

NOTE: A three-minute maximum time limit will be imposed on all comments from the public, regardless of the subject matter. A request form is available from the Deputy Town Clerk; fill it in and return it to her prior to the start of the meeting. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager

TOWN OF BAY HARBOR ISLANDS
QUASI-JUDICIAL PUBLIC HEARING
AGENDA
March 10, 2021

AGENDA

SPECIAL NOTICE – HYBRID / VIRTUAL MEETING

Pursuant to Ordinance No. 1054, the Public Hearing will be held as a Hybrid Meeting where a quorum of the Town Council will be physically present at the Town's 95th Street Park located 1185 95th, Bay Harbor Islands, FL 33154. In the event of inclement weather, meeting will be moved to the Community Center (adjacent to the park). The general public and other members of staff will be able to view and participate in the meeting (Virtually) by utilizing the Zoom video conferencing platform.

Zoom Link: <https://zoom.us/j/99420663611>

Meeting ID: 994 2066 3611

To request to speak during Public Comment, please utilize the "raise your hand" Zoom feature on your electronic device. You will be recognized at the direction of the Zoom Meeting Host.

In addition, any member of the public who does not wish, or is unable to participate through the Zoom video conferencing platform, but would still like to participate can do so by listening to the meeting as it happens by dialing the Toll-free number below:

US Toll Free Number: 877 853 5247 or 888 788 0099

US: 1 312 626 6799; 1 994 206 63611 or 1 646 558 8656

Meeting ID: 994 2066 3611

Participant ID: Press the # key

To request to speak: Dial *9 on your telephone device to activate the "Raise your Hand" feature on the zoom platform.

Members of the Public can also submit their request to speak and/or comments via e-mail to the Office of the Town Clerk at achang@bayharborislands-fl.gov

CALL TO ORDER: 6:00 p.m.

PLEDGE OF ALLEGIANCE:

ROLL CALL

1. Discussion for the purpose of hearing any public comment with respect to a request from CBS Realty Holding, LLC for designation of the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154 as Brownfield Area pursuant to Section 376.80(2)(c), Florida Statutes. Enclosed is a copy of the applicant request and staff report provided by Town Planner Michael Miller.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; PROVIDING FINDINGS; DESIGNATING A BROWNFIELD AREA WITHIN THE TOWN FOR REAL PROPERTY LOCATED AT 1000 KANE CONCOURSE, BAY HARBOR ISLANDS, FLORIDA, AS DEPICTED ON EXHIBIT "A" AND LEGALLY DESCRIBED ON EXHIBIT "B", FOR THE PURPOSES OF ENVIRONMENTAL REHABILITATION, JOB CREATION, AND ECONOMIC DEVELOPMENT; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THIS RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

2. Announcement of the second Public Hearing for April 14, 2021 at 6:00 p.m. to consider the request for Brownfield Area Designation for the property located at 1000 Kane Concourse.

CONCLUSION OF PUBLIC HEARING - Approximately 6:20 p.m.

Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AGENDA ITEM REPORT

March 10, 2021

ITEM NUMBER: 1.

ITEM: Discussion for the purpose of hearing any public comment with respect to a request from CBS Realty Holding, LLC for designation of the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154 as Brownfield Area pursuant to Section 376.80(2)(c), Florida Statutes. Enclosed is a copy of the applicant request and staff report provided by Town Planner Michael Miller.

DESCRIPTION:

Property owner / applicant: CBS Realty Holding, LLC

Folio Number: 13-2235-004-0010 and 13-2227-001-2470

Property Address: 1000 Kane Concourse, Bay Harbor Islands, FL 33154

Legal Description: Tract N of Nolan Brown; Lot 18, Block 12, of Bay Harbor Islands, according to the plat thereof, as recorded in plat book 46, page 5 of the public records of Miami-Dade County, Florida.

On October 12, 2020, the Town received a submittal from the Goldstein Environmental Law Firm, P.A, the law firm representing CBS Realty Holding, LLC for a request for Brownfield Area Designation pursuant to Section 376.80(2)(c), Florida Statutes.

Brownfield area designation proposed by persons other than a governmental entity. For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

The subject property received approval to construct a three-story mixed-use building with retail space on the first floor and the new home for the Church by the Sea on the second and third floors. The applicant seeks the Council consideration for Brownfield designation due to the presence of actual contamination on the property resulting from its former use for automotive sales and repair.

Enclosed is a copy of the request submitted by Mr. Brett Brumund of the Goldstein Environmental Law Firm, P.A. and other supporting documents.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

N / A

BUDGET IMPACT:

Submitted By: Alba L. Chang, Town Clerk

ATTACHMENTS

1. Brownfield Area Designation Request to Town of Bay Harbor Islands - CBS Realty Holding LLC (00039795xC4D3E)
2. BHI TC Staff Report CBTS Brownfield Area Request Dec 18 2020
3. DRAFT Resolution for Brownfield Area Designation - CBS Realty Holding LLC (00042577xC4D3E)
4. Aerial Photo - 1000 KC
5. 2- 1000 KC
6. LOCATION MAP- 1000KC

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

2100 Ponce de Leon Boulevard, Suite 710
Coral Gables, Florida 33134
Telephone: (305) 777-1680
www.goldsteinenvlaw.com

Michael R. Goldstein, Esq.
Direct Dial: (305) 777-1682
Email: mgoldstein@goldsteinenvlaw.com

October 12, 2020

Via Email

Ms. Maria Lasday, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: Request for Designation of the Property Located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as a Brownfield Area Pursuant to §376.80(2)(c), Florida Statutes

Dear Ms. Lasday:

On behalf of CBS Realty Holding, LLC (“CBS”), we are pleased to submit this Request for Designation of the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”), as a Brownfield Area pursuant to Chapter 376.80(2)(c), Florida Statutes. When fully redeveloped, the Subject Property will contain a three-story mixed-use building with retail space on the first floor and the new home for the Church by the Sea on the second and third floors. The completed project will have an estimated cost of approximately \$32.9 million. The legal description and property cards depicting the location of the Subject Property are enclosed herein at Exhibit A.

CBS is applying for the Brownfield Area Designation due to the presence of actual contamination on the Subject Property resulting from its former use for automobile sales and repair. This has required, and will continue to require, that CBS incur significant time and expense for technical, engineering, and legal consultants in order to properly conduct environmental assessment and remediation. The designation has thus become a key part of this ambitious project’s ultimate viability by enabling CBS to access certain regulatory and economic incentives to mitigate and manage the risk and expense associated with the discovery of contamination and the necessary response. It is also key to furthering

Ms. Maria Lasday, Town Manager
October 12, 2020
Page 2

the sustainable reuse of this centrally located property in the Town of Bay Harbor Islands' business district.

In considering a request for this type of designation, a local government must evaluate and apply the criteria set forth in Chapter 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit B, CBS meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or should further information be required. Thank you.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.

Michael R. Goldstein

Michael R. Goldstein
/mrg

Enclosures

cc: CBS Realty Holding, LLC

Exhibit A

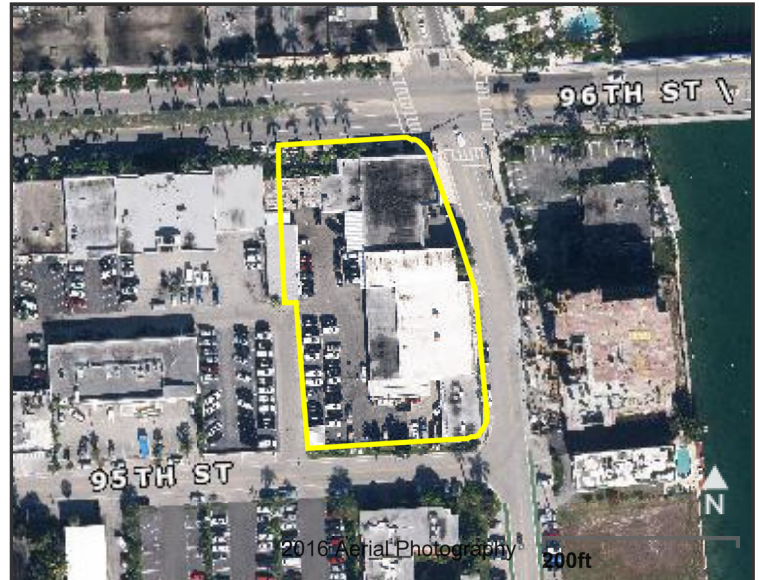


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 10/7/2020

Property Information	
Folio:	13-2235-004-0010
Property Address:	1000 KANE CONC Bay Harbor Islands, FL 33154-2107
Owner	CBS REALTY HOLDING LLC
Mailing Address	1045 95 ST BAL HARBOUR, FL 33154 USA
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	2719 AUTOMOTIVE OR MARINE : AUTOMOTIVE OR MARINE
Beds / Baths / Half	0 / 0 / 0
Floors	2
Living Units	0
Actual Area	Sq.Ft
Living Area	Sq.Ft
Adjusted Area	28,100 Sq.Ft
Lot Size	51,717 Sq.Ft
Year Built	Multiple (See Building Info.)



Assessment Information			
Year	2020	2019	2018
Land Value	\$12,929,250	\$10,343,400	\$12,929,250
Building Value	\$741,972	\$705,963	\$706,485
XF Value	\$61,250	\$61,474	\$61,698
Market Value	\$13,732,472	\$11,110,837	\$13,697,433
Assessed Value	\$12,221,920	\$11,110,837	\$12,223,560

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$1,510,552		\$1,473,873
Religious	Exemption	\$12,221,920		
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
NOLAN BROWN REPLAT PB 56-53 TRACT N LOT SIZE IRREGULAR OR 11567-1239 0882 5

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560
School Board			
Exemption Value	\$13,732,472	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$13,697,433
City			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560
Regional			
Exemption Value	\$12,221,920	\$0	\$0
Taxable Value	\$0	\$11,110,837	\$12,223,560

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
06/01/2016	\$20,000,000	30100-3356	Qual on DOS, multi-parcel sale
09/01/1975	\$1,122,800	00000-00000	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

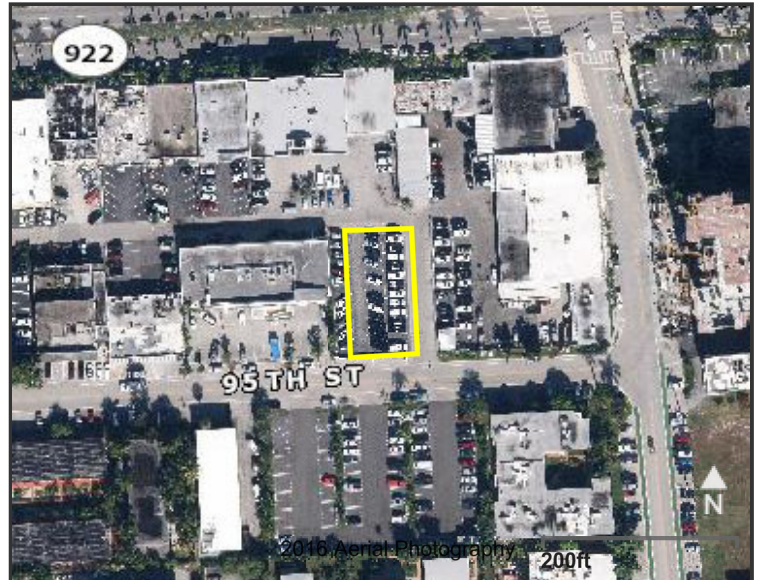


OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 10/7/2020

Property Information	
Folio:	13-2227-001-2470
Property Address:	
Owner	CBS REALTY HOLDING LLC
Mailing Address	1045 95 STREET BAL HARBOUR, FL 33154 USA
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	9,750 Sq.Ft
Year Built	0



Assessment Information			
Year	2020	2019	2018
Land Value	\$1,950,000	\$1,755,000	\$1,657,500
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$1,950,000	\$1,755,000	\$1,657,500
Assessed Value	\$1,930,500	\$1,755,000	\$1,657,500

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$19,500		
Religious	Exemption	\$1,930,500		
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description	
BAY HARBOR ISLAND PB 46-5 LOT 18 BLK 12 LOT SIZE 75.000 X 130 OR 11567-1239 0882 5	

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
School Board			
Exemption Value	\$1,950,000	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
City			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500
Regional			
Exemption Value	\$1,930,500	\$0	\$0
Taxable Value	\$0	\$1,755,000	\$1,657,500

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
06/01/2016	\$20,000,000	30100-3356	Qual on DOS, multi-parcel sale
09/01/1975	\$1,122,800	00000-00000	Deeds that include more than one parcel

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

EXHIBIT "A"

LEGAL DESCRIPTION

Tract N of NOLAN BROWN, according to the Plat thereof, as recorded in Plat Book 56, Page 53, of the Public Records of Miami-Dade County, Florida

and

Lot 18, Block 12, of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida

Exhibit B

Brownfield Area Designation Eligibility Statement

CBTS Green Reuse Area

1000 Kane Concourse, Bay Harbor Islands, Florida 33154

Folio Numbers 13-2235-004-0010 and 13-2227-001-2470

CBS Realty Holding, LLC (“CBS”) proposes to redevelop and rehabilitate two parcels of land located at 1000 Kane Concourse, Bay Harbor Islands, Florida 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”) with a new mixed-use development. Once complete, the Subject Property will contain a single 76,000 square foot, three-story building with parking, retail, and lobby for the Church by the Sea (the “Church”) on the ground floor and space for the Church on the second and third floors (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at § 376.80(2)(c), Florida Statutes.¹ In addition, the Subject Property meets the definition of a “brownfield site” pursuant to § 376.79(4), Florida Statutes.

I. Subject Property Satisfies the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

CBS satisfies this criterion in that it owns the Subject Property and has agreed to redevelop and rehabilitate it. See Special Warranty Deed, at Attachment B. Accordingly, CBS meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

CBS satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. The budget for redevelopment is approximately \$32.9 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, land and infrastructure improvements, and impact fees. The construction workers will spend a portion of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants. The planned retail component of this mixed-use project will also contribute to the economic productivity of the area by providing goods and services to residents and visitors in the Town. CBS further satisfies this criterion in that the Project will create more than five new permanent jobs at the Subject Property associated with future retail tenants and operation of the Church itself. For all the reasons discussed herein, CBS meets this second criterion.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

¹ A copy of § 376.80, Florida Statutes, can be found at Attachment A to this Eligibility Statement.

CBS satisfies this criterion in that the Subject Property is located within a B-1 Business zoning district with a Commercial designation on the Town's future land use map. The Town's B-1 Business District is designed to allow higher intensity development on the Town's eastern island fronting Kane Concourse. This district specifically allows development of projects with a mix of uses including retail, restaurant, and religious institutions provided the religious use is located on the second floor of the building or higher.² This consistency and permissibility is further reflected in the Town's issuance of Building Permit No. B19-000232 for the construction of a new mixed use retail/worship/commercial building on June 29, 2020.³ For these reasons, CBS meets this third criterion.

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

CBS satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice is being posted at the Subject Property;*
- (ii) notice is being published in the Miami Herald;*
- (iii) notice is being published in the community bulletin section of Craigslist; and*
- (iv) a virtual community meeting will be held using a video and teleconferencing platform.*

All notices will contain the following narrative:

Representatives for CBS Realty Holding, LLC., will hold a virtual community meeting on October 26, 2020, at 5:30 p.m. to not later than 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of land located at 1000 Kane Concourse, Bay Harbor Islands 33154, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as a Green Reuse Area. The designation is being made pursuant to Section 376.80, Florida Statutes, of Florida's Brownfield Redevelopment Act, and will involve two public hearings before the Bay Harbor Islands Town Council. The virtual community meeting will also address future development and rehabilitation activities planned for the site.

The virtual community meeting is free and open to all members of the public. Please register at <http://bit.ly/CBTSMeeting> or call (305) 640-5300 before the meeting to receive instructions for accessing the virtual meeting. For additional instructions on how to join, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the meeting date, please contact CBS Realty Holding, LLC's representatives, Michael R. Goldstein or Brett C. Brumund who can be reached by phone at (305) 640-5300, by email at bbrumund@goldsteinenvlaw.com, and/or U.S. Mail at The Goldstein Environmental Law Firm, P.A., 2100 Ponce de Leon Blvd., Suite 710, Coral Gables, FL 33134.

Proof of publication and posting will be provided to the Town.

² See Bay Harbor Islands, Fla., Code of Ordinances, § 23-5.

³ A copy of Building Permit No. B19-000232 is available at Attachment C.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of approximately \$32.9 million for the Project is fully funded through the financial resources of CBS’ manager, the Church.⁴ The financial position of CBS through its manager, the Church, provides reasonable assurance that CBS has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. It therefore satisfies this fifth criterion.

II. Subject Property Meets the Definition of Brownfield Site

Section 376.79(4), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here evidence that the Subject Property falls within the definition of the term “brownfield site” due to the presence of actual contamination resulting from its former use for automotive sales and repair. This has complicated redevelopment for CBS by requiring assessment and remediation under the oversight of the Miami-Dade County Division of Environmental Resources Management (“DERM”).

Specifically, a petroleum discharge was reported in 1986 at the former Ocean Cadillac facility that occupied the Subject Property. Later site assessment activities at the Subject Property identified several underground storage tanks (“USTs”) associated with the site’s former use, one of which still contained product that appeared to be used oil.⁵ The USTs and two hydraulic lifts were removed in March 2020. Additional assessment activities conducted during the UST closure and removal process identified groundwater with free floating petroleum product, concentrations of volatile organic compounds and polynuclear aromatic hydrocarbons above Florida Department of Environmental Protections (“FDEP”) groundwater cleanup target levels, and areas of stained soil around the former USTs and in the area of the hydraulic lifts. Following removal of the USTs and hydraulic lifts, approximately 8,000 gallons of free-floating product was pumped from the site and nearly 750 tons of impacted soils were removed and disposed offsite. Site assessment activities also identified elevated levels of arsenic in soils however, this is likely attributable to naturally occurring conditions and is considered a background condition on South Florida’s barrier island system.

As a result of the former use of the Subject Property, there was and is actual contamination that CBS has been required to carefully manage during redevelopment at great legal and financial risk. More specifically, actual contamination at the Subject Property has complicated redevelopment efforts for CBS by imposing design and construction changes on the Project that would not be required but for the presence of contamination. The presence of actual contamination also increases CBS’ exposure to environmental and regulatory liability with respect to the Project and has made it materially more expensive and time consuming to move forward. Accordingly, this designation, if granted, will allow for CBS to access limited but important state-based economic incentives to help underwrite the costs associated with managing the environmental risk as well as, generally, to put the Project on a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger revitalization efforts for this area of the Town. Finally, the investigation and remediation of the

⁴ See Attachment D for correspondence from CBS’ financial institution, UBS Financial Services, Inc., confirming the Church has sufficient financial resources to fund the expected \$32.9 million redevelopment and any remaining rehabilitation.

⁵ See Attachment E for excerpts from the Tank Closure Assessment Report prepared and filed with DERM following removal of the USTs and hydraulic lifts.

contamination itself has added another major level of complexity as has required and may continue to require close and constant oversight by DERM. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, CBS has no assurance that as it moves forward with the Project the total cost of cleanup will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfield Program and underscores why incentives are so important for sites and projects exactly like this one.

Based on all the foregoing, the Subject Property clearly falls within the definition of “brownfield site” as set forth in § 376.79(4), Florida Statutes.

III. Conclusion

CBS has demonstrated that the Subject Property meets the definition of a “brownfield site” and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as a brownfield area pursuant to § 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act is appropriate.

Attachment A

Select Year: 2019 ▼ Go

The 2019 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. [376.81](#), including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. [376.77-376.86](#), and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. [376.82](#) are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. [403.182](#) to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

Attachment B

Prepared by and after recording, return to:
Erica L. English, Esq.
Katz Barron Squitero Faust
2699 S. Bayshore Drive, 7th Floor
Miami, Florida 33133

Parcel I.D. Nos. 13-2235-004-0010
13-2227-001-2470

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this 1st day of June, 2016, by OCEAN CADILLAC INC., an Illinois corporation (hereinafter referred to as "**Grantor**"), whose post office address is 6307 N.W. 80 Drive, Parkland, Florida 33067, to CBS REALTY HOLDING, LLC, a Florida limited liability company (hereinafter referred to as "**Grantee**"), whose post office address is 9700 Collins Avenue, Bldg. A, Suite 300, Bal Harbour, Florida 3315 (the words "**Grantor**" and "**Grantee**" include their respective heirs, successors, legal representatives and assigns where the context requires or permits).

WITNESSETH, That:

Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid at and before the execution and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alien, convey and confirm unto the said Grantee that certain tract or parcel of land described on Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as the "**Property**"), subject to and without warranty as to those certain matters set forth and described on Exhibit B, attached hereto and incorporated herein by this reference (hereinafter referred to as the "**Permitted Exceptions**"), but without serving to reimpose same.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of Grantee, its heirs, successors, legal representatives and assigns, forever in fee simple.

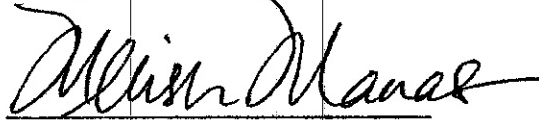
AND GRANTOR will warrant and forever defend the right and title to the Property unto Grantee, its heirs, successors, legal representatives and assigns, against the claims of all persons claiming, through and under Grantor (other than a claim arising out of the Permitted Exceptions), but not otherwise.

IN WITNESS WHEREOF, Grantor has executed and delivered this Special Warranty Deed as of the day and year first above written.

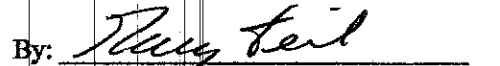
GRANTOR:

Signed, sealed and delivered
in the presence of:

OCEAN CADILLAC, INC., an Illinois
corporation



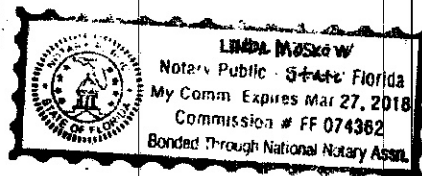
Printed Name: MELISSA MANAS

By: 
Print Name: GARY FEIL
Title: VICE PRESIDENT


Printed Name: COREY FEIL

STATE OF FL)
)SS.
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 26 day of MAY, 2016 by GARY FEIL, as VICE PRESIDENT of OCEAN CADILLAC, INC., an Illinois corporation, on behalf of the corporation. He is personally known to me (or has produced as identification).




Notary Public

Expiration of commission:

Special Warranty Deed - Signatures

EXHIBIT "A"

LEGAL DESCRIPTION

Tract N of NOLAN BROWN, according to the Plat thereof, as recorded in Plat Book 56, Page 53, of the Public Records of Miami-Dade County, Florida

and

Lot 18, Block 12, of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida

Attachment C



TOWN OF BAY HARBOR ISLANDS - DADE COUNTY, FLORIDA
THIS CARD MUST BE DISPLAYED ON FRONT OF JOB.
(ALL SUB-CONTRACT PERMITS MUST BE ATTACHED)

OWNER

CBS REALTY HOLDING LLC

CONTRACTOR

KVC Constructors Inc Project Manager

LOT TRACT

BLOCK N

No.

B19-000232

ADDRESS

1000 KANE CONC

DATE ISSUED

06/29/2020

SCOPE OF WORK

Construction of New Mixed Use Retail
/ Worship / Commercial Building

Note:

Permit Package must be posted for
inspector to sign. Notice of
Commencement is required for first
inspections.

PENALTY FOR REMOVAL UNTIL JOB IS COMPLETE

BUILDING PERMIT

**WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE
FOR IMPROVEMENTS TO YOUR PROPERTY IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN
ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT(F.S. 713.135)**

PERMIT EXPIRES 180 DAYS FROM EITHER THE ISSUE DATE OR THE LAST APPROVED INSPECTION

For inspections please call (305) 993-1786 or log onto our online portal for citizens: <https://www2.citizenserve.com/bhi>

Notice: In addition to the requirement of this permit, there may be additional restrictions applicable to this property that may be found in Public Records of the County, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

Attachment D



UBS Financial Services Inc.

100 S.E. 2nd Street
Suite 2500
Miami, FL 33131

ubs.com/fs

Confirmation

The Church by the Sea
1045 95th Street
Bay Harbor Isle, FL 33154

October 9, 2020

Confirmation: Information regarding the account of The Church by the Sea

The following client has requested UBS Financial Services Inc. to provide you with a letter of reference to confirm their banking relationship with our firm.

To whom it may concern:

The Church by the Sea has been a valued client of ours since November 2017, and as of the close of business on 10/08/2020 the Church by the Sea account has a total value in excess of \$32,900,000.00.

Please be aware this account is a securities account not a "bank" account. Securities, mutual funds and other non-deposit investment products are not FDIC-insured or bank guaranteed and are subject to market fluctuation. The assets in the account, including cash balances, **[if pledged:** have been pledged to a financial institution as collateral and] may also be subject to the risks of withdrawal and transfer. **[if margin:** This securities account has been approved for margin.] The above-referenced account value may reflect assets not held at UBS.

Questions

If you have any questions about this information, please contact Richard Suss at 305-536-9350.

UBS Financial Services is a member firm of the Securities Investor Protection Corporation (SIPC).

cc: The Church by the Sea

Attachment E



TECHNICAL
SERVICES

GALLAGHER BASSETT TECHNICAL SERVICES

TANK CLOSURE ASSESSMENT REPORT

OF

**CHURCH BY THE SEA PROPERTY (FORMER OCEAN CADILLAC)
1000 KANE CONCOURSE
BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA 33154
FOLIO NUMBER: 13-2235-004-0010
MIAMI-DADE COUNTY DERM UT -2037 / FILE - 0391
FDEP ID: 138622149 / ELIGIBLE DISCHARGE DATE: 10/21/1986 (ATRP)**

Prepared For:

**Miami-Dade County Department of Regulation & Economic Resources
Division of Environmental Resources Management
701 Northwest 1st Court, Suite 400
Miami, Florida 33136-3912**

Prepared On Behalf Of:

**CHURCH BY THE SEA
c/o KVC Constructors, Inc.
9499 Northeast 2nd Avenue, Suite 205
Miami Shores, Florida 33138**

Prepared By:

**Gallagher Bassett Technical Services
5751 Miami Lakes Drive
Miami Lakes, Florida 33014
Phone: (305) 374 - 8300**

Report Date: June 29, 2020

Project No. 2020 - 3067

TABLE OF CONTENTS

SECTION 1.0 – INTRODUCTION	1
SECTION 2.0 – TANK REMOVAL ACTIVITIES	2
SECTION 3.0 – REMOVAL OF OTHER IN-GROUND STRUCTURES.....	3
SECTION 4.0 – INTERIM SOURCE REMOVAL – UST/LIFT AREA	4
SECTION 5.0 - INTERIM SOURCE REMOVAL – OWS AREA	7
SECTION 6.0 – EXPANDED ARSENIC SOIL ASSESSMENT	9
SECTION 7.0 – RECOMMENDATIONS	10
SECTION 8.0 - ENVIRONMENTAL PROFESSIONAL STATEMENT.....	11

FIGURES

Figure 1 – Topographic Map
 Figure 2 – Aerial Photograph
 Figure 3 – Site Layout Map
 Figure 4 – Excavation Map
 Figure 5 – Post-Excavation Soil OVA/FID Results Map
 Figure 6 – Post-Excavation Soil Analytical Results Map
 Figure 7 – Soil Arsenic Results Map
 Figure 8 – Well Construction Diagram
 Figure 9 – Post-Excavation Groundwater Results Map
 Figure 10 – Groundwater Elevation (Low Tide)
 Figure 11 – Groundwater Elevation (High Tide)

TABLES

Table 1 – Post-Excavation OVA/FID Results
 Table 2 – UST Excavation Soil Results
 Table 3 – UST Excavation Soil BaP-E Conversion
 Table 4 – OWS Excavation Soil Results
 Table 5 – OWS Excavation Soil BaP-E Conversion
 Table 6 – Expanded Soil Arsenic Results
 Table 7 – 95% UCL Statistical Analysis – Soil Arsenic (0 to 2-ft BLS)
 Table 8 – 95% UCL Statistical Analysis – Soil Arsenic (2 to 3-ft BLS)
 Table 9 – Groundwater Results Map
 Table 10 – Groundwater Elevation Measurements

APPENDICES

- A Property Appraiser Information
- B Redevelopment Plans
- C 2019 TSAR Summary Tables & Maps
- D Disposal Manifests
- E DERM Inspection Report
- F ORC Plan & Regulatory Approval
- G Laboratory Analytical Reports, Chain-of-Custody Forms & Field Logs

SECTION 1.0 INTRODUCTION

Gallagher Bassett Technical Services (GBTS), a division of Gallagher Bassett Services, Inc. (GBSI), was retained by KVC Constructors (referred to as the *Client*) to perform environmental site assessment activities and prepare this Tank Closure Assessment Report (TCAR) for the Church By The Sea Property (the Former Ocean Cadillac facility) located at 1000 Kane Concourse, Bay Harbor Islands, Miami-Dade County, Florida 33154 (hereafter referred to as the "*Property*"). The *Property* was further identified by the Miami-Dade County Property Appraiser folio number: 13-2235-004-0010 (see **Appendix A**). A Topographic Map depicted the location the *Property* is presented as **Figure 1**. A recent aerial photograph depicting the *Property* prior to the recent demolition activities is presented as **Figure 2**. A Site Layout Map showing the former layout of the Ocean Cadillac facility is presented as **Figure 3**.

The structures of the former Ocean Cadillac facility have recently been demolished and the *Property* is being redeveloped with the Church By The Sea facility, which will include a 3-story building and parking garage that will encompass the *Property*. Please refer **Appendix B** for maps illustrating the future facility.

Background Environmental History

The former Ocean Cadillac facility had a known petroleum discharge case from October 21, 1986, which was deemed eligible for the Abandoned Tank Restoration Program (ATRP) with a low priority score of 7. Regulatory files pertaining to the *Property* were found in Miami-Dade County Department of Resources Management's (DERM) tracking numbers: UT -2037 / FILE – 0391, and the Florida Department of Environmental Protection (FDEP) facility site ID: 13-8622149. A *Site Assessment Template Report* dated May 10, 2019 and prepared by MAS was previously submitted to DERM, which outlined current soil and groundwater quality, along with a remedial recommendations to address impacts (see **Appendix C** for the SAR summary tables and maps). The report noted the following:

- Past soil results did not identify impacts above the FDEP's Soil Cleanup Target Levels.
- Groundwater was impacted around the UST area with Volatile Organic Compounds (VOCs) and Polynuclear Aromatic Hydrocarbons (PAHs) above the FDEP's Groundwater Cleanup Target Levels (GCTLs).
- The groundwater impact was isolated onsite, and the horizontal and vertical delineation was achieved. Groundwater flow was documented toward the west. Depth-to-water was at 2 to 4-feet below land surface (BLS) and is assumed to be tidally-influenced.
- Free floating product (FFP) had been observed in monitoring well MW-2 during past assessments and remedial action was taken in 2015 via pump-out activities.
- The report recommend a source removal of a 10 by 10-foot wide and 8-foot deep excavation around the USTs area to address the impact.
- The report also recommended the addition of a "chemical oxidant" applied to the groundwater prior to backfilling as a polishing step, and if the source removal did not prove affective, then chemical treatment or biosparging may be considered.

SECTION 2.0 TANK REMOVAL ACTIVITIES

On March 23, 24 and 25, 2020, Gulfstream Petroleum Service, Inc. (Gulfstream), a Florida-licensed Petroleum Storage Specialty Contractor (PSSC), was onsite to remove the USTs from the *Property*. A description of the events related to the removal of the USTs is presented below:

- Per online regulatory files, the Former Ocean Cadillac maintained three 2,000-gallon steel USTs located west of the main repair center. The USTs were previously used to store gasoline, new oil and used oil. The regulatory information reflected that the USTs had been filled with concrete. During the uncovering of the USTs, the PSSC discovered a fourth UST which was located immediately south of the above three tanks. The fourth UST appeared to be 1,000-gallons in capacity and filled with product that appeared to be used oil. The USTs locations are shown in **Figure 3**.
- The contents of the fourth UST were pumped out via a vacuum truck and the tank was inerted with dry ice prior to removal.
- The three concrete-filled USTs were excavated and the steel around the USTs was removed, pressure washed and then hauled offsite for recycling. The fourth UST was excavated, cut open, pressure washed and then hauled for offsite recycling. A copy of the recycling and disposal manifests provided in **Appendix D**.
- A Miami-Dade County DERM representative was onsite March 25, 2020 to inspect the USTs and excavation. A copy of the DERM inspection report is provided as **Appendix E**.
- During the UST removal work, staining was observed on the exterior of the USTs and stained soils were present within the excavation area. Further, free floating product (FFP) was observed atop the exposed groundwater table within the excavation area. Based on these observations (and the recommendation within the 2019 SAR), remedial action was warranted to address the impacted soils and FFP. Initial Source Removal (ISR) actions are further discussed in Section 3.0.

SECTION 3.0

REMOVAL OF OTHER IN-GROUND STRUCTURES

During demolition activities of the Former Ocean Cadillac, KVC Constructors removed hydraulic lifts, oil-water separators, and storm water drainage structures at the *Property*. The following is a summary of these removal activities.

Hydraulic Lift Removals

Two hydraulic lifts located ~ 20-feet east of the initial UST excavation area was located in an area that had historically identified petroleum impacts. When this lift was removed, product was observed within the piston and around the top of the equipment. Gulfstream Petroleum conducted two test pit excavations between the UST area and the hydraulic lift area, and the soils appeared to be petroleum impacted at or below the watertable interface in between the two areas. The ISR soil excavation area was expanded to encompass where these former lifts were located (see **Figure 4**).

As part of demolition activities, the general contractor (KVC Constructors) removed the remaining automotive hydraulic lifts from within the former auto repair center, which was located further east of the aforementioned UST removal area. KVC reported that these other lifts were aboveground, and no other in-ground lifts or cylinders were encountered during the demolition.

OWS & Car Wash Drainage Structure Removal

During the demolition work, an oil-water separator (OWS) was identified south of the former repair center building (see **Figure 3** for a map illustrating the location). Further, a car wash reclamation and sand filtration tank was identified adjoining to the west of the OWS. The interior of the OWS was partially filled with oily petroleum contact water. The interior of the reclamation tank was filled with sand and water. Both structures were pumped out with a vacuum truck. The interior of the OWS also was pressure washed. The OWS structure could not be completely cleaned and was crushed and placed with the stockpiled soils removed from the UST excavation area. The excavation was expanded to encompass both the OWS and the car wash reclamation tank area (see **Figure 4**).

Following removal of the OWS structure, the excavation was inspected and a minor amount of stained soils were observed immediately around the former OWS. These soils were excavated and placed in the same stockpile as the source removal from the USTs area. No stained soils were noted within the reclamation tank excavation area; therefore, no source removal was performed in this area.

SECTION 4.0

INTERIM SOURCE REMOVAL – UST/LIFT AREA

On March 25 thru 30, 2020, source removal activities were conducted to address impacts in the area of the USTs and hydraulic lift. The removal included the excavation of soils from both areas and the removal of FFP from the UST / piston area. The following is a summary of the excavation areas and work.

Following removal of the USTs and hydraulic lifts, a soil source removal was conducted in this area (see **Figure 4**). The final excavation area was ~ 50 by 50-feet wide and ~ 6 to 8-feet deep. Excavated soils were temporarily stockpiled atop and covered by visqueen.

FFP was removed from the excavation via a vacuum truck over the course of three events. A total of 8,150-gallons of FFP / petroleum contact water / sludge was pumped from the UST pumpout, washing and excavation skimming events. A total of 746.57-tons of impacted soils were removed from the combined USTs/lift and OWS / reclamation tank areas. The soils were transported to Clean Earth of Southern Florida for proper disposal. Disposal manifests for the FFP and soils are provided in **Appendix D**.

The excavation area was backfilled with clean crushed limestone imported from a local quarry. During the backfilling, GTBS applied Oxygen Releasing Compounds (ORC-A) per GBTS's April 15, 2020 *Expedited Interim Remedial Action Plan* previously submitted to the DERM. This application included 440 pounds of ORC-A which was placed at and below the watertable interface. An excerpt of the plan and the DERM and FDEP approval letters are provided in **Appendix F**.

Post-Removal Soil Assessment – UST/Lift Area

During source removal, the soils along the excavation walls were field-screened with an organic vapor analyzer (OVA) equipped with a flame ionization detector (FID). The samples were analyzed with and without a charcoal filter to separate naturally-occurring methane from hydrocarbons vapors. OVA results generated from field testing of soils were compared with the action level established in the FDEP's "Guidelines for Assessment and Source Removal of Petroleum Contaminated Soils" dated May 1998. The OVA/FID soil sampling locations are depicted in **Figure 5**. The OVA/FID screening results are summarized in **Table 1**.

- None of the post-excavation wall soil samples collected above the water table exhibited elevated net OVA/FID readings above the 10-ppm action level, except for the 0 to 2-feet BLS interval of the UST Sidewall-1 location, which exhibited 110-ppm. However, these soils exhibited a natural organic odor and confirmation soil sampling did not reveal the presence of elevated petroleum constituents' concentrations.
- Soils collected at/below the water table (2 to 4-feet BLS interval) exhibited slight petroleum odors and elevated net OVA/FID readings in the southwestern portion of the excavation area. GBTS utilized groundwater sampling data to interpret the effect of residual petroleum-affected soils below the water table, and results were below cleanup target levels.

Characterization composite samples (Comp 1 - 3) were collected from the petroleum-affected stockpiled soils and analyzed for the following parameters, then utilized by the disposal facility (Clean Earth):

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- Volatile Organic Compounds (VOCs) by EPA Method 8260
- Polycyclic Aromatic Hydrocarbons (PAHs) by EPA Method 8270
- Total Petroleum Hydrocarbons (TPHs) by Method FL-PRO
- Polychlorinated Biphenyls (PCBs) by EPA Method 8082
- Toxicity by EPA Method 9023

Following completion of the source removal, eight sidewall locations were selected for confirmation analysis. These sample locations included the following; Sidewall A thru Sidewall F & UST East Sidewall and Southwest Sidewall. Samples from these eight locations were collected from the 0 to 2-feet and 2 to 3-feet BLS depth intervals (just above watertable interface). The locations of the confirmation sidewall samples are presented as **Figure 6**. These 16 soil samples were analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO
- PCBs by EPA Method 8082

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The soil analytical results are provided as **Tables 2** and **3**, and depicted in **Figure 6**.

Soil analytical results were compared with the FDEP's *Contaminant Cleanup Target Levels*, per Chapter 62-777, FAC, which regulates Soil Cleanup Target Levels (SCTLs) for *residential-use direct exposure* (SCTL-R), *commercial-use direct exposure* (SCTL-C) and *leachability* (SCTL-L) concerns.

The following is a summary of the post-excavation sidewall soil analytical findings:

- Confirmation soil samples collected from the excavation walls did not exhibit elevated concentrations of the analyzed parameters above the FDEP SCTLs, with the exception of total arsenic.
- Total arsenic was detected in all 16 samples at concentrations ranging from 4.4 milligrams per kilogram (mg/Kg) to 20.0 mg/Kg. All 16 samples contained a total arsenic concentration of above the 2.1 mg/Kg SCTL-R. Samples collected from Sidewall-A (0 to 2-feet BLS), Sidewall-E (2 to 3-feet BLS), Sidewall-F (0 to 2-feet BLS) and UST SW Sidewall (2 to 3-feet) contained total arsenic at concentrations above the SCTL-C. Fourteen of the 16 samples also exceeded the 5.2 mg/Kg anthropogenic background concentration for the 0 to 2-feet BLS depth interval established by the Miami-Dade County Department of Environmental Resources Management (DERM). This issue is further discussed in Section 6.0.

Post-Removal Groundwater Assessment – UST/Lift Area

On May 20, 2020, following backfilling, GBTS retained a Florida-licensed water drilling to install five shallow-interval temporary groundwater monitoring wells in and around the source removal area. These monitoring wells were designated MW-1 thru MW-5. The wells were 1.5-inches in diameter, extended to a total depth of 12-feet BLS, and the included 10-feet of pre-packed well screen and sufficient solid PVC riser to extend ~ 3-feet above grade. Monitoring well MW-1 was placed in the center of the excavation which was considered the source area, and the perimeter wells MW-2 thru MW-5 were placed ~ 25-feet in each ordinate direction around the excavation limits. The monitoring well details are provided within the Well Construction Logs (**Appendix G**) and illustrated as **Figure 8**.

On May 20, 2020, GBTS collected groundwater grab samples from a temporary well sampling point, labeled GW-1D. The sampling point was screened from 25 to 30-feet BLS.

On May 21, 2020, GBTS collected groundwater samples from monitoring wells MW-1 through MW-5. Groundwater sampling conducted in accordance with the FDEPs Standard Operating Procedures (SOPs) per Chapter 62-160 of the Florida Administrative Code (FAC). Groundwater samples were analyzed for the following parameters:

- Total 8 RCRA Metals by EPA Method 6010 / 7470 (MW-1 only)
- PCBs by EPA Method 8082 (MW-1 only)
- VOCs by EPA Method 8260 (all wells and GW-1D)
- PAHs by EPA Method 8270 (all wells and GW-1D)
- TPHs by Method FL-PRO (MW-1 thru MW-5 only)

On June 22, 2020, GBTS also collected groundwater samples from monitoring wells MW-1, MW-3 and MW-5 for Total Dissolved Solids (TDS) by EPA Method SM5240C.

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The groundwater analytical results are provided as **Table 9**, and depicted in **Figure 9**.

The groundwater analytical results were compared with the FDEP Groundwater Cleanup Target Levels (GCTLs) and the Natural Attenuation Default Source Concentrations (NADSCs) per Chapter 62-777, FAC.

The following is a summary of the groundwater analytical findings and observations:

- Groundwater results from monitoring wells MW-1 thru MW-5 did not exhibit elevated concentrations of the analyzed parameters above their respective FDEP GCTLs with the exception TDS in samples from MW-1 (4,590 mg/L), MW-3 (1,870 mg/L) and MW-5 (1,070 mg/L). These results exceeded the 500 mg/L GCTL, but were below the 5,000 mg/L NADSC
- No evidence of FFP or sheen was observed within the groundwater samples.

SECTION 5.0 INTERIM SOURCE REMOVAL – OWS AREA

On April 2, 2020, source removal activities were conducted to address the limited volume of stained soils observed immediately beneath the former southern OWS. On May 4, 2020, the northeast part of the excavation was expanded to address the discovery of a low concentration of benzo(a)pyrene. The soils were transported to Clean Earth of Southern Florida for proper disposal. The OWS excavation area was backfilled with clean crushed limestone imported from a local quarry.

Post-Removal Soil Assessment – OWS Area

Prior to backfilling, one confirmation soil sample designated OWS Northeast (2 to 3-feet BLS) was collected from the excavation wall. This soil sample was analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- PCBs by EPA Method 8082
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO

Copies of the laboratory analytical reports, chain-of-custody forms, and field logs are provided in **Appendix G**. The soil analytical results are provided as **Tables 4** and **5**. The soil results are summarized in **Figure 6**.

Soil analytical results were compared with the FDEP's SCTLs. The following is a summary of the post-excavation sidewall soil analytical findings:

- Confirmation soil sample OWS NE Sidewall (2 to 3-feet BLS) did not exhibit elevated concentrations of the analyzed parameters, above the FDEP SCTLs, with the exception of total arsenic, benzo(a)pyrene (BaP), and BaP equivalents (BaP-E).
 - Total arsenic was detected at 2.5 mg/Kg which was slightly above the 2.1 mg/Kg SCTL-R, but below DERMs 5.2 mg/Kg anthropogenic background concentration, and below the 12 mg/Kg SCTL-C.
 - BaP was detected at 0.33 mg/Kg which exceeded its 0.1 mg/Kg SCTL-R, but was below its 0.8 mg/Kg SCTL-C and 8 mg/Kg SCTL-L. The BaP-E result was 0.5 mg/Kg, which exceeded the 0.1 mg/Kg SCTL-R, but was below the 0.7 mg/Kg SCTL-C.
 - The area was further excavated on May 4, 2020, and a second confirmation soil sample collected, which was analyzed for PAHs and concentrations were below the SCTL-R and SCTL-L.

Post-Removal Groundwater Assessment – OWS Area

One shallow-interval temporary groundwater monitoring well was installed in the center of the OWS excavation area which was designated MW-6. The well was 1.5-inches in diameter, extended to a total depth of 12-feet BLS, and the included 10-feet of pre-packed well screen and sufficient solid PVC riser to extend ~ 3-feet above grade. The monitoring well MW-6 details are provided within the Well Construction Log (**Appendix G**) and illustrated as **Figure 8**.

On May 21, 2020, GBTS collected groundwater samples from monitoring well MW-6. Groundwater sampling conducted in accordance with the FDEP SOPs, per Chapter 62-160, FAC. The groundwater samples were analyzed for the following parameters:

- Total Arsenic, Cadmium, Chromium and Lead by EPA Method 6010
- PCBs by EPA Method 8082
- VOCs by EPA Method 8260
- PAHs by EPA Method 8270
- TPHs by Method FL-PRO

Copies of the laboratory analytical reports, chain-of-custody forms, along with the well construction & development, soil & groundwater sampling and equipment calibration logs are provided in **Appendix G**. The groundwater analytical results are summarized as **Table 9**. The groundwater results are summarized in **Figure 9**.

The groundwater results were compared with the FDEP's SOPs. The following is a summary of the groundwater analytical findings:

- Groundwater results from monitoring wells MW-6 not exhibit elevated concentrations of the analyzed parameters above their respective FDEP GCTLs.

SECTION 6.0 EXPANDED SOIL ARSENIC ASSESSMENT

The post-excavation sampling revealed only one contaminant of concern in soils, which was total arsenic. There have been studies by the Miami-Dade County DERM with respect to the presence of naturally-occurring and anthropogenic arsenic in soils through the County's barrier islands, which include the *Property*. The arsenic detected in the excavation side wall soils was not attributed to the former USTs or OWS, but instead was attributed to pre-existing naturally-occurring arsenic. The additional sampling and evaluation was conducted as a basis for developing both a Soil Management Plan (SMP) and Health & Safety Plan (HASP) during soil disturbance activities for construction of the Church by the Sea development.

On May 20, 2020, GBTS oversaw the advancement of 10 soil borings gridded across the *Property*. Soil samples were collected from the 0 to 2-feet and 2 to 3-feet BLS depth intervals and analyzed for Total Arsenic by EPA Method 6010. The soil sampling locations are presented as **Figure 7**. The analytical results for these soil samples are presented in **Table 6**. Copies of the laboratory analytical reports, chain-of-custody forms and sampling logs are provided in **Appendix G**. The following is a summary of the findings:

- A total of 37 soil samples were collected from the soil borings and previous sidewall sampling, including 18 soil samples from the 0 to 2-feet BLS interval, and 19 soil samples from the 2 to 3-feet BLS interval.
 - Total arsenic concentrations ranged from 0.65 mg/Kg to 25.3 mg/Kg.
 - 36 soil samples contained total arsenic concentrations in excess of the 2.1 mg/Kg SCTL-R.
 - 32 soil samples contained total arsenic concentrations in excess the 5.2 mg/Kg Miami-Dade County Barrier Island Background Level.
 - 10 soils samples contained total arsenic concentrations in excess of the 12 mg/Kg SCTL-C.
- GBTS further evaluated the arsenic data using the FDEP's 95% Upper Confidence Limit (UCL) online calculator (ProUCL), which calculated the following results:
 - The 95% UCL result calculated for the 0 to 2-feet BLS interval was 11.9 mg/Kg, which exceeded both the 2.1 mg/Kg SCTL-R and the 5.2 mg/Kg Miami-Dade County Background Level, but was below the 12 mg/Kg SCTL-C. The 95% UCL arsenic results for the 0 to 2-feet BLS depth interval are provided in **Table 7**.
 - The 95% UCL result calculated for the 2 to 3-feet BLS interval was 13.3 mg/Kg, which exceeded the 2.1 mg/Kg SCTL-R, the 5.2 mg/Kg Miami-Dade County Background Level, and the 12 mg/Kg SCTL-C. The 95% UCL arsenic results for the 2 to 3-feet BLS depth interval are provided in **Table 8**.
- The potential for leaching of arsenic was evaluated using the two source area groundwater wells. Arsenic in the groundwater samples was below laboratory method detection limits and below the 10 ug/L GCTL.

SECTION 7.0 RECOMMENDATIONS

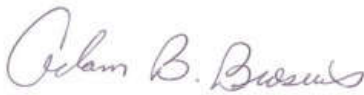
This report has documented the removal of source USTs, lifts and an OWS, along with the removal of 746.57 tons of petroleum-affected soils and 8,150-gallons of FFP/Contact Water/sludges. The post-excavation sampling was used to document that none of the remaining sidewall soils contain contaminants of concern above SCTLs associated with the source areas, and none of the groundwater samples collected contained contaminants of concern above GCTLs.

- The post-excavation sampling did reveal the presence of naturally-occurring arsenic in soils that exceed the SCTLs and the Miami-Dade County Barrier Island Natural Background Level. The presence of arsenic in onsite soils is not attributed to the former UST, lift or OWS source areas, but were in-place prior to development. The groundwater sampling did not reveal evidence of leaching, and arsenic concentrations were below the laboratory method detection limit and below the FDEP's 10 ug/L GCTL. Therefore, the presence of naturally-occurring arsenic does not pose a concern that warrants further assessment.
 - GBTS recommends that the naturally-occurring arsenic in soils be addressed with a Soil Management Plan (SMP) and Health & Safety Plan (HASP). These documents will guide the general contractor during soil disturbance activities, and will provide a protocol for soil relocation/disposal, dust control, and worker protection to minimize direct exposure concerns.
- Based on the post-removal soil and groundwater assessment findings, no further assessment is recommended. The information provided in the previous 2019 TSAR (by previous consultant on-file with DERM/FDEP), and supplemented with this extensive post-excavation TCAR sampling data, should be sufficient to conclude that SAR activities are complete.
- The post-removal assessment revealed that soil and groundwater samples are no longer impacted with petroleum constituents of concern. No further action is warranted with respect to this discharge. However, due to the use of ORCs during backfilling of the UST excavation area, as approved by DERM and FDEP, additional groundwater monitoring may be required. This will be difficult as the pile and pile cap installation is schedule to proceed in July, and by October the majority of the site will be covered with a hydrostatic concrete slab and caps. It is not feasible to pierce the hydrostatic slab for the purpose of monitoring a former petroleum discharge that has been remediated. Furthermore, the hydrostatic slab will extend to the edge of the *Property*, which may make it unfeasible to relocate wells beyond the building. Due to the impending slab installation, there is not sufficient time to complete 4 quarterly monitoring only plan (MOP) sampling events. GBTS proposes that DERM accept the groundwater sampling data presented in this TCAR to fulfill the 1st quarter MOP requirement. GBTS proposes two additional MOP semi-monthly monitoring events to provide assurance that the discharge has been addressed:
 - Collection of groundwater samples from monitoring wells MW-1 through MW-5 for VOCs (including BTEX/MTBE/IPB) by EPA Method 8260, PAHs by EPA Method 8270 and TDS by EPA Method SM2540C. Sampling will be conducted in July 2020 and September 2020.

SECTION 8.0
ENVIRONMENTAL PROFESSIONAL STATEMENT

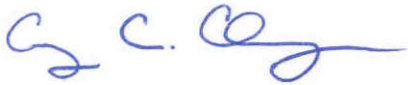
This TCAR was conducted under the supervision of the following GBTS professionals:

Report Prepared By:



Adam B. Brosius
Senior Staff Professional

and



Craig C. Clevenger, P.G.
Managing Director, Environmental Services
Gallagher Bassett Technical Services

Professional Geologist Certification:

I, Craig C. Clevenger, P.G. #1666, certify that I currently hold an active license in the state of Florida and am competent through education and experience to provide the geological consulting services documented in the aforementioned TCAR and source removal report. I further certify that, in my professional judgment, this report meets the requirements of Chapter 62-761, FAC, and Chapter 492, F.S., and was prepared by me or under my direction. Moreover, I certify that EE&G holds an active certificate of authorization #GB483 to provide geological services in the state of Florida.



Craig C. Clevenger, P.G.

July 2, 2020
Date

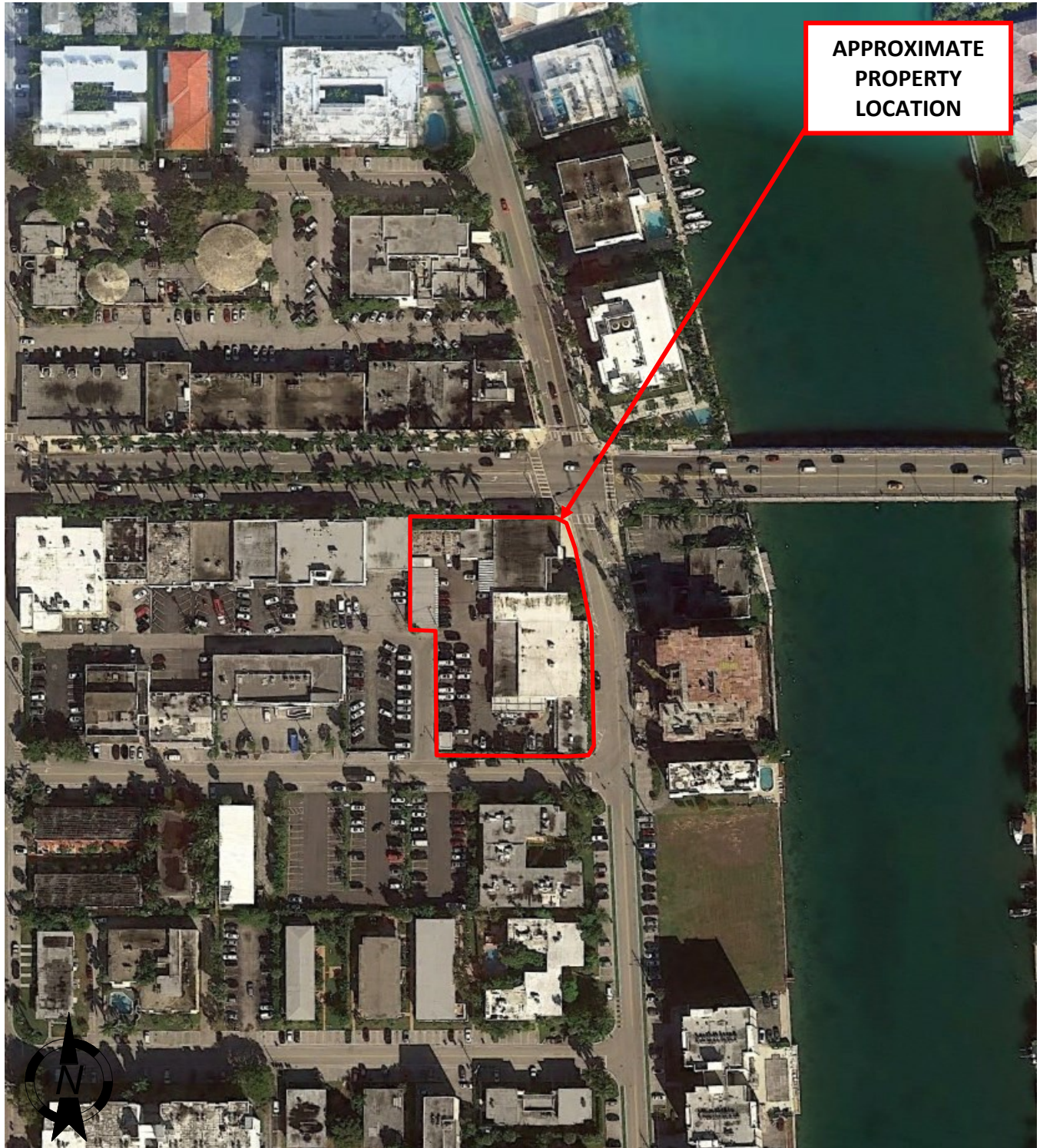
FIGURES



Church by the Sea
1000 Kane Concourse
Bay Harbor Islands, Florida 33154
Project #: 2020-3067

TOPOGRAPHIC MAP
Source: USGS

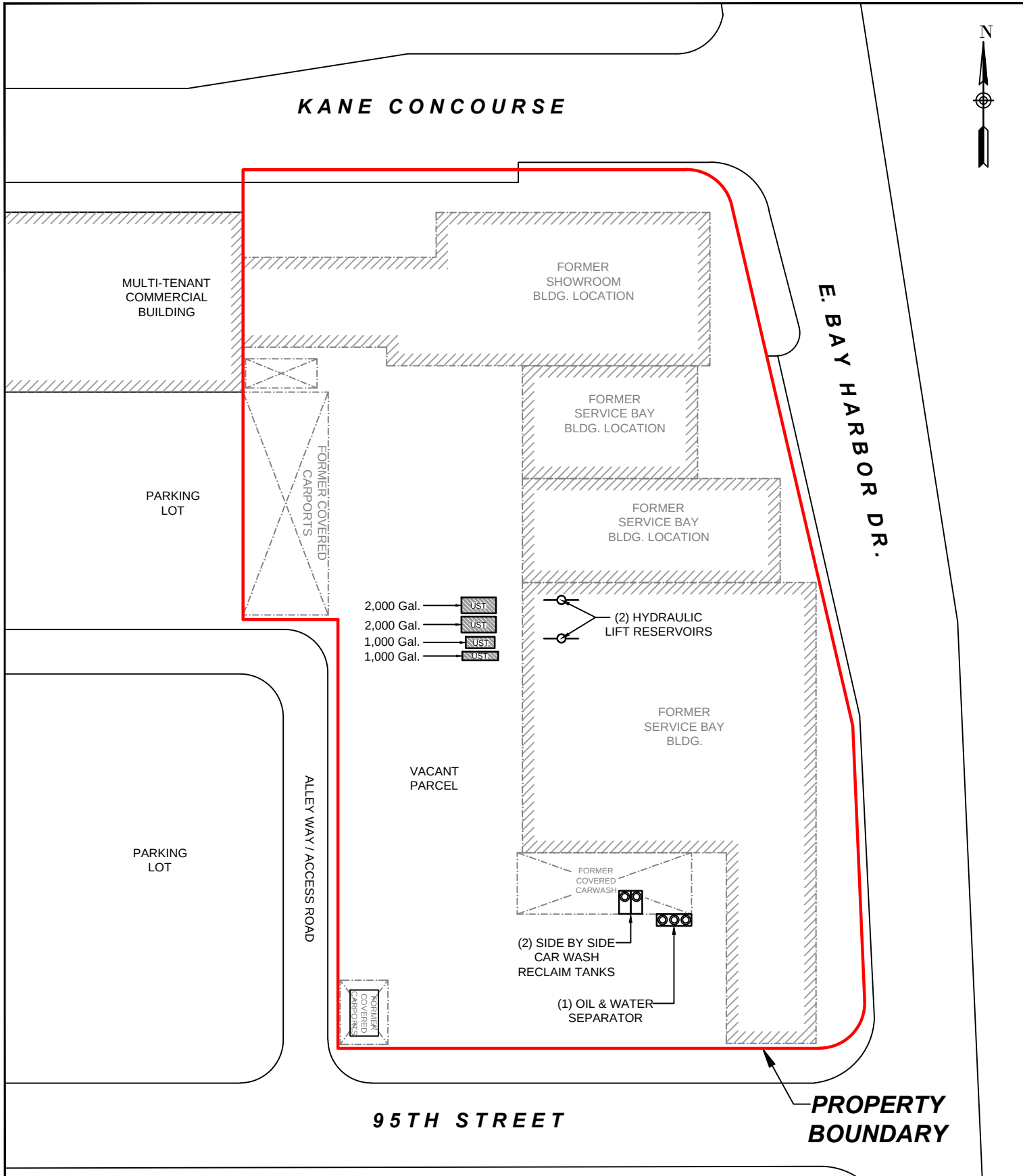
FIGURE
1



Church by the Sea
1000 Kane Concourse
Bay Harbor Islands, Florida 33154
Project #: 2020-3067

2019 AERIAL PHOTOGRAPH

**FIGURE
2**



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1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

FIGURE
3

SITE LAYOUT MAP

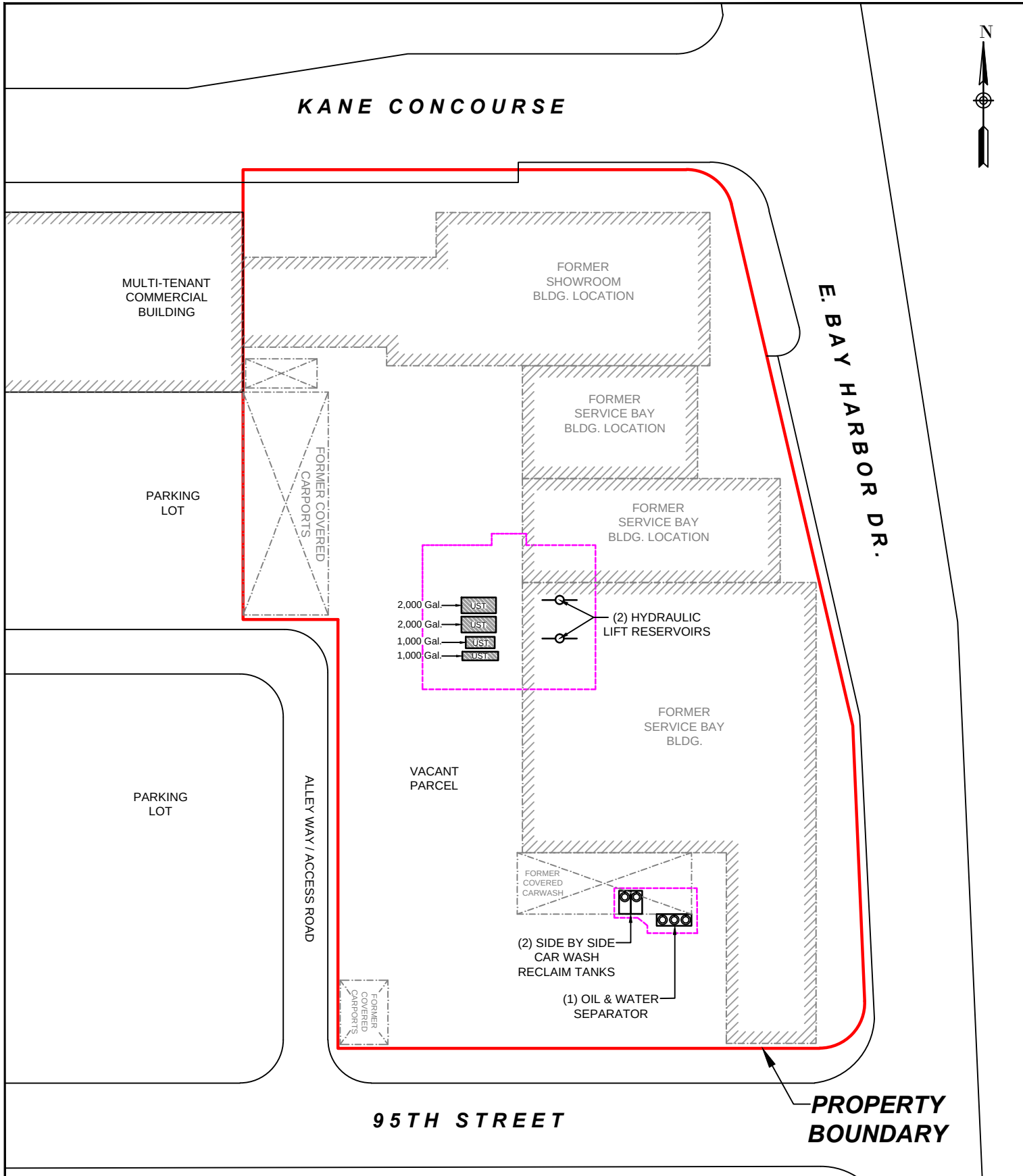
SCALE:

1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 2/21/2020



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**FIGURE
4**

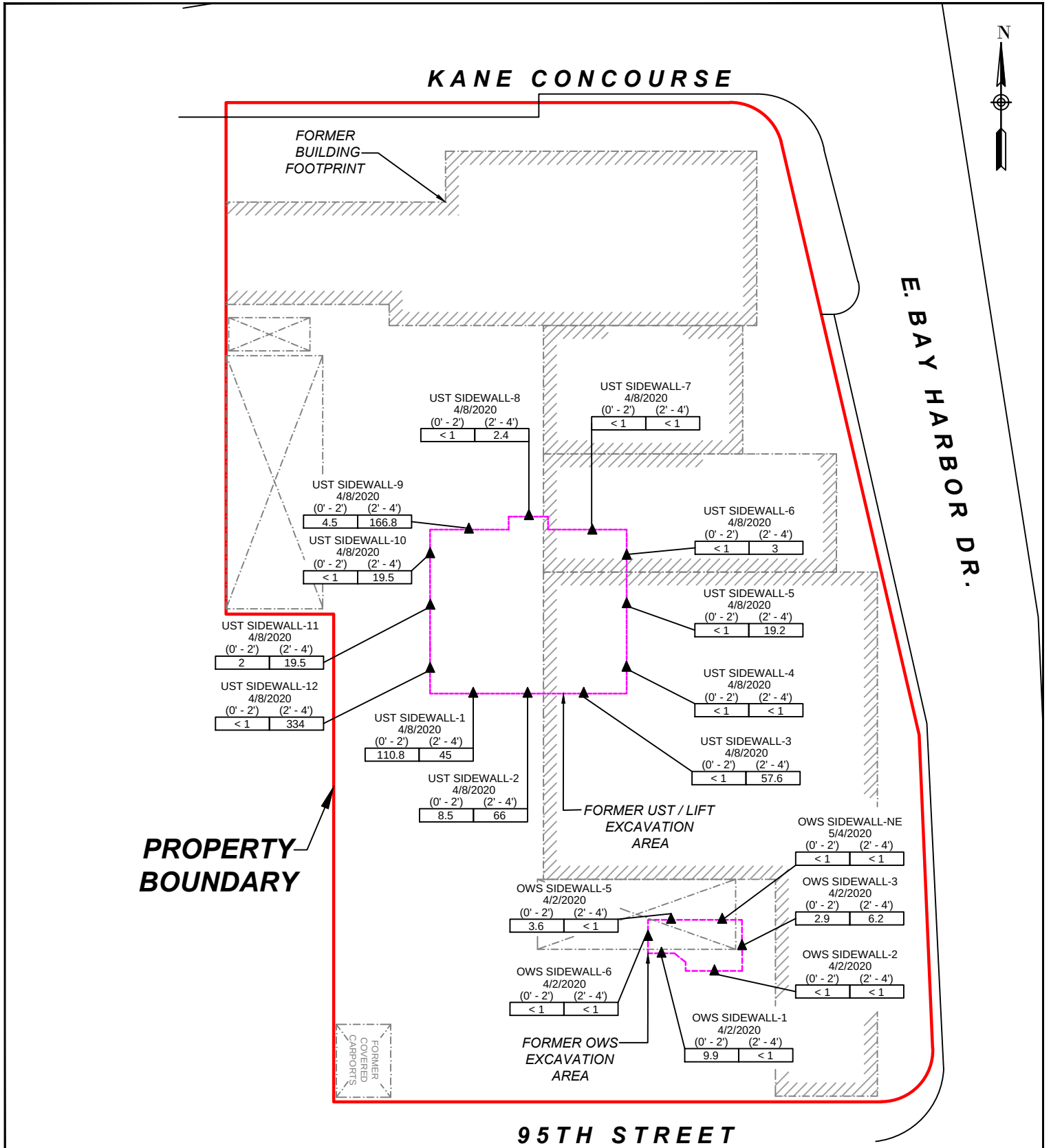
EXCAVATION MAP

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 2/21/2020



GALLAGHER BASSETT TECHNICAL SERVICES 5751 MIAMI LAKES DRIVE MIAMI LAKES, FLORIDA 33014 Phone: (305) 374-8300 Fax: (305) 374-9004		CHURCH BY THE SEA 1000 KANE CONCOURSE BAY HARBOR ISLANDS, FLORIDA 33154	
FIGURE 5		POST-EXCAVATION SOIL OVA / FID RESULTS MAP	
SCALE: 1" = 40'		DRAWN BY: JL	
PROJECT: 2020-3067		DATE: 04/28/2020	

KANE CONCOURSE



FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

SIDEWALL-E
4/21/2020
(0' - 2') (2' - 3')

9.9	15.5
2.3	0.79
5.9 U	20.4 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-D
4/21/2020
(0' - 2') (2' - 3')

8.4	10.2
4.4	2.5
301	6.7 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-F
4/21/2020
(0' - 2') (2' - 3')

14.9	5.6
1.8	0.73 I
21.5 U	13.2 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

UST-EAST SIDEWALL
4/21/2020 4/08/2020
(0' - 2') (2' - 3')

6.6	6.3
1.1	1.3
6.3 U	6.9 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

UST-SOUTHWEST
SIDEWALL
4/21/2020 4/08/2020
(0' - 2') (2' - 3')

6.2	15.2
0.75 I	1.4
120	8.5 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

FORMER
UST / LIFT
EXCAVATION
AREA

SIDEWALL-A
4/21/2020
(0' - 2') (2' - 3')

20.0	5.0
1.7	0.53 I
25.3 I	6.5 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-B
4/21/2020
(0' - 2') (2' - 3')

4.4	5.3
0.89	0.78
11.2 U	18.1 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

SIDEWALL-C
4/21/2020
(0' - 2') (2' - 3')

5.9	5.0
1.1	3.0
6.7 U	7.4 U
< SCTL	< SCTL
< 0.1	< 0.1
< SCTL	< SCTL
< SCTL	< SCTL

FORMER OWS
EXCAVATION
AREA

FORMER
COVERED
CARWASH

SIDEWALL-NE
4/8/2020 5/4/2020
(2' - 3') (2' - 3')

2.5	NT
41.8	NT
6.4 U	NT
0.33	NT
0.5	NT
< SCTL	< SCTL
< SCTL	NT

LEGEND:

- = AREA OF EXCAVATION
- ▲ = SIDEWALL SOIL SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE RESIDENTIAL SCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE COMMERCIAL SCTL
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- *** = LEACHABILITY DETERMINED VIA SPLP ANALYSIS

	SCTL-R	SCTL-C	SCTL-L
ARSENIC	2.1	12	***
LEAD	400	1,400	***
TPH's	460	2,700	340
BaP	0.1	0.7	8
BaP-E	0.1	0.7	—
PAH's	VARIES PER CONSTITUENT		
VOC's	VARIES PER CONSTITUENT		



95TH STREET

**PROPERTY
BOUNDARY**

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**FIGURE
6**

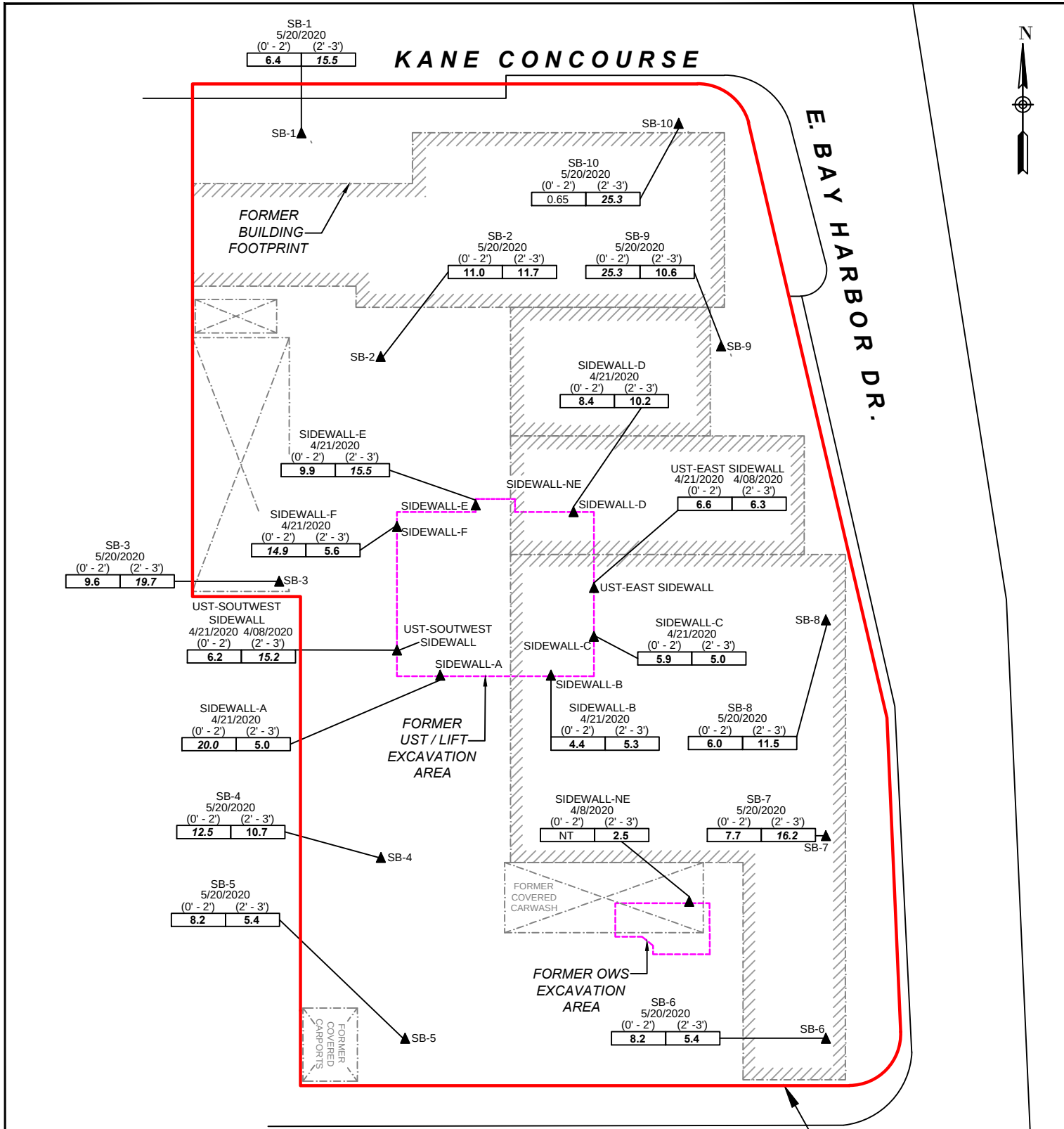
**POST EXCAVATION SIDEWALL
SOIL RESULTS MAP**

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 04/28/2020



LEGEND:

- = AREA OF EXCAVATION
- ▲ = SOIL SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE RESIDENTIAL SCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE COMMERCIAL
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- *** = LEACHABILITY DETERMINED VIA SPLP ANALYSIS

SCTL-R	SCTL-C	SCTL-L
ARSENIC	2.1	12



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 BAY HARBOR ISLANDS, FLORIDA 33154

FIGURE
7

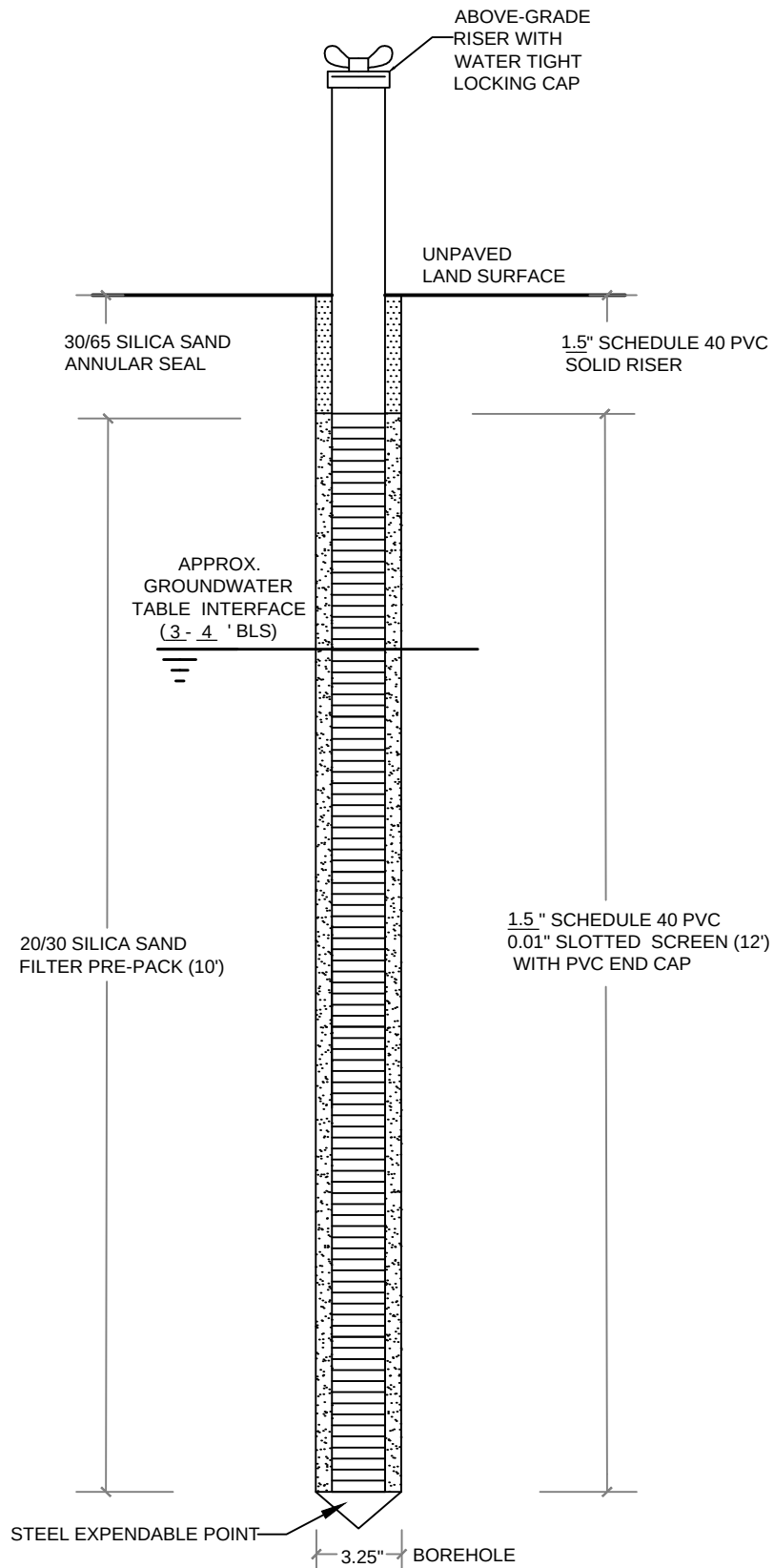
SOIL RESULTS MAP
(ARSENIC)

SCALE: 1" = 40'

DRAWN BY: J.L.

PROJECT: 2020-3067

DATE: 5/28/2020



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BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
8**

SHALLOW MONITORING WELL CONSTRUCTION DETAIL

SCALE:

NO SCALE

DRAWN BY: JL

PROJECT:

2020-3067

DATE:

6/19/2020

KANE CONCOURSE



FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

95TH STREET

PROPERTY
BOUNDARY

LEGEND:

- = AREA OF EXCAVATION
- = MONITORING WELL
- = DPT GROUNDWATER SAMPLE
- BOLD** = ANALYTICAL RESULT EXCEEDED THE GCTL
- BOLD** = ANALYTICAL RESULT EXCEEDED THE NADSC
- U = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS
- I = THE REPORTED VALUE IS BETWEEN THE LABORATORY METHOD DETECTION LIMIT AND THE LABORATORY PRACTICAL QUANTITATION LIMIT
- NT = RESULTS BELOW THE LABORATORY METHOD DETECTION LIMITS

	GCTL	NADSC
ARSENIC	10	100
LEAD	15	150
TPHS	5,000	50,000
PAHS	VARIES PER CONSTITUENT	
VOCS	VARIES PER CONSTITUENT	



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FIGURE
9

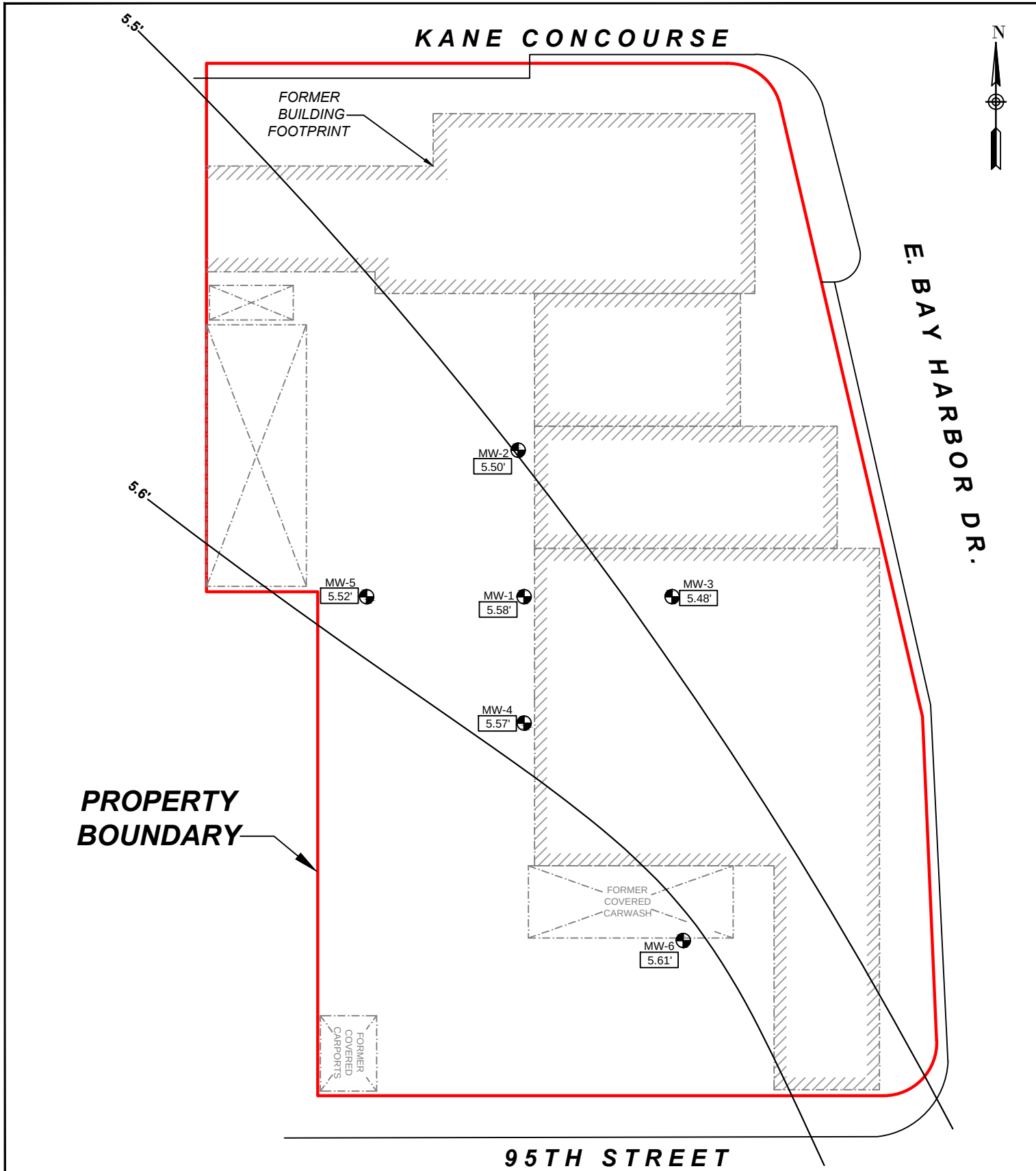
POST EXCAVATION
GROUNDWATER RESULTS MAP

SCALE: 1" = 50'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 04/28/2020



LEGEND:

● = MONITORING WELL



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1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
10**

**GROUNDWATER ELEVATION
(LOW TIDE @ 6-10-20 / 8:23AM)**

SCALE: 1" = 40'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 6/12/2020



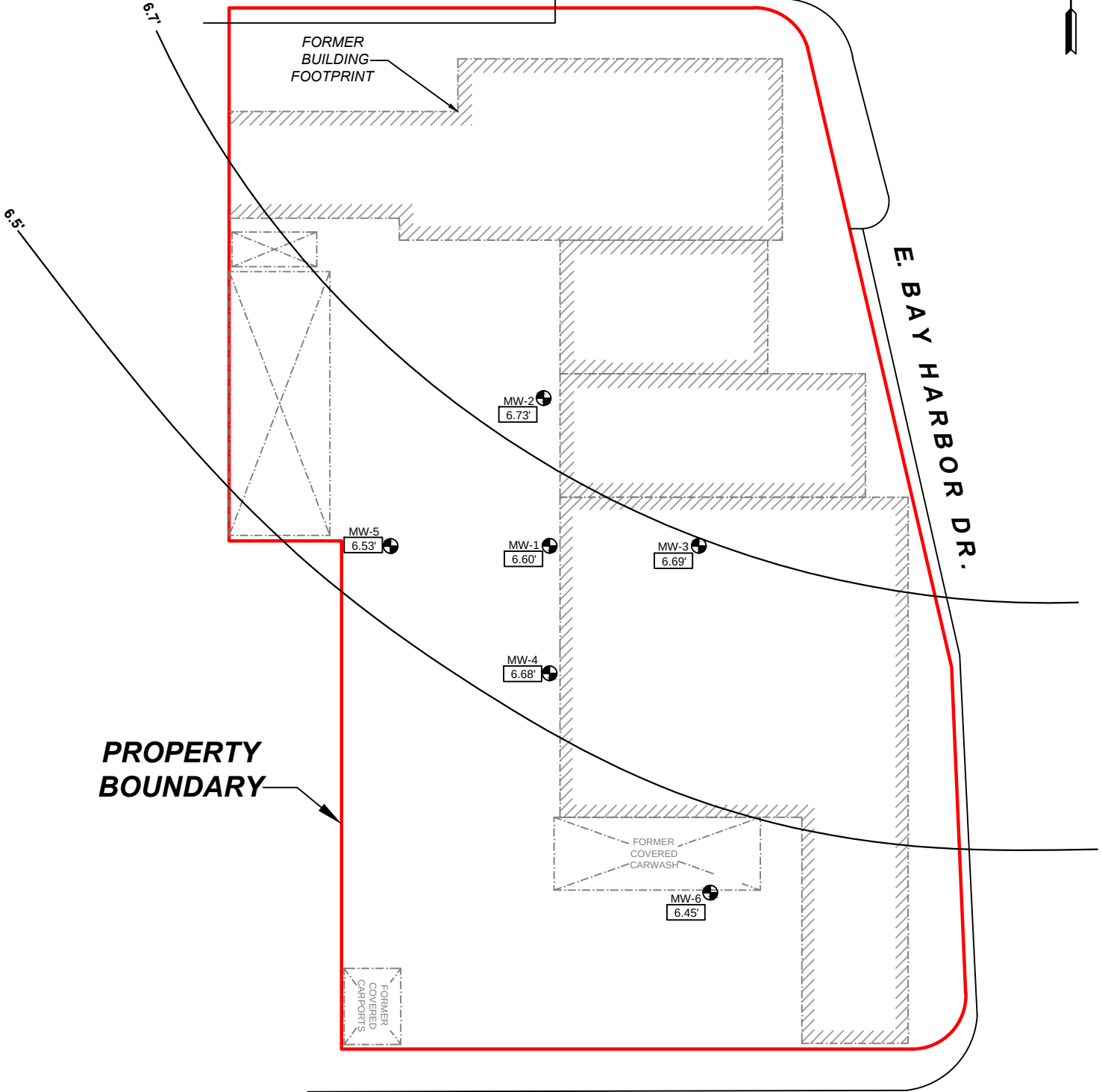
KANE CONCOURSE

FORMER
BUILDING
FOOTPRINT

E. BAY HARBOR DR.

95TH STREET

**PROPERTY
BOUNDARY**



LEGEND:

● = MONITORING WELL



TECHNICAL SERVICES

**5751 MIAMI LAKES DRIVE
MIAMI LAKES, FLORIDA 33014
Phone: (305) 374-8300
Fax: (305) 374-9004**

CHURCH BY THE SEA

1000 KANE CONCOURSE
BAY HARBOR ISLANDS, FLORIDA 33154

**FIGURE
11**

**GROUNDWATER ELEVATION
(HIGH TIDE @ 6-10-20 /14:09PM)**

SCALE: 1" = 40'

DRAWN BY: JL

PROJECT: 2020-3067

DATE: 6/12/2020

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Marlene Siegel – Town Clerk

From: Michael J. Miller, AICP *MM*
Consultant Town Planner

Date: December 18th, 2020

Subject: Brownfield Area Designation Request
Church by the Sea (CBTS)
1000 Kane Concourse
Bay Harbor Islands Acct. No. MB2016-17
MMPA Acct. No. 01-0702-1032

RECOMMENDED ACTION

MMPA recommends the Town Council review our staff report explaining the request, and the documents submitted by The Goldstein Environmental Law Firm on behalf of Church-By-The-Sea (CBTS) requesting the Town to designate their redevelopment site as a "Brownfield Area", so that they can qualify under Chapter 376.80 Florida Statutes for certain regulatory and economic incentives under FDEP programs to assist in the expenses associated with the environmental cleanup of their sites due to the former Ocean Cadillac operations (fuel storage / oil changes / car wash / etc.). As we understand the program the Town simply designates the sites by Resolution, but the landowner is responsible for performing environmental studies / action plan for the cleanup and filing the request with the applicable governmental agencies to obtain permits and funding, if available. Any costs for advertising as required by Ch. 376.80 F.S. is to be covered by the applicant.

GENERAL PROJECT INFORMATION

Land Use Designation: C – Commercial

Zoning District: B-1 Business District

General Location: 1000 Kane Concourse

Legal Description: Tract "N" of "Nolan Brown", according to the Plat thereof, as recorded in Plat Book 56 Page 53, of the Public Records of Miami-Dade County, Florida.
And,
Lot 18 of Block 12, "Bay Harbor Island" Subdivision according to the Plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County.

PROJECT DESCRIPTION

The project architect, Zyscovich Architects, as agent for the contract property owner at that time, the Church-by-the-Sea, Inc., submitted a Site Development Plan application to allow in early 2016 for the demolition of the former Ocean Cadillac automobile dealership facilities and the construction of a new 3-story mixed-use development project. The new complex will have commercial retail space at street level facing Kane Concourse with a religious establishment on the upper two (2) floors. The site is located at 1000 Kane Concourse.

The Ocean Cadillac automobile dealership operated on the site for decades. The dealership sold vehicles and serviced them as well, including general repairs and fluid changes (oil / other). A car wash facility was also on the site with underground reclaim tanks. Finally, four (4) underground fuel storage tanks (2 @ 2,000 gallons / 2 @ 1,000 gallons) were on the site. While proper permits were obtained for those facilities and periodic inspections, those facilities were installed underground in the saltwater environment of the Town. Environmental laws have changed greatly over the years as well as safe construction techniques and storage tank designs. Often at / near vehicle dealerships / public works complexes / gas stations / similar & other land uses that deal with vehicle maintenance & repairs or industrial manufacturing some leakage may occur from tank leakage or spills. While containment systems have been perfected over the years older installations may not be as good as newer installations.

On July 28th, 2016 the Town's Planning and Zoning Board (PZB) approved the initial Site Development Plan for the new CBTS complex (Res. No. 2098). As the construction plans were prepared certain revisions were requested. The PZB approved a series of minor plan revisions on May 21st, 2019 (Res. No. 2177). The construction plans were modified and an application for Building Permits was made on May 31st, 2020. After Town Bldg. Dept. / other agency reviews Building Permits were issued on June 29th, 2020. Over the summer / fall of 2020 the former Ocean Cadillac buildings and site improvements were demolished / removed from the site in anticipation of the new construction. During this activity the landowner discovered the true extent of the environmental cleanup impacts (more work / higher cleanup costs than expected). That work is now complete and new construction is underway (initially foundation / vertical to follow). Modern environmental permit programs include processes for extraordinary cleanup efforts. Florida statutes (and most other states) include the "Brownfield" programs. On the federal level there are programs for so-called "Superfund Cleanup Sites" for larger polluted sites.

The Goldstein Environmental Law firm has submitted a letter explaining the site discovering issues and actions taken to date. There are requesting the Town to hold an advertised public meeting as required by Florida Statute and adopt a Resolution officially designating this site as a "Brownfield Area" which allows them to negotiate with applicable environmental permit agencies for regulatory and financial compensation (funds / tax relief / etc.). Attached to their letter are numerous exhibits with property ownership information, legal descriptions, engineering studies and a draft agreement in support of their request.

The Town will need to prepare / adopt a Resolution (applicant to provide a draft example) and advertise the matter as required by Florida Statute Ch. 376.80 prior to holding a public hearing. The cost of the advertisement must be paid by the applicant.

SUMMARY

On October 12th, 2020 the Town received an application submitted by The Goldstein Environmental Law Firm, on behalf of Church-By-The-Sea (CBTS), requesting the Town to designate their redevelopment site as a "Brownfield Area", so that they can qualify under Chapter 376.80(2)(c) Florida Statutes for certain regulatory and economic incentives under FDEP programs to assist in the expenses associated with the environmental cleanup of their sites due to the former Ocean Cadillac operations (fuel storage / oil changes / car wash / etc.). As we understand the program the Town simply designates the site by Resolution, but the landowner is responsible for performing environmental studies / action plan for the cleanup and filing the request with the applicable governmental agencies to obtain permits and funding, if available. Any costs for advertising as required by Ch. 376.80 F.S. is to be covered by the applicant.

Based on our review of the documents submitted, including the applicable provisions in Chapter 376.80 F.S., MMPA recommends the Town **APPROVE** a "Brownfield Area" designation for the collection CBTS properties. The site has now been fully cleaned up and the landowner is seeking to utilize the applicable environmental programs for regulatory and funding reimbursement due to the unexpected higher cost of required engineering studies and cleanup activities.

RESOLUTION NO. ____

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA;
PROVIDING FINDINGS; DESIGNATING A BROWNFIELD
AREA WITHIN THE TOWN FOR REAL PROPERTY
LOCATED AT 1000 KANE CONCOURSE, BAY HARBOR
ISLANDS, FLORIDA, AS DEPICTED ON EXHIBIT “A”
AND LEGALLY DESCRIBED ON EXHIBIT “B”, FOR THE
PURPOSES OF ENVIRONMENTAL REHABILITATION,
JOB CREATION, AND ECONOMIC DEVELOPMENT;
AUTHORIZING THE TOWN MANAGER TO IMPLEMENT
THIS RESOLUTION; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Legislature of the State of Florida, in Sections 376.77 - 376.85, *Florida Statutes*, adopted the Brownfields Redevelopment Act, the purpose of which is to encourage the redevelopment and the voluntary cleanup of real property where the expansion, redevelopment or reuse of such property may be complicated by actual or perceived environmental contamination; and

WHEREAS, the Brownfields Redevelopment Act created a process whereby a local government with jurisdiction over a brownfield area must notify the Florida Department of Environmental Protection and, if applicable, the local pollution control program of its decision to designate a brownfield area; and

WHEREAS, CBS Realty Holding, LLC (“CBS”), has requested that the Town Council of the Town of Bay Harbor Islands (the “Town”) designate as a brownfield area the parcels it owns located at 1000 Kane Concourse, Bay Harbor Islands, Florida, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470 (the “Subject Property”) and that is depicted on Exhibit “A” and legally described on Exhibit “B” attached hereto (hereafter referred to as the “CBTS Green Reuse Area” that is incorporated herein by reference; and

WHEREAS, the Town has reviewed the relevant criteria that apply in designating a Brownfield Area as specified in Section 376.80(2)(c), Florida Statutes, and has determined and

finds that the Subject Property qualifies for designation as a Brownfield Area because the following requirements have been satisfied:

1. CBS owns the Subject Property which is proposed for designation and has agreed to rehabilitate and redevelop it;
2. The rehabilitation and redevelopment of the Subject Property will result in economic productivity in the area and will create at least five new permanent jobs at the Subject Property that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area;
3. The redevelopment of the Subject Property is consistent with the Town's Comprehensive Plan and is a permissible use under the Town Code;
4. Proper notice of the proposed rehabilitation of the Subject Property has been provided to neighbors and nearby residents, and CBS has provided those receiving notice the opportunity to provide comments and suggestions regarding the rehabilitation; and
5. CBS has provided reasonable assurance that it has sufficient financial resources to implement and complete a rehabilitation agreement and redevelopment plan; and

WHEREAS, the Town desires to notify the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management and the Florida Department of Environmental Protection of its resolution designating the Subject Property a Brownfield Area to further its rehabilitation and redevelopment for purposes of Sections 376.77 – 376.86, Florida Statutes; and

WHEREAS, the applicable procedures set forth in Sections 376.80 and 166.041, Florida Statutes, have been followed and proper notice has been provided in accordance with Sections 376.80(1) and 166.041(3)(c)2, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals set forth above are hereby adopted, confirmed, and incorporated herein.

Section 2. Findings. The Town Council, based upon all testimony, staff report and other evidence presented and otherwise made part of the record, finds that the CBS has met all of the Brownfield Area designation criteria set forth at Section 376.80(2)(c), Florida Statutes.

Section 3. Designation of Brownfield Area. The Town Council hereby designates the property located at 1000 Kane Concourse, Bay Harbor Islands, Florida, Folio Numbers 13-2235-004-0010 and 13-2227-001-2470, as depicted on the map attached hereto on Exhibit “A” and legally described on Exhibit “B”, as a Brownfield Area to be called the “CBTS Green Reuse Area” for the purposes of Sections 376.77 – 376.84, Florida Statutes. Such designation shall not, however, render the Town liable for the cost of site rehabilitation or source removal, as those terms are defined in Section 376.79, Florida Statutes.

Section 4. Notification. The Town Manager or her designee is hereby authorized to notify the Florida Department of Environmental Protection and the Miami-Dade County Department of Regulatory and Economic Resources, Division of Environmental Resources Management of the designation of the Subject Property as a Brownfield Area for the purposes of Sections 376.77 – 376.84, Florida Statutes.

Section 5. Severability. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction,

such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses or provisions of this Resolution

Section 5. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2021.

STEPHANIE BRUDER
MAYOR

ATTEST:

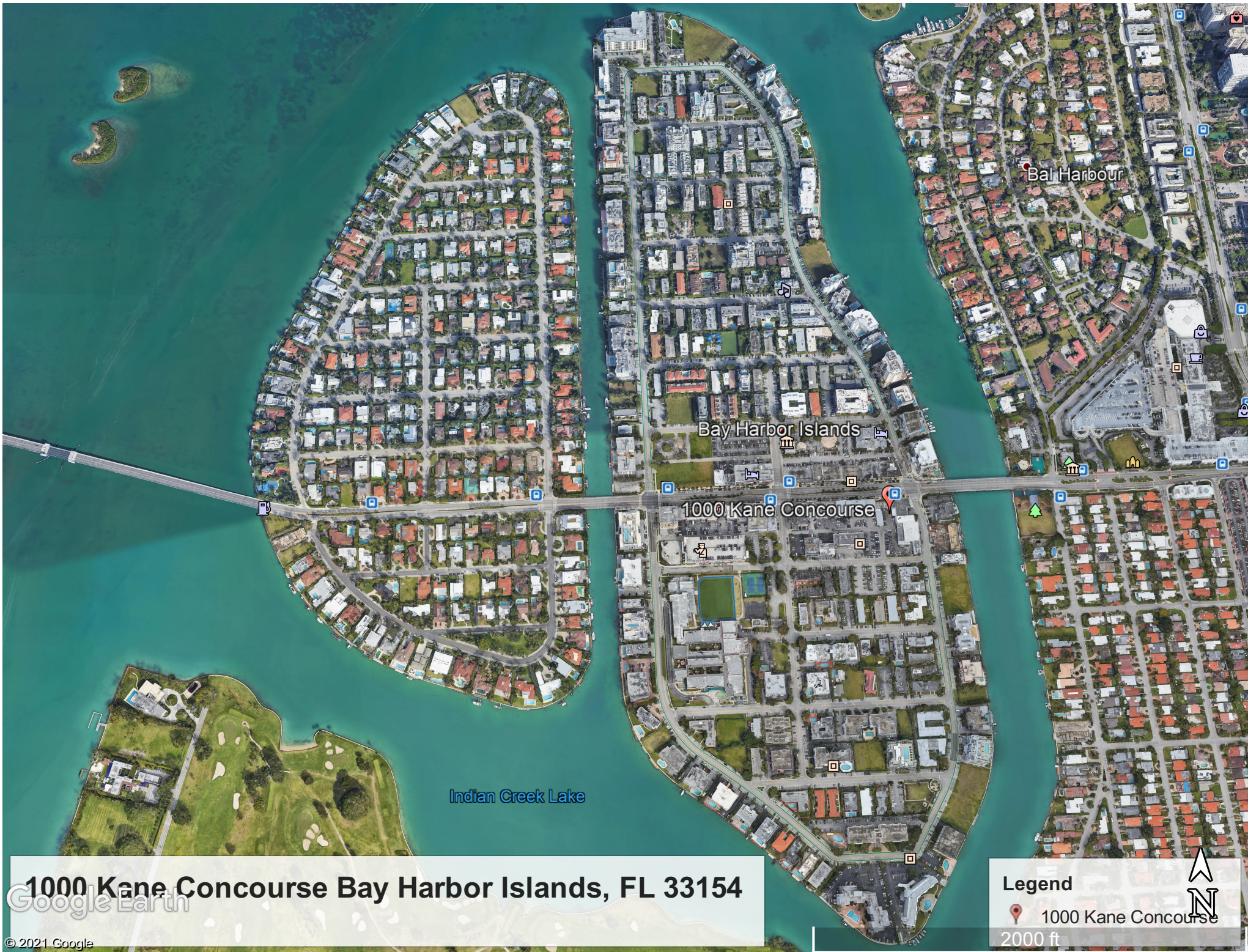
TOWN CLERK

EXHIBIT “A”

MAP OF PROPERTY

EXHIBIT “B”

LEGAL DESCRIPTION OF PROPERTY



1000 Kane Concourse Bay Harbor Islands, FL 33154

Legend



1000 Kane Concourse

2000 ft



1000 Kane Concourse

Write a description for your map.



Legend

 1000 Kane Concourse

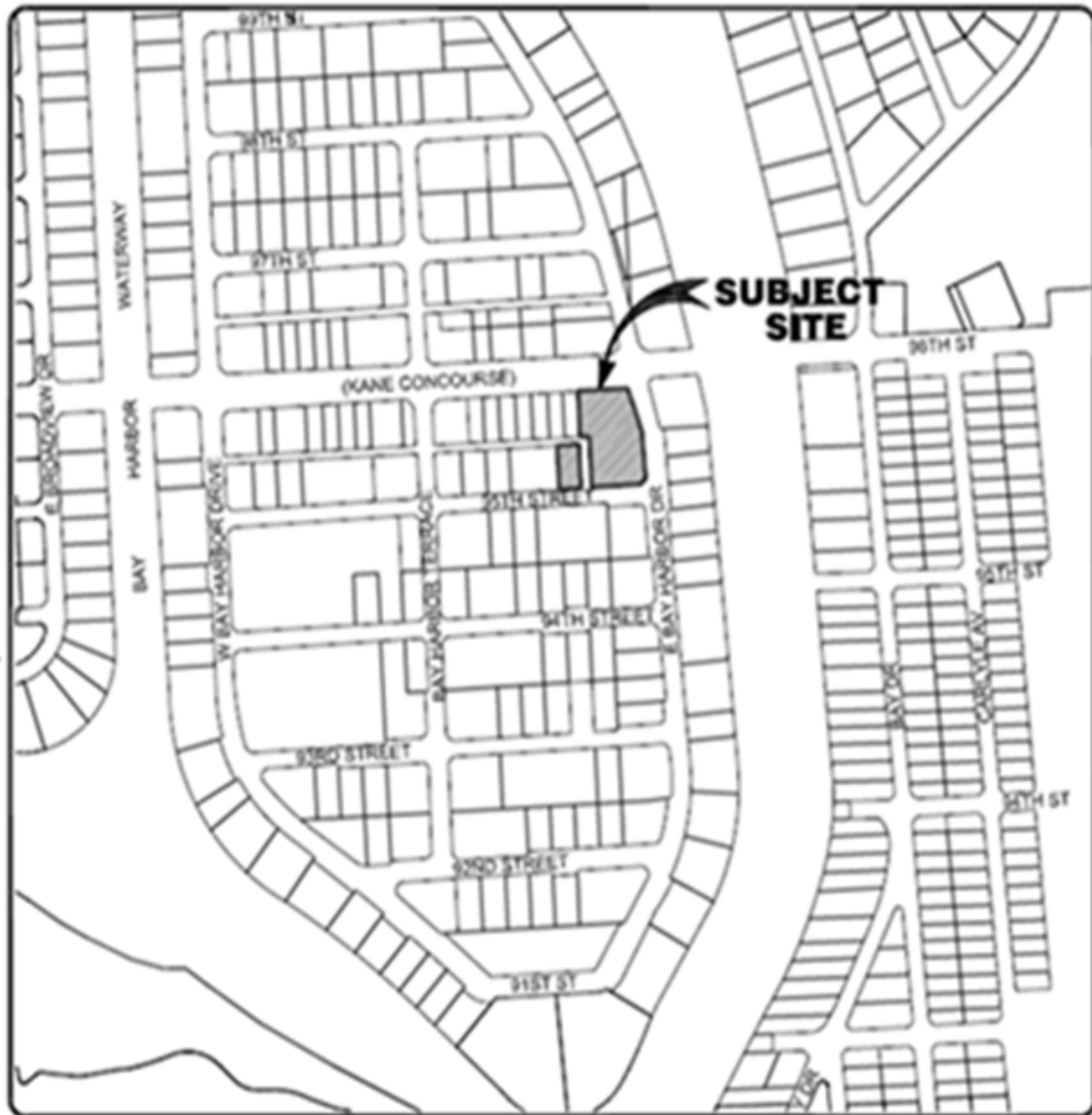
200 ft

LOCATION MAP

Property Address: 1000 Kane Concourse

Folio Numbers: 13-2235-004-0010 and 13-2227-001-2470

**SECTION 34 • TOWNSHIP 52 SOUTH • RANGE 42 EAST
LYING IN BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA**



LOCATION MAP
(NOT TO SCALE)