

# Brownfield Cleanup Program Application

22 Fillmore Avenue  
Tonawanda, New York

January 2023

0659-022-001

Prepared For:

JC Tonawanda Tower QOZB LLC



Prepared By:



# Brownfield Cleanup Program Application

22 Fillmore Avenue

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Copies of the previous investigation(s) are provided in a separate folder on the full electronic submittal CD:



## BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

Is this an application to amend an existing BCA with a major modification? Please refer to the application instructions for further guidance related to BCA amendments.

☐

Yes

☒

No

If yes, provide existing site number: \_\_\_\_\_

Is this a revised submission of an incomplete application?

☒

Yes

☐

No

If yes, provide existing site number: C915395

BCP App Rev 13

### SECTION I: Property Information

PROPOSED SITE NAME 22 Fillmore Avenue

ADDRESS/LOCATION 22 Fillmore Avenue

CITY/TOWN Tonawanda

ZIP CODE 14150

MUNICIPALITY (LIST ALL IF MORE THAN ONE) City of Tonawanda

COUNTY Erie

SITE SIZE (ACRES) 1.63

LATITUDE

LONGITUDE

43 ° 1 ' 14.02 " -78 ° 52 ' 27.19 "

Provide tax map information for all tax parcels included within the proposed site boundary below. If a portion of any lot is to be included, 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 acreage column.

#### ATTACH REQUIRED TAX MAPS PER THE APPLICATION INSTRUCTIONS.

Parcel Address	Section	Block	Lot	Acreage
<u>22 Fillmore Avenue</u>	<u>39.46</u>	<u>2</u>	<u>1.1</u>	<u>1.63</u>

	Y	N
1. Do the proposed site boundaries correspond to tax map metes and bounds? If no, please attach an accurate map of the proposed site including a metes and bounds description. <u>See Appendix A; Section I</u>	<input checked="" type="radio"/>	<input type="radio"/>
2. Is the required property map provided in electronic format with the application? (Application will not be processed without a map) <u>See Figures 1 through 3</u>	<input checked="" type="radio"/>	<input type="radio"/>
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See <a href="#">DEC's website</a> for more information) If yes, identify census tract: _____ Percentage of property in En-zone (check one): 0% <input checked="" type="radio"/> 1-49% <input type="radio"/> 50-99% <input type="radio"/> 100% <input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
4. Is the project located within a disadvantaged community? See application instructions for additional information. <u>See Figure 4</u>	<input checked="" type="radio"/>	<input type="radio"/>
5. Is the project located within a NYS Department of State (NYS DOS) Brownfield Opportunity Area (BOA)? See application instructions for additional information.	<input type="radio"/>	<input checked="" type="radio"/>

6. Is this application one of multiple applications for a large development project, where the development spans more than 25 acres (see additional criteria in application instructions)? If yes, identify names of properties and site numbers, if available, in related BCP applications: _____	<b>Y</b>	<b>N</b>
7. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?	<input type="radio"/>	<input checked="" type="radio"/>
8. Has the property previously been remediated pursuant to Titles 9, 13 or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.	<input type="radio"/>	<input checked="" type="radio"/>
9. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.	<input type="radio"/>	<input checked="" type="radio"/>
10. Has the property been the subject of or included in a previous BCP application? If yes, please provide the DEC site number: _____	<input type="radio"/>	<input checked="" type="radio"/>
11. Is the site currently listed on the Registry of Inactive Hazardous Waste Disposal Sites (Class 2, 3, or 4) or identified as a Potential Site (Class P)? If yes, please provide the DEC site number: _____ Class: _____	<input type="radio"/>	<input checked="" type="radio"/>
12. Are there any easements or existing rights-of-way that would preclude remediation in these areas? If yes, identify each here and attach appropriate information.  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <u>Easement/Right-of-Way Holder</u>   New York Telephone Company </div> <div style="width: 45%;"> <u>Description</u>   Dated August 30, 1984, recorded September 28, 1984, in Liber 9379 of Deeds, at page 429 per attached survey </div> </div>	<input checked="" type="radio"/>	<input type="radio"/>
13. List of permits issued by the DEC or USEPA relating to the proposed site (describe below or attach appropriate information):  <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"><u>Type</u></div> <div style="width: 30%;"><u>Issuing Agency</u></div> <div style="width: 35%;"><u>Description</u></div> </div> None/unknown	<input type="radio"/>	<input checked="" type="radio"/>
14. Property Description and Environmental Assessment – please refer to the application instructions for the proper format of each narrative requested. Are the Property Description and Environmental Assessment narratives included in the prescribed format? <span style="color: red; border: 1px solid red; padding: 2px;">See Appendix A; Section I</span>	<input checked="" type="radio"/>	<input type="radio"/>
<b>Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.</b>		
15. Is the Requestor seeking a determination that the site is eligible for tangible property tax credits? If yes, Requestor must answer the Supplemental Questions for Sites Seeking Tangible Property Credits Located in New York City ONLY on pages 11-13 of this form.	<span style="color: red; border: 1px solid red; padding: 2px;">NA</span>	<input type="radio"/>
16. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?	<span style="color: red; border: 1px solid red; padding: 2px;">NA</span>	<input type="radio"/>
17. If you have answered YES to Question 16 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?	<span style="color: red; border: 1px solid red; padding: 2px;">NA</span>	<input type="radio"/>
<b>NOTE:</b> If a tangible property tax credit determination is not being requested at the time of application, 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. <b>If any changes to Section I are required prior to application approval, a new page, initialed by each Requestor, must be submitted with the application revisions.</b> <b>Initials of each Requestor:</b> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 15%; border-bottom: 1px solid black;"></div> <div style="width: 15%; border-bottom: 1px solid black;"></div> <div style="width: 15%; border-bottom: 1px solid black;"></div> <div style="width: 15%; border-bottom: 1px solid black;"></div> <div style="width: 15%; border-bottom: 1px solid black;"></div> <div style="width: 15%; border-bottom: 1px solid black;"></div> </div>		



## SECTION II: Project Description

1. The project will be starting at: ☒ Investigation ☐ Remediation

NOTE: If the project is proposed to start at the remediation stage, at a minimum, a Remedial Investigation Report (RIR) must be included, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Action Work Plan (RAWP) are also included (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, does it meet the requirements in ECL Article 27-1415(2)?

☐ Yes ☐ No ☒ N/A

3. Have any draft work plans been submitted with the application (select all that apply)?

☒ RIWP ☐ RAWP ☒ IRM ☐ No

4. Please provide a short description of the overall project development, including the date that the remedial program is to begin, and the date by which a Certificate of Completion is expected to be issued.

Is this information attached?

☒ Yes ☐ No

See Appendix A; Section II  
See Figure 11

## SECTION III: Land Use Factors

See Appendix A; Section III

1. What is the property's current municipal zoning designation? C-M (Commercial)

2. What uses are allowed by the property's current zoning (select all that apply)?

Residential ☒ Commercial ☒ Industrial ☐

3. Current use (select all that apply):

Residential ☐ Commercial ☒ Industrial ☒ Recreational ☐ Vacant ☒

4. Please provide 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 by which the site became vacant.

Is this summary included with the application?

Y	N
<input checked="" type="radio"/>	<input type="radio"/>

5. Reasonably anticipated post-remediation use (check all that apply):

Residential ☒ Commercial ☒ Industrial ☐

If residential, does it qualify as single-family housing?

☐ N/A

<input type="radio"/>	<input checked="" type="radio"/>
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6. Please provide a statement detailing the specific proposed post-remediation use. Is this summary attached?

<input checked="" type="radio"/>	<input type="radio"/>
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7. Is the proposed post-remediation use a renewable energy facility? See application instructions for additional information.

<input type="radio"/>	<input checked="" type="radio"/>
-----------------------	----------------------------------

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

<input checked="" type="radio"/>	<input type="radio"/>
----------------------------------	-----------------------

9. Is the proposed use consistent with applicable zoning laws/maps? Please provide a brief explanation and additional documentation if necessary.

<input checked="" type="radio"/>	<input type="radio"/>
----------------------------------	-----------------------

10. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Please provide a brief explanation and additional documentation if necessary.

<input checked="" type="radio"/>	<input type="radio"/>
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**SECTION IV: Property's Environmental History**

See Appendix A; Section IV

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish that contamination of environmental media exists on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the site property and that the site requires remediation. To the extent that existing information/studies/reports are available to the requestor, please attach the following (***please submit 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 ANY supporting documents.**
- 2. SAMPLING DATA: INDICATE (BY SELECTING THE OPTIONS BELOW) KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. DATA SUMMARY TABLES SHOULD BE INCLUDED AS AN ATTACHMENT, WITH LABORATORY REPORTS REFERENCED AND INCLUDED.**

CONTAMINANT CATEGORY	SOIL	GROUNDWATER	SOIL GAS
Petroleum	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chlorinated Solvents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other VOCs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SVOCs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Metals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pesticides	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PCBs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PFAS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1,4-dioxane	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other – indicated below	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Please describe other known contaminants and the media affected:

- For each impacted medium above, include a site drawing indicating:

- Sample location
- Date of sampling event
- Key contaminants and concentration detected
- For soil, highlight exceedances of reasonably anticipated use
- For groundwater, highlight exceedances of 6 NYCRR part 703.5
- For soil gas/soil vapor/indoor air, refer to the NYS Department of Health matrix and highlight exceedances that require mitigation

See Appendix A; Section IV  
See Figure 8

These drawings are to be representative of all data being relied upon to determine if the site requires remediation under the BCP. Drawings should be no larger than 11"x17" and should only be provided electronically. These drawings should be prepared in accordance with any guidance provided.

Are the required drawings included with this application?

☒ YES☐ NO

- Indicate Past Land Uses (check all that apply):

<input type="checkbox"/>	Coal Gas Manufacturing	<input type="checkbox"/>	Manufacturing	<input type="checkbox"/>	Agricultural Co-Op	<input type="checkbox"/>	Dry Cleaner
<input checked="" 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: Historic operations on-Site included a coal and wood yard, boiler shop, welding operation, a repair shop, and boat storage. Based on the Erie County Parcel Detail Report attached as Exhibit A1 the former 30 Fillmore Avenue parcel was classified as a "junkyard" which is synonymous with "salvage yard" listed above. A gasoline UST was also identified on historic Sanborn Maps.

SECTION V: Requestor Information		See Appendix A; Section V	
NAME JC Tonawanda Tower QOZB LLC			
ADDRESS 92 Avalon Meadow Lane			
CITY/TOWN East Amherst		ZIP CODE 14051	
PHONE 801-971-7400		EMAIL justin@jbearlco.com	
1. Is the requestor authorized to conduct business in New York State (NYS)?		Y <input checked="" type="radio"/>	N <input type="radio"/>
2. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS DOS to conduct business in NYS, the requestor's name must appear, exactly as given above, in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a> . A print-out of entity information from the database must be submitted with this application to document that that requestor is authorized to conduct business in NYS. Is this attached?		<input checked="" type="radio"/>	<input type="radio"/>
3. If the requestor is an LLC, the names of the members/owners need to be provided on a separate attachment. Is this attached?		<input checked="" type="radio"/>	<input type="radio"/>
4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of <a href="#">DER-10: Technical Guidance for Site Investigation and Remediation</a> and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements? <b>Documents that are not properly certified will not be approved under the BCP.</b>		<input checked="" type="radio"/>	<input type="radio"/>

SECTION VI: Requestor Eligibility		See Appendix A; Section VI	
If answering "yes" to any of the following questions, please provide appropriate explanation and/or documentation as an attachment.			
		Y	N
1. Are any enforcement actions pending against the requestor regarding this site?		<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?		<input type="radio"/>	<input checked="" type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.		<input type="radio"/>	<input checked="" type="radio"/>
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 or regulation of the State or Federal government?		<input type="radio"/>	<input checked="" type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, please provide the site name, address, assigned DEC site number, the reason for denial, and any other relevant information regarding the denied application.		<input type="radio"/>	<input checked="" type="radio"/>
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?		<input type="radio"/>	<input checked="" type="radio"/>

## SECTION VI: Requestor Eligibility (CONTINUED)

7. Has the requestor been convicted of a criminal offence (i) involving the handling, storing, treating, disposing or transporting or contaminants; or (ii) that involved 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?	Y <input type="radio"/>	N <input checked="" type="radio"/>
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 a false statement in connection with any document or application submitted to DEC?	<input type="radio"/>	<input checked="" type="radio"/>
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?	<input type="radio"/>	<input checked="" type="radio"/>
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?	<input type="radio"/>	<input checked="" type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input checked="" type="radio"/>
12. 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:		
<b>PARTICIPANT</b> <input type="checkbox"/> <p>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.</p>	<b>VOLUNTEER</b> <span style="border: 1px solid red; padding: 2px;">See Appendix A; Section VI</span> <input checked="" type="checkbox"/> <p>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.</p> <p>NOTE: By selecting this option, 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; and, (iii) prevent or limit human, environmental or natural resource exposure to any previously released hazardous waste.</p> <p><b>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.</b></p>	
13. If the requestor is a volunteer, is a statement describing why the requestor should be considered a volunteer attached?  Yes <input checked="" type="radio"/> No <input type="radio"/> N/A <input type="radio"/>		

**SECTION VI: Requestor Eligibility (CONTINUED)**

14. Requestor relationship to the property (check one; if multiple applicants, check all that apply):

☐ Previous Owner ☒ Current Owner ☐ Potential/Future Purchaser ☐ Other: \_\_\_\_\_

If the requestor is not the current owner, **proof of site access sufficient to complete remediation must be provided.** 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 environmental easement on the site.

Is this proof attached?



Yes



No

**Note:** A purchase contract or lease agreement does not suffice as proof of site access.

**SECTION VII: Requestor Contact Information****REQUESTOR'S REPRESENTATIVE**

Justin Earl

**ADDRESS**

92 Avalon Meadow Lane

**CITY**

East Amherst

**ZIP CODE**

14051

**PHONE**

801-971-7400

**EMAIL**

justin@jbearlco.com

**REQUESTOR'S CONSULTANT (CONTACT NAME)**

Christopher Boron, P.G.

**COMPANY**

Benchmark Civil/Environmental Engineering & Geology, PLLC

**ADDRESS**

2558 Hamburg Turnpike, Suite 300

**CITY**

Buffalo

**ZIP CODE**

14218

**PHONE**

716-856-0599

**EMAIL**

cboron@bm-tk.com

**REQUESTOR'S ATTORNEY (CONTACT NAME)**

Marc A. Romanowski

**COMPANY**

Rupp Pfalzgraf LLC

**ADDRESS**

1600 Liberty Building

**CITY**

Buffalo

**ZIP CODE**

14202

**PHONE**

716-854-3400

**EMAIL**

mromanowski@rupppfalzgraf.com

**SECTION VIII: Program Fee**

Upon submission of an executed Brownfield Cleanup Agreement to the Department, the requestor is required to pay a non-refundable program fee of \$50,000. Requestors may apply for a fee waiver based on demonstration of financial hardship.

	Y	N
1. Is the requestor applying for a fee waiver based on demonstration of financial hardship?	<input type="radio"/>	<input checked="" type="radio"/>
2. If yes, appropriate documentation to demonstrate financial hardship must be provided with the application. See application instructions for additional information.	<input type="radio"/>	<input checked="" type="radio"/>
Is the appropriate documentation included with this application?		

**SECTION IX: Current Property Owner and Operator Information**[See Appendix A; Section IX](#)

<b>CURRENT OWNER</b> JC Tonawanda Tower QOZB LLC	
<b>CONTACT NAME</b> Justin Earl	
<b>ADDRESS</b> 92 Avalon Meadow Lane	
<b>CITY</b> East Amherst	<b>ZIP CODE</b> 14051
<b>PHONE</b> 801-971-7400	<b>EMAIL</b> justin@jbearlco.com
<b>OWNERSHIP START DATE</b> See Appendix A; Section IX	
<b>CURRENT OPERATOR</b> JC Tonawanda Tower QOZB LLC	
<b>CONTACT NAME</b> Same as Requestor	
<b>ADDRESS</b> Same as Requestor	
<b>CITY</b> Same as Requestor	<b>ZIP CODE</b> Same as Requestor
<b>PHONE</b> Same as Requestor	<b>EMAIL</b> Same as Requestor
<b>OPERATION START DATE</b> See Appendix A; Section IX	

**SECTION X: Property Eligibility Information**

	Y	N
1. Is/was the property, or any portion of the property, listed on the National Priorities List? If yes, please provide additional information.	<input type="radio"/>	<input checked="" type="radio"/>
2. Is/was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Site pursuant to ECL 27-1305? If yes, please provide the DEC site number: _____ Class: _____	<input type="radio"/>	<input checked="" type="radio"/>

**SECTION X: Property Eligibility Information (continued)**

	Y	N
3. Is/was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? If yes, please provide: Permit Type: _____ EPA ID Number: _____  Date Permit Issued: _____ Permit Expiration Date: _____	<input type="radio"/>	<input checked="" type="radio"/>
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? If yes, attach any available information related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filings and corporate dissolution documents. <div style="text-align: right;">N/A <input checked="" type="radio"/></div>	<input type="radio"/>	<input type="radio"/>
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? If yes, please provide the order number: _____	<input type="radio"/>	<input checked="" type="radio"/>
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? If yes, please provide additional information.	<input type="radio"/>	<input checked="" type="radio"/>

**SECTION XI: Site Contact List**[See Appendix A; Section XI](#)

To be considered complete, the application must include the Brownfield Site Contact List in accordance with *DER-23: Citizen Participation Handbook for Remedial Programs*. Please attach, at a minimum, the names and mailing addresses of the following:

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and adjacent properties.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property.
- 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.



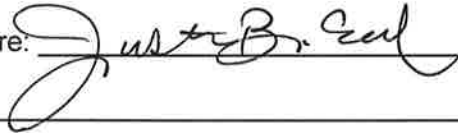
## SECTION XII: Statement of Certification and Signatures

(By a requestor other than an individual)

I hereby affirm that I am Managing Member (title) of JC Tonawanda Tower QOZB LLC (entity); that I am authorized by that entity to make this application and execute a Brownfield Cleanup Agreement (BCA) and all subsequent documents; that this application was prepared by me or under my supervision and direction. 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 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: 1/19/2023

Signature: \_\_\_\_\_



Print Name: Justin Earl

### SUBMITTAL INFORMATION

- Two (2) copies, one unbound 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, 11<sup>th</sup> Floor  
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: \_\_\_\_\_

**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 13**

<b>Please respond to the questions below and provide additional information and/or documentation as required.</b>	<b>Y</b>	<b>N</b>
1. Is the property located in Bronx, Kings, New York, Queens or Richmond County?	<input type="radio"/>	<input type="radio"/>
2. Is the requestor seeking a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit?	<input type="radio"/>	<input type="radio"/>
3. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)?	<input type="radio"/>	<input type="radio"/>
4. Is the property upside down or underutilized as defined below?		
Upside down	<input type="radio"/>	<input type="radio"/>
Underutilized	<input type="radio"/>	<input type="radio"/>

**From ECL 27-1405(31):**

"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.

**From 6 NYCRR 375-3.2(I) as of August 12, 2016** (Please note: Eligibility determination for the underutilized category can only be made at the time of application):

375-3.2:

- (I) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and
- (1) the proposed use is at least 75 percent for industrial uses; or
- (2) at which:
- (i) the proposed use is at least 75 percent for commercial or commercial and industrial uses;
  - (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and
  - (iii) one or more of the following conditions exists, as certified by the applicant:
    - (a) property tax payments have been in arrears for at least five years immediately prior to the application;
    - (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or
    - (c) there are no structures.

"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, or some combination thereof, from a governmental entity.

**FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)**

5. 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\*  
\*Selecting this option 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’ household’s 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 homeowners 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.

**FOR SITES SEEKING TANGIBLE PROPERTY CREDITS IN NEW YORK CITY ONLY (continued)**

6. Is the site a planned renewable energy facility site as defined below?

- ☐ Yes – planned renewable energy facility site
- ☐ No – not a planned renewable energy facility site

If yes, please provide any documentation available to demonstrate that the property is planned to be developed as a renewable energy facility site.

**From ECL 27-1405(33) as of April 9, 2022:**

"Renewable energy facility site" shall mean real property (a) this is used for a renewable energy system, as defined in section sixty-six-p of the public service law; or (b) any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission, sub-transmission, or distribution system.

**From Public Service Law Article 4 Section 66-p as of April 23, 2021:**

(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

7. Is the site located within a disadvantaged community, within a designated Brownfield Opportunity Area, and meets the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?

- ☐ Yes
- ☐ No

**From ECL 75-0111 as of April 9, 2022:**

(5) "Disadvantaged communities" means communities that bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111 of this article.

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BCP APPLICATION SUMMARY (FOR DEC USE ONLY)		
<b>SITE NAME</b> 22 Fillmore Avenue	<b>SITE ADDRESS</b> 22 Fillmore Avenue	
<b>CITY</b> Tonawanda	<b>COUNTY</b> Erie	<b>ZIP</b> 14150
<b>REQUESTOR NAME</b> JC Tonawanda Tower QOZB LLC	<b>REQUESTOR ADDRESS</b> 92 Avalon Meadow Lane	
<b>CITY</b> East Amherst	<b>ZIP</b> 14051	<b>EMAIL</b> justin@jbearlco.com

PROPERTY ADDRESS	SECTION	BLOCK	LOT
22 Fillmore Avenue	39.46	2	1.1

REQUESTOR'S REPRESENTATIVE		
<b>NAME</b> Justin Earl	<b>ADDRESS</b> 92 Avalon Meadow Lane	
<b>CITY</b> East Amherst	<b>ZIP</b> 14051	<b>EMAIL</b> justin@jbearlco.com
REQUESTOR'S ATTORNEY		
<b>NAME</b> Marc A. Romanowski	<b>ADDRESS</b> 1600 Liberty Building	
<b>CITY</b> Buffalo	<b>ZIP</b> 14202	<b>EMAIL</b> mromanowski@rupppfalzgraf.com
REQUESTOR'S CONSULTANT		
<b>NAME</b> Christopher Boron, P.G.	<b>ADDRESS</b> 2558 Hamburg Turnpike, Suite 300	
<b>CITY</b> Buffalo	<b>ZIP</b> 14218	<b>EMAIL</b> cboron@bm-tk.com

<b>REQUESTOR'S REQUESTED STATUS</b>	PARTICIPANT <input type="checkbox"/>	VOLUNTEER <input checked="" type="checkbox"/>
<b>DEC DETERMINATION</b>	AGREE	DISAGREE

<b>APPLIED FOR FEE WAIVER</b>	YES <input type="radio"/>	NO <input checked="" type="radio"/>
<b>ELIGIBLE FOR FEE WAIVER</b>	YES	NO

<b>PERCENTAGE WITHIN AN EN-ZONE</b>	0% <input checked="" type="radio"/>	<50% <input type="radio"/>	50-99% <input type="radio"/>	100% <input type="radio"/>
<b>DEC DETERMINATION</b>	AGREE		DISAGREE	

**BCP APPLICATION SUMMARY (FOR DEC USE ONLY) (CONTINUED)****FOR SITES IN NEW YORK CITY ONLY****IS THE REQUESTOR SEEKING TANGIBLE PROPERTY CREDITS?**

YES

☐

NO

☐**UPSIDE DOWN**

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

**UNDERUTILIZED**

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

**AFFORDABLE HOUSING STATUS**

PLANNED

☐

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

**DISADVANTAGED COMMUNITY AND CONFORMING BOA**

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

**RENEWABLE ENERGY FACILITY SITE**

YES

☐

NO

☐**DEC DETERMINATION**

AGREE

DISAGREE

**NOTES:**

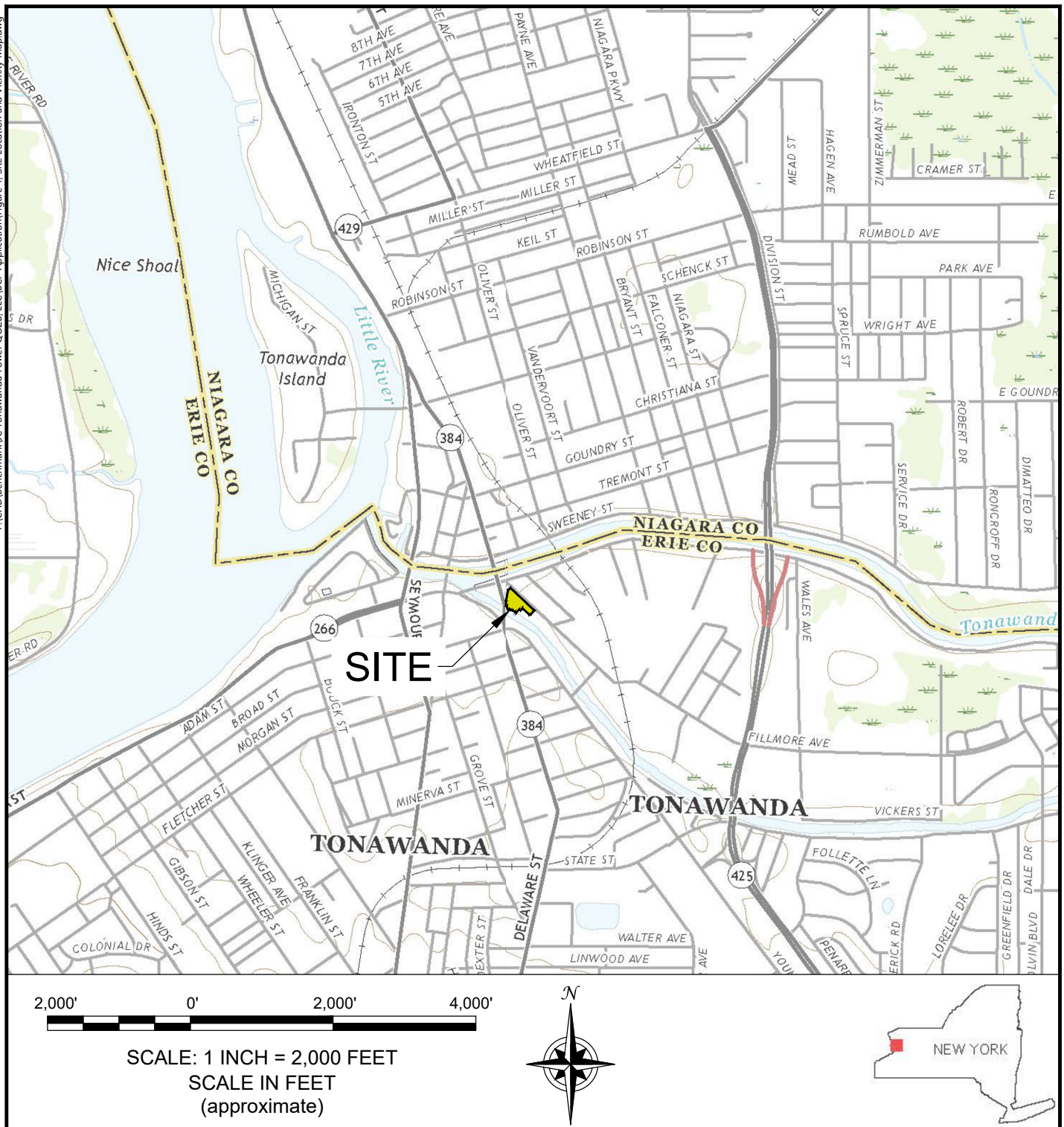


## FIGURES

Figure 1	Site Location and Vicinity Map
Figure 2	Site Plan (Aerial)
Figure 3	Tax Map
Figure 4	Disadvantaged Communities Map
Figure 5	Surrounding Area Map (Aerial)
Figure 6	Adjacent Property Owners
Figure 7	Land Use Map
Figure 8	Investigation Locations and Areas of Concern
Figure 9	USDA Soil Type Map
Figure 10	Preliminary Project Rendering
Figure 11	Preliminary Project Schedule

FIGURE 1

F:\CAD\Benchmark\NYC Tonawanda Tower QOZB, LLC\BCP Application\Figure 1: Site Location and Vicinity Map.dwg



IN  
ASSOCIATION  
WITH



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

PROJECT NO.: B0659-022-001

DATE: AUGUST 2022

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## SITE LOCATION AND VICINITY MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION



22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

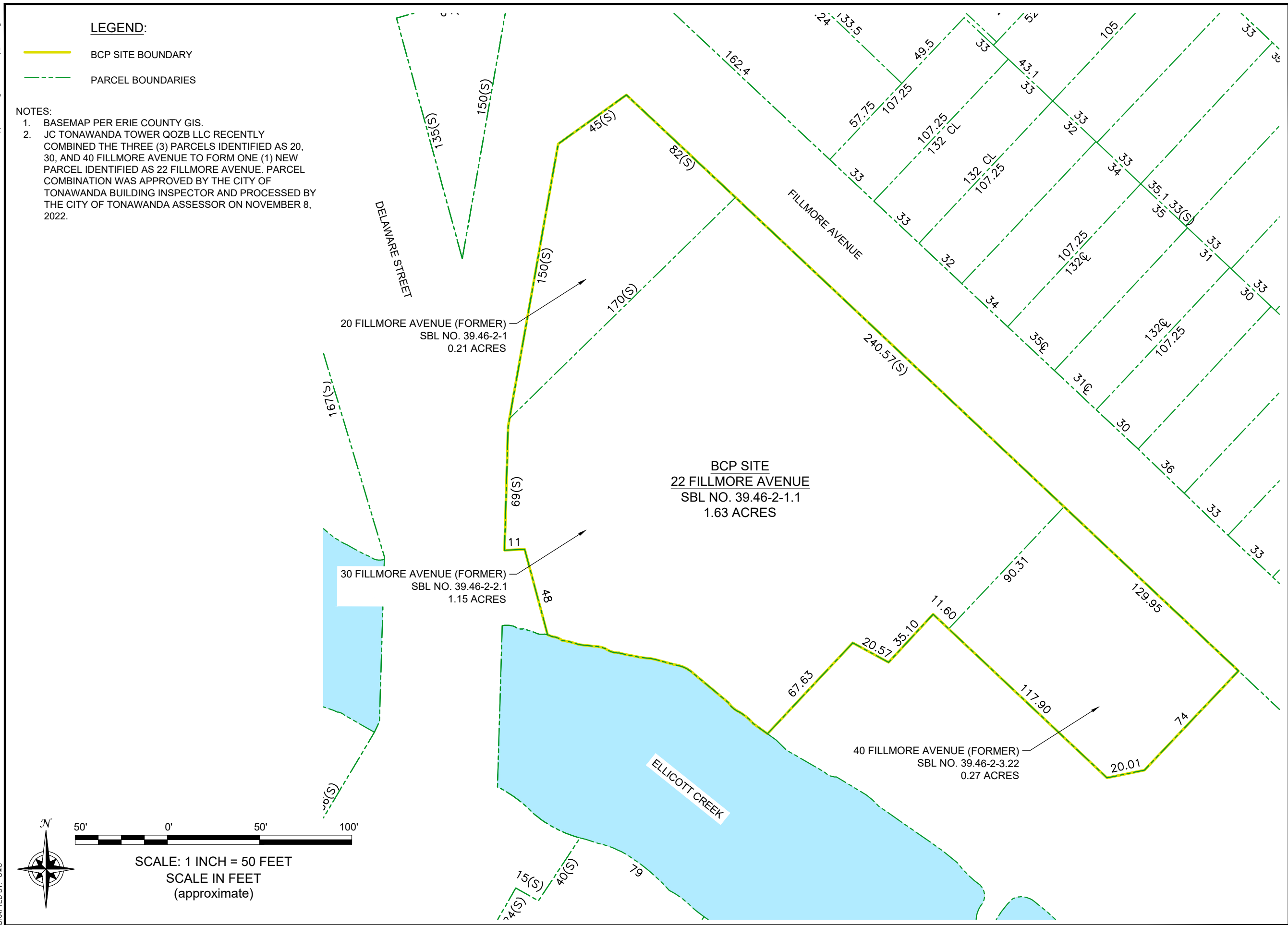
PREPARED FOR  
JC TONAWANDA TOWER QOZB LLC

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<div data-bbox="170 1161 684 1279">   </div> <p>2558 HAMBURG TURNPIKE, SUITE 300, BUFFALO, NY 14218, (716) 856-0599</p> <p>PROJECT NO.: B0659-022-001</p> <p>DATE: AUGUST 2022</p> <p>DRAFTED BY: CMS</p>	<p><b>SITE PLAN (AERIAL)</b></p> <p>BROWNFIELD CLEANUP PROGRAM APPLICATION</p> <p>22 FILLMORE AVENUE TONAWANDA, NEW YORK</p> <p>PREPARED FOR JC TONAWANDA TOWER QOZB LLC</p>	<p><b>FIGURE 2</b></p>
<p><b>DISCLAIMER: PROPERTY OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING &amp; GEOLOGY, PLLC. &amp; TURNKEY ENVIRONMENTAL RESTORATION, LLC IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS &amp; SUPPLIERS WITHOUT THE WRITTEN CONSENT OF BENCHMARK CIVIL/ENVIRONMENTAL ENGINEERING &amp; GEOLOGY, PLLC &amp; TURNKEY ENVIRONMENTAL RESTORATION, LLC.</b></p>		



## TAX MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION  
22 FILMORE AVENUE  
TONAWANDA, NEW YORK

PREPARED FOR  
JC TONAWANDA TOWER QOZB LLC



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

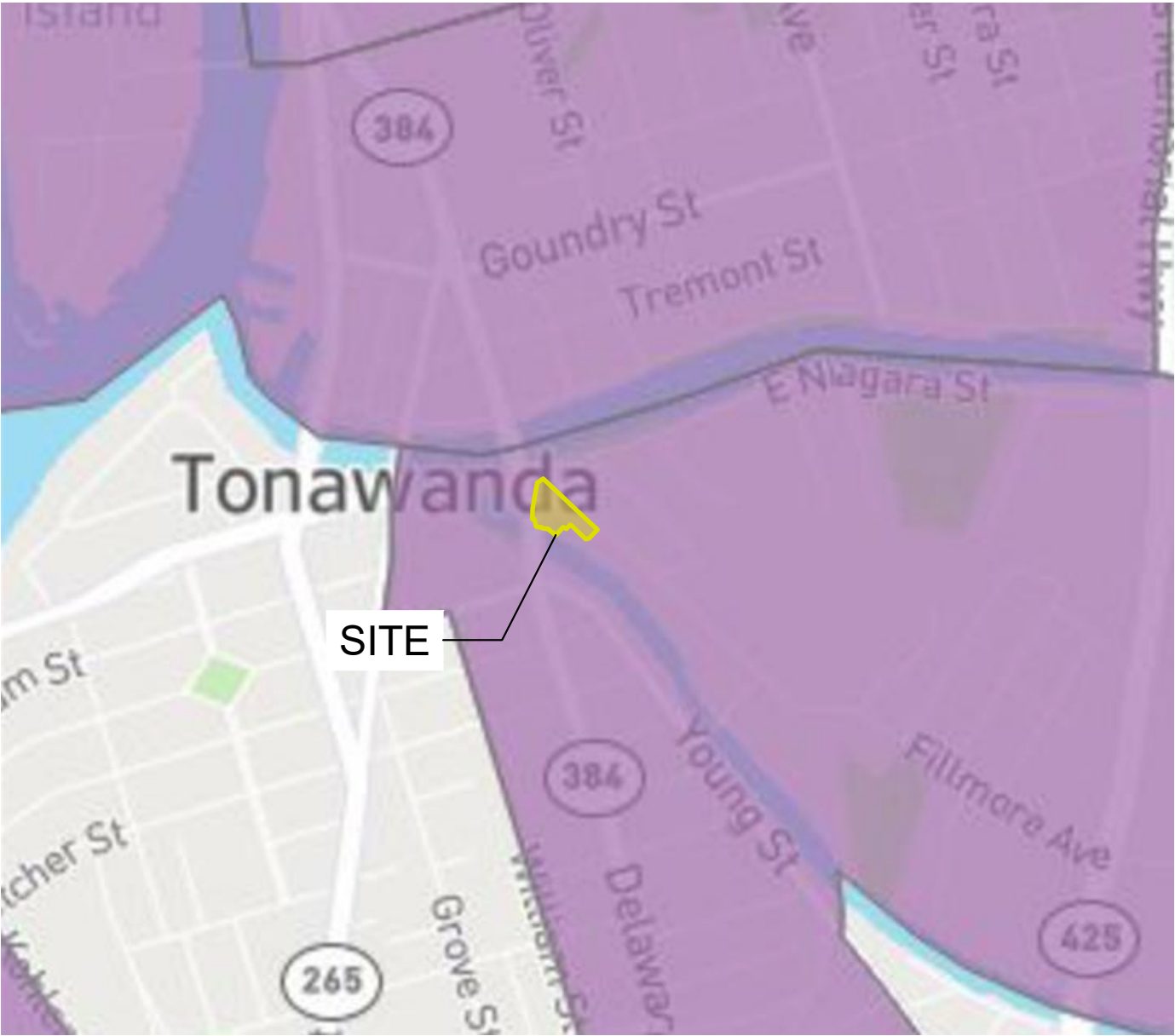
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FIGURE 4

F:\CAD\Benchmark\LC Tonawanda Tower QOZB, LLC\BCP Application\Figure 4: Disadvantaged Communities Map.dwg



SCALE: 1 INCH = 1000 FEET  
SCALE IN FEET  
(approximate)

LEGEND:

- BCP SITE BOUNDARY
- DRAFT DISADVANTAGED COMMUNITY BOUNDARY

NOTES:  
1. IMAGE TAKEN FROM NYS CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT DISADVANTAGED COMMUNITIES MAP.



IN ASSOCIATION WITH



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DISADVANTAGED COMMUNITIES MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION  
22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

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FIGURE 5

F:\CAD\Benchmark\JC Tonawanda Tower QOZB, LLC\BCP Application\Figure 5: Surrounding Area Map (Aerial).dwg



SCALE: 1 INCH = 500 FEET  
SCALE IN FEET  
(approximate)

**LEGEND:**

- BCP SITE BOUNDARY
- 1000' SETBACK

**NOTES:**

1. IMAGE TAKEN FROM GOOGLE EARTH 2021.



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## SURROUNDING AREA MAP (AERIAL)

BROWNFIELD CLEANUP PROGRAM APPLICATION

22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

PREPARED FOR

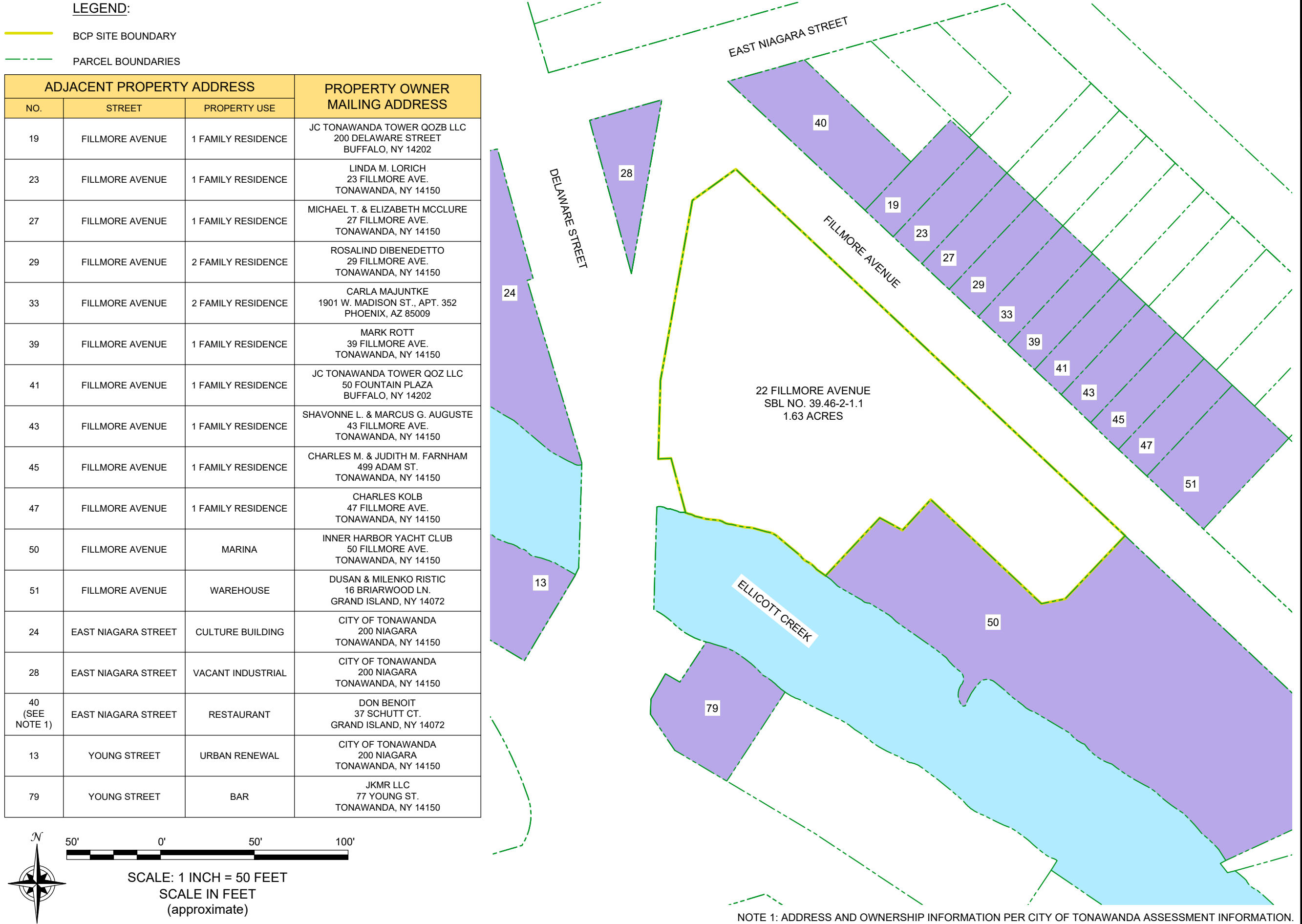
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F:\CAD\Benchmark\JC Tonawanda Tower QOZB, LLC\BCP Application\Figure 6: Adjacent Property Owners\_REV.dwg

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ADJACENT PROPERTY OWNERS

BROWNFIELD CLEANUP PROGRAM APPLICATION  
22 FILMORE AVENUE  
TONAWANDA, NEW YORK

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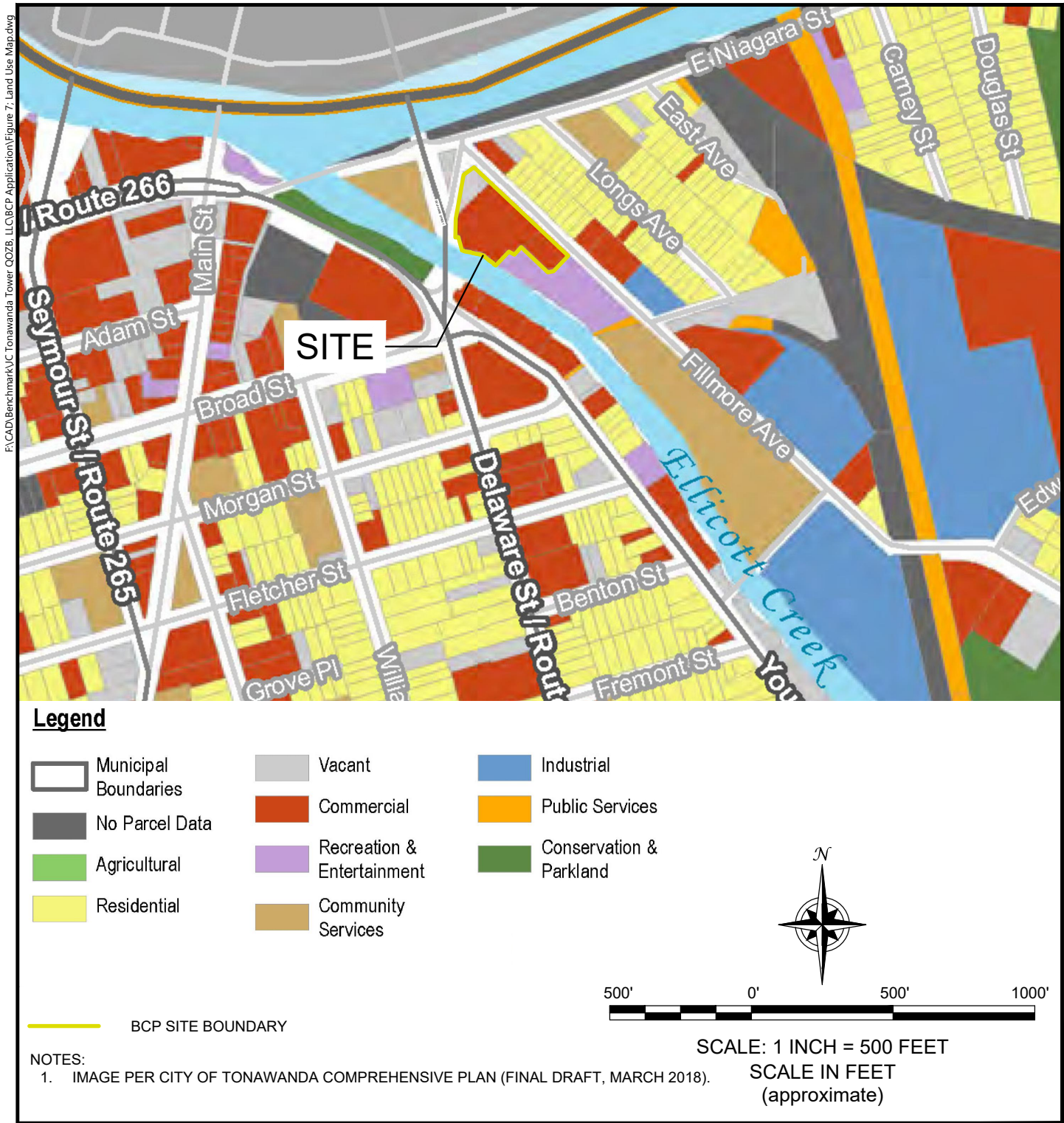
JOB NO.: B0659-022-001

FIGURE 6

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FIGURE 7



IN ASSOCIATION WITH

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**LAND USE MAP**

BROWNFIELD CLEANUP PROGRAM APPLICATION

22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

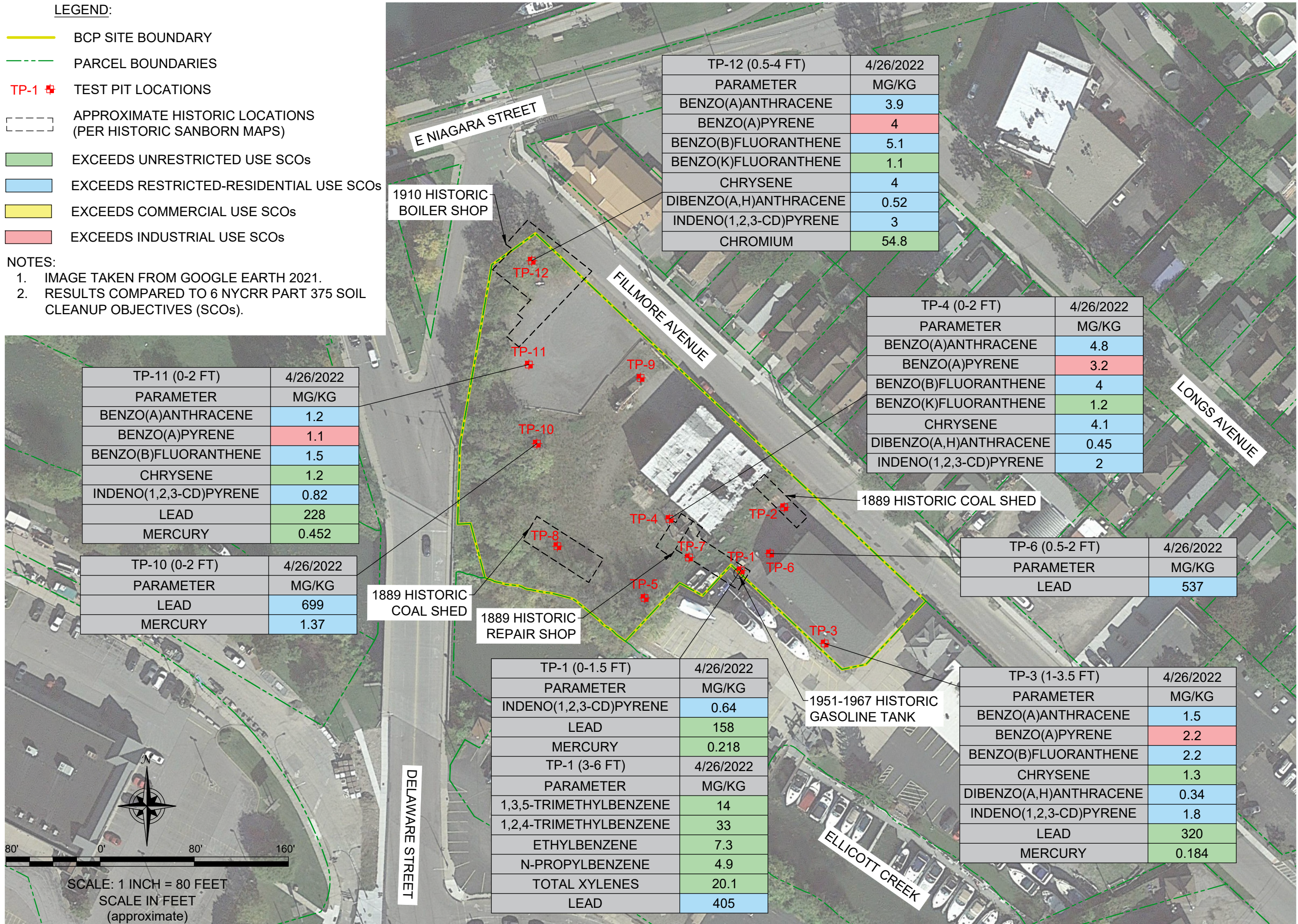
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F:\CAD\Benchmark\JC Tonawanda Tower QOZB, LLC\BCP Application\Figure 8: Investigation Locations and Areas of Concern\_REV.dwg

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**INVESTIGATION LOCATIONS  
AND AREAS OF CONCERN**  
BROWNFIELD CLEANUP PROGRAM APPLICATION  
22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

**FIGURE 8**



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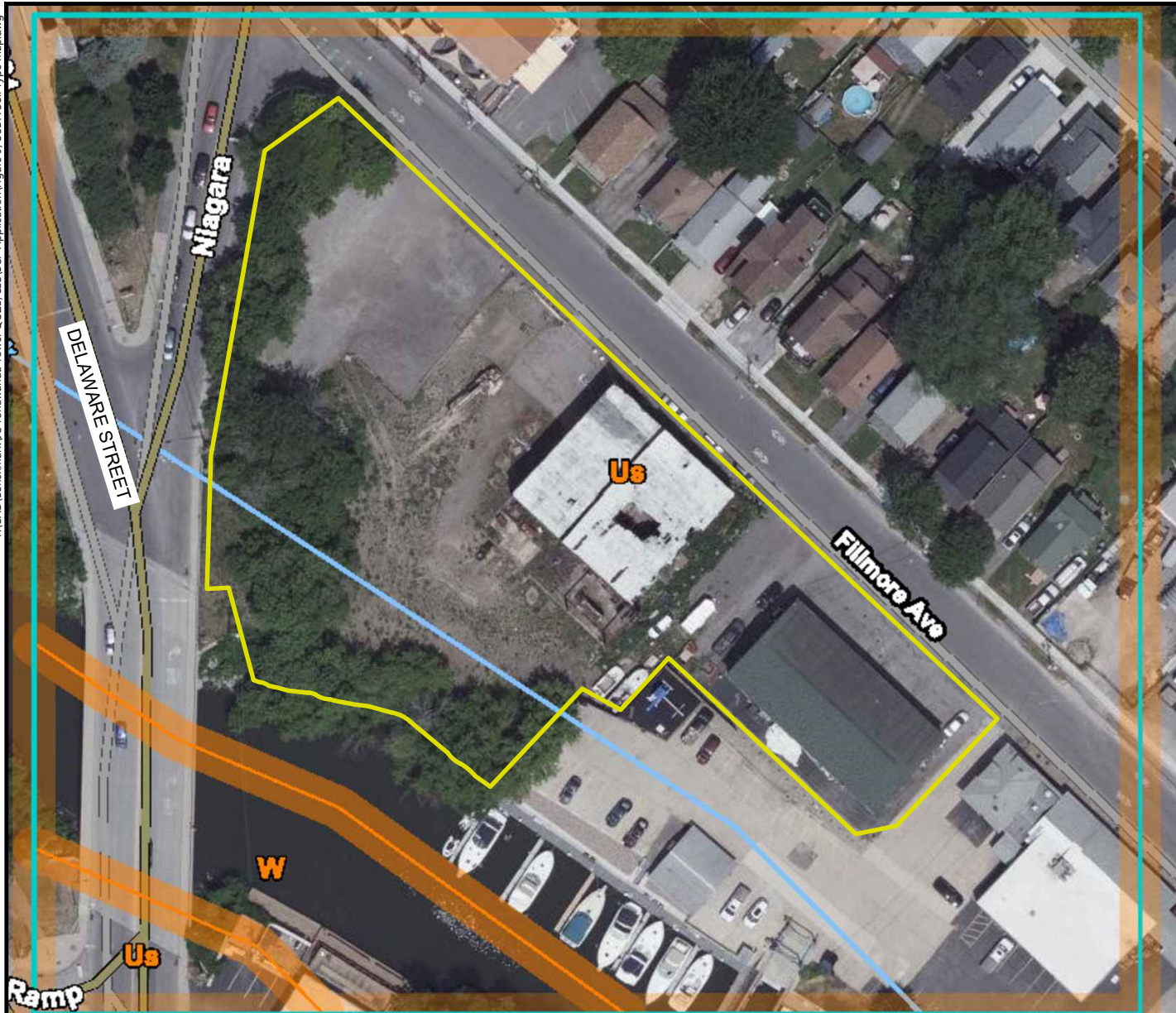
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FIGURE 9

F:\CAD\Benchmark\JC Tonawanda Tower QOZB, LLC\BCP Application\Figure 9: USDA Soil Type Map.dwg



LEGEND:

BCP SITE BOUNDARY



SCALE: 1 INCH = 80 FEET  
SCALE IN FEET  
(approximate)

MAP UNIT LEGEND

MAP UNIT SYMBOL	MAP UNIT NAME
Us	URBAN LAND - NIAGARA COMPLEX

NOTE: IMAGE PER USDA WEBSOIL SURVEY.



IN  
ASSOCIATION  
WITH



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USDA SOIL TYPE MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION

22 FILLMORE AVENUE  
TONAWANDA, NEW YORK

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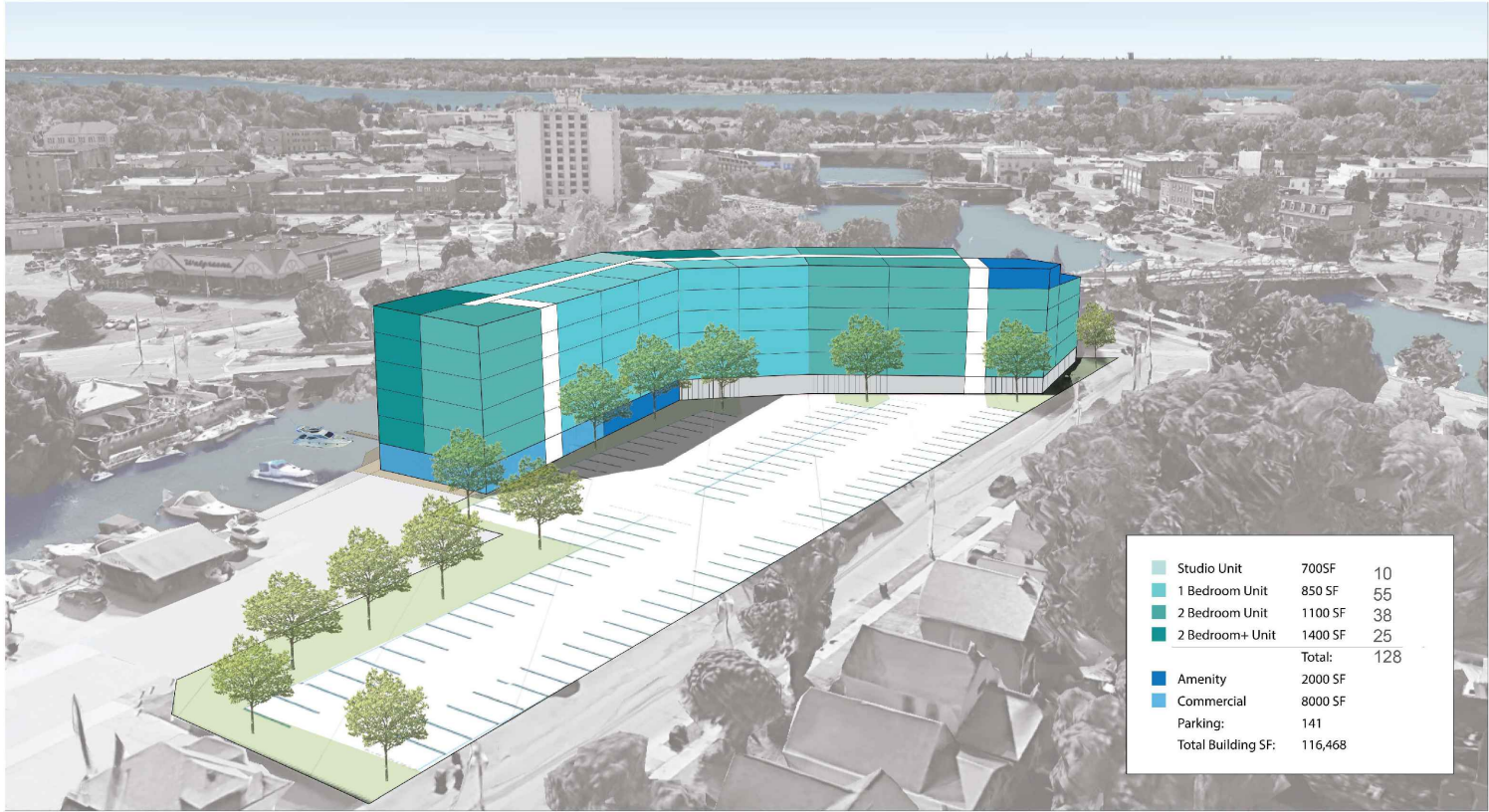
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**LANDSCAPE PROGRAM DIAGRAM**  
22 Fillmore Ave | landscape concept



**Carubba & Company**

**J.B. EARL  
COMPANY**

**ELEV8  
ARCHITECTURE**

**PRELIMINARY PROJECT RENDERING**

BROWNFIELD CLEANUP PROGRAM APPLICATION  
22 FILMORE AVENUE  
TONAWANDA, NEW YORK  
PREPARED FOR  
JC TONAWANDA TOWER QOZB LLC



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(716) 856-0599

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**FIGURE 10**

~~ACAD/Benchmarking/Type To and a Tower QOZD, LLC/BCP Application/Figure 11, Preliminary Project Schedule/~~



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PREPARED FOR  
JC TONAWANDA TOWER QOZB LLC

# FIGURE 11

## TABLE

Table 1      Summary of Soil/Fill Sample Analytical Results

Table 1

Summary of Soil/Fill Sample Analytical Results

22 Fillmore Avenue  
Tonawanda, New York

Analytes Exceeding RRSCOs	Detections Exceeding RRSCOs	Maximum Detection (ppm)	RRSCO (ppm)	Depth (ft bgs)
Phase II Soil/Fill Investigation Results				
Benzo(a)anthracene	4	4.8	1	0-2
Benzo(a)pyrene	4	4	1	0.5-4
Benzo(b)fluoranthene	4	5.1	1	0.5-4
Chrysene	2	4.1	3.9	0-2
Dibenzo(a,h)anthracene	3	0.52	0.33	0.5-4
Indeno(1,2,3-cd)pyrene	5	3	0.5	0.5-4
Lead	3	699	400	0-2
Mercury	1	1.37	0.81	0-2
Analytes Exceeding CP-51 SCLs	Detections Exceeding CP-51 SCLs	Maximum Detection (ppm)	CP-51 SCLs (ppm)	Depth (ft bgs)
Phase II Soil/Fill Investigation Results				
1,3,5-Trimethylbenzene	1	14	8.4	3-6
1,2,4-Trimethylbenzene	1	33	3.6	3-6
Ethylbenzene	1	7.3	1	3-6
n-Propylbenzene	1	4.9	3.9	3-6
Xylenes, Total	1	20.1	0.26	3-6



## BCP APPLICATION APPENDIX A – SECTIONS I - XI

SECTION I – PROPERTY INFORMATION

SECTION II – PROJECT DESCRIPTION

SECTION III – LAND USE FACTORS

SECTION IV – PROPERTY’S ENVIRONMENTAL HISTORY

SECTION V – REQUESTOR INFORMATION

SECTION VI – REQUESTOR ELIGIBILITY INFORMATION

SECTION IX – CURRENT PROPERTY OWNER/OPERATOR INFORMATION

SECTION XI – CONTACT LIST INFORMATION

EXHIBIT 1 – ERIE COUNTY PARCEL DETAIL REPORTS

EXHIBIT 2 – DEED INFORMATION AND ATTORNEY CORRESPONDENCE

EXHIBIT 3 – SURVEY WITH METES AND BOUNDS

EXHIBIT 4 – HISTORIC SANBORN MAPS

EXHIBIT 5 – CITY OF TONAWANDA REZONING MINUTES AND AREA VARIANCE  
APPROVAL

EXHIBIT 6 – NYSDOS BUSINESS ENTITY DATABASE PRINTOUT

EXHIBIT 7 – AUTHORIZATION TO SIGN

EXHIBIT 8 – ORGANIZATIONAL CHART

EXHIBIT 9 – DOCUMENT REPOSITORY CONFIRMATION

**APPENDIX A**  
**BCP Application**  
**Section I – Section XII**  
**22 Fillmore Avenue**

**SECTION I – PROPERTY INFORMATION**

**Parcel Description**

22 Fillmore Avenue (hereinafter, the “Project Site” or the “Site”), subject to this BCP application, consists of one (1) tax parcel totaling approximately  $\pm 1.63$ -acres, located in a highly developed commercial and residential use area in the City of Tonawanda, Erie County, New York (see Figures 1 and 2), and is further identified as:

- **22 Fillmore Avenue, SBL No. 39.46-2-1.1;  $\pm 1.63$ -acres**

A drawing of the tax map parcels is provided as Figure 3. The boundaries of the proposed BCP Site correspond with the tax boundaries. The Erie County parcel detail reports for the property (formerly individual parcels) are attached as Exhibit 1 for reference.

JC Tonawanda Tower QOZB LLC acquired the 20 Fillmore Avenue parcel on August 6, 2021, the 30 Fillmore Avenue parcel on December 20, 2019, and the 40 Fillmore Avenue parcel on January 28, 2020, which comprise the Site. The three former individual parcels have been combined and approved by the City of Tonawanda Building Inspector to form the SBL No. listed above. The combination was processed by the City of Tonawanda Assessor on November 8, 2022. Deed information and attorney correspondence is provided as Exhibit 2 of the BCP application package.

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

According to The NYS Climate Leadership and Community Protection Act Disadvantaged Communities Map, the Site is located within a Disadvantaged Communities census tract (see Figure 4).

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According to The NYS Department of State (DOS) Brownfield Redevelopment, the Site is not located within a Brownfield Opportunity Area (BOA).

The Site is not listed on the Registry of Inactive Hazardous Waste Disposal Sites and is not currently the subject of investigation as a Potential Site.

Easements and Permits

JC Tonawanda Tower QOZB LLC is not aware of any formal enforcement action, civil judicial or administrative enforcement cases in connection with the subject property. In addition, based on information gathered to date, there are no institutional controls recorded for the Site. Utilities are located in the right-of-way along Fillmore Avenue. The Site has access to municipal sanitary sewer, electric, natural-gas, and public water.

JC Tonawanda Tower QOZB LLC is aware that an easement to the New York Telephone Company is located on-Site. A survey map with metes and bounds description is attached as Exhibit 3 for reference.

Location

The Site is located on the west side of Fillmore Avenue and is bordered by East Niagara Street the north; a commercial property identified as the Inner Harbor Yacht Club and Ellicott Creek to the south; Fillmore Avenue to the east; and East Niagara Street and Delaware Street to the west. The Site is located in a highly developed mixed use residential and commercial area of the City of Tonawanda, Erie County, New York (see Figure 5). Site coordinates are Latitude 43° 1' 14.02" N and Longitude -78° 52' 27.19" W. Adjacent property owners are identified on Figure 6.

Site Features

The Site is currently improved with two (2) structures. The former 30 Fillmore Avenue parcel contains an approximate 6,000 square foot vacant building which is planned to be

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demolished and the remainder of the parcel is vacant. The former 40 Fillmore Avenue parcel contains an approximate 5,000 square foot vacant building which is planned to be demolished and occupies approximately 50% of the parcel (see Figure 2). The former 20 Fillmore Avenue parcel is vacant.

Historic operations across the Site included a coal and wood yard, boiler shop, welding operation, a repair shop, and boat storage. A gasoline underground storage tank (UST) was also identified on historic Sanborn® maps which are included as Exhibit 4 for reference. Petroleum impacts along with the presence of urban fill materials were identified through a previous investigation at the Site.

Zoning and Land Use

According to the City of Tonawanda Comprehensive Plan, the project area, planned as a mixed use commercial and residential development, is consistent with the zoning assigned to the Site (see Figure 7). The current zoning for the Site is C-M which is defined as a mixed-use zoning classification in the City of Tonawanda permitting both commercial and residential uses.

Planned reuse of the Site as a mixed-use building, with 128 residential apartments, 8,000 square feet of commercial space, new parking, and greenspace/landscaping is consistent with the City of Tonawanda zoning.

The Site is currently unoccupied with two (2) vacant buildings, formerly commercial/industrial. The surrounding parcels are as follows:

- north – vacant greenspace;
- south – commercial (marina) and Ellicott Creek;
- east – residential and commercial (restaurant) across Fillmore Avenue; and
- west – museum across Delaware Street

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Figure 6 identifies the adjacent property owners.

Past Use of the Site

Based on historic records and Sanborn® maps, the Site was previously used, but not limited to, a coal and wood yard, boiler shop, welding operation, a repair shop, and boat storage. Specifically, based on historic Sanborn® maps, the existing building formerly addressed as 30 Fillmore Avenue was identified as a welding facility with an old machinery warehouse in at least 1967 and the existing building formerly addressed as 40 Fillmore Avenue was identified as a coal house in at least 1951 and a boat storage facility in at least 1967. Former on-Site buildings/operations include an unidentified structure in at least 1889, and a boiler shop and iron storage in at least 1910 within the former 20 Fillmore Avenue parcel; a repair shop, coal shed, and individual residential units in at least 1889, machinery storage/storage structures, blacksmith, boat house, and woodshed in at least 1910, and an old machinery warehouse in at least 1951 within the former 30 Fillmore Avenue parcel; and a coal shed/shed in at least 1889, a coal shed and office in at least 1893, multiple structures including a coal shed, office, and several unidentified structures associated with Henry Barnes Coal & Wood Yard in at least 1910, and a coal house associated with H.B. Voelker Coal, Coke, and Wood Yard in at least 1951 within the former 40 Fillmore Avenue parcel. A gasoline UST was identified on historic Sanborn® maps in at least 1951 and 1967. As indicated on the Erie County Parcel Detail reports provided as Exhibit A1, the former 20 Fillmore Avenue parcel was classified as “vacant industrial”, the former 30 Fillmore Avenue parcel was classified as “junkyard” (likely similar to a “salvage yard”), and the former 40 Fillmore Avenue parcel was classified as a “warehouse”. The Site is currently vacant. Figure 8 identifies areas of past uses for the Site.

The historic use of the Site as commercial/industrial operations including a gasoline UST has impacted the Site as evidenced by petroleum, SVOC, and metals contamination detected during the previous investigation.

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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. According to the United States Department of Agriculture (USDA) Web soil survey, Site soils are characterized as Urban land-Niagara complex (Us). This complex consists of nearly level areas of urban land and somewhat poorly drained Niagara soils which consist of silty lake-laid deposits (see Figure 9). Soils within the City of Tonawanda are characterized as urban land (Ud, UmA, Us, Ut, and/or Uv) with the majority of soil surface covered by asphalt, concrete, buildings, or other impervious structures, typical of an urban environment.

Regional groundwater flow is likely westerly towards the Niagara River. Locally, groundwater flow may be southwest toward Ellicott Creek, but the Erie Canal is also located to the north. Groundwater flow may be influenced by subsurface features, such as excavations, utilities, and localized fill conditions.

Work is required to investigate groundwater flow direction and quality at the Site. Monitoring wells to assess groundwater flow and quality are planned to be installed during the Remedial Investigation.

Environmental Assessment

Past uses of the Site (coal and wood yard, boiler shop, welding operation, a repair shop, and boat storage) have resulted in impacts to the Site. Due to changes in development, fill materials were observed across the Site. Field evidence of petroleum contamination and analytical results have confirmed impacts to the Site soil. A sheen was also observed on the water present within TP-7.

Soil – Elevated PID readings (up to 1000 ppm) were noted proximate to a gasoline UST identified on historic Sanborn maps at TP-1. The gasoline UST was not discovered during

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the previous investigation, and it is unknown if the UST or related piping is still present on-Site. Elevated PID readings were also noted at three (3) additional investigation locations (TP-2, TP-6, and TP-7 with a maximum of 268 ppm at TP-7. Fill material containing cinder, ash, brick, concrete, coal, partially combusted material, and/or slag was identified Site-wide at varying depths up to 4 feet below ground surface (fbgs).

Laboratory analytical results indicate soil/fill is impacted by petroleum-related volatile organic compounds (pVOCs) exceeding 6NYCRR Part 375 (Part 375) Unrestricted Use Soil Cleanup Objectives (USCOs) and NYSDEC Commissioner's Policy (CP) 51 Soil Cleanup Levels (SCLs) in the area of the gasoline UST. A sheen was also observed on the groundwater within TP-7. Based on visual and olfactory evidence of petroleum contamination, NYSDEC was notified during the previous investigation and Spill No. 2200862 was assigned to the Site and remains open.

Polycyclic aromatic hydrocarbons (PAHs) and metals with concentrations exceeding Part 375 USCOs, Restricted Residential Use Soil Cleanup Objectives (RRSCOs), and/or Industrial Use Soil Cleanup Objectives (ISCOs) were also detected across the Site. Figure 8 identifies the environmental impacts identified in the previous investigation and elevated soil concentrations with comparison to applicable SCOs.

Analytical results exceeding the RRSCOs (the intended reuse) were detected in the 8 samples submitted for analysis (see Table 1).

Historic documents and the previous investigation report are provided electronically on the CD included with the BCP Application.

**SECTION II – PROJECT DESCRIPTION**

JC Tonawanda Tower QOZB LLC, acting as a Volunteer, is willing to complete additional investigation and remediate the Site under the NYS Brownfield Cleanup Program (BCP),

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and is submitting this BCP Application for eligibility acceptance into the program, as a Volunteer.

JC Tonawanda Tower QOZB LLC, has prepared a Remedial Investigation/Interim Remedial Measures (RI/IRM) Work Plan for concurrent submittal with the BCP Application and is prepared to complete a Remedial Investigation (RI) and begin Interim Remedial Measures (IRMs), upon acceptance into the BCP.

The Volunteer plans to redevelop the entire  $\pm 1.63$ -acre BCP Site, with the construction of a mixed-use building, with 128 residential apartments, 8,000 square feet of commercial space, new parking, and greenspace/landscaping. The Site Redevelopment Plan estimates capital investment of approximately \$35,000,000 to investigate, remediate, and redevelop the Site.

The Project will result in the remediation and redevelopment of an environmentally-impacted Site within a mixed-use residential and commercial area in the City of Tonawanda, New York, along Ellicott Creek.

A preliminary project rendering is shown on Figure 10 and a preliminary project schedule is shown on Figure 11.

**SECTION III – LAND USE FACTORS**

**Current Zoning**

The current land use for the Site is C-M Commercial consistent with the City of Tonawanda Comprehensive Plan (see Figure 7). The planned redevelopment of the Site as a mixed-use building, with 128 residential apartments, 8,000 square feet of commercial space, new parking, and greenspace/landscaping is consistent with the City of Tonawanda zoning.



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Current Use

The Site is currently unoccupied with two (2) vacant buildings planned to be demolished. The northern portion of the Site is utilized as a stone parking lot for the adjacent restaurant across Fillmore Avenue. The remainder of the Site is improved with asphalt/stone parking areas, trees, and greenspace covering the exterior.

Historic operation of the Site as a coal and wood yard, boiler shop, welding operation, a repair shop, boat storage, and presence of a UST have impacted the Site with pVOCs, PAHs, and metals. The previous investigation identified pVOCs, PAHs, and metals contamination that will require remediation.

Planned Future Use

The Volunteer plans to redevelop the entire ±1.63-acre Site, with the construction of a mixed-use building, with 128 residential apartments, 8,000 square feet of commercial space, new parking, and greenspace/landscaping. The residential portion of the project will not be single family housing.

The planned redevelopment is consistent with the historic and recent development patterns within the City of Tonawanda and has received rezoning approval permitting the Project and certain Area Variances for the physical aspects of the Project. A copy of the Rezoning meeting minutes from November 16, 2021 and Area Variance approval letter dated April 8, 2022 are attached as Exhibit 5.

The Site is not planned to be a renewable energy facility as defined in Section 66-p of the Public Service Law.

Based on the current zoning for the Site, C-M Commercial, the proposed redevelopment is consistent with the City of Tonawanda zoning and redevelopment has received the necessary zoning approvals from the City of Tonawanda.

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

A summary of the previous environmental investigation findings completed for the Site are provided below. Investigation locations and associated analytical results are provided on Figure 8. A summary of analytical results exceeding RRSCOs is provided as Table 1. An electronic copy of the previous investigation report is provided on the CD included with the BCP Application.

**Phase II Environmental Investigation Report**

TurnKey Environmental Restoration, LLC completed a Phase II Environmental Investigation at the Site in May 2022. Twelve (12) test pits (designated TP-1 through TP-12) were completed across the Site to characterize and collect samples of soil/fill for analysis.

Environmental impacts have been identified at the Site. VOCs above their respective CP-51 SCLs were identified in addition to visual and olfactory evidence of petroleum contamination in the vicinity of the gasoline UST, and Spill No. 2200862 was assigned by NYSDEC. Petroleum impacts were present on both the 30 and 40 Fillmore Avenue parcels; however, it is unknown if the UST or related piping is still present at the Site.

SVOCs and metals were also detected in the fill material present across the Site at concentrations above their respective RRSCOs, which are applicable for the intended reuse of the Site. Fill material varies in depth up to 4 fbs. The soil/fill material and any other contaminated material generated during redevelopment of the Site will require remediation and handling as contaminated soil. Additional sampling will be required to confirm the soil/fill can be managed as non-hazardous waste.

Based on the existing data and evidence of a petroleum release, the Site is a candidate for the BCP. The Site meets the definition of a BCP site per the current BCP law which states a “brownfield site or site shall mean any real property where a contaminant is present at levels

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exceeding the soil cleanup objectives or other health-based or environmental standards, criteria, or guidance adopted by the department that are applicable based on the reasonably anticipated use of the property, in accordance with applicable regulations.”

Remedial work will be required to address the petroleum contamination identified on the former 30 and 40 Fillmore Avenue parcels. Additionally, an electromagnetic survey should be completed to determine if the UST is still present in the ground. If the Site were to be accepted in to the BCP, the additional work required to assess for the presence of the UST and remediation of the petroleum contamination could be completed under the BCP, along with remediation of other soil contamination present at the Site.

**SECTION V – REQUESTOR INFORMATION**

The New York State Department of State’s (NYSDOS) Corporation & Business Entity Database print-out for JC Tonawanda Tower QOZB LLC is attached as Exhibit 6.

Benchmark Civil/Environmental Engineering and Geology, PLLC, a registered NYS engineering firm, and licensed NYS Professional Engineer (PE) will be acting as the Engineer of Record for this BCP project. Rupp Pfalzgraf LLC will be acting as the Volunteer’s environmental and land use attorney.

JC Tonawanda Tower QOZB LLC member/owner information is attached as Exhibit 6 through Exhibit 8.

**SECTION VI – REQUESTOR ELIGIBILITY INFORMATION**

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

Contamination at the Site is related to the historic use of the Site as a coal and wood yard, boiler shop, welding operation, a repair shop, and boat storage, and presence of a UST.

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Applicant's liability arises solely from having taken title to the property after the contaminants had already been present at the Site. 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.

JC Tonawanda Tower QOZB LLC acquired the parcels between December 2019 and August 2021, as shown in the parcel history found in Section IX. The Site was not fully under the Applicant's control until August 2021 and did not receive all necessary zoning approvals until April 8, 2022. Therefore, the Applicant has only recently had the ability to advance the Project forward. Nevertheless, in the interim, the Applicant has exercised all due care with respect to the environmental conditions at the properties during its ownership. As such, JC Tonawanda Tower QOZB LLC is entitled to Volunteer status under NY ECL §27-1405(1)(b).

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**SECTION IX – CURRENT PROPERTY OWNER/OPERATOR INFORMATION**

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

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
<b>20 Fillmore Avenue (former)</b>			
<b>Current Owner/Operator</b>			
JC Tonawanda Tower QOZB LLC 92 Avalon Meadow Lane East Amherst, NY 14051	Vacant	August 6, 2021 to Current	Owner Applicant
<b>Previous Owners/Operators</b>			
<b>Owner(s):</b> City of Tonawanda 200 Niagara Street Tonawanda, NY 14150	Vacant Industrial	Unknown to 2021	None – No relationship
<b>Operators:</b> Boiler shop and iron storage	Commercial/Industrial	At least 1910	None – No relationship

Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
<b>30 Fillmore Avenue (former)</b> (Historic Addresses: 714-716 Fillmore Avenue, 40A and 40½ Fillmore Avenue)			
<b>Current Owner/Operator</b>			
JC Tonawanda Tower QOZB LLC 92 Avalon Meadow Lane East Amherst, NY 14051	Vacant	December 20, 2019 to Current	Owner Applicant
<b>Previous Owners/Operators</b>			
<b>Owner(s):</b> Peter Kuczkowski	Junkyard	Unknown ~ 2019	None – No relationship

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<b>Operators:</b> Welding/former machinery warehouse and coke shed  Old machinery warehouse  Machinery storage Storage (40A Fillmore Avenue) Blacksmith, boat house, and woodshed (40½ Fillmore Avenue)  Repair shop/coal shed (714 Fillmore Avenue) Individual residential units (715-716 Fillmore Avenue)	Commercial/Industrial	At least 1967  At least 1951  At least 1910  At least 1889	None – No relationship
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Parcel Address	Use	Approx. Date(s)	Relationship to Applicant
40 Fillmore Avenue (former) (Historic Address: 717-718 Fillmore Avenue, 117 and 117½ Fillmore Avenue)			
Current Owner/Operator			
JC Tonawanda Tower QOZB LLC 92 Avalon Meadow Lane East Amherst, NY 14051	Vacant	January 28, 2020 to Current	Owner
Previous Owners/Operators			
<b>Owner:</b> 40 Fillmore Ave. Tonawanda, LLC	Storage	2016 ~ 2020	None – No relationship
40 Fillmore Ave. LLC	Storage	2001 ~ 2016	None – No relationship
Peter K. Kuczkowski	Vacant commercial	Unknown ~ 2001	None – No relationship
<b>Operators:</b> Boat storage  H.B. Voelcker Coal, Coke, and Wood Yard (117 Fillmore Avenue)	Commercial/Industrial	At least 1967  At least 1951	None – No relationship

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Henry Barnes Coal & Wood Yard		At least 1910	
Office (716 Fillmore Avenue) and coal shed (717 Fillmore Avenue)		At least 1893	
Coal shed (717 Fillmore Avenue) and shed (717½ Fillmore Avenue)		At least 1889	

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**SECTION XI – CONTACT LIST INFORMATION**

Site Contact List

The following is the contact list for the subject property. Each contact will be sent fact sheets throughout the project's duration.

*Erie County Contacts:*

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

Hon. John Bargnesi  
Erie County Legislator – District 4  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Daniel Castle, AICP  
Commissioner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Thomas E. Baines, Esq.  
Deputy Commissioner of Planning & Economic  
Development  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Mr. Mark Rountree  
Chief Planner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

Ms. Bonnie Lawrence  
Deputy Commissioner  
Erie County Environment & Planning  
95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202

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

Mr. John Cappellino  
President & CEO  
Erie County Industrial Development Agency  
95 Perry Street, Suite 403  
Buffalo, NY 14203



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Ms. Gale Burstein, MD, MPH, FAAP  
Commissioner of Health  
Erie County Department of Health  
95 Franklin Street  
Buffalo, NY 14202

Mr. Daniel J. Neaverth, Jr.  
Commissioner  
Erie County Department of Homeland Security  
& Emergency Services  
45 Elm Street  
Buffalo, NY 14203

*City of Tonawanda Contacts:*

John L. White, Mayor  
City of Tonawanda  
200 Niagara Street  
Tonawanda, NY 14150

Jenna Koch, Council President  
City of Tonawanda  
200 Niagara Street  
Tonawanda, NY 14150

Jason Lamonaco, P.E.  
City of Tonawanda – City Engineer  
200 Niagara Street  
Tonawanda, NY 14150

Monica L. Ljiljanich, Councilmember  
CTON 1-1 District, 1<sup>st</sup> Ward  
200 Niagara Street  
Tonawanda, NY 14150

*Supplier of Potable Water:*

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

*Local News Media:*

Buffalo News  
ATTN: Mr. Aaron Besecker  
1 News Plaza  
Buffalo, NY 14240

WGRZ TV - Ch. 2  
ATTN: Ms. Maria Sisti  
259 Delaware Avenue  
Buffalo, NY 14202

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

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

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

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

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

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

*Nearby Schools and Daycares:*

Mrs. Carolyn Gorski, Parish Business  
Manager  
St. Francis of Assisi School  
73 Adam Street  
Tonawanda, NY 14150

Child's Creative Development Center  
138 Delaware Street  
Tonawanda, NY 14150

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*Other Interested Parties:*

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

*Document Repository:*

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

City of Tonawanda Public Library  
333 Main Street  
Tonawanda, NY 14150

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Adjacent Property Owners

Information for the residents, owners, and occupants of the properties adjacent to the Site is provided in the table below and also shown on Figure 6.

Adjacent Property Address			Property Owner Mailing Address
No.	Street	Property Use	
19	Fillmore Avenue	1 Family Residence	JC Tonawanda Tower QOZB LLC 92 Avalon Meadow Lane East Amherst, NY 14051
23	Fillmore Avenue	1 Family Residence	Linda M. Lorch 23 Fillmore Ave. Tonawanda, NY 14150
27	Fillmore Avenue	1 Family Residence	Michael T. & Elizabeth McClure 27 Fillmore Ave. Tonawanda, NY 14150
29	Fillmore Avenue	2 Family Residence	Rosalind DiBenedetto 29 Fillmore Ave. Tonawanda, NY 14150
33	Fillmore Avenue	2 Family Residence	Carla Majuntke 1901 W. Madison St., Apt. 352 Phoenix, AZ 85009
39	Fillmore Avenue	1 Family Residence	Mark Rott 39 Fillmore Ave. Tonawanda, NY 14150
41	Fillmore Avenue	1 Family Residence	JC Tonawanda Tower QOZB LLC 92 Avalon Meadow Lane East Amherst, NY 14051
43	Fillmore Avenue	1 Family Residence	Shavonne L. & Marcus G. Auguste 43 Fillmore Ave. Tonawanda, NY 14150
45	Fillmore Avenue	1 Family Residence	Charles M. & Judith M. Farnham 499 Adam St. Tonawanda, NY 14150

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47	Fillmore Avenue	1 Family Residence	Charles Kolb 47 Fillmore Ave. Tonawanda, NY 14150
50	Fillmore Avenue	Marina	Inner Harbor Yacht Club 50 Fillmore Ave. Tonawanda, NY 14150
51	Fillmore Avenue	Warehouse	Dusan & Milenko Ristic 16 Briarwood Ln. Grand Island, NY 14072
24	East Niagara Street	Culture Building	City of Tonawanda 200 Niagara St. Tonawanda, NY 14150
28	East Niagara Street	Vacant Industrial	City of Tonawanda 200 Niagara St. Tonawanda, NY 14150
40 <sup>1</sup>	East Niagara Street	Restaurant	Don Benoit 37 Schutt Ct. Grand Island, NY 14072
13	Young Street	Urban Renewal	City of Tonawanda 200 Niagara St. Tonawanda, NY 14150
79	Young Street	Bar	JKMR LLC 77 Young St. Tonawanda, NY 14150

Document Repository

The Buffalo and Erie County Library has agreed to act as the document repository for the proposed BCP Site. A letter of acknowledgement from the repository is included as Exhibit 9.

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<sup>1</sup> Address and ownership information per City of Tonawanda Assessment information.



# EXHIBITS

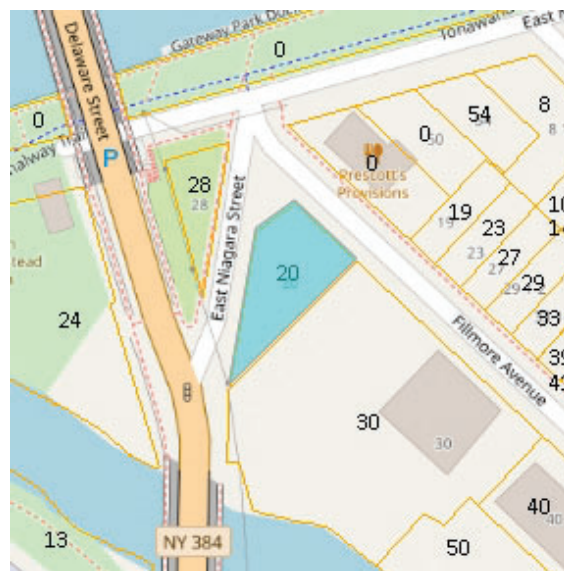
# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
8/9/2022 2:10:12 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1416000394600002001000

**SBL:** 39.46-2-1

**Address:** 20 FILLMORE AVE

**Owner 1:** CITY OF TONAWANDA

**Owner 2:**

**Mailing Address:** 200 NIAGARA ST

**City/Zip:** TONA NY 14150

**Municipality:** City of Tonawanda

**Property Class:** 340

**Class Description:** B - Vacant indus

**Front:** 82

**Depth:** 170

**Deed Roll:** 8

**Deed Book:**

**Deed Page:** 00000

**Deed Date:**

**Acreage:** 0.21487822

**Total Assessment:** \$15,000

**Land Assessment:** \$15,000

**County Taxes:** \$0

**Town Taxes:** \$0

**School Taxes:** \$0

**Village Taxes:** \$0

**School District:** CITY OF TONAWANDA SCHOOL DISTRICT

**Year Built:** 0

**Sqft Living Area:** 0

**Condition:** 0

**Heating:** 0

**Basement:** 0

**Fireplace:** 0

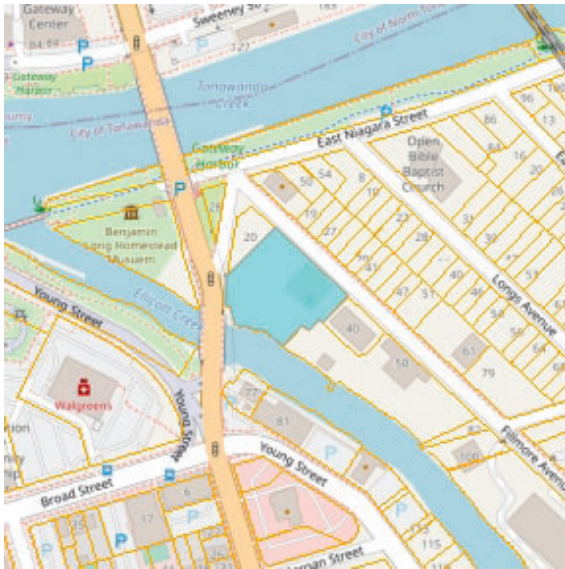
**Beds:** 0

**Baths:** 0

# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
8/9/2022 2:12:15 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1416000394600002002100

**SBL:** 39.46-2-2.1

**Address:** 30 FILLMORE AVE

**Owner 1:** JC TONAWANDA TOWER QOZB LLC

**Owner 2:**

**Mailing Address:** 200 DELAWARE AVE

**City/Zip:** BUFFALO NY 14202

**Municipality:** City of Tonawanda

**Property Class:** 475

**Class Description:** C - Junkyard

**Front:** 240.57

**Depth:** 0

**Deed Roll:** 1

**Deed Book:** 11354

**Deed Page:** 5241

**Deed Date:**

**Acreage:** 1.14841822

**Total Assessment:** \$134,800

**Land Assessment:** \$33,300

**County Taxes:** \$134,800

**Town Taxes:** \$0

**School Taxes:** \$0

**Village Taxes:** \$0

**School District:** CITY OF TONAWANDA SCHOOL DISTRICT

**Year Built:** 0

**Sqft Living Area:** 0

**Condition:** 0

**Heating:** 0

**Basement:** 0

**Fireplace:** 0

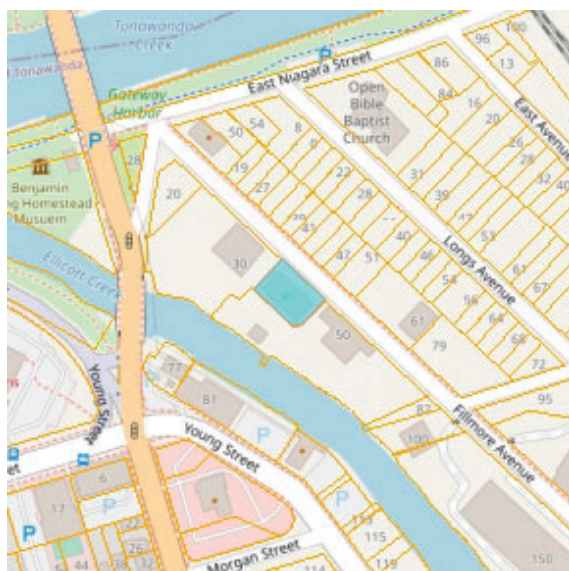
**Beds:** 0

**Baths:** 0

# Erie County On-Line Mapping System

## Parcel Detail Report

Report generated:  
8/9/2022 2:09:26 PM



Parcel Overview Map



Parcel Detail Map

**PIN:** 1416000394600002003220

**SBL:** 39.46-2-3.22

**Address:** 40 FILLMORE AVE

**Owner 1:** JC TONAWANDA TOWER QOZB LLC

**Owner 2:**

**Mailing Address:** 200 DELAWARE AVE

**City/Zip:** BUFFALO NY 14202

**Municipality:** City of Tonawanda

**Property Class:** 449

**Class Description:** C - Warehouse

**Front:** 129.95

**Depth:** 90.31

**Deed Roll:** 1

**Deed Book:** 11356

**Deed Page:** 1879

**Deed Date:**

**Acreage:** 0.26937515

**Total Assessment:** \$220,000

**Land Assessment:** \$13,300

**County Taxes:** \$220,000

**Town Taxes:** \$0

**School Taxes:** \$0

**Village Taxes:** \$0

**School District:** CITY OF TONAWANDA SCHOOL DISTRICT

**Year Built:** 0

**Sqft Living Area:** 0

**Condition:** 0

**Heating:** 0

**Basement:** 0

**Fireplace:** 0

**Beds:** 0

**Baths:** 0



FILED

AUG 19 2021

ERIE COUNTY  
CLERK'S OFFICERecord and Return to:  
Box 139 (MLN)

This Indenture, made as of the 6<sup>th</sup> day of August, 2021,

Between the **CITY OF TONAWANDA**, a municipal corporation organized under the laws of the State of New York, having an office for the transaction of business at 200 Niagara Street, Tonawanda, New York 14150, party of the first part

*and,*

**JC TONAWANDA TOWER QOZB LLC**, a Delaware limited liability company with an address of 92 Avalon Meadows Lane, East Amherst, New York 14051, party of the second part,

WITNESSETH, that the party of the first part, in consideration of TWENTY-THOUSAND DOLLARS (\$20,000.00) lawful money of the United States, paid by the party of the second part to THE CITY OF TONAWANDA, does hereby grant and release unto the party of the second part, their successors and assigns forever,

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Tonawanda, County of Erie, State of New York being part of Lot No. 83 of the Niagara River Reservation described as follows:

BEGINNING at a point in the southwesterly line of Fillmore Ave. distant 171.6 feet southeasterly from the south line of East Niagara St. (formerly known as South Canal St.), said point being the northwest line of lands conveyed to Louis H. Gipp and Edward H. Rogers by deed recorded in Erie County Clerk's Office in Liber 648 of Deeds at page 471; thence southwesterly along said northwest line 169.20 feet to a point in the easterly line of Delaware Street Extension; thence northerly along the southeasterly line of East Niagara Street 148.4 feet to an angle therein; thence northeasterly along a southerly line of East Niagara Street 41.20 feet to the southwest line of Fillmore Avenue; thence southeasterly along the southwest line of Fillmore Ave. 76.70 feet to the point of beginning.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above-described premises to the centerlines thereof.

SUBJECT to Easements, Rights of Way and Restrictions of record.

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 premises herein granted unto the parties of the second part, their successors and assigns forever.

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

AND the party of the first part, in compliance with section 13 of the Lien Law, covenants that it 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 hereto affixed, and these presents to be signed by its duly authorized officer this 6<sup>th</sup> day of August, 2021.

THE CITY OF TONAWANDA

By   
Rick Davis, Mayor

STATE OF NEW YORK     )  
                                      :     SS.:  
COUNTY OF ERIE         )

On this 6<sup>th</sup> day of August, 2021, before me personally came RICK DAVIS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person on behalf of which the individual acted, executed the instrument.

  
Notary Public

S. MICHAEL RUA  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 02RU4803634  
Qualified in Erie County  
Commission Expires November 30, 2022

FILED

SEP 13 2022

ERIE COUNTY  
CLERK'S OFFICE

Exhibit 2

COPY

Record and Return to:  
Box 139 – MLN

**QUITCLAIM DEED**

**THIS INDENTURE** is made as of the 12<sup>th</sup> day of September, 2022

**BETWEEN**

JC TONAWANDA TOWER QOZB LLC, a Delaware limited liability company with an address of 92 Avalon Meadows Lane, East Amherst, New York 14051, **GRANTOR**,

and

JC TONAWANDA TOWER QOZB LLC, a Delaware limited liability company with an address of 92 Avalon Meadows Lane, East Amherst, New York 14051, **GRANTEE**.

**WITNESSETH**, that the said Grantor, in consideration of the sum of One and No More Dollars (\$1.00 and No More), lawful money of the United States, paid by the Grantee, hereby grants, remises, releases and quitclaims unto the Grantee, its successors and assigns forever,

**ALL THAT TRACT OR PARCEL OF LAND** situate as described on Schedule "A" attached hereto and made a part hereof.

**BEING AND HEREBY INTENDING TO DESCRIBE AND CONVEY**, the land identified, described and conveyed pursuant to that certain (A) Deed dated as of August 6, 2021 from The City of Tonawanda, as grantor, to JC Tonawanda Tower QOZB LLC, as grantee, and recorded in the Erie County Clerk's Office on August 19, 2021 in Book 11385 at Page 7418; (B) dated November 22, 2019 from Peter K. Kuczkowski, David N. Kuczkowski, Thomas E. Kuczkowski, and Paul W. Kuczkowski, as grantors, and JC Tonawanda Tower QOZB LLC, as grantee, and recorded in the Erie County Clerk's Office on December 20, 2019 in Book 11354 at Page 5241; and (C) Deed dated January 21, 2020 from 40 Fillmore Avenue Tonawanda, LLC, as grantor, and JC Tonawanda Tower QOZB LLC, as grantee, and recorded in the Erie County Clerk's Office on January 28, 2020 in Book 11356 at Page 1879.

**THE SOLE PURPOSE OF THIS INDENTURE IS FOR THE PURPOSE OF COMBINING THE ABOVE-REFERRED PARCELS TO CREATE A SINGLE TAX PARCEL AT THE REQUEST OF THE ASSESSMENT AND TAXATION DEPARTMENT OF THE CITY OF TONAWANDA.**

This conveyance does not render the Grantor insolvent and is not for the purpose of defrauding creditors, if any, of the Grantor.

**TOGETHER** with the appurtenances and all the estate and rights of the said Grantor in and to the

said premises.

**TO HAVE AND TO HOLD**, the above granted premises unto the said Grantee.

**AND** the said Grantor covenants with said Grantee as follows:

**FIRST**, that the Grantor quitclaims to the Grantee all of his/her right, title and/or interest, if any, to said premises.

**SECOND**, that this conveyance is subject to the trust fund provisions of Section Thirteen of the Lien Law.

**[SIGNATURE APPEARS ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

**JC TONAWANDA TOWER QOZB LLC**

By: JC Legacy Management, Inc., its Manager

By: 

Name: Joseph Carubba


Title: President

STATE OF NEW YORK )

) SS:

COUNTY OF ERIE)

On the 12<sup>th</sup> day of September in the year 2022 before me, the undersigned, a notary public in and for said state, personally appeared Joseph Carubba, 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.

  
Notary Public

**MICHAEL L. NISENGARD**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
Qualified in Erie County  
My Commission Expires March 31, 2024



**SCHEDULE "A"**

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Tonawanda, County of Erie and State of New York, being part of Lot No. 83 of the Niagara River Reservation, bounded and described as follows:

BEGINNING at a point in the southwesterly line of Fillmore Avenue, 542.12 feet southeasterly from the point of intersection of said southwesterly line of Fillmore Avenue and the southerly line of East Niagara Street;

THENCE southwesterly, at an interior angle of  $89^{\circ} 46' 00''$ , a distance of 74.00 feet to a point;

THENCE westerly, at an interior angle of  $144^{\circ} 49' 12''$ , a distance of 20.01 feet to a point;

THENCE northwesterly, at an interior angle of  $125^{\circ} 24' 48''$  and parallel with Fillmore Avenue, a distance of 129.50 feet to a point;

THENCE southwesterly at an exterior angle of  $90^{\circ} 33' 00''$ , a distance of 35.10 feet to a point;

THENCE westerly at an interior angle of  $103^{\circ} 28' 19''$  a distance of 20.57 feet to a point;

THENCE southwesterly at an exterior angle of  $103^{\circ} 28' 19''$  a distance of  $60.8\pm$  feet to the northerly edge of Ellicott Creek;

THENCE westerly along the north edge of Ellicott Creek a distance of 131 feet more or less to the easterly line of lands appropriated by the People of the State of New York by Liber 10968 of Deeds at page 1522, Map No. 3, Parcel No. 4;

THENCE northerly along the easterly line of said Map No. 3, Parcel No. 4 a distance of 48 feet more or less to the northeast corner thereof;

THENCE westerly along the northerly line of said Map No. 3, Parcel No. 4 a distance of 11 feet more or less to the easterly line of the Delaware Street extension;

THENCE northerly along said easterly line of the Delaware Street extension a distance of 66.81 feet to a point to the southeasterly line of East Niagara Street;

THENCE northerly at an interior angle of  $174^{\circ} 14' 41''$  and along the southeasterly line of East Niagara Street a distance of 148.40 feet to a southerly line of East Niagara Street;

THENCE northeasterly at an interior angle of  $141^{\circ} 39' 53''$  and along said southerly line of East Niagara Street a distance of 44.19 feet to the southwesterly line of Fillmore Avenue;

THENCE southeasterly at an interior angle of  $95^{\circ} 53' 30''$  and along said southeasterly line of Fillmore Avenue a distance of 447.22 feet to the point of beginning, containing 1.564 acres more or less.

MICHAEL P. KEARNS, ERIE COUNTY CLERK  
REF:

DATE: 9/13/2022  
TIME: 12:24:43 PM  
RECEIPT: 22141315

LIPPES MATHIAS ETAL  
ACCOUNT #: 1627

ITEM - 01 DEED  
RECD: 9/13/2022 12:28:36 PM  
FILE: 2022173593 BK/PG D 11407/5607  
Deed Sequence: TT2022003332  
JC TONAWANDA TOWER Q0ZB LLC  
JC TONAWANDA TOWER Q0ZB LLC  
Recording Fees 65.00  
RP5217 CNTY \$9 9.00  
RP5217 ST-NON RES \$241 241.00  
TP584 10.00  
Subtotal 325.00

TOTAL DUE	\$325.00
PAID TOTAL	\$325.00
PAID CHECK	\$325.00
Check #500:	325.00

REC BY: Kristin  
COUNTY RECORDER

**From:** [Chris Z. Boron](#)  
**To:** [Chad Schuster](#)  
**Subject:** FW: 20, 30 & 40 Fillmore  
**Date:** Tuesday, January 10, 2023 3:05:05 PM  
**Attachments:** [image392078.png](#)  
[image176874.png](#)  
[image330068.png](#)  
[image482945.png](#)

---

Hi Chad,  
See email below regarding parcel combination information.

Regards,

**Christopher Boron, P.G.**  
*Sr. Project Manager*

**TurnKey Environmental Restoration, LLC**  
**Benchmark Civil/Environmental Engineering & Geology, PLLC**  
[www.benchmarkturnkey.com](http://www.benchmarkturnkey.com)  
2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218  
*Phone: (716) 856-0635, Mobile: (716) 864-2726*  
*Strong Advocates | Effective Solutions | Integrated Implementation*

---

**From:** Koehler, Brittany L. <koehler@ruppbaase.com>  
**Sent:** Tuesday, January 10, 2023 3:04 PM  
**To:** Chris Z. Boron <cboron@bm-tk.com>; joe@carubba.com; Michael J. Conroe Elev8 Architecture <michael@elev8architecture.com>; justin@jbearlco.com  
**Cc:** Romanowski, Marc A. <Romanowski@ruppbaase.com>  
**Subject:** 20, 30 & 40 Fillmore

Good Afternoon,

Below is the information the Assessor from City of Tonawanda provided:

The merge has been approved by the Building Inspector and has subsequently been processed. I have merged the following parcels:

39.46-2-1 – 20 Fillmore Ave  
39.46-2-2.1 – 30 Fillmore Ave  
39.46-2-3.22 – 40 Fillmore Ave

Newly merged parcel:

39.46-2-1.1 – 22 Fillmore Ave (address requested by property owner and approved by the Building Inspector)

This merge was processed on 11/8/2022 which means the first tax bill that will reflect the parcel combination is the School tax bill in September 2023.

Thank you,

**Brittany L. Koehler**  
Paralegal



1600 Liberty Building | Buffalo, New York 14202 | [716.854.3400 ext. 238](tel:716.854.3400) | [email](#) | [website](#)



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**Contracts:** *Nothing in this message shall be construed as legally binding upon Benchmark or TurnKey.*

**Professional Opinions:** *Views expressed in this message may only be relied upon as professional opinion if and when provided by principals of the Companies to authorized representatives of the organization with which we have an active client-engineer relationship and when directly pertaining to a binding contract scope of work.*

**DISCLAIMERS:**

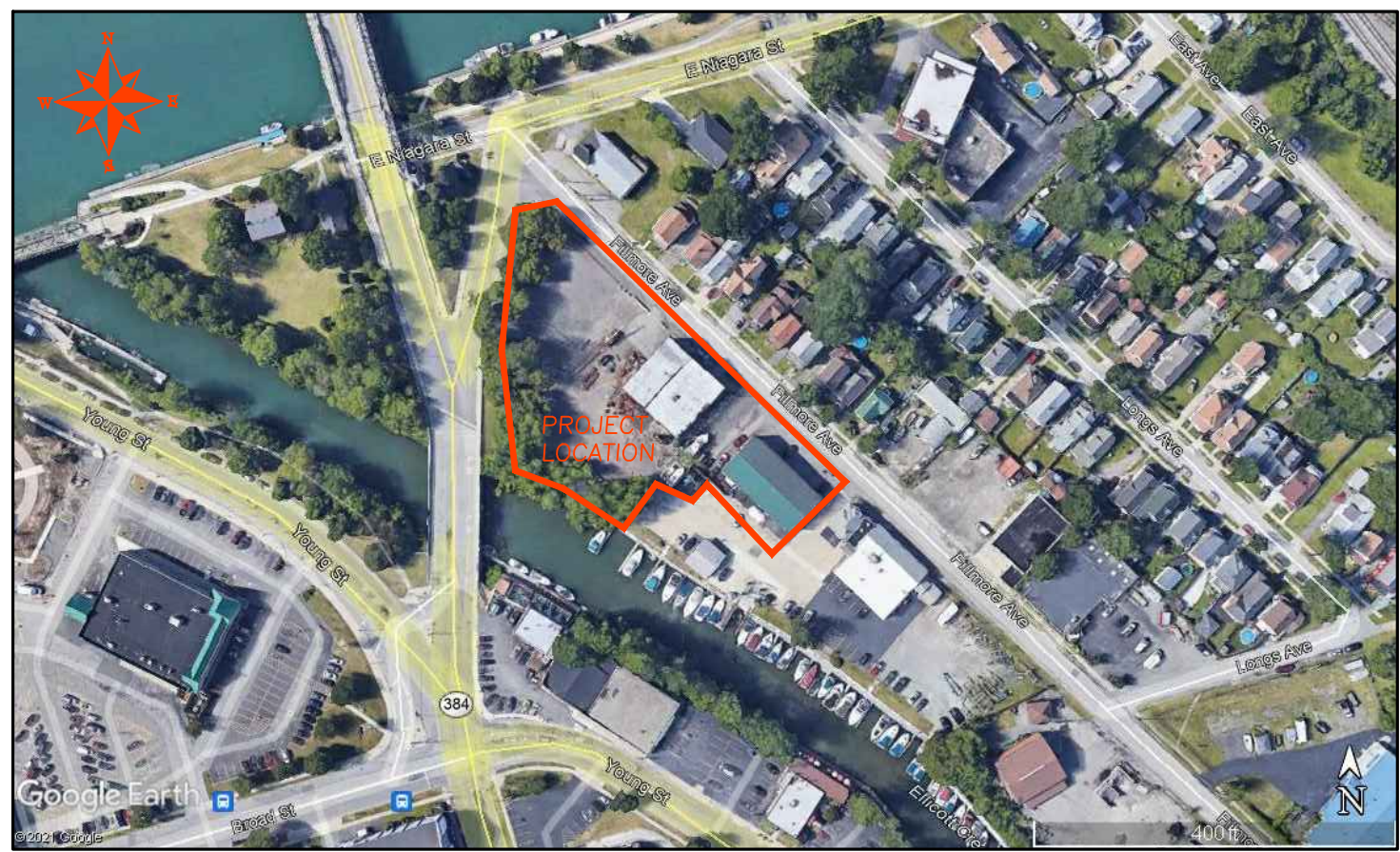
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VICINITY MAP  
(NOT TO SCALE)

#### RECORD DESCRIPTION - NO. 20 FILLMORE AVENUE

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Tonawanda, County of Erie, State of New York being part of Lot No. 83 of the Niagara River Reservation described as follows:

BEGINNING at a point in the westerly line of Fillmore Ave. distant 171.6 feet southeasterly from the south line of East Niagara St. (formerly known as South Canal St.), said point being the northwest line of lands conveyed to Louis H. Gipp and Edward H. Rogers by deed recorded in Erie County Clerk's Office in Liber 648 of Deeds at page 471; thence southeasterly along said northwest line 169.20 feet to a point in the easterly line of Delaware Street Extension; thence northerly along the southeasterly line of East Niagara Street 148.4 feet to an angle therein; thence northeasterly along a southerly line of East Niagara Street 41.20 feet to the southwest line of Fillmore Avenue; thence southeasterly along the southwest line of Fillmore Ave. 76.70 feet to the point of beginning.

#### RECORD DESCRIPTION - NO. 30 FILLMORE AVENUE

Parcel "A"  
All that tract or parcel of land situate in the City of Tonawanda, County of Erie and State of New York, being part of Great Lot No. 83 of the Niagara River Reservation, described as follows:

Commencing at a point in the westerly line of Fillmore Street which point is 171.6 feet southeasterly from the intersection of the southerly line of South Canal Street (as located by an iron bolt driven on said line and in the center of said Fillmore Street) with the westerly line of Fillmore Street; thence southeasterly along the westerly line of Fillmore Street 210 feet to the westerly line of land sold to Henry Barnes; thence southerly at right angles (nearly) along said line of Henry Barnes' land 195 feet to the Ellicott Creek; thence northeasterly along said creek 127.9 feet to the easterly line of Delaware Street extension; thence northerly along said line of Delaware Street extension 110 feet; thence easterly parallel to line of Henry Barnes' land 156 feet to the place of beginning.

Excepting therefrom that portion appropriated by the People of the State of New York as recorded in Erie County Clerk's Office in Liber 10968 of Deeds at page 1522, being Map No. 3, Parcel No. 4.

Parcel "B"  
All that tract or parcel of land situate in the City of Tonawanda, County of Erie and State of New York, being part of Lot No. 83 of the Niagara River Reservation, described as follows:

Beginning at a point in the southeasterly line of Fillmore Avenue 381.60 feet southeasterly from the point of intersection of said southeasterly line of Fillmore Avenue and the southerly line of East Niagara Street said point of beginning being the point of intersection of said southeasterly line of Fillmore Avenue and the southeasterly line of lands conveyed to Louis H. Gipp and Edward H. Rogers by a deed recorded in Erie County Clerk's Office in Liber 648 of Deeds at page 471; thence southeasterly along the southeasterly line of Fillmore Avenue 30.57 feet to a point, said point being the northwest corner of lands conveyed to 40 Fillmore Ave., LLC by a deed recorded in the said Clerk's Office in Liber 10992 of Deeds at page 2374; thence southeasterly along the northerly line of said 40 Fillmore Ave., LLC lands a distance of 90.31 feet to the southwest corner thereof; thence northeasterly parallel with Fillmore Avenue a distance of 11.60 feet to a point 20 feet southeasterly from the southeasterly line of lands so conveyed to Gipp and Rogers by aforesaid deed; thence southeasterly parallel with said southeasterly line of lands so conveyed to Gipp and Rogers by aforesaid deed and 20 feet southeasterly therefrom 35.10 feet to a point; thence northeasterly at an interior angle of 103° 28' 19", 20.57 feet to a point on the southeasterly line of lands so conveyed to Gipp and Rogers by aforesaid deed 130 feet southeasterly from the southeasterly line of Fillmore Avenue, as measured along said southeasterly line of Gipp and Rogers by aforesaid deed; thence northeasterly along the southeasterly line of lands so conveyed to Gipp and Rogers by aforesaid deed 130 feet to the southeasterly line of Fillmore Avenue at the point of beginning.

#### RECORD DESCRIPTION - NO. 40 FILLMORE AVENUE

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Tonawanda, County of Erie and State of New York, being part of Lot No. 83 of the Niagara River Reservation, described as follows:

COMMENCING at a point in the southeasterly line of Fillmore Avenue, 381.60 feet southeasterly from the point of intersection of said southeasterly line of Fillmore Avenue and the southerly line of East Niagara Street said point of beginning being the point of intersection of said southeasterly line of Fillmore Avenue and the southeasterly line of lands conveyed to Louis H. Gipp and Edward H. Rogers by a deed recorded in Erie County Clerk's Office in Liber 648 of Deeds at page 471;

THENCE southeasterly, along the southeasterly line of Fillmore Avenue, 30.57 feet to the TRUE POINT AND PLACE OF BEGINNING;

THENCE southeasterly, along the southeasterly line of Fillmore Street, 129.95 feet to a point;

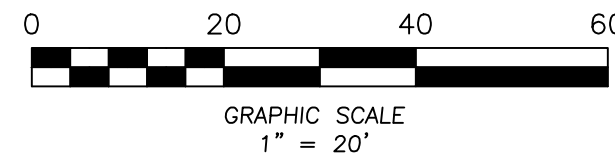
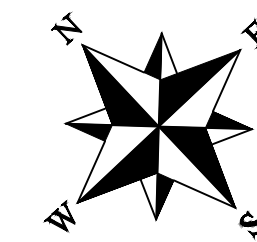
THENCE southeasterly, at an interior angle of 89° 46' 00", a distance of 74.00 feet to a point;

THENCE westerly, at an interior angle of 144° 49' 12", a distance of 20.01 feet to a point;

THENCE northeasterly, and parallel with Fillmore Avenue, 117.90 feet to a point;

THENCE northerly, at an interior angle of 90° 05' 50", a distance of 90.31 feet to the TRUE POINT AND PLACE OF BEGINNING.

## Exhibit 3



#### LEGEND

CLF	CHAIN LINK FENCE
SPL	STOCKADE FENCE
WFL	WIRE FENCE
MB	MAIL BOX
DS	DOUBLE SIGN
SI	SIGN
GP	GUARD POSTS/BOLLARDS
TD	TREE DECIDUOUS
GL	GAS LINE
GM	GAS METER
GV	GAS VALVE
GS	GAS SERVICE
DI	DRAINAGE INLET
DMH	STORM DRAINAGE MANHOLE
ST	STORM SEWER LINE
SMH	SANITARY MANHOLE
SCO	SEWER CLEANOUT
SA	SANITARY SEWER LINE
INV	INVERT ELEVATION
TCSP	TRAFFIC SIGNAL POLE
TCP	TRAFFIC PEDESTRIAN POLE
EM	ELECTRIC METER
UP	UTILITY POLE
UPL	UTILITY POLE W/ LIGHT
OWH	OVERHEAD WIRES
UE	UNDERGROUND ELECTRIC
W	WATER LINE
WV	WATER VALVE
HYD	HYDRANT
WS	WATER SERVICE
WCR	WHEEL CHAIR RAMP
CONC	CONCRETE
TC	TOP OF CURB
SW	SIDEWALK
EP	EDGE OF PAVEMENT
FF	FINISHED FLOOR
D&M	DEED AND MEASURED
MON	MONUMENT
CP	PRIMARY CONTROL POINT
BM	BENCHMARK

SURVEY CONTROL			
VERTICAL DATUM = NAVD83		HORIZONTAL DATUM = NAD83	
Point	Northing	Easting	Description
1	1100800.1870	1070454.0500	ELEVATION REBAR & CAP
2	1100959.1807	1070354.4959	574.71 MAGNAIL
3	1100579.7271	1070723.4208	574.76 MAGNAIL

#### COMBINED PARCEL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Tonawanda, County of Erie and State of New York, being part of Lot No. 83 of the Niagara River Reservation, bounded and described as follows:

BEGINNING at a point in the southeasterly line of Fillmore Avenue, 542.12 feet southeasterly from the point of intersection of said southeasterly line of Fillmore Avenue and the southerly line of East Niagara Street;

THENCE southeasterly, at an interior angle of 89° 46' 00", a distance of 74.00 feet to a point;

THENCE westerly, at an interior angle of 144° 49' 12", a distance of 20.01 feet to a point;

THENCE northeasterly, at an interior angle of 125° 24' 48" and parallel with Fillmore Avenue, a distance of 129.50 feet to a point;

THENCE southeasterly at an exterior angle of 90° 33' 00" a distance of 35.10 feet to a point;

THENCE westerly at an interior angle of 103° 28' 19" a distance of 20.57 feet to a point;

THENCE southeasterly at an exterior angle of 103° 28' 19" a distance of 60.81 feet to the northerly edge of Ellicott Creek;

THENCE westerly along the north edge of Ellicott Creek a distance of 131 feet more or less to the easterly line of lands appropriated by the People of the State of New York by Liber 10968 of Deeds at page 1522, Map No. 3, Parcel No. 4;

THENCE northerly along the easterly line of said Map No. 3, Parcel No. 4 a distance of 48 feet more or less to the northeast corner thereof;

THENCE westerly along the northerly line of said Map No. 3, Parcel No. 4 a distance of 11 feet more or less to the easterly line of the Delaware Street extension;

THENCE northerly along said easterly line of the Delaware Street extension a distance of 66.81 feet to a point to the southeasterly line of East Niagara Street;

THENCE northerly at an interior angle of 174° 14' 31" and along the southeasterly line of East Niagara Street a distance of 148.40 feet to a southerly line of East Niagara Street;

THENCE northeasterly at an interior angle of 141° 39' 53" and along said southerly line of East Niagara Street a distance of 44.19 feet to the southeasterly line of Fillmore Avenue;

THENCE southeasterly at an interior angle of 95° 53' 30" and along said southeasterly line of Fillmore Avenue a distance of 447.22 feet to the point of beginning, containing 1.564 acres more or less.

#### NO. 30 FILLMORE AVENUE SUBJECT TO THE FOLLOWING:

- Easement granted to New York Telephone Company by instrument dated August 30, 1984, and recorded September 28, 1984, in Liber 9379 of Deeds, at page 429.
- Terms and conditions of an agreement with The City of Tonawanda as contained in Quit Claim Deed recorded in Liber 2113 of Deeds at page 132.
- Driveway easement contained in Warranty Deed recorded in Liber 8394 of Deeds at page 317.
- Public rights and private rights of others than the insured in and to the bed and waters of Ellicott Creek including any regulatory statutes affecting the same.

NOTE: THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. THE SURVEYOR DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

NOTE: WHEN ANY DESIGN OR RECONSTRUCTION INVOLVES A NEW CONNECTION TO EXISTING STORM OR SANITARY STRUCTURE AS SHOWN ON THIS DRAWING IT IS STRONGLY ADVISED THAT THE ENGINEER OR ARCHITECT CONTACT THE APPROPRIATE OPERATING AUTHORITY TO VERIFY THAT THE STRUCTURE BEING CONNECTED TO IS APPROPRIATE FOR ANY SUCH STORM OR SANITARY CONNECTION PRIOR TO PROCEEDING WITH DESIGN.

WARNING: ALTERING THIS DOCUMENT IS IN VIOLATION OF THE LAW EXCEPTING AS PROVIDED IN SECTION 7209, PART 2 OF THE NEW YORK STATE EDUCATION LAW.

ALL UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE, BEFORE YOU DIG, DRILL, OR BLAST, CALL DIG SAFELY NEW YORK AT 1-800-962-7962

CADD: 4552 20-40 FILLMORE COMBINED.DWG

No. 20 - SBL 39.46-2-1  
No. 30 - SBL 39.46-2-2.1  
No. 40 - SBL 39.46-2-3.22

#### BOUNDARY SURVEY

PART OF LOT 83  
OF THE NIAGARA RIVER RESERVATION  
CITY OF TONAWANDA  
COUNTY OF ERIE ~ STATE OF NEW YORK

FRANDINA ENGINEERING AND LAND SURVEYING, PC

CIVIL ENGINEERS AND LAND SURVEYORS

1701 Hertel Avenue, Buffalo, New York 14216

Phone: (716) 883-1299

www.FRANDINA.com

DATE: 5/23/2022 SHEET: 1 OF 1 DWN BY: MJC

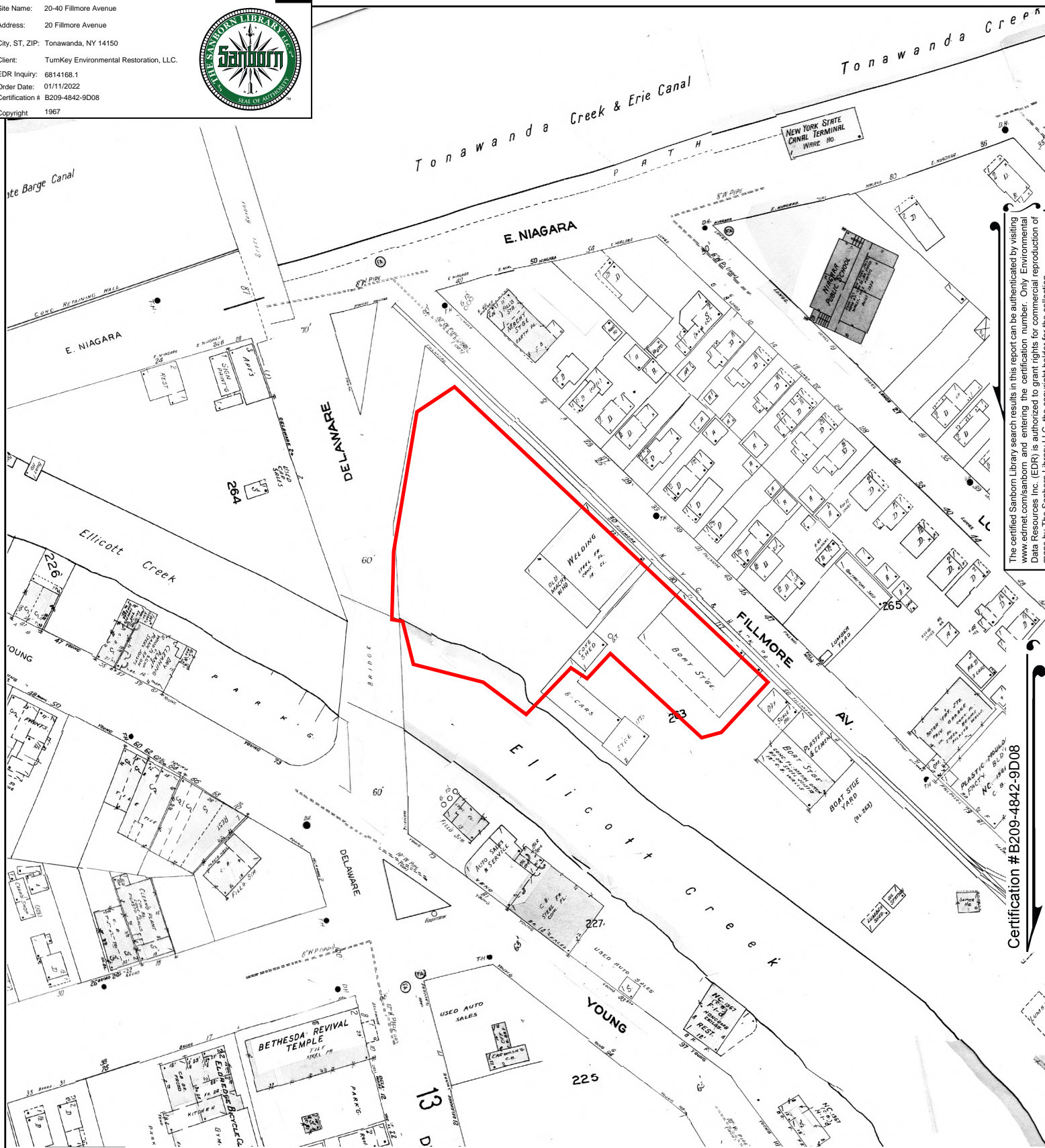
JOB NO.: 4552 SCALE: 1" = 20' CHK'D BY: RF



Rosanne Frandina, PE, LS



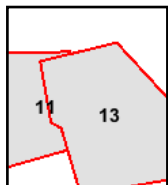
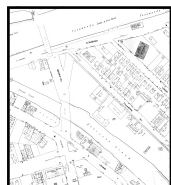
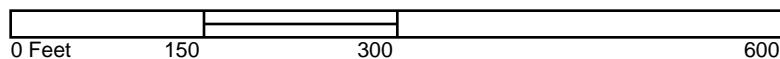
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 EDR Inquiry: 6814168.1  
 Order Date: 01/11/2022  
 Certification #: B209-4842-9D08  
 Copyright: 1967



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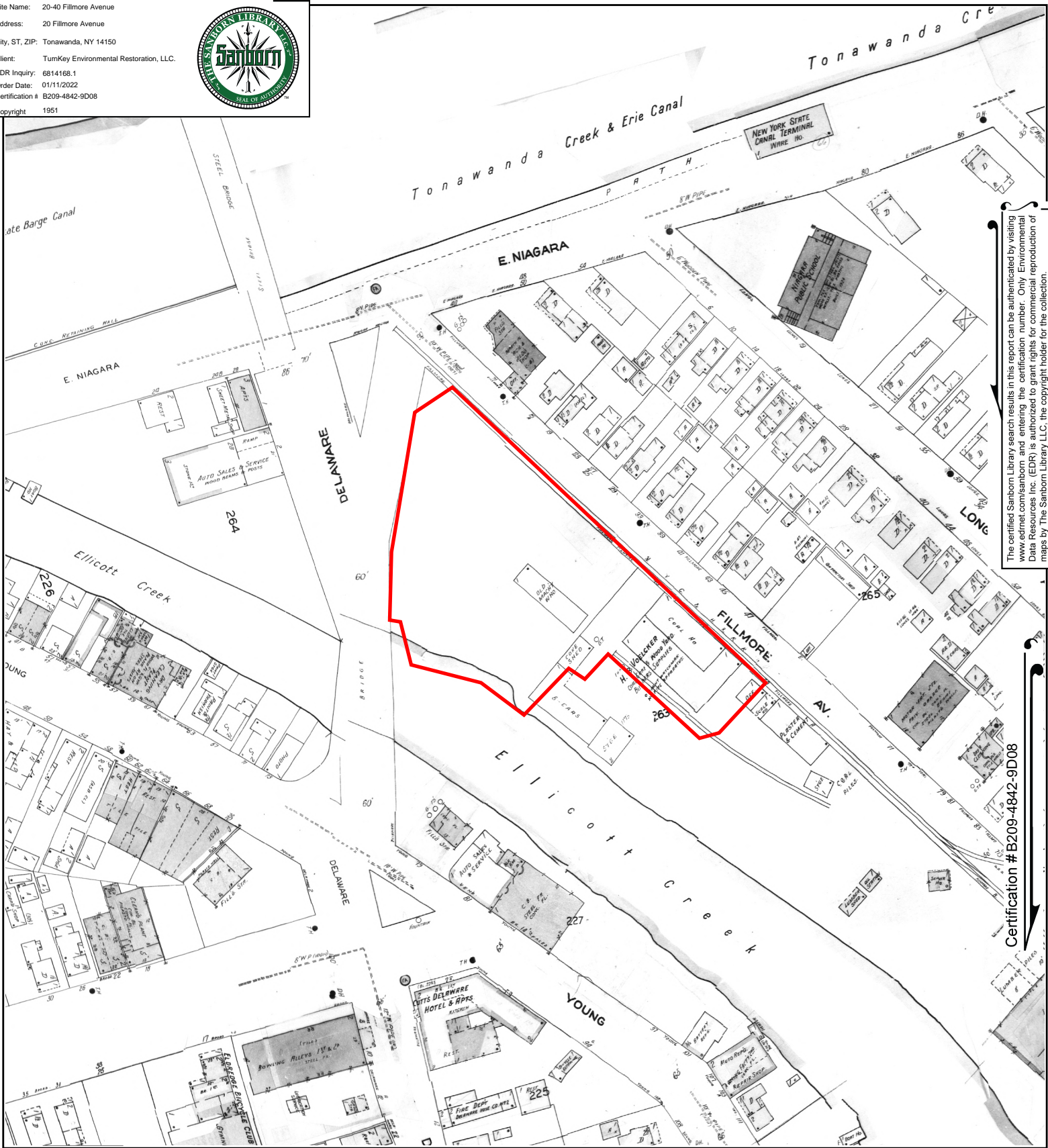
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Volume 1, Sheet 13  
 Volume 1, Sheet 11



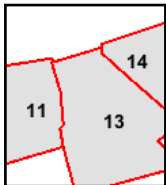
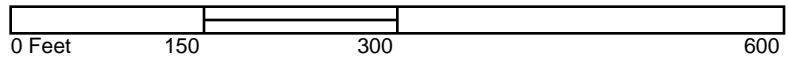
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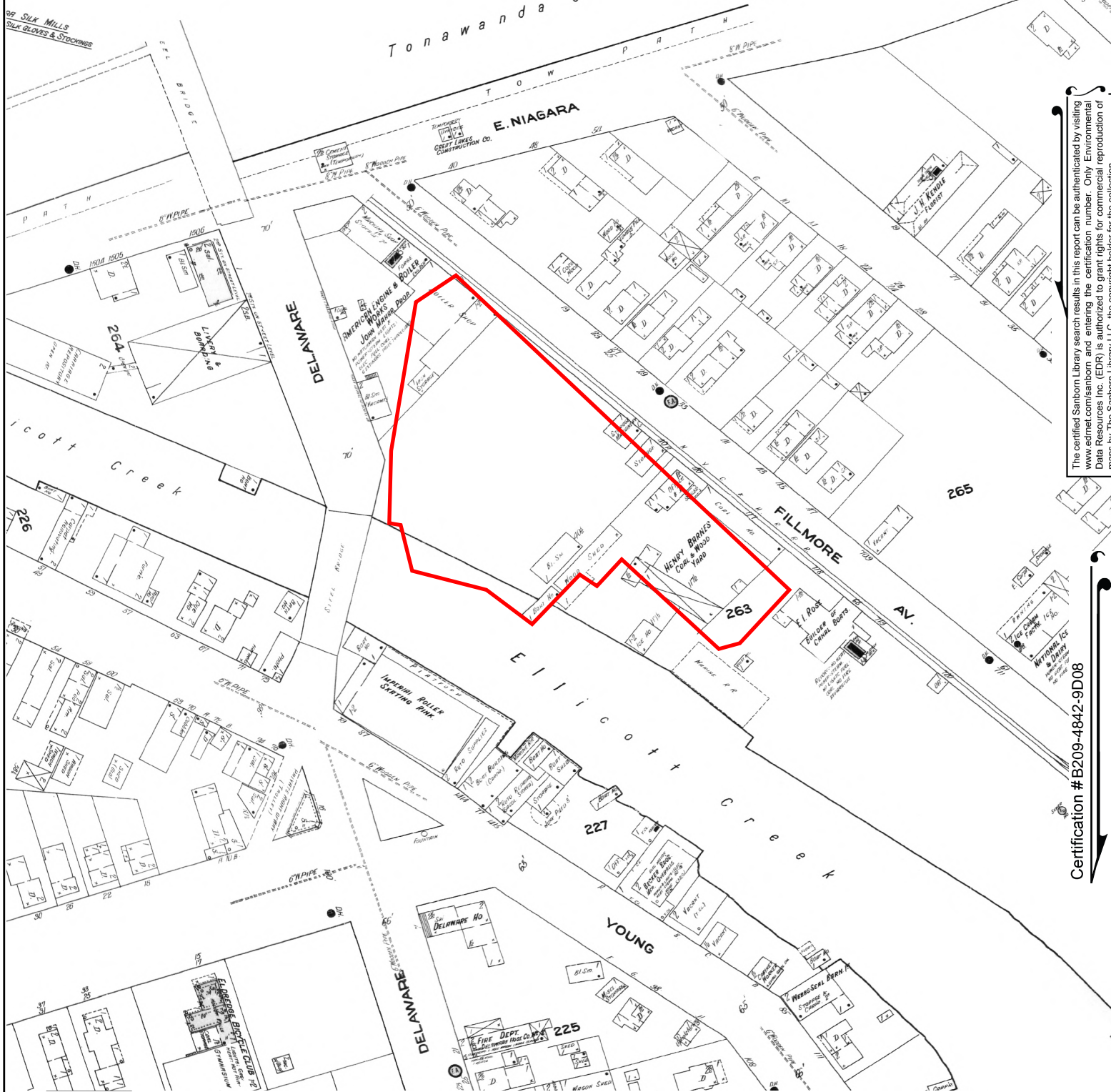


Volume 1, Sheet 14  
 Volume 1, Sheet 13  
 Volume 1, Sheet 11





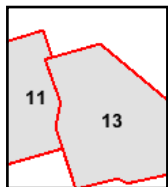
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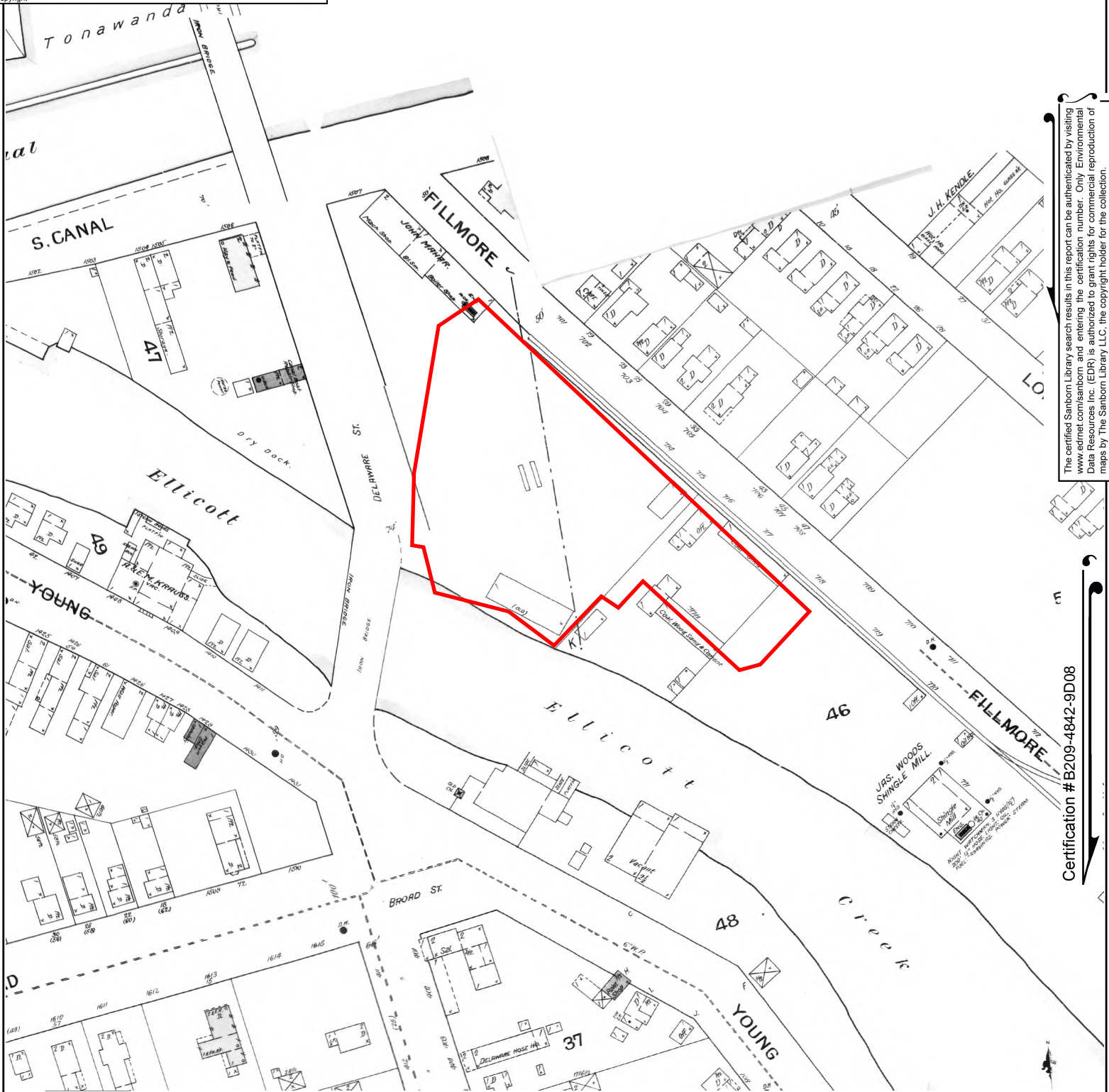
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Volume 1, Sheet 13  
 Volume 1, Sheet 11



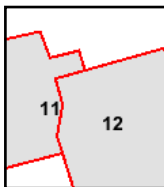
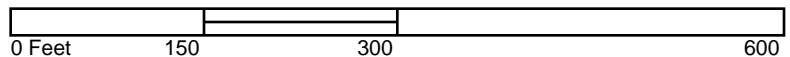
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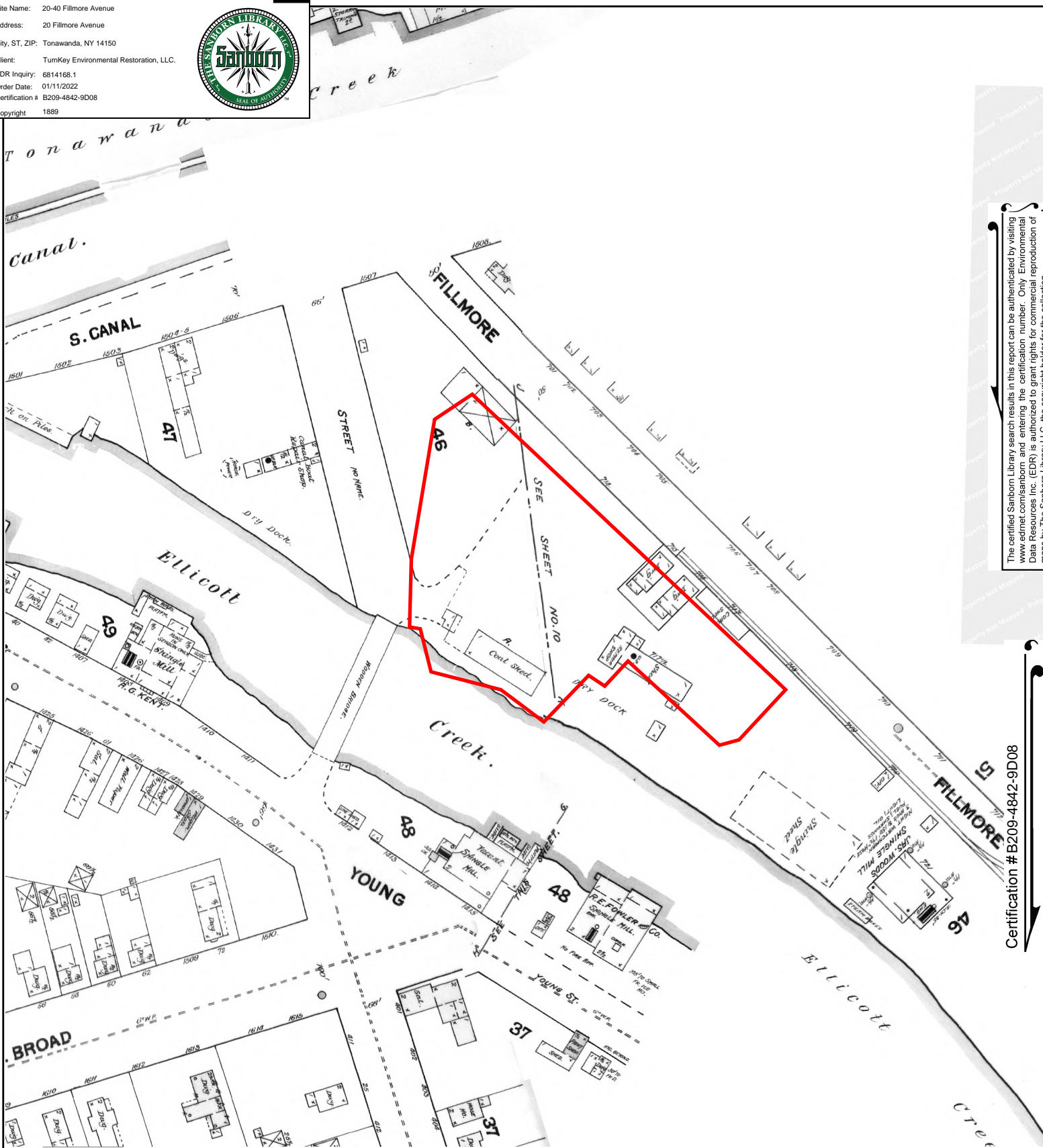


Volume 1, Sheet 12  
 Volume 1, Sheet 11





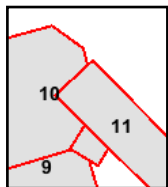
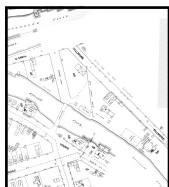
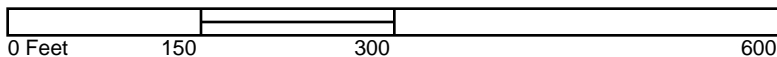
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 Order Date: 01/11/2022  
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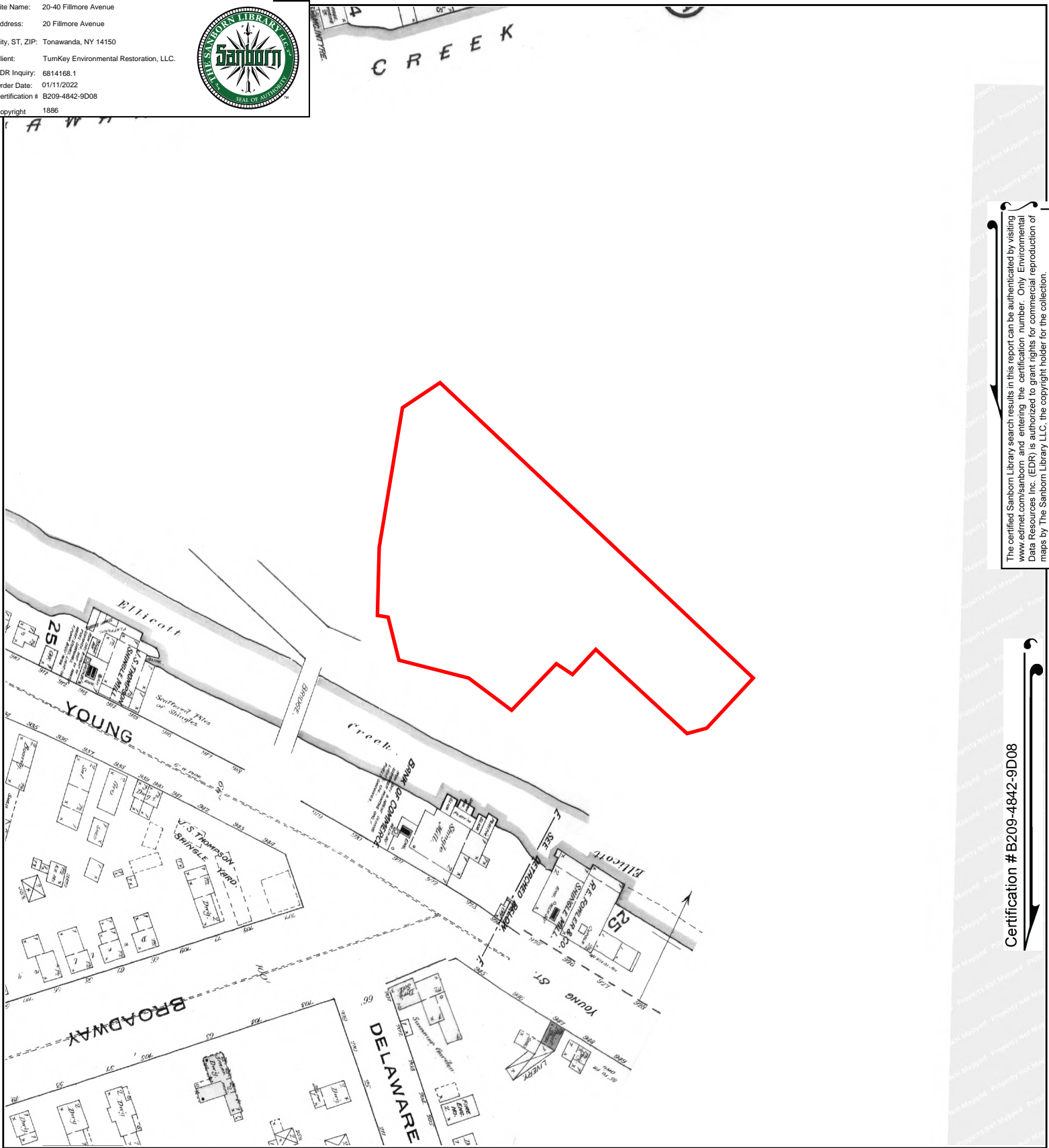


Volume 1, Sheet 11  
 Volume 1, Sheet 10  
 Volume 1, Sheet 9





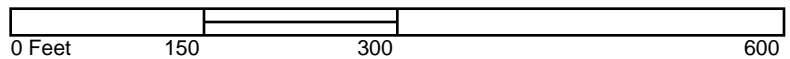
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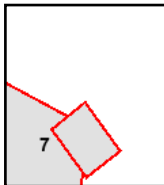
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Volume 1, Sheet 7



Council Chambers  
Tonawanda, New York  
November 16, 2021

A Regular Meeting of the Common Council – 7 P.M.

Present: Council President Koch

Present Councilmembers: Newman, Kammerdeiner, Rautenstrauch, Mileham

Pledge of Allegiance led by Council President Koch

Prayer led by Associate Chaplain Dorothea Schweitzer

**COMMUNICATIONS FROM THE MAYOR**

**COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE**

Communication from Treasurer – Revenue & Expenditure Report as of October 31, 2021

City Clerk Monthly Report for October 2021

Fire Department Monthly Activity Report for October 2021

Letters from Council President congratulating the recent inductees to the Tonawanda National Honor Society

Referred to the Committee of the Whole  
Ordered filed

**COMMENTS BY THE PUBLIC ON RESOLUTIONS**

The Tonawanda Common Council, in an effort to conduct business in a timely fashion and maintain an open line of communication with the public, welcomes comments on resolutions and other City business.

- Persons wishing to speak and be recognized by the President of the Common Council are to be courteous, respectful, non-repetitive and brief.
- All questions and/or comments should be addressed to the President of the Common Council.
- Please state your name and address clearly for inclusion in the Common Council minutes. In the event any person wishes a response outside the confines of the Common Council meeting, please leave all necessary contact information with the City Clerk after the meeting.
- Persons may address the Common Council during (2) separate sessions of the meeting for a total of 30 minutes per session. Once prior to the resolutions and also after the resolutions prior to Common Council comments.
- Individuals may speak a total of (3) minutes per speaker per session. The President of the Common Council will adhere to this (3) minute guideline in an effort to allow everyone an opportunity to speak who wishes to do so.
- The President of the Common Council reserves the Council's right to limit or expand upon these limits as he/she may deem necessary and prudent.
- Usage of cell phones other than for emergency is prohibited during all Council Sessions.

MOTIONS AND RESOLUTIONS

198. By Councilmember Kammerdeiner seconded by Councilmember Rautenstrauch  
Resolved, that the Common Council minutes from November 3, 2021 be accepted as filed.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch

Nays: None

Resolution declared adopted

199. By Councilmember Mileham seconded by Councilmember Rautenstrauch  
Resolved, that the bills be allowed as audited.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch

Nays: None

Resolution declared adopted

200. By Council seconded by Council

WHEREAS, in Accordance with Sections 2.025 and 3.051 of the Charter for the City of Tonawanda, New York, the Mayor shall appoint Department Heads, subject to confirmation by the Common Council and;

WHEREAS, the current Fire Chief, Charles Stuart is retiring effective November 25, 2021 and;

WHEREAS, Mayor Rick Davis has recommended the appointment of Patrick McNulty to serve in the position as Fire Chief effective on November 25, 2021 at an annual salary of \$98,500 and;

WHEREAS, there will be a transition and orientation period between outgoing Chief Stuart and incoming Chief McNulty.

NOW THEREFORE BE IT RESOLVED, the Common Council hereby confirms the appointment of Patrick McNulty as Fire Chief effective November 25, 2021 at an annual salary of \$98,500.

Council President Koch - I want to express my sincere thanks to Chief Stuart for his over 30 years of service to this community, we were fortunate to have him as our Fire Chief and we wish him well in his retirement and Chief McNulty we wish you all the best in your career.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch

Nays: None

Resolution declared adopted

201. By Council seconded by Council

Resolved, that this Common Council adopt the General Fund, Water Fund and Sewer Fund Operating Budgets for the fiscal year commencing January 1, 2022, making appropriations to conduct City Government and further be it

Resolved, that the Budgets that were presented at a Public Hearing on October 19, 2021, are hereby adopted as amended and revised and that the several amounts as set forth be and are hereby appropriated for the objects and purposes specified in the 2022 operating budgets and the Capital Plans for 2022-2026 on file in the Office of the City Clerk.

Total General Fund Budget

Property Tax Levy	\$ 13,977,844.00
Taxable Assessment	\$746,658,028.00
Property Tax Rate per \$1,000 Taxable Assessed Valuation	18.720543

Total Water Fund Budget \$ 200,000.00

Total Sewer Fund Budget \$ 2,568,762.00

Councilmember Newman - I still have concerns about the \$300,000 plus in sales tax revenues, and the \$200,000 delinquent taxes that are on that line. It is up to \$600,000, I'm just hoping this isn't just smoke and mirrors. That is all, thank you.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

202. By Councilmember Rautenstrauch seconded by Councilmember Kammerdeiner
- Resolved, that the Common Council authorizes and approves the sales of twenty surplus items of City equipment/vehicles conducted online by Auctions International, Surplus Auction #26543, totaling approximately \$17,936.50 per the report attached hereto and made a part hereof.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

203. By Councilmember Rautenstrauch seconded by Councilmember Kammerdeiner
- Resolved, at the recommendation of City Engineer Jason J. LaMonaco, P.E., that award of Niagara River and Ellicott Creek Riverfront Access and Docks Improvement Change Order No. 1 be made to Mark Cerrone, Inc. at a cost not to exceed \$30,058.00.

Funding/Fiscal Impact: \$15,149.29 from NYSDOS and Greenway grants  
\$14,908.71 from previously approved City funding

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

204. By Councilmember Rautenstrauch seconded by Councilmember Kammerdeiner
- Resolved, at the recommendation of City Engineer Jason J. LaMonaco, P.E., that award of Niagara River and Ellicott Creek Riverfront Access and Docks Improvement Change Order No. 2 be made to Mark Cerrone, Inc. at a cost not to exceed \$17,760.00.

Funding/Fiscal Impact: \$17,760.00 through 2021 Urban Initiative Funds

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

205. By Councilmember Mileham seconded by Council President Koch
- Resolved, that the 2021 General Fund Operating Budget be amended by the Common Council during the November 16, 2021 Council meeting to set up the revenue and expenses related to the 2021 Erie County Urban Initiative Funding.

Account	Description	Add	Subtract
A00-0001-2778-0000	Erie County Initiative		\$288,000.00
A00-1989-0463-0000	LDC	\$88,000.00	
A00-5110-0442-0000	DPW Maint. – Vehicles	\$19,000.00	
A00-3120-0441-0000	Police Maint. – Vehicles	\$20,000.00	
A00-3140-0441-0000	Fire Maint. – Equipment	\$18,000.00	
A00-7020-0202-0000	Parks – Equipment	\$90,000.00	
A00-5020-0000-0000	General Fund – Engineering	\$53,000.00	

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

206. By Councilmember Newman seconded by Council President Koch  
Whereas, JC Tonawanda Tower QOZB, LLC, owner of 20, 30 and 40 Fillmore Avenue requested the rezoning of said properties from M-1 Manufacturing to C-M General Commercial Service District on August 26<sup>th</sup>, 2021 and  
Whereas, a Public Hearing on the request was held on October 5th, 2021 after required notice was sent to property owners within 250 feet of said property.  
Now, therefore be it resolved that the request for said rezoning is approved.

Councilmember Newman - We touched on this a little bit in the Pre-meeting but we had a meeting with the residents and their concerns with this project, this is just the rezoning and I think they finally understand that. It doesn't take away their concerns about the project. I am confident that the Carubba Company will be a good neighbor and take in the consideration the concerns of the residents there. Thank you.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

207. By Councilmember Mileham seconded by Council President Koch  
Whereas, as a result of the temporary expansion of Mullen Elementary School, it is necessary to provide additional on-street parking to accommodate the increased school staff.  
Now, therefore be it resolved that Chapter 62 Traffic & Vehicles, Article 5 Traffic Schedules, Division 2 Stopping, Standing & Parking, Section 62-197 Schedule XIX: Time limit standing be amended to omit the parking restriction on the North side of Syracuse Street from a point 254 feet west of Maldiner Avenue to a point 696 feet thereof, and  
Be it further resolved that all other provisions of said schedule remain in full force and effect.

Councilmember Newman - I am going to be honest, I am a little disappointed with the school district on this one. We need to sign and propose this bill, with 4 more classrooms, 4 more teachers' plus assistants that they didn't take parking in consideration with this project. This is a little disappointing. I don't know if this is really going to fix anything, it is drop off and pick up of kids both on Syracuse and Mullen, it is and absolute disaster. I guess this is all we can do right now. Thank you.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared adopted

208. By Councilmember seconded by Councilmember  
Resolved, that award of Young Street Corridor Improvement Change Order No. 2 be made to Scott Lawn Yard, Inc. at a cost not to exceed \$-----.

Funding/Fiscal Impact: \$----- from Smart Growth Account

Motion made by President Koch to table resolution, Seconded by Councilmember Kammerdeiner

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared tabled

209. By Councilmember seconded by Councilmember  
Whereas, in order to accommodate an increased need for overnight parking for City residents the Common Council desires to increase the number of overnight parking spots at the West Seymour Street Lot.  
Now, therefore be it resolved that Chapter 62 Traffic & Vehicles, Article 5 Traffic Schedules, Division 2 Stopping, Standing & Parking, Section 62-199 Schedule XXI: Time limit parking in public parking lots be amended as follows:

Parking Lot	Time Limit	Hours/Days		Location
		Designated Parking	Exception	



No. 2 West Seymour Street Lot	All Day	Except 4:00 a.m. to 6:00 a.m. parking prohibition/ban every day. Designated parking exception: Parking permitted in an area 20 x 90 feet. Such designated area extends between the city sidewalk on Adam Street and the ground level electrical transformer adjacent to the St. Francis School building. Also, a 15-foot-wide driving/walking lane shall be maintained between the school building and parking area. The stated designated parking area shall be marked by city parking signs.	West side of Seymour Street bounded by Adam Street on the south, St. Francis of Assisi School on the west and south and sidewalk on the north
-------------------------------------	---------	--	---

Be it further resolved all other provisions of said schedule remain in full force and effect..

Motion made by President Koch to table resolution, seconded by Mileham

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch  
Nays: None

Resolution declared tabled

**COMMENTS BY THE PUBLIC AFTER RESOLUTIONS**

Rick Oates Jr. 64 Bouck Street - Just a public comment on Resolution number 200, regarding the retirement of Chief Stuart. I am a pretty emotional person, on behalf of my family and I imagine on behalf of the Department but I was not called to do this but we are just so grateful, grateful for is tenure and his compassion and courageous leadership. We were so touched, we have been in Tonawanda I think 15 years, and just in so many ways, always looking out for the little guy, no partiality in anyway, and did things behind the scenes that were just wonderful. The biggest accolade will be up in heaven, but I wanted to give an accolade here, we are just so grateful for his leadership and a lot of lives were touched, so thank you Chief and we will be in good hands with Chief Pat coming in, he is following some pretty tough shoes, he has some of the same attributes so thank you.

**COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS**

Councilmember Newman - First, I would like to thank Chief Stuart for all his hard work and dedication to the City. He is the only public servant that has served in all three branches of emergency services. He started as a volunteer firefighter, then he was hired as a dispatcher, then hired as a Police Officer then transferred to the Fire Department and ended his career as Fire Chief. His service to our community is outstanding to say the least. I would also like to congratulate our incoming Chief Patrick McNulty. As the Council liaison, I look forward to working with you. I am going to be totally transparent with the residents, I just want to say something on the record, even though there is an email regarding this, it was sent out by the 3<sup>rd</sup> Ward Councilmember to the Councilmembers, the Treasurer and we talked about it in the pre-meeting. The email dated November 11, he wanted to put on the table a resolution for this meeting for a City-wide reassessment. I was the only person that responded to that email, and I stated “No” as I have in the past. Our City residents have faced 20% tax increase over the past few years. Secured thousands of dollars in back taxes and 140 homes being foreclosed on, and the 3<sup>rd</sup> Ward Councilmember wants to reassess. Which current history has shown, it will raise taxes. Our City residents cannot handle another tax hike. I don’t know what the game is being played but it is a dangerous one and the taxpayers are going to be the ones losing out. I believe this has to do with 4.7% tax decrease in our budget. Something very similar happened a few years ago. The budget stayed at 0% and the reassessment caused

the tax increase. All that being said reassessment, if the reassessment was done correctly the commercial properties would be back where they should be, and we see a decrease in the tax rate, to compensate the reassessed value but in reoccurring history it doesn't happen this way. The last reassessment it ended being a 13% tax increase for residential and decrease for commercial properties. These residents deserve better than this. As a Councilmember I need to look out for the residents and what is in their best interest and reassessing is not the only way. That's all I have Madam President.

Councilmember Kammerdeiner - I just want to wish everybody a Happy Thanksgiving, take this time, hug your family a little closer, COVID is back with a vengeance unfortunately. Be positive, be safe with your family on Thanksgiving as well and that's all I have.

Councilmember Rautenstrauch - I do want to say thank you to Chief Stuart for your years of service, we greatly appreciate it, and congratulations to our new Chief McNulty, I think you are going to be a great addition to our Fire Department, that was all I had but just to speak to what Councilman Newman said, that kind of rhetoric and misinformation that is being spread about what a tax re-evaluation is, it isn't healthy and isn't good for the City or our residents. We need to educate on what it actually is and the importance of what a re-evaluation does for our residents. We did land on a tax increase that year and that did leave a bad taste in everybody's mouth, but I think the fiscally responsible thing to do is to continue with the tax reassessments as it stands now, people are paying more in taxes than they need too, people that aren't assessed properly, the equalization rate is off. People are not getting their full discounts for their tax exemptions, for STAR, for our veterans, for our elderly. I think that is important that they realize their full amount of their exemptions and that would help them. Getting the commercial properties properly valued in our City, will offset the taxes for the rest of our residents that will take some of the burden off our shoulders. I think there is a lot of important pieces to that in addition to increasing our City's bond rate, being able to borrow money at less money, also, and paying less interest saving money for our residents. I think spreading misinformation about what the re-evaluation does is wrong and doing our City a disservice. Thank you.

Councilmember Mileham - Thank you to Chief Stuart. I think I would also like to extend an equal thank you to his family. It is not easy to be in the public service world like that, have to leave your family at all times, especially with a job as dangerous as a firefighter, so thank you to Chief Stuart but also thank you to his family for being that support he needed when he got home after a long career. I wish him a very long healthy happy retirement. I was speaking with my Grandmother on the way over here, and she always asks so what's the big thing tonight, and I told her about Chief Stuart retiring, she had nothing but great things to say and wanted to express her congratulations as well. To Chief McNulty, I have never met him personally but everybody I have spoken to was pretty much said the exact same thing, what a great person of character he is, and it sounds like we are very lucky to have him. I wish everybody a good and happy thanksgiving. And I think, that's it.

Council President Koch - This evening we tabled two resolutions, we will be revisiting those resolutions at our next meeting on December 7<sup>th</sup>, so just so everyone is aware about that. I want to thank everyone for their hard work with this budget, this is a responsible budget. There is a lot of work that goes into this resolution that we adopted this evening. The Council met consecutively on Tuesdays with the Department Heads where we reviewed budget lines, we had dialog amongst the Council, so great work by all parties and thank you for always giving more between October and November so we can work this out. Mark your calendars for It's a Wonderful Night, that is December 3<sup>rd</sup>. There are a lot of fun events that are planned so please stop by and check them out. I want to thank Tops friendly markets for donating 125 turkey's to organizations in our community this is a partnership that we have had with Tops for almost 6 years, those turkeys are going to benefit the VVA Food Pantry, the St. Francis Food Pantry, and Warmth For Hungry Hearts, so I would like to thank Tops again for that extremely generous donation. Warmth For Hungry Hearts will be having a Thanksgiving dinner, so please stop by and check that out, I know they are looking for volunteers to help prep, as well as serve on Thanksgiving. I certainly want to wish you all a Happy Thanksgiving, stay safe and enjoy it, and I hope you get to take time with your loved ones. Last but certainly not least, I want to express again my sincere thanks to Chief Stuart for his dedication and service, I hope he has a long fruitful retirement, and I hope he gets to travel and do all the things

that he enjoys. We look forward to working with Chief McNulty and congratulations to him and his family. Again, there will be a formal swearing in ceremony on November 22<sup>nd</sup>, which is Monday at 5:00 pm right here, then downstairs there will be a reception with Chief McNulty.

## ADJOURNMENT

210. By Council President Koch seconded by Councilmember Kammerdeiner  
Resolved, that this Common Council adjourn until December 7, 2021.

Ayes: Newman, Kammerdeiner, Rautenstrauch, Mileham, Koch

Nays: None

Resolution declared adopted

City Clerk

Mayor

Date Filed

# **CITY OF TONAWANDA, NEW YORK**

## **BOARD OF APPEALS**

200 Niagara Street Tonawanda, New York 14150-1099  
716-695-1806

**David Bernosky**  
**Chairman**

April 8, 2022

Mr. Michael J. Conroe  
Elev8 Architecture  
15 Cobblestone Court  
Orchard Park, NY 14127

RE: 20, 30 & 40 Fillmore Avenue  
Tonawanda, NY

Dear Mr. Conroe:

As secretary of the City of Tonawanda Board of Appeals, it is my duty to inform you that on April 4, 2022, a resolution was adopted to approve a variance as you had requested.

The applicant is seeking permission to erect a multi-story mixed use building.

The variance requested asked relief from the City of Tonawanda Zoning ordinance. There were a total of six Sections voted on and all six were approved. This action will be identified as Board of Appeals Variance Request Number 22-04 and will expire on October 8, 2022.

Sincerely,

Melissa C. Kossow  
Secretary

cc: Building Inspector  
Chairman Bernosky



# Department of State

## Division of Corporations

### Entity Information

Return to Results

Return to Search

Entity Details

^

**ENTITY NAME:** JC TONAWANDA TOWER QOZB LLC

**FOREIGN LEGAL NAME:** JC TONAWANDA TOWER QOZB LLC

**ENTITY TYPE:** FOREIGN LIMITED LIABILITY COMPANY

**SECTIONOF LAW:** LIMITED LIABILITY COMPANY - 802 LIMITED LIABILITY COMPANY LAW - LIMITED LIABILITY COMPANY LAW

**DATE OF INITIAL DOS FILING:** 04/15/2022

**EFFECTIVE DATE INITIAL FILING:** 04/15/2022

**FOREIGN FORMATION DATE:** 12/02/2019

**COUNTY:** ERIE

**JURISDICTION:** DELAWARE, UNITED STATES

**DOS ID:** 6460160

**FICTITIOUS NAME:**

**DURATION DATE/LATEST DATE OF DISSOLUTION:**

**ENTITY STATUS:** ACTIVE

**REASON FOR STATUS:**

**INACTIVE DATE:**

**STATEMENT STATUS:** CURRENT

**NEXT STATEMENT DUE DATE:** 04/30/2024

**NFP CATEGORY:**

ENTITY DISPLAY

NAME HISTORY

FILING HISTORY

MERGER HISTORY

ASSUMED NAME HISTORY

Service of Process Name and Address

**Name:** THE LLC

**Address:** 92 AVALON MEADOW LANE , EAST AMHERST, NY, UNITED STATES, 14051

Chief Executive Officer's Name and Address

**Name:**

**Address:**

Principal Executive Office Address

**Address:**

Registered Agent Name and Address

**Name:**

**Address:**

Entity Primary Location Name and Address

**Name:**

**Address:**

Farmcorpflag

Is The Entitv A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share

22 FILLMORE AVENUE, TONAWANDA, NY 14150

JC TONAWANDA TOWER QOZB, LLC

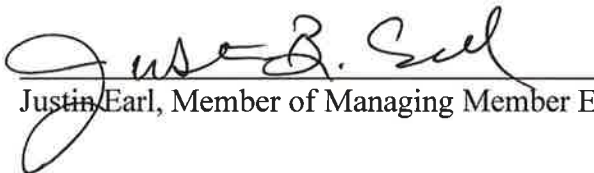
UNANIMOUS WRITTEN CONSENT OF THE MEMBERS

The undersigned, the Managing Member of JC Tonawanda Tower QOZB, LLC, a Delaware Limited Liability Company (the "Company"), hereby consents to the adoption of the following resolutions without a meeting:

**RESOLVED**, that the Managing Member of the Company is hereby authorized, empowered, and directed to take all such action on behalf of the Company as they may deem necessary, appropriate, or advisable to enter and participate in the New York State Brownfield Cleanup Program with respect to the property located at 22 Fillmore Avenue, Tonawanda, New York 14150.

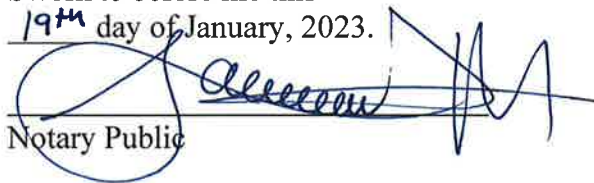
**RESOLVED**, that should the consummation of the transaction authorized in the foregoing resolutions require additional or more specific authorization of actions to consummate the transactions contemplated herein, including, without limitation, the execution and delivery of any and all agreements, instruments, documents or filings, such additional or specific authorizations are hereby deemed to be included herein as of the date hereof.

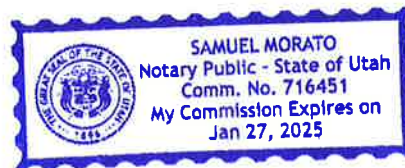
Dated: January 19, 2023



Justin Earl, Member of Managing Member Elli Manager, LLC.

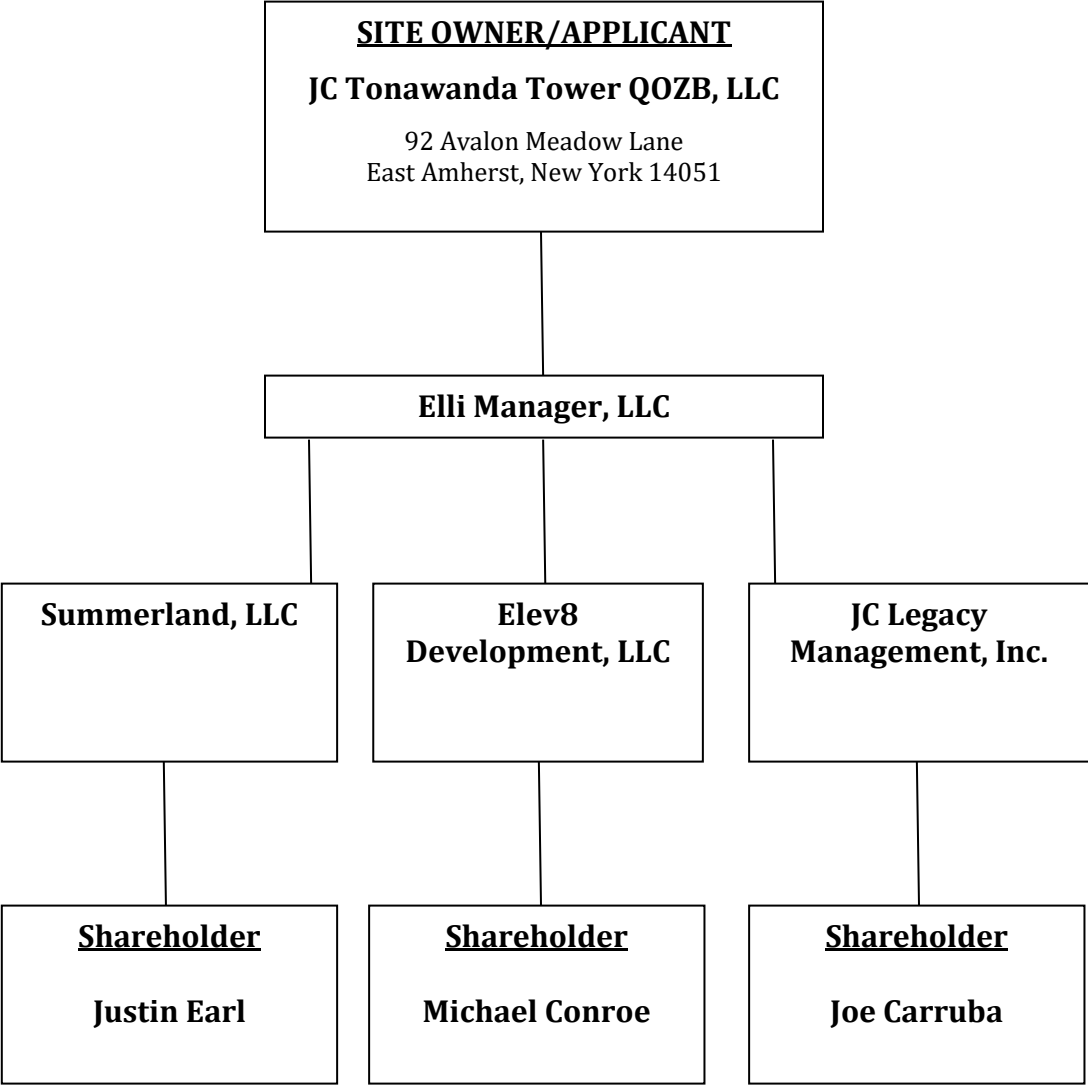
Sworn to before me this  
19<sup>th</sup> day of January, 2023.

  
Notary Public



22 FILLMORE AVENUE SITE

ORGANIZATIONAL CHART





June 22, 2022

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

Re: Document Repository for Brownfield Cleanup Program  
22 Fillmore Avenue Site  
Tonawanda, New York

Dear Ms. Tompkins:

On behalf of our client, Benchmark Civil/Environmental Engineering & Geology, PLLC, in association with TurnKey Environmental Restoration, LLC would like to request the Buffalo & Erie County Public Library to act as the document repository for the above-referenced Site. In the future, we will be sending various documents relating to the Site that should be made available for public review upon request.

Please contact me if you have questions or require additional information.

Sincerely,  
Benchmark Civil/Environmental Engineering & Geology, PLLC  
TurnKey Environmental Restoration, LLC

A handwritten signature in black ink that reads "Chad M. Schuster".

Chad M. Schuster  
Engineer/Scientist

File: 0659-022-001

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

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



**From:** [April Tompkins](#)  
**To:** [Chad Schuster](#)  
**Subject:** RE: Document Repository Request - 22 Fillmore Avenue Site  
**Date:** Wednesday, August 10, 2022 10:46:08 AM  
**Attachments:** [22 Fillmore Avenue Site - Document Repository Request.pdf](#)

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Good morning Chad,

Per your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all documents submitted by your company for the Brownfield Cleanup Program at the **22 Fillmore Avenue Site**. These documents will be made available for public viewing at the **Central Library (downtown)** and/or any other library of your choice. Please refer to our procedure below.

We prefer that you do not take and/or send documents to individual libraries. Please bring or send your documents and cover letter to the Central Library. We will process according to our procedure and distribute to the location(s) of your choice. **If you would like a confirmation that your documents were 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 documents 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 distribution accordingly. We do not make copies for distribution.
- Documents that cannot be stapled, should be kept together in some type of 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 more than one format (ex: print and disk), 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 disk 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.

If you still have any questions/concerns, please feel free to contact me by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,  
April

April Tompkins, Senior Library Clerk  
Office of Chief Operating Officer  
Buffalo and Erie County Public Library  
1 Lafayette Square | Buffalo, NY 14203  
Voice: 716-858-7129 | Fax: 716-845-9053  
E-mail: [tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)

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**From:** Chad Schuster <[cschuster@bm-tk.com](mailto:cschuster@bm-tk.com)>  
**Sent:** Wednesday, August 10, 2022 10:39 AM  
**To:** April Tompkins <[tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)>  
**Subject:** Document Repository Request - 22 Fillmore Avenue Site

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

Dear Ms. Tompkins:

Please find attached a letter of transmittal request the Buffalo and Erie County Library act as the document repository for the **22 Fillmore Avenue Site**. Please respond at your earliest convenience and feel free to contact me if you have any questions.

Sincerely,

**Chad M. Schuster**  
*Engineer/Scientist*  
[cschuster@bm-tk.com](mailto:cschuster@bm-tk.com)

## Benchmark Civil/Environmental Engineering & Geology, PLLC

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

2558 Hamburg Turnpike, Suite 300, Buffalo, NY 14218

Phone: (716) 856-0635, Cell: (716) 346-2818, Facsimile: (716) 856-0583

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