

Certificate of Property Use - DRAFT

Issued under the authority of the Environmental Protection Act, R.S.O. 1990, c. E.19, sections 168.6 (CPU) and 197 (Order)

Certificate of property use number: 7287-CV7HQQ
Risk assessment number: 7665-BM7SUF

Owner:

321 COURTLAND AVE. DEVELOPMENTS INC. (Owner)
560 Wellington Street, 2nd Floor
London, ON, N6A 3R4

Property:

263 Courtland Ave. East, 30 Vernon Ave. and 230 Palmer Ave., Kitchener ON (Property)

With a Legal Description of:

All of Lots 1, 2, 3, 10 to 35 and Park of Prince Arthur Avenue, Plan 263 (closed by By-Law No. 94097, Instrument No. 1214204), All of Lot 64 and 193, Streets and Lanes, All of Lot 14 and Part of Lots 15, 16, 17, Plan 404, Part of Lot 5, Plan 366, All of Lots 24 and 27-33, Part of Lots 22 and 26, Municipal Compiled Plan of Subdivision of Lot 18, German Company Tract, designated as Part 1, 2 and 3, Plan 58R-20758, City of Kitchener, Regional Municipality of Waterloo.

Being All of PIN 225025-0047 (LT), Part of PIN 22505-0052 (LT) and Part of PIN 22505-0469 (LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in detail in Part 1 below (Risk Assessment). In the event of a conflict between the CPU and the Risk Assessment, the conditions of the CPU take precedence.

Summary:

Refer to Part 1 of the CPU, Interpretation, for the meaning of all the defined capitalized terms that apply to the CPU.

Risk Management Measures (RMMs) that are required to be implemented are found in Part 4 of the CPU, Director Requirements. Key RMMs specified in Part 4 include, but are not limited to:

- Installing, inspecting and maintaining any hard cap or fill cap barriers on the portion of the Property as specified the attached Schedule 'A': Figure 2: Areas Requiring hard cap and fill cap barriers (**Figure 2**) and in Section 4.2 (a), and 4.2 (e) of this CPU;
- With the exception of the area on the Property identified as the Townhouse Block Area as specified in the attached Schedule 'A': Figure 5: Plan of Survey Depicting Townhouse Block Area (**Figure 5**), prohibiting

the construction of any new Building (s) on the remainder of the Property unless the new Building (s) is constructed as specified in Section 4.2 (f) of this CPU;

- Implement a confirmatory indoor air quality monitoring program for any new Building (s) constructed on the portion of the Property as required by Section 4.2 (g) of this CPU as per Section 4.2 (i) of this CPU;
- Prohibiting the planting of fruit and vegetables for consumption, other than those planted in above ground containers such that they are isolated from the subsurface conditions as per Section 4.2 (l) of this CPU;
- Prohibiting the use of groundwater in on or under the Property as per Section 4.2 (m) of this CPU;
- Implementing a soil and groundwater management plan during any intrusive activities undertaken on the Property potentially in contact with COCs in soil and groundwater that have been identified in the RA at concentrations that exceed the Applicable Site Condition standards as per Section 4.2 (n) of this CPU;
- Implementing a health and safety plan during any intrusive activities undertaken on the Property potentially in contact with COCs in soil and groundwater that have been identified in the RA at concentrations that exceed the applicable site condition standards as specified in Section 4.2 (o) of this CPU; and,
- Registering a certificate on the Property title in accordance with Section 197 of the Environmental Protection Act and that before dealing with the Property in any way, a copy of the CPU is to be given to any person who will acquire an interest in the Property as per Section 4.5, 4.6 and 4.7 of this CPU.

Part 1: Interpretation

In the CPU the following terms shall have the meanings described below:

“Adverse Effect” has the same meaning as in the Act; namely,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business;

“Act” means the *Environmental Protection Act*, R.S.O. 1990, c. E.19;

“Applicable Site Condition Standards” and “ASCS” means soil and groundwater that meets the soil or groundwater criteria identified in **Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils) (industrial, commercial and community use)** of the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011;

“Barrier” means a fill cap barrier or hard cap barrier;

“Building” and “Building (s)” means an enclosed structure or structures occupying an area greater than ten square metres consisting of a wall or walls, roof and floor;

“Capping Soil” means soil that meets the Applicable Site Condition Standards (ASCS);

“Contaminant” has the same meaning as in the Act; namely any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them, resulting directly or indirectly from human activities that may cause an Adverse Effect;

“Contaminant of Concern” and “COC” has the meaning as set out in Section 3.2 of the CPU;

“CPU” means this Certificate of Property Use Number No. **7287-CV7HQQ** as may be amended from time to time;

"Director" means the undersigned Director or any other person appointed as a Director for the purpose of issuing a certificate of property use;

“EBR” means the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28;

“Fill Material” means loose, granular material from an Ontario Ministry of Natural Resources (MNR)-licensed quarry or other non-soil material or commercial products such as compost bark chips, concrete, unshrinkable fill, crushed concrete, concrete-based materials or equivalent.

“Intrusive Activities” means any intrusive activity undertaken at the Property, such as excavating or drilling into soil or groundwater, which may disturb or expose Contaminants of Concern at the Property.

“Licensed Professional Engineer” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*, R.R.O. 1990, c. P.28;

"Ministry" means the ministry of the government of Ontario responsible for the administration of the Act, currently named the Ministry of the Environment, Conservation and Parks;

“O. Reg. 153/04” means Ontario Regulation 153/04 (Record of Site Condition – Part XV.1 of the Act), made under the Act;

“Owner” means the owner(s) of the Property, described in the “Owner” section on Page 1 above, and any subsequent registered or beneficial owner(s) of the Property.

"OWRA" means the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40;

“Property” means the property that is the subject of the CPU and described in the “Property” section on page 1 above, and illustrated in Figure 1 – Site Plan of Schedule A which is attached to and forms part of this CPU;

“Property Specific Standards” and “PSS” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and in Section 3.2 of the CPU;

"Provincial Officer" means a person who is designated as a provincial officer for the purposes of the Act;

“Qualified Person” means a person who meets the qualifications prescribed in O. Reg. 153/04;

"Risk Assessment" and “RA” means the Risk Assessment No. **7665-BM7SUF** accepted by the Director on, **August 4, 2023** and set out in the following final documents:

- **Pre-Submission Form for RSC 2- 30 Vernon Avenue, 230 & 240 Palmer Ave. and 263, 321, 323, and 325 Courtland Avenue East, Kitchener, Ontario. Prepared by Pinchin Ltd., dated December 4, 2019;**
- **Tier 3 Risk Assessment: RSC-2 – Former Maple Leaf Facility, 30 Vernon Avenue, 230 Palmer Avenue and 263 Courtland Avenue East, Kitchener, Ontario. Prepared by Pinchin Ltd, dated January 25, 2021;**
- **Revised Tier 3 Risk Assessment Risk Assessment: RSC-2 – Former Maple Leaf Facility, 30 Vernon Avenue, 230 Palmer Avenue and 263 Courtland Avenue East, Kitchener, Ontario. Prepared by Pinchin Ltd., dated April 5, 2022;**
- **Email - Irene Hutchison shared the folder "207184.015 - Revised T3RA Maple Leaf RSC-2" with you" received by TASDB on February 10, 2023 with the following document:**

- 207184.015 Revised T3RA RSC2 Maple Leaf Kitchener ON Feb 10 2023
- **Email - RE: Request for additional information for 30 Vernon Avenue, 230 & 240 Palmer Ave. and 263, 321, 323, and 325 Courtland Avenue East, Kitchener, ON [RA1850-20c; IDS#7665-BM7SUF], from Theresa Phillips, Pinchin Ltd., received by TASDB on May 5, 2023 with the following documents:**
 - 207184.015_Figure X1-1_05052023_YP
 - 207184.015_Figure X1-2_05052023_YP; and,
- **Email RE: Request for additional information for 30 Vernon Avenue, 230 & 240 Palmer Ave. and 263, 321, 323, and 325 Courtland Avenue East, Kitchener, ON [RA1850-20c; IDS#7665-BM7SUF]] from Shane Ward, Pinchin Ltd., received by TASDB on July 12, 2023 with the following documents:**
 - 207184.015 T3RA Addendum RSC2 Maple Leaf Kitchener ON July 12 2023.

“Risk Management Measures” and “RMMs” means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU;

“Risk Management Plan” and “RMP” means the risk management plan detailed in Section 7.0 and Appendix XIII of the RA; and,

“Tribunal” has the same meaning as in the Act; namely, the Ontario Land Tribunal.

Part 2: Legal Authority

- 2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.
- 2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for any one or more of,
 - a. the performance of any action specified in the certificate of property use;
 - b. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
 - c. measures appropriate to prevent adverse effects in respect of the property to which the certificate of property use relates.
- 2.3 Subsection 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
 1. Take any action specified in the certificate that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any adverse effect on the property, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
 2. Refrain from using the property for any use specified in the certificate or from constructing any Building specified in the certificate on the property.
- 2.4 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of the property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.
- 2.5 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate has been issued under subsection 168.6(1),

- a. alter any terms and conditions in the certificate or impose new terms and conditions; or
 - b. revoke the certificate.
- 2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of the property to refrain from using the property for a specified use or from constructing a specified Building on the property,
 - a. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
 - b. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
 - c. the owner of the property shall ensure that every occupant of the property complies with the provision.
- 2.7 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.
- 2.8 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.
- 2.9 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.
- 2.10 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

- 3.1 The Risk Assessment (RA) was undertaken for the Property to establish the risks that the Contaminants identified in the RA may pose to future users and to identify appropriate Risk Management Measures (RMMs) to be implemented to ensure that the Property is suitable for the intended use: **residential, and institutional use** as defined in O. Reg. 153/04.
- 3.2 The Contaminants on, in, or under the Property that are present either above **Table 2: Full Depth Generic Site Condition Standards in a Potable Ground Water Condition (coarse textured soils)** for Use under Part XV.1 of the Act published by the Ministry and dated April 15, 2011 or for which there are no such standards, are set out in the RA (Contaminants of Concern). The Property Specific Standards for these Contaminants of Concern are set out in **Table A and Table B of Schedule 'A'** which is attached to and forms part of the CPU.
- 3.3 I am of the opinion, for the reasons set out in the RA that the RMMs described therein and outlined in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the RA.
- 3.4 The RA indicates the presence of Contaminants of Concern in soil and groundwater which requires on-going restriction of land use and pathway elimination. As such, it is necessary to restrict the use of the Property and impose Building restrictions and implement RMMs as set out in the RA and in Part 4 of the CPU.

- 3.5 I believe for the reasons set out in the RA that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in section 197 order requirements in Section 4.7, Section 4.8 and Section 4.9 of this CPU.

Part 4: Director Requirements

Pursuant to the authority vested in me under subsection 168.6(1) of the Act, I hereby require the Owner to do or cause to be done the following:

Risk Management Measures

- 4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.
- 4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the following key elements of the RMMs:

Hard Cap or Fill Cap Barriers:

- a) Hard cap and or fill cap barriers are required to be installed, inspected, and maintained over the portions of the Property as specified in **Figure 2** to prevent exposure to the Contaminants of Concern (COCs) identified on the Property and shall be maintained for as long as the COCs are present at concentrations that exceed the ASCS. Any hard cap and soil cap barriers shall be installed on the portion of the Property identified in **Figure 2** in accordance with Section 7.2.1 and Appendix XIII, Section 1.2.1 of the RMP and as specified in Schedule 'A': Figure 3 – Composition of Typical Hard Cap Barrier (**Figure 3**) and or Schedule 'A': Figure 4 – Composition of Typical Fill Cap Barrier (**Figure 4**) which are attached to and form part of this CPU. At minimum,
- i. hard cap barrier (s) shall consist of the following, at minimum Granular 'A' or equivalent material overlain by a cover of asphalt, concrete, (including Building foundation/floor slab, driveways and sidewalks etc.), pavers or stone with a combined minimum thickness of 225 millimeters (mm) as specified in **Figure 3**.
 - ii. fill cap barrier (s) shall consist of either:
 - a. a minimum 1.0 m thick layer of Capping Soil or Fill immediately above the impacted soil as specified in **Figure 4** and or,
 - b. a minimum of a 1.5 m thick cover of Capping Soil or Fill in landscaped areas where deep rooting vegetation is planned to be installed as specified in **Figure 4**.
- b) Within 90 days of completion of the installation of any new hard cap and or soil cap barriers on the Property or portion of the Property, the Owner shall submit to the Director written confirmation signed by a qualified Licensed Professional Engineer that the barriers have been installed in accordance with the requirements of section 7.2.1 and Appendix XIII, Section 1.2.1 of the RMP and Section 4.2(a)(i), Section 4.2(a)(ii) and **Figure 3 and Figure 4** of this CPU along with final design specifications/drawings and or as built drawings.
- c) Within 90 days of completion of the installation of any new hard cap and or soil cap barriers on the Property or portion(s) of the Property, the Owner shall submit to the Director a site plan that clearly identifies the final location of each of the different barriers.
- d) In relation to Section 4.2(b) of this CPU, areas of the Property that are **not in use** or **not under development**, hard cap and soil cap barriers are not required as long as exposure to the COCs at concentrations that exceed the ASCS Concentrations (as determined by a Qualified Person) is prevented by a fence barrier that restricts access to those areas of the Property and a dust control plan is implemented as may be necessary.

- e) An inspection and maintenance program shall be implemented to ensure the continuing integrity of the hard cap and soil cap barriers as long as the COCs are present on the Property at concentrations that exceed the ASCS. The inspection program shall include semi-annual (spring and fall) inspections of the barrier's integrity in accordance with the inspection and maintenance program as specified in Section 7.4 and detailed in Appendix XIII, Section 1.4.1 of the RMP. Any barrier deficiencies shall be repaired within a reasonable period of time in accordance with Appendix XIII, Section 1.4.1 of the RMP. If cracks, breaches or any loss of integrity in the barriers cannot be repaired or addressed in a timely manner, contingency measures in accordance with Appendix XIII, Section 1.4.1 of the RMP shall be implemented to ensure that no exposure to the COCs that have been observed on the Property at concentrations that exceed the ASCS occurs. For the restoration of any damaged portions of the barriers, restoration shall meet the original design specifications, at minimum, as detailed in Appendix XIII, Section 1.4.1 of the RMP along with Section 4.2(a)(i), 4.2(a)(ii), **Figure 3** and **Figure 4** of this CPU. For significant breaches that are identified to potentially expose the COCs that are present on the Property at concentrations that exceed the ASCS the Owner shall submit to the Director written confirmation prepared and signed by a qualified Licensed Professional Engineer, in consultation with a Qualified Person, that the barriers have been repaired in accordance with the applicable requirements of this CPU. The written confirmation shall also include a description of any contingency measures put in place and shall be submitted to the Director within 30 days of the completion of any barrier repairs and/or restorations. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

New Enclosed Building (s):

- f) **Except for the area on the Property identified as the Townhouse Block Area as identified the attached Figure 5,** refrain from constructing any **new Building(s)** on, in or under the Property unless the Building (s) includes an underground parking/storage garage, as detailed in Section 7.2.4 and Appendix XIII , Section 1.2.4 of the RMP, along with Section 4.2 (g) of this CPU.

New Residential Use Building (s) with Storage Garage (Parking Garage):

- g) As per section 4.2 (f) of this CPU, the Owner shall refrain from constructing any **new Building (s)** on, in or under the Property unless the **new Building (s)** includes, and is constructed with, a storage garage as defined in the Building Code and meets the following requirements:
- i. The storage garage is constructed with at least one level at or below Grade;
 - ii. The storage garage area covers the entire building area at Grade;
 - iii. The storage garage complies with all applicable requirements of the Building Code, such as provisions governing:
 - a. design of a mechanical ventilation system as set out in Division B, Article 6.2.2.3. (Ventilation of Storage and Repair Garages) of the Building Code; and,
 - b. interconnection of air duct systems as set out in Division B, Sentence (2) of Article 6.2.3.9. (Interconnection of Systems) of the Building Code.
 - c. air leakage as set out in Division B, Section 5.4. (Air Leakage) of the Building Code; and,
 - iv. The mechanical ventilation system for the storage garage is designed to provide, during operating hours, a continuous supply of outdoor air at a rate of not less than 3.9 litres per second for each square metre of floor area or be activated on an as-needed basis by carbon monoxide or nitrogen dioxide monitoring devices as required by the Building Code.
- h) Within 90 days of the completion of the construction of any new Building as specified in Section 4.2 (g) of this CPU, the Owner shall submit a site plan showing the location and extent of the building installed on the Property in addition to as-built drawings including cross sections prepared by a Licensed Professional Engineer along with a statement from the Licensed Professional Engineer that the Building has been construction in accordance with the requirements/specifications of the RMP as well as Section 4.2 (g) of this CPU.

- i) Once the final design specifications for any new Building (s) as specified in Section 4.2 (g) of this CPU are completed, the Owner shall submit to the Director, for review and approval, an indoor air quality monitoring program. The indoor air quality monitoring program shall be prepared by a qualified Licensed Professional Engineer in consultation with an appropriately Qualified Person, that consists of indoor air quality monitoring, as detailed in Appendix XIII, Section 1.4.2 of the RMP. Specifically, the indoor air quality monitoring program shall include the following key components:
- i. Be overseen by a qualified Licensed Professional Engineer.
 - ii. The collection of indoor air quality samples from an appropriate number of representative locations on the ground floor, including QA/QC samples, that is adequate for the size and configuration of any new Building(s) as determined by the qualified Licensed Professional Engineer in consultation with the Qualified Person at the following frequency:
 1. Prior to first occupancy;
 2. Every four months (Spring, Fall and Winter) thereafter for a minimum of two years and until written approval to discontinue the performance monitoring program by the Director is received by the Owner.
 - iii. The indoor air quality samples shall be sent to an accredited laboratory and analyzed for the Target Analytes listed in Schedule 'A': Table C – Target Indoor Air Concentrations (**Table C**), which is attached to and forms part of this CPU.
 - iv. An annual report documenting the indoor air quality monitoring program shall be prepared by a Licensed Professional Engineer and submitted to the Director on or before **March 31st** following each year of monitoring for a minimum of two years and until written approval to discontinue the program is received by the Owner from the Director. The annual report shall include, but not be limited to:
 1. Laboratory results and laboratory certificates of analysis;
 2. Field logs, leak testing (as necessary) and documentation of QA/QC;
 3. Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations as listed in **Table C**; and,
 4. Conclusions and recommendations with respect to the need for additional and or continued monitoring as may be warranted.
- j) Upon completion of the construction of any new Building specified in Section 4.2 (g) of this CPU, and prior to first occupancy, the Owner shall implement the indoor air quality monitoring program, that has been approved in writing by the Director, as required by Section 4.2 (i) of this CPU and detailed in Appendix XIII, Section 1.4.2 of the RMP.. Any changes to the indoor air quality monitoring program that has been approved by the Director, as required by Section 4.2 (i) of this CPU, (i.e. sampling frequency, locations, methodology etc.) must be requested in writing by an appropriately qualified Licensed Professional Engineer in consultation with a Qualified Person and these changes shall only be implemented upon the Owner receiving written approval from the Director.
- k) In the event that the indoor air quality monitoring program detailed in Section 4.2 (i) of this CPU identifies one or more of the Target Analytes at concentrations above the Target Indoor Air Concentrations specified in **Table C** the Owner shall implement the confirmatory monitoring program detailed in Appendix XIII, Section 1.4.2 of the RMP, and as follows:
- i. Written notice shall be submitted to the Director by the Owner within 7 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the indoor air quality sampling results, the laboratory certificates of analysis and the anticipated timeline for the implementation of the confirmatory sampling program along with any additional work as may be deemed necessary by a qualified Licensed Professional Engineer. Confirmatory sampling shall occur within 30 calendar days from the date of the Owner's receipt of the laboratory analysis and be completed under the supervision of a qualified Licensed Professional Engineer.
 - ii. In the event that the confirmatory sampling program verifies the exceedances of one or more of the Target Analytes concentrations above the Target Indoor Air Concentrations specified in **Table C** and where the concentrations of the observed Target Analytes are determined by the qualified

Licensed Professional Engineer in consultation with a Qualified Person to be a result of soil vapour intrusion, the Owner shall:

1. Submit written notice to the Director within 7 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the indoor air quality results, the laboratory certificates of analysis and the details of, and the anticipated timeline to implement contingency measures consistent with Appendix XIII, Section 1.4.2 of the RMP. The implementation of contingency measures, along with the implementation of a confirmatory sampling program shall occur within 30 calendar days of the Owner's submission of the written notice of the exceedance to the Director;
2. Within 30 calendar days of the implementation of the contingency measures, the Owner shall submit to the Director a report prepared by a qualified Licensed Professional Engineer in consultation with a Qualified Person documenting the implementation of contingency measures, results of the implementation of the confirmatory sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program as necessary. The report shall include, but not be limited to:
 - a) Laboratory results and laboratory certificates of analysis;
 - b) Field logs, leak testing (as necessary) and documentation of QA/QC;
 - c) Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations as listed in **Table C**; and,
 - d) Conclusions and recommendations with respect to the performance of the Building's ventilation system along with the need for additional work and/or continued monitoring as may be deemed warranted.

Prohibition of planting of fruit and vegetables for consumption:

- l) The Owner shall refrain from planting fruit and vegetables for consumption on the Property unless planted in above ground containers such that the plants are isolated from the subsurface conditions. The planting of fruit and vegetables for consumption on the Property is prohibited for as long as the COCs in soil and groundwater remain present.

Prohibition of Groundwater Use:

- m) Upon issuance of the CPU, the Owner shall take all actions necessary or advisable to prevent any use of groundwater in or under the Property as a potable water source

The Owner shall,

- a. Refrain from using groundwater in or under the Property as a potable source of water; and
- b. Except, as may be required for continued use as a monitoring well, as defined in the Ontario Water Resources Act, R.S.O. 1990, c. O.40 (OWRA):
 - i. properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Regulation 903 of the Revised Regulations of Ontario 1990: (Wells), made under the OWRA; and,
 - ii. refrain from constructing on the Property any wells as described or defined in the OWRA.

Soil and Groundwater Management Plan:

- n) The property specific soil and groundwater management Plan (Plan) shall be developed for the Property and implemented during all intrusive activities potentially in contact with or exposing COCs in soil or groundwater on the Property as detailed in Appendix XIII, Section 1.4.3.1, and Section 1.4.3.2 of the RMP. A copy of the Plan shall be maintained on the Property for the duration of all planned intrusive activities. Any short-term

intrusive activities required for the purposes of emergency repairs (i.e. for repairs to underground utilities etc.) will not require the submission of the Plan prior to undertaking the short-term emergency repairs. For planned intrusive activities, this Plan shall be submitted to the Director by the Owner at least 14 calendar days prior to any such intrusive activities being undertaken and shall be consistent with the measures specified in Appendix XIII, Section 1.4.3.1, and Section 1.4.3.2 of the RMP. The Plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:

- (i) oversight by a Qualified Person;
- (ii) include dust control measures and prevention of soils tracking by vehicles and personnel from the Property;
- (iii) management of excavated soils including cleaning equipment, placement of materials for stockpiling on designated areas lined and covered with polyethylene sheeting, bermed and fenced to prevent access, runoff control to minimize contact and provisions for discharge to sanitary sewers or other approved treatment;
- (iv) storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary;
- (v) characterization of excavated excess soils to determine if the excavated excess soils exceed the Property Specific Standards listed in Table A of Schedule "A" attached to this CPU (Table A) and/or the Applicable Site Condition Standards for parameters other than those identified in Table A and require off-site disposal in accordance with the provisions of Ontario Regulation 347 made under the Act;
- (vi) characterization and management of groundwater because of dewatering activities. This shall include the management of and proper characterization of groundwater prior to and during any dewatering activities to ensure proper disposal of the groundwater in accordance with all applicable acts, regulations, permits and approvals;
- (vii) include record keeping. Record keeping is to include, but not to be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, dust control measures, stockpile management and drainage, all soil and groundwater characterization results obtained as part of the soil and groundwater management plan, names of the Qualified Persons, contractors, haulers and receiving sites for any excavated excess soils, and groundwater, as a result of dewatering activities, removed from the property and any complaints received relating to site activities; and,
- (viii) copy of the plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan Requirement:

- o) A property specific health and safety plan (plan) shall be developed for the Property and implemented during all planned intrusive activities undertaken potentially in contact with COCs in soil and groundwater that have been

identified in the RA as detailed in Appendix XIII, Section 1.2.5 of the RMP. A copy of the plan shall be maintained on the Property for the duration of all intrusive activities. The Owner shall ensure that the plan takes into account the presence of the COCs and is implemented prior to any intrusive activities being undertaken on the Property or portion(s) of the Property in order to protect workers from exposure to the COCs. The plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans and contact information. Prior to initiation of any Project (on the Property or portion(s) of the Property), the local Ministry of Labour office shall be notified, where so prescribed under the OHS Act, of the proposed activities and that COCs have been identified in soils and or groundwater on the Property. The plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

Site Changes

- 4.3 In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the RMMs and/or any underlying basis for the RMMs, forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further RMMs as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. An amendment to the CPU will be issued to address the changes set out in the notice received and any further changes that the Director considers necessary in the circumstances.

Reports

- 4.4 The Owner shall retain a copy of any reports required under the CPU, the Risk Assessment and any reports referred to in the Risk Assessment (until otherwise notified by the Director) and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the Director or Provincial Officer.

Property Requirement

- 4.5 For the reasons set out in the CPU and pursuant to the authority vested in me under subsection 197(1) of the Act, I hereby order you and any other person with an interest in the Property, before dealing with the Property in any way, to give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property, as a result of the dealing.

Certificate of Requirement

- 4.6 Within fifteen (15) calendar days from the date of receipt of a certificate of requirement, issued under subsection 197(2) of the Act, completed as outlined in Schedule 'B', register the certificate of requirement on title to the Property in the appropriate land registry office.
- 4.7 Within five (5) calendar days after registering of the certificate of requirement, provide to the Director a copy of the registered certificate and of the parcel register (s) for the Property confirming that the certificate of requirement has been registered on title to the Property.

Owner Change

- 4.8 While the CPU is in effect, forthwith report in writing to the Director any changes of ownership, of the Property, except that while the Property is registered under the *Condominium Act, 1998*, S.O. 1998, c.19, no notice shall be given of changes in the ownership of individual condominium units or any related common elements on the Property.

Financial Assurance

- 4.9 Prior to occupancy and prior to the implementation of the indoor air quality monitoring program as required by Section 4.2 (i) of this CPU, the Owner shall submit to the Director, a detailed written cost estimate, prepared by a Qualified Person, to complete the approved indoor air quality monitoring program as required by Section 4.2 (i) for a period of two years.
- 4.10 Within 15 days of the Owner's receipt of written approval from the Director of the acceptance of the cost estimate amount specified in Section 4.9 of this CPU, the Owner shall provide financial assurance to the Crown in the right of Ontario in the same amount that was approved by the Director. The financial assurance shall be in the form of a certified cheque payable to the Ontario Minister of Finance or an irrevocable letter of credit issued by a Canadian Chartered Bank as outlined in the Ministry's *Financial Assurance Guideline* F-15. This amount is to cover the costs associated with the indoor air quality monitoring program as detailed in Appendix XIII, Section 1.4.2 of the RMP and as required by Section 4.2 (i) of this CPU.
- 4.11 The amount of financial assurance required in Section 4.9 of this CPU shall be reviewed every **two years**, for as long as the performance monitoring program is required, by a Qualified Person, for the Owner, and an updated cost estimate shall be included in the annual monitoring report as required by Section 4.2 (i) of this CPU.

Part 5: General

- 5.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.
- 5.2 An application under sub section 168.6(3) of the Act to,
a) alter any terms and conditions in the CPU or impose new terms and conditions; or
b) revoke the CPU;
shall be made in writing to the Director, with reasons for the request.
- 5.3 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.
- 5.4 Subsection 186(3) of the Act provides that failure to comply with a requirement of the CPU constitutes an offence.
- 5.5 The requirements of the CPU are minimum requirements only and do not relieve you from,
a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law;
or
b) obtaining any approvals or consents not specified in the CPU.
- 5.6 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.
- 5.7 In the event that any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,
a) natural phenomena of an inevitable or irresistible nature, or insurrections,
b) strikes, lockouts or other labour disturbances,
c) inability to obtain materials or equipment for reasons beyond your control, or

d) any other cause whether similar to or different from the foregoing beyond your control,

the requirements shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the Director must be notified immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the requirements in question.

5.8 Failure to comply with a requirement of the CPU by the date specified does not relieve the Owner(s) from compliance with the requirement. The obligation to complete the requirement shall continue each day thereafter.

5.9 In the event that the Owner complies with provisions of Sections 4.8 and 4.9 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act, 1998*, S.O. 1998, c.19, and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.

5.10 Where the CPU requires that the Director must be notified or receive a report this should be done by email at environment.guelph@ontario.ca

5.11 Where there is more than one Owner, each person is jointly and severally liable to comply with any requirements of the CPU unless otherwise indicated.

Part 6: Information regarding a Hearing before the Ontario Land Tribunal

With respect to those provisions relating to my authority in issuing a certificate of property use under section 168.6 and an order under section 197 of the Act:

6.1 Pursuant to section 139 of the Act, you may require a hearing before the Ontario Land Tribunal (the “Tribunal”), if within fifteen (15) days after service on you of a copy of the CPU, you serve written notice upon the Director and the Tribunal.

6.2 Pursuant to section 142 of the Act, the notice requiring the hearing must include a statement of the portions of the CPU and the grounds on which you intend to rely at the hearing. Except by leave of the Tribunal, you are not entitled to appeal a portion of the CPU, or to rely on a ground, that is not stated in the notice requiring the hearing.

6.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act. The contact information for the Director and the Tribunal is the following:

Registrar

Ontario Land Tribunal

655 Bay Street, Suite 1500

Toronto, ON, M5G 1E5

Email: OLT.Registrar@ontario.ca

and

Director

Ministry of the Environment, Conservation and Parks

1 Stone Rd. West, 4th Floor
Guelph, ON
N1G 4Y2

Fax: 519-826-4286
Email: environment.guelph@ontario.ca

The contact information of the Ontario Land Tribunal and further information regarding its appeal requirements can be obtained directly from the Tribunal at: Tel: (416) 212-6349 or Toll Free 1 (866) 448-2248 or www.olt.gov.on.ca.

Further information regarding service can be obtained from e-Laws at www.ontario.ca/laws. Please note where service is made by mail, it is deemed to be made on the fifth day after the date of mailing and choosing service by mail does not extend any timelines.

- 6.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.
- 6.5 If you commence an appeal before the Tribunal, under section 47 of the *Environmental Bill of Rights, 1993* (the “EBR”), you must give notice to the public in the Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the Environment, Conservation and Parks, College Park 5th Flr, 777 Bay St, Toronto, ON M7A 2J3 by the earlier of:

- (a) two (2) days after the day on which the appeal before the Tribunal was commenced; and
 - (b) fifteen (15) days after service on you of a copy of the CPU.
- 6.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.
- 6.7 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:
- (a) fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and
 - (b) if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.
- 6.8 The procedures and other information provided in this Part 6 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws

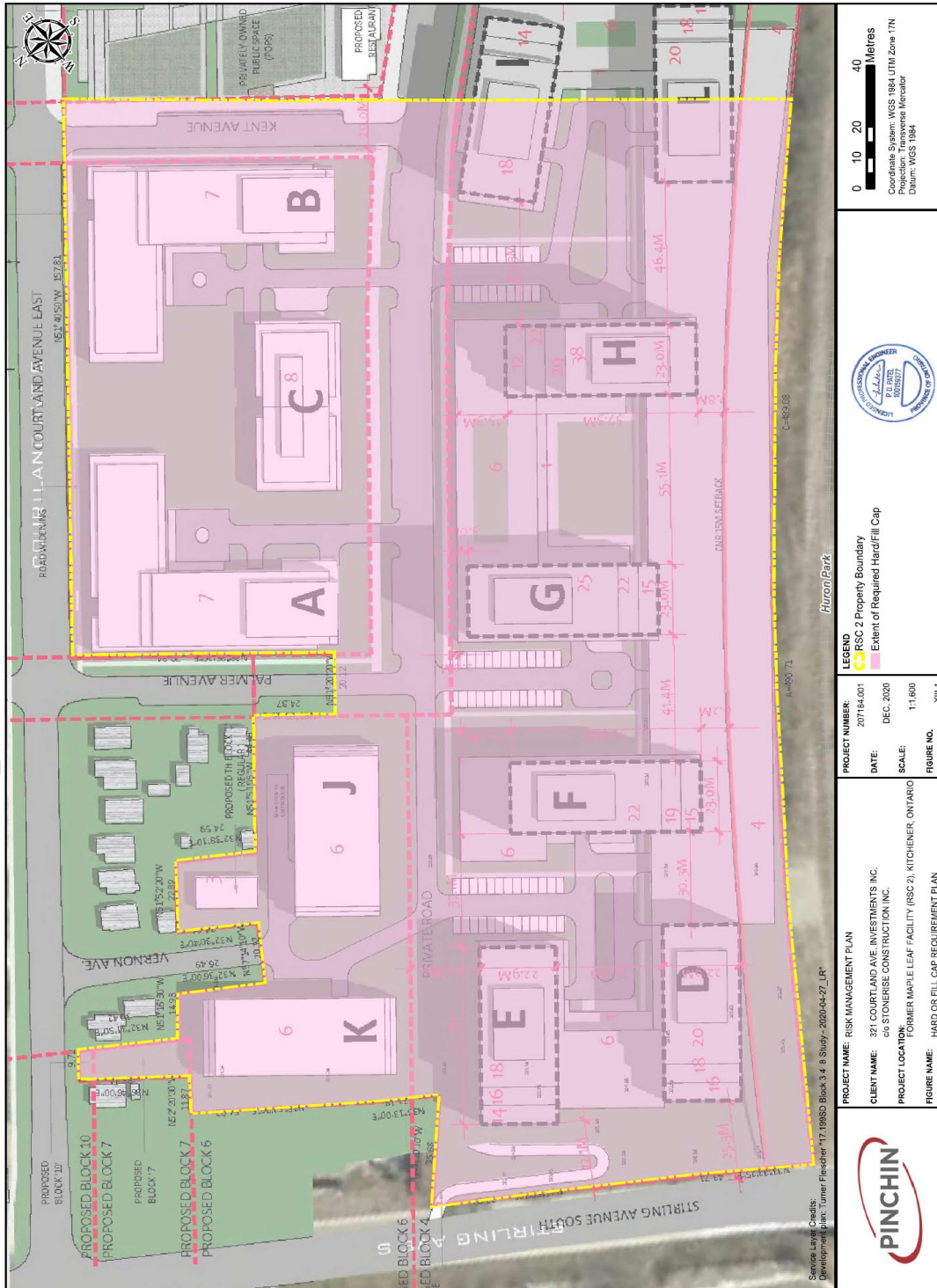
Issued at Guelph this XXXX day of XXXXX, 2024.

Aaron Todd,
Director, section 168.6 of the Act

Schedule 'A': Figure 1- Site Plan (not to scale)



**Schedule 'A': Figure 2- Areas Requiring Hard Cap and Fill Cap Barriers
(not to scale)**




Schedule 'A': Figure 3 – Composition of Typical Hard Cap Barriers

CONSTRUCTIONS:
 1. DRAWINGS INDICATE DESIGN INTENT AND SHOULD BE READ IN CONJUNCTION WITH OTHER DESIGN DRAWINGS SUCH AS ELECTRICAL, MECHANICAL, AND OTHERS AS APPLICABLE.
 2. DO NOT SCALE THESE DRAWINGS. REFER TO ARCHITECTURAL DRAWINGS FOR DIMENSIONS.
 3. DRAWINGS ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES.

NO.	REVISION	DATE	PREPARED BY	CHECKED BY
1				
2				
3				
4				
5				

DESIGNED BY: M. MACGREGOR
 CHECKED BY: P. BATEL
 DATE: DECEMBER 2020
 SCALE: NTS



4075 MIDLAND AVE.
 UNIT 10
 SCARBOROUGH, ONTARIO M1V 4W5
 TEL: 905-553-0978
 FAX: 905-553-0979
 EMAIL: info@pinchin.com
 www.pinchin.com

PINCHIN

PROJECT NAME:
RISK MANAGEMENT PLAN

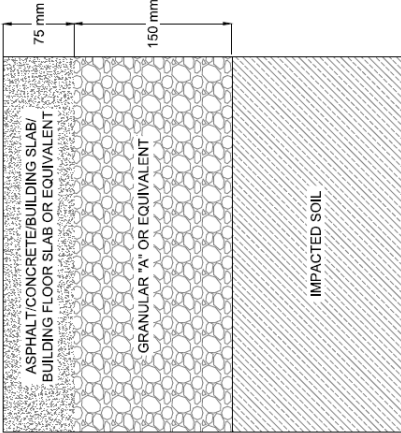
CLIENT NAME:
**321 COURTLAND AVE.
 DEVELOPMENTS INC. C/O
 STONERISE CONSTRUCTION
 INC.**

PROJECT NUMBER:
**FORMER MAPLE LEAF
 FACILITY (RSC-2),
 KITCHENER, ONTARIO**

DRAWING TITLE:
**COMPOSITION OF TYPICAL
 HARD CAP**

PROJECT NUMBER:
207184.015

DRAWING NUMBER:
XIII-2



75 mm
 150 mm

ASPHALT/CONCRETE/BUILDING SLAB/
 BUILDING FLOOR SLAB OR EQUIVALENT

GRANULAR 'A' OR EQUIVALENT

IMPACTED SOIL

Schedule 'A': Figure 4 – Composition of Typical Fill Cap Barriers

CONDITIONS:
 1. THESE DRAWINGS INDICATE DESIGN INTENT AND SHOULD BE READ IN CONJUNCTION WITH OTHER DESIGN DRAWINGS SUCH AS ARCHITECTURAL, SITE SERVICES, STRUCTURES, MECHANICAL, ELECTRICAL, AND PLUMBING.
 2. DO NOT SCALE THESE DRAWINGS. REFER TO ARCHITECTURAL DRAWINGS FOR DIMENSIONS (IF AVAILABLE).
 3. DRAWINGS ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES.

4				
3				
2			13	11
1			12	10

DATE: DECEMBER 2022
 NAME: NTS
 CHECKED BY: P. PAPEL
 DRAWN BY: M. MACESTRY
 SCALE: 1:1
 PROJECT NO: 207184.015

PINCHIN
 2475 Midwinter Court
 Mississauga, ON, CANADA L4X 1Y5
 TEL: (905) 875-2333
 FAX: (905) 875-2681
 www.pinchin.com

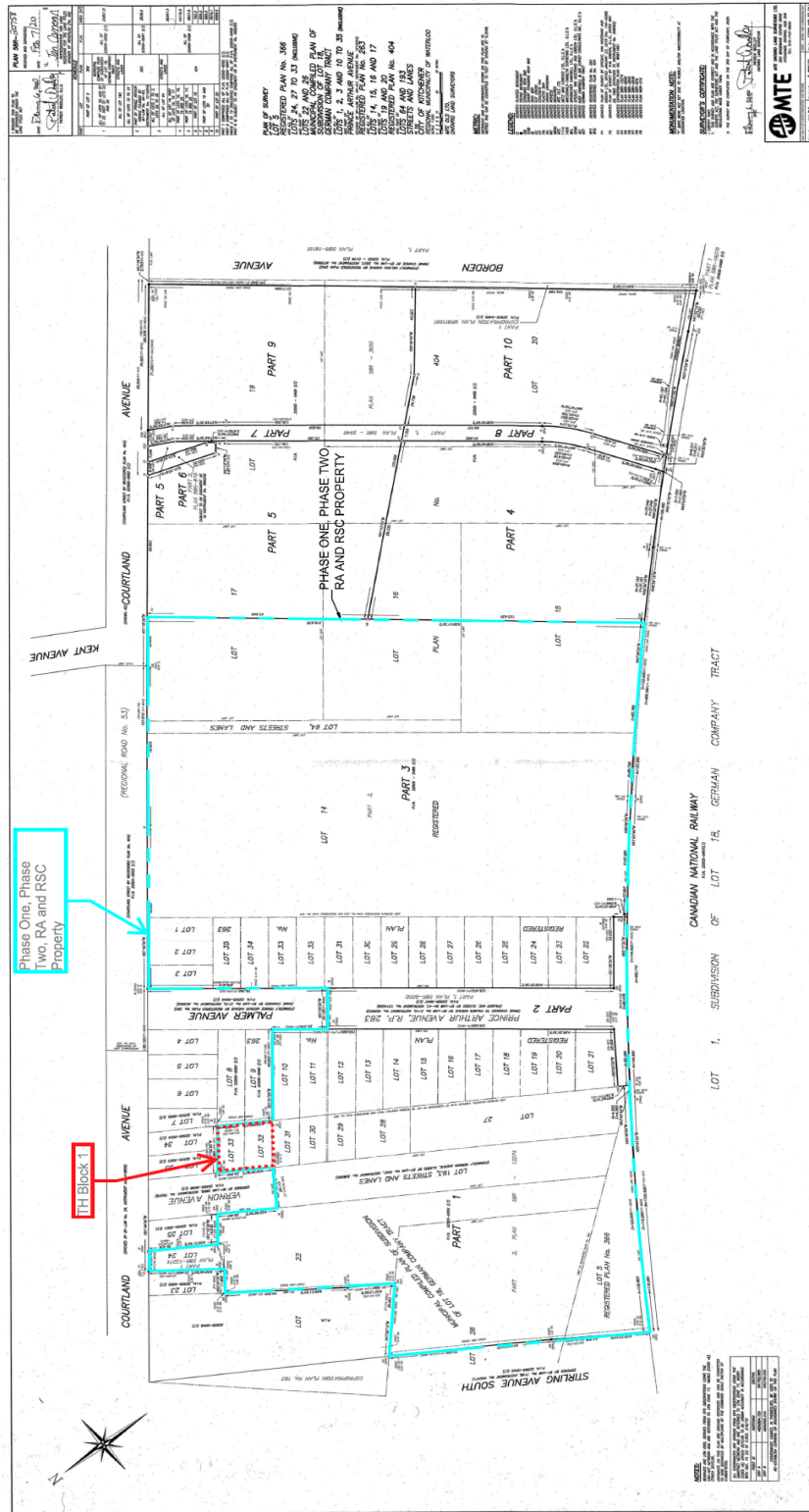
LICENCED PROFESSIONAL ENGINEER
P.D. PAPEL
 1001539377
PROVINCE OF ONTARIO

RISK MANAGEMENT PLAN
 321 COURTLAND AVE.
 DEVELOPMENTS INC. C/O
 STONERISE CONSTRUCTION
 INC.

**COMPOSITION OF TYPICAL
 FILL CAP**

PROJECT NUMBER:
 207184.015
 DRAWING NUMBER:
XIII-3

Schedule 'A' Figure 5: Plan of Survey Depicting Townhouse Block Area (not to scale)



Schedule 'A': Table A - Property Specific Standards (PSS) - Soil

<i>Soil Contaminant of Concern (COC)</i>	<i>PSS (µg/g)</i>
PHC F1 (C6-C10)-BTEX	2640
PHC F2 (C10-C16)	2280
PHC F3 (C16-C34)	4680
PHC F4 (>C34)	8760
Benzene	8.52
Ethylbenzene	69.6
Styrene	9.48
Toluene	8.40
Trichlorofluoromethane	28.9
Xylene Mixture	132
Acenaphthylene	0.276
Anthracene	6.996
Benz(a)anthracene	18.96
Benzo(a)pyrene	39.72
Benzo(b)fluoranthene	51.72
Benzo(g,h,i)perylene	34.6
Benzo(k)fluoranthene	21.12
Chrysene	21.5
Dibenz(a,h)anthracene	10.992
Fluoranthene	44.88
Indeno(1,2,3-cd)pyrene	34.2
Methylnaphthalene, total	3.96
Naphthalene	8.52
Phenanthrene	24
Antimony	54.0
Arsenic	32.4
Barium	1440
Boron (Hot Water Soluble)	18.0
Cadmium	25.8
Copper	1884
Lead	2040
Mercury	6.78
Molybdenum	11.5
Nickel	883
Selenium	4.08
Zinc	1920
Cyanide	0.612
Electrical Conductivity	8.17
Sodium Adsorption Ratio	172

Schedule 'A': Table B - Property Specific Standards (PSS) - Groundwater

<i>Groundwater Contaminant of Concern (COC)</i>	<i>PSS (µg/L)</i>
PHC F1 (C6-C10)-BTEX	6240
PHC F2 (C10-C16)	1560
Benzene	2160
1,2-Dichloroethane	10.7
1,1-Dichloroethylene	1.44
Ethylbenzene	1800
Hexane(n)	156
Styrene	36
Tetrachloroethylene	0.96
Trichloroethylene	1.69
Vinyl Chloride	1.43
Xylene Mixture	3960
Acenaphthene	8.16
Benzo(a)pyrene	0.209
Benzo(b)fluoranthene	0.226
Chrysene	0.205
Fluoranthene	1.80
Methylnaphthalene, total	31.2
Naphthalene	192
Phenanthrene	10.4
Antimony	7.44
Arsenic	71.5
Cobalt	12.6
Molybdenum	109
Nickel	192
Vanadium	46.8

Schedule 'A': Table C – Target Indoor Air Concentrations

<i>Target Analyte</i>	<i>Target Indoor Air Concentrations ($\mu\text{g}/\text{m}^3$)</i>
PHC F1	2490
PHC F2	471
Benzene	0.506
Toluene	1040
Ethylbenzene	209
Xylenes	146
1,2-DCA	0.0428
Hexane	521
Styrene	54.2
PCE	4.28
TCE	0.271
Vinyl Chloride	0.126
Methylnaphthalenes	0.772
Naphthalene	0.772
Mercury	0.0188

SCHEDULE 'B'

CERTIFICATE OF REQUIREMENT

s.197(2)

Environmental Protection Act, R.S.O. 1990, c. E.19

This is to certify that pursuant to Section 4.5 of Certificate of Property Use number **7287-CV7HQQ** issued by **Aaron Todd**, Director of the Ministry of Environment, Conservation and Parks under subsections 168.6(1) and 197(1) of the *Environmental Protection Act*, dated **XXXX XX, 2024** being a Certificate of Property Use and order under section 197(1) of the *Environmental Protection Act* relating to the property municipally known as **263 Courtland Avenue East, 30 Vernon Avenue and 230 Palmer Avenue, Kitchener with a legal description of:**

All of Lots 1, 2, 3, 10 to 35 and Park of Prince Arthur Avenue, Plan 263 (closed by By-Law No. 94097, Instrument No. 1214204), All of Lot 64 and 193, Streets and Lanes, All of Lot 14 and Part of Lots 15, 16, 17, Plan 404, Part of Lot 5, Plan 366, All of Lots 24 and 27-33, Part of Lots 22 and 26, Municipal Compiled Plan of Subdivision of Lot 18, German Company Tract, designated as Part 1, 2 and 3, Plan 58R-20758, City of Kitchener, Regional Municipality of Waterloo,

and being All of PIN 22505-0467 (LT), Part of PIN 22505-0052 (LT) and Part of PIN 22505-0469 (LT), (the "Property") with respect to a Risk Assessment and Risk Management Measures and other preventive measure requirements,

321 COURTLAND AVE. DEVELOPMENTS INC.

and any other persons having an interest in the Property, are required before dealing with the Property in any way, to give a copy of the Certificate of Property Use, including any amendments thereto, to every person who will acquire an interest in the Property.

Under subsection 197(3) of the *Environmental Protection Act*, the requirement applies to each person who, subsequent to the registration of this certificate, acquires an interest in the Property.