

TOWN OF GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM

Adopted:

Town of Grand Island, Town Board, July 1, 2006

Approved:

NYS Secretary of State, Christopher L. Jacobs, December 28, 2006

Concurred:

U.S. Office of Ocean and Coastal Resource Management,



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

George E. Pataki
Governor

Christopher L. Jacobs
Secretary of State

December 28, 2006

Honorable Peter McMahon
Supervisor
Town of Grand Island
Grand Island Town Hall
2255 Baseline Road
Grand Island, NY 14072

Deay Supervisor McMahon:

I am pleased to inform you that I have approved the Town of Grand Island Local Waterfront Revitalization Program (LWRP), pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive management program that promotes the balanced preservation, enhancement, and utilization of the Town's valuable waterfront resources.

I am notifying State agencies that I have approved your LWRP and am advising them that their activities must be undertaken in a manner consistent, to the maximum extent practicable, with the program.

I look forward to working with you as you endeavor to revitalize and protect your waterfront. If you have any questions, please contact George R. Stafford, Director of our Division of Coastal Resources at 518-474-6000.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. L. Jacobs', written over a horizontal line.

Christopher L. Jacobs
Secretary of State

CLJ:lt\gn

STATE OF NEW YORK)
TOWN OF GRAND ISLAND) ss.
COUNTY OF ERIE)

To Whom It May Concern:

I, HEREBY CERTIFY, *That at a Regular Meeting of the Town Board of the Town of Grand Island, held on the **Seventeenth of July, 2006** a Resolution was adopted, of which the following is a true copy:*

A RESOLUTION SUBMITTED BY:
SUPERVISOR PETER A. McMAHON
COUNCILMEMBERS:
MARY S. COOKE, RICHARD W. CRAWFORD
GARY G. ROESCH, SUSAN J. ARGY

Local Waterfront Revitalization Program – Adopt SEQRA Findings Statement – Adopt LWRP – Authorize Supervisor to Transmit Adopted LWRP to Secretary of State

A motion was made by Councilwoman Cooke, seconded by Councilwoman Argy to adopt the SEQRA Findings Statement, direct the Supervisor to execute the SEQRA Findings Statement, adopt the Grand Island Local Waterfront Revitalization Plan as follows and to direct the Supervisor to formally transmit the adopted LWRP and all related local impending laws to the NY State Secretary of State for approval:

WHEREAS, the Town of Grand Island initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of the Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program (DLWRP) and related local laws and zoning amendments were prepared under the guidance of the Town's Consultant, Advisory Boards, and with Public Input; and;

WHEREAS, a Draft Supplemental Generic Environmental Impact Statement (DSGEIS) was prepared for the Draft Local Waterfront Revitalization Program in accordance with the requirements of Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a DSGEIS and the DLWRP were circulated by the Department of State to appropriate local, county, state, and federal agencies in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, all meetings of the Town Board and Advisory Committees were open to the public, and a public hearing were advertised and held by the Town Board on March 21, 2005 to receive and consider comments on the DLWRP and the DSGEIS; and

WHEREAS, a Final Supplemental Generic Environmental Impact Statement (FSGEIS) was prepared, accepted, and properly filed and distributed by the Town Board on July 3, 2006; and

WHEREAS, modifications were made to the Draft Local Waterfront Revitalization Program as called for in the FSGEIS in response to comments received.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Grand Island hereby adopts the SEQRA Findings Statement attached hereto and directs the Town Supervisor to execute the Findings Certification thereon; and

BE IT FURTHER RESOLVED, by the Town Board of the Town of Grand Island, New York, that the Local Waterfront Revitalization Program for the Town of Grand Island is hereby approved and adopted.

BE IT FURTHER RESOLVED, that the Town Board of the Town of Grand Island hereby directs the Supervisor of the Town to formally transmit the adopted LWRP, and all related local implementing laws, to the New York State Secretary of State for approval pursuant to Article 42 of the NYS Executive Law – the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

APPROVED Ayes 5 Cooke, Crawford, Roesch, Argy, McMahon
 Noes 0

*IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of the Town of Grand Island, Erie County, New York the **Eighteenth of July, 2006.***

ATTEST

PATRICIA A. FRENTZEL
TOWN CLERK

(SEAL)

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This document was prepared for the New York State Department of State with
funds provided under Title 11 of the Environmental Protection Fund.

SECTION I WATERFRONT REVITALIZATION AREA BOUNDARY

1.1 EXISTING COASTAL BOUNDARY

The following describes the existing coastal boundary that is considered as the basis for the proposed Town of Grand Island Waterfront Revitalization Area for this Local Waterfront Revitalization Program (LWRP).

1.1.1 Inland Boundary

Beginning at the point of intersection of the south boundary line of Buckhorn Island State Park and the eastern right-of-way of the West River Parkway,

- the Waterfront Revitalization Area Boundary proceeds east along the Buckhorn Island State Park southern boundary line to a point 100' west of the centerline of Woods Creek;
- then south-easterly and south along a line 100' west of and parallel to the centerline of Woods Creek to the northern right-of-way of Bedell Road;
- then east along the north right-of-way of Bedell Road to a point 100' east of the centerline of Woods Creek;
- then north and northwesterly along a line 100' east of and parallel to the centerline of Woods Creek to the southern boundary of Buckhorn Island State Park;
- then east along the southern boundary to its intersection with Baseline Road;
- then north along the east right-of-way of Baseline Road to its intersection with East River Road;
- then easterly along the south right-of-way of East River Road to a point 100' northwest of Gun Creek;
- then southerly along a line 100' west of and parallel to the west bank of Gun Creek to Ransom Road;
- then east along the north right-of-way of Ransom Road to a point 100' east of Gun Creek;
- then northeasterly along a line 100' east of and parallel to the east bank of Gun Creek to East River Road;
- then southerly along the west right-of-way of East River Road to a point 100' north of Spicer Creek;
- then westerly along a line 100' north of and parallel to the north bank of Spicer Creek to Whitehaven Road;
- then east along the north right-of-way of Whitehaven Road to a point 100' east of Spicer Creek;
- then easterly along a line 100' south of and parallel to the south bank of Spicer Creek to East River Road;
- then southerly along the west right-of-way of East River Road to the north boundary line of Beaver Island State Park;
- then following the north park boundary westerly to the inland limits of the State-owned West River Parkway lands;
- then northerly along this limit to the boundary of the Big Six-Mile Creek Marina, following this boundary

line to its return to the inland limits of West River Parkway lands;

- then northerly along this Little Six-Mile Creek; then southeasterly along a line 100' west of and parallel to the creek centerline to Whitehaven Road; then east along the north right-of-way of Whitehaven Road to a point 100' east of Little Six-Mile Creek;
- then northwesterly along a line 100' east of and parallel to the creek centerline to the inland limits of the West River Parkway; then northerly along this limit to the point of beginning.

1.1.2 Offshore Boundary

The offshore boundary of the Waterfront Revitalization Area coincides with the Town of Grand Island municipal boundaries.

1.2 PROPOSED WATERFRONT REVITALIZATION BOUNDARY PENDING APPROVAL OF THE FEDERAL OFFICE OF COASTAL RESOURCES MANAGEMENT

The Town of Grand Island Waterfront Revitalization Area (WRA), graphically presented in Figure 1, expands the current State Coastal Area and includes all land and water encompassed within the boundary described below.

1.2.1 Inland Boundary

Beginning at the point of intersection of the south boundary line of Buckhorn Island State Park and the eastern right-of-way of the west river parkway, the Waterfront Revitalization Area (WRA) boundary proceeds east along the Buckhorn Island State Park southern boundary line to a point 100-feet west of the centerline of Woods Creek;

- Then south-easterly and south along a line 100 feet west of, and parallel to, the centerline of Woods Creek, to the northern right-of-way of Bedell Road;
- Then east along the northern right-of-way of Bedell Road to a point 100 feet east of the centerline of WOODS CREEK;
- Then north and northwesterly along a line 100 feet east of, and parallel to, the centerline of Woods Creek, to the southern boundary of Buckhorn Island State Park;
- Then east along the southern boundary of Buckhorn Island State Park to its intersection with Baseline Road;
- Then north along the east right-of-way of baseline road to its intersection with East River Road;
- Then easterly along the southern right-of-way of East River Road to a point 100 feet west of the centerline of Gun Creek;
- Then southwesterly along a line 100 feet west of, and parallel to, the centerline of gun creek, to the intersection with the East Branch of Woods Creek and the eastern edge of TW-50 NYS wetland, roughly 600 feet north of Ransom Road;
- Then easterly along the north bank of the East Branch of Woods Creek to a point 100 feet east of the centerline of Gun Creek;
- Then northeasterly along a line 100 feet east of and parallel to the centerline of Gun Creek, to the intersection with East River Road;

- Then southerly along the western right-of-way of East River Road to a point approximately 1,740 feet south of the south right-of-way of Ransom Road;
- Then includes the boundary of an area of 262± acres conveyed to the Town of Grand Island from Scenic Woods Developments and other acquisitions (identified by Liber 10177 and Page 005 Parcel C, Liber 10974 and Page 4019, Liber 10974 and Page 4013, Liber 10597 and Page 771, Liber and Page 10827 and Page 655, and Liber 10884 and Page 2834), with goes as follows: approximately 400 feet in a general western direction and parallel with Ransom Road; then 1030 feet north towered Ransom Road and parallel with East River Road; then 3870 feet in a generally western direction parallel with Ransom Road and following the southern boundaries of the adjacent residential properties; then 560 feet northerly to the intersection with the western right-of-way of Ransom Road; then 100 feet westerly along the western right-of-way of ransom road; then 560 feet southerly; then approximately 4500 feet westerly, northerly, and again westerly, following the southern boundaries of the adjacent residential properties; then 280 feet northerly to the intersection with the southern right-of-way of Ransom Road; then 160 feet along the southern right-of-way of Ransom Road; then 280 feet southerly; then 150 feet westerly; then 1600 feet in a general southern direction parallel with Sturbridge Lane and following the eastern boundaries of the adjacent residential properties; then 620 feet westerly, then 1450 feet southerly; then 620 feet easterly, then 1450 feet northerly; then 2850 feet easterly; then 3020 feet in a general southeastern direction following the edge of the TW-10 NYS wetland and continuing along the northern shore of the adjacent pond to a point of intersection with the western right-of-way of River Oaks Road, then 1350 feet in a general northwestern direction along the western boundaries of the adjacent residential properties; then 2490 feet easterly and relatively parallel with Ransom Road to a point approximately 340 feet away from East River Road, then 220 feet in a general northern direction relatively parallel with East River Road; then 340 feet easterly to a point of intersection with the western right-of-way of East River Road;
- Then southerly along the western right-of-way of east river road to a point 100 feet north of the centerline of Spicer Creek;
- Then westerly along a line 100 feet north of, and parallel to the centerline of Spicer Creek to the northern right-of-way of Whitehaven Road;
- Then easterly along the northern right-of-way of Whitehaven Road to a point 100 feet south of the centerline of Spicer Creek;
- Then easterly along a line 100 feet south of, and parallel to, the centerline of Spicer Creek to the western right-of-way of East River Road;
- Then southerly along the west right-of-way of east river road to the southern right-of-way of Whitehaven Road;
- Then, delineating an area proposed for development, the boundary goes westerly for 500 feet along the southern right-of-way of Whitehaven Road;
- Then, further delineating the area proposed for development, the boundary goes in a southerly direction to the point of intersection with the western right-of-way of East River Road, approximately 700 feet south from the intersection of East River and Whitehaven Roads;
- Then the boundary continues southerly along the western right-of-way of East River Road to the point of intersection with the northern right-of-way of Bush Road;
- Then westerly along the north right-of-way of Bush Road to the intersection with the eastern right-of-way of South Parkway;

- Then southerly along the eastern right-of-way of the South Parkway to the intersection with the northern right-of-way of Ferry Road;
- Then westerly along the north right-of-way of Ferry Road to the intersection with the eastern right-of-way of Baseline Road;
- Then southerly along the eastern right-of-way of Baseline Road to the intersection with the southern right-of-way of East Oakfield Road;
- Then along the southern right-of-way of East Oakfield Road to the intersection with the inland limit of eastern West River Parkway right-of-way;
- Then northerly along the inland limit of the eastern West River Parkway to the intersection with the west property line of the state-owned property for Big Six Mile Creek Marina;
- Then 2010 southwesterly along the along the western boundary of the state-owned Big Six Mile Creek Marina and the eastern boundaries of the adjacent residential properties; then 1180 feet southeasterly along the southern boundary of the state-owned Big Six Mile Creek Marina to a point of intersection with the northern right-of-way of Whitehaven Road; then 860 feet easterly along the northern right-of-way of Whitehaven Road; then 2760 feet in a northwesterly direction along the eastern boundary of the state-owned Big Six Mile Creek Marina to the point of intersection with the inland limit of the eastern right-of-way of West River Parkway;
- Then north along the eastern right-of-way of West River Parkway to a point 100 feet south of the centerline of Little Six Mile Creek;
- then southeasterly along a line 100 feet west of and parallel to the centerline of Little Six Mile Creek to the northern limit of the northern right-of-way of Whitehaven Road;
- then easterly along the northern right-of-way of Whitehaven Road to a point 100 feet east of the centerline of Little Six Mile Creek;
- then northwesterly along a line 100 feet east of and parallel to the centerline of Little Six Mile Creek to the eastern right-of-way of West River Parkway;
- then northerly along the eastern right-of-way of West River Parkway to the point of beginning.

1.2.2 Offshore Boundary

The offshore boundary of the Waterfront Revitalization Area coincides with the Town of Grand Island municipal boundary, as located within the Tonawanda and Chippawa Channels of the Niagara River

1.3 JUSTIFICATION FOR REVISIONS TO COASTAL BOUNDARY

Figure 1 indicates the location of Grand Island’s Waterfront Revitalization Area inland and off-shore boundaries. A description of the difference between the existing State Coastal Area boundary and the proposed Grand Island Waterfront Revitalization Area follows. This description is supplemented with a justification for deviations. The State Coastal Area boundary extends inland along several creeks 100 feet from the centerline of the creeks. The local WRA boundary has been expanded beyond the State Coastal Area in several areas.

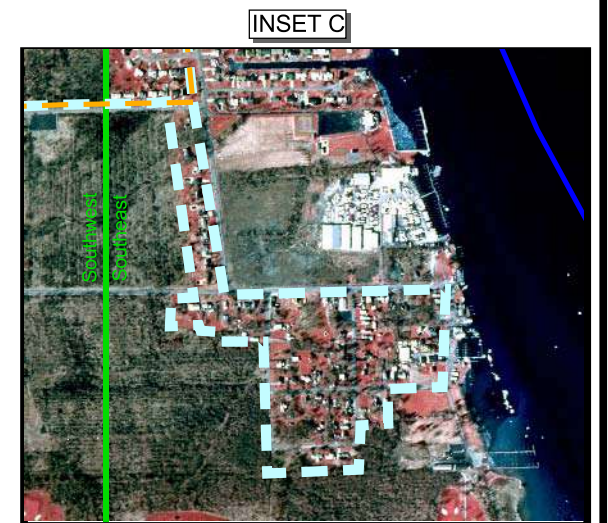
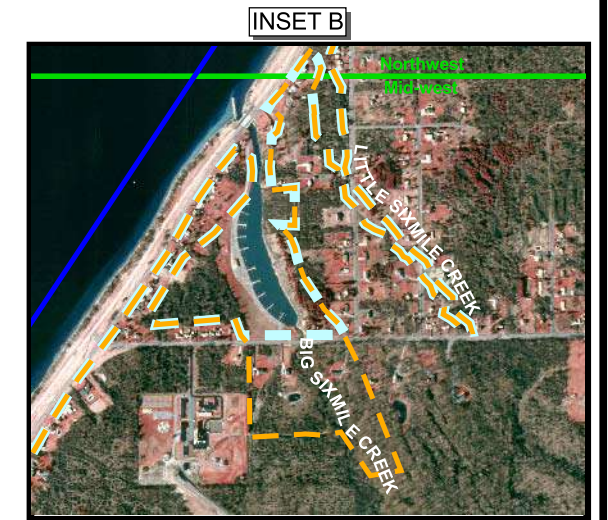
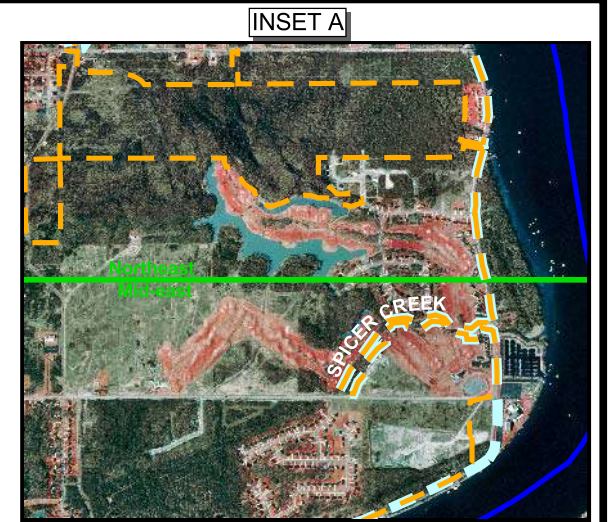
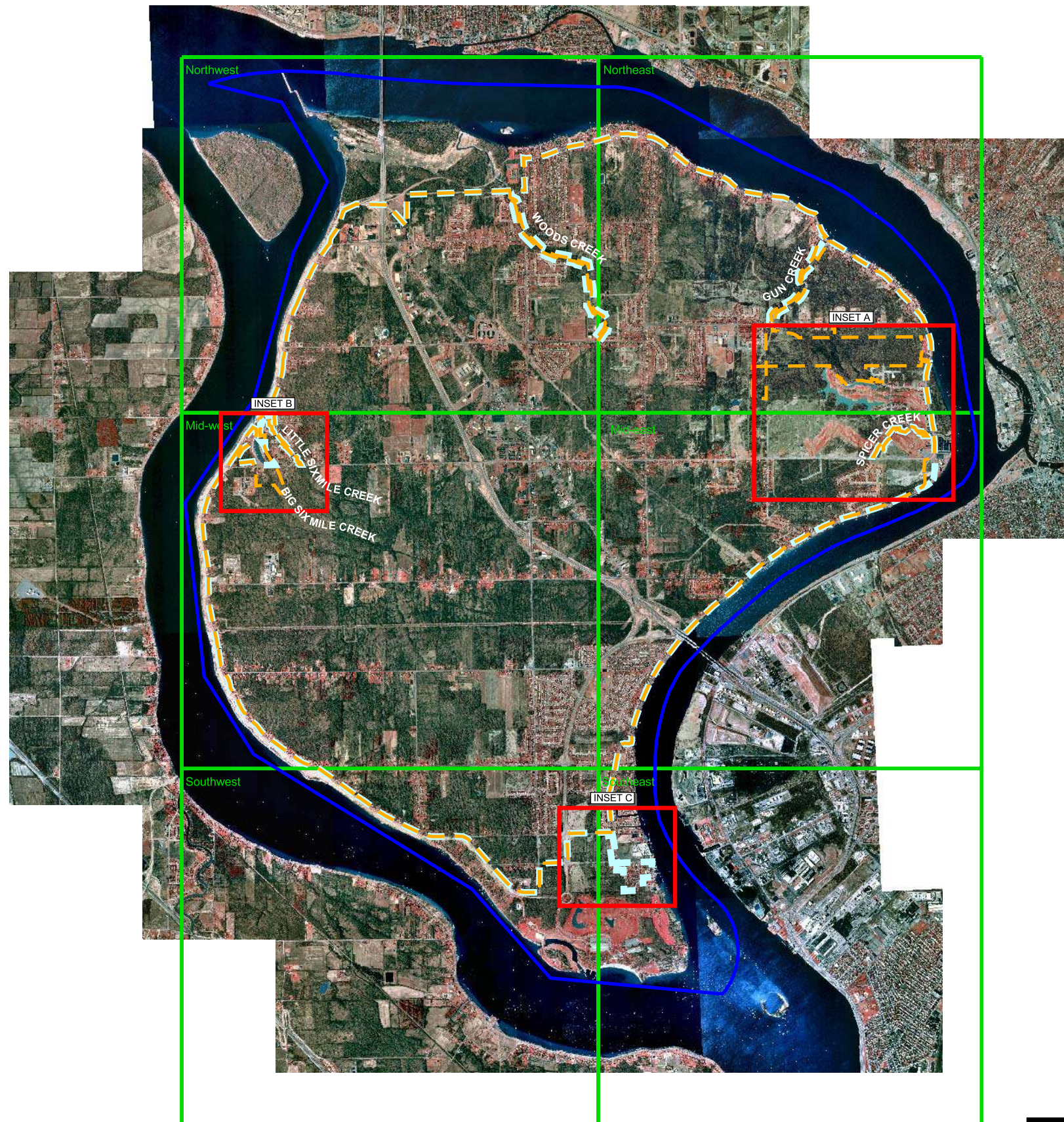
The Town recently acquired the Scenic Woods Parcel. This land is approximately 262 acres including the recent addition of approximately 54 acres and has access to the Niagara River. The location is valuable to the WRA as a land-based interface with the water as well as being able to contain necessary facilities to support a trail system

within Bicentennial Park.

The Town Comprehensive Plan recommended a Waterfront Hamlet in the vicinity of the intersection of Whitehaven and East River Roads. This would permit the development of neighborhood scale commercial operations that would support water-related activities. For this reason, a 500-foot wide area on the southwest corner of the intersection of Whitehaven and East River Roads is included in the WRA.

The entire Ferry Village area has been included in the WRA in recognition of the history of this community with water-related activities. The inclusion of Ferry Village is intended to support development within the community consistent with the policies of this document and the Ferry Village Master Plan.

Finally, the WRA boundary proposes to extend the current State Coastal Area around Big Six Mile Creek Marina to incorporate all of the State parks and to allow for maximum protection of the creek as a natural resource.



Legend

-  Municipal Boundary
-  LWRP Border
-  Existing Coastal Boundary

Note:
(1) The existing State Coastal Boundary extends inland along several creeks 100 feet from the centerline of the creeks.
(2) The LWRP Boundary deviates from the existing State Coastal Boundary by extending 50 feet from ordinary high watermark of the creeks.

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
GRAND ISLAND WATERFRONT REVITALIZATION AREA BOUNDARY

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FIGURE 1

SECTION II INVENTORY AND ANALYSIS

2.1 INTRODUCTION

Existing land uses within Grand Island’s Waterfront Revitalization Area are provided at a larger scale on Figures 2, 3, 4, 5, 6, 7 and 17. The Town of Grand Island located on the Niagara River in the northwest portion of Erie County in Western New York. Figure 8 provides street names and important local features referenced throughout this document.

The Coastal Area, as established by New York State Department of State, encompasses approximately 22 miles of Niagara River shoreline extending roughly 300' inland to the West River Parkway and to East River Road, including all of Beaver Island State Park and Buckhorn Island State Parks and the State-owned Big Six-Mile Creek Marina. The Grand Island Waterfront Revitalization Area boundary deviates somewhat from the State Coastal Area as described in Section 1.3.

Within the Waterfront Revitalization Area (WRA) are all or portions of the neighborhoods of West Oakfield, Ferry Village, Sandy Beach, and Edgewater. The east and west sides of the island are markedly different in character. The east side is intensely developed with substantial areas containing shoreline residences and private boat mooring facilities. In contrast, the west side is almost completely occupied by the West River Parkway and expansive landscaped grounds, with housing units typically set back 300 to 400 feet from the shoreline. Buckhorn Island State Park in the north and Beaver Island State Park in the south effectively separate these two sides of Grand Island.

For clarity of presentation, the Waterfront Revitalization Area has been divided into seven geographic areas:

- Buckhorn Island;
- Beaver Island State Park;
- West River Parkway;
- East River Road North;
- Whitehaven;
- East River Road South; and
- Ferry Village and Motor Island

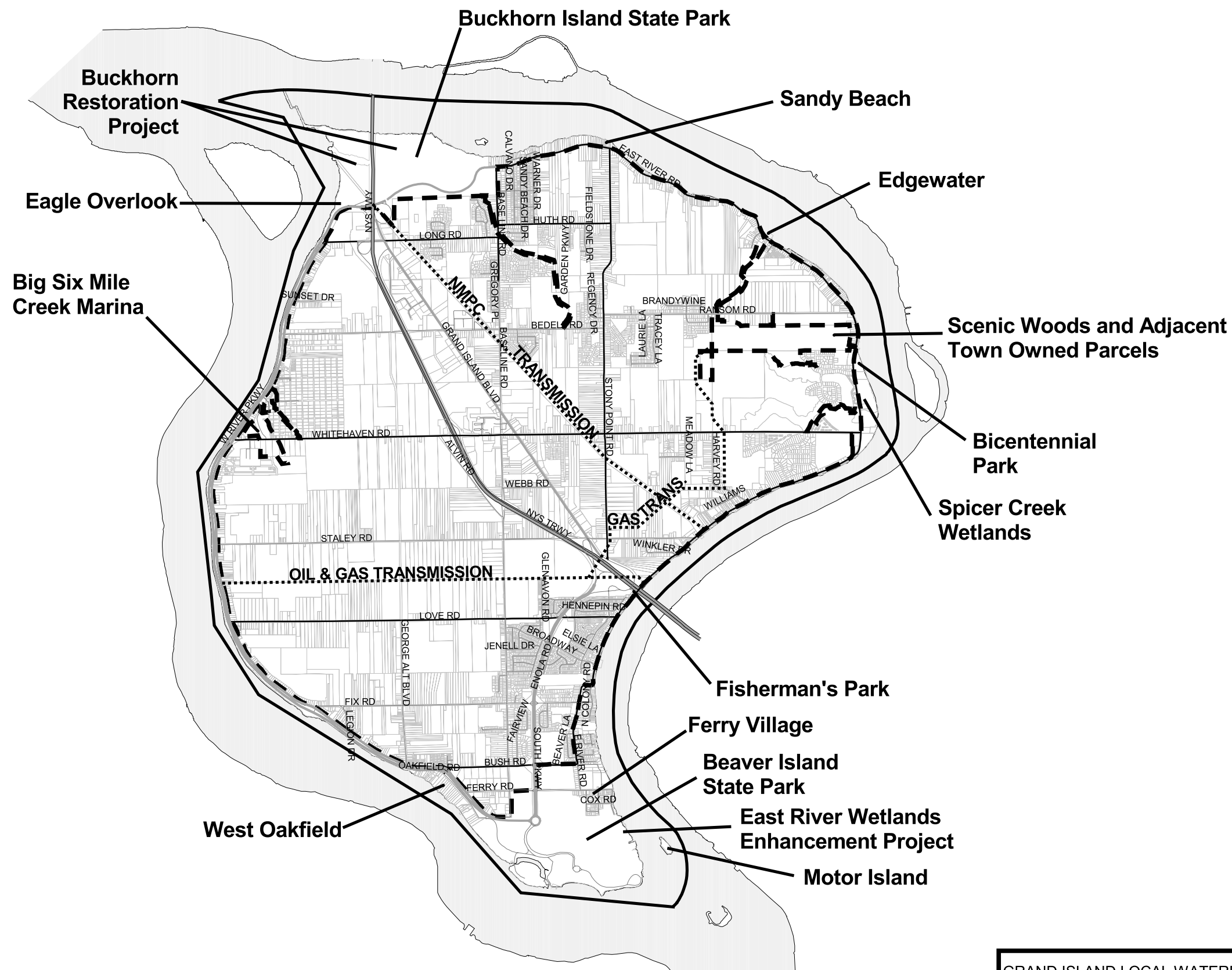
The boundaries of these areas are shown on Figure 9.

2.2 DEVELOPMENT AND NATURAL RESOURCES

2.2.1 Land Use and Buildings

Buckhorn Island State Park

Buckhorn Island State Park is located at the northern tip of Grand Island. Buckhorn Island State Park is primarily a fish and wildlife habitat covering 895 acres. Nature trails exist through the Park, and fishing opportunities are present. An extensive marshland adjacent to Burnt Ship Creek contrasts with the largely wooded character of



Legend

Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

- Niagara River
- Municipal Boundary
- Transmission Line
- LWRP Border



GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
STREETS AND OTHER IMPORTANT FEATURES

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FIGURE 8



Legend

- Roads
- Interstate
 - NYS Road
 - Federal Road
 - Country Road
 - Local Road
 - Ramp
- Niagara River
- Municipal Boundary
- LWRP Border
- Revitalization Area Boundaries

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
SUB-AREAS OF WATERFRONT REVITALIZATION AREA

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FIGURE 9

the bulk of the Park. Bicycle trails and wildlife overlooks such as Eagle Overlook have been constructed.

Beaver Island State Park

Beaver Island State Park is located at the southern tip of Grand Island. Beaver Island State Park possesses the only public beach on the Niagara River in Erie County. The Park contains a wide range of active recreation facilities in its 952 acres, including baseball diamonds, volleyball and basketball courts, golf course, sledding hill, disc golf course, picnic groves, playgrounds, bicycle and nature trails, nature center Strawberry Island, car-top boat launch, and an 80-slip marina with season and transient boat slips. The inland periphery of the Park is largely wooded.

West River Parkway

The west side of Grand Island, bounded by Beaver Island State Park to the south and Buckhorn Island State Park to the north, is comprised largely of Parkway right-of-way lands and residential uses. Exceptions include the industrial area immediately south of Buckhorn Island State Park west of I-190, and a B-2 zoned parcel on the West River Parkway at Staley Road; however, both are located beyond (although adjacent to) the boundaries of the Waterfront Revitalization Area.

The southern portion of the west side, known as West Oakfield, consists of single-family homes. Most contain private mooring facilities. Oakfield is the only section of the West River Parkway area in which property owners retain direct access to the water.

Immediately north of Whitehaven Road (at the halfway point of the West River Parkway) is the State-owned Big Six-Mile Creek Marina, the only marina on the west side of the island. It contains launching and docking facilities for 134 boats and extensive parking on 20.6 acres of well-maintained grounds.

North of the marina, the WRA boundary is diverted slightly to include a corridor centered on Little Six Mile Creek for a distance of approximately 3,000 feet inland from its mouth. This area contains a mixture of stable housing units and wooded areas.

Most of the remainder of the WRA on the West River is contiguous with the eastern edge of the West River Parkway right-of-way. This State-owned highway (approximately eight miles long) connects Beaver Island State Park and Buckhorn Island State Parks through a scenic shoreline route. Although grounds are extensive, public access and recreation facilities are extremely limited. During the winter months the median is used as a state-funded snowmobile trail (Corridor Six). The parkway also has river access for boating, fishing, hunting, bird watching and wind surfing.

East River Road North

The east side of Grand Island from Buckhorn Island State Park to Ransom Road contains a mixture of residential, and private recreational uses, as well as some extensive undeveloped areas. The WRA also includes areas along portions of Woods, Gun, and Spicer Creeks.

Immediately east of Buckhorn Island State Park is the community of Sandy Beach. For approximately two miles eastward, the shoreline is occupied by single-family homes and numerous private docks. Sandy Beach also contains a limited amount of commercial development (all beyond the WRA boundary), a private yacht club, and park club. The corridor centered on Woods Creek contains a mixture of housing and woods.

East of Sandy Beach, near the mouth of Gun Creek, is the community of Edgewater. The shoreline for roughly two miles is occupied largely by single-family homes with private docks, although some scattered vacant areas remain. A private sailing club is located at East River Road and Ransom Roads. The corridor centered on Gun Creek is mainly woodland.

Whitehaven

The shoreline between Ransom Road and Whitehaven Road is largely protected floodplain and wetland areas under public ownership. Spicer Creek flows through a private golf course, wooded areas, and a wetland complex at the confluence of the Niagara River. A small cemetery and a sanitary sewer pumping plant are located near the mouth of the creek, while a townhouse development is located just north and south of the creek on East River Road. West of the townhouse development a subdivision consisting of single family residences is presently being developed.

A 26-acre Class II wetland is located between the shoreline and East River Road immediately north of the creek. The northernmost portion of this wetland extends into a 17.7-acre Town-owned parcel known as Bicentennial Park. The park, extending 1,500 feet along the shore, is undeveloped at the present time. The Town has recently acquired 262± acres of property (Scenic Woods parcel) on the west side of East River Road near Bicentennial Park. This property was acquired for development as public open space.

The Grand Island Holiday Inn, a six-story, 265-room hotel, is located at East River Road and Whitehaven Roads. The hotel provides recreation, dining, and meeting facilities. A large private marina has been created by upland excavation between the Holiday Inn and Spicer Creek. The Grand Lady Tour Boat enterprise current operates from the Holiday Inn dock.

East River Road South

The East River Road South area comprises that portion of the Town's waterfront between Whitehaven Road and Bush Road. From Whitehaven Road to Fix Road the waterfront is characterized for the most part by single-family housing and privately-owned boat moorings. Immediately south of the South Grand Island Bridge is a 14,000 square foot Town-owned parcel that contains a small sewage treatment plant that is periodically used. The Town proposes to develop this parcel as Fishermen's Park for passive recreation and on-shore fishing. (See Section IV-Proposed Uses and Projects for a detailed description of this proposal.) A small commercial marina is located east of the intersection of East River Road and Broadway. A small commercial marina is located east of the intersection of East River and Broadway, along with two restaurants and a marina at the intersection of North Colony and East River Roads.

From Fix Road to Bush Road the waterfront is comprised largely of single-family homes with private docks. Of note in this area are two small canals which extend approximately 1,000 feet inland and which provide direct waterfront access to residences along Melrose, Towerwood, and Bronson Streets.

Ferry Village and Motor Island

During the nineteenth century, Ferry Village was a major destination for ferries that shuttled Grand Islanders to Buffalo for work and Buffalonians to Grand Island for recreation. Resorts and fishing clubs drew many to the island from the turn of the century to the 1930s, when the automobile became the more common form of transportation, and the Grand Island Bridge was constructed.

Today, Ferry Village's portion of the waterfront extends from Bush Road to the Beaver Island State Park and contains a mix of residential, retail, and marina uses. Between Bush Road and Ferry Road are two commercial marinas - the Buffalo Launch Club and Anchor Marine. For the most part, the Ferry Village neighborhood is comprised of older residential buildings. Commercial uses include restaurants, bait shops, and boat repair services. Also, the Blue Water Marina is located due south of Ferry Road. Located 1,500 feet off-shore within the Tonawanda Channel of the Niagara River is Motor Island,. This undeveloped, 10-acre island is owned by New York State and has been designated as a nature preserve.



Legend

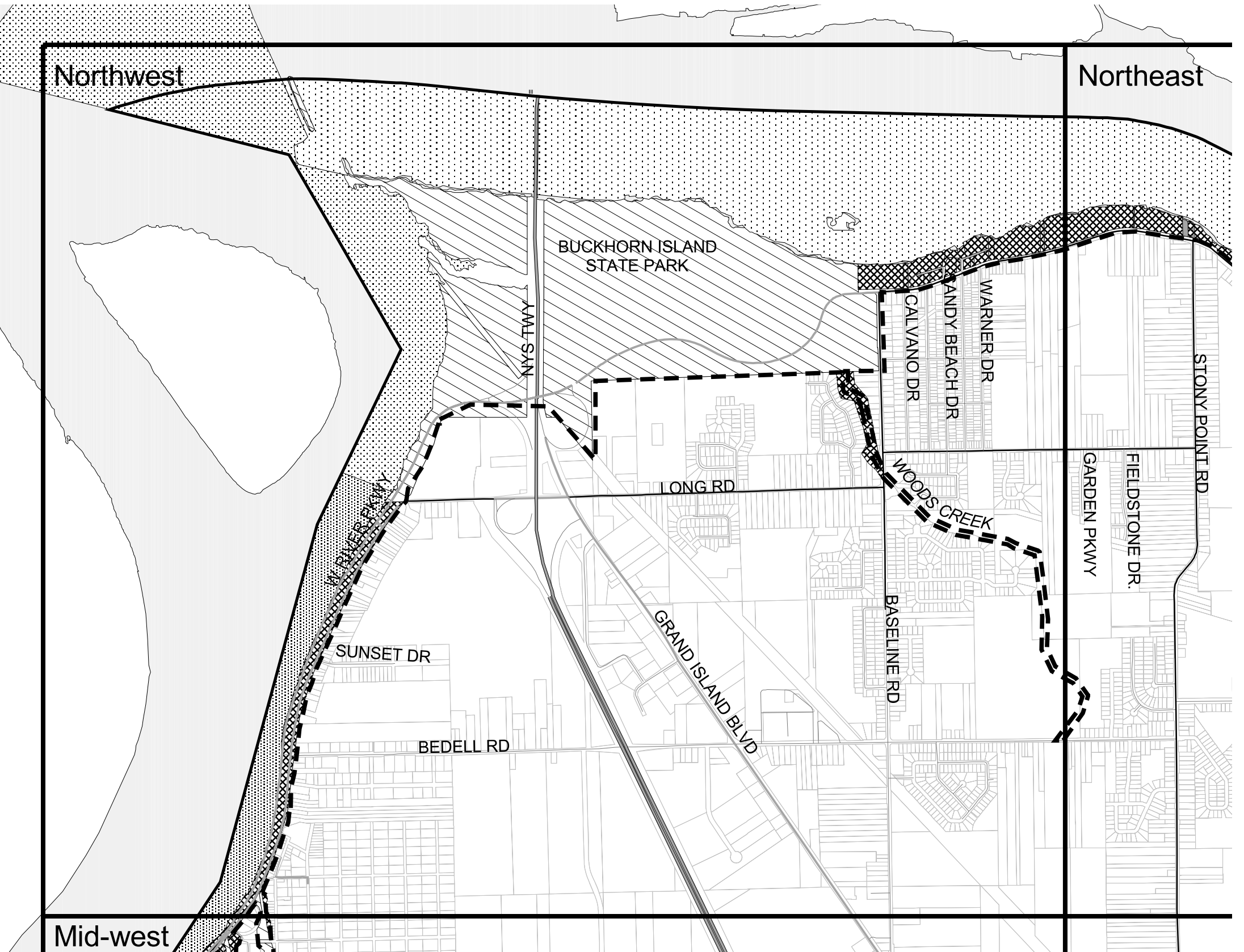
Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

Landuse

- Public Recreation
- Public Water Recreation
- Navigation and Public Recreation
- Sensitive Fish and Wildlife Habitat
- Single Family Residential
- Vacant
- Private Recreation (Docks & Boat Houses)
- Open Space
- Commercial
- Transportation/Community Facility

- Niagara River Beyond Municipal Boundary
- Municipal Boundary
- LWRP Border

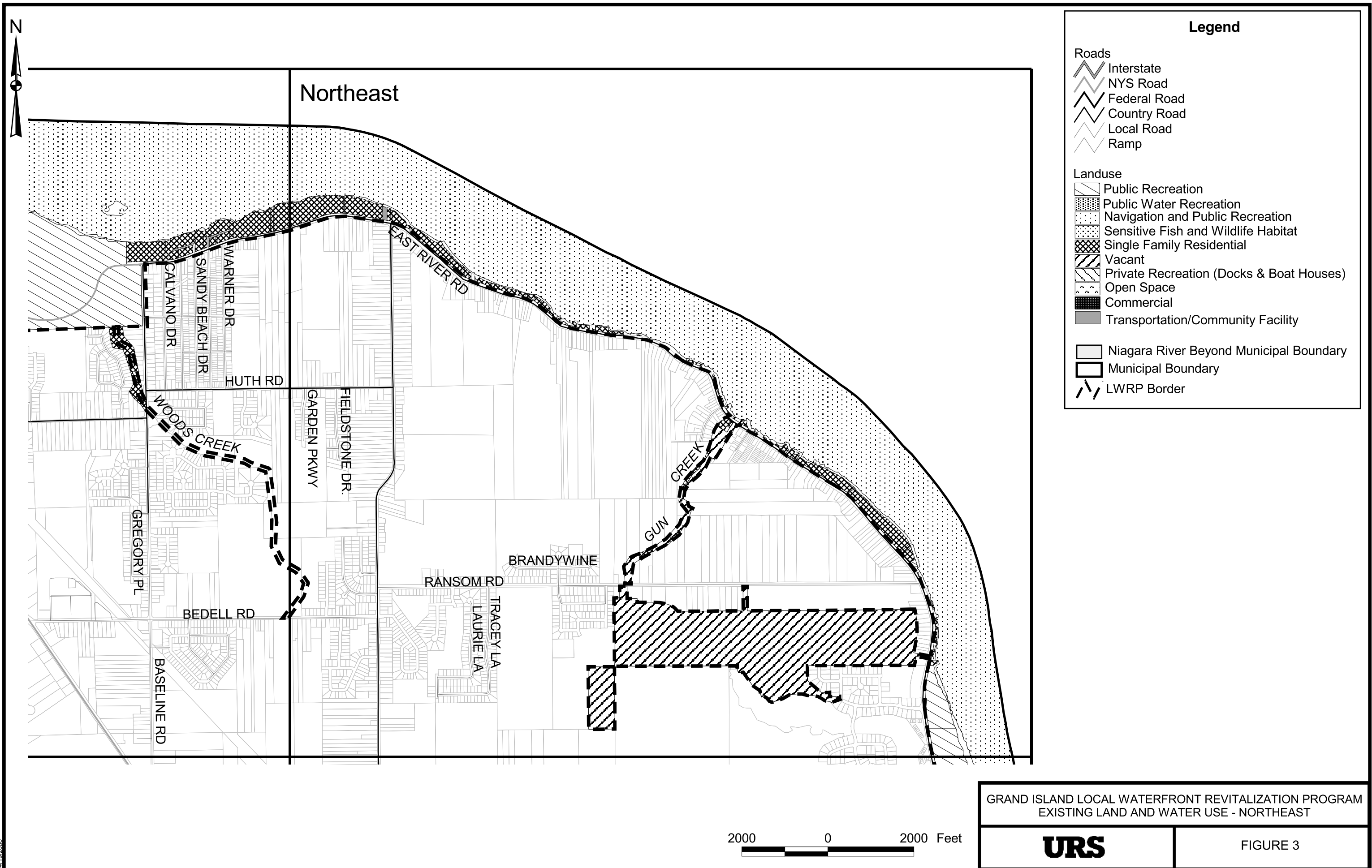


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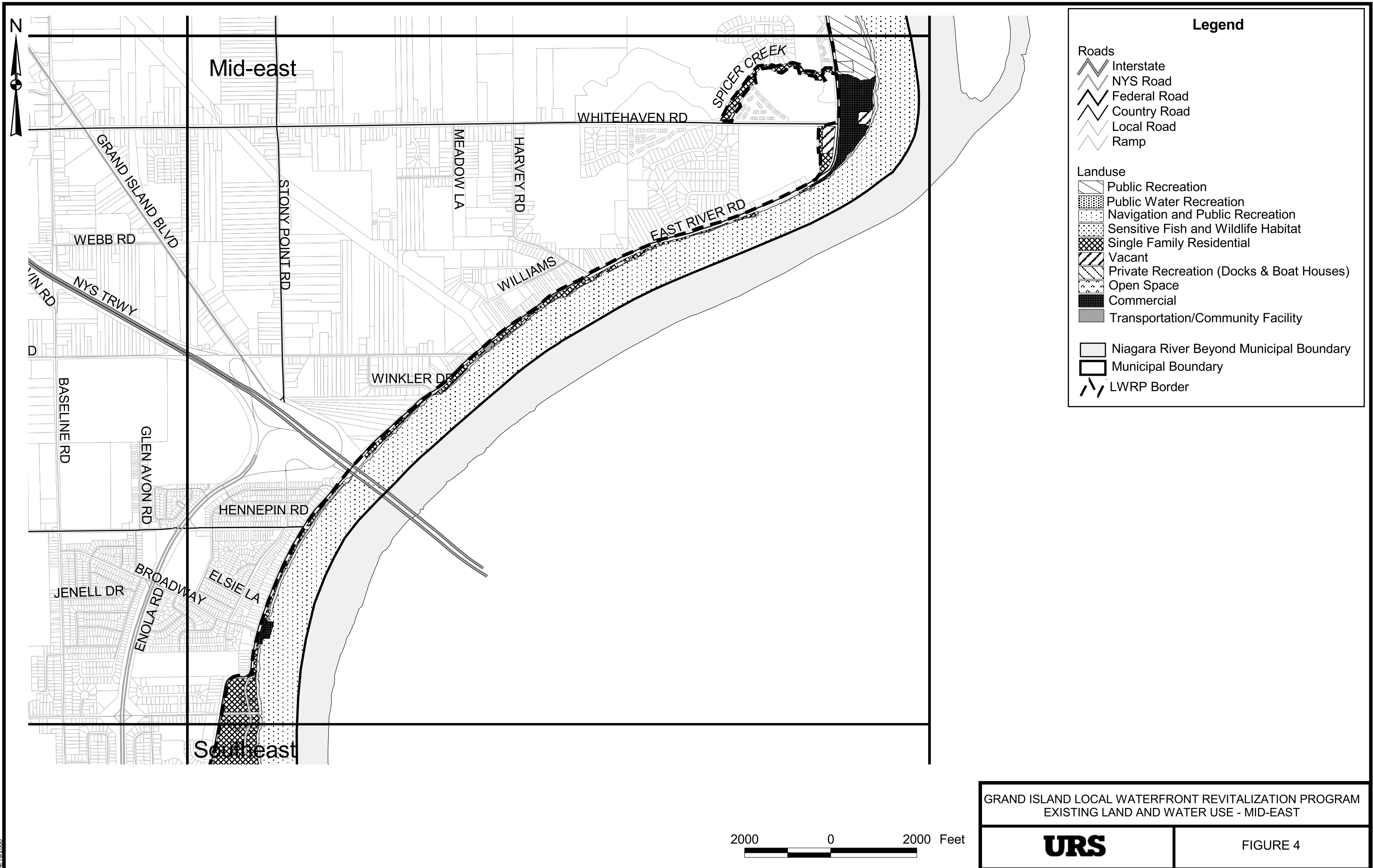
GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
EXISTING LAND AND WATER USE - NORTHWEST

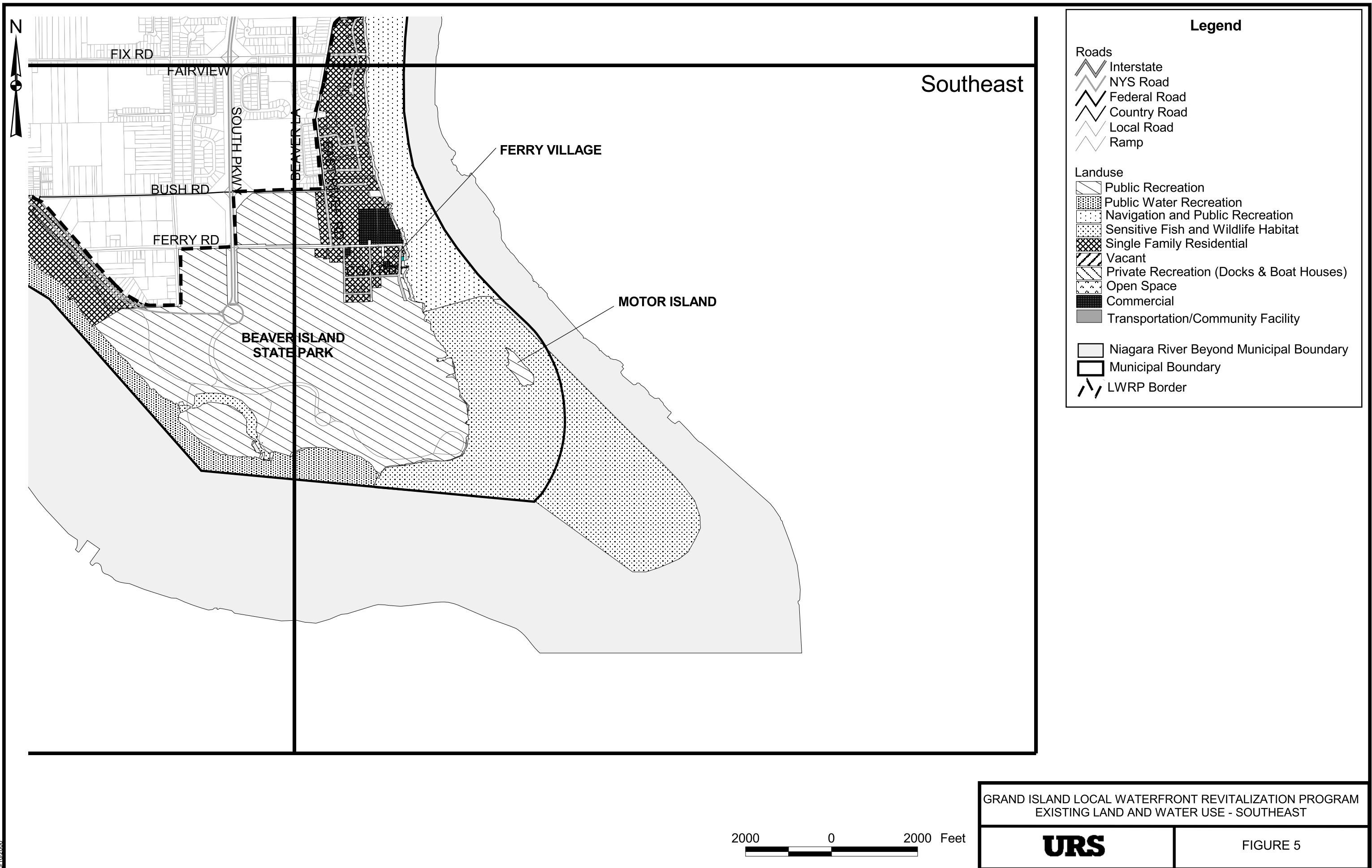
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FIGURE 2



N:\GL Revital\GIS\LWRP\lwrp_bw.apr Figure 4
4/19/2006







Southwest

Southeast

FIX RD

FAIRVIEW

WEST RIVER PKWY

OAKFIELD RD

BUSH RD

SOUTH PKWY

BEAVER LA

FERRY RD

FERRY VILLAGE

BEAVER ISLAND
STATE PARK

MOTOR ISLAND

Legend

Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

Landuse

- Public Recreation
- Public Water Recreation
- Navigation and Public Recreation
- Sensitive Fish and Wildlife Habitat
- Single Family Residential
- Vacant
- Private Recreation (Docks & Boat Houses)
- Open Space
- Commercial
- Transportation/Community Facility

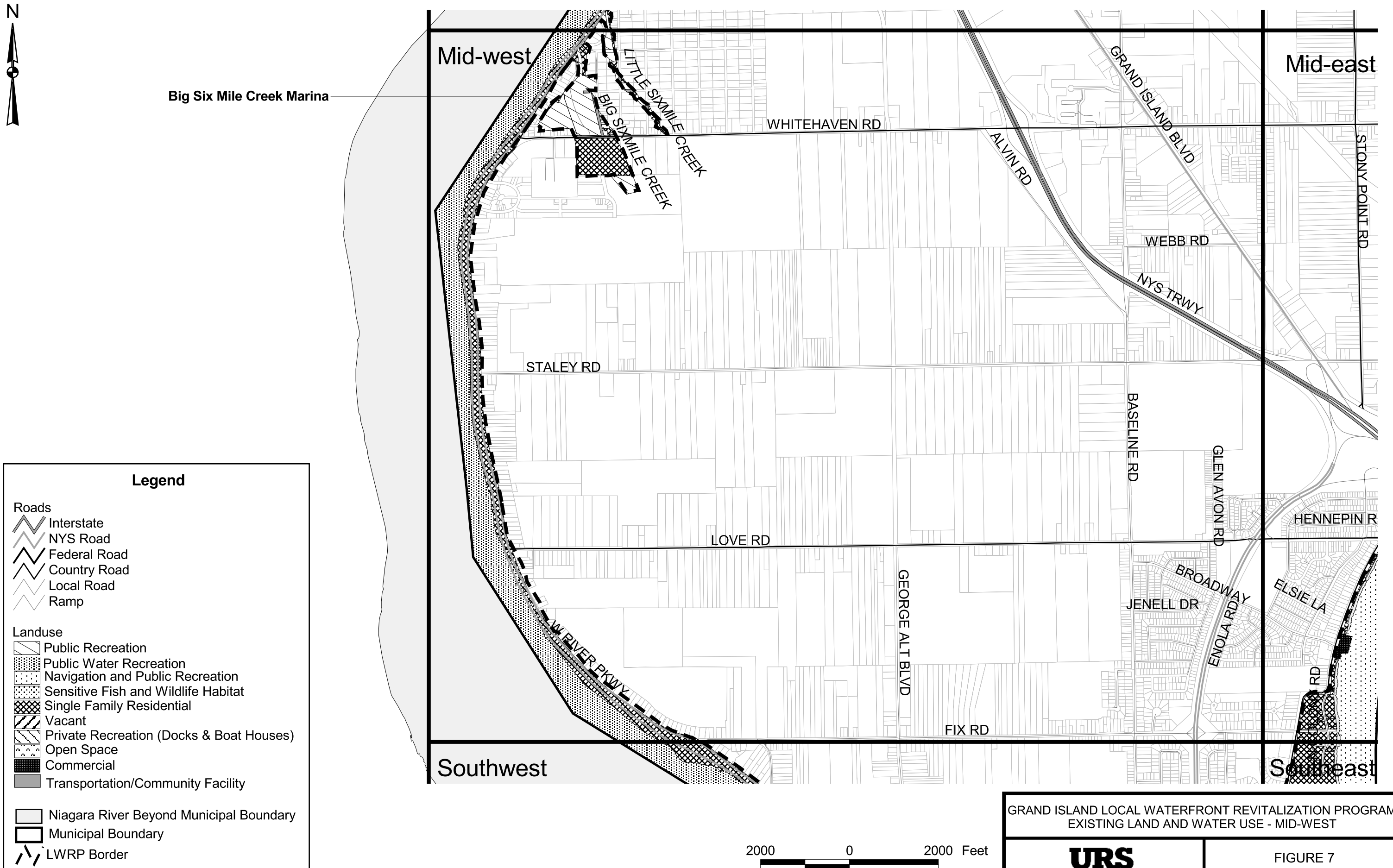
- Niagara River Beyond Municipal Boundary
- Municipal Boundary
- LWRP Border

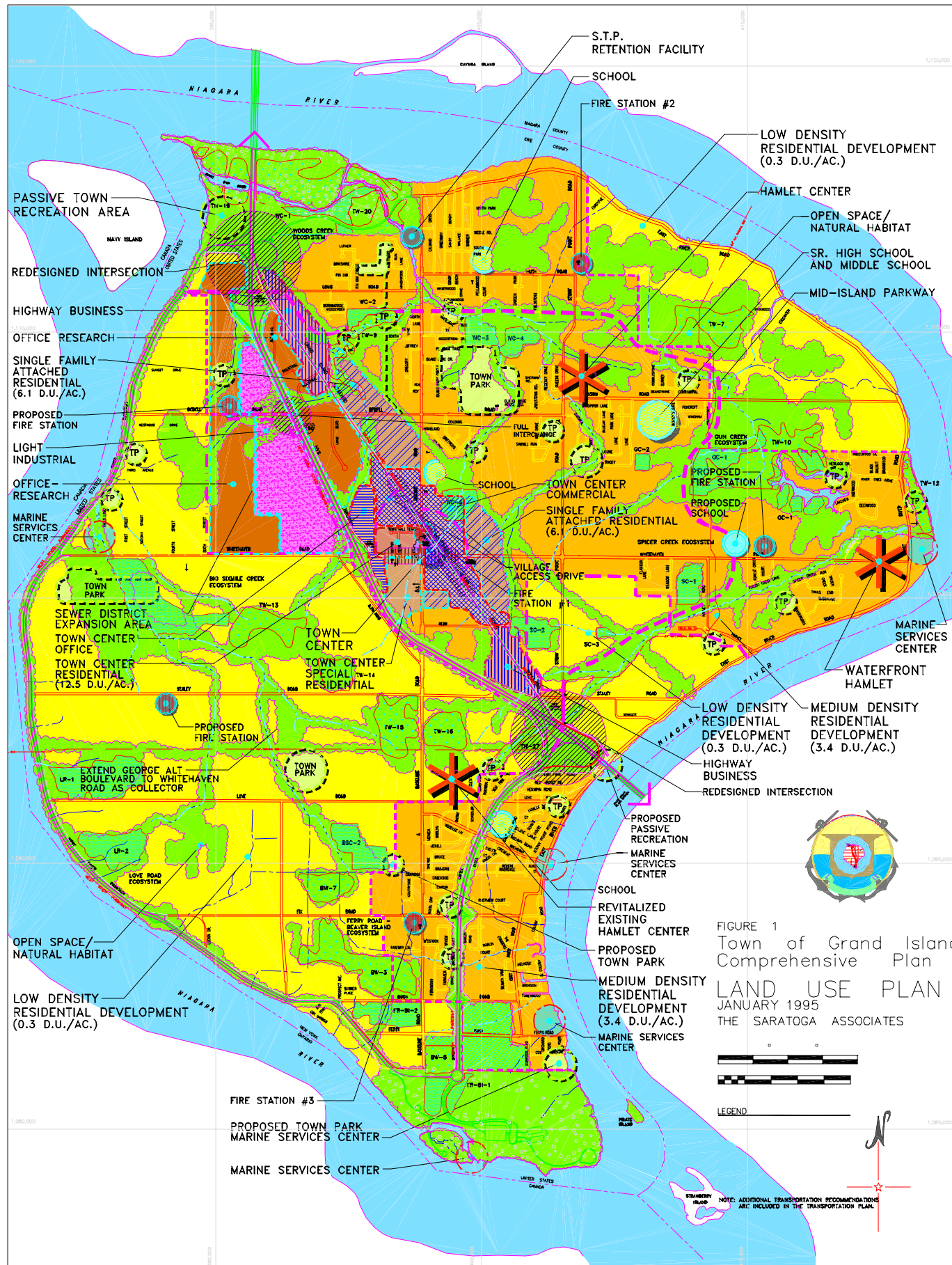
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GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
EXISTING LAND AND WATER USE - SOUTHWEST

URS

FIGURE 6





LEGEND

- STATE DESIGNATED WETLAND WITHIN ECOSYSTEM
- FOREST HABITAT PROPOSED FOR PROTECTION
- SHRUBLAND HABITAT

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PLAN TOWN OF GRAND ISLAND LAND USE PROGRAM

URS

FIGURE 17

2.2.2 Transportation and Utilities

Two primary roads service the WRA: the West River Parkway and East River Road. The Parkway is a two-lane, scenic highway from which commercial vehicles are prohibited. It is paralleled by a two-lane service road providing access to other highways and to individual properties. The Parkway itself is not plowed during the winter.

East River Road is a two-lane, somewhat circuitous highway with occasional sharp curves that present potential hazards. Sections of shoulders have inadequate width, contributing to safety problems. It is recommended that these safety issues be addressed, giving consideration to the character of the community and the policies of this Local Waterfront Revitalization Program.

Secondary roads are generally in good condition and capable of handling existing traffic volumes.

The WRA is fully served by adequate water, gas, and electric facilities. Solid waste disposal is provided by private contractors, in accordance with State regulation and under public contract, is adequate for anticipated levels of development within the WRA. Public sanitary sewers serve the northernmost section of the WRA (i.e., the Sandy Beach community), the Whitehaven section, and the East River Road section south of the South Grand Island Bridge as shown on Figure 10. The Sandy Beach treatment plant services these areas. Approximately 75% of the Waterfront Revitalization Area (including the entire fully-developed West River shoreline) is unserved by sanitary sewers. The future development of sanitary sewers in unserved areas, while recommended to enhance water quality, should be conducted in such a manner as to be consistent with the policies of this Local Waterfront Revitalization Program and growth objectives of the Town Comprehensive Plan. Isle Chem located on the west end of Long Road has a private WWTP and outfall to the East Branch of the Niagara River along with a cooling water intake line into the West Branch of the Niagara River.

The Niagara River is the primary source of drinking water in the Town, which maintains an intake roughly 400 feet off the West Oakfield shoreline south of Ferry Road in the West River (near the international boundary). In addition, Niagara County maintains a major intake in the West River 200 feet off the southern boundary of Buckhorn Island State Park; this intake serves a major underground transmission line across northern Grand Island that re-enters the Niagara River (east channel) at Stony Point Road and then proceeds north into Niagara County.

Sewage is processed at a modern waste water treatment plant located in Buckhorn Island State Park and is discharged into the Niagara River through an outfall roughly 1,500 feet north of the east boundary line of the Park. The sanitary sewer service area is illustrated on Figure 10.

2.2.3 Topography

Both the east and west shorelines from Whitehaven Road south to Fix Road are generally characterized by high banks. Those on the east side have steep slopes (in excess of 15%), while the slope on the west side is considerably less severe. The remainder of the WRA's shoreline consists of gently sloping terrain from the boundary outward. Both Buckhorn Island State Park and Beaver Island State Parks are relatively flat, although a slight change of grade separates the beach at Beaver Island State Park from the remainder of the Park.

2.2.4 Soils

The soils within Grand Island's WRA fall into five series as classified in the Erie County Soil Survey prepared by the U.S.D.A. Soil Conservation Service. These include Canandaigua (silty clay loam), Cosad (fine sandy loam), Niagara, Odessa and Schoharie (silty loam). The Erie County Soil Survey and/or individual site surveys should be consulted for detailed site specific soils information.



Legend

- Roads**
- Interstate
 - NYS Road
 - Federal Road
 - Country Road
 - Local Road
 - Ramp
- Niagara River
- Municipal Boundary
- LWRP Border
- Sanitary Sewer Service Areas

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
SANITARY SEWER SERVICE AREAS

URS

FIGURE 10

These are generally characterized as poorly drained soils due to slow permeability, especially when compacted. Their seasonal wetness limits plant growth and building construction potential to some degree. Soil nutrients will support plant growth. However, the seasonal wetness severely limits the variety of vegetation.

2.2.5 Hydrology

Thirteen streams of varying sizes have been identified which flow through the WRA into the Niagara River. These streams and their water quality classifications are presented in the following table and graphically depicted on Figure 11:

Location	Stream	Classification
Buckhorn Island State Park	Burnt Ship Creek	B
Buckhorn Island State Park	Woods Creek	B
East River Road	Woods Creek, 1500' E. of Stony Pt. Rd.	D
East River Road	Gun Creek	B
East River Road	Woods Creek, 400' N. of Ransom Rd.	D
East River Road	Spicer Creek	B
East River Road	Six Mile Creek, 300' S. of Fix Rd.	D
East River Road	Six Mile Creek, 1300'S. of Fix Rd.	D
West River Road	Six Mile Creek 1200'S. of Fix Rd.	B
West River Road	Six Mile Creek, 600' S. of Love Rd.	D
West River Road	Big Six-Mile Creek	B
West River Road	Little Six-Mile Creek	B
West River Road	Little Six Mile Creek, 1900'S. of Bedell Rd.	D

All waters of the state are provided a class and standard designation based on exiting or expected best usage of each water or waterway segment.

The classification AA or A is assigned to waters used as a source of drinking water.

Classification B indicates a best usage for swimming and other contact recreation, but not for drinking water.

Classification C is for waters supporting fisheries and suitable for non-contact activities.

The lowest classification and standard is D.

The Niagara River along the entire Grand Island shore has an "A-Special (International Boundary Waters)" classification. Periodically, these stream classifications are revised by the New York State Department of



Legend

Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

- Niagara River
- Municipal Boundary
- LWRP Border
- National Wetland Inventory
- NYS DEC Wetlands
- Streams

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
HYDROLOGY

URS

FIGURE 11

Environmental Conservation (NYSDEC) and should be confirmed by consulting 6 NYCRR § 837.4.

Eight freshwater wetlands regulated by NYSDEC are located within the Town's WRA (see Figure 11). Two wetlands (TW-19, TW-20) are located within Buckhorn Island State Park, three are within Beaver Island State Park (BW-1, BW-2, BW-5), one is located north of Spicer Creek on the East Branch shoreline and partially on the site of the Bicentennial Park (TW-12), one is located adjacent to Buckhorn Island State Park near the mouth of Woods Creek (TW-20), while the remaining one is located just north of Sandy Beach within the Tonawanda Branch of the Niagara River (TW-18) and consists of emergent vegetation. Wetlands are dynamic systems and precise boundary locations vary over time. The NYSDEC maintains files related to the characteristics of each of the state wetlands and periodically revises boundaries based upon field delineations. The NYSDEC should be consulted to discuss the permitting ramifications of activities proposed in the vicinity of state wetlands.

In addition to the eight wetlands previously described and regulated through the Freshwater Wetlands Act, other, smaller wetland areas may exist throughout the Grand Island WRA. Such wetland areas may be subject to regulation by the U.S. Army Corps of Engineers and provide valuable habitat and resource values.

While, under Article 24, the NYSDEC regulates wetlands 12.4 acres or more in size, the US Army Corps of Engineers has no such threshold. The US Army Corps of Engineers should also be consulted since this agency regulates activities in, over, and beneath navigable waters and their wetlands, and discharges of dredged and silt material in areas that are waters of the United States.

2.2.6 Offshore Conditions

The east branch of the Niagara River is used for commercial navigation, and a 21-foot-deep channel is maintained as far north as the turning basin at Tonawanda Island which is northeast of the Holiday Inn located at the east end of Whitehaven Road. This channel literally skirts the Grand Island shoreline from the southern tip of the Island to the Holiday Inn, coming as close as 100' to the shore. North of this point, a 12-foot-deep channel is maintained to the Power Authority intakes in Niagara Falls. This channel extends beyond the western tip of Buckhorn Island State Park. North of Whitehaven Road, this channel lies an average 400 to 1,500 feet distance off the Grand Island shore. At Sandy Beach, the River reaches a maximum natural depth of 15 feet roughly 500 feet off-shore. Elsewhere along the section from Sandy Beach to the Holiday Inn, the River's natural depth seldom exceeds 10 feet. The East Branch also contains several public water supply intakes that service communities other than Grand Island.

The riverbed immediately adjacent to Morgan Point (one-quarter mile north of Gun Creek) is the site of a spoil disposal area from previous dredging activities undertaken in the maintenance of the nearby channel. This material constitutes a navigational hazard to the numerous pleasure boats using this portion of the River.

The River's west branch has been kept in a natural state and has not been dredged for commercial navigation. Depths in the Grand Island portion (roughly extending 500 feet off-shore) seldom exceed 12 feet and decreases to 6 feet in the area between Love and Fix Roads. Several pools reaching 25 to 30 feet depths lie opposite West Oakfield, Beaver Island State Park, and Staley Road; however, these are all in Canadian waters.

As previously discussed, the Town maintains two water intakes in the West River near the international boundary roughly 400 feet off the West Oakfield shore south of Ferry Road. Niagara County maintains a water intake in the West River 200 feet off the southern boundary of Buckhorn Island State Park and Isle Chem maintains a cooling water facility south of the Niagara County intake.

Waters off Beaver Island State Park and Motor Island are extremely shallow; at the southeast tip of the Park a 6 feet depth does not occur until 1,500 feet offshore. Depths in excess of 6 feet between Grand Island and Motor Island are rare. Even more infrequent are similar depths between Motor Island and Strawberry Island; in this area depths average 2 to 3 feet. During periods of low river levels, portions of the shoals between these two

islands are clearly visible from the mainland.

2.2.7 Fish and Wildlife Habitats

A total of five habitat areas, located either wholly or partially within the Town of Grand Island WRA, have been designated by the NYS Secretary of State as Coastal Fish and Wildlife Habitats of Statewide Significance (see Figure 12).

These habitats and their key fish and wildlife species are:

- Buckhorn Island Tern Colony (tern, gulls)
- Buckhorn Island Wetlands (ducks, heron, coots)
- Buckhorn Island-Goat Island Rapids (waterfowl)
- Grand Island Tributaries (pike)
- Strawberry Island-Motor Island Shallows (muskellunge, waterfowl)

Detailed information for each of these habitats is provided as Appendix A and includes: the quantitative evaluation of the significance of habitat; a description of the habitat's location, physical features and fish and wildlife values; a location map; and a listing of knowledgeable contacts.

In addition, the entire Niagara River has been classified a globally significant important bird area by the Audubon Society. As evident from the number of significant habitats found in the Town, fish and wildlife (particularly waterfowl) resources are plentiful throughout the waterfront area and its waters and are used for fishing, hunting, and non-consumptive recreational uses.

2.2.8 Flooding and Erosion

Much of the Grand Island coastal area is located within flood hazard areas, as delineated by the Federal Emergency Management Agency. Burnt Ship, Woods, Gun, Spicer, and Big Six Mile Creeks flow through 100-year floodplains (as shown on Figure 13). An additional floodplain is associated within the unnamed stream 1,300 feet south of Fix Road. In addition, floodways have been identified along Woods, Gun, and Spicer Creeks. The floodplains of these streams generally do not exceed 200 feet in width and are located in undeveloped areas, for the most part. Occasionally, during the spring in particular, higher-than-normal river levels in combination with wind may result in flooding along major portions of the East River shoreline, affecting the neighborhoods of Ferry Village, Whitehaven, Edgewater, and Sandy Beach. Flooding also occurs along the West River shoreline, however lack of development minimizes property damage. Current Flood Insurance Rate Maps and Chapter 17 of the Town Code related to Flood Damage Prevention should be consulted and supplemented by site specific studies to establish accurate floodplain boundaries.

Although not a severe problem, limited amounts of erosion occur along the shoreline and is somewhat more pronounced along the East River, particularly between Whitehaven Road and the South Grand Island Bridge. During the early spring, increased ice flows and high water contribute to erosion problems and damage to in-water structures.

2.2.9 Zoning

There are currently five types of zoning districts exist within the Grand Island Waterfront Revitalization Area: R-1A, R-1B, R-1C, R-1D, R-1E, R-2A, R-3, B-2 and OS. (Figure 14)

The R-1B, R-1C, and R-1D (Single-Family Residential,), B-1 (Highway Business), and B-2 (Waterfront Business)



Legend

- Roads
 - Interstate
 - NYS Road
 - Federal Road
 - Country Road
 - Local Road
 - Ramp
- Niagara River
- Municipal Boundary
- LWRP Border
- Significant Coastal Fish and Wildlife Habitats

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS

URS

FIGURE 12



Legend

Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

- Niagara River
- Municipal Boundary
- LWRP Border

FEMA Floodplains

- Zone A - Areas within 100-year floodplain or which no base flood elevations have been determined.
- Zone AE - Areas within 100-year floodplain or which base flood elevations have been determined.
- Zone X500 - Areas within 500-year floodplain with average depth less than one foot or with drainage areas within a 100-year floodplain protected by a levee.

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
FLOODPLAINS

URS

FIGURE 13

districts are largely confined to the East River shoreline south of the South Grand Island Bridge, and extending to the boundary of Beaver Island State Park. An additional B-2 District has been established at the mouth of Gun Creek. Motor Island is presently designated an OS District. The remainder of the shoreline is zoned R-1-A (Single-Family Residential).

Concurrently with the development of this LWRP, a major revision and update of the Zoning Code, was undertaken and completed on July 19, 2004. These revisions incorporated the goals of this LWRP into the Town's Zoning Code.

2.2.10 Historic Buildings

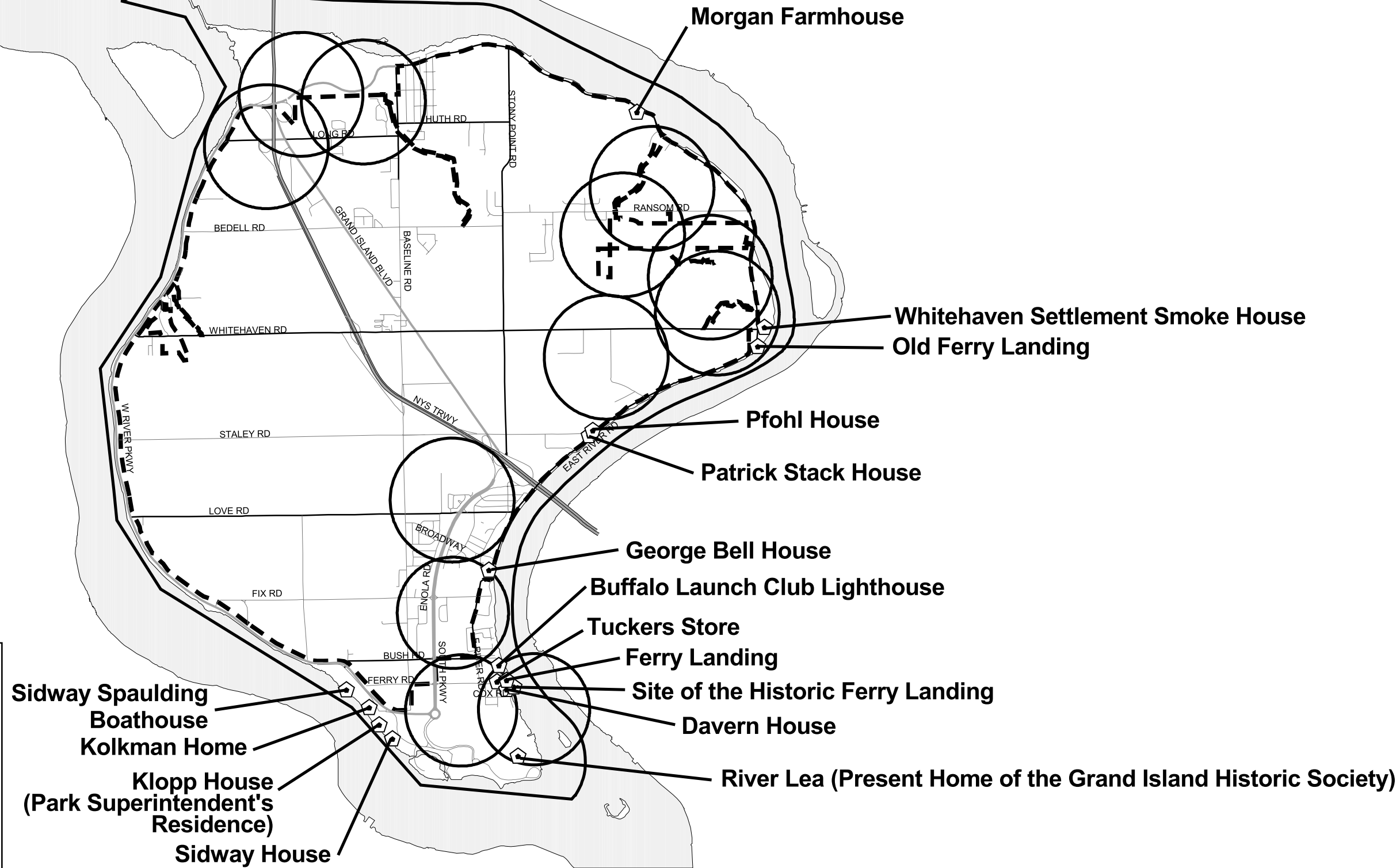
A number of locally recognized historic sites and structures are located in the Waterfront Revitalization Area, as shown on Figure 15 and described below:

- River Lea, formerly an estate developed in 1849 which currently houses the Grand Island Historical Society in Beaver Island State Park;
- The Old Ferry landing that existed prior to 1935;
- Tuckers Store (Ferry Road near Orchard), the last remaining general store in the Town;
- The Morgan Farmhouse (4410 East River Road), constructed around 1860 and a fine example of period residential architecture;
- The Whitehaven Settlement Smoke House north of the Holiday Inn at the site of a major lumber milling area established around 1825;
- The Davern House (358 East River Road);
- The Buffalo Launch Club Lighthouse (503 East River Road);
- The George Bell House (1040 East River Road);
- The Patrick Stack House (1918 East River Road);
- The Pfohl House (1952 East River Road);
- The Kolkman Home (2196 West Oakfield);
- The Ralph Sidway House located in Beaver Island State Park;
- Klopp House (Oakfield) (Superintendent's Residence, Beaver Island State Park);
- Sidway/Spaulding Boat House (2296 West Oakfield);
- Old Ferry Landing (East River south of the Holiday Inn).

Of these sites, only the Sidway/Spaulding Boat House is listed on the National Register of Historic Places, (listed 5/20/98). This list is periodically updated and these historic sites are identified for informational purposes only.

2.2.11 Archaeological Sites

The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) has identified several zones of potential archaeological significance within Grand Island's waterfront area. Such zones are dispersed throughout the waterfront and general areas of potential archaeological significance are presented on Figure 15. The identification of the location of specific archaeological sites is prohibited by Historic Preservation Law. The OPRHP should be consulted to assess the sensitivity of projects for impacts on cultural resources.



GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
HISTORIC RESOURCES

URS

FIGURE 15

5000 0 5000 Feet

2.2.12 Public Access and Recreation

Roughly 60% of the Grand Island shoreline is publicly-owned as shown on Figure 16. The majority of publicly-owned land is owned by New York State, including most of the West River shoreline, Beaver Island State Park, and Buckhorn Island State Park. Beaver Island State Park provides a wide range of facilities, including a beach, golf course, a marina, athletic fields, and picnic groves. Buckhorn Island State Park and Scenic Woods functions primarily as a wildlife sanctuary, although the park's streams are also popular with local fishermen.

The west side of the Island is dominated by the West River Parkway and right-of-way. Although three overlooks now exist, few facilities are provided. The Parkway and the adjacent West River Service Road are both owned by New York State under the jurisdiction of the New York State Department of Transportation. The property is currently owned by the New York State Office of Parks, while NYSDOT maintains the roadway. There are two public recreation facilities along the west side of the Island: the State-owned Big Six Mile Creek Marina and the Corridor Six snowmobile trail. It should be noted that the Office of Parks Recreation and Historic Preservation permits property owners that have previously maintained dockage to install seasonal docks along the West River Parkway shoreline.

Public access along the east side of the Grand Island WRA is limited by the presence of numerous privately-owned residences. Recreation facilities consist of several private marinas scattered along the waterfront. There is a car top launch area on the eastern end of Beaver Island State Park. In addition, waterfowl hunting is a popular activity along the West River and a few spots on the East River. Duck blinds are set up on State Lands during the hunting season, and are assigned by a lottery system. Town-owned property at the undeveloped Bicentennial Park site and at the partially-abandoned South Grand Island Sewage Treatment Plant has some potential for providing public waterfront access and recreation. In addition, State owned property at the Spicer Creek Wetlands and the East River Enhancement Project offer waterfront access and recreation opportunities.

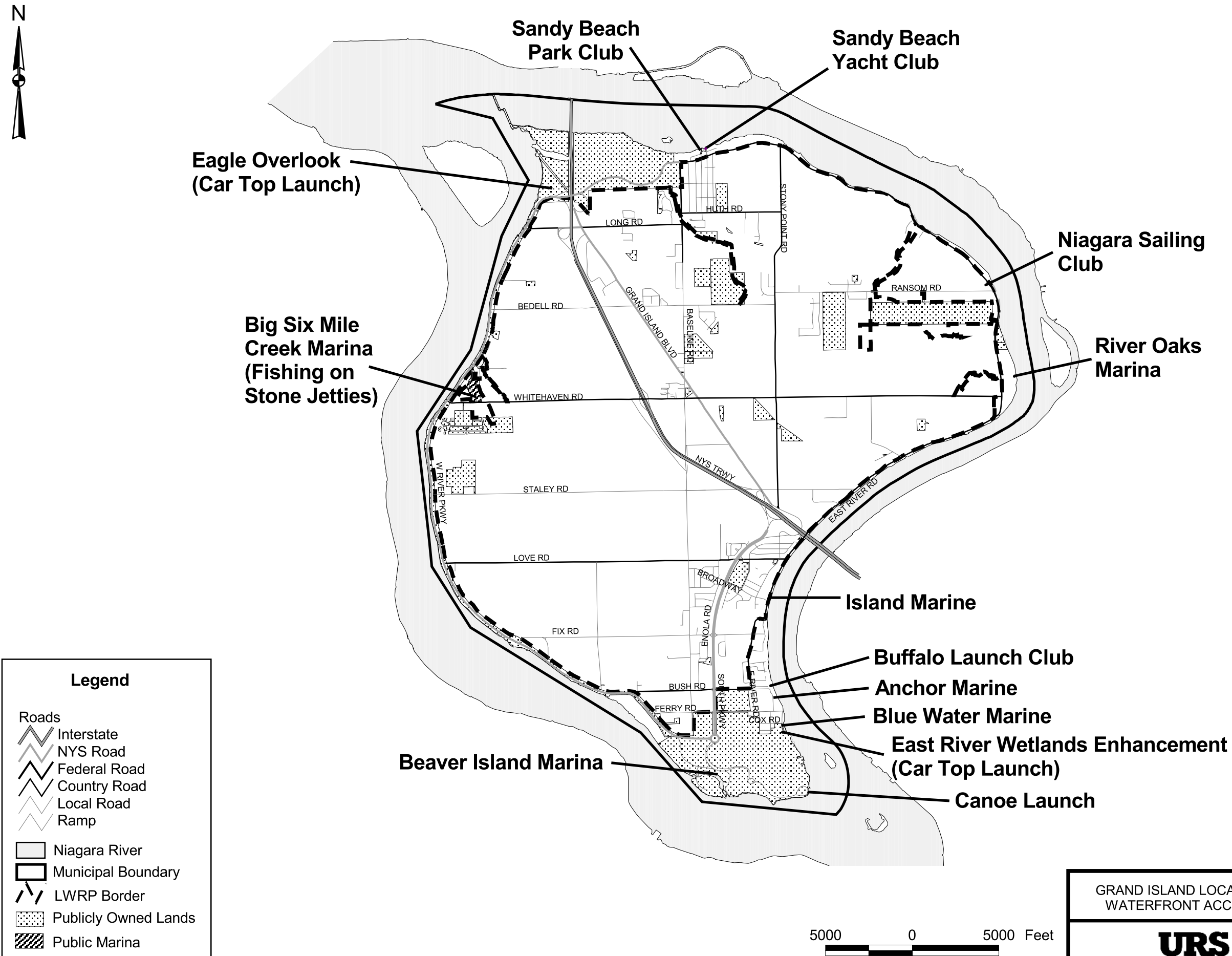
2.2.13 Water-Dependent Uses

Water-dependent uses within the WRA include: the State-owned Big Six Mile Creek Marina; a marina and car top launch area within the Beaver Island State Park; the Beaver Island State Park beach; eight privately-owned marinas and sailing clubs along the East River waterfront; numerous private docks serving waterfront property owners; boat repair and bait shops within Ferry Village; the Town water treatment plant near West Oakfield; the Niagara County raw water pump station; and the sewage treatment plant at Sandy Beach. Future demand for non-recreational water- dependent uses is not anticipated to be significant within the Town. (Figure 16)

2.2.14 Aesthetics

The Grand Island shoreline possesses a series of highly attractive and dramatic scenic vistas set within pleasant residential surroundings. The visual environment along the Niagara River in particular offers views of the City of Niagara Falls, Downtown Buffalo and the largely-residential Canadian shore from the West River Parkway. Although Parkway grounds are attractively landscaped, overlooks capitalize on the best views. In addition, pedestrian and bicycle facilities are non-existent. Additional facilities to enhance pedestrian and bicycle access and to increase the ability for the enjoyment of aesthetic resources should be encouraged.

Along the East River, shoreline vistas are generally framed by homes and include numerous privately-owned docks. Unlike the West River Parkway, however, opportunities for prolonged visual contact with the water at any one point are extremely limited. In addition, vistas often overlook industrial areas of Tonawanda and North Tonawanda, reducing their overall aesthetic appeal. There are also some sections along the East River Road in which dense woodland precludes all views of the water.



GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
WATERFRONT ACCESS POINTS AND PUBLICLY OWNED LANDS

URS

FIGURE 16

2.3 CRITICAL ISSUES

The principal focus of the Grand Island LWRP is the maintenance and protection of existing natural resources, coupled with selective measures to increase public access to the waterfront and provide for water-related recreation facilities. The following is a summary discussion of the key waterfront issues within the town.

2.3.1 Recreational Boating

Opportunities for the development of marinas and boat launches exist within the town; however, their siting should not be done in a haphazard manner along the shoreline. Sedimentation constraints, navigation hazards, and wave/wake constraints will influence how and where such development will take place. In addition, the maintenance of the residential character of much of the town's waterfront and a recognition of the increased burden which new development would place on the public infrastructure and the physical environment points to a need to guide such development to locations best able to accommodate them. Proposed water-dependent uses will be evaluated for their impact on adjacent residential property and also natural resources.

2.3.2 West River Parkway

The West River Parkway right-of-way comprises virtually the town's entire waterfront along the Chippawa Channel and presents opportunities for increasing public access and enjoyment of the waterfront. Currently, few facilities exist along Parkway lands for public use, other than picnic tables, three outlooks with parking, fishing access at the Big Six Mile Creek Marina jetties, and car top launch opportunities at Eagle Overlook. Any future utilization of these waterfront lands for passive recreation must be weighed against the maintenance responsibilities, whether they'll be assumed by New York State or the Town, as well as the impact on nearby residences and natural resources. The Town recognizes that there are winter opportunities for recreational activity in the area that are enhanced by the designation of the Parkway as a seasonal highway. Future provisions for parking areas shall be considered in conjunction with future recreational activities.

2.3.3 Habitat Protection

Five coastal fish and wildlife habitats of Statewide significance are located within the town (see Appendix A). The principal issue related to the habitats is their protection from encroachment by development and associated pollution and degradation. The direct discharge of pollutants, excessive erosion and runoff caused by land clearing, and inappropriate use of the resources are examples of activities which would cause significant harm to these habitats. The habitats, many of which are streams, have been afforded additional protection in the Town Zoning Ordinance by the establishment of the Enhanced Environment Overlay District (EED).

2.3.4 Spicer Creek Wetland

Located to the east of East River Road and to the north of Spicer Creek is a 26-acre freshwater wetland. Much of the Bicentennial Town Park and approximately 22.5 acres that were recently purchased by the State of New York lie in this wetland. While the opportunities for development of a waterfront park within the Town are limited, protection of this wetland is critical. The design and use of the park must be done in a manner which would not degrade this fragile and important natural resource. If possible, alternative recreational sites should be investigated. Also, with respect to the PUD proposal, construction activities should not be allowed at the wetland site.

2.3.5 Scenic Woods Parcel

The Scenic Woods Parcel is a 262-acre area north of Bicentennial Park. It contains some state and federal jurisdictional wetlands in the western portion of the site. Preliminarily, it has been determined that non-wetland portions of this parcel could be developed for recreational use. However, a management plan will need to be developed and coordinated with public input and adopted by the Town before any such use can be designated.

2.3.6 Buckhorn Island State Park

This 895-acre park is an important wildlife habitat whose integrity must be maintained. Opportunities do exist for increasing public enjoyment of the Park. Any improvements must not harm the Park's natural resources. Examples of possible improvements would be the maintenance of information signage to park users on its geographical features, wildlife, and history. In addition, efforts should be taken to maintain improvements of the marsh restoration in accordance with the Buckhorn Island Marsh Restoration and Bikeway Project.

2.3.7 Historic and Cultural Resources

Grand Island has numerous historic and cultural resources that are evidence of the town's rich and colorful past. Every effort should be made to preserve these resources and ensure that new development in the vicinity is consistent with a common design theme. Historic and cultural resources should be inventoried, and guidelines developed for their preservation. New development that complements these resources should be encouraged.

SECTION III. WATERFRONT REVITALIZATION PROGRAM POLICIES

3.1 DEVELOPMENT POLICIES

Policy 1 Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational and other compatible uses.

This policy regarding the restoration, revitalization, and redevelopment of deteriorated areas should be applied throughout the WRA but is primarily applicable to the Ferry Village area. The restoration, revitalization, and redevelopment of underutilized areas for waterfront commercial, cultural, recreational, and other compatible uses should primarily occur within Beaver Island State Park, Ferry Village, East River Road South, Whitehaven, and East River Road North. Redevelopment within Buckhorn Island State Park should be limited to efforts maintaining and/or enhancing its function as a wildlife sanctuary. Redevelopment in the West River Parkway should be limited to maintenance of existing facilities and a recreational trail system on the river side of the parkway. Development of Bicentennial Park, Spicer Creek Wetlands, and the Scenic Woods Parcel for passive recreational opportunities should be assessed. Passive recreation and on-shore fishing should be established at the proposed Grand Island Fishermen's Park, the present site of an abandoned circular digester that is part of the partially used sanitary sewer plant.

The following guidelines will be used to review actions for consistency with this policy:

1. When an action is proposed to take place in the Waterfront Area, the following guidelines will be used:
 - a. Priority should be given to uses which are dependent on a location adjacent to the water.
 - b. The action should enhance existing and compatible water resource uses.
 - c. The action should serve as a catalyst to private investment in the area.
 - d. The action should improve the physical condition of a site and, at a minimum, must not cause deterioration. For example, a building could not be left unoccupied without protecting it against vandalism and/or structural decline.
 - e. The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use.
 - f. The action should have the potential to improve the existing economic base of the community, and, at a minimum, must not jeopardize this base. For example, waterfront development meant to serve consumer needs would be inappropriate in an area where no increased consumer demands were expected and existing development was already meeting demand.
 - g. The action should improve adjacent and upland views of the water, and, at a minimum, must not affect these views in an insensitive manner.
 - h. The action should have the potential to improve the potential for multiple uses of the site.

Policy 1A Promote ongoing revitalization of the Ferry Village neighborhood with particular attention to the waterfront.

Although it contains two commercial marinas, Ferry Village is predominantly a residential community. Due to its historic role in the development of Grand Island and unique village-like atmosphere resulting from the concentration of older residential structures, it is recognized as an asset to the Town. Ferry Village is within the WRA and warrants careful attention to preserve its historic and cultural value. Its visual and direct access to the Niagara River is an asset as well. To preserve the Ferry Village area, the Town will continue its ongoing program of maintenance and improvement of local infrastructure, as well as continue to apply for assistance under appropriate State and federal programs to undertake structural rehabilitation where needed. As described in Chapter IV, proposed uses include a continuation of existing uses and (re)development in accordance with the policies and goals of the Ferry Village Master Plan. The nine goals identified in the Ferry Village Master Plan are:

- Goal 1: Ferry Village Development and Land Use** - The existing character, ambiance, and land use blend of Ferry Village should be maintained. Vacant parcels not designated for permanent open space or public recreation uses should be sensitively designed to be consistent with the residential and water-based business uses that currently characterize the village.
- Goal 2: Housing** – Maintaining the current single-family residential character and density of Ferry Village is the primary goal of the Master Plan.
- Goal 3: Business and Employment** – In keeping with current business activities, water- oriented and water-enhanced business uses should be encouraged to remain and to expand in close proximity to the Niagara River.
- Goal 4: Transportation and Access** – The village’s road system will remain as it currently exists by discouraging land uses which will overload the system and by requiring access improvements that keep vehicular traffic out of predominantly residential areas. A bikeway will be provided. New residential and business uses will be required to provide pedestrian ways.
- Goal 5: Urban Design/Visual Resources** – The overall pattern of the built environment will be low-profile and residential in character, reflecting the architecture and history of Ferry Village – particularly its role as a waterfront community.
- Goal 6: Environmental Resources** – Significant environmental resources identified in the Ferry Village Master Plan will be preserved and, where access will not degrade environmental quality, opportunities for passive enjoyment of these features will be provided.
- Goal 7: Historic and Cultural Resources** – Preserve existing historic and cultural resources, and ensure that new development is consistent with a common design theme which reflects that heritage.
- Goal 8: Open Space and Recreation** – Ensure that significant public open space which defines the boundaries of Ferry Village is preserved and enhanced, while recreation opportunities geared toward neighborhood needs and waterfront location are realized. Waterfront recreation may be provided for town-wide, as well as some regional use.
- Goal 9: Waterfront Access** – Increase public access to the Niagara River shoreline for boaters and pedestrians through public and private initiatives. All waterfront reconstruction will be undertaken in such a manner as to not reduce the economic viability of established commercial marinas.

The following guidelines will be used to review actions for consistency with this policy: Agencies proposing actions within the Ferry Village neighborhood must take appropriate steps to ensure that the action does not cause physical deterioration of Ferry Village and that such actions are consistent with the Ferry Village Master Plan.

Policy 2 Facilitate the siting of water dependent uses and facilities on, or adjacent to coastal waters.

With the exception of a proposed recreational trail system along the river side of the West River Parkway and the potential improvements to of Big Six Mile Marina within its current boundaries; water dependent uses should be situated in Beaver Island State Park, Ferry Village, East River Road South, Whitehaven, and East River Road North. Marine service centers shall be situated within the WRA in accordance with the Town Comprehensive Plan (see Figure 17). In addition, consideration should be given to the appropriate development of a residential waterfront hamlet in the vicinity of Whitehaven and East River Roads. The Town Comprehensive Plan also recommends the creation of an Open Space and Recreation Area in the southeastern portion of Ferry Village near Blue Water Marina (Figure 27).

There is a finite amount of waterfront space suitable for development purposes. Consequently, while the demand for any given piece of property will fluctuate in response to varying economic and social conditions, on a Town-wide basis the only reasonable expectation is that long-term demand for waterfront space will intensify. To ensure that such water-dependent uses can continue to be accommodated, public agencies will avoid undertaking, funding, or approving uses that are not water-dependent when such uses would preempt the reasonably foreseeable development of water-dependent uses; furthermore, such agencies will utilize appropriate existing programs to encourage water-dependent activities.

In general, the following water-dependent uses and facilities are appropriate to the Town of Grand Island waterfront area:

1. Uses which depend on the utilization of resources found in coastal waters;
2. Recreational activities, which depend on access to coastal waters;
3. Structures needed for navigational purposes;
4. Flood and erosion protection structures;
5. Facilities needed to service all types of boats;
6. Scientific/educational activities which, by their nature, require access to coastal waters;
7. Support facilities which are necessary for the successful functioning of permitted water-dependent uses (for example: parking lots, snack bars, first aid stations, short- term storage facilities). Though these uses must be near the given water-dependent uses they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.
8. Waterfront Business uses.

Given the current and foreseeable development trends along the Town's waterfront, the Town desires to establish a waterfront development pattern which emphasizes existing residential and recreational uses, as well as commercial uses which complement water-dependent recreational uses. In this respect, water-dependent uses accommodated within the Grand Island waterfront are expected to be primarily a continuation of existing uses, with additional development of public marinas and boat launching facilities, as well as the development of additional recreational park land and open space in the Whitehaven and East River Road South areas. Existing water-dependent uses, as identified in Section 2.13 of the Inventory and Analysis Section, include numerous public and private marinas, boat repair, and bait stores in the Ferry Village area, the Town water filtration plant near West Oakfield, the Town sewage treatment plant, intakes for Isle Chem, and numerous private docks.

In addition to water-dependent uses, uses which are enhanced by a waterfront location are encouraged to locate along the shore, though not at the expense of water-dependent uses. A water- enhanced use is defined as a use that has no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users would be increased significantly if the use were adjacent to, or had

visual access to, the waterfront. A restaurant which uses good site design to take advantage of a waterfront view is an example of water-enhanced uses.

If there is no immediate demand for a water-dependent use in a given area but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water dependent use which involves an irreversible, or nearly irreversible, commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which are likely to be considered temporary uses that are not water dependent uses.

New water-dependent and water-enhanced uses to be developed within the Town of Grand Island waterfront area are to be sited and designed, so that they enhance, or at least do not detract from, the surrounding area and avoid adverse impacts on significant coastal resources. Consideration should be given to such factors as the protection of nearby residential areas from odors, noise, and traffic and the preservation of natural erosion protective features. Affirmative approaches are to be employed so that water-dependent and water-enhanced uses and adjacent uses will complement one another. In addition, to help ensure the future availability of waterfront land for water-dependent uses, consideration should be given in the siting and design of any development on land adjacent to the water to the reservation of land suitable to accommodate the long-term space needs of water dependent uses, for example, by devoting such land to open space or temporary non-water-dependent uses.

Policy 3 The state coastal policy regarding development of the state's major ports is not applicable to Grand Island.

Policy 4 The state coastal policy regarding the enhancement of small harbors is not applicable to Grand Island.

Policy 5 Encourage the location of development in areas where public services and facilities essential to such development are adequate except when such development has special functional requirements or other characteristics which necessitate its location in other coastal areas.

The large scale investment of public funds for constructing sewer and water lines, as well as an efficient transportation network requires a commitment by the Town to channel development into areas which can best accommodate the service needs of that development. This eliminates the future need of extending service areas into outlying regions, while foregoing the excess capacity of existing treatment plants. The public is well served by a policy of infill development due to the cost savings both in tax dollars and in reduced fuel consumption. The latter occurs from the closer proximity of work, home, and in the case of waterfront development, recreational areas.

The Town of Grand Island is an area of concentrated development where infrastructure and public services are generally adequate to support future land uses and development, as specified in Section IV-Proposed Land and Water Uses. As noted in the 'Inventory and Analysis Section', the Grand Island waterfront is fully serviced by a public water supply system, solid waste disposal facilities, and transportation network. Although the East River Road North, Whitehaven, and portions of the East River Road South area are serviced by a sanitary sewage disposal system, development within the remainder of the waterfront area relies upon on-site disposal systems.

Given the Town's sensitivity to assuring that development, particularly large-scale development, occurs within, contiguous to, or in close proximity to existing developed areas where infrastructure and public service are in place and adequate, particularly public sewer service, the Town will encourage the siting of new development

within established sewer districts accessible to all other necessary services. Furthermore, the Town will review development proposals with special sensitivity to topography, geology, and other environmental issues.

For any action that would result in large-scale development or an action which would facilitate or serve future development, a determination shall be made as to whether the action is within, contiguous to, or in close proximity to an area of concentrated development where infrastructure and public services are adequate. The following guidelines shall be used in making that determination:

1. A potential development site may be considered to be within, contiguous to, or in close proximity to an area of concentrated development, if three or more of the following conditions are met:
 - a. Population density of the area surrounding or adjacent to the proposed site exceeds 1,000 persons per square mile;
 - b. Fewer than 50% of the buildable sites (i.e., sites meeting lot area requirements under the Town's zoning regulations) within one mile radius of the proposed site are vacant;
 - c. The proposed site is served by or is near to public or private sewer and water lines;
 - d. Public transportation service is available within one mile of the proposed site; and
 - e. A significant concentration of commercial activity is within one-half mile of the proposed site.
2. The following points shall be considered in assessing the adequacy of infrastructure and public services for a potential site:
 - a. Streets and highways serving the proposed site can safely accommodate the peak traffic generated by the proposed land development;
 - b. The proposed development's water needs (consumptive and fire fighting) can be met by the existing water supply system;
 - c. Public sewage disposal systems can accommodate the wastes generated by the proposed development;
 - d. Energy needs of the proposed development can be accommodated by existing utility systems;
 - e. Stormwater runoff from the proposed site can be accommodated by on-site and/or off-site facilities; and
 - f. Schools, police, and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the proposed development.

It is recognized that certain forms of development may and/or should occur at locations which are not within or near areas of concentrated development. Thus, this coastal management policy does not apply to the following types of development projects and activities:

1. Economic activities which depend upon sites at or near locations where natural resources are present.
2. Development which by its nature is enhanced by a non-urbanized setting, e.g., a resort complex, campgrounds, etc.
3. Development which is designed to be a self-contained activity, e.g., a small college, religious

retreat, etc.

4. Water-dependent uses with site requirements not compatible with this policy or when alternative sites are not available.
5. Development which because of its isolated location and small-scale has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which because of public safety considerations should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Development projects which are essential to the construction and/or operation of the above uses and activities.

Policy 6 Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.

The Town of Grand Island will utilize existing laws to ensure compliance with the Town waterfront program, and when new regulations may be necessary, will coordinate and combine review periods, as well as public hearing requirements to the maximum extent possible. In addition, the Town Planning Board will review all applications for development and improvements within the waterfront area. The review will be expedited by the establishment of a procedure whereby all local agencies will refer matters within the coastal area to the Planning Board for comment prior to taking action. In all cases, this will occur within a 60 day review period, as prescribed by local law.

For specific types of development activities and in areas suitable for such development, State and local agencies will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, provided the integrity of the respective regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development and will not jeopardize the integrity of the regulation's objectives.

Policy 7 Significant coastal fish and wildlife habitats, as identified on the coastal area map, shall be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.

Policy 7A The Buckhorn Island tern colony shall be protected, preserved, and, if necessary and practical, restored so as to maintain its viability as a habitat.

The Buckhorn Island Tern Colony, significant as a tern and gull nesting area, is located on man-made structures, just off-shore of Buckhorn Island State Park in the northern portion of the Town. The habitat is one of only three active tern and gull colonies in western New York, and at times is the largest in the area. A detailed description and map of the location of the habitat is provided in Appendix A.

The wildlife values of this habitat, as further described in Appendix A, shall be preserved and protected. Actions shall not be undertaken which would destroy or significantly impair the viability of the area as a habitat. A consistency review by OPRHP as part of its environmental review process for any development actions within areas under OPRHP control will be required.

The nesting activities on man-made structures are highly vulnerable to disturbance from mid-April through July. Significant human activity (i.e., fishing, boat landing, or maintenance) on or around occupied structures could eliminate the habitat and should be minimized during this time of year. Annual or permanent posting of the area should be provided to help protect the nesting bird species. Habitat management activities, such as manipulation of surface substrates, control of gull predation, and establishment of additional nesting colonies in the vicinity may be desirable or necessary in the future to ensure the survival of the common tern population at Buckhorn Island State Park.

Policy 7B The Buckhorn Island Wetlands Habitat shall be protected, preserved, and, if necessary and practical, restored so as to maintain its viability as a habitat.

The Buckhorn Island Wetlands Habitat is located within Buckhorn Island State Park in the northern portion of the Town. The wetlands area comprises the largest coastal wetland complex in western New York. The approximately 500 acre fish and wildlife habitat includes the only large, undeveloped marsh remaining on the Niagara River and a major riverine littoral zone. The area provides valuable habitat for a variety of fish and wildlife species, particularly those characteristic of Great Lakes coastal marshes. A detailed description and map of the location of the habitat is provided in Appendix A.

The fish and wildlife values of this habitat, as further described in Appendix A, shall be preserved and protected. Action shall not be undertaken which would destroy or significantly impair the viability of the area as a habitat.

An activity that would degrade water quality, increase temperature or turbidity, reduce flows, or increase water level fluctuations in the Buckhorn Island Wetlands could adversely affect many fish and wildlife species. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants may result in adverse impacts on the fish and wildlife resources of the area. Elimination of wetlands vegetation, including submergent beds, through dredging, filling, or bulkheading would result in a direct loss of valuable habitat area. However, habitat management activities, including water level management, may be designed to maintain or enhance populations of certain species of fish or wildlife.

Barriers to fish migration in Woods Creek, physical or chemical, could have a significant effect on the fish populations of the area, as well as in the Niagara River. Any disturbance of littoral areas between February and July, when northern pike and muskellunge are in the area, could be especially detrimental.

Development of motorboat access to the Niagara River from Buckhorn Island State Park could significantly increase human disturbance of the habitat, reducing its potential value to various fish and wildlife species. However, development of access for non-motorized car-top vessels such as canoes, kayaks, and rowboats should be encouraged. Existing woodlands bordering the Buckhorn Island Wetlands should be maintained for their value as roosts, breeding habitats, perch sites, and buffer zones for a variety of wildlife species.

Policy 7C The Buckhorn Island-Goat Island Rapids Habitat shall be protected, preserved, and, if practical and necessary, restored so as to maintain its viability as a habitat.

The Buckhorn Island-Goat Island Rapids is located in the Niagara River between Buckhorn Island State Park and Goat Island. Most of the habitat is located within the City of Niagara Falls, but a small portion is located within the off-shore boundaries of the Town. The 850-acre habitat, which contains some extensive areas of

undisturbed, natural habitat conditions, is part of one of the most important waterfowl wintering areas in the northeastern United States, especially for diving ducks. The area is known to provide highly favorable habitat conditions for spawning by smallmouth bass, which are abundant in the area, and is believed to be a very productive area for fish populations in the upper Niagara River. A detailed description and map of the location of the habitat is provided in Appendix A.

The fish and wildlife values of this habitat, as further described in Appendix A, shall be preserved and protected. Actions shall not be undertaken which would destroy or significantly impair the viability of the area as a habitat.

Any activity that would substantially degrade water quality in the Buckhorn Island-Goat Island Rapids could affect the biological productivity of the area. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Spills of oil or other hazardous wastes, in particular, may have very serious consequences for fish and wildlife populations using the area.

Construction of river diversion structures in the area could have adverse impacts on smallmouth bass concentrations, but may benefit other fish and wildlife species. Thermal discharges, depending on the time of year, may have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes could have a significant impact on fish populations through impingement of juveniles and adults or entrainment of eggs and larval stages.

Maintenance and improvement of water quality in the upper Niagara River (which is primarily dependent upon controlling discharges from combined sewer overflows, waste disposal sites, and industrial point sources) and proper handling of hazardous substances, including preparation of contingency clean-up plans, would help protect and strengthen the viability of the area as a habitat.

Policy 7D The Grand Island tributaries habitat shall be protected, preserved, and, if necessary and practical, restored so as to maintain its viability as a habitat.

The Grand Island Tributaries habitat includes portions of Woods Creek, Gun Creek, Spicer Creek, Big Six Mile Creek and their associated wetlands. It also includes a small wetland which opens directly into the Niagara River in Beaver Island State Park. While the tributaries are typical of the majority of western New York stream ecosystems and have been altered by land use, they are the least developed of those which drain into the upper Niagara River. The creeks and wetlands provide important spawning and nursery areas for warmwater fish species, especially northern pike, which now appear to be totally dependent on tributary habitats for reproduction. A detailed description and map of the location of the habitat is provided in Appendix A.

The fish and wildlife values of this habitat, as further described in Appendix A, shall be preserved and protected. Actions shall not be undertaken which would destroy or significantly impair the viability of the area as a habitat.

Any activity that would degrade water quality, increase temperature or turbidity, reduce flows, or eliminate aquatic plant beds in the area may adversely affect the fisheries resources of the upper Niagara River. Any disturbance of the habitat between early February and July could be especially detrimental.

Dredging, filling, bulkheading, and clearing of natural vegetation along these streams could affect northern pike spawning habitat. Development of motorboat access to the river from these areas may also induce secondary developments causing additional impacts on the fisheries resources. However, non-motorized craft will have lesser impact. Although the extent of upstream movement by pike in these creeks is not well documented, barriers to fish migrations, physical or chemical, could have a significant effect on fish populations in the tributaries and the Niagara River. Substantial opportunities for habitat improvement activities exist in these areas, including measures to improve water quality, elimination of barriers to fish movements, and restoration

or enhancement of northern pike spawning habitats.

Policy 7E The Strawberry Island-Motor Island Shallows Habitat shall be protected, preserved, and, if necessary and practical, restored so as to maintain its viability as a habitat.

The Strawberry Island-Motor Island Shallows Habitat, an extensive shallow shoal area, is located in the upper Niagara River, roughly bounded by Strawberry Island, Motor Island, and the southern tip of Grand Island. The area is the largest riverine littoral zone in the Niagara River. Such areas are rare in the Great Lakes Plain ecological region and are extremely valuable fish and wildlife habitats.

The area is a principal spawning ground for muskellunge and one of the most productive spawning areas in the upper Niagara River for smallmouth bass, yellow perch, and various other resident fish species. The area is also part of one of the most important waterfowl wintering areas in the northeastern United States, especially for diving ducks. Concentrations of waterfowl also occur during the spring and fall migrations. As a result of the fish and wildlife concentrations found in the area and its accessibility, this is one of the most popular recreational fishing and hunting spots in the region. Recently this area was designated as a proposed underwater state park in an effort to preserve and manage this significant habitat. Environmental Bond funds were made available for the restoration of wetlands along the east side of Beaver Island State Park to preserve the aquatic habitat value and enhance eco-tourism opportunities. A detailed description and map of the location of the habitat is provided in Appendix A.

The fish and wildlife values of this habitat, as further described in Appendix A, shall be preserved and protected. Action shall not be undertaken which would destroy or significantly impair the viability of the area as a habitat.

Any activity that would substantially degrade water quality in the Strawberry Island-Motor Island Shallows could affect the biological productivity of the upper Niagara River ecosystem. All species of fish and wildlife may be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Spills of oil or other hazardous substances are an especially significant threat to waterfowl concentrations in this area. Since this portion of the river is also an important water supply source (for the Town of Tonawanda), it is vital that water quality in this area remains high.

Thermal discharges, depending on the time of year, may have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes could have a significant impact on fish populations through impingement of juveniles and adults or entrainment of eggs and larval stages.

Disturbances of littoral areas or wetland vegetation at any time of year may affect a variety of fish and wildlife species. Dredging, filling, bulkheading, or development of boat launching facilities in this area could adversely affect fish and wildlife in a variety of ways, including direct loss of habitat and increased human disturbance during fish spawning and nursery periods (April-July for most warmwater species). Temporary habitat disturbances during this period would also be especially detrimental.

Habitat management activities may be necessary to ensure that this productive fish and wildlife area is not further degraded by erosion. These may include structural measures, if appropriate and consistent with the other applicable policies of this program. Any such measures, however, should be designed to maintain or enhance the value of the habitat and must not adversely affect existing fish and wildlife resources.

Policy 8 Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

The manufacturing process at certain times and on certain occasions generates hazardous waste as a by-product. These wastes are often flammable, corrosive, reactive, or toxic. The Environmental Conservation Law [27-0901 (3)] establishes the definition of hazardous waste as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or potential hazard to human health or the environment when improperly treated, stored, transported or otherwise managed". The list of DEC - defined hazardous wastes is provided in 6 NYCRR Part 371.

The State controls the handling of wastes defined in the above regulation to prevent their entry or introduction into the environment. Given the State's strict regulatory requirements, there is an effective effort to minimize potential contamination of, and bio-accumulation in, the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes but controlled through other State laws.

Policy 9 Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources. Such efforts shall be made in a manner, which ensures the protection of renewable fish and wildlife resources and considers other activities dependent on them.

Policy 9A Promote the construction of boat launching, boat mooring, and on-shore fishing facilities along the Niagara River shoreline.

The educational and recreational value of coastal areas having a significant concentration of fish and wildlife resources is of extreme importance to the public. As described in the Inventory and Analysis, Section 2.2.7, the Grand Island WRA contains five significant fish and wildlife habitats, supporting a variety of fish and wildlife species. As indicated by the number of habitats found in the WRA, fish and wildlife resources are relatively plentiful throughout the WRA. The recreational uses of these fish and wildlife resources, which include consumptive uses such as fishing and hunting and non-consumptive uses such as wildlife photography, bird watching and nature study, are to be maintained and increased primarily through construction of additional boat launching facilities, as further described by Policies 19, 20, and 21. Such facilities shall be situated in the Marine Services Center identified in the Town Comprehensive Plan (see Figure 17) and at Fisherman's Park. The proposed car-top launching facility which was part of the East River Wetland Enhancement Project in the eastern portion of Beaver Island State Park should be developed (see Section IV). Additional boat launching and mooring facilities should avoid the significant fish and wildlife habitats discussed in Section 2.2.7 of this document.

It is imperative that increased recreational use of the above noted resources be undertaken in a manner which ensures the protection of the fish and wildlife resources and which takes into consideration other activities dependent on these resources. Further, all efforts to increase recreational use of the noted resources must be in accordance with Federal and State law and be consistent with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, cost, and available technology.

The following additional guidelines should be considered by all agencies and government jurisdictions in determining the consistency of a proposed action with the above policy.

1. Considerations should be made as to whether an action will impede existing or future utilization of the recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of a habitat (See Policy 7). Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter fish and wildlife from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7) and/or conferring with trained fish and wildlife biologists or environmental sciences professionals.
4. Any public or private sector initiatives to supplement existing stocks (i.e., stocking a stream with fish reared in a hatchery) or develop new resources (i.e., creating private fee-hunting or fee-fishing facilities) must comply with existing Federal and State law.

Policy 10 **The state coastal policy regarding commercial fishing is not applicable to the Town of Grand Island WRA.**

3.2 FLOODING AND EROSION HAZARDS POLICIES

Policy 11 **Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.**

This policy is applicable to the flood hazard areas located within the Town, as described in the Inventory and Analysis, Section 2.8. The erosion aspects of this policy are not applicable, as no Coastal Erosion Hazard Areas have been identified by the State within the Town.

Overall, development located within flood hazard areas will not be allowed to impede flood flows or flood storage. In addition, new non-residential development within such areas must be flood-proofed and stabilized, as required by law, while new residential uses must have all habitable areas above the elevation delineated for the flood hazard area in which the structure will be located.

Policy 12 **Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands, and bluffs. Primary dunes will be protected from all encroachments that could impair their natural protection capacity.**

The Town wishes to prevent inappropriate development along East River Road between Whitehaven Road and the South Grand Island Bridges. No additional protection is necessary in this area because there is a limited amount of land available for development, the majority of the area is within a County right-of-way, and existing U.S. Army Corps of Engineers and NYS Department of Environmental Conservation regulations sufficiently regulate these areas.

Policy 13 The construction or reconstruction of erosion protection structures shall be undertaken only if they have reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.

The designs of all erosion protection structures shall be submitted to the appropriate agency for review and approval. The Applicant in turn submits a location plan to the NYS Department of Environmental Conservation and the U.S. Army Corps of Engineers prior to issuing a building permit. Design shall be by a licensed engineer, and shall adhere to approved methods of siting, construction techniques, and building materials. The permitting agency will require owners to undertake regular periodic maintenance work on any such structures.

As previously stated, no Coastal Erosion Hazard Areas have been identified within the Town.

Policy 14 Activities and development including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

The processes of erosion and flooding occur. People can, however, increase the severity and adverse effects of those processes, thereby causing damage or loss of property. Human-created actions may include: the building of erosion protection structures including groins, or the use of structures or fill which block the littoral transport of sediment to adjacent shorelands, thereby increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thus causing run-off and the erosion and weakening of shorelands; or placing structures in floodways so that the base flood level is increased thus resulting in damage to otherwise hazard-free areas.

The jetty designed as part of the East River Wetland Enhancement Project was developed in such a manner that state wetland BW-2 is protected from the human-created actions potentially causing erosion or sedimentation itemized above. If no human structures are at risk, no stabilization measures shall be installed. Disturbed areas shall instead be planted with native trees and shrubs to prevent erosion.

Policy 15 Mining, excavation or dredging in coastal water shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation, and dredging should be accomplished in a manner so as not to cause a reduction in the supply, and thus an increase of erosion, to such shorelands.

Offshore mining for sand and gravel deposits is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

Any mining, excavation, and dredging activities in the WRA are regulated by the NY State Department of Environmental Conservation and the US Army Corps of Engineers.

Policy 16 **Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs, including the potential for increasing erosion and adverse effects on natural protective features.**

As previously stated, no coastal erosion hazard areas have been identified within the Town.

Policy 17 **Whenever possible, use non-structural measures to minimize damage to natural resources and property from flooding and erosion. Such measures shall include:**

- (i) the set back of buildings and structures;**
- (ii) (ii) the planting of vegetation and installation of sand fencing and draining;**
- (iii) (iii) the reshaping of bluffs; and**
- (iv) (iv) the flood-proofing of buildings or their elevation above the base flood level.**

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal area, as well as the costs of protection against those hazards which structural measures entail.

The policy shall apply to the planning, siting, and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity of development, and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

Within Flood Hazard Areas, non-structural measures shall include, but are not limited to, the following measures:

1. Avoidance or damage from flooding by the siting of buildings outside the hazard area.
2. Flood-proofing of buildings or their elevation above the base flood level.
3. The retention of at least 50% of the total area as open space within new development parcels.
4. Preservation or enhancement of wetlands that provide storage and retention of flood waters and storm water runoff.

3.3 GENERAL POLICY

Policy 18 **To safeguard the vital economic, social, and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.**

Proposed major actions may be undertaken in the coastal area if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguard which the State has established to protect those waters and resources. Proposed actions must take into account the social, economic and environmental interests of the State and its citizens in such matters that would affect natural resources, water levels, water quality, and flows, shoreline damage, hydroelectric power generation, and recreation.

3.4 PUBLIC ACCESS POLICIES

Policy 19 **Protect, maintain, and increase the level and types of access to public, water-related recreation resources and facilities so that these resources and facilities may be fully utilized by all the public in accordance with reasonably anticipated public recreation needs and the protection of historic and natural resources. In providing such access, priority shall be given to public beaches, boating facilities, fishing areas and waterfront parks.**

Policy 19A **Continue and expand facilities for cyclists on Grand Island and its links to the mainland.**

Existing public water-related recreation resources and facilities within the Town of Grand Island (described further within Section 2.2 of the Inventory and Analysis Section) include: Buckhorn Island State Park, Beaver Island State Park, and the Big Six Mile Creek Marina. Increased public access to the waterfront for water-related recreation should be provided at these three State- owned facilities. However, expansions to provide increased public access needs to be done without having a significant adverse environmental impact to the five significant fish and wildlife habitats discussed in Section 2.2.7. Increased public access at these State-owned facilities will be developed in cooperation with OPRHP in accordance with specific conditions and issues affecting each facility.

The Town of Grand Island will pursue and encourage efforts to maintain and expand public access to the shoreline, particularly at the proposed Fisherman's Park and the proposed Open Space and Recreation Area in the southeastern portion of Ferry Village near Blue Water Marina as identified on Figure 27. Preliminary conceptual plans for Fisherman's Park provide for improved pedestrian and bikeway trails and their linkage with existing trails and parking areas.

Currently, the Town has a substantial bikeway system. The Town supports efforts to improve cyclist facilities along the Grand Island waterfront, including improving access to the mainland in general and the Erie County Riverwalk in particular. In this respect, the Town encourages the New York State Department of Transportation and the Office of Parks Recreation and Historic Preservation to undertake the completion of the bikeway.

The following guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced. The possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be eliminated. Estimates of future use of these resources and facilities are too low to justify maintaining them, unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such them after reasonable justification. In addition, the level of public access to be provided at State-owned facilities will be progressed in partnership with OPRHP, and any other involved agencies, consistent with agency plans and resources.

The following is an explanation of the terms used in the above guidelines:

- a. Access -- the ability and right of the public to reach and use public coastal lands and waters.
- b. Public water-related recreation resources or facilities -- all public lands or facilities suitable for passive or active recreation that require either water or a waterfront location or are enhanced by a waterfront location.
- c. Public lands or facilities -- lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access or could have access, including underwater lands and the foreshore.
- d. A reduction in the existing level of public access includes, but is not limited to, the following:
 - (1) The number of parking spaces at a public water-related recreation resource or facility is significantly reduced.
 - (2) The service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
 - (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (4) There are substantial increases in existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary, or admission fees to such a resource or facility and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State-government-established poverty level.
- e. An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
 - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.

- (2) Sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives.
 - (3) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
 - a. The level of access to be provided should be in accordance with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The State will not undertake or fund any project which increases access to a water-related recreation resource or facility that is not open to all members of the public.
4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

Policy 20 Access to the publicly-owned lands immediately adjacent to the water's edge shall be provided and it shall be provided in a manner compatible with adjoining uses. Such lands shall be retained in public ownership.

As described in the Inventory and Analysis Section (Section 2.2.12 - Public Access and Recreation), a considerable amount of the Town's shoreline is in public ownership. In addition to the Beaver Island State Park and Buckhorn Island State Parks, a substantial amount of the shoreline, including all of the West River shoreline adjacent to the Parkway, is owned by New York State.

The Town will also pursue efforts to increase access to this and other portions of the publicly-owned shoreline. In this respect, the development of Fisherman's Park, as well as additional fishing overlooks, recreational trails, and boat launches, will be encouraged.

In addition, the Town recommends walking and biking trails be developed along the river side of the West River Parkway connecting to Beaver Island State Park and the South Grand Island bridge.

The following additional guidelines will be used in determining the consistency of a proposed action with this policy:

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be

eliminated, unless such actions are demonstrated to be overriding regional or statewide public benefit, or in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

The following is an explanation of the terms used in the above guidelines:

- a. (see definitions under Policy 19 "access", and "public lands or facilities").
 - b. A reduction in the existing level of public access -- includes, but is not limited to the following:
 - (1) Pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (2) Pedestrian access is diminished or blocked completely by public or private development.
 - c. An elimination of the possibility of increasing public access in the future - includes, but is not limited to, the following:
 - (1) Construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities.
 - (2) Sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters.
 - (3) Construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.
2. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
 - a. A reduction in the existing level of public access includes, but is not limited to the following:
 - (1) Access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
 - (2) Access is reduced or blocked completely by any public developments.
 3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
 4. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
 5. Proposals for increased public access to the coastal lands and waters shall be analyzed according to the following factors:

- a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
- 6. While such publicly-owned lands referenced in the policy shall be retained in public ownership, traditional sales of easements on lands underwater to adjacent on-shore property owners are consistent with this policy, provided such easements do not substantially interfere with continued public use of the public lands on which the easement is granted. Also, public use of such publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged where such use would be inappropriate for reasons of public safety, military security, or the protection of fragile coastal resources.

3.5 RECREATION POLICIES

Policy 21 **Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water related uses along the coast, provided it is consistent with the preservation and enhancement of other coastal resources and takes into account demand for such facilities. In facilitating such activities, priority shall be given to areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and to those areas where the use of the shore is severely restricted by existing development.**

Policy 21A **Develop an environmentally sensitive trail system within Bicentennial Park, the Scenic Woods Parcel, and the Spicer Creek Wetlands.**

Policy 21B **Develop public water-related recreational facilities at Fisherman's Park.**

Policy 21C **Develop an open space and recreation area in the southeastern portion of Ferry Village in accordance with the Town Comprehensive Plan**

The Town of Grand Island will encourage the provision of a diversity of public water-related recreation opportunities including fishing, boat launching, boat mooring, cycling, picnic areas, scenic overlooks, recreational trails, and other passive pursuits. The Town will support efforts to develop private water related businesses along the East River Road in the vicinity of Whitehaven Road.

The Town will provide facilities at Fisherman's Park. See Section IV 'Proposed Uses and Projects' for more detailed information on the proposed parks.

The Town will encourage the development of water-enhanced recreation and support services such as waterfront restaurants, bait shops, and overnight accommodations which promote tourism and foster economic development, but not at the expense of water-dependent recreational uses, facilities, and natural resources.

Commercial development within the Ferry Village area should not cause deterioration of the residential character of the neighborhood.

Development within Bicentennial Park should be limited to a trail system. This trail system should be designed in consultation with the NYS Department of Environmental Conservation. The recently acquired Scenic Woods and Spicer Creek Wetland parcels should be developed in conjunction with Bicentennial Park. A Master Plan should be developed for these three areas to assess the feasibility of development and provide a concept plan which would provide a valuable recreational resource, enhance public water access, and preserve valuable wetland areas.

Consistent with demand and the protection of other important coastal resources, water-related (dependent and enhanced) recreation uses shall have a higher priority than any non-water-related uses, including non-water-related recreation uses. Water-dependent recreation uses shall have a higher priority than water-enhanced uses, including water-enhanced recreation uses. Determining a priority among water-dependent uses will require a case-by-case analysis. (See Policy 2 for definitions and additional provisions concerning water-dependent uses).

Any development of water-related recreational facilities or increase in recreational use must be consistent with the preservation and enhancement of other important coastal resources, such as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture lands, and significant mineral and fossil deposits and their capacity to accommodate anticipated use.

Off-road recreational vehicle use could be an acceptable activity, provided no adverse environmental impacts occur. Where adverse environmental impact will occur, mitigating measures will be implemented, where practicable to minimize such adverse impacts. If acceptable mitigation is not practicable, prohibition of the use by off-road recreational vehicles will be posted and enforced. (See also Policy 12).

See also Policies 1,9,19,20 and 22 and Section IV, Proposed Uses and Proposed Projects.

Policy 22 Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.

The Town of Grand Island encourages developments along the waterfront to provide public shoreline easements. New development proposals incorporating water-related recreation facilities available for general public use will be given priority over other development proposals. Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor.

(See Policies 1, 1A, 19A and 19B)

3.6 HISTORIC AND SCENIC QUALITY POLICIES

Policy 23 Protect, enhance, and restore structures districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation.

Among the most valuable of the State's man-made resources are those which are of historic, archaeological, or cultural significance. The importance of protecting these resources must be recognized by all agencies. Protection must include concern not just with specific sites, but with areas of significance, and with the area around specific sites.

This policy applies to the several zones of archaeological sensitivity which the NYS Office of Parks, Recreation and Historic Preservation, the designated State Historic Preservation Office, have identified within the Grand Island waterfront area. It also applies to one structure within the Town's waterfront area listed on the National Register of Historic Places (i.e., the Spaulding Sidway Boathouse) and other sites of local importance as discussed in Section 2.2.10 and shown on Figure 15. Projects proposed in the vicinity of these historic or important sites should be designed to reduce adverse impacts.

Prior to undertaking major construction activities in the WRA, anyone proposing such activity shall consult with the State Historic Preservation Office to determine whether significant archaeological resources are present at the site and what measures are necessary to preserve these resources. All practicable means shall be used to preserve significant archaeological resources. In addition, the New York State Ad Hoc Committee for Submerged Cultural Resources, acting in part under Section 233 of the Education Law and the Abandoned Shipwrecks Act, shall also be consulted if proposed construction activities potentially may affect underwater historic, archaeological and cultural resources in the Niagara River.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof which has been officially certified as being imminently dangerous to the public health or safety.

Policy 24 The state coastal policy regarding scenic resources of state-wide significance is not applicable within Grand Island.

Policy 25 Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.

Policy 25A Preserve scenic vistas along the Niagara River shoreline.

Virtually the entire West River shoreline and small portions of the East River shoreline have unobstructed views of the Niagara River and the opposite shore. Along the north-west shore, views include the mist of Niagara Falls. These views will be protected through a variety of methods, such as enforcement of zoning and other design controls and review of development proposals to ensure their compatibility with the existing environment. Deteriorated structures and unsightly grounds will be discouraged through vigorous enforcement of existing Town codes. Signs will be regulated. Cluster design techniques will be encouraged.

The Town will encourage the removal, relocation, or repair of visual elements such as fences and overhead power lines, which detract from waterfront vistas. The Town will also promote developments which retain or restore natural landforms.

The following guidelines are to be used to achieve this policy. It is understood that each development situation is unique and that the guidelines are to be used as guidelines; they include:

1. Highways, power lines, signs, structures and development shall be sited back from shorelines or in other inconspicuous locations to achieve an attractive quality along the shoreline and to retain views to and from the shore;
2. Structures shall be clustered or located to retain views, open space and provide visual relief to a development;
3. Existing structures (especially historic buildings) shall be planned into the overall development scheme;
4. Deteriorated and/or degrading elements shall be eliminated;
5. Efforts shall be made to restore the original land form, except when changes are warranted to screen unattractive elements or add interest;
6. To provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, the use of existing or new vegetation shall be encouraged; selective clearing may be warranted to remove unsightly, diseased, or hazardous vegetation and create views of coastal waters. However, OPRHP must be consulted regarding any clearing of vegetation to create or improve views along the West River Parkway while dead and dying vegetation could provide benefits to biodiversity maintenance. The Facility Management Guide for the West River Parkway, completed in 1998, should be utilized;
7. Appropriate man-made materials, in addition to vegetation, to screen unattractive elements may be required;
8. Scale, form, and materials are to be at an appropriate balance to ensure that buildings and other structures are compatible with the landscape.

3.7 AGRICULTURAL LANDS POLICY

Policy 26 **The state coastal policy regarding the conservation and protection of agricultural lands is not applicable within Grand Island.**

3.8 ENERGY AND ICE MANAGEMENT POLICIES

Policy 27 **Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.**

Demand for energy in New York will increase, although at a rate slower than previously predicted. The State expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels, including coal, in greater proportion.

A determination of public need for energy is the first step in the process for siting any new facilities. The

directives for determining this need are contained primarily in Article 5 of the New York State Energy Law. With respect to transmission lines and steam electric generating facilities, Articles VII of the State's Public Service Law require additional forecasts and establish the basis for determining compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board. The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Town of Grand Island, the Department of State will comment on the State Energy Office Policies and planning reports as might exist; present testimony for the record during relevant proceedings under Article VII of the Public Service Law; and use the State SEQRA and DOS regulations to ensure that decisions on proposed energy facilities (other than transmission facilities and steam electric generating plants) which would impact the coastal area are made consistent with the policies and purposes of the Local Waterfront Revitalization Program.

Actions within the Town of Grand Island should be consistent with the residential character of the area, as reflected in the Town Zoning Ordinances, and should be mindful of fragile ecological habitats designated within this LWRP.

Policy 28 Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

The Town of Grand Island will encourage ongoing monitoring of ice management practices in Lake Erie and the Niagara River.

Prior to undertaking actions required for ice management, an assessment must be made of the potential effects of such actions upon the production of hydroelectric power, fish and wildlife, and their habitats as will be identified in the Coastal Area Maps, flood levels and damage, rates of shoreline erosion damage, and upon natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

Policy 29 Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.

The State recognizes the need to develop new indigenous energy sources. It also recognizes that such development may endanger the environment. Among the various energy sources being examined are those which may be found on the Outer Continental Shelf (OCS) or in Lake Erie. The State has been encouraging the wise development of both.

Matters pertaining to the OCS are the responsibility of the Department of Environmental Conservation. In 1977, the Department, in cooperation with regional and local agencies, completed a study which identified potential sites along the marine coast for on-shore OCS facilities. To date, these sites have not been developed for this purpose. The Department, also, actively participates in the OCS planning process by reviewing and voicing the State's concerns about federal OSC oil and gas lease sales and plans. In its review of these proposed sales and plans, the Department considers a number of factors, such as the effects upon navigational safety in the

established traffic lanes leading into and from New York Harbor, the impacts upon important finfish, shellfish, and wildlife populations and their spawning areas, economic and other effects upon commercial and recreational fishing activities; impacts upon public recreational resources and opportunities along the marine coast; potential for hazards; impacts upon biological communities; and water quality.

The Department of Environmental Conservation has also examined the potential impacts on Lake Erie gas drilling and is instituting reasonable guidelines so that activities can proceed without damage to public water supplies and other valuable coastal resources. State law prohibits development of wells nearer than one-half mile from the shoreline, two miles from public water supply intakes, and one thousand feet from any other structure or installation in or on Lake Erie, either alone or in association with natural gas. The Department has not, however, reached a decision as to whether or not the lands under Lake Erie will be leased for gas exploration purposes.

3.9 WATER AND AIR RESOURCES POLICIES

Policy 30 Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.

Industrial, commercial, and municipal discharges include not only "end-of-the-pipe" discharges into surface and groundwater, but also plant site runoff, leaching, spillages, sludge, and other waste disposal, and drainage from raw materials storage sites. The regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

The Town of Grand Island will encourage continuous monitoring of point and non-point source discharges into the Niagara River and tributary streams to ensure the maintenance of State and national water quality standards and compliance with EPA Phase II Storm-water Regulations. The Town will encourage regular maintenance of waste-water treatment systems by those operating agencies which discharge into the Niagara River and tributary streams. The Town complies with the State Pollution Discharge Elimination System (SPDES) requirements and performs periodic inspections to ensure compliance.

Policy 31 State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already over-burdened with contaminants will be recognized as being a development constraint.

The Town of Grand Island will engage in land use controls (i.e. zoning), environmental review procedures, and regular maintenance of its storm water and sewage treatment system in order to ensure that existing levels of water quality within the Waterfront Revitalization Area are maintained (existing stream classifications are listed in the preceding "Inventory Analysis" section). New developments within sewer districts will be required to connect to the sewage treatment system. All present stream and water classifications are adequate. Any development or activity which would cause a down grading will be prohibited.

Policy 32 Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.

The Town of Grand Island will enforce the use of approved septic systems in areas not presently sewered, and ensure the control of storm water runoff.

Policy 33 Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.

The Town of Grand Island will actively pursue funding for structural and non-structural drainage improvement projects as needed that may become available through amendments to the Clean Water Act to benefit those problem areas identified in the Inventory and Analysis Section, and will engage in practices such as regular street cleaning to assist in regulating flows and quality of storm water runoff into coastal waters.

Policy 34 Discharge of waste materials into coastal waters from vessels will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.

The Federal and State governments regulate the discharge of sewage, garbage, other solid and liquid materials from marinas and boats into State waters. Enforcement by the responsible agencies is expected to be vigorous, particularly in areas where there is significant habitat, beaches, and public water supply intakes. Further, the Department of Environmental Conservation (6 NYCRR, Part 657) establishes specific effluent standards for marine toilet waste. These standards will likewise be enforced.

The Town of Grand Island will encourage the provision of sanitary waste disposal facilities at marinas within the Town.

Policy 35 Dredging and dredge spoils disposal in coastal waters will be undertaken in a manner that meets existing state dredging permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.

Policy 35A Remove dredged material from off-shore areas in the vicinity of Morgan Point.

Dredging often proves to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Federal and State dredging permits may be required if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy dredging standards set forth in regulations developed pursuant to Environmental Conservation Law, (Articles 15,24,25 and 34), and are consistent with policies pertaining to the protection of coastal resources (Policies 7A, 12, 15, 25, 25A, 26 and 44).

Limited amounts of dredging activities associated with boat launch and boat mooring facilities may occur along the Grand Island shoreline. Dredged materials will be handled and disposed of in accordance with permit requirements. The best management practice for dredged material disposal is placement in an upland site. All

such activities will minimize adverse effects upon aquatic life and habitats.

The riverbed immediately adjacent to Morgan Point (one-quarter mile north of Gun Creek) is the site of a dredged material disposal area from previous dredging activities undertaken in the maintenance of a 12 foot deep channel in the East River. This material constitutes a navigational hazard to the numerous pleasure boats using this portion of the River. The Town encourages the Corps of Engineers to dredge the Morgan Point area. The dredged material should be removed and re-deposited in a less hazardous location in accordance with accepted procedures and permit requirements.

Policy 36 Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.

See Policy 39 for definition of hazardous materials.

Policy 37 Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics, and eroded spoils into coastal waters.

Best management practices used to reduce these sources of pollution could include, but are not limited to, encouraging organic farming and pest management principles, soils erosion control practices, and surface drainage control techniques.

Erie County bans the discharge of phosphates into water bodies. The Town of Grand Island may require landscaping and other erosion/sedimentation standards to control soil erosion within the WRA. Proper grading, spray moistening, seeding, and similar techniques will be required to mitigate soil erosion problems during construction activities. Areas demonstrating significant erosion potential will be subject to structural development controls (refer to Policy 12).

Policy 38 The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

The Niagara River is the major source of drinking water in the Town of Grand Island and therefore must be protected. Commercial and industrial discharges are regulated by State and Federal law. See also Policies 5,32 and 33.

Policy 39 The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural lands, and scenic resources.

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being

flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may : (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by DEC (6 NYCRR Part 371).

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills, and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Policy 40 Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.

The State Board on Electric Generation Siting and the Environment must consider a number of factors when reviewing a proposed site for facility construction. One of these factors is that the facility "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters." The effects of thermal discharges on water quality and aquatic organisms will be considered by the Siting Board when evaluating an applicant's request to construct a new steam electric generating facility.

Policy 41 Land use or development in the coastal area will not cause national or state air quality standards to be violated.

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State Laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal land and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal resources.

Policy 42 Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.

The policies of the State and this Local Waterfront Revitalization Program concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. \

In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local waterfront revitalization programs.

Policy 43 Land use or development in the coastal area must not cause the generations of significant amounts of the acid rain precursors: nitrates and sulfates.

The New York Coastal Management Program incorporates the State's policies on acid rain. As such, the Coastal Management Program will assist in the State's efforts to control acid rain. These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic, and water resources.

Policy 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

Policy 44 A Preserve and protect the freshwater wetlands located within the Buckhorn Island State Park and Beaver Island State Parks, near the mouth of Spicer Creek, near the mouth of Woods Creek, and near Sandy Beach.

This policy applies to eight freshwater wetlands, as identified by the NYS Department of Environmental Conservation, which are located within the Town's waterfront area. Two of these wetlands are located within the Buckhorn Island State Park, three are within the Beaver Island State Park, one is located north of the mouth of Spicer Creek, one is located near the mouth of Woods Creek, and one is located just north of Sandy Beach.

The benefits derived from the preservation of these wetlands include, but are not limited to, the following: habitat for fish and wildlife; filtration of surface runoff and protection of water quality; erosion, flooding and flood water storage; groundwater recharge; shoreline erosion protection; recreational and educational opportunities; and aesthetic open space.

SECTION IV PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS

4.1 PROPOSED LAND USES

Two distinctive types of development constitute most of the Grand Island shoreline. The East River Road is characterized by numerous homes adjacent to the shoreline, many with private boat moorings. The "West River" shoreline is owned and maintained as a landscaped parkway by the State of New York. Separating the two are two State parks - Beaver Island State Park in the south and Buckhorn Island State Park in the north.

For descriptive purposes, the Grand Island Waterfront Revitalization Area has been divided into the following sub-areas as was indicated on [Figure 9](#).

1. Beaver Island State Park
2. West River Parkway
3. Buckhorn Island State Park
4. East River Road North
5. Whitehaven
6. East River Road South
7. Ferry Village

Reference should be made to Figures 18, 19, 20, 21, 22, and 23 for a graphic description of proposed land uses.

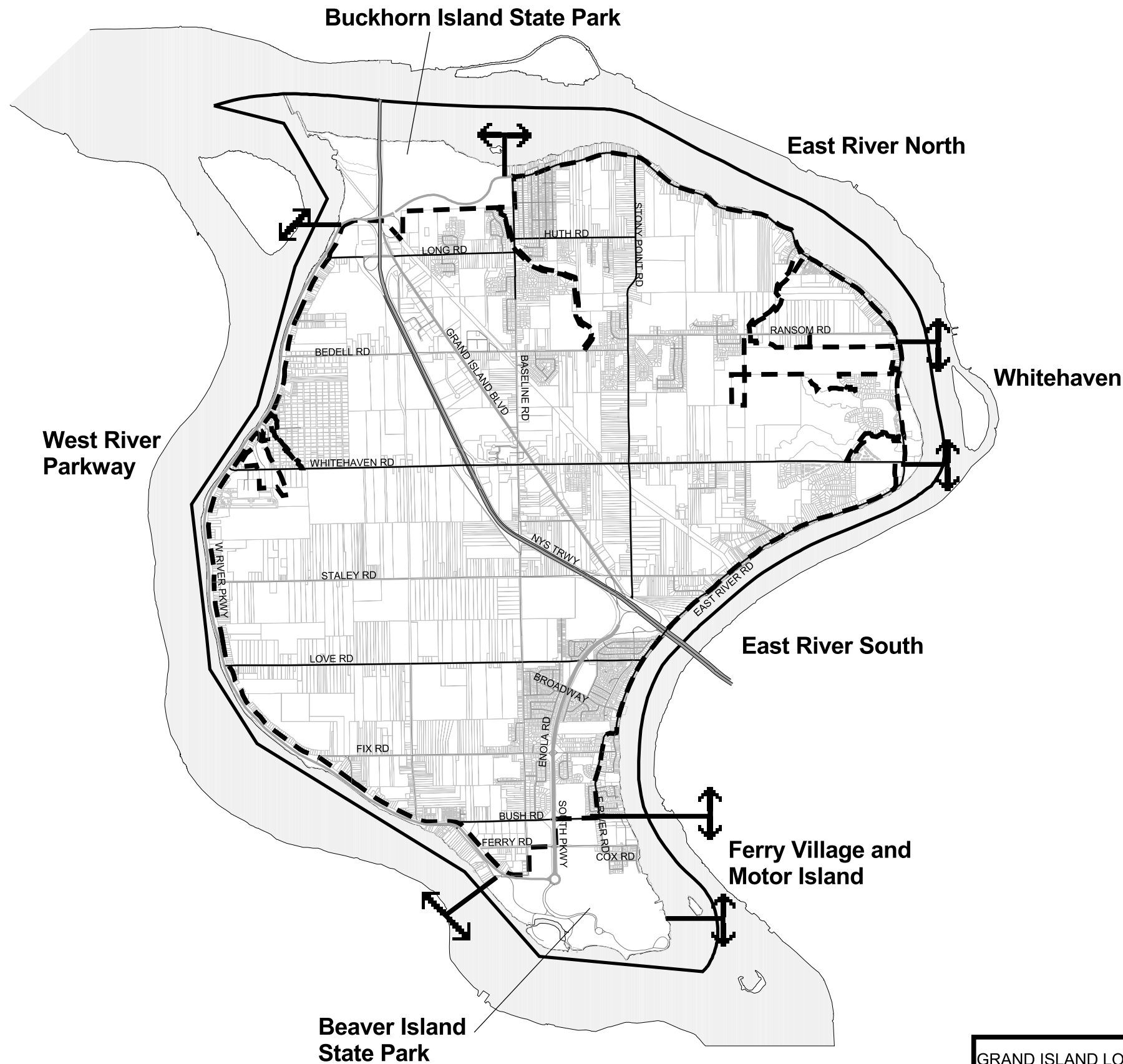
4.1.1 Beaver Island State Park

Beaver Island State Park occupies 952 acres at the southern tip of Grand Island. The Park contains a sand beach (the only public beach on the Niagara River in Erie County), an 18-hole golf course, athletic fields, picnic grounds, playgrounds, boat docking. It also contains the headquarters of the Grand Island Historical Society. A bike path connects the Park with the South Grand Island Bridge via Beaver Island State Park and there is a natural trail and wetland overlook between the golf course and the East River.

Uses for the Park include a continuation of existing recreational uses. Future improvements to the bike path within the park are anticipated, and the reconstruction of the clubhouse has been completed. In addition, the construction of the East River Wetland Enhancement Project (see Section 4.3.7) has been completed and will protect state wetland BW-7 and enhance water-related recreation opportunities.

4.1.2 West River Parkway

The western shoreline of Grand Island is almost entirely occupied by the West River Parkway, an eight-mile scenic highway under New York State jurisdiction connecting Beaver Island State Park and Buckhorn Island State Parks. The West River Parkway contains two vehicular overlooks. In addition, the State owns and operates the Big Six Mile Creek Marina, a major pleasure-craft facility that includes two entrance break walls that extend into the west branch of the Niagara River.



Legend

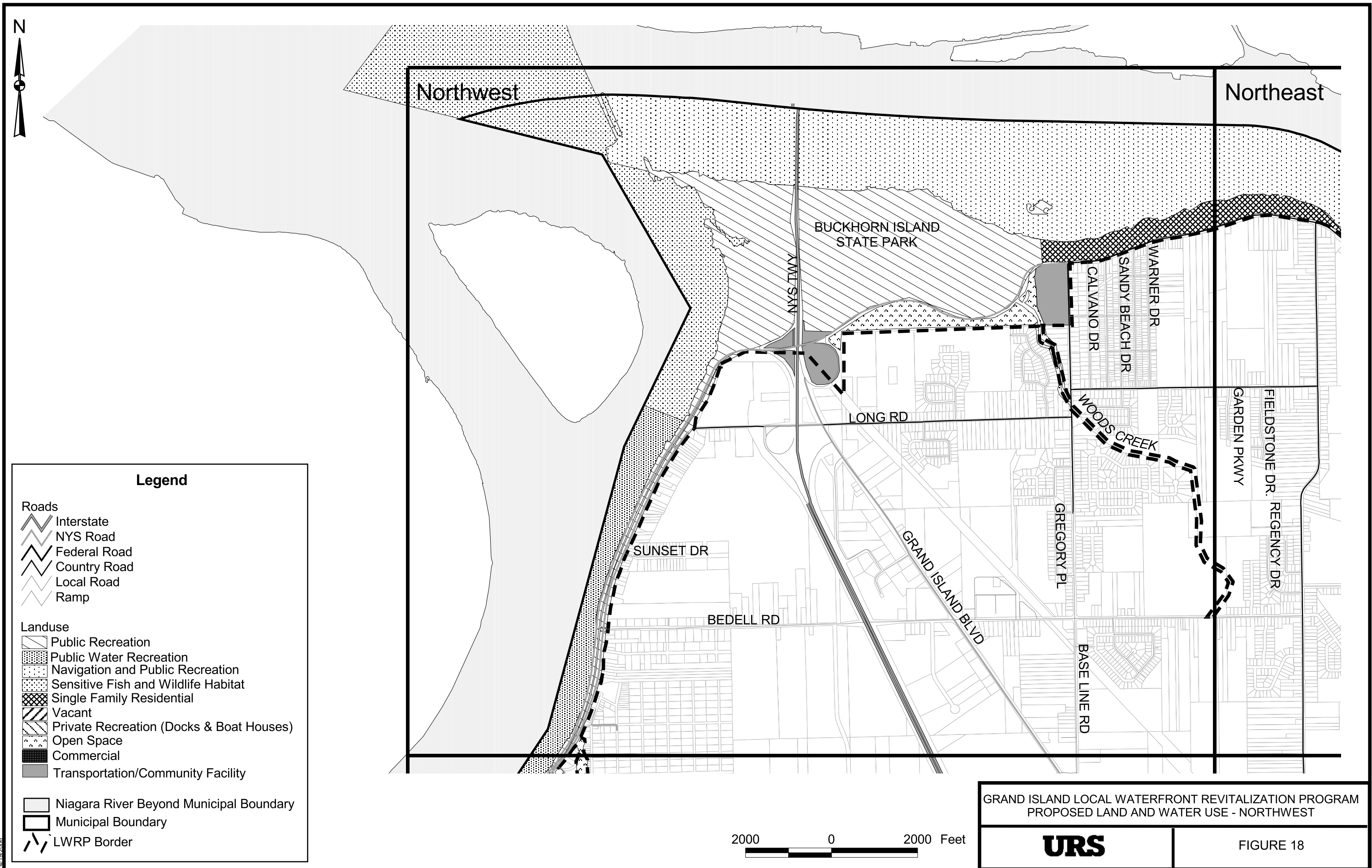
- Roads**
- Interstate
 - NYS Road
 - Federal Road
 - Country Road
 - Local Road
 - Ramp
- Niagara River
- Municipal Boundary
- LWRP Border
- Revitalization Area Boundaries

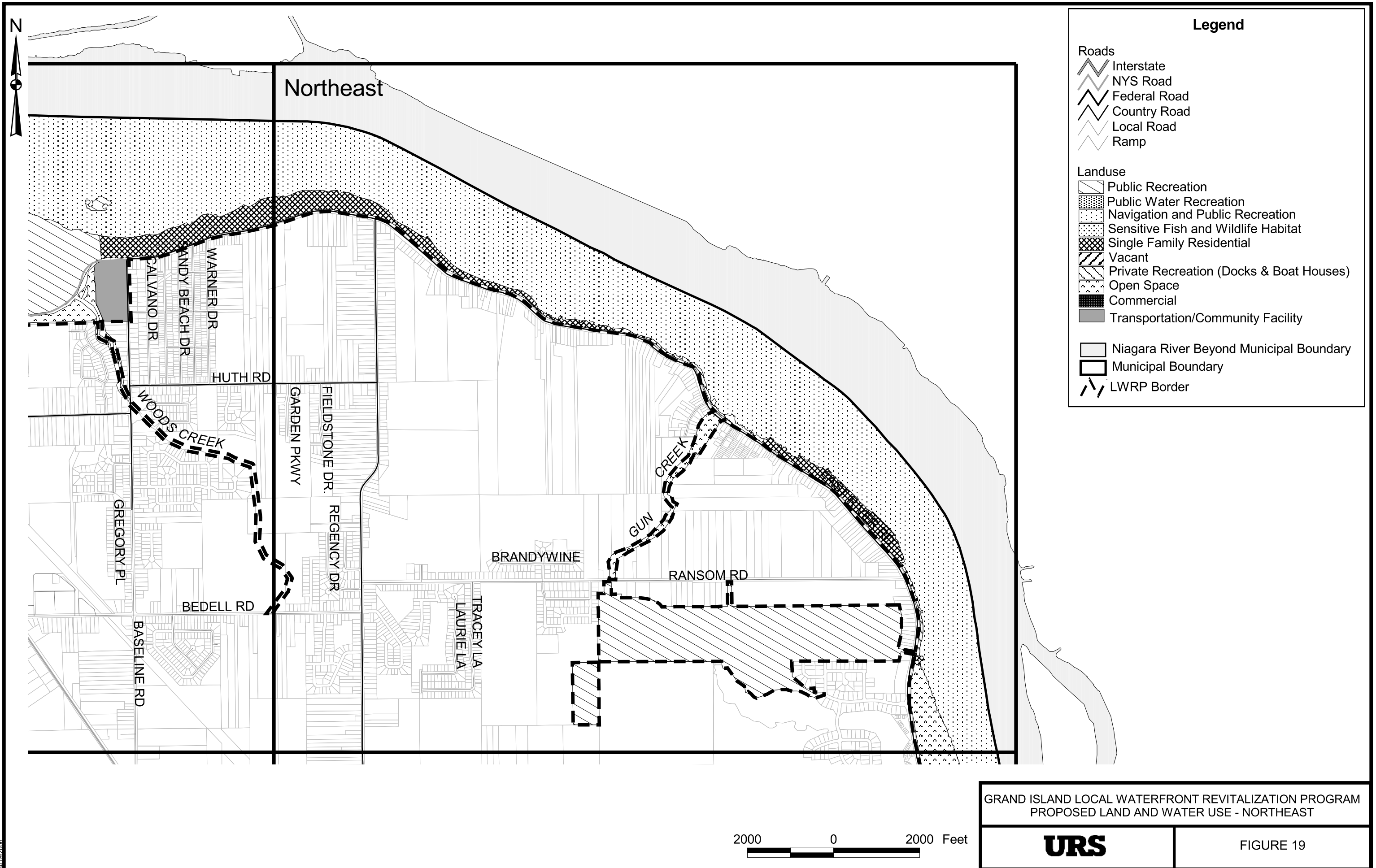
5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
SUB-AREAS OF WATERFRONT REVITALIZATION AREA

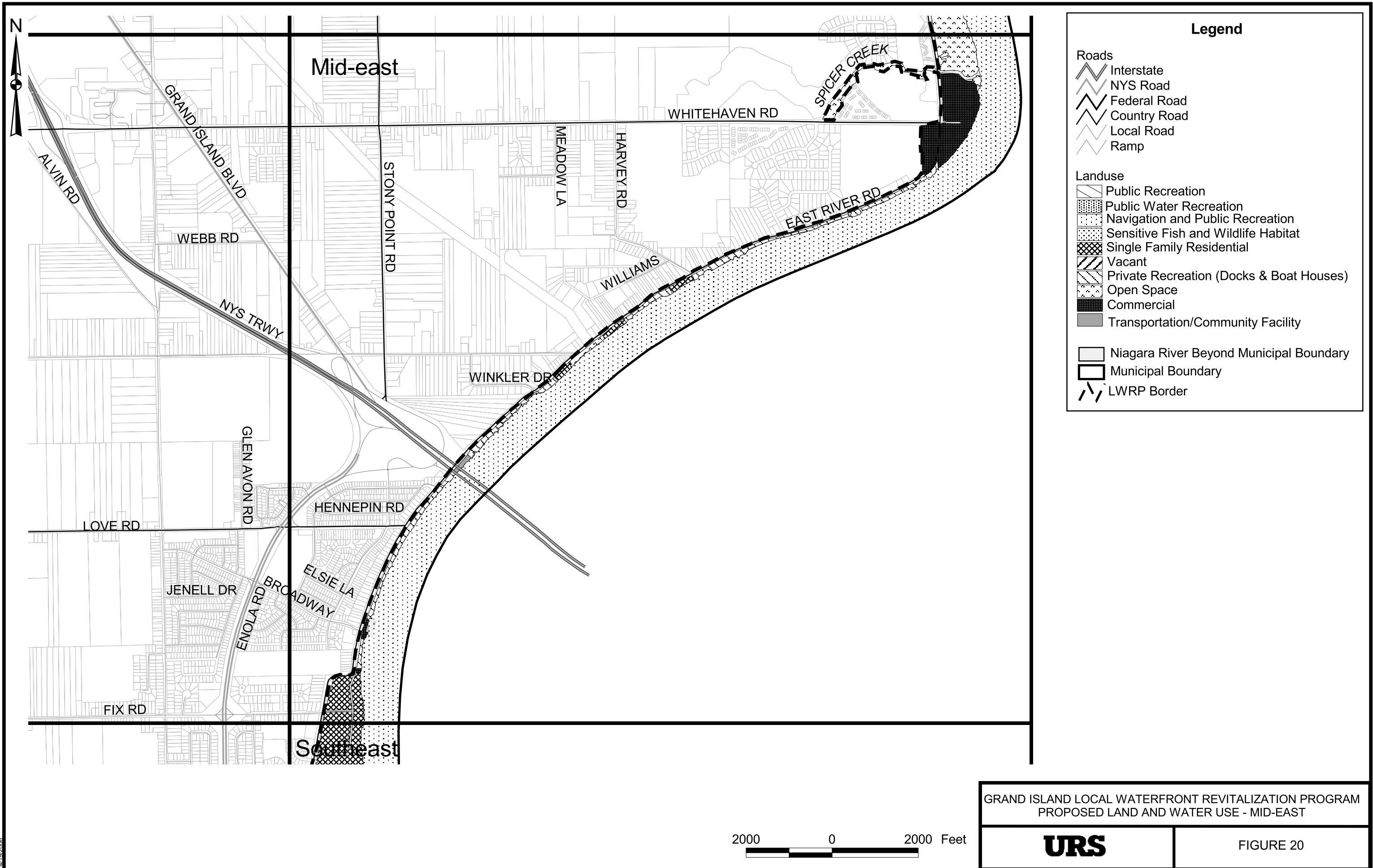
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FIGURE 9

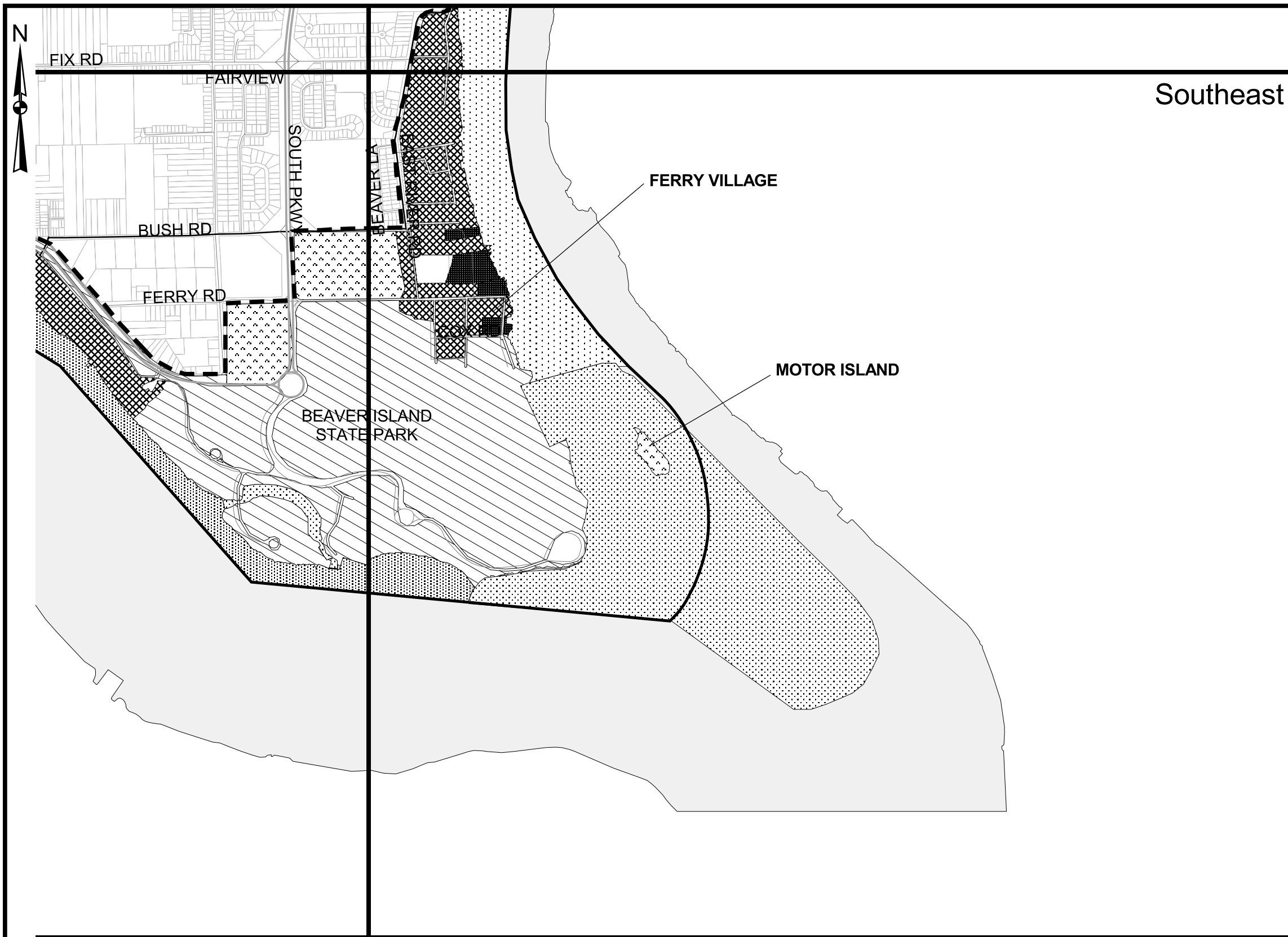




N:\GI_Revital\DB\GIS\LWRP\lwrp_bw.apr Figure 20
4/19/2006



N:\GI_Revital\DB\GIS\LWRP\lwrp_bw.apr Figure 21
5/16/2006



Legend

Roads

Interstate

NYS Road

Federal Road

Country Road

Local Road

Ramp

Landuse

Public Recreation

Public Water Recreation

Navigation and Public Recreation

Sensitive Fish and Wildlife Habitat

Single Family Residential

Vacant

Private Recreation (Docks & Boat Houses)

Open Space

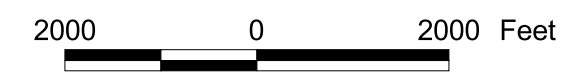
Commercial

Transportation/Community Facility

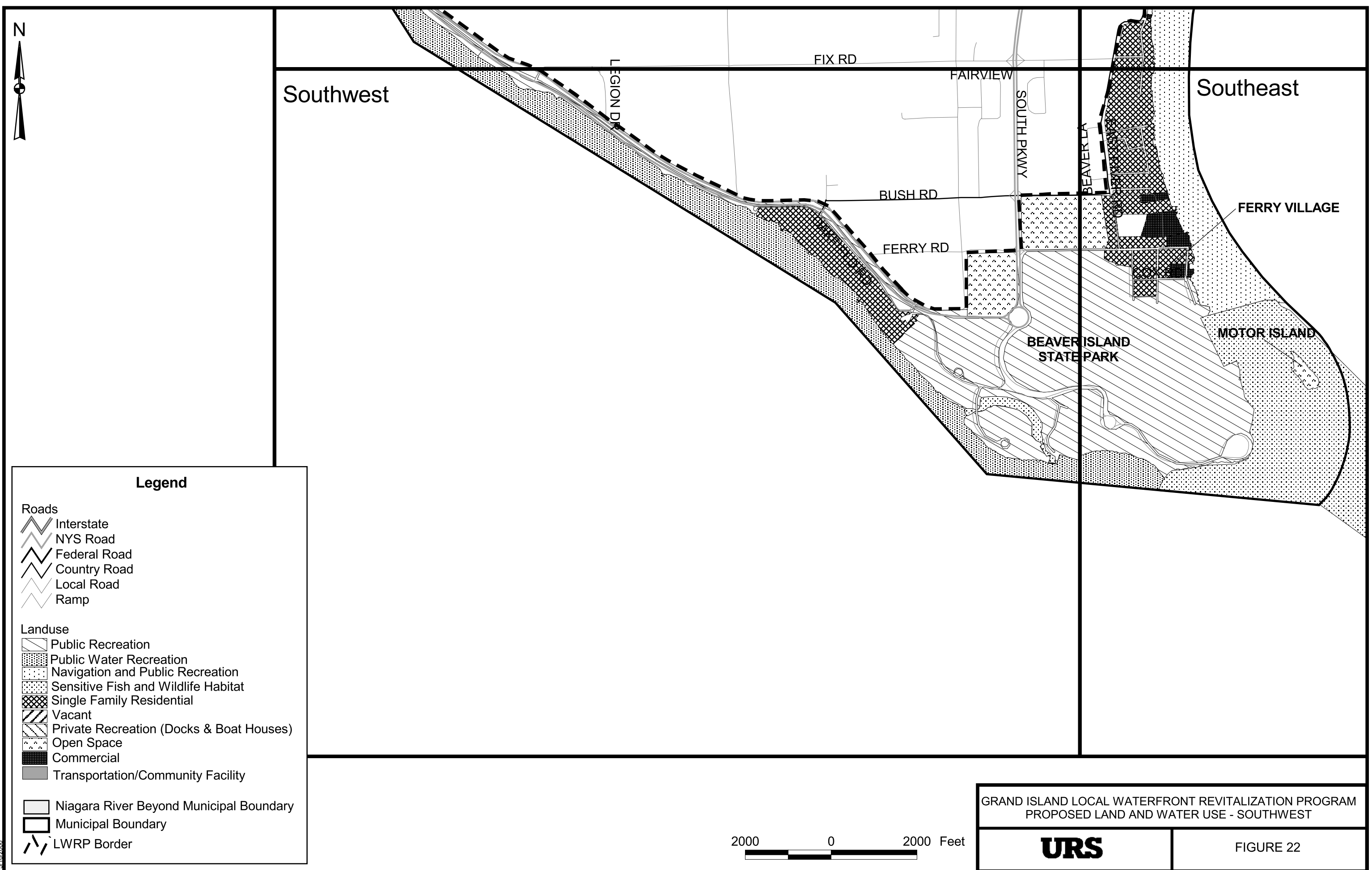
Niagara River Beyond Municipal Boundary

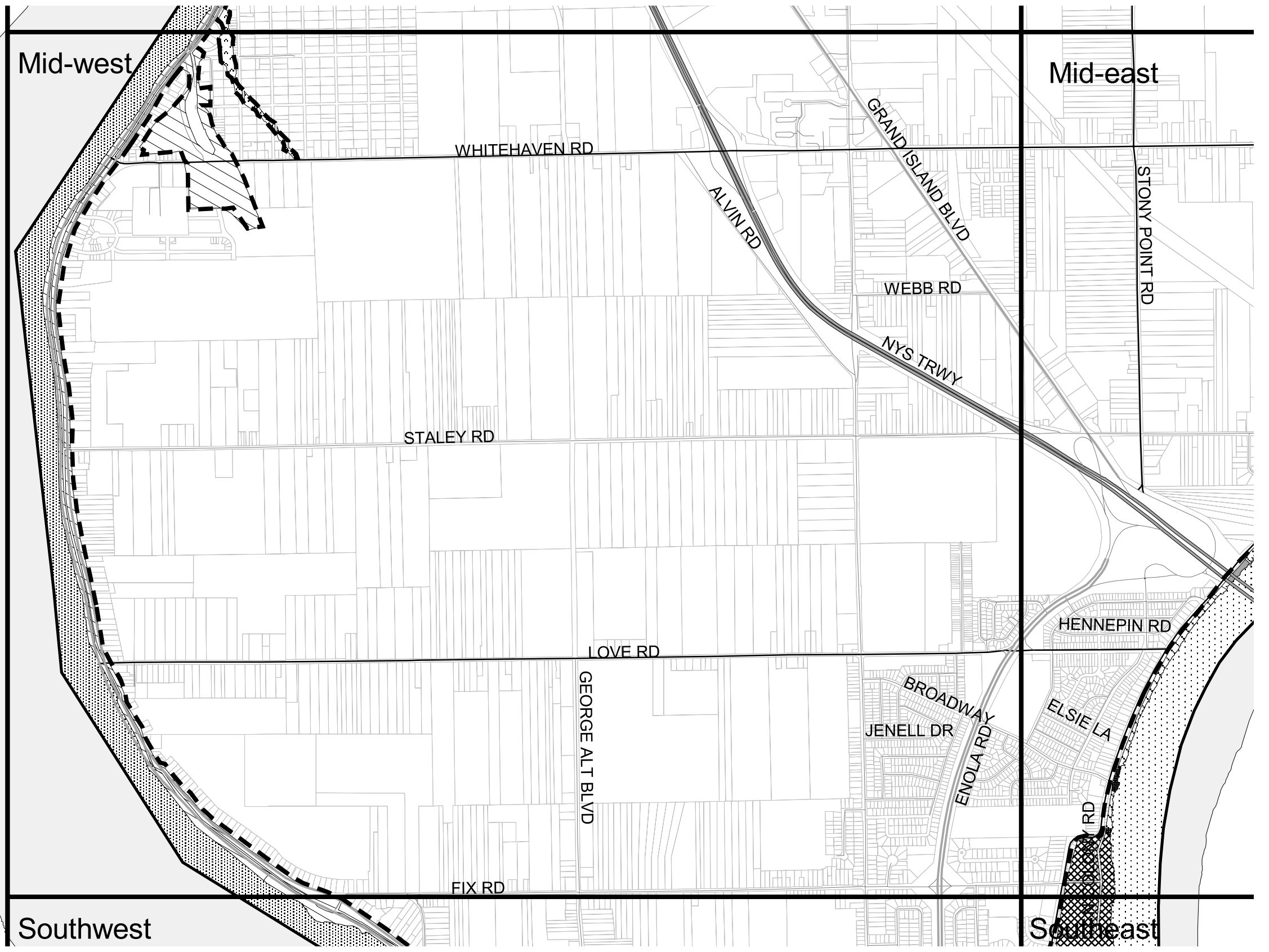
Municipal Boundary

LWRP Border



N:\GI_Revital\DB\GIS\LWRP\lwrp_bw.apr Figure 22 5/16/2006





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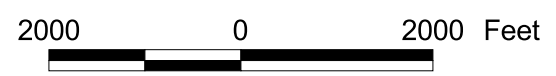
Roads

- Interstate
- NYS Road
- Federal Road
- Country Road
- Local Road
- Ramp

Landuse

- Public Recreation
- Public Water Recreation
- Navigation and Public Recreation
- Sensitive Fish and Wildlife Habitat
- Single Family Residential
- Vacant
- Private Recreation (Docks & Boat Houses)
- Open Space
- Commercial
- Transportation/Community Facility

- Niagara River Beyond Municipal Boundary
- Municipal Boundary
- LWRP Border



GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
PROPOSED LAND AND WATER USE - MID-WEST



FIGURE 23

The West Oakfield residential neighborhood occupies roughly one mile of shoreline adjacent to Beaver Island State Park.

Proposed land uses along the West River envision a continuation of existing patterns, with enhancement of the recreation potential of parkway lands through the provision of multipurpose recreational trails. In addition, maintenance of an Enhanced Environmental Overlay District (EED) corridor along Big Six Mile Creek has been established to protect its flood-prone nature and fish and wildlife habitat values.

4.1.3 Buckhorn Island State Park

Buckhorn Island State Park occupies 895 acres at the northern end of Grand Island. The Park contains a mixture of woodland, marshland, and open-water that serves as a wildlife sanctuary. The goal is to preserve the Park's natural character. In addition, enhancement of visitor enjoyment of this park through road repair, signage improvements, the development of a bikeway trail, and the provision of additional parking for fisherman as the need arises. Additional information about proposed projects is included in Section 4.3.5, 4.3.10, and 4.3.11.

4.1.4 East River Road North

This area, extending four miles along East River Road from Buckhorn Island State Park to Ransom Road, includes the Sandy Beach and Edgewater neighborhoods, the Gun Creek and Woods Creek corridors, as well as the Town's sewage treatment plant. Most of the shoreline is occupied by single-family housing with private mooring facilities, although limited amounts of undeveloped areas remain. A continuation of single-family residential development is proposed in this area, with low-density development consistent with the Comprehensive Plan are anticipated along the Niagara River shoreline and within the Gun Creek and Woods Creek corridors. In recognition of the flooding hazards and the significant fish habitats associated with these streams, minimum structural set-backs, in conformity with the Zoning Code, are required along each bank of the streams. In addition, the Niagara Sailing Club, located along the shoreline near Ransom Road, is a legal non-conforming use.

4.1.5 Whitehaven

The Whitehaven portion of the waterfront area extends roughly 1.4 miles from Ransom Road to Whitehaven Road. Much of this area is comprised of undeveloped land, with the key tract being a 4,000 foot length of shoreline extending north of the Holiday Inn. The remaining portion of the area consists of a very narrow strip of land (less than 60 feet) to the east of East River Road, with the exception of the Scenic Woods parcel and the waterfront hamlet area on the southwest corner of Whitehaven and East River Roads. Between the Old Ferry Landing and Spicer Creek there is a hotel and private marina. Development of related commerce, such as bait shops and boating supply stores would also be permitted.

The Town Comprehensive Plan recommends the development of the southwest corner of Whitehaven and East River Roads for neighborhood scale commercial development. Immediately north of Spicer Creek for about 1,500 feet, residential dwellings exist. Set-back of structures along either side of the Creek is proposed in recognition of its flood prone nature, as well as its value as a fish and wildlife habitat of statewide significance. Set-back requirements will be carried out in conformity with the Zoning Code.

To the north of Spicer Creek, development of the Spicer Creek Wetlands and Town Bicentennial Park is proposed. Due to the unique environmental attributes of the area, its potential as an intensively utilized active recreational site is doubtful. However, the creation of an environmentally sensitive trail system which does not substantially impact wetland functions would be desirable. This should be done in conjunction with the development of the Scenic Woods parcel for active recreational use.

4.1.6 East River Road South

This area, extending roughly four miles from Whitehaven Road to Bush Road, is predominantly single-family residential in character. The southern half is more intensively developed. Most homes have private docking facilities and the shoreline from the South Grand Island Bridge to Broadway is rip-rapped.

Permitted uses include single-family residences with low-density residential development north of the South Grand Island Bridge and medium-density development to the south consistent with the provisions of the Comprehensive Plan. Future residential development in this portion of the waterfront is severely restricted by the narrow width of land to the east of East River Road.

The existing marina adjacent to Broadway (Island Marine) is a legal conforming use, as is the small commercial district at North Colony Road and East River Road. The inactive portion of the sewage treatment facility south of the bridges will be partially demolished, and the site converted into a small municipal waterfront park, referred to as Fisherman's Park and is discussed further in Section 4.3.

4.1.7 Ferry Village and Motor Island

The proposed land use plan will preserve the character of Ferry Village, which is a unique blend of residences and water-based businesses. Vacant parcels not designated for permanent open space or public recreation uses will be sensitively designed to be consistent with the residential and water-based business uses that currently characterize the village.

Public and private marinas, watercraft sales and service, as well as wet storage and winter storage will be supported, particularly along East River Road south of Ferry Road and at the Anchor Marine and Buffalo Launch Club sites. New structures and renovations will reflect the historical character of Ferry Village. Water-enhanced business uses will be accommodated along Ferry Road between East River Road and the Niagara River in areas currently designated for non-residential uses.

The boundaries and identity of Ferry Village will be maintained by preserving the buffer of open space and recreation land uses. Single-family residential uses at a density consistent with the existing neighborhoods will dominate the land use pattern of the village, and be focused on Orchard, Cox, Allenton, and Elmwood Roads, as well as the portion of East River Road north of Ferry Road. Industrial and heavy commercial uses will be discouraged.

Existing institutional and semi-public uses, such as the Niagara River Station Fishing Club, and Buffalo Launch Club, will be retained as an integral part of Ferry Village's land use pattern. Similar uses and educational uses related to the village's waterfront environment may be encouraged, provided they are in keeping with the low density and residential character of the village and do not generate traffic that would detract from residential values.

Motor Island located off-shore to the east of Beaver Island State Park, is currently state- owned and is a designated nature preserve. Its fragile environmental character, as well as the fact that it lies within a habitat of statewide significance, pose severe constraints on any future development. Such restrictions are discussed in the Impact Assessment of the project narrative for the Strawberry Island-Motor Island Shallows habitat (see Appendix A).

4.2 WATER USES

Virtually all water uses adjacent to the Grand Island shoreline emphasize recreation. Swimming is extremely popular at Beaver Island State Park. Elsewhere, pleasure boating, fishing and hunting are typical activities.

In addition to recreational enjoyment, the Niagara River will continue to be utilized for commercial navigation. In this respect, a 12 to 21 foot deep channel is maintained for commercial navigation in the East Branch by the Federal Government. As discussed in Section 2.2.2, the Niagara River also supplies drinking water to the town and provides a discharge point for its wastewater treatment plant.

4.2.1 Harbor Management Plan

Article 42 of the New York State Executive Law, Section 922 – Waterfront Revitalization of Coastal Areas and Inland Waterways – authorizes local governments to prepare Harbor Management Plans (HMP) as part of their Local Waterfront Revitalization Program (LWRP). In the course of preparing a LWRP, the Town of Grand Island recognized the need to manage water activities in areas adjacent to the Waterfront Revitalization Area (WRA) proposed in their program. To that end, the Town has integrated a HMP within the LWRP. As outlined below, the HMP addresses conflict, congestion, and competition for space in the use of surface waters and underwater lands and identifies various alternatives for the optimum use of the waterfront and adjacent water surfaces. More specifically, LWRP Section II identifies those areas within the WRA that are recognized as important Town resources; LWRP Section III provides specific guidance for the HMP area; LWRP Section IV summarizes the results of projects that identified the key harbor management issues concerning water use in the Town, and recommends specific planning principles and capital projects for implementing the vision; LWRP Section V identifies local laws specific to implement the HMP; LWRP Section VI identifies the authorities of various New York State agencies.

The boundary of the Town Harbor Management Plan includes the lands within the off-shore boundary of the WRA coinciding with the Town of Grand Island municipal boundary, as located within both the Tonawanda and Chippawa Channels of the Niagara River.

A complete inventory and analysis of existing uses, features and conditions in the HMP area is found in LWRP Section II – Inventory and Analysis. The text describes existing water use patterns and states the future demand for non-recreational water-dependent uses is not anticipated to be significant within the Town. Figures 2, 3, 4, 5, 6, and 7 depict Existing Water Uses included in LWRP Section II.

Water-dependent uses:

- Beaver Island Westland Overlooks and Fishing Jetty;
- Big Six Mile Creek Marina and fishing breakwater;
- One marina and three car top boat launches within Beaver Island State Park;
- Beaver Island State Park beach;
- Ten privately-owned marinas and sailing clubs along the East River waterfront;
- Numerous private docks serving waterfront property owners;
- Boat repair and bait shops within Ferry Village;
- The Town water treatment plant near West Oakfield;
- Niagara County raw water pump station;
- Eagle Overlook and car top boat launch;

- The sewage treatment plant at Buckhorn Island State Park; and
- Two overlooks along West River Parkway.

Primary issues of local importance identified in the Town of Grand Island LWRP can be summarized as the maintenance, enhancement, and protection of existing natural resources, coupled with selective measures to increase public access to the waterfront and provide for water-related recreation facilities. Specifically, providing for increased opportunities for additional marina and boat launching facilities in locations best able to accommodate them; protecting the five coastal fish and wildlife habitats of Statewide Significance located within the Town; and protection of the important wildlife habitat of Buckhorn Island State Park.

In preparing the LWRP, the Town identified local objectives for the harbor area. LWRP Section III reflects these objectives, and is detailed in the following policy regarding water-dependent uses.

Policy 2 - Facilitate the siting of water-dependent uses and facilities on, or adjacent to coastal waters.

Water dependent uses should be situated in Beaver Island State Park, Ferry Village, East River South, Whitehaven, and East River North. Marine service centers shall be situated within the WRA in accordance with the Town Comprehensive Plan. To ensure that water-dependent uses can continue to be accommodated, public agencies will avoid undertaking, funding, or approving non-water-dependent when such uses would preempt the reasonably foreseeable development of water-dependent uses.

In general, the following water-dependent uses and facilities are appropriate in the Town waterfront area:

- A. Uses which depend on the utilization of resources found in coastal waters;
- B. Recreational activities which depend on access to coastal waters;
- C. Structures needed for navigational purposes;
- D. Flood and erosion protection structures;
- E. Facilities needed to service boats;
- F. Scientific/educational activities which, by their nature, require access to coastal waters; and
- G. Support facilities which are necessary for the successful functioning of permitted water-dependent uses. Though these uses must be near the given water-dependent use they should, as much as possible, be sited inland from the water-dependent use rather than on the shore.

In this respect, water-dependent uses accommodated within the Grand Island waterfront are expected to be primarily a continuation of existing uses, with additional development of public marinas and boat launching facilities, as well as the development of additional recreational parkland and open space in the Whitehaven and East River Road South areas.

New water-dependent uses to be developed are to be sited and designed, so that they enhance, or at least do not detract from, the surrounding area and avoid adverse impacts on significant coastal resources. Consideration should be given to such factors as the protection of nearby residential areas from odors, noise, and traffic and the preservation of natural erosion protection features.

Section IV of the LWRP proposes that virtually all water uses adjacent to the Grand Island shoreline emphasize recreation.

In addition to recreational enjoyment, the Niagara River will continue to be utilized for commercial navigation. In this respect, a 12-21 foot deep channel is maintained for commercial navigation in the East Branch by the Federal Government. As discussed in Section II, the Niagara River also supplies drinking water to the Town and provides a discharge point for its wastewater treatment plant.

Projects in Section IV of the LWRP call for the following:

- A Recreational Management Plan to assess the feasibility of recreational uses at the Bicentennial Park, Spicer Creek Wetlands and Scenic Woods parcels;
- A passive recreational site at the proposed Fisherman's Park, which would emphasize on-shore fishing;
- Widening the entrance of Big Six Mile Creek Marina to alleviate congestion and improvements or expansion of the boat launch ramp to increase capacity;
- Maintaining Buckhorn Island State park as a wildlife refuge with limited recreational activity; the East River Road Wetland Enhancement Project;
- The construction of a canal between the Buffalo Launch Club and Anchor Marine;
- Passive recreational uses at the Scenic Woods/Bicentennial Park/Spicer Creek Wetland and Fisherman's Park Parcels; and
- Maintenance of the four car top boat launch facilities.

Shoreline property currently under public ownership will be retained and developed to provide public access to the shoreline. If appropriate, title to environmentally sensitive areas may be transferred to public agencies for purposes that will protect environmental quality.

The land and water surface uses are proposed and will be implemented through LWRP Policy 2, existing regulations, management plans and agreements, policies, planning principles and through the development of capital projects identified in Section IV of the LWRP.

Harbor management goals will be implemented by maintaining the existing environmental and recreational qualities of the Grand Island waterfront and by helping to protect the health, safety, and welfare of waterfront residents through the LWRP policies and planning principles detailed in the LWRP.

The Town has an Enhanced Environmental District (EED) in its zoning law. This overlay district will protect the Town's Significant Coastal Fish and Wildlife Habitats, and other sensitive areas. Proposed development in the EED will be reviewed to minimize or preclude activities that could adversely affect the flora and fauna.

Through its zoning law, the Town will regulate boathouses and docking facilities that are located in or attached to a residentially zoned upland or shoreline area. Boathouses and docking facilities in these areas are limited to those required to accommodate three boats and may be a maximum of 18 feet or one story in height from water level. These facilities are not to be lived in or used for commercial or income purposes.

All local actions to be directly undertaken, funded or permitted within the coastal area must be consistent with the policies and purposes of the Town's LWRP. Through the adoption of a consistency law, the Town will establish the legal framework required for the review of direct and indirect actions with the LWRP.

4.3 PROPOSED PROJECTS

The Town of Grand Island has established the provision of public waterfront access along the shoreline as a primary component of its Local Waterfront Revitalization Program. Several projects have been identified which will assist in achieving this objective. The locations of proposed projects are identified on Figure 24.

4.3.1 Bicentennial Park and the Scenic Woods Parcel

Bicentennial Park is an undeveloped 17.7-acre Town-owned area on East River Road roughly 3,500 feet north of Whitehaven Road. The site, tapering in width from 600± feet along its southern boundary to 150± feet along its northern limit, extends approximately 1,200 feet along the Niagara River shoreline. Most of the site lies within a 26-acre wetland (identified as State Wetland TW 12) and has been designated a protected wetland by the New York State Department of Environmental Conservation. The wetland is designated Class II (the second most valuable class of wetland) because it is associated with permanent open water and is contiguous to a stream suitable for fish and wildlife habitats (i.e. the Niagara River).

The Spicer Creek wetland, a 22.4 acre parcel extending south to Spicer Creek, is a seasonally-flooded deciduous swamp that receives upland runoff in spring and flood water from the river during high water periods. The wetland is separated from the river by a small berm and discharges into the river through a small, intermittent stream. Roughly 80% of the area is covered by trees and woody shrubs.

The Scenic Woods Parcel consists of approximately 262 acres of land on the west side of East River Road slightly north of Bicentennial Park. The Scenic Woods Parcel also contains some state and federal wetlands in the western portion of the site. Preliminarily it has been determined that this parcel could be developed with a multi-purpose recreational trail system.

Because of the proximity of the Bicentennial Park and Scenic Woods parcels, a Recreational Management Plan should be developed to assess the feasibility and recreational potential of the sites. This Recreational Management Plan would involve the preparation of a conceptual layout of facilities. Planning the development of these two sites simultaneously would permit the efficient placement of recreational infrastructure in non-wetland portions of Scenic Woods parcel. This could serve Bicentennial Park, Spicer Creek Wetlands, and Scenic Woods.

4.3.2 Fisherman's Park

The proposed Grand Island Fishermen's Park is located at a Town-owned site on the Niagara River immediately south of the South Grand Island Bridge. The site (roughly 120'x 120') is presently occupied by an obsolete sanitary sewer plant; however, the settling basin is still used during extreme wet weather conditions. A circular digester (34 feet in diameter) has been abandoned. This digester is centrally located within the proposed park, which is bounded on the south by those sewer facilities scheduled to remain in place. Unused portions of the sewage treatment facility will be demolished, and the settling basin and access building will remain and be improved as part of the park development.

East River Road forms the western boundary of the site. From the road, the site slopes dramatically downwards in a well-established lawn for 30 feet, dropping 20 feet in that distance. Beyond this point, the site maintains a fairly level slope of 3% to 6% to the steel sheet pilings which line the shore. These pilings extend roughly 3 feet above the existing inland grade, and 4 to 6 feet above average river levels.

The site is appropriate for passive recreation, emphasizing on-shore fishing. A concept plan was developed in 1989 and is included as Figure 25. Demolition of the abandoned digester is recommended. The site is adjacent to an extensive residential area, and its proposed development would in part serve as a pedestrian-oriented



Buckhorn Island Marsh Restoration and Bikeway Project

Town of Grand Island Bike Trail Connect Project

Eagle Overlook

**Big Six Mile
Creek Marina**

**Niagara River Greenway
Commission Plan**

**West River
Parkway Trail**

HUTH RD

LONG RD

BEDELL RD

WHITEHAVEN RD

STALEY RD

LOVE RD

FIX RD

BUSH RD

FERRY RD

STONY POINT RD

BASELINE RD

NYS TRWY

BROADWAY

ENOLA RD

LEWIS RD

COX RD

RANSOM RD

EAST RIVER RD

Fisherman's Park

Ferry Village Master Plan

East River Wetlands Enhancement Project

**Beaver Island
State Park**

**Scenic Woods
Parcel**

**Bicentennial
Park**

- Roads**
- Interstate
 - NYS Road
 - Federal Road
 - Country Road
 - Local Road
 - Ramp

Legend

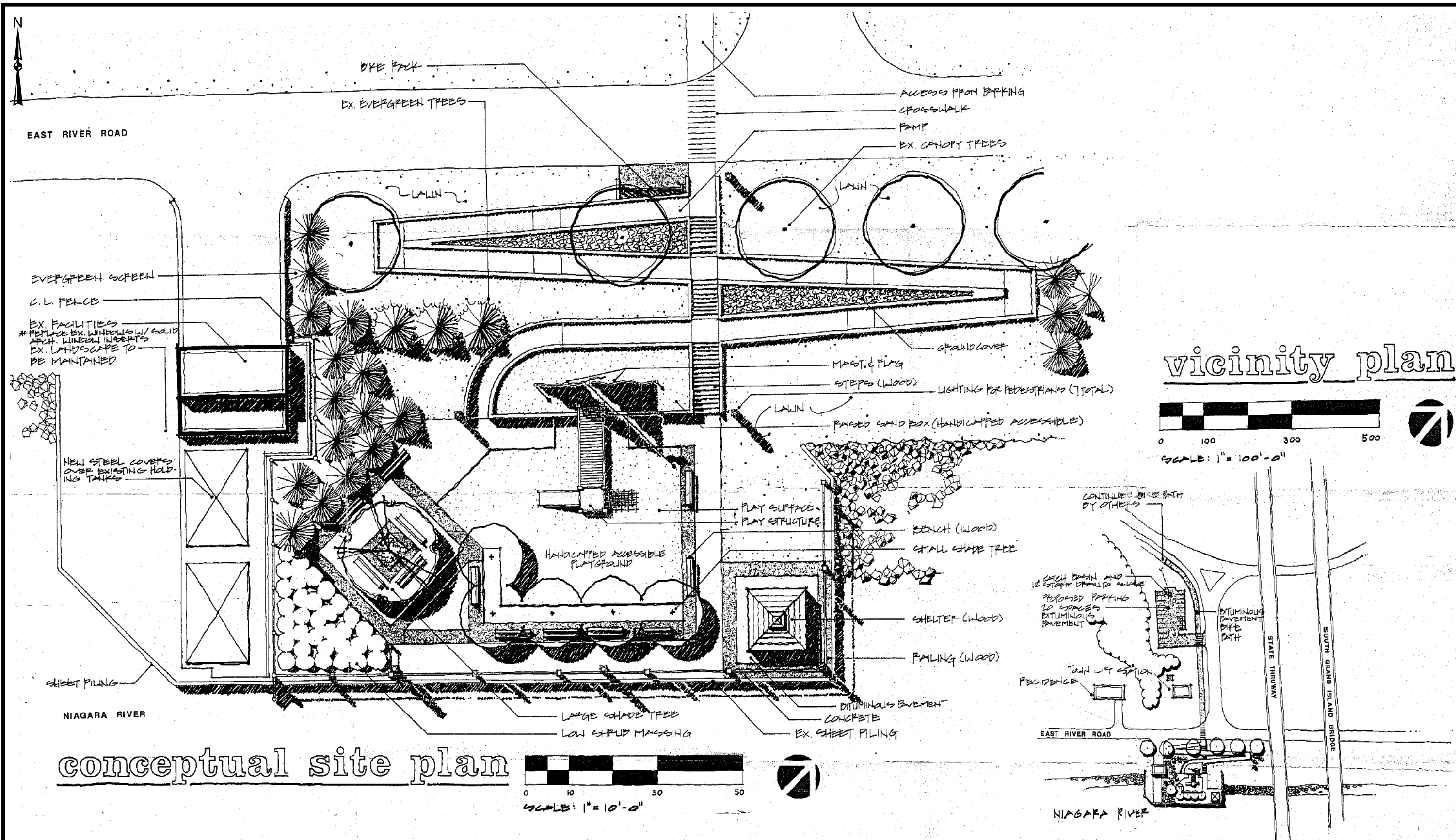
- Niagara River
- Municipal Boundary
- LWRP Border
- Parkway Trail

5000 0 5000 Feet

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
PROPOSED PROJECTS

URS

FIGURE 24



GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
 FISHERMAN'S PARK CONCEPTUAL SITE PLAN
 GRAND ISLAND, NEW YORK

facility.

Parking for more distant park users could be provided beneath the South Grand Island Bridges on Thruway right-of-way (roughly 300 feet north of the site) or on lands to the west on the opposite side of East River Road also owned by the Town. Either of these alternatives would require the full cooperation of the New York State Thruway Authority. Proposed facilities include a shelter, tables, benches, waste receptacles, and drinking fountain which service the needs of anglers. A combination of paved walkways (including ramps and stairs) and lawn areas is envisioned. A guardrail is proposed for installation along the top of the sheet piling, which will be cut even with the existing grade, and a chain-link fence along the southern edge of the park is recommended to prevent access to the remaining sewer facilities. Planter boxes and natural landscaping features are proposed, as is a system of lighting bollards. A play area featuring nautical elements is recommended.

Costs and Timetable

The following table presents a preliminary cost estimate for proposed work at Fishermen's Park:

ITEM	ESTIMATED COST
General requirements	\$ 12,600
Tank covers for existing sediment tanks	2,000
Architectural window treatment for existing building	2,000
Digester demolition and sludge removal	9,000
Compacted fill	20,000
Pedestrian scale lighting	12,000
Shelter	10,000
Benches, trash receptacles and bike rack	14,000
Play structure and play surface with timber border	30,000
Wood and pipe railings	9,600
Chain link fence	1,500
Asphalt paving with stripping	110,000
Concrete paving	3,500
Drainage	2,500
Landscaping and lawn	14,400
Wood stairs and retaining wall	14,000

ITEM	ESTIMATED COST
Subtotal	\$267,100
15% Construction Contingency	40,000
2% Legal and Administrative	5,300
13% Engineering	34,700
Total Project Cost	\$347,100

Estimated construction time is 3 months.

Although the provision of on-site parking is impractical due to the topography and limited developable area, it should be noted that the bulk of park users will be residents within walking distance.

4.3.3 West River Parkway

The West River Parkway is currently underutilized. Intensive development of this portion of the WRA would detract from the aesthetics of the area and is perceived as undesirable by many local residents. However, some improvements should be implemented to enhance recreational opportunities. Developing a multi-purpose trail system along the river side of the West River Parkway would be a local and regional asset. Connecting existing bicycle trails on the North and South Grand Island Bridges along the riverfront would provide an enjoyable water-related recreational opportunity. The development of this trail should be done in conjunction with other enhancements to improve existing conditions. Such enhancements include:

- Improving the existing overlooks through ongoing maintenance and the addition of car top boat launch facilities;
- Maintaining a parking area on the west side of the West River Parkway north of Long Road;
- Adding picnic areas; and
- Ongoing police patrolling of the areas.

4.3.4 Big Six Mile Creek Marina

This existing state-owned marina is a valuable part of the WRA. It is recommended that the feasibility of the expansion of this facility be evaluated and encouraged. Immediate improvements that could occur are widening the entrance to alleviate congestion and improvements or expansion of the boat launch ramp to increase capacity.

4.3.5 Buckhorn Island State Park

The primary function of the Buckhorn Island State Park is a wildlife refuge with limited recreational activity. However, it is recommended that some improvements should occur to improve existing conditions. There is a demand for more parking and improved restroom facilities. Consideration should be given to maintaining two overlooks, kiosks for bird watching, and expand other education facilities. When expanding other educational

facilities, consideration should be given to consult other environmental professionals, and recognized experts for their input. This should be done in such a manner as to avoid having a significant adverse effect on the primary function, a wildlife refuge. A recently completed project within the park is the Buckhorn Island Marsh Restoration and Bikeway Project as discussed below in Section 4.3.10.

4.3.6 Beaver Island State Park

Beaver Island State Park is far more intensively used than Buckhorn Island State Park. It is recommended that improvements to this facility should include construction of an environmental education center and expanding the golf course.

4.3.7 East River Wetland Enhancement Project

This project is complete. It was undertaken as a cooperative effort with involvement by the Office of Parks Recreation and Historic Preservation, the DEC, and U.S. Army Corps of Engineers. The project involved the construction of a jetty and car top launch to preserve, protect, and enhance a locally unique riverine, wetland habitat and to improve access to the Niagara River for the enjoyment of these natural resources. The project (see Figure 26) is located in the eastern end of Beaver Island State Park just south of the existing Blue Water Marina in Ferry Village. It is recommended that this project be enhanced and maintained to protect the wetland and increase public access to the waterfront.

4.3.8 Ferry Village

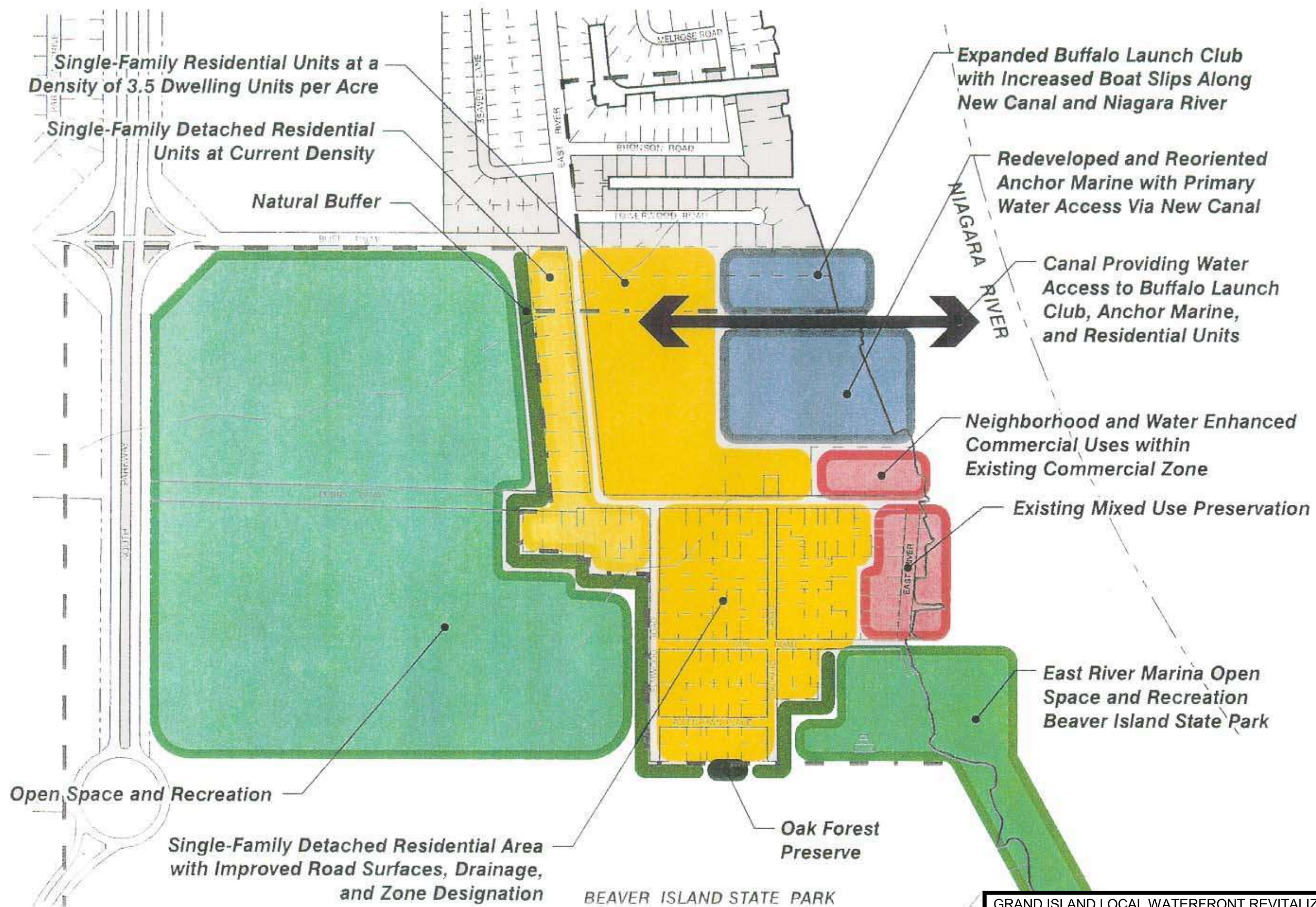
A Master Plan was developed for the Ferry Village area in 1997. The recommendations of this plan should be pursued. A copy of the Land and Water Use Plan from the Ferry Village Master Plan is provided as Figure 27. A canal is proposed to be constructed between the Buffalo Launch Club and Anchor Marina. This canal will be conducive to enhancing water-oriented activities. In addition, residential development associated with the redeveloped and reoriented Anchor Marina will establish the character of Ferry Village as a community with a tradition linked to the water.

4.3.9 Buckhorn Island Marsh Restoration and Bikeway Project

The Buckhorn Island Marsh Restoration and Bikeway Project began in late 1994 and have been completed. The project was jointly administered by the New York State Department of Environmental Conservation (NYSDEC) and the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). It is a dual purpose recreations and environmental restoration project. The project consists of the restoration of a 150 acre marsh and the construction of a 1.3 mile bikeway through the State Park and linking Niagara Falls with Grand Island. The project is a significant wetland restoration effort which will restore and preserve the largest remaining wetland in the Niagara River corridor. The bikeway is an integral component of this project and will provide public access, scenic overlooks and complete the western dike of the marsh restoration project. It connects three State Parks and provides a critical link in the regional bikeway network. The Town recommends that the State maintain and enhance these facilities.

4.3.10 Bike Trail Connect Project

This project is currently underway and will improve existing bicycle and pedestrian trails and connect them with new pathways. This will improve and complete a system of bike and pedestrian trails that partially exists throughout the Island. In doing so, residents and tourists would have improved access to the waterfront for recreational purposes. Key components of this project include:

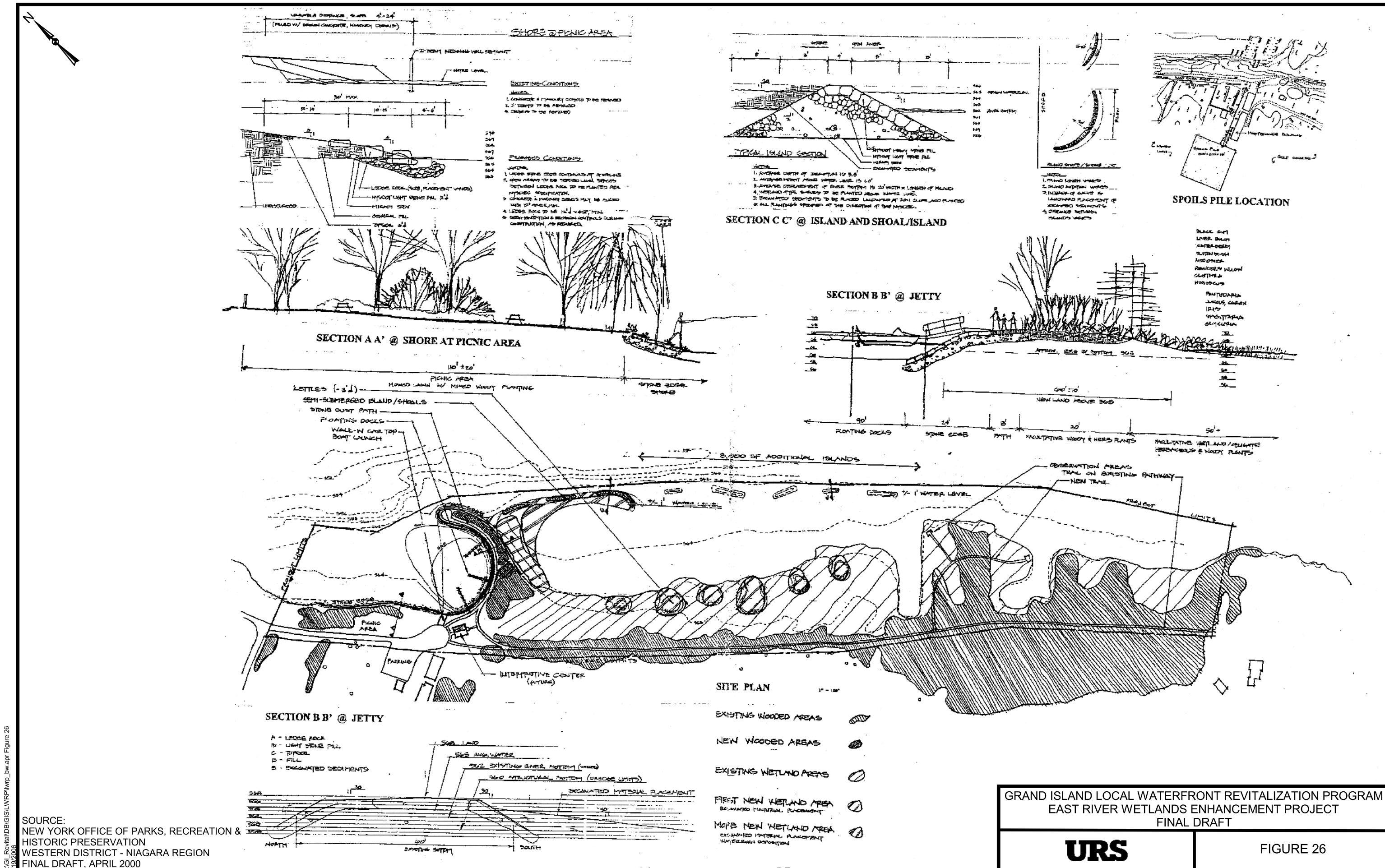


Source:
A Joint Project of the Town of Grand Island,
NYS Office of Park Recreational and Historic Preservation
and the Empire State Development Corporation
* URS Corporation * Environmental Design & Research
* Fort - Albert Associate * TGVA and
* Economic Research Associates

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
LAND AND WATER USE PLAN - FERRY VILLAGE MASTER PLAN
GRAND ISLAND, NEW YORK

URS

FIGURE 27



SOURCE:
 NEW YORK OFFICE OF PARKS, RECREATION &
 HISTORIC PRESERVATION
 WESTERN DISTRICT - NIAGARA REGION
 FINAL DRAFT, APRIL 2000

GRAND ISLAND LOCAL WATERFRONT REVITALIZATION PROGRAM
 EAST RIVER WETLANDS ENHANCEMENT PROJECT
 FINAL DRAFT

URS

FIGURE 26

- 6 foot shoulder on both sides of East-West Park Road from Baseline Road to thruway overpass;
- 12 foot trail parallel to East-West Park Road and overlook on the Niagara River north of Long Road;
- Scenic overlook on the west side of the West River Parkway north of Long Road;
- Widen and resurface the existing multi-use trail at Bedell Road running northwest along the Niagara Mohawk Power Lines to the CellularOne Tower and north to Buckhorn Island State Park; and
- 8 foot multi-use trail along the 650 foot dirt path within Buckhorn Island State Park to extend and connect to the existing unimproved linear park bikeway to be widened and resurfaced.

The Town encourages the State to maintain and enhance these facilities.

4.3.11 Niagara River Greenway Commission

The New York State Legislature recognizes the Niagara River Corridor as having unique ecological, cultural and economic importance to Western New York, connecting Lake Erie and Lake Ontario communities and ecologies. Pursuant to Article 39 of the Parks, Recreation and Historic Preservation Law, the Niagara River Greenway Commission is developing a management plan for a linear system of parks and conservation areas that will redefine the Niagara River in terms of its history, economic vitality and ecological significance. Key elements of this plan will include increased public access to the Niagara River, development of a trail system with complimentary connections to land access points, balanced economic growth that compliments the natural and scenic environment, preservation and enhancement of environmental resources and the celebration of the region's cultural and industrial heritage. The goals and policies of the Grand Island LRWP should be considered as development and implementation of the Niagara River Greenway Plan occurs.

SECTION V TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

The Town of Grand Island currently has in place, or is proposing, a number of statutory, financial, and administrative mechanisms to assist in the implementation of adopted waterfront plans and policies.

5.1 LOCAL LAWS AND REGULATIONS NECESSARY TO IMPLEMENT THE LWRP

5.1.1 Existing Local Laws and Regulations

A. Land Subdivision Ordinance

This ordinance directs the Planning Board to review each plat for land subdivision in accordance with established procedures and standards, and to make recommendations to the Town Board as to approval. The ordinance permits a thorough review of these proposed developments, including circulation, infrastructure, and landscaping as part of a plan for the orderly, efficient and economical development of the Town.

Specifically, the ordinance assists in implementing Policies 5 (Development), 12, 14, and 17 (Flooding and Erosion Hazards), 22 (Recreation), 25 (Scenic Quality), 31 and 33 (Water and Air Resources).

B. Flood Damage Prevention Law

The purpose of this law is to minimize public and private losses due to flood conditions in specific areas by:

- Regulating uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- Requiring that uses vulnerable to floods be protected against flood damage at the time of initial construction.
- Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters.
- Controlling filling, grading, dredging and other development which may increase erosion or flood damages.
- Regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- Qualifying for, and maintaining participation in, the National Flood Insurance Program.

The law specifically implements provisions of Policies 12 and 17.

C. Sanitary Sewers Ordinance and Sewage Disposal Systems Ordinance

These related ordinances regulate wastewater disposal procedures in the Town. Septic tanks are prohibited within 50 feet of any source of public water supply. Untreated discharges into natural outlets are prohibited. Developments are required to connect to public sewers where available.

These ordinances serve to implement Policies 5, 31, and 34 addressing issues of development and water quality.

D. Conservation Commission Law

This law establishes an independent Commission for Conservation of the Environment responsible for advising the Town Board and Planning Board on matters affecting the preservation, development and use of environmental resources within the Town and threats to such resources posed by development.

The ordinance is particularly relevant in implementing Policies 7 and 9 (Fish and Wildlife), 25 (Scenic Quality), 35 and 44 (Water and Air Resources).

E. Architectural Review Advisory Board Ordinance

This ordinance establishes a board to advise the Building Inspector in the issuance of building permits (except in districts zoned for single-family residences) to promote coherence in the visual environment. Upon request of the Planning Board, this board will consult with and advise the Planning Board with respect to site plans. Within the Waterfront Revitalization Area, this ordinance will ensure that future developments, particularly the Ferry Village Areas, will visually complement their waterfront setting. The ordinance assists in implementing Policy 23 (Recreation/Historic Preservation).

F. Recreation Commission Ordinance

This ordinance establishes a commission responsible for equipping, operating, and maintaining recreation facilities within the town. Within the Waterfront Revitalization Area, the Commission will have responsibilities over future recreational projects located within the LWRP boundary recommended for implementation in Section 4.3 of this LWRP. The ordinance assists in implementing Policies 9 (Fish and Wildlife), 19, and 21 (Public Access/Recreation).

5.1.2 Local Laws and Regulations Needed to Implement the LWRP

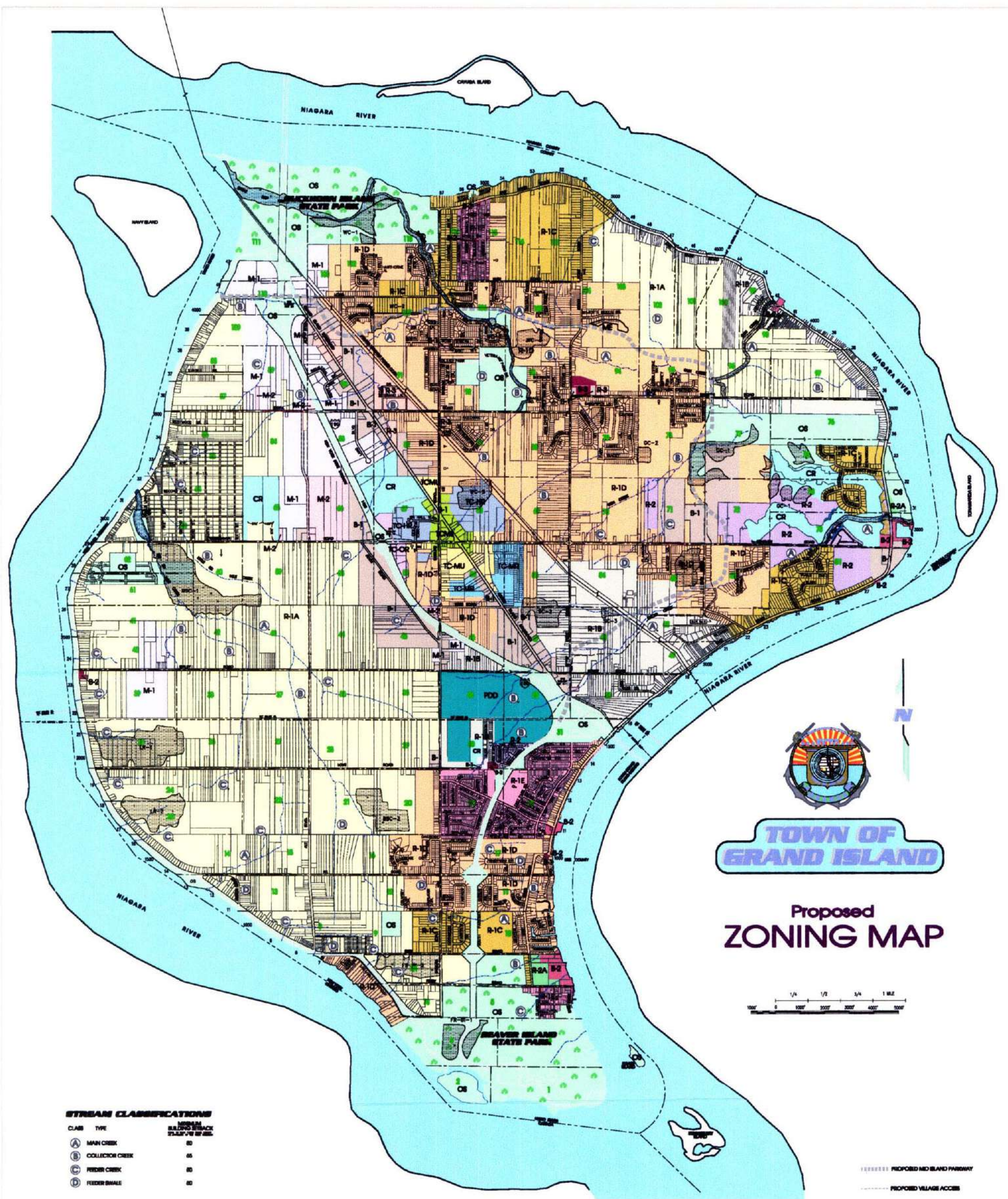
A. Zoning Ordinance Revisions (See Appendix B)

To implement the LWRP and the Comprehensive Plan, a revised Zoning Code has been adopted. The Zoning Code divides the Town into several categories of zoning districts and regulates uses, densities, bulk, open space, and parking requirements.

The Zoning Code enables the Town to implement the land use policies and recommendations by ensuring that future land uses and supplementary items (i.e., parking, open space requirements) are consistent with adopted waterfront policy objectives. Land uses permitted along the waterfront are primarily low-density residential, recreational, or water related commercial consistent with the Ferry Village Master Plan and the Town Comprehensive Plan.

These land use controls, open space requirements, established zoning districts, design standards, and supplemental regulations will assist in implementing Policies 2 and 5 (Development), 7 (Fish and Wildlife), 17 (Flooding and Erosion Hazards), 22 (Recreation), 25 (Scenic Quality), 31 and 37 (Water and Air Resources).

1. Cluster Developments - This section authorizes the Town Board to approve cluster developments by establishing a process to permit the grouping of structures in order to plan more usable open space without exceeding overall density or land coverage requirements.
2. Incentive Zoning - In return for improving public access to the Niagara River, or increasing public open space, the Town Board is authorized to grant zoning incentives or bonuses in height, density and other bulk requirements.
3. R-2A: Attached Waterfront Single-Family Resident District - The R-2A Attached Waterfront Single Family Residential District allows for the development of a single-family attached or detached residential dwellings on the waterfront or having direct access to the Niagara River by a



navigable canal or stream.

4. B-2: Waterfront Business District - The B-2 Waterfront Business District recognizes that the Niagara River is an important natural resource in the Town of Grand Island. The Waterfront Business District was established to create a district where small, water-related businesses can develop. Such districts improve the economic base of the town, offer residents an opportunity to gain access to the river, and help attract tourists to the Town of Grand Island. Permitted uses include bed and breakfast establishments, restaurants, art galleries, boating and marina services, and small retail stores.
5. OS: Open Space District - This zoning designation delineates those areas where substantial development of the land involving the construction of buildings or structures is not desirable because of:
 - special or unusual conditions of topography, drainage, floodplain, or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature;
 - the lack of proper facilities or improvements resulting in the land not being suitable for development at the present time, and where such facilities or improvements must be undertaken on an area-wide, rather than an individual parcel basis, in order to adequately serve the community at a reasonable cost to the Town; and
 - its designation as land for park, recreation, and open space and to ensure their continuation as parks, recreation, scenic vistas, and open space.

Permitted uses include parks and river access facilities.

6. Enhanced Environment Overlay District (EED) - The Enhanced Environment Overlay District protects the Town's Significant Coastal Fish and Wildlife Habitats, and other environmentally sensitive areas. By creating this overlay, the Town recognizes different areas are intrinsically suited for different types and intensities of development. Therefore, development must be directed by the intrinsic character of the land in order that the health, safety, welfare and property of the citizens of the Town be protected and preserved. With the EED in place, proper and appropriate development is required for water and air quality, fish, wildlife and plant habitat in order to prevent the irretrievable loss of natural resources and to maintain the rural character of the community. The requirements of this Article of the Zoning Code add to those of the underlying Zoning District. Uses requiring structures, or the creation of impervious surfaces, are not permitted by right in an EED overlay. Any use not specifically permitted, requires compliance with the specific provisions for site plan review in an EED overlay district (see Site Plan Review section below).
7. Site Plan Review – This section requires any new or expanded use, or change in use, in certain districts to undergo the formal process of site plan review. The Planning Board reviews the site plan and makes its recommendation to the Town Board as to approval of the site plan.

Additional guidelines and standards are provided for specific areas.

- a. Ferry Village Architectural and Urban Guidelines

The Zoning Code includes architectural and urban design guidelines for the Ferry Village area, a special historical area worthy of extra protection by the Town. Accordingly, in addition to the other site plan requirements, the Planning Board and Town Board will consider the following Architectural and Design Guidelines on projects requiring site plans

within the Ferry Village area: To preserve the current residential atmosphere, new buildings and reconstructions should be compatible in size, scale, and mass with existing structures. Special consideration needs to be given to marina structures for indoor storage, sales, and repair of boats. Notwithstanding their size and scale, building mass should be reduced by varying rooflines and the addition of wings that can give the appearance of excessive size.

- To preserve the grain of development within Ferry Village, the rhythm of buildings and building facades should be maintained. Long continuous facades and elevations should be avoided. Structures that require large interior volumes should be designed to minimize lengthy unbroken facades and roof lines.
- Roof lines should vary and favor gabled and hip roof styles with moderate pitches compatible with the surroundings.
- Windows should be symmetrical and proportioned to wall space. Types and materials should be compatible with the historic and architectural character of Ferry Village.
- Stylistic trim using cornices, scroll work, and similar historically appropriate effects will be encouraged.

Exterior materials should emphasize a natural appearance with preferences given to wood, wood siding, and brick. For durability and ease of maintenance, and updating existing structures, vinyl siding that simulates wood surfaces may be utilized.

- Colors should be subdued and compatible with the village atmosphere and/or be typical of the period of the architecture of the structure, or the structure from which contemporary designs have been derived.
- Mechanical equipment and systems shall be placed where they will be visually unobtrusive whether mounted on a structure or placed on-grade. Required rooftop installations will be screened from view by architectural elements that are in keeping with the overall design of the structure and the character of the town.
- Refuse disposal containers (dumpsters) should be located at the rear or side of the primary use of a site and must be screened from view by all-season enclosures that are visually compatible with the primary structure and the overall character of the village.
- Community trash receptacles, benches, light standards and other “street furniture” should be of materials and design compatible with the village atmosphere, and integrated into an overall design concept for the site.

b. Enhanced Environment Overlay District (EED) Standards

This section provides general standards for reviewing proposed developments in the Enhanced Environment Overlay Districts (EEDs). Projects in the EEDs, including but not limited to those adjacent to the Grand Island Tributaries Habitat (which includes portions of Woods Creek, Gun Creek, Spicer Creek, and Big Six Mile Creek and their associated wetlands), will be reviewed to minimize or preclude activities that could adversely affect the flora and fauna of the EED. Specific examples of activities that would likely have adverse impacts on these resources include but are not limited to, those that would:

- degrade water quality;
- increase water temperature or turbidity;

- reduce flows;
- disturb the stream bed;
- alter natural river flows and thermal patterns;
- involve dredging, filling or creating bulkheads;
- discharge sewage or storm water runoff containing sediments or chemical pollutants; remove, reduce or negatively affect riparian vegetation;
- disturb stream banks;
- develop, within the EEDs, additional motorboat access to the Niagara River;
- create any barrier to fish migration;
- disturb the habitat between February and early July;
- provide for the construction of river diversion structures;
- create thermal discharges;
- provide for the installation and operation of water intakes; and
- disturb bird species nesting on Tower Island.

8. Boathouse and Docking Facility Regulations

These provisions regulate boathouses and docking facilities within the Town of Grand Island that are located in or attached to a residentially zoned upland or shoreline area. Boathouses and docking facilities in these areas are limited to those required to accommodate three boats and may be a maximum of 18 feet or one story in height from water level. These facilities are not to be lived in, or used for commercial or income purposes.

B. Local Consistency Law

Local actions to be directly undertaken, funded or permitted within the coastal area must be consistent with the policies and purposes of the Town of Grand Island LWRP. Through the adoption of a Consistency Review Law (See Appendix C), on August 5, 2005, the Town established the legal framework required for the review of direct and indirect actions with the LWRP.

5.2 OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

5.2.1 Local Government Actions Necessary to Implement the LWRP

A. Public Property Retention:

Shoreline property currently under public ownership, including parks, buildings, easements, and rights-of-way, will be retained and developed to provide public shoreline access. If appropriate, title to environmentally sensitive areas may be transferred to public agencies for purposes that will protect environmental quality.

B. Municipal Budgeting:

The Town will continue to reserve funds for the construction and ongoing maintenance of public facilities within the Waterfront Revitalization Area. Maintenance of drainage channels and public infrastructure will also be regularly undertaken.

Budgetary provisions will continue to be made which ensure funding or personnel required to undertake reviews and enforcement of proposals and statutory requirements within the Waterfront Revitalization Area.

C. Non-Local Funding:

The Town will continue to identify State and Federal programs and other funding sources that may become available to implement waterfront development projects and plans. Town personnel will assist in the preparation of specific grant applications to secure such funding. 5.2.2 Private Actions Necessary to Implement the LWRP

Private investment opportunities in the form of small-scale residential and commercial uses exist along portions of the Town's shoreline. Private actions undertaken within the WRA should not impair the character of existing neighborhoods. Development should be in scale with the surrounding area and not diminish public access to the waterfront.

5.3 MANAGEMENT STRUCTURES NECESSARY TO IMPLEMENT THE LWRP

5.3.1 Overall Program Coordination

Successful implementation of the Local Waterfront Revitalization Program requires participation of the Town Board, Planning Board, Conservation Commission, Architectural Review Advisory Board, Recreation Commission, and technical support staff in the Building and Engineering Departments. Overall coordination responsibilities rest with the Planning Board, with its chairman acting as the lead local official.

The Town continues to actively participate in various Waterfront programs that serve as a vehicle for intermunicipal cooperation.

5.3.2 Management Responsibilities

A. Planning Board:

The Planning Board, consisting of 7 members, is responsible for overall program coordination and inter-agency cooperation. The Board will review all proposed private actions within the Waterfront Revitalization Area to ensure compatibility with adopted waterfront policies, as well as compliance with zoning laws, subdivision regulations, and other statutory requirements. In the instance of public actions (where the Town initiates funding or construction) the Planning Board will also review the project pursuant to the requirements for compatibility and consistency with the LWRP. The Board also determines the necessity for various technical studies, and will initiate efforts to identify and implement various public and private projects that further enhance waterfront revitalization. For all proposed developments, the Planning Board will solicit and consider comments from other local advisory boards and technical staff in preparing its advisory opinions. The Planning Board will then forward its recommendations to the Town Board.

B. Town Board:

The Town Board exercises final approval authority over all major development proposals based upon recommendations of the Planning Board. The Town Board will also enact and amend local laws affecting the implementation of waterfront policy objectives, including adoption of the municipal budget. Pursuant to the enacting of the recommended local laws, and the formal adoption of the LWRP as a supplement to the Town's Comprehensive Plan, the Town Board is obliged and legally bound to the LWRP in its decision making function.

C. Advisory Boards:

The Planning Board maintains liaison with the Conservation Commission, Architectural Review Advisory Board, and the Recreation Commission on waterfront development issues. In particular, the Conservation and Recreation Commissions will be encouraged to initiate waterfront plans and programs in concert with the Planning Board.

D. Technical Staff:

The staff and resources of the Building and Engineering Department provide necessary technical support to the Planning Board as requested. Such support includes site plan reviews, environmental reviews, and permit processing.

5.3.3 Local Compliance

All locally-initiated public and private actions within the Waterfront Revitalization Area are subject to review by the Planning Board. All proposed land uses, site plans, and structures will be evaluated against adopted waterfront policies, and recommendations will be prepared accordingly. Public hearing requirements will be incorporated into review procedures as appropriate under Town ordinance.

5.3.4 State and Federal Compliance

The review of Federal and State actions for consistency with the LWRP will be done in accordance with the procedures established by the NYS Department of State. Such procedures are contained in Appendix D.

5.4 FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP

Costs of Local Waterfront Revitalization Program implementation will include capital outlays for specific projects, ongoing maintenance costs and administrative costs. Initial capital outlays for proposed recreation improvements at Fisherman's Park near the South Grand Island Bridge are also required. The Town will actively pursue funding assistance for these projects through Federal and State-sponsored programs including Land and Waterfront Conservation Funds, LWRP implementation funds, Environmental Quality Bond Act funds, and Outer Continental Shelf Revenue Sharing funds.

Ongoing maintenance costs at these proposed municipal parks will be obtained primarily from the Town's general fund.

Neighborhood revitalization efforts are expected to continue for housing rehabilitation, drainage improvements, infrastructure repair, and commercial revitalization.

Other funding sources that may become available to the Town will be actively pursued to assist in program implementation (i.e., capital construction, planning/design, administration, economic development). Depending upon the purpose of the expenditure, such funding sources might include bonds, special district assessments, private foundation endowments, and relevant State and Federal assistance programs which are listed under Section VI, "Federal and State Programs Likely to Affect Implementation."

Private investment will be strongly encouraged within the Waterfront Revitalization Area. Public leveraging of private investment through, CDBG funds, industrial revenue bonds, Job Development funds, and Urban Development Action Grants are among the alternative sources of funding assistance to be considered. In addition, the Town will utilize existing agencies with expertise to facilitate funding arrangements. Said agencies may include, but not be limited to, the Erie County Industrial Development Agency and Erie County Department of Environment and Planning.

SECTION VI STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION

State and federal actions will affect and be affected by implementation of a Local Waterfront Revitalization Program (LWRP). Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be “consistent” or “consistent to the maximum extent practicable” with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. A list of State actions and programs follows. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented by the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program and by the implementing regulations of the U.S. Coastal Zone Management Act. It is expected that all local, state and federal agencies reviewing or undertaking any activity within the Waterfront Revitalization Area, whether listed or not, must comply with the policies as outlined in the LWRP.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and federal assistance needed to implement the LWRP.

6.1. STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP

A. STATE AGENCIES

Office for the Aging

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

Department of Agriculture and Markets

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License

Division of Alcoholic Beverage Control/State Liquor Authority

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor Licenses
 - 1.16 Plenary Permit (Miscellaneous-Annual)
 - 1.17 Summer Beer and Liquor Licenses
 - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
 - 1.19 Vessel Beer and Liquor Licenses
 - 1.20 Warehouse Permit
 - 1.21 Wine Store License
 - 1.22 Winter Beer and Liquor Licenses
 - 1.23 Wholesale Beer, Wine, and Liquor Licenses

Division of Alcoholism and Substance Abuse Services

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)
 - 3.05 Operating Certificate (Sobering-Up Station)

Council on the Arts

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

Department of Financial Services

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private Banker Charter)
 - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
 - 1.16 Authorization Certificate (Safe Deposit Company Branch)
 - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
 - 1.18 Authorization Certificate (Safe Deposit Company Charter)

- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

Buffalo and Fort Erie Public Bridge Authority (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

Office of Children and Family Services

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)
 - 3.07 Operating Certificate (Special Care Home)
 - 3.08 Permit to Operate a Day Care Center

Department of Corrections and Community Supervision

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

Dormitory Authority of the State of New York

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

Education Department

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate

Empire State Development/Empire State Development Corporation

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

New York State Energy Research and Development Authority

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

Department of Environmental Conservation

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).

- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.

7.00 Marine Finfish and Shellfish Programs.

8.00 New York Harbor Drift Removal Project.

9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System Construction Management
- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances

9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects

9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation

9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)

9.28 Floating Object Permit

9.29 Marine Regatta Permit

9.30 Navigation Aid Permit

Marine Resources

9.31 Digger's Permit (Shellfish)

9.32 License of Menhaden Fishing Vessel

9.33 License for Non-Resident Food Fishing Vessel

9.34 Non-Resident Lobster Permit

9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits

9.36 Permits to Take Blue-Claw Crabs

9.37 Permit to Use Pond or Trap Net

9.38 Resident Commercial Lobster Permit

9.39 Shellfish Bed Permit

9.40 Shellfish Shipper's Permits

9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean

9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

9.43 Mining Permit

9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)

9.45 Underground Storage Permit (Gas)

9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

9.47 Permit to Construct and/or Operate a Solid Waste Management Facility

9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

9.49 Approval of Plans for Wastewater Disposal Systems

- 9.50 Certificate of Approval of Realty Subdivision Plans
- 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.56 Approval - Drainage Improvement District
- 9.57 Approval - Water (Diversion for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit - Article 15, (Protection of Water) - Dam
- 9.60 Permit - Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification
- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan.
- 12.00 Preparation and revision of Statewide Environmental Plan.
- 13.00 Protection of Natural and Man-made Beauty Program.
- 14.00 Urban Fisheries Program.
- 15.00 Urban Forestry Program.
- 16.00 Urban Wildlife Program.

Environmental Facilities Corporation

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

Facilities Development Corporation

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

Office of General Services

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.

- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters.

Department of Health

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp
 - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
 - 2.13 Permit to Operate a Service Food Establishment
 - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
 - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
 - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
 - 2.17 Shared Health Facility Registration Certificate

Division of Homes and Community Renewal and its subsidiaries and affiliates

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs

- 2.05 Rural Initiatives Grant Program
- 2.06 Rural Preservation Companies Program
- 2.07 Rural Rental Assistance Program
- 2.08 Special Needs Demonstration Projects
- 2.09 Urban Initiatives Grant Program
- 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

Housing Finance Agency

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

Job Development Authority

- 1.00 Financing assistance programs for commercial and industrial facilities.

Medical Care Facilities Financing Agency

- 1.00 Financing of medical care facilities.

Office of Mental Health

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Homes)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

Office for People with Developmental Disabilities

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Establishment and Construction Prior Approval
 - 2.02 Operating Certificate Community Residence
 - 2.03 Outpatient Facility Operating Certificate

Division of Military and Naval Affairs

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

Natural Heritage Trust

- 1.00 Funding program for natural heritage institutions.

Niagara Falls Bridge Commission (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the

management of land under the jurisdiction of the Commission.

- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

Niagara Frontier Transportation Authority (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Increases in special fares for transportation services to public water-related recreation resources.

Office of Parks, Recreation and Historic Preservation (including Regional State Park Commission)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Heritage Areas Program.

New York State Power Authority

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

New York State Science and Technology Foundation

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

Department of State

- 1.00 Appalachian Regional Development Program.

- 2.00 Coastal Management Program.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

State University Construction Fund

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

Department of Transportation

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
 - (a) Highways and parkways
 - (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
 - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
 - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
 - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits

- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and subarea or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

Urban Development Corporation (and its subsidiaries and affiliates)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
 - (a) Tax-Exempt Financing Program
 - (b) Lease Collateral Program
 - (c) Lease Financial Program
 - (d) Targeted Investment Program
 - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

Division of Youth

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

B. FEDERAL ACTIVITIES AFFECTING LAND AND WATER USES AND NATURAL RESOURCES IN THE COASTAL ZONE OF NEW YORK STATE

Department of Commerce

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

Department of Defense

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, break-waters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters. Specifically, a 12 to 21 foot deep channel is maintained for commercial navigation in the East Branch by the Army Corps of

Engineers.

- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.
- 4.00 Other activities involving navigable waters including tributaries from the mouth upstream to the point where the rising bottom elevation intercepts the water surface elevation of the mouth.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

Department of Energy

- 1.00 Prohibition orders.

General Services Administration

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of Federal surplus lands and structures.

Department of Homeland Security

Coast Guard

- 1.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 2.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- 3.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Department of Interior

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.
- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

- 1.00 National Park and Seashore management and proposed acquisitions.

Department of Transportation

Amtrak, Conrail

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Federal Aviation Administration

- 2.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

- 3.00 Highway construction.

FEDERAL LICENSES, PERMITS, AND OTHER FORMS OF APPROVAL OR AUTHORIZATION

The following activities, requiring permits, or other forms of authorization or approval from federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart D, and the New York Coastal Management Program.

Department Of Defense

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

Department Of Energy

Federal Energy Regulatory Commission

- 1.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 2.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 3.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 4.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

Environmental Protection Agency

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

Department Of Interior

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Bureau of Ocean Energy Management Regulation and Enforcement

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

Department of Homeland Security

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Department Of Transportation

- 1.0 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 USC 1455
- 2.0 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33USC 1501)

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

FEDERAL FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS*

The following activities, involving financial assistance from federal agencies to state and local governments, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart F, and the New York State Coastal Management Program. When these activities involve financial assistance for entities other than State and local government, the activities are subject to the consistency provisions of 15 CFR Part 930, Subpart C.

Department of Agriculture

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

Department of Commerce

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Inter-modal Transportation

11.509 Development and Promotion of Domestic Waterborne Transport Systems

Community Services Administration

49.002 Community Action

49.011 Community Economic Development

49.013 State Economic Opportunity Offices

49.017 Rural Development Loan Fund

49.018 Housing and Community Development (Rural Housing)

Environmental Protection Agency

66.001 Air Pollution Control Program Grants

66.418 Construction Grants for Wastewater Treatment Works

66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency

66.451 Solid and Hazardous Waste Management Program Support Grants

66.452 Solid Waste Management Demonstration Grants

66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

General Services Administration

39.002 Disposal of Federal Surplus Real Property

Department of Housing and Urban Development

14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects

14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

14.117 Mortgage Insurance - Homes

14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

14.125 Mortgage Insurance - Land Development and New Communities

14.126 Mortgage Insurance - Management Type Cooperative Projects

14.127 Mortgage Insurance - Mobile Home Parks

14.218 Community Development Block Grants/Entitlement Grants

14.219 Community Development Block Grants/Small Cities Program

14.221 Urban Development Action Grants

14.223 Indian Community Development Block Grant Program

Department of Interior

15.400 Outdoor Recreation - Acquisition, Development and Planning

15.402 Outdoor Recreation - Technical Assistance

15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments

- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

Small Business Administration

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

Department of Transportation

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

6.2 STATE AND FEDERAL ACTIONS AND PROGRAMS NECESSARY TO FURTHER THE LWRP

STATE PROGRAMS

Office of General Services

- Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

Department of Environmental Conservation

- Planning, development, construction, or expansion of recreational facilities/projects located in waterfront.
- Provision of funding for capital projects under the Clean Water/Clean Air Bond Act.
- Review of actions within National Register Districts pursuant to SEQR.

Office of Parks, Recreation and Historic Preservation

- Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
- Provision of funding for State and local activities from the Land and Water Conservation Fund.
- Planning, development, implementation or the provision of funding for recreation services programs.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the OPRHP C including the acquisition, development and improvement of parks and historic properties.
- Provision of funding for State and local historic preservation activities.
- Review of Type I actions within the National Historic Districts.
- Certification of properties within the National Register Districts.
- Nomination to State and Federal Register of Historic Places of structures and districts making them eligible for funding and tax incentives.

Department of State

- Provision of funding for the implementation of an approved LWRP.
- Funding or partial funding of eligible activities through the Environmental Protection Fund (EPF) administered by the DOS.

FEDERAL ACTIONS AND PROGRAMS

Department of Defense

Corps of Engineers

- A U.S. Army Corps of Engineers permit would be required for the following activities: - dredging and shoreline stabilization - repair or installation of boat ramps - installation of piers and marina-related facilities

Environmental Protection Agency

- Review of any proposed action within a National Register District pursuant to NEPA.

Department of the Interior

National Park Service

- Provision of funding under the Land and Water Conservation Fund Program
- Review of federal actions within the National Register Districts pursuant to NEPA.

APPENDIX A SIGNIFICANT HABITATS

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area:	Buckhorn Island - Goat Island Rapids
Designated:	October 15, 1987
County:	Niagara, Erie
Town(s):	Niagara Falls, Grand Island
7½' Quadrangle(s):	Niagara Falls, ONT-NY

<u>Score</u>	<u>Criterion</u>
12	Ecosystem Rarity (ER) A relatively large, shallow, open water section of river; unusual in the western Great Lakes Plain, although somewhat common locally. Geometric mean: $(9 \times 16)^{1/2}$
25	Species Vulnerability (SV) Common Tern (T) nesting and feeding.
0	Human Use (HU) No significant fish or wildlife related human uses of the area.
20	Population Level (PL) An important area used by one of the largest concentrations of wintering waterfowl in the northeastern US. Geometric mean: $(16 \times 25)^{1/2}$
1.2	Replaceability (R) Irreplaceable

$$\text{SIGNIFICANCE VALUE} = [(ER + SV + HU + PL) \times R] = 68$$

DESIGNATED HABITAT: BUCKHORN ISLAND - GOAT ISLAND RAPIDS

LOCATION AND DESCRIPTION OF HABITAT:

Buckhorn Island - Goat Island Rapids is located between Grand Island and Goat Island, in the City of Niagara Falls, Niagara County, and the Town of Grand Island, Erie County (7.5' Quadrangle: Niagara Falls, Ont.-N.Y.). The fish and wildlife habitat is an approximate 850 acre area of the upper Niagara River, extending roughly from the Buckhorn Island water diversion structures to the Goat Island bridge and Three Sisters Islands, above the American Falls and Horseshoe Falls, respectively. This area is a wide, fast-moving, and relatively shallow (less than 10 feet deep below mean low water) section of the river, with a sparsely vegetated bedrock substrate. Average annual flow in the Niagara River is approximately 200,000 cubic feet per second, but much of the flow is diverted out of the river for municipal and industrial uses. Nearly all of the upper Niagara River flow in excess of that required by international agreement to flow over the Falls (50,000 to 100,000 cubic feet per second) is diverted from above the Buckhorn Island - Goat Island Rapids area for hydroelectric power generation in the United States and Canada.

The rapids are bordered to the north by the Robert Moses Parkway and extensive industrial development, and to the south by Canadian waters of the Niagara River. In the vicinity of Goat Island, the habitat includes a portion of the Niagara Reservation State Park. The habitat area also includes Tower Island which is located north of the Ontario Hydroelectric project just over the International Boundary in New York Waters (not shown on map).

FISH AND WILDLIFE VALUES:

The upper Niagara River is a unique ecosystem in the western Great Lakes region of New York State. Although Buckhorn Island - Goat Island Rapids comprises a relatively small segment of the river, it contains some extensive areas of undisturbed, natural habitat conditions. Relatively little of this area has been disturbed by excavation or filling, and recreational uses are prohibited. The Buckhorn Island - Goat Island Rapids is part of one of the most important water- fowl wintering areas (November - March) in the northeastern United States, especially for diving ducks. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1976-1985 indicate average concentrations of over 14,000 birds in the upper Niagara River each year (25,371 in peak year), including approximately 8,500 common and red-breasted mergansers (17,470 in peak year), 2,600 goldeneye (8,520 in peak year), 1,900 canvasbacks (5,000 in peak year), and 1,200 scaup (2,306 in peak year), along with lesser numbers of black duck, mallard, bufflehead and oldsquaw. Buckhorn Island - Goat Island Rapids serves as one of the major feeding and resting areas for these birds. Waterfowl use of the area during winter each year is influenced in part by the extent of ice cover throughout the region. Concentrations of waterfowl also occur in the area during spring and fall migrations (March-April and October-November, respectively). A colony of common terns (T) is located on Tower Island. In 1986 and 1987, respectively, 159 pairs and 86 pairs of common terns were observed at this site. A critical feature of this structure is its isolation from mammalian predators. The Buckhorn Island-Goat Island Rapids may also be important for feeding by common terns and ring-billed gulls nesting near Buckhorn Island.

In addition to having significant bird concentrations, the Buckhorn Island - Goat Island Rapids is believed to be a very productive area for fish populations in the upper Niagara River. However, relatively little is known about the fisheries resources of the area because of the extreme river conditions which preclude most research activities. The rocky shoals and swift currents provide highly favorable habitat conditions for spawning by smallmouth bass, which are abundant in the area. The importance of the rapids to other fish species has not been documented. Due to the restricted access to this area, recreational fishing is primarily from shoreline areas, and is only of local significance.

IMPACT ASSESSMENT:

A **habitat impairment test** must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- ! destroy the habitat; or,
- ! significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The *tolerance range* of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

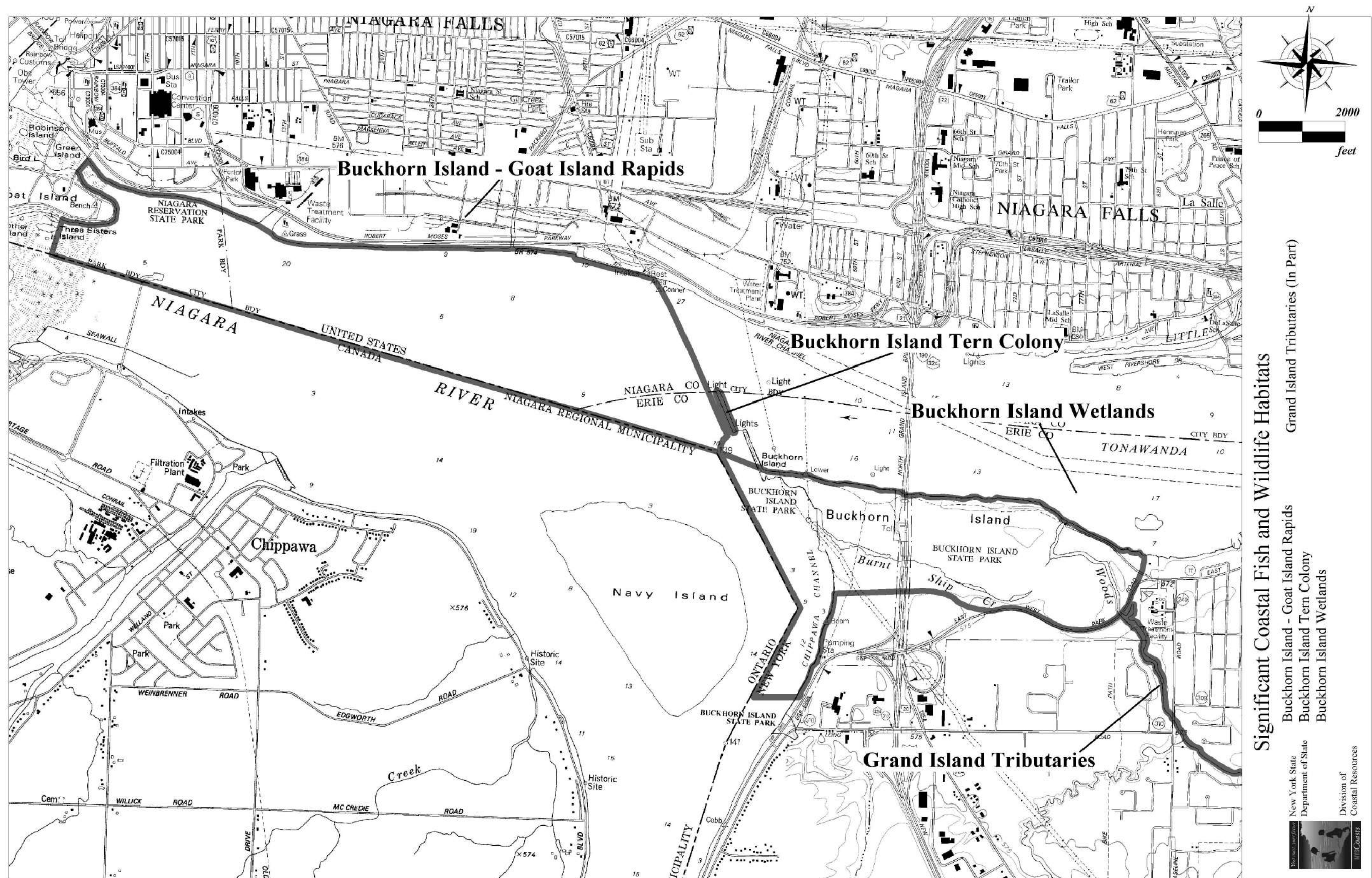
An activity that substantially degrades water quality in the Buckhorn Island - Goat Island Rapids would affect the biological productivity of this area. Important species of fish and wildlife would be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Continued efforts should be made to improve water quality in the upper Niagara River, which is primarily dependent upon controlling discharges from combined sewer overflows, waste disposal sites, and industrial point sources. Spills of oil or other hazardous substances would have very serious consequences for fish and wildlife populations using the area; greater care in handling and preparation of contingency clean-up plans are the best precautions which can be taken to reduce these hazards. Construction of river diversion structures in the area could have adverse impacts on smallmouth bass concentrations, but may benefit other fish and wildlife species. Thermal discharges, depending on time of year, have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes would have a significant adverse impact on fish populations (through impingement or entrainment) and waterfowl (especially if water levels or minimum flows are altered). Bird species nesting on Tower Island are highly vulnerable to disturbance from April-July. Significant human activity (e.g. fishing, boat landing, or maintenance) on or around Tower Island could eliminate the nesting colony and must be minimized during this period.

KNOWLEDGEABLE CONTACTS:

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COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Buckhorn Island Tern Colony**
Designated: **October 15, 1987**
County: **Erie, Niagara**
Town(s): **Grand Island, Niagara Falls**
7½' Quadrangle(s): **Niagara Falls, ONT-NY**

<u>Score</u>	<u>Criterion</u>
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- | | |
|------------|---|
| 0 | Ecosystem Rarity (ER)
The habitat consists of several man-made structures within the Niagara River, not a rare ecosystem type. |
| 25 | Species Vulnerability (SV)
Common Tern (T) nesting area. |
| 0 | Human Use (HU)
No significant fish or wildlife related human uses of the area. |
| 9 | Population Level (PL)
Only one of 3 concentrations of nesting common terns in western New York, of regional significance. |
| 0.8 | Replaceability (R)
Techniques for replacement allow reasonable likelihood for success. |

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R] = **27**

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: BUCKHORN ISLAND TERN COLONY

LOCATION AND DESCRIPTION OF HABITAT:

Buckhorn Island Tern Colony is located at the northern tip of Grand Island, in the Town of Grand Island, Erie County, and the City of Niagara Falls, Niagara County (7.5' Quadrangle: Niagara Falls, Ont.-N.Y.). The fish and wildlife habitat consists of several man-made structures located within the Tonawanda Channel of the Niagara River. These are: an approximate one-quarter mile long rock and boulder dike, designed to divert river water toward the intakes of the Robert Moses hydroelectric power plant; and two transmission tower footings constructed of steel sheet piling and rock fill material. These structures are isolated from the mainland, and have a generally flat, gravelly, surface, with a sparse cover of herbaceous vegetation, scattered shrubs, and small trees. Buckhorn Island Tern Colony is located just offshore from undeveloped Buckhorn Island State Park.

FISH AND WILDLIFE VALUES:

The Buckhorn Island Tern Colony encompasses a small group of man-made channel structures that do not represent an unusual ecosystem type within the Niagara River. However, these structures provide valuable habitats for certain species of wildlife. Since at least the early 1970's, these structures have served as a major nesting site for common terns (T), ring-billed gulls, and herring gulls. In 1983, approximately 120 pairs of common terns, 6,500 pairs of ring-billed gulls and 30 pairs of herring gulls nested in the area. Estimates are not available for most previous years, but the number of common tern nests is known to have varied from as few as 5 in 1975 to as many as 334 in 1972. In 1986 and 1987, respectively, 119 and 96 pairs of common terns nested in this colony. This is one of only 3 active gull and tern colonies in western New York, and at times is the largest in the area. A critical feature of these river structures is their isolation from mammalian predators. There are no significant human use activities associated with the Buckhorn Island Tern Colony.

IMPACT ASSESSMENT:

A **habitat impairment test** must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- ! destroy the habitat; or,
- ! significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The *tolerance range* of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Bird species nesting on man-made structures are highly vulnerable to disturbance from mid-April through July. Significant human activity (e.g. fishing, boat landing, or maintenance) on or around occupied structures could eliminate the Buckhorn Island Tern Colony, and must be minimized during this period. Annual or permanent posting of the area should be provided to help protect the nesting bird species. Habitat management activities, such as manipulation of surface substrates, control of gull predation, and establishment of additional nesting colonies in the vicinity, may be desirable or necessary in the future to ensure the survival of the common tern population at Buckhorn Island.

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COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Buckhorn Island Wetlands**
Designated: **October 15, 1987**
County: **Erie**
Town(s): **Grand Island**
7½' Quadrangle(s): **Tonawanda West, NY; Niagara Falls, ONT-NY**

<u>Score</u>	<u>Criterion</u>
--------------	------------------

- | | |
|-----|--|
| 25 | Ecosystem Rarity (ER)
This is the largest coastal wetland ecosystem in western New York State, of regional significance. |
| 0 | Species Vulnerability (SV)
Common Terns (T) feed in the area, but importance to this species is not adequately documented. |
| 0 | Human Use (HU)
Used for recreational fishing, of local significance. |
| 9 | Population Level (PL)
Concentrations of northern pike, muskellunge and several migratory bird species are unusual in the Great Lakes ecological region. |
| 1.2 | Replaceability (R)
Irreplaceable. |

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R] = **41**

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local water-front revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: BUCKHORN ISLAND WETLANDS

LOCATION AND DESCRIPTION OF HABITAT:

Buckhorn Island Wetlands is located in Buckhorn Island State Park, at the northern end of the Town of Grand Island, Erie County (7.5' Quadrangles: Niagara Falls, N.Y.; and Tonawanda West, N.Y.). This approximate 500 acre fish and wildlife habitat is comprised primarily of emergent marshes and deciduous forested wetlands associated with Burnt Ship Creek and Woods Creek. Burnt Ship Creek is a very shallow backwater channel of the Niagara River, bordered by a dense stand of cattail. In recent years, there has been increased growth of marsh vegetation in the creek, constricting the size of the open water sections. Woods Creek, the largest tributary stream on Grand Island, is a relatively

broad, deep channel, with an intermittent flow. The creek is bordered by a broad area of sedges, rushes, and grasses, and appears to have been dredged or channelized in the past. Also included in the habitat is a relatively large, shallow shoal area (generally less than 6 feet deep below mean low water) containing beds of submergent aquatic vegetation, between Burnt Ship Creek and Navy Island. Water levels in the Buckhorn Island Wetlands are largely determined by the level of the Niagara River, which is subject to rapid fluctuations caused by downstream water withdrawals for hydroelectric power and industrial uses. Habitat disturbances in the area are generally limited to the Interstate Route 190 and transmission line crossings of Burnt Ship Creek, and use of the area by local residents for hiking and fishing. Most of the land area surrounding Buckhorn Island Wetlands consists of undeveloped forestland and fields.

FISH AND WILDLIFE VALUES:

The Buckhorn Island Wetlands area comprises the largest coastal wetland complex in western New York. The habitat includes the only undeveloped marsh of any large extent remaining on the Niagara River, and a major riverine littoral zone. This area provides valuable habitat for a variety of fish and wildlife species, particularly those that are characteristic of Great Lakes coastal marshes. The wetlands serve as feeding, resting, and breeding areas for ducks, herons, coots, moorhens, and rails. Probable or confirmed breeding bird species include pied-billed grebe, green-backed heron, mallard, black duck, wood duck, American wigeon, belted kingfisher, marsh wren, red-winged blackbird, and swamp sparrow. Various other species may be adversely affected or excluded from the area by fluctuating water levels in the marsh. Common terns (T), which nest nearby, are regularly seen feeding in Burnt Ship Creek and Woods Creek, but the extent of their use has not been documented. During spring and fall migrations (March - April, and October - November, respectively), considerable numbers of waterfowl also occur in the area. Other wildlife species found in the Buckhorn Island

Wetlands include muskrat, mink, raccoon, and white-tailed deer. Hunting is not allowed within any part of Buckhorn Island State Park. The area does receive limited use for birdwatching and informal nature study activities. Woods Creek, and to a lesser extent, Burnt Ship Creek, provide extensive and valuable littoral areas used by warmwater fishes of the Niagara River. Studies of various Grand Island tributaries during the mid-1970's indicated that Woods Creek contained significant concentrations of spawning northern pike from February through April, with many remaining in the creek until July. At that time, it was estimated that approximately 800 pike entered Woods Creek to spawn, the largest documented concentration of this species in the Niagara River. Also present in the stream was a significant proportion of the one-year old muskellunge caught during the study,

suggesting that Woods Creek may be an important nursery area for this species. As a result of sedimentation and encroachment of marsh vegetation, habitat conditions in Burnt Ship Creek are less favorable for northern pike and muskellunge. However, studies during the mid-1970's indicated that the littoral area between Burnt Ship Creek and Navy Island was one of two principal spawning grounds in the upper Niagara River. Most spawning by this species occurred during May and June, when water temperatures were 16-18 C, in heavily vegetated areas, 3-6 feet deep, with an appreciable current. This area is also one of the most productive spawning areas in the river for smallmouth bass. Both creeks support concentrations of other warmwater fish species, including yellow perch, black crappie, bullhead, rock bass, white sucker, and carp. Fishing pressure in Buckhorn Island Wetlands is only of local significance, since other reaches of the Niagara River offer greater opportunities for these and more sought-after species, including rainbow trout and coho salmon.

IMPACT ASSESSMENT:

A **habitat impairment test** must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows.

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Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The *tolerance range* of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as

an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that degrades water quality, increases temperature or turbidity, reduces flows, or increases water level fluctuations in the Buckhorn Island Wetlands would adversely affect many fish and wildlife species. Discharges of sewage or stormwater runoff containing sediments or chemical pollutants would result in adverse impacts on the fish and wildlife resources of the area.

Elimination of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area. However, habitat management activities, including water level management, may be designed to maintain or enhance populations of certain species of fish or wildlife. Barriers to fish migration in Woods Creek, whether physical or chemical, could have a significant effect on the fish populations of the area, as well as in the Niagara River. Any disturbance of littoral areas between February and July, when northern pike and muskellunge are in the area, would be especially detrimental. Development of motorboat access to the Niagara River

from Buckhorn Island State Park would significantly increase human disturbance of the habitat, reducing its potential value to various fish and wildlife species. Existing woodlands bordering the Buckhorn Island Wetlands should be maintained for their value as roosts, breeding habitats, perch sites, and buffer zones for a variety of wildlife species.

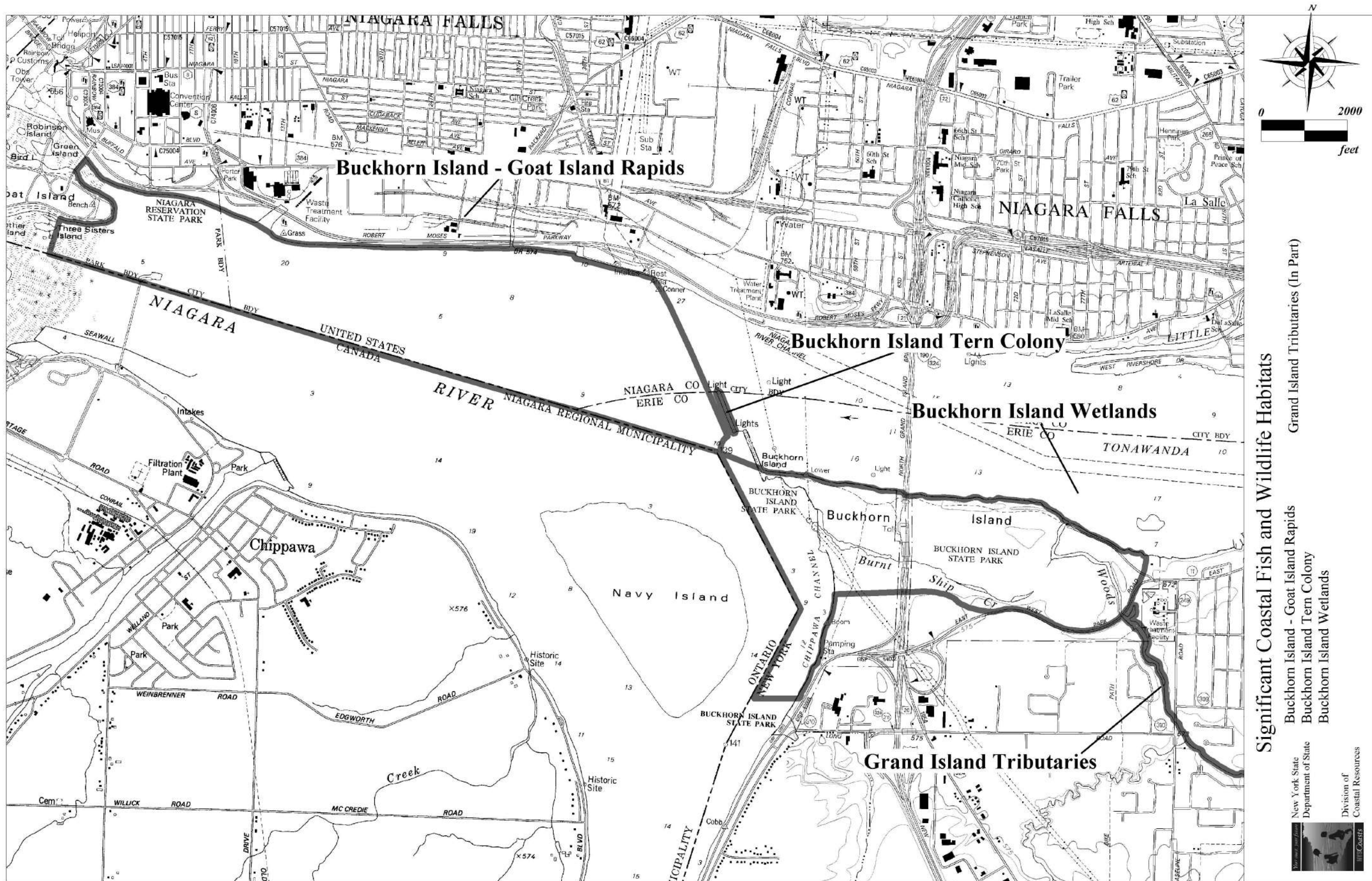
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COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Grand Island Tributaries**

Designated: **October 15, 1987**

County: **Erie**

Town(s): **Grand Island**

7½' Quadrangle(s): **Tonawanda West, NY; Buffalo NW, NY; Niagara Falls, ONT-NY**

<u>Score</u>	<u>Criterion</u>
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- | | |
|------------|---|
| 12 | Ecosystem Rarity (ER)
Relatively undeveloped warmwater streams, with productive aquatic beds; rare in subzone (Niagara River), but rarity reduced by human disturbance of adjacent lands.
Geometric mean; $(9 \times 16)^{1/2}$ |
| 0 | Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the area. |
| 4 | Human Use (HU)
Reproduction of pike in this area supports the recreational fishery for this species in the upper Niagara River, of county level significance. |
| 6 | Population Level (PL)
Concentrations of spawning northern pike are unusual in the Niagara River and Lake Erie coastal region. Geometric mean: $(4 \times 9)^{1/2}$ |
| 1.0 | Replaceability (R)
Uncertain of ability to replace. |

SIGNIFICANCE VALUE = $[(ER + SV + HU + PL) \times R] = 22$

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: GRAND ISLAND TRIBUTARIES

LOCATION AND DESCRIPTION OF HABITAT:

The Grand Island Tributaries extend from the Tonawanda and Chippawa channels of the Niagara River into the Town of Grand Island, Erie County (7.5' Quadrangle: Buffalo NW, N.Y.; Niagara Falls Ont.-N.Y.; and Tonawanda West, N.Y.). The fish and wildlife habitat includes portions of the following four major tributary streams on Grand Island, and their associated wetlands: Woods Creek (approximately two miles above Buckhorn Island State Park), Gun Creek (lower three-fourths mile), Spicer Creek (lower three-fourths mile), and Big Sixmile Creek (lower one-half mile). All of these streams are slow, meandering, and less than 6 feet deep, with heavily silted and debris-strewn bottoms. The Grand Island Tributaries are intermittent, with flow rates nearly undetectable except during periods of heavy runoff. The upper reaches of these creek systems drain very flat agricultural and residential land, resulting in relatively poor water quality. A steep drop of approximately 3-6 feet occurs on several of these streams, which may produce a barrier to upstream movement of fish, especially at times of low flow. Depths in the downstream sections are subject to rapid water level fluctuations in the river, caused by downstream water withdrawals for hydroelectric power and industrial uses. Also included with these streams is an approximate 10 acre wetland which opens directly into the Niagara River in Beaver Island State Park.

The extent of development along each of these creeks is variable. The area near the mouth of Big Sixmile Creek has been markedly altered to form a small boat harbor with a capacity for about 100 boats. The area above the marina development continues to provide spawning habitat during spring flooding, despite the fact that access to this area is culverted. Woods Creek, which flows into a large marshland at Buckhorn Island State Park, is bordered by agricultural and low density residential development. The lower portion of Gun Creek appears to have been channelized, perhaps in the early 1940's, and there has been a considerable amount of bulkheading, dock construction, and residential development near the mouth. Spicer Creek contains a well preserved stretch below East River Road, although the segment immediately upstream of this has been altered where it flows through a golf course. The Beaver Island wetland contains some high quality aquatic beds, but the surrounding land has been modified to create open lawn areas in the State Park.

FISH AND WILDLIFE VALUES:

The Grand Island Tributaries are typical of the majority of Niagara County stream ecosystems, but are the least developed of those which drain into the upper Niagara River. Despite some alterations by man, these creeks and wetlands still contain some valuable fish and wildlife resources that are unusual in this segment of New York's coastal area. The five areas which comprise this habitat are an integral part of the upper Niagara River ecosystem, providing important spawning and nursery areas for warmwater fish species, especially northern pike. Studies of Woods, Gun, and Big Sixmile Creek during the mid-1970's determined that these areas contained significant concentrations of spawning northern pike from February through April, with many remaining in the creek until July. Habitat conditions in Spicer Creek

and the Beaver Island wetland are similar and provide additional spawning areas for this species. The Grand Island Tributaries appear to be critical to the northern pike populations in the river and perhaps Lake Erie, since scant evidence of river spawning was found at the time of the study. Other fish species inhabiting these creeks include black crappie, brown bullhead, rock bass, white sucker, smelt, and muskellunge. For the latter species, the Grand Island Tributaries are important nursery areas for one-year-old fish, even though spawning occurs in the main river channel. Due to the relatively small size and limited accessibility of the Grand Island Tributaries, fishing pressure in these areas is not significant. However, reproduction of pike in this area supports the recreational fishery for this species in the upper Niagara River, of county level significance. Some locally significant wildlife use of these areas may occur, including nesting by mallard and wood ducks, feeding or resting by migrant waterfowl, and year-round habitation by furbearers, such as muskrat and raccoon.

IMPACT ASSESSMENT:

A **habitat impairment test** must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific **habitat impairment test** that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- ! destroy the habitat; or,
- ! significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The *tolerance range* of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death

rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that degrades water quality, increases temperature or turbidity, reduces flows, or eliminates aquatic beds in the Grand Island Tributaries will adversely affect the fisheries resources of the upper Niagara River. Operation of hydroelectric plants and the Lake Erie ice boom may have eliminated northern pike spawning areas from within the river, by altering natural river flows and thermal patterns; the entire population of this species now appears to be dependent on tributary habitats for reproduction. Dredging, filling, bulkheading, and clearing of natural vegetation or disturbance of the banks along these streams could affect northern pike spawning habitat. Development of additional motorboat access to the river from these areas would also induce secondary developments causing additional impacts on the fisheries resources. Discharges of stormwater runoff containing sediments or chemical pollutants (including herbicides and insecticides) will also result in adverse impacts on fish populations. Any disturbance of the habitat between early February and July would be especially detrimental. Although the extent of upstream movement by pike in these creeks is not well documented, barriers to fish migration, whether physical or chemical, could have a significant effect on fish populations in the Grand Island Tributaries and the Niagara River. Substantial opportunities for habitat improvement activities exist in these areas, including measures to improve water quality, elimination of barriers to fish movements, and restoration or enhancement of northern pike spawning habitats.

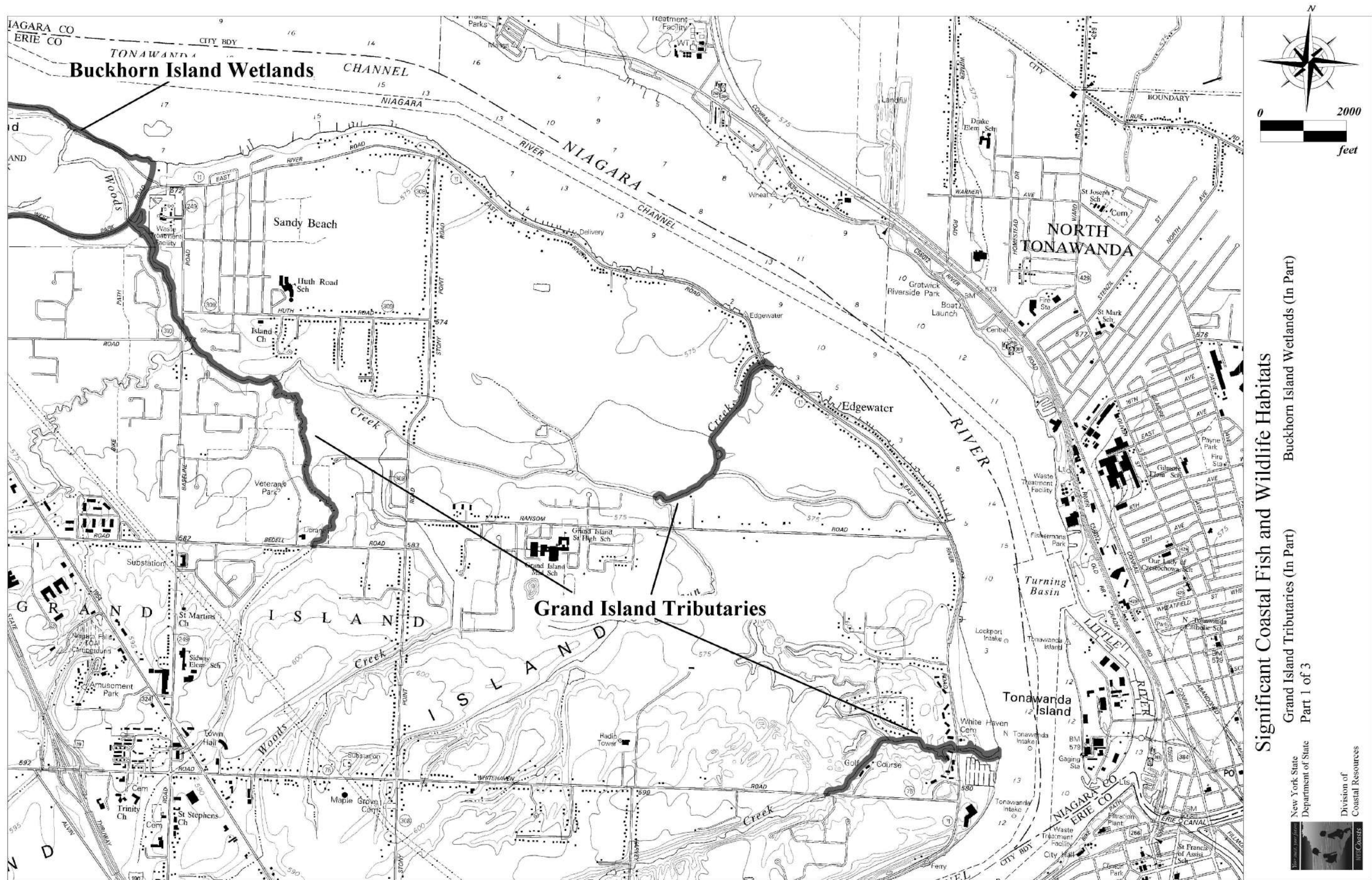
KNOWLEDGEABLE CONTACTS:

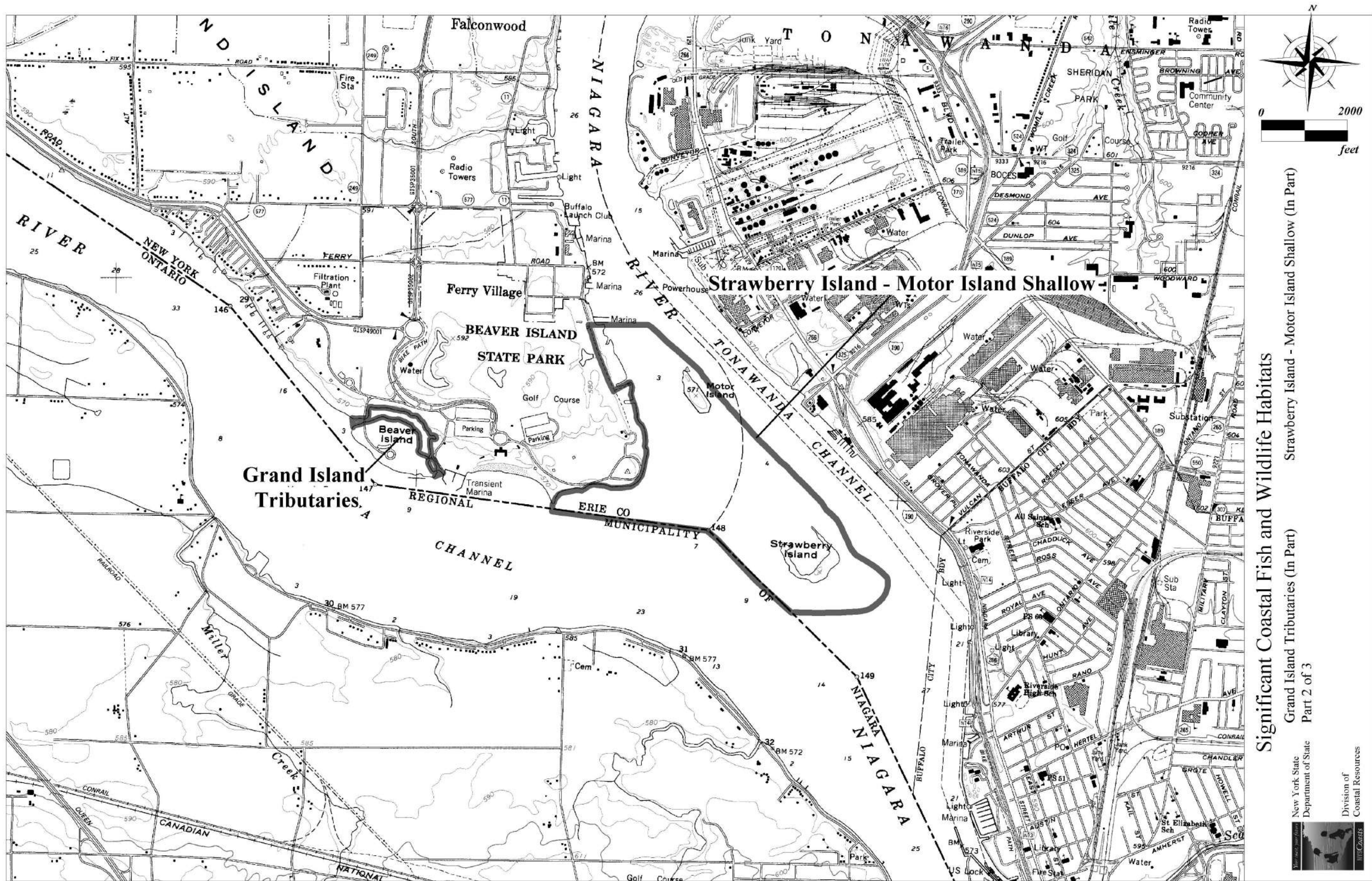
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Steve Mooradian, Fisheries Manager
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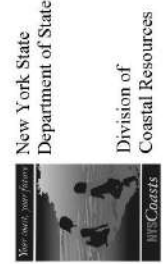
NYSDEC - Information Services
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Latham, NY 12110
Phone: (518) 783-3932





Significant Coastal Fish and Wildlife Habitats

Grand Island Tributaries (In Part)
Strawberry Island - Motor Island Shallow (In Part)
Part 2 of 3



COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: **Strawberry Island - Motor Island Shallows**
Designated: **October 15, 1987**
County: **Erie**
Town(s): **Tonawanda, Grand Island**
7½' Quadrangle(s): **Buffalo NW, NY**

<u>Score</u>	<u>Criterion</u>
--------------	------------------

- | | |
|------------|---|
| 25 | Ecosystem Rarity (ER)
This is the largest area of riverine littoral zone and wetland in the Niagara River, a rare ecosystem type in the Great Lakes Plain ecological region. |
| 0 | Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the area. |
| 9 | Human Use (HU)
Recreational uses (i.e., waterfowl hunting and fishing) are important to residents of the Niagara region of New York and adjoining portions of Canada. |
| 20 | Population Level (PL)
An important area used by one of the largest concentrations of wintering waterfowl in the northeastern US; also a major muskellunge spawning area in the Great Lakes region. Geometric mean: $(16 \times 25)^{1/2}$ |
| 1.2 | Replaceability (R)
Irreplaceable |

SIGNIFICANCE VALUE = $[(ER + SV + HU + PL) \times R] = 65$

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

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DESIGNATED HABITAT: STRAWBERRY ISLAND - MOTOR ISLAND SHALLOWS

LOCATION AND DESCRIPTION OF HABITAT:

Strawberry Island - Motor Island Shallows is located in the upper Niagara River, roughly bounded by Strawberry Island, Motor Island, and the southern tip of Grant Island. This approximate 400 acre area is located in the Town of Grand Island and Tonawanda, Erie County (7.5' Quadrangle: Buffalo, N.W., N.Y.) The fish and wildlife habitat is an extensive shallow shoal area (generally less than 6 feet deep below mean low water), containing beds of submergent aquatic vegetation (e.g., wild celery), and patches of emergent wetland vegetation in shoreline areas. Much of this Island, which appears to be eroding as a result of ice scour, high water levels, and direct removal by dredging. Dredging was responsible for much of the reduction in surface area of the island from approximately 200 acres in 1912 to 40 acres in 1948. Strawberry Island is a horseshoe-shaped island which is now 20 acres in size. There is a stand of native willow trees on the south end and a lagoon and marsh on the north side. The island functions as the geologic dividing point of the east and west branches of the Niagara River. The underwater portion of Strawberry Island - Motor Island Shallows is owned by the N.Y.S. Office of General Services and as of 1987, the upland portion of Strawberry Island is also owned by the State. Most of the adjacent land area on Grand Island is within Beaver Island State Park, which is extensively developed for recreational use.

FISH AND WILDLIFE VALUES:

Strawberry Island - Motor Island Shallows is the largest area of riverine littoral zone in the Niagara River. Areas such as this are rare in the Great Lakes Plain ecological region, and are extremely valuable fish and wildlife habitat.

Strawberry Island - Motor Island Shallows is one of the most important fish spawning areas in the upper Niagara River. Studies during the mid-1970s indicated that this was one of two principal spawning grounds for muskellunge in the river, supporting an estimated annual population of 2-6,000 legal-size (28+ inches) fish. Most spawning by this species occurred during May and June, when water temperatures were 16-18 C, in heavily vegetated areas, 3-6 feet deep, with an appreciable current. This area is also one of the most productive spawning areas in the upper Niagara River for smallmouth bass, yellow perch, and various other resident freshwater fish species. Strawberry Island - Motor Island Shallows contains relatively large concentrations of many fish species throughout the year. As a result of the abundant fisheries resources in this area, Strawberry Island - Motor Island Shallows is one of the most popular recreational fishing areas in the upper Niagara River, attracting many anglers from the Buffalo metropolitan area and nearby Canada. A small bay on the north side of Strawberry Island is especially popular year-round, since it offers excellent conditions for ice fishing. Boat access to the area is available from marinas and public boat launches in the vicinity.

Strawberry Island - Motor Island Shallows is part of one of the most important waterfowl wintering areas (November-March) in the northeastern United States, especially for diving ducks. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1976-1985 indicate average concentrations of over 14,000

birds in the upper Niagara River each year (25,371 in peak year), including approximately 8,500 common and red-breasted mergansers (17,470 in peak year), 2,600 common goldeneye (8,520 in peak year), 1,900 canvasbacks (5,000 in peak year), and 1,200 scaup (2,306 in peak year), along with lesser numbers of black duck, mallard, bufflehead and oldsquaw. Strawberry Island - Motor Island Shallows serves as one of the major feeding and resting areas for these birds. The habitat is located in one of the few major wintering areas for canvasbacks in New York State.

Waterfowl use of the area during winter each years is influenced in part by the extent of ice cover throughout the region.

Concentrations of waterfowl also occur in the area during spring and fall migrations (March-April and October-November, respectively). Consequently this is one of the most popular waterfowl hunting areas in the Buffalo area, especially for diving ducks during the late season. There was a moratorium on canvasback duck hunting during 1986/1987. Summer use of the area by wildlife is not known to be significant, but common terns (T) may feed in the area, but the extent of their use has not been documented.

IMPACT ASSESSMENT:

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Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that substantially degrades water quality in Strawberry Island - Motor Island Shallows would affect the biological productivity of this area. Important species of fish and wildlife could be adversely affected by water pollution, such as chemical contamination (including food chain effects), oil spills, excessive turbidity or sedimentation, and waste disposal. Spills of oil or other hazardous substances are an especially significant threat to waterfowl concentrations in this area. Disturbances of littoral areas or wetland vegetation at any time of year could affect a variety of fish and wildlife species. Dredging, filling, bulkheading, or development of boat launching facilities in this area would adversely affect fish and wildlife in a variety of ways, including direct loss of habitat, and increased human disturbance during fish spawning and nursery periods (April-July for most warmwater species). Temporary habitat disturbances would also be especially detrimental during this period. However, habitat management activities may be necessary to ensure that this productive fish and wildlife area is not destroyed by erosion. Structural measures, if appropriate, should be designed to maintain or enhance the value of Strawberry Island - Motor Island Shallows without adversely affecting existing fish and wildlife resources. Thermal discharges, depending on time of year, would have variable effects on use of the area by aquatic species and wintering waterfowl. Installation and operation of water intakes could have a significant impact on fish populations, through impingement of juveniles and adults, or entrainment of eggs and larval stages. Recreational use of Strawberry Island should be controlled to restrict activities that may increase soil erosion.

It should be noted that an easement and pipeline for the Town of Tonawanda's water supply crosses the island. The intake cribs are located just offshore of Strawberry Island. Since this portion of the river is an important water supply source as well as a significant fish and wildlife habitat, it is vital that the water quality in this area remains high.

KNOWLEDGEABLE CONTACTS:

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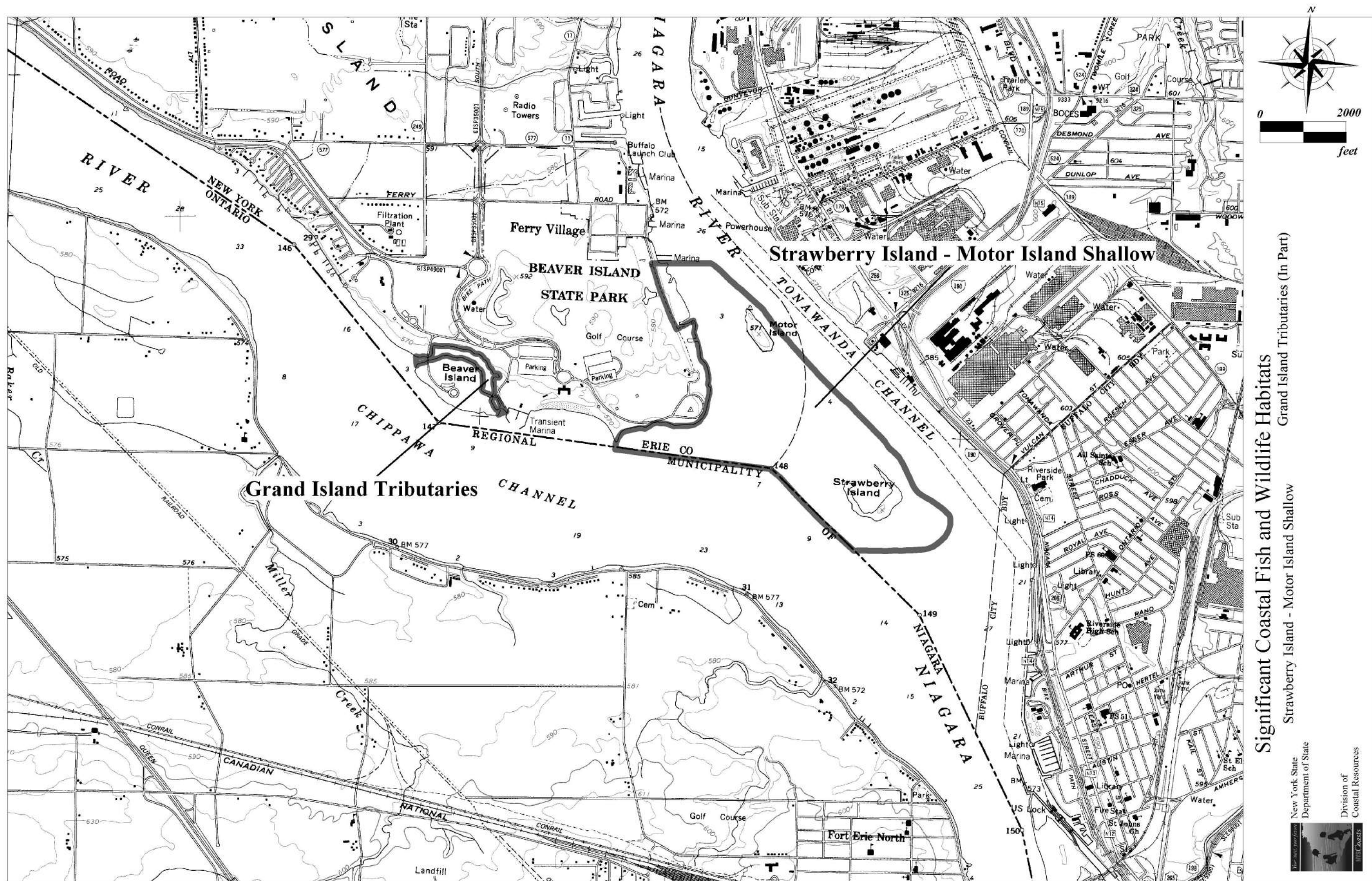
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APPENDIX B EXCERPTS FROM DRAFT AMENDMENTS TO THE ZONING CODE

Article XXVII Cluster Developments.

§ 49-142. Cluster Developments.

- A. **AUTHORITY:** The Town Board may, subject to the procedures, standards and limitations hereinafter set out, permit, simultaneously with the approval of a subdivision plat, deviations from the zoning requirements established by this Code governing the average density of population permitted in the Zoning district where such land lies.
- B. **PURPOSE:** Cluster development procedures are established to provide an administratively uncomplicated method to permit minor modifications of the yard, bulk and space requirements, other than minimum open space requirements, minimum lot area per unit and per bedroom requirements and lot coverage requirements, applicable in the various districts established by this Code. Cluster development permits the grouping of structures in order to plan more usable open space or to preserve open space or historic or scenic features without exceeding overall density or land coverage requirements.

§ 49-143. General Criteria.

- A. Cluster development shall be permitted within all R, B and the TC Districts.
- B. The minimum development area for cluster developments shall be ten (10) acres.
- C. The maximum density for the entire subdivision shall not exceed the maximum density permitted in the underlying district.
- D. All lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic, recreation or conservation value.

§ 49-144. Open Space Requirement.

- A. At least twenty five percent (25%) of the total acreage is to be developed to common, permanent open space. The open space shall be reserved and maintained as a natural area, landscaped park or recreational space and included in the Open Space (OS) District.
- B. The Town Board may also require an additional dedication of up to ten percent (10%) of the land within the cluster development for public park, water access or recreation purpose. This land shall be included in the Open Space (OS) District. Under certain conditions, the Town Board may

require the payment of a recreation fee per unit in lieu of the dedication of parkland.

- C. Where applicable, an upland buffer of vegetation of at least fifty (50) feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds, shall be maintained.
- D. If the cluster open space is not dedicated to the Town, the land shall be protected by legal arrangements, satisfactory to the Town Board, sufficient to assure its maintenance and preservation for whatever purpose intended. Covenants or other legal arrangements shall specify:
 - 1. Ownership of the cluster open space.
 - 2. Method of maintenance.
 - 3. Responsibility for maintenance.
 - 4. Maintenance taxes and insurance.
 - 5. Compulsory membership and compulsory assessment provisions.
 - 6. Guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Town Board.
 - 7. Any additional specifications deemed necessary by the Town Board.
- E. All cluster open space shall be considered taxable unless deeded to the Town of Grand Island.

§ 49-145. Application Procedures.

- A. APPLICATION: Applications for cluster development permits shall be submitted to a Code Enforcement Officer and reviewed by the Planning Board. Within thirty-one (31) days following the submission of the application, or such longer period as may be agreed to by the applicant, or which may be extended by the Planning Board if more information is required by the Planning Board, the Planning Board shall, with such aid and advice of the various departments and bureaus of the Town as may be appropriate, review the application and submit its recommendation to the Town Board. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by a Code Enforcement Officer but shall in all instances contain at least the following information and documentation:

1. The applicant's name and address and his interest in the subject property.
2. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
3. The name, residence and the nature and extent of the interest, as defined by § 809 of the General Municipal Law of New York, of any state officer or any officer or employee of the Town or the County in the owner-applicant or the subject property if known to the applicant.
4. The street address or legal description of the property.
5. The Zoning classification and present use of the subject property.
6. A written statement generally describing the proposed cluster development, the housing types to be permitted and the market which it is intended to serve; its relationship to the Comprehensive Plan; and how the proposed cluster development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this Code. The statement shall include a description of the applicant's planning objectives and the rationale governing the applicant's choices of objectives and approaches.
7. A tabulation of the following information:
 - (a) The total land area of the site, expressed in square feet.
 - (b) A total number of dwelling units proposed, by type of structure and number of bedrooms.
 - (c) The proposed number of off-street visitor parking spaces.
 - (d) The total land area to be developed for private street purposes.
 - (e) The total land area to be reserved for public rights-of-way.
 - (f) The proposed lot coverage, expressed as a percent of the site's total land area covered by improvements, including all impervious surfaces.
 - (g) The total land area to be reserved for usable open space, divided between:
 - (1) Land to be used as private open space; and

- (2) Land to be used as common open space.
 - (h) The proposed density of population, expressed as an average of the total square footage of the site's land area, excluding land used for private streets and/or public right-of-way, per proposed dwelling unit.
 - (i) The proposed yard setbacks for each unit and/or structure.
 - 8. A drawing illustrating the maximum number of dwelling units which potentially could be built on the site, using a conventional subdivision design conforming to:
 - (a) The design standards for private and/or public streets; and
 - (b) The zoning regulations applicable to the Zoning district(s) wherein such land lies.
 - 9. A statement that the maximum permitted number of units and the maximum permitted lot coverage are not exceeded by the proposed cluster development and that the minimum required area of open space is provided.
 - 10. A statement of the applicant's intent with respect to the ownership, sale and leasing of the various completed units, structures, spaces and areas within the proposed development.
 - 11. Proof of continued maintenance of common open space by deed restriction or homeowner's association agreement for developments where any or all required open space is provided on a lot held in common by all lot owners.
 - 12. An application for site plan approval as required by this Code.
 - 13. Such other and further information or documentation as the Planning Board or a Code Enforcement Officer may deem to be necessary or appropriate for a full and proper consideration and disposition of the particular application.
 - 14. An application for subdivision approval as required and defined by Town Code Chapter 24A.
- B. The failure of the Planning Board to act within thirty-one (31) days following the conclusion of such hearing, or such longer period as may be agreed to by the applicant, shall be deemed a recommendation for the approval of the development plan as submitted.

- C. Within thirty-one (31) days following the receipt by the Town Board of the report of the Planning Board, or its failure to act as above provided, a public hearing shall be set, advertised and conducted by the Town Board.
- D. ACTION BY TOWN BOARD: Within sixty-two (62) days following the conclusion of the public hearing, the Town Board shall render its decision, either granting the application for cluster development approval; granting it subject to conditions; or denying the application. The failure of the Town Board to act within sixty-two (62) days, or such longer period of time as may be agreed to by the applicant, shall be deemed a denial of the application.
- E. REQUIREMENTS FOR CLUSTER DEVELOPMENTS:
 - 1. AUTHORIZED USES: No use shall be authorized by a cluster development permit except uses permitted or permissible in the district in which such development is to be located. Approval of a cluster development for a use requiring any special approval shall not excuse the requirement of obtaining such special approval.
 - 2. DENSITY AND COVERAGE: No permit for cluster development shall authorize any increase in the overall density or intensity of development nor any increase in the overall lot coverage permitted by the district regulations applicable in the district in which such development is to be located. All land which is undevelopable under state, federal or local laws, shall be excluded from density, intensity and lot coverage calculations.
 - 3. STANDARDS: A permit for cluster development shall be granted only if evidence is presented which establishes:
 - (a) That the proposed development will be in harmony with the general purpose, goals, objectives and standards of the Comprehensive Plan and the Town Code.
 - (b) That the proposed building or use complies with all applicable regulations of this Code except as modified pursuant to the authority of this Article.
 - (c) That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
 - (d) That the proposed development will be served adequately by essential public facilities and services such as highways, roads, parking, sidewalks/trails, police and fire protection,

drainage structures, refuse disposal, water & sewers and schools.

- (e) That the proposed cluster development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the developments and use of neighboring property in accordance with the applicable district regulations.
- (f) That the proposed cluster development will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.
- (g) Lots shall be of an adequate size for the proposed dwelling units.

F. **CONDITIONS ON CLUSTER DEVELOPMENTS:** The Town Board may impose such conditions upon the premises benefited by a permit for a cluster development as may be necessary to ensure its compatibility with other development in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the cluster development and in the permit therefore. Violation of such conditions shall be a violation of this Code.

G. **AFFIDAVIT OF COMPLIANCE WITH CONDITIONS:** Whenever any cluster development permit authorized pursuant to this section is made subject to conditions to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with a Code Enforcement Officer so stating. Such affidavit shall be accompanied by a nonrefundable fee, as established from time to time by the Town Board, to help defray the cost of an inspection to verify that such conditions have been met.

H. **EFFECT OF ISSUANCE OF CLUSTER DEVELOPMENT APPROVAL:**

1. The approval of a cluster development shall, upon the filing of a plat of such development with the Recorder of Deeds of Erie County, constitute an amendment of the bulk, space and yard regulations of this Code applicable to such development, and thereafter such plat shall constitute the bulk, space and yard regulations applicable to such development.
2. However, the approval of a cluster development shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of application for any permits or approvals which may be required by the codes and ordinances of the Town, including,

but not limited to, a permit for a special permit use, a building permit, a certificate of occupancy and subdivision approval.

I. LIMITATION ON PERMITS FOR CLUSTER DEVELOPMENTS: Subject to an extension by the Town Board, no approval for a cluster development shall be valid for a period longer than one (1) year from the date of issue unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion.

J. ADJUSTMENTS TO CLUSTER DEVELOPMENT DURING DEVELOPMENT:

1. During the development of a cluster development the Planning Board may authorize minor adjustments to the approved cluster development when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development. No such minor adjustment shall authorize the violation of any of the requirements set forth in Subsection E of this section nor result in:
 - (a) Altering the bulk of any one (1) structure or altering the bulk of a number of similar structures by more than five percent (5%).
 - (b) Altering the location of any (1) structure or group of structures by more than ten (10) feet or one-tenth (0.1) of the distance shown on the plat between such structure or structures and any other structure or any vehicular circulation element or any boundary of the cluster development, whichever is less.
 - (c) Altering the boundary of any open space by more than ten (10) feet.
 - (d) Reducing the total amount of open space by more than five percent (5%) or reducing the yard area or open space associated with any single structure by more than five percent (5%).
2. Such minor adjustments shall be consistent with the intent and purpose of the Comprehensive Plan, this Code and the approved cluster development plat, and shall be the minimum necessary to overcome the particular difficulty.

AMENDMENTS TO CLUSTER DEVELOPMENTS: In addition to the minor adjustments authorized by Subsection J above, an approved cluster development may be amended in the same manner and subject to the same limitations as any other regulation

established by this Code, except that site plan review and approval pursuant to this Code shall be required in connection with any such proposed amendment.

49-29 Incentive Zoning

- A. Findings: Pursuant to the authority of New York Town Law § 261-b, the Town Board finds that certain public improvement goals, particularly increasing access to the Niagara River waterfront, because of the scarcity of such access, and preserving and expanding open spaces or parklands available for use by the community, based on the important need for these facilities identified in the Comprehensive Plan, justify the granting of zoning incentives or bonuses in regard to height, density and other bulk requirements.
- B. On a case by case basis, justified by findings stating the reasons for granting incentives, the Town Board may, by up to twenty-five percent (25%), increase allowable density on a lot or in a subdivision, increase height allowances, or decrease setbacks, in return for on-site or off-site improvements or dedications that provide the public with greater access to the Niagara river, or increase the amount of open space or parklands available for use by the community.
- C. Applicants shall request such incentives or bonuses as part of the zoning process for rezoning, subdivision or other approvals. Where public hearings are required, the public notice shall also state the zoning incentives requested and benefits to the community offered. The incentives requested shall be clearly stated, including the pre-incentive zoning standard, the specific incentive requested, and the percentage deviation from the pre-incentive zoning standard. The environmental review of the proposed project shall include all impacts that could result from granting the requested incentives in whole or in part, including the impacts from benefits received by the community. The Town Board shall evaluate the adequacy of the community amenities to be received in exchange for the particular incentive requested on a case by case basis, and may approve, approve with conditions or deny the request.
- D. If the Town Board determines that a suitable community benefit or amenity is not immediately feasible or otherwise not practical, the Board may require, in lieu thereof, a payment to the Town in a sum to be determined by the Board. If cash is accepted in lieu of other community benefit or amenity, such sum shall be deposited in a trust fund to be used by the Town Board exclusively for specific community benefits authorized by the Town Board.
- E. In addition to the reasons for granting incentives stated above, the Town Board may grant incentives to applicants who provide land or right-of-way for the Town Mid Island Parkway, or in lieu cash payments for said purpose, in the same manner as provided herein.

Article XI R-2A Attached/Detached Waterfront Single Family Residential District

The R-2A Attached/Detached Waterfront Single Family Residential District allows for the development of single-family attached or detached residential dwellings that are on the waterfront or have direct access to the Niagara River by a navigable canal or stream. This includes townhouses, duplex and patio home configuration. The following shall apply to all R-2A Districts in the Town of Grand Island.

49-55 Principal Uses and Structures.

The following are Principal Uses:

- A. Principal Uses and Structures permitted in the R-2 District

49-56 Accessory Uses and Structures.

The following are the accessory uses, buildings and structures permitted in the district provided that such accessory uses and buildings are not constructed until the main building has been constructed:

- A. Accessory Uses and Structures allowed in the R1-D district.
- B. Off-street parking areas for storage of private vehicles in connection with occupants of residential structures.
- C. Structures required for the exclusive and customary maintenance of the primary permitted use.
- D. Indoor and outdoor recreation facilities for the exclusive use of the residents of the primary permitted use.
- E. Docks, boathouses, piers for the docking of boats owned by the residents of the principal permitted residence and/or their guests.
- F. Except for Town Board approved actions of the association, on common property, no property owner shall erect or place an accessory building or structure on the premises. The following special Accessory Uses and Structures may be established for the common and exclusive use of the owners of dwelling units and their guests. Such special Accessory Uses and Structures shall be operated on a not-for-profit basis and subject to site plan approval:
 - 1. Recreational facilities such as open or enclosed tennis courts, exercise facilities, picnic areas, gazebos or swimming pools.

2. One structure to house maintenance shops and vehicles to be used exclusively for the maintenance and management of the single-family attached dwelling unit development.
3. Common space for the exclusive use and convenience of residents of the single-family attached dwelling development and their guests to park vehicles. Such common space shall be adequately landscaped and buffered so as to screen the site from adjacent areas and uses.

49-57 Uses Permitted Upon Issuance of a Special Permit.

The following are special permitted uses subject to the provisions of Article XXIV:

- A. Specially Permitted Uses and Structures permitted in the R-2 District.

49-58 General Requirements and Building Standards for the R-2A Districts.

All development in the R-2A District shall adhere to the same general requirements and building requirements as for R-2 Districts

49-59 Additional Regulations in the R-2A District.

- A. Construction of canals or navigable access ways shall only occur pursuant to the approval and mapping of a Mining/Excavation Overlay District.
- B. No rental of dock facilities to non-residents shall be permitted.
- C. All fencing of common areas shall be shown on the site plan and comply with Article XXIX.
- D. The storage of any unregistered vehicles or other similar equipment out of doors overnight shall be prohibited.

Article XV B-2 Waterfront Business District.

49-73 Purpose.

The Niagara River is an important natural resource in the Town of Grand Island. The Waterfront Business District is established to create a district where small, water related business can develop. Such districts will improve the economic base of the Town, offer residents an opportunity to gain access to the River and help attract tourists to the Town of Grand Island.

In addition to conformance with the following regulations, development of the shoreline is to be in compliance with the NYS Coastal Management Policies and Local Waterfront Revitalization Plan.

49-74 Principal Uses and Structures.

- A. Bed & breakfasts.
- B. Amusement enterprises conducted entirely within a completely enclosed building.
- C. Restaurants, excluding restaurants with drive-in facilities, but including restaurants with outdoor patios.
- D. Artists studios or art galleries.
- E. Boat or marine sales and service.
- F. Marinas, boat yards or launches, and yacht clubs.
- G. Boat rental or charter services.
- H. Small retail stores not exceeding 5,000 gross square feet.
- I. Fraternal Clubs and Lodges

49-75 Accessory Uses and Structures.

The following accessory uses, building and structures are permitted in the District provided that such accessory uses and buildings are not conducted or constructed until the main building has been constructed:

- A. Docks, wharves, piers for the docking of boats.
- B. Indoor and outdoor recreation facilities such as swimming pools, saunas, exercise studios, tennis courts, bike and walking trails and pedestrian plazas and courts which are provided for the exclusive use of the occupants of the primary permitted use.
- C. Satellite Television Receiving Antenna.
- D. Transit shelters and street furniture.
- E. Off-street parking and loading areas subject to the provisions of this Code.
- F. Signs subject to the provisions of Chapter 36
- G. Fences, walls and hedges subject to the provisions of Article XXIX.

- H. Accessory structures for the exclusive and customary storage or maintenance needs of the primary permitted use including the storage of maintenance vehicles.
- I. Temporary buildings for the uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- J. At marinas, boat yards or launches, and yacht clubs, outdoor storage of boats.

§ 49-146. Uses Permitted Upon Issuance of a Special Permit.

The following are special permitted uses subject to the provisions of Article XXIV:

- A. Amusement enterprises not conducted entirely within a completely enclosed building.
- B. Bars, taverns and nightclubs.
- C. Campgrounds.
- D. Hotels.

Article XX OS Open Space District.

49-95 Purpose.

The purpose of the OS Open Space District is to delineate those areas where substantial development of the land in the way of buildings or structures is not desirable because of:

- A. Special or unusual conditions of topography, drainage, floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature.
- B. The lack of proper facilities or improvements resulting in the land not being suitable for development at the present time, and where such facilities or improvements must be undertaken on an area-wide, rather than an individual parcel basis, in order to adequately serve the community at a reasonable cost to the Town.
- C. Its designation as land for park, recreation and open space and to ensure their continuation as parks, recreation, scenic vistas and open space.

49-96 Principal Uses and Structures.

The following are principal uses in the OS District:

- A. Parks, playgrounds, play lots and tot lots. Play fields, athletic fields and facilities.
- B. Public or private boat docking facilities, boat ramps, fishing and boating pond and river access facilities.
- C. Wildlife or nature preserves.
- D. Farm or other non-livestock agricultural operation, including:
 - 1. Gardens.
 - 2. Nurseries.
 - 3. Greenhouses.
 - 4. Usual farm accessory buildings not including dwellings or buildings housing farm animals, or fowl.

49-97 Accessory Uses and Structures.

The following accessory uses, buildings and structures are permitted in the district provided that such accessory uses and buildings are not conducted or constructed until the main building has been constructed.

- A. Signs subject to the provisions of this Town Code Chapter 36.
- B. Fences, walls, and hedges subject to the provisions of this Code.
- C. Off-street parking and loading areas subject to the provisions of this Code.

Article XXI EED Enhanced Environment Overlay District.

49-98 Purpose.

- A. Recognizing that variations in soil conditions, hydrology, susceptibility to flooding, vegetation, and rate of growth of vegetation due to climate and poor soil conditions exist throughout the Town of Grand Island, there are hereby established Enhanced Environment Districts (EED). The requirements of this Article shall be in addition to those of the underlying Districts.
- B. Because of these physical variations in the character of the land, different areas are intrinsically suited for different types and intensities of

development. Development must be directed by the intrinsic character of the land in order that the health, safety, welfare and property of the citizens of the Town be protected and preserved. Proper and appropriate development is required for water and air quality, fish, wildlife and plant habitat in order to prevent the irretrievable loss of natural resources and to maintain the rural character of the community. As stated in the Town's Comprehensive Plan, the full range of preservation options should be considered for the management of the Town's six designated ecosystems. The purpose of this Article is to protect the valuable ecosystems identified in the Comprehensive Plan and the Local Waterfront Revitalization Plan. In addition to those areas, portions of the Town to be protected are those containing or adjoining wetlands, those areas adjoining designated ecosystem areas, areas in floodplains, and any areas identified as home to any endangered or threatened species.

49-99 Permitted Uses

- A. The following uses, if also allowed by the underlying zoning, shall serve as permitted uses within an EED, provided that they minimize new structures, the creation of impervious surfaces, excavation, fill or storage of materials and equipment.
1. Agricultural uses such as general farming, dairying, grazing, Christmas or nursery tree farming or reforestation.
 2. Open space, trails and recreational uses such as wildlife study, hiking, hunting and fishing, provided that no extensive grading or road construction is required.
 3. Lawns, gardens and play areas that may be associated with nearby residential uses.
 4. Cutting and removal of dead or individual trees for the purpose of maintaining the health or viability of a woodlot or for safety.
 5. Nonhabitable structures associated with uses permitted herein.
 6. Single-family dwellings and their appurtenant utilities and accessory structures. The minimum lot size shall be five acres. Lots partially within an EED may be less than five acres, provided that:
 - (a) There exists a contiguous area on the lot outside the EED which meets the area requirements of the underlying zoning district; and

- (b) There is a minimal or no disturbance of the EED, and that disturbance is for the purpose of providing access and utilities to the lot.
- 7. Roads, to the minimum extent required to access permitted and conditional uses, bridges, utility transmission lines, underground utilities, pipelines and water retention or detention facilities.
- 8. Nonresidential uses, provided that no structures are built within the EED. The site plan approval shall require mitigation, where necessary, at a 2:1 ratio.

49-100

Special requirements

- A. Any use within an EED not specifically permitted by this Article requires compliance with the provisions for site plan review. When reviewing a site plan, the Town Board shall also consider:
 - 1. The impact of the proposal on the objectives outlined in this Article.
 - 2. The extent to which the plans submitted for approval include specific measures which preserve the value and function of the EED and the extent to which those measures will continue to preserve the value and function of the EED, both during construction and thereafter. These specific measures shall be performed in spite of normal variations in execution, scheduling, weather, site conditions or other variations that can affect the performance of those measures.
 - 3. When a project proposes a nonresidential use that requires mitigation for disturbance of the EED, the applicant shall submit a mitigation plan to the Town for its review. When mitigation is proposed, the Town shall consider:
 - (a) The value of the EED area proposed to be disturbed.
 - (b) The extent of disturbance.
 - (c) Alternatives to disturbance.
 - (d) The effectiveness of the mitigation plan.
 - (e) The public value of the mitigation.
 - 4. The Town shall use the New York State Department of Environmental Conservation classification of freshwater streams, the soils surrounding the stream corridor, the quantity and velocity

of flow in the stream and the potential for fish propagation, to establish a hierarchy of streams suitable for the applicability of mitigation.

5. Any plan that, if executed, would disturb or impact an EED shall be referred to the Conservation Commission for review. For that portion of the EED affected by the plan, the Conservation Commission shall identify those attributes that require protection, special treatment or mitigation. The Conservation Commission may make recommendations for protection, special treatment or mitigation.
6. In order to achieve the objectives of this article, a board or official, empowered to approve a plan may require mitigation or special conditions that will further protect the EED. In determining what the appropriate mitigation or conditions shall be, the Town shall consider the value of the EED in protecting water quality, habitat, protection from erosion and effect upon the overall site drainage. These factors shall be considered in conjunction with the development plans, consistency with the Town-wide goals, the need for such development, the potential for success of the mitigation and the need for long-term protection from future encroachment within the EED.
7. Any project in an EED requires an information meeting, unless such requirement is waived by the Town Board. An information meeting is a pre-application meeting with the applicant and representatives of the Town and its advisory boards to preliminarily review the proposed project and discuss relevant environmental and regulatory issues.

Article XXIV Site Plan Review.

§ 49-120. Required Site Plan Review.

Unless otherwise provided by the Town of Grand Island Subdivision Law or the provisions of this Code, site plan review and site plan approval shall be required for the following:

- A. Any Specially Permitted Use in any district, except for:
 1. home occupations and
 2. Special Use Permits where the site in question is already the subject of an approved site plan and no alteration of the building or site will occur.

- B. Any new or expanded use, or change in use, in the R-2, R-2A or R-3 Residential Districts.
- C. Any new or expanded use, or change in use, in any TC subdistrict, B-1, B-2, B-3, CR, M-1, OS, EED or M/E District, including the addition or modification of any accessory use not shown on an approved site plan, except where
 - 1. The site in question is already the subject of an approved site plan and no alteration of the building or site, or change in principal or accessory use is requested, or
 - 2. The site in question is already the subject of an approved site plan and alteration of the building increasing the original gross floor area by less than 1000 feet is requested, and no additional site improvements (i.e., parking) are requested.
- D. Any use, or change in use, in any PDD District, except that such review shall be governed by the provisions of Article XXV (Planned Development Districts) rather than this Article.
- E. Any modification in the use of non-single residential family zoned property, whether or not subject to a prior site plan approval, where curb-cut and driveway locations, off-site parking, loading area, fencing, outdoor storage or landscaping will be altered.
- F. All new construction of multiple family dwellings including conversions of existing buildings to multiple family dwellings and adding dwelling units to existing multiple family dwellings.
- G. Any change in use or intensity of use which a Code Enforcement Officer determines will significantly impact the characteristics of the site in terms of parking, loading, access, drainage, utilities, traffic, or other environmental impact for any commercial, industrial or multi-family use.
- H. Mobile home parks.
- I. Commercial radio and television towers, and telecommunications facilities, except for co-located facilities, which do not require new structures on the ground larger than 1000 square feet, and/or new utility or road improvements.
- J. Construction of any commercial docks, piers, launching ramp or structure in the Niagara River.
- K. Any use or area variance granted in other than single-family or two-family residential districts, which would allow alteration of the site or building, except for alteration of the building increasing the original gross

floor area by less than 1000 feet is requested, or alteration granting only the height of the structure.

- L. Any use involving outside storage, or expansion of outdoor storage areas, movement of outside storage areas.
- M. Any use involving construction or alteration of drive-in business facilities.
- N. Any use requiring a permit under Town Code Chapter 15 (Regrading and Filling of Land).

§ 49-121. Procedure for Review and Approval.

- A. The application and appropriate fees for site plan review shall be submitted to a Code Enforcement Officer. Where the site plan is submitted for a special use, consideration of the site plan and special use shall to the maximum extent practicable be conducted simultaneously. The content of the site plan shall be reviewed by a Code Enforcement Officer and the Town Engineer prior to filing and distribution to the Planning Board to ensure completeness. The applicant shall submit ten (10) copies of all plans and supplementary information to a Code Enforcement Officer; additional copies may be requested for additional review agencies. A Code Enforcement Officer shall distribute copies of the plans for review, report and recommendations to the following:
 - 1. Town Engineer.
 - 2. Fire Inspector.
 - 3. Planning Board.
 - 4. Other review Agencies and Advisory Boards as Required (e.g. State Parks Commission, County Planning Department).
- B. Within thirty-one (31) days after receipt of the application, the Planning Board shall review the application, site plan, and supporting data, and shall make a written recommendation of approval, approval with modifications or conditions, or disapproval of the site plan.
- C. The failure of the Planning Board to make a recommendation within thirty-one (31) days following the receipt of a complete application, or such longer period as may be agreed to by the applicant, shall be deemed a recommendation for the approval of the development plan as submitted. The Planning Board may, at its sole discretion, hold a public hearing within its time frame to provide a recommendation.
- D. Within thirty-one (31) days following the receipt by the Town Board of the report of the Planning Board, or its failure to act as above provided, the

Town Board may conduct a public hearing. Within sixty-two (62) days after the public hearing - if one is held - or thirty-one (31) days after the receipt of the Planning Board's recommendation if no hearing is held, the Town Board shall either approve the site plan, approve the site plan with modifications, or deny the site plan. The Town Board's failure to act is deemed a denial of the plan.

- E. In approving the site plan, conditions limiting the use and occupancy of the land or proposed buildings consistent with the intent and purposes of this Code and other applicable laws may be imposed on the development. No use of the property shall occur nor building permits or other permits issued until the applicant submits a written acceptance of the conditions and modifications to the Code Enforcement Officer.
- F. Approval of any site plan shall remain in effect for a period of not more than twelve (12) months unless a successful application for a building permit or certificate of occupancy has been made within that period. One six (6) month extension may be granted to obtain the building permit by the Town Board.

§ 49-122. Submission of Site Plan and Additional Information.

The site plan should include the following information. The Planning Board may waive requirements set forth in this section as deemed appropriate. The plan shall be prepared by a licensed New York State professional engineer, architect, landscape architect or licensed land surveyor as appropriate:

- A. Application form, notes, and other required written information.
- B. Title of drawings, including the name of the development, name, telephone number and address of applicant and the name of the person who prepared the drawing.
- C. Location plan, north point, professional stamp, scale (1"= 20' or other appropriate scale) and date.
- D. Zoning, land use and ownership of surrounding and adjacent properties, including all structures on adjacent and surrounding properties.
- E. A boundary survey of the proposed development, plotted to scale, and existing topographic features including contours or, spot elevations at a 50 foot grid, large trees, buildings, structures, streets, property lines, utility easements, rights of way, sewers, water mains, fire hydrants, culverts and other significant man-made features, delineated wetlands and land uses.
- F. Layout and number of lots.

- G. All lot dimensions including, but not limited to, lot frontage, lot area, building coverage, lot coverage, front yard, side yard, rear yard, building heights and floor area ratio, where applicable.
- H. All improvement dimensions, including, but not limited to, access roads, snow removal/storage areas, parking areas, walkways, buildings, etc.
- I. Existing and proposed streets, sidewalks and pedestrian paths immediately adjoining and within the proposed site and the names of all proposed streets.
- J. Location and dimensions of all parking, loading and stacking areas with access drive.
- K. Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways and bikeways.
- L. Location and proposed use, height, building elevations, and finished elevations of all structures.
- M. Colors, materials, dimensions, access and roof top plans of all structures.
- N. Location and proposed development of all open spaces, including parks, playgrounds, etc..
- O. Existing and proposed watercourses, direction of flow and the impact on the watershed.
- P. Drainage plan showing existing and finished grades, size and type of pipe, location of receivers, and stormwater management plan evaluating the impacts on the watershed. The best management practices employed to mitigate the impacts of stormwater management shall be set forth in detail. A copy of the storm drainage analysis shall be submitted for review when required by the Town Engineer. Detention/retention basins shall be designed in accordance with Town standards.
- Q. Water supply plan, including existing and proposed location of fire hydrants, size of service line and a note indicating any required backflow prevention.
- R. Sewage disposal method and data as required by the Town Engineer.
- S. Landscape plan indicating location, type and size of existing trees and vegetation identifying those to be preserved or removed as well as location, type and size of trees, vegetation and amenities to be provided;
- T. Location, design and illumination field of lighting, fences and walls.

- U. Location and dimension of all signs as required in Town Code Chapter 36.
- V. Garbage screening and enclosures.
- W. Provisions for barrier free access.
- X. Applicable pollution control.
- Y. Size and location of hazardous materials storage areas.
- Z. Location of bus stops and shelters.
- AA. Proposed easements, restrictions, covenants and provision for home owners associations and common ownerships.
- BB. Estimated construction schedule and phasing plan for buildings, earthwork and landscaping.
- CC. In addition to the required site plan and supporting data indicated in this Article, the Planning Board may request, of a property owner or their agent, additional supporting data or plans deemed necessary and relevant to carry out its responsibility for site plan review and provided in this Code. The Planning Board may request review and report from the Town Engineer, as it may deem necessary.

§ 49-123. Criteria for Review and Recommendations.

In considering and acting upon site plan reviews and approvals, the Town Board shall consider the public health, safety, welfare, comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Town Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the following:

- A. **COMPATIBILITY:** The character of proposed use is compatible with the surrounding neighborhood and in harmony with the Town's Comprehensive Plan.
- B. **VEHICULAR ACCESS:** The number of proposed access points is not excessive, all access points are adequate in width, grade alignment and visibility, access points are not located too close to intersections or places of public assembly and similar safety considerations are reviewed for all site plan approvals.
- C. **LIGHTING:** Exterior lighting proposed for the site shall be planned, erected and maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public roads. The light source shall not be higher than twenty (20) feet and shall not be

directed onto adjacent properties or public roads. High intensity lighting shall not be permitted.

- D. **PARKING:** Adequate off-street parking, queuing and loading spaces are provided to minimize the number of cars parked or standing on public roads.
- E. **PEDESTRIAN CIRCULATION:** The interior circulation system is adequate to provide safe accessibility to all parking areas and ensure adequate separation of pedestrian and vehicular traffic.
- F. **LANDSCAPING AND SCREENING:** All parking, storage, loading and service areas on properties adjacent to residential areas are reasonably screened and the general landscaping of the site reflects the character of the neighborhood and surrounding area.
- G. **GENERAL SCREENING REQUIREMENTS:**
 - 1. Open storage areas, exposed machinery and outdoor areas used for the storage and collection of solid waste, shall be visually screened from roads and surrounding land uses. Suitable types of screening include opaque and semi-opaque fences of a height necessary to screen the intended use. Where planted hedges are proposed, plant species, size and layout should be developed to provide an effective screen within three years of installation. Noninvasive, low maintenance trees and shrubs should be planted wherever possible. Preference should be given to native or naturalized species.
 - 2. In locations where potential health or safety hazards may arise, such as solid waste storage/collection areas, a solid wooden fence, a minimum of six feet in height may be required to prevent unauthorized access to the premises.
 - 3. At all intersections and driveways, screening shall be restricted to a maximum height of two (2) feet and trees shall be maintained to a clearance of seven (7) feet above the ground to ensure sight lines remained unobstructed.
- H. **NATURAL FEATURES:** The proposed use is compatible with geologic, hydraulic, and soil conditions of the site and adjacent areas and the existing natural scenic features are preserved to the greatest possible extent.
- I. **PUBLIC FACILITIES:** The public facilities that service the proposed use, including water, sanitary sewer, drainage, roads and related facilities, parks and open space are adequate for the intended level of use.

- J. AVOIDANCE OF NUISANCE: The proposed use will not create noise, odor, dust or smoke as to create a nuisance or to be detrimental to adjoining properties.
- K. STORMWATER MANAGEMENT AND DRAINAGE REQUIREMENTS: The proposed development shall:
1. Not result in post-development discharge rates and volumes that exceed pre-development discharge rates and volumes to adjoining properties.
 2. Surface water run-off shall be minimized and detained on site as long as possible and practical to facilitate ground water recharge. When available, municipal storm water sewers may be employed to handle excess runoff.
 3. If storm water cannot be channeled into municipal storm water sewers, storm water runoff shall be detained on-site. In no case shall increased runoff due to development activity be directed onto adjacent property. Techniques for delaying surface storm water runoff shall be developed to prevent any increase in the runoff rate as a result of storms with a twenty-five year or less recurrence frequency.
 4. The natural state of watercourses, swales or rights of way shall be maintained as much as possible. All drainage facilities shall be designed for a 10-year storm minimum. The Town Board may, on the Town Engineer's recommendation, require facilities sized for more intensive storms should development conditions in the vicinity of the site warrant a greater degree of protection.
- L. EROSION AND SEDIMENT: Where significant soil erosion or sediment deposition may occur as a result of the disturbance of the land, the Town Board may require that application for site plan be accompanied by an erosion and sediment control plan conforming to the standards and practices contained in the USDA Natural Resources Conservation Service Engineering Field Manual (EFM) and the New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Engineering Department or Town Board. Such central plans shall insure the removal, onsite, of no less than eighty (80) percent of the annual total suspended solids generated from development runoff.
- M. In no case shall plans be approved that would alter the course of a natural watercourse shown on the United States Geodetic Survey maps and the Official Town Map, or that would restrict or impede the free flow of water in these waterways, with piping or other structures, except by approval of

the Town Board (which may require a public hearing) and, where applicable, a Department of Environmental Conservation permit.

§ 49-124. Revisions.

No property shall be utilized in a manner different than in an approved site plan unless a revised site plan has been approved, even if the revised use, by itself, represents a use not requiring site plan approval.

§ 49-125. Ferry Village Architectural and Urban Design Guidelines

- A. The Ferry Village area of Town is a special historical area worthy of extra protection from the Town. Accordingly, in addition to the other site plan requirements, the Planning Board and Town Board shall consider the following Architectural and Design Guidelines on projects requiring site plans within the Ferry Village area:
1. To preserve the current residential atmosphere, new buildings and reconstructions should be compatible in size, scale, and mass with existing structures. Special consideration needs to be given to marina structures for indoor storage, sales, and repair of boats. Notwithstanding their size and scale, building mass should be reduced by varying roof lines and the addition of wings that can modify the appearance of excessive size.
 2. To preserve the grain of development within Ferry Village, the rhythm of buildings and building facades should be maintained. Long continuous facades and elevations should be avoided. Structures that require large interior volumes should be designed to minimize lengthy unbroken facades and roof lines.
 3. Roof lines should vary and favor gabled and hip roof styles with moderate pitches compatible with the surroundings.
 4. Windows should be symmetrical and proportioned to wall space. Types and materials should be compatible with the historic and architectural character of Ferry Village.
 5. Stylistic trim using cornices, scroll work, and similar historically appropriate effects will be encouraged.
 6. Exterior materials should emphasize a natural appearance with preferences given to wood, wood siding, and brick. For durability and ease of maintenance, and updating existing structures, vinyl siding that simulates wood surfaces may be utilized.
 7. Colors should be subdued and compatible with the village atmosphere and/or be typical of the period of the architecture of

the structure, or the structure from which contemporary designs have been derived.

8. Mechanical equipment and systems shall be placed where they will be visually unobtrusive whether mounted on a structure or placed on-grade. Required rooftop installations will be screened from view by architectural elements that are in keeping with the overall design of the structure and the character of the Town.
9. Refuse disposal containers (dumpsters) should be located at the rear or side of the primary use of a site and must be screened from view by all-season enclosures that are visually compatible with the primary structure and the overall character of the village.
10. Community trash receptacles, benches, light standards and other “street furniture” should be of materials and the design that is compatible with the village atmosphere and integrated into an overall design concept for the site.

§ 49-126. General Standards for Reviewing Town Center (TC), Hamlet (B-3), and Enhanced Environment Overlay District (EED) Developments.

- A. All Town Center and Hamlet developments must conform to the following development standards:
 1. The development is consistent with the Comprehensive Plan and the standards outlined in this Code.
 2. The development provides for the preservation of scenic features and natural features such as streams, trees, grasses, wooded cover and wetlands.
 3. The development is compatible with existing development in the surrounding area and does not unduly burden existing Town infrastructure or services.
 4. The developer has sufficient financing and capabilities to complete the project as presented.
 5. The development provides all necessary water and sewer facilities, storm drainage, highway access, paved surface streets in accordance with Town standards, parking and loading facilities, off-street lighting and the developer has made reasonable provisions for utility service connections with adjoining properties and other ownerships.

6. All electric, telephone, cable television and similar equipment will be installed underground in accordance with the New York State Public Service Commission standards.
 7. The right of way and pavement width for internal roads serving all development are adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs of the development; the pavement meets all applicable Town standards.
 8. There is adequate access for fire fighting equipment, police and other emergency vehicles.
- B. All developments in the Enhanced Environment Overlay Districts shall reviewed in accordance with the following criteria:
1. Projects in the EEDs, including but not limited to those adjacent to the Grand Island Tributaries Habitat (which includes portions of Woods Creek, Gun Creek, Spicer Creek, and Big Six mile Creek and their associated wetlands), will be reviewed to minimize or preclude activities that could adversely affect the flora and fauna of the EED. Specific examples of activities that would likely result in adversely impacts on these resources include but are not limited to, those that would:
 - (a) degrade water quality;
 - (b) increase water temperature or turbidity;
 - (c) reduce flows;
 - (d) disturb the stream bed;
 - (e) alter natural river flows and thermal patterns;
 - (f) involve dredging, filling or creating bulkheads;
 - (g) discharge sewage or stormwater runoff containing sediments or chemical pollutants;
 - (h) remove, reduce or negatively effect riparian vegetation;
 - (i) disturb stream banks;
 - (j) develop, within the EEDs, additional motorboat access to the Niagara River;
 - (k) create any barrier to fish migration;

- (l) disturb the habitat between February and early July;
- (m) provide for the construction of river diversion structures;
- (n) create thermal discharges;
- (o) provide for the installation and operation of water intakes;
and
- (p) disturb bird species nesting on Tower Island.

APPENDIX C LOCAL CONSISTENCY LAW

TOWN OF GRAND ISLAND

Local Law No. of the year of 2004

Be it enacted by the Town Board of the Town of Grand Island as follows:

I. Title

This local law shall be known as the Town of Grand Island Waterfront Consistency Review Law.

II. Authority and Purpose:

1. This local law is adopted under the authority of the Municipal Home Rule Law §10 and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law of the State of New York or The "Executive Law").
2. The purpose of this local law is to provide a framework for agencies of the Town of Grand Island (the "Town") to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions (as defined below) located in the coastal area; and to assure that such actions are consistent with the policies and purposes of the law.
3. It is the intention of the Town of Grand Island that the preservation, enhancement, and utilization of the natural and cultural resources of the coastal area of the town take place in a coordinated comprehensive manner to ensure a proper balance between the preservation of natural resources and the need to accommodate population growth and economic development. This local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing: loss of fish and wildlife and their habitats; diminution of open space areas or public access to the waterfront; erosion of shoreline; impairment of scenic beauty; damages associated with flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
4. The substantive provisions of this local law shall apply when there is in existence a Town Local Waterfront Revitalization Program that has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions

1. "Actions" mean either Type I or Unlisted actions as defined in the State Environmental Quality Review Act's ("SEQRA"; Article 8 of the Environmental Conservation Law of the State of New York) implementing regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6NYCRR Part 617") that are undertaken by an agency, which include: (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:

affect the environment by changing the use, appearance or condition of any natural resource or structure, that:

- (i) are directly undertaken by an agency; or
 - (i) involve funding by an agency; or
 - (iii) require one or more new or modified approvals from an agency or agencies;
- (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- (4) any combinations of the above.

This law does not apply to Type II, excluded or exempt actions as defined in the S.E.Q.R.A. regulations 6 N.Y.C.R.R. Part 617.

2. "**Agency**" means any board, agency, department, office, other body, or officer of the Town of Grand Island.
3. "**Coastal area**" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Grand Island, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Town of Grand Island Local Waterfront Revitalization Program.
4. "**Coastal Assessment Form (CAF)**" means the form, used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
5. "**Consistent**" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
6. "**Direct Actions**" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rulemaking, procedure making and policy making.
7. "**Local Waterfront Revitalization Program (LWRP)**" means the Local Waterfront Revitalization Program of the Town of Grand Island, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Town of Grand Island.
8. "**Planning Board**" means the Planning Board of the Town of Grand Island.

IV. Review of Actions

1. Whenever a proposed action is located in the Town's Coastal Area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein.
2. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review.
3. The agency shall refer a copy of the completed CAF to the Town of Grand Island Planning Board within ten (10) days of its submission; prior to making its determination, the agency shall consider the recommendation of the planning Board with reference to the consistency of the proposed action.
4. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein. The Planning Board shall require the applicant to submit all completed applications, CAFs and any other information deemed to be necessary to its consistency recommendation.
5. The Planning Board shall render its written recommendation to the agency within thirty (30) days following referral of the CAF form of the agency, unless extended by mutual agreement of the Planning Board and the applicant or in the case of a direct action, the agency. The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing on the basis for its opinion.

The Planning Board shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to advance them.

In the event that the Planning Board's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Planning Board's recommendation.

6. The agency shall make the determination of consistency based on the CAF, the Planning Board recommendation, and such other information as is deemed to be necessary for its determination. The agency shall issue its determination within thirty (30) days following the receipt of the Planning Board's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with the LWRP.

7. Actions undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained in Section III of the Town of Grand Island LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies that undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
 1. Revitalize the deteriorated and underutilized waterfront areas of Grand Island (Policies 1, 1A).
 2. Retain and promote commercial and recreational water-dependent uses (Policy 2).
 3. Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
 4. Expedite permit procedures through coordinated actions and incorporation of new regulations within existing procedures (Policy 6).
 5. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D, 7E, 8, 9 & 9A).
 6. Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 15, 16, 17).
 2. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
 3. Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 19, 19A, 19B, 20, 21, 21A, 21B, 21C, 22).
 9. Protect and restore historic and archeological resources (Policy 23).
 10. Protect and upgrade scenic resources (Policies 25, 25A).
 11. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policy 27).
 12. Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).
 13. Prepare for the onshore impacts of exploration, extraction, transportation and

storage of oil and gas that may be discovered (Policy 29).

14. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34).
 15. Perform dredging and place dredge spoil in a manner protective of natural resources (Policies 35, 35A).
 16. Handle and dispose of solid and hazardous wastes and effluent in a manner which will not adversely affect environment (Policies 36, 37, 38, 39, 40).
 17. Protect air quality (Policies 41, 42, 43).
 18. Protect freshwater wetlands (Policies 44, 44A).
8. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:
1. no reasonable alternatives exist that would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
 2. the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 3. the action will advance one or more of the other LWRP policy standards and conditions; and
 4. the action will result in an overriding Town, regional or state-wide public benefit.
- Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.
9. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request.

V. Enforcement

No work or activity on a project in the Coastal Area that is subject to review under this law shall be commenced or undertaken until the Town Engineer has been presented with a written determination from an agency that the action is consistent with the Town 's LWRP policy

standards and conditions. In the event that an activity is not being performed in accordance with this Law or any conditions imposed thereunder, the enforcement officer designated by the Town Board shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

Violations of the Town of Grand Island Waterfront Consistency Review Law shall be enforced and punishable in accordance with violations of Chapter 49 of the Town of Grand Island Code ("Zoning Code") and shall also be subject to the penalties prescribed therein.

VI. Severability

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part of provision hereof other than the provision so found to be invalid.

VII. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

APPENDIX D GUIDELINES FOR NOTIFICATION OF STATE AGENCY ACTIONS WHERE LWRP AFFECTED

NEW YORK STATE DEPARTMENT OF STATE COASTAL MANAGEMENT PROGRAM

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

**NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM**

**Guidelines for Notification and Review of State Agency Actions
Where Local Waterfront Revitalization Programs are in Effect**

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and

purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
3. That will result in an overriding regional or statewide public benefit.

C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
 1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief

executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state

agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS**

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.

4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.

5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.

7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.

2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.

3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.

4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time

agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
3. That will result in an overriding regional or statewide public benefit.

C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
 1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief

executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state

agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS**

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.

4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.

5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.

7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.

2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.

3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.

4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time

agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.

6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.