Certificate of Property Use

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

Certificate of Property use number 2420-D9QJVW
Risk Assessment number 0586-CEQLAB

Registered Owner: SG Real Estate Opportunities GP Inc.
19-279 Weber Street North
Waterloo, Ontario, N2J3H8

Beneficial Owner: SG Real Estate Opportunities III LP
by its General Partner SG Real Estate Opportunities GP Inc.
36 - 620 Davenport Road
Waterloo ON N2V 2C2

Site: 1117, 1121, 1129, and 1133 Beach Boulevard, Hamilton, Ontario

with a legal description described below:

For 1117 Beach Boulevard:

Part Lot 4-5 Plan 321 Part 4, 62R11388, City of Hamilton

Being ALL of PIN 17568 – 0063 (LT)

For 1121 Beach Boulevard:

Part Lot 3-4 Plan 321 Part 3, 62R11388, City of Hamilton

Being ALL of PIN 17568 – 0026 (LT)

For 1129 Beach Boulevard:

Part Lot 2-3 Plan 321 Part 2, 62R11388, City of Hamilton

Being ALL of PIN 17568 – 0062 (LT)

For 1133 Beach Boulevard:

Lot 1 Plan 321; Part Lot 2 Plan 321 Part 1 62R11388, City of Hamilton

Being ALL of PIN 17568 – 0007 (LT)

This Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and described in Part 1 below (Risk Assessment).

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

Part 1: Interpretation

In this CPU, the following capitalized terms have the meanings described below. These terms are also defined in the Approved Model. Not all of these terms may be used in this CPU.

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

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

“ASTM” means the American Society for Testing and Materials.

“Barrier” means a Fill Cap Barrier or Hard Cap Barrier.

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

“Building Area” means the horizontal area of a Building at Grade within the outside surface of the exterior wall or walls.

“Building Code” means Ontario Regulation 332/12 (Building Code) as amended to January 1, 2015, made under the *Building Code Act, 1992*, S.O. 1992, c.23.

“Capping Soil” means,

(a) soil that meets the applicable site condition standards for the Property and does not contain any contaminant for which no applicable site condition standard for soil is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which is associated with any potentially contaminating activity described in the Risk Assessment, or
(b) soil that meets the applicable site condition standards for the Property, as specified in Item 3.2 of the CPU, and does not contain any contaminant for which no applicable site condition standard for soil is prescribed under Part IX (Site Condition Standards and Risk Assessment) and which is associated with any potentially contaminating activity described in the Risk Assessment.

“Certificate of Property Use” or “CPU” means this certificate of property use bearing the number **2420-D9QJVW** issued for the Property by the Director under section 168.6 of the Act, as it may be amended from time to time.

“Competent Person” has the same meaning as in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

“Contaminants of Concern” has the same meaning as in O. Reg. 153/04, which, for the Property, means one or more contaminants found on, in or under the Property at a concentration that exceeds the applicable site condition standards for the Property, as specified in section 7 of the Risk Assessment report and in Schedule A of the CPU.

“Director” means a person in the Ministry appointed as a director for the purpose of issuing a certificate of property use under section 168.6 of the Act.

“Fill Cap Barrier” means cover, above the Contaminants of Concern, that,

(a) is at least, the applicable of 1.0 metre thick, or any greater thickness than 1.0 metre, as specified in section 7 of the Risk Assessment report,
or

(b) consists of at least 0.5 metres thickness of Capping Soil, and above this, cover consisting of additional Capping Soil or non-soil surface treatment such as asphalt, concrete or concrete pavers, stone pavers, brick or aggregate.

“Grade” has the same meaning as in the Building Code.

“Hard Cap Barrier” means an asphalt or concrete cover layer, above the Contaminants of Concern, that is at least 225 millimetres thick and consists of at least 75 millimetres thickness of hot mix asphalt or poured concrete underlain by Granular “A” aggregate or equivalent material and includes a Building slab or Building foundation and floor slab meeting these specifications.

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

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

“Minister” means the minister of the Ministry.

“Ministry” means the ministry of the government of Ontario responsible for the administration of the Act, currently named the Ministry of the Environment, Conservation and Parks.

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

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

"Property" means the property that is the subject of the Risk Assessment and is described in the property "Site" section on page 1 above, and as further shown on Schedule C – Site Plan.

"Property Specific Standards" means the standards established as the maximum allowable concentrations for the Contaminants of Concern at the Property, as specified in section 6 of the Risk Assessment report and in Schedule A of the CPU.

"Provincial Officer" has the same meaning as in the Act, namely, a person who is designated by the Minister as a provincial officer for the purposes of the Act and the regulations.

"Qualified Person" means a person who meets the qualifications set out in subsection 5(2) of O. Reg. 153/04.

"Risk Assessment" means the risk assessment number **0586-CEQLAB** submitted with respect to the Property and accepted by a Director under section 168.5 of the Act on **October 7, 2024** and set out in the following documents:

- **"Pre-submission Form for 1117, 1121, 1129, 1133, Beach Boulevard, Hamilton", report prepared by Canada North Environmental Services Limited Partnership, dated May 20, 2022**
- **"Risk Assessment for 1117, 1121, 1129, 1133, Beach Boulevard, Hamilton", report prepared by Canada North Environmental Services Limited Partnership, dated October 2023**
- **"Risk Assessment for 1117, 1121, 1129, 1133, Beach Boulevard, Hamilton", report prepared by Canada North Environmental Services Limited Partnership, dated February 2024**
- **"Second Revised Risk Assessment Submission for 1117- 1133 Beach Boulevard, Hamilton, Ontario", report prepared by Canada North Environmental Services Limited Partnership, dated July 2024**
- **"Re: Request for Additional Information - RA for 1117, 1121, 1129, 1133, Beach Boulevard, Hamilton [RA2052-22c; IDS#0586-CEQLAB]", email from Harriet Phillips, Canada North Environmental Services Limited Partnership, received by TASDB on October 2, 2024, with following document[s] attached:**
    - **Response to Offsite Question 2 Oct 2024.pdf**

"Risk Management Measures" means the risk management measures specific to the Property described in the Risk Assessment and/or Part 4 of the CPU.

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

Part 2: Legal Authority

2.1 Section 19 of the Act states that a certificate of property use is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed.

2.2 Subsection 168.6(1) of the Act states that if a risk assessment relating to a property has been accepted under clause 168.5(1)(a), the Director may issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:

1. Take any action specified in the certificate and that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any adverse effect that has been identified in the risk assessment, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.

2. Refrain from using the property for any use specified in the certificate or from constructing any building specified in the certificate on the property.

2.3 Subsection 168.6(2) of the Act states that a certificate of property use shall not require an owner of property to take any action that would have the effect of reducing the concentration of a contaminant on, in or under the property to a level below the level that is required to meet the standards specified for the contaminant in the risk assessment.

2.4 Subsection 168.6(3) of the Act states that the Director may, on his or her own initiative or on application by the owner of the property in respect of which a certificate of property use has been issued under subsection 168.6(1),

(a) alter any terms and conditions in the certificate or impose new terms and conditions; or

(b) revoke the certificate.

2.5 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of property to refrain from using the property for a specified use or from constructing a specified building on the property,

(a) the owner of the property shall ensure that a copy of the provision is given to every occupant of the property; and

(b) the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and

(c) the owner of the property shall ensure that every occupant of the property complies with the provision.

2.6 Subsection 197(1) of the Act states that a person who has authority under the Act to make an order or decision affecting real property also has authority to make an order requiring any person with an interest in the property, before dealing with the property in any way, to give a copy of the order or decision affecting the property to every person who will acquire an interest in the property as a result of the dealing.

2.7 Subsection 197(2) of the Act states that a certificate setting out a requirement imposed under subsection 197(1) may be registered in the proper land registry office on the title of the real property to which the requirement relates, if the certificate is in a form approved by the Minister, is signed or authorized by a person who has authority to make orders imposing requirements under subsection 197(1) and is accompanied by a registrable description of the property.

2.8 Subsection 197(3) of the Act states that a requirement, imposed under subsection 197(1) that is set out in a certificate registered under subsection 197(2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

2.9 Subsection 197(4) of the Act states that a dealing with real property by a person who is subject to a requirement imposed under subsection 197(1) or 197(3) is voidable at the instance of a person who was not given the copy of the order or decision in accordance with the requirement.

Part 3: Background

3.1 The Risk Assessment was undertaken for the Property on behalf of the Owner to assess the human health risks and ecological risks associated with the presence or discharge of Contaminants of Concern on, in or under the Property and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: **RESIDENTIAL**, as defined in O. Reg. 153/04.

3.2 The contaminants on, in or under the Property that are present above **Table 1: Full Depth Background Site Condition Standards** of the Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environmental Protection Act published by the Ministry and dated April 15, 2011 for **coarse textured soils** are set out in the Risk Assessment and in Schedule A (Contaminants of Concern). The Standards for these Contaminants of Concern are also set out in Schedule A which is attached to and forms

part of the CPU. Also attached to and forming part of the CPU is a copy of a current plan of survey of the Property and/or a site plan of the Property.

3.3 I am of the opinion, for the reasons set out in the Risk Assessment that the Risk Management Measures described therein and in Part 4 of the CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the Risk Assessment.

3.4 I am of the opinion, for the reasons set out in the Risk Assessment, that Contaminants of Concern require on-going pathway elimination and it is necessary to restrict the use of the Property and/or the construction of Buildings and/or the notice provisions as outlined in Part 5 of this CPU.

3.5 I am of the opinion, that the requirements set out in Part 6 of this CPU are necessary to supplement the Risk Management Measures described in the Risk Assessment and in Part 4 of the CPU.

3.6 I believe for the reasons set out in the Risk Assessment that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in the order requirements in Part 7 of this CPU.

Part 4: CPU Risk Management Measures and Requirements Relating to the Risk Assessment and the Property

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)1 of the Act:

4.0 Implement, and thereafter maintain or cause to be maintained, the following Risk Management Measures and requirements identified in the Risk Assessment and set out in Items 4.1 to 4.8 and 5.2 as applicable.

4.1 Hard Cap Barrier or Fill Cap Barrier Risk Management Measure:

a. Cover all areas of the Property where Contaminants of Concern are present at or within 1.0 metre(s) below the soil surface such that a Hard Cap Barrier or Fill Cap Barrier is in place in these areas, so as to prevent exposure to the Contaminants of Concern at the Property, in conjunction with any existing Barriers in any other areas of the Property where Contaminants of Concern are present below the soil surface; and

b. Immediately prior to commencing development of all or any part of the Property, install fencing and implement dust control measures for any part of the Property requiring covering but which has not been covered, so as to prevent exposure to the Contaminants of Concern at the Property. Fencing and dust control measures shall

be maintained until such time as the Hard Cap Barrier or Fill Cap Barrier (s) are installed.

4.2 Inspection, maintenance and reporting requirements for all Barriers:

a. Prepare and implement a written inspection and maintenance program, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, so as to ensure the continuing integrity of each Barrier at the Property so long as the Contaminants of Concern are present at the Property, including, at a minimum:

   i. procedures and timing for implementing the program;

   ii. semi-annual inspections, in spring and fall, of the Barrier;

   iii. noting any deficiencies in the Barrier observed during the inspections, or at any other time;

   iv. repairing promptly any such deficiencies, to the original design specifications, with written confirmation that the Barrier has been properly repaired;

   v. contingency measures, such as fencing, to be implemented if cracks, breaches or any loss of integrity of the Barrier cannot be repaired or addressed in a timely manner, to prevent exposure to the Contaminants of Concern in that area of the Property;

   vi. recording, in writing, all inspections, deficiencies, repairs and implementation of contingency measures, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

   and which is,

   1. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and

   2. updated and delivered to the Owner within 30 days following making any alteration to the program;

b. Prepare a site plan of the entire Property, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, showing the Property, any fencing, and the location, type and design of each Barrier at the Property, including cross-sectional drawings of the Barrier showing its design and vertical and lateral extent;

   and which is,

1. delivered to the Owner before use of all or any part of the Property begins, or within 90 days following completion of covering of all or any part of the Property, whichever is earlier; and

2. updated and delivered to the Owner within 30 days following making any alteration to the location, design or extent of the Barrier, or other relevant feature shown on the site plan;

c. Prepare and implement written procedures, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for written and oral communication to all persons who may be involved in Intrusive Activities at the Property that may disturb a Barrier at the Property, so as to ensure the persons are made aware of the presence and significance of the Barrier and the Contaminants of Concern at the Property and the precautions to be taken to ensure the continued integrity of the Barrier when undertaking the Intrusive Activities, and if damaged, to ensure that the Barrier is repaired promptly to the original design specifications, or, if it cannot be repaired promptly, to ensure that the contingency measures are implemented, and records kept, as specified in the inspection and maintenance program;

and which are,

1. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and

2. updated and delivered to the Owner within 30 days following making any alteration to the procedures.

4.3 New Enclosed Building(s)

Refrain from constructing any Building on the Property unless the Building is with a soil vapour barrier that meets the requirements of Item 4.4 of this CPU and is constructed as slab-on-grade.

4.4 Vapour Barrier System Risk Management Measure:

a. Refrain from constructing any Building on, unless the building(s) is constructed with a vapour barrier system, as specified in Section 3.6 and Figure H-2 of Appendix H (Risk Management Plan) of the Risk Assessment, which reduces potential vapour intrusion, is designed by a Licensed Professional Engineer and which shall consist, as a minimum throughout the Building Area, of:

1. a continuous leak free soil vapour barrier membrane, such as a sheet geomembrane or spray applied membrane and which:

i. is of appropriate thickness and meets the appropriate gas permeability and chemical resistance specifications to be considered substantially

impermeable to the soil vapour, in accordance with an applicable ASTM standard or other standard organization recognized in Canada.

ii. has a suitable protective geotextile, or other suitable protective material, such as a sand layer, immediately below or above the soil vapour barrier membrane, if considered appropriate by the Licensed Professional Engineer.

b. Prepare and implement a quality assurance and quality control program, prepared by a Licensed Professional Engineer and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, so as to ensure that the soil vapour barrier membrane is being, and has been, properly installed and the installation documented, including inspections, verification testing and documenting of the installation as it is carried out.

c. Prepare as constructed plans of the soil vapour barrier membrane that are prepared and confirmed to meet the requirements of paragraph a of item 4.4 of this CPU by a Licensed Professional Engineer, and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer. The as constructed plan is to show the location of the Building and the location and specifications of the installed soil vapour barrier membrane, including cross-sectional drawings specifying the design and the vertical and lateral extent of the soil vapour barrier membrane relative to the Building and the ground surface.

4.5 Prohibition of Planting of Fruit and Vegetables for Consumption:

The Owner shall refrain from planting fruit and vegetables for consumption on the Property unless planted in above ground containers such that they plants are isolated from the subsurface conditions, in raised beds on ground surface with a minimum of a 1.0 m thick layer of Garden Soil. The planting of fruit and vegetables for consumption on the Property is prohibited unless otherwise specified for as long and the COCs in soil remain present.

4.6 Health and Safety Plan Requirement:

In addition to any requirements under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, prepare and implement a written health and safety plan for the Property, prepared by a Competent Person in consultation with a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, that includes information concerning the potential hazards and safe work measures and procedures with respect to the Contaminants of Concern at the Property and the communication of this information to all persons who may be involved in Intrusive Activities at the Property, including, at a minimum:

a. the procedures and timing for implementing the plan, including the supervision of persons implementing the plan;

b. all relevant information concerning the presence of, human exposure to, and risk posed by, the Contaminants of Concern through dermal contact, soil or ground water ingestion and inhalation of soil particles or vapour, and concerning any biogenic gases such as methane that may be present at the Property including information in the Risk Assessment;
c. all relevant information, measures and procedures concerning protection of the persons from exposure to the Contaminants of Concern and the precautions to be taken when undertaking Intrusive Activities, including the supervision of workers, occupational hygiene requirements, use of personal protective equipment, provision of air flow augmentation in excavations or other areas or situations of minimal air ventilation, and other protective measures and procedures as appropriate;
d. all relevant information concerning the presence and significance of the Risk Management Measures and requirements which are being, or have been, implemented at the Property;
e. the procedures and timing for implementing emergency response and contingency measures and procedures, including contact information, in the event of a health and safety incident;
f. the recording, in writing, of the implementation of the plan and any health and safety incidents that occur, to be retained by the Owner and be available for inspection upon request by a Provincial Officer;

and which is,

1. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and

2. updated and delivered to the Owner within 30 days following making any alteration to the plan.

4.7 Soil and Ground Water Management Plan Requirement:

Prepare and implement a written soil and ground water management plan for the Property, prepared by a Qualified Person and to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, for managing excavated soil or soil brought to the Property, and, if any, ground water from dewatering during Intrusive Activities at the Property, so as to prevent exposure to or uncontrolled movement or discharge of the Contaminants of Concern in soil or ground water at the Property, including, at a minimum:

a. procedures and timing for implementing the plan, including the supervision of persons implementing the plan; and
b. measures to control dust and prevent tracking of soil by vehicles and persons from the Property, including the cleaning of equipment and vehicles; and
c. measures, in addition to any applicable measures specified in O. Reg. 153/04 or O. Reg. 406/19, to manage soil excavated at the Property and any soil brought to or removed from the Property, including:

i. characterizing for contaminant quality all excavated soil and any soil brought to the Property, including determining whether the soil:
    1. is Capping Soil;
    2. meets the Standards; or
    3. exceeds the Standards;

ii. managing excavated soil separately from any soil brought to the Property, including any excavated soil that is to be:
    1. used as Capping Soil at the Property;
    2. otherwise used as fill at the Property;
    3. removed from the Property for off-site storage or processing but is to be returned for use as fill at the Property; or
    4. removed from the Property for off-site use as fill or disposal; and

iii. stockpiling of excavated soil and any soil brought to the Property in separate designated areas that:
    1. reflect the distinctions described in parts (c) i and ii; and
    2. have been lined and covered, as appropriate, to prevent uncontrolled movement or discharge of the Contaminants of Concern; and
    3. have been bermed or fenced, as appropriate, to restrict access by persons; and
    4. have storm water runoff controls in place to minimize storm water runoff contacting stockpiled soil, with provision for discharge of storm water runoff to a sanitary sewer or to other approved treatment if needed; and

d. measures to manage storm water and any ground water from dewatering at the Property to prevent the movement of entrained soil and Contaminants of Concern within and away from the Property, including, in addition to any applicable measures specified pursuant to other applicable law or other instruments, measures such as silt fences, filter socks for catch-basins and utility covers, and provision for discharge to a sanitary sewer or to other approved treatment if needed; and

e. recording, in writing, the soil, storm water and any ground water management measures undertaken, in addition to any applicable record keeping requirements specified in O. Reg. 153/04 or O. Reg. 406/19, or pursuant to other applicable law or other instruments, to be retained by the Owner, and be available for inspection upon request by a Provincial Officer, including:

i. dates and duration of the Intrusive Activities being undertaken;
ii. weather and site conditions during the Intrusive Activities;
iii. the location and depth of excavation activities, and dewatering activities, if any;
iv. dust control and soil tracking control measures, such as hauling records;
v. characterization results for excavated soil and any soil brought to or removed from the Property, and for any ground water from dewatering;
vi. soil management activities including soil quantities excavated and brought to and removed from the Property, and stockpile management and storm water runoff control;

vii. management activities for any ground water from dewatering;
viii. names and contact information for the Qualified Persons and on-site contractors involved in the Intrusive Activities;
ix. names and contact information for any haulers and owners or operators of receiving sites for soil and any ground water removed from the Property, and for haulers and owners or operators of project areas (also known as source sites) of any soil brought to the Property;
x. any complaints received relating to the Intrusive Activities, including the soil, storm water and any ground water management activities;

and which is,

1. delivered to the Owner before any Intrusive Activities are undertaken at the Property; and

2. updated and delivered to the Owner within 30 days following making any alteration to the plan.

4.8 Annual Reports Requirement:

The Owner shall prepare by March 31 each year, an annual report documenting activities relating to the Risk Management Measures undertaken during the previous calendar year. A copy of this report shall be maintained on file by the Owner and shall be made available upon request by a Provincial Officer. The report shall include, but not be limited to, the following minimum information requirements as applicable:

a. a copy of all records relating to the inspection and maintenance program for the Barrier to site soils and soil vapour barrier;
b. a copy of all records relating to the soil and ground water management plan;
c. a copy of all records relating to the health and safety plan;
d. a copy of any signed as constructed plans for the soil vapour barrier for any Building; and
e. a copy of signed site plans including any alterations.

Part 5: CPU Restrictions on Property Use, Building Construction and Notice Requirements

I hereby require the Owner to do or cause to be done the following under the authority of paragraph 168.6(1)2 of the Act:

5.1 Property Use Restriction

Refrain from using the Property for any of the following use(s): any type of property use specified in O. Reg. 153/04 which is more sensitive than **RESIDENTIAL** as specified in O. Reg. 153/04.

5.2 Building Construction Restrictions

Refrain from constructing the following Building(s): No building construction unless construction is in accordance with Items 4.3 and 4.4 of the CPU.

5.3 Notice of Restrictions

Pursuant to the requirements of subsection 168.6(4) of the Act, the Owner shall ensure that every occupant of the Property is given notice that the Ministry has issued this CPU and that it contains the provisions noted above in Items 5.1 and 5.2, and that every occupant complies with such provisions. For the purposes of this requirement, an occupant means any person with whom the Owner has a contractual relationship regarding the occupancy of all or part of the Property.

Part 6: Additional Requirements

I hereby require the Owner to do or cause to be done the following things under the authority of paragraph 168.6(1)1 of the Act:

6.1 Site Changes Affecting Risk Management Measures

In the event of a change in the physical site conditions or receptor characteristics at the Property that may affect the Risk Management Measures and/or any underlying basis for the Risk Management Measures, the Owner shall forthwith notify the Director of such changes and the steps taken, to implement, maintain and operate any further Risk Management Measures as are necessary to prevent, eliminate or ameliorate any Adverse Effect that will result from the presence on, in or under the Property or the discharge of any Contaminant of Concern into the natural environment from the Property. In support of this work, a new risk assessment may need to be completed in accordance with O. Reg. 153/04 and submitted to the Ministry for acceptance. An amendment to the CPU will be issued to address the changes set out in any notice received and any future changes that the Director considers necessary in the circumstances.

6.2 Report Retention Requirements

The Owner shall retain a copy of any reports required under the CPU for a period of seven (7) years from the date the report is created and within ten (10) days of the Director or a Provincial Officer making a request for a report, provide a copy to the requesting Director or Provincial Officer.

6.3 Owner Change Notification

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

Part 7: Section 197 Order (Property Notice and Certificate of Requirement Registration) Requirements

I hereby order the Owner to do or cause to be done the following under the authority of subsections 197(1) and 197 (2) of the Act:

7.1 Property Notice Requirement

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

7.2 Certificate of Requirement Registration

Within fifteen (15) days from the date of receipt of a certificate of requirement issued under subsection 197(2) of the Act completed as outlined in Schedule B register the certificate of requirement on title to the Property, in the appropriate land registry office.

7.3 Verification

Within five (5) days after registering the certificate of requirement provide to the Director a copy of the registered certificate and of the parcel register(s) for the Property confirming that registration has been completed.

Part 8: General Requirements

8.1 The requirements of the CPU are severable. If any requirement of the CPU or the application of any requirement to any circumstance is held invalid, such finding does not invalidate or render unenforceable the requirement in other circumstances nor does it invalidate or render unenforceable the other requirements of the CPU.

8.2 An application under subsection 168.6(3) of the Act to alter any terms and conditions in the CPU, or impose new terms and conditions, or revoke the CPU, shall be made in writing to the Director, with reasons for the request.

8.3 Subsection 186(3) of the Act provides that failure to comply with the requirements of the CPU constitutes an offence.

8.4 The requirements of the CPU are minimum requirements only and do not relieve the Owner from, complying with any other applicable order, statute, regulation, municipal, provincial or federal law, or obtaining any approvals or consents not specified in the CPU.

8.5 Notwithstanding the issuance of the CPU, further requirements may be imposed in accordance with legislation as circumstances require.

8.6 In the event that, any person is, in the opinion of the Director, rendered unable to comply with any requirements in the CPU because of,

a. natural phenomena of an inevitable or irresistible nature, or insurrections,
b. strikes, lockouts or other labour disturbances,
c. inability to obtain materials or equipment for reasons beyond your control, or
d. any other cause whether similar to or different from the foregoing beyond your control,

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

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

8.8 The Risk Management Measures identified in the Risk Assessment and also in Part 4 of the CPU and all the other requirements in the CPU shall commence upon the issuance of the CPU and continue in full force and effect in accordance with the terms and conditions of the CPU until such time as the Director alters or revokes the CPU.

8.9 The provisions of the CPU shall take precedence in the event of a conflict between the provisions of the CPU and the Risk Assessment.

8.10 In the event that the Owner complies with the provisions of Items 7.2 and 7.3 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act, 1998*, S.O. 1998, c.19 and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU can be carried out by the condominium corporation on behalf of the new Owners of the Property.

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

Part 9: Information regarding a Hearing before the Ontario Land Tribunal

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

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

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

9.3 Service of a notice requiring a hearing must be carried out in a manner set out in section 182 of the Act and Ontario Regulation 227/07: Service of Documents, made under the Act as they may be amended from time to time. The address, email address and fax numbers of the Director and the Tribunal are:

The Registrar
Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON, M5G 1E5
Email: OLT.Registrar@ontario.ca

and

Stephen Burt, Hamilton District Manager
Ministry of the Environment, Conservation and Parks
119 King Street West, 9th Floor
Hamilton, Ontario
L8P 4Y7
Fax: (905) 521-7806
Email: stephen.burt@ontario.ca

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

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

9.4 Unless stayed by the Tribunal under section 143 of the Act, the CPU is effective from the date of issue.

9.5 If you commence an appeal before the Tribunal, under section 47 of the *Environmental Bill of Rights, 1993* (the "EBR"), you must give notice to the public in the Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds for the appeal.

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

(a) two (2) days after the day on which the appeal before the Tribunal was commenced; and

(b) fifteen (15) days after service on you of a copy of the CPU.

9.6 Pursuant to subsection 47(7) of the EBR, the Tribunal may permit any person to participate in the appeal, as a party or otherwise, in order to provide fair and adequate representation of the private and public interests, including governmental interests, involved in the appeal.

9.7 Pursuant to section 38 of the EBR, any person resident in Ontario with an interest in the CPU may seek leave to appeal the CPU. Pursuant to section 40 of the EBR, the application for leave to appeal must be made to the Tribunal by the earlier of:

(a) fifteen (15) days after the day on which notice of the decision to issue the CPU is given in the Environmental Registry of Ontario; and

(b) if you appeal, fifteen (15) days after the day on which your notice of appeal is given in the Environmental Registry of Ontario.

9.8 The procedures and other information provided in this Part 9 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws.

Issued this 23rd day of January 2025.

Director, section 168.6 of the Act
Stephen Burt

Schedule A

Table 1 – Soil Property Specific Standards

Contaminants of Concern (COC)	Property Specific Standards for Soil (µg/g)
Barium	599
Boron (Hot Water Soluble)	0.44
Cadmium	5.2
Copper	307
Lead	884
Molybdenum	2.6
Zinc	2,148
Acenaphthene	1.1
Anthracene	3.1
Benz[a]anthracene	5.9
Benzo[a]pyrene	6.1
Benzo[b]fluoranthene	11
Benzo[ghi]perylene	3.7
Benzo[k]fluoranthene	3.4
Chrysene	6.7
Dibenz[a,h]anthracene	0.46
Fluoranthene	21
Fluorene	1.4
Indeno[1,2,3-cd]pyrene	3.4
Phenanthrene	14
Pyrene	18
Tetrachloroethylene	1.0
Trichloroethylene	0.07
PHC F3	431
PHC F4	224

Table 2 - Groundwater Property Specific Standards

Contaminants of Concern (COC)	Property Specific Standards for Groundwater (µg/L)
Molybdenum	65
Bromodichloromethane	11
Chloroform	23
Dibromochloromethane	7.8
Tetrachloroethylene	4.9
Trichloroethylene	0.96
Vinyl chloride	1.1

SCHEDULE B

CERTIFICATE OF REQUIREMENT

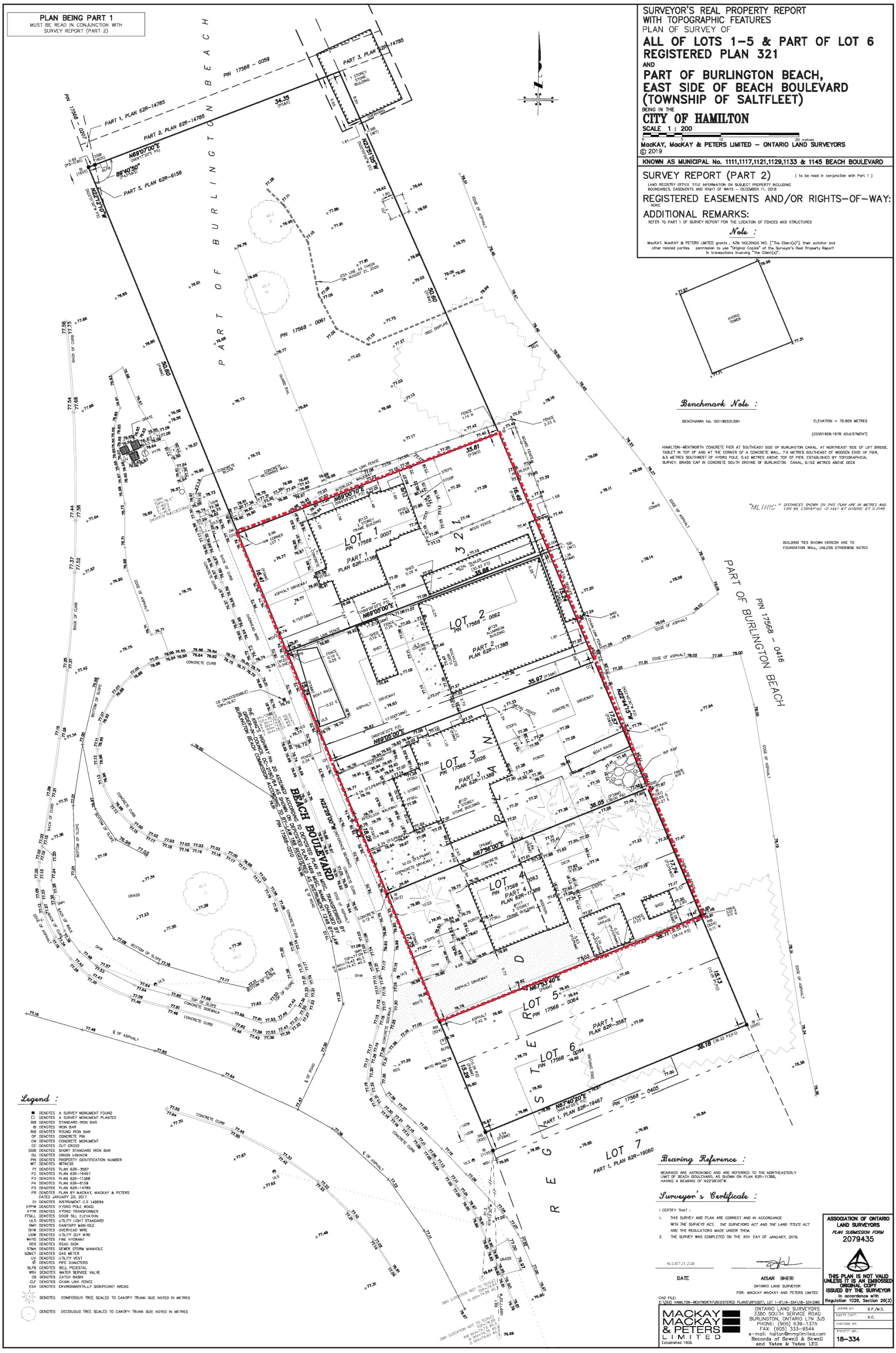
s.197(2)
Environmental Protection Act, R.S.O. 1990, c. E.19

This is to certify that pursuant to Item 7.1 of Certificate of Property Use number **2420-D9QJVW** issued by **Stephen Burt**, Director of the Ministry of the Environment, Conservation and Parks, under sections 168.6 and 197 of the *Environmental Protection Act*, on **January 23, 2025**, being a Certificate of Property Use and order under subsection 197(1) of the *Environmental Protection Act* relating to the property municipally known as **1117, 1121, 1129, and 1133 Beach Boulevard, Hamilton, Ontario** being **ALL** of the Property Identifier Numbers (PINs) **17568-0063 (LT), 17568-0026(LT), 17568-0062(LT), and 17586-0007(LT)** (the "Property") with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property

SG Real Estate Opportunities GP Inc., and

SG Real Estate Opportunities III LP

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

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

SCHEDULE C – Site Plan