Prospect Ave. & Bryant Ave. BCP Project

34 Woodridge Lane Sea Cliff, New York

Applicant: Saeid E. Jalayer

Legal & Consulting Team:
Knauf Shaw LLP & Applemon Corp.

January 8, 2010

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION

ECL ARTICLE 27 / TITLE 14

DEPARTMENT USE ONLY	
BCP SITE #:	

07/07 Section I. Requestor Information NAME Saeid E. Jalayer **ADDRESS 31 Mary Pitkin Path** CITY/TOWN Shoreham, New York **ZIP CODE 11786** FAX 631-744-9153 PHONE 631-744-9177 E-MAIL sejalaver@vahoo.com NAME OF REQUESTOR'S REPRESENTATIVE Alan J. Knauf, Esq. ADDRESS 1125 Crossroads Building, 2 State Street **ZIP CODE 14614** CITY/TOWN Rochester, New York FAX 585-5464324 PHONE 585-546-8430 E-MAIL aknauf@nyenvlaw.com NAME OF REQUESTOR'S CONSULTANT Applemon Corp. ADDRESS 151 South Mountain Road ZIP CODE 10956 CITY/TOWN New City, New York PHONE 845-634-0858 FAX 845-634-7398 E-MAIL info@applemon.com NAME OF REQUESTOR'S ATTORNEY Alan J. Knauf, Esq. ADDRESS 1125 Crossroads Building, 2 State Street ZIP CODE 14614 CITY/TOWN Rochester, New York PHONE 585-546-8434 FAX 585-546-4324 E-MAIL aknauf@nyenvlaw.com THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL § 27-1405 (1) BY CHÉCKING ONE OF THE BOXES BELOW: **PARTICIPANT** VOLUNTEER A requestor who either 1) was the owner of the site at the time of the disposal A requestor other than a participant, including a requestor whose liability arises of hazardous waste or discharge of petroleum or 2) is otherwise a person solely as a result of ownership, operation of or involvement with the site subsequent to responsible for the contamination, unless the liability arises solely as a result the disposal of hazardous waste or discharge of petroleum. of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum. NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste. Requestor Relationship to Property (check one): ☐ Previous Owner ☐ Potential / Future Purchaser ☐ Other ■ Current Owner (See Deeds in Exhibit "C") If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes □ No (Note: proof of site access must be submitted for non-owners)

PROPERTY NAME: Prospect Ave. & Bryant Ave.	· · · · · · · · · · · · · · · · · · ·		,		
ADDRESS/LOCATION 34 Woodridge Lane CITY/TOW	/N Sea	Cliff, New Yo	rk 2	ZIP CODE 115'	79
MUNICIPALITY (IF MORE THAN ONE, LIST ALL): Village of SeaCliff Town of Oyster Bay					
COUNTY Nassua SI	TE SIZ	E (ACRES) Ap	proximatel	y 2 acres	
LATITIUDE (degrees/minutes/seconds) 40° 50° 28"	LONG	ITUDE (degre	es/minutes/s	seconds) -73°	39" 4"
HORIZONTAL COLLECTION METHOD: Survey GPS MAP USGS 7.5 Minute Topo Map (See Exhibit "A" USGS Map)	i .	ZONTAL REFI terraserver.com		ATUM:	er carlana
FOR EACH PARCEL, FILL OUT THE FOLLOWING TAX MAP IN information)	FORM	ATION (if more	e than three	parcels, attach	additional
Parcel Address Parce	el No.	Section No.	Block No.	Lot Nos.	Acreage
34 Woodridge Lane		21	Ł	38, 81, 148, 149, 150	App. 2.0
1. Do the site boundaries correspond to tax map metes and bounds? If no, please attach a metes and bounds description of the site. 2. Is the required site map attached to the application? (application wi 3. Is the property part of a designated En-zone pursuant to Tax Law § For more information go to: http://www.nylovesbiz.com/BrownFi If yes, identify area (name) 50% 100% of the site is in the En-zone (check one)	21(b)(6))?		■ Yes □ Yes	□ No □ No ■ No
PROPERTY DESCRIPTION NARRATIVE:					
See Attachment A, Project Description Item 2					
List of Existing Easements (type here or attach information) Easement Holder]	Description			
The Site is subject to a 10' wide Drainage Easement and 10' wide Site. Both Easements are held by the Village of SeaCliff. The Sit feet along the lot lines, and a Telephone Easement. See Exhibit ". Easements.	e is also	subject to an	Electric Ea	sement which	affects five
List of Permits issued by the NYSDEC or USEPA Relating to the Pro <u>Type</u> <u>Issuing Agency</u>	posed S	ite (type here o Description	r attach info	rmation)	
No Permits are issued by NYSDEC or USEPA relating to the Pro	posed S	ite.			
Initials of each Requestor:					

Section III. Current Site Owner/O	Operation Information				10 14 15
OWNER'S NAME (if different from request	tor) N/A				
ADDRESS					
CITY/TOWN		ZIP CODE			
PHONE	FAX		E-MAIL		
OPERATOR'S NAME (if different from rec	questor or owner) N/A				
ADDRESS					
CITY/TOWN		ZIP CODE			
PHONE	FAX		E-MAIL		
Section IV. Requestor Eligibility	uformation (Please refer to	ECL § 27-1407)			
If answering "yes" to any of the following qu	uestions, please provide an explanation	n as an attachment.			
1. Are any enforcement actions pending again	inst the requestor regarding this site?	·		□ Yes	■ No
2. Is the requestor subject to an existing order	er relating to contamination at the site	:		□ Yes	■ No
3. Is the requestor subject to an outstanding	claim by the Spill Fund for this site?			□ Yes	■ No
4. Has the requestor been determined to have	e violated any provision of ECL Artic	le 27?		□ Yes	■ No
5. Has the requestor been previously denied	entry to the BCP?			□ Yes	■ No
Has the requestor been found in a civil proact involving contaminants?	occeding to have committed a neglige	nt or intentionally tortious		□ Yes	■ No
7. Has the requestor been convicted of a crin perjury, theft, or offense against public ad		clony, fraud, bribery,		□ Yes	■ No
Has the requestor knowingly falsified or c false statement in a matter before the Dep.		submitted or made use of a		□ Yes	■ No
Is the requestor an individual or entity of or failed to act, and such act or failure to a				□Yes	■ No
Section V. Property Eligibility Information	on (Please refer to ECL § 27-1405)				
1. Is the property listed on the National Prior	rities List?			· 🗆 Yes	■ No
Is the property listed on the NYS Registry If yes, please provide: Site #	of Inactive Hazardous Waste Disposa Class #	al Sites?		□ Yes	■ No
Is the property subject to a permit under E If yes, please provide: Permit type: Date permit is:	EPA ID Numb	er:	· · :	□ Yes	■ No
Is the property subject to a cleanup order If yes, please provide:	under navigation law Article 12 or EC	L Article 17 Title 10?		□ Yes	■ No
5. Is the property subject to a state or federal If yes, please provide explanation as an at		ous waste or petroleum?		□ Yes	■ No
Section VI. Project Description					
What stage is the project starting at?	investigation	on			
Please attach a description of the project wh	ich includes the following component	s:		•	
Purpose and scope of the project Estimated project schedule See A				,	

Section VII. Property's I	Environmental History				
To the extent that existing 1. Environmental Report A phase I environmental Materials: Standard Pra	ts I site assessment report	prepared in accordan	ce with ASTM E 152	27 (American So	ciety for Testing and
environmental reports re					• •
Sampling Summary and If a final investigation re	Exhibits "E" and "F"	-			_
2. Sampling Data: Indica					
Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOC's	-				
SVOC's					
Metals	V				
Pesticides					
PCBs					·
Other *					
*Please describe:					
3. Suspected Contaminar	its: Indicate suspected	contaminants and t	he media which ma	y have been affe	cted:
Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOC's					
SVOC's					
Metals	·				
Pesticides					
PCBs					
Other *					
*Please describe:					
4. INDICATE KNOWN	OR SUSPECTED SO	URCES OF CONTA	MINANTS:		
□Above Ground Pipeline or Tank □Routine Industrial Operations □Adjacent Property □Coal Gas Manufacture Other:	□Lagoons or Ponds ■Dumping or Burial of W □Seepage Pit or Dry Well □Industrial Accident	'astes □Septic tank		□Surface Spill □Drums or Sto □Electroplating	rage Containers
5. INDICATE PAST LA	ND USES:				
]Agricultural Co-op]Landfill		☐Salvage Yard ☐Electroplating	∃Bulk Plant □Unknown
6. Owners A list of previous owners with relationship, put "none"). See A 7. Operators A list of previous operators with no relationship, put "none"). See	Attachment A Item 5 ith names, last known address				

Section VIII. Contact List Information	
Please attach, at a minimum, the names and addresses of the following: SEE ATTACHMENT A ITEM 6 FOR ALL CONTACT LIST INFORMATION & RE	ESPONSES
I. The chief executive officer and planning board/dept. chair of each county, city, town and village in which the property is located.	
2. Residents, owners, and occupants of the property and properties adjacent to the property.	
3. Local news media from which the community typically obtains information.	•
4. The public water supplier which services the area in which the property is located.	
5. Any person who has requested to be placed on the property contact list.	
6. The administrator of any school or day care facility located on or near the property.	
7. The location of a document repository for the project (e.g., local library). In addition, attach a copy of a letter sent to the repository acknowledging that it agrees to repository for the site.) act as the document
Section IX. Land Use Factors (Please refer to ECL § 27-1415(3))	
Current Use: ■ Residential □ Commercial □ Industrial ■ Vacant □ Recreational (check all that apply)	
Intended Use: Unrestricted Residential Commercial Industrial (check all that apply)	
Please check the appropriate box and provide an explanation as an attachment if appropriate. Provide a copy of the local zoning classification	s, comprehensive
zoning plan designations, and/or current land use approvals.	.Yes No
1. Do current historical and/or recent development patterns support the proposed use? (See #12 below re: discussion of area land uses)	
2. Is the proposed use consistent with applicable zoning laws/maps?	
3. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans?	
4. Are there any Environmental Justice Concerns? (See § 27-1415(3)(p)).	
5. Are there any federal or state land use designations relating to this site?	
6. Do the population growth patterns and projections support the proposed use?	
7. Is the site accessible to existing infrastructure?	
8. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile?	
9. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile?	
10. Are there floodplains within ½ mile?	
11. Are there any institutional controls currently applicable to the property?	
12. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, areas. SEE ATTACHMENT A ITEM 7	, and recreational
13. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the property, including proxiprotection and groundwater recharge areas. SEE ATTACHMENT A ITEM 7	mity to wellhead
14. Describe on attachment the geography and geology of the site. SEE ATTACHMENT A ITEM 7	-

Statement of Certification and Signatures	
(By requestor who is an individual)	
I hereby affirm that information provided on this form and its attachments is belief. I am aware that any false statement made herein is punishable as a Central Law. Date: 11/3/09 Signature: (By an requestor other than an individual)	
I certify that I am (title) of application; that this application was prepared by me or under my supervision form and its attachments is true and complete to the best of my knowledge a herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of	nd belief. I am aware that any false statement made
Date: Signature:	Print Name:
· .	
SUBMITTAL INFORMATION: Three (3) complete copies are required.	
• Two (2) copies, one paper copy with original signatures and one electronic copy in or diskette, must be sent to:	Portable Document Format (PDF) on a CD
Chief, Site Control Section New York State Department of Environmental Conservation Division of Environmental Remediation 625 Broadway Albany, NY 12233-7020	
• One (1) paper copy must be sent to the DEC regional contact in the regional office Please check our website for the address of our regional offices: http://www.dec.str	
FOR DEPARTMENT USE ONLY	
BCP SITE T&A CODE: LEAD OFFICE:	

ATTACHMENT A

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

"BROWNFIELD SITE" DESCRIPTION and ELIGIBILITY

ITEM 1(a): SITE ADDRESSES AND CURRENT/FORMER USES

The "Site" that will be the subject of this application is made up of approximately 2 acres located at 34 Woodridge Lane in the Village of Sea Cliff on Long Island. See Exhibits "A" and "B," USGS Map and Site Map. The Site is located at the north east corner of Prospect Avenue and Bryant Avenue on part of a peninsula surrounded on the western side by the waters of Hempstead Harbor, which is part of Long Island Sound. The Site is located in a suburban residential setting. The Site is currently vacant, except for one single-family house, which the requestor has been unable to lease due to the contamination.

A former electric generating facility operated in the vicinity of the Site, and reportedly disposed of coal ash on the Site. The disposal of the coal ash has impacted the Site's soil with heavy metals.

A Phase I Report was completed on the Site which revealed indications of filling and the presence of surface debris, and suggested that subsurface testing be performed to determine the age, composition and depth of the fill material. Subsequent soil sampling, attached as Exhibit "E" and "F," demonstrates the presence of heavy metal contamination on the Site, primarily arsenic, in the soil exceeding the Part 375 unrestricted standards. These exceedances are significant given that: (1) the samples taken were limited, and (2) the current zoning and proposed redevelopment of the Site requires that the Requestor perform a Track 1 cleanup of the Site.

ITEM 1(b): ELIGIBILITY

A. History of the BCP Brownfield Site Definition

A "brownfield site" is defined by statute as "real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant." ECL §27-1405(2). The Site is a brownfield under a plain meaning interpretation of this definition. This application further demonstrates this Site is a brownfield site in conformance with the statutory definition.

The "brownfield site" definition in the BCP is explained in the 2003 Bill Jacket:

Brownfields are abandoned, idled, or under-used properties where redevelopment is complicated by real or perceived environmental contamination. They typically are former industrial or commercial properties where operations may have resulted in environmental contamination. Brownfields often pose not only environmental, but legal and financial, burdens on communities. contaminated sites can diminish the property value of surrounding property and threaten the economic viability of adjoining properties. The impediments to brownfield redevelopment are complex. Some of these may be addressed administratively, and are being addressed through the current DEC Voluntary Cleanup Program. However, certain barriers to brownfield redevelopment require statutory amendment. The existing liability scheme, which holds all owners of contaminated property liable for cleanup costs, regardless of when or how the property was acquired relative to the contamination, contributes to the reluctance of developers to purchase even minimally contaminated sites. So, too, does the potential cost of cleanup, which may not be known at the time of purchase. In addition, lenders are often reluctant to extend credit for the purchase and cleanup of brownfield sites, fearing future liability or diminution of the value of the property held as collateral should the site provide to require more extensive and costly cleanup than initially thought. Consequently, financing such a purchase may be more difficult than financing a purchase of a greenfield site.

N.Y. Bill Jacket, 2003 A.B. 9120, Ch. 1, 38 (2003) (Division of the Budget Report on Bills) [emphasis added]. This clarifies that the definition of a "brownfield site" in the BCP was intended to be very broad, and essentially means any even minimally contaminated property, other than some contaminated sites which are specifically excluded due to Superfund status or existing enforcement actions.

The meaning of the word "complicated" in the definition is described in the BCP's history as linking back to the actual or suspect contamination because it is the contamination itself that causes complications such as lenders not being willing to lend or fear of the risk associated with unknown contamination and associated costs that will not be discovered until later. See N.Y. Bill Jacket, 2003 A.B. 9120, Ch. 1, 38 (2003) (Division of the Budget Report on Bills) ("lenders are often reluctant to extend credit for the purchase and cleanup of brownfield sites, fearing future liability or diminution of the value of the property held as collateral should the site provide to require more extensive and costly cleanup than initially thought.") Such is the case with the Site.

B. Eligibility Guidance Factors Are Also Met

Even though the use of the March 2005 Eligibility Guidance Document has been called into question by some recent court decisions, the factors the Department uses to help evaluate site eligibility are listed below as they appear in subsections 2 and 3 of the Guidance Document, and will be subsequently analyzed.

Contamination Element -

- 2. In determining whether there is confirmed contamination or a reasonable basis to believe that contamination is likely to be present on the property, the Department will consider the following factors, to the extent such factors are relevant to the proposed site
 - (A) the nature and extent of known or suspected contamination;
 - (B) whether contaminants are present at levels that exceed standards, criteria or guidance;
 - (C) whether contamination on the proposed site is historic fill material or exceeds background levels;
 - (D) whether there are or were industrial or commercial operations at the proposed site which may have resulted in environmental contamination; and/or
 - (E) whether the proposed site has previously been subject to closure, a removal action, an interim or final remedial action, corrective action or any other cleanup activities performed by or under the oversight of the State or Federal government.

Complication Element -

- 3. In determining whether there is a reasonable basis to believe that the contamination or potential presence of contamination may be complicating the development, use or re-use of the property, the Department will consider the following factors, to the extent such factors are relevant to the proposed site:
 - (A) whether the proposed site is idled, abandoned or underutilized;
 - (B) whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination;
 - (C) whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values; and/or
 - (D) whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused.

The following analysis of each Eligibility Guidance factor is provided below confirming the Site is eligible for the BCP:

1. The Contamination Element Eligibility Factors Have Been Met on the Site

- (A) <u>The nature and extent of known or suspected contamination</u> The nature and extent of known contamination has not been fully delineated, however, preliminary sampling indicates that there is very serious heavy metal contamination on the Site resulting from the historic disposal of coal ash from a nearby historic electric generating facility. The sample results are attached in Exhibits "E" and "F." Contamination had been documented above the cleanup standards. Therefore, while the full nature and extent of contamination has not been fully delineated, exceedances have been found above applicable state and federal standards.
- (B) Whether contaminants are present at levels that exceed standards, criteria or guidance—See (A) above. The sampling results include all the currently known exceedances of both the State unrestricted and restricted residential cleanup standards.
- (C) <u>Whether contamination on the proposed site is historic fill material or exceeds background levels</u> While there is coal ash on the Site, its placement was the result of the intentional dumping and disposal of industrial operation, as opposed to the mere filling associated with typical "historic fill."
- (D) <u>Whether there are or were industrial or commercial operations at the proposed site which may have resulted in environmental contamination</u> The contamination discovered can be directly linked to former industrial operations in the vicinity of the Site.
- (E) Whether the proposed site has previously been subject to closure, a removal action, an interim or final remedial action, corrective action or any other cleanup activities performed by or under the oversight of the State or Federal government The Site has not been subject to a prior order or enforcement action.

In sum, based on the existing sampling data, and as summarized below and in further detail in Item 5 of this Application, there is confirmed contamination and a reasonable basis to believe that more contamination is likely to be present on the Site. Therefore, remediation is required to make the Site safe, financeable and insurable for the single family residential project.

2. The Complication Element of the Eligibility Test Has Been Met on the Site

(A) <u>Whether the proposed site is idled, abandoned or underutilized</u> - The Site has been underutilized for some time now as it is vacant other than an existing single family house, which the requestor has been unable to lease.

The highest and best use of this land is residential, however, this use is not being realized because of the contamination. Not only does the contamination pose a threat to the health of potential residents

and make the property unmarketable, but financial institutions have not been willing to finance development of the Site. Because the highest and best use of this land is not being realized, the Site meets the first brownfield site eligibility factor as it is vacant, abandoned, idle and underutilized.

(B) Whether the proposed site is unattractive for redevelopment or reuse due to the presence or reasonable perception of contamination - Based on the sampling results, the disposal of coal ash on the Site from historic industrial operations caused contamination (factor B(1) – perception of contamination). The Site is also currently unattractive for redevelopment due to the presence of confirmed metals contamination in the Site soil (factor B(2) – unattractive for redevelopment). While the Site is located in a residential area, the cost of remediation has prevented the redevelopment of the Site. Contaminated soil is very expensive to properly dispose of off-site in the New York City area due to the lack of proximate disposal sites. This material as currently sampled cannot be reused on-site due to lack of space, or off-site at another location due to the presence of contamination, and thus requires remediation. As a result, any real estate transaction relating to this Site has been, and will continue to be, complicated by the presence of this contamination. All of these conditions have made the Site unattractive for redevelopment.

Therefore, while the requestor purchased the Site and spent time and money planning for a redevelopment on this Site, he has been unable to proceed due to the cost of investigation and remediation of the Site, and as a result is unable to obtain financing for redevelopment. Without a remedial solution with oversight from the DEC, it is highly unlikely that anyone would purchase single family residential homes located on this contaminated Site, particularly due to the stigma created by the arsenic that has been detected. The Requestor must be given the opportunity to participate in this program to perform the level of cleanup required to secure a Certificate of Completion and Liability Release tied to achievement of the New York State unrestricted residential cleanup standard to assure the public and future residents that the Site is safe for reuse.

All of the above have made the Site unattractive for redevelopment, particularly outside the context of this program. Thus, the Site meets the second brownfield site eligibility factor as it is unattractive for redevelopment due to not just perception of, but actual contamination.

- (C) Whether properties in the immediate vicinity of the proposed site show indicators of economic distress such as high commercial vacancy rates or depressed property values The Site is not located in an Environmental Zone area, and the area is not distressed.
- (D) Whether the estimated cost of any necessary remedial program is likely to be significant in comparison to the anticipated value of the proposed site as redeveloped or reused With respect to the fourth cost factor, while final costs are not yet available since Site investigation will continue under the BCP, the cost of remediation will be proportional to the cost of redevelopment. The planned use for the Site is single family homes which will require extensive Site work to achieve an unrestricted use.

Soil removal is becoming more expensive as options for contaminated soil disposal are diminishing

with fewer sites near the New York City area. However, until a full investigation is performed, and a remedial alternative chosen and these costs are incurred, the Requestor can only predict that the fourth eligibility factor is satisfied in that the remedial cost will be significant, and many upfront costs that will have to be expended in order to enhance the future value of the Site.

In sum, based on legislative history, existing BCP related case law, and facts relevant to this particular Site, there is a reasonable basis to believe that the currently known contamination and suspect potential contamination is complicating re-development, and as such the complication element of the State's current eligibility test in its Eligibility Guidance document has been met.

PROJECT DESCRIPTION

ITEM 2: PURPOSE AND SCOPE OF THE PROJECT

Five single family homes are proposed for construction at this Site. Construction of the homes will require investigation of the full nature and extent of the Contamination on the Site as well as remediation of the Contamination. The nature of the remedial action to be undertaken on the Site cannot be determined until such time as a full investigation has been undertaken. Decisions regarding investigation, remediation and construction will be made in coordination with the Department. The various steps involved in the construction process, and associated schedule, are fully set forth in Item 3: Estimated Project Schedule.

ITEM 3: ESTIMATED PROJECT SCHEDULE

The proposed project would begin soon after the Brownfield Cleanup Program Application for the Site is approved. Therefore, remedial investigation work on the Site should begin in the spring of 2010.

Construction of the single family homes is anticipated to take approximately eight months each. However, construction work will not proceed until the Site Investigation and Remedial Action Work Plan are complete, which is expected to occur by late 2010.

ITEM 4: ENVIRONMENTAL DATA

To date, a Phase I Report and some limited soil sampling has been performed on the Site. *See* Phase I Report and two sets of Sample Results attached separately in Exhibits "D," "E," and "F," respectively. Based on the results, heavy metals contamination, specifically arsenic, has been confirmed.

A. Phase I Investigation

This Phase I Investigation (Exhibit "D") was conducted by Dru Associates, Inc. to identify evidence of environmental hazards, which would require testing and addressing under the relevant

Environmental Conservation Laws. The Phase I included a Site inspection and a review of environmental agencies databases, City, State and Federal agencies inquiries, aerial and topographic photographs. The Phase I concluded that the Site revealed indications of filling and the presence of surface debris, suggesting that subsurface testing was required.

B. Sample Results

Five soil samples (Exhibit "E") and one composite soil sample (Exhibit "F") were conducted at the Site in 2006 which detected metals, particularly arsenic, at concentrations exceeding Unrestricted Use and Restricted Residential SCOs. Arsenic was detected as high as 69.6 ppm (in the composite sample), which far exceeds the Unrestricted SCO of 13 ppm, and the Restricted Residential SCO of 16 ppm.

ITEM 5: OWNERS AND OPERATORS

Previous Owners and Operators:

The Requestor purchased the Site in 2002 from Josephine Helen Stigliano, also known as Josephine Spina, Executrix of the Estate of Anthony G. Stigliano, with an address at that time of 128 Wetherill Road, Garden City, New York 11530. While public records appear to indicate that Ms. Stigliano still resides on Wetherill Road, a phone number was not available. To the best of the Requestor's knowledge, the Site has always been either vacant or used for residential purposes, and as such, all previous owners were also the previous operators. The Requestor has no relationship with any former owners and/or operators.

Current Operators:

As the Site is currently vacant, there are no current operators.

ITEM 6: CONTACT LIST INFORMATION

1. The Chief Executive Officer:

Mayor Bruce Kennedy Village Hall Sea Cliff, NY 11579 (516) 671-0080

2. The City Zoning Bureau:

Building Department Nancy Eder Paul Barocca Village Hall Sea Cliff, NY 11579 (516) 671-0080

3. Residents, owners, and occupants of the site and properties adjacent to the site:

There are no residents on the Site. Adjacent residents, owners or occupants of adjacent sites are listed in Exhibit "G" the BCP Contact List.

4. Local news media from which the community typically obtains information:

Gold Coast Gazette 57 Glen Street Glen Cove, NY 11542 (516) 571-2360

5. The public water supplier that services the area where the site is located:

Water in the area is provided by:

Aquarion Water Company of Sea Cliff 325 Prospect Avenue Sea Cliff, NY 11579 (516) 676-1166

6. Any person who has requested to be placed on the site contact list:

No property owner has requested to be placed on the list at this time.

7. The administrator of any school or day care facility located on or near the site:

There are no schools or day care facilities located on or near the site.

8. The location of a document repository for the project (e.g., local library):

Sea Cliff Library Arlene Nevens, Director Sea Cliff & Central Avenues Sea Cliff, NY 11579 516-671-4290 http://www.seaclifflibrary.org/

The library has accepted status as the repository. *See* Exhibit "H" including library letter.

ITEM 7: LAND USE FACTORS

1. Do current historical and/or recent development patterns support the proposed use?

Yes. Current historical and/or recent development patterns in the Village of Sea Cliff support single family homes in this area of the Village.

2. Is the proposed use consistent with applicable zoning laws/maps?

Yes. The Site is currently zoned for single family homes. A copy of the relevant zoning provisions are attached as Exhibit "I".

3. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans?

Yes. While the Village of Sea Cliff does not have any land use plans relative to the Site, the current zoning calls for single family homes. Indeed, the Village of Sea Cliff is a typical suburban municipality, with the predominant land use being residential. Further, the properties immediately surrounding the Site are predominantly single family homes.

4. Are there any Environmental Justice Concerns (See §27-1415(3) (p)).

There are no Environmental Justice Concerns pursuant to ECL §27-1415(3)(p).

- 5-11. Responses to Questions 5-11 are answered as "yes" or "no" on the application form itself.
- 12. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas.

The Site is located in a suburban setting that is characterized by predominantly residential homes, with limited commercial uses. The following is a tabulation of surrounding property usage:

DIRECTION	ADJACENT PROPERTIES	SURROUNDING PROPERTIES
North	Residential	Residential
South	Brant Avenue	Catering Business
East	Residential	Residential, historic cemetery
West	Prospect Avenue	Hempstead Harbor

13. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the site, including proximity to wellhead protection and groundwater recharge.

Based on the currently known conditions at the Site, there is potential for groundwater to migrate from the Site, however the Site is not in proximity to any known municipal water supply wells or recharge areas since the area is supplied with municipal water. Therefore, there is little potential that groundwater from the Site could affect either municipal water supply wells or recharge areas. If the groundwater is contaminated, however, there is potential for groundwater contamination to migrate from the Site, and potentially into Hempstead Harbor.

14. Describe on attachment the geography and geology of the site.

Topography: Long Island lies entirely within the Coastal Plain province of the northeastern United States. The Site occurs in northwestern Nassau County, and occurs on the northern side of the Harbor Hill terminal moraine. The Harbor Hill terminal moraine, consisting of a series of coalescing irregular hills, forms a pronounced ridge, trending to northeast, rising 80 to 150 feet above the headlands. The Site rises approximately 100 feet above sea level. The Site slopes westward towards Hempstead Harbor, which is approximately 100 feet away.

Soils: In this suburbanized area soils are Plymouth-Riverhead complex, 15 to 35% slopes, are typically very deep, moderately steep and steep soils on side slopes of hills and ridges. The Plymouth soils are on the convex steep parts, and the Riverhead soils are on the concave moderately steep parts. A thin layer of leaves commonly is found on the surface of these soils. The surface layer consists of 5 inches of brown loamy sand. The subsoil, at 5 to 13 inches, consists of strong brown loamy sand. From 13 to 26 inches is

yellowish brown loamy sand. The substratum extends from 26 to 42 inches and consists of brownish yellow gravelly sand. Then from 42 to 60 inches it becomes pale yellow gravelly coarse sand. These soils have fair to poor suitability as a habitat for open land wildlife. They are very poorly suited to wetland wildlife habitat. However, the Site differs in its surface soils due to the history of disturbance and presence of coal ash

Geology and Groundwater: Unconsolidated sediments of Pleistocene and Cretaceous age, 200 to 800 feet thick constitute the ground water reservoir of the area. The reservoir includes three discrete aquifers. The shallow unconfined aquifer consists of permeable Pleistocene and Cretaceous deposits, which lie within the upper part of the zone of saturation. The aquifer extends from slightly below sea level to more than 110 feet of water in much of the area of Nassau County. The intermediate or principal aquifer of Long Island is the Magothy formation that occurs from about 50 feet below sea level downward to the top of the clay layer of the Raritan formation. The principal aquifer has limited extent to the north, but it is the chief source of water in Nassau County, except the peninsulas. The lower or deepest aquifer found beneath Long Island consists of the Lloyd sand member of the Raritan formation and the hydraulically contiguous Jameco gravel. The lower limit of this aquifer is the bedrock surface; and the upper limit is defined by the overlying clay member of the Raritan formation and the Gardiners clay.

Exhibit A

USGS Map

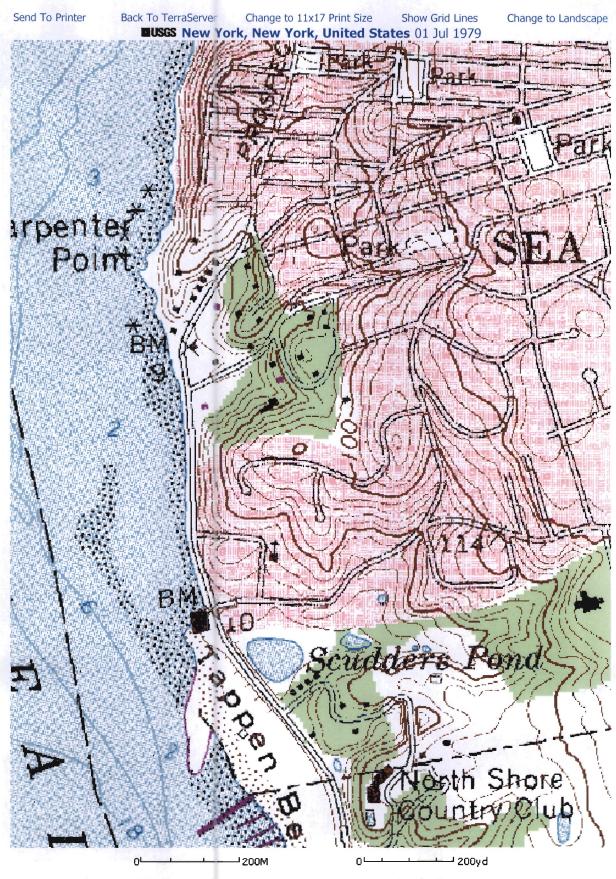
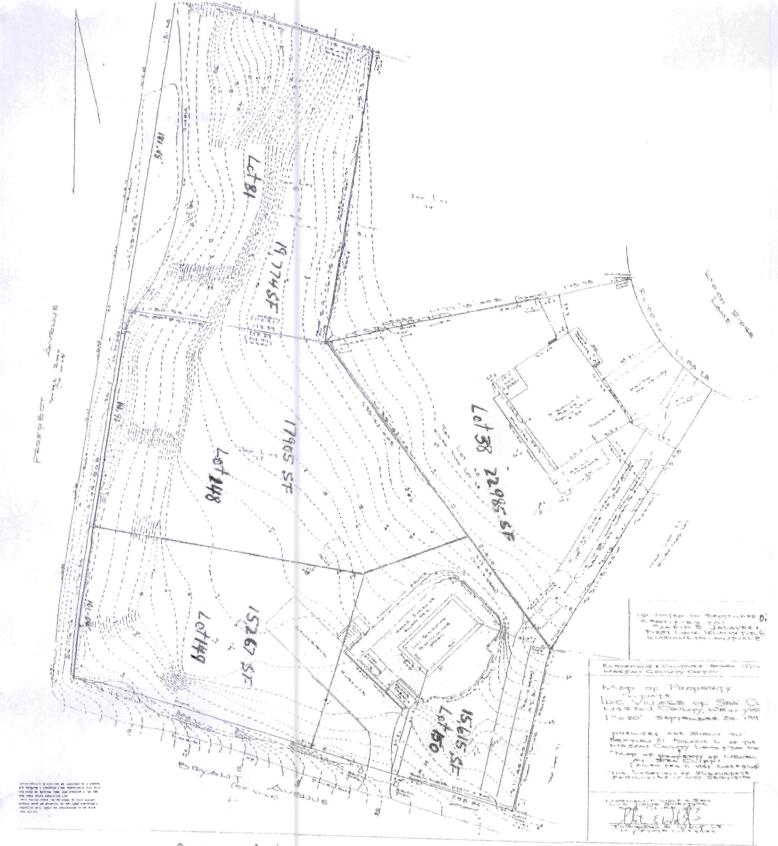


Image courtesy of the U.S. Geological Survey
© 2004 Microsoft Corporation. **Terms of Use Privacy Statement**

Exhibit B

Site Map

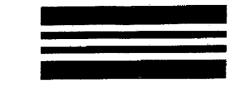




Survey after Subdivision Lot 72 Subdivided to 3 Lots; 148, 149 2150

Exhibit C

Deeds



NASSAU COUNTY CLERK'S OFFICE ENDORSEMENT COVER PAGE

Recorded Date: 06-04-2004

Recorded Time: 1:47:32 p

Record and Return To:

SAEID E JALAYER

34 WOODRIDGE LANE

Liber Book: D 11790

To:

Pages From:

782 785

SEACLIFF, NY 11579

Control

Number: 3139 Ref #: RE 029659 Doc Type: D01 DEED

Location:

Section Block Lot Section Block ____ 0021 0000L-00 00038 Unit

OYSTER BAY (2824)

Taxes Total .00 Recording Totals 102.00 Total Payment

GJS001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED KAREN V. MURPHY COUNTY CLERK







d

THIS INDENTURE, made the

19th day of May, 2004

BETWEEN

Saeid E. Jalayer, residing at 34 Woodridge Lane, Sea Cliff, New York 17579

party of the first part, and

Saeid E. Jalayer and Jinous Atal, residing at 34 Woodridge Lane, Sea Cliff, New York 11579

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

- See Schedule Attached -

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" when ever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

SAEID E. JACASER

Title Number: HLS-N-8124

Schedule A

ALL that certain plot, piece or parcel of land, situate, lying and being in the Incorporated Village of Sea Cliff, Town of Oyster Bay, County of Nassau and State of New York, known and designated as and by Lot 38 on a certain map entitled "Map of Property, Newell and Daniel at Sea Cliff, made for Meadow Woods Corp., situated at Sea Cliff, Nassau County, New York surveyed by Charles E. Ward, P.E. & L.S., Great Neck, New York, October, 1952", and filed in the Nassau County Clerk's Office on February 11, 1953 as Map Number 5708, bounded and described according to said map as follows:

BEGINNING at a point on the southerly side of the cul de sac forming the southerly end of Wood Ridge Lane distant 625.68 feet westerly, southerly and again westerly when measured along the southerly and easterly sides of Wood Ridge Lane and the southerly side of the cul de sac forming the southerly end of Wood Ridge Lane from the westerly end of a curve having a radius of 30 feet and a length of 51.45 feet, which curve connects the southerly side of Wood Ridge Lane with the westerly side of Orchard Lane and from said point of beginning:

THENCE South 31 degrees 18 minutes 00 seconds West 173.98 feet;

THENCE North 35 degrees 42 minutes 00 seconds West, 214.10 feet;

THENCE North 77 degrees 18 minutes 00 seconds East 173.98 feet to the southwesterly side of the cul de sac forming the southerly end of Wood Ridge Lane:

THENCE southeasterly and easterly along the southwesterly and southerly sides of the last mentioned cul de sac and on a curve bearing to the left having a radius of 100 feet a distance of 80.28 feet to the point or place of BEGINNING.

	·
	WLEDGMENT IS MADE IN NEW YORK STATE
Stree of New York, County of Nassau ss:	State of New York, County of ss:
On the 19 day of May in the year 2004 beforeme, the undersigned, personally appeared SAEIID E-JALAGER	On the day of in the year before me, the undersigned, personally appeared
personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/the capacity(les), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.	is satisfactory evidence to be the incimidual(s) whose name(s) is to (are) subscribed to the within instrument and acknowledged to time that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the
(signature and office of individual taking acknowledgmen	t) (signature and office of individual taking acknowledgment)
THERESE FIUSSI Notary Public, State of N No. 01RU601138	lew York
Qualified in Richmond (Commission Expires August 1	10, 20 /-
TO BE USED ONLY WHEN THE ACKNOWLE	EDGMENT IS MADE OUTSIDE NEW YORK STATE
State (or District of Columbia, Territory, or Foreign Country) of	ss:
On the day of in the y	year before me, the undersigned, personally appeared
subscribed to the within instrument and acknowledged to me to that by his/her/their signature(s) on the instrument, the indivi- executed the instrument, and that such individual made such a in	
(insert the City or other political subdivision) (and ins	sert the State or Country or other place the acknowledgment was taken)
	(signature and office of individual taking acknowledgment) Horizon Land Services, LLC 15 West 44th Street 3rd Floor New York, New York 10036 Tel 212-921-4141 Fax 212-921-4848
BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS TITLE NO. HLS N 8124 Salid E. Jalayer TO	SECTION 21 BLOCK L LOT 38 COUNTY Nassau 34 Woodridge Lane Sea Cliff, New York
seerd E. Jelayer Sinous Atai	Recorded at Request of COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO:
STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS	Speed & Jolayer
Commonwealth ALADAGERGACOGRAPY	Saeid E. Jalayer 34 Woodridge Case Seacliff my 11579
COMMONWEALTH LAND TITLE INSURANCE COMPANY	Seacliff my 11579
E L	
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RESERVE THIS SPACE FOR USE OF RECORDING OFFICE	
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NASSAU COUNTY CLERK'S OFFICE ENDORSEMENT COVER PAGE

Recorded Date: 04-07-2005
Recorded Time: 3:39:07 p

Liber Book: D 11936
Pages From: 372

Record and Return To:
FORCHELLI CURTO ET AL
DIANA R FANTANO ESQ
330 OLD COUNTRY RD
PO BOX 31

Liber Book: D 11936 Pages From: 372 To: 375

MINEOLA, NY 11501

Control

Number: 1973 Ref #: RE 024395

Doc Type: D12 DEED COMMERCIAL

Location:

Section Block Lot

Unit

OYSTER BAY (2824)

0021 0000L-00 00081

.00 Taxes Total .00 217.00 Recording Totals Total Payment 217.00

LLS001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED KAREN V. MURPHY COUNTY CLERK



2005040701973

P13	CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT-THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY
Ů	THIS INDENTURE, made the 4 day of April, 2005
N.	BETWEEN
Consideration	SAEID E. JALAYER, residing at 34 Woodridge Lane, Sea Cliff, New York 11579
NO NYS	party of the first part, and
Tax	SAEID E. JALAYER, residing at 34 Woodridge Lane, Sea Cliff, New York 11579
Sec. 21	party of the second part, WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00) ——————————————————————————————————
31. L	paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,
	ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the
	SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF
	The party of the first part is the same party as the party of the second part referred to in the Correction Deed dated May 19, 2004 and recorded in the Nassau County Clerk's Office on June 25, 2004 in Deed Liber 11801, Page 91.
	The premises conveyed herein is intended to be part of the same premises that is referred to in the Correction Deed dated May 19, 2004 and recorded in the Nassau County Clerk's Office on June 25, 2004 in Deed Liber 11801, Page 91.
	The premises conveyed herein is designated on the Nassau County Land and Tax Map as Section 21, Block L, Lots
	TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.
	AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
	AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" when ever the sense of this indenture so requires.
	IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.
	IN PRESENCE OF:

Joseph E. Dioguardi, Jr. P. E., L. S. 110 Bayville Avenue Bayville, NY 11709 516 628 9291 (Phone/Fax)

Client Name:

.

Saeid E. Jalayer

Date: April 2, 2005

Sec. 21 Blk. L Lots 1/4-20-81

DESCRIPTION OF PROPERTY

PARCEL 1

All that certain plot, piece or parcel of land, situate, lying and being at the Inc. Village of Sea Cliff, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

Beginning at a point on the easterly side of Prospect Avenue 212.96 feet northerly from the intersection of said easterly side of Prospect Avenue with the northerly side of Bryant Avenue and running thence still along said easterly side of Prospect Avenue North 9° - 05' - 50" East 181.48 feet: (181.42 feet as per tax map) thence South 73° - 03' - 35' East 115.46 feet: (115.04 feet as per tax map) thence South 9° - 26' - 25" West 165.73 feet; thence North 80° - 54' - 05" West 113.39 feet to the easterly side of Prospect Avenue at the point or place of beginning.

state of New York, County of Nassau	s8:	State of New York, County of	SS:
on the way of April in the ye	ar 2005 d	On the day of before me, the undersigned, person	in the year nally appeared
SAEID E. JALAYER persocially known to me or proved to me or attition evidence to be the individual(s) where) subscribed to the within instrument and acknown the same in his/her/the and that by his/her/their signature(s) on the individual(s), on the person upon behalf of which acted, executed the instrument.	ose name(s) is owledged to me elr capacity(ies), instrument, the	personally known to me or prov satisfactory evidence to be the ind (are) subscribed to the within instrum- that he/she/they executed the same and that by his/her/their signatur- individual(s), or the person upon be acted, executed the instrument.	tividual(s) whose name(s) is nent and acknowledged to me in his/her/their capacity(les), e(s) on the instrument, the
(signature and office of individual taking ac SAAM JALAYER NOTARY PUBLIC, STATE OF NEW YOR QUALIFIED IN SUFFOLK COUNTY NO. 01JA6082954 COMMISSION EXPIRES MAY 27, 200	K	(signature and office of Indivi	dual taking acknowledgment)
TO BE USED ONLY WHEN TH	E ACKNOWLED	GMENT IS MADE OUTSIDE NEW Y	ORK STATE
State (or District of Columbia, Territory, or Foreig	n Country) of		SS:
On the day of	in the yea	r before me, the unde	rsigned, personally appeared
personally known to me or proved to me on the ba to the within instrument and acknowledged to rais/her/their signature(s) on the instrument, the instrument, and that such individual made such (insert the City or other political subdivision)	ne that he/she/tr ndividual(s), or the appearance befo	e person upon behalf of which the ind	lividual(s) acted, executed the
(insert the City of Carer politice) sociology			ividual taking acknowledgment)
BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S AITIE No.	CTS	COMMONWEALTH LAND T	at Request of ITLE INSURANCE COMPANY BY MAIL TO:
STANDARD FORM OF NEW YORK BOARD OF TO Distributed by COMMONWEALTH LAND TITLE INSURAN		Diana R. Fantano, Esq. Forchelli, Curto, Schwart: Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150	
	RESERVE THIS SPA	CE FOR USE OF RECORDING OFFICE	·
Standard N.Y.B.T.U. Form 8002 - Bargain and S Form 3290	ale Deed, with Cov	enant against Grantor's Acts – Uniform A	kcknowledgment





NASSAU COUNTY CLERK'S OFFICE ENDORSEMENT COVER PAGE

Recorded Date: 04-07-2005 Record and Return To: FORCHELLI CURTO ET AL

DIANA R FANTANO ESQ

Liber Book: D 11936

Pages From: 376 To: 381

330 OLD COUNTRY RD PO BOX 31 MINEOLA, NY 11501

Control

Number: 1974 Ref #: RE 024396

Doc Type: D12 DEED COMMERCIAL

Location:

Section Block Lot Unit

OYSTER BAY (2824)

0021 0000L-00 00148

.0: 217.0: Taxes Total Recording Totals 217.00 Total Payment

AJF001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVI KAREN V. MURPHY COUNTY CLERK



2005040701974

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof, TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

oca **C** 3

SCHEDULE "A"

Joseph E. Dioguardi, Jr. P. E., L. S. 110 Bayville Avenue Bayville, NY 11709 516 628 9291 (Phone/Fax)

Client Name: Saeid E. Jalayer Date: April 2, 2005

Sec. 21 Blk. L Lots p/o 72

DESCRIPTION OF PROPERTY

PARCEL 2

All that certain plot, piece or parcel of land, situate, lying and being at the Inc. Village of Sea Cliff, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

Beginning at a point on the easterly side of Prospect Avenue 101.04 feet northerly from the intersection of said easterly side of Prospect Avenue with the northerly side of Bryant Avenue and running thence still along said easterly side of Prospect Avenue North 9° - 05° - 50° East 111.92 feet;

thence South 80° - 54' - 05' East 113.39 feet;

thence South 35° - 42' - 03" East 123.89 feet

thence South 76° - 18' - 11" West 60.81 feet;

thence North 81° - 04' - 44" West 144.62 feet to the easterly side of Prospect Avenue at the point or place of beginning.

to the undersigned, personally appeared	On the day of in the year
SAEID E. JALAYER	before me, the undersigned, personally appeared
respirably known to me or proved to me on the basis tisfactory evidence to be the individual(s) whose name(s e) subscribed to the within instrument and acknowledged to at he/she/they executed the same in his/her/their capacity(in d that by his/her/their signature(s) on the instrument, lividual(s), or the person upon behalf of which the individual ted, executed the instrument.	is satisfactory evidence to be the individual(s) whose name(s) is me (are) subscribed to the within instrument and acknowledged to me es), that he/she/they executed the same in his/her/their capacity(les), and that by his/her/their signature(s) on the instrument, the
(signature and office of individual taking acknowledgme	ent) (signature and office of individual taking acknowledgment)
SAAM JALÁYER NOTARY PUBLIC, STATE OF NEW YORK QUALIFIED IN SUFFOLK COUNTY NO. 01JA6092954 COMMISSION EXPIRES MAY 27, 2017	
TO BE USED ONLY WHEN THE ACKNOW	LEDGMENT IS MADE OUTSIDE NEW YORK STATE
ate (or District of Columbia, Territory, or Foreign Country) o	of ss:
the day of in the	year before me, the undersigned, personally appeared
the within instrument and acknowledged to me that he/sl	ctory evidence to be the individual(s) whose name(s) is (are) subscribed he/they executed the same in his/her/their capacity(ies), and that by or the person upon behalf of which the individual(s) acted, executed the before the undersigned in the
(Insert the City or other political subdivision) (and it	nsert the State or Country or other place the acknowledgment was taken)
	(signature and office of Individual taking acknowledgment)
BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS THE NO.	SECTION 21 BLOCK L LOT p/o 72 COUNTY Nassau
·	Recorded at Request of COMMONWEALTH LAND TITLE INSURANCE COMPANY
·	
STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWIFE TO INVESTION	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31
Distributed by	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
nonwealth Land Title Insurance Company	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
nonwealth Commonwealth Land Title Insurance Company	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150
COMMONWEALTH LAND TITLE INSURANCE COMPANY	COMMONWEALTH LAND TITLE INSURANCE COMPANY RETURN BY MAIL TO: TERS Diana R. Fantano, Esq. Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP 330 Old Country Road P.O. Box 31 Mineola, New York 1150 SPACE FOR USE OF RECORDING OFFICE





NASSAU COUNTY CLERK'S OFFICE ENDORSEMENT COVER PAGE

Recorded Date: 04-07-2005 Record and Return To:
Recorded Time: 3:39:07 p FORCHELLI CURTO ET AL
DIANA R FANTANO ESQ

Liber Book: D 11936 Pages From: 382 To: 387

330 OLD COUNTRY RD PO BOX 31 MINEOLA, NY 11501

Control

Number: 1975

Ref #: RE 024397

Doc Type: D12 DEED COMMERCIAL

Location:

Section Block Lot Unit

OYSTER BAY (2824)

0021 0000L-00 00149

217.01 217.01 Taxes Total Recording Totals Total Payment

AJF001

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVI KAREN V. MURPHY COUNTY CLERK



2005040701975

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT-THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY No THIS INDENTURE, made the (out or you him day of April, 2005 BETWEEN No NYS SAEID E. JALAYER, residing at 34 Woodridge Lane, Sea Cliff, New York 11579 Tradit party of the first part, and Tax SAEID E. JALAYER and A. SAAM JALAYER, residing at 34 Woodridge Lane, Sea Cliff, New York 11579 Dec. 21 party of the second part, WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00)— Bik.] paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or 100 0 72 ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and SEE SCHEDULE "A" ATTACHED HERETO AND MADE A PART HEREOF The party of the first part is the same party as the party of the second part referred to in the Correction Deed dated May 19, 2004 and recorded in the Nassau County Clerk's Office on June 25, 2004 in Deed Liber 11801, Page 91. D' The premises conveyed herein is intended to be part of the same premises that is referred to in the Correction Deed # dated May 19, 2004 and recorded in the Nassau County Clerk's Office on June 25, 2004 in Deed Liber 11801, Page The premises conveyed herein is designated on the Nassau County Land and Tax Map as Section 21, Block L, Lot p/o TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting Ø the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever. AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid. AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" when ever the sense of this indenture so requires. 7 ted setion IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

-BAEID E. JALAYER

SCHEDULE "A"

Joseph E. Dioguardi, Jr. P. E., L. S. 110 Bayville Avenue Bayville, NY 11709 516 628 9291 (Phone/Fax)

Client Name:

Saeid E. Jalayer

Bate: April 2: 2005

Sec. 21 Blk. L Lots p/o 72

DESCRIPTION OF PROPERTY

PARCEL 3

All that certain plot, piece or parcel of land, situate, lying and being at the Inc. Village of Sea Cliff, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

Beginning at the intersection of easterly side of Prospect Avenue with northerly side of Bryant Avenue and running thence the following two (2) courses and distances along the easterly side of Prospect Avenue:

- 1. Along the arc of a curve to the right having a radius of 1110.74 feet a distance of 76.84 feet;
- 2. North 9° 05' 50" East 24.20 feet:

running thence South 81° - 04' - 44' East 144.67 feet; thence South 13° - 42' - 42" West 118.47 feet to the northerly side of Bryant Avenue; running thence along said northerly side of Bryant Avenue North73° - 44' - 00" West 133.48 feet to the point or place of beginning:

State of New York, County of Nassau	ss:	State of New York,	County of	63:
On the 44 day of April in the before me, the undersigned, personally apper SAEID E. JALAYER	e year 2005 eared	On the day of before me, the under		in the year ly appeared
personally known to me or proved to m satisfactory evidence to be the individual(s) (are) subscribed to the within instrument and a that he/she/they executed the same in his/he and that by his/her/their signature(s) on tindividual(s), or the person upon behalf of whacted, executed the instrument. (signature and office of individual taking SAAM JALAYER NOTARY PUBLIC, STATE OF NEI QUALIFIED IN SUFFOLK COLL NO., 01JA6092954	whose name(s) is incknowledged to me ritheir capacity(ies), the instrument, the inch the individual(s) acknowledgment)	satisfactory evidenc (are) subscribed to that he/she/they exe and that by his/her individual(s), or the p acted, executed the	e to be the indivi- ne within instrumer cuted the same in 7their signature(s person upon behal instrument.	to me on the basis of dual(s) whose name(s) is at and acknowledged to me his/her/their capacity(tes), on the instrument, the for which the individual(s) if taking acknowledgment)
COMMISSION EXPIRES MAY 2				
TO BE USED ONLY WHEN		MENT IS MADE OU	TSIDE NEW YOR	<u>K STATE</u>
State (or District of Columbia, Territory, or Fo On the day of				ss:
	in the year		_	ned, personally appeared
personally known to me or proved to me on the to the within instrument and acknowledged his/her/their signature(s) on the instrument, the instrument, and that such individual made su	to me that he/she/the e individual(s), or the	ey executed the sam person upon behalf of	e in his/her/their of If which the individ	canacity/iex) and that by
(insert the City or other political subdivision	in and insert	the State or Country or	other place the ac	knowledgment was taken)
				al taking acknowledgment)
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	RESERVE THIS SPACE	FOR USE OF RECORDING	G OFFICE	The state of the s
Standard N.Y.B.T.U. Form 8002 - Bargain and Form 3290	Sale Deed, with Covens	int against Grantor's Ac	ts Uniform Acknow	vledgment





NASSAU COUNTY CLERK'S OFFICE ENDORSEMENT COVER PAGE

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Recorded Time: 3:39:07 p

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To: 393

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DIANA R FANTANO ESQ

330 OLD COUNTRY RD
PO BOX 31
MINEOLA, NY 11501

Liber Book: D 11936 Pages From: 388 To: 393

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Number: 1976

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Doc Type: D12 DEED COMMERCIAL

Location:

Section Block Lot Unit

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SCHEDULE "A"

Joseph E. Dioguardi, Jr. P. E., L. S. 110 Bayville Avenue Bayville, NY 11709 516 628 9291 (Phone/Fax)

Client Name:

Saeid E. Jalayer

Date: April 2, 2005

Sec. 21 Blk. L Lots p/o 72

DESCRIPTION OF PROPERTY

PARCEL 4

All that certain plot, piece or parcel of land, situate, lying and being at the Inc. Village of Sea Cliff, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

Beginning at a point on the northerly side of Bryant Avenue 133.48 feet east of the intersection of said northerly side of Bryant Avenue with the easterly side of Prospect Avenue and running thence North 13° - 42" East 118.47 feet;

thence North 76° - 18' - 11' East 60.81 feet;

thence South 35° - 42' - 03" East 89.60 feet:

thence South 11° - 45° - 00° West 93.81 feet to the northerly side of Bryant Avenue; running thence along said northerly side of Bryant Avenue North 73° - 44° - 00° West 125.36 feet to the point or place of beginning:

state of New York, County of Nassau	88:	State of New Y	ork, County of	ss:
before me, the undersigned, personally appea	year 2005 ired		ay of undersigned, p	in the year personally appeared
SAEID E. JALAYER personally known to me or proved to me personally known to me person upon behalf of whice acted, executed the instrument.	whose name(s) is knowledged to me heir capacity(ies), a instrument, the	satisfactory evi (are) subscribe that he/she/the and that by h	idence to be the document of the the within in y executed the is/her/their signal or the person upon	proved to me on the basis of the individual(s) whose name(s) is instrument and acknowledged to me same in his/her/their capacity(ies), nature(s) on the instrument, the on behalf of which the individual(s) at.
(signature and office of individual acting SAAM JALAYER NOTARY PUBLIC, STATE OF NEW: QUALIFIED IN SUFFOLK COUN NO. 01JA6092954 COMMISSION EXPIRES MAY 27.	TY	(signature	and office of i	individual taking acknowledgment)
TO BE USED ONLY WHEN T		MENT IS MAD	E OUTSIDE NE	EW YORK STATE
State (or District of Columbia, Territory, or For	eign Country) of			88:
On the day of	in the year	·	efore me, the	undersigned, personally appeared
personally known to me or proved to me on the lot the within instrument and acknowledged to his/heir signature(s) on the instrument, the instrument, and that such individual made such	o me that he/she/the individual(s), or the	ey executed the person upon be	same in his/h haif of which th	er/their capacity(ies), and that by
(insert the City or other political subdivision)	(and insert	the State or Cour	stry or other pla	ce the acknowledgment was taken)
		(signa	ture and office o	of individual taking acknowledgment)
BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ATTITLE No.	ACTS	SECTIC BLOCK LOT COUNT	L p/o 7 Y Nass Record	
STANDARD FORM OF NEW YORK BOARD OF TO THE INSURA		Forchell Carlino 330 Old P.O. Bo	L. Fantano, Es i, Curto, Schv & Cohn, LLP Country Roa x 31 , New York 1	vartz, Mineo,
	RESERVE THIS SPACE	FOR USE OF REC	ORDING OFFICE	
Standard N.Y.B.T.U. Form 8002 - Bargain and S	Sale Deed, with Covern	ant against Grannst Grann	or's Acts Unifo	rm Acknowledgment

Exhibit D

Phase I Investigation

PHASE I: ENVIRONMENTAL SITE ASSESSMENT of PROPERTY at

Prospect Ave. & Bryant Ave. Sea Cliff, NY 11579

Prepared for

Jalayer Property Sea Cliff, NY

By

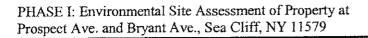
Dru Associates, Inc. 40 Hitching Post Lane Glen Cove, NY 11542 (516) 676-7107



April 14, 2004

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Certification

This Report is provided by Dru Associates, Inc. with the noted limitations for the use of the property owner in demonstrating due diligence in terms of the Innocent Land Owners provision as described in the ASTM 1527 Guidelines. The site was visited, photographed and investigated for evidence of environmental hazards, which would require testing and addressing under the relevant Environmental Conservation Laws. Without field testing of soils, groundwater or building materials, it is not possible to scientifically determine the presence of any chemical, so this report is accordingly limited.

The staff involved in this report are experienced and qualified in environmental science. The records relied upon are those made available by the municipal, County, State and Federal agencies charged with environmental protection, and Dru Associates, Inc. is not responsible for errors or shortcomings of these databases.

Signed:

Dr. R.W. Abrams, Ph.D., CEP

Dated: April 14, 2004

1. SUMMARY

A Phase I Environmental Site Assessment (ESA) includes an on-site property reconnaissance, and an analysis of historical research which is gathered from a wide variety of sources that have been established by the ASTM. Phase I ESA's require that the site analyst: review current and historic operational and chemical uses of the property and surrounding properties; inspect the building and subject property to determine if hazardous materials or Underground Storage Tanks (UST) may be present; and determine if the soil or groundwater under the property may be affected by contamination originating at the site or from other properties in the area.

The Phase I therefore consists of:

- a professional reconnaissance/inspection,
- a review performed of local, state and federal environmental regulatory agency databases,
- a historical re-creation of the chemical usage and ownership of the property,
 and
- an inspection and analysis of regulatory records maintained by fuel and toxic leak oversight agencies (Federal, state and local) pertaining to activities on sites which have affected the soil or groundwater located within 1/8 mile (fuel) and 1 mile (toxic) of the Property is also completed.

Summary of Findings:

The inspection of the Jalayer site revealed indications of filling and the presence of surface debris suggests that subsurface testing is required. However, there are no records of waste disposal or hazardous material releases on or adjacent to the site. Therefore, the subsurface testing would be to determine the age, composition and depth of fill, with laboratory testing of soils or groundwater not yet indicated, unless new information derived from the test pits indicates additional need for tests.

2. INTRODUCTION

a. Purpose

This environmental site assessment was conducted in order to determine whether its land (surface or subsurface), water (surface or groundwater), or buildings could have been contaminated by operations that took place on the site, or possibly by migration of contamination from elsewhere. The purpose of the environmental assessment is to ascertain the property's environmental condition at the time of sale; at operating facilities to meet various regulatory requirements for protection of human health and the environment' and at abandoned sites to determine their risk to the neighboring community.

b. Conditions

This report does not address requirements of any stat or local laws or of any federal laws other than the appropriate provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Clients are cautioned that federal, state, and local laws may impose environmental assessment obligations that are beyond the scope of this report. Clients should also be aware that there may be legal obligations with regard to the storage and handling of hazardous substances or petroleum products for the property that are not addressed in this report.

c. Limitations of this Report

The work reported in this document is intended to provide an initial screening of potential environmental concerns as outlined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Part 3000 40 CFR "Protection of Environment." In the State of New York, this report intends to identify conditions at sites, not appearing on the states "Registry" of hazardous waste sites as defined in 6 NYCRR Part 375, which might require an investigation by the State or County

agency responsible for enforcing the Environmental Conservation Law (ECL) pertaining to the protection of the environment. Therefore, this report is limited to identifying cases that require further investigation, and this report does not undertake to provide classification of a site under either the NCP or ECL. The work herein generally assesses the physical characteristics of the site with respect to visible evidence of contamination, and the interpretation and recommendations provided are based on observations by field staff and the research records reported herein. Accordingly further research, future events of unanticipated findings, which could change the findings herein, and the report are subject to revisions. This report was prepared in consistency with generally accepted engineering practices, and no other warranty is expressed or implied.

3. SITE DESCRIPTION

a. Site and Vicinity Characteristics

The subject site is located at the north east corner of Prospect Ave. and Bryant Ave., Sea Cliff, Nassau County, New York on part of a peninsula surrounded on the western side by the waters of Hempstead Harbor, which is a part of Long Island Sound (Figure 1). The subject site was visually inspected on 2/06 and 2/25/2004. The subject parcels are a total of 1.5 acres according to the Nassau County Tax Map SEC. 21 BLK. L LOTS 72 & 81. The subject property includes a plateau, with a steep slope along the western frontage of the property. The west-facing slope shows evidence of historic filling, with remnants of timber retaining walls and scattered fill debris. Only a remnant foundation is visible on the site.

b. Site Geology and Hydrology

The geology and hydrology of the subject site must be evaluated in order to understand, in terms of the National Contingency Plan (NCP) and Environmental Conservation Law (ECL), the possible routes of exposure from the release of hazardous substances into the earth's soils and waters, which might affect the subject property, or upon which the subject property may be impacted. Under the NCP, it is important to assess a property to ensure that routes of exposure to pollution do not exist through a site's groundwater, soils or through the soils and groundwater of adjacent sites, due to migration onto or off of the subject property. The concern for a region's natural resources is an important consideration, as well as ensuring that the conditions of a site have not been adversely impacted by pollution from past land-use history.

Long Island lies entirely within the Coastal Plain province of the northeastern United States. The subject property occurs in northwestern Nassau County, and occurs on the northern side of the Harbor Hill terminal moraine. The Harbor Hill terminal

moraine, consisting of a series of coalescing irregular hills, forms a pronounced ridge, trending to northeast, that rises 80 to 150 feet above the headlands. The subject property rises approximately 100 feet above the sea level.

Unconsolidated sediments of Pleistocene and Cretaceous age, 200 to 800 feet thick constitute the ground water reservoir of the area. The reservoir includes three discrete aquifers. The shallow unconfined aquifer consists of permeable Pleistocene and Cretaceous deposits, which lie within the upper part of the zone of saturation. The aquifer extends from slightly below sea level to more than 110 feet of water in much of the area of Nassau County. The intermediate or principal aquifer of Long Island is the Magothy formation that occurs from about 50 feet below sea level downward to the top of the clay layer of the Raritan formation. The principal aquifer has limited extent to the north, but it is the chief source of water in Nassau County, except the peninsulas. The lower or deepest aquifer found beneath Long Island consists of the Lloyd sand member of the Raritan formation and the hydraulically contiguous Jameco gravel. The lower limit of this aquifer is the bedrock surface; and its upper limit is defined by the overlying clay member of the Raritan formation and the Gardiners clay.

In this suburbanized area soils are Plymouth-Riverhead complex, 15 to 35% slopes, are typically very deep, moderately steep and steep soils on side slopes of hills and ridges. The Plymouth soils are on the convex steep parts, and the Riverhead soils are on the concave moderately steep parts. A thin layer of leaves commonly is found on the surface of these soils. The surface layer consists of 5 inches of brown loamy sand. The subsoil, 5 to 13 inches consists of strong brown loamy sand. From 13 to 26 inches is yellowish brown loamy sand. The substratum extends from 26 to 42 inches and consists of brownish yellow gravelly sand. Then from 42 to 60 inches it becomes pale yellow gravelly coarse sand. These soils have fair to poor suitability as a habitat for openland wildlife. They are very poorly suited to wetland wildlife

habitat (Soil Survey of Nassau County, New York). However, the subject site differs in its surface soils due to a history of disturbance, with substantial amounts of fill.

c. Current Uses of Property

The subject property is a 1.5 acre parcel that currently is abandoned (Figure 1). In the past the subject property was part of residential parcels, but has apparently never been developed. However, some undefined filling has occurred on the site.

d. Current Uses of Adjoining Property

Adjacent properties include a catering business – Sans Souci to the south opposite Brant Avenue and residential property to the east and north. Along the western part of the site is the Prospect Ave and West of Prospect Ave is the Hempstead Harbor. In a small parcel to the east of the subject site, a small cemetery has been preserved. The residences appear typical of the area, and no further inspection of adjacent properties was performed.

d.

tha 5

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4. USER-PROVIDED INFORMATION

The former owner or user are not available for information. The current owner has performed some clean-up, and removed an old swimming pool and assorted debris. The site currently has some work vehicles, a backhoe and some temporary equipment storage on site. There is one 55 gallon drum and a storage container, all sealed and not showing any signs of leakage or discharge of oils, fluids or solids associated with the work equipment.

5. RECORDS REVIEW

Government agency records on regulated chemical and liquid storage, hazardous materials spills and commercial pollution releases were reviewed from 16 municipal, County, State and Environmental protection programs for the vicinity (one-quarter to one mile) of the subject site. The full database report is appended, with primary reference maps and site listings reviewed herein.

The Jalayer Property did not appear in the record review searches. There are no NYS Inactive Hazardous Waste Disposal Sites, CERCLIS Sites, National Priority List Sites, Hazardous Substance Waste Disposal Sites, NYS solid Waste Facilities, NYS Major Oil Storage Facilities, RCRA Hazardous Waste Treatment, Storage, Disposal Sites, NYS Toxic Spills, Local & State Petroleum Bulk Storage Sites, Toxic Release Inventory Sites, Permit Compliance System Toxic Wastewater Discharges, NYS Air Discharges, Civil Enforcement Docket Facilities and ERNS that occur within 100 feet of the subject property.

Properties adjacent to the site show two records of NYS Toxic Spills within 660' from the subject property. The first record is from unknown site, that is 505 feet away, 10 Woodridge Lane, Facility Id: 9008522, closed status spill. In 1990, a citizen reported that there was a strong odor around house for couple days. It smelled like garbage and gas on and off. No DEC investigator remarks were given for this spill. The second record is from residence, that is 568 feet away, 17 Woodridge Lane, Facility Id: 9401813, closed status spill. Commander Oil Co. spilled oil outside and inside of the house. After the incident oil was cleaned up outside of tank only, but not on inside of the house. Corrective action was undertaken by the oil company.

Greater than 660 feet of the subject property there is one record of NYS Toxic Spill. This site is Brunn Residence, which is 1416 feet away, 308 Little Worth Lane,

Facility Id: 9904463. At Brunn residence 25 gallons of petroleum was spilled on the property. The spill was contained for the clean up.

Greater than 660 feet of the subject property there are three Local & State Petroleum Bulk Storage sites. These sites include, Sea Cliff WA, approximately 902 feet away, 325 Prospect Ave. Facility Id: GS5700011, inactive. Two, 2,000 gallons, emptygasoline underground tanks were abandoned on the site. The second site, owned by Porto, Linda, 37 Woodridge Lane, approximately 1056 feet away, Facility Id: LG5700026. There are two active, 100 gallons, propane tanks above ground. The third storage site is, Lazer, Maryann, 12 Porter Place, Facility Id: LG5700024 is 1101 feet to the NNE. There are two, 100 gallon, outdoor propane (LPG)/butane tanks, that are still in use.

6. SITE RECONNAISSANCE

Site Visit

A visual inspection of Jalayer property was conducted by Dru Associates, Inc. on February 25th, 2004. The site lies in the northwestern area of Nassau County, NY in the Oyster Bay Township in the Incorporated Village of Sea Cliff. The property covers area of 1.5 acres. The subject property occupies a corner lot between Bryant Ave. and Prospect Ave. Access to the property is on Bryant Ave. There are no structures or buildings located on the subject property. The western and southern edges of the site are lined with trees and brush. The entire property is sloping down westwards, towards Hempstead Harbor (Figure 2), which is approximately 100 feet away. The slope on the western border has a dropoff of an estimated 20-30 feet (Figure 2, 3). Most of the property has an unlevel terrain indicating that in the past there was fill dirt brought onto the property. Scattered debris can be found mainly in the south west corner. The debris includes concreter slabs, rocks, and some metal scraps. Only three tall trees can be found within the perimeter of the site. Also, in the south west area there are a few commercial vehicles, a bulldozer, a storage container, a mound of soil and some building materials (bricks, cinderblocks, and rolled up fencing). A 55 gallon drum, sealed and labeled as "anti-freeze" was observed on the site. A caution sign from KEYSPAN is posted on the southern border of the site cautioning the presence of gas pipes. The equipment on site is properly stored, and the site shows proper housekeeping practices for the temporary construction area.

7. INTERVIEWS

Summarize interview with owner:

The owner of the property, Mr. Saied Jalayer, explained the history of the site as being one of residential use, accessory to the homes located just uphill of the site. The intent of the owner is to continue that land use. Part of the property was listed as an out parcel on a filed subdivision map entiled "Map of Property Newell and Daniel at Sea Cliff' dated October 1952, under existing zoning. The condition of the site was reviewed with Mr. Jalayer, who acknowledged that the site has been filled, in the past, although the source of the fill is unknown. The filling is reputed to have occurred during the 1970's. A set of soil borings performed by Ace Boring Inc. of Jamaica, New York, in 1999 showed fill depths of 19 to 39 feet, and the notes on the boring log indicate silt and fine sand fill above silt, sand and gravel with some clay as a native soil. A field investigation by Dru Associates of the trees on the west-facing slope suggest that the material beneath the fill is indeed native soils, reflecting the elevations at which trees in excess of 100 years old were observed. Close inspection of the toe of the westfacing slope shows a series of timber retaining walls, at the lower elevations reflected as native by the older trees. Therefore, at some time in the past, the site's west-facing slope was stabilized with timber walls, and then fill above that occurred.

8. FINDINGS

Dru Associates, Inc. has performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E1527-00 of Jalayer Property, Sea Cliff, NY 11579.

There are no records of the release, storage or handling of toxic or hazardous materials on the Jalayer property in Sea Cliff, New York. There are no records of significant storage, handling or releases of toxic or hazardous materials adjacent to the site. While some small releases have occurred in nearby residential areas, none of these represents a threat to the groundwater or soils of the Jalayer property. The site occurs in a residential area, and there is no likelihood that the soils or groundwater of this site have been directly impacted by industrial or commercial activity, with one exception. The site has received a large volume of fill that appears to have "flattened" a plateau above a steep, west-facing slope. There is very little of the slope surface that remains unaltered, although there are at least three points that have remained unaltered for more than 100 hundred years, albeit non-contiguous patches of habitat.

Observations of the surface of the site revealed concrete, brick and wood debris that confirms a history of filling, and the soil borings support this interpretation. However, the soil borings do not report details of the materials encountered during drilling, other than notes on general soil conditions.

9. OPINION

Dru Associates is of the opinion that the fill was from a dredging or excavation project, where limited debris was involved. However, the detail of the soil borings was not sufficient to allow a firm conclusion on this matter. Yet, there are no records of violations of solid or liquid waste laws thereby, suggesting that the fill is not environmentally threatening. The large amount of fill involved here would have precluded a clandestine disposal activity, so that this fill activity would not likely have been missed by authorities. Nevertheless, to confirm the presence of silt and sand full, test holes are recommended to determine as far as possible, age, composition and depth of the fill.

10. CONCLUSION

The visual inspection and government file research are used as a basis for the preliminary evaluation of the potential for the subject property to require further environmental investigation, the purpose of which would be to determine if the site should be considered by the NYS Department of Environmental Conservation to be in need of a Phase II investigation.

In summary, this report finds that the site does contain evidence which would indicate the need for a further site investigation (which would include laboratory and/ or soils/groundwater testing). The subject site is free from current records of environmental hazards, according to 16 governmental databases. The records of hazardous material storage and spill for the neighborhood indicate that the site occurs in heavy developed area, where groundwater contamination may have occurred in the past, but would have been incremental, and not connected with any single or series of significant events. Thus, the soils and groundwater beneath the site are similar in condition to the entire Sea Cliff area. Nevertheless, no conclusion can be drawn about the environmental condition of the fill on the site, and so further testing is recommended.

The site does not provide important habitat for endangered, threatened or protected species, and does not include wetlands or watercourses.

In conclusion there exists no evidence of immediate or present danger to the environs of the site from any hazardous substance or spill event. Presently, there is no indication that future releases of hazardous materials are likely to occur on this site.

11. FORMS

ASTM E 1528

12. SITE PHOTOGRAPHS

The following photographs were taken at the corner of Bryant Ave. and Prospect Ave, Sea Cliff, NY 11579 on 02/03/2004.

- Photo 1. View from Bryant Ave. looking at the southwest corner of the property.
- Photo 2. View looking north across eastern portion of the property.
- Photo 3. View of work staging area of the property.
- Photo 4. View of southwestern bank of site, looking westwards.
- Photo 5. View from Prospect Ave. looking to south east at the property slope.
- Photo 6. View from Prospect Ave. looking to north east at the property.

Photo 1. View from Bryant Ave. looking at the southern edge of the property

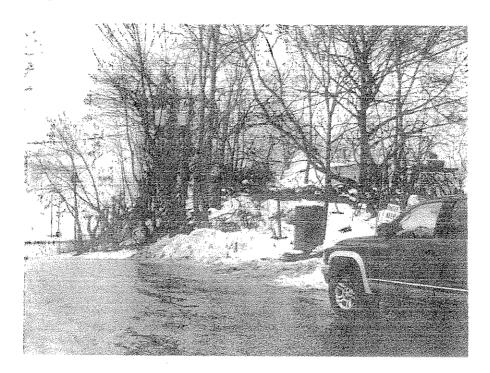


Photo 2. View to north east of the property



Photo 3. View to north west of the property



Photo 4

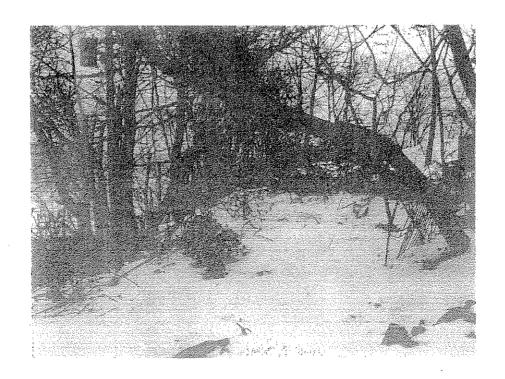


Photo 5. View from Prospect Ave. looking to south east at the property slope.

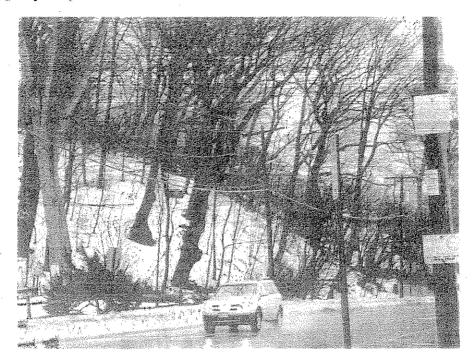


Photo 6. View from Prospect Ave. looking to north east at the property.



13. REFERENCES

Site Auditing: Environmental Assessment of Property. Specialty Technical Publishers.

Toxic Targeting Computerized Environmental Report.

United States Department of Agriculture: Soil Conservation Service. Soil Survey of Nassau County, New York.

Swarzenski, W.V. 1963. Hydrogeology of northwestern Nassau and northeastern Queens Counties, Long Island, NY.

14. SIGNATURE(S) OF ENVIRONMENTAL PROFESSIONAL(S)

15. QUALIFICATION(S) OF ENVIRONMENTAL PROFESSIONAL(S)

17. COMPUTERIZED ENVIRONMENTAL REPORT

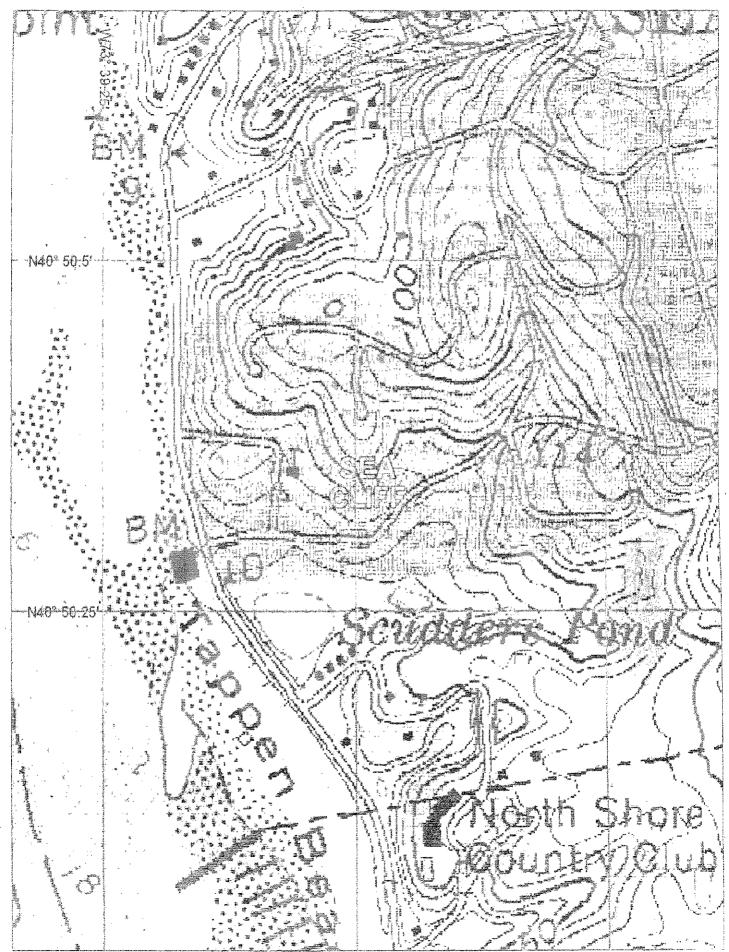


Exhibit E

Soil Samples



Technical Report

prepared for

Applemon Corporation 151 S. Mountain Road New City, NY 10956 Attention: Fuad Adib

Report Date: 5/2/2006

Re: Client Project ID: Sea Cl.

York Project No.: 06040841

CT License No. PH-0723

New York License No. 10854





Report Date: 5/2/2006 Client Project ID: Sea Cl. York Project No.: 06040841

Applemon Corporation

151 S. Mountain Road New City, NY 10956 Attention: Fuad Adib

Purpose and Results

This report contains the analytical data for the sample(s) identified on the attached chain-of-custody received in our laboratory on 04/26/06. The project was identified as your project "Sea CI.".

The analyses were conducted utilizing appropriate EPA, Standard Methods, and ASTM methods as detailed in the data summary tables .

All samples were received in proper condition meeting the NELAC acceptance requirements for environmental samples except those indicated under the Notes section of this report.

All the analyses met the method and laboratory standard operating procedure requirements except as indicated under the Notes section of this report, or as indicated by any data flags, the meaning of which is explained in the attachment to this report, if applicable.

The results of the analyses, which are all reported on an as-received basis unless otherwise noted, are summarized in the following table(s).

Analysis Results

Client Sample ID			TP-1		TP-2	
York Sample ID			06040841-01		06040841-02	
Matrix			SOIL		SOIL	
Parameter	Method	Units	Results	MDL	Results	MDL
Metals, Priority Pollutant List	EPA SW846	mg/kG				
Antimony			2.65	0.80	2.28	0.80
Arsenic			3.57	1.00	3.85	1.00
Beryllium			Not detected	0.10	Not detected	0.10
Cadmium			Not detected	0.30	Not detected	0.30
Chromium			8.13	0.50	6.84	0.50
Соррег			9.66	0.60	11.2	0.60
Lead			15.9	0.30	16.7	0.30
Nickel			8.63	0.90	7.35	0.90
Selenium			Not detected	1.00	Not detected	1.00
Silver			Not detected	0.30	Not detected	0.30
Thallium			Not detected	1.00	Not detected	1.00
Zinc			27.8	0.60	29.8	0.60
Mercury	SW846-7471	mg/kG	Not detected	0.10	Not detected	0.10

Client Sample ID			TP-3		TP-4	
York Sample ID			06040841-03		06040841-04	
Matrix			SOIL		SOIL	
Parameter	Method	Units	Results	MDL	Results	MDL
Metals, Priority Pollutant List	EPA SW846	mg/kG				
Antimony			6.81	0.80	4.26	0.80
Arsenic			51.4	1.00	12.1	1.00
Beryllium			0.20	0.10	Not detected	0.10
Cadmium			0.310	0.30	Not detected	0.30
Chromium			13.6	0.50	9.15	0.50
Соррег			19.6	0.60	12.3	0.60
Lead			10.8	0.30	19.2	0.30
Nickel			19.4	0.90	11.3	0.90
Selenium			2.07	1.00	Not detected	1.00
Silver			Not detected	0.30	Not detected	0.30
Thallium			Not detected	1.00	Not detected	1.00
Zinc			31.3	0.60	30.0	0.60
Mercury	SW846-7471	mg/kG	Not detected	0.10	Not detected	0.10

Client Sample ID			TP-5	
York Sample ID			06040841-05	
Matrix			SOIL	
Parameter	Method	Units	Results	MDL
Metals, Priority Pollutant List	EPA SW846	mg/kG		
Antimony			4.95	0.80
Arsenic			53.9	1.00
Beryllium			0.130	0.10
Cadmium			0.340	0.30
Chromium	-		13.2	0.50
Соррег			20.0	0.60
Lead			11.7	0.30
Nickel			15.4	0.90
Selenium	<u> </u>		1.78	1.00
Silver			Not detected	0.30
Thallium			Not detected	1.00
Zinc			31.9	0.60
Mercury	SW846-7471	mg/kG	Not detected	0.10

Units Key:

For Waters/Liquids: mg/L = ppm; ug/L = ppb

For Soils/Solids: mg/kg = ppm; ug/kg = ppb

Report Date: 5/2/2006 Client Project ID: Sea Cl. York Project No.: 06040841

Notes for York Project No. 06040841

- 1. The MDL (Minimum Detectable Limit) reported is adjusted for any dilution necessary due to the levels of target and/or non-target analytes and matrix interference. This MDL is the <u>REPORTING LIMIT</u> and is based upon the lowest standard utilized for calibration where applicable.
- 2. Samples are retained for a period of thirty days after submittal of report, unless other arrangements are made.
- 3. York's liability for the above data is limited to the dollar value paid to York for the referenced project.
- 4. This report shall not be reproduced without the written approval of York Analytical Laboratories, Inc.
- 5. All samples were received in proper condition for analysis with proper documentation.
- 6. All analyses conducted met method or Laboratory SOP requirements.

7. It is noted that no analyses reported herein were subcontracted to another laboratory.

Approved By:

Robert Q. Bradle

Managing Director

Date: 5/2/2006

Jak 1-802 Jan Description(s) Container Samples Collected By (Signature) 1-202 RUSH(define) FUAL Adilb Field Chain-of-Custody Record ANALYSES REQUESTED Ample Received in LAB by Standard PP Metalls APRIL 25,06 Project ID/No. Sea Cl. Apr.25,06 Date/Time Date/Time Water Soil Air OTHER the results are due 5 days from Sample Matrix Invoice To: Frad Adilb Hoplemon Sample Relinquished by Sample Relinquished by Date Sampled Apv-24,06 Report To: Date/Time Date/Time STRATFORD, CT C6615 (203) 325-1371 FAX (203) 357-0166 Location/ID TP-2 Comments/Special Instructions
Please note that TP-3 TP-5 1-41 4-4 120 RESEARCH DRIVE YORK Bottles Relinquished from Lab by Chain-of-Custody Record Bottles Received in Field by Company Name Applemen Sample No. Ŋ M 1 LO

Exhibit F

Composite Soil Sample



3770 MERRICK ROAD . SEAFORD, L.I., NEW YORK 11783

[516] 221-7500 * FAX (516) 679-1900

April 18, 2006

Blitwell 31 Mary Pitkin Path Shorham, NY 11786 Attn: Mr. Saeid Jalayei

Prospect Avenue Pa: Sea Cliff, N.Y. SMES# 06-284

Gentlemen:

Forwarded herewith are the results of laboratory analysis of a multi-point composite soil sample recently collected from an excavation at a construction site located at the above referenced location.

The composite soil sample was acquired from suspect dark stained soils located along the north wall of the foundation excavation (see Site Plan) associated with a proposed residential structure of the subject property. The multi-point composite sample was generated, utilizing hermetically sealed food grade sample containers in accordance with appropriate sampling protocols. The composite sample was containerized into appropriate glassware, iced to 4 degrees centigrade, and hand delivered to Long Island Analytical Laboratories of Holbrook, NY (NYS certified), in accordance with appropriate Chain of Custody procedures. The results of laboratory analysis, which included testing for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), herbicides, pesticides, PCBs, and metals as outlined in New York State Department of Environmental Conservation (NYSDEC) - Technical and Administrative Guidance Memorandum 4046 (NYSDEC - TAGM 4046). indicated the following.

Composite Soil Samples CS-1

- Non-detectable concentrations of VOCs, SVOCs, herbicides, and pesticides/PCBs (see Table #1).
- Detectable concentrations of selected metal constituents, some of which exceeded their respective recommended soil cleanup objectives (RSCOs) defined by NYSDEC - TAGM 4046 (see Table #1).

In conclusion, based on laboratory analysis, it is our opinion that the soils assessed as part of this investigation have been adversely impacted by one or more of the targeted analytical parameters at concentrations that effectively preclude classification of same as clean fill. The detected concentration of arsenic, in particular, is likely to represent a priority to a regulatory agency for further investigation and/or remediation, especially since the property is being

SOIL MECHANICS ENVIRONIMENTAL SERVICES

3770 MERRICK ROAD . SEAFORD, L.I., NEW YORK 11783 [516] 221-7500 . FAX (516) 679-1900

physical removal of the suspect dark stained soils; b) waste characterization of excavated materials; c) disposal of excavated materials at a regulated facility; and d) collection of a series of post excavation samples for laboratory analysis for suspect contaminants to confirm the effectiveness of remedial efforts.

Should you have any questions regarding the contents of this letter, please don't hesitate to contact our office.

Very truly yours,

SOIL MECHANICS ENVIRONMENTAL SERVICES

Altan Gulum, P.G. Project Manger

Dohort Cardinala MS PG C

Robert Cardinale, M.S., P.G., C.P.G Director Environmental Services

Carl Vernick, P.E.

President

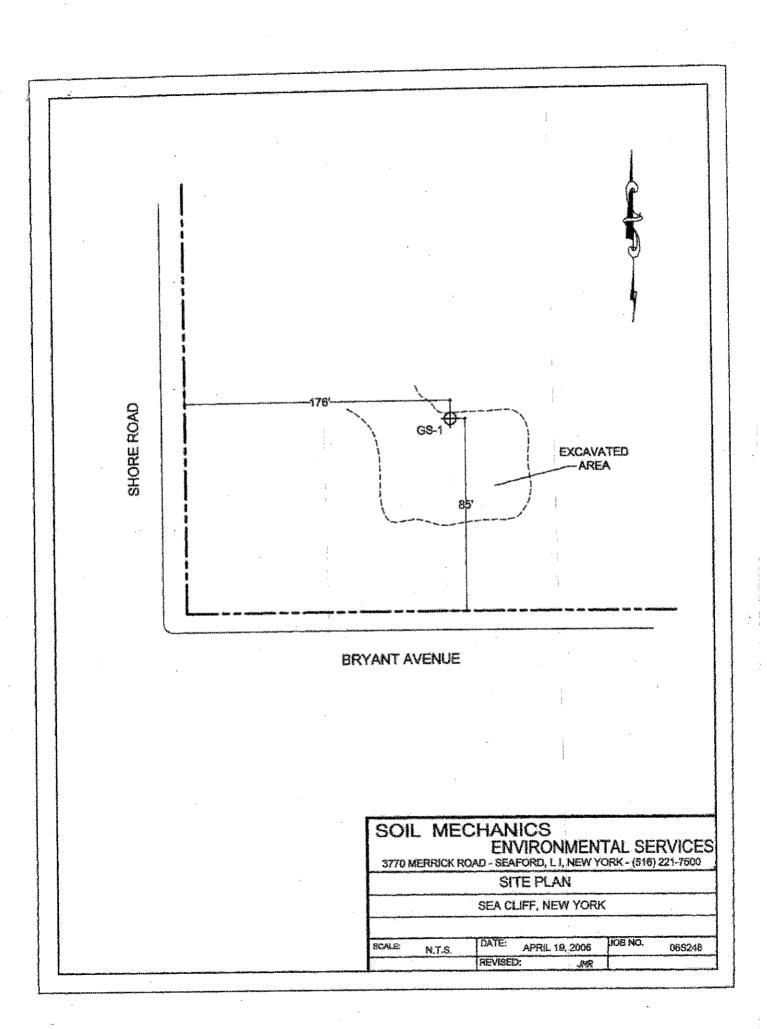


Table #1

Parameter	CSI	RSCO*	Background**
VOCs (EPA 8260)	ND	*	
SVOCs (EPA 8270)	ND	*	*
Herbicides	ND	7c)	46
Pesticides/PCBs	ND ND	<u> </u>) 100
Metals			
aluminum	5063.0	SB	33000.0
arsenic	69.6	7.5	3.0-12.0
barium	255.0	300.0	15.0-600.0
calcium	3425.0	SB	130.0-35000.0
chromium	10.3	10.0	1.5-40.0
cobalt	3.69	30.0	2.5-60.0
copper	14.3	25.0	1.0-50.0
iron	5198.0	2000.0	2000.0-550000.0
lead	9.41	200.0-500.0	
magnesium	505.0	SB	100.0-5000.0
manganese	2048.0	SB	50.0-5000.0
mercury	0.023	0,1	0.001-0.2
nickel	9.52	13.0	0.5-25.0
polassium	957.02	SB	8500.0-43000.0
sodium	184.0	SB.	0.0008-0.0008
selenium	1,9	2.0	0.1-3.9
vanadium	34.4	150.0	1.0-300.0
zinc .	24.2	20.0	9.0-50.0

⁻ not applicable
ND non-detectable
SB site background
Concentrations and RSCO VOCs, SVOCs, herbicides, pesticides/PCbs in ug/kg; metals in mg/kg
*RSCO Recommend Soil Cleanup Objectives from NYSDEC - TAGM 4046
**Eastern United States background

**Testern United States Background

NYSDOH ELAP# 11693 USEPA# NY01273 CTDOH# PH-0284 AIHA# 164456 NJDOH# NY012 PADOH# 88-2943

"TOMORROWS ANALYTICAL SOLUTIONS TODAY"

1 of 7 pages

April 14, 2006

Soil Mechanics Bob Cardinale 3770 Merrick Road Seaford, New York 11783

Re: Sea Cliff, 06-284

Dear Mr. Cardinale

Enclosed please find the Laboratory Analysis Report(s) for sample(s) received on April 12, 2006. Long Island Analytical Laboratories analyzed the samples on April 14, 2006 for the following:

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Samples received at 16°C.

H: Samples not preserved, corrected upon receipt.

If you have any questions or require further information, please call at your convenience. Report shall not be reproduced except in full, without the written approval of the laboratory. Long Island Analytical Laboratories would like to thank you for the opportunity to be of service to you.

Best Regards,

Long Island Analytical Laboratories, Inc.

Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/12/06	Matrix: Soil
Date analyzed: 4/12/06	ELAP #: 11693

NYS TAGM VOLATILES

ACETONE 62-64-1 50 ug/kg <50 BENZENE 71-43-2 5 ug/kg <5 2-BUTANONE (MEK) 77-8-93-3 10 ug/kg <10 CARBON DISULFIDE 75-15-0 5 ug/kg <5 CARBON TETRACHLORIDE 56-23-5 5 ug/kg <5 CHLOROBENZENE 108-90-7 5 ug/kg <5 CHLOROFTHANE 75-00-3 5 ug/kg <5 CHLOROFTHANE 75-00-3 5 ug/kg <5 CHLOROFTHANE 75-00-3 5 ug/kg <5 CHLOROFTHANE 124-48-1 5 ug/kg <5 DIBROMOCHLOROBENZENE 95-50-1 5 ug/kg <5 1,2-DICHLOROBENZENE 95-50-1 5 ug/kg <5 1,3-DICHLOROBENZENE 104-47-1 5 ug/kg <5 1,1-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,1-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,1-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,1-DICHLOROETHANE 107-05-2 5 ug/kg <5 1,1-DICHLOROETHANE 107-05-2 5 ug/kg <5 1,1-DICHLOROETHENE 75-35-4 6 ug/kg <5 1,1-DICHLOROETHENE 156-60-5 5 ug/kg <5 1,3-DICHLOROPROPANE 142-28-9 5 ug/kg <5 ETHYLBENZENE 100-41-4 5 ug/kg <5 ETHYLBENZENE 100-41-4 5 ug/kg <5 ETHYLBENZENE 100-41-4 5 ug/kg <5 METHYLENECHLOROETHANE 79-00-5 5 ug/kg <5 METHYLENECHLOROETHANE 79-00-5 5 ug/kg <5 METHYLENECHLOROETHANE 79-00-5 5 ug/kg <5 TETRACHLOROETHANE 79-00-5 5 ug/kg <5 METHYLENECHLOROETHANE 79-00-5 5 ug/kg <5 TETRACHLOROETHANE 79-00-5 5 ug/kg <5 TETRACHLOROETHANE 79-00-5 5 ug/kg <5 METHYLENECHLOROETHANE 79-00-5 5 ug/kg <5 TETRACHLOROETHANE 79-03-6 5 ug/kg <5 TOLUENE 108-88-3 5 ug/kg <5 TRICHLOROETHENE 75-01-4 5 ug/kg <5 TRICHUROROETHENE 75-01-4 5 ug/kg <5 TRICHUROROETHENE 75-01-4 5 ug/kg <5 TRICHURORO	Parameter	CAS No.	MDL	Results ug/kg
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CHLOROFORM 67-66-3 5 ug/kg <5		75-00-3	5 ug/kg	
DIBROMOCHLOROMETHANE		67-66-3	5 ug/kg	
1,2-DICHLOROBENZENE 95-50-1 5 ug/kg <5 1,3-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,4-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,1-DICHLOROETHANE 75-34-3 5 ug/kg <5 1,2-DICHLOROETHANE 107-06-2 5 ug/kg <5 1,1-DICHLOROETHANE 150-06-2 5 ug/kg <5 1,1-DICHLOROETHENE 75-35-4 5 ug/kg <5 1,1-DICHLOROETHENE 156-60-5 5 ug/kg <5 1,3-DICHLOROETHENE 156-60-5 5 ug/kg <5 1,3-DICHLOROPROPANE 142-28-9 5 ug/kg <5 1,1,2-TRICHLOROETHANE 79-00-5 5 ug/kg <5 1,1,2-TRICHLOROETHANE 79-00-5 5 ug/kg <5 METHYLENE CHLORIDE 75-09-2 5 ug/kg <5 METHYLENE CHLORIDE 75-09-2 5 ug/kg <5 1,1,1-TRICHLOROETHANE 127-18-4 5 ug/kg <5 1,1,1-TRICHLOROETHANE 71-55-6 5 ug/kg <5 1,1,1-TRICHLOROETHANE 79-34-5 5 ug/kg <5 1,2,2-TETRACHLOROETHANE 79-34-5 5 ug/kg <5 1,2,2-TETRACHLOROETHANE 79-34-5 5 ug/kg <5 1,2,3-TRICHLOROBENZENE 120-82-1 5 ug/kg <5 TOLUENE 108-88-3 5 ug/kg <5 TRICHLOROBENZENE 120-82-1 5 ug/kg <5 TOLUENE 108-88-3 5 ug/kg <5 TRICHLOROETHENE 79-01-6 5 ug/kg <5 TRICHLOROETHENE 1330-20-7 10 ug/kg <5 0-XYLENE 1330-20-7 10 ug/kg <5 1-BUTYLBENZENE 135-98-7 5 ug/kg <5 1-BUTYLBENZENE 135-98-7 5 ug/kg <5 1-BUTYLBENZENE 135-98-7 5 ug/kg <5 1-BUTYLBENZENE 198-82-8 5 ug/kg <5 1-PROPYLBENZENE 103-85-6 5 ug/kg <5 1-PROPYLBENZENE 103-85-6 5 ug/kg <5 1-2,4-TRIMETHYLBENZENE 103-85-6 5 ug/kg <5		124-48-1	5 ug/kg	
1,3-DICHLOROBENZENE 541-73-1 5 ug/kg <5 1,4-DICHLOROBENZENE 106-46-7 5 ug/kg <5 1,1-DICHLOROETHANE 75-34-3 5 ug/kg <5 1,2-DICHLOROETHANE 107-06-2 5 ug/kg <5 1,1-DICHLOROETHANE 107-06-2 5 ug/kg <5 1,1-DICHLOROETHENE 75-35-4 5 ug/kg <5 1,1-DICHLOROETHENE 156-60-5 5 ug/kg <5 1,3-DICHLOROETHENE 156-60-5 5 ug/kg <5 1,3-DICHLOROPROPANE 142-28-9 5 ug/kg <5 ETHYLBENZENE 100-41-4 5 ug/kg <5 ETHYLBENZENE 100-41-4 5 ug/kg <5 METHYLENE CHLORIDE 75-09-2 5 ug/kg <5 4-METHYL-2-PENTANONE 108-10-1 5 ug/kg <5 1,1,1-TRICHLOROETHANE 71-55-6 5 ug/kg <5 1,1,1-TRICHLOROETHANE 71-55-6 5 ug/kg <5 1,1,1-TRICHLOROETHANE 79-34-5 5 ug/kg <5 1,1,2-TETRACHLOROETHANE 79-34-5 5 ug/kg <5 1,2,3-TRICHLOROBENZENE 87-61-6 5 ug/kg <5 1,2,3-TRICHLOROBENZENE 120-82-1 5 ug/kg <5 TOLUENE 108-88-3 5 ug/kg <5 TOLUENE 108-88-3 5 ug/kg <5 TRICHLOROETHENE 79-01-6 5 ug/kg <5 TRICHLOROETHENE 79-01-6 5 ug/kg <5 TRICHLOROETHENE 75-01-4 5 ug/kg <5 TRICHLOROETHENE 75-01-4 5 ug/kg <5 TRICHLOROETHENE 75-01-4 5 ug/kg <5 TRICHLOROETHENE 75-01-4 5 ug/kg <5 NINYL CHLORIDE 75-01-4 5 ug/kg <5 P & m-XYLENE 1330-20-7 5 ug/kg <5 N-BUTYLBENZENE 135-98-7 5 ug/kg <5 Sec-BUTYLBENZENE 135-98-7 5 ug/kg <5 Sec-BUTYLBENZENE 98-82-8 5 ug/kg <5 P-SOPROPYLBENZENE 98-82-8 5 ug/kg <5 P-SOPROPYLBENZENE 98-82-8 5 ug/kg <5 P-SOPROPYLBENZENE 99-87-6 5 ug/kg <5 P-SOPROPYLBENZENE 103-65-1 5 ug/kg <5 P-SOPROPYLBENZENE 103-65-1 5 ug/kg <5 1,2,4-TRIMETHYLBENZENE 99-87-6 5 ug/kg <5 1,2,4-TRIMETHYLBENZENE 95-63-6 5 ug/kg <5		95-50-1	5 ug/kg	₹ 5
1,4-DICHLOROBENZENE 106-46-7 5 ug/kg <5		541-73-1	5 ug/kg	<5
1,1-DICHLOROETHANE 75-34-3 5 ug/kg <5		106-46-7	5 ug/kg	<5
1,2-DICHLOROETHANE		75-34-3	5 ug/kg	<5
1,1-DICHLOROETHENE	1 2-DICHLOROFTHANE	107-06-2		- 5
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1,3-DICHLOROPROPANE		156-60-5		<5
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4-METHYL-2-PENTANONE 108-10-1 5 ug/kg <5		75-09-2		₹5
TETRACHLOROETHENE 127-18-4 5 ug/kg <5 1,1,1-TRICHLOROETHANE 71-55-6 5 ug/kg <5		108-10-1	5 ug/kg	<5
1,1,1-TRICHLOROETHANE 71-65-6 5 ug/kg <5		127-18-4		< 5
1,1,2,2-TETRACHLOROETHANE 79-34-5 5 ug/kg <5		71-65-6	5 ua/kg	<5
1,2,3-TRICHLOROBENZENE 87-61-6 5 ug/kg <5	1122 TETRACHLOROETHANE	79-34-5	5 ua/ka	₹5
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MDL = Minimum Detection Limit.



Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/13/03	Matrix: Soil
Date analyzed: 4/13/06	ELAP #: 11693

NYS TAGM SEMI-VOLATILES

Parameter	CAS No.	MDL	Results ug/kg
ACENAPHTHENE	83-32-9	40 ug/kg	<40
ACENAPHTHYLENE	208-96-8	40 ug/kg	<40
ANLINE	65-53-3	40 ug/kg	<40
ANTHRACENE	120-12-7	40 ug/kg	<40
BENZO-a-ANTHRACENE	56-55-3	40 ug/kg	<40
BENZO-a-PYRENE	50-32-8	40 ug/kg	<40
BENZO-B-FLUOROANTHENE	205-99-2	40 ug/kg	<40
BENZO-g,h,i-PERYLENE	191-24-2	40 ug/kg	<40
BENZO-k- FLUOROANTHENE	207-08-9	40 ug/kg	<40
Bis(2-ETHYLEXYL)PHTALATE	117-81-7	500 ug/kg	<500
BUTYLBENZYLPHTHALATE	85-68-7	40 ug/kg	<40
CHRYSENE	218-01-9	40 ug/kg	<40
4-CHLOROANILINE	106-47-8	40 ug/kg	<40
4-CHLORO-3-METHYLPHENOL	59-50-7	40 ug/kg	<40
2-CHLOROPHENOL	95-57-8	40 ug/kg	<40
DIBENZOFURAN	132-64-9	40 ug/kg	<40
DIBENZO-a,h-ANTHRACENE	53-70-3	40 ug/kg	<40
3,3-DICHLOROBENZIDINE	91-94-1	100 ug/kg	<100
2.4-DICHLOROPHENOL	102-83-2	40 ug/kg	<40
2.4-DINITROPHENOL	51-28-5	40 ug/kg	<40
2,6-DINITROTOLUENE	606-20-2	40 ug/kg	<40
DIETHYLPHTHALATE	84-66-2	40 ug/kg	<40
DIMETHYLPHTHALATE	131-11-3	40 ug/kg	<40

MDL = Minimum Detection Limit.

Calculated on a wet weight basis

Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/13/06	Matrix: Soil
Date analyzed: 4/13/06	ELAP #: 11693

NYS TAGM SEMI-VOLATILES

	,		
Parameter	CAS No.	MDL	Results ug/kg
DI-n-BUTYLPHTHALATE	84-74-2	500 ug/kg	<500
DI-n-OCTYLPHTHALATE	117-84-0	40 ug/kg	<40
FLUORANTHENE	206-44-0	40 ug/kg	<40
FLUORENE	86-73-7	40 ug/kg	<40
HEXACHLOROBENZENE	118-74-1	40 ug/kg	<40
INDENO(1,2,3-c,d)PYRENE	193-39-5	40 ug/kg	<40
ISOPHORONE	78-59-1	40 ug/kg	<40
2-METHYLNAPHTHALENE	91-57-6	40 ug/kg	<40
2-METHYLPHENOL	95-48-7	40 ug/kg	<40
4-METHYLPHENOL	106-44-5	40 ug/kg	<40
NAPHTHALENE	91-20-3	40 ug/kg	<40
NITROBENZENE	98-95-3	40 ug/kg	<40
2-NITROANLINE	88-74-4	40 ug/kg	<40
2-NITROPHENOL	88-75-5	40 ug/kg	<40
4-NITROPHENOL	100-02-7	40 ug/kg	<40
3-NITROANILINE	99-09-2	40 ug/kg	<40
PENTACHLORPHENOL	87-86-5	40 ug/kg	<40
PHENANTHRENE	85-01-8	40 ug/kg	<40
PHENOL	108-95-1	40 ug/kg	<40
PYRENE	129-00-0	40 ug/kg	<40
2,4,5-TRICHLOROPHENOL	95-95-4	40 ug/kg	<40

MDL = Minimum Detection Limit.

Calculated on a wet weight basis

5 of 7 pages

Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/14/06	Matrix: Soil
Date analyzed: 4/14/06	ELAP #: 11693

NYS TAGM PESTICIDES

COMPOUND	CAS No.	MDL	RESULTS ug/kg
Aldrin	309-00-2	5 ug/kg	<u> </u>
a - BHC	319-84-6	5 ug/kg	<u> </u>
β - В НО	319-85-7	5 ug/kg	45
S-BHC	319-86-8	5 ug/kg	- 6
Chlordane	12789-03-6	15 ug/kg	<15
4,4'- DDD	72-54-8	5 ug/kg	<5
4.4'-DDE	72-55-9	5 ug/kg	
4,4'-DDT	50-29-3	5 ug/kg	<u> </u>
Dieldrin	60-57-1	5 ug/kg	<u> </u>
Endosulfan i	959-98-8	5 ug/kg	<u> </u>
Endosulfan II	33212-65-9	5 ug/kg	<u> </u>
Endosulfan sulfate	1031-07-8	5 ug/kg	<u> </u>
Endrin	72-20-8	5 ug/kg	- 45
Endrin ketone	53494-70-5	5 ug/kg	-5
γ - BHC (Lindane)	58-89-9	5 ug/kg	
v - Chlordane	5103-74-2	5 ug/kg	- 5
Heptachlor	76-44-8	5 ug/kg	. <5
Heptachlor apoxide	1024-57-3	5 ug/kg	- 5
4,4'-Methoxychior	72-43-5	5 ug/kg	
Mitotane	53-17-0	5 ug/kg	· <5
Parathion	56-38-2	5 ug/kg	5
Arochlor 1016	12674-11-2	200 ug/kg	<200
Arochlor 1221	1104-28-2	200 ug/kg	<200
Arochlor 1232	11141-16-5	200 ug/kg	<200
Arochlor 1242	53469-21-9	200 ug/kg	<200
Arochlor 1248	12672-29-6	200 ug/kg	<200
Arochlor 1254	11097-69-1	200 ug/kg	<200
Arochlor 1260	11096-82-5	200 ug/kg	<200

MDL = Minimum Detection Limit.



6 of 7 pages

Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/14/06	Matrix: Soil
Date analyzed: 4/14/06	ELAP #: 11693

NYS TAGM HERBICIDES

PARAMETER	CAS#	MDL	RESULTS ug/kg
DICAMBA	1918-00-9	50 ug/kg	<50
2,4-D	94-75-7	50 ug/kg	<50
SILVEX(2,4,5-TP)	93-72-1	50 ug/kg	<50
2,4,5-T	93-76-5	50 ug/kg	<50
2,4-D8	94-82-6	50 ug/kg	<50

MDL = Minimum Detection Limit.

Calculated on a wet weight basis

Client: Soil Mechanics	Client ID: Sea Cliff, 06-284 (CS-1)
Date received: 4/12/06	Laboratory ID: 1106832
Date extracted: 4/13, 4/14/06	Matrix: Soil
Date analyzed: 4/13, 4/14/06	ELAP # 11693

NYS TAGM METALS

PARAMETER	MDL	RESULTS mg/kg
SILVER, Ag	1.65 mg/kg	<1.65
ALUMINUM, AI	1,65 mg/kg	5,063
ARSENIC, As	1.65 mg/kg	69.6
BARIUM, Ba	3.33 mg/kg	255
BERYLLIUM, Be	1.65 mg/kg	<1.65
CALCIUM, Ca	1.65 mg/kg	3,425
CADMIUM, Cd	1.00 mg/kg	<1.00
CYANIDE, Cnº	0.10 mg/kg	<0.10
COBALT, Co	1.65 mg/kg	3.69
CHROMIUM, Cr	1,65 mg/kg	10.3
COPPER, Cu	1.65 mg/kg	14.3
IRON, Fe	1.65 mg/kg	5,198
MERCURY, Hg	0.02 mg/kg	0.023
POTASSIUM, K	1.65 mg/kg	957
MAGNESIUM, Mg	1.65 mg/kg	505
MANGANESE, Mn	1,65 mg/kg	2,048
SODIUM, Na	1,65 mg/kg	184
NICKEL, Ni	1.65 mg/kg	9.52
LEAD, Pb	1.65 mg/kg	9.41
ANTIMONY, Sb	1.65 mg/kg	<1.65
SELENIUM, Se	1.65 mg/kg	1,90
THALIUM, TI	1.65 mg/kg	<1.65
VANADIUM, V	1,65 mg/kg	34.4
ZINC, Zn	1.65 mg/kg	24.2

MDL = Minimum Detection Limit.
Performed by SW-846 Method 6010

*Method: SM18(4500-CN-D)

Calculated on a wet weight basis



SOIL MECHANICS

3770 MERRICK ROAD • SEAFDRD, L.I., NEW YORK • (516) 221-7500

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ANALYSIS REQUIRED

REQUIREMENTS ADDITIONAL AGENT 100 Sept. DATE/TIME 270022 5001 > WOKE PRINT NAME. 1 COMINMENS NUMBER OF するが、生まるもの 4 PROJECT NO. SAMPLE LOCATION ががするから Wales The Print Nike + Ch. TIGO OF AGENT OF MATRIX (Š PROJECT NAME: SEA O SF DATE/TIME anic drioc 1.80 mg/s PROJECT LOCATION DATE LABORATORY: SAMPLE ID. NUMBER. REL. BY (SIG.) PRINT, SAME

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DATETHAE

Exhibit G

BCP Contact List

CONTACT LIST

ADJACENT OWNERS/OPERATORS

P. Huntington 337 Prospect Avenue Seacliff, New York 11579

R. Treiling 39 Woodridge Lane Seacliff, New York 11579

B. Wagner32 Woodridge LaneSeacliff, New York 11579

E. Martin 2115 Callaway Drive The Villages, Florida 32162

VILLAGE ADMINISTRATION AND POLITICIANS

Mayor Bruce Kennedy Village Hall Sea Cliff, NY 11579

Building Department Nancy Eder Paul Barocca Village Hall Sea Cliff, NY 11579

Aquarion Water Company of Sea Cliff 325 Prospect Avenue Sea Cliff, NY 11579

SCHOOLS AND DAY CARE

There are no schools or day care facilities located on or near the site.

LOCAL MEDIA

Gold Coast Gazette 57 Glen Street Glen Cove, NY 11542

DOCUMENT REPOSITORY

Sea Cliff Library Arlene Nevens, Director Sea Cliff & Central Avenues Sea Cliff, NY 11579

Exhibit H

Library Letter



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October 30, 2009

Y A LL

LLP

Sea Cliff Library
Arlene Nevens, Director
Sea Cliff & Central Avenues
Sea Cliff, NY 11579

Re: Brownfield Cleanup Program Application

Applicant's Name: Saeid E. Jalayer Site Name: Prospect Ave. & Bryant Ave.

Site Address: 34 Woodridge Lane, Sea Cliff, New York

Dear Head Librarian:

We represent Saeid E. Jalayer in his anticipated Brownfield Cleanup Program application for the above-referenced site at 34 Woodridge Lane, Sea Cliff. It is a requirement of the NYS Department of Environmental Conservation that we supply them with a letter certifying that the local library is willing and able to serve as a public repository for all documents pertaining to the cleanup of this property. Please sign below, and return this letter in the enclosed envelope, if you are able to certify that your library would be willing and able to act as the temporary public repository for this Brownfield Cleanup Program project.

Thank you.

Sincerely,

KNAUF SHAW LLP

AMY L. REICHHART

Reuhhan

Yes, the Sea Cliff Library is willing and able to act as a public repository on behalf of Saeid E. Jalayer in his cleanup of 34 Woodridge Lane under the NYS Brownfield Cleanup Program.

Arlene Nevens

(date)

(name)

(title)

Exhibit I

Relevant Zoning Provisions

CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION Chapter 246, ZONING § 246-3. ESTABLISHMENT OF DISTRICTS.

§ 246-3. ESTABLISHMENT OF DISTRICTS.

3.1 District classifications. The Town of Oyster Bay is hereby divided into the following districts (references in parentheses are to district designations as set forth on the Building Zone Map of the Town of Oyster Bay, Nassau County, New York): [Amended 7-22-2003 by L.L. No. 7-2003; 1-20-2004 by L.L. No. 2-2004; 9-21-2004 by L.L. No. 11-2004; 9-21-2004 by L.L. No. 16-2004; 3-8-2005 by L.L. No. 2-2005; 2-13-2007 by L.L. No. 4-2007]

Residence Districts:

R1-5A	One-Family Residence
R1-2A	One-Family Residence
R1-1A	One-Family Residence
R1-20	One-Family Residence
R1-15	One-Family Residence
R1-10	One-Family Residence
R1-7	One-Family Residence
R1-6	One-Family Residence
RMF-6	Multi-Family Residence
RMF-10	Multi-Family Residence
RNG-12	Multi-Family Next Generation Residence
RMF-16	Multi-Family Residence

§ 246-4. GENERAL REGULATIONS.

4.1 Application of Regulations.

- 4.1.1 Conformity required. No *structure* shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any property be used, designed or arranged to be used, for any purpose except in conformity with this chapter.
- 4.1.2 Minimum requirements. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements necessary for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare.
- 4.1.3 Conflicting standards. Where this chapter imposes a different restriction upon the use of property, or upon the erection, construction, establishment, movement, alteration or enlargement of *buildings* or other *structures*, than are imposed by other applicable codes, rules, regulations, licenses, certificates, easements, covenants, agreements or other authorizations, the more restrictive requirements shall prevail.

4.1.4 Governmental uses.

- 4.1.4.1 Applicability to municipal uses. This chapter shall not apply to or affect any *structure* or premises which shall or may be erected, altered or used by the Town of Oyster Bay for any municipal purposes, including municipal purposes of special purpose districts, subject to Town Board approval. No public hearing shall be required.
- 4.1.4.2 Applicability to uses of other governmental agencies. Uses of federal, state or county governmental agencies, or special purpose districts thereof, are subject to Town Board approval based on the special use permit standards of § 9.4 of this chapter and such other standards as may be determined appropriate by the Town Board. No public hearing shall be required.





4.2 Nonconforming Uses and Other Nonconformities.

- 4.2.1 Continuing existing uses, *buildings* and *structures*.
- 4.2.1.1 Except as otherwise provided herein, the lawfully permitted use of property and the lawfully permitted existence of *buildings* and *structures* at the time of adoption of this chapter may be continued although such use, *building* or *structure* does not conform to the standards specified in this chapter for the district in which such property, *building* or *structure* is located. Similarly, whenever a zoning district classification or the restrictions effecting property within any zoning district shall be changed hereafter so as to render nonconforming a use, *building* or *structure* then presently lawfully existing, such use, *building* or *structure* may nevertheless be continued, subject to the conditions set forth below. Said uses shall be deemed nonconforming uses and said *buildings* and *structures* shall be deemed dimensionally nonconforming.
- 4.2.1.2 Notwithstanding the above, any *one-* or *two-family dwelling* located in any nonresidential district which was lawfully existing on the effective date of this amendment, shall be considered to be a conforming use and may continue to be used, expanded and altered in accordance with the requirements of the R1-6 District. [Amended 7-22-2003 by L.L. No. 7-2003]
- 4.2.1.3 Any use in existence as of the effective date of this chapter which by this chapter is made a special permit use in the district in which it is located shall be presumed to have a special use permit to the extent such use is then legally conforming.
 - 4.2.2 Nonconforming use of land, buildings and structures.
- 4.2.2.1 Any legal nonconforming use of land may be continued; provided, however, that no such use shall be enlarged or intensified, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this chapter, unless specifically allowed by other provisions in this chapter, nor shall any such nonconforming use be moved in whole or in part to any other portion of the *lot* or parcel of land occupied by such nonconforming use at the time of the adoption of this chapter. Any change in use on a parcel of land on which a nonconforming use is located and will be continued, either in whole or in part, shall require Zoning Board of Appeals approval unless a Town Board special use permit is required, in which case Town Board approval shall be required. [Amended 9-13-2005 by L.L. No. 6-2005 EN]
- 4.2.2.2 A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged, extended or altered structurally unless the use therein is changed to a conforming use, except those repairs or modifications as may be determined necessary by the Department of Planning and Development to either correct an unsafe condition or to conform to the requirements of other applicable laws or ordinances.





- 4.2.2.3 No nonconforming use of a *building* or *structure* shall be enlarged or extended, except that any such nonconforming use may be extended throughout any parts of a *building* or *structure* which were obviously or manifestly arranged or designed only for such use at the time of the adoption of this chapter.
 - 4.2.2.4 No nonconforming use shall be changed to another nonconforming use, except as provided herein.
- 4.2.2.5 If a nonconforming use ceases for any reason for a period of one year, or is changed to a conforming use, then any future use of the land, *building* or *structure* shall be in conformity with the provisions of this chapter. Substantial cessation of activities consistent with or required for the operation of such nonconforming use, or substantial vacancy of the *building* or *structure* in which the nonconforming use, was conducted together with substantial cessation of activities consistent with or required for the operation of such nonconforming use shall be deemed to constitute a discontinuance thereof within the meaning of this chapter, irrespective of whether an intention to abandon the nonconforming use may exist. Upon application, however, the Zoning Board of Appeals may extend the one-year period upon finding that it is not reasonable in its application to the particular premises, taking into consideration the characteristics of the use, the investment which has been made in it, the circumstances of the discontinuance and the suitability of the *structure* for a permitted or special permit use in the district in which it is located.
- 4.2.2.6 If any building or structure in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structure was located and the subsequent use of any building or structure erected thereon shall be in conformity with the standards specified by this chapter for the district in which such land is located.
- 4.2.3 Dimensional nonconformity. A *building* or *structure* that is conforming in use but does not conform to the *lot* dimension, yard dimension, height, *building coverage*, *floor area ratio*, off-street parking, off-street loading or other dimensional requirements of this chapter shall be deemed to be dimensionally nonconforming. No permit shall be issued that will result in the increase of any such dimensional nonconformity, but any *building* or *structure*, or portion thereof, may be altered to decrease its dimensional nonconformity.
- 4.2.4 Reconstruction. Should a *building* or *structure*, the use of which, or the use of a portion of which, is nonconforming or which is dimensionally nonconforming, be destroyed or damaged by any means to an extent greater than 75% of the replacement cost of the entire *building* or *structure* used in connection therewith at the time of the reconstruction, as determined by the Department of Planning and Development and any duly authorized assistants, it shall not thereafter be reconstructed or used except in conformity with the provisions of this chapter. Should the damage be 75% or less, it may be reconstructed and any accompanying nonconformity continued, provided that the reconstruction is commenced within one year of the date of such damage and completed within two years of said date, and further provided that the reconstruction shall be conducted in accordance with a plan approved by the Zoning Board of Appeals and designed to result in the greatest reasonable conformity with the provisions of this chapter.
- 4.2.5 Change to other nonconforming use. Upon application, a nonconforming use of land, *buildings* or *structures* may be changed to another nonconforming use upon approval by the Zoning Board of Appeals based upon a finding that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may impose such conditions and safeguards as it may deem necessary or appropriate to further the purposes of this chapter.

4.2.6 Improvement of nonconforming uses. In order that the adverse external effects of nonconforming uses may be reduced, and such uses may gradually be brought into greater conformity with the requirements of this chapter and, upon application to and approval by the Zoning Board of Appeals, the owner of any land, building or structure so used may be permitted to make changes to such building, structure or use in conjunction with a plan whereby through the addition of landscaped screening and buffer areas, control of noise, smoke or odors, the improvement of lighting, architectural changes, redesign of parking areas and access drives, or by any other appropriate means, these purposes may be achieved. The Zoning Board of Appeals may grant approval, or approval with modifications, provided said Board finds that the purposes of this section would be furthered by such action. This procedure shall not supersede any of the rights, powers and duties of the Landmarks Preservation Commission pursuant to Chapter 143 of the Town of Oyster Bay Town Code.

4.3 Provisions Governing Lots. For *lots* located in two or more districts or municipalities, refer to § 246-3.3.5.

- 4.3.1 Lot for every building. Every building hereafter erected shall be located on a lot and there shall be no more than one principal building and its accessory building(s) on one lot, except for multifamily and nonresidential buildings in districts where such uses are permitted.
- 4.3.2 Subdivision of a *lot*. Where a *lot* is formed hereafter from part of a *lot* already occupied by a *building*, such separation shall be effected in a manner which will not impair conformity with any of the requirements of this chapter with respect to the existing *building* and all yards and other required spaces in connection therewith. No permit shall be issued for the erection of a *building* on a newly created *lot* unless it complies with all provisions of this chapter.
- 4.3.3 Irregularly shaped *lots*. Where a question exists as to the proper application of any of the requirements of this chapter to a particular *lot* because of its irregular shape, the Department of Planning and Development and/or any duly authorized assistants shall determine how the requirements of this chapter will apply.
- 4.3.4 New *buildings* on substandard *lots*. A permit may be issued for the erection of a *building* for a permitted use on a *lot* for which a valid conveyance has been recorded prior to the adoption of this chapter, notwithstanding that the area or dimensions of such *lot* are less than that required for the district in which such *lot* is located, provided that:
- 4.3.4.1 The *lot* met the zoning requirements at the time the subdivision plat was filed in the *office* of the Nassau County Clerk, the deed to the *lot* was recorded or the title to the *lot* was conveyed.
- 4.3.4.2 The *building* complies with all yard setbacks and other *building*-related requirements which were in effect at the time of obtaining the *building* permit.





- 4.3.4.3 The *lot* was continuously held in single and separate ownership since the day the *lot* became nonconforming. If that is not the case, such other *lot* or *lots* contiguous thereto which are or were held in the same ownership, or so much thereof as may be necessary, shall be considered to be merged with the first-named *lot* to make one or more conforming *lots*, whereupon a permit may be issued, but only for such merged *lots*. Where the required area or dimensions of *lots* are changed by an amendment to this chapter, any *lot* legally in existence on that date and made nonconforming by such amendment may be built upon as provided in this section.
- 4.3.5 Flag lots. [Added 7-10-2001 by L.L. No. 3-2001; amended 7-22-2003 by L.L. No. 7-2003]
- 4.3.5.1. As a result of the Town Board's concern with the impact of the subdivision and development of reduced area, width and frontage lots, including but not limited to flag lots, upon adjacent properties and upon the neighborhood in which they are located, it is the legislative intent of the Town Board to prevent the creation of any such new or additional reduced frontage lots, except in the R1-1A, R1-2A and R1-5A Residence Districts and then only subject to compliance with all of the following standards and requirements. In all other districts, flag lots shall be deemed to be specifically prohibited.
- 4.3.5.1.1 All yard setbacks for principal buildings, whether front, side or rear, on each flag lot shall be equal to or exceed the minimum required front yard setback applicable in the district in which it is located.
- 4.3.5.1.2 Notwithstanding the minimum access width standard of Paragraph 5 in Section 280-a of the Town Law of the State of New York, the access strip ("pole" portion) of each flag lot shall be at least 20 feet in width and, in accordance with the definition of lot area in § 246-2, shall be excluded in the calculation of minimum lot area.
- 4.3.5.1.3 The "flag" portion of any such lot shall contain a building envelope (area in which principal buildings can be constructed) which is equal to at least 20% of the minimum required lot area in the district in which it is located and which building envelope is at least 50 feet in every dimension.
- 4.3.5.1.4 Any non-flag lot which is a part of a subdivision containing a flag lot shall fully comply with all area, dimensional and setback standards applicable in the district in which it is located.
- 4.3.5.1.5 The total number of lots in any subdivision containing one or more flag lots shall not exceed the number of lots which would have been permitted, in the judgment of the approving agency, if no flag lots were involved.
- 4.3.5.1.6 Prior to approving the creation of any flag lot, the approving agency shall first determine that it will serve to reduce potential disturbance to the natural environment and will result in the placement of the potential new home(s) in an appropriate relationship to neighboring homes and other uses on surrounding properties.
- 4.3.6 *Minimum contiguous buildable area*. As a result of the Town Board's concern for the protection of the environment, and in order to assure that there will be a sufficient area of non-environmentally sensitive land available for the proper development of new homes and their customary accessory uses on any new residential *lot* created subsequent to the effective date of this amendment, any such *lot* shall contain a *minimum contiguous buildable area*, as defined herein, of not less than the following size: [Added 6-24-2008 by L.L. No. 8-2008]

With On-Lot With Central Sewage Sewer

District	(squ	are feet)	(square feet)
R1-6	6,000	5,000	
R1-7	7,000	6,000	
R1-10	10,000	8,000	•
R1-15	13,000	10,000	
R1-20	16,000	12,000	,
R1-1A	21,000	15,000	•
R1-2A	26,000	18,000	· .

R1-5A 34,000 24,000

4.4 Provisions Governing Yards.

- 4.4.1 Yard for every *building*. No yard or other open space provided about any one *building* for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space which may be required for any other *building*. No yard or other open space on one *lot* shall be considered as a yard or open space for a *building* on any other *lot*.
- 4.4.2 Use of yards. No *building* or *structure* shall be permitted within any minimum required yard except in accordance with the Schedule of Dimensional Regulations EN or as otherwise permitted by this chapter. Any *structure* more than eight inches above finished grade, other than *fences* and walls, shall comply with the minimum setbacks for *accessory buildings*. Notwithstanding the provisions of § 4.4.2.1 below, *buildings* and *structures* shall be considered attached for zoning purposes, unless they are separated by a distance of not less than three feet.
- 4.4.2.1 Encroachments. Encroachments or structural projections into required yard areas which do not conflict with other applicable codes, rules or regulations shall be permitted as follows: [Amended 7-22-2003 by L.L. No. 7-2003; 4-25-2006 by L.L. No. 5-2006]
 - 4.4.2.1.1 In all R1 Residence Districts and the RO Residence-Office District:
- 4.4.2.1.1.1 One-story enclosed additions to the *principal building* containing only an aboveground oil storage tank or an unenclosed aboveground oil storage tank screened with dense evergreen plantings and/or solid fencing extending at least one foot above the top of the tank, may project into one of the required *side yards*, provided that the *side yard* shall maintain a minimum width of five feet at that location.
- 4.4.2.1.1.2 Roof overhangs, canopies and other similar architectural features (not including those roofed-over or otherwise covered features that are enclosed with materials such as glass) shall be permitted to project a maximum of six feet into a required *front* or *rear yard*.
- 4.4.2.1.1.3 Air conditioning condensing units (only if screened with dense evergreen plantings and/or solid fencing), window sills, steps, and other similar architectural features and minor utility *structures*, such as reduced pressure zone devices, shall be permitted to project no more than four feet into any side yard or six feet into any front or rear yard, but in any case not nearer than three feet from any property line.
- 4.4.2.1.1.4 Handicap-accessible ramps shall be permitted to project no more than five feet into any side yard or 10 feet into any front or rear yard, but in any case not nearer than three feet from any property line.
- 4.4.2.1.1.5 Propane tanks screened with dense evergreen plantings and/or solid fencing extending at least one foot above the top of the tank shall be permitted to project a maximum of eight feet into a *side* or *rear yard* only, but in any case not nearer than eight feet from any property line. Propane tanks must also conform to the requirements of the New York State Uniform Building and Fire Protection Code, the Nassau County Fire Marshal and the National Fire Protection Association.
 - 4.4.2.1.1.6 Dormers may project into any required side yard, provided they do not extend beyond

the wall of the existing structure and do not raise the existing main ridge.

4.4.2.1.1.7 Generators may be located up to a maximum of eight feet into a *side* or *rear yard*, but in any case not nearer than eight feet from any property line.

- 4.4.2.1.2 In all Residence Districts and the RO Residence-Office District:
- 4.4.2.1.2.1 One-story enclosed vestibules shall be permitted to project a maximum of six feet in width and five feet in depth into a required *front yard*.
- 4.4.2.1.2.2 One-*story* open and unroofed porches, decks, balconies and terraces not more than three feet above grade shall be permitted to project a maximum of six feet into a required *front* or *rear yard*.
- 4.4.2.1.2.3 Cornices, eaves, gutters, chimneys, windows, canopies and other similar architectural features shall be permitted to project a maximum of two feet into any required yard.
- 4.4.2.1.3 In all Nonresidence Districts, awnings shall be permitted to project a maximum of four feet into a required *front yard*.
- 4.4.2.1.4 On any *lot* for which the Zoning Board of Appeals granted a variance for a yard of deficient width, none of the encroachments listed above, except as identified in § 246-4.4.2.1.1.3, 4.4.2.1.1.4, 4.4.2.1.1.5 and 4.4.2.1.1.6, shall be permitted into such diminished yard.
- 4.4.2.2 Underground setbacks. All setback restrictions as set forth in this chapter shall be applicable below as well as above grade, except that electrical, plumbing, sanitary and drainage facilities, fixtures, pipes, wires and similar accessory utility services shall be excluded where they are located below grade from such abovegrade setback restrictions.
- 4.4.2.3 Average setbacks. In an established neighborhood, as determined by the Department of Planning and Development, with an existing pattern of *front yard* setbacks substantially different from the minimum *front yard* setback required in the district in which it is located, the average setback shall control. If, however, in the opinion of the Department of Planning and Development, there is a predominant pattern of existing *front yard* setbacks which is different than the average setback, the predominant setback may be used instead. Whatever setback is determined to apply, shall apply to both new and expanded construction. Notwithstanding the foregoing, this chapter shall not require any building to be set back more than the maximum required *front yard* setback as set forth in the Schedule of Dimensional Regulations (§ 246-5.3). EN [Amended 7-22-2003 by L.L. No. 7-2003; 4-25-2006 by L.L. No. 5-2006]
- 4.4.3 Corner lots. In the case of a corner lot held in single and separate ownership on January 27, 1953, which lot then had and still has a lot width at the front setback line of less than 200 feet in the R1-2A District, 125 feet in the R1-1A District, 100 feet in the R1-20 District or 60 feet in the R1-6 District, the required front yard depth along the street frontage upon which the building will not face and will not have a principal entrance may be decreased by up to 50% but not less than 20 feet. Other than as described above, a yard equal in depth to the required front yard shall be provided on all street frontages in all residence and nonresidence districts.
- 4.4.4 Visibility at *street* intersections. No wall, *fence* or other *structure* shall be erected or altered, and no hedge, tree, shrub or other planting shall be planted or allowed to grow, in such a way as to obscure or interfere with traffic sight lines as required for safety purposes. Obstructions to visibility which exceed 2.5 feet in height, other than tree trunks, shall be prohibited on *corner lots* in the triangle formed by intersecting *street* right-of-way lines, and a line joining points located along such *street* right-of-way lines, which are 30 feet from the theoretical point of intersection of such lines, as extended.

4.4.5 (Reserved)

4.4.6 Height:Setback Ratio (Inclined Plane) - Oyster Bay Hamlet Residence Design District. Notwithstanding the maximum permitted building height and minimum required yard setbacks as set forth in § 246-5.3, Schedule of Dimensional Regulations, of this chapter, no part of any new or expanded one-family residence located within the Oyster Bay Hamlet Residence Design District, excluding chimneys, dormers and similar architectural features which do not exceed, in total, 10% of the area of the horizontal roof section on which they are located and which do not extend more than five feet above the plane of that roof, shall be permitted to project above the inclined plane represented by the applicable height:setback ratio as set forth in the following table: [Added 2-13-2007 by L.L. No. 4-2007]

Maximum Permitted Height:Setback

Zoning District

Front Yard

Ratio (Inclined Plane)

Side Yard Rear Yard





R1-10 0.7:1 2:1 0.6:1 R1-6 0.8:1 3:1 0.7:1

4.5 Provisions Governing Height.

- 4.5.1 Height of buildings and structures. No structure shall exceed the maximum permitted building height for the district in which it is located except as set forth below or otherwise permitted by law.
 - 4.5.2 Height exceptions in residence districts.
- 4.5.2.1 Spires, cupolas, belfries, parapet walls, chimneys, solar panels, flagpoles, antennas and other similar structures or architectural features covering a maximum of 10% of the horizontal area of the roof on which they are located shall be permitted to be constructed to a height of not more than 10 feet above the portion of the roof on which they are located. The maximum roof coverage provision shall not be applicable to solar panels.
- 4.5.2.2 Permitted public and semi-public buildings, such as schools and places of worship, may have a maximum building height of up to 45 feet, provided that the width of each of the required yards is increased by at least three feet for each one foot of building height above 28 feet.
 - 4.5.2.3 For antennas, see § 246-5.5.4 of this chapter.
- 4.5.3 Height exceptions in nonresidence districts. Spires, cupolas, belfries, parapet walls, chimneys, solar panels, flagpoles, antennas and other similar structures or architectural features covering a maximum of 10% of the horizontal area of the roof on which they are located shall be permitted to be constructed to a height of not more than 15 feet above the portion of the roof on which they are located. The maximum roof coverage provision shall not be applicable to solar panels.
- 4.5.4 Other exceptions. Elevator or stair bulkheads, mechanical equipment, water towers and similar equipment shall be permitted to be located on the roof only if determined necessary by the Department of Planning and Development and only if enclosed or screened and set back a minimum of 10 feet from all roof edges, except 20 feet where within 100 feet of residentially used properties. Where the roof area cannot accommodate such a minimum setback from all edges, the equipment shall be placed in a location which mitigates potential visibility impacts from streets and neighboring properties, but in no event closer than five feet from any roof edge. The aggregate area covered by such features shall not exceed 20% of the roof area, and their height shall not be in excess of 12 feet. [Amended 7-22-2003 by L.L. No. 7-2003]

4.6 Provisions Governing Buildings.

- 4.6.1 Distance between buildings. All buildings, and buildings and structures, shall be separated by a distance of not less than three feet unless attached or abutting. See also § 246-4.4.2 of this chapter.
- 4.7 Provisions Governing Fences and Walls.

- 4.7.1 Fences and walls. The requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall. A fence or wall, or any combination thereof, not located within a required yard shall not exceed 10 feet in height. Fences and walls, including retaining walls, are permitted within required yards, provided that, except in R1-5A, R1-2A and R1-1A Districts, such fences or walls, or combination thereof, do not extend more than four feet above grade in any yard abutting a street, and six feet above grade in any other required yard, and further provided that they do not interfere with vehicular access and sight distance. For the purposes of this section, average setback shall not apply to fences and walls. In the R1-5A, R1-2A and R1-1A Districts, fences or walls, or a combination thereof, up to six feet in height above grade are permitted in any yard. In a nonresidence district, where any fence or wall located within a required yard has a finished or more attractive side, such side shall face the neighboring property or street. Required landscaping in a nonresidence district shall be provided on the side facing into the property, unless the fence is along a street, so as to allow for the maintenance of the landscaping. The height of a fence located along any street or front lot line shall be measured from the existing elevation of the center line of such street. The provisions of this section shall also apply to cultivated living fences consisting of dense natural growth of shrubs, trees or other similar plant material. [Amended 7-22-2003 by L.L. No. 7-2003]
- 4.7.2 Barbed wire *fences*. Electrically charged *fences*, barbed wire *fences* and other *fences* constructed of sharp materials are not permitted within residence districts or along public *streets*. No barbed wire or similar *fence* or any *fence* in which barbed wire or similar wire is used shall be erected, maintained or used except in nonresidence districts, and subject to approval of the Zoning Board of Appeals in accordance with the following conditions and after a public hearing:
 - 4.7.2.1 The *fence* on which barbed wire is to be used is six feet or higher;
- 4.7.2.2 The construction of the barbed wire and *fence* meets the specifications of the Zoning Board of Appeals;
 - 4.7.2.3 The use of barbed wire will not prevent the reasonable and orderly use of adjacent properties;
- 4.7.2.4 The use of barbed wire will not prevent the reasonable and orderly use of permitted or legally established uses in the district wherein the property is located or in adjacent districts;
- 4.7.2.5 The use of barbed wire will cause no undue endangerment of the health, safety and welfare of the populous of the town;
- 4.7.2.6 In a nonresidence district, the use of barbed wire atop a six-foot high or higher chain link *fence* surrounding open storage areas (i.e., car *lot*, industrial supply, equipment, etc.) will inhibit unauthorized access into such areas; and





4.7.2.7 Wherever barbed wire is installed, a *sign* must be posted cautioning the public about said barbed wire.

4.8 Provisions Governing Exterior Lighting. [Added 4-25-2006 by L.L. No. 5-2006]

4.8.1 Exterior lighting. Exterior lighting located in any zoning district shall be directed away from neighboring properties and from adjoining streets and public areas, and shall otherwise be designed so that it will not interfere with the reasonable use and enjoyment of any such neighboring property, street or public area.

4.9 Provisions Governing Gross Floor Area.

Irrespective of the zoning district in which it is located, the maximum permitted gross floor area on any residential lot in the Oyster Bay Hamlet Residence Design District shall not exceed the amounts as set forth in the following table: [Added 2-13-2007 by L.L. No. 4-2007]

Maximum Permitted Gross Floor Area Lot Area (square feet)

Less than 6,000 square feet 40% of lot area

6,000 to 9,999 square feet 2,700 plus 20% of lot area in excess of 7,000 square feet





CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION Chapter 246, ZONING

4.9 Provisions Governing Gross Floor Area.

10,000 to 19,999 square feet 3,300 plus 14% of lot area in excess of 10,000 square feet

20,000 square feet to 1.0 4,700 plus 9% of lot area acre in excess of 20,000 square feet

1.0 to 1.999 acres 6,820 plus 5% of lot area in excess of 1.0 acre

2.0 to 4.999 acres. 9,000 plus 4% of lot area in excess of 2.0 acres

CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION Chapter 246, ZONING

4.9 Provisions Governing Gross Floor Area.

5.0 acres or more 14,225 plus 3% of lot area in excess of 5.0 acres

4.9.1. Oyster Bay Hamlet Residence Design District. Irrespective of the zoning district in which it is located, the maximum permitted *gross floor area* on any one-family residential *lot* in the Oyster Bay Hamlet Residence Design District shall not exceed the amounts as set forth in the following table: [Added 12-16-2008 by L.L. No. 15-2008]

Maximum Permitted
Gross Floor Area
Lot Area (square feet)

Less than 6,000 square feet

40% of lot area

6,000 to 9,999 square feet

2,700 plus 20% of lot area

in excess of 7,000 square

feet

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4.9 Provisions Governing Gross Floor Area.

10,000 to 19,999 square feet 3,300 plus 14% of lot area in excess of 10,000 square feet

20,000 square feet to 1.0 4,700 plus 9% of lot area acre in excess of 20,000 square feet

1.0 to 1.999 acres 6,820 plus 5% of lot area in excess of 1.0 acre

2.0 to 4.999 acres 9,000 plus 4% of lot area in excess of 2.0 acres

5.0 acres or more 14,225 plus 3% of lot area

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4.9 Provisions Governing Gross Floor Area.

in excess of 5.0 acres

4.9.2. All other areas. Irrespective of the zoning district in which it is located, the maximum permitted *gross floor area* on any one-family residential *lot* in all areas of the Town other than the Oyster Bay Hamlet Residence Design District shall not exceed the amounts as set forth in the following table: [Added 12-16-2008 by L.L. No. 15-2008]

Maximum Permitted
Gross Floor Area
Lot Area (square feet)

Less than 6,000 square feet 45% of lot area

6,000 to 6,999 square feet 2,900 plus 30% of lot area in excess of 6,000 square feet

7,000 to 9,999 square feet 3,200 plus 15% of lot area

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4.9 Provisions Governing Gross Floor Area.

in excess of 7,000 square feet

10,000 to 19,999 square feet 3,650 plus 12% of lot area in excess of 10,000 square feet

20,000 square feet to 1.0 4,850 plus 9% of lot area acres in excess of 20,000 square feet

1.0 to 1.999 acres 7,000 plus 6% of lot area in excess of 1.0 acres

2.0 acres or more 9,600 plus 3% of lot area

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4.9 Provisions Governing Gross Floor Area.

in excess of 2.0 acres

4.10 Provisions Governing Slopes. [Added 6-24-2008 by L.L. No. 8-2008]

- 4.10.1 Legislative intent. The Town Board hereby finds that it is necessary to preserve, protect and conserve Oyster Bay's *steep slope* areas for a variety of physical, ecological, aesthetic, recreational and economic reasons related to promoting and protecting the public health, safety and general welfare of present and future residents of the Town of Oyster Bay and surrounding areas. Specifically, the Town Board finds that:
- 4.10.1.1 The disturbance of *steep slope* areas tends to cause erosion and sedimentation at rates in excess of those experienced under more level topographic conditions. Erosion and sedimentation often includes the loss of topsoil (a valuable natural resource) and can result in the disturbance of natural habitats, the degradation of water quality, the alteration of drainage patterns, the gullying of land, the obstruction of drainage structures and the intensification of flooding.
- 4.10.1.2 The inadequately or uncontrolled disturbance of *steep slopes* can also lead to their failure and the mass movement of earth which creates concerns for the safety of persons, wildlife, vegetation and man-made structures.
- 4.10.1.3 The existing vegetation on *steep slope* areas helps to contribute to the attractive visual character of the Town since these areas are normally more highly visible from neighboring properties, roadways and other public spaces than are more level lands.

The avoidance of development on *steep slopes* or, where this is not practical, the careful regulation of such development, can mitigate or eliminate such potential adverse environmental impacts to the maximum extent practicable.

- 4.10.2 Regulations. The regulations established in this section shall apply to any proposed disturbance of *steep slopes*, as defined in § 246-2 hereof.
- 4.10.2.1 Regulated activities. Within any *steep slope* area, no disturbance of the land or any vegetation thereon, other than an activity permitted by right as set forth below, shall be permitted without a permit from the Town of Oyster Bay Department of Planning and Development issued pursuant to the standards, procedures and requirements of this chapter. Notwithstanding the foregoing, if a site plan or special use permit approval is required in connection with the proposed slope disturbance, the slope permit shall be incorporated within such action and shall be subject to approval by the approval authority therefor.
- 4.10.2.2 Activities permitted by right. Within any *steep slope* area, the following activities are permitted by right:
- 4.10.2.2.1 Normal ground maintenance, including mowing, trimming and pruning of vegetation, planting and replanting, and removal of dead or diseased vegetation, provided that such activity does not involve any regrading or other disturbance of the land, and further provided that any such activity conforms with all other applicable ordinances, laws and regulations, including obtaining a tree permit, as required by Chapter 225 of the Town Code, if required.

- 4.10.2.2.2 The customary, ongoing maintenance and repair of existing buildings, driveways, walkways, walls, utilities or other similar structures.
- 4.10.2.2.3 Disturbance required under emergency conditions where such disturbance is necessary to protect persons or property from present or imminent danger, as determined by the Town of Oyster Bay Department of Planning and Development.
 - 4.10.2.3 Standards, procedures and requirements.
- 4.10.2.3.1 Approval authority. The approval authority for all *steep slope* disturbance permits shall be the Town of Oyster Bay Department of Planning and Development, except that, where the proposed *steep slope* disturbance is a part of an application for site plan or special use permit approval, the approval authority for the *steep slope* disturbance permit shall be the approval authority for such other action.





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CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION

Chapter 246, ZONING

4.10 Provisions Governing Slopes. [Added 6-24-2008 by L.L. No. 8-2008]

- 4.10.2.3.2 Application. All applications for *steep slope* disturbance permits shall include the following information, unless waived by the approval authority:
- 4.10.2.3.2.1 The name, address, signature and telephone number of the property owner and applicant, if different. If the applicant is not the property owner, a signed statement by the owner authorizing the application shall be provided.
 - 4.10.2.3.2.2 The street address and Tax Map designation of the subject property.
- 4.10.2.3.2.3 A boundary survey of the property prepared by a licensed professional engineer or land surveyor.
- 4.10.2.3.2.4 A statement that both the property owner and the applicant, if different, will indemnify and hold harmless the Town of Oyster Bay and its representatives against any damage or injury to any person or property in connection with the processing and issuance of the requested permit.
- 4.10.2.3.2.5 A written statement describing the proposed work, the purpose therefor, and why such work cannot be done on a portion of the property which would not impact, or would impact to a lesser extent, the *steep slope* area(s) sought to be protected by these regulations.
- 4.10.2.3.2.6 A site plan, drawn at an appropriate scale and prepared and sealed by a professional engineer, landscape architect, surveyor or other properly qualified person, showing the following information, as appropriate, unless waived by the approval authority:
- (a) Property lines plus existing and proposed structures, on-site sewage disposal systems, wells, drainage infrastructure and other site improvements.
- (b) The specific location of the proposed area of disturbance and the specifications and quantities of all material proposed to be added to or removed from the site, as well as the procedures and timing to be used to undertake such work.
 - (c) Existing and proposed contours at a maximum vertical interval of two feet.
 - (d) The location of all existing steep slope areas within the above referenced area.
 - (e) The delineation of all soil types on the property, as per the Nassau County Soil Survey.
 - (f) The proposed location and type of all surface materials and/or other surface treatments to be
- (g) The details of any proposed surface or subsurface drainage system to be installed, including any special measures designed to provide for proper surface and/or subsurface drainage, both during the performance of the work and after its completion.
- (h) A stormwater pollution prevention plan (SWPPP) prepared in accordance with all applicable requirements of the New York State Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual (New York State Department of Environmental

Conservation, most current versions or their successors). [Amended 9-29-2009 by L.L. No. 9-2009]

CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION

Chapter 246, ZONING

4.10 Provisions Governing Slopes. [Added 6-24-2008 by L.L. No. 8-2008]

- 4.10.2.3.2.7 If the approval authority determines that the extent or nature of the proposed *steep slope* disturbance will be extensive, or that blasting may be involved, it may require such other additional information, including reports prepared by properly qualified professionals, as it deems necessary and appropriate. This required additional information may include, among other things, cross-sections of all proposed disturbed areas, a cut and fill analysis, a blasting plan and/or other such technical studies or information.
- 4.10.2.4 Professional review fees. The approval authority, in reviewing any application pursuant to this section, may refer such application to any independent professional as said authority may determine to be appropriate to advise it with respect to such application. The applicant shall be responsible for reimbursing the cost of such professional review by establishing an escrow account in advance of consideration of the application and/or in advance of the retention of the outside professional by the approval authority. The payment of such fees shall be in addition to any and all other fees required by the Town of Oyster Bay or the County of Nassau.
- 4.10.2.5 Decision. In arriving at its decision, the approval authority shall be guided by at least the following considerations:
 - 4.10.2.5.1 The potential environmental impact of the proposed action.
- 4.10.2.5.2 Alternatives to the proposed action which would eliminate the need for the requested permit or would reduce the potential impact of it.
 - 4.10.2.5.3 The nature and extent of any mitigation proposed by the applicant.
- 4.10.2.5.4 Other mitigation which would serve to reduce potential adverse environmental impacts, including a reduction or change in the nature or scale of the proposed action.
- 4.10.2.6 Start of work. No work of any kind, including site clearing and preparation, shall be undertaken on the subject property prior to the issuance of the required permit and the installation of all erosion and sediment controls required in connection therewith.
- 4.10.2.7 Term. Any permit issued pursuant to this section shall be valid for a period of not to exceed one year from the date of approval, unless otherwise specified by the approval authority. Any such permit shall expire upon completion of the work specified therein.
- 4.10.2.8 Inspection. The property upon which the activity is approved shall be open to inspection by the Department of Planning and Development, or its duly authorized representatives, at any reasonable time and on any day of the week or weekend. The applicant shall notify the Department of Planning and Development at least five working days prior to the start of work for which the *steep slope* disturbance permit has been issued. The applicant, by having made application for such permit, shall be deemed to have granted its consent for inspection. A notice of violation or stop-work order shall be issued if it is found that the applicant has not complied with any of the conditions or limitations as set forth in the permit or has exceeded the scope of the approved activity.
- 4.10.2.9 Certification. Within 30 days of the date of completion of all work for which a permit pursuant to this section has been issued, a certification shall be submitted by a properly qualified professional attesting that all work has been properly completed in accordance with said permit and with any requirements issued pursuant thereto.

4.10.2.10 Continued conformance required. Continued conformance with all requirements as shown on the approved plan shall be deemed to be a condition for the continuation of the certificate of occupancy for the subject property. Any violation of a condition of approval shall be subject to the same penalties as a zoning violation. In addition, the Department of Planning and Development shall not issue any other permit or certificate related to any property for which a notice of violation of these regulations has been served until said violation shall have been resolved to the satisfaction of the approval authority, or to the court, as appropriate.

4.11 Provisions Governing Roof Pitch. [Added 6-24-2008 by L.L. No. 8-2008]

4.11.1 Sloped roofs. No building permit shall be issued for a new one- or two-family dwelling, or for any expansion of an existing one- or two-family dwelling which involves the construction of a new roof, unless the roof pitch is no less than 6:12.



CODE OF THE TOWN OF OYSTER BAY NEW YORK, v69 Updated 12-01-2009 PART II GENERAL LEGISLATION
Chapter 246, ZONING

4.11 Provisions Governing Roof Pitch. [Added 6-24-2008 by L.L. No. 8-2008]

4.11.2 Flat roofs. Notwithstanding the foregoing, building permits may continue to be issued for the construction or expansion of flat-roof dwellings in the R1-20 or larger minimum lot size residence districts if located on a lot which complies with all dimensional requirements of the district in which it is located.

4.12. Tree Planting Requirements. [Added 7-14-2009 by L.L. No. 8-2009]

- 4.12.1 Street trees. As a condition pursuant to the issuance of a building permit for the construction or reconstruction of any *one-* or *two-family dwelling*, but not including additions or renovations to an existing *dwelling*, the applicant shall agree to plant, prior to the issuance of the certificate of occupancy, at least one street tree for each 35 feet, or major portion thereof (50% or more), of *street frontage* of the *lot* for which the building permit is sought. Each such tree shall have a diameter at breast height (DBH) of not less than four inches at the time of planting and shall be of a species as listed in § 225-6D of the Trees Ordinance, Chapter 225 of the Code of the Town of Oyster Bay, Nassau County, New York. The location and species of each such street tree shall be subject to the approval of the Superintendent of the Highway Division, Town of Oyster Bay Department of Public Works, or his/her designee.
- 4.12.2 Shade trees. In addition to the foregoing, and also as a condition pursuant to the issuance of a building permit for the construction or reconstruction of any *one-* or *two-family dwelling*, but not including additions or renovations to an existing *dwelling*, the applicant shall agree to plant, prior to the issuance of the certificate of occupancy, at least one new shade tree for each 5,000 square feet, or major portion thereof (50% or more), of *lot area*. Each such tree(s) shall have a diameter at breast height (DBH) of not less than three inches at the time of planting, shall be of a species as listed in § 225-6D or E of the Trees Ordinance, Chapter 225 of the Code of the Town of Oyster Bay, Nassau County, New York, and shall be in a location as approved by the Commissioner of the Town of Oyster Bay Department of Parks, or his/her designee.
- 4.12.3 Protection of existing healthy trees. The tree planting requirements as set forth above shall be waived by the Commissioner of the Department of Planning and Development, or his/her designee, where, based upon input received from the Highway Division of the Department of Public Works and the Department of Parks, it is determined that existing healthy street trees and/or shade trees on the subject *lot* already meet or exceed the above stated requirements. In such a situation, the existing trees shall be properly pruned and adequately protected by the applicant during the construction process, to the satisfaction of the Department of Planning and Development, so that they are in a healthy, undamaged condition at the time of the issuance of the certificate of occupancy for the new or reconstructed dwelling.

§ 246-5. DISTRICT REGULATIONS.

- 5.1 Purposes. In addition to the general purposes of this chapter as set forth in § 246-1, the following specific purposes are set forth for the establishment of residence and nonresidence districts:
 - 5.1.1 Residence districts:
- 5.1.1.1 To promote and encourage a suitable environment for *family* life where safe *streets*, wide yards and quiet neighborhoods are of paramount importance.

5.1.1.2 To achieve a balanced array of housing types, sizes and densities meeting the needs of households of varying ages and income levels, consistent with the character of existing neighborhoods, the need for protection of the natural environment, and the provision of adequate open space, sunlight and air.

5.1.1.3 To avoid, insofar as possible, commercial and through traffic in residential neighborhoods.

5.1.2 Nonresidence districts:

- 5.1.2.1 For the REC Recreation District to help assure the preservation and continuation of existing recreational/open space uses so as to protect the quality and quantity of groundwater recharge, preserve open space and scenic beauty, reduce flooding, meet important recreational and open space needs of present and future Town residents and minimize potential adverse environmental impacts, including groundwater impacts, which might be associated with the redevelopment of such recreational/open space properties for more intensive use. [Added 9-21-2004 by L.L. No. 11-2004 EN]
- 5.1.2.2 For the RO Residence-Office District to allow limited *office* use with minimal community impact on residential sites located adjacent to commercial areas.
- 5.1.2.3 For the OB Office Building District to provide a low density, campus-style *office* environment intended to encourage the development of modern *office buildings* in attractive landscaped settings.
- 5.1.2.4 For the NB Neighborhood Business District to provide the opportunity for the development and maintenance of local-oriented retail and service business uses, as well as multifamily residence uses, in or adjacent to the Town's hamlet centers.
- 5.1.2.5 For the CB Central Business District to provide the opportunity for the development of retail, *office* and service business uses in appropriate locations within downtown areas and concentrated areas of commercial development.
- 5.1.2.6 For the GB General Business District to provide the opportunity for the attractive development of retail, *office* and service business uses with adequate automobile access and off-street parking and loading facilities in appropriate locations along major commercial arteries.



5.4.7.3 Development standards.

5.4.7.3.1 Protection of *natural vegetation*. In furtherance of the purposes and legislative intent as set forth in this chapter, the following limits are hereby established for clearing, grading or other such disturbance of natural vegetation:

5.4.7.3.1.1 Disturbance of natural vegetation. No disturbance of natural vegetation shall be permitted on any lot in an APO District (other than on residential lots which were legally in use for one- or two-familyresidence purposes as of the effective date of this amendment or for changes affecting less than (1.000 square feet). until such time as a building permit, site plan approval, special permit approval and/or final subdivision plat approval is issued. If none of the foregoing are required, no disturbance of natural vegetation shall be permitted until such time as a site disturbance plan is submitted to and approved by the Department of Planning and Development. Such site disturbance plan, as well as any application for site plan, special permit or subdivision approval, shall delineate the specific areas to be disturbed and shall include a statement specifying the purpose and need for such disturbance, e.g., to create a drainage reserve area (DRA) rather than a detention basin (sump). The goals of the site disturbance plan, or any other plan for which approval is required, shall include the minimum necessary disturbance of natural vegetation and the preservation of the contiguity of any remaining areas of natural vegetation to the maximum extent reasonably feasible. The decision of the Department of Planning and Development shall be based upon the standards as set forth in § 5.4.6.3.1.2 below. If revegetation is required, the Department of Planning and Development may require that the applicant post a performance bond in an amount equal to the estimated cost of restoring any disturbed areas to their natural state. The term of said performance bond shall be for a period of not less than one year and shall not be released until the Department of Planning and Development has determined that the disturbance and restoration has been completed in accordance with the approved site disturbance plan, or other approved plan.

5.4.7.3.1.2 One-Family Residence Districts. The maximum permitted *disturbance of natural vegetation* on a residential lot which has an area of 10,000 square feet or greater in a One-Family Residence District and was not legally in use for one- or two-family-residence purposes as of the effective date of this amendment shall be as follows:

Maximum Permitted

Disturbance of Natural

Lot Area Vegetation

10,000 to 19,999 square feet

10,000 square feet plus

40% of lot area in excess

of 10,000 square feet

20,000 to 43,559 square feet

14,000 square feet plus

35% of lot area in excess

of 20,000 square feet

1 to 2 acres (43,560 to

22,250 square feet plus

87,120 square feet)

30% of lot area in excess

of 1 acre

2 to 5 acres (87,120 to

35,300 square feet plus

217,800 square feet)

25% of lot area in excess

of 2 acres

Over 5 acres (over

68,000 square feet plus

217,800 square feet)

20% of lot area in excess

of 5 acres

- 5.4.7.3.1.3 Multifamily and nonresidence uses. The maximum permitted disturbance of natural vegetation for any multifamily or nonresidence use on a one acre or larger lot shall be 30,000 square feet plus 60 percent of lot area in excess of one acre. On a lot which is less than one acre in area, the maximum permitted disturbance of natural vegetation shall be 30,000 square feet. In either case, disturbance of natural vegetation shall be minimized by the approving agency to the maximum extent practicable.
- 5.4.7.3.2 Lot coverage. In furtherance of the purposes and legislative intent as set forth in this chapter, the following limits are hereby established for lot (impervious surface) coverage, except that, in conjunction with the reuse or redevelopment of any existing developed lot that has impervious surface coverage in excess of the maximum permitted limits as set forth below, such limits shall not apply but the amount of lot coverage shall nevertheless be minimized to the maximum extent practicable:
- 5.4.7.3.2.1 One-Family Residence Districts. The maximum permitted *lot coverage* for a residential use on a lot which has an area of 10,000 square feet or greater in a One-Family Residence District and was not legally in use for one- or two-family residence purposes as of the effective date of this amendment, shall be as follows:

Maximum Permitted

Lot Area Lot Coverage

10,000 to 19,999 square feet

4,000 square feet plus 20%

of lot area in excess of

10,000 square feet

20,000 to 43,559 square feet

6,000 square feet plus 12%

of lot area in excess of

20,000 square feet

1 to 2 acres (43,560 to

8,830 square feet plus 10%

87,120 square feet)

of lot area in excess of 1

acre

2 to 5 acres (87,120 to

13,180 square feet plus 8%

217,800 square feet)

of lot area in excess of 2

acres

Over 5 acres (over

23,600 square feet plus 6%

217,800 square feet)

of lot area in excess of 5 acres

5.4.7.3.2.2 Multifamily and nonresidence uses. The maximum permitted *lot coverage* for any multifamily or nonresidence use on a one acre or larger *lot* shall be 22,000 square feet plus 45% of lot area in excess of one acre. On a *lot* which is less than one acre in area, maximum permitted *lot coverage* shall be 22,000 square feet. In either case, *lot coverage* shall be minimized by the approving agency to the maximum extent practicable.





- 5.4.7.3.3 Hazardous materials. The disposal, storage, creation, manufacturing or treatment of any hazardous material is prohibited, except for the storage of such material in sealed containers for retail sale or for normal household use and fuel oil in sound storage vessels for on-site heating purposes. If any expansion is proposed of an existing nonresidential use which manufactures, generates, stores, discharges, uses or is involved in the transport of any hazardous materials either on, to or from a site in the APO District, a groundwater protection plan shall be prepared and submitted for Department of Planning and Development approval. Said plan shall provide a description of both the existing and proposed amount and composition of all such hazardous materials and shall include proposed implementation measures designed to mitigate, to the maximum extent feasible, any reasonable possibility that the groundwater supply may be degraded or contaminated in any way as a result of the approval and operation of the proposed new or expanded use.
- 5.4.7.3.4 Nassau County Department of Health approval. All proposed new residential subdivisions and new nonresidential developments within an APO District shall obtain approval from the Nassau County Department of Health demonstrating compliance with Article X "Groundwater Protection Regulation of Sewage and Industrial Wastewater" of the Nassau County Public Health Ordinance. Wherever public sewerage systems are available, to the extent practical, both multifamily and nonresidential uses within the APO District shall be connected to them.
- 5.4.7.3.5 Revegetation or new planting. Any proposed revegetation or other new planting on multifamily and nonresidential *lots* shall be of such type as will minimize the need for the application of fertilizers, pesticides and herbicides, and shall require minimal water usage through application of the principles of xeriscaping.
- 5.4.7.3.6 Best management practices. Best management practices (BMPs) shall be implemented for all new single-family subdivisions and in connection with the development and operation of multifamily and nonresidential uses in the APO District for the purpose of protecting groundwater and quantity. Said BMPs shall be consistent with generally accepted standards and, in addition to the requirements specified elsewhere in this chapter governing impervious surface coverage, clearing of natural vegetation, and the mitigation of potential impacts posed by hazardous substances in the APO District, may include, but not necessarily be limited to, the following:

Irrigation systems shall be designed to minimize water consumption. Wherever practicable, rain gauges and/or drip irrigation should be used to achieve this objective.

Where feasible, irrigation systems shall utilize recycled water, such as stormwater collected into detention ponds.

To the extent practicable, permeable surfaces shall be used instead of impervious pavement.

To the extent practicable, landscape plantings shall consist of water-efficient and drought-tolerant native or other vegetative species that are adapted to minimal irrigation and are resistant to diseases and pest infestations.

Areas of turf shall be minimized.

Planting designs shall group plants according to their water requirements for efficient irrigation.

Where appropriate, existing soil structure shall be improved by addition of amendments that increase the water-holding capacity of the soil.

An appropriate maintenance schedule shall be established for pruning, fertilizing, pest control and weeding to maintain the water efficiency of landscape plantings.

In general, and where appropriate, the use of drainage reserve areas (DRA's) is preferred to the use of Detention Basins (sumps).

Integrated pest management techniques shall be utilized to the degree practicable, including proper monitoring and soil testing, in order to determine the optimal timing for fertilizer and pesticide application. Site-specific conditions should dictate when these substances are used, rather than a routine application schedule which does not account for actual need.

Slow-release fertilizers shall be used whenever practicable.





Animal waste shall be collected and properly disposed of in a manner that minimizes the potential for groundwater contamination.

On-site mulching and composting including "don't bag it" practices for the management of grass clippings. shall be used in order to reduce the need for fertilizer application.

Solid waste collection and storage facilities shall be properly sealed to prevent leakage to the pound and shall be covered to prevent the infiltration of rainfall into the waste material.

To the extent practicable, traction aids and other suitable practices shall be implemented in order to minimize the use of chemical de-icing materials.

Storm drains shall be stenciled, or otherwise appropriately marked, to warn about the impacts associated with improper dumping of hazardous materials.

Runoff shall receive suitable pretreatment prior to discharge to infiltration structures,

Clean roof runoff shall be piped directly into the ground, rather than being allowed to flow overland in a manner that would mobilize contaminants on the land surface prior to the recharge of this runoff.

For projects that include the creation of man-made water bodies, suitable measures shall be implemented to control waterfowl populations.





- 5.4.7.4 Application requirements. In addition to the applicable requirements for the submission of site plan and/or special use permit applications in accordance with §§ 246-6 and 246-9 of this chapter, site plan and/or special use permit applications within the APO District shall also include a plan delineating all existing and proposed buildings, structures, paved areas and other impervious surfaces, all areas of existing and proposed vegetation, all areas of proposed disturbance to existing *natural vegetation*, all areas where pesticides, herbicides, fertilizers or other such chemicals may be applied and all proposed *best management practices*. The same shall also be required for subdivision applications.
- 5.4.7.4.1 Each subdivision, site plan and/or special use permit application shall also include a stormwater management plan and any other additional information or plans as may be required by the approving agency in order to ensure that the project mitigates, to the maximum extent reasonably feasible, any possible degradation or contamination of the groundwater supply as a result of stormwater runoff. Said stormwater management plan shall demonstrate that appropriate BMPs have been incorporated into the project design, and at a minimum shall include:
- 5.4.7.4.1.1 Suitable maps and associated construction plans and details showing existing site features and proposed alterations, highlighting the location and type of proposed stormwater management systems; and
- 5.6.7.4.1.2 A written statement explaining the natural and proposed drainage systems, a detailed description of projected runoff quantity and quality, and an explanation as to why certain BMPs were chosen for pollution control.
- 5 4.7.4.2 The stormwater management plan shall include provisions for the long-term maintenance of approved management measures, and shall address the degree to which the proposed measures comply with the following general standards:
- 5.4.7.4.2.1 To the maximum extent practicable, the site design shall incorporate natural drainage patterns and vegetation in order to maintain or improve predevelopment stormwater patterns and water quality.
- 5.4.7.4.2.2 To the maximum extent practicable, the generation of pollutants shall be avoided or limited, by means of appropriate source control measures (e.g., controlled usage of fertilizers, pesticides, roadway salts, etc.).





5.4.7.4.2.3 To the maximum extent practicable, runoff velocities and volumes shall be moderated in order to reduce the likelihood of pollutant transport, by means of measures such as directing flow over grassed water quality swales or other vegetated areas, storing runoff in constructed ponds or wetlands, and installing sand filters, organic filters and/or similar systems capable of removing nitrogen from stormwater.

5.4.7.4.2.4 Site runoff shall not be discharged directly to rivers, streams, or other surface water bodies, wetlands or vernal pools.

5.4.7.4.2.5 In addition, new infiltration structures installed for stormwater management shall be separated:

- [1] At least four feet vertically from the seasonal high water table;
- [2] At least 100 feet horizontally from any water supply well; and
- [3] At least 25 feet horizontally down-gradient from any subsurface sewage disposal system.
- 5.4.7.5 Conservation (cluster) development. The Town Board of the Town of Oyster Bay, pursuant to the authority granted to it by § 278 of the Town Law of the State of New York, and in furtherance of the purposes and legislative intent as set forth in this chapter, may permit or require applicants for subdivision approval in the Towns One-Family Residence Districts, to apply for conservation (cluster) development subdivision approval, except that in the case of properties which are 20 acres or larger and located in an APO District, conservation development shall be mandatory. In addition to the goal of increasing the amount of open space and *natural vegetation* to be preserved, any such conservation development plan shall also seek to maximize the contiguity of such preserved areas as well as the quantity and quality of groundwater recharge. The Town Board in each case may specify the minimum permissible lot area for one-family dwellings, the types of dwellings to be permitted, and any other special standards as it may determine appropriate, taking into consideration the size, location and nature of the property involved, as well as the purposes of this Chapter. The procedure for so doing shall be as set forth in § 5.4.1 of this chapter.
- 5.4.7.6 Nonconforming uses. Any legally existing use made nonconforming by this Section may be continued subject to the provisions of § 246-4.2 of this chapter.





Exhibit J

December 17, 1999 Survey Map and Easements



day of Movember

Magare 1

THIS INDENTURE, made the

BETWEEN

of New York, with its prin Hemlock Drive, Brookville, a corporation of the State of (no number) H MEADOW WOODS CORPORATION, a ing by wirene of the laws capal place of business at New York,

party of the first part, and

D VILLAGE OF SEA CLIFF, a municipal corporation with and principal place of business at No. (Now) Sea Cliff Cliff, New York, INCORPORATED its office a Avenue, Sea

party of the second part,

WITNESSETE, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

QUINC XDEXCOOK XEKEKEKE, XSICHBICK, ANUL, that mentains plots pienesconspanselvolsdauch with Aberbult. Asingrand kningsinalites

facilities over as follows: easement in perpetuity to maintain drainage those strips of land bounded and described An all

situate, Town of Oy Town of Oy Sea Cliff, Tiff, Tiff, Tiff, Tiff, Tiff, S. 1.953 ALL those certain plots, pieces or parcels of land situate, and being in the Incorporated Village of Sea Cliff, Town of Bay, County of Nassau and State of New York, shown as the 10 Drainage Easement Areas of the Incorporated Village of Sea Con a certain map entitled "Map of property of Newell and Dan Sea Cliff, made for Meadow Woods Corp., situated at Sea Clif Nassau County, N. Y., surveyed by Charles E. Ward, P. E. & Incorporate and filed in the Office of the Clerk of the County of Nassau on February 11, as Map No. 5708.

Management of the Control of the Con TOGETHER with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AN We that partyon a thorities that known and the any the are the are the are thorities and any things that the party of the party of the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

N PRESEN

DEC T 2 480

MOONS MEADOW

CORPORATION

By

On the personally came

<u>5</u>

LILLE UNDERWRITERS NEM KOKK BOYED lo mioi brebneil

RECORDED AT REQUEST OF

WITH COVENANT AGAINST GRANTOR'S ACTS

The land affected by the within instrument

lies in Section At in Block Land Map of the County of

Nacgain and Sale

INCORPORATED VILLAGE OF

DEEDS

MG. W LT || G! 330

INVIALO ALATENIO THE THOU AS LIGHT

16-812 MIN 12 (324) TITLE No.

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

CESSOT OT MEYDOM MOODS CORPORATION THIS AGREEMENT made this 14 day of

corporation duly organized and existing under and by virtue of the Laws of the State of New York having a place of business at 9 Round Hill Road, 1953, between MEADOW WOODS CORP. Success, New York

organized and existing under and by virtue of the Laws party of the first part, hereinafter referred to as the "Property Road, Mineola, Nassau County, New York, party of the second part, Owner", and the Long ISLAND LIGHTING COMPANY, a New York corporof the State of New York, having an office at 250 Old Country hereinatter referred to as the "Lighting Company." duly ation

WHEREAS, the Property Owner herein is the owner in fee

Hew York as shown ugon a map entitled "Map of Property Wewell an Sea Cliff, Lassau County, N.Y." and filed in the Office of the County of Massau on February 11, 1953 as Map No. simple of certain private roads, private rights-of-way and tracts Daniel at Ses Cliff made for Beadow Woods Corp. situated at of land situate at Sea Cliff, Town of Oyster Bay, Massau Clerk of the

NOW, THEREFORE, THIS AGREEMENT WITNESSETH:

That for and in consideration of the premises and covenants herein contained, and of the sum of One Dollar (\$1.00) The Property Owner hereby grents unto the each party to the other in hand paid, the receipt of which is respective successors and assigns, hereby agree as follows: nereby acknowledged, the parties hereto, for themselves,

construct, reconstruct, relocate, operate, repair maintain and at its pleasure remove single lines of poles includ Lighting Company, its successors and assigns, the easement and FIRST right-of-way to

... ... wires, fixtures and other apparatus on said poles as said relocate, operate, repair, maintain, and along the following described strips of maintenance of electric single pole distribution lines, and underground electric conduit systems time to time doom necessary together with the necessary man-holes and accessories for the many poles and such cross-arms, guys, stubs, anchors, maintenance of underground electric conduit systems, in, on, Lighting Company may now and from reconstruct, and at its pleasure remove through land and easements:--EASEMENT #1 construct, under, over, cables, os Sur 0

Eat #36 as shown upon a map hereinabove referred to; running thence in a northerly direction along the westerly boundary line of Lot #36 for a distance of 5.0 feet more or less to a point; running thence in an easterly direction parallel with and 5.0 feet distant northerly from the southerly boundary line of Lot; running thence in a southerly direction along the easterly boundary line of said lot; running thence in a vesterly direction parallel with and 5.0 feet; running then or Lots #36 and #37 for a distance of 10.0 feet; running southerly from the northerly boundary line of Lot #37 to a point in the westerly boundary line of said lot; running thence in a northerly direction along the westerly boundary line of Lot #37 to the point or place of beginning. ng

RASEMENT

EBGINVING at a point in the northwesterly corner of northerly boundary line of said lot for a distance of 5.0 feet northerly boundary line of said lot for a distance of 5.0 feet parallel with and 5.0 feet distant easterly from the westerly boundary line of Lot #74 to a point in the southerly boundary line of said lot; running thence in a westerly circotion along the southerly boundary line of Lots #74 and #75 for a distance of direction parallel with and 5.0 feet distant westerly from the easterly boundary line of Lot #75 to a point in the northerly boundary line of Lot #75 to a point in the northerly along the of said lot; running thence in an easterly direction of beginning.

6# HASEMENT

Lot #39; running thence in an easterly direction clong the northerly boundary line of said lot for a distance of 5.0 feet more or less to a point; running thence in a southwesterly direction parallel with and 5.0 feet distant southeasterly from the northwesterly boundary line of Lot #39 to a point in the souther westerly direction along the southerly and southwesterly boundary line of and #39 for a distance of 10.0 feet more or less to a point; running these for lot of set more or less to a point; running the southerly and southwesterly boundary line of Lots #38 and #39 for a distance of 10.0 feet more or less to a point; running thence in a northeasterly direction parallel જ લે neo 5274 Mie 577 utheasterly terly boundary direction the point or sald lot; running e northeasterly beginning. with and 5.0 boundary lin line of said along the ne place of beg

EASEMENT #4

ဝ ့ ဦ e southerly boundary ction along the north-Lot #45; running thence in a westerly direction along the southerly boundary line of Lot #45 to a point in the northwesterly boundary line of Lot #45 to a point in the northwesterly boundary line of Lot #41 to a point in the northwesterly boundary line of Lot #41 to a point in the northwesterly boundary line of Lot #41 for a distance of 10.0 feet more or less to a point; running thence in a southeasterly direction parallel with and 10.0 feet the first in the southwesterly boundary line of Lot #41 to a point in the southwesterly boundary line of Lot #45 to a point in the southerly direction parallel with and 10.0 feet distant northerly from the southerly boundary line of Lot #45 to the point or place of beginning.

EASEMENT #5

EGGINMING at a point in the northwesterly corner of 10 th #29; running thence in an easterly direction along the norther—
19 boundary line of said lot for a distance of 5.0 feet more or less to a point; running thence in a southerly direction parallel of fidge lene distant easterly from the westerly boundary line of said lot; running thence in a southerly direction on a straight line across wood flage lene 13.0 feet more or less distant due east from a point at the southerly direction on a straight line across idealine of wood Ridge lene with the westerly from a point stene 13.0 feet distant easterly from the westerly side line of Orchard Lane to a point 5.0 feet distant southerly direction parallel with and a southwesterly direction parallel with and a southwesterly direction parallel with and 5.0 feet distant souther easterly from the westerly from the prolongation of the northwesterly direction of and the northwesterly direction of and the northwesterly direction and 5.0 feet distant souther of the figure in a westerly from the southerly boundary line of said loff running thence in a westerly direction along the southerly boundary line of the figure to a point in the southerly boundary line of said loff running thence in a northeasterly boundary line of ceft distant northerly direction along the westerly from the westerly from the southeasterly boundary line of ceft distant of Orchard Lane to a point in the southeasterly boundary line of ceft distant line of orchard lane to a point in the southeasterly boundary line of loff from the southeasterly direction along the westerly side line of crome in a northerly direction along the westerly boundary line of loff from the southeasterly direction as a straight line of loff said lof; running thence in a northerly direction along the southeasterly boundary line of loff said lof; running thence in a northerly direction along the southerly direction as a straight line of loff said loff; running thence in a northerly direction slong the southerly direction as a straigh ដូ

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ريون. ت and 5.0 feet distant westerly from the easterly boundary line of Lot #70 to a point in the northerly boundary line of said lot; running thence in an easterly direction along the northerly boundar line of Lot #30 to the point or place of beginning.

EASEMENT //6

BEFINATIVE at a point formed by the intersection of the northwesterly boundary line of Lot #H\$ with the easterly boundary line of Lot #H\$ with the easterly boundary line of Lot #H\$ with the easterly boundary line of Lot #H\$ for a distance of 5.0 feet to a point; running thence in an easterly direction on a straight line of Lot #H\$ distant 5.0 feet southersterly from the northeasterly boundary line of and lot; running thence in a southeasterly from the northeasterly boundary line of said lot; running thence in a southeasterly direction along the southersterly boundary line of Lot #H\$ to make southersterly direction anortheasterly direction along the southersterly direction along the southeasterly from the southeasterly direction along the southeasterly from the southeasterly boundary line of said lot; #H\$ to a point in the westerly boundary line of said lot #H\$ to a point in the easterly boundary line of said lot #H\$ to a point in the easterly boundary line of Lot #H\$ thence in a westerly direction on a straight line easterly boundary line of Lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly boundary line of lot #H\$ thence in a southerly direction along the easterly direction easterly direction easterly din the easterly direction easterly direction easterly direction ea 7

GABUMENT #7

BEGINATING at a point in the northwesterly corner of boundary line of said lot for a distance of 5.0 feet more or less to a point; running thence in a southerly direction parallel with and 5.0 feet distant easterly from the westerly boundary line of running thence in a westerly from the westerly boundary line of said lot; running thence in a westerly direction along the southerly boundary line of Lots #55 and #55 for a distance of 10.0 feet more or less to a point; running thence in a northerly direction parallel with boundary line of said lot; bunning thence in an easterly direction along the northerly boundary line of said lot; line of Lot #55 to the point or place of beginning.

HASHMENT #8

DEGINATING at a point formed by the intersection of the northwesterly boundary line of Lot #55 with the southwesterly direction along the northwesterly direction and 5.0 feet more or less to a point; running thence in a souther southwesterly boundary line of Lot #57 for a distance of from the southwesterly boundary line of Lot #57 to a point in the casterly boundary line of Lot #57 to a point in the casterly boundary line of Lots #57 and #56 for a northwesterly direction parallel with and 5.0 feet distant souther a northwesterly direction parallel with and 5.0 feet distant souther westerly from the northwesterly boundary line of Lots #56 to a point in the northwesterly boundary line of said lot; running thence in a northwesterly boundary line of said lot; running thence in a northwesterly direction along the northwesterly boundary line of said lot; running thence in a hortheasterly direction along the northwesterly boundary line of said lot; running thence in #56 to the point or place of beginning. ₫

BASTMENT #9

che the intersection of at a point formed by BIRGINNING

of the northwesterly boundary line of Lot "22 with the southwester of boundary line of Lot "21 for a distance of along the northwesterly direction about the northwesterly boundary line of Lot "21 for a distance of the southwesterly boundary line of Lot "21 to a point in the southwesterly boundary line of Lot "21 to a point in the southwesterly boundary line of said lot; running thence in a southwesterly direction along the southeasterly boundary line of southwesterly direction along the southeasterly boundary line of southwesterly direction parallel with and running thence in a northwesterly direction parallel with and but was to a point in the northwesterly boundary line of said lot; running thence in a northwesterly direction along the north-lot; running thence in a northwesterly direction along the north-lot; running thence in a northwesterly direction along the north-lot; running thence in a northwesterly direction along the north-vesterly boundary line of Lot "22 to the point or place of beginning.

BASKAKKT #10

SERRICIES of a point formed by the intersection of the southerly side line of Wood Nedge Lene to a point diection along the southerly side line of Wood Nedge Lene to a point in the institution state in southerly seekerly direction along the southerly course of Let Wil, running there in a spinit in the institution of the southerly course of Let Wil, running there is a point in the server in t westerly er the nor the ction slong the nor the easterly in the easterly in the casterly in the content of the nor the content of the content running thence in a general easterly direction clong the northerly side line of Mood Ridge Lane to a point in the easterly boundary line of Lot #27; running thence in a southeasterly direction on a straight line across Wood Ridge Lane to a point in the prolongation of the mortheasterly boundary line of Lot #555 distant 13.0 feet northearly from the southeasterly direction parallel with and 13.0 feet distant northwesterly from the southeasterly from the southeasterly direction parallel with and 13.0 feet distant northwesterly from the southwesterly side line of an 13.0 feet distant westerly from the easterly side line of northerly boundary line of Lot #58; running thence in a northerly side line of Nood Ridge Lane to a point in the prolongation of the northerly boundary line of Lot #28; running thence in a northerly direction on a straight line of Lot #22; running thence in an easterly direction on a straight line of Lot #22; running thence in a northerly side line of with an all 2.0 feet northerly from the southerly side line of Wood Ridge Lane is northerly from the southerly side line of Wood Ridge Lane to a point in the westerly side line of Wood Ridge Lane to a point in the westerly side line of Wood Ridge Lane to a point in the westerly side line of Wood Ridge Lane to a point in the westerly side line of Wood Ridge Lane to a point in the westerly side line of Wood Ridge Lane to a point in the westerly side line of with and 13.0 feet distant northerly from the southerly side line of Wood Ridge Lane to a point in the westerly side line of Littleworth Lane to the point or the westerly side line of Littleworth Lane to the count or the besterly side line of Littleworth Lane to the westerly side line of Littleworth Lane to the westerly side line of Littleworth Lane to the westerly all the westerly beneficially and line of Littleworth Lane to the westerly all the lane to the count of the westerly side line to the lane to the count of the count of the lane to the count of the count of the lane to the count of the l

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domestic corporation of the State of New York, having its principal office Lone Wood

horeinatter referred to as the "Grantor" and the NEW YORK TELEPHONE COMPANY, corporation of the State of New York, having its principal office at 140 West Street, New York City, New York, hereinafter referred to as the

the Grantor owns in a fee a certain section of land situated et See Cliff, Town of Oyster Bey, State of New York, and known as WHEREAS

WEWELL AND DANTEL

and shown on Map of said land " attached hereto and hereby , New York, Nassau in the County of "Exhibit egreement. marked

NOW, THERMPORE, WITNESSEIR;

the parties hereto for contained and of the sum of One Dollar (\$1.00) by each party to the other in themselves, their respective successors and assigns hereby agree as follows: That for and in consideration of the premises and convenants herein the receipt of which is hereby acknowledged, paid, hand

FIRST: The Grantor hereby grants unto the Company, its successors and assigns, the right, privilege and authority to construct, operate, repair crosserms, guys, stubs, anchors, cables, wires and fixtures as the Company may and the highways adjoining or upon, over, under and along the said land "Exhibit A , with the right to trim from time to time any trees along and to attach to trees on said cables and wires free and clear from interference company may from time to time deem necessary.

conduits, ducts, pipes, appurtenances and manholes as the Company may from time to time deem necessary, together with the right, privilege and authority to place, operate and maintain in said underground facilities the necessary ables, wires and other apparatus. apany, its succe ty to substitute SECOND: The Grantor hereby grants unto the Compeassigns, the further right, privilege and authority lines upon, over and along the said land and highwellines, and/or supplement them with such underground luits, ducts, pipes, appurtenances and manholes as the oole i

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Grantor hereby grants unto the Company, its successors ight to permit the attachment of the communication and res and facilities of other public utility companies and other companies an interest in the rights granted under and assigns, the rigi electric service wir to convey to such oth

DEED 5399 PARK 558

y, its emplance of the it under from any time occur

IN WINNESS WHEREOF, the parties hereto have caused these pr

the day and year first above written

to be duly executed,

ASSISTANT SECRETARY

9

NEW YORK TELEPHONE COMPANY

Meadow Megggsnegord

APPROVED AS TO FORM RALPH W. BROWN V. P. & G. C.

uny or hetween Meadow Woods Corp., of 9 Round y of Nassau, State of New York, part y of the , a domestic corporation having an office for the transaction of Cliff, N. Y., party of the second part. nineteen hundred and folls, assistantingson Road, Leike Success part, and the SDA CLIFF WATER principal business at 625 Prospect A THIS INDENTIORE

WITNESSETH: That the part V of the first part, in consideration of One (\$1.00) dollar and other good and valuable considerations paid by the party of the second part, do ess hereby give, grant and convey mate the said party of the second part an easement for the laying, repairing and replacing of any and all water mains, hydrauts and conduits upon the following described property:

Beginning at a point on the northerly line of Bryant Avenue distant 238.78; easterly from the easterly line of Prospect Avenue, formerly known as Shore Road, and running thence, northerly the following two courses;

1 - north 110 45; 00w east 179.43; to the southerly end of Wood Ridge Lane as shown on Map of Property Newell & Daniel at Sea Cliff filed in the Nassau County Clerk's Office February 11, 1953 as file No. 5708; then ce easterly along the southerly end of Wood Ridge Lane 10.12; along the arc of a saverily along the southerly end of Wood Ridge Lane 10.00 and whose chord bears south 500 03* 40° east 10.11; then ce southerly the following two courses;

1 - south 310 18: 00° west 176.20;

2 - south: 110 45' 00° west 176.20;

2 - south: 110 45' 00° west 176.20;

2 - south: 110 45' 00° west 176.20;

Chance north 730 44; 00° west 10.03; along the northerly line of Bryant Avenue;

10 - south 730 44; 00° west 10.03; along the northerly line of Bryant Avenue;

2 - south: Thace of beginning.

10 - south 730 44; 00° west 10.05; along the northerly line of Bryant Avenue;

2 - south: Wew York,

to have and to hold the above granted easement unto the party of the second part and its assigns forever, and the said part Y of the first part does hereby remise release and quit claim unto the party of the second part y of the first part does hereby sell assign, transfer and set over unto the said party of the second part, all the right and title of the part Y of the first part of, in and to any and all water pipes, water mains and water conduits and hydrants located on the premises hereinabove mentioned and the said party, of the first part does hereby agree to warrant and defend the said described water pipes, water conduits and hydrants, etc., unto the said party of the second part, its successors and assigns against all and every person or persons whatsoever.

ELIFF WATTER COMPANY is to make the necessary taps to supply water but all in acceptance of applications.

and seal hereunto set Itsnand of the first part ha S Southereof the party share written.

STATE OF NEW YORK

101

depose and say that he resides incl. of Flower Lo. 1995 and say that he resides incl. of Flower Lo. 1995 and corporation described ows the corporate seal of said corporation; that the seal was so affixed by order of the Board of Directors of said On this If day of Melver A to me lanown, who being by me duly sworn did that he is the Melver for the more from the melve for the more from the melve for said instrument; that he keep to said instrument is such corporate seal; that it ration, and that he signed his name thereto by 海心聲

h h. William

STATE OF NEW YORK

COUNTY OF

before me personally came executed the foregoing instrument, and acknowledged ay of , 19 , 19 , dividual described in and who c

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/F ISSITION

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G. H. IS

Mesdow Woods Gorp

sea Cliff Water Co.

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H.L. Schaefer St. 18 14 Schaefer St. 18 NY New York S. NY Attorney for Sea Cilif Water Go