

# New York State Department of Environmental Conservation

## Division of Environmental Remediation

Office of the Director, 12th Floor

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DEC 31 2013



Joe Martens  
Commissioner

Mr. Jon Williams  
South Buffalo Development, LLC  
333 Ganson Street  
Buffalo, New York 14203

RE: Certificate of Completion  
Site Name: Buffalo Color Corporation Site Areas A& B  
Site No. C915230  
City of Buffalo, Erie County

Dear Mr. Williams:

Congratulations on having satisfactorily completed the remedial program at the Buffalo Color Corporation Areas A and B site. Enclosed please find an original, signed Certificate of Completion. The New York State Department of Environmental Conservation (Department) is pleased to inform you that the Final Engineering Report is hereby approved, allowing the Certificate of Completion (COC) to be issued for the above-referenced site.

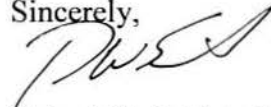
Please note that you are required to perform the following tasks:

- If you are the site owner, you must record a notice of the COC in the recording office for the County (or Counties) where any portion of the site is located within 30 days of issuance of the COC; or if you are a prospective purchaser of the site, you must record a notice of the COC within 30 days of the date that you acquire the site. If you are a non-owner, you must work with the owner to assure the notice of COC is recorded within the time frame specified. A standard notice form is attached to this letter;
- Place the notice of the COC in the document repository for the site within 10 days of issuance of the COC;
- Implement the Department-approved Site Management Plan (SMP) which details the activities necessary to assure the performance, effectiveness, and protectiveness of the remedial program; and you must report the results of these activities to the Department in a Periodic Review Report (PRR) which also includes any required IC/EC Certifications. The site IC/ECs are identified on the attached Site Management Form. The first PRR including the certification of the IC/ECs is due to the Department in February 2015; and
- You and your lessees must submit an annual report to the New York State Department of Taxation and Finance within one year and for each of the following eleven years after the execution of the Brownfield Site Cleanup Agreement. The Report must provide the information required by Chapter 390 of the Laws of 2008, Tax Law Section 171-s.

The Department will prepare and distribute to the Site Contact List a fact sheet describing the institutional and engineering controls that are required at the site.

If you have any questions regarding any of these items, please contact the project manager for this site, Eugene Melnyk, at (716) 851-7220.

Sincerely,



Robert W. Schick, P.E.

Director

Division of Environmental Remediation

Enclosures

cc: David Flynn, Phillips Lytle ([dflynn@phillipslytle.com](mailto:dflynn@phillipslytle.com))  
Rich Galloway, Honeywell ([rich.galloway@honeywell.com](mailto:rich.galloway@honeywell.com))  
Krista Anders, DOH  
Nathan Freeman, DOH  
Michael Ryan, DEC  
Ben Conlon, DEC  
Andrew Guglielmi, DEC  
Michael Cruden, DEC  
Eugene Melnyk, DEC  
Martin Doster, DEC  
Patrick Foster, DEC



The Remedial Program includes use restrictions or reliance on the long term employment of institutional or engineering controls which are contained in the approved Site Management Plan and an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as File No 2011251419, book/page 11213/7185.

#### **LIABILITY LIMITATION**

Upon issuance of this Certificate of Completion, and subject to the terms and conditions set forth herein, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holder's successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

#### **CERTIFICATE TRANSFERABILITY**

This Certificate may be transferred to the Certificate holder's successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6NYCRR Part 375-1.9.

#### **CERTIFICATE MODIFICATION/REVOCATION**

This Certificate of Completion may be modified or revoked by the Commissioner following notice and an opportunity for a hearing in accordance with ECL Section 27-1419 and 6NYCRR Part 375-1.9(e) upon a finding that:

- (1) either the Applicant or the Applicant's successors or assigns have failed to comply with the terms and conditions of the Brownfield Site Cleanup Agreement;
- (2) the Applicant made a misrepresentation of a material fact tending to demonstrate that it was qualified as a Volunteer;
- (3) either the Applicant or the Applicant's successors or assigns made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the Brownfield Site Cleanup Agreement were reached;
- (4) there is good cause for such modification or revocation;
- (5) either the Applicant or the Applicant's successors or assigns failed to manage the controls or monitoring in full compliance with the terms of the remedial program;
- (6) the terms and conditions of the environmental easement have been intentionally violated or found to be not protective or enforceable.

The Certificate holder(s) (including its successors or assigns) shall have thirty (30) days within which to cure any deficiency or to seek a hearing. If the deficiency is not cured or a request for a hearing received within such 30-day period, the Certificate shall be deemed modified or vacated on the 31st day after the Department's notice.

Joseph J. Martens  
Commissioner  
New York State Department of Environmental Conservation

By:



Robert W. Schick, P.E., Director  
Division of Environmental Remediation

Date: December 31, 2013



NYSDEC BROWNFIELD CLEANUP PROGRAM (BCP)  
*CERTIFICATE OF COMPLETION*

**CERTIFICATE HOLDER(S):**

**Name**

South Buffalo Development, LLC

**Address**

333 Ganson Street, Buffalo, NY 14203

**BROWNFIELD CLEANUP AGREEMENT:**

**Application Approval:** 4/1/09    **Agreement Execution:** 4/27/09    **Agreement Index No.:** B9-0783-08-06

**Application Approval Amendment:** none

**Agreement Execution Amendment:** none

**SITE INFORMATION**

**Site No.:** C915230    **Site Name:** Buffalo Color Corporation Site Areas A & B

**Site Owner:** South Buffalo Development, LLC

**Street Address:** 1337 So. Park Ave, 1002 So. Park, Part of 145 Prenatt St., Part of 5 Babcock St.

**Municipality:** Buffalo    **County:** Erie    **DEC Region:** 9

**Site Size:** 13.205 Acres

**Tax Map Identification Number(s):** 122.12-1-30, 122.12-1-33.11, 122.12-1-35, 122.16-1-9

**Percentage of site located in an EnZone:** 100 %

A description of the property subject to this Certificate is attached as Exhibit A and a site survey is attached as Exhibit B.

**CERTIFICATE ISSUANCE**

This Certificate of Completion, hereinafter referred to as the "Certificate," is issued pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law ("ECL").

This Certificate has been issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the applicable remediation requirements set forth in the ECL have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

The remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

**Allowable Uses under the BCP:** Commercial and Industrial

**Cleanup Track:** Track 4: Restricted use with site-specific soil cleanup objectives

**Tax Credit Provisions for Entities Taxable Under Article 9, 9-A, 32, and 33:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit Component Rate is 20 %.

**Tax Credit Provisions for Entities Taxable Under Article 22 & S Corporations:**

Site Preparation and On-Site Groundwater Remediation Credit Component Rate is 25 %.

Tangible Property Credit Component Rate is 18 %.

**NOTICE OF CERTIFICATE OF COMPLETION**  
**Brownfield Cleanup Program**  
**6 NYCRR Part 375-1.9(d)**

**Site: Buffalo Color Corporation Site Areas A & B; Site ID No. C915230**  
**1337 South Park Avenue - SBL 122.16-1-9;**  
**1002 South Park Avenue - SBL 122.12-1-33.11;**  
**Part of 145 Prenatt Street - SBL 122.12-1-35; and**  
**Part of 5 Babcock Street - SBL 122.12-1-30**  
**City of Buffalo, Erie County**

**PLEASE TAKE NOTICE**, the New York State Department of Environmental Conservation (Department) has issued a Certificate of Completion (Certificate) pursuant to Article 27, Title 14 of the New York State Environmental Conservation Law (ECL) to South Buffalo Development, LLC for a parcel approximately 13.205 acres located at 1337 South Park Avenue in the City of Buffalo, Erie County.

**PLEASE TAKE NOTICE**, the Certificate was issued upon satisfaction of the Commissioner, following review by the Department of the final engineering report and data submitted pursuant to the Brownfield Site Cleanup Agreement, as well as any other relevant information regarding the Site, that the remediation requirements set forth in ECL Article 27, Title 14 have been or will be achieved in accordance with the time frames, if any, established in the remedial work plan.

**PLEASE TAKE NOTICE**, the remedial program for the Site has achieved a cleanup level that would be consistent with the following categories of uses (actual site use is subject to local zoning requirements):

- ☐ Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)i.
- ☐ Restricted Residential Use, as set forth in 6 NYCRR 375-1.8(g)(2)ii.
- ☒ Commercial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iii.
- ☒ Industrial Use, as set forth in 6 NYCRR 375-1.8(g)(2)iv.

Further, the use of groundwater is restricted and may not be used, unless treated in accordance with the requirements provided by the New York State Department of Health, or a local County Health Department with jurisdiction in such matters and such is approved by the Department as not inconsistent with the remedy.

**PLEASE TAKE NOTICE**, since the remedial program relies upon use restrictions or the long term employment of institutional or engineering controls; such institutional or engineering controls are contained in an Environmental Easement granted pursuant to ECL Article 71, Title 36 which has been duly recorded in the Recording Office for Erie County as 2011251419; Book 11213, Page 7185.

**PLEASE TAKE NOTICE**, the Environmental Easement requires that the approved site management plan (SMP) for this property be adhered to. The SMP, which may be amended from time to time, may include sampling, monitoring, and/or operating a treatment system on the property, providing certified reports to the NYSDEC, and generally provides for the management of any and all plans and limitations on the property. A copy of the SMP is available upon request by writing to the Department=s Division of Environmental Remediation, Site Control Section, 625 Broadway, Albany, New York 12233.

**PLEASE TAKE NOTICE**, provided that the Environmental Easement, SMP and Certificate are complied with, the Certificate holder(s) shall be entitled to the liability limitation provided in ECL Section 27-1421. The liability limitation shall run with the land, extending to the Certificate holders

**Buffalo Color Corporation Areas A & B, Site # C915230, 1337 South Park Ave, 1002 South Park Ave; Part of 145 Prenatt St.; Part of 5 Babcock St., City of Buffalo, Erie County**

successors or assigns through acquisition of title to the Site and to a person who develops or otherwise occupies the Site, subject to certain limitations as set forth in ECL Section 27-1421. The liability limitation shall be subject to all rights reserved to the State by ECL Section 27-1421.2 and any other applicable provision of law.

**PLEASE TAKE NOTICE**, the Certificate may entitle the Certificate holder(s) to tax credits in accordance with Tax Law Sections 21, 22 and 23.

**PLEASE TAKE NOTICE**, any change of use of the site, as defined in 6 NYCRR 375, must be preceded by notice to the Department in accordance with 6 NYCRR 375-1.11(d). A transfer of any or all of the property constitutes a change of use.

**PLEASE TAKE NOTICE**, the Certificate may be only be transferred to the Certificate holder=s successors or assigns upon transfer or sale of the Site as provided by ECL Section 27-1419.5 and 6 NYCRR Part 375-1.9. Failure to comply with the regulatory requirements for transfer **WILL** bar the successors and assigns from the benefits of the Certificate.

**PLEASE TAKE NOTICE**, the Certificate may be modified or revoked by the Commissioner as set forth in the applicable regulations.

**PLEASE TAKE NOTICE**, the Certificate may be revoked if the Environmental Easement as implemented, if applicable, is not protective or enforceable.

**PLEASE TAKE NOTICE**, a copy of the Certificate can be reviewed at the NYSDEC=s Region 9 located at 270 Michigan Avenue, Buffalo, New York 14203-2915 by contacting the Regional Environmental Remediation Engineer.

**WHEREFORE**, the undersigned has signed this Notice of Certificate

South Buffalo Development, LLC\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEW YORK ) SS:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual  
taking acknowledgment

**Please record and return to:**  
South Buffalo Development, LLC  
333 Ganson Street  
Buffalo, New York 14203



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
Site Management Form  
12/27/2013



SITE DESCRIPTION

SITE NO. C915230

SITE NAME Buffalo Color Corporation Site Areas A & B

SITE ADDRESS: 1337 So. Park Ave., 1002 So. Park Ave., Part of 145 Prenatt St., Part of 5 Babcock St.

ZIP CODE: 14210

CITY/TOWN: Buffalo

COUNTY: Erie

ALLOWABLE USE: Commercial and Industrial

SITE MANAGEMENT DESCRIPTION

SITE MANAGEMENT PLAN INCLUDES: YES NO

IC/EC Certification Plan



Monitoring Plan

Operation and Maintenance (O&M) Plan



Periodic Review Frequency: once a year



Periodic Review Report Submitted Date: 02/08/2015

Description of Institutional Control

Jon Williams

333 Ganson Street

1002 South Park Avenue

Environmental Easement

Block: 1

Lot: 33

Sublot: 11

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-33.11

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**1337 South Park Avenue**

Environmental Easement

Block: 1

Lot: 9

Sublot:

Section: 122

Subsection: 16

S\_B\_L Image: 122.16-1-9

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**Part of 145 Prenatt Street**

Environmental Easement

Block: 1

Lot: 35

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-35

Ground Water Use Restriction

IC/EC Plan

Landuse Restriction

Monitoring Plan

O&M Plan

Site Management Plan

Soil Management Plan

**Part of 5 Babcock Street**

Environmental Easement

Block: 1

Lot: 30

Sublot:

Section: 122

Subsection: 12



S\_B\_L Image: 122.12-1-30  
Ground Water Use Restriction  
IC/EC Plan  
Landuse Restriction  
Monitoring Plan  
Site Management Plan  
Soil Management Plan

#### Description of Engineering Control

**Jon Williams**

333 Ganson Street

**1002 South Park Avenue**

Environmental Easement

Block: 1

Lot: 33

Sublot: 11

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-33.11

Cover System

Fencing/Access Control

Groundwater Containment

Groundwater Treatment System

**1337 South Park Avenue**

Environmental Easement

Block: 1

Lot: 9

Sublot:

Section: 122

Subsection: 16

S\_B\_L Image: 122.16-1-9

Cover System

Fencing/Access Control

Groundwater Containment

Groundwater Treatment System

**Part of 145 Prenatt Street**

Environmental Easement

Block: 1

Lot: 35

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-35

Cover System

Fencing/Access Control

Groundwater Containment

Groundwater Treatment System

**Part of 5 Babcock Street**

Environmental Easement

Block: 1

Lot: 30

Sublot:

Section: 122

Subsection: 12

S\_B\_L Image: 122.12-1-30

Cover System

Fencing/Access Control

Groundwater Containment

Groundwater Treatment System

**Area A-B COC  
Attachment A**

Address(es): 1337 and 1002 South Park Avenue, 145 Prenatt Street and 5 Babcock Street, Buffalo, NY, Erie County.

Tax Map: 122.16-1-9; 122.12 -1 -33.11, 35 and 30

**BUFFALO COLOR SITE – AREA A  
SITE NO. C915230  
LEGAL DESCRIPTION****AREA A:**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie, State of New York, being part of Lot Nos. 177 and 178, Township 10, Range 8 of the Buffalo Creek Reservation and part of the bed of the Buffalo River, bounded and described as follows:

BEGINNING at the intersection of the southerly line of South Park Avenue with the easterly line of lands of Buffalo Creek Railroad;

Thence a record bearing of S51° 04' 00"E a measured bearing of S50° 49' 19"E along the southerly line of South Park Avenue, 693.64 feet to a point;

Thence a record bearing of S43° 22' 10"E, a measured bearing of S43° 07' 29"E a distance of 50.02 feet to the Buffalo River Improvement Channel;

Thence a record bearing of S58° 17' 30"W a measured bearing of S58° 32' 11"W along said Channel, a distance of 107.28 feet to a point;

Thence a record bearing of S49° 51' 37"W a measured bearing of S50° 06' 18"W still along said Channel, a distance of 653.75 feet to a point;

Thence a record bearing of S35° 01' 00"W a measured bearing of S35° 15' 38"W still along said Channel, a distance of 1.75 feet to the northerly line of lands of Erie Lackawanna Railroad;

Thence a record bearing of N54° 54' 48"W a measured bearing of N54° 40' 07"W along the northerly line of lands of Erie Lackawanna Railroad, a distance of 412.84 feet to the lands of Buffalo Creek Railroad;

Thence a record bearing of N26° 20' 52"E a measured bearing of N26° 35' 33"E along the lands of Buffalo Creek Railroad, a distance of 223.63 feet to a point on the south line of Lot 177;

Thence a record bearing of S51° 04' 00"E a measured bearing of S50° 49' 19"E along the south line of Lot 177 a distance of 2.05 feet to a point;

Thence a record bearing of N26° 20' 52"E a measured bearing of N26° 35' 33"E along the lands of Buffalo Creek Railroad, a distance of 574.81 feet to the Point or Place of Beginning.



**BUFFALO COLOR SITE – AREA B**  
**SITE NO. C915230**  
**LEGAL DESCRIPTION**

AREA B:

ALL THAT OTHER CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the City of Buffalo, County of Erie, State of New York, being a part of Lot Nos. 135, 136 and 139, Township 10, Range 8 of Lovejoy and Emslie's survey of a part of the Buffalo Creek Indian Reservation, bounded and described as follows:

BEGINNING at south west corner of lands conveyed to Park-Lee, LLC by deed filed in the Erie County Clerk's Office in Liber 11109 of deeds at page 890;

Thence N50° 49' 19"W along the north line of South Park Avenue (formerly Abbott Road) a distance of 220.00 feet to a point on the east line of lands conveyed to The Buffalo Creek Railroad Company;

Thence N38° 43' 35"E along the east line of the Buffalo Creek Railroad Company a distance of 422.52 feet to a point on the south line of lands conveyed to Buffalo Color by deed recorded in the Erie County Clerk's Office in Liber 8524 of deeds at page 441, Tract B, Parcel 3;

Thence S76° 11' 25"W along the south line of Tract B, Parcel 3 a distance of 32.68 feet to a point on the easterly line of lands conveyed to The Buffalo Creek Railroad Company;

Thence N8° 40' 49"E along the east line of The Buffalo Creek Railroad Company a distance of 233.71 feet to the south line of the former Prenatt Street;

Thence S63° 37' 29"E along the south line of the former Prenatt Street a distance of 92.23 feet to a point on the west line of Lot 136;

Thence N38° 43' 35"E along the west line of Lot 136 a distance of 67.56 feet to the north line of the former Prenatt Street and the south west corner of Lot 137;

Thence N13° 36' 03"E along the west line of Lot 137 a distance of 95.84 feet to the north corner of lands conveyed to Buffalo Color by deed recorded in the Erie County Clerk's Office in Liber 8524 of deeds at page 441, Tract C, Parcel 3, said point also being the north west corner of lands conveyed to The Buffalo Creek Railroad Company by deed recorded in the Erie County Clerk's Office in Liber 1364 of deeds at page 538;

Thence southeasterly along the east line of lands conveyed to Buffalo Color, and the westerly line conveyed to The Buffalo Creek Railroad Company, on a curve having a radius of 350.00 feet, an Arc distance of 323.79 feet, a chord bearing of S37° 06' 16"E and Chord distance of 312.37 feet to a point on the south line of lands conveyed to The Buffalo Creek Railroad Company by deed recorded in the Erie County Clerk's Office in Liber 6040 of deeds at page 437, Tract B, Parcel 3;

Thence S63° 37' 29"E along the south line of lands conveyed to The Buffalo Creek Railroad Company a distance of 137.35 feet to the east line of the closing of Prenatt Street by deed recorded in the Erie County Clerk's Office in Liber 5836 of deeds at page 182, Parcel B;

Thence S42° 59' 38"W along the east line of the closing of Prenatt Street (the west line of Lee Street) a distance of 20.87 feet to the intersection of the west line of Lee Street with the south line of the former Prenatt Street;

Thence N63° 37' 29"W along the south line of the former Prenatt Street a distance of 97.00 feet to the north west corner of lands conveyed to Park-Lee, LLC by deed recorded in the Erie County Clerk's Office in Liber 11109 of deeds at page 890;

Thence along the westerly line of lands conveyed to Park-Lee, LLC the following 8 courses and distances:

1. S55° 13' 38"W a distance of 59.96 feet Deed Vs. 57.07 feet measured to a point



2. N51° 16' 25"W a distance of 11.76 feet to a point
3. S38° 43' 35"W a distance of 62.00 feet to a point
4. N51° 16' 25"W a distance of 55.61 feet to a point
5. S88° 43' 35"W a distance of 48.51 feet to a point
6. S38° 43' 35"W a distance of 465.00 feet to a point
7. S51° 16' 25"E a distance of 87.50 feet to a point
8. S38° 43' 35"W a distance of 73.15 feet to the Point or Place of Beginning.



Area A - B  
COC Attachment I

Notes

1. The proposed development is shown in the attached map.
2. The proposed development is shown in the attached map.
3. The proposed development is shown in the attached map.
4. The proposed development is shown in the attached map.
5. The proposed development is shown in the attached map.
6. The proposed development is shown in the attached map.
7. The proposed development is shown in the attached map.
8. The proposed development is shown in the attached map.
9. The proposed development is shown in the attached map.
10. The proposed development is shown in the attached map.

Scale: 1" = 100'

Map  
Showing ALTA (ALTA) and This Survey  
South Buffalo Development, LLC

Sheet 1 of 4



Niagara  
Boundary

and  
Planning  
Services  
1000 Niagara Falls Blvd.  
Niagara Falls, NY 14304  
716.285.1234  
www.niagaraboundary.com

Zoning

1. The proposed development is shown in the attached map.
2. The proposed development is shown in the attached map.
3. The proposed development is shown in the attached map.
4. The proposed development is shown in the attached map.
5. The proposed development is shown in the attached map.
6. The proposed development is shown in the attached map.
7. The proposed development is shown in the attached map.
8. The proposed development is shown in the attached map.
9. The proposed development is shown in the attached map.
10. The proposed development is shown in the attached map.

Schedule II

1. The proposed development is shown in the attached map.

2. The proposed development is shown in the attached map.

3. The proposed development is shown in the attached map.

4. The proposed development is shown in the attached map.

5. The proposed development is shown in the attached map.

6. The proposed development is shown in the attached map.

7. The proposed development is shown in the attached map.

8. The proposed development is shown in the attached map.

9. The proposed development is shown in the attached map.

10. The proposed development is shown in the attached map.