

ROBERT H. FELLER, ESQ.
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P: 518.533.3222

March 28, 2014

VIA HAND DELIVERY

Site Control Section – Attn: Barb Wolosen
New York State Department of Environmental Conservation
Bureau of Technical Support
625 Broadway, 11th Floor
Albany, NY 12233-7020



Re: *Brownfield Cleanup Application*
Tim Bayly Property
BCP #C442043

Dear Ms. Wolosen:

This letter is in response to the incomplete notice dated March 12, 2014 we received from Kelly Lewandowski regarding the captioned property. Because of the voluminous nature of the original submittal, the resubmittal of the paper copies only includes: (1) the revised application together with the narrative; (2) a revised table of contents; and (3) replacement or additional attachments identified by attachment number. The attachments that accompanied the March 5, 2014 will not be resubmitted in the paper copies although a full set of all documents is included in the electronic copy. I spoke to Ms. Lewandowski and she indicated that this approach was acceptable.

The format of the letter cites each comment in the March 12 letter and our response.

1. While not required, it would be helpful to have a Table of Contents identifying the numerous Appendices 1-15 that are included with the application. This would assist the Department and the public with the review of the application.

The application that was submitted already contained a table of contents to the Appendices. It is titled "List of Attachments." An updated List of Attachments is provided to reflect the changes in attachments accompanying the resubmittal.

2. The submitted printout for the entity information from the NYS Department of State's Corporation & Business Entity Database appears to be a "screen shot" of requested information and is not the required printout. This information may be found by going to http://www.dos.ny.gov/corps/bus_entity_search.html. Please submit this print-out.

The printout is enclosed and should replace Attachment 1.

3. The site size on page 2 is stated as 3485 sq. ft. however this is to be stated in acres. Please resubmit a revised page 2 with the site size acreage, this will also require the requestor to initial the bottom of page 2 before re-submitting.

The application now only reflects the parcel size in acreage. Page two has been reinitialed.

4. The required property base map was not submitted. Please submit a property base map(s) of sufficient detail, clarity and accuracy to show i) a distance of at least 1,000 feet around the proposed brownfield property at a scale no smaller than one inch equal to 200 feet; ii) map scale, north arrow orientation, date and location of the property with respect to adjacent streets and roadways; and iii) proposed brownfield property boundary lines, with adjacent property owners clearly identified.

A new map to the scale inch equals 200 feet is enclosed to be added to Attachment 4. Ms. Lewandowski requested that the map original submitted at a scale of one inch equals 100 feet continue to be included as part of the application.

5. The Purpose and Scope of the Project as submitted is vague. Please revise the Purpose and Scope of the Project to include complete and detailed information regarding the work to be done throughout the BCP project, in addition to the purpose of the project and proposed use after remediation.

The purpose has been amplified in Section VI. Project Description.

6. The Estimated Project Schedule as submitted is vague. Please submit a detailed Estimated Project Schedule that indicates various tasks (i.e.: public comment periods, work plan submittals, Investigation, Fact Sheets, Remediation, Final Engineering Report submittal, Certificate of Completion, etc.) as well as estimated dates when these are anticipated to be accomplished.

The schedule has been amplified in Section VI. Project Description.

7. The Site Contact List as submitted is incomplete as it does not contain addresses for all contacts and it does not contain all Administrator names for the schools.

The application has been supplemented with the name of the administrator of the Doane Stuart School and a mailing address for Stewart's Shops Corp. is added (Attachment 9).

NYSDEC

Site Control Section – Attn: Barb Wolosen

Page 3

8. Selecting the City of Rensselaer Planning & Economic Development Agency as the only document repository is unacceptable as they have limited hours for public access. Please select a local library in the site area as either an additional document repository or in place of the currently noted document repository. Also, you will need to submit a letter or email from the local library acknowledging that it agrees to act as the document repository site.

An additional letter verifying the use of the City of Rensselaer Library is enclosed and supplements Attachment 10.

We hope that these changes address all of the comments in the March 12 letter satisfactorily. We look forward to working with you on this project.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Robert H. Feller

RHF/cd

Enclosures

cc: James Quinn (w/attachments)
Kelly Lewandowski
Tim Bayly
Kirby Van Vleet



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM (BCP)

ECL ARTICLE 27 / TITLE 14



08/2013

DEPARTMENT USE ONLY
BCP SITE #:

Section I. Requestor Information

NAME Tim Bayly Development, LLC

ADDRESS 360 West 34th Street, Apt. 11C

CITY/TOWN New York, NY

ZIP CODE 10001

PHONE 917-697-8647

FAX None

E-MAIL timothy.bayly@gmail.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

-If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database. A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

-Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of DER-10: Technical Guidance for Site Investigation and Remediation and New York State Education Law. Documents that are not properly certified will not be approved under the BCP.

☒ Yes ☐ No

NAME OF REQUESTOR'S REPRESENTATIVE Robert H. Feller, Esq.

ADDRESS Bond, Schoeneck & King, PLLC, 111 Washington Avenue

CITY/TOWN Albany, NY

ZIP CODE 12210

PHONE 518-533-3222

FAX 518-533-3299

E-MAIL rfeller@bsk.com

NAME OF REQUESTOR'S CONSULTANT Kirby Van Vleet / Hanson Van Vleet, LLC

ADDRESS 902 Route 146

CITY/TOWN Clifton Park, NY

ZIP CODE 12065

PHONE 518-371-7940

FAX 518-371-5885

E-MAIL kvanvleet@hansonvanvleet.com

NAME OF REQUESTOR'S ATTORNEY Bond, Schoeneck & King, PLLC, Attn: Robert H. Feller, Esq.

ADDRESS 111 Washington Avenue

CITY/TOWN Albany, NY

ZIP CODE 12210

PHONE 518-533-3222

FAX 518-533-3299

E-MAIL rfeller@bsk.com

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

Requestor Relationship to Property (check one):

☐ Previous Owner

☒ Current Owner

☐ Potential /Future Purchaser

☐ Other _____

If requestor is not the site owner, requestor will have access to the property throughout the BCP project. ☐ Yes

☐ No

-Proof of site access must be submitted for non-owners

Section II. Property InformationCheck here if this application is to request significant changes to property set forth in an existing BCA: ☐

Existing BCP site number: _____

PROPERTY NAME Tim Bayly Property															
ADDRESS/LOCATION 800 Broadway		CITY/TOWN Rensselaer, NY		ZIP CODE 12144											
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Rensselaer															
COUNTY Rensselaer			SITE SIZE (ACRES) 0.08												
LATITUDE (degrees/minutes/seconds) 42 ° 38 ' 50 "			LONGITUDE (degrees/minutes/seconds) 73 ° 44 ' 22 "												
HORIZONTAL COLLECTION METHOD: <input checked="" type="checkbox"/> SURVEY <input type="checkbox"/> GPS <input type="checkbox"/> MAP			HORIZONTAL REFERENCE DATUM: NAD83												
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.															
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage										
800 Broadway, Rensselaer, NY	1	52	3	18	0.08										
<div>1. Do the property boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach a metes and bounds description of the property.</div> <div>2. Is the required property map attached to the application? (application will not be processed without map) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</div> <div>3. Is the property part of a designated En-zone pursuant to Tax Law § 21(b)(6)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No For more information please see Empire State Development's website. If yes, identify area (name) _____ Percentage of property in En-zone (check one): <input checked="" type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100%</div> <div>4. Is this application one of multiple applications for a large development project, where the development <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No project spans more than 25 acres (see additional criteria in BCP application instructions)? If yes, identify name of properties in related BCP applications: _____</div> <div>5. Property Description Narrative: Property is on the corner of Broadway and Partition Street in the City of Rensselaer. It is a roughly rectangular parcel measuring 43.50' (fronting on Broadway) by 90.55' (fronting on Partition). There is an existing one story brick building on the parcel.</div> <div>6. List of Existing Easements (type here or attach information) <table border="0" style="width:100%"><tr><td style="width:50%"><u>Easement Holder</u></td><td style="width:50%"><u>Description</u></td></tr><tr><td>None</td><td> </td></tr></table></div> <div>7. List of Permits issued by the NYSDEC or USEPA Relating to the Proposed Site (type here or attach information) <table border="0" style="width:100%"><tr><td style="width:30%"><u>Type</u></td><td style="width:35%"><u>Issuing Agency</u></td><td style="width:35%"><u>Description</u></td></tr><tr><td>None</td><td> </td><td> </td></tr></table></div>						<u>Easement Holder</u>	<u>Description</u>	None		<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>	None		
<u>Easement Holder</u>	<u>Description</u>														
None															
<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>													
None															

If any changes to Section II are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: *JB* _____

Section III. Current Property Owner/Operator InformationOWNER'S NAME **Tim Bayly Development, LLC**ADDRESS **360 West 34th Street, Apt. 11C**CITY/TOWN **New York, NY**ZIP CODE **10001**PHONE **917-697-8647**

FAX

E-MAIL **timothy.bayly@gmail.com**OPERATOR'S NAME **No operator. Site is currently unoccupied.**

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Requestor Eligibility Information (Please refer to ECL § 27-1407)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

- | | | |
|--|------------------------------|--|
| 1. Are any enforcement actions pending against the requestor regarding this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the requestor subject to an existing order relating to contamination at the site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Has the requestor been determined to have violated any provision of ECL Article 27? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Has the requestor previously been denied entry to the BCP? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section V. Property Eligibility Information (Please refer to ECL § 27-1405)

- | | | |
|--|------------------------------|--|
| 1. Is the property, or was any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the property, or was any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites?
If yes, please provide: Site # _____ Class # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the property subject to a cleanup order under navigation law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Section VI. Project Description

What stage is the project starting at?

☒ Investigation☐ Remediation

Please attach a description of the project which includes the following components:

- Purpose and scope of the project
- Estimated project schedule

Section VII. Property's Environmental History

To the extent that existing information/studies/reports are available to the requestor, please attach the following:

1. Environmental Reports

A Phase I environmental site assessment report prepared in accordance with ASTM E 1527 (American Society for Testing and Materials: Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process), and all environmental reports related to contaminants on or emanating from the site.

If a final investigation report is included, indicate whether it meets the requirements of ECL Article 27-1415(2): ☐ Yes ☐ No

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents		X ¹			X ²
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

*Please describe: _____

3. SUSPECTED CONTAMINANTS: INDICATE SUSPECTED CONTAMINANTS AND THE MEDIA WHICH MAY HAVE BEEN AFFECTED. PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

Contaminant Category	Soil	Groundwater	Surface Water	Sediment	Soil Gas
Petroleum					
Chlorinated Solvents					
Other VOCs					
SVOCs					
Metals					
Pesticides					
PCBs					
Other*					

*Please describe: _____

4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS (CHECK ALL THAT APPLY). PROVIDE BASIS FOR ANSWER AS AN ATTACHMENT.

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Above Ground Pipeline or Tank | <input type="checkbox"/> Lagoons or Ponds | <input type="checkbox"/> Underground Pipeline or Tank | <input checked="" type="checkbox"/> Surface Spill or Discharge |
| <input type="checkbox"/> Routine Industrial Operations | <input type="checkbox"/> Dumping or Burial of Wastes | <input type="checkbox"/> Septic tank/lateral field | <input type="checkbox"/> Adjacent Property |
| <input type="checkbox"/> Drums or Storage Containers | <input type="checkbox"/> Seepage Pit or Dry Well | <input type="checkbox"/> Foundry Sand | <input type="checkbox"/> Electroplating |
| <input type="checkbox"/> Coal Gas Manufacture | <input type="checkbox"/> Industrial Accident | <input type="checkbox"/> Unknown | |

Other: _____

5. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- | | | | | | |
|---|--|---|---|---|-------------------------------------|
| <input type="checkbox"/> Coal Gas Manufacturing | <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input checked="" type="checkbox"/> Dry Cleaner | <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant |
| <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station | <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: _____

6. PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, IF ANY, TO EACH PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

¹Detected in one MW in adjacent city row; not detected in other

²No on-site groundwater sampled
Indoor Air: carbon tetra; PCE

Section VIII. Contact List Information

Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. In cities with a population of one million or more, the local community board if the proposed site is located within such community board's boundaries (*note: per the 2010 census, New York City is the only city in NY with a population over one million).
8. The location of a document repository for the project (e.g., local library). In addition, attach a copy of a letter sent to the repository acknowledging that it agrees to act as the document repository for the property.

Section IX. Land Use Factors (Please refer to ECL § 27-1415(3))

1. Current Use: ☐ Residential ☐ Commercial ☐ Industrial ☒ Vacant ☐ Recreational (check all that apply)
Provide summary of business operations as an attachment.

2. Intended Use Post Remediation: ☐ Unrestricted ☒ Residential ☒ Commercial ☐ Industrial (check all that apply)
Provide specifics as an attachment.

- | | |
|--|---|
| 3. Do current historical and/or recent development patterns support the proposed use? (See #14 below re: discussion of area land uses) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Is the proposed use consistent with applicable zoning laws/maps? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 5. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, designated Brownfield Opportunity Area plans, other adopted land use plans? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 6. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)). | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 7. Are there any federal or state land use designations relating to this site? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 8. Do the population growth patterns and projections support the proposed use? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 9. Is the property accessible to existing infrastructure? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 10. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 11. Are there important federal, state or local natural resources, including waterways, wildlife refuges, wetlands, or critical habitats of endangered or threatened species within ½ mile? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 12. Are there floodplains within ½ mile? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 13. Are there any institutional controls currently applicable to the property? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 14. Describe the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas in an attachment. | |
| 15. Describe the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas in an attachment. | |
| 16. Describe the geography and geology of the site in an attachment. | |

Section X. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(By an requestor other than an individual)

Tim Bayly

I hereby affirm that I am Managing Member (title) of Development LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements* and to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 2/28/14 Signature: [Signature] Print Name: Tim Bayly

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020
- One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check our [website](#) for the address of our regional offices.

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

Section VI. Project Description

The only known or suspected contamination consists of vapor intrusion from chemicals that had been used when the property was being operated as a dry cleaner. The project will likely consist of the installation of a vapor barrier and/or a sub-slab depressurization system (SSDS) in the basement.

Applicant plans to develop the building on site as a retail liquor store. The first floor would be the public area. After the installation of the remedial project, the unaffected areas of the basement would be remodeled to be used for storage. The City of Rensselaer Planning Commission has issued site plan approval and the Zoning Board of Appeals has the needed parking variance for the project.

The applicant is also considering adding a second story to the building. This addition would either be used as a residential apartment or office space.

Estimated project schedule. Assuming the application is complete on April 15, we would submit a Remedial Investigation Work Plan (RIWP) together with an Alternative Analysis Report (AAR) on or around May 15. The AAR would be drafted based on the assumption that the known vapor intrusion is the only contamination that will require remediation. A public comment period would be provided for the RIWP and the AAR for a month (June 15). If the RIWP and the AAR are approved, additional remedial investigation (RI) and remedial design would proceed simultaneously. Project completion for both tasks would be around August 1. Assuming no additional remediation is needed based on the RI, an additional 30-day public comment period would be provided through September 1. Assuming the remedial design is approved, remedial action would be completed on or around November 1. Building rehabilitation for the intended uses would be completed by the end of 2014 or early 2015.

Section VII. Property Environmental History

1. Environmental Reports. There are no known environmental reports that were prepared specifically for 800 Broadway. However, the City of Rensselaer commissioned a Phase I and Phase II report for two city-owned properties in the immediate area – 824 Broadway and (North of) 1 Partition Street (referred to collectively as the “City Parcels”). 824 Broadway is two lots to the north of 800 Broadway (the northern edge of 800 Broadway is about 30 feet south of the southern edge of 824 Broadway). The other parcel, (North of) 1 Partition Street borders 800 Broadway on the west and the south.

Both reports were prepared by Arcadis of New York, Inc. The Phase I report is dated September 26, 2012 and the Phase II report is dated August 2, 2013. The reports were made available to the applicant by the City of Rensselaer and both are appended to this application. The Phase I report certifies that it was prepared in accordance with standards and practices set forth in ASTM E-1527-05.

In the course of conducting the Phase I and Phase II for the City Parcels a great deal of information relevant to a Phase I and a Phase II for 800 Broadway was collected. This includes:

Phase I report:

Section 2.2 Identification of Recognized Environmental Conditions and prior operators at 800 Broadway.

Section 4.3 Physical Environmental Setting is fully applicable to 800 Broadway.

Section 5.4 Database of Environmental Records is fully applicable to 800 Broadway.

Section 5.5 Area Radon information is fully applicable to 800 Broadway.

Section 5.6 Publically Available Maps contains as an attachment (Figure 1) the USGS 7.5 minute quad map upon which 800 Broadway appears (the Troy Quadrangle).

Section 5.7 Historic Aerial Photos contains as an attachment (Appendix E) aerial photos that include 800 Broadway from 1952, 1973, 1978, 1984, 1986, 1994, 1995, 2000 and 2008.

Section 5.8 Historic Topographic Maps contains as an attachment (Appendix F) the 1898, 1928, and 1950 U.S. Geological Survey 15 Minute Topographic maps of the Troy Quadrangle and the 1953 and 1980 U.S. Geological Survey 7.5 Minute Topographic maps.

Section 5.9 Historic City Directories contains as an attachment (Appendix G) directories from Broadway and Partition Street from 1973, 1990, 1995 and 2000. Significantly, the report also indicates that the contractor reviewed city directories from 1958, 1960, 1965, 1971, 1973, 1976, 1978, 1981, and 1986 in the Research room at City Hall. Roxy Cleaners was listed as the occupant of 800 Broadway in the 1958, 1960, 1969, 1971, 1976, and 1978 city directories.

Section 5.10 Fire Insurance Maps contains Sanborn® maps for properties in the vicinity of the Site as an attachment (Appendix H). Maps are provided for the years 1909, 1925, 1949, and 1967. The report notes that during this span of time, the area consisted of residential and commercial establishments.

Copies of both of these reports are contained in **Attachment 6**.

2. Sampling Data. The Phase I report identified three recognized environmental conditions (RECs) with respect to the City Parcels. One of those RECs was the historic use of 800 Broadway as a Roxy Cleaners from at least 1958 to 1978. The Phase II report contains The scope of work included: surface soil sampling; subsurface soil sampling; sump groundwater sampling; the

installation, development and sampling of monitoring wells; indoor air sampling; outdoor air sampling; sub-slab air sampling; and soil vapor sampling.

Surface soil samples were taken from beneath the floor in areas where the concrete had previously been removed inside 800 Broadway. Surface soil as tested for TCL VOCs by USEPA Method 8260C. No VOCs were detected at concentrations greater than the unrestricted use SCOs.

Subsurface soils in the areas around 800 Broadway. No VOCs were detected.

Groundwater samples were taken from five wells, four in the immediate vicinity of 800 Broadway (only 3 of the four wells yielded results) and analyzed for TCL VOCs. Chlorinated solvents were detected at concentrations exceeding Class GA standards.

Soil vapor, sub-slab and indoor air samples were taken at 800 Broadway. Chlorinated solvents used historically used in dry cleaning processes were detected at levels that would require remediation under DOH guidelines.

Sampling data is contained in **Attachment 7**.

3. Suspected Contaminants. Based on the usage and the reports from Arcadis, there are no other suspected contaminants.
4. Known or Suspected Sources of Contamination. The results of the sampling and the prior uses suggest that the source was the chemicals used in the prior dry cleaning operation.
5. Past Land Uses. Dry Cleaner 1958-1978.
6. Previous Owners and Operators.

- a. Prior Owners

Harry Khachadorian, March 19, 1946 to July 26, 1946. No information about address or phone number.

H & E Holding Company, Incorporated, July 26, 1946 to October 6, 1986. Dissolved by proclamation on March 25, 1992 (see **Attachment 8**).

Tracy Siedhoff, October 6, 1986 to April 29, 2013.
Address: 18 W. San Bernardo Drive, Telluride, Colorado 81435

- b. Prior Operators

Roxy Cleaners 1958 to 1978. No information about address or phone number.

Requestor has no business or familial relationship with any of the past owners other than the contract of sale for the property it entered into with the immediate prior owner.

Section VIII. Contact List Information

1. Chief Executive Officer and Planning Board Chair
 - a. County Executive Kathleen M. Jamino
Rensselaer County Office Building
Troy, N.Y. 12180
 - b. Mayor Daniel Dwyer
62 Washington Street
Rensselaer, N.Y. 12144-2696
 - c. County Planning Board Chair. There is no county planning board. There is a Rensselaer county Economic Development and Planning Department.
Linda von der Heide, Principal Planner
1600 7th Avenue
Troy, NY 12180
lvonderheide@rensco.com
 - d. City Planning Commission Chair
Christine VanVorst
City Hall, 62 Washington Street
Rensselaer, NY 12144
 - e. Charles Moore, AICP
Director, Rensselaer Planning and Development Agency
City Hall, 62 Washington Street
Rensselaer, NY 12144
Charles.moore@rensselaerny.gov
(518) 465-1693
2. Residents, owners, and occupants of the property and properties adjacent to the property.

See Attachment 9

3. Local news media from which the community typically obtains information:
Troy Record, Times Union
4. The public water supplier which services the area in which the property is located.

Dominick Tagliento, Commissioner
City of Rensselaer Water Department
City Hall, 62 Washington Street
Rensselaer, N.Y. 12144

City of Troy
Department of Public Utilities
25 Water Plant Road
Troy, New York 12182
Phone: (518) 237-0438
Fax: (518) 233-7038

5. Any person who has requested to be placed on the contact list.

None known.

6. The administrator of any school or day care facility located on or near the property.

Sally Ann Shields
Superintendent of Schools
Rensselaer City School District
25 Van Rensselaer Drive
Rensselaer, NY 12144

Lisa F. Brown
Head of School
Doane Stuart School
199 Washington Avenue
Rensselaer, NY 12144

The City Planning Department was consulted regarding day care facilities.
The Department is not aware of any such facilities in the vicinity of the project.

7. Not applicable.
8. The location of a document repository for the project.

Planning and Development Agency
City Hall
City of Rensselaer
Rensselaer, NY 12144

Rensselaer Public Library
676 East Street
Rensselaer, N.Y. 12144

A copy of the letters confirming the institutions' willingness to be a document repository is in **Attachment 10**.

Section IX. Land Use Factors

1. The site has a single building which encompasses almost the entire site. The building is vacant and has not been used in recent memory. The last use for the property was a dry cleaner. Based on historic directories, it was determined that the Roxy Cleaners operated on the site from at least 1958 to 1978.
2. The intended use is commercial. The owner has plans to refurbish the building and establish a wine a liquor business. Documentation of these efforts is contained in **Attachment 7**.

The owner submitted applications to the City for site plan review and for a parking variance (September 24, 2012 letter from Hart Engineering). Also in Attachment 7 are two letters from the City's Planning and Development Agency. The first dated December 3, 2012 evidences the Zone Board of Appeal's grant of the variance. The second dated August 14, 2013 evidences the Planning Commission's approval of proposed Site Plan.

The applicant is also considering adding a second story to the building. This addition would either be used as a residential apartment or office space.

3. Yes. The area has long been a mixed use area – residential and commercial.
4. The site is zoned Downtown Mixed Use (MU-1). A copy of the zoning map is attached together with the relevant portion of the zoning law which identifies permitted uses in that zone. See **Attachment 12**
5. The proposed use is consistent with the City's most recent comprehensive plan which was adopted in 2004. The City is promoting economic development in this area. A copy of the relevant pages of the Comprehensive Plan is attached. See **Attachment 13**

The plan maintains the area as a mixed use area. Subsequent to the adoption of the plan, the zone in which the property lies was designed MU (mixed use) – 1. The permitted uses in the MU-1 zone include retail establishments. As noted above, both the City's Zoning Board of Appeals and the Planning Commission have approved applications for the project.

6. There are no known environmental justice concerns associated with the project.
7. There are no federal or state land use designations relating to the property.
8. The City Planning and Development Agency advises that there is a slow trend towards increased in population in the City. This coupled with a loss of commercial retail means there is an increased need for retail services. The population trend is confirmed by 2010 census data and 2012 projections.
9. The site is in the middle of an urban area and is served by municipal water and sewer. Power is supplied by National Grid. It is easily accessible to interstate highways, routes 87, 90 and 787.
10. A listing of all cultural resources proximate to the site was obtained from the OPRHP website. None is within a ½ mile of the project site. See **Attachment 14.a.**

Documentation of archeological resources is based upon information in the final generic environmental impact statement (FGEIS) for the Rensselaer Waterfront Redevelopment Project, 555-557 Broadway, Rensselaer, N.Y., July 2009. This project is a large scale development project in the immediate across Broadway from the project site. The excerpt in **Attachment 14.b.** identifies all archeological resources within ½ of 800 Broadway.

11. The site is ½ mile of the Hudson River. No other water bodies are within ½ mile. All federal, state and local natural resources within ½ of 800 Broadway, including waterways, wildlife refuges, wetlands and critical habitats of endangered or threatened species are identified in the FGEIS for the Rensselaer Waterfront Redevelopment Project. Relevant excerpts are in **Attachment 15.**
12. The site is within ½ mile of the 100-year flood plain of the Hudson River.
13. Currently no institutional controls exist.
14. The land use in the adjacent area is principally one and two-family residential with some commercial properties. The most significant commercial property in the immediate vicinity is the Stewart's shop across Partition Street from the site.

Across the street on Broadway used to be the junior/senior high school for the City School District. Those buildings have been removed and the site is being prepared for a mixed use development and some point in the future.

The base map in **Attachment 4** depicts the adjacent land uses.

15. Geology.

The following is an excerpt from the Arcadis Phase I report prepared for the City of Rensselaer in connection with the investigation of two adjacent properties – 824 Broadway and (North of) 1 Partition Street. These properties are adjacent to or within 25-50 feet of 800 Broadway.

Surficial geology on the Site is mapped as alluvium or recent deposits (Cadwell et al., 1986). These deposits generally are confined to floodplains within a valley, consisting of oxidized, non-calcareous, fine sand to gravel and may be overlain by silt. Figure 3 shows the location of the Site on the Surficial Geologic Map of the Hudson-Mohawk Region, New York. Based on the United States Department of Agriculture (USDA) Soil Conservation Service and the National Cooperative Soil Service (NCSS) soil survey for Rensselaer County, New York, the soils within the general vicinity of the Site consist of moderately well drained silt loam.

Figure 3 in the Arcadis Phase I assessment is a map of the surficial geology.

Bedrock outcrops were not observed at the Site. Based upon regional mapping, the Site is underlain by Ordovician Canajoharie Shale (Fisher et al., 1970). Figure 4 provides the location of the Site on a Geologic Map of the Hudson-Mohawk Region, New York. Note that both the surficial and bedrock geologic maps of New York State were created at a scale of 1:250,000, while the maps in Figures 3 and 4 are plotted at a scale of 1:6,000. Use of these data at a scale larger than that of their creation scale does not provide greater accuracy.”

Figure 4 in the Arcadis Phase I assessment is a map of the bedrock geology.

Groundwater.

The Arcadis Phase II report indicates that, based on water level measurements taken, shallow groundwater at the site flows to the north and northwest. A copy of Figure 2 from that report is attached.

There are no wellhead protection areas or groundwater recharge areas or other areas identified by the DEC’s State Comprehensive Groundwater Remediation and Protection Program. As noted elsewhere, the entire City of Rensselaer uses a municipal water supply that is provided by the City of Troy.

List of Attachments

1. Section I. Printout from NYS Department of State's Corporation & Business Entity Data Base for Tim Bayly Development, LLC.
2. Section II. Tax Map. Regular Printout and Zoomed-In Version.
3. Section II. USGS 7.5 Minute Quad Map
4. Section II. Base Maps (Graphic Scale: 1 inch = 200 feet and 1 inch = 100 feet)
5. Section II. Survey Map
6. Section VII.1.Environmental Reports
 - a. City of Rensselaer Phase I Environmental Site Assessment – 824 Broadway and (North of) 1 Partition Street, September 26, 2012
Prepared by Arcadis of N.Y., Inc.
 - b. City of Rensselaer Phase II Environmental Site Assessment – 824 Broadway and (North of) 1 Partition Street, August 2, 2013
Prepared by Arcadis of N.Y., Inc.
7. Section VII.2.Sampling Results. These documents are excerpts from the Phase II report (Attachment 6.b.).
8. Section VII.6. Prior Owners. Printout from Department of State regarding H&E Holding Company, Inc. showing last known address.
9. Section VIII.2. Map showing 100 foot radius from the property and a list of property owners in that radius. List was generated by the City of Rensselaer Planning and Development Agency. There is no known list of residents or occupants.
10. Section VIII.8. Copy of letters to City of Rensselaer Planning and Development Agency and Rensselaer Public Library regarding their use as a document repository.
11. Section IX.2. Intended Use
 - a. September 24, 2012 submittal from Hart Engineering regarding proposed project.
 - b. December 3, 2012 approval of parking variance by City Zoning Board of Appeals for proposed project.

- c. August 14, 2013 site plan approval for proposed project by City Planning Commission.

12. Section IX.4. Zoning

- a. Copy of official zoning map for City of Rensselaer
- b. Copy of excerpt from zoning code for City of Rensselaer showing permitted uses in MU-1 zone.

13. Section IX.5. Comprehensive Plan. Copy of excerpt of relevant pages from City of Rensselaer's most recently adopted comprehensive plan. These pages were cited by the City Planning and Development Agency as being the portions relevant to the proposed project.

14. Section IX.10. Cultural Resources.

- a. List of historic and cultural resources from OPRHP website and calculated distances to the project site.
- b. Excerpt of archeological resources section from the final generic EIS to the Rensselaer Waterfront Redevelopment Project, 555-557 Broadway, Rensselaer, N.Y., July 2009.

15. Section IX.11. Natural Resources.

Excerpt of natural resources section from the final generic EIS to the Rensselaer Waterfront Redevelopment Project, 555-557 Broadway, Rensselaer, N.Y., July 2009.

Replacement Attachment 1

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through March 11, 2014.

Selected Entity Name: TIM BAYLY DEVELOPMENT, LLC

Selected Entity Status Information

Current Entity Name: TIM BAYLY DEVELOPMENT, LLC

DOS ID #: 4288461

Initial DOS Filing Date: AUGUST 27, 2012

County: RENSSELAER

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

TIM BAYLY DEVELOPMENT, LLC

360 WEST 34TH STREET

APT. 11C

NEW YORK, NEW YORK, 10001

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
AUG 27, 2012	Actual	TIM BAYLY DEVELOPMENT, LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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Addition to Attachment 4

Replacement
Attachment 9
(page 2)

Stewart's Shops Corp.
2907 Rte. 9
Bailston Spa, NY 12020
518-581-1200

Addition to Attachment 10

JUSTINE CROWLEY-DUNCAN

crowlej@bsk.com

P: 518.533.3016

F: 518.533.3299

March 13, 2014

Rensselaer Public Library
Attn: Jane Chirgwin, Director
676 East Street
Rensselaer, NY 12144

Re: *Brownfield application, 800 Broadway*
Tim Bayly Development, LLC

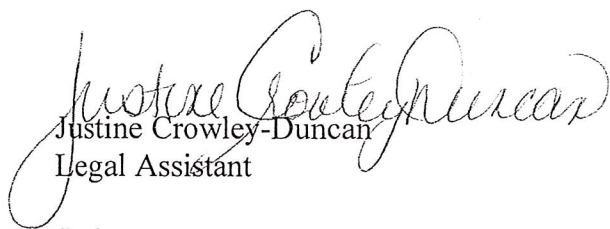
Dear Jane:

This letter will also serve to confirm that the City of Rensselaer Public Library has agreed to serve as a repository for documents that will be made available for public inspection during the review process of the captioned Brownfield Cleanup application before the NYSDEC. Be advised that a copy of this letter will accompany the application.

Thank you.

Very truly yours,

BOND, SCHOENECK & KING, PLLC


Justine Crowley-Duncan
Legal Assistant
/jcd