum density permitted.

[illegible]

UN3031

DATE: September 10, 1988	FILE NO.: 88-0017	BY: JRM
CHECKED BY:	FILED: 9/10/88	DATE: 9/10/88
PROJECT NO.: 175150		

Map of Survey of
BLOCKS 466, 467, 468, 474 & 475
CITY of MUSKOGEE, MUSKOGEE COUNTY, MICHIGAN

PREPARED FOR:
LAKEVIEW CENTER

MOORE & BRUGGINK
 CONSULTING ENGINEERS and LAND SURVEYORS
 8 WEST WALTON, MUSKOGEE, MI 49440
 Phone: 810 / 722-3358 F: 810 / 722-4109

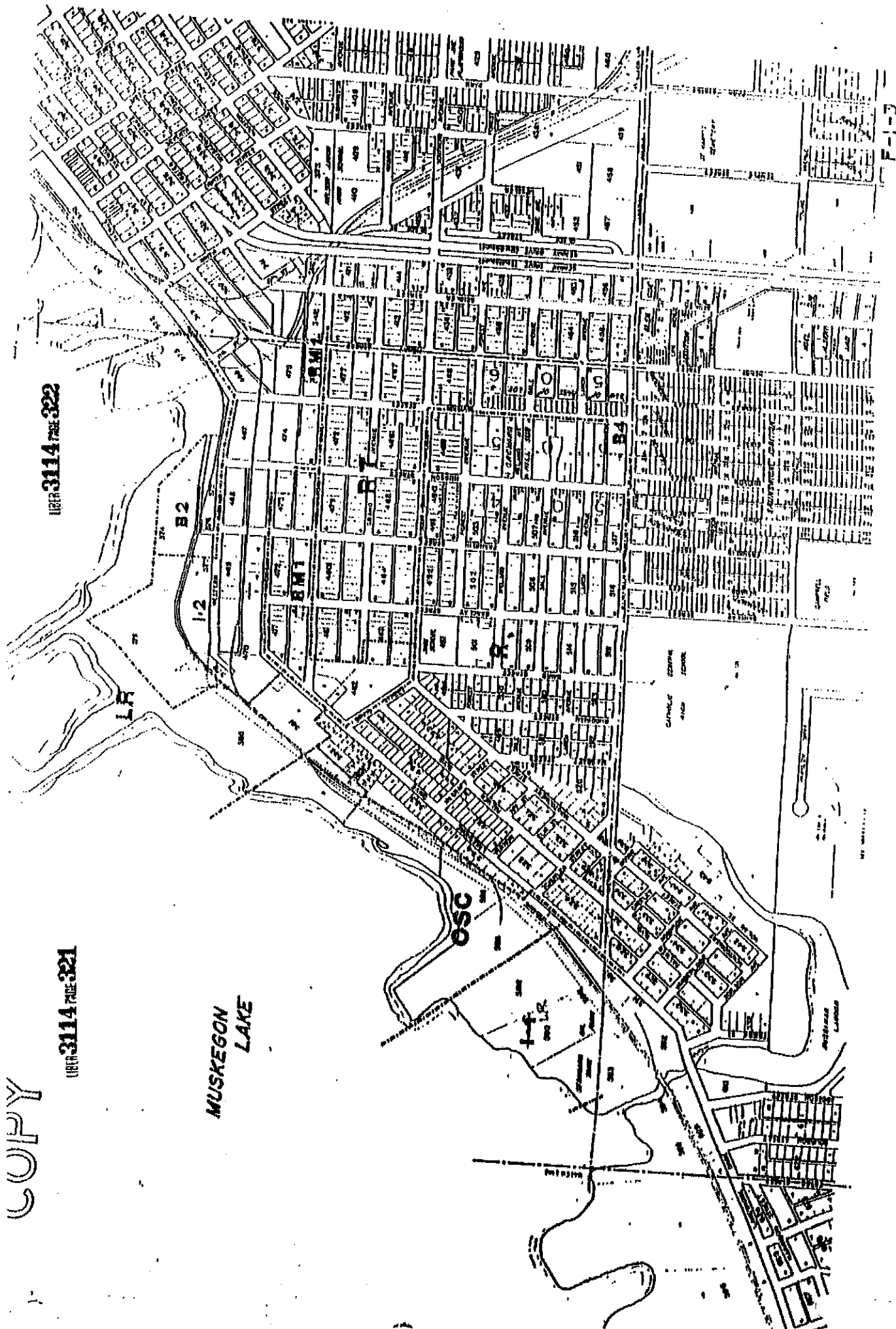
LEGEND

- Survey Iron (existing)
- Survey Iron (placed)
- Surveyed Intersection
- Recorded Intersection
- Partial Intersection
- Street Light
- Utility Pole
- Existing Main Hydrant
- Valve, Unknown
- Valve, A
- Street Corner
- Survey Corner
- Temporary Line
- Con. Line

REF ID: A66322

LIBR 3114 MAR 3 21

**MUSKEGON
LAKE**



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December 8, 2004

RC #2



Sent Via Certified First Class Mail

Patricia McKay, Chief
Compliance and Enforcement Section
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, MI 48909-7926

SITE/CO Division St. P & G Holdings
FILE NAME legal
TITLE _____
DOCUMENT _____

Ms. Heather Hopkins
Project Coordinator
MDEQ – RRD Grand Rapids
245 Colrain SW
Grand Rapids, MI 49548

Re: Recording of Declaration of Restrictive Covenant, Muskegon County Register of Deeds for P & G Holdings NY, L.L.C, (Former Knoll Group Plant No. 1), Division Street and Western Avenue, Muskegon

Dear Ms. McKay and Ms. Hopkins:

As per the Limited Residential Interim Response Activity Designed to Meet Criteria (IRDC) Agreement approved by the Michigan Department of Environmental Quality (MDEQ) on December 16, 2003, this correspondence serves as 1) Notice of the requested filing of the Declaration of Restrictive Covenant pertaining to the above property and attached exhibits with the Muskegon County Register of Deeds on December 1, 2004 (see attachment A) and 2) Filing of the Restrictive Covenant with the Register of Deeds Office on December 2, 2004 (see Attachment B). The date of receipt in P&G Holdings NY, L.L.C. offices was November 29, 2004. This complies with Section IV. Land Use or Resource Use Restrictions of the IRDC Agreement which requires filing of the Restrictive Covenant within 21 days of receipt of the Certificate of Construction from MDEQ.

A copy of the notice required to be provided to the City of Muskegon under Section V. Notice of Property Conditions, regarding the approval of the agreement and implementation of response activities, along with simultaneous notice to MDEQ will be provided under separate cover.

Patricia McKay/Heather Hopkins
December 8, 2004
Page 2

I would be happy to discuss any of the information above at your earliest convenience.

Very truly yours,



Eric R. Gielow
PARMENTER O'TOOLE
175 W. Apple Avenue
Muskegon, MI 49443
Direct Dial: (231) 722-5427
Fax: (231) 728-2206
E-Mail: erg@parmenterlaw.com

ERG/eah

Encl.

cc: Moses Gross, P & G Holdings, NY LLC

Attachment A

**Request to File Declaration of Restrictive Covenant
with Muskegon County Register of Deeds**

PARMENTER O'TOOLE

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George A. Parmenter, 1903-1993

December 1, 2004

Muskegon County Register of Deeds
Michael E. Kobza Hall of Justice
990 Terrace Street
Second Floor
Muskegon, MI 49442

Re: P & G Holdings NY, LLC a New York Limited Liability Company
MDEQ Reference No. RC-RRD-2003-048
Declaration of Restrictive Covenant

Dear Clerk:

With regard to the above referenced matter, enclosed for recording is one (1) Declaration of Restrictive Covenant, together with our firm check in the amount of \$71.00 to cover the recording of this Restrictive Covenant.

After recording, please place the acknowledgement copy in our Parmenter O'Toole box, to the attention of the undersigned, for pickup by our courier.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Eric R. Gielow
PARMENTER O'TOOLE
175 W. Apple Avenue
Muskegon, MI 49443
Direct Dial: (231) 722-5427
Fax: (231) 728-2206
E-Mail: erg@parmenterlaw.com

ERG/eah

Enclosure

Attachment B

**True Copy of Declaration of Restrictive Covenant
including Liber and Page Numbers
filed with Muskegon County Register of Deeds.**

COPY



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Mark Fairchild, Muskegon Co ROD 044

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DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference No. RC-RRD-2003-048

This Declaration of Restrictive Covenant (Restrictive Covenant) has been recorded with the Muskegon County Register of Deeds for the purpose of protecting public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to environmental contamination present at the property located in the City of Muskegon, County of Muskegon and legally described in Exhibit 1 attached hereto (Property). The Property is associated with a larger Facility known as "the former Knoll Group Plant No. 1, Muskegon, Michigan", for which a remedial action plan (RAP) was approved by the Michigan Department of Environmental Quality (MDEQ) on November 14, 2000, and implemented by Lakeview Industrial Center (Lakeview) pursuant to the agreement entered by and between Lakeview and the MDEQ, Reference No. LANDUSE-ERD-00-002 (Lakeview Agreement). A Restrictive Covenant was previously recorded by Lakeview with the Muskegon County Register of Deeds in connection with the RAP on November 30, 2000 at Liber 3114, Pages 300 - 322 (Lakeview Restrictive Covenant), and is hereby modified only as is expressly stated herein. All remaining terms and provisions of the Lakeview Restrictive Covenant shall remain in full force and effect. The current Owner of the Property, P & G Holdings NY, LLC (P & G), has conducted an Interim Response Designed to meet Criteria (IRDC) to facilitate land use changes. The response activities that have been implemented by P & G to address environmental contamination on the Property are fully described in the "Interim Response Designed to Meet Criteria Plan", dated October 17, 2003 (IRDC Plan) and the agreement entered by and between P & G and the MDEQ, Reference No. IRDC-LANDUSE-RRD-2003-006. The MDEQ approved the IRDC on December 16, 2003, pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.*

The IRDC required the recording of this Restrictive Covenant with the Muskegon County Register of Deeds to: (1) restrict unacceptable exposures to hazardous substances located on the Property; (2) assure that the use of the Property is consistent with the exposure assumptions utilized in the development of cleanup criteria pursuant to Section 20120a(1)(f) of the NREPA and the exposure control measures relied upon in the IRDC; and (3) to prevent damage or disturbance of any element of the response activity constructed on the Property. The restrictions contained in this Restrictive Covenant are based upon information available to the MDEQ at the time the IRDC was approved by the MDEQ. Failure of the response activities to achieve and maintain the criteria, exposure controls, and requirements specified in the IRDC Plan; future changes in the environmental condition of the Property or changes in the cleanup criteria developed under Section 20120a(1)(f) of the NREPA; the discovery of environmental conditions at the Property that were not accounted for in the IRDC; or use of the Property in a manner inconsistent with the restrictions described herein may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment.

Exhibit 1 provides a legal description and survey of the Property that is subject to the land use or resource use restrictions specified herein.

Summary of Response Activities

Certain response activity was conducted by Lakeview for the former Knoll Group Plant No. 1, Muskegon, Michigan, resulting in a limited land use-based closure of the facility and implementation of use restrictions on the Property, limiting the Property to commercial and industrial uses only. Following implementation of the RAP, there remained concentrations of benzo(a)pyrene, lead and dibenz(a,h)anthracene in an area known as the "former Oil House Area" and arsenic and benzo(a)pyrene in soils on the Property in excess of residential direct contact cleanup criteria. As part of its IRDC, P & G has implemented the following response activities: (1) excavation of soils from four (4) areas on the Property that contain concentrations of arsenic and/or benzo(a)pyrene exceeding residential direct contact criteria, and relocation of those soils to the former Oil House Area; (2) construction of an asphalt or concrete parking surface in the former Oil House Area, a minimum of two (2) inches thick, to serve as an exposure barrier against residential direct contact hazards; and (3) landscaping areas within the parking area (where pavement cover is not provided) were covered with a minimum of eight (8) inches of clean fill material. The location of the former Oil House Area and the exposure barrier constructed by P & G are identified in the survey provided in Exhibit 1. The continuing integrity of the barrier shall be inspected and maintained by the Owner as provided in an Operation and Maintenance Plan identified in Exhibit 2, attached.

Areas of the Property described in Exhibit 1 may contain hazardous substances in excess of concentrations developed as the unrestricted residential criteria under Section 20120(1)(a) or (17) of the NREPA. The MDEQ recommends that prospective purchasers or users of the Property undertake appropriate due diligence prior to acquiring or using the Property, and undertake appropriate actions to comply with the requirements of Section 20107a of the NREPA.

Definitions

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then-current titleholder of the Property or any portion thereof, except when used in reference to continuing O&M requirements (Exhibit 2) or prohibitions respecting interference, destruction and/or repair of the barrier constructed by P & G, in which case, the term "Owner" shall mean the current titleholder of the Property where the former Oil House is located.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA; Part 201 of the NREPA; or the Part 201 Administrative Rules (Part 201 Rules), 1990 AACSR 299.5101 *et seq.*, shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Rules, as of the date of the filing of this Restrictive Covenant.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

Pursuant to the IRDC, P & G, as Owner of the Property, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

1. Uses Restricted. The Owner shall prohibit all uses of the Property that are not compatible with the Limited Residential category under Section 20120a(1)(f) of the NREPA and generally described in the "Description of Allowable Land Uses," attached hereto as Exhibit 3. Cleanup criteria for land use-based response activities are located in the Government Documents Section of the State of Michigan Library.

2. Prohibited Activities. The Owner shall prohibit activities on the Property that may result in exposures above levels established in the IRDC. These prohibited activities include:



Mark Fairchild, Muskegon Co R00 044

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- a. Any excavation or other intrusive activity that could affect the integrity of the barrier constructed over the former Oil House Area at the locations shown on Exhibit 1, without promptly repairing the same as required by Paragraph No. 4 of this Restrictive Covenant.
 - b. Use of the Property where the former Oil House Area is located for residential purposes without conducting O&M Plan (Exhibit 2).
3. Interference with the IRDC. The Owner shall prohibit activities on the Property that may interfere with any element of the IRDC, including the performance of O&M activities, monitoring, or other measures necessary to ensure the effectiveness and integrity of the IRDC.
 4. Repairs. The Owner shall repair or cause the repair of all exposure barriers required by the IRDC that are displaced, removed, damaged, or destroyed, and/or fail to serve as adequate exposure barriers within thirty (30) days of the date the discovery of the damage or other circumstance creating the necessity for repair.
 5. Contaminated Soil Management. The Owner shall manage all soils, media and/or debris located on the Property in accordance with the applicable requirements of Section 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.
 6. Access. The Owner shall grant to the MDEQ and its designated representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the IRDC, including the right to take samples and inspect the operation of the response activities and any records relating thereto; and for the purpose of performing any actions necessary to maintain compliance with Part 201 of the NREPA and the IRDC.
 7. Notice. The Owner shall provide notice to the MDEQ of the Owner's intent to transfer any interest in the Property at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms and conditions of this Restrictive Covenant and the applicable provisions of Section 20116 of the NREPA. The notice required to be made to the MDEQ under this Paragraph shall be made to: Director, MDEQ, P.O. Box 30473, Lansing, Michigan 48909-7973; and shall include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant, MDEQ Reference Number: RC-RRD-2003-048. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.
 8. Term and Enforcement of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner; future owners; and all current and future successors, lessees, easement holders, their assigns, and their authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant can be terminated and rescinded by the MDEQ in the event the MDEQ's approval of the IRDC is voided or nullified. The State of Michigan, through the MDEQ, and P & G may enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.
 9. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof, and all such other provisions shall continue unimpaired and in full force and effect.
 10. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner, and represents and certifies that he or she is duly authorized and has been empowered to execute and deliver this Restrictive Covenant.



Mark Fairchild, Muskegon Co ROD 044

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L-3629 P-83
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Page: 3 of 20

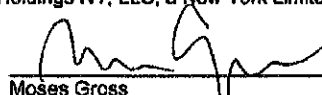
11. Consent to Record. The form of this Restrictive Covenant has been approved by the MDEQ, and is being recorded with its approval and consent as indicated in the attached correspondence, dated December 16, 2003, regarding Approval of Interim Response Designed To Meet Criteria Plan for Parcel B - Blocks 466, 467, 468, 474, and 475 of the Former Knoll Group Plant 1/Shaw Walker, Division Street and Western Avenue, Muskegon, Muskegon County, Michigan. A copy of this consent is attached hereto as Exhibit 4 and incorporated herein by this reference.

12. Modification of Lakeview Restrictive Covenant. Except as expressly stated in this Restrictive Covenant, the Lakeview Restrictive Covenant remains in full force and effect. In the event the Owner fails to comply with the O&M Plan (Exhibit 2), resulting in the voidance or nullification of the IRDC and this Restrictive Covenant, the restrictions set forth in the Lakeview Restrictive Covenant shall control.

IN WITNESS WHEREOF, P & G has caused this Restrictive Covenant to be executed on this 1st day of December, 2004.

P & G Holdings NY, LLC, a New York Limited Liability Company

By:


Moses Gross
Its: Managing Member

Acknowledgement

The foregoing instrument was acknowledged before me in Muskegon County, Michigan on December 1, 2004 by Moses Gross, Managing Member for P & G Holdings NY, LLC, A New York Limited Liability Company.


Elizabeth A. Hilliard Notary Public
Muskegon County, Michigan
Acting in the County of Muskegon
My Commission Expires: July 13, 2007

Prepared by: Eric R. Gielow
Parmenter O'Toole
175 West Apple Avenue
P.O. Box 786
Muskegon, Michigan 49443
Date: December 1, 2004



Mark Fairchild, Muskegon Co ROD 044

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EXHIBIT 1

LEGAL DECEIPTION OF PROPERTY

LEGAL DESCRIPTION AND SURVEY OF FORMER OIL HOUSE PROPERTY



Mark Fairchild, Muskegon Co ROD 044

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Property Description:

Entire Blocks 467, 468 and 474; TOGETHER WITH the C & O Railway Company right of ways in said blocks; vacated Hudson Street between said Blocks 467 and 468; vacated Michigan Avenue between said Blocks 467 and 474; the vacated alley in said Block 468 and the 2 vacated alleys in said Block 474 of the Revised Plat of 1903 of the City of Muskegon (as recorded in Liber 3 of Plats, Page 71, Muskegon County Records), Muskegon County, Michigan; ALSO that part of Blocks 466 and 475; vacated Michigan Avenue and vacated Clay Avenue of the Revised Plat of 1903 of the City of Muskegon, Muskegon County, Michigan; ALSO part of the parcel of land formerly known as Block 5 of Beldier Manufacturing Company's Subdivision of Blocks 332, 333 and 334 of the City of Muskegon, included in the following description: COMMENCING at the Southwest corner of said Block 475 for POINT OF BEGINNING; thence North along the East line of Division Street 337.47 feet; thence North 89°40'00" East 427.35 feet to the West line of Henry Street; thence South 05°18'10" West along said West line 144.97 feet to the Northeast corner of said Block 475; thence South 00°28'45" West along said West line 194.75 feet to the Southeast corner of said Block 475; thence South 89°52'30" West along the South line of said Block 412.33 feet to the point of beginning. Containing 15.211 acres.



Mark Fairchild, Muskegon Co ROD 044

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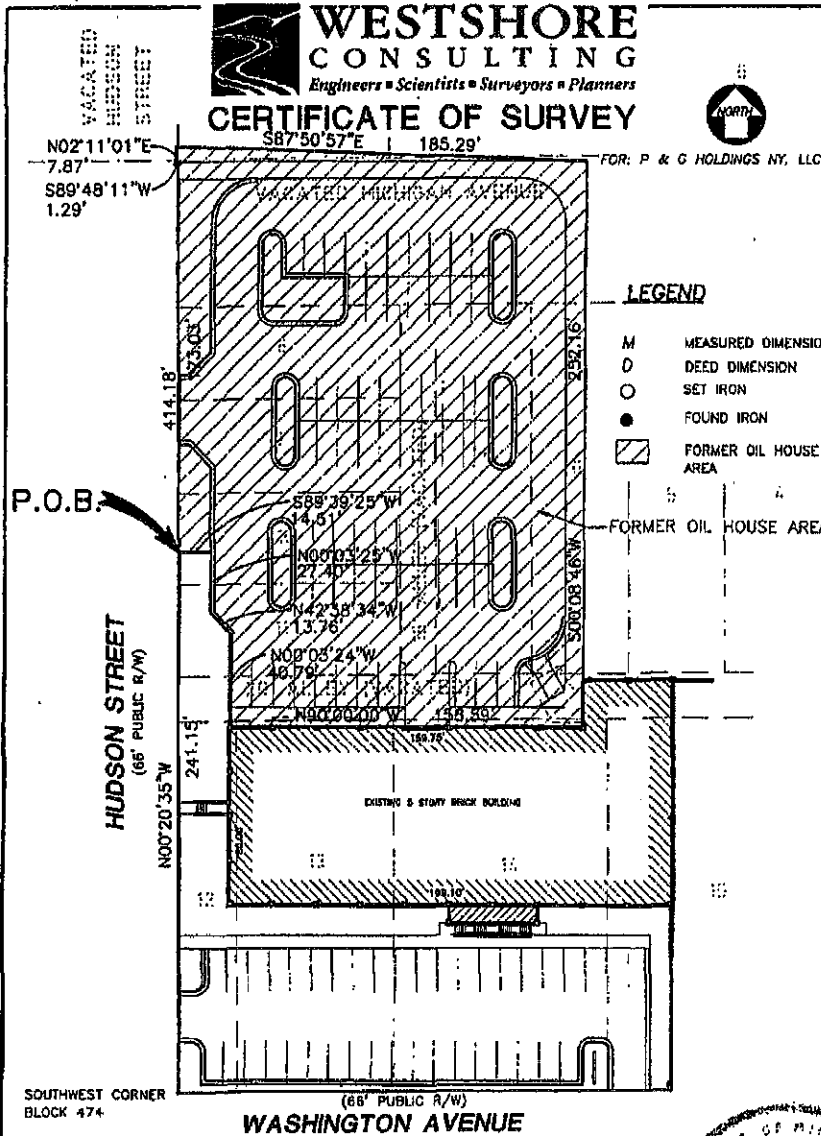
WESTSHORE CONSULTING

Engineers • Scientists • Surveyors • Planners

CERTIFICATE OF SURVEY



FOR: P & G HOLDINGS NY, LLC



LEGEND

- M MEASURED DIMENSION
- D DEED DIMENSION
- SET IRON
- FOUND IRON
- ▨ FORMER OIL HOUSE AREA

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Mark Fairchild, Muskegon Co RD 044

SOUTHWEST CORNER
BLOCK 474

WASHINGTON AVENUE

AS A PROFESSIONAL LAND SURVEYOR OF THE STATE OF MICHIGAN, I DO HEREBY CERTIFY THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF, I HAVE SURVEYED THE PROPERTY AS DESCRIBED AND SHOWN HEREIN AND THAT THERE EXISTS NO VISIBLE ENCROACHMENTS ON SAID PROPERTY UNLESS NOTED AND THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH A DESCRIPTION FURNISHED BY OTHERS AND SHOULD BE COMPARED TO THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, EASEMENTS, OR EXCEPTIONS. THIS SURVEY DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESSED RECERTIFICATION BY THE SURVEYOR.

Stephen J. Vallier
STEPHEN J. VALLIER
P.S. NO. 28428
2534 BLACK CREEK ROAD
MUSKEGON, MI 49444
PHONE: (231) 777-3447
FAX: (231) 773-3453

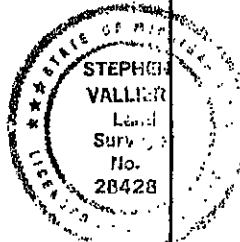
DATE: 11/29/04

FILE NO: 3512-1
SCALE: 1" = 50'
SURVEYED BY: JVL
DRN BY: BJA

DEEDS PREPARED UTILIZING THIS LEGAL DESCRIPTION FOR CONVEYANCES MUST MEET THE REQUIREMENTS OF SECTION 109 PARAGRAPH 3 AND 4 OF P.A. 591 OF 1998.

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SHEET 1 OF 2





WESTSHORE
CONSULTING
Engineers • Scientists • Surveyors • Planners

CERTIFICATE OF SURVEY

FOR: P & G HOLDINGS NY, LLC

SURVEY DESCRIPTION (FORMER OIL HOUSE AREA)

PART OF BLOCKS 474 AND 467; TOGETHER WITH PART OF VACATED HUDSON ST. BETWEEN BLOCKS 467 AND 468; PART OF VACATED MICHIGAN AVE. BETWEEN BLOCKS 467 AND 474; PART OF A VACATED ALLEY IN SAID BLOCK 474; ALL OF A SECOND VACATED ALLEY IN BLOCK 474; ALL BEING IN THE REVISED PLAT OF 1903 OF THE CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS:

COMMENCE AT THE SOUTHWEST CORNER OF BLOCK 474;

THENCE NORTH 00 DEGREES 20 MINUTES 35 SECONDS WEST ALONG THE EAST RIGHT - OF - WAY LINE OF HUDSON STREET, A DISTANCE OF 241.15 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 00 DEGREES 20 MINUTES 35 SECONDS WEST ALONG SAID EAST RIGHT - OF - WAY LINE, A DISTANCE OF 173.03 FEET;

THENCE SOUTH 89 DEGREES 48 MINUTES 11 SECONDS WEST, A DISTANCE OF 1.29 FEET;

THENCE NORTH 02 DEGREES 11 MINUTES 01 SECONDS EAST, A DISTANCE OF 7.87 FEET;

THENCE SOUTH 87 DEGREES 50 MINUTES 57 SECONDS EAST, A DISTANCE OF 185.29 FEET;

THENCE SOUTH 00 DEGREES 08 MINUTES 48 SECONDS WEST, A DISTANCE OF 252.16 FEET;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 158.59 FEET;

THENCE NORTH 00 DEGREES 03 MINUTES 24 SECONDS WEST, A DISTANCE OF 40.79 FEET;

THENCE NORTH 42 DEGREES 38 MINUTES 34 SECONDS WEST, A DISTANCE OF 13.76 FEET;

THENCE NORTH 00 DEGREES 03 MINUTES 25 SECONDS WEST, A DISTANCE OF 27.40 FEET;

THENCE SOUTH 89 DEGREES 39 MINUTES 25 SECONDS WEST, A DISTANCE OF 14.51 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 45,268 SQUARE FEET OR 1.04 ACRES, MORE OR LESS.

DEEDS PREPARED UTILIZING THIS LEGAL
DESCRIPTION FOR CONVEYANCES MUST
MEET THE REQUIREMENTS OF SECTION 109
PARAGRAPH 3 AND 4 OF P.A. 591 OF 1995.

DATE:
SHEET 2 OF 2

FILE NO: 3512-1

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Mark Fairchild, Muskegon Co ROD 044

EXHIBIT 2

OPERATION AND MAINTENANCE PLAN



Mark Fairchild, Ruskegon Co ROD 044

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Operation and Maintenance Plan of Exposure Barrier For IRDC

Former Knoll Group Plant 1/Shaw Walker

Former Oil House Area

Muskegon, Michigan

I. GENERAL OVERVIEW

In 2001, P & G Holdings NY, LLC ("P & G") purchased a portion of the former Shaw Walker Facility (Parcel "B"). The current Site Owner is P&G and the contact is Moses Gross, P & G Holdings NY, LLC, 4203 13th Avenue, Brooklyn, NY 11219 Telephone: (718)-854-3388. The Michigan Department of Environmental Quality shall be promptly notified of a change of the contact person, along with appropriate contact information, in the event a substitution is made.

The exposure barrier is located over the former Oil House Area as shown on the attached Figure 1. The barrier preventing direct contact with impacted soil is comprised of an asphalt/concrete parking lot and a minimum of 8 inches of cover material (e.g. topsoil, mulch, etc.) in landscaped areas. Concentrations of lead, dibenz(a,h)anthracene and benzo(a)pyrene in soil beneath this parking lot could potentially exceed the Part 201 residential direct contact criteria if the parking lot was to be removed.

Regular monitoring and maintenance of the parking lot and landscaped areas will be performed to maintain their integrity. Inspections of the barrier will occur annually in the spring, no later than May 30 of each year, with recommended repair or replacement occurring within a period of thirty (30) days of damage or other circumstance creating the necessity for repair.

II. MONITORING OF PAVED SURFACES

A. Inspection Criteria

The following forms of potential deterioration of the asphalt parking lot should be noted in the appropriate place on the attached Parking Lot Inspection Form (see attached form). These include:

- Pitting/Spalling -- surface wear and degradation due to asphalt aging or chemical exposure
- Cracking -- structural cracks due to thermal cycles, sub-base settling, or exceeding designed loading capacity

B. Inspection Schedule

Inspections of the asphalt parking lot will be conducted annually.



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Mark Fairchild, Muskegon Co ROD 044

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III. MONITORING OF LANDSCAPED SURFACES

A. Inspection Criteria

The following breaches of the cover material in the landscaped areas should be noted in the appropriate place on the attached Inspection Form (see attached form). These include:

- Holes and excavations caused by burrowing animals and humans.
- Erosion from precipitation runoff.

C. Inspection Schedule

Inspections of the landscaped areas will be conducted annually.

IV. PAVED SURFACE MAINTENANCE AND REPAIR

The parking lot will be repaired on an as-needed basis following recommendations made on the Parking Lot Inspection Form and in accordance with good engineering practices. Maintenance activities for paved surfaces will employ, as necessary, the following measures:

- Cracks which allow the soil below the parking lot to be visible or vegetation to grow are to be filled with a commercial asphalt sealant as they are observed and recorded on the Parking Lot Inspection Form.
- Broken, loose, or unsound asphalt will be removed and repaired using commercial asphalt patching material.

In addition, every five years, at a minimum, the asphalt parking lot will be inspected and evaluated for resurfacing or resealing by an asphalt contractor.

V. SITE WORK REQUIRING PENETRATION OF PAVED SURFACES

Asphalt repairs will be made upon completion of the work requiring parking lot penetration and will result in a paved surface of good integrity. The following criteria apply:

- All disturbed asphalt sub-base material shall be replaced and compacted to match existing thickness of aggregate material. Compaction shall be conducted to achieve a minimum of 90% of the Maximum Unit Weight for the asphalt parking lot's usage.
- At a minimum, asphalt patches will match existing asphalt thickness (minimum 2 inches).



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Mark Fairchild, Muskegon Co ROD 044

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VI. LANDSCAPE COVER MAINTENANCE AND REPAIR

The landscape cover material will be repaired on an as-needed basis following recommendations made on the Inspection Form. A minimum of 8 inches of clean cover material (e.g. topsoil, mulch, etc.) will be used in the landscaped areas.



Mark Fairchild, Muskegon Co ROD 044

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Annual Verification Form
Inspection of Exposure Barrier for IRDC
Former Knoll Group Plant 1/Shaw Walker
Former Oil House Area
Muskegon, Michigan

This form is to be used to record observations made during the annual inspection of the former Oil House Area, as identified in the IRDC plan for the Site (i.e., former Oil House Area). The area to be inspected is indicated on the attached Figure 1. If the annual inspection reveals a breach of the exposure barrier, resulting in a failure of the engineering control, the same will be repaired or replaced as necessary within 30 days to achieve a substantially similar degree of protection as the original barrier. The form must be completed in its entirety and signed by the Inspector.

A. INSPECTOR INFORMATION

Name: _____ Title: _____
Company: _____ Address: _____
Telephone: _____

Please Circle:

1. Yes / No Is there material (e.g., asphalt, concrete) covering the exterior parking surface of the former Oil House Area present and in good condition? If no, please explain:

2. Yes / No / NA Is there a material (e.g., topsoil, mulch) covering the exterior landscaped surface of the former Oil House Area present and in good condition? If no, please explain:

3. Yes / No Are there any open excavations, pits, or holes on the former Oil House Area? If yes, please describe:



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B. RECOMMENDED ACTION

_____ No Action Required

_____ Repairs Recommended/Date
Completed: _____

On this date, I personally completed an inspection of the former Oil House Area and completed the above Verification Form.

Inspector's
Signature: _____

Date: _____



Mark Fairchild, Muskegon Co ROD 044

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1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

2. Once the problem is identified, the next step is to define the objectives and goals of the project. This helps to clarify what needs to be achieved and provides a clear direction for the team.

3. The third step is to develop a plan or strategy to address the problem. This involves breaking down the problem into smaller, manageable tasks and determining the resources needed to complete each task.

4. The fourth step is to implement the plan. This involves putting the strategy into action and monitoring progress regularly to ensure that the project is on track.

5. The final step is to evaluate the results of the project. This involves comparing the actual outcomes with the original objectives and goals to determine the effectiveness of the project.

Mark Falchid, McKean Co. RD 044

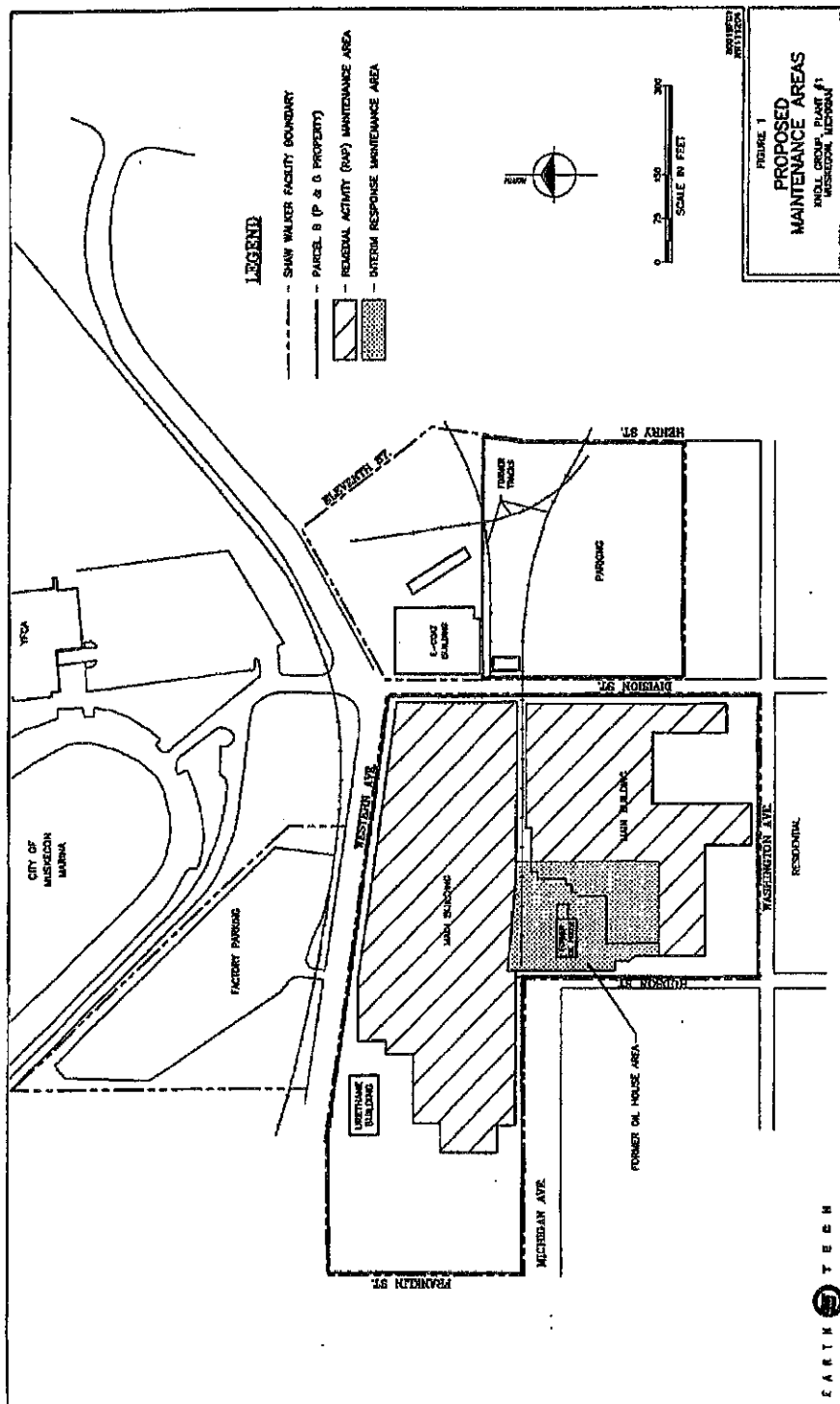


EXHIBIT 3

DESCRIPTION OF ALLOWABLE LAND USES

All uses which are compatible with the Limited Residential category under Section 20120a(1)(f) of the NREPA. Cleanup criteria for land use-based response activities are located in the Government Documents Section of the State of Michigan Library.



Mark Fairchild, Muskegon Co ROD 044

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EXHIBIT 4

MDEQ CONSENT TO FORM AND RECORDING OF RESTRICTIVE COVENANT



Mark Fairchild, Muskegon Co ROD 044

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JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

December 16, 2003

Mr. Moses Gross
P & G Holdings NY, LLC
4203 13th Avenue
Brooklyn, New York 11219

Dear Mr. Gross:

SUBJECT: Approval of the Limited Residential Interim Response Designed to Meet Criteria for a Portion of the Shaw Walker (Formerly Knoll Group) Facility, Muskegon County, Michigan, Site ID No. 81000150

The Michigan Department of Environmental Quality (MDEQ), Remediation and Redevelopment Division (RRD), has reviewed the Interim Response Designed to Meet Criteria for the former Main Plant Property, more specifically, Parcel B – Blocks 466, 467, 468, 474, and 475 in the city of Muskegon (the Property), of the former Knoll Group Plant 1/Shaw Walker facility, dated October 17, 2003 (IRDC), which was submitted by Earth Tech, Inc. (Earth Tech), on behalf of P & G Holdings NY, LLC (P&G). The MDEQ reviewed the land use-based IRDC, including the proposed Declaration of Restrictive Covenant (IRDC Restrictive Covenant), which allows for residential uses of the Property, pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.*, and the Part 201 Administrative Rules (Part 201 Rules).

A combination Limited Industrial, Commercial, and Residential Remedial Action Plan (RAP) was previously submitted for the entire former Knoll Group Plant 1/Shaw Walker facility (Facility) by Earth Tech on December 16, 1998, with amendments dated November 12, 1999, April 25, 2000, June 30, 2000, and August 10, 2000. The MDEQ issued an approval of the Combination Limited Industrial, Commercial, and Residential RAP on November 14, 2000.

P&G purchased the Property in 2001 and intends to develop the Property for mixed residential/commercial uses. The RAP approval issued by the MDEQ on November 14, 2000, included land use restrictions, i.e., a recorded Declaration of Restrictive Covenant (Lakeview Restrictive Covenant), which limited uses on portions of the Facility that contain the Property to industrial and commercial uses only. Based upon the MDEQ's evaluation of the IRDC; the implementation of the response activities identified in the IRDC; and the execution of the Agreement for a Limited Residential Interim Response Designed to Meet Criteria (Agreement) by P&G and the MDEQ, P&G has satisfied the requirements for approval of an IRDC pursuant to Part 201 and the Part 201 Rules.

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Park Fairchild, Muskegon Co 800 044

December 16, 2003

The MDEQ has reviewed and approved the Restrictive Covenant, which is Attachment F to the IRDC. In accordance with the Agreement, P&G shall record the Restrictive Covenant within 21 days from receipt of the MDEQ's Certificate of Construction of the IRDC. Contemporaneous with the MDEQ's approval of the IRDC, the MDEQ approves the modification of the Lakeview Restrictive Covenant recorded at Liber 3114, Pages 300-322, as set forth in the IRDC Restrictive Covenant.

Pursuant to Section 20120b(9) of the NREPA, a person who implements a remedial action, which includes land use restrictions, must provide notice within 30 days of the MDEQ's approval to the zoning authority for the local unit of government in which the facility is located.

The MDEQ expresses no opinion as to other hazardous substances at the Property beyond those identified as part of the approved IRDC. The MDEQ also makes no warranty as to the fitness of the Facility for any general or specific use, and prospective purchasers or users are advised to exercise due diligence prior to acquiring or using the Facility.

If you have questions or concerns regarding the above matter, please contact Ms. Heather Hopkins, Grand Rapids District Office, RRD, MDEQ, at 616-246-1742.

Sincerely,



Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
517-335-1104

cc: Mr. Eric R. Gielow, Parmenter O'Toole
Ms. Patricia A. McKay, MDEQ
Mr. Philip L. Schrantz, MDEQ
Mr. Gerard Heyt, MDEQ
Ms. Nanette Leemon, MDEQ
Ms. Heather Hopkins, MDEQ
Field Operations Tracking



Mark Fairchild, Muskegon Co ROD 044

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JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WYOMING



STEVEN E. CHESTER
DIRECTOR

November 24, 2004

Mr. Moses Gross
P & G Holdings NY, LLC
4203 13th Avenue
Brooklyn, New York 11219

Dear Mr. Gross:

SUBJECT: Certificate of Construction for the Shaw Walker (Formerly Knoll Group) Facility,
Muskegon, Michigan, Site ID No. 61000150

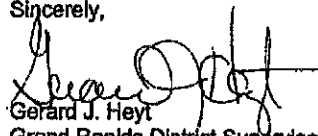
The Michigan Department of Environmental Quality (MDEQ) has reviewed the October 8, 2004 Interim Response Designed to Meet Criteria (IRDC) Plan Documentation report submitted to this office on October 13, 2004. Additional information was provided 1) In the November 12, 2004 IRDC Final Inspection letter prepared by Mr. Eric Glelow; 2) at the November 17, 2004 final inspection meeting that took place on-site; and 3) in a November 22, 2004, facsimile from Mr. Glelow's office.

MDEQ staff inspected the former oil house area on November 17, 2004, and based upon that inspection and representations made, the Interim response activities have been fully constructed in accordance with the requirements of the IRDC, subject to the recording of the restrictive covenant. Upon receipt of this letter the 21-day timeframe to file the restrictive covenant begins.

Please provide copies of the final survey, which includes the legal description of the property and former oil house area, to be inserted into the IRDC and Legal Agreement as Attachments B and C.

If you have questions, please feel free to contact me at the number listed below.

Sincerely,


Gerard J. Heyl
Grand Rapids District Supervisor
Remediation and Redevelopment Division
616-246-1723

cc: Mr. Eric Glelow, Parmenter O'Toole
Mr. Michael Wolf, Earth Tech
Ms. Nan Leemon, MDEQ
Ms. Heather Hopkins, MDEQ



Mark Fairchild, Muskegon Co ROD 044

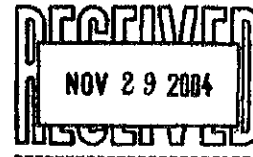
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www.michigan.gov • (816) 246-1720



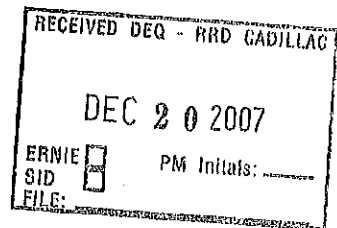
Shaw Walker

Muskegon County

Site ID# 61000150

ORD-RRD-201-07-002

KERMIT ID# 14120107002

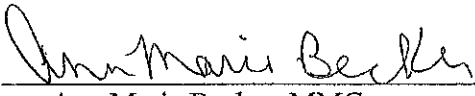


CERTIFICATION

Attached is a true copy of the revised City of Muskegon Groundwater Protection Ordinance which was adopted by the City Commission at a regular meeting held on December 11, 2007. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

Date: December 13, 2007

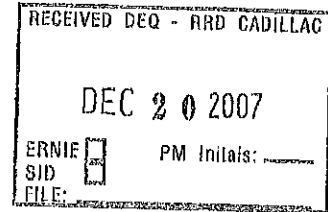
CITY OF MUSKEGON
933 Terrace, Muskegon, MI 49440

By 
Ann Marie Becker, MMC
City Clerk

CITY OF MUSKEGON
Ordinance Amendment No. 2239

ARTICLE III. WATER SUPPLIES*

***Cross reference(s)--**Water system, § 94-61 et seq.



Sec. 34-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affected premises means a parcel of property any part of which is located within an appendix map made a part of this article, as originally enacted or as amended, which map shows the parcel to have contaminated groundwater under any part of the parcel or the parcel has been designated as a required buffer zone by the MDEQ.

Appendix map means a map derived from a plat or other map, or information relating to land in the city showing parcels which have contaminated groundwater under any part of the parcel or the parcel has been designated as a required buffer zone by the MDEQ. Such map or maps have been modified by Ord. No. 2054, and Ord. No. 2139 and shall be further added or deleted by subsequent ordinances. The city, in its department of planning and community development, or such other department designated by the city manager (who shall notify the MDEQ of any change), will maintain and publish notice of a listing of the appendix maps by general location of the known geographical locations of affected premises, identifying same by property tax identification and tax assessment parcel numbers. The identification may be included in appendix maps. The listing and a copy of this article will be maintained in the same manner as a zoning ordinance at the city department. The list shall be reviewed and the article amended as necessary whenever the city is supplied with reliable information of such affected premises, provided advance notification to the MDEQ has been provided as required by Section 34-63 of this article. Review and amendment of the article shall also occur whenever the city receives written notice from the MDEQ that it is considering approval of a remedial action plan or equivalent action which relies on this article as an institutional control to prevent groundwater use by adding the necessary affected premises to the article. Interested parties may petition the city to add new amendments by appendix maps, or to delete parcels by amendment, if its can be shown that such affected premises no longer pose a public health risk.

Contamination means groundwater contamination in concentrations that exceed the residential drinking water criteria established by the MDEQ pursuant to part 201, Natural Resources and Environmental Protection Act (MCL 324.20101) by operational memorandum or rule.

Human consumption means use in food or drink intended for human ingestion, use in food preparation or food service, use in the interior of a dwelling or dwelling unit served by such well or secondary water supply for any household purpose, and use in any building for personal washing or ingestion by humans. The term "human consumption" does not mean use of water for irrigation.

MDEQ means the state department of environmental quality, or its successor agency.

Secondary water supplies means only secondary water supplies from wells.
(Ord. No. 2039, § 1(24-46), 12-12-2000; Ord. No. 2054, § 1, 9-11-2001)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 34-62. Findings.

The city commission finds that the use of wells and secondary water supplies from wells for the delivery or use of water from or on certain premises for human consumption or irrigation, or the use of wells which influence the movement of contaminated groundwater, constitutes a potential public health risk. The identified public health risk affects premises that are located in the vicinity of sites that are the source or location of contaminated groundwater, or where there is a known and identified threat of contaminated groundwater from a release. The commission has determined to prohibit certain uses of water from wells and secondary water supplies from such properties in order to protect against and minimize the public health risk.

(Ord. No. 2039, § 1(24-46), 12-12-2000)

Sec. 34-63. Modification or repeal of article; notice to the state.

At least thirty days prior to any amendment or repeal in whole or in part of this article, the city shall notify the MDEQ of its intent to so act.

(Ord. No. 2039, § 1(24-52.1), 12-12-2000)

Sec. 34-64. Penalty; permit denial; remedies.

- (a) *Civil infraction.* Any person violating this article, including but not limited to the maintenance, use or installation of a water supply for human consumption or irrigation from a well or secondary water supply as prohibited by this article, shall be liable for a civil infraction.
- (b) *Building or improvement permit.* No permit for building or alteration or other required permit for a premises or improvement thereon shall be issued by the city for any premises found in violation of this article, or where it is proposed to install or use a well or secondary water supply in violation of this article.
- (c) *Injunctive relief.* The city may further enforce this article by action seeking injunctive relief.

(Ord. No. 2039, § 1(24-52.2--24-52.4), 12-12-2000)

Sec. 34-65. Prohibition of use of secondary water supplies for human consumption or irrigation; exceptions.

- (a) *Prohibition.* Unless specifically excepted by this article, after the effective date of this article, no new groundwater wells may be installed on any affected premises, and the use of any secondary water supply or well from or on affected premises, or the use of water from such sources for human consumption or irrigation, is prohibited.
- (b) *Exceptions.*

- (1) *Water service unavailable; human consumption.* If city water service is unavailable to an affected premises, and a well is tested and the test results are approved by the MDEQ annually, and written proof thereof is delivered to the city annually, a well may be installed or used temporarily for water for human consumption until the city water service is available to the premises. No split or conveyance of any premises shall be effective to render city water service unavailable. In the event of a split or conveyance, no occupancy or building permit shall be issued without the use of city water or certification by the appropriate authority or authorities that the new parcel is not an affected premises.
- (2) *Noncontact cooling or process water using contaminated groundwater if approved.* Installation of wells or the use of water from an affected premises for noncontact cooling or processing for manufacturing or commercial activities, which use is approved by the MDEQ and all governmental agencies having jurisdiction, is permitted. Such approvals shall be made only after determination that the use will not result in unacceptable exposure, cross-contamination, or adverse hydrogeological effects on contaminated groundwater.
- (3) *Public emergencies and construction dewatering.* Installation and use of wells for public emergencies or short-term construction dewatering purposes shall not be prohibited by this article, provided that appropriate handling and disposing of contaminated water from construction dewatering projects shall be required.
- (4) *Environmental Investigation/Remediation.* Installation or the use of wells and other devices constructed or used solely for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment shall not be prohibited, provided the wells or devices are installed by a qualified environmental consultant or engineer and the construction and use of the wells or devices otherwise complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state or federal laws or regulations.

(Ord. No. 2039, § 1(24-47), 12-12-2000)

Sec. 34-66. Sources of water supplied for human consumption.

Except as provided in section 34-65, water supply for human consumption on any affected premises in the city shall be delivered only from the city water system or by the use of bottled water delivered or purchased in containers under conditions approved by the MDEQ or other appropriate agency.

(Ord. No. 2039, § 1(24-48), 12-12-2000)

Sec. 34-67. Irrigation.

No well located on any affected premises, or secondary water supply from such a well, shall be used for irrigation.

(Ord. No. 2039, § 1(24-49), 12-12-2000)

Sec. 34-68. Notification to county.

The city shall notify the county health department of the locations of all affected premises as defined and covered by this article, by delivering a copy of this article, with attachments and all amendments, to the department.

(Ord. No. 2039, § 1(24-50), 12-12-2000)

Sec. 34-69. Wells or secondary water supply affecting contaminated groundwater.

No well may be used or installed at any place in the city if the use of such well will have the effect of causing the migration of groundwater contaminants or pollution or a groundwater plume containing same to previously unimpacted groundwater, or adversely impacting any groundwater treatment system, unless such well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.

(Ord. No. 2039, § 1(24-51), 12-12-2000)

Sec. 34-70. City inspections; enforcement.

Where it is determined that a well or secondary water supply from an affected premises is being used as a source for human consumption, irrigation, or affecting contaminated groundwater on an affected premises, the city shall notify by appropriate means the owners and occupants thereof to connect to the city water supply or supply water in conformity with this article and to disconnect and disable, in accordance with legal or technical standards, the well or secondary water supply.

(Ord. No. 2039, § 1(24-52), 12-12-2000)

Sec. 34-80. Affected Premises.

The properties identified on the attached Appendix Map are determined to be affected premises with the meaning of, and regulated in accordance with, Ordinance 2039 or any successor ordinance prohibiting wells on such premises. Affected premises are described by the property tax identification/tax assessment parcel number and are included as an attachment to the Appendix Map.

(Ord. No. 2070, 4-9-02; Ord. No. 2071, 4-9-02; Ord. No. 2139, 9-28-04)

Sec. 34-81. Notification to Register of Deeds.

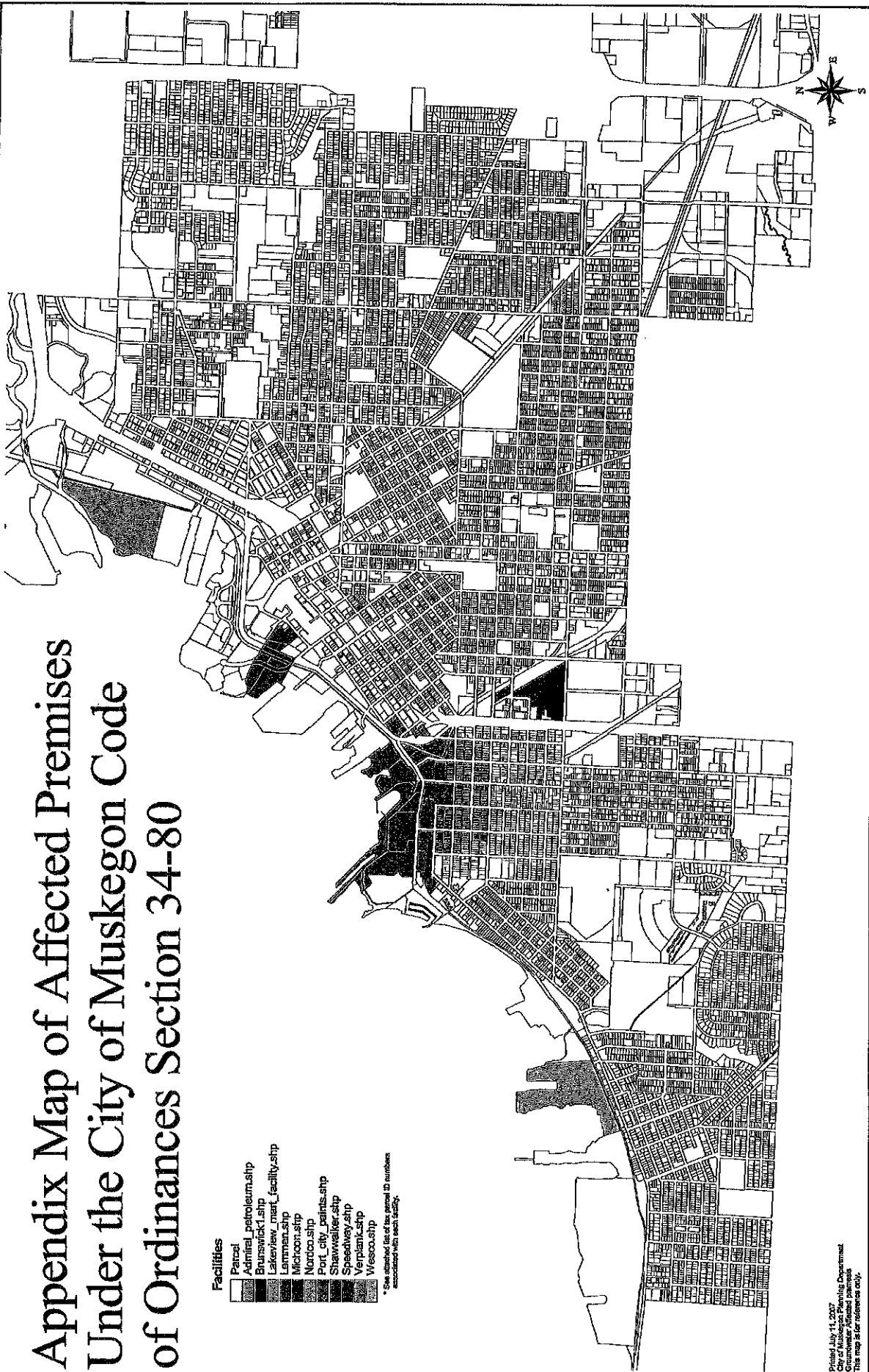
A copy of this article, or any amendment thereto, which describes affected premises involving multiple properties shall be filed with the Muskegon County Register of Deeds.

Sec. 34-82. Severability.

If any article, section, subsection, sentence, clause, phrase or portion of this article is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of this article, it being the intent of the city that this article shall be fully severable. The city shall promptly notify the MDEQ upon the occurrence of any event described in the preceding sentence.

Appendix Map of Affected Premises Under the City of Muskegon Code of Ordinances Section 34-80

- Facilities**
- Parcel
 - Admiral_petrolium.ship
 - Boursswick1.ship
 - Lakeriew_mast_facility.ship
 - Lammon.ship
 - Michcon.ship
 - Nordco.ship
 - Port_city_paints.ship
 - Shawwalker.ship
 - Speedway.ship
 - Verplanck.ship
 - Wescos.ship
- * See attached list of two parcel ID numbers associated with each facility.



AFFECTED PREMISES TAX PARCEL IDENTIFICATION NUMBERS

Admiral Petroleum Facility

24-255-001-0028-00

Brunswick Facility

24-205-451-0001-00

24-205-431-0007-00

Lakeview Mart Facility

24-205-596-0004-00

24-205-596-0008-00

Lemmen Shell Facility

24-205-334-0007-00

24-205-351-0005-00

MichCon Facility

24-205-558-0005-20

24-205-563-0010-00

24-205-563-0008-10

24-205-563-0004-00

24-794-000-0001-00

Nordco Facility

24-595-000-0001-00

24-128-300-0022-00

24-128-300-0021-00

24-128-300-0020-00

24-185-112-0012-10

24-185-112-0012-00

24-185-113-0013-10

24-185-113-0013-00

24-185-113-0012-00

24-185-112-0014-00

24-185-112-0010-00

24-185-112-0011-00

24-185-113-0001-00

24-185-113-0002-00

24-185-113-0003-00

24-185-113-0004-00
24-185-113-0005-00

Port City Paints Facility

24-205-318-0001-00
24-205-318-0003-00

ShawWalker Facility

24-205-318-0002-00
24-205-342-0001-00
24-205-342-0003-00
24-205-342-0004-00
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24-205-342-0006-00
24-205-342-9992-00
24-205-343-0001-00
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Speedway Facility

24-133-100-0001-00

Verplank Facility

24-117-300-0004-00

Wesco Facility

24-382-028-0017-00

24-382-029-0030-00

This ordinance adopted:

Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

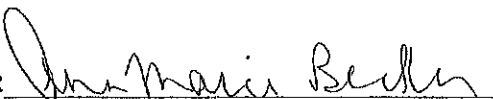
Adoption Date: December 11, 2007

Effective Date: December 28, 2007

First Reading: December 11, 2007

Second Reading: N/A

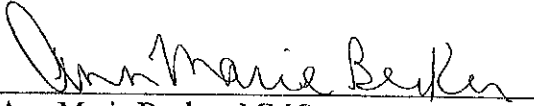
City of Muskegon

By: 
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 11th day of December, 2007, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and the minutes were kept and will be or have been made available as required thereby.

Dated: December 11, 2007


Ann Marie Becker, MMC
Clerk, City of Muskegon

RECEIVED DEQ - RRD CADILLAC	
DEC 20 2007	
ERNIE ☐	PM Initials: _____
SID ☐	
FILE: _____	

September 13, 2022

Re: Shaw-Walker Brownfield Environmental Site Assessment

Muskegon City Commission:

I am writing to encourage the Muskegon City Commission to fully support the matching funding proposed for the Shaw-Walker property assessment. As stated by Jonathan Rooks of Parkland Properties at the City Commission meeting on Monday, September 12, Greater Muskegon Economic Development (GMED) is in full support of this environmental site assessment project.

GMED is expected to receive EPA funding through a grant in October for Brownfield Environmental Site Assessments. We understand the importance of the Shaw-Walker project and the pivotal impact that it will have on Muskegon as we extend the boundaries of downtown development. The Shaw-Walker building is currently the most prominent example of blight for our downtown area.

GMED believes that this project will be a leading example of public-private partnership. For that reason, GMED's intention is to provide a 1:3 match of \$50,000 distributed from the EPA Brownfield Environmental Site Assessment grant, on the condition that GMED receives final grant approval from the EPA, which is fully anticipated.

The Shaw-Walker project is a top redevelopment priority, not only for the reason of transforming blight into beauty, but also as a means of talent attraction and retention. As our community fights to meet the challenges of today's business climate, the most evident and frequent hurdle cited by our industries is the lack of an available workforce. Having a skilled labor pool not only depends on providing good paying jobs or education and training, but also it also requires a community to focus on product development within the downtown area. As plans move forward with other adjacent developments, public art, and public access projects, we need to transform the Shaw-Walker building into a redevelopment that entices a qualified workforce to live, work, play, and stay in the community.

The passion that our local developers have for transformative projects in downtown Muskegon and on the Muskegon Lake shoreline is an outstanding asset for the community. In that regard, we are fortunate to have a seasoned, proven developer such as Mr. Rooks, to proactively take interest in this project and work quickly towards assessing the environmental condition of the site.

Thank you for your quick deliberation and consideration of this project. Knowing the environmental condition and the remediation work needed on the property is the first step in transforming this building into something that will positively impact our community and continue to elevate Muskegon as a top competitor for talent and jobs in our region.

Respectfully,



Marla Schneider, President/CEO

REVENUE AND EXPENDITURE REPORT FOR CITY OF MUSKEGON

PERIOD ENDING 09/30/2022

THIS REPORT COMPARES CY ACTUAL REVENUES/EXPENSES WITH BUDGETED AMOUNTS AND WITH PRIOR YEAR ACTUALS

GL NUMBER	DESCRIPTION	END BALANCE 06/30/2022	2022-23 ORIGINAL BUDGET	YTD BALANCE 09/30/2022	YTD BALANCE 09/30/2021	2022-23 AMENDED BUDGET
Fund 493 - EDC REVOLVING LOAN						
Revenues						
FINES & PENALTIES						
493-000-665-004970	INTEREST INCOME	12,199.86	0.00	1,261.09	3,546.76	0.00
FINES & PENALTIES		12,199.86	0.00	1,261.09	3,546.76	0.00
CHARGES FOR SERVICE						
493-000-667-004677	RENT	6,000.00	0.00	3,000.00	5,500.00	0.00
CHARGES FOR SERVICE		6,000.00	0.00	3,000.00	5,500.00	0.00
CONTRIBUTIONS & MISCELLANEOUS						
493-000-674-004805	CONTRIBUTIONS	53,000.00	0.00	0.00	50,500.00	0.00
493-000-674-004826	FERRY REVENUE	54,915.79	0.00	0.00	24,349.06	0.00
CONTRIBUTIONS & MISCELLANEOUS		107,915.79	0.00	0.00	74,849.06	0.00
TOTAL REVENUES		126,115.65	0.00	4,261.09	83,895.82	0.00
Expenditures						
CONTRACTUAL SERVICES						
728	ECONOMIC DEVELOPMENT	385,227.72	0.00	6,568.92	5,588.65	0.00
901		1,170.00	0.00	0.00	0.00	0.00
CONTRACTUAL SERVICES		386,397.72	0.00	6,568.92	5,588.65	0.00
CAPITAL OUTLAYS						
728	ECONOMIC DEVELOPMENT	24,502.75	0.00	0.00	24,502.75	0.00
CAPITAL OUTLAYS		24,502.75	0.00	0.00	24,502.75	0.00
TOTAL EXPENDITURES		410,900.47	0.00	6,568.92	30,091.40	0.00
Fund 493 - EDC REVOLVING LOAN:						
TOTAL REVENUES		126,115.65	0.00	4,261.09	83,895.82	0.00
TOTAL EXPENDITURES		410,900.47	0.00	6,568.92	30,091.40	0.00
NET OF REVENUES & EXPENDITURES		(284,784.82)	0.00	(2,307.83)	53,804.42	0.00
BEG. FUND BALANCE		1,443,101.74	1,443,101.74	1,443,101.74	1,443,101.74	1,443,101.74
NET OF REVENUES/EXPENDITURES - 2021-22				(284,784.82)		
END FUND BALANCE		1,158,316.92	1,443,101.74	1,156,009.09	1,496,906.16	1,443,101.74