

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
BROWNFIELD CLEANUP PROGRAM  
APPLICATION FORM REVISION 15 - May 2023**

**Clayton Street Residents  
127 Clayton Street  
Buffalo, New York**



**BCP # C915409**

**Submitted for:**

**ELMWOOD FOREST LLC  
366 Elmwood Avenue  
Buffalo, New York 14222**

**Submitted by:  
Niagara Engineering DPC**

**Rev October 2024**

## TABLE OF CONTENTS

### **BCP APPLICATION – ELECTRONIC/Compressed Files via Email – FILE 1**

BCP Application Form – Completed

Pages 1-10

### **APPENDIX & FIGURES –**

- A – Section I: Property Information
- B – Section II: Project Description
- C – Section III: Land Use Factors
- D – Section IV: Property's Environmental History
- E – Section V: Requestor Information
- F – Section VI: Requestor Eligibility
- G – Section VII: Requester Contact Information
- H – Section VIII: Program Fee
- I – Section IX: Current Property Owner and Operator Information
- J – Section X: Property Eligibility Information
- K – Section XI: Site Contact List
- L – Section XII : Statement of Certification and Signature

- Figure 1A – Tax Map
- Figure 1B – Site Survey
- Figure 1C – Site Plan on Survey
- Figure 2 – Project Location Topo
- Figure 3 – Site Map
- Figure 4 – Site Map & Property Location
- Figure 5 – Site Map & Adjacent Property Owners
- Figure 6 – En-Zone Map
- Figure 7 – Disadvantaged Communities Map
- Figure 8 – Zoning Map
- Figure 9 – Phase II Results & Exceedances Map

### **SUBSURFACE ESA – ELECTRONIC VERSION ONLY ON DVD – FILE 2**

Referenced in Section IV: Property's Environmental History – Previous Environmental Reports (included as separate, individual PDF files)



**SUBMITTAL INSTRUCTIONS:**

1. Compile the application package in the following manner:
  - a. one file in non-fillable PDF of the application form plus supplemental information, excluding the previous environmental reports and work plans, if applicable;
  - b. one individual file (PDF) of each previous environmental report; and,
  - c. one file (PDF) of each work plan being submitted with the application, if applicable.
2. Compress all files (PDFs) into one zipped/compressed folder.
3. Submit the application to the Site Control Section either via email or ground mail, as described below.

**Please select only ONE submittal method – do NOT submit both email and ground mail.**

a. VIA EMAIL:

- Upload the compressed folder to the NYSDEC File Transfer Service. (<http://fts.dec.state.ny.us/fts>) or another file-sharing service.
- Copy the download link into the body of an email with any other pertinent information or cover letter attached to the email.
- Subject line of the email: “BCP Application NEW - \*Proposed Site Name\*”
- Email your submission to [DESiteControl@dec.ny.gov](mailto:DESiteControl@dec.ny.gov) – do NOT copy Site Control staff.

b. VIA GROUND MAIL:

- Save the application file(s) and cover letter to an external storage device (e.g., thumb drive, flash drive). Do NOT include paper copies of the application or attachments.
- Mail the external storage device to the following address:  
Chief, Site Control Section  
Division of Environmental Remediation  
625 Broadway, 11<sup>th</sup> Floor  
Albany, NY 12233-7020

**PROPOSED SITE NAME:** Clayton Street Residences

**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: BCP # C915409

☒

Yes

☐

No



BCP App Rev 15 – May 2023

**SECTION I: Property Information**

**Please Refer To Appendix A**

PROPOSED SITE NAME **Clayton Street Residences**

ADDRESS/LOCATION **127 Clayton Street**

CITY/TOWN **Buffalo**

ZIP CODE **14207**

MUNICIPALITY (LIST ALL IF MORE THAN ONE) **City of Buffalo**

COUNTY **Erie**

SITE SIZE (ACRES) **1.77**

LATITUDE

LONGITUDE

42° 57' 19" N 78° 53' 13" W

Provide tax map information for all tax parcels included within the proposed site boundary below. If a portion of any lot is to be included, please indicate as such by inserting "p/o" in front of the lot number in the appropriate box below, and only include the acreage for that portion of the tax parcel in the corresponding acreage column.

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

**See Figures 1(A-C), and 2**

Parcel Address	Section	Block	Lot	Acreage
127 Clayton Street	77.52	4	1.1	1.77
Please Refer To Appendix A				

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. **Refer to Figure 1A Tax Map, Figure 1B & 1C- Site Survey/Plan and City letters in Appendix A**

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

2. Is the required property map included with the application?

(Application will not be processed without a map)

**See Figures 3, 4 & 5**

<input checked="" type="radio"/>	<input type="radio"/>
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3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See [DEC's website](#) for more information)

If yes, identify census tract: 36029005600

Percentage of property in En-zone (check one): 0% ☐ 1-49% ☐ 50-99% ☐ 100% ☒

**See Figure 6**

<input checked="" type="radio"/>	<input type="radio"/>
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4. Is the project located within a disadvantaged community?

See application instructions for additional information.

**See Figure 7**

<input checked="" type="radio"/>	<input type="radio"/>
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5. Is the project located within a NYS Department of State (NYS DOS) Brownfield Opportunity Area (BOA)? See application instructions for additional information.

<input type="radio"/>	<input checked="" type="radio"/>
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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"/>
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SECTION I: Property Information (CONTINUED)		Y	N
7. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application?		<input type="radio"/>	<input checked="" type="radio"/>
8. Has the property previously been remediated pursuant to Titles 9, 13 or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? If yes, attach relevant supporting documentation.		<input type="radio"/>	<input checked="" type="radio"/>
9. Are there any lands under water? If yes, these lands should be clearly delineated on the site map.		<input type="radio"/>	<input checked="" type="radio"/>
10. Has the property been the subject of or included in a previous BCP application? If yes, please provide the DEC site number: _____		<input type="radio"/>	<input checked="" type="radio"/>
11. Is the site currently listed on the Registry of Inactive Hazardous Waste Disposal Sites (Class 2, 3, or 4) or identified as a Potential Site (Class P)? If yes, please provide the DEC site number: _____ Class: _____		<input type="radio"/>	<input checked="" type="radio"/>
12. Are there any easements or existing rights-of-way that would preclude remediation in these areas? If yes, identify each here and attach appropriate information.  <div style="display: flex; justify-content: space-between;"> <div><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? <span style="border: 1px solid red; padding: 2px;">See Appendix A</span>		<input checked="" type="radio"/>	<input type="radio"/>
<b>Note: Questions 15 through 17 below pertain ONLY to proposed sites located within the five counties comprising New York City.</b>			
15. Is the Requestor seeking a determination that the site is eligible for tangible property tax credits? If yes, Requestor must answer the Supplemental Questions for Sites Seeking Tangible Property Credits Located in New York City ONLY on pages 11-13 of this form.		<input type="radio"/>	<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

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

NOTE: If the project is proposed to start at the remediation stage, at a minimum, a Remedial Investigation Report (RIR) must be included, resulting in a 30-day public comment period. If an Alternatives Analysis and Remedial Action Work Plan (RAWP) are also included (see [DER-10, Technical Guidance for Site Investigation and Remediation](#) for further guidance), then a 45-day public comment period is required.

2. If a final RIR is included, does it meet the requirements in ECL Article 27-1415(2)?

☐ Yes ☐ No ☒ N/A

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

☐ RIWP ☐ RAWP ☐ IRM ☒ No

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

Is this information attached?

☒ Yes ☐ No

**Refer to Appendix B**

## SECTION III: Land Use Factors

1. What is the property's current municipal zoning designation? D-R (Residential Campus)

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

Residential ☒ Commercial ☒ Industrial ☐

**Please refer to Appendix C and Figure 8**

3. Current use (select all that apply):

Residential ☐ Commercial ☐ Industrial ☐ Recreational ☐ Vacant ☒

**Refer to Appendix C**

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?

**Refer to Appendix C**

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

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

Residential ☒ Commercial ☒ Industrial ☐

**Refer to Appendix C**

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

N/A ☐

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

Is this summary attached? **Refer to Appendix C**

<input checked="" type="radio"/>	<input type="radio"/>
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7. Is the proposed post-remediation use a renewable energy facility?

See application instructions for additional information.

<input type="radio"/>	<input checked="" type="radio"/>
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8. Do current and/or recent development patterns support the proposed use?

<input checked="" type="radio"/>	<input type="radio"/>
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9. Is the proposed use consistent with applicable zoning laws/maps?

Please provide a brief explanation. Include additional documentation if necessary.

**Refer to Appendix C**

<input checked="" type="radio"/>	<input type="radio"/>
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10. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans?

Please provide a brief explanation. Include additional documentation if necessary.

**Refer to Appendix C**

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

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:

3. For each impacted medium above, include a site drawing indicating:
  - Sample location
  - Date of sampling event
  - Key contaminants and concentration detected
  - For soil, highlight exceedances of reasonably anticipated use
  - For groundwater, highlight exceedances of 6 NYCRR part 703.5
  - For soil gas/soil vapor/indoor air, refer to the NYS Department of Health matrix and highlight exceedances that require mitigation

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? See Figure 9 ☒ YES ☐ NO

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

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

Other: Impacted fill from rail base and filling operations resulted in elevated metals and SVOCs (primarily PAHs) above industrial, commercial and restricted residential SCOs.

**SECTION V: Requestor Information**

NAME ELMWOOD FOREST, LLC

ADDRESS 366 ELMWOOD AVENUE

CITY/TOWN Buffalo

STATE NY

ZIP CODE 14222

PHONE (716) 583-0315

EMAIL aseres@caddrafting.com

	Y	N
1. Is the requestor authorized to conduct business in New York State (NYS)?	<input checked="" type="radio"/>	<input type="radio"/>
2. If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS DOS to conduct business in NYS, the requestor's name must appear, exactly as given above, in the <a href="#">NYS Department of State's Corporation &amp; Business Entity Database</a> . A print-out of entity information from the database must be submitted with this application to document that the requestor is authorized to conduct business in NYS. Is this attached? <span style="border: 1px solid red; padding: 2px;">Refer to attached NYS DOS Printout in Appendix E</span>	<input checked="" type="radio"/>	<input type="radio"/>
3. If the requestor is an LLC, a list of the names of the members/owners is required on a separate attachment. Is this attached? <span style="border: 1px solid red; padding: 2px;">Refer to Appendix E</span> N/A <input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
4. Individuals that will be certifying BCP documents, as well as their employers, must meet the requirements of Section 1.5 of <a href="#">DER-10: Technical Guidance for Site Investigation and Remediation</a> and Article 145 of New York State Education Law. Do all individuals that will be certifying documents meet these requirements? <span style="border: 1px solid red; padding: 2px;">Please refer to Appendix E</span> <b>Documents that are not properly certified will not be approved under the BCP.</b>	<input checked="" type="radio"/>	<input type="radio"/>

**SECTION VI: Requestor Eligibility**

If answering "yes" to any of the following questions, please provide appropriate explanation and/or documentation as an attachment. Please refer to Appendix F

	Y	N
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="radio"/>	<input checked="" type="radio"/>
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site?	<input type="radio"/>	<input checked="" type="radio"/>
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="radio"/>	<input checked="" type="radio"/>
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of (i) any provision of the ECL Article 27; (ii) any order or determination; (iii) any regulation implementing Title 14; or (iv) any similar statute or regulation of the State or Federal government?	<input type="radio"/>	<input checked="" type="radio"/>
5. Has the requestor previously been denied entry to the BCP? If so, please provide the site name, address, assigned DEC site number, the reason for denial, and any other relevant information regarding the denied application.	<input type="radio"/>	<input checked="" type="radio"/>
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?	<input type="radio"/>	<input checked="" type="radio"/>

## SECTION VI: Requestor Eligibility (CONTINUED)

7. Has the requestor been convicted of a criminal offense (i) involving the handling, storing, treating, disposing or transporting or contaminants; or (ii) that involved a violent felony, fraud, bribery, perjury, theft or offense against public administration (as that term is used in Article 195 of the Penal Law) under Federal law or the laws of any state?	<input type="radio"/> Y	<input checked="" type="radio"/> N
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of a false statement in connection with any document or application submitted to DEC?	<input type="radio"/>	<input checked="" type="radio"/>
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="radio"/>	<input checked="" type="radio"/>
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="radio"/>	<input checked="" type="radio"/>
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="radio"/>	<input checked="" type="radio"/>
12. THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405(1) BY CHECKING ONE OF THE BOXES BELOW:		
<b>PARTICIPANT</b> 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.	<b>VOLUNTEER</b> <input checked="" type="checkbox"/> A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.  NOTE: By 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.  <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>	
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"/>

Please refer to Appendix F

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

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

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

If the requestor is not the current owner, **proof of site access sufficient to complete remediation must be provided.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an environmental easement on the site.

Is this proof attached?



Yes



No



N/A

**Please refer to Appendix F****Note:** A purchase contract or lease agreement does not suffice as proof of site access.**SECTION VII: Requestor Contact Information****Please Also Refer to Appendix G**

REQUESTOR'S REPRESENTATIVE Akos Seres

ADDRESS 255 Great Arrow Avenue; Suite 102

CITY Buffalo

STATE New York

ZIP CODE 14207

PHONE (716) 583-0315

EMAIL aseres@caddrafting.com

REQUESTOR'S CONSULTANT (CONTACT NAME) Attiq Rahman

COMPANY Niagara Engineering DPC

ADDRESS 255 Great Arrow Avenue; Suite 102

CITY Buffalo

STATE New York

ZIP CODE 14207

PHONE (513) 633-2331

EMAIL attiqurrahman@gmail.com

REQUESTOR'S ATTORNEY (CONTACT NAME) Corey Auerbach

COMPANY Barclay Damon LLC

ADDRESS 200 Delaware Avenue - Suite 1200

CITY Buffalo

STATE New York

ZIP CODE 14202

PHONE (716) 858-3801

EMAIL cauerbach@barclaydamon.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 checked="" type="radio"/>	<input type="radio"/>
2. If yes, appropriate documentation to demonstrate financial hardship must be provided with the application. See application instructions for additional information. <div>Please refer to Appendix H</div>		
Is the appropriate documentation included with this application? N/A	<input type="radio"/>	<input checked="" type="radio"/>

**SECTION IX: Current Property Owner and Operator Information**

Please refer to Appendix I

CURRENT OWNER ELMWOOD FOREST, LLC

CONTACT NAME Anthony P. LoRusso

ADDRESS 366 Elmwood Avenue

CITY Buffalo

STATE NY

ZIP CODE 14222

PHONE (716) 583-0315

EMAIL aseres@caddrafting.com

OWNERSHIP START DATE 06-09-2021

CURRENT OPERATOR ELMWOOD FOREST, LLC

CONTACT NAME Mr. Akos Seres

ADDRESS 255 Great Arrow Ave

CITY Buffalo

STATE New York

ZIP CODE 14207

PHONE (716) 583-0315

EMAIL aseres@caddrafting.com

OPERATION START DATE 2021

**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 as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>
2. Is/was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Site pursuant to ECL 27-1305? If yes, please provide the DEC site number: _____ Class: _____	<input type="radio"/>	<input checked="" type="radio"/>

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

	Y	N
3. Is/was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility? If yes, please provide: Permit Type: _____ EPA ID Number: _____  Date Permit Issued: _____ Permit Expiration Date: _____	<input type="radio"/>	<input checked="" type="radio"/>
4. If the answer to question 2 or 3 above is YES, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? If yes, attach any available information related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filings and corporate dissolution documents.  <div style="text-align: right;">N/A <input checked="" type="radio"/></div>	<input type="radio"/>	<input type="radio"/>
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10? If yes, please provide the order number: _____	<input type="radio"/>	<input checked="" type="radio"/>
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum? If yes, please provide additional information as an attachment.	<input type="radio"/>	<input checked="" type="radio"/>

**SECTION XI: Site Contact List****Please Refer to Appendix K**

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

- The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
- Residents, owners, and occupants of the property and adjacent properties.
- Local news media from which the community typically obtains information.
- The public water supplier which services the area in which the property is located.
- Any person who has requested to be placed on the contact list.
- The administrator of any school or day care facility located on or near the property.
- The location of a document repository for the project (e.g., local library). **If the site is located in a city with a population of one million or more, add the appropriate community board as an additional document repository.** In addition, attach a copy of an acknowledgement from each repository indicating that it agrees to act as the document repository for the site.

## SECTION XII: Statement of Certification and Signatures

(By 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 President (title) of ELMWOOD FOREST, 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: 10/16/2024 Signature: Anthony LoRusso, President

Print Name: Anthony LoRusso

**PLEASE REFER TO THE APPLICATION COVER PAGE AND BCP APPLICATION INSTRUCTIONS FOR  
DETAILS OF PAPERLESS DIGITAL SUBMISSION REQUIREMENTS.**

## APPENDIX A

### Section I: Property Information

## Appendix A

### Application Section I: #14 Property Information

#### *Location*

The Clayton Street Residents project is located in the City of Buffalo, New York. Located in a mixed commercial/residential neighborhood, the property is currently vacant and is bound by Clayton Street to the west, rail lines to the north, residential property to the south and vacant land and a solar field to the east. The western side along Clayton Street is a long grass and weed covered field. The middle part of the property is tree covered and the eastern portion is soil/fill covered where trees were recently removed. Clayton Street is a small side street bounded in a larger area by Military Road to the west, Hinman Street to the north, Elmwood Avenue to the east, and Hertel Avenue to the south. The area is a typical northeast urban-suburban setting with residential streets, commercial establishments, rail and mall/strip plaza complexes.

The Clayton Street Residents (i.e., the Property) is 1.77-acres and is composed of the 127 Clayton Street Property:

Address	Tax ID (SBL)	Acreage
127 Clayton Street	77.52-4-1.1	1.77

Property information was obtained from the Erie County New York Interactive Mapping Viewer at:

[https://gis.erie.gov/Html5Viewer133/index.html?viewer=ErieCountyNY.HTML5\\_2\\_11\\_0](https://gis.erie.gov/Html5Viewer133/index.html?viewer=ErieCountyNY.HTML5_2_11_0). This information is further refined and described by the attached correspondence from the city which includes the following letters.

- A December 19, 2023 Letter from City of Buffalo to Barclay Damon LLP regarding a reconfiguration of the adjacent properties of 2030 Elmwood Avenue and 127 Clayton Street in which 127 Clayton was extended to include some of the 2030 property. In this letter the City of Buffalo Planning Board, at a meeting held December 18, 2023, considered the matter captioned above and determined that it meets the criteria for “**Approval**” within Section 496 of the Buffalo Code for a “Major Sub-Division”.
- An August 5, 2024 letter from Barclay Damon LLP to City of Buffalo 2030 regarding the Elmwood Avenue and 127 Clayton Street Major Subdivision – Final Plat Approval. This letter details the extension of 127 Clayton Street and subdivision of 2030 Elmwood Avenue. The letter identifies that the City of Buffalo Planning Board previously approved a multifamily development on 127 Clayton Street, inclusive of a small portion of the 2030 Elmwood Avenue property.

- A September 11, 2024 letter from the City of Buffalo to Barclay Damon LLP approving the subdivision.

Please find attached copies of these letters.

The Brownfield Cleanup Program (BCP) property is located about 425 yards west of the Tops Elmwood Avenue Plaza and about 1.2 miles east of the Niagara River near Riverside Park. Relatively flat, the property is slightly elevated from Clayton Street and the elevation ranges from 680 to 600 feet above sea level sloping slightly towards the west. The general middle of the parcels is located at latitude 42° 57' 19" N; Longitude 78° 53' 13" W.

#### *Current Site Features*

*Local area topography is generally level sloping slightly to the west and towards the Niagara River. Surface relief in the immediate vicinity of the subject properties is relatively uniform. The western side along Clayton Street is a long grass and weed covered field. The middle part of the property is tree covered and the eastern portion is soil/fill covered where trees were recently removed.*

#### *Current Zoning and Land Use*

The following table provides zoning and property class codes and descriptions (See also Figure 8- Zoning Map and attached Letters from the City of Buffalo/Barclay Damon LLP.

Address	Zoning	Description	Property Class	Description
127 Clayton Street	D-R	Residential Campus	340	Vacant

#### *Past Use of the Site*

The property has been vacant with the exception of some rail lines. The property may have been filled in the past.

#### *Site Geology and Hydrogeology*

The United States Department of Agriculture (USDA) Natural Resources Conservation Service soil survey map of Erie County describes the general soil type at the Site as Urban Land (Ud). Soils associated with Urban Land are characterized as miscellaneous areas in which 80% or more of the soil surface is covered by asphalt, concrete, buildings, or other impervious structures.

The project area is situated within the Erie Lake Plain physiographic province, one of the two physiographic provinces of Erie County (the Allegheny Plateau is the other). The lake plain province is located along Lake Erie and its topography is typical of an abandoned lakebed with little significant relief except for narrow ravines carved



by the area's streams. Although the project area is relatively flat, this topography is by no means natural. The current landscape is a result of nearly two centuries of alteration and development. The bedrock beneath the project area is Onondaga limestone, consisting of Middle Devonian age limestone and chert. It lies deeply buried beneath glacial deposits and no rock outcroppings are visible on the ground surface. This formation is notable for its chert nodules that were the primary prehistoric lithic resource used in western New York. Relatively flat, the bedrock underlying Erie County tilts to the southwest at approximately 50 ft (15 m) per mile.

The Site is located within the Lake Erie-Niagara River major drainage basin, which is typified by little topographic relief, except in the immediate vicinity of major drainage ways. In the Erie-Niagara Basin, the major areas of groundwater are within coarser overburden deposits, limestone, and shale bedrock. Groundwater flow in the area of the Site is likely westerly, towards the Niagara River, which is located west and flows to the north. Local groundwater flow is likely influenced by subsurface features, such as utilities, and localized subgrade development conditions.

Geologic information was obtained from <https://www.usgs.gov/>.

The Phase II ESA test trenches indicate that shallow subsurface conditions generally consisted of sandy clayey silt with some gravel fill with pieces of brick, cement, glass, clay pipe and cinder to about two (2) feet in most locations. Fill depths were deeper in the eastern portion and less in the existing tree line and in the southwest area. Brown to reddish brown clay was observed below 2-3 feet in most locations.

### *Environmental Assessment*

The history and use of the subject property suggest there were potential contaminants of concern associated with fill material and past area industrial/rail use. Potential contaminants include metals, polycyclic aromatic hydrocarbons (PAHs), petroleum related compounds, and possibly solvents. The Phase II Environmental Site Assessment (ESA) completed at the property indicated that there are urban fill conditions existing at the properties to at least two - four (4) feet below ground surface (bgs) resulting in target compounds (metals and SVOCs, primarily PAHs) above NYSDEC Industrial, Commercial and Restricted Residential SCOs. Water was encountered in on test trench at about 4 feet below ground surface.

Refer to the attached electronic copies of the Phase II ESA report.



BYRON W. BROWN  
Mayor

## CITY OF BUFFALO

City Planning Board  
65 Niagara Square, Room 901 City Hall  
Buffalo, NY 14202-3394



BRENDAN MEHAFFY, ESQ.  
Executive Director

December 19, 2023

Barclay Damon LLP  
The Avant Building  
200 Delaware Avenue  
Buffalo, NY 14202  
ATTN: Ari M. Goldberg

RE: 2030 Elmwood Avenue and 127 Clayton Street

Dear Ms. Goldberg,

The City of Buffalo Planning Board, at a meeting held December 18, 2023, considered the matter captioned above and determined that it meets the criteria for "**Approval**" within Section 496 of the Buffalo Code for a "Major Sub-Division".

This approval is valid for one-year from the date of approval.

Please note, additional applications, reviews and approvals may be required which include but are not limited to building permits, encroachment permits, and tree work permits, if required these must be submitted separately.

If you should have any further questions regarding the above, please feel free to contact the office at any time at 716-851-4533.

Sincerely,

John Fell, AICP  
Principal Planner

Cc: Planning Board File  
City Clerk  
Building Code Review

Ari M. Goldberg  
Counsel

August 5, 2024

**VIA HAND DELIVERY**  
**VIA ELECTRONIC MAIL**

Ms. Crystal Middleton  
Director of Planning and Zoning  
City of Buffalo – Planning Division  
65 Niagara Square  
Room 920  
Buffalo, NY 14202  
[cmiddleton@buffalony.gov](mailto:cmiddleton@buffalony.gov)

Re: 2030 Elmwood Avenue and 127 Clayton Street  
Major Subdivision – Final Plat Approval

Dear Ms. Middleton:

Barclay Damon LLP represents Solar Solutions of Upstate NY LLC (“Solar Solutions”) and Elmwood Forest LLC (“Elmwood Forest”) (collectively, “Applicants”). Solar Solutions is the record property owner of 2030 Elmwood Avenue, SBL 77.52-4-1.21 (“Property 1”). Elmwood Forest owns 127 Clayton Street, SBL 77.52-4-1.1 (“Property 2”) (collectively with Property 1, “Properties”). The Applicants propose subdividing the Properties to create three total lots and respectfully requests major subdivision – final plat approval from the Planning Board.

As the Planning Board may recall, Property 1 is 9.10 acres, industrially zoned D-IL, and previously impacted/disturbed. Property 1 is also landlocked, situated east of Property 2, south of rail tracks, and north of residences and north/west of commercial plazas. Access is taken from a recorded easement with the adjacent commercial plaza. Currently, Property 1 contains a 0.75 MW solar farm. Applicant is set to construct a 1.75 MWAC solar farm on the remainder of Property 1. The Planning Board also previously approved a multifamily development on Property 2, inclusive of a small portion of Property 1.

On November 27, 2023, Applicant applied to the Planning Board for a major subdivision for the Properties. On December 18, 2023, the Planning Board issued preliminary plat approval. On June 13, 2024, the Department of Public Works, Parks and Streets certified the Final Plat for the Properties. Now, in accordance with Unified Development Ordinance Section 11.5.6(c) and 11.5.8(c), Applicant is submitting the Final Plat to the Planning Board for final approval.

2030 Elmwood and 127 Clayton – Major Subdivision - Final Plat Approval  
August 5, 2024  
Page 2

Enclosed, please find the following Exhibits:

Exhibit A: Aerial Photo of Properties & Vicinity  
Exhibit B: Zoning Map excerpt showing Properties  
Exhibit C: Tax Map Showing Properties  
Exhibit D: Legal Description of Properties as subdivided  
Exhibit E: Final Plat Map  
Exhibit F: Preliminary Plat Approval  
Exhibit G: Department of Public Works Final Plat Certification  
Exhibit H: Title Tax Search  
Exhibit I: Interested Party Certification  
Exhibit J: Short Environmental Assessment Form

We look forward to presenting the Final Plat to the Planning Board at its next meeting. Please let me know if anything additional is required. Thank you for your consideration.

Very truly yours,



Ari M. Goldberg

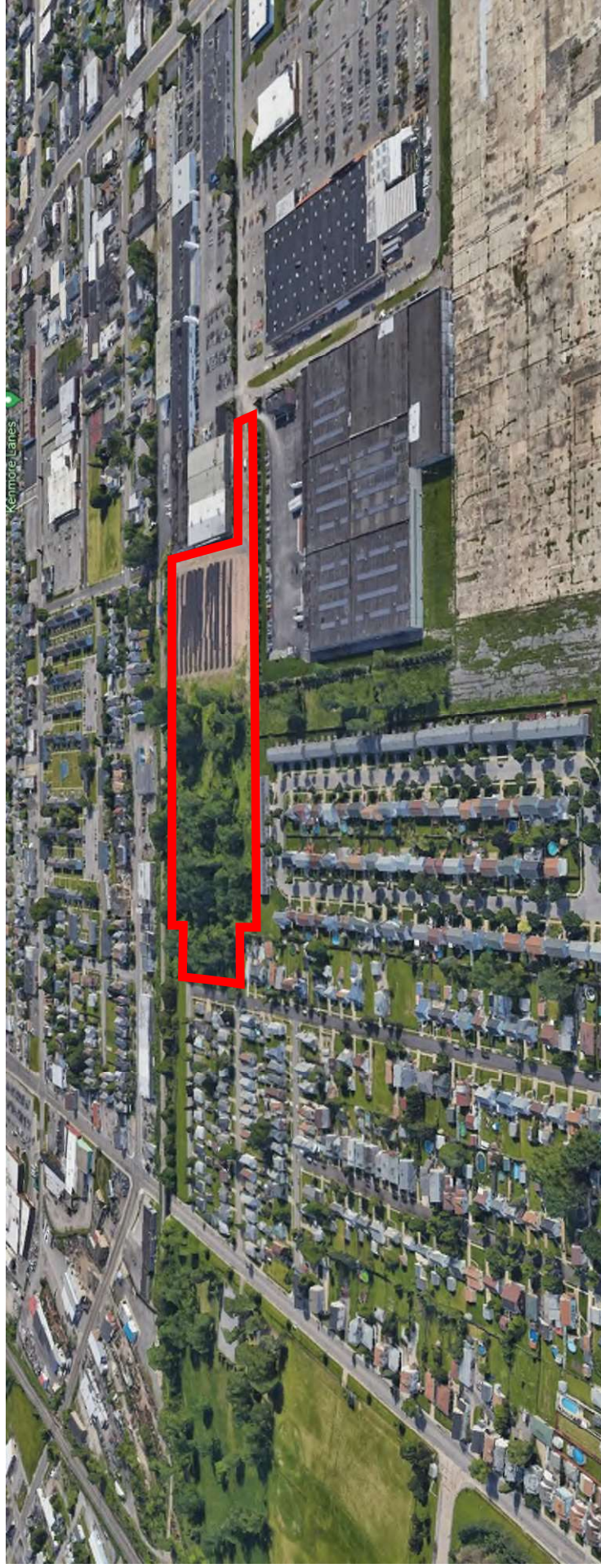
AMG  
Exhibits

cc: Joseph Golombek, Jr., North District Councilmember (via hand delivery)  
John Fell, Principal Planner (jfell@city-buffalo.com)  
Nkosi Alleyne, Senior Planner (nalleyne@buffalony.gov)  
Jason Paananen, Director of Environmental Affairs (jpaananen@city-buffalo.com)  
Applicants (via e-mail)

## **Exhibit A**

### **Aerial Photo of Properties & Vicinity**

Aerial of Properties

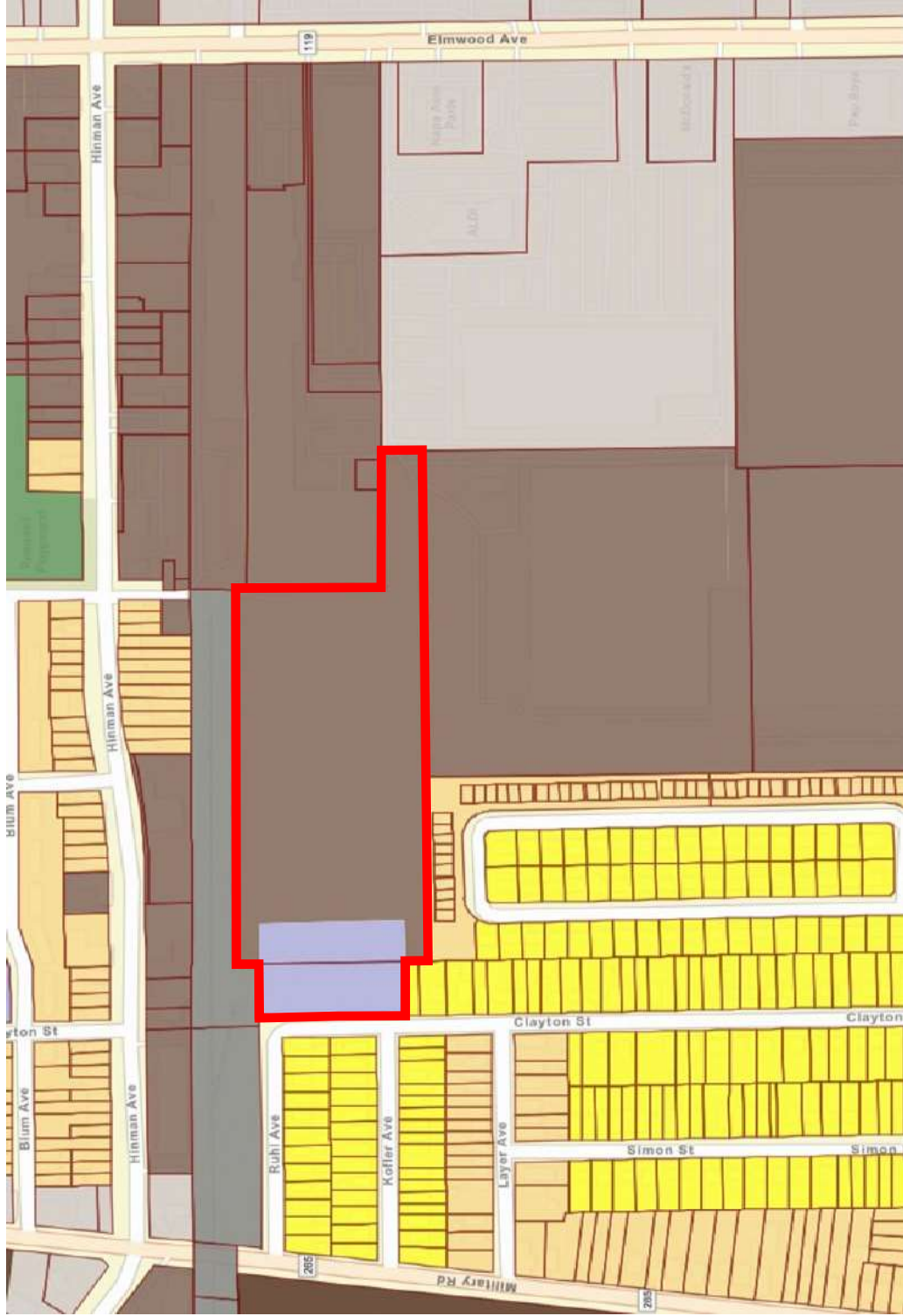




## **Exhibit B**

### **Zoning Map Excerpt**

# Zoning Map Excerpt



- N-1D (Downtown Hub)
- N-1C (Mixed-Use Core)
- N-1S (Secondary Employment Center)
- N-2C (Mixed-Use Center)
- N-2E (Mixed-Use Edge)
- N-2R (Residential)
- N-3C (Mixed-Use Center)
- N-3E (Mixed-Use Edge)
- N-3R (Residential)
- N-4-30 (Single Family)
- N-4-50 (Single Family)
- D-OS (Square)
- D-OG (Green)
- D-ON (Natural)
- D-R (Residential Campus)
- D-E (Educational Campus)
- D-M (Medical Campus)
- D-S (Retail Strip)
- D-C (Flex Commercial)
- D-IL (Light Industrial)
- D-IH (Heavy Industrial)
- C-R (Rail Corridor)

## **Exhibit C**

### **Tax Map Showing Properties**



## **Exhibit D**

### **Legal Description of Properties**

PROPOSED SOLAR PHASE 1 LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF BUFFALO, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOTS 86 AND 90, TOWNSHIP 11, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF INTERSECTION OF THE NORTH LINE OF RUHL AVENUE BEING 50 FOOT WIDE AND THE EASTERLY LINE OF CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SUBDIVISION LOT 1 AS SHOWN ON A SUBDIVISION PLAT FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NO. 279;

THENCE EASTERLY ALONG THE NORTH LINE OF SUBDIVISION LOT NO. 1, A DISTANCE OF 134 FEET TO A POINT;

THENCE NORTHERLY AND PARALLEL TO THE EAST LINE OF CLAYTON STREET, A DISTANCE OF 50.07 FEET TO A POINT;

THENCE EASTERLY AT AN INTERIOR ANGLE OF  $89^{\circ}05'13''$ , ALONG THE SOUTHERLY LINE OF THE NEW YORK, LACKAWANNA & WESTERN RAILROAD AND A DISTANCE OF 625.87 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING EASTERLY ALONG THE SOUTHERLY LINE OF THE NEW YORK, LACKAWANNA & WESTERN RAILROAD AND A DISTANCE OF 315.00 FEET TO A POINT ON THE EAST LINE LOT 90;

THENCE SOUTHERLY AT AN INTERIOR ANGLE OF  $89^{\circ}46'35''$ , ALONG THE EAST LINE OF LOT 90, A DISTANCE OF 326.22 FEET TO A POINT ON THE NORTH LINE LOT 86;

THENCE EASTERLY ALONG THE NORTH LINE OF LOT 86 AT AN EXTERIOR ANGLE OF  $90^{\circ}02'10''$ , A DISTANCE OF 346 FEET TO A POINT;

THENCE SOUTHERLY AT AN INTERIOR ANGLE OF  $90^{\circ}31'53''$ , A DISTANCE OF 99.80 FEET TO A POINT;

THENCE WESTERLY AT AN INTERIOR ANGLE OF  $89^{\circ}43'42''$ , A DISTANCE OF 663.14 FEET MEASURED TO A POINT;

THENCE NORTHERLY AT AN INTERIOR ANGLE  $89^{\circ}36'20''$ , THROUGH THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, A DISTANCE OF 427.59 FEET TO THE POINT OF BEGINNING, CONTAINING 3.90 ACRES MORE OR LESS.



PROPOSED SOLAR PHASE 2 LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF BUFFALO, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOT 90, TOWNSHIP 11, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT OF INTERSECTION OF THE NORTH LINE OF RUHL AVENUE BEING 50 FOOT WIDE AND THE EASTERLY LINE OF CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SUBDIVISION LOT 1 AS SHOWN ON A SUBDIVISION PLAT FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NO. 279;

THENCE EASTERLY ALONG THE NORTH LINE OF SUBDIVISION LOT NO. 1, A DISTANCE OF 134 FEET TO THE POINT OF BEGINNING;

THENCE NORTHERLY AND PARALLEL TO THE EAST LINE OF CLAYTON STREET, A DISTANCE OF 50.07 FEET TO A POINT;

THENCE EASTERLY AT AN INTERIOR ANGLE OF  $89^{\circ}05'13''$ , ALONG THE SOUTHERLY LINE OF THE NEW YORK, LACKAWANNA & WESTERN RAILROAD AND A DISTANCE OF 625.87 FEET TO A POINT;

THENCE SOUTHERLY AT AN INTERIOR ANGLE OF  $89^{\circ}36'20''$ , THROUGH THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, A DISTANCE OF 427.59 FEET TO A POINT;

THENCE WESTERLY AT AN INTERIOR ANGLE OF  $90^{\circ}23'40''$ , A DISTANCE OF 616.11 FEET TO A POINT ON A LINE DISTANT 314.00 FEET AND PARALLEL WITH CLAYTON AVENUE;

THENCE NORTHERLY AT AN INTERIOR ANGLE OF  $90^{\circ}54'47''$ , A DISTANCE OF 49.92 FEET TO A POINT, BEING THE SOUTHEASTERLY CORNER OF SUBLOT 11;

THENCE EASTERLY AT AN INTERIOR ANGLE OF  $89^{\circ}08'00''$ , THROUGH THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC, A DISTANCE OF 102.00 FEET TO A POINT;

THENCE NORTHERLY AT AN EXTERIOR ANGLE OF  $89^{\circ}08'00''$ , A DISTANCE OF 327.73 FEET TO A POINT;

THENCE WESTERLY AT AN EXTERIOR ANGLE OF  $90^{\circ}49'03''$ , A DISTANCE OF 102.00 FEET  
TO THE POINT OF BEGINNING, CONTAINING 5.33 ACRES MORE OR LESS.

PROPOSED LEGAL DESCRIPTION REVISED

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF BUFFALO, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOT 90, TOWNSHIP 11, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BEING SUBDIVISION LOT NUMBERS 1 TO 11 INCLUSIVE, IN BLOCK 8 AS SHOWN ON A MAP FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 279, ALSO BEING PART OF LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, FURTHER DISTINGUISHED AS FOLLOWS;

BEGINNING AT A POINT OF INTERSECTION OF THE NORTH LINE OF RUHL AVENUE, BEING 50 FOOT WIDE AND THE EASTERLY LINE OF CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SUBDIVISION LOT 1 AS SHOWN ON A SUBDIVISION PLAT FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 279;

THENCE EASTERLY ALONG AN EXTENSION OF THE NORTH LINE OF SUBDIVISION LOT NO. 1, THROUGH THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, A DISTANCE OF 236 FEET TO A POINT;

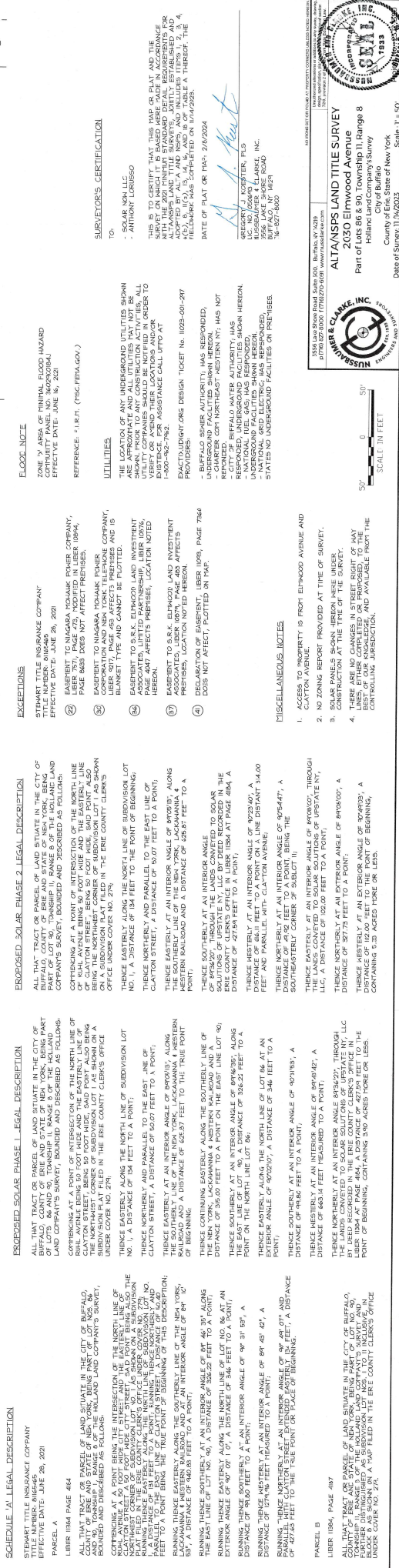
THENCE SOUTHERLY, AT AN INTERIOR ANGLE  $90^{\circ}49'03''$ , THROUGH SAID LANDS OF SOLAR SOLUTIONS OF UPSTATE NY, LLC A DISTANCE OF 327.73 FEET TO A POINT;

THENCE WESTERLY AT AN INTERIOR ANGLE  $89^{\circ}08'00''$ , THROUGH SAID LANDS OF SOLAR SOLUTIONS OF UPSTATE NY, LLC AND ALONG THE SOUTH LINE OF SUBLOT 11, A DISTANCE OF 236.02 FEET TO A POINT ON THE EAST LINE OF CLAYTON STREET;

THENCE NORTHERLY AT AN INTERIOR ANGLE  $90^{\circ}52'00''$ , ALONG THE EAST LINE OF CLAYTON STREET, AT A DISTANCE OF 327.53 FEET TO THE POINT OF BEGINNING, CONTAINING 1.77 ACRES MORE OR LESS.

## **Exhibit E**

### **Final Plat Map**



PARCEL B

LIEB U.S.A., PAGE 487

ALL THAT TRACT OR PARSEL OF LAND SITUATE IN THE CITY OF BUFFALO, TOWNSHIP 10 NORTH, RANGE 9 WEST AND COMPANY'S SUBDIVISION NO. 10, BLOCK 6 AS SHOWN ON A MAP FILED IN THE CLERK'S OFFICE UNDER COVER NO. 271.

DISTANCE OF 163.0 FEET TO A POINT;

THENCE EASTERLY AT AN INTERIOR ANGLE OF 89°41'42";

THE LINES CONVEYED TO SOLAR SOLUTIONS OF UPSTATE, LLC, A DISTANCE OF 62.50 FEET TO A POINT;

THENCE EASTERLY AT AN INTERIOR ANGLE OF 89°41'42";

THE LINES CONVEYED TO SOLAR SOLUTIONS OF UPSTATE, LLC, A DISTANCE OF 62.50 FEET TO A POINT;

DISTANCE OF 327.75 FEET TO A POINT; ANGLE OF 89°06'07";

THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE, LLC

LIBER 1004 AT PAGE 484, A DISTANCE OF 427.84 FEET TO THE POINT OF BEGINNING, CONTAINING 3.30 ACRES MORE OR LESS,

CONTAINING 3.30 ACRES MORE OR LESS.

THENCE WASTERLY AT AN EXTERIOR ANGLE OF 30°43'03";

DISTANCE OF 162.00 FEET TO THE POINT OF BEGINNING,

CONTAINING 3.30 ACRES MORE OR LESS.

SCALE IN FEET

50'

0'

10'

MISSOURI & CLARK, INC.  
ENGINEERS  
CHICAGO, ILL.

ALTAIRPLAND TITLE SURVEY  
2020 ELWOOD AVENUE  
Part of Lots 86 & 90 Township 11 Range 8  
Holland Land Company's Survey  
City of Buffalo  
County of Erie, State of New York

17500 Lake Shore Road, Suite 200, Buffalo, NY 14229  
Tel: 716-835-1100 Fax: 716-835-1101  
www.mcairandclark.com  
NO GUARANTEE IS GIVEN BY ENGINEER CONCERNING THE ACCURACY OF THIS SURVEY

MISSOURI & CLARK, INC.  
REGISTERED PROFESSIONAL ENGINEER  
No. 1333

STATE OF NEW YORK  
COUNTY OF ERIE

1 - COPY

## **Exhibit F**

### **Preliminary Plat Approval**



BYRON W. BROWN  
Mayor

## CITY OF BUFFALO

City Planning Board  
65 Niagara Square, Room 901 City Hall  
Buffalo, NY 14202-3394



BRENDAN MEHAFFY, ESQ.  
Executive Director

December 19, 2023

Barclay Damon LLP  
The Avant Building  
200 Delaware Avenue  
Buffalo, NY 14202  
ATTN: Ari M. Goldberg

RE: 2030 Elmwood Avenue and 127 Clayton Street

Dear Ms. Goldberg,

The City of Buffalo Planning Board, at a meeting held December 18, 2023, considered the matter captioned above and determined that it meets the criteria for "**Approval**" within Section 496 of the Buffalo Code for a "Major Sub-Division".

This approval is valid for one-year from the date of approval.

Please note, additional applications, reviews and approvals may be required which include but are not limited to building permits, encroachment permits, and tree work permits, if required these must be submitted separately.

If you should have any further questions regarding the above, please feel free to contact the office at any time at 716-851-4533.

Sincerely,

John Fell, AICP  
Principal Planner

Cc: Planning Board File  
City Clerk  
Building Code Review



## **Exhibit G**

**Department of Public Works Final Plat Certification**



**BYRON W. BROWN**  
Mayor of Buffalo

**NATHAN R. MARTON**  
Commissioner

---

## DEPARTMENT OF PUBLIC WORKS, PARKS & STREETS

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June 13, 2024

Ari Goldberg  
Barclay Damon  
The Avant Building  
200 Delaware Avenue, Suite 200  
Buffalo, NY 14202

RE: Final Plat Certification – Survey Accuracy  
127 Clayton/2030 Elmwood

Dear Mr. Goldberg:

My office has reviewed the subject final plat for survey accuracy pursuant Part 11.5.8.C.4.c of Chapter 496, of City Ordinances. My office notes no discrepancies between the City's Tax Maps, as maintained by the City Assessor's Office, and the proposed plat for a major subdivision for dimensions of the major subdivision along public rights-of-way. My office makes no comment on dimensions that are not part of the lines defining the public rights-of-way surrounding the proposed major subdivision.

Regards,

A handwritten signature in blue ink, appearing to read "Nathan R. Marton".

Nathan R. Marton  
Commissioner

## **Exhibit H**

### **Title Tax Search**



424 Main St., Suite 200  
Buffalo, NY 14202  
Phone: 716-854-2982

## TAX SEARCH

Search No.: 2413-3965SCH

### PROPERTY INFORMATION

CITY OF BUFFALO

423.22' x 1,279.96' (#2030) Elmwood 588.60' S Hinman

SBL No.: 77.52-4-1.21

ASSESSED VALUE: \$430,000.00

Chicago Title Insurance Company, a Florida corporation, for valuable consideration to it paid, hereby guarantees to the record owners and successors in interest of record, that there are no STATE TAX SALES, CITY OR COUNTY TAXES, LOCAL ASSESSMENTS or TAX SALES for taxes, now payable, levied and assessed against the real estate described as above on the tax rolls of the City of Buffalo or County of Erie, (Sewer Rents based on water consumption of water charges not included), except as follows:

Date of Sale	For What Tax or Tax Sale	Number of Roll	Name of Purchaser	Amount of Tax Sale/Remarks
--------------	--------------------------	----------------	-------------------	----------------------------

### NO SEARCH IS MADE FOR OCCUPANCY TAXES OR USER FEES FOR REFUSE PICKUP

City Tax 2023	05510745	\$0.00
Buffalo Sewer Authority 2023		\$0.00

**NOTE: We are unable to verify back tax amounts or payment dates for the City of Buffalo Taxes and Buffalo Sewer Authority Taxes at this time.**

**PLEASE CONTACT CITY OF BUFFALO TAX DEPARTMENT AT: 716-851-5733 Ext. 2 or email [taxquestion@city-buffalo.com](mailto:taxquestion@city-buffalo.com) TO VERIFY BACK TAXES AND PAYMENT DATES.**



### CHICAGO TITLE

By:

*Maryellen Kennedy*

Dated: July 30, 2024 at 10:07 AM  
MJR



SEARCH / ACCOUNT SUMMARY

[← BACK](#)

## Invoices

Currently, there are no online payment options for this parcel. To view previous bills, go to my History.

# Parcel ID 05510745

Register Bill

SOLAR SOLUTIONS OF UPSTATE NY

2030 ELMWOOD

## Invoices

2023 Tax



AMOUNT DUE

**\$0.00**

DUE BY

**01/02/2024**



 [SIGN IN / REGISTER](#)

**\$0.00**

DUE BY

**09/30/2023**

© 2024 Point & Pay

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[Support](#) [Terms & Conditions](#) [Accessibility Policy](#) [Privacy Policy](#) [Select Language](#) | ▼



424 Main St., Suite 200  
Buffalo, NY 14202  
Phone: 716-854-2982

## TAX SEARCH

Search No.: 2413-3966SCH

### PROPERTY INFORMATION

CITY OF BUFFALO

327.22' x 134.00' (#127) Clayton 1260' N Race

SBL No.: 77.52-4-1.1

ASSESSED VALUE: \$27,000.00

Chicago Title Insurance Company, a Florida corporation, for valuable consideration to it paid, hereby guarantees to the record owners and successors in interest of record, that there are no STATE TAX SALES, CITY OR COUNTY TAXES, LOCAL ASSESSMENTS or TAX SALES for taxes, now payable, levied and assessed against the real estate described as above on the tax rolls of the City of Buffalo or County of Erie, (Sewer Rents based on water consumption of water charges not included), except as follows:

Date of Sale	For What Tax or Tax Sale	Number of Roll	Name of Purchaser	Amount of Tax Sale/Remarks
--------------	--------------------------	----------------	-------------------	----------------------------

### NO SEARCH IS MADE FOR OCCUPANCY TAXES OR USER FEES FOR REFUSE PICKUP

City Tax 2024	05500800	1st half	\$284.12
City Tax 2024	05500800	2nd half	\$284.10
Buffalo Sewer Authority 2024			\$53.91

NOTE: We are unable to verify back tax amounts or payment dates for the City of Buffalo Taxes and Buffalo Sewer Authority Taxes at this time.

PLEASE CONTACT CITY OF BUFFALO TAX DEPARTMENT AT: 716-851-5733 Ext. 2 or email [taxquestion@city-buffalo.com](mailto:taxquestion@city-buffalo.com) TO VERIFY BACK TAXES AND PAYMENT DATES.

SEE ATTACHED STATEMENT AND TAX BILL



### CHICAGO TITLE

By:

*Maryellen Kennedy*

Dated: July 30, 2024 at 07:05 AM  
MJR





SEARCH / ACCOUNT SUMMARY

[< BACK](#)

# Parcel ID 05500800

Register Bill

ELMWOOD FOREST LLC

127 CLAYTON

Save time and paper

Sign up for paperless billing to be notified by email when a new statement is ready to be viewed.



Sign Up For Paperless Billing

## Invoices

July 2024 User Fees (UB)



AMOUNT

**\$42.50**

DUE

**08/15/2024**

[View Payment Options](#)



 SIGN IN / REGISTER

ELMWOOD FOREST LLC

127 CLAYTON

## Invoices

### 2024 Tax



< BACK

☐ July Installment \$284.12  
Due By Jul 31, 2024

☐ December Installment \$284.10  
Due By Dec 31, 2024

☐ Total \$568.22  
Due By Dec 31, 2024

### 2024 Sewer



AMOUNT DUE

**\$53.91**

DUE BY

**09/30/2024**

Add To Cart



 **SIGN IN / REGISTER**

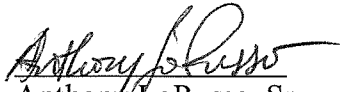
[Support](#)   [Terms & Conditions](#)   [Accessibility Policy](#)   [Privacy Policy](#)   [Select Language](#) | ▼

## **Exhibit I**

### **Interested Party Certification**

Elmwood Forest LLC by its Member, Anthony LoRusso Senior, record property owner of 127 Clayton Street, SBL 77.52-4-1.1, in the City of Buffalo hereby authorizes and acknowledges the preparation of the subdivision plat and the dedication of any thoroughfares and other public areas.

Elmwood Forest LLC

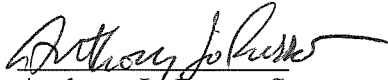
A handwritten signature in cursive script, appearing to read "Anthony LoRusso", written over a horizontal line.

Anthony LoRusso, Sr.  
Member

Dated: 7/31/24

Solar Solutions of Upstate NY LLC, by its Member, Anthony LoRusso Senior, record property owner of 2030 Elmwood Avenue, SBL 77.52-4-1.21, in the City of Buffalo hereby authorizes and acknowledges the preparation of the subdivision plat and the dedication of any thoroughfares and other public areas.

Solar Solutions of Upstate NY LLC

A handwritten signature in black ink, appearing to read "Anthony LoRusso", with a long horizontal flourish extending to the right.

Anthony LoRusso, Sr.

Member

Dated: 7/31/24

## **Exhibit J**

### **Short Environmental Assessment Form**



# *Short Environmental Assessment Form*

## *Part 1 - Project Information*


### **Instructions for Completing**

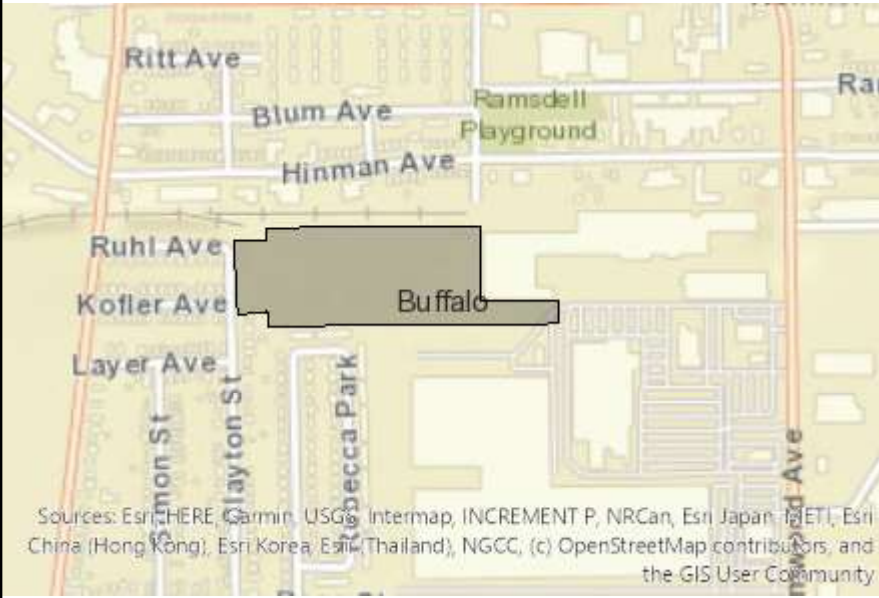
**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
<b>Name of Action or Project:</b> 2030 Elmwood and 127 Clayton Minor Subdivision			
<b>Project Location (describe, and attach a location map):</b> 2030 Elmwood, SBL 77.52-4-1.21 and 127 Clayton, SBL 77.52-4-1.1			
<b>Brief Description of Proposed Action:</b> Major subdivision splitting 2030 Elmwood into two distinct parcels to accommodate existing solar array and undeveloped land. Access will be taken off access road from adjoining with access rights sets forth in recorded or to-be-recorded easements. Result two parcels of 2030 Elmwood will both be zoned D-IL (Light Industrial) and currently disturbed. Subdivision also includes merger of portion of 2030 Elmwood zoned D-R with 127 Clayton to accommodate previously approved and evaluated multi-family housing project on 127 Clayton. Action has been defined broadly to include all site work and construction activities.			
<b>Name of Applicant or Sponsor:</b>  Solar Solutions of Upstate NY LLC and Elmwood Forest LLC by Barclay Damon LLP		<b>Telephone:</b> 7168583878  <b>E-Mail:</b> agoldber@barclaydamon.com	
<b>Address:</b> 200 Delaware Avenue, Suite 1200			
<b>City/PO:</b> Buffalo		<b>State:</b> NY	
		<b>Zip Code:</b> 14202	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO  <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: City of Buffalo Permits - Building Permit			YES  <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? <span style="float: right;">+/- 11.00 acres</span> b. Total acreage to be physically disturbed? <span style="float: right;">+/- 6.00 acres</span> c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <span style="float: right;">+/- 11.00 acres</span>			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other(Specify): rail line <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: The site of the proposed action is not currently subject to remediation. If the site is within 2,000 feet of a property subject to remediation, the EAF mapper will automatically check "yes" on the pdf of the EAF. The site is within 2,000 feet of (1) Empire Waste, 915065, Remediation Site; (2) Aurubis Buffalo, V00314, Voluntary Clean Up Program Site and Hazardous Waste Reduction Program Generator (EPA ID NYD000632083); and (3) Anaconda Company/American Brass, 915007, Superfund Site. The proposed action will not impact these adjacent sites.	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>  Applicant/sponsor/name: <u>Barclay Damon LLP for Solar Solutions of Upstate NY LLC and Elmwood Forest LLC</u> Date: <u>August 5, 2024</u>  Signature: <u></u> Title: <u>agent/attorney</u>		



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes



BYRON W. BROWN  
Mayor

**CITY OF BUFFALO**  
**City Planning Board**  
65 Niagara Square, Room 901 City Hall  
Buffalo, NY 14202-3394



BRENDAN MEHAFFY, ESQ.  
Executive Director

September 11, 2024

Barclay Damon LLP  
The Avant Building  
200 Delaware Avenue  
Suite 1200  
Buffalo, NY 14202  
ATTN: Ari Goldberg

RE: 2030 Elmwood Avenue

Dear Ms. Goldberg,

The City of Buffalo Planning Board, at a meeting held September 9, 2024, considered the matter captioned above and determined that it meets the criteria for "**Approval**" within Section 496 of the Buffalo Code for the "Final Plat".

This approval is valid for one-year from the date of approval.

Please note, additional applications, reviews and approvals may be required which include but are not limited to building permits, encroachment permits, and tree work permits, if required these must be submitted separately.

If you should have any further questions regarding the above, please feel free to contact the office at any time at 716-851-4533.

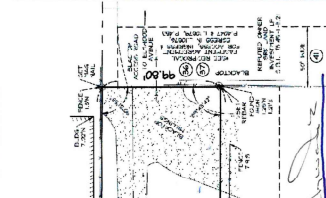
Sincerely,

John Fell, AICP  
Principal Planner

Cc: Planning Board File  
City Clerk  
Building Code Review

2024 SEP 11 PM 1:55





SURVEYOR'S CERTIFICATION

TO: SOLAR WAX LLC  
- INVENTORY LOSS/LOSS

THIS IS TO CERTIFY THAT THIS PAY ON PLAT AND THE  
SURVIVAL OF MACHIN IS BASED HEREPAID IN ACCORDANCE  
WITH THE DEED OF SALE OF THE PLAT 23 AND 24  
ACQUIRED BY ALTA AND LITTLE SURVIVOR, JOINTLY 23 AND 24  
AND 24 AND 24 AND 24 AND 24 AND 24 AND 24 AND 24  
FIDELITY WAS COMPLETED ON 11/18/2023. THE  
DATE OF PLAT OR MAY 24/2024

*Alta J. Hunt*

GREGORY J. LOFFERT, PLS  
NORWALK, CT 06854  
NORWALKER & CLARKE, INC.  
NORWALK, CT 06854  
BUTLER ROAD  
NORWALK, CT 06854

16-8271-3600



REFERENCE: F.I.R.M. (MSC.FEMA.GOV.)

[illegible]

1/8-1271-5600

2004 Lake Shore Road, Suite 500 • Buffalo, NY 14219  
P (716) 827-1000 • F (716) 827-0091 • [www.nassdamps.com](http://www.nassdamps.com)

**ALTANSPS LAND**  
2030 Elmwood  
Part of Lots 86 & 90, Town of  
Holland Land Company  
City of Buffalo  
County of Erie, State  
of New York

**MUSKATAPPEE & CLAWS, INC.** ESTABLISHED 1987  
INCORPORATED IN NY

50' ±

0' 50' ±

SCALE 1/4" = 1'-0"

**EXCEPTIONS**

STENART TITLE INSURANCE COMPANY  
TITLE NUMBER: 8165465  
EFFECTIVE DATE: JUNE 26, 2021

**22** EASEMENT TO NIAGARA MOHAWK POWER COMPANY,

LIBER 7571 PAGE 473, MODIFIED IN LIBER 10644,  
PAGE 8439 DOES NOT AFFECT PREMISES.

3) CORPORATION AND NEW YORK TELEPHONE COMPANY, AND EFFECTS OF THE ABOVE-RECORDED INVESTMENT, UNLESS TYPE AND CAN BE RECORDED.

4) SUBJECT TO R.R. BANKS AND INVESTMENT ASSOCIATES, LIMITED, NEWARK, NEW JERSEY, PAGE 4047 AFFECTS TO INTERESTS, LOCATION NOTED HEREON.

5) EMPLOYER TO R.R. CLOTH AND INVESTMENT ASSOCIATES, LIMITED, NEWARK, NEW JERSEY, PAGE 4047 AFFECTS TO INTERESTS, LOCATION NOTED HEREON.

6) DECLARATION OF EMPLOYER, LISTS 1008, PAGE TWO DOES NOT AFFECT, RECORDED IN THE.

- 1. ACCESS TO PROPERTY: 10 FROM ELWOOD AVENUE AND CLAYTON AVENUE.
- 2. NO ZONING REPORT PROVIDED AT TIME OF SURVEY.
- 3. SOAK PANELS SHOWN HEREON NISHL UNDER CONSTRUCTION AT THE TIME OF THE SURVEY.
- 4. THERE ARE NO CHANGES IN STREET RIGHT OF WAY BETWEEN THE TIME OF THE SURVEY AND THE BEST OF OUR KNOWLEDGE, AND AVAILABLE FROM THE CONTROLLING JURISDICTION.

PROPOSED SOLAR PHASE 2 LEGAL DESCRIPTION

COMMENCING AT A POINT OF INTERSECTION OF THE NORTH LINE OF RUIH AVENUE BEING 50 FOOT WIDE AND THE EASTERLY LINE OF CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SUBDIVISION LOT 1 AS SHOWN

[illegible]

THENCE NORTHERLY AT AN INTERIOR ANGLE OF 309°47', A DISTANCE OF 41.95 FEET TO A POINT, BEING THE SOUTHEASTERLY CORNER OF SUBJECT LOT 1, THENCE EASTERLY AT AN INTERIOR ANGLE OF 100°05', THROUGH THE LANDS, CONVEYED TO SARA JOHNSONS OF UPGRADE HT., A DISTANCE OF 162.00 FEET TO A POINT, THENCE NORTHERLY AT AN EXTERIOR ANGLE OF 100°05', A DISTANCE OF 100.00 FEET TO A POINT, THENCE NORTHERLY AT AN INTERIOR ANGLE OF 100°05', A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.33 ACRES OR LESS.

PROPOSED SOLAR PHASE I LEGAL DESCRIPTION

CLAYTON AVENUE BEING 50 FOOT WIDE AND THE EASTERLY LINE OF  
RUE H. AVENUE BEING 50 FOOT WIDE, SAID POINT ALSO BEING  
CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING  
THE NORTHWEST CORNER OF SUBDIVISION LOT 1 AS SHOWN ON A

[illegible][illegible]

SCHEDULE 'A' LEGAL DESCRIPTION

STEWART TITLE INSURANCE COMPANY  
TITLE NUMBER: A162-4465  
EFFECTIVE DATE: JUNE 26, 2021

PACEL A

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF BUFFALO,  
COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOT NOS. 86

[illegible]

DISJUNCTION OF 12 1/2 INCH FEET ASSESSED TO A POINT.  
RUNNING 12 1/2 INCH NORTHWEST AT AN INTERIOR ANGLE OF 92 1/2 07' AND  
12 1/2 INCH NORTHWEST AT AN INTERIOR ANGLE OF 92 1/2 07' TO A DISTANCE  
OF 427 1/2 FEET TO THE TRUE POINT OF BEGINNING.

## APPENDIX B

### Section II: Project Description



## **Appendix B.**

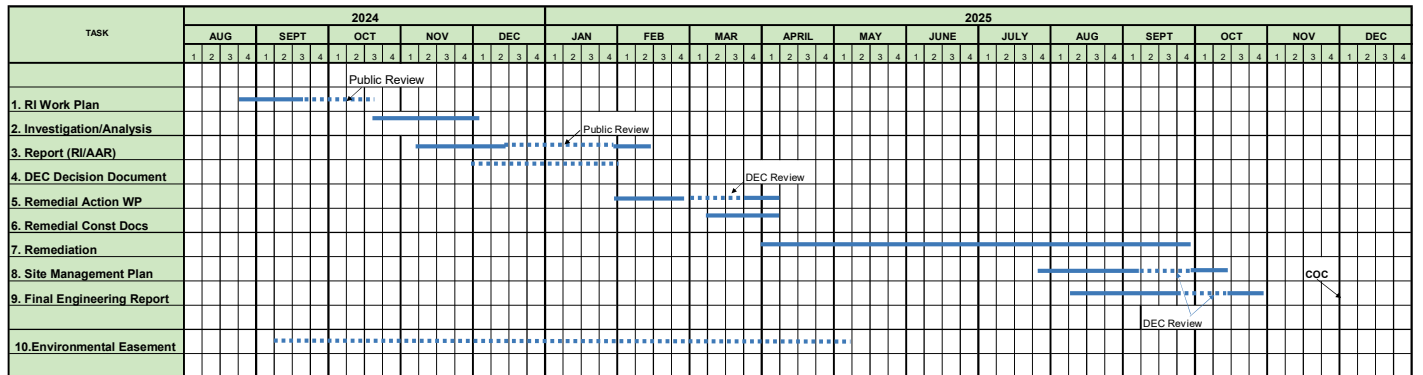
### **Application Section II: #4 Project Description**

**The project will include redevelopment of the property with a residential apartment complex to include a two-story, 48 unit complex.** Architectural drawings are scheduled for completion in September 2024. The project is anticipated to start in December 2024 with a construction duration period of approximately 6 months. Remediation will occur in advance of and concurrently with the construction phase and will be completed in July-August 2025. The Certificate of Completion (COC) is expected to be awarded in December 2025. **ELMWOOD FOREST, 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 2024** and will complete remediation to start in Spring-Summer 2025 with a remedial construction duration period of approximately 6 months. Currently we **anticipated Certificate of Completion (COC)** in late 2025. A preliminary project schedule is attached to this Appendix. Remediation will occur in advance of and concurrently with the construction phase and will be completed in April-August 2025.

**BCP PROJECT SCHEDULE SEPTEMBER 2024**  
**Clayton Street Residences - 127 Clayton Street, Buffalo, NY**



## APPENDIX C

### Section III: Land Use Factors

## **Appendix C. Section III: Land Use Factors**

### **Application Section III #1&2 Current Zoning**

All properties composing the site are zoned **D-R (Residential Campus)**. The **D-R** zone addresses residential campuses, sometimes comprised of garden apartments or towers in a park, and organized as a large-scale, integrated development. The “Residential Campus” designation can be found throughout the city.

### **Application Section III #3 Current Use**

The properties currently are vacant and underutilized. The property has always been vacant/underutilized. An active rail line crossed the property but appears to have become inactive sometime after 1985. The property was actively disturbed from at least 1938 through 1985. By 1995 some trees and overgrowth appear. By the early to mid 2000s the property was more heavily treed/vegetated.

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

There are no current business uses or operations. The property is currently vacant. Historically the property had several rail lines which traversed the property. It appears that the property has been filled. The rail use and filling have contributed to Impacted fill that has been documented during preliminary subsurface investigations.

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

The property will be developed with a residential apartment complex to include a two-story, 48 unit complex **which** meets the city zoning for this property.

### **Application Section III #9 - Proposed Use & Zoning Consistency**

The proposed post-remediation use is consistent with the current zoning (see **Figure 8**).

### **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 City of Buffalo “Green Code” is a place-based development strategy in Buffalo, New York. It builds on the city's comprehensive plan, emphasizing principles such as fixing the basics, building on assets, implementing smart growth, and embracing sustainability<sup>1</sup>. The Green Code is a historic revision of Buffalo's land use and zoning policies, aimed at promoting investment, facilitating job creation, and improving the environment. The Green Code includes a zoning district called “D-R Residential Campus.” The “Purpose” of such districts is described in the following manner: *The D-R zone addresses residential campuses, sometimes comprised of garden apartments or towers in a park, and organized as a large-scale, integrated development.* The “Residential Campus” designation can be found throughout the city: On the west side, the Shoreline and Pine Harbor apartments are labeled D-R. In the northeast corner, Highland Park is mapped D-R. Likewise, McCarley Gardens, south of the Buffalo Niagara Medical Campus, the Waterfront Village, adjacent to the Erie Basin Marina, and the Marine Drive Apartments, are all classified as D-R Residential Campus.

## APPENDIX D

### **Section IV: Property's Environmental History**

## Appendix D.

### **Section IV: Property's Environmental History**

An electronic copy of a recent Phase II Environmental Site Assessment (ESA) completed by Niagara Engineering in April 2024 in accordance with ASTM E1903 (per ECL 27-1407(1)) **in Portable Document Format (PDF)** is included with this application. This 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 property for residential purposes and that the site requires remediation as described in Appendix C. **Refer to attached Table 1 which provides a summary of the data and Figure 9 which provides a summary of impacted soil medium including date of sampling, key contaminants and concentrations with regard to exceedances above Soil Cleanup Objectives (SCOs).**

The history of the property suggests that rail tracts traversed the property and that although vacant the property appears to be heavily disturbed from 1930's through the 1980's. The results of the Phase II assessment indicated that fill exists at shallow depths across the properties to about 1.5 to 4 feet in most locations. The fill contains elevated levels of metals including chromium, lead and mercury and semi volatile organic compounds, mostly poly aromatic hydrocarbons (PAHs) above restricted residential, commercial and industrial SCOs. Per ECL 27-1407(1), a copy of the referenced investigatory report is provided individually in Portable Document Format (PDF) in a separate electronic folder.

127 Clayton Street  
Buffalo New York  
Subsurface Soil Assessment - 7-12-2024

TABLE 1  
SUMMARY OF SOIL ANALYTICAL RESULTS

Parameter Tested	Phase II Report - Sample Identification, Sample Depth in feet below ground surface (bgs), and Sample Date										NYSDEC Soil Cleanup Objectives (SCOs)				
	TP-1	TP-2	TP-3	TP-4	TP-5	TP-7	TP-9	TP-11	TP-13	TP-14	Unrestricted	Residential	Restricted Residential	Commerical	Industrial
	2-3	1-2ft	1-2ft	1-2ft	1-2ft	1-2ft	1-2ft	1-2ft	2-3ft	1-2ft					
	7/12/2024														
METALS/INORGANICS															
Arsenic	7.10	5.80	53.60	9.20	12.70	8.60	4.90	4.80	6.10	14.70	13	16	16	16	16
Barium	231.00	368 F1	583.00	490.00	277.00	1550.00	128.00	128.00	174.00	141.00	350	350	400	400	10,000
Beryllium	1.40	3.10	1.40	2.20	1.10	0.50	0.66	0.75	0.91	1.20	7.2	14	72	590	2,700
Cadmium	2.20	2.30	3.80	12.20	12.50	58.90	1.20	0.94	0.73	2.00	2.5	2.5	4.3	9.3	60
Chromium	24.40	14.60	19.60	95.90	176.00	106.00	21.80	21.50	19.10	31.90	30	36	180	1,500	6,800
Copper	76.10	76.20	242.00	223.00	343.00	5880.00	58.60	66.90	62.00	107.00	50	270	270	270	10,000
Lead	122.00	164.00	74.70	531.00	635.00	1510.00	148.00	92.40	171.00	148.00	63	400	400	1,000	3,900
Manganese	735.00	1390 F1	324.00	1070.00	583.00	679.00	367.00	397.00	343.00	263.00	1,600	2,000	2,000	10,000	10,000
Mercury	0.091	0.097	0.44	0.18	0.26	0.56	0.07	0.08	0.14	0.15	0.18	0.81	0.81	2.8	5.7
Nickel	20.40	13.00	53.20	47.00	58.30	63.50	25.60	24.40	24.20	37.20	30	140	310	310	10,000
Selenium	1.6 J	2.2 J F1	3.6 J	2.7 J	1.3 J	7.00	2.0 J	ND	ND	2.2 J	3.9	36	1,500	1,500	6,800
Silver	0.50 J	0.65 J	0.54 J	1.30	0.67 J	2.00	0.34 J	ND	ND	0.33 J	2	36	1,500	1,500	6,800
Zinc	248.00	212 F1	572.00	754.00	718.00	3520.00	229.00	185.00	201.00	465.00	109	2,200	10,000	10,000	10,000
SEMI-VOLATILE ORGANIC COMPOUNDS (SVOCs)															
Acenaphthene	2.2 J F1	0.9 J	0.1	3.4 J	0.36 J	ND	1.9 J	ND	ND	0.062 J	20	100	100	500	1,000
Acenaphthylene	0.39 J	0.17 J	ND	ND	ND	0.49 J	1.7 J	0.17 J	0.07 J	0.14 J	100	100	100	500	1,000
Anthracene	4.8 F1 F2	2.20	0.230 J	8.00	0.88 J	0.85 J	10.00	0.33 J	0.073 J	0.22 J	100	100	100	500	1,000
Benzo(a)anthracene	9.9 F2	5.00	0.6	18.00	2.60	3.10	30.00	1.20	0.33	0.86	1	1	1	5.6	11
Benzo(a)pyrene	9.3 F2	4.40	0.66	18.00	2.60	2.60	22.00	1.30	0.33	0.83	1	1	1	1.1	1.1
Benzo(b)fluoranthene	13.00	6.10	0.74	22.00	3.30	3.80	33.00	1.80	0.46	1.20	1	1	1	5.6	11
Benzo(g,h,i)perylene	5.7 F1 F2	2.40	0.4	10.00	1.6 J	1.30	10.00	0.63 J	0.17 J	0.36	100	100	100	500	1,000
Benzo(k)fluoranthene	4.5 F1	2.30	0.44	9.70	1.4 J	1.40	13.00	0.82 J	0.22	0.51	0.8	1	3.9	56	110
Chrysene	9.7 F2	5.00	0.66	18.00	2.80	3.00	27.00	1.40	0.39	0.94	1	1	3.9	56	110
Dibenz(a,h)anthracene	1.5 J F1	0.80	0.10 J	2.8 J	0.59 J	0.48 J	4.60	0.24	0.061 J	0.15 J	0.33	0.33	0.33	0.56	1.1
Dibenzofuran	1.2 J F1 F2	0.58	0.06 J	1.7 J	0.3 J	0.15 J	2.0 J	ND	ND	0.046 J	7	14	59	350	1,000
Fluoranthene	25.0 F2	12.00	1.5	44.00	5.70	7.90	65.00	3.60	0.89	2.20	100	100	100	500	1,000
Fluorene	2.1 J F1 F2	0.96	0.096 J	3.00	0.44 J	0.39 J	4.60	0.18 J	0.043 J	0.12 J	30	100	100	500	1,000
Indeno(1,2,3-cd)pyrene	5 F1 F2	2.20	0.35	9.40	1.4 J	1.30	11.00	0.62 J	0.17 J	0.38	0.5	0.5	0.5	5.6	11
Naphthalene	0.48	0.20	0.11 J	ND	0.33 J	ND	ND	ND	ND	0.036 J	12	100	100	500	1,000
Phenanthrene	21 F2	10.00	1.1	33.00	4.20	4.70	39.00	2.10	0.51	1.30	100	100	100	500	1,000
Pyrene	19.00	8.60	1.2	35.00	4.40	5.20	42.00	2.30	0.63	1.60	100	100	100	500	1,000

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  
F1 MS and or MSD recovery exceeds control limits  
T Result is Tentatively Identifies Compound and an estimated value

13.0 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 Commerical SCO  
Reported concentration greater than or equal to the NYSDEC Industrial SCO

## APPENDIX E

### Section V: Requestor Information & DOS Form



## Appendix E.

### Section V: Requestor Information

The Requestor, ELMWOOD FOREST, LLC, is a corporation authorized by the New York State (NYS) Department of State to conduct business in NYS (refer to the attached entity printout). ELMWOOD FOREST, LLC is an affiliate of APL Property Group - Anthony P. LoRusso is the President/managing member.

Investigation, assessment and remedial work plans, reports and other documents will be prepared for the Requestor by NIAGARA ENGINEERING, D.P.C. NIAGARA ENGINEERING D.P.C. 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 is 0022373) and is authorized to practice engineering in New York State. All documents will be certified by a New York State licensed professional engineer.

[Services](#)[News](#)[Government](#)

## Department of State Division of Corporations

### Entity Information

[Return to Results](#)[Return to Search](#)

#### Entity Details

**ENTITY NAME:** ELMWOOD FOREST, LLC**FOREIGN LEGAL NAME:****ENTITY TYPE:** DOMESTIC LIMITED LIABILITY COMPANY**SECTION OF LAW:** 203 LLC - LIMITED LIABILITY COMPANY LAW**DATE OF INITIAL DOS FILING:** 06/09/2021**EFFECTIVE DATE INITIAL FILING:** 06/09/2021**FOREIGN FORMATION DATE:****COUNTY:** ERIE**JURISDICTION:** NEW YORK, UNITED STATES**DOS ID:** 6032345**FICTITIOUS NAME:****DURATION DATE/LATEST DATE OF DISSOLUTION:****ENTITY STATUS:** ACTIVE**REASON FOR STATUS:****INACTIVE DATE:****STATEMENT STATUS:** PAST DUE**NEXT STATEMENT DUE DATE:** 06/30/2023**NFP CATEGORY:****ENTITY DISPLAY**[NAME HISTORY](#)[FILING HISTORY](#)[MERGER HISTORY](#)[ASSUMED NAME HISTORY](#)

#### Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

**Name:** THE LLC**Address:** 366 ELMWOOD AVENUE, BUFFALO, NY, UNITED STATES, 14222

Electronic Service of Process on the Secretary of State as agent: Not Permitted

#### Chief Executive Officer's Name and Address

**Name:****Address:**

#### Principal Executive Office Address

**Address:**

## APPENDIX F

### Section VI: Requestor Eligibility

## **Appendix F.**

### Section VI: Requestor Eligibility

The requestor, ELMWOOD FOREST, LLC, qualifies as a “Volunteer” in accordance with NY ECL27-1405(1)(b) and 6 NYCRR 375.2(b)(2). The volunteer requestor has no relationship to the past series of owners and operators and has never utilized the premises other than developing re-development concepts for the property.

The requestor currently owns the property and has owned it for about 4 years. Over the last year the owner has performed investigations of the remaining property and confirmed it qualifies as a brownfield based on elevated metals and PAHs in soils. The requestor has maintained site cover over that time and has initiated plans to fence the site in the near term and prior to remedial efforts. 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 thus entitled to volunteer status.

## APPENDIX G

### Section VII: Requester Contact Information

## **Appendix G.**

### Section VII: Requestor Contact Information

The requestor, ELMWOOD FOREST, LLC, owns the 127 Clayton Street property. The newly configured 127 Calyton Street property (refer to property survey) subdivision was approved last month. 127 Clayton, SBL 77.52-4-1.1, is owned by Elmwood Forest, LLC. Anthony LoRusso Senior is sole member.

The contact person for the 127 Clayton Street Clayton Street Residences BCP project is:

Mr. Akos Seres  
255 Great Arrow Avenue, Suite 102  
Buffalo, New York, 14207  
716-583-0315  
[aseres@caddrafting.com](mailto:aseres@caddrafting.com)

The Requestors Consultant is:

Niagara Engineering (NYS Certification Number 0022373  
Mr. Attiq Rahman, P.E.  
255 Great Arrow Avenue  
Buffalo, New York, 14207  
513-633-2331  
[attiquurrahman@gmail.com](mailto:attiquurrahman@gmail.com)

The Requestors Attorney is:

Mr. Corey Auerbach  
Barclay Damon LLC  
  
200 Delaware Avenue - Suite  
1200 Buffalo, New York 14202  
716-858-3801  
[cauerbach@barclaydamon.com](mailto:cauerbach@barclaydamon.com)

## APPENDIX H

### Section VIII: Program Fee

## **Appendix H.**

### **Appendix H. Section VIII: Request for Fee Waiver - Brownfield Cleanup Program**

The requester is formally requesting a waiver of the \$50,000 fee associated with the Brownfield Cleanup Program (BCP) application for our project located at 127 Clayton Street in Buffalo, New York. The proposed development is a crucial affordable housing project that will be partially funded through the New York State Housing and Community Renewal (HCR) Participation Loan Program (PLP).

The project entails the construction of 48 residential apartments, all of which are intended to provide affordable housing for underserved households in Buffalo. These households earn less than 80% of the area median income (AMI). The funding received from the PLP includes deed restrictions ensuring that rents remain at or below the levels established by HCR, reinforcing our commitment to maintaining affordability.

Given the nature of this project as an affordable housing development, funded with HCR subsidies and subject to affordability requirements, we respectfully request that the DEC consider waiving the application fee. The funds currently allocated for this fee are critically needed for the project's financing and will significantly impact our ability to offer affordable rents as defined by HCR.

A waiver of the fee would ensure that the financial resources are directed towards furthering the project's goals of providing necessary and sustainable affordable housing in our community. We believe that this support aligns with both the spirit and objectives of the Brownfield Cleanup Program, which aims to facilitate the redevelopment of underutilized properties in a manner beneficial to the community.

We trust the above information will be satisfactory for an application fee waiver and hopeful for a favorable response. Should you need additional information, the requester will provide any additional documentation that may be required.



## APPENDIX I

### Section IX: Current Property Owner and Operator Information

## Appendix I.

### Section IX: Current Property Owner and Operator Information

The current owner and contact of the property is ELMWOOD FOREST, LLC. The sole member and owner of ELMWOOD FOREST, LLC is Anthony LaRusso. ELMWOOD FOREST, LLC is an affiliate of APL Property Group:

ELMWOOD FOREST, LLC

Affiliate of APL Property Group

366 Elmwood Avenue

Buffalo, New York 14222

Entity Contact – Mr. Akos Seres

Phone: 716-583-0315

Email: aseres@caddrafting.com . Information regarding current/recent ownership was adapted from Erie County Geographic Information System (GIS) and City of Buffalo. The history of the ownership/operator of each parcel making up the property is as follows:

#### **Current Property - 127 Clayton Street**

<b>Grantor</b>	<b>Grantee</b>	<b>Deed Book</b>	<b>Deed Page</b>	<b>Deed Date</b>
2030 Elmwood Avenue, Inc.	Elmwood Forest, LLC	11384	4187	07-29-2021
Niagara Buffalo Center	2030 Elmwood Avenue, Inc.	11226	3574	07-16-2012
	Niagara Buffalo Center	9657	144	12-17-1986

#### **P/O Former Property - 2030 Elmwood - see note below**

<b>Grantor</b>	<b>Grantee</b>	<b>Deed Book</b>	<b>Deed Page</b>	<b>Deed Date</b>
2030 Elmwood Avenue, Inc.	Solar Solutions of Upstate NY LLC	11384	4187	07-29-2021
1525 Willaims Street LLC	2030 Elmwood Avenue, Inc.	11274	5575	01-14-2015
City of Buffalo Ref	1525 William Street LLC	11156	1140	2-24-2009
Magnum (New York) LLC	City of Buffalo Ref	R 42	S2829	09-19-2008
	Magnum (New York) LLC	10958	0866	10-04-1999

**Note: The 127 Clayton Street property has been recently configured** to include a portion of the 2030 Elmwood parcel (refer to Appendix A). The requestor, ELMWOOD FOREST, LLC, owns the newly configured 127 Clayton Street property. The newly configured 127 Calyton Street property (refer to property survey) subdivision was approved last month. 127 Clayton, SBL 77.52-4-1.1, as subdivided is owned by Elmwood Forest, LLC. Anthony LoRusso is sole member.

Reported Most Recent Previous Owner (based news article) Mr. Roger Pasquarella  
2030 Elmwood Avenue, Inc.  
5587 Pebble Beach Dr Hamburg, NY 14075

## APPENDIX J

### Section X: Property Eligibility Information

## Appendix J.

### Section X: Property Eligibility Information

CERCLA/NPL Listing – The property nor any portion of the property has **never been** listed on the NPL.

Registry Listing – The property nor any portion **has never** been listed on the NYS registry of Hazardous Waste Disposal Sites.

Registry/RCRA Sites Owned by Volunteers – the property **has never been associated** with Registry/RCRA Sites and the **is not owned by a volunteer** as defined under ECL 27-1405(1)(b)

The property **is not** subject to an order for cleanup under Article 12 of the Navigation Law or Article 17 Title 10 of the ECL. Additionally, the property **is not** subject to an enforcement action under Article 27, Titles 7 or 9 of the ECL or subject to any other ongoing state or federal enforcement action related to contamination which is at or emanating from the property.

## APPENDIX K

### **Section XI: Site Contact List & Repository Letter**

## **Appendix K**

### **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

Hon. Michael H. Kooshoian  
Erie County Legislator - District 3  
1701 Hertel Ave.,  
Buffalo, NY 14216

Mr. Michael P. Kearns  
Erie County Clerk  
92 Franklin Street  
Buffalo, NY 14202

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

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

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

## **City of Buffalo Contacts:**

Byron Brown  
City of Buffalo Mayor  
65 Niagara Square  
Buffalo, NY 14202

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

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

James K. Morrell  
City of Buffalo Chairman  
65 Niagara Square  
Buffalo, NY 14202

City 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  
1News Plaza  
Buffalo, New York 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

Buffalo Rising  
617 Main St., Suite 203,  
Buffalo, New York 14203

### **Nearby Schools & Day Cares**

Public School 79  
225 Lawn Ave,  
Buffalo, NY 14216

Holy Cross Head Start Program  
155 Lawn Ave,  
Buffalo, NY 14207

KIAS LITTLE ANGELS DAYCARE LLC  
1846 Kenmore Ave Apt D,  
Buffalo, NY 14216

West Hertel Academy  
489 Hertel Ave,  
Buffalo, NY 14207

### **Document Repository**

April Tompkins  
Buffalo and Erie County Public Library  
1 Lafayette Square  
Buffalo, NY 14203

### **Adjacent Property Owners**

691 MILITARY ROAD  
PROTECTIVE INDUSTRIES INC.  
2150 ELMWOOD, BUFFALO, NY, 14207

53 RUHL AVE  
CLARENCE & GAIL THOMAS



53 RUHL AVE, BUFFALO NY 14207

2164 ELMWOOD AVE  
PROTECTIVE INDUSTRIES INC.  
2150 ELMWOOD, BUFFALO, NY, 14207

56 KOFLER AVE DBL  
BAJRA FELLANZA  
56 KOFLER AVE, BUFFALO, NY, 14207

55 KOFLER AVE  
JACKIE A GABEL  
55 KOFLER AVE, Buffalo, NY 14207

125 Clayton Street  
DERVISHI LAH  
125 Clayton Street, Buffalo, NY, 14207

9998 REBECCA PARK  
REBECCA PARK ASSOCIATION INC  
9998 REBECCA PARK, PO BOX 904, AMHERST NY 14226



Peter Gorton <gortonp11@gmail.com>

---

## RE: Document Repository request -- 127 Clayton Street

1 message

---

**April Tompkins** <tompkinsa@buffalolib.org>  
To: Peter Gorton <gortonp11@gmail.com>

Mon, Sep 16, 2024 at 12:27 PM

Good morning Peter,

Per your request, this is to inform you that the Buffalo and Erie County Public Library will be the repository for all documents (and updates) submitted by your company for the Brownfield Cleanup Program at the 127 Clayton Street, Buffalo, New York Site. These documents will be made available for public viewing at the Library Location of your choice. Please refer to our procedure below.

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

Please keep the following in mind:

- Documents (including updates) for public viewing should be either brought in person (to my attention) to the Central Library's administrative reception desk located on the second floor or sent via mail carrier. Documents sent via e-mail will not be accepted. The mailing address is:

**Attention: April Tompkins**

**Re: Repository Documents**

**Buffalo and Erie County Public Library**

**1 Lafayette Square**

**Buffalo, NY 14203**

- Documents are made available usually within three business days after receipt, excluding weekends and holidays. Documents for the Central/Downtown library are located on the first floor in the Information Services Department.
- If you would like the documents distributed at **libraries other than Central**, you will need to send or give us the appropriate quantity of copies with labels or a list regarding their destination(s). We will distribution accordingly. We do not make copies for distribution.
- Documents that cannot be stapled, should be kept together in some type of binder. Please do not send 'loose' papers, especially if including a cd or flash drive.

- You have the choice regarding the format (hard copy print and/or disk or flash drive) you wish to submit. If submitting in more than one format (ex: print and disk), please be sure that they are titled/labeled accordingly. **If cd's or flash drives are included, please secure to the corresponding printed document(s) to prevent it from getting lost or separated.** If submitting in cd and/or flash drive format only (with no printed documentation), it will need to be in some type of enclosed pocket/envelope (clear, if possible) to prevent it from being misplaced or lost. Although CD-ROMs are not accessible on public library computers, patrons may bring in their personal laptop or external optical drive to view the disk in-house. Public computers do have USB ports for flash drives. 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.

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

Regards,

April

*April Tompkins, Sr. Library Clerk*

Office of Chief Operating Officer

Buffalo and Erie County Public Library

1 Lafayette Square | Buffalo, NY 14203

Voice: 716-858-7129 | Fax: 716-845-9053

E-mail: [tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)

---

**From:** Peter Gorton <[gortonp11@gmail.com](mailto:gortonp11@gmail.com)>  
**Sent:** Monday, September 16, 2024 10:58 AM  
**To:** April Tompkins <[tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)>  
**Subject:** Fwd: Document Repository request

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

I appologize if you responded - did you provide an answer to this request via email?

----- Forwarded message -----

From: **Peter Gorton** <[gortonp11@gmail.com](mailto:gortonp11@gmail.com)>  
Date: Fri, Sep 13, 2024 at 2:55 PM  
Subject: Document Repository request  
To: April Tompkins <[tompkinsa@buffalolib.org](mailto:tompkinsa@buffalolib.org)>

April,

Attached is a new formal request for a BCP project repository. Thank you in advance for your email acceptance

--

Peter J. Gorton, MPH; CHCM

Niagara Engineering, Partner

716-308-8220

--

Peter J. Gorton, MPH; CHCM

Niagara Engineering, Partner

716-308-8220

Buffalo & Erie County Public Libraries have more than 3.2 million materials - books, eBooks, DVDs, music & more. Free library cards (traditional and eLibrary) are available to Erie County, New York residents and to those who work and/or attend school in Erie County, NY. Follow the library on [Facebook](#), [Twitter](#), [Instagram](#), [Pinterest](#), [Flickr](#) and on our podcast *All Booked Up!* Information: 716-858-8900 or <http://www.buffalolib.org>.



**Library Repository Letter.docx**

132K

## APPENDIX L

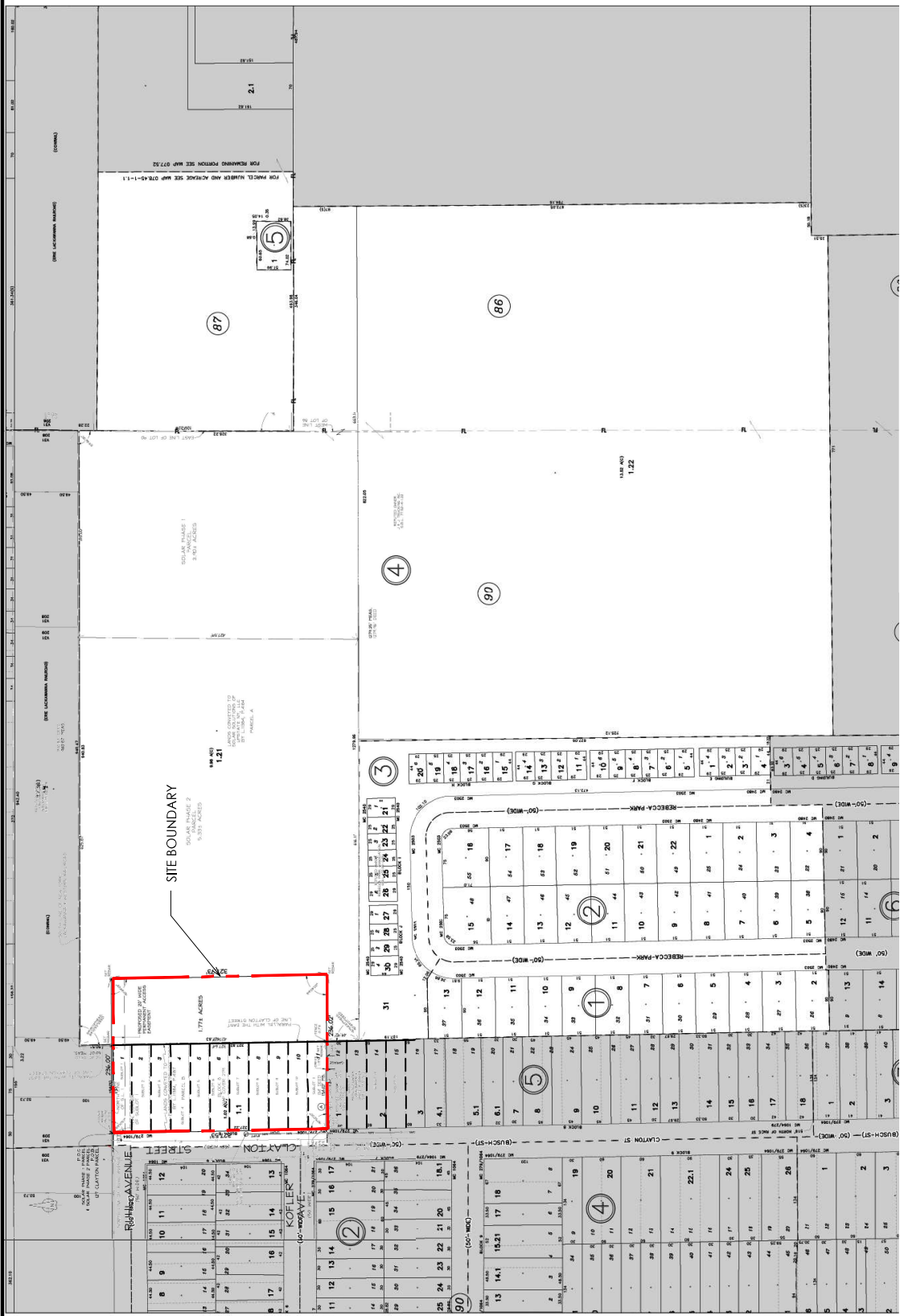
### **Section XII : Statement of Certification and Signature**

## **Appendix L.**

### **Section XII: Statement of Certification and Signature**

The Requestor and owner of ELMWOOD FOREST, LLC, Anthony P. LoRusso, has signed the application.

## FIGURE 1A – TAX MAP



NOTES:  
1) Basemap was adapted from the Division of Real Property Tax Services.

LEGEND  
BCP Site Boundary



Niagara Engineering  
255 Great Arrow Ave # 102  
Buffalo, NY 14207

Figure 1A - Tax Map

Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

Revisions
- - - - -
- - - - -
- - - - -
- - - - -



## FIGURE 1B – SITE SURVEY



FIGURE 1C – Site Survey



PROPOSED LEGAL DESCRIPTION REVISED

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF BUFFALO, COUNTY OF ERIE AND STATE OF NEW YORK, BEING PART OF LOT 90, TOWNSHIP 11, RANGE 8 OF THE HOLLAND LAND COMPANY'S SURVEY, BEING SUBDIVISION LOT NUMBERS 1 TO 11 INCLUSIVE, IN BLOCK 8 AS SHOWN ON A MAP FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 279, ALSO BEING PART OF LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, FURTHER DISTINGUISHED AS FOLLOWS;

BEGINNING AT A POINT OF INTERSECTION OF THE NORTH LINE OF RUHL AVENUE, BEING 50 FOOT WIDE AND THE EASTERLY LINE OF CLAYTON STREET, BEING 50 FOOT WIDE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SUBDIVISION LOT 1 AS SHOWN ON A SUBDIVISION PLAT FILED IN THE ERIE COUNTY CLERK'S OFFICE UNDER COVER NUMBER 279;

THENCE EASTERLY ALONG AN EXTENSION OF THE NORTH LINE OF SUBDIVISION LOT NO. 1, THROUGH THE LANDS CONVEYED TO SOLAR SOLUTIONS OF UPSTATE NY, LLC BY DEED RECORDED IN THE ERIE COUNTY CLERK'S OFFICE IN LIBER 11384 AT PAGE 4184, A DISTANCE OF 236 FEET TO A POINT;

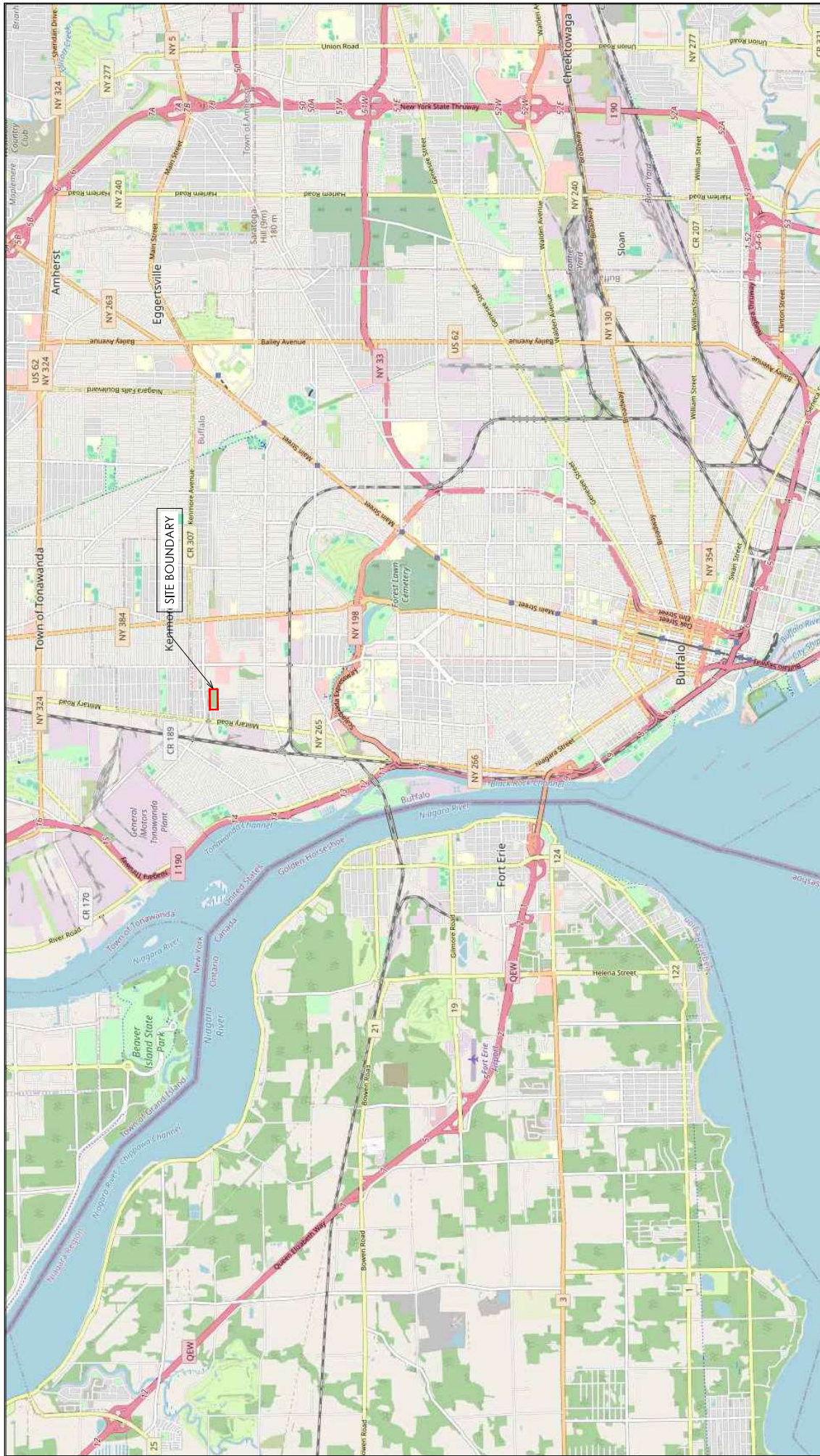
THENCE SOUTHERLY, AT AN INTERIOR ANGLE  $90^{\circ}49'03''$ , THROUGH SAID LANDS OF SOLAR SOLUTIONS OF UPSTATE NY, LLC A DISTANCE OF 327.73 FEET TO A POINT;

THENCE WESTERLY AT AN INTERIOR ANGLE  $89^{\circ}08'00''$ , THROUGH SAID LANDS OF SOLAR SOLUTIONS OF UPSTATE NY, LLC AND ALONG THE SOUTH LINE OF SUBLOT 11, A DISTANCE OF 236.02 FEET TO A POINT ON THE EAST LINE OF CLAYTON STREET;

THENCE NORTHERLY AT AN INTERIOR ANGLE  $90^{\circ}52'00''$ , ALONG THE EAST LINE OF CLAYTON STREET, AT A DISTANCE OF 327.53 FEET TO THE POINT OF BEGINNING, CONTAINING 1.77 ACRES MORE OR LESS.

**FIGURE 2 – PROJECT LOCATION TOPO**





**LEGEND**

BCP Site Boundary

**NOTES:**

1) Basemap was adapted from Erie County GIS

**Figure 2 - Property Location**

**Niagara Engineering**

255 Great Arrow Ave # 102  
Buffalo, NY 14207

**Revisions**

Rev	Description	Date
1	Initial	10/16/2024

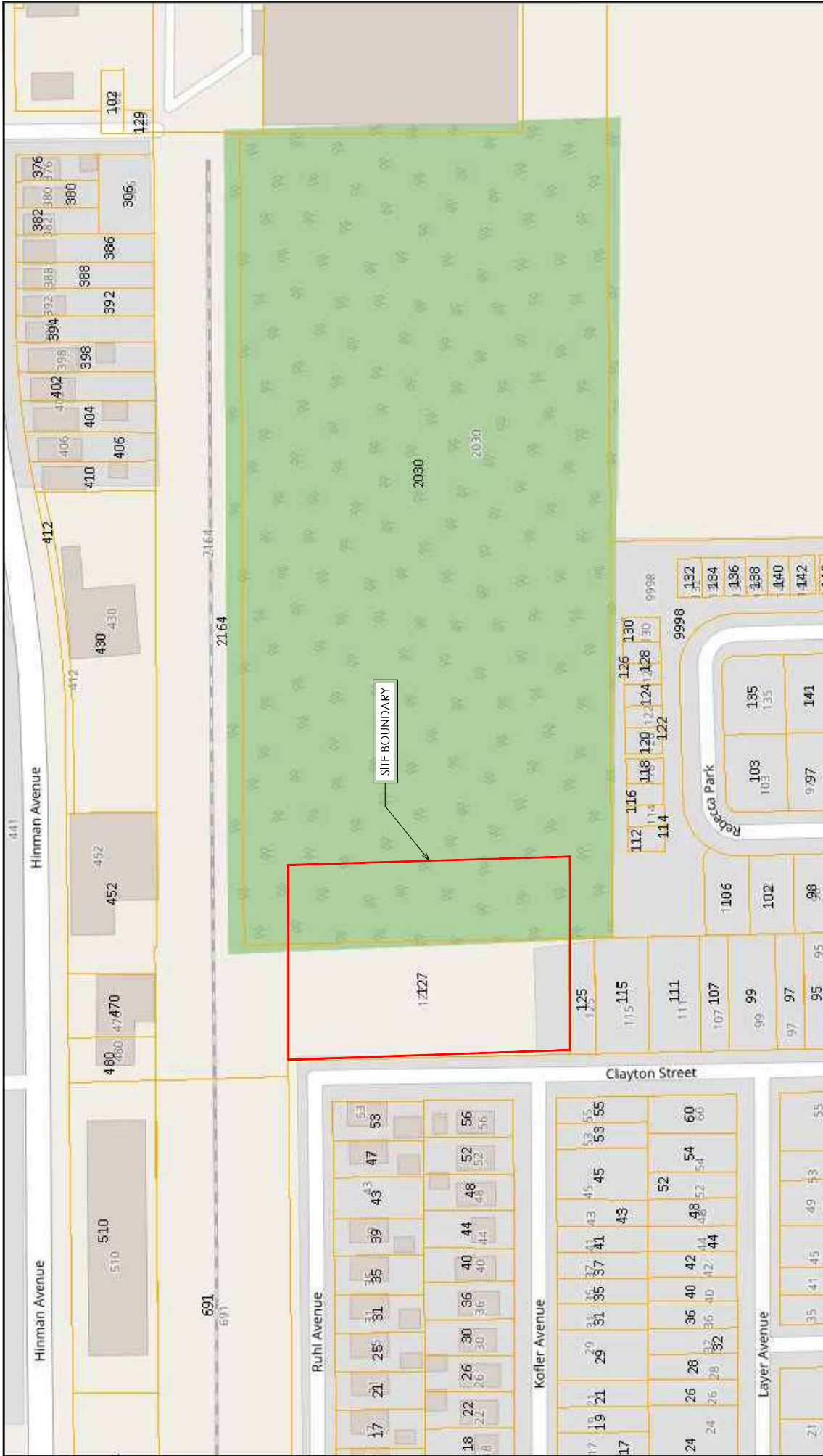
Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

**SCALE: NTS**

**SHEET 4 OF 11**

**FIGURE 3 – SITE MAP**





**LEGEND**

BCP Site Boundary

**NOTES:**

1) Basemap was adapted from Erie County GIS

**Figure 3 - Site Map**

Niagara Engineering  
255 Great Arrow Ave # 102  
Buffalo, NY 14207

Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

**Revisions**

-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

**SCALE: NTS**

**10-16-2024**

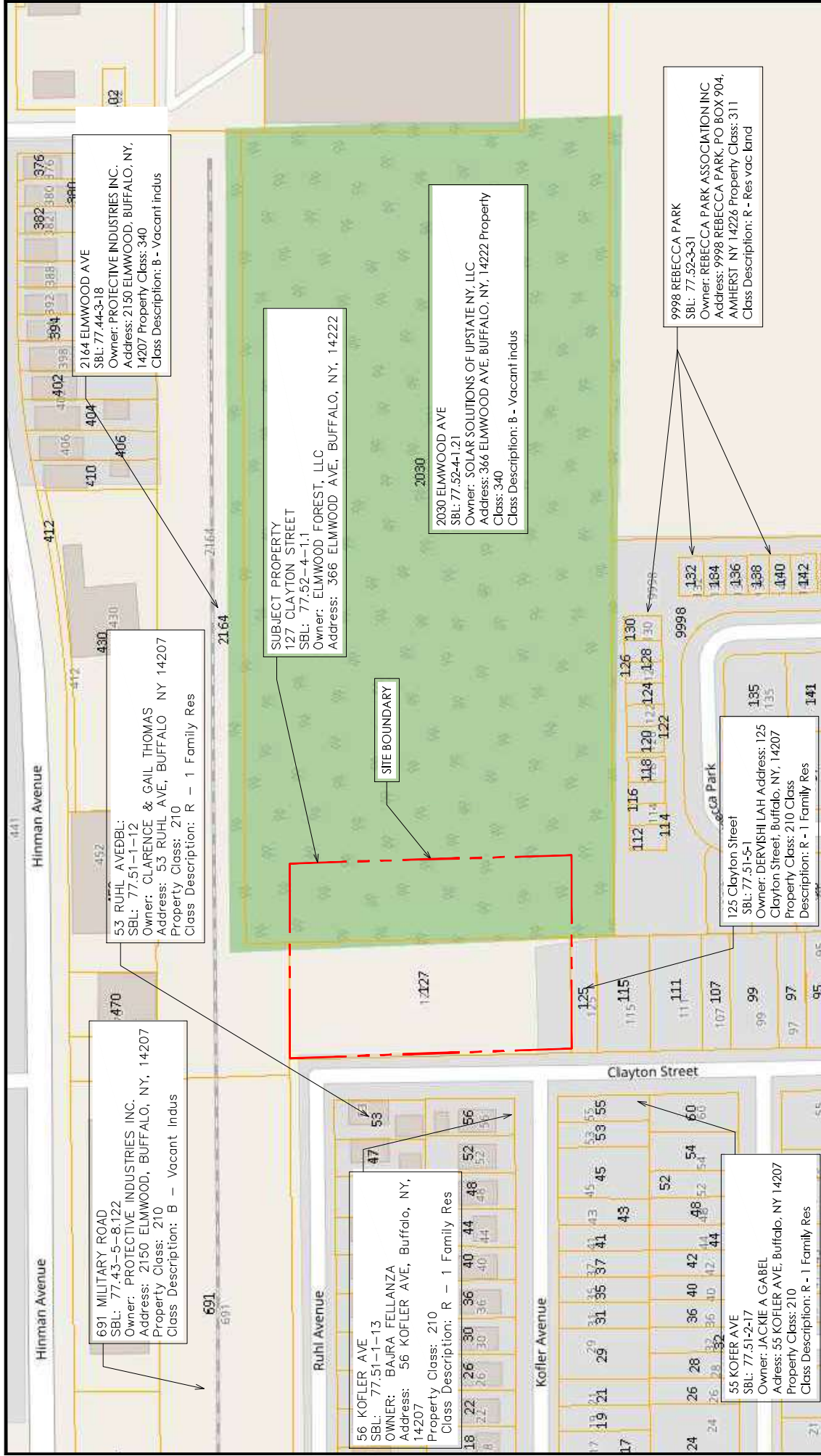
**SHEET 5 OF 11**

## FIGURE 4 – SITE MAP & PROPERTY LOCATION



**FIGURE 5 – SITE MAP & ADJACENT PROPERTY OWNERS**





**LEGEND**  
 BCP Site Boundary

**NOTES:**  
1) Basemap was adapted from Erie County GIS N



**Niagara Engineering**  
255 Green Arrow Ave # 102  
Buffalo, NY 14207

**Figure 5 - Site Map & Adjacent Property Owners**  
Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

**10-16-2024**

**SCALE: NTS**

**SHEET 7 OF 11**

Revisions
- / - / -
- / - / -
- / - / -
- / - / -

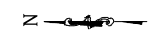
**FIGURE 6 – EN ZONE MAP**





LEGEND

NOTES:



Niagara Engineering  
255 Great Arrow Ave # 102  
Buffalo, NY 14207

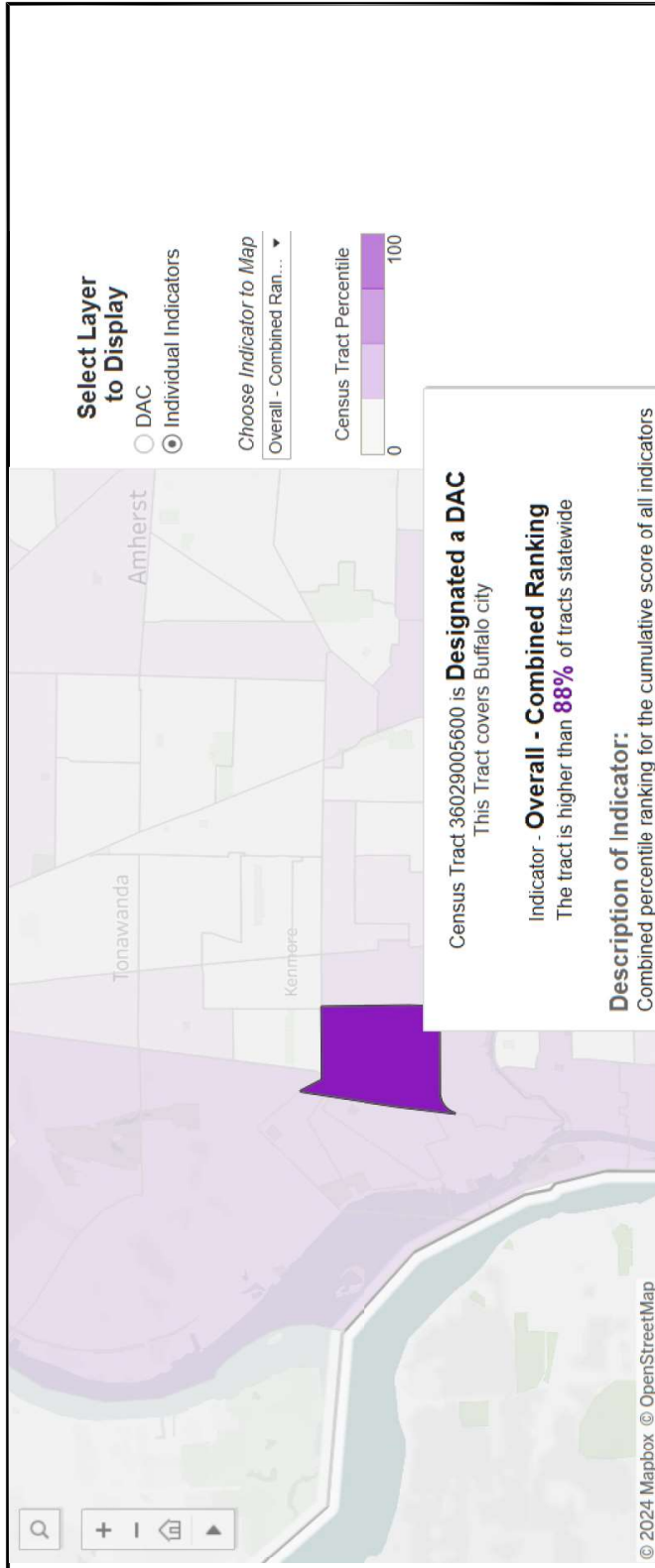
Figure 6 - Enzone Map

Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

Revisions	
1	10/16/2024
2	10/16/2024
3	10/16/2024
4	10/16/2024
5	10/16/2024

## FIGURE 7 – DISADVANTAGED COMMUNITIES MAP





[Click a Single Census Tract on the Map to View Indicator Details](#)

## Population Characteristics & Vulnerability




## Environmental Burden & Climate Change Risk



NOTES:

### LEGEND

 <b>Niagara Engineering</b> 255 Great Arrow Ave. # 102 Buffalo, NY 14207	<b>Figure 7 - Disadvantage</b>		Revisions
	<b>Community</b>		-
	Clayton Street Residences 127 Clayton Street Buffalo, NY 14207		-
			-
			-
10-16-2024	SCALE: NTS	SHEET 9 OF 11	

## FIGURE 8 – ZONING MAP



**LEGEND**

BCP Site Boundary

**NOTES:**

Figure 8 - Zoning Map

Clayton Street Residences  
127 Clayton Street  
Buffalo, NY 14207

10-16-2024

SCALE: NTS

SHEET 10 OF 11

**Revisions**

1	10/16/2024	10/16/2024
2	10/16/2024	10/16/2024
3	10/16/2024	10/16/2024
4	10/16/2024	10/16/2024
5	10/16/2024	10/16/2024
6	10/16/2024	10/16/2024
7	10/16/2024	10/16/2024
8	10/16/2024	10/16/2024
9	10/16/2024	10/16/2024
10	10/16/2024	10/16/2024
11	10/16/2024	10/16/2024
12	10/16/2024	10/16/2024
13	10/16/2024	10/16/2024
14	10/16/2024	10/16/2024
15	10/16/2024	10/16/2024
16	10/16/2024	10/16/2024
17	10/16/2024	10/16/2024
18	10/16/2024	10/16/2024
19	10/16/2024	10/16/2024
20	10/16/2024	10/16/2024
21	10/16/2024	10/16/2024
22	10/16/2024	10/16/2024
23	10/16/2024	10/16/2024
24	10/16/2024	10/16/2024
25	10/16/2024	10/16/2024
26	10/16/2024	10/16/2024
27	10/16/2024	10/16/2024
28	10/16/2024	10/16/2024
29	10/16/2024	10/16/2024
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41	10/16/2024	10/16/2024
42	10/16/2024	10/16/2024
43	10/16/2024	10/16/2024
44	10/16/2024	10/16/2024
45	10/16/2024	10/16/2024
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47	10/16/2024	10/16/2024
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49	10/16/2024	10/16/2024
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52	10/16/2024	10/16/2024
53	10/16/2024	10/16/2024
54	10/16/2024	10/16/2024
55	10/16/2024	10/16/2024
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69	10/16/2024	10/16/2024
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71	10/16/2024	10/16/2024
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73	10/16/2024	10/16/2024
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79	10/16/2024	10/16/2024
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83	10/16/2024	10/16/2024
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87	10/16/2024	10/16/2024
88	10/16/2024	10/16/2024
89	10/16/2024	10/16/2024
90	10/16/2024	10/16/2024
91	10/16/2024	10/16/2024
92	10/16/2024	10/16/2024
93	10/16/2024	10/16/2024
94	10/16/2024	10/16/2024
95	10/16/2024	10/16/2024
96	10/16/2024	10/16/2024
97	10/16/2024	10/16/2024
98	10/16/2024	10/16/2024
99	10/16/2024	10/16/2024
100	10/16/2024	10/16/2024

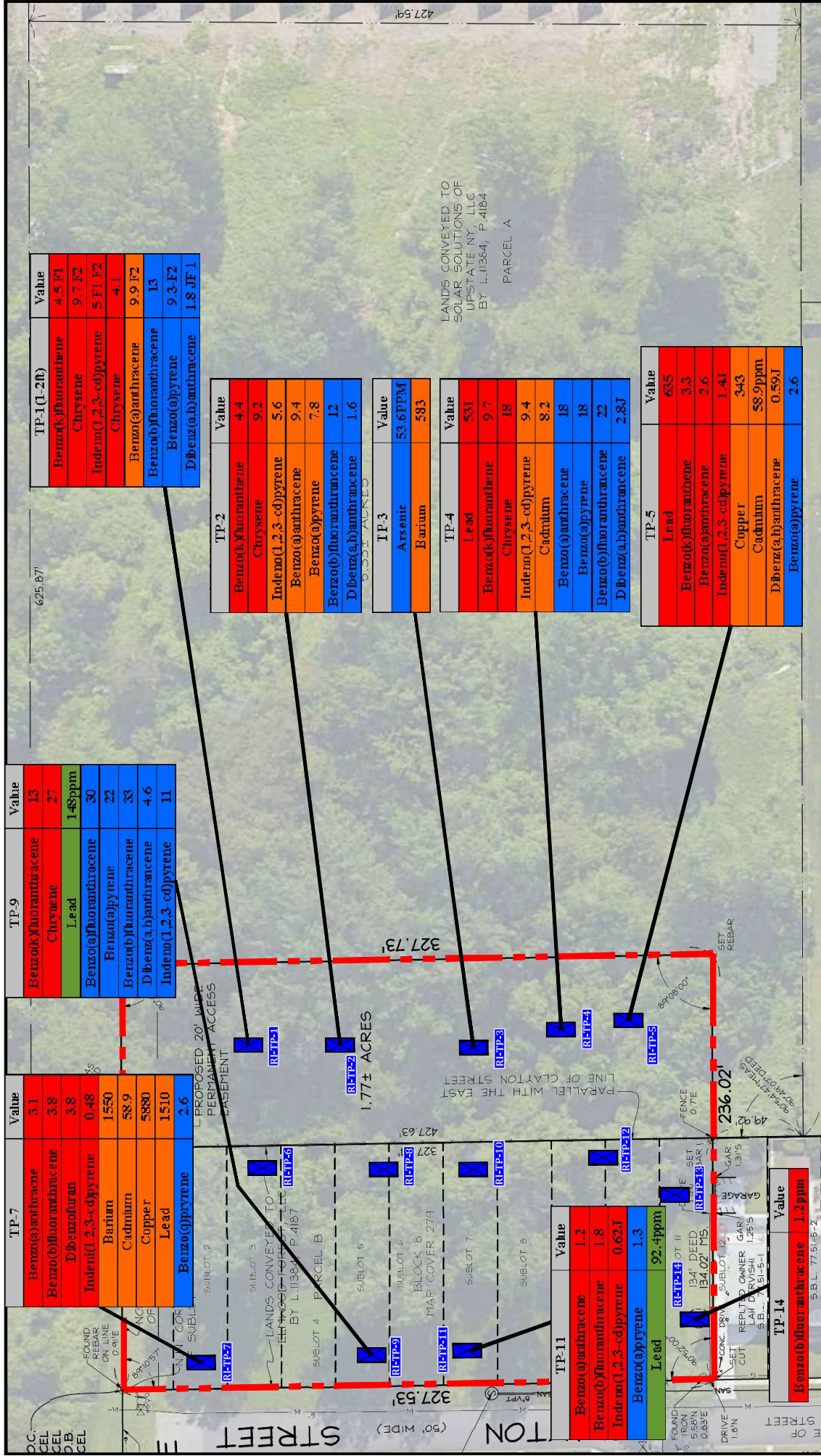
**POWERED BY**

Niagara Engineering

255 Great Arrow Ave # 102  
Buffalo, NY 14207

**FIGURE 9 – PHASE II RESULTS & EXCEEDANCES MAP**





LEGEND

- Value exceeds NYSDEC Restricted Residential SCOs
- Value exceeds NYSDEC Commercial SCOs
- Value exceeds NYSDEC Industrial SCOs
- Value exceeds NYSDEC UNRESTRICTED SCO
- BCP Site Boundary
- RI Test Trench

NOTES:

1) Basemap was adapted from Google Maps

Figure 9 - Property Area w/ Soil Sample Exceedances

Niagara Engineering

255 Great Arrow Ave # 102  
Buffalo, NY 14207

CLAYTON STREET RESIDENCES  
127 CLAYTON STREET  
BUFFALO, NY 14207

SCALE: NTS

10-16-2024

SHEET 11 OF 11