

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Office of the Director
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

Transmitted via E-mail

January 13, 2021

Mark Stagg
The Mark 95 LLC, The Mark 95 II LLC
5959 Broadway Suite 3
Bronx, NY 10463
mstagg@stagggroup.com

Joseph Simone
MJ Garden LLC, MJ Garden II LLC,
MJ Garden III LLC, MJ Garden IV LLC,
1250 Waters Place, Ph1
Bronx, NY 10461
jsimone@simdev.com

Re: Certificate of Completion
Site: Cottage-Garden Auto Repair Site
Site No: C360180
Location: City of New Rochelle, Westchester County

Dear Mr. Stagg & Mr. Simone,

Congratulations on having satisfactorily completed the remedial program at the Cottage-Garden Auto Repair Site. Enclosed please find an revised original, signed Certificate of Completion (COC). The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the COC to be issued for the above-referenced site.

Please note that you are required to perform the following tasks:

- If you are the site owner, you must record the Notice of Certificate of Completion in the recording office for the county (or counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record the Notice within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the Notice is recorded within the time

frame specified. A standard Notice of Certificate of Completion form is attached to this letter.

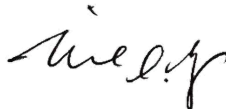
- Provide electronic copies of the recorded Notice and proof of recording to the Department's project manager. Please return the hard copy of the proof of recording to:

Michael Kilmer, Region 3
New York State Department of Environmental Conservation
Division of Environmental Remediation
21 S. Putt Corners Rd.
New Paltz, NY 12561

- Provide the Notice of Certificate of Completion to the Document Repositories within 10 days of issuance of the COC. The Department will develop a fact sheet announcing the issuance of the COC and describing the institutional and engineering controls (IC/ECs), if any, that are required at the site and distribute it to the County Listserv within 10 days;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in April 2022.

If you have any questions regarding any of these items, please contact Michael Kilmer at 845-633-5463.

Sincerely,



Michael J. Ryan, P.E.
Director
Division of Environmental Remediation

Enclosure

cc w/ enclosure:

M. Stagg, The Mark 95 LLC, The Mark 95 II LLC (mstagg@stagggroup.com),
(kbradshaw@stagggroup.com)
J. Simone, MJ Garden LLC, MJ Garden II LLC, MJ Garden III LLC, MJ Garden IV
LLC (jsimone@simdev.com)
F. Dahan, SESI (fd@sesi.com)

S. Gustems, SESI (ssg@sesi.com)
L. Shaw, Knauff Shaw LP (lshaw@nyenvlaw.com)
W. Kuehner, NYSDOH (wendy.kuehner@health.ny.gov)
M. Schuck, NYSDOH (maureen.schuck@health.ny.gov)
M. Gokey, (matthew.gokey@tax.ny.gov)
P. Takac, (paul.takac@tax.ny.gov)

ec w/o enc.:

M. Kilmer, DEC (michael.kilmer@dec.ny.gov)
D. Bendell, DEC (daniel.bendell@dec.ny.gov)
W. Bennett, DEC (wiliam.bennett@dec.ny.gov)
J. Brown, DEC (janet.brown@dec.ny.gov)
J. Andaloro, DEC (jennifer.andaloro@dec.ny.gov)
K. Lewandowski, DEC (kelly.lewandowski@dec.ny.gov)

NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)
CERTIFICATE OF COMPLETION

CERTIFICATE HOLDER(S):

Name

MJ Garden LLC	1250 Waters Place, PH1, Bronx, NY 10461
MJ Garden II LLC	1250 Waters Place, PH1, Bronx, NY 10461
MJ Garden III LLC	1250 Waters Place, PH1, Bronx, NY 10461
MJ Garden IV LLC	1250 Waters Place, PH1, Bronx, NY 10461
The Mark 95 LLC	5959 Broadway, Suite 3, Bronx, NY 10463
The Mark 95 II LLC	5959 Broadway, Suite 3, Bronx, NY 10463

BROWNFIELD CLEANUP AGREEMENT:

Application Approval: 12/28/18 **Agreement Execution:** 1/16/19
Agreement Index No.: C360180-11-18

Application Approval Amendment: 9/9/19

Agreement Execution Amendment: 9/9/19

Application Approval Amendment: 12/18/20

Agreement Execution Amendment: 12/18/20

SITE INFORMATION:

Site No.: C360180

Site Name: Cottage-Garden Auto Repair Site

Site Owner: MJ Garden LLC
MJ Garden III LLC

Street Address: 20 Garden St., 26 Garden Street and 10 Cottage Place

Municipality: New Rochelle **County:** Westchester **DEC Region:** 3

Site Size: 0.988 Acres

Tax Map Identification Number(s): 3-802-0101, 3-802-0102, 3-802-0103, 3-802-0104, 3-802-0105,
3-802-0106 (portion of)

Percentage of site located in an EnZone: 0 - 49%

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

CERTIFICATE ISSUANCE

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

Allowable Uses under the BCP: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

Cleanup Track: Conditional Track 1: Unrestricted use, provided that the remedial goals for soil vapor intrusion are achieved within five years of the date of the Certificate. If those goals are not achieved within five years, this certification shall be modified to a Track 2 Residential cleanup. Unrestricted use, provided that the remedial goals for groundwater are achieved within five years of the date of the Certificate. If these goals are not achieved within five years, this Certificate shall be modified to a Track 2 Residential cleanup.

Tax Credit Provisions: Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 50%.
Tangible Property Credit is 15%. Comprised of 10% Base, 5 % Track 1.

Dependent upon the project being developed in a manner consistent with the approved Brownfield Cleanup Program application, additional rate increases may be available if the site is developed as affordable housing (5%), if the Certificate Holder receives a separate Determination of Conformance with the BOA from the Secretary of State (5%), or if the site is used primarily for manufacturing activities (5%) not to exceed a maximum 24%.

The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Westchester County as Control Number 603233342.

LIABILITY LIMITATION

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law. shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

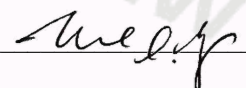
CERTIFICATE MODIFICATION/REVOCATION

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing is not received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Basil Seggos
Commissioner
New York State Department of Environmental Conservation

By:  Date: 12/31/2020

Michael J. Ryan, P.E., Director
Division of Environmental Remediation

NOTICE OF CERTIFICATE OF COMPLETION
Brownfield Cleanup Program
6 NYCRR Part 375-1.9(d)

Cottage-Garden Auto Repair, Site ID No. C360180
Site Address: 26 Garden St, New Rochelle, NY 10801
City of New Rochelle, Westchester County, Tax Map Identification Number(s)
3-802-0101, 3-802-0103

PLEASE TAKE NOTICE, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to The Mark 95 LLC, The Mark 95 II LLC, MJ Garden LLC, MJ Garden II LLC, MJ Garden III LLC, MJ Garden IV LLC, for two parcels totaling approximately 0.232 acres located at 26 Garden St in the City of New Rochelle, Westchester County.

PLEASE TAKE NOTICE, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the Final Engineering Report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

PLEASE TAKE NOTICE, the remedial program for the site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☒ Unrestricted Use, as set forth in 6 NYCRR 375-1.8(g)(1)i
- ☒ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☒ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

PLEASE TAKE NOTICE, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Westchester County as county recording identifier 603233342.

PLEASE TAKE NOTICE, the Environmental Easement requires that the approved Site Management Plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department's Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

PLEASE TAKE NOTICE, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the site and to a person who develops or otherwise occupies the site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

Cottage-Garden Auto Repair Site, Site ID No. C360180, 26 Garden St, New Rochelle, NY 10801

PLEASE TAKE NOTICE, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

PLEASE TAKE NOTICE, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

PLEASE TAKE NOTICE, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

PLEASE TAKE NOTICE, the Certificate may only be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

PLEASE TAKE NOTICE, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

PLEASE TAKE NOTICE, a copy of the Certificate can be reviewed at the NYSDEC's Region 3 located at 21 S Putt Corners Rd, New Paltz, NY 12561, by contacting the Regional Environmental Remediation Engineer, or at <https://www.dec.ny.gov/data/DecDocs/C360180/>.

WHEREFORE, the undersigned has signed this Notice of Certificate

Joseph Simone
MJ Garden III LLC

By: _____

Title: _____

Date: _____

STATE OF NEW YORK) SS:
COUNTY OF WESTCHESTER)

On the _____ day of _____, in the year 20__, 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 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.

Signature and Office of individual
taking acknowledgment

Please record and return to:

The Mark 95 LLC, The Mark 95 II LLC
5959 Broadway, Suite 3, Bronx, NY 10463
and
MJ Garden LLC, MJ Garden II LLC,
MJ Garden IV LLC
1250 Waters Place, PH1, Bronx, NY 10461

Exhibit A

Site Description

BCP SITE AND ENVIRONMENTAL EASEMENT 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, bounded and described as follows:

BEGINNING AT A POINT on the corner formed by the intersection of the southwesterly side of Cottage Place and the northerly side of Garden Street;

RUNNING THENCE north 27 degrees 40 minutes 10 seconds west along the southwesterly side of Cottage Place 210.26 feet;

THENCE north 59 degrees 04 minutes 45 seconds west 73.86 feet deed (74.13 feet survey) to a point on the east side of the New England Thruway (I-95);

THENCE southwesterly along the east side of New England Thruway (I-95) the following two courses and distances:

1. south 29 degrees 26 minutes 28 seconds west 136.837 feet;
2. south 29 degrees 09 minutes 38 seconds west 73.25 feet to the division line between tax lot 48 and 43.

THENCE south 29 degrees 40 minutes 40 seconds east 100.765 feet to the northerly side of Garden Street.

THENCE northeasterly along the northerly side of Garden Street the following 3 courses and distances:

1. along the arc of a curve having a radius of 313.588 feet an arc length of 53.62 feet;
2. North 58 degrees 50 seconds 52 minutes east 56.75 feet;
3. North 59 degrees 14 seconds 50 minutes east 137.00 feet to the southwesterly side of Cottage Place the POINT OR PLACE OF BEGINNING

Area of 0.988 ACRES

Exhibit B

Site Survey



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Site Management Form
12/23/2020



SITE DESCRIPTION

SITE NO. C360180

SITE NAME Cottage-Garden Auto Repair Site

SITE ADDRESS: 20 Garden St., 26 Garden St. and 10 Cottage Place ZIP CODE: 10801

CITY/TOWN: New Rochelle

COUNTY: Westchester

ALLOWABLE USE: Unrestricted, Residential, Restricted-Residential, Commercial, and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan ☒ ☐

Monitoring Plan ☒ ☐

Operation and Maintenance (O&M) Plan ☐ ☒

Periodic Review Frequency: once a year

Periodic Review Report Submitted Date: 04/30/2022

Description of Institutional Control

Joseph Simone

1250 Waters Place, PH1

10 Cottage Place

Environmental Easement

Block: 802

Lot: 0105

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0105

IC/EC Plan

Monitoring Plan

Site Management Plan

20 Garden St

Environmental Easement

Block: 802

Lot: 0106

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0106 (portion of)

IC/EC Plan
Monitoring Plan
Site Management Plan

26 Garden St

Environmental Easement

Block: 802

Lot: 0101

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0101

IC/EC Plan

Monitoring Plan

Site Management Plan

Lot: 0102

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0102

IC/EC Plan

Monitoring Plan

Site Management Plan

Lot: 0103

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0103

IC/EC Plan

Monitoring Plan

Site Management Plan

Lot: 0104

Sublot:

Section: 3

Subsection:

S_B_L Image: 3-802-0104

IC/EC Plan

Monitoring Plan

Site Management Plan

Description of Engineering Control