

CITY OF VAUGHAN

POLICY AND PROCEDURES FOR DEALING

WITH CONTAMINATED OR

POTENTIALLY CONTAMINATED SITES

MAY 2001

**This Report should be read in conjunction with the City of Vaughan BACKGROUND REPORT ON
POLICY AND PROCEDURES FOR DEALING WITH CONTAMINATED SITES IN ONTARIO.
MAY 2001**

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APPENDIX I – Conditions on Development Approvals

Official Plan and Zoning By-law Amendments
Plan of Subdivision
Site Plan

Conditions on Applications where lands are being Acquired by the City of Vaughan

- 1) Sites where only a Phase I ESA was conducted
- 2) Sites where Phase 2 (Soil and groundwater sampling) or confirmatory sampling conducted as part of a remedial action plan
- 3) Additional conditions on applications where parkland is being conveyed to the City

Based on the *Guideline For Use at Contaminated Sites, Ministry of the Environment, June 1996*, as amended.

1.0 Scope of Application

This policy applies to the all development proposals requiring official plan amendment, rezoning, plan of subdivision and site plan applications and where applicable to all lands being acquired by the City, except as otherwise provided for in this policy.

2.0 Requirements

2.1 Site Screening Questionnaire

A completed Site Screening Questionnaire as shown in Section 5 of this Policy, must be submitted to the Community Planning Department with every development application for official plan and zoning by-law amendment, draft plans of subdivision and site plan.

2.2 A Phase 1 ESA is required when

A Phase 1 Environmental Site Assessment (ESA) will be required as part of a development application submission, if any one or more of the following circumstances apply:

1. The site screening questionnaire in the application indicates the potential for contamination on the subject property, or if the owner is uncertain to the answers to the questions in the questionnaire;

AND

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the subject lands or adjacent lands are used or have been used in the past for an industrial, automotive, or other non-residential purposes such as gas stations, automotive repair garages, dry cleaning, or the storage of raw materials, land filling or agricultural practices that may have generated some level of contamination **AND** the proposal includes a change in use to a more sensitive land use;

A "More Sensitive" Land Use is considered to be a land use and/or associated activity which may include one or more of the following:

residential - residences or facilities where people sleep (e.g., single and multiple dwellings, nursing homes, hotels, hospitals, trailer parks, camp grounds etc.);

Institutional - permanent structures of an institutional nature (e.g., schools, churches, community centres, daycare facilities, etc.);

restaurants - restaurants or places where food is prepared, stored, or served, either as a sole use or as an associated use but excluding the retail of pre-packaged foods;

parks - park lands and outdoor recreational facilities

2. Lands are to be deeded to the municipality including but not limited to roads, parks, woodlots, valleylands, storm water management facilities;
3. The City has information by which it has reason to suspect that the subject lands have the potential by being contaminated.

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The Community Planning Department will forward the completed questionnaire to the Engineering Department. The Engineering Department will inform the applicant of the City's "Policy and Procedures For Dealing with Contaminated or Potentially Contaminated Sites" and of the requirement for the Phase 1 ESA to be submitted to the City and that the report will be subject to a peer review, at the applicant's expense.

2.3 Cost of the Peer Review

The proponent will be required to submit a cheque to the Engineering Department in the amount of \$ 2,000.00 made payable to the City of Vaughan as payment for the peer review. If additional monies are required to complete the peer review, the proponent shall provide the required amounts as requested by the Engineering Department. An administration fee shall be applied by the City to the cost of the peer review. Upon the completion of the review, the remaining funds, if any, shall be returned to the applicant.

2.4 Scheduling of Applications where a Phase 1 ESA report is required

Where a phase 1 ESA is required with an application, the following shall apply with respect to the scheduling of the application for consideration by the Committee of the Whole:

1. The requirement for a phase 1 ESA will not effect the scheduling of the Public Hearing on an application.
2. Applications for:
 - i) official plan, zoning by-law amendment, subdivision and site plan shall not proceed to a Technical Report to the Committee of the Whole;

Until such time as, the Engineering Department has informed the Community Planning Department that either one of the following has occurred:

- i) the applicant has submitted environmental site assessment report(s) which have been peer reviewed and the environmental site assessment report(s) indicate that

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the subject lands are free of contamination and no further investigation is necessary;

If applicable (Conditions addressing the environmental suitability of lands being conveyed to the City, should be included in response from the Engineering Department.)

OR

- ii) the applicant's environmental assessment report(s) have identified areas of contamination and a phase 3 ESA (Remedial Action Plan) has been submitted and peer reviewed.

(Conditions addressing the remediation of the site and the environmental suitability of lands being conveyed to the City, should be included in the response from the Engineering Department.)

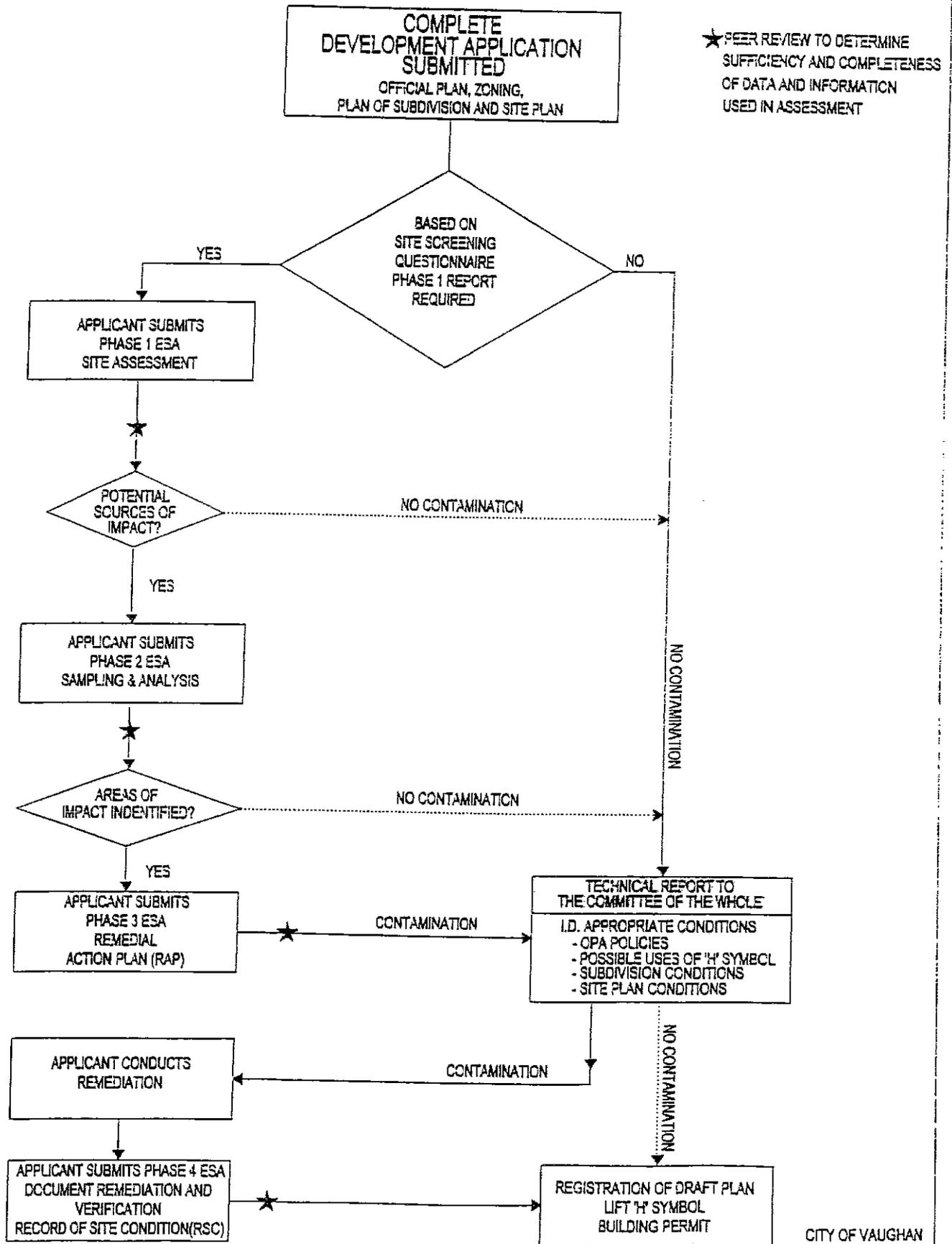
2.5 The Review Process

The peer reviewer will communicate to the City advising whether the submitted information is complete and, if it is not, will indicate the nature of the information which is missing or insufficient. The applicant or its consultant can then determine the scope of the work required to address the outstanding matters. All written correspondence submitted from either the proponent or the peer reviewer should be addressed to the City and copied to the peer reviewer or proponent.

The Engineering Department will co-ordinate the review of the applicant's phase 1 and 2 ESA reports, remediations plans etc. with the City's peer reviewers. Based on the peer review, the Engineering Department will provide comments and conditions to the Community Planning Department as part of their commenting on the applications.

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REVIEW PROCESS FOR OFFICIAL PLAN AMENDMENT, REZONING, PLAN OF SUBDIVISION AND SITE PLAN APPLICATIONS



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If the phase 1 ESA indicates the possibility of contamination, a phase 2 ESA and Phase 3 ESA (if site remediation is required), that resolves all concerns of the City, will be required prior to the technical report being considered by the Committee of the Whole. The phase 2 and 3 ESAs shall also be peer reviewed at the applicant's expense. Prior to Council or the Committee of Adjustments approval of an application, the applicants reports shall have identified whether remediation of the site is required or not, in order that the appropriate conditions can be applied to the approval.

The City will be relying upon the review and recommendations of the City's peer review consultant. The responsibility for ensuring that the information in the reports is correct, the site restoration work is completed in a manner consistent with the information provided in the Ministry's Guideline and the site is suitable for the intended use or reuse, remains with the Owner and their consultant.

2.6 Potentially Sensitive Site

For the purposes of this Policy and Section 6.1 d) of the *Guideline for Use at Contaminated Sites in Ontario*, "a local environmentally sensitive area identified by a municipality, a conservation authority or other non-provincial body", shall include all Environmentally Significant Areas identified by the Toronto and Region Conservation Authority in the City of Vaughan and all areas designated "Woodlot" or "Tableland Woodlot" in Vaughan's Official Plan.

For the purposes of this Policy and Section 6.1 g) of the *Guideline for Use at Contaminated Sites in Ontario*, "a wetland identified as being significant by any planning jurisdiction" shall include all wetlands evaluated as Provincially and Locally Significant in the City of Vaughan.

2.7 Lands Being Acquired by the City

Development applications which include lands to be conveyed to the City and where lands are being acquired by the City through real estate transactions outside of the development review process will be subject to the submission of a Phase 1 environmental site assessment report and any additional reports that may be required and its review as set out in this policy.

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Exceptions to the requirement for a phase 1 ESA report may be granted in the case of road widenings, easements and acquisitions of a minor nature. Such exceptions shall be determined on a case-by-case basis by the Engineering Department.

2.8 Lands being Acquired by the City for a Parkland Purposes

In addition to the environmental site assessment report required by Sections 2.2 and 2.7 of this Policy, a Phase 2 environmental site assessment report addressing lands to be acquired by the City for park purposes shall be submitted to the City for peer review and approval. The on-site sampling in the Phase 2 report shall be conducted only after the City has certified the rough grading for the park. Should the Phase 2 report identify that remediation of the park is required to meet the applicable parkland criteria and other relevant MOE Guidelines respecting methane and other matters, the owner shall undertake the required remediation to the satisfaction of the City and MOE as may be required.

2.9 Use of Site Specific Risk Assessment (SSRA) and Stratified Clean-ups

The proposed remediation of lands through the use of Site Specific Risk Assessment or Stratified Cleanup will be brought to the attention of Council and may be permitted, based on an evaluation on a case-by-case basis and having regard for the individual constraints and merits of the proposal.

3.0 Role of the Peer Reviewer

The peer reviewer will provide technical expertise to the City in dealing with contaminated or potentially contaminated sites. The peer reviewer will provide an opinion regarding the sufficiency and completeness of the information, analysis and recommendations for the proposed development as presented in the submitted reports. The peer reviewer will provide technical advice and attend meetings as required. The peer reviewer should not provide reports or information to any parties, other than the proponent and its consultant, without first notifying Engineering Department staff. The City's peer reviewer does not replace the role of any other reviewer, retained by the proponent, as described in the current MOE Guidelines for Site Specific Risk Assessment.

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Phase 1 ESA Advise the City to the sufficiency and completeness of the report for the proposed development.

Phase 2 ESA Advise the City that sufficient work has been conducted to provide assurance that all sources of environmental impact have been identified and investigated, that proper protocols were used in the field and the laboratory, and sufficient information has been provided to support the conclusions.

Remedial Action Plan

Stage 1 Advise the City that sufficient information has been provided to develop a remediation plan, that proposed remediation objectives, approach and schedule are appropriate, and that the proposed verification plan is sufficient to ensure that the site meets the remediation objectives.

Remedial Action Plan

Stage 2 Advise the City that remediation was conducted in accordance with the submitted remedial action plan, that appropriate protocols were used to verify the success of the remediation, and that the verification data supports the conclusion that the site has been properly remediated for the proposed development.

When submitted reports have been reviewed, the reviewer will provide written comments regarding the sufficiency and completeness of the reports to the Engineering Department. The peer reviewer must ensure that additional submissions address concerns raised in these comments. At any stage in the review process, the peer reviewer may be required to attend meetings with City staff, the applicants or their consultant(s).

The peer reviewer(s) will be required to enter into a consulting agreement with the City and carry sufficient limits of professional Errors & Omissions and General Liability coverage to protect the City.

4.0 Where Site Remediation is Required or a Site Specific Risk Assessment is to be used

For all development applications, where the site requires remediation, or a site specific risk assessment (SSRA) is used by a proponent:

1. The applicant shall undertake a public communication program, to the satisfaction of the Commissioner of Planning and Urban Design.
2. A Record of Site Condition acknowledged by the Ministry of Environment will be required at the appropriate stage, as a condition of development approval.

The following table summarizes the requirements for different types of Planning Act approvals where site restoration is required.

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Sites where Site Remediation is Required.

TYPE OF APPLICATION	REQUIREMENTS
Official Plan Amendments*	Policies in Official Plan Amendment identifying site contamination as an issue which must be addressed prior to development occurring. Possible use of Holding Provisions in the implementing zoning by-law to be used to ensure implementation of the remedial work plan and verification and provision of a completed RSC
Zoning By-law Amendments*	Holding provisions will be used to grant approval conditional upon the owner's remedial work plan and verification of clean-up (RSC)
Site Plans*	Condition of approval that prior to the issuance of building permits or foundation permits a remedial work plan and verification of clean-up (RSC) have been completed. Addition to an existing use and is not a known contaminated site, are exempt.
Subdivisions*	Condition of draft approval will require that remedial work plan and verification of clean-up (RSC) have been completed prior to final approval
Condominiums	Not required (requirements addressed at OPA, zoning or site plan stages)

*Conditions on approvals are set out in greater detail in Appendix I.

5.0 Site Screening Questionnaire

The application form for official plan and zoning by-law amendment, plan of subdivision and site plan, shall include the site screening questionnaire, which shall be completed by the Owner of the land. As part of the application the affidavit which the applicant swears to, will also apply to the questionnaire.

DEVELOPMENT APPLICATION SITE SCREENING QUESTIONNAIRE

The site screening questionnaire shall be completed by the Owner of the subject lands. Knowledge of the property's history is an asset to the completion of the site screening questionnaire. Where an Owner is a very recent Owner it remains that Owner's responsibility to make all reasonable enquiry and declaration. An approved agent may not have the requisite knowledge of the property to complete the questionnaire appropriately.

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SITE SCREENING QUESTIONNAIRE

<p>1. Is there reason to believe that the lands may be contaminated based on historical land use?*</p> <p><i>* Possible offending uses may include: disposal of waste materials, raw material storage, residues left in containers, maintenance activities and spills. Some commercial properties such as gas stations, automotive repair garages, and dry cleaning plants have similar potential. The longer a property is under industrial or similar use, the greater the potential for site contamination. Also, a series of different industrial or like uses upon a site could potentially increase the number of chemicals which are present.</i></p>	<p>Yes __ No__ Uncertain __</p>
<p>2. Has land filling occurred on the property or lands adjacent to the property?</p>	<p>Yes __ No__ Uncertain __</p>
<p>3. Has a gas station been located on the subject land or adjacent land at any time?</p>	<p>Yes __ No __ Uncertain __</p>
<p>4. Has petroleum or other fuel been stored on the subject lands or adjacent land?</p>	<p>Yes__ No__ Uncertain __</p>
<p>5. If the property has in the past or is currently being used for a non-residential use, what is the nature of the use?</p> <p>_____</p> <p>_____</p>	
<p>6. Is the nearest boundary line of the subject lands within 500 m (1,640 ft) of an operational or non-operational landfill or dump?</p>	<p>Yes __ No__ Uncertain__</p>
<p>7. Have previous agricultural operations ever included the application of cyanide-based pesticide products or sewage sludge on the lands?</p>	<p>Yes__ No __ Uncertain__</p>
<p>8. Are you aware of any underground storage tanks, or other buried waste on the property?</p>	<p>Yes __ No__ Uncertain__</p>
<p>9. If there are any existing or previously existing buildings, are there building materials remaining which are potentially hazardous to health (asbestos, PCBs)?</p>	<p>Yes__ No __ Uncertain__</p>
<p>10. Is there a current Environmental Site Assessment for the site or has one been prepared within the last five years?</p> <p>If yes, please submit it with your application.</p>	<p>Yes __ No__ Uncertain__</p>

DECLARATION

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I/We _____ the owner/and/or purchaser _____ and/or lessee _____ (delete inapplicable words) of the above-noted lands hereby acknowledge that it is my/our responsibility to ensure that I/We are in compliance with all applicable legislative enactments, guidelines and other government directives pertaining to contaminated sites including, but not limited to, the Ministry of Environment's Guideline for Use at Contaminated Sites in Ontario, June 1996 as amended. I/We further acknowledge that the City of Vaughan and/or the Regional Municipality of York are not responsible for the identification and/or remediation of contaminated sites and in any action or proceeding for losses or damages related to environmental contamination or clean-up of contamination will not sue or claim over against the City of Vaughan and/or the Regional Municipality of York.

Dated at _____ this _____ day of 20_____.

 (Signed with Corporate Seal by Owner)

 (please print name and title as applicable)

TO BE COMPLETED BY CITY OF VAUGHAN

		<u>CIRCLE</u>	
A.	COMMUNITY PLANNING DEPARTMENT		
	Does the completed Site Screening Questionnaire include any YES or Uncertain responses?	YES	NO
	Is there a change in use proposed to a more sensitive use?	YES	NO
	Does the proposal include any lands to be conveyed to the City?	YES	NO
B.	ENGINEERING DEPARTMENT		
	Does the proposal require any lands to be conveyed to the City or for the City to acquire an interest in any lands for such purposes as but not limited to road widenings, stormwater management, servicing etc.?	YES	NO
	Is a Phase 1 ESA required to be submitted with the application?	YES	NO

APPENDIX I

CONDITIONS ON DEVELOPMENT APPROVALS

Official Plan and Zoning By-law Amendments

Where the applicant's environmental reports have identified that site restoration is necessary, the Official Plan Amendment should include policies respecting any additional reports or approvals required to address the remediation of the site, prior to development occurring, and the use of a "H" Holding provision in the amending zoning by-law.

The "H" Holding provision would have the effect of:

- requiring the owner to carry out or cause to be carried out the recommendations and measures contained with the consultants report(s) including if required, a Remedial Work Plan and to obtain the necessary permits to perform the works referred to prior to construction on the site and to provide the City a completed Record of Site Condition acknowledged by the Ministry of Environment prior to lifting of the "H" Holding provision.

Plan of Subdivision

Where the applicant's environmental reports have identified that site remediation is necessary, conditions shall be applied to subdivision application which has the effect of requiring that:

- Prior to final approval the owner shall provide the City with a copy of the Record of Site Condition which has been acknowledged by the Ontario Ministry of Environment.
- The Owner covenant and agree to carry out or cause to be carried out the recommendations and measures contained within the (report title), dated (date) as prepared by (name of consultant), including, if required, a Remedial Work Plan and to obtain any necessary permits to perform the work the works referred to, prior to the commencement of any grading or construction on the site.
- The Owner covenants and agrees that all lands to be conveyed to the municipality meet the applicable soil and ground water criteria for the intended use as set out in the Guideline for Use at Contaminated Sites, June 1996, as revised, Ontario Ministry of the Environment.

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- The Owner covenants and agrees that the responsibility for ensuring that the site restoration work is completed in a manner consistent with the information provided in the Guideline for Use at Contaminated Sites, June 1996, as revised, Ontario Ministry of the Environment, and that the site is suitable for the intended use or reuse, remains with the Owner.
- The Owner reimburse the City for the cost of the peer review of the environmental site assessment reports, remedial work plan, and site restoration reports as may be required.

Site Plan

Where the applicant's environmental reports have identified that site remediation is necessary, a condition shall be applied to the site plan application which has the effect of requiring that:

- Prior to the issuance of building or foundation permits the owner shall provide the City with a Record of Site Condition which has been acknowledged by the Ontario Ministry of Environment.

Conditions on Applications Where Lands are Being Acquired by the City

1. Sites where only a Phase 1 ESA was conducted

A clause shall be included in site plan and subdivision agreements (as applicable), in the case where only a phase 1 ESA has been prepared and accepted by the City's peer reviewer, which has the effect of:

- In all cases where lands are to be conveyed to the municipality for uses not including parkland, the Owner covenant and agree that they are not aware of any soil, groundwater or sediment contamination on or within lands to be conveyed to the municipality which would interfere with its intended use.

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2. Sites where Phase 2 (soil and or ground water sampling) or confirmatory sampling conducted as part of a remedial action plan

A clause shall be included in site plan and subdivision agreements (as applicable), where on site soil sampling was conducted as part of a Phase 2 ESA confirming that no contamination was identified or where additional sampling was undertaken as part of the confirmatory sampling associated with the remediation of the property, which has the effect of:

- The Owner covenants and agrees that all lands to be conveyed to the municipality meet the applicable soil and ground water criteria for the intended use as set out in the Guideline for Use at Contaminated Sites, June 1996, as revised, Ontario Ministry of the Environment.

3. Additional Conditions on Applications where Parkland is being Conveyed to the City

A clause shall be included in site plan and subdivision agreements (as applicable) where lands are being conveyed to the City for parkland purposes, which has the effect of:

Prior to the issuance of building permits the Owner shall submit a Phase 2 environmental site assessment reports(s) addressing all park blocks in the plan, in accordance with the Ministry of Environment Guideline for Use at Contaminated Sites in Ontario (June 1996 as amended), to the satisfaction of the City. On-site sampling contained in the reports shall be conducted following completion and certification of the rough grading of the park block(s). Testing may include but not be limited to surface and subsurface soil, ground water, soil vapour, plant and aquatic species sampling and testing of building materials.