



Alt & Witzig Consulting Services

4105 West 99th Street • Carmel, Indiana 46032
(317) 875-7000 • Fax (317) 876-3705

November 30, 2016

8038 3556
Loic Maniet

Indiana Department of Environmental Management
Office of Land Quality-ELTF Technical Section
100 North Senate Avenue, Room 1101
Indianapolis, Indiana 46204-2251
Attn: Mr. Loic Maniet

RE: NFA Request: Recorded ERC
Former 7-Eleven Store #32570
15046 State Road 23
Granger, St. Joseph County, Indiana
Facility FID No. 8861
LUST Incident No. 200809507
A&W Project No.: 09SB0080

Dear Mr. Maniet:

On October 7, 2016, Mr. Tony Macri, the current owner of the above mentioned property, recorded the IDEM approved Environmental Restrictive Covenant (ERC) at the office of the Recorder for St. Joseph County. A copy of the signed and Recorder stamped ERC is included as Attachment 1. A&W, on behalf of C&J Realty, request No Further Action (NFA) Status for the above referenced facility.

If you have any questions or comments or require additional information please do not hesitate to contact us.

Sincerely,
Alt & Witzig Consulting Services

David Herring, CHMM
Project Manager

RECEIVED

DEC 05 2016

IDEM-OLQ
EXCESS LIABIL.

Offices:

Cincinnati • Dayton, Ohio

Indianapolis • Evansville • Fort Wayne • Lafayette • South Bend, Indiana

• Environmental Services •

Attachment 1

St. Joseph County Recorder Stamped ERC

10/1/16

new
ALT FW 11-1



1628474
RECORDED AS PRESENTED ON
10/24/2016 7:51 AM
PHILLIP G. DOTSON
ST. JOSEPH COUNTY
RECORDER
PGS: 10 FEES: 31.00

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 7th day of October, 2016, by Pyramid Properties Inc. P.O. Box 175, New Buffalo, Michigan 49117.

WHEREAS: Owner is the fee owner of certain real estate in the County of St. Joseph, Indiana, which is located at 15046 State Road 23, Granger, Indiana 46530 and more particularly described in the attached Exhibit "A" ("Real Estate"), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed on August 28, 2008, and recorded on September 3, 2008, as Deed Record 0828788, in the Office of the Recorder of St. Joseph County, Indiana. The Real Estate consists of approximately 0.72 acres and has also been identified by the county as parcel identification number 71-04-22-277-004.000-011. The Real Estate, to which the restrictions in this Covenant apply, is depicted on a map attached hereto as Exhibit B.

WHEREAS: Corrective action was implemented in accordance with IC 13-23 and other applicable Indiana law as a result of a release of petroleum relating to the Former 7-Eleven Store #32570. The incident number assigned by the Indiana Department of Environmental Management ("Department" or "IDEM") for the release is 2008-09-507, and the relevant facility identification number is 8861.

WHEREAS: Certain contaminants of concern ("COCs") remain in the groundwater and soil of the Real Estate following completion of corrective action. The Department has determined that the COCs will not pose an unacceptable risk to human health at the remaining concentrations, provided that the land use restrictions contained herein are implemented to protect human health and the environment. These COCs are benzene, toluene, ethylbenzene and total xylenes.

WHEREAS: Environmental investigation reports and other related documents are hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Department's Web Site (currently www.in.gov/idem/).

NOW THEREFORE, Pyramid Properties Inc. subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

I. RESTRICTIONS

1. Restrictions. The Owner:

- (a) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.

II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records
5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 20__, RECORDED IN THE OFFICE OF THE RECORDER OF _____ COUNTY

ON _____, 20___, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if it has been recorded, its recording reference, and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of St. Joseph County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, risk-based guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Pyramid Properties Inc.
P.O. Box 175
New Buffalo, Michigan 49117

To Department:
IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Chief, Leaking Underground Storage Tank Program

An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, Pyramid Properties Inc., the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 7th day of ~~September~~, 2016.
OCTOBER

Tony Macri
President of Pyramid Properties Inc.
TONY MACRI

STATE OF MICHIGAN)
) SS:
COUNTY OF BERRIEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared TONY MACRI, the ~~owner~~ of the Owner, of Pyramid Properties Inc who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 7 day of OCTOBER, 2016.

Carol C Shubert

CAROL C SHUBERT
Notary Public, State of Michigan, Notary Public
County of Berrien
My Commission Expires 12-23-2019
Residing in the County of BERRIEN County,

My Commission Expires: 12/23/2019

This instrument prepared by:
David Herring
Alt & Witzig Consulting
4105 W. 99th Street, Carmel, Indiana 46032

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law:

David Herring
Alt & Witzig Consulting
4105 W. 99th Street, Carmel, Indiana 46032

EXHIBIT A
LEGAL DESCRIPTION OF REAL ESTATE

3

SD rec'd 24
Hold For Meridian Title Corp.
Commercial Department

0828788

RECORDED AS PRESENTED ON

09/03/2008 10:02:35AM

TERRI J. RETHLAKE
ST. JOSEPH COUNTY
RECORDER

REC FEE: 918.00
PAGES: 2

PROPERTY OF ST. JOSEPH COUNTY

RETURN TO:

Grantee's Address and Mail Tax Statements to:

P.O. Box 115
New Buffalo, MI 49117
Property Address:
15046 SR 23
Granger, IN 46530

AUDITORS RECORD

Transfer No. 5340
Taxing Unit HARRIS
Date 09-03-08
Tax ID No. 06-1007-006407

WARRANTY DEED

THIS INSTRUMENT WITNESSETH THAT

CONVEY(S) AND WARRANT(S) TO

C & J Realty, Limited Partnership

Pyramid Properties, Inc., for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in St. Joseph County, in the State of Indiana, to wit:

SEE ATTACHED LEGAL DESCRIPTION

Subject to taxes for the year 2008, due and payable in 2009, and taxes for all subsequent years.

Subject to covenants, restrictions and easements of record.

The undersigned person(s) executing this Deed on behalf of the Grantor represent and certify that they are duly appointed representatives or general partners of Grantor and have been fully empowered by the partnership agreement or other proper agreement by and between the general partners of Grantor, to execute and deliver this Deed, that Grantor has full capacity to convey the real estate described herein and that all necessary has full capacity to convey the real estate described herein and that all necessary action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, the Grantor has executed this deed this 28th day of August, 2008.

C & J Realty, Limited Partnership

[Signature]
By: MICHAEL J. PETERS

State of Indiana, County of St. Joseph ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Michael J. Peters who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 28th day of August, 2008.

My Commission Expires: 9-10-15

[Signature]
Signature of Notary Public

Christine L. Newcomer
Printed Name of Notary Public

St. Joseph Co., IN.
Notary Public County and State of Residence



This instrument was prepared by: Frank A. Antonovitz, Attorney-at-Law #2437-98.
202 S. Michigan St., Ste. 910, South Bend, IN 46601
817814SB ks

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

(Name) Christine L. Newcomer

NOTE: The individual's name in affirmation statement may be typed or printed.

DULY ENTERED FOR TAXATION
PETER H. MULLEN
ST. JOSEPH CO. INDIANA 0828788

L

PROPERTY OF STATE

LEGAL DESCRIPTION

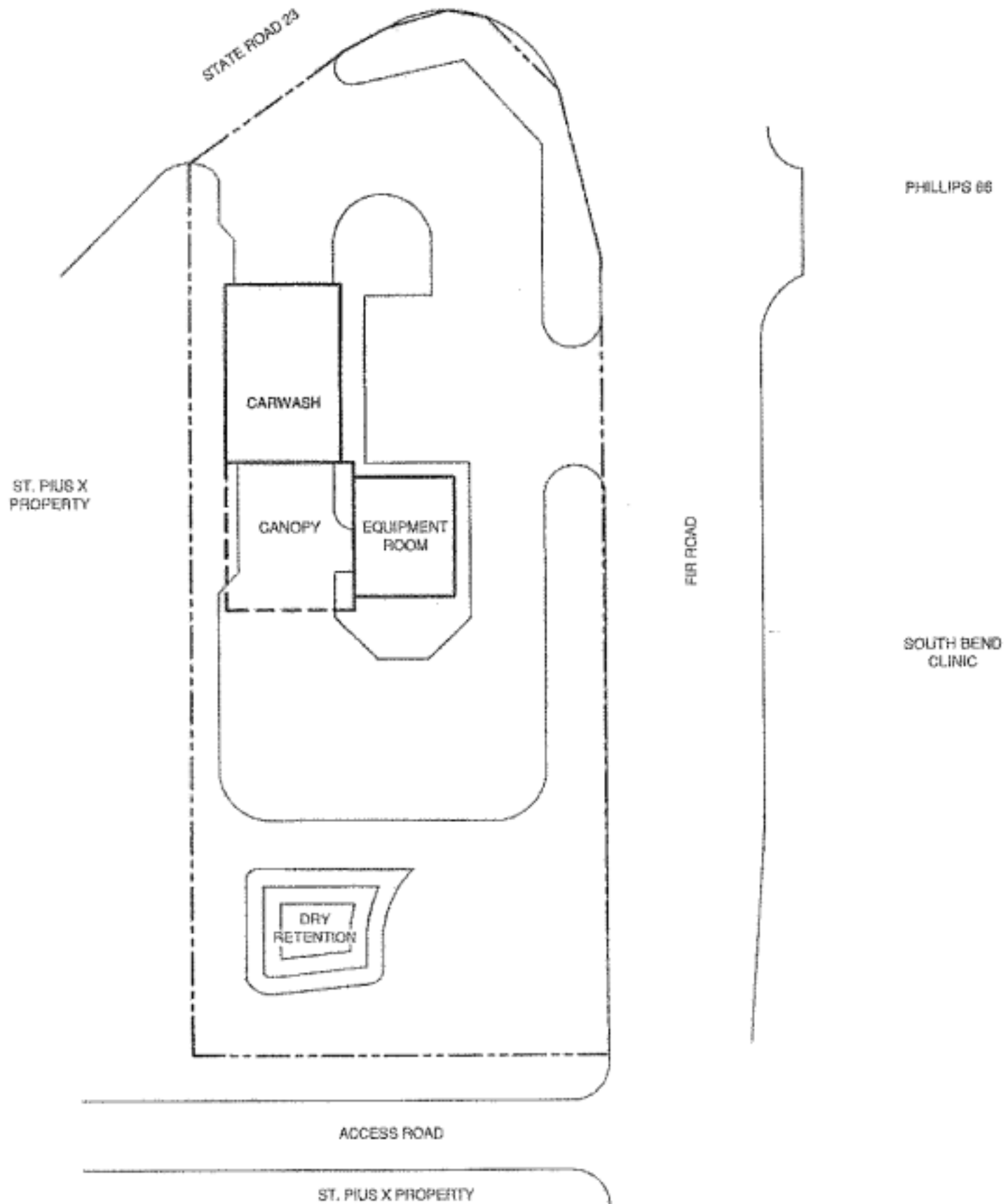
Part of the Southeast Quarter of the Northeast Quarter of Section 22, Township 38 North, Range 3 East, described as beginning at the Southeast corner of the Northeast Quarter of said Section 22, running thence West 150 feet 7 inches; thence North parallel with the center line of Fir Road to the center line of Edwardsburg Highway; thence Northeasterly along the center line of Edwardsburg Highway, to a point where the center line of said Edwardsburg Highway intersects the center line of Fir Road; thence South along the center line of said Fir Road to the place of beginning, EXCEPTING THEREFROM a parcel of land 150 feet in width, North and South, taken off of the entire South end of said tract, in St. Joseph County, Indiana.

ALSO EXCEPT: A part of the Northeast Quarter of Section 22, Township 38 North, Range 3 East, St. Joseph County, Indiana, described as follows: Commencing at the Southeast corner of the Northeast Quarter of said Section 22, running thence West 150 feet 7 inches; thence North parallel with the center line of Fir Road (the foregoing portion of this description beginning with the words "at the Southeast corner" is quoted from Inst. #9517271) 126.64 meters (415.48 feet), along the west line of the grantor's land, to the point of beginning of this description, thence North $0^{\circ}45'44''$ West 4.648 meters (15.25 feet), along said west line, to the southeastern boundary of S.R. 23; thence, along the boundary of said S.R. 23, Northeasterly 29.193 meters (95.78 feet) along an arc to the left and having a radius of 21,068.984 meters (69,123.83 feet) and subtended by a long chord having a bearing of North $54^{\circ}12'17''$ East and a length of 29.193 meters (95.78 feet) to the southwestern boundary of the intersection of said S.R. 23 and Fir Road; thence South $77^{\circ}28'14''$ East 16.309 meters (53.51 feet), along the boundary of the intersection of said S.R. 23 and said Fir Road, to the western boundary of said Fir Road; thence South $0^{\circ}45'44''$ East 98.482 (323.10 feet), along the boundary of said Fir Road, to the south line of the grantor's land; thence South $89^{\circ}06'08''$ West 5.904 meters (19.37 feet) along said south line; thence North $0^{\circ}45'44''$ West 85.603 meters (280.85 feet), thence North $40^{\circ}26'52''$ West 11.578 meters (37.99 feet), thence South $75^{\circ}58'10''$ West 10.778 meters (35.36 feet), thence Southwesterly 19.520 meters (64.04 feet) along an arc to the right and having a radius of 21,072.792 meters (69,136.32 feet) and subtended by a long chord having a bearing of South $54^{\circ}13'30''$ West and a length of 19.520 meters (64.04 feet) to the point of beginning.

EXHIBIT B

SITE MAP

SITE MAP



LEGEND

----- PROPERTY BOUNDARY



Prepared For:
MDK Corporation



Prepared By:
Alt & Witzig Consulting Services

Project Name:
MDK-Granger

Project No:
09SB0080

Date:
03/16