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COVENANT Rec: \$214.50
4/28/2023 4:01 PM
KING COUNTY, WA

Return Address:

Erik Snyder, Section Manager
Toxics Cleanup Program HQ
Department of Ecology, P.O. Box
47600, Olympia, WA 98504-7600

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Environmental Covenant 2. _____
 3. _____ 4. _____

Reference Number(s) of Documents assigned or released:
 Additional reference #'s on page _____ of document

Grantor(s) Exactly as name(s) appear on document

1. Charles Musang Lee, Hyon S. Lee
 2. _____, _____
 Additional names on page _____ of document.

Grantee(s) Exactly as name(s) appear on document

1. State of Washington, Department of Ecology
 2. _____, _____
 Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)
Lot 2 of City of Tukwila Boundary Line Adjustment No. L07-021, recorded June 25
2007, under recording NO. 20070625900010 records of King Co. Auditor. Situated in the City of
 Additional legal is on page _____ of document. Tukwila, County of King, State of Washington

Assessor's Property Tax Parcel/Account Number Assessor Tax # not yet assigned
King County Parcel No. 7423049013

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

[Signature] Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements

After Recording Return
Original Signed Covenant to:

Erik Snyder
Section Manager
Toxics Cleanup Program HQ
Department of Ecology
P.O. Box 47600, Olympia,
WA 98504-7600

Environmental Covenant

Grantor: Charles Musang Lee and Hyon S. Lee

Grantee: State of Washington, Department of Ecology (hereafter "Ecology")

Brief Legal Description: Lot 2 of City of Tukwila Boundary Line Adjustment No. L07-021, recorded June 25, 2007 under recording No. 20070625900010 records of King County Auditor. Situated in the City of Tukwila, County of King, State of Washington

Tax Parcel Nos.: King County Parcel No. 2423049013

RECITALS

- a. This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70A.305 RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b. The Property that is the subject of this Covenant is part or all of a site commonly known as the Family Fun Center with Facility Site Identification No. 18434384, Cleanup Site Identification No. 385, and VCP Project ID No. XN0027. The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.
- c. The Property is the subject of remedial action under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Petroleum and Arsenic
Groundwater	None
Surface Water/Sediment	None

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. Records describing the extent of residual contamination and remedial actions conducted are available through Ecology. This includes the following documents:

- *Phase II Environmental Site Assessment Report, Proposed Family Fun Center, Tukwila, Washington* dated November 17, 1997 prepared by GeoEngineers for Family Fun Centers;

- *Report of Environmental Services, Underground Storage Tank Removal Monitoring, Supplemental Subsurface Assessment, and Research Findings, Family Fun Centers, Tukwila, Washington* dated April 22, 1998 prepared by GeoEngineers for Family Fun Centers;
- *Cleanup Action Plan and Engineering Report, Proposed Family Fun Center, Tukwila, Washington* dated September 14, 1998 prepared by GeoEngineers for Family Fun Centers;
- *Off-Site Placement of On-Site Soils, Family Fun Center Site, 7300 Fun Center Way, Tukwila, Washington, File No. 5925-003-01, dated October 15, 1998, prepared by GeoEngineers;*
- *Placement of Soils on City of Tukwila Property, Family Fun Center Site, 7300 Fun Center Way, Tukwila, Washington, File No. 5925-003-01, dated January 15, 1999, prepared by GeoEngineers;*
- *Cleanup Action Report, Family Fun Center Site, Tukwila, Washington* dated May 1, 2000 prepared by GeoEngineers for Family Fun Centers;
- *Revised Cleanup Action Report, Family Fun Center Site, Tukwila, Washington* dated February 19, 2002 prepared by GeoEngineers for Family Fun Centers;
- *Report of Environmental Services, Compliance Monitoring Well Installation and 2002 Groundwater Sampling, Family Fun Center Site, Tukwila, Washington* dated November 15, 2002 prepared by GeoEngineers for XChange Solutions;
- *2004/2005 Compliance Groundwater Sampling, Family Fun Center Site, Tukwila, Washington* dated July 6, 2005 prepared by GeoEngineers for Family Fun Centers; and
- *Remedial Investigation/Focused Feasibility Study, Comfort Suites Property, 7200 Fun Center Way, Tukwila, Washington* dated October 18, 2022 prepared by Farallon Consulting.
- *Letter regarding Remedial Investigation/Focused Feasibility Study Addendum, Comfort Suites Property, 7200 Fun Center Way, Tukwila, Washington* dated December 12, 2022 from Mark Havighorst of Farallon to Frank Winslow of Ecology.

Records describing the extent of residual contamination and remedial actions conducted are available through Ecology and accessible at:

<https://apps.ecology.wa.gov/cleanupsearch/site/385#site-documents>

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a Holder of this Covenant under UECA, Ecology has an interest in real property; however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an “agency” under UECA, other than its right as a holder, are not an interest in real property.

COVENANT

Charles Musang Lee and Hyon S. Lee, as Grantor and owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, (hereafter "Ecology") the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. **Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. **Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. **Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance and monitoring of remedial actions and continued compliance with this Covenant.
- d. **Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. **Amendment to the Covenant.** Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. Before approving any proposal, Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal. If Ecology approves the proposal, the Covenant will be amended to reflect the change.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. **Land use.** The remedial action for the Property is based on a cleanup designed for commercial property. As such, the Property shall be used in perpetuity only for commercial land uses as that term is defined in the rules promulgated under Chapter 70A.305 RCW. Prohibited uses on the Property include but are not limited to residential uses, childcare facilities, K-12 public or private schools, parks, grazing of animals, and growing of food crops.
- b. **Containment of soil/waste materials.** The remedial action for the Property is based on containing petroleum and arsenic impacted soil under a portion of a cap consisting of asphalt pavement and located proximate to borings B-5 and HA-5 as illustrated in Exhibit C. The primary purpose of this cap is to prevent exposure of users of the Property to contaminated soils. As such, the following restrictions shall apply within the areas illustrated in Exhibit C:

Any activity on the Property that will compromise the integrity of the cap including: drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written notification to Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

The Grantor covenants and agrees that it shall annually, or at another time as approved in writing by Ecology, inspect the cap and report within thirty (30) days of the inspection any changes to the cap that would impair its performance.

Should the Grantor or its successors, grantees, or assigns, redevelop or make substantial new improvements to the Property, including removing all or a portion of the asphalt cap, Ecology may require treatment or removal of the contaminated soil.

c. Stormwater facilities. To minimize the potential for mobilization of contaminants remaining in soil on the Property, no stormwater infiltration facilities or ponds shall be constructed on the Property without prior written approval from Ecology.

d. Groundwater use. The groundwater beneath the Property has not been identified to be contaminated. However, the soil contamination on the Property presents a risk to groundwater. Therefore, the groundwater shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

e. Monitoring. The Grantor shall decommission groundwater monitoring wells at the Property in accordance with Washington Administrative Code 173-160-381.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, inspect any remedial actions conducted on the Property, and to inspect related records.

c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. Conveyance of Any Interest. The Grantor, when conveying any interest in any part of the Property, including but not limited to title, easement, leases, and security or other interests, must:

- i. Provide written notice to Ecology of the intended conveyance at least thirty (30) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE [COUNTY] COUNTY AUDITOR UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. Reporting Violations. Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. Emergencies. For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within 24 hours of the discovery of the event.

d.

Notification procedure. Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. Upon mutual agreement of the parties to this Covenant, an alternative to personal delivery or first class mail, such as e-mail or other electronic means, may be used for these communications.

East Winds Investments, Inc. 7200 Fun Center Way Tukwila, WA 98188 (425) 227-7200 hotelwak.lee@gmail.com	Environmental Covenants Coordinator Washington State Department of Ecology Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov
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Section 5. Modification or Termination.

a. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the site:

- i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal; and
- ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.

b. By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

- a.** This Covenant is being freely and voluntarily granted by the Grantor.
- b.** Grantor shall provide Ecology with an original signed Covenant and proof of recording within ten (10) days of execution of this Covenant.
- c.** Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.
- d.** The Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.
- e.** This Covenant shall be liberally construed to meet the intent of MTCA and UECA.
- f.** The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.
- g.** A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 7th day of APRIL, 2023.

[Signature]

by: Charles Musang Lee

Title: Owner

[Signature]

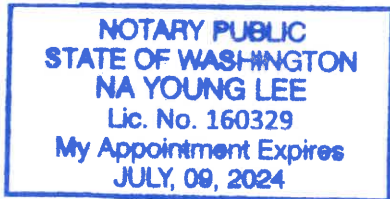
by: Hyon S. Lee

Title: Owner

STATE OF Washington

COUNTY OF King

On this 7th day of April, 2023, I certify that Charles Musang Lee personally appeared before me, acknowledged that he is the individual described herein and who executed the within and foregoing instrument and signed the same at his free and voluntary act and deed for the uses and purposes therein mentioned.



[Signature]
Notary Public in and for the State of Washington

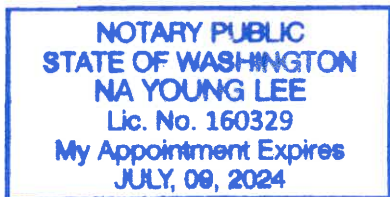
Residing at Bellevue

My appointment expires July 9th 2024

STATE OF Washington

COUNTY OF King

On this 7th day of April, 2023, I certify that Hyon S. Lee personally appeared before me, acknowledged that she is the individual described herein and who executed the within and foregoing instrument and signed the same at his free and voluntary act and deed for the uses and purposes therein mentioned.



[Signature]
Notary Public in and for the State of Washington

Residing at Bellevue

My appointment expires July 9th 2024

The Department of Ecology, hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Erik Snyder

by: Erik Snyder

Title: Section Manager, Toxics Cleanup Program HQ Section

Dated: 4-20-23

STATE OF WASHINGTON

COUNTY OF KING

On this 20th day of April 20, 2023, I certify that Erik Snyder personally appeared before me, acknowledged that he is the Section Manager, Toxics Cleanup Program HQ Section of the state agency that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument for said corporation.

Treasure A Mitchell

Notary Public in and for the State of Washington

Residing at *McCleary, WA*

My appointment expires *8-2-2023*



Exhibit A

LEGAL DESCRIPTION

Lot 2 of City of Tukwila Boundary Line Adjustment No. L07-021, recorded June 25, 2007 under recording No. 20070625900010 records of King County Auditor. Situated in the City of Tukwila, County of King, State of Washington.

Exhibit B

PROPERTY MAP

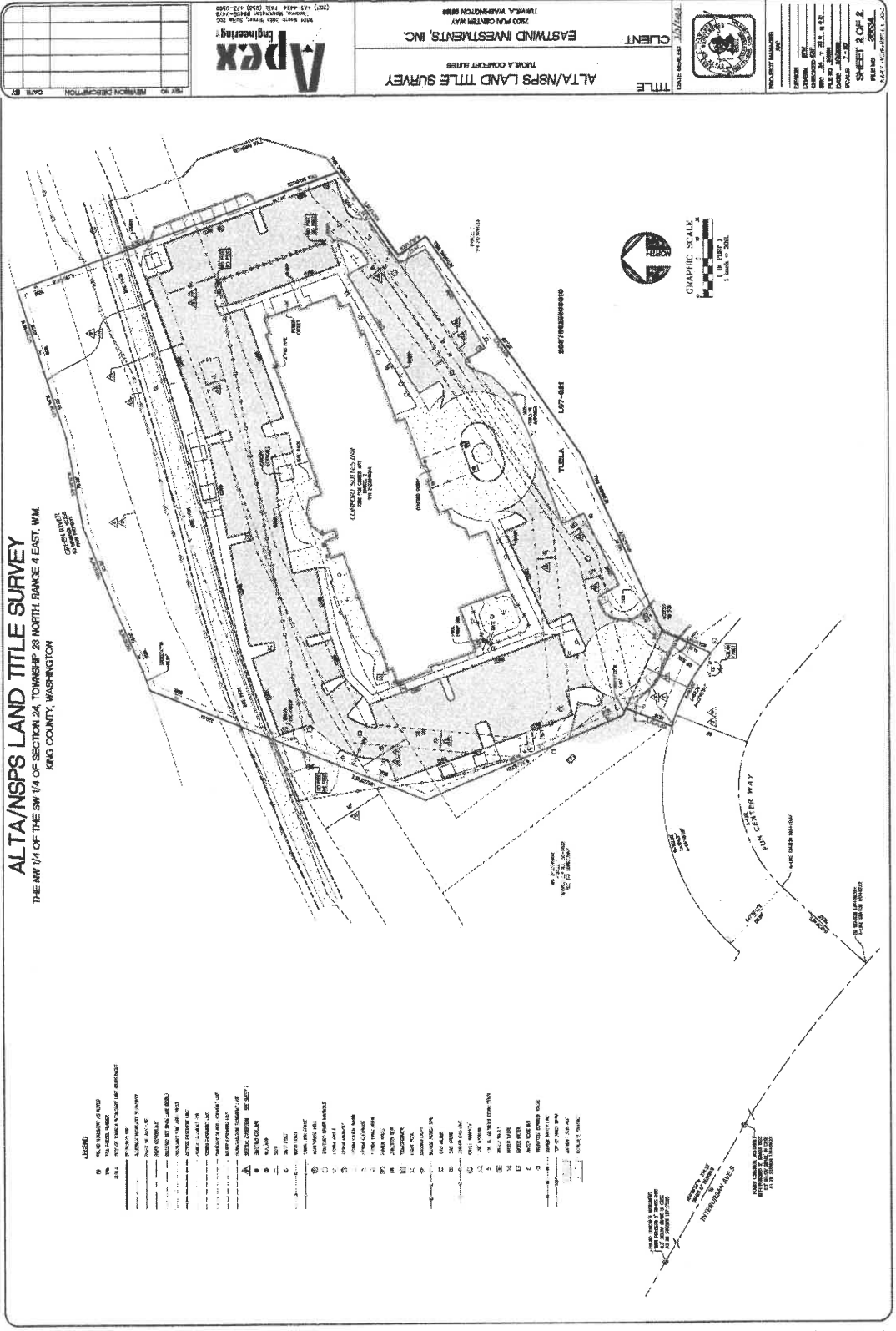
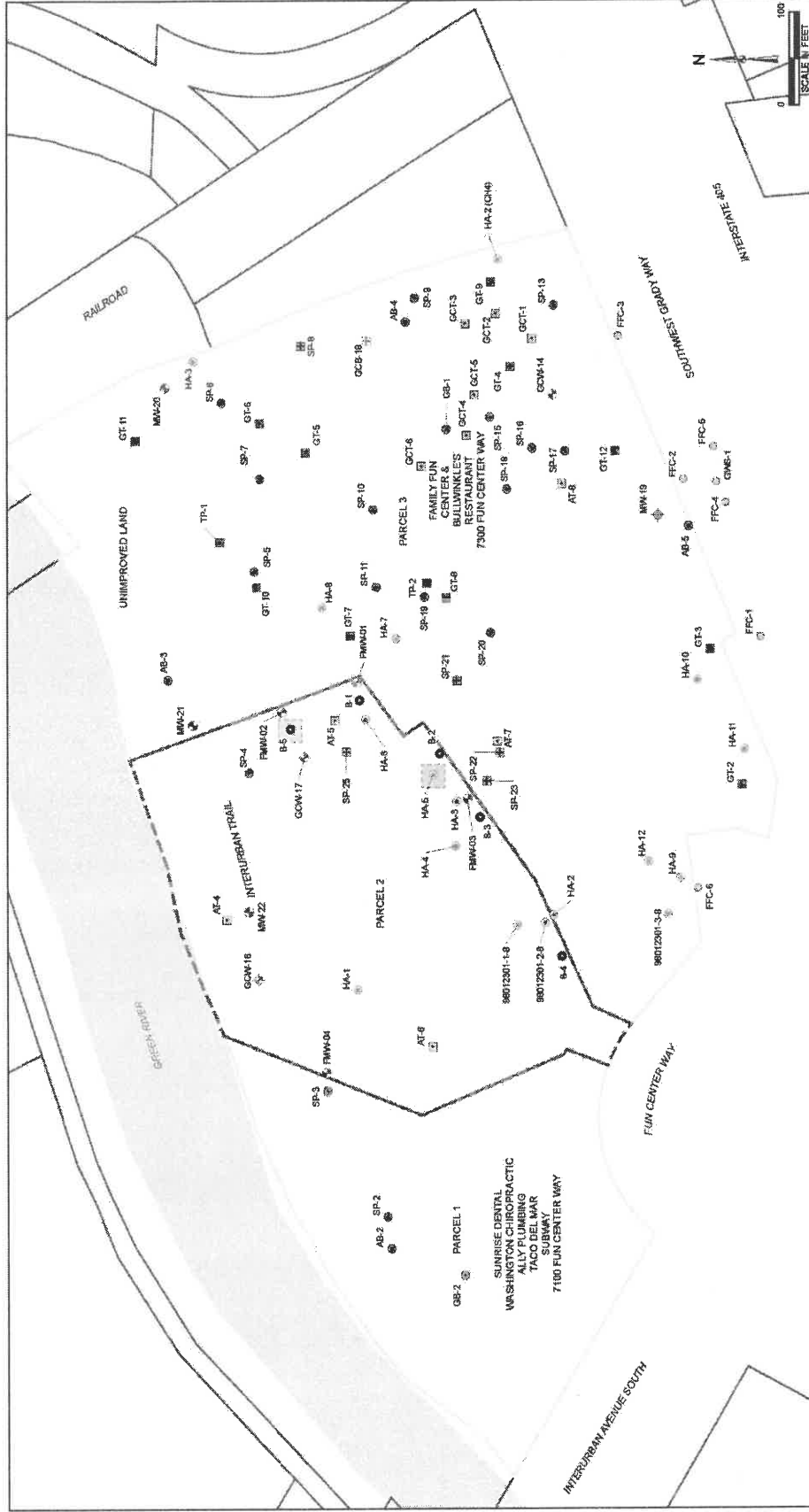


Exhibit C

MAP ILLUSTRATING LOCATION OF RESTRICTIONS



LEGEND

- SURFACE SOIL SAMPLE (GEOTECHNICALS, 1989)
- BORING (AES, 2021)
- ⊞ DIRECT PUSH BORING (GEOTECHNICALS, 1987)
- ⊞ DIRECT PUSH BORING (GEOTECHNICALS, 1987)
- ⊞ BORING (GEOTECHNICALS, 1987)
- ⊞ HARD MUDER BORING (GEOTECHNICALS, 1987)
- ⊞ BORING (APPLIED GEOTECHNOLOGY, 1989)
- ⊞ MONITORING WELL (PARALLON, 2022)
- ⊞ MONITORING WELL (GEOTECHNICALS, 2002)
- ⊞ MONITORING WELL (GEOTECHNICALS, 1988)
- ⊞ MONITORING WELL (GEOTECHNICALS, 1987)
- ⊞ TEST PIT (APPLIED GEOTECHNOLOGY, 1987)
- ⊞ TEST PIT (GEOTECHNICALS, 1987)
- ⊞ TEST PIT (GEOTECHNICALS, 1987)

- ⊞ APPROXIMATE BOUNDARY OF PETROLEUM IMPACTED SOIL
- ⊞ APPROXIMATE BOUNDARY OF ARSENIC IMPACTED SOIL
- ⊞ PROPERTY BOUNDARY
- ⊞ FAMILY FUN CENTER SITE BOUNDARY
- ⊞ BNS COUNTY PARCEL BOUNDARY

EXHIBIT C
 MAP ILLUSTRATING LOCATIONS
 OF RESTRICTIONS
 7200 FUN CENTER WAY
 TURKULA, WASHINGTON
 PARALLON PN: 2812-001

Parallon CONSULTANTS
 10000 1st Avenue, Suite 100, Turku, WA 98148
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 Fax: 206.363.3334
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 Website: www.parallon.com