

Brownfield Cleanup Program Application

1827 Fillmore Avenue Site
Buffalo, New York

July 2017

B0421-017-001

Prepared For:

1827 Fillmore LLC



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

DEC requires an application to request major changes to the description of the property set forth in a Brownfield Cleanup Agreement, or "BCA" (e.g., adding a significant amount of new property, or adding property that could affect an eligibility determination due to contamination levels or intended land use). Such application must be submitted and processed in the same manner as the original application, including the required public comment period. **Is this an application to amend an existing BCA?**

Yes No If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 9*

Section I. Requestor Information - See Instructions for Further Guidance DEC USE ONLY
BCP SITE #:

NAME 1827 Fillmore LLC
ADDRESS 424 Main Street, Suite 2000
CITY/TOWN Buffalo, New York ZIP CODE 14202
PHONE 716-854-3400 ext 239 FAX NA E-MAIL Kolaga@ruppbaase.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 Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application, to document that the requestor is authorized to do business in NYS. See Attachment 1

Do all individuals that will be certifying documents meet the requirements detailed below? Yes No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. **Documents that are not properly certified will be not approved under the BCP.**

Section II. Project Description

1. What stage is the project starting at? Investigation Remediation

2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see [DER-10 / Technical Guidance for Site Investigation and Remediation](#) for further guidance).

3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): Yes No

4. Please attach a short description of the overall development project, including: See Attachment 2

- the date that the remedial program is to start; and See Figure 3
- the date the Certificate of Completion is anticipated.

Section III. Property's Environmental History

See Attachment 3

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (**please submit the information requested in this section in electronic format only**):

- 1. Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903). **See Attachment 3**

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

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

*Please describe: Asbestos Containing Materials

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- SAMPLE LOCATION
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an incomplete application)

Yes

No

See Figure 4

4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Coal Gas Manufacturing | <input 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: Stone quarry, and then backfilled and used for a housing development starting in 1958. Unoccupied since the 1980s.

Section IV. Property Information - See Instructions for Further Guidance		See Attachment 4		
PROPOSED SITE NAME 1827 Fillmore Avenue				
ADDRESS/LOCATION 1827 Fillmore Avenue				
CITY/TOWN Buffalo, New York		ZIP CODE 14214		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 17.15		
LATITUDE (degrees/minutes/seconds) 42 ° 55 ' 33.90 "		LONGITUDE (degrees/minutes/seconds) 78 ° 50 ' 13.57 "		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
1827 Fillmore Avenue	90.13	1	11	17.15
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach a metes and bounds description of the property.				
				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information)				
				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
See Figure 8 If yes, identify census tract : <u>170</u>				
Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)?				
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?				
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.				
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.				
				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Section IV. Property Information (continued)

See Attachment 4

8. Are there any easements or existing rights of way that would preclude remediation in these areas? If yes, identify here and attach appropriate information. Yes No

Easement/Right-of-way Holder

Description

- | | |
|-------------------------------|--|
| 1. Iroquois Gas Corporation | 1. Right of Way, Liber 5835 of Deeds at p. 467 on September 19, 1955 |
| 2. New York Telephone Company | 2. Easement, Liber 8651 of Deeds at p. 341 on June 2, 1978 |
| 3. Iroquois Gas Corporation | 3. Right of Way, Liber 5809 of Deeds at p. 267 on August 11, 1955 |

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

Type

Issuing Agency

Description

None/unknown

10. Property Description and Environmental Assessment – **please refer to application instructions for the proper format of each narrative requested.** **See Attachment 4**

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**? Yes No

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits? If yes, requestor must answer questions on the supplement at the end of this form. Yes No

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? Yes No

13. If you have answered Yes to Question 12, above, is an independent appraisal of the value of the property, as of the date of application, prepared under the hypothetical condition that the property is not contaminated, included with the application? Yes No

NOTE: If a tangible property tax credit determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion by using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor:

JJO
7/26/17

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information See Instructions for Further Guidance	DEC USE ONLY
BCP SITE NAME: _____	
BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Thomas J. Quatroche, Jr. and Stephen M. Gary, Sr.	
ADDRESS 424 Main Street, Suite 2000	
CITY/TOWN Buffalo, New York	ZIP CODE 14202
PHONE 716-898-5503 / 716-898-6291	FAX 716-898-5198
E-MAIL tquatroc@ecmc.edu / sgary@ecmc.edu	
NAME OF REQUESTOR'S CONSULTANT Mr. Michael Lesakowski	
ADDRESS 2558 Hamburg Turnpike, Suite 300	
CITY/TOWN Buffalo, New York	ZIP CODE 14218
PHONE 716-856-0599	FAX 716-856-0583
E-MAIL MLesakowski@benchmarkturnkey.com	
NAME OF REQUESTOR'S ATTORNEY Rupp Baase Pfalzgraf Cunningham LLC, Attention: John T. Kolaga	
ADDRESS 1600 Liberty Building	
CITY/TOWN Buffalo	ZIP CODE 14202
PHONE 716-854-3400	FAX 716-332-0336
E-MAIL kolaga@ruppbaase.com	

Section VI. Current Property Owner/Operator Information – if not a Requestor	
CURRENT OWNER'S NAME Buffalo Municipal Housing Authority	OWNERSHIP START DATE: 3/21/1955
ADDRESS 300 Perry Street	
CITY/TOWN Buffalo	ZIP CODE 14204
PHONE 716-855-6711 ext 253	FAX NA
E-MAIL mcandelario@bmhousing.com	
CURRENT OPERATOR'S NAME Same as Current Owner	
ADDRESS	
CITY/TOWN	ZIP CODE
PHONE	FAX
E-MAIL	

IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.

PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

Section VII. 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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing 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, DEC 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 DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? 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 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, 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.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

- Previous 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

See Attachment 1

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

Section VIII. Property Eligibility Information - See Instructions for Further Guidance **See Attachment 2**

- Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. Yes No
- Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305?
If yes, please provide: Site # _____ Class # _____ Yes No
- Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ Yes No
- If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. Yes No
- Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ Yes No
- Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. Yes No

Section IX. Contact List Information

See Attachment 5

To be considered complete, the application must include the Brownfield Site Contact List in accordance with [DER-23 / Citizen Participation Handbook for Remedial Programs](#). Please attach, at a minimum, the names and addresses of the following:

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and properties adjacent to the property.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property.
- The location of a document repository for the project (e.g., local library). In addition, attach a copy of an acknowledgement from the repository indicating that it agrees to act as the document repository for the property. **See Attachment 6**
- Any community board located in a city with a population of one million or more, if the proposed site is located within such community board's boundaries.

Section X. Land Use Factors

See Attachment 7

1. What is the current zoning for the site? What uses are allowed by the current zoning?

Residential Commercial Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: Residential Commercial Industrial Vacant Recreational (check all that apply)

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: Residential Commercial Industrial (check all that apply) **Attach a statement detailing the specific proposed use.** **See Attachment 4**

If residential, does it qualify as single family housing?

Yes No

4. Do current historical and/or recent development patterns support the proposed use?

Yes No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

Yes No

See Attachment 7

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

Yes No

See Attachment 7

XI. Statement of Certification and Signatures

(By requestor who is an individual)

(By a requestor other than an individual)

I hereby affirm that I am Managing Member (title) of 1827 Fillmore LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree: (1) to execute a BCA within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [Proposed DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and the terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, 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: 7/26/17 Signature: 
Print Name: Thomas J. Quatroche, Jr.

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), 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

FOR DEC USE ONLY
BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

BCP Application Summary (for DEC use only)

Site Name: 1827 Fillmore Avenue
City:

Site Address: 1827 Fillmore Avenue
County: **Zip:** 14214

Tax Block & Lot
Section (if applicable): 90.13 **Block:** 1 **Lot:** 11

Requestor Name: **Requestor Address:**
City: **Zip:** **Email:**

Requestor's Representative (for billing purposes)
Name: Thomas J. Quatroche, Jr. and Stephen M. Gary, Sr. **Address:** 424 Main Street, Suite 2000
City: **Zip:** **Email:** tquatroc@ecmc.edu / sgary@ecmc.edu

Requestor's Attorney
Name: Rupp Baase Pfalzgraf Cunningham LLC, Attention: John T. Kolaga **Address:** 1600 Liberty Building
City: **Zip:** **Email:** kolaga@ruppbaase.com

Requestor's Consultant
Name: Mr. Michael Lesakowski **Address:** 2558 Hamburg Turnpike, Suite 300
City: Buffalo, New York **Zip:** 14218 **Email:** MLesakowski@benchmarkturnkey.com

Percentage claimed within an En-Zone: 0% <50% 50-99% 100%
DER Determination: Agree Disagree

Requestor's Requested Status: Volunteer Participant

DER/OGC Determination: Agree Disagree
Notes:

For NYC Sites, is the Requestor Seeking Tangible Property Credits: Yes No

Does Requestor Claim Property is Upside Down: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

Does Requestor Claim Property is Underutilized: Yes No

DER/OGC Determination: Agree Disagree Undetermined

Notes:

Does Requestor Claim Affordable Housing Status: Yes No Planned, No Contract

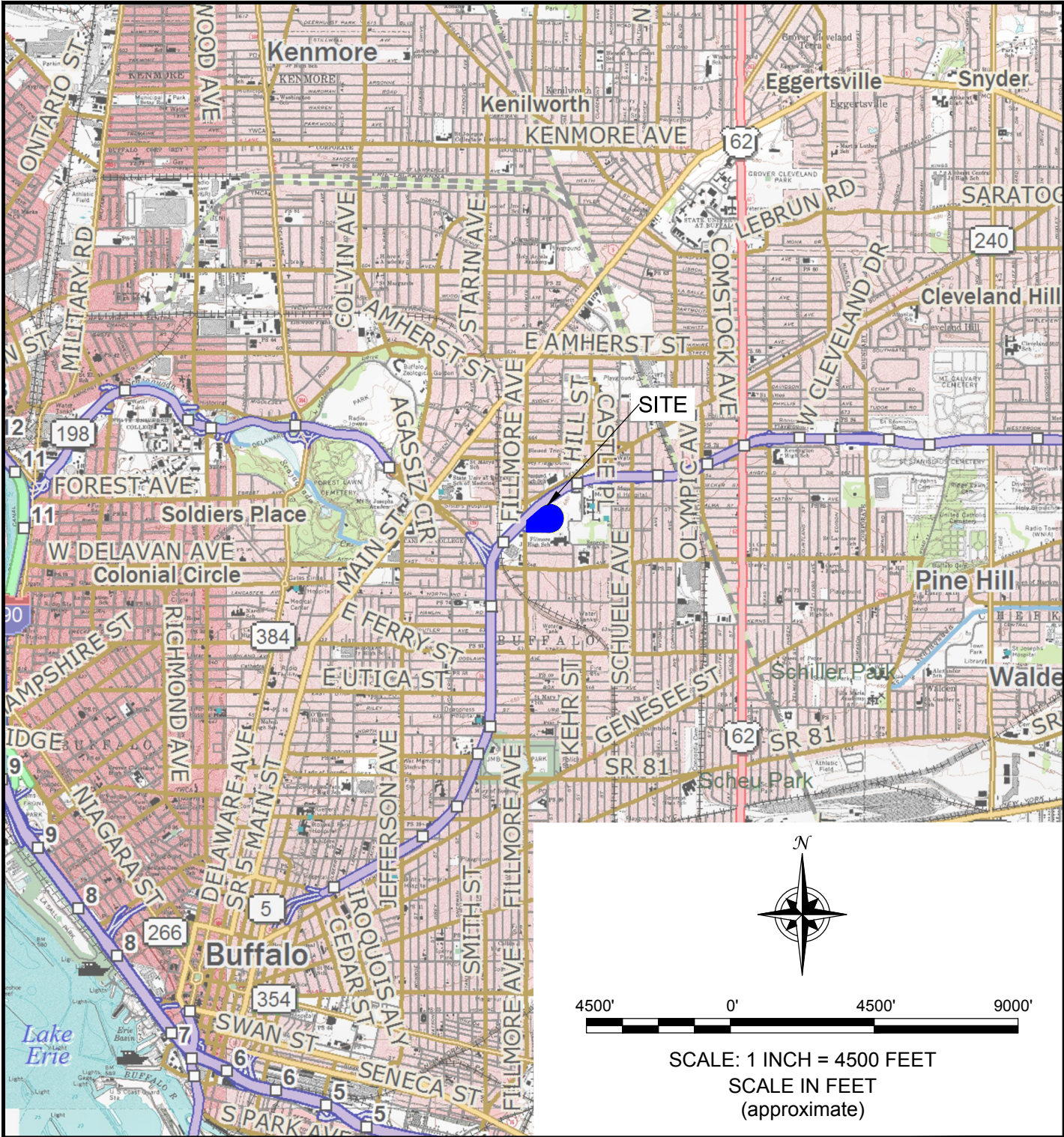
DER/OGC Determination: Agree Disagree Undetermined

Notes:

FIGURES

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Figure 10	City of Buffalo Proposed Future Land-Use Map	4, 7
Figure 11	Current Zoning Map	4, 7
Figure 12	Adjacent Property Owners	4, 7
Figure 13	Surficial Geologic Map	4
Figure 14	USDA Soil Type Map	4
Figure 15	Bedrock Geologic Map	4
Figure 16	Potential Environmental Justice Areas	7
Figure 17	Cultural Resources Map	7
Figure 18	Natural Resources Map	7
Figure 19	Wetland and Floodplain Map	7

FIGURE 1



FCAD\Benchmark\Rupp_Baase_Pflatzgraf & Cunningham.LLC\1827 Fillmore Avenue\01 - BCP Application\Figure 1: Site Location & Vicinity Map.dwg



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0421-017-001

DATE: MAY 2017

DRAFTED BY: CCB

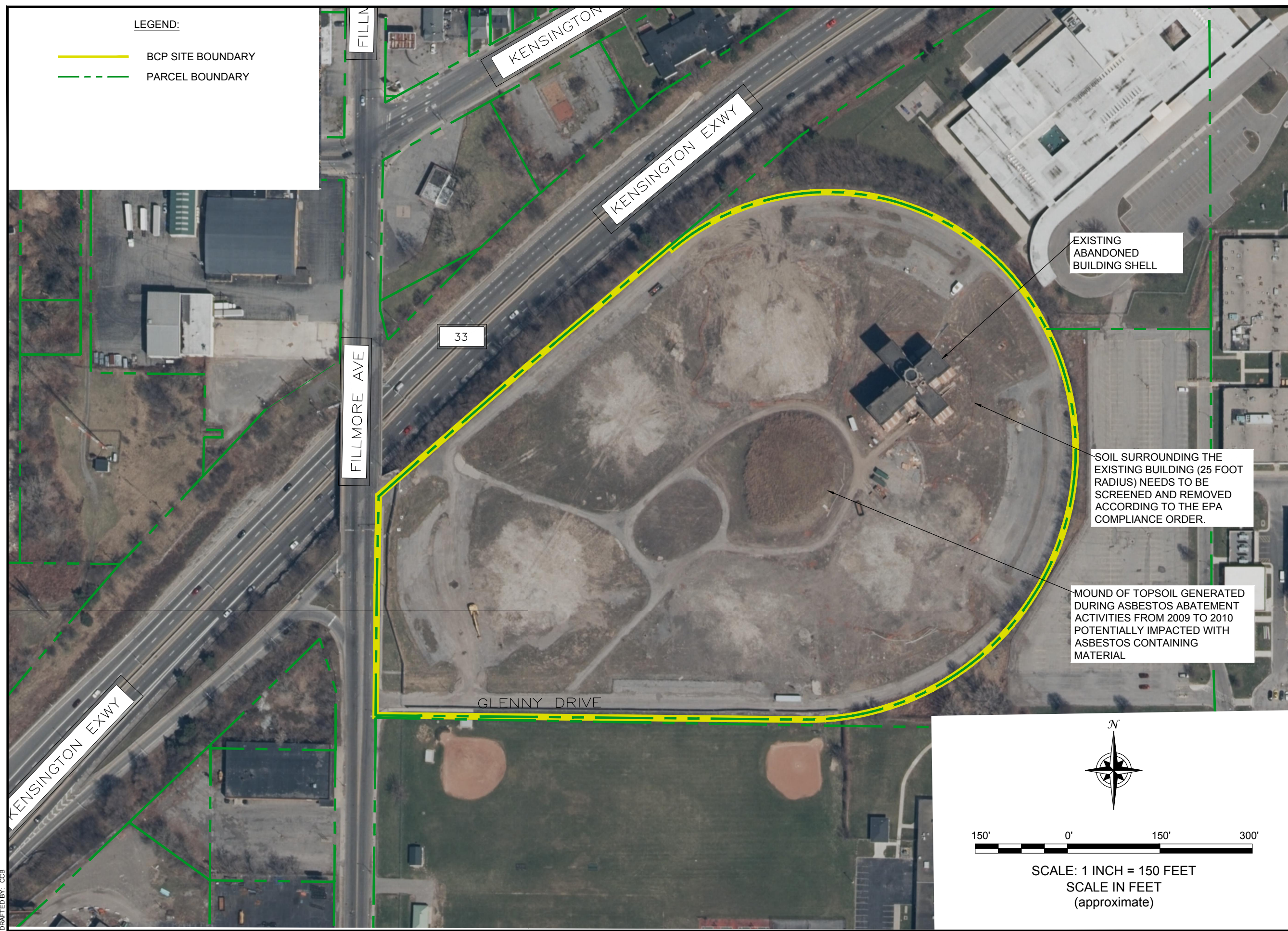
SITE LOCATION & VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



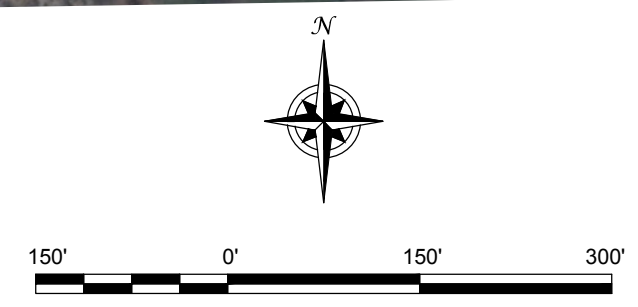
LEGEND:

- BCP SITE BOUNDARY
- PARCEL BOUNDARY

EXISTING
ABANDONED
BUILDING SHELL

SOIL SURROUNDING THE
EXISTING BUILDING (25 FOOT
RADIUS) NEEDS TO BE
SCREENED AND REMOVED
ACCORDING TO THE EPA
COMPLIANCE ORDER.

MOUND OF TOPSOIL GENERATED
DURING ASBESTOS ABATEMENT
ACTIVITIES FROM 2009 TO 2010
POTENTIALLY IMPACTED WITH
ASBESTOS CONTAINING
MATERIAL



SCALE: 1 INCH = 150 FEET
SCALE IN FEET
(approximate)

SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION
1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

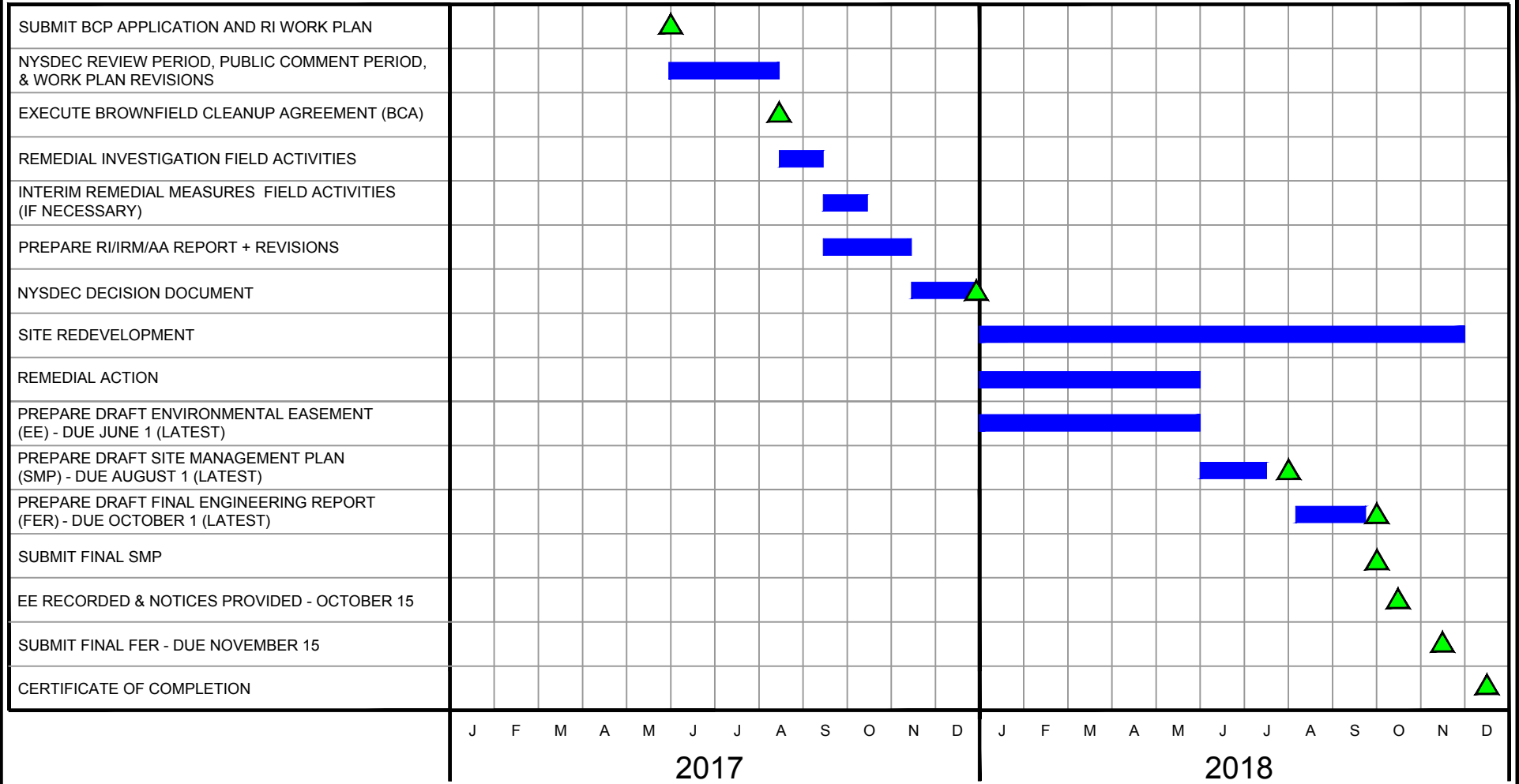
PREPARED FOR
1827 FILLMORE LLC

JOB NO.: 0421-017-001

FIGURE 2

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

PROJECT TASKS:



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0421-017-001

DATE: MAY 2017

DRAFTED BY: CCB

PRELIMINARY PROJECT SCHEDULE

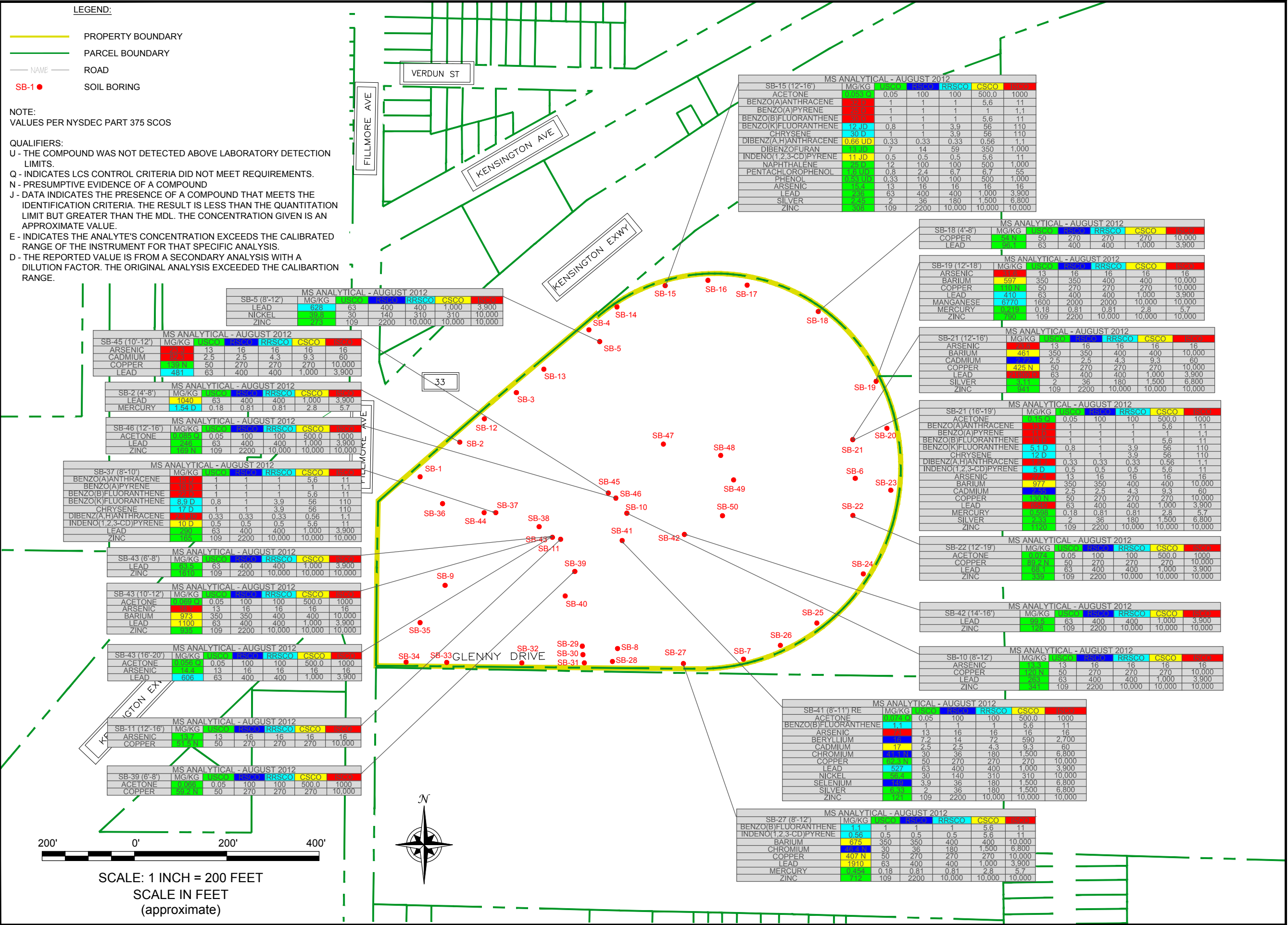
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 3

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



INVESTIGATION LOCATIONS & AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION
1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

DATE: MAY 2017
DRAFTED BY: CCB

FIGURE 4

TURNKEY ENVIRONMENTAL RESTORATION, LLC
2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

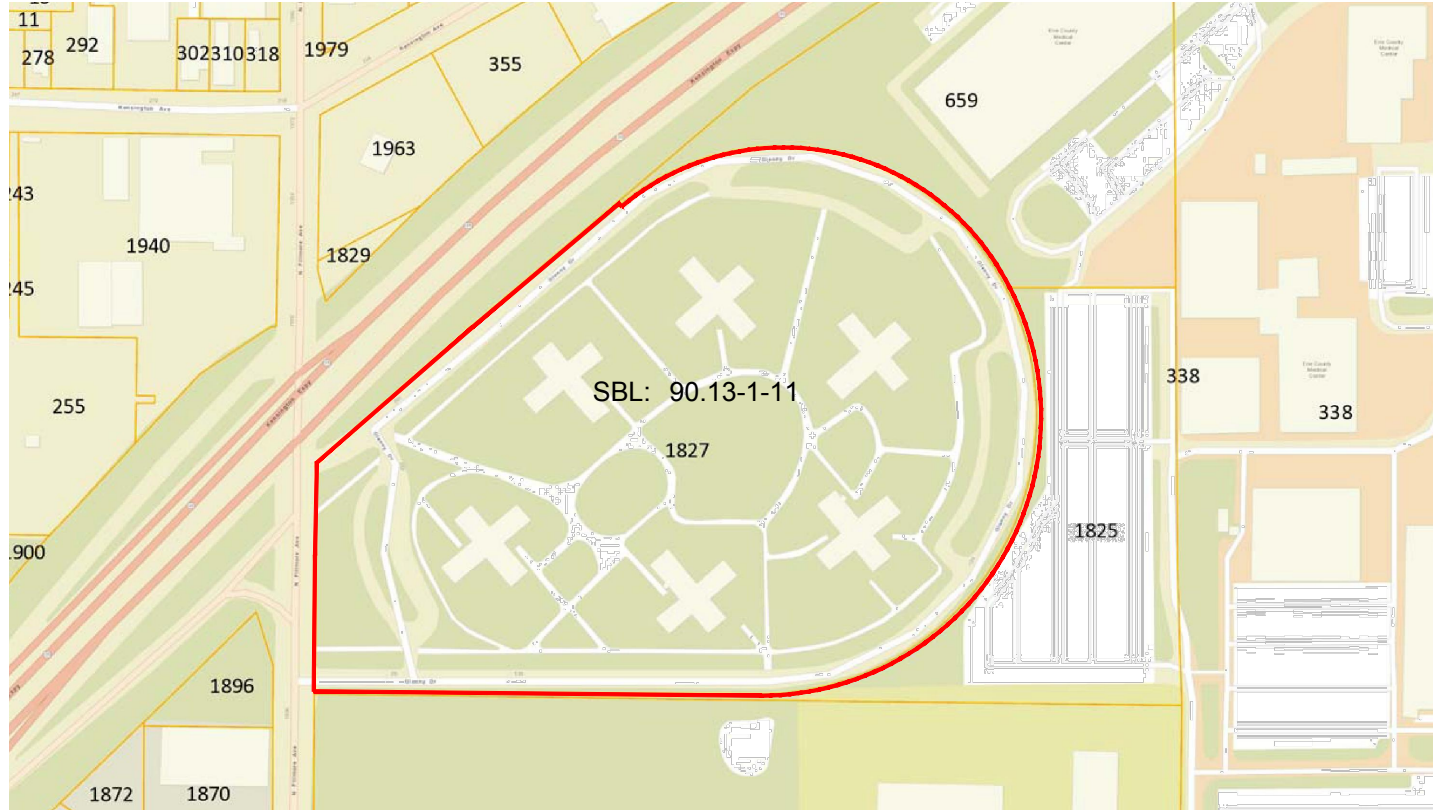
BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC

JOB NO.: 0421-017-001



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Erie County On-Line Mapping Application



Legend

-  Parcels
-  Municipal Boundaries



0 376.17 752.3Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

**ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS**

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.



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PROJECT NO.: 0421-017-001

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PARCEL MAP

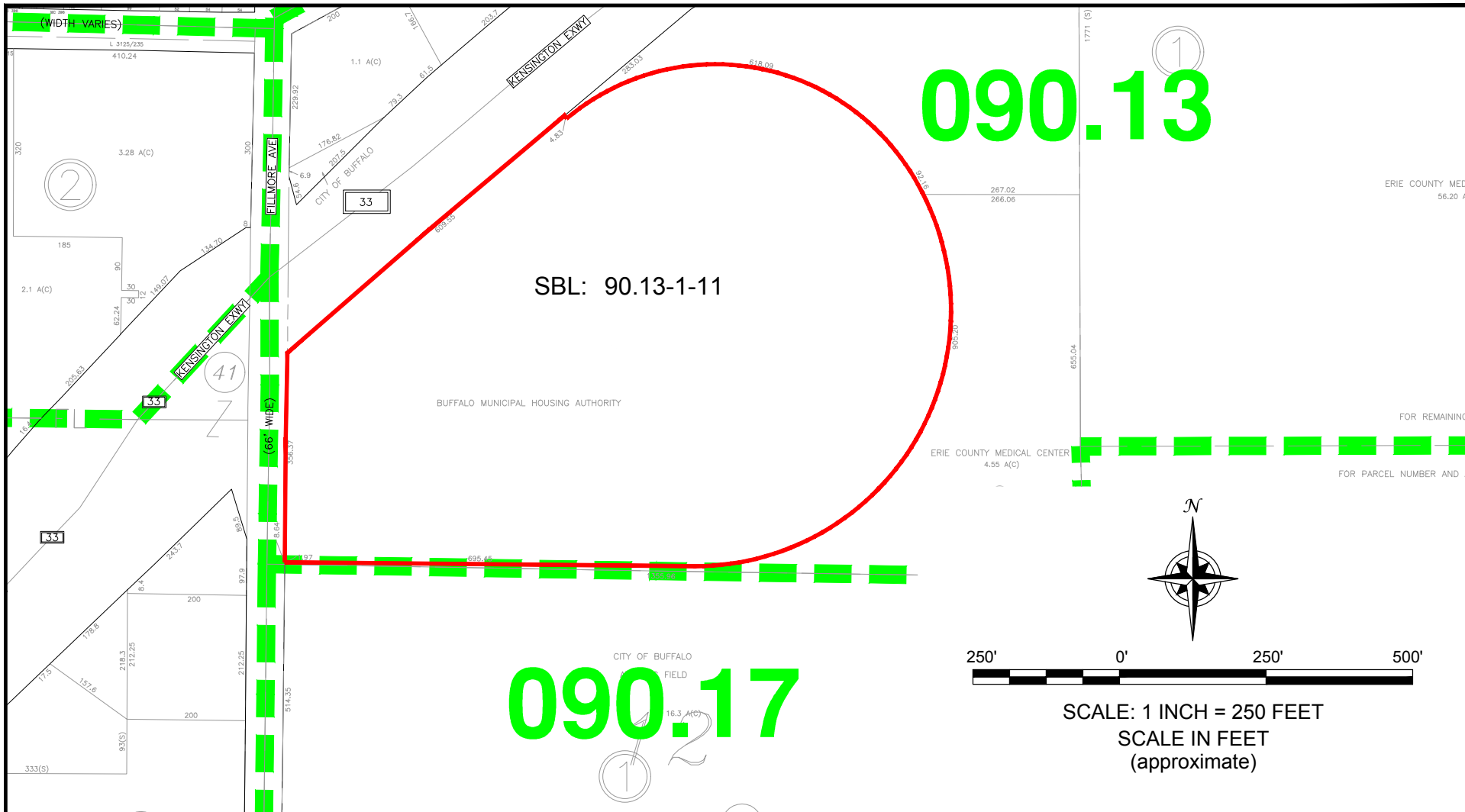
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 5

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TAX MAP

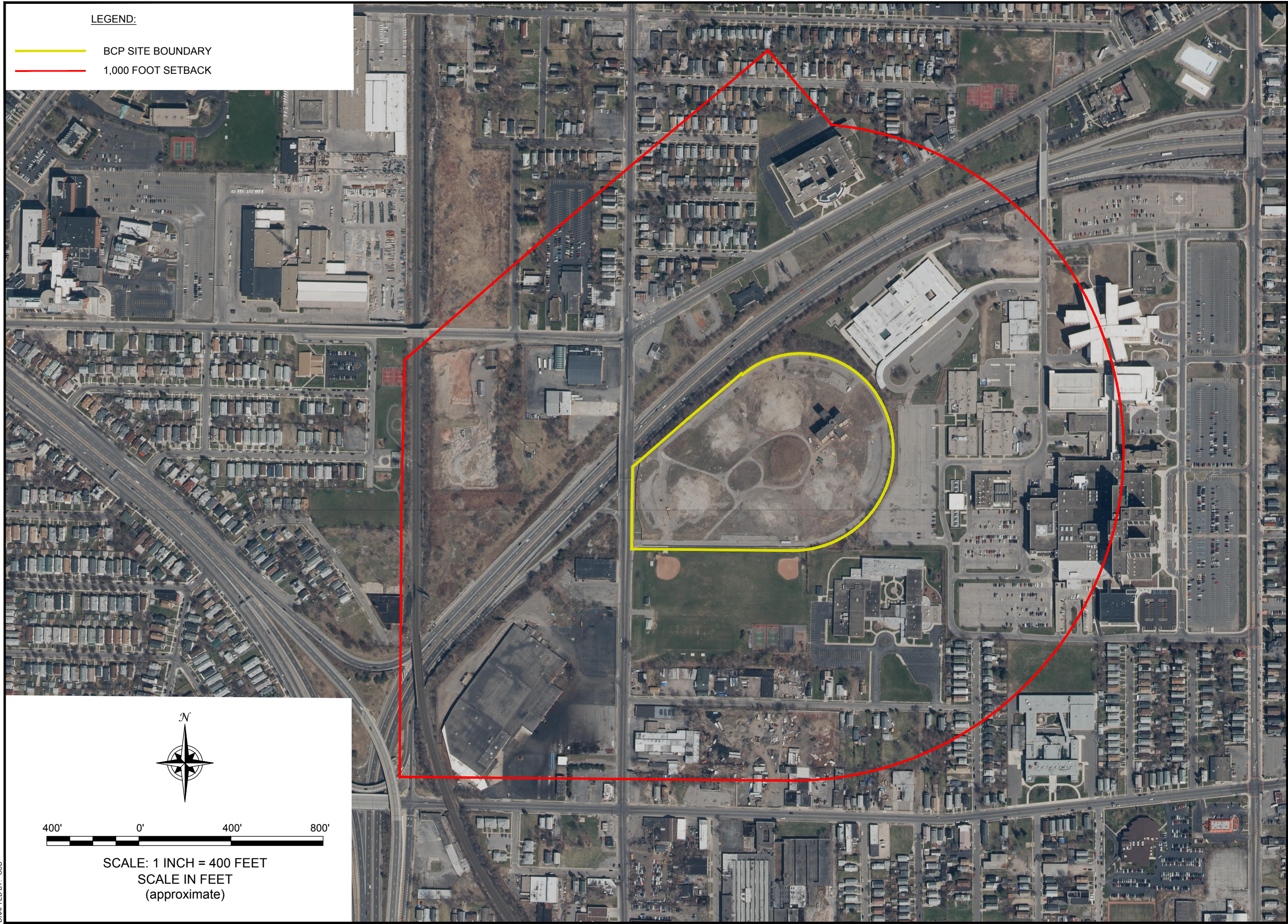
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 6

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LEGEND:

- BCP SITE BOUNDARY
- 1,000 FOOT SETBACK



SCALE: 1 INCH = 400 FEET
SCALE IN FEET
(approximate)

PROPERTY BASE MAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION
1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

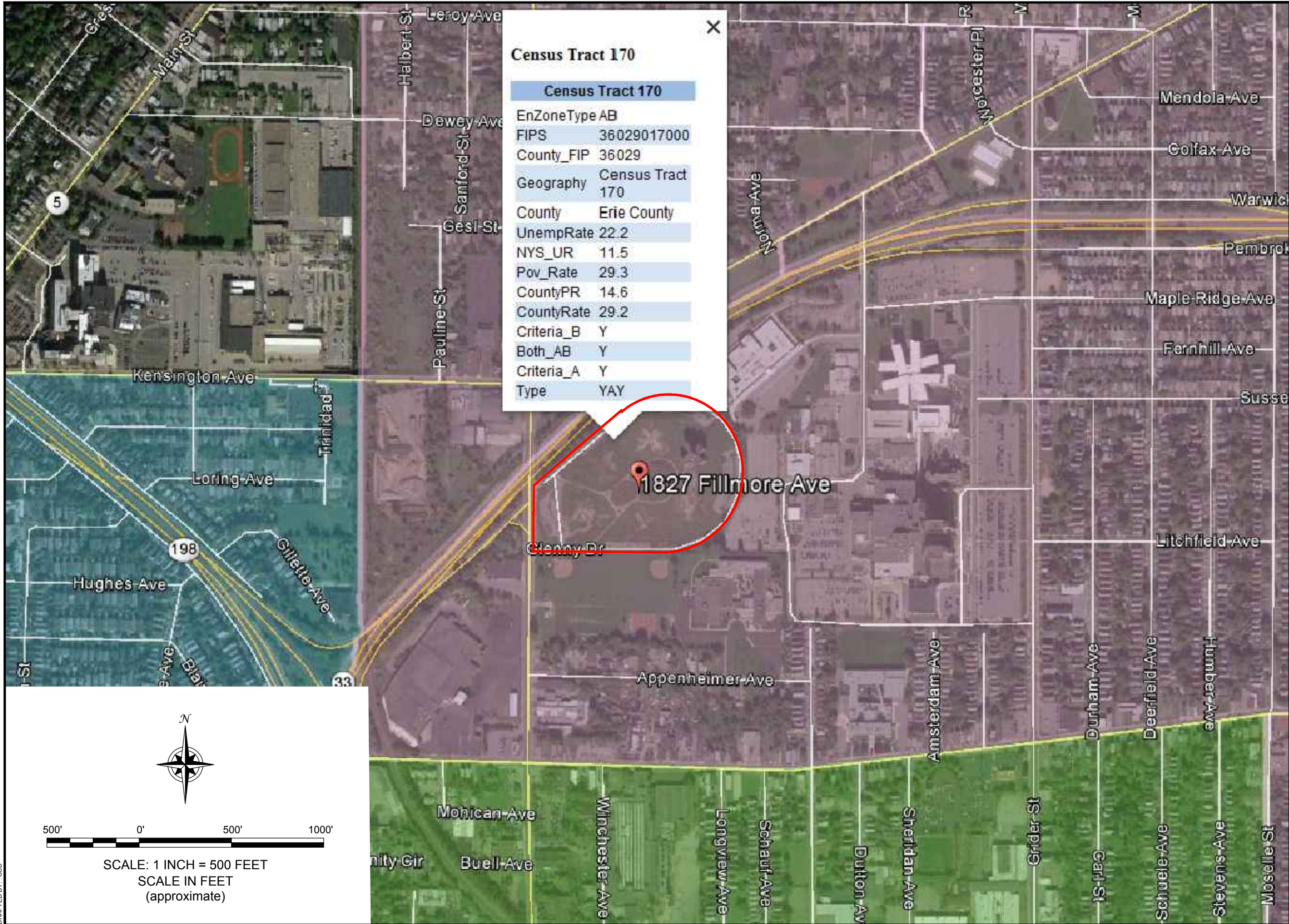
JOB NO.: 0421-017-001



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FIGURE 7

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SCALE: 1 INCH = 500 FEET
SCALE IN FEET
(approximate)

EN-ZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION
1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC







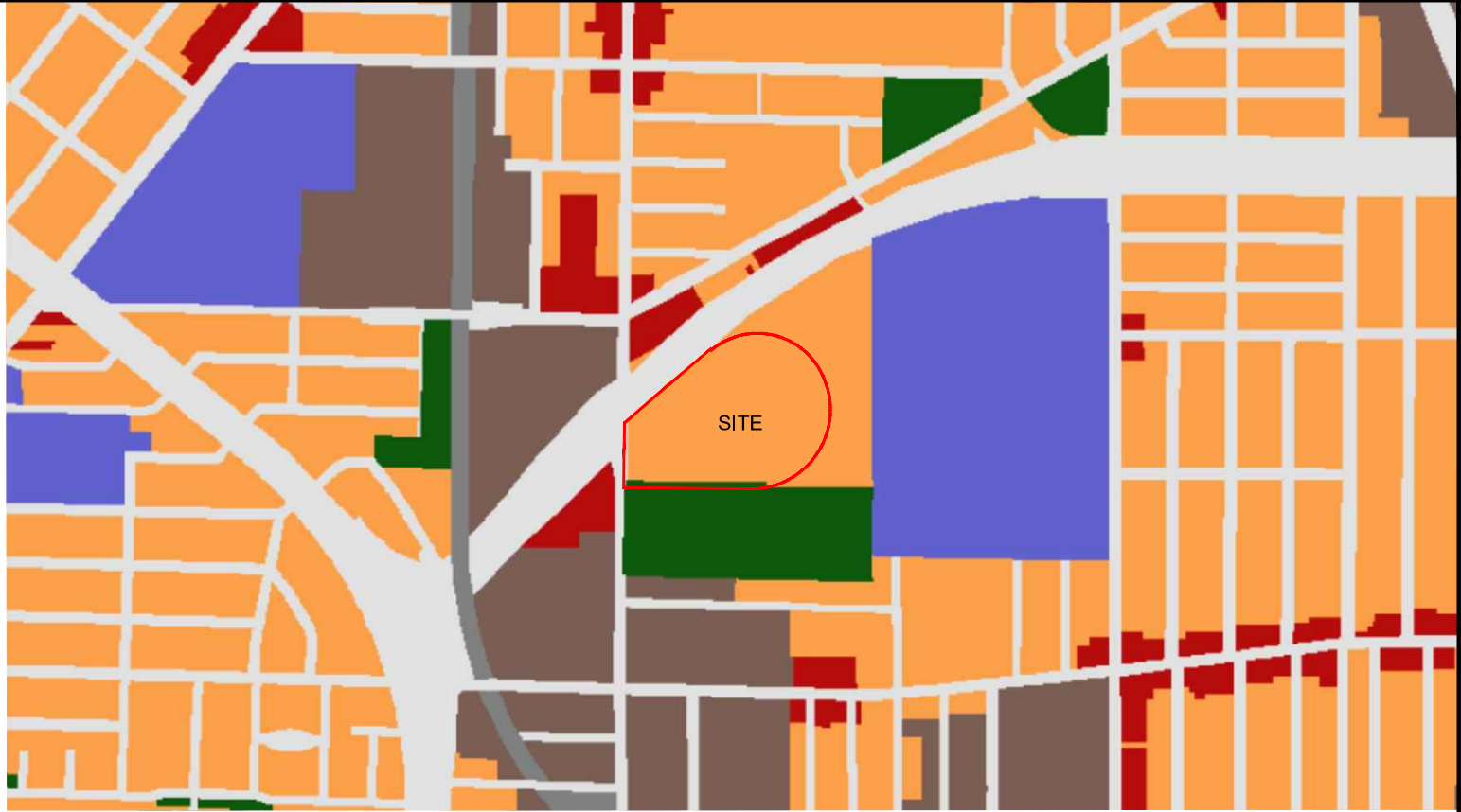
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JOB NO.: 0421-017-001

FIGURE 8

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-  Urban core
-  Neighborhood center
-  General residential
-  Single-family residential
-  Open space
-  Institutional
-  Employment
-  Rail corridor



SCALE: 1 INCH = 1000 FEET
 SCALE IN FEET
 (approximate)



IMAGE PER CITY OF BUFFALO LAND-USE PLAN - SEPTEMBER 2016



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0421-017-001
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CITY OF BUFFALO EXISTING LAND-USE MAP






BROWNFIELD CLEANUP PROGRAM APPLICATION

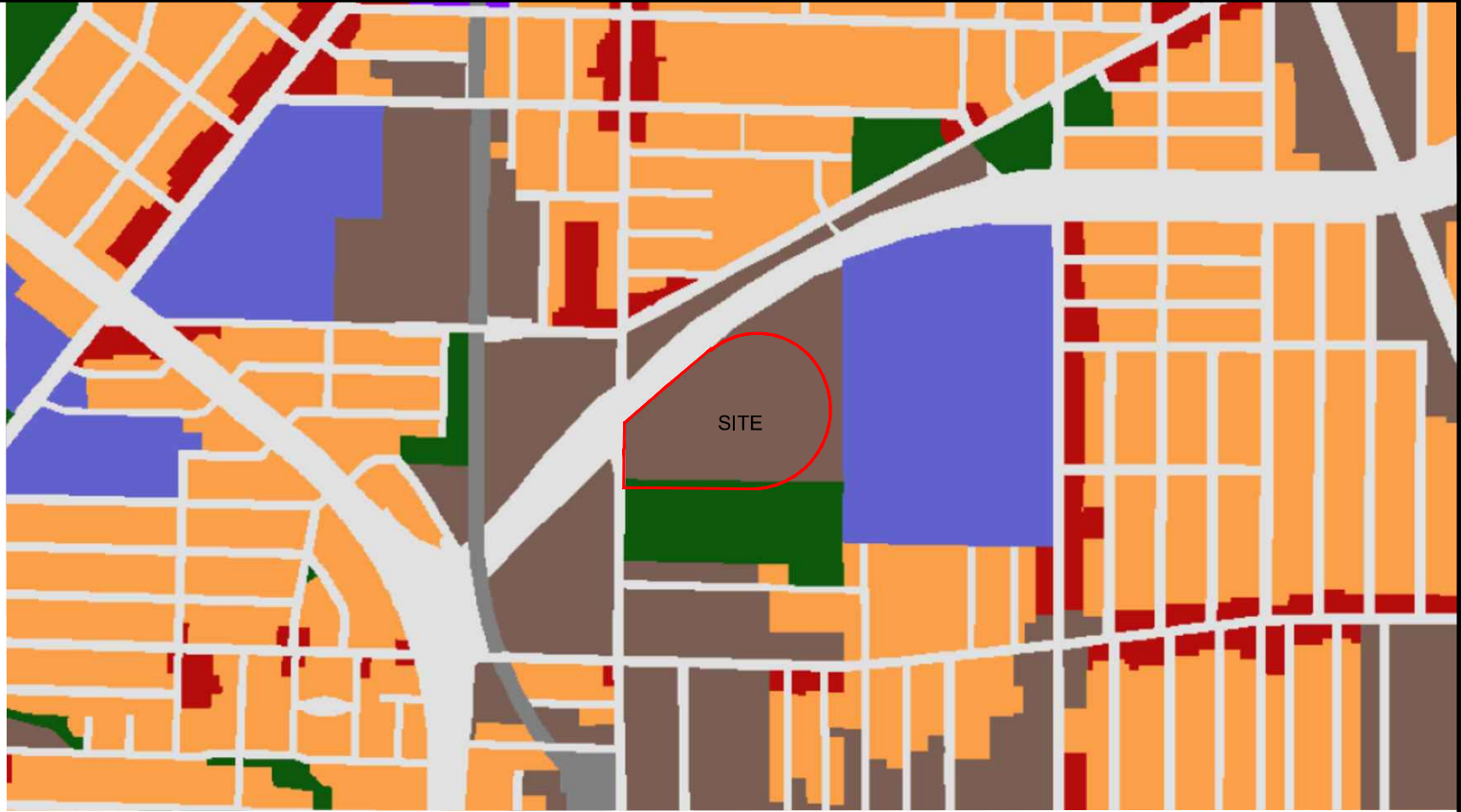
1827 FILLMORE AVENUE SITE
 BUFFALO, NEW YORK

PREPARED FOR
 1827 FILLMORE LLC

FIGURE 9

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-  Urban core
-  Neighborhood center
-  General residential
-  Single-family residential
-  Open space
-  Institutional
-  Employment
-  Rail corridor



SCALE: 1 INCH = 1000 FEET
 SCALE IN FEET
 (approximate)



IMAGE PER CITY OF BUFFALO LAND-USE PLAN - SEPTEMBER 2016



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PROJECT NO.: 0421-017-001
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CITY OF BUFFALO PROPOSED FUTURE LAND-USE MAP

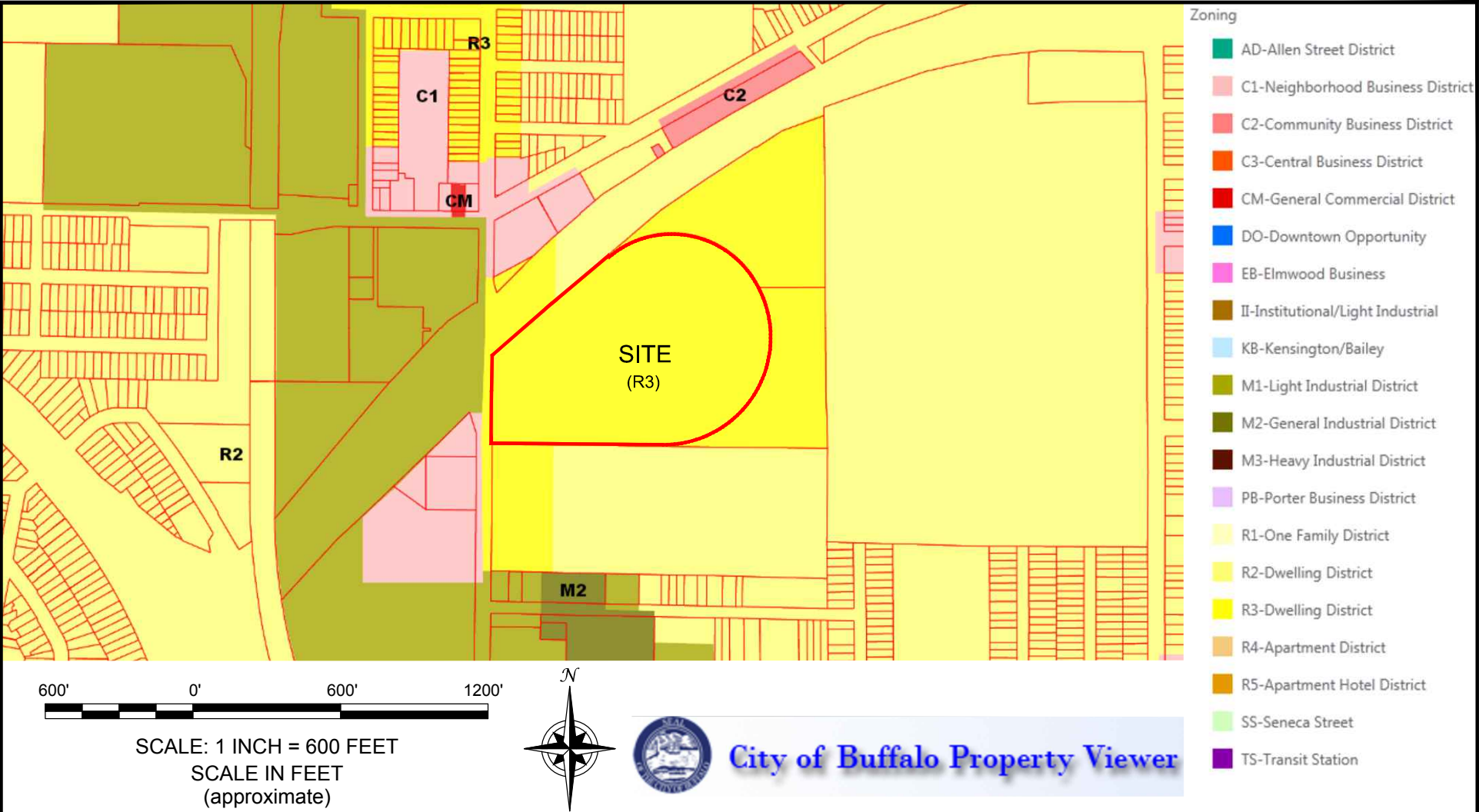
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
 BUFFALO, NEW YORK

PREPARED FOR
 1827 FILLMORE LLC

FIGURE 10

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BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

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TURNKEY
ENVIRONMENTAL
RESTORATION, LLC

PROJECT NO.: 0421-017-001

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CURRENT ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 11

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Adjacent Property Address			
SBL	ADDRESS	PROP TYPE	PROP DESC
89.16-2-7.21	255 Kensington	C	Radio
90.13-1-3	355 Kensington	B	Vacant Commercial
90.13-1-5.21	377 Kensington	C	Restaurant
90.13-1-9	659 Kensington	B	Vacant Commercial
90.17-1-1	1823 Fillmore	C	School
90.13-1-10	1825 Fillmore	B	Vacant Commercial
90.13-1-1	1829 Fillmore	B	Vacant Commercial
89.20-1-5	1870 Fillmore	C	Warehouse
89.20-1-4	1896 Fillmore	B	Vacant Commercial
89-16-2-7.11	1940 Fillmore	C	Manufacture
90.13-1-2	1963 Fillmore	C	Kennel/Vet



DATE: MAY 2017
DRAFTED BY: CCB

ADJACENT PROPERTY OWNERS
 BROWNFIELD CLEANUP PROGRAM APPLICATION
 1827 FILLMORE AVENUE SITE
 BUFFALO, NEW YORK

PREPARED FOR
 1827 FILLMORE LLC



JOB NO.: 0421-017-001

FIGURE 12

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EXPLANATION	
al	Recent deposits Generally confined to floodplains within a valley, oxidized, non-calicheous, fine sand to gravel, in larger valleys may be overlain by silt, subject to frequent flooding, thickness 1-10 meters.
af	Alluvial fan Fan shaped accumulations, poorly stratified silt, sand and boulders, at the foot of steep slopes, generally permeable.
co	Colluvium Mixture of sediments, deposited by mass wasting, thickness generally 1-5 meters.
cof	Colluvial fan Fan shaped accumulation, mixture of sediments, at mouth of gullies, thickness generally 1-5 meters.
cd	Colluvial diamictite Mixture of sediments, unique to regions beyond Wisconsinan glacial limit, reworked supraglacial and glacial debris, may be old (Illinoian) silt.
gr	Gravelly deposits Pebbly, organic silt and sand in poorly drained areas, in oxidized.
cl	Lacustrine beach Generally well sorted sand and gravel, stratified, permeable and well drained, deposited in a lake shoreline, generally fine calcareous, may have wave-worned lag gravel, thickness variable (1-5 meters).
sl	Lacustrine delta Clayey to fine gravel and sand, stratified, generally well sorted, deposited in a lake shoreline, thickness: silt (3-15 meters).
lc	Lacustrine silt and clay Generally laminated silt and clay, deposited in proglacial lakes, generally calcareous, potential land instability, thickness variable (up to 100 meters); silt/clay overlies where bedrock is within 1-3 meters of the surface.
ls	Lacustrine sand Sand deposits associated with large bodies of water, generally a sand above deposit or over a sand wave, well sorted, stratified, generally coarse sand, thickness variable (2-30 meters).
rg	Overwash sand and gravel Clayey to fine gravel with sand, proglacial fluvial deposits, well sorted and stratified, generally finer source away from ice border, may be calicheous beyond Wisconsinan glacial limit, thickness variable (2-30 meters).

sg	Fluvial gravel Silt to coarse sand and gravel, some deposits farther from glacier, see overbank.
ka	Kame deposits Boulders, lenses, veins, heavy lenses, some dikes, occur in fine gravel and/or sand, sometimes laminated to 1/2 ft or less, ridge is better direction of associated currents, lateral variability in sorting, composition and thickness, may be calicheous beyond Wisconsinan glacial limit, thickness variable (10-30 meters).
sa	Substratum controlled drift accumulation Discontinuously thin, 1/2 ft and less, stratified gravel and sandstone, (1/2 ft) to 1/2 mile wide, undisturbed and defined boundaries, no coarse clastics, irregular, discontinuous bodies of gravel and fine fill, may represent channel, depression and local terraces; lake deposits in low-lying and subglacial environments, thickness variable (2-30 meters).
ka	Kame terrace Terrace occurs flat and spring free benches to sand, deposited in an irregular during deglaciation, (flat to show direction of associated currents, locally composed of fine calcareous content), thickness variable (10-30 meters).
st	St. Lawrence terrace Thin, sandy, sorted fine fill, generally more permeable than (st), some variably sorted, may include siltstone (st), thickness variable (10-30 meters).
st	St. Lawrence terrace Variable sorting (e.g. fine, silt-clay, boulder size), usually poorly sorted, dunes, deposits locally flat to irregularly irregular (every meter), variable sand content - some fine, medium well-sorted dunes (bedding in siltly silt, in generally angular, some bedded (bedding to upland silt, rock to some extent) by gravel and siltstone, thickness variable (10-30 meters).
st	St. Lawrence terrace Dunes or generally, some of the surface, bedrock up to 1 meter of the surface, may occasionally cap ice, variable amount of sand debris and gravel (st), thickness variable (10-30 meters).

MAP SYMBOLS

- Contour
- Glacial outburst channel
- 6 Dated radiocarbon locality
- Legend Entry



1827 FILLMORE AVENUE SITE



SCALE: 1 INCH = 5000 FEET
SCALE IN FEET
(approximate)

SOURCE: Image digitized from the Surficial Geologic Map of New York, Niagara Sheet, Compiled and edited by Donald H. Cadwell, University of the State of New York, The State Education Department, 1988.



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PROJECT NO.: 0421-017-001

DATE: MAY 2017

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SURFICIAL GEOLOGIC MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 13

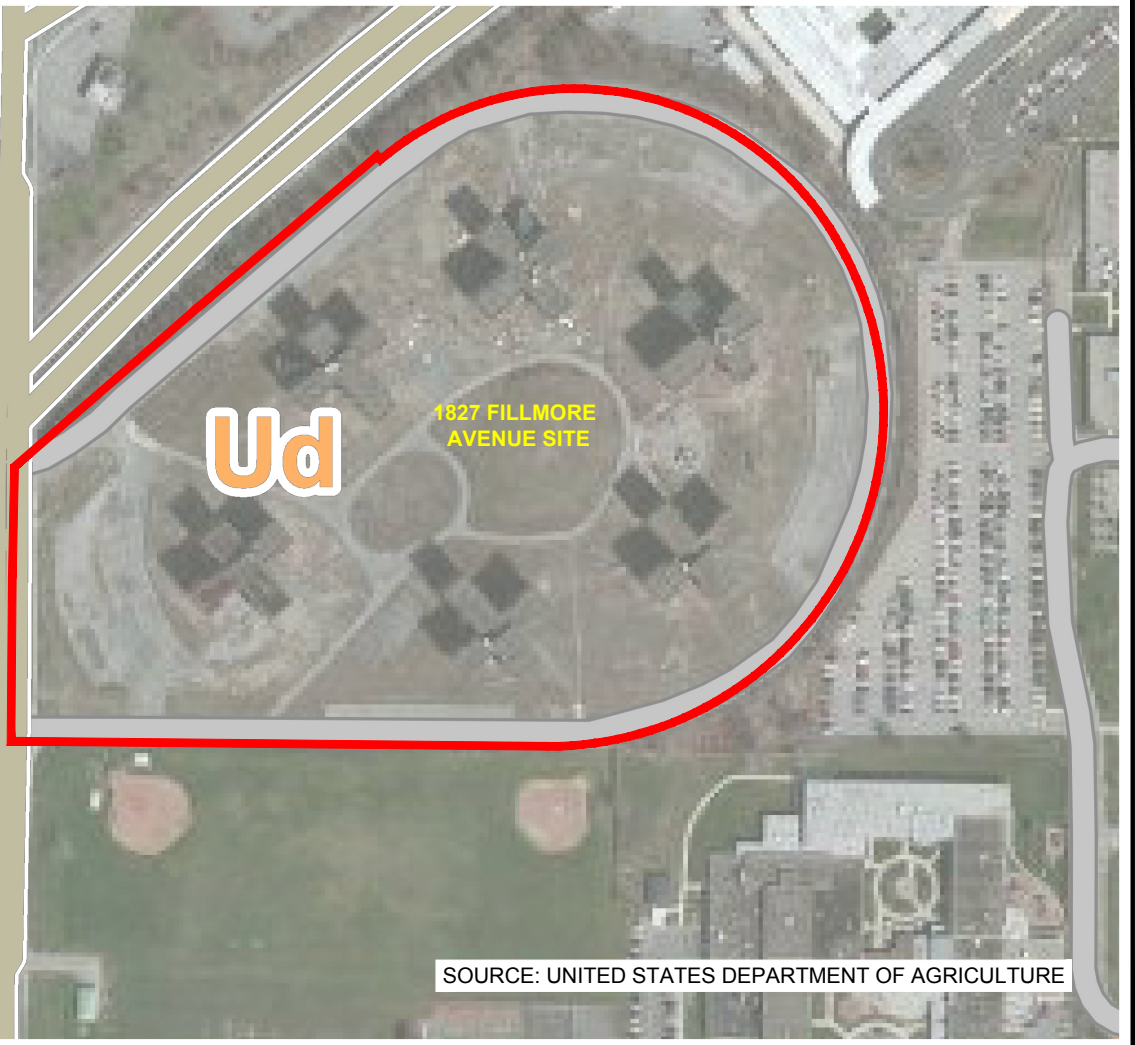
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LEGEND:

Ud - URBAN LAND (100% of Site)



SCALE: 1 INCH = 250 FEET
SCALE IN FEET
(approximate)



SOURCE: UNITED STATES DEPARTMENT OF AGRICULTURE



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USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 14

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LEGEND

NOTE: Where the uniformity of lithology and availability of pattern combinations permit, the dominant lithology of a mapping unit is symbolized as follows:

Cross-hatch patterns:

rhombic grid—dolostones

rectangular grid—limestones

Line patterns:

straight—pelitic rocks, shales, shales interbedded with siltstones and sandstones

Stipple patterns:

regular red—quartz sandstones and quartzites

random red—non-marine sedimentary rocks

An irregular lower margin on the "color boxes" signifies that the unit has an unconformable relationship with subjacent units, however not necessarily with the next unit listed. Wavy lines signify parallel unconformities; sawtooth lines signify angular unconformities.

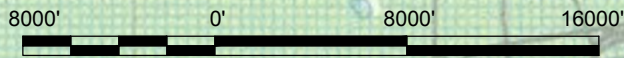
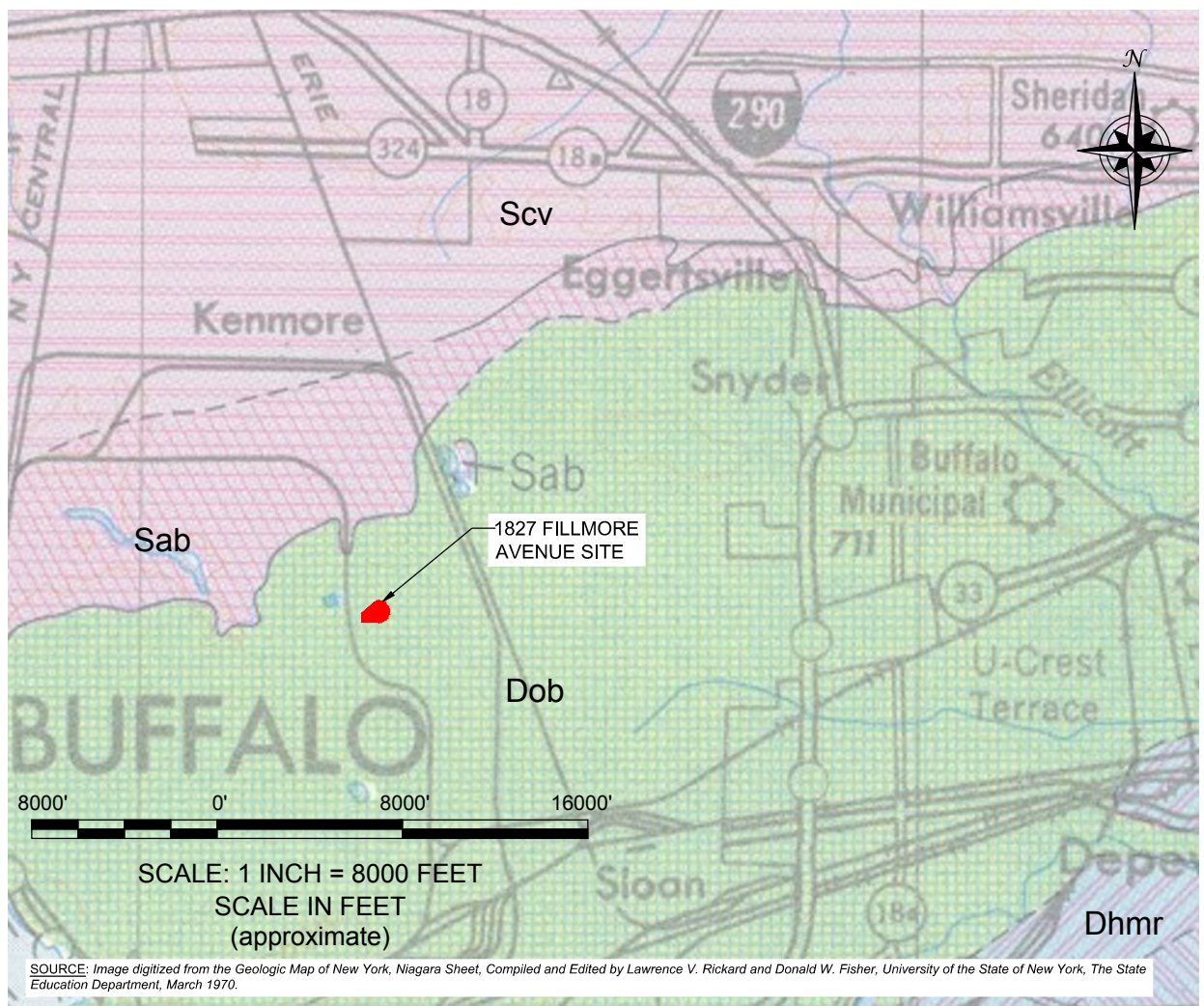
HAMILTON GROUP 200-500 ft. (60-150 m.)	
	Dhmo Moscow Formation—Windom and Kashong Shales, Menteth Limestone Members.
	Dhld Ludlowville Formation—Deep Run Shale, Tichenor Limestone, Wanakah and Ledyard Shales, Centerfield Limestone Members.
	Dhsk Skaneateles Formation—Levana Shale, Stafford Limestone Members.
	Dhmr Marcellus Formation—Oatka Creek Shale Member.
ONONDAGA AND BOIS BLANC LIMESTONES 150 ft. (45 m.)	
	Dob In New York: Onondaga Limestone—Seneca, Morehouse (cherty), and Clarence Limestone Members, Edgecliff cherty Limestone Member, local coral bioherms; Bois Blanc Limestone—sandy, thin, discontinuous. In Ontario: Dundee Limestone; Lucas Formation—dolostone, limestone (Anderdon); Amherstburg Formation—limestone, dolostone, sandstone (Sylvania); Bois Blanc Formation—dolostone, limestone, sandstone (Springvale).
	Do Oriskany Sandstone.
AKRON DOLOSTONE AND SALINA GROUP 400-700 ft. (120-210 m.)	
	Sab Akron Dolostone; Bertie Formation—dolostone, shale.
	Scv Camillus, Syracuse, and Vernon Formations—shale, dolostone, salt, and gypsum.

MAP SYMBOLS

Observed or approximately located contact

Conjectural contact; includes projections beneath extensive Quaternary cover and many contacts based on reconnaissance mapping.

Hypothetical contact; projection across unmapped area.



SCALE: 1 INCH = 8000 FEET
SCALE IN FEET
(approximate)

SOURCE: Image digitized from the Geologic Map of New York, Niagara Sheet, Compiled and Edited by Lawrence V. Rickard and Donald W. Fisher, University of the State of New York, The State Education Department, March 1970.



2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

BEDROCK GEOLOGIC MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION




1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 15

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Legend

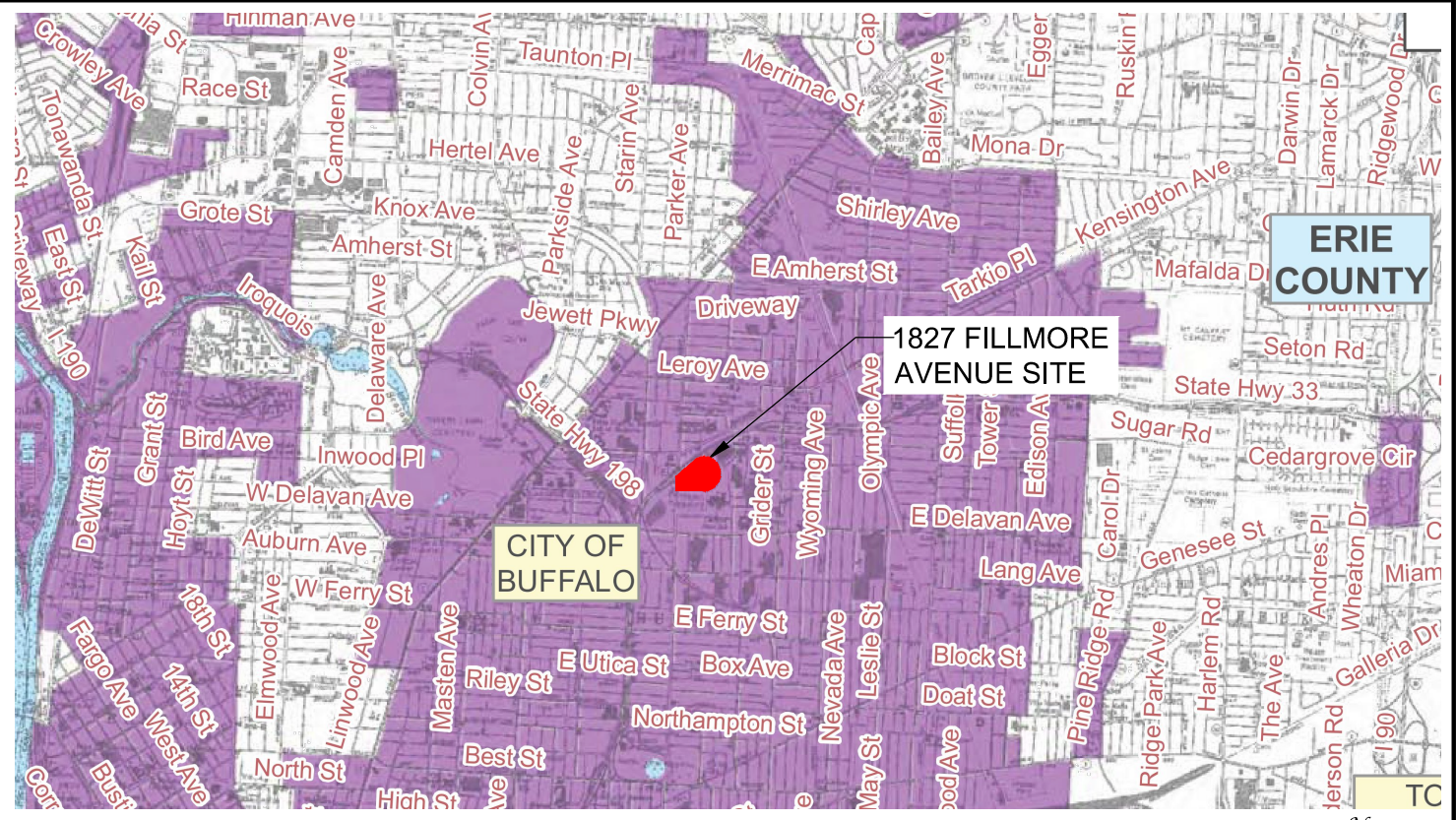
-  Potential EJ Areas
-  County Boundary
-  Waterbodies

For questions about this map contact:
 New York State Department of
 Environmental Conservation
 Office of Environmental Justice
 625 Broadway, 14th Floor
 Albany, New York 12233-1500
 (518) 402-8556
 ej@gw.dec.state.ny.us

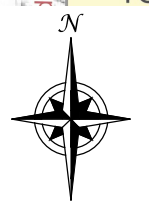
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NYSDEC does not guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas:
 U.S. Census Bureau, 2000 U.S. Census



SCALE: 1 INCH = 5000 FEET
 SCALE IN FEET
 (approximate)





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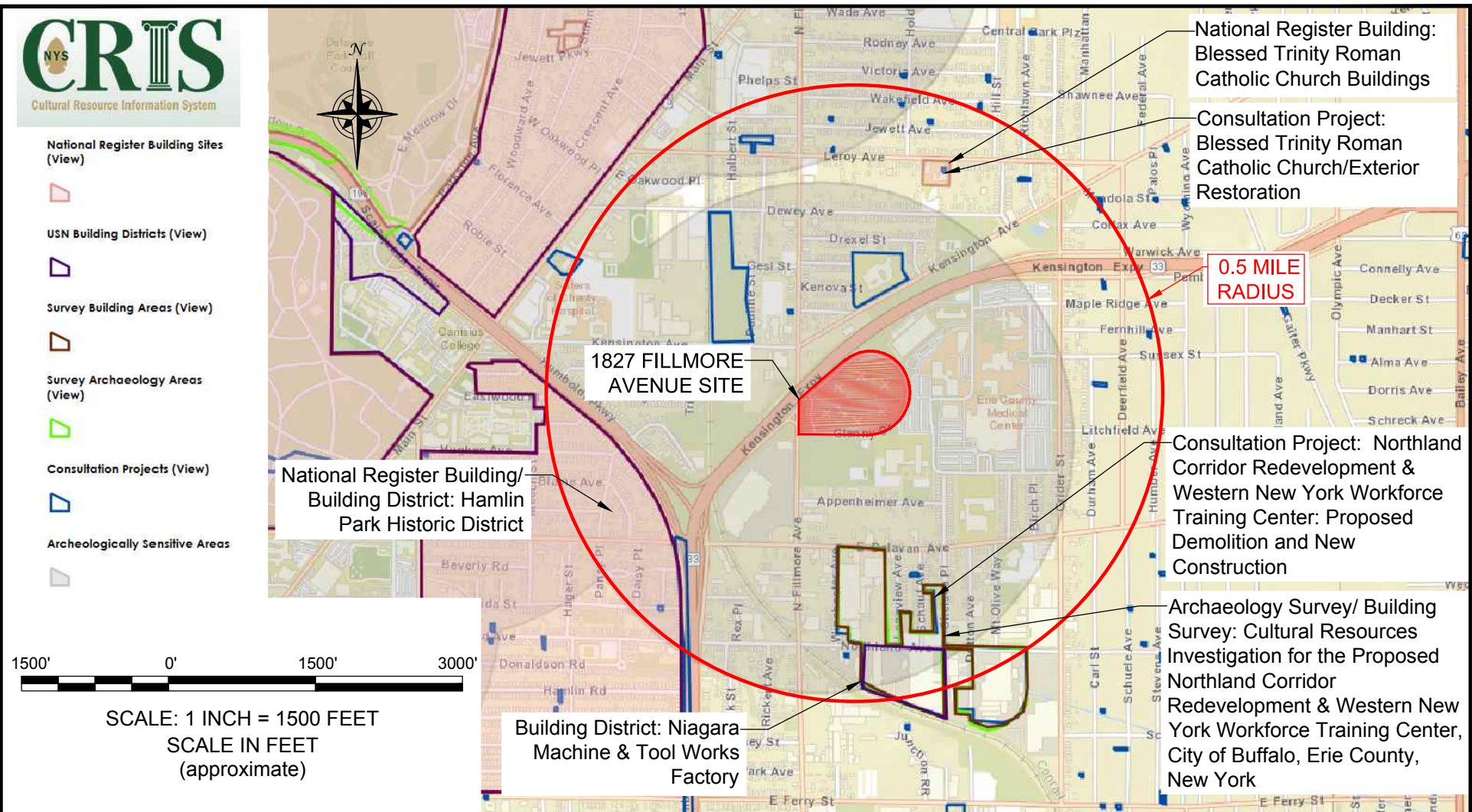
POTENTIAL ENVIRONMENTAL JUSTICE AREAS

BROWNFIELD CLEANUP PROGRAM APPLICATION
 1827 FILLMORE AVENUE SITE
 BUFFALO, NEW YORK

PREPARED FOR
 1827 FILLMORE LLC

FIGURE 16

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BENCHMARK
ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC
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TURNKEY
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PROJECT NO.: 0421-017-001

DATE: MAY 2017

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CULTURAL RESOURCES MAP

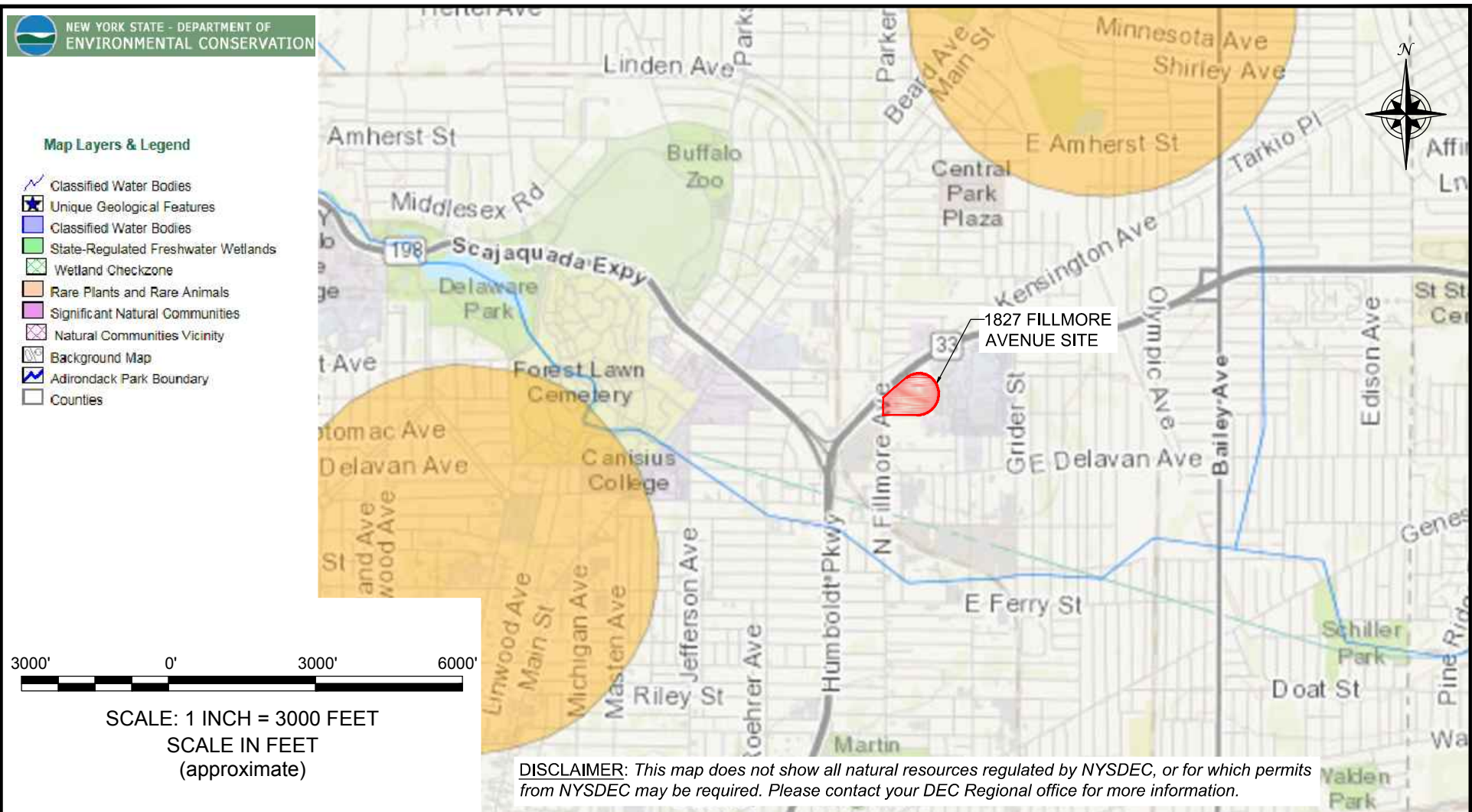
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

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1827 FILLMORE LLC

FIGURE 17

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SCIENCE, PLLC

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DRAFTED BY: CCB

NATURAL RESOURCES MAP

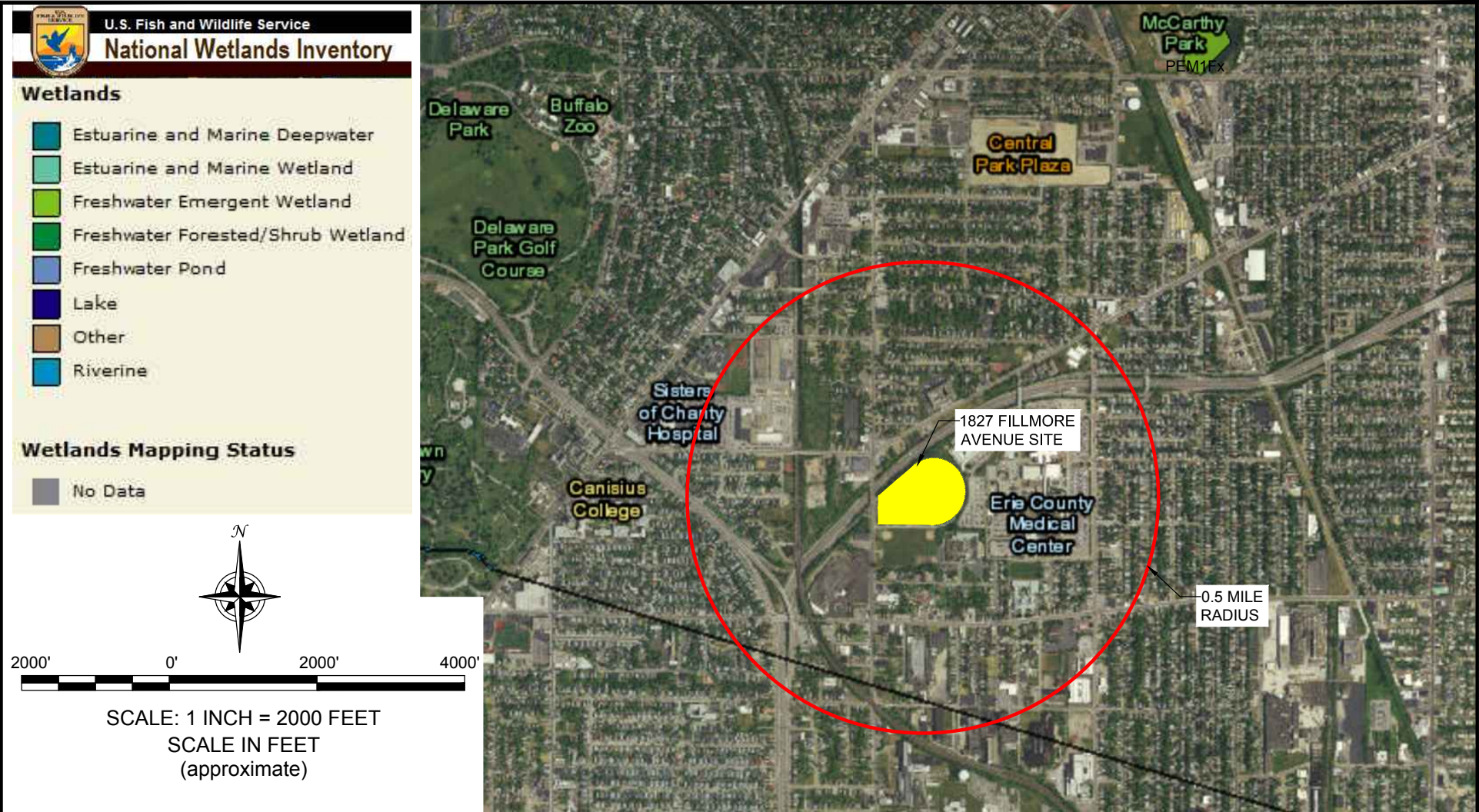
BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 18

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.



BENCHMARK
ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599

PROJECT NO.: 0421-017-001

DATE: MAY 2017

DRAFTED BY: CCB

TURNKEY
ENVIRONMENTAL
RESTORATION, LLC

WETLAND AND FLOODPLAIN MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

1827 FILLMORE AVENUE SITE
BUFFALO, NEW YORK

PREPARED FOR
1827 FILLMORE LLC

FIGURE 19

DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. & TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC & TURNKEY ENVIRONMENTAL RESTORATION, LLC.

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ATTACHMENT 1

BCP APPLICATION – SECTIONS I & V

REQUESTER INFORMATION

NYS DEPARTMENT OF STATE CORPORATION & BUSINESS ENTITY DATABASE
SIGNATURE RESOLUTION
RIGHT OF ACCESS

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through May 17, 2017.

Selected Entity Name: 1827 FILLMORE LLC

Selected Entity Status Information

Current Entity Name: 1827 FILLMORE LLC

DOS ID #: 5120886

Initial DOS Filing Date: APRIL 17, 2017

County: ERIE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

C/O ANTHONY J. COLUCCI III, ESQ.

424 MAIN STREET

SUITE 2000

BUFFALO, NEW YORK, 14202

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this

information is not recorded and only available by
[viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
APR 17, 2017	Actual	1827 FILLMORE LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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1827 FILLMORE LLC

**UNANIMOUS WRITTEN CONSENT
OF THE MEMBER**

April 25, 2017

The undersigned Managing Member of 1827 Fillmore LLC a New York limited corporation (the "Company"), hereby consents to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company.

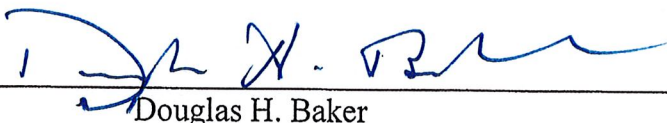
RESOLVED, that Thomas J. Quatroche, Jr. and Stephen M. Gary, Sr. (each an "Authorized Person") be, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Corporation, to execute the Brownfield Cleanup Program (BCP) Application, the BCP Agreement, or any other documents or agreements necessary to enter and participate in the New York State Department of Environmental Conservation's Brownfield Cleanup Program (Environmental Conservation Law Article 27, Title 14) for property under contract or owned by the Company located at 1827 Fillmore Avenue, Buffalo New York; and be it further

RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the Company as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolution; and be it further

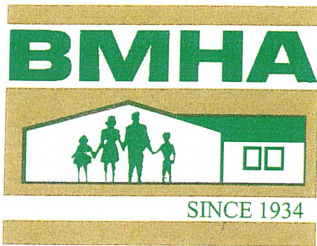
RESOLVED, that any acts of any officer of the Company and of any persons designated and authorized to act by any such officer of the Company, which acts would have been authorized by the forgoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted as acts of the Company.

IN WITNESS WHEREOF, the undersigned has executed this Joint Unanimous Written Consent as of the date set forth above.

Erie County Medical Center Corporation



Douglas H. Baker
ECMCC Corporation Secretary



Buffalo Municipal Housing Authority

Executive Staff

Dawn E. Sanders-Garrett
Executive Director

Modesto Candelario
Assistant Executive Director

July 20, 2017

Mr. David Locey, Environmental Engineer
New York State Division of
Environmental Conservation
270 Michigan Avenue
Buffalo, New York 14203

Dear Mr. Locey:

Re: 1827 Fillmore Avenue Site
Buffalo, New York

Please be advised that the property located at 1827 Fillmore Avenue is currently under a contract of sale to Erie County Medical Center Corporation ("ECMCC") or an affiliate of ECMCC. ECMCC, its affiliate 1827 Fillmore LLC, and their respective agents and representatives have full right of access to the property, including the right to submit an application to the New York Brownfield Cleanup Program, to execute a Brownfield Cleanup Agreement, and to investigate and remediate the property under the New York Brownfield Cleanup Program.

I hope this letter is satisfactory for our purpose. If you have any questions, whatsoever, please do not hesitate to call me.

Very truly yours,

Dawn E. Sanders-Garrett, Executive Director
Buffalo Municipal Housing Authority

300 Perry Street • Buffalo, New York 14204-2299
(716) 855-6711 • (FAX) (716) 855-6761 • (TDD) (716) 855-6725

"BMHA is an Equal Opportunity/Affirmative Action Employer"



ATTACHMENT 2

BCP APPLICATION – SECTIONS II, VII, & VIII

PROPERTY ELIGIBILITY & DESCRIPTION

PROJECT DESCRIPTION
REQUESTOR AS A VOLUNTEER
PROPERTY ELIGIBILITY INFORMATION
ELIGIBILITY STATEMENT

ATTACHMENT 2
BCP Application - Sections II, VII, & VIII
PROPERTY DESCRIPTION & ELIGIBILITY
1827 Fillmore Avenue Site

SECTION II – PROJECT DESCRIPTION

Project Description & Schedule

The subject property (hereinafter, the “Project Site” or the “Site”) subject to the BCP application is one parcel totaling approximately +/- 17.15 acres, located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York (see Figures 1 and 2).

The entire 1827 Fillmore Avenue parcel was previously entered into the BCP by a party unrelated to the current Applicant (Site #C915279) in 2015 (see Attached); however, the Brownfield Cleanup Agreement (BCA) was terminated by the New York State Department of Environmental Conservation (NYSDEC) on January 24, 2017 due to failure to submit a Remedial Investigation Work Plan within 30 days of the effective date of the BCA, according to information provided by the NYSDEC (see Attached).

1827 Fillmore LLC, whose sole member is the Erie County Medical Center Corporation (ECMCC), is evaluating the highest and best use of the Site, but does not have a final redevelopment plan. The final redevelopment plan will be provided to the Department as soon as it is available.

The Applicant, upon acceptance into the BCP, is willing to complete the required investigation and remediation, and redevelop the contaminated parcel. The capital investment to investigate, remediate, and redevelop the Site is currently unknown as the Remedial Investigation (RI) has not been completed and final redevelopment plans have not been prepared. A Preliminary Project Schedule is presented on Figure 3.

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Requestor as a Volunteer

A BCP applicant may be either a “Participant” or a “Volunteer.”

A “Participant” is an applicant who either (i) was the owner of the site at the time of the disposal or discharge of contaminants; or (ii) is otherwise responsible according to applicable

ATTACHMENT 2
BCP Application - Sections II, VII, & VIII
PROPERTY DESCRIPTION & ELIGIBILITY
1827 Fillmore Avenue Site

principles of statutory or common law liability, unless such person’s liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge. NY ECL 27-1405(1)(a). This definition is repeated verbatim at 6NYCRR 375-3.2(b)(1) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(A).

A “Volunteer” is an applicant other than a participant, including a person whose liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants provided that such person exercises appropriate care with respect to the contamination. NY ECL 27-1405(1)(b). This definition is repeated verbatim at 6 NYCRR 375-3.2(b)(2) and is paraphrased in the Brownfield Cleanup Program Guide at Section 2.4(1)(B).

Since the Applicant became involved with the property after the disposal or discharge of contaminants, and has exercised appropriate care with respect to the contamination, it is entitled to Volunteer status under NY ECL27-1405(1)(b).

SECTION VIII – PROPERTY ELIGIBILITY INFORMATION

Property Eligibility Information

The Site meets the definition of a “Brownfield site” as set forth in New York State Environmental Conservation Law (the “ECL”), which defines a “Brownfield site” as “any real property where a contaminant is present at levels exceeding the soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the Department that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations.”

As further described in Attachment 3, the Site meets BCP eligibility criteria based on the following (also refer to Figure 4):

- (A) The Site formerly operated as a stone quarry in at least 1917, which was backfilled with unknown materials prior to the 1958 for construction of low-income housing.

ATTACHMENT 2
BCP Application - Sections II, VII, & VIII
PROPERTY DESCRIPTION & ELIGIBILITY
1827 Fillmore Avenue Site

- (B) Previous investigations have established that on-Site soil/fill materials are impacted with polycyclic aromatic hydrocarbons (PAHs) and metals exceeding Part 375 Soil Cleanup Objectives (SCOs). Specifically, as shown on Figure 4, elevated PAHs and metals were detected in numerous soil/fill samples collected from across the Site at concentrations exceeding Part 375 USCOs, Residential SCOs (RSCOs), Restricted Residential SCOs (RRSCOs), Commercial SCOs (CSCOs) and/or Industrial SCOs (ISCOs). Based on site history, it is also possible that VOC-impacted soils exist on-Site.
- (C) One (1) aboveground storage tank (AST) and two (2) underground storage tanks (USTs) were observed (i.e. fill caps, vent pipes) during a site inspection completed as part of a 2008 Phase I Environmental Site Assessment. The report does not include any information relative to the USTs such as size, locations, contents, etc. Further, there are no records related to removal of the USTs. Therefore, there is the potential for remaining USTs at the Site.
- (D) The Site is located in a NYS En-Zone (see Figure 8), indicative of the economic conditions of the surrounding area. Because the Site is located in an En-Zone, it is eligible for certain local, state, and federal financial incentives, further indicating that the Site is unattractive for redevelopment particularly outside of the context of the BCP.
- (E) In 2015, the Site was successfully entered into the Brownfield Cleanup Program (BCP) by others; however, the Brownfield Cleanup Agreement (BCA) was terminated by the NYSDEC on January 24, 2017 due to failure to submit a Remedial Investigation Work Plan within 30 days of the effective date of the BCA.
- (F) Given the past history of asbestos violations, there is a possibility that asbestos exists in soil from previous demolition activities. It is also possible that the existing building contains asbestos.

ELIGIBILITY STATEMENT

Based on the foregoing and as further set forth in this BCP application, the Site qualifies as a Brownfield Site eligible for participation in the BCP, with the Applicant as a Volunteer, because there is confirmed contamination at the Site, which is complicating the redevelopment and re-use of the Site.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

**BROWNFIELD SITE
CLEANUP AGREEMENT
Index No.: C915279-06-15**

Kensington Heights Towers

DEC Site No.: C915279

Located at: 1827 Fillmore Avenue
Erie County
Buffalo, NY 14204

Hereinafter referred to as "Site"

by:

Kensington Heights Revitalization Corporation
300 Perry Street, Buffalo, NY 14204

Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation (the "Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Applicant submitted an application received by the Department on May 4, 2015; and

WHEREAS, the Department has determined that the Site and Applicant are eligible to participate in the BCP;

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, Kensington Heights Revitalization Corporation, is participating in the BCP as a Participant as defined in ECL 27-1405(1)(a).

II. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 17.140 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 90.13-1-11
Street Number: 1827 Fillmore Avenue, Buffalo
Owner: Buffalo Municipal Housing Authority

III. Payment of State Costs

Invoices shall be sent to Applicant at the following address:

Kensington Heights Revitalization Corporation
Attn: Dawn E. Sanders-Garrett
300 Perry Street
Buffalo, NY 14204
dsanders@bmhahousing.com

In addition to the requirement to pay future state costs as set forth in Appendix "A", within forty-five (45) Days after the effective date of this Agreement, Applicant shall pay to the Department the sum set forth on Exhibit "B", which shall represent reimbursement for past State Costs incurred prior to the effective date of this Agreement. Applicant acknowledges that all past State Costs are not itemized on the cost summary and that additional charges may be billed at a later date for State Costs incurred prior to the effective date of this Agreement.

IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

David Locey
New York State Department of Environmental Conservation
Division of Environmental Remediation
270 Michigan Ave
Buffalo, NY 14203-2915
david.locey@dec.ny.gov

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
krista.anders@health.ny.gov

Jennifer Dougherty, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
270 Michigan Ave
Buffalo, NY 14203-2915
jennifer.dougherty@dec.ny.gov

2. Communication from the Department to Applicant shall be sent to:

Kensington Heights Revitalization Corporation
Attn: Dawn E. Sanders-Garrett
300 Perry Street
Buffalo, NY 14204
dsanders@bimahousing.com

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: _____

JUL 13 2015

JOSEPH J. MARTENS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: _____

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

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Kensington Heights Revitalization Corporation


By: 

Title: PRESIDENT

Date: June 29, 2015

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the 29th day of June in the year 2015, before me, the undersigned, personally appeared DAWN E. Sanders-Garrett, 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

LORRAINE BALLOU BONNER
Notary Public, State of New York
Commission No. 01BA0278789
Qualified in Erie County
My Commission Expires 11/29/17

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7220 | F: (716) 851-7226
www.dec.ny.gov

September 22, 2016

**Certified Mail
Return Receipt Requested**

Dawn E. Sanders-Garrett
Kensington Heights Revitalization Corporation
300 Perry Street
Buffalo, New York 14204

Deborah J. Chadsey, Esq.
Kavinoky Cook, LLP
726 Exchange Street, Suite 800
Buffalo, New York 14203-2887

Dear Mmes. Sanders-Garret and Chadsey:

Brownfield Cleanup Program
Kensington Heights Towers
Site No.: C915279
Buffalo, Erie County

As you know, Kensington Heights Revitalization Corporation (Applicant) and the New York State Department of Environmental Conservation (the Department) executed a Brownfield Cleanup Agreement (Index # C915279-06-15), (the Agreement), relative to the Kensington Heights Towers Site (the Site) on July 13, 2015.

A remedial investigation work plan was to have been submitted within thirty (30) days of the effective date of the Agreement, i.e. on or before August 12, 2015. That work plan has yet to be submitted.

The Department considers the progress of the Remedial Program for the site, or the lack thereof, to be unsatisfactory, and the delay to be in violation of the requirements of the Agreement. This letter serves to put you on notice of the Department's objection to the pace and progress of the Remedial Program at the Site and to provide an opportunity for you to remain in the Brownfield Cleanup Program, provided you submit a revised project schedule, within 30 days of the date of receipt of this letter, which is acceptable to the Department.

If the Applicant does not respond within the time frame above the Department will terminate the Agreement, in accordance with Paragraph XII of the Agreement. However, be advised that certain obligations of the Volunteer survive the termination of the Agreement. 6NYCRR 375-3.5(d) expressly states that the termination of the Agreement will not affect the



September 22, 2016
Page 2

provisions contained in Paragraphs V, VII.B and VIII of the Agreement. Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held pursuant to any applicable state and/or federal law or the Agreement or a release for any party from any obligations held under those same laws and the Agreement.

If you have any questions, please call me at (716) 851-7220.

Sincerely,



Chad Staniszewski, P.E.
Regional Remediation Engineer
Division of Environmental Remediation

CS/tm

ec: Jennifer Dougherty, Esq. – NYSDEC Region 9
Robert Schick – NYSDEC Albany
Michael Ryan – NYSDEC Albany
Michael Cruden - NYSDEC Albany
Charlotte Bethoney – NYSDOH
David Locey – NYSDEC Region 9



Department of
Environmental
Conservation

Environmental Site Remediation Database Search Details

Site Record

Administrative Information

Site Name: Kensington Heights Towers

Site Code: C915279

Program: Brownfield Cleanup Program

Classification: N *

EPA ID Number:

Location

DEC Region: 9

Address: 1827 Fillmore Avenue

City: Buffalo Zip: 14204

County: Erie

Latitude: 42.926085833

Longitude: -78.837104833

Site Type:

Estimated Size: 17.14 Acres

Site Owner(s) and Operator(s)

Current Owner Name: Buffalo Municipal Housing Authority

Current Owner(s) Address: 300 Perry Street
Buffalo, NY, 14204

Site Document Repository

Name: Buffalo and Erie County Public Library

Address: 1 Lafayette Square
Buffalo, NY 14203

Site Description

Site Location: The proposed BCP site is located at 1827 Fillmore Avenue in an urban area within the City of Buffalo, Erie County. It is bounded in a southwesterly to northeasterly direction by the Kensington Expressway (also know as Rt. 33), to the south by a school and athletic fields; and to the east by a hospital. **Site Features:** The site was occupied by

six,seven-story brick apartment buildings on 16 acres. All but one of the buildings has been demolished. The apartment complex included, parking space, common areas and greenspace. The site is currently vacant. Current Zoning and Land Use: The site is currently zoned residential and the surrounding area use is a combination of commercial and residential. Past Use of the Site: The site was once a quarry that was backfilled. The apartment buildings were built in 1958 as a federal/state development and were known as the The Kensington Heights Apartments. Site Geology and Hydrogeology: The site is located within the Lake Erie/Niagara River Drainage Basin located approximately between 680 feet(eastern portion of the site) and 660 feet(western portion of the site) above sea level. Groundwater flow is anticipated to the west, consistent with the site topography. The site is currently covered with soils considered Urban Land. There is no other information currently available regarding the fill that was used to backfill the quarry. The native soils in the area are lacustrine silt and clay. The underlying bedrock is the Onondaga and Bois Blanc Limestone. Because the site was the subject of an ongoing federal enforcement action, related to asbestos contamination, the Brownfield Cleanup Program application was denied in August 2013. The BCP application was re-submitted in May, 2015 and the Brownfield Cleanup Agreement (BCA) was executed in July 2015. The applicant/participant subsequently failed to provide an investigation work plan and the BCA was terminated 1/24/2017.

Site Environmental Assessment

The Brownfield Cleanup Agreement was terminated on 1/24/17 due to the applicant's failure to submit a remedial investigation work plan. No comprehensive investigation was completed to assess environmental conditions at the site.

Site Health Assessment

Information submitted with the BCP application regarding the conditions at the site are currently under review and will be revised as additional information becomes available.

* **Class N Sites:** "DEC offers this information with the caution that the amount of information provided for Class N sites is highly variable, not necessarily based on any DEC investigation, sometimes of unknown origin, and sometimes is many years old. Due to the preliminary nature of this information, significant conclusions or decisions should not be based solely upon this summary."

ATTACHMENT 3

BCP APPLICATION – SECTIONS III & VI

PROPERTY ENVIRONMENTAL HISTORY

ENVIRONMENTAL HISTORY & PREVIOUS ENVIRONMENTAL INVESTIGATIONS

(PROVIDED ELECTRONICALLY)

PAST LAND USES

PREVIOUS / CURRENT PROPERTY OWNERS / OPERATORS

ATTACHMENT 3
BCP Application – Sections III & VI
PROPERTY’S ENVIRONMENTAL HISTORY
1827 Fillmore Avenue Site

SECTION III – ENVIRONMENTAL HISTORY AND PREVIOUS INVESTIGATIONS

A summary of Benchmark’s review of historical documents as well as previous environmental investigation findings completed for the 1827 Fillmore Avenue Site is provided below.

▪ ***Historic Sanborn Maps***

Sanborn maps serve to reveal former buildings, building uses, and man-made works such as canals, lagoons and railroads that may have been altered or may no longer be in existence. The following table summarizes available Sanborn maps for the Site provided in a previous assessment. Attachment 3 includes copies of the Sanborn Maps.

YEAR	SITE OBSERVATIONS
1917	Stone Quarry
1939	The Site appears vacant with an access road running through the Site.
1950	Residential; New York State Emergency Housing Project
1986	Vacant Residential; Buffalo Municipal Housing Authority – Kensington Heights Apartments

▪ ***Historic Aerial Photographs***

Historical aerial photographs serve to reveal former topography, buildings, structures, and man-made works such as canals, lagoons, and railroads that may have been altered or may no longer exist. Historical aerial photographs were obtained by Benchmark for additional historical information relative to the Site. Attachment 3 includes copies of the aerial photographs provided by Erie County Public Works Department. Note that the only aerial photograph available pre-dating development of the Kensington Heights Towers Historic was dated 1927.

ATTACHMENT 3
BCP Application – Sections III & VI
PROPERTY’S ENVIRONMENTAL HISTORY
1827 Fillmore Avenue Site

YEAR	SITE OBSERVATIONS
1927	Numerous disturbances appear on-Site. The disturbances are presumably associated with the former stone quarry operation.

▪ ***Phase I Environmental Assessment, Kensington Heights, 1827 North Fillmore, Buffalo, New York – March 2008***

“Phase I Environmental Assessment, Kensington Heights, 1827 Fillmore, Buffalo, NY,” performed by Fifty-Six Services, Inc. for EI Team, dated March 2008. Fifty-Six Services identified the Site as being vacant at the time of the assessment with various vandalized containers containing oils along with vandalized transformers with oil staining on basement concrete floors. Fifty-Six Services reportedly observed evidence (fill caps, vent pipes) of two USTs at the time of their site reconnaissance; however, the report does not included tank-related information such as the size, contents or locations of the tanks.

Fifty-Six Services identified regulatory listings for the Site including one (1) leaking underground storage tank (LUST) for the Site with a status of “closed,” a Resource Conservation and Recovery Act Large Quantity Generator (RCRA-LQG), a New York State Manifest and a registered AST facility. No additional information is provided.

Per Fifty-Six Services, “the Site has been left with extensive asbestos contamination (pipe insulation, etc.) and vandalism of electrical equipment in the basement has caused suspect PCB contamination. The Site has also been used to dump trees and debris.” Asbestos and lead surveys were reportedly completed by Fifty-Six Services in March 2008.

Fifty-Six Services concluded that the assessment revealed “extensive evidence of suspect potential environmental risks, and/or recognized environmental conditions indicating the presence of hazardous conditions associated with the subject site.

ATTACHMENT 3
BCP Application – Sections III & VI
PROPERTY'S ENVIRONMENTAL HISTORY
1827 Fillmore Avenue Site

▪ ***Miscellaneous Documents Provided to Benchmark - 2009-2010***

In June 2009, Cambria Construction began asbestos abatement and demolition of the existing six (6) abandoned building on-Site. During that time, the upper approximate 3 to 4 inches of surface soil/fill had been bulldozed to the center of the Site to be used for re-grading after demolition work. The pile currently remains present on the central portion of the Site and Benchmark is unaware of soil/fill samples collected from the pile for laboratory analysis. Note that the pile was not required to be addressed under the EPA Compliance Order discussed below, nor was it acknowledged in the BMHA Work Plan also discussed below.

In January 2010, the NYSDEC and New York State Department of Labor (NYS DOL) performed a Site inspection and ceased all abatement and demolition work on-Site due to multiple violations. It had been found that workers were instructed to illegally dump ACMs within former elevator shafts within the buildings. In addition, ACMs were not properly wetted (standard practice for ACM removal activities) prior to being placed into closed dumpsters.

HLM Holdings hired Stohl Environmental, LLC (Stohl Environmental) to perform a Post-Remediation Hazardous Materials Inspection as of January 29, 2010.

▪ ***Post Remediation Hazardous Materials Inspection, Kensington Heights 1827 North Fillmore Avenue, Buffalo, New York – January 2010***

A January 29, 2010 Post Remediation Hazardous Materials Inspection performed by Stohl Environmental, LLC identified the presence of multiple suspect asbestos containing building materials. Stohl Environmental noted that suspect remaining PCB residue in each building's basement transformer room, as mentioned in Fifty-Six Service's March 2008 Phase I Environmental Assessment, had not been cleaned or tested. Stohl Environmental recommended that additional asbestos and PCB inspection and sample analysis should be performed.

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On March 2, 2010, notes from EI Team's Weekly Meeting minutes state that Fifty-Six Services claimed that PCB testing in the boiler room came back negative. However, in a Pre-Demolition Asbestos Assessment Report prepared by Fifty-Six Services on March 9, 2010, did not include the PCB results.

▪ ***Additional Miscellaneous Documents Provided to Benchmark – 2010-2012***

In July 2010 Cambria Construction resigned from the project and the re-abatement work was never completed. In spring of 2011, BMHA hired Apollo Contracting to finish the project. In June and July of 2011, Fifty-Six Services completed reports for each of the six (6) buildings; however, the reports only dealt with ACM.

On September 6, 2011, the BMHA received compliance order CAA-02-2011-1021 from the USEPA for violations of Section 112 of the CAA and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M for improper asbestos abatement and building demolition.

A September 12, 2011 Visual Survey and Bulk Sampling of Suspect Materials/Debris Report, prepared by Stohl Environmental, identified the presence of scattered asbestos debris on-Site through a visual assessment and laboratory analysis of 11 samples. The most prevalent type of asbestos debris identified by Stohl Environmental was transite cement board.

Stohl Environmental prepared a Visual Survey of Surficial Asbestos Materials/Debris Report, dated October 10, 2011, for the Kensington Heights Complex. The assessment was completed to visually locate surficial asbestos debris located on-Site, including areas around all buildings. The visual inspection revealed the presence of scattered asbestos debris (i.e., transite cement board, window caulk, thermal system insulation, floor tile and mastic) on ground surfaces throughout the Site. Stohl Environmental recommended additional inspection of staged on-Site backfill.

Apollo Contracting resigned from the project in December 2011 and BMHA hired Aria Contracting to complete the abatement work in accordance with the approved Work Plan.

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Aria Contracting completed asbestos abatement by removing 63,000 square feet of asbestos containing material from each of the buildings. Five (5) of the six (6) buildings had been demolished and soil surrounding each demolished buildings in a 25 foot perimeter was removed to a depth of 2 inches. Note that soil surrounding the existing building has apparently not been screened or removed.

BMHA prepared an Asbestos Abatement Work Plan for Compliance with EPA Order CAA-02-2011-1021, approved by the NYSDOL February 16, 2012.

▪ ***Previous Brownfield Cleanup Program Application - 2013***

On May 31, 2013, Kensington Heights Revitalization Corporation applied the entire parcel addressed at 1827 Fillmore Avenue to the New York State Brownfield Cleanup Program; however, the application was denied on August 14, 2013 based on the pending EPA Consent Order related violations of the CAA.

▪ ***Subsurface Soil Investigation – August 2013***

MS Analytical (MSA) completed a subsurface soil investigation at the Site in August 2013 with completion of 50 soil borings (SB-1 through SB-50) across the Site and 18 soil/fill samples selected for laboratory analysis from depths ranging between 4 and 20 feet below ground surface (fbgs). The work was documented in a Draft Phase II Environmental Site Assessment report prepared by MSA dated March 25, 2013. MSA was limited in their soil boring placement to specific portions of the Site due to areas of asbestos concern at the time of the investigation.

Subsurface conditions were described by MSA as fill material consisting of clay, sand and gravel with sporadic occurrences of ash. Groundwater was encountered at select borings including SB-15, SB-27, SB-37, SB-43 and SB-44 at depths ranging between 14 and 18 fbgs.

The highest PID reading identified during the work was 37.6 ppm at SB-43 (6-8' interval) completed on the west-central portion of the Site.

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Analytical laboratory results have established that on-Site soil/fill materials are impacted with polycyclic aromatic hydrocarbons (PAHs) and metals exceeding Part 375 Unrestricted SCOS, Residential SCOs, Restricted Residential SCOs, Commercial SCOs and/or ISCOs (USCOs, RSCOs, RRSCOs, CSCOs and ISCOs, respectively).

It should be noted that MSA's report included a review of previous studies associated with the adjacent Dr. Lydia T. Wright School of Excellence Campus East School #89. The reports included a 2001 Phase II Environmental Site Assessment a 2002 Soil Management Plan, both prepared by Panamerican Environmental, Inc. (PEI) and URS Corporation (URS). According to MSA, the adjacent property was used as a stone quarry of which the Site was a part. Fill consisting of ash, sand, gravel, clay, silt and miscellaneous building debris was encountered during the investigation. Elevated concentrations of PAHs and metals were identified in soil/fill samples selected for laboratory analysis from the adjacent property. MSA noted that it does not appear that the studies involved soil/fill sampling at the subject site.

MSA concluded that the Site appears to meet BCP criteria and the report should be provided to the NYSDEC as part of the BCP application.

- ***EPA Compliance Summary Report for Asbestos Abatement, Kensington Heights Complex, 1827 N. Fillmore Avenue, Buffalo New York – October 2014***
Surface soil from additional contaminated areas determined by Stohl Environmental has been abated to a depth of 2 inches. According to the EPA Compliance Summary Report completed by Stohl Environmental, on October 31, 2014 all work was done in accordance with the approved EPA Work Plan and the NYSDOL confirmed that all friable asbestos has been removed. It is unclear whether further testing was completed proximate to the existing building and soil pile on the central portion of the Site. The work included:
 - a. During asbestos abatement activities from 2009 to 2010 a portion of the Site's upper 3 to 4 inches of topsoil had been bulldozed to the center of the Site to be used for re-grading after demolition work. The pile was not required to be addressed under the EPA Compliance Order, nor was it

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acknowledged in the BMHA Work Plan. There are no records indicating that the pile of topsoil has been tested or addressed.

- b. Soil surrounding each of the five (5) demolished buildings in a 25 foot radius was removed to a depth of 2 inches.

Stohl Environmental concluded that “all items included in the EPA Compliance Order CAA-02-2011-1021 have been addressed” and they also indicated that “the New York State DOL confirmed, by visual inspection, that all friable asbestos has been removed.”

▪ ***Previous Brownfield Cleanup Program Application - 2015***

As indicated above, the Site has previously been subject to cleanup activities under the USEPA Consent Order CAA-02-2011-1021. However, all asbestos abatement work was completed under Consent Order with EPA on October 31, 2014.

The Site was entered in to the BCP in May 2015 and the BCA was executed in July 2015 (Site #C915279); however, the BCA was terminated by the NYSDEC on January 24, 2017 due to failure to submit a Remedial Investigation Work Plan within 30 days of the effective date of the BCA.

▪ ***Phase I Environmental Site Assessment - 2017***

Benchmark completed a Phase I Environmental Site Assessment for the Site in July 2017. The Site was identified as vacant land with one (1) building shell at the time of Benchmark’s assessment.

Benchmark identified the following potential environmental concerns at the time of the site reconnaissance:

- The Site includes a vacant building shell with an inactive boiler and an empty approximate 10,000-gallon AST presumed by Benchmark to have historically contained fuel oil. [It should be noted that as-built site drawings dated 1955, reviewed by Benchmark as part of the Phase I, suggest that the five former apartment buildings had similar fuel oil fired heating systems.]

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BCP Application – Sections III & VI
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- An additional AST, an approximate 275-gallon tank, was observed on the exterior portion of the Site southwest of the existing building. Benchmark suspects that the tank historically contained gasoline or diesel fuel.
- An inactive incinerator with ash waste was noted within the building near the inactive boiler.
- A large soil/fill mound covered with dense vegetation was noted southwest of the existing building on the central portion of the Site. Benchmark understands that the mound consists of soil/fill from the upper approximate 3 to 4 inches of surface material that had previously been bulldozed to the center of the Site to be used for regrading after historic demolition work.
- In addition, a small additional apparent soil/fill mound covered with vegetation was noted east of the existing building.
- Benchmark is aware of the history of the Site in that fill materials from unknown origins were historically brought to the Site to bring former quarry areas (virtually the entire Site) to grade.
- Evidence of previous soil borings was noted on exterior portions of the Site; Benchmark is aware of a previous Phase II Environmental Investigation completed by others.
- Dumped materials including apparent landscaping wastes with mulch, soil and wood were noted on the southern portion of the Site and demolition debris with brick, concrete and asphalt were noted east of the existing building. Additional scattered debris (e.g., plastic, wood, general trash, etc.) were noted across the Site.

The following RECs were identified for the Site by Benchmark:

- Known impacted fill materials brought to the Site from unknown origins to bring former quarry areas to grade are considered RECs as previous sampling data indicates the presence of elevated PAHs and metals across the Site.

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- There is the potential for additional environmental impacts on-Site, including asbestos, especially within the two soil/fill mounds given the past history of the Site.
- The AST observed during TurnKey's site visit and the USTs identified in the 2008 Phase I completed by Fifty-Six Services are considered RECs due to the potential for impacts.
- The inactive incinerator within the existing building is considered a REC due to the potential for impacted ash materials within the unit.

Benchmark concluded that further work appears warranted and environmental conditions will be further characterized through completion of the RI.

Copies of the environmental reports are provided electronically in Attachment 8. Environmental areas of concern are presented on Figures 2 and 4.

SECTION VI – PREVIOUS USES & OWNERS/OPERATORS

Past Land Uses

The historical use of the Site has been researched through review of historic Sanborn maps, historic aerials, previous reports or other information provided to Benchmark by the client and NYSDEC, and/or other reasonably obtainable documents. The following provides a summary relative to historic uses of the Site.

- The Site was utilized as a stone quarry from at least 1917 through at least 1927.
- Prior to the 1950s, the stone quarry was backfilled with unknown fill materials.
- The Kensington Heights apartments were built as low-income housing in 1958. They were formally a federal/state development. The Site was improved with six (6), similar seven-story brick apartment buildings with approximately 67 units per building, open space, and on-Site parking. The Site has been vacant since the 1980s.
- From 2009 to 2014 asbestos abatement activities were completed along with demolition of five (5) of the six (6) buildings.

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PROPERTY'S ENVIRONMENTAL HISTORY
1827 Fillmore Avenue Site

Previous/Current Property Owners/Operators

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. The information provided in the table below is based on information included in the March 2008 Phase I Environmental Site Assessment prepared by Fifty-Six Services along with the EDR City Directories as well as Benchmark's on-line review of available municipal information and communications with the City of Buffalo Assessor.

The following table lists the current and previous owners/operators:

Owner/Operator	Date(s)	Relationship to Applicant
<i>Current Owner/Operator</i>		
Buffalo Municipal Housing Authority	1955 - Current	None
<i>Previous Owners/Operators</i>		
City of Buffalo	1955 and prior	None
Nelson Eugene Whitney, as Executor of Last Will and Testament of Alfred A. Berrick		None

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Sanborn® Library search results
Certification # 95EB-4B16-9402

**Ellicott Towers
Glenny Drive
Buffalo, NY 14214**

Inquiry Number 2179331.3s

March 28, 2008



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3/28/08

Site Name:
Ellicott Towers
Glenny Drive
Buffalo, NY 14214

EDR Inquiry # 2179331.3s

Client Name:
CEM Inc.
3385 Bailey Avenue
Buffalo, NY 14215

Contact: Raj Chopra



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Site Name: Ellicott Towers
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City, State, Zip: Buffalo, NY 14214
Cross Street:
P.O. # NA
Project: Ellicott towers
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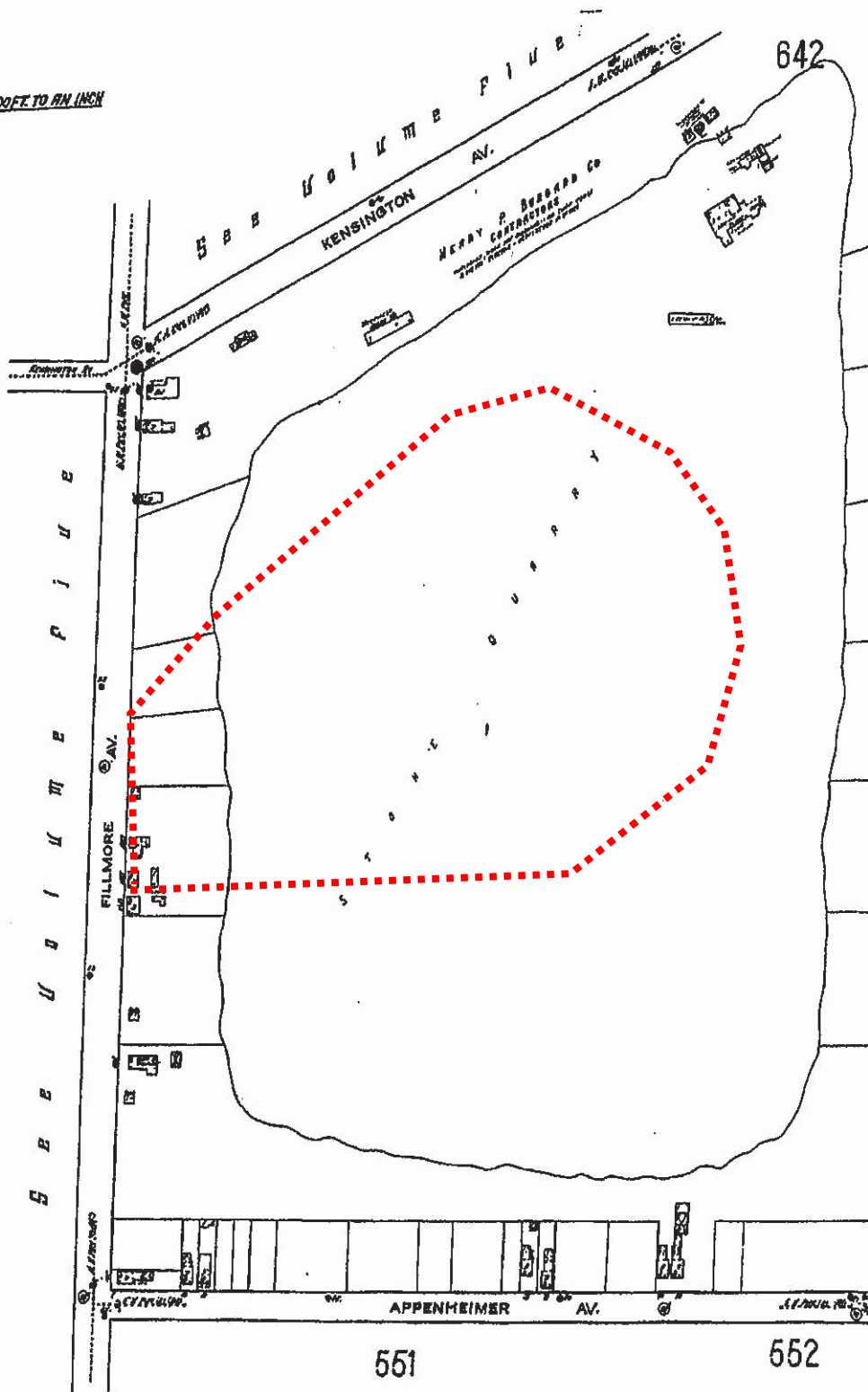
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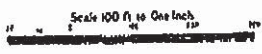
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Certification #



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City, ST, ZIP: Buffalo NY 14211
Client: C&D Inc.
EDR Inquiry: 2/28/2008 10:16:49 AM
Order Date: 04/28/2008 10:16:49 AM
Certification #: 85EB-4B16-9402
Copyright: 2017



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FILLMORE ST

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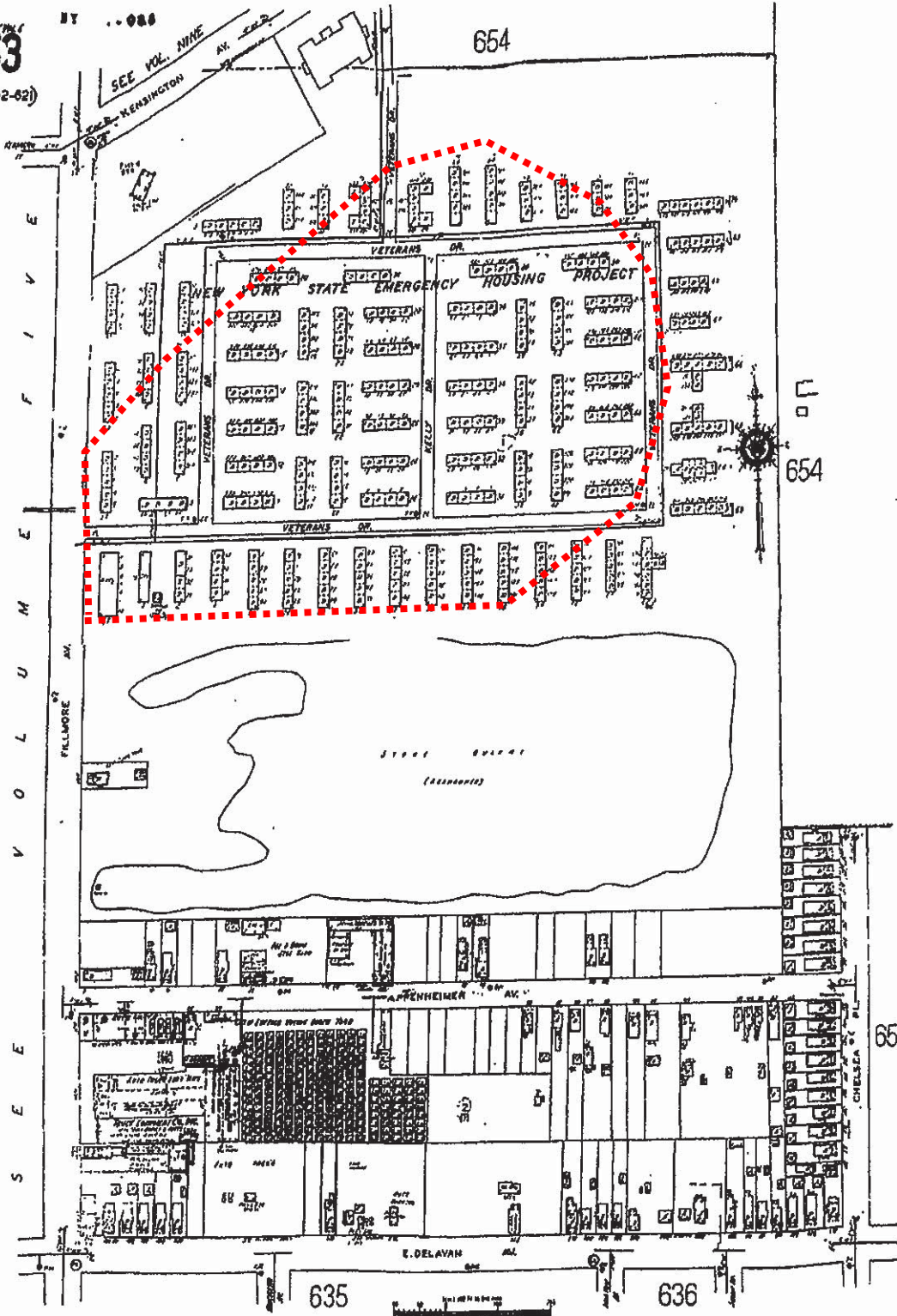


No. Name: 8500 Towers
Address: Cherry Cove
City, ST, ZIP: Buffalo NY 14214
Client: C&M Inc.
SQ# Property: 2178251.20
Order Date: 3/26/2008 10:11:49 AM
Certification #: 99EB-4816-9-02



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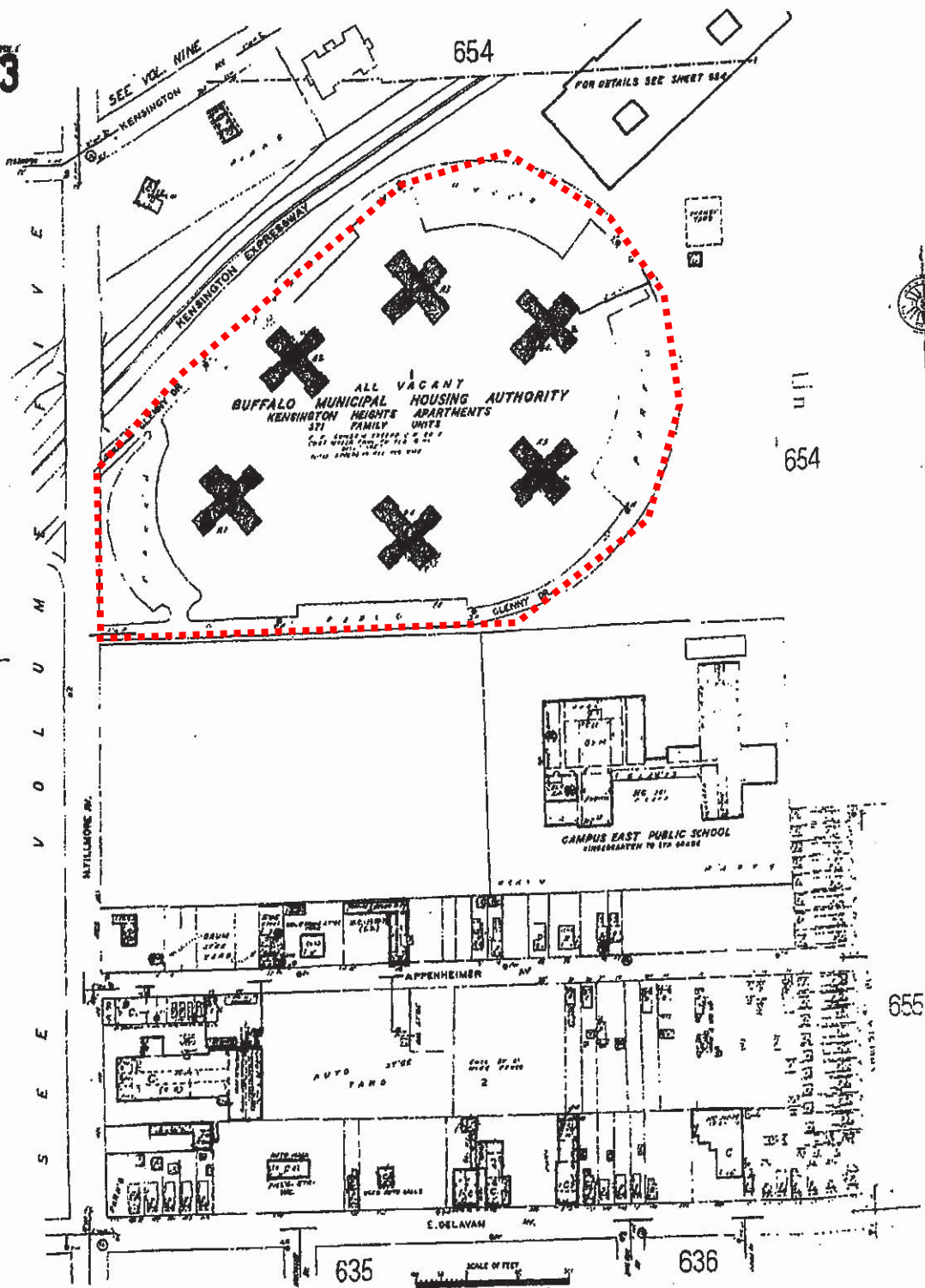
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Site Name: Elbert Towers
 Address: Glenry Drive
 City, ST, ZIP: Buffalo NY 14214
 Client: C&M Inc.
 SDR# Inquiry: 217851 LR
 Order Date: 2/28/2009 10:15:40 AM
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95EB-4816-0402
 Certification #

Site Name: Elcott Towers
 Address: Gerry Drive
 City, ST, ZIP: Buffalo NY 14214
 Date: CSM Inc.
 SOI Imply: 3/7/2013
 Order Date: 3/26/2009 10:15:49 AM
 Certification #: 95EB-4816-0402
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The Site

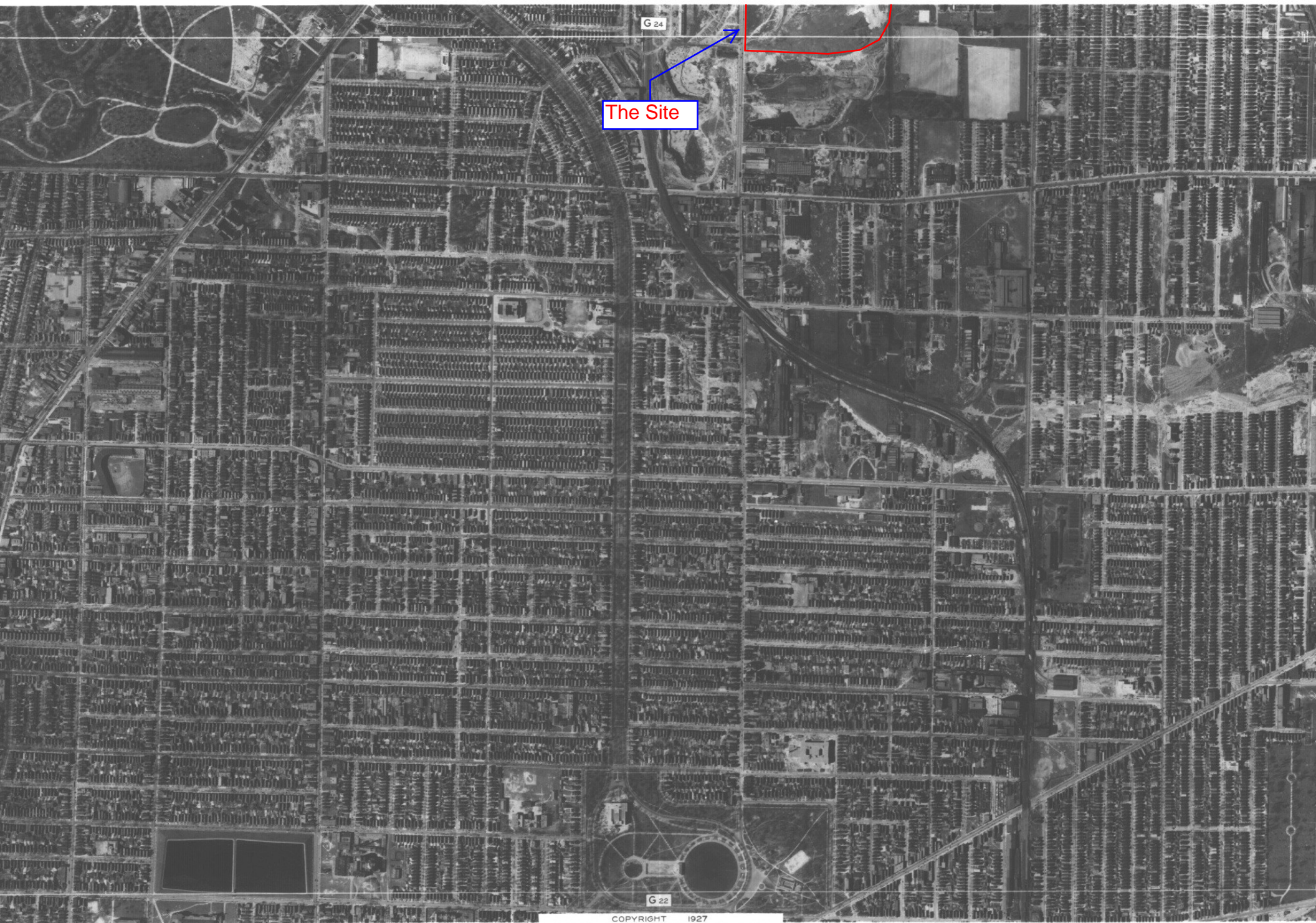
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SCALE



The Site

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SCALE

ATTACHMENT 4

BCP APPLICATION – SECTION IV

PROPERTY INFORMATION

PARCEL DESCRIPTION

EASEMENTS & PERMITS

PROPERTY DESCRIPTION NARRATIVE

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BCP Application – Section IV
PROPERTY INFORMATION
1827 Fillmore Avenue Site

SECTION IV – QUESTIONS 1-4

Parcel Description

The Site subject to the BCP application consists of one (1) legal tax parcel totaling approximately +/- 17.15 acres and is located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York (see Figures 1 and 2). The Site is further identified as:

- **1827 Fillmore Avenue, S.B.L. #90.13-1-11, +/- 17.15 acres**

The Erie County Real Property parcel boundaries are presented on Figure 5 and a tax map of the Site is provided as Figure 6.

The Site is located in the northeastern portion of the City of Buffalo and is bound by the Kensington Expressway (Route 33) to the north with commercial and residential properties beyond; Buffalo Public School #89, Dr. Lydia T. Wright School of Excellence and athletic fields to the south with Appenheimer Avenue beyond; Erie County Medical Center (ECMC) and Buffalo Public School #84 to the east; and Fillmore Avenue to the west with commercial properties and the Kensington Expressway beyond (see Figure 7).

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located in US Census Tract 170 and is a NYS designated EN-Zone Type A and B (see Figure 8), which is indicative of the economic conditions of the surrounding area. Type A EN-Zones include a poverty rate of at least 20% and unemployment of at 125% of the State average and Type B EN-Zones include a poverty rate of at least double the Erie County poverty rate.

SECTION IV – QUESTIONS 8 AND 9

Easements and Permits

Right of Way to Iroquois Gas Corporation by instrument recorded in Liber 5835 of Deeds at page 467 on September 19, 1955.

Easement to the New York Telephone Company by instrument recorded in Liber 8651 of Deeds at page 341 on June 2, 1978.

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Right of Way to Iroquois Gas Corporation by instrument recorded in Liber 5809 of Deeds at page 267 on August 11, 1955.

On September 6, 2011, the BMHA received compliance order CAA-02-2011-1021 from the USEPA for violations of Section 112 of the CAA and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M for asbestos abatement and building demolition. In response, BMHA removed ACM from the Site in accordance with the EPA approved Work Plan for Compliance with EPA Order CAA-02-2011-1021. In 2014, the EPA declared the Site as asbestos free.

The Site has access to all major public and private utilities including potable water, sanitary and storm sewers, electric, and natural-gas.

SECTION IV – QUESTION 10

Property Description Narrative

Location

The Site is located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York (see Figure 1). As indicated above, the Site is bound by the Kensington Expressway (Route 33) to the north, Buffalo Public School #89, Dr. Lydia T. Wright School of Excellence and athletic fields to the south, Erie County Medical Center (ECMC) and Buffalo Public School #84 to the east, and Fillmore Avenue to the west. Scajaquada Creek is approximately 0.35 miles southwest of the Site.

Site Features

The Site is mostly vacant land with green areas, asphalt paved areas, former roadways and one (1) vacant seven-story brick building that was historically used residentially as apartments. The existing building was built in 1958 along with an additional five (5) identical former buildings that were demolished between 2012 and 2014.

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1827 Fillmore Avenue Site

Current Zoning and Land Use

The Site is currently vacant and zoned residential. Based on the September 2016 City of Buffalo Land Use Plan, existing land use for the Site is general residential and existing land use surrounding the Site includes open space, neighborhood center, employment, general residential, and institutional properties (see Figure 9). Per the City of Buffalo, the proposed land use for the Site is employment and the proposed land use surrounding the Site includes open space, employment, and institutional (see Figure 10). The current zoning map indicates commercial and residential to the north, commercial and light industrial to the west, and residential to the south and east (see Figure 11). Adjacent property owners are identified on Figure 12.

The redevelopment plans for the Site have yet to be finalized; however, the current short-term redevelopment plan, which is subject to change, is a parking lot for 500 vehicles.

Past Use of the Site

From at least 1917 the Site was utilized as a stone quarry. Sometime between the 1940s and 1950s, prior to development of the Kensington Heights Towers in 1958, the stone quarry was backfilled with unknown fill materials. The Kensington Heights apartments were built as low-income housing, formally as a federal/state development. The Site was improved with six (6), seven-story brick apartment buildings with approximately 67 units per building, open space, and on-Site parking. The Site has been vacant since the 1980s. From 2009 to 2014 asbestos abatement and demolition of five (5) of the six (6) buildings were demolished. The single building that remains is a shell.

Site Geology and Hydrogeology

The Site is located within the Erie-Ontario lake plain physiographic province, which is typified by little topographic relief and gently slopes northwestward towards the shores of Lake Erie, except in the immediate vicinity of major drainage ways. The surficial geology of the Erie Plain consists of a thin glacial till (if present), glaciolacustrine deposits, recent

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PROPERTY INFORMATION
1827 Fillmore Avenue Site

alluvium, and the soils derived from these deposits. Based on the New York State Surficial Geologic Map of New York¹ (see Figure 13), surficial soil at the Site is described as a lacustrine silt and clay. However, due to a heavy urbanization and industrial past, surface soils within the City of Buffalo are characterized as urban land (Ud) with level to gently sloping land in which 80 percent or more of the soil surface is covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment.

The U.S. Department of Agriculture (USDA) Soil Conservation Service soil survey map of Erie County indicates that 100 percent of the Site consists of Urban Land (Ud), previously described. Figure 14 presents the USDA soil type map for the Site.

Currently, approximately 70 percent of the Site is vegetated, and 30 percent of the Site is covered by impervious structures including one (1) abandoned building, asphalt parking and road ways. A description of overburden material was not provided to Benchmark from previous reports. Overburden material from grade to bedrock will be determined during the RI.

Based on the New York State Geologic Map of New York², the Site is situated over the Onondaga Formation of the Middle Devonian Series. The Onondaga Formation is comprised of varying texture bedrock from coarse to very finely crystalline with a dark gray to tan color and chert and fossils within. The Onondaga has an approximated thickness of 110 to 160 feet. Structurally, the bedrock formations strike in an east-west direction and exhibit a regional dip that approximates 40 feet per mile (3 to 5 degrees) toward the south and southwest. An intersecting, orthogonal pattern of fractures and joint sets are common throughout the bedrock strata. The depth to and type of bedrock below the Site has not been determined. Figure 15 presents the bedrock geologic map for the Site.

¹ Surficial Geologic Map of New York, Niagara Sheet, Compiled and edited by Donald H. Cadwell, University of the State of New York, The State Education Department, 1988.

² Geologic Map of New York, Niagara Sheet, Compiled and Edited by Lawrence V. Rickard and Donald W. Fisher, University of the State of New York, The State Education Department, March 1970.

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1827 Fillmore Avenue Site

The Site is located in the Erie-Niagara River Basin. In the Erie-Niagara Basin, the major areas of groundwater are within coarser overburden deposits and limestone and shale bedrock. Regional groundwater appears to flow west or southwest towards Scajaquada Creek and the Niagara River. Local groundwater flow, however, may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions. On-Site groundwater flow patterns and quality will be determined during the RI.

Environmental Assessment

The Site is a former quarry that was backfilled with fill materials from unknown origins.

Soil/fill - Based upon investigations conducted to date, the primary contaminants of concern for the Site include PAHs and metals across the Site.

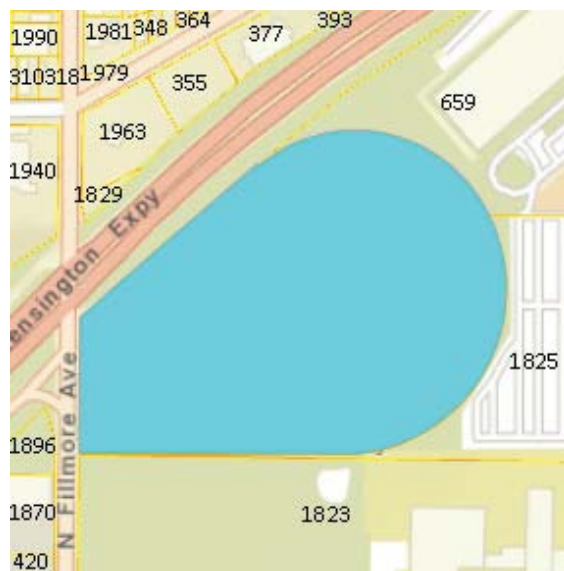
There is the potential for additional environmental impacts to exist on-Site such as asbestos within surface soils, the two on-Site soil piles and materials associated with the existing building.

Analytical data related to groundwater and soil/vapor does not currently exist.

Based on all the data obtained and reviewed as part of this assessment, further investigation and remediation appears warranted.



Parcel Overview Map



Parcel Detail Map

PIN: 1402000901300001011000

SBL: 90.13-1-11

Address: 1827 FILLMORE

Owner 1: BUFFALO MUNICIPAL HOUSING

Owner 2: AUTHORITY

Mailing Address: 300 PERRY ST

City/Zip: BUFFALO NY 14204

Municipality: City of Buffalo

Property Class: 330

Class Description: B - Vacant comm

Front: 356.87

Depth: 0

Deed Roll: 1

Deed Book: 05721

Deed Page: 00461

Deed Date:

Acreage: 17.1452997553

Total Assessment: \$552,100

Land Assessment: \$552,100

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

Fireplace: 0

Beds: 0

Baths: 0

ATTACHMENT 5

BCP APPLICATION – SECTION IX

CONTACT LIST INFORMATION

SITE CONTACT LIST

ADJACENT PROPERTY OWNERS LIST

ATTACHMENT 7
BCP Application – Section IX
BROWNFIELD SITE CONTACT LIST
1827 Fillmore Avenue Site

SITE CONTACT LIST

The following is the contact list for the subject property. Each contact will be sent fact sheets throughout the project's duration.

Erie County Contacts:

Honorable Mark Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, NY 14202

Erie County Legislator Barbara Miller-Williams
District 1
427 William Street
Buffalo, NY 14204

Commissioner Thomas R. Hersey, Jr.
Erie Co. Environment & Planning
95 Franklin Street
Buffalo, NY 14202

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

Ms. Karen M. McCarthy
Erie County Legislature Clerk
25 Delaware Avenue
Buffalo, NY 14202

Ms. Bonnie Lawrence
Deputy Commissioner
Erie Co. Environment & Planning
95 Franklin Street
Buffalo, NY 14202

Commissioner Gale Burstein, MD
Erie County Health Department
95 Franklin Street, Room 931
Buffalo, NY 14202

Erie County Local Emergency
45 Elm Street
Buffalo, NY 14203

David Stebbins
ECIDA
95 Perry Street, Suite 403
Buffalo, NY 14203

Christopher Pawenski
Erie County DEP
95 Franklin St.
Buffalo, NY 14202

ATTACHMENT 7
BCP Application – Section IX
BROWNFIELD SITE CONTACT LIST
1827 Fillmore Avenue Site

City of Buffalo Contacts:

Byron Brown, Mayor
City of Buffalo
65 Niagara Sq
Buffalo, NY 14219

David A. Franczyk, Councilman
City of Buffalo
1315 City Hall
Buffalo, NY 14219

James K. Morrell, Chairman
City of Buffalo
Planning Board
901 City Hall
Buffalo, NY 14219

Supplier of Potable Water:

Buffalo Water Department
Veolia Water
2 Porter Avenue
Buffalo, NY 14201

Erie County Water Authority
295 Main Street #350
Buffalo, NY 14203

Local News Media:

Buffalo News
ATTN: Ms. Aaron Besecker
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
ATTN: Ms. Maria Sisti
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
ATTN: Ms. Lisa Fullone
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
ATTN: Ms. Melanie Pritchard
7 Broadcast Plaza
Buffalo, NY 14202

Alternate Press
ATTN: Mr. Joe Schmidbauer
P.O. Box 729, Washington Station
Buffalo, NY 14205

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

ATTACHMENT 7
BCP Application – Section IX
BROWNFIELD SITE CONTACT LIST
1827 Fillmore Avenue Site

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

WNED, Environmental News Desk
ATTN: Mr. Michael Desmond
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools:

Charlene Watson, Principal
Burgard High School
400 Kensington Avenue
Buffalo, NY 14214

Jennifer Kapsiak, Principal
Public School #84
462 Grider Street
Buffalo, NY 14215

Todd Miklas, Principal
Public School #197, Math, Science,
& Technology Prep School
666 East Delevan Avenue
Buffalo, NY 14215

Contann Dabney, Principal
Public School #89, Dr. Lydia T.
Wright School of Excellence
106 Appenheimer Street
Buffalo, NY 14214

Parette Walker, Principal
Public School #61, Arthur O. Eve
School of Distinction
453 Leroy Avenue
Buffalo, NY 14215

Other Interested Parties:

WNY Director
Citizens Environmental Coalition
543 Franklin Street
Buffalo, NY 14202-1109

Document Repository:

Mary Jean Jakubowski
Deputy Director
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203



ATTACHMENT 5

**BCP Application - Section VIII
Adjacent Property Owners List
1827 Fillmore Avenue Site**

Adjacent Property Address			Property Owner
No.	Street	Property Use	Mailing Address
255	Kensington Avenue	Commercial (Radio)	Citadel Broadcasting Co 50 James E Casey Drive Buffalo NY, 14206
355	Kensington Avenue	Commercial (Vacant)	New Miracle Temple of God Inc 1321 Kensington Avenue Buffalo NY, 14215
377	Kensington Avenue	Commercial (Restaurant)	A-Good Properties Inc. 377 Kensington Avenue Buffalo NY, 14214
659	Kensington Avenue	Commercial (Vacant)	Erie County Medical Center 462 Grider Buffalo NY, 14215
1823	Fillmore Avenue	Commercial (School)	City of Buffalo 65 Niagara SQ Buffalo NY, 14202
1825	Fillmore Avenue	Commercial (Vacant)	Erie County Medical Center 462 Grider Buffalo NY, 14215
1829	Fillmore Avenue	Commercial (Vacant)	City of Buffalo 65 Niagara SQ Buffalo NY, 14202
1870	Fillmore Avenue	Commercial (Warehouse)	John S Whiting Warehouse 184 Riverview Ave Waltham MA, 02453
1896	Fillmore Avenue	Commercial (Vacant)	Tredo Daniel 1909 Broadway Ave Buffalo NY, 14212 2129
1940	Fillmore Avenue	Commercial (Manufacture)	Cross Kathleen A 6253 Creekhaven Dr Clarence NY, 14051
1963	Fillmore Avenue	Commercial (Kennel/Vet)	Anderson Merrick D 3708 Fortune Ave Las Vegas NV, 89107

ATTACHMENT 6
BCP APPLICATION – SECTION IX

DOCUMENT REPOSITORY

DOCUMENT REPOSITORY CONFIRMATION LETTER

Strong Advocates, Effective Solutions, Integrated Implementation

May 16, 2017

Ms. Carol Ann Batt
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program
1827 Fillmore Avenue Site
Buffalo, New York

Dear Ms. Batt:

On behalf of our Client, Benchmark Environmental Engineering & Science, PLLC in association with TurnKey Environmental Restoration, LLC would like to request the Buffalo and Erie County Public Library to act as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact if you have questions or require additional information.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC



Caroline C. Bukowski
Engineer

cc: File: 0421-017-001

www.benchmarkturnkey.com

Caroline C. Bukowski

From: April Tompkins <tompkinsa@buffalolib.org>
Sent: Wednesday, May 17, 2017 8:58 AM
To: Caroline C. Bukowski
Subject: FW: Document Repository Request
Attachments: LOT Request.pdf

Good morning Caroline,

Per your attached letter and request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for document(s) submitted by your company for the Brownfield Cleanup Program pertaining to **“1827 Fillmore Avenue Site – Buffalo, New York.”** Document(s) will be made available for public review at the Central (downtown) Library. ***Also, this serves as permission to submit any additional updates pertaining to the above document and all other future documents.*** We will be the repository for all documents your company needs to be made available to the public. You/your company are free to bring or send your documents to the Central Library without additional permission for each individual document.

We prefer that you do not take documents to individual libraries. Please bring or send your document(s) to the Central Library and we will process according to our procedure and distribute to the location of your choice .

Please keep the following in mind:

- Documents (including updates) for public review should be sent or brought in person to the Central Library to the attention of Carol Batt, of whom I assist. Documents sent via e-mail will not be accepted. The mailing address is:

**Attention: Carol Ann Batt
Chief Operating Officer
Buffalo and Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203**
- Documents for the Central/Downtown library are made available on the first floor in the Information Services Department within a day or so after receipt. If received Friday afternoon, they go out the following Monday.
- If you would like the document(s) distributed at libraries other than Central, you will need to send or give us the appropriate quantity of copies with labels regarding their destinations. We will distribution accordingly. We do not make copies for distribution.
- You have the choice regarding the format (hard copy and / or disk) you wish to submit. If the document is very large, part in hard copy and part on disk is acceptable. If submitting in both formats, please be sure that they are titled/labeled accordingly. Although CD-ROMs cannot be used on public library computers, if someone brings in their personal laptop, the disc can be viewed in-house. If optional, an alternative is the availability to go online using a provided link for patrons to read/review/print. Patrons are not allowed to take repository documents out of the Library.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

From: Caroline C. Bukowski [<mailto:CBukowski@benchmarkturnkey.com>]
Sent: Tuesday, May 16, 2017 6:22 PM
To: April Tompkins
Subject: Document Repository Request

April,

Attached is letter of transmittal request that the Buffalo and Erie County Library act as the document repository for the 1827 Fillmore Avenue Site. Please respond at your earliest convenience. Let me know if you have any questions.

Thank you,
Caroline

DISCLAIMERS:

Confidentiality Notice: The information contained in this message is intended only for the use of the addressee, and may be confidential and/or privileged. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately.

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Contracts: Nothing in this message shall be construed as legally binding upon Benchmark or TurnKey.

Professional Opinions: Views expressed in this message may only be relied upon as professional opinion if and when provided by principals of the Companies to authorized representatives of the organization with which we have an active client-engineer relationship and when directly pertaining to a binding contract scope of work.

The Buffalo & Erie County Public Library System has more than 2.6 million materials available for borrowing including books, eBooks, DVDs, music and more. Free library card applications can be downloaded and taken to any of the 37- local public libraries for processing. A valid form of identification and proof of address is necessary. For more information call 716-858-8900 or visit <http://www.BuffaloLib.org>. Follow the library on Facebook <https://www.facebook.com/buffalolibrary.central?ref=ts> , Twitter <http://twitter.com/buffalolibrary> , Pinterest <http://www.buffalolib.org/sites/default/files/images/pinterest.png> , Instagram <http://instagram.com/buffalolibrary> and Flickr <http://www.buffalolib.org/sites/default/files/images/flickr.png>

ATTACHMENT 7

BCP APPLICATION – SECTION X

LAND-USE FACTORS

SITE SUMMARY

ADJACENT LAND USE, DEVELOPMENT PATTERNS, & ZONING

PROJECT DESCRIPTION & PLANNED REDEVELOPMENT

NATURAL & CULTURAL RESOURCES

GROUNDWATER VULNERABILITY ASSESSMENT

ATTACHEMENT 7
BCP Application – Section X
LAND USE FACTORS
1827 Fillmore Avenue Site

SECTION X – LAND-USE FACTORS

Site Summary

The following provides a brief summary of the Site:

- The Site is located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York (see Figures 1 and 2).
- The Site is vacant and underutilized and is mostly vacant land with green areas, asphalt paved areas, former roadways and one (1) vacant seven-story brick building that was historically used as apartments.
- The Site was historically utilized as a stone quarry from at least 1917 through at least 1927 and backfilled with unknown material prior to the 1950s.
- Previous investigations have established that on-Site soil/fill materials are impacted with PAHs and metals exceeding Part 375 Soil Cleanup Objectives (SCOs). It is also possible that VOC-impacted soil/fill materials exist on-Site.
- The Applicant is evaluating the highest and best use of the Site, but does not have a final redevelopment plan. The final redevelopment plan will be provided to the Department as soon as it is available.
- In accordance with §27-1415(3)(p), the Site is located within a NYSDEC Potential Environmental Justice (EJ) Area (see Figure 16). However, EJ concerns are not applicable to this project as the proposed use is not expected to cause or increase a disproportionate burden on the community in which the site is located.
- There are no State or Federal land use designations related to the property.
- Population in Erie county has increased by 3,538 (0.4%) over the period of April 2010 to July 2015 (per US Census Bureau).
- The Site has access to municipal utilities including: natural-gas, municipal sewer, electric, and public water.
- There are no known Institutional Controls (ICs) for the Site.

Adjacent Land Use, Development Patterns, & Zoning

The Site is located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York. The Site is bound by the Kensington Expressway (Route 33) to the north with commercial and residential properties beyond, Buffalo Public

ATTACHEMENT 7
BCP Application – Section X
LAND USE FACTORS
1827 Fillmore Avenue Site

School #89, Dr. Lydia T. Wright School of Excellence and athletic fields to the south with Appenheimer Avenue beyond, Erie County Medical Center (ECMC) and Buffalo Public School #84 to the east, and Fillmore Avenue to the west with commercial properties and the Kensington Expressway beyond (see Figure 12).

The Site is currently vacant and zoned residential. Based on the City of Buffalo September 2016 Land Use Plan, existing land use for the Site is general residential and existing land use surrounding the Site includes open space, neighborhood center, employment, general residential, and institutional properties (see Figure 9). The proposed future land use for the site is employment and the proposed future land use surrounding the Site includes open space, employment, and institutional (see Figure 10). The current zoning map indicates commercial and residential to the north, commercial and light industrial to the west, and residential to the south and east (see Figure 11). Upon comparison, differences exist between the proposed future land use and current zoning of the Site. The current zoning map indicates the Site as residential, while the proposed future land use of the Site is employment. As previously indicated, the redevelopment plans for the Site have yet to be finalized; however, the end use will be consistent with local zoning laws and requirements. Land-use, zoning, and adjacent property owners are discussed in Attachment 4.

Project Description and Planned Redevelopment

The Site subject to the BCP application consists of one (1) legal tax parcel totaling approximately +/- 17.15 acres, located in a highly developed residential, commercial, and industrial area of the City of Buffalo, Erie County, New York (see Figures 1 and 2).

Natural and Cultural Resources

- Per the New York State Historical Preservation Office, the Site is located within the limits of an archeologically sensitive area (see Figure 17). Based on historic site uses, as the entire Site was previously excavated for a stone quarry. The following sites are listed within a 0.5 mile radius of the Site:
 1. **National Register Building 90NR01229:** Blessed Trinity Roman Catholic Church Buildings.

ATTACHEMENT 7
BCP Application – Section X
LAND USE FACTORS
1827 Fillmore Avenue Site

2. **National Register Building 13NR06421:** Hamlin Park Historic District.
 3. **Building District 02940.027688:** Hamlin Park Historic District. Status – Listed.
 4. **Building District 02940.028240:** Niagara Machine & Tool Works Factory. Status – Eligible.
 5. **Archaeology Survey 15SR00652:** Cultural Resources Investigation for the Proposed Northland Corridor Redevelopment & Western New York Workforce Training Center, City of Buffalo.
 6. **Building Survey 15SR00651:** Cultural Resources Investigation for the Proposed Northland Corridor Redevelopment & Western New York Workforce Training Center, City of Buffalo.
 7. **Consultation Project 14PR04457:** Blessed Trinity Roman Catholic Church/Exterior Restoration. Status – Open.
 8. **Consultation Project 15PR05966:** Northland Corridor Redevelopment & Western New York Workforce Training Center Project: Proposed Demolition & New Construction. Status – Re-opened.
- According to the NYSDEC’s Environmental Resource Mapper (ERM) there are no important plant habitats, and endangered species listed for the area encompassing the Site (see Figure 18).
 - There are no State wetlands or floodplains located on Site (see Figure 19). The nearest NYSDEC regulated freshwater emergent wetland (PEM1Fx) is located approximately 1.3 miles to the northeast of the site (see Figure 19).

Groundwater Vulnerability Assessment

Previous groundwater investigations have not been completed on-Site; however, it is likely that groundwater is impacted due to the known soil impacts.

Currently, there are no known deed restrictions on the use of groundwater at the Site from regulatory agencies; however, the City of Buffalo has a city-wide groundwater use restriction. Municipal water is available to the Site and all surrounding properties. The municipal water is supplied by the Erie County Water Authority.

ATTACHEMENT 7
BCP Application – Section X
LAND USE FACTORS
1827 Fillmore Avenue Site

Based on the location and topography of the Site, regional groundwater appears to flow west and/or southwest towards Scajaquada Creek and the Niagara River. Local groundwater flow, however, may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions. On-Site groundwater flow patterns and quality will be determined during the Remedial Investigation (RI).

ATTACHMENT 8

ELECTRONIC ATTACHMENTS

PREVIOUS STUDIES

LIST OF PREVIOUS STUDIES

*NYSDEC Brownfield Cleanup Program Application
1827 Fillmore Avenue Site
Buffalo, New York*

Previous Studies

1. Phase I Environmental Site Assessment, *Kensington Heights, 1827 North Fillmore, Buffalo, New York*. Prepared by Fifty-Six Services, Inc., March 2008.
2. Miscellaneous Documents Provided to Benchmark.
3. Post Remediation Hazardous Materials Inspection, *Kensington Heights 1827 North Fillmore Avenue, Buffalo, New York*. Prepared by Stohl Environmental, LLC, January 2010.
4. Pre-Demolition Asbestos Assessment Report, *Kensington Towers – Building A1 N. Fillmore Avenue and Glenn Drive, Buffalo, New York*. Prepared by Fifty-Six Services, Inc., March 2010.
5. United States Environmental Protection Agency Compliance Order, Index No. CAA-02-2011-1021, September 6, 2011.
6. Visual Survey and Bulk Sampling of Suspect Materials/Debris, *Kensington Heights Complex, Buffalo, New York*. Prepared by Stohl Environmental, LLC, September & October 2011.
7. Work Plan for Compliance with EPA Order CAA-02-2011-1021, *Buffalo Municipal Housing Authority – Kensington Heights*, Buffalo, New York. Prepared by Buffalo Municipal Housing Authority, February 2012.
8. Brownfield Cleanup Program Application, *Kensington Heights Apartments, Buffalo, New York*. Prepared by Stohl Environmental, LLC, July 2013.
9. Subsurface Soil Investigation, *Kensington Height, 1827 Fillmore, Buffalo, New York*. Prepared by MS Analytical, August 2013.
10. EPA Compliance Summary Report for Asbestos Abatement, *Kensington Heights Complex – 1827 N. Fillmore Avenue, Buffalo, New York*. Prepared by Stohl Environmental, LLC, October 2014.
11. Brownfield Cleanup Program Application, *Kensington Heights Towers, Buffalo, New York*. Prepared by Stohl Environmental, LLC, December 2014.
12. Phase I Environmental Site Assessment, 1827 Fillmore Avenue Site, Buffalo, New York. Prepared by Benchmark, July 2017.