Ontario

Ministry of the Environment, Conservation and Parks
Ministère de l'Environnement
de la Protection de la nature et des Parcs

Certificate of Property Use - DRAFT

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

Certificate of property use number: 1177-D6SKEM
Risk assessment number: 5051-B7FMUZ

Owner:

Eyewell Inc. (Registered Owner)

212 Speedvale Avenue West
Guelph, ON, N2H 1C4

Property:

212 Speedvale Avenue West, Guelph, Ontario (Property)

Legally described as:

Lot 9, Plan 596; Guelph

Being ALL of PIN: 71272-0210 (LT)

The conditions of this Certificate of Property Use (CPU) address the Risk Management Measures in the Risk Assessment noted above and as defined in Part 1 below.

Summary:

The following is a summary of Risk Management Measures (RMMs) identified in Part 4 of this CPU, which are required to be implemented. This summary does not create any binding requirements and is being provided for convenience only. Refer to Part 1 of the CPU for the meaning of any capitalized terms. Key RMMs in Part 4 of the CPU include, but are not limited to:

- Inspecting and maintaining the existing hard cap barriers and soil cap barriers on the Property and installing, inspecting, and maintaining hard cap and soil cap barriers on the Property as detailed Sections 4.3 to 4.7 of this CPU.

- Operating, inspecting, and maintaining the Sub-Slab Depressurization System (SSDS) that has been installed within the Existing Building as specified in Section 4.8 of this CPU.

- Prohibiting the construction of any new Building (s) on the Property unless the new Building (s) is constructed as specified in Section 5.1 of this CPU.

- Implementing a Performance Monitoring Program for any new enclosed Building (s) to be constructed on the Property as specified in Section 4.14, 4.15 and 4.16 of this CPU.

DRAFT

- Implementing a soil and groundwater management plan during any Intrusive Activities undertaken on the Property potentially in contact with COCs in soil and groundwater that exceed the Applicable Site Condition Standards (ASCS) as detailed in Section 4.17 of this CPU.

- Implementing a health and safety plan during any Intrusive Activities undertaken on the Property potentially in contact with COCs in soil that exceed the Applicable Site Condition Standards (ASCS) as detailed in Section 4.18 of this CPU.

- Prohibiting the use of groundwater in, on or under the Property as per Section 5.2 of this CPU; and

- Registering a certificate on the Property title in accordance with Section 197 of the Environmental Protection Act and that before dealing with the Property in any way, a copy of the CPU is to be given to any person who will acquire an interest in the Property as per Part 7 of this CPU.

Part 1: Interpretation

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

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

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

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

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

"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 163/24 (Building Code) made under the *Building Code Act, 1992*, S.O. 1992, c. 23.

"Capping Soil" means soil that meets the ASCS.

"Competent Person" has the same meaning as set out in the *Occupational Health and Safety Act*.

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

"Contaminant of Concern" and "COC" has the meaning as set out in Section 3.2 of the CPU.

"CPU" means this Certificate of Property Use Number No. **1177-D6SKEM** as may be amended from time to time.

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

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

“Environmental Compliance Approval” means an environmental compliance approval issued under Part II.1 of the Act.

“Existing Building” means the existing building on the Property at the time the CPU was issued as identified on Figure 2 – Location of the Existing Building (**Figure 2**) of Schedule ‘A’, which is attached to and forms part of this CPU.

“Existing Hard Cap/Soil Cap Barriers” means any existing Hard Cap Barrier or Soil Cap Barrier present on the Property at the time this CPU is issued.

“Figure 3” means Figure 3: Hard Cap and Soil Cap Barriers, of Schedule ‘A’, which is attached to and forms part of this CPU.

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

“Hard Cap Barrier” means a hard cap barrier or barriers that consist of at least 150 mm of Ontario Provincial Standard Specification Granular ‘A’ or equivalent material overlain by a minimum of 75 mm cover of asphalt or concrete (including Building foundation/floor slab, driveways, and sidewalks etc.), pavers or stone with a combined minimum thickness of 225 millimeters (mm) as specified in **Figure 3**.

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

“Licensed Professional Engineer” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act,* R.R.O. 1990, c. P.28 qualified to carry out the specific RMM as required by the CPU.

"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.

“Ministry of Labour” means the Ontario Ministry of Labour, Immigration, Training and Skills Development.

“Occupational Health and Safety Act” means the *Occupational Health and Safety Act* R.S.O. 1990, c.O.1.

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

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

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

“Performance Monitoring Program” means the performance monitoring program detailed in Section 4.14 of this CPU.

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

“Property Specific Standards” and “PSS” means the property specific standards established for the Contaminants of Concern set out in the Risk Assessment and are set out in **Table A – Property Specific Standards (PSS) – Soil (Table A)** and **Table B – Property Specific Standards (PSS) – Groundwater (Table B)** of Schedule ‘A’, which is attached to and forms part of this CPU.

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

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

"Risk Assessment" and “RA” means the Risk Assessment **No. 5051-B7FMUZ** accepted by the Director on**, February 27, 2024,** and set out in the following final documents:

- **Risk-Assessment Pre-Submission Report for 212 Speedvale Avenue West, Guelph, Ontario. Prepared by WSP Canada Inc., dated November 21, 2018.**
- **Risk Assessment 212 Speedvale Avenue West, Guelph, Ontario. Prepared by WSP Canada Inc., dated March 26, 2021.**
- **Risk Assessment 212 Speedvale Avenue West, Guelph, Ontario. Prepared by WSP Canada Inc., dated January 10, 2022.**
- **Risk Assessment 212 Speedvale Avenue West, Guelph, Ontario. Prepared by WSP Canada Inc., dated June 9, 2023.**
- **Email RE: Request for Additional Information - RA for 212 Speedvale Avenue West, Guelph, Ontario [RA1732-18c; IDS#5051-B7FMUZ] from Ruwan Jayasinghe, WSP Canada Inc., received by TASDB on September 29, 2023, with following document[s] attached:**
    - **Fig 5_Speedvale_Barrier_Cap**
    - **Fig 6B_Speedvale SSD_Existing Building**
    - **171-03887-01_Speedvale T3RA_V4; and,**
- **Risk Assessment 212 Speedvale Avenue West, Guelph, Ontario. Prepared by WSP Canada Inc., dated October 13, 2023.**

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

“Risk Management Plan” and “RMP” means the risk management plan detailed in Appendix M of the RA.

“Soil Cap Barrier” means a soil cap or fill cap barrier or barriers that consist of a minimum of 0.5m thick cover of Capping Soil or Fill Material underlain by a geotextile layer that is immediately above the impacted soil as specified in **Figure 3**.

“Sub-Slab Depressurization System” or “SSDS” means the sub-slab depressurization system that was installed within the Existing Building as detailed in the following documents:

- Letter Report Re: Diagnostic Testing and System Design, Project Name: Speedvale Project, Site Address: 212 Speedvale Avenue W., Guelph. Prepared by Mr. Radon dated February 7, 2024; and,
- Radon Mitigation System. Prepared by Mr. Radon dated April 1-4, 2024.

“Table C” means **Table C – Target Indoor Air Concentrations -** of Schedule ‘A’ of this CPU.

“Target Analytes” means one or more of the target analytes listed in Table C.

“Target Indoor Air Concentrations” means a concentration listed in Table C.

“Target Sub-Slab Vapour Concentrations” means a concentration listed in Table C.

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

DRAFT

“Vapour Mitigation System” means the vapour mitigation system detailed in Section 4.9 of this CPU.

Part 2: Legal Authority

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

2.2 Subsection 132(1.1) of the Act states that the Director may include in a certificate of property use a requirement that the person to whom the certificate is issued provide financial assurance to the Crown in right of Ontario for anyone or more of,

i. the performance of any action specified in the certificate of property use;
ii. the provision of alternate water supplies to replace those that the Director has reasonable and probable grounds to believe are or are likely to be contaminated or otherwise interfered with by a contaminant on, in or under the property to which the certificate of property use relates; and
iii. measures appropriate to prevent Adverse Effects in respect of the property to which the certificate of property use relates.

2.3 Subsection 168.6 (1) of the Act states that if the Director accepts a risk assessment relating to a property, he or she may, when giving notice under clause 168.5 (1)(a), issue a certificate of property use to the owner of the property, requiring the owner to do any of the following things:
i. Take any action specified in the certificate that, in the Director’s opinion, is necessary to prevent, eliminate or ameliorate any Adverse Effect on the property, including installing any equipment, monitoring any contaminant or recording or reporting information for that purpose.
ii. Refrain from using the property for any use specified in the certificate or from constructing any Building specified in the certificate on the property.

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

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

i. alter any terms and conditions in the certificate or impose new terms and conditions; or
ii. revoke the certificate.

2.6 Subsection 168.6(4) of the Act states that if a certificate of property use contains a provision requiring the owner of the property to refrain from using the property for a specified use or from constructing a specified Building on the property,
i. the owner of the property shall ensure that a copy of the provision is given to every occupant of the property;
ii. the provision applies, with necessary modifications, to every occupant of the property who receives a copy of the provision; and
iii. the owner of the property shall ensure that every occupant of the property complies with the provision.

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

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

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

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

Part 3: Background

3.1 The Risk Assessment was undertaken for the Property to establish the risks that the Contaminants identified in the RA may pose to future users and to identify appropriate Risk Management Measures to be implemented to ensure that the Property is suitable for the intended use: **commercial use,** as defined in O. Reg. 153/04.

3.2 The Contaminants on, in, or under the Property that are present either above the Applicable Site Condition Standards, or for which there are no such standards, are above the criteria set out in the RA and Schedule 'A' of this CPU. The Property Specific Standards for these Contaminants of Concern are set out in **Table A** and **Table B of Schedule 'A'** of this CPU.

3.3 I am of the opinion, for the reasons set out in the RA that the RMMs described therein and outlined in Part 4 of the CPU and the requirements in Parts 5 to 7 of this CPU are necessary to prevent, eliminate or ameliorate an Adverse Effect on the Property that has been identified in the RA.

3.4 The RA indicates the presence of Contaminants of Concern in **soil** and **groundwater** which requires on-going restriction of land use and pathway elimination. As such, it is necessary to restrict the use of the Property and impose Building restrictions and implement RMMs as set out in the RA and in Parts 4 to 7 of the CPU.

3.5 I believe for the reasons set out in the RA that it is also advisable to require the disclosure of this CPU and the registration of notice of the CPU on title to the Property as set out in section 197 order requirements in Part 7 of this CPU.

Part 4: Risk Management Measures and Director Requirements

Pursuant to the authority vested in me pursuant to the authorities described in Part 2 of this CPU, I hereby require the Owner to do or cause to be done the following:

4.1 Implement, and thereafter maintain or cause to be maintained, the Risk Management Measures.

4.2 Without restricting the generality of the foregoing in Section 4.1, carry out or cause to be carried out the RMMs set out in this Part of the CPU.

<u>Existing and new hard cap and soil cap barriers:</u>

4.3 Subject to Section 4.6 of this CPU, the Existing Hard Cap/Soil Cap Barriers, and any newly installed Hard Cap Barrier and/or Soil Cap Barrier are required over the entire Property and shall be inspected and maintained to prevent exposure to the COCs on the Property for as long as the COCs are present at concentrations that exceed the ASCS. Any newly installed Hard Cap Barrier or Soil Cap Barrier shall be installed in accordance with Section 7.2.1 of the RMP along with **Figure 3**.

4.4 Within 90 days of completion of the installation of any new Hard Cap Barrier or Soil Cap Barrier on the Property, or upon issuance of this CPU if installation occurred prior to the CPU being issued, the Owner shall submit to the Director written confirmation signed by a Licensed Professional Engineer that the barriers have been installed in accordance with the requirements Section 4.3 of this CPU, and includes final design specifications/drawings and/or as built drawings.

4.5 Within 90 days of completion of the installation of any new Hard Cap Barrier or Soil Cap Barrier on the Property, the Owner shall submit to the Director a site plan that clearly identifies the final location of each of the different barriers.

4.6 Despite section 4.3 of this CPU, areas of the Property that are ***not in use*** or ***not under development*****,** Existing Hard Cap/Soil Cap Barriers or new Hard Cap Barrier or Soil Cap Barriers are not required as long as exposure to the COCs at concentrations that exceed the ASCS is prevented by a fence barrier that restricts access to those areas of the Property and a dust control plan is implemented.

4.7 An inspection and maintenance program shall be implemented to ensure the continuing integrity of the Existing Hard Cap/Soil Cap Barriers or any new Hard Cap Barrier or Soil Cap Barrier, as long as the COCs are present on the Property at concentrations that exceed the ASCS. The inspection program shall include semi-annual (spring and fall) inspections of the barrier's integrity in accordance with the inspection and maintenance program as detailed in Section 7.4.1 of the RMP. Any barrier deficiencies shall be repaired within a reasonable period of time in accordance with Section 7.4.1 of the RMP. If cracks, breeches, or any loss of integrity in the barriers cannot be repaired or addressed in a timely manner, contingency measures shall be implemented to ensure no exposure to the COCs that have been observed on the Property in accordance with Section 7.4.1 of the RMP. The restoration of any damaged portions of the Existing Hard Cap/Soil Cap Barrier(s) shall meet the original design specifications and any damaged portions of any new Hard Cap Barrier or Soil Cap Barrier shall meet the requirements in Section 4.3 of this CPU. The Owner shall submit to the Director written confirmation prepared and signed by a Licensed Professional Engineer that the barriers have been repaired in accordance with the applicable requirements of this CPU. The written confirmation shall also include a description of any contingency measures put in place and shall be submitted to the Director within 30 days of the completion of any barrier repairs and/or restorations. The Owner shall keep records of the inspections and maintenance and make them available for review by the Ministry upon request.

Existing Building:

4.8 The Owner shall operate, inspect, and maintain the SSDS that was installed within the Existing Building for as long as the Existing Building is occupied and COCs are present on, in or under the Property at concentrations above the ASCS or until written approval to discontinue the operation of the SSDS is received by the Owner from the Director. The Owner shall ensure that the operation, inspection, and maintenance of the SSDS is completed in accordance with the directions provided by the company that designed and installed the SSDS. All records documenting the operation, inspection, and maintenance of the SSDS shall be kept and maintained by the Owner and be made available to the Ministry upon request.

New enclosed Building (s) with a Vapour Mitigation System:

4.9 The construction of any new Building (s) on the Property that includes a Vapour Mitigation System shall meet the requirements as detailed in Section 7.2.5.2 of the RMP along with the following key requirements:

i. Be designed by a Licensed Professional Engineer in consultation with a Qualified Person.
ii. The Owner shall obtain an Environmental Compliance Approval, as necessary, and any other permits or approvals as may be required.
iii. The installation of the Vapour Mitigation System shall be completed under the supervision of an Licensed Professional Engineer and a Qualified Person.

iv. The passive Vapour Mitigation System detailed in Section 7.2.5.2 and the RMP shall be designed and constructed such that the passive venting system can easily be converted to an active venting system with all applicable approvals and permits as may be necessary; and,

v. A quality assurance/quality control (QA/QC) program shall be undertaken during the installation of the Vapour Mitigation System and shall be completed by, and clearly documented in a report prepared by, a qualified contractor and overseen by a Licensed Professional Engineer and Qualified Person.

4.10 Within 90 days of the completion of the construction of Building(s) as specified in Section 4.9 of this CPU and prior to first occupancy, the Owner shall submit to the Director the following:

i. as-built drawings and detailed design specifications of the Vapour Mitigation System, including any verification and QA/QC reports, prepared by the Licensed Professional Engineer; and,

ii. a statement from the Licensed Professional Engineer that the Vapour Mitigation System has been installed in accordance with the original design specifications and that it has been designed to meet the requirements and objectives specified in Section 4.9, 4.10 and/or 4.12 of this CPU.

4.11 The Vapour Mitigation System specified in Section 4.9 of this CPU shall be operated, inspected, monitored, and maintained by the Owner for as long as the COCs are present on the Property.

4.12 An inspection, monitoring and maintenance program, including a contingency plan, shall be prepared by a Licensed Professional Engineer and implemented by the Owner, prior to first occupancy, to ensure the continued integrity of the building floor slab and Vapour Mitigation System for as long as the COCs are present on the Property. The inspection program shall include, at minimum, semi-annual inspections of the integrity of the building floor slab(s)and monitoring of the Vapour Mitigation System. Any major cracks, breaches or loss of integrity observed in the building floor slab or any observed deficiencies or necessary maintenance requirements with the Vapour Mitigation System shall be repaired forthwith to the original design specification, at minimum. Repairs or maintenance shall be made by an appropriately qualified contractor, under the supervision of a Licensed Professional Engineer as necessary. If repairs to the building floor slab or the Vapour Mitigation System cannot be completed in a timely manner, the Owner shall ensure that the contingency measures are implemented. All repairs are to be inspected by a Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared, and signed by a Licensed Professional Engineer, that the Vapour Mitigation System has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 days of the completion of any repairs to the Vapour Mitigation System. The Owner shall keep records of the inspections, monitoring, and maintenance program, along with documentation of all repairs that were required to be undertaken and these records shall be made available by the Owner to the Ministry for review upon request.

4.13 The Owner shall ensure that all individuals or contractors intending to undertake work which could potentially come into contact with or interfere with the Vapour Mitigation System are made aware of it and the need to take appropriate precautions to ensure the integrity of the Building floor slab and the Vapour Mitigation System at all times. If the Building floor slab and or the Vapour Mitigation System is damaged at any time, the Owner shall ensure that it is repaired forthwith by a qualified contractor, under the supervision of a Licensed Professional Engineer as necessary, to the original design specifications, at minimum. If repairs to the Building floor slab and/or the Vapour Mitigation System cannot be completed in a timely manner, the Owner shall ensure that the contingency measures prepared by a Professional Engineer are implemented. All repairs to the Building floor slab and/or Vapour Mitigation System are to be inspected by a Licensed Professional Engineer and signed documentation shall be provided to the Owner that states that the repairs meet the original design specifications, at minimum. The Owner shall submit to the Director the written confirmation, prepared, and signed by a Licensed Professional Engineer, that the Building floor slab and/or Vapour Mitigation System has been repaired to meet the original design specifications, at minimum. The written confirmation shall also include a description of any contingency measures that were put in place and shall be submitted to the Director within 30 days of the completion of any repairs to the Building floor slab and/or the Vapour Mitigation System. The Owner shall maintain records of all activities and repairs in relation to the Building floor slab and/or Vapour Mitigation

DRAFT

System. These records shall be made available by the Owner to the Ministry for review upon request.

Performance Monitoring Program – new enclosed Building (s):

4.14 Once the final design of the Vapour Mitigation System for any new Building is completed as specified in Section 4.9 of this CPU, the Owner shall submit to the Director, for review and approval, a performance monitoring program. The performance monitoring program shall be prepared by a Licensed Professional Engineer in consultation with a Qualified Person, which that consists indoor air monitoring, as detailed in Section 7.4.5 of the RMP. Specifically, the performance monitoring program shall include the following key components:

i. Be overseen by a Licensed Professional Engineer.
ii. The collection of indoor air samples from an appropriate number of representative locations, including QA/QC samples, which is adequate for the size and configuration of any new Building(s) as determined by the Licensed Professional Engineer at the following frequency:
    a. Prior to first occupancy; and,
    b. Quarterly (spring, summer, winter, and fall) for a minimum two years, pending results and until written approval to reduce the frequency or discontinue the program by the Director is received by the Owner.
iii. The indoor air samples shall be sent to an accredited laboratory and analyzed for the Target Analytes.
iv. An annual report documenting the performance monitoring program shall be prepared by a Licensed Professional Engineer and submitted to the Director on or before **March 31st** following each year of monitoring for a minimum of two years and until written approval to discontinue the program is received by the Owner from the Director. The annual report shall include, but not be limited to:

    a. Laboratory results and laboratory certificates of analysis.
    b. Field logs and documentation of QA/QC.
    c. Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations; and,
    d. Conclusions and recommendations with respect to the need for additional and or continued monitoring as may be warranted.

4.15 Upon completion of the construction of the Vapour Mitigation System as specified in Section 4.9 of this CPU, and prior to first occupancy, the Owner shall implement the Director approved Performance Monitoring Program. Any changes to the Director approved Performance Monitoring Program (i.e. sampling frequency, locations, methodology etc.) must be requested in writing by a Licensed Professional Engineer and these changes shall only be implemented upon the Owner receiving written approval from the Director.

4.16 In the event that the Performance Monitoring Program identifies one or more of the Target Analytes at concentrations above the Target Indoor Air Concentrations, *and where the concentrations of the observed Target Analytes are determined by the Licensed Professional Engineer to be a result of soil vapour intrusion,* the Owner shall implement the contingency measures detailed in Section 7.5.4 of the RMP, and as follows:

i. Written notice shall be submitted to the Director by the Owner within 7 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the indoor air sampling results, the laboratory certificates of analysis and the anticipated timeline for the implementation of the confirmatory sampling program along with any additional work as may be deemed necessary by a Licensed Professional Engineer. Confirmatory sampling shall occur within 15 calendar days from the date of the Owner's receipt of the laboratory analysis and be completed by a Licensed Professional Engineer.

ii. If the indoor air sampling program verifies the exceedances of one or more of the Target Analytes concentrations above the Target Indoor Air Concentrations, *and where the concentrations of the observed Target Analytes are determined by the Licensed Professional Engineer to be a result of soil vapour intrusion,* the Owner shall:

DRAFT

a. Submit written notice to the Director within 7 calendar days of the Owner's receipt of the laboratory analysis. This written notice shall include the indoor air results, the laboratory certificates of analysis and the details of, and the anticipated timeline to implement contingency measures consistent with Section 7.4.5 of the RMP. The implementation of contingency measures, along with the implementation of a confirmatory sampling program shall occur within 45 calendar days of the Owner's submission of the written notice of the exceedance to the Director.
b. Within 30 calendar days of the implementation of the contingency measures, the Owner shall submit to the Director a report prepared by a Licensed Professional Engineer documenting the implementation of contingency measures, results of the implementation of the confirmatory sampling program along with the details and timelines for the implementation of a performance indoor air monitoring program as necessary. The report shall include, but not be limited to:
    1. Laboratory results and laboratory certificates of analysis.
    2. Field logs, leak testing (as necessary) and documentation of QA/QC.
    3. Discussion and interpretation of the results in comparison to the respective Target Indoor Air Concentrations; and,
    4. Conclusions and recommendations with respect to the performance of the new Vapour Mitigation System along with the need for additional work and/or continued monitoring as may be deemed warranted.

<u>Soil and Groundwater Management Plan:</u>

4.17 Within 30 days of the issuance of this CPU, a property specific soil and groundwater management plan shall be developed for the Property by a Qualified Person that has been retained by the Owner and made available for inspection upon request by the Ministry. The plan shall be implemented during *<u>all</u>* intrusive activities potentially in contact with or exposing COCs in soil and or groundwater that exceed the ASCS on the Property as detailed in Section 7.2.7 of the RMP. Before starting any planned intrusive activities on the Property, the existing Plan must be reviewed and updated, where necessary, by a Qualified Person. A copy of the plan must be kept on the Property for the entire duration of the intrusive activities.

a. The plan shall be submitted to the Director by the Owner at least 14 days prior to any such planned intrusive activities being undertaken and shall be consistent with the measures specified in Section 7.3.1 of the RA.

b. Any short-term intrusive activities required for the purposes of emergency repairs (i.e., for repairs to underground utilities etc.) do not require the submission of the plan prior to undertaking the short-term emergency repairs.

c. The plan shall include, but not be limited to, the following key components as deemed necessary by a Qualified Person:

    (i) oversight by a Qualified Person.
    (ii) storm water management measures to control the potential transport of COCs off-site during on-site construction/redevelopment activities. This shall include, but to not be limited to, silt fences and filter socks on catch-basins and utility covers as necessary.
    (iii) decontamination procedures for all equipment used to pump or transfer waters collected from the excavation. Wash water used for decontamination of equipment shall be collected, containerized, characterized, and disposed of in accordance with all applicable acts, regulations, permits and approvals.
    (vi) characterization and management of groundwater due to dewatering activities. This shall include the management and proper characterization of groundwater prior to and during any dewatering activities to ensure proper disposal of the groundwater in accordance with all applicable acts, regulations, permits and approvals.

(vii) include record keeping. Record keeping is to include, but not to be limited to, dates and duration of work, weather and site conditions, location and depth of excavation activities/dewatering activities, storm water management measures, decontamination activities along with all wash water and groundwater characterization results obtained as part of the groundwater management plan, names of the Qualified Persons, contractors, haulers and receiving sites for groundwater, as a result of dewatering activities, in addition to wash water removed from the property and any complaints received relating to site activities; and,

(viii) a copy of the plan and any amendments and the records kept thereunder shall be made available for review by the Ministry upon request.

Health and Safety Plan:

4.18 A property specific health and safety plan shall be developed for the Property and implemented during any intrusive activities undertaken potentially in contact with COCs in soil and or groundwater that have been identified in the RA at concentrations that exceed the ASCS as detailed in Section 7.2.6 of the RMP. A copy of the plan shall be maintained on the Property for the duration of any of the intrusive activities being undertaken. The Owner shall ensure that the plan considers the presence of the COCs and is implemented prior to any intrusive activities being undertaken on the Property in order to protect workers from exposure to the COCs. The plan shall be prepared in accordance with applicable Ministry of Labour health and safety regulations, along with all potential risks identified in the RA and include, but not limited to, occupational hygiene requirements, personal protective equipment, contingency plans, and contact information. Prior to initiation of any project (on the Property or portion (s) of the Property), the local Ministry of Labour office shall be notified, where so prescribed under the *Occupational Health and Safety Act* of the proposed activities and that COCs have been identified in soils and or groundwater on the Property. The plan shall be overseen by a Competent Person to review the provisions of the plan with respect to the proposed site work and conduct daily inspections. The Owner shall retain a copy of the plan to be available for review by the Ministry upon request.

Part 5: CPU Restrictions on Property Use – Prohibitions

Pursuant to my authority under paragraph 168.6(1)2 of the Act, I require the Order to do or cause to be done the following:

New enclosed Building(s):

5.1 Upon issuance of the CPU, the Owner shall refrain from constructing any new Building on, in or under the Property unless the Building is constructed with a Vapour Mitigation System.

Prohibition of groundwater use:

5.2 Upon issuance of the CPU, the Owner shall take all actions necessary or advisable to prevent any use of groundwater in or under the Property as a potable water source, except as may be required for continued use as a monitoring well, as defined in the OWRA, subject to the following:

i. properly abandon on the Property any wells, as described or defined in the OWRA, according to the requirements set out in Revised Regulations of Ontario 1990, Regulation 903 (Wells), made under the OWRA; and,

ii. refrain from constructing on the Property any wells as described or defined in the OWRA.

Part 6: Additional Requirements

Site Changes

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

Reports

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

Part 7: Ownership, Disclosure and Registration Requirements

Pursuant to my authority under subsections 197(1) and 197(2) of the Act, I order you as follows:

Disclosure of CPU

7.1 Upon services of this CPU, the Owner and any other person with an interest in the Property shall, before dealing with the Property in any way, give a copy of the CPU, including any amendments thereto, to every person who will acquire an interest in the Property as a result of the dealing.

Certificate of Requirement

7.2 Within fifteen (15) days from the date of receipt of an acknowledgment and direction package signed by the Director, register a certificate of requirement, issued under subsection 197(2) of the Act and completed as outlined in Schedule 'B', on title to the Property in the appropriate land registry office.

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

Owner Change

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

Part 8: General

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 sub section 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 The Director may amend the CPU under subsections 132(2) or (3) of the Act to change a requirement as to financial assurance, including that the financial assurance may be increased or provided, reduced or released in stages. The total financial assurance required may be reduced from time to time or released by an order issued by the Director under section 134 of the Act upon request and submission of such supporting documentation as required by the Director.

8.4 Subsection 186(3) of the Act provides that failure to comply with a requirement of the CPU constitutes an offence.

8.5 The requirements of the CPU are minimum requirements only and do not relieve you from,

a) complying with any other applicable order, statute, regulation, municipal, provincial or federal law; or
b) obtaining any approvals or consents not specified in the CPU.

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

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

c) natural phenomena of an inevitable or irresistible nature, or insurrections,
d) strikes, lockouts or other labour disturbances,
e) inability to obtain materials or equipment for reasons beyond your control, or
f) 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.

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

8.9 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

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

8.11 In the event that the Owner complies with the provisions of Part 7 of the CPU regarding the registration of the certificate of requirement on title to the Property, and then creates a condominium corporation by the registration of a declaration and description with respect to the Property pursuant to the *Condominium Act*, *1998*, S.O. 1998, c.19,and then transfers ownership of the Property to various condominium unit owners, the ongoing obligations of the Owner under this CPU may be carried out and satisfied by the condominium corporation by and on behalf of the new Owners of the Property.

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

8.13 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, 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. The contact information for the Director and the Tribunal is the following:

Registrar

Ontario Land Tribunal

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

and

Director

Ministry of the Environment, Conservation and Parks
1 Stone Rd. West, 4th Floor
Guelph, ON
N1G 4Y2

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

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

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

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 EBR you must give notice to the public in the Environmental Registry of Ontario. The notice must include a brief description of the CPU (sufficient to identify it) and a brief description of the grounds of appeal.

The notice must be delivered to the Minister of the Environment, Conservation and Parks who will place it on the Environmental Registry of Ontario. The notice must be delivered to the Minister of the Ministry of the

Environment, Conservation and Parks, College Park 5th Flr, 777 Bay St, Toronto, ON M7A 2J3 by the earlier of:

(a) two (2) days after the day on which the appeal before the Tribunal was commenced; and
(b) fifteen (15) days after service on you of a copy of the CPU.

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 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 6 are intended as a guide. The legislation should be consultant for additional details and accurate reference. Further information can be obtained from e-Laws at www.ontario.ca/laws

Issued at Guelph this **XX** day of **XXXX**, **2025**.

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Aaron Todd,
Director, section 168.6 and 197 of the Act

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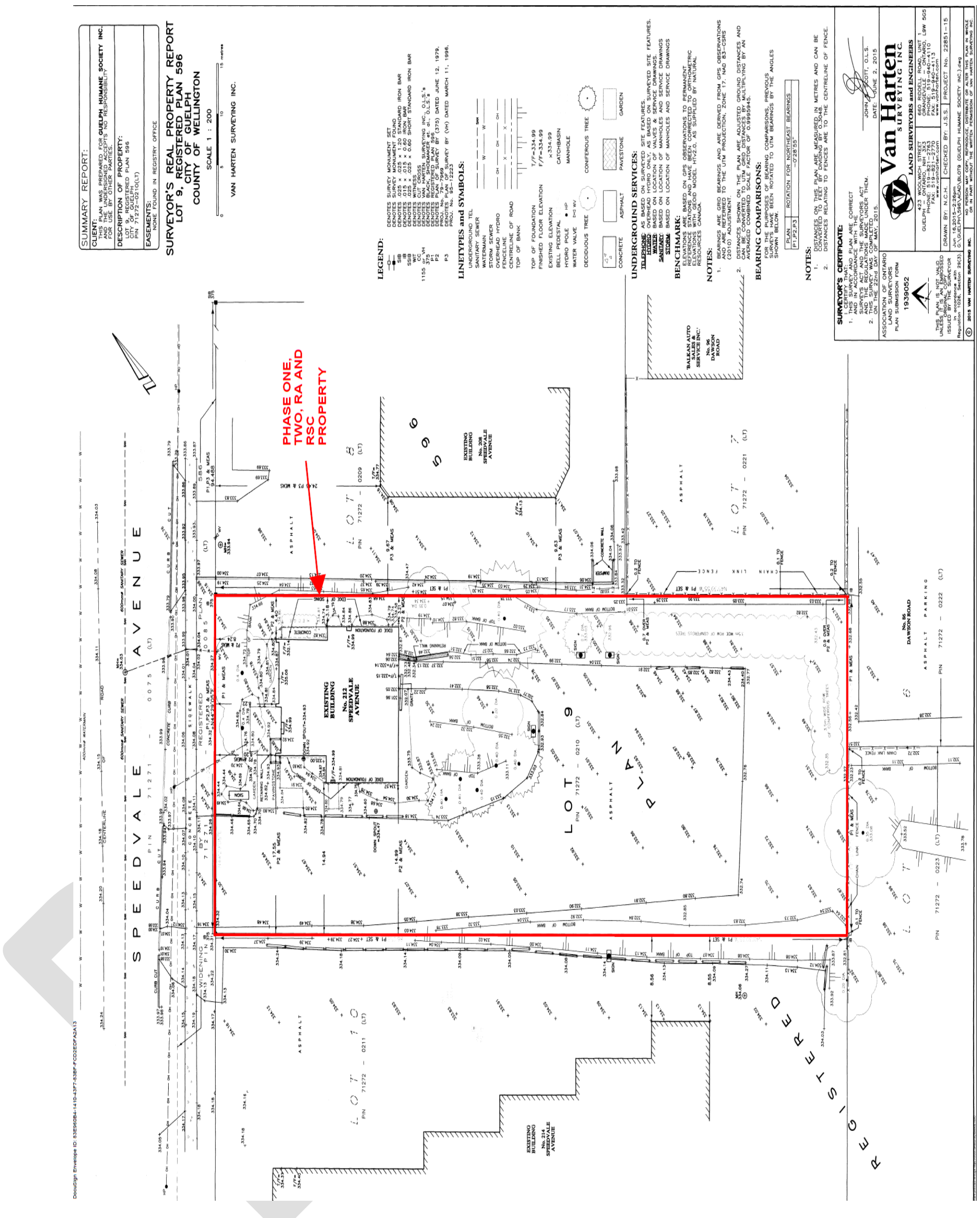
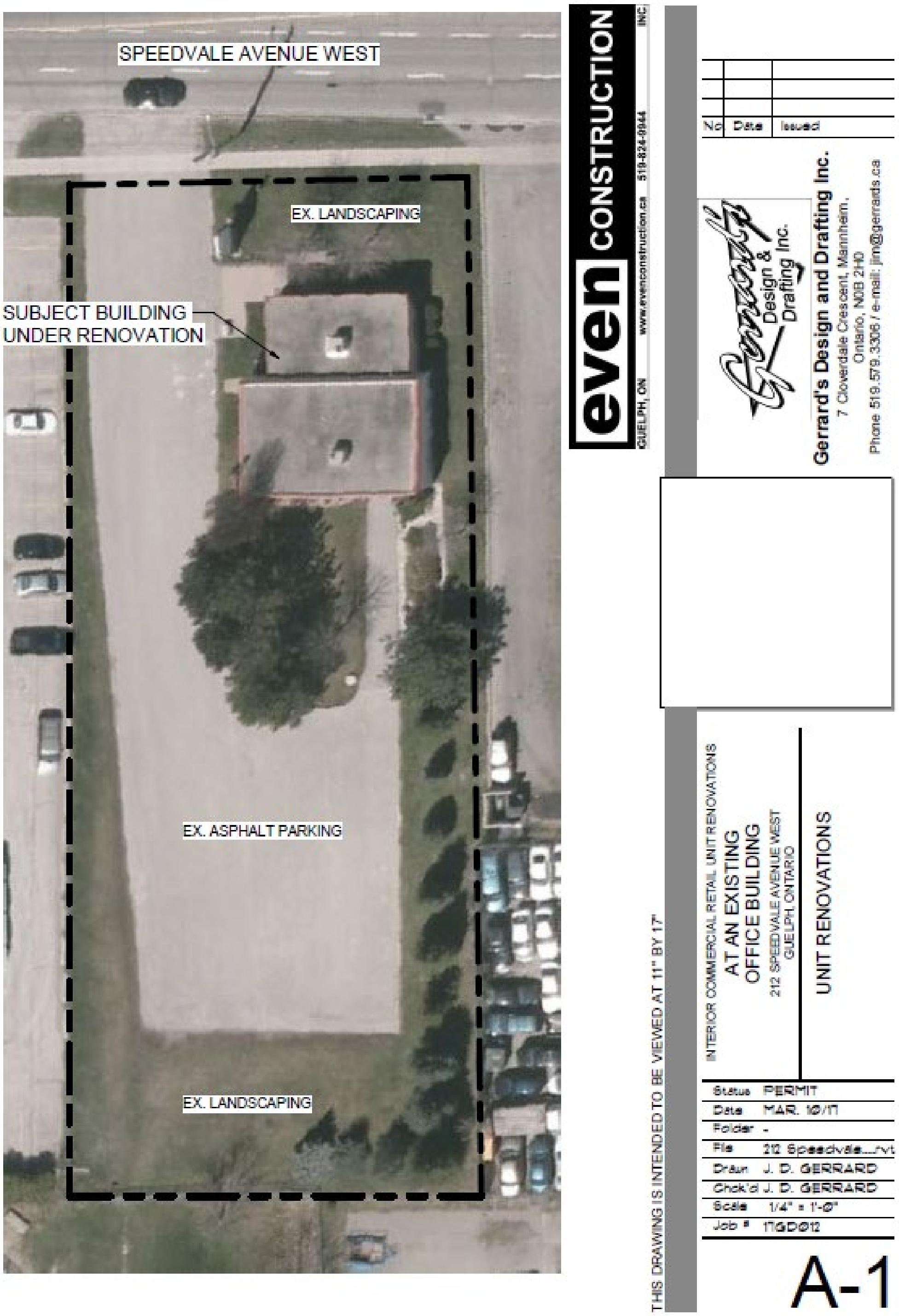
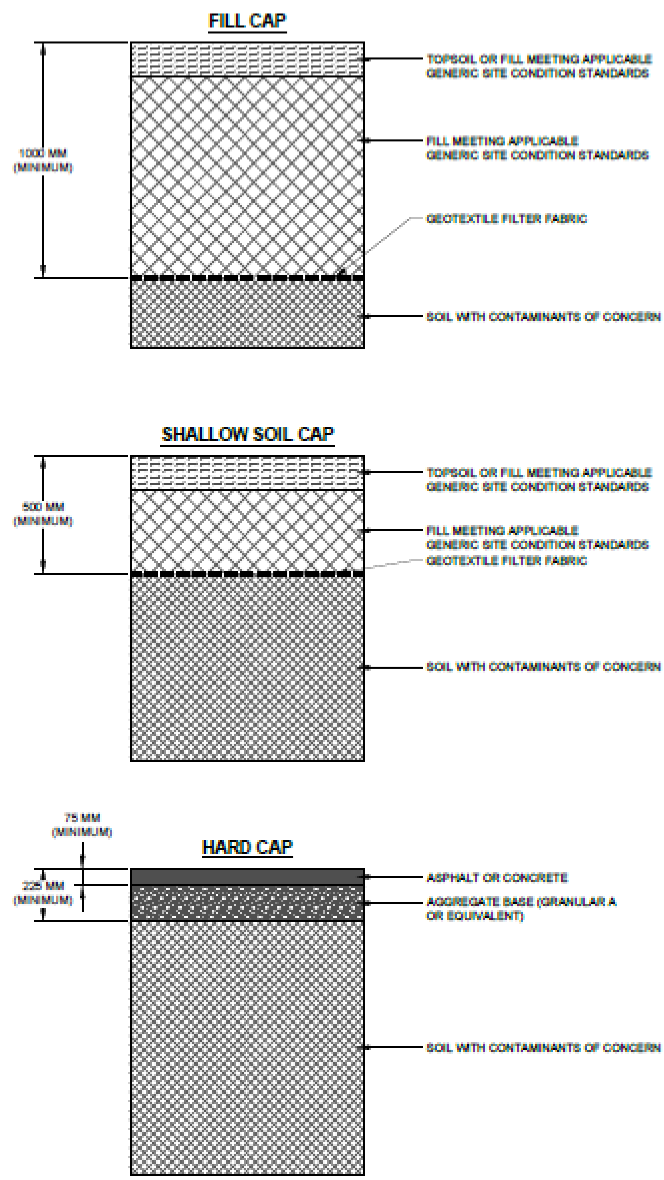
Schedule 'A': Figure 1 - Plan of Survey (not to scale)



Schedule 'A': Figure 2- Location of Existing Building (not to scale)



Schedule 'A': Figure 3: Hard Cap Barriers and Soil Cap Barriers



LICENSED PROFESSIONAL ENGINEER
E. D. HOOD
90481516
PROVINCE OF ONTARIO

NOTE(S)
1. NOT TO SCALE

CLIENT
2550054 ONTARIO INC.

PROJECT
212 SPEEDVALE AVENUE WEST, GUELPH, ONTARIO

CONSULTANT
wsp

YYYY-MM-DD	2023-06-05
DESIGNED	NP/MK
PREPARED	EH
REVIEWED	MP
APPROVED	EH

TITLE
TYPICAL BARRIER CAP DETAILS

PROJECT NO.	CONTROL	REV.	FIGURE
171-03887-02	0001	---	5

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

Soil Contaminant of Concern (COC)	*PSS (µg/g)*
Acenaphthylene	0.26
Anthracene	40
Benz[a]anthracene	45
Benzo[a]pyrene	41
Benzo[b]fluoranthene	50
Benzo[ghi]perylene	28
Benzo[k]fluoranthene	23
Chrysene	48
Dibenz[a h]anthracene	6.5
Fluoranthene	120
Indeno[1 2 3-cd]pyrene	24
Naphthalene	35
Phenanthrene	150
Boron (Hot Water Soluble)	20

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

Soil Contaminant of Concern (COC)	*PSS (µg/L)*
Petroleum Hydrocarbons (PHC) F2	230
PHC F3	610
Benzene	6.1
Dichloroethylene, 1,2-cis-	10
Trichloroethylene	67
Vinyl Chloride	15
Acenaphthene	23
Anthracene	3.9
Benzo[a]pyrene	0.19
Benzo[b]fluoranthene	0.24
Chrysene	0.30
Fluoranthene	4.8
Methylnaphthalene, 2-(1-)	10
Naphthalene	62
Phenanthrene	21
Boron (total)	7700

Schedule ‘A’: Table C: Target Indoor Air Concentration

Target Analyte	*Target Commercial Indoor Air Concentration (µg/m^3)*
Naphthalene	2.6
PHC F2	1600
Trichlorethylene	0.90
Vinyl Chloride	0.40

SCHEDULE 'B'

CERTIFICATE OF REQUIREMENT

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

This is to certify that pursuant to Section 7.1 of Certificate of Property Use number **1177-D6SJKEM** issued by **Aaron Todd**, Director of the Ministry of Environment, Conservation and Parks under subsections 168.6 and 197(1) of the *Environmental Protection Act*, dated **XXXX XX, 2025** being a Certificate of Property Use and order under section 197(1) of the *Environmental Protection Act* relating to the property municipally known as **212 Speedvale Avenue West, Guelph being ALL of PIN: 71272-0210 (LT) (the "Property")** with respect to a Risk Assessment and certain Risk Management Measures and other preventive measure requirements on the Property,

Eyewell Inc.

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

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