

# Brownfield Cleanup Program Application

*Ellicott and Oak Streets Site  
Buffalo, New York*

Revised September 2020

0395-020-004

Prepared For: Main Gateway, L.P.



Prepared By:

In Association With:



2558 Hamburg Turnpike, Suite 300, Buffalo, New York 14218 | phone: (716) 856-0599 | 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 Main Gateway, L.P.

ADDRESS 810 Main Street

CITY/TOWN Buffalo

ZIP CODE 14202

PHONE 716-689-3300 x203

FAX

E-MAIL FAC@LegacyDev.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			
SVOCs	X		
Metals	X		
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 7**

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 checked="" 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 checked="" type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill               | <input type="checkbox"/> Tannery                  | <input type="checkbox"/> Electroplating     | <input type="checkbox"/> Unknown                    |

Other: packing corporation, printing company, sausage factories, milling operation, automotive service, furniture factory, storefronts

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Ellicott and Oak Streets Site				
ADDRESS/LOCATION 324, 328, and 334 North Oak Street and 441 Ellicott Street				
CITY/TOWN Buffalo		ZIP CODE 14203		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 1.27		
LATITUDE (degrees/minutes/seconds) 42 ° 53 ' 26.24 "		LONGITUDE (degrees/minutes/seconds) 78 ° 52 ' 10.65 "		
<b>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.</b>				
Parcel Address	Section No.	Block No.	Lot No.	Acreage
See Appendix A; Section IV				
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site.			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the required property map attached to the application? (application will not be processed without map)			<span style="color: red; border: 1px solid red; padding: 2px;">See Figures 2, 3 &amp; 4</span> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information)			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
See Figure 8			If yes, identify census tract : 165	
Percentage of property in En-zone (check one):			<input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input checked="" type="checkbox"/> 100%	
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
7. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	



#### Section IV. Property Information (continued)

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: \_\_\_\_\_

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

<b>Section V. Additional Requestor Information</b> <b>See Instructions for Further Guidance</b>		DEC USE ONLY	
BCP SITE NAME: _____		BCP SITE #: _____	
NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Frank Chinnici			
ADDRESS 810 Main Street			
CITY/TOWN Buffalo		ZIP CODE 14202	
PHONE 716-689-3300 x203	FAX	E-MAIL FAC@LegacyDev.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	
<b>Section VI. Current Property Owner/Operator Information – if not a Requestor</b> See Appendix B; Section VII			
CURRENT OWNER'S NAME Same as Requestor		OWNERSHIP START DATE 5/6/2020	
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.			
<b>Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)</b> 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 <span style="border: 1px solid red; padding: 2px;">See Appendix B; Section X</span>	
<p>1. What is the current municipal zoning designation for the site? <u>N-1C (Mixed-Use Core)</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 checked="" type="checkbox"/> Industrial   <span style="border: 1px solid red; padding: 2px;">See Appendix B, Section X</span></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><b>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.</b></p>	
<p>3. Reasonably anticipated use Post Remediation: <input checked="" type="checkbox"/> Residential   <input checked="" type="checkbox"/> Commercial   <input type="checkbox"/> Industrial   (check all that apply)   <b>Attach a statement detailing the specific proposed use.</b></p> <p>If residential, does it qualify as single family housing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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 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 Managing Member (title) of Main Gateway, L.P. (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: 7/1/2020

Signature: 

Print Name: Frank Chinnici

### 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.

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**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
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see <a href="#">DEC's website</a> 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
<b>From ECL 27-1405(31):</b>	
<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>	
<b>From 6 NYCRR 375-3.2(I) as of August 12, 2016:</b> (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:** Ellicott and Oak Streets Site

**City:** Buffalo

**Site Address:** 324, 328, and 334 North Oak Street and 441 Ellicott Street

**County:** Erie

**Zip:** 14203

**Tax Block & Lot**

**Section (if applicable):**

**Block:**

**Lot:**

**Requestor Name:** Main Gateway, L.P.

**City:** Buffalo

**Requestor Address:** 810 Main Street

**Zip:** 14202

**Email:** FAC@LegacyDev.com

**Requestor's Representative (for billing purposes)**

**Name:** Frank Chinnici

**Address:** 810 Main Street

**City:** Buffalo

**Zip:** 14202

**Email:** FAC@LegacyDev.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 Project Rendering
Figure 7	Investigation Locations & Areas of Concern
Figure 8	En-Zone Map
Figure 9	Adjacent Property Owners
Figure 10	Zoning Map
Figure 11	USDA Soil Type Map



**FIGURE 1**



2500' 0' 2500' 5000'

SCALE: 1 INCH = 2500 FEET  
SCALE IN FEET  
(approximate)



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## SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

ELLICOTT AND OAK STREETS SITE

BUFFALO, NEW YORK

PREPARED FOR

MAIN GATEWAY, L.P.

PROJECT NO.: 0395-020-004

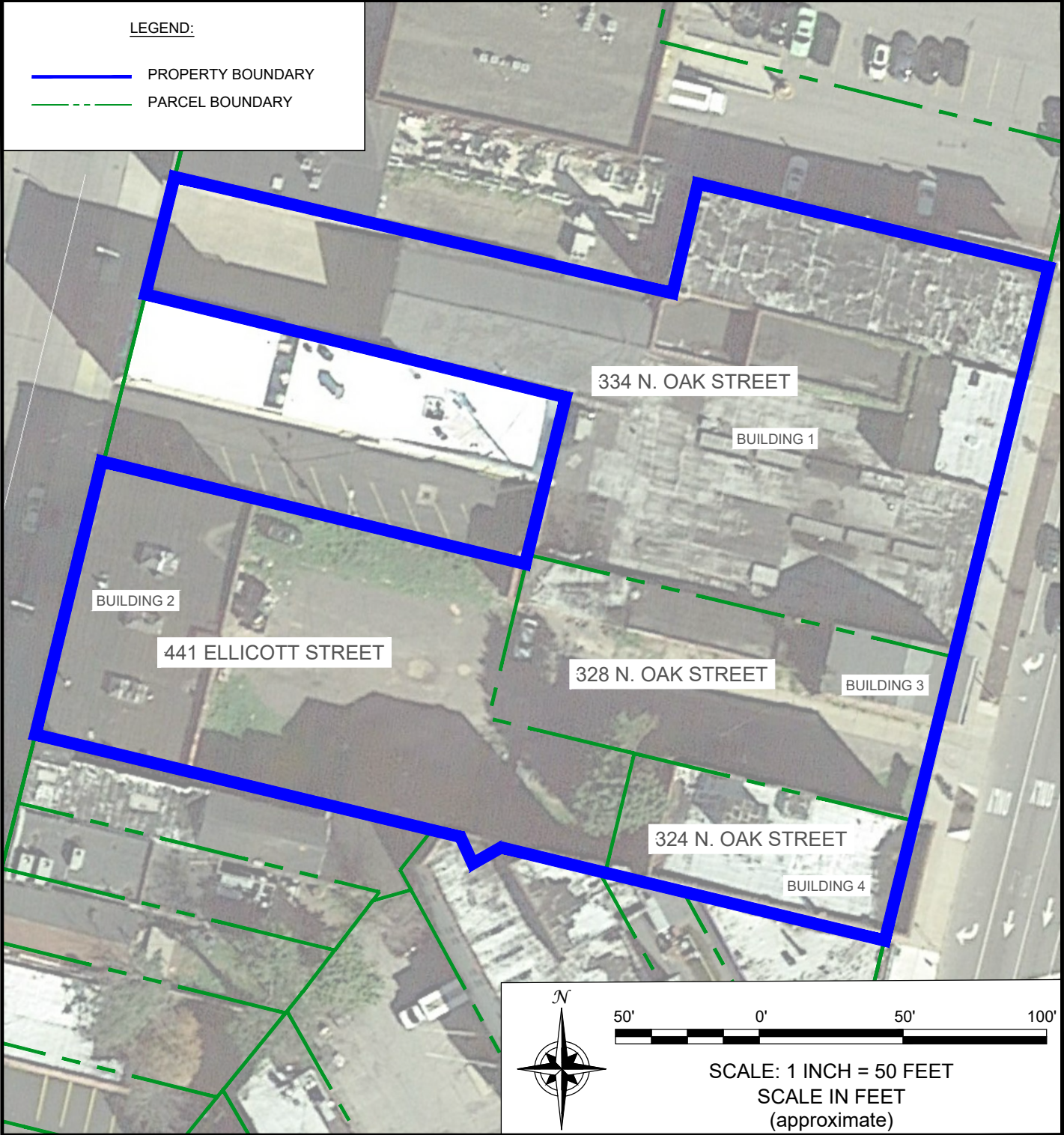
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DRAFTED BY: CEH

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**FIGURE 2**



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PROJECT NO.: 0395-020-004

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## SITE PLAN (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION

ELLICOTT AND OAK STREETS SITE

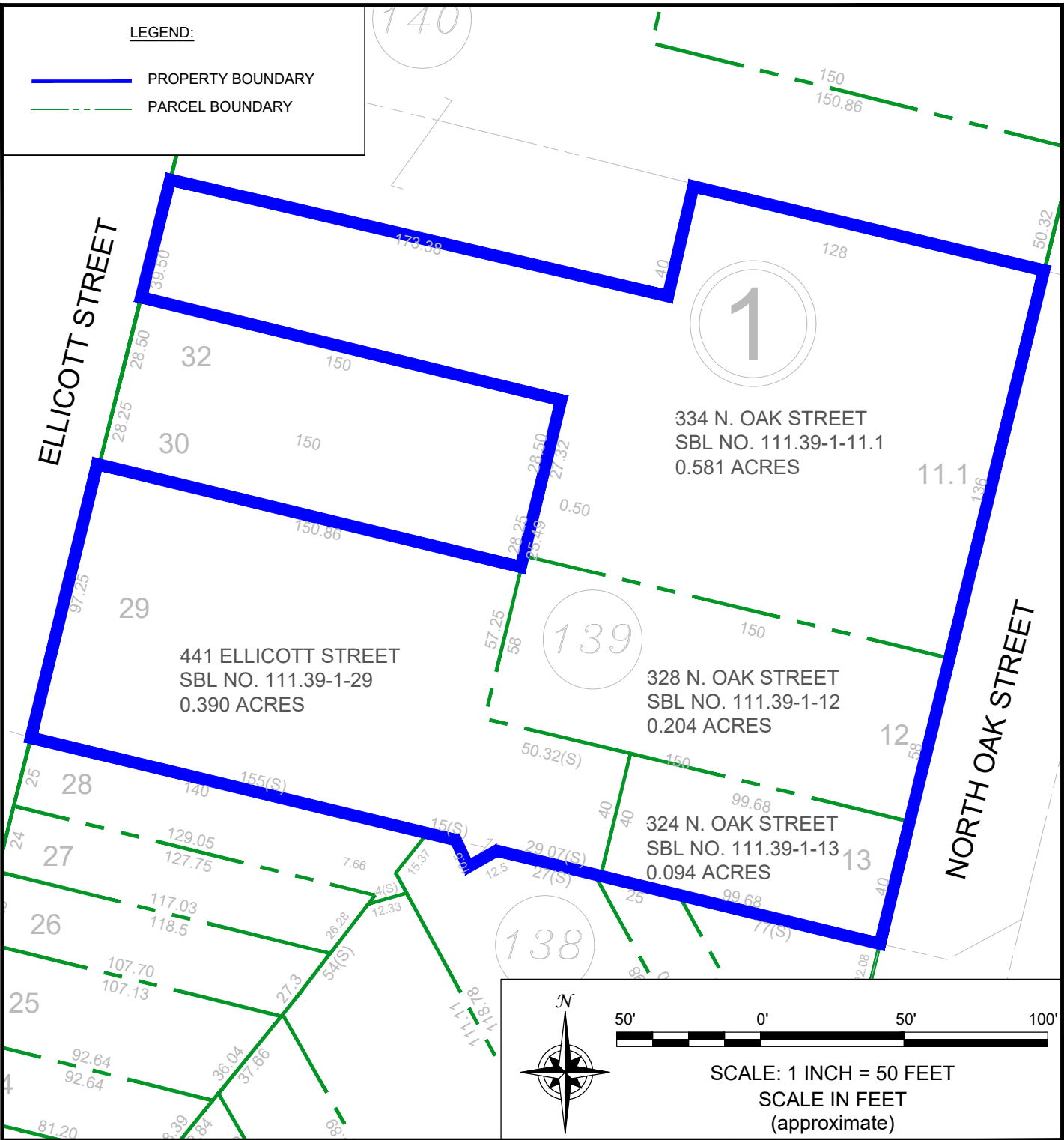
BUFFALO, NEW YORK

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**FIGURE 3**



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**TAX MAP**

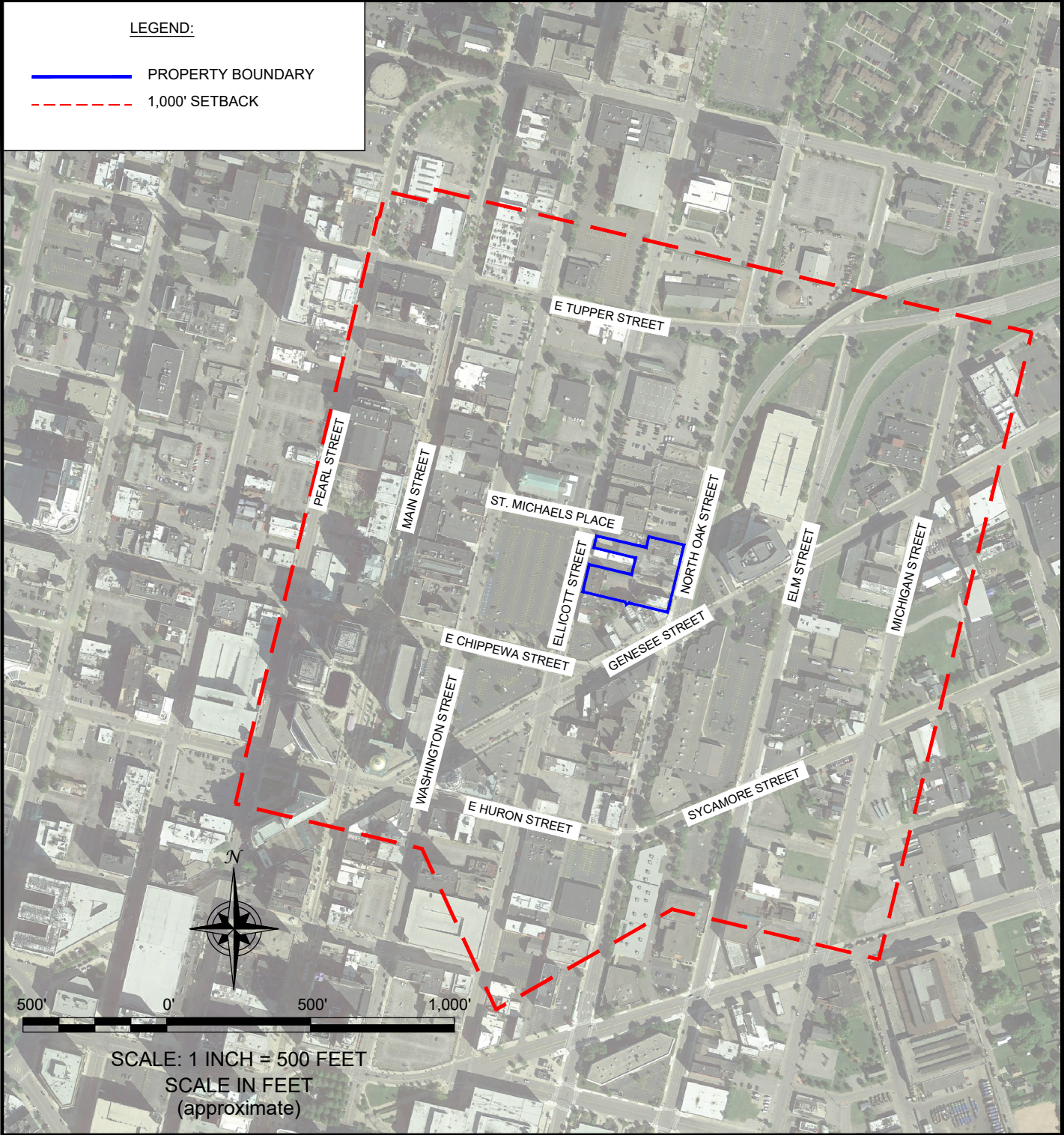
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ELLICOTT AND OAK STREETS SITE

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FIGURE 4



## PROPERTY BASEMAP (1,000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION

ELLICOTT AND OAK STREETS SITE

BUFFALO, NEW YORK

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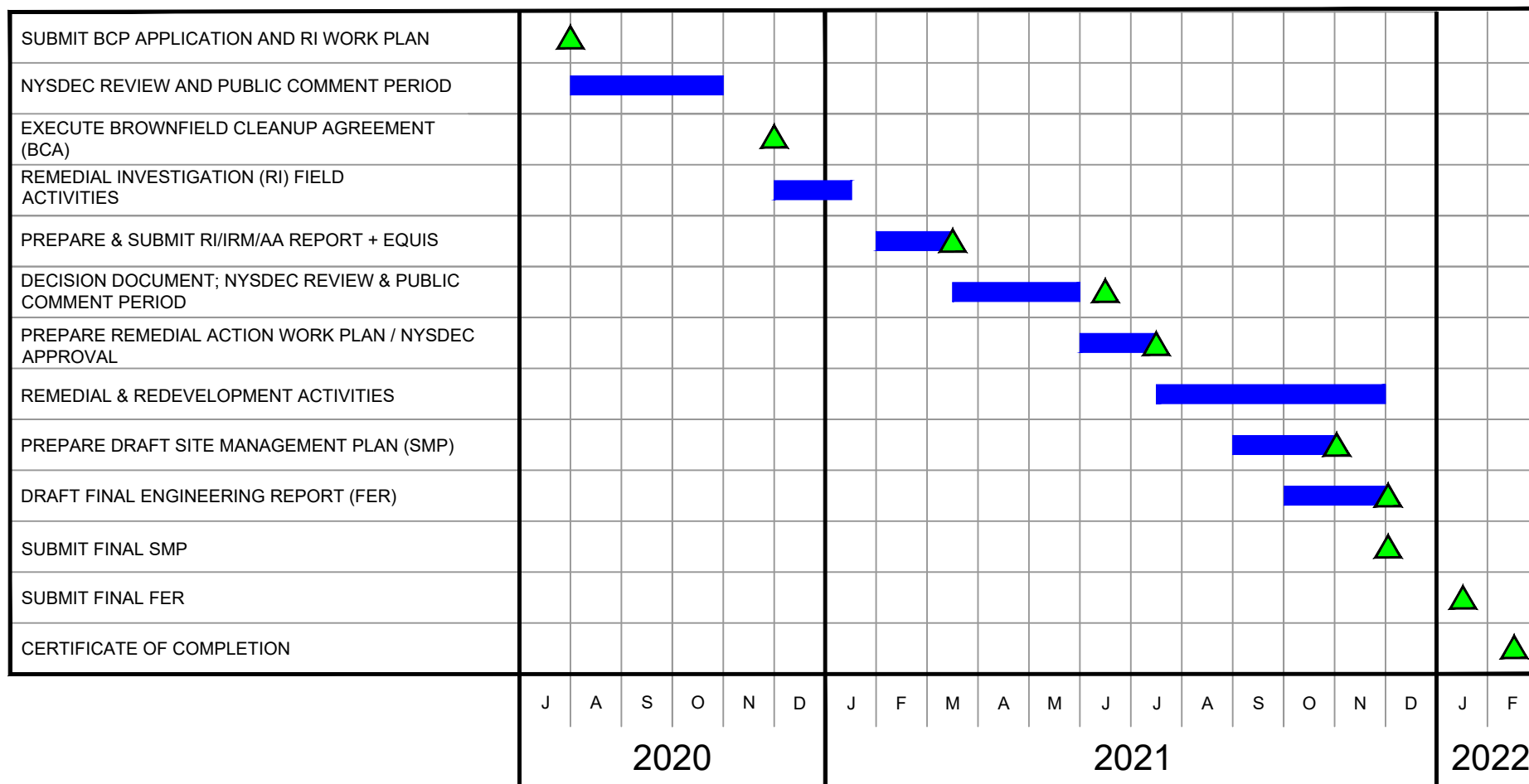
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# PROJECT TASKS:



IN  
ASSOCIATION  
WITH



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

PROJECT NO.: B0395-020-003

DATE: SEPTEMBER 2020

DRAFTED BY: CNK

## PRELIMINARY PROJECT SCHEDULE

BROWNFIELD CLEANUP PROGRAM APPLICATION

ELLCOTT AND OAK STREETS SITE

BUFFALO, NEW YORK

PREPARED FOR

MAIN GATEWAY, L.P.

FIGURE 5

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IMAGE FROM LEGACY GATEWAY DEVELOPMENT

**PRELIMINARY SITE RENDERING**

BROWNFIELD CLEANUP PROGRAM APPLICATION  
ELLICOTT AND OAK STREETS SITE

BUFFALO, NEW YORK  
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MAIN GATEWAY, L.P.



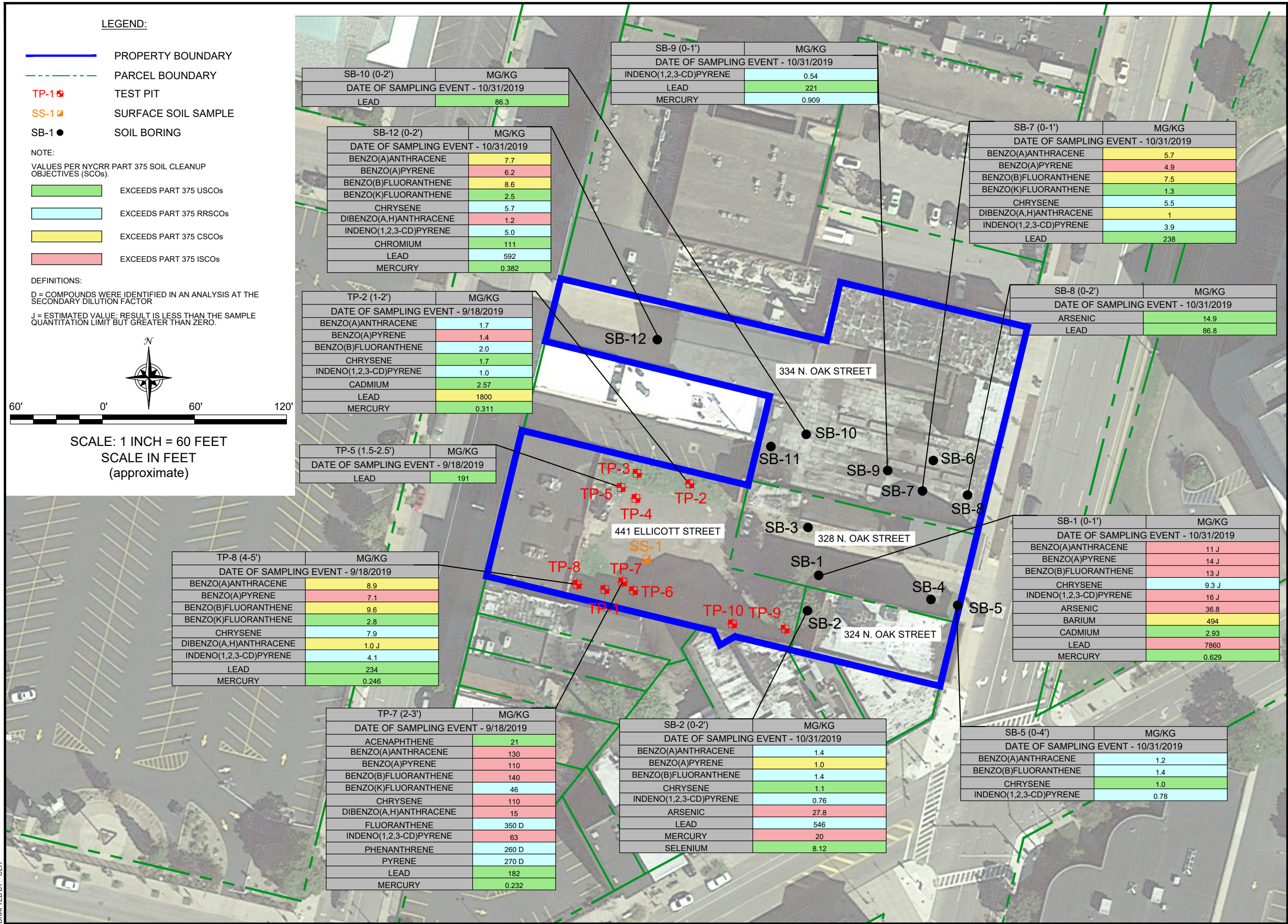
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JOB NO.: 0395-020-004

**FIGURE 6**

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## INVESTIGATION LOCATIONS & AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION  
ELLCOTT AND OAK STREETS SITE

BUFFALO, NY  
PREPARED FOR  
MAIN GATEWAY, L.P.

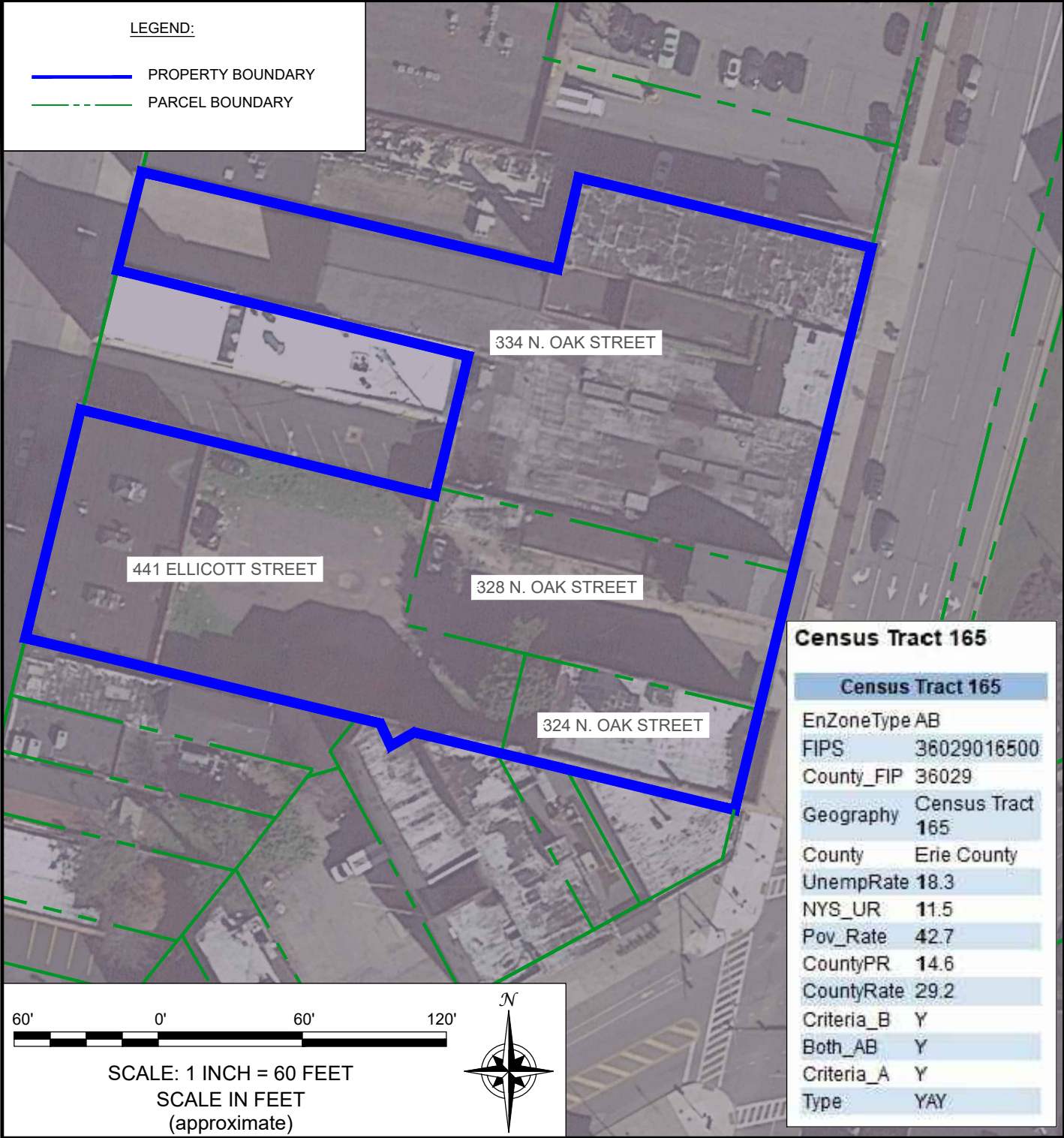
JOB NO.: 0395-020-004

FIGURE 7

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**FIGURE 8**



2558 HAMBURG TURNPIKE  
SUITE 300  
BUFFALO, NY 14218  
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## EN-ZONE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION  
ELLICOTT AND OAK STREETS SITE

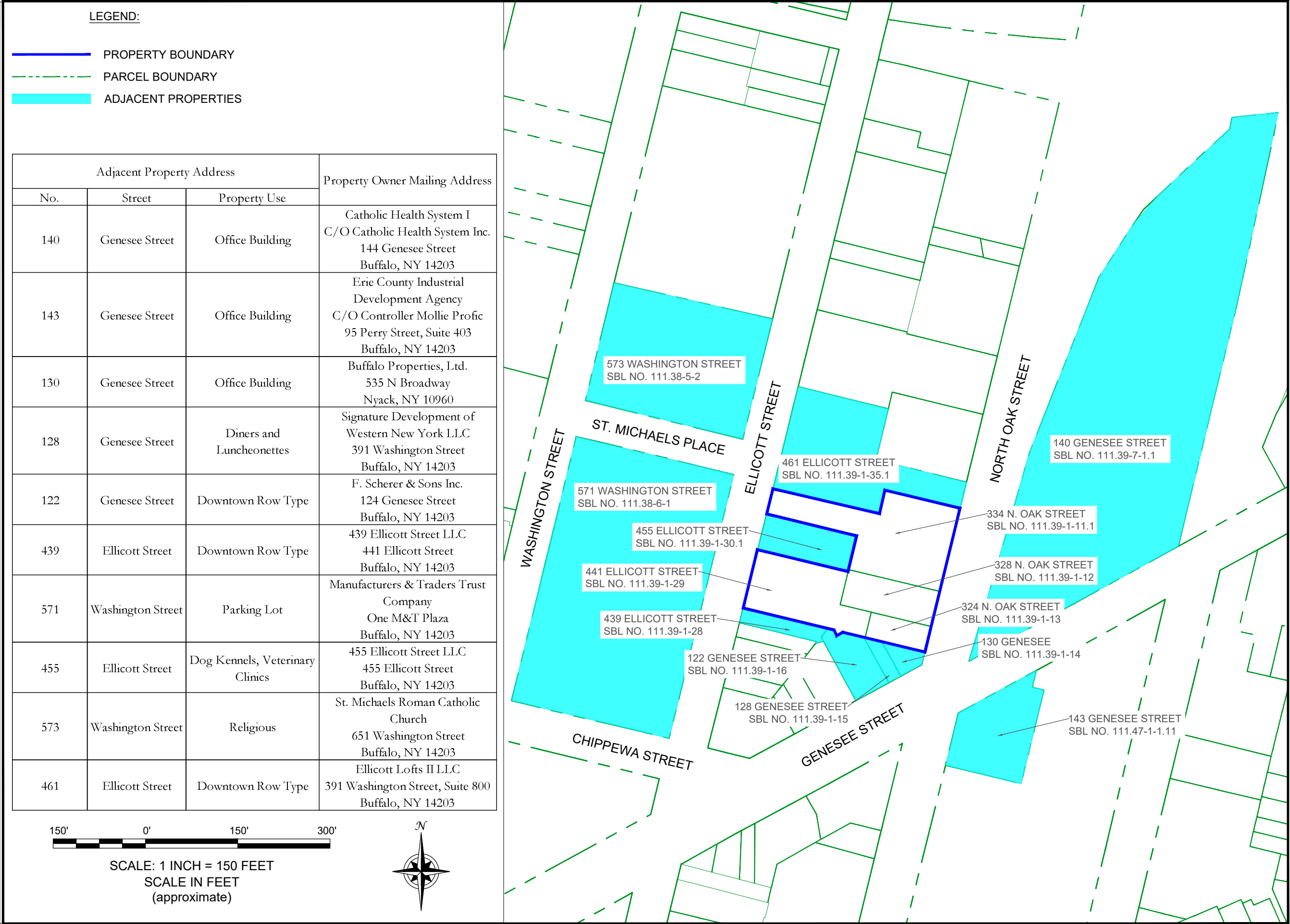
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F:\CAD\TurnKey\Legacy Development\441 Ellicott & 324-334 N. Oak Street\441 Ellicott Street & 324-334 North Oak Street\BCP Application\Figure 9: Adjacent Property Owners.dwg, 6/29/2020 4:35:00 PM

DATE: JUNE 2020  
DRAWN BY: ONK



**FIGURE 10**

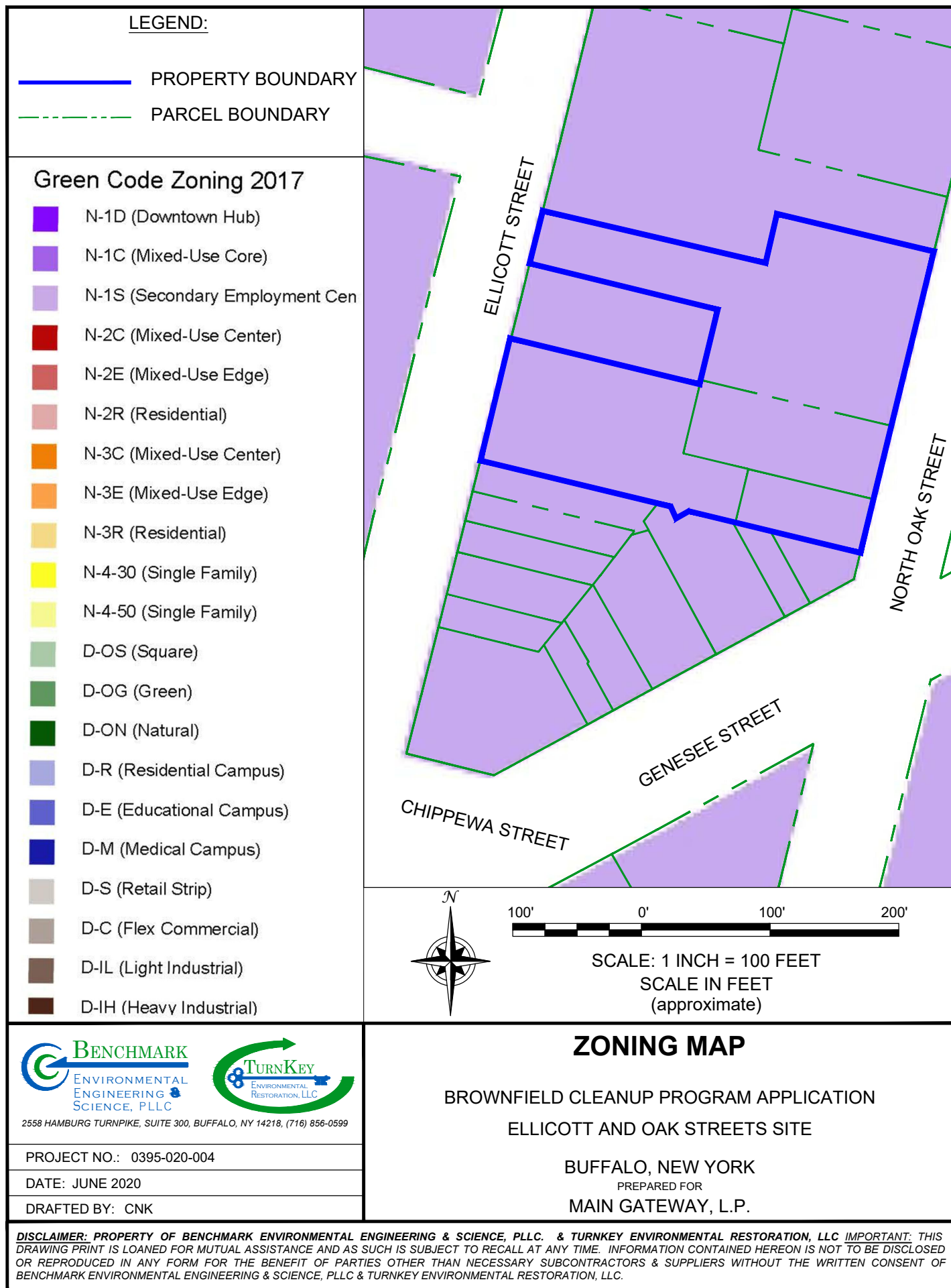




FIGURE 11



LEGEND:

——— PROPERTY BOUNDARY



SCALE: 1 INCH = 300 FEET  
SCALE IN FEET  
(approximate)

MAP UNIT SYMBOL	MAP UNIT NAME
UmA	URBAN LAND - COLLAMER COMPLEX
Ud	URBAN LAND
Up	URBAN LAND - GALEN COMPLEX



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## USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION  
ELLICOTT AND OAK STREETS SITE

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**

**A1 – NYS DOS CORPORATION & BUSINESS ENTITY DATABASE INFORMATION**

**A2 - APPLICANT ORGANIZATIONAL CHART**

**A3 - RESOLUTION OF MEMBERS**

**ERIE COUNTY PARCEL DETAIL REPORTS**

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

**SECTION I – REQUESTOR INFORMATION**

The Applicant, Main Gateway, L.P. is authorized to conduct business in New York State. Frank Chinnici is the authorized Managing Member of Main Gateway, L.P. A copy of the New York State Corporation and Business Entity Database printout for Main Gateway, L.P. is attached as Exhibit A1.

The Applicant organizational chart is attached as Exhibit A2.

Exhibit A3 is the Signature Resolution, which identifies Frank Chinnici as the authorized managing member of Main Gateway, L.P. and as the authorized person to execute documents or agreements necessary under the Brownfield Cleanup Program (BCP).

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**

Main Gateway, L.P., 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 anticipated future use of the site is historic rehabilitation for residential and commercial mixed-use. Proposed redevelopment includes a new residential structure in place of the current building at 334 North Oak Street. The new residential structure will be located within an existing commercial area with asphalt access roads, gravel covered walking paths, and vegetated areas connecting the new residential development to the existing commercial

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

structures at the 324 and 328 North Oak Street and 441 Ellicott Street parcels. A preliminary project rendering is included as Figure 6.

The Project will result in the remediation and redevelopment of an environmentally impacted Site located along Ellicott Street and North Oak Street at the intersection of North Oak Street and Genesee Street in the City of Buffalo, Erie County, New York.

**SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY**

A summary of the previous environmental investigations completed for the Ellicott and Oak Streets Site (hereinafter, the “Site”) are provided below.

**December 2019 – Phase II Environmental Investigation**

TurnKey Environmental Restoration, LLC (TurnKey) completed a Phase II Environmental Investigation across the Site and documented the findings in a letter report dated December 2, 2019. The investigation consisted of ten test pits (TP-1 through TP-10) at the 441 Ellicott Street parcel completed using an excavator to a target depth of approximately 10 fbgs, and twelve soil borings (SB-1 through SB-12) at the 324, 328, and 334 North Oak Street parcels completed using a direct-push drill rig to approximately 12 fbgs. Soil borings were completed on exterior portions of each parcel and within accessible interior portions of the 334 North Oak Street building. Four subsurface soil/fill samples were collected from the ten test pits and eight subsurface soil/fill samples were collected from the twelve soil borings. One surface soil sample was collected from 441 Ellicott Street due to a suspected petroleum sheen observed at the surface. Findings of TurnKey’s Phase II Environmental Investigation are detailed below:

- Urban fill consisting of cinders, ash, slag, wood, asphalt, concrete, glass, plastic, brick, metal, paint cans, and metal piping was observed from the ground surface to approximately 2-5 fbgs at 441 Ellicott Street. Urban fill similarly consisting of cinders, slag, brick, limestone, coal, and ash was observed from the ground surface to approximately 1-8 fbgs at 324 – 334 North Oak Street.
- No elevated PID readings or olfactory concerns were noted during the work.

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

- Twelve subsurface soil/fill samples were submitted to the laboratory for analysis of polycyclic aromatic hydrocarbons (PAHs) and Resource Conservation and Recovery Act (RCRA) Metals. Laboratory analytical results revealed the following:
  - PAHs were identified exceeding Unrestricted Soil Cleanup Objectives (USCOs), Restricted Residential SCOs, (RRSCOs), Commercial SCOs (CSCOs), and Industrial SCOs (ISCOs) at 3 of the 4 test pit locations (TP-2, TP-7, and TP-8) and 6 of the 8 soil boring locations (SB-1, SB-2, SB-5, SB-7, SB-9, and SB-12).
  - Arsenic was detected exceeding its USCO (13 milligrams per kilogram, mg/kg) at SB-8 (14.9 mg/kg) and its ISCO (16 mg/kg) at SB-1 (36.8 mg/kg) and SB-2 (27.8 mg/kg).
  - Barium was detected exceeding its CSCO (400 mg/kg) at SB-1 (494 mg/kg).
  - Cadmium was detected exceeding its USCO (2.5 mg/kg) at TP-2 (2.57 mg/kg) and SB-1 (2.93 mg/kg).
  - Chromium was detected exceeding its USCO (30 mg/kg) at SB-12 (111 mg/kg).
  - Lead was detected exceeding its USCO (63 mg/kg) at TP-5 (191 mg/kg), TP-7 (182 mg/kg), TP-8 (234 mg/kg), SB-7 (238 mg/kg), SB-8 (86.8 mg/kg), SB-9 (221 mg/kg), and SB-10 (86.3 mg/kg), its RRSCO (400 mg/kg) at SB-2 (546 mg/kg) and SB-12 (592 mg/kg), its CSCO (1,000 mg/kg) at TP-2 (1,800 mg/kg), and its ISCO (3,900 mg/kg) at SB-1 (7,860 mg/kg).
  - Mercury was detected exceeding its USCO (0.18 mg/kg) at TP-2 (0.311 mg/kg), TP-7 (0.232 mg/kg), TP-8 (0.246 mg/kg), SB-1 (0.629 mg/kg), and SB-12 (0.382 mg/kg), its RRSCO (0.81 mg/kg) at SB-9 (0.909 mg/kg), and its ISCO (5.7 mg/kg) at SB-2 (20 mg/kg).
  - Selenium was detected exceeding its USCO (3.9 mg/kg) at SB-2 (8.12 mg/kg).
- One surface soil sample was submitted to the laboratory for analysis of CP-51 volatile organic compounds (VOCs) and CP-51 semi-volatile organic compounds (SVOCs). Methyl tert butyl ether and PAHs were detected below USCOs.

Investigation locations and findings are shown on Figure 7.



**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

February 2020 – Phase I Environmental Site Assessment

TurnKey completed a Phase I Environmental Site Assessment, dated February 2020 for parcels addressed at 435 Ellicott Street, 439-455 Ellicott Street, 324-344 North Oak Street, and 130 Genesee Street, Buffalo, Erie County, New York. TurnKey identified the following as recognized environmental conditions (RECs) for 324-334 North Oak Street and 441 Ellicott Street (the Site):

- The Site was historically used for a variety of commercial and light industrial purposes including an automotive storage/garage with repair/ignition service, furniture manufacturing and storage, mattress manufacturing, printing, sausage factories, and milling.
- A previous Phase II investigation completed by TurnKey at 441 Ellicott Street and 324-334 North Oak Street identified fill materials across the parcels that are impacted by PAHs and metals. The impacts identified are reasonably attributed to historic operations and fill materials from unknown origins.

**SECTION IV – PROPERTY INFORMATION**

Legal Parcel Description

The Ellicott and Oak Streets Site, subject to this BCP application, is located in a highly developed residential and commercial area in the City of Buffalo, Erie County, New York (see Figures 1 - 3). The ±1.27-acre Site consists of four contiguous tax parcels as follows:

- 324 North Oak Street: SBL No. 111.39-1-13, 0.094 acres
- 328 North Oak Street: SBL No. 111.39-1-12, 0.204 acres
- 334 North Oak Street: SBL No. 111.39-1-11.1, 0.581 acres
- 441 Ellicott Street: SBL No. 111.39-1-29, 0.390 acres

The Erie County tax parcel detail reports for the Site are provided for reference in Appendix A. Please Note that the property was purchased by Main Gateway, L.P. on May 6, 2020 and the Erie County GIS map does not yet reflect the new ownership.



**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

According to NYSDEC Environmental Zone (EN-Zone) mapping, the Site is located within the limits of EN-Zone Type AB, designated census tract 165 (see Figure 8).

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 Ellicott Street and North Oak Street. Main Gateway, L.P. is unaware of any other easements on the Site.

Location

The Site is located along Ellicott Street and North Oak Street at the intersection of North Oak Street and Genesee Street in a highly developed residential and commercial area in the City of Buffalo, Erie County, New York. The Site is bordered by commercial property to the north, commercial properties to the south, commercial property and Ellicott Street to the west, and North Oak Street to the east. Adjacent property owners are identified on Figure 9.

Site Features

The Site is developed with four commercial/vacant structures along North Oak Street and Ellicott Street. The 35,937 square foot structure addressed at 334 North Oak Street (Building 1) is used for equipment storage and includes unoccupied/vacant areas. The 9,348 square foot structure addressed at 441 Ellicott Street (Building 2) is currently occupied by Maureen's Buffalo Wholesale Flower Market. The 6,854 square foot structure addressed at 328 North Oak Street (Building 3) and the 10,800 square foot structure addressed at 324 North Oak Street (Building 4) are vacant commercial structures. Portions of the site that are not covered by buildings are currently vacant land that are either covered by asphalt paving, gravel, or vegetation.

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

Zoning and Land Use

According to The Buffalo Green Code's Land Use Plan (2016), the current zoning for the Site is N-1C (Mixed-Use Core, See Figure 10). The current use of the Site is commercial and vacant land.

The surrounding parcels are as follows:

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

The anticipated future use of the site is residential and commercial. Proposed redevelopment includes a new residential structure in place of the current building at 334 North Oak Street. The new residential structure will be located within an existing commercial area with asphalt access roads, gravel covered walking paths, and vegetated areas connecting the new residential development and the exiting commercial structures. As such, the planned development is consistent with the Buffalo Green Code's Land Use Plan.

Past Use of the Site

The Site was used for residential, commercial, and light industrial purposes from at least 1889 to the present. From at least 1889 to at least 1899, the southern portion of the Site was occupied by Urban Milling Company and included a carpenter shop, elevators, a mill, flour storage, and warehousing. During this time Hertknorn and Sons Furniture Manufacturers and an unnamed furniture factory occupied the northern portion of the site, along with residential properties, storefronts, and saloons. From at least 1925 to at least 1986, various operations utilized the southern portion of the Site including John Kamman Cold Storage, L.C. Wilson Packing Corporation, and Hygrade Food Products Corporation. Additionally, an auto storage and ignition service/garage existed on the northern portion of the Site. An associated former gasoline take is understood to have existed along North Oak Street

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

between 338 and 340 North Oak Street. Other operations at this time included furniture storage, a mattress manufacturer, two sausage factories, a restaurant, a printing operation, a pants manufacturer, at least two florists, and a wholesale radio and a television parts company. Stores, residences, and an office were also noted at the Site during this time.

A previous Phase II Environmental Investigation identified PAHs and metals in the soil/fill across the Site at concentrations exceeding USCOs, RRSCOs, CSCOs, and ISCOs. Subsurface conditions will be further assessed as part of a Remedial Investigation (RI).

Previous investigation reports are provided electronically on the enclosed CD.

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 urban fill consisting of cinders, ash, slag, wood, asphalt, concrete, glass, plastic, brick, metal, paint cans, and metal piping from the ground surface to depths ranging from 2 to 5 fbgs. Sandy lean clay was observed underlying the fill materials along the south end of the Site and fine sand was observed underlying the fill along the north end. Subangular gravel was observed overlying the fill at the north end, and topsoil was observed in the southwestern portion of the Site. Refusal was met in the southwestern portion of the Site from 1-2 fbgs due to an old foundation and concrete floor, and in the southeastern portion of the Site from 2 to 8 fbgs. 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 investigations.

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

According to the United States Department of Agriculture (USDA) Web soil survey, the majority of the Site soils are characterized as Urban Land – Collamer complex (UmA) with small portions of the Site soils characterized as Urban land (Ud) and Urban Land – Galen complex (Up). 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 0 to 6 percent. The Urban land Galen complex is defined as 60% urban land, 25% Galen complex soils (and similar soils), and 15% minor components. The Galen complex soils are characterized as moderately well drained with a slope of 0 to 3 percent (Figure 11).

Regional and local groundwater likely flows west towards Lake Erie. 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.

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

Environmental Assessment Narrative

The Site has a long history of commercial and light industrial operations. Additionally, multiple former structures were observed, and it is likely that urban fill was used to bring the former foundations to grade after demolition.

**APPENDIX A**  
**BCP Application – Part A**  
**Section I – Section IV**  
**Ellicott and Oak Streets Site**

PAHs and metals were identified as the primary contaminants of concern reasonably attributed to historic operations and fill materials from unknown origins. Figure 7 summarizes the environmental impacts identified in the previous investigations.

Soil – Laboratory analytical results indicate PAHs and/or metals exceeding USCOs, RRSCOs, CSCOs, and ISCOs at all twelve subsurface soil sample locations (TP-1, TP-5, TP-7, TP-8, SB-1, SB-2, SB-5, SB-7, SB-8, SB-9, SB-10, and SB-12). Generally, the highest concentrations of PAHs and metals were observed in the southern portion of the Site. The most commonly observed PAHs include Indeno(1,2,3-cd)pyrene, benzo(a)anthracene, benzo(b)fluoranthene, and chrysene. The highest concentrations of these PAHs were observed at TP-7, where their ISCOs (11 mg/kg, 11 mg/kg, 11 mg/kg, and 110 mg/kg, respectively) were all exceeded with concentrations of 63 mg/kg, 130 mg/kg, 140 mg/kg, and 110 mg/kg, respectively. PAHs exceeding USCOS, RRSCOs, CSCOs, and/or ISCOs were also observed at TP-2, TP-8, SB-1, SB-2, SB-5, SB-7, SB-9, and SB-12. High concentrations of metals including arsenic, barium, cadmium, lead, mercury, and selenium were also observed throughout the Site. Lead was detected exceeding at least its USCO (63 mg/kg) at all sample locations except SB-5 and was detected at its highest concentrations exceeding its ISCO (3,900 mg/kg) at SB-1 (7,860 mg/kg) and its CSCO (1,000 mg/kg) at TP-2 (1,800 mg/kg). Other significant detections included arsenic exceeding its ISCO (16 mg/kg) at SB-1 (36.8 mg/kg) and SB-2 (27.8 mg/kg), barium exceeding its CSCO (400 mg/kg) at SB-1 (494 mg/kg), and mercury exceeding its RRSCO (0.81 mg/kg) at SB-9 (0.909 mg/kg) and its ISCO (5.7 mg/kg) at SB-2 (20 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 June 26, 2020.

---

Selected Entity Name: MAIN GATEWAY, L.P.

Selected Entity Status Information

**Current Entity Name:** MAIN GATEWAY, L.P.

**DOS ID #:** 5716155

**Initial DOS Filing Date:** FEBRUARY 26, 2020

**County:** ERIE

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC LIMITED PARTNERSHIP

**Current Entity Status:** ACTIVE

Selected Entity Address Information

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

MAIN GATEWAY, L.P.  
810 MAIN STREET  
BUFFALO, NEW YORK, 14202

**Registered Agent**

NONE

### \*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 26, 2020	Actual	MAIN GATEWAY, L.P.

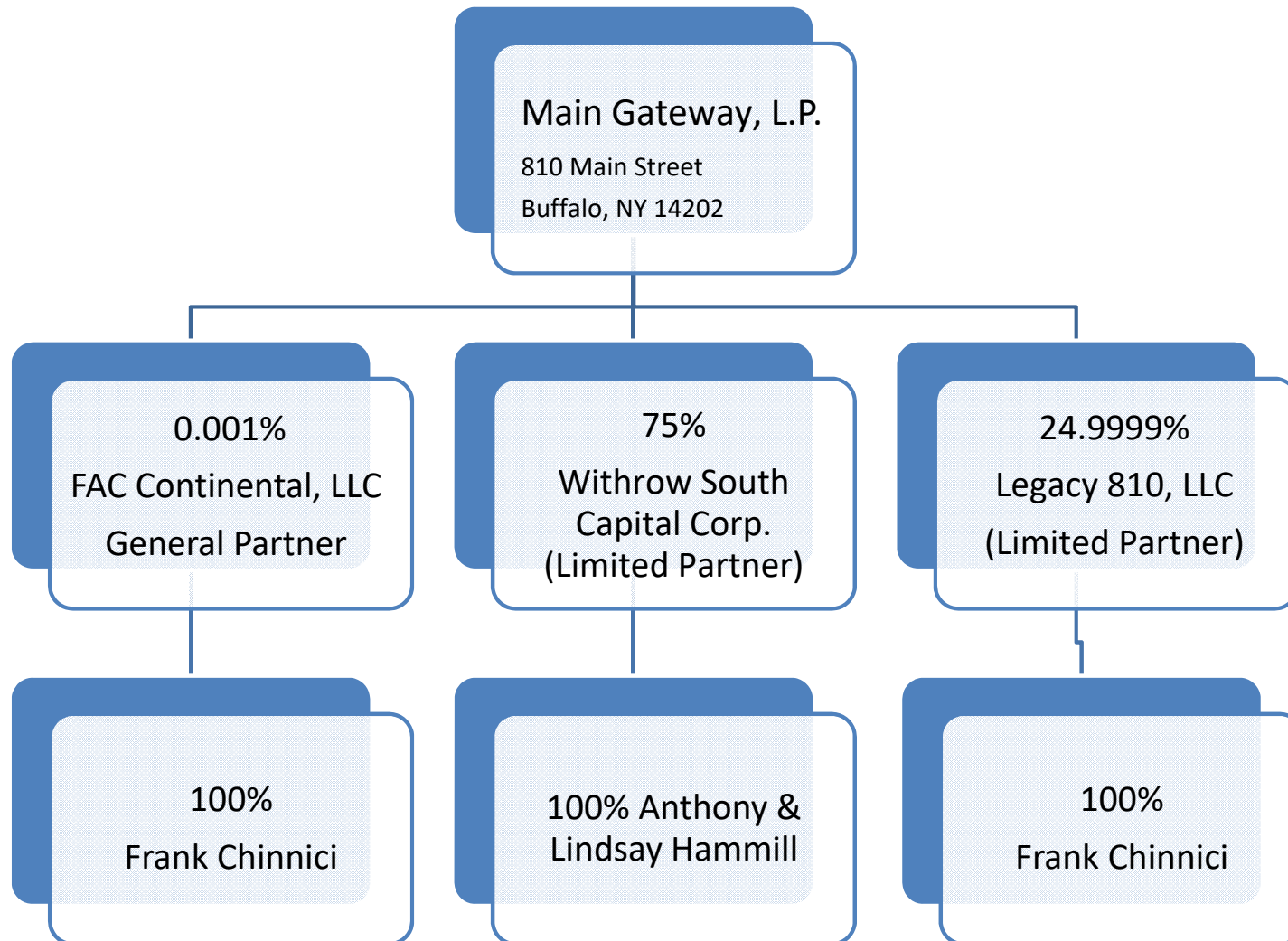
A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

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

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## A2 - OWNER ORGANIZATIONAL CHART



UNANIMOUS WRITTEN RESOLUTION  
OF ALL PARTNERS OF MAIN GATEWAY, L.P.

July 1, 2020

The undersigned, being holders of all of the Partners of **Main Gateway, L.P.**, a New York limited partnership (the "Company"), hereby jointly consent to pass, enact, approve, and adopt the following resolutions without a meeting and direct that this Resolution be filed with the minutes of the Company:

**RESOLVED**, that Frank A. Chinnici, the sole member of **FAC Continental, LLC**, the General Partners of the Company, (an "**Authorized Person**") be, he, and hereby is, authorized, directed, and empowered, acting alone, in the name or on behalf of the Company, to execute the Brownfield Cleanup Program ("**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 201 Ellicott Street, Buffalo, New York; and be it further

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

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

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



\_\_\_\_\_  
Frank A. Chinnici, Member, FAC Continental, LLC



\_\_\_\_\_  
Anthony Hammill, President, Withrow South Capital Corp.



\_\_\_\_\_  
Frank A. Chinnici, Member, Legacy 810, LLC

This consent may be executed in various counterpart copies, and by facsimile, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
3/2/2020 4:56:07 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1402001113900001013000

**SBL:** 111.39-1-13

**Address:** 324 OAK NORTH

**Owner 1:** BUFFALO PROPERTIES LTD

**Owner 2:**

**Mailing Address:** 535 N BROADWAY

**City/Zip:** NYACK NY 10960

**Municipality:** City of Buffalo

**Property Class:** 482

**Class Description:** C - Det row bldg

**Front:** 40

**Depth:** 99.68000031

**Deed Roll:** 1

**Deed Book:** 10967

**Deed Page:** 4421

**Deed Date:**

**Acreage:** 0.09400652

**Total Assessment:** \$69,100

**Land Assessment:** \$7,900

**County Taxes:** \$69,100

**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

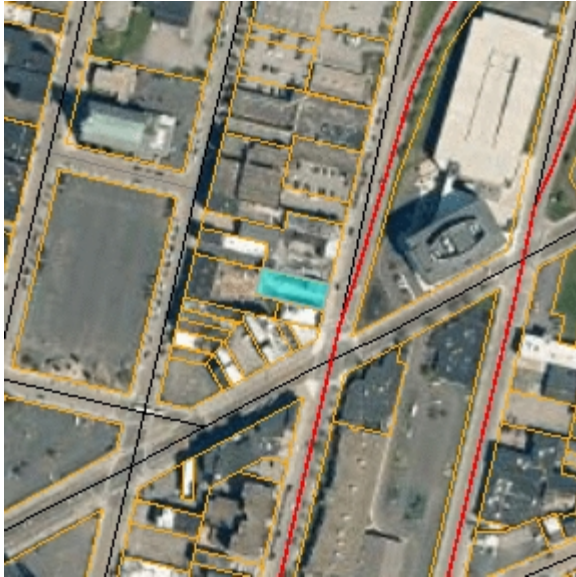
**Baths:** 0



# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
3/2/2020 4:56:21 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1402001113900001012000

**SBL:** 111.39-1-12

**Address:** 328 OAK NORTH

**Owner 1:** BUFFALO PROPERTIES LTD.

**Owner 2:**

**Mailing Address:** 535 N BROADWAY

**City/Zip:** NYACK NY 10960

**Municipality:** City of Buffalo

**Property Class:** 449

**Class Description:** C - Warehouse

**Front:** 58

**Depth:** 150

**Deed Roll:** 1

**Deed Book:** 10967

**Deed Page:** 04425

**Deed Date:**

**Acreage:** 0.20397022

**Total Assessment:** \$10,000

**Land Assessment:** \$4,400

**County Taxes:** \$10,000

**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

# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
3/2/2020 4:56:46 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1402001113900001011100

**SBL:** 111.39-1-11.1

**Address:** 334 OAK NORTH

**Owner 1:** BUFFALO PROPERTIES LTD.

**Owner 2:**

**Mailing Address:** 535 N BROADWAY

**City/Zip:** NYACK NY 10960

**Municipality:** City of Buffalo

**Property Class:** 482

**Class Description:** C - Det row bldg

**Front:** 136

**Depth:** 128

**Deed Roll:** 1

**Deed Book:** 10967

**Deed Page:** 4442

**Deed Date:**

**Acreage:** 0.58130077

**Total Assessment:** \$175,000

**Land Assessment:** \$16,500

**County Taxes:** \$175,000

**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



# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
3/2/2020 4:56:37 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1402001113900001029000  
**SBL:** 111.39-1-29  
**Address:** 441 ELLICOTT  
**Owner 1:** BUFFALO PROPERTIES LTD.  
**Owner 2:**  
**Mailing Address:** 535 N BROADWAY  
**City/Zip:** NYACK NY 10960  
**Municipality:** City of Buffalo  
**Property Class:** 482  
**Class Description:** C - Det row bldg  
**Front:** 97.25  
**Depth:** 150  
**Deed Roll:** 1  
**Deed Book:** 10967  
**Deed Page:** 04364  
**Deed Date:**

**Acreage:** 0.38987911  
**Total Assessment:** \$100,000  
**Land Assessment:** \$12,900  
**County Taxes:** \$100,000  
**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**  
**Ellicott and Oak Streets 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 tables below, as available.

Property Information	Use	Approx. Date(s)	Relationship to Applicant
<b>324 North Oak Street (Formerly 324 – 326 North Oak Street)</b>			
<b>Current Owner/Operator</b>			
Main Gateway, L.P. 810 Main Street Buffalo, NY 14202	Vacant Commercial	May 2020 to Present	Owner Applicant
<b>Past Owners/Operators</b>			
Buffalo Properties, LTD. 535 N. Broadway Nyack, NY 10960	Vacant Commercial	June 2000 to May 2020	Former Owner No Relationship
Brian Fitzpatrick	Commercial	June 2000	Former Owner No Relationship
OEG Buffalo Properties, Inc.	Commercial	1997-2000	Former Owner No Relationship
Raymond A. Gonzalez	Commercial	1993-1997	Former Owner No Relationship
Buffalo Antenna Systems Inc. 324 North Oak Street Buffalo, NY 14203	Commercial	At least 1970 – at least 1992	Former Operator No Relationship
Huron Electronic Supply Co. 324 – 326 North Oak Street Buffalo, NY 14203	Commercial	At least 1955 – at least 1992	Former Operator No Relationship
Dominic Rizzo J&W	Commercial	1953-1993	Former Owner No Relationship
Herbert Roth 324 North Oak Street Buffalo, NY 14203	Commercial	At least 1952	Former Operator No Relationship
Buffalo McCallum Co. 324 – 326 North Oak Street Buffalo, NY 14203	Commercial	At least 1930 – At least 1946	Former Operator No Relationship

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

J.H. Kamman Company	Industrial	At least 1916 – At least 1925	Former Owner No Relationship
Urban Milling Company	Industrial	At least 1889 - At least 1899	Former Owner No Relationship

Property Information	Use	Approx. Date(s)	Relationship to Applicant
<b>328 North Oak Street (Formerly 328 – 332 North Oak Street)</b>			
<b>Current Owner/Operator</b>			
Main Gateway, L.P. 810 Main Street Buffalo, NY 14202	Vacant Commercial	May 2020 to Present	Owner Applicant
<b>Past Owners/Operators</b>			
Buffalo Properties, LTD. 535 N. Broadway Nyack, NY 10960	Vacant Commercial	June 2000 to May 2020	Former Owner No Relationship
Yalls Texas Store 332 North Oak Street Buffalo, NY 14203	Commercial	At least 1998	Former Operator No Relationship
OEG Buffalo Properties, Inc.	Commercial	1997-2000	Former Owner No Relationship
TDJ of Buffalo Corp.	Commercial	1996-1997	Former Owner No Relationship
Raymond Gonzalez	Commercial	1990-1996	Former Owner No Relationship
Buffalo Evergreen Co. Inc. Wholesale Florist 332 – 344 North Oak Street; 441 Ellicott Street Buffalo, NY 14203	Commercial	1963-1990	Former Operator No Relationship
Thornton & Chester Milling Co., Inc. 332 North Oak Street Buffalo, NY 14203	Industrial	At least 1935 – At least 1960	Former Operator No Relationship
Urban Street Warehousing Corp. Office 332 North Oak Street Buffalo, NY 14203	Commercial	At least 1935 – At least 1950	Former Operator No Relationship
Mill Sterilizing Corp. 332 North Oak Street Buffalo, NY 14203	Industrial	At least 1935 – At least 1950	Former Operator No Relationship



**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

George Miarion 328 North Oak Street Buffalo, NY 14203	Residential	At least 1930	Former Owner No Relationship
Alice Allen Sidney W. Jackson 328 North Oak Street Buffalo, NY 14203	Residential	At least 1925	Former Owner No Relationship
Urban Milling Company/George Urban Milling Company	Industrial	At least 1889 to At least 1960	Former Owner No Relationship

Property Information	Use	Approx. Date(s)	Relationship to Applicant
<b>334 North Oak Street (Formerly 334 – 346 North Oak Street and 457 Ellicott Street)</b>			
<b>Current Owner/Operator</b>			
Main Gateway, L.P. 810 Main Street Buffalo, NY 14202	Vacant Commercial	May 2020 to Present	Owner Applicant
<b>Past Owners/Operators</b>			
Buffalo Properties, LTD. 535 N. Broadway Nyack, NY 10960	Commercial/ Vacant Commercial	June 2000 to May 2020	Former Owner No Relationship
Service First Heating Cooling 334 North Oak Street Buffalo, NY 14203	Commercial	At least 2010	Former Operator No Relationship
Angel L. Kulcayk 334 North Oak Street Buffalo, NY 14203	Commercial	At least 2008	Former Operator No Relationship
Lora A. Reynolds 334 North Oak Street Buffalo, NY 14203	Commercial	At least 2008	Former Operator No Relationship
Quality First Used Discount Appliances 334 North Oak Street Buffalo, NY 14203	Commercial	At least 2001 – At least 2008	Former Operator No Relationship
Rural Metropolitan Ambulance 481 William L. Gaiter Parkway #481 Buffalo, NY 14215	Commercial	2001 – 2010	Former Operator No Relationship

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Buffalo Wholesale Florist Supply Inc. 338 – 342 North Oak Street Buffalo, NY 14203	Commercial	At least 1992	Former Operator No Relationship
Wehle Electric Co. Inc. 457 Ellicott Street Buffalo, NY 14203	Commercial	At least 1975	Former Operator No Relationship
Buffalo Evergreen Co. Inc. Wholesale Florist 332 – 344 North Oak Street; 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1955 – At least 1985	Former Operator No Relationship
George J. & Thomas J. Joy 334 – 346 North Oak Street Buffalo, NY 14203	Commercial	At least 1951 – At least 1980	Former Owner No Relationship
Degan Herbert Sausage Manufacturers 344 North Oak Street Buffalo, NY 14203	Industrial	At least 1950	Former Operator No Relationship
P&S Contractors 340 North Oak Street Buffalo, NY 14203	Commercial	At least 1950	Former Operator No Relationship
Joseph Matt 334 – 338 North Oak Street Buffalo, NY 14203	Residential	At least 1940 – At least 1946	Former Operator No Relationship
Quality Provision Company 344 North Oak Street Buffalo, NY 14203	Industrial	At least 1935 – At least 1946	Former Operator No Relationship
Various Individual Owners: Milton Sarlis; Andrew Kovacsev; Anthony & Samuel Palmisano; John Nurches; Lois Buono; Alice Miller; Dominic Casirniro; Jerome Cook 340 North Oak Street Buffalo, NY 14203	Residential	At least 1930 – At least 1980	Former Owner/Operator No Relationship
Various Individual Owners: John Skula; Salvatore Palmisano; Michael, Mary, & Joseph Bahen; Anna Fargo; Violet Miller; Joseph Fisher; Dominic Casirniro; 342 North Oak Street Buffalo, NY 14203	Residential	At least 1925 – At least 1980	Former Owner/Operator No Relationship
Various Individual Owners: Ernest F. Cath; Wesley Campbell; Joseph C. Fisher; 457 Ellicott Street Buffalo, NY 14203	Residential/ Commercial	At least 1925 - 1940	Former Owner/Operator No Relationship

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Onody Garage & Electric Service 334 – 338 North Oak Street Buffalo, NY 14203	Commercial	At least 1925 – Prior to 1955	Former Operator No Relationship
William M. Dechert 457 Ellicott Street Buffalo, NY 14203	Commercial	At least 1907 – At least 1964	Former Owner No Relationship
Gerhard Lang 342 North Oak Street Buffalo, NY 14203	Commercial	At least 1906 – At least 1922	Former Owner No Relationship
Frederick Weil 334 – 338 North Oak Street Buffalo, NY 14203	Commercial	At least 1905 – At least 1914	Former Owner No Relationship
G. Bauk 334 North Oak Street Buffalo, NY 14203	Commercial	At least 1901	Former Owner No Relationship
A. Hertknorn and Son Furniture Manufacturers	Industrial	At least 1889	Former Owner No Relationship
Various Unknown Individual Owners	Residential	Prior to 1899	Former Owners No Relationship

Property Information	Use	Approx. Date(s)	Relationship to Applicant
<b>441 Ellicott Street (Formerly 441 – 449 Ellicott Street)</b>			
<b>Current Owner/Operator</b>			
Main Gateway, L.P. 810 Main Street Buffalo, NY 14202	Commercial	May 2020 to Present	Owner Applicant
Maureen's Buffalo Wholesale Flower Market 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 2001 – Present	Non-party Operator No Relationship
<b>Past Owners/Operators</b>			
Buffalo Properties, LTD. 535 N. Broadway Nyack, NY 10960	Commercial	June 2000 to May 2020	Former Owner No Relationship
Fitzpatrick's Decorative Outlet 445 Ellicott Street Buffalo, NY 14203	Commercial	At least 2001	Former Operator No Relationship

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Bruce Adler 535 N. Broadway Nyack, NY 10960	Commercial	1999 – 2000	Former Owner No Relationship
City of Buffalo By Referee	Commercial	1997 – 1999	Former Owner No Relationship
OEG Buffalo Properties, Inc.	Commercial	1997	Former Owner No Relationship
TDJ of Buffalo Corp.	Commercial	1996 – 1997	Former Owner No Relationship
Raymond A. Gonzalez	Commercial	1990 – 1996	Former Owner No Relationship
Recycle City Auto Repair 445 Ellicott Street Buffalo, NY 14203	Commercial	At least 1985	Former Operator No Relationship
Rubber Stamp Manufacturer 441 Ellicott Street Buffalo, NY 14203	Industrial	At least 1980	Former Operator No Relationship
Buffalo Evergreen Co. Inc. Wholesale Florist 332 – 344 North Oak Street; 441 Ellicott Street Buffalo, NY 14203	Commercial	1969 – 1990	Former Operator No Relationship
Hygrade Food Products Corp. 441 – 445 Ellicott Street Buffalo, NY 14203	Industrial	At least 1960 – At least 1986	Former Owner No Relationship
Thomas Printing Service 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1955	Former Operator No Relationship
Joseph D. Albanese 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1950	Former Operator No Relationship
Monarch Pants Manufacturing Co. 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1950	Former Operator No Relationship
Chip Steak Co. 445 Ellicott Street Buffalo, NY 14203	Commercial	At least 1950	Former Operator No Relationship
Steinhauser Meat & Provision Co. 443 – 445 Ellicott Street Buffalo, NY 14203	Industrial	At least 1940 – At least 1955	Former Operator No Relationship



**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Albert A. Casseur 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1935 – At least 1970	Former Operator No Relationship
Joseph Sherer Cigars 443 Ellicott Street Buffalo, NY 14203	Commercial	At least 1935	Former Operator No Relationship
Nevin Glove Co. 441 Ellicott Street Buffalo, NY 14203	Commercial	At least 1930	Former Operator No Relationship
Rogers & Bond Cigars 443 Ellicott Street Buffalo, NY 14203	Commercial	At least 1930	Former Operator No Relationship
440 45 US District Court Clerk 445 Ellicott Street Buffalo, NY 14203	Commercial	At least 1930	Former Operator No Relationship
Blue Bird Publishing & Plating Company 443 Ellicott Street Buffalo, NY 14203	Commercial	At least 1925	Former Operator No Relationship
Rosalino A. Pagano 441 – 445 Ellicott Street Buffalo, NY 14203	Commercial	At least 1925 – At least 1946	Former Operator No Relationship
Buffalo Poultry Supply Company 447 – 449 Ellicott Street Buffalo, NY 14203	Commercial	At least 1925 – At least 1955	Former Operator No Relationship
L.C. Wilson Packing Corporation (Division of Hygrade Food Products Corp.) 445 Ellicott Street Buffalo, NY 14203	Industrial	At least 1912 – At least 1955	Former Owner No Relationship
J.H. Kamman Company	Industrial	At least 1912 – At least 1925	Former Owner No Relationship
Urban Milling Company	Industrial	At least 1889 - at least 1899	Former Owner No Relationship

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

**SECTION VII – REQUESTOR ELIGIBILITY INFORMATION**

The Applicant, Main Gateway, L.P., 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 Applicants recently purchased the property.
- The SVOC and metals contamination in the soil/fill is reasonably attributable to the historic commercial and light industrial use at the Site.
- The Applicant became involved with the property after the disposal or discharge of contaminants.

Based on the information herein, Main Gateway, L.P. is entitled to Volunteer status under NY ECL 27-1405(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. John Hood  
Erie Co. Environment & Plan.  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Mr. Robert M. Graber  
Erie County Legislature Clerk  
92 Franklin Street, 4<sup>th</sup> 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  
Buffalo, NY 14202

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

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

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

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

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

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

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

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

*Nearby Schools:*

Ms. Yolanda Peay, Principal  
Enterprise Charter School  
275 Oak Street  
Buffalo, NY 14203

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

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

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

Ms. Jenn Stockmeyer  
PS 32 Bennett Park Montessori School  
342 Clinton Street  
Buffalo, NY 14204

Ms. Catherine M. Oldenburg, Commandant  
Western New York Maritime Charter School  
266 Genesee Street  
Buffalo, NY 14204

Ms. Linda Marszalek, Head of Schools  
REACH Academy Charter School  
115 Ash Street  
Buffalo, NY 14204

Ms. Joelle Formato, Founder & Head of School  
Persistence Preparatory Academy Charter School  
833 Michigan Avenue  
Buffalo, NY 14203



**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

Dr. Satish K. Tripathi  
SUNY Buffalo Downtown Campus  
12 Capen Hall  
Buffalo, NY 14260

Dr. Dan Hocoy  
Erie Community College  
121 Ellicott Street  
Buffalo, NY 14203

*Other Interested Parties:*

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

*Document Repository:*

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

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets 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	Property Use	
140	Genesee Street	Office Building	Catholic Health System I C/O Catholic Health System Inc. 144 Genesee Street Buffalo, NY 14203
143	Genesee Street	Office Building	Erie County Industrial Development Agency C/O Controller Mollie Profic 95 Perry Street, Suite 403 Buffalo, NY 14203
130	Genesee Street	Office Building	Buffalo Properties, Ltd. 535 N Broadway Nyack, NY 10960
128	Genesee Street	Diners and Luncheonettes	Signature Development of Western New York LLC 391 Washington Street Buffalo, NY 14203
122	Genesee Street	Downtown Row Type	F. Scherer & Sons Inc. 124 Genesee Street Buffalo, NY 14203
439	Ellicott Street	Downtown Row Type	439 Ellicott Street LLC 441 Ellicott Street Buffalo, NY 14203
571	Washington Street	Parking Lot	Manufacturers & Traders Trust Company One M&T Plaza Buffalo, NY 14203
455	Ellicott Street	Dog Kennels, Veterinary Clinics	455 Ellicott Street LLC 455 Ellicott Street Buffalo, NY 14203

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

573	Washington Street	Religious	St. Michaels Roman Catholic Church 651 Washington Street Buffalo, NY 14203
461	Ellicott Street	Downtown Row Type	Ellicott Lofts II LLC 391 Washington Street, Suite 800 Buffalo, NY 14203

Document Repository

The Buffalo and Erie County Library, Central 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-1C (Mixed-Use Core). The anticipated future use of the site is historic rehabilitation for residential and commercial mixed-use. As such, the planned development is consistent with the Buffalo Green Code's Land Use Plan.

2 – Current Use

The Site is developed with four commercial/vacant structures along North Oak Street and Ellicott Street. The 35,937 square foot structure addressed at 334 North Oak Street (Building 1) is used for equipment storage and includes unoccupied/vacant areas. The 9,348 square foot structure addressed at 441 Ellicott Street (Building 2) is currently occupied by Maureen's Buffalo Wholesale Flower Market. The 6,854 square foot structure addressed at 328 North Oak Street (Building 3) and the 10,800 square foot structure addressed at 324 North Oak Street (Building 4) are vacant commercial structures. Portions of the site that are not covered by buildings are currently vacant land that are either covered by asphalt paving, gravel, or vegetation.

**APPENDIX B**  
**BCP Application – Part B**  
**Section V – Section X**  
**Ellicott and Oak Streets Site**

The Site was used for residential, commercial, and light industrial purposes from at least 1889 to the present. From at least 1889 to at least 1899, the southern portion of the Site was occupied by Urban Milling Company and included a carpenter shop, elevators, a mill, flour storage, and warehousing. During this time Hertknorn and Sons Furniture Manufacturers and an unnamed furniture factory occupied the northern portion of the site, along with residential properties, storefronts, and saloons. From at least 1925 to at least 1986, various operations utilized the southern portion of the Site including John Kamman Cold Storage, L.C. Wilson Packing Corporation, and Hygrade Food Products Corporation. Additionally, an auto storage and ignition service/garage existed on the northern portion of the Site. An associated former gasoline take is understood to have existed along North Oak Street between 338 and 340 North Oak Street. Other operations at this time included furniture storage, a mattress manufacturer, two sausage factories, a restaurant, a printing operation, a pants manufacturer, at least two florists, and a wholesale radio and a television parts company. Stores, residences, and an office were also noted at the Site during this time.

A previous Phase II Environmental Investigation identified PAHs and metals in the soil/fill across the Site at concentrations exceeding USCOs, RRSCOs, CSCOs, and ISCOs. Subsurface conditions will be further assessed as part of a Remedial Investigation (RI).

3, 4, 5 and 6 – Planned Future Use

Proposed redevelopment includes a new residential structure in place of the current building at 334 North Oak Street. The new residential structure will be located within an existing commercial area with asphalt access roads, gravel covered walking paths, and vegetated areas connecting the new residential development to the existing commercial structures at the 324 and 328 North Oak Street and 441 Ellicott Street parcels.

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





June 17, 2020

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

Re: Document Repository for Brownfield Cleanup Program  
Ellicott and Oak Streets 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 – Central 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,  
Benchmark Environmental Engineering & Science, PLLC  
TurnKey Environmental Restoration, LLC

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

Chelsea Kanaley  
Geologist

File: 0395-020-004

Strong Advocates, Effective Solutions, Integrated Implementation

[www.benchmarkturnkey.com](http://www.benchmarkturnkey.com)

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

**From:** [April Tompkins](#)  
**To:** [Chelsea N. Kanaley](#)  
**Subject:** RE: Document Repository Request - Ellicott and Oak Streets Site  
**Date:** Tuesday, June 30, 2020 8:46:36 AM

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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 **Ellicott and Oak Streets Site**. These documents will be made available for public viewing at the **Central Library** and/or any other library of your choice. Please refer to our procedure below.

We prefer that you do not take and/or send documents to individual libraries. Please bring or send your document(s), and cover letter, to the Central Library and we will process according to our procedure and distribute to the location of your choice. **If you would like a confirmation that your document was received, you will need to include the request in your cover letter and provide an email address.**

Please keep the following in mind:

- Documents (including updates) for public viewing 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 are made available within three business days after receipt, excluding weekends and holidays. Documents for the Central/Downtown library are located on the first floor in the Information Services Department.
- 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 distribution accordingly. We do not make copies for distribution.
- Documents that cannot be stapled, should be kept together spiral bound or in a ring binder. Please do not send 'loose' papers, especially if including a cd or flash drive.
- 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 or flash drives 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/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](mailto:tompkinsa@buffalolib.org)

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**From:** Chelsea N. Kanaley <[ckanaley@bm-tk.com](mailto:ckanaley@bm-tk.com)>  
**Sent:** Tuesday, June 30, 2020 8:18 AM  
**To:** April Tompkins <[tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)>  
**Subject:** RE: Document Repository Request - Ellicott and Oak Streets Site

Dear Ms. Tompkins,

Would you be able to confirm that the Buffalo & Erie County Public Library - Central Branch will act as a repository for this BCP project?

Thank you,  
Chelsea Kanaley

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**From:** Chelsea N. Kanaley  
**Sent:** Wednesday, June 17, 2020 10:57 AM  
**To:** [tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)  
**Subject:** Document Repository Request - Ellicott and Oak Streets Site

Dear Ms. Tompkins,

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

Thank you,  
Chelsea Kanaley

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