



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP)

ECL ARTICLE 27 / TITLE 14

07/07

DEPARTMENT USE ONLY
BCP SITE #: _____

Section I. Requestor Information

NAME Yaro Enterprises, Inc.

ADDRESS 228 Rosemont Drive

CITY/TOWN Rochester

ZIP CODE 14617

PHONE (909) 921-7353

FAX 585-235-5608

E-MAIL tonyk@yaroenterprises.com

NAME OF REQUESTOR'S REPRESENTATIVE Tony Kirik

ADDRESS 228 Rosemont Drive

CITY/TOWN Rochester

ZIP CODE 14617

PHONE (909) 921-7353

FAX 585-235-5608

E-MAIL tonyk@yaroenterprises.com

NAME OF REQUESTOR'S CONSULTANT LaBella Associates, P.C. c/o Dan Noll

ADDRESS 300 State Street, Suite 201

CITY/TOWN Rochester

ZIP CODE 14614

PHONE 585-295-6243/585-295-6611

FAX 585-454-3066

E-MAIL dnoll@labellapc.com

NAME OF REQUESTOR'S ATTORNEY Paul D. Sylvestri Esq.

ADDRESS 1600 Bausch & Lomb Place

CITY/TOWN Rochester

ZIP CODE 14604

PHONE 585-321-1194

FAX

E-MAIL psylvestri@hselaw.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 _____

*New Owner as of 01/14/2008

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

☐ Yes

☐ No

(Note: proof of site access must be submitted for non-owners)

Section III Property Information Summary Sheet												
PROPERTY NAME: 300 Commerce Drive												
ADDRESS/LOCATION 300 Commerce Drive		CITY/TOWN Rochester		ZIP CODE 14623								
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): Town of Henrietta												
COUNTY Monroe		SITE SIZE (ACRES) 2.7										
LATITUDE (degrees/minutes/seconds) 43 ° 04 ' 53.17 "				LONGITUDE (degrees/minutes/seconds) 77 ° 39 ' 16.5 "								
HORIZONTAL COLLECTION METHOD: <input type="checkbox"/> SURVEY <input type="checkbox"/> GPS <input checked="" type="checkbox"/> MAP				HORIZONTAL REFERENCE DATUM: NAD 1983								
FOR EACH PARCEL, FILL OUT THE FOLLOWING TAX MAP INFORMATION (if more than three parcels, attach additional information)												
Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage							
300 Commerce Drive	1610100001018	161.010	0001	018	2.7							
<p>1. Do the property boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="padding-left: 40px;">If no, please attach a metes and bounds description of the property.</p> <p>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</p> <p>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</p> <p>For more information go to: http://www.nylovesbiz.com/BrownField_Redevelopment/default.asp.</p> <p>If yes, identify area (name) _____</p> <p><input type="checkbox"/> 50% <input type="checkbox"/> 100% of the site is in the En-zone (check one)</p>												
PROPERTY DESCRIPTION NARRATIVE: 2.7 Acres located in the Town of Henrietta, Monroe County, New York and known as 300 Commerce Drive, Rochester, NY 14623 and Tax Map No. 161.10-1-18.												
List of Existing Easements (type here or attach information) <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Easement Holder</th> <th style="text-align: left; border-bottom: 1px solid black;">Description</th> </tr> </thead> <tbody> <tr> <td>Julian Kheel, Morris Rock and Julius Rock d/b/a Kheel Development Company</td> <td>Various utilities. See attached "easement" deed.</td> </tr> </tbody> </table>							Easement Holder	Description	Julian Kheel, Morris Rock and Julius Rock d/b/a Kheel Development Company	Various utilities. See attached "easement" deed.		
Easement Holder	Description											
Julian Kheel, Morris Rock and Julius Rock d/b/a Kheel Development Company	Various utilities. See attached "easement" deed.											
List of Permits issued by the NYSDEC or USEPA Relating to the Proposed Site (type here or attach information) <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Type</th> <th style="text-align: left; border-bottom: 1px solid black;">Issuing Agency</th> <th style="text-align: left; border-bottom: 1px solid black;">Description</th> </tr> </thead> <tbody> <tr> <td colspan="3">None</td> </tr> </tbody> </table>							Type	Issuing Agency	Description	None		
Type	Issuing Agency	Description										
None												

Initials of each Requestor: TK _____

Section III. Current Site Owner/Operator Information

OWNER'S NAME (if different from requestor) **Same as Requester**

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner) **See Contact List**

ADDRESS **300 Commerce Drive**

CITY/TOWN **Rochester**

ZIP CODE **14623**

PHONE **See Contact List**

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? ☐ Yes ☒ No
2. Is the requestor subject to an existing order relating to contamination at the site? ☐ Yes ☒ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☒ No
4. Has the requestor been determined to have violated any provision of ECL Article 27? ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? ☐ Yes ☒ 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? ☐ Yes ☒ 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? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(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? ☐ Yes ☒ No

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

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

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
- See Attached for Project Description*

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:

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

*Please describe: _____

3. Suspected Contaminants: Indicate suspected contaminants and the media which may have been affected:

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

*Please describe: _____

4. INDICATE KNOWN OR SUSPECTED SOURCES OF CONTAMINANTS:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> Above Ground Pipeline or Tank | <input type="checkbox"/> Lagoons or Ponds | <input checked="" type="checkbox"/> Underground Pipeline or Tank | <input 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"/> Drums or Storage Containers |
| <input checked="" type="checkbox"/> Adjacent Property | <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 checked="" type="checkbox"/> Unknown | |

Other: _____

5. INDICATE PAST LAND USES:

- | | | | | | |
|---|---|---|--------------------------------------|---|-------------------------------------|
| <input type="checkbox"/> Coal Gas Manufacturing | <input checked="" type="checkbox"/> Manufacturing | <input type="checkbox"/> Agricultural Co-op | <input 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: Commercial printing, computer service and distribution

6. Owners

A list of previous owners with names, last known addresses and telephone numbers (describe requestor's relationship, if any, to each previous owner listed. If no relationship, put "none").

7. Operators

A list of previous operators with names, last known addresses and telephone number (describe requestor's relationship, if any, to each previous operator listed. If no relationship, put "none").

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/dept. chair 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. 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))

Current Use: ☐ Residential ☒ Commercial ☐ Industrial ☐ Vacant ☐ Recreational (check all that apply)

Intended Use: ☐ Unrestricted ☐ Residential ☒ Commercial ☐ Industrial (check all that apply)

Please check the appropriate box and provide an explanation as an attachment if appropriate. Provide a copy of the local zoning classifications, comprehensive zoning plan designations, and/or current land use approvals.

Yes No

1. Do current historical and/or recent development patterns support the proposed use? (See #12 below re: discussion of area land uses)

☒ ☐

2. Is the proposed use consistent with applicable zoning laws/maps?

☒ ☐

3. 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?

☒ ☐

4. Are there any Environmental Justice Concerns? (See §27-1415(3)(p)).

☐ ☒

5. Are there any federal or state land use designations relating to this site?

☐ ☒

6. Do the population growth patterns and projections support the proposed use?

☒ ☐

7. Is the property accessible to existing infrastructure?

☒ ☐

8. Are there important cultural resources, including federal or state historic or heritage sites or Native American religious sites within ½ mile? *Site is located within an 'archeo-sensitive' area per SHPO Internet-GIS - See Attached

☐ ☒

9. 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? Wetlands exist within 0.4 mile

☒ ☐

10. Are there floodplains within ½ mile? Site is within the 100-year floodplain

☒ ☐

11. Are there any institutional controls currently applicable to the property?

☐ ☒

12. Describe on attachment the proximity to real property currently used for residential use, and to urban, commercial, industrial, agricultural, and recreational areas. See Figure 3

13. Describe on attachment the potential vulnerability of groundwater to contamination that might migrate from the property, including proximity to wellhead protection and groundwater recharge areas.

14. Describe on attachment the geography and geology of the site.

Statement of Certification and Signatures

(By requestor who is an individual)

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)

I hereby affirm that I am Manager (title) of YARD Enterprises (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; and 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: 2-16-2009 Signature: Tony Kirik Print Name: Tony Kirik

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 or diskette, 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: <http://www.dec.ny.gov/about/776.html>

FOR DEPARTMENT USE ONLY

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

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

SECTION VI PROJECT DESCRIPTION

The property is currently owned by Yaro Enterprises, Inc. (Yaro); however, Yaro leases the property to Excelsus Solutions, LLC (Excelsus) which operates a small photo developing operation. Currently there is no redevelopment plan for the property and Yaro intends to continue leasing the property to Excelsus. Yaro purchased the property in 2008 and has not had any operations on the Site. The impacts to soil and groundwater were identified during Environmental Due Diligence associated with the refinancing of the property mortgage. Reports documenting the known impacts were previously provided to New York State Department of Environmental Conservation (NYSDEC) Region 8 personnel.

The nature of the impacts prompted Yaro to contact NYSDEC in order to investigate and remediate the Site. The purpose of the project is to define the nature and extent of the impacts requiring remediation and conduct the required remedial actions.

A tentative schedule is below; however, the actual schedule will be based on the results of the Remedial Investigation and the remedial alternative(s) selected for the Site.

Application Deemed Complete	3/09
Public Comment Period on Application and RI Work Plan	4/09
Revise RI Work Plan based on comments	5/09
Implement Remedial Investigation	5/09 – 7/09
Submit RI Report & Remedial Alternatives Analysis (RAA)	8/09
NYSDEC Review of RI and RAA Report and Public Comment Period	8/09
Revise RI and RAA Report and submit Remedial Action Work Plan (RAWP)	9/09
NYSDEC Review of RAWP and Public Comment Period	9/09
Revise RAWP based on comments	10/09
Initiate Remedy	12/09

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

SECTION VIII CONTACT LIST INFORMATION

1. County Executive:

Maggie Brooks
Monroe County Executive
110 County Office Building
39 W. Main St.
Rochester, NY 14614
(585) 753-1000

2. The Chief Executive Officer:

James R. Breese
Supervisor of the Town of Henrietta
Henrietta Town Hall
475 Calkins Road
Henrietta, New York 14467
(585) 359-7001

3. The Village Zoning Bureau:

Robert Steidle
Chairperson, Town Zoning Board
Henrietta Town Hall
475 Calkins Road
Henrietta, New York 14467
(585) 359-7060

4. Residents, owners, and occupants of the site and properties adjacent to the site:

Site: 300 Commerce Drive, Rochester, New York 14623
Current Owner: Yaro Enterprises Inc 228 Rosemont Dr., Rochester, New York 14617
Current Operator: Excelsus Solutions LLC (585) 697-3957

North: 15 Transport Drive, Rochester, New York 14623
Fedex Freight (585) 359-4050
(owned by Fedex Freight East, Inc., 2200 Forward Dr., Harrison, Arizona 72601)

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

East: 290 Commerce Drive, Rochester, New York 14623-3506

Signature Nameplate Co (585) 321-9960

(owned by William H. Monell and Harry T. Bain Jr., 292 Commerce Dr, Rochester, New York 14623-3506)

South: 305 Commerce Drive, Rochester, New York 14623-3506

Exact Machining & Manufacturing Inc (585) 334-7090

Grizzly Graphics Screen (585) 334-2560

Heritage-Crystal Clean (877) 938-7948

Network Industrial Tire Inc (585) 346-9190

Rochester Custom Cycle (585) 359-2820

Romar Mechanical Services (585) 321-1190

Trap-Zap Environmental Systems (585) 359-3060

Upstate Screen Printing (585) 359-9734

(owned by Commerce Enterprises, Inc. 1385 Empire Blvd, Rochester NY 14609)

315 Commerce Drive, Rochester NY 14623-3507

Brindisi Restorations (585) 924-4371

Miller Metal Fabricating Inc (585) 359-3400

Miller Site Development Inc (585) 359-9040

Ron Nannini Services (585) 359-1410

Sandblast Service (585) 334-7420

(owned by Thomas G. Bair and Ronald J. Nannini, 315 Commerce Drive, Rochester NY 14623-3507)

West: Public Utility ROW

(owned by National Grid, 300 Erie Blvd West, Syracuse NY 13202-4250)

Refer to Figure 2 for Site boundary and neighboring properties.

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

Local news media from which the community typically obtains information:

The Henrietta Post
Local Office:
349 W. Commercial St, Suite 1260
East Rochester, New York 14445
(585) 381-3300

General Office
73 Buffalo Street
Canandaigua, New York 14424
(800)724-2099

5. The public water supplier that services the area where the site is located:

Monroe County Water Authority
475 Norris Drive
Rochester, New York 14610
(585) 442-2000

6. Any person who has requested to be placed on the site contact list:

No one has requested to be put on the list to date.

7. The administrator of any school or day care facility located on or near the site:

There are no day care centers or schools on or near the Site. The Site is located in a commercial area.

8. The location of a document repository for the project (e.g., local library):

Henrietta Public Library
455 Calkins Road
Henrietta, New York 14472
(585) 359-7092

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

SECTION VII ITEMS 6 AND 7 PAST OWNERS AND OPERATORS

Item 6: Past Owners

Former Owner	Approx. Year	Last known address	Relationship with Requestor
Southland Enterprises, LLC	2008	16300 Edgemont Drive Ft Myers, FL 33908 James M. Crider 239-292-1952 CELL	Arms length property transaction
V.M. Ritter	1941	Unknown	None
E.L. Griffin	1902	Unknown	None

Item 7: Past Operators

Former Operator	Approx. Year	Last known address	Relationship with Requestor
My Brands, Inc	2003	Site	None
Forester Controls Inc	2002	Site	None
Motion Industries	2002	Site	None
Forester Company	1997, 1992	Site	None
Teamwork Solutions, Inc	1997, 1992	Site	None
Con Tech Corporation	1987	Site	None
Rensselaar Components	1987	Site	None
F&H Products Corporation	1968-1981	Site	None

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

SECTION IX: ITEMS 8, 13 AND 14

Item 8: Archeo Sensitive Area

While the Site is located within an 'archeo-sensitive' area (based on the New York State Historic Preservation Office internet GIS), the Site has been substantially disturbed by the existing facilities and Site activities; therefore, there is little likely hood the Site is of archeological significance.

Item 13: Groundwater Vulnerability

According to 7.5-minute, West Henrietta, New York quadrangle USGS Map, the nearest water body is an unnamed tributary to Red Creek, a tributary to the Genesee River, which is located approximately 100 feet to the west of the Site.

Based on interpretation of the USGS topographic map and the Generalized Groundwater Contour Map of Monroe County, groundwater flow at the Site appears to be to the west/southwest.

According to the Monroe County Water Authority, drinking water in Monroe County is mainly supplied from Lake Ontario, with contributions from Canadice Lake, and Hemlock Lake. As such, while a low potential exists that contaminated groundwater from the Site could migrate to Lake Ontario via Red Creek and the Genesee River, due to the large volume of water involved, the potential for such contaminants from the site to contribute to detectable levels in drinking water is minute.

According to the National Atlas Principal Aquifers for New York State database, the nearest aquifer to the site is located approximately 3 miles to the southeast. Available information described above indicates that this aquifer is not used as a public drinking water source. The distance from the Site together with the low drainage potential of site soils (described in detail below) indicates a very low probability that contamination from the site would impact this aquifer.

During preliminary investigations at the Site, groundwater was encountered within soil borings at depths ranging from 6.7 to 8 feet below the ground surface (BGS).

Item 14: Geography and Geology of the Site

According to the 7.5-minute, West Henrietta, New York quadrangle USGS Map, the Site consists of generally level land.

According to the Natural Resource Conservation Service (NRCS) website, soils at the Site consist mainly of Lakemont silt loam. The Lakemont series consists of deep, poorly drained and very poorly drained soils of lake plains.

BROWNFIELD CLEANUP PROGRAM APPLICATION SUPPORT

According to the National Atlas website, bedrock at the site consists of Middle Paleozoic sedimentary rocks. Also according to the National Atlas, there is the potential for Karst related “fissures, tubes, and caves generally less than 1,000 ft (300 m) long; 50 ft or less vertical extent” in this area of “gently dipping to flat-lying carbonate rock.”

During preliminary investigations at the Site, soil borings were advanced in the overburden. Each soil boring was completed to a depth of 11 feet BGS. Soils encountered consisted of a topsoil layer that generally consisted of dark brown SILT to SILT & CLAY with trace to little medium to fine-grained Sand, trace fine-grained Gravel, and trace amounts of organic matter (e.g. roots, root traces, humus, etc.)

Within soil boring TB-7, the Topsoil layer was underlain by a Fill Material deposit consisting of brown to grayish-brown coarse to fine-grained SAND with some coarse to fine-grained Gravel. A Lacustrine deposit was encountered beneath the Fill Material deposit with soil boring TB-7 and beneath the Topsoil layer within the remaining soil borings. The Lacustrine deposit ranged in texture from a brown varved SILT & CLAY to a brown SILT with little very fine-grained Sand, consistent with the Lakemont Series silt loam described above.

Bedrock was not encountered within the soil borings completed at the Site during this investigation.

This Indenture

Made the 7th day of October

Nineteen Hundred and Sixty-six

Between JULIAN KHEEL, MORRIS ROCK and JULIUS ROCK, d/b/a KHEEL DEVELOPMENT COMPANY, a co-partnership with its principal office at 56 Commerce Drive, Town of Henrietta, Monroe County, New York,

parties of the first part, and

F & H PRODUCTS ^{CORPORATION}, a domestic corporation with its principal office at 961 Lyell Avenue, Rochester, New York,

part y of the second part,

Witnesseth that the parties of the first part, in consideration of -----

One and no/100----- Dollar (\$ 1.00)
lawful money of the United States, and other good and valuable consideration paid by the party of the second part, do hereby grant and release unto the party of the second part, its successors and assigns forever, all THAT TRACT OR PARCEL OF LAND as set forth on "Schedule A" annexed hereto.

This conveyance is made and accepted subject to all covenants, easements and restrictions of record in the Monroe County Clerk's Office affecting the above described premises.

The parties of the first part reserve from the premises first above described on Schedule A, easements as follows:

- A. An easement for the installation and maintenance of sanitary sewers, water lines, utility lines, and appurtenances, which easement shall be 20 feet in width and bounded on the north, west and south, by the northerly, westerly and southerly lines of the above premises, and on the east by a line 20 feet easterly from and parallel to, as measured at right angles, the said westerly line.
- B. An easement for the installation and maintenance of storm sewers and drainage facilities and appurtenances, 15 feet in width, bounded on the north, west and south, by the northerly, westerly and southerly lines of the above described premises, and on the east by a line 15 feet easterly from and parallel to, as measured at right angles, the said westerly line.
- C. An easement for the installation and maintenance of sanitary sewers, storm sewers, water lines, utility lines, drainage facilities, and appurtenances, 15 feet in width, bounded on the north, east and west, by the northerly, easterly and westerly lines of the above described premises and on the south by the line 15 feet southerly from and parallel to, as measured at right angles, the said northerly line.
- D. An easement for the installation and maintenance of sanitary sewers, storm sewers, water lines, utility lines, drainage facilities, and appurtenances, 15 feet in width, bounded on the east, west and south, by the easterly, westerly and southerly lines of the above described premises and on the north by a line 15 feet northerly from and parallel to, as measured at right angles, the said southerly line.

In connection with the foregoing easements, the parties of the first party, their successors and assigns shall have the right to enter upon said easement and re-enter with men, materials and equipment for the aforesaid purposes. The party of the second part shall have the right to use the entire surface of land located within said easements for parking or driveways, including the right to blacktop or landscape same and if said blacktopping or landscaping in said easements is disturbed upon any entry for installation or future maintenance of the utilities installed therein, same shall be restored to the condition existing

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prior to said entry, except that purchaser may not construct any structures in said easement and provided further that any such roadways or parking surfaces shall not interfere with any drainage facilities installed in the easement described in paragraph B above.

SCHEDULE "A"

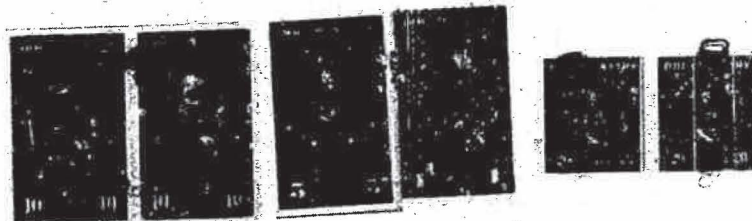
ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Henrietta, Monroe County, New York, being part of Town Lot 7, Range 5, Township 12, Range 7, the beginning point of which parcel is described by commencing at a point on the west line of West Henrietta Road where it is intersected by the southerly line of lands conveyed to The Rochester and Honeoye Valley Railroad Company by Deed recorded in the Monroe County Clerk's Office in Liber 487 of Deeds, page 125, which point is also the intersection of the north line of premises conveyed to Kheel Associates Inc. by Deed recorded in Monroe County Clerk's Office in Liber 3303 of Deeds, page 22, with the west line of West Henrietta Road; thence south $21^{\circ} 30' 00''$ west a distance of 391.40 feet to a point; thence north $68^{\circ} 22'$ west a distance of 230.09 feet to a point; thence south $89^{\circ} 08'$ west a distance of 96.76 feet to a point; thence westerly on the arc of a curve to the left having a radius of 738.94 feet a distance of 251.49 feet to a point; thence south $69^{\circ} 38' 00''$ west a distance of 253.89 feet to a point; thence south $89^{\circ} 33' 30''$ west a distance of 1753.66 feet to a point; thence westerly on the arc of a curve to the right having a radius of 378.60 feet a distance of 148.08 feet to a point; thence north $68^{\circ} 01' 55''$ west a distance of 28.77 feet to a point; thence westerly on the arc of a curve to the left having a radius of 406.40 feet a distance of 167.53 feet to a point; thence south $88^{\circ} 20' 29''$ west a distance of 1087.93 feet to a point; thence north $21^{\circ} 20' 59''$ east a distance of 54.32 feet to the point and place of beginning of the parcel to be described; thence (1) running north $21^{\circ} 20' 59''$ east a distance of 434.57 feet to a point; thence (2) running north $88^{\circ} 20' 29''$ east a distance of 132.87 feet to a point; thence (3) running south $01^{\circ} 39' 31''$ east a distance of 400.0 feet to a point; thence (4) running south $88^{\circ} 20' 29''$ west a distance of 302.73 feet to the place of beginning, containing 2.0 acres of land.

The parties of the first part also convey an easement and Right of Way for ingress and egress from the premises above conveyed, to the party of the second part, which easement and Right of Way is more particularly described as follows:

Beginning at a point which is the beginning point of course (1) of the parcel above described; thence (1) south $21^{\circ} 20' 59''$ west a distance of 54.32 feet to a point; thence (2) north $88^{\circ} 20' 29''$ east a distance of 1087.93 feet to a point; thence (3) easterly on the arc of a curve to the right having a radius of 406.40 feet a distance of 167.58 feet to a point; thence (4) south $68^{\circ} 01' 55''$ east a distance of 28.77 feet to a point; thence (5) easterly on the arc of a curve to the left having a radius of 378.60 feet a distance of 148.08 feet to a point; thence (6) north $89^{\circ} 33' 30''$ east a distance of 1753.66 feet to a point; thence (7) north $69^{\circ} 38' 00''$ east a distance of 253.89 feet to a point; thence (8) easterly on the arc of a curve to the right having a radius of 738.94 feet a distance of 251.49 feet to a point; thence (9) north $89^{\circ} 08'$ east a distance of 96.76 feet to a point; thence (10) south $68^{\circ} 22'$ east a distance of 230.09 feet to a point in the westerly line of West Henrietta Road; thence (11) north $21^{\circ} 30' 00''$ east along the westerly line of West Henrietta Road a distance of 50 feet to a point; thence (12) north $68^{\circ} 22'$ west a distance of 239.91 feet to a point; thence (13) south $89^{\circ} 08'$ west a distance of 106.70 feet to a point; thence (14) westerly on the arc of a curve to the left having a radius of 788.94 feet a distance of 268.51 feet to a point; thence (15) south $69^{\circ} 38' 00''$ west a distance of 245.11 feet to a point; thence (16) south $89^{\circ} 33' 30''$ west a distance of 1744.88 feet to a point; thence (17) westerly along the arc of a curve to the right having a radius of 328.60 feet to a point; thence (18) north $68^{\circ} 01' 55''$ west a distance of 28.77 feet to a point; thence (19) westerly on the arc of a curve to the

left having a radius of 456.40 feet a distance of 188.20 feet to a point; thence (20) south 68° 20' 29" west a distance of 1066.69 feet to the place of beginning.

The said easement and right of way shall be for the use of the party of the second part, its successors and assigns, including use of any roadway presently or hereinafter constructed on said easement by the parties of the first part, their heirs and assigns, all in common in the parties of the first part, their heirs, assigns and grantees, and any other person who may have the right to use said roadway. Any such roadway constructed on said easement shall be maintained by the parties of the first part, their heirs and assigns, until such time as same is dedicated to the Town of Henrietta and accepted for such dedication as public highway. The parties of the first part further reserve the right to convey a similar easement and right-of-way over said easement above described, to others, said rights to be used in common with the party of the second part. The right to use said easement and roadway shall terminate when and if the same is accepted for dedication as a public highway by the Town of Henrietta and the party of the second part, its successors and assigns shall have not further right in said easement, except as it or they may have as users of public highways in said Town. The parties of the first part reserves the right to dedicate said easement as a public highway to the Town of Henrietta, which dedication shall not require the execution of any instrument by the party of the second part, its successors and assigns or the holder of any liens on the premises herein conveyed to the party of the second part. The parties of the first part agree to dedicate said easement as a public highway to said Town.



Together with the appurtenances and all the estate and rights of the part of the first part in and to said premises,

Do hereby and to hold the premises herein granted unto the part y of the second part, its successors and assigns forever.

And said Parties of the first part

covenant as follows:

First, That the part y of the second part shall quietly enjoy the said premises;

Second, That said Parties of the first part

will forever warrant the title to said premises.

Third, That, in Compliance with Sec. 13 of the Lien Law, the grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the parties of the first part have hereunto set their hand and seal the day and year first above written.

In Presence of

Julian Kheel
Julian Kheel
Morris Rock
Morris Rock
Julius Rock
Julius Rock

State of New York } On this 7th day of October
County of MONROE } as Nineteen Hundred and Sixty-six
before me, the subscriber, personally appeared

Julian Kheel, Morris Rock and Julius Rock

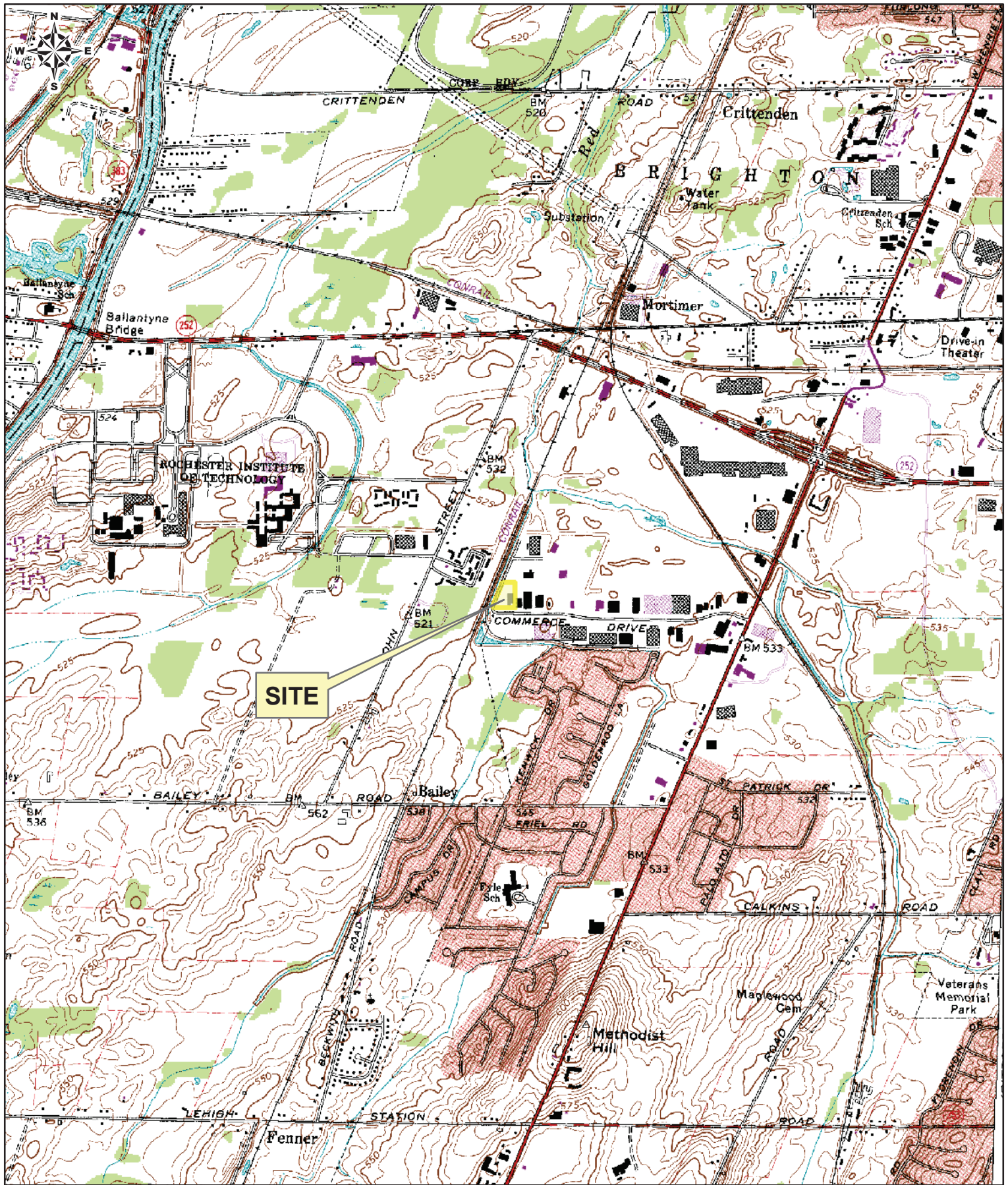
to me personally known and known to me to be the same persons described in and who executed the within instrument, and they acknowledged to me that they executed the same.

Sanford J. Liebschutz
Notary Public

SANFORD J. LIEBSCHUTZ
NOTARY PUBLIC, State of N. Y., Monroe County
My Commission Expires March 30, 1967

A true copy of the original recorded on the
3:44 o'clock P. M., and examined.

13th day of October, 1966, at
Sanford J. Liebschutz
Clerk.



PROJECT/DRAWING NUMBER

208242.01

FIGURE 1

DRAWING TITLE

**SITE LOCATION WITH USGS
7.5 MINUTE TOPO MAP
1:24,000**

ISSUED FOR: REVIEW
DESIGNED BY: RCN
DRAWN BY: RCN
DATE: 12/5/2008
REVIEWED BY:

FILE: \\mapsc\Draw\GIS\PROJECTS\2008\208242\208242.dwg
USER: mapsc

PROJECT CLIENT

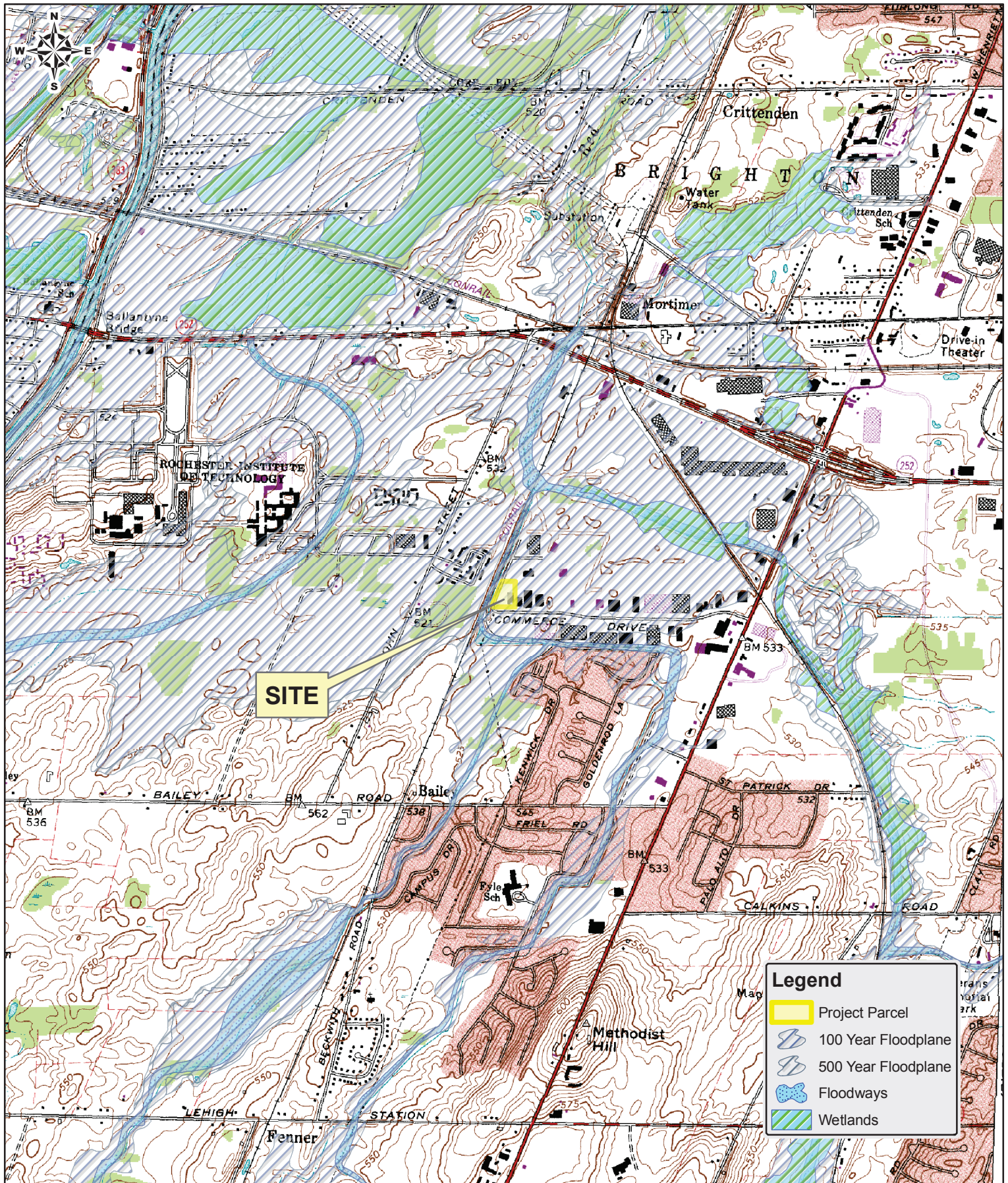
**BROWNFIELD CLEANUP
PROGRAM APPLICATION**

**300 COMMERCE DRIVE
HENRIETTA, NEW YORK**

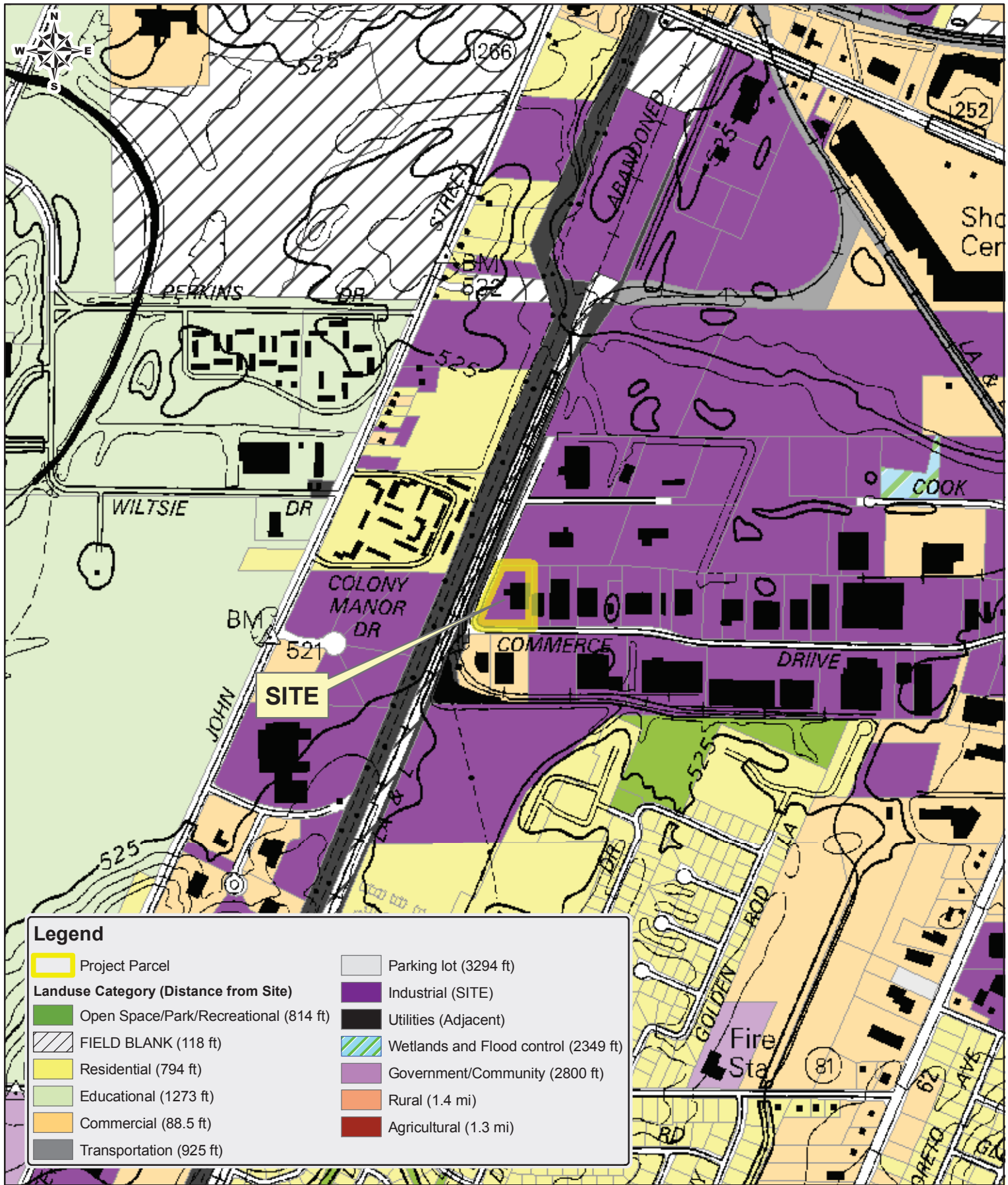
**VOLUNTEER:
YARO ENTERPRISES, INC.**

ABELLA
Associates, P.C.

300 STATE STREET
ROCHESTER, NY 14614
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<p>PROJECT/DRAWING NUMBER</p> <p>208242.01</p> <p>FIGURE 2</p>	<p>DRAWING TITLE</p> <p>WETLANDS AND FLOODPLAINS WITH USGS 7.5 MINUTE TOPO MAP 1:24,000</p> <p>ISSUED FOR: REVIEW</p> <p>DESIGNED BY: RCN</p> <p>DRAWN BY: RCN</p> <p>DATE: 12/5/2008</p> <p>FILE: I:\projects\208242\PROJECT\208242.dwg</p> <p>USER: mcmahoney</p>	<p>PROJECT CLIENT</p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>300 COMMERCE DRIVE HENRIETTA, NEW YORK</p> <p>VOLUNTEER: YARO ENTERPRISES, INC.</p>	<p>ABELLA</p> <p>Associates, P.C.</p> <p>300 STATE STREET ROCHESTER, NY 14614 P: (585) 454-6110 F: (585) 454-3066 www.labelapc.com COPYRIGHT 2003</p>
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<p>PROJECT/DRAWING NUMBER</p> <p>208242.01</p> <p>FIGURE 3</p>	<p>DRAWING TITLE</p> <p>PROPERTY MAP AND LAND USE</p> <p>1:10,000</p> <p>ISSUED FOR REVIEW</p> <p>DESIGNED BY: RCN</p> <p>DRAWN BY: RCN</p> <p>DATE: 12/5/2008</p> <p>REVIEWED BY:</p> <p>USER: mcmurray</p>	<p>PROJECT/CLIENT</p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>300 COMMERCE DRIVE</p> <p>HENRIETTA, NEW YORK</p> <p>VOLUNTEER:</p> <p>YARO ENTERPRISES, INC</p>	<p>ABELLA</p> <p>Associates, P.C.</p> <p>300 STATE STREET</p> <p>ROCHESTER, NY 14614</p> <p>P: (585) 454-6110</p> <p>F: (585) 454-3066</p> <p>www.labelapc.com</p> <p>COPYRIGHT 2003</p>
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PROJECT/DRAWING NUMBER

208242.01

FIGURE 4

DRAWING TITLE

NEIGHBORING PARCEL
INFORMATION
1:2,400

ISSUED FOR
REVIEW
DATE: 12/5/2008

DESIGNED BY: RCN
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REVIEWED BY:

PROJECT CLIENT

BROWNFIELD CLEANUP
PROGRAM APPLICATION

300 COMMERCE DRIVE
HENRIETTA, NEW YORK

VOLUNTEER:
YARO ENTERPRISES, INC

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