



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

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P.O. Box 1049
Columbus, OH 43216-1049

December 18, 2008

CERTIFIED MAIL

RECEIVED

DEC 19 2008

OHIO EPA/CDO

William J. Riat
Vice President
Broad & High Development LLC
191 W. Nationwide Blvd., Suite 200
Columbus, Ohio 43215-2568

Gary R. Guglielmi
Manager
Economic Development
City of Columbus
Department of Development
109 N. Front Street, 1st Floor
Columbus, Ohio 43215-9031

Re: Issuance of Covenant Not To Sue for the Broad and High Redevelopment Property (08NFA319)

Dear Messrs. Riat and Guglielmi:

I am happy to inform you that on December 18, 2008, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to Broad & High Development LLC and the City of Columbus for the Broad and High Redevelopment property located at 2, 4-6 and 8 East Broad Street, and 12, 18 and 20 North High Street, Columbus, Franklin County, Ohio. The Covenant was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300.

Based on the NFA letter and subject to the conditions outlined in the Covenant, the Ohio Environmental Protection Agency covenants not to sue and releases Broad & High Development LLC and the City of Columbus and their respective agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities at the property for the releases of hazardous substances or petroleum identified and addressed in the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

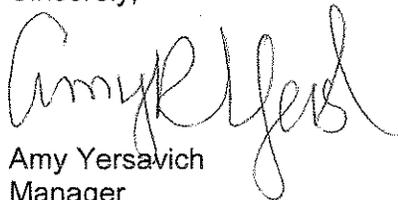
You will find a certified copy of the Covenant enclosed. When filing the Covenant and its exhibits at the Franklin County Recorder's Office, please use the enclosed Affidavit from Ohio EPA to guide the recording of the documents in the County's deed records.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the ORC. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

Many persons within the agency, Broad and High Development LLC, the City of Columbus, Schottenstein, Zox & Dunn, Co., L.P.A. and Malcolm Pirnie, Inc., among others, worked hard to remove the environmental barriers associated with redeveloping this property. Congratulations on the issuance of this Covenant. If you have any questions or concerns, please feel free to contact me at (614) 644-2285 or amy.yersavich@epa.state.oh.us.

Sincerely,



Amy Yersavich
Manager
Division of Emergency and Remedial Response
Voluntary Action Program

Enclosure

c: T. Donald Pinto, Certified Professional, Malcolm Pirnie, Inc.,
Steven C. Williamson, Senior Project Hydrogeologist, Malcom Pirnie
Dave Porchetti, Broad & High Development LLC,
Joseph M. Reidy, Attorney at Law, Schottenstein, Zox & Dunn, Co., L.P.A.,
Robin Roth, DERR-CDO
Catherine Stroup, Legal Office
CO DERR-VAP Files Project #125002295

TO BE RECORDED IN DEED RECORDS,
PURSUANT TO R.C. 317.08(A)

AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF FRANKLIN) ss:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue/Director's Final Findings and Orders issued by the Director and entered in the Ohio EPA Director's Journal on December 18, 2008 regarding the property known as Broad and High Redevelopment Property, located at 2, 4-6 and 8 East Broad Street, and 12, 18 and 20 North High Street in Columbus, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

Tonya R. Lassiter
Tonya R. Lassiter
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 18th day of December, 2008.



JANINE M. MANEY
ATTORNEY AT LAW
NOTARY PUBLIC
STATE OF OHIO
My Comm. Has No
Expiration Date
Section 147.03 R. C.

Janine M. Maney
Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by: Catherine A. Stroup, Attorney
Ohio EPA Legal Office
P.O. Box 1049
Columbus, Ohio 43216-1049

DEC 19 2008

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Broad & High Development LLC
191 W. Nationwide Blvd., Suite 200,
Columbus, Ohio 43125-2568

City of Columbus
Department of Development
Economic Development
109 N. Front Street, 1st Floor
Columbus, Ohio 43215-9031

Regarding property known as:

Broad and High Redevelopment
2, 4-6 and 8 East Broad Street, and
12, 18 and 20 North High Street
Columbus, Ohio 43215

Covenant Not to Sue

Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By: [Signature] Date: 12-18-08

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency ("Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

FINDINGS

1. A No Further Action letter, No. 08NFA319 ("NFA Letter"), was submitted on November 13, 2008 to the Director under the Voluntary Action Program on behalf of Broad & High Development LLC, a Delaware limited liability company, and the city of Columbus (collectively, the "Volunteers"), by T. Donald Pinto, P.E., a certified professional, No. CP 281, as defined in ORC 3746.01(E) and OAC 3745-300-01(A)(8) ("Certified Professional").
2. The Certified Professional submitted to the Director an addendum to the NFA Letter, dated December 2, 2008. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.
3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 0.3357 - acre property, currently known as Broad and High Redevelopment Property, located at 2, 4-6 and 8 ("Tower Property") East Broad Street and 12, 18 and 20 North High Street ("Broad and High Properties"),

Columbus, Franklin County, Ohio ("Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter and the Certified Professional's affidavit, the current owner of the Property is Broad & High Development LLC.

4. The Certified Professional prepared, pursuant to OAC 3745-300-13(J), an Executive Summary of the NFA Letter, which is attached hereto as Exhibit 3.
5. The Volunteers performed the voluntary action in conjunction with the Clean Ohio Council's May 6, 2005 award of grant funding for the Property under the Clean Ohio Fund, ORC 122.65 to 122.659.
6. Based upon the information contained in the NFA Letter, the Volunteers undertook or completed the following investigational and remedial activities regarding the Property:
 - a. A Phase I Property Assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property.
 - b. A Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas and affected media, to assess environmental conditions related to releases of hazardous substances and petroleum.
 - c. Identification, in the Phase I Property Assessment or Phase II Property Assessment, of one or more releases of hazardous substances or petroleum with chemicals of concern ("COCs") that include but are not limited to, metals (barium, cadmium, chromium, lead, mercury, selenium, silver, although arsenic was included in the laboratory analyses it is not a COC for the Property), volatile organic compounds, semi-volatile organic compounds (including polynuclear aromatics), polychlorinated biphenyls ("PCBs"), asbestos and lead paint, for which the Volunteers determined through the Phase II Property Assessment that no releases had occurred.
 - d. Remedial activities, including:
 - i. The abatement of asbestos-containing material ("ACM") identified within buildings at the Property, in accordance with OAC Chapter 3745-20.
 - ii. The removal and disposal of lead-based paint and universal waste from within buildings at the Property in accordance with applicable law.

- iii. The removal and disposal of sump sediment, which was identified at depths of approximately 22 to 24 feet below ground surface.
 - e. A determination made through the Phase II Property Assessment that no ground water was encountered and that if ground water underlies the Property, it exists only at depths greater than thirty feet below the ground surface.
7. The Phase II Property Assessment results indicate that no release of hazardous substances or petroleum occurred to environmental media at a depth to which standards for unrestricted land use apply or at a depth to which any exposure pathway exists pursuant to OAC 3745-300-07. The release that occurred at depths below ten feet of ground surface has been removed (namely, the sump sediment remediation) pursuant to OAC 3745-300-15.
8. The Certified Professional has verified by affidavit that the investigational and remedial activities undertaken at the Property demonstrate that there is no reason to believe a release of hazardous substances or petroleum has occurred or is occurring at the Property, that the Property is eligible to receive a covenant not to sue ("Covenant") under the Voluntary Action Program pursuant to ORC 3746.02 and OAC 3745-300-02, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
9. At the time that analyses were performed, Test America, Inc. was a certified laboratory, No. CL0018, as defined in ORC 3746.01(D) and OAC 3745-300-01(A)(7), whose services were used in support of the NFA Letter ("Certified Laboratory").
10. The Certified Laboratory declared in affidavits contained in the NFA Letter that it performed analyses for which it was certified and qualified, pursuant to ORC Chapter 3746 and OAC 3745-300-04, which formed the basis for the issuance of the NFA Letter by the Certified Professional.
11. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, a Covenant may be issued for the Property in accordance with ORC 3746.12(A), and the voluntary action for the Property is protective of public health and safety and the environment.

ORDERS

Covenant

1. Based on the NFA Letter and subject to the conditions set forth in these Findings and Orders, Ohio EPA hereby covenants not to sue and releases the Broad &

High Development LLC and the city of Columbus, and their respective agents, employees, shareholders (as applicable), officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio ("State") to perform additional investigational and remedial activities at the Property for the releases of hazardous substances or petroleum identified and addressed in the Phase I Property Assessment or Phase II Property Assessment conducted in compliance with ORC Chapter 3746 and OAC Chapter 3745-300.

Conditions and Limitations

Requirement to Record These Findings and Orders / Covenant Not to Sue

2. Within thirty (30) days after the issuance of these Findings and Orders, Broad & High Development LLC shall:
 - a. File with the Franklin County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), and 3 (Executive Summary).
 - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Covenant Not to Sue for NFA Letter No. 08NFA319.*" The submission shall be addressed and delivered by regular U.S. mail or by other reliable means to: Ohio EPA, 50 W. Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer, and Ohio EPA Central District Office, 50 W. Town Street, Suite 700, Columbus, OH 43215, Attention: DERR Site Coordinator for Broad and High Redevelopment Property.

Scope of Covenant

3. The Covenant provided in Order No. 1 shall only apply to the approximately 0.3357 - acre Property described in the NFA Letter, these Findings and Orders, and the exhibits attached hereto, upon which the investigational and remedial activities specified in the NFA Letter were conducted.
4. Pursuant to ORC 3746.12(B), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders.
5. The Covenant shall not apply to releases of hazardous substances or petroleum:

- a. That occur after the issuance of the NFA Letter to the Volunteers, including but not limited to, releases of asbestos that may occur from asbestos containing materials remaining at the Property that were not abated pursuant to OAC Chapter 3745-20;
 - b. On or emanating from the Property, that are not identified and addressed in the Phase I Property Assessment or the Phase II Property Assessment of the NFA Letter; or
 - c. For which investigational or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
6. The Covenant shall not apply:
- a. To claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended;
 - b. To claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency; or
 - c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws.
7. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
8. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

Ohio EPA Access to Property

9. Pursuant to ORC 3746.21, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes.

Transfer

10. Pursuant to ORC 3746.14 and OAC 3745-300-13(L), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

IT IS SO ORDERED:



Chris Korleski, Director
Ohio Environmental Protection Agency

DEC 18 2008

Date

Exhibit 1
Legal Description

NEW LEGAL DESCRIPTION

PARCEL I, II, AND IV

Situated in the State of Ohio, County of Franklin, and the City of Columbus, and being a 0.3357 acre tract, which is part of Lot 1, all of Lots 2 through 9, and also being a portion of a 10 foot wide vacated alley, all being out of the Plat of Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision of Original Inlot Nos. 331-333 as recorded in Deed Book 20, Pages 448-450, deeded to Broad & High Development LLC in Instrument Number 200512150264027, Recorders Office, Franklin County, Ohio, (all deed and plat references made being to said Recorder's Office, unless otherwise noted), being more particularly described as follows:

Beginning for a POINT of COMMENCEMENT at a Magnail set at the southwesterly corner of said Lot 6 in the Plat of Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, which point also being at the intersection of the Easterly line of High Street (100 feet wide) and the Northerly line of Broad Street (120 feet wide), which point also being the TRUE POINT OF BEGINNING for the 0.3357 acre parcel herein described:

Thence along the Easterly line of said High Street, also along the Westerly line of said portion of Lot 1 and Lots 2 thru 6, and also along the Westerly line of said 10 foot wide vacated alley as recorded in Ordinance number 1684-85, North 00 Degrees 01 Minutes 43 Seconds West, 163.25 feet, to a Magnail set in said Easterly line of High Street, which point also being located at the Northwest corner of said Broad & High Development LLC land along Lot 1, said point also being located at the Southwest corner of 24 North High Company lands as recorded in Official Record 15572, Page F04;

Thence along a Northerly line of said Broad & High Development LLC land, and also along the Southerly line of said 24 North High Company lands, North 89 Degrees 56 Minutes 05 Seconds East, 152.36 feet a point located inside a building at the Northeast corner of Parcel I of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, which point also being located at the northwest corner of Parcel III of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, said point also being in the Southerly line of said 24 North High Company lands;

Thence along an Easterly line of said Parcel I of Broad & High Development LLC land as recorded in instrument Number 200512150264027, and also along the Westerly line of said Parcel III of Broad & High Development LLC land as recorded in instrument Number 200512150264027, South 00 Degrees 03 Minutes 55 Seconds East, 25.10 feet to a Magnail set in the Northerly line of an alley, said point also being located at a southeast corner of said Parcel I of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, which point also being at the southwest corner of said Parcel III of Broad & High Development LLC land as recorded in Instrument Number 200512150264027;

Thence along the Southerly line of said Lots 1 and 2, and also along the southerly line of a private alley, all being in the Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, and also along a Northerly line of said alley, South 89 Degrees 56 Minutes 05 Seconds

West, 81.42 feet to a Magnail set in the Southerly line of said Lot 2, which point also being located at the Northeast corner of Lot 3 of the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, which point also being located at an angle point of said alley;

Thence along an Easterly line of said Lots 3, 4, and 5 of the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, and also along a Westerly line of said alley, South 00 Degrees 01 Minutes 43 Seconds East, 60.03 feet to a Magnail set at the southeast corner of said Lot 5, which point also being located at an angle point in said alley;

Thence along a Southerly line of said Lot 5, and also along a Northerly line of said alley, South 89 Degrees 58 Minutes 24 Seconds West, 0.95 feet to a Magnail set in the Southerly line of said Lot 5, which point also being the Northeast corner of said 10 foot wide vacated alley as recorded in Ordinance number 1684-85, and said point also being located at a Northwest corner of said alley;

Thence along the Easterly line of said 10 foot wide vacated alley, and also along the Westerly line of said alley, South 00 Degrees 01 Minutes 43 Seconds East, 10.00 feet to a point located inside a building at the Southeasterly corner of said 10 foot wide vacated alley in Ordinance Number 1684-85, which point also being in the Northerly line of Lot 9 in the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, said point also being at a Southwest corner of said alley;

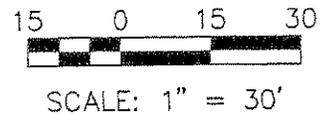
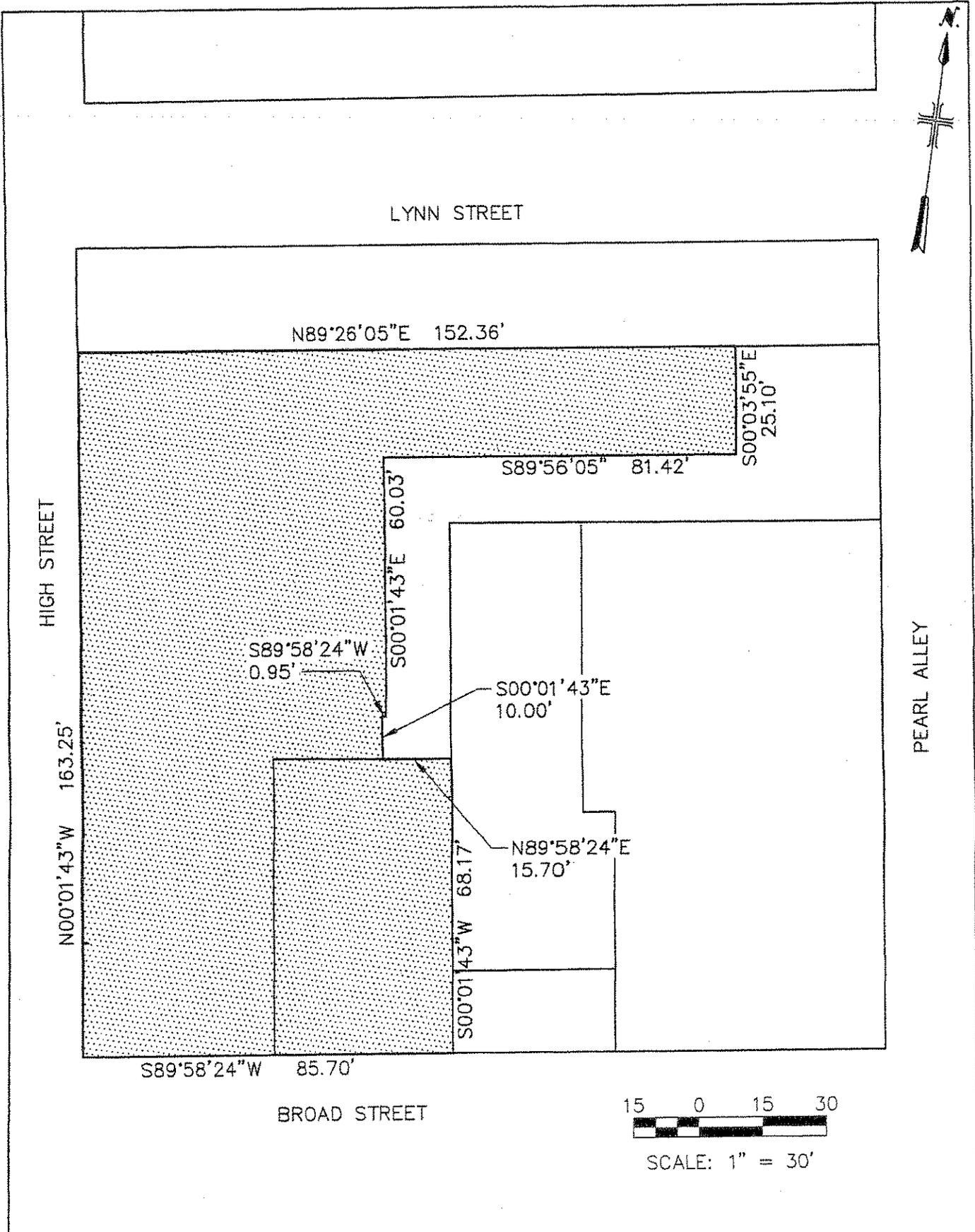
Thence along the Northerly line of said Lot 9, and also along a Southerly line of said alley, North 89 Degrees 58 Minutes 24 Seconds East, 15.70 feet to a point located inside a building at the Northeast corner of said Lot 9, which point also being at a Southeast corner of said alley, which point also being in the Westerly line of land owned by Mid-Continent Realty Company as recorded in O.R. 14009, Page G10;

Thence along the Easterly line of said Lot 9, and also along the West line of said Mid-Continent Realty Company lands, South 00 Degrees 01 Minutes 43 Seconds East, 68.17 feet to a point located inside a building in the Northerly line of said Broad Street, which point also being at the Southeast corner of said Lot 9, which point also being at the Southwest corner of said Mid-Continent Realty Company lands also the Southwest corner of Lot 10 in said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision;

Thence along the Northerly line of said Broad Street and also along the Southerly line of Lots 6 thru 9 in said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, South 89 Degrees 58 minutes 24 seconds West, 85.70 feet to the TRUE POINT OF BEGINNING and containing 0.3357 acres, and subject to all legal easements, restrictions, and right-of-way of record;

Jonathan E. Phelps, Ohio Surveyor No. 8241, of BRH Group, Inc., Worthington Ohio, prepared the above description from an actual field survey made in October, November and December 2005. Bearings are based on an assumed bearing of East Broad Street being North 89 Degrees 58 Minutes 24 Seconds East.

User: downey Spec: PIRNIE STANDARD File: T:\5071003\Cadd\5071003_003D.DWG Scale: 1:1 Date: 11/25/2008 Time: 08:45 Layout: FIGURE 1



REF: PROPERTY BOUNDARY PROVIDED BY JONATHAN E. PHELPS, P.S. NO 8241

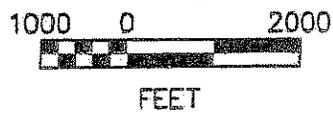
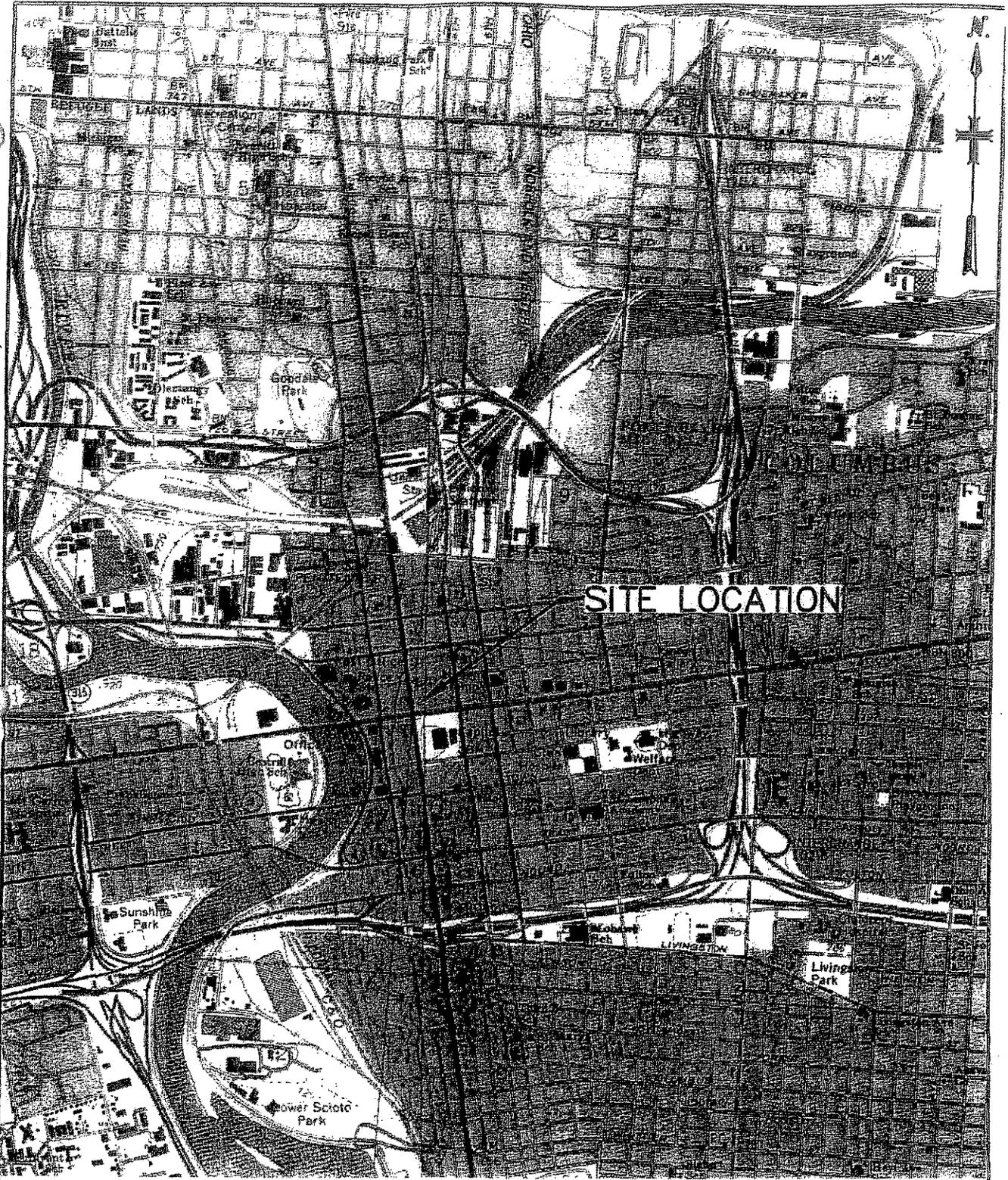
| | | | |
|---------------------------|----------------------------|-------------------|----------------------|
| MALCOLM PIRNIE | BROAD AND HIGH PROPERTY | PROPERTY BOUNDARY | MALCOLM PIRNIE, INC. |
| | | | NOVEMBER 2008 |

Exhibit 2
Property Location Map

File: 1-1 Date: 10/04/2004 Time: 08:06 Layout: FIGURE 1

File: T:\5071003\Cadd\5071003_006.r

User: Johns



REF: SOUTHEAST AND SOUTHWEST COLUMBUS USGS QUAD MAPS

| | | | |
|---------------------------|----------------|--------------|---------------------------|
| MALCOLM PIRNIE | TOWER PROPERTY | LOCATION MAP | MALCOLM PIRNIE, INC. |
| | | | OCTOBER, 2004 FIGURE 1 |

Exhibit 3
Executive Summary

EXECUTIVE SUMMARY OF THE NO FURTHER ACTION LETTER

of the:
Broad and High Redevelopment Property

Located at:
**2, 4-6 and 8 East Broad Street and 12, 18, and 20 North High Street
Columbus, Franklin County, Ohio 43215**

December 2008

Volunteers:

Broad & High Development LLC
A Delaware Limited Liability Company
191 W. Nationwide Blvd.
Suite 200
Columbus, Ohio 43215

City of Columbus:
Columbus Department of Development
Economic Development Division
150 S. Front St.
Suite 220
Columbus, Ohio 43215

Submitted to:

Ohio EPA/DERR
Voluntary Action Program
Attn: VAP Administrative Supervisor
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216

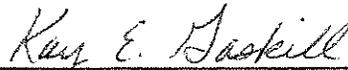
Ohio EPA/DERR
Central District Office
Attn: VAP District Coordinator
3232 Alum Creek Drive
Columbus, OH 43207

**Certified Professional
Issuing the NFA**



T. Donald Pinto, CP #281
Malcolm Pirnie, Inc.
900 Polaris Parkway, Suite 200
Columbus, Ohio 43240
614-888-4953 phone
614-888-6295 fax

Notary Public Signature



Sworn to and subscribed in my
Presence this 2nd day of December, 2008



Kay E. Gaskill
Notary Public, State of Ohio
My Commission Expires 08-13-2011

1.0 Introduction

A No Further Action (NFA) Letter was submitted to the Ohio Environmental Protection Agency (Ohio EPA), Division of Emergency & Remedial Response (DERR) Voluntary Action Program (VAP) on behalf of the Volunteers, Broad & High Development LLC (a Delaware limited liability company) and the City of Columbus, on November 7, 2008 by T. Donald Pinto, P.E., Malcolm Pirnie, Inc., Certified Professional No. 281.

The NFA Letter was submitted at the completion of a Phase I Property Assessment, Limited Phase II Property Assessment, and Asbestos Containing Material (ACM) abatement activities. This Executive Summary of the NFA Letter has been prepared to meet the requirements of Rule 3745-300-13(H) of the Ohio Administrative Code (OAC), which specifies the format required by the Ohio EPA for submitting the NFA Letter, and OAC Rule 3745-300-13(I), which addresses recording a summary of the NFA letter in the county recorder's office. A complete copy of the NFA Letter is on file, and will be available at the Ohio EPA, DERR, VAP, in accordance with the filing requirements of Rule 3745-300-13 (J) of the OAC. The NFA Letter consists of six Volumes: Volume I-Phase I PA, Tower Property; Volume 2-Phase II PA, Tower Property; Volume 3-Phase I PA, Broad and High Properties; Volume 4-Phase II PA, Broad and High Properties; Volume 5 contains the asbestos containing material surveys and close-out reports; and a volume that contains the NFA Forms and Phase I PA Update (includes affidavits). The Ohio EPA will make the NFA letter available upon request. The telephone number for the records keeper is 614-728-1298.

1.1 Authority by which the NFA letter was issued

This NFA letter is being issued by T. Donald Pinto (VAP Certified Professional #281) in accordance with Rule 3745-300-13 of the OAC.

1.2 Basic Information about the Property

This NFA Letter involves two parcels that were combined into one for a total acreage of 0.3357 acres. The Tower Property (8 East Broad Street) and the multiple-parcel property (including 2 and 4-6 East Broad Street and 12, 18 and 20 North High Street, Columbus, Franklin County, Ohio) known as the Broad and High Properties were combined into one parcel in March 2008. This combined parcel shall hereafter be referred to as the "Property". The Property is located within the city block bound by Lynn Street to the north, Broad Street to the south, Pearl Street to the east and High Street to the west in the business district of downtown Columbus.

Historical land use of the 8 East Broad Street parcel includes one 16-story commercial office tower that was first developed in 1887 as a commercial office tower and hotel. The current Property building was constructed between 1904 and 1906, and was renovated between 2004 and 2008. The Tower Property was used as the Stag Hotel (1891) and Smith's European Hotel (1901). A review of historical city directories indicates that it was used from 1901 to 2003 primarily for commercial offices, including but not limited to law, insurance, title, engineering/architectural, real estate, finance and banking, government, and also included various residences during that period.

Historical land use of the Broad and High Properties (located at 2 and 4 (4 includes 6 East Broad) East Broad and 12, 18 and 20 North High Street) include commercial offices, restaurants, a jeweler, a bar, grocery store, market, photo shop and other residential and commercial uses. The first use of these parcels includes the following from the 1887 Sanborn map: 2 and 4-6 East Broad were Anderson offices, 12 North High Street, offices; 18 North High Street, tailor and offices; and 20 North High Street stores and hardware.

A review of historical city directories from 1923 to 2002 indicated multiple commercial uses, some that implied a potential hazard because the Atlas Dry Cleaning Company was located at 6 North High Street and a curtain cleaning company was located at 4 North High Street.

The current and intended future use of the Property is commercial and residential mixed-use. There are no restrictions associated with the Property. The NFA Letter demonstrates that the applicable standards have been met with the Property. A legal description of the Property is provided as an attachment to the Phase I PA Update.

2.0 Summary of No Further Action Letter

The Certified Professional, T. Donald Pinto, P.E., with Malcolm Pirnie, Inc., issued an NFA Letter for the Property based on the findings of the Phase I and Limited Phase II Property Assessments, and completion of asbestos abatement. A summary of the Voluntary Action and supporting documents is provided. Complete copies of the reports, prepared for the Property as part of the voluntary action, are contained in as Volumes 1 through 5 of the NFA Letter.

2.1 Phase I Property Assessment

A Phase I Property Assessment was conducted during the period from June through October 2004. The Property reconnaissance was conducted on June 3 and 4, 2004. A final Phase I Assessment Report was completed in October 2004. All Phase I work was conducted under the direction of Mr. Milind Pradhan, P.E., D.E.E., Ohio VAP Certified Professional (CP-108) and T. Donald Pinto, P.E., Ohio VAP Certified Professional (CP-281).

The assessments were conducted to meet the requirements of Phase I Property Assessment in accordance with Rule 3745-300-06 (OAC). The assessments were conducted in order to determine if there is any reason to believe that any releases of hazardous substances or petroleum have or may have occurred on, underlying, or are emanating from the Property. The assessments included the following:

1. A determination of eligibility for entry into the VAP;
2. A review of historical and current uses of the Property and surrounding properties;
3. An environmental history review;
4. A records review for indications of current and historical uses of the subject Property;
5. A Property inspection;
6. A Standard Environmental Record Search of federal and state environmental databases;

7. File reviews of Ohio EPA, US EPA, Columbus Fire Department and the Franklin County Department of Environmental Services;
8. Interviews of individuals familiar with the subject Property, as well as local governmental agencies; and
9. Identification of "identified areas" as defined in Rule 3745-300-06(F) of the OAC.

2.1.1 Tower Property

8 East Broad CRI LP retained Malcolm Pirnie, Inc. to perform Clean Ohio Assistance Fund services in connection with the Property located at 8 East Broad Street, Columbus, Franklin County, Ohio, 43215. Malcolm Pirnie's scope of work included the completion of a Phase I Property Assessment, a Phase II Environmental Assessment, and Certified Professional Services including the submission of a Voluntary Action Program certified No Further Action (NFA) Letter.

The Tower Property is occupied by a 90,385 square foot, sixteen-story office building (Tower Building). According to historical resources, the sixteen-story building was constructed between 1904 and 1906. Sanborn Fire Insurance Maps indicate that the earliest use of the Property was as commercial offices (1887). The Sanborn Maps indicate that the Property was previously used as the Stag Hotel (1891) and Smith's European Hotel (1901). Sanborn maps from 1921, 1951, and 1971, as well as City Directories reviewed indicate that the Property was used from 1901 to 2003 primarily for commercial offices, including but not limited to law, insurance, title, engineering/architectural, real estate, finance and banking, government, and also included various residences during that period. Malcolm Pirnie also reviewed historical aerial photographs from 1938, 1957, 1964, 1971, 1980, and 1994 for the area to determine when, if any, construction activities or changes in land use had taken place on or near the Property.

The adjoining Property to the south is the Ohio Statehouse; the adjoining Property to the east is a 12-story commercial office tower. A private alley and commercial properties (law offices, business offices and a restaurant) are located directly north of the Property. Directly adjacent to the west is a four-story office building which was previously occupied in 1927 by the Atlas Dry Cleaning Company (20 North High Street), and a dry cleaning business (6 North High Street). 1958 records indicate that a Mrs. K. Noethlich owned a B&B curtain service business located at 4 North High Street indicated on a 1927 Sanborn as "Curtain Cleaners." Although these properties are immediately adjacent to the Tower Property (west), they are at a lower elevation, and down-gradient. Based on the elevation and the probable flow of groundwater towards the Scioto River to the west, the potential that the properties at 20, 6 and 4 North High Street to have impacted the Tower Property is low.

At the time of Malcolm Pirnie's Phase I Property Assessment of the Tower Building and reconnaissance of the Property on June 3-4, 2006, the building was vacant with the exception of a portion of the seventh floor, leased by Verizon Wireless and used as a battery backup power station. Subsequently, all interior walls, suspended ceilings, floor coverings, pipes and electrical lines and conduit in the building were removed as part of the demolition/renovation process. Currently, the renovation of the building has been completed and it is partially occupied by residents.

A sump was observed in the Tower Building basement adjacent to an electrical switchbox. The sump was opened and inspected and found to contain water and sediment. The purpose and integrity

of the sump was unknown. It is conceivable that the unit is a traditional storm water sump used to collect and divert rainwater (and subsurface water) from the foundation of the building.

During the site reconnaissance, no evidence of spills or releases of hazardous substances or petroleum products were observed. The basement floor did not have floor drains and did not appear to be cracked. No off-Property environmental conditions were observed that would likely impact the Tower Property. Fluorescent light ballasts suspected to contain polychlorinated biphenyls (PCBs) were observed during the Property reconnaissance. No spills from these ballasts were observed. Additionally, universal waste abatement subcontractors inspected the Tower Building and recorded any such ballasts along with the associated cost estimate for their removal. No stressed vegetation or discolored soils were observed during the site reconnaissance.

2.1.2 Broad & High Properties

To determine the historical uses of the parcels which comprise 2 and 4-6 East Broad Street and 12, 18 and 20 North High Street, several steps were taken. Site plans, provided by Broad & High Development LLC, showed the building layouts and general uses of the buildings. Former uses include a bank, restaurants, a jeweler, a bar, a grocery store and market, a photo shop, and other various commercial and residential uses. In addition to reviewing site plans, Sanborn Fire Insurance Maps from 1887, 1891, 1901, 1921, 1951, and 1971 were reviewed, and City Directory research was conducted. Malcolm Pirnie, Inc. also reviewed historical aerial photographs from 1938, 1957, 1964, 1971, 1980, and 1994 for the area to determine when, if any, construction activities or changes in land use had taken place on or near the properties.

A discussion of the historical uses of the properties as determined by the review of Sanborn Fire Insurance Maps is presented in the following paragraphs.

1887 Sanborn Map

The 1887 Sanborn map shows that the property appears in a layout similar to its state today. The property exists in a commercial district in downtown Columbus, Ohio, and the property spaces appear to be occupied as offices, a hardware store, and a tailor. A drug warehouse appears on the map along East Lynn, between North High Street and North Pearl. This location is directly northwest of the subject property, and a private alley exists between the two areas. The property that is currently the Tower at 8 East Broad Street is not present; rather, several office spaces occupy this space.

1891 Sanborn Map

No changes in the general use of the site were observed from the 1887 to 1891 Sanborn Maps. 2, 4-6 East Broad Street are now clearly defined as containing several businesses including a barber shop and a cigar factory. The property just north of the private alley, labeled 12,14,16 North High Street, is designated as a bank, while 18 and 20 North High Street still exist as a tailor and a hardware store respectively. The space directly east of the subject property, labeled 6-12 East Broad Street, appears as the Stag Hotel on this map.

1901 Sanborn Map

The 1901 Sanborn Map shows that the Stag Hotel has become Smith's European Hotel, and was

located between 2-8 East Broad Street, and north to the private alley just behind the building. The property noted at 20 North High Street is now shown as a cleaning and laundry facility, and a drugstore spans the entire north side of the building along East Lynn Street. Offices and a bank exist in the building just east of the subject property, referred to as the Hayden Building. A carpet and curtain cleaner exists in the building that is just north of East Lynn.

1921 Sanborn Map

The business names associated with the property are illegible on the 1921 Sanborn Map; however, the drug store that exists along East Lynn is still present. It is also apparent that the Hayden Building still houses a bank, stretching from 20-24 East Broad Street. It is unclear whether the carpet and curtain cleaner that existed in the building north of East Lynn is still present, as the property is blacked out.

1951 Sanborn Map

The 1951 Sanborn shows that the property listed as 12 North High Street is now a restaurant and that another restaurant has replaced the drug warehouse along East Lynn. It appears that a furniture store has taken the place of the carpet and curtain cleaner in the building just north of East Lynn. The bank in the Hayden Building is still present but has now expanded and occupies the property from 20 East Broad Street to the buildings edge at North Pearl. This Sanborn also makes reference to the tower at 8 East Broad Street having been built in 1906.

1971 Sanborn Map

The 1971 Sanborn shows that a restaurant exists at 4 East Broad Street and one occupies 12 North High Street. A bank occupies the space that formerly housed the carpet and curtain cleaner in the building just north of East Lynn. Additionally, office space exists where the bank in the Hayden Building once was. A restaurant is depicted at 16 East Broad Street.

After reviewing the Sanborn Fire Insurance Maps from 1887, 1891, 1901, 1921, 1951, and 1971, it was apparent that except for the tenants inside the buildings, the property and the surrounding area changed very little over the past 120 years until the old buildings were razed and new buildings were constructed between 2004 and 2008. During site reconnaissance, basement floor drains were not observed. Also, there did not appear to be any cracks in the basement floors.

No prior Phase I Assessment reports were found or reviewed for the Property.

2.1.3 Asbestos Survey Report

Malcolm Pirnie was retained by Broad and High Development LLC, a Delaware limited liability company, to provide an Asbestos Survey of the Property. Malcolm Pirnie retained Lepi Enterprises, Inc. to complete the report on June 7, 2004. ACM at the Tower Property comprised piping and boiler insulation, small pieces of transite, asbestos containing light fixtures, and vinyl asbestos floor tiles. The Asbestos Survey is included in Volume 5 of the NFA. The asbestos survey provided a detailed breakdown of asbestos in the Property and a cost to remediate asbestos, which was included in a request for Clean Ohio Assistance Fund cleanup funds approved by Ohio Department of Development.

2.1.4 Summary of Known or Suspected Releases of Hazardous Substances or Petroleum

There was no evidence of the disposal of solid or hazardous waste on the Property. No Above Ground Storage Tanks (ASTs) or Underground Storage Tanks (USTs) were observed. There are no wells located within a one-mile radius of the Property that are currently used for potable drinking water. A Standard Environmental Record Search of federal and state environmental databases was conducted through Environmental Data Resources (EDR) in accordance with OAC 3745-300-06 (D)(2)(c). The Property was not listed in the databases. The remaining facilities listed in the databases are unlikely to impact the Property due to their distance from the Property and their location down-gradient and thus do not have the potential to cause a release of hazardous substances or petroleum at or underlying the Property.

Asbestos Containing Material (ACM) and lead paint were the only potential hazardous substances at the 8 East Broad Street portion of the Property. An Asbestos Survey, completed by Lepi Enterprises is included in Volume 5 of the NFA documents. The ACM at the Tower Property comprised piping and boiler insulation, small pieces of transite, asbestos containing light fixtures, and vinyl asbestos floor tiles.

Based on information gathered from the City Directory research, the review of the Sanborn Fire Insurance Maps, and the Property reconnaissance, the following areas were identified at the Property as possibly containing hazardous substances or petroleum:

- 4 North High Street had been used as a curtain cleaning company. Potential chemicals of concern are cleaning solvents and chemicals.
- 6 North High Street was used as a dry cleaning company. Potential chemicals of concern are cleaning solvents and chemicals.
- 20 North High Street was used as a cleaning and laundry facility. Potential chemicals of concern are cleaning solvents and chemicals.
- The presence of asbestos, lead paint, and universal waste was found in several buildings; however, there is no evidence that a release of hazardous materials or petroleum to the environment has occurred.
- A sump of unknown origin and integrity was observed in the basement of the adjoining property at the Tower Property. The sump contained water and sediment.

2.1.5 Recommendations of Phase I Property Assessment

The following was recommended by the Certified Professional:

- A Phase II Property Assessment was recommended to determine if the sump had impacted soil and groundwater on or underlying the Property. The sump was recommended to be drained and the sediment in the bottom sampled. The integrity of the sump should then be evaluated. As a safeguard, even if the sump proved to be water-tight, Phase II sampling of the soil surrounding the sump should be conducted to investigate the potential for past releases.
- Installation of borings and collection of soil samples from the beneath the basement floors of the cleaning facilities.
- Although outside the scope of the Phase I, the presence of asbestos, lead paint and universal-like waste was confirmed on several floors of this Property. However, no releases of these materials to the environment had occurred. An Asbestos Survey should be completed on the Property. Lead paint and universal wastes should also be quantified and removed prior to the redevelopment of the Property.

2.2 Eligibility for the VAP

An Applicable Regulatory Program Statement was submitted to the Ohio EPA on August 30, 2004. This letter was written because the Property's eligibility under the VAP had to be established for the Property to be eligible to receive funding under the Ohio Department of Development's Clean Ohio Fund. A letter from Ohio EPA confirming the applicable regulatory program determination of eligibility for the VAP was written on October 6, 2004. This is included in Attachment 1 of the NFA.

2.3 Phase II Property Assessment

Malcolm Pirnie was retained by Broad and High Development LLC, a Delaware limited liability company, to conduct a limited Phase II Environmental Property Assessment on the Property. The Phase II PA was conducted under the direction of Milind Pradhan, P.E. and T. Donald Pinto, P.E., (Certified Professionals), by Judd Wanner (Project Hydrogeologist), and Michael Reid (Technician). During the Phase II of the Property, the following activities were completed:

- Sampling the sediments from the sump located at 8 East Broad Street
- Cleaning the sump by draining the water and removing the sediment accumulated at the bottom. The sump sediments were removed and properly disposed off-site.
- Evaluation of the integrity of the sump.
- Collection of soil samples around the sump and analysis for the chemicals of concern (based on the sediment sampling results) to assess whether there has been a release to Property soils
- Collection of sixteen borings installed through the floors of the buildings that housed the cleaning establishments. On August 5, 2004, AST Enterprises, Inc. of Springboro, Ohio provided hand-operated drilling services for the indoor investigation.

2.3.1 Soil Investigation and Findings

A Phase II PA (Volume 2 of the NFA) was conducted in June and August 2004 to evaluate the contents and integrity of the sump.

On June 17, 2004, a sediment sample from the sump located at 8 East Broad Street was collected and sent to a VAP certified laboratory for the analyses of VOCs, SVOCs, RCRA metals, and polychlorinated biphenyls (PCBs). On June 29, 2004, the sump was cleaned out, and its integrity was investigated. It contained approximately 3 feet of water and sediment. Water and sediments in the sump were pumped into drums. The sump was then sounded with a metal rod and found to be intact on its sides and bottom. Sediment, soils and water removed from the sump were properly managed off-Property by ProTerra as documented in the Phase II report. The sump was determined to be approximately 2.5 feet in diameter and 5 feet deep. It was determined to be intact; however, a Phase II investigation of the soils surrounding the sump was initiated to evaluate the potential for release of contaminants from the sump to the soil. Because the use and contents of the sump are unknown, the target parameter list included volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), polynuclear aromatics (PNAs), RCRA metals, and polychlorinated biphenyls (PCBs). U.S. EPA SW-846 methods were used for laboratory analyses. TestAmerica, Inc. of Dayton, Ohio provided laboratory analytical services. TestAmerica is certified under the Ohio EPA Voluntary Action Program (VAP) (Certified Laboratory Number CL0018).

Arsenic and aroclor-1254 were detected in the sump sediment sample at concentrations above the limits specified by the Ohio VAP for residential land use but below those for commercial use. Lead was present at levels exceeding both the commercial and residential VAP soil limits.

On August 5, 2004, AST Enterprises, Inc. of Springboro, Ohio provided drilling services for the indoor investigation. During this investigation, three soil borings were installed around the sump to investigate whether a release to soil had occurred. This investigation used direct-push soil sampling to determine the current nature and extent of possible impacts, if any, to Property subsurface soils. At each boring location an electric hammer-drill and concrete coring bit was used to create a 2-inch diameter hole in the concrete floor. After coring, continuous soil samples were collected using a Geoprobe® LB Soil Sampler & Stop-Pin System which was advanced by hand using a slide hammer. Soil borings were continuously sampled from the surface to a depth of 8 feet below the floor. A Malcolm Pirnie hydrogeologist described the soils and screened them for the presence of VOCs with a photo ionization detector (PID) equipped with a 10.6 eV lamp. From each boring, soil samples were collected from the interval corresponding to the bottom of the sump and submitted to the laboratory for the analysis of VOCs, polynuclear aromatics (PNAs), RCRA metals, and PCBs. Because of the depth of the basement floor, these samples were collected from an approximate depth of 22 to 24 feet below ground, so at a greater depth than the 10 ft. residential point of compliance. Upon completion, each boring was backfilled with 3/8-inch bentonite chips which were hydrated, and then the concrete floor was patched.

The laboratory results indicated one VOC, methylene chloride, and five RCRA metals (arsenic, barium, lead, chromium and mercury) were detected in the soil samples. No SVOCs or PCBs were detected. All the detected analytes were below the VAP commercial and residential SCDC soil standards or the soil samples were collected below the residential point of compliance.

It should be noted that the depths of the soil samples that were collected around the sump were approximately 22 to 24 feet below ground surface. Also, because the area surrounding the sump was covered by approximately 4 inches of intact concrete, the possibility of human contact with soil was considered to be insignificant. As part of building renovation tasks, the sump and the soil surrounding the sump were removed. Currently, the area where the former sump was located is covered by a new concrete floor and handicap access ramp that leads from the underground car parking lot to the basement elevator level of the Tower Building.

At the 2 and 4-6 East Broad Street and 12, 18 and 20 North High Street portions of the Property, a comprehensive soil investigation using direct-push soil sampling methods was undertaken to determine the current nature and extent of possible contamination of subsurface soils. Six borings were advanced through the basement floors of 4-6 North High Street and ten borings were advanced into the basement floors of 20 North High Street. Coring through the floor and collection of the soil samples was as described above for the soils surrounding the sump in the Tower Building.

During the soil investigation, elevated photo ionization detector (PID) readings were not detected. As such, one sample from immediately below the concrete floor of each boring at 4-6 North High Street and one sample from four of the ten borings at 20 North High Street were submitted to the laboratory for VOC analysis. The soil samples from these buildings were collected at approximately 18 to 19 feet below ground surface, so below the residential point of compliance. All sampling was done in accordance with VAP requirements. Samples were placed on ice in shipping coolers. The coolers were transported to the laboratory under appropriate chain-of-custody protocols. Investigative-derived waste materials such as soil and concrete cuttings were containerized and labeled for appropriate disposal offsite.

The analytical results were compared with Ohio VAP soil single chemical generic direct contact standards (SCDC). Low levels of three volatiles (acetone, methylene chloride, and toluene) were detected in two soil samples from 4-6 North High Street; however, their concentrations were well below the VAP SCDC soil standards for commercial and residential land use. As stated above, the soil samples were collected below the 10 ft. residential point of compliance. No VOCs were detected in the samples for laboratory analysis from 20 North High Street.

Since the time of the soil sampling, the buildings at the site were demolished and the sub-basement soils at the Property were removed so that foundations for the new buildings and the underground parking garage could be constructed. The Property soils were excavated to an approximate depth of 30 to 35 feet below ground surface.

2.3.2 Ground Water Investigation and Findings

Based on the results of the Phase II PA, there have been no releases at the Property from the sump or from historic laundry or dry cleaning operations to the subsurface soils. Because there was no indication of a release of hazardous substances or petroleum to the soils at the Property, there is no potential for impact from Property operations to groundwater underlying the Property or to indoor air.

2.3.3 Surface Water and Sediments Investigation and Findings

Not applicable. No surface water bodies or sediments were identified as being present on this Property.

2.3.4 Exposure Pathway Assessment

Because there was no release of hazardous substances or petroleum to environmental media, there are no complete exposure pathways for COCs in soil, groundwater or indoor air.

The asbestos survey of the Property identified the presence of asbestos containing material (ACM) at the Property. The asbestos was removed by an Ohio licensed asbestos abatement contractor in accordance with all laws and rules. There was no release of ACM to the environment, and, therefore no exposure pathway for asbestos.

2.3.5 Determination of Applicable Standards

The standards used to evaluate the analytical results of soil samples were the Ohio VAP Soil Single Chemical Generic Direct-Contact Standards for residential and commercial use scenarios.

The standards for abatement of ACM are those required or referenced by Rule 3701-34 of the Ohio Administrative Code regulations of the United States Environmental Protection Agency, 40 CFR Part 61, Subpart M, and the Occupational Safety and Health Administration, 29 CFR Section 1926.1101 regarding asbestos abatement and sampling.

2.3.6 Data Analysis

All concentrations of COCs were below the applicable VAP standards. Air sampling conducted during ACM removal activities indicates that there was no release of asbestos to the environment.

Modeling of fate and transport of COCs to point of compliance was not necessary for this Property.

2.3.7 Determination of Compliance with Applicable Standards

Compliance with asbestos exposure standards was met by the removal of ACM from the Property. All friable ACM was removed from the interior of the building. All ACM was removed by a licensed asbestos abatement contractor. Air monitoring conducted during asbestos removal activities indicates that there was no release of ACM to the environment.

Because there was no release of hazardous substances or petroleum to the environmental media at the Property, all applicable standards were met prior to the NFA letter issuance.

The Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for unrestricted (residential) land use. The applicable standards, the methods of achieving

compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway are identified in the NFA letter, which contains a summary table entitled "Table 10 Applicable Standards and Remedial Activities for Each Exposure Pathway" in the NFA Letter at NFA Forms and Phase I ESA Update, Section D – Pages 25 and 26 and Volume 5 Asbestos Evaluation and Abatement. The applicable standards include but are not limited to:

- Ohio VAP Residential (land use) Standard for ACM following Abatement of ACM and
- Following the completion of the Phase II Property Assessment and remedial activities, no release of hazardous substances (including asbestos) or petroleum was identified at the Property.

2.3.8 Property-Specific Risk Assessment Findings

A human health risk assessment was not necessary for this Property.

An ecological risk assessment was not necessary for this Property.

2.4 Determination of Whether Remedial Activities Are Required

The required remedial activity at this Property was the abatement of ACM from the Tower Building prior to interior demolition and renovation. This was conducted and completed by OTS as referenced by the Closure Reports.

2.5 Remedial Activities

All ACM was removed by Ohio Technical Service (OTS), an asbestos hazard abatement contractor that is licensed by the Ohio Department of Health. All asbestos containing materials in the Tower Property were removed. The air testing during the ACM removal indicates that there was no release of ACM to the environment during asbestos abatement activities.

Compliance with asbestos exposure standards was met by the removal of ACM from the Property. All friable ACM was removed prior to or during demolition of the interior of the building.

Lead paint and small amounts of universal waste were found in the building; however no releases of materials to the environment have occurred. An OTS report indicated the negative presence of lead.

The Tower Property has been renovated for residential use, and all asbestos containing materials were removed prior to the renovation of the building. All ACM was removed by a licensed asbestos abatement contractor.

2.6 Planned Remedies

There are no further remedies necessary at this Property.

3.0 Conclusions

The Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for unrestricted (residential) land use. The applicable standards, the methods of achieving compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway are identified in the NFA letter, which contains a summary table entitled "Table 10 Applicable Standards and Remedial Activities for Each Exposure Pathway" in the NFA Letter at NFA Forms and Phase I ESA Update, Section D – Pages 25 and 26 and Volume 5 Asbestos Evaluation and Abatement. The applicable standards include but are not limited to:

- Ohio VAP Residential (land use) Standard for ACM following Abatement of ACM and
- Following the completion of the Phase II Property Assessment and remedial activities, no release of hazardous substances (including asbestos) or petroleum was identified at the Property.

END OF SECTION B

TAERG\Brownfields\Broad and High\NFA forms\Final Combined NFA\final section-b intro ver 2.doc



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

MEMORANDUM

TO: Shelley Wilson, Executive Administrator for Real Property, Tax Equalization Division, Dept. of Taxation

Amy Alduino, Office of Urban Development, Dept. of Development

FROM: Chris Korleski, Director, Ohio Environmental Protection Agency

DATE: 12/17/08

RE: Covenant Not to Sue Issued to Broad & High Development LLC and the City of Columbus for the Broad and High Redevelopment Property

As Director of the Ohio Environmental Protection Agency, I certify that Broad & High Development LLC and the city of Columbus have performed investigational and remedial activities at the property listed below and have been issued a Covenant Not to Sue under the authority of Ohio Revised Code (ORC) Chapter 3746. This information is being provided in satisfaction of ORC 5709.87(B).

Property name: Broad and High Redevelopment

Property address: 2, 4-6 and 8 East Broad Street, and 12, 18 and 20 North High Street, Columbus, Ohio 43215

Property owner: Broad & High Development LLC

Property owner address: 191 W. Nationwide Blvd., Suite 200, Columbus, Ohio 43215-2568

Parcel number(s): 010-048313-00 and 010-042441

County: Franklin

Taxing District: City of Columbus Taxing District

Date Covenant Not to Sue Issued: DEC 18 2008

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Attached, for your information, is a copy of the legal description of the property.

If additional information regarding the property or the voluntary action is required, I suggest you first contact T. Donald Pinto, the certified professional for the property, at 614-888-4953. In the alternative, you can contact Robin Roth with the Ohio Environmental Protection Agency at 614-466-2476.

c: William J. Riat, Broad and High Development LLC
Dave Porchetti, Broad and High Development LLC
Gary R. Guglielmi, City of Columbus,
T. Donald Pinto, Certified Professional, Malcolm Pirnie, Inc.,
Joe Testa, Franklin County Auditor
Amy Yersavich, VAP Manager, Ohio EPA
Ken Schulz, CDO/DERR Assistant Manager, Ohio EPA
Deborah Strayton, CDO/DERR, Manager, Ohio EPA
DERR-CO, VAP Files NFA #08NFA319

RR/hsm Broad and High Taxmemotemplate final

NEW LEGAL DESCRIPTION

PARCEL I, II, AND IV

Situated in the State of Ohio, County of Franklin, and the City of Columbus, and being a 0.3357 acre tract, which is part of Lot 1, all of Lots 2 through 9, and also being a portion of a 10 foot wide vacated alley, all being out of the Plat of Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision of Original Inlot Nos. 331-333 as recorded in Deed Book 20, Pages 448-450, deeded to Broad & High Development LLC in Instrument Number 200512150264027, Recorders Office, Franklin County, Ohio, (all deed and plat references made being to said Recorder's Office, unless otherwise noted), being more particularly described as follows:

Beginning for a POINT of COMMENCEMENT at a Magnail set at the southwesterly corner of said Lot 6 in the Plat of Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, which point also being at the intersection of the Easterly line of High Street (100 feet wide) and the Northerly line of Broad Street (120 feet wide), which point also being the TRUE POINT OF BEGINNING for the 0.3357 acre parcel herein described:

Thence along the Easterly line of said High Street, also along the Westerly line of said portion of Lot 1 and Lots 2 thru 6, and also along the Westerly line of said 10 foot wide vacated alley as recorded in Ordinance number 1684-85, North 00 Degrees 01 Minutes 43 Seconds West, 163.25 feet, to a Magnail set in said Easterly line of High Street, which point also being located at the Northwest corner of said Broad & High Development LLC land along Lot 1, said point also being located at the Southwest corner of 24 North High Company lands as recorded in Official Record 15572, Page F04;

Thence along a Northerly line of said Broad & High Development LLC land, and also along the Southerly line of said 24 North High Company lands, North 89 Degrees 56 Minutes 05 Seconds East, 152.36 feet a point located inside a building at the Northeast corner of Parcel I of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, which point also being located at the northwest corner of Parcel III of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, said point also being in the Southerly line of said 24 North High Company lands;

Thence along an Easterly line of said Parcel I of Broad & High Development LLC land as recorded in instrument Number 200512150264027, and also along the Westerly line of said Parcel III of Broad & High Development LLC land as recorded in instrument Number 200512150264027, South 00 Degrees 03 Minutes 55 Seconds East, 25.10 feet to a Magnail set in the Northerly line of an alley, said point also being located at a southeast corner of said Parcel I of Broad & High Development LLC land as recorded in Instrument Number 200512150264027, which point also being at the southwest corner of said Parcel III of Broad & High Development LLC land as recorded in Instrument Number 200512150264027;

Thence along the Southerly line of said Lots 1 and 2, and also along the southerly line of a private alley, all being in the Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, and also along a Northerly line of said alley, South 89 Degrees 56 Minutes 05 Seconds

West, 81.42 feet to a Magnail set in the Southerly line of said Lot 2, which point also being located at the Northeast corner of Lot 3 of the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, which point also being located at an angle point of said alley;

Thence along an Easterly line of said Lots 3, 4, and 5 of the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, and also along a Westerly line of said alley, South 00 Degrees 01 Minutes 43 Seconds East, 60.03 feet to a Magnail set at the southeast corner of said Lot 5, which point also being located at an angle point in said alley;

Thence along a Southerly line of said Lot 5, and also along a Northerly line of said alley, South 89 Degrees 58 Minutes 24 Seconds West, 0.95 feet to a Magnail set in the Southerly line of said Lot 5, which point also being the Northeast corner of said 10 foot wide vacated alley as recorded in Ordinance number 1684-85, and said point also being located at a Northwest corner of said alley;

Thence along the Easterly line of said 10 foot wide vacated alley, and also along the Westerly line of said alley, South 00 Degrees 01 Minutes 43 Seconds East, 10.00 feet to a point located inside a building at the Southeasterly corner of said 10 foot wide vacated alley in Ordinance Number 1684-85, which point also being in the Northerly line of Lot 9 in the said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, said point also being at a Southwest corner of said alley;

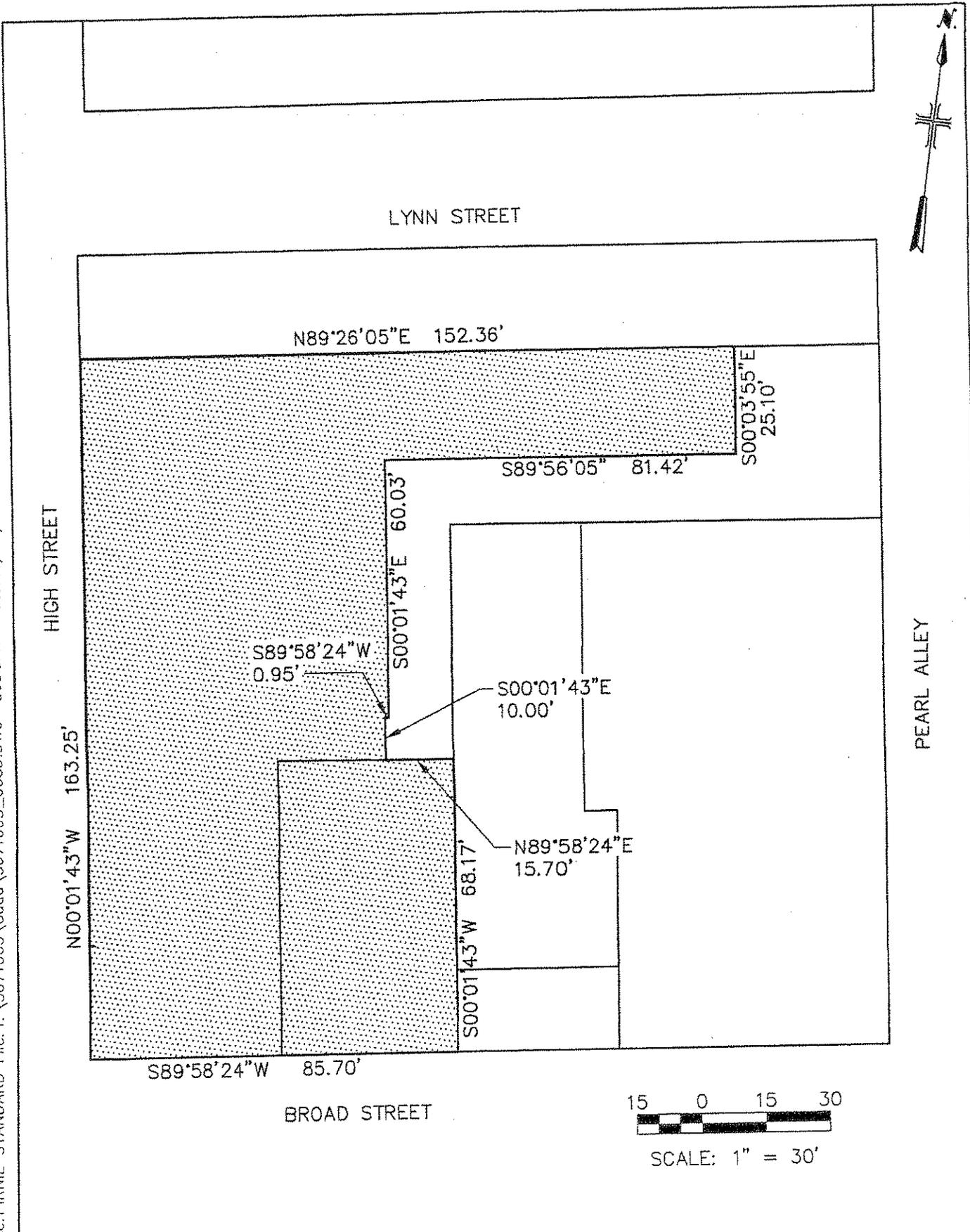
Thence along the Northerly line of said Lot 9, and also along a Southerly line of said alley, North 89 Degrees 58 Minutes 24 Seconds East, 15.70 feet to a point located inside a building at the Northeast corner of said Lot 9, which point also being at a Southeast corner of said alley, which point also being in the Westerly line of land owned by Mid-Continent Realty Company as recorded in O.R. 14009, Page G10;

Thence along the Easterly line of said Lot 9, and also along the West line of said Mid-Continent Realty Company lands, South 00 Degrees 01 Minutes 43 Seconds East, 68.17 feet to a point located inside a building in the Northerly line of said Broad Street, which point also being at the Southeast corner of said Lot 9, which point also being at the Southwest corner of said Mid-Continent Realty Company lands also the Southwest corner of Lot 10 in said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision;

Thence along the Northerly line of said Broad Street and also along the Southerly line of Lots 6 thru 9 in said Joseph Ridgeway and Joseph Ridgeway Jr. Subdivision, South 89 Degrees 58 minutes 24 seconds West, 85.70 feet to the TRUE POINT OF BEGINNING and containing 0.3357 acres, and subject to all legal easements, restrictions, and right-of-way of record;

Jonathan E. Phelps, Ohio Surveyor No. 8241, of BRH Group, Inc., Worthington Ohio, prepared the above description from an actual field survey made in October, November and December 2005. Bearings are based on an assumed bearing of East Broad Street being North 89 Degrees 58 Minutes 24 Seconds East.

User: downey Spec: PIRNIE STANDARD File: I:\5071003\Cadd\5071003_003D.DWG Scale: 1:1 Date: 11/25/2008 Time: 08:45 Layout: FIGURE 1



REF: PROPERTY BOUNDARY PROVIDED BY JONATHAN E. PHELPS, P.S. NO 8241

| | | | |
|--|-------------------------|-------------------|----------------------|
| | BROAD AND HIGH PROPERTY | PROPERTY BOUNDARY | MALCOLM PIRNIE, INC. |
| | | | NOVEMBER 2008 |