

January 27, 2021

Ms. Kelly Lewandowski, P.E.
Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, New York 12233-7020

**Re: Brownfield Cleanup Program Application Package
389 Manhattan Avenue Site
Buffalo, New York**

Dear Ms. Lewandowski:

On behalf of 389 Manhattan, LLC, Benchmark Environmental Engineering and Science, PLLC has prepared the enclosed Brownfield Cleanup Program (BCP) application package for the above-referenced site.

Enclosed for your review is one original signed copy of the complete BCP Application. A full electronic copy of the document is included on the enclosed CD. An electronic copy of the document has also been sent to Mr. Andrew Zwack in the NYSDEC Region 9 office.

Please do not hesitate to contact us with any questions.

Sincerely,
Benchmark Environmental Engineering & Science, PLLC

A handwritten signature in blue ink, appearing to read 'Chris Boron'.

Christopher Boron
Senior Project Manager

cc: S.J. Savarino (389 Manhattan, LLC)
C. Slater (Slater Law)
A. Zwack (NYSDEC, Region 9)

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

Brownfield Cleanup Program Application

389 Manhattan Avenue Site
Buffalo, New York

January 2021

0258-020-001

Prepared For:

389 Manhattan, LLC



Prepared By:





BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

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

☐ Yes

☒ No

If yes, provide existing site number: _____

PART A (note: application is separated into Parts A and B for DEC review purposes) *BCP App Rev 10*

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME 389 Manhattan, LLC

ADDRESS 500 Seneca Street, Suite 508

CITY/TOWN Buffalo

ZIP CODE 14204

PHONE 716-332-5959

FAX 716-332-5968

E-MAIL sams@savarinocompanies.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

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

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

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

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

See Appendix A; Section II

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	X		
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 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 checked="" type="checkbox"/> Unknown |

Other: rail lines and historic filling

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME 389 Manhattan Avenue				
ADDRESS/LOCATION 389 Manhattan Avenue				
CITY/TOWN Buffalo		ZIP CODE 14214		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): City of Buffalo				
COUNTY Erie		SITE SIZE (ACRES) 1.56		
LATITUDE (degrees/minutes/seconds) 42 ° 56 ' 36.3 "		LONGITUDE (degrees/minutes/seconds) 78 ° 49 ' 47.15 "		
Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed , please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address	See Appendix A; Section IV	Section No.	Block No.	Lot No. Acreage
P/O 389 Manhattan Avenue		79.78	1	1.1 2.9
Site is a portion of 389 Manhattan Avenue		79.78	1	1.1 1.56
1. Do the proposed site boundaries correspond to tax map metes and bounds? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, please attach an accurate map of the proposed site. See Appendix A; Section IV				
2. Is the required property map attached to the application? See Figures 2, 3 & 4 <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, identify census tract : _____ Percentage of property in En-zone (check one): <input type="checkbox"/> 0-49% <input type="checkbox"/> 50-99% <input type="checkbox"/> 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

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

Easement/Right-of-way Holder

Description

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

Not Applicable

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

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 Samuel J. Savarino			
ADDRESS 500 Seneca Street, Suite 508			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE 716-332-5959	FAX 716-332-5968	E-MAIL sams@savarinocompanies.com	
NAME OF REQUESTOR'S CONSULTANT Benchmark Environmental Engineering & Science, PLLC - Thomas H. Forbes, P.E.			
ADDRESS 2558 Hamburg Turnpike, Suite 300			
CITY/TOWN Buffalo		ZIP CODE 14218	
PHONE 716-856-0599	FAX 716-856-0583	E-MAIL tforbes@bm-tk.com	
NAME OF REQUESTOR'S ATTORNEY Craig A. Slater			
ADDRESS 500 Seneca Street, Suite 504			
CITY/TOWN Buffalo		ZIP CODE 14204	
PHONE 716-845-6760	FAX 716-845-6764	E-MAIL cslater@cslaterlaw.com	
Section VI. Current Property Owner/Operator Information – if not a Requestor			
CURRENT OWNER'S NAME Bethune Hall, LLC		OWNERSHIP START DATE: 4/11/2006	
ADDRESS 1221 East 8th Street			
CITY/TOWN Brooklyn		ZIP CODE 11230	
PHONE 718-431-1166	FAX NA	E-MAIL ymlandau@gmail.com	
CURRENT OPERATOR'S NAME Same as Owner			
ADDRESS Same as Owner			
CITY/TOWN Same as Owner		ZIP CODE Same as Owner	
PHONE Same as Owner	FAX Same as Owner	E-MAIL Same as Owner	
PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE". 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 See Appendix B; Section VII

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
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 XI

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 8
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

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

1. What is the current municipal zoning designation for the site? N-1C: Mixed Use Core

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

☒ Residential ☒ Commercial ☐ Industrial

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

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

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

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

If residential, does it qualify as single family housing?

☐ Yes ☒ No

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

☒ Yes ☐ No

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

See Appendix B; Section X.

☒ Yes ☐ No

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.

See Appendix B; Section X.

☒ Yes ☐ No

XI. Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Savarino J. Savarino; Manager (title) of 389 Manhattan, 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: 01/21/2021 Signature: 

Print Name: Samuel J. Savarino

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 checked="" 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
<p>From ECL 27-1405(31):</p> <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> <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)</p> <p>375-3.2:</p> <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: 389 Manhattan Avenue
City: Buffalo

Site Address: 389 Manhattan Avenue
County: Erie **Zip:** 14214

Tax Block & Lot

Section (if applicable): 79.78 **Block:** 1 **Lot:** 1.1

Requestor Name: 389 Manhattan, LLC
City: Buffalo

Requestor Address: 500 Seneca Street, Suite 508
Zip: 14204 **Email:** sams@savarinocompanies.com

Requestor's Representative (for billing purposes)

Name: Samuel J. Savarino
City: Buffalo

Address: 500 Seneca Street, Suite 508
Zip: 14204

Email: sams@savarinocompanies.com

Requestor's Attorney

Name: Craig A. Slater
City: Buffalo

Address: 500 Seneca Street, Suite 504
Zip: 14204

Email: cslater@cslaterlaw.com

Requestor's Consultant

Name: Benchmark Environmental Engineering & Science, PLLC - Thomas H. Forbes, P.E.
City: Buffalo

Address: 2558 Hamburg Turnpike, Suite 300
Zip: 14218

Email: tforbes@bm-tk.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

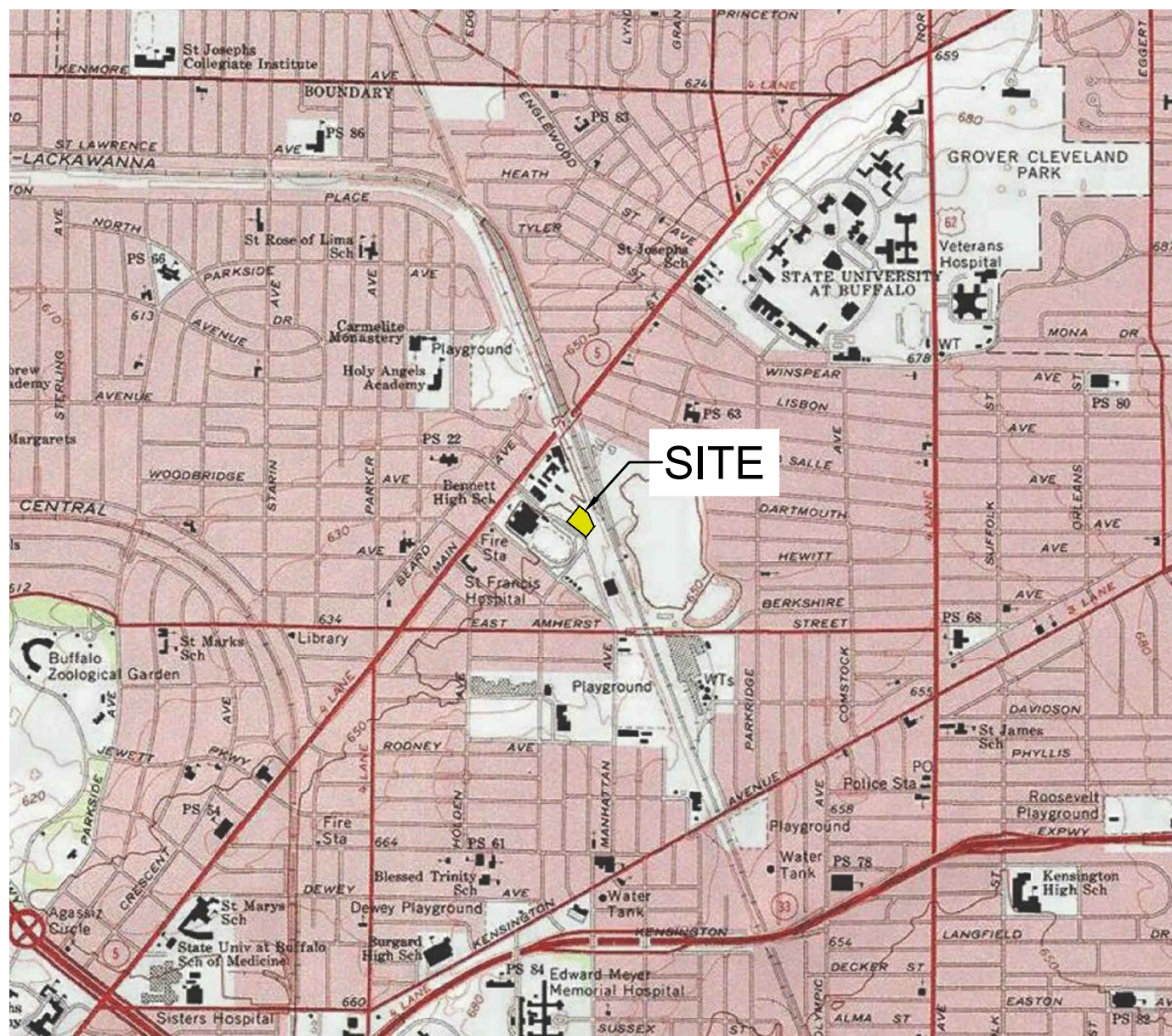
DER/OGC Determination: ☐ Agree ☐ Disagree ☐ Undetermined

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	Adjacent Property Owners
Figure 9	Zoning Map
Figure 10	USDA Soil Type Map

FIGURE 1



SCALE: 1 INCH = 2000 FEET
SCALE IN FEET
(approximate)



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

SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

389 MANHATTAN AVENUE
BUFFALO, NEW YORK

PREPARED FOR
389 MANHATTAN, LLC

PROJECT NO.: B0258-020-001

DATE: NOVEMBER 2020

DRAFTED BY: CMS

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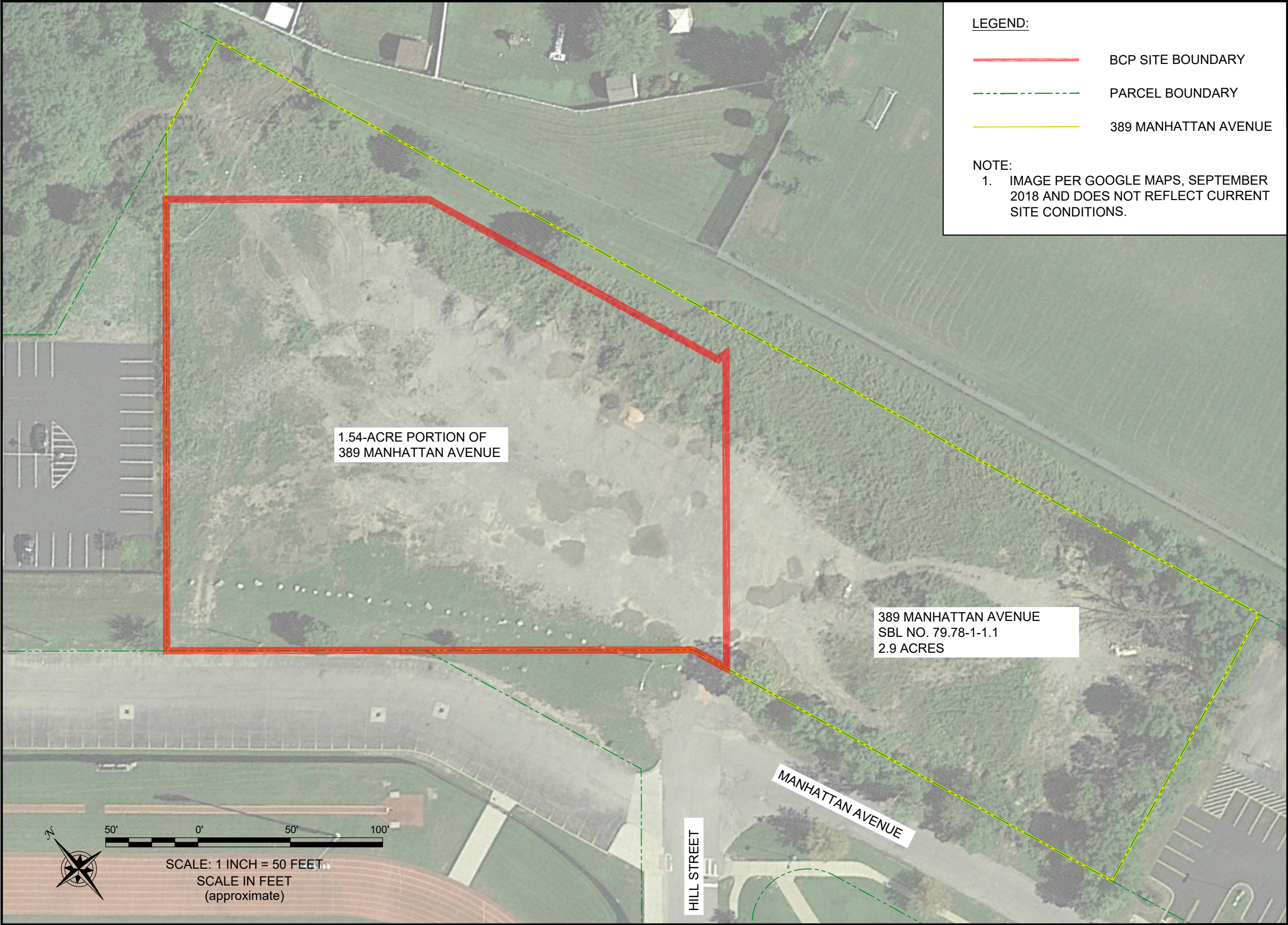
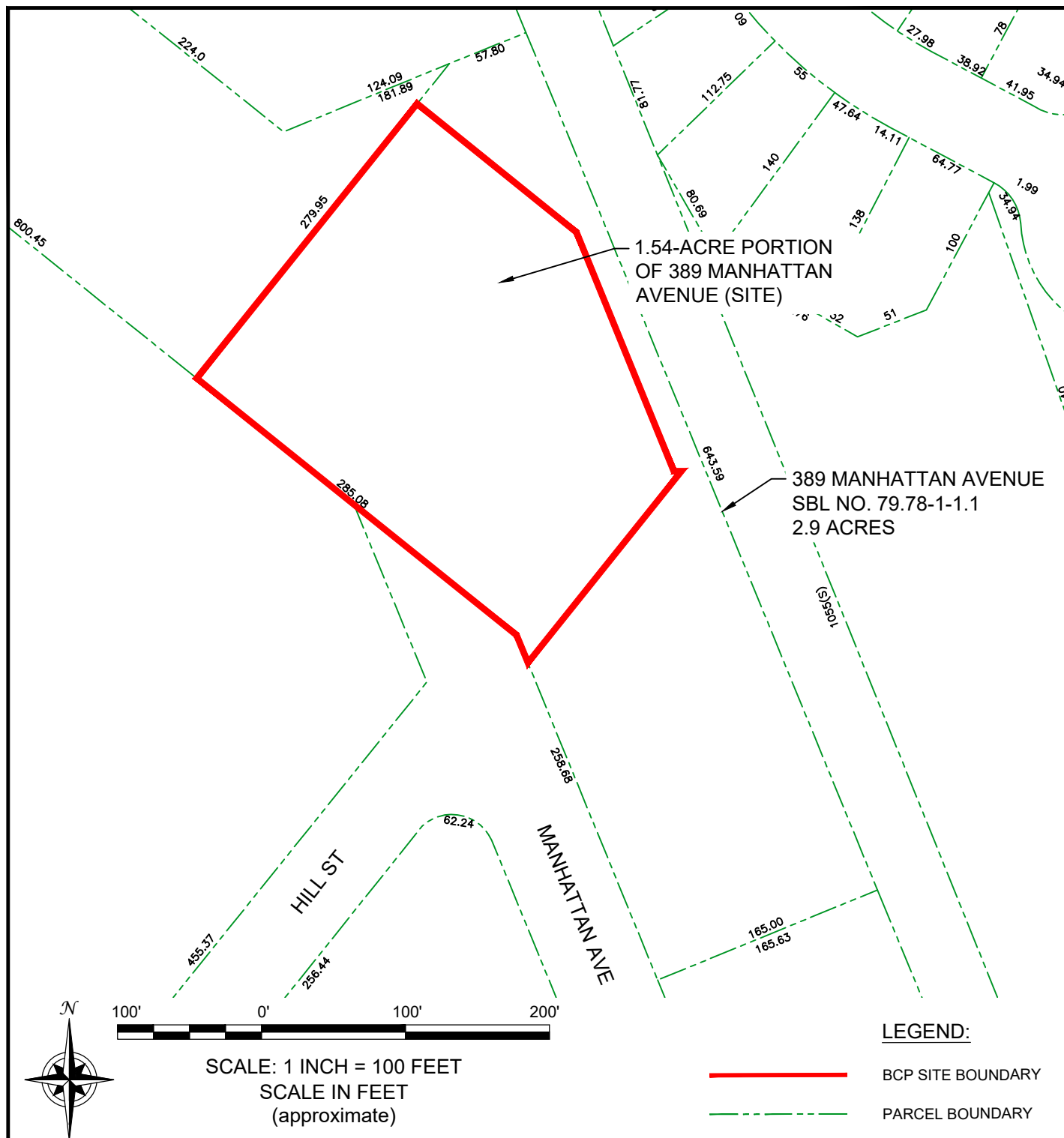


FIGURE 2	SITE PLAN (AERIAL) BROWNFIELD CLEANUP PROGRAM APPLICATION 389 MANHATTAN AVENUE BUFFALO, NEW YORK PREPARED FOR 389 MANHATTAN, LLC	 2558 HAMBURG TURNPIKE SUITE 300 BUFFALO, NY 14218 (716) 856-0599
JOB NO.: B0258-020-001		DISCLAIMER: PROPERTY OF BENCHMARK ENVIRONMENTAL ENGINEERING & SCIENCE, PLLC. 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.

FIGURE 3



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

PROJECT NO.: B0258-020-001

DATE: JULY 2020

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TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

389 MANHATTAN AVENUE
BUFFALO, NEW YORK

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FIGURE 4



600' 0' 600' 1200'

SCALE: 1 INCH = 600 FEET
SCALE IN FEET
(approximate)

LEGEND:

- BCP SITE BOUNDARY
- - - - - 1000' SETBACK



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

PROPERTY BASE MAP (1000' SETBACK)

BROWNFIELD CLEANUP PROGRAM APPLICATION

389 MANHATTAN STREET
BUFFALO, NEW YORK

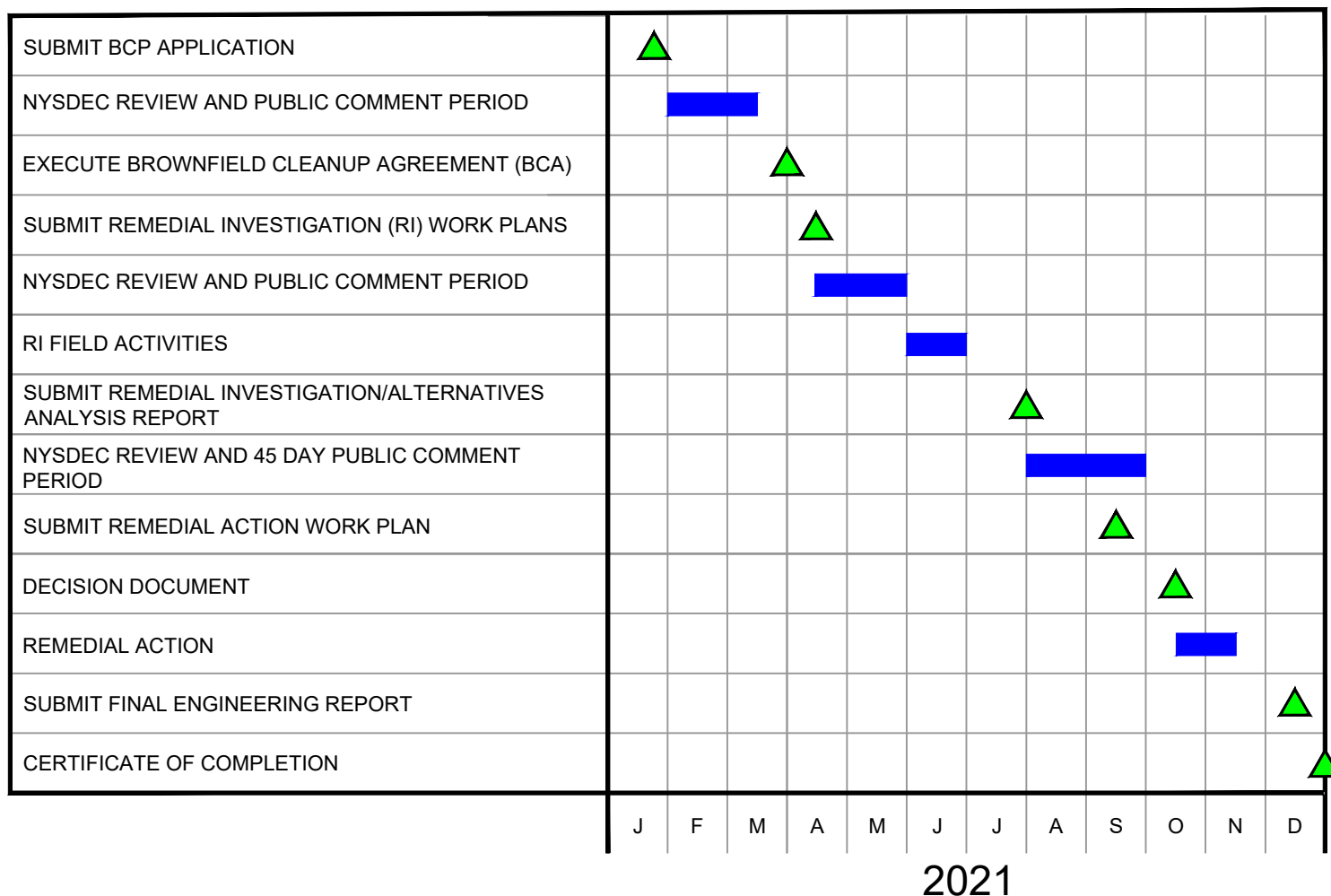
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389 MANHATTAN, LLC

PROJECT NO.: B0258-020-001

DATE: NOVEMBER 2020

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PROJECT TASKS:

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

PROJECT NO.: B0258-020-001

DATE: JANUARY 2021

DRAFTED BY: CNK

PRELIMINARY PROJECT SCHEDULE

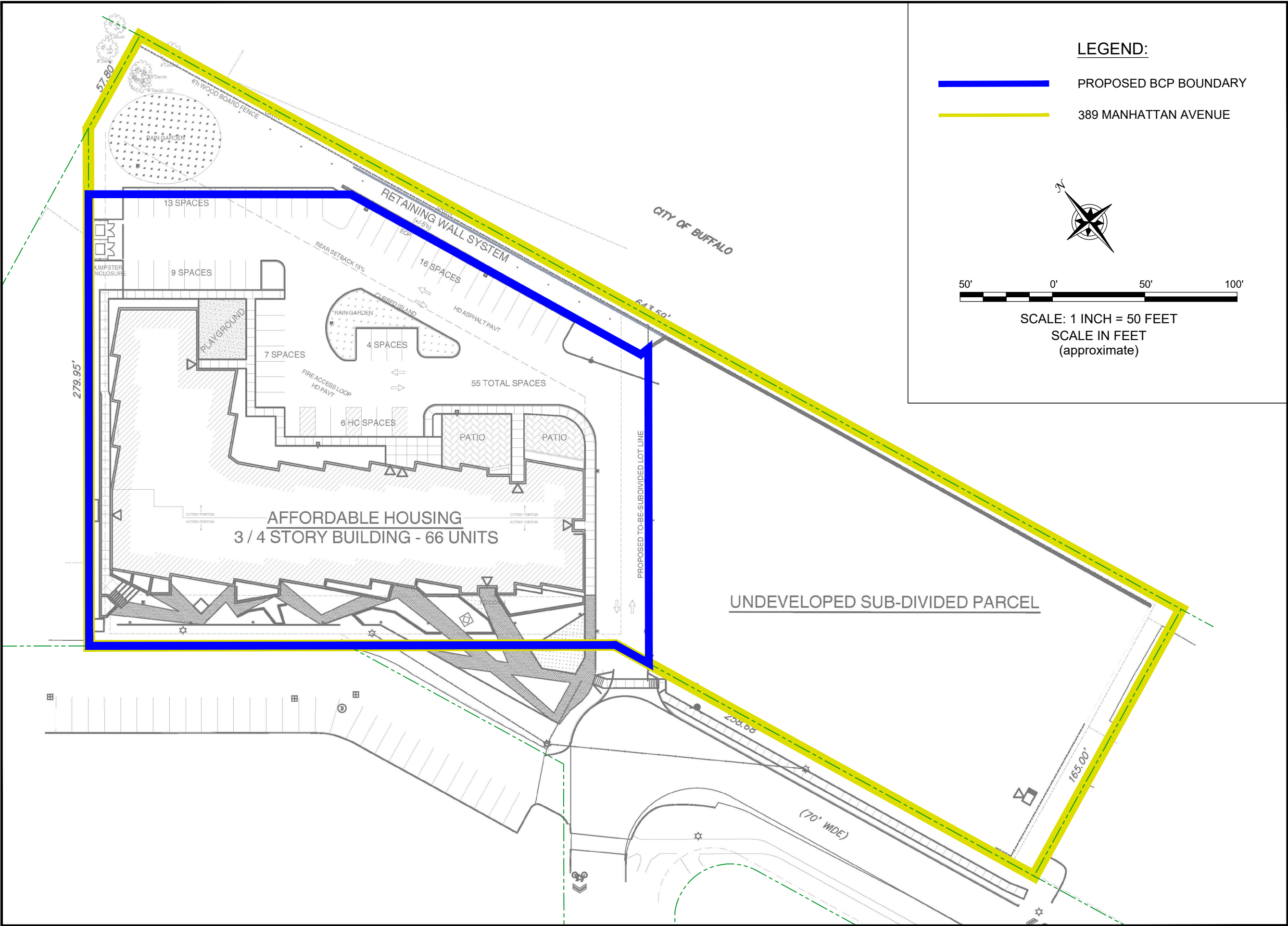
BROWNFIELD CLEANUP PROGRAM APPLICATION

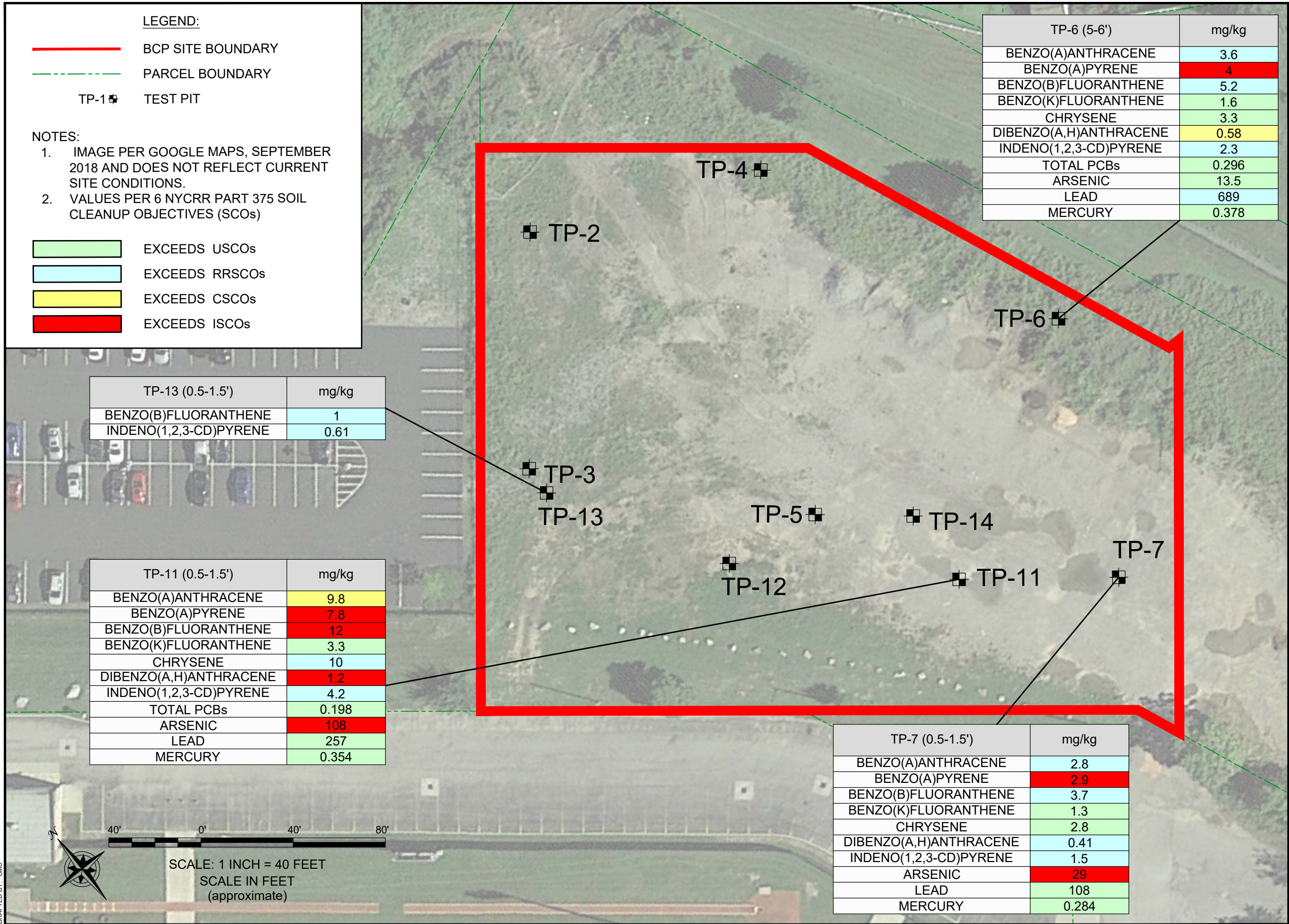
389 MANHATTAN AVENUE
BUFFALO, NEW YORK

PREPARED FOR
389 MANHATTAN, LLC

FIGURE 5

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INVESTIGATION LOCATIONS AND AREAS OF CONCERN

BROWNFIELD CLEANUP PROGRAM APPLICATION
389 MANHATTAN AVENUE
BUFFALO, NEW YORK

PREPARED FOR
389 MANHATTAN, LLC

BENCHMARK
ENVIRONMENTAL
ENGINEERING
SCIENCE, PLLC
2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 856-0599

JOB NO.: B0258-020-001

FIGURE 7

F:\CAD\Benchmark\Savaino\389 Manhattan Ave\BCP\Figure 8 - Adjacent Property Owners.dwg, 1/20/2021 1:54:55 PM

DATE: NOVEMBER 2020
DRAFTED BY: CMS

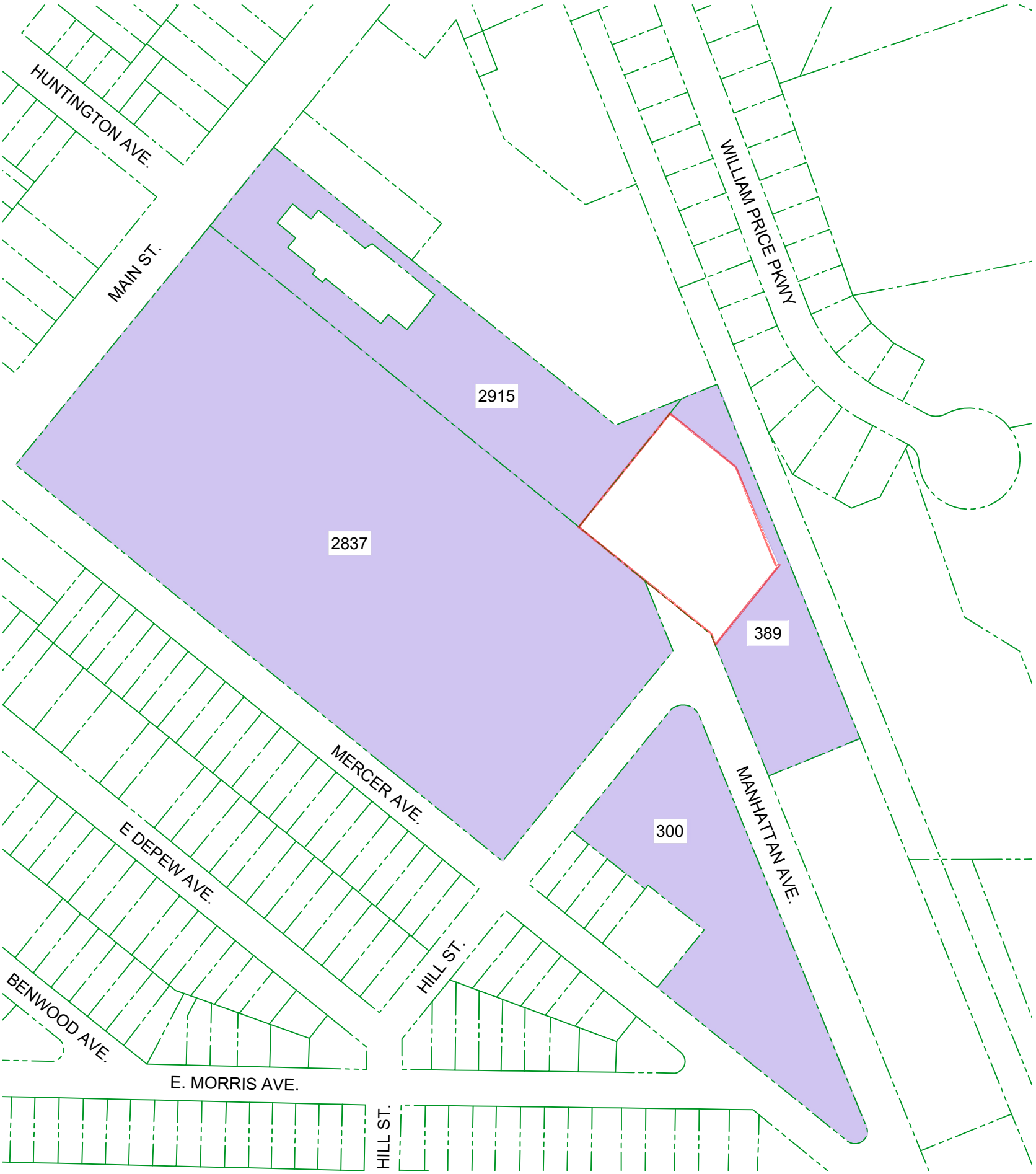
LEGEND:

- BCP SITE BOUNDARY
- PARCEL BOUNDARY

ADJACENT PROPERTY			PROPERTY OWNER MAILING ADDRESS
NO.	STREET	PROPERTY USE	
389	MANHATTAN AVENUE	VACANT COMMERCIAL	BETHUNE HALL, LLC 1221 E 8TH STREET BROOKLYN, NY 11230
300	MANHATTAN AVENUE	VACANT RESIDENTIAL	CITY OF BUFFALO 901 CITY HALL BUFFALO, NY 14202
2837	MAIN STREET	SCHOOL	CITY OF BUFFALO BOARD OF EDUCATION BENNETT HIGH SCHOOL 408 CITY HALL BUFFALO, NY 14202
2915	MAIN STREET	VACANT COMMERCIAL	2915 MAIN STREET LLC 50 FOUNTAIN PLAZA BUFFALO, NY 14202



SCALE: 1 INCH = 200 FEET
SCALE IN FEET
(approximate)



ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION
389 MANHATTAN AVENUE
BUFFALO, NEW YORK

PREPARED FOR
389 MANHATTAN, LLC

BENCHMARK

2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

ENVIRONMENTAL
ENGINEERING &
SCIENCE, PLLC

JOB NO.: B0258-020-001

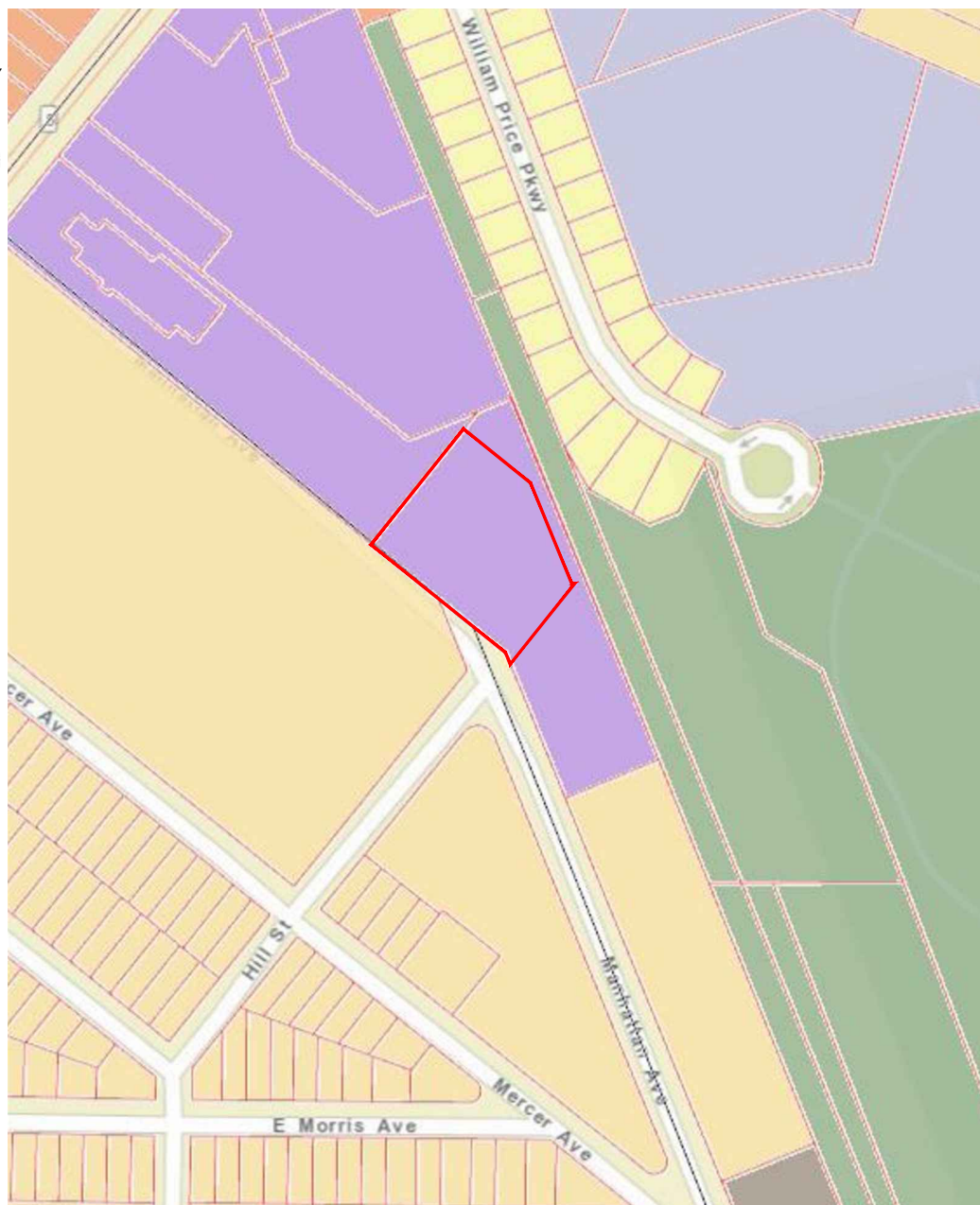
FIGURE 8

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FIGURE 9

LEGEND:

- BCP SITE BOUNDARY
- Parcels
- Green Code Zoning 2017**
 - N-1C (Mixed-Use Core)
 - N-3C (Mixed-Use Center)
 - N-3R (Residential)
 - N-4-50 (Single Family)
 - D-OG (Green)
 - D-R (Residential Campus)
 - D-IL (Light Industrial)



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

NOTE: MAP PER CITY OF BUFFALO GREEN CODE



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
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ZONING MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

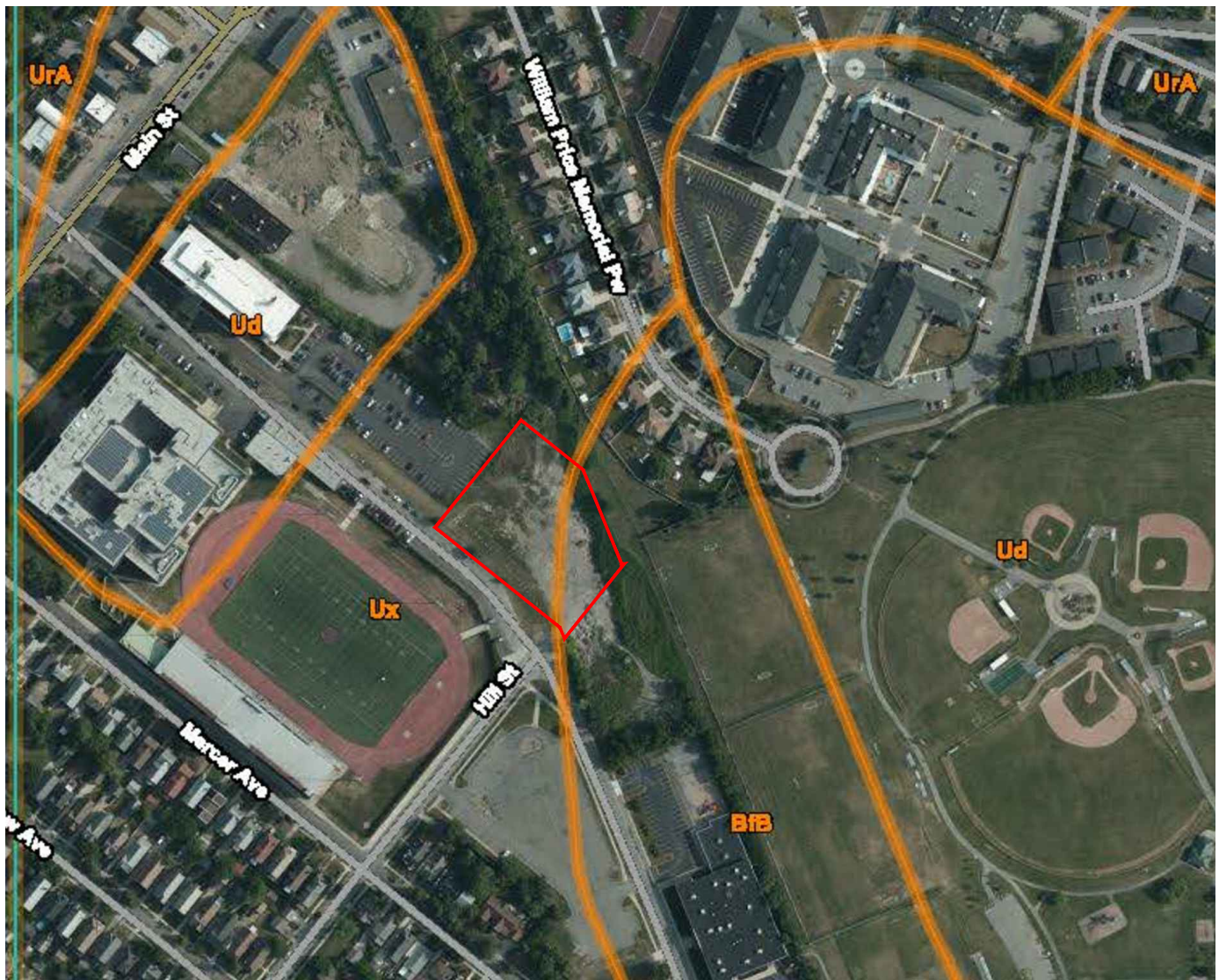
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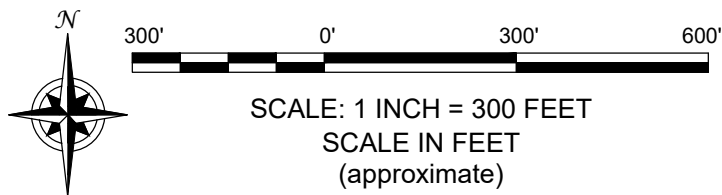
FIGURE 10



NOTE: MAP PER USDA NRCS WEBSOIL SURVEY

LEGEND:

BCP SITE BOUNDARY



MAP UNIT LEGEND	
MAP UNIT SYMBOL	MAP UNIT NAME
BfB	BENSON VERY CHANNERY LOAM, 3% TO 8% SLOPES
Ud	URBAN LAND
UrA	URBAN LAND-LIMA COMPLEX, 1% TO 6% SLOPES
Ux	URBAN LAND-WASSAIC COMPLEX



2558 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 858-0599

PROJECT NO.: B0258-020-001

DATE: NOVEMBER 2020

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USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

389 MANHATTAN AVENUE
BUFFALO, NEW YORK

PREPARED FOR
389 MANHATTAN, LLC

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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

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

EXHIBIT A2 - SIGNATURE CONSENT

EXHIBIT A3 – CITY OF BUFFALO PLANNING BOARD APPROVAL

EXHIBIT A4 - ERIE COUNTY PARCEL DETAIL REPORT

EXHIBIT A5 – BCP SITE METES AND BOUNDS DESCRIPTION AND SURVEY

EXHIBIT A6 –1935 SANBORN MAP

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

SECTION I – REQUESTOR INFORMATION

Requestor, 389 Manhattan, LLC, a New York State limited liability company, is authorized to conduct business in New York State. A copy of the New York State Corporation and Business Entity Database printout for 389 Manhattan, LLC is attached as Exhibit A1.

Exhibit A2 is the Signature Consent which identifies Samuel J. Savarino, of 389 Manhattan, LLC as authorized person to execute document or agreements necessary under the Brownfield Cleanup Program.

Benchmark Environmental Engineering and Science, PLLC (Benchmark), a registered 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

389 Manhattan, LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the Site (see Figures 1-4) under the NYS Brownfield Cleanup Program (BCP) and is submitting this BCP Application for eligibility acceptance into the program.

A preliminary project schedule is shown on Figure 5.

The Volunteer plans to redevelop a ± 1.54 -acre portion (BCP Site) of the ± 2.9 -acre 389 Manhattan Avenue parcel, with the construction of a multi-family four-story affordable housing development. The Conceptual Project Plan is shown on Figure 6. The Site Plan and property subdivision have received City of Buffalo Planning Board Approval, as reflected in Exhibit A3. The Site redevelopment plan estimates capital investment of approximately \$16,300,000.

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

The Project will result in the remediation, redevelopment, and reuse of an idle environmentally impacted portion of 389 Manhattan Avenue in the City of Buffalo, New York.

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A summary of the previous environmental investigation findings completed for the 389 Manhattan Avenue Site (hereinafter, the “Project Site” or the “Site”) are provided below.

Phase I Environmental Site Assessment (Benchmark Environmental Engineering Science, PLLC)

Benchmark completed a Limited Phase I Environmental Site Assessment (Phase I) on the 389 Manhattan Avenue parcel. Benchmark identified the following Recognized Environmental Conditions (REC):

- The history of the Site with former railroad tracks, coal storage, and disturbances (apparently from historic import and reworking of on-Site materials) as a previous Phase II Environmental Investigation by Benchmark identified the presence of on-Site fill materials impacted by SVOCs and metals.
- Miscellaneous materials, including mounds of discarded tires, wooded pallets, piles of concrete, etc., as such will require segregation and proper off-site disposal.
- The history of industrial operations in the area of the Site due to the potential for additional subsurface impacts.
- The “closed” and “inactive” spill incidents identified for adjacent/nearby properties are considered historical RECs (HRECs) and as such have been addressed to the satisfaction of the NYSDEC.

A complete copy of the Phase I report is provided as a separate PDF file on the enclosed CD.

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

Phase II Environmental Investigation (Benchmark Environmental Engineering and Science, PLLC)

Benchmark completed a Limited Phase II Environmental Investigation (Phase II) on the entire 389 Manhattan Avenue parcel dated July 15, 2020. The Phase II activities consisted of fourteen (14) test pits (TPs) and submittal of six (6) subsurface soil samples for laboratory analysis. Ten (10) of the fourteen (14) test pits were advanced within the Site area subject to this BCP application (TP-2, TP-3, TP-4, TP-5, TP-6, TP-7, TP-11, TP-12, TP-13, and TP-14), and four (4) of the six (6) analytical samples analyzed were also from the BCP Site area subject to this BCP application (TP-6, TP-7, TP-11, and TP-13). The test pit locations and summary of analytical results are shown on Figure 7. Findings of the Phase II as it pertains to the subject BCP Site are detailed below:

- The surface of the Site consists of gravel and visible urban fill such as broken brick and concrete. The remainder of the Site is covered in grass and shrubs.
- The subsurface conditions encountered at the Site consist of soil/fill material over bedrock. Fill materials were encountered across the entire Site and varied from dark granular fill material to sandy soil containing man-made constituents (brick, cinders, ash, plastic debris, etc.). Native soil was not encountered. The fill material varies in thickness from 1.5 to 7 feet.
- Bedrock was encountered at the ten (10) test pit locations.
- Groundwater was not encountered during the Phase II. Saturated subsurface soils were encountered at TP-3. These conditions were likely caused by nearby surface conditions (ponding water from recent rain events).
- Semi-volatile organic compounds (SVOCs), specifically polycyclic aromatic hydrocarbons (PAHs) were detected in the four (4) soil/fill samples submitted for laboratory analysis exceeding their respective Unrestricted Soil Cleanup Objectives (USCOs), Restricted Residential SCOs (RRSCOs), Commercial SCOs (CSCOs), and/or Industrial SCOs (ISCOs).
- Arsenic was detected in the soil/fill exceeding its USCO (13 mg/kg) at TP-6 (13.5 mg/kg) and its ISCO (16 mg/kg) at TP-7 (29 mg/kg) and TP-11 (108 mg/kg)

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

- Lead was detected in the soil/fill exceeding its USCO (63 mg/kg) at TP-7 (108 mg/kg) and TP-11 (257 mg/kg) and its RRSCO (400 mg/kg) at TP-6 (689 mg/kg).
- Mercury was detected in the soil/fill exceeding its USCO (0.18 mg/kg) at TP-6 (0.378 mg/kg), TP-7 (0.284 mg/kg), and TP-11 (0.354 mg/kg).
- Total PCBs were detected in the soil/fill exceeding its USCO (0.1 m/kg) at TP-6 (0.296 mg/kg) and TP-11 (0.198 mg/kg).

A complete copy of the Phase II report is provided as a separate PDF file on the enclosed CD.

SECTION IV – PROPERTY INFORMATION

Parcel Description

The 389 Manhattan Avenue Site, subject to this BCP application, is in a highly developed commercial and residential use area in the City of Buffalo (see Figures 1 and 2). The BCP Site consists of a ± 1.58 -acre portion of a greater ± 2.9 -acre parcel located at 389 Manhattan Avenue, Buffalo, Erie County, New York (SBL # 79.78-1-1.1).

The Erie County tax parcel detail report for the 389 Manhattan Avenue parcel is provided for reference in Exhibit A4.

The ± 1.58 -acre proposed BCP Site is currently a portion of a larger ± 2.9 -acre parcel. The boundaries of the BCP Site were developed to allow the planned construction of a multi-family 4-story affordable housing development. A metes and bounds description and related survey map of the BCP Site is provided as Exhibit A5.

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

Easements and Permits

389 Manhattan, LLC is not aware of any formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property. In addition, based on information gathered to date, there are no institutional controls recorded for the Site. Utilities are located in the right-of-way along Manhattan Avenue. The Site is supplied with municipal sanitary sewer, electric, natural-gas, and public potable water. 389 Manhattan, LLC is not aware of any other easements or restrictions on the Site.

Location

The Site is located on Manhattan Avenue, southeast of Main Street, in a highly developed mixed-use residential and commercial area of the City of Buffalo, Erie County, New York. The Site is bordered by Manhattan Avenue and Bennett High School to the west; the remaining area of 389 Manhattan Avenue, residential vacant land, and Manhattan Avenue to the south; the remaining area of 389 Manhattan Avenue to the east; and a parking lot area associated with 2915 Main Street (Bethune Lofts) to the north (see Figures 2 and 4). Adjacent property owners are identified on Figure 8.

Site Features

The Site is currently vacant and covered with gravel, urban fill, and vegetation.

Zoning and Land Use

The project area is planned as residential, consistent with the City of Buffalo zoning assigned to the Site (see Figure 9). The current zoning for the Site and the adjacent properties is N-1C, which is Mixed-Use Core (mixed-use mid-rise development at the edges of downtown).

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

The Site is currently vacant. The surrounding parcels are currently used as follows:

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

Planned reuse of the Site as a multi-family affordable housing residential development, which is consistent with the City of Buffalo Land Use for the area.

Past Use of the Site

The Site was owned by Buffalo Meter Company, Inc. from approximately 1915 through 1971 when it was purchased by University at Buffalo in 1971 to house their Department of Art and Architecture Department. It was purchased in 2006 by Bethune Hall, LLC. Historic records indicate rail spurs adjacent to the Site along the northeast boundary that were associated with adjacent properties along Main Street (former Buffalo Meter Company and former McDougall Butler Company/Keystone Corporation) connecting to the adjacent former Erie Railroad and Delaware, Lackawanna, and Western Railroad (DL&W RR) main lines.

Fill material present underlying the Site is impacted as evidenced by SVOCs, metals, and PCBs exceeding the Part 375 USCOs, RRSCOs, CSCOs and/or ISCOs.

The previous investigation reports are provided electronically on the enclosed CD.

Site Geology and Hydrogeology

The Site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief that gently slopes westward towards Lake Erie and the Niagara River, except in the immediate vicinity of major drainage ways. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

Urban Land- Wassaic complex (Ux) and Benson very cherty loam (BfB). Soils associated with the Urban Land- Wassaic complex are characterized as level areas of urban land and moderately deep Wassaic soil (silt loam) underlain by bedrock at a depth of 20 to 40-inches. Soils associated with the Benson very cherty loam are characterized as a very cherty loam underlain by bedrock at a depth of 10 to 20-inches (Figure 10).

The previous investigation identified the Site geology as gravel with urban fill and/or vegetation over 1.5 to 7 ft of urban fill to bedrock. The urban fill is described as dark granular fill material or sandy soil containing man-made constituents such as brick, cinders, ash, plastic, and debris. Native soil was not encountered at the Site. The Site is situated over the Onondaga Formation of the Middle Devonian Series. The Onondaga Formation is comprised of a limestone of 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. Structurally, the bedrock formations strike in an east-west direction and exhibit a regional dip that approximates 40 feet per mile (0.4 degrees) toward the south and southwest. Bedrock was encountered between 1.5 to 7 fbs.

Regional groundwater is anticipated to flow westerly towards the Niagara River and Lake Erie. However, local groundwater flow may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions.

Additional work is required to investigate groundwater flow direction and quality at the Site. Bedrock monitoring wells are planned to be installed to assess and characterize groundwater flow patterns and quality during the Remedial Investigation.

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

Environmental Assessment Narrative

The Site was owned by Buffalo Meter Company, Inc. from at approximately 1915 through 1971 when it was purchased by University at Buffalo in 1971 to house their Department of Art and Architecture Department. It was purchased in 2006 by Bethune Hall, LLC. The property is currently vacant.

Properties in this area of the City of Buffalo have been subject to historic fill import due to the presence of the former rail lines and a portion of the former Buffalo Crushed Stone Company quarry to the east of the Site, which has been filled. The attached Sanborn map from 1935 (see Exhibit A6) shows the quarry and rail lines east of the Site including and former rail lines within the BCP Site which terminated at the former Buffalo Meter Co. manufacturing building and former McDougall Butler Company (paint manufacturing) buildings to the northwest.

Additionally, review of NYSDEC databases indicated that two (2) properties to the north/northwest, 2917 Main Street and 2929/2939 Main Street have been subject to remedial action, and the 2929/2939 Main Street property is a BCP Site (NYSDEC Site No. C915318).

Phase II analytical data (discussed below and in Section III of Appendix A) indicate the Site has PAH and metals contaminants present above their respective RRSCOs, CSCOs, and/or ISCOs in the soil/fill at the Site. These impacts may be associated with nearby former rail line use or historic filling that has occurred. Figure 7 summarizes the environmental impacts identified in the previous investigation.

Semi Volatile Organic Compounds (SVOCs)

Laboratory analytical results detected SVOCs at or above their respective Part 375 RRSCOs (i.e., the applicable SCOs for the intended Site reuse) at three (3) investigation locations, TP-

APPENDIX A
BCP Application – Part A
Section I – Section IV
389 Manhattan Avenue Site

6, TP-7, TP-11, and TP-13. A summary of contaminants and their respective exceedances are listed below:

- Benzo(a)anthracene exceeded its RRSCO (1 mg/kg) at two (2) locations, TP-6 (3.6 mg/kg) and TP-7 (2.8 mg/kg) and its CSCO (5.6 mg/kg) at one (1) location, TP-11 (9.8 mg/kg).
- Benzo(a)pyrene exceeded its ISCO (1.1 mg/kg) at three (3) locations, TP-6 (4 mg/kg), TP-7 (2.9 mg/kg) and TP-11 (7.8 mg/kg).
- Benzo(b)fluoranthene exceeded its RRSCO (1 mg/kg) at three (3) locations, TP-6 (5.2 mg/kg), TP-7 (3.7 mg/kg), and TP-13 (1 mg/kg), and its ISCO (11 mg/kg) at one (1) location, TP-11 (12 mg/kg).
- Chrysene exceeded its RRSCO (3.9 mg/kg) at one (1) location, TP-11 (10 mg/kg).
- Dibenzo(a,h)anthracene exceeded its RRSCO (0.33 mg/kg) at one (1) location, TP-7 (0.41 mg/kg), its CSCO (0.56 mg/kg) at one (1) location, TP-6 (0.58 mg/kg), and its ISCO (1.1 mg/kg) at one (1) location, TP-11 (1.2 mg/kg).
- Indeno(1,2,3-cd)pyrene exceeded its RRSCO (0.5 mg/kg) at four (4) locations, TP-6 (2.3 mg/kg), TP-7 (1.5 mg/kg), TP-11 (4.2 mg/kg), and TP-13 (0.61 mg/kg).

Metal Analytes

Metal analytes were detected above their respective RRSCOs three (3) locations, TP-6, TP-7 and TP-11.

- Arsenic exceeded its ISCO (16 mg/kg) at two (2) locations, TP-7 (29 mg/kg) and TP-11 (108 mg/kg).
- Lead exceeded its RRSCO (400 mg/kg) at one (1) location, TP-6 (689 mg/kg).

Mercury and PCBs were also detected above their respective USCOS in soil/fill samples collected during the Phase II.

The Phase II is provided electronically on the enclosed CD.

EXHIBIT A1

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through December 8, 2020.

Selected Entity Name: 389 MANHATTAN, LLC

Selected Entity Status Information

Current Entity Name: 389 MANHATTAN, LLC

DOS ID #: 5733305

Initial DOS Filing Date: MARCH 30, 2020

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)

SAMUEL J. SAVARINO

500 SENECA STREET

SUITE 508

BUFFALO, NEW YORK, 14204

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
MAR 30, 2020	Actual	389 MANHATTAN, 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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EXHIBIT A2

389 MANHATTAN, LLC

WRITTEN CONSENT

January 21, 2021

The undersigned being holder of all of the membership interest of **389 Manhattan, LLC**, a New York limited liability company (the "**Company**"), hereby jointly consent to the adoption of the following resolutions without a meeting and direct that this Consent be filed with the minutes of the Company:

RESOLVED, that Samuel J. Savarino (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 located at 389 Manhattan Avenue, Buffalo, New York; and be it further

RESOLVED, that the Authorized Person is hereby authorized, empowered and directed to take all such action on behalf of the 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 Unanimous Written Consent as of the date first set forth above.



Samuel J. Savarino

State of New York)
County of Erie) ss.:

On the 21ST day of JANUARY, 2021, before me, the undersigned, a Notary Public in and for the said state, personally appeared John F. Daly, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

SILVIO N. LEONARDI
Notary Public, State of New York
Reg. No. 01LE6269111
Qualified in Erie County
Commission Expires 09/17/2024



Notary Public



THE CITY OF BUFFALO
The City of Buffalo Planning Board

Minutes • November 16, 2020

901 City Hall

Buffalo, NY 14202
<http://www.city-buffalo.com>
 James Morrell

Regular Planning Board Meeting

Webex Virtual Meeting

webex.com, Buffalo, NY 14202

4:00 PM

I. Call to Order

The meeting was called to order at 4:03 PM by Chairman James Morrell

Attendee Name	Present	Absent	Late	Arrived
James Morrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Cynthia Schwartz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Horace Gioia	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Martha Lamparelli	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Andrew Malcolm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Michael Rembis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

II. Approval of Meeting Minutes

- Planning Board - Regular Planning Board Meeting - Nov 2, 2020 4:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Cynthia Schwartz, Vice Chairman
SECONDER:	Martha Lamparelli
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

III. Public Hearings

- 389 Manhattan - Subdivision

RESULT:	CLOSED PUBLIC HEARING [UNANIMOUS]
MOVER:	Andrew Malcolm, Michael Rembis
SECONDER:	Cynthia Schwartz, Vice Chairman
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

389 Manhattan - Subdivision

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Cynthia Schwartz, Vice Chairman
SECONDER:	Michael Rembis
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

IV. New Business

3. Special Use Permit - 1264 Hertel for Tavern & Outdoor Dining N-3C Zone
(Recommendation to Common Council)

Conditions:

*No outside music

*No outside trash cans

*Tables must be bussed from inside

RESULT:	REC APP W/ COND [UNANIMOUS]
MOVER:	Cynthia Schwartz, Vice Chairman
SECONDER:	Michael Rembis
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

V. Old Business

4. 389 Manhattan Avenue - Construction of a Multifamily Residential Building.

Negative Declaration Adopted

Conditions:

*Driveway must be 24 feet wide.

RESULT:	APPROVED SITE PLAN WITH CONDIT [UNANIMOUS]
MOVER:	Cynthia Schwartz, Vice Chairman
SECONDER:	Michael Rembis
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

5. 179 Sanders Road - Renovate Building and Construct Addition.

Negative Declaration Adopted

RESULT:	TABLED [UNANIMOUS]
	Next: 11/30/2020 4:00 PM
MOVER:	Cynthia Schwartz, Vice Chairman
SECONDER:	Martha Lamparelli
AYES:	Morrell, Schwartz, Lamparelli, Malcolm, Rembis
ABSENT:	Horace Gioia

VI. Adjournment

The meeting was closed at 5:13 PM

City Clerk



Erie County On-Line Mapping Application **EXHIBIT A4**



Legend

- Parcels
- Streets and Highways
 - Interstate
 - Primary State Road
 - Secondary State Road
 - County Road
 - Local Road



0 0.14 0.3Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

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

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

1: 9,028



Erie County On-Line Mapping System

Parcel Detail Report

Report generated:
1/30/2020 9:10:05 AM



Parcel Overview Map



Parcel Detail Map

PIN: 1402000797800001001100

SBL: 79.78-1-1.1

Address: 389 MANHATTAN

Owner 1: BETHUNE HALL LLC

Owner 2:

Mailing Address: 1221 E 8TH ST

City/Zip: BROOKLYN NY

Municipality: City of Buffalo

Property Class: 330

Class Description: B - Vacant comm

Front: 400.67999268

Depth: 0

Deed Roll: 1

Deed Book: 11112

Deed Page: 2236

Deed Date:

Acreage: 2.9041958

Total Assessment: \$47,000

Land Assessment: \$47,000

County Taxes: \$47,000

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

EXHIBIT A5

LEGAL DESCRIPTION

389 Manhattan Avenue, City of Buffalo BCP Site

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Buffalo, County of Erie and State of New York, being part of Lots 45 and 46, Township 11 and Range 8 of the Holland Land Company's Survey, bounded and described as follows:

COMMENCING at a point in the easterly line of Manhattan Avenue (70 feet wide), distant 852.20 feet northerly from the northerly line of East Amherst Street (66 feet wide) as measured along said easterly line of Manhattan Avenue, said point being the southwest corner of lands conveyed to Bethune Hall, LLC by deed recorded in the Erie County Clerk's Office in Liber 11112 of Deeds at page 2236;

RUNNING THENCE NORTHERLY along said easterly line of Manhattan Avenue, a distance of 238.22 feet to the TRUE POINT OF BEGINNING;

CONTINUING THENCE NORTHERLY along said easterly line of Manhattan Avenue, a distance of 20.47 feet to an angle point;

THENCE NORTHWESTERLY along the northeasterly line of Manhattan Avenue and continuing along a northwesterly prolongation of said northeasterly line of Manhattan Avenue and at an interior angle of $208^{\circ}55'00''$, a distance of 285.08 feet to the southwest corner of lands conveyed to 2915 Main Street, LLC by deed recorded in said Clerk's Office in Liber 11204 of Deeds at page 7063;

THENCE NORTHEASTERLY along the southeasterly line of said lands conveyed to 2915 Main Street, LLC and at right angles with the last mentioned line, a distance of 245.00 feet to a point;

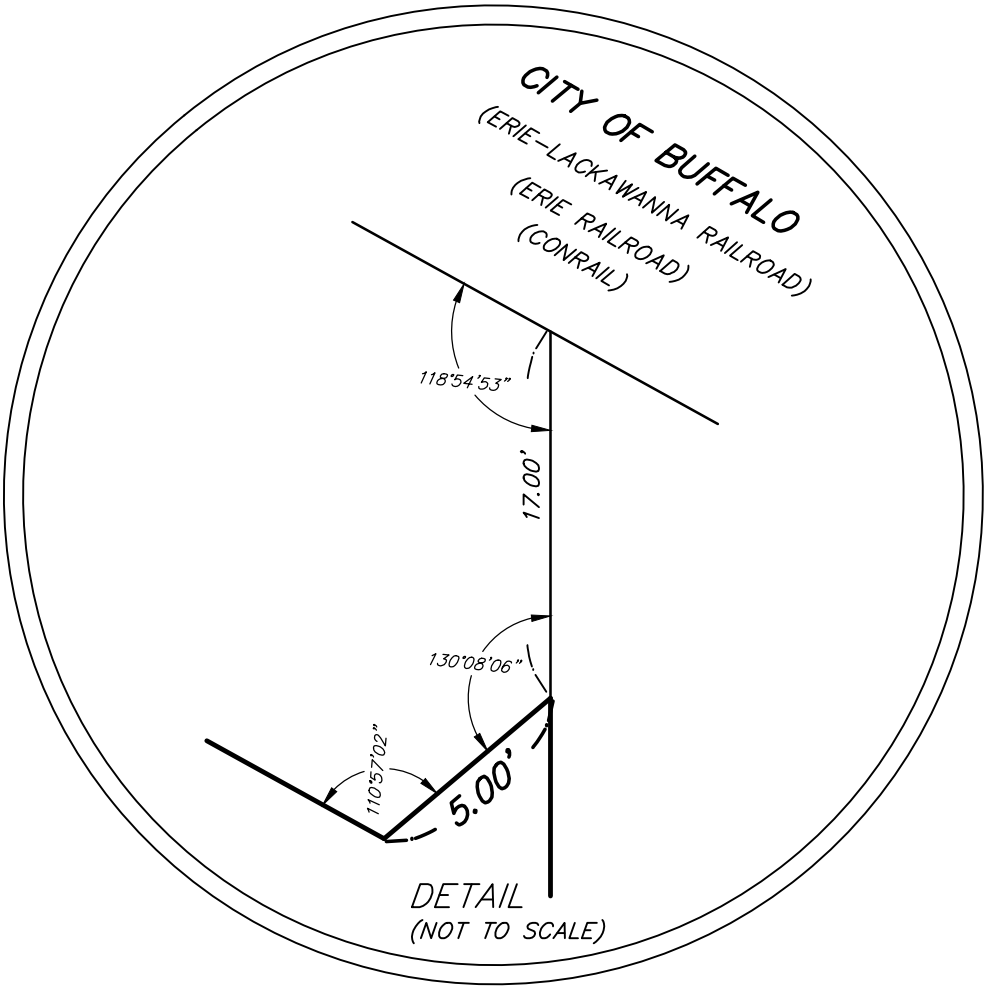
THENCE SOUTHEASTERLY at right angles with the last mentioned line, a distance of 142.37 feet to a point;

THENCE SOUTHERLY at an interior angle of $151^{\circ}05'$ with the last mentioned line, a distance of 179.14 feet to a point;

THENCE SOUTHEASTERLY at an exterior angle of $110^{\circ}57'02''$ with the last mentioned line, a distance of 5.00 feet to a point on a line drawn from the True Point of Beginning at an exterior angle of $118^{\circ}54'53''$ with said easterly line of Manhattan Avenue;

THENCE SOUTHWESTERLY along said line drawn from the True Point of Beginning at an exterior angle of $118^{\circ}54'53''$ with said easterly line of Manhattan Avenue, a distance of 151.50 feet to the True Point of Beginning.

Said parcel containing an area of 1.54 acres, more or less.

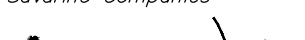


INSTRUMENT(S) UTILIZED IN DETERMINING LOCATION OF BOUNDARY LINES: LIBER 11112 PAGE 2236

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED IN SAID ABSTRACT.

NOTE: PROPERTY CORNER MONUMENTS WERE NOT PLACED AS PART OF THIS SURVEY. NOTE: THIS SURVEY WAS PERFORMED UNDER SEVERE DRY AND DGE CONDITIONS.

SURVEY MAP WAS PREPARED IN ACCORDANCE WITH THE CURRENT STANDARDS FOR LAND SURVEYS ADOPTED BY THE BAR ASSOCIATION OF ERIE COUNTY AT THE REQUEST OF Savanna Companies


FRANCIS C. DELLES NYSPLS No. 050477

©COPYRIGHT 2020, BY:
Millard, Mackay & Delles
LAND SURVEYS, LLP
150 AERO DRIVE
BUFFALO, NEW YORK 14225
PHONE (716) 631-5140 OR FAX 631-3811

AMEND: "A"
SURVEY DATE: 2-12-20
DRAWING DATE: 11-23-20
SCALE: 1" = 30'
"ALL RIGHTS RESERVED"

THIS MAP VOID UNLESS EMBOSSED
WITH NEW YORK STATE LICENSED LAND SURVEYOR SEAL, ALTERING ANY ITEM ON THIS MAP IS A VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 7209, PART 3 OF THE ERIE COUNTY EDUCATION LAW.

PROPOSED BROWNFIELD CLEANUP AREA

PART OF LOT 45&46 SECTION 11 TOWNSHIP 8 OF THE
Holland Land Company's SURVEY - Erie COUNTY, N.Y.

SURVEY OF: 389 Manhattan Avenue, City of Buffalo

SBL No. 79.78-1-1.1

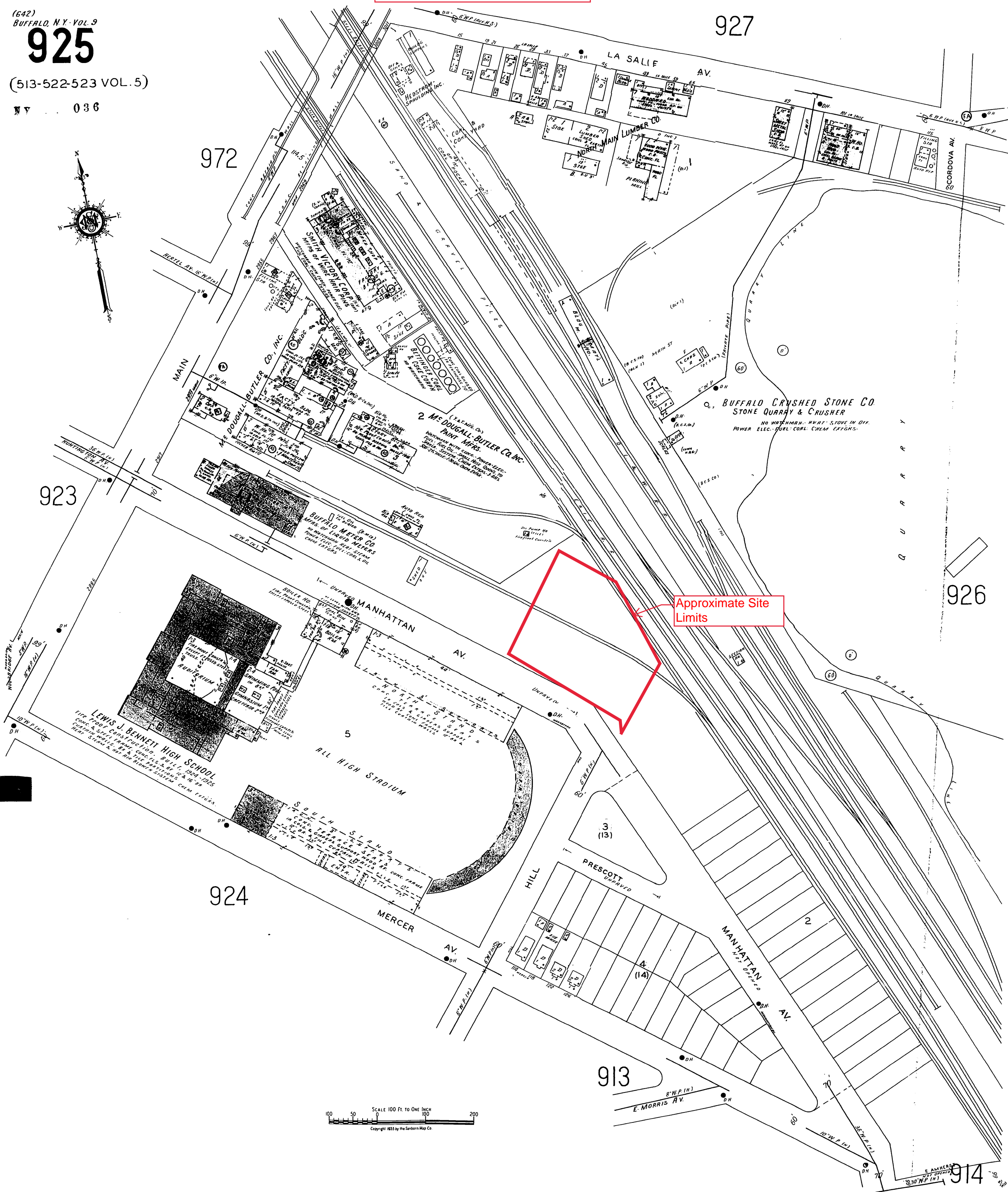
EXHIBIT A6

(642)
BUFFALO, N.Y. VOL. 9

925

(513-522-523 VOL. 5)

NY 036



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

**EXHIBIT B1 - NYS CORPORATION & BUSINESS ENTITY DATABASE
INFORMATION FOR BETHUNE HALL**

EXHIBIT B2 – RIGHT OF ACCESS LETTER

EXHIBIT B3 - DOCUMENT REPOSITORY CONFIRMATION

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan 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.

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
389 Manhattan Avenue			
Current Owner/Operator			
Bethune Hall, LLC 1121 E 8 th Street Brooklyn, NY	Vacant	2005	Current Owner None – No relationship
Previous Owners/Operators			
City of Buffalo 65 Niagara Square Buffalo, NY 14202 Phone: 716-851-4200	Vacant	2000	Former Owner None – No relationship
University at Buffalo 433 Capen Hall Buffalo, NY 14260 Phone: 716-645-2965	Vacant	1971	Former Owner None – No relationship
American Meter Company of Philadelphia Additional information unavailable	Manufacturing	1958	Former Owner None – No relationship
Buffalo Meter Corporation Additional information unavailable	Manufacturing	1915	Former Owner None – No relationship

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

SECTION VII – REQUESTOR ELIGIBILITY INFORMATION

The Applicant, 389 Manhattan, LLC, qualifies as a “Volunteer” in accordance with NY ECL 27-1405(1)(b) and 6NYCRR 375-3.2(b)(2).

SVOC and metal impacts are present at the Site. The former use of the Site to support surrounding manufacturing operations, adjacent rail lines and/or the historic filling which has occurred have impacted the Site. The Applicant does not own the property. The Applicant will become involved with the property after the disposal or discharge of contaminants and has no relationship with the previous owners/operators at the Site. Therefore, 389 Manhattan, LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

The Applicants have approval from the current owner, Bethune Hall, LLC, to access the Site in order to complete the Site investigation and remediation under the BCP. The NYSDOS Corporation & Business Entity Database print out for Bethune Hall, LLC is attached at Exhibit B1. Also attached as Exhibit B2 is a Right of Access letter signed by Bethune Hall, LLC, allowing 389 Manhattan, LLC access to 389 Manhattan Street to complete investigation and remediation activities under the BCP.

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.

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

Erie County Contacts:

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

Erie County Legislator April N.M. Baskin
District 2
792 E. Delavan Avenue
Buffalo, NY 14215

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, 10th Floor
Buffalo, NY 14202

Mr. Robert M. Graber
Erie County Legislature Clerk
25 Delaware Avenue
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

Lou Henry, Chair
Local Emergency Planning Committee
45 Elm Street
Buffalo, NY 14203

City of Buffalo Contacts:

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

Rasheed Wyatt
University District Councilmember
65 Niagara Sq, Rm 1508
Buffalo, NY 14202

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

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

Supplier of Potable Water:

Buffalo Water Department
Veolia Water
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

Nearby Schools:

Carlos Alvarez, Principal
PS 363 Lewis J. Bennett School of
Innovative Technology
2885 Main Street
Buffalo, NY 14214

Teresa Gerchman, Principal
Buffalo United Charter School
325 Manhattan Avenue
Buffalo, NY 14214

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

Mark Mattle, Principal
St. Joseph University School
3275 Main Street
Buffalo, NY 14214

Satish K. Tripathi, President
University at Buffalo
12 Capen Hall
Buffalo, NY 14260

David Quackenbush, President
Charter School for Applied Technologies
24 Shoshone Street
Buffalo, NY 14214

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

Robert Clemens, Principal
St. Mark School
399 Woodward Avenue
Buffalo, NY 14214

Nancy M. Langer
Nativity Miguel Middle School of Buffalo
24 Hastings Avenue
Buffalo, NY 1424

Robert Ross, Principal
Westminster Community Charter School
24 Westminster Avenue
Buffalo, NY 14215

Gregory Johnson, Principal
PS 54 Dr. George E. Blackman School of
Excellence
2358 Main Street
Buffalo, NY 14214

Thomas Vitale, Principal
PS 42 Occupational Training Center
2495 Main Street, Suite 100
Buffalo, NY 14214

Document Repository:

North Park Branch Director
Buffalo & Erie County Public Library
975 Hertel Avenue
Buffalo, NY 14216

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site are provided in the table below (see Figure 8).

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
389	Manhattan Avenue	Vacant Commercial	Bethune Hall LLC 1221 E 8 th Street Brooklyn, NY 11230
300	Manhattan Avenue	Vacant Residential	City of Buffalo 901 City Hall 65 Niagara Square Buffalo, NY 14202
2837	Main Street	School	City of Buffalo Board of Education Bennet HS 408 City Hall 65 Niagara Square Buffalo, NY 14202
2915	Main Street	Vacant Commercial	2915 Main Street LLC/Ciminelli Real Estate 50 Fountain Plaza, Suite 500 Buffalo, NY 14202

Document Repository

The Buffalo and Erie County Library (North Park Branch) has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included in Exhibit B3.

APPENDIX B
BCP Application – Part B
Section V – Section X
389 Manhattan Avenue Site

SECTION X – LAND USE FACTORS

1 – Current Zoning

The current zoning for the Site is N-1C (Mix-Used Core – Mixed-use mid-rise developments at edges of downtown) consistent with the City of Buffalo Unified Development Ordinance (see Figure 9). The planned redevelopment is consistent with the City of Buffalo Zoning and Land Use plans.

2 – Current Use

The Site is currently vacant and covered with some vegetation, gravel, and urban fill. The previous investigations have identified SVOCs, PCB, and metal contamination on-Site that will require remediation.

3, 4, 5 and 6 – Planned Future Use

The Volunteer plans to redevelop a ±1.54-acre portion (BCP Site) of the ±2.9-acre 389 Manhattan Avenue parcel, with the construction of a multi-family four-story affordable housing development. The Conceptual Project Plan is shown on Figure 6.

The planned redevelopment (residential) is consistent with the historic and recent development patterns within the City of Buffalo. Historically, the Site and surrounding areas have included residential, commercial, and/or manufacturing (former Buffalo Meter Corporation and Keystone Corporation) use. Historically, this area was densely populated and a thriving thoroughfare in the City of the Buffalo. The current zoning for the Site is N-1C, which is Mixed-Use Core (mixed-use mid-rise development at the edges of downtown). Surrounding properties are zoned N-1C as well as N-3R (Residential) and D-0G (green space/public park). The City of Buffalo Planning Board has approved the Site Plan (see Exhibit A3). The proposed redevelopment supports recent development pattern and current land use requirement.

EXHIBIT B1**NYS Department of State****Division of Corporations****Entity Information**

The information contained in this database is current through July 17, 2020.

Selected Entity Name: BETHUNE HALL, LLC

Selected Entity Status Information

Current Entity Name: BETHUNE HALL, LLC

DOS ID #: 3225165

Initial DOS Filing Date: JUNE 29, 2005

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)

BETHUNE HALL, LLC

1221 EAST 8TH STREET

BROOKLYN, NEW YORK, 11230

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
JUN 29, 2005	Actual	BETHUNE HALL, 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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[Homepage](#) | [Contact Us](#)

EXHIBIT B2

April 29, 2020

Savarino Companies, LLC
500 Seneca Street, Suite 508
Buffalo, New York 14204

Re: Manhattan Avenue Site

To Whom It May Concern:

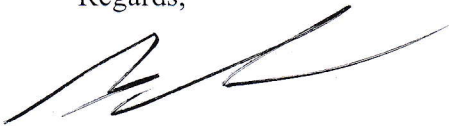
Please be advised that the following property is currently owned by Bethune Hall, LLC (hereafter Owner) 389 Manhattan Avenue, Buffalo, NY 14214 S.B.L. No. 79.78-1-1.1

Bethune Hall, LLC hereby grants Savarino Companies LLC, and 389 Manhattan LLC, as well as their affiliated entities and agents, (hereafter Assignee) full right of access to the above-listed property to undertake investigation and remediation of the property and to secure a Certificate of Completion under the New York State Brownfield Cleanup Program.

It is further agreed and understood that Assignee acknowledge that they are fully and solely responsible for any and all action taken with respect to the Remediation and will comply fully with any regulation issued by any agency or entity having jurisdiction over such matters including responsibility to pay any and all costs or charges. Assignee further agrees to defend, hold harmless and indemnify Owner in the event any action is initiated by any party. Any party relying upon the herein assignment understands and agrees that they shall limit any redress for any matter relating to the herein remediation to Assignee only and not the Owner.

If you have any questions whatsoever, please do not hesitate to contact me.

Regards,



Managing Partner
Bethune Hall, LLC

EXHIBIT B3



July 21, 2020

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

Re: Document Repository for Brownfield Cleanup Program
389 Manhattan Avenue Site
Buffalo, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Environmental Engineering & Science, PLLC would like to request the Buffalo & Erie County Public Library – North Park 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

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

Chelsea Kanaley
Geologist

File: B0258-020-001

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: [April Tompkins](#)
To: [Chelsea N. Kanaley](#)
Subject: RE: Document Repository Request - 389 Manhattan Avenue Site
Date: Tuesday, July 21, 2020 10:22:55 AM

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 **389 Manhattan Avenue Site**. These documents will be made available for public viewing at the **North Park Branch 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

From: Chelsea N. Kanaley <ckanaley@bm-tk.com>
Sent: Tuesday, July 21, 2020 9:23 AM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: Document Repository Request - 389 Manhattan 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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