

NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BROWNFIELD CLEANUP PROGRAM (BCP)  
**APPLICATION FORM , REVISION 14**

AMHERST COMMONS LLC  
47 EAST AMHERST STREET  
CITY OF BUFFALO, ERIE COUNTY, NEW YORK



Submitted For:

**AMHERST COMMONS LLC**  
**1055 Saw Mill River Road #204**  
**Ardsley, NY 10502**

Prepared by:



960 Busti Avenue, Suite B-150  
Buffalo, New York 14213

**MAY 2023**

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### SUBSURFACE ESAs – ELECTRONIC VERSION ONLY ON DVD – FILE 2

2023 Phase II ESA by BE3



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





**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.

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

☐

Yes

☒

No

Is this a revised submission of an incomplete application?

If yes, provide existing site number: C915397

☒

Yes

☐

No

**BCP App Rev 14 – January 2023**

**SECTION I: Property Information**

PROPOSED SITE NAME: Amherst Commons LLC

ADDRESS/LOCATION: 47 East Amherst Street

CITY/TOWN: Buffalo

ZIP CODE 14214

MUNICIPALITY (LIST ALL IF MORE THAN ONE): Buffalo

COUNTY: Erie County

SITE SIZE (ACRES) 3.33

LATITUDE:

LONGITUDE:

42 ° 56 ' 22.99 " 78 ° 50 ' 09.20 "

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.

See Attachment A-Figure 1-County  
Tax Map

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

Parcel Address	Section	Block	Lot	Acreage
47 East Amherst Street	90.28	8	1	3.33

	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. <a href="#">See Attachment A - Figure 3 - Site Boundary Survey</a>	<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) <a href="#">See Attachment A - Figures 1,2,3 &amp; 4</a>	<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) <a href="#">See Attachment A - Figure 5</a> If yes, identify census tract: <u>40.03</u> Percentage of property in En-zone (check one): 0% <input type="radio"/> 1-49% <input type="radio"/> 50-99% <input type="radio"/> 100% <input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. Is the project located within a disadvantaged community? See application instructions for additional information. <a href="#">See Attachment A - Figure 6</a>	<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. <a href="#">See Attachment A - Figure 7</a>	<input checked="" type="radio"/>	<input 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: _____	<input type="radio"/>	<input checked="" type="radio"/>
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"/>



SECTION I: Property Information (CONTINUED)		
9. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.	Y <input type="radio"/>	N <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><u>Easement/Right-of-Way Holder</u></div> <div><u>Description</u></div> </div>	<input type="radio"/>	<input checked="" 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><u>Type</u></div> <div><u>Issuing Agency</u></div> <div><u>Description</u></div> </div>	<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?	<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> <div style="border: 1px solid red; padding: 2px; display: inline-block; color: red;">This Section does not apply</div>		
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 10-12 of this form.	Y <input type="radio"/>	N <input type="radio"/>
16. Is the Requestor now, or will the Requestor in the future, seek a determination that the property is Upside Down?	<input type="radio"/>	<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?	<input type="radio"/>	<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>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> <div>_____</div> </div>		



SECTION II: Project Description	
<div style="border: 1px solid red; display: inline-block; padding: 2px 10px; color: red; font-weight: bold;">See Attachment B</div>	
1. The project will be starting at: <input checked="" type="radio"/> Investigation <input type="radio"/> 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 <a href="#">DER-10. Technical Guidance for Site Investigation and Remediation</a> 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)? <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span><input type="radio"/> Yes</span> <span><input type="radio"/> No</span> <span><input checked="" type="radio"/> N/A</span> </div>	
3. Have any draft work plans been submitted with the application (select all that apply)? <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span><input type="checkbox"/> RIWP</span> <span><input type="checkbox"/> RAWP</span> <span><input type="checkbox"/> IRM</span> <span><input checked="" type="checkbox"/> No</span> </div>	
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? <input checked="" type="radio"/> Yes <input type="radio"/> No	

SECTION III: Land Use Factors		
1. What is the property's current municipal zoning designation? <u>URBAN CENTER - N-2E (MIXED-USE EDGE)</u>		
2. What uses are allowed by the property's current zoning (select all that apply)? <span style="float: right; border: 1px solid red; padding: 2px 5px; color: red; font-weight: bold;">See Figure 9</span> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span>Residential <input type="checkbox"/></span> <span>Commercial <input checked="" type="checkbox"/></span> <span>Industrial <input type="checkbox"/></span> </div>		
3. Current use (select all that apply): <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span>Residential <input type="checkbox"/></span> <span>Commercial <input checked="" type="checkbox"/></span> <span>Industrial <input type="checkbox"/></span> <span>Recreational <input checked="" type="checkbox"/></span> <span>Vacant <input checked="" type="checkbox"/></span> </div>		
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?	<div style="border: 1px solid red; display: inline-block; padding: 2px 10px; color: red; font-weight: bold;">See Attachment C</div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div style="text-align: center;">Y <input checked="" type="radio"/></div> <div style="text-align: center;">N <input type="radio"/></div> </div>	
5. Reasonably anticipated post-remediation use (check all that apply): <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <span>Residential <input checked="" type="checkbox"/></span> <span>Commercial <input checked="" type="checkbox"/></span> <span>Industrial <input type="checkbox"/></span> </div> <div style="display: flex; justify-content: flex-end; margin-top: 5px;"> <input type="radio"/> N/A         </div>		
6. Please provide a statement detailing the specific proposed post-remediation use. Is this summary attached? <span style="float: right; border: 1px solid red; padding: 2px 10px; color: red; font-weight: bold;">See Attachment C</span>		
7. Is the proposed post-remediation use a renewable energy facility? See application instructions for additional information.		
8. Do current and/or recent development patterns support the proposed use?		
9. Is the proposed use consistent with applicable zoning laws/maps? <span style="float: right; border: 1px solid red; padding: 2px 10px; color: red; font-weight: bold;">See Attachment C</span> Please provide a brief explanation and additional documentation if necessary.		
10. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? <span style="float: right; border: 1px solid red; padding: 2px 10px; color: red; font-weight: bold;">See Attachment C</span> Please provide a brief explanation and additional documentation if necessary.		



**SECTION IV: Property's Environmental History****See Attachment D**

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 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:

**Based on Phase 2 ESA Soil Data and past site assessments groundwater may also be impacted.**

- 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 Attachment D & Figures 8 & Table 1 as well as attached electronic reports/tables**

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

4. Indicate Past Land Uses (check all that apply):

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

Other: Commercial/Recreational



SECTION V: Requestor Information		
NAME: Amherst Commons LLC		
ADDRESS: 1055 Saw Mill River Road #204		
CITY/TOWN: Ardsley		ZIP CODE 10502
PHONE: (914) 693-6613	EMAIL: larry@reganddevelopment.com	
1. Is the requestor authorized to conduct business in New York State (NYS)?	<input checked="" type="radio"/> Y	<input type="radio"/> N
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? <span style="border: 1px solid red; padding: 2px;">See Attachment E</span>	<input checked="" type="radio"/> Y	<input type="radio"/> N
3. If the requestor is an LLC, the names of the members/owners need to be provided on a separate attachment. Is this attached? N/A <input checked="" type="radio"/>	<input type="radio"/> Y	<input type="radio"/> N
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? <span style="border: 1px solid red; padding: 2px;">See Attachment E</span> <b>Documents that are not properly certified will not be approved under the BCP.</b>	<input checked="" type="radio"/> Y	<input type="radio"/> N

SECTION VI: Requestor Eligibility		
If answering "yes" to any of the following questions, please provide appropriate explanation and/or documentation as an attachment.		
	<input type="radio"/> Y	<input type="radio"/> 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"/>
7. Has the requestor been convicted of a criminal offence (i) involving the handling, storing, treating, disposing or transporting of 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?	<input type="radio"/>	<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"/>



SECTION VI: Requestor Eligibility (CONTINUED)			
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?	Y <input type="radio"/>	N <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> <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"/> <span style="border: 1px solid red; padding: 2px;">See Attachment F</span>			
14. Requestor relationship to the property (check one; if multiple applicants, check all that apply):			
<input type="checkbox"/> Previous Owner <input type="checkbox"/> Current Owner <input checked="" type="checkbox"/> Potential/Future Purchaser <input type="checkbox"/> Other: _____			
If the requestor is not the current owner, <b>proof of site access sufficient to complete remediation must be provided.</b> 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? <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A <span style="border: 1px solid red; padding: 2px;">See Attachment F</span>			
<b>Note:</b> A purchase contract or lease agreement does not suffice as proof of site access.			



SECTION VII: Requestor Contact Information		
REQUESTOR'S REPRESENTATIVE: Larry Regan		
ADDRESS: 1055 Saw Mill River Road #204		
CITY: Ardsley	ZIP CODE: 10502	
PHONE: (914) 693-6613	EMAIL: larry@reganddevelopment.com	
REQUESTOR'S CONSULTANT (CONTACT NAME): Jason Brydges		
COMPANY: Brydges Engineering in Environment and Energy (BE3)		
ADDRESS: 960 Busti Avenue, Suite B-150		
CITY: Buffalo	ZIP CODE: 14213	
PHONE: (716) 249-6880	EMAIL: jbrydges@be3corp.com	
REQUESTOR'S ATTORNEY (CONTACT NAME): Michael W. Tyszkowski		
COMPANY: Bousquet Holstein PLLC		
ADDRESS: 110 West Fayette Street - one Lincoln Center, Suite 1000		
CITY: Syracuse	ZIP CODE: 13202-1190	
PHONE: (315) 701-6366	EMAIL: MTyszkowski@BHLAWPLLC.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.		
Is the appropriate documentation included with this application?	N/A <input checked="" type="radio"/>	<input type="radio"/>

SECTION IX: Current Property Owner and Operator Information	
<b>See Attachment G</b>	
CURRENT OWNER: 47 EAST AMHERST, LLC	
CONTACT NAME: Hormoz Mansouri	
ADDRESS: 2060 Sheridan Drive	
CITY: Buffalo	ZIP CODE: 14223-1470
PHONE: (716) 876-4669	EMAIL: hmansouri@eiteam.com
OWNERSHIP START DATE: 2014	
CURRENT OPERATOR: Same as above	
CONTACT NAME:	
ADDRESS:	
CITY:	ZIP CODE:
PHONE:	EMAIL:
OPERATION START DATE:	



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"/>
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
<p>To be considered complete, the application must include the Brownfield Site Contact List in accordance with <i>DER-23: Citizen Participation Handbook for Remedial Programs</i>. Please attach, at a minimum, the names and mailing addresses of the following: <b>See Attachment H</b></p> <ul style="list-style-type: none"> <li>• The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.</li> <li>• Residents, owners, and occupants of the property and adjacent properties.</li> <li>• Local news media from which the community typically obtains information.</li> <li>• The public water supplier which services the area in which the property is located.</li> <li>• Any person who has requested to be placed on the contact list.</li> <li>• The administrator of any school or day care facility located on or near the property.</li> <li>• The location of a document repository for the project (e.g., local library). <b>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.</b> In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.</li> </ul>



## SECTION XII: Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I hereby acknowledge and agree: (1) to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter; (2) to the general terms and conditions set forth in the [DER-32, Brownfield Cleanup Program Applications and Agreements](#); and (3) that in the event of a conflict between the general terms and conditions of participation and terms contained in a site-specific BCA, the terms in the site-specific BCA shall control. Further, I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

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

Print Name: \_\_\_\_\_

(By a requestor other than an individual)

I hereby affirm that I am Member of Managing member (title) of AMHERST COMMONS 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: 5/8/23 Signature: 

Print Name: Gabe Regan

## 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) on an external storage device (such as thumb drive or CD), 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 SUPPORTING DOCUMENTS WITH THE HARD COPY APPLICATION FORM.  
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 14**

Please respond to the questions below and provide additional information and/or documentation as required.	Y	N
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(l) 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:

- (l) "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 with documentation

☐ Pending – planned renewable energy facility awaiting documentation

\*Selecting this option will result in a "pending" status. The appropriate documentation 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.

☐ 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 plans to meet the conformance determinations pursuant to subdivision ten of section nine-hundred-seventy-r of the general municipal law?

☐ Yes - \*Selecting this option will result in a "pending" status, as a BOA conformance determination has not yet been made. Proof of conformance 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.

☐ 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.



## ATTACHMENT A

### SECTION I: PROPERTY INFORMATION

- Figure 1 – Section I - County Tax Map**
- Figure 2 – Section I - Site Location Map – USGS 7.5-minute**
- Figure 3 – Section I – Site Boundary Survey**
- Figure 4 – Section I – Site Boundary on Current Aerial with Adjacent Property Owners**
- Figure 5 – Section I – En-zone Map**
- Figure 6 – Section I – Disadvantaged Communities Map**
- Figure 7 – Section I and Section III BOA/Property Location**
- Figure 8 - Section I and Section IV - Previous Investigation Locations & Contaminant Exceedances**
- Figure 9 – Section I & Section III – Zoning Map**
- Table 1 – BE3 Phase 2 Soil Sample Results**



## **SECTION I – PROPERTY INFORMATION**

### **Location**

The 3.33-acre site is composed of a single parcel (SBL #90.21-8-1) located at 47 East Amherst Street in the City of Buffalo, Erie County, New York (refer to **Figures 1, 2 and 3**) The site is located approximately 0.75 miles east-northeast of the Buffalo Zoo, less than one mile north-northwest of Erie County Medical Center (ECMC) and 1.25 miles southwest of the University at Buffalo South Campus. The elevation is approximately 650 feet above sea level sloping northwest. The subject property is located at latitude 42° 56' 22.99" N: Longitude 78° 50' 9.20" W. The immediate area around the property is mixed use, containing various retail stores, commercial buildings, and residential properties. See **Figure 4** for adjacent property owners and at the end of this section. According to New York State Environmental Zone (En-Zones) mapping, the Site is located within an En-Zone Type AB designated for Census Tract 40.03 (see **Figure 5**), a Disadvantaged Community (see **Figure 6**) and a Brownfield Opportunity Area (see **Figure 7**) .

### **Site Features**

The site currently contains one vacant building surrounded by an asphalt parking lot. The building is two stories in addition to a partial basement with limited current access to the second floor due to structural issues. The interior and exterior of the building have significant deterioration. Sections of the roof are missing and have collapsed and much of the paint and drywall has deteriorated. A 2007 pre-demolition asbestos and hazardous materials Survey was conducted in 2007 by JMD Services. The survey identified asbestos, lead-based paint, PCB containing lights and drums with unknown contents on the subject property.

The site is generally flat and gently sloping north towards city streets and Lake Erie. Surface and shallow groundwater flow most likely has been impacted over time by the various developments and fills as well as foundations, street beds, and utility lines. Surface water is directed to adjacent streets and low spots in properties with storm drains. In general groundwater most likely flows north towards Lake Erie

### **Current Zoning and Land Use**

The site is currently vacant. According to the City of Buffalo Zoning Map, the current zoning for the Site is defined as Urban Center N-2E (Mixed-Use Edge) (see Figure 9). Any future redevelopment will be in accordance with the local zoning. The surrounding parcels are as follows: north – N-3E (Mixed-Use Edge) ; south – N-2E (Mixed-Use Edge); east – N-3R (Residential) and, west – N-2C (mixed-Use Center). The site is in the Buffalo Brownfield Opportunity Area (BOA) and the planned use is consistent with the BOA.

### **Past Use of the Site**

Historical records including street directories and Sanborn Maps suggest that the site was occupied as follows:



- From at least 1916-1935: Buffalo Cement Co.
- 1950-1986: Bowling alley (no owner specified)
- 1994: Amherst Bowling Center and Family Pro Shop (joint occupancy)
- 1999-2004: Amherst Bowling Center

The history and use of the subject property suggests there is the potential for contaminants of concern associated with fill material and past commercial use. Potential contaminants include metals, polycyclic aromatic hydrocarbons (PAHs), solvents, and PCBs.

### **Site Geology and Hydrogeology**

No surface water bodies, or wetland areas are located within the site. The nearest waterbody is west towards Niagara River about three and a half miles west of the properties. Topography also suggests runoff generally flows towards the northwest and to adjacent streets and low spots on the property.

Shallow subsurface conditions generally consist of fill with some construction and demolition debris consisting mostly of brick with some cement, cinder, ash, and some coal. Fill depths across the site range from 2 to 7.5 feet below grade surface (bgs) in most locations. Below the fill there exists brown silty clay or clayey silt with rock fragments. Depth to bedrock is shallow across the site, ranging from 2 to 5 feet in most locations. No significant groundwater was observed at the depths of the 2023 Phase 2 ESA boreholes.

### **Environmental Assessment**

Various Environmental assessments have occurred on the property including the following:

- Pre-Demolition- Asbestos & Hazardous Materials Survey by JMD Services in 2007.
- Phase I ESA performed by CEM Inc. in 2017.
- Phase 1 and II ESAs were performed by BE3 in January 2023 and February 2023, respectively.

Based on the above investigations, the primary contaminants of concern at the site include the following:

**Fill/Soil** - PAHs and metals (primarily arsenic, lead, mercury and chromium) primarily in the fill material which ranges in depth from 2 to 5 feet bgs. **Figures 8** and **Table 1** provide the locations of the soil samples and the analytical results with Part 375 SCOs that were exceeded.

### **Other potential contamination Sources:**

**Groundwater** – No assessment of groundwater has been carried out to date. This assessment will be part of the Remedial Investigation program through the installation of monitoring wells.



**Soil Vapor & Indoor Air** – No assessment of soil vapor or indoor air has been carried out to date. This assessment will be part of the Remedial Investigation program.

**Adjacent Property Owners**

A list of Adjacent property owners is provided below and on **Figure 4**.

2675 Main Street  
James Wojtowicz TIC  
8621 Clarence Center Road  
Clarence, NY 14032

2671 Main Street  
Amherst Station Housing  
Buffalo, NY 14214

35 Pannell Street  
HAM 2 HAZ LLC  
45 Pannell Street  
Buffalo, NY 14214

45 Pannell Street  
HAM 2 HAZ LLC  
Buffalo, NY 14214

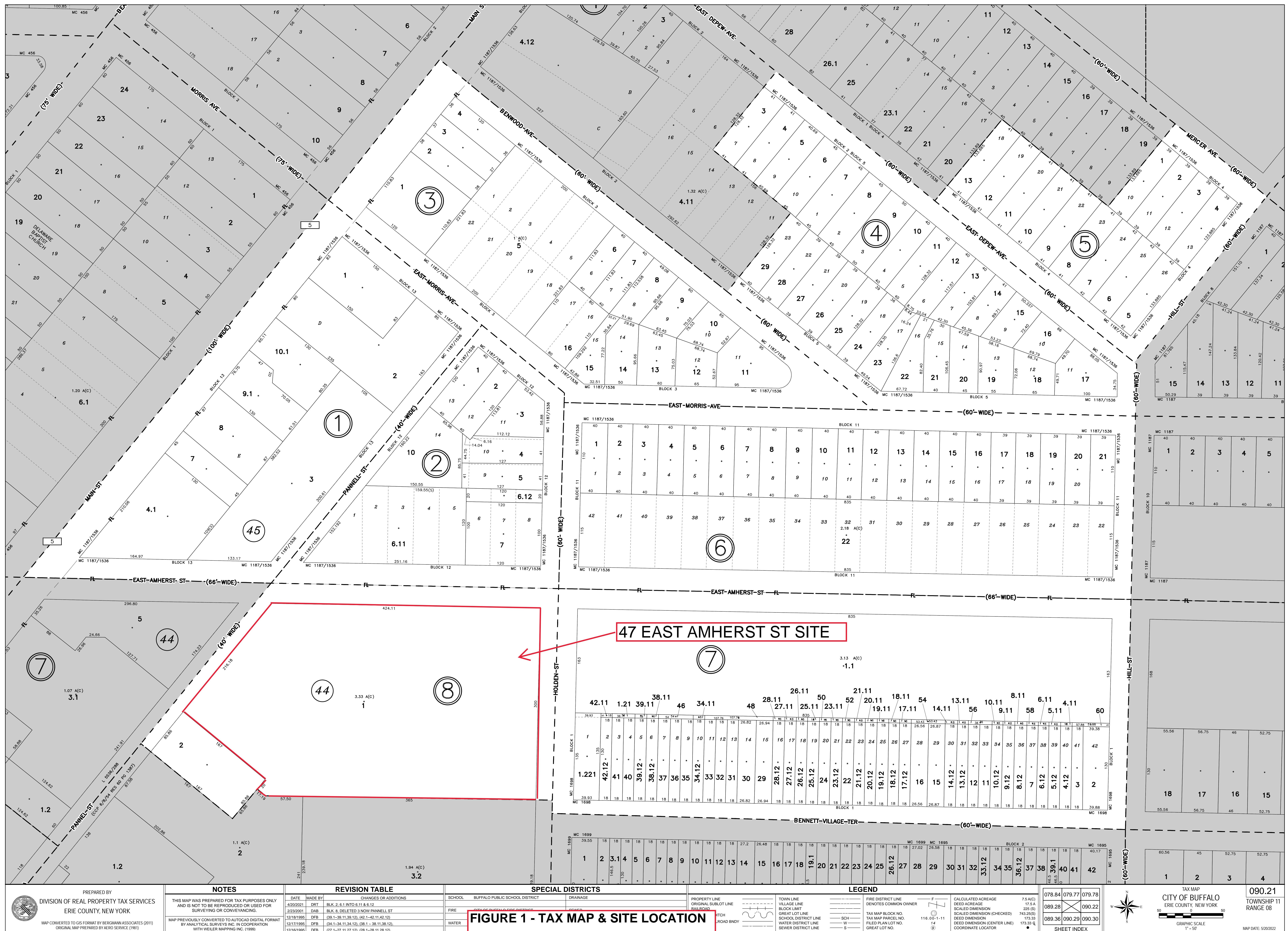
212 Holden Street  
212 Holden LLC  
2060 Sheridan Drive  
Buffalo, NY 14223

2 Bennett Village Terrace.  
James A. Labady  
149 Indiana Ave.  
Providence, RI 02905

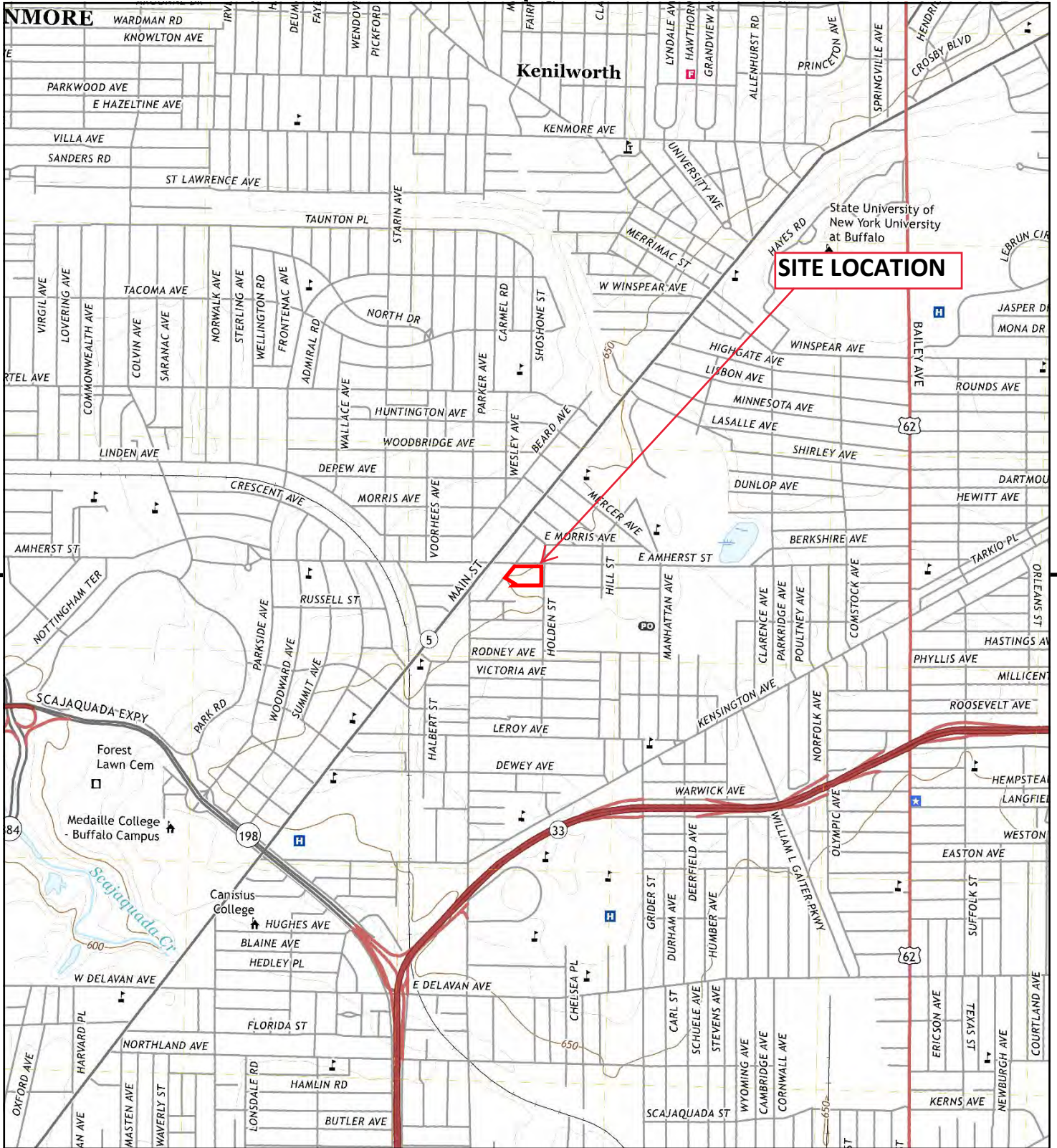
85 East Amherst Street.  
Chesed Properties Buffalo LLC  
2 Symphony Circle  
Buffalo, NY. 14201

62 East Amherst Street  
Fayes Almuganahi  
1380 Electric Avenue  
Lackawanna, NY. 14218

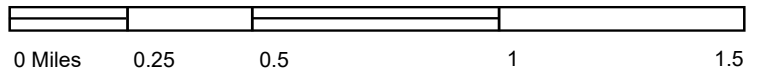








This report includes information from the following map sheet(s).



TP, Buffalo NE, 2019, 7.5-minute

SITE NAME: 47 East Amherst Street - Buffalo NY  
 ADDRESS: 47 East Amherst Street - Buffalo NY  
 Buffalo, NY 14214  
 CLIENT: BE3

**FIGURE 2 - SITE LOCATION MAP**



RESPONDED ☒ NATURAL GAS COMPANY:

NAME/TITLE	ERIC SCHULTZ
COMPANY/DEPT.	NATIONAL FUEL DISTRIBUTION CORPORATION
ADDRESS	632 MAIN STREET
	WILLIAMSVILLE, NEW YORK 14221
TELEPHONE	PHONE: 716/857-7076

RESPONDED ☐ ELECTRIC COMPANY:

NAME/TITLE	DIANE KEICHER
COMPANY/DEPT.	NATIONAL GRID
ADDRESS	144 KENINGSTON AVENUE
	BUFFALO, NEW YORK 14218
TELEPHONE	PHONE: 716/831-7104

RESPONDED ☒ BUFFALO SEWER AUTHORITY:

NAME/TITLE	ANTHONY HAZZAN
COMPANY/DEPT.	BUFFALO SEWER AUTHORITY
ADDRESS	1038 BUFFALO CITY HALL
	BUFFALO, NEW YORK 14202
TELEPHONE	PHONE: 716/851-4664

RESPONDED ☒ DIVISION OF WATER:

NAME/TITLE	JAMES CAMPOLONGI
COMPANY/DEPT.	CITY OF BUFFALO, DIVISION OF WATER
ADDRESS	2 PORTER AVENUE
	BUFFALO, NEW YORK 14201
TELEPHONE	PHONE: 716/851-4766

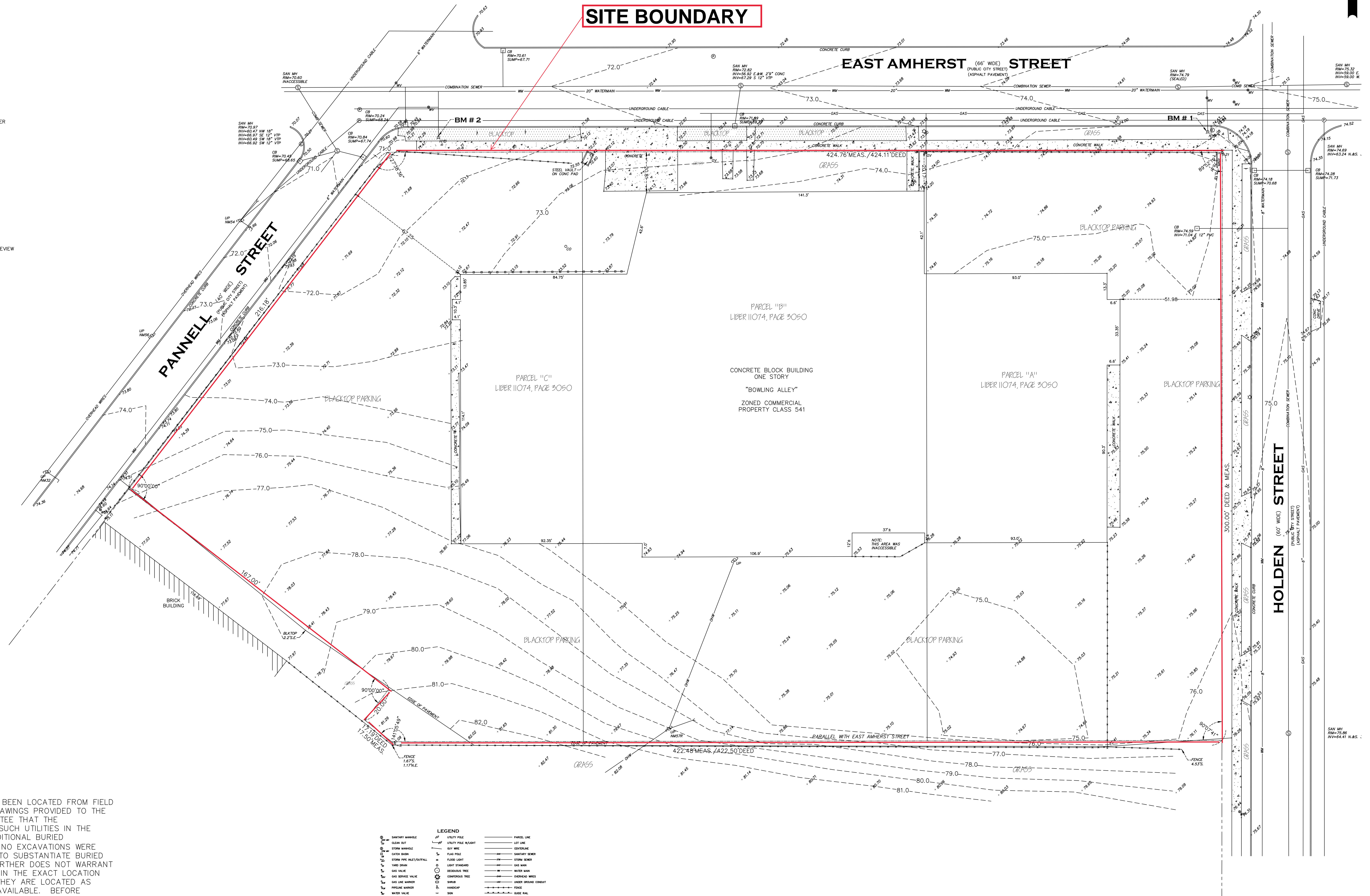
RESPONDED ☒ CABLE TELEVISION COMPANY:

NAME/TITLE	PAM KRACI
COMPANY/DEPT.	TIME WARNER CABLE
ADDRESS	355 CHICAGO STREET
	BUFFALO, NEW YORK 14204
TELEPHONE	PHONE: 716/558-8551

RESPONDED ☒ TELEPHONE COMPANY:

NAME/TITLE	JIM MURPHY
COMPANY/DEPT.	VERIZON
ADDRESS	65 FRANKLIN STREET
	BUFFALO, NEW YORK 14202
TELEPHONE	PHONE: 716/840-8698

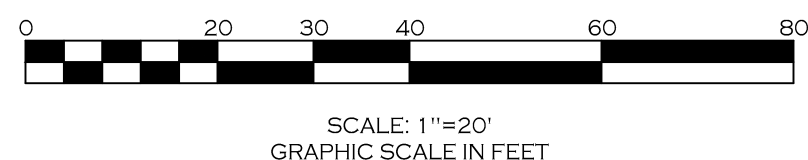
AS OF MAY 23, 2007, NOT ALL INFORMATION REGARDING UNDERGROUND UTILITY LOCATIONS WAS AVAILABLE FOR REVIEW PRIOR TO COMPLETION OF SURVEY.




THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING RECORD DRAWINGS PROVIDED TO THE SURVEYOR. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO SUBSTANTIATE BURIED UTILITIES AND STRUCTURES. THE SURVEYOR FURTHER DOES NOT WARRANT THAT ALL DEEPER GRADE UTILITIES SHOWN ARE IN LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. BEFORE EXCAVATIONS ARE BEGUN, THE APPROPRIATE AGENCIES SHOULD BE CONTACTED FOR VERIFICATION OF UTILITY TYPE AND FOR FIELD LOCATIONS.

BENCHMARK TABLE (CITY OF BUFFALO DATUM)		
DESIGNATION	ELEVATION	DESCRIPTION
1	77.43	TOP OF HYDRANT SHUTOFF VALVE SOUTHWEST CORNER OF HOLDEN STREET AND EAST AMHERST STREET
2	74.07	TOP OF HYDRANT SHUTOFF VALVE SOUTHEAST CORNER OF PANNELL STREET AND EAST AMHERST STREET

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP-TO-DATE ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH.

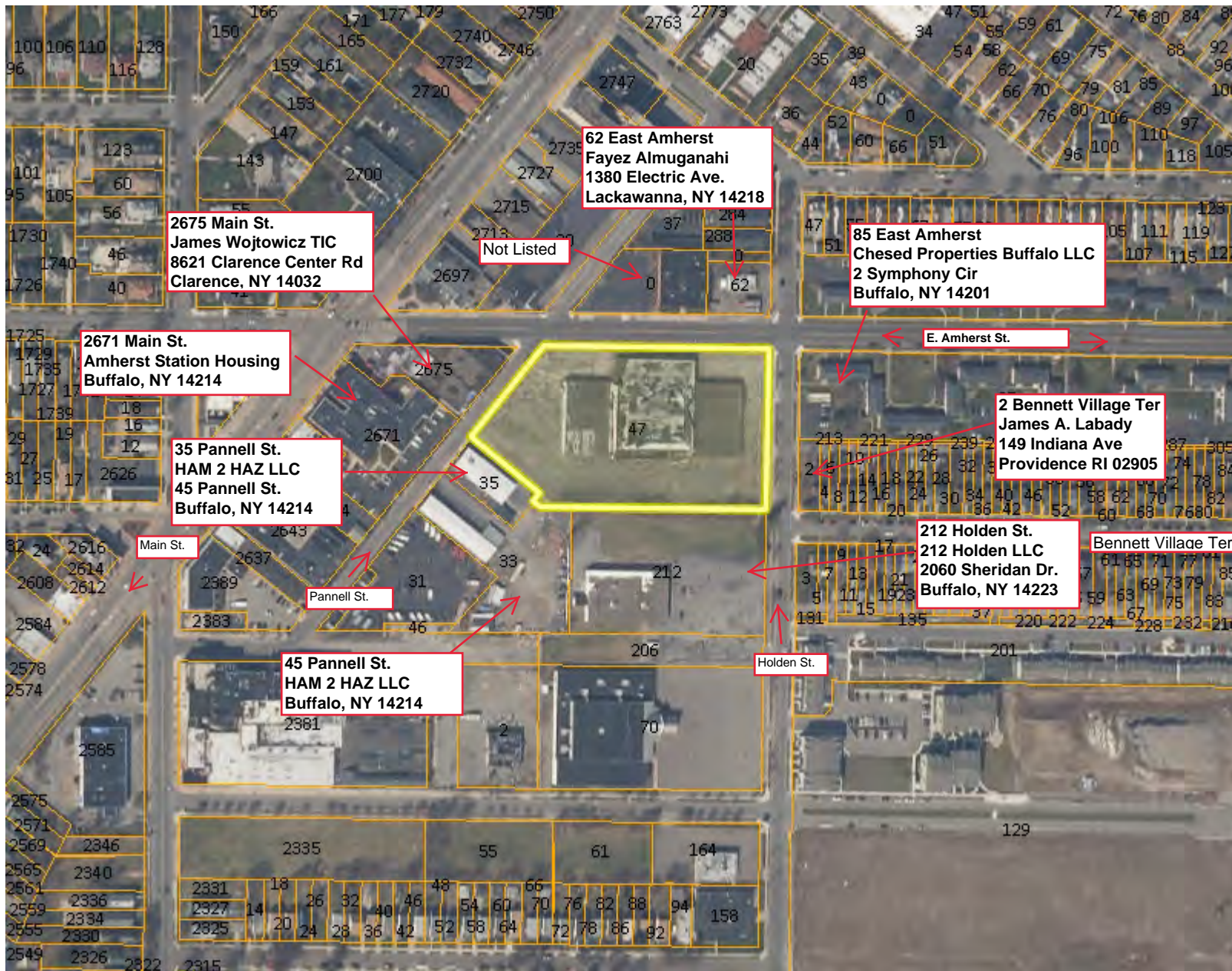


<small>ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MAY MARKS WITH AN ORIGINAL OF THE LAND SURVEYORS' EMBROIDERED SEAL AND SIGNATURE SHALL BE CONSIDERED TO BE VALID TRUE COPIES</small>	DESIGNED BY:	<b>CITY OF BUFFALO</b> <b>COUNTY OF ERIE, STATE OF NEW YORK</b> <b>PART OF LOT 44, TOWNSHIP 11, RANGE 8</b> <b>HOLLAND LAND COMPANY'S SURVEY</b>  <b>47 EAST AMHERST STREET</b> <b>BOUNDARY AND TOPOGRAPHIC SURVEY</b>	 <b>ENGINEERING</b> <b>LAND SURVEYING</b> <b>WM. SCHUTT &amp; ASSOCIATES, P.C.</b>  37 CENTRAL AVE. LANCASTER, NY 14086-2143 PH. 714-685-5961 FAX 714-685-5169 WWW.WMSCHUTT.COM  <small>SUSTAINING MEMBER - THE NEW YORK STATE SOCIETY OF PROFESSIONAL LAND SURVEYORS</small>	<div> <div>C101</div> <div>1"=20'</div> <div>E/07137/01</div> <div>WSA PROJECT NO. 07137</div> </div>
	DRAWN BY: TJM			
	CHECKED BY: GCW			
	DATE: 05/15/07			
	<b>WARNING:</b> ALTERING THIS DOCUMENT IS IN VIOLATION OF THE LAW EXCEPT AS PROVIDED IN SECTION 7029, PART 2 OF THE NEW YORK STATE EDUCATION LAW. © COPYRIGHT 2006 WM. SCHUTT & ASSOCIATES P.C.			





# Erie County On-Line Mapping Application



## Legend

Parcels

ERIE COUNTY  
DEPARTMENT OF ENVIRONMENT & PLANNING  
OFFICE OF GIS

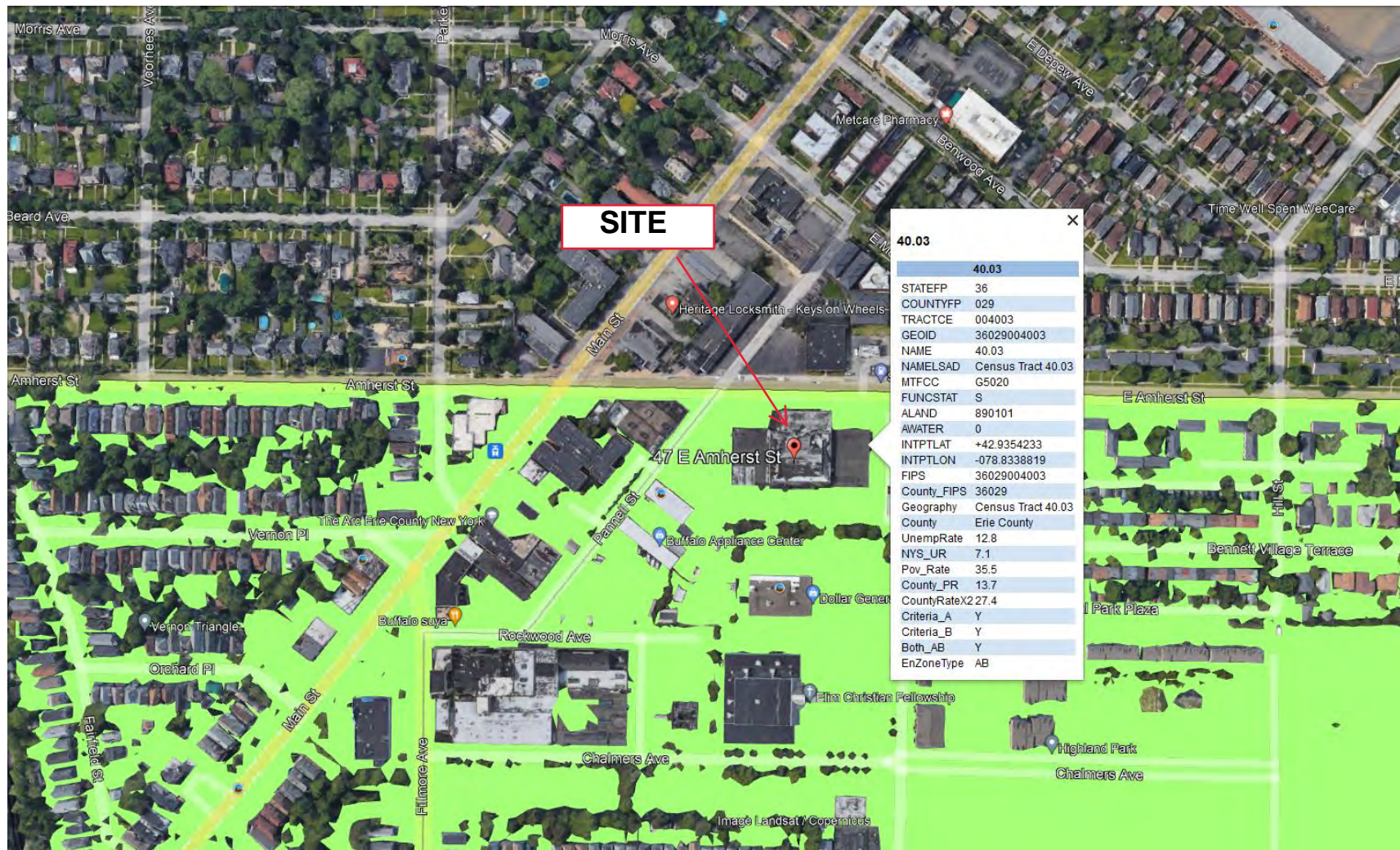
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

1: 4,514



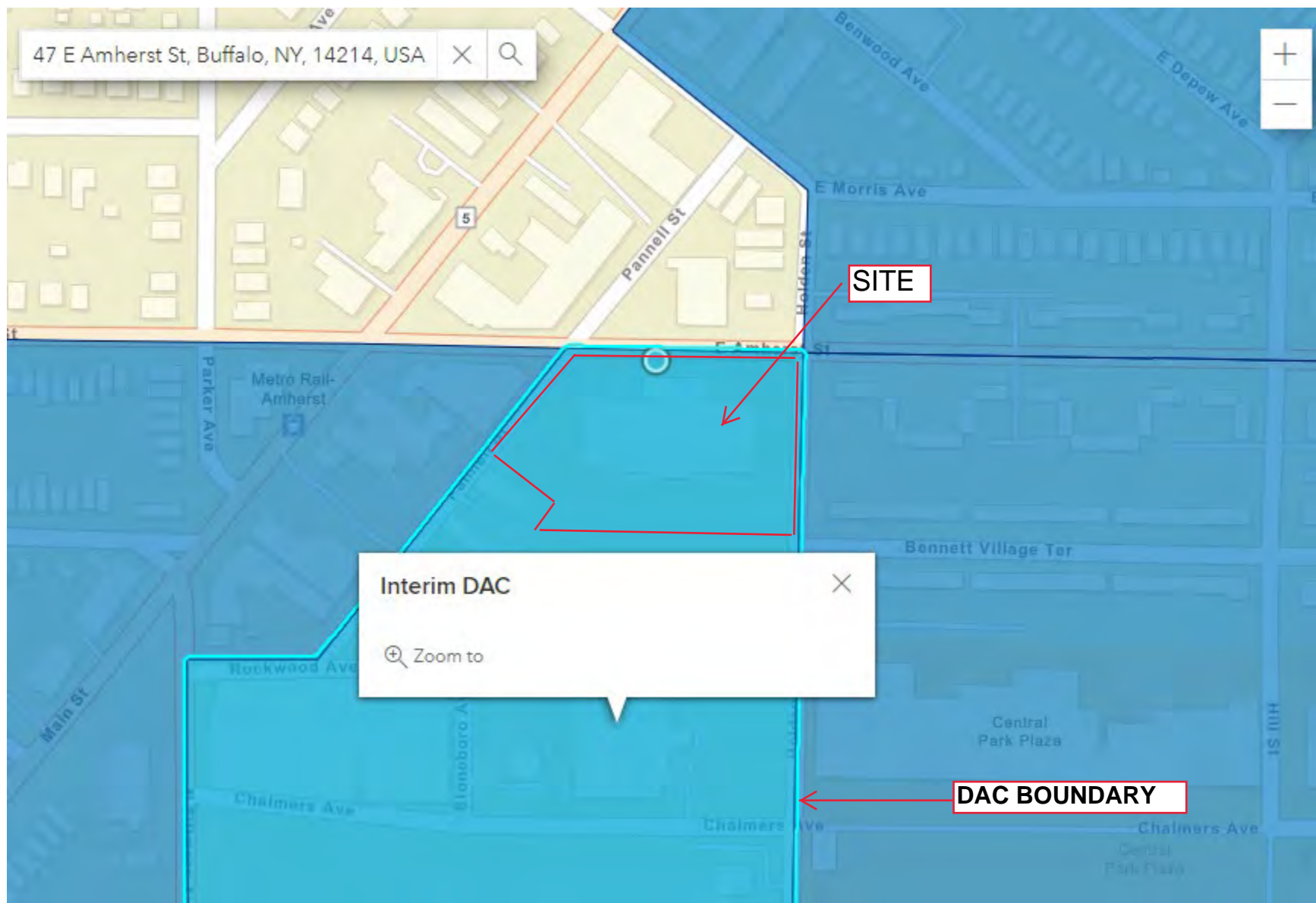
FIGURE 4 - SITE BOUNDARY MAP WITH ADJACENT OWNERS



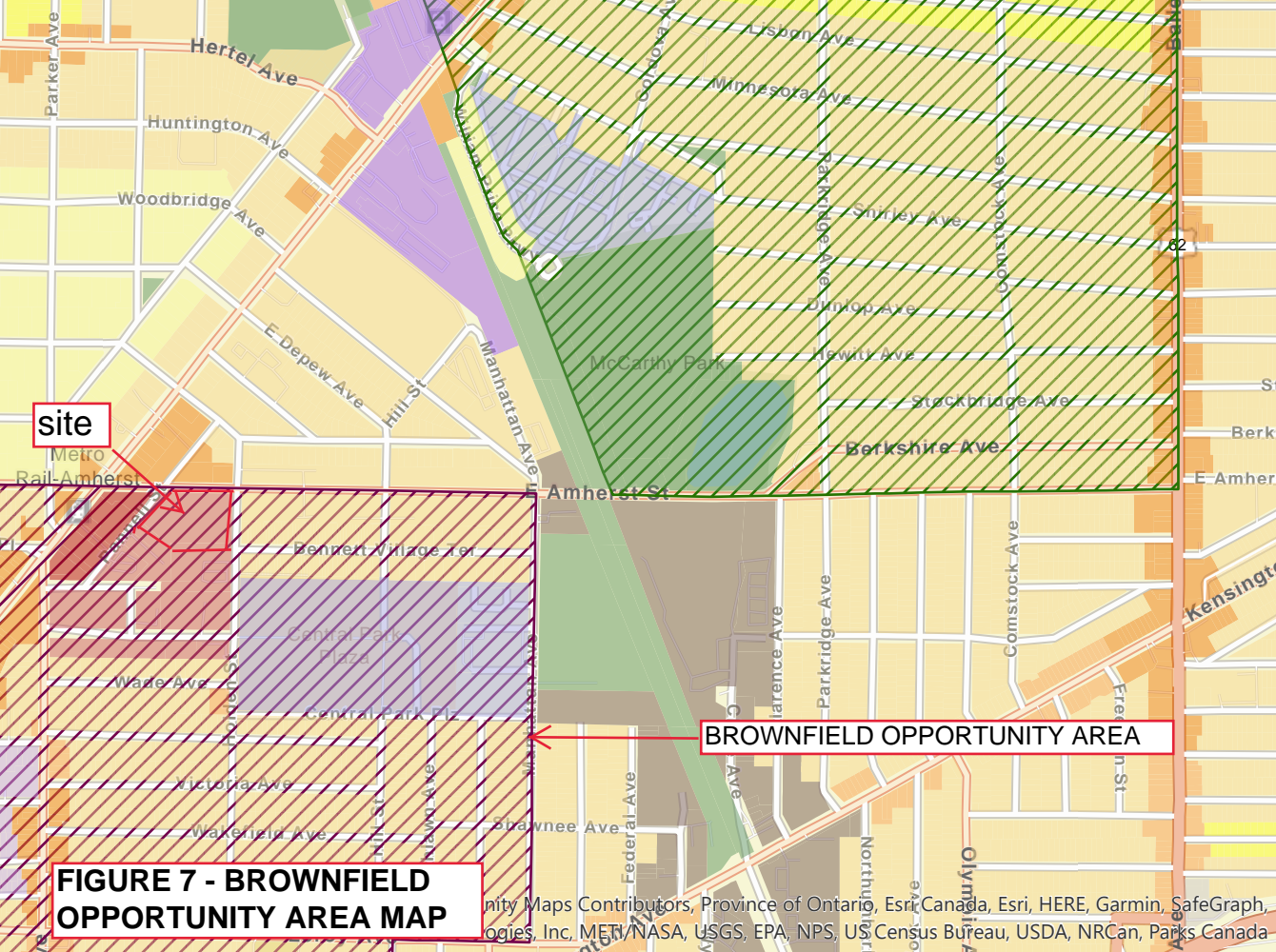


**FIGURE 5 - DESIGNATED EN-ZONE MAP**





**FIGURE 6 - DISADVANTAGED COMMUNITIES (DAC) MAP**



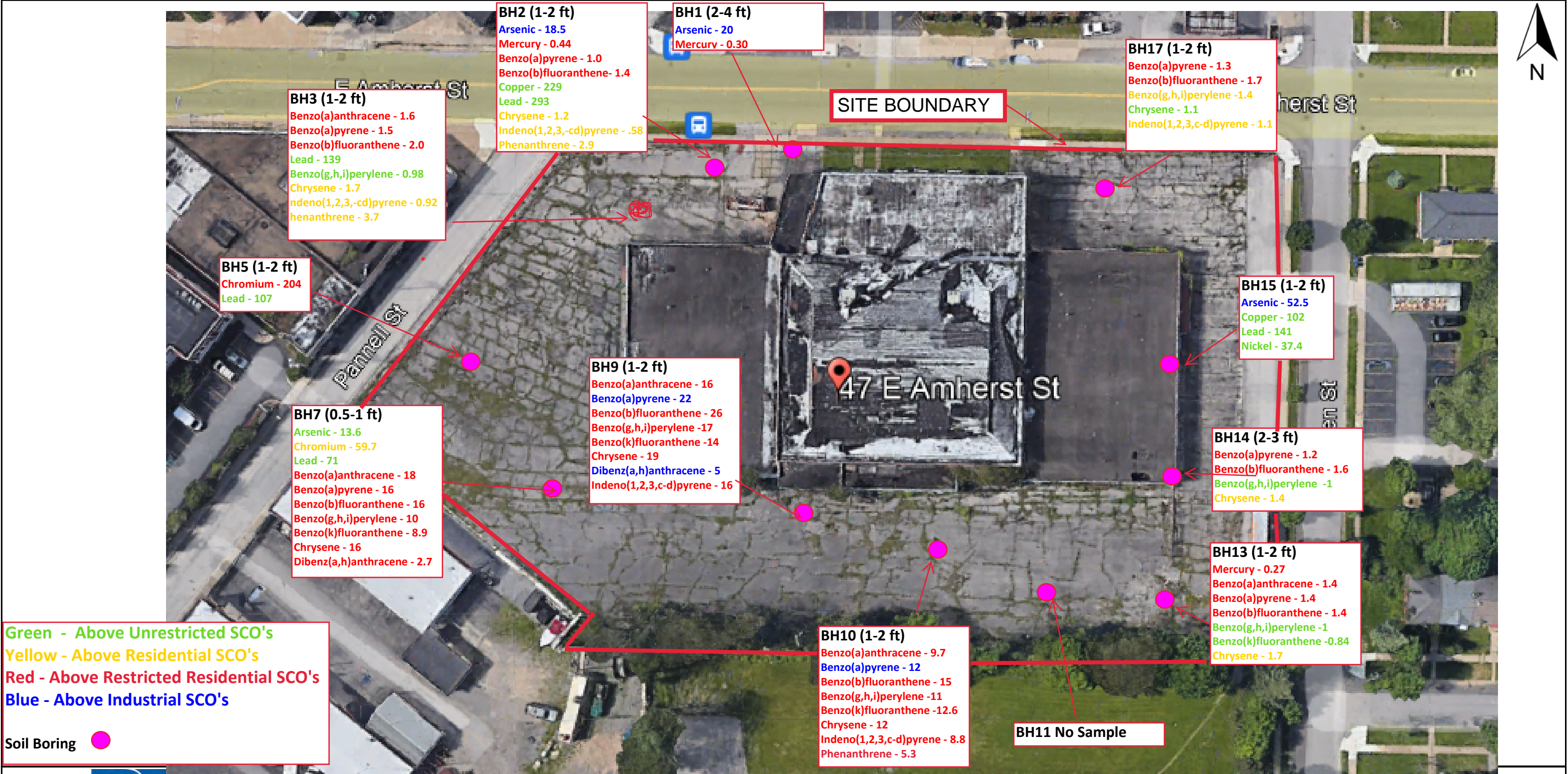
site


BROWNFIELD OPPORTUNITY AREA

**FIGURE 7 - BROWNFIELD OPPORTUNITY AREA MAP**

City of Amherst, Ontario, Canada, Esri, HERE, Garmin, SafeGraph, Inc., MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA, NRCAN, Parks Canada





	Soil Boring Locations with Sample Results in ppm	
	47 East Amherst Street	1/17/2023
	New York	Regan Development

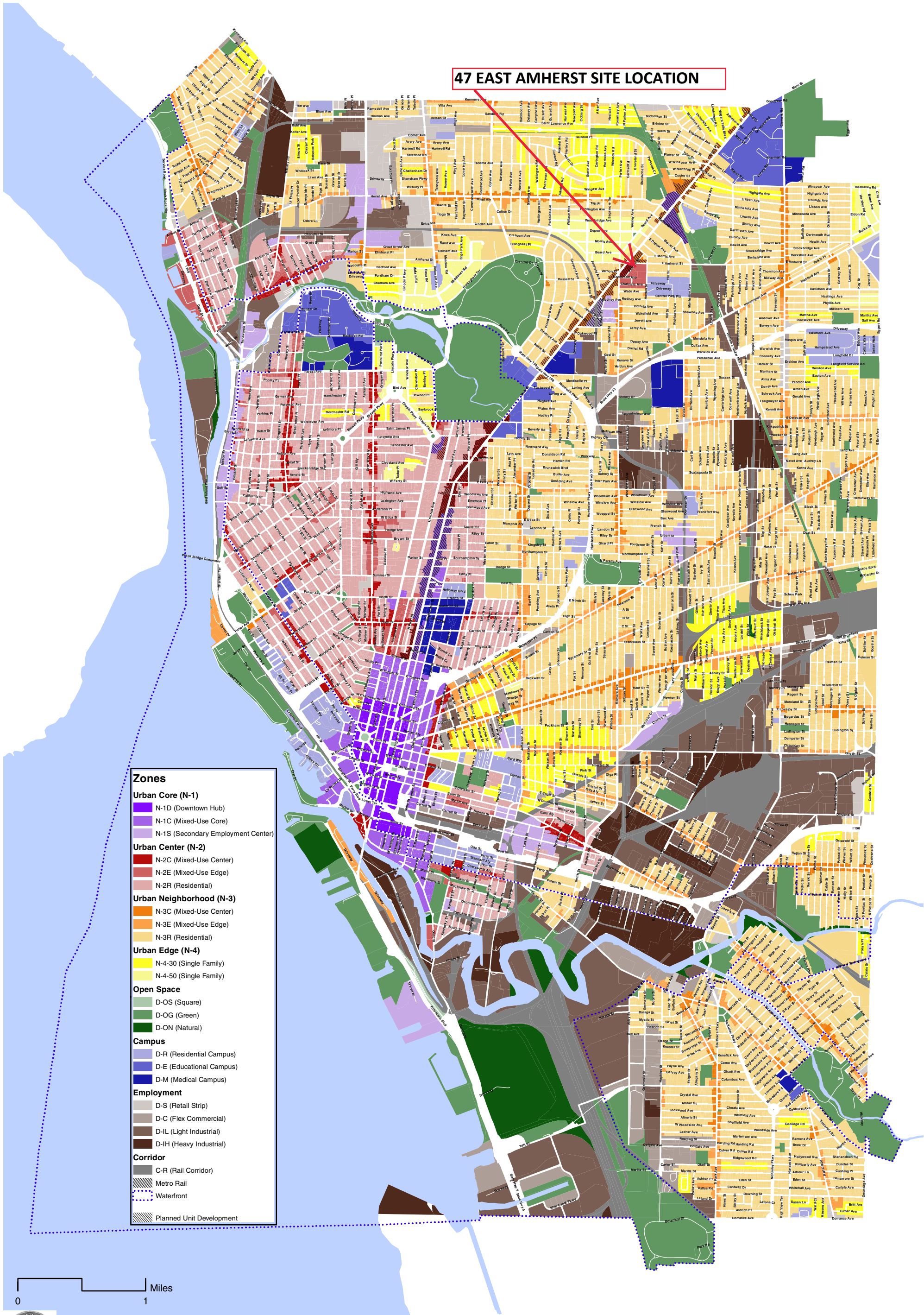
\*\*All Samples were taken below the depth of asphalt.

FIGURE 8 - 47 EAST AMHERST STREET - PHASE II ESA SOIL BORING SAMPLE LOCATIONS AND ANALYTICAL RESULTS



# Zoning Map

## City of Buffalo, Unified Development Ordinance



0 1 Miles



City of Buffalo  
Mayor's Office of Strategic Planning  
January, 2017



**FIGURE 9 - ZONING MAP - SITE-N-2E (MIXED-USE EDGE)**



**TABLE 1**  
**SUMMARY OF SOIL ANALYTICAL RESULTS**

Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date							
	BH1	BH2	BH3	BH4	BH5	BH6	BH7	BH8
	2-4	1-2	1-2	1-2	1-2	1	0.5-1	1-3
1/17/2023								
METALS/INORGANICS								
Arsenic	20	18.5	8.4	2.8	9.0	5.4	13.6	15.4
Barium	40	400	78.8	29.4	397	74.1	391	101
Beryllium	0.63	1.30	0.5	0.24	3.4	0.78	1.90	1.30
Cadmium	0.35	0.5	0.6	0.26	0.4	0.55	0.31	0.30
Chromium	21.2	23.2	12.4	7.5	204	17.3	59.7	12.0
Copper	18.3	229 F2	42.9	15.2	31.8	9.7	25.4	24.0
Lead	46	293 F2	139.0	27.9	107	21.6	71	39
Manganese	386 B	359 B	349 B	142 B	213 B	1920 B	203	234 B
Mercury	0.30 B	0.44	0.14 B	0.19 B	.054 B	.065 B	0.085	0.034 B
Nickel	24.2	18.1	18.3	7.5	64.7	29.9	30.9	20.3
Silver	ND	ND	ND	ND	0.36 J	ND	0.28	ND
Zinc	43	160 F1	95.7	36.3	36.7	46.3	39.3	23.7
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)								
Acenaphthene	ND	ND	0.31 J	ND	ND	ND	2.5	0.031 J
Acenaphthylene	ND	ND	ND	ND	ND	ND	1.4 J	ND
Anthracene	ND	ND	ND	ND	ND	ND	9.6	0.89 J
Benzo(a)anthracene	0.17 J	0.99 J	1.6 J	0.35 J	ND	ND	18	0.3
Benzo(a)pyrene	0.17 J	1.0 J	1.5 J	0.34 J	ND	ND	16	0.33
Benzo(b)fluoranthene	0.2	1.4 J	2.00	0.51 J	ND	ND	16	0.38
Benzo(g,h,i)perylene	0.1 J	0.68 J	.98 J	0.34 J	ND	ND	10	0.27
Benzo(k)fluoranthene	0.079 J	0.46 J	.71 J	0.19 J	ND	ND	8.90	0.19 J
Chrysene	0.18 J	1.2 J	1.7 J	0.38 J	ND	ND	16.0	0.34
Dibenz(a,h)anthracene	ND	ND	ND	ND	ND	ND	2.70	0.07 J
Dibenzofuran	ND	ND	ND	ND	ND	ND	1.9	0.029 J
Fluoranthene	0.4	3.0	4	0.78 J	ND	ND	37	1
Fluorene	ND	ND	0.32 J	ND	ND	ND	3.8	.025 J
Indeno(1,2,3-cd)pyrene	0.096 J	0.58 J	0.92 J	0.27 J	ND	ND	9.1	0.23
Naphthalene	ND	ND	ND	ND	ND	ND	ND	ND
Phenanthrene	0.17 J	2.9	3.7	0.43 J	ND	ND	30	0.45
Pvrene	0.31	2.2	3.1	0.6 J	ND	ND	29	0.48

ND Analyte not detected All units in parts per million (ppm)

- Not Applicable or sample not tested for this analyte

J Estimated Concentration

B Analyte detected in method blank

K Result is reported as Benzo(b)fluoranthene

E Results exceeded calibration range

T Result is Tentatively Identifies Compound and an estimated value

Analyte detected

Reported concentration greater than or equal to the NYS

Reported concentration greater than or equal to the NYS

Reported concentration greater than or equal to the NYS

Reported concentration greater than or equal to the NYS

Reported concentration greater than or equal to the NYS



**TABLE 1**  
**SUMMARY OF SOIL ANALYTICAL RESULTS**

Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date							
	BH9 1-2	BH10 1-2	BH11 No Sample	BH12 1-2	BH13 1-2	BH14 2-3	BH15 1-2	BH16 1-3
	1/17/2023							
METALS/INORGANICS								
Arsenic	3.0	1.2 J		1.2 J	10.1	4.8	52.5	11.3
Barium	20.4	5.3		5.3	69	171	89.4	54.3
Beryllium	0.19 J	0.098 J		0.73	0.86		1.70	0.53
Cadmium	0.87	0.24		0.55	1.10	0.87 J	0.63	0.15 J
Chromium	16.9	3.7		23.8	16.6	7.2	20.5	6.9
Copper	18.1	4.9 J		42.0	39.1	17.0	102.0	31.8
Lead	175.0	18.3		109.0	125	29	141.0	12.6
Manganese	140 B	63 B		271 B	270 B	394 B	152 B	85.1 B
Mercury	0.042 B	0.014 JB		0.10	0.27	0.069	0.067	0.064
Nickel	11.4	4.2 J		28.6	24.4	9.3	37.4	14.5
Silver	ND	ND		ND	ND	ND	0.50 J	ND
Zinc	99.6	18.6		92	187	21.5	103	17.7
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)								
Benzo(a)anthracene	16 J	9.7 J		0.46 J	1.4 J	1.1	0.26 J	0.16 J
Benzo(a)pyrene	22	12 J		0.77 J	1.4 J	1.2	0.29 J	0.19
Benzo(b)fluoranthene	26	15 J		1 J	1.4 J	1.6	0.34 J	0.24
Benzo(g,h,i)perylene	17 J	11 J		0.79 J	1 J	1	0.20 J	0.13 J
Benzo(k)fluoranthene	14 J	7.6 J		0.4 J	0.84 J	0.54 J	ND	0.067 J
Chrysene	19	12 J		ND	1.7 J	1.4	0.27 J	0.17 J
Dibenz(a,h)anthracene	5 J	ND		ND	ND	0.31 J	ND	0.041 J
Dibenzofuran	ND	ND		ND	ND	ND	ND	ND
Fluoranthene	21	19		1 J	2.8	1.9	0.51 J	0.25
Fluorene	ND	ND		ND	ND	ND	ND	ND
Indeno(1,2,3-cd)pyrene	16 J	8.8 J		0.7 J	0.86 J	0.88 J	0.20 J	0.12 J
Naphthalene	ND	ND		ND	ND	ND	ND	ND
Phenanthrene	ND	5.3 J		0.37 J	2.7	0.75 J	0.33 J	0.15 J
Pyrene	17 J	15 J		0.81 J	3.1	1.5	0.41 J	0.25

Notes: All units in parts per million (ppm)

ND Analyte not detected

- Not Applicable or sample not tested for this analyte

J Estimated Concentration

B Analyte detected in method blank

K Result is reported as Benzo(b)fluoranthene

E Results exceeded calibration range

T Result is Tentatively Identifies Compound and an estimated value

	Analyte detected
	Reported concentration greater than or equal to the NYS
	Reported concentration greater than or equal to the NYS
	Reported concentration greater than or equal to the NYS
	Reported concentration greater than or equal to the NYS
	Reported concentration greater than or equal to the NYS

TABLE 1  
SUMMARY OF SOIL ANALYTICAL RESULTS



Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample				NYSDEC Soil Cleanup Objectives (SCOs)				
	BH-17	BH-18			Unrestricted	Residential	Restricted Residential	Commerical	Industrial
	1-2	1-3	1/17/2023						
METALS/INORGANICS									
Arsenic	11.8	7.5			13	16	16	16	16
Barium	62.4	77			410	410	410	410	10,000
Beryllium	0.56	0.56			4.4	8.8	43	670	750
Cadmium	0.47	0.34			2.5	2.5	2.5	3.7	4.4
Chromium	10.7	12.2			30	30	110	1,700	2,000
Copper	35.7	26.2			50	280	280	280	10,000
Lead	88	77.2			63	400	400	1,000	3,900
Manganese	120 B	198 B			1,600	2,000	2,000	10,000	10,000
Mercury	0.15	0.097			0.18	0.26	0.26	1.1	1.1
Nickel	15.5	15.9			30	44	210	320	3,400
Selenium					4	22	110	1,700	2,000
Silver					2	1,300	6,600	10,000	10,000
Zinc	75	92.4			109	1,300	6,600	10,000	10,000
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)									
Acenaphthene	ND	0.079 J			20	100	100	500	1,000
Acenaphthylene	ND	0.041 J			100	100	100	500	1,000
Anthracene	ND	0.19 J			100	100	100	500	1,000
Benzo(a)anthracene	0.84 J	0.55			1	1	1.4	37	37
Benzo(a)pyrene	1.3	0.55			1	1	1	3.7	3.7
Benzo(b)fluoranthene	1.7	0.57			1	1	1.4	37	37
Benzo(g,h,i)perylene	1.4	0.4			0.64	1.2	4.9	47	78
Benzo(k)fluoranthene	0.76 J	0.33			0.8	1.2	4.9	47	78
Chrysene	1.1	0.56			1	1.2	4.9	47	78
Dibenz(a,h)anthracene	0.29 J	0.099 J			0.33	0.33	0.33	3.7	3.7
Dibenzofuran	ND	0.056			2.1	4.2	18	180	290
Fluoranthene	1.7	1.4			85	100	100	500	1,000
Fluorene	ND	0.063 J			30	100	100	500	1,000
Indeno(1,2,3-cd)pyrene	1.1	0.36			0.5	0.5	1.4	37	37
Naphthalene	ND	0.043 J			12	84	100	500	1,000
Phenanthrene	0.53 J	1.0			1.1	1.2	4.9	47	78
Pyrene	1.3	1.1			64	100	100	500	1,000

Notes: All units in parts per million (ppm)

ND Analyte not detected

- Not Applicable or sample not tested for this analyte

J Estimated Concentration

B Analyte detected in method blank

K Result is reported as Benzo(b)fluoranthene

E Results exceeded calibration range

	Analyte detected
	Reported concentration greater than or equal to the NYSDEC Unrestricted SCO
	Reported concentration greater than or equal to the NYSDEC Residential SCO
	Reported concentration greater than or equal to the NYSDEC Restricted Residential SCO
	Reported concentration greater than or equal to the NYSDEC Commercial SCO
	Reported concentration greater than or equal to the NYSDEC Industrial SCO



## ATTACHMENT B

### SECTION II: PROJECT DESCRIPTION

#### Figure 10 – Preliminary Project Schedule



## **SECTION II – Project Description – Short Description of Development**

The re-development of the site will provide work-force rental housing/commercial mix use facilities. The plan is to demolish the existing 52,000 square foot building and replace it with a two and four story, 130-unit apartment complex with ground floor commercial space.

**AMHERST COMMONS LLC, acting as a Volunteer**, will complete additional investigation and remediate the site under the NYS BCP, and is submitting this BCP Application for eligibility acceptance into the program.

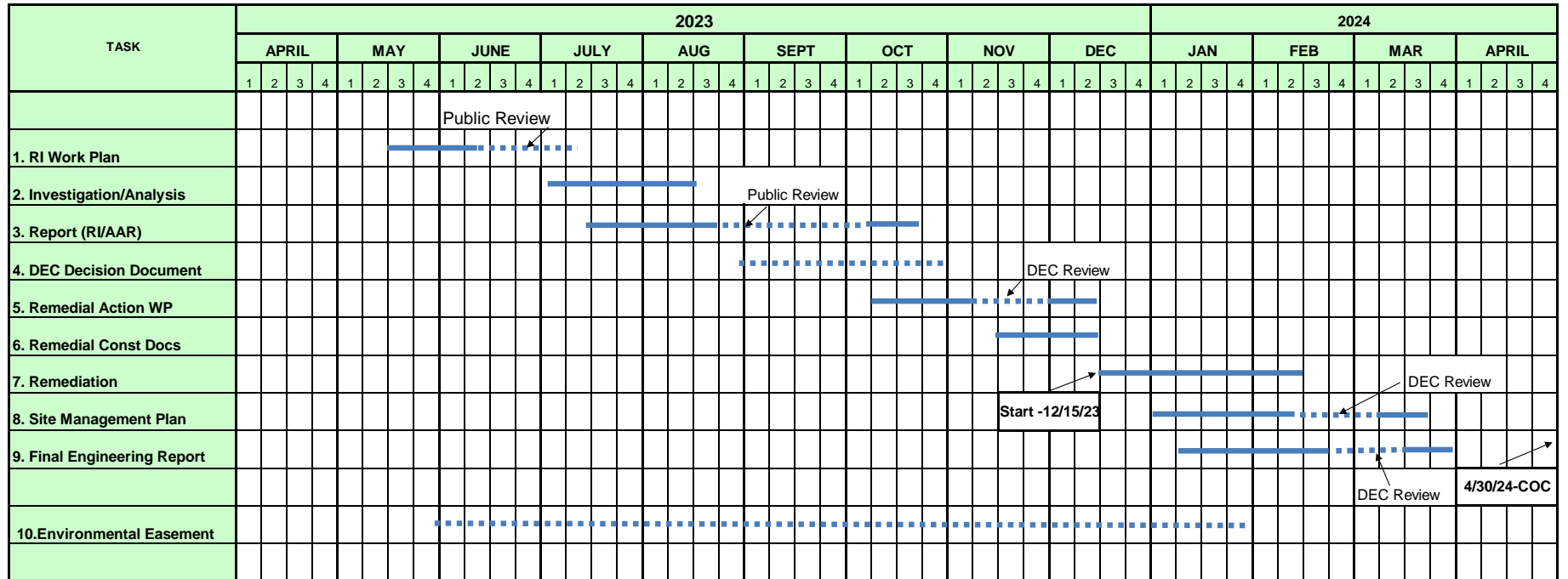
### **Project Start Date & Anticipated Certificate of Completion**

The project will **start work** with the preparation of a Remedial Investigation (RI) Work Plan and complete a RI upon acceptance into the BCP **during calendar year 2023** and will complete remediation for an **anticipated Certificate of Completion (COC)** in 2024. A preliminary project schedule is shown on **Figure 10**.



**FIGURE 10**

**BCP PRELIMINARY PROJECT SCHEDULE APRIL 2023**  
**AMHERST COMMONS LLC - 47 EAST AMHERST STREET - BUFFALO, NY**



## ATTACHMENT C

### SECTION III: LAND USE FACTORS

**Figure 6 – Disadvantaged Communities Map**

**Figure 7 – BOA**

**Figure 9 – Zoning Map**





## **SECTION III – Land Use Factors**

### **Application Section III #4 – Summary of Current Business Operations or Uses – possible contaminant source areas and date site became vacant**

The current zoning for the Site is Urban Center – N-2E (Mixed-Use Edge). Refer to **Figure 9** the City of Buffalo Zoning Plan. The immediate area around the site is mainly mixed urban commercial use and residential.

Historical records suggest that the site was occupied as follows:

- From at least 1916-1935: Buffalo Cement Co.
- 1950-1986: Bowling alley (no owner specified)
- 1994: Amherst Bowling Center and Family Pro Shop (joint occupancy)
- 1999-2004: Amherst Bowling Center
- Unoccupied after 2004

The history and use of the subject property suggests there is the potential for contaminants of concern associated with fill material and past commercial use. Potential contaminants include metals, polycyclic aromatic hydrocarbons (PAHs), solvents, and PCBs. PAHs are a group of chemicals that are formed during incomplete burning of wood, coal, gas, garbage, or other organic substances and are widely distributed in the environment and particularly in older urban environments where coal, gas, and petroleum were burned for heat and other energy uses.

### **Application Section III #6 – Proposed Post-Remediation Use**

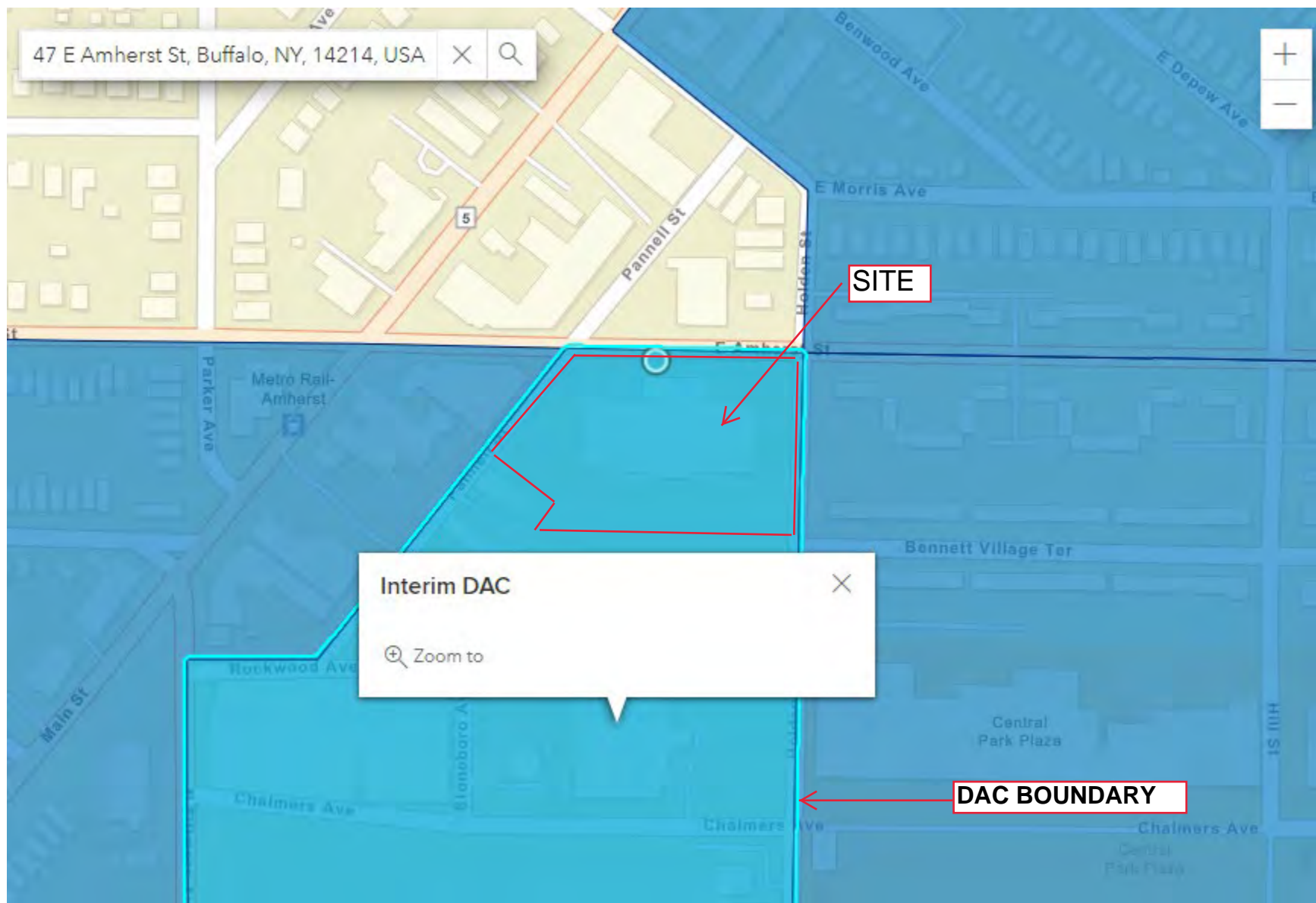
The re-development of the site will provide work-force rental housing/commercial mix use facilities. The plan is to demolish the existing 52,000 square foot building and replace it with a two and four story, 130-unit apartment complex with ground floor commercial space.

### **Application Section III #9 Is the proposed use consistent with applicable zoning laws/maps?**

The site is currently zoned as Urban Center – N-2E (Mixed-Use Edge). The applicant will work with the city permit department for appropriate zoning for the proposed site re-use if necessary. Refer to **Figure 9** current zoning map.

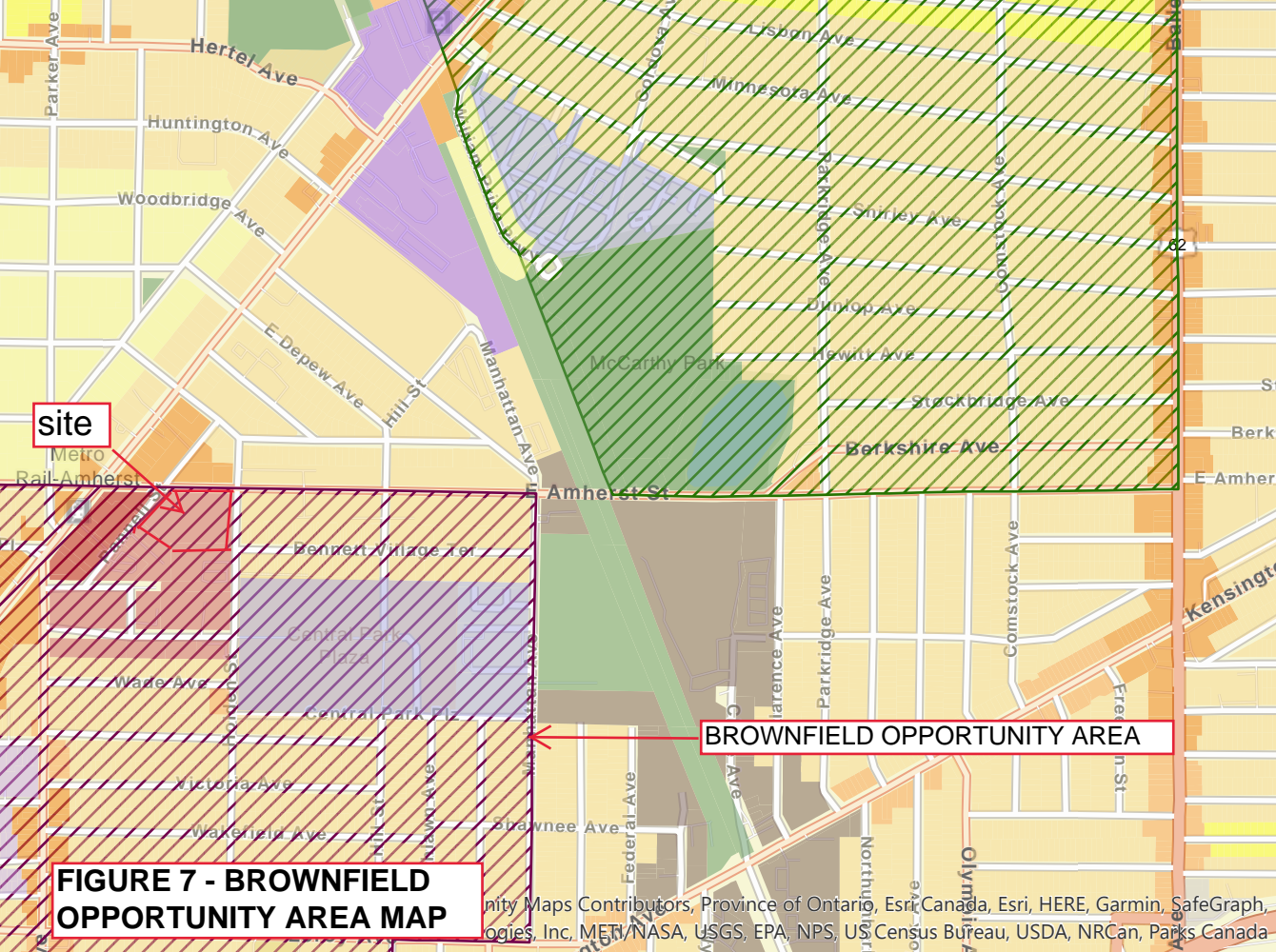
### **Application Section III #10 – Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans?**

The site is in the City of Buffalo Disadvantaged Communities (DAC) area (see **Figure 6**) and in a Brownfield Opportunity Area (BOA) (see **Figure 7**) which demonstrates that the proposed project is consistent with adopted land use plans.



**FIGURE 6 - DISADVANTAGED COMMUNITIES (DAC) MAP**





site

BROWNFIELD OPPORTUNITY AREA

**FIGURE 7 - BROWNFIELD OPPORTUNITY AREA MAP**

City of Amherst, Ontario, Canada, Esri, HERE, Garmin, SafeGraph, Inc., MET/NASA, USGS, EPA, NPS, US Census Bureau, USDA, NRCAN, Parks Canada



# Zoning Map

## City of Buffalo, Unified Development Ordinance

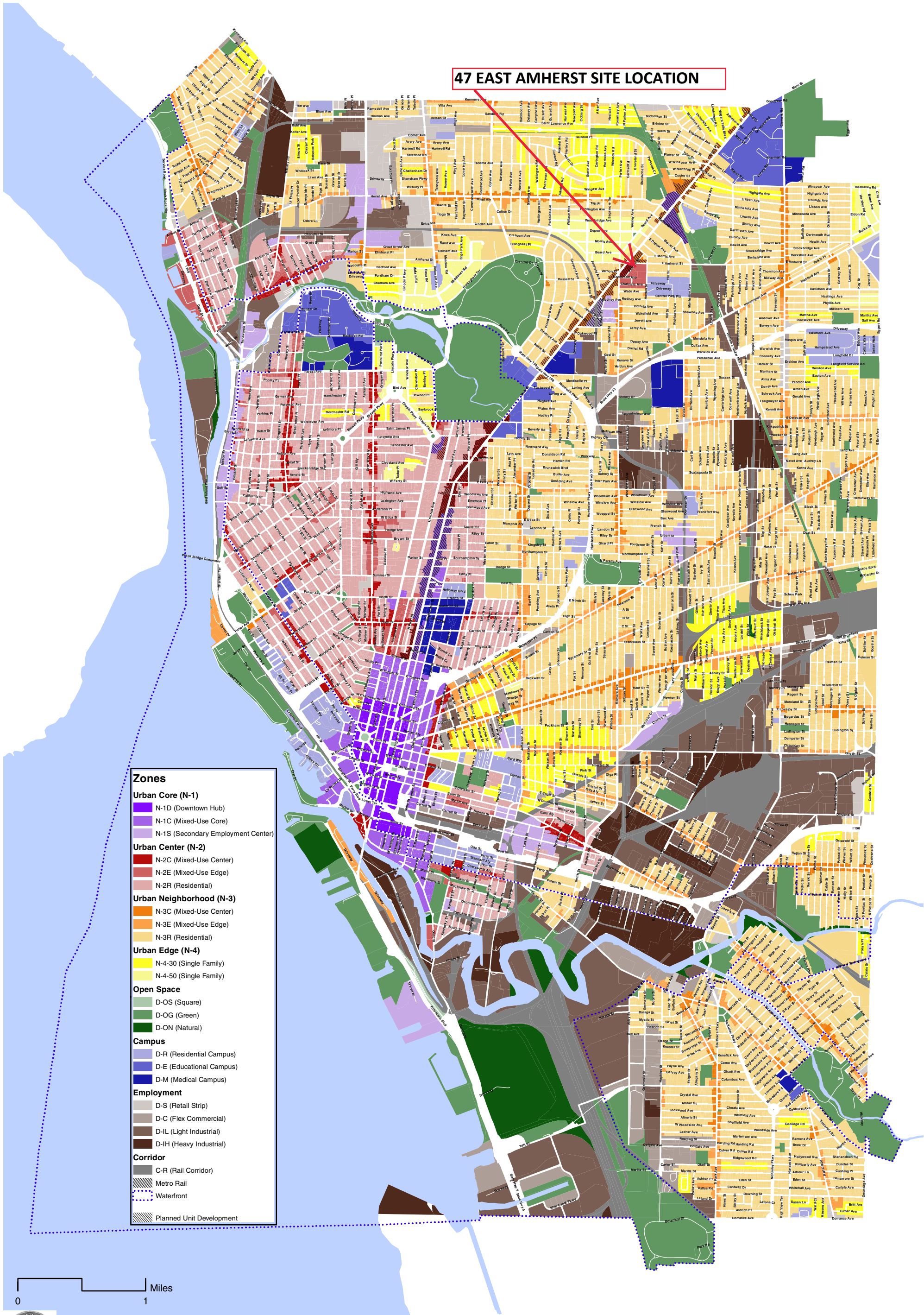


FIGURE 9 - ZONING MAP - SITE-N-2E (MIXED-USE EDGE)



## ATTACHMENT D

### SECTION IV: PROPERTY'S ENVIRONMENTAL HISTORY

**Figure 8 - Previous Investigation Locations & Contaminant Exceedances**

**Table 1 - BE3 Phase 2 Soil Sample Results**



## SECTION IV – PROPERTY’S ENVIRONMENTAL HISTORY

**A Phase I ESA**, in conformance with the scope and limitations of the ASTM Practice E1527-21, was completed by BE3 at the site in January 2023 with the following conclusions:

### **RECs identified:**

- Drums were observed on the subject property and are labeled as containing petroleum distillate. It is unknown whether releases to the environment occurred, however, these will need to be further characterized and removed.

### **BERs identified:**

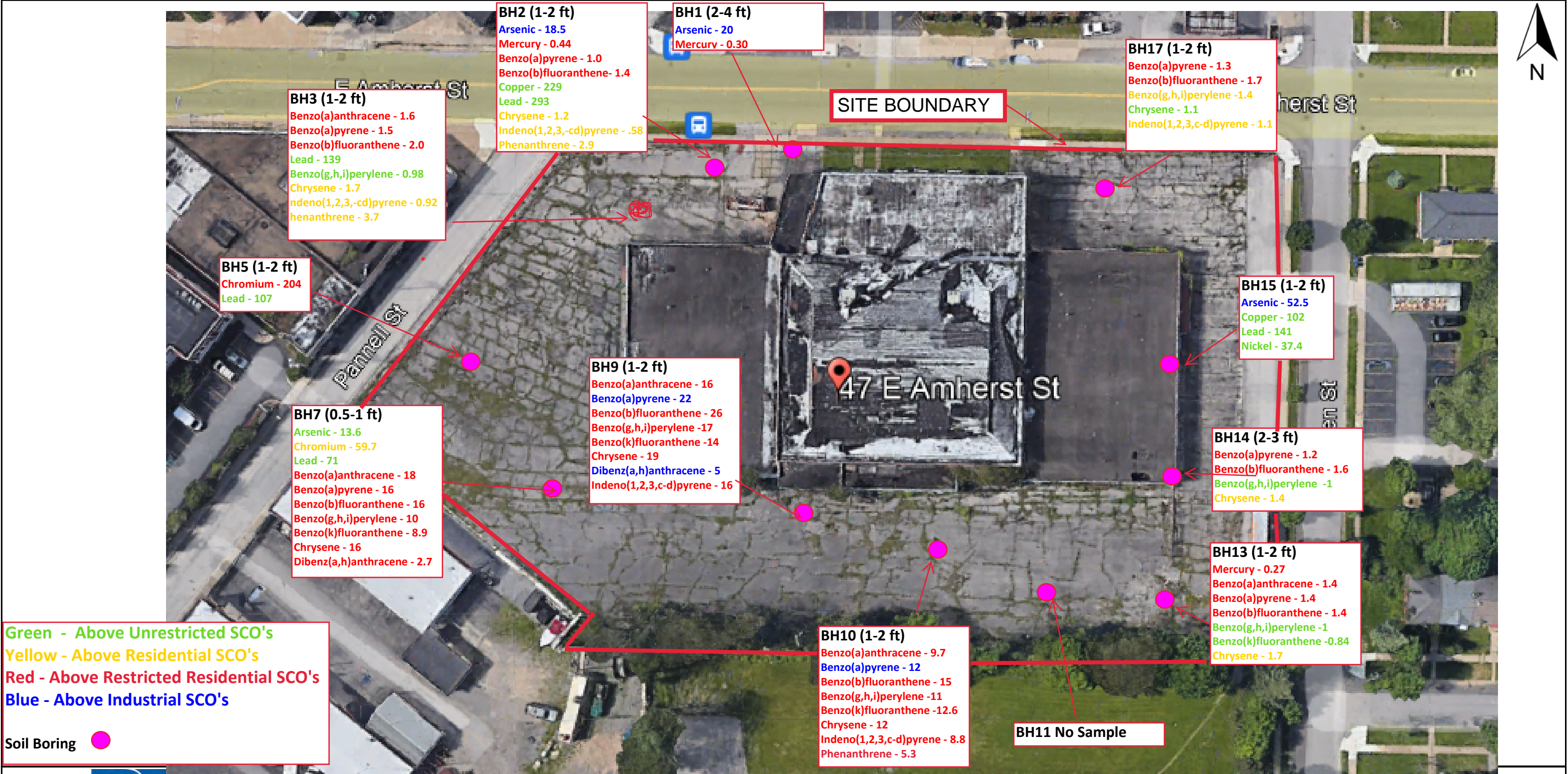
- A spill occurred at the former gas station located at 72 East Amherst Street. Soil and groundwater contamination was present which has the potential to migrate to the subject property.
- Historic gas stations existed within proximity of the subject property. Tank installation records were provided but no subsequent removal records were found. It is unknown whether any spills or leaks occurred that could potentially migrate to the subject property.


**Phase II ESA:** An electronic copy (**Portable Document Format (PDF)**) of the Phase II ESA Report completed by BE3 in February 2023 is included with this application.

The phase II report establishes 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. Attached **Figure 8** and **Table 1** provide levels of contamination of environmental media (soil) above SCGs detected as of the submission of this application. The history and use of the site suggests there is the potential for contaminants of concern associated with fill material and past commercial use. Potential contaminants include metals, polycyclic aromatic hydrocarbons (PAHs), solvents, and PCBs. PAHs are a group of chemicals that are formed during incomplete burning of wood, coal, gas, garbage, or other organic substances and are widely distributed in the environment and particularly in older urban environments where coal, gas, and petroleum were burned for heat and other energy uses. PAH compounds are common constituents of fill material found in urban environments.

**A pre-demolition asbestos and hazardous materials survey** was conducted in 2007 by JMD Services. The survey identified asbestos, lead-based paint, PCB containing lights and drums with unknown contents on the site. A Data Summary Table is provided at the end of this section.





	Soil Boring Locations with Sample Results in ppm	
	47 East Amherst Street	1/17/2023
	New York	Regan Development

\*\*All Samples were taken below the depth of asphalt.

**FIGURE 8 - 47 EAST AMHERST STREET - PHASE II ESA SOIL BORING SAMPLE LOCATIONS AND ANALYTICAL RESULTS**

TABLE 1  
SUMMARY OF SOIL ANALYTICAL RESULTS (all values in parts per million (PPM))

Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date								NYSDEC Soil Cleanup Objectives (SCOs)					
	BH1	BH2	BH3	BH4	BH5	BH6	BH7	BH8	Unrestricted	Residential	Restricted Residential	Commerical	Industrial	
	2-4	1-2	1-2	1-2	1-2	1	0.5-1	1-3						
	1/17/2023													
	METALS/INORGANICS													
Arsenic	20	18.5	8.4	2.8	9.0	5.4	13.6	15.4	13	16	16	16	16	
Barium	40	400	78.8	29.4	397	74.1	391	101	410	410	410	410	10,000	
Beryllium	0.63	1.30	0.5	0.24	3.4	0.78	1.90	1.30	4.4	8.8	43	670	750	
Cadmium	0.35	0.5	0.6	0.26	0.4	0.55	0.31	0.30	2.5	2.5	2.5	3.7	4.4	
Chromium	21.2	23.2	12.4	7.5	204	17.3	59.7	12.0	30	30	110	1,700	2,000	
Copper	18.3	229 F2	42.9	15.2	31.8	9.7	25.4	24.0	50	280	280	280	10,000	
Lead	46	293 F2	139.0	27.9	107	21.6	71	39	63	400	400	1,000	3,900	
Manganese	386 B	359 B	349 B	142 B	213 B	1920 B	203	234 B	1,600	2,000	2,000	10,000	10,000	
Mercury	0.30 B	0.44	0.14 B	0.19 B	.054 B	.065 B	0.085	0.034 B	0.18	0.26	0.26	1.1	1.1	
Nickel	24.2	18.1	18.3	7.5	64.7	29.9	30.9	20.3	30	44	210	320	3,400	
Silver	ND	ND	ND	ND	0.36 J	ND	0.28	ND	2	22	110	1,700	2,000	
Zinc	43	160 F1	95.7	36.3	36.7	46.3	39.3	23.7	109	1,300	6,600	10,000	10,000	
	SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)													
Acenaphthene	ND	ND	0.31 J	ND	ND	ND	2.5	0.031 J	20	100	100	500	1,000	
Acenaphthylene	ND	ND	ND	ND	ND	ND	1.4 J	ND	100	100	100	500	1,000	
Anthracene	ND	ND	ND	ND	ND	ND	9.6	0.89 J	100	100	100	500	1,000	
Benzo(a)anthracene	0.17 J	0.99 J	1.6 J	0.35 J	ND	ND	18	0.3	1	1	1.4	37	37	
Benzo(a)pyrene	0.17 J	1.0 J	1.5 J	0.34 J	ND	ND	16	0.33	1	1	1	3.7	3.7	
Benzo(b)fluoranthene	0.2	1.4 J	2.00	0.51 J	ND	ND	16	0.38	1	1	1.4	37	37	
Benzo(g,h,i)perylene	0.1 J	0.68 J	.98 J	0.34 J	ND	ND	10	0.27	0.64	1.2	4.9	47	78	
Benzo(k)fluoranthene	0.079 J	0.46 J	.71 J	0.19 J	ND	ND	8.90	0.19 J	0.8	1.2	4.9	47	78	
Chrysene	0.18 J	1.2 J	1.7 J	0.38 J	ND	ND	16.0	0.34	1	1.2	4.9	47	78	
Dibenz(a,h)anthracene	ND	ND	ND	ND	ND	ND	2.70	0.07 J	0.33	0.33	0.33	3.7	3.7	
Dibenzofuran	ND	ND	ND	ND	ND	ND	1.9	0.029 J	2.1	4.2	18	180	290	
Fluoranthene	0.4	3.0	4	0.78 J	ND	ND	37	1	85	100	100	500	1,000	
Fluorene	ND	ND	0.32 J	ND	ND	ND	3.8	.025 J	30	100	100	500	1,000	
Indeno(1,2,3-cd)pyrene	0.096 J	0.58 J	0.92 J	0.27 J	ND	ND	9.1	0.23	0.5	0.5	1.4	37	37	
Naphthalene	ND	ND	ND	ND	ND	ND	ND	ND	12	84	100	500	1,000	
Phenanthrene	0.17 J	2.9	3.7	0.43 J	ND	ND	30	0.45	1.1	1.2	4.9	47	78	
Pyrene	0.31		3.1	0.6 J	ND	ND	29	0.48	64	100	100	500	1,000	

ND Analyte not detected (values in parts per million ppm)  
- Not Applicable or sample not tested for this  
analyte  
J Estimated Concentration  
B Anaalyte detected in method blank  
K Result is reported as Benzo(b)fluoranthene  
E Results exceeded calibration range  
T Result is Tentatively Identifies Compound and an estimated  
value

Analyte detected  
Reported concentration greater than or equal to the NYSDEC Unrestricted SCO  
Reported concentration greater than or equal to the NYSDEC Residential SCO  
Reported concentration greater than or equal to the NYSDEC Restricted Residential SCO  
Reported concentration greater than or equal to the NYSDEC Commercial SCO  
Reported concentration greater than or equal to the NYSDEC Industrial SCO



**TABLE 1**  
**SUMMARY OF SOIL ANALYTICAL RESULTS**

Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date								NYSDEC Soil Cleanup Objectives (SCOs)				
	BH9 1-2	BH10 1-2	BH11 No Sample	BH12 1-2	BH13 1-2	BH14 2-3	BH15 1-2	BH16 1-3	Unrestricted	Residential	Restricted Residential	Commerical	Industrial
	1/17/2023												
METALS/INORGANICS													
Arsenic	3.0	1.2 J		1.2 J	10.1	4.8	52.5	11.3	13	16	16	16	16
Barium	20.4	5.3		5.3	69	171	89.4	54.3	410	410	410	410	10,000
Beryllium	0.19 J	0.098 J		0.73	0.86		1.70	0.53	4.4	8.8	43	670	750
Cadmium	0.87	0.24		0.55	1.10	0.87 J	0.63	0.15 J	2.5	2.5	2.5	3.7	4.4
Chromium	16.9	3.7		23.8	16.6	7.2	20.5	6.9	30	30	110	1,700	2,000
Copper	18.1	4.9 J		42.0	39.1	17.0	102.0	31.8	50	280	280	280	10,000
Lead	175.0	18.3		109.0	125	29	141.0	12.6	63	400	400	1,000	3,900
Manganese	140 B	63 B		271 B	270 B	394 B	152 B	85.1 B	1,600	2,000	2,000	10,000	10,000
Mercury	0.042 B	0.014 JB		0.10	0.27	0.069	0.067	0.064	0.18	0.26	0.26	1.1	1.1
Nickel	11.4	4.2 J		28.6	24.4	9.3	37.4	14.5	30	44	210	320	3,400
Silver	ND	ND		ND	ND	ND	0.50 J	ND	2	22	110	1,700	2,000
Zinc	99.6	18.6		92	187	21.5	103	17.7	109	1,300	6,600	10,000	10,000
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)													
Benzo(a)anthracene	16 J	9.7 J		0.46 J	1.4 J	1.1	0.26 J	0.16 J	1	1	1.4	37	37
Benzo(a)pyrene	22	12 J		0.77 J	1.4 J	1.2	0.29 J	0.19	1	1	1	3.7	3.7
Benzo(b)fluoranthene	26	15 J		1 J	1.4 J	1.6	0.34 J	0.24	1	1	1.4	37	37
Benzo(g,h,i)perylene	17 J	11 J		0.79 J	1 J	1	0.20 J	0.13 J	0.64	1.2	4.9	47	78
Benzo(k)fluoranthene	14 J	7.6 J		0.4 J	0.84 J	0.54 J	ND	0.067 J	0.8	1.2	4.9	47	78
Chrysene	19	12 J		ND	1.7 J	1.4	0.27 J	0.17 J	1	1.2	4.9	47	78
Dibenz(a,h)anthracene	5 J	ND		ND	ND	0.31 J	ND	0.041 J	0.33	0.33	0.33	3.7	3.7
Dibenzofuran	ND	ND		ND	ND	ND	ND	ND	2.1	4.2	18	180	290
Fluoranthene	21	19		1 J	2.8	1.9	0.51 J	0.25	85	100	100	500	1,000
Fluorene	ND	ND		ND	ND	ND	ND	ND	30	100	100	500	1,000
Indeno(1,2,3-cd)pyrene	16 J	8.8 J		0.7 J	0.86 J	0.88 J	0.20 J	0.12 J	0.5	0.5	1.4	37	37
Naphthalene	ND	ND		ND	ND	ND	ND	ND	12	84	100	500	1,000
Phenanthrene	ND	5.3 J		0.37 J	2.7	0.75 J	0.33 J	0.15 J	1.1	1.2	4.9	47	78
Pyrene	17 J	15 J		0.81 J	3.1	1.5	0.41 J	0.25	64	100	100	500	1,000

Notes: All units in parts per million (ppm)

ND Analyte not detected

- Not Applicable or sample not tested for this analyte

J Estimated Concentration

B Analyte detected in method blank

K Result is reported as Benzo(b)fluoranthene

E Results exceeded calibration range

T Result is Tentatively Identifies Compound and an estimated value

	Analyte detected
	Reported concentration greater than or equal to the NYSDEC Unrestricted SCO
	Reported concentration greater than or equal to the NYSDEC Residential SCO
	Reported concentration greater than or equal to the NYSDEC Restricted Residential SCO
	Reported concentration greater than or equal to the NYSDEC Commercial SCO
	Reported concentration greater than or equal to the NYSDEC Industrial SCO

**TABLE 1**  
**SUMMARY OF SOIL ANALYTICAL RESULTS**

Parameter Tested	BE3 Phase II Report February 2023 - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date				NYSDEC Soil Cleanup Objectives (SCOs)				
	BH-17	BH-18			Unrestricted	Residential	Restricted	Commerical	Industrial
	1-2	1-3		Residential					
	1/17/2023								
METALS/INORGANICS									
Arsenic	11.8	7.5			13	16	16	16	16
Barium	62.4	77			410	410	410	410	10,000
Beryllium	0.56	0.56			4.4	8.8	43	670	750
Cadmium	0.47	0.34			2.5	2.5	2.5	3.7	4.4
Chromium	10.7	12.2			30	30	110	1,700	2,000
Copper	35.7	26.2			50	280	280	280	10,000
Lead	88	77.2			63	400	400	1,000	3,900
Manganese	120 B	198 B			1,600	2,000	2,000	10,000	10,000
Mercury	0.15	0.097			0.18	0.26	0.26	1.1	1.1
Nickel	15.5	15.9			30	44	210	320	3,400
Zinc	75	92.4			109	1,300	6,600	10,000	10,000
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)									
Acenaphthene	ND	0.079 J			20	100	100	500	1,000
Acenaphthylene	ND	0.041 J			100	100	100	500	1,000
Anthracene	ND	0.19 J			100	100	100	500	1,000
Benzo(a)anthracene	0.84 J	0.55			1	1	1.4	37	37
Benzo(a)pyrene	1.3	0.55			1	1	1	3.7	3.7
Benzo(b)fluoranthene	1.7	0.57			1	1	1.4	37	37
Benzo(g,h,i)perylene	1.4	0.4			0.64	1.2	4.9	47	78
Benzo(k)fluoranthene	0.76 J	0.33			0.8	1.2	4.9	47	78
Chrysene	1.1	0.56			1	1.2	4.9	47	78
Dibenz(a,h)anthracene	0.29 J	0.099 J			0.33	0.33	0.33	3.7	3.7
Dibenzofuran	ND	0.056			2.1	4.2	18	180	290
Fluoranthene	1.7	1.4			85	100	100	500	1,000
Fluorene	ND	0.063 J			30	100	100	500	1,000
Indeno(1,2,3-cd)pyrene	1.1	0.36			0.5	0.5	1.4	37	37
Naphthalene	ND	0.043 J			12	84	100	500	1,000
Phenanthrene	0.53 J	1.0			1.1	1.2	4.9	47	78
Pyrene	1.3	1.1			64	100	100	500	1,000

Notes: All units in parts per million (ppm)

- ND Analyte not detected
- Not Applicable or sample not tested for this analyte
- J Estimated Concentration
- B Analyte detected in method blank
- K Result is reported as Benzo(b)fluoranthene
- E Results exceeded calibration range

	Analyte detected
	Reported concentration greater than or equal to the NYSDEC Unrestricted SCO
	Reported concentration greater than or equal to the NYSDEC Residential SCO
	Reported concentration greater than or equal to the NYSDEC Restricted Residential SCO
	Reported concentration greater than or equal to the NYSDEC Commercial SCO
	Reported concentration greater than or equal to the NYSDEC Industrial SCO



**SOIL DATA SUMMARY TABLE – 47 EAST AMHERST STREET SITE**

<b>Analytes</b>	<b>Detections Greater Than Commercial SCOs</b>	<b>Detections Greater Than Restricted Residential SCO</b>	<b>Maximum Detection (ppm)</b>	<b>SCOs  Restricted Res/Commercial</b>	<b>Depth (ft bgs)</b>
Benzo(a)anthracene	0	5	18	1.4/37	0.5-2
Benzo(a)pyrene	3	8	22	1/3.7	0.5-3
Benzo(b)fluoranthene	0	8	26	1.4/37	0.5-3
Benzo(k)fluoranthene	0	3	14	4.9/47	0.5-2
Indeno(1,2,3cd)pyrene	0	3	16	1.4/37	0.5-2
Dibenz(a,h)anthracene	1	2	5	0.33/3.7	0.5-2
Chrysene	0	3	19	4.9/47	0.5-2
Benzo(g,h,i)perylene	0	3	17.1	4.9/47	0.5-2
Phenanthrene	0	2	30	4.9/47	0.5-2
mercury	0	3	0.44	0.26/1.1	2-4
Chromium	0	1	204	110/1700	1-2
arsenic	1	1	57.5	16/16	0-1

ATTACHMENT E

**SECTION V: REQUESTOR INFORMATION**

**NYSDOS Corporation & Business Entity**



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



## **SECTION V – Requester Information**

The Requestor, AMHERST COMMONS LLC. is a corporation authorized from NYS Department of State to conduct business in NYS – refer to the attached entity printout.

Larry Regan is the Chief Executive Officer and other members of AMHERST COMMONS LLC are as follows:

- Gabe Regan
- Jeremy Regan
- Ken Regan

Investigation, assessment and remedial workplans, reports and other documents will be prepared for the Requestor by Brydges Engineering in Environment & Energy (BE3). BE3 is a New York State Licensed Professional Engineering firm meeting the requirements of Section 7210 of the Education Law to provide professional engineering services in the State of New York (Certification number 0019059) and is authorized to practice engineering in New York State. All documents will be certified by a New York State licensed professional engineer.

**NEW YORK STATE DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS, STATE RECORDS AND UNIFORM COMMERCIAL CODE  
FILING RECEIPT**

**ENTITY NAME :** AMHERST COMMONS LLC  
**DOCUMENT TYPE :** ARTICLES OF ORGANIZATION  
**ENTITY TYPE :** DOMESTIC LIMITED LIABILITY COMPANY

**DOS ID :** 6791313  
**FILE DATE :** 04/05/2023  
**FILE NUMBER :** 230405002541  
**TRANSACTION NUMBER :** 202304050002417-1861087  
**EXISTENCE DATE :** 04/05/2023  
**DURATION/DISSOLUTION :** PERPETUAL  
**COUNTY :** WESTCHESTER



**SERVICE OF PROCESS ADDRESS :** AMHERST COMMONS LLC  
1055 SAW MILL RIVER ROAD, SUITE 204  
ARDSLEY, NY, 10502, USA

**ELECTRONIC SERVICE OF PROCESS  
EMAIL ADDRESS :** FERN@REGANDEVELOPMENT.COM

**FILER :** CHRISTOPHER J. BABCOCK, ESQ.  
CANNON HEYMAN & WEISS, LLP, 54 STATE STREET, 5TH  
FLOOR  
ALBANY, NY, 12207, USA

**SERVICE COMPANY :** CANNON HEYMAN & WEISS, LLP  
**SERVICE COMPANY ACCOUNT :** HN

*You may verify this document online at :* <http://ecorp.dos.ny.gov>  
**AUTHENTICATION NUMBER :** 100003265066

<b>TOTAL FEES:</b>	<b>\$210.00</b>	<b>TOTAL PAYMENTS RECEIVED:</b>	<b>\$210.00</b>
<b>FILING FEE:</b>	<b>\$200.00</b>	<b>CASH:</b>	<b>\$0.00</b>
<b>CERTIFICATE OF STATUS:</b>	<b>\$0.00</b>	<b>CHECK/MONEY ORDER:</b>	<b>\$0.00</b>
<b>CERTIFIED COPY:</b>	<b>\$10.00</b>	<b>CREDIT CARD:</b>	<b>\$0.00</b>
<b>COPY REQUEST:</b>	<b>\$0.00</b>	<b>DRAWDOWN ACCOUNT:</b>	<b>\$210.00</b>
<b>EXPEDITED HANDLING:</b>	<b>\$0.00</b>	<b>REFUND DUE:</b>	<b>\$0.00</b>



**STATE OF NEW YORK  
DEPARTMENT OF STATE**

I hereby certify that the annexed copy for AMHERST COMMONS LLC, File Number 230405002541 has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany,  
on April 05, 2023.



*Brendan C. Hughes*

Brendan C. Hughes  
Executive Deputy Secretary of State

**ARTICLES OF ORGANIZATION  
OF  
AMHERST COMMONS LLC  
Under Section 203 of the Limited Liability Company Law**

THE UNDERSIGNED, being a natural person of at least eighteen (18) years of age, and acting as the organizer of the limited liability company hereby being formed under Section 203 of the Limited Liability Company Law of the State of New York certifies that:

- FIRST: The Name of the limited liability company is: **AMHERST COMMONS LLC**
- SECOND: To engage in any lawful act or activity within the purposes for which limited liability companies may be organized pursuant to Limited Liability Company Law provided that the limited liability company is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without such consent or approval first being obtained.
- THIRD: The county, within this state, in which the office of the limited liability company is to be located is **WESTCHESTER**
- FOURTH: The Secretary of State is designated as agent of the limited liability company upon whom process against the limited liability company may be served. The post office address to which the Secretary of State shall mail a copy of any process against the limited liability company served upon the Secretary of State by personal delivery is:  
**AMHERST COMMONS LLC  
1055 SAW MILL RIVER ROAD  
SUITE 204  
ARDSLEY, NY 10502**  
The email address to which the Secretary of State shall email a notice of the fact that process against the limited liability company has been served electronically upon the Secretary of State is:  
**FERN@REGANDEVELOPMENT.COM**

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

**ALAN M. JEZIERSKI** (Signature)



---

ALAN M. JEZIERSKI, ORGANIZER

Filed by:

CHRISTOPHER J. BABCOCK, ESQ.  
CANNON HEYMAN & WEISS, LLP  
54 STATE STREET, 5TH FLOOR  
ALBANY, NY 12207

ATTACHMENT F

**SECTION VI: REQUESTOR ELIGIBILITY INFORMATION**

**Volunteer Statement**



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



## **SECTION VI – Requestor Eligibility**

The Requestor, AMHERST COMMONS LLC, qualifies as a “Volunteer” in accordance with NY ECL27-1405(1)(b) and 6NYCRR 375-3.2(b)(2). The Volunteer Requestor has no relationship to the current series of owners and operators and has never utilized the premises other than developing re-development concepts for the property.

Further investigation in 2023 was completed with permission of the current owners in preparation for redevelopment studies and to identify any further remedial concerns.

The Requestor became involved with the property after the disposal or discharge of contaminants and has no relationship with the previous owners/operators of the Site; and is entitled to Volunteer status under NY ECL27-1405(1)(b).

Attached is a letter from the current site owner authorizing site access sufficient to complete remediation to the NYSDEC and the requestor and 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.

April 14, 2023

NYSDEC  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

**Re:** Property Access Agreement - NYSDEC Brownfield Cleanup Program –  
AMHERST COMMONS LLC, 47 East Amherst Street site, Buffalo, NY

To whom it may concern:

Please be advised that I am the owner of the above-referenced property (the "Site"). As owner of the Site, I am aware of and acknowledge that AMHERST COMMONS LLC will be filing an application to enter the NYSDEC Brownfield Cleanup Program (the "BCP") and, after acceptance into the BCP, will be executing a Brownfield Cleanup Agreement ("BCA") with the NYSDEC for environmental investigation and remediation of the Site.

As owner of the Site, I authorize AMHERST COMMONS LLC (and any of its designated contractors and consultants) unlimited access to the Site to perform the required work related to and necessary to secure a Certificate of Completion under the BCP, including placing an Environmental Easement on the Site, provided all activities are completed in accordance with any DEC requirements and the provisions of the BCP and the BCA.

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

Sincerely, 

Hormoz Mansouri - President  
47 East Amherst, LLC  
2060 Sheridan Dr.  
Buffalo, NY 14223-1470  
(716) 876 - 4669



## ATTACHMENT G

### SECTION IX: CURRENT PROPERTY OWNER and OPERATOR INFORMATION



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

**SECTION IX – Current/Previous Property Owner Operator Information**

<b>PREVIOUS OWNERS/OPERATORS</b>	<b>LAST KNOWN ADDRESS/TELEPHONE</b>	<b>USE</b>	<b>RELATIONSHIP TO REQUESTOR</b>
1916 – 1935 Buffalo Cement Co.	Unknown- not in existence	Manufacturing of cement products	None
1950 – 1986 Bowling Alley (no owner specified)	Unknown	Recreation/bowling	None
1994 – Amherst Bowling Center and Pro shop	Unknown	Recreation/bowling	None
Prior 2004 – 47 E. Amherst INC.	Unknown	Recreation/bowling	None
2004 - 2007 A.S. Amherst Holdings, LLC	2060 Sheridan Dr. Buffalo, NY 716-876-4669	Unoccupied/vacant property	None
2007- 2014 – HLM Holdings, LLC	2060 Sheridan Dr. Buffalo, NY 14223 716-876-4669	Unoccupied/vacant property	None
2014 – present 47 East Amherst, LLC	2060 Sheridan Dr. Buffalo, NY 14223 716-876-4669	Unoccupied/vacant property	None

## ATTACHMENT H

### **SECTION XI: SITE CONTACT LIST INFORMATION and Document Repository Letter**



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



## **SECTION XI – Site Contact List and Doc Repository Letter**

### **Site Contact List**

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

#### ***Erie County Contacts:***

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

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

Erie County Legislator  
Lisa Chimera - District 3  
1701 Hertel Avenue  
Buffalo, NY 14216

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

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

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

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

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

***City of Buffalo Contacts:***

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

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

Joseph Golombek, Jr.  
Council Member  
North District  
65 Niagara Sq., Rm. 1502  
Buffalo, NY 14202

***Supplier of Potable Water:***

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

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

***Local News Media:***

Buffalo News  
1 News Plaza  
Buffalo, NY 14240

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

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

WKBW News Channel 7  
7 Broadcast Plaza  
Buffalo, NY 14202

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

Business First  
465 Main Street  
Buffalo, NY 14203-1793

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

WNED, Environmental News Desk  
P.O. Box 1263, Horizons Plaza  
Buffalo, NY 14240

***Nearby Schools and Day Cares:***

Primary Hall Preparatory Elementary  
2408 Main St,  
Buffalo, NY 14214  
(716) 597-4373

Buffalo United Charter School  
325 Manhattan St,  
Buffalo, NY 14214  
(716) 835-9862

Middle/Early College-High school  
2885 Main St,  
Buffalo, NY 14214  
(716) 816-4010

PS 61 Arthur Eve School of Distinction  
453 Leroy Ave.  
Buffalo, NY 14215  
(716) 816-3400

St Marks School  
399 Woodward Ave,  
Buffalo, NY 14214  
(716) 836-1191

***Adjacent Property Owners:***



2675 Main Street  
James Wojtowicz TIC  
8621 Clarence Center Road  
Clarence, NY 14032

2671 Main Street  
Amherst Station Housing  
Buffalo, NY 14214

35 Pannell Street  
HAM 2 HAZ LLC  
45 Pannell Street  
Buffalo, NY 14214

45 Pannell Street  
HAM 2 HAZ LLC  
Buffalo, NY 14214

212 Holden Street  
212 Holden LLC  
2060 Sheridan Drive  
Buffalo, NY 14223

2 Bennett Village Terrace.  
James A. Labady  
149 Indiana Ave.  
Providence, RI 02905

85 East Amherst Street.  
Chesed Properties Buffalo LLC  
2 Symphony Circle  
Buffalo, NY. 14201

62 East Amherst Street  
Fayes Almuganahi  
1380 Electric Avenue  
Lackawanna, NY. 14218

**Document Repository – see attached letter**  
Buffalo & Erie County Public Library  
1 Lafayette Square  
Buffalo, NY 14203


## RE: Document Repository - 47 East Amherst Street Site (AMHERST COMMONS LLC)

April Tompkins <tompkinsa@buffalolib.org>

Mon 4/17/2023 1:59 PM

To: John Berry <jberry@be3corp.com>

Cc: Jason Brydges <jbrydges@be3corp.com>; Peter Gorton <pgorton@be3corp.com>

 1 attachments (450 KB)

A - Amherst St Lib Repository Ltr 4-17-23.pdf;

**CAUTION:** This email originated from outside of the organization.

Good afternoon John,

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 **47 East Amherst Street, Buffalo, New York 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 distribute 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 anytime by replying to this e-mail or by phone at 716-858-7129. Thank you.

Regards,  
April

---

**From:** John Berry <jberry@be3corp.com>  
**Sent:** Monday, April 17, 2023 1:37 PM  
**To:** April Tompkins <tompkinsa@buffalolib.org>  
**Cc:** Jason Brydges <jbrydges@be3corp.com>; Peter Gorton <pgorton@be3corp.com>  
**Subject:** Document Repository - 47 East Amherst Street Site (AMHERST COMMONS LLC)

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

April,

We would like to request that the Buffalo & Erie County Library be a document repository for the 47 East Amherst Street (AMHERST COMMONS LLC) Brownfield site. I have attached the letter we need pursuant to the Brownfield application to NYSDEC. An email response by you has been sufficient for, and accepted by NYSDEC, for past and recent requests in place of the attached document requiring a signature.

Please let me know if you have any questions and thank you for your past assistance in being a document repository on our other applications.

Again, Thankyou

John

**John B. Berry, PE**



**BRYDGES ENGINEERING**  
IN ENVIRONMENT AND ENERGY, DPC

**960 Busti Avenue**  
**Suite B-150**  
**Buffalo, New York, 14213**  
**Office: 716.249.6880**  
**Cell: 801.870.0285**