

**36 Elm Street Site**  
CITY OF GLENS FALLS, WARREN COUNTY, NEW YORK

---

**Final Engineering Report**  
**Site Investigation and Interim Remedial**  
**Measure Program**

**NYSDEC Site Number: E557019**

**Prepared for:**  
Greater Glens Falls Local Development Corporation  
42 Ridge Street  
Glens Falls, New York 12801

New York State Department of Environmental Conservation  
Region 5 – Environmental Quality  
1115 NYS Route 86  
P.O. Box 296  
Ray Brook, New York 12977

**Prepared by:**  
Barton & Loguidice, D.P.C.  
10 Airline Drive, Suite 200  
Albany, New York 12205

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**OCTOBER 2014**

# CERTIFICATION

I, Scott D. Nostrand, am currently a registered professional engineer licensed by the State of New York. I had primary direct responsibility for the implementation of the remedial program activities, and I certify that the Site Investigation Report and Interim Remedial Measure Report were implemented, and that all construction activities were completed in substantial conformance with the Department-approved Site Investigation Report and Interim Remedial Measure Work Plan.

I certify that all use restrictions, Institutional Controls, Engineering Controls, and/or any operation and maintenance requirements applicable to the Site are contained in an environmental easement created and recorded pursuant ECL 71-3605 and that all affected local governments, as defined in ECL 71-3603, have been notified that such easement has been recorded.

I certify that a Site Management Plan has been submitted for the continual and proper operation, maintenance, and monitoring of all Engineering Controls, if any, employed at the Site, and that such plan has been approved by Department.

I certify that any financial assurance mechanisms, if any, required by the Department pursuant to Environmental Conservation Law have been executed.

I certify that all documents generated in support of this report have been submitted in accordance with the DER's electronic submission protocols and have been accepted by the Department.

I certify that all data generated after July 1, 2011 in support of this report have been submitted in accordance with the Department's electronic data deliverable and have been accepted by the Department.

I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law. I, Scott D. Nostrand, of Barton & Loguidice, D.P.C. located at 290 Elwood Davis Road, Syracuse, New York, am certifying as Owner's Designated Site Representative for the site.



075454

NYS Professional Engineer #

10.8.14

Date

Signature

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## List of Acronyms

Acronym	Definition
ACM	Asbestos-Containing Material
AST	Aboveground Storage Tank
B&L	Barton & Loguidice, D.P.C.
ERP	Environmental Restoration Program
GGFLDC	Greater Glens Falls Local Development Corporation
IRM	Interim Remedial Measure
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDEL	New York State Department of Labor
PCB	Polychlorinated biphenyl
PEC	Paragon Environmental Construction, Inc.
ROD	Record of Decision
SAC	State Assistance Contract
SCGs	Standards, Criteria, and Guidance
SCO	Soil Cleanup Objective
SI	Site Investigation
SI/RAR	Site Investigation/Remedial Alternatives Report
SMP	Site Management Plan
SVOC	Semi-Volatile Organic Compound
UST	Underground Storage Tank

## 1.0 Background and Site Description

The Greater Glens Falls Local Development Corporation (GGFLDC) entered into a State Assistance Contract (SAC) with the New York State Department of Environmental Conservation (NYSDEC) to conduct a site investigation and perform interim remedial measures (IRMs), as deemed necessary and appropriate, of the 0.14 acre property located at 36 Elm Street in Glens Falls, New York. Specifically, the Site was remediated in accordance with State Assistance Contract (SAC) #C303163, which was executed on December 29, 2006. The Record of Decision (ROD) for the Site was issued on January 8, 2009.

The 36 Elm Street site is located in the City of Glens Falls, County of Warren, New York, and is identified as 309.28-1-13 on the City of Glens Falls Tax Map. Figure 1 shows the location of the property relative to the surrounding area. The project site includes a 17,550 square foot, three-story masonry building with a basement. The building footprint encompasses the entire limits of the property. Figure 2 shows the location of the property and neighboring parcels. The site is bordered to the northeast by Elm Street, and the properties located immediately across the street on the northeast side of Elm Street consist of a parking lot and a commercial food and drink establishment (Sandy's Clam Bar). A commercial building directly abuts the south wall of the building structure, while both commercial and residential buildings exist further to the south (see Figure 2). To the east, the Site is bordered by a three-story commercial building that contains retail shops on the first floor, with a combination of office space and apartments on the second and third floors. A narrow, locked alleyway separates the two buildings on the east side. To the northwest, the building structure is bordered by a single-story commercial building that is currently occupied by a Labor-Ready office. A driveway exists between the subject structure and the Labor-Ready office. The boundaries of the site are more fully described in Appendix A – Metes and Bounds.

The subject property was used for residential purposes prior to the construction of the existing masonry building structure in the early 1920s. From the early 1920s through the 1940s, the three-story structure was used as a shirt factory, and then from the 1950s through the early 1970s for the manufacture of ladies garments. Based on the review of City of Glens Falls telephone directories, the McNaughton & Hughes Auto Repair facility occupied a portion of the structure during the 1930s. The Site was most recently used by ABC Equipment for the storage of restaurant supplies and equipment. Specifically, all three (3) floors of the building (including the basement area) were used for the storage of dishes, tables, chairs and stools, stainless steel sinks, appliances, and miscellaneous cleaning supplies.

In 2006, the GGFLDC received funding to pursue an environmental investigation at the Site under the NYSDEC's Environmental Restoration Program (ERP). The Site Investigation (SI) was conducted by Barton & Loguidice, D.P.C. (B&L) during the period of April 2006 through May 2008. The results of the SI are described in detail in the following reports:

“Site Investigation Report” prepared by Barton & Loguidice, P.C., May 2008

“Remedial Alternatives Report” prepared by Barton & Loguidice, P.C., May 2008

The following activities were conducted during the SI: site survey, asbestos and harmful/hazardous material survey, geophysical survey to identify buried structures, the installation of eight (8) soil borings, five (5) permanent monitoring wells, and three (3) temporary monitoring wells on or adjacent to the site, the installation of four (4) soil vapor and two (2) sub-slab vapor monitoring points, and the collection of soil, groundwater, basement standing water (considered groundwater) and vapor samples.

Based on the results of the SI, the primary environmental concerns associated with the Site included: potential residual contaminants associated with the four (4) aboveground storage tanks (ASTs) and boiler tank that remained in the basement area; potential subsurface petroleum contamination associated with an outdoor underground storage tank (UST); the former use of the Site as an automobile repair facility in the 1930s; the presence of asbestos-containing material (ACM) and lead-based paint throughout the entire structure; the presence of potential polychlorinated biphenyl (PCB)-containing light ballasts in the building; and potential off-site impacts associated with the prior operation of automobile repair and gasoline station facilities in the immediate surrounding area. Specifically, during the 1950s and 1960s a gasoline station existed across from the subject parcel at 37 Elm Street, and from the period of the 1920s through the 1960s, an automobile repair facility was located in the building directly abutting the south side of the structure.

The site was remediated in accordance with the NYSDEC-approved IRM Contract Bid Documents and Specifications prepared by B&L dated November 2006. The following is a summary of the IRMs performed at the site:

1. Waste materials including asbestos, lead-based paint, underground and above ground tank liquids and sludge, fuel oil contaminated sand, containers of jars of commercial dishwashing liquids and chlorinated cleaning agents, PCB light ballasts, and refrigerant gas cylinders, were removed from the site.
2. Closure in place of one (1) 1,000 gallon UST located at the northeast corner of the site.
3. Removal of residual wastes and affected structures, including the four (4) ASTs in the basement, the block tank vault enclosure, sand back-fill material (approximately 5 tons), the former boiler tank and associated piping, and 6.95 tons of soil excavated during the UST test pit and sampling activities.

The above listed IRM activities were completed at the site between February 2007 and July 2007.

After completion of the aforementioned IRMs, the NYSDEC recommended to the GGFLDC that the open pit in the basement area be remediated (i.e., back filled and covered with a layer of concrete) in order to eliminate the potential exposure pathway that existed with regards to dermal contact with the standing water. Therefore, B&L sent a letter to the GGFLDC dated January 22, 2009 which recommended the general procedures to be followed by a qualified contractor in the backfilling of the open pit and installation of a concrete slab. The GGFLDC subsequently retained the services of A.J. Catalfamo Construction Inc. of Hudson Falls, NY to provide the requested services, and the work was performed in February of 2009. Based on an inspection of the basement area by Mr. Stephen Le Fevre of B&L on January 8, 2013, the open pit in the

basement has been backfilled and covered with a layer of concrete, and the area of standing water no longer exists.

The New York State Department of Environmental Conservation (NYSDEC) issued the Record of Decision (ROD) for the site in January 2009. Based on the results of the Site Investigation/ Remedial Alternatives Report (SI/RAR) prepared by B&L for the 36 Elm Street site, the Department selected No Further Action as the remedy for the site. The components of the No Further Action remedy included the successful completion of the previously referenced IRMs, and the imposition of an institutional control in the form of an environmental easement in order to achieve restricted residential use for the site. However, as noted in the attached Responsiveness Summary (which also can be found in Appendix A of the ROD), the building may also be used for commercial purposes, with the stipulation that restricted residential uses will only be permitted above the first floor area as provided for in the City's Zoning law. Specifically, residential use will not be allowed in the first floor or basement areas of the building, with the exception of allowing residents temporary access to the first floor and/or basement areas for the purpose of gaining access to utility connections.

In addition to restricting the future use and development of the property to restricted residential use (including commercial and industrial use), the environmental easement also mandates that the entry (i.e., seepage) of groundwater into the basement area be properly controlled or eliminated, and the use of groundwater as a source of potable or process water be prohibited unless a NYSDOH-approved water quality treatment system has been installed at the site. And lastly, the environmental easement requires the property owner to submit to the Department a periodic certification of the institutional controls.

An electronic copy of this FER with all supporting documentation is included as Appendix B.

## 2.0 Summary of Site Remedy

### 2.1 Remediation Goals

Based on the results of the Site Investigation, the following Remediation Goals were established for this site. The Remediation Goals were included in NYSDEC's January 2009 Record of Decision. The Remediation Goals were to eliminate or reduce to the extent practicable:

- Exposures of persons at or around the site to semi-volatile organic compounds (SVOCs) and inorganics (metals) in subsurface soils and groundwater at the site.
- The release of contaminants from subsurface soil into groundwater that may create exceedances of groundwater quality standards; and
- The release of contaminants from subsurface soil, including under the site building into indoor and ambient air through soil vapor and wind borne dust.

Further, the remediation goals for the site include attaining to the extent practicable:

- Ambient groundwater quality standards and
- Soil cleanup objectives.

The contaminants of concern identified for the site are:

- Subsurface Soils – SVOCs and inorganic metals; and
- Groundwater – SVOCs and inorganic metals.

### 2.2 Description of Selected Remedy

As previously indicated, several interim remedial measures (IRMs) were performed at the site during the period of February 2007 through February 2009. During the IRM process, SVOC-contaminated subsurface soil with concentrations above the applicable Standards, Criteria, and Guidance (SCGs) was excavated and properly disposed of off-site. As stated in the January 2009 Record of Decision issued by the NYSDEC, the Department concluded that the IRMs had accomplished the remediation goals and satisfied the SCGs for the site, and therefore determined that No Further Action was required at the site.



### **3.0 Interim Remedial Measures, Operable Units, and Remedial Contracts**

The interim remedial measures (IRMs) performed at the Site consisted of asbestos abatement and lead-based paint removal, which was conducted by Action Technical Services, Inc., and tank closure and waste/debris removal activities, which were performed by Paragon Environmental Construction, Inc (PEC). Prior to the implementation of tank closure and waste/debris removal activities, asbestos containing materials (ACM) and flaking lead paint were removed from the building structure by Action Technical Services, Inc.

Asbestos and lead-based paint removal was performed by Action Technical Services from February 12, 2007 through March 13, 2007. Clearance air sampling was conducted by B&L to determine that no residual asbestos was present following abatement in accordance with the NYSDOL Industrial Code Rule 56.

One (1) UST, as identified on the northeast side of the Site exterior, was closed in place by PEC at the Site on April 4, 2007. The 1,000-gallon tank was approximately 42 inches in height and 138 inches long, and had approximately 1"-2" of sludge and liquid on the bottom. The residual sludge and liquid (less than 15 gallons) was removed prior to the tank closure process. The tank was emptied and filled with cement grout and closed in place.

Additional IRM measures included the removal of residual wastes and affected structures, including the four (4) basement ASTs, concrete block tank vault and sand backfill material (5 tons), boiler tank and piping, and 6.95 tons of soil excavated during the UST test pitting activities. In addition, miscellaneous containers and jars of commercial dishwashing liquid and chlorinated cleaning agents, PCB light ballasts, gas cylinders, and other miscellaneous debris were removed.

After completion of the aforementioned IRMs, the NYSDEC recommended to the GGFLDC that the open pit in the basement area be remediated (i.e., back filled and covered with a layer of concrete) in order to eliminate the potential exposure pathway that existed with regards to dermal contact with the standing water. Therefore, B&L sent a letter to the GGFLDC dated January 22, 2009 which recommended the general procedures to be followed by a qualified contractor in the backfilling of the open pit and installation of a concrete slab. The GGFLDC subsequently retained the services of A.J. Catalfamo Construction Inc. of Hudson Falls, NY to provide the requested services, and the work was performed in February of 2009. Based on an inspection of the basement area by Mr. Stephen Le Fevre of B&L on January 8, 2013, the open pit in the basement has been backfilled and covered with a layer of concrete, and the area of standing water no longer exists.

Additional detail regarding the IRMs is available in the ERP Site Investigation/Remedial Alternatives Report.

## 4.0 Summary of Remedial Actions

The site was remediated in accordance with the NYSDEC-approved IRM Contract Bid Documents and Specifications prepared by B&L dated November 2006.

### 4.1 Removal of Contaminated Materials from the Site

A significant volume of waste materials were identified and removed from the site. Wastes included asbestos and lead-based paint, underground and aboveground storage tank liquids and sludge, fuel oil contaminated sand, containers and jars of commercial dishwashing liquids and chlorinated cleaning agents, PCB light ballasts, and refrigerant gas cylinders.

In addition to the above, completed IRM activities resulted in the removal of residual wastes and affected structures, including the four (4) basement ASTs, concrete block tank vault and sand backfill material (5 tons), boiler tank and piping, and 6.95 tons of soil excavated during the UST test pitting activities.

### 4.2 Quality of Backfill Placed in Excavated Areas

With the prior consent and approval of Mr. Michael McLean of the NYSDEC, the open pit in the basement was backfilled with the same dirt material that was previously excavated from the basement floor in conjunction with the removal of the oil-fired furnace. This excavated soil material was stockpiled in the basement and had never been removed from the structure. Therefore, this previously excavated soil was used back fill the open pit followed by the placement of a layer of concrete.

### 4.3 Remaining Contamination

Currently, there are no complete exposure pathways at the site. However, there are potential exposure pathways associated with groundwater at the site, and contaminated sub-surface soil near the existing site.

Groundwater at the site contains elevated inorganic compounds, including lead, iron, and manganese. Some inorganics, such as iron, may be naturally occurring and are not considered associated with former activities at the site. It is unclear if elevated lead levels in the groundwater are a result of former operations at the site, or if they represent local background and impacts from off-site properties. Regardless, groundwater could present a potential for exposure if a well was installed at the property for potable water use. However, this exposure pathway is unlikely since the site and surrounding properties are serviced with public water. Public drinking water is routinely tested, and must comply with federal and state drinking water standards.

The potential for contaminated vapors in soil to enter the building at the site (via soil vapor intrusion) was evaluated. Based on the results of the investigation, soil vapor intrusion does not present an exposure pathway of concern for future users of the site.

Sub-surface soil and groundwater immediately south of the Site are contaminated with SVOCs and are not considered site-related. A spill number has been assigned by the NYSDEC to the adjoining property.

Figure 3 summarizes the results of remaining soil impacts at the Site, as well as immediately off-site, that exceed the Restricted Residential Use Soil Cleanup Objectives (SCOs) following the completion of IRM activities. Similarly, Figure 4 summarizes the results of remaining groundwater impacts at the Site, as well as immediately off-site, that exceed the Part 702.5 groundwater standards following the completion of IRM activities.

#### **4.4 Engineering Controls**

There are no engineering controls required for implementation at the Site.

#### **4.5 Institutional Controls**

A series of Institutional Controls is required by the ROD to: (1) prevent use of the groundwater underlying the site without treatment rendering it safe for its intended purpose; and, (2) limit the use and development of the site to restricted residential use, which will also permit commercial and industrial use. Adherence to these Institutional Controls on the Site is required by the Environmental Easement, and will be implemented under the NYSDEC-approved Site Management Plan (SMP). These Institutional Controls are:

- Compliance with the Environmental Easement and the SMP by the Grantor and the Grantor's successors and assigns.
- Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP.

The Environmental Easement for the site was executed by the Department on April 1, 2013, and filed with the Warren County Clerk on April 5, 2013. The County Recording Identifier number for this filing is Liber 4728, Page 92 of Deeds.

**Attachment A**

**Responsiveness Summary from the  
Record of Decision**

# **RESPONSIVENESS SUMMARY**

## **36 Elm Street Environmental Restoration Site Glens Falls, Warren County, New York Site No. E557109**

The Proposed Remedial Action Plan (PRAP) for the 36 Elm Street site, was prepared by the New York State Department of Environmental Conservation (the Department) in consultation with the New York State Department of Health (NYSDOH) and was issued to the document repositories on October 20, 2008. The PRAP outlined the remedial measures completed for the contaminated soil and wastes at the 36 Elm Street site. The release of the PRAP was announced by sending a notice to the public contact list, informing the public of the opportunity to comment on the proposed remedy.

A public availability session was held on November 8, 2008, which included a discussion of the proposed remedy. The meeting provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedy. These comments have become part of the Administrative Record for this site. The public comment period for the PRAP ended on December 3, 2008.

This responsiveness summary responds to all questions and comments raised during the public comment period. The following are the comments received, with the Department's responses:

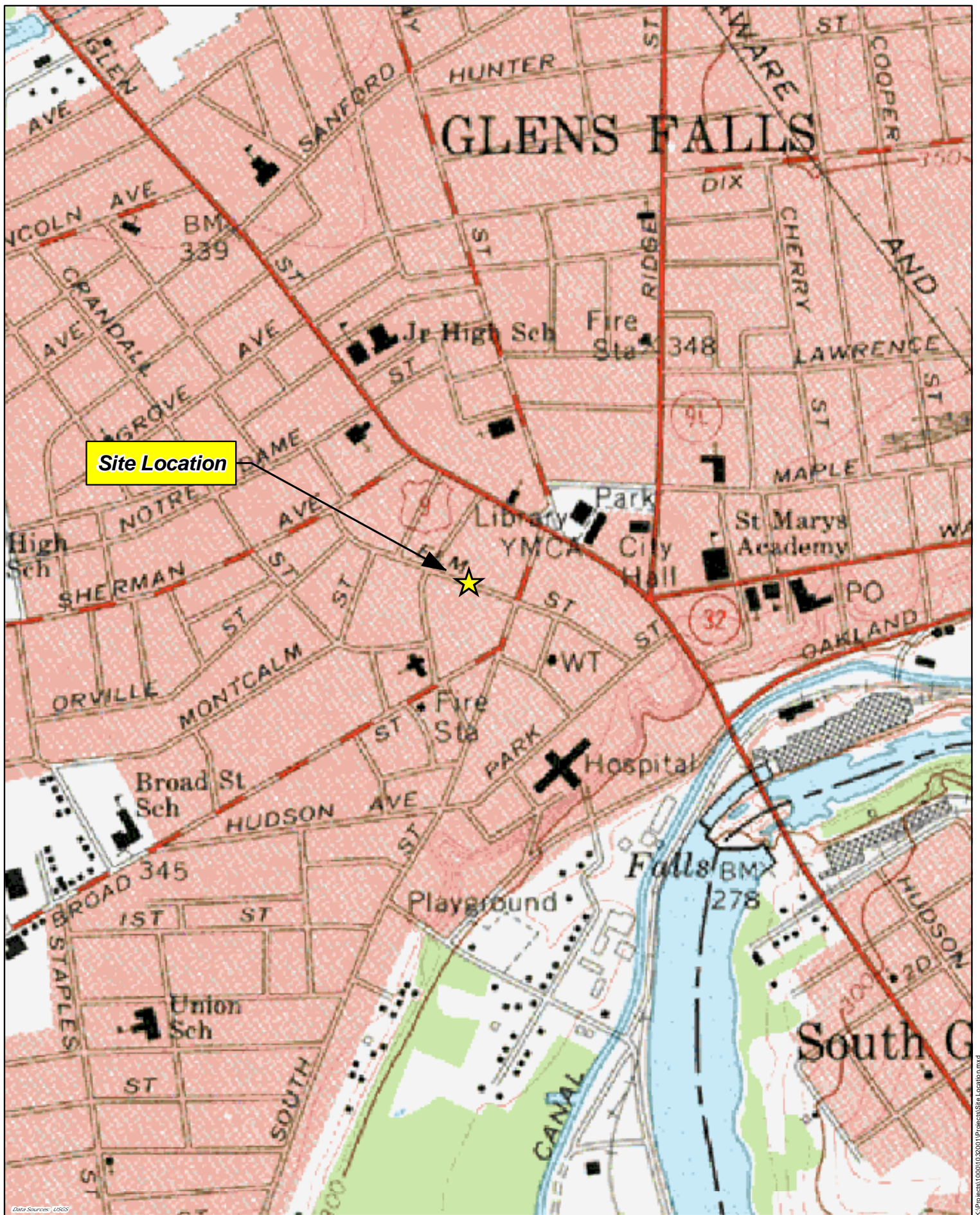
**COMMENT 1:** The Greater Glens Falls Local Development Corporation (GGFLDC) recommends that the Proposed Remedial Action Plan at Section 6, Item 2, be amended to: (a) require connection to City water, and also prohibit the use of groundwater for any uses in the building, and; (b) include commercial use and restricted residential uses whereby the residential uses would only be permitted above the first floor as provided for in the City's Zoning law, and; that neither the first floor nor the basement be permitted to be used for residential uses except for access to any utilities wherein the connections might be necessarily located in the basement or the first floor.

**RESPONSE 1:** Commercial usage of the site does allow for residential usage above the first floor. However, due to the GGFLDC comment and the soil at the location meeting restricted residential soil cleanup objectives, the site usage has been changed to restricted residential. This will allow for residential usage of the entire building while allowing for commercial usage. The request to require a connection to City water and prohibit the use of groundwater for any usage are City of Glens Falls Zoning Laws and not applicable to the environmental easement.

**COMMENT 2:** Can the City perform additional basement work (i.e. pour a concrete slab) work to further address the standing water issue with the remaining State Assistance Contract ERP Investigation Grant money?

**RESPONSE 2:** Yes, with the DEC Project Manager's approval and if sufficient funds are still available in the State Assistance Contract (SAC). Placing clean fill and pouring a concrete slab over the depression in the basement area where standing water accumulates is a means to control and prevent the accumulation of standing water in the basement, as required in the remedy.

**Figure 1**  
**Site Location**

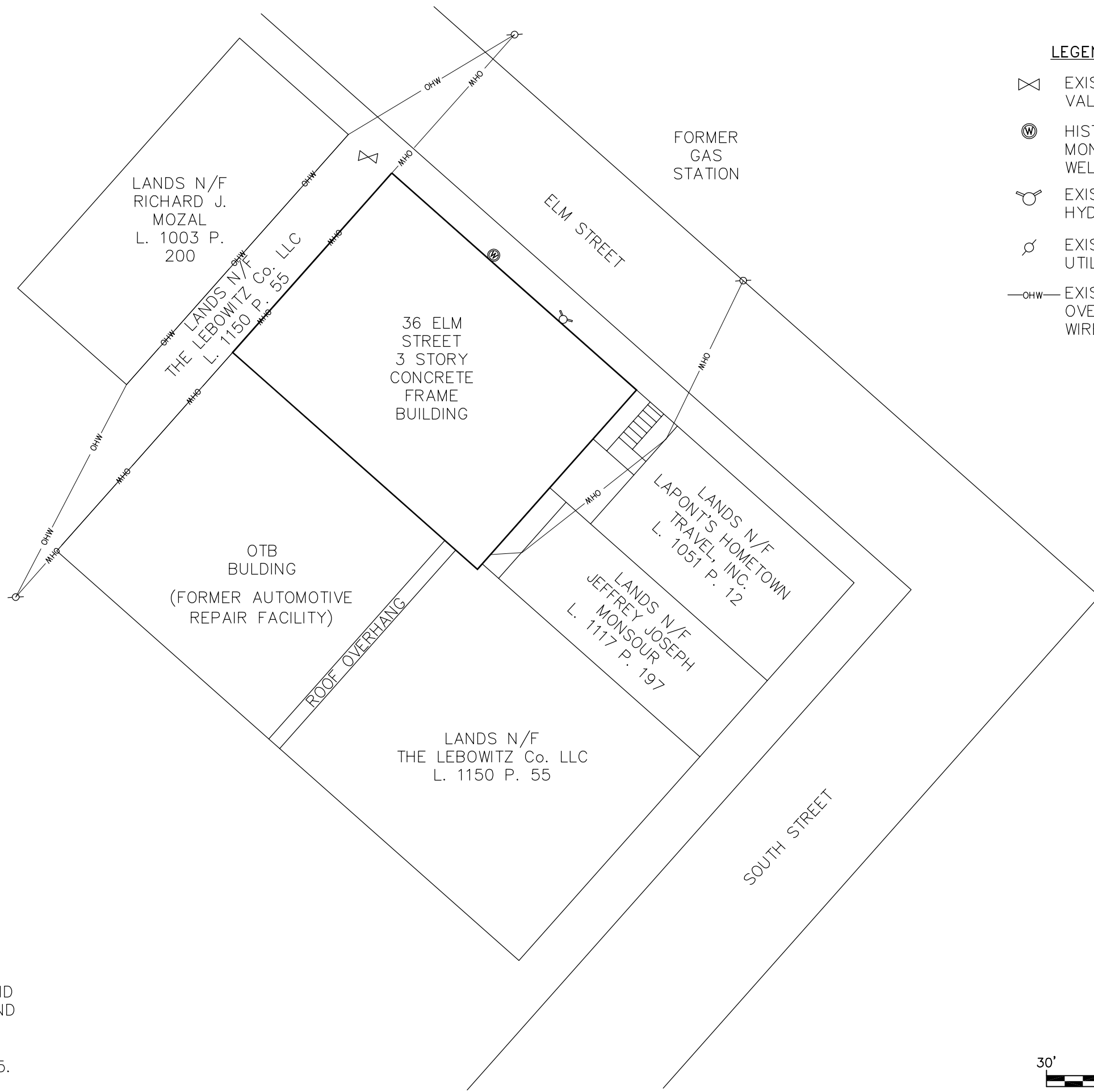


Data Source: USGS



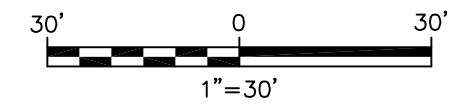
**Figure 2**  
**Location Plan**





- LEGEND:**
- EXISTING GAS VALVE
  - HISTORIC MONITORING WELL
  - EXISTING HYDRANT
  - EXISTING UTILITY POLE
  - EXISTING OVERHEAD WIRE

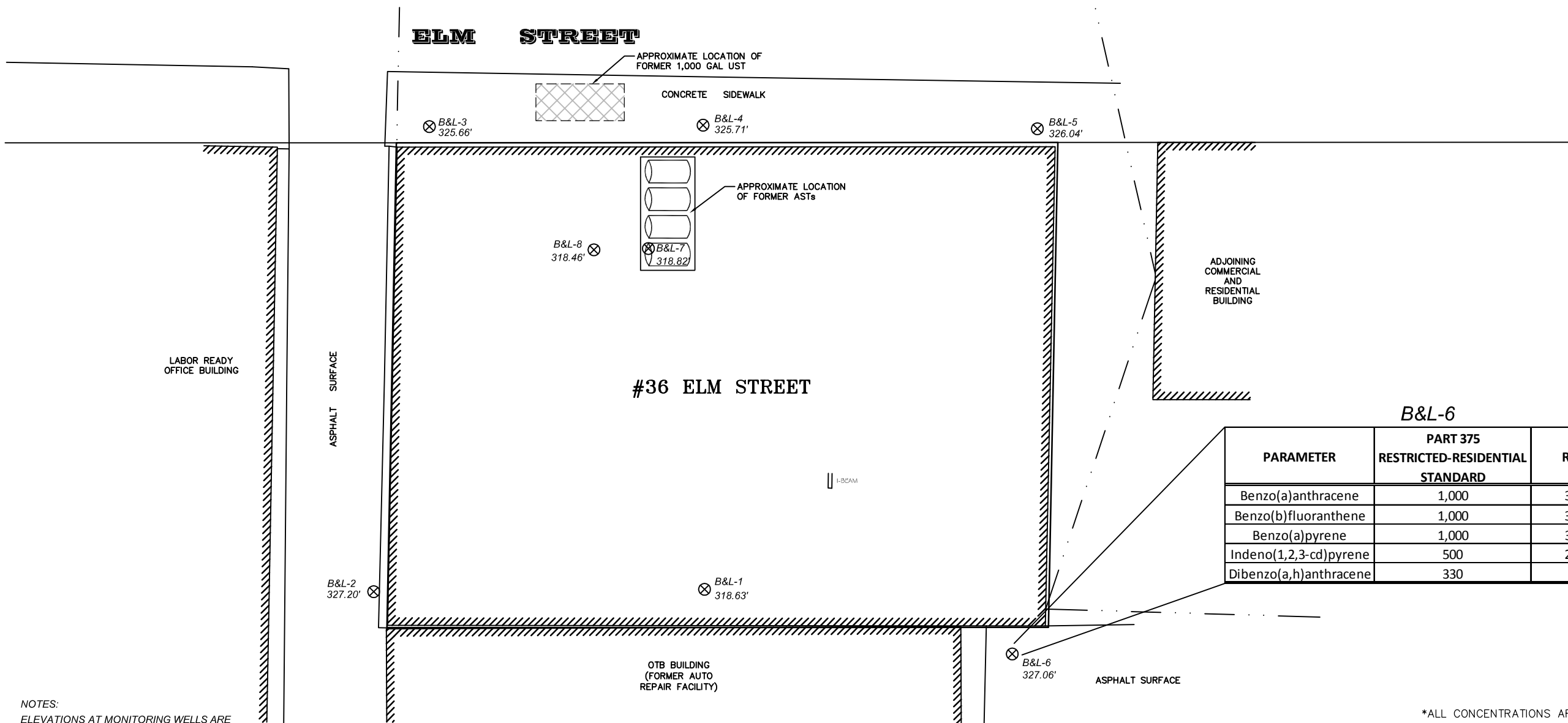
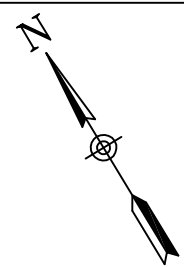
**MAP REFERENCE:**  
 MAP PROVIDED BY BOLSTER AND ASSOCIATES PROFESSIONAL LAND SURVEYORS, ENTITLED GREATER GLENS FALLS DEVELOPMENT CORPORATION, DATED 10/12/05.



	GREATER GLENS FALLS LOCAL DEVELOPMENT CORPORATION (GGFLDC) 36 ELM STREET LOCATION PLAN CITY OF GLENS FALLS WARREN COUNTY, NEW YORK
Date JUNE, 2008	
Scale AS SHOWN	
Figure Number 2	
Project Number 1032.001	

**Figure 3**  
**IRM/Subsurface Soil Contaminants**

Plotted: Dec 03, 2008 - 11:04AM SYR By: jgs  
 i:\Shared\1000\1032001-A\1032001\_FIG-3-R2.dwg



**B&L-6**

PARAMETER	PART 375 RESTRICTED-RESIDENTIAL STANDARD	RESULT
Benzo(a)anthracene	1,000	32,000
Benzo(b)fluoranthene	1,000	36,000
Benzo(a)pyrene	1,000	30,000
Indeno(1,2,3-cd)pyrene	500	20,000
Dibenzo(a,h)anthracene	330	7,300

NOTES:  
 ELEVATIONS AT MONITORING WELLS ARE  
 TOP OF PVC PIPE.  
 ELEVATIONS AT SOIL VAPOR POINTS ARE  
 GROUND NEAR TUBING.  
 DATUM: U.S.G.S.

\*ALL CONCENTRATIONS ARE REPORTED IN PPB.

**LEGEND:**  
 ⊗ B&L-5 SOIL BORING LOCATIONS  
 ○ UTILITY POLE  
 --- UTILITY LINES



CITY OF GLENS FALLS  
 36 ELM STREET

IRM/SUBSURFACE SOIL CONTAMINANTS

WARREN COUNTY, NEW YORK

CITY OF GLENS FALLS



Date  
 JUNE, 2008

Scale  
 AS SHOWN

Figure Number  
 3

Project Number  
 1032.001-A

**Figure 4**

**Groundwater Contaminants with September 20, 2007  
Groundwater Level Contours**

\*ALL CONCENTRATIONS ARE REPORTED IN PPB.

MODIFIER LEGEND:  
 B - INDICATES THAT THE COMPOUND IS FOUND IN THE METHOD BLANK AND THE SAMPLE.  
 J - ESTIMATED VALUE

**B&L-3**

PARAMETER	STANDARD	RESULT
Antimony	3	4.2B
Iron	300	1,390
Selenium	10	38
Sodium	20,000	160,000

**B&L-4**

PARAMETER	STANDARD	RESULT
Antimony	3	4.3B
Selenium	10	19.9B
Sodium	20,000	174,000

**B&L-5**

PARAMETER	STANDARD	RESULT
Antimony	3	10
Iron	300	3,980
Selenium	10	25.2B
Sodium	20,000	185,000

**B&L-7**

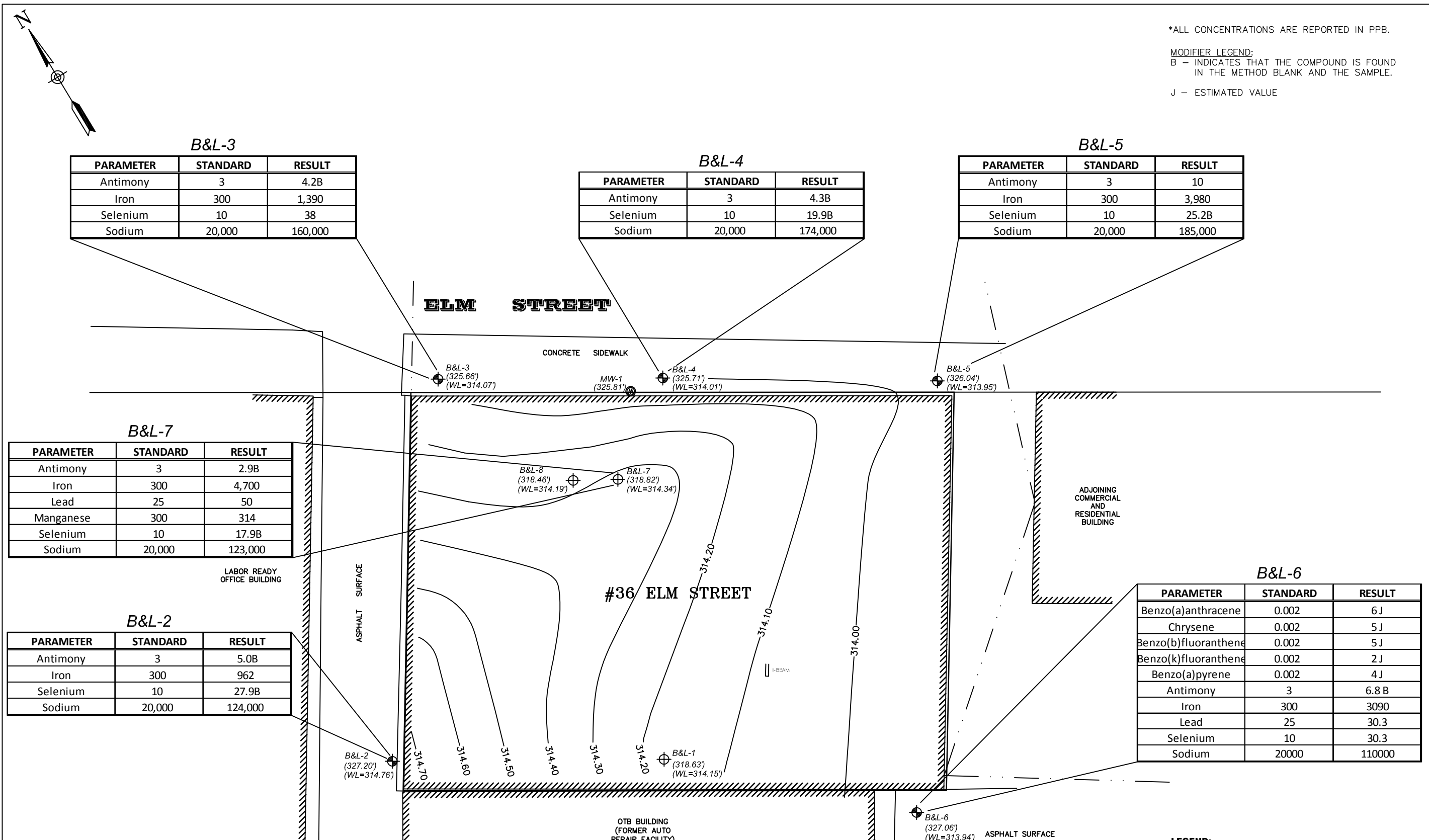
PARAMETER	STANDARD	RESULT
Antimony	3	2.9B
Iron	300	4,700
Lead	25	50
Manganese	300	314
Selenium	10	17.9B
Sodium	20,000	123,000

**B&L-2**

PARAMETER	STANDARD	RESULT
Antimony	3	5.0B
Iron	300	962
Selenium	10	27.9B
Sodium	20,000	124,000

**B&L-6**

PARAMETER	STANDARD	RESULT
Benzo(a)anthracene	0.002	6 J
Chrysene	0.002	5 J
Benzo(b)fluoranthene	0.002	5 J
Benzo(k)fluoranthene	0.002	2 J
Benzo(a)pyrene	0.002	4 J
Antimony	3	6.8 B
Iron	300	3090
Lead	25	30.3
Selenium	10	30.3
Sodium	20000	110000



NOTES:  
 ELEVATIONS AT MONITORING WELLS ARE TOP OF PVC PIPE.  
 ELEVATIONS AT SOIL VAPOR POINTS ARE GROUND NEAR TUBING.  
 DATUM: U.S.G.S.

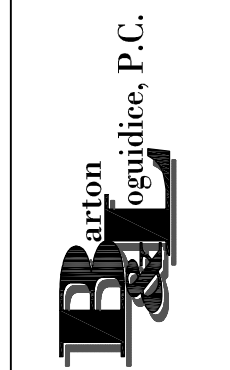


**LEGEND:**

- MW-1 PREVIOUS MONITORING WELL INSTALLED BY CLOUGH, HARBOUR & ASSOCIATES
- B&L-7 TEMPORARY WELLS INSTALLED BY BARTON & LOGUIDICE, P.C.
- B&L-5 PERMANENT MONITORING WELLS INSTALLED BY BARTON & LOGUIDICE, P.C.
- (326.04) ELEVATION OF TOP OF WELL RISER
- (WL=315.50) MEASURED GROUNDWATER LEVEL
- UTILITY POLE
- UTILITY LINES

Plotted: Dec 03, 2008 - 11:03AM SYR By: jgs  
 i:\Shared\1000\1032001-A\1032001-FIG\_04.dwg

CITY OF GLENS FALLS  
 36 ELM STREET  
 GROUNDWATER CONTAMINANTS WITH  
 SEPTEMBER 20, 2007 GROUNDWATER LEVEL CONTOURS  
 CITY OF GLENS FALLS  
 WARREN COUNTY, NEW YORK



Date  
 JUNE, 2008

Scale  
 AS SHOWN

Figure Number  
 4

Project Number  
 1032.001-A

**Appendix A**  
**Survey Map, Metes and Bounds**

# GRAPHIC SCALE



( IN FEET )  
1 inch = 20 ft.

## CERTIFICATION:

I HEREBY CERTIFY TO:

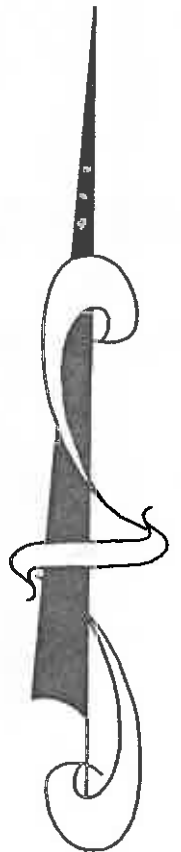
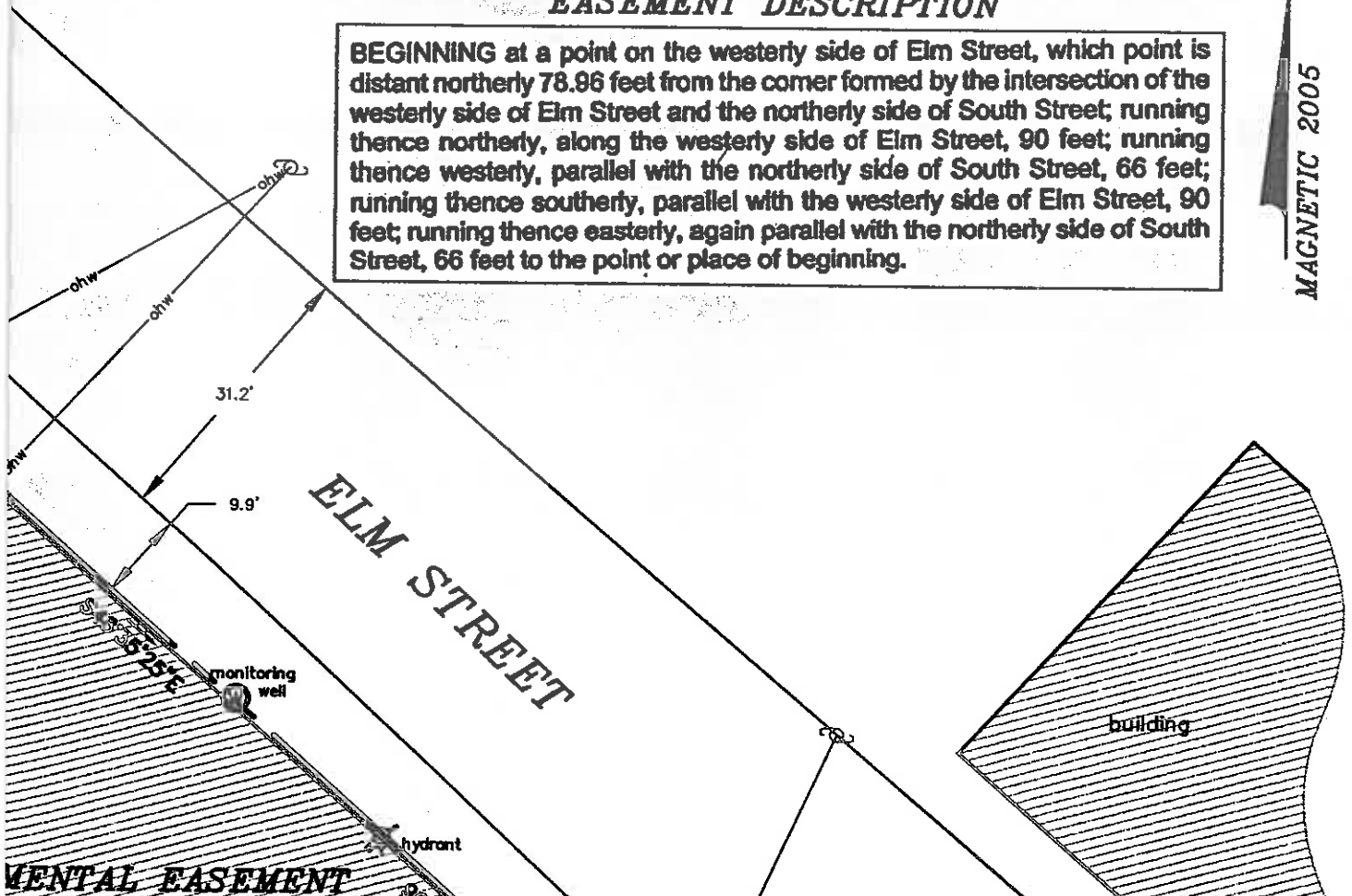
- 1) GREATER GLENS FALLS DEVELOPMENT CORPORATION
- 2) THE PEOPLE OF THE STATE OF NEW YORK ACTING THROUGH THEIR COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
- 3) CHICAGO TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005 AND INCLUDES NO ITEMS OF TABLE A THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, THE UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF NEW YORK, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

RUSSELL E. HOWARD  
DATE : 11/01/11

## PROPERTY / ENVIRONMENTAL EASEMENT DESCRIPTION

**BEGINNING** at a point on the westerly side of Elm Street, which point is distant northerly 78.96 feet from the corner formed by the intersection of the westerly side of Elm Street and the northerly side of South Street; running thence northerly, along the westerly side of Elm Street, 90 feet; running thence westerly, parallel with the northerly side of South Street, 66 feet; running thence southerly, parallel with the westerly side of Elm Street, 90 feet; running thence easterly, again parallel with the northerly side of South Street, 66 feet to the point or place of beginning.



MAGNETIC 2005

**Appendix B**  
**Digital Copy of the FER**  
**(CD)**



# **Appendix C**

## **Environmental Easement**

**ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36  
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW**

THIS INDENTURE made this 1<sup>st</sup> day of APRIL, 2013 between Owner(s) Greater Glens Falls Development Corporation A/K/A Greater Glens Falls Local Development Corporation, having an office at 42 Ridge Street, Glens Falls, New York, (the "Grantor"), and The People of the State of New York (the "Grantee."), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233.

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

**WHEREAS**, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS**, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS**, Grantor, is the owner of real property located at the address of 36 Elm Street in the City of Glens Falls, County of Warren and State of New York, known and designated on the tax map of the County Clerk of Warren as tax map parcel numbers: Section 309.28 Block 1 Lot 13, being the same as that property conveyed to Grantor by deed dated November 22, 2005 and recorded on November 29, 2005 in the Warren County Clerk's Office in Document No. 13250, Liber 1481 at Page 136. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 0.14 +/- acres, and is hereinafter more fully described in the Land Title Survey dated March 6, 2009 and revised on November 1, 2011, prepared by Bolster and Associates Professional Land Surveyors, which will be attached to the Site Management Plan. The Controlled Property description and survey is set forth in and attached hereto as Schedule A; and

**WHEREAS**, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

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**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of State Assistance Contract Number: C303163, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement")

1. **Purposes.** Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. **Institutional and Engineering Controls.** The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii),  
Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial  
as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP.

(4) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(5) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the New York State Department of Health or the Warren County Department of Health to render it safe for use as drinking water or for industrial purposes and the user must first notify and obtain written approval to do so from the Department.

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

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- (7) All future activities on the property that will disturb remaining contaminated material must be conducted in accordance with the SMP;
- (8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP.
- (9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP.
- (10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential purposes in the basement or first floor, as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation Law.**

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F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall annually, or such time as NYSDEC may allow, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:  
(i) are in-place;  
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against

the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:      Site Number: E557019  
Office of General Counsel  
NYSDEC  
625 Broadway  
Albany New York 12233-5500

With a copy to:                                      Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the

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recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Grantor: **Greater Glens Falls Development Corporation:**  
a/k/a Greater Glens Falls Local Development Corporation

By: \_\_\_\_\_

Print Name: John A. Diamond

Title: Chairman Date: 3/18/13

**Grantor's Acknowledgment**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF )

On the 18<sup>th</sup> day of March, in the year 20 13, before me, the undersigned, personally appeared John A. Diamond personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Bernadette A. Gray  
Notary Public - State of New York

BERNADETTE A GRAY  
NOTARY PUBLIC, State of New York  
Saratoga County, #01GR6060163  
My Commission Expires June 18, 2015

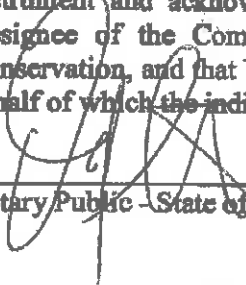
**ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner.**

By:   
Robert W. Schick, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

STATE OF NEW YORK     )  
  ) ss:  
COUNTY OF ALBANY     )

On the 15<sup>th</sup> day of April, in the year 2013, before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public - State of New York

David J. Chiusano  
Notary Public, State of New York  
No. 01CH5032146  
Qualified in Schenectady County,  
Commission Expires August 22, 2014



**SCHEDULE "A" ENVIRONMENTAL EASEMENT**  
**PROPERTY DESCRIPTION**

Address: 36 Elm Street, Glens Falls, New York, Warren County  
Tax Map: 309.28-1-13  
Acreage: 0.14 +/- acres

**SCHEDULE A**

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Glens Falls, County of Warren and State of New York, described as follows:

**BEGINNING** at a point on the westerly side of Elm Street, which point is a distant northerly 78.96 feet from the corner formed by the intersection of the westerly side of Elm Street and the northerly side of South Street; running thence northerly, along the westerly side of Elm Street, 90 feet; running thence westerly, parallel with the northerly side of South Street, 66 feet; running thence southerly, parallel with the westerly side of Elm Street, 90 feet; running thence easterly, again parallel with the northerly side of South Street, 66 feet to the point or place of **BEGINNING**.

**SURVEY**

