

Brownfield Cleanup Program Application

*9 Lakeview Avenue Site
Buffalo, New York*

Revised August 2020

0533-020-001

Prepared For: Buffalo Lakeview LLC



Prepared By:

In Association With:





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 Buffalo Lakeview LLC

ADDRESS 356 Hertel Avenue

CITY/TOWN Buffalo

ZIP CODE 14207

PHONE 716-870-4878

FAX 716-932-7894

E-MAIL lofasofred@yahoo.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			
Chlorinated Solvents			
Other VOCs	X See Figure 7		
SVOCs	PAHs See Figure 7		
Metals	X See Figure 7		
Pesticides			
PCBs			
Other*			

*Please describe: _____

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

- SAMPLE LOCATION See Appendix A; Section III
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE See Figure 7
- 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

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: motor freight station, auto body/tire shop _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 9 Lakeview Avenue Site				
ADDRESS/LOCATION 9 Lakeview Avenue				
CITY/TOWN Buffalo		ZIP CODE 14201		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 0.42		
LATITUDE (degrees/minutes/seconds) 42 ° 53 ' 49.3 "		LONGITUDE (degrees/minutes/seconds) -78 ° 53 ' 33.45 "		
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	Section No.	Block No.	Lot No.	Acreage
9 Lakeview Avenue	110.27	1	4	0.42
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 checked="" type="checkbox"/> No <input type="checkbox"/> <div style="text-align: right; margin-top: 5px;"> See Figure 8 If yes, identify census tract : <u>70</u> </div> <div style="margin-top: 5px;"> Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100% </div>				
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? ☐ Yes ☐ No

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? ☐ Yes ☐ No

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: _____

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 Fred LoFaso			
ADDRESS 356 Hertel Avenue			
CITY/TOWN Buffalo		ZIP CODE 14207	
PHONE 716-870-4878	FAX 716-932-7894	E-MAIL lofasofred@yahoo.com	
NAME OF REQUESTOR'S CONSULTANT 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 See Appendix B; Section VII			
CURRENT OWNER'S NAME Same as Requestor		OWNERSHIP START DATE: 5/12/2016	
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 9**
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	
<p>1. What is the current municipal zoning designation for the site? <u>N-2R (Residential)</u></p> <p>What uses are allowed by the current zoning? (Check boxes, below)</p> <p><input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial See Appendix B, Section X</p> <p>If zoning change is imminent, please provide documentation from the appropriate zoning authority.</p>	
<p>2. Current Use: <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Vacant <input type="checkbox"/> Recreational (check all that apply)</p> <p>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.</p>	
<p>3. Reasonably anticipated use Post Remediation: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial (check all that apply) Attach a statement detailing the specific proposed use.</p> <p>If residential, does it qualify as single family housing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>4. Do current historical and/or recent development patterns support the proposed use?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.</p> <p>See Appendix B; Section X</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>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.</p> <p>See Appendix B; Section X</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am the Sole Owner (title) of Buffalo Lakeview 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: 5-14-2020

Signature: 

Print Name: Fred LoFaso

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.

BCP App Rev 10

Not Applicable

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):	
<p>"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.</p>	
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:	
<p>(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</p> <p>(1) the proposed use is at least 75 percent for industrial uses; or</p> <p>(2) at which:</p> <p>(i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;</p> <p>(ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and</p> <p>(iii) one or more of the following conditions exists, as certified by the applicant:</p> <p>(a) property tax payments have been in arrears for at least five years immediately prior to the application;</p> <p>(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</p> <p>(c) there are no structures.</p>	
<p>"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.</p>	

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: 9 Lakeview Avenue Site
City: Buffalo

Site Address: 9 Lakeview Avenue
County: Erie **Zip:** 14201

Tax Block & Lot

Section (if applicable): 110.27 **Block:** 1 **Lot:** 4

Requestor Name: Buffalo Lakeview LLC
City: Buffalo

Requestor Address: 356 Hertel Avenue
Zip: 14207 **Email:** lofasofred@yahoo.com

Requestor's Representative (for billing purposes)

Name: Fred LoFaso **Address:** 356 Hertel Avenue
City: Buffalo **Zip:** 14207

Email: lofasofred@yahoo.com

Requestor's Attorney

Name: Mr. Craig Slater, Esq. **Address:** 500 Seneca Street, Suite 504
City: Buffalo **Zip:** 14204

Email: cslater@cslaterlaw.com

Requestor's Consultant

Name: Michael A. Lesakowski **Address:** 2558 Hamburg Turnpike, Suite 300
City: Buffalo **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

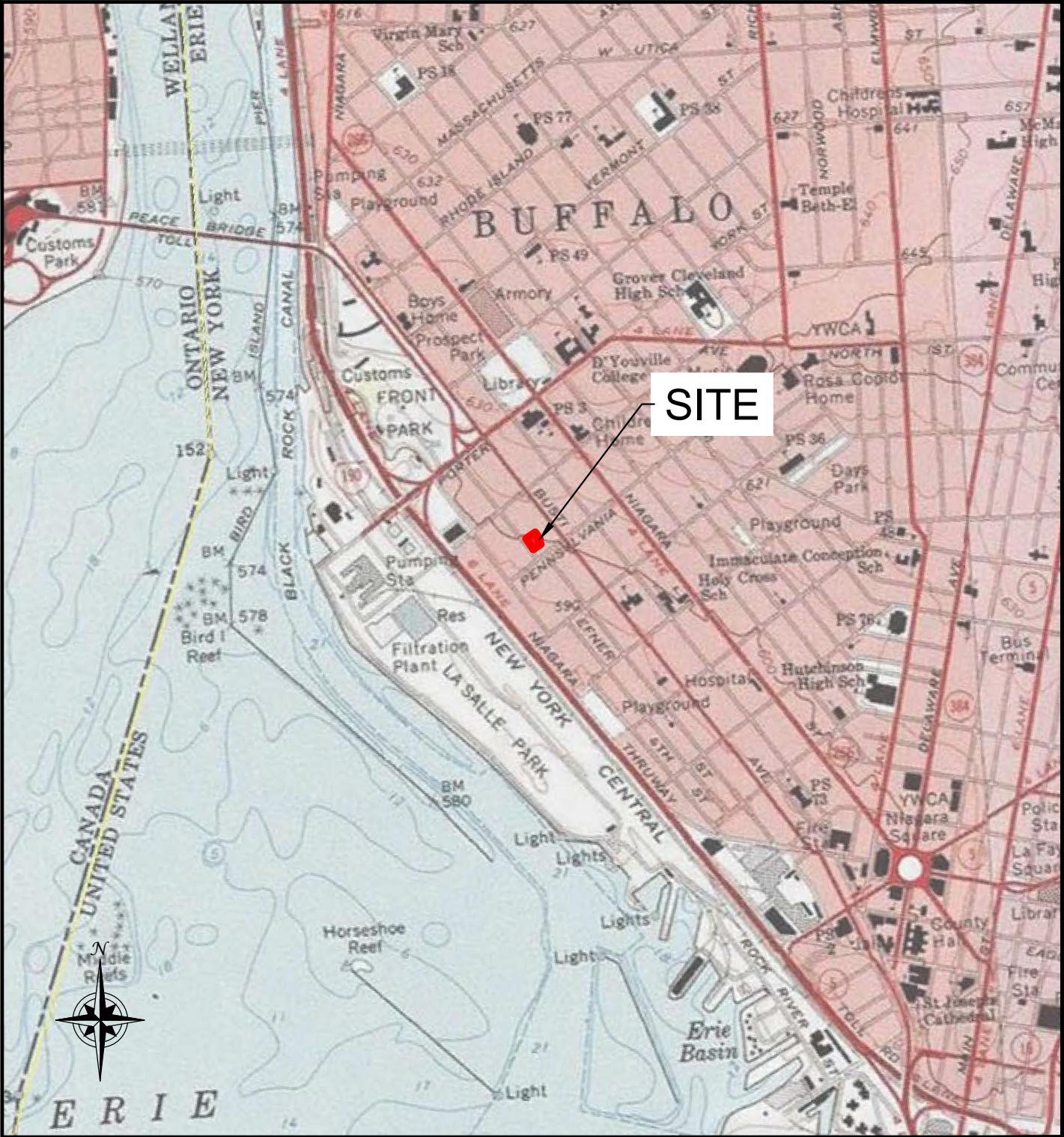
DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

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	Preliminary Site Rendering
Figure 7	Investigation Locations & Areas of Concern
Figure 8	New York State EnZone Map
Figure 9	Adjacent Property Owners
Figure 10	Zoning Map
Figure 11	Soil Map

FIGURE 1



SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

PREPARED FOR
BUFFALO LAKEVIEW, LLC



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

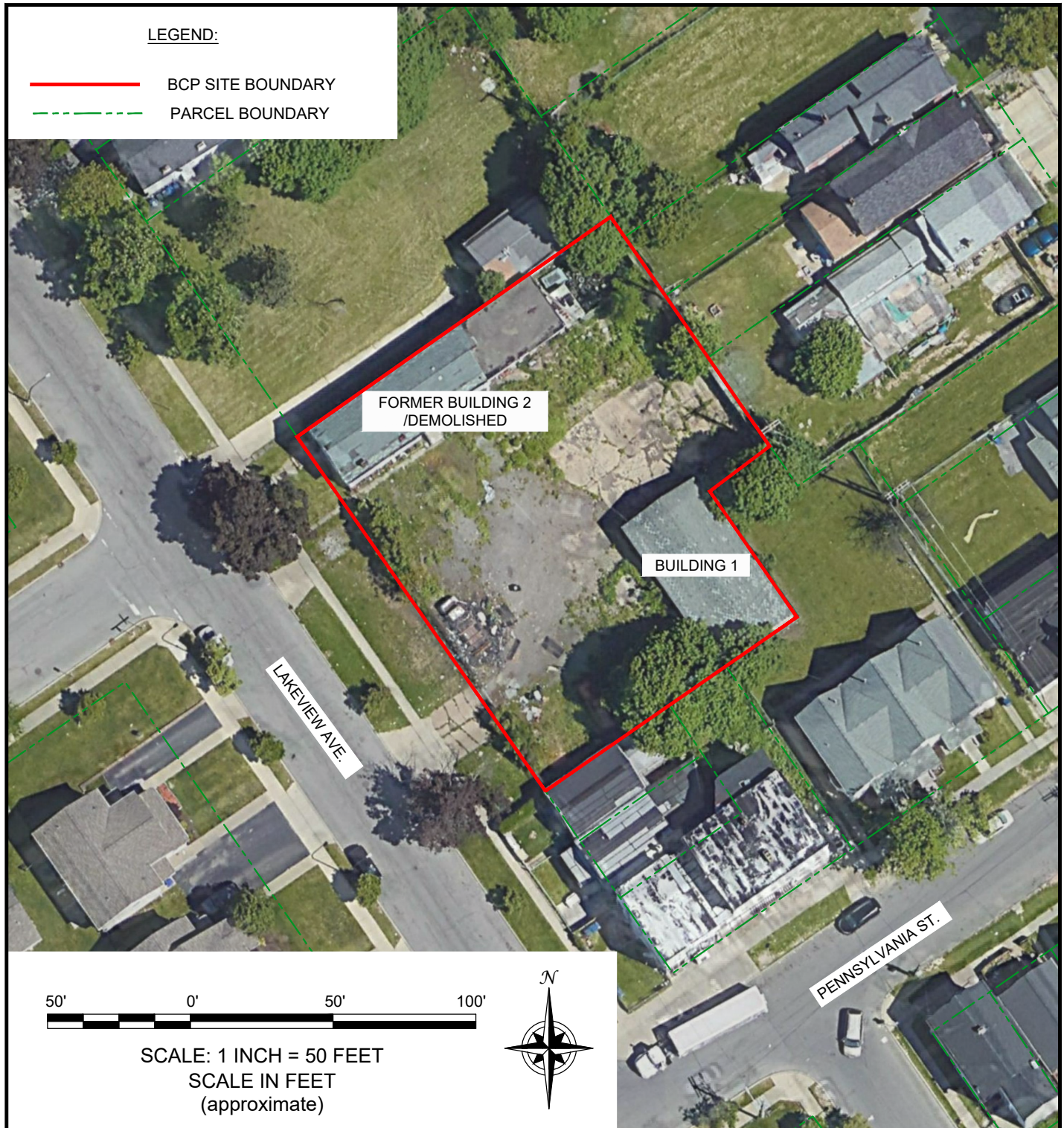
PROJECT NO.: 0533-020-001

DATE: MAY 2020

DRAFTED BY: CEH

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FIGURE 2



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

PROJECT NO.: 0533-020-001

DATE: MAY 2020

DRAFTED BY: CEH

SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION

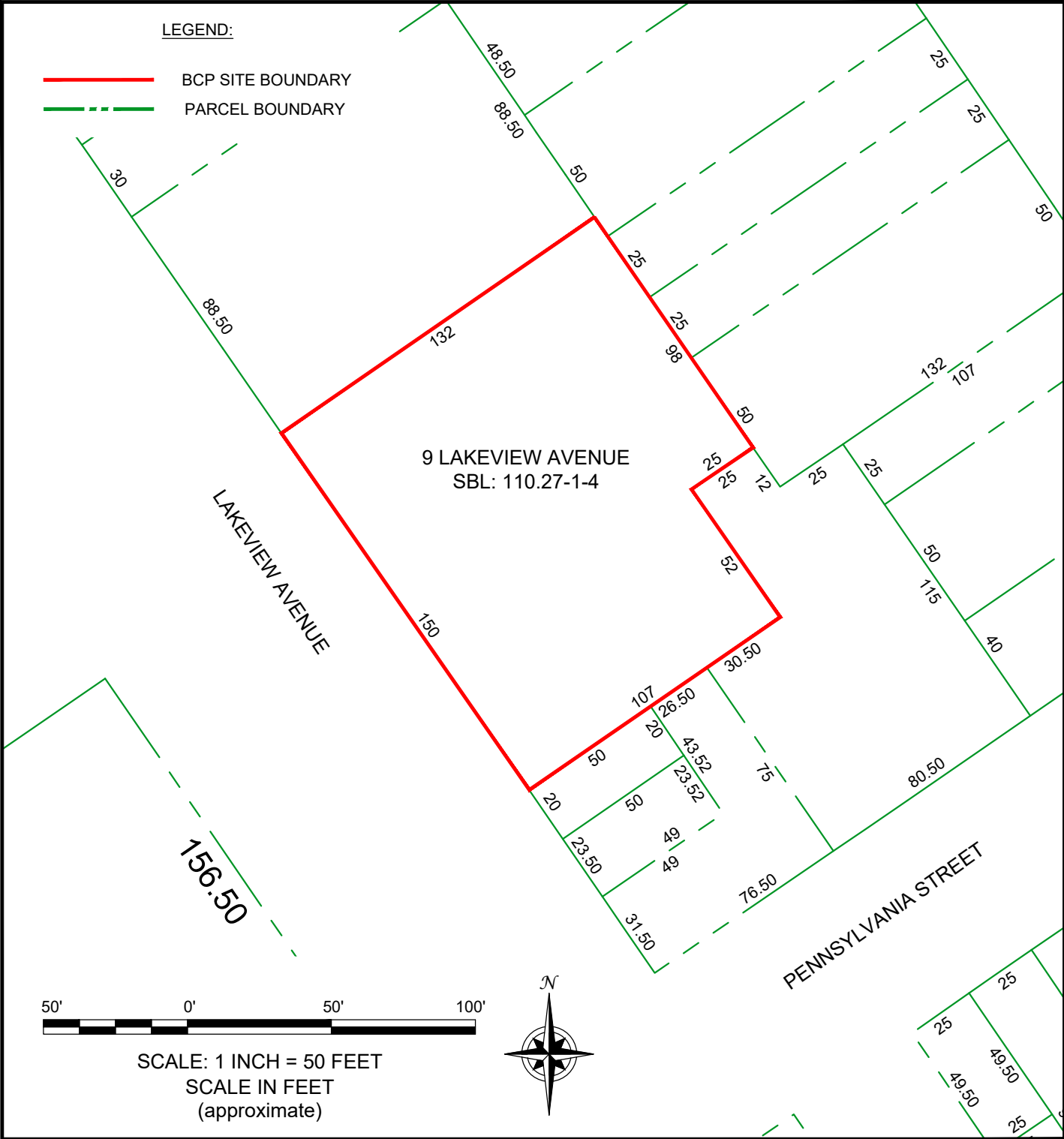
9 LAKEVIEW AVENUE
BUFFALO, NEW YORK


PREPARED FOR
BUFFALO LAKEVIEW LLC

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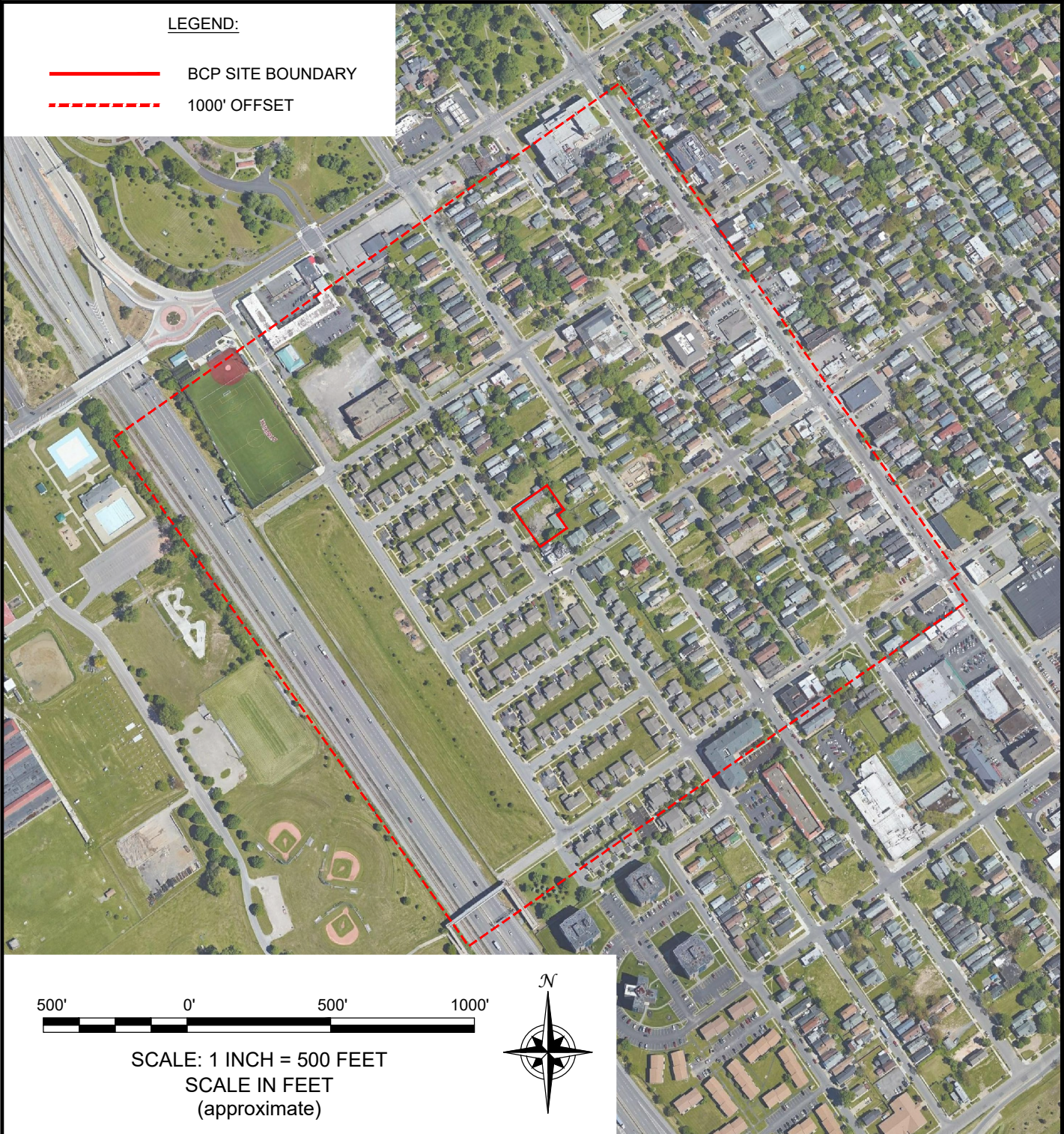
FIGURE 3



 <p>TURNKEY ENVIRONMENTAL RESTORATION, LLC</p> <p>2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 858-0635</p>	<p>TAX MAP</p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>9 LAKEVIEW AVENUE BUFFALO, NEW YORK</p> <p>PREPARED FOR BUFFALO LAKEVIEW LLC</p>

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FIGURE 4



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

PROPERTY BASE MAP (1000' OFFSET)

BROWNFIELD CLEANUP PROGRAM APPLICATION

9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

PREPARED FOR
BUFFALO LAKEVIEW LLC

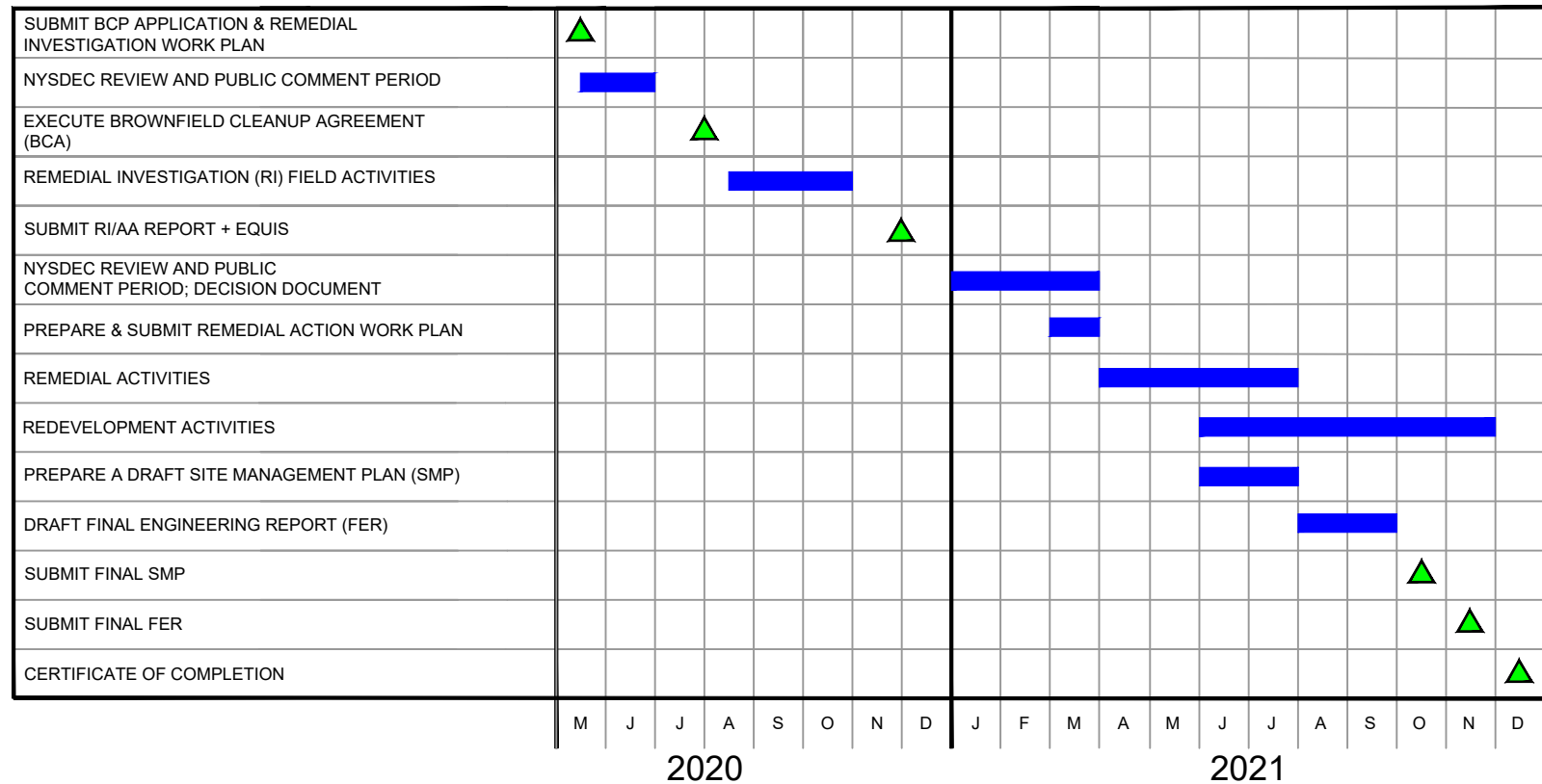
PROJECT NO.: 0533-020-001

DATE: MAY 2020

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PROJECT TASKS:



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

PROJECT NO.: 0533-020-001

DATE: MAY 2020

DRAFTED BY: CEH



PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

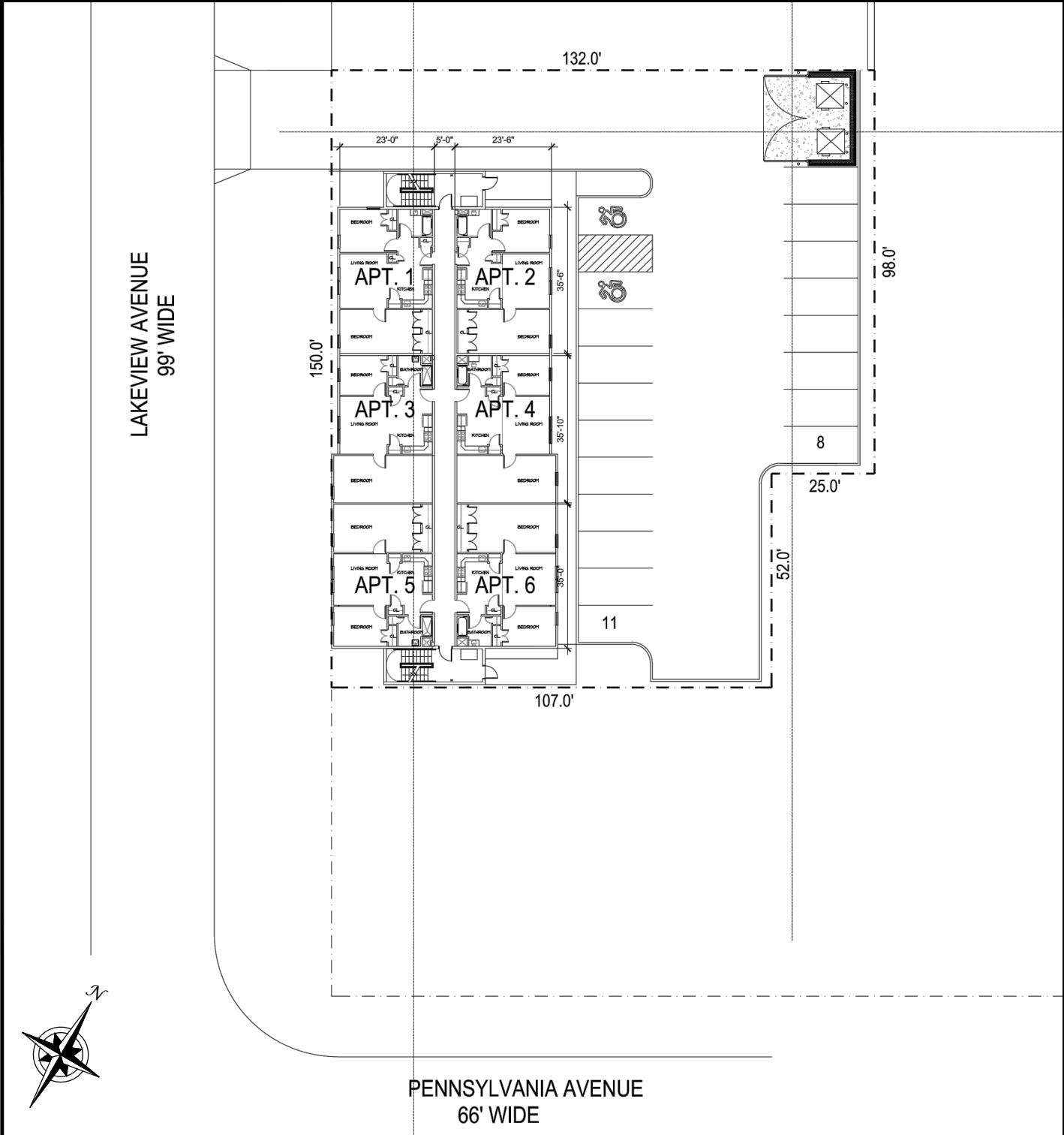
9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

PREPARED FOR
BUFFALO LAKEVIEW LLC

FIGURE 5

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.

FIGURE 6



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

PROJECT NO.: 0533-020-001

DATE: MAY 2020

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PRELIMINARY SITE RENDERING

BROWNFIELD CLEANUP PROGRAM APPLICATION

9 LAKEVIEW AVENUE
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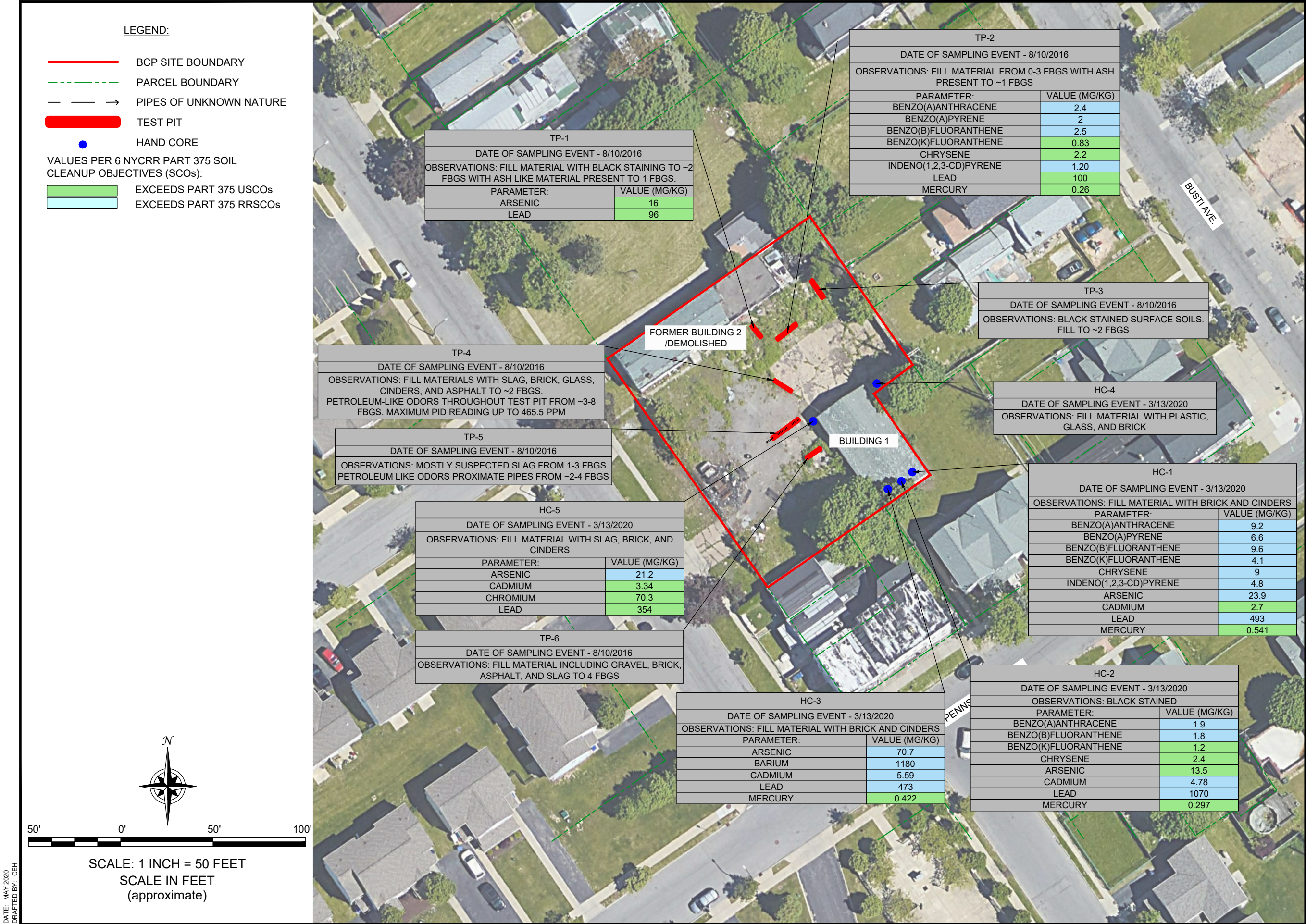
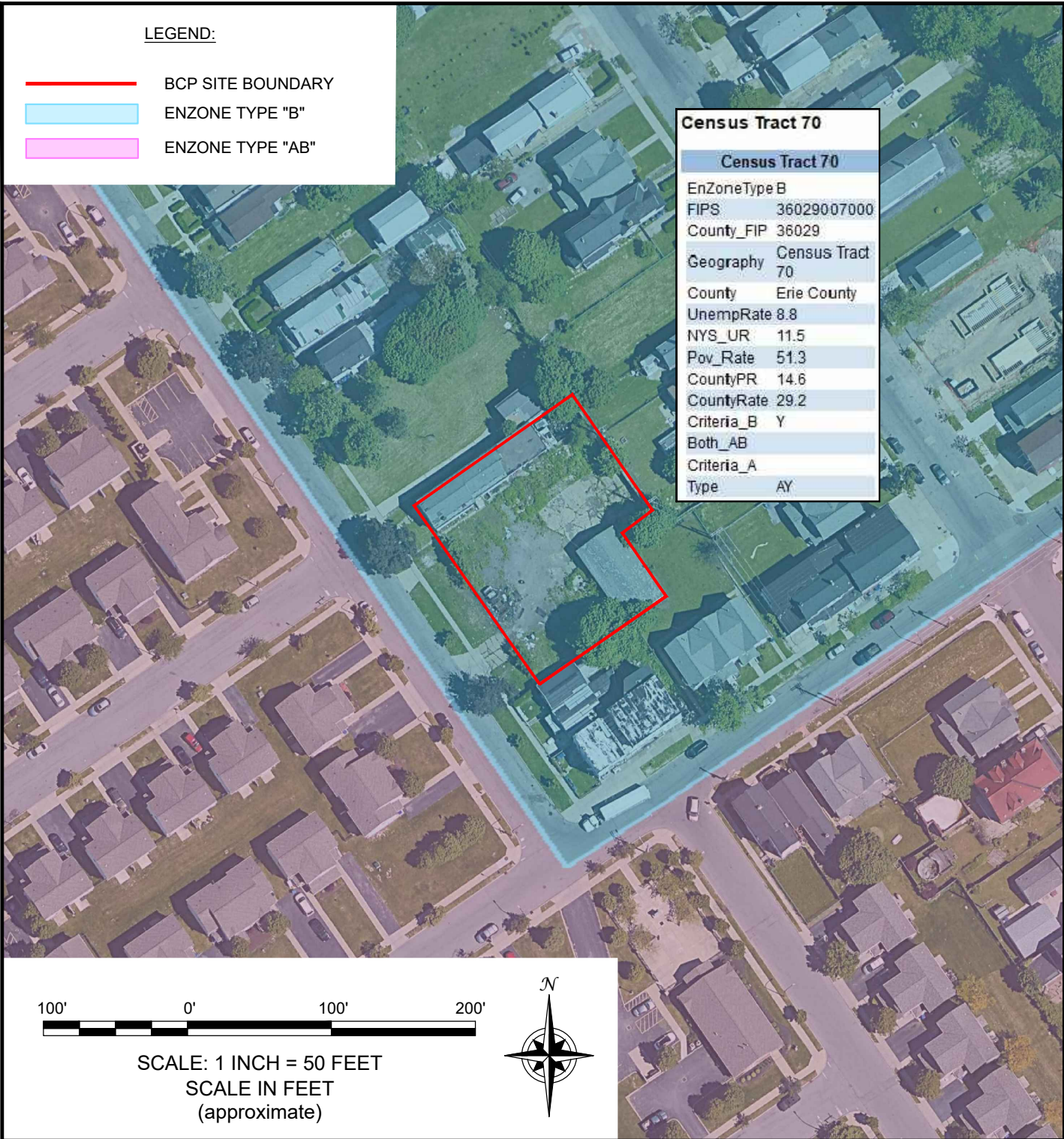


FIGURE 8



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

PROJECT NO.: 0533-020-001

DATE: MAY 2020

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NEW YORK STATE ENZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

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F:\CAD\TurnKey\LoFaso\9-21 Lakeview Ave\BCP Application\Figure 9 - Adjacent Property Owners.dwg, 5/14/2020 9:05:34 AM

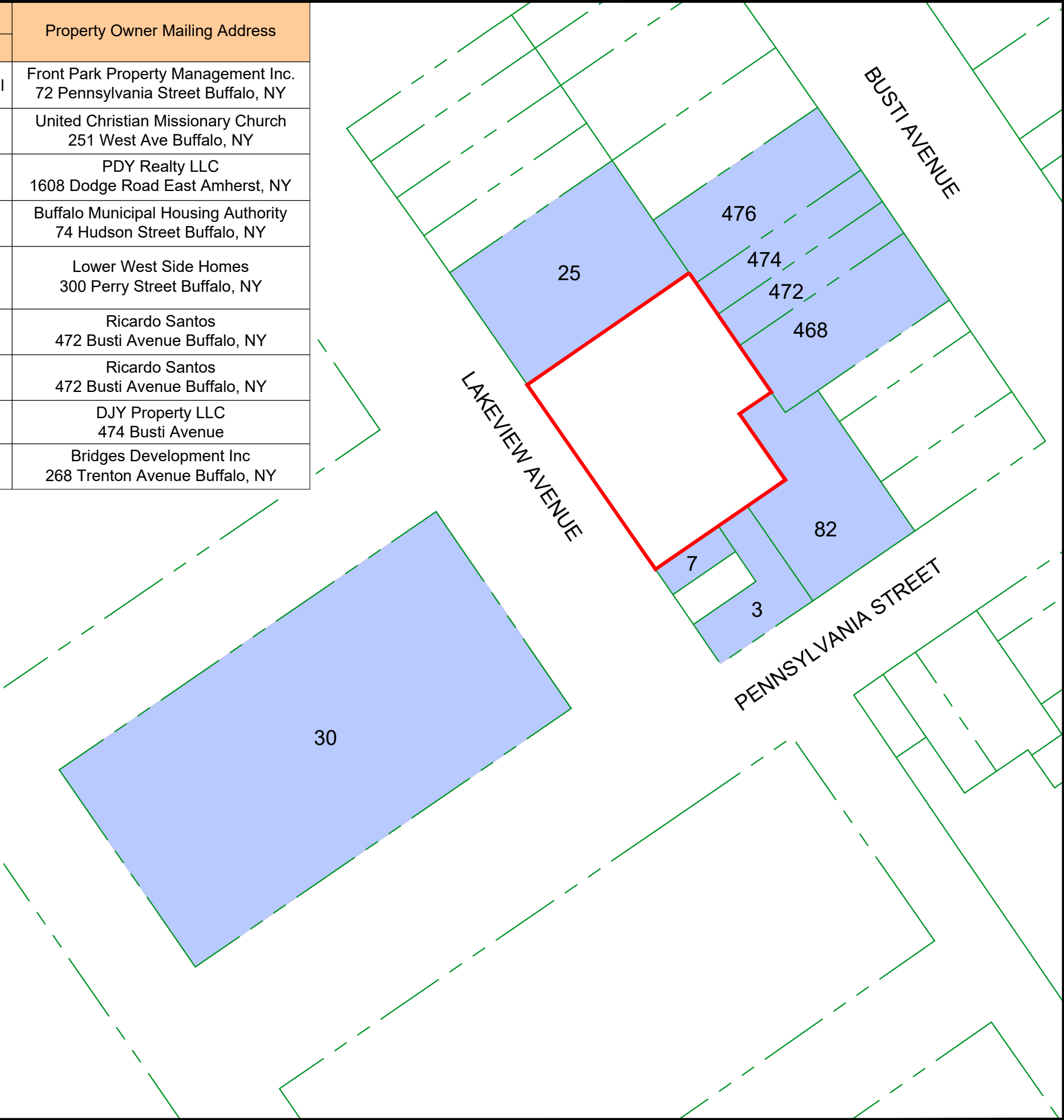
Adjacent Property Address				Property Owner Mailing Address
No	Street	S.B.L.	Property Description	
3	Lakeview Avenue	110.27-1-1	Residential/Commercial	Front Park Property Management Inc. 72 Pennsylvania Street Buffalo, NY
7	Lakeview Avenue	110.27-1-3	Residential	United Christian Missionary Church 251 West Ave Buffalo, NY
25	Lakeview Avenue	110.27-1-5.1	Vacant Land	PDY Realty LLC 1608 Dodge Road East Amherst, NY
30	Hudson Street	110.07-2-4.1	Residential	Buffalo Municipal Housing Authority 74 Hudson Street Buffalo, NY
82	Pennsylvania Street	110.27-1-26.1	Residential	Lower West Side Homes 300 Perry Street Buffalo, NY
468	Busti Avenue	110.27-1-20.1	Residential	Ricardo Santos 472 Busti Avenue Buffalo, NY
472	Busti Avenue	110.27-1-19	Residential	Ricardo Santos 472 Busti Avenue Buffalo, NY
474	Busti Avenue	110.27-1-18	Residential	DJY Property LLC 474 Busti Avenue
476	Busti Avenue	110.27-1-16.1	Vacant Land	Bridges Development Inc 268 Trenton Avenue Buffalo, NY

LEGEND:

- BCP SITE BOUNDARY
- PARCEL BOUNDARY



SCALE: 1 INCH = 75 FEET
SCALE IN FEET
(approximate)



ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

PREPARED FOR
BUFFALO LAKEVIEW LLC



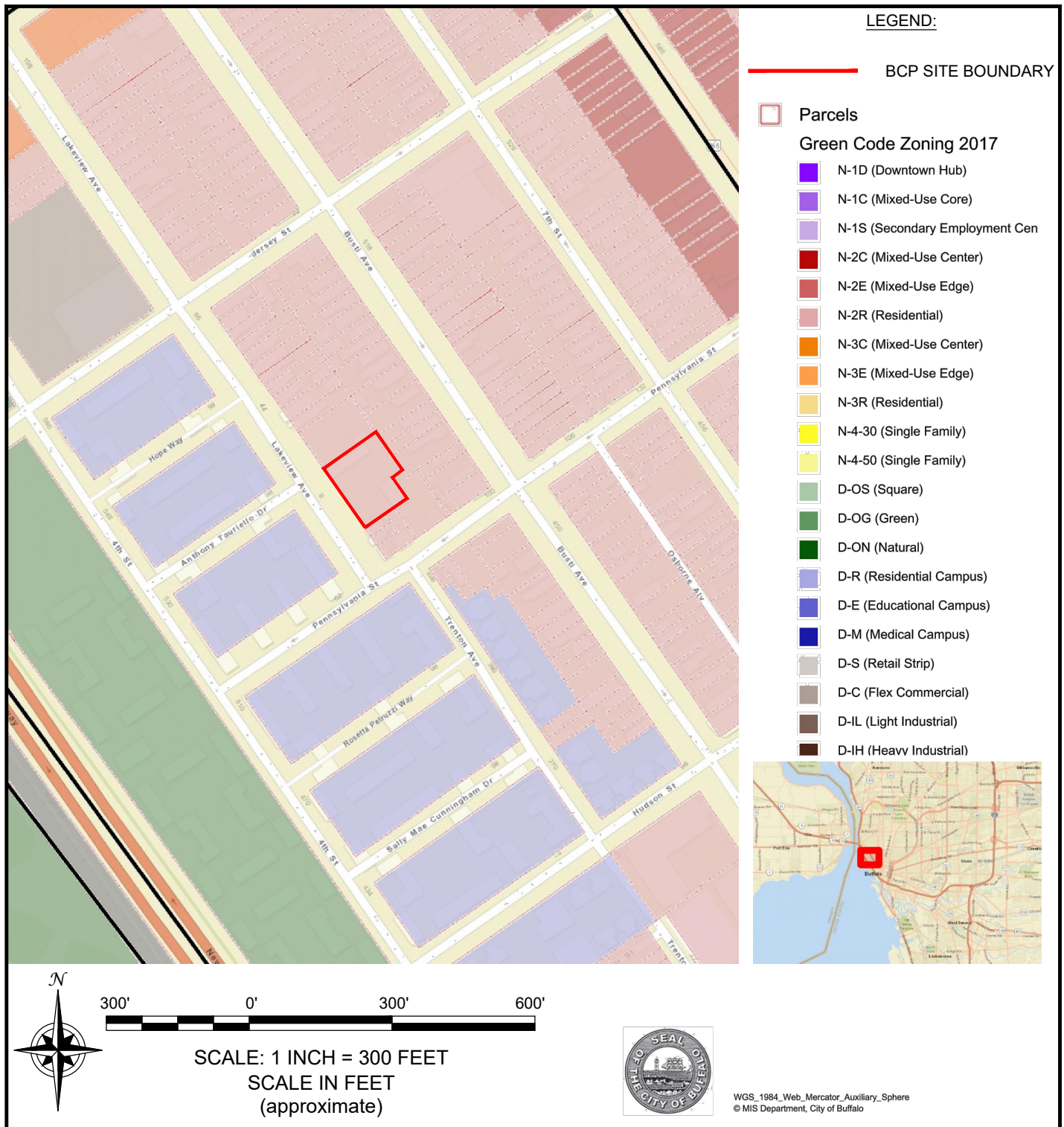
JOB NO.: 0533-020-001


FIGURE 9

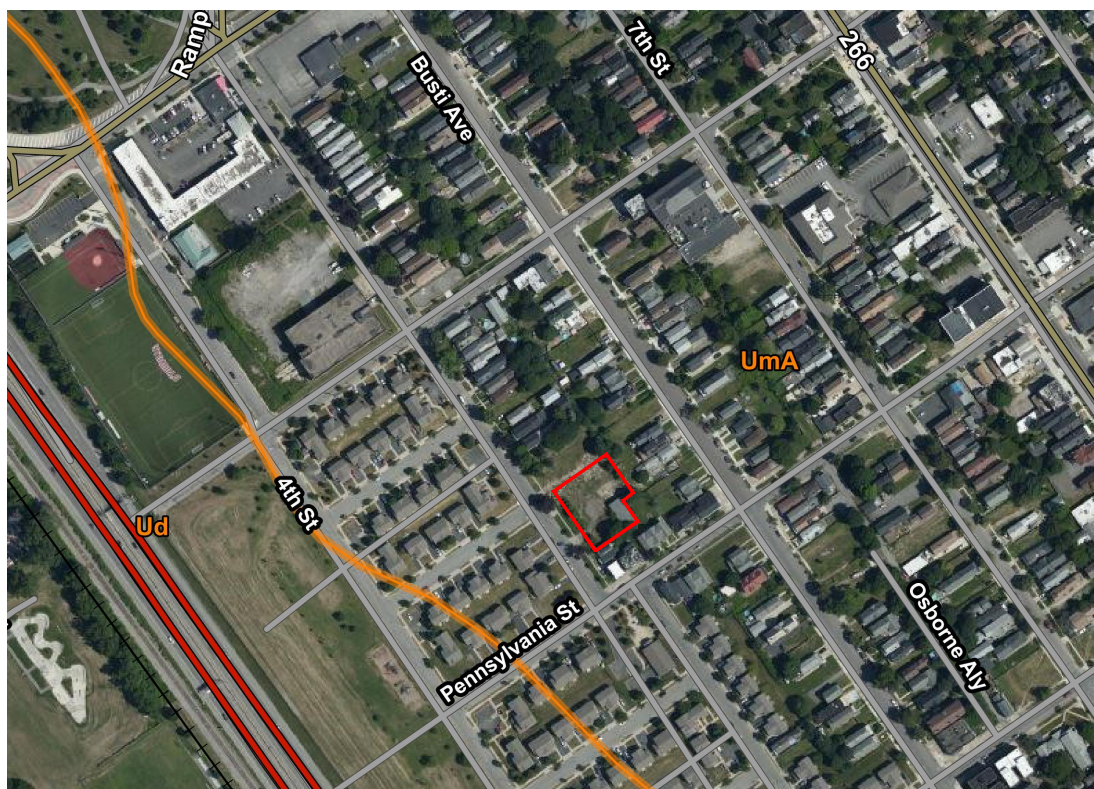
DATE: MAY 2020
DRAFTED BY: CEH

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FIGURE 10



 <p>2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 858-0635</p>	<h2 style="margin: 0;">ZONING MAP</h2> <h3 style="margin: 10px 0 0 0;">BROWNFIELD CLEANUP PROGRAM APPLICATION</h3> <p style="margin: 10px 0 0 0;">9 LAKEVIEW AVENUE BUFFALO, NEW YORK</p> <p style="margin: 10px 0 0 0;">PREPARED FOR BUFFALO LAKEVIEW LLC</p>
PROJECT NO.: 0533-020-001	
DATE: MAY 2020	
DRAFTED BY: CEH	
<p><small>DISCLAIMER: PROPERTY OF 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 TURNKEY ENVIRONMENTAL RESTORATION, LLC.</small></p>	



LEGEND:

— BCP SITE BOUNDARY

MAP UNIT SYMBOL

Ud - URBAN LAND
UmA - URBAN LAND-COLLAMER COMPLEX
1 TO 6 PERCENT SLOPES

USDA Natural Resources Conservation Service Web Soil Survey National Cooperative Soil Survey



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



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0635

PROJECT NO.: 0533-020-001

DATE: MAY 2020

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SOIL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

9 LAKEVIEW AVENUE
BUFFALO, NEW YORK

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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

RESOLUTION OF MEMBERS

ERIE COUNTY PARCEL DETAIL REPORT

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

SECTION I – REQUESTOR INFORMATION

The Applicant, Buffalo Lakeview LLC is authorized to conduct business in New York State. Fred LoFaso is the sole owner of Buffalo Lakeview LLC. A copy of the New York State Corporation and Business Entity Database printout for Buffalo Lakeview LLC is included in Appendix A.

The Signature Resolution, which identifies Fred LoFaso as the authorized member of Buffalo Lakeview LLC and as the authorized person to execute documents or agreements necessary under the Brownfield Cleanup Program (BCP) is also included in Appendix A.

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 BCP project.

SECTION II – PROJECT DESCRIPTION

Buffalo Lakeview LLC, acting as a Volunteer, is willing to complete additional investigation and remediate 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 redevelopment plan has not been finalized. However, the Volunteer anticipates redeveloping the entire 0.42-acre Site into a three-story apartment building for residential use with an associated asphalt parking lot and green space. Some or all apartments may be affordable housing. A project rendering is included as Figure 6.

The Project will result in the remediation and redevelopment of an environmentally impacted Site located on Lakeview Avenue between Jersey Street and Pennsylvania Street in the City of Buffalo, Erie County, New York.

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation completed for the 9 Lakeview Avenue Site (hereinafter, the “Site”) is provided below.

March 2020 Phase II Environmental Investigation

TurnKey Environmental Restoration, LLC (TurnKey) completed Phase II investigation activities at the Site in August 2016 and March 2020 and summarized the results in a Phase II Environmental Investigation report dated March 2020. The investigation included six test pits (TP-1 through TP-6) completed using an excavator to target depths between 4 and 8 feet below ground surface (fbgs). Additionally, three hand core soil/fill samples (HC-1 through HC-3) were collected beneath the concrete floor of the existing structure (Building 1), and two hand core samples (HC-4 and HC-5) were collected from the exterior of the Site proximate to the northeast and northwest corners of Building 1. Hand core samples were collected using a hand auger from the 0 to 0.5-foot (ft) interval. Findings of TurnKey’s Phase II Environmental Investigation are detailed below:

- The Site, located within a historical industrial area, has a history of automotive repair with staining, apparently associated with historic discharges, noted to earthen ground surfaces in several areas throughout the Site.
- Automotive-related fluids in containers of various sizes and automotive parts were observed scattered throughout the interior and exterior areas of Building 1 and removed during Phase II investigation activities.
- Fill materials with ash, cinders, slag, brick, glass fragments, etc. were noted across the Site during the work. Black stained soil/fill was noted at TP-1, TP-3, and HC-2.
- TP-4 (4-6 fbgs) exhibited an elevated photoionization detector (PID) reading of 465.5 ppm and petroleum-like odors.
- Petroleum-like odors were also noted proximate to two buried metal pipes encountered at TP-5. It is possible that these pipes are product piping related to an abandoned underground storage tank (UST).
- Elevated polycyclic aromatic hydrocarbons (PAHs) and/or metals were detected at concentrations above 6 NYCRR Part 375 Soil Cleanup Objectives (SCOs), including Restricted-Residential SCOs (RRSCOs, the applicable SCOs for the Site since

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

development of an apartment building is planned), in samples collected from the fill material across the Site. Laboratory analytical results revealed the following:

- Acetone was detected exceeding its Unrestricted SCO (USCO, 0.05 mg/kg) at TP-2 (0.065 mg/kg).
- PAHs including benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, and indeno(1,2,3-cd)pyrene were detected exceeding USCOs and RRSCOs at one test pit location (TP-2) and two hand core locations (HC-1 and HC-2).
- Arsenic was detected exceeding its USCO (13 mg/kg) at HC-2 (13.5 mg/kg) and its RRSCO (16 mg/kg) at TP-1 (16 mg/kg), HC-1 (23.9 mg/kg), HC-3 (70.7 mg/kg), and HC-5 (21.2 mg/kg).
- Barium was detected exceeding its RRSCO (400 mg/kg) at HC-3 (1180 mg/kg).
- Cadmium was detected exceeding its USCO (2.5 mg/kg) at HC-1 (2.7 mg/kg) and HC-5 (3.34 mg/kg) and its RRSCO (4.3 mg/kg) at HC-2 (4.78 mg/kg) and HC-3 (5.59 mg/kg).
- Chromium was detected exceeding its USCO (30 mg/kg) at HC-5 (70.3 mg/kg).
- Lead was detected exceeding its USCO (63 mg/kg) at TP-1 (96 mg/kg), TP-2 (100 mg/kg), and HC-5 (354 mg/kg) and its RRSCO (400 mg/kg) at HC-1 (493 mg/kg), HC-2 (1070 mg/kg), and HC-3 (473 mg/kg).
- Mercury was detected exceeding its USCO (0.18 mg/kg) at TP-2 (0.26 mg/kg), HC-1 (0.541 mg/kg), HC-2 (0.297 mg/kg), and HC-3 (0.422 mg/kg).

Investigation locations and findings are shown on Figure 7.

SECTION IV – PROPERTY INFORMATION

Legal Parcel Description

The 9 Lakeview Avenue Site, subject to this BCP application, is located in a highly developed residential and commercial area in the City of Buffalo (see Figures 1 - 3). The ±0.42-acre Site consists of one tax parcel addressed at 9 Lakeview Avenue, Buffalo, Erie County, New York (SBL No. 110.27-1-4).

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

The Erie County tax parcel detail report for the Site is provided for reference in Appendix A.

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located within the limits of EN-Zone Type B, designated census tract 70 (see Figure 8).

The Site is not located within the limits of a Brownfield Opportunity Area (BOA).

Easements

The Site has access to municipal sanitary sewer, electric, natural-gas, and public potable water. Utilities are located in the right-of-way along Lakeview Avenue. Buffalo Lakeview LLC is unaware of any other easements on the Site.

Location

The Site is located on Lakeview Avenue between Jersey Street and Pennsylvania Street in a highly developed residential and commercial area in the City of Buffalo, Erie County, New York. The Site is bordered by residential and vacant residential property to the north, residential and commercial property to the south, Lakeview Avenue and commercial apartments to the west, and residential properties to the east. Adjacent property owners are identified on Figure 9.

Site Features

The Site is currently developed with one structure (Building 1) located on the eastern portion of the Site. Building 1 is an existing garage and was historically used as an automotive repair facility until prior to May 2016, when Buffalo Lakeview LLC purchased the property. A second structure, Building 2, was a residence on the northern portion of the Site, and was demolished in July 2017 due to a fire. Undeveloped portions of the Site are covered by asphalt, gravel, or vegetation.

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

Zoning and Land Use

According to The Buffalo Green Code's Land Use Plan (2016), the current zoning for the Site is N-2R (Residential, See Figure 10). The current use of the Site is commercial and vacant land.

The surrounding parcels are as follows:

- north – residential/vacant residential;
- south – residential/commercial;
- east – residential; and,
- west – commercial (apartments).

The anticipated future use of the Site is residential apartments. Therefore, the planned development is consistent with the Buffalo Green Code's Land Use Plan.

Past Use of the Site

The Site is located in a historic residential, commercial, and industrial area. The Site was developed with five separate residential buildings with associated structures from at least 1889 through at least 1925. In at least 1951 three structures remained at the Site including the existing Building 1, which was used as a motor freight station, former Building 2, which was a residence with a garage and storage building attached and demolished in 2017, and a second former residence which was demolished in the 1960s. Building 1 was most recently used as an auto body/tire shop and is now vacant. The exterior area of Building 1 was used as a storage/disposal area for automotive parts.

A previous Phase II Environmental Investigation identified PAHs and metals in the soil/fill across the Site at concentrations exceeding USCOs and RRSCOs. The elevated PAHs and metals are likely indicative of the fill material conditions across the Site. Black staining and petroleum odors observed at the Site, along with the historic Site operations, suggest that a

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

further investigation of potential volatile organic compounds (VOCs) is needed. Subsurface conditions will be further assessed as part of a Remedial Investigation (RI).

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 overburden geology is generally described as fill materials, mainly consisting of ash, brick, slag, and glass fragments to depths of at least 3 fbs overlying native sand or combinations of sand and clay to at least 8 fbs. The Site overlies the Onondaga Formation of the Middle Devonian Series. The Onondaga Formation is comprised of a varying texture from coarse to very finely crystalline with a dark gray to tan color and chert and fossils within. The unit has an approximate thickness of 110 to 160 feet. Bedrock was not encountered during the previous investigation.

According to the United States Department of Agriculture (USDA) Web soil survey, the majority of Site soils are characterized as Urban land – Collamer Complex (UmA). Urban land is characterized where 80 percent or more of the soil surface is covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment. The Urban land Collamer complex is defined as 60% urban land, 30% Collamer complex soils (and similar soils), and 10% minor components. The Collamer complex soils are characterized as moderately well drained with a slope of 1 to 6 percent (Figure 11).

Regional groundwater likely flows west towards Lake Erie, located approximately 0.4 miles from the Site. Local groundwater flow however may be influenced by subsurface features such as excavations, utilities, and localized fill conditions.

Groundwater was not encountered during TurnKey's Phase II Environmental Investigation. However, monitoring wells to assess and characterize groundwater flow patterns and quality are planned to be installed during the Remedial Investigation.

APPENDIX A
BCP Application – Part A
Section I – Section IV
9 Lakeview Avenue Site

The Site is not located within or proximate to any state or federally regulated wetlands or floodplains.

Environmental Assessment Narrative

PAHs and metals were identified as the primary contaminants of concern and are reasonably attributed to fill materials from unknown origins. Acetone was observed exceeding USCOs at TP-2, however no other VOCs were detected above SCOs. Black staining and petroleum odors observed at the Site, along with historic Site operations, suggest that a further investigation of VOCs is needed. Figure 7 summarizes the environmental impacts identified in the previous investigations. Additional information relative to environmental impacts at the Site is provided below:

Soil – PID readings were detected between 0 and 465.5 ppm (TP-4) at the Site. Black-staining was observed at TP-1, TP-3, and HC-2, and a petroleum odor was observed throughout TP-4 (3-8 fbgs) and proximate to pipes found at TP-5 from 2-4 fbgs. Laboratory analytical results indicate PAHs exceeding USCOs and RRSCOs at 1 of 6 test pit locations (TP-2) and 2 of 5 hand core locations (HC-1 and HC-2). The highest concentrations were observed at HC-1 including benzo(a)pyrene (6.6 mg/kg), benzo(a)anthracene (9.1 mg/kg) and benzo(b)fluoranthene (9.6 mg/kg), which exceeded their RRSCO (1 mg/kg). Metals including arsenic, barium, cadmium, chromium, lead, and mercury were also detected exceeding USCOs and RRSCOs at 2 of 6 test pit locations (TP-1 and TP-2) and 4 of 5 hand core locations (HC-1, HC-2, HC-3, and HC-5). The highest metal detections included arsenic exceeding its RRSCO (16 mg/kg) at HC-3 (70.7 mg/kg), barium exceeding its RRSCO (400 mg/kg) at HC-3 (1180 mg/kg), cadmium exceeding its RRSCO (4.3 mg/kg) at HC-3 (5.59 mg/kg), and lead exceeding its RRSCO (400 mg/kg) at HC-2 (1070 mg/kg).

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 May 8, 2020.

Selected Entity Name: BUFFALO LAKEVIEW LLC

Selected Entity Status Information

Current Entity Name: BUFFALO LAKEVIEW LLC

DOS ID #: 4944337

Initial DOS Filing Date: MAY 10, 2016

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)

HOPKINS SORGI & ROMANOWSKI PLLC

26 MISSISSIPPI STREET

SUITE 400

BUFFALO, NEW YORK, 14203

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
MAY 10, 2016	Actual	BUFFALO LAKEVIEW 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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BUFFALO LAKEVIEW, LLC

WRITTEN CONSENT OF THE SOLE MEMBER

May 14, 2020

The undersigned being the managing member and sole holder of all of the membership interest of **BUFFALO LAKEVIEW, LLC**, an New York limited liability company (the "Company"), hereby consents to the adoption of the following resolutions without a meeting and directs that this Consent be filed with the minutes of the Company:

RESOLVED, that Frederic LoFaso (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 owned by the Company located at 9 Lakeview Avenue, Buffalo, NY; 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 Written Consent of Sole Member as of the date first set forth above.



Mr. Frederic LoFaso, Owner

Erie County On-Line Mapping System

Parcel Detail Report

Report generated:
5/11/2020 4:43:53 PM



Parcel Overview Map



Parcel Detail Map

PIN: 1402001102700001004000

SBL: 110.27-1-4

Address: 9 LAKEVIEW

Owner 1: BUFFALO LAKEVIEW LLC

Owner 2:

Mailing Address: 26 MISSISSIPPI ST

City/Zip: BUFFALO NY 14203

Municipality: City of Buffalo

Property Class: 433

Class Description: C - Auto body

Front: 100

Depth: 107

Deed Roll: 1

Deed Book: 11295

Deed Page: 9505

Deed Date:

Acreage: 0.4173546

Total Assessment: \$25,000

Land Assessment: \$18,500

County Taxes: \$25,000

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

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

APPENDIX B
BCP Application – Part B
Section V – Section X
9 Lakeview Avenue 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.

Property Information	Use	Approx. Date(s)	Relationship to Applicant
9 Lakeview Avenue			
Current Owner (Applicant)			
Buffalo Lakeview LLC 356 Hertel Avenue Buffalo, NY 14207	Commercial/Vacant Commercial	May 2016 to Present	Applicant
Past Owners			
James D. De Cecco	Commercial	1976-2016	Past Owner No Relationship
Unknown Owners	Commercial/Residential	Prior to 1976	Past Owner No Relationship

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, Buffalo Lakeview 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:

- Polycyclic aromatic hydrocarbons (PAHs) and metals impacts at the Site are reasonably attributed to fill materials from unknown origins and historic operations (motor freight station, automotive repair) completed by previous owners/occupants.
- The Applicant became involved with the property after disposal or discharge of contaminants and has no relationship with the previous owners/operators of the Site. Building 2 was formerly used as an auto repair shop, but operations ceased prior to the Applicant purchasing the property.
- The Applicant has taken steps since purchasing the property to limit human and environmental exposure to the contamination remaining at the Site. The Applicant demolished one structure deemed unsafe and removed automotive parts and fluids from inside and surrounding the remaining structure. The Applicant also constructed a fence around the property to keep the Site secure.

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Based on the information herein, Buffalo Lakeview 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

Honorable Howard Johnson
Erie County Legislator, 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
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. John Cappellino
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

City of Buffalo Contacts:

Byron W. Brown, Major
City of Buffalo
65 Niagara Square, Room 201

Darius G. Pridgen, Councilman
City of Buffalo, Ellicott District
65 Niagara Square, Room 1315

APPENDIX B
BCP Application – Part B
Section V – Section X
9 Lakeview Avenue Site

Buffalo, NY 14202

Buffalo, NY 14202

James A. Morrell, Chairman
City of Buffalo Planning Board
65 Niagara Square, Room 901
Buffalo, NY 14202

Supplier of Potable Water:

Buffalo Water Department
281 Exchange Street
Buffalo, NY 14204

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

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

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9 Lakeview Avenue Site

Nearby Schools:

Mr. Rafael Perez
PS 30 Frank A Sedita Academy
21 Lowell Place
Buffalo, NY 14213

Mr. Freddy Barrera, Principal
PS 3 D’Youville Porter Campus School
255 Porter Avenue
Buffalo, NY 14201

Mr. Gregory Lodinsky, Principal
PS 212 Leonardo da Vinci High School
320 Porter Avenue
Buffalo, NY 14201

Mr. Martin Buchnowski, Principal
PS 198 International Preparatory School
110 14th Street
Buffalo, NY 14213

Mr. Cortland Purks, Executive Director
Holy Cross Head Start
150 Maryland Street
Buffalo, NY 14201

Ms. Danielle Bruno, Director/Principal
Elmwood Village Charter School Days Park
40 Days Park
Buffalo, NY 14201

Ms. Kathryn Foy, Principal
PS 76 Herman Badillo Bilingual Academy
315 Carolina Street
Buffalo, NY 14201

Dr. Gabrielle Morquecho
Hutchinson Central Technical High School
256 South Elmwood Avenue
Buffalo, NY 14201

Dr. Acar, President
Buffalo Science Academy Charter School
190 Franklin Street
Buffalo, NY 14202

Mr. Terence Jenkins
PS 95 Waterfront Elementary
95 Fourth Street
Buffalo, NY 14202

Other Interested Parties:

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

APPENDIX B
BCP Application – Part B
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Document Repository:

April Tompkins
Deputy Director
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203

Jason Barone, Branch Manager
Isaías González-Soto Branch Library
Buffalo & Erie County Public Library
280 Porter Avenue
Buffalo, NY 14201

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9 Lakeview Avenue Site

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 9).

Adjacent Property Address				Property Owner Mailing Address
No	Street	S.B.L.	Property Description	
3	Lakeview Avenue	110.27-1-1	Residential/ Commercial	Front Park Property Management Inc. 72 Pennsylvania Street Buffalo, NY 14201
7	Lakeview Avenue	110.27-1-3	Residential	United Christian Missionary Church 251 West Ave Buffalo, NY 14201
25	Lakeview Avenue	110.27-1-5.1	Vacant Land	PDY Realty LLC 1608 Dodge Road East Amherst, NY 14051
30	Hudson Street	110.07-2-4.1	Residential	Buffalo Municipal Housing Authority 74 Hudson Street Buffalo, NY 14201
82	Pennsylvania Street	110.27-1-26.1	Residential	Lower West Side Homes 300 Perry Street Buffalo, NY 14204
468	Busti Avenue	110.27-1-20.1	Residential	Ricardo Santos 472 Busti Avenue Buffalo, NY 14201
472	Busti Avenue	110.27-1-19	Residential	Ricardo Santos 472 Busti Avenue Buffalo, NY 14201
474	Busti Avenue	110.27-1-18	Residential	DJY Property LLC 474 Busti Avenue Buffalo, NY 14201
476	Busti Avenue	110.27-1-16.1	Vacant Land	Bridges Development Inc 268 Trenton Avenue Buffalo, NY 14201

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Document Repository

The Buffalo and Erie County Library, Isaías González-Soto Branch 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.

SECTION X – LAND USE FACTORS

1 – Current Zoning

As shown on Figure 10, the current zoning for the Site is N-2R (Residential). The anticipated future use of the Site is residential apartments. As such, the planned development is consistent with the Buffalo Green Code's Land Use Plan.

2 – Current Use

The Site is currently developed with one structure (Building 1) located on the eastern portion of the Site. Building 1 is an existing garage and was historically used as an automotive repair facility until prior to May 2016, when Buffalo Lakeview LLC purchased the property. A second structure, Building 2, was a residence on the northern portion of the Site, and was demolished in July 2017 due to a fire. Undeveloped portions of the Site are covered by asphalt, gravel, or vegetation.

The Site is located in a historic residential, commercial, and industrial area. The Site was developed with five separate residential buildings with associated structures from at least 1889 through at least 1925. In at least 1951 three structures remained at the Site including the existing Building 1, which was used as a motor freight station, former Building 2, which was a residence with a garage and storage building attached and demolished in 2017, and a second former residence which was demolished in the 1960s. Building 1 was most recently used as an auto body/tire shop and is now vacant. The exterior area of Building 1 was used as a storage/disposal area for automotive parts.

A previous Phase II Environmental Investigation identified PAHs and metals in the soil/fill across the Site at concentrations exceeding USCOs and RRSCOs. The elevated PAHs and

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9 Lakeview Avenue Site

metals are likely indicative of the fill material conditions across the Site. Black staining and petroleum odors observed at the Site, along with the historic Site operations, suggest that a further investigation of potential volatile organic compounds (VOCs) is needed. Subsurface conditions will be further assessed as part of a Remedial Investigation (RI).

3, 4, 5 and 6 – Planned Future Use

The redevelopment plan has not been finalized; however the Volunteer anticipates redeveloping the entire 0.42-acre Site into a three-story apartment building for residential use with an associated asphalt parking lot and green space. Some or all apartments may be affordable housing. A project rendering is included as Figure 6.

Redevelopment will be consistent with the zoning as presented in the Buffalo Green Code's Land Use Plan.



May 12, 2020

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

Re: Document Repository for Brownfield Cleanup Program
9 Lakeview Avenue Site
Buffalo, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC in association with TurnKey Environmental Restoration, LLC would like to request the Buffalo & Erie County Public Library – Isaías González-Soto Branch to act as the document repository for the above-referenced Site. In the future, we will be sending various documents related 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,
Benchmark Environmental Engineering & Science, PLLC
TurnKey Environmental Restoration, LLC

A handwritten signature in blue ink that reads 'Chelsea Kanaley'.

Chelsea Kanaley
Geologist

File: 0533-010-001

Strong Advocates, Effective Solutions, Integrated Implementation

www.benchmarkturnkey.com

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

From: [Jeannine Doyle](#)
To: [Chelsea N. Kanaley](#)
Cc: [April Tompkins](#)
Subject: RE: Document Repository Request - 9 Lakeview Avenue Site
Date: Wednesday, May 20, 2020 4:19:11 PM

Ok. That should not be a problem.

Jeannine M. Doyle
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, New York 14203
(716) 858-7191

-----Original Message-----

From: Chelsea N. Kanaley <ckanaley@bm-tk.com>
Sent: Wednesday, May 20, 2020 4:12 PM
To: Jeannine Doyle <doylejm@buffalolib.org>
Cc: April Tompkins <tompkinsa@buffalolib.org>
Subject: RE: Document Repository Request - 9 Lakeview Avenue Site

Hi Jeannine,

Thank you for your response. I understand that we will have to wait for the libraries to be open before we are able to send the document to the repository.

We would like to submit the application as soon as possible. Once the application has been submitted, it will be reviewed. This process will likely take at least a month. Once the application is deemed complete, we would like to send the document to the repository.

Thanks,
Chelsea

-----Original Message-----

From: Jeannine Doyle <doylejm@buffalolib.org>
Sent: Wednesday, May 20, 2020 3:20 PM
To: Chelsea N. Kanaley <ckanaley@bm-tk.com>
Cc: April Tompkins <tompkinsa@buffalolib.org>
Subject: FW: Document Repository Request - 9 Lakeview Avenue Site

Hi Chelsea, I am sorry for the delayed response. Our libraries are currently closed to the public. We anticipate being open to the public as NY reopens gradually. Please advise of your timeframe?

Thanks.

Jeannine

Jeannine M. Doyle
Chief Operating Officer
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, New York 14203
(716) 858-7191

-----Original Message-----

From: Chelsea N. Kanaley [ckanaley@bm-tk.com]
Sent: Tuesday, May 12, 2020 1:42 PM
To: April Tompkins
Subject: Document Repository Request - 9 Lakeview Avenue Site

Dear Ms. Tompkins,

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

Thank you,
Chelsea Kanaley

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Facebook<<https://www.facebook.com/buffaloliblibrary.central?ref=ts>>, Twitter<<https://twitter.com/buffaloliblibrary>>,

Instagram<<https://www.instagram.com/buffaloliblibrary/>>, Pinterest<<https://www.pinterest.com/buffaloliblibrary/>>,

Flickr<<https://www.flickr.com/photos/buffaloliblibrary/>> and on our podcast All Booked Up!

<<https://soundcloud.com/allbookedup>> Information: 716-858-8900 or <http://www.buffalolib.org>.

<<http://www.BuffaloLib.org>>

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Facebook<<https://www.facebook.com/buffalolibcentral?ref=ts>>, Twitter<<https://twitter.com/buffalolib>>,

Instagram<<https://www.instagram.com/buffalolib>>, Pinterest<<https://www.pinterest.com/buffalolib>>,

Flickr<<https://www.flickr.com/photos/buffalolib>> and on our podcast All Booked Up!

<<https://soundcloud.com/allbookedup>> Information: 716-858-8900 or <http://www.buffalolib.org>.

<<http://www.BuffaloLib.org>>

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