



**OFFICE OF ENVIRONMENTAL REMEDIATION**

100 Gold Street – 2<sup>nd</sup> Floor  
New York, New York 10038

**Mark P. McIntyre, Esq.**  
**Director**

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**NOTICE TO PROCEED**  
**DOB Job Number NB Q00627252-I1**

August 10, 2022

Re: 31-03 37<sup>th</sup> Avenue  
Queens Block 600, Lot 6  
Hazardous Materials and Noise “E” Designation  
E-218: Dutch Kills Rezoning and Related Actions - CEQR 08DCP021Q - 10/7/2008  
OER Project Number 22EH-N213Q / 22CVCP063Q

Dear Queens Borough Commissioner:

The New York City Office of Environmental Remediation (OER) hereby issues a Notice to Proceed for the above-referenced Department of Buildings Job Numbers. This correspondence is provided pursuant to OER’s responsibilities as established in Subchapter 7 of Chapter 14 of Title 43 of the Rules of the City of New York and Section 11-15 of the Zoning Resolution of the City of New York. The Applicant has filed a Hazardous Materials remedial action work plan and Noise remedial action plan that are acceptable to this Office and has prepared a Construction Health and Safety Plan for implementation on this project. OER’s Decision Document that defines the remedial actions required for this project has been prepared and filed and is available on request.

At the conclusion of remedial activities required under this action, the Zoning Resolution and § 43-1474 of the Rules of the City of New York requires that OER issue a Notice of Satisfaction signifying that all remedial action requirements established for this project have been satisfied prior to issuance of the Certificate of Occupancy or Temporary Certificate of Occupancy by Department of Buildings.

If you have any questions or comments, please feel free to contact Zarka Naba at 212-341-2073.

Sincerely,

Shaminder Chawla  
Deputy Director

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**DECISION DOCUMENT**  
**NYC VCP, E-Designation**  
**Remedial Action Work Plan Approval**

August 10, 2022

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Hazardous Materials and Noise “E” Designation  
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The New York City Office of Environmental Remediation (OER) has completed its review of the Remedial Action Work Plan (RAWP) dated March 11, 2022 with Stipulation Letter dated March 30, 2022 and the Remedial Action Plan for Noise dated July 2022 for the above-referenced project.

These Plans were submitted to OER under the NYC Voluntary Cleanup Program, E-Designation Program.

The RAWP was released for public comment for 30 days as required by program rule. That comment period ended on April 8, 2022. There were no public comments. NYSDEC was briefed on April 6, 2022.

**Project Description**

The Site will be redeveloped with a new 6-story mixed-use (commercial and residential) building with a full cellar and a concrete capped front yard, rear yard, and side courtyard. The 1,995.3 sq ft; cellar will consist of an electrical meter room, gas meter room, sprinkler room, compactor room, restroom, and tenant storage room. The ground floor will consist of a parking garage space, residential lobby, and a 1,043 sq ft; commercial space. The 2<sup>nd</sup> through 6<sup>th</sup> floors will consist of residential apartments.

**Statement of Purpose and Basis**

This document presents the remedial action for the NYC Voluntary Cleanup Program and E-Designation Program project known as “31-03 37<sup>th</sup> Avenue” pursuant to Title 43 of the Rules of the City of New York Chapter 14, Subchapter 1 and the Zoning Resolution and § 43-1474 of the Rules of the City of New York.

**Description of Selected Remedy for Hazardous Materials**

The remedial action selected for the 31-03 37<sup>th</sup> Avenue site is protective of public health and the environment. The elements of the selected remedy are as follows:

1. Preparation of a Community Protection Statement and performance of all required NYC VCP Citizen Participation activities according to an approved Citizen Participation Plan;
2. Performance of a Community Air Monitoring Program for particulates and volatile organic carbon compounds;
3. Establishment of Track 4 Site-Specific Soil Cleanup Objectives (SCOs);
4. Site mobilization involving Site security setup, equipment mobilization, utility mark outs and marking & staking excavation areas;
5. Completion of a Waste Characterization Study prior to excavation activities. Waste characterization soil samples will be collected at a frequency dictated by disposal facility. A Waste Characterization Report documenting sample procedures, location, analytical results shall be submitted to NYCOER prior to start of remedial action;

6. Excavation and removal of soil/fill exceeding Track 4 Site-Specific SCOs. For development purposes, excavation to a depth of approximately 10 ft below grade will be performed for the building's cellar, with additional excavation to 15 ft for the elevator pit. Sloped excavation will be performed along the side cellar wall, and both the front and rear cellar walls from grade to approximately 10 ft below grade to the base of the cellar walls. Limited excavation (top 1 to 2 ft) will be performed in the front and rear courtyards where sloped excavation is not performed. An estimated 1,000 cubic yards (1,500 tons) of soil/fill and bedrock will be removed from the Site and properly disposed of at an appropriately licensed or permitted facility;
7. Screening of excavated soil/fill during intrusive work for indications of contamination by visual means, odor, and monitoring with a PID;
8. Management of excavated materials including temporarily stockpiling and segregating in accordance with defined material types and to prevent co-mingling of contaminated material and non-contaminated materials;
9. Removal of the underground storage tanks encountered during soil/fill removal actions. Registration of tanks and reporting of any petroleum spills associated with UST's and appropriate closure of these petroleum spills in compliance with applicable local, State and Federal laws and regulations;
10. Transportation and off-Site disposal of all soil/fill material at permitted facilities in accordance with applicable laws and regulations for handling, transport, and disposal, and this plan. Sampling and analysis of excavated media as required by disposal facilities. Appropriate segregation of excavated media on-Site;
11. Collection and analysis of four site-wide end-point samples (EP1—EP4) to determine the performance of the remedy with respect to attainment of Track 4 Site-Specific SCOs. All collected site-wide endpoint soil samples will be analyzed for SVOCs and metals to determine if Track 4 Site-Specific SCOs can be achieved;
12. Import of materials to be used for backfill and cover in compliance with this plan and in accordance with applicable laws and regulations;
13. Performance of all activities required for the remedial action, including permitting requirements and pretreatment requirements, in compliance with applicable laws and regulations;
14. Installation of a vapor barrier system beneath the entire cellar slab, behind all cellar walls to grade, and below/around the elevator pit to mitigate soil vapor migration into the building. The vapor barrier system will consist of Raven Industries VaporBlock Plus; Series (VBP20) 20-mil vapor barrier system or an equivalent system. All welds, seams and penetrations will be properly sealed to prevent preferential pathways for vapor migration. The vapor barrier system is an Engineering Control for the Remedial Action. The remedial engineer will certify in the RAR that the vapor barrier system was designed and properly installed to mitigate soil vapor migration into the building;
15. Construction and maintenance of an engineered composite cover consisting of the following to prevent human exposure to residual soil/fill remaining at the Site:
  - a. The cellar will be capped with a 4-inch thick concrete slab underlain with Raven Industries VaporBlock Plus Series (VBP20) 20-mil vapor barrier system, and a 6 inch layer of 3/4 bluestone (ASTM 5),
  - b. The front courtyard will be capped with a 6-inch thick concrete slab underlain with a 2 to 4 inch layer of layer of 3/4 bluestone (ASTM 5) and residual soil and imported soil utilized to backfill the sloped excavation along the front cellar wall, and
  - c. The side and rear courtyards will be capped with a 4-inch thick concrete slab underlain residual soil and imported soil utilized to backfill the sloped excavation along the side and rear cellar walls.
16. Installation of an active sub-slab depressurization system (SSDS). The active SSDS will consist of a single zone installed below cellar slab. The SSDS zone will consist of a horizontal pipe set in the middle of a gas permeable layer immediately beneath the building slab and vapor barrier system. The horizontal piping will consist of fabric wrapped, perforated 4-inch PVC pipe connected to a 6-inch cast iron riser pipe that penetrates the slab and travels through the building to the roof. The gas permeable layer will consist of a 6-inch layer of ASTM 5. The SSDS will be hardwired and will include a RadonAway RP265 blower installed above the roof line and a separate set of a pressure gauge and alarm installed in a protective case located in an accessible area in the building. A total of two permanent monitoring points will be installed. The SSDS exhaust location will be located on the roof level and will be 10 feet from any operable window, operable doors, intakes or operable hatches. The SSDS is an Engineering Control for the Remedial Action. The remedial engineer will certify in the RAR that the active SSDS was designed

- and properly installed to establish a vacuum in the gas permeable layer and a negative (decreasing outward) pressure gradient across the building slab to prevent vapor migration into the building;
17. Performance of all activities required for the remedial action, including permitting requirements and pretreatment requirements, in compliance with applicable laws and regulations;
  18. Dewatering in compliance with city, state, and federal laws and regulations. Extracted groundwater will either be containerized for off-site licensed or permitted disposal or will be treated under a permit from New York City Department of Environmental Protection (NYCDEP) to meet pretreatment requirements prior to discharge to the sewer system.
  19. Implementation of storm-water pollution prevention measures in compliance with applicable laws and regulations;
  20. Submission of an approved Site Management Plan (SMP) in the Remedial Action Report for long-term management of residual contamination, including plans for operation, maintenance, monitoring, inspection and certification of Engineering and Institutional Controls and reporting at a specified frequency.
  21. Submission of a Remedial Action Report (RAR) that describes the remedial activities, certifies that the remedial requirements have been achieved, defines the Site boundaries, and describes all Engineering and Institutional Controls to be implemented at the Site, and lists any changes from this RAWP
  22. Recording of a Declaration of Covenants and Restrictions that includes a listing of Engineering Controls and Institutional Controls and a requirement that management of these controls must be in compliance with an approved SMP. Institutional Controls will include prohibition of the following: (1) vegetable gardening and farming; (2) use of groundwater without treatment rendering it safe for the intended use; (3) disturbance of residual contaminated material unless it is conducted in accordance with the SMP; and (4) higher level of land usage without OER-approval; and
  23. The property will continue to be registered with an E-Designation at the NYC Buildings Department.

#### **Description of Selected Remedy for Noise**

The elements of the remedial action selected for Noise for the 31-03 37<sup>th</sup> Avenue site are as follows:

In order to meet the requirements of the E-Designation, the following window/wall attenuation will be achieved at the locations described below:

1. 40 dB(A) for all residential spaces with the masonry/wall elements.
2. 35 dB(A) in commercial spaces with the masonry/wall elements.

The following windows and doors will be installed:

<b>Window/Door Types</b>	<b>OITC Rating</b>	<b>OITC Certification</b>	<b>Manufacturer and Model</b>	<b>Glazing</b>
Fixed Residential Windows – Green  Front/Southwest Elevation Floors 3-6  Rear/Northeast Elevation Floors 2-6	37  40 Required  (Unit A Bedroom on Levels 3-6 - Composite OITC 41)  (Unit A Living/Dining on Levels 3-6 - Composite OITC 41)  (Unit B Bedroom on all Floors - Composite OITC 41)  (Unit B- Living/Dining on all Floors - Composite 42)	See ASTM E90 Sound Transmission Loss Test Report for exact window Report No. J8864.01-113-11-R0 Data File No. J8863.01D Report Date: 10/02/2019	Intus Windows Series/Model Supera Fixed CW/ AW Windows	1-5/8" IG (5/16" laminated SR exterior, 13/16" argon, 1/2" laminated SR interior)

<b>Operable Residential Windows – Purple</b>  <b>Front/Southwest Elevation Floors 3-6</b>  <b>Rear/Northeast Elevation Floors 2-6</b>	<p>37</p> <p><b>40 Required</b></p> <p>(Unit A Bedroom on Levels 3-6 - Composite OITC 41)</p> <p>(Unit A Living/Dining on Levels 3-6 - Composite OITC 41)</p> <p>(Unit B Bedroom on all Floors - Composite OITC 41)</p> <p>(Unit B- Living/Dining on all Floors - Composite 42)</p>	<p>See ASTM E90 Sound Transmission Loss Test Report for exact window Report No. J8864.02-113-11-R0</p> <p>Data File No. J8863.01A</p> <p>Report Date: 10/09/2019</p>	<p>Intus Windows Series/Model Supera Casement CW Casement Windows</p>	<p>1-5/8" IG (5/16" laminated SR exterior, 13/16" argon, 1/2" laminated SR interior)</p>
<b>Residential Doors – Dark Blue</b>  <b>Front/Southwest Elevation Floors 3-6</b>  <b>Rear/Northeast Elevation Floors 2-6</b>	<p>38</p> <p><b>40 Required</b></p> <p>(Unit A Bedroom on Levels 3-6 - Composite OITC 41)</p> <p>(Unit A Living/Dining on Levels 3-6 - Composite OITC 41)</p> <p>(Unit B Bedroom on all Floors - Composite OITC 41)</p> <p>(Unit B- Living/Dining on all Floors - Composite 42)</p>	<p>See ASTM E90 Sound Transmission Loss Test Report for exact window Report No. J5848.01-113-11-R1</p> <p>Data File No. J5848.01M4</p> <p>Report Date: 05/23/19 Rev 5/30/19</p>	<p>Intus Windows Series/Model Supera Balcony Door</p>	<p>1-5/8" IG (5/16" laminated SR exterior, 13/16" argon, 1/2" laminated interior)</p>
<b>Fixed Residential Windows – Yellow</b>  <b>Front/Southwest Elevation Floors 2-6</b>  <b>Rear/Northeast Elevation Floors 2-6</b>	<p>37</p> <p><b>40 Required</b></p> <p>(Unit A Bedroom on Level 2 - Composite OITC 41)</p> <p>(Unit A Bedroom on Levels 3-6 - Composite OITC 41)</p> <p>(Unit A Living/Dining on Level 2 - Composite OITC 42)</p> <p>(Unit A Living/Dining on Levels 3-6 - Composite OITC 41)</p> <p>(Unit B Bedroom on all residential Floors - Composite OITC 41)</p> <p>(Unit B- Living/Dining on all residential Floors - Composite 42)</p>	<p>See ASTM E90 Sound Transmission Loss Test Report for exact window Report No. J8864.01-113-11-R0</p> <p>Data File No. J8863.01D</p> <p>Report Date: 10/02/2019</p>	<p>Intus Windows Series/Model Supera Fixed CW/ AW Windows</p>	<p>1-5/8" IG (5/16" laminated SR exterior, 13/16" argon, 1/2" laminated SR interior)</p>
<b>Operable Residential Windows – Light Blue</b>  <b>Front/Southwest Elevation Floors 2-6</b>  <b>Rear/Northeast Elevation Floors 2-6</b>	<p>37</p> <p><b>40 Required</b></p> <p>(Unit A Bedroom on Level 2 - Composite OITC 41)</p> <p>(Unit A Bedroom on Levels 3-6 - Composite OITC 41)</p> <p>(Unit A Living/Dining on Level 2 - Composite OITC 42)</p> <p>(Unit A Living/Dining on Levels 3-6 - Composite OITC 41)</p> <p>(Unit B Bedroom on all Floors - Composite OITC 41)</p> <p>(Unit B- Living/Dining on all Floors - Composite 42)</p>	<p>See ASTM E90 Sound Transmission Loss Test Report for exact window Report No. J8864.02-113-11-R0</p> <p>Data File No. J8863.01A</p> <p>Report Date: 10/09/2019</p>	<p>Intus Windows Series/Model Supera Casement CW Casement Windows</p>	<p>1-5/8" IG (5/16" laminated SR exterior, 13/16" argon, 1/2" laminated SR interior)</p>

### Alternate Means of Ventilation

In order to satisfy the requirements of the E-Designation, Alternate Means of Ventilation (AMV) will be installed in order to maintain a closed window condition. AMV for this project will be achieved by:

- 1. Trickle Vents:** Alternate means of ventilation (AMV) will be provided by installing Titon SF Xtra TA5235, TA5236 slot ventilators in each bedroom and living room at a minimum rate of one Titon SF Xtra TA5235, TA5236 slot ventilator per room. Fresh air will be provided to all bedrooms and living rooms by the Titon SF Xtra TA5235, TA5236 slot ventilators.
- 2. HVAC System:** Each residential dwelling unit utilizes electrically powered, variable refrigerant flow (VRF) for heating and cooling. Each apartment (10 apartments) has a VRV IV condensing unit (*Daikin RXSQ36TAVJU*) connected to (2) slim duct ceiling-concealed indoor fan coil units (*Daikin FXDQ12MVJU – bedroom(s); Daikin FXDQ24MVJU – living/dining room*) via refrigerant piping. The space utilizes electrically powered, variable refrigerant flow (VRF) for heating and cooling. A VRV IV condensing unit (*Daikin RXSQ48TAVJU*) connected to (2) High Static ducted-type, ceiling concealed, indoor/fan coil unit(s) (*Daikin FXMQ24PBVJU*) via refrigerant piping. Ventilation of this commercial space is mechanically supplied using (2) individual inline supply fans (*Fantech FG 4XL*), and ducted to each indoor fan coil unit from an outside air gooseneck located on the Roof Over 1-story.
- 3. Compliance with 2014 NYC Mechanical Code:** Providing outside air to residential common areas such as the lobbies, corridors, and amenity spaces in accordance with the 2014 NYC Mechanical Code.

The remedies for Hazardous Materials, Noise “E” Designation described above conforms to the promulgated standards and criteria that are directly applicable, or that are relevant and appropriate and takes into consideration OER guidance, as appropriate.

08/10/2022



Date

Zarka Naba  
Project Manager

08/10/2022



Date

Shaminder Chawla  
Deputy Director

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