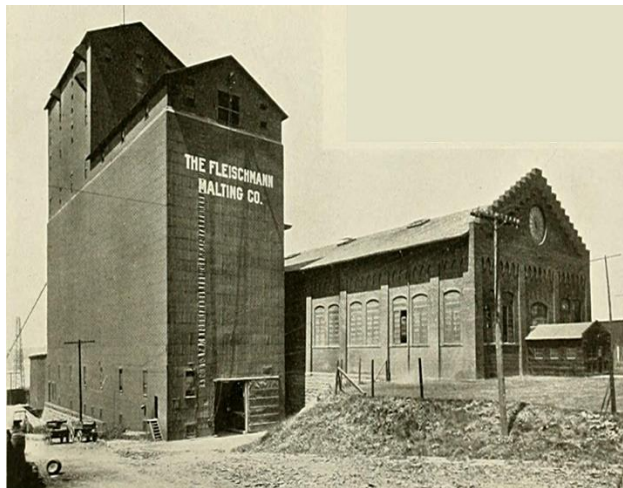


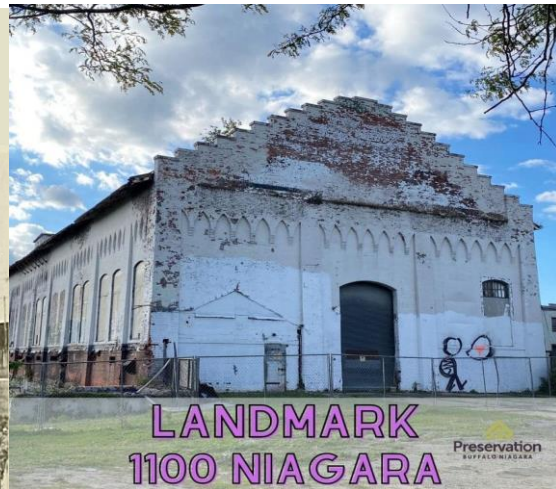
NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BROWNFIELD CLEANUP PROGRAM (BCP)
APPLICATION FORM, Revision 12

CURTISS MALTHOUSE PROJECT
1100 NIAGARA STREET
BUFFALO, ERIE COUNTY, NEW YORK



Malt House Pre1920



Current Front East/South Side

Submitted For:

**1100 Niagara LLC.
266 Elmwood Ave, #281
Buffalo, New York 14201**

Prepared By:



Brydges Engineering in Environment & Energy, DPC

February 2022

TABLE OF CONTENTS

BCP Application Form – Completed

Pages 1-10

ATTACHMENTS & FIGURES – ELECTRONIC VERSION ONLY ON DVD – FILE 1

BCP Application Part A

A – Section I: Requestor Information – NYSDOS Corporation & Business Entity Printout

B – Section II: Project Description – Short Description of Development

C – Section III: Property’s Environmental History

D – Section IV: Property Information

BCP Application Part B

E – Section VI: Current Property Owner/Operator Information – Previous Owners

F – Section VII: Requester Eligibility Information – Volunteer Statement

G – Section IX: Contact List Information – Site Contact List and Doc Repository Letter

H – Section X: Land Use Factors – Current Use

Figure 1 – Site Location Map

Figure 2 – Site Plan (Aerial)

Figure 3 – Tax Map

Figure 4 – Site Survey

Figure 5 – Preliminary Project Schedule

Figure 6 – Preliminary Project Renderings

Figure 7 – Previous Investigation Locations & Contaminant Exceedances

Figure 8 – En-Zone Map

Figure 9 – BOA Map

Figure 10 – Adjacent Property Owners

Figure 11 – Zoning Map

Figure 12 – USDA SOIL Map

SUBSURFACE ESA – ELECTRONIC VERSION ONLY ON DVD – FILE 2

Section III: Property’s Environmental History – Investigation Report (Subsurface ESA)





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 12*

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

NAME 1100 NIAGARA, LLC

ADDRESS 266 ELMWOOD AVE #281

CITY/TOWN Buffalo ZIP CODE 14222

PHONE 917-213-2832 FAX N/A E-MAIL jergollc@gmail.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 Attachment A**

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

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

Section II. Project Description

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

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 Attachment B**
- the date the Certificate of Completion is anticipated.

Section III. Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that the site requires remediation and 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). Please do not submit paper copies of supporting documents.** See Investigation Report DVD

2. **SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED, WITH LABORATORY REPORTS REFERENCED AND ALSO INCLUDED.** See attachment C- data tables, Laboratory reports & Figure 7- exceedences

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum			
Chlorinated Solvents		5 Chlorinated Solvents	
Other VOCs			
SVOCs	7 PAHs		
Metals	4 Metals		
Pesticides			
PCBs			
Other*			

*Please describe: _____

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

- SAMPLE LOCATION Refer to Figure 7 in Attachment C
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

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

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?* Yes No
 (*answering No will result in an incomplete application)

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

- | | | | |
|-------------------------------------------------|---------------------------------------------------|--------------------------------------------------------|------------------------------------------|
| <input type="checkbox"/> Coal Gas Manufacturing | <input checked="" type="checkbox"/> Manufacturing | <input checked="" type="checkbox"/> Agricultural Co-op | <input type="checkbox"/> Dry Cleaner |
| <input type="checkbox"/> Salvage Yard | <input type="checkbox"/> Bulk Plant | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Service Station |
| <input type="checkbox"/> Landfill | <input type="checkbox"/> Tannery | <input type="checkbox"/> Electroplating | <input type="checkbox"/> Unknown |

Other: _____

Section IV. Property Information - See Instructions for Further Guidance

PROPOSED SITE NAME CURTISS MALT HOUSE PROJECT

ADDRESS/LOCATION 1100 Niagara Street

CITY/TOWN Buffalo

ZIP CODE 14213

MUNICIPALITY(IF MORE THAN ONE, LIST ALL): Buffalo

COUNTY Erie

SITE SIZE (ACRES) 1.0

LATITUDE (degrees/minutes/seconds)

42 ° 54 ' 48.03 "

LONGITUDE (degrees/minutes/seconds)

78 ° 54 ' 02.13 "

Complete tax map information for all tax parcels included within the proposed site boundary. If a portion of any lot is proposed, please indicate as such by inserting "P/O" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding far right column. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section No.	Block No.	Lot No.	Acreage
1100 Niagara Street	99.41	1	14.111	1.0

1. Do the proposed site boundaries correspond to tax map metes and bounds? Yes No
If no, please attach an accurate map of the proposed site.

2. Is the required property map attached to the application? Yes No
(application will not be processed without map) **See Attachment D- Figures 1, 2, 3, 4**

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 No

See Figure 8If yes, identify census tract : 61Percentage of property in En-zone (check one): 0-49% 50-99% 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)? Yes 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? Yes 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? Yes No

If yes, attach relevant supporting documentation.

7. Are there any lands under water? Yes 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

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

Are the Property Description and Environmental Assessment narratives included in the **prescribed format**? Yes No
Please Refer to Attachment D

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

Questions 11 through 13 are not applicable

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.

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

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

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

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

Initials of each Requestor: _____

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 Mr. Giles Kavanagh		
ADDRESS 266 Elmwood Ave #281		
CITY/TOWN Buffalo, New York		ZIP CODE 14222
PHONE 917-213-2832	FAX NA	E-MAIL jergollc@gmail.com
NAME OF REQUESTOR'S CONSULTANT Brydges Engineering In Environment & Energy (BE3)		
ADDRESS 960 Busti Avenue - Suite B-150		
CITY/TOWN Buffalo		ZIP CODE 14213
PHONE 716-249-6880	FAX NA	E-MAIL jbrydges@be3corp.com
NAME OF REQUESTOR'S ATTORNEY Jason A. Yots, Esq.		
ADDRESS 170 Florida Street		
CITY/TOWN Buffalo		ZIP CODE 14208
PHONE 716-440-0521	FAX NA	E-MAIL jasonyots@borrelliyots.com

Section VI. Current Property Owner/Operator Information – if not a Requestor Owner is Requestor

CURRENT OWNER'S NAME		OWNERSHIP START DATE:
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL
CURRENT OPERATOR'S NAME		
ADDRESS		
CITY/TOWN		ZIP CODE
PHONE	FAX	E-MAIL

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 Attachment E

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. Owner is Requestor

Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? Yes 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. Yes No

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, DEC assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9 (f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste. Please Refer to Attachment G for Statement

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

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

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: Refer to Attachment G

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.
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

1. What is the current municipal zoning designation for the site? N-1S

What uses are allowed by the current zoning? (Check boxes, below) **Refer to Attachment H & Figure 11**

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) **Refer to Attachment H**

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

Refer to Attachment H

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

Yes No

Refer to Attachment H

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

Yes No

The property is currently zoned N-1S which is Secondary Employment Center. The N-1S zone addresses mixed-use employment centers - refer to Attachment H

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

Yes No

The property is in the Tonawanda Street Corridor Brownfield Opportunity Area (BOA) and the property is in the LWRP - the full reach of the Great Lakes Seaway Trail National Scenic Byway in Buffalo, particularly the full extent along Niagara Street, as it serves as the City's primary local waterfront corridor - refer to Attachment H

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby 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 Manager (title) of 1100 NIAGARA, 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: Feb 10th, 2022 Signature: Giles Kavanagh

Print Name: Giles Kavanagh

SUBMITTAL INFORMATION:

- **Two (2)** copies, one paper copy of the application form with original signatures and table of contents, and one complete electronic copy in final, non-fillable 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

PLEASE DO NOT SUBMIT PAPER COPIES OF SUPPORTING DOCUMENTS. Please provide a hard copy of ONLY the application form and a table of contents.

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 12

Not Applicable

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

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

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

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

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

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

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

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

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

BCP Application Summary (for DEC use only)

Site Name: CURTISS MALT HOUSE PROJECT **Site Address:** 1100 Niagara Street
City: Buffalo **County:** Erie **Zip:** 14213

Tax Block & Lot
Section (if applicable): 99.41 **Block:** 1 **Lot:** 14.111

Requestor Name: 1100 NIAGARA, LLC **Requestor Address:** 266 ELMWOOD AVE #281
City: Buffalo **Zip:** 14222 **Email:** jergollc@gmail.com

Requestor's Representative (for billing purposes)
Name: Mr. Giles Kavanagh **Address:** 266 Elmwood Ave #281
City: Buffalo, New York **Zip:** 14222 **Email:** jergollc@gmail.com

Requestor's Attorney
Name: Jason A. Yots, Esq. **Address:** 170 Florida Street
City: Buffalo **Zip:** 14208 **Email:** jasonyots@borrelliyots.com

Requestor's Consultant
Name: Brydges Engineering In Environment & Energy (BE3) **Address:** 960 Busti Avenue - Suite B-150
City: Buffalo **Zip:** 14213 **Email:** jbrydges@be3corp.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:

ATTACHMENT A

SECTION I: REQUESTOR INFORMATION

NYSDOS Corporation & Business Entity Printout



960 Busti Ave – Suite B-150 Buffalo, New York

SECTION I – REQUESTOR INFORMATION

The New York State Department of State (NYSDOS) Corporation & Business Entity Database print-out for **1100 NIAGARA, LLC** is attached.

1100 NIAGARA, LLC member/owner information is attached.

Brydges Engineering in Environment and Energy, (BE3), a registered New York State (NYS) engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this Brownfield Cleanup Program (BCP) project See Attached

Giles Kavanagh is the sole member/owner of 1100 Niagara, LLC.

Children ages 5+ are eligible for the COVID-19 vaccine and children ages 12+ are eligible for a booster. Parents and guardians: make sure your child gets vaccinated and stays up to date with all recommended doses.

[VAX FOR KIDS >](#)

Department of State

Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details

ENTITY NAME: 1100 NIAGARA, LLC	DOS ID: 4338892
FOREIGN LEGAL NAME:	FICTITIOUS NAME:
ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY	DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: 203 LLC - LIMITED LIABILITY COMPANY LAW	ENTITY STATUS: Active
DATE OF INITIAL DOS FILING: 12/28/2012	REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 12/28/2012	INACTIVE DATE:
FOREIGN FORMATION DATE:	STATEMENT STATUS: CURRENT
COUNTY: Erie	NEXT STATEMENT DUE DATE: 12/31/2022
JURISDICTION: New York, United States	NFP CATEGORY:

[ENTITY DISPLAY](#) [FILED DOCUMENTS](#) [FINANCIAL STATEMENTS](#) [FINANCIAL STATEMENTS](#) [FINANCIAL STATEMENTS](#)

Service of Process Name and Address

Name: THE LLC

Address: 266 ELMWOOD AVE, #281, BUFFALO, NY, United States, 14222

Chief Executive Officer's Name and Address

Name:

Address:

Principal Executive Office or Owner Name and Address

Name:

Address:

Registered Agent Name and Address

Name:

ATTACHMENT B

SECTION II: PROJECT DESCRIPTION



960 Busti Ave – Suite B-150 Buffalo, New York

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A recent investigation report completed by BE3 in 2019 is attached in electronic format which demonstrates that the 1100 Niagara Street property requires remediation in order to meet the requirements of the program. The property is a brownfield site with metals and SVOC (PAHS) contaminants in near surface soils exceeding the soil cleanup objectives/other criteria for the anticipated mixed residential, public recreational and commercial use of the property and chlorinated solvent compounds in groundwater that exceed TOG levels. Attached to this appendix are site drawings and data summary tables as requested in Section III, #3 of the BCP application form.

- Investigation locations and associated analytical results are provided on Figure 7.
- copy of the referenced investigatory reports are provided individually in a separate electronic folder on the enclosed CD.

A summary of the history and previous environmental investigation findings completed for the 1100 Niagara Street Property is provided below:

1100 Niagara Street, the Charles G. Curtiss Company Malt House was built 1898 and is a two-story brick front gabled brick building with a three-story, partially below-grade brick addition to the rear. Built by the Curtiss Family, one of Buffalo’s most significant families, for use in their brewing associated malt business, the industrial building continued to find new owners and uses, first as a part of the rise of farmer cooperatives that came in the 1920s, and then as an art and event space in the 1990s. With its distinctive appearance featuring a stepped gable and pointed-arch corbelling, the building is linked to both the agri-business in Buffalo but also the recent revival of former industrial corridor of Niagara Street.

After taking ownership of a vacant property, the requestor completed the following due diligence assessments of the property. He had not previously nor since utilized the property in any commercial or manufacturing capacity and the property has for the most part remained vacant. The requestor is not responsible for any of the environmental impacts associated with the property, all of which existed prior to his ownership.

September 2012 Phase I ESA and 2012 Phase II ESA

Groundwater & Environmental Services (GES) completed a Phase I Environmental Site Assessment (ESA) in September of 2012 and the following RECs were found:

- There was a spill that occurred in the storage building from a leaking 55 gallon drum of oil. While the oil was cleaned up, the staining on the floor and wall remains.
- There were approximately a dozen fluorescent light ballasts in an electric/tool room located in an upstairs room to the left of the main building entry way.
- Soil as well as construction and demolition debris have been dumped along the building between the south wall of the storage area and Albany Street.

GES completed a preliminary Phase II ESA in November 2012 which included the collection of four soil samples from debris piles along the southern property boundary for chemical analysis. The sample results indicated the following:

- Soil pile samples exceeded the Lead, Mercury, and Dieldrin soil cleanup objectives for restricted residential use.
- Soil pile samples exceeded SVOC cleanup objectives for restricted residential use for: Benzo(a)anthracene; Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Chrysene, Dibenzo(a,h)anthracene, and Ideno(1,2,3-C,D)pyrene.

Most Recent Phase II ESA – BE3 – June 2019

The 2019 BE3 Phase II ESA identified potential RECs from historical uses at adjacent parcels and portions of the subject property. Past Phase II ESA results indicated elevated levels of compounds above SCOs in soils at the property and historical uses at adjacent properties. Data reviewed from a remedial investigations at adjacent/nearby properties indicated potential impacts to groundwater and soils at these adjacent/nearby properties which could potentially impact the subject property.

Field observations and laboratory results from the BE3 June 2019 investigation indicate that there are urban fill conditions in the near-surface soil resulting in compounds above both commercial and residential SCOs. Metal and SVOC exceedances were observed in six (6) of the seven (7) samples collected and these represent areas across the property. The fill depth varied from one foot to fifteen feet across the property and bedrock depth varied from nine (9) to almost sixteen (16) feet bgs. The one groundwater sample result indicates that groundwater up gradient of the property is impacted with chlorinated solvents above groundwater guidance. Immediately adjacent and nearby properties east and north of the property have the historical use potential for chlorinated solvents that could impact site groundwater. The overburden does not appear to be a source of a significant water bearing zone.

This 2019 BE3 Phase II ESA represents an assessment of environmental conditions at the property. Additional investigations would be necessary during a remedial investigation (RI) to fine tune remedial approaches for the proposed future use.

ATTACHMENT C

SECTION III: PROPERTY'S ENVIRONMENTAL HISTORY



SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

A recent investigation report completed by BE3 in 2019 is attached in electronic format which demonstrates that the 1100 Niagara Street property requires remediation in order to meet the requirements of the program. The property is a brownfield site with metals and SVOC (PAHS) contaminants in near surface soils exceeding the soil cleanup objectives/other criteria for the anticipated mixed residential, public recreational and commercial use of the property and chlorinated solvent compounds in groundwater that exceed TOG levels. Attached to this appendix are site drawings and data summary tables as requested in Section III, #3 of the BCP application form.

- Investigation locations and associated analytical results are provided on Figure 7.
- copy of the referenced investigatory reports are provided individually in a separate electronic folder on the enclosed CD.

A summary of the history and previous environmental investigation findings completed for the 1100 Niagara Street Property is provided below:

1100 Niagara Street, the Charles G. Curtiss Company Malt House was built 1898 and is a two-story brick front gabled brick building with a three-story, partially below-grade brick addition to the rear. Built by the Curtiss Family, one of Buffalo’s most significant families, for use in their brewing associated malt business, the industrial building continued to find new owners and uses, first as a part of the rise of farmer cooperatives that came in the 1920s, and then as an art and event space in the 1990s. With its distinctive appearance featuring a stepped gable and pointed-arch corbelling, the building is linked to both the agri-business in Buffalo but also the recent revival of former industrial corridor of Niagara Street.

After taking ownership of a vacant property, the requestor completed the following due diligence assessments of the property. He had not previously nor since utilized the property in any commercial or manufacturing capacity and the property has for the most part remained vacant. The requestor is not responsible for any of the environmental impacts associated with the property, all of which existed prior to his ownership.

September 2012 Phase I ESA and 2014 Phase II ESA

Groundwater & Environmental Services (GES) completed a Phase I Environmental Site Assessment (ESA) in September of 2012 and the following RECs were found:

- There was a spill that occurred in the storage building from a leaking 55 gallon drum of oil. While the oil was cleaned up, the staining on the floor and wall remains.
- There were approximately a dozen fluorescent light ballasts in an electric/tool room located in an upstairs room to the left of the main building entry way.
- Soil as well as construction and demolition debris have been dumped along the building between the south wall of the storage area and Albany Street.

GES completed a preliminary Phase II ESA in November 2014 which included the collection of four soil samples from debris piles along the southern property boundary for chemical analysis. The sample results indicated the following:

- Soil pile samples exceeded the Lead, Mercury, and Dieldrin soil cleanup objectives for restricted residential use.
- Soil pile samples exceeded SVOC cleanup objectives for restricted residential use for: Benzo(a)anthracene; Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(k)fluoranthene, Chrysene, Dibenzo(a,h)anthracene, and Ideno(1,2,3-C,D)pyrene.

Most Recent Phase II ESA – BE3 – June 2019

The 2019 BE3 Phase II ESA identified potential RECs from historical uses at adjacent parcels and portions of the subject property. Past Phase II ESA results indicated elevated levels of compounds above SCOs in soils at the property and historical uses at adjacent properties. Data reviewed from a remedial investigations at adjacent/nearby properties indicated potential impacts to groundwater and soils at these adjacent/nearby properties which could potentially impact the subject property.

Field observations and laboratory results from the BE3 June 2019 investigation indicate that there are urban fill conditions in the near-surface soil resulting in compounds above both commercial and residential SCOs. Metal and SVOC exceedances were observed in six (6) of the seven (7) samples collected and these represent areas across the property. The fill depth varied from one foot to fifteen feet across the property and bedrock depth varied from nine (9) to almost sixteen (16) feet bgs. The one groundwater sample result indicates that groundwater up gradient of the property is impacted with chlorinated solvents above groundwater guidance. Immediately adjacent and nearby properties east and north of the property have the historical use potential for chlorinated solvents that could impact site groundwater. The overburden does not appear to be a source of a significant water bearing zone.

This 2019 BE3 Phase II ESA represents an assessment of environmental conditions at the property. Additional investigations would be necessary during a remedial investigation (RI) to fine tune remedial approaches for the proposed future use.

TABLE 1 Revised 6/17/19
1100 NIAGARA STREET - SOIL BORING SAMPLE ANALYTICAL RESULTS SUMMARY

Contaminants	Sample Identification							Date Sampled: 5/16/19	
	SB-01 (0-1')	SB-02 (0-1')	SB-03 (0-1')	SB-04 (0-1')	SB-05 (0-1')	SB-06 (0-1')	SB-07 (0-1')	Residential	Restricted Residential
METALS									
Arsenic	10.90	41.60	8.25	6.07	9.31	6.36	3.40	16	16
Barium	141	200.0	101.0	34.1	309.0	93.9	122.0	350	400
Beryllium	0.668	0.720	0.760	ND	0.430	0.650	0.620	14	72
Cadmium	2.900	6.830	2.290	1.930	2.37	2.130	1.840	2.5	4.3
Chromium	17.8	24.6	13.6	5.7	17.4	20.2	20.9	36	180
Copper	79.6	219.0	58.5	10.0	47.7	21.3	24.4	270	270
Lead	217.0	997.0	189.0	166.0	765.0	104.0	22.3	400	400
Manganese	472	453	499	941	500	390	281	2,000	2,000
Total Mercury	0.967	2.95	4.25	0.13	0.97	0.098	0.091	0.81	0.81
Nickel	20.0	52.7	11.5	5.3	13	18.6	18.5	140	310
Selenium	1.54	2.86	1.43	ND	ND	ND	ND	36	180
Silver	2.040	3.97	0.77	ND	1.5	1.58	1.32	36	180
Tot Cyanide	ND	ND	ND	ND	ND	ND	ND	27	27
Zinc	292	1490	240	4.23	413	125	88.6	2200	10,000
PCBs									
PCB-1254	ND	ND	ND	ND	ND	ND	ND	1	1
PCB-1260	ND	0.1	ND	ND	ND	ND	ND	1	1
PESTICIDES									
4,4-DDT	0.006	ND	ND	0.013	0.012	0.004	0.004	1.7	7.9
4,4-DDE	ND	ND	ND	ND	0.032	0.003	ND	1.8	8.9
4,4-DDD	ND	ND	ND	0.005	0.005	ND	ND	2.6	13
beta-BHC	ND	ND	ND	ND	ND	0.006	ND	0.072	0.36
Delta-BHC	0.009	ND	0.12	0.013	ND	ND	ND	100	100
Endosulfan Sulfate	ND	ND	ND	0.008	ND	ND	0.004	4.8	24
Endrin	ND	ND	ND	0.006	ND	ND	ND	2.2	11
Endrin Ketone	ND	ND	ND	0.006	ND	ND	0.005	NA	NA
Dieldrin	0.019	0.96	0.44	0.007	0.009	0.004	ND	0.039	0.2
Aldin	ND	ND	ND	ND	ND	ND	ND	0.019	0.097
Heptachlor	ND	ND	ND	ND	ND	ND	ND	0.42	2.1
SEMIVOLATILE ORGANIC COMPOUNDS									
Acenaphthene	ND	ND	0.46	ND	ND	ND	ND	100	100
Acenaphthylene	ND	0.44	0.82	ND	ND	ND	0.45	100	100
Anthracene	ND	0.77	2.12	3.06	0.36	ND	0.73	100	100
Benz(a)anthracene	0.330	1.99	4.22	6.82	1.13	0.42	1.39	1	1
Benzo(a)pyrene	0.350	1.79	3.45	6.77	1.16	0.48	1.11	1	1
Benzo(b)fluoranthene	0.390	2.49	3.73	6.57	1.15	0.54	1.08	1	1
Benzo(g,h,i)perylene	0.330	1.14	2.07	4.17	0.78	0.39	0.62	100	100
Benzo(k)fluoranthene	ND	1.61	2.56	5.9	1	0.4	1.01	1	3.9
Chrysene	0.360	2.34	3.75	6.42	1.17	0.5	1.23	1	3.9
Dibenz(a,h)anthracene	ND	0.43	0.8	1.43	ND	ND	ND	0.33	0.33
Fluoranthene	0.64	3.99	8.61	13.8	2.37	0.89	3.04	100	100
Fluorene	ND	ND	0.64	ND	ND	ND	0.41	100	100
Naphthalene	ND	1.09	0.34	ND	ND	ND	ND	100	100
Indeno(1,2,3-cd)pyrene	ND	1.21	2.24	4.46	0.91	0.38	0.73	0.5	0.5
Phenanthrene	0.400	2.96	6.57	8.8	1.22	0.5	2.83	100	100
Pyrene	0.560	3.43	7.12	11.3	1.95	0.72	2.37	100	100
Volatile Organic Compounds									
Acetone	ND	ND	ND	ND	ND	ND	ND	100	100
cis-1,2-Dichloroethene	ND	ND	ND	ND	ND	ND	ND	59	100
m,p-Xylene	ND	ND	ND	ND	ND	ND	ND	100	100
TCE	ND	ND	ND	ND	ND	ND	0.009	10	21

ND - Non-Detect NA - Not Applicable All Data is Validated J - The analyte was positively identified; the associated numerical value is the approximate concentration of the an
>= to Residential/Restricted-Residential SCO and Unrestricted Use SCO All values in ppm
>Unrestricted Use & Residential SCO but <Restricted-Residential SCO

TABLE 2
1100 NIAGARA STREET - GW SAMPLE ANALYTICAL RESULTS SUMMARY

Contaminants	Sample Identification		NYSDEC
	SB-07 GW	5-16-19	TOGS 1.1.1. GA (1)
Volatile Organic Compounds			
Acetone	17.2		50
1,1,1-Trichloroethane	80.2		5
1,1-Dichloroethane	9.58		5
1,1-Dichloroethene	25.6		5
cis-1,2-Dichloroethene	13.4		5
1,2,4-Trimethylbenzene	ND		5
1,3,5-Trimethylbenzene	ND		5
Trichloroethene	98.8		5

All values in ppb

N/A - Not Applicable ND - Non-detect

(1) - TOGs 1.1.1 GA - Technical and Operational Guidance Series (1.1.1) Source of Drinking Water (Groundwater

Exceeds TOGs Guidance Value

Soil Table:

1100 Niagara Street Data Summary Tables

Analytes	Detections Greater Than Commercial SCOs	Detections Greater Than Restricted Residential SCO	Maximum Detection (ppm)	SCOs Restricted Res/Commercial	Depth (ft bgs)
Benzo(a)anthracene	1	5	6.82	1/5.6	0-1
Benzo(a)pyrene	5	5	6.77	1/1	0-1
Benzo(b)fluoranthene	1	5	6.57	1/5.6	0-1
Benzo(k)fluoranthene	0	1	5.90	1/56	0-1
Indeno(1,2,3-cd)pyrene	0	5	4.46	0.5/5.6	0-1
Dibenz(a,h)anthracene	2	3	1.43	0.33/0.56	0-1
Chrysene	0	1	6.42	1/56	0-1
mercury	2	4	2.95	0.81/2.8	0-1
cadmium	0	1	6.83	2.5/9.3	0-1
arsenic	1	0	41.6	16/16	0-1
lead	0	2	997	400/1,000	0-1
Dieldrin	0	2	0.96	0.039/1.4	0-1

Groundwater Table:

Analytes > TOGs	Detections > TOGS	Max. Detection (ug/L)
1,1,1-trichloroethane	1	80.2
1,1-dichloroethane	1	9.58
1,1-dichloroethene	1	25.6
Cis-1,2-dichloroethene	1	13.4
Trichloroethene (TCE)	1	98.8

ATTACHMENT D

**SECTION IV: PROPERTY INFORMATION
& FIGURES**



960 Busti Ave – Suite B-150 Buffalo, New York

SECTION IV -Section 10. – Property Description Narrative

Location

The 1100 Niagara Street property consists of one tax parcel totaling 1.0-acres and is located in a highly developed commercial and residential use area on the west side of the City of Buffalo, Erie County, New York (refer to attached Figures 1, 2, 3, and 4). The property is located just northwest of the intersection of Albany and Niagara Streets and about 722-feet southwest of the corner of West Ferry and Niagara Streets. According to New York State Environmental Zone (En-Zones) mapping, the Site is located within an En-Zone Type AB designated for Census Tract 61 and 69.01 (see Figure 8) and according to the NYSDOS Office of Planning and Development, the Site is located within the Tonawanda Street Corridor Brownfield Opportunity Area (BOA) (see Figure 9).

Site Features

The current vacant structure on the property occupies the majority of the property from the north central to central area. The property declines from the southeast to the southwest and this area of the property is grass and weed covered with remnants of building floors and foundations of former structures. To the east of the property is Niagara Street; to the west is a railroad easement and Interstate 190; to the north the building abuts commercial properties of Oliver Gear and Modern Heat Treatment; and to the south is vacant land and a paper City Street. The former Curtiss Malt House structure is a large 2 story tall brick industrial building with a 3 story brick addition to the rear facing the railroad tracks and the former location of the Erie Canal. The original section has a gable roof situated perpendicular to Niagara Street, while the rear addition has a flat roof. There is a later (1922) reinforced concrete grain elevator attached to the southwest corner of the building, a stuccoed frame addition running along the south facade with a shallow-pitched shed roof, and a gable-roofed frame office wing, built after 1925 with later additions, on the east front of the building. The original building sits on a dressed stone foundation and has a steel interior structural system, which supports the second floor where grain bins were located (some of which remain). The roof is supported on steel trusses. The roofing itself, mainly intact under later coverings, is clay tile, making the building fireproof to the standards in place when it was built. The main original windows were paired with segmentally arched transoms.

Current Zoning and Land Use

The property is currently vacant. According to the Unified Development Ordinance/Buffalo Green Code (April 2017), the current zoning for the Site is defined as N-1S, which is defined as Urban Core Secondary Employment Center: mixed-use mid-rise development clusters defined by large footprint structures (see Figure 11). Any future redevelopment will be in accordance with the local zoning. The surrounding parcels are as follows: north – commercial; south – commercial and residential; east – residential; and, west – railroad and highway. Residential/Office property exists immediately south and east of the property.

Past Use of the Site

The Property has been developed since 1899 as an industrial facility first completed as the C. G. Curtiss Malting Drum House to process grain, primarily for local breweries. The facility used electric power to run a series of large malting drums which processed the malt. In 1925 the facility was sold to the Co-Operative Grange League Federation Exchange, Inc which stored grain. Soon after part of the structure was destroyed by fire in 1927. The property was operated by the Co-Operative Grange League Federation Exchange until 1982 when Agway Inc. (the successor organization to the G.L.F.) sold the property to Gear Motions, Inc. In 1988 1100 Niagara Street was purchased by Niagara View Properties, Inc. and housed an art gallery for much of the 1990s. In 1996 the property was foreclosed on by the County and subsequently changed owners several times before 2012 when it was purchased by current owner and BCP application requestor Giles Kavanagh under the name 1100 NIAGARA, LLC. The use of this property as a malt house and for grain storage involved a high demand for energy consumption, water consumption, wastewater, solid waste and by-products as the major environmental influencers. There have been no significant remedial measures completed on the property and contaminants found during recent investigations are a result of impacted fill from site operations and initial construction practices as well as influences from adjacent offsite sources.

Site Geology and Hydrogeology

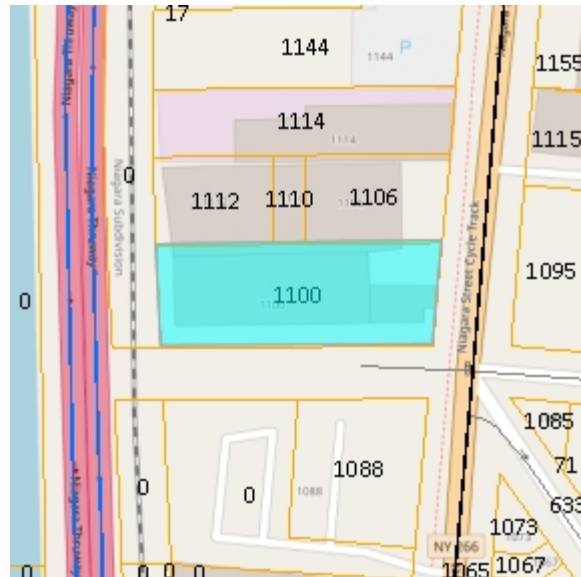
The Site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief that gently slope westward towards the Niagara River, except in the immediate vicinity of major drainage ways. The surficial geology of the Lake Erie Plain consists of a thin glacial till, glacio-lacustrine deposits, recent alluvium, and the soils derived from these deposits. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as Urban Land (Ud). Soils within the City of Buffalo are characterized as urban land (Ud) with surface covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment (see Figure 12). Based on recent investigations, on-site overburden soil-fill consists of concrete, brick, cinders, ash, wood and gravelly silt to depths averaging approximately 1-6 feet below ground surface (fbgs) with one boring indicating fill to 15 feet. With underlying native materials consisting of reddish-brown silty clay to depths up to 14 fbgs with some borings indicating some sand & gravel just above the bedrock interface. Bedrock was encountered at each location, ranging in depth from approximately 9 to 16 fbgs. Groundwater was encountered at the soil/bedrock interface at only one location during borings. Regional groundwater would be assumed to flow west towards the Niagara River located approximately 600 feet west of the Site. Local groundwater flow, however, may be influenced by subsurface features, such as excavations, utilities, and localized fill-conditions.

Environmental Assessment

Based upon investigations conducted to date, the primary contaminants of concern are metals including arsenic, lead, cadmium and mercury and SVOC (PAHS) contaminants in near surface soils and trichloroethene (TCE) in groundwater. **Soil**-The PAHs Chrysene, Benzo(a)anthracene, Benzo(b)fluoranthene, Dibenz(a,h)anthracene, and Indeno(1,2,3-cd)pyrene were all consistently above restricted residential SCOs in all borehole samples while Benzo(a)pyrene consistently exceeded commercial SCOs. Metals including arsenic- 41.60 ppm in Borehole (SB2) and mercury at 2.95ppm in SB2 & 3 were above commercial SCOs. The metals cadmium – SB-2 at 6.83 ppm and SB-3 at 2.290 ppm; lead – SB-2 at 997.0 ppm and SB-5 at 765.0 ppm; and mercury- SB-3 at 4.25 ppm and SB-5 at 0.97 ppm were above restricted residential SCOs across the property. Refer to Table 1 and Figure 7 attached for the specific results in comparison to the SCOs. **Groundwater** – only one well on the eastern end of the property had sufficient groundwater for sampling. TCE and its associated degradation products were detected in this well at fairly elevated levels above the TOGs. Adjacent up- and side-gradient properties to the east and north have a history of organic solvent use and elevated levels in groundwater. The soil impacts appear to be restricted to the fill which ranges on average from 1- 6 feet bgs with one boring indicating fill to 15 feet.



Parcel Overview Map



Parcel Detail Map

PIN: 1402000994100001014111

SBL: 99.41-1-14.111

Address: 1100 NIAGARA

Owner 1: 1100 NIAGARA LLC

Owner 2:

Mailing Address: 58 TRACY ST

City/Zip: BUFFALO NY 14201

Municipality: City of Buffalo

Property Class: 710

Class Description: C - Manufacture

Front: 121.83

Depth: 340.97

Deed Roll: 1

Deed Book: 11236

Deed Page: 4647

Deed Date:

Acreage: 1.03998787

Total Assessment: \$320,000

Land Assessment: \$250,000

County Taxes: \$320,000

Town Taxes: \$0

School Taxes: \$0

Village Taxes: \$0

School District: CITY OF BUFFALO

Year Built: 0

Sqft Living Area: 0

Condition: 0

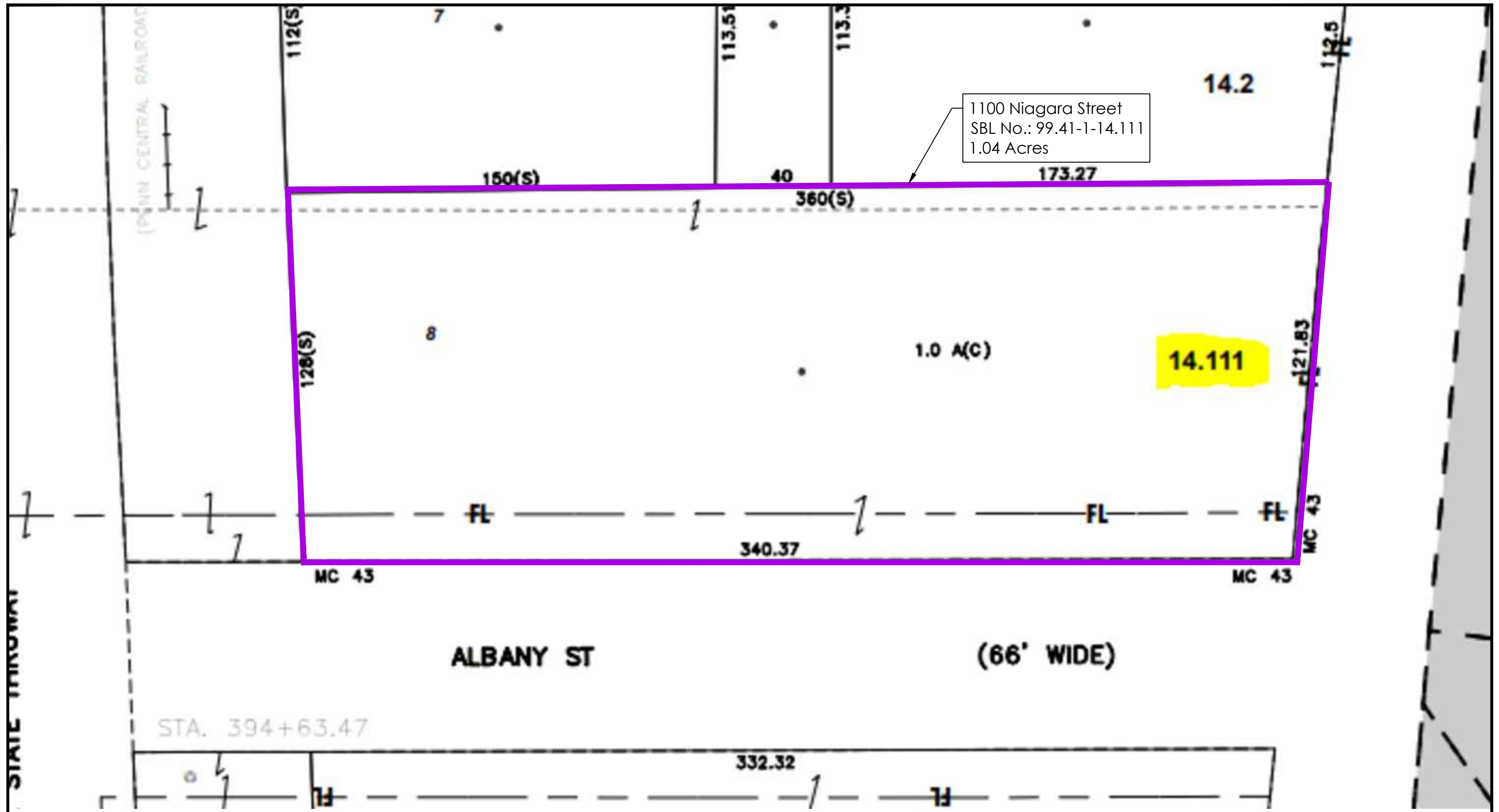
Heating: 0

Basement: 0

Fireplace: 0

Beds: 0


Baths: 0

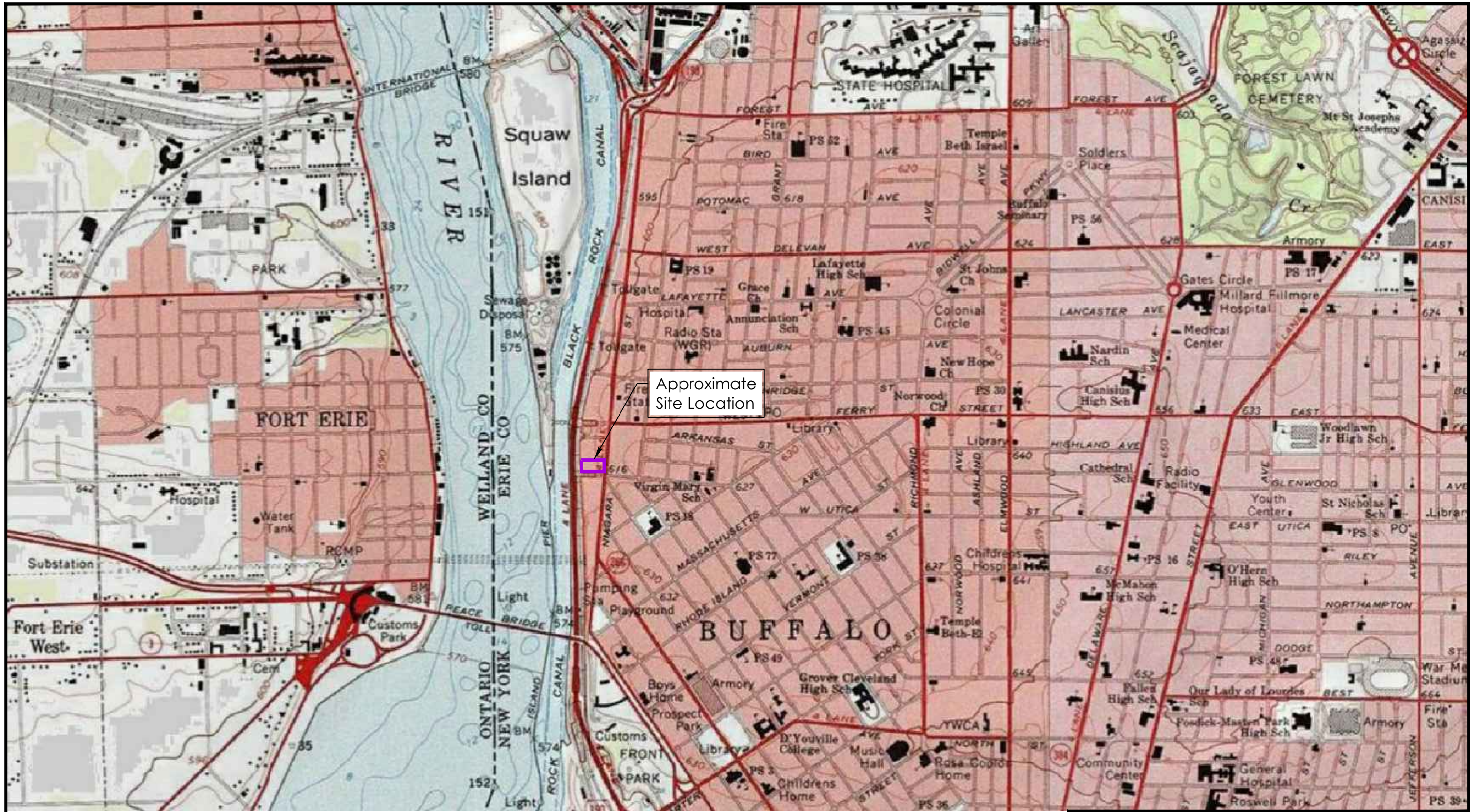


LEGEND

— APPROXIMATE BCP PROPERTY BOUNDARY.



 BRYDGES ENGINEERING <small>IN ENVIRONMENT AND ENERGY, DPC</small>	Figure 3 Tax Map	Revisions <table border="1"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>				
FEBRUARY 2022	BCP Application 1100 Niagara Street Buffalo, New York	SCALE: 1" = 32' (Approximate)				



MAP ADAPTED FROM GOOGLE EARTH PRO®



FEBRUARY 2022

Figure 1
Site Location Map

BCP Application
1100 Niagara Street
Buffalo, New York

SCALE: NA

Revisions

SHEET 1 OF 1



BLACK ROCK CANAL

INTERSTATE 190

NIAGARA STREET

ALBANY STREET

Approximate BCP Site Boundary (1100 Niagara)

MAP ADAPTED FROM GOOGLE EARTH PRO®



FEBRUARY 2022

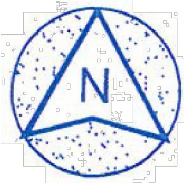
Figure 2
Site Plan (Aerial)

BCP Application
1100 Niagara Street
Buffalo, New York

SCALE: 1" = 64'
(Approximate)

Revisions

SHEET 1 OF 1



LEGEND / LINE TYPES		TABLE OF EQUIVALANT					
	SUBDIVISION		FENCE	0.08' = 1 INCH	0.25' = 3 INCHES	0.42' = 5 INCHES	0.58' = 7 INCH
	PROPERTY		DIMENSION	0.17' = 2 INCHES	0.33' = 4 INCHES	0.50' = 6 INCHES	0.67' = 8 INCH

CON-RAIL
BFLO & LOCKPORT RR CO
N.Y. CENTRAL RR

122.08

TANGENT PT.

TURNTABLE

E. LINE
R.R. ROW

SURVEY REQUESTED BY
DOMENIC J. MIGLIACCIO, ESQ.

ALBANY ST. (66')

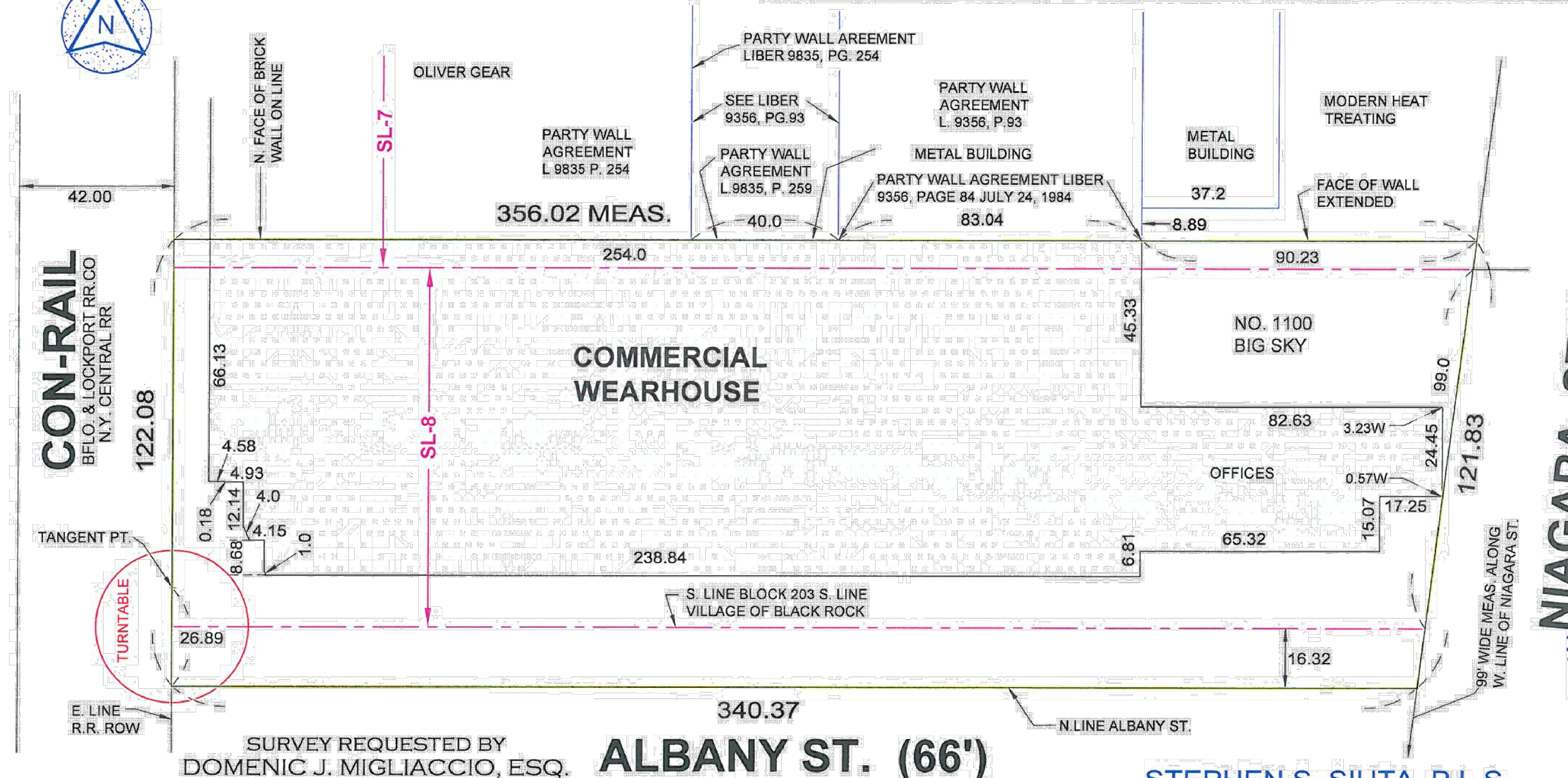
N. LINE ALBANY ST.

STEPHEN S. SITA D I E

LEGEND

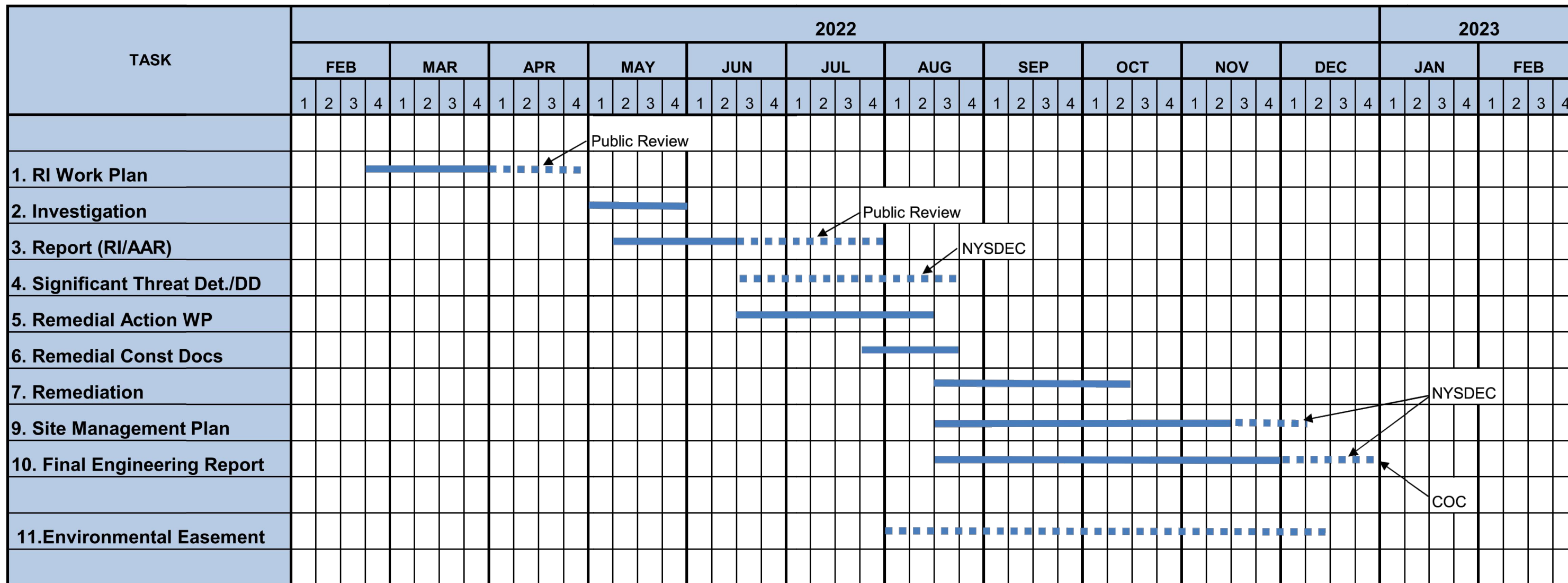



 BRYDGES ENGINEERING <small>IN ENVIRONMENT AND ENERGY, DPC</small>	<p>Figure 4 Site Survey</p>	<p>Revisions</p> <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>								
<p>FEBRUARY 2022</p>	<p>BCP Application 1100 Niagara Street Buffalo, New York</p>	<p>SCALE: 1" = 64' (Approximate)</p>								

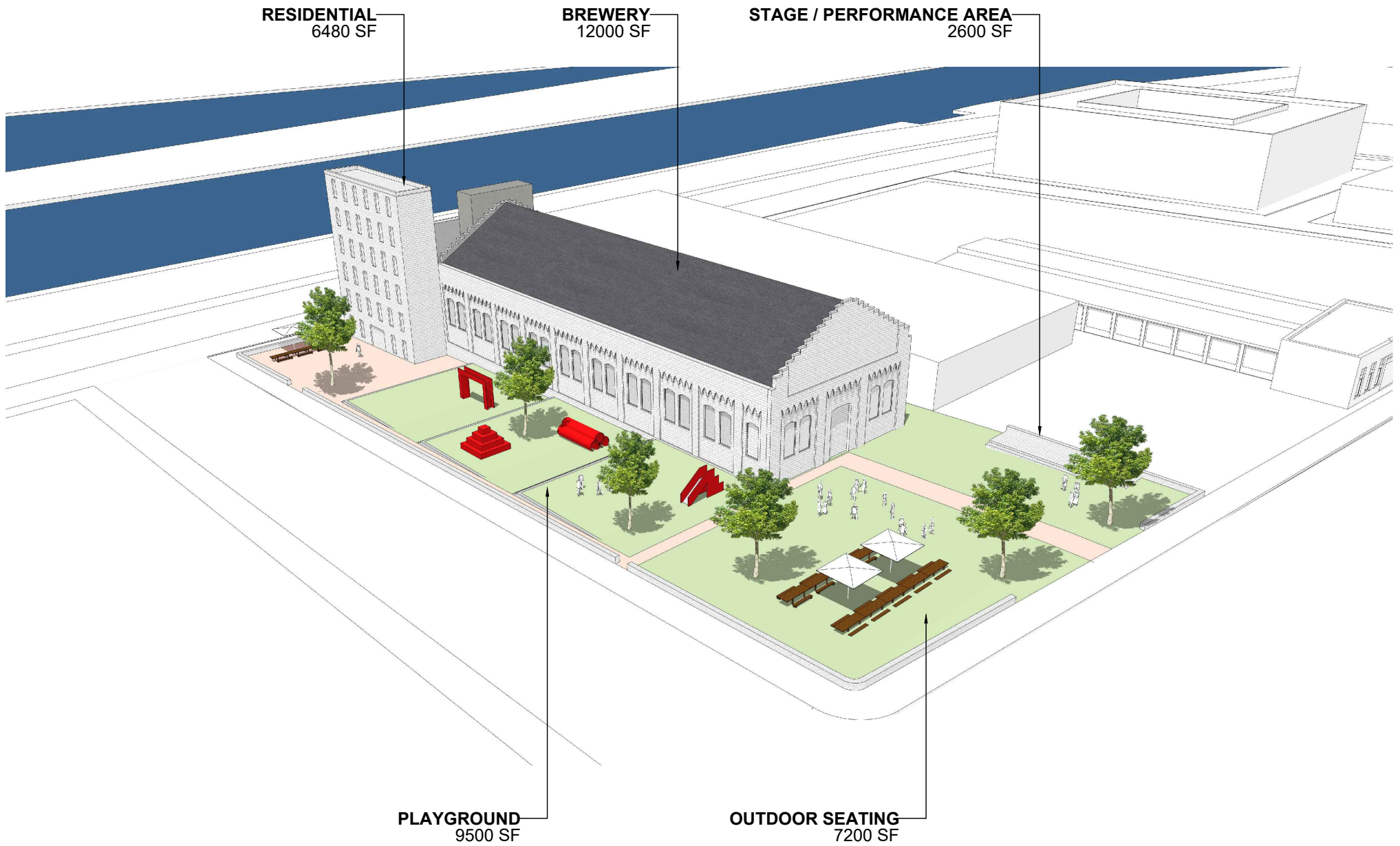


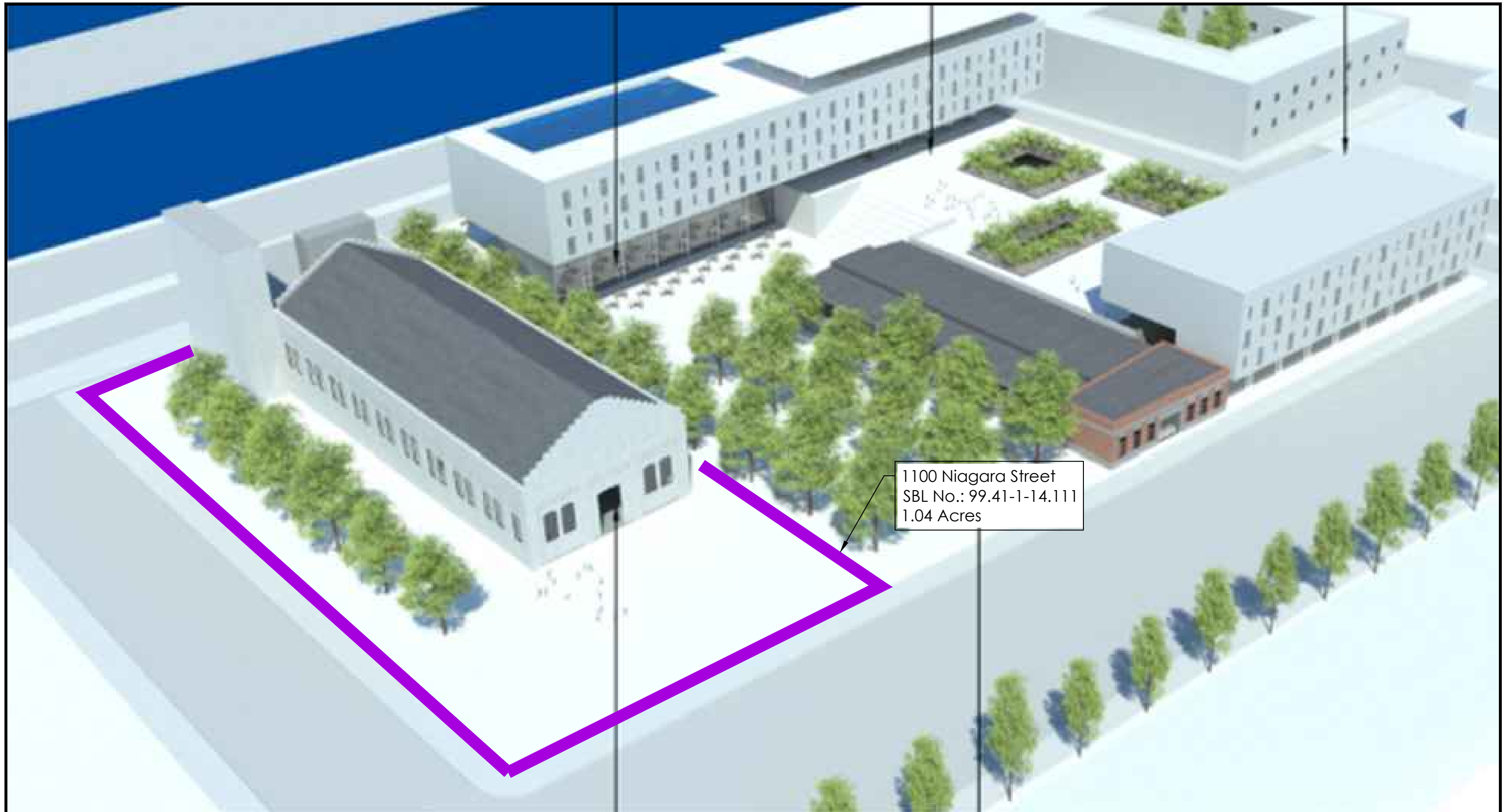
NIAGARA STREET (100')

BCP PROJECT SCHEDULE
1100 NIAGARA STREET



	Figure 5 - Preliminary Project Schedule		Revisions _____ _____ _____
	BCP Application 1100 Niagara Street Buffalo, New York		
FEBRUARY 2022	SCALE: NA	SHEET 1 OF 1	





1100 Niagara Street
 SBL No.: 99.41-1-14.111
 1.04 Acres



FEBRUARY 2022

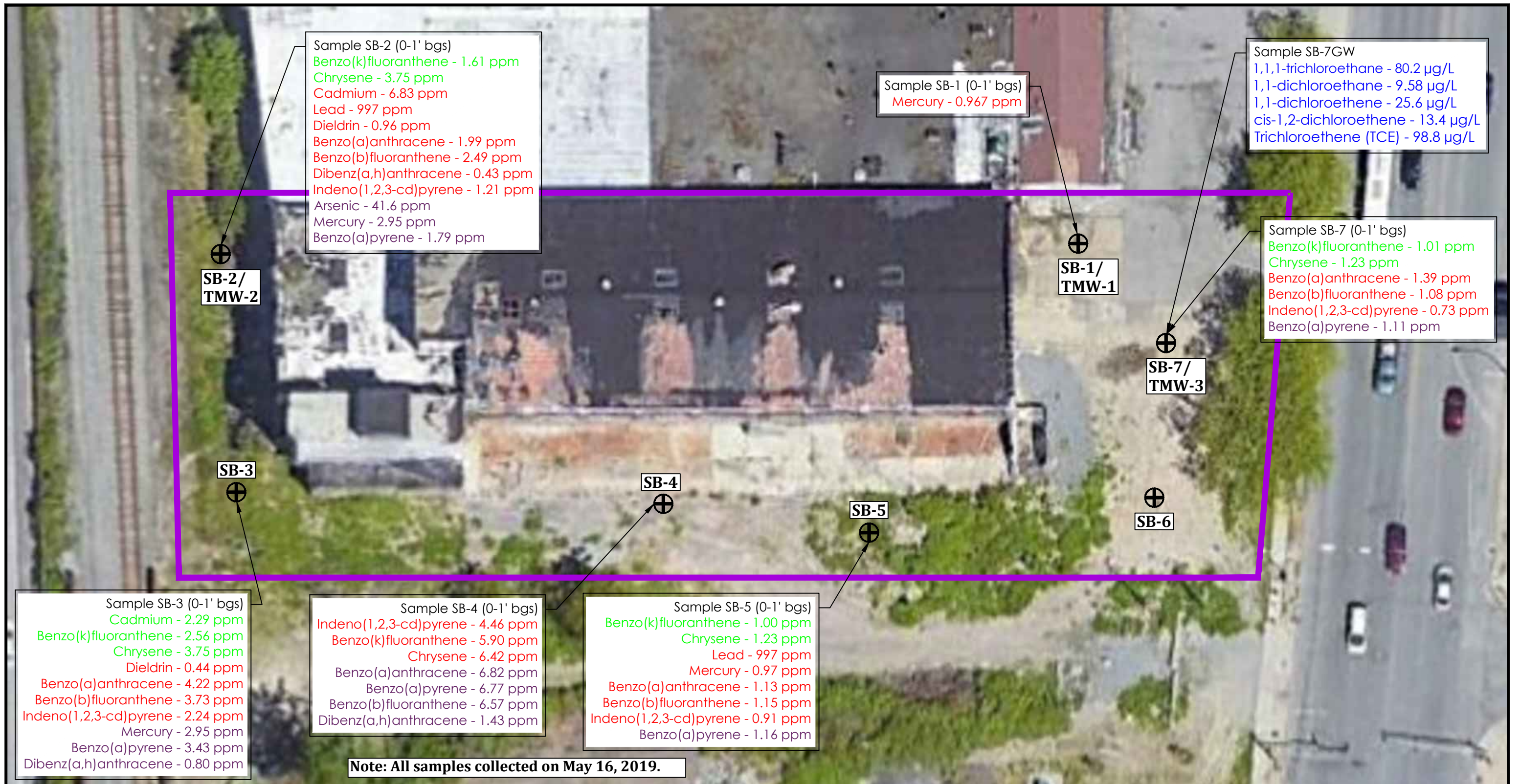
Figure 6 - Preliminary
 Project Rendering

BCP Application
 1100 Niagara Street
 Buffalo, New York

SCALE: NA

Revisions

SHEET 1 OF 1



MAP ADAPTED FROM GOOGLE EARTH PRO®

LEGEND



APPROXIMATE LOCATION OF BORING/MONITORING WELL SB-1/TMW-1 ADVANCED BY BE3 IN MAY 2019.



ANALYTE EXCEEDS NYSDEC RESIDENTIAL SOIL CLEANUP OBJECTIVE (SCO).



ANALYTE EXCEEDS NYSDEC RESTRICTED RESIDENTIAL SCO.



ANALYTE EXCEEDS NYSDEC COMMERCIAL SCO.



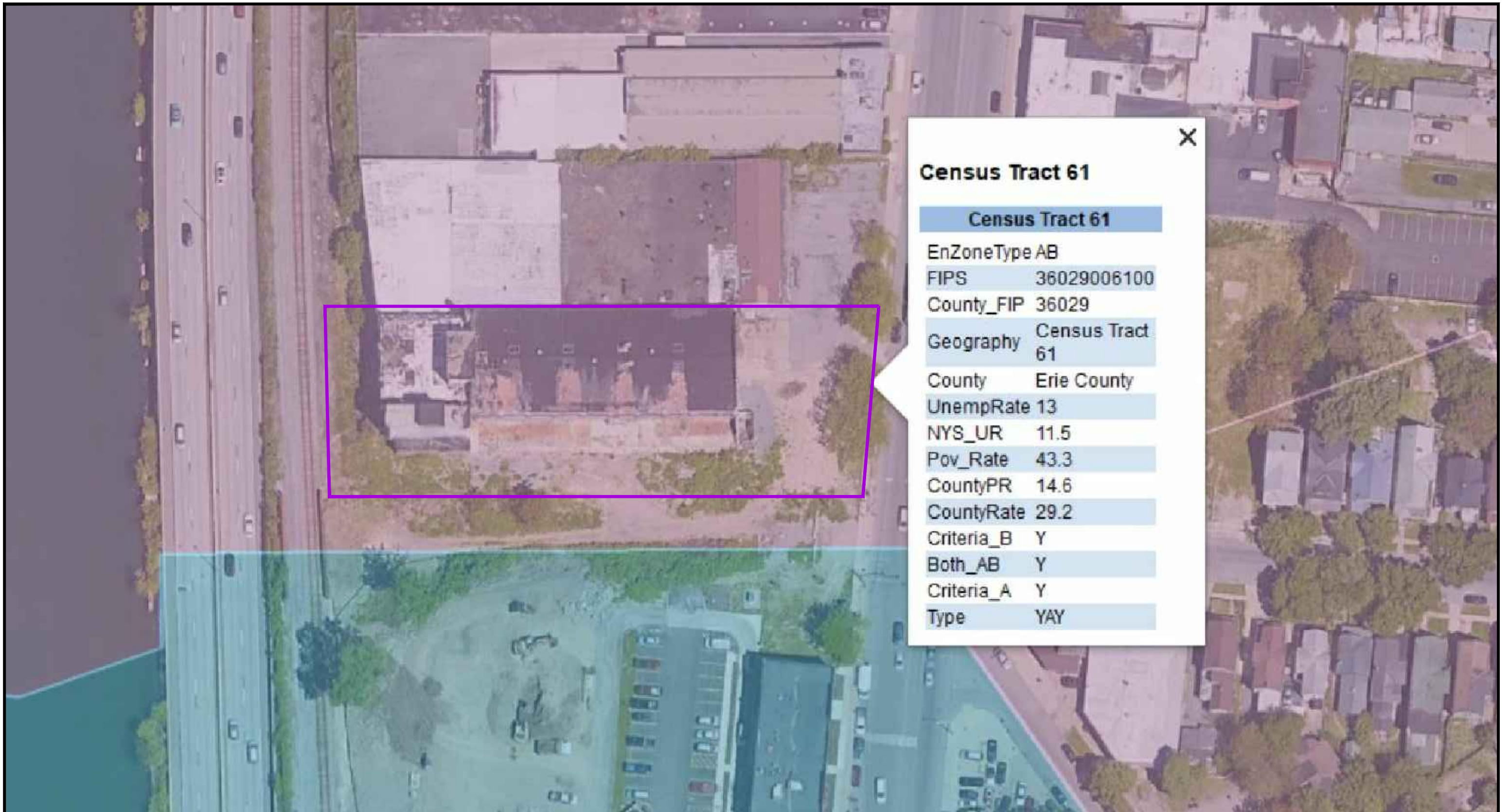
ANALYTE EXCEEDS NYSDEC TOGS GUIDANCE VALUE.



APPROXIMATE BCP PROPERTY BOUNDARY.



	Figure 7 - Previous Investigation Locations	Revisions <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>								
BCP Application 1100 Niagara Street Buffalo, New York	SCALE: 1" = 32' (Approximate)	SHEET 1 OF 1								
FEBRUARY 2022										




Census Tract 61	
EnZoneType	AB
FIPS	36029006100
County_FIP	36029
Geography	Census Tract 61
County	Erie County
UnempRate	13
NYS_UR	11.5
Pov_Rate	43.3
CountyPR	14.6
CountyRate	29.2
Criteria_B	Y
Both_AB	Y
Criteria_A	Y
Type	YAY

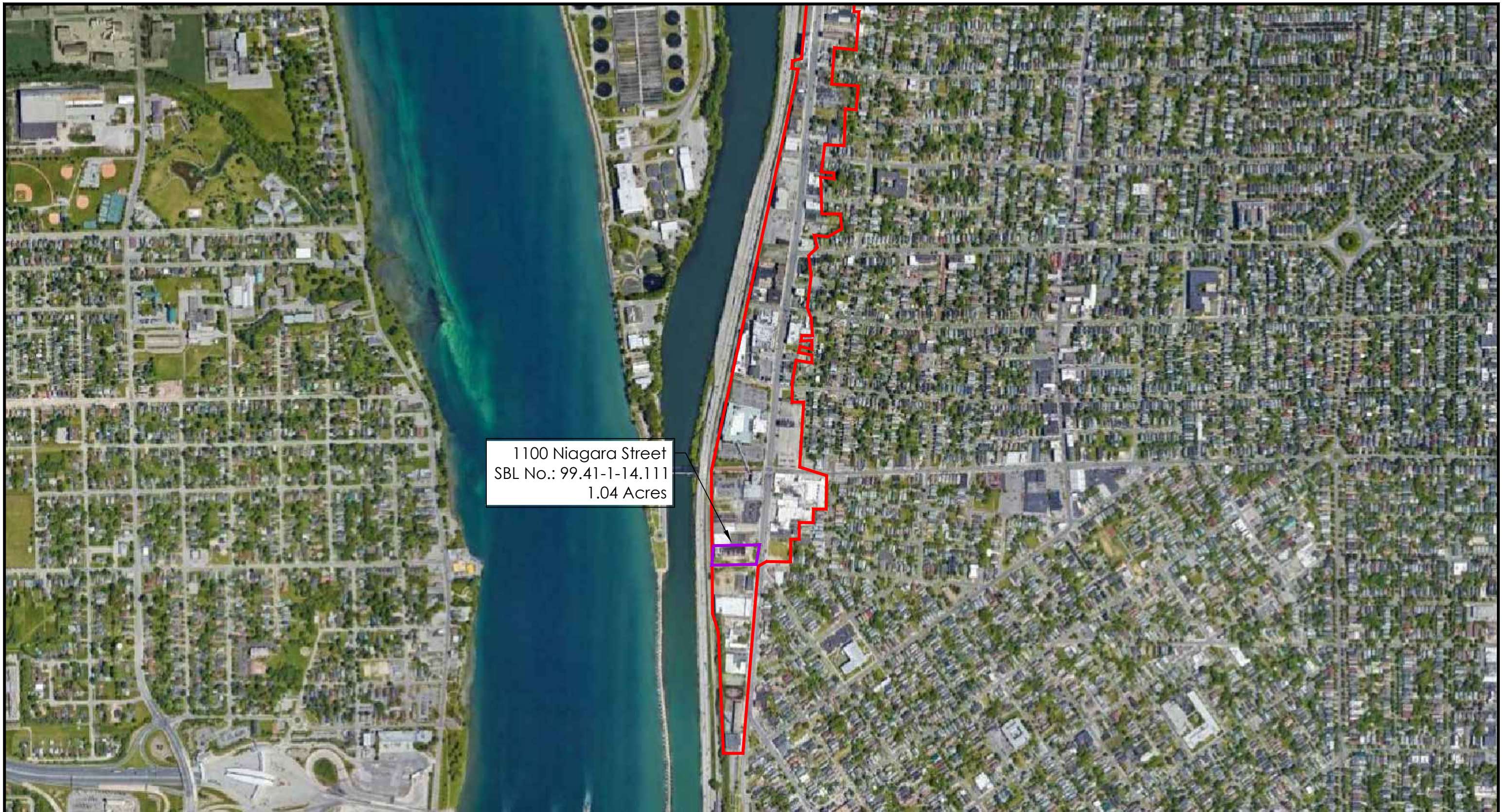
MAP ADAPTED FROM GOOGLE EARTH PRO®

LEGEND

— APPROXIMATE PROPERTY BOUNDARY.



	<p>Figure 8 En-Zone Map</p>	<p>Revisions</p> <table border="1"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table>				
<p>FEBRUARY 2022</p>	<p>BCP Application 1100 Niagara Street Buffalo, New York</p>	<p>SCALE: 1" = 64' (Approximate)</p>				




1100 Niagara Street
 SBL No.: 99.41-1-14.111
 1.04 Acres

MAP ADAPTED FROM GOOGLE EARTH PRO®

LEGEND

— APPROXIMATE TONAWANDA STREET CORRIDOR BOA



	Figure 9 BOA Map		Revisions
	BCP Application 1100 Niagara Street Buffalo, New York		
FEBRUARY 2022	SCALE: 1" = 750'	SHEET 1 OF 1	

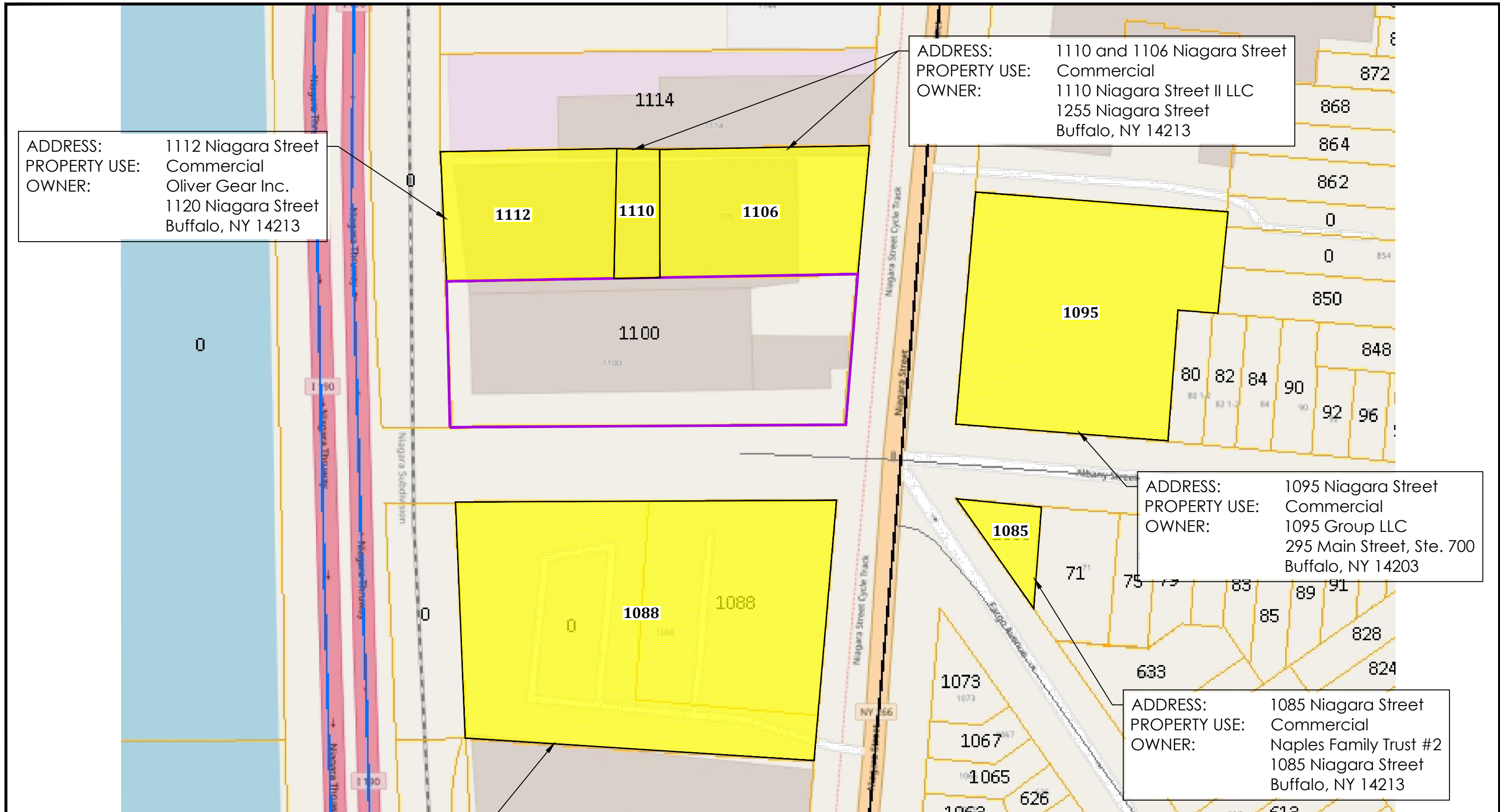
ADDRESS: 1112 Niagara Street
 PROPERTY USE: Commercial
 OWNER: Oliver Gear Inc.
 1120 Niagara Street
 Buffalo, NY 14213

ADDRESS: 1110 and 1106 Niagara Street
 PROPERTY USE: Commercial
 OWNER: 1110 Niagara Street II LLC
 1255 Niagara Street
 Buffalo, NY 14213

ADDRESS: 1095 Niagara Street
 PROPERTY USE: Commercial
 OWNER: 1095 Group LLC
 295 Main Street, Ste. 700
 Buffalo, NY 14203

ADDRESS: 1085 Niagara Street
 PROPERTY USE: Commercial
 OWNER: Naples Family Trust #2
 1085 Niagara Street
 Buffalo, NY 14213

ADDRESS: 1088 Niagara Street
 PROPERTY USE: Commercial
 OWNER: 9271 Group LLC
 295 Main Street
 Buffalo, NY 14203



FEBRUARY 2022

Figure 10
Adjacent Property Owners

BCP Application
 1100 Niagara Street
 Buffalo, New York

SCALE: NA

Revisions

SHEET 1 OF 1



LEGEND

- APPROXIMATE PROPERTY BOUNDARY.
- Zone N-1S (Secondary Employment Center)
- Zone N-2C (Mixed-Use Center)
- Zone N-2E (Mixed-Use Edge)
- Zone N-1S (Secondary Employment Center)

- Zone C-R (Rail Corridor)
- Zone D-OG (Green)



FEBRUARY 2022

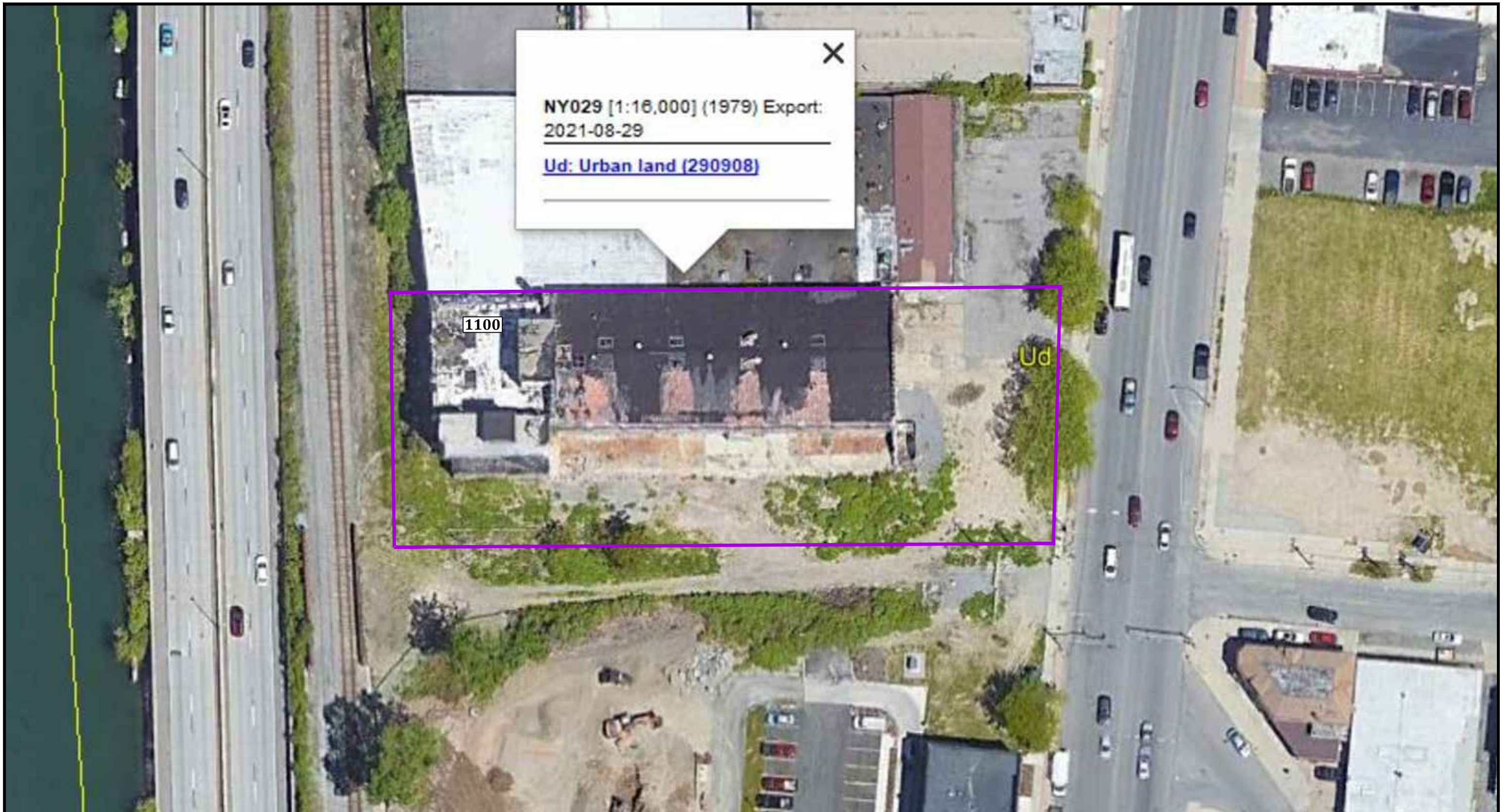
**Figure 11
Zoning Map**

BCP Application
1100 Niagara Street
Buffalo, New York

SCALE: NA

Revisions

SHEET 1 OF 1



NY029 [1:16,000] (1979) Export:
2021-08-29

Ud: Urban land (290908)

1100

Ud

MAP ADAPTED FROM GOOGLE EARTH PRO®

LEGEND

 APPROXIMATE PROPERTY BOUNDARY.

 URBAN LAND




	<p>Figure 12 USAD Soil Map</p>		Revisions
	<p>BCP Application 1100 Niagara Street Buffalo, New York</p>		
<p>FEBRUARY 2022</p>	<p>SCALE: NA</p>	<p>SHEET 1 OF 1</p>	

TABLE 1 Revised 6/17/19
1100 NIAGARA STREET - SOIL BORING SAMPLE ANALYTICAL RESULTS SUMMARY

Contaminants	Sample Identification							Date Sampled: 5/16/19	
	SB-01 (0-1')	SB-02 (0-1')	SB-03 (0-1')	SB-04 (0-1')	SB-05 (0-1')	SB-06 (0-1')	SB-07 (0-1')	Residential	Restricted Residential
METALS									
Arsenic	10.90	41.60	8.25	6.07	9.31	6.36	3.40	16	16
Barium	141	200.0	101.0	34.1	309.0	93.9	122.0	350	400
Beryllium	0.668	0.720	0.760	ND	0.430	0.650	0.620	14	72
Cadmium	2.900	6.830	2.290	1.930	2.37	2.130	1.840	2.5	4.3
Chromium	17.8	24.6	13.6	5.7	17.4	20.2	20.9	36	180
Copper	79.6	219.0	58.5	10.0	47.7	21.3	24.4	270	270
Lead	217.0	997.0	189.0	166.0	765.0	104.0	22.3	400	400
Manganese	472	453	499	941	500	390	281	2,000	2,000
Total Mercury	0.967	2.95	4.25	0.13	0.97	0.098	0.091	0.81	0.81
Nickel	20.0	52.7	11.5	5.3	13	18.6	18.5	140	310
Selenium	1.54	2.86	1.43	ND	ND	ND	ND	36	180
Silver	2.040	3.97	0.77	ND	1.5	1.58	1.32	36	180
Tot Cyanide	ND	ND	ND	ND	ND	ND	ND	27	27
Zinc	292	1490	240	4.23	413	125	88.6	2200	10,000
PCBs									
PCB-1254	ND	ND	ND	ND	ND	ND	ND	1	1
PCB-1260	ND	0.1	ND	ND	ND	ND	ND	1	1
PESTICIDES									
4,4-DDT	0.006	ND	ND	0.013	0.012	0.004	0.004	1.7	7.9
4,4-DDE	ND	ND	ND	ND	0.032	0.003	ND	1.8	8.9
4,4-DDD	ND	ND	ND	0.005	0.005	ND	ND	2.6	13
beta-BHC	ND	ND	ND	ND	ND	0.006	ND	0.072	0.36
Delta-BHC	0.009	ND	0.12	0.013	ND	ND	ND	100	100
Endosulfan Sulfate	ND	ND	ND	0.008	ND	ND	0.004	4.8	24
Endrin	ND	ND	ND	0.006	ND	ND	ND	2.2	11
Endrin Ketone	ND	ND	ND	0.006	ND	ND	0.005	NA	NA
Dieldrin	0.019	0.96	0.44	0.007	0.009	0.004	ND	0.039	0.2
Aldin	ND	ND	ND	ND	ND	ND	ND	0.019	0.097
Heptachlor	ND	ND	ND	ND	ND	ND	ND	0.42	2.1
SEMIVOLATILE ORGANIC COMPOUNDS									
Acenaphthene	ND	ND	0.46	ND	ND	ND	ND	100	100
Acenaphthylene	ND	0.44	0.82	ND	ND	ND	0.45	100	100
Anthracene	ND	0.77	2.12	3.06	0.36	ND	0.73	100	100
Benz(a)anthracene	0.330	1.99	4.22	6.82	1.13	0.42	1.39	1	1
Benzo(a)pyrene	0.350	1.79	3.45	6.77	1.16	0.48	1.11	1	1
Benzo(b)fluoranthene	0.390	2.49	3.73	6.57	1.15	0.54	1.08	1	1
Benzo(g,h,i)perylene	0.330	1.14	2.07	4.17	0.78	0.39	0.62	100	100
Benzo(k)fluoranthene	ND	1.61	2.56	5.9	1	0.4	1.01	1	3.9
Chrysene	0.360	2.34	3.75	6.42	1.17	0.5	1.23	1	3.9
Dibenz(a,h)anthracene	ND	0.43	0.8	1.43	ND	ND	ND	0.33	0.33
Fluoranthene	0.64	3.99	8.61	13.8	2.37	0.89	3.04	100	100
Fluorene	ND	ND	0.64	ND	ND	ND	0.41	100	100
Naphthalene	ND	1.09	0.34	ND	ND	ND	ND	100	100
Indeno(1,2,3-cd)pyrene	ND	1.21	2.24	4.46	0.91	0.38	0.73	0.5	0.5
Phenanthrene	0.400	2.96	6.57	8.8	1.22	0.5	2.83	100	100
Pyrene	0.560	3.43	7.12	11.3	1.95	0.72	2.37	100	100
Volatile Organic Compounds									
Acetone	ND	ND	ND	ND	ND	ND	ND	100	100
cis-1,2-Dichloroethene	ND	ND	ND	ND	ND	ND	ND	59	100
m,p-Xylene	ND	ND	ND	ND	ND	ND	ND	100	100
TCE	ND	ND	ND	ND	ND	ND	0.009	10	21

ND - Non-Detect NA - Not Applicable All Data is Validated J - The analyte was positively identified; the associated numerical value is the approximate concentration of the an
 >= to Residential/Restricted-Residential SCO and Unrestricted Use SCO All values in ppm
 >Unrestricted Use & Residential SCO but <Restricted-Residential SCO

TABLE 2
1100 NIAGARA STREET - GW SAMPLE ANALYTICAL RESULTS SUMMARY

Contaminants	Sample Identification		NYSDEC
	SB-07 GW	5-16-19	TOGS 1.1.1. GA (1)
Volatile Organic Compounds			
Acetone	17.2		50
1,1,1-Trichloroethane	80.2		5
1,1-Dichloroethane	9.58		5
1,1-Dichloroethene	25.6		5
cis-1,2-Dichloroethene	13.4		5
1,2,4-Trimethylbenzene	ND		5
1,3,5-Trimethylbenzene	ND		5
Trichloroethene	98.8		5

All values in ppb

N/A - Not Applicable ND - Non-detect

(1) - TOGs 1.1.1 GA - Technical and Operational Guidance Series (1.1.1) Source of Drinking Water (Groundwater

Exceeds TOGs Guidance Value

Soil Table:

1100 Niagara Street Data Summary Tables

Analytes	Detections Greater Than Commercial SCOs	Detections Greater Than Restricted Residential SCO	Maximum Detection (ppm)	SCOs Restricted Res/Commercial	Depth (ft bgs)
Benzo(a)anthracene	1	5	6.82	1/5.6	0-1
Benzo(a)pyrene	5	5	6.77	1/1	0-1
Benzo(b)fluoranthene	1	5	6.57	1/5.6	0-1
Benzo(k)fluoranthene	0	1	5.90	1/56	0-1
Indeno(1,2,3-cd)pyrene	0	5	4.46	0.5/5.6	0-1
Dibenz(a,h)anthracene	2	3	1.43	0.33/0.56	0-1
Chrysene	0	1	6.42	1/56	0-1
mercury	2	4	2.95	0.81/2.8	0-1
cadmium	0	1	6.83	2.5/9.3	0-1
arsenic	1	0	41.6	16/16	0-1
lead	0	2	997	400/1,000	0-1
Dieldrin	0	2	0.96	0.039/1.4	0-1

Groundwater Table:

Analytes > TOGs	Detections > TOGS	Max. Detection (ug/L)
1,1,1-trichloroethane	1	80.2
1,1-dichloroethane	1	9.58
1,1-dichloroethene	1	25.6
Cis-1,2-dichloroethene	1	13.4
Trichloroethene (TCE)	1	98.8

ATTACHMENT E

**SECTION VI: CURRENT/PREVIOUS PROPERTY OWNER/OPERATOR
INFORMATION**



SECTION VI – Current/Previous Property Owner Operator Information

The Current Owner IS THE REQUESTOR

1100 NIAGARA, LLC
 Mr. Giles Kavanagh
 266 Elmwood Ave #281, Buffalo, New York 14222
 917-213-2832
 jergollc@gmail.com

Previous Property Owners/Operators

PREVIOUS OWNERS/OPERATORS	LAST KNOWN ADDRESS/TELEPHONE	USE	RELATIONSHIP TO REQUESTOR
1898 - Alexander Curtiss, Harlow Curtiss, Franklin D. Locke, Gustave Sobotka	1100 Niagara Street, Buffalo, New York	Charles G. Curtiss Company Malt House	None
1911 - Fleischmann Company	1900 Brand Ave Baltimore, MD, 21209/ (410) 466-7317	Malt House	None
1920 - Cooperative Grange league Federation Exchange, Inc.,	in 1964 the Cooperative GLF Exchange and the Eastern States Farmers Exchange merged to form Agway, Inc.	Grain & Seed Storage	None
Agway	1122 Osborn Ave Riverhead, NY, 11901/ (631) 727-6677	Grain & Seed storage	None
1988 - Niagara View Properties, Inc./.	140 North St, Buffalo, NY 14201/ (716)-882-5777	art gallery - Nina Freudenheim Gallery/Gallery 1100/Niagara.	None
1996 – Erie County Foreclosure			None

The ownership start date was 12/27/2012.

The deed is attached below.



County Clerk's Recording Page

Return to:

LORAN M BOMMER
485 MICHIGAN AVE
BUFFALO, NY 14203

Book Type: D Book: 11236 Page: 4647

Page Count: 3
Doc Type: DEED
Rec Date: 12/31/2012
Rec Time: 11:59:23 AM
Control #: 2012292749
UserID: Eileen
Trans #: 12202711
Document Sequence Number
TT2012009518

Party 1:
BIG SKY SEEDING COMPANY

Party 2:
1100 NIAGARA LLC

Consideration Amount: 375000.00

Recording Fees:

Fee 1	\$35.00
Fee 2	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 COUNTY \$9 RET	\$9.00
RP5217 ST-NON RES \$241	\$241.00
TP584	\$10.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$1,500.00
ROAD FUND TT	\$1,875.00

Total: \$3,690.00

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING – THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Christopher L. Jacobs
County Clerk

Return: LORAN M. BOMMER
485 Michigan Ave.
BPLB NY 14203

Bargain-and-Sale Deed

This indenture, made the 27 day of December, 2012, between

BIG SKY SEEDING COMPANY, a corporation organized under the laws of Delaware, with offices at 69 Delaware Avenue, Suite 500, Buffalo, New York, party of the first part, and

1100 Niagara LLC a New York State Limited Liability Company with an office at 58 Tracy Street, Buffalo, New York 14201 party of the second part,

Witnesseth that the party of the first part, in consideration of \$375,000.00, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, successors and assigns forever,

See Schedule A

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To have and to hold the above-granted premises unto the party of the second part, his heirs, successors and assigns forever.

And the party of the first part covenants that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

And this conveyance is not a conveyance of all or substantially all of the assets of the party of the first part and is made in the regular course of business of the party of the first part.

AND the party of the first part, in compliance with N.Y. Lien Law § 13, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In witness whereof, the party of the first part has caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officer the day and year first above written.

By Barbara Insalaco
BARBARA INSALACO, President

STATE OF NEW YORK)
COUNTY OF ERIE) SS.

On the 27 day of December in the year 2012 before me, the undersigned, personally appeared BARBARA INSALACO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Sean A. Fitzgerald

Sean A. Fitzgerald, Esq.
Notary Public, State of New York
Reg No. 02F14978007
Qualified in Erie County
My Commission Expires 06/04/2015

CT4
Deed - 2
292749

Schedule A

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie and State of New York, being part of Block No. 203 and according to Map filed in Erie County Clerk's Office under Cover No. 42, is known as part of Subdivision Lot Nos. 7 and 8 and part of Albany Street, ninety-nine (99) feet wide, described as follows:

BEGINNING at the point of intersection of the west line of Niagara Street, ninety-nine (99) feet wide and the north line of Albany Street, sixty-six (66) feet wide; thence northerly along the west line of Niagara Street, one hundred twenty-one and eighty-three hundredths (121.83) feet to the southeast corner of lands conveyed to Eugene Feind, Jr. and other by deed recorded in Erie County Clerk's Office in Liber 9356 of Deeds at page 91; thence westerly along the south line of lands as conveyed to Eugene Feind and other by above mentioned deed as extended westerly to the easterly line of lands to The Consolidated Railroad Corporation; thence southerly along the easterly line of lands of The Consolidated Railroad Corporation to the north line of Albany Street, sixty-six (66) feet wide; thence easterly along the north line of Albany Street sixty-six (66) feet wide, about three hundred forty and thirty-seven hundredths (340.37) feet to the westerly line of Niagara Street at the point of beginning.

C1. SWIS Code

140,200

C2. Date Deed Recorded

12/31/12

C3. Book

11236

C4. Page

4647



New York State Department of Taxation and Finance

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location

Bommer 1100

Niagara St

Buffalo

14213

2. Buyer Name

1100 Niagara LLC

3. Tax Billing Address

Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form)

4. Indicate the number of Assessment Roll parcels transferred on the deed

1 # of Parcels

OR

Part of a Parcel

(Only if Part of a Parcel) Check as they apply:

4A. Planning Board with Subdivision Authority Exists

4B. Subdivision Approval was Required for Transfer

4C. Parcel Approved for Subdivision with Map Provided

5. Deed Property Size

122

* FRONT FEET

X

341

* DEPTH

OR

0.00

* ACRES

6. Seller Name

Big Sky Seeding Company

7. Select the description which most accurately describes the use of the property at the time of sale:

F. Commercial

Check the boxes below as they apply:

8. Ownership Type is Condominium

9. New Construction on a Vacant Land

10A. Property Located within an Agricultural District

10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

SALE INFORMATION

11. Sale Contract Date

08/13/2012

* 12. Date of Sale/Transfer

12/31/2012

* 13. Full Sale Price

375,000.00

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

15. Check one or more of these conditions as applicable to transfer:

- A. Sale Between Relatives or Former Relatives
B. Sale between Related Companies or Partners in Business.
C. One of the Buyers is also a Seller
D. Buyer or Seller is Government Agency or Lending Institution
E. Deed Type not Warranty or Bargain and Sale (Specify Below)
F. Sale of Fractional or Less than Fee Interest (Specify Below)
G. Significant Change in Property Between Taxable Status and Sale Dates
H. Sale of Business is Included in Sale Price
I. Other Unusual Factors Affecting Sale Price (Specify Below)
J. None

Comment(s) on Condition:

14. Indicate the value of personal property included in the sale

0.00

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 20

* 17. Total Assessed Value

50,000

* 18. Property Class

710

* 19. School District Name

Buffalo Public Schools

* 20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))

99.41-1-14.111

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE

Big Sky Seeding Company

SELLER SIGNATURE

DATE

BUYER SIGNATURE

Jess Kwanagh 12/31

BUYER SIGNATURE

DATE

BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

Kavanagh

Giles

* LAST NAME

FIRST NAME

* AREA CODE

* TELEPHONE NUMBER (Ex: 9999999)

58

Tracy St

* STREET NUMBER

* STREET NAME

Buffalo

NY

14201

* CITY OR TOWN

* STATE

* ZIP CODE

BUYER'S ATTORNEY

Bommer

Loren

LAST NAME

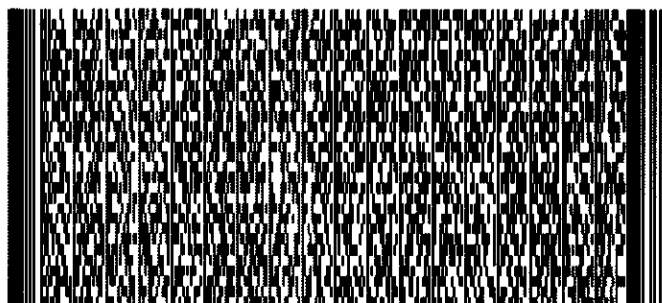
FIRST NAME

(716)

842-1222

AREA CODE

TELEPHONE NUMBER (Ex: 9999999)



ATTACHMENT F

SECTION VII: REQUESTOR ELIGIBILITY INFORMATION

Volunteer Statement



SECTION VII – Requester Eligibility Information – Volunteer Statement

The Applicant, 1100 NIAGARA, LLC, qualifies as a “Volunteer” in accordance with NY ECL27-1405(1)(b) and 6NYCRR 375-3.2(b)(2). 1100 NIAGARA, LLC took ownership to the Site in May 2012 long after it was idle and vacant. The Volunteer Applicant had no relationship to the former series of owners and operators and has never utilized the premises other than developing re-development concepts for the property. 1100 NIAGARA, LLC’s liability for the property arises solely as a result of taking ownership of the Site.

1100 Niagara, LLC has acted with due care since taking ownership of the property. Soil piles identified during the original Phase I and Phase II ESAs (October and November 2001) were removed and the emergency demolition of two unsafe side/shed structures were completed. A fence has been placed around the property. Further investigation in 2019 was completed in preparation for redevelopment studies and to identify any further remedial concerns.

The Applicant became involved with the property after the disposal or discharge of contaminants and has no relationship with the previous owners/operators of the Site; and has acted with due care since taking ownership of the property, therefore, 1100 NIAGARA, LLC is entitled to Volunteer status under NY ECL27-1405(1)(b).

ATTACHMENT G

SECTION IX: CONTACT LIST INFORMATION

**Site Contact List
and
Document Repository Letter**



SECTION VII – Contact List Information – Site Contact List and Doc Repository Letter

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

Daniel Castle, AICP County Environment and Planning Commissioner
Edward A. Rath County Office Building
95 Franklin Street, 16th Floor
Buffalo, NY 14202
Phone: (716) 858-8500

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

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

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

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

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

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

City of Buffalo Contacts:

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

Brendan R. Mehaffy - Director of Planning:
Executive Director
65 Niagara Square, Room 901
Buffalo, NY 14202

David A. Rivera
Niagara District Councilmember 1504 City Hall
Buffalo, NY 14202

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

Supplier of Potable Water:

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

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

Local News Media:

Buffalo News
1 News Plaza
Buffalo, NY 14240

WGRZ TV - Ch. 2
259 Delaware Avenue
Buffalo, NY 14202

WIVB - Ch. 4
2077 Elmwood Avenue
Buffalo, NY 14207

WKBW News Channel 7
7 Broadcast Plaza
Buffalo, NY 14202

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

Business First
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
P.O. Box 1263, Horizons Plaza
Buffalo, NY 14240

Nearby Schools and Day Cares:

Ms. Dawn M. DiNatale, Principal
PS 30 Frank A. Sedita Academy
21 Lowell Street
Buffalo, NY 14213

Aakta Patel, Principal
PS 18 Dr. Antonia Pantoja Community School of
Academic Excellence
750 West Avenue
Buffalo, NY 14213

Dr. William J. Mariani, Interim President D'Youville College
320 Porter Avenue
Buffalo, NY 14201

Ms. Florence Krieter, Principal
PS 212 Leonardo da Vinci High School 320 Porter Avenue
Buffalo, NY 14201

Lynn Piccirillo, Principal PS 45 International School
141 Hoyt Street
Buffalo, NY 14213

Mrs. Andrea Todoro, School Leader West Buffalo Charter School
113 Lafayette Avenue
Buffalo, NY 14213

Director
Kids World Day Care Center, Inc.
921 Niagara Street
Buffalo, NY 14213

Director
Antwanayja Day Care Center
257 Massachusetts Avenue
Buffalo, NY 14213

Edukids/ Rich's Family Center
Child care & day care
1200 Niagara Street
Buffalo, New York 14213
(716) 878-8006

Adjacent Property Owners

(1085 Niagara Street)
Naples Family Trust #2
1085 Niagara Street
Buffalo, New York 14213

(1088 Niagara Street)
9271 Group LLC
295 Main Street
Buffalo, NY 14203

(1106 Niagara Street)
Better Wire and Press
680 New Babcock St.
Buffalo, NY 14206

1095 Group, LLC
295 Main Street, Suite 210
Buffalo, New York, 14203

Document Repository – see attached letter

Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, NY 14203



February 8, 2022

Jeannine M. Doyle
Buffalo & Erie County Public Library
1 Lafayette Square
Buffalo, New York 14203

RE: BROWNFIELD CLEANUP PROGRAM – 1100 NIAGARA STREET, BUFFALO, NEW YORK

Dear Ms. Doyle,

Our client, 1100 Niagara LLC is in the process of applying to the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP) for a project located at 1100 Niagara Street, Buffalo, New York. On behalf of our client, I am requesting that the Buffalo & Erie County Public Library function as the document repository for the public documents associated with this project. The project documentation may include the application, work plans, management plans, and reports. Currently the project is anticipating starting in April-May 2022 and ending in Winter 2022-Summer of 2023 .

The BCP requires that we receive formal acknowledgement that the Buffalo & Erie County Public Library agrees to function as a document repository for this project. Your acceptance of the use of Buffalo & Erie County Public Library as a document repository for the project may be indicated by signing in the space provided below or by providing a letter indicating acceptance.

Thank you for agreeing to function in this capacity. If you have any questions, please call me at 716-308-8220.

Sincerely,
Peter J Gorton 
Partner
Brydges Engineering in Environment & Energy DPC

Buffalo & Erie County Public Library accepts the role of public repository for this project.

Accepted by:

Name/Title

Library Name

Date

From: [April Tompkins](#)
To: [Peter Gorton](#)
Subject: RE: Document Repository - 1100 Niagara Street Site
Date: Tuesday, February 8, 2022 12:59:15 PM
Attachments: [Library Repository Letter.pdf](#)

CAUTION: This email originated from outside of the organization.

Good afternoon Peter,

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 on behalf of 1100 Niagara, LLC for the Brownfield Cleanup Program at the 1100 Niagara Street Site, Buffalo, New York. These documents will be made available for public viewing at the Library(s) 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(s) 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 usually 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 or a list regarding their destination(s). We will distribute 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 or flash drive) 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. Public computers do have USB ports. 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.

This email has been sufficient for, and accepted by your company, for past/recent requests in place of the attached document requiring a signature. 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

From: Jeannine Doyle <doylejm@buffalolib.org>
Sent: Tuesday, February 8, 2022 12:21 PM
To: April Tompkins <tompkinsa@buffalolib.org>
Subject: FW: Document Repository

Please respond

From: Peter Gorton <pgorton@be3corp.com>
Sent: Tuesday, February 8, 2022 11:33 AM
To: Jeannine Doyle <doylejm@buffalolib.org>
Subject: Document Repository

CAUTION: This email originated from outside of the Library. Attachment and links **may not be safe!**

Hi Jeannine,

I am looking to use Buffalo & Erie County Public Library as a repository for two Brownfield sites that I will be working on. I have attached the letters for the site that we need pursuant to the BCP application. Please let me know if you have any questions and thank you for your past assistance with this on our other applications.

Thank you

Pete

Peter J. Gorton, MPH; CHCM
Partner/Vice President

ATTACHMENT H

SECTION X: LAND USE FACTORS



960 Busti Ave – Suite B-150 Buffalo, New York

Section X: Land Use Factors – Current Use

1 – Current Zoning

The current zoning for the Site is N-1S (Secondary Employment Center: mixed-use mid-rise development clusters defined by large-footprint structures) consistent with the Buffalo Green Code (see Figure 11).

2 – Current Use

The Site is currently vacant and not used. In 1996 the property was foreclosed on by the County and subsequently remained unused but changed owners several times before 2012 under its current ownership.

3 - Planned Future Use - Reasonably anticipated Use Post Remediation

The planned reuse of the Site will consist of residential, food manufacturing, an outdoor park, and retail, the blend of which will create activity seven days a week, during and after normal business hour. The vision is to create an architecturally significant, high vitality destination that attracts local, regional, and global visitors.

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

Niagara Street, a former industrial now residential corridor overlooking the Niagara River and Lake Erie, has had more than \$200 million invested in developments over the past 5 years. A \$10 million street improvement project is completed and includes bike lanes, traffic calming, and green space additions.

See attached Letter from Rich Products

5. Is the proposed use consistent with applicable zoning laws/maps?

The proposed reuse is consistent with the current zoning and recent development projects.

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans?

Niagara Street has been recognized as a major waterfront redevelopment opportunity in all major city planning documents. High-end lofts, improved public transportation through Buffalo's Complete Streets program, and trendy gastropubs and breweries are motivating young professionals to live on the street

The property is in the Tonawanda Street Corridor Brownfield Opportunity Area (BOA) and the property is in the LWRP - the full reach of the Great Lakes Seaway Trail National Scenic Byway in Buffalo, particularly the full extent along Niagara Street, as it serves as the City's primary local waterfront corridor.



INFINITE POSSIBILITIES. ONE FAMILY.

William E. Grieshober, Jr.
Rich Products Corporation
One Robert Rich Way Buffalo, NY 14213
Telephone:(716) 878-8909
Fax: (716) 878-8767
wgrieshober@rich.com

October 1, 2019

To whom it may concern:

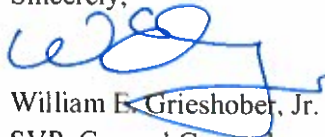
Rich Products Corporation is a privately held \$4.0 billion food and entertainment company, that operates in more than 100 countries worldwide ("RPC"). RPC is the owner and developer of a number of parcels of property (the "RPC Properties") that are located immediately north of the properties that Giles Kavanagh and his partners plan to acquire and develop on Niagara Street, along the Niagara River (the "GK Properties"). RPC has been in near constant communication with Giles concerning the plans for the GK Properties for more than two years and views his project as important not only for our local community, but especially as an opportunity to enhance the property that is adjacent to our global headquarters' campus.

Our ownership group and senior management have had a number of meetings with Giles and his team to discuss the potential synergistic benefits that could arise from the development of certain RPC Properties in conjunction with the GK Properties. We are keenly aware that our continued growth, existing 1000 associates, on site catering and events and numerous client visitors, requires us to consider all development on the west side of Niagara Street near our headquarters, whether for parking, hotel rooms, restaurants, other commercial retail or general residential space. In addition, it is our opinion that the development of both of these properties along the Niagara River in a joint manner would certainly result in a project that would be highly valued by hundreds of employees, visitors and community residents on a daily basis.

We eagerly await the next phase of discussions with Giles and his team in discussing the development of new live/work/play areas immediately adjacent to our existing campus.

I would be happy to discuss the concepts in this letter, should you have any questions.

Sincerely,



William E. Grieshober, Jr.
SVP, General Counsel

Rich Products Corporation
One Robert Rich Way, Buffalo, NY 14213