



NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



BROWNFIELD CLEANUP PROGRAM (BCP)
APPLICATION TO AMEND AND AMENDMENT

PART I. BROWNFIELD CLEANUP 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

an 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), please also submit a Change of Use form.

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*]
- Other (explain in detail below)

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

Applicant requests the reconsideration of the Department's denial of BCP eligibility for one parcel in the original BCP Application, 401 Buffalo Avenue, upon the basis that new data and information found in the attached Supplemental Investigation Report identifies contamination on the parcel which would complicate redevelopment.

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

04/2014

Section I. Existing Application Information		
BCP SITE NAME: 402 and 430 Buffalo Avenue Site		BCP SITE NUMBER: C932164
NAME OF CURRENT APPLICANT(S): Merani Hospitality, Inc.		
INDEX NUMBER OF EXISTING AGREEMENT: C932164-05-14		DATE OF EXISTING AGREEMENT: 8/14/2014
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		
-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
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:		
<input 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. NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the contamination 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 contamination.	

Section II. New Requestor Information continued (if no change to Current Applicant, skip to Section V)

Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____ Yes No
If requestor is not the site owner, requestor will have access to the property throughout the BCP project.
(Note: proof of site access must be submitted for non-owners)

Requester must submit proof that the party signing this Application and Amendment has the authority to bind the Requester. 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.

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? Yes No
2. Is the requestor subject to an existing order relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
4. Has the requestor been determined to have violated any provision of ECL Article 27? Yes No
5. Has the requestor previously been denied entry to the BCP? Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? Yes No
7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? Yes No
8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No

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

ADDRESS 402 and 430 Buffalo Avenue

CITY/TOWN Niagara Falls, New York

ZIP CODE 14303

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

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
402 Buffalo Avenue, Niagara Falls, NY	402	159.54	1	46	0.35
430 Buffalo Avenue, Niagara Falls, NY	430	159.54	1	45	2.05

Check appropriate boxes below:

Changes to metes and bounds description or TBL correction

Addition of property (may require a standard application depending on the size and nature of addition – see attached instructions)

Approximate acreage added: 3.8

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
401 Buffalo Avenue, Niagara Falls, NY	401	159.39	2	9	3.8

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.

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information	
BCP SITE NAME: 402 and 430 Buffalo Avenue Site	BCP SITE NUMBER: C932164
NAME OF CURRENT APPLICANT(S): Merani Hospitality, Inc.	
INDEX NUMBER OF EXISTING AGREEMENT: C932164-05-14	
EFFECTIVE DATE OF EXISTING AGREEMENT: 8/14/2014	

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)
<p>(Individual)</p> <p>I acknowledge and agree to the general terms and conditions set forth in DER-32 <i>Brownfield Cleanup Program Applications and Agreements</i>. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. 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.</p> <p>Date: <u>NA</u> Signature: _____ Print Name: <u>NA</u></p>
<p>(Entity)</p> <p>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 acknowledge and agree to the general terms and conditions set forth in DER-32 <i>Brownfield Cleanup Program Applications and Agreements</i>. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. 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.</p> <p>Date: <u>NA</u> Signature: _____ Print Name: <u>NA</u></p>

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.

NA

NA

Date: _____ Signature: _____ Print Name: _____

(Entity)

CEO

Merani Hospitality, Inc.

I hereby affirm that I am _____ (title) of _____ (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.

9/15/14

Faisal Merani

Date: _____ Signature: _____ Print Name: _____

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

<input 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 checked="" 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.
--	---

Effective Date of the Original Agreement: *8/14/14*

Effective Date of the Amendment:

Signature by the Department:

DATED: *November 12, 2014*

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: 

Robert W. Schick, P.E., Director
Division of Environmental Remediation

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, 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

- **One (1)** paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check [DEC's website](#) for information on our regional offices.

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____

LEAD OFFICE: _____

PROJECT MANAGER: _____

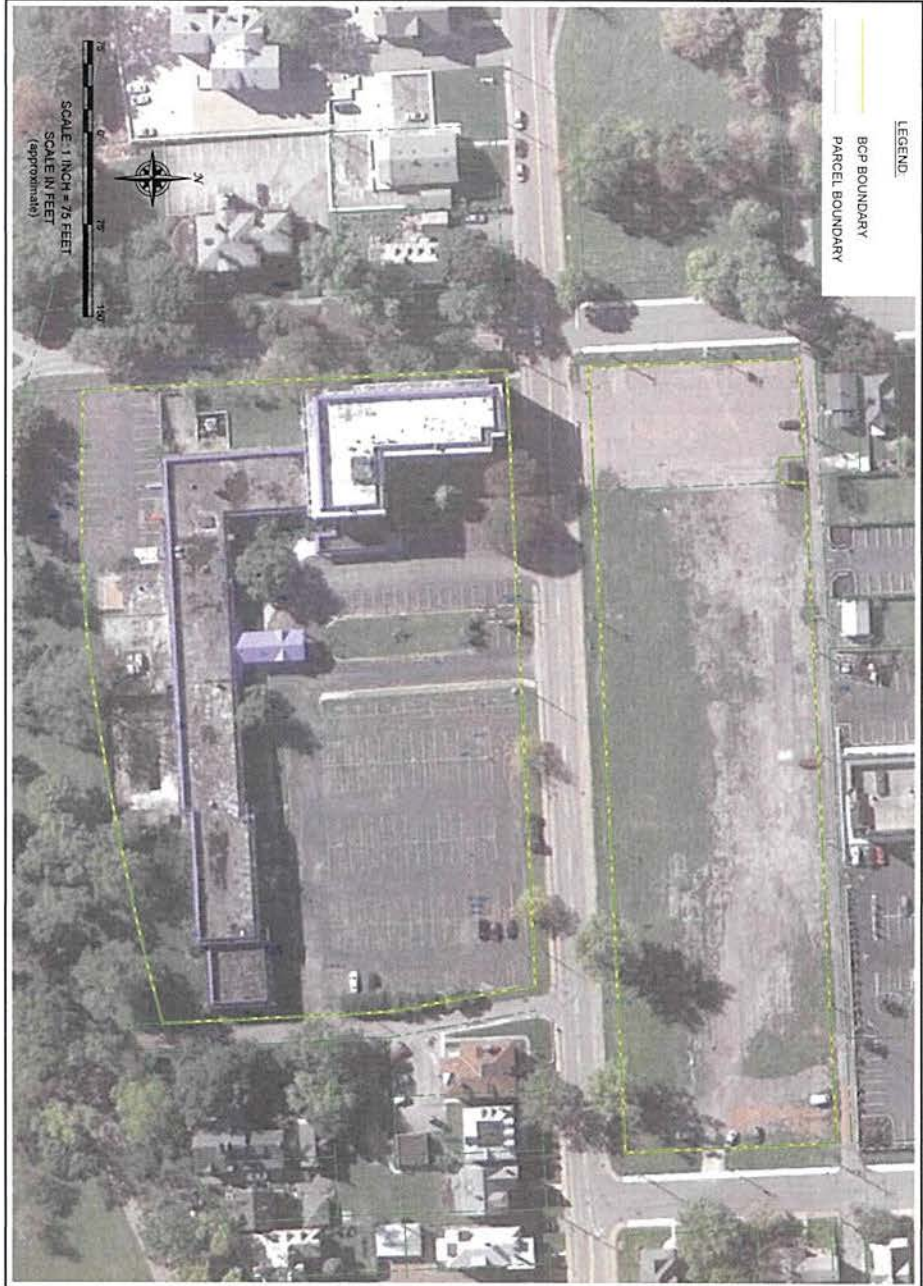

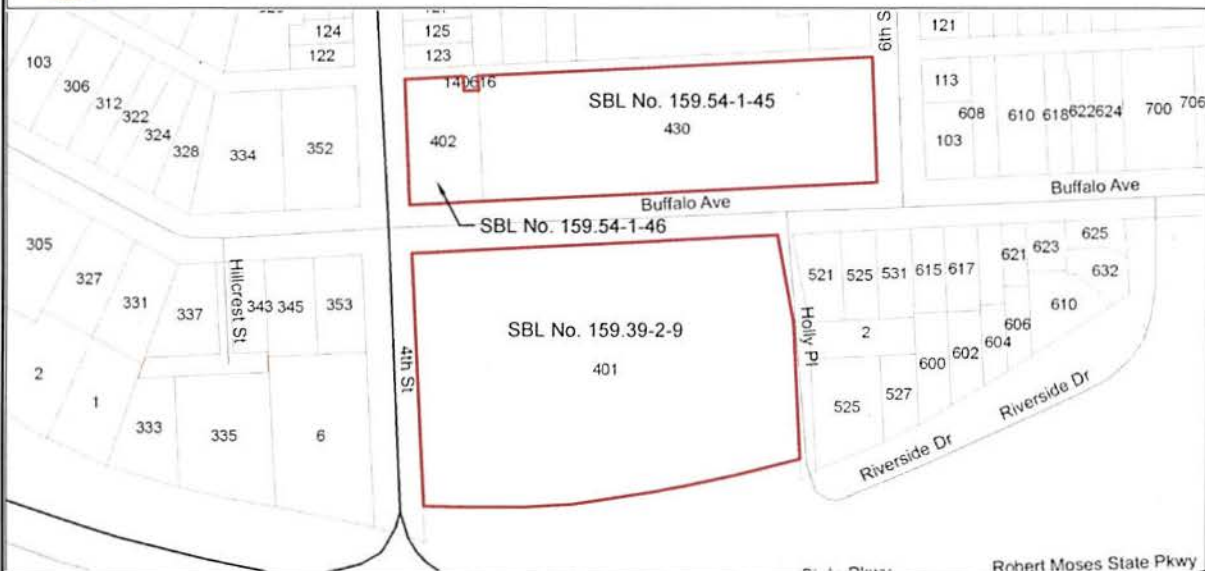


FIGURE 2	SITE PLAN (AERIAL)	 2558 HANDBURG TURNPIKE SUITE 300 BUFFALO, NY 14216 (716) 656-0635
	BROWNFIELD CLEANUP PROGRAM APPLICATION 401, 402, & 430 BUFFALO AVENUE SITE NIAGARA FALLS, NEW YORK PREPARED FOR MERANI HOSPITALITY, INC. JOB NO. : 0294-013-001	

DISCLAIMER
PROPERTY OF TURNKEY ENV REST, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF TURNKEY ENV REST, LLC.



Niagara County On-Line Mapping System




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



Niagara County and its officials and employees assume no responsibility or legal liability for the accuracy, completeness, reliability, timeliness, or usefulness of any information provided. Tax parcel data was prepared for tax purposes only and is not to be reproduced or used for surveying or conveying.

NIAGARA COUNTY, NEW YORK
DEPARTMENT OF REAL PROPERTY SERVICES

2668 HAMBURG TURNPIKE
SUITE 300
BUFFALO, NY 14218
(716) 666-0636

PROJECT NO.: 0294-013-001
DATE: FEBRUARY 2014
DRAFTED BY: JGT

PARCEL MAP

BROWNFIELD CLEANUP PROGRAM APPLICATION
401, 402, & 430 BUFFALO AVENUE SITE
NIAGARA FALLS, NEW YORK
PREPARED FOR
MERANI HOSPITALITY, INC.

FIGURE 3

DISCLAIMER
PROPERTY OF TURNKEY ENV REST, LLC. IMPORTANT: THIS DRAWING PRINT IS LOANED FOR MUTUAL ASSISTANCE AND AS SUCH IS SUBJECT TO RECALL AT ANY TIME. INFORMATION CONTAINED HEREON IS NOT TO BE DISCLOSED OR REPRODUCED IN ANY FORM FOR THE BENEFIT OF PARTIES OTHER THAN NECESSARY SUBCONTRACTORS & SUPPLIERS WITHOUT THE WRITTEN CONSENT OF TURNKEY ENV REST, LLC.