



Department of Environmental Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

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applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? Yes No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

- Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]
- Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]
- Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.
- Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

The previous BCA Agreement relates to six parcels. Per the Applicant's request, the City of Buffalo has combined the six parcels into one: SBL No. 78.69-2-3.1; 1801 Elmwood Avenue, Buffalo, New York 14207.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Agreement Information			
BCP SITE NAME: MOD-PAC CORP		BCP SITE NUMBER: C915314	
NAME OF CURRENT APPLICANT(S): Mod-Pac Corp., Rosalia Capital LLC			
INDEX NUMBER OF EXISTING AGREEMENT: C915314-06-		DATE OF EXISTING AGREEMENT: 06-21-17	
Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)			
NAME			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. 			
NAME OF NEW REQUESTOR'S REPRESENTATIVE			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Describe Requestor's Relationship to Existing Applicant:			

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)			
OWNER'S NAME (if different from requestor)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	
OPERATOR'S NAME (if different from requestor or owner)			
ADDRESS			
CITY/TOWN		ZIP CODE	
PHONE	FAX	E-MAIL	

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)	
If answering "yes" to any of the following questions, please provide an explanation as an attachment.	
1. Are any enforcement actions pending against the requestor regarding this site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Are there any unregistered bulk storage tanks on-site which require registration?	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.

VOLUNTEER

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

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

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS 1801 Elmwood Avenue

CITY/TOWN Buffalo, New York

ZIP CODE 14207

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
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Please see attached list					

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
1801 Elmwood Avenue		78.69	2	3.1	20.03

Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information.	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From ECL 27-1405(31):</p> <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p>	
3. Is the project an affordable housing project as defined below?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p>	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: MOD-PAC CORP.	BCP SITE NUMBER: #C915314
NAME OF CURRENT APPLICANT(S): Mod-Pac. Corp, Rosalie Capital LLC	
INDEX NUMBER OF EXISTING AGREEMENT: C915314-06-17	
EFFECTIVE DATE OF EXISTING AGREEMENT: 6/21/17	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

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. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and 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.

_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am President (title) of Rosalia Capital LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 9/12/19 Signature: Daniel G Keane

Print Name: Daniel G. Keane

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input checked="" type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.	<input type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 6/21/17

Signature by the Department:

DATED: 11/1/19

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: [Signature]
Michael J. Ryan, P.E., Director
Division of Environmental Remediation

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am President (title) of Mod-Pac Corp. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/15/19 Signature: 

Print Name: Daniel G. Keane

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input checked="" type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination 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 contamination.	<input type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: 6/21/17

Signature by the Department:

DATED: 11/1/19

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: 
Michael J. Ryan, P.E., Director
Division of Environmental Remediation

SUBMITTAL INFORMATION:

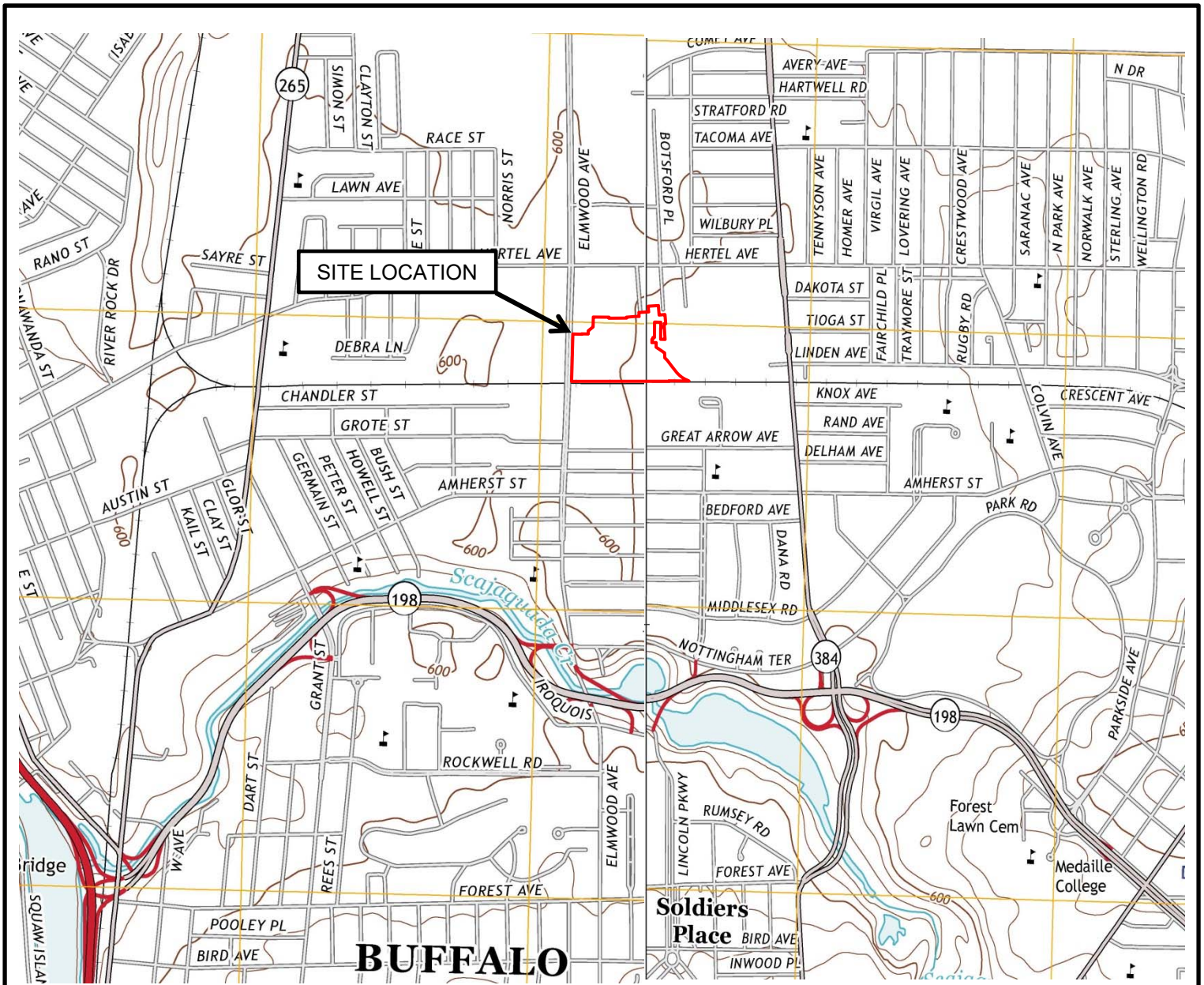
- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____



THIS DRAWING IS FOR ILLUSTRATIVE AND INFORMATIONAL PURPOSES ONLY
 AND WAS ADAPTED FROM USGS, BUFFALO NE & NW, NEW YORK 2013 QUADRANGLE.



HAZARD EVALUATIONS, INC.		
<i>Phase I/II Audits – Site Investigations – Facility Inspections</i>		
SITE LOCATION		
MOD-PAC CORP.		
1801 ELMWOOD AVE.		
BUFFALO, NEW YORK		
DRAWN BY: LSH	SCALE: NOT TO SCALE	PROJECT: e1605
CHECKED BY: EB	DATE: 02/17	FIGURE NO: IV-A

Mod-Pac Corp.
1801 Elmwood Avenue
BCP Site No. C915314

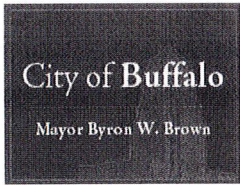
Properties to be Consolidated into Parcel 1801 Elmwood

Former Parcel Address	Former Parcel SBL Number
1801 Elmwood Avenue, Buffalo, New York 14207	78.69-2-4.21 (THIS IS THE ADDRESS AND SBL FOR THE NEWLY FORMED PARCEL)
1805 Elmwood Avenue, Buffalo, New York 14207	78.69-2-4.1
1809 Elmwood Avenue, Buffalo, New York 14207	78.69-2-3
33 Mandan Street, Buffalo, New York 14216	78.70-2-13
86 Ledger Street, Buffalo, New York 14216	78.70-2-12
94 Ledger Street, Buffalo, New York 14216	78.70-2-11

1. Tax Map Information

<u>Parcel</u>	<u>Section</u>	<u>Block</u>	<u>Lot</u>	<u>Acreage</u>
1801 Elmwood	78.69	2	4.21	12.2139 acres
1805 Elmwood	78.69	2	4.1	4.3728 acres
1809 Elmwood	78.69	2	3	2.9759 acres
86 Ledger	78.70	2	12	0.248 acres
94 Ledger	78.70	2	11	0.0848 acres
33 Mandan	78.70	2	13	<u>0.1416 acres</u>
Total:				20.037 acres

A tax map is included as Figure IV-B. The boundaries of the Site do correspond with the tax map boundaries. However, the BCP Site Limit was formerly 6 tax ID parcels which have been combined into one parcel. A new SBL number has ~~been~~ assigned to the one parcel. ~~The new metes and bounds/legal description is attached.~~



Office of Assessment & Taxation Parcel Combination Form

Request Information

Employee	<input type="text"/>	Permit	<input type="checkbox"/>
Request Date	January 20, 2017	Roll Year	<input type="text" value="2018"/>
Requestor Name	Mod-Pac Corp	Requestor Phone	716-427-7105
Requestor Email	no email		

Combined Parcels

Street Number	1801	Street Name	<input type="text" value="Elmwood"/>
Parcel SBL	<input type="text"/>	Roll Section	1
Parcel Class	710	Bank Code	
Owner	Mod-Pac Corp		
Last Deed Filed			

Street Number	1805	Street Name	<input type="text" value="Elmwood"/>
Parcel SBL	<input type="text"/>	Roll Section	1
Parcel Class	710	Bank Code	
Owner	Mod-Pac Corp		
Last Deed Filed			

Street Number	1809	Street Name	<input type="text" value="Elmwood"/>
Parcel SBL	<input type="text"/>	Roll Section	1
Parcel Class	710	Bank Code	
Owner	Mod-Pac Corp.		
Last Deed Filed			

Street Number	33	Street Name	<input type="text" value="Mandan"/>
Parcel SBL	<input type="text"/>	Roll Section	1
Parcel Class	330	Bank Code	9-40189
Owner	Mod Pac Corp		
Last Deed Filed			

Street Number	86	Street Name	<input type="text" value="Ledger"/>
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Parcel SBL Roll Section 1
 Parcel Class 331 Bank Code
 Owner Mod-Pac Corp.
 Last Deed Filed




Street Number 94 Street Name
 Parcel SBL Roll Section 1
 Parcel Class 311 Bank Code
 Owner Mod-Pac Corp.
 Last Deed Filed

Insert Parcel

Support Information

Comments

Attachments

-  1801 elmwood combo form.pdf
415.99 KB
-  1801 elmwood combo receipts.pdf
146.94 KB
-  Survey 1801 Elmwood combo.pdf
1.07 MB

Insert Another Attachment

Submit Form

Cancel

Now Combined as 1801 Elmwood
 78.69-2-3.1



78.69-2-3.1

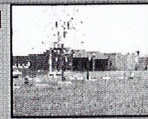
Mod-Pac Corp
1801 Elmwood

140200 Buffalo

Roll Year: 2020 Curr Yr
Land Size: 18.85 acres

Active R/S:1
Manufacture
Non-Homestead

School: Buffalo School
Land AV: 361,600
Total AV: 1,782,200



- Parcel 78.69-2-3.1
 - History
 - Assessment
 - Spec Dist(s)
 - Description
 - Owner(s)
 - Images
 - Gis
 - Site (1) Com
 - Land(s)
 - Bldg 1 Sec 1
 - Com Use
 - Valuation
 - Sale04/16/19
 - Site (1) Com
 - Land(s)
 - Bldg 1 Sec 1
 - Com Use
 - Valuation
 - Sale01/19/17
 - Notes
 - Site (1) Com
 - Land(s)
 - Bldg 1 Sec 1
 - Com Use
 - Valuation

Owner Tax Bill Mailing Address 3rd Party Address Bank

Total 1 Owners: To open, click the appropriate row (Right Click to Add)
Mod-Pac Corp Owner Type: Primary Desig Status:

Last Name / Company: Mod-Pac Corp First Name: MI: Jr., Sr., etc:

Attention To / In Care Of: Additional Address:

Street No: 1801 Prefix Dir: Elmwood St Suffix: Ave Post Dir: UnitName: Unit No:

Po Box No: City/Town: Buffalo State: NY Zip Code: 14207-

Country: enter if not "USA" Bar Cd: Ownership: e.g. Life Use Owner Type: P = Primary

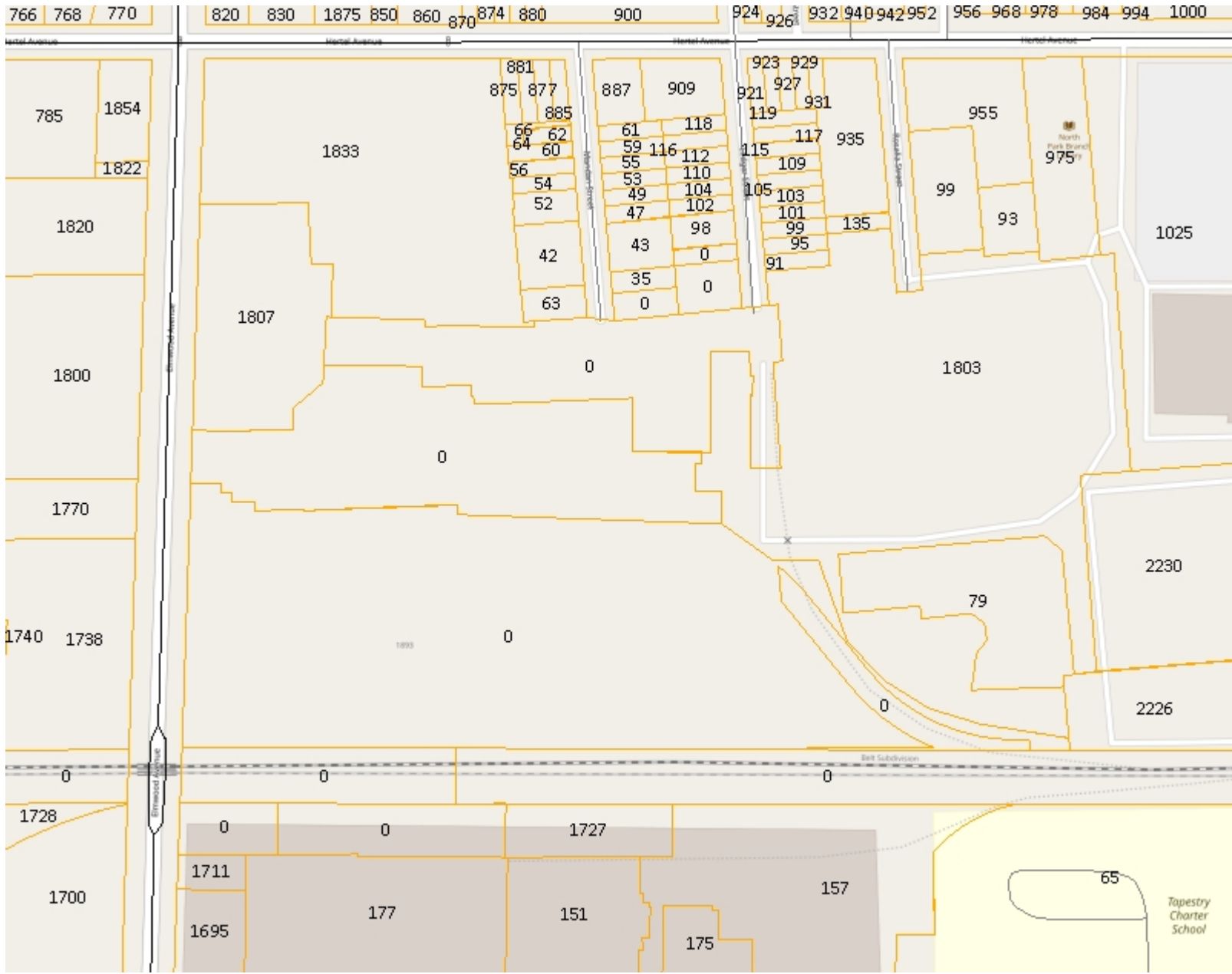
Owner's Primary Residence

DEPT. OF ASSESSMENT & TAXATION
65 NIAGARA SQ., RM 101 CITY HALL
BUFFALO, NEW YORK 14202-3385





Erie County On-Line Mapping Application



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

0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

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

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

1: 4,514

