



March 13, 2009

Paul Tronolone
Empire State Development Corporation
95 Perry Street
Buffalo, New York 14203

Re: Comments on Draft Scoping Report, Proposed Action: Canal Side Project

Dear Mr. Tronolone,

The Campaign for Greater Buffalo has many concerns regarding the so-called Canal Side project as it effects the area we refer to as The Canal District. The Canal District is bounded by the west side of Main Street, the Buffalo River, the west side of Commercial Street, and the south side of Scott Street. We also have concerns with how the project effects the overall sustainability of historic structures in the surrounding area, especially the locally designated Joseph Ellicott and Cobblestone Canal Districts, as well as the Delaware, Lackawanna, and Western trainshed. There are also issues of social justice and equity which, given the current economic climate, take on added importance.

The Canal District and areas around it constitute a historic vernacular landscape. Maintaining the integrity of the site, whether considering preservation, rehabilitation, restoration, or reconstruction, is of the utmost importance.

As so much of our concern revolves around integrity, allow me to list the seven qualities of integrity as defined by the National Register Program: location, setting, feeling, association, design, workmanship, and materials.

Many of our concerns would be rendered moot if the 2004 FSEIS and the related masterplan and Urban Renewal amendments were simply adhered to; only the remainder of the proposed "Canalside" project outside the Canal District would require an EIS. It would save all parties a lot of time and money.

The Canal District component of the plan should not be radically changed. To do so will only provoke determined opposition on issues for which consensus already exists, thereby delaying any construction activities by several years. The development of the Erie Canal Harbor Master Plan, which was finalized in November 2004, together with the Final Supplemental Environmental Impact Statement and the amendment of the City of Buffalo's Urban Renewal Plan for the so-called Erie Canal Harbor (the remaining area of Buffalo's Canal District of the 19th and 20th centuries), represent an intensive and extensive effort to intelligently redevelop the area of the historic terminus of the Erie Canal on Buffalo's Harbor. Underlying the effort was a vision of heritage-based development, with the ancillary benefits of increased tourism, civic pride, and future civic prosperity.

During the period 2005 through 2008, three years were wasted by ECHDC attempts to discard the entire idea of creating a Canal District. First, the Canal District was to be truncated, cut off at Hanover Street. (See, Attachment 1) This change was announced by a large sign erected on Scott Street that sought to make the public believe that it was a fait accompli. Then, there were two later proposals to replace all or a portion of the Canal District with a large retail store selling fishing and sporting goods. The public was outraged by the breach of trust. There is a deeply held belief that the story of Buffalo's development deserves to be told by means of the historic landscape of the Canal District.

Our specific concerns are listed below, sometimes framed as questions.

LACK OF TRUE ALTERNATIVES

An overarching concern is the lack of sincere alternatives. SEQR 617.8 (f) (5) Scoping law requires that the Draft Scope include reasonable alternatives. As required, there is the “No Build” alternative. Then three “alternatives” are put forth, all of which include specifically, a Bass Pro store and its attendant plaza, parking ramp and boat pond, plus a cultural facility in the plaza basement. These are, in fact, mere variations of a theme, not substantive alternatives. There is no alternative that does not include a big box store on the former “Aud” site.

- Two alternatives readily suggest themselves: one without a big box store, which would allow the historic topography to remain unmolested and open the possibility for the historic street patterns and waterways to be extended through to Lower Terrace; an a second, with the Bass Pro big box on the Donovan Building site, which still gives Bass Pro the Interstate-highway visibility it craves, and the potential for a boat pond that would not effect the historic feeling of the Canal District as much. This last has the added advantage that it could enfront Main Street at the same time as it faces the extended waterways. Transit riders could alight directly in front of the store, and the existing baseball stadium ramp across exchange Street could be used to alleviate much new ramp construction.

MISSING DOCUMENTS

- Copies of the December 2006 Re-Evaluation Report and the January 2007 FTA concurrence letter should be included in the final scoping document and subsequent EIS documents, rather than merely be made available for inspection in the offices of ECHDC, which is unnecessarily burdensome and restrictive for the public. Since the decision to basically ignore the 2004 masterplan rests upon it and it resulted from an untested notion that “the Erie Canal Harbor Project needed to be refined in response to lack of funding and/or to provide flexibility in the build-out of future development parcels.” The “refinements” included reconfiguring the streets, which are a character-defining feature of the district. This specifically contravenes an objective listed in the 2004 FSEIS: “Incorporate the historic street patterns of the site into the new development.”

- The public should know who decreed “flexibility” in the future development parcels should override the 2004 plan, and why.

- The Scoping document must include a discussion of why there was no public input or review of the “ECHDC’s schematic planning process” which ultimately led to the proposed Project...as well as feasible alternatives for the proposed action,” as well as details of that process to aid in public evaluation hereafter. The public simply does not know the validity of assumptions and conclusions that involve spending hundreds of millions of public dollars.

- A proposed budget should be included in all EIS documents hereafter. The public has a right to know the public obligations being proposed, and what, if any, private funding is involved. This is elemental in weighing the costs and benefits, prudence and feasibility of the proposed action.

CHANGED GOALS AND OBJECTIVES

- The Project Goals and Objectives have changed from the 2004 FSEIS. The DSR has added this objective: “Facilitate and promote private investment that contributes to the creation of a year-round destination attraction...” This seems designed to fit the definition of a big box store, specifically Bass Pro. Why was this added?

FALSE DESIGN ASSUMPTIONS

- Despite the success of traditional neighborhood business districts in Buffalo and across the northeast and midwest, the DSR calls for “design measures...providing protection from the hot sun...and cold wind and snow...” These measures, if the concept drawings are any indication, would radically effect the setting, feeling, design, and association of the historic resources and would therefore compromise the chief potential attraction of the area.
 - As mentioned earlier, making any changes to the street patterns illustrated in the FSEIS of 2004 to facilitate two-way traffic or modern street design standards, would undercut a prime aspect of the site’s integrity.

ABANDONMENT AND BLOCKAGE OF THE TERRACE

- Lower Terrace should not be abandoned by the City and turned into a parking lot and potential retail space. This would make converting the elevated Thruway viaduct into a boulevard (which is being explored by several governmental and private organizations) that much more difficult. It is also a historic feature of the city going back to Joseph Ellicott’s 1803 survey. The historic Liberty Pole stood at the intersection of The Terrace and Main Street.

PARKING AND SOCIAL JUSTICE ISSUES

- A parking study for the 2004 FSEIS found over 11,000 parking spaces within a 2,000-foot radius of Main and Scott streets. The general area has proved to have sufficient capacity for 18,000 people to attend events at the HSBC Arena and additional thousands at the nearby baseball stadium. Why is any dedicated parking, built at public expense, necessary for Bass Pro, and how does this square with the multi-modal goals and the notions of social justice, when those with cars and those shopping at Bass Pro will be showered with public subsidies not available to, and paid in part by, those too poor to have access to a car or who choose to use mass transit? To spend tens of millions of dollars on a Chinese Wall of a parking ramp would seem a misallocation of resources and counter-productive to the goals of linking downtown proper with the waterfront. Particularly, having a covered pedestrian bridge connecting the ramp to the Bass Pro store seems utter folly from an urban design and economic point of view. The extent the bridge is used is the extent pedestrians are removed from the streets of downtown. Cities across the nation are rethinking their 1970’s era skywalk programs and are even tearing them down. Again, there is a social justice component in that two classes of citizens are being created and segregated: those with cars and a will to shop at a given store circulate via overhead, weather-proof walkways, everyone else is on street level, dehumanized by the bulk of the parking ramp and big box store, themselves exacerbating, rather than mitigating, the blighting and anti-pedestrian effects of the Thruway and Skyway.

NEGATIVE IMPACTS ON CANAL DISTRICT THROUGH CONSTRUCTION OF BIG BOX PLAZA

Beyond the broad destruction of the integrity of the Canal District, the DSR envisions changes to the surrounding topography and the construction of buildings which will have an overwhelming impact on the perception of visitors to the Canal District.

- To satisfy Bass Pro’s desire to have a pond for a retail display of small boats at level with its main sales floor, the entire body of land will be leveled off at the height of The Lower Terrace, resulting in stultifying dead zones of massive and long blank walls, exactly as local 1970’s urban-design horrors Main Place Mall, Rath County Office Building, and, directly across The Terrace, HSBC Center. This walled plinth will have the same effect on urban vitality as those decade-old mistakes. The HSBC Center, for example, was designed with vast, level, public plazas dotted with trees and sculpture. The

cost of leveling the plazas was blank walls hundreds of feet long along The Terrace, and Pearl, Washington, and Exchange streets. The plazas are empty at all times. So empty, in fact, that visitors are suspect and approached by security guards if they linger. A 15-foot high wall will directly face the Canal District. The wall would have an opening into the basement of the plaza, which would house a “cultural” facility.

To accommodate the floor-level elongated pond, all kinds of rationalizations are offered to make it seem part of a creative scheme to evoke parts of the Erie Canal quite distant from Buffalo, and then in ways that have no actual historic precedence. For example, the water in the pond is to cascade down a waterfall which is said to evoke locks on the canal. What hokey. Locks, of course, were designed to hold water and not to be overflowed in any event. This would constitute a gross misrepresentation of the historic topography of the site, which is the very reason the terminus of the canal was at this point and no other. Further, it misrepresents what it claims to evoke: canal locks. Third, the insertion of a giant waterwheel in the pond, bizarre and hokey, further misrepresents what any canal is designed to be: slack water. There would be no possibility for a waterwheel to function, even if one were to be allowed in the canal prism. Last but not least, there is a planned “Winter Garden,” perhaps to evoke the failed, though architecturally compelling, Winter Garden in Niagara Falls. Weird.

All of this would be visible from the Canal District and a travesty of an authentic landscape being reconfigured to serve an idiosyncratic commercial endeavor. The effects of reshaping the landscape and further cutting off the area north of the Thruway from the waterfront would long outlast the commercial viability of this proposed retail emporium. The historic feeling of the Canal District would be destroyed.

- A key understanding in the development of the Canal District was that people of all walks of life could share the site, yet the DSR mentions that great stretches of public docking may be given over to Bass Pro, over and beyond the elevated elongated pond, including the Commercial Slip.

NEGATIVE EFFECTS OF OVER-ACCOMMODATION OF AUTOMOBILE ON HISTORIC FABRIC

- The Master Plan, SFEIS and the revised Urban Renewal Plan express clearly the principal that the project should minimize automobile traffic to and within the site, and instead promote pedestrian streets, mass transit, and alternative transportation. Obviously, imposing modern vehicular traffic designs would seriously undermine the feeling, association, design, materials, setting, and location of the 19th century landscape, destroying its historic integrity. In the existing documents, the only streets in the district on which vehicular traffic are permitted are Hanover and a portion of Prime Street between Lloyd and Hanover. (SFEIS, Appendix D, §3.2.4)

The Draft Scoping Report suggests, in opposition, that the Project should be predominately dependent upon automobile transport. It states, “Where feasible, all streets will facilitate two-way vehicular traffic.” (P. 9) It is simply not possible to have a Canal District that can be driven through like a themed shopping center. It would lack authenticity and would violate the Secretary of the Interior’s Standards for the Treatment of Historic Properties. It appears from the drawings in the Scoping Report that the historic street patterns and lot lines (and thus building envelopes) would be altered to create turning radii for modern trucks and large vehicles. While this would be permissible outside the Canal District, it would violate the adopted standards set in the SFEIS and the Amended Urban Renewal Plan.

The Master Plan already allows for sufficient vehicular travel to serve the disabled and to bring supplies and service to the establishments in the district.

CHANGED DEVELOPMENT PARCELS

- The Master Plan and the Urban Renewal Plan Amendments go into great detail in describing the

permitted uses in the seven Multi-Use Development parcels in the Canal District. Zoning ordinances and architectural guidelines call for strict adherence to standards that will assure that buildings conform with a 19th century aesthetic while encouraging compliance with modern standards for energy efficiency, handicapped access, etc. These are ignored in the Draft Scoping Report. For example, the DSR envisions a hotel in the "Riverfront Esplanade." However, a single purpose hotel is prohibited by the terms of the revised Urban Renewal Plan for the Multi-Use Development District. Appendix D, §3.2.3.4. The prohibition was purposeful - to guarantee a variety of alternative building heights and configurations, and to encourage first story commercial uses.

- The DSR has largely replaced the 7 development parcels with the single Public Market cutting across the development parcels. The concept of a streetscape that has as its foundation the existing subsurface resources precludes the Market concept, to say nothing of covering it with a glass canopy. Building density should follow the original street patterns and buildings should be built to the sidewalk, as required by the Land Use Plan, SFEIS Appendix D, Part 3. It is hard to imagine how a glass-roofed market would evoke a proper feeling, and it would be contrary to the Secretary of the Interior's Standards.

CHANGES TO PRIME SLIP

- The DSR is to be commended for suggesting a rewatered Prime Slip (it is not clear whether this would be navigable). The route shown in the DSR drawings is not accurate, however. All records of the Prime Slip show that its terminus was perpendicular to the Buffalo River and across Central Wharf and Prime Street. North of Prime Street the slip ran parallel with Lloyd and Hanover streets. See, SFEIS, Appendix D, Attachment B, Maps - Erie Canal Harbor Master Plan.

PRIME STREET & CENTRAL WHARF

- The Master Plan for the Canal District calls for railroad tracks to be situated on Prime Street to represent the rail transportation history of the Canal District. It is absent from the DSR, as is the planned public recreational pavilion with balconies along the Central Wharf, representing the former structures there. The Central Wharf was a key feature of the harbor and Buffalo's commercial life, where the most essential activities occurred. It should be a focus of the district. The pavilion should be constructed in the early stages of the project, and not left until a later stage, or eliminated.

- We agree that the boat basin was inappropriate to the Canal District and should be deleted from the project. There should be continuity of the wharfage all the way to the DL&W Terminal.

PUBLIC FUNDING AND RISK

- There is a strong possibility that economic conditions will not be favorable in the next several years for large retail stores to open new branches in the larger project area. A reallocation of the project funding to stress the development of the Canal District will be able to reap economic benefits for Buffalo much sooner than other expenditures.

- SEQR § 8-0103.7 states that "It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities."

The citizens of New York State have millions of dollars to invest in the Erie Canal Harbor site. Using all the funds available for a single investment (Bass Pro) does not make good economic sense. The funds should be invested in a more diversified "portfolio" of projects as any investment advisor would suggest. If New York State citizens invest only in Bass Pro (/Benderson) and those corporations

encounter financial difficulties, as so many companies have recently, the taxpayers can be left with millions of dollars invested and nothing to show for it. It is now more important than ever to fully understand the “social and economic considerations in public policy”, required by SEQR, so that our investments are safe. Too often we read of corporations “too large to fail” (General Motors, Bank of America, CitiBank, AIG...). These corporations were not always too large to fail but over the years have been allowed to become too large to fail and now the public is made to bail them out.

We should not invest in a “too large to fail” component of this important project; rather the available public funds should be spread across dozens of investments at the Erie Canal Harbor, none of which would ruin the project if some were to fail.

AFRICAN-AMERICAN HISTORY IGNORED

- The DSR is, of course, a general document to outline the broader goals of the project. However, it is vital to the project to include an adequate analysis of the important African-American Heritage aspect of the Erie Canal Harbor. The DSR should at least mention the issue so that it receives proper attention in the GEIS.

Buffalo has an illustrious history as city of racial tolerance and as a center of abolitionism in the 19th Century. Buffalo Harbor was the last stop to freedom for slaves traveling the Underground Railroad. Buffalo was chosen as the site of the National Free Soil Convention for the 1848 presidential election, and for other abolitionist party conventions leading up to the Civil War. Ultimately, the Niagara Movement was founded here that was the precursor to the NAACP. The potential for tourism is already being realized by many African-American tour groups flocking to Buffalo.

- Dug's Dive, in the basement of the Elijah Efner's New England Hotel/Union Block needs to be reconstructed, as proposed in an Erie County-funded plan in 2000. At the same time that the Canal District is being developed, an African-American cultural district is being developed in the Michigan Avenue and Broadway area, to include the Michigan Avenue Baptist Church, the Nash House, the Colored Musicians' Club and other pre-Civil War buildings. The story of Buffalo's greatness cannot be told adequately without inclusion of these matters. The two districts will compliment each other perfectly. Planning for the Canal District should be coordinated thematically, in terms of African - American history, with the Michigan-Broadway district. (Contact - Bishop William Henderson, Michigan Avenue Baptist Church, 716-847-6015.)

EXEMPTION FROM ZONING MEANS EXEMPTION FROM PUBLIC REVIEW

- Page 17 (5.4) states that the ECHDC wishes to exempt the Project from “local land use controls” though the project would remain consistent with “established land use policies.” Removing the project from control of City of Buffalo zoning codes removes controls from public review before the City's Planning and Zoning Boards and officials answerable to the public. This district may have special Design Standards (dictated by the 2004 Master Plan) and Zoning but it should be subject to the same process for reviews as dictated by New York State Consolidated Laws Article 5-A, Section 81 and City of Buffalo Chapter 511, Zoning.

Sincerely,

Tim Tielman
Executive Director