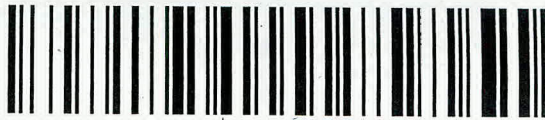


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Write or Copy/Paste Document Title In This Space

report. bcp. C356032. 2006-12-06. FER- Addendum1

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S&W Redevelopment

of North America, LLC

430 East Genesee Street
Suite 401

Syracuse, NY 13202

tel. (315) 422-4949

fax. (315) 422-2124

web. www.swredev.com

December 6, 2006

Mr. James Candiloro

NYSDEC

Division of Environmental Remediation

625 Broadway

Albany, NY 12233-7010

RECEIVED

DEC 11 2006

Remedial Bureau C
Division of Environmental Remediation

RE: Final Engineering Report
Addendum No. 1
10 East Chester, Kingston, NY
BCP Site No.C356032

Dear Mr. Candiloro:

On behalf of 10 East Chester Street, LLC we are submitting this addendum to the November 2006 Final Engineering Report (FER). This package includes items for insertion into the November 2006 FER, which, once inserted, will finalize the FER. The items included in this addendum are:

Environmental Easement – The NYSDEC executed Environmental Easement has been recorded at the Ulster County Clerks office. Enclosed is a copy of the recorded easement, Certification of Recording, Notification to local municipal offices, and certification of mailing. These documents are to replace the documents in Attachment No. 1 of November 2006 Final Engineering Report.

Site Management Plan – The NYSDEC approved Site Management Plan is enclosed and is to replace the document included in Attachment No. 2 of the November 2006 Final Engineering Report.

Final Engineering Report Fact Sheet – The NYSDEC approved Final Engineering Report Fact Sheet was distributed to the Site Contact List on December 6, 2006. Enclosed is the Fact Sheet and Certification of Mailing. These items are to replace the documents included in Attachment No. 4 of the November 2006 Final Engineering Report.



Stearns & Wheeler
Companies

PROJECTS\N-xxxx\N5000\N5007-10 Chester St. RI-RAWP\Remedial Action\Final Engineering Report\FER Final Ammendment Package\Candiloro FER Package 12.6.06.doc

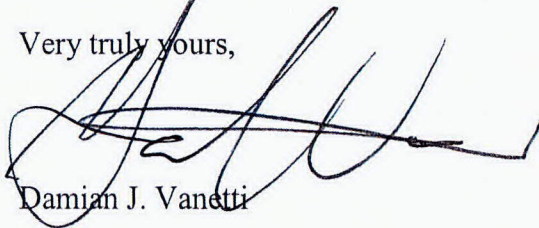
Connecticut Maryland Massachusetts New Hampshire New York North Carolina Virginia

Final Engineering Report Certification – The NYSDEC approved Professional Engineer Certification is included in with this addendum. This item is to replace *Section 6 – CERTIFICATION* of the November 2006 Final Engineering Report.

This addendum provides the information necessary to finalize the Final Engineering Report in preparation for issuance of the Certificate of Completion (COC). Once the COC is issued we will distribute the COC Fact Sheet, which notifies the public of project completion, and forward the Certification of Mailing. In addition, once we are notified that the FER is approved we will forward the electronic (PDF format) of the entire approved FER to the NYSDEC for your use and files.

If you have any questions, please do not hesitate to call.

Very truly yours,



Damian J. Vanetti

cc: James Candiloro, NYSDEC (3 copies)
Kristin Kulow, NYSDOH (2 copy)
Mike Ryan, NYSDEC
Rosalie Rusinko, NYSDEC
Robert M. Petrovich, 10 East Chester Street, LLC
Wayne McFarland, Stearns & Wheler, LLC



**Recorded Environmental
Easement**

**Municipal Notification and
Notification Certification**

Official Receipt for Recording in:

Ulster County Clerk
244 Fair Street
Kingston, NY 12401

Issued To:
10 EAST CHESTER STREET LLC

Recording Fees

Document Description	Number	Volm	Page	Recording Amount
D14	00030568	04348	00179	49.00
KINGSTON CITY				
DR-10 EAST CHESTER STREET LLC				
IN-DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
TP584	00030568			5.00
Tax-Trnsf	00030568	04348	00179	.00
DR-10 EAST CHESTER STREET LLC				
IN-DEPARTMENT OF ENVIRONMENTAL CONSERVATION				

54.00

Collected Amounts

Payment Type	Amount
Cash	100.00
	100.00

Total Received :	100.00
Less Total Recordings:	54.00
Change Due :	46.00

Thank You
NINA POSTUPACK - County Clerk

By - rsec rsec

Receipt# Date Time
0491757 12/11/2006 12:11p

ENVIRONMENTAL EASEMENT

THIS INDENTURE made this 21st day of November, 2006, between 10 East Chester Street, LLC having an office at 430 East Genesee Street, Syracuse, NY 13202, (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 ("brownfield 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 of ensuring the potential 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 brownfield site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located in the City of Kingston, County of Ulster, New York known as 10 East Chester Street and designated on the tax map of the City of Kingston as tax map parcel numbers 56.26-11-14, 56.26-11-15 and 56.26-11-43 and a gore parcel being the same as that property conveyed to Grantor by deeds on August 16, 2004, August 25, 2004 and July 19, 2005 and recorded in the Land Records of the Ulster County Clerk as Document Numbers 2004-00026799, 2004-00033129, 2004-00033130, and 2005-00022889, comprised of approximately 0.866 acres, and hereinafter more fully described in Schedule A attached hereto and made a part hereof (the "Controlled Property"); and

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

NOW THEREFORE, in consideration of the covenants and mutual promises contained herein and the terms and conditions of Brownfield Cleanup Agreement Number Index No.: W3-0980-03-12,

Grantor grants, conveys and releases to Grantee a permanent Environmental Easement pursuant to Article 71, Title 36 of the ECL 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 potential restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The following controls 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. The Controlled Property may be used for restricted commercial or industrial use as long as the following long-term engineering controls are employed:

(i) the Grantor or its successors in title must maintain a barrier layer on the Controlled Property of either one foot of clean fill or an alternative barrier layer approved by the NYSDEC, such as concrete, asphalt, or structure;

(ii) any proposed soil excavation on the Controlled Property below the barrier layer requires prior notification and prior approval by NYSDEC in accordance with the Site Management Plan approved by NYSDEC for this site, and the excavated soil must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives;

(iii) any area of soil excavation below the barrier layer that is to be returned to vegetated soil (i.e.: not concrete, asphalt or structures) must be backfilled with a minimum one (1) foot layer of clean fill underlain by a demarcation layer;

(iv) any future structures shall be constructed with a sub-slab depressurization system approved by the NYSDEC; and

(v) the use of groundwater underlying the Controlled Property is prohibited without prior approval from NYSDEC for treatment rendering it safe for use for drinking or industrial purposes.

B. The Controlled Property may not be used for a higher level of use such as restricted residential use and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of 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 of Title 36 to
Article 71 of the Environmental Conservation Law.**

D. 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.

E. 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 that the controls employed at the Controlled Property are unchanged from the previous certification or that any changes to the controls employed at the Controlled Property were approved by the NYSDEC; and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to such Controlled Property to evaluate continued maintenance of such controls.

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 Controlled Property, including:

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

2. The right to give, sell, assign, or otherwise transfer the underlying fee interest to the Controlled Property by operation of law, by deed, or by indenture, 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 intentionally violates this environmental easement, the Grantee may revoke the Certificate of Completion provided under ECL Article 27, Title 14, or the Satisfactory Completion of Project provided under ECL Article 56, Title 5 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. Grantor shall then have a reasonable amount of time from receipt of such notice to cure. At the expiration of said second period, Grantee may commence any proceedings and take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement in accordance with applicable law to require compliance with the terms of this Environmental Easement.

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 its enforcement rights in the event of a subsequent breach of or noncompliance with any of the terms of this Environmental easement.

6. Notice. Whenever notice to the State (other than the annual certification) or approval from the State is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing its County tax map number or the Liber and Page or computerized system tracking/ identification number and address correspondence to:

Division of Environmental Enforcement
Office of General Counsel
New York State Department of Environmental Conservation
625 Broadway
Albany New York 12233-5500

Such correspondence shall be delivered by hand, or 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 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. This environmental easement may be amended only by an amendment executed by the Commissioner of the New York State Department of Environmental Conservation 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 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.

10 East Chester Street, LLC

By: 

Robert M. Petrovich

Title: Managing Member

Date: 11/21/06

THIS ENVIRONMENTAL EASEMENT IS HEREBY
ACCEPTED BY THE PEOPLE OF THE STATE OF
NEW YORK, Acting By and Through the Department of
Environmental Conservation

By: 

~~Denise M. Sheehan, Commissioner~~

LYNETTE M. STARK

EXECUTIVE DEPUTY Commissioner

Grantor's Acknowledgment

STATE OF NEW YORK)

) ss:

COUNTY OF Onondaga)

On the 21ST day of November in the year 2006, before me, the undersigned, personally appeared Robert M. Petrovich, 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.


Notary Public - State of New York

MARK J. ENGLISH
Notary Public, State of New York
No. 4953038
Qualified in Onondaga County
Commission Expires July 3, 2011

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

He D. Sanzo
Notary Public - State of New York

MARK D. SANZA
Notary Public, State of New York
No. 02SA6010701
Qualified in Albany County
Commission Expires July 20, 2010

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 Kingston, County of Ulster and State of New York, described as follows:

Beginning at the corner formed by the intersection of the Northerly side of Broadway with the Easterly side of East Chester Street, and running:

- 1) - thence from said point of beginning along the Easterly side of East Chester Street North $32^{\circ} 36' 00''$ East, 200.56 feet to a point;
- 2) thence along the Southerly line of lands of Rondout Savings Bank, Liber 1193 Page 943, and partially along the existing building wall, South $61^{\circ} 42' 00''$ East, 182.33 feet to a point;
- 3) thence along the Westerly line of lands of Rondout Savings Bank and along the existing building the following courses and distances: South $28^{\circ} 08' 10''$ West, 100.00 feet to a point;
- 4) thence still along lands of Rondout Savings Bank the following courses and distances: North $61^{\circ} 42' 00''$ West, 1.09 feet to a recovered pipe;
- 5) thence South $28^{\circ} 18' 00''$ West, 100.00 feet to a recovered bar on the Northerly side of Broadway;
- 6) thence along the Northerly side of Broadway North $61^{\circ} 42' 00''$ West, 196.58 feet to the place of beginning.

CONTAINING: 0.866 Acre

All bearings are referred to Magnetic North.



New York State Department of Taxation and Finance

**Combined Real Estate
Transfer Tax Return,
Credit Line Mortgage Certificate, and
Certification of Exemption from the
Payment of Estimated Personal Income Tax**

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Please print or type.

Schedule A — Information relating to conveyance

<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input checked="" type="checkbox"/> Other	Grantor/Transferor	Name (If individual: last, first, middle initial)	10 East Chester Street, LLC		Social security number
		Mailing address	430 East Genesee Street		Social security number
		City	State	ZIP code	Federal employer ident. number
		Syracuse	NY	13202	20-0222663
<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input checked="" type="checkbox"/> Other	Grantee/Transferee	Name (If individual: last, first, middle initial)	The State of New York; c/o Department of Environmental Conservation		Social security number
		Mailing address	625 Broadway		Social security number
		City	State	ZIP code	Federal employer ident. number
		Albany	NY	12233	Exempt 14-6013200

Location and description of property conveyed

Tax map designation			Address	City/village	Town	County
Section	Block	Lot				
56.26	11	14	10 East Chester Street and gore parcel	Kingston		Ulster
56.26	11	15				
56.26	11	43				

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house	5 <input type="checkbox"/> Commercial/Industrial	Date of conveyance	Percentage of real property conveyed which is residential real property <input type="radio"/> % (see Instructions)
2 <input type="checkbox"/> Residential cooperative	6 <input type="checkbox"/> Apartment building	11 21 06	
3 <input type="checkbox"/> Residential condominium	7 <input type="checkbox"/> Office building	month day year	
4 <input checked="" type="checkbox"/> Vacant land	8 <input type="checkbox"/> Other _____		

Condition of conveyance (check all that apply)

a. <input type="checkbox"/> Conveyance of fee interest	f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	l. <input type="checkbox"/> Option assignment or surrender
b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)	g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. <input type="checkbox"/> Leasehold assignment or surrender
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)	h. <input type="checkbox"/> Conveyance of cooperative apartment(s)	n. <input type="checkbox"/> Leasehold grant
d. <input type="checkbox"/> Conveyance to cooperative housing corporation	i. <input type="checkbox"/> Syndication	o. <input checked="" type="checkbox"/> Conveyance of an easement
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. <input type="checkbox"/> Conveyance of air rights or development rights	p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)
	k. <input type="checkbox"/> Contract assignment	q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
		r. <input type="checkbox"/> Other (describe) _____

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B., Part I \$ _____		
	Schedule B., Part II \$ _____		

Schedule B — Real estate transfer tax return (Tax Law, Article 31)**Part I — Computation of tax due**

- 1 Enter amount of consideration for the conveyance (If you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) ☒ **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)
- 3 Taxable consideration (subtract line 2 from line 1)
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3
- 5 Amount of credit claimed (see instructions and attach Form TP-584.1, Schedule G)
- 6 Total tax due* (subtract line 5 from line 4)

1.	
2.	
3.	
4.	
5.	
6.	

Part II — Computation of additional tax due on the conveyance of residential real property for \$1 million or more

- 1 Enter amount of consideration for conveyance (from Part I, line 1)
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)
- 3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.	
2.	
3.	

Part III — Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a ☒
- b. Conveyance is to secure a debt or other obligation b ☐
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance c ☐
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d ☐
- e. Conveyance is given in connection with a tax sale e ☐
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F f ☐
- g. Conveyance consists of deed of partition g ☐
- h. Conveyance is given pursuant to the federal Bankruptcy Act h ☐
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i ☐
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment j ☐
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k ☐
- l. Other (attach explanation) l ☐

*Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in New York City, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

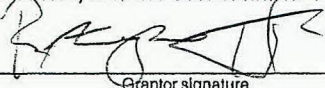
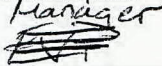
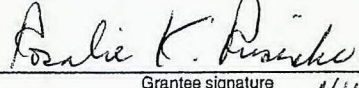

Schedule C — Credit Line Mortgage Certificate (Tax Law, Article 11)**Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. ☒ The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. ☐ The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
- ☐ The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
- ☐ The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
- ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- ☐ The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.
- Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.
- ☐ Other (attach detailed explanation).
3. ☐ The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
- ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- ☐ A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. ☐ The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete.

			
Grantor signature	Title	Grantee signature	Title
			NYS Dept. of Env. Conservation

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in New York City, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- ☐ The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date _____ to _____ Date _____ (see Instructions).
- ☐ The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- ☐ The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

S&W Redevelopment

of North America, LLC

430 East Genesee Street

Suite 401

Syracuse, NY 13202

tel. (315) 422-4949

fax. (315) 422-2124

web. www.swredev.com

December 11, 2006

Honorable James Sottile
Mayor
City of Kingston
420 Broadway
Kingston, NY 12401

Michael P. Hein
County Administrator
Ulster County
County Office Building, 6th Floor
244 Fair Street
Kingston, NY 12401

Re: Environmental Easement
10 East Chester Street Site
Broadway and Chester Street
Kingston, NY 12401

Dear Honorable James Sottile and Michael Hein,

As required under the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) we are informing your office of the filing of an Environmental Easement for the above referenced property.

All required clean up for this property had been completed under the BCP, and NYSDEC will issue a Certificate of Completion (COC) for the property this year.

We have enclosed a copy of the Easement which was filed with the deed in the Ulster County Clerk's Office on July 14, 2006.

If you have any questions, please contact me.

Sincerely,



Robert M. Petrovich
Executive Vice President



Stearns & Wheeler
Companies

PROJECTS\N-xxxx\N5000\N5007-10 Chester St. RI-RAWP\Correspondence\Env Easement Cover Ltr 12.7.06.doc

Connecticut Maryland Massachusetts New Hampshire New York North Carolina Virginia

S&W Redevelopment

of North America, LLC

430 East Genesee Street
Suite 401
Syracuse, NY 13202

tel. (315) 422-4949
fax. (315) 422-2124
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December 11, 2006

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Mayor
City of Kingston
420 Broadway
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Sincerely,



Robert M. Petrovich
Executive Vice President



Stearns & Wheeler
Companies

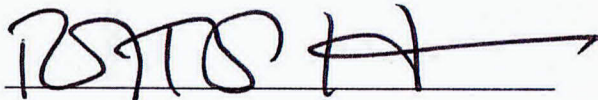
PROJECTS\N-xxxx\N5000\N5007-10 Chester St. RI-RAWP\Correspondence\Env Easement Cover Ltr 12.7.06.doc

Connecticut Maryland Massachusetts New Hampshire New York North Carolina Virginia

*10 East Chester Street, LLC
Site No. C356032
Kingston, Ulster County, NY*

CERTIFICATION OF MAILING

I certify that I mailed on 12-11-06 a copy of the attached Notice by first class mail to the chief executives of the affected local governments: City of Kingston and Ulster County, New York, by depositing a true copy thereof, securely enclosed in a postpaid wrapper, in the Post Office box at 420 East Genesee Street in the City of Syracuse, New York, which box is under the exclusive care and custody of the United States Post Office Department:



Signature

Date: December 11, 2006

Robert M. Petrovich
Manager
10 East Chester Street., LLC

Final Engineering Reports
Section 6 - Certification

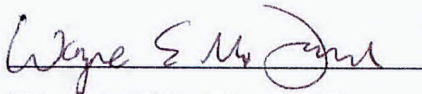
SECTION 6 - CERTIFICATION

I Wayne MFarland certify that I am currently a registered professional engineer, and I certify that the Remedial Work Plan (or Remedial Design) was implemented and that all construction activities were completed in substantial conformance with the Department approved Remedial Work Plan (or Remedial Design)

The data submitted to the Department demonstrates that the remediation requirements set forth in the remedial work plan and any other relevant provisions of ECL 27-1419 have been or will be achieved in accordance with the time frames, if any, established in the work plan.

Any 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 to ECL 71-3605 and that any affected local governments, as defined in ECL 71-3603, have been notified that such easement has been recorded.

A Site Management Plan has been submitted by the applicant for the continual and proper operation, maintenance, and monitoring of any engineering controls employed at the site including the proper maintenance of any remaining monitoring wells, and that such plan has been approved by the Department.



Wayne E. McFarland, P.E.

N.Y.S. P.E. #59177

November 2006



**Final Engineering Report
Fact Sheet**

Certification of Mailing



IV-001
Sent 12/6/06

FACT SHEET

Brownfield Cleanup Program

10 East Chester Street
C356032

Kingston, Ulster County, NY



FILE COPY

December 2006

Remedial Action Completed to Address Brownfield Site Contamination; Final Engineering Report Under Review

Remedial action has been completed under New York's Brownfield Cleanup Program (BCP) to address contamination related to the 10 East Chester Street Project site located at 10-16 East Chester Street, 318-320 Broadway and 306-316 Broadway in Kingston, Ulster County, New York. See map for the location of the site. 10 East Chester, LLC has completed the remedial action and has submitted to the New York State Department of Environmental Conservation (NYSDEC) a Final Engineering Report (FER), which is under review. The Final Engineering Report states that remediation requirements have been achieved regarding site contamination to fully protect public health and the environment for the proposed site use. The Final Engineering Report is available at the document repositories identified in this fact sheet.

NYSDEC previously accepted an application submitted by 10 East Chester Street, LLC to participate in the BCP. The application proposes that the site will be used for commercial purposes.

Highlights of the Final Engineering Report

A Final Engineering Report has several goals:

- 1) describe the remedial activities completed;
- 2) certify that remediation requirements have been achieved or will be achieved;
- 3) define the boundaries of the site;
- 4) describe any institutional/engineering controls to be used. An *institutional control* is a non-physical restriction on use of the site, such as a deed restriction, when the remedial action leaves residual contamination that makes the site suitable for some, but not all uses. An *engineering control* is a physical barrier or method to manage contamination such as a cap or vapor barrier;
- 5) certify that a site management plan for any engineering controls used at the site has been approved by NYSDEC.

Brownfield Cleanup Program: New York's Brownfield Cleanup Program (BCP) encourages the voluntary cleanup of contaminated properties known as "brownfields" so that they can be reused and redeveloped. These uses include recreation, housing and business.

A **brownfield** is any real property that is difficult to reuse or redevelop because of the presence or potential presence of contamination.

For more information about the BCP, visit:
www.dec.state.ny.us/website/der/bcp

"*Remedial activities*" and "*remediation*" refer to all necessary actions to address any known or suspected contamination associated with a site.

The subject site was impacted with petroleum from existing underground storage tanks (USTs) and chlorinated solvents from the former dry cleaning operation. The petroleum contamination was addressed through source removal and the solvents were remediated using in-situ groundwater treatment.

Seven (7) USTs on the site were removed in March and April 2006. The USTs were excavated along with impacted soils, if present. Following the removal of each

UST, excavated soils were visually inspected for signs of petroleum impacts and screened for volatile organic compounds (VOCs). Soil samples were also collected during excavation and analyzed for VOCs and semi-volatile organic compounds (SVOCs).

In-Situ Chemical Oxidation (ISCO) was used to remediate Tetrachloroethene (PCE), Trichloroethene (TCE), and petroleum related compounds in groundwater. The treatment involved the injection of over 13,000 lbs of Potassium Permanganate into injection wells. Potassium Permanganate (KMnO_4) has been used extensively in drinking water and wastewater treatment, and more recently as an oxidant for dry cleaning solvent remediation programs.

The remedial goal has been achieved by removing potential sources of contamination from the site (i.e. USTs, sumps and hydraulic lifts), and by application of the ISCO system to treat residual contamination in groundwater. This remedial goal has helped to mitigate the potential for human exposure to contaminants at the site. However, the potential for human exposure could exist if site groundwater were to be used and the potential for soil vapors to contain contaminants originating from groundwater may also occur at the site. With respect to off-site potential, the data indicates that chlorinated VOC concentrations in samples from the down gradient edge of the site do not exceed NYS Groundwater Quality Standards. For petroleum related compounds, the groundwater sample concentrations in two monitoring wells fluctuate between meeting groundwater quality standards and exceeding the standards. The following engineering and institutional controls would be implemented at the site.

Engineering Controls:

- A soil barrier consisting of 1- foot of clean fill, or 6" of asphalt paving, or 6" of concrete slab to mitigate potential for direct contact with groundwater or soil.
- Future buildings will require a sub slab depressurization system as approved by NYSDEC to mitigate the potential for soil vapors to enter future building structures.

Institutional Controls:

- Creation and filing of an Environmental Easement pursuant to ECL 71-3605. Any affected local governments will be notified that such easement has been recorded.
- Prohibition on the use of groundwater without the prior approval by the NYSDEC.
- The future use of the site is limited to restricted commercial uses, which means the site can only be used for the primary purpose of buying, selling, or trading of merchandise or services.

Groundwater monitoring will be conducted at the down-gradient edge of the site to assess the ongoing treatment of groundwater contaminants at the site.

Next Steps

NYSDEC will complete its review, have any necessary revisions made and, if appropriate, approve the Final Engineering Report. NYSDEC will place the approved Final Engineering Report in the site document repositories. NYSDEC then will issue a Certificate of Completion to 10 East Chester Street, LLC. With its receipt of a Certificate of Completion, 10 East Chester Street, LLC would:

- have no liability to the State for contamination at or coming from the site, subject to certain conditions; and
- be eligible for tax credits to offset the costs of performing remedial activities and for redevelopment of the site.

A Certificate of Completion may be modified or revoked if, for example, the applicant does not comply with the terms of its Brownfield Cleanup Agreement with NYSDEC, or if the applicant commits fraud regarding its application or its certification that it has met cleanup levels.

A fact sheet will be sent to the site contact list when NYSDEC issues a Certificate of Completion to 10 East Chester Street, LLC, and a copy of the Certificate will be placed in the document repositories noted below.

Site History

The 10 East Chester Street site is comprised of three contiguous lots located at 10-16 East Chester Street (Lot 43), 318-320 Broadway (Lot 14), and 306-316 Broadway (Lot 15) in Kingston, Ulster County, New York. The site consists of approximately one acre, and is owned by 10 East Chester Street, LLC. The area surrounding the site is primarily a mix of commercial businesses and private residences.

Historical uses of the site include vehicle storage and repair, a warehouse, bus garage, horse stables, gasoline station, a laundry/dry cleaning facility and a diner.

FOR MORE INFORMATION

Document Repositories

Document repositories have been established at the following locations to help the public review important project documents. These documents include the Remedial Action Plan, Remedial Design, Final Engineering Report and the application to participate in the BCP accepted by NYSDEC:

Kingston Library
55 Franklin Street
Kingston, NY 12401
Phone: (845) 331-0507

NYSDEC Region 3 Office
21 South Putt Corners Road
New Paltz, NY 12561
Phone: (845) 256-3154
Attn: Michael Knipfing

NYSDEC Headquarters
625 Broadway
Albany, NY 12233-7014
Phone: (518) 402-9564
Attn: James Candiloro

Who to Contact

Comments and questions are always welcome and should be directed as follows:

Remediation Related Questions

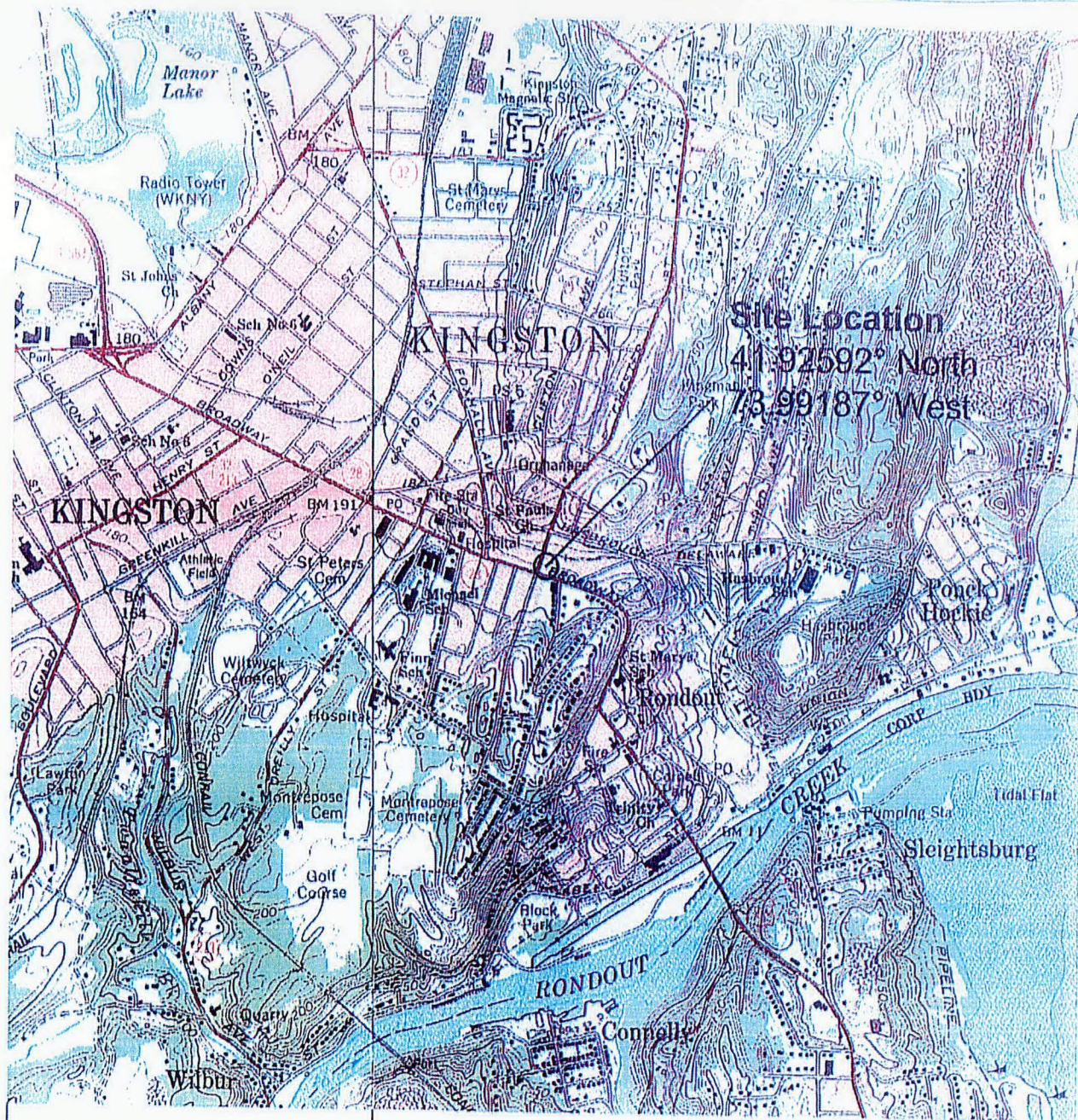
James Candiloro
Project Manager
NYSDEC
Division of Environmental Remediation
625 Broadway, 11th Floor
Albany, NY 12233-7014
Phone: (518) 402-9564
Email: jxcandil@gw.dec.state.ny.us

Health Related Questions

Kristin Kulow
New York State Department of Health
28 Hill Street, Suite 201
Oneonta, NY 13820
Phone: (607) 432-3911

If you know someone who would like to be added to the project mailing list, have them contact the NYSDEC project manager above. We encourage you to share this fact sheet with neighbors and tenants, and/or post this fact sheet in a prominent area of your building for others to see.

X-REF: J:\PROJECTS\B-XXXX\B3000\B3002-10 East Chester Street\Figures\Kington West\41074h1.tif, Kingston East\41073h5.tif
 2004/December/syracuse/jlk
 J:\PROJECTS\B-XXXX\B3000\B3007-10 Chester St. RI-RAWP\Remedial Action\Final Engineering Report\Figures\Kington FER Fact Sheet.dwg



Site Location
 41.92592° North
 73.99187° West



QUADRANGLE LOCATION

SCALE in FEET



Contour Interval: Kingston West 20 Feet
 Kingston East 10 Feet

Map Taken From: USGS 7.5 Minute Series
 Topographic Quadrangles
 Kingston West (1964, Photo revised 1980)
 Kingston East (1963, Photo revised 1980)
www.nysgis.state.ny.us/quads/usgsdrg.htm



S&W Redevelopment

of North America, LLC.

Syracuse, New York

DATE:12/2006 JOB No.:N5007

10 East Chester Street, LLC Brownfield Site
 BCP Site No. C356032
 City of Kingston, Ulster County, New York

FER Fact Sheet
 Site Location

*10 East Chester Street, LLC
Site No. C356032
Kingston, Ulster County, NY*

CERTIFICATION OF MAILING

I certify that I mailed on December 6, 2006 a copy of the attached Fact Sheet by first class mail upon the person(s) on the attached mailing list, by depositing a true copy thereof, securely enclosed in a postpaid wrapper, in the Post Office box at 420 East Genesee Street in the City of Syracuse, New York, which box is under the exclusive care and custody of the United States Post Office Department:

A handwritten signature in dark ink, appearing to read "D. M. Kelly", is written over a horizontal line.

Signature

Date: December 6, 2006

Scenic Hudson
1 Civic Center Plaza
Poughkeepsie, NY 12601

Clearwater, Inc.
112 Market Street
Poughkeepsie, NY 12601

Greenway Conservancy
Capitol Building
Capitol Station, Rm 254
Albany, NY 12224

The Nature Conservancy
Eastern NY Chapter
19 N. Moger Avenue
Mt. Kisco, NY 10549

Karl Coplan, Esq.
Pace/Riverkeeper
78 N. Broadway
White Plains, NY 10603

Hudson River Keeper
P.O. Box 130
Garrison, NY 10525

Environmental Citizens Coalition
33 Central Avenue
Albany, NY 12210

Laura Haight
NYPIRG
107 Washington Ave.
Albany, NY 12210

Rick Fritschler, Chmn.
Ulster County EMC
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Stony Ridge, NY 12484

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Kingston, NY 12401

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Kingston, NY 12401

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WKNY
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News Director
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Poughkeepsie, NY 12602

News Director
WRWD/WBWZ
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Poughkeepsie, NY 12601

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WKIP/WRNQ
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Poughkeepsie, NY 12601

News Director
WELV/WTHN
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Middletown, NY 10940

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Dennis and Ute Delaney
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Kingston, NY 12401

Thracis Ralis
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Shokan, NY 12481

Timothy and Cynthia Harkins
311 Hasbrouck Avenue
Kingston, NY 12401

Carrie Kraus
303 Hasbrouck Avenue
Kingston, NY 12401

Rondout Savings Bank
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Kingston, NY 12401

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Honorable James M. Sottile
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Zoning Board Chairperson
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Kingston, NY 12401

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City of Kingston Water Dept.
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Kingston, NY 12401

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Superintendent of Schools
Kingston City School District
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Kingston, NY 12401

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Chairman
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P.O. Box 1800
Kingston, NY 12402-1800

Senator Charles Schumer
313 Hart Senate Building
Washington, DC 20510

Senator Hillary Rodham Clinton
476 Russel Senate Office Building
Washington, DC 20510

Maurice D. Hinchey
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Kingston, NY 12401

William J. Larkin, Jr.
1093 Little Britain Road
New Windsor, NY 12553

Kevin Cahill
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Governor Clinton Hotel
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Mr. Chester J. Straub, Jr.
President
Ulster County Development Corp.
5 Development Corp.
Kingston, NY 12401-1949

Dean N. Palen, P.E., MBA
Public Health Director
300 Flatbush Avenue
Kingston, NY 12401-2740

Captain Michael LeFevre
Building and Safety Division
5 Garraghan Drive
Kingston, NY 12401

Mr. James L. Noble, Jr.
President
Common Council
39 Roosevelt Avenue
Kingston, NY 12401

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New Paltz, NY 12561

Wendy Rosenbach
Public Affairs Officer
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New Paltz, NY 12561

Richard Baldwin
NYSDEC
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New Paltz, NY 12561

Ram Pergadia
NYSDEC
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New Paltz, NY 12561

Harold Evans
NYSDEC
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Michael J. Knipfing
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Albany, NY 12233

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NYSDOH
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Troy, NY 12180

Sal Ervolina
NYSDEC
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Albany, NY 12233

Mary Young
NYSDEC
625 Broadway
Albany, NY 12233

Mr. David B. Donaldson
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Kingston NY 12401

Mr. Peter M. Loughran
36 Liberty Street
Kingston NY 12401

Mr. Michael G. Berardi
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Kingston NY 12402

Mr. Frank R. Dart
135 Second Avenue
Kingston NY 12401

Ms. Jeanette M. Provenzano
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Kingston NY 12401

Mr. James F. Maloney
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Mr. Daniel P. Mills
Community Development Director
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Kingston, NY 12401

Mr. Stephen M. Finkle
Economic & Community Dev. Director
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Mr. John C. Kwak
Engineer
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Kingston, NY 12401

Ms. Suzanne Cahill
Planner
City Hall
420 Broadway
Kingston, NY 12401

Mr. Steve Gorsline
Public Works Superintendent
25 East O'Reilly Street
Kingston, NY 12401

Mr. James L. Noble, Jr.
President
Common Council
39 Roosevelt Avenue
Kingston NY 12401

Mr. Christopher Burns
First Ward Alderman
369 Washington Avenue
Kingston NY 12401

Mr. Chris Gonyea
Second Ward Alderman
45 North Front Street
Kingston NY 12401

Mr. Leonard Walker
Third Ward Alderman
15 Overlook Drive
Kingston NY 12401

Mr. Clinton Brown
Fourth Ward Alderman
37 Franklin Street
Kingston NY 12401

Ms. AnnMarie DiBella
Fifth Ward Alderman
116 Fair Street
Kingston NY 12401

Mr. John Martino
Sixth Ward Alderman
78 Roosevelt Avenue
Kingston NY 12401

Mr. William P. Reynolds
Seventh Ward Alderman
181 Clifton Avenue
Kingston NY 12401

Ms. Jennifer Primo-Gilbert
Eight Ward Alderman
34 Hanratty Street
Kingston NY 12401

Mr. Michael Madsen
Ninth Ward Alderman
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Kingston NY 12401

Michael Rivara
NYSDOH
547 River Street
Troy, NY 12180

Kristin Kulow
NYSDOH
28 Hill Street, Suite 201
Oneonta, NY 13820

Richard Morse
Legislative Program Counsel Staff
NYS Assembly
Agency Building 4, 5th Floor
Albany, NY 12224

**Site Management Plan
(Revised December 2006)**

Site Management Plan
10 East Chester Street
Kingston, New York

BCP Site No. C356032

November 2006
(Revised December 2006)

Site Management Plan
10 East Chester Street
Kingston, New York

BCP Site No. C356032

Prepared for

New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7016

Prepared on Behalf of:

10 East Chester Street, LLC
430 East Genesee Street
Syracuse, New York 13202

Prepared by:

S&W Redevelopment of North America, LLC

November 2006
(Revised December 2006)

Project No. N5007

**SITE MANAGEMENT PLAN
10 EAST CHESTER STREET
KINGSTON, NEW YORK
BCA Index # D7-0001-0005
BCP Site No. C356032**

1. OVERVIEW AND OBJECTIVES

The site occupies approximately 1 acre of land located at the corner of Broadway Avenue and East Chester Street in Kingston, Ulster County, New York. The site is commercially zoned with surrounding properties that include a mix of commercial businesses and residential lots. Over its history, portions of the site have been occupied by a dry cleaning facility, a gasoline service station, and a trolley barn that later became a school bus maintenance garage. The owner, 10 East Chester Street, LLC (10 East Chester), entered into the New York State Brownfield Cleanup Program (BCP) and has completed remediation of the site in accordance with the requirements of the BCP. A summary of investigation and remedial activities completed at the site have been reported in several reports. The user should refer to the reports referenced below for more detail, as needed. The reports include

1. Brownfield Cleanup Program Remedial Investigation Report/Remedial Action Plan, BCP Site No. C356032. S&W Redevelopment of North America, LLC. Syracuse, New York: August 2005.
2. Remedial Design In-Situ Chemical Oxidation BCP Site No. C356032. Stearns & Wheler, LLC. Syracuse, New York: October 2005.
3. Final Engineering Report BCP Site No. C356032. S&W Redevelopment of North America, LLC. Syracuse, NY: October 2006.

The site has undergone a remedial action which will allow the site to be put back to productive use. The site remediation consisted of two phases:

- removing seven (7) petroleum underground storage tanks (USTs) including contaminated soils based on field observations; and
- performing in situ chemical oxidation using potassium permanganate to remediate contaminated groundwater.

All remediation activities were conducted in accordance with the NYSDEC-approved Remedial Action Plan and Remedial Design Document.

The purpose of this Site Management Plan (SMP) is to provide guidelines for the management of engineering controls to eliminate the potential exposure of impacted site media (i.e., soil, groundwater, and soil vapor) to humans and other environmental receptors. This SMP addresses potential environmental concerns related to soil and soil vapor management and has been

submitted to the NYSDEC and the New York State Department of Health (NYSDOH).

2. NATURE AND EXTENT OF CONTAMINATION

Data obtained from previous investigations are discussed in the *Remedial Investigation Report and Remedial Action Plan* dated August 2005, prepared by S&W Redevelopment of North America, LLC. Based on the findings of these reports, the constituents of potential concern (COPCs) included volatile organic compounds associated with solvents (e.g., trichloroethylene, perchloroethylene, and their degradation products), and petroleum (e.g., toluene and xylene).

3. CONTEMPLATED USE

Based on the environmental setting, the parcel can be utilized for a variety of uses, including municipal urban parkland or commercial and/or light industrial purposes. Based on the BCP guidelines, the contemplated use category of the site is designated as restricted commercial under a Track 4 clean-up scenario. Commercial uses are allowed, but require engineering and/or institutional controls. The institutional controls for this site are:

- restricted end use limited to commercial and/or industrial uses
- the use of groundwater underlying the site is prohibited without prior approval from NYSDEC to allow treatment to render it safe for drinking or industrial purposes.

The engineering controls for this site are:

- the Grantor or its successors in title must maintain a barrier layer on the Controlled Property of either one foot of clean fill or an alternative barrier layer approved by the NYSDEC, such as concrete, asphalt, or structure; and
- any proposed soil excavation on the Controlled Property below the barrier layer requires prior notification and prior approval by NYSDEC in accordance with a Site Management Plan approved by NYSDEC for this site, and the excavated soil must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives; and
- any area of soil excavation below the barrier layer that is to be returned to vegetated soil (i.e., not concrete, asphalt or structures) must be backfilled with a minimum one (1) foot layer of clean fill underlain by a demarcation layer; and
- any future structures shall be constructed with a sub-slab depressurization system approved by the NYSDEC and NYSDOH

4. MANAGEMENT OF SOILS AND LONG TERM MAINTENANCE OF BARRIER LAYER

The purpose of this section is to provide environmental guidelines for management of subsurface soils, and the barrier layer during any site work which disturbs or removes the subsurface soils, or barrier layers.

The SMP includes the following conditions:

- The surfaces of the site will be maintained with one (1) foot of clean soil that meets NYSDEC soil cleanup objectives (SCOs) or an alternative barrier consisting of asphalt, concrete, or other structure as approved by the NYSDEC.
- The NYSDEC will be notified and approval secured prior to disturbing or excavating soils below the barrier.
- Prior to any construction activities, workers are to be notified of historical site conditions, as well as former site investigations and remedial actions with clear instructions regarding how the work is to proceed. Invasive work performed at the property will be performed in accordance with all applicable local, state, and federal regulations to protect worker health and safety.
- During excavation or disturbance of soils, a community air-monitoring plan (CAMP), will be implemented to monitor particulates at the downwind boundary and take actions to control dust migration off the site.
- During work at the site, a site health and safety plan (HSP) will be implemented to protect worker health and safety.
- Surface erosion and run-off of the entire property will be controlled at all times, during construction activities. This includes implementation and maintenance of the appropriate sediment/erosion controls and controlling run-off from stockpiled soils.
- Soil excavated at the site may be reused as backfill material on-site provided it contains no visual or olfactory evidence of contamination. Following excavation, a geotextile demarcation layer with a minimum of 1-foot of clean off-site soil, 6" of concrete, or 6" of asphalt pavement must be placed over the excavation area.
- Site soil that is excavated and is intended to be removed from the property must be managed, characterized, and properly disposed of in accordance with NYSDEC regulations and directives. Impacted soil that is stockpiled on-site shall be staged on and covered with polyethylene sheeting to shed storm water and control dust.
- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination. For off-site non-virgin borrow material, one composite sample shall be collected per 500 cubic yards of material from each source area. If more than 1,000 cubic yards

of soil are borrowed from a given off-site non-virgin soil source area and both samples of the first 1,000 cubic yards meet RSCOs, the sample frequency will be reduced to one composite for every 2,500 cubic yards of additional soils from the same source, up to 5,000 cubic yards. For borrow sources greater than 5,000 cubic yards, sampling frequency may be reduced to one sample per 5,000 cubic yards, provided all earlier samples met the RSCO. The samples should be analyzed for target compound list (TCL) volatile organic compounds (VOCs), TCL semi-volatile organic compounds (SVOCs), pesticides, PCBs, and target analyte list (TAL) metals, including cyanide. The soil will be acceptable for use as cover material provided that all parameters meet soil cleanup objectives (SCOs), per the NYSDEC regulatory requirements.

4.1 – EXCAVATED AND STOCKPILED SOIL MANAGEMENT

Soil that is excavated as part of development which can not be used as fill at the site will be further characterized prior to transportation off-site for proper disposal. Soil that is removed from any excavations will be staged on-site on polyethylene sheeting and field-screened for organic vapors using a photoionization detector (PID).

Following screening, if the excavated soil/fill exhibits visual evidence of contamination (i.e., staining or elevated PID measurements), one composite sample and a duplicate sample will be collected for each 100 cubic yards of stockpiled soil/fill. For excavated soil/fill that does not exhibit visual evidence of contamination, but must be sent for off-site disposal, one composite sample will be collected for every 2000 cubic yards of stockpiled soil, and a minimum of 1 sample will be collected for volumes less than 2000 cubic yards. The samples will be placed in clean sample jars provided by the laboratory. The laboratory will composite the sample in the laboratory or the samples can be composited by other acceptable methods. Sample jars will then be labeled and a chain-of-custody form will be prepared. The samples will be analyzed by a NYSDOH ELAP-certified laboratory for pH (EPA Method 9045C), reactivity, ignitability, TCL VOCs, polycyclic aromatic hydrocarbons (PAHs), PCBs, and TAL metals, and cyanide.

If the analytical results indicate that concentrations exceed the standards for RCRA characteristics, the material will be considered a hazardous waste and must be properly disposed off-site at a permitted disposal facility within 90 days of excavation. If the analytical results indicate that the soil is not a hazardous waste but exceeds NYSDEC Technical and Administrative Guidance Memorandum #4046 (TAGM #4046) Recommended Soil Cleanup Objectives (RSCOs) (<http://www.dec.state.ny.us/website/der/tagms/prtg4046.html>), the material will be properly disposed off-site at a permitted non-hazardous waste facility. If the analytical results indicate that the soil does not exceed TAGM #4046 guidance values, the soil may be taken off-site for use as fill material or used on-site as fill material. Stockpiled soil cannot be transported on or off-site until the analytical results are received.

4.2 – SUBGRADE MATERIAL

Subgrade material used to backfill excavations or placed to increase site grades or elevation shall meet the following criteria:

- Excavated on-site soil/fill which appears to be visually impacted shall be sampled and analyzed (per Section 4.1). If analytical results indicate that the contaminants, if any, are present at concentrations below applicable NYSDEC SCOs, the soil/fill can be used on-site as backfill material.
- Any off-site fill material brought to the site for filling and grading purposes shall be from an acceptable borrow source free of industrial and/or other potential sources of chemical or petroleum contamination (per Section 4).
- Off-site soils intended for use as site backfill cannot otherwise be defined as a solid waste in accordance with 6 NYCRR Part 360-1.2(a).
- If the contractor designates a source as "virgin" soil, it shall be further documented in writing to be native soil material from areas not having supported any known prior industrial or commercial development or agricultural use.
- Virgin soils should be subject to collection of one representative composite sample per source. The sample should be analyzed for TCL VOCs, SVOCs, pesticides, PCBs, arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, and cyanide. The soil will be acceptable for use as backfill provided that all parameters are below NYSDEC RSCOs.

5. SOIL VAPOR

Any occupied structures on the site shall be constructed with a sub-slab depressurization system approved by the NYSDEC and NYSDOH. The system will be properly constructed, operated, and maintained for its intended use, and as approved by the NYSDEC.

6. GROUNDWATER AND MONITORING

Two (2) rounds of groundwater monitoring will be completed in 2007. The groundwater monitoring events will include sampling of three (3) wells located along the down-gradient property boundary, currently referred to as MW-1, MW-2, and MW-3, during the 1st quarter and 3rd quarter of 2007. Thereafter, annual groundwater monitoring will be conducted at wells located along the down gradient property boundary, currently referred to as monitoring wells MW-1, MW-2, and MW-3. Groundwater samples will be taken from each of the three wells and sent to a NYSDOH ELAP certified laboratory to be analyzed for target compound list Volatile Organic Compounds (VOCs) by EPA Method 8260.

The three (3) monitoring wells must be maintained such that protective covers and wells are intact, the monitoring well is free from obstructions, and that the integrity of the wells will be maintained to support the collection of representative groundwater samples.

The groundwater monitoring data will be evaluated after each monitoring event to assess trends in groundwater quality. If the data indicates that the concentration of target contaminants (VOCs) are increasing or do not continue to show a decreasing trend, the need for additional remedial action will be evaluated in consultation with the NYSDEC. If it is determined that additional remedial action with respect to groundwater is needed, a remedial action workplan will be developed for NYSDEC/NYSDOH review and approval.

7. ANNUAL CERTIFICATION

Annually, or such intervals as NYSDEC may allow, submit to NYSDEC a written statement by a qualified professional acceptable to the NYSDEC certifying under penalty of perjury that the engineering and institutional controls employed at the site are unchanged from the previous certification and that nothing has occurred that would impair the ability of such control to protect the public health and environment or constitute a violation or failure to comply with any Site Management Plan for such controls and giving access to the site to evaluate continued maintenance of such controls.

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Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of Section 7209, Subdivision 2 of the New York State Education Law.

This map may not be used in connection with a "Survey Affidavit" or similar document, statement or mechanism to obtain title insurance for any subsequent owner or future grantees.

Only copies from the original of this survey marked with an original of the surveyor's seal shall be considered valid true copies.

The location of underground improvements or encroachments, if any exist or are shown hereon, are not certified.

Certifications indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveyors adopted by the New York State Association of Professional Land Surveyors, Inc. Said certifications shall run only to the person for whom the survey is prepared and on his behalf to the title company, governmental agency and lending institution listed hereon and to the assignees of the lending institution. Certifications are not transferable to additional institutions or subsequent owners.

TAX MAP REFERENCE
City of Kingston, Section No. 56.026
Block 11, Lot 14
Block 11, Lot 15
Block 11, Lot 43

DEED REFERENCE
Liber 1159 of Deeds at Page 024
Liber 1518 of Deeds at Page 942
Liber 1985 of Deeds at Page 096

CERTIFICATION
I hereby certify this survey to:
1.) 10 East Chester Street, LLC
2.) Walgreen Eastern Co., Inc.
3.) Main Street Title Company
4.) Commonwealth Land Title Insurance Company

Christopher J. Zell
Christopher J. Zell, P.L.S., Lic. No. 49629

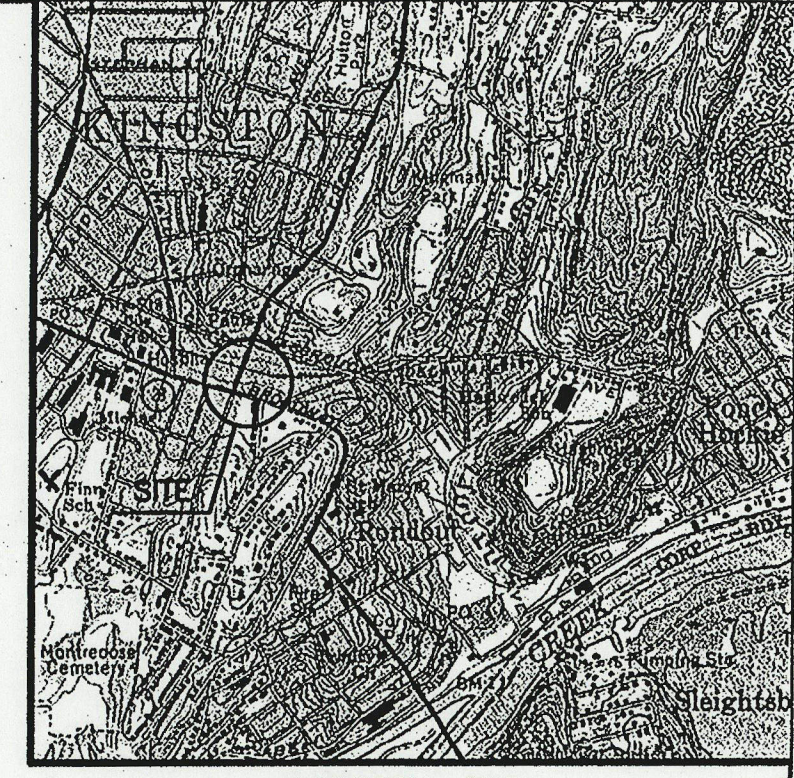
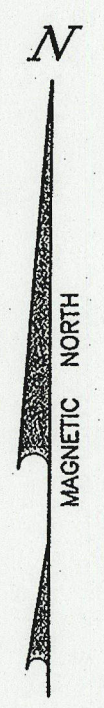
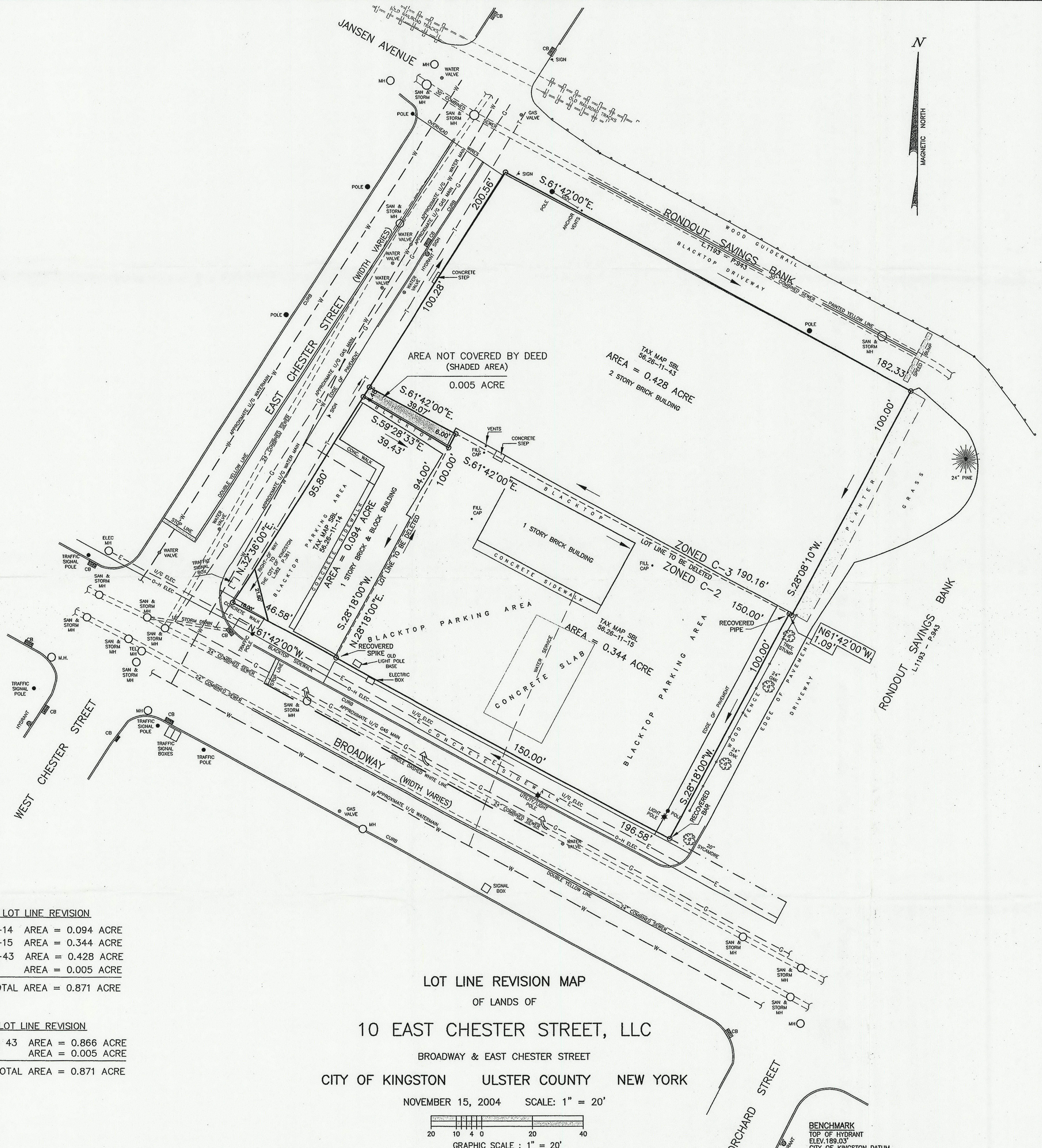
Christopher J. Zell
CHRISTOPHER J. ZELL, P.L.S.
67 MAIDEN LANE
KINGSTON, NEW YORK 12402
PHONE: (845) 338-7622

BRINNIER & LARIOS, P. C.

AREA SUMMARY BEFORE LOT LINE REVISION			
TAX MAP PARCEL 56.026-11-14	AREA = 0.094 ACRE		
TAX MAP PARCEL 56.026-11-15	AREA = 0.344 ACRE		
TAX MAP PARCEL 56.026-11-43	AREA = 0.428 ACRE		
NOT COVERED BY DEED	AREA = 0.005 ACRE		
TOTAL AREA = 0.871 ACRE			

AREA SUMMARY AFTER LOT LINE REVISION			
COMBINED TAX MAP PARCELS 56.026-11-14, 15, 43	AREA = 0.866 ACRE		
NOT COVERED BY DEED	AREA = 0.005 ACRE		
TOTAL AREA = 0.871 ACRE			

LOT LINE REVISION MAP
OF LANDS OF
10 EAST CHESTER STREET, LLC
BROADWAY & EAST CHESTER STREET
CITY OF KINGSTON ULSTER COUNTY NEW YORK
NOVEMBER 15, 2004 SCALE: 1" = 20'
GRAPHIC SCALE: 1" = 20'
REVISED NOVEMBER 13, 2006 TO ADD BEARING AND TOTAL DISTANCE
REVISED OCTOBER 17, 2006 TO ADD CERTIFICATIONS



CITY ZONING INFORMATION

C-2 CENTRAL COMMERCIAL		
MINIMUM LOT SIZE:	---	S.F.
MINIMUM LOT WIDTH:	---	FEET
MINIMUM LOT DEPTH:	---	FEET
MINIMUM SETBACKS:	FRONT YARD:	---
	SIDE YARD:	11 FEET
	REAR YARD:	11 FEET
MAXIMUM BUILDING HEIGHT:	---	FEET
MAXIMUM LOT COVERAGE:	---	%
FLOOR TO AREA RATIO:	2.8	

C-3 CENTRAL COMMERCIAL		
MINIMUM LOT SIZE:	---	S.F.
MINIMUM LOT WIDTH:	---	FEET
MINIMUM LOT DEPTH:	---	FEET
MINIMUM SETBACKS:	FRONT YARD:	10 FEET
	SIDE YARD:	11 FEET
	REAR YARD:	11 FEET
MAXIMUM BUILDING HEIGHT:	---	FEET
MAXIMUM LOT COVERAGE:	70	%
FLOOR TO AREA RATIO:	1.4	

11 No side or rear yard is required, but, if provided, they must be at least six (6) feet and if a rear yard is contiguous to a residential district, it must be at least ten (10) feet in the C-2 and C-3 Districts and thirty (30) feet in the M-2 District. In an M-2 District no building may be built within ten (10) feet of a street line.

SOURCE: CITY OF KINGSTON, NEW YORK, ZONING ORDINANCE