

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee

From: Scott Mathers, MPA, P.Eng.
Deputy City Manager, Planning and Economic Development

Subject: LJM Developments (Halton Hills) Inc. – Application for
Brownfield Community Improvement Plan Incentives
400 Southdale Road East
Ward 12

Date: November 13, 2023

Recommendation

That, on the recommendation of the Director, Economic Services and Supports, the following actions be taken with respect to the application of LJM Developments (Halton Hills) Inc. relating to the property located at 400 Southdale Road East:

- a) A total expenditure of up to a maximum of \$624,000 in municipal brownfield financial incentives **BE APPROVED AND ALLOCATED** at the Municipal Council meeting on November 28, 2023, under the following program in the Community Improvement Plan (CIP) for Brownfield Incentives ('Brownfield CIP'):
 - i) Provide a grant through the Development Charges Rebate Program for the eligible remediation costs, as follows:
 - A) If development charges are paid in one lump sum amount, the Development Charges Rebate grant will be issued in one instalment.
 - B) If development charges are paid annually over six years, the Development Charges Rebate grant will be issued in six annual instalments, noting that any interest charged by the City of London for deferred development charge payments is not included in the rebate.
- b) The applicant **BE REQUIRED** to enter into an agreement with the City of London outlining the relevant terms and conditions for the incentives that have been approved by Municipal Council under the Brownfield CIP. The agreement between the City of London and LJM Developments (Halton Hills) Inc. will be transferable and binding on any subsequent property owner(s).

IT BEING NOTED that no grants will be provided through the Brownfield CIP until:

- i) All remediation work approved under this application is finished.
- ii) The payment of development charges has begun.
- iii) A Record of Site Condition is filed with the Government of Ontario's Environmental Site Registry.
- iv) The City of London receives receipts showing the actual cost of the eligible remediation work.

Executive Summary

LJM Developments (Halton Hills) Inc. ('the applicant') is seeking financial incentives through the Brownfield CIP to help cover the cost of remediating the property at 400 Southdale Road East. Municipal Council approval is required for Brownfield CIP financial incentive programs and this approval is required prior to the start of remediation.

Purpose and the Effect of Recommended Action

The purpose and effect of the recommended action is to provide grant funding up to a maximum of \$624,000 in municipal brownfield financial incentives through the Development Charges Rebate Program.

Rationale of Recommended Action

1. The development represents a significant investment on Southdale Road East including the construction of 179 new residential units on a remediated brownfield site.
2. The development includes four affordable housing units that will help in addressing the growing need for affordable housing in London. The development is in alignment with the Housing Stability Action Plan 2019-2024 and its Strategic Area of Focus 2: Create More Housing Stock.
3. The development will eventually generate significant tax revenues over and above the grants that are provided.
4. Brownfield incentive applications support the Housing and Homelessness and Wellbeing and Safety Strategic Areas of Focus in the *City of London Strategic Plan 2023-2027*.

Linkage to the Corporate Strategic Plan

This recommendation supports the following Strategic Areas of Focus:

- **Housing and Homelessness**, by ensuring London's growth and development is well-planned and considers use, intensity, and form by directing growth and intensification to strategic locations in a way that maximized existing assets and resources.
- **Wellbeing and Safety**, by promoting neighbourhood planning and design that creates safe, accessible, diverse, walkable, healthy, and connected communities.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

PEC Report – [400 Southdale Road East \(OZ-9261\)](#) – July 26, 2021.

PEC Report – [400 Southdale Road East](#) – January 9, 2023.

1.2 Brownfield Community Improvement Plan

The Community Improvement Plan (CIP) for Brownfield Incentives ('Brownfield CIP') was adopted by Municipal Council on February 20, 2006, and approved by the Province of Ontario, with modifications, on November 21, 2006.

The purpose of the Brownfield CIP is to remove or reduce the obstacles that hinder brownfield remediation and redevelopment. The financial incentive programs are used to evaluate contaminated properties and encourage the private sector to invest in those properties. There are four incentive programs to encourage the investigation, remediation, and redevelopment of brownfield sites in London.

The Contamination Assessment Study Grant Program assists property owners in conducting a Phase II Environmental Site Assessment (ESA) and is capped at \$10,000 per property. Municipal Council approval is not required for the Study Grant Program. The applicant did not require this program because ESAs completed by the previous property owner were obtained through the purchase of the property.

The remaining three programs: Property Tax Assistance, Development Charge Rebate, and Tax Increment Equivalent Grants require Municipal Council approval. These programs may be significant in terms of financial assistance and are considered based on the evaluation of a business case from the applicant and the availability of program funding. The applicant applied to these three programs.

1.3 Brownfield CIP Eligibility Requirements

Eligibility requirements for each brownfield incentive program are outlined in the CIP. Municipal Council may consider providing any one incentive or combination of incentives based on the relevant CIP eligibility requirements and merits of each application; however, under the Brownfield CIP incentive programs the cumulative amount of funding that may be provided through the Property Tax Assistance Program, Tax Increment Equivalent Grant Program, and Development Charge Rebate Program cannot exceed the eligible site remediation costs for the subject property.

In addition to the general requirements in Section 2 of the CIP, specific eligibility requirements apply to the three programs. Each application is evaluated on a case-by-case basis to consider the public and economic benefit of providing one or more incentive(s) to a property.

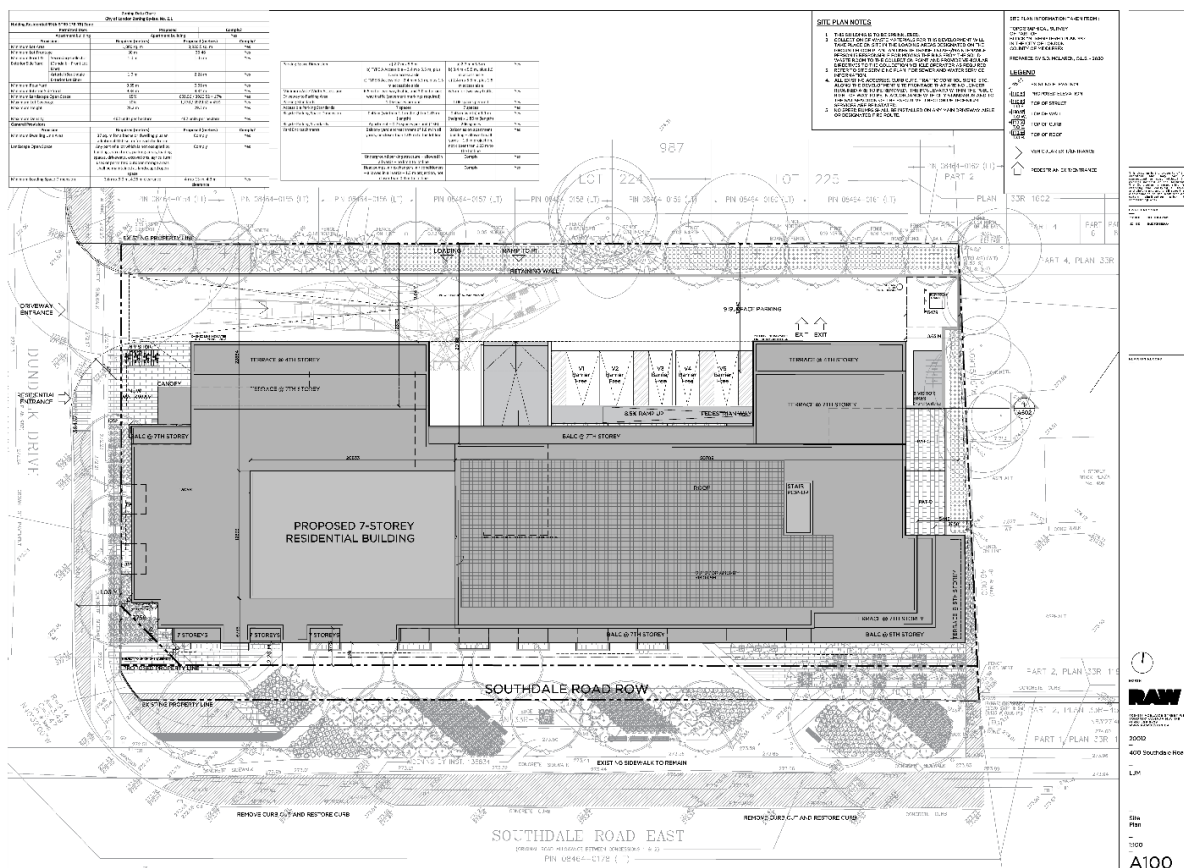
1.4 400 Southdale Road East Development Project

The applicant is constructing a seven-storey residential development with two levels of underground parking and a third partial level of parking and locker storage. 179 units will be created with four of the units being transferred to the City of London for affordable housing.

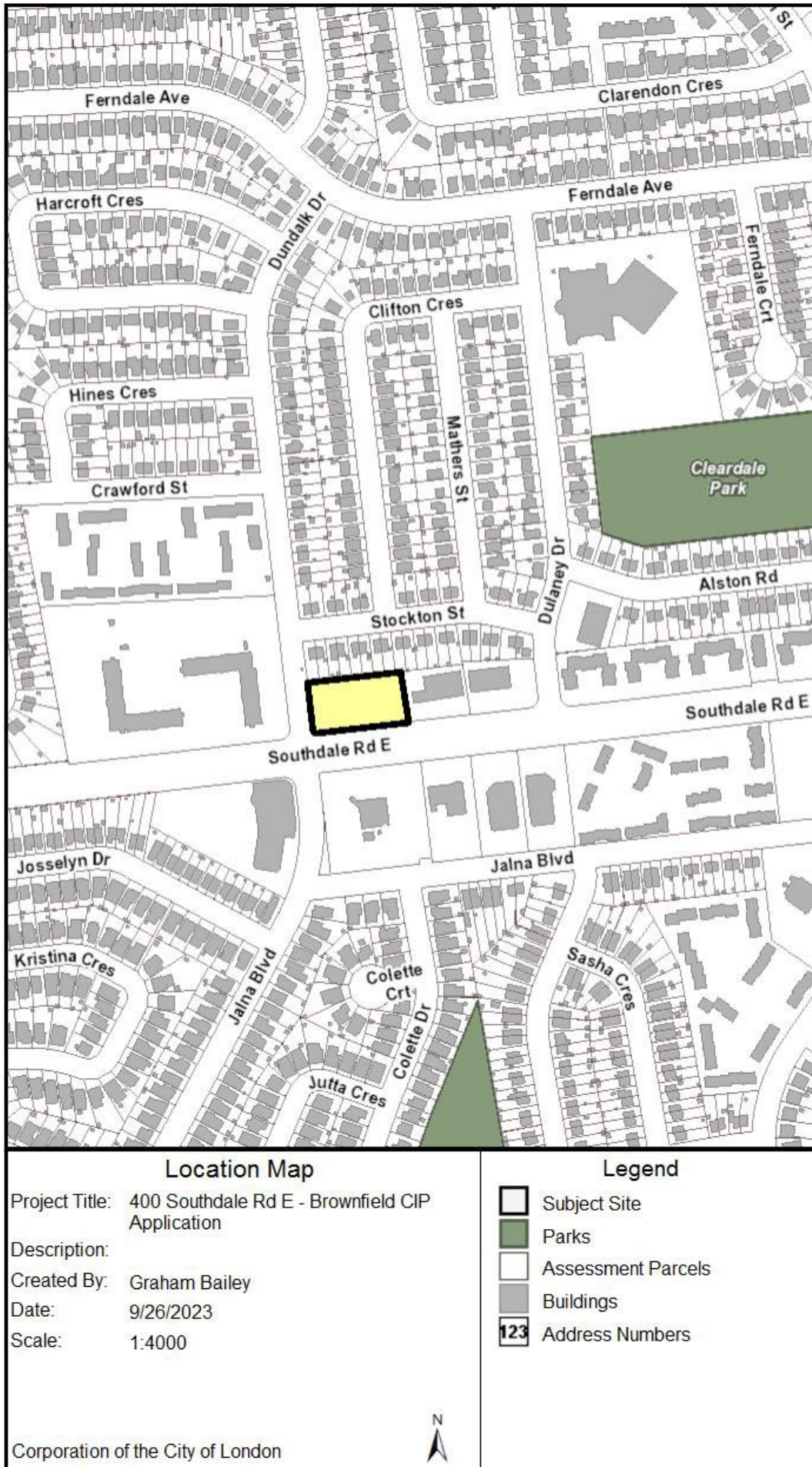
An Official Plan and Zoning By-law Amendment application (OZ-9261) was received in August 2020 and a revised proposal was received in March 2021. Municipal Council approved the application in August 2021.

In December 2021, the Site Plan Control Application (SPA21-118) was received by City staff. A public site plan meeting was held at the Planning and Environment Committee in January 2023. As of writing this report, the SPA is still open, and the City is waiting on a resubmission from the applicant to revise drawings before issuing site plan approval.

Proposed 400 Southdale Road East Site Plan (subject to change)



400 Southdale Road East Location Map



1.5 Site Remediation Investigations

Under Provincial Regulation, it is mandatory that a Record of Site Condition (RSC) be filed with the Ontario Ministry of Environment, Conservation and Parks (MECP) for

contaminated properties if a land use change is proposed that goes to a more sensitive use, to confirm that the site is 'clean', and that the property meets the applicable site condition standards for the intended use.

From the late 1980s until 2012, 400 Southdale Road East operated as a gas station and carwash. In 2012, the infrastructure was removed, and the property was remediated to an industrial, commercial, community (ICC) property use. Between 2012 and 2018, the following was completed at the property:

- Sampling during the removal of five underground storage tanks (USTs).
- Excavating 28 test pits to investigate areas of potential environmental concern (APECs).
- Advancing 13 boreholes
- Groundwater sampling to delineate areas of impact.
- Remedial excavation and confirmatory soil and groundwater sampling to address areas identified soil and groundwater contamination.

Roughly 1,685 tonnes of impacted soil was excavated for offsite disposal. The soil contained concentrations of benzene, toluene, ethylbenzene, xylenes (BTEX), petroleum hydrocarbons (PHCs) and/or electrical conductivity (EC) or Sodium Adsorption Ratio (SAR) exceeding the O. Reg. 153/04 Table 5 stratified Site Conditions Standards (SCS) for ICC property use, non-potable groundwater, and medium/fine-textured soil.

After the remediation, all confirmatory soil samples met the O. Reg. 153/04 Table 5 ICC SCS parameters.

Since the vacant property has been purchased for residential development, a new RSC will need to be filed to support the change in land use from ICC to a more sensitive use, residential, parkland, institutional (RPI).

Based on the business case and supporting environmental site assessments it is confirmed that the property constitutes a brownfield under the CIP definition and that further remediation must be undertaken in accordance with O. Reg. 153/04 before the site can be redeveloped for a residential use.

An RSC cannot be filed with the MECP until such time as the required remediation has been undertaken and the condition of the site confirmed as meeting relevant Provincial standards. The applicant is required to submit the RSC to the City of London after filing it with the MECP.

2.0 Discussion and Application Evaluation

2.1 Brownfield Community Improvement Plan Overview

The Brownfield CIP's purpose is to remove or reduce the obstacles that hinder brownfield remediation and redevelopment. The Brownfield CIP's financial incentive programs help property owners with bringing a brownfield up to the same standard as a greenfield site. In other words, to 'level the playing field'.

The applicant is applying for funding under the Brownfield CIP because the site constitutes a brownfield and remediation work is required to meet minimum Provincial environmental standards. A Record of Site Condition must be filed. Under the Brownfield CIP, incentives can only be provided to compensate property owners for costs that they incur to remediate the property.

Brownfield CIP applications are not approved as-of-right but evaluated on a case-by-case basis to consider the need for remediation and the public and economic benefit of providing financial incentives to a property owner. Financial incentives under the Brownfield CIP are specifically applied only to eligible site remediation costs. The maximum of all grants and tax assistance for eligible brownfield properties cannot exceed the cost of remediating the property.

Brownfield CIP financial incentives may be recommended by the Civic Administration for approval when:

- a) The landowner/applicant has not contributed to the site contamination.
- b) There are not outstanding property taxes, municipal orders, or by-law infractions on the subject property.
- c) All relevant supporting documentation and reports (for example, ESA's Remedial Action Plans, Risk Assessments) have been provided to the City.
- d) Financially supporting the proposal is both cost-effective for the City and in the public interest.
- e) The incentives are considered necessary to make the remediation and redevelopment on the subject property feasible.
- f) The amount of available and budgeted municipal funding is sufficient to cover the cumulative cost of all incentives that have been approved.
- g) Municipal Council deems that the costs associated with providing the program incentives are outweighed by the cumulative benefits of providing the incentive(s).

Eligible remediation costs that are identified in the CIP include:

- 100% of the costs associated with building demolitions.
- Site remediation.
- Rehabilitation of any existing structures.
- Environmental insurance premiums during the remediation phase.

The City is not under any obligation to approve Brownfield CIP incentives for a property.

If the application is approved by Municipal Council, an agreement is required between the City and the applicant outlining the terms and conditions that apply to the approved incentives. Upon completion of the site remediation work, the applicant must provide the City with supporting documents to confirm that the required work has been undertaken in a satisfactory manner and paid for in full.

2.2 Business Case (Appendix "A") and Application Evaluation

Remediation Costs

The applicant retained PGL Environmental Consultants to prepare a business case (Appendix "A") for Brownfield CIP incentives. The business case includes an estimate of site remediation costs based on the findings of the studies and past remediation to the industrial, commercial, community (ICC) property use standard.

The costs that were identified in the business case as potentially being eligible for incentives under the Brownfield CIP are summarized below in Table 1:

Table 1 – Brownfield Site Remediation Costs proposed by LJM Developments (Halton Hills) Inc. Project at 400 Southdale Rd. E.

#	Item	Estimated Cost
1	Soil removal (impacted material)	\$390,000
2	Excess soil removal (excluding impacted material)	\$190,000
3	Consulting fees – impacted soil removal (including ESA reports and RSC)	\$130,000
4	Consulting fees – Excess soil management	\$40,000
5	Consulting fees – Hydrogeological impact assessment	\$10,000
6	Contingency (20%)	\$152,000
	Total	\$912,000

Civic Administration Comments

The application and business case were circulated and reviewed by Civic Administration. Civic Administration comments and the applicant's responses are available in Appendix 'B'.

Previous Brownfield CIP Applications

Although Brownfield CIP applications are reviewed on a case-by-case basis, a brief review of the previous Brownfield CIP incentive applications helps the Civic Administration ensure the applications are evaluated in a fair and transparent manner.

The five (of nine total) most recent Brownfield CIP incentive applications that have been approved by Municipal Council are:

- 100 Fullarton Street, 475-501 Talbot Street, and 93-95 Dufferin Avenue (Rygar Properties Inc.) – Approved May 2, 2017, for up to \$2,735,007. 64% of the estimated remediation cost is the disposal of contaminated soil that cannot be sold or reused for a residential, parkland, or institutional (RPI) use. This property was sold to Old Oak and construction is underway. As of writing this report, no grants have been issued.
- 1156 Dundas Street (McCormick Villages Inc.) – Approved May 2, 2017, for up to \$2,500,000. Site remediation work began in 2018. A Record of Site Condition was filed in March 2022. \$23,151 in grants was provided over the maximum three-year period through the Property Tax Assistance program. As of writing this report, no other grants have been issued.
- 32, 36, and 40 York Street (Tricar Properties Limited) – Approved January 31, 2018, for up to \$192,000. Site remediation work began in 2018 and the high-rise apartment building has been constructed. A Record of Site Condition was filed in May 2018. As of writing this report, a Tax Increment Equivalent Grant of \$190,788 was issued on February 8, 2023.
- 391 South Street (Medallion Developments) – Approved July 24, 2018, for up to \$4,328,520. The project is under construction. A Record of Site Condition was filed in December 2022. As of writing this report, no grants have been issued.
- 250-272 Springbank Drive (2355440 Ontario Inc.) – Approved October 26, 2021, for up to \$2,895,020. As of writing this report, no construction has occurred on site and no grants have been issued.

For the previous brownfield applications, contaminated soil that was required to be excavated, removed, and disposed of was considered an eligible remediation cost under the Brownfield CIP, even if that soil was located where underground parking, building foundations, and basements would be constructed. In these instances, Civic Administration and the applicant ensured only work related to the treatment and removal of contaminated soil was included in the estimates.

Disposal Fees

In the business case, the applicant indicated a \$120/tonne impacted soil (brownfield waste) disposal fee. The rate of \$120/tonne includes the tipping fee, plus extra fees for loading, hauling, tracking, labour, and consulting oversight.

In previous Brownfield CIP applications, a \$35/tonne tipping fee and a \$30/tonne excavation and mucking fee were used by applicants. The \$120/tonne disposal fee in this application includes extra eligible fees beyond what previous Brownfield CIP applicants included in their business cases.

The Civic Administration reviewed the \$120/tonne disposal fee and accept it as reasonable and consistent with fees quoted in previous Brownfield CIP applications because of the inclusion of other eligible fees.

Further, once the remediation work is completed, receipts are required from the applicant to determine the actual cost of the remediation work including disposal fees.

Excess Soil Management

In December 2019, Ontario passed a regulation under the Environmental Protection Act, entitled 'On-Site and Excess Soil Management' ('the regulation') to support improved management of excess construction soil.

This regulation is a key step to support the proper management of excess soils, ensure valuable resources don't go to waste, and to provide clear rules on managing and reusing excess soil.

The regulation is being phased in over time, with the first phase (reuse rules, including risk-based standards, waste designation, and approvals) having started on January 1, 2021. The second phase (testing, tracking, and registration) started on January 1, 2023. The second phase requirements were in place briefly between January and April 2022, and were then suspended until January 1, 2023. The third phase (restrictions on landfilling soils) begins on January 1, 2025.

These regulatory changes have affected the construction industry and introduced participants to new risks and legal requirements regarding the excavation, removal, and transport of excess soil between sites.

Refinement of Estimated Remediation Costs

In reviewing the application and business case, Civic Administration asked the applicant about the quoted cost of excess soil removal (excluding impacted material), and the consulting fees for excess soil management and the hydrogeological impact assessment. Civic Administration are obliged to confirm that only costs related to the remediation of contaminated soil on the property are in the business case and cost estimate.

Civic Administration are of the opinion that excess soil management and the hydrogeological impact assessment should not be included in the Brownfield CIP funding request.

The hydrogeological impact assessment is required to support the development application and is not required for the RSC filing.

Since coming into effect in 2021, excess soil management is a cost to be borne by property owners and developers when removing soil from a property. Civic Administration is of the opinion that the removal of unimpacted (clean) soil is not an appropriate cost to be funded through the Brownfield CIP. The Brownfield CIP is a tool to help property owners manage the cost of impacted (dirty or contaminated) soil.

Excess soil management would be generated in virtually all development applications, and the costs associated with the handling and management of clean soil should be borne by the developer. It is a cost of doing business in today's development environment. For example, the City of London must incorporate excess soil management practices on every one of its infrastructure projects, which comes with a cost.

There are 20% contingencies built into the business case, which is standard for brownfield remediation. If these contingencies are not required, and barring no unforeseen expenses, the actual remediation costs will be lower than the maximum grant request.

Based on the review of the application and business case, as well as the applicant's response to comments, Civic Administration are recommending a total expenditure of up to a maximum of \$624,000 in municipal brownfield financial incentives be approved and allocated. The items being recommended for approval are summarized in Table 2 below:

Table 2 – Civic Administration’s Recommended Brownfield Site Remediation Costs for LJM Developments (Halton Hills) Inc. Project at 400 Southdale Rd. E.

#	Item	Estimated Cost
1	Soil removal (impacted material)	\$390,000
2	Consulting fees – impacted soil removal (including ESA reports and RSC)	\$130,000
3	Contingency (20%)	\$104,000
	Total	\$624,000

Public and Economic Benefits of Remediation and Redevelopment

Since the Brownfield CIP financial incentives are paid by a property tax supported reserve fund, Municipal Council must deem that the costs associated with providing the financial incentives are outweighed by the cumulative public and economic benefits of providing the incentive.

Several benefits for supporting the remediation at this property have been identified, including:

- Remediation to serve a more sensitive use of a site that was previously contaminated.
- Infill development on a vacant site.
- The development will eventually generate significant tax revenues over and above the grants that are provided through the Brownfield CIP.
- The development will include 179 residential units including four affordable housing units, providing new accommodations in the area to help:
 - Meet the Housing Stability Action Plan 2019-2024’s Strategic Area of Focus 2: Create More Housing Stock by providing four units allocated towards affordable housing.
 - Support the City’s Roadmap to 3,000 Affordable Units.
 - Increase foot traffic on Southdale Road East.
 - Support businesses on Southdale Road East and the surrounding neighbourhood.

Brownfield CIP Criteria Evaluation

In evaluating applications, the Brownfield CIP programs note that approval of the incentive(s) may be recommended where:

- a) The landowner/applicant has not contributed to the site contamination.
 - According to the business case, the applicant did not contribute to any contamination since purchasing the site. Civic Administration agree that the landowner/applicant did not contribute to the site’s contamination.
- b) There are no outstanding property taxes, municipal orders, or by-law infractions on the subject property.
 - This requirement is confirmed prior to issuing a grant. If there are any outstanding property taxes, municipal orders, or by-law infractions on the property, Civic Administration asks the applicant to clear the outstanding issue(s) prior to the grant cheque being requested.
- c) All relevant supporting documentation and reports (i.e., ESAs, RAPs, RAs) have been provided to the City.
 - All documents and reports have been provided to the City.
- d) Financially supporting the proposal is both cost-effective for the City of London and in the public interest.

- The benefits provided by the project including the increase in taxes and its contribution to the development of Southdale Road East outweigh the magnitude of the incentive request.
- e) The incentives are considered necessary to make the remediation and redevelopment of the subject property feasible.
- Civic Administration are not party to the applicant's financial pro forma for the project and must rely on the submitted business case to help determine if the incentives are necessary to make the project feasible. In this instance, the estimated remediation cost is \$624,000, which is a large sum of money to spend to dispose of soil that cannot be used for a residential, parkland, or institutional use.
- f) The amount of available and budgeted municipal funding is sufficient to cover the cumulative cost of all incentives that have been approved.
- In reviewing site-specific applications for Brownfield incentives, it is important to consider the implications that potential expenditures will have on overall program funding.
 - Financial Planning and Policy has reviewed the funding request and confirm that the request can be covered through the Community Improvement Program Reserve Fund.
- g) Municipal Council deems that the costs associated with providing the program incentives are outweighed by the cumulative benefits of providing the incentive(s).
- Municipal Council to decide based on this report, its recommendation, and the applicant's input including the business case.

Evaluation Summary

Overall, the project represents a significant investment on Southdale Road East and should be supported by Brownfield CIP financial incentives. The municipal component of the 2023 property taxes on the vacant site is \$17,140 per year. At full project build out, the municipal portion of the property taxes will significantly increase.

Further, the value of all incentives that are provided under the Brownfield CIP is capped once it reaches the total eligible cost of remediation incurred by the property owner. In the business case, the applicant provided a breakdown of estimated remediation costs that would be eligible for incentives under the Brownfield CIP. These costs are based on available information and some assumptions about the environmental standards that are applied under existing Provincial regulations.

2.3 Brownfield CIP Funding Request

A request was made for funding from the three Brownfield CIP financial incentive programs to cover environmental remediation costs associated with the project.

Civic Administration are recommending Municipal Council approve only the Development Charges Rebate Program because that program can cover the remediation funding request from the applicant.

Development Charge Rebate Program

The Development Charges (DC) Rebate Program provides a grant for site remediation up to 50% of the DCs paid.

The language used in the Development Charge Rebate Program requirements can be (erroneously) interpreted to imply the applicant is receiving a rebate on DCs. This is not the case. The rebate is in all practicality a reimbursement of remediation costs from the City's Community Improvement Plan financial incentive funding sources. DCs are used only as a program measuring tool to calculate how much of the remediation costs will be reimbursed, not the reimbursement of DCs.

Table 3 estimates the development charges related to the development project at 400 Southdale Road East.

Table 3 – Estimated Development Charges for LJM Developments (Halton Hills) Inc. Project at 400 Southdale Rd. E

	1 bedroom	2 bedrooms +
2023 DC Rate	\$19,491	\$26,412
# of Units	147	32
Subtotal	\$2,865,177	\$845,184
Estimated Gross DC Amount	\$3,710,361	
Demolition Credits (estimated at 2023 commercial DC rate)	\$0	
Estimated Net DC Amount	\$3,710,361	

Under the Brownfield CIP up to 50% of the total amount (\$3,710,361 x 50% = \$1,855,181) may be granted to cover eligible remediation costs that are incurred by the property owner. This estimate may not reflect the actual DCs for the project. Final determination of DCs will be made by the Chief Building Official (or designate) at the appropriate time.

When and how the applicant decides to pay development charges will affect how the Development Charge Rebate Program grant is paid. For deferred development charge types, owners are required to pay development charges in six annual instalments beginning on the date the building is first occupied and continuing the following five anniversaries of that date. However, the owner may choose to enter into an alternative payment agreement with the City of London and pay development charges in full on the date the building permit is issued (lump sum).

The applicant has yet to decide on when development charges for this project will be paid (instalments or one lump sum). As a result, Civic Administration are recommending the following to Municipal Council:

- If development charges are paid in six instalments, the Development Charge Rebate Program grant will also be paid in six annual instalments. If interest is charged by the City of London for this option, the interest will not be granted to the applicant through the Development Charges Rebate Program.
- If development charges are paid in one lump sum on the date the building permit is issued, the Development Charge Rebate Program grant will be paid in one instalment.

Brownfield CIP – Financial Incentives Summary

The Development Charges Rebate Program can cover the recommended grant funding of \$624,000. Table 4 summarizes the estimated grant payment schedule for the scenario where the property owner pays development charges in one lump sum and the grant is provided back in one instalment. Table 5 summarizes the estimated grant payment schedule for the scenario where the property owner pays development charges in six annual instalments and the grant is provided back in five instalments (the sixth grant instalment is not required). In both scenarios, the total does not exceed the recommended funding of \$624,000. It is important to remember that Table 4 and 5 represent estimates. The actual grant payments — both the year and the amount — cannot be determined until net development charges have been calculated and construction has started.

Table 4 – Summary – 400 Southdale Road East (DCs paid in one lump sum)

Program	2023	2024	2025	2026	2027	2028	Total
DC Rebate		\$624,000					\$624,000

Table 5 – Summary – 400 Southdale Road East (DCs paid in six instalments)

Program	2023	2024	2025	2026	2027	2028	Total
DC Rebate		\$154,598	\$154,598	\$154,598	\$154,598	\$5,608	\$624,000

3.0 Financial Impact/Considerations

Financial Planning and Policy was circulated the Brownfield CIP application for 400 Southdale Road East and confirmed that the Community Improvement Program Reserve Fund can cover the estimated remediation cost.

Conclusion

The applicant is proposing a 179-unit residential development on Southdale Road East on a vacant site that is contaminated from past commercial activity. In addition to the environmental benefits that will result from site remediation, this development will provide public and economic benefits including the creation of new residential units and the generation of significant new tax revenues for the City of London.

The applicant retained PGL Environmental Consultants to prepare a business case which provides information on the existing environmental conditions. The business case and supporting Phase I and II Environment Site Assessments confirms that site remediation is required so that the proposed residential development can satisfy Provincial environmental standards.

After reviewing the applicant’s business case, Civic Administration have identified removing impacted soil, the consulting fees related to removing impacted soil (including ESA reports and RSC), and a 20% contingency as being eligible site remediation costs.

As a result, the Development Charges Rebate Program is being recommended to cover eligible site remediation costs associated with the application up to a maximum amount of \$624,000.

Prior to issuing any financial incentives an agreement will be executed between the applicant and the City of London outlining the nature of the development proposal and specifying the relevant terms and conditions that apply under the provisions of the Brownfield CIP.

Prepared by: **Graham Bailey, MCIP, RPP**
Senior Planner, Core Area and Urban Regeneration

Reviewed by: **Jim Yanchula, MCIP, RPP**
Manager, Core Area and Urban Regeneration

Recommended by: **Stephen Thompson, MCIP, RPP**
Director, Economic Services and Supports

Submitted by: **Scott Mathers, MPA, P.Eng.**
Deputy City Manager, Planning and Economic Development

Appendix A – Business Case

Business Case Submission for Brownfield Incentives – 400 Southdale Road East,
London, ON – *attached separately*.

July 31, 2023
PGL File: 6026-01.02

Via E-mail: gbailey@london.ca

The Corporation of the City of London
Planning and Development Services
300 Dufferin Avenue
London, ON
N6B 1Z2

**Attention: Graham Bailey, MCIP, RPP
Senior Planner**

**RE: BUSINESS CASE SUBMISSION FOR BROWNFIELD INCENTIVES –
400 SOUTHDALE ROAD EAST, LONDON, ON**

PGL Environmental Consultants (PGL) has prepared this Environmental Business Case for 400 Southdale Road East in London, Ontario on behalf of LJM Developments (LJM). Please accept this submission as a request for funding under the City of London's Community Improvement Plan (CIP) Financial Incentive Program. This application is for funding through the following programs:

- Contamination Assessment Study Grant;
- Property Tax Assistance;
- Development Charges Rebate; and
- Tax Increment Equivalent Grant.

1.0 LOCATION AND SITE DESCRIPTION

The Site is in the Cleardale neighbourhood of London, Ontario. It is located at the northeast corner of the intersection of Southdale Road East and Dundalk Drive. Single-family residential properties are located to the north of the Site, a commercial strip plaza is to the east, Southdale Road East followed by a church is to the south, and Dundalk Drive followed by a residential apartment building is to the west. The Site was most recently occupied by a gasoline service station, which was decommissioned in 2012. The Site has been vacant since. Soil remediation and completion of a Record of Site Condition (RSC) to industrial/commercial/community (ICC) standards was filed in 2021.

2.0 PROJECT DESCRIPTION

LJM is proposing a residential development for the Site, consisting of a seven-storey residential development with two full levels of underground parking and a third partial level of parking/locker storage. Roughly 180 residential units are proposed, four of which will be transferred to the City of London for low-income housing as part of their Housing Stability Action Plan.

Due to the Site's former use, and the intended land use change, contamination in soil is still present at the Site. Additional remediation and a new RSC are required under Ontario Regulation (O.Reg. 153/04).

3.0 BACKGROUND

The Site was used for agricultural purposes from at least 1946 until the 1970s. The first non-agricultural use appears to be as a storage yard in 1974. By 1975, the Site was cleared and used for parking truck trailers. The Site was briefly vacant from the late 1970s until the later 1980s when the gasoline service station and associated carwash were constructed. Petro-Canada/Suncor Energy Products Partnership operated the gas station until 2012 when the infrastructure was removed, and the Site was remediated.

Between 2012 and 2018, the following work was completed at the Site:

- Sampling during the removal of five underground storage tanks (USTs);
- Excavating 28 test pits to investigate areas of potential environmental concern (APECs);
- Advancing 13 boreholes at the Site;
- Groundwater sampling to delineate areas of impact; and
- Remedial excavation and confirmatory soil and groundwater sampling to address areas of identified soil and groundwater contamination.

Roughly 766m³ (1,685 tonnes) of impacted soil was excavated for offsite disposal in May 2012, from December 2012 to May 2013, and from February to March 2016. The soil contained concentrations of benzene, toluene, ethylbenzene, xylenes (BTEX), petroleum hydrocarbons (PHCs), and/or electrical conductivity (EC) or Sodium Adsorption Ratio (SAR) exceeding the O.Reg. 153/04 Table 5 stratified Site Condition Standards (SCS) for ICC property use, non-potable groundwater, and medium/fine-textured soil. Most of the impacted soil was excavated from along the southern property boundary, near the former pump islands and piping infrastructure.

Soil samples were collected to assess quality of the soil remaining at the Site. Soil samples were analyzed for BTEX/PHCs and/or EC/SAR, based on their location relative to the APECs and previously exceeding samples. All confirmatory soil samples from the final limits of the excavations met the O.Reg. 153/04 Table 5 ICC SCS for the analyzed parameters.

The Site has been vacant since the decommissioning and remediation work. In preparation of the sale of the property, an RSC was filed for the Site, based on the work completed to date. The RSC confirms the Site was remediated to Table 5 ICC SCS. LJM purchased the property in 2020, filed the RSC in 2021, and began the Site Plan Approval process with the City of London (the City).

As the intended development is residential in nature, a new RSC will need to be filed to support the change in land use to more sensitive uses (i.e., from ICC to residential/parkland/institutional).

Applying residential/parkland/institutional (RPI) standards to the confirmation samples collected during the remediation work results in exceedances in samples that had previously met the ICC standards. Due to the now-exceeding soil results, remediation of the remaining impacts is required before a new RSC can be filed. Groundwater standards are consistent between land uses, and no new impacts to groundwater have been observed.

4.0 PROPOSED REMEDIATION

The proposed remediation work will aim to remove the residual contamination at the Site from the previous gasoline service station use and support the filing of an RSC to RPI standards. We propose completing the following tasks as part of the rehabilitation of the Site:

- Remediate soils impacted with PHCs/BTEX within the south portion of the Site, near the area of the former pump islands and piping infrastructure. This includes monitoring the removal and

collecting confirmation samples to confirm that the impacts have been removed and that soil remaining meets the RPI standards and cost of disposal for impacted soils by volume;

- Remove excess soil/fill, excluding impacted material;
- Update the environmental reports with new data/sample information, including the Phase One ESA, Phase Two ESA (including appendices), the Phase Two Conceptual Site Model (CSM) and the RSC;
- Manage excess soil before and during soil removal; and
- Conduct a Hydrogeological Impact Assessment.

5.0 ESTIMATED BROWNFIELD REMEDIATION COSTS

Projected remediation costs are provided below. Costs include environmental consultant fees required as part of clean up of the Site. Assumptions to support the development of the cost estimate are included below:

- Standards that will be applied to the Site moving forward will be the O.Reg. 153/04 Table 3 Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition for residential/parkland/institutional use;
- Total area of the Site to be redeveloped = 3,200m²;
- Maximum depth of development = 8m below ground surface (bgs)
- Areas of impact:
 - Pump islands and fueling infrastructure:
 - Area = 500m²; and
 - Depth of impact ranges from 2.0m bgs to 3.5m bgs = 1.5m thickness of soil impacts.
 - Exceedances from the former tank nest:
 - Area = 160m²; and
 - Depth of impact from surface to depth of excavation = 4.5m thickness of soil impacts.
- Depth of impact ranges from 2.0m bgs to 3.5m bgs = 1.5m thickness of soil impacts within the area of impact;
- Assumed a conversion of 2.2 tonnes per m³;
- Assumed disposal costs of:
 - Impacted soil = \$120/tonne; and
 - Unimpacted soil = \$5/tonne;
- Includes a 20% contingency;
- Excludes the following:
 - Shoring costs; and
 - Trucking and haulage for excess soil.

Table A: Estimated Brownfield Costs

Item	Cost
Soil Removal (impacted material)	\$390,000
Excess Soil Removal (excluding impacted material)	\$190,000
Consulting fees – Impacted Soil Removal (including ESA reports and RSC)	\$130,000
Consulting fees – Excess Soil Management	\$40,000
Consulting fees – Hydrogeological Impact Assessment	\$10,000
Contingency (20%)	\$152,000
TOTAL	\$912,000

6.0 VALUE AND BENEFITS FOR COMMUNITY IMPROVEMENT

The City has adapted a CIP for Brownfield incentives to encourage brownfield remediation and development within the municipality. Brownfield redevelopment can improve environmental conditions, stimulate the local economy, improve the surrounding community, and make use of existing infrastructure and land potential. These initiatives are intended to support compact urban form, efficient use of existing serviced lands and municipal infrastructure, and reduce adverse environmental impacts from contaminated sites.

LJM is proposing a residential development of a property formerly occupied by a gasoline service station, which has been vacant and under-utilized for the past decade. The Site and proposed development meet the necessary requirements for the City's CIP and Brownfield incentives, and supports the intent of the City's Official Plan. The redevelopment of this brownfield site directly supports the planning objectives of the municipality and provincial interests as outlined in the Provincial Policy Statement by:

- Promoting healthy and viable rural areas within the municipality;
- Promoting long-term economic prosperity through redevelopment of the Site;
- Promoting intensification through redevelopment and development of an under-utilized area/property;
- Using existing public services and infrastructure; and
- Remediating a contaminated site for the proposed use to avoid adverse effects from impacts.

The proposed development will replace an eye-sore along a major east-west artery within the City with an exceptional building designed with step backs on the uppermost storeys with a variety of building materials to break up the massing of the building. The development will provide a well-defined built edge, and create a positive public interface and human scale at street level. The new development will be an ideal location for City residents with easy access to local transit, nearby stores and local businesses, parks, and schools, and will rejuvenate the neighbourhood.

7.0 CONCLUSIONS

LJM is proposing a residential development for the Site, consisting of a seven-storey residential development with two full levels of underground parking and a third partial level of parking/locker storage. Roughly 180 residential units are proposed. Due to the Site's former use and the intended land use change, contamination in soil is still present at the Site. Additional remediation and a new RSC are required under O.Reg. 153/04. As such, LJM has submitted this request for funding under the City of London's CIP Financial Incentive Program.

LJM has proposed a development that will help revitalize the Cleardale neighbourhood, and bring a new purpose to an under-utilized property along a main thoroughfare. The development meets the needs and objectives of the CIP and request financial aid for the remediation work to support this development.

8.0 STATEMENT OF LIMITATIONS AND CONDITIONS FOR REPORT

8.1 Complete Report

All documents, records, data and files, whether electronic or otherwise, generated as part of this assignment are a part of the Report, which is of a summary nature and is not intended to stand alone without reference to the instructions given to PGL by the Client, communications between PGL and the Client, and any other reports, proposals or documents prepared by PGL for the Client relative to the specific site described herein, all of which together constitute the Report.

In order to properly understand the suggestions, recommendations and opinions expressed herein, reference must be made to the whole of the Report. **PGL is not responsible for use by any part of portions of the Report without reference to the whole report.**

8.2 Basis of Report

The Report has been prepared for the specific site and purposes that are set out in the contract between PGL and the Client. The findings, recommendations, suggestions, or opinions expressed in the Report are only applicable to the site and purposes in relation to which the Report is expressly provided, and then only to the extent that there has been no material alteration to or variation from the information provided or available to PGL.

8.3 Use of the Report

The information and opinions expressed in the Report, or any document forming part of the Report, are for the sole benefit of the Client. No other party may use or rely upon the Report or any portion thereof without PGL's written consent, and such use shall be on terms and conditions as PGL may expressly approve. Ownership in and copyright for the contents of the Report belong to PGL. Any use which a third party makes of the Report, is the sole responsibility of such third party. **PGL accepts no responsibility whatsoever for damages suffered by any third party resulting from use of the Report.**

9.0 CLOSING

We trust that this meets your needs. If you have any questions or require clarification, please contact Elizabeth Foran or Kim Worboy at 905-430-5517 and 905-430-5500, respectively.

PGL ENVIRONMENTAL CONSULTANTS

Per:



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Environmental Consultant



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EAF/KJW/mtl

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Appendix B – Comments

City of London – Brownfield Community Improvement Plan Comments for 400 Southdale Road East

General:

Comment Number	Comment	Applicant Response
1.	If possible, please confirm the total number of units in the development and the unit splits by bedroom type (for example, the number of bachelor, one-bedroom, and two-bedroom units).	Total units = 179 (Studio = 8, 1-B = 139, 2-B = 32, 3-B = 0)
2.	If known, please confirm when development charges are being paid for this project (for example, when the building permit is issued or in six annual instalments beginning on the date the building is first occupied).	Not known at this time.

Engineering:

Comment Number	Comment	Applicant Response
1.	Based on the chronology of the Site presented in the business case, it appears LJM purchased the property in 2020, and filed the RSC with the MECP in 2021. They then proceeded with the SPA process with the City. Why did LJM file an RSC for an industrial/community/commercial (I/C/C) property use, when there was a clear direction to pursue a residential land use, which would then trigger an additional RSC through the change in land use?	The RSC was completed as part of a purchase and sale agreement. While it was completed under the current owner's name, the specifics of the RSC were determined by the previous owner and the agreement.
2.	The report indicates that soil results which met the I/C/C generic soil quality standards now require removal to meet the most stringent residential/parkland/institutional (R/P/I) generic soil quality standards, before a new RSC can be filed. Note that soil removal is not the only mechanism to secure a new RSC. Has the landowner and their consultant considered pursuing an RSC through a Risk Assessment (RA)? The RA approach is an option for property owners who want to file an RSC when their property does not meet the generic SCS applicable to their site and would likely not require full removal of the material.	Risk Assessment could be conducted instead of soil removal. Given the cost and time of Risk Assessment, it was not determined to be the best option. The costs for soil removal and consulting fees were estimated at \$390,000 plus \$130,000. There is a high degree of certainty in this approach. If Risk Assessment was conducted, costs could run similar, with a ballpark estimate of \$350,000. However, soil will also need to be removed within the footprint of the development for

		additional costs. In addition, Risk Assessment is a lengthy process (roughly 2 years), and time delay costs would also have to be estimated.
3.	The business case notes that a hydrogeological impact assessment is required to be prepared. Is the hydrogeological impact assessment a requirement of the RSC filing, or to support the development application process for the site?	The hydrogeological impact assessment would be to support the development application. It is not required for the RSC filing.
4.	Assumptions in Section 5.0 of the business case indicate that disposal costs associated with impacted soil (i.e., presumably soil which exceeds the Table 3 R/P/I SCSs), were assumed to be at \$120/tonne. Is there a rationale to this assumption? The unit rate for brownfield waste disposal at the City of London's W12A Landfill is \$34/tonne.	Unit rates for the disposal costs provided are not solely the tipping fee. The rate of \$120/tonne includes the tipping fee, plus additional fees for loading, hauling, tracking, labour, and consulting oversight. This is a typical budgetary cost for remediation of contaminated soil used in the industry for over a decade.
5.	There is an assumption in the business case which suggests that unimpacted soil would be disposed of at \$5/tonne, for a total cost of \$190,000 (Table A). Is there a rationale as to why soil which does not exceed the generic R/P/I SCSs would be covered under the CIP?	Management of Excess soil is covered under the Brownfields Regulations.
6.	There is lump sum line item in Table A which indicates that consulting fees for excess soil management would be \$40,000. Is the excess soils management related to the impacted material, or material which would have otherwise been handled as part of the project? Note that if the landowner is pursuing a new RSC, they may be exempt from certain planning requirements under Reg 406 as it relates to impacted soil.	As updated reports will be required for the RSC, we have excluded the costs for the Assessment of Past Uses and Soil Characterization Report from the consulting fees. Although not explicitly stated, we understand that the Phase One and Two ESAs can be used to support excess soil management under O.Reg. 406/19. The dollar value included is for management of all soil that will be leaving the Site, regardless if it is impacted or not.