

**New York State Department of Environmental Conservation**  
**Division of Environmental Remediation, Region 8**  
**Bureau of Technical Support**  
6274 East Avon-Lima Road, Avon, New York 14414-9519  
**Phone:** (585) 226-2466 • **Fax:** (585) 226-8139  
**Website:** [www.dec.ny.gov](http://www.dec.ny.gov)



Alexander B. Grannis  
Commissioner

September 28, 2009

Joel Smith, Director  
City of Rochester Buildings and Zoning  
City Hall Room 125 B  
30 Church Street  
Rochester, New York 14614

Dear Mr. Smith:

Re: Proposed New Hotel Construction  
760 Brooks Avenue  
Rochester, Monroe County, NY

The New York State Department of Environmental Conservation (the Department) was recently made aware of a proposed new hotel construction at 760 Brooks Avenue in the City of Rochester. It is our understanding that 760 Brooks Avenue, Inc. has applied for various approvals from the city which may include site plan approval and the issuance of a building permit. We also understand that these approvals are currently under review by the City.

Petroleum contamination exists at the site. Investigation of the contamination is incomplete. No comprehensive plan for the completion of the investigation and remediation of the contamination is in place that has been approved by the Department.

We have concerns with the construction of the hotel without the Department approved Corrective Action Plan to address the contamination which has been identified at this site and without a New York State Department of Health (NYSDOH) approval of the potential need for vapor mitigation.

Towards this end, the Department requests the following conditions be added to any approvals the City may issue for development of this site:

1. The permit applicant understands and acknowledges that the site is located within the boundaries of a former major oil storage facility and that the site contains petroleum contaminated soil and groundwater above Department regulatory guidelines.

Mr. Smith  
Page 2  
September 28, 2009

2. No work under the approval may occur until an enforceable agreement is in place for the investigation and remediation of petroleum contamination at the site that is acceptable to the Department; or, the Department and its contractors are granted unconditional access to the site for purposes of investigating and remediating the contamination.
3. If the Department directly engages in the investigation and remediation of the contamination, the permittee and its agents shall cooperate with the Department. The permittee and its agents shall not act, or fail to act, in any manner which impedes or hinders the investigation and remediation.
4. No work under the approval may occur until the appropriate party obtains a determination from the Department and the NYSDOH regarding the need for an installation of a sub-slab vapor mitigation system beneath any new buildings, loading docks, or other permanent structures to be constructed over the footprint of the former major oil storage facility. If a sub-slab vapor mitigation system is required or developed, the permit applicant and/or owner shall provide the City with a copy of any site-specific plan (if warranted) and written approval of such plan by the Department and NYSDOH.
5. If petroleum or hazardous materials are encountered during construction, all work shall stop and the Department and NYSDOH shall be notified immediately. Work shall not resume until the design engineer has outlined appropriate action to deal with the waste material, plans are modified as may be necessary and approval of the plans is obtained from the Department and NYSDOH. The Department contact is: Peter Miller (585) 226-5434; NYSDOH contact is: Deb McNaughton (585) 423-8069.

Please contact me (585) 226-5427 or Peter Miller (585) 226-5434 with any questions.

Sincerely,

  
Bruce W. Finster, P.E.  
Regional Spill Engineer

cc: D. McNaughton, NYS Department of Health  
J. Biondollilo, City of Rochester