July 27, 2014

Honorable Svante L. Myrick
Mayor
City of Ithaca
108 East Green Street
Ithaca, NY 14850

Honorable Darryl C. Towns
Commissioner/CEO
New York State Homes and Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207

Re: Updated DEC Spills Information for Proposed Stone Quarry Apartments Site, Ithaca, NY

Greetings:

On 7/21/14, I wrote respectfully to request that you take immediate action to withhold final construction approval for the proposed Stone Quarry Apartments in Ithaca, NY pending comprehensive investigation and remediation of extensive toxic chemical contamination at the project site in exceedance of New York State clean up requirements. See copy of my letter below.

I referenced two spills that had been reported at the proposed project site. I write today to provide important new information about those spills.

Updated DEC Information for "Reopened" Spill Number 1210943.

According to the New York State Department of Environmental Conservation (DEC), Spill number 1210943 was reported on 11/14/2012 for a "VACANT LOT COMMERCIAL" at "330 OLD ELMIRA RD/BEHIND 400 SPENCER RD" in "ITHACA."

That spill had been administratively closed on 11/21/13: "Tim Seeler to submit Phase 2 investigation for evaluation/recommendation by DEC.

11/21/2013- no data was ever submitted-closing spill."

<u>According to a newly released updated spill report</u>:

"11/21/13-no data was ever submitted-closing spill. **See Spill No. 121561 for Phase II report** (emphasis added)."

"**7/23/14 This spill was reopened on 7/23/14. This spill will address contamination associated with spill 12-12561** (emphasis added)."

This spill reportedly does not meet clean up standards.

Updated DEC Information for "Closed" Spill Number 1212561

Spill number 1212561 was reported on 11/26/2012 for a "COMMERCIAL PROPERTY" at "330 OLD ELMIRA ROAD (NYS ROUTE 13)" in "ITHACA."

12/11/12 – "rec'd site assessment data. PCB's [polychlorinated biphenyls, not in the original] present in sample."

That spill had been administratively active.

According to a newly released updated spill report:

"07/23/14 was contacted by Susan Cummings (7/22/14) at Geologic who informed me that the address on this spill was entered incorrectly. The correct address is 400-406 Spencer Road. This spill is being closed and will be addressed under spill 12-10943 (emphasis added)."

This spill reportedly does not meet clean up standards.

See:http://www.toxicstargeting.com/sites/default/files/spill_profiles_1210943_and_1212561_updated_20140723.pdf

Updated Spills Summary

According to the two Phase II investigatory reports prepared for the proposed Stone Quarry Apartments, the project site involves: "400, 406 Spencer Road and Adjoining Vacant Lot."

See: http://www.toxicstargeting.com/sites/default/files/report.sp1212561.2013-10-22.site_assessment_report.V2.pdf

The two updated spills reportedly now reference all three of the parcels currently included in the proposed Stone Quarry Apartments project site.

The Phase II investigatory reports summarized below in my 7/21/14 letter document contamination concerns on all three parcels currently included in the proposed project site.

Conclusion

In conclusion, I respectfully request that the proposed Stone Quarry Apartments site be investigated and cleaned up on a comprehensive basis in compliance with New York State "unrestricted use" standards as well as all other applicable soil, hazardous waste and groundwater remediation requirements **before the City of Ithaca grants final construction approval for the proposed project.**

I request that “source removal” techniques be used to eliminate all documented contaminated soils and groundwater at the site. Soil borings established over a large area of the proposed project site reveal chemical and petroleum odors, stained soils as well as pollutant levels exceeding applicable regulatory requirements.

The volume of soil encompassed by those findings totals nearly 4,000 cubic yards from the land surface down to the water table reported at approximately six feet below grade.

I further request that nearby homes and structures be tested for soil gas vapor intrusion given the reported widespread presence of volatile toxic organic chemicals at the site.

Please note that the site remediation boundary for the Emerson Power Transmission site is directly across Spencer Road to the east of the proposed Stone Quarry Apartments site. EPT is a Class 2 Inactive Hazardous Waste Disposal Site that has yet to be cleaned up. According to DEC, it is a “Significant threat to public health or the environment – action required.” That site also poses well-documented soil gas vapor intrusion threats that have already impacted dozens of homes.

I believe that this sensible plan of action is required to assure that any residents who might live on as well as around the proposed Stone Quarry Apartments site would be safeguarded from its documented toxic pollution hazards.

Please do not hesitate to contact me if I can answer questions about my request. Thank you for your consideration.

Very truly yours,

Walter Hang

Cc: Honorable Andrew M. Cuomo
Honorable Members of the Ithaca Common Council
Honorable Members of the Ithaca Planning and Development Board
Mr. Bret Garwood

July 21, 2014

Honorable Svante L. Myrick
Mayor
City of Ithaca
108 East Green Street
Ithaca, NY 14850

Honorable Darryl C. Towns
Commissioner/CEO
New York State Homes and Community Renewal
Hampton Plaza
38-40 State Street
Albany, NY 12207

Re: Proposed Stone Quarry Apartments Project, Ithaca, NY

Greetings:

I write respectfully to request that you take immediate action to withhold final construction approval for the proposed Stone Quarry Apartments in Ithaca, NY pending comprehensive investigation and remediation of extensive toxic chemical contamination at the project site in exceedance of New York State clean up requirements.

A Phase II Environmental Site Assessment (10/12) conducted for the proposed project site at "400, 406 Spencer Road and Adjoining Vacant Lot" states: "Based upon the findings of this Phase II – Environmental Site Assessment we have determined that the historical use of the property has impacted the site." It concludes: "Further characterization is needed to better determine the nature and extent of the contamination and to facilitate a plan for addressing this issue."

A Supplemental Phase II report (10/18/12) concludes: "These findings confirm the need for the development and implementation of an Environmental Management Plan (EMP) for use during all construction activities at the site."

See: http://www.toxicstargeting.com/sites/default/files/report.sp1212561.2013-10-22.site_assessment_report.V2.pdf

It is my understanding that no plan has yet been approved to delineate the full extent of toxic chemical contamination on as well as around the site or to require it to be cleaned up. Given that a 35-unit apartment complex is proposed to be built on the site, it is imperative that all public health and environmental protection requirements be fulfilled before construction is permitted to begin.

Overview of Site Investigation Findings

According to the New York State Department of Environmental Conservation, two hazardous material spills were reported on a commercial property located at 330 Old Elmira Road. Spill number 1210943 was reported on 11/14/12 and was administratively closed even though it does

not meet clean up standards. The caller remarks state: "PHASE 2, PETROLEUM CONTAMINATION-LOW LEVELS. A second spill was reported on 11/26/12 and also does not meet clean up standards, but remains administratively active. The caller remarks state: "12/11/12 –rec'd site assessment data. PCBs [polychlorinated biphenyls, not in the original] present in sample."

See: http://www.toxicstargeting.com/sites/default/files/spills_1210943_and_1212561.pdf

The aforementioned Phase II Site Assessment and Supplemental Phase II Site Assessment Reports both document extensive toxic contamination in soil and groundwater at the proposed housing project site in exceedance of applicable regulatory clean up requirements.

Chemical and petroleum odors as well as soil staining were observed in borings established over a large portion of the proposed apartment site during the two Phase II investigations.

Phase II Site Assessment (10/12)

Boring #	Characterization
B-1	"odor was detected"
B-2	"minimal odor was detected"
B-3	"odor was detected" "heavy visual staining observed"
B-4	"minimul [error in the original] staining was observed" "slight odor was detected"
B-6	"visible staining, no odor"
B-11	"heavy petroleum odor and staining"
B-12	"slight odor and staining"

Supplemental Phase II Site Assessment (10/18/12)

Boring #	Characterization
B-13	"strong odor and staining"
B-14	"odor and staining"
B-15	"odor and staining"
B-16	"slight staining, no odor"
B-17	"odor and staining"
B-18	"staining"
B-20	"strong odor and staining"
B-22	"odor and staining"
B-23	"odor and staining"
B-24	"odor and staining"

Soil and Groundwater Contaminants Exceeding Applicable Regulatory Requirements

Soil and groundwater samples were collected at a limited number of the boring locations where petroleum and chemicals odors and staining were reported. Selected analytical findings documenting regulatory exceedances are presented in Table One.

Table One:

Reported Exceedances of Soil and Groundwater Regulatory Requirements*

Soil Sample: B-3 (7' Below Grade, PID = 0.0 PPM)

Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Lead	205	1	mg/Kg	9/14/2012	400	400	63
Lead	205	1	mg/Kg	10/16/2012	400	400	63

Soil Sample: B-4 (6.5' Below Grade, PID @ 10.0' = 0.5 PPM)

Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Acetone	69	1	ug/Kg	9/14/2012	100,000	100,000	50
Acetone	69	1	ug/Kg	10/16/2012	100,000	100,000	50

Water Sample: WB-4

Analyte Name	Result	Units	Date	Standard Value	Guidance Value
Lead	109	ug/L	10/16/2012	25	
Manganese	1,410	ug/L	10/16/2012	300	

Water Sample: WB-10 (PID = 0.0 PPM)

Analyte Name	Result	Units	Date	Standard Value	Guidance Value
Manganese	3,930	ug/L	10/16/2012	300	

Soil Sample: B-11 (7' Below Grade, PID = 112 PPM)

Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Xylene (mixed)	1800	115	ug/Kg	9/14/2012	100,000	100,000	260
PCB (Aroclor 1260)	2300	10	ug/Kg	9/14/2012	1,000	1,000	100
Methylcyclohexane	1100	115	ug/Kg	9/14/2012			
2-Methylnapthalene	1700	1	ug/Kg	9/14/2012			
Xylene (mixed)	1800	115	ug/Kg	10/16/2012	100,000	100,000	260
PCB (Aroclor 1260)	2300	10	ug/Kg	10/16/2012	1,000	1,000	100

Water Sample: WB-11

Analyte Name	Result	Units	Date	Standard Value	Guidance Value
Naphthalene	14	ug/L	9/14/2012		10
Naphthalene	14	ug/L	10/16/2012		10

Soil Sample: B-13 (6' Below Grade, PID = 60 PPM)							
Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Acetone	67	5	ug/Kg	10/16/2012	100,000	100,000	50
Benz(a)anthracene	10,000	10	ug/Kg	10/16/2012	1,000	1,000	1,000
Benzo(a)pyrene	6,500	10	ug/Kg	10/16/2012	1,000	1,000	1,000
Benzo(b)fluoranthene	4,600	10	ug/Kg	10/16/2012	1,000	1,000	1,000
Benzo(k)fluoranthene	4,600	10	ug/Kg	10/16/2012	1,000	3,900	800
Chrysene	8,400	10	ug/Kg	10/16/2012	1,000	3,900	1,000
Naphthalene	14,000	10	ug/Kg	10/16/2012	100,000	100,000	12,000

Soil Sample: B-14 (6.5' Below Grade, PID = 17 PPM)							
Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Acetone	95	5	ug/Kg	10/16/2012	100,000	100,000	50

Soil Sample: B-24 (6.5' Below Grade, PID = 0.0 PPM)							
Analyte Name	Result	DF	Units	Date	Residential	Restricted Residential	Unrestricted Use
Acetone	73	5	ug/Kg	10/16/2012	100,000	100,000	50

*Source:
Phase II Report - Environmental Site Assessment
400, 406 Spencer Road and Adjoining Vacant Property (Seeler Engineering, P.C.; 10/02/2012)

Phase II Report and Supplemental Sampling Letter
400, 406 Spencer Road and Adjoining Vacant Property (Seeler Engineering, P.C.; 10/22/2012)

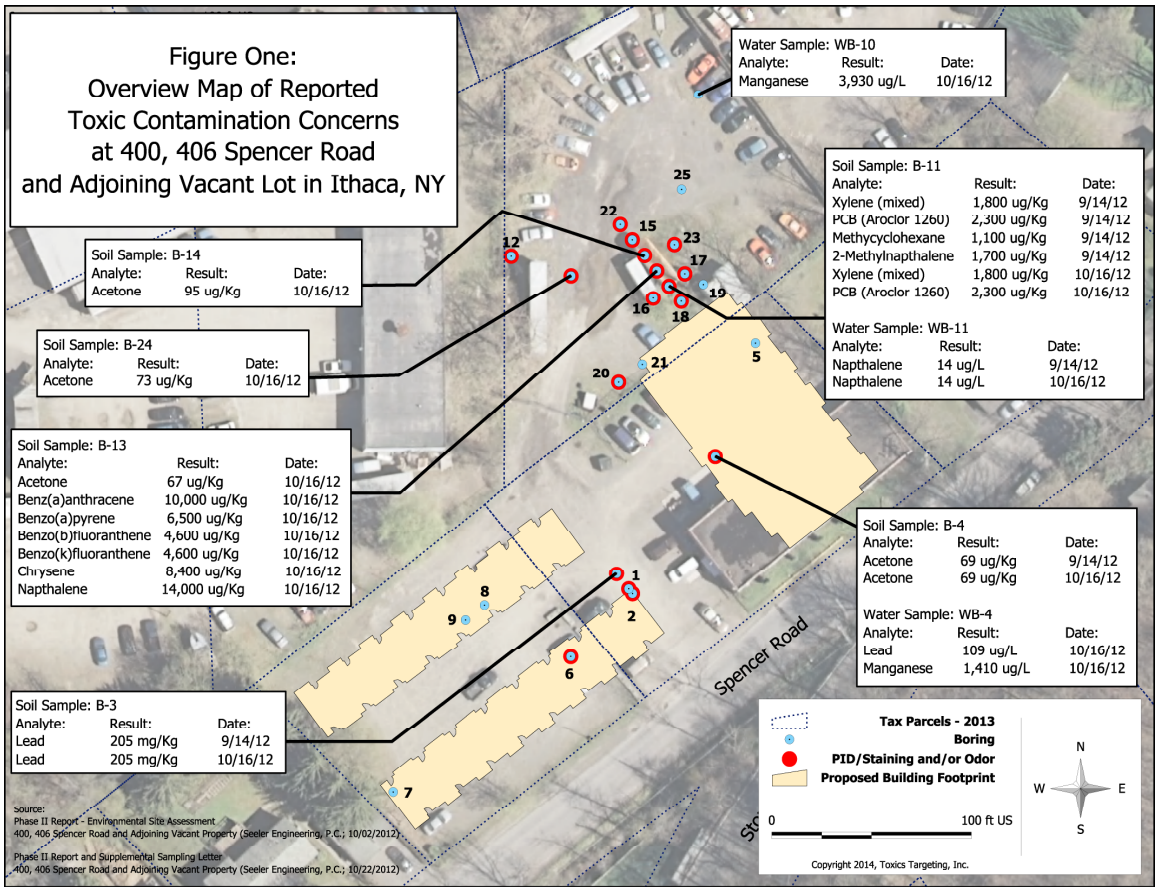
An overview map of the reported locations where chemical and petroleum odors, soil staining as well as soil and groundwater contamination involving heavy metals, polychlorinated biphenyls as well as volatile and semi-volatile organic chemicals in exceedance of multiple clean up regulatory requirements is presented below.

Inadequate Site Reviews

In a 4/3/14 letter to Mr. Bret Garwood, Senior Vice President, Multifamily Programs, Office of Finance and Development, New York State Homes and Community Renewal, Mayor Myrick wrote:

"Stone Quarry Apartments has gone through an extensive community approval process, including:

- SEQR environmental review, Planning & Development Board (unanimous approval)
- Zoning Variances, Board of Zoning Appeals (unanimous approval)
- Site Plan Review, Planning & Development Board (unanimous approval)
- Recommended HOME funding, Ithaca Urban Renewal Agency (unanimous approval)
- Final HOME funding commitment, City of Ithaca Common Council (unanimous approval)
- NEPA environmental review, City of Ithaca Common Council (approved 9-1)"



The critical question is how the Stone Quarry Apartments project which Mayor Myrick wrote is "my top priority housing project in the City" was approved by the above-referenced City of Ithaca environmental, land-use planning and funding reviews without identifying, assessing and resolving the documented toxic contamination site concerns that I write about today.

See: http://www.verityfirst.com/wp-content/uploads/2014/05/Myrick_letterhead_documents.pdf

Concerns Regarding City of Ithaca Land-Use Planning Policies, Practices and Programs

I believe the City of Ithaca's approval of the proposed Stone Quarry Apartments project without making sure that the site fulfills all applicable public health and environmental protection requirements fundamentally calls into question the adequacy of the City's land-use planning policies, practices and programs.

Until this concern is investigated and resolved with full public participation, I request that the City of Ithaca grant no further approvals for proposed development projects. I also request that these documented shortcomings be addressed as part of the effort to update the City's comprehensive land-use plan for the first time in decades.

Concerns Regarding New York State Review of Public Housing Funding Requests

New York State Homes and Community Renewal provided funding for the proposed Stone Quarry Apartments project without requiring the site to be cleaned up even though two Alderpersons wrote to express concerns about the local project approval process.

That troubling scenario calls into question the adequacy of the state program's review procedures. I request that no further funding approvals be granted pending an investigation and resolution of the concerns documented herein.

Conclusion

Until the grave concerns I have respectfully brought to your attention are fully resolved, I request that no final City approval be granted for the construction of the Stone Quarry Apartments project or any other development projects under consideration.

I underscore my request that the proposed Stone Quarry Road Apartments site be investigated and remediated on a comprehensive basis. Please note that contamination was identified at the water table at location B-12 along the western boundary of the vacant property. This raises the concern that groundwater contamination has migrated off-site.

I also request that the Stone Quarry Apartments project site be cleaned up to meet "unrestricted use" requirements by utilizing "source removal" techniques. That rigorous approach is the best way to safeguard public health and the environment in Ithaca. Multiple local site clean ups have been conducted to meet that standard. That policy should be adopted on a City-wide basis.

The City of Ithaca recently failed to remediate high-level heavy metal contamination on its own property at the Ithaca Gun factory site. That decision stands in stark contrast to a landmark "source removal" clean up conducted by the U. S. Environmental Protection Agency which removed lead and other heavy metals down to arguably the lowest levels technically achievable.

The City of Ithaca's decision not to remove more than 10-feet of contaminated soil on its own property sets a precedent which invites responsible parties to avoid comprehensive clean up of privately-held contaminated properties all over Ithaca.

That ill-considered policy must be rescinded. I request that Ithaca Gun, the proposed Stone Quarry Apartments site, Emerson Power Transmission and all other contaminated properties in Ithaca under consideration for development be required to be cleaned up to the most rigorous applicable standards available.

In order to support that policy, I request that New York State provide no public funding for any development project in Ithaca that fails to achieve that standard.

I trust that you will find my requests self-explanatory, but please do not hesitate to contact me if I can clarify them or otherwise assist you.

Thank you for your consideration and for your public service.

Very respectfully yours,

Walter Hang
215 N. Cayuga Street
Ithaca, NY 14850

Cc: Honorable Andrew M. Cuomo
Honorable Members of the Ithaca Common Council
Honorable Members of the Ithaca Planning and Development Board
Mr. Bret Garwood