



Department of Environmental Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

This Amendment adds the Buffalo and Erie County Industrial Land Development Corporation to the Brownfield Cleanup Agreement.

This amendment modification request is also provided to confirm that as of June 2017, the BCP Parcel is part of new Tax parcel/SBL No. 141.11-1-48.1. The original Brownfield Cleanup Agreement listed the BCP site as being part of the historical tax parcel/SBL No. 141.11-1-1.111. In November 2012 that historical parcel was merged into other tax parcels. The BCP Parcel was then identified as being part of two tax parcels, such parcels being SBL no. 141.11-1-48 (11.33 acres) and 141.11-1-50 (942.73 acres). In June, 2017, the two aforementioned tax parcels were merged, in their entirety, to form a new combined tax parcel identified as 141.11-1-48.1, as explained in the correspondence within Exhibit D.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Application Information

BCP SITE NAME: Site I-1 Tecumseh Phase I Business Park BCP SITE NUMBER: C915197

NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment Inc.

INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(A) DATE OF EXISTING AGREEMENT: 12/12/05

Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)

NAME Buffalo and Erie County Industrial Land Development Corporation

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX 716-856-6754

E-MAIL jcappell@ecidany.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 (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. See Exhibit A

NAME OF NEW REQUESTOR'S REPRESENTATIVE John Cappellino, Executive Vice President

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX 716-856-6754

E-MAIL jcappell@ecidany.com

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) LaBella Associates, D.P.C.

ADDRESS Olympic Towers, 300 Pearl Street, Suite 300

CITY/TOWN Buffalo, New York

ZIP CODE 14202

PHONE 716-851-6283

FAX

E-MAIL rnapieralski@labellapc.com

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) Robert G. Murray/Harris Beach PLLC

ADDRESS 726 Exchange Suite, Suite 1000

CITY/TOWN Buffalo, New York

ZIP CODE 14210

PHONE 716-200-5180

FAX 716-200-5201

E-MAIL bmurray@harrisbeach.com

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? See Exhibit B



Yes



No

Describe Requestor's Relationship to Existing Applicant:

New Requestor, the Buffalo and Erie County Industrial Land Development Corporation, purchased the subject real property from Applicant, Tecumseh Redevelopment Inc., on November 28, 2017.

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor) Buffalo and Erie County Industrial Land Development Corporation

ADDRESS 95 Perry Street, Suite 403

CITY/TOWN Buffalo, New York

ZIP CODE 14203

PHONE 716-856-6525

FAX

E-MAIL jcappell@ecidany.com

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

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

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 presently subject to an existing order for the investigation, removal or remediation 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
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes 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? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT 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 contamination 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 contamination.

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.

See Exhibit C

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site 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; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS 1951 Hamburg Turnpike

CITY/TOWN Lackawanna

ZIP CODE 14218

TAX BLOCK AND LOT (TBL) (in existing agreement)

Part of 141.11-1-1.111 (now known as 141.11-1-48.1)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
A portion of 1951 Hamburg Turnpike, Lackawanna, NY	I-1	141.11	1	1.111	5.57

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction *change in TBL

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: 0

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
A portion of 1951 Hamburg Turnpike, Lackawanna, NY	I-1	141.11	1	48.1	5.57

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

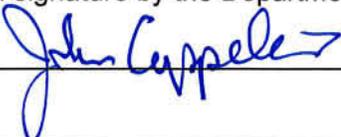
PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: Site I-1 Tecumseh Phase I Business Park	BCP SITE NUMBER: C915197
NAME OF CURRENT APPLICANT(S): Tecumseh Redevelopment Inc.	
INDEX NUMBER OF EXISTING AGREEMENT: B9-0696-05-06(A)	
EFFECTIVE DATE OF EXISTING AGREEMENT: December 12, 2005	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)	
(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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.	
Date: _____	Signature: _____
Print Name: _____	
(Entity)	
I hereby affirm that I am (title <u>Executive Vice President</u>) of (entity <u>Buffalo and Erie County Industrial Land Development Corporation</u>); 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.	
My _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.	
Date: <u>12/6/17</u>	Signature: 
Print Name: <u>John Cappellino</u>	

Statement of Certification and Signatures Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am ^{VP Environmental Affairs & Real Estate} (title) of Tecumseh Redevelopment Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 12/6/17 Signature: Keith Nagel

Print Name: Keith Nagel

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.	<input checked="" type="checkbox"/> 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 contamination.
---	--

Effective Date of the Original Agreement: 12/12/05

Signature by the Department:

DATED: 12/12/17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: [Signature]
Robert W. Schick, P.E., Director
Division of Environmental Remediation

TRUE NORTH AT THE 78°35'
MERIDIAN OF WEST LONGITUDE

THE ENGINEERING AND INSTITUTIONAL CONTROLS FOR THIS EASEMENT ARE SET FORTH IN THE SITE MANAGEMENT PLAN (SMP). A COPY OF THE SMP MUST BE OBTAINED BY ANY PARTY WITH AN INTEREST IN THE PROPERTY. THE SMP CAN BE OBTAINED FROM THE NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION, DIVISION OF ENVIRONMENTAL REMEDIATION, SITE CONTROL SECTION, 625 BROADWAY, ALBANY, NY 12233 OR AT DERWEB@GW.DEC.STATE.NY.US.

ENVIRONMENTAL EASEMENT DESCRIPTION FOR BCP SITE No. C915197

ALL THAT TRACT OF PARCEL OF LAND, SITUATE IN THE CITY OF LACKAWANNA, COUNTY OF ERIE, STATE OF NEW YORK, BEING PART OF LOTS 20 & 21 OF THE OGDEN GORE TRACT, BEING BCP SITE NUMBER C915197, AS SHOWN ON A MAP OF "LAND TO BE CONVEYED TO BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION", PREPARED BY WENDEL, MAY 2017, PROJECT NUMBER 411110 (BEING PART OF WENDEL'S PROJECT NUMBER 411107), BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE (ALSO KNOWN AS STATE ROUTE NO. 5), AS APPROPRIATED BY NEW YORK STATE DEPARTMENT OF PUBLIC WORKS MAP 40-R2, PARCEL 44, RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 5650 OF DEEDS AT PAGE 388, BEING 3791.41 FEET SOUTH OF THE DIVISION LINE BETWEEN LANDS CONVEYED TO TECUMSEH REDEVELOPMENT INC. RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11040 OF DEEDS AT PAGE 8953 ON THE SOUTH AND LANDS CONVEYED TO GATEWAY TRADE CENTER, INC. RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 10886 OF DEEDS AT PAGE 1115 ON THE NORTH, MEASURED ALONG SAID WESTERLY HIGHWAY BOUNDARY OF THE HAMBURG TURNPIKE;

THENCE ALONG THE SOUTH LINE OF SAID BUSINESS PARK PHASE I, S 71°-31'-33" W, A DISTANCE OF 494.27 FEET TO THE POINT OF BEGINNING;

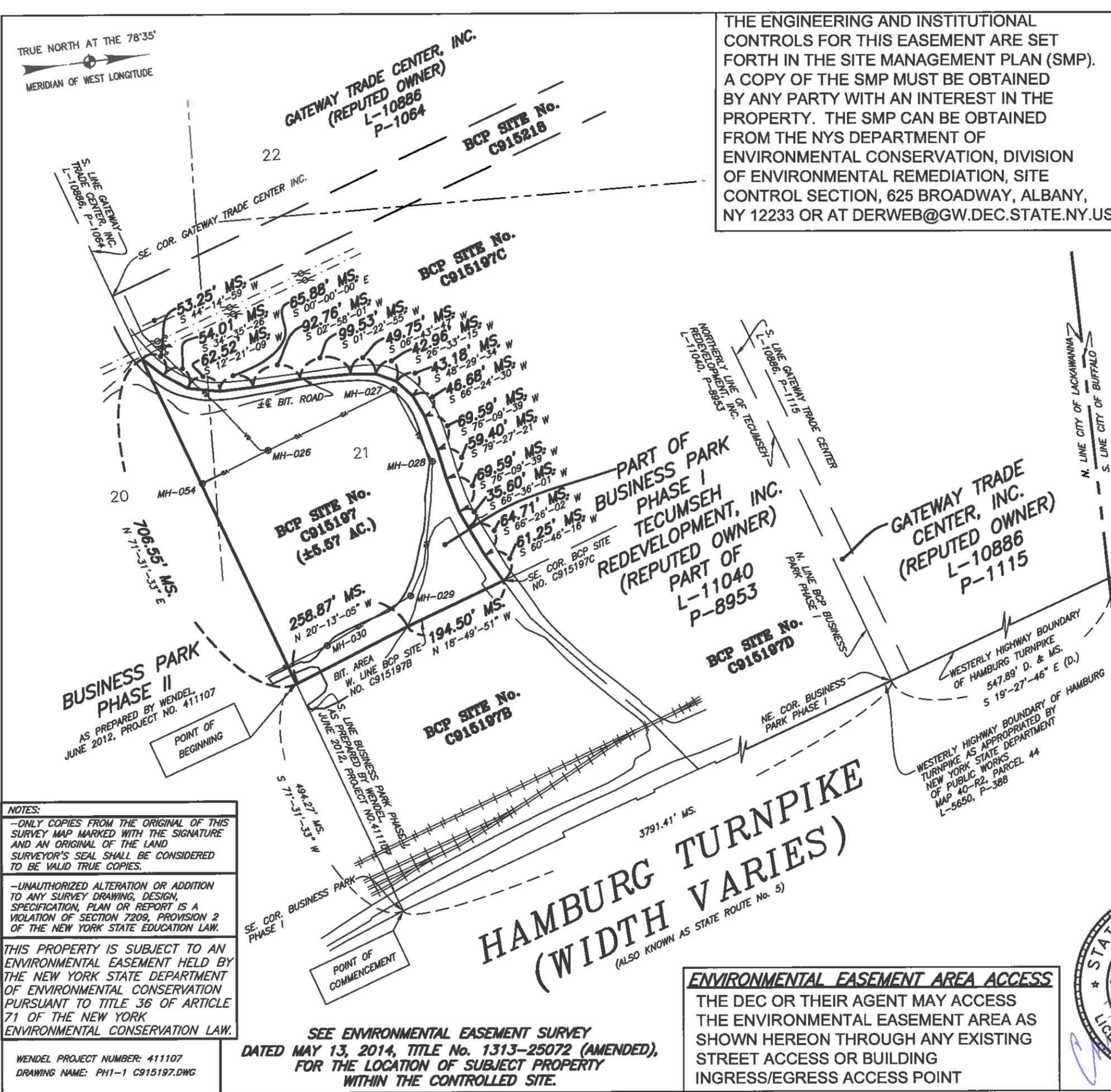
THENCE ALONG THE WESTERLY LINE OF BCP SITE NO. C915197B, N 20°-13'-05" W, A DISTANCE OF 258.87 FEET TO A POINT,

THENCE CONTINUING ALONG THE WESTERLY LINE OF BCP SITE NO. C915197B, N 18°-49'-51" E, A DISTANCE OF 194.50 FEET TO A POINT IN THE APPROXIMATE CENTERLINE OF A CERTAIN BLACKTOP ROAD, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF BCP SITE NO. C915197C;

THENCE ALONG THE SOUTHERLY LINE OF BCP SITE NUMBER C915197C AND THE APPROXIMATE CENTERLINE OF SAID ROAD THE FOLLOWING 17 COURSES AND DISTANCES:

1. S 60°-46'-16" W, A DISTANCE OF 61.25 FEET TO A POINT;
2. S 66°-26'-02" W, A DISTANCE OF 64.71 FEET TO A POINT;
3. S 66°-36'-01" W, A DISTANCE OF 35.60 FEET TO A POINT;
4. S 78°-09'-39" W, A DISTANCE OF 69.59 FEET TO A POINT;
5. S 79°-27'-21" W, A DISTANCE OF 59.40 FEET TO A POINT;
6. S 78°-09'-39" W, A DISTANCE OF 69.59 FEET TO A POINT;
7. S 66°-24'-30" W, A DISTANCE OF 46.68 FEET TO A POINT;
8. S 48°-29'-34" W, A DISTANCE OF 43.18 FEET TO A POINT;
9. S 26°-33'-15" W, A DISTANCE OF 42.96 FEET TO A POINT;
10. S 06°-43'-47" W, A DISTANCE OF 49.75 FEET TO A POINT;
11. S 01°-22'-55" W, A DISTANCE OF 99.53 FEET TO A POINT;
12. S 02°-58'-01" W, A DISTANCE OF 92.76 FEET TO A POINT;
13. S 00°-00'-00" W, A DISTANCE OF 65.88 FEET TO A POINT;
14. S 12°-21'-09" W, A DISTANCE OF 62.52 FEET TO A POINT;
15. S 34°-35'-26" W, A DISTANCE OF 54.01 FEET TO A POINT;
16. S 44°-14'-59" W, A DISTANCE OF 53.25 FEET TO A POINT;

THENCE ALONG THE SOUTHERLY LINE OF SAID BUSINESS PARK PHASE I, S 71°-31'-33" W, A DISTANCE OF 706.55 FEET TO THE POINT OF BEGINNING; CONTAINING 5.57 ACRES OF LAND, MORE OR LESS.



NOTES:
-ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MAP MARKED WITH THE SIGNATURE AND AN ORIGINAL OF THE LAND SURVEYOR'S SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
-UNAUTHORIZED ALTERATION OR ADDITION TO ANY SURVEY DRAWING, DESIGN, SPECIFICATION, PLAN OR REPORT IS A VIOLATION OF SECTION 7209, PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL EASEMENT HELD BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW.

WENDEL PROJECT NUMBER: 411107
DRAWING NAME: PH1-1 C915197.DWG

SEE ENVIRONMENTAL EASEMENT SURVEY DATED MAY 13, 2014, TITLE No. 1313-25072 (AMENDED), FOR THE LOCATION OF SUBJECT PROPERTY WITHIN THE CONTROLLED SITE.

ENVIRONMENTAL EASEMENT AREA ACCESS
THE DEC OR THEIR AGENT MAY ACCESS THE ENVIRONMENTAL EASEMENT AREA AS SHOWN HEREON THROUGH ANY EXISTING STREET ACCESS OR BUILDING INGRESS/EGRESS ACCESS POINT



REVISED 11/13/2017; UPDATED MAP

ALTERATION OF THIS DOCUMENT, EXCEPT BY A LICENSED LAND SURVEYOR, IS ILLEGAL

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PREPARED BY THE CONSULTANT

wendel
Centerpointe Corporate Park * 375 Essjay Road, Suite 200
Williamsville, New York 14221
PHONE: 716.688.0766 FAX: 716.625.8825
WEBSITE: www.wendelcompanies.com
Wendel WD Architecture, Engineering, Surveying and Landscape Architecture P.C.

MAP OF LANDS OF
BCA BOUNDARIES & PLANNED SUB-PARCELS BROWNFIELD CLEAN-UP PROGRAM
IN BUSINESS PARK PHASE I
TO
THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
SITUATE IN PART OF LOT 20 & 21 OF THE OGDEN GORE TRACT,
TOWNSHIP 10, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY
CITY OF LACKAWANNA, COUNTY OF ERIE, STATE OF NEW YORK
T.M.#: PART OF 141.11-1-1.111

200' 100' 50' 0' 200' 400'
1 INCH = 200 FEET
1:2400

I HEREBY CERTIFY THAT THIS IS AN ACCURATE SURVEY MAP PREPARED UNDER MY DIRECTION, FROM AN ACTUAL SURVEY, PERFORMED IN ACCORDANCE TO THE STANDARDS AND PROCEDURES ADOPTED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SEPTEMBER 1989.
FIELD SURVEY COMPLETED JUNE 2012.

CHRISTOPHER J. SCOTT, LAND SURVEYOR #050708
DATE: 11/14/17

SHEET 1 of 11
CHECKED BY: CJS
MAP NUMBER: BCP SITE No. C915197

EXHIBIT D

Revised SBL Number

REVISED SBL NUMBER
Hamburg Turnpike

EXHIBIT D-1

Tax map showing former tax parcels 141.11-1-50 and 141.11-1-48

EXHIBIT D-2

Email correspondence dated June 12, 2017 from City of Lackawanna Assessor Frank Krakowski confirming that a portion of SBL Nos. 141.11-1-50 and 141.11-1-48 have been combined

EXHIBIT D-3

Assessment Summary from City of Lackawanna showing creation of new tax parcel SBL No. 141.11-1-48.1

EXHIBIT D-4

Correspondence dated July 11, 2017 from City of Lackawanna Director of Development identifying the property being sold to Buffalo and Erie County Industrial Land Development Corporation as part of SBL 141.11-1-48.1

** A tax map showing the tax parcel does not exist at this point in time.

Melanie C. Marotto

From: Nisengard, Michael <mnisengard@hselaw.com>
Sent: Tuesday, July 11, 2017 3:32 PM
To: Melanie C. Marotto
Subject: FW: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]
Attachments: Hamburg Tpk.pdf



Michael L. Nisengard, Senior Associate
Harter Secrest & Emery LLP, Attorneys and Counselors
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293
Firm 716.853.1616 Direct 716.844.3715 Fax 716.853.1617
MNisengard@hselaw.com [vCard](#) [Bio](#)
www.hselaw.com

This e-mail message is from a law firm and may contain information that is privileged or confidential. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this electronic mail transmission in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail at MNisengard@hselaw.com or by calling 716.844.3715, so that our address record can be corrected.

From: cityassessor [<mailto:cityassessor@lackny.com>]
Sent: Monday, June 12, 2017 11:04 AM
To: Scholand, Gregory P.
Subject: RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

See attached parcels have been combined.

Frank E. Krackowski

Assessor, City of Lackawanna
714 Ridge Road Room 213
Lackawanna, New York 14218
Phone: 716-827-6451
Fax: 716-827-6434

cityassessor@lackny.com

From: Scholand, Gregory P. [<mailto:gscholand@hselaw.com>]

Sent: Thursday, June 8, 2017 10:02 AM

To: cityassessor <cityassessor@lackny.com>

Subject: RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

Thanks very much Frank. Please let me know when the combination is complete so that I can inform Tecumseh.

Best,
Greg



Gregory P. Scholand, Associate
Harter Secrest & Emery LLP, Attorneys and Counselors
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293
Firm 716.853.1616 Direct 716.844.3714 Fax 716.853.1617
GScholand@hselaw.com [vCard](#) [Bio](#)
www.hselaw.com

From: cityassessor [<mailto:cityassessor@lackny.com>]
Sent: Thursday, June 08, 2017 9:58 AM
To: Scholand, Gregory P.
Subject: RE: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

New SBL# will be 141.11-1-48.1

Frank E. Krakowski

Assessor, City of Lackawanna
714 Ridge Road Room 213
Lackawanna, New York 14218
Phone: 716-827-6451
Fax: 716-827-6434

cityassessor@lackny.com

From: Scholand, Gregory P. [<mailto:gscholand@hselaw.com>]
Sent: Wednesday, May 31, 2017 1:34 PM
To: cityassessor@lackny.com
Subject: Combination Request: SBL Nos. 141.11-1-50 and 141.11-1-48 [HSELAW-WORKSITE.FID666962]

Dear Mr. Krakowski,

As you and I discussed on the phone last week, our firm represents Tecumseh Redevelopment Inc. ("Tecumseh"), landowner in the Bethlehem Redevelopment Area of Lackawanna. On behalf of Tecumseh, I am writing to request the Combination of two parcels:

- 141.11-1-50** - 2303 Hamburg Turnpike, City of Lackawanna (+/-942.7 acres)
- 141.11-1-48** - [0] Hamburg Turnpike, City of Lackawanna (+/-11.3 acres)

These two parcels are contiguous, and Tecumseh Redevelopment Inc. is the record owner of both.

Please don't hesitate to contact me if you need any further information with respect to this Combination request. Otherwise, please notify me when the Combination is complete.

Thank you for your assistance and courtesies in this matter.

Regards,
Greg



Gregory P. Scholand, Associate
Harter Secrest & Emery LLP, Attorneys and Counselors
50 Fountain Plaza, Suite 1000, Buffalo, NY 14202-2293
Firm 716.853.1616 Direct 716.844.3714 Fax 716.853.1617
GScholand@hselaw.com [vCard](#) [Bio](#)
www.hselaw.com

Parcel Information		Parcel Land Size		File Maintenance/Sales Info	
Curr Owner: Tecumseh Redevelopment Inc.	Acct #: 61	Front: 0.00 Acres:	954.00 Irreg	Created: 08/28/1990	Book:
Location: 2303 Hamburg Tpke Lackawanna, NY 14218	School Cd: 140900 Lackawanna City [Depth: 0.00 Sq Ft:	0	Modified: 06/12/2017 11:00 AM	Page:
	Roll Sect: 1 Taxable RS/S:	Grid Coordinates		By: frank	
	Prop Class: 714 Lite Ind Manfr	East: 1074323	North: 1026859	Folder: u_assmt_ar	

Property Description					
Owner Cd:	Alloc Factor: 0.0000	Tax Code: N Non-Homestead	Desc 1:		
Cons School:	Land Com Yr/Cd:	Mtg No:	Desc 2:		
Ag District: 0	Ag District Cd:	Bank Cd:	Desc 3:		
Easmnt Cd:	SSI: 0	Arrears: 0	Desc Print Cd: D		

Assessment Data					
Curr Land AV: 8,703,940	Orig Value Type:	Prior Land AV:	Taxable Values		AR Information
Curr Total AV: 11,103,940	Rev Value Type:	Prior Total AV:	County: 11,103,940	Equal Inc: 11,103,940	
Reval Land: 10,026,200	Residential Pct:		Muni: 11,103,940	Equal Dec:	
Reval Total:	Uniform Pct: 79.31	Relevies	School: 11,103,940	Phys Inc:	
Disclos Total:	Full Mkt Value: 14,000,681	School: 0.00	Village:	Phys Dec:	
		Village: 0.00	Star Sch: 11,103,940	Split Merge: 3	

Current Owners							
Name	Attention To/In Care Of			Additional Address			
Street No./Prefix Dir/Street Name/Suffix/Post Dir	Unit Name	Unit No.	P.O. Box	City	St	Zip Code	Country
Tecumseh Redevelopment Inc.	Tax Department-8-229			East Chicago	IN	46312-1716	
3210 Watling St							Bar Cd
							Owner Type
							Primary

Building Permits			
Permit No.	Permit date	Permit Use	Pct Complete
10799	01/09/2009	Demo Building 48 X 84 Brick Building	0
9340	01/07/2002	Food Transfer Station	100
			Activity Code
			A Active
			H Historical

EXHIBIT D-3

**CITY OF LACKAWANNA
DEPARTMENT OF DEVELOPMENT**

714 Ridge Road – Room 309
Lackawanna, NY 14218
Tel: (716) 827-6474 Fax: (716) 827-1866

RECEIVED



July 11, 2017

RECEIVED

JUL 12 2017

John Cappellino, Director of Business Development
Industrial Land Development Corporation
C/O ECIDA
95 Perry Street, Suite 403
Buffalo, NY 14203

Dear Mr. Cappellino:

As Director of Development for the City of Lackawanna, I have reviewed the contents of the request for Preliminary Plat Approval to subdivide 2303 Hamburg Turnpike (SBL #141.11-1-48.1) into two parcels, so as to create a new approximately 150-acre parcel, which will be acquired by the Buffalo and Erie County Industrial Land Development Corporation (BILDC) from Tecumseh Redevelopment Inc (Grantor).

Based upon a review and in reliance on your letter of July 10th, 2016, and all attachments thereto, it is understood that:

1. The 150-acre parcel being created will be assembled in four or fewer separate phases to be completed in whole within 6 months, and that each deed conveying a portion of the 150-acres will ultimately be joined into the newly created 150-acre tract being acquired by the ILDC. Thus, there will never be more than two parcels created in the subdivision process we are reviewing at this time; and
2. There are no roads or right-of-ways being created a part of this approval. Access to the grantor parcel and the newly created parcel will initially be provided at the existent Ridge Road entrance to 2303 Hamburg Turnpike. Access across the newly created parcel to the Grantor's and grantors lands will be allowed through temporary licenses, until the already funded and approved Dona Street extension is completed consistent with local road standards. This approval creates no status to any existing pathway, or to any other roads or pathways, and in no way waives the requirements of all roads to meet the City Standards set forth in Lackawanna Code §§ 144-6 through 144-8; and
3. BILDC has represented that a GEIS will be conducted for the proposed redevelopment of the 150-acre parcel; and until such time as the GEIS process is complete, the potential internal roadways and utility corridors, easements, and parklands will be unknown; and

Drew Shapiro
Department of Development

4. The applicants further represents due to the complex history of the past private use of land it cannot make accurate representation as to the existent location all utility lines and services and thus requests the details otherwise required by Lackawanna Code §144-4 (B)(1) not contained within the application, be waived, without prejudice or requirement that the requisite detail as to all improvements to be utilized going forward meet the requirements for Final Plat approval set forth in Lackawanna Code §144-6.

Based upon, and in reliance on your foregoing representations your Preliminary Plat Approval is deemed complete and approved, without waiver of any requirements to meet Final Plat Approval Requirements within six months after completion of the GEIS process, and without any waiver to comply with all applicable State Laws, and local codes and standards in the use and development of the properties.

Please do not hesitate to contact my office at 716-827-6421 with any other questions, concerns or assistance if needed.

Sincerely,



Drew Shapiro, Director of Development

Cc: Richard Stanton, Esq
Robert Murray, Esq
Antonio Savaglio, Esq