

Form 1075

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Fmr Northampton Gas Works (City of Northampton Parcels B & C)  
DEP Release Tracking No.: 1-14222

This Notice of Activity and Use Limitation ("Notice") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2023, by The City of Northampton, 210 Main Street, Northampton, Massachusetts 01060, together with its successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, The City of Northampton is the owner in fee simple of those certain parcels of vacant land located in Northampton, Hampshire County, Massachusetts, pursuant to deeds recorded with the Hampshire County Registry of Deeds in Book 13657, Page 133 and Book 13882, Page 352;

WHEREAS, said parcels of land, which are more particularly bounded and described in Exhibit A, attached hereto and made a part hereof ("Property") are subject to this Notice of Activity and Use Limitation. The Property is shown on a plan recorded in the Hampshire County Registry of Deeds in Plan Book 241, Plan 38;

WHEREAS, the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material.

Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Portion of the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as Exhibit C and made a part hereof;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Property pursuant to 310 CMR 40.0000:

(i) Use or development of the Property for vehicular parking, vehicular traffic, bicycle path, pedestrian, landscaping, or other activities and uses which would not allow direct contact with potentially Manufactured Gas Plant (MGP) impacted subsurface soil below elevation 111 feet (NAVD88 datum), which is more than ten (10) feet below ground surface at the time this AUL was recorded;

(ii) Use or development of the Property as an industrial, commercial, retail, hotel, or multi-unit residential property, which would not allow direct contact with potentially MGP-impacted subsurface soil below elevation 111 feet (NAVD88 datum);

(iii) Excavation and/or removal of potentially MGP-impacted subsurface soils present below elevation 111 feet (NAVD88 datum), provided that the work is conducted in accordance with the performance standards of the MCP and with a Soil Management Plan and Health and Safety Plan approved by a Licensed Site Professional (LSP), as per Paragraph 3 (i) below. Such excavation activities must be conducted in accordance with the Soil Management Procedures pursuant to 310 CMR 40.0030, and all applicable worker health and safety practices pursuant to 310 CMR 40.0018. The excavation shall be backfilled to the original grade or to an elevation deemed suitable by an LSP within sixty (60) days or an alternative time period approved in writing by an LSP;

(iv) Emergency repair to subsurface utilities at any depth provided that following utility repair, the excavation is backfilled to the original grade with excavated soils within thirty (30) days or an alternative time period approved in writing by an LSP;

(v) Excavation of soils above elevation 111 feet (NAVD88 datum), provided that in the unexpected event that MGP-impacted soils are encountered, they are managed pursuant to Paragraph 1(iii).

(v) Such other activities or uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and

(vi) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Property:

(i) Use or development of the Property as a single-family residence;

(ii) Use of the Property for the cultivation of fruits and vegetables intended for human

consumption; and

(iii) Disturbance, relocation, or removal of potentially MGP-impacted soil below elevation 111 feet (NAVD88) unless the work is conducted in accordance with the performance standards of the MCP and with a Soil Management Plan and Health and Safety Plan approved by an LSP, as per Paragraphs 1(iii) and 3(i).

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Property to maintain a Permanent Solution and a condition of No Significant Risk:

(i) A Soil Management Plan describing soil management and disposal, if necessary, and a Health and Safety Plan must be approved by an LSP and implemented prior to the commencement of any activity that will disturb the impacted soil located below elevation 111 feet (NAVD88 datum); and

(ii) MGP-impacted soil encountered during work on the property shall be managed in accordance with the site-specific Soil Management Plan and Health and Safety Plan. The determination as to whether or not soil at the site is MGP-impacted soil shall be made based on physical and olfactory evidence of the presence of tar, tar oils, blue or greenish soil or stones, and/or blue wood chips or olfactory indications of a characteristic coal tar odor (naphthalene odor). Visual and olfactory evidence can be a better indicator of source than the detection of PAHs by chemical analysis and the detection of PAHs by chemical analysis is not, by itself, necessarily a reliable indicator of the presence of MGP-impacted soil.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR 40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry(ies) of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
The City of Northampton

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss

\_\_\_\_\_, 2023

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared \_\_\_\_\_ (name of document signer), proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

(as partner for \_\_\_\_\_, a partnership)

(as \_\_\_\_\_ for \_\_\_\_\_, a corporation)

(as attorney in fact for \_\_\_\_\_, the principal)

(as \_\_\_\_\_ for \_\_\_\_\_, (a) (the) \_\_\_\_\_)

\_\_\_\_\_ (official signature and seal of notary)

The undersigned Licensed Site Professional hereby certifies that in his Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: \_\_\_\_\_, 2023

\_\_\_\_\_  
David E. Leone,  
LSP # 2647

[Licensed Site Professional SEAL ]

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss

\_\_\_\_\_, 2023

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared \_\_\_\_\_ (name of document signer), proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

\_\_\_\_\_ (official signature and seal of notary)

Upon recording, return to:

The City of Northampton  
210 Main Street  
Northampton, Massachusetts 01060  
Attn: \_\_\_\_\_

**EXHIBIT A**

**(Metes and Bounds Description of the Property Subject to Notice of AUL)**

**Parcel B (Old South Street, Northampton, MA)**

The parcel herein described is more clearly designated and defined as "Parcel B" as shown on a certain Map entitled "Plan of Land, Northampton, MA. Hampshire Registry prepared for Tighe & Bond, Inc. Scale: 1" = 40' Date: 06/15/17," being a portion of parcel 31D-224 as shown on the aforementioned map, being more particularly described as follows:

Beginning at a point on the northwesterly corner of land now or formerly Elizabeth Hynes; Vol. 9490, Pg. 156, situated on the northerly side of Old South Street, said point being the following two courses from an Iron Rod Found on the southwesterly corner of land of now or formerly Biapita, LLC. Vol. 8386, Pg. 229, N 06°09' 15" W a distance of two hundred ninety-six and thirty-two hundredths (296.32') feet, thence; N 74°33' 57" E a distance of seventy and zero hundredths (70.00') feet to the point of beginning, thence;

N 83°46' 15" E a distance of twenty-one and eighty-eight hundredths (21.88') feet to a point on the northeasterly corner of the land of now or formerly Elizabeth Hynes, thence;

S 06°10' 33" E a distance of twenty and three hundredths (20.03') feet to a point, thence;

S 85°21' 46" W a distance of twenty-one and seventy-three hundredths (21.73') feet across the land now or formerly Elizabeth Hynes to a point, thence;

N 06°39' 10" W a distance of nineteen and forty-three hundredths (19.43') feet back to the point and place of beginning.

The parcel herein described Contains 430 Sq. Ft. or 0.01 Acre more or less.

**Parcel C (Old South Street, Northampton, MA)**

The parcel herein described is more clearly designated and defined as "Parcel C" as shown on a certain Map entitled "Plan of Land, Northampton, MA. Hampshire Registry prepared for Tighe & Bond, Inc. Scale: 1" = 40' Date: 06/15/17," being a portion of parcel 31D-223 as shown on the aforementioned map, being more particularly described as follows:

Beginning at a point on the northwesterly corner of land belonging to now or formerly Biapita, LLC; Vol. 8386, Pg. 229, situated on the northerly side of Old South Street, said point being the following course from an Iron Rod Found on the southwesterly corner of the land now or formerly Biapita, LLC, N 06°09' 15" W a distance of two hundred ninety six and thirty-two hundredths (296.32') feet, thence;

N 74°33' 57" E a distance of seventy and zero hundredths (70.00') feet to a point on the northeasterly corner of the land now or formerly Biapita, LLC, thence;

S 06°39' 10" E a distance of nineteen and forty-three hundredth (19.43') feet to a point, thence;

S 85°21' 46" W a distance of sixty-nine and twenty-eight hundredths (69.28') feet across the land now or formerly to a point, thence;

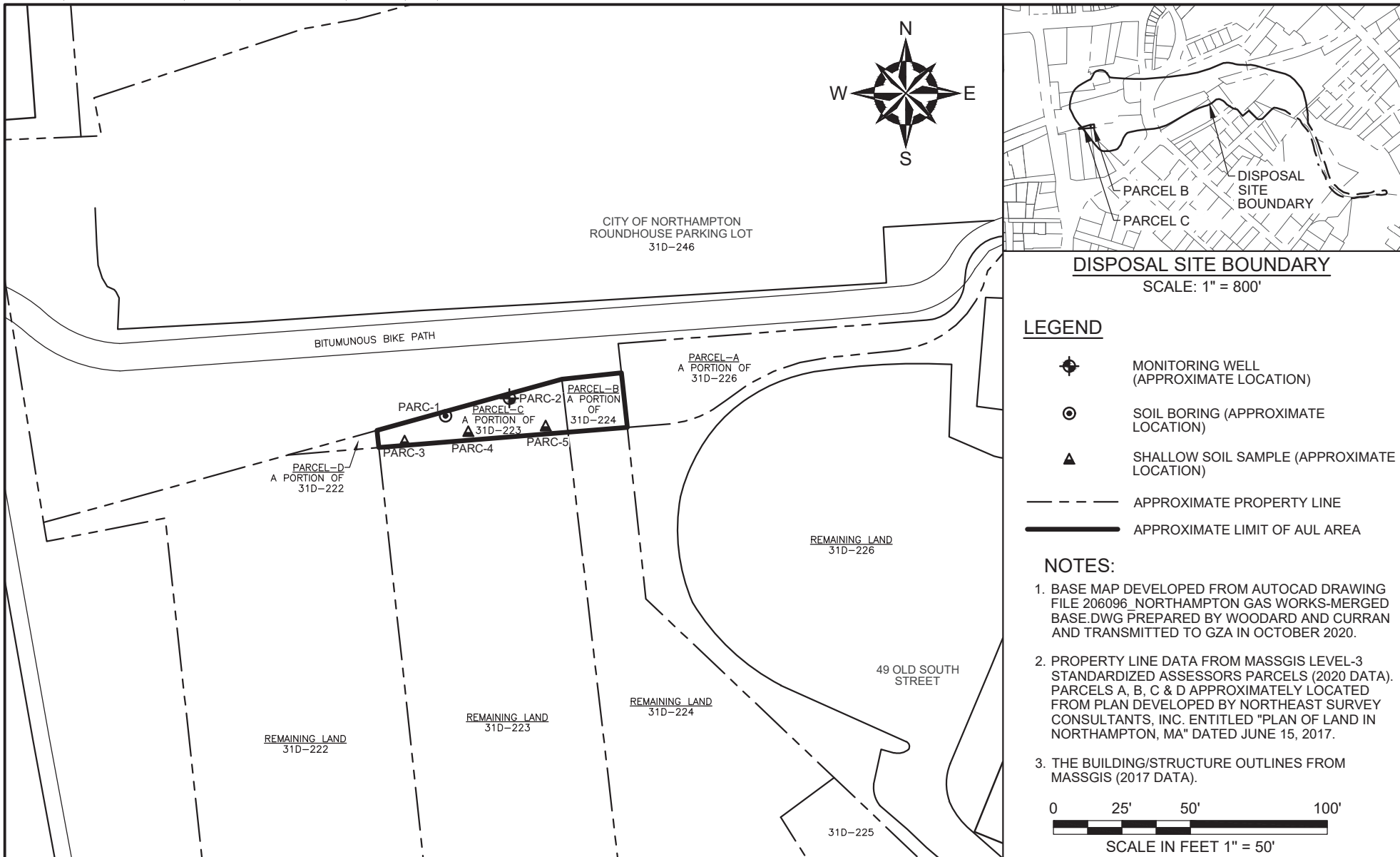
N 06°09' 15" W a distance of six and thirty-one hundredths (6.31') feet back to the point and place of beginning, said point being the northwesterly corner of the land now or formerly.

The parcel herein described Contains 891 Sq. Ft. or 0.02 Acre more or less.



# Exhibit B

© 2023- GZA GeoEnvironmental, Inc.  
 GZA-J:\170,000-179,999\174841\174841-02.JLR\FIGURES\CAD\174841-00\_BASEPLAN\_V3.DWG EXHIBIT-B APRIL 5, 2023 TATYANA FELDMAN



NO.	ISSUE/DESCRIPTION	BY	DATE

UNLESS SPECIFICALLY STATED BY WRITTEN AGREEMENT, THIS DRAWING IS THE SOLE PROPERTY OF GZA GEOENVIRONMENTAL, INC. (GZA). THE INFORMATION SHOWN ON THE DRAWING IS SOLELY FOR USE BY GZA'S CLIENT OR THE CLIENT'S DESIGNATED REPRESENTATIVE FOR THE SPECIFIC PROJECT AND LOCATION IDENTIFIED ON THE DRAWING. THE DRAWING SHALL NOT BE TRANSFERRED, REUSED, COPIED, OR ALTERED IN ANY MANNER FOR USE AT ANY OTHER LOCATION OR FOR ANY OTHER PURPOSE WITHOUT THE PRIOR WRITTEN CONSENT OF GZA. ANY TRANSFER, REUSE, OR MODIFICATION TO THE DRAWING BY THE CLIENT OR OTHERS, WITHOUT THE PRIOR WRITTEN EXPRESS CONSENT OF GZA, WILL BE AT THE USER'S SOLE RISK AND WITHOUT ANY RISK OR LIABILITY TO GZA.

**PARCELS B AND C**  
 NORTHAMPTON, MASSACHUSETTS

**ACTIVITY AND USE LIMITATION,  
 SITE SKETCH**

PREPARED BY:  
**GZA** GeoEnvironmental, Inc.  
 www.gza.com

DESIGNED BY: JLR    REVIEWED BY: DEL  
 DRAWN BY: DL / EMD

DATE: 03-22-2023    PROJECT NO. 174841.00

PREPARED FOR:  
**EVERSOURCE**  
 ENERGY

CHECKED BY: DEL    SCALE: 1" = 50 FEET  
 REVISION NO.

**EXHIBIT B**

## EXHIBIT C

### Parcels B and C, Northampton, Massachusetts DEP Site #1-14222

#### Site History

Parcels B and C collectively include approximately 1,321 square feet of land. Parcel B is approximately 430 square feet; Parcel C is approximately 891 square feet. These adjoining parcels are located south of the Roundhouse Parking Lot and north of Old South Street. Prior to approximately 1940, the Mill River flowed through the area now occupied by Parcels B and C. In 1940, the US Army Corp of Engineers diverted the river away from Northampton, which possibly involved using fill from the adjacent Northampton Gas Light Company's manufactured gas plant (MGP).

The Northampton MGP was initially developed around 1855 and was used for the manufacturing, storage, and distribution of coal gas. Most of the gas manufacturing structures formerly present on the MGP property were demolished in 1962. Much of the MGP property was donated to the City in 1973. The City uses the property for public parking. Parcels B and C are portions of land to the south of the MGP that were recently purchased by the City of Northampton to facilitate the widening of the Manhan Rail Trail.

Environmental assessments conducted at the larger MGP property were completed under the requirements of the Massachusetts Contingency Plan (MCP). The Phase II Comprehensive Site Assessment resulted in a detailed conceptual site model for the Disposal Site. Some MGP impacted material, including ash, coal, and clinkers, was likely used as fill material within the footprint of the former MGP or was graded and re-worked around the MGP. Tar and oily MGP residuals also were likely released from containers or through foundations into the subsurface. The MGP residuals, being denser than water, migrated downward through the heterogeneous subsurface fill and glacio-fluvial sand and gravel underlying the MGP. Clay and other fine-grained, low permeability soils are present below the sand and gravel at depths ranging from 10 to 35 feet below ground surface. Where the dense MGP residuals encountered clay or fine-grained soils, they either accumulated at that location or migrated laterally along the upper surface of the clay/soils, impacting the subsurface beneath other properties south and east of the MGP. Some MGP constituents have dissolved in groundwater and have migrated with the natural groundwater flow.

Parcels B and C soil and groundwater were assessed in 2021, with one groundwater monitoring well, one deep soil boring, and three shallow soil borings being advanced on Parcel C (given the limited size and proximity of Parcel B, no explorations were conducted on that parcel). Limited impacts were observed, and the cumulative cancer and non-cancer risks for the anticipated receptors do not exceed risk limits specified at 310 CMR 40.0993(6).

#### Reason for Activity and Use Limitation

To limit future potential exposures on the Property subject to the AUL (see Exhibit A) certain activity and use restrictions will be placed on the Property. Specifically, this AUL will limit exposures of certain receptors to MGP residuals in the subsurface. A Method 3 risk characterization was completed to evaluate potential risks associated with the MGP-related compounds in the subsurface fill, soil, groundwater, and indoor air.

The risk of harm to human health posed by the MGP residuals that are present at the Property under current activities and uses are limited because humans are not able to easily contact the MGP residuals (coal fragments, brick fragments, and ash) in soil and/or groundwater in their present location. This AUL is being filed to allow for consistent conditions across the City-owned parcels which comprise the Roundhouse Parking Lot. This AUL will require that a Soil Management Plan (SMP) and Health and Safety Plan (HASP) be developed and implemented prior to any activities that would require excavation and subsequent contact with soils located at depths beneath Parcels B and C, and will restrict certain potential uses of the Parcels.