

New York State Department of Environmental Conservation

Brownfield Cleanup Program

Citizen Participation Plan for Buffalo Development Corporation

Site # (TBD)
Buffalo Development Corporation Hotel Site
Buffalo
Erie County, New York

July 2006

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Note: The information presented in this Citizen Participation Plan was current as of the date of its approval by the New York State Department of Environmental Conservation. Portions of this Citizen Participation Plan may be revised during the site's remedial process.

Applicant: **Buffalo Development Corp. (“Applicant”)**
Site Name: **Buffalo Development Corporation Hotel Site (“Site”)**
Site Number: **TBD**
Site Address: **275/277 & 279 Franklin Street and 432 Pearl Street, Buffalo, NY 14202**
Site County: **Erie**

1. What is New York’s Brownfield Cleanup Program?

New York’s Brownfield Cleanup Program (BCP) is designed to encourage the private sector to investigate, remediate (cleanup), and redevelop brownfields. A brownfield is any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant. A brownfield typically is a former industrial or commercial property where operations may have resulted in environmental contamination. A brownfield can pose environmental, legal and financial burdens on a community. If the brownfield is not addressed, it can reduce property values in the area and affect economic development of nearby properties.

The BCP is administered by the New York State Department of Environmental Conservation (NYSDEC), which oversees Applicants accepted into the BCP as they conduct brownfield site remedial activities. The BCP contains strict investigation and remediation (cleanup) requirements, ensuring that cleanups protect public health and the environment based on the intended use of the brownfield site. When NYSDEC certifies that these requirements have been met, the property can be reused or redeveloped for the intended use. For more information about the BCP, go online at: www.dec.state.ny.us/website/der/bcp.

2. Citizen Participation Plan Overview

A Citizen Participation (CP) Plan provides members of the affected and interested public with information about how NYSDEC will inform and involve them during the investigation and remediation of a site under the BCP.

This CP Plan has been developed for the site under the BCP. Appendix D contains a map locating the site. NYSDEC is committed to informing and involving the public concerning the investigation and remediation of the site. This CP Plan describes the public information and involvement program that will be carried out with assistance from the Applicant.

Appendix A of this CP Plan identifies NYSDEC project contacts to whom the public may address questions or request information about the site’s remedial program. The locations of the site’s document repositories also are identified in Appendix A. The document repositories provide convenient access to important project documents for public review and comment.

Appendix B identifies the CP activities that have been and will be conducted during the site’s remedial program.

The CP activities are designed to achieve the following objectives:

- Help the interested and affected public to understand contamination issues related to a brownfield site, and the nature and progress of an Applicant's efforts, under State oversight, to investigate and, if appropriate, remediate a brownfield site.
- Ensure open communication between the public and project staff throughout a brownfield site's remedial process.
- Create opportunities for the public to contribute information, opinions and perspectives that have potential to influence decisions about a brownfield site's investigation and remediation.

This CP Plan may be revised due to changes in major issues of public concern or in the nature and scope of remedial activities. Modifications may include additions to the site contact list, updates to major issues of concern to the public, and changes in planned citizen participation activities. The public is encouraged to discuss its ideas and suggestions about the citizen participation program with the project contact listed in Appendix A.

Appendix C contains the brownfield site contact list. This list has been developed to keep the community informed about, and involved in, the site's investigation and remediation process. The brownfield site contact list includes, at a minimum:

- Chief executive officer and zoning board of each county, city, town and village in which the site is located.
- Residents on and/or adjacent to the site.
- The public water supplier that services the area in which the site is located.
- Any person who has requested to be placed on the site contact list.
- The administrator of any school or day care facility located on and/or adjacent to the site for purposes of posting and/or dissemination at the facility.
- Document repositories and their contacts.

The brownfield site contact list will be used periodically to distribute fact sheets that provide updates about the status of the project, including notifications of upcoming remedial activities at the site (such as fieldwork), as well as availability of project documents and announcements about public comment periods.

The brownfield site contact list will be reviewed periodically and updated as appropriate. Individuals and organizations will be added to the site contact list upon request. Such requests should be submitted to the NYSDEC project contact identified in Appendix A.

3. Site Information

Site Description

The Site encompasses three adjacent parcels in the City of Buffalo, New York identified as 275-277 Franklin Street (~0.13 acres), 279 Franklin Street (~0.12 acres), and 432 Pearl Street (~0.44 acres) (Erie County Tax Map Nos. 111.38-2-22, 111.38-2-23, and 111.38-2-4.1, respectively) (refer to Appendix D for a site location map and site plan). The Site is currently used as a commercial surface parking lot. There are currently no structures on the Site. Buffalo Development Corporation currently owns the Site and plans to redevelop the Site as a hotel and conference center. The Site is bounded by a restaurant and surface parking lot to the north and east, Pearl Street to the east, a surface parking lot and apartment building to the south and west, and Franklin Street to the west.

The Site has been used for various purposes since the late 1800s. 275-277 Franklin Street was used as a dry cleaner from at least 1951 through the early 2000s. 279 Franklin Street was used for residential purposes from the late 1800s through at least 1951 and a parking lot from at least 1981 to the present. 432 Pearl Street was developed with various residential and commercial structures from the late 1800s through 1981 and has apparently been used as a surface parking lot since 1981. Of note, “Martin Fischer and Sons Hot Air Heaters” was noted on this portion of the Site in 1925

Environmental History

A Limited Environmental Investigation was performed at 275-277 Franklin Street by Nature’s Way Environmental Consultants & Contractors, Inc. in September 2004. The results of that investigation indicated that Site soils and groundwater had been impacted by tetrachloroethene (PCE), a chlorinated volatile organic compound (VOC), typically associated with dry cleaning operations.

In March 2006, Benchmark performed a Preliminary Site Investigation at 275-277 Franklin Street, 279 Franklin Street, 432 Pearl Street, and 470 Pearl Street. The Preliminary Site Investigation was performed to assess soil/fill materials and soil vapor on-site and to ascertain if subsurface environmental conditions on these parcels were likely to impact Site redevelopment. The results of the investigation indicate that Site soils have been impacted by semi-volatile organic compounds (SVOCs), mercury, and lead. In addition, soil vapor samples collected from 279 Franklin Street and 432 Pearl Street contained several chlorinated VOCs.

4. Remedial Process

The Applicant has applied for entrance into New York’s Brownfield Cleanup Program as a Volunteer. This means that the Applicant was not responsible for the disposal or discharge of the contaminants or whose ownership or operation of the Site took place after the discharge or disposal of contaminants.

The Applicant in its Application proposes that the Site will be used for restricted purposes. To achieve this goal, the Applicant will conduct remedial activities at the Site with oversight provided

by NYSDEC. The Brownfield Cleanup Agreement provides the responsibilities of each party in conducting a remedial program at the Site.

If the Applicant conducts a remedial investigation (RI) of the Site, it will be performed with NYSDEC oversight, and with the following goals:

- 1) Define the nature and extent of contamination in soil, surface water, groundwater and any other impacted media;
- 2) Identify the source(s) of the contamination;
- 3) Assess the impact of the contamination on public health and/or the environment; and
- 4) Provide information to support the development of a Remedial Work Plan to address the contamination, or to support a conclusion that the contamination does not need to be addressed.

The Applicant will prepare an RI Report after it completes the RI. This report will summarize the results of the RI and will include the Applicant's recommendation of whether remediation is needed to address site-related contamination. The RI Report is subject to review and approval by NYSDEC. Before the RI Report is approved, a fact sheet that describes the RI Report will be sent to the Site's contact list.

NYSDEC determines whether the Site poses a significant threat to public health and/or the environment. If NYSDEC determines that the Site is a "significant threat," a qualifying community group may apply for a Technical Assistance Grant (TAG). The purpose of a TAG is to provide funds to the qualifying community group to obtain independent technical assistance. This assistance helps the TAG recipient to interpret and understand existing environmental information about the nature and extent of contamination related to the Site and the development/implementation of a remedy.

For more information about the TAG Program and the availability of TAGs, go online at: www.dec.state.ny.us/website/der.

After NYSDEC approves the RI Report, the Applicant will be able to develop a Remedial Work Plan. The Remedial Work Plan describes how the Applicant would address the contamination related to the Site.

The public will have the opportunity to review and comment on the remediation proposal. The Site contact list will be sent a fact sheet that describes the Remedial Work Plan and announces a 45-day public comment period. NYSDEC will factor this input into its decision to approve, reject or modify the Remedial Work Plan.

Approval of the Remedial Work Plan by NYSDEC will allow the Applicant to design and construct the alternative selected to remediate the Site. The Site contact list will receive notification before the start of Site remediation. When the Applicant completes remedial activities, it will prepare a Remedial Action Report that certifies that remediation activities have been achieved or will be

achieved within a specific time frame. NYSDEC will review the report to be certain that the remediation is protective of public health and the environment for the intended use for the Site. The Site contact list will receive a fact sheet that announces the completion of remedial activities and the review of the Remedial Action Report.

NYSDEC will then issue the Applicant a Certificate of Completion. This Certificate states that remediation goals have been achieved, and relieves the Applicant from future remedial liability, subject to statutory conditions. If the Applicant used institutional controls or engineering controls to achieve remedial objectives, the Site contact list will receive a fact sheet discussing such controls.

An institutional control is a non-physical means of enforcing a restriction on the use of real property that limits human or environmental exposure; restricts the use of groundwater; provides notice to potential owners, operators, or members of the public; or prevents actions that would interfere with the effectiveness of a remedial program or with the effectiveness and/or integrity of site management at or pertaining to a brownfield site. An example of an institutional control is an environmental easement.

An engineering control is a physical barrier or method employed to actively or passively contain, stabilize, or monitor contamination; restrict the movement of contamination to ensure the long-term effectiveness of a remedial program; or eliminate potential exposure pathways to contamination. Examples include caps and vapor barriers.

Site management will be conducted by the Applicant as required with appropriate NYSDEC oversight.

Activities required to be conducted to inform and involve the public during the site's remedial process are introduced in Section 5 and identified in the chart in Appendix B.

5. Citizen Participation Activities

CP activities that have already occurred and are planned during the investigation and remediation of the site under the BCP are included in Appendix B: Identification of Citizen Participation Activities. NYSDEC will ensure that these CP activities are conducted, with appropriate assistance from the Applicant.

All CP activities seek to provide the public with significant information about site findings and planned remedial activities, and some activities announce comment periods and request public input about important draft documents such as the Proposed Remedial Work Plan.

The CP Plan for the site may be revised based on changes in the site's remedial program or major issues of public concern.

All written materials developed for the public will be reviewed and approved by NYSDEC for clarity and accuracy before they are distributed.

6. Major Issue of Public Concern

This section of the CP Plan identifies major issues of public concern as they relate to the Site. Additional major issues of public concern may be identified during the Site's remedial process.

Local Residents

The Remedial Investigation will be carried out by professionals experienced in performing investigation activities in densely populated areas. All work will be conducted under a site-specific Health and Safety Plan and Community Air Monitoring Program approved by the NYSDEC and NYSDOH. The Remedial Investigation will be conducted over a limited duration (approximately 2-3 weeks) and during normal business hours. No soil or groundwater will be removed from the Site. Areas excavated for soil investigation will be filled in at the end of each work day. The Remedial Investigation will be conducted with minimal equipment usage; hence, there will be no change in traffic patterns. There will be no additional noise or odors as result of the Remedial Investigation activities.

Stakeholders

The Remedial Investigation will be completed in late summer 2006 in order to complete the subsequent Remedial Design and begin Site cleanup prior to the 2007 construction season. The sequencing of events is important to the timely redevelopment of the Site.

Appendix A – Project Contacts and Document Repositories

Project Contacts

For information about the site's remedial program, the public may contact the following NYSDEC project contacts:

Mr. Gene Melnyk
Project Manager
NYSDEC Region 9
Division of Environmental Remediation
270 Michigan Avenue
Buffalo, NY 14203
(716) 851-7220

Ms. Megan Gollwitzer
Citizen Participation Specialist
NYSDEC Region 9
270 Michigan Avenue
Buffalo, NY 14203
(716) 851-7220

Document Repositories

The document repositories identified below have been established to provide the public with convenient access to important project documents:

Buffalo & Erie County Public Library
Central Branch
1 Lafayette Square
Buffalo, NY 14203-1887
Attn: Michael C. Mahaney, Director
Phone: (716) 858-8900
Hours: M, Tues., W, F, Sat.: 8:30 am – 6 pm
Thurs.: 8:30 am – 8 pm
Sun.: Closed (summer)
1 pm – 5 pm (winter)

NYSDEC Region 9 Office
270 Michigan Avenue
Buffalo, NY 14203
Attn: Ms. Megan Gollwitzer
Phone: (716) 851-7220
Hours: M-F 8:30am-4:45pm
(Call for appointment)

Appendix B – Identification of Citizen Participation Activities

Required Citizen Participation Activity	CP activity(ies) occur at this point	Date Completed
Application Process:		
<ul style="list-style-type: none">• Prepare brownfield site contact list (BSCL)• Establish document repositories• Publish notice in Environmental Notice Bulletin (ENB) announcing receipt of application and 30-day comment period• Publish above ENB content in local newspaper• Mail above ENB content to BSCL	<p>At time of preparation of application to participate in BCP</p> <p>When NYSDEC determines that BCP application is complete. The 30 -day comment period begins on date of publication of notice in ENB. End date of comment period is as stated in ENB notice. Therefore, ENB notice, newspaper notice and notice to the BSCL should be provided to the public at the same time.</p>	<p>July 2006</p> <p>July 2006</p> <p>Date Published</p> <p>Date Published</p> <p>Date Mailed</p>
After Execution of Brownfield Site Cleanup Agreement:		
<ul style="list-style-type: none">• Prepare citizen participation (CP) plan	Draft CP Plan must be submitted within 20 days of entering Brownfield Site Cleanup Agreement. CP Plan must be approved by NYSDEC before distribution	Date of CP Plan Final Approval
After Remedial Investigation (RI) Work Plan Received:		
<ul style="list-style-type: none">• Mail fact sheet to BSCL about proposed RI activities and announcing 30-day public comment period on draft RI Work Plan	Before NYSDEC approves RI Work Plan. If RI Work Plan is submitted with application, comment periods will be combined and public notice will include fact sheet. 30 -day comment period begins/ends as per dates identified in fact sheet.	Date Mailed
After RI Completion:		
<ul style="list-style-type: none">• Mail fact sheet to BSCL describing results of RI	Before NYSDEC approves RI Report	Date Mailed
After Remedial Work Plan (RWP) Received:		
<ul style="list-style-type: none">• Mail fact sheet to BSCL about proposed RWP and announcing 45-day comment period• Public meeting by NYSDEC about proposed RWP (if requested by public)	Before NYSDEC approves RWP. 45 -day comment period begins/ends as per dates identified in fact sheet. Public meeting would be held within the 45 -day comment period.	Date Mailed Date of Public Meeting
After Approval of RWP:		
<ul style="list-style-type: none">• Mail fact sheet to BSCL summarizing upcoming remedial construction	Before the start of remedial construction	Date Mailed
After Remedial Action Completed:		
<ul style="list-style-type: none">• Mail fact sheet to BSCL announcing that remedial construction has been completed• Mail fact sheet to BSCL announcing issuance of Certificate of Completion (COC)	At the time NYSDEC approves Final Engineering Report. These two fact sheets should be combined when possible if there is not a delay in issuance of COC	Date Mailed Date Mailed

Appendix C – Brownfield Site Contact List

CONTACT LIST

The following is the contact list information for the subject property.

New York State Contacts:

Director Abby Snyder
NYSDEC, Region 9
270 Michigan Avenue
Buffalo, NY 14203

Mr. Gene Melnyk
NYSDEC, Region 9
270 Michigan Avenue
Buffalo, NY 14203

Ms. Megan Gollwitzer
NYSDEC, Region 9
270 Michigan Ave.
Buffalo, N.Y 14203

Mr. Cameron O'Connor
NYSDOH
584 Delaware Avenue
Buffalo, NY 14202

Senator Hillary Rodham-Clinton
U.S. Senate
Larkin Building
726 Exchange St., Suite 511
Buffalo, NY 14210

Representative Brian M. Higgins
Congressional District 27
726 Exchange Street, Suite 601
Buffalo, NY 14210

Mr. Martin Doster
NYSDEC, Region 9
270 Michigan Avenue
Buffalo, NY 14203

Ms. Meaghan Boice-Green
NYSDEC, Region 9
270 Michigan Ave.
Buffalo, N.Y 14203

Community Outreach File
NYSDEC, Region 9
270 Michigan Ave.
Buffalo, N.Y 14203

Mr. Matt Forcucci
NYSDOH
584 Delaware Avenue
Buffalo, NY 14202

Senator Charles Schumer
U.S. Senate
130 South Elmwood Avenue, Suite 660
Buffalo, NY 14202

Representative Louise M. Slaughter
109th Congress – District 28
465 Main Street, Suite 105
Buffalo, NY 14203

Appendix C – Brownfield Site Contact List

New York State Contacts:

Assemblymember Crystal D. Peoples
NYS Assembly – District 141
792 E. Delavan Avenue
Buffalo, NY 14215

Assemblymember Sam Hoyt
NYS Assembly – District 144
125 Main Street
Buffalo, NY 14203

Senator Marc Coppola
60th District, NYS Senate
65 Court St., Rm. 213
Buffalo, NY 14202

Senator William Stachowski
58th District, NYS Senate
2030 Clinton Street
Buffalo, NY 14206

Mr. Michael Basile
WNY Public Information Office
186 Exchange St.
Buffalo, NY 14204

Erie County Contacts:

Mr. Joel Giambra, County Executive
95 Franklin Street
Rath Building
Buffalo, NY 14202

Mr. George Holt
Legislator – District 3
427 William Street
Buffalo, NY 14204

Commissioner Michael Walters
Erie Co. Emergency Services
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Kranz
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Mr. Michael Raab
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Commissioner Andrew Eszak
Erie Co. Environment & Plan.
95 Franklin Street
Buffalo, NY 14202

Commissioner Anthony Billittier
Erie Co. Health Dept., Rm 931
95 Franklin Street
Buffalo, NY 14202

Mr. Paul Leone
Erie County IDA
275 Oak Street
Buffalo, NY 14203

Appendix C – Brownfield Site Contact List

Erie County Contacts:

Mr. Kevin Kelley
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Mr. Patrick Daley
Erie County Local Emergency
95 Franklin Street
Buffalo, NY 14202

City of Buffalo Contacts:

Mayor Byron W. Brown
City Hall
Buffalo, NY 14202

Zoning Board:

James Lewis, III
Chairman
Room 1801, City Hall
Buffalo, NY 14202

Supplier of Potable Water:

Erie County Water Authority
350 Ellicott Square Building
295 Main Street
Buffalo, NY 14203

City of Buffalo Division of Water
City Hall
Buffalo, NY 14202

Local News Media:

ATTN: Jay Bonfatti
The Buffalo News
1 News Plaza
Buffalo, NY 14240

WBEN News Radio 930
Entercom Radio of Buffalo
500 Corporate Pkwy, Suite 200
Buffalo, NY 14226

ATTN: Environmental News Desk
WIVB - CH. 4
2077 Elmwood Avenue
Buffalo, NY 14207

ATTN: Melanie Pritchard
WKBW-TV
7 Broadcast Plaza
Buffalo, NY 14202

ATTN: Environmental News Desk
WJYE
1700 Rand Building
Buffalo, NY 14203

ATTN: Environmental News Desk
WGRZ TV - CH. 2
259 Delaware Avenue
Buffalo, NY 14202

Appendix C – Brownfield Site Contact List

Local News Media:

ATTN: Anne Marie Franczyk
Business First
465 Main Street
Buffalo, NY 14203-1793

Editor
Metro Community News
25 Boxwood Lane
Buffalo, NY 14227

Editor
Bee Group Newspapers
P.O. Box 150
Buffalo, NY 14231

News Director
WBEN Radio News/Talk 930
500 Corporate Pkwy. #200
Buffalo, NY 14226

ATTN: Michael Desmond
WNED, Environmental News Desk
PO 1263, Horizons Plaza
Buffalo, NY 14240

ATTN: News Director
Citadel Communications
50 James Casey Dr.
Buffalo, NY 14206

TTN: News Director
Infinity Broadcasting
14 Lafayette Square, #1300
Buffalo, NY 14203

ATTN: News Director
WB 49
699 Hertel Ave, Suite 100
Buffalo, NY 14207

Document Repository:

Buffalo & Erie County Public Library
Central Branch
1 Lafayette Square
Buffalo, NY 14203
Attn: Michael C. Mahaney, Director

Nearby Schools:

Emerson Vocational High School
Principal: James G. Weimer, Jr.
70 W. Chippewa St.
Buffalo, NY 14202
716-816-3018

Empire State College
Dean: Nan M. DiBello, Ph.D.
Market Arcade
617 Main St.
Buffalo, NY 14203-1498
716-853-7700

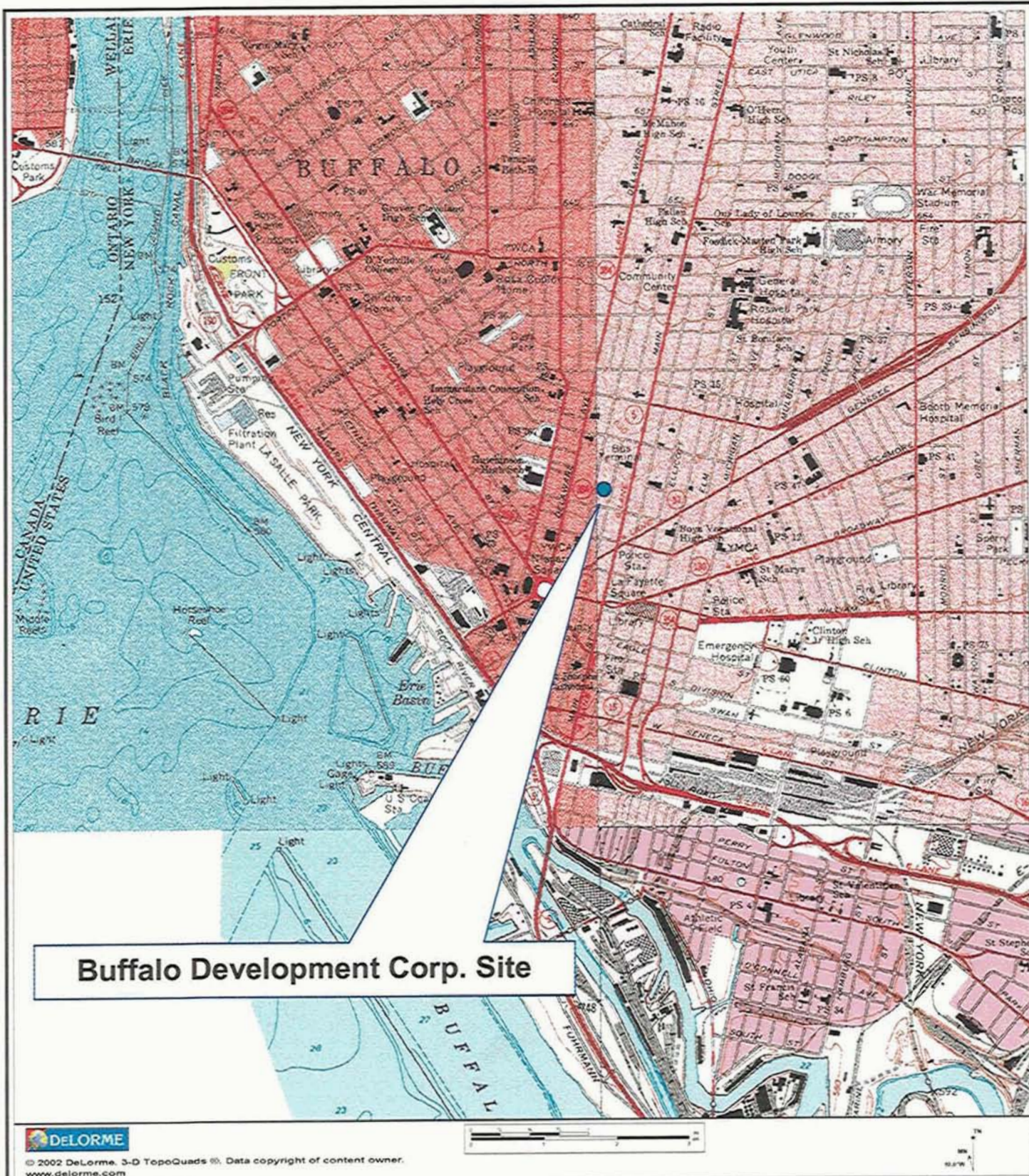
Appendix C – Brownfield Site Contact List

Other Interested Groups:

Mr. Brian Smith
Citizens Campaign-Environment
3144 Main Street
Buffalo, NY 14214

WNY Director
Citizens' Env. Coalition
543 Franklin St., Rm. 2
Buffalo, NY 14202-1109

Appendix D – Site Location Maps



726 EXCHANGE STREET
SUITE 624
BUFFALO, NEW YORK 14210
(716) 856-0599

SITE LOCATION AND VICINITY MAP

RI WORK PLAN - CITIZEN PARTICIPATION PLAN

BUFFALO DEVELOPMENT CORP. SITE
BUFFALO, NEW YORK

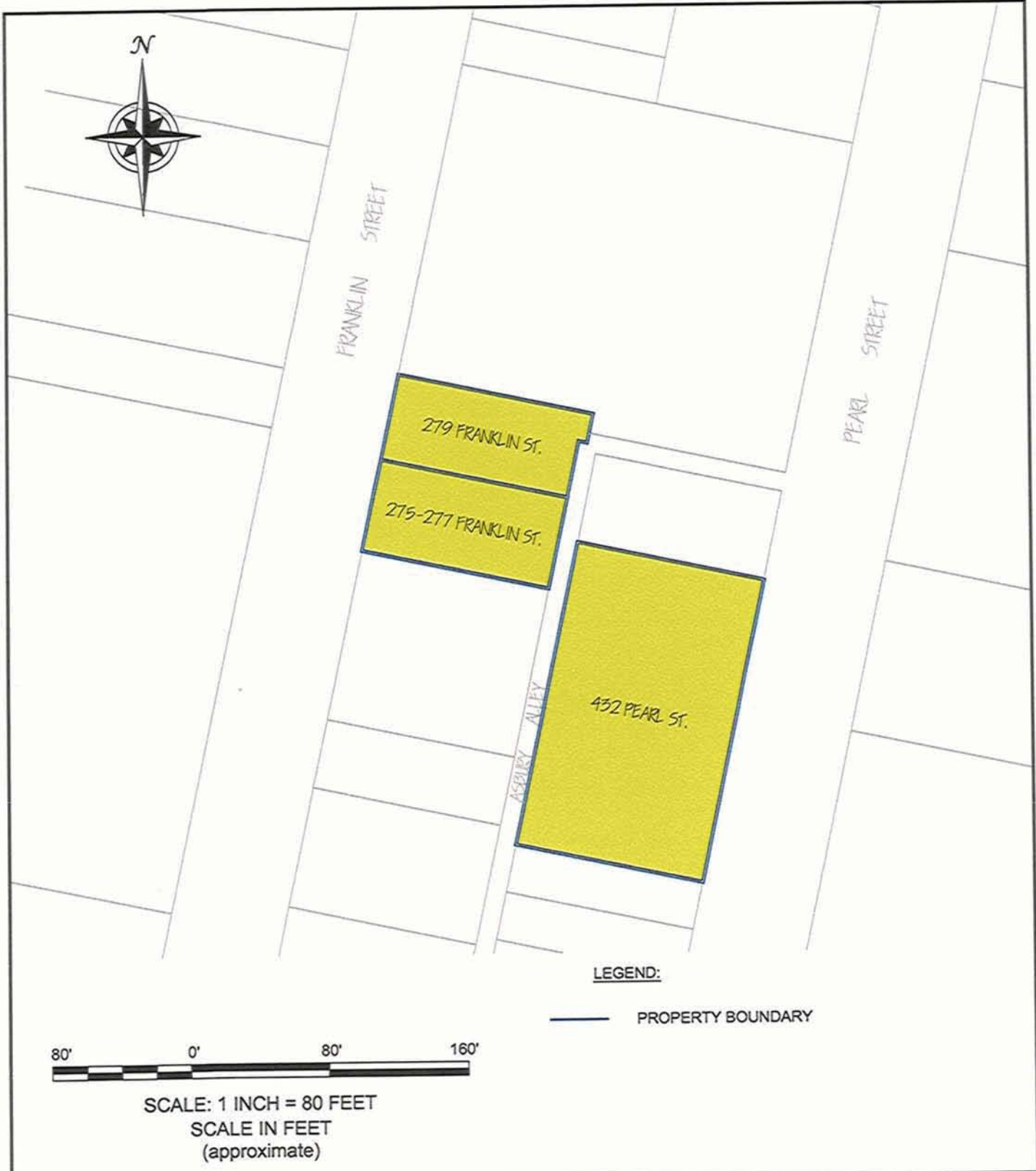
PROJECT NO.: 0099-003-100

DATE: JULY 2006

DRAFTED BY: BCH

PREPARED FOR
BUFFALO DEVELOPMENT CORPORATION

FIGURE 2



726 EXCHANGE STREET
SUITE 624
BUFFALO, NEW YORK 14210
(716) 858-0599

PROJECT NO.: 0099-003-100

DATE: JULY 2006

DRAFTED BY: BCH

SITE PLAN

RI WORK PLAN - CITIZEN PARTICIPATION PLAN

BUFFALO DEVELOPMENT CORP. SITE
BUFFALO, NEW YORK

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