



OFFICE OF ENVIRONMENTAL REMEDIATION

253 Broadway - 14th Floor
New York, New York 10007

Daniel Walsh, Ph.D.
Director

Tel: (212) 788-8841
Fax: (212) 788-2941

January 15, 2012

Mr. Matthew Frankenberry
West 37th Street Partners, LLC
1050 Franklin Avenue, Suite 200
Garden City, NY 11530

Mr. Arnold Fleming
Fleming-Lee Shue, Inc.
117 East 29th Street
New York, NY 10016

Re: **Decision Document**
NYC VCP Remedial Action Work Plan Approval
312 West 37th Street
Block 760, Lot 51
VCP Project #12CVCP028M / OER Project # 12EH-N057M

Dear Mr. Frankenberry:

The New York City Office of Environmental Remediation (OER), in consultation with the New York City Department of Health and Mental Hygiene (DOHMH), has completed its review of the December 2011 Remedial Action Work Plan (RAWP) and December 29, 2011 Stipulation List for 312 West 37th Street, VCP Project #12CVCP028M. The Plan was submitted to OER under the NYC Voluntary Cleanup Program (VCP). The RAWP was released for public comment for 30 days as required by program rule. That comment period ended on January 14, 2012. There were no public comments.

Statement of Purpose and Basis

This document presents the remedy for a Voluntary Cleanup site known as “312 West 37th Street” site. This document is a summary of the information that can be found in the site-related reports and documents in the document repository at OER’s website www.nyc.gov/oer.

The New York City Office of Environmental Remediation (the Office or OER), in consultation with the New York City Department of Health and Mental Hygiene (DOHMH), has established a remedy for the above referenced site. The disposal or release of contaminants at this site, as more fully described in this document, has contaminated various environmental media. Contaminants include hazardous substances.

The decision is based on the Administrative Record of the New York City Office of Environmental Remediation (the Office or OER) for the 312 West 37th Street Site and the public's input to the proposed remedy presented by the Office.

Description of Selected Remedy

The remedy selected for this 312 West 37th Street Site includes soil excavation, cover system, vapor barrier, and passive sub-slab depressurization system, as well as, institutional controls and site management if Track 1 Unrestricted Use Soil Cleanup Objectives (SCOs) are not achieved.

The elements of the selected remedy are as follows:

1. Preparation of a Community Protection Statement and implementation of a Citizen Participation Plan.
2. Performance of a Community Air Monitoring Program for particulates and volatile organic carbon compounds.
3. Establishment of Track 1 and Track 4 Soil Cleanup Objectives (SCOs) for site areas A (building footprint) and B (courtyard), respectively. Excavation and removal of soil/fill exceeding SCOs.
4. Collection and analysis of hotspot end-point samples to determine the performance of the remedy with respect to attainment of SCOs in hotspot areas.
5. Removal of underground storage tanks and closure of petroleum spills in compliance with applicable local, State and Federal laws and regulations.
6. Construction and maintenance of an engineered composite cover consisting of a building slab covering 80% of the site (site area A, building footprint), and open space cover consisting of a 2 feet thick layer of clean fill covering the remaining 20% (site area B, courtyard) to prevent human exposure to residual soil/fill remaining under the Site;
7. Installation of a vapor barrier system beneath the building slab.
8. Installation and operation of a passive sub-slab depressurization system.
9. Demarcation of residual soil/fill.
10. Import of materials to be used for backfill and cover in compliance with this plan and in accordance with applicable laws and regulations.
11. Transportation and off-Site disposal of all soil/fill material at permitted facilities in accordance with applicable laws and regulations for handling, transport, and disposal, and this plan. Sampling and analysis of excavated media as required by disposal facilities. Appropriate segregation of excavated media onsite.
12. Screening of excavated soil/fill during intrusive work for indications of contamination by visual means, odor, and monitoring with a PID.
13. Site mobilization involving Site security setup, equipment mobilization, utility mark outs and marking & staking excavation areas.
14. Implementation of storm-water pollution prevention measures in compliance with applicable laws and regulations.
15. Performance of all activities required for the remedial action, including permitting requirements and pretreatment requirements, in compliance with applicable laws and regulations.

16. Submission of a RAR that describes the remedial activities, certifies that the remedial requirements have been achieved, defines the Site boundaries, and describes all Engineering and Institutional Controls to be implemented at the Site, and lists any changes from this RAWP.
17. Submission of an approved Site Management Plan (SMP) in the RAR for long-term management of residual contamination and off site soil vapor contamination, including plans for operation, maintenance, monitoring, inspection and certification of Engineering and Institutional Controls and reporting at a specified frequency.
18. Recording of a Declaration of Covenants and Restrictions that includes a listing of Engineering Controls and a requirement that management of these controls must be in compliance with an approved SMP; and Institutional Controls including prohibition of the following: (1) vegetable gardening and farming; (2) use of groundwater without treatment rendering it safe for the intended use; (3) disturbance of residual contaminated material unless it is conducted in accordance with the SMP (for areas where Track 1 is not achieved); and (4) higher level of land usage without OER-approval (for areas where Track 1 is not achieved).

Remedial activities will be performed at the Site in accordance with this OER-approved RAWP. All deviations from the RAWP will be promptly reported to OER. Changes will be documented in the RAR.

This remedy conforms to the promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration OER guidance, as appropriate. The remedy is protective of public health and the environment.

11/15/12

Date



Shaminder Chawla
Assistant Director

Site Name: 312 West 37th Street
Site #: 12CBCP028M
OER PM: Hannah Moore

SITE BACKGROUND

Location:

The Site is located at 312 West 37th Street in the midtown section of New York, New York, and is identified as Block 760, Lot 51 on the New York City Tax Map. Figure 1 shows site location map.

Site Features:

The 10,000 square-foot Site is a vacant parking lot. The property is bounded by West 37th Street to the north, and multi-story commercial office buildings with ground-level retail to the east, west, and south, and is between 8th and 9th Avenues.

Current Zoning/uses:

The current zoning designation is C6-4M. The proposed use is consistent with existing zoning for the property.

Historical Use:

The Site was improved with several tenement style buildings from at least 1890 until approximately 1930, with a Chinese laundry operation. A two-story building in the rear of the property was originally depicted as commercial, but by 1930 was depicted as an apartment building. By the early 1940s, the Site became an auto parking lot with a filling station in the northwest corner of the lot. The filling station contained two gasoline underground storage tanks (USTs) and a small 1-story structure that reportedly ceased operations in the late 1950s. The subject property has remained a commercial auto parking lot through the present.

Summary of Environmental Findings:

1. Elevation of the property is approximately 38 feet above mean sea level.
2. Depth to groundwater is approximately 20 feet at the Site.
3. Groundwater flow is generally from east to west beneath the Site.
4. Depth to bedrock is approximately 35 feet at the Site.
5. Soil stratigraphy encountered at the site included a surficial fill layer consisting of topsoil, sand, brick fragments, and concrete fragments ranging in thickness from 5 to 11 feet across the site. This fill layer is underlain by a clay confining layer ranging in thickness from 2 to 4 feet, beneath which is fine-medium sand with some coarse sand and gravel that extends to 20 feet below grade.

PROPOSED DEVELOPMENT PLAN

The proposed future use of the Site will consist of a 21-story hotel building with a basement, which will cover 4/5 (8,000 sf) of the lot. A 2,000-sf courtyard will remain in the rear portion of the lot. Layout of the proposed site development is presented in Figure 2. The current zoning designation is C6-4M, a central high-density commercial district. The proposed use is consistent with existing zoning for the property. The first floor will contain the hotel lobby, and the basement will contain a gym and meeting rooms for guests, and a break room and offices for the hotel staff. The foundation excavation will extend to 16 feet below grade across the building footprint, with one central spot extending to 19 feet below grade associated with an elevator pit. Excavation is not anticipated to extend below the water table at 20 feet

below grade. Layout of the proposed site development is presented in Figure 2. The remedial action contemplated under this RAWP may be implemented independently of the proposed redevelopment plan.

SUMMARY OF REMEDIAL INVESTIGATION

The RI report is available for review in the site document repository.

Nature and Extent of Contamination:

Soil: Soil/fill samples collected during the RI showed no volatile organic compounds (VOCs) exceeding NYSDEC Part 375 Unrestricted Use (Track 1) Soil Cleanup Objectives (UUSCOs). Several VOCs in some samples, including PCE and TCE, were identified but at extremely low levels (typically below 4 ug/kg). Five semi-volatile organic compounds (SVOCs) in three shallow soil samples and in one deep sample exceed UUSCOs. Of these, only one SVOC exceeded Track 2 Restricted Commercial SCOs (RCSCOs) in three samples. The SVOCs identified are polycyclic aromatic hydrocarbon compounds (PAH) and are observed at relatively low concentrations. Several metals including lead, mercury, barium, zinc and copper exceed UUSCOs in shallow soil and one deep soil sample. Of these, only barium (3 samples) and lead (3 samples) exceeded Track 2 RCSCOs. Overall, the occurrence of PAHs and metals is consistent with findings during the collection of soil samples and suggests that historical fill is responsible for the observed low to moderate levels of contamination. One PCB exceeds UUSCOs in two shallow samples, and two pesticides exceed UUSCOs in one shallow and one deep sample. No PCBs or pesticides exceed Track 2 RCSCOs in any sample onsite. No contaminant source areas were identified during this remedial investigation.

Groundwater: Groundwater samples collected during the RI showed no SVOCs or PCBs exceeding New York State 6NYCRR Part 703.5 Class GA groundwater quality standards (GQS). One pesticide exceeded GQS in three samples. One VOC (cis 1,2-dichloroethene) marginally exceeding GQS in one groundwater sample. PCE and TCE were identified in groundwater samples at low concentrations below GQS. Several metals exceeded GWS in dissolved samples, including magnesium (one sample), manganese (4 samples), sodium (4 samples), and selenium (2 samples). Metals findings indicate that there is likely minor to moderate saline intrusion in local groundwater but no metals contamination source onsite. While some VOCs were identified at low levels in groundwater, none of these compounds were identified in onsite soils above corresponding groundwater protection standards in 6NYCRR Part 375-6.8.

Soil vapor: Soil vapor samples collected during the RI showed numerous VOCs detected at generally low to moderate concentrations, including three compounds listed in the NYSDOH Final Guidance on Soil Vapor Intrusion (October 2006) Decision Matrices. These include TCE and PCE which were identified in all soil vapor samples and range from 7-12 ug/m³ and 46-176 ug/m³, respectively.

Figure 1: Site Location Map

