

Foellmi, Thomas J - DNR

From: Hoekstra, Ashley N - DNR
Sent: Thursday, June 16, 2022 6:02 PM
To: Angela Pakes; Sponseller, Bart A - DNR; Haag, Christine T - DNR; DiMaggio, Janet H - DNR; Ross, Issac A - DNR; Prager, Michael A - DNR; Wegener, Weston R - DNR; TLindau@nowlan.com; klimczyk@ci.janesville.wi.us; clippertt@ci.janesville.wi.us; cherekd@ci.janesville.wi.us; kubornj@ci.janesville.wi.us; paynem@ci.janesville.wi.us; Salus, Carri; Kennedy, Sean P - DNR; Parker, Julie - MUN; Aquino, Mark D - DNR; Peotter, Jodie M - DNR; Rep.Conley - LEGIS; Konecke, Maria X - LEGIS; Werner, Daniel - DNR; Kelly, Bridget B - DNR
Subject: GM Redevelopment Follow-Up Meeting
Attachments: Roadmap option for GM Janesvile assembly plant reuse and redevelopment.pdf; Janesville GM Roadmap 2022-06-16.pptx

Good Afternoon,

Attached you will find the roadmap discussed during this mornings meeting as well as the presentation from Micheal Prager.

Regards,

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Ashley Hoekstra

Pronouns: She/Her/Hers

Executive Staff Secretary – South Central Region

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DNR's Role

- **Regulatory Oversight**
 - Technical Assistance
- **Brownfields Resources**
 - Green Team Meetings
 - Financial Resources



Wide planting and furnishing zone separating cyclists and pedestrians

Provide a consistent boulevard treatment with new street furniture and lighting

Improve access to key pedestrian destinations

Pedestrian clearway surface with spill-zone

Reduced curb radii to slow down traffic and improve safety

Design transit stop that are visible and accessible

Completely separated and raised cycle tracks

Wider crosswalks improving pedestrian safety and visibility

Create building setbacks to allow for corner and mid-block plazas

Public art

Wider, deeper and continuous structural soil trenches to achieve higher soil volumes with a watering system, and wide plant spacing to support healthy trees

Captured and filtered water feed soil trenches and irrigate plants and trees. Excess water can be stored within soil trench reducing release rate into main sewer

Storm water runoff from roads and boulevards is directed and captured through a series of filtering catch basins

Big Picture Planning

- Prepare or update redevelopment plan for the area
- Begin infrastructure construction while soliciting potential developers



Seek Out Examples and Experiences from Others

- Consult with other communities
- Retain legal and technical experts with proven successful experience working on similar properties

Voluntary Party Liability Exemption

Pursue the Voluntary
Party Liability Exemption
(VPLE) under Wisconsin
Statutes § 292.15

STATE OF WISCONSIN • DEPARTMENT OF NATURAL RESOURCES

CERTIFICATE *of* COMPLETION *for* SPECIFIC HAZARDOUS SUBSTANCES

PER WIS. STAT. § 292.15(2)(a)
QUALIFIED BY WIS. STAT. § 292.15(2)(am)

WHEREAS, Yards, LLC and Building 41, LLC applied for an exemption from liability under Wis. Stat. § 292.15(2), for the property located at 223 West Oregon St. Milwaukee, Wisconsin, which is commonly referred to as the Everitt Knitting, Former further described in the legal description found in Exhibit A (the Property);

WHEREAS, an environmental investigation of the Property was conducted and the Wisconsin Department of Natural Resources (DNR) determined that environmental contamination exists at the Property;

WHEREAS, Yards, LLC and Building 41, LLC, submitted to DNR certain investigation reports and a remedial action plan for the Property for specific hazardous substances listed in Exhibit B which comply with the requirements set forth in Wis. Admin. Code chs. NR 700-799 consisting of the documents and reports listed in Exhibit C;

WHEREAS, in accordance with Wis. Stat. § 292.15(2)(a)1, DNR determined that an environmental investigation was conducted which adequately identified and evaluated the nature and extent of the release(s) of specific hazardous substances on the Property. DNR approved the environmental investigation of the Property on May 9, 2013;

WHEREAS, DNR determined that the historic fill material brought onto or existing at the Property in the past does not qualify as exempt under Wis. Admin. Code § NR 500.08. On August 28, 2018, DNR issued a Building on a Historic Fill Site Exemption Approval (Exhibit E);

WHEREAS, the Property contains soil contamination that exceeds residual contaminant levels (RCLs) for the Groundwater Pathway residual contaminant levels (RCLs) and Non-Industrial Direct

State Bar of Wisconsin Form 6-2003
SPECIAL WARRANTY DEED

DOC # 10853730

RECORDED
03/11/2019 09:43 AM

JOHN LA FAVE
REGISTER OF DEEDS
Milwaukee County, WI
AMOUNT: 30.00
TRANSFER FEE: 4,500.00
FEE EXEMPT #:

This document has been electronically recorded and returned to the submitter.

Document Number Document Name

THIS DEED, made between Lake Drive Ventures II LLC, a Wisconsin limited liability company

(“Grantor,” whether one or more), and Chief Oil Dc, LLC, a Florida limited liability company

(“Grantee,” whether one or more). Grantor for a valuable consideration, conveys to Grantee the following described real estate, together with the rents, profits, fixtures and other appurtenant interests, in Milwaukee County, State of Wisconsin (“Property”) (if more space is needed, please attach addendum):

See Exhibit A attached hereto and incorporated herein by reference.

Recording Area

Name and Return Address

Chief Oil Dc, LLC
4725 N. 159th
Brookfield, WI 53005

543-9023-000, 543-9024-000, 543-9025-000
Parcel Identification Number (PIN)

This is not homestead property.
(is) (is not)

Grantor warrants that the title to the Property is good, indefeasible, in fee simple and free and clear of encumbrances arising by, through, or under Grantor, except municipal and zoning ordinances, public utility easements of record, general taxes for the year of closing, such matters as would be disclosed by an accurate survey and inspection of the Property and those matters set forth on Exhibit B attached hereto and incorporated herein by reference.

of March 8, 2019 Lake Drive Ventures II LLC

(SEAL) Michael A. Roth (SEAL)
* Michael A. Roth, Manager

(SEAL) _____ (SEAL)
* _____

ACKNOWLEDGMENT
STATE OF WISCONSIN)
MILWAUKEE COUNTY) ss.

Acquire Property

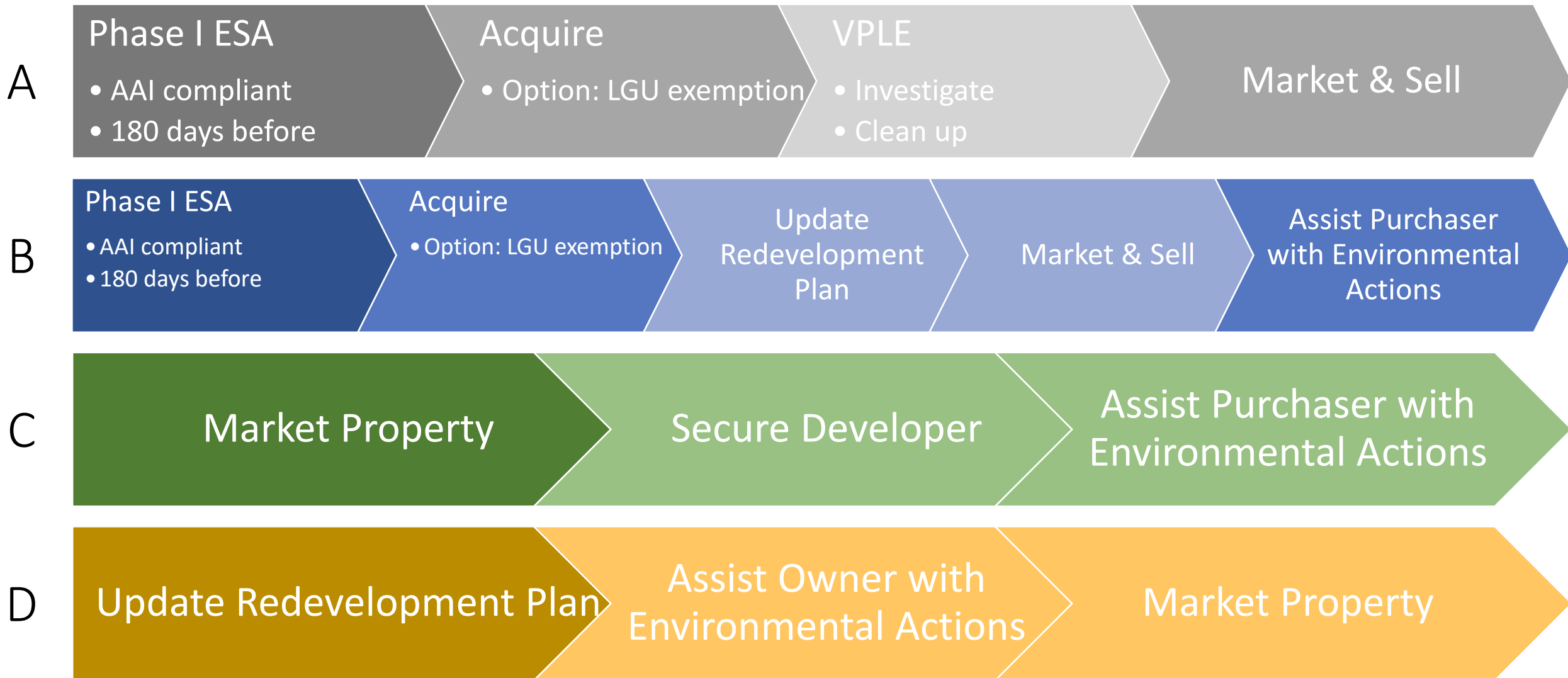
- City (or County) could acquire property and have complete control over the property and future use.
- LGU exemption option



Assist Potential Purchasers/Developers

Offer to help potential buyers
navigate environmental
actions by paying for some of
the environmental expenses

Potential Pathways



CONNECT WITH US

Questions?

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/WIDNRTV



"WILD WISCONSIN:
OFF THE RECORD"

Roadmap options for GM Janesville assembly plant reuse and redevelopment

Possible actions the city and/or county could take to facilitate the reuse of this property. These actions are not mutually exclusive.

Big Picture Planning

Update and prepare redevelopment plan for area and begin infrastructure construction while soliciting potential developers.

Actions:

- Prepare new redevelopment plan
- Rezone the area as appropriate
- Subdivide parcels and prepare infrastructure to support redevelopment
- Consider contacting the Technical Assistance for Brownfields (TAB) program out of Kansas State University. The TAB program is funded by EPA and can assist with market analysis, public input collection, design and reuse planning and funding sources. DNR can assist with this.

Advantages:

- Public input process and consideration of communities affected.
- Potential to address environmental justice issues.
- Builds upfront support from citizens and community leaders and helps market project and give the project an identity that people can get excited about.
- Encourages redevelopment based on the needs and goals of the city and its residents.
- Provides valuable information to developers about public investments, conditions, planned improvements, etc.
- Site may be more “shovel ready.”
- May help secure funding.
- More potential success securing get grants for a larger project.
- Comprehensive and transformative improvements for entire area.

Considerations:

- Timeline

Seek Out Examples and Experiences from Others

Consult with and hire legal and technical experts with proven successful experience working on similar properties.

Actions:

- Reach out to local governmental leaders from other cities to get some advice on proactive actions. DNR could help with making connections.
- Retain an attorney who has worked with other local governments on large, similar projects. They could provide counsel on negotiating purchase agreements, developer agreements, etc.

Voluntary Party Liability Exemption

Pursue the Voluntary Party Liability Exemption (VPLE) under Wisconsin Statutes § 292.15.

Advantages:

- Following investigation and cleanup, provides environmental liability protection to the voluntary party and future owners for future liability for cleaning up historical contamination.
- The new owner of the property would get one of the most comprehensive environmental liability protections offered by state law.

6/16/22

- VPLE protections (through a certificate of completion) obtained by the city or another party would likely help attract prospective buyers.
- Can pursue VPLE protections for all or part of the property.

Actions:

- Submit application and fees to DNR, including advanced deposit on hourly fees.
 - Application fee \$250
 - Hourly fees \$110/hour
 - Advanced Deposit for hourly fees \$4,000
- Complete Phase I Environmental Site Assessment. Hire a qualified environmental consultant to review entire site file to evaluate existing work to meet requirements for VPLE Phase I.
- Even though site received closure, VPLE process may require additional Phase II, site investigation and cleanup work at the property.

Considerations:

- Who would be the VPLE applicant? Could be the city, County, Forward Janesville, current owner or future owners.
- Who would pay the DNR's fees, required by statute?
- Additional site investigation work may be needed to meet VPLE requirements.
- Conducting a Phase I ESA may result in identification of additional environmental concerns/conditions not currently known. If the additional investigation discovers more contamination, further cleanup would be required.
- To go through entire VPLE process could take 2-5 years depending on what previously unidentified contamination may be discovered.
- VPLE will not change or eliminate the requirement to comply with continuing obligations. For instance, residual contaminated soils will still need to be managed appropriately if they are disturbed for a redevelopment.
- If VPLE is obtained, owner of a property could take advantage of Economic Development and Green Environment (EDGE) pilot program. Manufacturing or other industrial business that need an air permit that locate on the property can benefit from unique air permit incentive that is included in EDGE.
<https://dnr.wisconsin.gov/topic/GreenTier/EDGE>

City Acquires Property

Acquire property – see various options.

Advantages:

- City (or county, whichever acquires the property) would have complete control of the property.
- The city could revitalize the property on its own, or the city could sell but have more control and say in its future use.
- Potential to more easily provide incentives to buyers to develop the property if city owns the property.
- City could put in infrastructure and get the property ready for development.
- Retain some of the land for public uses, parks, etc.
- Ground lease some of the land to attract businesses that are not able to buy the property, or don't want to.

Actions:

- Evaluate federal liability protection strategy and conduct [All Appropriate Inquiries](#) for Bona Fide Prospective Purchaser status. (For more information, see below.)
- Negotiate with property owner for purchase
- Negotiate developer agreement
- Subdivide property with CSM or plat of survey

Considerations:

- Environmental liability with ownership. Owner may be required to conduct cleanup if additional discharges are found.
- See options below for managing environmental liabilities.

Option: Pursue federal CERCLA liability defense (bona fide prospective purchaser).

Advantages:

- Federal CERCLA liability defense for identified “recognized environmental conditions” in report.
- Maintain city’s eligibility for federal brownfield grants and loans.

Actions:

- Hire qualified consultant to perform All Appropriate Inquiries (AAI)/Phase I Environmental Site Assessment (ESA) (ASTM Standard Practice E 1527).
- Phase I ESA must be completed within 180 days before taking title to qualify. Alternatively, Phase I ESA can be completed up to one year prior to taking title but must be updated within 180 days of taking title.

Considerations:

- Conducting a Phase I ESA may result in identification of environmental concerns/conditions not currently known.
- Timeline approximately 4-6 weeks for Phase I ESA.

Option: City pursues acquisition of the property using the state environmental liability exemption for local government units under Wisconsin Statutes § 292.11(9)(e) through blight elimination.

Advantages:

- City not liable for contamination (presumes the city follows conditions in statute). See <https://dnr.wi.gov/files/PDF/pubs/rr/RR055.pdf>

Actions:

- City follows the blight elimination process to acquire property
- Optional: request a liability clarification letter from the DNR (\$700, 60 days)

Considerations:

- The city could be responsible for clearing debris, soil piles, etc. that currently exists on the property.
- City may conduct cleanup work to help market and sell the property.
- City would need to maintain property until sold (mow grass, maintain pavement cap, maintain fence, etc.) and ensure contamination is not exacerbated.
- City must comply with continuing obligations, even with the LGU exemption.
- If the city continued to own the property, it must work with DNR to take any steps necessary at the time the property is put to intended use to ensure property conditions remain protective.
- Exemption is not transferrable.

Aid Potential Purchasers/Developers

Offer to help potential buyers with environmental expenses

Advantage:

- For a business or developer to buy and build on this property, some more environmental actions and approvals may be needed, depending on the redevelopment plan.
- While the cleanup site work is done and the site case has received closure, some DNR approvals may still be needed if the proposed new use of the property is different from the use of the

6/16/22

property when DNR closed the environmental site case. (i.e. switching from an industrial land use to non-industrial.) This is common and referred to as post-closure modifications. The conditions of case closure (known as continuing obligations) are stated within the case closure letter for the site issued by DNR for the site in June 2022.

- The property may be more attractive to developers if some of the environmental actions and approvals are conducted by others.

Actions:

- City could help new owners with environmental due diligence work, or with additional remedial actions (soil removal, etc.) and consultant costs to get DNR approval for post-closure modifications.
- City could coordinate with DNR and meet with interested buyers to lay out what environmental actions and approvals would be needed to develop the property, or a parcel of it.
- Post closure modification and materials management plans are quite common for development of contaminated properties in WI. It is not a complicated process but does require planning.
- Remove foundations of former buildings to prepare parcels for construction, if warranted.
- Allocate funding for environmental expenses, create, or modify TID, obtain grants or other funds.

Considerations and Questions:

- It is difficult to anticipate and take the appropriate environmental remediation actions without clear plan for how a property will be reused. It's best to have basic redevelopment ideas fleshed out and then tailor the remediation work or post-closure actions to the proposed new use.

Potential paths:

Path A - 1. Conduct AAI compliant Phase I ESA, 2. Acquire, 3. Enter VPLE & conduct necessary additional investigation and cleanup, 4. Sell and Market Property

Path B – 1. Conduct AAI compliant Phase I ESA, 2. Acquire, 3. Update site redevelopment plan, 4. Market property 5. City commits to help out with additional environmental actions

Path C - 1. Work with owner to market property, 2. Secure developer, 3. City commits to help out with additional environmental actions

Path D - 1. Update site redevelopment plan 2. Work with owner RP on more cleanup on front end to make it more desirable (may help modify or remove Continuing Obligations); this may help with property marketing to potential buyers 3. Market property with current owner