

Brownfield Cleanup Program Application

3077 UNION ROAD
ORCHARD PARK, NEW YORK

September 2019

T0105-017-010

Prepared For: 570 DAB 4, LLC



Prepared By:



2558 Hamburg Turnpike, Suite 300, Buffalo, New York | phone: (716) 856-0635 | fax: (716) 856-0583



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 10*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME 570 DAB 4, LLC

ADDRESS 570 Delaware Avenue

CITY/TOWN Buffalo

ZIP CODE 14202

PHONE (716)-886-1100

FAX (716)-886-2269

E-MAIL ajh@benderson.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. **Please note:** If the requestor is an LLC, the members/owners names need to be provided on a separate attachment. **See Appendix A; Section I**

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.** **See Appendix A; Section I**

Section II. Project Description

1. What stage is the project starting at?

☒ Investigation

☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, a Remedial Investigation Report (RIR) at a minimum is required to be attached, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Work Plan are also attached (see DER-10 / Technical Guidance for Site Investigation and Remediation for further guidance) then a 45-day public comment period is required.

2. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No **Not Applicable**

3. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and **See Appendix A; Section II**
- the date the Certificate of Completion is anticipated. **See Figure 5**

Section III. Property's Environmental History**See Appendix A; Section III**

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). **Please submit a separate electronic copy of each report in Portable Document Format (PDF).**

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	X	X	
Other VOCs			
SVOCs			
Metals			
Pesticides			
PCBs			
Other*			

*Please describe: _____

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

See Appendix A; Section III**See Figure 6**

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

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 checked="" 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: Automotive repair, concrete/masonry contractor storage, equipment repair/maintenance

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 3077 Union Road Site				
ADDRESS/LOCATION 3077 Union Road				
CITY/TOWN Orchard Park		ZIP CODE 14127		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): Town of Orchard Park				
COUNTY Erie		SITE SIZE (ACRES) 17.91		
LATITUDE (degrees/minutes/seconds) 42 ° 48 ' 03.89 "		LONGITUDE (degrees/minutes/seconds) -78 ° 44 ' 50.48 "		
Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	See Appendix A; Section IV	Section No.	Block No.	Lot No.
3077 Union Road		152.12	4	6.1
				17.91
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please attach an accurate map of the proposed site.				
2. Is the required property map attached to the application? See Figures 2, 3 & 4 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
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) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, identify census tract : _____ Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

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

None/unknown

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 Appendix A, Section IV

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**?

☒ Yes ☐ No

Note: Questions 11 through 13 only pertain to sites located within the five counties comprising New York City

11. Is the requestor seeking a determination that the site is eligible for tangible property tax credits? ☐ Yes ☐ No

If yes, requestor must answer questions on the supplement at the end of this form.

Not Applicable

12. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down? ☐ ☐

Not Applicable

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? ☐ ☐

Not Applicable

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: AJH _____

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 Adam Harris			
ADDRESS 570 Delaware Avenue			
CITY/TOWN Buffalo		ZIP CODE 14202	
PHONE (716)-886-1100	FAX (716)-886-2269	E-MAIL ajh@benderson.com	
NAME OF REQUESTOR'S CONSULTANT Mr. Michael A. Lesakowski			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo		ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL mlesakowski@turnkeyllc.com	
NAME OF REQUESTOR'S ATTORNEY Mr. Craig Slater, Esq			
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE (716)-845-6760	FAX (716)-845-6764	E-MAIL cslater@cslaterlaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME Same as Requestor		OWNERSHIP START DATE: 3/26/2018	
ADDRESS Same as Requestor			
CITY/TOWN Same as Requestor		ZIP CODE Same as Requestor	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL Same as Requestor	
CURRENT OPERATOR'S NAME Same as Requestor			
ADDRESS Same as Requestor			
CITY/TOWN Same as Requestor		ZIP CODE Same as Requestor	
PHONE Same as Requestor	FAX Same as Requestor	E-MAIL Same as Requestor	
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". See Appendix B; Section VI			
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.			
Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407) See Appendix B; Section VII			
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: **See Appendix B; Section VII**

☐ 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 **Not Applicable**

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

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

1. 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
2. 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? ☐ Yes ☒ No
If yes, please provide: Site # _____ Class # _____
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? ☐ Yes ☒ No
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____
4. 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
Not Applicable
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? ☐ Yes ☒ No
If yes, please provide: Order # _____
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? ☐ Yes ☒ No
If yes, please provide explanation as an attachment.

Section IX. Contact List Information

See Appendix B; Section IX

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:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located. **See Figure 7**
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

Section X. Land Use Factors**See Appendix B; Section X**

1. What is the current municipal zoning designation for the site? B-2 Commercial

What uses are allowed by the current zoning? (Check boxes, below)

☐ 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.**

If residential, does it qualify as single family housing?

☐ Yes ☐ No

Not Applicable

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 Appendix B; Section X

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 Appendix B; Section X

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hererby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the *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: _____ Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am Project Manager (title) of 570 DAB 4,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 *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: 8/27/19 Signature: 

Print Name: Adam Harris

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: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

Not Applicable

BCP App Rev 10

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information. <input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the property upside down or underutilized as defined below?	Upside Down? <input type="checkbox"/> Yes <input type="checkbox"/> No Underutilized? <input type="checkbox"/> Yes <input type="checkbox"/> No
From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
From 6 NYCRR 375-3.2(I) as of August 12, 2016: (Please note: Eligibility determination for the underutilized category can only be made at the time of application)	
375-3.2: (I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and (1) the proposed use is at least 75 percent for industrial uses; or (2) at which: (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses; (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and (iii) one or more of the following conditions exists, as certified by the applicant: (a) property tax payments have been in arrears for at least five years immediately prior to the application; (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or (c) there are no structures.	
"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. If you are seeking a formal determination as to whether your project is eligible for Tangible Property Tax Credits based in whole or in part on its status as an affordable housing project (defined below), you must attach the regulatory agreement with the appropriate housing agency (typically, these would be with the *New York City Department of Housing, Preservation and Development*; the *New York State Housing Trust Fund Corporation*; the *New York State Department of Housing and Community Renewal*; or the *New York State Housing Finance Agency*, though other entities may be acceptable pending Department review). **Check appropriate box, below:**

- ☐ Project is an Affordable Housing Project - Regulatory Agreement Attached;
- ☐ Project is Planned as Affordable Housing, But Agreement is Not Yet Available*
(*Checking this box will result in a “pending” status. The Regulatory Agreement will need to be provided to the Department and the Brownfield Cleanup Agreement will need to be amended prior to issuance of the CoC in order for a positive determination to be made.);
- ☐ This is Not an Affordable Housing Project.

From 6 NYCRR 375- 3.2(a) as of August 12, 2016:

(a) “Affordable housing project” means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants’ households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency’s affordable housing program, or a local government’s regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.

(3) “Area median income” means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)

Site Name: 3077 Union Road Site
City: Orchard Park

Site Address: 3077 Union Road
County: Erie **Zip:** 14127

Tax Block & Lot

Section (if applicable): 152.12 **Block:** 4 **Lot:** 6.1

Requestor Name: 570 DAB 4, LLC
City: Buffalo

Requestor Address: 570 Delaware Avenue
Zip: 14202 **Email:** ajh@benderson.com

Requestor's Representative (for billing purposes)

Name: Adam Harris
City: Buffalo

Address: 570 Delaware Avenue
Zip: 14202

Email: ajh@benderson.com

Requestor's Attorney

Name: Mr. Craig Slater, Esq
City: Buffalo

Address: 500 Seneca Street, Suite 504
Zip: 14204

Email: cslater@cslaterlaw.com

Requestor's Consultant

Name: Mr. Michael A. Lesakowski
City: Buffalo

Address: 2558 Hamburg Turnpike, Suite 300
Zip: 14218

Email: mlesakowski@turnkeyllc.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

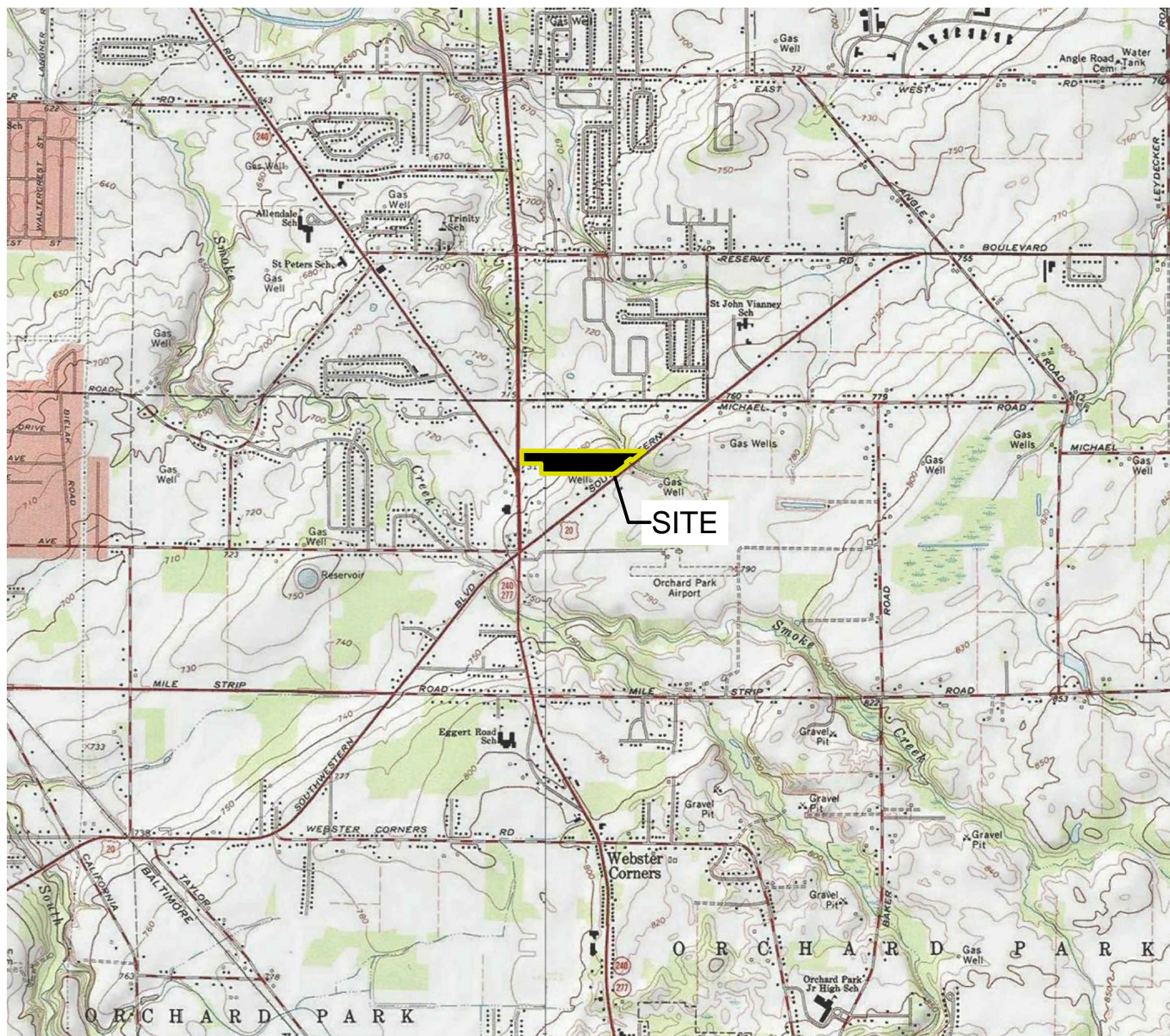
DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

Notes:

FIGURES

- | | |
|-----------|--|
| Figure 1 | Site Location and Vicinity Map |
| Figure 2 | Site Plan (Aerial) |
| Figure 3 | Tax Map |
| Figure 4 | Property Base Map (1,000' Setback) |
| Figure 5 | Preliminary Project Schedule |
| Figure 6 | Investigation Locations & Areas of Concern |
| Figure 7 | Adjacent Property Owners |
| Figure 8 | Zoning Map |
| Figure 9 | USDA Soil Type Map |
| Figure 10 | NYSDEC Wetlands Map |

FIGURE 1



3000' 0' 3000' 6000'

SCALE: 1 INCH = 3000 FEET
SCALE IN FEET
(approximate)



IN ASSOCIATION WITH



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

PROJECT NO.: 0105-017-010

DATE: JULY 2019

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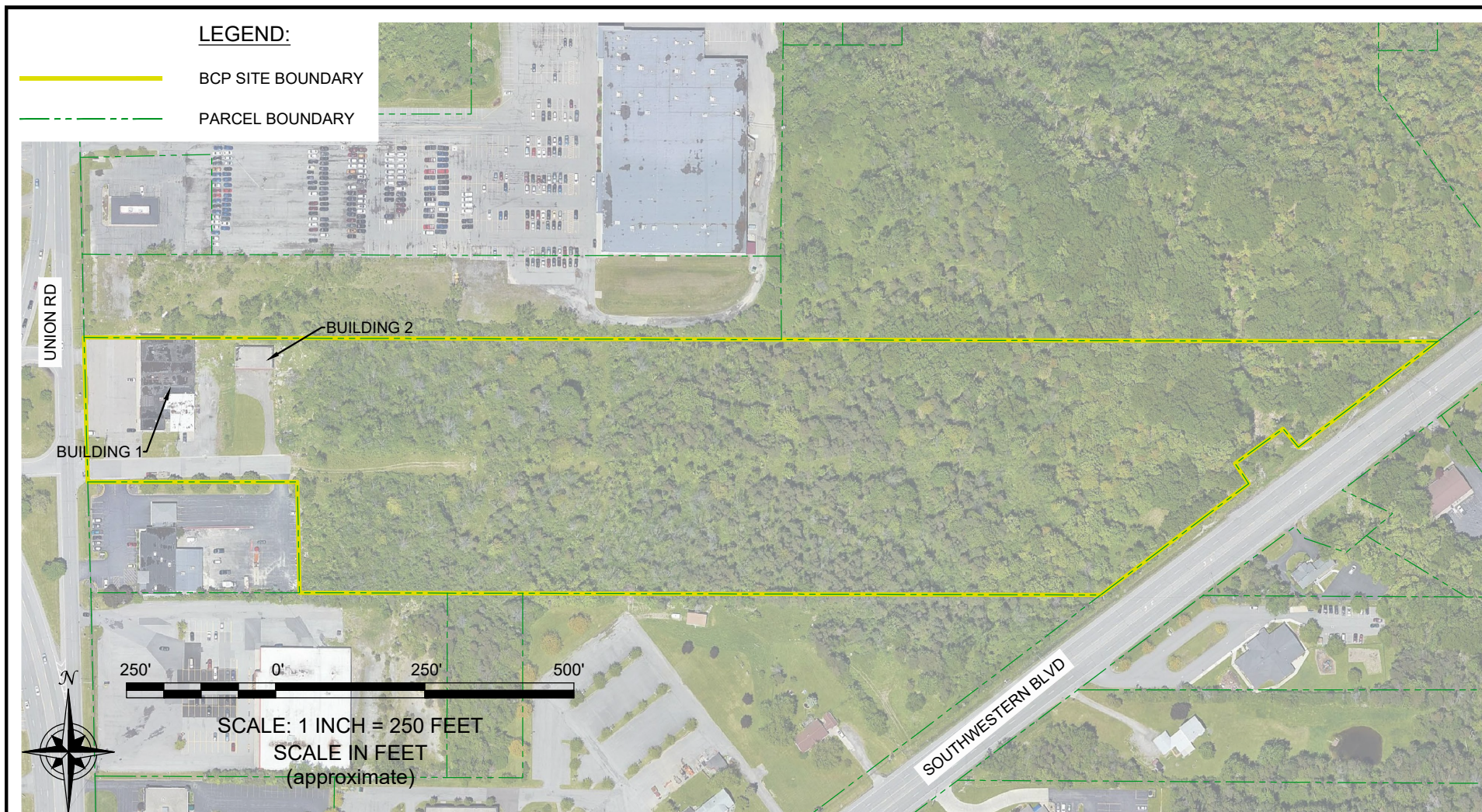
SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

PREPARED FOR
570 DAB 4, LLC

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DATE: AUGUST 2019

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SITE PLAN (AERIAL)

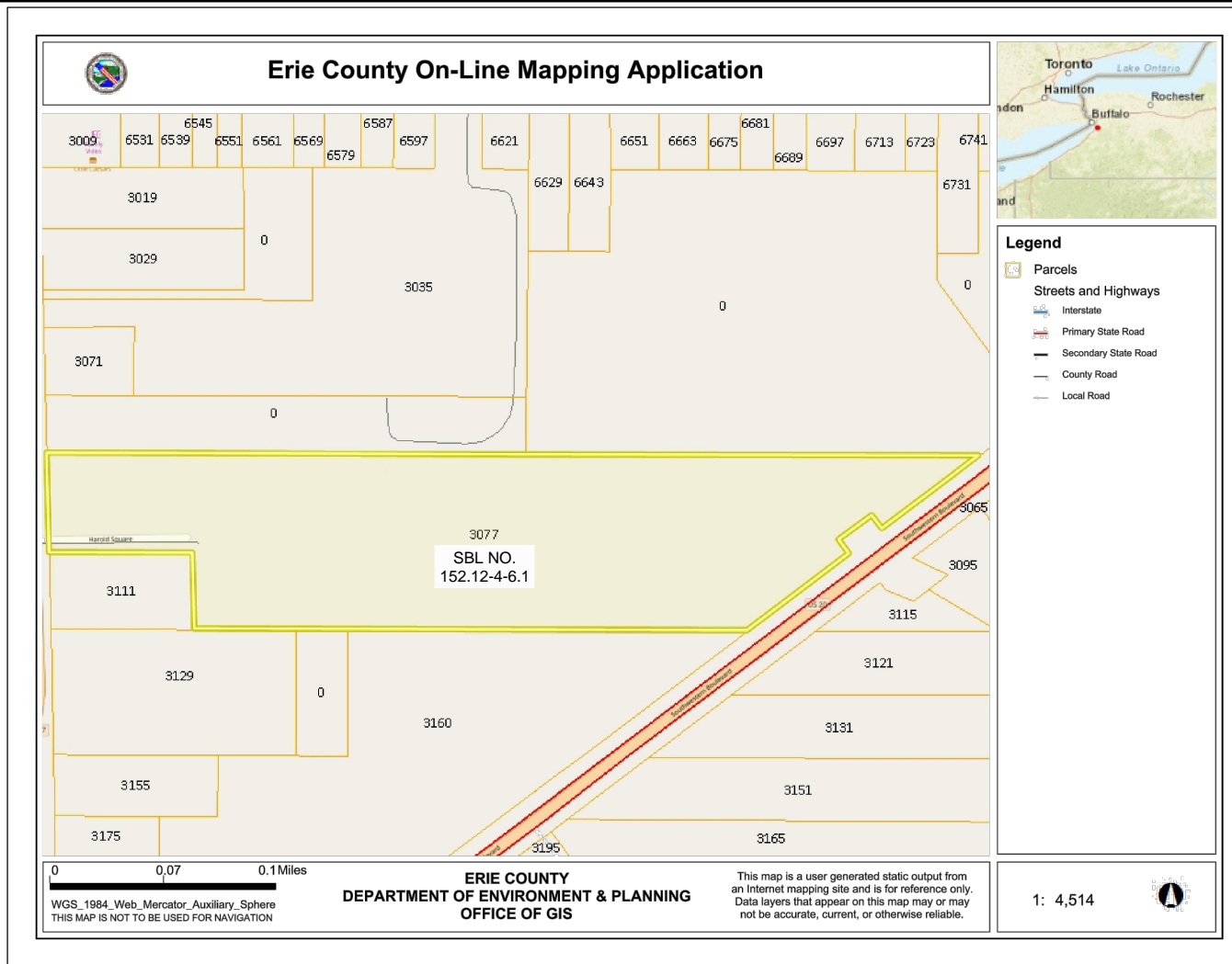
BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

PREPARED FOR
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FIGURE 2

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TAX MAP

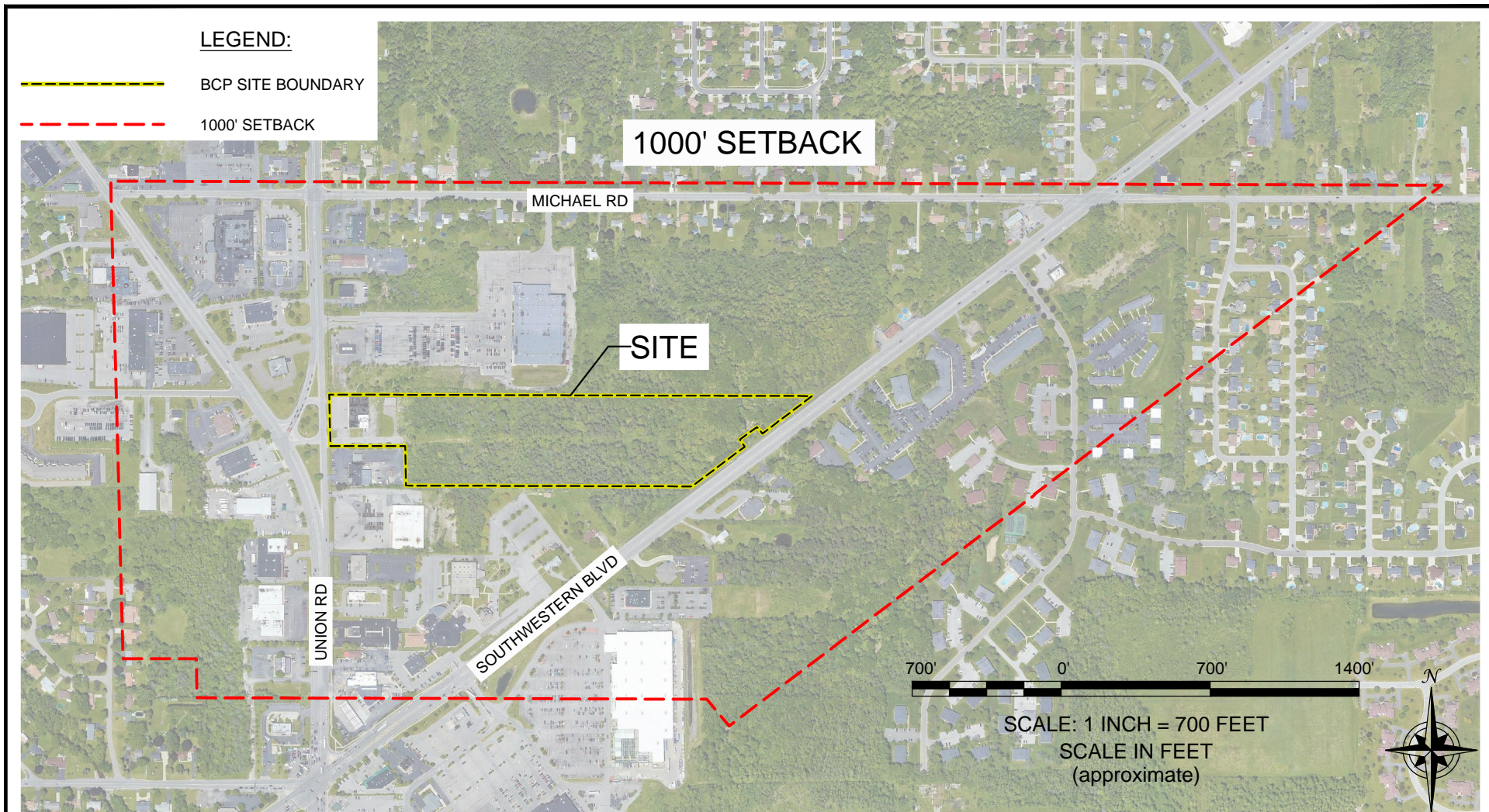
BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
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FIGURE 3

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PROPERTY BASE MAP (1000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION

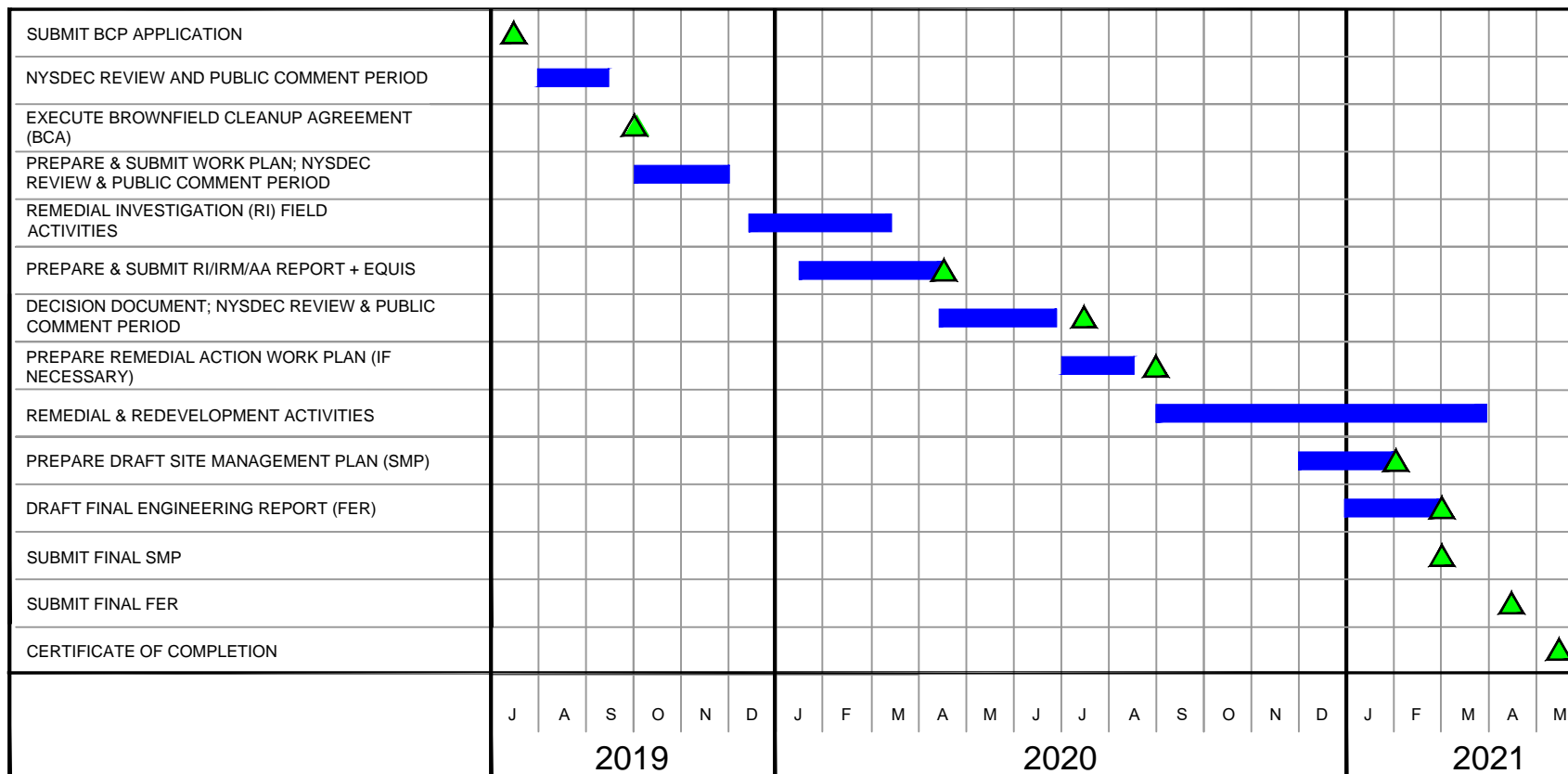
3077 UNION ROAD SITE
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FIGURE 4

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PROJECT TASKS:



IN
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PRELIMINARY PROJECT SCHEDULE

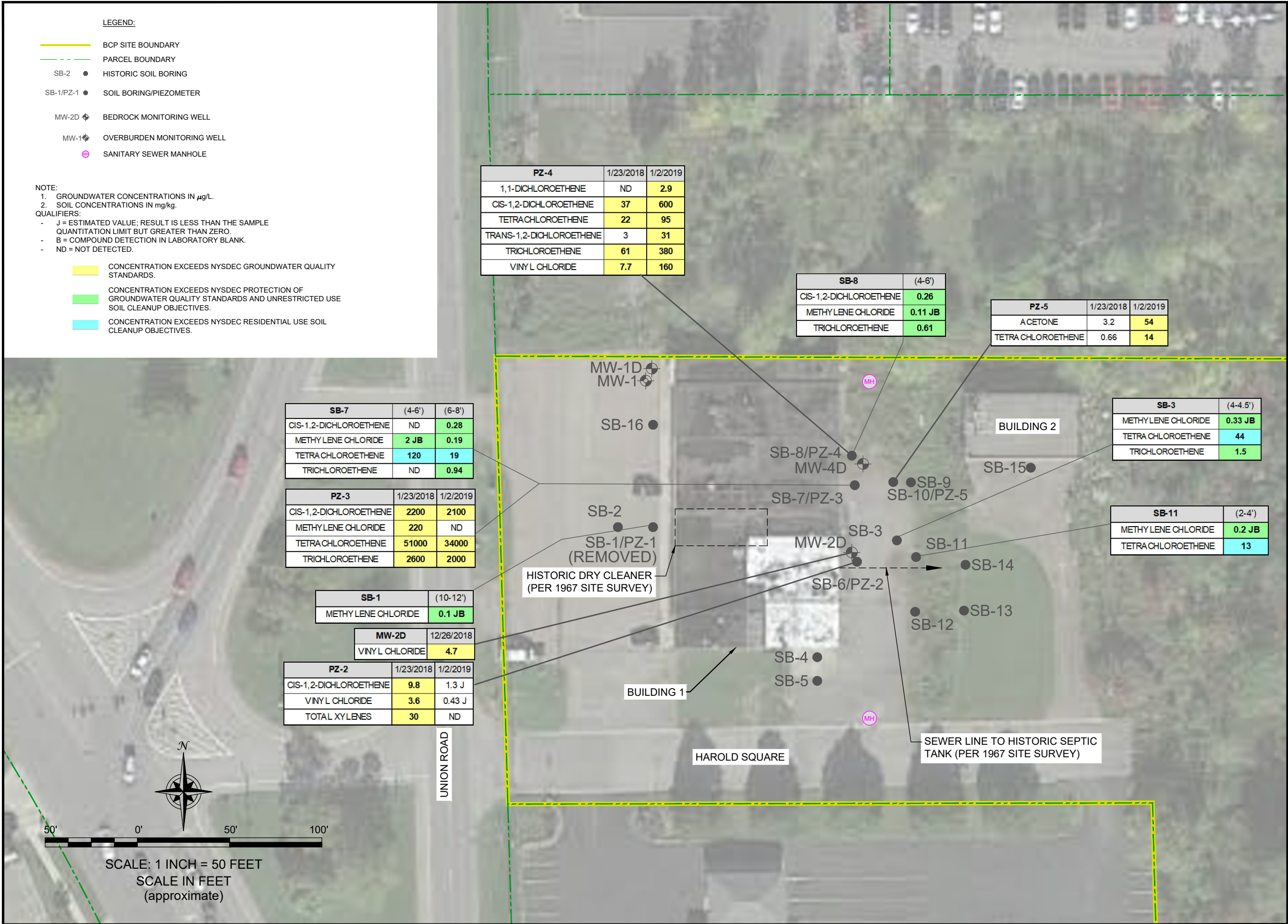
BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

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FIGURE 5

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INVESTIGATION LOCATIONS AND AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
BUFFALO, NEW YORK

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JOB NO.: 0105-017-010

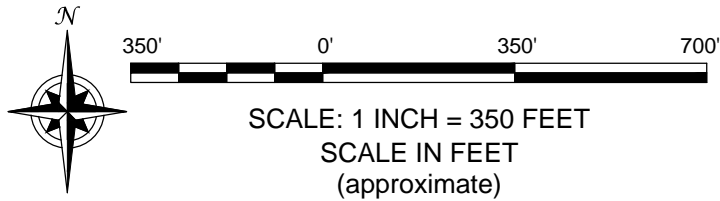
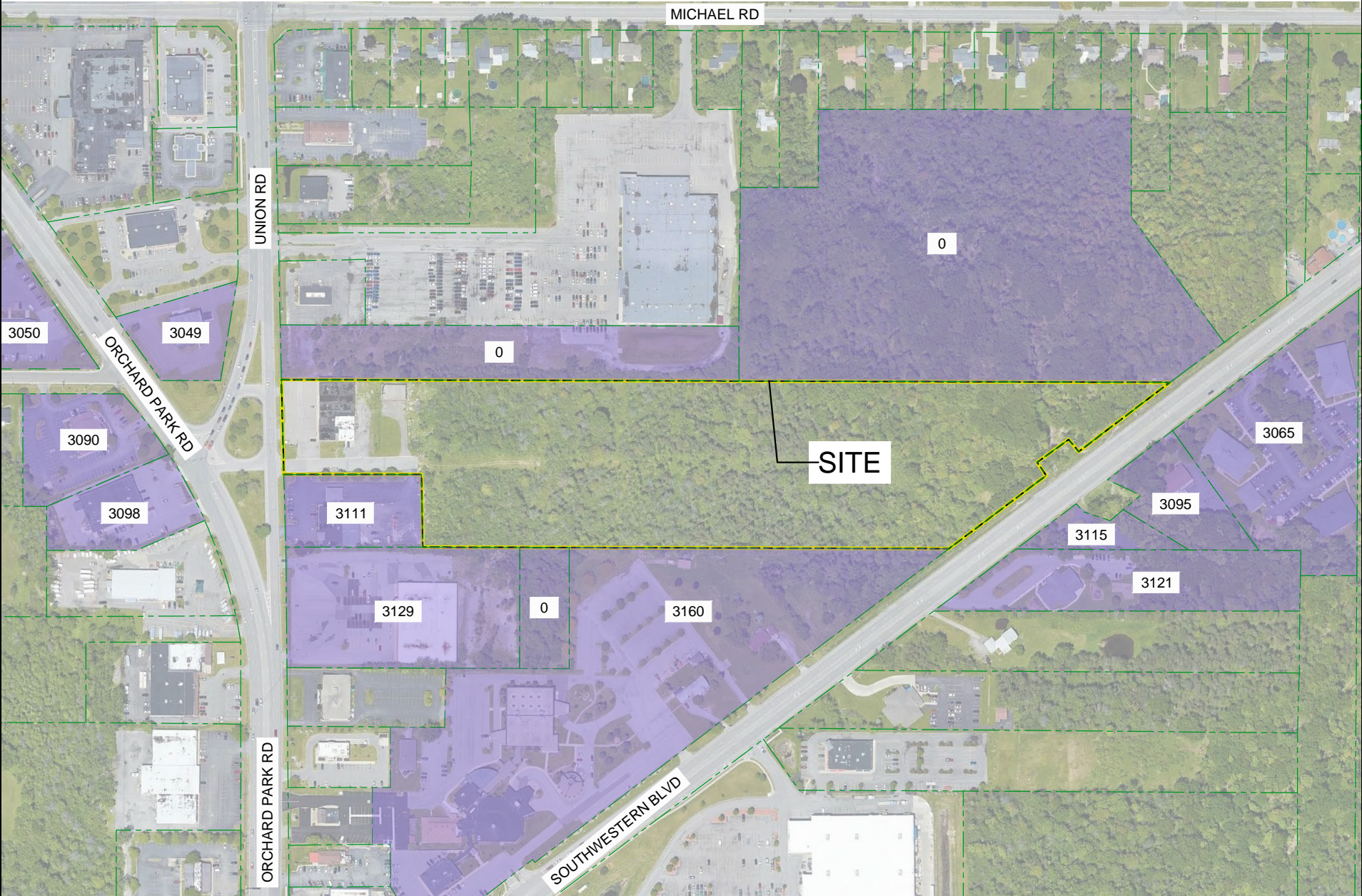
FIGURE 6

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LEGEND:

- BCP SITE BOUNDARY
- PARCEL BOUNDARY

ADJACENT PROPERTY ADDRESS			PROPERTY OWNER MAILING ADDRESS
NO.	STREET	PROPERTY USE	
0	UNION ROAD	VACANT COMMERCIAL	570 DAB 4, LLC 570 DELAWARE AVENUE BUFFALO, NY 14202
0	UNION ROAD	VACANT COMMERCIAL	570 DAB 4, LLC 570 DELAWARE AVENUE BUFFALO, NY 14202
3065	SOUTHWESTERN BOULEVARD	COMMERCIAL PROFESSIONAL BUILDING	PARKLAND PROFESSIONAL PARK, LLC 3085 SOUTHWESTERN BOULEVARD ORCHARD PARK, NY 14127
3095	SOUTHWESTERN BOULEVARD	COMMERCIAL OFFICE BUILDING	OSCAR BRAVO HOLDINGS, LLC 5291 TWIN POND DRIVE SPRINGVILLE, NY 14141
3115	SOUTHWESTERN BOULEVARD	COMMERCIAL CONVERTED RESIDENCE	DENNIS W. JEWELL 8 THOMASTON LANE ORCHARD PARK, NY 14127
3121	SOUTHWESTERN BOULEVARD	SPECIAL SCHOOLS AND INSTITUTIONS	CHILDTIME CHILDCARE DBA 21333 HAGGERTY ROAD NOVI, MI, 48375
3160	SOUTHWESTERN BOULEVARD	RELIGIOUS	FULL GOSPEL TABERNACLE 3210 SOUTHWESTERN BOULEVARD ORCHARD PARK, NY 14127
0	ORCHARD PARK ROAD	VACANT COMMERCIAL	ORCHARD PARK DISTRIBUTORS, INC. 45 SOUTH ROSSLER AVENUE BUFFALO, NY 14206
3129	ORCHARD PARK ROAD	COMMERCIAL LARGE RETAIL OUTLETS	ORCHARD PARK DISTRIBUTORS, INC. 45 SOUTH ROSSLER AVENUE BUFFALO, NY 14206
3111	UNION ROAD	COMMERCIAL STANDARD BANK	LAKE SHORE SAVINGS BANK 3111 UNION ROAD ORCHARD PARK, NY 14127
3098	ORCHARD PARK ROAD	COMMERCIAL	VICTORIA LBOP, LLC 570 DELAWARE AVENUE BUFFALO, NY 14202
3090	ORCHARD PARK ROAD	COMMERCIAL RESTAURANT	3090 ORCHARD PARK, INC. 3090 ORCHARD PARK ROAD WEST SENECA, NY 14224
3050	ORCHARD PARK ROAD	COMMERCIAL PROFESSIONAL BUILDING	3050 ORCHARD PARK ROAD, LLC 162 COLGATE AVENUE BUFFALO, NY 14220
3049	ORCHARD PARK ROAD	COMMERCIAL DRIVE-IN BRANCH BANK	UNION-ORCHARD PARK CORPORATION 76 RILEY STREET EAST AURORA, NY 14052



ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

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570 DAB 4, LLC



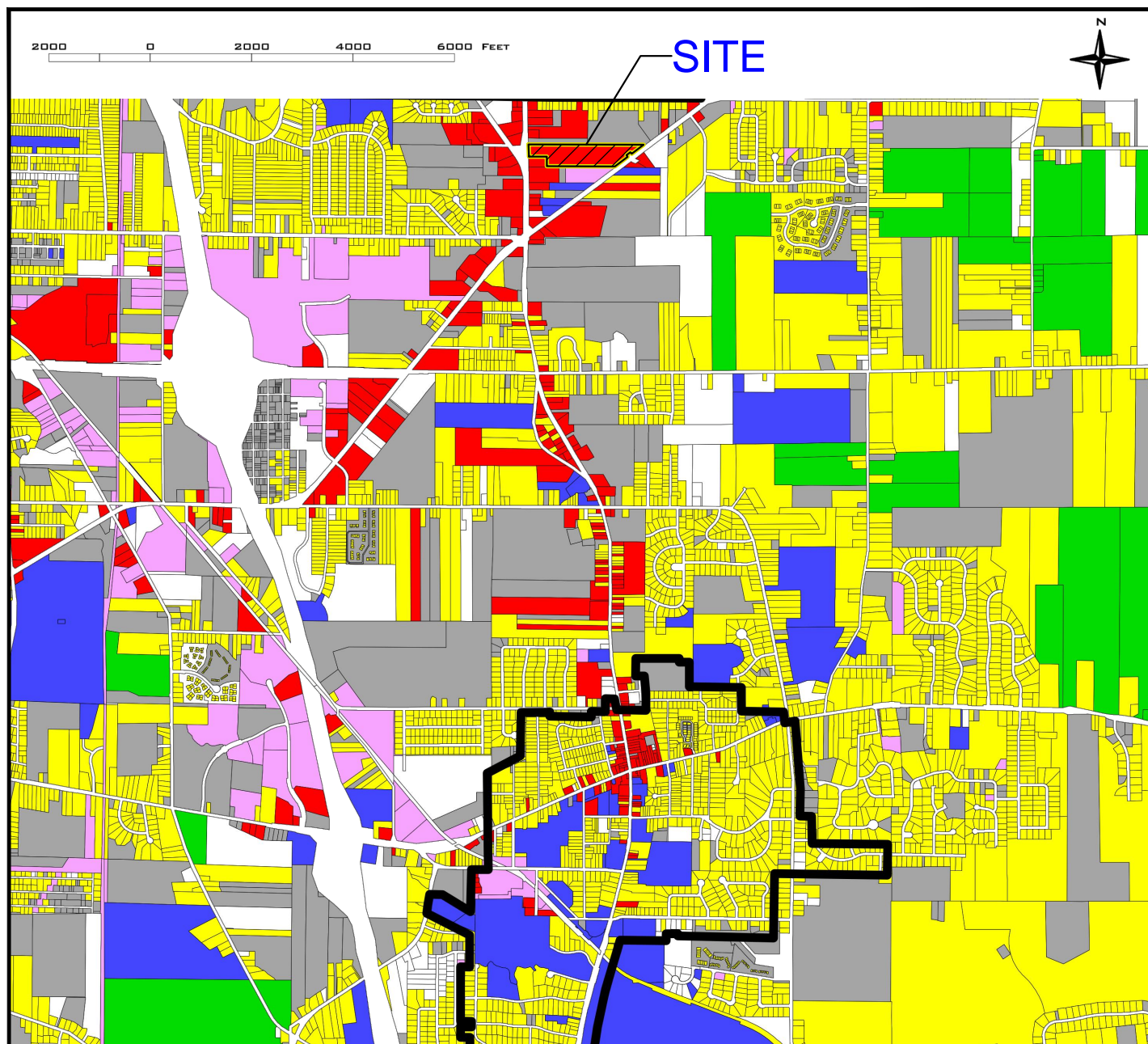
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JOB NO.: 0105-017-010

FIGURE 7

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FIGURE 8



KEY TO FEATURES			
	MUNICIPAL BOUNDARIES		PUBLIC/SEMI-PUBLIC/RECREATIONAL
	LANDUSE CLASSIFICATIONS		INDUSTRIAL
	RESIDENTIAL		DATA NOT AVAILABLE
	COMMERCIAL		VACANT/UNDEVELOPED
	AGRICULTURAL/FARMS		

**LANDUSE CLASSIFICATION CATEGORIES ARE BASED UPON REAL PROPERTY SURVEY (RPS) INFORMATION OF 1999. THERE MAY BE SOME INACCURACIES IN THE DATA BASED ON DATE AND DATA SOURCES.

DISCLAIMER

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1. ANY ERRORS, OMISSIONS, OR INACCURACIES IN THE INFORMATION PROVIDED REGARDLESS OF HOW CAUSED WITH THE EXCEPTION OF LANDUSE CLASSIFICATIONS; OR
2. ANY DECISION MADE OR ACTION TAKEN OR NOT TAKEN BY READER IN RELIANCE UPON ANY INFORMATION OR DATA FURNISHED HEREUNDER

DATA SOURCES: ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING, TOWN & VILLAGE OF ORCHARD PARK



PROJECT # 328201



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



PROJECT NO.: 0105-017-010

DATE: JULY 2019

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ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

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LEGEND:

BCP SITE BOUNDARY

MAP UNIT LEGEND

MAP UNIT SYMBOL	MAP UNIT NAME
RfA	REMSEN SILTY CLAY LOAM, 0 TO 3 PERCENT SLOPES
RfB	REMSEN SILTY CLAY LOAM, 3 TO 8 PERCENT SLOPES



IN
ASSOCIATION
WITH



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USDA SOIL TYPE MAP

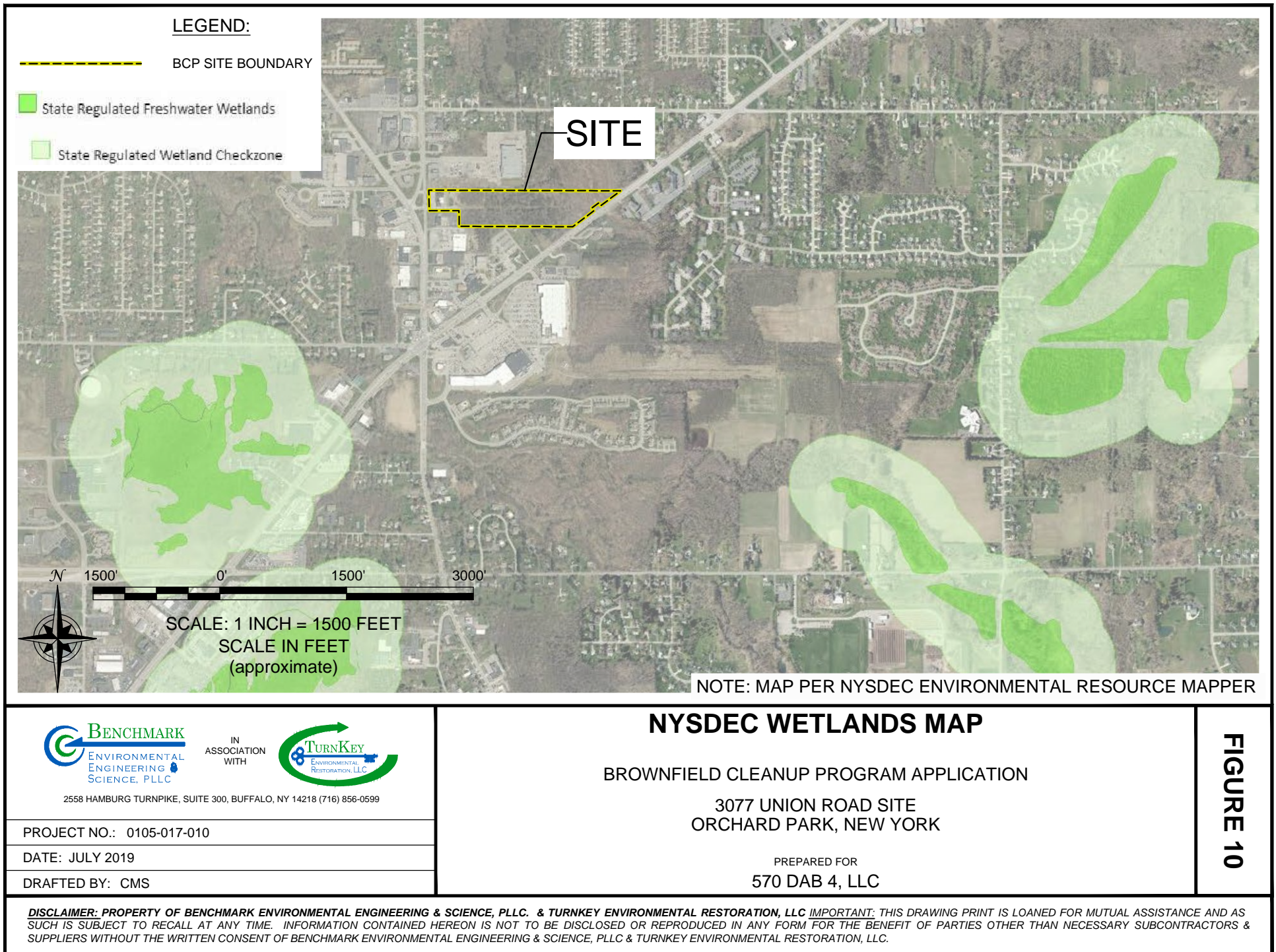
BROWNFIELD CLEANUP PROGRAM APPLICATION

3077 UNION ROAD SITE
ORCHARD PARK, NEW YORK

PREPARED FOR
570 DAB 4, LLC

FIGURE 9

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APPENDIX A

BCP APPLICATION PART A – SECTIONS I - IV

SECTION I – REQUESTOR INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – PROPERTY'S ENVIRONMENTAL HISTORY SECTION

IV – PROPERTY INFORMATION

NYS DOS CORPORATION & BUSINESS ENTITY DATABASE INFORMATION

SIGNATURE RESOLUTION

ERIE COUNTY PARCEL DETAIL REPORT

PHASE II AND SUPPLEMENTAL PHASE II ANALYTICAL DATA TABLES

APPENDIX A
BCP Application – Part A
Section I – Section IV
3077 Union Road Site

SECTION I – REQUESTOR INFORMATION

570 DAB 4, LLC is authorized to do business in New York State. 570 DAB 4, LLC is owned 100% by First Berkshire Business Trust, a Delaware Business Trust. The trustees are David Baldauf, Shaun Benderson, and Stephen Scalione. The New York State Department of State's (NYSDOS) Corporation & Business Entity Database print-out for 570 DAB 4, LLC is attached.

Benchmark Environmental Engineering and Science, PLLC (Benchmark), a registered New York State (NYS) engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this Brownfield Cleanup Program (BCP) project in association with Turnkey Environmental Restoration, LLC (TurnKey).

SECTION II – PROJECT DESCRIPTION

570 DAB 4, LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the 3077 Union Road Site (hereinafter, the "Project Site" or the "Site") (see Figures 1-4) under the NYS BCP, and is submitting this BCP Application for eligibility acceptance into the program.

A preliminary project schedule is shown on Figure 5.

The Volunteer plans to redevelop a portion of the Site along Union Road for commercial retail use. The design for the redevelopment project has not yet been completed.

The Project will result in the remediation and redevelopment of an environmentally impacted Site located at the intersection of Union Road and Orchard Park Road in the Town of Orchard Park, New York.

APPENDIX A
BCP Application – Part A
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3077 Union Road Site

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the 3077 Union Road Site is provided below.

Phase I Environmental Site Assessment – TurnKey

TurnKey completed a Phase I Environmental Site Assessment, dated January 2018, on the subject Site. TurnKey identified the following recognized environmental conditions (RECs) as they relate to the 3077 Union Road Site:

- The dry cleaner and septic system identified in the 1967 survey, due to the anticipated use of solvents and the potential for subsurface soil and/or groundwater impacts.
- Historic automotive repair at Building 1 and equipment repair/maintenance with a floor drain at Building 2 (See Figure 2).
- The remaining hazardous/regulated materials and vehicle components (engines, etc.) remaining at the Site as such will require proper off-site disposal if not intended for future use.

Due to the history of dry cleaning with the use of a private septic system, automotive repair, and equipment repair/maintenance, TurnKey recommended a Phase II Environmental Investigation at 3077 Union Road to assess subsurface soil and groundwater conditions.

Phase II Environmental Investigation – TurnKey

TurnKey completed a Phase II Environmental Investigation, dated February 2018, on the subject Site. The investigation consisted of 16 soil borings (SB-1 through SB-16) with five piezometers (PZ-1 through PZ-5) installed. All soil borings and piezometers were located on the 3077 Union Road Site. Findings of the Phase II are detailed below:

- The highest PID reading identified during the work was 2,200 ppm at SB-7 (4-6'). PID readings decreased to 150 ppm at SB-7 at the deeper 6 to 7' interval, which is just above bedrock.
- Laboratory analytical results revealed the presence of cVOC-impacted soil and groundwater east of the former dry cleaner at Building 1. The highest cVOC

APPENDIX A
BCP Application – Part A
Section I – Section IV
3077 Union Road Site

concentrations in soil and groundwater were identified at SB-7/PZ-3, located approximately five feet off the east wall of Building 1. Additional information relative to soil and groundwater impacts identified at the Site is provided below:

- Soil – PCE and its degradation compounds TCE and cis-1,2-DCE exceeded Part 375 Unrestricted Soil Cleanup Objectives (USCOs), Residential SCOs (RSCOs) and/or Protection of Groundwater SCOs in soil samples collected from four soil borings (SB-3, SB-7, SB-8 and SB-11). PCE in soil at SB-7 (4-6') was identified at a concentration exceeding its respective characteristic hazardous waste threshold.
- Groundwater – PCE and/or its degradation compounds TCE, cis-1,2 DCE and VC exceeded Groundwater Quality Standards (GWQS) at PZ-2, PZ-3 and PZ-4. In addition, total xylenes exceeded its respective GWQS at PZ-2.
- The source of the cVOC-impacted soil and groundwater is reasonably attributable to the historic dry cleaner formerly located within the previous Gold N Ham tenant space. Xylenes in water may be attributed to the dry cleaner if a Stoddard/petroleum-based solvent was used.
- Based on the proximity of the existing building to the cVOC impacts, there is the potential for cVOC-impacted soil and groundwater beneath the existing building slab.
- The elevated cVOC concentrations represent a potential vapor encroachment condition (VEC) whereby subslab soil vapor and/or indoor air with elevated concentrations of cVOCs may be present within the existing and future buildings if left unremediated.

Investigation locations and findings are shown on Figure 6 of this application.

Supplemental Phase II Environmental Investigation Report – TurnKey

TurnKey completed a Supplemental Phase II Environmental Investigation, dated January 2019, at the subject Site. The investigation consisted of one (1) overburden monitoring well

APPENDIX A
BCP Application – Part A
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3077 Union Road Site

(MW-1) and three (3) bedrock monitoring wells (MW-1D, MW-2D, and MW-4D). Findings of the Supplemental Phase II are detailed below:

- TurnKey's initial Phase II completed at the Site in January 2018 identified cVOC impacts in overburden soil as high as 120 mg/kg total cVOCs (SB-7) and overburden groundwater concentrations as high as 56,020 ug/L total cVOCs (PZ-3) east of the former dry cleaner. Overburden total cVOC concentrations were as high as 38,100 ug/L (PZ-3) during the supplemental overburden groundwater sampling activities in January 2019.
- Acetone was observed in one overburden groundwater well above its respective GWQS (PZ-5).
- Based on the results of supplemental Phase II activities, VOCs in bedrock groundwater were not detected or were at concentrations significantly below GWQS except for a vinyl chloride concentration of 4.7 ug/L at MW-2D, which slightly exceeds its GWQS of 2 ug/L.
- In conclusion, cVOC-impacted soil and overburden groundwater is present on-Site, which will require remediation.

Investigation locations and findings are shown on Figure 6.

SECTION IV – PROPERTY INFORMATION

Legal Parcel Description

The ±17.91-acre 3077 Union Road Site (Site), subject to this BCP application, is addressed at 3077 Union Road, Orchard Park, New York, and identified with SBL 152.12-4-6.1. The property is located in a moderately developed commercial and residential area in the Town of Orchard Park, Erie County, New York (see Figures 1 - 3). The Erie County tax parcel detail report for the Site is provided for reference in this Appendix A.

APPENDIX A
BCP Application – Part A
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3077 Union Road Site

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is not located within an EN-Zone area.

Utilities, Easements and/or Permits

Utilities are located in the right-of-way along Union Road; a former septic system was located east of Building 1. The Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water.

570 DAB 4, LLC is not aware of any easements or restrictions on the Site.

570 DAB 4, LLC is not aware of any other formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property. In addition, based on information gathered to date, there are no institutional controls recorded for the Site.

Location

The Site is located between Union Road and Southwestern Boulevard in a moderately developed commercial and residential area in the Town of Orchard Park, Erie County, New York. The Site is bordered by vacant wooded land and commercial properties to the north and to the south, Union Road to the west, and Southwestern Boulevard and wooded land to the east. Adjacent property owners are identified on Figure 7.

Site Features

The western portion of the Site is developed with two (2) vacant structures and an associated parking lot. Building 1 is a vacant plaza with historic tenants that included a dry cleaner and automotive repair. Building 2 has a history of being used for storage and equipment repair/maintenance by a contractor/masonry company. The remaining area is wooded vacant land.

APPENDIX A
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3077 Union Road Site

Zoning and Land Use

According to the Town of Orchard Park Zoning Classifications Map, the current zoning for the Site is B-2 which is defined as Business 2, Commercial, consistent with the planned use of the Site (see Figure 8).

The current use of the Site is a vacant commercial.

The surrounding parcels are as follows:

- north – commercial/vacant commercial;
- south – commercial/vacant commercial;
- east – commercial; and,
- west – commercial.

Planned commercial retail use of the Site is consistent with the Town of Orchard Park zoning map.

Past Use of the Site

The Site was identified as having been vacant/agricultural land from 1894 to 1965. The site has been commercial and vacant wooded land since 1965. Historical uses of Building 1 include dry cleaning, automobile repair, and other commercial tenants. Historical uses of Building 2 include concrete/masonry contractor storage and equipment repair/maintenance. The historic use of the Site as a dry cleaner has apparently impacted the Site as evidenced by cVOCs that have been detected in the soil and groundwater exceeding USCOs, RSCOs, Protection of Groundwater SCOs, and GWQS's during previous investigations.

Previous investigation reports are provided electronically on the enclosed CD.

APPENDIX A
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Section I – Section IV
3077 Union Road Site

Site Geology and Hydrogeology

The Site is located within the Erie-Ontario Lowlands, which is typified by little topographic relief, and gently slopes westward towards Lake Erie, except in the immediate vicinity of major drainage ways. The surficial geology of the Erie-Ontario Lowlands has developed from lacustrine deposits or till that may contain both limestone and shale. The Site overburden geology is generally described as mixtures of sand, silt, clay, and/or gravel overlying one to two feet of weathered shale over bedrock. The Site overlies the Cashaqua and Middlesex Shales of the Sonyea Group, which are identified as Upper Devonian-aged gray shale with limestone nodules and basal black shale respectively. Subsurface investigations completed during the Phase II and supplemental Phase II investigations determined on-Site depth to bedrock to be approximately 4 to 12 fbgs.

According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as Remsen silty clay loam with 3 to 8 percent slopes (RfB) and Remsen silty clay loam with 0 to 3 percent slopes (RfA). The Remsen silty clay loam is described as a somewhat poorly drained soil derived from calcareous or neutral shale. Figure 9 presents the USDA soil type map for the Site.

Depth to groundwater at the Site ranges from approximately 2 fbgs to 8 fbgs. Regional groundwater flow is generally west toward Lake Erie. While groundwater elevations were not surveyed during the Phase II Investigation, based on our knowledge of local hydrogeology from a nearby site, on-Site groundwater in the overburden and bedrock on the western portion of the Site likely flows northwest towards Smoke Creek. An intermittent stream runs through the eastern portion of the site and flows north toward a tributary of Cazenovia Creek. Local flow may be influenced by subsurface features, such as excavations, utilities, and localized fill conditions. Additional work is required to further investigate groundwater flow direction and quality at the Site. Additional monitoring wells to assess and characterize groundwater flow patterns and quality may be required during the Remedial Investigation.

APPENDIX A
BCP Application – Part A
Section I – Section IV
3077 Union Road Site

Environmental Assessment Narrative

Chlorinated VOCs (cVOCs) were identified as the primary contaminants of concern due to impacts to the on-Site soil and groundwater reasonably attributable to a former dry cleaner historically located on the Site. Figure 6 summarizes the environmental impacts identified in the previous investigations.

Soil – The highest PID reading identified during the work was 2,200 ppm at SB-7 (4-6'). PID readings decreased to 150 ppm at SB-7 at the deeper 6 to 7' interval, which is just above bedrock. Laboratory analytical results indicate PCE and its degradation compounds, TCE and cis-1,2-DCE exceeding Unrestricted Use SCOs (USCOs), Residential Use SCOs (RSCOs), and/or Protection of Groundwater SCOs in soil samples collected from four soil borings (SB-3, SB-7, SB-8, and SB-11). PCE in soil at SB-7 (4-6') was identified at a concentration exceeding its respective characteristic hazardous waste threshold. Methylene chloride was also detected above its USCO at all six soil boring locations sampled during the initial Phase II investigation (SB-1, SB-3, SB-4, SB-7, SB-8, and SB-11).

Groundwater – Laboratory analytical results from the initial Phase II investigation and the supplemental Phase II investigation indicate PCE and/or its degradation compounds, TCE, cis-1,2 DCE, trans-1,2-DCE, and VC exceeded GWQS at four (4) overburden wells (PZ-2, PZ-3, PZ-4, and PZ-5) and VC exceeded GWQS at one (1) bedrock well (MW-2D). Methylene chloride and 1,1-Dichloroethene also exceeded their GWQS at PZ-3 and PZ-4 respectively.

Soil Vapor – No soil vapor intrusion assessment (SVI) has been completed on the Site, but a potential VEC exists at the Site due to the presence of cVOCs in the soil and groundwater.

Historic documents and previous investigation reports are provided electronically on the enclosed CD.

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 2, 2019.

Selected Entity Name: 570 DAB 4, LLC

Selected Entity Status Information

Current Entity Name: 570 DAB 4, LLC

DOS ID #: 5279128

Initial DOS Filing Date: FEBRUARY 02, 2018

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)

570 DAB 4, LLC

7978 COOPER CREEK BOULEVARD

UNIVERSITY PARK, FLORIDA, 34201

Registered Agent

DAVID H. BALDAUF

570 DELAWARE AVENUE

BUFFALO, NEW YORK, 14202

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
FEB 02, 2018	Actual	570 DAB 4, 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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570 DAB 4, LLC

UNANIMOUS WRITTEN CONSENT OF THE MEMBERS

July 3, 2019

The undersigned being the manager of **570 DAB 4, LLC**, a New York limited liability company (the “**Company**”), hereby jointly consent 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 Adam Harris (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 commonly referred to as the 3077 Union Road Site, with addresses of 3077 Union Road, Orchard Park, 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 Corporation as they may deem necessary, appropriate or advisable to carry out the intent and purposes of the foregoing resolutions; and be it further

RESOLVED, that any acts of any officer of the Corporation and of any persons designated and authorized to act by any such officer of the Corporation, which acts would have been authorized by the foregoing 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 Corporation.

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

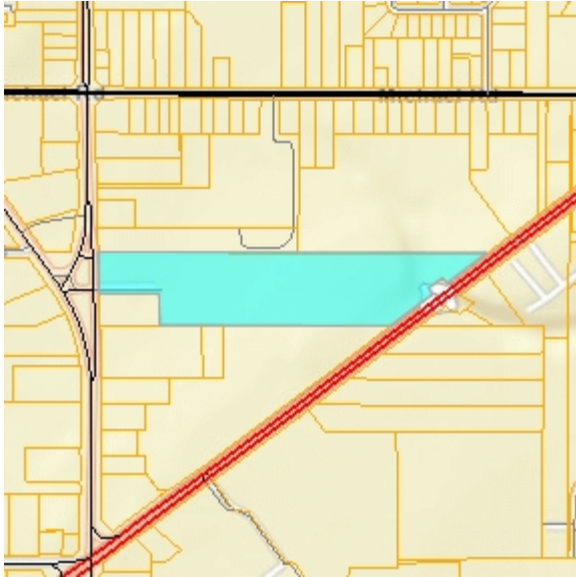


Stephen C. Scalione, Manager
570 DAB 4, LLC

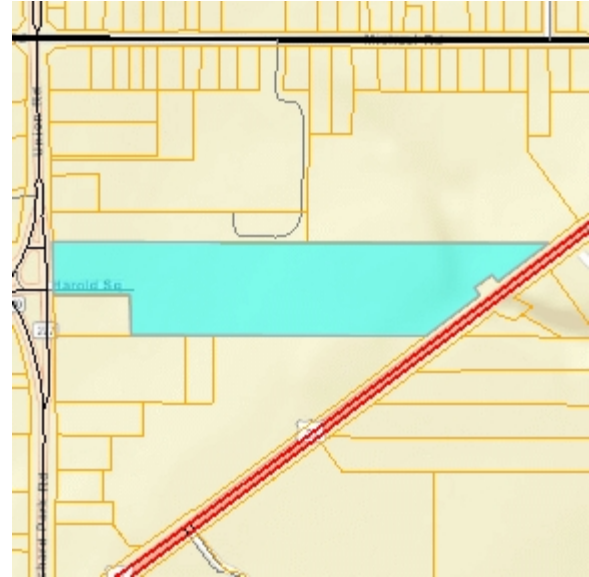
Erie County On-Line Mapping System

Parcel Detail Report

Report generated:
7/19/2019 2:57:31 PM



Parcel Overview Map



Parcel Detail Map

PIN: 1460891521200004006100

SBL: 152.12-4-6.1

Address: 3077 UNION RD

Owner 1: 570 DAB 4 LLC

Owner 2:

Mailing Address: 7978 COOPER CREEK BLVD

City/Zip: UNIVERSITY PARK FL 34201

Municipality: Orchard Park

Property Class: 452

Class Description: C - Nbh shop ctr

Front: 245.6

Depth: 0

Deed Roll: 1

Deed Book: 11327

Deed Page: 2603

Deed Date:

Acreage: 17.91081279201

Total Assessment: \$0

Land Assessment: \$0

County Taxes: \$0

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: ORCHARD PARK CENTRAL SCHOOL
#1

Year Built: 0

Sqft Living Area: 0

Condition: 0

Heating: 0

Basement: 0

Fireplace: 0

Beds: 0

Baths: 0



TABLE 1

SUMMARY OF SUBSURFACE SOIL ANALYTICAL RESULTS
PHASE II ENVIRONMENTAL INVESTIGATION
3077-3097 UNION ROAD & 20-26 HAROLD SQUARE
ORACHARD PARK, NY

PARAMETER ¹	Protection of Groundwater SCOs ²	Unrestricted Use SCOs ²	Residential Use SCOs ²	Sample ID (Depth, Highest PID reading in ppm)						
				SB-1 (10-12', 1.1)	SB-3 (4-4.5', 1.4)	SB-4 (2-4', 1.4)	SB-7 (4-6', 2,200)	SB-7 (6-8', 150)	SB-8 (4-6', 0.5)	SB-11 (2-4', 1.0)
				1/22/2018						
Volatile Organic Compounds (VOCs) - mg/Kg ³										
cis-1,2-Dichloroethene	0.25	0.25	59	ND	0.17 J	--	ND	0.28	0.26	ND
Methylene chloride	0.05	0.05	51	0.1 J,B	0.33 J,B	--	2 J,B	0.19 J,B	0.11 J,B	0.2 J,B
Tetrachloroethene	1.3	1.3	5.5	1	44	--	120	19	1.1	13
Trichloroethene	0.47	0.47	10	ND	1.5	--	ND	0.94	0.61	0.18 J
Total cVOCs	--	--	--	1.1 J,B	46 J,B	--	122 J,B	20.41 J,B	2.08 J,B	13.38 J,B
Polycyclic Aromatic Hydrocarbons (PAHs) - mg/Kg										
Total PAHs	--	--	--	--	--	ND	--	--	--	--

Notes:

1. Only those parameters detected at a minimum of one sample location are presented in this table; other compounds were reported as non-detect.
2. Values per NYSDEC Part 375 Soil Cleanup Objectives (SCOs). Protection of Groundwater SCOs apply to specific VOCs exceeding Groundwater Quality Standards (see Table 3).
3. Sample results were reported by the laboratory in ug/kg and converted to mg/kg for comparisons to SCOs.

Definitions:

ND = Parameter not detected above laboratory detection limit.

"--" = No value available for the parameter; Parameter not analyzed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

B = Compound was found in the blank and sample.

Bold	= Result exceeds Part 375 Unrestricted Use SCOs and/or Protection of Groundwater SCOs.
Bold	= Result exceeds Residential Use SCOs.



TABLE 3

**SUMMARY OF GROUNDWATER ANALYTICAL RESULTS
PHASE II ENVIRONMENTAL INVESTIGATION
3077-3097 UNION ROAD & 20-26 HAROLD SQUARE
ORCHARD PARK, NY**

PARAMETER ¹	GWQS ²	Sample ID				
		PZ-1	PZ-2	PZ-3	PZ-4	PZ-5
		1/22/2018 and 1/23/2018				
Volatile Organic Compounds (VOCs) - ug/L						
Acetone	50	5	7.3	ND	ND	3.2
Carbon disulfide	--	0.46	0.66	ND	ND	ND
cis-1,2-Dichloroethene	5	ND	9.8	2200	37	0.9
Cyclohexane	--	0.18	0.39	ND	0.29	ND
Ethylbenzene	5	ND	4.5	ND	ND	ND
Methylcyclohexane	--	ND	0.36	ND	0.43	ND
Methylene chloride	5	ND	ND	220	ND	ND
Tetrachloroethene	5	ND	ND	51000 DL	22	0.66
trans-1,2-Dichloroethene	5	ND	ND	ND	3	ND
Trichloroethene	5	ND	ND	2600	61	2.3
Vinyl chloride	2	ND	3.6	ND	7.7	ND
Total Xylenes	5	ND	30	ND	ND	ND
Total VOCs	--	0.64	56.61	56020	131.42	7.06
Total cVOCs	--	ND	13.4	56020	130.7	3.86

Notes:

1. Only those parameters detected at a minimum of one sample location are presented in this table; other compounds were reported as non-detect.
2. Regulatory limits are NYSDEC Class "GA" Groundwater Quality Standards (GWQS) and Guidance Values and Groundwater Effluent Limitations.

Definitions:

ND = Parameter not detected above laboratory detection limit.

--" = No value available for the parameter; Parameter not analyzed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

DL = Indicates a dilution, re-analysis, re-extraction, or additional initial metals/anion analysis of the sample.

Bold = Result exceeds NYSDEC Groundwater Quality Standards.



TABLE 1

**SUMMARY OF OVERBURDEN AND BEDROCK GROUNDWATER ANALYTICAL RESULTS
SUPPLEMENTAL PHASE II ENVIRONMENTAL INVESTIGATION
3077 UNION ROAD
ORCHARD PARK, NY**

PARAMETER ¹	GWQS ²	Sample ID												
		PZ-1 (removed)	MW-1	PZ-2	PZ-2	PZ-3 - DL	PZ-3 - DL	PZ-4	PZ-4	PZ-5	PZ-5	MW-1D	MW-2D	MW-4D
		1/22/2018	12/26/2018	1/23/2018	1/2/2019	1/23/2018	1/2/2019	1/23/2018	1/2/2019	1/23/2018	1/2/2019	12/26/2018	12/26/2018	12/26/2018
		Overburden Wells										Bedrock Wells		
Volatile Organic Compounds (VOCs) - ug/L														
1,1-Dichloroethene	0.33	ND	ND	ND	ND	ND	ND	ND	2.9	ND	ND	ND	ND	ND
2-Butanone (MEK)	--	ND	ND	ND	7.9	ND	ND	ND	ND	ND	6.7	ND	ND	ND
Acetone	50	5	9.6	7.3	49	ND	ND	ND	ND	3.2	54	1.9 J	ND	ND
Carbon disulfide	--	0.46	ND	0.66	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
cis-1,2-Dichloroethene	5	ND	ND	9.8	1.3 J	2200	2100	37	600	0.9	1.5 J	ND	ND	0.7 J
Cyclohexane	--	0.18	ND	0.39	ND	ND	ND	0.29	ND	ND	ND	1.9 J	ND	1.4 J
Ethylbenzene	5	ND	ND	4.5	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND
Methylcyclohexane	--	ND	ND	0.36	ND	ND	ND	0.43	ND	ND	ND	2.7 J	ND	ND
Methylene chloride	5	ND	ND	ND	ND	220	ND	ND	ND	ND	ND	ND	0.65 J	2.4 J
Tetrachloroethene	5	ND	ND	ND	4.5	51000	34000	22	95	0.66	14	ND	ND	0.47 J
trans-1,2-Dichloroethene	5	ND	ND	ND	ND	ND	ND	3	31	ND	ND	ND	ND	ND
Trichloroethene	5	ND	ND	ND	ND	2600	2000	61	380	2.3	4.2	ND	ND	0.46 J
Vinyl chloride	2	ND	ND	3.6	0.43 J	ND	ND	7.7	160	ND	ND	ND	4.7	1.6
Total Xylenes	5	ND	ND	30	ND	ND	ND	ND	ND	ND	ND	0.86 J	ND	ND
Total VOCs	--	5.64	ND	56.61	ND	56020	ND	131.42	ND	7.06	ND	ND	ND	ND
Total cVOCs	--	0	0	13.4	6.23	56020	38100	130.7	1268.9	3.86	19.7	0	5.35	5.63

Notes:

- Only those parameters detected at a minimum of one sample location are presented in this table; other compounds were reported as non-detect.
- Regulatory limits are NYSDEC Class "GA" Groundwater Quality Standards (GWQS) and Guidance Values and Groundwater Effluent Limitations.

Definitions:

ND = Parameter not detected above laboratory detection limit.

-- = No value available for the parameter; Parameter not analyzed for.

J = Estimated value; result is less than the sample quantitation limit but greater than zero.

DL = Indicates a dilution, re-analysis, re-extraction, or additional initial metals/anion analysis of the sample.

Bold

= Result exceeds NYSDEC Groundwater Quality Standards.

APPENDIX B

BCP APPLICATION PART B – SECTION V - XI

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

SECTION VII – REQUESTOR ELIGIBILITY

SECTION IX – CONTACT LIST

SECTION X – LAND USE FACTORS

DOCUMENT REPOSITORY CONFIRMATION

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3077 Union Road Site

SECTION VI – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

Reasonable attempts were made to attain complete information regarding current and previous site owners and operators. Information for the previous and current owners/operators is provided in the table below, as available.

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
3077 Union Road (Previously 3077-3097 Union Road)			
Current Owner/Operator			
570 DAB 4, LLC 570 Delaware Avenue Buffalo, NY 14202	Vacant Commercial	March 2018 to Current	Owner Applicant
Previous Owners/Operators			
Harold L. Gantzer ¹ 4100 North Freeman Road Orchard Park, NY 14127	Commercial	1960 ~ March 2018	Former Owner No relationship
Stereo Chamber 3079 Union Road Orchard Park, NY 14127	Commercial	2011 ~ 2018	Former Tenant No relationship
Big Pig Golden Ham Corporation 3085 Union Road Orchard Park, NY 14217	Commercial	2011 ~ 2018	Former Tenant No relationship
Adam's Barber Shop 3087 Union Road Orchard Park, NY 14217	Commercial	2011 ~ 2018	Former Tenant No relationship
After Hours Auto 3093 Union Road Orchard Park, NY 14217	Commercial	At least 2013 ~ 2018	Former Tenant No relationship
Michael Seibold 3077 Union Road Orchard Park, NY 14217	Commercial	2014 ~ Prior to 2018	Former Tenant No relationship
Custom Radio 3081-3083 Union Road Orchard Park, NY 14217	Commercial	At least 2010 ~ Prior to 2018	Former Tenant No relationship
Jacobs Shoe Repair 3089 Union Road Orchard Park, NY 14217	Commercial	At least 1992 ~ Prior to 2018	Former Tenant No relationship

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West Seneca Masonry, Inc. 3097 Union Road Orchard Park, NY 14217	Commercial	At least 2005 ~ Prior to 2018	Former Tenant No relationship
Leak Master 3077 Union Road Orchard Park, NY 14217	Commercial	2011 ~ 2013	Former Tenant No relationship
R-Jay's Hand Tossed Brick Oven Pizza 3091 Union Road Orchard Park, NY 14217	Commercial	2011 ~ Prior to 2013	Former Tenant No relationship
L.J. Domico Home Improvement 3077 Union Road Orchard Park, NY 14217	Commercial	At least 2010	Former Tenant No relationship
William J. Boehm 3081 Union Road Orchard Park, NY 14217	Commercial	At least 2005 ~ 2010	Former Tenant No relationship
Country Ham Store, Inc. 3085 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ 2010	Former Tenant No relationship
Russ's Barber Shop 3087 Union Road Orchard Park, NY 14217	Commercial	At least 2010	Former Tenant No relationship
Roz's Pizzeria 3091 Union Road Orchard Park, NY 14217	Commercial	At least 2005 ~ 2010	Former Tenant No relationship
Century Housewares, Inc. 3095 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ 2010	Former Tenant No relationship
Libby's Fish & Seafood, Inc. 3083 Union Road Orchard Park, NY 14217	Commercial	At least 2005 ~ Prior to 2010	Former Tenant No relationship
Amy Lynn's Dance Studio 3093 Union Road Orchard Park, NY 14217	Commercial	At least 2000 ~ Prior to 2010	Former Tenant No relationship
Nails by Cathy Lee 3077 Union Road Orchard Park, NY 14217	Commercial	At least 2000 ~ Prior to 2005	Former Tenant No relationship
Time Zone Gift 3077 Union Road	Commercial	At least 2000 ~ Prior to 2005	Former Tenant No relationship

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Orchard Park, NY 14217			
Kevin Did It Signs and Banners 3081 Union Road Orchard Park, NY 14217	Commercial	At least 2000 ~ Prior to 2005	Former Tenant No relationship
C.P. Schenk Fish and Seafood 3083 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 2005	Former Tenant No relationship
Francis X. Loughlin Insurance Agency 3087 Union Road Orchard Park, NY 14217	Commercial	At least 2000 ~ Prior to 2005	Former Tenant No relationship
Fantastic Sam's Hair Care Center 3077 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 2000	Former Tenant No relationship
Scinta LTD 3077 Union Road Orchard Park, NY 14217	Commercial	At least 1995 ~ Prior to 2000	Former Tenant No relationship
Maryann E. Gifford 3081 Union Road Orchard Park, NY 14217	Commercial	At least 1995 ~ Prior to 2000	Former Tenant No relationship
State Farm Insurance 3087 Union Road Orchard Park, NY 14217	Commercial	At least 1995 ~ Prior to 2000	Former Tenant No relationship
Buffalo Clinical Services 3087 Union Road Orchard Park, NY 14217	Commercial	At least 1992 ~ Prior to 1995	Former Tenant No relationship
Country Cupboard 3081 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
J. Pickhardt Dance 3087 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
Park Sher Optical 3089 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
Town Edge Liquor Store 3091 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship

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Computer Task Group 3095 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
Parker Wellington 3095 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
Shoppers Choice 3095 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
TV Factory Service 3095 Union Road Orchard Park, NY 14217	Commercial	At least 1985 ~ Prior to 1992	Former Tenant No relationship
Unknown Dry Cleaner ² 3085 Union Road Orchard Park, NY 14217	Commercial	At least 1967	Former Tenant No relationship
Unknown Owners ³	Commercial	At least 1967	Former Tenant(s) No relationship
Unknown Owners	Vacant/Agricultural	1894 ~ 1960	Former Owner(s) No relationship

¹ Ownership transferred to the Estate of Harold L. Gantzer upon Mr. Gantzer's death in 2008.

² Based on a 1967 survey located in the Phase I ESA. The unknown dry cleaner is presumed to have been located at the tenant space most recently occupied by Big Pig Golden Ham Corporation (3085 Union Road). Other tenants shown on this survey have been included under

³ Represents the other unknown operators (former tenants) shown on the 1967 survey labeled as barber, bakery, dairy store, fish store, rug store, optical, and liquor store.

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, 570 DAB 4, LLC, qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2) based on the following:

- the cVOC and other VOC contamination in soil/fill and groundwater is reasonably attributable to the historic dry cleaner on-Site in at least 1967. The property has been vacant since the Applicant's purchase of the property; and,

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- the Applicants became involved with the property after the disposal or discharge of contaminants.

Based on the information herein, 570 DAB 4, LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

SECTION IX – CONTACT LIST INFORMATION

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 Hon. John J. Mills
District 11
92 Franklin Street, 4th Floor
Buffalo, NY 14202

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

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

Mr. Robert M. Graber
Erie County Legislature Clerk
92 Franklin Street, 4th Floor
Buffalo, NY 14202

Mr. Steve Weathers
ECIDA
95 Perry Street
Buffalo, NY 14203

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

Commissioner Daniel Neaverth, Jr.
Erie County Local Emergency
45 Elm Street
Buffalo, NY 14203

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Town of Orchard Park Contacts:

Dr. Patrick J. Keem, Supervisor
Town of Orchard Park
4295 South Buffalo Street
Orchard Park, NY 14127

Eugene Majchrzak
Town Councilman
4295 South Buffalo Street
Orchard Park, NY 14127

Michael J. Sherry
Town Councilman
4295 South Buffalo Street
Orchard Park, NY 14127

Supplier of Potable Water:

Erie County Water Authority
6007 Lake Avenue
Orchard Park, NY 14127

Orchard Park Water Department
4295 South Buffalo Street
Orchard Park, NY 14127

Local News Media:

Buffalo News
ATTN: Mr. 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

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

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

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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:

Terence Tryon, Principal
Eggert Elementary School
3580 Eggert Road
Orchard Park, NY 14127

Page 1 Preschool
1449 Orchard Park Road
West Seneca, NY 14224

Ms. Kristen Frawley, Principal
West Elementary School
1397 Orchard Park Road
West Seneca, NY 14224

Josh Sexton, Principal
West Seneca Christian School
511 Union Road
West Seneca, NY 14224

Dr. Holly Quinn, Principal
Allendale Elementary School
1399 Orchard Park Road
West Seneca, NY 14224

Kristine Hider, Principal
St. John Vianney School
2950 Southwestern Boulevard
Orchard Park, NY 14127

Sharon Baldwin
Southwestern Day Care Center
3210 Southwestern Boulevard
Orchard Park, NY 14127

Robin Bennett, Director
Childtime of Orchard Park
3121 Southwestern Boulevard
Orchard Park, NY 14127

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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

West Seneca Branch of the Buffalo &
Erie County Public Library
1300 Union Road
West Seneca, NY 14224

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Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site is provided in the table below (see Figure 7).

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
0	Union Road	Vacant Commercial	570 DAB 4, LLC 570 Delaware Avenue Buffalo, NY 14202
0	Union Road	Vacant Commercial	570 DAB 4, LLC 570 Delaware Avenue Buffalo, NY 14202
3065	Southwestern Boulevard	Commercial Professional Building	Parkland Professional Park, LLC 3085 Southwestern Boulevard Orchard Park, NY 14127
3095	Southwestern Boulevard	Commercial Office Building	Oscar Bravo Holdings, LLC 5291 Twin Pond Drive Springville, NY 14141
3115	Southwestern Boulevard	Commercial Converted Residence	Dennis W. Jewell 8 Thomaston Lane Orchard Park, NY 14127
3121	Southwestern Boulevard	Special Schools and Institutions	Childtime Childcare DBA 21333 Haggerty Road Novi, MI, 48375
3160	Southwestern Boulevard	Religious	Full Gospel Tabernacle 3210 Southwestern Boulevard Orchard Park, NY 14127

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0	Orchard Park Road	Vacant Commercial	Orchard Park Distributors, Inc. 45 South Rossler Avenue Buffalo, NY 14206
3129	Orchard Park Road	Commercial Large Retail Outlets	Orchard Park Distributors, Inc. 45 South Rossler Avenue Buffalo, NY 14206
3111	Union Road	Commercial Standard Bank	Lake Shore Savings Bank 3111 Union Road Orchard Park, NY 14127
3098	Orchard Park Road	Commercial	Victoria LBOP, LLC 570 Delaware Avenue Buffalo, NY 14202
3090	Orchard Park Road	Commercial Restaurant	3090 Orchard Park, Inc. 3090 Orchard Park Road West Seneca, NY 14224
3050	Orchard Park Road	Commercial Professional Building	3050 Orchard Park Road, LLC 162 Colgate Avenue Buffalo, NY 14220
3049	Orchard Park Road	Commercial Drive-In Branch Bank	Union-Orchard Park Corporation 76 Riley Street East Aurora, NY 14052

Document Repository

The Buffalo and Erie County Library has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included in this Appendix B.

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SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is B-2 (Business 2 - Commercial) consistent with the Town of Orchard Park Zoning Classifications (see Figure 8). The planned development is consistent with Town of Orchard Park zoning.

2 – Current Use

The current use of the Site is vacant commercial as of 2018. The western portion of the Site is developed with two (2) vacant structures (Building 1 and Building 2) and an associated parking lot. The remaining area is wooded vacant land.

The Site was identified as having been vacant/agricultural land from 1894 to 1965. The site has been commercial and vacant wooded land since 1965. Historical uses of Building 1 include dry cleaning, automobile repair, and other commercial tenants. Historical uses of Building 2 include concrete/masonry contractor storage and equipment repair/maintenance. The historic use of the Site as a dry cleaner has apparently impacted the Site as evidenced by cVOCs that have been detected in the soil and groundwater exceeding USCOs, RSCOs, Protection of Groundwater SCOs, and GWQS's during previous investigations.

3, 4, 5 and 6 – Planned Future Use

The Volunteer plans to redevelop a portion of the Site along Union Road for commercial retail use. The design for the project has not yet been completed, and there is currently no project rendering of the planned redevelopment.

The planned development is consistent with the current and future zoning as presented in the Town of Orchard Park Zoning Classifications.

From: [April Tompkins](#)
To: [Chelsea N. Kanaley](#)
Subject: RE: Document Repository Request - 3077 Union Road Site
Date: Friday, March 22, 2019 11:46:24 AM
Attachments: [Document Repository Request - 3077 Union Road.pdf](#)

Good morning Chelsea,

Per your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all document(s) submitted by your company for the Brownfield Cleanup Program at the 3077 Union Road Site, Orchard Park, New York. These documents will be made available for public review at the West Seneca Public Library and/or any other library of your choice. Please refer to our procedure below.

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 either brought in person (to my attention) to the Central Library's administrative reception desk located on the second floor or sent via mail carrier. Documents sent via e-mail will not be accepted. The mailing address is:

Attention: April Tompkins
Re: Repository Documents
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 two after receipt. If received by Friday morning, they are usually made available 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 destination(s). We will distribute accordingly. We do not make copies for distribution.
- You have the choice regarding the format (hard copy print and / or disk) you wish to submit. If submitting in both formats, please be sure that they are titled/labeled accordingly. **If CD's are included, please secure to the corresponding printed document(s) to prevent it from getting lost or separated.** Although CD-ROMs cannot be used on public library computers, patrons may bring in their personal laptop to view the disc 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 original 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.

Regards,
April

April Tompkins, Sr. Library Clerk
Office of Chief Operating Officer & Technical Support
Buffalo and Erie County Public Library
1 Lafayette Square | Buffalo, NY 14203
Voice: 716-858-7129 | Fax: 716-858-6211
E-mail: tompkinsa@buffalolib.org

From: Chelsea N. Kanaley <CKanaley@Turnkeyllc.com>
Sent: Thursday, March 21, 2019 4:48 PM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: Document Repository Request - 3077 Union Road Site

Dear Ms. Tompkins,

Please see the attached document repository request for the Brownfield Cleanup Program.

Thank you,
Chelsea Kanaley

Chelsea N. Kanaley
Geologist
ckanaley@turnkeyllc.com

TurnKey Environmental Restoration, LLC
www.benchmarkturnkey.com
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218
Phone: (716) 856-0635, Mobile: (716) 220-1093, Facsimile: (716) 856-0583

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March 21, 2019

Ms. April Tompkins
Repository Documents
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Re: Document Repository for Brownfield Cleanup Program
3077 Union Road Site
Orchard Park, New York

Dear Ms. Tompkins:

On behalf of our client, Turnkey Environmental Restoration, LLC would like to request the Buffalo & Erie County Public Library – West Seneca Public Library Branch 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 me if you have questions or require additional information.

Sincerely,
Turnkey Environmental Restoration, LLC

A handwritten signature in black ink that reads "Chelsea Kanaley".

Chelsea Kanaley
Geologist

File: T0105-017-010

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www.benchmarkturnkey.com

2558 Hamburg Turnpike, Suite 300 | Buffalo, NY 14218
phone: (716) 856-0599 | fax: (716) 856-0583