Remedial Action Work Plan

70 Nardozzi Place
New Rochelle, New York

Prepared for:

G&S Investors
211 East 43rd Street
New York, NY 10017

May 2017

JMS Project # 2015.191

Prepared by:

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Table of Contents

FIGURES

APPENDICES

1 Introduction

JM Sorge, Inc. (JMS) has prepared this Remedial Action Work Plan for the Site located at 70 Nardozzi Place, New Rochelle, NY herein referenced to as ("Site"). It is designated as Block 564 and Lot 2 on the New Rochelle Tax Map. A site location map is presented as Figure 1. The Site is the parcel of land between the Nardozzi Place and the Costco Parking lot (Figure 2). The Site is being developed as a public works storage and maintenance yard on the first level with retail and associated parking on the second floor (Appendix A). The Site consists of approximately 3.4 acres that is undeveloped within a commercial area of New Rochelle, NY. The Site is partially fenced in and bordered to the east by the Costco retail facility and parking lot, to the west by the Ashley's Furniture retail facility and parking lot, to the west by Nardozzi Place, and to the north and east by Industrial Lane and the Home Depot. There are currently no utilities at the Site.

1.1 Scope and Purpose of Document

Soil investigation results confirm that the Site is impacted with metals and polyaromatic hydrocarbons, similar to incinerator operations impacts found on the adjacent parcels. The primary receptor concern is direct contact with the fill soils. Therefore, a similar remedy that was previously approved by New York State Department of Environmental Conservation (NYSDEC) for the adjacent parcels is being proposed for the Site; which consists essentially of installing and engineering control to isolate the fill soils as discussed in this workplan.

The Remedial Action Work Plan (RAWP) has been prepared and provides sufficient information for the establishment of remedial action objectives, evaluation of remedial action alternatives, and selection of a remedy.

The proposed remedial action includes:

1. Installation of a site wide low permeability cap;
2. A gas venting system; and
3. Long term monitoring and maintenance.

This RAWP presents a summary of the investigations at the Site, the selection of possible remedies for the Site, the alternative evaluation process and the results of the remedy selection.

1.2 Site Location and Description

From the 1920s to the 1970s, the site was impacted by the operation of the city's municipal solid waste incinerator and ash disposal practices. The site was never developed and remains vacant. As noted, the Site is adjacent to the former municipal incinerator and the Weyman Avenue Urban Renewal Area. The Weyman Avenue Urban Renewal Area was designated for redevelopment by the municipality after the incinerator was closed. The Weymann Avenue Urban Renewal Area was developed with a Home Depot and Costco retail facilities and

associated parking, etc. The Weymann Avenue Urban Renewal Area is underlain with ash, debris, and other fill soils. Area groundwater is known to be impacted with metals and related contaminants associated with the fill and is not suitable for consumption. The Site is located immediately to the east of the Weyman Avenue Urban Renewal Area and due to its proximity to the former incinerator, was also impacted by those operators. Currently there are no institutional or engineering controls in place for the Site.

The Weyman Avenue Urban Renewal Area was redeveloped in two parcels, the Front Parcel and the Back Parcel. The parcel of land to the northeast of the Site, Home Depot, is known as the Front Parcel and the parcel of land to the east of the Site, Costco, is known as the Back Parcel. The Front and Back Parcel were remediated prior to development with the installation of engineering controls (i.e., a low permeability cap and a venting system) and an operation and maintenance plan for monitoring the effectiveness of the engineering controls. Groundwater in the area is impacted with ash related contaminants in excess of NYDEC standards.

Subsequent to the development of the Weyman Ave Renewal Area, Remedial Investigation activities were performed at the Site to compile and evaluate data and information necessary to develop remedial action alternatives for the Site. The remedy for the site was developed and selected to ensure protectiveness of public health and the environmental consistent with the anticipated future use.

The anticipated future use of the site will consist of the development of a municipal public works /DOT maintenance and storage yard on the ground level and retail facility with associated parking. The maintenance and storage yard is approximately 75,000 square feet with associated parking. The retail space is approximately 43,000 square feet with approximately 200 parking spaces.

2 Physical Setting

The following subsections present the basic physical descriptions of the Site.

2.1 Topography

The Site is located at the base of the New England Province of New York. Elevations on the property range from approximately 20 to 60 feet above mean sea level. A copy of a portion of the United States Geological Survey (USGS) topographical map for the Site is provided as Figure 1.

2.2 Geology

The Site is located on the Hartland Formation, part of an Allochthonous Sequence consisting of amphibolite and pelitic schist deposits from the Ordovician (480 million years old). At the Site, bedrock was not encountered in borings advanced to 20 feet below ground surface (bgs).

2.3 Hydrogeology

The depth to ground water in the fill on this site varies from 2 to 8 feet below grade. Ground Water flow is expected to follow parallel to the length of the Site towards the south west. The Long Island Sound and its inlets and perennial creeks lie within a half-mile of the site.

2.4 Soils

Information regarding the soils in the Site area was obtained through a review of the soil maps contained in the USDA survey. The predominant soil type on the site is a gravelly loam, Udorthents, smoothed (Ub) 0 to 8 percent slopes.

Soil Borings were completed by JMS during the collection of surface and subsurface soil and groundwater samples for the 2008 Investigation. The soils on-site consist of fill underlain by meadow mat and gray sand. The fill consists of organic material, black top soil, brick, concrete, metal, glass, asphalt, ash, and other material. Bedrock was not encountered during the site investigation activities, as bedrock in Westchester county is approximately 60 feet below sea level.

3 Previous Investigations and Neighboring Sites

JMS conducted a records search of the Site in July 2016, however, the search returned no records. The only records available for review for the Site were those related to the Weyman Avenue Urban Renewal Area that were provided by Mr. George Heitzman of the NYS DEC.

In June 1994, a Conceptual Closure Plan was prepared for the Front and Back Parcel of the Weyman Avenue Urban Renewal Project (Weyman Avenue), which was historically impacted by the incinerator and ash generated by that facility. The Weyman Avenue Urban Renewal Project bordered the subject Site to the east but did not address this site. Subsequent investigations confirmed that this parcel was also impacted by the incinerator operations. The Weyman Avenue plan consisted of the installation of engineering controls (i.e., a low permeability cap and a venting system) and an operation and maintenance plan for monitoring the effectiveness of the engineering controls. These controls were designed to limit future exposure to the fill materials found at the Site and related impacts.

Test pits and soil sampling conducted by JMS between 2004 and 2008 confirms the Site is impacted with material similar to that of the surrounding portions of the Weyman Avenue Renewal Area.

4 Summary of Remedial Investigation

JMS conducted soil, groundwater and soil gas investigations at the Site. Test pit and soil boring observations confirm the presence of ash and other fill material similar to that previously identified throughout the Weyman Avenue Urban Renewal Area. The concentrations of PAHs

and metals detected above ISCC and CSCC are indicative of historic fill and incinerator impacts. Fill material is present throughout the Site and contains metals and PAHs at concentrations exceeding NYSDEC's Remedial Program Soil Cleanup Objective Unrestricted Use. The adjacent property to the east is elevated above this Site and is constructed on native soil. The properties to the west comprise the Weyman Avenue Urban Renewal Area and have been remediated and capped and are constructed on ash and fill.

The fill material was generated by a waste incinerator that was previously operated in this area and was deposited on-site. The fill has been vertically delineated to a maximum depth of approximately 20 feet below original site grade. The fill extends to the Site boundary, as the lot to the east has been remediated, and the lot to the west was not impacted. The primary potential exposure pathway for soil at the Site is direct contact. Groundwater sampling results confirmed the presence of barium, iron, magnesium, manganese and sodium in excess of the NYS WQS. Of these metals, only barium was identified over the CSCC in soils. It is expected that elevated levels of these metals in groundwater are naturally occurring or a result of the neighboring incinerator operations. No volatiles or semi-volatiles were identified in any of the monitoring wells on the site; however, for several PAHs the quantitation limit was greater than the groundwater standard. The primary migration pathways for groundwater contamination is through potable wells; however, according to the New York State Department of Environmental Conservation Water Wells metadata, there are no potable wells near the Site, this is not expected to be a viable migration pathway. Groundwater sampling completed as part of the Weyman Avenue Urban Area redevelopment confirm that regional groundwater is impacted by former incinerator operations and is not suitable for consumption.

Trichloroethene was detected in one of the 10 soil gas samples collected at levels above applicable guidance standards, but was not detected in soil or groundwater samples. Based on this information, trichloroethene is not a contaminant of concern at the Site and therefore is not considered a significant concern.

The conditions present at the Site are similar to those present at the adjacent Weyman Avenue Urban Renewal Area; therefore, a similar remedy is being proposed for the Site. The proposed remedy for the site consists of the establishment of a Deed Notice, installation of an engineering control (cap) to prevent contact and reduce surface permeability, and the use of a suitable gas venting system below the building. The complete RIR is included as Appendix B.

5 Remedial Goals and Objective (Standards, Criteria, and Guidance)

The overall remediation goal is to mitigate potential adverse environmental and health impacts from the presence of ash fill material. Based on the results of the Remedial Investigation and the proposed redevelopment (Appendix A), the following specific Remedial Action Objectives have been identified for this Site for soils and soil vapor:

5.1 Soils

- Prevent direct contact with contaminated soil
- Prevent exposure to potential soil gas (vapor intrusion) concerns.
- Prevent infiltration and induced migration of fill impacts.

5.2 Soil Vapor

- Prevent migration of soil vapor into occupied structures.

5.3 Surface Water

- Prevent migration of soil contamination via surface water runoff and sedimentation.

6 Remediation Alternatives

The Brownfield Cleanup Program (BCP) requires the analysis of at least three remedial alternatives when the chosen option is not a Track 1 cleanup. This section present an analysis of three remedial options that we developed to address the contamination at the Site.

JMS compiled the following list of potential remedial options to address the soil contamination present at the site for further evaluation.

- No Action
- Institutional and Engineering Controls (IC/EC) (i..e, cap and venting system)
- Soil Excavation

A description of each alternative is provided below.

6.1 No Action

This alternative assumes that no remedial action is taken.

6.2 Institutional and Engineering Controls (IC/EC)

The Institutional and Engineering Controls (IC/EC) that are proposed for this project consist of an environmental easement (IC), a site wide cap (EC) and a vapor barrier system beneath occupied structures (Figure 3). The IC/EC that are proposed and their purpose are discussed below:

- The environmental easement will ensure that the property is used only for its intended purposes (industrial and / or commercial) and will ensure that groundwater at the Site is not used for potable purposes;
- The site wide engineering control (cap) will ensure that there is no direct contact with impacted soils and will reduce/eliminate potential migration of soil contaminants by

reducing percolation on the site and prevent precipitation from contact with impacted fill soils.; and

- The vapor venting system will provide a migration pathway for soil gas to prevent vapor intrusion into occupied structures.

The environmental easement (EE) will be prepared in accordance with available NYSDEC templates as included as Appendix C. The EE details the groundwater use and land use restrictions placed on the property and the environmental obligations of the Site owner to continue to implement the restrictions on Site. This includes, but is not limited to installation and maintenance of an engineered cap and venting system and management of on-Site soils if disturbed in the future.

The engineering control will be designed to provide a barrier to potential contact with fill materials and to minimize infiltration of precipitation into impacted fill. The cap will be an integrated system consisting of building and asphalt-paved parking areas in developed areas and clean soil in undeveloped portions of the site or landscaped areas where impacted fill soil is present. The gas venting system will be designed to allow soil gas to be vented below buildings. The gas venting system will be designed to support an active system (i.e., incorporation of a fan or blower) if necessary.

The designs for both the cap and the venting system will be incorporated into the construction drawings and specifications for the redevelopment of the Site. These controls will be established and implemented before and during redevelopment of the Site. A Site Management Plan would be established to detail the ongoing maintenance and monitoring of the Site and the remedy, and an environmental easement would be established to ensure that the future use of the Site is consistent with the remedy.

6.3 Soil Excavation and Removal

This alternative would consist of the excavation and offsite disposal of all impacted soil at the Site. Prior to removal, complete delineation of all impacted soil would be completed to determine the extent of the contamination.

7 Remedy Evaluation Criteria

The following subsections present a description of the nine evaluation criteria. The first two are rereferred to as threshold criteria, the next six are evaluation criteria and the last is community acceptance.

7.1 Overall Protectiveness of the Public Health and the Environment

This criterion is an evaluation of the remedy's ability to protect the public health and the environment, and an assessment of how risks posed through each existing or potential pathway of exposure are eliminated, reduced, or controlled through removal, treatment, and

implementation of Engineering Controls and/or Institutional Controls. Protection of public health and the environment must be achieved for all approved remedial actions.

7.2 Conforms to Standards, Criteria and Guidance (SCGs)

A Site's remedial program must be designed to conform to standards and criteria that generally applicable, consistently applied, and officially promulgated, that are either directly applicable, or that are not directly applicable but are relevant and appropriate, unless good cause exists why conformity should be dispensed with [6 NYCRR 375-1.0(c)(1)(i)].

7.3 Long Term Effectiveness and Permanence

This criterion evaluates the long-term protection of human health and the environment at the completion of the remedial action. Effectiveness is assessed with respect to the magnitude of residential risks; adequacy of controls, if any, in managing treatment residuals or untreated wastes that remain at the Site; reliability of controls against possible failure; and potential to provide continued protection.

7.4 Reduction of Toxicity, Mobility or Volume of Contamination Through Treatment.

The evaluation criterion addresses the preference for selecting a remedial action alternative that permanently and significantly reduces the toxicity and/or mobility of the detected contaminants. This criterion is satisfied when the remedial action is used to reduce the principal threats at a Site through capping of contaminants and irreversible reduction in contaminant mobility.

7.5 Short-Term Impact and Effectiveness

The effectiveness of alternatives in protecting human health and the environment during construction and implementation of the remedial action is evaluated under this criterion. Short-term effectiveness is assessed by protection of the community, protection of workers, and environmental impacts, during the timeframe of the remedy is implemented to achieve the remedial goals.

7.6 Implementability

A feasible remedy is one that is capable of being successfully carried out with available technology, and can be readily implemented given Site conditions.

7.7 Cost Effectiveness

This evaluation criterion addresses the cost of alternatives, including capital costs (such as construction costs, equipment costs, disposal costs, engineering expenses) and site management costs (cost incurred after remedial construction is complete) necessary to ensure the continues effectiveness of a remedial action.

7.8 Land Use

This evaluation criterion addresses the proposed use of the property. This evaluation has considered reasonably anticipated future uses of the Site. This Site is in a commercially redeveloped area. Therefore, the planned commercial sue is appropriate for the Site.

7.9 Community Acceptance

This evaluation criterion addresses community opinion and support for the remedial action. Observations here will be supplemented by public comment received on the RAWP.

8 Alternative Analysis

The following subsections presents a summary of how each of the alternatives compared to the nine criteria.

8.1 No Action

Since metals and PAHs are present in soils at the concentrations that exceed the NYSDEC Industrial and Commercial Soil Cleanup Criteria (ISCC and CSCC). Although fenced, there is a risk of direct contact with impacted fill soils by humans and burrowing animals in the current condition. Further, precipitation contacts the impacted fill and is directed via overland flow to surface water systems in the area. The no action alternative would allow these conditions to persist resulting in an unacceptable risk to health and the environment and therefore must be rejected.

8.2 IC / EC

The establishment of an environmental easement and installation of engineering controls (caps) satisfies both threshold criteria as it is protective for human health and the environment by reducing the potential for exposure and migration of contaminants. This remedy also satisfies the SCGs by avoiding contact for the anticipated future use of the Site. The summary points for the evaluation criteria are listed below.

- The remedy would effectively reduce the ***long-term*** risk to human health and the environment by reducing exposure and migration of the Site contaminants. Further, the Site Management Plan (SMP) and Environmental Easement (EE) would detail the necessary monitoring and maintenance was conducted to ensure the continued protectiveness of the remedy.
- This remedy would not reduce the ***toxicity or volume*** of the soil contaminants, but it would reduce the ***mobility***, as the contaminants would be contained by the cap and infiltration will be significantly reduced. The venting system would provide a controlled migration pathway for soil gas and prevent exposure.
- Institutional controls and installation of engineering controls (cap and venting system) will have minimal ***short-term*** impacts to the community and workers since the

contaminated material would remain on-Site and in contact with construction workers. Through proper maintenance and working training requirements, exposure to workers during construction and to the adjacent community would be properly managed and controlled. These risks can be adequately mitigated by instituting appropriate protocols as outlined in the Community Air Monitoring Program (CAMP) and Health and Safety Plan (HASP) that will be developed for the project.

- Institutional controls and installation of engineering controls (cap and venting system) is readily ***implementable*** as these caps and venting systems are commonly installed for this purpose.
- Institutional controls and the installation of engineering controls (cap and venting system) is a ***cost-effective*** option for this. This is primarily true as the controls are an integral part of the redevelopment plan for the property.
- This remedy is well aligned with the current and proposed ***land use*** for Site. This remedy also includes as part of the construction a use that will make a currently vacant Site an asset to the local municipality and the owner.

This RAWP will be subject to and undergo public review under the NYS BCP and will provide the opportunity for detailed public input on the remedial alternative and the selected remedial action. This public comment will be considered. Based on the overall goals of the remedial program and anticipated future use of the Site, however, it is the opinion of the project team that the implementation of this remedy would be acceptable to the community.

8.3 Soil Excavation and Removal

Soil excavation and removal of the impacted material satisfies both threshold criteria as it is protective for human health and the environment by eliminating the potential for exposure and migration of contaminants. This remedy would also satisfy the SCGs as it would eliminate the contamination to the within the applicable SCGs. The summary points for the evaluation criteria are listed below.

- Excavation and removal of the contamination may provide the greatest ***long term*** protection, as the excavation and removal would eliminate the contamination and fill content.
- Excavation and removal of the contamination would reduce the ***toxicity, volume and mobility*** of the contamination by eliminating it from the Site.
- ***Short-term*** impacts associated with this remedy will include excess truck traffic and associated vehicular risks within the largely commercial retail setting. Air quality impacts would be significant due to the generation of wind borne dust for a project of this scale even with proper management of the excavation process. Nuisance and related impact to area operations would be unavoidable. The estimated volume of impacted fill

is approximately 75,000 cubic yards which would have to be removed and replaced with acceptable clean material. This will result in several hundred trucks in and out of the facility.

- Excavation and removal is readily ***implementable*** as these techniques are commonly used for soil remediation.
- Excavation and removal is not ***cost-effective*** given the size of the site and volume of the contaminated material. Based on the volume of the site and extent of contamination it is estimated that excavation and removal would cost between 1.5M and 3.0M.
- This remedy is well aligned with the current and proposed ***land use*** for Site, as excavation and removal would support any future development.

Based on the overall goals of the remedial program and anticipated future use of the Site, however, it is the opinion of the project team that the implementation of this remedy would expose the community to avoidable levels of noise, traffic risk, air quality, and general nuisance levels, which are not justified for this project.

9 Alternative Selection

The remedial alternatives analysis was completed by evaluation of all required criterion and the establishment of institutional controls (environmental easement) and installation of engineering controls (cap and venting system) is the preferred remedy. No Action is ruled out is it does not satisfy the threshold criteria, leaving the IC/EC and excavation and removal alternatives for further evaluation. Although both remaining alternatives satisfy the threshold criteria and meet the evaluation criteria to varying degrees, the IC/EC is the preferred option. The excavation option is excessively costly and potentially disruptive to the community and provides no significant reduction in environmental improvement; therefore, it is not the preferred remedy for this site. The IC/EC alternative is recommended by the project team since it meets the primary objectives of health and environmental protection while minimizing impacts to the community and can be achieved in a practical manner using conventional construction methods.

10 Construction Considerations

The following measures will be taken before, during and after the implementation of the project.

10.1 Notification

At least 15 days prior to the start of remedial action activity, the Site owner or their representative will notify the NYSDEC case manager. This notification will include a description of the planned activities.

10.2 Health and Safety

Invasive work performed at the Site will be completed in accordance with applicable local, state, and federal regulations to protect worker and public health and safety, in addition to the Site Specific HASP. Contractors performing redevelopment or maintenance activities at the Site are required to prepare a Site-specific, activity-specific HASP that will include a Community Air Monitoring Plan (CAMP) (Section 10.2). Site-specific training, environmental and personnel monitoring, dust suppression and site control measures and the use of personal protective equipment (PPE) will be implemented in accordance with the SSHP to prevent exposure to site contaminants. In addition, all employees working on the Site will be trained in accordance with OSHA 29 CFR 1910.120 until the implementation of all protective measures have been completed and there are no longer risks to exposure of impacted soils, etc.

10.3 CAMP

During all impacted fill soil disturbance activities, a Community Air Monitoring Plan (CAMP) will be adhered to along with the Site-Specific HASP. The CAMP will satisfy the requirements imposed by the NYSDOH, will be incorporated into the site development plan and shall be in effect during any intrusive activities that will disturb the ash fill. The anticipated CAMP program will include standard meteorological monitoring (wind speed, direction, temperature and relative humidity). Air quality monitoring will include continuous monitoring for fugitive dust, methane, and volatiles with supplemental periodic sampling for metals and PAH compounds as needed to insure air quality objectives are achieved. Specific monitoring levels and corrective actions will be detailed in the SSHASP.

10.4 Material Management

On-Site reuse of excavated materials is anticipated. As per the proposed cut and fill plan, extensive re-use of on-site excavated soil is anticipated. All on-site soil re-use will be overlain by the designed engineering control for the site.

While it is anticipated that onsite soils will be regraded and used as fill on site, it is anticipated that some unsuitable fill material and debris may be encountered and may need to be segregated and properly disposed of at an off-Site facility. In the event this material is encountered during construction, the material will be segregated and sampled, if necessary, and managed for offsite disposal.

Stockpiling of soil is not anticipated. However, stockpiling will be allowed under the following conditions if necessary. Stockpile on-site soil/fill with no evidence of contamination (no staining or elevated PID measurements) may take place in approved areas in approximately 50 cubic yard piles, until removed or required for backfill. If stockpiling is to take place, place, grade and shape stockpiles for proper drainage. Locate and retain soil materials away from edge of excavations and dispose of excess soil material and waste materials appropriately. Stockpiles will be kept covered at all times with appropriately anchored polyethylene sheeting

or tarps. Other measures will be taken in accordance with the Site sediment and erosion control plans.

10.5 Sequence of Implementation

The sequence for implementation is directly related to the proposed site activities. The following estimated sequence is proposed:

- Conduct site sampling in three to four locations across the Site and analyze for Full TCL+30/TAL compounds.
- Conduct groundwater sampling for PAHs and ensure reporting limits are low enough to meet the groundwater standards.
- Installation of required sediment and erosion control measures
- Clearing of undeveloped portions of the site, as required
- Commencement of building and parking lot construction by regrading and compacting existing materials
- Import and clean fill for capping in undeveloped areas, as required
- Placement of the Gas Venting Layer
- Placement of the low permeability backfill layer
- Installation of the storm system, public utilities (gas, electric, telephone), and Gas Venting System
- Installation of the base course, binder course, and top course of the capping system
- Completion of site and building construction

A dated schedule of events will be provided prior to initiation of any site activities.

10.6 Stormwater Pollution Prevention

When remedial actions require the disturbance of more than one acre of land, federal and state laws require that the project obtain coverage under the NYSDEC SPDES General Permit for Storm Water Discharges from Construction Activities that are classified as "Associated with Industrial Activity", Permit #GP-93-06 (Construction Storm Water General Permit). The SWPPP will also address issues such as erosion prevention, sedimentation control, hydraulic loading, pollutant loading, ecological protection, physical site characteristics that impact design, and site management planning. The SWPPP will also include a contingency plan to be implemented in the event that heavy rain events are determined to be impacting water quality in the Site due to cleanup and redevelopment activities. In it anticipated that the SWPPP will be prepared by the site development engineer for the redevelopment of the Site and will include provisions for the soil regrading and capping.

10.7 Fluids Management

All liquids to be removed from the Site, including excavation dewatering will be handled, transported and disposed in accordance with applicable local, State, and Federal regulations.

Dewatering fluids will not be recharged back to the land surface or subsurface of the Site, if they show signs of contaminant impacts. If fluids are deemed impacted, they will be managed off-site. it is anticipated that dewatering will not be required during the redevelopment of the Site.

11 Final Engineering Report

Once the Site remediation has been completed, a Final Engineering Report (FER) will be prepared and submitted to the NYSDEC. The purpose of the FER will be to fully document the implementation of the Site remedy and to certify, by a registered Professional Engineer, that the remedial program activities were implemented in conformance with the NYSDEC-approved Remedial Work Plan. The FER will include a description of the selected remedy, details and supporting documentation of remedial actions performed, and required certifications.

A checklist for FER approval, as provided by the NYSDEC will be used during FER preparation to assist with completeness and will be provided along with the FER submittal. A NYSDEC-prepared FER Template will be used to prepare the FER to achieve consistency with NYSDEC expectations and to expedite NYSDEC review and approval of the FER.

12 Long Term Monitoring

A Site Management Plan (SMP) will be prepared and submitted to the Department for approval. The SMP will include a plan to provide for the inspection of the cap and venting system to confirm that they are working properly. Financial assurance shall be provided in an amount sufficient to cover the cost of compliance with this plan.

12.1 Cap

The capping system will be evaluated on a quarterly basis. The top course (pavement) will be inspected on a quarterly basis with additional attention taken in the spring when potholes and cracks have a greater tendency of appearing. All cracks and potholes shall be repaired immediately upon discovery. As part of the routine maintenance program, the parking lots shall be repaved as needed, but in no event shall the time between repaving exceed the 20 year design life. The repaving shall utilize asphalt meeting the previously described criteria. The concrete flooring will also be inspected quarterly and repaired as needed.

12.2 Venting System

The gas venting system will be monitored annually, or as needed based on Site conditions, specifically for methane, hydrogen sulfide, and VOCs. Periodically the gas venting system shall be cleaned by injecting a nonreactive, nontoxic compressed gas, such as nitrogen. The purpose of this procedure is to avoid clogging of the system and promote continued free movement of the gases through the system. The data gathered during the periodic monitoring will be

assessed to ensure the system is protective. Corrective measures will be taken as needed (i.e., switching from passive to active venting).

12.3 Periodic Review Reports

As required, periodic review reports will be submitted to the NYSDEC to document the continued effectiveness of the remedy, or to provide information regarding corrective measures or modifications.

13 Conclusions and Recommendations

As documented above an evaluation of remedial alternatives was conducted to determine the most appropriate remedy to address the soil and soil vapor contamination at 70 Nardozzi Place. The Site is planned for redevelopment as public works/DOT storage and maintenance yard. Based on the findings the RIR for the Site, PAHs and metals were identified in the soil that require remediation for the anticipated commercial/industrial use at the Site.

The remedial action analysis and evaluation considered three alternatives for the Site; No Action, Institutional and Engineering Controls (IC/EC) (cap and venting system), and soil excavation and removal. The analysis of the alternatives with respect to the evaluation criteria, and the anticipated future use, resulted in the conclusion that IC/EC was the most appropriate remedy for the Site and this remedy is recommended.

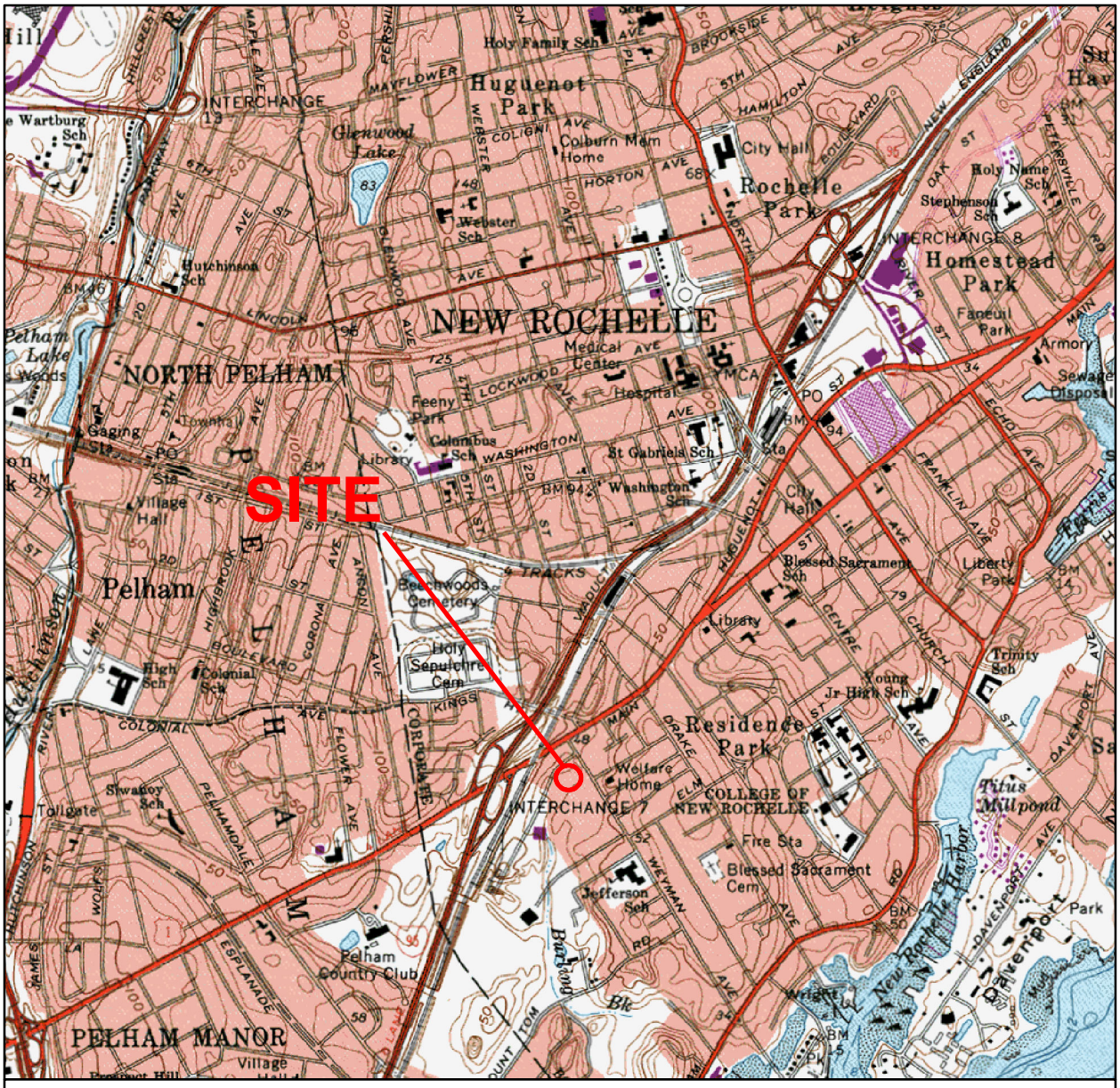
14 PE Certification

I, *Frederick Wilcox Worstell*, certify that I am currently a NYS registered professional engineer and that this Remedial Investigation Report, dated May 2017, was prepared in accordance with all applicable statutes and regulations and in substantial conformance with the DER Technical Guidance for Site Investigation and Remediation (DER-10).

Frederick Wilcox Worstell (NY License #080140)

Dresdner Robin

Figures



SOURCE:
U.S.G.S 7.5
MINUTE SERIES
MOUNT VERNON
QUADRANGLE, NJ

N

scale = 1 : 24,000

SITE LOCATION MAP

GSI NEW ROCHELLE
BLOCK 564, LOT 2
80 NARDOZZI PLACE
NEW ROCHELLE, NEW YORK

PREPARED FOR
G & S INVESTORS

Date: 12/8/2016	JMS # 2015.191.001
JM SORGE, INC.	FIGURE 1

Legend

Property Boundary

NOTES:
1. This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by the NJDEP and is not State-authorized.

2. Property Boundaries are approximate. The borders are based on tax maps provided by NJGIN.

N

0 40 80 160
Feet

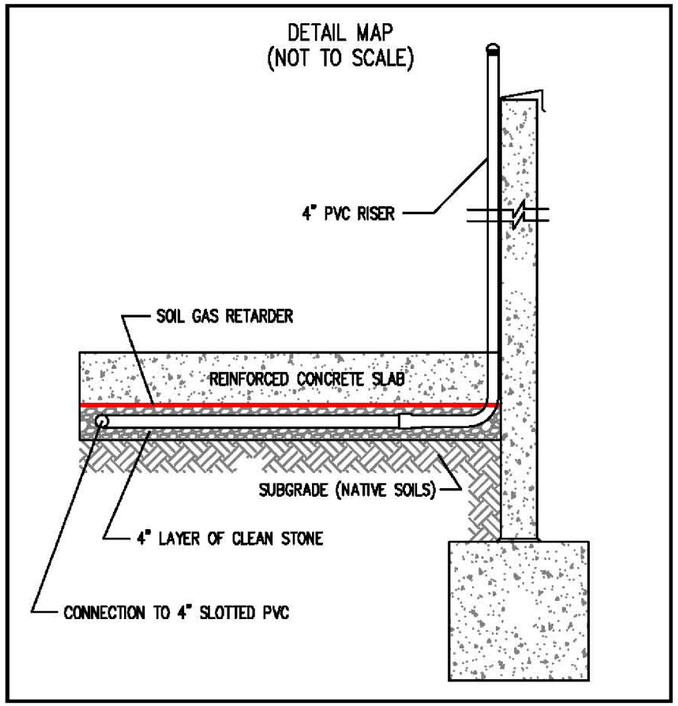
PROPOSED IMPROVEMENTS

GSI NEW ROCHELLE
80 NARDOZZI PLACE
NEW ROCHELLE, NEW YORK

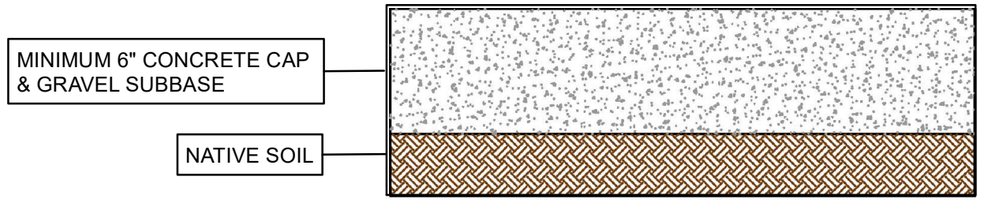
PREPARED FOR
G & S INVESTORS

Date: 12/8/2016	JMS # 2015.191.002
JM SORGE, INC.	FIGURE 2

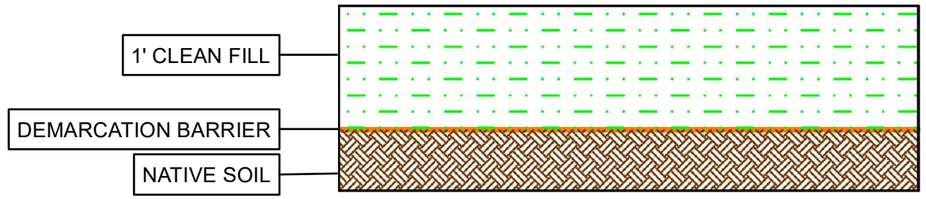
CONCRETE VENTING SYSTEM



CONCRETE CAP



LANDSCAPED CAP WITH DEMARCATION BARRIER



PLANS AND DETAILS

GSI NEW ROCHELLE
70 NARDOZZI PLACE
NEW ROCHELLE, NEW YORK

PREPARED FOR:
G & S INVESTORS

Date: 4/24/2017	JMS # 2015.191.009
JM SORGE, INC.	FIGURE 4

Appendix A

Construction Documents

70 NARDOZZI PLACE

70 NARDOZZI PLACE
NEW ROCHELLE, NY 10805

PROJECT DESCRIPTION

NEW 2-STORY BUILDING - 1-STORY RETAIL WITH ATTACHED STRUCTURED PARKING DECK & NEW D.O.T. BUILDING BELOW.

STATEMENT OF COMPLIANCE

- ALL WORK SHALL COMPLY WITH THE 2015 INTERNATIONAL BUILDING CODE, 2016 NEW YORK STATE BUILDING CODE AND 2009 ANSI A 117.1
- ALL WORK SHALL COMPLY WITH THE 2016 NEW YORK STATE ENERGY CONSERVATION CODE & 2015 INTERNATIONAL ENERGY CONSERVATION CODE.

CODES IN EFFECT

2015 INTERNATIONAL BUILDING CODE (IBC)
2016 NEW YORK STATE BUILDING CODE
2015 INTERNATIONAL ENERGY CONSERVATION CODE
2016 NEW YORK STATE ENERGY CONSERVATION CODE
2009 ANSI A 117.1

ZONING COMPLIANCE

PROJECT INFO

PROJECT SITE AREA

APPROX. 151,000 S.F. (3.46 ACRE)

ZONING INFO

LOT DIMENSION

NO CHANGE TO LOT SIZE

SETBACKS

NO CHANGE TO SETBACKS

BUILDING HEIGHT

PROPOSED: 73 FT. / 2 STORY

BUILDING COVERAGE

PROPOSED: 84.9% (128,250 S.F.)

BUILDING STATISTICS

	USE	AREA
LOWER LEVEL: TOTAL:		74,600 SF
UPPER LEVEL:	TENANT A	37,000 SF
	TENANT B	6,000 SF
TOTAL:		43,000 SF
TOTAL G.S.F. :		84,300 SF

PARKING CALCULATIONS

TENANT A:
REQUIRED: 5 PARKING SPACES PER 1,000 GSF
37,000 G.S.F. = 185 PARKING SPACES

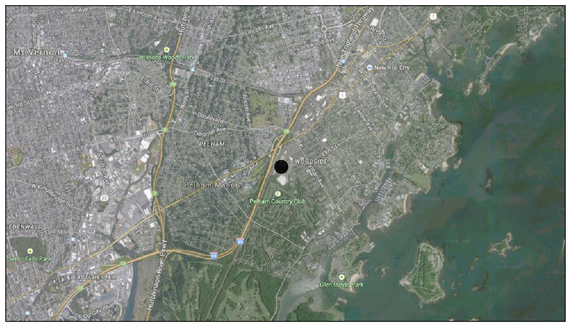
RETAIL B:
REQUIRED: 4 PARKING SPACES PER 1,000 GSF
6,000 G.S.F. = 24 PARKING SPACES

LOWER LEVEL:
REQUIRED: NO PARKING ON SITE

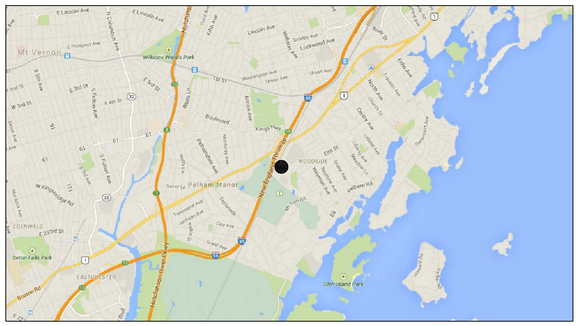
PROPOSED: 189 PARKING SPACES

DRAWING LIST

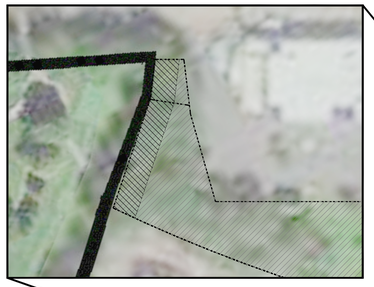
LOCATION PLANS

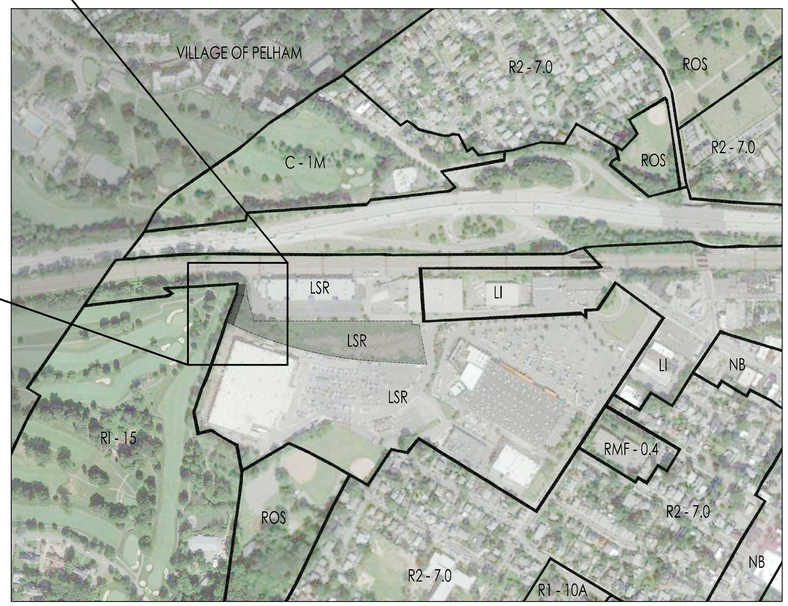


AERIAL PLAN



MAP PLAN





1 ZONING DISTRICTS
SCALE: 1" = 300'

ZONING LEGEND:

C - 1M	GENERAL COMMERCIAL MODIFIED
NB	NEIGHBORHOOD BUSINES
LI	LIGHT INDUSTRY
LSR	LARGE SCALE RETAIL
ROS	RECREATION OPEN SPACE
R1-10A	ONE FAMILY RESIDENCE
R2 - 7.0	TWO FAMILY RESIDENCE

HATCH LEGEND:

- PROJECT SITE
- PROPERTY LINE
- BUFFER AREA; PER § 331-119.1, B (1)
- SETBACK; PER §331-61, B

ZONING SUMMARY CHART

ZONING DISTRICT(S)	LSR - LARGE SCALE RETAIL				
PROPOSED USES	RETAIL				
ZONING REGULATION REQUIREMENTS	REFERENCE (NEW ROCHELLE CODE)	EXISTING	REQUIRED	PROVIDED	COMPLIANCE
MINIMUM BUILDING FRONT YARD SETBACK	§331-ATTACHMENT 3:1	N/A	0 FEET	0 FEET	YES
MINIMUM BUILDING REAR YARD SETBACK	§331-ATTACHMENT 3:1	N/A	0 FEET	0 FEET	YES
MINIMUM BUILDING SIDE YARD SETBACK	§331-ATTACHMENT 3:1	N/A	0 FEET	0 FEET	YES
MINIMUM PARKING FRONT SIDE YARD SETBACK	§331-127(D)				
MAXIMUM BUILDING HEIGHT (FEET / STORIES)	§331-74(B)	N/A	50 FT / 2 STORIES	72.6 FT / 2 STORIES	NO
MAXIMUM LOT COVERAGE	§331-74(B)				
BUILDING		N/A	70% (105,700 SF)	73.4% (110,810 SF)	NO
IMPERVIOUS		N/A	100% (151,000 SF)	81.9% (123,662 SF)	YES
MAXIMUM FLOOR AREA RATIO	§331-74(B)	N/A	1.0 (151,000 SF)	0.8 (120,896 SF)	NO
MINIMUM PARKING LANDSCAPE	§331-130	N/A			
MINIMUM NR. OF TREES IN PARKING AREA (1 TREE PER 12 PARKING SPACES)	§331-130(B)	N/A			
PARKING ADJACENT TO RESIDENTIAL ZONING DISTRICTS	§331-61(C)	N/A	30 FEET	267 FEET	YES
DRIVE AISLES	§331-128(B) 5	N/A	24 FEET	24 FEET	YES
PRIVATE ART BETTERMENTS *	§331-120.1	N/A	T.B.D.	T.B.D.	YES

* OWNER WILL PROVIDE PRIVATE ART BETTERMENTS AT A SCALE COMMENSURATE WITH THE PROPOSED PROJECT AND AT A COST NOT LESS THAN 0.0025 MULTIPLIED BY THE PROJECT CONSTRUCTION COST; LOCATED AT GARAGE SCREENING

PARKING SUMMARY CHART - DAY 1

	SIZE		SPACES	
DESCRIPTION	REQUIRED	PROVIDED	REQUIRED	PROVIDED
STANDARD SPACES - 90° COMPACT SPACES - 90°	9' x 18' (8' x 15')	9' x 18' (8' x 15')	203	126 57
STANDARD ACCESSIBLE SPACES *	8' x 18' (8' AISLE)	9' x 18' (8' AISLE)	6	6
TOTAL SPACES **			209	189
LOADING BAYS (W X L X H) ***	15' X 35' X 14'	15' X 35' X 14'	3	2
BICYCLE PARKING SPACES ****	2' X 6'	2' X 6'	21	21

** NEW ROCHELLE CODE §331-126; MINIMUM OFF - STREET PARKING SPACES REQUIRED ARE:
TENANT A:
REQUIRED: 5 PARKING SPACES PER 1,000 GSF
37,000 GSF = 185 PARKING SPACES

TENANT B:
REQUIRED: 4 PARKING SPACES PER 1,000 GSF
6,000 GSF = 24 PARKING SPACES

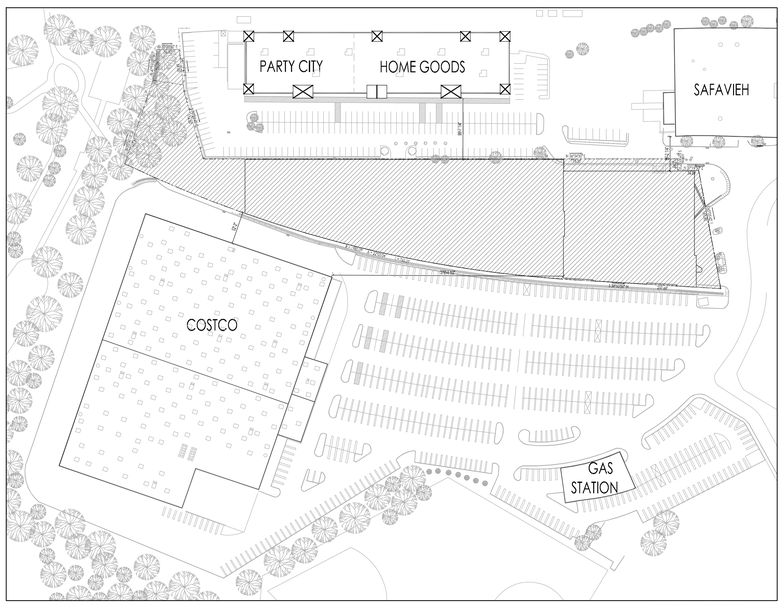
LOWER LEVEL:
REQUIRED: NO PARKING ON SITE
(TENANT RESPONSIBLE FOR PARKING ON THIS LEVEL - UNDER SEPARATE COVER)

*** NEW ROCHELLE CODE §331-126; SEPARATE LOADING BAY REQUIRED FOR:
TENANT A - 1 PER 10,000 SF GROSS FLOOR AREA + 1 FOR EACH ADDITIONAL 100,000 SF GROSS FLOOR AREA
=> FOR 37,000 SF = 2 LOADING BAYS

TENANT B - 1 PER 5,000 SF TO 15,000 SF GROSS FLOOR AREA => FOR 6,000 SF = 1 LOADING BAY

NEW ROCHELLE CODE §331-128.B(2): OFF-STREET LOADING SPACE DIMENSIONS
LOADING DOCK SPACE (W X L X H) = 15' (12' FOR ADJACENT LOADING SPACES) X 35' (55' FOR TRACTOR-TRAILERS) X 14'

**** NEW ROCHELLE CODE §331-126.1, B(2) REQUIRES THAT ONE BICYCLE PARKING SPACE SHALL BE PROVIDED FOR EACH 10 REQUIRED AUTOMOBILE PARKING SPACES.



1 VICINITY MAP
SCALE: 1" = 100'

HATCH LEGEND:

- PROJECT SITE
- PROPERTY LINE

PROJECT:
70 NARDOZZI PLACE
70 NARDOZZIE PLACE
NEW ROCHELLE, NY 10805
SECTION: 2 BLOCK: 564 LOT: 2

OWNER:
SIMONE DEVELOPMENT
1250 WATERS PLACE, PHI
BRONX, NY 10461

CONSULTANTS:
STRUCTURAL ENGINEER:

MEP ENGINEER:

CIVIL ENGINEER:
JMC
SITE DEVELOPMENT CONSULTANTS
120 BEDFORD ROAD, ARMONK, NY 10504
T: 914-273-5225 x234 F:914-273-2102
RPEARSON@JMCPLLC.COM

ARCHITECT:
Design Development, pllc.
237 Mamaroneck Ave, fl. 4
White Plains, NY 10605
914.949.4272 t.
914.949.4278 f.
A DESIGN AND DEVELOPMENT CONSULTANCY
DESIGN DEVELOPMENT PLLC

ARCHITECT OF RECORD

MARK	DATE	ISSUE
	12-5-16	ISSUED FOR ZONING REVIEW
	7-28-15	REVISED PER PB REVIEW COMMENTS
	7-15-15	ISSUED FOR SITE PLAN APPROVAL
	5-11-15	ISSUED FOR SITE PLAN APPROVAL
	5-6-15	REVISED PER APPLICATION REVIEW REPORT COMMENTS
	4-15-15	ISSUED FOR BUILDING PERMIT

REVISIONS

PROJECT NO: SIM06
CAD DWG FILE: SHEET - COVER.DWG
DRAWN BY: RKR
CHK'D BY: RH / MT
SHEET TITLE:
COVER SHEET

DRAWING NO.:

SHEET 1 OF 9

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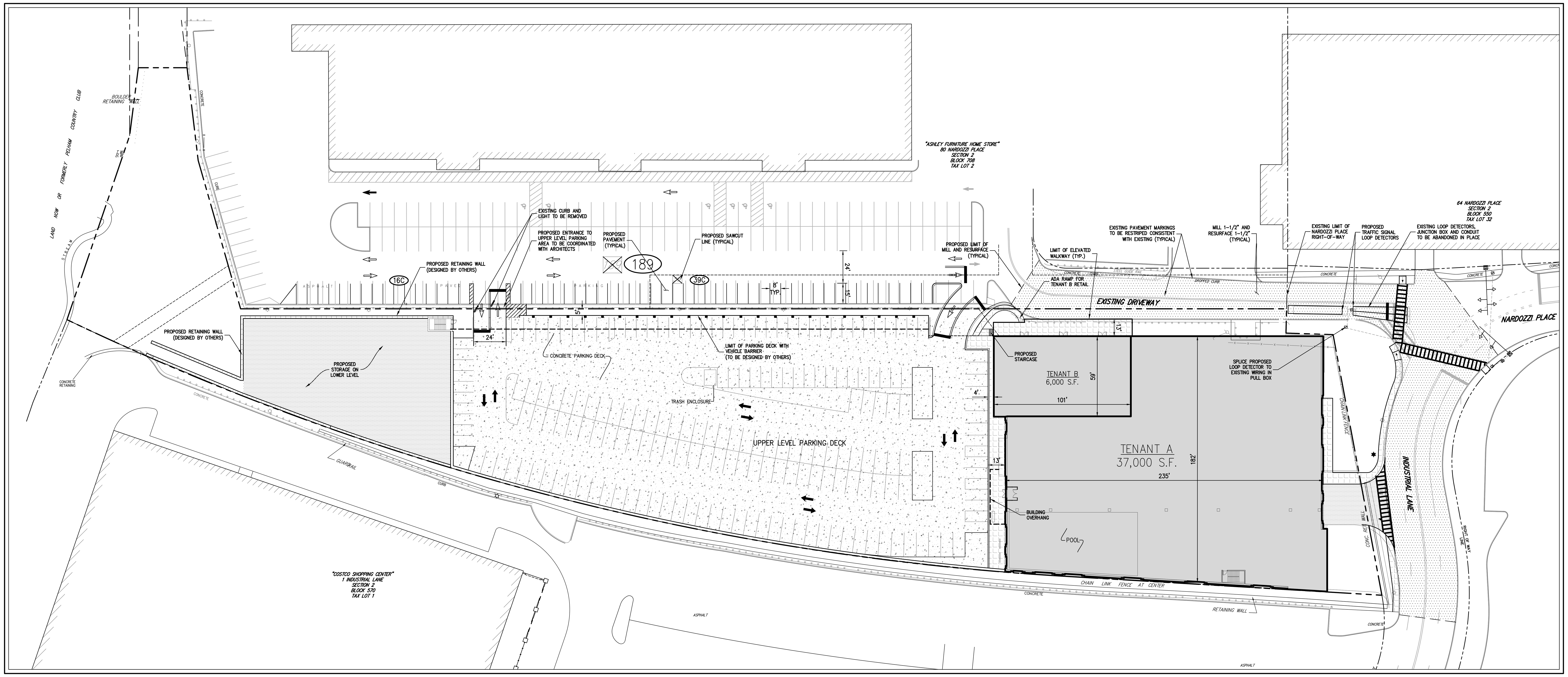
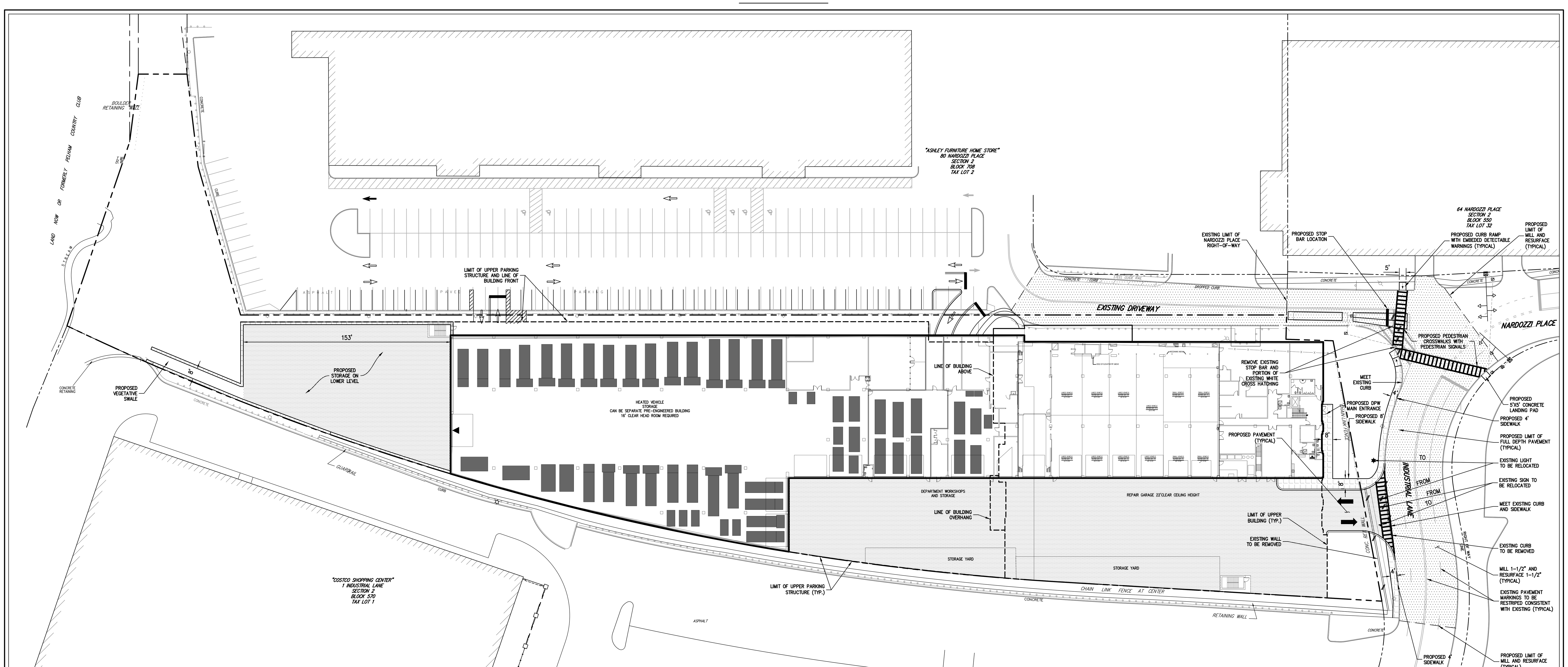


UPPER LEVEL



LOWER LEVEL

LEGEND

- EXISTING PROPERTY LINE
- ADJACENT PROPERTY LINE
- EXISTING SETBACK LINE
- EXISTING BUILDING LINE
- EXISTING PAVEMENT EDGE
- EXISTING CURB LINE
- EXISTING RETAINING WALL
- EXISTING GUIDE RAIL
- EXISTING FENCE
- EXISTING TREE AND DESIGNATION
- EXISTING PAINT
- EXISTING PARKING WITH NUMBER OF SPACES
- EXISTING UTILITY POLE
- EXISTING LIGHT POLE
- EXISTING SIGN
- PROPOSED BUILDING LINE
- PROPOSED LIMITS OF GREEN ROOF
- PROPOSED CONCRETE CURB
- PROPOSED DROP CURB & RAMP
- PROPOSED SAWCUT LINE
- PROPOSED ACCESSIBLE PARKING SPACES WITH NUMBER OF SPACES INDICATED (REFER TO STRIPING DETAILS)
- PROPOSED PARKING SPACES WITH NUMBER OF SPACES INDICATED (REFER TO STRIPING DETAILS)
- PROPOSED CONCRETE SIDEWALK
- PROPOSED MONOLITHIC CONCRETE SIDEWALK & CURB
- PROPOSED DROP CURB AND RAMP
- PROPOSED FULL DEPTH PAVEMENT
- PROPOSED MILL AND RESURFACE
- PROPOSED RETAINING WALL (DESIGN BY OTHERS)
- PROPOSED ARROW MARKING ON PAVEMENT
- TRAFFIC SIGN LOCATION & DESIGNATION
- EXISTING FEATURE TO BE REMOVED

NOTES:

1. EXISTING CONDITIONS DEPICTED ON THIS PLAN HAVE BEEN TAKEN FROM SURVEY TITLED, "SURVEY OF PROPERTY," PREPARED BY LINK LAND SURVEYORS P.C., DATED 06-29-2015.
2. RETAINING WALLS HIGHER THAN TWO FEET SHALL BE DESIGNED BY A LICENSED STRUCTURAL ENGINEER TO BE RETAINED BY THE OWNER OR APPLICANT PRIOR TO ISSUANCE OF A BUILDING PERMIT. THE RETAINING WALL DESIGN SHALL INCLUDE THE INSTALLMENT OF A FOUR FOOT HIGH SAFETY FENCE.

No.	Revision	Date	By
1.	ISSUED FOR ZONING REVIEW	12/05/2016	UB

Previous Editions Obsolete

APPLICANT/OWNER:
PVE Co & PVE Li
1250 WATERS PLACE, PH1
BRONX, NY, 10461

ARCHITECT:
DESIGN DEVELOPMENT, PLLC
237 MAMARONECK AVENUE, FL. 4
WHITE PLAINS, NY, 10605

JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC
JMC Site Development Consultants, LLC
John Meyer Consulting, Inc.
120 BEDFORD ROAD • ARMONK, NY 10504
voice 914.273.5225 • fax 914.273.2102
www.jmcpllc.com

SITE LAYOUT PLAN

PROPOSED RETAIL DEVELOPMENT
70 NARDOZZI PLACE
CITY OF NEW ROCHELLE, NEW YORK

ANY ALTERATION OF PLANS, SPECIFICATIONS, PLATS AND REPORTS BEARING THE SEAL OF A LICENSED PROFESSIONAL ENGINEER OR LICENSED LAND SURVEYOR IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW, EXCEPT AS PROVIDED FOR BY SECTION 7209, SUBSECTION 2.

Drawn: MTP Approved: RR
Scale: 1" = 30'
Date: 07/14/2015
Project No: 14170
14170-SITE-DAY-1 LAY 1_LAY.scr
Drawing No: SP-3

NOT FOR CONSTRUCTION

PROJECT:

70 NARDOZZI PLACE

70 NARDOZZIE PLACE
NEW ROCHELLE, NY 10805

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REVISIONS

PROJECT NO: SIM06

CAD DWG FILE: SIM06.00* - A-100.1.DWG

DRAWN BY: X

CHK'D BY: X

SHEET TITLE:

PROJECT RENDERING

DRAWING NO.:

A-100.1

SHEET 2 OF 9

12/5/2016 4:34 PM, C:\SIM06 - 70 NARDOZZI PLACE\SIM06\01 SITE PLAN APPROVAL PACKAGE\SHEETS\SIM06.00* - A-100.1.DWG

Appendix B

Remedial Investigation Report

(Provided as a separate attachment)

Appendix C

Draft Environmental Easement

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this _____ day of _____, 2017, between Owners P.V.E. Co., LLC and P.V.E. II Co., LLC, having an office at One Radisson Plaza, Suite 1002, New Rochelle, County of Westchester, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 70 Nardozzi Place in the City of New Rochelle, County of Westchester and State of New York, known and designated on the tax map of the County Clerk of Westchester as tax map parcel numbers: Section 2, Block 563, Lot 2, being the same as that property conveyed to Grantor by deed dated May 1, 1978 and recorded in the Westchester County Clerk's Office in Liber 7476 and Page 72. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 3.42 acres, and is hereinafter more fully described in the Land Title Survey dated January 19, 2017 prepared by Link Land Surveyors P.C., which will be attached to the Site

Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

NOW THEREFORE, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement, Number:___, Grantor conveys to grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36, in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, and lessees and any person using the Controlled Property.

A. (1) The controlled Property may be used for:

Any uses permitted in the LSR-1 Large Scale Retail District of the City of New Rochelle, including but not limited to large scale retail facilities, stores and shops for sales at retail or performance of customary personal services, health clubs, self-storage facilities, restaurants and municipal facilities.

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Westchester County

Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for residential uses, and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth a 6 NYCRR Part 375-l.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall be set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number of the Liber and Page or computerized system identification number.

Parties shall address correspondence to:
Site Number _____
Office of General Counsel
NYSDEC
625 Broadway
Albany, New York 12233-5500

With a copy to:
Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

P.V.E. Co., LLC and P.V.E. II Co., LLC

By:_____

Print Name:_____

Title:_____ Date:_____

Grantor's Acknowledgment

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the _____ day of _____, in the year 2017, 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) whoe name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), 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.

_____
Notary Public – State of New York

THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Robert W. Schick, Director
Division of Environmental Remediation

Grantee's Acknowledgement

STATE OF NEW YORK)
) ss:
COUNTY OF ALBANY)

On the _____ day of _____, in the year 2017, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public – State of New York

SCHEDULE "A" PROPERTY DESCRIPTION

ALL that certain plot, piece or parcel of land situate, lying and being in the City of New Rochelle, County of Westchester and State of New York being bounded and described as follows:

BEGINNING at a point at the most westerly corner of the herein described premises, said point being distance 110.00 feet southeasterly of and measure at right angles from Station 560 + 67.78 of the monumented six track center line of the railroad leading from Harlem River to New Rochelle, New York;

THENCE North 35 degrees 30 minutes 50 seconds East (North 36 degrees 34 minutes 30 seconds East per deed) in a line parallel with and distant 110 feet southeasterly of and measured at right angles from said center line, bounding northwesterly on remaining railroad land 36 feet to a point opposite Station 561+0.378 of said center line;

THENCE along land now or formerly of Systems Inc. South 61 degrees 19 minutes 41 seconds East (South 60 degrees 16 minutes 01 seconds East per deed), 69.00 feet; South 70 degrees 26 minutes 45 seconds East (South 69 degrees 23 minutes 05 seconds East per deed) 114.00 feet and North 35 degrees 30 minutes 50 seconds East (North 36 degrees 34 minutes 30 seconds East per deed) 773.00 feet to a point opposite Station 569 +16.35 of the said center line of the railroad;

THENCE South 53 degrees 00 minutes 22 seconds East (South 51 degrees 56 minutes 52 seconds East per deed) 17.98 feet and North 37 degrees 19 minutes 50 seconds East (South 38 degrees 50 minutes 30 seconds East per deed) 34.84 feet to the southerly side of Industrial Lane;

THENCE along the southerly side of Industrial Lane South 65 degrees 05 minutes 42 seconds East (South 64 degrees 02 minutes 02 seconds East per deed) 195.90 feet to lands known as “Price Club Shopping Center”;

THENCE along said land of “Price Club Shopping Center”, South 38 degrees 55 minutes 58 seconds West (South 39 degrees 59 minutes 38 seconds West per deed) 237.68 feet and continuing along the same in a southwesterly direction on a curve to the right having a radius of 1980.09 feet a distance of 763.21 feet to lands now or formerly of the Pelham County Club;

THENCE along said lands of the Pelham County Club, North 35 degrees 41 minutes 19 seconds West (South 34 degrees 37 minutes 39 seconds West per deed) 143.69 feet North 47 degrees 11 minutes 58 seconds West (North 46 degrees 08 minutes 18 seconds West per deed) 50.53 feet to the point and place of BEGINNING.